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Comments on White House Comments on S.2893 Establishing A Senate Intelligence Committee.

I. Agree with comment on Sec. 1 and Sec. 2 and suggested provision.

II. Agree generally with comments on Sec. 3. In addition, however, in my opinion a strong argument can be made that the entire procedure is constitutionally unacceptable in that it would appear to authorize the Senate alone to change rules which are incorporated in S.2893. I do not see how the Senate could change a rule which has been embodied in a statute passed by both Houses and signed by the President. With respect to the suggested provision, I think it should be made clear that the Executive branch position is that constitutionally the Senate does not have authority to declassify that which the Executive branch has classified and consequently would most likely require a veto if contained in statute where such confrontation would not be forced if it was a simple resolution.

III. The White House does not comment on Sec. 4 which among other things provides that no Senator may serve on the committee for more than six years. It is my belief that this is objectionable. Since intelligence is an important subject, a Senator should not be so limited since intelligence activities and functions are complex and it does take time to acquire expertise.

IV. Sec. 5 contains three items which are worthy of comment.

a. (s)(1)(B). It is believed highly undesirable to have this committee consider both foreign intelligence matters and domestic intelligence matters. Apart from the subjects being quite different, there are different constitutional bases for both and there are very large practical considerations which mitigate attempting to combine both in one committee.

b. (s)(1)(D). The requirement for authorizations for appropriations would require disclosures of the budget totals for each of the listed agencies. This has consistently been objected to by CIA, and the Senate and the House on two separate occasions have voted down proposed legislation to make the total budget figure public.

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c. (s)(2). On the one hand this provision states that the committee shall have exclusive jurisdiction and then it goes on to state that the jurisdiction of other standing committees shall not be diminished with respect to the activities described in subclauses (B) and (C). It specifically provides that the jurisdiction of other standing committees with respect to those matters in (B) and (C) shall be concurrent. This is a proliferation of committees and is undesirable.

d. Sec. 5(c). This provides that service as a member on the committee shall not be taken into account with respect to service on other committees. Either this committee is important, or it is not. If service on this committee is to be in addition to service on all other committees, it is difficult to see how a member will give any of his committees appropriate time and attention.

V. We agree with the comments on Sec. 7 and suggested provisions.

VI. Sec. 8(a) provides that no professional staff member may be engaged for a period totalling more than six years. If the framers are concerned that the chairman and other members of the committee cannot run the staff, this is a poor way to do it. In 8(b) there is discussion of the type of security clearances to be required. It has the Director in the role of being consulted as to security clearances in the domestic intelligence area and is thus objectionable. Additionally, it is sufficiently important that provisions should be made that all staff personnel should sign appropriate secrecy agreements before being granted access to classified information.

VII. I disagree with the Sec. 10 comment which states that the new procedures of Sec. 10 constitute an improvement over the present system that allows a committee alone to make declassification. First of all, no committee has the authority under the Constitution to make declassification, granted the immunity under the speech and debate clause. Additionally, this procedure may be acceptable only if in a resolution; if in a statute, it should be rejected as being unconstitutional.

VIII. Sec. 11 is to us objectionable in that it mixes Legislative and Executive functions.

IX. Agree with White House Sec. 12 comment.

X. I believe we can live with the "fully and currently" informed concept. I do believe that the words at the beginning of Sec. 13(a) "(n)otwithstanding any other provision of law," should be deleted. Similarly, with respect to

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Sec. 13(b), the words "(n)otwithstanding any other provision of law," should be deleted. I agree with the White House comments on 13(b), but argue strongly that the word "any" be dropped in the sentence making it a duty for the head of a department to furnish "any" information or document when requested by the committee. This simply is not going to happen and no law should be passed recognizing that it is not to be followed. I also agree with White House comments on Sec. 13(c). Clearly the preferable way would be to drop Sec. (c) entirely with a specific repeal of Section 662 of the Foreign Assistance Act.

XI. In addition to the comments on Sec. 14 by the White House, the CIA objects to an aggregate figure for all intelligence activities.

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