

## Agency Information

AGENCY : SSCIA  
RECORD NUMBER : 157-10014-10132

RECORD SERIES : MISCELLANEOUS RECORDS OF THE CHURCH COMMITTEE

AGENCY FILE NUMBER : 07-M-38

## Document Information

ORIGINATOR : SSCIA  
FROM :  
TO :

TITLE :

DATE : 03/24/1976  
PAGES : 28

SUBJECTS :  
SSCSGO, METHODOLOGY  
COMMITTEE BUSINESS

DOCUMENT TYPE : TRANSCRIPT  
CLASSIFICATION : Declassified  
RESTRICTIONS : 1B; 1C  
CURRENT STATUS : Redact  
DATE OF LAST REVIEW : 03/22/2000

OPENING CRITERIA :

COMMENTS : CCBOX 324

JFK ASSASSINATION SYSTEM  
IDENTIFICATION FORM

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DOCUMENT TYPE : TRANSCRIPT  
CLASSIFICATION : TOP SECRET  
RESTRICTIONS : REFERRED  
CURRENT STATUS : POSTPONED IN FULL  
DATE OF LAST REVIEW : 01/05/99  
OPENING CRITERIA :  
COMMENTS : CCBOX 324

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[R] - ITEM IS RESTRICTED

**TOP SECRET**

Vol. 2 OF 3

NATIONAL SECURITY INFORMATION  
Unauthorized Disclosure Subject  
to Criminal Sanctions

**The United States Senate**

R 2862

**Report of Proceedings**

**Hearing held before**

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

324-12

**Wednesday, March 24, 1976**

**Washington, D. C.**

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

**WARD & PAUL**

**410 FIRST STREET, S. E.  
WASHINGTON, D. C. 20003**

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## COMMITTEE MEETING

- - -

Wednesday, March 24, 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 2:23 o'clock  
p.m., in Room S-407, the Capitol, the Honorable John Tower  
(Vice Chairman) presiding.

Present: Senators Tower (presiding), Huddleston, Mondale,  
Baker, Mathias and Schweiker.

Also present: William G. Miller, Staff Director; and  
William Bader, Charles Kirbow, Joseph diGenova, Elizabeth  
Culbreath, Elliot Maxwell, Charles Lombard, Rick Inderfurth,  
Michael Madigan, Al Quanbeck, Ted Rolston, David Aaron and  
Robert Kelley, Professional Staff Members.

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P R O C E E D I N G S

1  
2 Senator Tower. Why don't we go ahead and proceed without  
3 a quorum. If anybody wants to raise a point of order later, let  
4 them do that.

5 Mr. Aaron. All right.

6 Page 110, Section VIII is the section on oversight and the  
7 intelligence budget. It contains both an analysis of some of  
8 the constitutional questions involved in disclosure of intelli-  
9 gence expenditures, as well as the Committee's analysis or  
10 the staff's analysis of the particular issue of disclosure  
11 and its relationship to our national security concerns.

12 Two numbers appear in the text that the Committee should  
13 direct its attention to. The most important functioning number  
14 is the \$4.7 billion which the Committee's analysis would  
15 attribute to the direct costs of national intelligence. That  
16 is the number which the findings and recommendations propose  
17 be made public and be made public annually.

18 The second number is a \$10 billion figure, which is the  
19 overall global costs of all intelligence, based upon the  
20 analysis of the Committee staff, essentially Mr. Quanbeck. This  
21 includes not only the \$4.7 billion of national intelligence, but  
22 it includes tactical intelligence and it includes what I think  
23 you have to call indirect costs of the intelligence establishment.  
24 For example, the fact that intelligence officers in the military  
25 go through certain training programs and have certain medical

1 facilities and so forth and so on, these costs are not costs  
2 in the sense that they are exclusively devoted to intelligence.  
3 I mean, if we were, for example, to have no intelligence, that  
4 doesn't mean you would save that entire \$10 billion. These are  
5 in effect, I think those who worked on the defense budget  
6 before are aware of what indirect costs are and how one calculates  
7 them.

8 Those essentially are the two numbers. There is, of course,  
9 a dispute about whether it is necessary or desirable to reveal  
10 the numbers, and I might just say in that connection, the  
11 primary reason for giving the global figure is in part to  
12 settle a lot of public debate about these enormous costs of  
13 intelligence in a manner which will make it clear what it is  
14 one has been talking about, and that in fact a lot of these  
15 are indirect costs, a lot of these are tactical and integral  
16 to the normal functioning of military commands.

17 The recommendations start on page 114, and there are only  
18 three of them. I think the decision of the Committee has to  
19 go to the question of the numbers to begin with, whether they  
20 should be indicated in the text, and then the recommendations,  
21 the first of which being that there be a national intelligence  
22 budget, that it be made public, that the figure, the global  
23 figure for the national intelligence budget, which would be  
24 the \$4.7 billion, be made public, and that the Committee  
25 recommend further that the oversight committee consider whether

1 it is necessary, given the requirement of the Constitution and  
2 so forth, to publish more details.

3 I must say the latter point raises a textual question which  
4 we have to look at, and that is the way one describes what  
5 revealing the national intelligence number would do in terms  
6 of the constitutional requirements.

7 What we have suggested here is on page 112 there are, I  
8 think, some points of view which say that revealing that  
9 number is not sufficient to satisfy the Constitution. There is  
10 another point of view which says that the national security  
11 is overriding and that this number should not be disclosed at  
12 all, and therefore even not disclosing any numbers still  
13 satisfies the Constitution.

14 What we have attempted to capture in the first sentence  
15 of the full paragraph on page 112 is what the Subcommittee, I  
16 believe, felt was just about the right balance between the  
17 requirements of national security and the requirements of the  
18 Constitution.

19 It reads, "The Committee believes that disclosure of an  
20 aggregate figure for national intelligence is as far as it is  
21 prudent to go at this stage in reconciling the nation's  
22 constitutional and national security requirements.

23 Senator Tower. All right.

24 Shall we take this page by page now and see what --

25 Senator Huddleston. I would suggest that we go on the

1 three recommendations, Mr. Chairman.

2 Senator Tower. Take the recommendations?

3 All right.

4 First, let me just ask if there is any substantial disagree-  
5 ment with anything in the text here. I think it has got  
6 probably as good a balance as you can on this figure, given  
7 the aggregate figure. Well, you don't have line items on the  
8 figure in that anyway.

9 Senator Huddleston. Probably not. We hassled over it  
10 pretty much, and I will say this: the staff that did the work  
11 on the budget did an outstanding job, so I think we had a better  
12 look at the budget of intelligence than anybody has had.

13 Senator Tower. Well, I'll bet there is nobody around here  
14 that can challenge the figures.

15 Senator Huddleston. That is right, even the Administration.

16 I think it is reasonable. Of course, we will have a  
17 question on the numbers that we have included maybe in the  
18 text, as far as the Agency is concerned in sanitization, but I  
19 think our recommendation to include an aggregate figure is  
20 sound, plus further consideration be given to the constitutional  
21 requirements.

22 Senator Tower. Any objection, then, to the text, pages 110  
23 through 113.

24 Senator Baker. I have no objection, Mr. Chairman.

25 Senator Tower. All right.



1       Dee, do you want to address yourself to the recommenda-  
2       tions?

3       Senator Huddleston. I think David explained them pretty  
4       well. The main thing is that we recommend that an aggregate  
5       total which would correspond to that \$4.7 billion figure be  
6       included in the budget that is presented to Congress, and  
7       thereby it would be made, of course, public, and that the  
8       oversight committee consider further whether it would be neces-  
9       sary in order to fulfill the requirements of the Constitution to  
10      go further than that. There is a question of additional study  
11      there.

12      The monitoring, that is just an oversight responsibility,  
13      it seems to me, No. 2 there.

14      And then the GAO report, which is essentially available any-  
15      time anyway.

16      Senator Tower. Well, let me ask you this.

17      Is inherent in this No. 1 the suggestion that when OMB  
18      makes its recommendations, they come in with a national figure?

19      Mr. Miller. This committee?

20      Senator Tower. No, OMB, when they present the annual  
21      budget, they present a national --

22      Senator Huddleston. Under our plan, the DCI would do  
23      that.

24      Mr. Miller. The DCI would do that.

25      In the presentation that the people from the CIA gave to

1 this Committee, they have the capacity to array it in a way  
2 that would be useful to an oversight committee, so the figure  
3 \$4.7 billion corresponds really to their perception of what  
4 national intelligence is.

5 The larger figure, the \$9.7 billion is based on further  
6 work done by this Committee. They dispute some of the items  
7 but not the basic approach.

8 Mr. Aaron. As you know, the new executive order, the  
9 Director of Central Intelligence will be presenting to the  
10 President a consolidated national intelligence budget, and he  
11 will in fact be preparing that budget. In effect we are  
12 recommending that it be presented to the Congress. Earlier  
13 there are recommendations along those lines, that that budget  
14 be presented to the Congress.

15 This would say, in effect, that that global figure, not  
16 the breakdown, be made public.

17 Mr. Quanbeck. I think it would be important that the  
18 Congress, together with the executive branch, define exactly  
19 what goes in that national intelligence budget. There really  
20 is no agreement at this time.

21 Senator Tower. Any further comment on the recommendations?

22 Senator Schweiker. One question. When we talk about  
23 releasing a figure publicly, which of these figures are we  
24 talking about?

25 Mr. Aaron. It would be the \$4.7 billion, down to the first

1 subtotal, national intelligence effort.

2 Mr. Quanbeck. We also propose to release the \$9.7  
3 billion to show some relationship to what the House has already  
4 released. They released a figure of \$10.5 billion.

5 Mr. Kirbow. I think the Senator's question went to in the  
6 future, annually.

7 Mr. Quanbeck. Yes, that would be the \$4.7 billion.

8 Senator Huddleston. I don't know whether we ought to  
9 change that figure from \$10 billion to \$9.7 billion.

10 Mr. Aaron. I think we ought to use the same figure all  
11 the way through.

12 Mr. Kirbow. I think if you say \$10 billion and jump back  
13 to \$9.7 billion -- if you just say approximately \$10 billion.

14 Senator Schweiker. What is the reason of the Subcommittee  
15 in releasing the \$4.7 billion as opposed to the \$9.7 billion?

16 Senator Huddleston. Well, \$4.7 billion represents more  
17 of the direct costs of our national intelligence. You have  
18 got three different figures there. As you go up to \$6.9  
19 billion you are picking up your tactical and military intelli-  
20 gence. Then when you pick up the next \$2 billion or so there,  
21 that is support costs that while they are necessary for intelli-  
22 gence, they are not necessary just because of intelligence.

23 You could probably go on -- they would go on even if you  
24 eliminated all of your intelligence.

25 Senator Tower I think the first paragraph on 113 deals

1 with that. Thus, the entire amount could not be saved if there  
2 were no intelligence activities funded by it through the  
3 Defense Department.

4 Senator Schweiker. Won't you conceal more from the other  
5 side if you release the entire figure?

6 I don't have any strong argument, but it just seems to me  
7 that one of your problems is that if you give the indirect  
8 figures you would confuse the enemy and you would still level  
9 with the public to a greater extent.

10 Senator Tower. Well, I'm told the Agency would rather  
11 have the \$4.7 billion figure.

12 Senator Huddleston. I think they like the national figure  
13 without getting into the tactical.

14 Senator Schweiker. Okay, I don't feel strongly about  
15 it.

16 Senator Baker. I think Dick has got a good point, but  
17 I guess their preference in this respect --

18 Senator Huddleston. Well, they don't want it to look too  
19 high, for one thing.

20 Senator Baker. Well, who knows what is too high?

21 Senator Tower. You know, the critics have been saying we  
22 are going to be spending \$10 billion.

23 Senator Baker. Oh, that, they are going to stop and they're  
24 going to say we've been spending \$4 billion in the same tone of  
25 voice.

1 Senator Tower. Well, \$10 billion is more powerful than  
2 \$4.7 billion because it is higher.

3 Senator Baker. I knew that and I knew that would be the  
4 answer.

5 Mr. Aaron. I might say that there is also the consideration  
6 that the \$4.7 billion number, under our proposed oversight  
7 committee, it would be the number that was authorized and  
8 therefore presumably would have to be made public in the author-  
9 ization bill.

10 Senator Tower. Anything further on Section VIII?

11 All right, Section IX.

12 Mr. Aaron. The next section deals with chemical and  
13 biological agents and the intelligence community, and I  
14 might call on Elliot to describe it because he did most of the  
15 work in this area, you recall. We had a hearing on the subject  
16 of the toxins and what have you. We also had even more I think  
17 in-depth analysis of the whole problem of drug testing as  
18 it existed in the CIA and to some extent in the military.

19 Elliot?

20 Mr. Maxwell. The section tries to deal with both the  
21 testing and the shift from defensive to offensive concerns as  
22 well as the problems involved in particularly the surreptitious  
23 administration of drugs to unwitting, non-volunteer human  
24 subjects.

25 All the Senators are knowledgeable about the Olsen case.

1 In a related matter, another person was killed as a result of  
2 a military intelligence testing program conducted in New York.  
3 These were very highly sensitive programs that were begun in  
4 response to a concern by the Agency and the military that  
5 individuals in the American government or agents of the  
6 American government would be kidnapped or held by hostile  
7 powers and would have these drugs used against them either for  
8 interrogation purposes or to gain control.

9 They soon, however, became used as testing programs for  
10 our use of chemical and biological agents. These included not  
11 only the toxins, but also testing of LSD, sodium pentathol among  
12 others. The problems involved were not only the concern over  
13 the human rights of individual subjects, but the procedures  
14 within the CIA, in this case, in which internal CIA's concern  
15 over the security of the program led to the waiving of  
16 certain administrative controls so that in 1957, for instance,  
17 the Inspector General, doing a survey of the whole program, had  
18 no knowledge that there was this particular unwitting testing  
19 program going on.

20 The Committee recommendations go to the question of waiver  
21 of Agency regulations, a problem that we have had all the way  
22 through whereby regulations are issued by the Director and  
23 thus can be waived at any time, and the Committee, or the  
24 Subcommittee recommendations would require that if there were  
25 a waiver of such regulations, they be reported to the Committee

1 so that they would know how the internal governance of the  
2 agency has changed.

3 Secondly, it deals with the establishment, or really, the  
4 continuation of a body presently in existence, the President's  
5 Commission for the Protection of Human Subjects of Biomedical  
6 and Behavioral Research, which is drawing up standards for  
7 testing on human subjects within the government.

8 There is a piece of legislation, S. 2515, introduced which  
9 would continue the life of that commission and would provide  
10 the commission with jurisdiction over DOD and the CIA. The  
11 CIA and DOD have both expressed individually their agreement  
12 with having their experimentation governed by the standards of  
13 this Commission.

14 Finally, it indicates the Committee's hope that the  
15 Director of Central Intelligence and the Secretary of Defense  
16 will continue the efforts they are making to find those people  
17 who were subjects of the tests and to make sure that they  
end .1 18 have proper medical treatment available if it is required.

19 Senator Schweiker. I just wanted to say this recommendation  
20 here coincides with what our health subcommittee is working on  
21 and also with what the Domestic Subcommittee is coming up with.  
22 So we do have a fairly unified and integrated --

23 Senator Tower. Any comment on this section?

24 Mr. diGenova. The only thing I would say in regard to the  
25 first recommendation would be that one way of reading it is that

1 it reads "the Director," and it should be also probably amended  
2 to include not only the Director but anybody in the Department of  
3 Defense.

4 Senator Tower. Yeah, the stylistic has to be changed to  
5 include everybody involved.

6 Mr. diGenova. It says "The Director shall be required to  
7 provide immediately the reasons for the waiver." And maybe he  
8 should first be required to identify that there is a waiver, and  
9 then the reasons, because then it could be possibly read that  
10 he only have to give the reasons if asked. It could be construed  
11 that he does not have to come up here and tell that they are in  
12 fact in a waiver --

13 Senator Schweiker. This doesn't give him a right to  
14 violate the law, does it, Elliot? What do you mean by that  
15 because I read it two ways.

16 Mr. Maxwell. There are certain regulations that we  
17 are recommending CIA issue, internal directives and the like,  
18 if -- and this is a general recommendation that just was  
19 placed here because it dealt with the waiver of regulations  
20 in this particular case, but in cases where an internal  
21 directive is promulgated, this would require the Director to  
22 notify committees of waivers that take place. The Committee  
23 could then ask him for the reasons for the waiver.

24 It is a general recommendation so that the Committee is  
25 able to determine when there have been changes in the governing



1 procedures which it will be familiar with because they will  
2 have copies of the Agency regulations. It would not provide  
3 any right to violate the law.

4 Senator Schweiker. That isn't clear. I would like to see  
5 something said about it in Section 2 below. In other words,  
6 when I first read it I thought that even though we have the  
7 law, the Director can waive the law as long as he tells somebody  
8 he is doing it. I would like to do something to the effect  
9 that such waiver does not --

10 Mr. Maxwell. Well, I think the intention of the Subcommittee  
11 was that this provision, if the Full Committee approves it,  
12 would go to the back section on general recommendations  
13 affecting CIA, DOD and the intelligence communities.

14 Mr. Kirbow. You mean a waiver of any regular internal  
15 regulation would have to be reported to the oversight committee.

16 Then it is probably too broad, Mr. Chairman, because that  
17 means that a simple waiver of a Department of Defense regulation  
18 having to do with some reimbursement or travel or anything  
19 like that would fall under this general -- if you are talking  
20 about the drug program or just the CIA's programs like that,  
21 I could see it. Otherwise, this is a very broad mandate  
22 requiring extensive communication between the executive branch  
23 on a daily basis.

24 Senator Schweiker. We are in trouble here, Elliot, because  
25 as I read it, this is so poorly written that if I want to waive

1 the fact that we don't recruit clergymen, I can as I read  
2 this thing, recruit clergymen, and just be required to advise  
3 people that I am doing it.

4 You have really got to narrow this.

5 Mr. Maxwell. The problem it was geared to was if in fact  
6 the Committee chooses to do certain things by way of internal  
7 directives, by requiring Agency regulations to be amended, there  
8 is at this point no, in particular circumstances, no requirement  
9 that the Director who is responsible for the issuance of those  
10 regulations notify the oversight committee.

11 I think Charlie's point is very well take in the sense  
12 that it is too broad now, and we can attempt to narrow it, but  
13 it does govern a whole series of questions directed toward  
14 internal directives.

15 Mr. Aaron. I think the first question, Mr. Chairman, is do  
16 we want to include the Department of Defense in this particular  
17 Recommendation 1. If we do want to include the Department of  
18 Defense under this waiver, we have a very large issue.

19 Is my understanding correct that that was a suggestion that  
20 had been made earlier?

21 Mr. Kirbow. The point I was trying to make was that if  
22 this was to be a general recommendation, we should take it  
23 out of the drug section and put it in the back.

24 Mr. diGenova. Is there the general recommendation or is  
25 it only in the drug area?

1 Mr. Maxwell. My personal opinion would be that because  
2 we are making a number of recommendations in regard to the  
3 amending of the internal directives of the CIA, that some pro-  
4 vision should be made for a general recommendation insofar as  
5 the oversight committee would be notified should there be a  
6 waiver for a particular reason by the Director of the internal  
7 directives that we are asking him to promulgate.

8 There is no requirement at this point that if the  
9 Director is asked to promulgate regulations in regard to the  
10 recruitment of clergy, that they would have to notify the over-  
11 sight committee that that was being done. You could simply  
12 waive the regulation in this particular case.

13 Now, it might be argued that this would fall into the  
14 fully and currently informed.

15 Senator Huddleston. Well, I think here first of all we  
16 ought to address ourselves to the drug problem. It seems to me  
17 that No. 2 should have been No. 1 to start with. First establish  
18 what --

19 Senator Schweiker. I don't really think it belongs here.  
20 I think you really get a can of worms, because I can read this  
21 to have a waiver to assassinate Presidents, you know. We've  
22 got a policy. There is no statute now, and our policy is to not  
23 assassinate, so we can waive and say it is okay.

24 Senator Huddleston. Why don't we just strike the waiver  
25 paragraph.

1       Senator Tower. You can look at it another way, too. To  
2 the extent that this procedure is required of any kind of regu-  
3 lation, be it a minor regulation on staff travel policy or  
4 some damned insignificant thing like that.

5       Mr. Maxwell. I think that is correct. As it is now drawn,  
6 it is overly broad, and I don't think it belongs here. I think  
7 it probably belongs in the question of whether we make clear at  
8 some point that fully and currently informed includes any  
9 question of waiver of major regulations by the Director.

10       Another example would be that where a regulation now  
11 provides the Inspector General have access to all information,  
12 that could be waived and has been waived in the past by the  
13 Director in order not to allow the Inspector General to have  
14 access, and in that condition you would want the oversight  
15 committee's to know that such a waiver had been made. That  
16 is why this is a general recommendation.

17       Senator Schweiker. But you are setting up a bypass route.  
18 That troubles me because it seems to me you go into any area,  
19 you can get around it by a waiver. I would rather not address  
20 ourselves to the subject and make it clear he has to issue a  
21 new regulation. After all, he can still amend his own  
22 regulations. If it is just a regulation, the way to do it is  
23 amend the regulation. Why give them a cause to cheat?

24       Mr. Miller. Senator, I think this is addressed by two  
25 provisions we have suggested. The first is in the oversight

1 legislation which says "fully and currently informed," of anything  
2 beyond a nitpicking, minor, trivial things that the oversight  
3 committee would not be worried about. The committee would be  
4 informed it would be the obligation of the agencies to do  
5 it.

6 Secondly, in the general provisions here, we have the  
7 provision for a classified Federal Registry where regulations  
8 are required to be deposited, and the oversight committee has  
9 access to any changes in regulations, including such things as  
10 waivers and so on.

11 So I think in those two ways, the kind of question that  
12 Elliot is worried about really is covered. So I don't think  
13 it is necessary.

14 Senator Schweiker. So let's delete it then..

15 Mr. Aaron. Well, before we do, may I make one comment?

16 First of all, I think it should be understood that the  
17 Director of the Agency writes his own regulations. The Director  
18 of the Agency can amend his own regulations whenever he  
19 wishes, and the Director of the Agency can waive his own  
20 regulations whenever he wishes. The regulations may be secret  
21 or classified regulations. And he may waive them or amend  
22 them in secret.

23 Now, there are a number of recommendations that we make  
24 that go to the suggestion that certain regulations be adopted  
25 by the Agency. For example, we have had an extensive discussion

1 of the use of academics or certain categories of personnel.

2 They have a very important regulation called 50-10, which  
3 regulates how they can use Americans or members of the Vatican  
4 or members of the Red Cross or numbers of different kinds of  
5 people. Some of these regulations say, you want to use somebody,  
6 you have to get a waiver, or sometimes -- well, there are all  
7 sorts of provisions like that.

8 Now, I think the point of this suggestion was to make it  
9 clear that in these important policy cases, if there is to be a  
10 waiver which can take place on a classified basis, it is  
11 brought to the attention of the oversight committee, for these  
12 matters, not for the normal personnel and such issues.

13 My personal view is that this is not covered by our  
14 recommendations governing currently and fully informed, because  
15 that recommendation goes to covert action.

16 Mr. Miller. No, it doesn't.

17 Mr. Aaron. As far as I am aware, that is what it goes  
18 to.

19 Mr. Kirbow. Might I suggest that if the Committee desires  
20 notice of changes in regulations on major policy questions, that  
21 we simply have the staff rewrite this to say that and put it  
22 back in the other section and consider it next time around.

23 Senator Tower. I think it is going to have to be rewritten  
24 because everybody is unclear about it.

25 Senator Schweiker. It doesn't belong here.

1 Mr. diGenova. There has to be a caveat in there that even  
2 though you are talking about a waiver, you are still not talking  
3 about anything that is inconsistent with the laws and the  
4 Constitution of the United States, because we say that all the  
5 way through, and the waiver cannot encompass a violation of  
6 a law that the Congress has passed.

7 Senator Huddleston. That ought to be added to the general  
8 recommendations.

9 Mr. Maxwell. I think that is where it belongs.

10 Senator Schweiker. And redrafted back to the Committee.

11 Senator Tower. All right. If everybody is agreed,  
12 that will be redrafted and made a part of the general recommen-  
13 dations.

14 Mr. Maxwell. It would deal with both waiver and promulgating  
15 new regulations.

16 Mr. Aaron. Right.

17 Senator Tower. Yes.

18 Mr. Bader. And Elliot, I assume amend the current  
19 regulations.

20 Mr. Aaron. May I suggest in doing this we take the  
21 point made by Mr. Miller and start out by simply saying, in  
22 accordance with the policy of being currently and fully  
23 informed on all significant Agency activities, because the only  
24 place we have that phrase now is in the covert action case.

25 Senator Huddleston. That ought to be established.

1 Mr. diGenova. It is now on all intelligence activity.

2 Senator Tower. All right.

3 2 and 3 no objection.

4 All right, let's move to Section X.

5 Mr. Aaron. All right, now, we are on to the General  
6 Recommendations. We have five of them.

7 I might just say at the outset, these I think fall into the  
8 category of what the staff would say or put forward as good  
9 ideas, in other words, that we haven't had a hearing on each  
10 one of these subjects; our total experience on some of them  
11 leads us to feel that some of these steps would be very useful;  
12 some of them fall into the category I think of helpful sugges-  
13 tions as to how we might proceed in some of these general areas.

14 The first one on security clearances, I think perhaps Mr.  
15 Miller would want to talk to it. He had a great deal of  
16 experience with the security clearance problem as this  
17 committee was established, and I think it flows from his  
18 experience.

19 Mr. Miller. Well, this very simply is based on our own  
20 Committee's experience on security clearances, and also based  
21 on the GAO study that was made of security clearances.

22 There are on the civilian side vast inconsistencies in  
23 procedure and practice and degree of thoroughness in the  
24 security clearance process. The suggestion here is that for  
25 the civilian intelligence community, and possibly for the



1 Congressional Committees, that there be a single applicable  
2 standard, that it be done by one agency, that what would flow  
3 from this are economies and a consistency of purpose and a  
4 consistency of standard.

5 This is something that I think would profit well in the  
6 future.

7 Senator Tower. Okay.

8 Anything more on that?

9 All right, personnel practices.

10 Mr. Aaron. All right. I think the purpose of this is  
11 we have found as we have talked to a number of people in inter-  
12 views and what have you that to ensure in these areas where  
13 there is a potential for people straying across the line of  
14 constitutional rights of others, that there be a conscious  
15 effort made by the Federal Government to inculcate its employees  
16 with the proper idea of what the law and the Constitution  
17 require. That is the basic thrust of Recommendation B.

18 Senator Tower. Any comment on that?

19 All right, Section C, security functions of the intelligence  
20 agencies.

21 Mr. Aaron. Now, I think this makes a general observation  
22 concerning what the security function of intelligence agencies  
23 not involved in law enforcement, what in effect the policy  
24 should be. This is not a recommendation as to precisely how  
25 one might implement that policy, and I take it perhaps you

1 could inform us, Bob and Mike, as to the Domestic Group I  
2 believe is doing a considerable amount of work on dealing with  
3 the specifics of this.

4 This would really simply be the policy statement.

5 Elliot?

6 Mr. Maxwell. There is a problem in that in that the last  
7 sentence of that, security functions of the intelligence  
8 agencies may be in conflict with the detailed recommendations  
9 of the Domestic Subcommittee, and then a number of activities  
10 which were undertaken under Operation CHAOS and Operation  
11 MERRIMAC were designed in a larger sense and interpreted in  
12 the larger sense to be based on the authority to protect the  
13 Agency's personnel and facilities and to ensure that intelligence  
14 personnel follow proper security practices.

15 Mr. Miller. But they were abuses of those missions.  
16 There was no problem with the missions, per se.

17 Mr. Kelley. The problem is they didn't think it was an  
18 abuse at the time. They just interpreted it broad enough.  
19 I think we can flag this to be coordinated. ✓

20 Mr. Kirbow. I do have some serious reservation about the  
21 detail which the Domestic report goes on this, and that is a  
22 general statement of policy. I think this Committee or the  
23 Subcommittee should adopt kind of a general policy that they  
24 do have the requirement and that we think they should be  
25 authorized to do this in each individual agency. Otherwise

1 we wind up leaving not only personnel facilities but putting  
2 a man's record in the record, and for the most part it is  
3 pretty naked.

4 Mr. Kelley. Charlie, I think that is true, and I think  
5 we have to make these match and fit. I don't think we can  
6 take any action on this not knowing what the other side has  
7 reference to.

8 Senator Tower. The Chairman requested that we carry over  
9 D until his return, so to accede to his request, we will postpone  
10 consideration of D.

11 E deals with Federal Register for Classified Executive  
12 Orders.

13 Mr. Miller. This is a provision that was introduced some  
14 years ago by Senator Mathias and Senator Ervin dealing with the  
15 problem of -- it was discovered during the investigation of  
16 emergency powers that there were a great many orders of the  
17 President which because they were not called executive orders  
18 were not put into the Federal Register. The intention was to  
19 bring all lawful orders of the President in the Register. We  
20 also found that there was provision for some classified material  
21 in the Federal Register, although it was very seldom used.

22 The purpose for this is to have a place where the lawful  
23 orders of the President and executive orders, by whatever name  
24 called, are put in a place for purposes of official record.

25 Senator Tower. This would be a separate Federal

1 Register, in effect, for classified regulations and orders.

2 Mr. Miller. That's right.

3 Senator Tower. And would have, of course, very limited  
4 circulation. It would not be a public record.

5 Mr. Miller. That is right.

6 Senator Tower. And do we say anything about access or  
7 provision?

8 Mr. Miller. Only by the oversight committee.

9 Senator Tower. By appropriate Congressional oversight  
10 committee would mean not necessarily the oversight committee,  
11 but it could mean Appropriations or Armed Services.

12 Mr. Miller. That's right, in their area of jurisdiction.

13 Senator Tower. Anything further on that?

14 Mr. Kirbow. There is an escape valve. There is a  
15 provision where he can do something immediately and then  
16 file it in an emergency situation.

17 Senator Tower. All right.

18 With the instructions to redraft Item 1 on page 118, and  
19 put it in the General Recommendations, with the reservation that  
20 the Chairman will want to take up Section D on page 120, and  
21 we will consider it adopted. Of course, in that we operated  
22 without a quorum, a motion to reconsider on anybody's part is  
23 in order.

24 All right.

25 Senator Mathias. An eventuality which is horrible to

1 contemplate.

2 Senator Tower. Senator Huddleston here has some redrafted  
3 language.

4 Senator Huddleston. Well, we have two very difficult  
5 subjects to resolve which I think will complete our findings  
6 and recommendations. One, of course, is the covert action which  
7 the Chairman has incorporated in some of his suggestions and  
8 wants to be here when we consider it, tomorrow I take it. Also,  
9 yesterday at the suggestion of Senator Mondale, we rewrote some  
10 provisions relating to the use of academics, and I would  
11 suggest that we hold that over also to give us a chance to  
12 look at this, to reconsider the whole matter of academics and  
13 be prepared to move on it forthwith, tomorrow, if that is the  
14 day the Chairman is going to be here.

15 Mr. Miller. Yes, he is.

16 Senator Huddleston. And see if we can't resolve these  
17 two things tomorrow, and we will have it wrapped up, Mr.  
18 Chairman.

19 Ms. Culbreath. Mr. Chairman, in connection with the  
20 attempted rewrite that we worked on, there are a couple of  
21 typos in here that might help you if anybody really has time to  
22 look at them.

23 On page 77, on these inserts, about six lines down the  
24 second word is typed "for confirmation," and the word that was  
25 intended there was "for continuation." This is under

1 Recommendation 43.

2 Senator Tower. The ninth line, substitute "continuation"  
3 for "confirmation."

4 Ms. Culbreath. That is the main one. There may be a  
5 few others, but that was the main one that really had a  
6 very different meaning.

7 Senator Tower. Any more on that?

8 Then this will be carried over until the Chairman  
9 returns.

10 Senator Huddleston. Do I understand he will be here  
11 tomorrow?

12 Senator Tower. He will be.

13 Mr. Miller. Yes, he will be tomorrow morning.

14 He called and asked to meet tomorrow at 10:00 and 2:00 and  
15 Friday at 10:00.

16 Senator Tower. All right.

17 Does that complete our business now?

18 Mr. Miller. I believe so, sir.

19 Senator Tower. All right, we will reassemble again at  
20 10:00 o'clock tomorrow morning, and then at 2:00 o'clock  
21 tomorrow afternoon. So until that time the Committee is in  
22 recess.

23 (Whereupon, at 3:02.5 o'clock p.m., the Committee recessed  
24 to reconvene at 10:00 o'clock a.m., Thursday, March 25, 1976.)  
25