

**S. 2198 AND S. 421 TO REORGANIZE THE UNITED
STATES INTELLIGENCE COMMUNITY**

JOINT HEARING
BEFORE THE
SELECT COMMITTEE ON INTELLIGENCE
OF THE
UNITED STATES SENATE
AND
PERMANENT SELECT COMMITTEE ON
INTELLIGENCE
OF THE
HOUSE OF REPRESENTATIVES
ONE HUNDRED SECOND CONGRESS
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WEDNESDAY, APRIL 1, 1992

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JOINT HEARING ON S. 2198 AND S. 421

WEDNESDAY, APRIL 1, 1992

SENATE SELECT COMMITTEE ON INTELLIGENCE,
HOUSE PERMANENT SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC.

The joint hearing convened, pursuant to notice, at 2:08 p.m., in room SH-219, Hart Senate Office Building, the Honorable David L. Boren (chairman of the Senate Select Committee on Intelligence) presiding.

Present from the Senate: Senators Boren, Bradley, Cranston, Metzenbaum, Kerrey, Murkowski, Warner, D'Amato, Danforth, Rudman, Gorton and Chafee.

Present from the House: Representatives McCurdy, Kennelly, Dicks, Shuster, Dornan and Gekas.

Senate Select Committee on Intelligence Staff: George Tenet, Staff Director; John Moseman, Minority Staff Director; Britt Snider, Chief Counsel; Kathleen McGhee, Chief Clerk; and Regina Genton, Marvin Ott, Fred Ward, Naomi Baum, Tim Carlsgaard, Bobby Cater, Claudia Daley, John Despres, Pete Dorn, John Elliff, Dave Garman, Art Grant, David Halperin, Pat Hanback, Michael Hathaway, Judith Hodgson, Sarah Holmes, Edward Levine, Eric Liu, Karen Lydon, James Martin, Chris Mellon, Zach Messitte, Don Mitchell, Andre Pearson, Joan Piermarini, Terry Ryan, Jennifer Sims, Gary Sojka, Chris Straub, Mary Sturtevant, Tawanda Sullivan, Tracey Summers, Blythe Thomas, James Van Cook, James Wolfe and Sheryl Wood, Staff Members.

House Permanent Select Committee on Intelligence Staff: John Keliher, Staff Director; Michael Sheehy, Chief Counsel; Thomas Smeeton, Minority Counsel; Jeanne McNally, Chief Clerk; and Virginia Callis, Larry Cox, Diane Dornan, Robert Fitch, William Fleshman, Richard Giza, Alex Glikson, Christine Healey, Calvin Humphrey, Kenneth Kodama, Stephen Nelson, Ross Newland, Lawrence Prior, Paul Scalingi, Margaret Sullivan, Sharon Curcio, Michael O'Neil, Catherine Eberwein, Delores Jackson, Karen Schindler, Judith Wynne, Merritt Clark and Mary Jane Maguire, Staff Members.

Chairman BOREN. It is a pleasure to open this very important meeting which in many ways is an historic meeting. I am told that for the first time in its history, the Senate Intelligence Committee meets today in a joint public session with the Members of the Permanent Select Committee on Intelligence from the House. This is a first in the sixteen years the Committees have been in existence. We welcome our House colleagues here.

We were very pleased that the House Committee responded favorably to our invitation to hold this joint meeting together. We value the working relationship that exists between these two Committees and especially at this moment in our history, with the world literally turned upside down, so much change around us, and as we examine the ways to appropriately change the Intelligence Community to better accomplish our mission. I think this kind of partnership between the two Committees represented today and the kind of partnership between these two Committees and the Executive branch of government represented by our witness today, the Director of Central Intelligence is extremely important.

If we are going to have the right solutions, they can only come from that kind of partnership and that kind of cooperation. Bipartisan cooperation within the Congress itself, a bipartisan solution, and then a real partnership, a working partnership and relationship between the Congress and the Executive branch to get the job done.

So we all especially welcome this kind of opportunity to bring us together to discuss the important topic on our agenda today.

Over the last 6 weeks, both Committees have been engaged in hearings on the legislation introduced in each House to restructure the Intelligence Community, jointly introduced by the distinguished Chairman of the House Committee, Congressman McCurdy and myself.

As the time of the introduction of this legislation, we both believed that the end of the Cold War provided a unique opportunity to reevaluate the structure of US intelligence. Our legislation was based on a number of sound and important principles. Namely there should be clear lines of accountability. We should wherever possible, eliminate duplication. Cost effectiveness in the current budgetary climate is absolutely essential. The independence of analysis and broad based analysis is crucial for a changed world environment. Enhanced support to unified and specific commanders in time of crisis by the national Intelligence Community is also essential. If we are ill-prepared for crisis, billions of dollars spent on peacetime intelligence is of little value.

Basically, our goal is to provide a better intelligence product at a lower cost. While we can not legislate excellence or leadership, it was our hope that the principles and some of the structural changes we proposed would in some way contribute to attracting the nation's best and brightest in a renewed commitment to help our nation face the challenges of this post-Cold War period.

The legislation created a great deal of creative tension which was exactly our hope. Our hope was that it would launch a meaningful interchange of views and I think in that regard, we have succeeded. There has been no shortage of reaction to the proposal which Congressman McCurdy and I introduced in our respective Houses.

But I think there has been a very creative and a very constructive response. Some would say and I believe that, to some extent, the boldness of our proposals provided the Director, who is our witness today, with an opportunity to challenge those involved in the Community's own internal review of intelligence to be more open and innovative and to avoid the temptation of rigid bureaucracies to resist real change.

So I believe that this has been a dialogue that has contributed to the candor and the boldness of the internal study as well.

The purpose of today's hearing is to have the Director of Central Intelligence respond to the issues and problem areas which prompted the legislation and specifically to suggest the structural changes he believes are required to create better accountability and a higher quality intelligence product.

So, as I said at the start of our process, we recognize that legislation may not be needed in all areas to address many of our concerns. The Executive branch certainly has the authority and the capability to deal with many of them should it choose to do so.

And, indeed, if the Administration could demonstrate that these concerns can be dealt with effectively without legislation, or at least with less legislation, I would certainly be inclined to listen to the Administration and to follow that course of action.

Still it seems to me that there may be an opportunity to legislate in ways that might strengthen the Intelligence Community without limiting the flexibility of its effectiveness.

The law that provides the basic legal underpinning for intelligence is now 46 years old. It is vague, and it hardly reflects the reality of today's Intelligence Community. So I would encourage the Director and others in the Executive branch and the Administration to keep an open mind on this particular subject. One can question whether legislation is required to effectuate change. At the same time, we must evaluate the desirability of an affirmative mandate from the Congress for the conduct of these activities.

So I think, as we listen to the recommendations today from the Executive branch, we should begin to move on to the second phase of our deliberation. And that is to reflect upon which of these changes can appropriately be made unilaterally by the Executive branch and which could appropriately require legislation in order to make sure that they are permanent in instances where they should be made permanent. What kind of legislation would be required to assure that we do not micromanage to the point that we would prohibit the flexibility necessary. Because we know that any changes are to some degree experimental, we always want to have the flexibility to make mid-course corrections and changes as we go along and have experience under new structures. So anything we legislate I think has to bear that goal—flexibility—very much in mind leaving an appropriate amount of discretion to the Executive branch.

Each Committee will hold its own closed session to follow this hearing with the Senate Committee convening immediately after the open session this afternoon and the House Committee convening next week to continue to pursue with the Director certain elements of reorganization which are classified and cannot be discussed in open session.

And, of course, each Committee will reserve the right to follow-up with such additional hearings or questions for the record that it may choose.

Finally, let me provide just a little bit of background on the process that has evolved. Last November, the President signed National Security Review Directive 29, calling for a comprehensive review by the Executive branch of its future requirements for the Intelli-

gence Community. Based upon this analysis, it was envisioned that the Administration would develop its own recommendations for organizational change.

The requirement for review called for by NSR-29 has now been completed and, consequently, the Director of Central Intelligence chartered a series of task forces internally in the Intelligence Community to address overall operation and organizational issues both within the CIA and also within the broader Intelligence Community. The reports of these task forces have now been completed and Director Gates has acted upon some of them.

Copies of these reports have been forwarded and provided to the Oversight Committees together with the Director's decisions on their recommendations. And I anticipate that Director Gates will describe these actions for us this afternoon.

Before turning to my colleagues, I want to take this opportunity to commend the Director personally for instituting and carrying through this process. In my view it has been extremely valuable. It has aired many issues that needed to be aired. And on the whole, I think it has produced a series of very good recommendations for change. I can recall no DCI who has taken on so many critical areas with such impressive results so expeditiously or at such an early stage in his tenure. It is a very impressive beginning.

I am especially pleased that the Director has already reacted to several of the proposals made by this Committee in the course of his confirmation hearings—indeed in this very room where the confirmation hearings were conducted. We welcome the Director back under other circumstances to this particular room to share his thoughts with us.

I am especially pleased he has acted to establish a process to make the CIA more open and accountable by releasing historic documents. I also commend him for his action to establish a program to make sure that any illegal activities discovered by the CIA in the course of its own investigations in intelligence collection will be reported forthwith to appropriate law enforcement agencies. These are important steps and were among the issues that arose during the confirmation process.

Again, we are very pleased to have the Members of the House Committee join us including the distinguished Chairman and the Vice Chairman for this special occasion. I am very pleased to call on my colleague now, the Chairman of the House Committee, Congressman McCurdy, to make his opening remarks.

Representative McCURDY. Thank you, Senator Boren.

Congressional Intelligence Committees rarely hold open sessions and they have never before conducted a joint hearing. For this historic first joint session also to be an open one is indicative of the importance we attach to the substance of the issues which will be discussed today.

In our belief that those issues should be debated publicly to the maximum extent possible, I am delighted to join my colleague from Oklahoma in this joint hearing with the rest of the House and Senate Committees.

And I commend our witness for his willingness to discuss this vital issue in open session.

We have been looking forward to the report you will provide today since last fall when President Bush ordered National Security Review 29 and you commissioned task forces to examine the operation and structure of the Intelligence Community.

In the interim, as you know, Senator Boren and I introduced legislation to clarify the lines of authority and accountability within the Community.

Our hearings on those bills may not have produced consensus on all the specific types of change necessary to produce those results, but there has been widespread agreement that significant change is needed and is coming.

In the preparation of our legislation and in our hearings we have of course been aware of both the NSR-29 process and your task forces.

I want to commend the President for authorizing the survey of the requirements of intelligence consumers through NSR-29, and you, Mr. Director for the speed with which you have moved to solicit recommendations as to how the Intelligence Community could better perform its important work.

I have viewed the Legislative and Executive branch efforts as supportive rather than exclusive and I look forward to continuing to work with you to achieve what we all want, and that is an Intelligence Community that is able to effectively and efficiently satisfy the information needs of policymakers in the post-Cold War world.

At its outset, you characterized this examination as an effort to accelerate the process of change and to move boldly toward a very different shape for the Intelligence Community. That is the standard against which I intend to evaluate what you propose today.

I believe your recommendations must be seen as being bold and as representing a substantial change for the better in the terms of the way the intelligence agencies conduct their activities and relate to one another. Times have changed, both fiscally and geopolitically. And the components of our national security establishment must reflect those changes.

While the Intelligence Community is not a monolith, and the differing needs of consumers of intelligence must be acknowledged, the days when collection, production or dissemination systems could be duplicated merely to satisfy the institutional preferences of a particular department or agency are gone.

I am interested in the ways in which the requirements identified through the NSR-29 process are reflected in your recommendations. In that regard, it is essential that we review the product of NSR-29 and we expect that it will be furnished to the Committee shortly.

I am also interested in how your recommendations relate to the modified budget request for FY93 which you will discuss with the House Committee on April the 7th. I understand that that budget calls for spending the same amount on intelligence and related activities as was requested by the President in January, although in different ways.

The total requested represents growth over the amount appropriated last year.

As I am sure you know, both the Senate and House Armed Services Committees are going to be taking deeper cuts in the defense

budget than sought by the President. These decisions clearly signal a constriction of resources and it will be important to be able to demonstrate to our colleagues on those Committees that efficiencies can be produced in the intelligence budget as well. In that regard, we will be carefully examining your request to make sure it does not seek to preserve programs or systems which can no longer be justified on the basis of mission or cost.

When you provided the House Committee with a progress report on the task forces, you indicated that your goal was to create structures that can survive individuals. That is a goal which I share, and I believe it is embodied in the bills which the Committees have been considering.

I hope that through today's hearing, and those which will follow, we can agree on the problems which need to be addressed in the Intelligence Community and on a response to them which is institutionally based rather than personality driven.

I thank the gentleman, and yield back my time.

Chairman BOREN. Thank you very much, Chairman McCurdy. We are very, very happy to have you and your colleagues with us today.

As I have indicated, any constructive result that comes from our deliberations with the Congress and the Executive branch must be one that is bipartisan and represents a true consensus. We are very proud of the kind of consensus that we have been able to reach on the most sensitive national security issues of the last several years. And certainly a valuable part of that process on the Senate side has been the work of our Vice Chairman, Senator Murkowski from Alaska. I would call upon him now for his opening comments.

Senator MURKOWSKI. Thank you very much Mr. Chairman. I have been handed—

Senator BRADLEY. Mr. Chairman, Mr. Chairman, may I simply be recorded in favor of Admiral Studeman?

Chairman BOREN. Yes, the record will reflect that.

Are there any others? Senator Gorton? Senator Danforth?

Senator DANFORTH. Yes, Mr. Chairman.

Chairman BOREN. Aye in both cases?

Senator DANFORTH. Yes.

Senator GORTON. Yes.

Chairman BOREN. And Senator Metzenbaum has already been recorded. Thank you very much.

Senator MURKOWSKI. Mr. Chairman, I have been handed a note from the staff and it's classified, but in the interest of full disclosure, I am told it is only by coincidence that this historic meeting between the House and Senate Intelligence Committee occurred on this unique day, April 1st. Perhaps the record should note.

Let me join with the Chairman in welcoming you Mr. Gates before this Committee once again. This seems to be, I won't say your lucky room, but it certainly is a room that we all spent a great deal of time during your confirmation process. And those of us who strongly supported your confirmation did so in the belief that important and even watershed changes would be required in the Intelligence Community.

We believe that, one, Robert Gates combines the toughness of mind and the depth of experience to make the needed changes. We

have not been disappointed. I think it is fair to note that in less than 6 months time as DCI, Mr. Gates has set in motion the most profound set of reforms in US intelligence in some 20 years, and I commended you for that action and that commitment.

First of all of course you persuaded our President to issue a National Security Review memorandum directing the various agencies of the Federal government to identify their priorities in the intelligence area. Then you took upon yourself to appoint 14 task forces within the Community to look at everything from politicizing of intelligence to support for military operations. And drawing upon those task force reports, Mr. Gates, you have initiated a long and impressive list of changes, which I am sure you are prepared to detail for this Committee today.

These reforms include changes in the way the Community is managed, in intelligence analysis and production, and the intelligence Community's communication with the broader public. You have been very vocal, very outspoken and very visible, and I commend you.

I am further encouraged by the President's selection of a strong Deputy Director of Central Intelligence, William Studeman. As a military officer with a strong background in the technical and scientific disciplines, Admiral Studeman perfectly compliments you, Mr. Gates.

I think this Committee can take some credit for having provided an impetus and an atmosphere for the new reforms. Because that process is now so far advanced, I believe the need for major legislative initiative has lessened dramatically. But I know Mr. Gates has identified areas where he feels legislation is needed. In my view, this Committee should concentrate its efforts specifically in those areas.

The Chairman has devoted much effort and thought to intelligence reorganization and I intend to continue to work closely with him in developing a bipartisan bill that this Committee can take through the legislative process and that the President can willingly sign.

At the time when the Congress and the Executive are criticized as being unable to work productively together, I think we can demonstrate an ability to do just that as far as intelligence reorganization is concerned.

I welcome you to the hearing, Mr. Gates.

Chairman BOREN. Thank you very much, Senator Murkowski. And now I want to turn to the Vice Chairman of the House Committee. He is a person with whom we have had the opportunity to work for a number of years on intelligence and other legislative issues and a person for whom we have great respect on this side of the Capitol.

I would like to call on him at this time for his opening comments, Vice Chairman Shuster.

Representative SHUSTER. Thank you very much, Mr. Chairman.

First I would like to commend both you and Chairman McCurdy for initiating this debate on reorganizing intelligence. I would also like to commend you for putting together this historic joint meeting. In fact it is such a good idea that perhaps it will provide some

impetus for us creating a Joint Committee, which some of us have long espoused.

During our hearings in the House, a series of so-called wise men came before us—men experienced in the Intelligence Community to give us their ideas and thoughts. During the course of that, Frank Carlucci noted in his testimony that intelligence in this new world order—or perhaps more accurately, new world disorder—is more important and more complex than ever. Indeed, the emerging characteristic of the post-Cold War era seems to be unpredictability. In this context it seems to me, Mr. Chairman, that any future intelligence structure must have the virtue of flexibility.

Another one of our wise men quoted Tallyrand, who said that it is urgent to wait. I think that may well be good advice as we look at the uncertain future before us today.

I am confident that Mr. Gates' testimony will be responsive to Congressional concerns, and I commend both our Chairmen for creating this opportunity.

I know these committees are going to watch very carefully, also, Secretary Cheney's conduct of his reorganization, particularly because of the cost-free support the Intelligence Community receives from the military. And moreover, I know we are going to follow very closely Director Gates' implementation of his task force's recommendations.

Mr. Chairman, a subject near and dear to my heart is the secrecy of the Intelligence Community budget. I believe it should indeed remain secret and buried within the Department of Defense budget figure.

Let me close with one of my favorite intelligence-related quotations that supports this position on secrecy regarding our intelligence budget future. "The necessity of procuring good intelligence is apparent and need not be further urged. All that remains for me to add is that you keep the whole matter as secret as possible, for upon secrecy, success depends in most enterprises of this kind. And for want of it, they are generally defeated, however well planned and promising a favorable issue," end of quote, written in 1777 by General George Washington, the nation's first intelligence officer.

Thank you, Mr. Chairman.

Chairman BOREN. Thank you very much, Congressman Shuster. I turn now to members of both Committees who are present for any opening remarks they might like to make. Senator Chafee?

Senator CHAFEE. No, Mr. Chairman, noting the make-up of the leadership here, I'd say let's get to this sooner, rather than later. [General laughter.]

Chairman BOREN. Thank you very much Senator Chafee. Congressman Dicks?

Representative DICKS. I agree.

Chairman BOREN. Are there others on either side of the aisle who wish to make opening comments? Senator Cranston?

Senator CRANSTON. I'll restrain myself also.

Chairman BOREN. Congressman Gekas?

Representative GEKAS. Thank you, Mr. Chairman. The only item I want to add is my personal appreciation for the arrangements that both Chairmen made for this meeting, the joint meeting to which the gentleman from Pennsylvania alluded, an historic first,

and for also bringing in front of us those wise men from whom we derived a great deal of preliminary and historic knowledge to prepare us for the testimony of our Director.

I thank the Chair.

Chairman BOREN. Thank you very much, Congressman Gekas.

Senator Warner, any opening comments?

Senator WARNER. Thank you Mr. Chairman. During the course of my question period, I will solicit from the distinguished Director, his background preparation for the decision this week to—for the time being I hope—not pursue the consolidation that was originally programmed by his predecessor.

I continue to feel very strongly that there are a number of your employees working in areas where the security is increasingly difficult to maintain, that security level needed for your specialized work. And also perhaps the working conditions are less than could be desired as well as the travel time in between the some 18 or 19 locations now being operated under your complex. So I would hope that in your statement perhaps you might touch on the plans for the future and the timeframe within which you would hope to resume some consideration for alleviating what I regard as almost overcrowded conditions in your present spaces.

I thank you.

Chairman BOREN. Thank you Senator Warner.

Senator Metzenbaum.

Senator METZENBAUM. I just want to say to the new Director that, as you well know, I did not vote for your confirmation, but I will say that I am pleased with the various steps that you have taken to date. I think you have moved in an appropriate direction with respect to a number of different issues and that by following some of the task force recommendations, you have moved well to indicate your belief that to the extent that openness can be had without any way jeopardizing the nation's security, it is worthwhile doing.

You indicated at your confirmation that you supported the concept of sharing with the American people the total dollars that we spend on intelligence—not with any breakdown. I think all of that moves in the right direction. I think that your indication of some concern as to how far we go with respect to matter of economic intelligence is also all to the good. So I must say that I feel that you're off and running to a good start, and I just hope you can keep up the pace.

Chairman BOREN. Thank you very much, Senator Metzenbaum. Senator Gorton?

Senator GORTON. Pass.

Chairman BOREN. Thank you very much.

Director Gates, we do welcome you back. We await with interest your comments about the work of the task forces and the response to the National Security Review that has been conducted and comments that you might have on the legislation which we have introduced.

We welcome you back to this room and welcome you to this first historic meeting of the Joint Committees.

STATEMENT OF ROBERT N. GATES, DIRECTOR OF CENTRAL
INTELLIGENCE

Director GATES. Thank you very much Chairman Boren, Chairman McCurdy.

Our meeting today begins the charting of a new course for American intelligence in a world dramatically changed from just a year ago. The measures that I will present today in open session and in closed session represent the most fundamental change in the American Intelligence Community in decades, affecting structure, process, program and management.

The way American intelligence works, both the details of its structure and the dynamics of the relationships, tend to be poorly understood even by many who have spent time in its midst.

The changes I will describe, although they do not create or eliminate large organizations, together represent revolutionary change of great consequence in the way things really work.

I would like to emphasize before I begin that changing intelligence structure and relationships must be done with care. As we proceed, we must first try to do no harm. Second, we must try to insure that the improvements either outweigh or warrant the cost in resources and the impact on people.

It's worth taking just a moment to make clear why we are here. It is because the world has turned upside down. Today even the most hard-eyed realist must see a world transformed. On the eve of a new century, of a new millennium, we see a world where as never before people are demanding and making progress toward peace, democracy, and an economic system that works.

The Soviet Union has disappeared. The Cold War is over. The major military threat to the United States has receded dramatically. Many regional conflicts are coming to an end. Where a decade ago, 90% of the people of Latin America lived under authoritarian governments, now more than 90% live under governments that are democratically elected.

Apartheid is being dismantled in Southern Africa. Peace talks, however difficult, are under way in the Middle East. Eastern Europe is liberated. Germany has been peacefully united. And the United Nations finally is playing the role its founders envisioned.

It is truly a time of revolutionary change. A time of great hope, promise and opportunity. Yet the opportunity is fragile, and perhaps transitory. In places familiar and remote, whether we like it or not, problems and dangers all over the world will continue to engage America's attention. Instability and the fragility of reform in the former Soviet Union. The proliferation of nuclear, chemical, biological weapons and the ballistic missiles to deliver them in more than 20 countries. The rearmament of Iran. The determination of Iraq to preserve its remaining capabilities and eventually to rearm. The danger of war, nuclear war between India and Pakistan. Civil war in Yugoslavia. The future course of China. Peace making in Cambodia. Terrorism. Narcotics. Nuclear weapons programs in North Korea. Civil conflict in Haiti. Nuclear programs in Iran and Algeria. And countless other developments of concern, crises, or hot spots will come to our national door step.

History is not over. In many places it simply has been frozen and is now thawing with a vengeance Americans ignore at their peril. The nationalist, ethnic, border and resource conflicts of a long ago world have survived more than 80 years of revolution and war to confront us anew. Often a new and more virulent forms.

There is no precedent in history for an empire as vast of that of Russia or the Soviet Union imploding so suddenly. The demise of far smaller, far younger empires previously have shattered the peace, disturbed the social order and rearranged the international scene so fundamentally as to be grasped only by historians at decades removed.

The end of the Soviet Union, the end of the thousand year old Russian and Soviet empire, the end of the decades long superpower struggle and of the cold war—these are cataclysmic events in history. And to think that they will quietly pass from the world stage without further troubling us is to be oblivious to history, and in my view naive in the extreme.

In such a revolutionary turbulent world, and one so transformed from the last 2 generations, our national security institutions, especially defense and intelligence, must change, and they must change dramatically to meet new and different challenges.

But our changes should be evolutionary, conforming to the reality of an unstable, unpredictable, dangerously over armed, and still transforming world. Not yet the world of our hopes and dreams.

Moreover, as our military capability shrinks, we had best be cautious about too quickly weakening our early warning capability, our intelligence capability—what the President has called the nations first line of defense. We must avoid the costly mistake of 1919, 1945, 1953 and 1975 in thinking that we can disengage from the world or that we can or should quickly disarm ourselves or too quickly weaken our national security institutions.

We must not let our hopes overshadow our judgment, good sense, and historical realism. The world I describe is a reality, not a phantom conjured up to justify the existence of our Intelligence Community or our budget.

All historical experience suggests to us that while the revolutionary upheavals we have seen and experienced have succeeded in breaking us loose from the past, the shape of the future is far from established.

We must expect continuing radical change and upheaval around the world, at times promising, at times frightening before the forms and patterns of a new era settle into place.

As we restructure the Intelligence Community, we must bear in mind the changes that have taken place. But also the uncertainties and dangers old and new that still confront us. And in a world of such turbulence, I believe that our approach to restructuring must be guided fundamentally by the need to preserve flexibility.

In a world as fast changing as what we have seen in the last 3 or 4 years, our ability quickly to adjust structurally as well as reallocate resources, must be preserved and even enhanced.

My presentation to you today is in 3 parts. First, in this public session, a presentation of changes in structure and process in CIA and the Intelligence Community, as well as some general observations about priorities and budget.

Second, in the closed session, I will describe the results of National Security Review 29 on intelligence priorities and requirements to the year 2005.

And third, I will review the budgetary implications of those changed priorities.

This process began last November three days after I was sworn in as Director, when the President signed National Security Review 29. This document, citing a world transformed, called for a top to bottom examination of the mission, role and priorities of the Intelligence Community. The President directed some 20 policy agencies and departments to identify their anticipated intelligence information and support needs out to the year 2005. He asked that this review go beyond traditional areas of interest and include global problems such as international aspects of the environment, natural resources scarcities, global health problems, and economic intelligence.

While the results of NSR-29 are classified and I will discuss them greater in detail in the closed session, and will also provide the priorities to both Committees, let me briefly summarize the results here.

The Commonwealth of Independent States emerged in the region of greatest concern, particularly its internal political and economic developments, proliferation of weapons of mass destruction, and control of nuclear weapons. Also among the highest priorities were intelligence on the proliferation of nuclear, chemical, and biological weapons and the means to deliver them, narcotics, and terrorism, financial and trade issues, and technological developments that could adversely affect the United States were considered of major importance.

Policymakers identified new requirements relating to, among other things, environmental, natural resource and health issues, indicating that the Intelligence Community has a wider range of customers than ever with interests that extend beyond traditional national security concerns.

The President directed that upon completion of this review, I provide him with my recommendations for structural changes in the Community, organizational adjustments, possible new legislation and alternative budget proposals to address the new requirements and priorities. I did so last Wednesday and the President has approved what I will review for you today.

Let me briefly describe how we approach these changes. Beginning last November, I appointed 14 task forces to identify where change was needed and to recommend the form of changes.

This agenda was based on ideas for change from within the Intelligence Community, from outside experts, from these two Committees and from my own experience. The task force approach insured the widest possible participation in identification of problems and proposed solutions in both CIA and the Intelligence Community. Furthermore, all but three of the task force reports themselves were circulated broadly. In the case of those involving CIA, all but one were made available to every employee in the agency.

And I received many comments that had a significant impact on the decisions that I made and the recommendations that I made to the President.

I believe overall, what I am presenting to you today represents not just my own changes and those approved by the President, but represent a strong manifestation of the willingness, even the eagerness of the intelligence professionals of this country to move into the future.

Now let me move into the details.

Seven task forces were concerned with change inside CIA and focused on three areas. Intelligence production and analysis, clandestine human intelligence, and three agency wide issues. Because I know you are especially interested in changes in the Intelligence Community, and because most of you have already heard about most of the changes inside CIA, let me quickly summarize the seven CIA task forces described in detail in the prepared statement.

The first examined how to increase the value of intelligence provided to policymakers. A number of actions to this end were approved including greater discussion of alternative scenarios in CIA analytical products; greater autonomy for components for the Directorate of Intelligence to respond directly to policymaker requests; and measures to enhance contact between analysts and policy agencies in order to improve relevance.

A second task force addressed the issue of politicization—the perception or reality of slanted intelligence. I approved all eleven recommendations of this task force including a zero based study of management practices in the directorate of intelligence, measures to reduce layers of review, providing for the inclusion of alternative views in products, establishment of procedures to deal with allegations of politicization, the appointment of an ombudsman to serve as an independent informal counselor for those with complaints about politicization, insulation of all analysis and briefings from the influence of those with responsibility for implementing covert action and other steps.

The third task force addressed future methods of communicating with policymakers. I have concluded that the electronic dissemination of our finished analytic products to policy users is imperative. CIA will move forward on this project beginning with a working prototype at CIA.

Fourth, I have approved the recommendations of a task force working on improving CIA's human intelligence collection. I will provide more details about this to the Committees in closed session.

A fifth task force addressed improving agency handling of information it obtains concerning possible violations of law. This traced back in part to the Agency's handling of information that came to it about BCCI and the International Signals Control Corporation. Measures to deal with this include a number of crimes reporting training courses being prepared by our General Counsel and Office of Training and Education and cooperation with the Department of Justice to compile a dissemination list of agencies with should receive various types of reporting.

The sixth task force concerned problems of internal communication at CIA. A new organization has been created to promote two way communication throughout the Agency, and to develop mechanisms for such communication. Also, our managers annual evaluations will address their effectiveness in creating an environment in

which our employees are encouraged to offer their own views to improve CIA management and the intelligence process.

The seventh task force addressed CIA openness. I have already spoken about this publicly, but would highlight especially our dramatically changed approach to historical declassification. We will review for declassification all documents over 30 years old and all National Intelligence Estimates on the Former Soviet Union ten years old or older. We will attach priority focus on events of particular interest to historians from the late 1940's to the early 1960's, beginning with the JFK papers and the Bay of Pigs.

These seven areas of change will revolutionize both the culture and the intelligence process at CIA. In every case they represent a departure, in some respects dramatic departures, from previous practices and processes. All of these changes are now being implemented.

Now let me turn to the Intelligence Community. The changes that I will outline to you for the Intelligence Community are intended to address problems familiar to you. Indeed, what is striking about the legislation to restructure the Community is that we clearly have a common perception that there is a need for change, and to large degree we have a common view of the specific areas in which change is needed.

I can assure you that some of my recommendations to the President were shaped by initiatives contained in your legislative proposals. In other cases my recommendation went beyond what I had originally intended because of your proposals. All of my proposed changes have been approved by the President.

Before going to the specifics, let me underscore two principles—underlying principles that shaped these changes.

First, I have tried to preserve the decentralization of the Intelligence Community that I and others in the Executive branch believe is essential to ensure the responsiveness to the very diverse needs of the users of intelligence. At the same time, there is an effort to strengthen centralized coordination and management of the Community by the Director of Central Intelligence.

The second underlying principle is to try to preserve and enhance the flexibility of the Intelligence Community, both in structure and in resources, to adjust quickly to a world caught up in revolutionary change.

Now to the specifics.

First, to strengthen centralized coordination and management, the Intelligence Community staff will be abolished, and replaced by a DCI Community Management Staff headed by an Executive Director for Community Affairs. I have appointed to this position Mr. Richard Haver, the Assistant to Secretary Cheney for Intelligence Policy. I will bring Mr. Haver and his staff to Langley. He will have broad responsibilities for managing the community in terms of both program and budget. I expect his staff to identify cross program trade-offs, establish divisions of labor, reduce unneeded or unwanted duplication of effort, evaluate competitive proposals for investment from the Community, and to look for efficiencies and cost savings. This organization will, at the highest level in the Community, manage the overall intelligence requirements process, to ensure coordination among the major collection disciplines and to

evaluate performance in satisfying policymaker needs for information.

To enhance these management capabilities, we have asked in the 1993 Intelligence Authorization Bill for authority for the President to move resources from agency to agency within the National Foreign Intelligence Program. In practice this authority would be delegated to me and would be carried out in concert with the heads of other agencies and an observance of already accepted reprogramming procedures worked out with the Congress.

Second. We will strengthen an independent Community analytical and estimative capability. The National Intelligence Council and association National Intelligence Officers responsible for the preparation of all National Intelligence Estimates will be moved out of CIA and into an independent facility to underscore their independence from any one element of the Intelligence Community, including CIA. The size of this organization will be increased to enhance its ability to carry out analytical work and draft estimates with its own staff.

To underscore that the National Intelligence Council is the sole Community analytical structure, the Intelligence Community product committees—such as the Joint Atomic Energy Intelligence Committee, the Weapons and Space Systems Intelligence Committee, and the Science and Technology Intelligence Committee, all will be transferred from CIA to the National Intelligence Council.

Additionally, the Intelligence Producers Council, until now reporting to the Directorate of Intelligence at CIA, will become the National Intelligence Production Board and also be transferred to the National Intelligence Council.

Finally, to underscore the importance of the National Intelligence Council and its anticipated role, the Chairman of the NIC will become a member of the National Foreign Intelligence council—body which makes all resource allocations within the Community.

There will also be changes inside the National Intelligence Council. A Vice Chairman for Evaluation will be appointed whose responsibilities will include post mortems on previous estimates to assess the quality and accuracy of the work. He or she will also work with the National Intelligence Officers on each estimate to determine critical intelligence information gaps, which then will become priority requirements for collection.

A second Vice Chairman will be created for Estimates. This individual will not only manage the estimates production program, but also will have as his or her primary responsibility to ensure that all draft estimates encompass dissents and alternative scenarios to take into account potentially dramatic unanticipated developments.

As we in intelligence consider an increasing number of issues where the outcomes are simply not knowable, the Vice Chairman for Estimates will aggressively promote the use of Red Team-Blue Team or A Team-B Team working groups producing separate drafts for consideration. It will be this Vice Chairman's responsibility to ensure that alternatives are considered and that a competitive analytical process is structured for National Intelligence Estimates.

This is not merely a matter of different agency views—the primary focus of footnotes or dissents up to now. Rather, we must take into account substantive alternatives; the reality that we often cannot know what is going to happen, and that even a unanimous view may well be wrong.

The Vice Chairman for Estimates also will be responsible for ensuring that the drafts of estimates make clear what is known as opposed to what is being estimated. And that the drafts reflect levels of confidence in judgments. This individual also will be responsible for encouraging the NIO's to look to both controversial issues and future problems to ensure that the Community is not avoiding tough issues.

The National Intelligence Council over the years, from time to time has benefitted from the appointment of non-governmental experts from either business or the academic community, as National Intelligence Officers or members of the analytic cadre. I intend that this occasional practice in the past should be pursued more aggressively and that the National Intelligence Council and its analytic cadre should not only have substantial representation from all elements of the Intelligence Community, but from non-governmental institutions as well.

I believe we can create in the NIC opportunities for scholars to come in on short term arrangements to provide estimate drafts or analysis, or for individuals from the private sector or the academe to serve as National Intelligence Officers for longer periods of time. I also believe that we should look to non-governmental sectors for senior officers in the NIC.

Many of the problems we will be addressing in the future and in the coming decade are those in which there is considerable expertise and insight outside the government, and we should seek to benefit from that in every way possible. Specifically, I will look to fill the position of Vice Chairman of Estimates with a prestigious person from outside government.

Third. We must strengthen the management, direction, and coordination of intelligence collection—that part of our work that consumes the vast preponderance of resources. In making the structural changes that I am about to describe, I have used as a model some aspects of the National Security Agency, where one individual not only is able to task all of the signals intelligence collectors available to the Department of Defense and the Intelligence Community, but also has responsibility for establishing standards, ensuring interoperability, and budgeting and strategic planning in this arena.

Now the collection disciplines are sufficiently different that they all cannot and should not be exactly modeled on NSA. Indeed, none can. However, the idea of having an individual who is responsible ultimately for each discipline and who has as a specific responsibility the coordination and management of requirements for integrated disciplines and who can oversee standards and strategic planning as his or her primary responsibility is an objective to be pursued and has helped shape the following changes.

With respect to human intelligence. We have reached agreement to create a National Human Intelligence Tasking Center that will be managed by the Deputy Director for Operations at CIA. For the

first time in the history of US intelligence, we will have an integrated interagency mechanism for tasking human intelligence requirements to that part of the Community that has the best chance of acquiring the information at the least cost and least risk. The Center will have representatives from the Department of Defense and the Bureau of Intelligence and Research at the Department of State.

For many years, intelligence analysts have drawn broadly on openly available sources of information, ranging from foreign newspapers and broadcasts to scientific and technical journals. Heretofore, however, in each agency there has been no way readily to know the holdings of the other agencies, much less the ability electronically to share that information. Moreover, there has been no Intelligence Community requirements system that would guide the acquisition of openly available information. Accordingly, for the first time, the Community has agreed to the appointment of an Open Source Coordinator who will report to the Executive Director for Intelligence Community affairs.

The Open Source Coordinator, with a small staff, will draw heavily on task forces and working groups of senior line managers to remedy the three basic problems I have identified. That is, to establish a catalogue of the open source holdings, not only of each agency but of the Community as a whole; to establish a comprehensive requirements system that will guide the acquisition of open source materials for the Community; and over a longer period of time, to establish the capacity to share this information broadly within the Intelligence Community.

Another important responsibility of the open source coordinator will be to interact with the managers of other collection disciplines to ensure that they are not collecting against requirements that can be satisfied through open source materials.

One of the most difficult areas for us to address was that of imagery. I appointed a task force comprised of people from the private sector as well as formerly associated with the Intelligence and defense Communities to examine how we might better organize our management of imagery. It is a critical capability, but one that has been identified repeatedly in post mortems of Operation DESERT STORM as one in which there were problems.

The task force identified two basic problems. First, the lack of an integrated requirements process that would tie together national intelligence imagery assets reporting to the DCI and those tactical imagery capabilities reporting to diverse elements of the Department of Defense. Additionally, the task force noted the need for a structure in the Department of Defense that would deal with tactical imagery as a whole. This is consistent with measures already under way in the Department of Defense to address some of the problems growing out of Desert Storm.

The task force, like the legislation proposed by the two Intelligence Committees' Chairmen concluded that we needed a National Imagery Agency. They would have built this agency around the Defense Mapping Agency and the National Photographic Interpretation Center. We examined these recommendations in detail. Secretary Cheney, General Powell, and I talked at length about these recommendations. While some outside defense and the Intelligence

Community have strongly recommended going forward, there have been deep reservations within CIA, the Defense Mapping Agency, in the military services and elsewhere about proceeding quickly to the formation of a large new agency and the danger that in doing so, activities that are currently being performed well might be disrupted or damaged.

There has been little disagreement with the description of the problem. The issue has been how best to approach the remedy. Here, more than in any other area, people have been concerned first to do no harm. Speaking frankly, the task force found that the national intelligence system seemed to be working well and responsive to requirements. The area that needs to be addressed is the connection between those systems and the tactical systems as well as some new structure within the Department of Defense that encompasses the management of imagery assets.

Secretary Cheney, General Powell, and I, agreed initially to approach this problem a step at a time, including at a minimum, Defense making changes to strengthen the coordination and management of tactical imagery programs and my creation of a small organization that would become a part of this new Defense structure. Such an organization would improve the coordination of requirements drawing on both national and tactical imagery assets, as well as work on problems of standards, interoperability and strategic planning and budget.

At the same time, the three of us continue, even now, to examine more far reaching changes in the DOD-Intelligence Community imagery structure. I expect us to reach closure on this quite soon and I will report back to you as soon as we do.

Finally and very importantly, Secretary Cheney and I have agreed on a far reaching internal restructuring of the Intelligence Community organization responsible for designing, building and operating our overhead reconnaissance assets. I will describe this more fully in the closed session.

The fourth and final area of restructuring involves improved intelligence support to the military and to military contingencies. To this end and in parallel to the proposal in both legislative initiatives, I have established the position of Associate Deputy Director for Operations for Military Affairs, and an associated Office of Military Affairs in CIA. Thanks to the cooperation of Secretary Cheney and General Powell, this position has already been filled by Major General Roland Lajoie, United States Army. General Lajoie will be responsible for improving CIA's support to military planning, exercises, and operations. More specifically, this office will be responsible for coordinating military and CIA planning, strengthening the role of DCI representatives at major commands and at the Pentagon, developing procedures so that CIA is regularly informed of military needs for intelligence support, developing plans for CIA support in national, theater and deployed Joint Intelligence Centers during crises, and the availability of CIA officers for participation with the military on selected exercises.

I believe these steps, supplemented by additional budgetary changes designed to improve intelligence support for military contingencies will address many of the shortcomings identified during

the Gulf War, and will result in significant improvement in cooperation between CIA and the Department of Defense.

These four areas—Community management, Community analysis, integrating the collection disciplines, and strengthening support to the military—collectively represent a dramatic change in the way the Intelligence Community goes about its business. Some of these measures are being implemented immediately. Others will take longer. But we are beginning a process of change that I believe will gain momentum and spread to other areas as well. This process of change will continue. We are now concluding only round one.

I apologize for taking so long, but it is important that you know the full magnitude of the changes that we have under way in CIA and the Intelligence Community. In making these changes, there has been an unprecedented degree of cooperation and help from all of the 12 agencies and departments of the Intelligence Community. These changes I believe put us on the right path for the future, and will enable us to respond effectively to the changed priorities growing out of National Security Review 29, as well as the reallocation of resources to satisfy those changed requirements and missions. These decisions will significantly enhance centralized management of the Intelligence Community, and yet preserve the decentralization essential to its effectiveness. The changes also preserve flexibility.

I hope that as you reflect on these changes, you will do so against the backdrop of the changing and indeed revolutionary times in which we live. Except in the narrow area that I have identified for reprogramming resources within the National Foreign Intelligence Program, the Administration believes legislation is unnecessary. Indeed, in a fast moving world, I believe legislation would be unwise. We have responded substantially in nearly all of the areas identified in the proposed legislation as in need of change, and yet we have done so in a way so that if in a year or two we determined that further adjustment is needed in these structures, we can do so quickly and efficiently, without the need to seek new statutory authority.

Let me conclude by setting the stage for our closed session with several observations on changing priorities in the budget. Above all, I would like to correct certain misconceptions that have become conventional wisdom.

First, there is the impression that until now the entire focus of the Intelligence Community has been on the Soviet Union, and that with its demise, we are now searching eagerly for new missions with which to occupy ourselves. The facts are as follows.

In 1980, at the high point of our commitment of resources to the Cold War, 58 percent of the Intelligence Community's resources were dedicated against the Soviet Union. The remainder, that is, over 40 percent, were on a range of issues that remain of significance today. Developments in the Third World, international arms sales, proliferation, terrorism, international economic issues, international strategic resources, and a host of other issues. The 58 percent of our resources dedicated in 1980 to the Soviet Union, by Fiscal Year 1990, had dropped to 50 percent. With the readjustments in budget approved by the President this week to accommo-

date new priorities, total resources in the Community dedicated to the Commonwealth of Independent States will drop to just 34 percent. In CIA, that figure will be less than 15 percent.

In short, the Intelligence Community never was wholly preoccupied with the Soviet Union, and for more than a decade has been evolving away from the USSR to deal with the wide range of other issues of concern to the United States and the world. The Intelligence Community has not been oblivious to changes in the international landscape.

Second, there is the notion that the Intelligence Community has been sized to the Cold War and therefore must be significantly restructured and downsized. This, too, is not accurate. Between 1967 and 1980, the Intelligence Community lost 40% of its people and 50% of its money. By the end of the 1970's, the Congress, beginning with the Senate Intelligence Committee, concluded that intelligence had been cut too deeply and began a rebuilding of US intelligence capabilities. That rebuilding was shaped far more by the failure of intelligence to predict the Iranian revolution in 1979, than by any developments in the Cold War. As a result, the revived Intelligence Community of the 1980's focused on investment on non-Soviet issues and on maximizing the flexibility of our large overhead systems—a strategy that proved its worth in the Gulf War last year. Restoring our collection and analytical capabilities on the Third World was one of the primary areas of concentration. In short, what you have now is an Intelligence Community rebuilt and restructured in the 1980's by the Congress and the Administration with a far more diversified and challenging world in mind than simply the Cold War.

We will discuss budgetary specifics in the closed hearing. But I know that a number of you are convinced that this intelligence budget must be cut. I understand that. But I would point out that as we begin this dialogue, we already have been cut, and fairly deeply. We do not begin at the beginning. Based on our FY90 budget submission and looking out five years, the intelligence budget already has been cut by billions of dollars and thousands of jobs.

I would like to close by saying that the Intelligence Community has enjoyed for a number of years now very broad bipartisan support for a continuing strong American Intelligence Community. As we look to the future, the need for intelligence was perhaps best described by the President at CIA a few months ago when he said, and I quote, "A world without the Cold War confrontation is a safer world, but it is no Garden of Eden. This is not the end of history. Men and nations still have their propensities for violence and for greed and for deceit. We need a strong Intelligence Community to consolidate and extend freedom's gains against totalitarianism. We need intelligence to verify historic arms reduction accords. We need it to suppress terrorism and drug trafficking, and we must have intelligence to thwart anyone who tries to steal our technology or otherwise refuses to play by fair economic rules. We must have vigorous intelligence capabilities if we are to stop the proliferation of weapons of mass destruction. And so this is truly a life or death mission. In sum," he continued, "intelligence remains our basic national instrument for anticipating danger—military, politi-

cal and economic. Intelligence is and always will be our first line of defense.”

Thank you, Mr. Chairman.

Chairman BOREN. Thank you very much, Director Gates. And again, let me commend you as my colleagues around the table have earlier for moving forward so vigorously in this process, for the innovative way in which the internal study has been conducted, and for taking these recommendations to the President for his action early on in the process. I think, when your confirmation was under consideration, many of us said that we felt that with changing conditions we needed a Director who would step out quickly and forcefully to make needed changes. We are seeing that beginning to happen and we are encouraged by it.

I am also encouraged that you have identified so many of the common areas of concern that Chairman McCurdy and I have highlighted in our proposed legislation for consideration by the two Committees. You've confronted and focused upon the need to have a stronger management role within the Community for the Director so that we could end duplication and so that we could have reprogramming of resources as priorities shift even within the same budgetary year. I think you have focused also on the need to have single managers, at least in most of the areas. I want to come back to one of them, the human intelligence area, and discuss the need to decide the best way to determine how human intelligence will be collected. It may be less expensive to do it through the State Department or through a military attache than to have a clandestine station, for example. Someone needs to make those decisions.

I am encouraged by your proposal for what Chairman McCurdy and I talked about as a world class think tank. A place within the analytical structure, really separate and apart and distinct from the CIA, where we can bring not only the analytical resources of the CIA, the rest of the Community, other departments of government and, as you have highlighted today, some of our best minds from throughout the country outside government—from academia and from the private sector as well—to help us in terms of providing the best possible analysis for policymakers. I think there is a strong movement in your proposal in the right direction, and I find many common threads—perhaps 75 percent—in common with the basic thrust of what we hope to achieve with the legislation which we introduced.

So I welcome your comments and the fact that you have not simply sought to make a few changes around the edges, put on a few band-aids, a few patches but that you, in the course of your study internally within the Agency and the Executive branch, have sought to think in an innovative way and to tackle change in a much broader way.

Let me say, we welcome Ms. Kennelly who has joined us, our colleague from the House. It has been a pleasure to work with her on a number of occasions. And we also welcome for his first attendance at a public hearing as a newly appointed Member of the Intelligence Committee, our colleague, Senator Kerrey, from Nebraska.

The Members of the Committee will rotate for questions. We will take five minutes maximum time for each Member, rotating between Members of the Senate and the House. The Clerk of the

Committee will notify each Member when one minute is remaining.

Let me mention quickly two points before I turn to the Chairman of the House Committee.

You talked about the Executive Director for Community Affairs that would really report to you and work on making sure we don't have duplication, for really rationalizing and managing the whole Community both in the civilian and the Defense related intelligence agencies. How would the powers and function of that Executive Director differ from the proposed Deputy Director for the Intelligence Community as conceived in our original bill? Would it be roughly the same? You've talked in terms of reprogramming, looking at budgetary overlaps and coordination of all of the resources of the Community in, I would use the analogy, an OMB-like fashion in terms of other elements of the budget. How would this proposal differ other than title and exactly where would it fit in the organization chart?

Mr. GATES. Based on what I have read about in your legislative proposals and what I have read out elsewhere, I think there would be relatively little difference. I expect that this individual would be a very strong manager of the Community and that would have a more intrusive role in the actual management of the Community than has been the case in the past.

The truth of the matter is that an individual in this position, whether you call him or her an Executive Director or a Deputy Director, their role is going to depend on the responsibilities that they are given by the Director. And it seems to me that it is imperative to give this individual a great deal of leeway and a great deal of authority to carry out the kind of management tasks that I have in mind and that I think that you and Chairman McCurdy have in mind.

Chairman BOREN. Well, I noticed in your March 26 letter you talk about the provision on reprogramming authority, which is a part of this, so that you can move assets around between agencies in the Community whether they are in the Defense area or civilian. You could move assets and dollars from CIA to the Defense Intelligence Agency or vice versa, for example. You indicated that you anticipate that if this reprogramming authority becomes law, that the President would delegate the enhanced transfer authority to you as the Director of Central Intelligence to reallocate the funds. You made a similar statement today. If that is true, why shouldn't the law simply designate the Director of Central Intelligence instead of the designee of the President.

And second, I would assume that if we do enact this into law, whether we simply name the President or his designee generically or specify the Director of Central Intelligence, that you and the Administration, as far as you know, would have no objection to us having the normal reprogramming provisions. In other words, normally a reprogramming request, once it is made by the appropriate official, is submitted to the appropriate Committees of Congress to act upon. I would gather that you are not suggesting any change in the Congressional reaction process to the reprogramming request?

Mr. GATES. No. To take the second part of your question first, as I indicated in the prepared statement, I would anticipate continu-

ing with the same kind of reprogramming arrangements that we have with the Congress now, so there would be notice to the Congress and time to react and so on.

The reason for the way that the proposal has been submitted in terms of a delegation of the President receiving the authority and having it delegated to me, quite frankly, is a—there was a legal consideration and a concern about—on the part of attorneys in the Executive branch at having in the law a requirement for coordination within the Executive branch. In other words, the President doesn't have to coordinate with anybody, and quite honestly, the arrangement that led to Executive branch agreement on this proposal was that if I wanted to move a certain number of dollars from CIA to the Defense Department or to DIA or vice versa or whatever, it would be done in concert or in consultation with the head of the other agency. They—the people involved in drafting legislation in the Executive branch did not want that aspect in the law itself, and that is why they chose to put in that it would be delegated to the—or that the President would have the authority and that he would then delegate it. And then by Executive Order, I will be required to consult with others in the Executive branch as I do this.

Chairman BOREN. Two other quick questions.

Let me say to my colleagues on the Senate side, we are voting now on final passage of the continuing resolution, so Senators may wish to vote and return. When I complete my questions, I will turn to Chairman McCurdy for his questions and then he can proceed down with House Members questions while we vote until we return.

I am very pleased about the concept of increasing the role of the National Intelligence Council and making it more independent. I know you talked about actually moving the physical location so it is not viewed as dominated administratively by the CIA. It really becomes an interdisciplinary analytical think tank, so to speak, utilizing all the various agencies of government as well as the analytical capability of the CIA and people outside as well.

Would it, do you think, improve its status and prestige to have its own statutory authority? I wonder whether or not you think a separate budget apart from the CIA, which of course would still come to you as head of the Community for approval, would be something that also might lend additional prestige to this unit that we hope will really become a focal point of our analytical process.

Director GATES. I haven't thought about a separate line item budget for the National Intelligence Council, Mr. Chairman. I'd be happy to do so. With respect to statutory recognition of the National Intelligence Council, I think that probably having it named in law would give it additional stature. Again, as I indicated earlier, I do have concern that we retain—just as I am restructuring it to create two Vice Chairman for different functions, I would be concerned that my flexibility with respect to the NIC not be limited.

Chairman BOREN. Right. I understand that, and if we did statutorily name it or charter it in that sense, you are certainly right. We wouldn't want to go into such detail that it would prevent you from experimenting with internal structures and changing it. If

the first attempt didn't work out as you anticipated and also as issues change, you need the flexibility to change.

One other question on this matter. When Ambassador Abramowitz testified to us based upon his experience in the intelligence field at State, he said this, and I want to quote from him: "We need to attract some of the best people. That includes the unorthodox as well as the orthodox. One way is obviously money. Another way may be to reexamine the security clearance process which may be overly restrictive in weeding out promising analysts, or because the polygraph deters some creative minds from applying." Now, he is thinking not in terms of operations officers. He is talking in terms of the kinds of analysts that might be drawn out of academia, for example, into the National Intelligence Council, maybe even on short term assignment.

Of course, the polygraph is part of our basic procedure in the Intelligence Community. Do you think it would be wise to at least give some thought to review, for certain kinds of short term analytical positions, the polygraph procedure? Not to dispense with the polygraph or with background checks completely, but perhaps we could limit polygraphing to counterintelligence kinds of questions so that we certainly screen out any of those that would have had contacts with foreign agents or counterintelligence capabilities instead of the more broad life style questions.

Director GATES. I am certainly willing to give it serious consideration. I know that now in terms of CIA's relationship with the academic community, over the past four or five years, something like 600 scholars have done contract work for the Agency, unclassified contract work, I think. There have been some 250 that have done monographs for CIA. Some 400 CIA analytic products have been reviewed by scholars, and I am confident that in most of those cases there was no polygraph and no full clearance process, but rather perhaps some limitation in terms of the kind of access they were allowed, both to information and to facilities. And so there may be something that could be worked out that could bring some additional flexibility at least in terms of what they could contribute to us. So I think there is some possibility there but it would need careful consideration.

Chairman BOREN. Right, I understand. I think it would be something worth looking at, because there is a certain value to having the best and brightest people out of various communities—academic community, the private sector—physically in a place where they are talking and interchanging with others who work on estimates. Perhaps there's a way of allowing people to come and go in and out of the system with a little less bureaucratic barrier.

Finally I notice—and I know my colleagues wants to go into this matter as well—your blue ribbon panel recommended unanimously and unambiguously that we move toward one national collection and acquisition agency for imagery. I just happened to look over some of the—and I will not quote classified portions—reports of your own committee.

The reports talk about the current dispersal of imagery acquisition planning—piecemeal planning; separate organizations concentrating on specific segments; no single entity in charge of overall process; no firm mechanism to coordinate between them; relatively

limited knowledge of many operational military users of what capabilities are available; lack of effective access by operational commanders; limited ability to disseminate imagery to field echelon commanders; need for a single architect; and I could go on. Also mentioned excessive cost overruns in many cases which are of no small interest to the taxpayers. And the task force believes strongly that imagery functions need to be consolidated into one agency.

After an excellent report, I might say, from a task force that also included distinguished active and retired military officers, why is this an area that we seem to have ducked taking the kind of bold action that is necessary and recommended by your own task force?

Director GATES. I knew there were drawbacks to this openness business. [General laughter.]

Chairman BOREN. I just wanted to bring back memories of this room to you with that kind of question.

Director GATES. Most of the problems that have been identified in the post mortems of DESERT STORM having to do with intelligence, and particularly with respect to imagery, have to do with the tactical systems, and have to do with how the information is passed from the commander to subordinate commanders. As I indicated, there is widespread agreement on the description of the problem. The difficulty is in figuring out how to address the problem, how to remedy those problems. Quite honestly, part of the problem in the National Intelligence Community with the proposal of the task force, was the worry that in the absence of an existing tactical imagery program on the defense side, that to take something that now is working well on the national side and glue it together with something that doesn't even exist on the defense side, might result in a contagion in the wrong direction—that in effect, by putting together a very new and unformed structure on tactical—on the tactical side, you might somehow weaken the performance of the national side.

I think in all candor that there are also some internal problems in the Department of Defense in terms of how to come to grips with the problem in terms of how to remedy this situation. As I indicated in the testimony, we are continuing to look at this. I think that there are probably people meeting on it even as we are meeting. And I think that there is still the possibility that we can come up with something that at the outset is more integrated.

The approach that we have already agreed upon I think sets the stage for the growth towards greater integration and dealing with some of these problems. I think that it represents a significant step ahead of where we are because it is premised on the creation of a new structure in Defense to deal with the shortcomings of their situation. And so I think that that in itself represents a substantial step forward. We'll see if we can go further faster.

Chairman BOREN. Well, I am going to turn now to my colleague, Chairman McCurdy, to chair the questions from the House. I know he will want to pursue this with you as well. In all candor, I do think that this is an area where the plan does not measure up. This is a glaring gap. And, unfortunately, this is a gap in an area where many, many, many of our dollars are going. A very high proportion of our dollars are going into this area. It is not a million dollar area, it is a multibillion dollar area in which the taxpayers

have a strong interest as well. So I really hope that these conservations will result in going back to the drawing board because this is one where I think we have a strong responsibility to the taxpayers to come up with a better answer. I frankly think we came up with a better one originally.

But I will turn you now over to Chairman McCurdy and questions from Members of the House.

Representative McCURDY. I thank the Chair. I would advise him not to be gone too long—we might get comfortable with these rather lavish conditions over here.

I want to know how you get tickets to those sky boxes up there. [General laughter.]

Representative McCURDY. Mr. Director, I think I want to do as the distinguished Chairman from Oklahoma had indicated, follow up somewhat in this area. He and I have discussed this at length. This is one of the areas that in almost every one of our public hearings a distinguished set of witnesses did—or come close to developing a consensus—that there had to be corrective action. Many supported the concept. Some who came in said at the outset that based on some briefings that they had had or conversations, probably some phone calls before they came over to testify, that they had grave reservations about it. When I read the charter of what the Agency was supposed to be, similar to NSA, and I asked if this was such an onerous position, they tended to back off.

I want to ask you, on page 30 of the House bill, regarding imagery intelligence activities of a National Imagery Agency, we set forth a charter which basically says that there is hereby established within the Department of Defense a National Imagery Agency which shall be headed by a Director appointed by the Secretary of Defense, after consultation with the Director of National Intelligence. The Director of the National Imagery Agency shall be appointed for a term of four years, subject to removal by the Secretary.

And then you go into the specifics of this charter. It says the Director of the National Imagery Agency under the direction of the Secretary of Defense, shall establish and operate, subject to the authority and guidance of the Director of National Intelligence, a unified organization within the Intelligence Community for: (1) establishing and giving direction for the conduct of imagery collection activities; (2) the exploitation and analysis of the results of such collection; (3) the dissemination of the product of such collection in a timely manner to authorized recipients within the government; and lastly, (4) the establishing of product standards and dissemination standards to cover the functions specified in paragraphs (1), (2) and (3).

Does that appear to be an overly specific legislative intrusion into the activities of the Intelligence Community? It seems to me that is a fairly broad baseline type of organization.

Director GATES. No, I wouldn't describe it as particularly overly intrusive. My concern with the National Imagery Agency, and in fact, one of the ironies in this task force is that they asked me going in if I had any preconceived notions, if I was going to put any limitations on them in terms of what I was prepared to consider at the end of the road. And I said, well, the only consideration that I

have is that I am not really very much interested in creating a new big institution, which is of course exactly the recommendation they came up with.

Part of the problem has less to do, from my perspective, with the kinds of functions that this agency would undertake, but rather the practical difficulties in terms of putting it together and the impact on existing organizations. The major difference that I detect in the charter that you read with what the task force recommended is simply limited to the fact that the task force would retain the distributed analytical and exploitation functions of the different—of CIA and DIA and so on.

I continue to believe that the problem I identified at the beginning of this process is the core of the problem, and that is, we need a way in which one individual or somebody who can be in charge, has the authority to task national and tactical assets available to both the Intelligence Community and the Defense Department, and enforce standards, interoperability, and do strategic architecture or strategic planning and budgeting.

Now there are just candidly, a lot of bureaucratic difficulties in trying to wire that kind of thing together given the existence of a lot of other institutions. And frankly, the inclusion by the task force of the Defense Mapping Agency in many respects complicated the issue, because Defense Mapping is a huge organization. It's got thousands of people in it. They are very dependent on satellite imagery, however, and that was the reason why the task force put them in that—put them in that position.

So I think that what we have here is less of a difference, as I indicated earlier, of the perception of the need, but more a concern with the problems of how you get there from here.

Representative McCURDY. Well, I understand that, but given the fact that you have reservations about the bureaucratic turf battles and the problems within different organizations, and the fact that not only your task force, but our legislation and the witnesses that have appeared before us have cited this as one of the most serious shortcomings. I think it all points to the fact this is the one we need to focus on in greater detail. We're not talking about creating a super agency all brand new from the start. We have these functions now in place but they are just dispersed throughout the Department of Defense and elsewhere, some classified, some not.

The response that you, and the Secretary of Defense, and General Powell have come up with is basically that you're considering some sort of bridging organization to integrate national and tactical imagery intelligence? I mean, how do you expect to organize this structure, who will be in charge, who will make up the staff complement, how will a bridging organization work if it does not have the budget authorities commensurate with its responsibilities?

Quite frankly, we tend to agree that there is a problem, we agree that there needs to be a remedy and you say you want to get there, but my analysis from this side of the River at least is, you are probably the one person who, as Director, probably can't implement this portion. All of the other recommendations you make from your task forces save the ones that call for legislative action, I think you probably can, if you'll continue to fight, have implemented. This is the one that cracks the most crockery. This is the one

recommendation that steps on the most toes. This is the one recommendation that concerns the biggest amount of funding, and therefore you are going to get the biggest amount of opposition to it. And I think we have to find more than some bridging mechanism to get there.

If you want to respond to that, go ahead, and then I have one last point. Go ahead.

Director GATES. I would just say that I think what we have in mind even as the minimalist approach really is more than a bridging mechanism, because it envisions Secretary Cheney breaking a fair amount of crockery. It's a staged breaking of the crockery and would require the Defense Department first to take steps to get its own house in order on the imagery side and to create a coherent tactical imagery program and find out how they want to wire all this together before proceeding immediately to make that part of the learning experience and creating a big new agency that includes both the national and tactical systems. So I think it is important to realize that Defense is already, and I think it is an important step forward by Secretary Cheney and General Powell, that there needs to be a structural change in the Department of Defense to deal with this problem. They are prepared to move out to create that new structure, and the bridging mechanism would be part of the staging in which I would have an element in there in that new structure in order to begin the process of integrating these two systems. So it is a longer range approach to it but I think that the commitment that they have made in effect to overcome some long standing protection of rice bowls is a fairly far reaching one already.

Representative McCURDY. Well, that's a—and I don't doubt your comment at all, but it's an interesting comment considering the letter that the Chairman of the House Armed Services Committee received from the Secretary of Defense who castigated the legislation as a massive intrusion with incredible language about how it was unnecessary and it was the wrong direction and wrong headed. In the same letter the Secretary also says, by the way, we're going to do this all on our own anyway.

It's one thing to say we're going to take care of it, but it's none of your business, leave it to us to consider the impact and the effective nature of this organization or organizations.

Let me just go through as Senator Boren did and summarize some of the areas in which I think we have come closer. I don't know if it is 75 percent—if you recommended 75 percent of what we have. Part of the proof of that will be when we see the final implementation. But I do commend you for the steps you've taken.

One of our initial recommendations of course, and the thrust of it, was to enhance the power of the Director. We changed the name to a Director of National Intelligence. Some people have said they don't care if it's DCI or DNI, the effect is there needs to be enhanced power including transfer authority.

We have discussed the charters. I indicated that—I read to you the charter of the NIA. Change imagery to signals and you get the charter of the NSA. DIA is very similar. Again, very simple, straightforward charters.

There was a recommendation with which I think many agreed that the DNI or Director should be a member of the National Security Council.

There was constructive criticism, and I accepted it as such, that we need to ensure that there is competitive analysis. We all accept that. If the language in the bill was unclear there, I think we need to clarify that.

And as Senator Boren said, the analytical division, at least in your National Intelligence Center, was a step that we felt was necessary.

And lastly, we commend you on your changes in the Intelligence Community Staff. I think that was long overdue and I applaud you for that move.

Having said that, let me now yield to the Ranking Republican Member of our Committee, Mr. Shuster, for any questions he may have.

Representative SHUSTER. Thank you very much, Mr. Chairman.

Mr. Gates, I certainly want to congratulate you for the extraordinary progress you have made in a very short period of time in both the depth and breadth of your reorganization efforts.

I think one of the beauties of your approach is that it is not etched in legislative stone. In fact, I would be worried that you are moving too fast if you did not retain the flexibility to back off and make changes. I think that is one of the real beauties of you making management decisions out there rather than our passing substantial legislation to be etched in stone.

One of the things that has interested me greatly is that rather obviously, organizational structure exists to meet needs as needs are defined. Back in November the President tasked some 20 Federal agencies to review their intelligence needs through the year 2005 and submit those recommendations to the National Security Council, I believe by February 20. The NSC was to approve these requirements, and then you were to conduct a review of the resources to determine how best to meet these needs. And as I understand it, your review was to be done by March 20.

To the extent you can discuss in open session, how are the results before us today based on this National Security Review 29, which—[Pause.]

Representative SHUSTER. If you want to respond to that, then we're going to have to leave for a vote. The bells just rang.

Director GATES. What you have here are two processes going forward in parallel, one on the substantive and primarily budgetary side in terms of the priorities and substantive needs of the policy community out the next dozen or fifteen years, and the other, changes to improve the management of the Community.

I believe that the changes in the world did not make the changes in the Community structure necessary—they made them possible. Many of these—some of these things that we have recommended or that I have recommended have been thought about before, but the bureaucratic inertia was too great to overcome in a world where there was still a Soviet Union and a Cold War and so on. The changes that took place in the last few months of last year I think created an environment in which everybody realized that we had an opportunity here for change and an opportunity to lay some

foundations for what this Intelligence Community was going to do for the next generation, and it created an environment in which people were ready to contemplate and agree to some structural changes that heretofore had not been able to have—we hadn't had any progress on. So the two really have gone in parallel. They intersect in some respects, but they are pretty much separate.

Representative SHUSTER. Mr. Chairman, I would like to reserve the balance of my time.

Representative McCURDY. If the gentleman from New Hampshire would allow, the gentleman from Washington State wanted to ask a quick question before the vote and then I would be glad to yield to the gentleman.

Representative DICKS. Mr. Gates, I want to congratulate you for the steps that you have taken here. I think a lot of what you have proposed as you suggested was driven by the fact that you have your task forces, you had the legislation introduced by the two Chairmen. One thing that I noted was your decision to try to develop a kind of alternative analysis—the red team, blue team, alternative A, alternative B—and having both evaluations, I think it was Vice Director, and estimates.

Can you give me a little understanding of why you feel that is important and why you think that is a significant step?

Director GATES. I think one of the hardest things we have tried to do over the years in the Intelligence Community is encourage alternative points of view. I think that the current circumstances in the world make it possible for us to perhaps have a breakthrough in this. You know, the notion that dissent was suppressed in National Estimates and that sort of thing, I think there is really a misunderstanding of the way the process has worked. The fact of the matter is on most issues, most of the people in the Community if not almost all the people in the Community were prepared to sign up to the conventional wisdom. And there was the problem, because most of the time when the Intelligence Community has been wrong in the past, it has been because the conventional wisdom was wrong.

And so it seems to me that as we confront a growing number of problems and issues in the world in which the answer isn't a secret, the answer is a mystery—nobody knows the answer—that we do the policymaker a disservice by pretending that there is an answer, there is just one answer.

Now I think we always owe the policymaker a best estimate. We always have to tell him what we think is the most likely outcome. But now I think we can't wait for agencies to take footnotes or to formulate dissents. We have to build into the very root and branch of the estimate itself the alternative outcomes. What if we're wrong? What are the different ways this could come out? There is no right answer to the question, what is the prospect for reform in Russia today. You can address what you think is going to happen, but I think it would be irresponsible not to address what if we're wrong? What if it goes a different direction? And what might those different directions look like and how might we recognize if it is headed in those different directions.

So this structure to build in the competitive analysis is really more an effort to enrich these estimates for the policymakers in

helping them think through and understand the kinds of issues they are going to be confronting overseas.

Representative DICKS. Well, based on—without getting into anything classified, based on what we saw in the Gulf, I think this is a very good thing to do. Based just on my experience as a Member of the Defense Appropriations Subcommittee, and now a Member of the Intelligence Committee, I think that making this a requirement to look at alternatives and to give it equal billing is a very, very positive step.

One other question that I have been concerned about comes in the question of imagery. I know you have talked about the agency itself. What I have been worried about is one of General Schwarzkopf's statements when he was testifying before a variety of Committees, that one, he had trouble getting good intelligence and utilizing it. I frankly think that the Intelligence Community did a good job—maybe it was more a staff problem. But one of the things that he said was a very significant shortfall was using broad area search and being able to get direct, day-night, all weather types of photography. What always worries me is that a person who is very skilled in reconnaissance told me that every time we have a war, people get all excited about reconnaissance. As soon as the war is over, reconnaissance goes down to the bottom of the list of priorities. Your imagery group has dealt with the requirements and the needs for improved imagery collection. I would just like to know what you have in mind in this particular area.

Director GATES. I think that there is a valid and an important requirement for broad area search. And what we in the Executive branch are engaged in and what we are talking with the Congress about is what is the right kind of investment to address that problem.

Representative DICKS. Well, again, I just hope that we don't—now that we are in a peacetime situation, that we don't make the same mistake that we have made in the past, and that is ignore a very serious deficiency which General Schwarzkopf said was his most serious intelligence deficiency.

Thank you, Mr. Chairman.

Representative McCURDY. I thank the gentleman.

The distinguished gentleman from New Hampshire.

Senator RUDMAN. I yield to Senator Cranston.

Representative McCURDY. The Senator from California.

Senator CRANSTON. I thank my colleague from New Hampshire.

I am delighted to have this chance to be with you today, Bob.

One matter that has concerned me is the overclassification of documents. You have indicated that you will do more to expedite declassifying historical documents and have more briefings that are open to the public. But I believe there is still a lot to be done now on documents that get classified and lead on the one hand to a feeling that maybe this doesn't need to be protected because it is such a widespread use of that. One example is that there came into the hands of a member of my staff a shuttle bus schedule that apparently is posted on the entry to the Intelligence Community Staff building, but that was marked confidential.

What are you going to do to try to ease the classification of documents and material that need not be so classified?

Director GATES. The first step that I took produced some interesting results. Before I was confirmed, I drafted National Security Review 29, and I specifically did not classify it. It is interesting to note that it didn't leak. So I think maybe we ought to declassify or not classify anything, and those things that are unclassified, we ought to stamp top secret.

I think first of all, in some respects this process of change and reform and the spirit that it has engendered has created an environment in which people are thinking about this at all levels for the first time. The openness initiative that I have taken; the greater communication within CIA in terms of how much we share with all the employees; the willingness to share all these task forces with the employees; the fact that some of the decision memos are unclassified; that we are conducting this hearing in the open. But I think also something that has had an important impact in terms of the way people think about this is the declassification initiative that I have taken, because people are now paying attention more through a combination of all of these measures—the openness initiative, the internal communication, the historical declassification—they are looking at a memo or somebody in their office is now looking at a memo and saying, well now, tell me again why this is classified. There is nothing classified in this memo.

I think what has started, and I think we are only at the beginning of it, is a process in which people genuinely think about whether the document that they have generated is classified or not, as opposed to it being an automatic reflex, particularly in the Intelligence Community. My guess is it is probably more automatic in our world than it is in any other part of the government. And I think all it can be is a cultural change, and as we are changing some of these other aspects of the culture that I talked about early on in the prepared statement. I think it is also having a spillover effect in an area like this. But it will take some time, and frankly, it will take some continuing pressure from the top.

Senator CRANSTON. Hope you can provide some vigorous leadership in that direction.

You indicated that resources have been and now are being redirected from the focus on the Former Soviet Union to elsewhere. Perhaps you would rather answer this question in the closed session, but I am curious about where the resources are now being directed that were formerly directed to the Soviet Union.

Director GATES. I think I can say in very broad terms that the—as we have taken away from some areas and added to others, those areas that we have taken away from have tended to be traditional Soviet—some traditional Soviet military targets, particularly some aspects of their conventional forces; indications and warning; Warsaw Pact; those kinds of targets that we devoted a lot of resources to over the years where we are moving away from at a more accelerated rate.

At the same time we are intensifying and accelerating our efforts in other areas, most of which we have been dealing with before. The proliferation area is probably the—after some new targets relating to the Former Soviet Union that I would prefer to go into in closed session, proliferation is probably our highest priority and there is a substantial and new investment in that. There is a sub-

stantial new investment in some of these collection disciplines that will address some of the new requirements in the NSR. That is very broad. If you don't mind, I would prefer to address it in more detail in the closed session.

Senator CRANSTON. My time is up, so let me just say one thing. This will not be a question. I think it is very likely that there are going to be some budget cuts made in CIA and in the Intelligence Community, and it would be very helpful for you to give us some guidance on what you consider the highest priorities and lesser priorities as we get to that.

Thank you very much.

Director GATES. Yes, sir.

Chairman BOREN. I might announce that all Members of the Committee have now completed the voting on Admiral Studeman's confirmation. It is a unanimous recommendation of 15 to 0 of the Committee that he be confirmed to be your Deputy.

Director GATES. Thank you.

Chairman BOREN. I will now turn to Senator Rudman, and let me say, Senator Rudman, I think this is your first appearance before this Committee since you have announced your decision not to seek reelection. It is a decision that I know you made after a lot of thought, but it is a decision that I certainly regret for the sake of the country as well as the sake of the work of this Committee because you have made an enormous contribution. I think that under normal circumstances when a Member of another party decides to leave the Senate and the possibility is opened up for a possible gain of that seat for your own party, traditionally there might not have always been a unanimous feeling that it is a bad thing when a Senator of the other party decides to retire. I can tell you that from having talked with all of our colleagues, it is a unanimous feeling in the Senate that it is a great loss to the country for you to retire and we are going to miss you as a Member of the Senate and this Committee.

I will be going off this Committee but this Committee will miss your deliberations in the future as well, because your contribution to the bipartisan work of this Committee has been so important. I hope you will continue to advise us from the private sector, from real life, after you leave here. I just want to take this opportunity to thank you for the conscientious service that you have given.

Senator RUDMAN. Mr. Chairman, thank you very much for those very gracious remarks. I can assure you that the things that weighed heavily on me were those things that I enjoyed about the Senate, and this Committee has been a very special experience. The Members, the Staff, the people who appear before us and the substance of the work—I will miss them.

I want to say to you that I think this is a remarkable statement. I don't think anyone who sat here last September and October could miss the significance of the statement that you have presented to us today. I can recall that before the Chairman had publicly spoken a great deal about reorganization in detail that there were a lot of questions about what needed to be done—questions from the Chairman and from others who truly are expert in this area. And I want to say to you that your answers at the confirmation hearings were different than a lot of answers at confirmation hear-

ings—quite often those answers are like government reports of consultants: they end up in wastebaskets. But I think that this statement is a precise response to many of the things that were raised at the hearings and which you told us that you would do. And I find that very refreshing. I will never forget the tumultuous days of last September and October, nor do I think that you will. I think this is a great vindication of the things that you told this Committee, and I think the reason, frankly, that you were confirmed by the United States Senate was the response to many of those questions. So I thank you for the statement. I think it is a remarkable document and one that I think deserves a great deal of study.

I really only have a couple of questions, and I will phrase the first one generally. I note on pages 35 and 36 of your statement, you refer to budget cuts and my colleague from California has referred to that and I think the popular wisdom here, the conventional wisdom is that probably we will have some. But I would submit this question to you. At a time that we are going to have far less in the way of military assets in terms of divisions, air wings, ships, I think a strong case can be made for not weakening in any way the intelligence assets of the country. They become even more important when you are dealing with a smaller force and when surprises cannot be dealt with in a way in which you could deal with them if you had adequate forces.

I wonder if you would like to respond to that?

Director GATES. First, thanks for your nice comments, Senator Rudman. When the President and Secretary Cheney sent up the \$50 billion in additional Defense cuts here, they did not take a single nickel from the Intelligence Community. I think that speaks volumes about their perspective of the priority that they attach to intelligence and I think also their shared view with you that at a time when the military is being cut substantially, both currently and prospectively, that there is potential danger in cutting the early warning system, in cutting, as the President referred to it, the first line of defense.

That said, I think we then will be, as I hope you will see in the closed session, we are transferring substantial resources to new priorities. I think it is also incumbent upon us, if we are going to ask to receive essentially the same level of resources, that we have to satisfy you that we are spending them wisely and that we are not just continuing blindly down paths that we have followed in the past.

I will tell you about the NSR. The NSR presented us with 176 requirements. I will go into those in a little detail in the closed session. They are very broad requirements. It is not sort of this specific, tell us how long it will be before North Korea has a nuclear weapon, but rather broad issues like proliferation. There was one category in which the National Security Review was a failure. I inserted into the draft a request of the policy agencies to tell us what we can stop doing. There was not a single submission. Not one. So we have a large number of new requirements in some areas that are non-traditional for the Intelligence Community—the environment, a variety of international safety issues such as the safety of foreign nuclear reactors, what people are doing with nuclear waste, and as I indicated environmental issues, some health issues and so

on—so we have a substantial additional burden that has been placed on us, and I hope that later on this afternoon we can begin that dialogue about how we use the resources that we have.

But clearly the President and the Secretary of Defense and I have the view that with the results of the NSR, that we believe it would be prudent to continue it at essentially the same level. We are not asking for any more resources, and in fact I think in real terms—meaning taking into account projected inflation—the intelligence budget will go down about 2½ percent.

Senator RUDMAN. I have about a minute left, and I thank you for your answer, because I share your view and I hope that we can be prudent in what we do. It's one thing to reduce forces. It's something else to take down the warning systems. To do both simultaneously in equal amounts, I think would be a very big mistake, and we could well pay for it.

One of the things that I learned during your confirmation hearings was a misperception on the part of many that analysis—and in your statement you mentioned how you are going to change that function—is essentially a product of a compilation of empirical data, which you put into a mix or a matrix from which you get an answer. My sense is that that is a small part of analysis, and the larger part of it is based on what I would call the art of deduction from conflicting data.

Is one of the areas that you are directing yourself to is to say to the policymakers, look, there is a lot of deduction here as well as empirical data, and we might think it is going this way, but you, with your broad experience, ought to have a chance to look at the full panoply of alternatives. Never mind footnotes, we'll look at what's going on here, and you make the decision rather than somebody over at the Agency making the decision on what is correct. Are you saying that to us to some extent?

Director GATES. Yes, to the extent that we will try and structure these estimates in a way that they understand what the alternative possibilities are. I do think we always owe them a best case—a best estimate. We always owe them to say this is what we think is the most likely. But we owe them, as I indicated in the statement, we also owe them honesty about what is known and what is being estimated, and the level of our confidence in our judgment. There are some judgments about which we are 90 percent confident, and there are some judgments about which we are 35 percent confident.

So I think we just need to be more straightforward about what we know and what we are estimating and the level of our confidence in all of this. And you know, now we will get policymakers—I'll just take another minute here—we have an educational problem with policymakers. You all think this a great idea, and I have talked to a lot of other people up here who think that it's a great idea. But often when we do this kind of an estimate, what we hear from some of the policymakers is, well, the Intelligence Community is just trying to CYA by making sure that they have got in the record that they have taken every conceivable position on this issue so that they can't be wrong. So we have got some education to do. It is also why we owe them a clear best estimate. But we also have some education to do with the policy community as to what

intelligence can do for them in helping them think through a problem as well as in giving them an answer.

Senator RUDMAN. Thank you very much. And let me say that in my eight months or so remaining here, I intend to stay fully engaged with this Committee and look forward to working with you.

Director GATES. Thank you, sir.

Chairman BOREN. Thank you very much, Senator Rudman.

Senator Kerrey, again we welcome you. Any questions that you would like to address at this point?

Senator KERREY. Well, thank you, Mr. Chairman. Yes let me just ask a couple that actually perhaps betray my newness to the Committee.

But it does—it seems to me that the nature of the threat has changed in a rather substantial fashion. The previous threat was not just a dangerous world, but that the Soviet Union indeed presented a threat to our way of life. They could destroy the United States of America and had declared war throughout the world, not only upon us but upon our interests. And I simply don't see a comparable threat out there. Do you agree with that? I mean, I understand the world is still dangerous, I understand the world is still violent, but it does seem to me that when we are going to taxpayers and asking them for money and we're going to take some of their money and we are going to invest it, understanding, as Senator Rudman said, that we need to be prudent as we make reductions—and I intend to exercise prudence in my decision—it does seem to me that there is no comparable threat remaining?

Director GATES. There certainly is nothing comparable to what we encountered from the Soviet Union. The chances of a war in Europe are I think almost non-existent at this point. I think that the danger of a nuclear—a global nuclear war launched by the Soviet Union or by its successor is highly unlikely, almost inconceivable.

But part of the problem that we have is—two things. First of all, in a complicated world, our way of life is threatened in different ways. I don't want to get into policy issues, but when the United States is deeply dependent for its way of life on imported oil, what goes on in Iran and Iraq and in the Persian Gulf area becomes very important, in terms of our national security and national well being. And that is a current reality. Maybe it will change over time, but that is certainly the current reality.

In addition, we are still, I think, in a very awkward situation with respect to the Commonwealth of Independent States. We are all very gratified and pleased by the direction of events there, by the progress of reform. But the fact is, they still have 30,000 nuclear weapons. The largest and most powerful of those are still targeted on the United States. And I don't know anybody in the analytical community that does not believe that the prospects for reform in Russia depend enormously right now on just one man. And if something should happen to Boris Yeltsin, it's not clear what kind of a government would come to power in Russia. But that government would have access to those nuclear weapons.

So what I was trying to say in my prepared statement is all the trends in terms of both the Commonwealth of Independent States and in the world in general in many respects are very encouraging.

And we are going to need to change our approach to this, both institutionally and in reality probably fiscally. But we need to gear those changes to the real changes that are taking place overseas, and not our hopes about what is going to evolve down the road two or three or four or five years from now.

Senator KERREY. Well, I am going to insert not only for the record but for your information, that I have strong reservations about this notion that reform in the Commonwealth of Independent States depends upon one man. I mean, that is what Lyndon Johnson said about Barry Goldwater in 1964, that's what Jimmy Carter said about Ronald Reagan in 1980. I mean, the fact is any time you look to have a democratic change there is always a representation that the change is going to be dangerous. And so, it does seem to me that what is at stake here is democracy is trying to make democracy itself not only work, but work well enough so that you don't have fear about that transfer of power and that change of power. Now perhaps I am mistaken about the fragile nature of democracy in the Commonwealth, but I do think it is a dangerous thing for us to simply focus on one individual and say that that individual himself becomes a paramount concern.

Could you respond to that, perhaps enlighten me as to whether or not we have a disagreement?

Director GATES. Well, I think in principle I certainly don't disagree with you. I think they have made extraordinary progress in the development of political democracy in Russia in particular. But the roots are very, very shallow at this point and there is no other politician with the kind of leadership skill or popular following or a feeling for how much the Russian people can take in the way of sacrifice. And there are a lot of cross currents at work in Russia right now of different groups and extreme nationalists and a lot of economic problems. This is a country that for all practical purposes has not known political democracy in its entire history of a thousand years. So it is going to be hard going for them in any event. I just would feel more comfortable if there were a couple of other leaders in Russia who had the kind of popular following and sense of commitment to political and economic reform that Yeltsin does at this point.

Senator KERREY. Can you, Mr. Gates, talk a little bit about increased use of open information? I am thinking in particular that not only do we sometimes find ourselves wondering how journalism acquires secret information, but it is also of interest to me that very often, journalism acquires information that is not secret that is just as valuable. I think in particular lately the reporting that has been done by Chris Hedges in the New York Times of activity in southern Iraq and in northern Iraq. If he survives, he ought to win a Pulitzer for what he has produced so far. But it seems to me that this kind of information coupled with information that can now be acquired through just general business activity can be extremely valuable and might in fact offer opportunity even for replacement intelligence.

Director GATES. I think it is very true that open source information is very important to us. I have to admit from time to time over the last several years being very jealous occasionally of journalists—of journalists who can just walk in and have an interview

with Yasser Arafat instead of some of the things we have to do to figure out what is on his mind.

Clearly, as we are asked to work on a range of issues from economic intelligence to the environment to even political and economic developments in many of the new republics of the Commonwealth, the availability of open sources is a tremendous asset to us and one of the reasons why I am taking the organizational steps that I am to better organize the way we go about collecting or acquiring open source information is so that we don't waste resources by using expensive signals intelligence or human assets when in fact all we have to do is buy a magazine or a newspaper to get the information we are after.

Senator KERREY. Yes, I am not arguing that there is no need for clandestine collection. I am just arguing—

Director GATES. No, I understand.

Senator KERREY.—particularly with scarce resources that there may be some need to reduce overall collection so that you can target better, given that there is a tremendous increase in access to information that we had not been able to get prior.

Mr. Chairman, back to you.

Chairman BOREN. Thank you very much, Senator Kerrey.

Senator Warner?

Senator WARNER. I thank you, Mr. Chairman, and I apologize to our distinguished witness for my inability to stay throughout your presentation, but you are familiar with the lifestyle here.

Now first, this morning I was privileged to be among a number who visited with the President concerning his proposal, one which I endorse and indeed one which I participated in with other Senators in encouraging that he go forward to assist several of the Commonwealth States—namely, Russia, the Ukraine, and perhaps others in time. And I have since had the opportunity to go back and study the documentation accompanying the bill which, although it has not arrived, will arrive within 48 hours. And I went back and re-examined the legislation referred to as Nunn-Lugar which I was part of the active steering force here in drafting, and looked at the conditions that we set forth in that legislation and then compared it with the approach that the President is taking in this new piece of legislation, which is somewhat different. But I won't go into the specifics of the legislation. I wanted to say that by way of background to frame my question.

My question is as we approach the issue of further assistance to the several state, republics, and we do that with other nations, what further assurances can we expect from them that they will increasingly cut back their percentage of GNP going into defense systems, which systems really have only relevance to their former threat from the West.

Examples. Submarine construction. We had a hearing in the Armed Services Committee today specifically directed towards the rescission order to stop the Seawolf Program. Well, that particular program was designed as a deterrence against at one time the ever growing Soviet navy and more specifically their tremendous advancements in submarine technology. But that in my judgment should go by the boards now in terms of Russia and perhaps the Ukraine, the only two of the republics that have any interest in

naval forces. My point being, should we not exact from the several Soviet republics some firm commitment to provide part of their GNP for defense, only as that defense relates to a specific threat and not the West, the West now stepping forward to give them assistance.

Did you participate in the formulation of this package? Did you have any input as to the analysis of what they were likely to do, the several republics, in terms of their defense expenditures and how that related to extending one hand now to receive assistance from the West and the other hand taking their rubles and continuing modernization of their defense programs. We know, for example, that commitments were made last year or right after the coup and so forth and the break-up began to occur, we're going to cut back. And I can point to where some of those programs are still under way, or at least they haven't been attenuated to the degree that this Senator is satisfied.

My concern is the American public is going to say, all right, Mr. President, we want to back you. \$5 billion is our share against the total of 24, but I am told that they are still building or modernizing the 18's, still doing some modernization on the 25's, 24's or whatever the case may be. Still under—they have construction, which submarines are designed exclusively to combat whatever threat the West once presented.

So my first question, did you participate in the analysis of this package and if not, or if you did, what can you tell us about the future of their military programs and how that does or does not conflict with the aid package we are extending?

Director GATES. The Intelligence Community did participate in the formulation of the—or in the interagency meetings that led to the formulation of the package. The information that we provided had to do with our evaluation of defense expenditures that we thought are being made by the different republics, Russia in particular. And I am drawing on memory now, but if memory serves, what we have told them is that Russian defense expenditures this year, for example in the first quarter procurement will be down some 855, procurement of military equipment. And based on what they have budgeted, the Russian defense budget for this year will be no more than half of what the Soviet defense budget was last year. And that is if the other republics contribute their share for the Commonwealth forces. And we don't think that is going to happen. So you are looking at a defense establishment that in the space of one year has probably had its resources cut by better than half.

We see a number of strategic programs in particular being discontinued, although there are some that are being continued. We have no—again, I am calling on memory, so I may be inaccurate, but I don't think so—we have no Soviet ballistic missile submarines under construction today for the first time in 30 years. We believe that they are approaching the end of the building of—

Senator WARNER; That's interesting, because when I visited the Russian republic with Senator Nunn here two weeks ago, I asked the questions and I didn't subdivide it between attack and ballistic. But I was told that they were going to continue their submarine construction program, quite frankly not because of any threat from

the West, because they didn't know how to deal with the massive unemployment that would be associated with an abrupt termination.

The Ukraine on the other hand has abruptly terminated construction of surface vessels for the naval purposes and begun conversion to fishing and tour—you know, tourism ships, cruise ships. So—but you are saying to the best of your knowledge then they have stopped all production of the missile class—

Director GATES. Of the ballistic missile submarines. They may well be continuing the attack submarines. I think that they are tailing off and may end their production of strategic bombers. They have stopped producing several different kinds of ICBM's. Although they do have follow-on systems for the silo-based SS-24, the SS-25 and then the SS-N-20 naval missile. So they are continuing a few modernization programs.

But our estimate is that the number of modernized systems that they have that will go forward is going to be very, very limited.

Senator WARNER. But what is the mentality that says to them that they have got to continue to expend those very scarce rubles or whatever you call it, to continue whatever modernization they wish to in strategic, and at the same time plead for and accept assistance from the very persons who are targeted by those systems? I mean, what is the logic?

Director GATES. Well, I am not sure that there is a particular logic to it. I think what you have is a country that is dramatically cutting defense expenditures. They realize that economic reform depends on cutting those defense expenditures but at the same time they have a very large military and they have a very large defense industrial complex, and there is a certain inertia in these programs as well as—

Senator WARNER. I agree with you.

Director GATES.—as well as the desire to keep people employed so that they can keep eating as a matter of political stability. I think that the key question will be the trend lines in these programs and certainly—

Senator WARNER. Well, let me just quickly cover that question. Are we working on some means by which to be more convincing that we do not pose a threat militarily to the survival of these several republics? In which case it might serve as a basis for further downsizing their forces, particularly strategic? I intend to work on this issue as this legislation comes up. I hope to make a Floor statement on it today, because I was somewhat disappointed we didn't cover it more thoroughly in the meeting with the President this morning.

I have but just a minute left and I must shift to the second subject I raised in my opening statement, namely the program initiated by your predecessor whereby at 22 offices at that time would be consolidated into two. And you have, as you stated in a letter, and I appreciated the courtesy of your personal communication to this Senator and others, as a matter of fact, that you had to suspend that program. But have you thought through a period in time that you might go back and re-examine it, because as I go back and re-examine the predicate, the basis for the consolidation, much of it still remains, i.e., over crowding, increasing difficulty of providing

security in the 22-odd buildings, the inefficient use of time in traveling to and from multiple locations. So it seems to me that there is still an inherent inefficiency and insecurity in your organization, and therefore I am wondering if you have begun a process by which you might retrench your thinking at some point in time given fiscal and go forward with some consolidation program to lessen the pressures that gave rise to the initial program.

Director GATES. Senator Warner, the rationale for the program that led to the decision to go forward with the facilities consolidation remains just as real as you describe it. We have a number of facilities. It represents a continuing cost to us in lease costs and rentals. It—these facilities are scattered, which creates security problems. There are a lot of inefficiencies in it. The fact is, however, that in the current budget environment and as they came to me with—the people who were doing the planning came to me with significantly increased cost estimates and a new budgetary expression I had not heard before, “a conceptual cost estimate,” which sounded to me like a formula for significant further growth in costs beyond the \$200 million that had already taken place before we had even chosen a site. With the current budgetary uncertainties it seemed to me that it simply was not possible for us to go forward.

I think that until I have a better sense of the budgetary environment, of what the resource availability is going to be for both CIA and the Intelligence Community looking out for the next several years, that it would be unwise to make a long range commitment. I am hoping that in the next couple of years that circumstances will settle down enough that we will have an idea of what kind of resources we can be looking at for the next longer period of time. But I think it requires a more predictable budgetary environment before we make a large commitment.

Senator WARNER. I thank you. And needless to say, it had a very negative impact on some planning of the private sector in my state, both for the Prince William site and indeed the one to be located in West Virginia, because the West Virginia site had many infrastructure related economic impacts on the contiguous area of Virginia to West Virginia. But as I said in my statement yesterday, it was a prudent decision in view of the uncertainties of the budget. But I would just hope that you could somewhat reduce that period of several years within which you might again address the rationale for the original decision to have a consolidation.

Director GATES. Yes, sir.

Senator WARNER. To alleviate the hardships which a number of your employees are now enduring for the reasons you stated.

Director GATES. And I very much regret the inconvenience and the disappointment to which the local people were put in all of these locations in the hope that there would be relocation there, and I guess on behalf of the Agency I apologize to them for that inconvenience.

Senator WARNER. We thank you. And I thank you, Mr. Chairman, and our distinguished guest from the House.

Chairman BOREN. Thank you very much, Senator Warner.

I would, without objection, place a number of documents received by our Committee into the Senate's record of these hearings. These all relate to reorganization proposals.

A letter dated February 24, 1992, from William S. Sessions, Director of the Federal Bureau of Investigation, to the Committee.

A statement dated March 4, 1992, submitted to the Committee by former director of Central Intelligence William E. Colby.

An article entitled "The Intelligence Community in the New World Order" by Ray S. Cline, and submitted to the Committee by Dr. Cline.

A statement dated March 11, 1992, by former Assistant Secretary of Defense Donald Latham.

A letter dated March 23, 1992, from David D. Whipple, Executive Director of the Association of Former Intelligence Officers, transmitting the views of the Association on the legislation.

A letter dated March 30, 1992, from John E. Morrison, Jr., Vice President of the Security Affairs Support Association, transmitting the view of the Association on the legislation.

A letter dated March 13, 1992, from Morton Halperin, Director of the Washington Office of the American Civil Liberties Union, and Gary Stern, Legislative Counsel, transmitting the views of the ACLU on both S. 2198 and S. 421. Memo dated February 20, 1992 from ACLU on S. 2198 and H.R. 4165.

And last, a letter dated March 26, 1992, from David MacMichael, Director of the Association of National Security Alumni, transmitting the views of that association on this legislation on reorganization issues.

[The documents referred to follow:]



U.S. Department of Justice

Federal Bureau of Investigation

SSCI# 92-0835 A

Office of the Director

Washington, D.C. 20535

February 24, 1992

Honorable David L. Boren
 Chairman
 Select Committee on Intelligence
 United States Senate
 Washington, D.C.

Dear Mr. Chairman:

On February 5th we discussed your proposal for reorganizing the United States foreign intelligence apparatus as well as the impact the reorganization bill, as drafted, would have on the FBI's Foreign Counterintelligence and International Terrorism Programs. I greatly appreciate your assurances that it was not the intention of the Committee to have these FBI programs affected by the legislation and that you would ensure that to be the case.

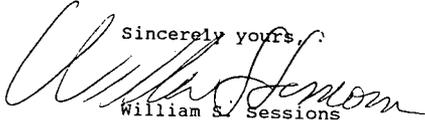
I understand from my staff the difficult negotiations and decisions that were required to develop S. 2198, the "Intelligence Reorganization Act of 1992." I also understand that because of time constraints and other, larger issues, counterintelligence and counterterrorism were not fully considered during that process and, accordingly, were intentionally not addressed. As you know, there is a substantial domestic aspect to counterintelligence and it is often closely related to what ultimately becomes the administration of justice. For this reason, I believe strongly that while counterintelligence may properly be included in the National Foreign Intelligence Program budget, the allocation and utilization of resources must remain in the control of the Attorney General. I am pleased that you intend to alter the language of the bill to remove the FBI's Foreign Counterintelligence and International Terrorism Programs from consideration.



Honorable David L. Boren

I appreciate your strong support during your tenure as Chairman. I look forward to working with you and your Committee during this last year of your Chairmanship and I applaud the enthusiasm and vitality of your efforts to examine this critical function of government.

Sincerely yours,



William S. Sessions
Director

UNITED STATES HOUSE OF REPRESENTATIVES
PERMANENT SELECT COMMITTEE ON INTELLIGENCE

MARCH 4, 1992

Testimony of William E. Colby

Counsel, Donovan Leisure Rogovin Hoge & Schiller
Former Director of Central Intelligence, 1973-1976

Thank you, Mr. Chairman, for this opportunity to express my views on H.R. 4165, the National Security Act of 1992. My opinions reflect no one's other than my own but I hope they may be of some assistance to you as you consider this important legislation.

The end of the Cold War does offer an opportunity to review and where appropriate revise the national intelligence system which was developed primarily for that contest, and to do so without the danger of weakening some element in the face of a huge danger, as any changes made can be reversed if they appear mistaken, during this time of relative safety. And an occasional reorganization does shake up any bureaucracy from the settled habits it may have assumed.

At the same time, I confess that I have never been

passionate about the precise organizational structures for intelligence, as I believe its real successes will come more from the leadership it has and the spirit of cooperation which should permeate any organizational arrangement. A perfect organizational diagram must also often be modified to reflect the real interests of different elements of the government, the need for clear career paths for practitioners and the frequent requirement of flexibility to meet varying circumstances. And because of the bureaucratic turbulence any reorganization causes (and the hours of good intelligence officers' time it takes from their primary substantive work), the benefits should be compelling for it to be launched.

The principal change the bill would make would be to establish a Director of National Intelligence free of the direct direction of the Central Intelligence Agency (which would be divided up into various pieces). I have mildly opposed such a move in the past as separating the DNI from the organizational base of the CIA, reducing his bureaucratic power in Washington circles. The fate of various "drug czars" offers this caution, aside from the possibility that the DNI would become too much a member of the White House "team", with implications for the independence of his assessments. The bill tries to meet this danger by leaving him in control of national intelligence assessments and giving him full power over the National Foreign Intelligence Program as an independent budget. These provisions do reinforce him sufficiently to overcome my earlier opposition

to the thought.

With respect to the Program, or budget, I note that it refers only to activities for national intelligence, leaving the other departments, and especially Defense, free to propose their own recommendations for departmental intelligence, a good provision. The exact line between the two categories will be difficult to draw, permitting some shifting between categories to save desired programs. My suggestion is not to try to solve this problem, as I have long maintained that if the departments' intelligence functions or budgets were centralized, they would develop "research bureaus" or some other category to preserve what they thought necessary.

And while I realize that it is an old issue that has never been really been solved, I must question the provision that the total budget figure be made public. In itself, it would be innocuous enough, but it is meaningless without division into detail with respect to agencies and targets, and establishes a base line against which any future increase stimulates Washington's press corps to find out what is afoot, with the risk - one might say the certainty - of revealing it to the very targets it is aimed at.

The presumption seems to be that the DNI needs to have total and single authority over the national intelligence budget, removing its elements even from those departments which carry it out. I question this, and think the idea has many opportunities for mischief and interdepartmental disputes. A requirement that

the DNI approve all elements of the national intelligence program as they are presented to the President and the Congress in my experience was sufficient for me to challenge certain decisions of the Secretary of Defense and cause the President to direct the inclusion of what to me was an important program in the Defense budget (although Congress later took it out because the Committee found that there was a difference of opinion in the Administration as to its need!). The point is that DNI "approval" is sufficient to have the issues raised for consideration by the President and the Congress.

And trying to remove all control of "national" intelligence budgets - and authority - from departmental Secretaries is most apt to result in their deciding that the DNI can run these activities without their attention, exactly the opposite objective from one of gathering the elements of the different departments into a cooperative exercise. This may not be what is wanted, but it is a normal bureaucratic response in busy Washington.

The bill says the DNI will not "vote" in the National Security Council. There is only one "vote" in that forum, the President's, as President Lincoln noted. As for establishing a Committee on Foreign Intelligence of the Council, I would respectfully recommend that how this body, advisory to the President, is organized internally should be left entirely to the President.

A few thoughts on the rest of the structure set up by the

bill:

1. DDNI/IC: Certainly an appropriate way to include the present functions of the IC Staff into the new structure of the DNI. The charge to manage collection is quite sensible, but I would offer a couple of thoughts for your consideration:

CIA: Placing this institution three levels below its present rank in the command structure could produce problems. Most of the delicate political - and security - problems of intelligence lie in this function of clandestine operations. Subjecting it to two additional levels of review and responsibility is a sure way of discouraging the kind of risk taking which is essential if it is to be conducted at all. I confess also perhaps an institutional loyalty which suggests that the reorganization might establish the DDO (which would essentially remain of the CIA as reconstituted, plus certain of the functions of the DDS&T) as the Clandestine Services. The DDO has long maintained this as its identity, but in the new situation its chief could be the DCS rather than the DCI. This would might even free the title of DCI for the DNI as a more appropriate reflection of his real function as the central element of American intelligence, which was

General Donovan's original concept that the analytical function was really the central element of intelligence. And in such a circumstance, could the DCS not be brought under the direct supervision of the DNI, with coordination by the DNI/IC, as a recognition of the sensitivity and importance of the clandestine function?

2. DNI/E&A: An interesting idea, truly centralizing central intelligence. But I have a few concerns:
 1. Warning and Crisis Management should not be separated in the DNI/IC. It is essential that these functions be fully integrated with the analysts.
 2. I confess some concern over the isolation of the analysts from the real world of collection. Please eliminate the reference to a "campus". Intelligence analysis has suffered too many years from its attempted identification with academia, organizationally (until Bill Casey's reorganization of it geographically) and psychologically. The function of academia is to teach disciplines, the function of intelligence is to warn, and its problems come from geography. Rather than the isolation of the analysts into an ivory tower so they will not be affected by policy preferences, I believe they should have the closest of connections with the grimy real world the collectors deal with, with the discipline of honesty in assessment dealt with as a

question of integrity, not organization.

3. I was concerned at the prospect of centralizing all national intelligence analysis, eliminating the differences which arise from separate analytical centers. I see that the departments will still have separate centers, which reduces this concern, but the DNI's control over their budgets could be a problem in this regard.

4. The Agencies for Imagery Analysis, National Security Agency and Reconnaissance Support Activity seem quite appropriate variants of the present structure.

5. I question, but confess I do not fully understand, the assignment to DNI/E&A of the Office of Open Source Information. Obviously open source information would be available to all analysts in the community, and I presume this provision does not mean that they should only receive such through this office. If it refers to the collection effort presently carried out by CIA from cooperative American citizens and institutions, I submit that it might best be integrated with the human source collection efforts of the CIA, so that some conscious relationship could be maintained between what is available overtly and what must be collected clandestinely.

Mr. Chairman, these are essentially a few incidental comments on the provisions of H.R. 4165. As I said at the outset, they are less important than keeping an attitude of cooperation among the fine people who serve our intelligence needs these days. And in order to ensure that these considerations remain in the forefront of your review of this proposal, may I suggest that all of these thoughts, and my own, be subjected to the critical analysis of Mr. Robert Gates, who is better fitted than I these days to determine which of these suggestions might make a better intelligence community and which might produce more troubles than the changes would be worth.



United States Global Strategy Council

SENATOR BOREN
1992 MAR -6 PM 6:39

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Mrs. Janet Morris

March 5, 1992

The Honorable David L. Boren
Chairman of the Select Committee
on Intelligence
United States Senate
Washington, DC 20515-6475

Dear Dave:

Thank you for sending me a copy of your bill, the Intelligence Reorganization Act of 1992 (S. 2198). I have written a brief comment, including also the House bill, for release in the Foreign Intelligence Literary Scene (FILS) that goes to about 1,000 subscribers.

I regret that I will be in Moscow during your March hearings.

Cordially,

Ray S. Cline

The Intelligence Community in the New World Order

by Ray S. Cline

On February 5, 1992, Senator David L. Boren, chairman of the Senate Select Committee on Intelligence, and Congressman Dave McCurdy, chairman of the House Permanent Select Committee on Intelligence, introduced bills designed to create a new framework to meet the needs of the Intelligence Community for the 1990s and into the twenty-first century. Both focus on management of the current community by eliminating duplication of effort and leading to a stronger intelligence system.

"The time could not be more ripe," Senator Boren said. "It is difficult to recall any point in the last forty years where such uncertainty exists with respect to the international situation. Far from being a period where we can do without intelligence, the need for intelligence has never been greater."

The National Security Act of 1947 established the U.S. security structure and created the Central Intelligence Agency (CIA). As the cold war began in the late 1940s, however, the roles and missions of strategic intelligence have steadily expanded to deal with changing

situations or circumstances that have far exceeded the requirements imagined or foreseen by the original drafters. The Soviet Union was our adversary and the single most important target, well known and understood.

Now things have changed. The dark threat that Soviet communism would cause the Iron Curtain to fall over large portions of the globe seems to have vanished. On the other hand it has been replaced by a myriad of new challenges and uncertainties. One fourth of mankind is still in Communist China, and the leaders of Beijing are determined to preserve their power in a one-party dictatorship dedicated to communism.

Proposed Changes

The Senate bill, S. 2198 entitled the "Intelligence Reorganization Act of 1992," and the House bill, H.R. 4165 entitled the "National Security Act of 1992," are in response to a comprehensive review of the intelligence structure already set in motion by President George Bush. Both proposals recognize that since the beginning, the

Intelligence Community has been decentralized and, as a result, it has not had effective control. Although the Director of Central Intelligence (DCI), at its head, was supposedly in charge of coordination, his authority was limited. His responsibilities as described in the original 1947 statute were "purposely vague," and he lacked a clear legal mandate. He was viewed as being mainly responsible for the CIA.

The DNI: The table of organization, as now envisioned in S.2198 and H.R. 4165, creates a new independent position, the Director of National Intelligence (DNI), who would serve as the kingpin at the hub of activities that fan out to all of the parts of the U.S. Intelligence Community. The DNI would be the principal intelligence adviser to the President. His main job is envisioned as preparing national intelligence estimates of probable international dangers that lie ahead, as well as options for policy decisions.

The DNI would assume the responsibility of evaluating the performance of all agencies in the

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community. In short, he would have the responsibility of marshalling the intelligence resources of the entire government to achieve a common objective not only in peacetime but in wartime. In the past, these functions, clearly needed but were never specifically defined in law. The various elements of the Intelligence Community were described in classified documents in Executive orders issued by the President.

The remarkable change in S.2198 and H.R.4165 is the elevation to a higher level of the tasks of research, analysis, and estimates. It would become the main responsibility of the new Director of National Intelligence.

The DCI/CIA: The DCI, subject to the DNI's supervision and control, would manage all human source collection, both clandestine and overt. He would not assume the operations of other agencies but would, for the first time, be responsible for coordinating all intelligence collection by human agents for the government as a whole. This is an important function affecting the quality and quantity of information collected. The end product, it is hoped, would be more representative of a "community" view.

The CIA would perform "such other functions and duties," now

specifically identified as the conduct of "covert actions," as directed by the National Security Council and the President.

Defense Establishment: Within the Department of Defense (DoD), S.2198 and H.R.4165 would establish a new Assistant Secretary of Defense for Intelligence who would consolidate the functions currently assigned to five separate offices. This new position would enhance the role of the Secretary of Defense in managing national and tactical activities that are part of the Intelligence Community.

The National Imagery Agency, a new office, would concentrate the function of tasking imagery collectors (satellites and airborne platforms) under a single manager. Although within the DoD, the Imagery Agency would support all government requirements.

The National Security Agency would also lie under the jurisdiction of the DoD and would handle signals intercepts and communications intelligence for the entire community.

According to the proposed statute, the Defense Intelligence Agency (DIA) would have a permanent status, previously authorized annually. The DIA Director's duties, to produce and disseminate timely military-related intelligence, are subject to the require-

ments established by the Secretary of Defense. The same provisions would apply to the secretaries of the other military departments to service their own needs as well as to contribute to the national purpose.

Prospects for Improvement

Since in the 1992 presidential election year there will be a great deal of political diversity, the Congress may end up deciding that the new bills must be postponed until the election year has passed or perhaps indefinitely. Both, however, must await input from the Executive Branch before they can be presented for debate.

My view is that Burne and McCurdy have done an excellent job in calling for a strengthening of the Intelligence Community. In effect the requirement is for the current DCI to acquire most of the powers of the new DNI. If the bills do not become law, the administration and the Congress might create the same concepts by Presidential Executive Order. It does not matter whether the title is DCI or DNI. One way or another these ideas are likely to become reality because the new challenges for the Intelligence Community are urgent.

Ray S. Cline spent more than 30 years in the US intelligence services beginning in 1955

STATEMENT FOR THE
HOUSE PERMANENT SELECT COMMITTEE ON INTELLIGENCE
U.S. HOUSE OF REPRESENTATIVES

BY

MR. DONALD C. LATHAM
FORMER ASSISTANT SECRETARY OF DEFENSE
(COMMAND, CONTROL, COMMUNICATIONS AND
INTELLIGENCE)

11 MARCH 1992

NATIONAL SECURITY ACT OF 1992

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, IT IS A PRIVILEGE TO ONCE AGAIN APPEAR BEFORE THE COMMITTEE TO SHARE MY VIEWS ON THE PROPOSED NATIONAL SECURITY ACT OF 1992. WHAT THE COMMITTEE HAS PROPOSED IN THIS LEGISLATION DESERVES CAREFUL ANALYSIS AND BROAD-BASED COMMENTARY FROM PRODUCERS AND USERS OF INTELLIGENCE AND THOSE WHO MANAGE AND OVERSEE THE INTELLIGENCE SYSTEM WE HAVE TODAY.

THE DRIVERS FOR CHANGE

WHILE THE UNITED STATES HAS AN EXCEPTIONALLY CAPABLE INTELLIGENCE APPARATUS WHICH HAS PERFORMED REASONABLY WELL FOR SOME 40 YEARS, THERE ARE COMPELLING POLITICAL, ECONOMIC, MILITARY, AND TECHNOLOGICAL DEVELOPMENTS WHICH FORCE AN IN-DEPTH EXAMINATION OF THE ADEQUACY OF THE CURRENT INSTITUTIONAL STRUCTURE. DESPITE THE RADICAL CHANGES WE HAVE OBSERVED IN THE POLITICAL, ECONOMIC, AND MILITARY STRUCTURES OF EASTERN EUROPE AND THE SOVIET UNION, I DO NOT SHARE A VIEW THAT THE TASKS FACING THE INTELLIGENCE COMMUNITY HAVE DIMINISHED IN EITHER SIZE OR COMPLEXITY. IN FACT, IT IS MY JUDGEMENT THAT PRODUCING THE TYPE AND QUALITY OF INTELLIGENCE NEEDED TO SUPPORT POLICY AND NATIONAL SECURITY INTERESTS IS GOING TO BE MUCH MORE DIFFICULT AND TECHNICALLY DEMANDING.

IN HIS PREPARED STATEMENT ON 20 FEBRUARY 1992, ON THE SENATE BILL S. 2198, "THE INTELLIGENCE REORGANIZATION ACT OF 1992," SENATOR DAVID BOREN PROVIDED A HISTORICAL PERSPECTIVE AND HIS VIEWS ON THE DEFICIENCIES IN THE EXISTING MANAGEMENT STRUCTURE OF THE INTELLIGENCE COMMUNITY. LIKE THE HOUSE BILL

(H.R. 4165), THE SENATE HAS ALSO FOCUSED ALL THE ATTENTION ON MANAGEMENT STRUCTURE, REPORTING RELATIONSHIPS, AND BUDGET PROCEDURES. IT IS NOT AT ALL CLEAR THAT THIS FOCUS WILL IN FACT RESULT IN A MORE EFFICIENT, RESPONSIVE, AND CAPABLE INTELLIGENCE COMMUNITY.

FOUR KEY QUESTIONS

AS THESE HEARINGS PROCEED, IT IS SUGGESTED THAT THERE ARE FOUR KEY QUESTIONS WHICH NEED TO BE ANSWERED AS THE CONGRESS AND WITNESSES EXAMINE THE PROPOSED LEGISLATION. THESE QUESTIONS ARE:

1. IS SUCH SWEEPING LEGISLATION OR ANY LEGISLATION AT ALL REALLY REQUIRED?
2. WILL THE PROPOSED BILLS ENSURE IMPROVED INTELLIGENCE COMMUNITY PERFORMANCE AT LESS COST?
3. WHAT ALTERNATIVE INSTITUTIONAL INTELLIGENCE COMMUNITY STRUCTURES ARE FEASIBLE?
4. IN WHAT WAYS DO THE PROPOSED BILLS REALLY IMPROVE CONGRESSIONAL OVERSIGHT?

JUDGEMENT CRITERIA

IN MY ANALYSIS OF YOUR PROPOSED LEGISLATION, THERE WERE SEVERAL CRITERIA OR FORCING FUNCTIONS WHICH SHAPED MY VIEWS THESE WERE:

1. THE DYNAMIC CHANGES IN GLOBAL POLITICAL STRUCTURE ARE FAR FROM OVER AND THUS THE NEW INTELLIGENCE COMMUNITY MUST BE STRUCTURED AND MANAGED TO BE NIMBLE AND EXTREMELY FLEXIBLE IN SHIFTING ITS CAPABILITIES.

2. THE GLOBAL DYNAMICS, WITH NEWLY EMERGING POWER AND ECONOMIC CENTERS, DEMAND EXPANDED TARGET AND SUBJECT COVERAGE FROM THE "EASIER" DAYS OF THE MONOLITHIC SOVIET EMPIRE.

3. VAST OPEN SOURCES ARE READILY AVAILABLE WHICH CAN LIKELY SUPPLY A HIGH PERCENTAGE OF THE DATA NEEDED TO SATISFY A LARGE SET OF INTELLIGENCE REQUIREMENTS. THIS IS ESPECIALLY THE CASE FOR ECONOMIC, FINANCIAL, MANUFACTURING, TRADE, AND TECHNOLOGY DATA.

4. THE AVAILABILITY OF HUGE QUANTITIES OF OPEN SOURCE DATA COMBINED WITH EXISTING CLASSIFIED TECHNICAL CAPABILITY TO GATHER MASSIVE AMOUNTS OF INFORMATION, MEANS THAT TO MEET USER DEMANDS FOR MORE TIMELY REPORTING THE NEW INTELLIGENCE COMMUNITY MUST BE CAPABLE OF ARCHIVING, MANIPULATING, ANALYZING, AND CORRELATING ALL-SOURCE DATA IN NEAR-REAL-TIME. EVENT CORRELATION IN TIME AND LOCATION FROM POTENTIALLY MULTIPLE SOURCES MUST BE PERFORMED FOR EXAMPLE. TODAY, NO SUCH CAPABILITY EXISTS AT THE NATIONAL LEVEL, ALTHOUGH SUCH ALL-SOURCE SYSTEMS HAVE BEEN DEVELOPED FOR TACTICAL INTELLIGENCE SUPPORT.

5. ANY FUTURE INTELLIGENCE COMMUNITY INSTITUTIONAL STRUCTURE MUST BREAK DOWN THE LONG-STANDING BARRIERS AND SENSELESS COMPETITION BETWEEN THE INTELLIGENCE DISCIPLINES OF SIGNALS INTELLIGENCE (SIGINT), IMAGERY INTELLIGENCE (IMINT), AND HUMAN SOURCES OF INTELLIGENCE (HUMINT). MEANS MUST BE DEVELOPED TO CREATE A SEAMLESS INTEGRATION OF ALL SOURCES

AND TO PERFORM THIS IN NEAR-REAL-TIME FOR SOME FRACTION OF THE PRODUCT.

6. THE DOD WILL CONTINUE AS THE LARGEST CUSTOMER OF INTELLIGENCE AND DOD WILL CONTINUE TO PROVIDE THE OVERWHELMING MAJORITY OF THE PERSONNEL WHO OPERATE THE INTELLIGENCE APPARATUS.

7. SUPPORT TO MILITARY OPERATIONS, FROM THE NATIONAL LEVEL, IN TERMS OF ABILITY TO TASK, TIMELINESS OF THE PRODUCT, AND UTILITY TO THE COMBATANT COMMANDER IS IN SERIOUS NEED OF IMPROVEMENT. TODAY THE CINCS AND THEIR LOWER LEVEL USERS ARE NOT ASSURED THAT THEY CAN ACCESS AND EXPECT A USEFUL AND TIMELY RESPONSE FROM THE NATIONAL SYSTEMS.

8. IT IS IMPRACTICAL AND DANGEROUS TO CO-LOCATE AND MANAGE ALL ESTIMATES AND ANALYSIS FUNCTIONS OF NATIONALLY DERIVED INTELLIGENCE DATA.

9. SOMEHOW, THE NEW INTELLIGENCE COMMUNITY MUST INVOLVE ITSELF MORE INTIMATELY (AND VICE VERSA) WITH POLICY MAKERS WHO USE THEIR PRODUCTS. THIS TIES BACK TO ITEM 7 ABOVE AND SUGGESTS THAT THE GOVERNMENT MUST ESTABLISH AND MAINTAIN COMPETITIVE ANALYSIS CENTERS OF EXCELLENCE TO JAR THE POLICY MIND-SET SYNDROME.

THE INSTITUTIONAL STRUCTURE PROPOSED BY CONGRESS

THE FOCUS OF BOTH THE HOUSE AND SENATE BILL ON THE INSTITUTIONAL STRUCTURE OF THE INTELLIGENCE COMMUNITY RESULTS IN SWEEPING CHANGES TO EXISTING RELATIONSHIPS AND THE CREATION OF NEW ENTITIES. FIGURE 1 ILLUSTRATES THE PROPOSED SENATE/HOUSE VERSION OF THE NEW INTELLIGENCE

COMMUNITY WHILE FIGURE 2 DOES THE SAME FOR A NEW DOD STRUCTURE.

NOTE THAT NEITHER THE HOUSE OR SENATE PROPOSE OR DESCRIBE A COMMUNITY INTELLIGENCE OPERATIONS CENTER WHEREBY THE NEW DNI COULD IN FACT TASK AND MANAGE COLLECTION IN ANYTHING LIKE A NEAR-REAL-TIME WAY. FURTHER, THE BILLS CREATE A NEW NATIONAL IMAGERY AGENCY IN DOD WHICH WOULD BUILD A MORE INTENSE, BUREAUCRATIC, STOVE-PIPE SEPARATION BETWEEN SIGINT AND IMINT. IN CONTRAST, ANY NEW INTELLIGENCE COMMUNITY STRUCTURE SHOULD STRIVE TO FORCE THE "INTS" TOGETHER IN AN INTEGRATED, SEAMLESS, RESPONSIVE ARCHITECTURE, AND MANAGEMENT STRUCTURE.

THE HOUSE BILL ALSO PROPOSES YET ANOTHER NEW DOD AGENCY CALLED THE RECONNAISSANCE SUPPORT ACTIVITY (RSA) FOR THE CONDUCT OF R&D, TEST AND EVALUATION, PROCUREMENT LAUNCH OPERATION, AND FINAL DISPOSITION OF OVERHEAD RECONNAISSANCE SYSTEMS. IN CONTRAST, THE SENATE BILL PROPOSES THE FUNCTIONS OF THIS AGENCY (RSA) BE CONDUCTED BY NSA AND NIA RESPECTIVELY. IF ASKED TO CHOOSE BETWEEN THESE TWO CONCEPTS ONLY, I WOULD OPT FOR THE SENATE APPROACH.

HOWEVER, BESIDES LEAVING THINGS IN THIS AREA AS THEY ARE TODAY, ANOTHER APPROACH IS SUGGESTED IN FIGURE 3. IN THIS MODEL THE DNI CONSOLIDATES ALL COMMUNITY R&D AND ACQUISITION UNDER THE DDNI(IC) WHO ESTABLISHES A DIRECTOR FOR INTELLIGENCE SYSTEMS RESEARCH, DEVELOPMENT, AND ACQUISITION. THE OFFICE WOULD SUPPORT ALL INTELLIGENCE COMMUNITY NATIONAL (AS APPOSED TO DOD TACTICAL SYSTEMS) R&D

AND WOULD PROCURE ALL HARDWARE AND SOFTWARE SYSTEMS. BASICALLY, THIS MODEL WOULD CONSOLIDATE THE CIA S&T DIRECTORATE WITH THE NSA R&E AND INCLUDE THE RESPONSIBILITIES DESCRIBED IN THE HOUSE BILL FOR THE RSA IN DOD.

AN ALTERNATIVE INSTITUTIONAL STRUCTURE

IN FIGURES 3 AND 4, AN ALTERNATIVE DNI AND DOD TOP-DOWN STRUCTURE AND FUNCTIONS ARE OUTLINED.

THE PROPOSED ALTERNATIVE DNI STRUCTURE AND FUNCTIONS DIFFER MARKEDLY FROM BOTH THE HOUSE AND SENATE PROPOSALS:

1. THERE IS A DDNI FOR COUNTER-INTELLIGENCE. THIS IS A BADLY NEGLECTED FUNCTION IN THE U.S. GOVERNMENT - A STRONG STATEMENT BUT THE FACT REMAINS THAT ALL THE MAJOR ESPIONAGE CASES (KNOWN TO THE PUBLIC) IN RECENT YEARS HAVE BEEN UNCOVERED THROUGH CIRCUMSTANCES OTHER THAN COUNTER-ESPIONAGE EFFORTS.

2. THE DDNI(IC) ESTABLISHES, MANAGES, AND OPERATES A COMMUNITY-WIDE, ALL-SOURCE NATIONAL INTELLIGENCE OPERATIONS CENTER (NIOC). A DESCRIPTION OF THE NIOC IS PROVIDED IN FIGURES 5, 6, AND 7. NOTHING CLOSE TO AN NIOC EXISTS TODAY. IF THE DNI IS TO "MANAGE THE COLLECTION CAPABILITIES OF THE INTELLIGENCE COMMUNITY TO ENSURE THE SATISFACTION OF NATIONAL REQUIREMENTS," HE NEEDS A MECHANISM TO DO JUST THAT. THE CURRENT DCI, MR. GATES, WOULD NEED AN NIOC TO GENERATE THE NEAR-REAL-TIME, ALL-SOURCE, CORRELATED MATERIAL FOR BROADCAST ON HIS "CNN" CONCEPT.

3. THE DDNI(IC), NOT THE DDNI(E&A), IS RESPONSIBLE FOR ALL CURRENT NATIONAL INTELLIGENCE DISSEMINATION.

4. THE DNI HAS A SECURITY POLICY OFFICE WHICH (FOR THE FIRST TIME) ESTABLISHES A TRULY UNIFORM POLICY ACROSS THE COMMUNITY AND WITH THE CONTRACTOR COMMUNITY. STANDARDS FOR POLYGRAPHS, BACKGROUND INVESTIGATIONS, AND FACILITIES COULD SAVE LARGE DOLLARS.

IN FIGURE 4, THE ALTERNATIVE DOD INTELLIGENCE STRUCTURE ALSO DIFFERS MARKEDLY FROM THE CONGRESSIONAL PROPOSALS:

1. IT IS A SERIOUS MISTAKE TO SEPARATE C³I IN DOD AT THE OSD LEVEL AS PROPOSED BY THE SENATE BILL. IN FIGURE 4, C³I IS PROPOSED TO BE ELEVATED TO AN UNDERSECRETARY OF DEFENSE FOR C³I WITH TWO ASSISTANT SECRETARIES OF DEFENSE REPORTING TO HIM FOR C³ AND FOR I.

2. SINCE DIA AND NSA NEED A REPORTING CHAIN IN DOD, THEY ARE SHOWN REPORTING TO THE USD(C³I) THROUGH THE ASD(I). THE DIA CONTAINS AN ESTIMATES AND ANALYSIS FUNCTION FOR NATIONAL DATA IN SUPPORT OF SECDEF, JCS AND THE CINCS.

3. THE JOINT STAFF AND EACH CINC/COMBAT COMMAND RETAINS A JOINT INTELLIGENCE CENTER (JIC) WHICH INCLUDES EVALUATION AND ANALYSIS FUNCTIONS. THE JOINT STAFF ALSO ESTABLISHES A J-2 WHO ALSO OPERATES AND MANAGES THE CHAIRMAN'S JOINT INTELLIGENCE CENTER.

4. SERVICE INTELLIGENCE ACTIVITIES ARE OVERSIGHTED BY THE USD(C³I) WITH THE DNI.

5. IN THIS ALTERNATIVE DNI AND DOD STRUCTURE, THERE IS NO NATIONAL IMAGERY AGENCY (NIA). RATHER, THE CONSOLIDATION OF FUNCTIONS, MANAGEMENT TASKING, AND OPERATIONS ALL FALL UNDER THE DDNI(IC) AND DDNI(E&A). THE DDNI(E&A) PERFORMS TERM

ANALYSIS OF IMAGERY AND THE DDNI(IC) PROCURES THE IMAGERY SYSTEMS, TASKS THEM, AND ANALYZES AND DISSEMINATES THE CURRENT INTELLIGENCE FROM IMAGERY THROUGH THE NIOC.

THE NFIP BUDGET

THE CONGRESSIONAL PROPOSALS TO PULL THE NFIP BUDGET OUT OF DEFENSE IS NOT A SOUND CONCEPT. FIRST OF ALL, THE OMB WOULD TREAT THE NFIP BUDGET AS "NATIONAL SECURITY RELATED" AND INSIST THAT IT BE PART OF THE OVERALL O5O ACCOUNT JUST AS THE DOE NUCLEAR WEAPONS PROGRAM IS TREATED. THIS BEING THE CASE, A DIRECT TRADE-OFF IS ESTABLISHED BETWEEN DEFENSE AND NFIP EACH YEAR AS THEY COMPETE FOR THEIR SHARE OF THE O5O ALLOCATION. MOVING THE NFIP OUT OF DEFENSE IN THIS SCENARIO ACCOMPLISHES VERY LITTLE. IN FACT, IT OPENS UP THE NFIP TO THE SCRUTINY OF ADDITIONAL COMMITTEES OF CONGRESS AND IT WILL LOSE RATHER THEN GAIN.

IF, HOWEVER, THE CONCEPT IS TO SET UP THE NFIP AS AN INDEPENDENT AGENCY ACCOUNT LIKE NASA, THEN THE TRADE-OFF FOR NFIP RESOURCES REACHES INTO THE DOMESTIC ACCOUNTS.

SECOND, IT IS NOT WELL UNDERSTOOD BY MANY THAT THE NFIP ENJOYS A "HIDDEN BONUS" BY BEING AN INTEGRAL PART OF DOD. THERE ARE NUMEROUS SUPPORT ITEMS WHICH THE NFIP ENJOYS AND IS NOT REALLY CHARGED THE TRUE COST OR NOT CHARGED AT ALL. IF THE NFIP IS OUT OF DOD, THERE WILL BE A CONSTANT FLOW OF BILLS TO THE NFIP FOR ALL MANNER OF THINGS, WHICH IN THE END WILL RESULT IN HIGHER OVERALL COSTS AND POORER SUPPORT FOR INTELLIGENCE.

MY RECOMMENDATION IS THAT YOU LEAVE THE NFIP BUDGET PROCESS AS IT IS TODAY, BUT FORCE DOD AND THE DNI TO MORE THOROUGHLY MESH AND TRADE-OFF THE NATIONAL AND DOD TACTICAL INTELLIGENCE RESOURCES IN THE TIARA ACCOUNT.

THE DEFINITION OF NATIONAL INTELLIGENCE

BOTH THE HOUSE AND SENATE BILLS DEFINITIONS OF "NATIONAL INTELLIGENCE" AND "INTELLIGENCE RELATED TO NATIONAL SECURITY" ARE IDENTICAL. IN PARTICULAR, THE DEFINITIONS STATE THAT NATIONAL INTELLIGENCE AND INTELLIGENCE RELATED TO NATIONAL SECURITY "DO NOT REFER TO INTELLIGENCE NECESSARY TO PLAN OR CONDUCT TACTICAL MILITARY OPERATIONS BY UNITED STATES ARMED FORCES."

TAKEN LITERALLY, IT WOULD APPEAR THAT NATIONAL INTELLIGENCE DERIVED FROM THE NFIP IS NOT INTENDED TO BE USED IN SUPPORT OF THE PLANNING OR CONDUCT OF U.S. MILITARY OPERATIONS! GOING FURTHER, IT COULD BE INTERPRETED THAT THOSE RESOURCES AND ACTIVITIES IN AGENCIES DEFINED TO BE IN THE NATIONAL INTELLIGENCE COMMUNITY THAT ARE USED IN SUPPORT OF THE PLANNING AND CONDUCT OF MILITARY OPERATIONS CANNOT PAY FOR THOSE ACTIVITIES OUT OF THE NFIP.

IF THIS LATTER INTERPRETATION WERE TRUE, THEN MAJOR SEGMENTS OF NSA, VIRTUALLY ALL OF DIA, SOME SEGMENTS OF CIA, AND OTHER AGENCIES WOULD NOT BE CONSIDERED PRODUCING "NATIONAL INTELLIGENCE." BY SOME ESTIMATES, UP TO HALF OR MORE OF THE NFIP IS CURRENTLY USED TODAY IN SOME FORM OF INDIRECT (E.G. - PLANNING) OR DIRECT TACTICAL SUPPORT (E.G. - OVERHEAD IMAGERY OR SIGINT) TO MILITARY OPERATIONS.

IT SHOULD BE NOTED THAT E.O. 12333, "UNITED STATES INTELLIGENCE ACTIVITIES," STATES THAT "ACTIVITIES TO ACQUIRE INTELLIGENCE REQUIRED FOR THE PLANNING AND CONDUCT OF TACTICAL OPERATIONS BY THE UNITED STATES MILITARY FORCES ARE NOT INCLUDED IN THE NATIONAL FOREIGN INTELLIGENCE PROGRAM." IT WOULD APPEAR THAT THE INTELLIGENCE COMMUNITY HAS IGNORED THIS PART OF E.O. 12333 FOR OVER TEN YEARS SINCE NFIP RESOURCES ARE ROUTINELY USED IN SUPPORT OF MILITARY OPERATIONS.

THE POSITION OF DIRECTOR OF NATIONAL INTELLIGENCE

(DNI)

THERE IS MERIT IN CREATING THE POSITION OF DNI AS DESCRIBED IN BOTH BILLS. THE MANAGEMENT DEFICIENCIES ARTICULATED IN THE 20 FEBRUARY 1992 STATEMENT BY SENATOR BOREN MAKES A STRONG CASE FOR A DNI AND A STAFF ORGANIZATION SOMEWHAT ALONG THE LINES PROPOSED. MY FIGURE 3 IS THE PROPOSED MODIFICATION TO THE DNI ORGANIZATION AND FUNCTIONAL RESPONSIBILITIES.

AMONG OTHER ITEMS WHICH ARE UNCLEAR IN BOTH BILLS IS THE TERM "AUTHORITIES AND GUIDANCE OF THE DNI" WHEN IT PERTAINS TO THOSE COMPONENTS OF THE INTELLIGENCE COMMUNITY HELD AND OPERATED WITHIN DOD. SPECIFICALLY, TO WHOM DOES THE DIRECTOR OF NSA REPORT FOR OPERATIONAL MATTERS? OR, MORE TO THE POINT OF MAJOR CONCERN OF MILITARY OFFICERS - WHO PREPARES AND SIGNS THE DIRNSA PERFORMANCE REPORT?

AS A POINT OF ORDER, IT SEEMS A LITTLE UNBALANCED TO CALL FOR THE DIRECTOR OF CIA TO BE A SENATE CONFIRMATION POSITION, WHEN A MUCH LARGER, EXTREMELY IMPORTANT AGENCY CALLED NSA.

IS RELEGATED TO A THREE-STAR MILITARY POSITION. THE NSA IS A NATIONAL AGENCY WHOSE PRODUCTS SERVE ALL FACETS OF GOVERNMENT, PLUS ITS ROLE IN COMMUNICATIONS AND INFORMATION SECURITY SERVES THE ENTIRE FEDERAL ESTABLISHMENT. PERHAPS THE DIRECTOR OF NSA SHOULD ALSO BE A CIVILIAN WITH SENATE CONFIRMATION. A CIVILIAN HEAD SHOULD IN NO WAY DIMINISH THE FACT THAT NSA IS ALSO A DESIGNATED COMBAT SUPPORT AGENCY PURSUANT TO THE NATIONAL DEFENSE REORGANIZATION ACT OF 1986 (GOLDWATER - NICHOLS).

SINCE THERE ARE SEVERAL ON-GOING INTERNAL INTELLIGENCE COMMUNITY TASK FORCES EXAMINING MANY ASPECTS TOUCHED ON BY THESE BILLS, IT WOULD BE PRUDENT TO EXAMINE THEIR OUTPUTS AND SEE HOW FAR THEY ARE GOING TOWARD WHAT THE CONGRESS HAS SUGGESTED.

SUMMARY OBSERVATIONS

THE CONGRESS IS TO BE COMMENDED FOR THEIR FAR-REACHING PROPOSALS FOR RESTRUCTURING THE U.S. INTELLIGENCE COMMUNITY. MY SUMMARY OBSERVATIONS ARE:

1. DO NOT TRY AND LEGISLATE A RIGID NATIONAL INTELLIGENCE STRUCTURE AND PROCESS. WE NEED FLEXIBILITY AND AGILITY IN THIS CHANGING WORLD.
2. SINCE THE THREATS TO U.S. NATIONAL INTERESTS ARE NOW SOMEWHAT FUZZY, THE PRECISE GOALS OF THE INTELLIGENCE COMMUNITY ARE ALSO SOMEWHAT FUZZY. WE SHOULD EVOLVE THE GOALS AND COMMUNITY STRUCTURE OVER TIME AND THEN, IF NECESSARY, LEGISLATE IT INTO PLACE.

3. LET THE OVERALL COMMUNITY ANALYTIC ANALYSIS AND ESTIMATES OFFICES CONTINUE TO DEVELOP COMPETITIVE VIEWS. LET THE DNI TIGHTEN THE SCREWS ON THE NUMBERS OF PEOPLE AND THEIR QUALITY.

4. ESTABLISHING A DNI AND STAFF FUNCTIONS, AS MODIFIED BY THE ALTERNATIVES PRESENTED IN THIS STATEMENT, COULD BE A VERY USEFUL STEP FORWARD.

5. LEAVE THE NFIP BUDGET WITHIN DOD AND SQUEEZE OUT OF TIARA THE RELATED ACTIVITIES WHICH ARE NOT IN FACT INTELLIGENCE.

6. FOCUS BOTH C³ AND I IN DOD AT A SENIOR LEVEL AND DO NOT SPLIT THESE FUNCTIONAL AREAS APART.

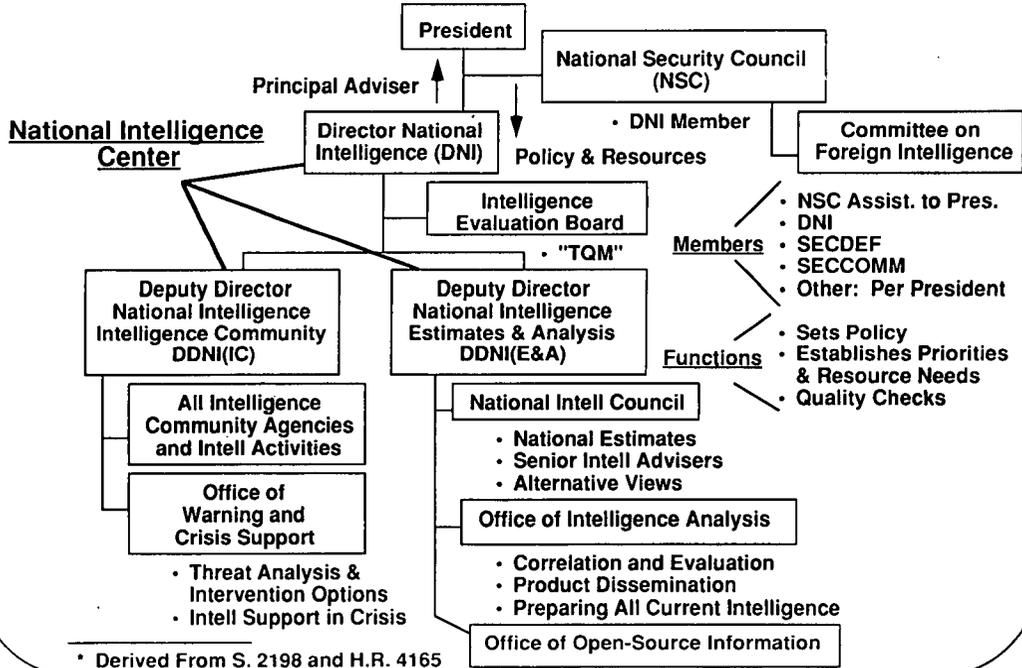
7. URGE THE DNI AND DOD TO ESTABLISH A TRUE ALL-SOURCE NATIONAL INTELLIGENCE OPERATIONS CENTER. IF IT CAN BE DONE FOR THE TACTICAL FORCES, IT CAN BE DONE NATIONALLY.

8. DO NOT FORGET TO FOCUS ON NATIONAL SUPPORT TO MILITARY OPERATIONS. ESTABLISHING AN NIOC WOULD GO A LONG WAY TO HELP IN THAT REGARD.

9. REDEFINE OR CLARIFY THE DEFINITION OF NATIONAL INTELLIGENCE SO THAT THE NFIP CAN LEGALLY SUPPORT U.S. MILITARY OPERATIONS.

MR. CHAIRMAN, I THANK YOU FOR THIS OPPORTUNITY TO EXCHANGE VIEWS ON THIS VITAL SUBJECT MATTER.

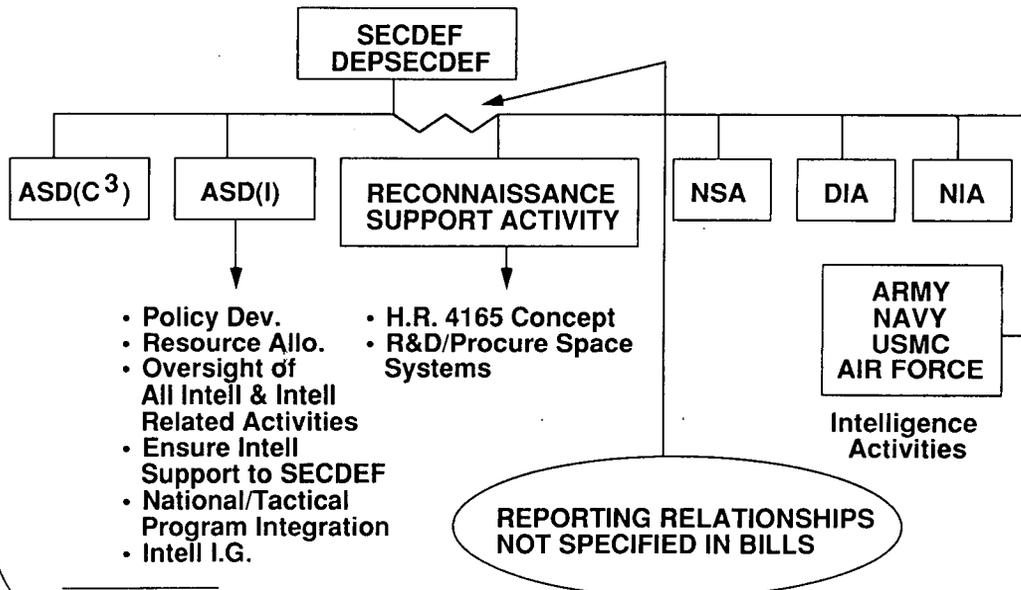
SENATE/HOUSE PROPOSED INTELLIGENCE COMMUNITY ORGANIZATION *



* Derived From S. 2198 and H.R. 4165

FIGURE 1

SENATE/HOUSE PROPOSED DoD INTELLIGENCE ORGANIZATION *



* Derived From S. 2198 and H.R. 4165

FIGURE 2

AN ALTERNATIVE I.C. INSTITUTIONAL STRUCTURE

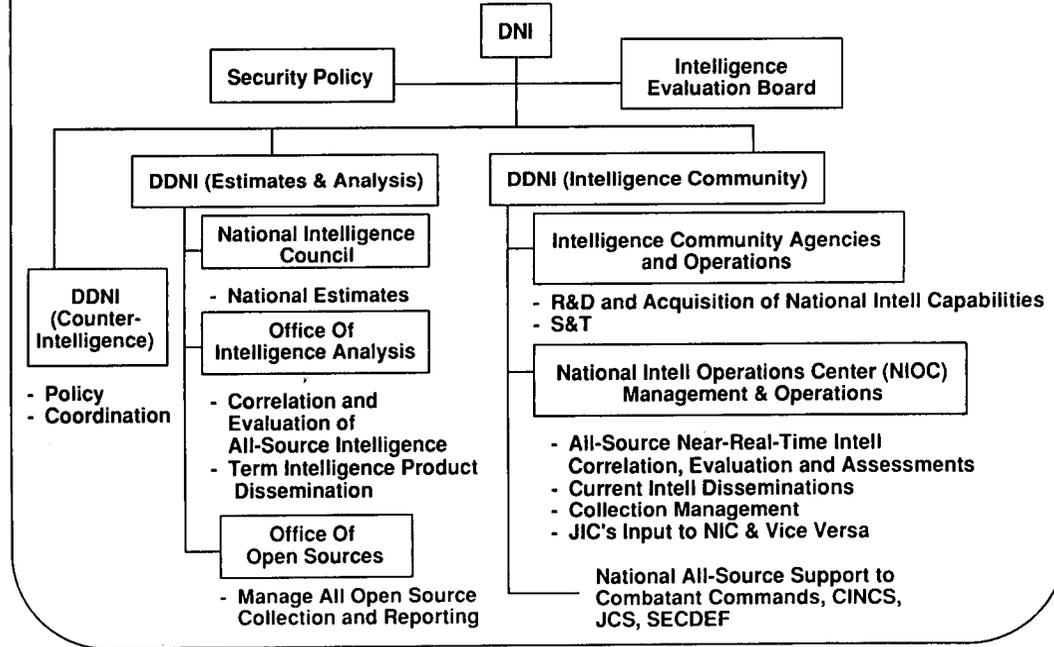


FIGURE 3

THE NATIONAL INTELLIGENCE OPERATIONS CENTER (NIOC)

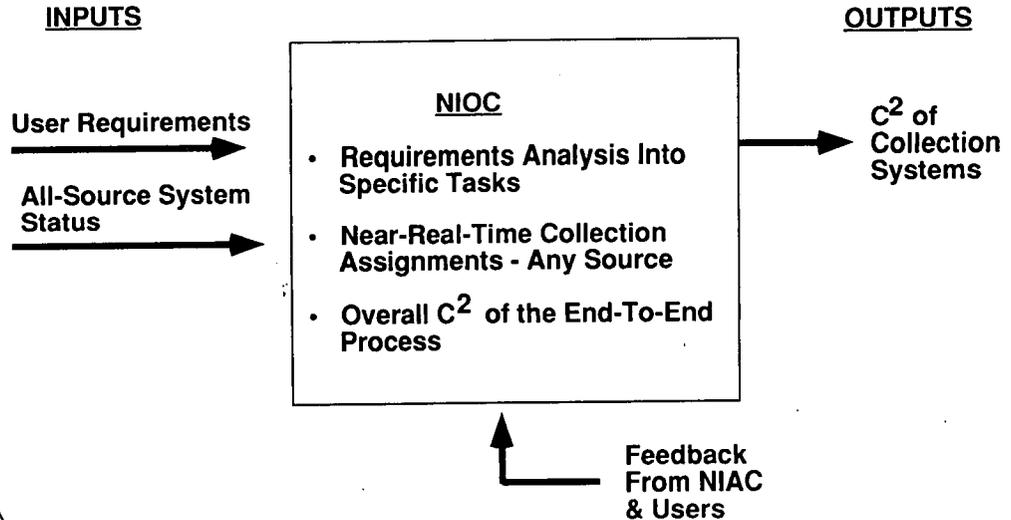


FIGURE 5

THE NATIONAL INTELLIGENCE ASSESSMENT CENTER (NIAC)

INPUTS

NRT Preprocessed
Outputs From
Technical Collectors



Selective Theater
Tactical Data



Other Sources



NIAC

- Time/Event Correlation Analysis
- On-Line Reporting
 - Drugs
 - Terrorism
 - Support to Military Operations
 - Treaty Verification
- Warning Assessment
- Master Data Base Access

OUTPUTS

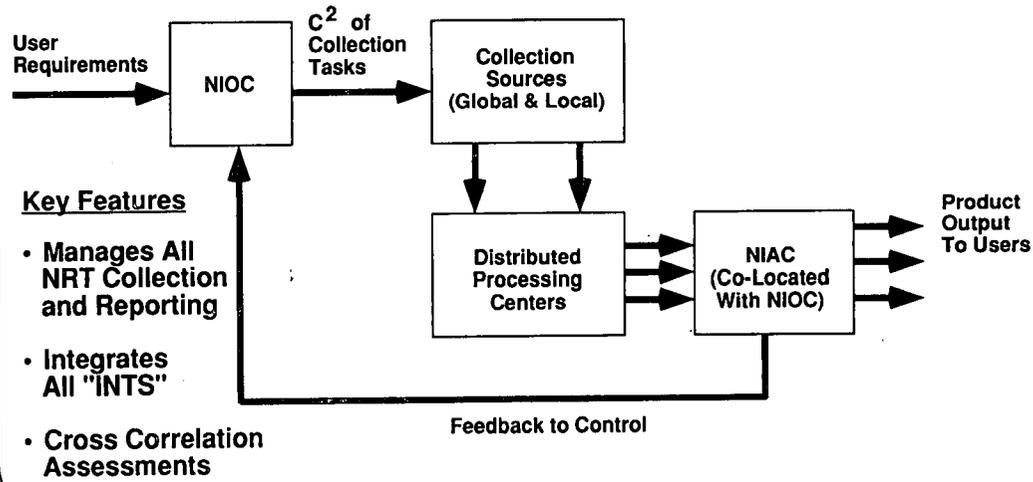
Global NRT
Reports

- Military Operations
- Drug Enforcement
- Terrorist Alerts
- Political Developments

Feedback
to NIOC

FIGURE 6

AN INTEGRATED NATIONAL INTELLIGENCE OPERATIONS ARCHITECTURE



National Intelligence Operations "Center"

FIGURE 7

McLEAN OFFICE BUILDING
6723 WHITTIER AVENUE, SUITE 303A
McLEAN, VIRGINIA 22101
PHONE (703) 790-0320

Association of
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23 March 1992

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The Honorable David L. Boren, Chairman
The Honorable Frank H. Murkowski, Vice Chairman
Senate Select Committee on Intelligence
Room SH-211
2nd & C Streets, N.E.
Washington, DC 20510-6475

Dear Senators Boren and Murkowski:

This letter is in response to your letter SSCI #92-585 to provide comments on the SSCI's Bill to reorganize the Intelligence Community. The letter was drafted by a number of AFIO members including me, whose aim was to be helpful in providing professional, non-parochial inputs. Our team included Edward O'Malley, AFIO's new president and former Assistant Director, FBI; Ann Caracristi, AFIO's last president and former Deputy Director, NSA; MG Richard Larkin, USA(Ret), former Deputy Director, DIA; RADM Thomas Brooks, USN(Ret), former Director of Naval Intelligence; Ambassador James Nolan, Jr., former Deputy Assistant Director for Intelligence Operations, FBI and Director of the Office of Foreign Missions, State Department; James Sturgis, formerly in Operational and Policy Development, FBI; John Blake, former Deputy Director for Administration, CIA and later SSCI Staff Director; RADM Donald Harvey, USN(Ret), former DCI Representative for JCS Matters and former DNI; and myself, CIA Station Chief at posts around the world and the first National Intelligence Officer for Counterterrorism on the National Intelligence Council.

In general, the intent of the Bill seems to us laudable. As is the case with any attempts to reorganize the Federal Government, the devil is in the detail. The Intelligence Community (IC) evolved toward its current structure -- inefficient as it arguably may be -- over many years of trial and error. Surely its management could be more efficient. However, some of the inefficiencies are a function of bureaucratic facts of life which are not easily legislated around. The intention of our drafting team is to encourage the portions which seem workable and advantageous while discouraging those which seem to us to have less merit.

AFIO Comments on Bill S. 2198

March 1992

The Director of National Intelligence concept.

S. 2198 represents at least the third time that legislative attention has been given to the concept of a Director of National Intelligence (DNI). Unlike previous considerations, which addressed themselves to re-ordering the senior management structure of the Intelligence Community, S.2198 would create a brand new agency within the Community. Both Chairman Boren and McCurdy, in their joint press conference of 5 February 1992, specifically use the word "agency" in describing the current proposal. Additionally, Section 105(e) of S.2198 makes specific reference to the "National Intelligence Agency."

This proposal, because of its severity, deserves and has received most serious study by AFIO members, all of whom formerly held most senior management positions in the majority of the agencies of the Community. Members of this study group are unanimous in their opinion that there are today several management deficiencies existing in the Community that should be addressed. They also believe S.2198 presents several important proposals that should be considered. They are also impressed with Senator Boren's public observations that his prime motivation is to start a dialogue at this time, as well as his statement that a revised Executive Order as opposed to legislation could be the avenue of reform.

We first address the avenue of reform in lieu of legislation. We suggest the SSCI capitalize on the precedent of the drafting of Executive Order 12333. By virtue of sincere and thoughtful negotiations between the SSCI and senior Intelligence management personnel within the Administration, an Executive Order was crafted that reflected the ideas of both the Legislative and Executive Branches of the government. It was an excellent process and reflected credit on all participants. We commend this approach again to your attention.

While it is clear from Chairman Boren's comments to the press that it was not the intention of the drafters of the Bill to alter present counterintelligence responsibilities, nevertheless, the Bill as drafted would do so. The DNI under this legislation would become the principal advisor to the President on counterintelligence; have a statutory right to reprogram counterintelligence funds; and would be able to rotate counterintelligence personnel within the national foreign intelligence program. In this area, the legislation fails to recognize the historic political and legal distinctions between foreign and domestic intelligence, including issues related to sensitive domestic electronic surveillance activities.

We recognize that the two greatest problems in the Community today are the lack of sufficient budgetary/fiscal authority vested in the DCI and the lack of desired integration of the civilian and military intelligence competence. In lieu of creating a near "super agency" to cure these problems, we believe two less drastic actions would be sufficient. The first is to change E.O. 12333 to strengthen the DCI's budget/fiscal role. The second action would be to establish two statutory Deputy/DCI positions; one a Deputy for Agency Activities and the other a Deputy for Community Activities. The later position would be held by a serving officer of four-star rank. We also endorse the position of S.2198 that would create the

position of Assistant Secretary of Defense for Intelligence. The new Deputy DCI for Community Activities and the new Assistant Secretary for Intelligence should represent a new and valuable means to bring about the desired increase in integration.

Any proposal in this vein must consider one of the end purposes and intended uses of the organization--simply, war-fighting. It would be unwise to establish a collection and resource allocation system which was efficient and productive in peacetime but which in time of crisis or war required major adjustment. Such seems to be the case in the draft legislation. The Secretary of Defense's role as a member of the National Command Authority carries with it specific responsibilities and authorities relative to war-fighting which would be clearly jeopardized by those of the DNI, as proposed. The SECDEF's collection tasking authority, for example, is absolute and absolutely responsive to the needs of the campaign. His responsibilities to the Unified Commands include prioritization of intelligence resources, uniformed and non-, as well as placement of collection assets. These responsibilities clearly conflict with those proposed for the DNI. An organization which requires a major functional adjustment as the nation prepares for war is neither faithful to its purpose nor effective in its performance.

The Committee on Foreign Intelligence under the NSC concept.

The creation of an NSC committee on Foreign Intelligence is an excellent proposal and receives our endorsement. Realigning the jurisdiction of the SSCI to reflect generally that now possessed by the HPSCI is the business of Congress.

The New Deputy DNI for Estimates and Analysis with mechanisms for centralized preparation of national estimates, of current intelligence, and other national-level analysis.

We share the concern expressed to your Committee by Dr. James Schlesinger. He pointed out that "you can't make the intelligence community neat. These organizations operate through informal contacts. That is how it works best." Schlesinger warned against the "immense and possibly fatal danger" of killing the competitive analysis that goes on at the CIA and in similar offices of the State Department, Pentagon and other agencies.

Similarly, relationships between intelligence operations people, who have on-the-ground familiarity with areas and issues about which analysts are expected to produce finished intelligence, and those same more scholarly analysts are complex, casual, and shifting, yet useful in contributing realities and perspectives.

The centralization of analytical assets called for in S.2198 would tend to stifle dissent, produce an intelligence "party-line" analytical/estimative product, and make independent analytical judgments more difficult. Our best final or finished intelligence analytical outputs have always been the product of conflicting views. The least effective National Intelligence Estimates were those where careful wordsmanship sought to resolve real differences to reach consensus. Competitive analysis should be encouraged, not discouraged.

Give the DCI responsibility for managing all U.S. intelligence collection involving human collectors, clandestine and overt.

AFIO fully understands and supports the need for the coordination of HUMINT collection activities at the national level, especially in regard to clandestine collection in hostile environments. Provisions for such coordination now exists, can assuredly be improved, and measures underway, such as appointing a military ADDO, are certainly welcome. However, the divergent collection requirements of various agencies are best understood, and best fulfilled, by the trained personnel of the tasking agency. The authority for, the risks of, and the gain from such collection activities can best be balanced by the tasking authority. Further, the draft legislation would task the Secretary of Defense to raise, equip, and train the military members of such a force, but the priority of collection, indeed, the area of collection, would be determined by the DNI. Exercising this authority under the direction of the National Security Council further denigrates the stature of the SECDEF as a member of the National Command Authority, confuses his line of authority, and frustrates his legal requirements to fight the forces.

Where the legislation gives responsibility to the DCI for all HUMINT collection, it again fails to distinguish between foreign and domestic intelligence activities. While the legislation correctly denies the DCI any law enforcement or internal security responsibilities, the definitions of "intelligence", "national intelligence", "national foreign intelligence program" are so broad, when considered with the domestic agencies included in NFIP, that domestic HUMINT activities would fall within the purview of the DCI. Also S.2198 should make a clear distinction in intelligence activities based on the locus of the activities. Also blurred by the legislation, in the context of the DCI responsibilities, is the distinction made as a result of the Church Committee Hearings of the citizenship (US person) of the target of these activities.

Office under the Deputy DNI for evaluating the performances of IC agencies.

S.2198 charges the DNI, through an office under the Deputy Director of National Intelligence for the Intelligence Community, with evaluating the performance of Intelligence Community agencies. This would, according to the Bill's own definitions, involve the DCI in evaluating the performance of domestic agencies. Coordination between internal and external intelligence and counterintelligence/counterterrorism is extremely important but there must be a clear distinction between such coordination and the management of internal intelligence activities. The latter ought to remain in its unique compartment for obvious historical reasons. Evaluation of counterintelligence performance is a healthy idea but it ought not rest with the DNI for these reasons.

Concept of a separate budget for the National Foreign Intelligence Program to be appropriated to the DNI.

We recognize the need for stronger budgetary and fiscal control by the Community leader be it the DCI or the proposed DNI. Budgetary authority must however be carefully and realistically defined so as to ensure that departments and agencies,

e.g. State, Energy, Defense, Treasury and Justice, retain a genuine measure of responsibility and accountability for the performance of their intelligence assets.

Concept of an Assistant Secretary of Defense (Intelligence) with responsibilities with respect to the National Foreign Intelligence Program.

AFIO concurs in the creation of the post of an ASC(I). The intelligence responsibilities of the Department of Defense are indeed complex and varied, as are the intelligence requirements of the Department. A senior official on the Secretary's staff would profitably deal in policy issues, internal and external budget issues, and overall priority issues, and would facilitate the CIA Director's considerable task of running his agency. Defense's interest would be best served if this post were occupied by an intelligence professional, civilian or military.

National Imagery Agency within the DoD to operate a unified program for collection, exploitation, and analysis.

AFIO concurs in the premise that the management of the Imagery process requires improvement. By the Imagery process we mean such things as system requirement definition, collection requirement management, overall imagery architectures, setting and enforcing of standards, advocacy/sponsorship for the imagery process and community, etc. We separate this from the exploitation and analysis of imagery product and the production of intelligence based on imagery inputs, which should remain with the all-source production organizations.

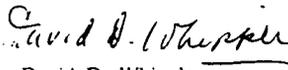
Whether it is called the National Imagery Agency or some other name, we believe an organization should be established which would own the imagery process, but not including the production of intelligence or the launch and operation of satellites. A central focal point for imagery functioning, much as DIRNSA does for SIGINT, would allow for better planning, programming, policy formulation and quality assessment in the imagery arena and should help solve problems in national-tactical interface, secondary dissemination, perceived (more than real) analytic duplication, professional development of personnel, interoperability, and the myriad of other problems which have come to light as a result of DESERT STORM.

We would be opposed to an Agency which attempted to "own" imagery, to include the production of finished intelligence analysis. Another intelligence "stovepipe" organization runs entirely counter to the very healthy trend toward all-source analysis we see in the Community today and which we heartily support.

Provide statutory responsibilities for NSA and DIA

We support the idea of statutory charters for NSA and DIA.

Respectfully,



David D. Whipple
Executive Director
Association of Former
Intelligence Officers



30 March 1992

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McDonnell Douglas Electronic Systems Co.

EXECUTIVE

VICE PRESIDENT

John E. Morrison, Jr.

SECRETARY TREASURER

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FEDERAL EXPRESS

The Honorable David L. Boren
U.S. Senate
453 Russell Bldg.
Washington, D.C. 20510

Dear Senator Boren:

Thank you for your invitation to comment on S.2198,
the "Intelligence Reorganization Act of 1992".

General

The end of the Cold War, the lessons of Desert Storm and the significantly altered fiscal situation collectively support the view that it is a propitious time to reassess the structure and responsibilities of the Intelligence Community. Economies and efficiencies will have to be sought without weakening the essential intelligence capabilities required in the future. That said, I would have preferred that the DCI had been allowed the time to come forward with his own proposals since a reorganization tends to have more logic and permanence if generated from within. It is recognized, however, that bureaucratic resistance to change can justify a stimulus to dialogue such as you have ascribed to S.2198.

Is Legislation Needed?

In its present form, S.2198 proposes statutory solutions to a management problem, i.e. how best to organize diminishing assets to meet a changing but not necessarily diminishing threat. In our present circumstances, flexibility is key to our ability to respond to (and preferably predict) the dynamics of the world environment. While it may be possible to improve the community's flexibility through statute, it could be that additional legislation will detract from the community's flexibility. We all recognize that changing a statute to accommodate changing situations can be a time consuming process. The length of the process itself could result in missed opportunities even when the rationale for subsequent change is unanimously appreciated. It is possible that the intent of the bill may best be served by no legislation at all.

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None of the foregoing is meant to exclude the possibility of reorganization or to postulate that improvements are unnecessary or undesirable. Improvement is a continuing process. The detail of the legislation seems to assume that there is evidence which audit trails the "failures" of the Intelligence Community to inappropriate structure. Many are not persuaded that "failure" has occurred, let alone that we have precisely identified its root cause and that the proposed legislation is the most appropriate remedy.

National and Tactical

As now written, S.2198 would enshrine into law a distinction between "national" and "tactical" intelligence which heretofore has been only a doctrinal issue between some elements of the community and the uniformed military. The Bill would limit the DNI to "national intelligence" (defined as excluding intelligence needed for military planning and support to combat operations); non-"national intelligence" is categorized as "tactical intelligence" and remains under the purview and budget authority of the SECDEF. DESERT STORM clearly demonstrated the difference between "authority over" and "application of" various forms of intelligence, as well as how technology has merged the capabilities and usefulness of all systems, both local and distant, in support of a field commander. The Bill's distinction between "national" and "tactical", in fact, appears to divest the one single-INT manager now with authority over both national and tactical programs (i.e. NSA) of his current authority over "tactical cryptologic programs". In view of the charges laid upon the Services and the Departments by the Bill for sustaining their own capabilities, this dichotomy would surely foster unnecessary duplication. One further thought in this area--the division of intelligence budgets between the DNI (NFIP) and the SECDEF (TIP) would appear to leave final budget reconciliation and de-duplication in the lap of Congress--the role of an ASD/I notwithstanding. Economy and efficiency will be more difficult to achieve if reconciliation of the NFIP and TIP program does not occur before Congressional oversight begins.

NFIP Management

The proposed legislation assigns to the newly-created Director of National Intelligence responsibility for the allocation, obligation, and expenditure of NFIP funds. The provision for allocation could be accommodated, although there is some question that it would be wise to do so. As a practical matter, the mere act of allocation would insert an additional

layer into the budget preparation process. It would be time-consuming, both when guidance flows down to all elements of the government and when the proposed agency budgets are submitted for review. Programmatic and fiscal guidance would have to be developed and issued to government departments so they would have a framework within which cost-effective solutions could be proposed. This would have to be accomplished before the departments begin the building cycle. The task of the individual departments is already complicated by legislative delay. Shortfalls are essentially the difference between requirements and capabilities. If one does not know which programs addressing previously identified shortfalls the Congress will authorize and allocate from earlier budget submissions, it is difficult if not impossible to determine programmed capability in order to predict a shortfall which enables the development of timely and meaningful guidance. This problem now occurs routinely without the additional delay such a bureaucratic structure imposes. Since it is usually impossible to know if new technologies to more economically solve specific, or even a broad range of requirements are available or can be developed, the individual department program builders turn to acquisition experts, who in turn, go to the industrial base. Only then does it become possible to respond intelligently to guidance. As we are all aware, programs are not mirror images of requirements, but rather responses to requirements which are tempered by technology, opportunity, and available financial resources. The programs generated by individual agencies must then be examined by the DNI for unnecessary redundancy; cost-effective solutions; soundness of rationale for adapting new technology approaches; judging whether more than one of the three INTs should respond to the overall collection requirement; which response is best if we can't afford three; and the overall responsiveness of the programs to his original guidance.

The issues of DNI responsibility for obligation and expenditure of funds are even more complex. Most presidential, congressional, or industry panels on government procurement have criticized the Federal Acquisition Regulations. What is often overlooked is that ninety to ninety-five percent of all the federal acquisition regulations have a basis in statute. As you know there is an Economy Act governing transfers between departments and agencies which designates responsibility for oversight; there is the Federal Manager's Financial Integrity Act (FMFIA), the Anti-deficiency Act, etc. The proposed legislation fails to address how all the heads of departments with responsibility under these laws governing federal funds will be excused from their

provisions. If the motivation for assigning this responsibility to the DNI is to prevent Executive Branch offices from reprogramming funds, it will be useful to recall that Congress directed the Comptroller General of the United States to establish the rules for audit whether such audit be financial, managerial, etc. The Comptroller General has promulgated rules in what is commonly called the "Yellow Book" applicable across the government. The first rule is to determine whether or not funds were expended for the purposes for which they were appropriated. If the answer is "no," the matter is referred to the Attorney General for prosecution under criminal statutes. If the answer is "yes," then the auditors/inspectors proceed to questions concerning efficiency, economy, and adequacy of controls. There is a way to control reprogramming: it exists in law; it is routinely practiced. Finally, you will note that we have not addressed the sociological turbulence generated by having a DNI, who essentially heads a conglomeration of service agencies, issue guidance to Cabinet officials.

The Proposed Imagery Organization

The increased attention to imagery in the proposed legislation is applauded. While admittedly the organization solution to the amalgamation of imagery activities proposed in the Bill (i.e. a National Imagery Agency) has much to commend it, we are mindful of the "start-up" and continuing costs of establishing a new agency. It might be prudent and perhaps much more economical to charge the Defense Intelligence Agency with those proposed NIA functions and responsibilities assuming that the agency would be properly structured and adequately manned to undertake the task.

Space Recce Systems Acquisition

The assignment to NSA and NIA of exclusive responsibilities (subject to the authorities of the DNI) for the procurement and operation of overhead reconnaissance systems is the source of some concern. While at first glance, some might rejoice in such a new arrangement that reaction would be short lived in the face of certain realities. Those realities involve inter alia, the fact that at considerable expense and over many years the Department of Defense has developed a very effective capability to acquire all types of overhead reconnaissance systems. That acquisition activity is staffed by experienced, knowledgeable professionals who understand the highly technical business of designing and procuring space vehicles and the relative capabilities of those industrial entities involved, or which wish to become involved, in producing

special space hardware for the U.S. government. Dividing and reassigning the functions of the single government element now charged with acquiring space reconnaissance systems, would be extremely costly and of questionable benefit. Division of space acquisition responsibilities would also reduce the opportunities to effect possible trade-offs between the platforms of one INT with those of the other. The opportunities to effect savings in a dual procurement process would undoubtedly be less than would be the case if a single organization were procuring both SIGINT and Imagery Systems. The foregoing is not intended to imply that the current acquisition process is completely satisfactory. For one thing, more needs to be done to insure that the users of space reconnaissance vehicles have an authoritative voice in technical matters involving mission payloads. Such provisions can surely be made without the need to abandon the current acquisition organization and process in favor of separately charging NSA and NIA with the acquisition task.

If S.2198 were to be passed in its present form, at least one more acquisition agency, with which industry must deal, would be created. This would result in still another set of auditors and government oversight agents. Our industrial base will not only have to contend with an additional set of auditors for the acquisition of overhead assets (two vice one), they will have to replace the current one with two different ones. This is not only inconvenient but costly as well. Industry accounting systems must meet the standards of the individual audit agencies.

Competing Analysis Centers

Without repeating the well-reasoned arguments of Secretary Schlesinger and other distinguished witnesses, we wish to go on record in support of competing centers of analysis. We understand that you personally support the concept of competing centers of analysis but, in our view, the particulars of the bill as now written may frustrate this intent. Reasoned dissent sharpens the focus of the user. The user, rather than the analyst or the estimator should be the one who makes the decision to include or exclude the analysis.

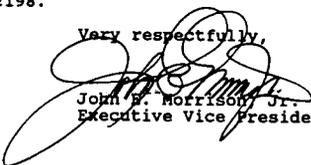
Making the Intelligence Budget Public

In addressing the requirement for publishing the intelligence budget, there are two schools of thought with valid supporting arguments. One holds that the public ought to be aware of the amount of resources spent on intelligence so that the public priorities for

resource allocation can be made known to the Congress. We may be paying too much. On the other hand, one may assume that once an aggregate budget figure is published, the journalistic pressure for additional details would lead to more if not all information eventually becoming public. The nation might lose its ability to obscure targets from the espionage activities of drug dealers or foreign nations. In the cycle of history, we can be assured that someday there will be a clear and present danger to our vital national interests if not to our security. When that day comes, it may be too late to attempt deception or other counter-intelligence operations to protect our security. One could argue that the intelligence budget has never been identified from the earliest days of the Republic and the democratic principles underlying our form of government have not be undermined. Yet intelligence costs cannot be kept solely within the Intelligence Community. The Intelligence Community should not be the judge of its own worth; that is more properly determined by the user community. Rather than leave ourselves facing an unresolved dilemma, we should look for a reasonable alternative solution. We suggest that since Congress routinely specifies the format for the executive's budget submission, Congress can get a clear, detailed but nevertheless classified breakout of intelligence costs to whatever degree of specificity the members deem appropriate. All obligational authority (sought or granted) is in the public total even if it is not clearly identified. We believe that the values of the people are reflected in their representatives and a national referendum is neither required nor desired by the public for any release of data that is harmful to the national interest.

Again, many thanks for the opportunity to provide our thoughts on S.2198.

Very respectfully,



John B. Morrison Jr.
Executive Vice President



WASHINGTON OFFICE

March 13, 1992

Honorable David Boren, Chairman
 Honorable Frank Murkowski, Vice-Chairman
 Senate Select Committee on Intelligence
 211 Hart Senate Office Building
 Washington, DC 20510

Dear Messrs. Chairman and Vice-Chairman:

In his testimony before the House Foreign Affairs Committee on February 25, 1992, Director of Central Intelligence Robert Gates outlined a number of issues of interest to the CIA and the Intelligence Community that are not "traditional issues of national security," but rather matters affecting our "national interest" that, in his words, "cannot be resolved simply through the application of military force or diplomacy."^{1/} Moreover, Gates suggested that the Intelligence Community is necessarily interested in any issue or area where our government is engaged.^{2/}

The ACLU takes issue with Gate's vision of the future role of the Intelligence Community. We are very concerned about the Intelligence Community getting involved in non-national security matters -- especially now that the Cold War is over -- and believe that it is vitally important to keep the national security bureaucracy separate from all other governmental interests and functions.

^{1/} Statement of the Director of Central Intelligence Before the Foreign Affairs Committee, U.S. House of Representatives, Feb. 25, 1992, at 11 [hereafter "Testimony"]. President Bush has made similar indications. In November 1991, he issued National Security Review No. 29, noting that "[t]here is growing interest here at home in our intelligence services tackling new issues and problems" and tasking all government agencies to suggest new intelligence needs: e.g., environment, natural resources, AIDS and other global health problems, and economic competitiveness.

^{2/} "Finally, I will talk about other issues and areas where our government, and consequently the Intelligence Community, is deeply engaged." Testimony, at 1.

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 CHAIR
 NATIONAL ADVISORY COUNCIL

March 13, 1992

Page 2

In addressing issues affecting the national interest, Gates correctly understood that "national security" is a term of art referring exclusively to "the national defense or foreign relations of the United States."^{3/} The CIA and all of the other agencies of the Intelligence Community were established during the Cold War for the sole purpose of protecting the United States against foreign military attack or domination, in particular by the Soviet Union in conjunction with a perceived international Communist conspiracy.^{4/} In order to perform their work, these agencies were granted special exceptions to the principles of openness that generally guide the work of the government.^{5/} Moreover, the public, as well as other non-cleared government

^{3/} See Executive Order No. 12356, National Security Information, sec. 6.1(e) (Apr. 1, 1982, 47 Fed. Reg. 14874).

^{4/} Gates recently stated that the "intelligence institutions [were] created initially to wage war against communism." "CIA and Openness," Oklahoma Press Association, Feb. 21, 1992, at 4.

^{5/} The heart of the problem is a secrecy and security clearance system that denies access to all non-cleared persons, regardless of any individual need or public interest that may be served. Personnel granted access to national security information are subject to intrusive background investigations that often pry into one's political, medical, and sexual background and often include polygraphs and random drug testing. They must then sign overly restrictive secrecy agreements, sometimes subjecting them to lifetime prepublication review, that limit their First Amendment rights of free expression; they are also threatened with possible criminal sanctions for engaging in First Amendment conduct. Persons who need government information to support legal claims are also routinely denied such access, under either the State Secrets privilege or the Freedom of Information Act.

The process of collecting intelligence information also threatens the rights of Americans. The collection of foreign intelligence is not necessarily predicated on criminal conduct. For this reason, such collection in the United States is supposed to follow tougher standards and be conducted by different agencies than when carried out abroad. However, such is not always the case; for example, Americans are still subject to warrantless and secret physical searches of their homes, offices, mail, and luggage in national security cases. They are also regularly denied any right of legal redress in such cases or even the right to know what the government has done to them or what information it has on them.

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officials in the Executive and Congress, were denied access to important government information and were thus shut out of meaningful debate on the affected governmental policy.

Although this secrecy system may have been necessary to pursue the Cold War and may still be necessary to a lesser degree to protect the nation from continuing military threats, it has not come without significant costs. The clandestine system of collecting, analyzing, and protecting information is much more costly than traditional open-source methods. The system has also caused extensive environmental damage: development projects involving national security are exempt from all environmental impact statements and other reporting requirements that help to protect against undue pollution. We are just now uncovering the extent of damage to the environment caused by the production of fissionable materials and other weapons systems, which will cost billions of dollars to clean.

Finally, and most importantly, this system is significantly less accountable to congressional oversight, and it inhibits public debate that is essential to a healthy democracy. From the intelligence scandals of Iran-Contra and those investigated by the Church Committee to the extremely expensive acquisition of secret satellite systems, the Intelligence Community has often blind-sided Congress as it has also inflicted financial, political, and even criminal hardship upon the country.

Because of these extraordinary costs, none of the exceptions that apply to the intelligence community should apply to non-national security matters. There are obviously many threats to our national interest about which the government has legitimate concerns and should be collecting and analyzing information.^{6/} But the government's approach to dealing with these types of problems should not come at the expense of the democratic principles that define how this country works. The debate over and establishment of international criminal, economic, environmental, and social policies should not be constrained by a "need to know" at the SECRET level or above. Government policymakers, which naturally includes all members of Congress and their staffs, must have free access to all pertinent information on these issues; and the public too must be kept fully informed.

^{6/} Among the issues that Director Gates indicated could threaten our national interests, although not our national security, are international crime, international economic problems, problems affecting the viability of societies (overpopulation, hunger, AIDS, etc.), and environmental problems. Testimony, at 11-15.

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Accordingly, we recommend that, in the course of any reorganization of the Intelligence Community, the intelligence agencies be statutorily prohibited from intentionally collecting or analyzing non-national security information.^{7/} When non-national security information is inadvertently collected, it should be passed on to the appropriate department for its use. If a non-national security agency believes it needs the benefit of clandestinely collected information, it should be required to justify its need and obtain authorization from Congress. Analysis of non-national security issues should be conducted by the appropriate policy agency, or a separate analytical agency should be established to analyze such issues.

Any effort to combine national security and non-national security intelligence functions in an existing agency like the CIA under different standards will almost certainly result in continued excess and abuse of secrecy.^{8/} If the CIA is tasked to focus on non-national security issues, the Agency, the President, and ultimately the courts will invariably treat these issues by the same unaccountable standards as they do traditional national security matters. In the Executive's view, if the Intelligence Community is doing it, it must, by definition, be national security; any challenge to the Executive's view is almost certain to be rejected by the courts.

^{7/} Another reason why this prohibition is necessary is that agencies tasked to collect information on, say, foreign business practices will likely start their investigations by targeting its clandestine methods on U.S. based subsidiaries or competitors. The growing internationalization of companies makes it harder and harder to distinguish a U.S. corporation from a foreign one. The same problem could arise in other non-national security issues as well, such that the Intelligence Community winds up spying on Americans as the easiest method of collecting the desired intelligence.

^{8/} It may be possible to create a wholly new agency for intelligence analysis that covers both areas. The Intelligence Community Reorganization proposals -- H.R. 4165 and S. 2198 -- propose a step in that direction by creating a new National Intelligence Center, and relegating the CIA only to HUMINT collection and covert action. Analysis by the proposed National Intelligence Center would have to be demarcated between the two areas, one being relatively open, the other more closed (in the same way, perhaps, that the GAO, or even the Congress, insulates and protects its intelligence oversight sections or committees from its normally public functions).

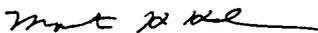
March 13, 1992
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Indeed, the Executive asserts that only it can determine what is a threat to the national security and that the means employed to combat any such threat cannot be challenged by either Congress or the courts. The courts, in turn, now almost universally uphold the Executive's actions in the name of national security, even when such actions are contrary to clear statutory language or basic constitutional rights, and often without considering whether the claims in fact are valid and outweigh the other compelling interests at stake.⁹

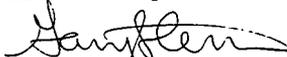
Thus, in whatever form the Intelligence Community is to be reshaped after the Cold War, it must not expand into new areas outside of its narrow domain. There is no reason why persons, in and outside of government, who want to deal with such issues as shortages of natural resources, global health problems, or economic competitiveness should be prevented from doing so by a secrecy and security system designed solely to protect the nation against the unusually grave threat of military attack.

Thank you for considering our views on this matter. We would welcome the opportunity to meet with you to discuss our concerns in greater detail.

Sincerely,



Morton H. Halperin



Gary M. Stern
Legislative Counsel

⁹ Since the Pentagon Papers case in 1971, New York Times Co. v. United States, 403 U.S. 713 (1971), the Supreme Court has rarely, if ever, rejected an Administration's national security defense of its action. In that case, the Solicitor General assured the Supreme Court at oral argument that the nation would suffer grave harm if publication of the papers continued. Years later the same Solicitor General acknowledged that the Administration had exaggerated the professed dangers to national security and that the professed dangers never transpired. See Griswold, "Secrets Not Worth Keeping," Wash. Post, 2/15/89, at A25. Indeed, the dissent by Justice Harlan, which commanded three votes and which argued that the Court had no choice but to accept the description of harm by the Executive branch, would very likely have the support of a majority of the Court now.



WASHINGTON OFFICE

February 20, 1992

M E M O R A N D U M

TO: INTERESTED PERSONS

FR: AMERICAN CIVIL LIBERTIES UNION
(contact Gary M. Stern)

RE: S. 2198 and H.R. 4165 -- 1992 INTELLIGENCE REORGANIZATION
BILLS

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On February 5, 1992, the chairmen of the House and Senate Intelligence Committees both introduced bills calling for significant reorganization of the intelligence community.^{1/} The American Civil Liberties Union has no position on the general purpose and most of the provisions of the bills. However, as described below, the ACLU is concerned about several provisions that do raise civil liberties problems.

General Purpose of Bills

The bills are very similar, each one seeking to give greater centralized control over the numerous agencies and functions that make up the intelligence community in order to improve the intelligence product and reduce waste and redundancy. The proposed legislation would establish a new Director of National Intelligence (DNI), who would have much greater legal authority, including budget controls, over all of the intelligence agencies than currently exists for the Director of Central Intelligence.^{2/} The analytical function of the CIA would be split off and placed under separate control in a new National Intelligence Center. The CIA would then engage only in the functions of its Operations Directorate -- human intelligence collection and covert action.

^{1/} S. 2198, introduced by Senator David Boren (D-OK); H.R. 4165, introduced by Representative David McCurdy (D-OK).

^{2/} In addition to directing the CIA, the DCI is the designated head of the intelligence community; in practice, however, the DCI has had little control over the Defense related intelligence agencies.

The National Security Agency, exclusively responsible for signals intelligence and communications security, would come under the "authorities and guidance" of the DNI, while still "under the direction of the Secretary of Defense." Similarly, a new agency would formally be created for satellite reconnaissance -- the National Imagery Agency (NIA). The Senate bill would give to the NIA the job both of designing, launching, and operating the satellites and of collecting and analyzing the data. (S. 2198, sec. 321.) The House bill would divide these functions between two agencies: the NIA would collect and analyze; a newly created Reconnaissance Support Activity (RSA) would launch and operate. (H.R. 4165, secs. 321 and 331.)^{3/}

The bills would also establish the DNI as the principle intelligence adviser to the President and a participant in the National Security Council, and would create a Committee on Foreign Intelligence of the NSC to include the DNI, the Secretaries of State, Defense, and Commerce, and the National Security Advisor. They would establish a separate line item on the budget for the aggregate amount of the intelligence community. The House bill would require that this budget figure be made public (sec. 112); the Senate is silent on the matter.^{4/} Finally, the Senate bill would amend S. Res. 400, the Senate resolution that created the Senate Select Committee on Intelligence, to broaden that committee's jurisdiction over the whole intelligence community, as is already the case for the House Permanent Select Committee on Intelligence. Currently, the Senate Armed Services Committee has exclusive jurisdiction over tactical military intelligence activities.

ACLU Concerns

1. FBI foreign counterintelligence activities in the United States.

The bills would make the DNI responsible for "developing and presenting . . . an annual budget for the National Foreign Intelligence Program of the United States" and for "managing the collection capabilities of the Intelligence Community." (S. 2198, sec. 202; H.R. 4165, sec. 103(a)(3).) The bills define the Intelligence Community to include the intelligence elements of the Federal Bureau of Investigation, thus giving the DNI effective budget and management control over the FBI's foreign

^{3/} The NIA and RSA would take the place of the still officially secret National Reconnaissance Office (NRO).

^{4/} Separating the intelligence community budget from the Defense Department budget, where it is currently hidden, would, in any event, almost necessarily require that it be public.

counterintelligence (FCI) responsibilities -- i.e., those portions engaged in foreign intelligence collection and foreign counterintelligence and international terrorism investigations.

Under the current framework, the FBI conducts most FCI investigations in the United States. The CIA also engages in some clandestine investigative activities at home. Although by law the CIA "shall have no police, subpoena, law-enforcement powers, or internal security functions,"^{5/} in 1981 President Reagan gave the Agency authority to conduct investigations in the United States in coordination with the FBI.^{6/}

The ACLU objects to the current procedures and believes they are illegal for a number of reasons. First, the Attorney General's FCI guidelines authorize investigations of U.S. persons who are not necessarily suspected of criminal activity.^{7/} The guidelines allow the FBI to conduct physical searches without a judicial warrant in direct violation of the Fourth Amendment: they can break into a person's house, office, or mail even when there is no probable cause that the person is committing a crime. In addition, those guidelines are classified and thus establish secret standards for such investigations; nor is there any legislative basis for the FBI to conduct its investigations. Furthermore, allowing the CIA to engage in any domestic investigations violates the statutory prohibition on such CIA activity.

The ACLU believes that the proposed legislation should rectify the deficiencies in the current system by including public standards that limit clandestine investigations of U.S. persons to the FBI based on a reasonable suspicion of illegal

^{5/} 50 U.S.C. § 403(d)(3). As an essential protection of the rights of Americans and a lesson from World War II, this proviso was drafted in 1947 to guard against the rise of a GESTAPO-like agency in this country. The separation between intelligence activities conducted in the United States and those conducted abroad is intended to prohibit the government from investigating Americans in the same manner that it operates against the rest of the world. Even if participation in the no-holds-barred world of spying and covert action is deemed necessary abroad to protect the national security, any such conduct must be balanced here at home with the fundamental liberties guaranteed by the Constitution.

^{6/} Executive Order 12333, sec. 1.8 (Dec. 4, 1981). The CIA also conducts background investigations on its own employees.

^{7/} Attorney General Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations (April 8, 1983; amended June 19, 1987 and Sept. 4, 1989).

activity.^{9/} As currently drafted, the bills, apparently unintentionally, would make things worse, not better, by for the first time giving the head of the intelligence community effective control over FBI intelligence activities in the United States. The sponsors of both bills have indicated that they intended no such a result in the legislation.^{9/} The ACLU will closely monitor the progress of the bills and work to ensure that the language is changed at least to preserve the status quo.

2. Limitations on Investigative and Internal Security Functions of CIA, NSA, and NIA.

The bills maintain the above mentioned statutory prohibition on CIA police, subpoena, law-enforcement powers, or internal security functions. However, no equivalent prohibition exists for either the National Security Agency^{10/} or the National Reconnaissance Office, the current (but officially secret) embodiment of the proposed National Imagery Agency. Up until the mid 1970's, both the CIA and the NSA engaged in illegal investigations of Americans.

The ACLU believes that any new legislation should explicitly prohibit all of the intelligence agencies, except the FBI, from engaging in any law enforcement related investigations of U.S. persons in the United States or in any other clandestine information gathering activity or covert action directed at U.S. persons. Thus, the bills should include language applying the same prohibition on internal security and law enforcement functions that exists for the CIA to the NSA and NIA. The CIA and all other intelligence agencies should also be explicitly

^{9/} A bill in the House, H.R. 50 (introduced by Cong. Don Edwards and John Conyers), would require a such criminal predicate for all investigations of U.S. persons.

^{9/} In his opening statement at the February 20, 1992 public hearings on S. 2198, Senator Boren stated that "[t]he comments I have made about management do not apply to domestic counterintelligence functions, especially FBI investigations. While the FBI is part of the intelligence community, we need checks and balances where the rights of Americans are affected. The current structure that keeps the FBI primarily under the authority of the Attorney General has worked well in recent years. There is no intent on my part to change it."

^{10/} The NSA is constrained by the Foreign Intelligence Surveillance Act (FISA), 50 U.S.C. § 1801 et seq., which authorizes electronic surveillance of U.S. persons who are considered "agents of foreign powers." Such surveillance in the United States is generally conducted by the FBI under the FCI Guidelines.

prohibited from engaging in any domestic investigations not directly related to its own personnel. In addition, the intelligence agencies of the armed services should be prohibited from conducting investigations on non-military personnel.

3. Authorization of Covert Action.

The bills would for the first time explicitly authorize the conduct of covert action as an instrument of U.S. policy. They do so by reenacting the "other functions" clause of the National Security Act of 1947, 50 U.S.C. § 403(d)(5), an ambiguous phrase from which the Executive has in recent years claimed to derive its legal authority to conduct covert actions, and then by specifically identifying covert actions as such a function.^{11/} However, there is nothing in the law or legislative history of either the National Security Act of 1947 or the Central Intelligence Agency Act of 1949 to suggest that Congress contemplated covert action as a mission of the CIA.^{12/} Of course, since 1947, the Executive has regularly engaged in covert actions, often with the knowledge of some Members of Congress. Nonetheless, the Intelligence Oversight Act of 1991, like its 1980 predecessor (both codified as title V of the National Security Act), does not authorize covert action. Rather, it says only that the President may not conduct covert action unless he meets the conditions set forth.^{13/}

A bill that would give express recognition in statute of the President's authority to conduct covert actions should only be considered after the most careful study of the issue in light of the end of the Cold War and the rapidly changing international

^{11/} See Explanatory Statement of S. 2198, at 11.

^{12/} "Without any indication in the Act's history that the Congress anticipated covert action or intended to authorize it, and without any executive branch attempt to obtain from Congress specific authority for the conduct of covert actions . . . , the NSC directed the CIA to undertake these activities." Foreign and Military Intelligence, Book I, Final Report of the Select Committee to Study Governmental Operations with Respect to Intelligence Activities, United States Senate, S. Rep. No. 94-755, 94th Cong., 2d Sess. (1976), at 475 [Church Committee report].

^{13/} The original bill introduced by Senator Cohen in 1987 would have for the first time granted such authority by stating that "President may authorize the conduct of covert actions . . . only when he" meets the necessary conditions. That language was reformulated in the negative, consistent with the then current language, so as not to confront the matter of formally authorizing covert action in an oversight bill.

environment. Not since 1976 has Congress conducted a substantive examination of the merits of covert action or considered whether to impose any substantive restraints. Neither the Iran-Contra hearings, nor the 1988 House and Senate hearings on the Intelligence Oversight Act dealt with this aspect of the issue. The Iran-Contra investigation, like those of the Church and Pike Committees beforehand, revealed illegalities, corruption of the democratic process, and the subversion of Congressional/Executive relations associated with covert operations, not to mention their failure to achieve their putative objectives.

The ACLU believes that Congress should prohibit the use of covert action. Such covert activities raise serious constitutional problems and undermine accountability of the executive branch; the necessity to keep the operation secret often engenders lying to Congress and even illegalities. They have also been justified largely as a Cold War necessity to counter the Soviet's use of the same practice. With the Cold War finally having come to an end, we believe that Congress should reconsider whether to continue the practice. At the very least, Congress should consider imposing both procedural and substantive limitations on their use. For example, paramilitary operations should require advance authorization by Congress.

4. Declassifying the Intelligence Budget.

As noted above, the House bill explicitly requires that the aggregate budget figure for the intelligence community be made public; the Senate bill implies the same result. In 1991 the Senate passed an amendment to its Intelligence Authorization bill requiring public disclosure. However, in the face of a presidential veto, the amendment was changed into a non-binding, sense of the Congress resolution calling on the President to disclose the budget voluntarily. (In his confirmation hearings to be Director of Central Intelligence, Robert Gates indicated that he would not oppose making the aggregate budget figure public.) Nonetheless, the President voiced his opposition to the idea when he signed the overall bill and failed to release the figure in his proposed FY93 budget.

The ACLU believes that the figure should be made public. The enduring secrecy of the intelligence budget rests on a faulty legacy of the Cold War: that fundamental democratic principles at home had to be sacrificed in order to combat the Soviet and other Communist threats from abroad. But now, with the Cold War over and those threats significantly diminished, there is no longer any justification for continuing to ignore this basic tenet of a free and open government. In addition to violating

the Accounting Clause of the Constitution,^{14/} the secret budget also violates our First Amendment rights to speak and petition Congress. As Senator Daniel P. Moynihan (D-NY) so aptly noted last year:

[T]he secrecy system . . . withholds information from the American people. It protects intelligence errors, it protects officials from criticism. Even with the best of intentions the lack of public information tends to produce errors; the natural correctives -- public debate, academic criticism -- are missing. We must begin to end this secrecy system and the best way to start is by letting the American people know how much the intelligence community costs them in tax dollars. They should know that much at least. It is their constitutional right.

Thus, if we are knowledgeable to assess the functioning of our government and to counsel effectively in the establishment of government policy, the intelligence budget must be made public.

5. Greater Openness in General.

While addressing the public budget issue, the bills fail to confront the more endemic problem of excessive secrecy and classification within the intelligence community in general. In early 1992, Director Gates approved the recommendations of the Openness Task Force, which, among other things, calls for the declassification of historical records and the public release of certain current information.^{15/} While a step in the right direction, these voluntary reforms (to the extent they are in fact carried out) do not go nearly far enough.

In particular, there is a need to consider both the definition of what should be classified and the process of classifying information. The Information Security Oversight Office (ISOO) has found a high degree of overclassification, for reasons "including sheer ignorance of the standards for classification, overcaution, and a desire to give more prestige to one's work or to avoid routine oversight." Drastically limiting the amount of classified information, and the number of people who have access to it, will greatly facilitate the

^{14/} Article 1, section 9, clause 7 states that "a regular statement and account of the receipts and expenditures of all public money shall be published from time to time."

^{15/} See E. Sciolino, "Panel From C.I.A. Urges Curtailing of Agency Secrecy," The New York Times, Jan. 12, 1992; E. Sciolino, "C.I.A. Casting About for New Missions," The New York Times, Feb. 4, 1992. To date, the recommendations of the Openness Task Force themselves have not been publicly released.

protection of information that needs protection and will do so in a way that minimizes constitutional infringements.

The ACLU believes that any legislation that reforms the intelligence community must also reform the classification system. One simple reform would be to reimpose the 30-year rule for presumptive declassification. In 1991 such a rule was enacted into law for State Department records. The same procedure should apply to the CIA, the other intelligence agencies, and the Defense Department.

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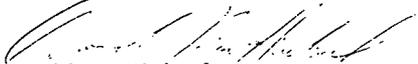
Dear Mr. Tenet:

Thank you for your letter of March 6, regarding S.2198, The Intelligence Reorganization Act of 1992, inviting the Association of National Security Alumni to submit in writing its comments for publication in the record of the Committee hearings on the legislation. Our comments are incorporated in the enclosure to this letter.

The Association is not so much concerned with the organizational and bureaucratic aspects of the reorganization proposed in the Act as it is with the manner in which it addresses the issues of covert action, congressional oversight, and the relationship between Congress and the executive branch in the formulation and direction of foreign policy, especially in the covert conduct thereof. The end of the Cold War offers an opportunity to re-examine and rethink these matters. The Association is disappointed that in the portions of the Act dealing with them this appears not to have been done. On the contrary, what we regard as the most serious flaws in Cold War practice are incorporated in proposed post-Cold War law.

Once again, thank you for the opportunity to present our views.

Sincerely,



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Enclosure

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Statement on S.2198, The Intelligence Reorganization Act of 1992

(Submitted to the Senate Select Committee on Intelligence
March 26, 1992)

1. The Association of National Security Alumni thanks the Chairman of the Committee, Senator Boren, Vice-chairman Senator Murkowski, and the members and staff of the Committee for their invitation to submit our comments on S.2198, The Intelligence Reorganization Act of 1992, for inclusion in the official record of hearings on the Act.
2. The Association of National Security Alumni is an organization of former officers of the Central Intelligence Agency, the Federal Bureau of Investigation, military intelligence, the Drug Enforcement Agency and other elements of the United States national security apparatus. Members also include a number of academic experts who work on national security issues. The Association was formed in 1987 in the aftermath of the Iran-contra revelations. It is a not-for-profit corporation chartered in Delaware and has tax exempt status under section 501(c)(3) of the Internal Revenue Code. Its central purpose is to oppose, through education and public information, the use of covert action in the implementation of United States foreign policy.
3. The Association, based on its members' direct experience in the field and continuing study, believes the historical record shows that covert operations are counterproductive and damaging to the national interest of the United States. Use of intelligence organizations and resources for the conduct of such operations is inimical to the development of an effective national intelligence system, that is, one that provides accurate, unbiased information to foreign policy decisionmakers in both the executive and legislative branches of the national government. Most recently, and not for the first time, the Iran-contra experience and the not unrelated Gulf War show dramatically how intelligence--carefully analyzed information necessary for sound decisionmaking--was distorted or suppressed in order to support the continuation of covert actions in Central America and the Middle East. These covert actions were frequently in contradiction to public policy as announced by the executive branch or legislated by Congress.
4. The resultant loss of public trust in the integrity of the foreign policy system and of the institutions charged with

conducting foreign policy alone has caused grievous harm to the national interest and, hence, the national security of the United States. Examples could be multiplied, but in the interest of brevity, will not be introduced here. Current public controversy over such matters as the Kennedy assassination, the so-called "October Surprise," or the use of the Commodity Credit Corporation for the covert support of Iraq has, as you know, required congressional action in recent weeks.

5. Additionally, and the historical record again reinforces our conviction, the resort to covert action has been corruptive of civil liberties, including the functioning of the judiciary and the press in the United States. The preservation of the civil liberties of the individual citizen is the purpose of defending national security.

6. At the risk of sounding naive, we point out that resort to covert operations, secret and/or plausibly deniable intervention in the internal affairs of other nations, contradicts the principles of respect for national sovereignty, adherence to treaty obligations and support for international law to which the United States is publicly committed.

7. We are also concerned that the continued resort to covert operations over the years has tended to extend executive branch unilateral claims to power over the formulation and implementation of foreign policy beyond constitutional bounds or even anything that could be justified by an extraordinary emergency. Again, the Iran-contra affair illustrates the strain placed on the constitutional fabric by congressional acquiescence in unilateral presidential resort to covert action.

8. Approaching S.2198 with this specific set of concerns, the Association has not analyzed the proposed restructuring of the intelligence system, per se. It believes that the establishment of a Director of National Intelligence as the head of the revised system who does not, as in the case of the current Director of Central Intelligence, have day to day responsibility for protecting the interests of and administering one of the elements of the system, is a sensible and long overdue reform.

9. Moreover, the Association applauds the expressed intention of the Act to reorient an intelligence system that for the past 45 years has been, quite properly, focussed on the perceived threat of the Soviet Union. It finds very positive the Act's intention to bring under law, that is, legislation properly drafted and passed into law by Congress, a system that in its present form is based to a large extent, not on legislation, but on unilateral presidential decrees that, with questionable constitutional basis, have taken on the force of law. The Association especially endorses S.2198's intention to make public, through the constitutional appropriation process, the aggregate cost of the intelligence system by 1994. (Title II, Section 203) It would be even more pleased if the date were advanced to 1993.

10. However, the Association takes particular exception to several of the Act's proposals. They are here listed with our reasons for objecting.

A. Title I, Section 102, establishes within the National Security Council a Committee on Foreign Intelligence. Section 102(B)(2) says the Committee's function is "...to establish, consistent with the policy and objectives of the President, the overall requirements and priorities for the Intelligence Community and, regularly, to assess, on behalf of the President, how effectively the Intelligence Community has performed its responsibilities under this act."

The Association asks why the Intelligence Committee emphasizes the President's policy and objectives rather than national policy and objectives. Gratuitously, this language reinforces the constitutionally indefensible assumption that the President alone formulates and executes foreign policy. Further, the language charges the Committee on Foreign Intelligence "to assess, on behalf of the President" the performance of the intelligence community. Inevitably, should this language be incorporated in law it will be interpreted as meaning that the Committee's assessments are only for the use of the President and, by the plain language of the law, are to be denied to the oversight committees of Congress.

The Association recommends that Title I, Section 102 (B)(2) be redrafted to require the proposed Committee on Foreign Intelligence "to establish, consistent with national policy and objectives, the overall priorities and requirements for the Intelligence Community and semi-annually, or more often if directed by the President or the intelligence oversight committee of either the Senate or the House of Representatives, to assess how effectively the Intelligence Community has performed its responsibilities under this act. These reports will be delivered simultaneously to the President and to the Chairmen of the House and Senate committees." Such amended language, the Association believes, establishes that national policy, not presidential preference, is the directing force of the intelligence system and forestalls the otherwise inevitable quarrels that will arise over whether or not the oversight committees are entitled to receive the performance assessments made on the intelligence system they are supposed to oversee. It is seemingly folly for an oversight committee to incorporate in its own proposed legislation language that could, and if experience is any guide, would, be used to hinder its oversight.

B. Title II, Section 104 (4) of the proposed legislation assigns to the Central Intelligence Agency the task of: "Performing such other functions and duties related to intelligence affecting the national security as the President or the National Security Council may direct, including the carrying

out of such covert actions as are authorized by the President under Title V [of the National Security Act of 1947]...."

The Association regrets the repetition of the vague and ambiguous language of the original National Security Act ("...such other functions and duties related to intelligence..") without specifying, or at least describing generically, what is meant by "such other functions and duties related to intelligence." As the Senate Committee knows, that language has in the past been used to justify activities whose relationship to any reasonable interpretation of intelligence was, to say the least, obscure. In fact, in many cases, the only relation was that people whose salaries were being paid by a designated intelligence agency were carrying out the function. This language needs to be clarified by inclusion of a list of what the Senate Committee thinks are functions and duties related to intelligence and, more to the point, activities which are defined as not related to intelligence.

It is also unfortunate and unwise to say "such covert actions as are authorized by the President...." Why, in proposed legislation that has as one of its purposes the strengthening of congressional oversight, does the Senate Committee write the executive a blank check by granting specific authority to conduct covert actions on the authorization of the President alone? It is understood that the reference to Title V of the National Security Act has to do with timely notification of the Intelligence Committees and the need for a presidential finding. However, absent the even more desirable rejection of covert action, particularly as it involves military or paramilitary action or terrorism, the Association suggests that this proposed bill is the place to incorporate the principle that congressional approval is a necessary condition before the President can direct the CIA to initiate a covert action.

Given the bold words of the Findings and Purposes section of this Act and its recognition that the existing intelligence system, the product, largely, of unilateral presidential direction, is in need of restructuring and reorientation, the Association is surprised that in the one area of the system that has been productive of scandal after scandal--covert action--the Senate Committee does not seize the opportunity to assert authority it clearly has under the Constitution. If covert action, regrettably, is to be overtly accepted as United States practice, the proposed language should read: "...such covert actions as have been proposed by the President after consultation with the National Security Council, resulting in written findings which have been submitted to, and received approval from, the Intelligence Committees of the Senate and the House of Representatives by majority vote of all members of both committees."

C. On grounds of unnecessary and mischief-provoking ambiguity the Association also finds questionable the language of

Title II, Section 104 (3) assigning to the CIA the duty of "performing such additional services of common concern to the Intelligence Community as the Director of National Intelligence determines can be more efficiently accomplished centrally." The ordinarily alert citizen, or Senator, might well ask what are these "additional services of common concern?" The Act should at least provide a sample list of the services the Intelligence Committee has in mind. It might also provide language requiring that where a specific activity or service is desired by the Director of National Intelligence that he, through some convenient mechanism, inform the congressional oversight committees and secure their approval for the proposed activity if there is any question of whether it is authorized by the more precise descriptive language the Act should incorporate.

D. The Association is also concerned about the establishment by Title II, Section 103 (d) under control of the proposed Deputy Director of National Intelligence for the Intelligence Community an "Office for Warning and Crisis Support." This office is charged with: "Identifying on a regular, continuing basis...any immediate threat to the national security of the United States, or any area or circumstance where United States intervention or involvement is, or may become, necessary or desirable;...." This is a considerable extension of the responsibility of the existing National Intelligence Council to provide warning of immediate and grave threats to the national security. To incorporate in this Act language assigning to an intelligence body--which, by definition, is debarred from involvement in the formulation of policy--responsibility for determining, hence recommending, that it is "necessary or desirable" for the United States to intervene or become involved, is both inappropriate and unwise. Given what has been undertaken in the past under excuse of necessity, the mind boggles at the infinite possibilities inherent in the word "desirable."

The Act goes even further in Section 103 (d)(B) when it makes the Office of Warning and Crisis Support responsible for "providing to the President and other senior officials options pertaining to such intervention or involvement;...." Once again, the essential barrier between intelligence and policy is breached. This language is a reckless invitation to an official body of the intelligence system to seek out and recommend intervention and the means ("options") for conducting it. To find such language in legislation in which the Senate Committee essentially denies that Congress has any control over the initiation of covert interventions or any part in the definition of the public policy or national interest supposedly served by such intervention is at least consistent. However, it raises the question of why the Senate should seek at the outset to emasculate itself. The Association strongly recommends that the Act confine the Office of Crisis and Warning Support to the identification of immediate threats to the national security of the United States and, as provided in Section 103 (d)(C)

"providing intelligence support during periods of crisis to President and other senior officials."

11. The Association is well aware that the Executive Branch has claimed, usurped is not too strong a word, near exclusive control over the foreign policy process and especially the national security apparatus during the period of the Cold War. With increasing support from the federal judiciary the Executive has rebuffed periodic congressional attempts to assert its constitutional powers. It is appreciated that the Senate Intelligence Committee, after numerous losing struggles with the Executive, especially over the Intelligence Authorization Bill of 1991, wants to avoid an open clash over such basic issues as the approval process for covert operations or, indeed, the resort to covert operations. However, in the precise sections of S. 2198 discussed above, it seems that the Senate Intelligence Committee has unnecessarily and inexplicably abandoned its legitimate claims to oversight and approval authority it has previously contested with the executive. Moreover, in endorsing the use of covert operations as United States practice--regrettable in itself--the cited sections of the Act gratuitously expand presidential authority and violate sound intelligence practice by involving intelligence personnel in the recommendation of policy.

Chairman BOREN. Again, let me thank you, Director Gates—
Senator WARNER. Mr. Chairman, would indulge just one more minute?

If some of the ideas that we have been talking about in the imagery arena that are not in the task force report end up bearing fruit, I think there will be some transfers of assets from the tactical programs into the National Intelligence Programs for management purposes. Again, we are just looking at it so I don't know. But it is a very real consideration.

Senator WARNER. I thank you. And I commend you on the job that you are doing.

Chairman BOREN. Thank you, Senator Warner.

I must say in all candor, though, that I think that the Committee, when we look at the budget for this year, will begin a process that I think is absolutely essential, given the current budgetary situation, of downsizing and shrinking the Community to some degree. I am not convinced myself that in some areas small may not be better. In this country with limited resources, we are having to go through this kind of adjustment in the private sector as well. I am asked constantly by companies that are having to downsize, streamline, and restructure and very often they operate more cost effectively, why we cannot take on some of these same tasks in the public sector. I think we not only can, I think we must. And I think that this is one area where we also must do it.

Now I am not suggesting that we should have parallel reductions with the Defense budget because as we have a shrinking Defense force, as has already been said, intelligence is a force multiplier. The smaller your defense force, the less forward positioned it is around the world, the need is for better intelligence, not for less intelligence.

So I realize we must be very, very careful in what we do. But I think that the Community must realistically assume that they will not be exempt from budget cuts. It is highly unlikely, I have to say, that the President's budget, as sent to us, will be adopted by this Committee. If it is, it will be without my vote in terms of the total dollars that are recommended in it. There are going to be some cuts. Our job is to make sure that we do not have the quality of the product suffer as a result of those cuts, that they are made wisely, that our resources are marshalled as well as they can be, which is one of the reasons why we need the best structure we can have. I realize the first choice of the Director and of the Community may be to have no cuts from the President's budget, but given the fact that there probably will be, let me say that we will value your advice as to where they can be made in a way that will do the least damage. And I think realistically, even if the Members of this Committee were to decide that there should be very small cuts, I don't think that the full Senate or the full Congress would stand still for that decision when there are so many reductions of resource for other functions.

Senator Cranston has indicated to me that he would like to have a brief question.

Senator CRANSTON. I would like to get your thoughts or to get you thinking about one other realm where the CIA might do something that could be very constructive. I believe you mentioned that

the UN is just beginning to live up to some of the goals or hopes that the founders had. It is conducting some very effective peace-keeping work now in several trouble spots around the world. The President just requested Congress to come up with some money for our dues to support the peacekeeping effort, and the Congress is today voting \$270 million for that purpose.

I don't believe the United Nations has any significant intelligence resources that would alert it to trouble spots where maybe an intervention by it could prevent some catastrophe or conflict from occurring. Do you think that the United States, through its intelligence gathering agencies, in concert with the State Department or NSA or whatever, might possibly, along with other major countries that have major intelligence services, provide some information to the appropriate people at the UN about trends or developments of which we become aware, that might, if dealt with by the UN, prevent conflict from developing.

Director GATES. Senator Cranston, I would be more than happy to answer that question. I think I have a very good answer to that question, but I would prefer to do it in a few minutes in the closed session if that would be all right.

Senator CRANSTON. Fine.

The only other question I have got is this. A little more than one week ago, on March 23, Beijing accepted adherence to MTCR guidelines and parameters. Since that time, are you aware of any intelligence that would indicate that China has sold or accepted an order to sell to any nation ballistic missile related components which exceed the parameters specified in the Missile Technology Control Regime?

Director GATES. Let me address that also in the closed session, please.

Chairman BOREN. Surely.

Senator WARNER. As you know, on the Armed Services Committee, we are monitoring this 5 percent reduction per year of the armed forces of the United States. A proportion of those cuts has to be absorbed by the respective Naval Intelligence, Army Intelligence, Air Force Intelligence. And listening to your excellent presentation today, whereby basically you justify your budget, I think in a very strong sense, I say to myself, if they are moving that far down in the Pentagon, are some of those responsibilities and work load then by necessity being shifted over to the CIA structure? And wouldn't that be a further justification for some of your—not some, but your strong stance on maintaining the President's number in your budget?

Director GATES. I think that the analysis that you have made is an accurate one, Senator Warner, and I would give you one example. And that is the decline in tactical imagery assets in the Department of Defense. The disappearance of squadrons or wings of reconnaissance aircraft, like the old RF-4's and so on that used to exist. They have some, but there is a real decline in that. And increasingly the tactical airborne capabilities that are available other than battlefield capabilities are contained within the National Foreign Intelligence Program, such as the U-2's and the TR-1's that are in the General Defense Intelligence Program.

Chairman BOREN. I want to call on Chairman McCurdy for any concluding questions or comments that he might have and again thank him for participating in this joint hearing with us. I think it has been very valuable. People often ask, can Members of Congress work together in a bipartisan spirit, can the two Houses work together, can the Executive branch, can both ends of Pennsylvania Avenue work together? I think we are demonstrating by this meeting and the tone of it today that it is possible and indeed that a lot of good comes from that kind of cooperation and communication.

So I want to thank him and also thank the Director for participating in this joint hearing today. Chairman McCurdy?

Representative McCURDY. Thank you, Mr. Chairman. And I too, want to commend the Director for your appearance today and your statement. It was very thoughtful, and again, I'll be the first to state that I believe you have come a long way and that you are pressing in the right areas. You may not have gone as far as we like, but I think we will continue to assist you in that move.

I also want to echo the statement of my distinguished colleague from Oklahoma, Senator Boren, in referencing the budget. It's clear, it also has to start at home, and this year the House Intelligence Committee—and I would submit this for the Senate, not to place pressure on you all because you have your own Committees over here—but the House Committee was the only one in the Congress that cut its own operating budget by 12%. We believe that there will have to be reductions. Not of the magnitude that will be hitting the Department of Defense, but there will be reductions. The concern that we had, when we introduced this legislation, was that indeed the requirements and the challenges facing the Intelligence Community may in fact be greater than they were during the Cold War, but they will have to be met with fewer resources. And that requires, I would dare say demands, that we develop the most efficient organization possible.

I believe you are moving in that direction, but I still believe that in many areas, the Congress will have to take action that will enable you to overcome some of the bureaucratic turf problems and obstacles that may arise, and have already arisen, in your efforts. Again, we have to give you good marks for coming this far. We applaud not only you, but also those people who have worked tirelessly in a very short period of time in order to bring these recommendations forward. For that, you have our thanks.

Again, I just want to say to my colleagues in the Senate, it has been a pleasure. Some day we may reciprocate on the House side and we do thank you for your cooperation as well.

Chairman BOREN. Thank you very much. As we work on this project together, there are many opportunities to pool our thinking. I want to underline what Chairman McCurdy just said. We realize that the recommendations you are making today are not only the product of a lot of hard work by you and your immediate staff, review work by the National Security Council, members of the Cabinet, the President himself in terms of giving his approval to these recommendations, but a lot of work by a very talented group of people that have worked with you on these task forces and otherwise have supported the work of these task forces from throughout the Intelligence Community. Their dedication and the quality and

caliber of their work is very much reflected in the excellent reports that have come out of these task forces.

I agree with what Senator Rudman said. I think that the document that you presented us with today is a remarkable document. I think it represents tremendous progress in terms of restructuring the Intelligence Community to make it not only more cost effective but more effective in general in terms of the quality of the product. And I congratulate you for your leadership within the Administration on these issues. I think there is much common ground between the areas that were identified in the original legislation and the plan that you've brought to us.

I would urge that we keep an open mind about some of this being enacted into legislation, because I understand, it's part of the theology of the White House legal counsel and Office of Legal Counsel, and that's not only true in this Administration but any Administration, that it's preferred to rule by Executive Order rather than by any statutory language.

Having served both in the Executive branch as a governor and now in the Congress on the other side, I understand both perspectives. But I do think there are areas where we should move forward legislatively, doing so in a way that allows a full range of flexibility to the Executive branch to act, to you, to the President, to others who must implement these decisions.

So I would again hope that an open mind will be kept on these matters that we will be able to submit proposals that would enact some of these changes legislatively for your consideration, for you to discuss with the President and others. We will be very open to your response in terms of making these legislative proposals as flexible as possible with as much discretion as possible to the Executive branch to carry them out.

The one area I suppose that is the greatest disappointment to me—again, it is because it involves not only critical information, the ability of systems to talk to each other in time of war where lives might be at stake, but also because it involves huge amounts of funds, taxpayers dollars on a very large scale—is the whole issue of imagery. I would just say that that is an area, unless the Executive branch comes back with a better answer than we have now, where I think we just owe it to the taxpayers to try to press ahead with a better solution, one that would bring about a greater level of coordination. I know this is a collective decision that must be made in the Administration. You are one of several people that must be involved in this decision, but I would urge you to discuss this further with the President and with your colleagues in the Administration to see if you can come back with a better answer. I think what is being proposed here is a tiny step in the right direction but I think it falls far short of the progress frankly in the other areas of the plan which I think are very substantial.

So overall, I certainly congratulate you on this effort. I think you can tell that your proposals have been very well received by the Members of these two Committees today. You've made a real contribution to our national security interests in coming forward with these proposals. I hope you will convey to the President our appreciation for his being a part of this process.

As I indicated to him when we introduced the legislation, we were seeking a dialogue because we really did want to come up with a proposal that would be enthusiastically embraced not only by the Congress but obviously by the President himself and by the members of his Administration. We seek a continuation of that kind of dialogue. We have already come a long way. I think we are very close to a lot of common agreement about what should be done. And now I think our challenge is just to push that other 10 or 20% of the way in terms of talking about what should be legislated, what should not be legislated, and making some progress at the margins and in this one essential area that I think we still need to rework.

We have come a long way and I certainly congratulate you for it and thank you for it.

Director GATES. Thank you, sir.

Chairman BOREN. We will now convene briefly next door in 219 to complete a few classified questions and any additional comments that you feel you should make to us in closed session that might have been stimulated by questions in open session.

I again thank my colleagues from the House, all my colleagues, for their participation.

[Thereupon, at 4:55 o'clock p.m., the Committee was recessed.]

1 April 1992

Senator Alfonse D'Amato
Opening Statement
Joint SSCI/HPSCI Hearing on
Intelligence Reorganization

Mr. Chairman:

I want to begin by thanking you and our distinguished Vice Chairman for organizing this joint hearing to learn the results of the NSR-29 process and discuss with Director Gates his views on the future of the U.S. Intelligence Community.

I will not delay this hearing with a long opening statement. However, I do want to say that, as we listen to Director Gates' testimony, we should all understand that we are examining the possibility of reorganizing a supporting function of government -- intelligence.

I want my colleagues to think about what it is that intelligence supports. Intelligence supports policy makers and the policy community. This raises a fundamental question -- should we really be reorganizing the supported agencies first?

The world has changed dramatically. We tell the intelligence agencies we oversee that they must respond to

these changes. Yet, the requirements they must meet are set by policy agencies that haven't changed the way they do business. Certainly, the Defense Department has made major cuts at lower levels, but how has it changed at the policy levels? Other national security policy agencies have changed much less than the Defense Department.

And these policy agencies drove the NSR-29 process, established the requirements intelligence must fulfill, and have not restructured themselves.

Mr. Chairman, I am interested in learning the Director's views on this question, before we begin making major cuts in intelligence.

Thank you.

OPENING STATEMENT BY CONGRESSMAN SHUSTER
FOR
JOINT INTELLIGENCE REORGANIZATION HEARING

APRIL 1, 1992

FIRST, I WOULD LIKE TO COMMEND BOTH CHAIRMEN FOR INITIATING THE DEBATE ON THE REORGANIZATION OF INTELLIGENCE. THE HEARINGS HAVE STIMULATED OPEN DEBATE, AND HAVE THUS ACCOMPLISHED THE LEGISLATION'S MAIN OBJECTIVE.

THAT DEBATE IS NECESSARY, FOR --AS MOST OF OUR HOUSE WITNESSES NOTED-- WE HAVE TO HAVE A CLEAR IDEA OF OUR NATIONAL FOREIGN POLICY GOALS, ALONG WITH A "THOROUGH DIAGNOSIS AND ASSESSMENT OF PROBLEM AREAS," AS PROFESSOR GRAHAM ALLISON OF HARVARD SAID, BEFORE WE CAN APPROACH THE SUBJECT OF REORGANIZATION OF OUR COUNTRY'S INTELLIGENCE NEEDS. AS OUR "WISE MEN" WITNESSES NOTED, INTELLIGENCE IS A SERVICE INDUSTRY: ITS ORGANIZATION IS A FUNCTION OF ITS MISSION.

FRANK CARLUCCI NOTED IN HIS TESTIMONY THAT INTELLIGENCE IS MORE IMPORTANT AND MORE COMPLEX THAN EVER. AS THE COLD WAR IS "THAWING," THE LONG DORMANT ETHNIC AND RELIGIOUS ANIMOSITIES IN THE RUSSIAN EMPIRE, CENTRAL EUROPE, AND THE BALKANS ARE HEATING UP. NEWER CHALLENGES SUCH AS ISLAMIC FUNDAMENTALISM, COUNTERNARCOTICS, AND COUNTERTERRORISM FURTHER COMPLICATE THE WORLD OUR INTELLIGENCE SERVICES FACE. INDEED, THE EMERGING CHARACTERISTIC OF THE POST-COLD WAR ERA SEEMS TO BE DISORDER AND UNPREDICTABILITY. IN THIS CONTEXT, IT SEEMS TO ME THAT ANY FUTURE INTELLIGENCE STRUCTURE WILL HAVE TO HAVE THE VIRTUE OF FLEXIBILITY. ONLY A FLEXIBLE SYSTEM CAN RESPOND QUICKLY TO THE UNEXPECTED.

MR. CHAIRMAN, I FIND ESPECIALLY PERTINENT WALTER PFORZHEIMER'S STATEMENT, QUOTING TALLEYRAND, THAT "IT IS URGENT TO WAIT." IT IS IMPERATIVE THAT THE INTELLIGENCE COMMUNITY BE GIVEN AN OPPORTUNITY TO REFORM ITSELF BEFORE WE GET TOO DEEPLY INVOLVED. I AM CONFIDENT MR. GATES' TESTIMONY WILL BE RESPONSIVE TO CONGRESSIONAL CONCERNS, AND FOR THIS I COMMEND

BOTH CHAIRMEN.

THESE COMMITTEES WILL WATCH SECRETARY CHENEY CONDUCT HIS REORGANIZATION, PARTICULARLY IN VIEW OF THE ECONOMIES GAINED BY THE INTELLIGENCE COMMUNITY AS A RESULT OF COST-FREE SUPPORT IT RECEIVES FROM THE MILITARY. MOREOVER, WE WILL FOLLOW MR. GATES' IMPLEMENTATION OF HIS TASK FORCE RECOMMENDATIONS. AND THIRDLY, WE WILL BE INTERESTED IN THE COMMUNITY REVIEW OF ITS LONG-TERM REQUIREMENTS. ONLY THEN WE CAN SEE WHICH AREAS, IF ANY, NEED TO BE ADDRESSED LEGISLATIVELY. MY PREFERENCE IS FOR "EVOLUTION RATHER THAN REVOLUTION," AS ADMIRAL INMAN PUT IT.

VIRTUALLY EVERY ONE OF OUR WITNESSES HAS POINTED OUT THE DIFFICULTY IN LEGISLATING THE OBJECTIVITY OF ANALYSIS. DR. GODSON, I BELIEVE, SAID IT BEST WHEN HE NOTED THE NECESSITY, IN CERTAIN ANALYTICAL AREAS, OF SOME OVERLAP AND DUPLICATION. WE PROBABLY NEED MORE DE-CENTRALIZATION, RATHER THAN CENTRALIZATION, IN THIS CRITICAL AREA.

MR. CHAIRMAN, THE INTELLIGENCE COMMUNITY BUDGET SHOULD REMAIN SECRET AND BURIED WITHIN THE DEPARTMENT OF DEFENSE BUDGET FIGURE.

LET ME CLOSE WITH ONE OF MY FAVORITE INTELLIGENCE-RELATED QUOTATIONS THAT SUPPORTS MY POSITION ON THE SECRECY OF THE INTELLIGENCE BUDGET FIGURE:

"THE NECESSITY OF PROCURING GOOD INTELLIGENCE IS APPARENT AND NEED NOT BE FURTHER URGED. ALL THAT REMAINS FOR ME TO ADD, IS THAT YOU KEEP THE WHOLE MATTER AS SECRET AS POSSIBLE. FOR UPON SECRECY, SUCCESS DEPENDS IN MOST ENTERPRIZES OF THE KIND, AND FOR WANT OF IT, THEY ARE GENERALLY DEFEATED, HOWEVER WELL PLANNED & PROMISING A FAVOURABLE ISSUE."

THAT WAS WRITTEN IN 1777 BY GENERAL GEORGE WASHINGTON, OUR NATION'S FIRST INTELLIGENCE OFFICER.

APPENDIX



WASHINGTON OFFICE

April 24, 1992

Honorable David Boren, Chairman
Honorable Frank Murkowski, Vice-Chairman
Senate Select Committee on Intelligence
211 Hart Senate Office Building
Washington, DC 20510

Dear Messrs. Chairman and Vice-Chairman:

We would like to take this opportunity to offer additional thoughts on the general topic of how to structure the intelligence community. As you are already in receipt of our March 13, 1992 letter on the future role of the intelligence community and our February 20, 1992 memo on our initial reaction to S. 2198, we ask that both the letter and memo, along with this letter, be included in the record concerning S. 2198.

As we mentioned in our previous letter, we are generally concerned with the intelligence community getting involved in non-national security activities. In addition to the areas mentioned before, we are also concerned about the intelligence agencies acting in the area of international law enforcement. Director Gates included this issue among his list of new interests.

As you know, the CIA is not permitted to engage in domestic law enforcement activities. This separation between intelligence gathering and law enforcement is reflected in various inter-agency agreements, as well as statutes -- e.g., the Foreign Intelligence Surveillance Act (FISA) -- that articulate the important differences between the two functions. The separation is essential because intelligence investigations do not necessarily follow the constitutional and statutory procedures required for law enforcement investigations -- such as due process of law, the warrant requirement, arrest procedures, Miranda rights, etc -- in order to protect fundamental civil liberties in the course of criminal investigations.

Moreover, this principle was recognized and implemented only after the revelation in the mid 1970's of the abuses of both intelligence and law enforcement agencies. Since then, the United States has increasingly asserted extra-territorial criminal jurisdiction over crimes committed overseas, whether by U.S. persons or aliens. Accordingly, we believe that the principles underlying the separation of the two functions at home should apply equally to U.S. law enforcement activities abroad.

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Chairman Boren
Vice-Chairman Murkowski
April 24, 1992
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It may be necessary to conduct further hearings on this issue, to study in more detail the relationship between intelligence and law enforcement agencies overseas and the application of specific procedures, such as the FISA and other warrants.

As we also mentioned in the February 20 memo, we believe that Congress, and the Executive, should fully examine the use of covert action as an instrument of U.S. foreign policy and should consider, with the end of the Cold War, whether to prohibit them altogether. To facilitate this process, we propose that a special commission be appointed by both branches to study this issue. Attached to this letter is suggested legislation to establish such a commission. We hope that the Committee will seriously consider this proposal.

Finally, we would like to follow up on Director Gates's comments about openness at the CIA. At his April 1 testimony before the joint hearing of the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence, Gates mentioned the work of the Openness Task Force and the progress he was making toward greater openness. We have attached here for the Committee a recent CIA response to a Freedom of Information Act request that appeared to contradict Gates's new policy: on March 5 of this year, the Agency denied the release of the Report of the Openness Task Force in its entirety, on the ground, in part, that such release would harm the national security. It seemed highly incongruous that not one word of the Openness Task Force's report could be released.

The entire report (except for the final paragraph), which was classified at the SECRET level, was subsequently released in mid-April. This belated release is no doubt due to the public pressure put on the Agency and calls into question the original claim that its release would cause harm to the national security.^{1/}

^{1/} The report and its recommendations are disappointing in that they focus mostly on public relations concerns of the CIA, rather than on the public's right to know what the Agency has done on a substantive level, whether good or bad. Task Force Report on Greater CIA Openness, at 2 (Dec. 20, 1991) ("there was substantial agreement that we generally need to make the institution and process more visible and understandable rather than strive for openness on specific substantive issues" [emphasis in original]).

Chairman Boren
Vice-Chairman Murkowski
April 24, 1992
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Unfortunately, the initial response is consistent with a continuing pattern of recalcitrance and unresponsiveness by the CIA's Information and Privacy Office to FOIA requests. Recently, the Agency refused to release the title of 1966 National Intelligence Estimate, until it was informed that the State Department had declassified the title four years ago. Even though the CIA has announced a new policy of releasing 30 year old documents, it has said that this policy does not apply to 29 year old documents requested by a historian under the FOIA. We hope that the Committee will confront the CIA with these inconsistencies and ensure that the Agency also responds to Freedom of Information Act requests in accordance with its new openness policies.

Once again, we thank you very much for giving us the opportunity to address the Committee with our concerns. As always, we are available to meet with you and your staff to discuss any of these issues in greater detail.

Sincerely,



Morton H. Halperin



Gary M. Stern
Legislative Counsel

Enc.

