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Vol. 2 of 3

R2784

The United States Senate

Report of Proceedings

Hearing held before

Senate SElect Committee to Study Governmental Operations with Respect to Intelligence Activities

Tuesday, March 9, 1976

Washington, D.C.

(Stenotype Tape and Waste turned over to the Committee for destruction)

WARD & PAUL
410 FIRST STREET, S. E.
WASHINGTON, D. C. 20003

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INTELLIGENCE INVESTIGATION

- - -

Foreign & Military Subcommittee Meeting

- - -

Tuesday, March 9, 1976

- - -

United States Senate,
Select Committee to Study Governmental
Operations with Respect to
Intelligence Activities,
Washington, D. C.

The Committee met, pursuant to notice, at 10:30 o'clock a.m., in Room S-407, the Capitol, Senator Walter D. Huddleston (Chairman of the Subcommittee) presiding.

Present: Senators Huddleston, presiding, Hart of Colorado, and Mathias.

Also present: William Miller, Staff Director; Joseph DiGenova, Charles Kirbow, Elliot Maxwell, Elizabeth Culbreth, Jan Orloff, William Bader, Lynn Davis, Al Quanbeck, Charles Lombard, Rick Inderfurth, Bob Kelley, Greg Treverton, Jim Johnston, and Britt Snider, Professional Staff Members.

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P R O C E E D I N G S

Senator Huddleston. Let's come to order.

Mr. Aaron. The agenda today is to proceed with the DCI section and in addition we would like to get the Subcommittee's if you will substantive approval of the paper on the production of intelligence so that it might go to the Agency and we could go through the process of clearing its details.

I don't know which of those you wish to take up first but --

Mr. Kirbow. We should really take up the paper first because it already went out this morning.

Mr. Aaron. Well, they are reading it but we have not negotiated with them yet.

Senator Huddleston. Any comment on that paper?

Mr. Miller. Which paper?

Senator Huddleston. The production of intelligence.

Mr. Aaron. It is in the larger book.

Mr. Kirbow. Senator, I have some comments but I defer to the Senators if they have some comments first

Mr. Aaron. It's at Tab III. C6.

Senator Huddleston. Charley, go ahead.

Mr. Kirbow. Thank you.

The concern that has been expressed by the senior witnesses from the Agency and other parts of the community not only before this Committee but as a matter of record for

the Senators. I'm sure they know that the big fight in the House last year was to avoid the excruciating details on budget figures and I think we had kind of discussed perhaps publishing 3 or 4 major features. I'd like to point out that in this particular document, such great detail as that portion of the CIA, the DDI which produces intelligence, we speak of an authorized project to $70.9 million with 2,269 employees, exact percentage of the Agency's budget and the exact percentage of the personnel. That one page of this document is probably the most classified single compilation.

Senator Huddleston. What page is that?

Mr. Kirbow. Page 3.

Senator Huddleston. Of course it's out of the Agency. I would assume they would have some comment on it.

Mr. Aaron. The point was not, the view was not to produce these precise numbers but A, to have them for the Subcommittee so that they could understand them and much as in the case of the DCI's original paper to expect that these things will be modified and to lay the basis for an appropriate discussion with them as to how one might modify it and yet capture the essence of the argument, and we'll just see how far that goes in trying to reach --

Certainly we have no intention of --

Senator Huddleston. Could we say this Department represents a substantial expenditure with a large number of

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employees?

Mr. Kirbow. Well, if I could tell you what my position on it is, in speaking to Beth Bloomfield last night I specifically asked her -- well, she says that's to give them something out there to take out so that we'll have enough left in here that would be a worthwhile document at the end.

And I think that if we are kidding ourselves that we have either the time or -- and we should not have the inclination in my opinion to waste the time of the people at the Agency or anything by "putting in things which will give Mr. Boldin something to gnaw on so he won't bother the rest of the thing," I just didn't think that we were going to get into that kind of dealing with the Agency people. I thought we were going to be forthright in what we thought we should put in and what we would put in a document like this because the whole production of intelligence thing or the whole theme of the paper is why this inadequate attention given to the analytical portion of production.

And if we are doing this and sending it out there in this classified form full well knowing at the outset -- she says, well, that's not even material. If they want to take it out, just take it out.

Well, if it's not material, I would hope that we're not wasting both our times -- we've read about 10,000 words in the last month.

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Senator Huddleston. I think it's probably material to also to have a firmer grasp when we start discussing and defending the report maybe, even to the extent of having specific figures.

I think it's highly unlikely that they will let that stay in there and we'll probably have to modify it. I see your point in a way that we might save ourselves time by scaling it down to begin with to what we think will be acceptable, but on the other hand, we may not guess right.

Mr. Kirbow. Well, for the record then, Senator, I do have exception to this type writing where we deliberately beef it up with known classified information full well knowing that it's going to be taken out and not get to the point that we are trying to make. But I won't dwell on it any further.

Senator Huddleston. Do you have any comment on that aspect, Senator Hart?

Senator Hart. No.

Senator Huddleston. All right, that one's ready to go.

Mr. Aaron. Thank you.

Now we left off yesterday on page 25. We had discussed two oral proposals by way of recommendations. The first was to set a tone for the DCI which was rejected and the second was to confirm the new community wide deputy for the DCI to have him subject to Senate confirmation to establish him as, in effect, the first deputy of the DCI, the man who would succeed in his place.

We also discussed briefly the recommendation number 16 and we agreed that we would make some change in the language relating to what in effect is the re-establishment of the board of national estimates to make clear that they weren't there just for the purpose of endorsing estimates but from the standpoint that they are there for the purpose of reviewing them.

So the next recommendation is recommendation 17, and it is long and complicated. Essentially what the recommendation does is spell out more precisely what the DCI's responsibilities will be for the overall allocation of resources and coordination of the community's activities apart from the production of finished intelligence, which is the purpose of recommendation 16.

Now what it does, the first paragraph summarizes the essential responsibilities along the lines of the President's Executive Order.

Now it is slightly different from the Executive Order in the following sense. The Executive Order establishes an NSC Committee, gives the Committee the responsibility of preparing a national intelligence budget, makes the DCI the Chairman of that Committee, and gives the DCI in his person, if you will, the responsibility for presenting that budget to the President

Now we sort of cut through that somewhat complicated and not entirely clear allocation of authority to the DCI by simply

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saying he is responsible for preparing the community's budget, and he has this Committee for this purpose in trying to place responsibility squarely on him to do that.

Now this would not mean, however, that the Secretary of Defense be senior to him in the cabinet. I mean the National Security Council could not make a reclama and could not go over his head.

That situation will still exist and this Committee is in fact a committee of the National Security Council, so there is another layer at which inter-Agency disputes, if they continue beyond the level of the Committee on Foreign Intelligence, where they could be resolved.

Now the first -- it also designates him as responsible for preparing the budget and providing guidance for operations programs in general terms and puts him in as chairman of the appropriate NSC committee, and then we reference the CFI and then authorize the following specific responsibilities.

First of all, the establishment of national intelligence requirements for the entire community and it empowers him to draw upon representatives of the members of the intelligence community to help him in the task of establishing these requiremen

Now this is an increase in his authority from his current posture. He has now the authority to issue guidance in the preparation of requirements but he can't really say do this or do that. These are the things we want.

Now as a practical matter, I think it's fair to say that he goes pretty far in getting his way at the present time, but on some of these requirements on a national basis, this would give him the clear authority to ask them to do things.

Now his requirements, the level of detail and so forth, would obviously be something that would have to be negotiated out in the course of his work.

Now that is the recommendation of the first paragraph and paragraph A.

I might just say it also gives the DCI in connection with the requirements process, it refers here to the fact that he may determine the success of various agencies in fulfilling and in fact what the paragraph sets up is a system whereby the DCI can establish requirements and then through the budget process and in the process of evaluating requirements make some estimate of how well the community is doing and either add to the budgets or take away in certain areas and so forth.

This provides some of the real system as opposed to a paper system which he has had in the past.

Paragraph B describes the preparation of the national intelligence budget and points out that he should prepare this budget, present it to the President and to the Congress who would make some reference here to the language in the President's Executive Order in this regard.

It makes the further point that the definition of the

elements to be included within a national intelligence budget -- in other words, what parts of the community would fit into that, where you draw the line between technical and national intelligence, between departmental and national intelligence.

This definition would be established by the Congress in consultation with the Executive Branch.

It further points out that he should be involved early in the process of preparing budgets in the budget cycle, and then it makes some hortatory kind of statements about how he should try to consider trade-offs between programs and between collection and production and so forth.

Senator Huddleston. I would suggest there that we use another word besides trade-off. While it is common for us to use it up here in committee work, I don't think it conveys the best connotation to the public.

What we're saying is that he balances out or apportions resources, whatever.

Mr. Aaron. Now I think the final sentence is this important one, and the Senators should note this. The proposal and perhaps this ought to be made somewhat more clear than it is now as to who will do this, but the authority -- I'm sorry, it is clear. But the authority of the DCI to reprogram funds within the intelligence budget should be limited by statute. The President, the Executive Order gives to the Committee on Foreign Intelligence not only the authority to prepare the

1 national intelligence budget, but to reprogram moneys within
2 that budget.
3 Now our estimate is that that budget would be on the
4 order of $3, 4, perhaps up to $5 billion, depending on what is
5 included in it, and I asked the White House, the NSC member of
6 that Committee what the purpose of that particular provision
7 was, and I asked him specifically did this mean that you would
8 be able to, as in the case of Angola, reprogram money away
9 from some other part of the budget, NSA, NRO, some other major
10 program, and put it into the covert military, para-military
11 action program?
12 And he said yes, that is the reason that he is given
13 a sort of broad authority to reprogram money.
14 Senator Huddleston. Well, they were doing some of that,
15 weren't they?
16 Mr. Aaron. To some extent I believe that's true, but
17 I personally don't know what that extent was.
18 Now to the extent we will see later that we place some
19 or make some recommendations concerning limitations on the
20 authority to draw upon different funds and to replenish certain
21 funds for the purposes of covert action, this squares with that
22 proposal by saying that there should be by statute certain
23 limitations on the reprogramming of funds.
24 We're not saying that those ought to be there really
25 thinking that the oversight committees would have to work out.

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Now the next paragraph, C --

Mr. Kirbow. Could we take these one at a time because these are rather critical?

Mr. Chairman, one of the things that came before this Committee when I guess it was Mr. Colby testifying and at each meeting that Mr. Miller and the staff had with the people from the White House and the CIA when we were preparing the oversight bill, we heard many good reasons why we should not deprive the DCI of this ability to sign certifying out of certain funds and being able to expend them without a great big red tape machine to hinder that type of operation.

If, as David says, his recommendation here is to prevent reprogramming, except within very narrowly defined statutory limits, is a first step toward restricting that further activity. I would like to except on this and have it discussed before the Full Committee, or in the absence of that, or connected with it, have the record that we have that shows us that we should restrict by legislation here --

Senator Huddleston. What is the major thrust there? Is it to in fact limit or restrict or is it to actually have it defined and specified in the statute as to what circumstances might prevail?

Mr. Aaron. The thrust here is as follows. The DCI can now reprogram money within his own agency to some extent. That budget, depending on the parts he can reprogram, I don't

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1 believe he can reprogram it within about $750 million of his
2 own appropriation.
3 Senator Huddleston. He can't take something out of the
4 NSA now and put it over?
5 Mr. Aaron. No, we can't do that. But in his new
6 responsibilities as DCI for preparing the budget of the entire
7 national intelligence program, he will now be in a position to
8 reprogram the entire budget and therefore it's a much larger
9 kind of flexibility.
10 Now the thrust of this particular proposal is not really
11 aimed, this particular one -- later one we do have one which
12 does place some constraints and the purpose is to make it clear
13 where the money comes from and where it's going to go to
14 make it clear to the Congress at least. But this particular
15 one simply says that because this is a much wider reprogramming
16 flexibility, that it ought to be subject to certain kinds of
17 definitions and consider the limitations so that the Congress
18 knows what is happening to the moneys that it appropriates for
19 particular purposes.
20 Senator Huddleston. Well, for this particular paragraph,
21 then, would define or specify, suffice the word limited,
22 or not?
23 Mr. Aaron. It should be defined. That's correct.
24 Mr. Kirbow. I do wish to point out, Mr. Chairman, that
25 that is a departure from the standard reprogramming process that

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has been adopted in the Senate over the last 10 or 15 years, for instance, with the Committee on Armed Services.

Senator Huddleston. For other departments?

Mr. Kirbow. Where there is an authorizing and an appropriations type action in the Congress, as Senator Hart will know from his experience on that committee, if they wish to reprogram missile money over to aircraft, for instance, it has to be approved by all four of those committees, both Arms Services and both appropriations committees with the exact transfer of the amounts of money and the justifications given therefore.

My concern is not that the Congress should not have a control of this or that you could make it so rigid by making recommendations that leave the oversight committee and the appropriations committee no flexibility to do this. And I would think that unless we have a very good record on this, we should recommend that this should be a matter that the oversight committee in its new rule gives good consideration to.

Mr. Miller. The oversight committees and the appropriation committees would have flexibility. Every appropriations act is a statute, after all.

Mr. Kirbow. They certainly would unless you restrict them by statute.

Senator Huddleston. But we are suggesting a statute which the new oversight committee that has passed,

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so far would have legislative authority over. So we're really just recommending here that in this statute they provide the framework under which these kinds of reprogramming can be done in view of the fact that we are extending the DCI from his own little bailiwick to the entire intelligence community.

Mr. Kirbow. If that's the intent of the committee, I have no reservations about it.

Senator Huddleston. I don't think the military people would object to that kind of language. They'd like to have some definite framework for a man to reach into his budget.

Mr. Kirbow. I think all the various agencies would like to have that kind of protection.

Senator Huddleston. Okay.

Mr. Davis. Number C, the DCI should have responsibility to review all intelligence activities and intelligence resource allocations, including tactical military intelligence in order to carry out his more general responsibilities.

We've used the word "review" very carefully here. This is not a responsibility to direct those operations but simply to be able to look at the whole in order to sort of balance it out.

We're not saying that he's taking over responsibility from the military commanders. If you read the Executive Order the language is different and it says that the CFI and the DCI will not have responsibility for tactical military

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intelligence. But then it uses the word guidance. That is that the DCI will provide guidance on the relationship between the two and that is ambiguous to us and so we wanted to make sure that the DCI would be able to look at the whole but not have responsibility for directing the tactical military intelligence programs.

Mr. diGenova. The original drafting of that Section C, I think it's actually clearer than the way it's drafted now. The original draft says, while the DCI shall not have responsibil for directing tactical military operations, the DCI shall have responsibility to review all intelligence activities, et cetera.

I think the original one is better because it makes it clearer what you are trying to say.

Mr. Kirbow. If you're going to use that for Senate, you have to say tactical military intelligence operations.

Mr. diGenova. Yes. There's a word missing from the original formulation.

Mr. Davis. The reason it was taken out is because it was a negative and there was the thought that this is saying what he does do and leaving what he doesn't do not to be said. It's up to the Committee how you want to --

Mr. diGenova. But you don't want to do the same thing the President did and leave the thing ambiguous.

Mr. Davis. I have no problem making that first statement.

Senator Huddleston. If you want to be positive you can

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say while the responsibility for directing tactical military operations resides with whoever it is, the DCI still shall have the review.

Mr. Davis. Well, review is, I think, the right word because he's going to try to look at the whole.

Senator Huddleston. I think Joe makes a point there because that could lead to some misinterpretation.

Mr. Davis. Section D goes on to ask the Director of Central Intelligence to establish a staff to support him in these responsibilities and to draw a staff as widely and from the best talent that he can.

Senator Hart. Is this another staff or is this the staff that is in being?

Mr. Davis. This is the staff in being. He has always had people to help him in this role.

Senator Hart. Why do we have to authorize him to do something he's already doing?

Mr. Davis. We don't want him not to do that. I mean we want him to have a special staff to carry out these responsibilities.

Senator Huddleston. This is about the second or third time we've referred to him having the staff.

Senator Mathias. Why don't you say maintain instead of establish?

Senator Hart. Why if he doesn't want the staff?

1 Mr. Davis. He's authorized. He doesn't have to.

2 Mr. Kirbow. He's authorized to have a staff under the
3 President's executive order or in any other normal course of
4 business.

5 This appears to be diving down below the kind of
6 statutory authority position that you have and telling them how t
7 structure all of the organizations underneath.

8 That's my objection to that particular aspect of the
9 recommendation. I kind of side with Senator Hart. He has the
10 authority to do his business and I don't think anyone in their
11 wildest imagination would think that the Congressional record
12 or history in this would establish that he's supposed to do it
13 by himself.

14 Senator Hart. You took the words right out of my mouth.

15 Mr. Kirbow. And I once more say this is one of the
16 recommendations that we recommend be taken out.

17 Senator Hart. Who's we?

18 Mr. Kirbow. The staff had had discussions at the staff
19 level where several recommendations that things like this be
20 taken out for that very reason be considered, and I think it
21 is inadvertent that they are back in the redraft.

22 Senator Huddleston. You have no strong feeling about that?
23 Let's omit that paragraph.

24 Senator Hart. In that connection, and I hate to do this,
25 but I'd like to back up because David sailed right by this --

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1 page 24, recommendation 16. The Director also would be empowered
2 to establish a board of senior advisors.
3 Now who is that? Who is that board?
4 Mr. Davis. This would be something similar to the board
5 of national estimates.
6 Senator Hart. Is he empowered to do that now?
7 Mr. Aaron. He is not empowered to do that now because it
8 was abolished on him.
9 Mr. Davis. But he could do it.
10 Mr. Aaron. I don't think that's correct.
11 Mr. Maxwell. He abolished it. It was not abolished on
12 him.
13 Senator Hart. Could Mr. Bush reconstitute it if he
14 wants?
15 Mr. Bader. Senator, this is in a way a call to the
16 DCI. It is based, I think, on really extensive testimony we
17 have taken here about the utility of the board of national
18 estimates.
19 Senator Huddleston. It may be more a recommendation than
20 an authorization.
21 Mr. Davis. At the same time we didn't want to tell him
22 he had to because it is more or less up to him because if he
23 doesn't want to run his show that way --
24 Senator Hart. Who are these people?
25 Mr. Davis. In the past they have been former senior

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1 officials and academics who would serve to review the estimates
2 and comment on them for the director.
3 Senator Hart. Do they perform any function? Have they
4 in the past?
5 Mr. Miller. Oh, yes. Llewelyn Thompson, for example.
6 There are senior diplomats, senior military men from the outside,
7 people of distinction, people who have seen a lot and have
8 something to contribute.
9 Senator Hart. Have they had something to contribute?
10 Mr. Miller. Yes.
11 Mr. Aaron. There are two functions they can perform.
12 More or less, they can bring their wisdom to bear on the product.
13 Senator Hart. I want to know what they have done in
14 the past.
15 Mr. Miller. Soviet matters. Llewelyn Thompson's roles,
16 for example.
17 Mr. Aaron. And the second thing they have done was to
18 provide some senior support for the DCI and the judgements he
19 is making.
End 1A b 1B Now the extent to which that support has been translated
21 into horsepower is unclear, except it was sufficiently strong that
22 it was of concern to the previous administration and was one of
23 the reasons that the board among others was dis-established.
24 Senator Hart. Have they prevented any problems in the
25 past that we know of?

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Mr. Inderfurth. I think that's in relation to helping to insulate the DCI from pressures to modify him. In the past, the board of national estimates insulated the DCI from pressures.

Senator Hart. Chile, Angola, all these cases where the DCI comes in and says we don't really want to do that but the President made us, does he bring in the senior advisor to the President and say, Llewelyn Thompson doesn't want us to, either.

Mr. Lombard. I think part of the problem here, Senator, is that the office of estimates was created under the Eisenhower Administration and fitted very well into the formalistic way in which foreign policy was evolved during that administration. Perhaps as a matter of fact it's been criticized as being overly formalistic and the board of estimates was viewed as being somewhat too long-range and somewhat other world and not geared to what the President perceived as being his day to day needs on estimates.

Now I don't know where the equities lie in this thing, but it seems as though these insitutions have changed according to individual Presidents.

So really, beginning with the Kennedy administration, you had the decline of the office of national estimates because it no longer seemed to fit the fabric.

Mr. Aaron. I'm not sure that's really a fair picture of the history of the board. Perhaps you could tell us since

1 you were associated with it Bell.

2 Mr. Kirbow. I want to talk about the testimony that

3 was given before the committee on this from two of the former

4 DCIs. Mr. Colby, at both the breakfast briefings he gave and

5 in testimony, favored the use of individual intelligence offices

6 around in these various agencies, originating estimates and

7 everything else: whereas Mr. Helms, when he testified here,

8 says I really don't know how that system is working right now.

9 I didn't favor it when Mr. Colby established it, and I had the

10 other system and it worked well for me.

11 So I think here again you are talking about a man's

12 staffing requirements as they suit the particular times and

13 the individual as to how he wants to run the intelligence

14 community and what apparently suited Mr. Helms fine didn't

15 suit Mr. Colby and he used a different system which he says

16 works great. And I say that that is, again, a step down thing.

17 Unless you want to encourage him to do it in a recommendation

18 and not mandate that he do it, it kind of makes him run his

19 business the way you want it run and to no apparent abuse

20 problems or anything like that.

21 Senator Hart. Well, my only thought here is that some

22 future oversight committee or select committee is going to be

23 trying to pinpoint responsibility, and there are so many boards

24 and committees and rocks to hide behind that a DCI has or

25 a President or anybody has that -

1 So again, my intent here is not to be a know-nothing. It
2 just to keep the structure as clean as possible to identify
3 responsibility. That's all. And if this is important to do,
4 let's do it.
5 Mr. Bader. The record, Senator, and I can only speak
6 from personal experience with the board of national estimates --
7 I certainly know of at least four estimates with which I had
8 a part of which the board's role was very important in shielding
9 both the DCI and indeed the analyst from the ravages in two
10 cases of the military who felt very strongly that the
11 continuation of our bases in the Azores was much more important
12 than say some hard political realities about the future of
13 Portugese Africa.
14 And I could cite other cases where this kind of
15 insulating function was enormously important. It had a great
16 deal to do with the experience, the background and the very
17 presence of some of these board members.
18 They also play a role as the chairman of the coordinating
19 sessions of these national estimates. There's not just an
20 advisory board that sits quite far from the process. Each
21 national intelligence estimate, one of these board members
22 becomes the chairman.
23 So they do play a very active role in the preparation.
24 Mr. Aaron. I might mention that in this connection your
25 concern about the accountability problem, which I think is a

fair one. We have testimony that Helms' disposition on this was very clear. When he signed the estimate it was his estimate and it really wasn't the board's estimate.

Mr. Maxwell. Perhaps it might be useful because I think it is clear that he is empowered to do it. Two, if the committee desires to make clear that as a recommendation, on the basis of the committee's examination of their record that this is a desirable thing rather than saying that it would be empowered by statute, because he does have that power.

Mr. Kirbow. Is it the desire of the Committee though, to change the current system which the present director has not seen fit to change yet, which he has full authority to change if he wishes to do so and which the previous DCI established and developed into a working mechanism?

Mr. Miller. The records show that the function of the board had been official results. Then it seems to me we should so state that it is a desirable structure.

Mr. Kirbow. I had one difference with Bill. I don't know that it is desirable to insulate the DCI from the opinions of the respective military departments if they have a vested interest in the outcome of the decision being rendered.

Mr. Miller. The board has distinguished members from the military.

Mr. Kirbow. Then I don't know how it can be used to isolate.

Mr. Miller. Insulate the political pressure. That's the point. Not the point of view of opinion.

Senator Hart. Mr. Chairman, I move that this paragraph stay in, that we move on.

Senator Huddleston. Yes. I think we discussed that thoroughly yesterday, as a matter of fact.

Mr. Aaron. On E, this is the clause which, in effect, makes clear that there is a definite limit to the DCI's authority and the limit being the conduct of warfare, at which time there should be a clear system and process whereby these activities of the intelligence community over which he has responsibility in some general sense here for budget and so forth, that these basic activities come under the Secretary of Defense. It's simply recognizing the fact that we really have two problems. On the one hand, the conduct of intelligence in what is essentially peacetime and the conduct of intelligence in wartime.

Mr. Inderfurth. David, could we get some examples of what high tension means?

Mr. Kirbow. We recommended that that come out. Everyone had agreed on that and I think it was put back in. It's something that you can't define. The Secretary of Defense may feel there's very high tension but the DCI may not be willing to give up his control at that time and you wind up with a wrestling match.

Senator Hart. But there's a phrase of anywhere national

emergency maybe?

Mr. Aaron. Well, I think the way we came on it was to simply say if you have the process for a time of war, the President may exercise it, and he may exercise it if he feels it's a crisis.

The point was just to have a process and have it understood what happens.

Mr. diGenova. Is it good to have a system that is operating all right in peacetime and then when you come to the time you really need, you give it to someone else to run?

Mr. Aaron. Well, the requirements change in time of war.

Mr. Quanbeck. The collection would become almost completely operational. The sites would be dedicated to opeational purposes and there'd be no purpose to have direction from the DCI.

In that case it would be a supporting military operation. Similarly, the new satellite systems would be used to support ongoing operations.

Mr. diGenova. In other words, you're saying there wouldn't be very many national intelligence needs.

Mr. Quanbeck. Well, economic intelligence would be relatively unimportant. Verification of arms control agreements would not be a matter of concern.

Mr. diGenova. You're talking about the use of hardware.

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Mr. Quanbeck. Yes.

Mr. Kirbow. There's no difference of opinion between the former DCI's -- I don't know Mr. Bush's position -- or the former Secretaries of Defense. Everyone concedes that the control of intelligence should go for Defense's purposes in time of war, the principal control.

Mr. Davis. The point is, too, the argument in the past has been the Secretary of Defense needs the control he has had in order to prepare for war and now you're saying the DCI's going to do more but you don't want to upset the military commanders. And this is a way of saying that we understand that in wartime it is going to go back. It is more symbolic.

Mr. Kirbow. One of the recommendations in the military area we'll come to later is on this same subject with the bulk of the work I guess on the subject being done by that group.

Mr. Davis. This also happens with the clandestine service today. In war the clandestine service comes under the military commander in the field.

Mr. Aaron. There are some arrangements of this character because of the expanded authority of the DCI that is granted both in the order and our proposed statute, particularly in the area of requirements.

It's important to have this caveat, if you will.

Now recommendation 11 really suggests that the oversight

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committee look at carrying the budget process a step further and instead of appropriating or authorizing the appropriation funds to the different departments for intelligence purposes, that in fact they are authorized to the DCI who would then parcel them out, and it doesn't come down hard to say that this ought to be done but that this is the next logical step in this process and it is something for the oversight committee's agenda.

Now number 19 --

Mr. Kirbow. I would like to except on that until such time as the whole subject of the budget and release of the figures and everything else is considered, the whole budget aspect at the same time.

Senator Hart. I don't understand this exception procedure. How does that work?

Mr. Kirbow. Senator Tower has asked the Chairman that if there was anything that had not been in agreement among the staff, that it could be brought before, that it would certainly come to the subcommittee.

Senator Hart. Well, the Subcommittee can go ahead and vote on something, can't they?

Mr. Kirbow. Yes.

Senator Hart. I think every member of the Full Committee reserves his rights when any matter comes before the Full Committee. I don't think there need to be exceptions filed.

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1 It's all de novo when it gets up to the Full Committee anyway.

2 Mr. Kirbow. I simply indicated to the Chairman earlier

3 that I didn't want to have a reservation like that and not

4 point it out to him because I didn't want the absent member

5 to appear to be sandbagging the subcommittee.

6 Senator Huddleston. He's putting us on notice.

7 Mr. Aaron. Option 19, this option steps up to the

8 question of whether the DCI in his new capacity as the overall

9 manager of the community, and by manager I don't mean down in

10 the nuts and bolts but having the general management responsibilit

11 of interpreting the budget in terms of requirements, in terms

12 of general guidance for the management of some of these

13 activities, whether that function should be separated from that

14 of running the CIA as an agency.

15 Now we have heard some testimony about the inconsistency

16 between those two responsibilities. I think the arguments, if

17 I can set them on the two sides, would be as follows. And

18 by the way, there's a difference of opinion in the staff as

19 to which of these is the right one to follow. The argument

20 in favor of going ahead now to separate them is that these

21 are inconsistent, that one could have, you remove the DCI

22 from a conflict of interest situation in which he is both running

23 one of the principal agencies responsible for not only clandestine

24 activities but for a small segment of signals intelligence, the

25 development of certain research and development programs that are

1 of great interest to the community, and you take him out of the
2 position of having to judge other people's research and
3 development programs and other people's SIGINT programs, and
4 other activities when he is the overall director of Central
5 Intelligence, and that therefore this separation, his removal
6 from that, would be a good idea.
7 The second argument is that you really want to place the
8 authority squarely on the new director of this agency who's
9 going to be responsible for clandestine activities. If he
10 still has a boss above him who is kind of responsible but who
11 in fact because of his increased responsibilities won't be
12 able to give the day to day attention to clandestine activities
13 that he might, if he didn't have these greater responsibilities,
14 one should make the lines of authority clear and place the
15 responsibility for the head of this agency on that agency
16 and leave it there.
17 Now the argument against that is that -- well, there are
18 two kinds of arguments against. One is that the situation now
19 is justified and that this is a good thing and we don't need
20 to make any change and there are good reasons to believe that.
21 The second argument might follow in the middle and says,
22 well, there is some inconsistency potentially. There might
23 be some advantages to separating them as well as some costs,
24 but we have now just instituted this new system whereby you have
25 broader responsibilities for the ICI. Let's see how it works for

awhile before stepping up to the question of whether he can really adequately perform and wear both hats.

Those are essentially, I think, the arguments. If there are others that ought to be offered in explanation of the choice--

Mr. Bader. I would just underline that, Mr. Chairman, the second point that David has made about recommending the situation to stay the way it is today. That is, that the two hats would stay together.

I think some of us feel that the period in front of us will be a period of experimentation and testing where there are new responsibilities that will flow to the DCI. We'll see how they work, we'll see where his authority takes us. We'll see whether he really will in fact establish himself as the responsible director of, in a DCI sense, and we argued here that the oversight committee should be attentive to this to see how it works out and that if sometime in the future after we've had a chance to see how these expanded responsibilities work in practice, that will be a time to see whether the DCI and the Director of CIA function should be separated.

Mr. Aaron. I think that to argue the first case a little more strongly, if I could, there are two additional points to be made about it.

One is that in fact having the second half, running the agency will be an impediment to him effectively running the overall community.

1 So it isn't really just a question, I would argue,
2 of seeing where the current system takes us. It's a matter of
3 looking at what we have learned as a result of our inquiry
4 and saying, in fact, this is going to be an impediment and it
5 is my personal opinion and I think supported at least by some
6 testimony that that would be the case.
7 The second argument, I think, is a somewhat broader one,
8 and I guess I'm not prepared to make it. But we've had an
9 inquiry into the CIA, some of its problems, some of its
10 accountability problems, some of its management problems, and
11 as a result of this inquiry there is, at least it strikes me
12 as being some inconsistency to be argued between having this
13 broad inquiry and ending up with a much stronger, larger, and
14 more powerful Central Intelligence Agency in every respect
15 with greater authority over other elements of the intelligence
16 community.
17 Now you can only carry that so far but it seems to me
18 that there is a serious question here as to, and it is seen in
19 part by other elements of the intelligence community who really
20 are concerned that by wearing the two hats, the DCI will still
21 really be representing the Agency vis a vis their particular
22 agencies like NSA and the others.
23 That's the choice.
24 Mr. DiGenova. Mr. Chairman, if I could just note for
25 the record that of the witnesses who testified before the

1 Committee. I believe the record reflects that Mr. Schlesinger
2 was the only former DCI who was in favor of separating the
3 Agency from the Director and all those who were still alive
4 to testify who were former directors favored it, most notably
5 Mr. McCone and also Mr. Helms, Mr. Helms characterizing the
6 director as ending up with a disembodied spirit if he were
7 deprived of this analytical vehicle.
8 So I think as far as the record goes, I think the record
9 is against divesting the director of the Agency, although there
10 is certainly evidence from those who felt that he should be.
11 Mr. Aaron. Let me see if I can clarify that record a
12 little more.
13 First of all, the proposal is not to divest him from the
14 analytical and production function. That we clearly provide
15 for and that would not take place.
16 The second point is that I believe the record goes to
17 the question of sorting out or separating the director as he
18 has to this time existed in the sort of general kind of overseer
19 and the kind of jawbone authority that he has had. And the
20 questions that have been put to the witnesses generally have
21 been put in the context of what was, up until recently, his
22 authority in that capacity, and I might say personally I would
23 agree with that.
24 I think if you were to divorce the director who essentially
25 only had jawbone authority from an agency and the specific

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1 gravity that that gave him, then he would be a disembodied
2 spirit. But we're talking about a somewhat different situation
3 now where he has real authority over the budget.
4 Mr. Kirbow. But also presupposes, Mr. Chairman, that you
5 have decided already that you're going to separate the analytical
6 side of the house up there from the clandestine side of the
7 house and put them into separate agencies.
8 I don't believe the committee has decided that. The
9 staff may have.
10 Mr. Treverton. It doesn't necessarily presuppose that.
11 Mr. Kirbow. If he's going to put the analytical side
12 of the house over there with the DCI --
13 Mr. Treverton. Well, in any situation we would leave
14 the DCI with his responsibility for estimates and a staff to
15 do that.
16 I grant that the argument for separating the DCI from
17 the CIA is stronger.
18 Senator Huddleston. Well, he wouldn't be without authority
19 over the Central Intelligence Agency. He recommends the budget
20 and tasks them. He gives them the responsibility and apportions
21 the resources.
22 Mr. Lombard. I wonder if I could ask a question.
23 We have had previous DCIs who have testified that you
24 should not have the divorcing of the DCI from the agency but
25 that was based upon the organization as they then knew it.

Now my question is this. Assuming that we were to achieve all of the measures in the recommendations that we have here for the DCI budget and all the rest, it seems to me that that is an awful lot of work without having to be concerned with the day to day operations of the CIA.

I don't know. I just raise the question.

Senator Huddleston. I think that's a good point.

Mr. Lombard. He first of all has to present the budget to the President. He has to defend the budget up on the hill, and that's in at least four committees. And then he's got to have an analytical base, and presumably the national estimate function and on top of that, worrying about the day to day operations of the Agency.

I don't know if that is more than one may should be asked to do.

Senator Huddleston. Well, when we talk about major reorganization and re-assignment of functions, almost, and we're probably confusing that by continuing to call the man who is going to supervise all of the intelligence the DCI.

Mr. Bader. Senator, what we are entering into here is a period of transition for the DCI where he has new responsibiliti which are not certain at this point how they will be implemented.

Part of our problem with this decision is, as has been stated and noted, most of the testimony of former DCIs is against the background of the present situation. So most of

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it is not really relevant to the question of what the DCI will be doing if, and I underline the word if, these new responsibilities that are being thrust on him by both the Executive and by the Congress, are in fact implemented.

The argument I would make here is that the oversight committee should take some time and consider this, certainly in light of how these reforms, if they are reforms, are carried out.

Senator Huddleston. So that's option one.

Mr. Davis. The Executive Order is an attempt to look at the problem and to make one step which says there will be two deputies, and therefore the DCI will have someone who is managing his operations and takes some of the burden off and that's why they did it. And in a sense, they recognized the conflict of interest and this was a step in that direction which we are accepting.

And when you say who prepares the budget, you have to be a little careful as to what that means. I mean the money is still authorized to the departments. They will still have their own budgetary process, and how exactly he gets control over that at this point is unclear. We're giving him language about how it's going to happen, and I think that's the argument for waiting a short time to see whether or not he actually does get control.

Mr. Aaron. I might just say that we have to look at

1 this recommendation as well, not simply in the context of the
2 President's own proposals and own measures that he has taken but
3 in terms of the measures which we propose be taken in statute,
4 which of course the oversight committee or whatever responsible
5 legislative committee will have the power to dispose of these
6 proposals or recommendations.
7 But in that context it's very clear that we do give
8 very unambiguous authority, very strong authority -- I think I've
9 noted a few other points where we actually strengthened the
10 thrust of the Executive Order. And so when we look at the
11 question of whether he should or should not, whether we should
12 or should not recommend that in the context of this kind of
13 authority there will also be development of a statute that
14 would separate these functions, it has to be seen against what
15 we propose and not what the President just proposed.
16 Senator Huddleston. The fact is that if everything
17 we have recommended so far should come to pass and the DCI
18 should have the expanded responsibility and authority, he
19 would be a more powerful man if he was separated from the
20 operation of the Agency. He would be a more powerful man then
21 than he is now as running the Agency and being the so-called
22 coordinator, would he not?
23 Mr. Davis. That's correct, that's the purpose.
24 Senator Mathias. Mr. Chairman, do we have any testimony
25 from other agency heads, how they would view this question?

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Mr. Lombard. We have come from the DIA.

Senator Huddleston. The DIA would favor separating the two.

Mr. Miller. General Allen has also said that.

Mr. Kirbow. General Allen at the meeting when this was discussed, he indicated that this has not created any problem for him, that he didn't see any favoritism being displayed on the part of Mr. Colby and the people he dealt with.

Mr. Maxwell. I think that's part of the reason why a number of us had favored option number one, was that a great deal of the trouble with the President's Executive Order and our recommendations was to give the DCI more authority. But for the period of time in which that has not been sorted out and we don't have a record for, to take away or recommend taking away essentially the troops that the DCI had used, which in the future hopefully he would not need if recommendations on both sides come into being would be to weaken him at a crucial time as people try to fill in the vacuum that is created.

Senator Huddleston. I think the question then is whether or not what we are recommending actually comes to pass. If it does come to pass, then this is an issue that needs to be addressed.

Now the other question is should we remain silent on it in the report or should we, as option one indicates here, leave it as it is until such time as it has been determined that it

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would be advantageous to separate them.

Is that what we're saying there?

Mr. Aaron. Yes. I think there are really three options. One is to leave the stuff out, and my own personal preference would be to leave it out entirely if the committee did not feel that, if it didn't want to recommend that. It's kind of a half-hearted --

Senator Hart. Has the Administration already taken a step in this direction with the reorganization?

Mr. Aaron. It has by charging the new deputy out there and saying he's going to have more authority.

Senator Hart. How does one register disagreement with that? Vote for option one?

Mr. Aaron. If you thought that was inadequate, you would vote for number one.

Senator Hart. I don't think it's inadequate, I think it's wrong. I vote for option one.

Mr. Inderfurth. This also comes up under part 5(d), this whole discussion of options separating out.

Mr. Aaron. That's a separable question, the question of the structure of the Agency itself.

Mr. Davis. Under the Executive Order this new deputy for the intelligence community is physically moving out of Langley and coming downtown. That's supposed to be symbolic as well of the separation of the two roles.

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Senator Huddleston. Could we solve it by just having a narrative statement at the end of all of these recommendations relating to the DCI to say that the foregoing, preceding recommendations would, if carried out, substantially strengthen the role of the DCI or they are intended to do that?

And this brings up the question as to whether or not in this expanded role he should also at the same time be essentially responsible for the operation of one of the agencies and that this matter, as his duties are expanded, this matter needs to be considered further and a determination made whether or not it's appropriate that he continue to hold that responsibility.

That's not a recommendation. It's just a commentary on what we have done.

Mr. Kirbow. It highlights the problem and passes it to the oversight committee, which would have time to conduct hearings on it after some history had been established on the new role.

Senator Mathias. Would Senator Hart elaborate on his brief statement of position?

Senator Hart. I think the division out there that apparently the President has worked out is a bad one, and I for one would like to go on record somewhere or another as opposing it.

Mr. Miller. Do you mean, Senator, that --

Senator Hart. I don't think this little dotted line means a damned thing, frankly. I've never seen an organization like that work in my life.

This is the --

Ms. Culbreth. That's ours.

Mr. Kirbow. At the present time, Senator, the Executive Order leaves the DCI as head of the CIA with a strong kind of executive deputy out there that does the day to day running of that.

Senator Hart. Well, I like that equally less well. That's the same thing.

Mr. Aaron. Senator, do you have -- is there another solution that we haven't considered?

Senator Hart. Yes. Leave it the way it is now.

Mr. Aaron. Make him run it but give him other responsibilities in other areas?

Senator Hart. Well, I don't want to name any names but some of the sort of nameless, faceless people that have been out there running operations in effect with some vague responsibility to report upward.

Senator Huddleston. Well, we say that in practice when these other, if indeed these other recommendations go into effect and he does assume this additional authority over the total community, once that happens then it ought to be reviewed to see whether or not that additional authority still ought to

his operating head.

You know, that can be a dissipation of his accountability. You have a man that is so involved in so many other things that some nameless person is under him calling the shots. But if we were to move him away from that, then that nameless person becomes the man that we're looking to as far as the operation of the CIA is concerned.

Mr. Kirbow. At that time too wouldn't you expect that that person would be named as the Director of the CIA, would be nominated by the President and confirmed by the Senate?

Mr. Miller. What's wrong with having the DCI in charge of the community as long as the deputy is under his direct control?

Senator Huddleston. Well, you have the community of the USA. You don't call the director out there the director of the DCI.

We should be consistent.

Mr. Aaron. Option 2 -- we'd have a clear deputy, we'd know who he was. He'd be confirmed by the Senate. He'd be a man of stature and he wouldn't be anybody's deputy. He would be responsible.

Mr. Kirbow. He wouldn't be a deputy at all. He'd be the director of CIA.

Senator Huddleston. We'd just elevate the deputy for operations to be the director.

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Senator Mathias. Isn't that in effect today except for the titles?

Mr. Aaron. Not exactly because he still reports to the DCI. Maybe part of your question goes to who that person ought to be and what kind of requirements there ought to be on that, whether you want to describe the kind of person you want out there.

Senator Mathias. Action 2 is really the President's order except for the semantics.

Mr. Bader. Not really, Senator.

Mr. Quanbeck. Option 2 actually separates. The DCI would be different from the Director of CIA.

Mr. Aaron. The guy you would hold responsible under the current system still has to be the DCI. Under option 2 the guy you would hold responsible would be the head of that agency and not Mr. Bush, in effect.

Senator Huddleston. If we go to my narrativeparagraph ---

Senator Hart. Can we have that written up and brought back?

Senator Mathias. I think this could be a critical recommendation.

Senator Huddleston. I was going to say we might add a line in there that a reason to review it and possibly to change it would be to give a better fix on responsibility for the actual operations of the Central Intelligence Agency.

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1 That would be the main reason that I would think that
2 you would move the DCI away from that.
3 Senator Mathias. But it does not appear to me that you
4 exonerate your national intelligence officer, whatever you
5 call him, just because you have someone else you can also point
6 to.
7 I think you'd get two fish on the same hook if something
8 goes wrong.
9 Mr. Aaron. I think that would be in part true depending
10 upon what the particular problem was.
11 Senator Mathias. Well, sure, if their checkwriter is
12 out of wack and they haven't called in the repairman, they
13 might confine the responsibility to --
14 Senator Huddleston. Actually, you don't exonerate him.
15 As I see it for the operations of the Central Intelligence
16 Agency you have added to him the responsibility for the
17 operations of the other intelligence agencies, too, and he has
18 to review authority and he in fact would be the focal point of
19 any misdeed or wrong deed that may occur, whether it's in
20 NSA or CIA or whatever.
21 Mr. Aaron. It would really be very similar to the role
22 he would now have under the Executive Order to the NSA. It's
23 much closer to that.
24 We'll go back and draft a paragraph and present it either
25 this afternoon or at our next meeting.

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1 Now the next section refers to the Central Intelligence
2 Agency in general. Now because so much of our inquiry is
3 focused on the Central Intelligence Agency, we have a rather
4 long series of recommendations regarding it.
5 Now the sections are briefly these -- those dealing with
6 the charter for the Agency, for its conduct of espionage,
7 counter-intelligence and covert action, and the question of
8 covert action itself, how it might be conducted and what limitati
9 might specifically, or rules and regulations might apply to
10 it.
11 The production of intelligence, which is on its way, but
12 it's not in here, there is another section. Then the impact on
13 the domestic world of these activities both intelligence
14 collection and covert action and I believe you had a good
15 discussion of that longer paper prepared by Mr. Bader the
16 other day.
17 And then finally, some discussions of the inspection
18 system, the general counsel, the inspector general and so forth,
19 and some recommendations in regard to that.
20 Those are the central parts of it. It includes of course,
21 such matters as proprietaries, cover and so forth.
22 Now if we could turn to the first set of recommendations,
23 let me just make sure that there are not disagreements in the
24 text that need to be brought to your attention.
25 Mr. Maxwell. I think there are. There are things that

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were agreed upon at the staff level that were left out.

Mr. Aaron. I have one here.

Mr. Kirbow. Well, just for your information, there appears to be several things which were not just an occasional one but several things that were agreed on at the staff level that subsequently found their way back here in the exact original language.

But I won't dwell on that now.

Mr. Aaron. I'd be happy to take that out to see what we can do about it.

Now the first bracket that I find is on page 36. If there are any others before that that people have, we can take that up.

Mr. Maxwell. There's one on 33. It's not a bracket but it was a statement that would have been included as to the committee's findings as to internal controls on espionage activities by the Central Intelligence Agency.

Mr. Aaron. Yes, I recall that one.

Mr. Maxwell. Also on that page there's no effective machinery to make sure that those outside the clandestine service. I think that was addressed to the CIA because unless a finding is made at the CIA that the DCI at this point, the Director --

Mr. Aaron. I don't understand

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Mr. Maxwell. The second full paragraph on 33 the way it reads, it assumes that the Director of the Central Intelligence Agency who is outside the clandestine service is not able to ensure --

Mr. Aaron. I understand. You're right. Okay, if these are agreed things and they have been dropped out, then let's just get them back in. I don't know that we have to take the subcommittee's time to do it.

But if we missed some that were disagreed and need to be brought to the subcommittee, I'd like to make sure we get them out.

Senator Huddleston. At the bottom of the page on 33, maybe it's just not coming through to me but the CIA engages in both overt and clandestine activity within the United States for the purpose of foreign intelligence collection by overt means from American citizens.

Mr. Aaron. I'm sorry. I think that foreign intelligence collection, period, and then the rest of that sentence comes out.

And then it says the domestic collection does the overt, and the foreign resources does the covert.

Okay, my first bracket is on page 36 and it is that the Committee questions the practice of recruiting for foreign espionage purposes immigrants desiring American citizenship.

The point was made that there have in the past been

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instances in which those who were immigrants to the United States who wished to have citizenship were then approached by the intelligence agencies and either sent back as legal travellers and what have you and the question being the point of concern being that their vulnerable status of wanting to have permanent citizenship in the country made them more susceptible to either actual or implied or even imagined threats or imagined coercion.

Mr. diGenova. Can I ask a question about that? I'm totally unfamiliar with the subject and I'd like to know what the evidence was on the record.

Mr. Aaron. It came up in two cases that I recall and I'd like for Bill to speak to one of them. One case involved the Chinese in which the Chinese were approached and used for this purpose. I am not aware of any testimony that there was in fact coercion involved. The question was the practice and whether it has within it elements of coercion or at least the potential for it.

Now the second case I think you can speak to.

Mr. Bader. We have received testimony from a professor from a university in the Southwest that said that he had acted or was the middleman in an operation of recruitment of Jewish Russian immigrants who came to the United States who in particular were interested in some of the Russian Jewish immigrants who were quite young in hopes that presumably after recruitment they

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1 would return to the United States. I mean the Soviet Union.
2 We did not take that testimony any further than receiving his
3 testimony. That is, we have not taken it to the point of
4 asking the agency whether in fact they have such a program
5 in the Southwest. So the testimony was limited to that one
6 charge which I personally gave some real credibility to.
7 Ms. Culbreth. Can you explain just what the charge is
8 here? What is the wrong that has been done?
9 Mr, Kirbow. What's wrong with that? That's the question
10 I had in the original suggestion at the staff level.
11 The only human collection we are getting from behind
12 the Iron Curtain in Russia today is principally either through
13 our cooperation with the [redacted] community using
14 just this sort of individual and sending them back, or sending
15 this type of individual from the United States back inside.
16 We're not getting the other human intelligence.
17 Mr. Bader. I was only responding to the question of
18 what the testimony was.
19 To go on to the further issue which I think is going
20 to be addressed by the Committee, it's not the question of
21 whether we should, the Central Intelligence Agency should be
22 recruiting foreigners in this country for intelligence purposes,
23 people who may return to their country of origin.
24 The question is whether the individual who is in the
25 process of seeking American citizenship are in quotes "vulnerable

1 to exploitation for such purposes and whether in that shading
2 the Committee would want to take a position about recruitment
3 of that particular group.
4 Mr. diGenova. My position is this, Bill. The first
5 time I heard about this was when I read it in these findings
6 and conclusions. I never saw a hearing on it, I never saw a
7 document about it; I never had a chance to comment on it as
8 a designee, and I never had a chance to bring it up with my
9 Senator.
10 I'm not sure that we want to say this, ask the Senators
11 to say this, without having something in a report about what
12 the practice is, how it's been conducted, who has objected to
13 it, what's the extent of it, before we start making a
14 recommendation.
15 We're saying we question the practice of recruiting.
16 I have no objection to the Committee ultimately making
17 a statement like this. I just don't know what the record is.
18 This is the first time I've ever seen this.
19 Mr. Bader. That's why I wanted it bracketed so it could
20 be so discussed.
21 Senator Hart. What if we said we urge the permanent
22 oversight committee to look into this question?
23 Mr. Aaron. I think it would make some sense to have
24 gotten the Agency on the record that in fact this is a practice
25 or something that happens.

1 Senator Hart. If it's happening, I don't think it should.
2 If we have to sacrifice some human intelligence, I don't think
3 we ought to have a CIA guy tugging on somebody's sleeve who's
4 filling out his immigration forms because it is a very subtle
5 and very powerful form of coercion.
6 I don't think it should go on if it is going on but
7 I think the oversight committee should find out.
8 Mr. Bader. It's my personal position on this that
9 we don't have the evidence. We have not taken it through to
10 come to a conclusion on this .
11 I personally think that it's a problem that should be
12 pointed out, and I think perhaps my own view is that the
13 formulation of a recommenation to look into this as a possible,
14 as a problem would be my recommendation.
15 I don't believe that is David's recommendation.
16 Senator Mathias. I would think that you might as you
17 contemplate this thing, there are all types of opportunities
18 for this and I don't have any idea whether it's been done or not,
19 but I would think an illegal alien, for example, would be a
20 tremendous target.
21 Mr. Aaron. I might just say --
22 Senator Mathias. It's a different problem.
23 Mr. Aaron. It's a subtle problem because abroad I personall
24 was involved in a case in which someone seeking to emigrate to
25 the United States, his desire to do that was exploited abroad

1 for the purpose of getting him into the Agency.

2 Senator Mathias. This is the kind of situation I'm

3 thinking of, perhaps not an illegal alien, but someone who is

4 in this country in some sort of legal status but which is of

5 temporary duration and he wants to change his status.

6 Senator Huddleston. I can see that. Of course you're

7 not going to get one unless there's something he wants. Most

8 of them, it's either money or some change in his status.

9 Mr. Aaron. We drafted this language to make clear that

10 they were really immigrants and they were not illegal aliens

11 or people here changing their status or people outside trying

12 to get in, but people who are inside applying for their

13 citizenship.

14 Senator Hart. We could offer an option to have the

15 Statue of Liberty say give us your huddled masses if you work

16 for the CIA.

17 Senator Huddleston. I think there's a legitimate concern

18 and that exploiting people who legitimately want to be United

19 States citizens.

20 I also believe that, particularly anyone from the Soviet

21 Union over here trying to become an American citizen, it's

22 going to pretty well diminish his chances if he does go back

23 to the Soviet Union that he's going to be taken into the

24 confidence of very many people over there.

25 Mr. Kirbow. This is not an uncommon practice for the

1 United States. We've been doing it in the United States
2 military for generations in giving earlier consideration for
3 citizenship if he serves on active duty as an alien in the
4 United States armed forces.
5 It's been done as long as I can remember and I was in
6 the military over 25 years.
7 Mr. Maxwell. I think the only question is if we m
8 recommend against this practice if we don't even know --
9 Senator Huddleston. It bothers me that we would indict
10 the Agency with such scant evidence we have.
11 Mr. Aaron. My recommendation is that we get the Agency
12 on record as to whether this is the practice or not.
13 Mr. Kirbow. I recommend it be dropped from this if
14 we had only one witness and we've not heard the Agency or
15 that we develop a record to support both that and the same
16 part of that first paragraph, which I don't think we have a
17 record on either.
18 Mr. Aaron. We do have a record on that. It's an
19 interview record, it's not a sworn testimony record. But the
20 first sentence, there is an interview to support that.
21 Mr. Kirbow. Mr. Chairman, I think the subcommittee then
22 should carefully consider whether or not it is concerned about
23 the use of American companies in the pursuit of foreign
24 intelligence and if so, how this impacts on anybody's rights
25 or otherwise.

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1 We just went through this the other day with the labor
2 unions. The whole paragraph.
3 Senator Huddleston. I have some concern with that too.
4 When we talk about expressly prohibiting penetration of
5 American companies, it seems to me that the question is whether
6 or not we're penetrating those companies with company executives
7 being unwitting or whether --
8 Mr. Aaron. That's the point.
9 Senator Huddleston. It seems to me the real problem is
10 when we were doing it secretly.
11 Mr. Aaron. And that's the point.
12 Senator Huddleston. The company ought to have the
13 right to make a determination as to whether or not its interest
14 would be severely jeopardized if this were to happen.
15 Mr. Treverton. I think this language probably isn't
16 clear enough. If we did human penetration without the
17 knowledge of the company on the operation of the company
18 primarily --
19 Mr. Kirbow. We're talking about a corporate operation
20 against a U.S. company in the United States?
21 Mr. Treverton. Presumably it would not be in the U.S.
22 Mr. Kirbow. If that's what's intended, it does not
23 convey it to even an informed reader.
24 Senator Huddleston. Well, we say foreign intelligence
25 collection.

Mr. diGenova. May I ask in this regard, it ends up by saying, although according to CIA officials such activity has not taken place -- what's the other evidence that it has which created the sentence?

End 2A, b 2B

Mr. Aaron. In looking at what the [redacted] does in the way of penetration [redacted] as opposed to collecting agents [redacted] or in some other walk of life, we found that the [redacted] actually runs agents in only a few cases.

The cases are Americans employed by local industries in the United States or consulates.

In other words, in [redacted] establishments in which there are few cases in which indeed the Americans working for those [redacted] establishments are agents of the CIA through the [redacted], and the Americans are not officers of the CIA but they were agents of the CIA in that respect.

Mr. Kirbow. They work [redacted] as you say?

Mr. Aaron. Yes, here in the United States, and this is talking about domestic impact. This is not the foreign situation.

There has been at least one case and I belive there are two but only one I can specify, in which the [redacted] had an American agent in a foreign company, a foreign-based company. It was very unambiguous that the company was a foreign company

because in effect it was a public company of a country whose most business enterprises are owned by the government. But it's a company and it's business and it was a foreign company and the question was, and it related to --

Mr. Kirbow. And this agent was apparently here in the United States?

Mr. Aaron. [redacted] of that company because that company had foreign policy implications for us.

The next question that was put to, I believe, the chief of the [redacted] was do you have any regulations that prohibited you from doing the same thing with an American company? And the answer was no, we don't, although we don't do that or we haven't done that or something to that effect.

That is essentially the story and how it came to pass.

Mr. Maxwell. There's some question on both of these whether there are ways of saying things that are important as recommendations without implying that A, these had gone on and B, that we have a record to support that.

There's also, I guess, a slight question in my mind as to the order of magnitude of the recommendations that flow from this in the promulgation of a specific directive.

That's slightly out of synch with the order of some of the other recommendations. The Committee might want to choose to drop that to a footnote or to do it in some other way.

1 Mr. Aaron. The recommendation that relates to that is
2 where?
3 Mr. Maxwell. I thought that we had made a finding. It
4 was number 25 on 39. That's a somewhat different order.
5 Mr. Aaron. Do I take it that --
6 Senator Huddleston. Is this penetration always in the
7 context that it's unwitting?
8 Mr. Aaron. Yes. If it's witting, it's really collaboratio
9 which is another matter.
10 Senator Huddleston. So although you could be witting --
11 Mr. Aaron. Well, the penetrating also applies and
12 maybe we should also make this clear, but for the purposes of
13 conducting some operation with regard to the organization,
14 whether to make it do something in the covert action sense
15 which collect information on it.
16 If it were simply unwitting cover, that's a different
17 thing.
18 Mr. Maxwell. I don't think, David, that penetration was
19 used in a context in the agency in the MH/BOUND --
20 Mr. diGenova. Penetration was for security purposes.
21 It's to discover whether or not there is in fact a fly in the
22 ointment with regard to the security of an American company.
23 That's the way it was used in MH/BOUND.
24 Senator Huddleston. That's putting a spy in the
25 organization.

1 Mr. diGenova. Well, yes. In this case they penetrated
2 Burbank, California and other companies, mostly defense
3 contractors building planes in order to find out they had
4 security risks, a laborer or an executive inside.
5 Mr. Maxwell. It was witting to a certain extent.
6 Mr. Bader. I think one of the problems we have here is
7 this question of whether in our formal recommendations that we
8 should enjoin the agency from doing things that they don't do.
9 And where there's no evidence they have any intention --
10 Mr. Kirbow. The '47 Act prohibits this kind of conduct
11 within the United States.
12 Mr. Bader. And I think that that should be carefully
13 considered. We have no evidence that the Central Intelligence
14 Agency penetrates Congressional staff, but we have not put it
15 in as a recommendation that they should not penetrate
16 Congressional staffs.
17 I think the other matter that has been raised about the
18 operational exploitation of recruiting individuals who are in
19 an immigrant status and seeking a change a change in status,
20 we do at least have what I hold to be a responsible source
21 saying that this practice, he has seen this in practice.
22 I think we should separate the two issues and on the
23 second one it seems to me that if we could frame some language
24 that is language of caution and concern, or we should move very
25 quickly, it seems to me, to take some testimony from the Agency

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on that matter before we can talk about the matter of the practice of recruiting because I don't think we can use the word practice until such time as we have --

Mr. diGenova. I didn't mean to impugn the integrity of your source.

The question is if the Committee gets asked a question about it later on and someone comes back and reviews these records and sees one person was spoken to or something, I don't really think that's much of a record to go around making findings and conclusions in a final report.

It has nothing to do with the integrity of the man from whom the information came. He's probably right.

Mr. Aaron. I'd like to recommend that on that particular point we tried to nail down with the Agency a little more carefully what the current policy or practice is and on the question -- but I still stand with the view, I might say, on the second one of expressing concern if indeed there is a practice and we do know that some of it has taken place in the past, if there's still no guard against it, then I think perhaps Senator Hart's recommendation about how the oversight committee should pursue this question further would be sufficient.

Senator Huddleston. Well, paragraph 22 over on 39, if applied to the FBD, would be a pretty good approach, I think.

Mr. Aaron. That would not necessarily rule out -- it would not step up to this question. This really is aimed abroad

at the question of duplication with overt reporting by the military attaches or by the foreign service or whomever.

In other words, it's trying to establish a standard.

Senator Huddleston. Okay, so where are we?

Mr. Aaron. I think we're at the following point that as far as the bracketed sentence is concerned, we'll go back to the Agency and establish what the practice is when review is necessary of including the paragraph along the lines suggested by Senator Hart saying the oversight committee should look into this particular practice if indeed it is a practice with the absence of policy on this point.

As to the question of American companies, I think I still need to be directed as to how to deal with that. I think when in doubt, delete.

Senator Hart. Can we just commend them for that? Can we say it's a good practice?

Mr. Aaron. Well, the Committee notes that it's been the practice not to do this and that that should continue as a part of their standard procedures.

Senator Mathias. Have we ever commended them?

Mr. Bader. There is much text here which talks about sensible, responsible practices.

Senator Mathias. I do think you should mention that we're talking about their domestic operations of American companies.

Mr. Aaron. Yes. FBI is supposed to tell you that but

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1 it doesn't .

2 Senator Mathias. I think on page 36 and 39 it ought

3 to refer to domestic operations.

4 Mr. Kirbow. I think we might want to consider too that

5 there's an extensive section of the domestic activities of the

6 CIA coming into the domestic task force report, the subcommittee's

7 report. And if don't put in a comment like this, it'll

8 probably all go in that other section. Whereas here we're

9 dealing with an apparent possibility that sometime in the

10 remote future there could be an abuse and there dealing with

11 the abuse section and this kind of departs from what you've

12 done otherwise.

13 Mr. Bader. I would say on that score that this is a

14 foreign intelligence matter. That is the objective. And I

15 think if it's going to be mentioned, it should be mentioned

16 here.

17 Mr. Kirbow. It is on the immigrants, but I don't think

18 whether or not you're penetrating an American company to

19 illegally or anything else, if there's any way you can get around

20 the 1947 Act which prohibits that kind of activity by the

21 CIA in the United States for whatever purpose, to penetrate

22 them other than security of your own facility.

23 Mr. Maxwell. One thing that might make this easier is I

24 think that if we expressed any concern in that direction exists

25 in regard to this practice, we would get one promulgated quite

1 quickly.

2 Mr. Aaron. I would recommend that we accept the

3 suggestion that we put this in a positive sense and proceed

4 on that basis and clarify the word penetrate and the fact

5 that it is the domestic aspect.

6 Mr. Kirbow. Could we ask the Agency to comment in

7 some way so that at least we don't recommend to you that you --

8 Mr. Aaron. I'd be happy to do that again.

9 Senator Huddleston. Well, now it's 12:00. I hope there's

10 some way we can get through this today, which would include

11 of course a night session which Senator Mathias and I are

12 available for.

13 We've done 38 pages out of 160.

14 Mr. Aaron. I think it will give focus essentially on

15 the recommendations and the bracketed portions that that

16 should prove possible to at least break the back of it.

17 Senator Huddleston. We can at least try.

18 Mr. Aaron. If we come back at 2:00, I think we could

19 probably have cleared away a couple of the other sections and

20 then we will be really ready. We will have the full book here

21 and we can go at it.

22 Senator Mathias. 2:00, I think, would be better for me.

23 Let's say 2:00.

24 Senator Huddleston. We'll adjourn until 2:00.

25 (Whereupon, at 12:00 o'clock noon, the hearing in

1 the above-mentioned matter was recessed, to reconvene at
2 2:00 o'clock of the same day.)
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TOP SECRET

WARD & PAUL

1 AFTERNOON SESSION (2:20 p.m.)

2 Mr. BAder. Mr. Chairman, before you begin I might
3 mention that tomorrow morning at either 9 or 10:00, depending
4 upon whether this subcommittee meets tomorrow morning, we've
5 arranged for representatives of the [redacted]
6 [redacted] Central Intelligence Agency, to give us
7 testimony on some of these issues that have been raised, such as
8 the use of immigrants, some of the figures that they've given us,
9 and this question of penetration of American businesses.

10 That will be scheduled, as I say, at either 9 or 10:00
11 depending on whether the subcommittee meets tomorrow morning.

12 We would like to have a Senator swear those witnesses
13 and then obviously any Senator who would like to attend is
14 invited.

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2 Senator Huddleston. My thinking now is that we would

3 meet probably at 10:00.

4 Mr. Bader. We could certainly do it in an hour's time.

5 Senator Huddleston. I would like to attend that session.

6 Mr. Bader. So we'll start at 9:00 promptly.

7 Senator Huddleston. Senator Mathias had the suggestion

8 that in view of the fact that there is specific legislation

9 relating to that subject and that's in the Immigration Act --

10 Mr. Bader. I've asked them to be prepared to speak to

11 their interpretation of the provisions and restrictions in the

12 Immigration Act.

13 Senator Huddleston. But our recommendation is that

14 we would review the act and the practices.

15 Mr. Bader. If we have this room, as I hope we do, we

16 would take the testimony right here and if need be, move it

17 to another room.

18 Senator Mathias. In the event that I should not be

19 able to be here, and I hope I will, I think we ought to look

20 at this thing pretty closely.

21 As Senator Huddleston said earlier, you don't recruit

22 these people just out of the blue unless there's some reason

23 for them to sign up, and I don't think we want to be too

24 critical of recruiting procedures; to revert to the phrase that

25 we used yesterday, these are consenting adults.

1 I think what we have to look at is the degree of coercion
2 which is implied here, the kind of bind that you get these
3 people in where they really are perhaps totally alienated from
4 wherever they came from, and what sort of a crack do you put
5 them in and that not only goes to the humanitarian aspect of it
6 but to questions over liability and the rest.
7 Senator Huddleston. I think they could be very helpful
8 to us.
9 Mr. Bader. Senator, I could also try to adjust the time,
10 Senator Mathias. It could be before or after our afternoon
11 meeting, if that would be more in your reach.
12 Senator Mathias. Well, I haven't gotten my walking papers
13 for the morning yet.
14 Mr. Inderfurth. It's interesting in this respect to th
15 about Lee Harvey Oswald, about his being over there, and we're
16 talking about immigrants coming here and defectors and so on.
17 Senator Mathias. It's the other side of the coin.
18 Senator Huddleston. There's a question of how many doors
19 we ought to close.
20 Senator Mathias. Mr. Chairman, I regret to raise a
21 further complication. There's a meeting that I had for 6:00
22 that's now been postponed to 6:30. So it would probably mean
23 I can't get here until 7:30.
24 Senator Huddleston. Maybe 7:30 would be a better time:
25 I don't know. These people need to get out and get some fresh

1 air too, I would expect.

2 Before we get into the substance here, I understand that

3 our new mandate is if possible to complete ours no later than

4 Friday. So we're going to try to shoot for tomorrow.

5 What the Chairman would like to do would be for us to

6 have our report in some kind of form that we can give to the

7 Full Committee by Friday so that they can review it over the

8 weekend and the Full Committee can start on it on Monday.

9 Now how do you think you would stand on that proposition?

10 Mr. Bader. This is the principle findings, conclusions

11 and recommendations?

12 Senator Huddleston. Yes, which would mean that whatever

13 changes we are making here in phraseology and so forth, should

14 be incorporated and retyped.

15 We have that problem.

16 Mr. Aaron. I would think that that's do-able. I mean

17 it remains to be seen how extensively you would want to

18 debate some issues and the extent to which you will simply want

19 to bracket them or identify them and have the principal

20 discussion take place in the Full Committee.

21 But I would think that that's feasible.

22 Senator Huddleston. To delay it past Friday, of course,

23 would delay the time that the Full Committee could consider it

24 because they need to have it in their hands at least one day.

25 It might go fast in the Full Committee. I have no way of

1 knowing.

2 Mr. Kirbow. Bill, because you and I both know Senator

3 Mathias's previous intentions stated in the letter to the

4 Chairman, was there somewhere a discussion about releasing

5 this piecemeal ahead of time that might, that should go on the

6 record here?

7 Mr. Miller. If it's agreeable to the Subcommittee to

8 get it done by the weekend, he proposes that they take up

9 in Full Committee the findings and recommendations of the

10 foreign group.

11 The domestic group is much further behind, so they

12 would not take it up until about the 24th.

13 The question of whether to release any information or

14 any report that may be decided by the Committee --

15 Senator Huddleston. We'll let the Full Committee decide

16 that when they get the report.

17 Now where are we then on the report part?

18 Mr. Aaron. We have, we're in an extensive program of

19 trying to get the Agency's views as to what information is

20 sources and methods and what is classified for other reasons

21 and what have you.

22 We have, I believe, all but four papers have been read

23 by the Agency in one form or another and are in the process

24 of going out there. The four that are not are the Congressional

25 oversight and the CIA budget paper, although the budget section

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of the defense report, which is the substance of that has been discussed at great length with the Defense Department and they are happy with it except -- well, happy with it may be an exaggeration but they have no problems with it except for the numbers and the Committee itself will have to step up to the question of whether the large number or any subsets of numbers will be released.

The internal oversight, the Office of General Counsel and Inspector General has not been.

Is that right?

Mr. Maxwell. That's right. No material that was used there was derived from classified material.

Mr. Aaron. So that shouldn't be a problem. The general papers on covert action and espionage have not been given to them. They are just being completed by the staff essentially. All the others, and the chemical and biological one has not been shared with them.

Now beyond that all the others, I believe, have now gone out to the Agency in one form or another. The only one that seems to be approved, or at least we've gotten the go-ahead on, is the Department of State's paper and the Department requested one deletion, which we are prepared to make.

Senator Huddleston. All right, then. As I understand it, the Chairman, if we are able to get ours to him so the Full Committee can begin on findings and recommendations on

1 Monday or Tuesday, even. his hope is that during the course
2 of the next week the Full Committee will finish that.
3 In the meantime, of course, we can still be working on
4 these reports looking toward, hopefully, if we could have those
5 by the end of next week, too, then the Full Committee would
6 be in a position of at least having the material available to
7 them if we decided to release everything at one time or if
8 we needed a few more days to refine the reports themselves.
9 That's about as much as we can hope for.
10 Mr. Aaron. Okay. I think that to be realistic about the
11 longer material, it is a lot longer and I think to be at all
12 proud of the material we will want to be sure that we have
13 gone through it.
14 So therefore I think the end of next week is probably
15 not realistic of having it in shape for the Full Committee to
16 bless it.
17 On the other hand, I think that before the end of the
18 month it would be possible to have a product, unless we run
19 into some enormous snag.
20 Senator Mathias. But that does not contemplate the
21 executive review.
22 Mr. Aaron. No, I'm sorry, that is including executive
23 review.
24 Mr. Miller But it does not contemplate printing.
25 Mr. Aaron. That's correct.

TOP SECRET

Mr. diGenova. Yesterday, Mr. Bolton indicated to me when I was there that there was no way that they could complete sources and methods review by the 15th of March, and I said I didn't see how they could either, since they had just really begun having access a week or so ago or whatever it was. And they seem to think that the end of the month is probably, considering the rewrites and a chance to look at the rewrites--

Senator Mathias. I have been independently advised of the same thing, that the end of the month is maybe a little optimistic.

Mr. Miller. Senator Church just talked to Director Bush and I talked to Mitch Rogovin just prior and worked out an arrangement on the question of clearances of sensitive material and the Chairman told Mr. Bush that he will take whatever time is required, he asked for expeditious effort on their part. Mr. Bush said that he would urge his troops onward, and he recognized that there had been snags and difficulties. The Chairman said that he was not going to press beyond the capability of either side. He wants to do the proper job and whatever time is required.

He said that he hoped that we could cooperate and work it out so that we could finish by the end of the month. And Mr. Bush said that he would make every effort to do that.

So that seems amicable between the Chairman and the Director.

1 Then the question arose about the deadline on the 15th
2 and the Chairman is going to ask that this deadline be set
3 aside because of the problems of not being able to finish
4 security and those other matters.
5 So he is taking steps to do that now.
6 Senator Huddleston. But I think it's still encumbent
7 on us to make a special effort to move as fast as we can, and
8 we plan to go ahead tonight.
9 Okay, now we get back.
10 Mr. Aaron. We're on page 37 and the procedure we're
11 trying to follow to expedite things is to look particularly
12 at the recommendations and at the bracketed language.
13 Now recommendation 20 --
14 Senator Huddleston. Before we get to 20, there's a
15 problem in wording. "The last paragraph before 20, the
16 Committee also found that there's no established inter-Agency
17 mechanisms for establishing the bona fides of defectors."
18 You've used established twice there.
19 Mr. Aaron. I think we can take the first one out.
20 Ms. Culbreth. We might say, David, that the staff hopes
21 to take a real editorial shot at this before it gets published,
22 anyway, and maybe even before it gets to everybody next week,
23 and we would hope that we can get a lot of these things.
24 But certainly, any that you see that you want us to
25 be sure that we get to, point out.

1 Mr. Kirbow. Mr. Chairman, on that particular thing, at
2 the staff level I had bracketed that entire paragraph because
3 I'm not sure what we're trying to accomplish by what you say
4 there.
5 This is probably the most difficult task that faces
6 a counter-intelligence organization any place in the world
7 is to establish whether or not a defector that you have just
8 picked up is a double agent or not.
9 I listened to the man who has done this all his adult
10 life at the Agency, Mr. Angleton, and he never made it clear
11 just how you ever are sure that you have a bona fide.
12 And then his follow-on said basically the same thing.
13 What do we intend to do with this finding? Do we intend then
14 to legislate something? What are we going to do with it?
15 Mr. Aaron. The finding goes to the recommendation later
16 that there be essentially for other purposes. But a
17 subcommittee of the National Security Council on the subject
18 of counter-intelligence which would look at other matters and
19 we will get to that in a moment, but among its tasks is that
20 it would be a forum in which differences of opinion as to the
21 bona fides of a defector could be discussed and potentially
22 reconciled.
23 Mr. Angleton testified and spoke at length in other
24 forums with us about the fact that when -- that at present there
25 really is no way that there's a difference between the FBI and

1 CIA as to the bona fides of a defector and there's no way for
2 the government to come to a decision about it.
3 And this really makes that point and leads to the further
4 point that we believe there ought to be some mechanism whereby
5 some decision can be reached. Now people may still have
6 reservations, as they do about this particular individual we
7 refer to here. But in the end one has to make a decision and
8 simply keeping him in a jail some place is probably not a
9 useful way to proceed, and in fact, this is the kind of
10 recommendation that comes from Mr. Angleton and seems to be
11 supported by other people, even his successor at the Agency.
12 Mr. Kirbow. Do we have any place in our findings that
13 discusses the so-called, this single case of some sort here?
14 Is there some evidence?
15 Mr. Aaron. Yes.
16 Mr. Kirbow. It's going to be in the report when somebody
17 else reads this? They'll be able to go some place else and
18 see what you're talking about?
19 Mr. Aaron. That's correct. It will be in, I believe it's
20 in the paper on counter-intelligence. It's also addressed
21 in the Rockefeller Commission report.
22 Now as the first recommendation, I think that we have
23 agreed at the staff level to take out the brackets and put a
24 footnote which would make it clear that while the primary
25 mission of the CIA would be to collect denied or protected foreign

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1 intelligence information, that this would not, you know, that
2 at the same time the Agency could be directed to perform such
3 other collection tasks as directed by the NSC.
4 In other words, the point is that certainly they do
5 some overt collection. For example, foreign broadcast information
6 service is done by them as a service and so forth. But at the
7 same time the point of giving the CIA a charter is to give it
8 a charter for its primary mission and as set forth NSCID 5,
9 for example, that mission is to conduct espionage.
10 Senator Mathias. What about the role of statistical
11 analysis? That kind of analysis that can be deduced from
12 study of voluminous quantity of economic information much
13 of which is public?
14 I'll go back to the ball bearings, the ball bearing
15 factory.
16 Mr. Aaron. Well, this goes to the point really of
17 the organization of this section. There's a separate section
18 on the production of intelligence which would authorize the
19 CIA to produce national intelligence. That kind of thing. The
20 Central Intelligence Agency as the producer of national
21 intelligence must be the recipient of all intelligence flowing
22 into our overall national intelligence effort, and that
23 intelligence includes overt intelligence as collected from
24 the Treasury Department, from Commerce, from Labor attaches
25 abroad, the full scope of information collecting, most of which

1 is not secret or clandestine and is available to the CIA and it
2 would be their job to compile it.
3 And that does not exclude other functions. For example,
4 the analytical function is not mentioned here. This is simply
5 to give it the collection function and that is because the
6 paper is simply organized in that fashion. It doesn't try to
7 step up to the whole charter, every aspect of it. We just try
8 to break it down.
9 Mr. Maxwell. Should there be a kind of overt foreign
10 intelligence which the NSC with the mechanism for allocating
11 priorities within the intelligence community should be
12 done by the CIA?
13 It could under the formulation now do that.
14 Mr. Aaron. That's why for example there's one thing that
15 they do that's overt. Even their clandestine people abroad
16 do an overt collection job and that is biographic information
17 and that, while it was once in the State Department, was
18 transferred to the CIA because they have a lot of clandestine
19 biographic information and as a matter of centralizing and
20 efficiency the decision was made to move it over there.
21 That kind of thing would not be precluded and would still
22 exist.
23 Now it goes on to state that in doing this we would also
24 recommend authorizing the CIA to carry out the recruitment of
25 agents within the United States for this purpose. And it goes

1 further to say that there would be an annual review of this
2 activity by the Senate oversight committee and by the
3 counter-intelligence committee which we proposed be established
4 and has been agreed here as a recommendation of the National
5 Security Council.
6 Now the further sentence that is in brackets calls upon
7 the Attorney General to certify to the President and to
8 the oversight committee that these actions are being taken in
9 a manner that does not violate the Constitutional rights of
10 American citizens or any other provision of law.
11 Trying to keep track of the domestic intelligence
12 recommendations is a little bit like painting a moving train,
13 but this tends to coincide with their recommendation, and the
14 purpose of this is obviously to place a little tighter
15 restriction and more authority in the hands of the Attorney
16 General to ensure that these domestic espionage-related actions
17 that are conducted on a covert or clandestine basis are in
18 fact not infringing on Constitutional rights or attempting to
19 break the law in any way.
20 Mr. Kirbow. You're really talking about recruitments
21 now. You're not talking about other clandestine and covert
22 activities and operations?
23 Mr. Aaron. That's correct. It's not, for example, if
24 you were to establish a base in Florida for the purposes of
25 harassing Cuban shipping. That would not come up here.

1 Mr. Kirbow. And the bracketed information, Mr. Chairman,
2 was that I didn't feel at the time we considered this and I
3 asked that it be bracketed, that the Attorney General who is
4 never going to operate in this area alone, he is not going
5 to make these decisions without staff support of some description,
6 and if he's going to do that with people in the Department of
7 Justice, which is where he gets the staff, the concern of the
8 people in the Agency about broadening even within their own
9 agency those people that know about the agent procurements and
10 where they are and whom they are is of vital concern. It's
11 probably one of the most carefully guarded secrets. Even to the
12 extent that Mr. Colby testified before this Committee under
13 oath he said, I don't want to know the names of the agents
14 because someone may want to decide some day to wrassle it
15 out of me.
16 I don't know what the Attorney General certifying here
17 does for you if on the same subcommittee you have the DCI,
18 who is the President's principal man, you have the secretaries
19 of state and all these other people apparently at the beck and
20 call in intelligence matters to put the Attorney General and
21 his staff into the agent procurement business.
22 Senator Hart. Not in the agent procurement business.
23 Mr. Kirbow. I mean with knowledge of agent procurement.
24 Senator Hart. Well, the Attorney General is in the
25 business of upholding and defending the laws of this country

1 and he can't do that if he doesn't know when one of the agencies
2 of the Federal government might be breaking them.
3 It's a chicken and egg situation.
4 Mr. Kirbow. You think he should approve the policies or
5 the actual procurement of the agent.
6 Senator Hart. The procedures. Nothing in here. I mean
7 we have argued this thing for 13 months, there's nothing here
8 that requires the Agency to turn over names of their sources
9 or anything like that.
10 The Attorney General doesn't need to know the names
11 even more than Bill Colby does, or less. Just to find out that
12 the procedures of violating the laws of this country, that's
13 all.
14 Ms. Culbreth. Could I raise another point, Mr.
15 Chairman?
16 It seems to me that one of the concerns that you have
17 with having the Attorney General certify in this specific
18 case to the President and also to the oversight committee
19 is a consistent problem that I think runs throughout our
20 recommendations.
21 On the one hand, we are describing for accountability
22 within the Executive Branch of the proper people, and on the
23 other hand we are afraid that if we make him accountable, we're
24 giving him so much power that they are going to disregard the
25 Constitutional obligations.

1 In this specific situation, for example, we've already
2 got the Attorney General being involved with the oversight
3 responsibilities. When he takes office he already has the
4 obligation to see that all the laws and activities of agencies
5 are carried out as they're supposed to be.
6 And in addition to that, we are proposing in another
7 part of our recommendations that the general counsel and the
8 inspector general of the CIA be subject to Senate confirmation
9 so that there are lots of other kinds of checks, and I would
10 just hope that as the Senators consider additional proposals
11 like this, that we don't get to the point that the Congress
12 is hamstringing them inside the agencies on how they carry
13 out the responsibilities.
14 Each one of these standing by itself may look like,
15 well, this is a good idea and we should have this additional
16 certification or this addition chain of reporting and making
17 sure you get it authorized.
18 But I have a fear after having looked through a good
19 bit of this, that we are getting too many layers in there, and
20 I would just urge a caution if there are situations where we
21 maybe have it pretty well covered until we get some opportunity
22 to see how this new set-up is going to work, whether we're
23 going to have the kind of abuses we had before. Maybe we don't
24 need each of these details of Congress going down into the
25 agencies and saying how they go about their day to day business.

1 Mr. diGenova. Mr. Chairman, I would add in that regard
2 that with regard to the specific recommendation, this is
3 not going down into the Agency. This is talking about the
4 Attorney General who is the head of an agency, first of all,
5 and the history has shown that other Attorneys General who
6 took the same oath that this man did didn't do their jobs and
7 one of the reasons was that they didn't know about certain
8 things.
9 And the purpose of this provision is to make them aware
10 of what is going on, to make legal judgements and to advise
11 the President about the legality of procedures attending the
12 recruitment of agents and other activities within the confines
13 of the United States.
14 The provision for confirming the inspector general and
15 general counsel is a wholly unrelated thing to this although
16 it doesn't go to the problem of reaching down into the Agency.
17 I don't see how that does that because he's going to
18 be dealing with the DCI.
19 Senator Huddleston. Contrary to many of the things that
20 we do, we provide ways to correct abuses once they've happened
21 and it seems to me this is a principal way of trying to avoid
22 abuses to start with.
23 If I were on the oversight committee I would certainly,
24 and if were getting the information that we contemplate the
25 committee would get, then that is we would know about these things

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1 I would certainly want to know whether or not the chief
2 law enforcement officer of the country thought they were
3 legal or illegal, or if there was a question about it.
4 Senator Mathias. I have a real question if I were
5 Attorney General whether I would sign what we would call for
6 here.
7 Senator Huddleston. The certification bothers me a
8 little bit.
9 Senator Mathias. How could I as Attorney General say
10 that I certify that all the actions in this area do not violate
11 Constitutional rights of American citizens or any other provision
12 of law?
13 I have worked in a state law department and had to
14 sign some certifications much simpler than this, and I agonized
15 over them. And this is so far beyond the personal knowledge
16 of the Attorney General for him to make any kind of certification,
17 I think we should get him involved but I question whether it
18 should be a certifying.
19 Senator Huddleston. What's the step just under actually
20 certifying?
21 He could review. He could certainly raise a red flag.
22 His oath would require that he do something.
23 Senator Mathias. If you force him to certify, I think
24 you're going to get such a wishy-washy thing that to his
25 knowledge and he was not advised to the contrary and stuff like

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1 that.

2 Mr. Aaron. I think that's a fair point. The question,
3 I guess, the case at which the certification would run most would
4 add to what already is in the sentence preceeding it which
5 is review by the Committee which the Attorney General is
6 to chair, would be the case in which the Attorney General is
7 aware of a particular activity, is aware that it is illegal
8 but just doesn't do anything about it on the theory that it
9 is somebody else's business. And he doesn't really, he doesn't
10 have an obligation in this category of matters to render
11 a judgment and bring it to the attention of the President or
12 the Congress.

13 Senator Mathias. Why don't we say this, that the
14 Attorney General be required to advise the President and the
15 oversight committee that he is familiar with the procedures
16 established to accomplish this purpose and that he is not
17 aware of any violation of the Constitution or other law in
18 the execution of the action.

19 I think you can lay that kind of a burden on the Attorney
20 General .

21 Mr. Aaron. Would it be possible to just make it sort
22 of a reporting function in which he said, and this is in the
23 same direction, the Attorney General will be required to
24 advise the President and the oversight committee if he finds
25 that these options are being taken in a manner that violates?

Senator Huddleston. Yes. First he must review them.

Mr. Aaron. And if he finds a violation, evidence of violation, then he must report to the President and the oversight committee. Just place the responsibility there.

Senator Huddleston. If in his opinion.

Senator Mathias. I wouldn't have any trouble with that.

Mr. Maxwell. I have one other point on that paragraph and that is it provides for annual review by the counter-intelligence committee of the National Security Council.

I had understood we were dealing with the recruitment of agents for the United States foreign intelligence purposes, and the question is whether the counter intelligence committee which was to focus on resolving issues involving the bona fides of defectors, issues between the FBI and CIA, would be the body which would have the appropriate knowledge in the positive intelligence value, or whether it should be assigned to a counter-intelligence function.

It's simply a question of where the responsibility should be allocated for reviewing those within the National Security Council structure, and I wasn't clear whether the counter-intelligence committee was the appropriate one.

Mr. Aaron. Well, on that point, the purpose of setting up the counter-intelligence committee is essentially to look at the domestic impact of our intelligence activities, the primary ones being in the counter-intelligence field but also

in the positive intelligence field.

In fact, the resolution of the bona fides problem is a much smaller aspect of those two problems but the existence of the committee with some knowledge of the problem of counter-intelligence makes it possible to have a forum at the National Security Council level to address it.

Mr. Kirbow. What abuse that has been brought up in the past either in the press or accusations about a committee is this aimed at?

Has there been abuses that we have documented or reported that indicate that this has violated the Constitutional rights of anybody, includint these foreigners for this purpose?

We must be aiming this at something other than just kind of pulling it out of the air?

Mr. Aaron. I think it really comes more in the category of questionable practices and I wish I had the domestic fellow here but it's really a question of, for example, when you're in the process of trying to recruit foreign assets or even Americans to perform foreign intelligence missions where you may begin collecting information on Americans for the purposes of assessing whether they are helpful to you in approaching the particular person or whether they would be a good access agent or whether you might conduct some other kinds of surveillances. It's more of a safeguard, I think.

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I don't think we're really necessarily closing the barn door to some enormous abuse.

Mr. Kirbow. I had never heard of one in that area.

Mr. Aaron. I think by and large the [redacted] quite clear. In other words, when we went through the CHAOS and some of these other programs that were questionable, there were some cases in which some of the reporting that took place as a result of the [redacted] got into the CHAOS net. But the [redacted] managed to stay clear of in general and resisted in fact the effort on the part of the CHAOS team to go out and actively recruit in this area on a clandestine basis.

This is really sort of more in the category of A. insuring that that doesn't take place and B. giving them help that they can say no, giving them a place to go if pressures such as the Huston Plan type pressures are brought to bear.

Senator Huddleston. Well, there are several places in our report findings, several cases indicated in the testimony we've taken that the Attorney General ought to review and recommend.

And I'm wondering whether or not rather than just spotting it at these various places, whether we couldn't make a general recommendation. We've already got the Attorney General on the Committee and that he review, if not all practices but at least whatever practices, the same language we were just talking about

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for this paragraph, that he review and that he advise the President and the committee if in his opinion any of these practices violate the Constitutional rights of American citizens or any other laws.

Mr. Kirbow. I would feel much better about this since it hasn't been an apparent abuse but to see that go in the general recommendation that all of the activities of the intelligence community be reviewed by him or be examined in whatever way you think it should be done for that purpose.

But it would seem that it cuts then to a general preventive type mechanism instead of being here kind of put in against the FBI, which as we say apparently has been doing it properly all along and not in violation of the law.

We don't appear to be accusing them of it here, although the language may not be quite so specific.

Mr. Aaron. I might just say that there is a further recommendation that involves the Attorney General on page 40, which is number 27 dealing with the same committee, a different aspect of it.

What this does is it elaborates with the recommendation number 17, which establishes the counter intelligence committee and it deals with the two sides of these activities. On the one hand it's going to review program for positive foreign intelligence collection, clandestine within the United States and on the other hand it's going to review the counter intelligence

programs of the CIA and FBI that are conducted inside the United States both from the standpoint of their legality.

Now I think it's possible to consolidate those recommendations so that we don't say it twice, and I also think it's possible to take out any implication that these programs were not necessarily conducted properly in the past.

But I would hate to sort of just have, and my personal feeling is that I would hate to have a general kind of thing that the Attorney General ought to do this because he ought to do this already. And what we're trying to do is make some recommendations that are more specifically targeted on the subject matter that we have reviewed and give him, in effect, specific charge.

Senator Huddleston. Well, we are giving him the specific charge of reviewing it, which apparently he didn't have before. Now before when something came to his attention he certainly had the responsibility to move on it if in his opinion it was contrary to Constitutional rights.

Mr. Aaron. So I see you're discussing the last sentence still, is that right, not the review point?

Mr. Kirbow. He rightfully assumes, as the common law does, that all government officials in an official position are performing their duties properly.

Senator Huddleston. We want to go beyond that, though. We want him to know what they're doing.

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1 Mr. Kirbow. And then you say he should review it in
2 kind of a general recommendation, then you talk about all of
3 the intelligence functions having any possibility of affecting
4 the laws of the United States.
5 I really would like to see that kind of requirement
6 placed on the Attorney General as a general requirement instead
7 of trying to just pick out little specifics unless we have an
8 abuse connected with it.
9 Now in the domestic task force they have specific
10 abuses and they make specific recommendations of corrective
11 action, but that doesn't appear to be the case in either of
12 these here, either the true covert operations --
13 Mr. Aaron. I might make a suggestion along those lines
14 just in terms of simplifying some of this. It might be possible
15 to take the first part of the review section here, follow it
16 with the recommendation on the top of 27 saying the domestic
17 counter-intelligence activities of the CIA would be subject to
18 this review and then follow that with a third recommendation
19 that the Attorney General would be required to advise the
20 President and the oversight committee if he found any irregular-
21 ities in either one of these programs.
22 Senator Mathias. I think that's more reasonable and
23 it does what you want to do which is to force the Attorney
24 General's attention to it.
25 Mr. Aaron. All right. Could we turn for a moment to

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1 number 27 because it has a bracketed portion that we might
2 considerably do away with.
3 That's page 40.
4 The bracketed portion says that the NSC would approve
5 all counter-intelligence activities of the CIA in the United
6 States and it spells out a kind of procedure there.
7 Now the net effect of this kind of procedure really is
8 to establish that the FBI is without question, I mean the
9 practical effect is that the FBI is without question the
10 counter-intelligence agency and you've got to get the President
11 to approve anything that the CIA is going to do in this
12 field. And that is really it inside the United States. That's
13 the net effect of this paragraph.
14 Now my own personal view of this paragraph is that it's
15 probably not necessary. We have the NSC committee. It is
16 supposed to resolve the question of where the FBI lets off
17 and the CIA begins and it is an NSC committe that can report
18 to the President if they have a disagreement.
19 I'm not sure I feel strongly about it.
20 Mr. diGenova. I would only add that I spoke to John
21 Elliff about this paragraph and he also feels that it's
22 unnecessary to do this. He thinks that this consolidation
23 would be bad, first of all, and it's unnecessary second
24 of all.
25 Mr. Miller. Which consolidation?

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1 Mr. diGenova. Aren't you talking about the consolidation?

2 Mr. Aaron. No, we're talking about the paragraph that

3 just precedes it. I'm sorry, this is the bracketed portion.

4 I'll read it out.

5 "The CIA should receive NSC approval of all counter-

6 intelligence activities within the United States. This approval

7 should be given by the President and be supported by the

8 recommendation of the NSC counter-intelligence committee,

9 Attorney General and the Director of the FBI. All such

10 projects should be reported annually to the oversight committee."

11 Mr. Maxwell. I would move that we just strike that

12 as unnecessary.

13 Senator Huddleston. That's a vote. We'll be right

14 back.

15 (A brief recess was taken)

16 Senator Huddleston. Well, it's 3:30. Let's see if

17 we can resolve anything.

18 Mr. Aaron. Now the next recommendation, which is number

19 21 goes to the establishment of a special committee of the

20 Committee on Foreign Intelligence, which would review human

21 intelligence collection problems.

22 This is an area where there has been some effort

23 institutionally to try to get a handle on it but it is

24 essentially split about as widely in the government as you

25 can do it. You have a State Department that produces at least

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in volume the most material and according to CIA analysts most of that information. a large proportion of that is keyed to their report and yet obviously a great deal of clandestine collection is carried out by the CIA itself and the military services account for a significant amount of collection, some of which is extremely important in countries with military governments.

The issue then becomes whether there shouldn't be a particular mechanism to deal with it and the proposal here is to create a subcommittee of the CFI for that purpose, or a special committee of the CFI. And the reason for that is to put in the chair the Department of State or the Secretary of State's designee and representatives of the Secretary of State and it would e a committee essentially of the CIA, the Department of State and the Department of Defense trying to bring some focus into those programs and making some choices and so forth.

I might have Bill Bader speak to it. I think the recommendation originates with him.

Mr. Bader. This recommendation is part of two basic recommendations that deal with the question of human intelligence collection.

First is the question of the approval mechanism. As you'll see when we get into the latter part of the paper, one of these very strong recommendations that we have as the committee, or is being offered to the committee as a possible recommendation

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is that human collection projects would go to the operations advisory group for approval. That is, for operational approval.

As you know from our testimony these kinds of projects do not go to the 40 Committee type organizations where they deal with covert action projects.

So on the one hand we're hoping to deal with the question of operational approval. In this particular subcommittee we go to the question of overall management and direction of tasking, what should we be doing, what should the United States be doing in the human collection field? Where should we be in x number of years? What should the principal objectives of human collection be?

And in this way we hope to bring the diversity that now exists in the community from the CIA to the military services and bring it together under the chairmanship of the Secretary of State who would help provide this kind of overall direction and management guidance.

It is not an important elaboration of the committee on foreign intelligence. It should be there in any event because it's a management problem. This gives it focus, this gives the Secretary of State the chairmanship of a committee and I think properly so, that deals with this larger problem of whither human intelligence collection.

Mr. Maxwell. It's unclear here whether it's chaired by a representative of the Secretary of State and the DCI and

Secretary of Defense are expected to attend or whether they're all supposed to be designees.

I don't know what the protocol is but is it likely that the Secretary of Defense would attend if it were a designee of the Secretary of State?

Mr. Miller. Sometimes, sure.

Mr. Bader. They certainly did on these other committees. But what would you propose?

Mr. diGenova. The language is a little unclear.

Mr. Bader. Perhaps it should say that the Secretary of State is chairman and he presumably then could designate whomever he pleased.

Mr. Kirbow. As a matter of practicality, if the Secretary of State doesn't show up and the Secretary of Defense is there, who's going to chair the meeting?

Mr. Aaron. As a matter of practicality if the Secretary of State doesn't show up, the Secretary of Defense won't be there.

Mr. Kirbow. And you digress down because he's never going to go to this kind of meeting where he takes up the day to day operations.

Aren't you really talking here, don't you leave the language so vague that you fail to imply that what you want is a review of the policies and not the day to day, we need one more agent in Amsterdam and two more in Brussels?

1 Mr. Aaron. That is not what we want to convey and so
2 you are correct.
3 Mr. Kirbow. They should review the policies and goals
4 and requirements, really.
5 Mr. diGenova. How about policy at the end of the first
6 sentence?
7 Mr. Aaron. Human intelligence collection policy.
8 Senator Huddleston. And eliminate the part about size.
9 Mr. Bader. Review and make recommendations with regard
10 to policies and priorities, and then there's a misprint here.
11 We don't need American U.S. clandestine.
12 Mr. Kirbow. Down through the word, the two words, human
13 collection before the last sentence, you get into kind of a
14 great deal of detail about what they're supposed to consider,
15 whereas if you said they should consider the policies of human
16 intelligence, human collection and the trade-offs between
17 covert and overt collection and the sorts of things you have
18 brought to a committee a consideration of this problem which
19 they have never taken before.
20 Mr. Bader. I think we could add the word policy here
21 and policies and we will underline that.
22 Recommend the establishment of a special committee of
23 the CRT to review all foreign human intelligence collection
24 policies. It would review and make recommendations with regard
25 to the priorities and policies of U.S. clandestine human collectio

1 operations and choices between overt and clandestine human
2 collection.
3 Mr. Kirbow. And Mr. Chairman, without going back and
4 belaboring one of the other recommendations, I think that the
5 staff should do that in each instance where we may have given
6 a task to a committee to do a great deal more detail because
7 even on this domestic counter-intelligence activities my
8 earlier recommendation was that by statute the policies governing
9 domestic counter-intelligence should be considered.
10 You don't want them to consider the day to day operation
11 I don't believe.
12 Mr. Aaron. But I do think that we shouldn't lose sight
13 of the fact that we are interested particularly in the latter
14 case and I think in this case that you're interested in the
15 program.
16 I mean you just don't want to say it will be the policy
17 of the U.S. to do some or it would be the policy -- I mean
18 you really want to have an opportunity in a management sense to
19 look at the overall program -- is the program achieving what
20 it's supposed to achieve, is the scale of the program here
21 as opposed to there in the right balance to reflect our
22 priorities?
23 In other words I think that --
24 Mr. Miller. It's not a rubber stamp, you're saying.
25 Mr. Aaron. That's right and it isn't just to deal with

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words on paper. It tries to get at the problem of what are the programs and are they doing their job?

Mr. diGenova. Who do they make the recommendations to? The CFI?

Mr. Aaron. Yes, or the President.

Mr. Maxwell. One remark in connection with --

Mr. diGenova. Let's make that clear. It just says make recommendations.

Mr. Maxwell. In Bill's fix, to specify, I think it was intended that it's all human intelligence collection abroad.

Mr. Aaron. Yes, that's right.

All right, perhaps we can go on to the next recommendation. Now this is bracketed. I think it might be better first before we take up the bracket let's take up what is not bracketed and just indicate that this is in effect hortatory, if you will. It urges the oversight committee to examine the question of clandestine collection to ensure that it's really focused on things that need clandestine collection that are of high priority, not only the highest, but certainly deserve that kind of risk and effort and areas in which clandestine collection are the only means available so as to emphasize something of the extraordinary nature of espionage.

Now beyond that there's the recommendation that the clandestine services, like the military services and the foreign service, be subject to a manpower ceiling.

1 I think this would not suggest that that ceiling be a
2 public figure but that the Congress establish a manpower ceiling
3 for that, just as it has there other services that serve in the
4 field of national security.
5 Now I know Charley has some reservations about that.
6 Mr. Kirbow. Yes. But to put it in the proper context
7 and I didn't bring it up at that point, nor did Elliot,
8 if you look at the bottom of page 32, we in our findings section
9 discuss a point on the fact that we don't know whether the
10 size of the clandestine service is the right size.
11 We also indicate that over the past decade the size has
12 been reduced significantly, particularly in the field.
13 Then we come over here and recommend that there be a
14 manpower ceiling for the clandestine services only of the
15 CIA. Today there is a budget ceiling on the number of
16 people in the CIA that is governed by the amount of money that
17 they get and the amount of money that they put forward to
18 support that kind complement.
19 I objected to kind of the dipping down process of going
20 into a segment of an agency and limiting its manpower because
21 if we had a crystal ball, we could do that very carefully and
22 properly, I think. But I can't see into the future and two
23 years from now we may need the largest clandestine service we've
24 ever had because of the problems that would confront the nation.
25 and I think that since it is carefully controlled by the Congress

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1 through its budget levels and manpower levels, let's let the
2 agency decide how many people it takes to run a segment of its
3 own organization.
4 Mr. Inderfurth. A very special segment, though.
5 Mr. Kirbow. Well, special only because we have concerned
6 ourselves with the abuse aspects of it under the assassination
7 type thing. Of more concern to us should be the fact that the
8 analytical section out there probably needs strengthening
9 instead of worrying about regulating the size of the clandestine
10 service.
11 Mr. Inderfurth. Well, that comes up later as well.
12 Mr. Kirbow. Do you think that size in any way contributed
13 to the plot against Castro or some of these other people?
14 Mr. Inderfurth. I think it has in covert action throughout
15 Latin America.
16 Mr. Bader. Mr. Chairman, I would support Mr. Kirbow on
17 this one.
18 My own view is unless you're going to go to the full
19 extent of addressing the question of establishing manpower
20 ceilings throughout the Central Intelligence Agency, to single
21 out one directorate at this point doesn't really make much
22 sense to me, though I understand the principle behind it.
End 3B, b 4A Senator Huddleston. Well, I do too. I think we can make
24 a flat statement that you could get too big, that there may
25 be a point somewhere up there beyond which is a very dangerous

situation. But I don't think we have determined that any specific size has yet been shown to be so detrimental and we could say that there ought to be a specific level.

I think the rest of that paragraph certainly ought to be continuously examined.

Mr. diGenova. The second part of that paragraph really assumes that that kind of review would go on and if necessary, the committee could make a recommendation at the appropriate time.

Mr. Aaron. It proposes that kind of a review. The purpose of having a manpower ceiling as it exists, as I say in other agencies where one could argue that you would have the same problem, the military might have an emergency next week which would require an enormous expansion of military services.

Now the point of it is to give really, simply to give or suggest that the oversight committee put in its arsenal of controls over the clandestine activities that the CIA, some handle on the clandestine services number because it makes a difference. I mean they could put their money elsewhere.

Senator Mathias. How about saying establish and annually adjust, or from time to time adjust?

Mr. Aaron. The point is not just to set a higher limit but rather to say, to have this tool, and even ask the Agency to tell us what that ceiling -- you know, they might well be

under their authorized strength.

Mr. Inderfurth. Another alternative is to say should consider establishing a manpower ceiling.

Mr. Kirbow. Could I make the point that oversight of any agency necessarily entails looking at the number of people it has every year because you have to determine how much money they've got to support and they have to come tell you that.

If we're going to have an oversight committee, that is one of the functions that it performs. We do it with our military services, but we don't tell them that we can't put them all over in, that they can't put all the Navy people in destroyers.

Senator Huddleston. That's right, but I don't think you can exactly equate clandestine operation with other types of agency operations.

I think there's a difference here in the potential impact. It's a secret operation.

Mr. Aaron. Should consider establishing?

Senator Huddleston. I think that it ought to follow the paragraph. Leave the paragraph as it was and say the committee should also consider the advisability of establishing a manpower ceiling.

Senator Mathias. Adjustable ceiling.

Mr. Kirbow. I don't really know what such a recommendation

does for this committee to recommend to another committee that maybe they ought to do something, but I guess it's all right.

Mr. Aaron. I'm afraid we do that quite a bit.

Mr. Miller. We're just laying out the agenda.

Mr. Kirbow. Which is not binding on them.

Mr. Miller. In the Government Operations Committee one of the provisions of the bill, as you know, is an agenda, and many of the items that are in that agenda are subsumed in this.

Mr. Kirbow. Doesn't it go to the make-up of the individual divisions? Overall size of the intelligence community is the way they recommended it, and I think that's a reasonable approach.

Mr. Aaron. Turning to the question of the Agency itself, number 23, this again is not in the category of statutory proposals but in the category of urging the Agency to ensure that the skills of intelligence collection are the primary criteria for advancement within the clandestine services.

Senator Mathias. Versus management?

Mr. Aaron. Versus covert operations.

Mr. Kirbow. Mr. Chairman, on this one I can conceive of nothing that would do more harm to either side of this question than to say to a man who wants to devote his life and make a career in the clandestine service that you can't get promoted on being good at what you're supposed to be doing. You get promoted on being good at this other aspect of it, and I

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1 think it's just totally out of keeping with what you want. If
2 you want a good clandestine operation, you want the best you
3 can find, and I think that he should get the same amount of
4 credit for being good at whatever he's assigned to as being in
5 this other intelligence business.
6 Mr. Aaron. The intelligence business, of course, is
7 their primary mission.
8 Mr. Kirbow. Not if he's a clandestine operator. That's
9 his primary business and he doesn't have any choice over whether
10 or not he gets assigned when he goes in out there as
11 a junior executive to the clandestine side of the day to day
12 operation.
13 Senator Huddleston. What does this address?
14 Mr. Aaron. This addresses the problem of the clandestine
15 service which goes to the several things. Primarily it
16 collects intelligence. But it is in the nature of, or at least
17 the past history of the Agency, which Bill can speak more
18 directly to than I, that the covert operations people get the
19 better advancement. It's in part built into the system in
20 that you can measure the effect of the covert action operation
21 easier than this endless effort to recruit a good agent many
22 times which will fall through through no fault of the agent
23 himself.
24 Furthermore, covert action operatives simply come to
25 higher level attention easier than somebody who's a good agent

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handler but who is really operating off in a very secure and remote environment.

So in an effort to try to suggest that they make a real effort to compensate for what we have found in this area, this particular thing is designed to urge them to do their best to try to overcome that problem.

Now we wanted to put it in a way that was not pejorative and that did not exclude the advancement of good covert operators. If you want to keep covert operations, I agree with Charley, you have to have good ones and you've got to reward them.

I don't think that this particular recommendation which is to the Agency and not to statute does what perhaps Charley fears it would do. It simply urges that they give the proper weight to what for the clandestine services is their primary mission.

Mr. Bader. The problem of it is we're not after this really and perhaps it's a language problem. We're not trying to suggest here that the intelligence collectors in the career patters should be favored over the operator. What we were after really was that we have noticed over the years and in the record that the intelligence operator has tended to move along much faster.

What he has done, his projects are very quickly visible while intelligence collection can be something that runs over years and it's hard work in the trenches. And I think the

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Mr. Kirbow. I'm sorry. I don't believe that that's the case. What I'm really saying is this. Over the years from about 1947 on through the '60s, clandestine operations were a way of life in the CIA. Whether it is in favor today or not is probably on the side of no, it's not in favor at the CIA because there are only 165 versus some 500 or 600.

Senator Huddleston. I really don't see that as being relevant.

As I see this it's not a question of whether we like clandestine operations or not. It's seems to me the question is whether or not those individuals who serve are getting undue

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preferential treatment and advancement within the Agency.

Is that what we're trying to get to here?

Mr. Kirbow. They say it's within the clandestine services, that the covert operator gets more advancement within the clandestine services side of the house than the other people, and I don't think our record supports that.

It may be that you have found more of the directors being from the covert side of the house but that is not what the attack is here.

Senator Huddleston. Can't we say that within the clandestine services our inquiry indicates that those in the covert section have advanced in great r numbers more rapidly?

Mr. Bader. Yes. I think the record is clear on that within the clandestine services.

Senator Huddleston. And the Committee believes that the Agency ought to ensure that all employees, whatever side, be given the opportunity based on their actual skills.

Mr. Aaron. That's the thrust of what we're trying to express here.

Mr. Kirbow. Mr. Chairman, I would like to reserve for Senator Tower on this one because I don't think the record of the Committee supports that.

Mr. diGenova. How about if we said this - the Central Intelligence should ensure that the skills of intelligence collection are given equal consideration as a criterion for

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1 advancement within the clandestine services.

2 Ms. Culbreth. Then you get back in to what we struck

3 out from the original, which was as opposed to covert action

4 operations. We deleted that from the earlier thing to try

5 to avoid --

6 Mr. diGenova. I'm trying to just paraphrase what the

7 Senator just said, what they said was the thrust, which was

8 that intelligence collection capabilities are put on an equal

9 footing with operations.

10 Mr. Aaron. What I think is a better way to put the

11 point, and it's along that same line, might be to simply say,

12 to urge that the Agency ensure that the skills of intelligence

13 collection are given importance in advancement within the

14 clandestine services of that mission for the clandestine

15 services, if you will.

16 In other words, the great bulk of the people in the

17 clandestine services, as Charley pointed out, are in fact

18 intelligence collectors. They are case officers for trying

19 to acquire information, and I think that what we're trying to

20 arrive at here is that it should be given an importance, that

21 this skill should be given an importance and significance in

22 proportion to the significance that the Agency accords to that

23 particular task.

24 Senator Mathias. What evil are we trying to get at here?

25 Are we getting at the fact that we get some stars who, because

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of their clandestine skills sop up all the available promotions, most of them, that they get ahead and I think that that is a problem. You see it in the armed services all the time. I remember Commander Buckley who, because he was a big PT boat man, and he just happened to be called on to take MacArthur off Corrigedor, ended up an Admiral, and I won't comment further.

Now I think there is such a human response to courage and daring and unusual skill that it's going to be very hard to deflect that from having its natural outlet in recognition.

Mr. Aaron. As I say, a lot of the problem is in the nature of things and the recommendation goes to an effort to put us on record as trying to compensate for what I think you rightly say.

Covert action draws attention to the operator. Clandestine collection, you do not draw attention to yourself.

Mr. Kirbow. There is a more basic problem to this at the Agency. I did spend some considerable time in this business. The excellent people, the people who turn out to be excellent in the Agency and get the quick promotions are not necessarily promoted because they are covert operators alone.

Most of the very fine people that they have, or that they had in the early years wanted to be in that business because that's what being a spy was, and they will end up with a majority of the good people.

Why shouldn't they be promoted? That's exactly the

1 decision.

2 Senator Huddleston. Well, there are too many elements

3 here involved in who ought to be promoted. There are too many

4 human elements and somebody has to make a decision.

5 I just don't know how we can advise them on that. I

6 think I would strike that. I would favor taking it out.

7 Mr. Aaron. Okay. Number 24 goes to the question of

8 the relationship between the domestic contact division and

9 the directorate of operations, or what is otherwise known as

10 the clandestine services.

11 In 1972, I believe it was, when Mr. Schlesinger went

12 to the CIA, this directorate whose primary responsibility is

13 for collecting overt intelligence but which has a support

14 function for the clandestine collection or the clandestine

15 recruitment of agents within the United States was then moved

16 into the directorate of operations.

17 The Committee's own hearings and testimony on the

18 subject indicated that a reasonably large portion of their

19 activity and their contacts are used for the initial stages

20 of trying to spot, assess, and get people close to foreign

21 intelligence agent recruitment targets.

22 Now there are, one concern about that is that unlike

23 the foreign resources division whose mission is clearly clandestin

24 the domestic contact division approaches their people on an

25 open basis, it says, "I'm not a spy. I'm not doing any

1 saying. I am an overt open person. I belong to the CIA.
2 I would like you to tell me about your travels or advise us
3 on some subject or what have you on an open basis, and that
4 this relationship is completely above board in every way.
5 And you don't have to worry that this relationship is
6 going to be used for any overt purpose.
7 However, it turns out that some of those relationships
8 are or do or are brought to evolve into support for clandestine
9 activities in which information is gathered on people who might
10 be helpful in all the ways and I think we had a pretty good
11 attendance at that session when this was discussed.
12 So the question comes down to this -- this blurring of
13 the line between an organization as to whether its mission really
14 is overt or not in every respect, should this be a concern to
15 the Committee? And if it is of concern to the Committee, should
16 we take some steps to try to reinforce its overt character
17 and separate it out from the clandestine services where it is
18 now located and where at least a few of the people in the DCD
19 have expressed some concern that they will now become populated
20 with real clandestine operators and that they will really sort
21 of become another arm of that organization.
22 Now Bill Bader would like to talk to this point. It
23 formerly was part of the directorate of intelligence which is
24 the more overt arm of the Agency to begin with and collected that
25 information.

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In other governments this same function is done, for example, in Britain it's done by the board of trade because a lot of the information is technical, economic, or scientific in nature, which is also true for the DCD, as a matter of fact.

And so the question that is presented to the Committee is do we want to leave the DCD where it is in the Director of Clandestine Operations? Do we want to have the clandestine service, if you will, have a quasi-overt arm within the United States widely spread out throughout the United States? Would we want to confine the clandestine activities to the clandestine service and the overt activities to some overt organization, be that back in the directorate of intelligence in the Agency or moved out to the State Department or some other organization which does operate openly as a matter of course?

Mr. Inderfurth. What would that mean in terms of numbers? How large is the DCD?

Mr. Aaron. I believe it is about 150 or 200.

Mr. Bader. There are 38 offices.

Mr. Aaron. And they are about two or three man offices. A lot of the personnel in the DCD are in fact succunded from the military services or ERDA. You know there are different areas of the country that have different kinds, you know, or agriculture, for example, if they're interested in agricultural intelligence a lot of these people come out of

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agriculture. I mean it's a funny kind of mixture of people.

The CIA sort of does this in part as a service of common concern to the intelligence community and in part at least heretofore it does the overt collection function as a service to its own analysts.

This was particularly in the early days when we had less access to information in the denied areas of the world. It was a very rich source of information for us. It still is quite a good and important and economical source, and it's a good program. The question is how much it should be involved in clandestine support and if you want to find a way to encourage it, to, if you will, emphasize its overt mission over its covert mission or do you want to put it back into some overt side of the Agency or the government?

Mr. Maxwell. I have some very mixed feelings about this recommendation and the problem might be described better by looking at the flow of information from the end point.

The FRD now is involved in the recruitment of agents for foreign intelligence gathering within the United States. A number of times they need, and I think they have indicated to the Committee that they need some help in determining whether they should go to an individual and say, can you introduce me to this potential agent of influence in a country, can you introduce me to the student without that blowing up in their faces?

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The question then is how can they be provided with the information that they need to allow them to make a recruitment that the Committee may find is valuable.

If it is from the DCD, it has all the problems that David articulated, and I appreciate those problems. The question the Committee has to face is where they are going to get that information, whether it should be for the DCD, whether it's located in DDO from the DCD, whether it's located in the DDI or from the DCD, or located in the State Department or under State Department control.

My own sense of that is that the decision that was made by Director Schlesinger in moving it from the DDI to the DDO did raise the potential of compromising the overt character, but it also made the liaison which we find important more efficient and easier to manage and potentially easier to control if both elements are under the same set of guidelines and regulations which would govern the DDO as a whole as to who may be approached, who may be used operationally.

If it's put in another directorate or outside, I think there's a difficulty in that kind of control and I think it's also, it obviously raises the question of whether the FRD was going to get the information that it needed for a valuable function of recruiting foreigners while they're in the United States.

I think the Committee can go any number of ways but I

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think that the end product has to be looked at in the recruitment of spies, and secondly you have to look at what kinds of assurances could be made in any branch of the government if overt collection is being done as to whether that information would be used by another branch of the government.

If DCD were entirely overt and a promise were made to Mr. Bader that this would never be used for an operational purpose or you would never be asked as a consenting adult to aid in an operational purpose, then the end production might well be that the [redacted] is going to be sending people out covertly within the United States to covertly obtain information to determine if they are going to make a covert approach to a foreign spy, and I think that I have real hesitation about rather than the information being available from consenting individuals on an open basis.

Mr. Aaron. If I could add to that. I agree, I think the question is if you're going to allow the conduct of recruitments to take place and you're going to allow information to be collected on these people, somebody has to do it and so you're not going to avoid any of those questions by this.

The issue goes in part to whether the people who will initially begin developing that information will be people with every incentive to keep it within certain bounds or whether there will be incentives that work at cross purposes to that.

I think that [illegible] you have a situation in which the

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DCD could legitimately have contact with academics and large numbers of people who otherwise, if our other recommendations in here are accepted and even some of the internal regulations of the CIA are written into law, people would be kind of off bounds for operational use.

Now the DCD, however, because it is overt, is allowed to deal with these people, and the question is, well, the incentives to be scrupulous in their activities, keeping them overt and not trying to use people sort of for operational support and so forth, the question is would those incentives be better outside the DDO or inside the DDO or would it make a difference.

The second point is, and this is a somewhat different point, the DCD is having an increasing problem, quite frankly, and we have had testimony from Mr. Nelson and others, he's having a problem because it is associated with the CIA.

Now people are reluctant to cooperate with them because of concern about being associated with the CIA. The fact that they actually do engage in operational support doesn't help that very much.

And so the question is if you really want the fullest exploitation of the foreign intelligence, open foreign intelligence potential of the American people who are willing to cooperate openly, shouldn't that be done by some organization which does not have this aura of clandestine activity?

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associated with it?

That is somewhat separate but relevant.

Mr. Kirbow. Mr. Chairman, apparently they're not talking about doing it with any fewer people or any different people, but you're talking about calling it something else.

In discussing this with Mr. Nelson, under whom it comes now, and with Mr. Proctor, under whom it previously came, they do not distinguish any of the problems, that they are having any problems in maintaining contact with over 100,000 American citizens who are kind of returning travellers and that they are getting the type of information that these loyal citizens are willing to give to them.

These people advertize their address and probably put their telephone number in the public telephones in each of these 38 offices, and all you have to do is look it up and say that's a CIA function there.

It is probably as overt as anything they do except testify on the Hill, which has become very overt in the past year or two. But just to talk about moving it back into a place where they just moved it out of on the lack of some kind of record that is not working properly now or more properly there. I don't think we're in a position to decide that. To decide that you want to move it out of the CIA and into the Department of State, I think the record is totally void on that subject.

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1 I just hate to see us recommend taking away from one
2 place and putting it some place else without a record.
3 Senator Hart. Can't we recommend that we put it back
4 in intelligence and the oversight committee consider that
5 after it's created and so on.
6 Senator Huddleston. Why was it taken out of intelligence?
7 Mr. Bader. It was a question of consolidation of
8 collection in one directorate.
9 You see, while the domestic contract service was under
10 the DDI, it was a collection service. It was in an analytical
11 branch and Schlesinger, as I understand it, felt that it was
12 the tidy thing to do to put all collectors under the same t--
13 Senator Huddleston. Overt and covert?
14 Mr. Bader. Yes. And I think the issues here have been
15 very well articulated.
16 I had very little to add to them. I think it is an
17 issue. I have a personal concern that we have not taken the
18 responsible officials at any length on the record on this
19 question of the relative advantages or disadvantages.
20 My own personal view with some experience is that it
21 seems to me it would make a great deal of sense for this
22 function to be under the DDI to emphasize and underline its
23 overtness and that the individuals who are in this particular
24 service or office then would flow naturally from the analytical
25 side and it would be very different kinds of people as they tended

1 to be before 1971, 1972.

2 Senator Huddleston. Is there any chance that anybody

3 would be denied the product of this investigation if we changed

4 it?

5 Mr. Bader. One of the things we should bear in mind,

6 Mr. Chairman, is that if you go down the road and talk about

7 these various reforms or changes in the intelligence structure,

8 that moving the DCI function and enhancing his powers and then

9 perhaps eventually separating the Director of CIA from the

10 DCI, that at this point it would seem logical for an overt

11 collection side of an intelligence agency to be with the

12 DCI.

13 But that is down the road as well and perhaps what we

14 want to do with something like this is -- you don't understand

15 that point?

16 Mr. Maxwell. No, I don't.

17 Mr. Kirbow. What he's really saying is that if you move

18 all of this overt side out of the DCI, you leave the covert

19 side out there without any of the support function, which this

20 group furnishes to them.

21 Mr. Bader. Down the road when you have a DCI --

22 Mr. Maxwell. If you assume that the DCI is going to

23 take the entire DDI --

24 Senator Huddleston. Could we have a situation where an

25 agent might be both covert and overt?

Mr. Kirbow. These people out there are not agents. These are employees. And most of them, by the way, are former employees. They are retired CIA officers.

Senator Huddleston. They are not mixing the assignments?

Mr. Kirbow. No. They, for example, I don't mind putting this on the record.

We had a large international organization in the company I was with before I returned to the Senate. Before we departed we could get a briefing on the place where we were going to kind of safeguard against making defense mistakes, and when we came back, they came and had lunch with you and asked you to kind of reveal or when you were dealing with the director of whatever it was in Singapore, what was the situation? What was the atmosphere? What's going out there because you were in a business atmosphere and rubbed elbows and they came and met with you and did this. Or occasionally you would stop by the San Francisco office and you'd do this.

That's the business these people are in, principally. Isn't that correct?

Senator Huddleston. Mac, do you have any thoughts on this?

Senator Mathias. I don't think anyone has discussed option number 2 while I've been sitting here, and I haven't been sitting here consistently. But is there any value to cutting it out and [illegible] it over to State?

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1 Just to be the devil's advocate, one of the values that
2 occurs to me is to bring the State Department in touch with
3 reality.
4 Mr. Kirbow. Well you'd never get me to tell a member
5 of the Department of State personal business that I was conducting
6 for my company in Singapore because I don't think that it
7 would be --
8 I'll put it personally. I don't think that I would
9 have trusted them with the secrets of what my company's operations
10 were versus an intelligence organization. Not an open
11 organization like the Department of State.
12 Mr. Aaron. The information collected by the DCD is
13 fully available to every agency of the government. It's not
14 considered classified or secret or anything else.
15 Mr. Kirbow. They ask you a lot of questions.
16 Senator Hart. The principal argument, Mac, is that there's
17 no record on this and for us just to haphazardly make this
18 recommendation without our record --
19 The compromise I suggested was a recommended option 1
20 and that the new committee look at option 2 when it is in
21 existence and has made a record.
22 Senator Huddleston. I'm inclined to go with option 1.
23 I have a question, it says the Committee recommends the permanent
24 oversight committee reports --
25 How is this going to work?

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1 Mr. Aaron. I just think that in drafting the charter --
2 actually you can just say you recommend by statute or you could
3 say that the Committee recommends that it be removed or moved
4 back, and you can leave it to the DCI to do it.
5 Senator Huddleston. Just recommend that it be done.
6 Mr. Kirbow. May I respectfully reserve on that?
7 Mr. Aaron. All right. Now 25, we're going to get some
8 testimony tomorrow morning on 25 and 26 as to what they
9 actually do and we will have that on the record.
10 And 27 will be moved up, as we have talked about it
11 earlier. And 28, then, was the order of business, and that is
12 the proposal that in fact we ought to consider a model rather
13 like the British, which is that counter intelligence by the
14 CIA and by -- I'm sorry the author of this is not here -- by
15 the counter intelligence, by the CIA, and the FBI, be consoli-
16 dated into one organization along the lines of MI 5 or 6.
17 I can never keep them straight.
18 Mr. Inderfurth. Five. This would --
19 Senator Huddleston. Where would that agency be in the
20 structure?
21 Mr. diGenova. This is the point I was getting at before
22 that the domestic task force and John Elliff has some problems
23 with these recommendations that I'm just spotlighting this
24 now. He doesn't understand the advisability of this. He doesn't
25 see why this is a good reason.

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Mr. Miller. That's because he hasn't heard the recommendations that this be done by others. It's just an idea to be considered.

Mr. Kirbow. He's read it. I reserve on this.

Mr. diGenova. I'm not sure that's --

Mr. Inderfurth. Well, the military intelligence services should be added to this FBI, CIA and military intelligence.

Mr. Aaron. If you're going to consolidate that function, it ought to be consolidated all the way around.

Mr. Miller. They're slightly different activities on the part of the military because they're involved in base protection.

Isn't that correct?

Mr. Snider. Well, that counter-espionage operation involves their own personnel world-wide.

Mr. Miller. But in connection with bases, that's their connection.

Mr. Snider. Not necessarily bases, but information, military information. As long as you are consolidating that function, I don't see why you shouldn't include the military services. It's just a small point.

Senator Hart. Mr. Chairman, I certainly favor the concept that if there's any one area where we say even a little rogue elements, they were in the counter-intelligence areas. And I am, as you know, opposed to further complication of

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the hiding places for responsibility or accountability. But I think creation of a separate unit here and consolidation would enhance accountability rather than make it more difficult.

We have found out in our look at the Kennedy assassination and I think in a number of other instances, COINTELPRO and so on, there was duplication and overlap and abuse and poor performance and misperformance and about everything you can think of going on here between the FBI and the CIA and maybe even the military.

So I think we have to look at something and not just a mandate on counter-intelligence. I think this is a sound recommendation to make.

Mr. Miller. It doesn't have to be into a new agency. It may be a relationship that is less than an agency.

Mr. Aaron. Is it the concept here that this organization would conduct all the counter-intelligence activities abroad? I mean in other words, the counter-intelligence functions that every station has to, in effect, conduct, for example that establishes, perhaps puts an agent in a local security service to make sure that local security service is cooperating with us and not cooperating with the Soviets.

That is the counter-intelligence action. Is that something this organization would do as well, or would there be departmental counter-intelligence permitted?

Mr. Kirbow. If we're talking about duplicating in major

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proportions, major aspects of the FBI because they use their agents for dual purposes -- if he isn't out here law enforcing on a Friday afternoon, then he's doing whatever else he's qualified to do in this field.

Mr. Miller. That's part of the reason perhaps that some of the abuses have occurred. The grey area becomes very murky indeed because of the dual nature of the agent's activities, whereas the pursuit of foreign enemies, and rather than having the hand-offs of the situation that we've had in the past, that consolidation might remove that problem and it might upon examination lead to clarification of role and remove the kinds of grey areas that existed in the past. But it's only a suggestion to look into more thoroughly. It's nothing more than that and I think it has merit to at least look into it thoroughly.

Mr. diGenova. That's a specific recommendation that the new oversight committee consider that question.

Mr. Kirbow. I was just reminded by my colleagues that that recommendation is rather innocuous. They can do anything or not do anything.

I do think here again, as we suggested earlier we should remove the words during the next year because if they do everything that we have recommended, they won't have time to go to lunch the way things are going. Why don't we say that the oversight committee should consider this? I think that

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you're now directing another committee to do many things within a short period of time and they may have more important recommendations that they consider too.

Mr. Aaron. Now --

Senator Huddleston. I would like for our recommendations to be more specific, but I recognize that there are times when we can't.

The natural question is going to be to us as members what about recommending this study? Are you for it? Do you recommend it's a good thing or a bad thing? And our only response can be, well, we don't know. We just think we ought to look at it.

Mr. Aaron. Well, I think in some cases we're really talking about some ideas that deserve a measure of legitimacy to be seriously considered. I mean, for example, we were talking earlier about the DCI being separated from the Agency. I think the way the Committee came out it was essentially to give legitimacy to the idea and its practicality or wisdom one might well question and look at further with the oversight committee.

I think that sort of falls in that same category.

Senator Huddleston. Would it help any to say that because of the nature of this kind of activity or the fact that it does lend itself to specific abuses, that they ought to do this?

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1 Mr. Kirbow. Senator, the individuals, we don't have any
2 great big record that there were rogue agents out there in the
3 FBI doing this. There were rogue policies down at the headquarter
4 Now if you have the same kind of rogue policy in a new
5 agency, you'll have the same end result.
6 So it doesn't accomplish anything for us to do this and
7 point at the individuals because it was a principal.
8 Senator Huddleston. I didn't specify individuals. I
9 just said it has happened and it's the area where it is
10 susceptible.
11 Mr. Kirbow. Certainly the potential for abuse is great
12 in this area and it should be studied carefully and probably
13 urgently by the Subcommittee. I mean the new oversight
14 committee.
15 Senator Hart. It wasn't potential, it was actual. I'd
16 like to see the committee recommend strongly that they go in
17 this direction on the basis of our 13 months of looking at the
18 damn thing.
19 I don't know how long you have to study some problem
20 before you do something about it.
21 Senator Huddleston. Well, I'm content to leave it as
22 it is, taking out during the next year.
23 Ms. Culbreth. Did we add military services?
24 Mr. Miller. That's a good point.
25 Mr. Kirbow. All counter-intelligence functions and leads

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1 out the agencies individually. Leave out the FBI and the CIA.

2 Mr. Miller. I think naming them is a good idea.

3 Senator Huddleston. I guess this gets into the domestic

4 task force also.

5 Mr. Aaron. Yes. The Committee will want to look at that.

6 Now if we go on to our next set of recommendations for

7 covert action, we can be halfway through the report. That

8 would be moving to page 48, where we will take up a number of

9 recommendations related to covert action and paramilitary

10 activities, which relate to what the stated purpose in law

11 of these activities ought to be, what restrictions might be

12 placed upon them, what review and accountability procedures

13 might apply to them and what kind of controls from the Congress's

14 standpoint might be placed on them from the standpoint of

15 either the budget or some other aspects, particularly the

16 paramilitary activities.

17 If we start with the first one on page 48 --

18 Senator Mathias. Mr. Chairman, don't you think we ought

19 to skim lightly. Much as we are all desirous to get to that

20 halfway mark, I think we had better look at the text very lightly

21 beginning on page 42. It wouldn't take very long to do that.

22 (Pause)

23 Senator Mathias. Any problem with the Angola

24 reference? What kind of controversy are we going to raise?

25 Do we have a record to support the

Indonesian reference?

Mr. Bader. Yes, we have a major study to support that. In fact, one of our biggest studies.

Mr. diGenova. That raises the issue, if I might say, of a question that I just want to know as a matter of information.

Have we resolved the question of whether or not the Agency agrees to the release of a second covert action paper when there was an agreement apparently reached before that there would be only one covert action paper and that was on Chile?

What's the status of negotiations now to release the Indonesia paper? The one you're talking about.

Wasn't there another detailed paper on a covert action paper that we were considering?

Mr. Aaron. There was a paramilitary paper on Laos which the Agency would like us to release and they are now reviewing with the view toward permitting us to do so.

Senator Mathias. What about the Indonesian?

Mr. Miller. That's classified.

Mr. Kirbow. And the one on Greece?

Mr. Miller. That's classified, too.

Mr. Kirbow. There is a classified record that will support this comment. There will not be a public record, but if you read this there, you could go look at it in our other report.

1 Senator Huddleston. Could we make some kind of a footnote

2 Mr. Bader. Senator, on the result of the Indonesian

3 operation, the '57 operation is widely known but it was a

4 failure. We want to support the Sumatra rebels and they failed

5 and so did we.

6 This was when Pope was shot down.

7 Senator Huddleston. Back on page 44, this term sheep

8 dip, is that sufficient?

9 Mr. Aaron. We had a long discussion of that, as a matter

10 of fact. We'll be guided by the Committee.

11 Senator Huddleston. Sterilized equipment, what does

12 that mean?

13 Mr. Aaron. That's equipment whose origin cannot be

14 traced.

15 Senator Mathias. Whoever is the editor, I hope that

16 some of these howevers that are used to begin sentences with

17 will be put following the first verb instead of at the beginning

18 of the sentence.

19 At the top of page 48 I think you should make that a

20 little stronger, effective Congressional oversight, too, if

21 they have the guts to use it. I mean if they don't use it,

22 it isn't worth anything.

23 Mr. diGenova. Senator, would you move to put that

24 language in there?

25 Senator Mathias. [illegible] serious about it, although

1 I would like to be a little bit more literary.

2 Mr. Aaron. If there is the will to exercise it.

3 Senator Mathias. Because you know, you head into the

4 Executive Branch and there's an emotional appeal with the flag

5 waving and the Star Spangled Banner being played on the Capitol

6 steps and all that kind of thing. It takes some courage, and

7 I don't think we ought to downplay the fact that, just the

8 mere fact that you hold the power of the purse, that it makes

9 it an easy power to exercise.

10 Senator Huddleston. All right, we're ready for

11 recommendation number 1 on page 48.

12 Mr. Aaron. I'm going to ask Bill Bader to speak to these

13 recommendations. He has done the major work on this. I'll

14 just simply make one point with regard to the first one, and

15 that is that in giving the Agency a charter and writing down

16 some of the things that it is to do, including the conduct of

17 covert operations, the concept would be to use the Title I

18 device of trying to also set forth some of the purposes of

19 these missions that the Agency would be given and in that

20 context the general injunctions of --

21 The first recommendation would arise to be supplemented

22 by the specifics that follow.

23 Mr. Bader. I trust the language is clear here. It is

24 intended in the first instance to underline the view of the

25 Committee that the use of covert action should be an exceptional

act and not a routine procedure. It is also intended to underline the Committee position that covert action again in the exceptional nature should be used only when other means will not do.

And then it goes on to talk about that there should be procedures for seeing that there is both careful and thoughtful and thorough consideration of the general policies governing covert action and that these procedures include participation of policy makers at the highest level and be marked by accountability.

What we're intending to do here is to underline these various points, the exceptional nature, full accountability, thorough, systematic review.

Mr. Inderfurth. The first is legislation authorizing the conduct of covert actions makes clear. That seems to be sort of present legislation. There is none.

Mr. Aaron. It should say, recommendation 1, that the legislation authorizing the conduct of covert actions make clear that its purpose is to respond.

Mr. Maxwell. The problem is there isn't following from the charter section in the first set of recommendations the recommendation other than the very early one about NSC that a charter for the CIA authorizing the following functions should be drawn and that because there is not that recommendation in this section, I think Rick's comment is appropriate.

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1 Mr. Inderfurth. Maybe just add a line that that charter
2 should state that and then go into this.
3 Mr. Kirbow. Are you recommending a revision of the
4 1947 Act to change the charter of the CIA or to make it clearer
5 or more specific, or do you want to simply indicate here that
6 the Committee recommends that by statute, covert operations
7 or covert action be authorized?
8 Mr. Inderfurth. I think it should all be in one piece
9 in the omnibus legislation.
10 Mr. Aaron. Yes. I think that in fact in the beginning
11 and also in the section it simply says that the CIA is
12 authorized to conduct, if you will, espionage and that it also
13 ought to authorize. It also suggests that they're authorized
14 to conduct a certain amount of counter-intelligence.
15 Mr. Bader. We can go now to page 49 where we have
16 attempted here to lay out for the Subcommittee's consideration.
17 Mr. Maxwell. Just one comment on 48. The first clause
18 after the semicolon, there may be a more artful way of saying
19 that legislation should make sure that procedures be developed
20 within the Executive Branch.
21 Is that designed to do that by legislation or is that
22 a recommendation? We made some recommendations by statute to
23 set up a mechanism, and there may be a more artful way of
24 saying that.
25 Mr. Bader. Perhaps we can just go from that procedures

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1 be developed within the Executive Branch.

2 Mr. Miller. You can do this in various ways by requirement

3 of reporting to the Congress.

4 Mr. Bader. On page 49, top of the page, we come to the

5 hard problems here, and this section is addressed to the question

6 of specific prohibitions on varieties of covert action. It

7 notes that the Committee has after its investigation of alleged

8 assassination attempts has recommended a statute to forbid

9 such activities.

10 What we put before the Committee for consideration is

11 a staff list of other possible recommendations. You can see

12 the first bracketed one where there is some dispute as to

13 whether that should be so included is all political assassinations

14 That is to move from foreign leaders to all political

15 assassinations, and we can come back to that. The others you

16 can see are clear, and we would welcome comment.

17 Senator Mathias. What about religious assassiations?

18 Mr. Bader. That seems to be part of the problem, Senator,

19 with using all political assassinations. It becomes a bit

20 hard at that stage to be limited.

21 Mr. Davis. The Executive Order has all political

22 assassinations. They are ahead of us.

23 Senator Huddleston. In the bill that we have prepared

24 and introduced what does it say?

25 Mr. Bader. It does note that the Executive Order does

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take us a step further.

Senator Huddleston. No, we introduced an anti-assassination bill, didn't we?

Mr. Bader. Yes. That spoke to foreign leaders.

Mr. Maxwell. The bill itself, I think, would have covered foreign individuals as well as, because leadership was so broadly defined.

Part of the problem in the recommendation that came out at the staff level was that anything that we say about non-foreign leaders or domestic assassinations or the like implied that the Committee had investigated allegations about that, and might imply that some credence should be given to charges that the Agency had been involved in attempts to assassinate people in the United States, and that was the problem of trying to word some prohibition that went beyond the bill that has already been introduced by the Senators.

Mr. Kirbow. Or of some lesser military-type individual in a foreign country. You know, assassinating a sergeant is pretty bad as far as he is concerned but it would not necessarily be political.

Senator Huddleston. What about peace time? Should that be in there?

Mr. Kirbow. I think our bill distinguished between peace time and war time, Mr. Chairman.

End 48 b 5

I question whether or not having done that before, that

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political assassinations need to be discussed forther as a prohibition at all.

Mr. Maxwell. Perhaps if the Senators think it is desirable to say something, the staff could get language which would not imply in any way that the Committee has found credible evidence that the CIA was engaged in activities beyond this, but which would reflect their desire not to; their desire to make clear that the CIA could not do that.

Mr. Kirbow. It's a moral finding that it isn't necessarily based on wrongdoing in the past.

Senator Mathias. It's repetitive but that's all right for emphasis.

Mr. Kirbow. We could work on the language and show it to you again.

Senator Mathias. What about the second one?

Mr. Aaron. I'm not quite clear on this first one. We will draft some language that makes clear that we did not find any evidence of anything other than what we've found?

Mr. Kirbow. That we didn't find any evidence that would indicate that they had engaged in these other types of assassination activities but that we would prohibit it anyway, other than political leaders. In that, though, we considered that major or colonel over in one of, in the health alteration committee thing. We considered that. We can make this clear and show you the additional languages because I think that these

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was concern that it not indicate that we had found some evidence that we had just not revealed.

Mr. Bader. Perhaps it would be helpful, Senator, but at the same time the Administration has come forward with language of all political assassinations, which seems to me would indicate that it's not a question of a finding.

Senator Huddleston. We ought to recommend passage of the bill that we have submitted, if nothing else.

Mr. Kirbow. And continue to support that legislation. I think you could just add right on to this. We recommended it then and the Committee continues to support enactment of such legislation.

Mr. Aaron. Number 2 begins the Committee has already recommended following its investigation of alleged assassination attempts, a statute to forbid such activities. The Committee continues to endorse that.

Mr. Maxwell. It could say the Committee also endorses or recommends that by statute the present Executive Order in regard to permitting any political assassination be enacted in peace time.

Senator Huddleston. What about democratically elected governments?

Senator Mathias. Why don't we do both? Why don't we say the Committee reiterates its support of that position and the Presidential directive? They may not be exactly parallel, but

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1 we support both.

2 Mr. Aaron. Would that include supporting the Executive

3 Order provision being in the law or just supporting?

4 Senator Mathias. And the Presidential -- why don't

5 we be ambiguous?

6 Mr. Kirbow. We endorse the concept.

7 Mr. Davis. If they're not different.

8 Mr. diGenova. There is a recommendation here that other

9 types of covert action which should be banned, and since we're

10 talking about a statute which we have submitted which bans

11 it we would then ban by statute, recommend banning by statute

12 all political assassinations which would enlarge the President's

13 Executive Order into a law and then the rest of these just

14 assuming for the sake of argument that the Committee wanted to

15 do that, it would be a recommendation for legislation which

16 would ban all peacetime political assassinations.

17 Mr. Kirbow. The staff could work on that language a

18 little and get it back to you.

19 I think we know what you want to do here, don't you,

20 David?

21 Mr. Aaron. Yes. I think we can make a fix, just make

22 the point that the political assassinations point is putting

23 in law what the Executive Order is as proposed by the Executive

24 Order or as provided by the Executive Order.

25 Senator Huddleston. All right. It's then to overthrow

1 democratically elected governments.

2 Mr. Inderfurth. I might mention that Cyrus Vance went

3 beyond this. He said all interference in the electoral processes

4 of a country should be banned, which goes beyond this.

5 Senator Mathias. Perhaps that was some subliminal

6 influence on me, but I've written down efforts to subvert a

7 valid electoral process.

8 It seems to me that that is better because when you

9 talk about overthrowing a democratically elected government,

10 God knows what that is. And I don't know that you're really

11 going to know what a valid electoral process is. The Republic

12 of Venice, where they have a very limited electorate, elected

13 those. But nonetheless, it was their constitution and it

14 wasn't very democratic. But whatever it is, and this would be

15 in line with George Cannon's testimony also.

16 We finally have acknowledged that the Soviet Union has

17 a legislature of sorts and we acknowledge their electoral

18 process, although we don't think much of it.

19 Ms. Culbreth. Would your use of the term subvert, would

20 you intend to include within that preventing the CIA from

21 any kind of political or propaganda in connection with the

22 elections in another country or any kind of support to one of

23 the candidates that we might think was a better candidate?

24 Mr. Kirbow. Well, you said results of --

25 Ms. Culbreth. But could you not subvert the results by

1 influencing the carrying out of the election?

2 Senator Huddleston. Well, we subvert our own elections

3 every time we run.

4 Senator Mathias. The original suggestion was efforts

5 to overthrow democratically elected governments. I mean both

6 of these -- efforts to subvert the results of a valid electoral

7 process.

8 Senator Huddleston. I think that's all right.

9 Mr. Inderfurth. In a sense what is a democratically

10 elected government?

11 Moynihan says that in the U.N. there are 24, so in a

12 sense we could actually list them.

13 Mr. diGenova. What about, what is a valid electoral

14 process? Whatever it is in each country? I mean the communists

15 have one party and that's a valid electoral process in that

16 country.

17 Senator Mathias. This would be Cannon's advice.

18 Senator Huddleston. Well, I think we have to recognize

19 the right of another country to have their electoral process

20 and it would be valid if someone in that country were attempting

21 to circumvent their established constitutional processes.

22 Mr. Maxwell. The qualifier in the Senator's proposal

23 was democratic, so that at least in some way it restricts the

24 notion of a dictator.

25 Senator Huddleston. Self-determination maybe should be

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in there.

Mr. Miller. What cases would this prohibit? In our actions in the past it would prohibit Chile, Iran --

Mr. Kirbow. That stage of the Chile operation.

Mr. Miller. Guatemala.

Senator Huddleston. It would not prohibit Angola.

Mr. Aaron. It would prohibit some things that transpired in Iran.

Mr. Miller. It would prohibit the actions in Italy, wouldn't it, and France?

Senator Huddleston. It depends on the term subversion. We were just assisting one side.

Mr. Kirbow. Assisting the head of an election during the election process does not appear to be the intent of the Committee.

Mr. Aaron. I wouldn't think that what is going on in Portugal insofar as we know that that is would come under this prohibition.

Mr. Miller. So it would really affect the cases like Iran, Guatemala, and Chile.

Mr. Aaron. And Indonesia.

Senator Huddleston. Cuba?

Mr. Aaron. No.

Senator Huddleston. I think you'd might want on that a little bit, but I think that's pretty close.

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1 Mr. Inderfurth. Just to be a devil's advocate for
2 a moment, we don't want to insert then, using your language,
3 Senator, the efforts to influence or subvert the results of
4 a valid electoral process?
5 Senator Mathias. That may be too short a leash.
6 Mr. Inderfurth. But I think that's a question the
7 Committee has to address. It would be a very short leash.
8 Senator Huddleston. Well, there are different ways to
9 influence, and there may be a proper way to influence.
10 Mr. Inderfurth. If there were a proper, then perhaps
11 one could define the improper way, influencing by passing money,
12 covert propaganda, and that type of thing.
13 Mr. Kirbow. If the Committee's intention is after
14 the person is elected and you don't want to prevent that kind
15 of person being put into office by any means, then you do it
16 here.
17 If you do not intend as a committee to preclude using
18 the press or using other things to influence the outcome of
19 the election, then we should be solid on that and stay out
20 of that area. But it's up to the committee to decide.
21 Mr. Bader. This language speaks to subverting the
22 results, not influencing the outcome.
23 Mr. Kirbow. And he says that was his intent.
24 Senator Huddleston. This does not preclude us from
25 getting involved as we did in Italy.

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1 Mr. Bader. Or in Portugal.

2 Senator Huddleston. That's not a subversion of the

3 process, that's an assistance.

4 Senator Mathias. That's participation in the process.

5 Mr. Inderfurth. What about after an election but prior

6 to the formation of a coalition government?

7 Senator Mathias. I would think that would be subverting,

8 if you get in there and say, well, we are worried about who

9 these people have elected.

10 I didn't know it was General Haig until this afternoon

11 but I was aware that some American official had made a

12 threat to Mitterand that he would be in trouble if he were

13 elected Prime Minister and attempted to bring some radical

14 leftists into the French Cabinet.

15 Now it seems to me that that is a threat to subvert the

16 French electoral process and if in fact we carried out that

17 threat I think that that would be prohibited by this language.

18 Mr. Aaron. I take it the word subvert goes to covert

19 activities. In other words, if General Haig said that privately

20 but didn't mean it in terms of covert action, he just said the

21 United States government will --

22 Senator Mathias. I think the President of the United

23 States or the Secretary of State or the Secretary of Defense

24 might very well stand up in front of the television cameras and

25 might say, look, if you put a communist in the French Cabinet

1 and under the parliamentary system you give him access to
2 NATO's secrets, then there's going to be hell to pay, and we're
3 telling you right now.
4 I don't think that's prohibited.
5 But if we shadow men around and catch him in some
6 compromising personal position and use the photographs to
7 blackmail him, or anything of that sort --
8 Mr. Bader. That's a covert action project.
9 Senator Huddleston. There's no question that this
10 whole matter of internal intervention in another country --
11 Mr. Kirbow. Senator, whatever you say here is going
12 to be one of the highest considerations given by the Full
13 Committee.
14 Senator Huddleston. I feel there ought to be some
15 restrictions and constraint on our interference in the
16 internal operation of the government.
17 Mr. Aaron. The next one, support for his beliefs or
18 other internal security -- other security groups which engage
19 in torture.
20 Senator Huddleston. Don't we have some legislation to
21 that effect?
22 Mr. Aaron. There are amendments regarding foreign
23 aid. Now this is open foreign aid. We're talking about covert
24 assistance programs.
25 Mr. diGenova. This doesn't make sense to me.

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Mr. Kirbow. Which language in torture.

Senator Mathias. Can I make a semantic suggestion here that we try to bring this in line with the language in the Constitution, cruel and unusual punishment, because I think this really reflects, if it's going to mean anything, we ought to be reflecting our national ethic in both of these, both in subverting the results of a valid electoral process--

Senator Huddleston. Except you get into the question of capital punishment.

Mr. Maxwell. There's another problem and that is one of the things that the torture is engaged in is before a person has been judged to be guilty of a crime, someone who is being tortured in an interrogation, that person would not be subject to cruel and unusual punishment but the systematic violation of human rights or some other --

Senator Mathias. That's a phrase, though, with which Americans have been familiar since 1787, and it seems to me it has some value.

Senator Hart. The problem is we don't give serious thought to the way we treat prisoners in this country.

Senator Mathias. Yes, I think that's a problem. I think that's a problem in this whole thing.

Someone once said at the time that the Italian payments were exposed, you know, the Russians do this all the time and nobody blinks at it. And of course the difference is we go

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around and preaching all over the world about our high ethical standards and then when we are shown that we don't live up to our own standards, that's what brings us the retribution.

But I still think that we ought to notwithstanding that this is an opportunity for some linkage with the Constitution. But I don't press the point. I just offer it.

Senator Huddleston. Well, I think this is something we should all give some thought to in the next few hours.

Mr. Kirbow. If we are going to do that, may I suggest that here we talk about support for police or internal security forces.

The remainder of that sentence shouldn't we apply it so that it is the policy of the country involved? Otherwise you're talking about aid in a covert manner governed by maybe an inadvertent, without authority type series of exposures of torture and whatnot, and you cut off the aid to a country.

Mr. Aaron. Can I speak to that point?

I think that Charley raises an interesting example and we have sort of that kind of situation today in Brazil where it is difficult to ascertain whether it is the policy of the government or whether the internal security forces which are very fragmented among the military and the states and what have you, whether these internal security forces and police are just on their own

Mr. diGenova. Should it matter?

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1 Mr. Aaron. I think this is the question. It goes to
2 the point not of assistance to the government in general or
3 even covertly, but assistance to these particular forces, and
4 that I think does narrow it down to the problem.
5 Senator Huddleston. What kind of support do we give the
6 security forces?
7 Mr. Kirbow. Training.
8 Mr. Aaron. We have in the past we can give them
9 technical training, electronic devices.
10 Mr. Kirbow. A whole spectrum except for U.S. military
11 support.
12 Mr. diGenova. Some of the [redacted]
13 for exactly that purpose, to provide training and secure
14 procurement and sale and loan of devices which ultimately
15 found their way into the hands of foreign torturers.
16 We certainly don't deprive the Agency of any legitimate
17 source of intelligence because they themselves claim that they
18 have never engaged in this activity knowingly and don't want
19 to.
20 They say they don't want anything to do with this type
21 of activity and they say they don't want to be involved with
22 internal police forces that conduct this type of activity.
23 They have said recently that they have discontinued
24 those sorts of liaisons, so to prohibit them by banning it
25 seems to me to say fine, we agree with you and we will do it.

1 Mr. Aaron. What occurs to me is that it would be helpful
2 to have a finding on this point.
3 Mr. diGenova. That's the next issue I was going to
4 raise. We don't write anything about this any place in the
5 report.
6 Senator Huddleston. Does the Agency have a directive
7 to that effect that they have discontinued or are discontinuing
8 that we can refer to and say we approve of it?
9 Mr. Inderfurth. As well as in the Chile covert action
10 study there is discussion of [redacted]
11 [redacted] and that the CIA was saying, well,
12 we want to talk to them but we don't want to be involved in
13 what they're doing and we want to try to stop them from their
14 practices of torture and the rest.
15 So I mean that's something we can look to as a basis
16 for our findings.
17 Mr. diGenova. There's also a parallel with the drug
18 thing.
19 Mr. Aaron. Senator, shall we try to see if we can
20 come back with some language that tries to work in the
21 Constitutional point? I must say I personally have a little
22 difficulty figuring out how you turn this around to try to
23 apply to what the police do?
24 Senator Mathias. Let's think about it.
25 Senator Huddleston. Let's get back at 7:30. That's a

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1 whole two hours and a half.

2 (Whereupon, at 5:00 p.m., the hearing in the above

3 mentioned matter was recessed, to reconvene at 7:30 o'clock

4 p.m. of the same day.)

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