

104th Congress, 1st Session - - - - - Senate Report 104-4

**SPECIAL REPORT**  
**COMMITTEE ACTIVITIES**  
**OF THE**  
**SELECT COMMITTEE ON INTELLIGENCE**  
**UNITED STATES SENATE**  
**JANUARY 4, 1993, TO DECEMBER 1, 1994**



JANUARY 18 (legislative day, JANUARY 10), 1995.—Ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE

99-010

WASHINGTON : 1995

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## LETTER OF TRANSMITTAL

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UNITED STATES SENATE,  
*Washington, DC, January 17, 1995.*

DEAR MR. PRESIDENT: As Chairman of the Select Committee on Intelligence, I hereby submit to the Senate the Report of the Senate Select Committee on Intelligence of its activities during the 103rd Congress from January 4, 1993 to December 1, 1994 under the Chairmanship of Senator Dennis DeConcini and the Vice Chairmanship of Senator John Warner. The Committee is charged by the Senate with the responsibility of carrying out oversight of the intelligence activities of the United States. Much of the work of the Committee is of necessity conducted in secrecy yet the Committee believes that intelligence activities should be as accountable as possible to the public. The public report to the Senate is intended to contribute to that requirement.

ARLEN SPECTER, *Chairman.*

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104TH CONGRESS }  
*1st Session*

SENATE

{ REPORT  
104-4

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## OVERSIGHT OVER INTELLIGENCE ACTIVITIES

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JANUARY 18 (legislative day, JANUARY 10), 1995.—Ordered to be printed

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Mr. SPECTER, from the Select Committee on Intelligence,  
submitted the following

### REPORT

#### I. INTRODUCTION

Prompted by the most devastating espionage case in our nation's history, the Aldrich Ames case, the Committee pioneered the most significant counterintelligence legislation ever passed in the Congress. The legislation addressed a number of problems identified in the Ames case, including the CIA's failure to notify the FBI of a counterintelligence problem in a timely manner. The legislation required agency heads to immediately advise the FBI whenever it becomes apparent that classified information is being, or may have been, disclosed in an unauthorized manner to a foreign government or agent of a foreign government. The legislation also required the President to issue, within 180 days, an Executive Order setting standards for access to classified information; and made physical searches conducted for intelligence purposes subject to the same court-order procedures (Foreign Intelligence Surveillance Act of 1978) that have been used for electronic surveillance.

The establishment of a bipartisan presidential commission to examine the roles and capabilities of the U.S. Intelligence Community was a Senate initiative put forth by Vice Chairman John Warner. The 17-member commission includes eight members appointed by the Congressional leadership and nine private-sector individuals appointed by the President. The Commission is charged with reviewing the missions, budgets, organization, and capabilities of U.S. intelligence agencies; and with providing a report of its findings and recommendations to the Congress and the President by March 1, 1996.

In 1988, the Committee established its own Audit and Investigations staff to conduct audits of special interest areas for the Committee. One of the audit team's most noteworthy projects during the 103rd Congress was its review of the new National Reconnaissance

sance Office Headquarters project. The staff reviewed the construction project's cost, overall requirements and management. The key conclusions of the staff's review were that the full and comprehensive project costs were not provided to the Committee by the NRO; the budget for this project was not appropriately presented in the annual NRO budget submissions to our Committee; and the new NRO Headquarters facility significantly exceeded the NRO's space requirements, which caused the project costs to be higher than necessary. A Director of Central Intelligence and Department of Defense joint review of the project, ordered as a result of the Committee's findings, confirmed the Committee's assessment.

The Committee also played a central role in the March 10, 1994, decision by the Clinton Administration to permit the commercial sale of medium resolution imagery and imaging equipment. The Committee has long been concerned about the intelligence industrial base and the growth of foreign competition in the commercial remote sensing field. After holding two hearings to examine how the entry of U.S. medium resolution imaging technology into the commercial market would affect U.S. national security interests and the U.S. intelligence industrial base, the Committee strongly urged the President to support the commercial sale of such imagery.

Over the past several years, Committee Members and staff have visited with officials from a large number of foreign governments to discuss the Congressional oversight process of the U.S. Intelligence Community. In response to the growing number of requests received from foreign governments for information regarding the U.S. system of oversight, and at the direction of Senator DeConcini, the Committee produced a booklet entitled "Legislative Oversight of Intelligence Activities: The U.S. Experience." The booklet contains a narrative which traces the evolution and accomplishments of the congressional intelligence committees, and explains how the committees are organized and function.

The Committee was instrumental in making more intelligence-related information available to the public. The Committee accomplished this by holding an unprecedented number of hearings and briefings that were open to the public. In addition, the Committee took the lead in a number of efforts to declassify previously classified material by the Executive Branch. In total, the Committee has worked with the Executive Branch to declassify and make available to the public over 36,400 pages of material.

Under the leadership of its Chairman Dennis DeConcini and Vice Chairman John Warner, the Committee placed an emphasis on reducing the size of the Committee staff and its operating budget. In answering the call of the American people for less government, the Committee reduced its budget by 10 percent and downsized its staff by 25 percent. Despite these reductions, the Committee vigorously carried out its oversight responsibility, while tackling unforeseen issues as they arose.

In conclusion, this report demonstrates the wide range of issues the Committee dealt with during the 103rd Congress. The Committee continued to carry out its responsibilities in the same bipartisan manner that has characterized its work since its inception, and, for the most part, received excellent cooperation from the In-

telligence Community. Rarely did the Committee receive information that it had requested in less than a timely and complete manner. Overall, the close working relationship between the Committee and the Intelligence Community, so essential to the conduct of legislative oversight, has continued. While the future will hold new challenges for both institutions, the experience during the 103rd Congress provides a good foundation for the years to follow.

## II. LEGISLATION

### A. S. 647 CIA VOLUNTARY SEPARATION INCENTIVE ACT

In March, 1993, the Director of Central Intelligence (DCI) requested legislation to assist in the drawdown of civilian personnel at the CIA. On March 30, 1993, the Committee held a closed hearing to receive testimony from the DCI and members of his staff on the need for such legislation.

On May 5, 1993, the Committee reported S. 647, the CIA Voluntary Separation Incentive Act, introduced by Senators DeConcini and Warner, to allow the Central Intelligence Agency to offer limited financial incentives to certain categories of CIA employees, as determined by the DCI, to encourage such employees to resign or retire. (See Senate Report 103-43.)

The purpose of the legislation was to assist the Director of Central Intelligence in downsizing the CIA civilian work force while minimizing the need for involuntary separations to meet reduction goals. The legislation was modeled after similar legislation enacted for the civilian and military personnel of the Department of Defense.

A virtually identical companion bill (H.R. 1723) passed the House of Representatives on May 24, 1993, and was agreed to by voice vote in the Senate on May 26, 1993. The bill was signed into law by the President on June 8, 1993 (see Public Law 103-36).

### B. S. 1301 FY 1994 INTELLIGENCE AUTHORIZATION ACT

The Committee reported S. 1301, the Intelligence Authorization Act for Fiscal Year 1994, authorizing appropriations for U.S. intelligence activities for fiscal year 1994, on July 28, 1993.

In addition to the annual authorization of appropriations, the bill made certain adjustments in the CIA Retirement and Disability System, required an unclassified annual report on the activities of the U.S. Intelligence Community, provided funding authorization for the National Security Education Program for the next three fiscal years, and provided a limited exemption for the National Reconnaissance Office to withhold from public disclosure information concerning its employees.

The bill passed the Senate on November 10, 1993, and the conference report on the House counterpart bill (H.R. 2330) was agreed to on November 20, 1993. The bill was signed into law on December 3, 1993. (Public Law 103-178)

### C. S. 1885 FRAMEWORK FOR CLASSIFICATION AND DECLASSIFICATION

On March 2, 1994, Chairman DeConcini introduced S. 1885, the Security Classification Act of 1994, providing a uniform framework

for the classification and declassification of information in the interests of national security.

Among other things, the bill provided—

- explicit criteria to govern the classification of information;
- procedures for the identification and marking of classified documents;
- procedures to authorize persons to classify information in the interests of national security;
- time limits for the classification of information;
- procedures to govern the establishment of special access programs;
- procedures to govern the declassification of classified information pursuant to a request from a member of the public or with the expiration of time;
- special procedures to govern the declassification of information pertaining to topics of significant historical interest; and
- sanctions for persons who may violate the procedures established by the bill or by the regulations issued pursuant to the bill.

While the Committee sought comments concerning the bill from the public and from witnesses who appeared before the Committee, the bill was not reported due to the concurrent efforts of the Executive branch to develop a new Executive Order on classification to replace Executive Order 12356, issued in 1983. Because the Administration had itself been unable to resolve internally the issues posed by the bill during its consideration of the new Executive order, the Committee deferred consideration of S. 1885 until a later date.

#### D. COUNTERINTELLIGENCE LEGISLATION

In the wake of the arrest of CIA employee Aldrich H. Ames and his wife for espionage on February 21, 1994, six bills (designed to improve the counterintelligence and security posture of the U.S. Government) were introduced in the Senate and referred to the Committee: S. 1866 by Senator Metzenbaum; S. 1869 by Senators Boren and Cohen; S. 1890 by Senator Heflin; S. 1948 by Senators DeConcini and Warner; S. 2056 by Senators DeConcini and Warner on request of the Administration; and S. 2063 by Senator Gorton.

All of these bills were the subject of a public hearing on May 3, 1994, where the Committee heard testimony from former SSCI Chairman Boren and Vice Chairman Cohen; Deputy Attorney General Jamie Gorelick; DCI R. James Woolsey; FBI Director Louis J. Freeh; Robert Kohler, Vice President, TRW Aeronautics and Space Surveillance Group; Kate Martin, Director for National Security Studies, American Civil Liberties Union; and David Whipple, Executive Director, Association for Former Intelligence Officers.

On May 24, 1994, the Committee marked up S. 2056, the bill requested by the Administration. S. 2056 was reported to the Senate on June 30, 1994. (See Senate Report 103-296.)

When the Intelligence Authorization Bill for Fiscal Year 1995 (S. 2082) came to the Senate floor on August 12, 1994, Senators DeConcini and Warner offered (a slightly modified version of the text of S. 2056) as an amendment to the bill. The amendment passed by voice vote.



In conference on the FY 1995 authorization bill, the provisions dealing with counterintelligence and security were agreed to with certain amendments. Key provisions included:

- a requirement that the President issue regulations establishing uniform minimum standards for access to classified information;

- a requirement that all persons who obtain security clearances be asked to sign a written waiver, as a condition of their security clearance, permitting an authorized investigative agency to obtain access to their financial and travel records consistent with the criteria and approvals set forth in the statute;

- a requirement that the President may require financial reporting of federal employees who occupy positions giving them access to extremely sensitive classified information;

- new authority for authorized investigative agencies, as defined by the bill, to obtain access to financial and travel records of cleared federal employees, subject to the conditions and approvals specified in the bill;

- a requirement that departments and agency heads advise the FBI immediately of cases where classified information has been compromised to a foreign government, and continue to advise the FBI of actions taken with regard to such compromises;

- an amendment to the Foreign Intelligence Surveillance Act of 1978 bringing physical searches done for intelligence purposes under the same type of court order procedures as have been used for electronic surveillances since 1978;

- new jurisdictional authority for U.S. courts to try espionage cases where the conduct in question took place outside the United States;

- a new misdemeanor offense for removing classified documents to an unauthorized location with the intent to retain them at such location;

- new authority for the Attorney General to pay rewards in espionage cases; and

- an expansion of the Government's existing authority to subject the property of a defendant in an espionage case to forfeiture when it can be demonstrated the defendant has deliberately moved the proceeds of his espionage activities beyond the reach of U.S. courts.

These counterintelligence provisions became law when the Intelligence Authorization Act for Fiscal Year 1995 was signed by the President on October 14, 1994.

#### E. LEGISLATION CREATING A PRESIDENTIAL COMMISSION ON INTELLIGENCE

On June 30, 1994, Senators Warner, Graham, DeConcini, Metzenbaum, Chafee, and Cohen introduced S. 2258, a bill to create a commission on the roles and capabilities of the U.S. Intelligence Community.

When the Intelligence Authorization Bill for Fiscal Year 1995 came to the Senate floor on August 12, 1994, Senator Warner offered a slightly modified version of the text of S. 2258 as an

amendment to the intelligence authorization bill (S. 2082). It passed the Senate on a roll-call vote of 99-0.

In conference on the FY 1995 Intelligence Authorization Bill, the Senate provision was agreed to with minor modifications. In general, the conference bill provided for a 17-member commission to be appointed, with the President designating 9 members and the remaining 8 being designated by the congressional leaders (two each by the Majority and Minority Leaders of the Senate and two each by the Speaker and Minority Leader of the House of Representatives).

The legislation provided a broad and comprehensive array of topics for review by the commission, to include the missions and functions of intelligence agencies, organizational arrangements, legal authorities, budgets, etc. The commission was also asked to compare the U.S. system with those of comparable foreign governments.

The report of the Commission is to be submitted by March 1, 1996.

This provision became law on October 14, 1994, when the Intelligence Authorization Act for Fiscal Year 1995 was signed into law by the President.

#### F. OTHER PROVISIONS OF THE INTELLIGENCE AUTHORIZATION ACT FOR FY 1995

In addition to the provisions discussed above, the Intelligence Authorization Act for Fiscal Year 1995 also contained a number of other significant provisions:

The 1986 statutory limitation on intelligence cooperation with the Government of South Africa was repealed;

The DCI was directed to provide a report regarding the desirability and feasibility of instituting an "up or out" policy similar to that in effect in the Foreign Service;

The Secretary of Defense was authorized to provide personnel management for employees of the Central Imagery Office under the same authorities pertaining to Defense Intelligence Agency employees;

The President was directed to promulgate an Executive order on security classification, and money was earmarked for document declassification pursuant to the new order;

A funding ceiling was placed on expenditures associated with a new office building complex of the National Reconnaissance Office (see the discussion of this building under "Oversight Activities"); and

New reporting requirements were imposed on intelligence agencies to advise the congressional oversight committees when new construction projects or improvements to existing facilities exceed the thresholds established in the bill.

### III. ARMS CONTROL

#### A. START II

On January 3, 1993, Presidents George Bush of the United States and Boris Yeltsin of the Russian Federation signed the Treaty on Further Reduction and Limitation of Strategic Offensive

Arms, better known as START II. The Committee, which has closely followed U.S. arms control monitoring capabilities since the SALT II negotiations of the 1970s, commenced an inquiry into the implications of START II not only for U.S. monitoring of Russian compliance with that treaty, but also for monitoring of Russian and Ukrainian compliance with the original START treaty, which had yet to enter into force. After examining the documentation and holding both informal and on-the-record briefings for staff, the Committee held a closed hearing on START II on May 12, 1993. During that hearing the Committee heard testimony from the U.S. Arms Control and Disarmament Agency, the U.S. Intelligence Community, the Joint Staff, and Department of Defense elements responsible for handling security and implementation matters. The Committee also received written answers to 19 questions for the record that it submitted after that hearing.

START II cannot enter into force until START I does so, and the Russian Federation conditioned its ratification of START I upon Ukraine's adherence to the Nuclear Nonproliferation Treaty as a non-nuclear weapons state. Ukraine did not announce such adherence until recently, and START I will not enter into force until after the 103rd Congress adjourns. In addition, Russian ratification of START II is not assured. There has been substantial public debate in Russia over the wisdom of the treaty from the standpoint of Russian military strategy. In light of these multiple uncertainties, the Committee, like other committees of the Senate, decided not to move beyond the hearing stage in its consideration of the treaty during the 103rd Congress. The Committee expects to revisit this treaty and to prepare classified and public reports to the Senate on START II during the 104th Congress.

#### B. OPEN SKIES TREATY

The Open Skies Treaty was signed in Helsinki, Finland, on March 24, 1992, and was submitted to the Senate on August 12, 1992, for its advice and consent to ratification. The Committee, which had been following the Open Skies talks closely since their inception in 1989, held a series of three briefings for staff in late 1992. On March 4, 1993, the Committee held a closed hearing on the Treaty during which it took testimony from Ambassador John H. Hawes, chief U.S. negotiator; Mr. Craig Chellis, Acting Chief of the DCI's Arms Control Intelligence Staff; Mr. Leo Hazlewood, Director of the National Photographic Interpretation Center; Major General Robert W. Parker, USAF, Director, DoD On-Site Inspection Agency; Mr. Ray W. Pollari, Acting Deputy Assistant Secretary of Defense/Counterintelligence and Security Countermeasures; and Brigadier General Teddy E. Rinebarger, USAF, Assistant Deputy Director for International Negotiations, Strategic Plans and Policy, the Joint Staff.

The Committee sought and obtained from the intelligence community an interagency assessment of the likely information gains and losses resulting from the Treaty. The Committee also obtained an interagency assessment of the Treaty's counterintelligence and security countermeasures implications. Finally, the Committee submitted and received answers to a series of questions for the record. Based on these materials, the Committee prepared both classified

and public reports to the Senate. The public report, "Intelligence and Security Implications of the Treaty on Open Skies," was published as S. Rpt. 103-44 (May 19, 1993).

The Open Skies Treaty is not an arms control treaty in the traditional sense. It does not require the destruction or limit the capabilities of any weapons or other military equipment. It does not require, therefore, the same sort of monitoring through National Technical Means to determine other countries' compliance that one finds, for example, in the START Treaty.

The observation flights envisioned in the Open Skies Treaty were very similar, however, to cooperative measures for verification that have grown out of arms control treaties. Thus, the flights would be implemented by many of the same U.S. Government agencies that implement arms control verification; the information collected by these flights would have to be analyzed by the U.S. intelligence community; and the issues of counterintelligence and security protection for U.S. personnel and for sensitive or proprietary information were similar to those faced in various on-site inspections for arms control purposes.

These issues of implementation costs and benefits and of security concerns and costs were the focus of the Committee's report, which is organized around the following questions:

Does the Treaty contain ambiguities or present monitoring difficulties that are likely to lead to compliance questions?

What information gains will the United States obtain from this Treaty?

What sensitive or proprietary information might the United States lose as a result of other countries' observation of U.S. territory or overseas bases?

How effectively will U.S. security precautions limit the potential loss of such sensitive or proprietary information?

What costs will be incurred in order to implement the Treaty, analyze the information that is obtained, and protect U.S. security?

The Committee's report included the following recommendations, which were also transmitted to the Senate Foreign Relations Committee:

*Recommendation #1:* After the first 1-2 years, the United States should not use its full active observation flight quota unless there is a clear likelihood of obtaining significant information through those flights. Unless an environmental sensing package is adopted under Open Skies, only two aircraft should be used for Open Skies flights after the transitional period.

*Recommendation #2:* The United States should make every effort to use a U.S. observation aircraft and sensors in its Open Skies observation flights.

*Recommendation #3:* The Senate should add a condition to the resolution of ratification to the effect that the United States shall not agree to Open Skies Consultative Commission approval of any new Open Skies sensor or of one with improved resolution until at least thirty days after notifying interested Committees of the Senate of its intention to do so; such notification shall include an analysis of

the legal and security implications of the proposed change or changes.

*Recommendation #4:* The Executive branch should institute an outreach program to inform industry about the likely impact of the Open Skies Treaty and to offer appropriate assistance in safeguarding proprietary information that may be put at risk. Such assistance need not incur major costs to the government and could, if necessary, be user-funded.

*Recommendation #5:* Congress should consider legislation to create a new b(3) exemption to the Freedom of Information Act that would permit the Government to withhold information collected pursuant to the treaty from public disclosure.

The condition proposed in Recommendation #3 was included in the resolution of ratification passed by the Senate on August 6, 1993, as was a declaration based upon Recommendation #1. The legislation suggested in Recommendation #5 was enacted as Section 533 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (P.L. 103-236).

#### C. CHEMICAL WEAPONS CONVENTION

On September 3, 1992, after some twenty-five years of negotiations, members of the Conference on Disarmament in Geneva concluded the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction—more commonly known as the Chemical Weapons Convention, or CWC. This convention was endorsed by the United Nations on November 30, 1992, and was opened for signature in Paris on January 13, 1993. On November 23, 1993, President Clinton endorsed the Convention (which had been signed during the Bush Administration) and formally submitted it to the Senate for its advice and consent to ratification.

In preparation for Senate consideration of the CWC, Committee staff held two on-the-record staff briefings (and several less formal sessions) and reviewed numerous documents, including a National Intelligence Estimate on U.S. monitoring capabilities, written statements from several Executive branch agencies, and the Executive branch responses to over 130 questions for the record. Committee staff also visited U.S. Government and industry facilities and attended conferences to gain a more detailed knowledge of how information bearing upon other countries' compliance with the CWC can be obtained, especially through on-site inspections.

On May 17, 1994, the Committee held a closed hearing on the CWC, focused on issues relating to monitoring and verification of compliance, the implications of any successful evasion of CWC provisions by States Parties, CWC implementation, and the Convention's counterintelligence and security implications. Testimony was taken at this hearing from the Honorable John D. Holum, Director of the U.S. Arms Control and Disarmament Agency; Ambassador Stephen J. Ledogar, U.S. Representative to the Conference on Disarmament; Major General David McIlvoy, Deputy J-5 (Director for Strategic Plans and Policy) for International Negotiations, the

Joint Staff; Mr. John Lauder, Special Assistant to the Director of Central Intelligence for Arms Control; Major General John Landry, USA, National Intelligence Officer for General Purpose Forces; Dr. Theodore M. Prociw, Deputy Assistant to the Secretary of Defense (Atomic Energy) (Chemical/Biological Matters); and the Honorable William A. Reinsch, Under Secretary of Commerce for Export Administration. A written statement was submitted by Brigadier General Gregory G. Govan, USA, Director of the Department of Defense On-Site Inspection Agency.

On September 30, 1994, the Committee issued both classified and public reports to the Senate on "U.S. Capability to Monitor Compliance with the Chemical Weapons Convention." The public report, which the Committee also submitted to the Senate Committee on Foreign Relations, was published as S. Rpt. 103-390.

The Committee's public report includes numerous findings and fourteen recommendations, several of which would require language in the resolution of ratification by which the Senate would give its advice and consent to ratification of the Convention. The report's recommendations and major conclusions regarding the Chemical Weapons Convention were summarized as follows:

#### IMPLICATIONS OF THE CWC TEXT

The Committee pursued several issues of treaty interpretation in its hearing and in questions for the record, and the answers provided by the Executive branch were generally reassuring. The lack of a definition of "law enforcement purposes" could lead, however, to compliance disputes.

If the CWC is ratified, a new Executive order will be needed to minimize the risk of American use of riot control agents in ways that would raise compliance questions.

It is likely that some States Parties to the CWC will assert that the Convention requires substantial changes in the functioning of the Australia Group. The Committee trusts that the United States and other Australia Group members will prepare to counter such arguments both publicly and in international fora.

*Recommendation #1.*—The Senate should make its consent to ratification of the CWC conditioned upon a binding obligation upon the President that the United States be present at all Amendment Conferences and cast its vote, either positive or negative, on all proposed amendments made at such conferences, thus ensuring the opportunity for the Senate to consider any amendment approved by the Amendment Conference.

#### MONITORING AND VERIFICATION

A single, all-encompassing judgment cannot be made regarding the verifiability of the CWC or U.S. capability to monitor compliance with the Convention. In some areas our confidence will be significantly higher than others. Like the Executive branch, however, the Committee largely accepts the Intelligence Community's pessimistic assess-

ment of U.S. capability to detect and identify a sophisticated and determined violation of the Convention, especially on a small scale. The Committee also notes the Intelligence Community's assessment that the CWC would give the U.S. Government access to useful information, relevant to potential CW threats to the United States, that would not otherwise be obtainable.

It is likely that some countries that ratify the CWC will seek to retain an offensive chemical weapons capability. While it is unlikely that they would do so by diverting declared CW stocks, the covert stockpiling of undeclared agent or munitions could well occur. Monitoring such illicit behavior will be the single most challenging task for the CWC verification regime and U.S. monitoring.

OPCW investigators, if not blocked from gaining needed access to sites and affected persons, should be able to determine whether chemical weapons have been used in a particular case.

*Recommendation #2.*—The Executive branch should work to foster OPCW procedures that would permit on-site inspectors to identify and record the presence of non-scheduled chemicals, while taking extraordinary steps, if necessary, to protect any confidential information thereby acquired.

If the international inspectorate is determined, well trained, and well equipped, and if U.S. or other States Parties provide accurate and timely leads to the OPCW, there may well be some occasions in which on-site inspection will produce evidence of CWC violations. It will be vital, however, that the OPCW not lose sight of that objective.

In addition, U.S. and international monitoring will, at times, be sufficient to raise well-founded questions. In order to maintain the effectiveness of the Convention and to deter potential violators, the United States and the OPCW must pursue such questions vigorously, even to the point of seeking international sanctions if a State Party does not adhere to the principle set forth in paragraph 11 of Article IX of the CWC, that "the inspected State Party shall have the right and the obligation to make every reasonable effort to demonstrate its compliance with this Convention." U.S. verification policy and investment in monitoring technologies should start from the principle that monitoring can contribute to effective international action even if it cannot conclusively demonstrate a country's violation of the Convention.

*Recommendation #3.*—The Executive branch should adhere to an arms control verification policy that does not require agencies to prove a country's non-compliance before issues are raised (either bilaterally or in such international fora as the OPCW or the United Nations) and appropriate unilateral actions are taken.

The deterrent effect of the CWC is extremely difficult to predict. A strong U.S. commitment to the enforcement of the CWC will be essential to the effectiveness of the Con-

vention. It may in fact be possible to achieve a measure of both enforcement and deterrence, but only if the United States is prepared to make compliance with the CWC a major element of its foreign policy stance toward each State Party to the Convention.

#### IMPROVING U.S. MONITORING AND VERIFICATION

*Recommendation #4.*—The Committee endorses the call by the interagency committee under the Deputy Secretary of Defense for increased funding of CW sensor technology and urges the Executive branch to redirect FY 1995 funds for this purpose as well. The Committee also recommends that Congress rescind its restriction on DOE efforts to develop CW (and BW) sensors based upon technologies it is developing in the nuclear field.

Funds invested in CW sensor technology may well be wasted, however, unless the Executive branch institutes effective oversight of the multitude of agency programs in this field. The recent formation of a Nonproliferation and Arms Control Technology Working Group may provide an appropriate forum in which to deconflict and narrow the focus of agency programs and to fund the most promising avenues to ensure expeditious completion. The Executive branch should ensure that the body that makes such decisions is fully briefed on all relevant intelligence and defense programs. Even highly sensitive programs should not be immune from high-level interagency consideration to determine whether they warrant increased or lessened support.

#### COOPERATION WITH THE OPCW

The lack of U.S. access to raw data from on-site inspections will impede the Intelligence Community's monitoring of CWC compliance.

Progress is being made in The Hague on enabling the OPCW to take advantage of the information resources of States Parties; the Executive branch should give this matter high priority.

*Recommendation #5.*—Rather than waiting until the CWC enters into force, the Executive branch should begin preparing now to meet the likely need for U.S. support to OPCW inspections, including information that would be needed for challenge inspections of declared and undeclared sites pursuant to Part X of the CWC Verification Annex.

The Committee cannot assure the Senate that the Preparatory Commission's other recommendations will improve CWC verification significantly, but it is encouraged by the reported general direction of those talks.

#### THE QUESTION OF RUSSIAN COMPLIANCE

The Committee views with great concern Russia's failure to comply fully with the data declaration provisions of the



Wyoming MOU and its implementing procedures. In the absence of full compliance with the Wyoming MOU, neither the Committee nor the Senate can overlook the distinct possibility that Russia intends to violate the CWC.

The failure to implement all the on-site inspections originally agreed to in the Wyoming MOU is another cause for serious concern. The inspections under Phase II of the MOU are no longer likely to make a significant contribution to compliance monitoring or verification. Rather, as pared down in 1993 and in the final implementing procedures, they will continue the confidence-building process and help the two sides prepare for later inspections under the BDA and/or the CWC. Given Russia's refusal to permit a full suite of technical inspection equipment, even after most inspections and all challenge inspections of non-declared sites were eliminated, the Senate must assume that Russia may have something to hide.

*Recommendation #6.*—The President should make full Russian implementation of the Wyoming MOU and the BDA an issue of high priority in U.S.-Russian relations and raise the matter personally at the highest levels. The Committee recommends that the Senate add a condition to the resolution of ratification of the CWC requiring the President, 10 days after the CWC enters into force or 10 days after the Russian Federation deposits instruments of ratification of the CWC, whichever is later, either—

(a) to certify to the Senate that Russia has complied fully with the data declaration requirements of the Wyoming MOU; or

(b) to submit to the Senate a report on apparent discrepancies in Russia's Wyoming MOU data and the results of any bilateral discussions regarding those discrepancies.

The Committee further recommends that the Senate add a declaration to the resolution of ratification of the CWC expressing the sense of the Senate that if Russian data discrepancies remain unresolved 180 days after the United States receives information on Russia's initial CWC data declarations from the OPCW Technical Secretariat, the United States should request the Executive Council of the OPCW to assist in clarifying those discrepancies pursuant to Article IX of the Convention.

Given the passage of one-and-a-half years since Russia and the United States reached ad referendum agreement on BDA implementation, and given the fact that the BDA mandates extensive on-site inspection by U.S. personnel, the Committee believes there is a real risk that the BDA will never enter into force, notwithstanding Russia's economic incentive to accept bilateral verification. In the absence of agreement on BDA implementation, the Committee advises the Senate that verification of Russian compliance would likely be based upon a smaller number of inspections than originally anticipated, that the inspections of Russian sites would be conducted by the OPCW

inspectorate rather than by U.S. personnel, and that there would be no guaranteed U.S. access to the detailed inspection data. On the other hand, the OPCW is unlikely to exempt Russia from the requirements set forth in the CWC's provisions.

*Recommendation #7.*—The Senate should add a condition to the resolution of ratification of the CWC, barring the deposit of instruments of ratification until the President certifies to Congress either: (a) That U.S.-Russian agreement on BDA implementation has been or will shortly be achieved, and that the agreed verification procedures will meet or exceed those mandated by the CWC; or (b) that the OPCW will be prepared, when the CWC enters into force, to effectively monitor U.S. and Russian facilities, as well as those of the other States Parties. Relevant committees may also wish to consider whether it would be effective to attach conditions to one or more elements of U.S. economic assistance to Russia.

*Recommendation #8.*—The Executive branch and the committees of Congress with responsibility for U.S. contributions to the OPCW budget should pay close attention to the OPCW's changing needs, so that additional funds can be made available in a timely fashion if current planning assumptions prove too conservative.

*Recommendation #9.*—The Executive branch should ensure that the effectiveness of the CWC, both in Russia and around the world, is the primary objective of U.S.-Russian CW policy.

#### PROTECTING CLASSIFIED AND PROPRIETARY INFORMATION

Although some loss of sensitive information will likely occur as a result of CWC data declarations and on-site inspections, the Executive branch is taking all reasonable steps to protect classified information that may be at risk. The Committee welcomes the recent increase in efforts to help U.S. industry, but believes that still more can be done to protect confidential business information held by private firms.

Some loss of classified or proprietary information in challenge inspections is likely, at least through perimeter monitoring. It will be especially important, therefore, for the OPCW to have effective regulations and procedures guarding against disclosure of such information by OPCW personnel.

*Recommendation #10.*—The United States should exercise its right to reject a proposed inspector or inspection assistant when the facts indicate that this person is likely to seek information to which the inspection team is not entitled or to mishandle information that the team obtains.

*Recommendation #11.*—Congress should amend the CWC implementing legislation (S. 2221) to give the DoD On-Site Inspection Agency (OSIA) authority to escort inspectors on non-DoD sites, when asked to do so by the

owners or managers of those sites, on a non-reimbursable basis to the extent that funds are available.

*Recommendation #12.*—The Department of Commerce, with assistance from the Department of Defense, should develop a database similar to the Defense Treaty Inspection Readiness Program (DTIRP) database, to which interested firms could voluntarily contribute information on security needs at their facilities in the event of a CWC inspection.

Given industry's important role in data declarations, the first of which must be submitted by the United States only 30 days after the CWC enters into force, the risk that industry unpreparedness will lead to inaccurate U.S. declarations is a cause for concern.

*Recommendation #13.*—The Commerce Department should undertake a substantially-increased outreach program to inform companies that do not yet understand their data declaration obligations, in particular. Because U.S. ratification of the CWC may well precede enactment of implementation legislation, the Commerce Department should begin this effort now, rather than waiting for formal designation as the lead agency for this effort.

*Recommendation #14.*—The Senate Committee on Foreign Relations should pay particular attention to whether section 302 of S. 2221 provides for sufficient disclosure of information to Congress and, if necessary, to the public.

The resolution of ratification was not reported out of the Foreign Relations Committee during the 103rd Congress, so there has been no final disposition regarding either the Intelligence Committee's recommendations or the larger issue of Senate advice and consent to ratification of the Chemical Weapons Convention.

#### D. NUCLEAR WEAPONS PROLIFERATION IN KOREA, RUSSIA, UKRAINE, AND CHINA

In the 103rd Congress, the Committee continued its on-going review of the Intelligence Community's assessment of the threat to U.S. national security interests and its effectiveness in monitoring the global proliferation of nuclear, chemical, and biological weapons and their delivery systems. The Committee has worked to enhance the resources devoted to this important issue in an increasingly constrained budget environment.

#### IV. COUNTERINTELLIGENCE

In addition to the legislative provisions pertaining to counter-intelligence which were enacted in the 2nd session of the 103rd Congress (see section II, above), the Committee devoted a substantial part of its oversight efforts to analyzing the Ames espionage case, which came to light on February 21, 1994, with the arrest of CIA employee Aldrich H. Ames and his wife, Rosario.

The Committee was first briefed on the case the day of arrests and immediately requested the CIA Inspector General to undertake an inquiry to determine what Ames had done and how he had been able to carry on such activities for a period of nine years without

detection. In the meantime, the Committee continued to receive periodic updates on the progress of the criminal investigation and undertook an extensive inquiry into the cooperation between the CIA and FBI where counterintelligence matters were concerned.

When both defendants pled guilty to charges stemming from their espionage activities on April 28, 1994, the Committee was no longer constrained in its inquiry by concerns of hampering the criminal investigation and began to look more intently into what Ames had done. Closed hearings were held on May 6, June 16, and June 28. On July 18, the staff held an all-day session with representatives of the CIA and FBI to review the case from start to finish. These proceedings were supplemented by an interview of Ames, conducted by Senator DeConcini, on August 5, 1994.

On September 24, 1994, the Committee received the first draft of the CIA Inspector General's report on the Ames case, and on September 28th held a closed hearing where the CIA Inspector General presented his report. The following day, the Director of Central Intelligence testified with respect to the disciplinary actions he had taken in response to the Inspector General's report.

On the basis of these proceedings and the report of the CIA Inspector General, the Committee, by unanimous vote, issued its own analysis of the Ames case on November 1, 1994. (See Senate Report 103-90.) In addition to criticizing the leniency of the disciplinary actions taken by the DCI, the Committee found "numerous and egregious" shortcomings in the way the Ames case had been handled and proposed 23 separate recommendations for change. Among the key findings, the Committee found:

The counterintelligence function at the CIA was weak and inherently flawed, and, despite numerous reports pointing out these flaws, CIA had failed to correct them;

The CIA had failed to document and address the serious suitability problems demonstrated by Ames, e.g., alcohol abuse, extramarital relationships with foreign nationals, security violations, failure to comply with agency administrative regulations;

The CIA had failed to adequately coordinate the operational activities of Ames by allowing him to meet alone with Soviet Embassy officials at a time when he had access to extraordinarily sensitive information pertaining to Soviet nationals working clandestinely with the CIA;

The CIA had failed to aggressively investigate the cases compromised by Ames with adequate resources until mid-1991, six years after the compromises occurred;

The CIA had failed to adequately limit Ames's assignments and access to classified information after suspicions concerning him had been raised; and

The CIA had failed to advise the oversight committees of the losses caused by Ames despite a statutory requirement to advise of "significant intelligence failures."

The FBI had failed to devote sufficient resources to the molehunt and delayed for too long in opening a formal investigation of Ames.

The Committee directed the CIA Inspector General to conduct a followup inquiry to determine the extent to which the problems

noted in the Ames case have been remedied (or still exist), and provide a report to the Committee by September 1, 1995. The Committee promised continuing oversight of this area.

## V. COUNTERTERRORISM

### A. WORLD TRADE CENTER BOMBING AND THE CIA EMPLOYEE SHOOTING

The bombing of the World Trade Center in New York City on February 26, 1993 awakened Americans to the fact that international terrorists are capable of acting within the borders of the United States. Six Americans were killed in that bombing. In September 1993, the case went to trial and four suspects were convicted in March 1994. To date, the FBI has not found evidence that a foreign government was responsible for the bombing.

The capability of terrorists to strike within the United States was accentuated by the killing of 2 CIA employees as they prepared to enter the CIA compound in Langley, Virginia on January 25, 1993. The prime suspect for these killings, Amir Kanshi, fled the country and is the object of a major manhunt.

During the 103rd Congress, the Committee held four hearings to examine the capabilities of the Intelligence Community to monitor and deter the activities of international and domestic terrorist organizations. The Committee has consistently supported increased efforts by the Intelligence Community to identify support to terrorist organizations and to counter such efforts.

## VI. OVERSIGHT ACTIVITIES

### A. THE NATIONAL SECURITY THREAT

On January 25, 1994 the Committee held an open hearing on the current and projected national security threats to the U.S. Testifying before the Committee were Director of Central Intelligence (DCI) R. James Woolsey, and Lt. General James R. Clapper, Jr., USAF, Director of the Defense Intelligence Agency (DIA). The witnesses discussed the threats to the U.S. and its interests from the former Soviet Union, China, and countries in other regions of particular concern (including the Middle East, North Korea, Somalia, Haiti, and Bosnia) and from transnational concerns (including the proliferation of weapons of mass destruction and their delivery systems, terrorism, and illegal drugs). The Committee's hearing transcript, "Current and Projected National Security Threats to the United States and its Interests Abroad," [S. Hrg. 103-630] which included numerous unclassified responses to Committee questions-for-the-record (QFRs), was printed and is available to the public.

### B. COMMERCIAL AVAILABILITY OF IMAGERY

The Committee played a central role in the Administration's March 10, 1994, decision to permit the commercial sale of medium resolution imagery and imaging equipment.

Long concerned about the intelligence industrial base and the growth of foreign competition in the commercial remote sensing field, the Committee held a closed hearing on June 10, 1993, to learn from government and private sector experts how the entry of

U.S. medium resolution imaging technology into the commercial remote sensing market would affect U.S. national security interests and the U.S. intelligence industrial base. The Committee held a second open hearing on this topic on November 17, 1993, for the purposes of acquainting the public with the issue and learning the Administration's progress in producing a government-wide policy on commercial remote sensing. On December 9, 1993, Chairman DeConcini, Vice Chairman Warner, and Senator Robert Kerrey wrote to President Clinton to note that "there are substantial commercial opportunities for United States businesses to sell satellite imagery systems and products without in any way placing U.S. intelligence capabilities and methods at risk" and urging the Administration to more aggressively support such sales. On March 10, 1994, the Department of Commerce announced that the Administration would henceforth permit the foreign sale of remote sensing technology, within the context of a licensing regime that would protect U.S. national security interests.

#### C. ECONOMIC INTELLIGENCE

During the spring and summer of 1993, the Committee undertook an extensive review of economic intelligence to ascertain the nature and extent of the Intelligence Community's efforts in this area. After a series of staff visits and briefings, the Committee held two closed hearings on this subject to hear testimony from representatives of the CIA, the NSA, the FBI, and the Departments of State and Commerce. These closed hearings were followed on August 5, 1993, with an open hearing to receive testimony from private sector representatives, to include John F. Hayden, Corporate Vice President, the Boeing Company; Thomas Faught, Jr., Faught Management Group, Boyden Associates; and Mark M. Lowenthal, Senior Fellow, Congressional Research Service.

On the basis of this review, the Committee concluded that while the area of economic intelligence continued to lack overall direction and guidance at the national level, the ongoing activities of intelligence agencies appeared to be consistent with U.S. laws, policy, and objectives, and appeared to be producing beneficial results, both from the standpoint of U.S. policymakers and U.S. commercial interests.

This assessment was confirmed during a closed hearing held by the Committee in July 1994, where representatives of the Departments of State and Commerce testified with respect to several cases where intelligence reporting in the economic area had led to tangible benefits for U.S. commercial interests. While the Committee noted the continued lack of overall policy direction in this area, it was satisfied with the progress being made in the absence of such direction.

No further action was taken on this subject during the 103rd Congress.

#### D. CLIPPER CHIP/DIGITAL TELEPHONY

During the 103rd Congress, the Committee explored two initiatives proposed by the Clinton Administration to deal with problems posed by advancing technologies which threatened to hamper or thwart the ability of intelligence and law enforcement agencies,

acting pursuant to existing law and policy, to intercept electronic communications for foreign intelligence or counterintelligence purposes. While the concern which motivated both initiatives was principally that the government's ability to conduct wiretaps for law enforcement purposes be preserved, both initiatives also affected foreign intelligence and counterintelligence equities.

The first of these initiatives, and the one which received the most attention from the Committee, was the so-called "clipper chip" proposal. This proposal was prompted by the growing concern that the encryption of telecommunications was becoming increasingly sophisticated and would in time become increasingly widespread, and that law enforcement and intelligence agencies, acting pursuant to applicable law and policy, would be unable to decrypt such communications. The Administration plan envisioned the Government henceforth purchasing only secure telephones that used a special computer chip, called a "clipper chip," to encrypt conversations over such telephones. While the clipper chip telephone would provide excellent security, the Government would retain a special "key" that would allow it to decrypt conversations encrypted with the clipper chip. This key would be in two parts, each part to be held by a designated "key escrow agent," who would provide access to authorized law enforcement agencies when presented with a court order or warrant. These "key escrow agents" were to be designated by the Attorney General.

While the proposal did not require U.S. manufacturers of encryption software to use the "clipper chip" in the manufacture of such software for sale to the public, the Administration assumed that, since the Government was by far the largest user of secure telephones, manufacturers would, as a matter of economic practicality, conform to the Government standard.

The Administration's proposal envisioned that U.S. companies would be able to secure export licenses to use "clipper chip" devices outside the United States to secure their communications abroad, and left open the possibility of sale of clipper chip telephones to foreign governments.

After a series of staff-level meetings with Administration officials and representatives of the private sector, the Committee held a closed hearing on the clipper chip proposal on June 17, 1993, receiving testimony from representatives of the government agencies principally involved in developing the proposal. This was followed by a series of written questions to the agencies involved to explore various issues raised at the hearing. The Committee took no legislative or budgetary action with respect to the "clipper chip" proposal. Congress, however, enacted new legislation in November, 1993, which called for a comprehensive review of national cryptography policy by the National Research Council, the principal operating element of the National Academy of Science (see Public Law 103-160). The Administration announced that it would defer further implementation of the "clipper chip" initiative pending the outcome of this review.

The second initiative reviewed by the Committee was the Administration's proposed legislation to address the problem posed by "digital telephony." The problem arises as telephone companies switch to digital communications to transmit voice patterns more

efficiently over telephone lines. If lines carrying such digital signals are wiretapped, the conversations transmitted by such signals are unintelligible unless the digital signals carrying the conversations are processed through software that makes the conversations intelligible. The Administration's proposed legislation would require the providers of telephone services to make such software conversion possible so that targeted conversations could be isolated and made intelligible to authorized federal agencies, acting pursuant to lawful authority.

The legislation drafted by the Administration was considered by the Committees on Judiciary of the House and the Senate. While this Committee held no hearings on the legislation and took no official position with regard to the proposal, Chairman DeConcini, acting in his personal capacity, did provide testimony to the Judiciary Committees in support of the need for legislation, albeit with certain reservations concerning the Administration's proposal. In October, 1994, the Judiciary Committees agreed to a modified version of the legislation proposed by the Administration, which was ultimately enacted into law. (See Public Law 103-414)

#### E. SSCI AUDITS AND INVESTIGATIONS

The audit staff was created in 1988 by the Committee to provide "a credible independent arm for Committee review of covert action programs and other specific Intelligence Community functions and issues." The Audit and Investigations staff has brought a new dimension to the oversight capability of the Committee by the depth and quality of the program reviews it has provided. During the 103rd Congress the staff conducted seven individual program reviews and assisted on a number of other critical Committee activities.

One of the most noteworthy projects undertaken by the Audit and Investigations staff was the review of the new NRO Headquarters project. The staff reviewed the construction project's cost and schedule estimates, and overall requirements and management. The key conclusions of the staff's review were that the full and comprehensive project costs were not provided to the Committee by the NRO; the budget for this project was not appropriately presented in the annual NRO budget submissions to our Committee; and the new NRO Headquarters facility significantly exceeded the NRO's space requirements, which caused the project costs to be higher than necessary.

As a result of the Members' concerns about the new NRO Headquarters facility, the President advised the DCI and Secretary of Defense to make public the existence of the new NRO Headquarters facility. This was done on August 8, 1994. On August 10, 1994 the Committee held a public hearing to express their concerns to NRO and Intelligence Community officials. At that hearing, witnesses acknowledged NRO failures. For example, DCI Woolsey stated, "If this [construction project] were begun today, \* \* \* there's no question it would be done differently." The NRO project director added, "We have been negligent, clearly negligent, for not showing the budget breakout for this project."

The DCI and Secretary of Defense also committed to further review of the NRO headquarters project to consider if there were fail-



ures in the process, and identify potential cost savings, if any. That review upheld the Committee's concerns. The DCI/Secretary of Defense Review Team concluded, among other things, that the NRO failed to follow appropriate budget guidelines for communicating the costs of the new headquarters project to the Congress and that there had been an insufficient review of the project's space requirements, which resulted in an oversized facility which could house as many as 1,000 additional people.

As a result of the Audit and Investigations Team efforts, the Committee took several actions which are designed to strengthen oversight of intelligence facilities. For example, Section 601 of the Intelligence Authorization Act for Fiscal Year 1995 placed certain limitations upon the funding authorized for the NRO, including:

- suspending \$50 million in funding until further examination of the project was done,
- allowing no further construction of NRO facilities unless Department of Defense policies and procedures for new construction are adhered to, and
- placing a cap on the new NRO headquarters construction costs.

Section 602 of the conference report established procedures for congressional notification and approval of certain intelligence community construction and improvement projects.

#### F. RELEASE OF JFK DOCUMENTS

Public Law 102-526, the "President John F. Kennedy Assassination Records Collection Act of 1992," mandated the expeditious disclosure of records relevant to the assassination of President John F. Kennedy.

In the spring of 1993, the Senate Select Committee on Intelligence identified 175 archived boxes of material as having possible relevance to the assassination. A page by page review by Committee staff was completed by August 1993 and resulted in the identification of over 34,000 pages of relevant material.

Coincident with the document identification and cataloging process, agencies with equities in these documents were invited by the Committee to conduct a security review of the 34,000 pages. Ninety-nine percent of the documents were declassified. The Committee transmitted all declassified and redacted documents directly to the National Archives. Classified documents are being held by the Committee pending disposition by the President's Board of Review.

The process of identification, cataloguing, security review and transmittal to the Archives for public release was completed in August of 1994.

#### G. NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA)

Committee members held a November 4, 1993, open hearing to explore NAFTA's potential impact on U.S.-Mexico relations, hemispheric ties, the pace of Mexican economic reform and narcotics trafficking. The CIA's National Intelligence Officer for Economics testified that NAFTA's implementation would likely facilitate greater openness and competitiveness in Mexico's political system, stimulate greater economic change and growth in Mexico and enhance efforts by the United States to promote export-oriented

growth policies and internal reform programs throughout the Hemisphere. Representatives of the U.S. private sector and academe presented testimony emphasizing the far-reaching economic implications of NAFTA.

#### H. COVERT ACTION

Covert action funding represents a small and shrinking fraction of the intelligence budget. However, mindful of the need to ensure that covert activities serve an agreed foreign policy objective and are conducted in accordance with American law and values, the Committee devoted a substantial amount of oversight to this topic. In addition to regular periodic reviews, the Committee convened special sessions to consider new activities initiated by the President. The Committee also acted in the FY 1995 budget process to ensure that the Central Intelligence Agency's covert action capability remained sufficient to respond to short-notice requirements.

#### I. RUSSIAN/EASTERN EUROPEAN ORGANIZED CRIME

A serious problem since the end of the Cold War has been the apparent growth of Russian organized crime. Within Russia, crime has become the most serious public issue, with some treating the growth of organized crime as a real threat to the future of democratic and free market reforms in Russia. The international reach of Russian organized crime has raised concerns in Europe because of the reported involvement of Russian organized crime elements in everything from stolen car rings to drug smuggling and nuclear proliferation. Russian organized crime activity has also reached America, involving major criminal activities in New York and Los Angeles and other areas as well.

The Committee and its staff have engaged in a series of oversight activities intended to focus high level attention on the Russian/Eastern European organized crime problem and ensure that our intelligence response to this problem is timely, adequately supported, and fully coordinated with our law enforcement efforts. The Committee notes with regret that the issuance of a formal executive branch policy delineating the foreign intelligence/law enforcement interface in this area is now more than a year overdue, despite vigorous attempts by the Committee to urge the policymaking process to completion. The subject, and the intelligence/law enforcement interface policy, will remain special subjects of Committee interest in the 104th Congress.

#### J. ENVIRONMENTAL TASK FORCE HEARING

The Committee has been working with the Intelligence Community on efforts to use intelligence assets and data to assist environmental scientists and federal agencies with an environmental mission. Since its inception, the Environmental Program has taken numerous steps to determine the role classified systems and data can play in environmental science.

In 1993, the Committee initiated a study of the potential use of classified systems in support of the environmental missions of appropriate federal agencies, including the Environmental Protection Agency (EPA), the Federal Emergency Management Agency

(FEMA), and the Departments of Interior (including USGS), Transportation, Commerce (including NOAA), Agriculture, Defense, and Energy.

The study was completed in May 1994, and affirmed the significant potential benefits of this effort in providing unique environmental information to federal agencies. The Committee directed the Environmental Program to shift its focus to this effort, and has emphasized the importance of closer coordination between the Intelligence Community and federal agencies with environmental data needs.

On August 4, 1994, the Committee held a hearing to provide Committee members with detailed information relating to the efforts of the Environmental Program. CIA's Deputy Director for Science and Technology testified.

During 1994, the Committee did express specific concerns regarding the focus and budget of the Environmental Program, and took steps to resolve these concerns.

#### K. NSA SUPPORT TO LAW ENFORCEMENT/SIGINT POLICY

The Committee, while in agreement with the National Security Agency's need to protect intelligence sources and methods and the constitutional imperative prohibiting practices that infringe upon individual rights, is nonetheless of the view that the National Security Agency can and should do more than it has done in the past in foreign intelligence collection to support U.S. law enforcement. The Committee believes that the threat to domestic tranquility posed by international organized crime of all kinds, but especially international illegal drug trafficking, is so great that NSA's past conservative approach to this problem does not meet the American people's expectation that their government will fully exert its resources and capabilities in their defense. *Accordingly, in section 810, "Counternarcotics Targets Funding," of Public Law 103-359, the Committee increased funding directed against the narcotics target by \$5 million and directed that "\* \* \* a detailed operations plan with special emphasis on the United States/Mexico border and including the participation of the National Security Agency, the Federal Bureau of Investigation, the Drug Enforcement Administration, and the United States Customs Service \* \* \*" be completed and provided to the Committee by November 15, 1994.* The Committee is gratified by NSA's initial response to the Committee's directions and views and expects that the Agency, in close coordination with the Department of Justice, will make the maximum effort permitted under the law, with full respect for the constitutional protections afforded all U.S. persons. This is another area where the executive branch's formal policy on the foreign intelligence/law enforcement interface, which is more than a year overdue, can make a positive difference.

#### L. AIRBORNE RECONNAISSANCE

The Committee undertook three significant actions affecting airborne reconnaissance programs and activities in the 103rd Congress: (1) The placing of additional safeguard conditions on the tactical UAV program to ensure that the warfighter gets a tactical UAV that works; (2) the reversal of the proposed transfer of the U-

2 airborne reconnaissance program to the Tactical Intelligence and Related activities (TIARA) aggregation; and (3) the consolidation of governmental efforts into a new organization responsible for the development and acquisition of all unmanned aerial vehicles (UAV).

The Committee strongly supported the HUNTER UAV system which is designed for short-range reconnaissance in direct support of tactical commanders. However, the Committee noted early on that the HUNTER UAV system had experienced several fundamental problems during its development and early procurement efforts. The Committee feared that past concerns were not resolved, and that as of April 1994, the HUNTER program included an insufficient and unrealistic testing schedule, extremely poor logistics support, engine design problems, and questionable program management. Five UAV crashes/mishaps between June and October of 1994 attested to the significance of the HUNTER problems. While DOD restructured the HUNTER program in the middle of the Congressional budget cycle, the SSCI was instrumental in an amendment that established additional safeguards.

In 1994, the Administration proposed transferring the U-2 program to TIARA on the basis of consolidating management of certain functional areas such as airborne reconnaissance, rather than according to the current statutory framework governing intelligence programs and activities, specifically, the distinction between national and "solely" tactical intelligence. At the insistence of the SSCI, funding and oversight responsibility for the U-2 airborne reconnaissance capability was retained in the DCI's National Foreign Intelligence Program. The Committee included in its public report accompanying the FY 1995 Intelligence Authorization Act language requiring prior Congressional notification of any further proposed transfers of programs out of the National Foreign Intelligence Program.

In response to Congressional concerns, the Secretary of Defense established the Defense Airborne Reconnaissance Office (DARO) in November of 1993. Its Director was given responsibility for managing the development and acquisition of all joint Service and Defense-wide manned and unmanned airborne reconnaissance capabilities including vehicles, sensors, data links and data relays. In support of DARO's stated goal "to bring management attention, order, and efficiency to tactical airborne reconnaissance development and acquisition," the Committee negated the President's request to allow a duplicative UAV developmental effort by a non-DoD agency. The Committee noted that such a bifurcation of responsibilities would clearly have duplicated DARO's charter and capability to develop and acquire UAVs. The Committee did not understand the Administration's need for, or the practicality of, authorizing two U.S. Government activities to develop separate UAV programs.

#### M. PUBLICATION OF BOOKLET ON CONGRESSIONAL OVERSIGHT

Principally in response to the growing number of requests received from foreign governments for information regarding the U.S. system of oversight, the Committee approved the publication of a

new booklet in the fall of 1994 entitled "Legislative Oversight of Intelligence Activities: The U.S. Experience." (Senate Report 103-88)

The booklet contains a narrative which traces the evolution and accomplishments of the congressional intelligence committees, and explains how the committees are organized and function. The appendix to the booklet contains the pertinent statutes, congressional rules, and executive branch policy documents regarding the congressional oversight process, as well as several recent commentaries on the subject.

## VII. FOREIGN INTELLIGENCE

### A. HAITI

The Committee held six closed hearings and briefings exclusively on Haiti and discussed the evolving Haitian situation during several additional closed hearings in a 13-month period beginning September 1993. Members focused on the controversy surrounding the CIA's psychological profile of President Jean- Bertrand Aristide, the impact of the embargo, the political situation in Haiti and military plans surrounding the September 19, 1994 U.S. intervention in that country.

### B. BOSNIA

The conflict in the Republic of Bosnia-Herzegovina was an area of intensive focus for the Committee throughout the 103rd Congress. The Committee held numerous closed briefings and hearings on the situation in Bosnia and the adequacy of intelligence support to U.S. Government efforts in Bosnia. These briefings and hearings provided the Committee with intelligence assessments of the military situation in Bosnia; the likely impact of potential U.S. military actions; the potential for achieving a negotiated settlement; and the effectiveness of sanctions enforcement efforts. In addition, the Committee examined the intelligence community's role in the international community's efforts to investigate war crimes in Bosnia.

### C. SOMALIA

During the 103rd Congress, the Committee held a number of closed briefings on the U.S. involvement in the United Nations military effort in Somalia (UNOSOM). The Committee also addressed this issue in open session during the January 25, 1994 open hearing on "Current and Project National Security Threats." In their testimony and responses for the record, both DCI Woolsey and DIA Director General Clapper expressed their pessimistic views of the United Nations' ability to reach a peaceful, long-term settlement of the clan warfare in Somalia after the March 31, 1994, withdraw of U.S. forces.

### D. CUBA

The Committee held an open hearing on July 29, 1993, to assess U.S. policy toward Cuba and the prospects for political and economic change in that country. The National Intelligence Officer for Latin America testified that without profound economic reforms the Castro government will be increasingly at risk if it cannot bring

significant relief to the population. Other witnesses told the Committee that a peaceful transition to democracy in Cuba is a vital U.S. interest. Witnesses from the private sector differed in their assessments of U.S. policy, with some arguing that the U.S. embargo against Cuba has failed in promoting a democratic transition and others suggesting that with economic pressure on Castro increasing, now is not the time to relieve that pressure by lifting the U.S. embargo.

#### E. U.N. INTELLIGENCE SHARING

With the expansion of the United Nations role in multilateral peacekeeping and inspection regimes, the Committee heard testimony from U.S. officials on U.S. policy and practices in providing intelligence support to the United Nations for these efforts.

The Committee expressed several concerns in this area, particularly concerning the security implications for intelligence sources and methods where intelligence information is provided to the U.N. The Committee will continue to examine this issue in the 104th Congress.

#### F. NORTH KOREA

In view of the crisis generated by the North Korean's military activities and nuclear weapons program, North Korea was the focus of considerable Committee time and energy during the past two years. The Committee conducted six hearings dedicated to intelligence analysis and capabilities on North Korea's vast military build-up, its unstable political regime, its fragile economy, its development of a nuclear weapons program, and its development and proliferation of missiles.

Two specific issues of particular focus for the Committee were the death of President Kim Il Sung in July 1994, which raised many questions about the succession of his son Kim Chong-il and his command and control of the country. And the October 21, 1994, nuclear agreement between the United States and North Korea. In December 1994, the Committee held a hearing on this nuclear agreement to address the capability of the United States intelligence community to monitor North Korea's compliance.

### VIII. CONFIRMATIONS

#### A. DCI R. JAMES WOOLSEY

On February 2, 1993, the Committee held a public hearing on the nomination of R. James Woolsey to be Director of Central Intelligence. A partner in the Washington law firm of Shea & Garnder, Mr. Woolsey had previously served as Ambassador and U.S. Representative to the Negotiation on Conventional Armed Forces (CFE) and as a Delegate to the START talks from 1983-1986. He had also served as Under Secretary of the Navy during the Carter Administration.

Mr. Woolsey testified on his own behalf at the confirmation hearing. There were no other witnesses.

On February 3, 1993, the Committee reported Mr. Woolsey's nomination to the Senate by a vote of 15-0. The nomination was confirmed by the Senate by voice vote later that same day.

## IX. SECURITY

## A. DECLASSIFICATION OF INTELLIGENCE DOCUMENTS

During the 103rd Congress, the Committee took the lead in a number of efforts to declassify previously classified material by the Executive Branch. In total, the Committee has coordinated with the Executive Branch over 36,400 pages of material that has been declassified and made available to the public. The following is a compilation of the declassification efforts pursued by the Committee:

| Subject  | Page count | Status          |
|--|------------|-----------------|
| Intelligence Information Reports re: POW/MIA's (SSCI# 93-0308) .....   | 20         | Pending.        |
| Salvadoran Human Rights (SSCI# 94-0712) .....  | 1762       | Complete.       |
| SSCI Transcript, Testimony of Elliott Abrams on December 8, 1986 (SSCI# 92-5853) ...   | 116        | Complete.       |
| SSCI Transcript, Hearing on the North American Free Trade Agreement on September 22, 1993 (SSCI# 93-4125).   | 50         | Denied in full. |
| Senate Iran/Contra Committee Transcript Excerpt re: Discussions with Iranian Representatives regarding U.S. Hostages (SSCI# 94-0964).                            | 2          | Complete.       |
| CIA/FBI Memorandum of Understanding regarding Activities of Present or Former CIA Officers or Employees That Are of Counterintelligence Concern (SSCI# 94-1684). | 4          | Complete.       |
| SSCI Transcript, Hearing of "ISA" on September 25, 1987 (SSCI# 94-2156) .....  | 40         | Pending.        |
| SSCI Transcript, Hearing on Honduran Interrogation Manual, June 16, 1988 (SSCI# 94-2162).  | 43         | Complete.       |
| Honduras and the Honduran Death Squads (SSCI# 94-2128) .....   | 43         | Pending.        |
| CIA Memorandum regarding Aldrich Ames, December 5, 1990 (SSCI# 94-2831) .....  | 2          | Complete.       |
| SSCI Transcript re: Interview with Aldrich Ames, August 5, 1994 (SSCI# 94-2922 Sanitized Version).   | 108        | Complete.       |
| NRO Material regarding the SSCI's hearing on August 10, 1994 .....   | 46         | Complete.       |
| JFK documents released .....   | 34,392     | Complete.       |

The total number of pages of previously classified JFK related documents totaled 34,392 (3089 total documents) all of which were released to the National Archives and Records Administration for public dissemination.

## B. REVIEW OF WHITE HOUSE SECURITY PROCEDURES

In May 1994, the Committee received a request from the Executive Officer of the President to review the White House procedures for the issuance of White House passes and other security-related functions that provide access to sensitive classified information in the Executive Office of the President, and make any recommendations to enhance those procedures.

Committee staff met with White House officials in May 1994 to review the existing procedures and to inform the Chairman of the findings. After many hours of discussions with executives within the Executive Office of the President the review was completed and the Chairman forwarded his recommendations to the President.

The following four recommendations were made to the President:

1. The White House Office of Administration should be assigned a Secret Service Agent or other appropriate government official in a full-time position to function as the Director of Security. Such a person should be non-partisan, and responsible for overseeing all security-related functions within the Office of Administration. The person filling this position should be a security professional to provide the White House with broad security-related special-

ties, to include but not limited to: knowledge of investigative and adjudicative procedures; classified document handling procedures; communication security procedures; and a law enforcement background. This person would be directly involved in the decisionmaking process for final adjudication of White House access passes and Top Secret security clearances.

2. A single office within the White House should coordinate all background investigations. Currently the Executive Office of the President has two separate offices that initiate, track, control, and process background investigations. One office processes political appointees and another processes career employees. In addition to these arrangements, the White House Counsel's Office processes the background investigations of Presidential Appointees who require Senate confirmation. This practice gives the appearance of an enormous amount of redundancy and lack of centralized control. These offices should be combined and headed by a senior security official (preferably the Director of Security identified in item #1) in the White House.

3. All security clearance/background investigation paperwork should be completed and turned in on or before the first day of employment with the White House rather than the current procedure of 30 days. This would alleviate any delay in initiating a security background investigation and thus reduce the amount of time, now approximately 120 days, that it takes to process a new employee for a sensitive White House access pass.

4. Currently, new employees are required to undergo an FBI full-field background investigation for employment at the White House, regardless of whether or not they have been the subject of a recent full-field investigation from another government agency. New employees who have undergone an FBI background investigation within 5 years should not have to undergo another full-field background investigation. The same background investigation that is currently accepted throughout the government should satisfy White House requirements as well.

#### C. CIA'S OFFICE OF TRAINING AND EDUCATION TRAINING COURSE

On November 30, 1993, Committee staff worked with representatives from the Central Intelligence Agency's Office of Congressional Affairs (OCA) and the Office of Training and Education to shoot a training video of a mock Congressional briefing in the Committee's hearing room. The video has been incorporated as a key element of the OCA-administered course "Briefing Congress." The video was shot "on location" to provide viewers with an atmosphere of authenticity to assist in educating Agency and Community employees with some of the essential aspects of an effective oversight process.

#### D. SECURITY AUTOMATION EFFORTS

The Committee expanded its use of technology during the 103rd Congress to facilitate the day-to-day mechanics of its oversight re-



sponsibilities, pioneering a security clearance management database. The system centralizes and tracks Committee staff access to numerous special access programs, provides timely alerts for updates of background investigations, and generates the required material for passing of clearances from Committee records to relevant agencies. Complimentary software enables staff to efficiently create, maintain, and update the personal information required for background investigations. Together these systems further bolster the integrity of the Committee's handling of information classified at all levels.

## APPENDIX

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### I. SUMMARY OF COMMITTEE ACTIVITIES

#### A. NUMBER OF MEETINGS

During the 103rd Congress, the Committee held a total of 103 on-the-record meetings and hearings. There were seventy (70) oversight hearings and seven (7) business meetings. Twelve (12) hearings were held on the budget including the Conference sessions with the House. Hearings on specific legislation totaled nine (9) and nomination hearings totaled one (1).

Additionally, the Committee staff held four (4) on-the-record briefings with over two hundred (200) off-the-record briefings.

#### B. BILLS AND RESOLUTIONS ORIGINATED BY THE COMMITTEE

S. Res. 43—An original resolution authorizing expenditures by the Select Committee on Intelligence. Referred to the Committee on Rules and Administration.

S. 647—Central Intelligence Agency Voluntary Separation Incentive Act.

S. 1301—Intelligence Authorization Act, Fiscal Year 1994. Enacted under bill number H.R. 2330. Public Law 103-178.

S. 2082—Intelligence Authorization Act, Fiscal Year 1995. Enacted under H.R. 4299. Public Law 103-359.

#### C. BILLS REFERRED TO THE COMMITTEE

S. 1578—Intelligence Authorization Process Adjustment Act.

S. 1869—Counterintelligence Improvements Act of 1994.

S. 1885—Security Classification Act of 1994.

S. 1886—Personnel Security Act of 1994.

S. 1890—A bill to require certain disclosures of financial information to expose espionage activities by foreign agents in the United States

S. 1948—Counterintelligence and Security Enhancements Act of 1994.

S. 2056—Counterintelligence and Security Enhancements Act of 1994.

S. 2258—A bill to create a commission on the roles and capabilities of the United States intelligence community and for the other purposes.

#### D. PUBLICATIONS

Senate Report 103-20—Special Report—Committee Activities of the Senate Select Committee on Intelligence, January 3, 1989–October 28, 1990.

Senate Report 103-23—Special Report—Committee Activities of the Senate Select Committee on Intelligence, January 3, 1991–October 8, 1992.

Senate Print 103-29—Legislative Calendar for the 102nd Congress.

Senate Report 103-43—Report to accompany S. 647, the Central Intelligence Agency Voluntary Separation Incentive Act.

Senate Report 103-44—Intelligence and Security Implications of the Treaty on Open Skies.

Senate Report 103-155—Intelligence Authorization for Fiscal Year 1994.

Senate Hearing 103-296—Nomination of R. James Woolsey to be Director of Central Intelligence.

Senate Report 103-256—Intelligence Authorization for Fiscal Year 1995.

Senate Report 103-296—Report to accompany S. 2056, the Counterintelligence and Security Enhancements Act of 1994.

Senate Hearing 103-565—Hearing before the SSCI on the Prospects for Democracy in Cuba.

Senate Hearing 103-630—Current and Projected National Security Threats to the United States and Its Interests Abroad.

Senate Hearing 103-650—Hearing on Economic Intelligence.

Senate Report 103-390—U.S. Capability to Monitor Compliance With the Chemical Weapons Convention.

Senate Print 103-88—Legislative Oversight of Intelligence Activities: The U.S. Experience.

Senate Report 103-90—SSCI Report on the Aldrich Ames Espionage Case.