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Vol. 2 OF 3

NATIONAL SECURITY INFORMATION
Unauthorized Disclosure Subject
to Criminal Sanctions

R2859

The United States Senate

Report of Proceedings

Hearing held before

Senate Select Committee to Study Governmental
Operations With Respect to Intelligence Activities

~~Pres~~ Tuesday, March 23, 1976

Washington, D. C.

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

WARD & PAUL

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COMMITTEE MEETING

Tuesday, March 23, 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 9:50 o'clock
a.m. in Room 4221, Dirksen Senate Office Building, Senator
Walter D. Huddleston presiding.

Present: Senators Huddleston (presiding), Mondale,
Hart of Colorado, Mathias and Schweiker.

Also present: William G. Miller, Staff Director; Frederick
A. O. Schwarz, Jr., Chief Counsel; Charles Kirbow, Michael
Madigan, Rick Inderfurth, William Bader, David Aaron, Elizabeth
Culbreath, John Bayly, John Elliff, Burt Wides, Joseph diGenova,
Bob Kelley, Britt Snider, Charles Lombard, Walter Ricks and
Elliot Maxwell.

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P R O C E E D I N G S

1
2 Senator Mondale. Mr. Chairman, I would like to, if I
3 might, make one observation about the Domestic Subcommittee.
4 We have completed two or three of the so-called major findings
5 of which there will be, I think, about eight, and we have
6 completed at least tentatively the recommendations that will be
7 appended to those findings. Even though there may be some
8 further changes, I would like to suggest unless someone has an
9 objection that we be authorized to send that to the printer's
10 so that we can at least have proofs to work off of. Otherwise
11 I am afraid that if we hold everything until the last moment,
12 it will be several weeks before we can get everything done.

13 And if no one has any objections, I intend to proceed in
14 that way.

15 Mr. Miller. The findings?

16 Senator Mondale. There are two or three findings that we
17 have largely completed. The recommendations I think are largely
18 although tentatively, maybe the historical section is ready to
19 go. I don't know, but in any event, understanding that they are
20 still tentative and subject to change, I would like to send them
21 to the printer, because I think if we don't we are going to
22 have one hell of a glut.

23 Senator Hart of Colorado. Are these things liable to be
24 controversial?

25 Senator Mondale. I would guess that there may be some

1 changes and divisions of substantial nature in the recommendations.
2 There may be some other findings, but the findings are a product
3 of a bipartisan committee and staff effort and I think pretty
4 unanimously reflect views.

5 Senator Hart of Colorado. Will running proofs on them in-
6 crease the possibility of leakage?

7 Mr. Kirbow. Sir, all of these papers, as Mr. Miller
8 agreed, are going through the security section, the classified
9 section.

10 Senator Mondale. The record there is pretty good, isn't
11 it?

12 Mr. Kirbow. The record is pretty good on our previous
13 report.

14 Senator Mondale. In other words, we can change it any
15 way we want. All that is involved is the expense of changing
16 what we want to change later, but I think we are far enough
17 along so it is prudent to proceed.

18 Senator Hart of Colorado. My own feeling is that I would
19 not want to --

20 Mr. Miller. I think you are talking about galleys.

21 Senator Hart of Colorado. A set of the galleys to get out
22 before members have had a chance to see them.

23 Senator Mondale. I think you are correct in this. I think
24 your staff had been distributed.

25 Mr. Miller. You are talking about galleys, is that right?

1 Senator Mondale. Yes, just galleys. Yeah, all designees
2 have had them.

3 Senator Huddleston. The designees have gotten your
4 recommendations?

5 Senator Mondale. Are the recommendations out, too?

6 Mr. Schwarz. The recommendations? Sure.

7 Mr. diGenova. No, no, we haven't had any.

8 Senator Mondale. I am talking about sending to the
9 printer's the findings that we have completed of the Subcommittee.

10 Mr. Schwarz. The detailed report is the thing we were
11 talking about.

12 Senator Mondale. That's the only thing you want to send?

13 Mr. Schwarz. That's the only thing.

14 Senator Mondale. All right, I stand corrected. In other
15 words, just the reports.

16 You don't want to send those findings?

17 Mr. Schwarz. NO, I don't think we are going to do that
18 because they are going to come to the full Committee next
19 week or the end of this week.

20 Senator Mondale. All right, I stand corrected. You see,
21 the staff report on such things as King, COINTELPRO --

22 Mr. Schwarz. Informants.

23 Senator Mondale. Have been completed, right?

24 Mr. Schwarz. About four of them have gone through a
25 process which includes complete approval by majority and minority

1 counsel, and tendering to designees for all other comments for
2 incorporation. It is only those that I would propose sending
3 to the printer's, to get that mechanical thing going. King is
4 not yet at that stage. Some others like Charlie wants to comment
5 on NSA, he will have a chance to do that.

6 Senator Mondale. And even that, these will still be in
7 galley form and subject to change.

8 Okay, that is what I will do then.

9 Senator Huddleston. Well, we will do the same on our
10 side.

11 Did you want to say something?

12 Ms. Culbreath. Yes, I wanted to make a comment about
13 when Senator Mondale was talking about sending the recommendations,
14 if it is going to be the full report, it may not be as relevant,
15 but having worked with the galleys on the assassination report
16 that we did before we had really reviewed them, they are
17 extremely difficult to work with if you are going to be making
18 any changes, and I just point that out as a cautionary note. They
19 are hard to read and they are cumbersome, and it is just very
20 hard if you are going to do any substantive rewriting at all
21 with the galleys.

22 Senator Mondale. Well, I guess we are not going to do that.

23 Mr. Schwarz. Liz, these have gone through an editing
24 process, but when you get your find hand on them, there may be
25 a little more.

1 Mr. Kirbow. I think the point should be made, Mr.
2 Schwarz, as it was the last time, if there have to be changes in
3 galleys, they have to be reset anyway, so you don't save any
4 time.

5 So those where there is going to be any controversy you don't
6 save any time.

7 Mr. Schwarz. Well, there is nothing going where you have
8 controversy. It is only after the process of majority counsel,
9 minority counsel and all designees have been tendered copies,
10 and King, for example, has not gone because too many people have
11 comments.

12 Senator Huddleston. All right.

13 I think when we adjourned yesterday we had two matters
14 before us. One was relating to the covert action section which
15 we have new suggestions and new proposals to be made and considered
16 by the Committee. Those have been put into written form. I
17 believe all members have a copy of it.

18 I would suggest that we delay consideration of that
19 section until at least tomorrow to give time for thought since
20 it is quite a substantial recommendation.

21 We were on page 55, and Senator Mathias had proposed a
22 revision.

23 Mr. Aaron. Yes, we were on Section D, starting on page 61,
24 dealing with the structure of the CIA. I think apart from
25 Senator Schweiker's recommendation, which is somewhat independent

1 of those questions, it would be my suggestion to the Committee
2 that we set this aside, because in the covert action options are
3 some structural proposals that might significantly affect the
4 extent to which we wanted to recommend consideration of some
5 of these others.

6 So I would set those aside as a package and consider
7 Senator Schweiker's recommendation.

8 Senator Huddleston. If there is no objection, we will move
9 in that fashion.

10 Mr. Kirbow. I do think there was a request that on page
11 62, that the citations be given so that they can be looked at
12 by the various Senators or members of the staff so they can
13 verify those recommendations.

14 Mr. Aaron. I might just make a comment on that. We are
15 in the process of doing that, but as I know the Chairman is
16 aware, the Committee did not hold hearings on a broad range
17 of options and alternatives and what have you, so that the
18 advantages and disadvantages that are represented here are
19 a combination of things that one can find in the record as
20 well as analytical comments by the staff as to what might be
21 the implications for and against these particular measures.

22 I think the important point to be made in terms of these
23 individual bullets that begin on page 62 is that they fairly
24 state the advantages and disadvantages, and if they do not, why
25 of course, we would like to do that.

1 Senator Huddleston. I think that is true, and while we did
2 not have hearings on any of these specific questions relating
3 to these, we did ask a large number of witnesses.

4 Mr. Aaron. This is, to a large extent, the staff's effort
5 to synthesize what we have learned, and if they are not satisfactory
6 we should improve them.

7 Senator Huddleston. All right, with those two matters put
8 on the position for future consideration --

9 Mr. Aaron. I would recommend we take up Senator Schweiker's
10 recommendation which really applies to a previous section, which
11 is the role of the DCI in the production of intelligence,
12 either place, and simply make for the Committee's consideration
13 the recommendation that the Directorate of Intelligence be
14 authorized to report directly to the DCI.

15 Is that a fair statement?

16 Senator Schweiker. Yes, that's right.

17 I have some minor differences, but that is really the
18 main issue as far as I am concerned right now. So I'll bring
19 that to an issue by just moving that that be in the recommenda-
20 tions and let the Committee dispose of it one way or another.

21 Senator Huddleston. Is there any objection to that
22 recommendation?

23 Hearing none, we will do that.

24 (Pause)

25 Senator Huddleston. Now, are we ready to go to the Media

1 section?

2 Mr. Aaron. Yes.

3 Now, this is a section that we have gone over at some
4 length, and I think that for the Committee's edification we
5 might ask --

6 Senator Huddleston. Are you on page 66?

7 Mr. Aaron. We're on page 66.

8 Mr. Kirbow. Mr. Chairman, before we proceed in detail on
9 that particular section, it has come to my attention that we at
10 one point had under consideration before the Subcommittee
11 strong recommendations from the staff, a section on labor and
12 labor unions and whatnot. This particular copy that I have
13 fails to show that at this time.

14 Was this determined by the Chairman that that would not be
15 for consideration?

16 Senator Huddleston. Where did we wind up on the labor
17 question?

18 Mr. Aaron. It was never in the draft findings and
19 recommendations.

20 Mr. diGenova. Is it in the detailed report, the classified
21 version? Wasn't there a section on that? We quibbled over
22 naming certain individuals.

23 Mr. Bader. As you will remember, it was discussed at the
24 subcommittee level at one stage. What I had in the longer
25 report, the domestic impact of foreign clandestine operations,

1 etc., was a short section on labor which I said to the Subcommit-
2 tee at the time was based largely on byproduct materials that
3 came from the overall Katzenbach study, that is, what part of
4 the labor problem emerged from that larger study of educational
5 institutions and voluntary organizations and the like. I took
6 some of that material and brought it to the attention of the
7 Committee, but I thought this was the labor issue, and said at
8 the same time that the staff and me, in this case, had not
9 pursued that or explored it in any depth enough to come to
10 any real conclusions about it. In fact, you will remember the
11 section itself which is in here did not make recommendations.
12 In fact, its findings were quite tentative, and that is the way
13 it was left at that time.

14 I have never had a --

15 Senator Huddleston. Do we make reference in here to the
16 labor connections?

17 Mr. Aaron. Just on the first page. There is a statement,
18 talking about the scope of domestic activity, it notes that there
19 has in the past been collaboration with the American Trade
end 1 20 Union Federation.

21 Mr. Bader. One of the things, Senator, that I was going
22 to say in my remarks here, there has been no such collaboration
23 since 1974 when the labor-CIA relationships did in fact come
24 to an end, with the exception of some personal relationships,
25 really, or institutional -- personal relationships, I should

1 say, that were only effected through the international organiza-
2 tions of labor overseas.

3 Mr. Kirbow. Thank you, sir.

4 Senator Huddleston. I think we might, as we get through
5 this particular section, we might reconsider whether or not
6 the two references there to the collaboration with the trade
7 union, is sufficient, or whether we ought to add a paragraph
8 perhaps a little more descriptive to what the evidence
9 indicates actually occurred.

10 Mr. Bader. We can certainly come back to that, Senator,
11 as we go. The references here, the brief references to labor, were
12 really references to the full spectrum of CIA activities in the
13 pre-'67 period.

14 Senator Huddleston. Would the backup paper available on
15 this subject have any information on that?

16 Mr. Bader. Yes, the backup paper has about 14 to 16 pages
17 on CIA-labor relationships.

18 Senator Huddleston. Describing what happened in the
19 case?

20 Mr. Bader. One of the problems that emerges at that
21 time, that that section is the one section where the name of
22 the prominent American was mentioned, and nowhere else in the
23 paper are names given, and the Committee felt, I think, felt
24 it was the sense of the meeting that whatever we did with the
25 labor side, the singling out of one or two individuals was

1 probably not wise, and certainly was inconsistent with the
2 pattern of the overall paper. But it certainly is something
3 we can return to as we go through here.

4 Senator Huddleston. I think that would be appropriate.

5 Senator Mathias, we were talking about the labor involvement
6 encountered, and it is not mentioned very prominently in the
7 findings and recommendations. I think we should consider whether
8 or not we might need a paragraph on that after looking at this
9 overall section.

10 Mr. Aaron. I might suggest that we proceed here now by
11 having Bill give us a little or give the Committee a little back-
12 ground on what is a very complicated issue in which we have
13 some choices between principal and cost on the one hand and
14 clear benefit on the other, and which has a long history
15 of concern on the part of the American public and the government
16 at large.

17 Senator Huddleston. All right.

18 Mr. Bader?

19 Mr. Bader. Thank you, Mr. Chairman.

20 Mr. Chairman, it has been the question of the independence
21 and integrity of American educational institutions has been
22 on the American agenda for some time. I would point out
23 to the Committee which is referenced certainly in the paper,
24 that since 1967 that the issue was very much in front of the
25 American public. The headlines here in the Washington Post of

1 16 February 1967, President Johnson Acts to Protect American
2 Academic Community, Hill Seeks CIA Probe, and at the time, Presi-
3 dent Johnson in the wake of the revelations that the CIA had
4 been using the National Student Association and also a wide
5 range of American philanthropic organizations, moved to establish
6 the Katzenbach Committee, and the President said at the time,
7 the President believed strongly that the integrity and inde-
8 pendence of the educational community must be preserved.

9 Out of the Katzenbach Committee came a series of restrictions
10 and guidelines which the Agency has very faithfully followed in
11 the period since '67. I would only make two remarks about this.
12 In the first category, I think it is certainly fair to say on
13 the basis of reviewing the contemporary literature at the time,
14 post-'67, that the American public in general thought the problem
15 of the independence and the integrity of the American academic
16 community was over as a result of the Katzenbach guidelines.

17 Let me read something from the Katzenbach guidelines on
18 the restrictions of operational use, because central to what
19 we are doing here is proposing further restrictions on operational
20 use of individuals, and after '67, this operational use was
21 restricted in certain categories, and one category was total
22 prohibition. And let me read the variety of individuals that
23 were totally prohibited, because we are now in the recommendations
24 that are before the Full Committee talking about further
25 prohibitions, so there is a consistency in this matter, and I

1 wanted to point out a few of them to you.

2 Operational use, under their instruction, is prohibited
3 for members and trainees of ACTION, Fulbright Grantees, officials
4 or employees of the International Association for Cultural
5 Freedom -- this is the old Congress of Cultural Freedom --
6 officials, employees or grantees of the Ford, Rockefeller and
7 Carnegie Foundations, and employees of U.S. private detective
8 investigative agencies.

9 As a result of the '67 guidelines, the Central Intelligence
10 Agency shifted its attention both to what it called offshore
11 institutional use and very heavily to the use of individuals in
12 American institutions which were not prohibited under these
13 guidelines.

14 Let me review the variety of individuals that DDO can use
15 under the present guidelines. I will just take four or five
16 of the list here: publishers, producers, journalists or
17 employees of public information media, and I will go on to
18 say that now that prohibition has been established in that
19 category for accredited U.S. journalists -- individuals engaged
20 in public relations activities, foreign delegates or employees
21 of the United Nations assigned to the U.S., staff members or
22 officials of the Red Cross Society, officials of the Vatican
23 state, U.S. Government funded professors, lecturers, students
24 and grantees. I am talking here about those who are on the
25 list where operational use is permitted: members of educational

1 or private or voluntary organizations, officials or employees
2 of the African-American Institute, and volunteers to America.
3 These, under the present guidelines of the Central Intelligence
4 Agency are in the permissible operational use category.

5 We go on to say that there have been further restrictions
6 since '67. I have already mentioned that in 1974 labor, for
7 all practical purposes, was put on the prohibited list, and we
8 now have the 1976 prohibitions on Media, and I would just read
9 one section from the Media prohibitions.

10 "CIA recognizes the special status afforded these institu-
11 tions under our Constitution, and in order to avoid any appearance
12 of improper use by the Agency, the DCI went on to say effective
13 immediately, CIA will not enter any paid or contractual relation-
14 ship with any full time or part time news correspondent
15 accredited by any U.S. news service, newspaper, periodical,
16 radio or television network or station."

17 These are the two basic issues the Committee has in front
18 of us, that is, the operational use of American academics and
19 the operational use of U.S. journalists and those in the
20 media organizations.

21 Now, I turn the Committee's attention to page 69 ,which
22 is the central page as far as the scope of the use of American
23 academics are concerned, and make a few remarks about that.

24 The figures are not in dispute with the Central Intelligence
25 Agency. The Agency is now using approximately 300 American

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1 academics for operational purposes such as recruiting foreign
2 students on University campuses and writing books or propaganda.

3 Beyond these 286 there are an additional 41 academics that
4 are used in an unwitting fashion, that is, they do not know
5 that they are being used for operational purposes such as putting
6 notices on university bulletin boards, assisting in arranging
7 student interviews. We have said that we have testimony as to
8 how this unwitting relationship works, or what will happen, and
9 they have given a case here when the Agency came to testify,
10 to the fact, is that the Agency would come aboard the campus,
11 under cover, under the guise of a commercial firm. That commer-
12 cial firm would want translators or someone in the economic
13 business of one sort or another. The unwitting academic would
14 either arrange the interview or post a notice to the fact that
15 this commercial firm is on the campus.

16 Then the foreign student, he would then respond to that
17 particular add or invitation and then the Agency would proceed
18 to recruit them, if they wanted them, and I will read from the
19 text here from an Agency representative.

20 "We have what we refer to as commercial recruitment, where
21 we recruit them under the guise of a commercial firm, and the
22 man's mission is to meet the provision of economic intelligence
23 on his own country once he returns."

24 Question: "But he thinks he is working for a private firm
25 and not the CIA."or

1 CIA: "Or a group of investors. But that is a step in the fina
2 process leading to total recruitment of the individual."

3 CIA: "We hope that is not to be the case, in the case of the
4 guy that is too tough, to go all the way to the point where you
5 can stop and still have a relationship is this commercial
6 recruitment."

7 Question: "You mean you put them in an interim step
8 before he knows he is in the Central Intelligence Agency?"

9 CIA: "Yes, that is correct. That is one form of this
10 recruitment done generally through the unwitting basis.

11 The other, the witting American academics are, let me say
12 that at some of the institutions -- there is one other individual
13 who knows that an American academic is in this process, in 82
14 of the 134 American colleges, there is one individual aware. At
15 the remaining 52, at least one university official is aware
16 of the operational use made of academics on his campus. I'm sorry
17 that is reversed. 80 institutions, no one other than the
18 individual is aware of the CIA link. At the remaining 52,
19 at least one university official is aware of the operational use
20 made of academics on his campus.

21 So in effect that is where we have it with relation to
22 the American academics, and perhaps we might discuss that first,
23 Mr. Chairman. The question is whether the recommendations that
24 we have -- and I will turn you to the recommendations section
25 for American academics on page 77, give a range of options for

1 the Committee to consider, ranging from a Committee to study the
2 use of American academics, and recommends the CIA continue to
3 use American academics for such purposes, and it moves it sort
4 of gradually to a spectrum of possible reactions of the Committee.
5 A central one is that one option is the Committee might propose
6 that there be no unwitting relationships, that the individual
7 himself know that the CIA is using him for operational purposes,
8 and the responsible official on the campus be the University
9 President.

10 I refer to, the Committee recommends that the CIA amend
11 its internal directives to include a requirement that -- this is
12 the one I am referring to -- that both the individual academic
13 and the president of the university or college be knowledgeable
14 of the clandestine relationship.

15 And we go on, the Committee recommends that the CIA
16 amend its internal directives to include a prohibition against
17 the CIA entering into a paid relationship with American academics.

18 We move right through the spectrum into total prohibition.
19 Total prohibition, of course, is not inconsistent with what the
20 CIA has done in the past with prohibitions in certain categories.
21 The issues obviously are the ones that David has raised and
22 the Subcommittee has discussed: is this tradeoff between
23 operational use which the Agency puts a very high premium on,
24 to the Committee, saying that they think that this source of
25 recruitment is vital to their operations, and on the other to a

1 concern that has been expressed in the paper and at the Sub-
2 committee level, as to what this would mean in terms of President
3 Johnson's original problem, the integrity and independence of
4 the American academic community and the image that they convey,
5 both to their students and to the world as to the integrity of
6 those institutions and the individuals within them.

7 I might say one last thing on the operational use. The
8 Agency as I have said has made this into a growth-stop, to
9 use their term. Since 1971-72 they have made a major effort.
10 The FRD, the Foreign Resources Division, is devoting most of
11 its resources it is bringing some of its very best agents
12 from abroad to work in the United States. Of the ten field
13 stations it has in the United States, eight are devoted solely
14 to recruitment of students on various campuses.

15 Mr. Kirbow. Foreign students.

16 Mr. Bader. Foreign students on American campuses, and
17 they attach, as I say, enormous importance to this. Of their
18 overall recruitments, a very high percentage of them from the
19 Agency's view come from this source in the United States, and
20 they would be most dismayed if this source were denied them.

21 On the other hand, it should be said that the Agency has
22 never done, heretofore, has not done an evaluation of the
23 usefulness of these foreign students. They began one for the
24 years '73 and '74, but that evaluation has not been completed.

25 So we, the staff, is faced with a difficult situation which

1 the Agency says and has written that these are enormously
2 valuable, they are retained, they provide good intelligence,
3 but they have not done an internal evaluation that either is
4 available at the Agency or finished at the Agency, or obviously
5 available to the Committee to that effect.

6 With that introduction, then, Mr. Chairman --

7 Senator Huddleston. So the Committee will know, the
8 Subcommittee presents a number of options here because of the
9 inability, really, to come down with a firm position on the
10 matter of academics.

11 Joe, did you have something?

12 Mr. diGenova. I just wanted to say something, Senator,
13 that Bill referred to the high percentage of recruitments. I
14 think for the Senators who were not at the Subcommittee, because
15 of their Domestic work, it should be clear that on page 69, the
16 bottom of page 69, the beginning paragraph, it indicates that
17 more than one half of the CIA's case officers are assigned to
18 this task in the United States; over 60 percent of the CIA
19 agent recruitments within the U.S. last year were foreign
20 students, and the next point is equally as important, perhaps
21 more so, that those recruitments in the United States represent
22 10 percent of the worldwide recruitment of high targets,
23 such as the U.S.S.R., People's Republic of China, Eastern Europe,
24 Cuba, North Korea and North Vietnam.

25 Mr. Aaron. I would make one point additionally. We do not

1 know whether those hard targets in fact represent the Soviet
2 Union and China, or whether they really are what is known as
3 the soft-hard target which is Eastern Europe.

4 Mr. diGenova. Why does it say that?

5 Mr. Aaron. Because the category includes Eastern Europe
6 as well as the Soviet Union and China. We do not know what the
7 breakout is.

8 Mr. diGenova. Well, I don't understand what the point is.

9 Is that bad?

10 What does it mean?

11 We are using the word "hard target." We say the USSR,
12 PRC, East Europe. Should we not be saying that in the findings?

13 Mr. Aaron. But what we don't know yet is what the breakout
14 is. We don't know the fact were there any Soviets at all. We
15 just don't know that fact. That, of course, is important.

16 Senator Mondale. Mr. Chairman, Mr. Chairman?

17 Senator Huddleston. There is a further problem that was
18 brought up in background information. I think a further problem
19 the Committee is going to have in regard to this section is
20 that the Agency intent will want to strike out a great deal of
21 this information, both in the background paper and from our
22 findings and recommendations, too. We may find some difficulty
23 in providing enough information to support what we recommend.

24 Senator Mondale. Mr. Chairman, you sat through these
25 hearings. Do you have any recommendations as to which options

1 make the most sense?

2 Senator Huddleston. Well, as I say, our Subcommittee had
3 a little difficulty with this because of the problem of balance
4 and what not. It seems to be a repugnant practice, using
5 academics in this country, of recruiting young college students
6 who come to this country to participate in CIA activity. Balanc-
7 ing that, which sounds very undesirable, against which the
8 Agency claims is the productivity of such action and the need
9 for it, so because of that we couldn't come to a firm recommen-
10 dation, unfortunately.

11 Senator Mathias. You postponed it until this moment.

12 Senator Huddleston. That's right.

13 Senator Mondale. I just wondered if you had a personal
14 conclusion.

15 Senator Huddleston. My personal conclusion goes to this
16 Paragraph B on page 77, that while we recognize the problems
17 with it relating to integrity or whatever, we are not prepared
18 to totally forbid it at this time.

19 Senator Mondale. Could we add to the recommendations
20 that the follow-on permanent committee flag this problem for
21 special review and further action?

22 Mr. Miller. Because there is one thing that has become
23 evident. We really don't know what the value of these recruit-
24 ments are. There is only the assertion that they are useful,
25 but we have seen no evidence of the yield.

1 Mr. Kirbow. And in all fairness, I must indicate we don't
2 see anything to the contrary. We have no evidence before the
3 Committee that they are not useful sources. They are devoting
4 a major part of their resources to this, and it just, I think,
5 denies belief, almost, that they would be doing this sort of
6 thing if they didn't figure it was of some value.

7 Mr. Inderfurth. I think the Domestic Subcommittee talked
8 to that issue in the FBI intelligence program. They devoted a
9 lot of energy to it, but the GAO which did a study of it, said
10 that it wasn't productive.

11 Mr. Kirbow. Well, excuse me. I am coming in from Mr. Miller's
12 point that said this wasn't productive.

13 Mr. Inderfurth. Well, just the argument that it doesn't
14 seem productive isn't necessarily true.

15 Mr. Miller. Well, my problem, Charlie, is picking up
16 Senator Mondale's suggestion to send it to the oversight
17 committee is very valuable on the basis that we don't know
18 whether there is any yield in fact of value.

19 Senator Schweiker. I would like to ask a question for
20 clarification.

21 The foreign students that they recruit, are they ultimately
22 a witting or unwitting? In other words, when they finally end
23 up, you say they use subterfuge to go to campus and talk to
24 the student. Now, when he goes back and becomes operational,
25 does he still think he is working for some cover company, or

1 does he really know he is working for the CIA?

2 Mr. Bader. It depends, Senator. There are various stages
3 with the various individuals. A typical case would be one that
4 I have described, reading from the record, is an individual that
5 is recruited under a commercial guise, and for a certain amount
6 of time he stays under that commercial cover, and he does not
7 realize that he is working for the Central Intelligence Agency,
8 and then he is assessed during that period, and if they feel
9 that he will become a reliable agent, a good agent, a hard
10 agent, someone that they can use effectively, then they let
11 him in.

12 Senator Schweiker. When he becomes a hard agent, then,
13 is he witting?

14 Mr. Bader. Then he is witting. That's what I'm telling
15 you.

16 Senator Schweiker. That's the difference between a soft
17 and a hard agent.

18 Mr. Bader. They would keep an agent in a proprietary,
19 commercial intelligence, in the commercial sense of the word,
20 intelligence, a firm, for X number of years, and he would never
21 know that it has a CIA relationship.

22 Mr. Maxwell. There would be a difference probably in
23 tasking.

24 Mr. Bader. There would be a difference in tasking. It is
25 clear from the record, Senator, that if it is soft, the

1 individual would be doing normally what he does today, and the
2 CIA would derive some usefulness or some use from that take.
3 When he goes through the second category, he is tasked. He is
4 asked to do things. It is at that point that he goes from soft
5 to hard, where he is then told to please collect intelligence on
6 such and such.

7 Senator Huddleston. Senator Mathias?

8 Senator Mathias. Mr. Chairman, I just want to say that I
9 have a proxy here from Senator Goldwater, and I thought maybe
10 we ought to put his views on the record. He says, "I am opposed
11 to any prohibition on recruitment of foreign students and
12 academics within the United States. Moreover, I believe that
13 any American should have the individual right to cooperate with
14 the CIA and FBI as he chooses. I fully respect the right of
15 organizations to take positions on the degree to which they as
16 organizations will cooperate with the CIA and FBI. Finally, I
17 don't believe there should be any discussion in the public
18 release of the report of the numbers of academic institutions
19 and teachers and administrative personnel who may have cooperated
20 with the CIA. Quite apart from the security problems, the
21 problems which it might cause to the universities."

22 Senator Schweiker. The point I want to try to make is
23 that maybe one ground of compromise, Mr. Chairman, is to require
24 what I am calling informed consent. I am not so sure that this
25 maybe isn't the middle ground. It disturbs me greatly to hear

1 that people are duped into working for the CIA. I heard one
2 case about a guy where -- I don't know whether he was duped,
3 but he ended up getting killed in his own country. But I am
4 not sure he even knew who he was working for or who killed him, an
5 I think that is a pretty serious indictment.

6 But what I am working for is whether we should require
7 informed consent on the basis that they have got to level at
8 all stages who the hell they are working for, and then leave
9 it up to the student to decide. To mislead the students about
10 who they are working for I think is really questionable. That's
11 all I have.

12 Senator Huddleston. Senator Hart?

13 Senator Hart of Colorado. This is not an easy area, but
14 it is a classic example of what I think you would call the
15 do-other syndrome, that we have got to do what the other side
16 does, and I doubt that there is anybody in this room that
17 wouldn't be repelled by American students studying in Moscow
18 being approached by KGB to come back and spy on their own
19 country or, for that matter, any other government that would
20 do that.

21 I would assume that all Americans would find that
22 repugnant, yet we find ourselves saying that in the days where
23 we have got to do the same thing. So I do think it is a
24 thing that we ought to examine our fundamental principles and
25 not just talk about what is expedient and what is easy for the

1 Agency and what is helpful to them. There are some things more
2 important to this country and what it stands for than what is
3 easy for the CIA or what is convenient for the CIA.

4 In any case, I think the sentence that is contained, the
5 last sentence in Option B where it says "alert the institutions
6 that there is a problem and it is theirs," it isn't the
7 institutions' problems, it is this country's problems, it is
8 society's problems, it is not Harvard's problem or the University
9 of California's problem; it is our problem. And I do not
10 think that by tossing the ball back to some university President
11 we are fulfilling our function here.

12 I think we ought to have it out and resolve it. We are
13 the policy making body of this government, of this country, and
14 to say it is the problem of the academic community is foolish.
15 The governing principle should not be whether it is best for
16 the CIA or whether it is what the CIA wants. It is what is best
17 for this country and what is in fundamental keeping with what
18 we stand for.

19 The CIA will always find a way to get its job done, and
20 it doesn't need to violate the Constitution or people's rights
21 to do their job.

22 Senator Mondale. Well, one of the problems with this is
23 it doesn't violate anybody's rights.

24 Senator Schweiker. Well, I am not sure, Gary, if you are
25 witting about it, that anybody's rights are being violated.

1 Senator Hart of Colorado. Well, it is not that easy. You
2 have got people coming over here to study, you have got
3 relatives that want to come in to this country. I mean, there
4 are all kinds of subtle forms of blackmail that can be used.
5 It is just not an easy question of walking up to a foreign student
6 and saying, when you get back home do you want to send us some
7 information.

8 You pointed out one case that people, they get killed for
9 doing this. We are talking about people that may want to become
10 citizens. They feel that this is a tradeoff they can make
11 to get in here. They may need the money. Who knows?

12 Mr. Wides. There is a constant problem, by the way,
13 that I know of working in Senator Hart's office, of foreign
14 students who are here -- it has been a legislative matter on
15 the Hill -- who do not plan to go back and forth to Africa
16 every summer and come on the assumption that they can get work,
17 and then there are restrictions on their working, and it is not
18 clear whether they can stay here or will have to go back, and
19 so in some ways it is like the person on immigrant status
20 trying to get citizenship, in terms of having sources of pressure
21 from the Government on them.

22 Mr. Kirbow. Senator, I only have one other thing to
23 contribute because it was discussed principally by Senator
24 Schweiker, but I think this witting or unwitting thing may be
25 a key somewhere along the line.

1 Mr. Bader, isn't it clear that even with the academic
2 or the approach to the foreign student by the undercover man
3 posing as a representative of a corporation, that that student
4 to be recruited at all has to be witting of the fact that he
5 or she is working for a U.S. firm or some firm, and it is usually
6 against the best interests of his own country or his own
7 firm when he goes back to his home. He is made witting of
8 that at the outset, is he not?

9 Mr. Bader. No, sir.

10 Mr. Kirbow. What is he made witting of that gives him any
11 control over him reporting information that is of any value?

12 Mr. Bader. It is not done that way. Let me give you a
13 specific example of a commercial intelligence firm or a
14 commercial reporting firm out of Dallas Texas is one that I
15 know of.

16 Mr. Kirbow. Yes.

17 Mr. Bader. The individual is recruited, asked and given
18 a job. He said, we would like you to go to Paris and write
19 articles and reports for us on the petroleum industry. That
20 is what the individual does. He is never tasked.

21 Mr. Kirbow. This would be a French student.

22 Mr. Bader. This would be a French student. He would
23 never be tasked until such time as he moves from the first to
24 the second category.

25 Mr. Kirbow. During that period he is not doing any harm

1 to his country or anything. He is just reporting on a regular,
2 commercial, overt type information.

3 Mr. Bader. Well, I put it to you that an individual who
4 is unwittingly working for a CIA proprietary could certainly be
5 perceived from his country's point of view as doing harm to
6 that country since he is, you see, he is not in effect -- he
7 is in actuality working for a foreign government.

8 Mr. Kirbow. But the first time they ask him to ask anything
9 of detriment to his country, like a state secret, he is made
10 witting that he is working for the CIA. I think that was
11 basically the point.

12 Mr. Bader. Basically the same, but in the first instance
13 he is in fact working for a foreign power.

14 Mr. Kirbow. He is working for a foreign power, and he
15 knows it.

16 Mr. diGenova. Now, that is not my reading of the
17 record, Burt. My reading of the record -- and this supports
18 what you are saying, you are just getting it the wrong way --
19 he is reporting information back. He may not know he is
20 reporting it to the CIA. He does know that he is certainly not
21 reporting it to his own Ministry of Information. Mr. Kirbow's
22 point is that even though he may not know he is reporting to
23 the CIA, he does know that he is not providing positive economic
24 intelligence to his own government but to some other outside
25 force. If it is found out that it is a CIA proprietary, either

1 by him or by someone else looking at him, obviously that is a
2 problem also, but the perspective of the individual supplying
3 the information is that he is engaged in either commercial
4 activity which he is wittingly involved in or supplying
5 information, straight economic information that doesn't have a
6 top secret label to it, or else he becomes witting and provides
7 something else.

8 Mr. Bader. That is find. I thought I just said that he is
9 in fact working for a foreign government.

10 Mr. diGenova. That just didn't answer his question.

11 Mr. Kirbow. A final point, Mr. Bader.

12 Isn't the record of the Agency that the majority of people
13 that they recruit remain recruited because they do have some
14 dropouts, as we say, when they go back to their country; know
15 when they leave this country that they are spying for the
16 United States Government, and they are hard recruitments that
17 they are recruiting just to do that job.

18 Isn't there a large number of these people that go in
19 that category when they go back to their country?

20 Mr. Bader. We don't have a record on that, Charles.

21 Mr. Kirbow. The CIA didn't speak to that.

22 Mr. Bader. In numbers or percentages?

23 Is that your question?

24 Mr. Kirbow. Did they speak to the question of whether or
25 not these people are actually hard recruited here and all of them

1 don't go back soft and then become hard recruits later on.

2 Mr. Bader. I think it is a mix. I couldn't give you a
3 proportion.

4 Mr. Kirbow. And the last thing, Mr. Chairman, because I
5 think it is of prime concern to many members, as I know it was
6 to me because of the age of some of my children, Mr. Bader, isn't
7 the average age, as reported by the Agency, between 25 and 31,
8 of these people that they actually recruit, and aren't the
9 majority of them Ph.D.s or, you know, the doctoral types?

10 They are not freshmen in our colleges type students.

11 Mr. Bader. No, they are typically graduate students, which
12 would mean that they would be at a minimum 21 or 22, depending
13 upon the country that they come from.

14 Senator Huddleston. What is the wish of the Committee?

15 Senator Mondale. What about this possibility? I am
16 persuaded by Gary's point about the institutions, and I don't
17 think they are responsible if they don't know about it.

18 What about saying, or making very strong statement that
19 we are very concerned about the impact of this program on the
20 students, on the integrity of the institutions, on the
21 integrity of the academic community, and the vulnerability of
22 these students to intimidation in their tender status as
23 students, but we are troubled by the fact that we do not, the
24 record does not give us the information we need fully to determine
25 our policy, and therefore at the very least we recommend C,

1 that the directives require that the academics and the President
2 of the university or college be knowledgeable or informed, and
3 that the follow-on committee flag this issue for immediate
4 concern and action as to whether they should go further.

5 Senator Huddleston. Are there any --

6 Mr. Bader. Mr. Chairman, I want to make one statement on
7 that fact. As the Committee can appreciate, one of our problems
8 in this particular investigation and inquiry was the question
9 of how we could take testimony from the American academic
10 community, because taking testimony from the American academic
11 community, we are breaking them in to this process and they
12 will become knowledgeable that this use of individuals was
13 going on, which in itself is a decision.

14 So as less than that, we invited on an informal basis
15 four or five American college presidents who happened to be
16 in Washington for one of their American Academic Union or
17 Association or what have you, the Association of American
18 Presidents, I think it is called, and Senator Mathias attended
19 that informal meeting, and we came away from it with the very
20 strong impression that these senior academics, these responsible
21 academics, were very concerned about the unwitting, the
22 problem of unwitting use of American academics. They also
23 felt very strongly that their universities should know that there
24 is a problem, and that they, as a university, then could begin
25 to deal with it.

1 What they wanted to know was what was the extent and
2 magnitude of the problem, and the fact that there was a problem,
3 and they would like to be in a situation to know that it is
4 done on a witting basis within the university.

5 Senator Mondale. So that is consistent with your motion.

6 Mr. Bader. That is consistent with your motion.

7 Senator Huddleston. I think it is also consistent that they
8 do not want statutes guiding this until they have had a time
9 to assess and correct the misdeeds that might have occurred.

10 Mr. Bader. Most university Presidents in my recollection
11 felt that if they were aware of the nature of the problem, that
12 they could deal with it as far as their institution was concerned
13 on an institutional and academic senate basis, but it was
14 inherent for them to know what the problem was, and that is
15 obviously an issue for the Committee.

16 Senator Mondale. Does that motion make sense?

17 Senator Hart of Colorado. Restate it.

18 Senator Mondale. That the report flag our serious concern
19 about the impact of this policy on academic integrity, its
20 impact on the community abroad, its impact on the foreign
21 students, that we are very mindful of the vulnerable situation
22 that a foreign student finds himself in in this country, that
23 at the very least the record strongly suggests, and we support
24 that the individual academic and the President of the university
25 or college be made knowledgeable of the relationship with the

1 CIA, and that we ask the follow-on permanent committee to flag
2 this problem to its immediate attention, whether further
3 restrictions ought to be imposed.

4 Senator Schweiker. Fritz, I would buy that if you would
5 include something about witting foreign students. I still
6 think it is really a sucker deal to hook a foreigner and tell
7 him halfway down the road, you are hooked, buddy, and at that
8 point he has absolutely no option.

9 Senator Mondale. Can they do that? In other words, I
10 could see why they could flirt with a student before entering
11 into a relationship with him, but is it possible to do that
12 without his knowledge?

13 Mr. diGenova. Yes. Yes. They use a commercial guise. They
14 recruit him --

15 Senator Mondale. Oh, I know what the cover is, but mustn't
16 he know that he is passing information back to the United
17 States?

18 Mr. Bader. Not when he is in the first phase.

19 Mr. diGenova. He is passing information back, but he
20 thinks it is commercial information, but he doesn't know that
21 it is going to the CIA, but he knows that it is going to the
22 United States.

23 Senator Schweiker. And then after you level with the
24 student, the student is hooked. He can't do anything. That is
25 what disturbs me about it. The guy ought to have an option to make

1 a decision before he is hooked. It is just like pulling a
2 fish. Once you are hooked, you are hooked, buddy.

3 Senator Mondale. Well, let's put that in so that this
4 guy may think that he is working for a private corporation and
5 then in fact it is a CIA front.

6 Senator Huddleston. And if his government found out when
7 he got home --

8 Senator Mondale. He would lose his head.

9 Senator Schweiker. And then they scare him, and he has
10 no option at that point. That is what I object to.

11 Senator Huddleston. Senator Hart?

12 Senator Hart of Colorado. Would you accept an amendment
13 to strengthen the last phrase, insted of just flagging it for
14 the oversight committee, to require full and complete periodic
15 reports of all recruitment activities to the oversight committee.

16 Senator Mondale. Good.

17 Senator Huddleston. I think we have that in some other
18 recommendation.

19 Senator Mondale. But he wants in addition a periodic
20 reporting.

21 Senator Hart of Colorado. So the oversight Committee
22 knows periodically what is going on in that area.

23 Mr. Kirbow. I think we can take it from the verbatim
24 record, Mr. Chairman.

25 Senator Huddleston. Before we vote, let me point to this

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1 one thing that has come up before in our Subcommittee, Senator
2 Mondale, and I don't know whether it has in yours or not, but
3 because of the sanitation process, there may well be some
4 classified recommendations. I don't know that this area might
5 fall into that category. So --

6 Senator Mondale. Well, that is a separate problem.

7 Senator Huddleston. That's a separate problem.

8 Mr. Bader. We might point out, Mr. Chairman, that part
9 of the difficulty with that might be -- and I think the Committee
10 ought to face this squarely -- if we take what we have done
11 here and put it all in a classified version, the issue that
12 the academic presidents are speaking to, that they must be aware
13 of what the problem is on their university, that they will not
14 have that knowledge, and obviously cannot act on it.

15 Mr. Kirbow. No, I disagree with that, Mr. Chairman. What you
16 do is you squarely put the requirement on the CIA that if it is
17 going to do this and you allow them to do it, then he must
18 inform that president, and you make that part of the oversight
19 committee's report, too, that he must in fact say that.

20 Senator Mondale. He has got to inform the president, he
21 has got to inform the academic.

22 Senator Schweiker. And he has to inform the student he
23 is using in the recruitment.

24 Senator Mondale. When he makes the recruit and puts him on
25 an agent status, that he knows what is going on.

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1 Senator Schweiker. So that the recruit knows what is going
2 on.

3 Senator Huddleston. So what is the Committee's pleasure
4 on the proposal by Senator Mondale and Senator Schweiker
5 and Senator Hart?

6 Is there an objection?

7 Does the Committee want a roll call?

8 Senator Hart of Colorado. Report me in the negative.

9 Mr. Kirbow. Sir, Senator Mathias, having read Senator
10 Goldwater's position in opposition, is that he would agree
11 on that. He is opposed to any prohibitions against this, if he
12 could just be recorded.

13 Senator Huddleston. Senator Goldwater will be recorded as
14 being opposed. Senator Hart -- maybe we ought to call the roll.

15 Mr. Madigan. May the record show, Mr. Chairman, that
16 Senator Baker is necessarily absent. It is my belief, having
17 discussed this with him, that he would be opposed to this on
18 the basis that he feels the student has the First Amendment
19 right if he is notified, but not necessarily the university
20 president, but the student does have the right of privacy,
21 and he may, in light of Senator Mondale's proposal, he may --

22 Senator Mondale. But a foreign student is not protected
23 by the Constitution, is he?

24 Mr. Madigan. Well, I think the Senator's position is the
25 foreign student should have the right to make up his own mind.

1 Senator Mondale. That's true, but I don't think that is
2 a constitutional argument.

3 Senator Schweiker. Well, Dee, since this is new, maybe
4 we ought to postpone the vote until the next meeting on it
5 and give everybody a chance.

6 Senator Huddleston. I am inclined to believe that, that
7 we ought to put on paper the recommendation, as it was
8 finalized, and the vote could be held at the next meeting.

9 Mr. Aaron. We will come back to you, then, with a
10 redraft trying to incorporate all of these various thoughts.

11 Senator Huddleston. We will also have to go back, I think,
12 to this page 70.

13 Mr. diGenova. And we'll have to go back to the first
14 paragraph.

15 Senator Huddleston. I am inclined to believe that we
16 ought to see what the disposition of the Mondale suggestion
17 is before we come back with -- to this paragraph and make a
18 reply to it.

19 Mr. Aaron. Right.

20 Now, the recommendation which follows this set of options
21 goes to a somewhat different issue, and that is the use of
22 U.S. Government sponsored grantees and programs which are overt
23 programs. This is 44 on page 78. Athletes, artists, any
24 number of categories of people, sent abroad openly by the
25 United States for that cultural exchange purpose and then being

1 recruited by the CIA to conduct some operational activity. I
2 might just speak to that issue as well.

3 Mr. Bader. It should be stressed here that this recommen-
4 dation we are talking about U.S. Government funded programs
5 for cultural, educational and other purposes. The thrust of the
6 argument here is that these programs are funded for various
7 specific open purposes, where taxpayers' funds in fact go for
8 a very specific purpose, and that it would seem inconsistent
9 with that publicly stated goal and publicly stated use of
10 public funds to have these individuals be used for operational
11 purposes.

12 I might underline that the CIA prohibitions which came out
13 of -- or the guidelines which came out of '67, which I read
14 to you when we began this discussion, has in its category B,
15 Fulbright Grantees. The Agency has already accepted the prohi-
16 bition on Fulbright Grantees. This prohibition would extend
17 that prohibition, which is limited to those individuals selected
18 by the Board of Foreign Scholarships to all individuals receiving
19 U.S. Government grants.

20 Senator Huddleston. Is there any comment on this?

21 This ought to be fairly agreeable.

22 Mr. Kirbow. There is only one further comment that has
23 come from Senator Tower on this subject. As written, it does
24 not make clear whether or not former CIA employees, officers
25 or otherwise used in their regular purposes would be prohibited

1 from getting one of these grants, would it in fact prohibit
2 for a lifetime or just while he is getting the money, or what
3 are the limitations on this?

4 Mr. Bader. Yes. The question is one of operational use,
5 not a former employee.

6 Mr. Kirbow. Yes, it says operational use of cultural
7 grantees. If he gets \$500, which is a partial payment for what-
8 ever he is going to do, he gets that as a grant from the
9 government. He goes overseas to France to study for three
10 months. Once that period is over and that money has "been
11 spent" does it attach to him for life that he can never thereafter
12 be used?

13 Mr. Bader. No, certainly not.

14 Mr. Kirbow. How about a Fulbright Scholar? Does it
15 attach to them for life?

16 Mr. Bader. No, it does not.

17 Mr. Kirbow. Just while they are under the grant. That
18 was the question.

end 3
begin 4

19 Senator Huddleston. That could be written into that.

20 Mr. diGenova. While they are grantee during the term of
21 the granteeship.

22 Senator Huddleston. Is there any objection to 44?

23 There is none to that. All right, it will be adopted.

24 Mr. Aaron. Now, the next issue, or the next recommenda-

25 tion, the next one, 45 deals with the question of the distribution

1 of books subsidized by the CIA within the United States. Again
2 I might just turn this whole thing over to Mr. Bader.

3 Senator Mondale. This doesn't deal with the flowback
4 problem, does it?

5 Mr. Bader. It does not, and it is maldrafted here, but
6 the intent of this paragraph is to say that there will be no
7 subsidy or distribution of any book, magazine or publication
8 that the CIA is responsible for within the United States unless
9 that publication is attributed to the CIA.

10 Senator Huddleston. Any objection to that?

11 Senator Mondale. What about the flowback problem?

12 Would you simply go and have the book published in England
13 or in Ottawa?

14 Senator Huddleston. Now, we cannot control the distribution
15 here. The CIA can take part in its distribution.

16 Senator Mondale. But subsidize any book, magazine, inside
17 the United States.

18 Mr. Schwarz. There surely can be reach paying the Canadian
19 publisher enough money to permit his sending it across the
20 line, and these words don't quite reach that.

21 Mr. Bader. No, these words don't quite reach that. I am
22 sure Senator Huddleston can reach that. We have looked very
23 carefully at this problem of flowback, and let me give you an
24 example of a current project of the CIA which is active.

25 They have given X hundreds of thousands of dollars to a

1 certain individual in Britain with access to a British publishing
2 firm. He has then gone out and acquired a stable of British
3 authors -- Bielloff is one of them, for example, very well
4 known in the United States. They then write a book on a
5 particular subject such as a tract against General DeGaulle's
6 view of Europe. That is published in Britain, but subsidized
7 by the Central Intelligence Agency, and that book tends to
8 be picked up and distributed in the United States through the
9 normal commercial process. The agency says as long as it has
10 a propaganda program overseas, that this kind of flowback is
11 inevitable.

12 Senator Mondale. Well, then 45 becomes meaningless,
13 doesn't it.

14 Mr. Aaron. What it would preclude is some things that
15 have happened in the past in which they actually subsidized and
16 distributed books in the United States so that they could then
17 be picked up and distributed elsewhere.

18 Senator Mondale. But it is the same thing. If they want
19 to do something in the United States, they just go to Ottawa
20 and find a gifted author.

21 Mr. Bader. For all practical purposes, yes. This would
22 rule out the major publication programs of the pre-'67 period at
23 MIT and Harvard, Praeger, etc.

24 Senator Mondale. Well, why don't we just deal with what
25 we are talking about. We are talking about there is a loophole

1 in here as big as all outdoors, isn't it.

2 Mr. Bader. That is absolutely right, Senator.

3 Mr. Aaron. As long as they publish in English or Spanish.

4 Senator Mondale. All this says is you can't pay an
5 American publisher, you have to pay a foreign publisher.

6 Mr. Bader. The original recommendation said --

7 Senator Mondale. We don't want U.S. people being paid.
8 It's the opposite of the DISC program.

9 Mr. Kirbow. The record of the Agency is that the information
10 published in these books, pointed at a French audience, may
11 fall back.

12 Mr. Schwarz. Any.

13 Senator Mondale. Well, that's the same thing.

14 Mr. Kirbow. It may fall back into the United States, but
15 that is an incidental amount of the information, or the number
16 of books that come in.

17 Senator Mondale. That is not what this says.

18 Mr. Kirbow. No, sir, it isn't, and the language could
19 be broadened to take whatever precautions you want them to
20 take against this being a deliberate act, but if you publish
21 in a certain language, it is going to be picked up worldwide.

22 Senator Huddleston. We tried several approaches, one,
23 not permitting them to participate in any kind of publication
24 in the English language.

25 Senator Mondale. That doesn't mean anything. You can

1 translate it.

2 Senator Huddleston. This goes to the distribution. It might
3 be that we can tie it down a little more. The example you
4 gave of subsidizing a Canadian company would certainly come under
5 a subsidy for the distribution if the purpose of that was to
6 prepare a book which would be distributed in the United States;
7 it would be in violation of this wording right here, in my
8 judgment.

9 Mr. Schwarz. Suppose you said something like "and shall
10 not provide any funds to a foreign publisher in excess of the
11 amount needed for distribution, limited to the foreign
12 country.

13 Mr. Kirbow. It is meaningless .

14 Mr. Schwarz. Well, it is at least something more than
15 this.

16 Mr. Kirbow. It doesn't do anything to keep it from coming
17 back into the United States. Why have additional language.

18 Mr. Aaron. I think you could conceivably put some
19 oratory language in there, which, you know, take care of
20 every conceivable or every possible safeguard to attempt to
21 preclude its distribution in the United States. I don't know
22 what in fact one would do, but I don't think the funds would
23 do it. I mean, once the book has been subsidized, once the
24 writer has been subsidized, then it is a question of the
25 number of copies and the amount of books, and if there is a

1 big market in the United States, then it doesn't cost any money,
2 it makes money.

3 Mr. Miller. Well, one of the key problems, would depend
4 on the propaganda. If it is a successful propaganda job, there
5 is a strong likelihood you are going to have a flowback into
6 the United States. If it is a crummy propaganda job, it is
7 not going to flow back to the United States and it won't be
8 noticeable.

9 Mr. Bader. This prohibition would go to such things
10 as the Penkosky papers, the book on the KGB, the Barron
11 book. It would have some marginal use, but you are absolutely
12 right, Senator, I first experimented with language that concluded
13 that the Agency should be prohibited from all covert English
14 language books and literature.

15 Senator Mondale. What about an additional sentence that
16 moreover, the CIA should be prohibited from indirectly seeking
17 to accomplish the same objective by publishers, etc., located
18 any manner in a way which was designed directly or indirectly
19 to achieve this same result.

20 That's still --

21 Senator Hart of Colorado. I still think "no funds shall
22 be used."

23 Senator Mondale. Yes, but I think that what we are trying
24 to find out is to the fullest extent possible, and Kirbow's
25 point, that the objective is really a clever way of doing the

1 same thing by indirection as we are trying to say you can't
2 do that; where it is for the purpose of foreign readership
3 alone it is not prohibited.

4 Mr. Kirbow. You are trying to prevent everything but
5 the incident fallout, which if it is printed in the English
6 language it is obvious you can bring it back.

7 Senator Mondale. You can't do that. The only thing you
8 can do if you want to prevent that is prohibit it.

9 Senator Huddleston. Or you can have a bookburning.

10 Senator Mondale. Well, I think they do that at the
11 Agency, you know, like with Marks and Marchetti and Agee. They
12 already do that.

13 Mr. Aaron. Well, I think the one we have to be concerned
14 about is, for example, the Chilean White Book.

15 Mr. Kirbow. The what?

16 Mr. Aaron. The Chilean White Book, the book published
17 by the Chilean junta after it came to power, in English, with
18 the support and assistance of the CIA, which found its way
19 into the United States and which it is hard to conceive that
20 one of its purposes wasn't for the junta to be able to
21 distribute this propaganda item within the United States as well
22 as other English speaking countries.

23 Senator Schweiker. When you say "found its way" what
24 kind of circulation or volume are you talking about?

25 Mr. Aaron. I'm not too clear about that. I know it was

1 basically put out by the Chilean embassy. YOU know, they
2 got it, it was in English, they sent it around all over Washing-
3 ton.

4 Senator Huddleston. Well, I think we all understand what
5 we want to accomplish. It is just a matter of trying to --

6 Mr. Kirbow. Well, Mr. Chairman, since we recommended
7 over to the next committee to do the language itself, I think
8 we should just make our intentions clear, that the language can
9 be put into whatever law they pass. We are just saying that
10 by statute it should be done.

11 Senator Huddleston. Well, what if you added to this thing,
12 by statute there should be no subsidy to or distribution of
13 any book, I think we can change that, there should be no
14 subsidy to the production of or distribution, to writing,
15 production or distribution of any book, magazine or publication
16 not attributed to the CIA inside the United States or its
17 territories, wherever that book might be published.

18 Mr. Maxwell. There is one problem with the way that is
19 phrased now, Senator. That is, you would in effect be
20 prohibited, a subsidy for publication overseas unless -- a
21 subsidy for production and dissemination.

22 Senator Huddleston. What?

23 Mr. Maxwell. The way you just phrased it would prohibit
24 any subsidy for production, which would prevent the CIA from doing
25 any production.

1 Senator Hart of Colorado. Well, since the staff -- I
2 think the staff understands what we are after. We are going to
3 sit here for an hour arguing. Why can't they draft what we
4 want to come up with?

5 Senator Huddleston. I think you can prevent them.

6 Mr. Aaron. We'll try to capture this concept of directly
7 and indirectly and place the responsibility on the Agency to
8 do what it can.

9 Senator Huddleston. Good.

10 46?

11 Mr. Aaron. Yes.

12 No. 46 -- 46 and 47 really should be read together. They
13 go to the issue of the constraints to be placed on the use of
14 media by the CIA, both for operational purposes and using
15 institutions for covert cover purposes.

16 In effect, this sets out a range of options that go from
17 simply commending them to establishing the prohibitions in
18 law, to going further, and pulling under these prohibitions
19 categories of people who were left out by virtue of the fact
20 that they are not accredited.

21 Maybe you can expand on that, Bill.

22 Mr. Bader. I think it should be said here that I have
23 already read the CIA prohibition that they came out with in
24 February of '75, and that prohibition goes to the accredited
25 U.S. journalist -- let me read the language -- "to any paid

1 or contractual relationship with any full time or part time
2 news correspondent accredited by any U.S. news service, newspaper,
3 periodical, radio or television network or station. That
4 prohibition, as we see it, and the Agency agrees, after some
5 long discussion with the figures, involves about one third of
6 the relationships that the CIA now has to U.S. journalists or
7 employees of U.S. media organizations.

8 Senator Schweiker. Well, Bill, does this prohibit a guy
9 at CIA from hiring a guy from Reuters, and then Reuters plants
10 a story and of course, Reuters gets planted back here?

11 Are we excluding that possibility here?

12 Mr. Bader. We are talking here, Senator, only about U.S.
13 journalists and employees of U.S. media.

14 Senator Schweiker. Well, what is U.S. and foreign? What
15 does foreign mean?

16 Mr. Bader. Where do you see "foreign?"

17 Senator Schweiker. Against any paid relationship with
18 U.S. and foreign journalists. What does that mean?

19 Mr. Schwarz. The foreign journalist.

20 Senator Huddleston. The foreign journalist would have to
21 be accredited to a U.S. news organization.

22 Senator Schweiker. It wouldn't mean that Reuters got it.

23 Mr. Bader. It is credited to you as --

24 Mr. Aaron. No. It would be Arnold Buschrow working for
25 Newsweek. He is a foreigner working for U.S. news media.

1 Senator Hart. of Colorado. Is there any way to tighten
2 up the definition of "journalists?"

3 Mr. Kirbow. Senator, that is attempted in 7 to mean that
4 anybody who contributes to the final printed word in recommenda-
5 tion 27.

6 Mr. Bader. Senator Hart, on page 74 in a footnote we
7 give the Agency's definition of what "accredited" means for a
8 journalist. "Formally authorized by contract or issuance of
9 press credentials to represent themselves as correspondents."
10 That is about the best we have been able to do.

11 And since the Agency uses this terminology, we thought
12 our recommendations ought to go to accepting their definition
13 and then moving to those individuals in U.S. media organizations
14 who are not covered, if you will, under this prohibition of
15 which in fact are the majority.

16 So what we are really talking about here are individuals
17 who are not accredited, are administrative personnel in
18 U.S. media organizations who arrange cover or CIA agents
19 using media organizations as cover without accreditation,
20 freelance writers or stringers, and what this recommendation
21 goes to is moving the CIA prohibition to cover -- to cover
22 all of those who have this relationship with U.S. media
23 organizations.

24 Mr. Maxwell. Let me try to raise the question, then. The
25 question is whether there is language that would cover a

1 contractual relationship between CIA and foreign or United
2 States journalists accredited to foreign media organizations
3 which have a substantial relationship to U.S. media organizations,
4 i.e., if the CIA employed someone in Reuters, it is not a
5 U.S. media organization, and obviously there could then be the
6 problem that Senator Schweiker raised and the fact is not
7 that it is a foreign media organization. It is the foreign
8 media organization which has substantial contractual relation-
9 ship to U.S. media organizations: a number of U.S. media
10 organizations subscribe to the Reuters service.

11 Is there a way that you could prevent the contractual
12 relationship with foreign or U.S. individuals who are employed
13 by foreign media organizations that have a substantial tie
14 to U.S. media organizations?

15 Senator Schweiker. It seems to me that unless you cover
16 that end, you are still paying taxpayers' money to throw
17 propaganda back into the United States, and I think you get
18 back to the contractual relationship between the foreign
19 news service and this country, and I don't know why we should
20 not include organizations, foreign news organizations that have
21 meaningful contractual relationships in this country.

22 Now, I am not picking out Reuters per se, but I think that
23 is the kind of thing that is completely a loophole as I read
24 this thing. I am sure there are many other foreign news
25 services that have deals with AP or UP on an exchange basis

1 back here.

2 Can't we cover that in some way because we have still got
3 the same problem.

4 Mr. Bader. Well, the Subcommittee's recommendations didn't
5 go to that.

6 Senator Schweiker. But that's a big loophole. Aren't
7 we kidding ourselves to think that Reuters writes a dispatch
8 that comes back here where some, whatever wire system buys
9 it, and we have a planted CIA story back here for domestic
10 dissemination.

11 Senator Huddleston. I think the preponderance of the
12 evidence, of the statements at least, presented by the Agency
13 people, would be that the prime value of utilizing media
14 organizations lies in not the propaganda value and the question
15 of planting stories as much as cover for agents.

16 Mr. Maxwell. Well, would it be possible if, instead of
17 going to the contractual, you went at regulations on planting
18 of stories in institutions such as Reuters, where there would
19 be a feedback problem. Seemingly that could be done, rather
20 than ignoring the question entirely, which the proposal does.

21 Senator Schweiker. You could never police that one.

22 Mr. Kirbow. What is the record on the views of this?

23 Mr. Bader. On what?

24 Mr. Kirbow. On using Reuters for propaganda?

25 Senator Schweiker. Well, I used Reuters because there is

1 an allegation against it right now that they are doing spying
2 for the CIA and that they are on the payroll for the CIA and
3 that their correspondents feed stories back here, maybe inad-
4 vertently, but Reuters is the case in point.

5 Mr. Bader. The CIA's case in point is, as I understand it,
6 is they have not used Reuters.

note: CIA files showed they used Reuters in Cuba. Del

7 Mr. diGenova. And the CIA's position also is that they have
8 planted stories in the foreign press and they have no way
9 of knowing how many times stories have been reprinted in the
10 United States. They have never tried to keep a record of it
11 and they simply don't know how many stories planted in foreign
12 news services have ever been reprinted in the United States.
13 That was Mr. Karamessines' testimony here during Greece, the
14 hearings on Greece.

15 Senator Huddleston. Mr. Madigan?

16 Mr. Madigan. I think we ought to consider, if we ban
17 the use of a foreign paper, to come back to the United states,
18 we would also, in fact, have to be limiting the Agency's
19 propaganda overseas, necessarily. There are two sides to the
20 coin. While it might be beneficial to stop it from coming
21 back here, it also inhibits it from going overseas.

22 Mr. Maxwell. Well, if you do it with those organizations,
23 they'd have a substantial connection with U.S. media organiza-
24 tions like Reuters, allow people to use it for cover, use
25 Reuters for cover rather than for planting stories, then there

1 may be a tradeoff that you can do without crippling it, that
2 effort.

3 Senator Huddleston. Well, what's the thinking over here
4 about whether we ought to include foreign media?

5 Senator Mondale. What is your recommendation?

6 Senator Huddleston. Well, I think we have got to, number
7 one, look at the total scope of our recommendations and limit
8 the extent to which we are reducing sources of our intelligence
9 collection operation. If we proceed with the premise that we
10 all said at the beginning that we need intelligence operations,
11 we have got to give them some room to operate. If we reduce
12 academics, if we reduce institutions, labor organizations,
13 students, media and publishing companies and whatever, we will
14 finally get down to the point where we are not left enough to
15 carry on an effective operation.

16 I personally feel like we ought to address ourselves to
17 the United States media.

18 Senator Mondale. Accredited?

19 Senator Huddleston. Accredited media.

20 Of course, I personally favor including the editors and
21 the executives of these organizations.

22 Senator Mondale. Is that what the 47 brackets does?

23 Senator Huddleston. 47.

24 Mr. Inderfurth. Is that where by law the prohibitions should
25 be extended, or are you just saying the Committee should?

1 Senator Huddleston. I'm inclined to favor the law.

2 Senator Mondale. Well, why don't we move 46 and 47 to
3 see what happens?

4 Senator Huddleston. All right, it is so moved. And we
5 will see what happens.

6 Mr. Madigan. Well, in 47, the language the way it is
7 written, it would preclude some of these op ed pieces to the
8 New York Times. I am not sure that you want to make that "con-
9 tributes material." It is so broad that it would prohibit
10 any --

11 Mr. Miller. For example?--

12 Mr. Madigan. Anybody that wrote op ed pieces. If you
13 wrote one and I wrote one that was printed in the New York
14 Times --

15 Mr. Aaron. I think you could fix this by saying "regularly ✓
16 contributes." I think the thought is less one that any of us
17 who may have sent a letter to the Times, for that matter.

18 Senator Huddleston. Well, it should be "contributed."
19 I don't know whether remuneration is the key or not, but it
20 should be part of the person's regular operations or work,
21 shouldn't it?

22 Mr. Bader. Mike, would "regularly" help?

23 Mr. Madigan. Yeah, I think "regularly" would cure that.

24 Senator Huddleston. All right, what is the vote on
25 46 and 47?

1 Senator Schweiker. Well, wait. When you say regularly,
2 what does that mean?

3 Mr. Madigan. My concern, which must number in the
4 hundreds for sure, if not thousands, who for one time in his
5 life has written a piece that appeared in the New York Times
6 or the Boston Globe or some other paper.

7 Mr. Maxwell. So William Colby wouldn't be covered by
8 this.

9 Senator Schweiker. Well, I thought we were not covering
10 it when we say the CIA connection. Shouldn't we make that
11 distinction? In other words, as long as you identify the guy
12 as a former CIA or present CIA guy, I don't think he should
13 be limited in any way. I think the issue ought to be whether
14 you identify whether he was with the Agency as opposed to
15 whether he contributes regularly or irregularly.

16 Mr. diGenova. I think "operational use" implies clandestinity.

17 Mr. Schwarz. Well, aren't you talking about two different
18 things? In 45 you were talking about secret subsidies for
19 publication. In 46 and 47 you are talking -- you are worried
20 about the use of people connected with the media in some
21 substantial way.

22 Mr. Aaron. That is correct. This is not going to the
23 question of using journalists for propaganda purposes. This is
24 the use of journalists in operational activities, be they
25 covert action or espionage.

1 Mr. Schwarz. But isn't Senator Schweiker's point a good
2 addition to 45, as you are going to rewrite it, that the CIA
3 would be prohibited from asking somebody covertly to put
4 an article in the op ed page of the New York Times.

5 Mr. Aaron. Well, I think 45 does say "unless attributed
6 to the CIA."

7 Senator Mondale. A book or magazine article or publication.

8 Senator Schweiker. Well, when they told us here that
9 their policy was that they identify as the Agency, I would
10 like to have that included.

11 Senator Mondale. Well, put "article" in 45.

12 Mr. Schwarz. And also, Dave, what i regard as a subsidy,
13 and if the CIA asks Mr. X to put an article in the New York
14 Times that is in effect a CIA article, you would want to
15 reach that.

16 Mr. Aaron. Well, I think that we do, or we will make
17 sure that we do.

18 Mr. diGenova. You would also want to reach a covert
19 letter to the editor which is planted, or maybe we should put
20 in "any other written matter."

21 Mr. Madigan. You've eliminated all of Evans and Novak's
22 pieces.

23 Senator Huddleston. Well, I think those points ought to
24 be included in 45.

25 Senator Mondale. All right. I move 46 and 47.

1 Senator Huddleston. 46 and 47 are moved.

2 Is there objection?

3 Senator Mondale. I move 48.

4 Mr. diGenova. I bring up one point. We don't talk about
5 films in here.

6 Should we talk about films? There are lots of films on
7 Vietnam that they produced which are shown.

8 Senator Mondale. All right, "and films" in 45.

9 Senator Schweiker. Yeah, I'll buy that.

10 Senator Mondale. I move 48.

11 Senator Schweiker. Well, can we put "films" in 45?

12 Senator Mondale. Yeah, that's in there.

13 Mr. Aaron. Yeah, if you are going to apply to all of the
14 media, you could put in "video." Video is more important
15 than film.

16 Mr. Kirbow. Mr. Chairman, I would like to ask that a
17 record be obtained from the Agency on the film aspect if we
18 include it.

19 Senator Mondale. Well, let's put it in and then ask for
20 a response from the Agency.

21 Mr. diGenova. Of course, if we haven't done it, we don't
22 want to recommend that they do it.

23 Senator Mondale. Well, we know they made a film on
24 Sukarno's life, what did they call it?

25 Mr. Schwarz. Happy Days.

1 Senator Mondale. Well, we are talking about attribution
2 in 45.

3 ~~#48:~~
4 As interpreted by the Committee, what does "prohibition"
5 mean? "Prohibition"?

6 Mr. Aaron. This is the interpretation of what the CIA has
7 done. It is a little complicated.

8 Mr. Miller. We should spell it out.

9 Senator Mondale. Why don't you spell it out, tentatively
10 adopt it and then take a look at the language.

11 Mr. Madigan. This is the wrong bill number. It is 2784,
12 not 2284.

13 Senator Mondale. Well, the staff can work that out later.

14 Senator Huddleston. This is prohibition against the use
15 of religious personnel.

16 Mr. Madigan. I would like to raise one other concern that
17 Senator Baker has in that this whole section, including the
18 parts that are in the academic section in terms of describing
19 books that were sponsored by the CIA, that we at least hear
20 the Agency, the view as to whether that should be sanitized,
21 as to the life of the person who wrote the book.

22 I have talked to Mr. Bader as to whether they should be
23 camouflaged enough as to whether that could be figured out,
24 but the Agency feels different about it.

25 Senator Huddleston. Well, the Agency will have an oppor-
tunity to review all of this.

1 Mr. Bader. They have seen the longer manuscript, and they
2 now have the principal findings and they have responded, and
3 they do want changes in references to books.

4 Mr. Madigan. This doesn't go to substance. This goes
5 to whether it should be disclosed publicly or classified.

6 MR. Bader. I understand.

7 Senator Huddleston. Are we prepared to move on, then, to
8 proprietary organizations?

9 Senator Mondale. Right.

10 Mr. Aaron. All right, now, the only question that remains
11 in the text on the section on cover relates to the discussion
12 of the Station Chief in Greece, Mr. Welch, and there was
13 some concern whether in light of the Agency's continued use
14 of this case, in light of the way they have treated this
15 particular case, and continue to treat it, whether the Committee
16 should not in fact say more about it since their position for
17 the Committee and their position at least as reported in the
18 press, seems to be quite at variance with one another. I would
19 leave it to the Committee to instruct us one way or the other
20 on that particular point.

21 Senator Huddleston. Do you see any objection to the final
22 paragraph on page 83? We have tried and revised that reference
23 to Mr. Welch to take out any implication, actually, that the
24 loss of his cover contributed to his death, even though the CIA
25 itself has implied that on a number of occasions. Their own

end 4a
egin 4b

1 investigation to date reveals no evidence at all that anything
2 to do with his cover or lack thereof contributed to his death,
3 and we don't want to say that.

4 Senator Mondale. That's good. In other words, the
5 question is, the decision to move into that house, and he
6 did it anyway.

7 Senator Huddleston. In fact, they have covered that
8 themselves. As a matter of fact, I think the State Department
9 has announced it is going to discontinue listing its agents.
10 The fact is that there is no cover for a working on the payroll
11 chief of station for the CIA for anybody that can read.

12 Senator Mondale. And as I understand it, for old CIA
13 types, this is a fight that they have been waging for 25 years.
14 They have been complaining that the cover isn't worth a damn.
15 This is not new.

16 Mr. diGenova. That's right, Senator, and in fact, the
17 paper, the longer paper on covert deals with that issue, including
18 the study which is summarized on page 82, which says that the
19 Agency has for years had a loose, a lax and a really a lack of
20 comprehensive theory and policy for dealing with the whole issue
21 of cover.

22 Now, the problem with that is we wrote all that out,
23 dealt with it in a very evenhanded manner. The Agency's
24 position is that they want nothing written about cover because
25 it is a method, nothing at all written about cover, and yet

1 they continue to use the death of Mr. Welch publicly, including
2 in Sunday's magazine section of the Post, and they put it very
3 funnily in the intelligence section of Parade Magazine. There
4 was a large section on George Bush and the conclusion reached
5 from the article was that the exposure of Mr. Welch's name,
6 that the publication of his name led to his death. It says
7 that in there. And that is clearly not the position of the
8 Agency before the Committee.

9 As David said, they are taking a position that his exposure
10 in the press had nothing to do with his death as far as they
11 know. It was probably terrorist activity, but they would have
12 no way of knowing one way or the other. But they continue
13 to take the position including that unauthorized briefing at
14 the Agency on the Israeli nuclear capability, that Mr. Welch's
15 death was due to his cover.

16 I think the Committee has to decide what it wants to say
17 regardless of their feeling about cover, in order to put to
18 rest these allegations.

19 Senator Mondale. When in here we don't disclose the
20 present method of cover. We don't -- we don't say what it
21 is so that's certainly not blowing any cover that they have,
22 and we also point out that the record shows that Welch was
23 warned and disregarded it.

24 So I think that is good judgment to put that in there.

25 Senator Huddleston. Mr. Madigan?

1 Mr. Madigan. Senator Baker has a reservation about Mr.
2 Welch. He feels, I think, that the Committee ought to distance
3 itself from that whole instance, and leaving aside the arguments
4 I just heard from Messrs. Aaron and diGenova, whom I normally
5 agree with, the fact is no one knows who killed Richard Welch,
6 and until you find out who killed him, if that person wrote
7 it in that magazine, then there is a connection, and no one
8 knows who killed him so no one knows whether there is a connec-
9 tion or there isn't a connection.

10 And my problem with this paragraph is the fear that it
11 will be interpreted by the press as a statement by the Committee
12 that it wasn't because his name was published, because we
13 don't mention that --

14 Mr. diGenova. We do in the larger report.

15 Mr. Madigan. Well, we don't in this paragraph, and it is
16 an issue that I think we should keep as great a distance from
17 as possible.

18 Mr. Aaron. Well, I'd like to say there are kind of two
19 different issues here. One is the fact -- is whether the lack
20 of cover had anything to do with his death. I think we just
21 don't deal with that issue. That's not something -- we didn't
22 investigate it and we don't pretend to deal with it.

23 The second question is whether he had any cover, and if
24 not, why not, and the record before this Committee is just
25 perfectly clear on that point, that his lack of cover had to do

1 With the fact that he was living in the house of the former
2 station chief, that he was a station chief, station chiefs don't
3 have any cover, and so forth and so on. That's a point that
4 is worth making. It is important.

5 Senator Mondale. Well, now, Mr. Chairman, why don't
6 we tentatively leave it in the report, and when the final
7 report gets out, maybe those who strongly object to this can
8 be heard and we can finally decide.

9 Can we get on? Can we do that and then get on to the
10 recommendations?

11 Senator Huddleston. I'll agree with that.

12 We might -- we might be able to accommodate some of
13 Senator Baker's objections.

14 Mr. diGenova. Well, in the text I would just like to note
15 one thing. There is a word missing on top of 81, and the
16 word "sometimes brought" in between those, the words "sometimes
17 brought" should be "unsuccessful."

18 Mr. Kirbow. I would just like to make a suggestion about
19 on 84¹, all of us know the ones that were brought before the
20 Subcommittee and concerned the former draft to the Agency.
21 I think there is evidence, both in the public record and private
22 that there were two former directors who attempted to use
23 their influence on behalf of airlines. One is a former Senator
24 from California and one is a former Director from California,
25 Mr. McCone. I think after the word "on one occasion" I think

1 we should say "one or more". That kind of indicates there has
2 been a problem of former senior people at the Agency trying to
3 come back and influence them improperly.

4 Mr. diGenova. Well, there is only one thing. I'm not
5 arguing whether Mr. McCone did that or not. My record shows he
6 did. But this indicates this occasion dealt with the disposal
7 of a propriety, and the other occasion dealt with influencing
8 Agency polity to help Pan American Airlines.

9 It is not the same thing, but it does involve high level
10 influence. But it is not the same thing as involving a
11 proprietary..

12 Senator Huddleston. I have no objection to making it
13 plural.

14 Mr. diGenova. "One or more."

15 Mr. Madigan. If it is clear McCone did it, why not mention
16 his name?

17 Mr. diGenova. We have agreed not to use the name in this
18 area. The names are in the broader reporter, however.

19 Senator Huddleston. All right. Can we go then to the
20 recommendations on page 84?

21 Senator Mondale. Any problem with these?

22 These are pretty good. Any objections? It looks good,
23 Mr. Chairman.

24 Ms. Culbreach. I have a question.

25 Mr. diGenova. What about No. 60 on the cover? Since the

1 State Department has changed that, should we mention something
2 also about the oversight committee does something about that right
3 away?

4 Senator Huddleston. We have got a problem on 59 also.

5 Mr. Maxwell. My understanding is it is now for official
6 use only. It is not for sale. Do we want to go beyond that?

7 Senator Mondale. Are we talking now about the roster?

8 Mr. diGenova. Yes, the Register and the biographical.

9 Senator Mondale. That's in recommendation 60?

10 Why don't we go further and say it should not be published,
11 period?

12 Mr. Miller. It is useful internally.

13 Senator Mondale. Well, let them argue that. We are getting
14 a getting a bad rap. Why don't we just say they don't
15 publish it, and then let them figure it out.

16 Mr. diGenova. Shall we put "publication in any form,
17 classified or otherwise"?

18 Senator Mondale. There should be no public distribution
19 or publication of personnel data.

20 Mr. Aaron. Why don't we just turn it around and say
21 the Department of State should classify personnel data which
22 facilitates so and so?

23 Senator Huddleston. Okay.

24 Is there any objection to that?

25 Mr. diGenova. This is the only time that the Committee

1 recommends classification.

2 Senator Huddleston. Well, just above that on page 85,
3 No. 59, did you have something there, Charlie?

4 Mr. Kirbow. Senator, I was asked by the Subcommittee to
5 determine the law as it relates to former high officials or
6 officials in the Department of Defense coming back and doing
7 business with their military services or with the agencies, and
8 the Department of Defense has furnished their regulation on
9 this, and it is 18 U.S.C. 281. In so many words, they are
10 prohibited for life, they prohibit by law for life the ability
11 of a senior or a regular military officer from ever doing
12 business in a contractual or negotiating for sale or that
13 sort of thing with his own military service, and for three
14 years with any other military service or the Department of
15 Defense. Recommending to the oversight committee that they adopt
16 something along that line is not only satisfactory to the
17 Agency, but they welcome it because it would skip a lot of
18 their problems down.

19 Mr. Maxwell. Mr. Chairman, one other recommendation.
20 Perhaps it should read, by statute, former senior officials
21 of the CIA, because certain former officials seems to point
22 back to the text which means those officials that might have
23 sought improperly.

24 Mr. diGenova. Of the CIA, after the word "officials."

25 Mr. Kirbow. The other thing is I think the oversight

1 committee may determine that you do not want to go down much
2 below maybe the Deputy Director level or the influence level.

3 Mr. Maxwell. Well, they can choose that, when you say
4 senior officials rather than certain.

5 Mr. Schwarz. Charlie, shouldn't the other one say by
6 statute something or other should be done, and this one says
7 by statute, the oversight committee should -- just make it
8 conform.

9 Senator Huddleston. All right, with that change, then, we
10 are agreed on 59.

11 Mr. Aaron. All right, the "certain" comes out, and the
12 second "certain"?

13 Mr. Kirbow. Well, that reads now "by statute, ~~former~~
14 officials of the CIA should be prohibited from negotiating
15 with", etc.

16 Mr. Aaron. And just strike the second "certain" and
17 say "other relationships should be prohibited such as," or
18 shall we say "the oversight committee should do that," because
19 we haven't really spelled out what they ought to be.

20 Mr. Kirbow. I think that's where you pass it over.

21 Mr. diGenova. The oversight committee should consider
22 whether.

23 Mr. Aaron. I think that takes us through these sections
24 and if they are so moved, then we can go on to the question
25 of intelligence liaison.

1 Senator Mondale. So moved.

2 Senator Huddleston. Moved and adopted.

3 We can move over.

4 Mr. Kirbow. Excuse me, Mr. Chairman.

5 Would everyone agree here that this cover problem is so
6 great that we should not just say the CIA should undertake a
7 thorough study of this but go straight to the National Security
8 Council where they could have some clout with the State Depart-
9 ment or otherwise in 61?

10 Senator Mondale. That's a good idea, yea.

11 Ms. Culbreath. Perhaps we ought to say that the NSC
12 in consultation with the CIA and the State Department and
13 others.

14 Mr. Aaron. They can't do it any other way.

15 Senator Mondale. That is good.

16 All right, now, I move, Mr. Chairman, the recommendation
17 62, 63 and 64.

18 Mr. Aaron. We have a question on 62.

19 Senator Mondale. Why is it there?

20 Mr. Aaron. We have a set of brackets for those. There is
21 a parenthetical statement. The recommendation goes to a
22 very sensitive, clearly area of a relationship in the intelligence
23 field and other intelligence services, and the recommendation
24 is a general one requiring or suggesting that the oversight
25 committee be informed on these relationships. We don't get-

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22 Senator Mondale. Well, why don't we just take the
23 Vice Chairman's position?

24 Mr. Aaron. That the whole section comes out?

25 Senator Mondale. Well, we'll just have it classified and

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1 send the letter classified. Why argue about it?

2 Senator Huddleston. I think if a case could be made, and
3 I think if we attempt to talk about liaison we are going to
4 cause a lot of nervousness with a lot of people in a lot of
5 foreign countries. Maybe there is -- maybe it would be best
6 just to classify this entire subject.

7 Senator Mondale. You cannot get specific enough publicly
8 to do you any good anyway.

9 Mr. Aaron. Well, let me see if I understand what is being
10 recommended.

11 Is it recommended that 62, 63, 64 and the entire text of
12 this be made classified?

13 Senator Mondale. Well, the statute has to be public.
14 We say that in 63.

15 Mr. Miller. And the explanation of the problem on G
16 is a minimum.

17 Senator Mondale. Of course, that whole question, that
18 has to be worked out between the executive and the Committee
19 anyway. We are not going to handle that.

20 Mr. Miller. That's right.

21 Senator Huddleston. Well, let's for the time being adopt
22 it as it is, and if the Agency has a strong case for classi-
23 fication, then we can consider classification.

24 I think 63 probably should be public.

25 Senator Mondale. Yeah. If they know how to pass a law

1 privately, tell them to submit that information

2 Mr. Schwarz. 63 also is entirely consistent with the
3 position we have.

4 Mr. Aaron. I am not sure where we stand.

5 Mr. Kirbow. We are going to consider the top of 87 through
6 the bottom of 88, with the possible exception of 63, with the
7 possibility of remaining classified.

8 Senator Huddleston. If the Agency can convince the Commit-
9 tee or present evidence to the Committee that is persuasive,
10 that recommendation 62 should be classified, recommendation, and
11 63 and 64 should remain unclassified, does that make sense to
12 you, Mr. Aaron?

13 Mr. Aaron. It does, indeed.

14 Senator Huddleston. All right.

15 The Inspector General..

16 Mr. Aaron. I don't believe there is any issue here save
17 one, which I will turn to Mr. Kirbow to explain. It goes to
18 the question of whether he is nominated and confirmed by the
19 Senate and the extent to which it is necessary for him to
20 report directly to the oversight committee.

21 Am I correct? Is that a proper statement of the issue,
22 Charles?

23 Mr. diGenova. Page 93, recommendation 73 is that issue.

24 Mr. Miller. Didn't Senator Baker make a proposal?

25 Mr. Madigan. Senator Baker's position was that the General

1 Counsel is a unique and powerful -- should be powerful position
2 and it should be confirmed by the Senate.

3 Senator Mondale. That is consistent with Domestic.

4 Mr. Maxwell. The General Counsel of all of the Departments
5 and the independent regulatory agencies are now confirmed by
6 the Senate.

7 Senator Mondale. You also want the Inspector General
8 to be confirmed?

9 Mr. Kirbow. Not me, sir, because I didn't want the other
10 one confirmed.

11 Mr. Maxwell. I think it was that the Inspector General should
12 not be because you wanted the Director should have his choice
13 person.

14 Senator Mondale. That was the Domestic position.

15 Senator Huddleston. Any objection to the adoption of
16 this?

17 Mr. Schwarz. Elliot, have you compared the words here with
18 ours?

19 Mr. Maxwell. They are generally compatible.

20 I think that any differences are stylistic.

21 Mr. Schwarz. I think they ought to be 100 percent
22 compatible.

23 Ms. Culbreath. You can adopt ours.

24 Senator Mondale. Well, at least you keep the momentum
25 going.

1 Mr. Kirbow. I think the important part of these recommenda-
2 tions is in 74A, and I think there is where these get a hold of
3 what is going on in the Agency, and I think it is important that
4 you understand that. That is what is happening.

5 Mr. Aaron. He is made equivalent to a Deputy Director.

6 Senator Mondale. All right.

7 Mr. Madigan. On 91, to be consistent with Domestic, I
8 think you should say the Director should periodically order or
9 require, not request.

10 Mr. Schwarz. Why don't we leave it that Elliot will
11 spot any differences, or the staff, and if they can't --

12 Senator Mondale. I think instead of "request" we should
13 make it a requirement.

14 Senator Huddleston. All right. It is so adopted.

15 We will move to the Department of Defense.

16 Mr. Aaron. All right, now, on the Department of Defense,
17 first of all I want to say that we have a good deal of the work
18 that was done by the Defense Task Force shows up either in
19 the budget section of this paper, of the findings and conclusions
20 where we did a great deal of work on the question of the budget,
21 or it is part of the material that has been worked upon on
22 the Domestic side with regard to NSA and some of its abuses and
23 so forth.

24 The recommendations therefore go particularly to DIA
25 and its effectiveness, and the suggestions made concerning its

1 activities. It also makes some general observations concerning
2 the charter of NSA and the consolidation of some of the activities
3 of the Defense Investigative Service, which I think by all
4 accounts has got a lot of duplication involved in it.

5 We would add to the recommendations, which begin on page
6 102 -- I'm sorry, they do begin on 101 -- we would add to
7 those recommendations the suggestion that the Director of
8 NSA be limited to ten years, should serve at the pleasure of
9 the President and in no event longer than ten years.

10 Mr. Maxwell. Nominated by the President and subject to
11 confirmation by the Senate?

12 Senator Mondale. May I make one comment?

13 That last paragraph of observations on 101, before the
14 recommendations, the study of "How can the technology of
15 advanced intelligence collection systems be better utilized to
16 assist the civilian and domestic agencies of the Government
17 without compromising the principal mission or security of
18 these intelligence systems?"

19 Mr. Aaron. Yes, sir.

20 Senator Mondale. What about civil liberties?

21 Are you suggesting that we should stop that and use it
22 there?

23 Mr. Aaron. The object of that suggestion, there is a great
24 deal of information available, for example, through overhead
25 photography that might be of use and utility within the

1 United States. It can even be photography upon the United States,
2 watersheds and what have you, that would be useful.

3 Senator Mondale. What I'm saying is, and with the
4 fullest concern for its appropriate and legal -- put that.
5 That's not expressed in there.

6 Mr. Aaron. No, it's not.

7 Senator Mondale. I think we should add that, the due
8 process concern.

9 Mr. Aaron. The other thing that should be added is
10 the impact on the open processes of government.

11 Mr. Schwarz. David, it would help a lot, and I think
12 Senator Mondale's question is the same way, is what you are
13 saying is how can NSA's technology be used here because when
14 you use -- how do we predict crops better through photography?
15 You get a totally different problem.

16 Mr. Quanbeck. Well, I think you have the problem of
17 classification.

18 Mr. Miller. Well, I think Senator Mondale has the answer,
19 that these things done without adversely affecting civil
20 liberties.

21 Senator Mondale. The legal and constitutional rights,
22 of the American people.

23 Mr. Aaron. The other question is if these things become
24 widely available and if you had the statute that the executive
25 or the President has proposed, then more people on the civilian

1 side of the government would have to be cleared and come under
2 the kinds of restrictions, decisions are made on perhaps on the
3 basis of classified information that hasn't occurred before.

4 Senator Mondale. Well, that can be done.

5 Mr. Aaron. We can work that out.

6 Beyond that I don't believe there are any bracketed sections
7 in this text.

8 Mr. Maxwell. The language can be made to conform with
9 the others?

10 Mr. Aaron. Yes, I think we can fix the format.

11 Senator Huddleston. You are going to fix the terms, the
12 term.

13 Senator Mondale. The Director of the NSA should be
14 nominated.

15 Mr. Maxwell. It says "appointed."

16 Senator Mondale. That's wrong.

17 Ms. Culbreath. Well, I thought from our meeting yesterday
18 that what we were going to do was have one general recommendation
19 which would go to all three of these major directors that
20 we were concerned with, the CIA, the FBI and the NSA, indicating
21 that they would be appointed at the President's pleasure.

22 Senator Huddleston. Well, we still ought to be consistent.

23 Senator Mondale. Well, I'm just getting technical,
24 lawyerish, but if someone is subject to confirmation, all the
25 President does is nominate him. He doesn't appoint him, and

1 then is subject to the pleasure of the President within that
2 term.

3 Ms. Culbreath. My question is, do we want one general
4 recommendation or do we want to put it in each one of these
5 sections. That is what I am trying to get at.

6 Mr. diGenova. Both.

7 Senator Huddleston. Well, today, will one do it? Are
8 we talking about stylistic or simply mentioning them here. We
9 ought to be consistent every time we mention them. We ought to
10 mention the term.

11 Ms. Culbreath. It seems to me if we had that as a
12 general recommendation it wouldn't be necessary to put in
13 each of these sections.

14 Mr. Maxwell. But there are people who are going to be
15 reading each of the individual sections for their own interest
16 and they ought to see that the head of NSA is nominated and
17 confirmed.

18 Senator Mondale. I move everything else.

19 Mr. Aaron. All right.

20 Senator Huddleston. All right.

21 We are to the Department of State and ambassadors.

22 Mr. Aaron. Right, and in this section we have two
23 bracketed recommendations, going to the question of the authority
24 of the Ambassadors and their responsibility in the field for
25 supervising the activities of the Central Intelligence Agency.

1 By statute, the ambassadors are now held responsible for
2 all activities within their country by elements of the United
3 States Government. The agencies of the government are responsible
4 to keep the Ambassador fully informed of all of their activities.
5 As you know from the hearings that took place --

6 Mr. diGenova. David, where are you?

7 Mr. Kirbow. Page 107.

8 Senator Mondale. Page 108.

9 Mr. Aaron. We've turned to 109, actually. Well, the
10 recommendations begin on 108.

11 Mr. Kirbow. On 107 Mr. Bader and I both have some concern
12 about unsupported charges, but I am willing to go on to
13 109 and come back to it.

14 Mr. Aaron. I would be happy to come back to it.

15 Dealing first with the recommendations on 109, the
16 statutory responsibilities are to be fully informed for these
17 activities, both the ambassador is held accountable and the
18 agencies concerned are supposed to keep him fully informed.

19 Now, it is a fact today that these instructions have
20 never been issued, instructions to implement this legislation
21 have never been issued.

22 I believe, Senator Mondale, you were there during the
23 exchange with Ambassador Porter in which he suggested that
24 they had been suspended, if you will, the law had been
25 suspended by the absence of instructions to implement them.

1 There are two recommendations here in brackets designed to
2 give the Ambassador and the Department of State the kind of
3 access required to carry out his responsibilities. The first
4 we might just take up is to give the ambassador the statutory,
5 or give him the right, if you will, of access to the operational
6 communications of the Clandestine Service. It provides for
7 an exception if the National Security Council decides that for
8 one reason or another certain operational messages should not
9 be made available to the ambassador, but it puts that responsi-
10 bility into the National Security Council which has the overall
11 responsibility for directing our foreign policy and intelligence
12 activities, and does not leave it, as it lies today, at the
13 discretion of the station chief who may or may not show opera-
14 tional messages to the ambassadors.

15 As a practical matter, I believe it is fairly clear from
16 the record that we have of interviews as well as discussions
17 that most ambassadors would not want or take advantages of
18 this kind of access.. What it does is it provides them with
19 an opportunity to do so if they feel it is necessary in the
20 execution of their responsibilities.

21 On the other hand, there have been many ambassadors who
22 have taken the position that without such access they can
23 really never know whether they are in control or being kept
24 fully informed.

25 Senator Huddleston. Charles?

1 Mr. Kirbow. Yes, sir.

2 I would like to discuss the broad issue of the responsi-
3 bilities of the Ambassador, his access to this and to other
4 communications of the Agency, unless the Agency is relieved
5 of this responsibility for protection of sources and methods.
6 I think there is a way to accomplish it without him reading the
7 operational traffic which, if the Committee is not aware, goes
8 into great detail on certain -- well, I will give you an
9 example of the type of thing that we are talking about him having
10 free access to, and that is, take one of the agents recruited
11 in the United States that then he goes back to a foreign
12 country and they give him, before he leaves here, certain
13 detailed instructions on how he is to make his first contact.

14 When that first contact is made there in that country, a
15 message goes back from that station to the headquarters that
16 whatever the code name of the agent is has in fact complied
17 with his original instructions and I have in turn issued him --
18 and then they set forth the instructions that have been issued
19 for whatever he is going to do.

20 It is this type of operational traffic which involves
21 probably the most carefully protected sources and methods
22 information in the United States government. It involves at
23 the outset of the first contact, grave risk to the man's life
24 if he is in fact furnishing this type of information.

25 The Agency is concerned about broadening this. Apparently

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1 the President of the United States and the Secretary of State
2 have been concerned about it because they have not seen fit,
3 although this other statute has been around for some time, not
4 to require that this be done by regulations promulgated by the
5 Secretary of State.

6 I think that it is a matter that should be of some serious
7 concern for the oversight committee along with the executive
8 branch. Something should be done to reconcile these two
9 differences in the law.

10 Senator Mondale. Well, let me ask you. Are you arguing now
11 that the law is ambiguous and not clear?

12 Mr. Kirbow. Only one point, Senator. It is in conflict.
13 The executive is in conflict with another law on the books, and
14 in that respect there is a problem as to what information.

15 Senator Mondale. But the law apparently requires that all
16 of these things shall be under the control of the ambassador
17 within each country.

18 Is that Public Law 93-475?

19 Mr. Kirbow. In other words, he is the bottom line.

20 Senator Mondale. Is there another act?

21 Mr. Kirbow. Well, the 1947 Act says that the protection
22 of sources and methods shall be the responsibility of the
23 DCI.

24 Senator Mondale. But not that.

25 Mr. Kirbow. You could go further and say sources and methods.

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1 Apparently it hasn't been in the past. The thing with classi-
2 fied information of this nature, it has always gone not to just
3 having the clearance, it has also gone to the additional step,
4 even here, of having the need to know.

5 Senator Mondale. Well, I'm not getting to this point
6 of what the policy is, I just am trying to find out what the
7 law is.

8 Mr. Kirbow. Both laws. Your bottom line is correct.

9 Senator Mondale. The law says they must do it, but then
10 you say you must also leave that law in conjunction with the
11 sources and methods provision of the '47 act.

12 Mr. Kirbow. That is the only point.

13 Mr. diGenova. The only thing is the '47 act says sources
14 and methods from unauthorized disclosure, and the position of
15 the ambassador is they are authorized recipients under that
16 statute.

17 Senator Mondale. So you don't think there is an ambiguity.

18 Senator Huddleston. David?

19 Senator Mondale. Surely the executive does not possess
20 the power to suspend a law if it is clear. No one argues that,
21 do they?

22 Mr. Madigan. I don't think that's the case.

23 Mr. Kirbow. No, sir.

24 Mr. Madigan. The law says they are authorized recipients.
25 It does not require that they be given these materials.

1 There I think is where the rub is. I think it is a -- I don't
2 think it is a question of the executive disregarding the law,
3 as I read this section.

4 Mr. Aaron. I think it would be helpful if I read the
5 law.

6 Senator Mondale. All right, let's try that. No, let's
7 argue about it and then read it.

8 Mr. Aaron. This is the authority and responsibility of
9 ambassadors.. Under the direction of the President (1) United
10 States Ambassadors to a foreign country shall have full
11 responsibility for the direction, coordination and supervision
12 of all United States Government officers and employees in that
13 country except for personnel under the commander of the United
14 States area commander; (2) the Ambassador shall keep himself
15 fully and currently informed with respect to all activities and
16 operations of the United States Government within that
17 country and shall ensure that all government officers and
18 employees in that country, except for personnel under the
19 command of the United States area military commander, comply
20 fully with his directives, meaning the ambassador; (3) any
21 department or agency having officers or employees in a country
22 shall keep the United States ambassador to that country fully
23 and currently informed with respect to all activities and
24 operations of its officers and employees in that country and
25 shall ensure that all of its officers and employees, except

1 for personnel under the command of United States area military
2 commander, comply fully with applicable directives of the
3 ambassador.

4 Senator Mondale. Now, does somebody have the language of
5 the sources and methods portion of the '47 act?

6 Mr. Maxwell. The DCI is charged with protecting the
7 sources and methods of intelligence from unauthorized disclosure.

8 Senator Mondale. You don't think there is any conflict?

9 Mr. Maxwell. No, there is no unnecessary conflict. There
10 is potential conflict, Senator, but the conflict, I think, is
11 spoken to in the recommendation.

12 Senator Mondale. You mean who is authorized is the
13 ambiguity.

14 Well, who is authorized?

15 Mr. Aaron. Well, the first recommendation of the Subcom-
16 mittee, which has not been questioned, was that these
17 instructions be issued quickly and that these ambassadors are
18 authorized recipients of this information.

19 Senator Huddleston. Well, Mr. Lombard has a question.

20 Mr. Lombard. Well, I'd just like to make a comment on
21 No. 2 in the bracket. First of all, when you say ambassador,
22 are we really talking about the ambassador, because if the
23 ambassador is going to try to delve into operational messages,
24 there's going to be delegation of authority to others on his
25 staff, and a proliferation of strictly operations. I think

1 the Committee ought to want to make a distinction between
2 the reporting that goes from a station and the operational
3 messages.

4 Mr. Aaron. Mr. Chairman, may I comment on that?

5 That is not a useful distinction. The reason it is not
6 is that the point of the recommendation is to provide the
7 ambassador with the access to the operational messages if he
8 deems it is necessary to fulfill his legislative responsibility.

9 Now, we do not have to recommend that he have that authority,
10 but we shouldn't confuse it by saying that he can't see what
11 they write, because basically he does see what they write. He
12 does see their reports, and certainly that would be part of it.

13 The question is whether you want to recommend that he
14 be given this access, and we can either vote it up or down..

15 Mr. diGenova. Well, perhaps with regard to the first point
16 that Mr. Lombard makes about the first point of delegation to
17 other persons would be to put ambassadors personally should have
18 the right to access, and just dealing with the language which
19 is bracketed here, to deal with the first criticism. Personally
20 should have the right, and make the point that they would not
21 be permitted to delegate that right of access to another
22 subordinate, that it is of such a higher nature --

23 Senator Mondale. That's all right, shall have personal
24 access, but in any event, the NSC, they can do anything they
25 want.

1 Mr. diGenova. NSC can cut them off.

2 Mr. Aaron. I think that is an important saving clause.

3 Senator Mondale. Doesn't that take care of them?

4 Mr. Lombard. Actually I have a much stronger position on
5 this; I think, because of the varying qualities of ambassadors
6 that we have that if we -- and I think this is one of the
7 reasons why the regulations have never been promulgated, because
8 we have ambassadors in some countries for various reasons
9 who are not felt trustworthy to have this kind of information.
10 Now, you can argue that we ought to have better ambassadors,
11 but we have to take the real world. We have some that are
12 inclined to spill information at cocktail parties, and we know
13 who they are, and here we are opening the door.

14 Senator Mondale. Well, we have CIA spilling about atomic
15 bombs.

16 Mr. Lombard. That was a mistake, and they admitted it.

17 Senator Mondale. There is a structure that we can set up
18 that is rational, and to have several different conflicting
19 policies within the same country it seems to me is intolerable,
20 and it is better to put the blame where it should go, with the
21 ambassadors and say well, let us get a better class of ambassadors.
22 Maybe we would be more serious about who we send to these
23 stations, particularly the hot stations. And secondly, we
24 leave in the NSC the authority to take them out of the loop
25 whenever they believe he should not be in it.

1 So that, in other words, what would happen is that they
2 would take the ambassador out of the loop, for all practical
3 purposes, only in important circumstances where consciously
4 they have decided this generalized policy of a single ambassador
5 in charge of a policy within a country must be circumvented.
6 I think that is a good policy because I think the present
7 system is totally capricious. Moreover, I think an ambassador
8 tends to be for all of their problems strong in the one
9 area where CIA action personnel tend to be the weakest, namely
10 in political sophistication.

11 Mr. Maxwell. That's also why we focus on the personal
12 access. Then the ambassador has to take responsibility.

13 Senator Mondale. And this will obviously be something up
14 for review when all the Senators are here.

15 So why don't we adopt it tentatively. That way, I
16 understand, we have to go back to it.

17 Mr. Kirbow. Senator, are you agreed that we should put in
18 afterward, before the right, the word "right", personal, not
19 to be delegated? *Miller contest, p 90*

20 Senator Huddleston. All right. Does that take us down
21 to 5?

22 Mr. Miller. One question here.

23 Senator Huddleston. What about a question after it has
24 been adopted?

25 Mr. Miller. What about if the ambassador is out of the

1 country, the charge?

2 Mr. Kirbow. Now you come to the problem that the CIA
3 faces.

4 Mr. Aaron. I seriously feel this is not the level the
5 Committee has to get down to. I think if the law sticks to
6 the ambassador, how the executive wishes the -- if the executive
7 wants the charge to execute it in the absence of the ambassador,
8 well, then, they have to do it.

9 Senator Mondale. Well 5, if 2 is adopted, that takes care
10 of 5. The only reason for 5 --

11 Mr. Kirbow. No, Senator, that is a totally separate
12 question here, and one on which we have heard no evidence before
13 this Committee, and that is the reason it is bracketed, of
14 why that should ever be taken and given back to control, all
15 of the communication systems of the CIA be given to the control
16 of the State Department. To my knowledge, there is not one
17 word of testimony.

18 Senator Mondale. Well, to my knowledge, though, it got
19 started with Gronowsky, and I checked this with Porter and he
20 said, that's right. What happened was that the international
21 communications system of the various embassies was in total
22 disrepair, second rate materials. You couldn't encode
23 properly. It was all Model-T stuff. And the only agency
24 that had any money to put in a modern communication system
25 was the CIA, and the CIA agreed to provide it, provided they

1 could control it, and Gronowsky said that was the single biggest
2 impediment to an ambassador's control of an agency because
3 that right of the private loop, where the CIA knows everything
4 the ambassador is doing, and the ambassador only knows what
5 the CIA wants him to know. It is a one way deal.

6 Mr. Kirbow. If you do 2, you just strike 5 and leave it
7 where it is.

8 Senator Mondale. If you do 2, you take care of 5, don't
9 you?

10 Mr. Aaron. If 2 is accepted, I think you go a long ways
11 toward solving that problem.

12 [Senator Mondale. Why don't we flag 5 and ask NSC to
13 review in light of this history who should control communications.
14 Let the NSC handle that.]

15 Mr. Kirbow. Mr. Chairman, I think it should be clear on
16 the record, too, if all of the Senators do not know it, there
17 is a channel over which the CIA only has operational control.
18 Any time the ambassador or any person that he delegates, they
19 may encrypt a message, go out over the Roger channel I think
20 it is referred to, and even the CIA man who is transmitting it
21 from the other end, who also again encrypts it so it cannot be
22 picked up by an enemy or the reader who copies it out here
23 never knows what is said in that message. It goes to the
24 Department of State, and only there do they have the decoding
25 device.

1 Senator Mondale. But by passing this to the NSC again we
2 don't get into that issue.

3 Mr. Aaron. So we would recommend that to the NSC or
4 the oversight committee or both?

5 Senator Mondale. The NSC take a look at this.

6 Mr. Aaron. The NSC.

7 Mr. Kirbow. I think we should consider whether it not
8 be done.

9 Senator Mondale. Is that everything approved?

10 Senator Huddleston. Everything up to 110.

11 Senator Mondale. Are we going to adjourn now? I have got
12 to go.

13 Senator Huddleston. I think we are up to the budget,
14 and I think that's probably more than we can handle.

15 (Discussion off the record.)

16 Senator Huddleston. Let us come in at 9:30.

17 Senator Mondale. He just said that No. 5 ought to be
18 reviewed by the NSC without -- and just be neutral on it.

19 Mr. Kirbow. Not recommending who should control it.

20 Senator Mondale. That is all right with me.

21 Senator Huddleston. 9:30 tomorrow all right?

22 Senator Mondale. Fine with me.

23 Mr. Madigan. The text of the State Department is at
24 variance with my memory of the record, and Senator Baker would
25 like to have the Agency's view on the accuracy of this section.

1 Mr. Aaron. To what are you referring, Mr. Madigan?

2 Mr. Madigan. I'm particularly referring to the so-called
3 pressures on the DCI changes his view with regard to intelli-
4 gence estimates.

5 Mr. Miller. The SS-9?

6 Mr. Aaron. Well, we are waiting. We are going to return
7 to that issue with a stack of relevant documentation, and I
8 might say, Mr. Chairman, that there are some bracketed sections
9 in the text. There are some questions that have been raised
10 concerning examples here.

11 More than a week ago we asked the CIA to comment on them.
12 I have telephoned them on three occasions. They have not
13 yet commented. I hope they will do so soon.

14 Mr. Kirbow. Mr. Chairman, excuse me. Before we leave
15 this section, I have pointed out that on 107 there appear to
16 be two paragraphs which we asked, in fact, I guess Mr. Aaron
17 had sent Ambassador Truehart out to the Agency to seek the
18 evidence on those two paragraphs.

19 Senator Huddleston. Which two?

20 Mr. Kirbow. On page 107, the first and second
21 paragraphs. I think Mr. Bader, who did the investigation and
22 handled CIA should be heard on this matter.

23 MR. Bader. Well, Mr. Chairman, I agree with Mr. Kirbow
24 that these issues and these charges should be fully vetted
25 at the Agency, and the Agency should be given ample opportunity

1 to respond to them. And I think that is the process we are
2 now in, which I support.

3 I don't think the paragraphs should stand until we hear --
4 or rather, they should stand until such time as we hear from
5 the Agency.

6 Mr. Kirbow. There is a problem with that, Mr. Bader. Mr.
7 Miller knows that he only sent those point papers out there in
8 which all of this is so-called imbedded for a clearance on
9 sources and methods. He did not send it out there for a factual
10 dispute between the text.

11 Mr. Aaron. If I may try to clarify this, I have discussed
12 with Mr. Elder, I have discussed these examples with Mr. Elder
13 on three occasions now. Ambassador Truehart took the text of
14 these two paragraphs out to the Agency, described the circum-
15 stances. Ambassador Truehart was in fact present on these
16 various visits. There has been discussion at the Agency. They
17 have -- or their last word to me was on Friday, they felt
18 that they would have in hand that day the relevant comments.
19 I have still not heard from them. I will attempt to contact
20 them once again this afternoon to ascertain what their reaction
21 is to it.

22 Senator Huddleston. Well, this section will remain
23 open.

24 Mr. Kirbow. Mr. Chairman, may I ask Mr. Miller to make it
25 clear, because I have been under a misapprehension, and I am

1 sure the Vice Chairman has, it was the opinion of the Vice
2 Chairman that the documents were being sent to the Agency for
3 sanitization only of sources and methods, and that you had
4 specifically indicated that their views on the positions taken
5 by the Committee and whatnot were neither solicited nor desired,
6 or words to that general effect.

7 If it is different, I think it should be made clear now
8 to the Agency what we expect of them.

9 Mr. Miller. Well, let me clarify. On the larger paper
10 of the Ambassador, factually if they see any errors of fact
11 they are to so indicate, and of course, sources and methods.
12 On the findings and recommendations, I have asked them for
13 a factual opinion because there are areas, such as you have
14 indicated here, sources and methods. We are not interested
15 in whether we like or dislike them, although we are going to
16 solicit their views on their likes and dislikes in an informal
17 setting, but that is the situation.

18 I have always asked them for factual correction where they
19 are in a position to do so, and that includes the findings
20 and recommendations.

21 Mr. Kirbow. I appreciate that, but that did not appear
22 to be Mr. Bush's position when he talked to the Vice Chairman.
23 He felt he had certain constraints, what he could and could
24 not do in recommending, but I appreciate the clarification.

25 Mr. Miller. That has always been our procedure.

1 Senator Huddleston. Well, I certainly want to correct
2 any errors of fact.

3 All right. We will adjourn, then, until 9:30 tomorrow
4 morning.

5 (Whereupon, at 12:10 o'clock p.m., the Committee recessed,
6 to reconvene at 9:30 o'clock a.m., Wednesday, March 24, 1976.)

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