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19 April 1978

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MEMORANDUM FOR THE RECORD

SUBJECT: Senate Select Committee on Intelligence Hearings on Intelligence Charter Legislation (S. 2525)

1. Senator Joseph Biden (D., Del.) chaired this third hearing of the Senate Select Committee on Intelligence (SSCI) on the intelligence charter legislation, S. 2525. Other Committee members present were Senator Charles Mathias (R., Md.), Senator Jake Garn (R., Utah) and Senator John Chafee (R., R. I.). Numerous SSCI staff members attended, and Carolyn Fuller, Legislative Assistant for Senator Walter Huddleston (D., Ky.), was also present. Present on behalf of the DCI to observe the hearing were the undersigned and [redacted] Assistant General Counsel. The witness was Mr. McGeorge Bundy. STAT

2. Although Mr. Bundy did not have a prepared statement, following brief introductory remarks by Senators Biden and Mathias, Mr. Bundy stated briefly that he was pleased to be appearing before the Committee to discuss the uses of intelligence and the intelligence needs of our policy makers. Mr. Bundy also indicated he was in general support of many of the views expressed in previous testimony by Messrs. Clark Clifford, William Colby, George Bush and E. Henry Knoche (e.g., he endorsed the notion that the Director of National Intelligence should remain as head of the Central Intelligence Agency). Mr. Bundy then responded to a number of questions posed by the Senators.

3. Senator Biden questioned Mr. Bundy on the following issues:

--Has the legislative oversight process thus far led to any detrimental effects on recruitment of intelligence officers?

--The manner in which CIA intelligence differs from that of "policy" agencies and departments.

--Were, and are, CIA intelligence analyses truly independent, and can or should a clear distinction be made between the Agency's analysis role and its operational mission.

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--How can the prospects be enhanced that independent analyses reach persons who need them?

--There is a need to free the DNI from the day-to-day responsibility for managing the CIA.

--There is a clear distinction between covert activities ("special activities" in the language of S. 2525) and sensitive collection operations which are perhaps more important in terms of our foreign relations and the impact thereon.

--Also on the issue of sensitive collection activities, should not the charter provide that U.S. ambassadors abroad be made fully aware of all intelligence activities, particularly the details of sensitive collection operations.

--Should not the intelligence oversight committees be kept fully informed as to the details of sensitive collection operations?

--Is there a danger, and if so, should it be dealt with through the legislation, that in making more intelligence product available to the public, the CIA would engage in "selling" policies within the U.S. and attempt to influence policies?

In his response to these questions, Mr. Bundy emphasized that, in his opinion: there were too many reporting requirements in the charter legislation; the restrictions provisions should more properly be cast in general terms rather than in terms of specific limitations; CIA intelligence product has been independent; it probably would not be possible to legislate the appropriate relationships between entities of the Intelligence Community in order to absolutely ensure that each entity performs its proper role; the general oversight responsibility of the Congress probably would provide the best way to ensure an appropriate and clear distinction between the analysis and operational roles of the CIA; it would not be possible to ensure by legislation that every policy maker who needs to see the intelligence product actually see it; the DNI should remain as head of the CIA, and the responsibility for the day-to-day management of the Agency should remain with Deputies; although U.S. ambassadors should be generally informed of all intelligence activity within their country of responsibility, the tough questions regarding sensitive activities should come back to Washington for resolution; the oversight committees should be aware of particularly sensitive collection operations, but there must be great care directed to the danger of providing specific information to large numbers of persons on the Hill; and although it would seem desirable to increase the public availability of CIA intelligence product, there always will be a danger that such product could become tainted by policy or policy considerations, but this should not obscure the fact that every effort should be made to provide as much intelligence to the public as possible.

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4. Senator Mathias' questions emphasized the following points:

--The best way to ensure that the intelligence product gets to the President is to create a "better" intelligence product.

--The principal duty of the DNI is to convey intelligence and diverse points of view to the President.

--To what extent should the Attorney General be involved in intelligence?

--Do the "Harvard guidelines" on relationships with the academic community provide an appropriate model for the corresponding provisions in the charter legislation?

Mr. Bundy's responses to these questions included the following points of interest: ensuring that diverse points of view are included in the intelligence product is extremely important; although noting that he was not qualified to give a well-informed response regarding the role of the Attorney General in the intelligence process, Mr. Bundy indicated in his view the legislation should not build in procedures that presuppose that the DNI could not "get the job done" and therefore include provisions for extensive Attorney General involvement in intelligence; on the issue of academic relationships with intelligence agencies, Mr. Bundy said although he strongly supported exchanges of and cooperation on analysis, he had problems with recruitment of academic types for operational purposes, STAT but that any limitations should be the responsibility of the institutions themselves rather than statutory restrictions; and although it is important to get "unpopular" intelligence to the President, this would be a very difficult matter to legislate.

6. In his questions directed at Mr. Bundy, Senator Chafee made the following points of interest:

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--On the matter of providing in the statute restrictions on paid intelligence use of certain categories of persons, there did not seem to be a reasonable basis for placing limitations on certain types of persons and not others.

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--Regarding relationships between non-Governmental institutions and intelligence agencies, the issuance of guidelines or limitations should be a matter for the institutions themselves rather than statutory limitation.

--Maintaining in a single institution--CIA--the primary responsibility for conducting covert activities and producing intelligence analysis did seem to present somewhat of a dilemm

Mr. Bundy responded to Senator Chafee's questions by emphasizing: the right of any person to work for his or her Government, including an intelligence agency thereof; that, although he was sympathetic to institutions' sensitivity to charges of connections with intelligence agencies, this should be a matter for the institutions themselves to resolve; that there did not seem to be any rationale for placing statutory limitations on certain categories of persons having relationships with intelligence agencies and not others; and that perhaps the best manner in which to ensure that the intelligence analysis and covert action responsibilities of the CIA did not improperly overlap would be to rely on the general oversight responsibilities rather than splitting up these two roles into separate organizations.

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