

REPORT OF THE
SENATE SELECT COMMITTEE ON INTELLIGENCE
ON THE CASEY INQUIRY

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ON INTELLIGENCE
UNITED STATES SENATE



DECEMBER 1981

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SENATE SELECT COMMITTEE ON INTELLIGENCE

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REPORT

I. BACKGROUND

William J. Casey was confirmed by the United States Senate, 95-0, on January 28, 1981, as Director of Central Intelligence. One week before, Max Hugel was named by Mr. Casey to be his special assistant at the Central Intelligence Agency (CIA). On May 11, Mr. Hugel was named CIA Deputy Director for Operations. The Washington Post, on July 14, reported Mr. Hugel was accused by two former business associates of illegal or improper stock trading practices. The publicity regarding Mr. Hugel resulted in press reports questioning Mr. Casey's judgment in selecting the Deputy Director for Operations, and noting Mr. Casey's possible civil liability in a securities case, *Maiden v. Biehl*.¹

At a meeting on July 17, 1981, the Select Committee decided to begin a preliminary inquiry. On July 27, 1981 the Committee appointed Special Counsel for the inquiry. On July 29, 1981 Mr. Casey testified before the Senate Select Committee on Intelligence regarding Mr. Hugel's appointment, the securities case, and other matters. At the same time, additional allegations were being raised daily in the press regarding omissions on forms completed by Mr. Casey for the Office of Government Ethics and for the Senate Select Committee on Intelligence. Following the hearing, the Committee issued a statement that "there was no basis . . . for concluding Mr. Casey is unfit to serve as Director of Central Intelligence," but that a further "follow-up" would be made on "points that need clarification."

II. SCOPE OF THE INQUIRY

From July 29, 1981 through October 31, 1981, thirteen staff members, including the Minority Staff Director and Minority Counsel, worked on the investigation with Special Counsel. On July 31, Senator

¹ There were three legal actions originating from the same business venture. Mr. Casey was an officer and member of the board of directors of a venture capital business originally called Ivanhoe Associates, late named Multiponics. In 1971, Multiponics filed a Chapter 10 Bankruptcy Act petition; in 1973, the bankruptcy trustee filed a civil action against Mr. Casey and other former directors alleging breach of fiduciary duty and seeking subordination of the directors' claims to those of the other creditors (only the subordination claim was granted); and on May 19, 1981, a New York Federal Judge granted partial summary judgment against Mr. Casey and others in *Maiden v. Biehl*, a securities fraud claim arising from a 1968 debenture sale by Multiponics. However, this latter decision was reversed on rehearing as to Mr. Casey on November 6, 1981. These issues will go to trial, unless the case is settled out of court.

Barry Goldwater appointed Deputy Special Counsel and on September 9, 1981, Senator Daniel Patrick Moynihan appointed Minority Special Counsel for the inquiry.

Two hundred and thirty-nine documents were received in response to Committee requests, totalling approximately 10,500 pages. These documents included voluminous court records and opinions, transcripts, previous Congressional hearings at which Mr. Casey testified, reports and financial records of financial transactions and business ventures of Mr. Casey, his Central Intelligence Agency and Federal Bureau of Investigation background checks, and the forms submitted for the Office of Government Ethics and the Senate Select Committee on Intelligence. Additionally, two staff members traveled to New Orleans to read approximately 1,500 pages of the bankruptcy case and the trustee's civil action, and to review more than 26,000 pages of related proceedings to find relevant portions. Three trips were made to New York to interview witnesses and review other documents. A total of over 70 persons were interviewed by phone, and more than 40 were personally interviewed.

The specific areas of inquiry derived from allegations contained in press reports, from individual citizens contacting the Committee or from questions arising after the staff reviewed documents. These areas were organized into four main categories: (1) Mr. Casey's private dealings; (2) Mr. Casey's activities while in previous government service and/or beneficiary of a blind trust (April 1971-January 1976); (3) Mr. Casey's forms filed with the Office of Government Ethics and Senate Select Committee on Intelligence; and (4) Mr. Casey's appointments of Mr. Hugel.

III. FINDINGS

The Committee's inquiry into these categories showed that Mr. Casey was at minimum inattentive to detail, particularly with regard to filling out two forms required by the Office of Government Ethics and the Senate Select Committee on Intelligence.

The written responses by Mr. Casey to this Committee's questionnaire, filed on January 2, 1981, were deficient in several respects. The original answers omitted at least nine investments valued at more than a quarter of a million dollars, personal debts and contingent liabilities of nearly five hundred thousand dollars, a number of corporations or foundations on whose board Mr. Casey served, four civil law suits in which he was involved in the last five years, and more than seventy clients he had represented in private practice in the last five years.² Among the clients not disclosed to the Committee were two foreign governments, the Republic of Korea and the Republic of Indonesia, and an oil company controlled by the latter, Pertamina of Indonesia.³

² The select committee questionnaire asked Mr. Casey to itemize all clients whom he had billed more than \$500 for services during the past five years. The answer appended a list of about 45 clients who were, in fact, Mr. Casey's personal clients during the preceding two years. Mr. Casey explained that he appended the 2-year list because he had previously supplied it to the Office of Government Ethics and had failed to note that the committee questionnaire called for an additional 3 years' worth of clients. The committee accepts this explanation.

³ In order to obtain adequate information about persons coming before it in confirmation hearings, the select committee has a standard "personnel" form which such persons are asked to complete. Question No. 5 on this form asks: "Have you been an attorney for . . . a foreign government . . . ? . . . Are you formally associated with individuals who are attorneys for . . . foreign governments?" Mr. Casey's answer was: "Neither I nor my firm currently represent any foreign government or any foreign government entity." In a letter of Sept. 18, 1981, to special counsel, Mr. Casey maintained that this answer was "appropriate." Be that as it may, it was unresponsive to the clear intent of the question. In this connection, the committee must acknowledge that it should have followed-up in January with respect to this answer.

Mr. Casey's representation of Indonesia in 1976 raised a question whether he should have registered under the Foreign Agents Registration Act. The question was not resolved by the Committee because it is a technical one involving whether there was an attempt to influence or persuade agency officials, and if so, whether an exemption applied because his representation was in the course of an established agency proceeding.

The large amount of information which Mr. Casey omitted from his initial disclosure forms to the Select Committee and the Office of Government Ethics considerably lengthened the Committee's inquiry. The Committee is concerned that this pattern suggests an insufficient appreciation of the obligation to provide complete and accurate information to the oversight committees of the Congress. In view of the duty of the Director of Central Intelligence to keep the Select Committee "fully and currently informed of all intelligence activities . . ." (National Security Act of 1947, as amended, Section 501(a)), the Committee is concerned that Mr. Casey understand the importance it places on this obligation.

A primary concern of the Committee was the appointment of Mr. Hugel as Deputy Director for Operations. Mr. Casey volunteered in the July 29, 1981 hearing that this appointment was a "mistake" for which he takes "full responsibility." The Committee concurs.

The Committee thoroughly explored Mr. Hugel's background investigation by the CIA and could not find any evidence that Mr. Hugel's background investigation was treated differently from that of other appointees. Mr. Hugel was interviewed by Special Counsel in the presence of the Committee Chairman and Vice Chairman. Mr. Hugel's responses were circumscribed, but nothing emerged to disprove Mr. Casey's understanding of how the Hugel appointment came about.

With respect to *Maiden v. Biehl*, in which Mr. Casey is a defendant, the available evidence indicates that Mr. Casey had no active role in the preparation or legal review of the offering circular which the plaintiffs claim was false and misleading. Any civil liability in the case would derive, therefore, from his membership on the board of directors and, hence, would be a matter of legal rather than moral responsibility.

IV. ACTIVITIES OF OTHER GOVERNMENT AGENCIES

Certain specific matters were not pursued in depth by the Committee because other government agencies were either in the process of investigating them, or had previously made decisions on these matters. It was decided that the Committee should not incur the additional expense of concurrent investigations which would serve only to duplicate the work of other agencies which had the necessary expertise to perform their own inquiries.

The agencies and an overview of their inquiries are as follows:

1. *Federal Election Commission*

During the Committee's investigation, the press reported that the Reagan-Bush Campaign Committee would be cited by the Federal Election Commission for campaign law violations. Mr. Casey was

the Chairman of that Campaign Committee. The Federal Election Commission report will be made public, pending the outcome of litigation.

2. Internal Revenue Service

Mr. Casey was asked during the investigation whether he had been audited by the Internal Revenue Service for the last five tax years. He stated that he was presently undergoing an audit on his 1977 personal returns. The Committee also learned that the Internal Revenue Service is conducting an audit of a limited partnership which Mr. Casey helped structure. The Committee was informed by Mr. Casey's accountant that the personal audit is being performed by an Internal Revenue Service field agent, and that it is a "routine examination" which is still in the preliminary stages. Mr. Casey informed the Committee that his 1976 tax return had been audited, and that he had received a refund.

3. Department of Justice

In 1974, Mr. Casey testified in the New York Southern District trial where former Attorney General John Mitchell was a defendant. All transcripts of Casey's trial testimony were reviewed as well as those transcripts containing statements of other witnesses testifying about the same factual areas. Discrepancies were found, as is usually the case when more than one person testifies to the same factual situation. No major discrepancies were found which would indicate that Mr. Casey committed perjury. The Department of Justice had these same materials and Mr. Casey's grand jury testimony available for six years, and no action has been taken with regard to Mr. Casey's testimony.

4. Department of Justice

In 1972, when Mr. Casey was Chairman of the Securities and Exchange Commission, the Commission refused to turn over certain investigative files on International Telephone and Telegraph to the House Special Subcommittee on Investigations of the Committee on Interstate and Foreign Commerce (Staggers' Committee). Instead the files were turned over to the Department of Justice. Mr. Casey told the Staggers Committee the Justice Department had requested the files. Testimony before the Staggers' Committee by Mr. Casey and others differed on whether Mr. Casey or the Justice Department had initiated the request. Not only have these facts been available to the Department of Justice for almost ten years with no action taken, but Mr. Casey was subsequently confirmed as Chairman of the Export-Import Bank of the United States by the Senate Committee on Banking, which reviewed this matter during consideration of Mr. Casey's nomination.

V. CONCLUSION

Having reviewed the facts obtained in the course of its four-month investigation, the Committee reaffirms its July 29, 1981 statement that no basis has been found for concluding that Mr. Casey is unfit to hold office as Director of Central Intelligence.

The vote of the Committee on this report was as follows:

FOR THE REPORT—14

Senator Goldwater
Senator Moynihan
Senator Garn
Senator Chafee
Senator Lugar
Senator Wallop
Senator Durenberger
Senator Roth
Senator Schmitt
Senator Huddleston
Senator Inouye
Senator Jackson
Senator Leahy
Senator Bentsen

OPPOSED TO THE REPORT—1

Senator Biden

