

GAO Audit

14 March 1974

MEMORANDUM FOR: Legislative Counsel

SUBJECT: Inquiry from Senator Proxmire Regarding
Legal Basis for Covert Action and GAO
Audit of CIA

1. On 24 January 1974, Senator Proxmire wrote Elmer Staats, Comptroller General, requesting the latter's opinion on several matters relating to the Intelligence Community in general and CIA specifically. Among other things, Senator Proxmire asked the Comptroller General to provide an opinion on the legality of the National Security Council directing the Intelligence Community in part or whole to engage in covert activities abroad. Senator Proxmire also inquired as to the statutory authority of the GAO to review, audit or otherwise examine the programs and operations of the various intelligence agencies and what success the GAO has met with obtaining information from and about the Intelligence Community.

2. We have drawn together appropriate materials from our files and from the archives and have prepared memoranda on the legal basis for covert action and the history of the audit arrangements between GAO and CIA. These two memoranda are available in our files for whatever use you may have in response to Senator Proxmire's inquiries or otherwise.

[Redacted]
[Redacted]
DHN S. WARNER
General Counsel

cc: DD/O
DD/M&S

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1 - OGC SUBJECT CIA ACTS AND STATUTES
1 - OGC Chrono c. r. ACCOUNTING GAO Audit

14 March 1974

MEMORANDUM FOR: General Counsel

SUBJECT: Historical Review of Audit of CIA
Expenditures by the General
Accounting Office

REFERENCES: Noted on Page 5 and attached

1. The enactment of the CIA Act of 1949 provided the Director of Central Intelligence broad authority to expend monies on his certification alone without the usual audit by the General Accounting Office (GAO). The Director adopted the policy of limiting the exercise of this special authority to those activities which in the national interest deserved the maximum security protection, although he considered all funds appropriated to the Agency to be technically on an unvouchered basis and therefore exempt from audit by GAO. Accordingly, the Director requested that the GAO continue auditing vouchered expenditures.

2. Beginning in March 1959, staffs of the Special CIA Subcommittee of the House Armed Services Committee and the GAO met to discuss the audit arrangement between CIA and GAO. Then in May, senior GAO officials appeared in executive session before the Special CIA Subcommittee, which was chaired by Congressman Kilday, to further examine the audit question. As a result of this session, the Comptroller General wrote Chairman Kilday in June 1959 recommending that GAO broaden its auditing procedures of CIA to bring them in line with the general audit procedures used with other agencies. This broadening was possibly to include a limited audit of unvouchered funds. Mr. Kilday then wrote the DCI, Mr. Dulles, suggesting that CIA and GAO confer on the audit question.

3. On 30 June 1959, Mr. Dulles informed the President of the audit situation, noting that while CIA could take the position that all expenditures were exempted from GAO audit, the Agency had adopted the policy of submitting as many expenditures as possible to GAO audit and this normally amounted to about 45% of all expenditures.

4. A CIA-GAO working group was established in July 1959 to study the question of whether GAO could apply its "comprehensive audit" approach, then in use with other agencies, to CIA. Under the "comprehensive audit" the GAO's basic purpose was to review and evaluate the manner in which an agency carries out its financial responsibilities, including expenditures of funds and utilization of property and personnel in the furtherance only of authorized programs in an "effective, efficient and economic manner." In conducting such an audit the GAO would examine the organization structure, review agency practices and procedures followed in carrying out agency policies and make selective examination of actual transactions.

5. As a result of the CIA-GAO discussions, Mr. Dulles wrote the Comptroller General in October 1959 stating his belief that GAO could expand its audit of CIA, but added a cautionary note:

... /the Agency policy of submitting the maximum expenditures possible to GAO audit/ has been exercised to such a degree that certain activities, not in themselves sensitive but conducted solely in support of highly confidential operations, are funded under general authorities without invoking my special authority to make final accounting therefor. A comprehensive audit of the sort now conducted by the General Accounting Office in other agencies, if applied to our so-called vouchered expenditures, would necessarily reach into the confidential operations which they support and which are protected by my special authority under Section 8 of the Act. In these instances, therefore, the comprehensive audit would have to be limited so as to remain outside the area of sensitive security operations.

The Comptroller General responded that he believed an expanded audit of a considerable part of the Agency's operations was possible while still remaining outside of the sensitive area protected by Section 8 authority. Under these circumstances an expanded audit was begun on a trial basis in late 1959.

6. In May 1961, after some sixteen months of the trial comprehensive audit, GAO threw in the towel. The Comptroller General wrote Chairman Kilday:

... Various steps were taken by CIA to place the General Accounting Office in a position to make a comprehensive audit of the overt activities of CIA. ... We have been given sufficient access to make reasonably comprehensive reviews of the overt activities of the Intelligence Component, but such reviews, in our opinion, will not be productive of significant evaluations because we cannot feasibly evaluate the extent to which needed overt information is available for collection or determine the need for the intelligence information selected for collation and use in the production of intelligence reports. ... In as much as we cannot, in our opinion, effectively accomplish any worthwhile audit objectives on a continuing basis, we plan to discontinue our audit of CIA activities.

7. Mr. Kilday brought the Comptroller General's letter to the attention of Congressman Vinson, Chairman of the House Armed Services Committee. Within 48 hours, Mr. Vinson replied to the Comptroller General conveying his firm opinion that the audit question should be the subject of further discussions between the Committee, the GAO and the CIA and strongly recommended the continuation of the audit in the interim. Chairman Vinson's reservations, as well as the Agency's, concerning the proposed GAO pullout were motivated in large part by the political climate then prevailing in the aftermath of the Bay of Pigs affair.

8. GAO continued its limited audit of CIA for about one year. On 21 June 1962 the Comptroller General wrote Chairman Vinson expressing his continued view that security restrictions precluded an effective audit of CIA. The Comptroller General stated his belief that to conduct a maximum effective audit, "it would be necessary for our GAO audit staff to have nearly complete access to CIA activities." He continued that it would be possible to perform "reasonably comprehensive reviews...if...permitted complete access to the administrative activities, such as financial, procurement, property, and personnel management and internal review activities that are performed in support of both sensitive and nonsensitive operations of CIA." (Emphasis added.)

9. Upon consideration of the audit problems as expressed in the Comptroller General's latest letter, Chairman Vinson agreed that GAO withdraw from further audit of CIA activities. In a letter to the Comptroller General, which was drafted by the Agency, Mr. Vinson said:

... the restrictions you met with in the Central Intelligence Agency are necessary, I believe, for the proper protection of its intelligence activities and should be maintained. Also, Mr. McCone has informed us that among the reorganizational steps he has carried out is a major strengthening of the comptroller and internal audit functions in the Agency. Consequently, I believe you have met the objectives of my letter of May 18, 1961, which recommended that you continue your work at that time, and since you feel confirmed in your opinion that it is not a worthwhile effort, I am agreeable that you withdraw from further audit activities in the Central Intelligence Agency.

10. Since July 1962, the GAO has not audited CIA, but a thorough internal audit is conducted by the CIA Audit Staff and as Agency proprietary CPA firm.



Office of General Counsel

Atts: Approved For Release 2006/02/07 : CIA-RDP77M00144R000600030005-1
Reference Sheet & References

REFERENCE SHEET

- A. Ltr to Congressman Paul J. Kilday fr Comptroller General, dtd
29 May 1959
- B. Ltr to Hon. Allen Dulles fr Congressman Paul J. Kilday, dtd
18 June 1959
- C. Ltr to The President fr Hon. Allen Dulles, dtd 30 June 1959
- D. Ltr to Congressman Paul J. Kilday fr Hon. Allen Dulles, dtd
25 July 1959
- E. Ltr to Congressman Paul J. Kilday fr Hon. Allen Dulles, dtd
3 August 1959
- F. Ltr to Comptroller General fr Hon. Allen Dulles, dtd 16 October
1959
- 25X1 G. Ltr to Congressman Paul J. Kilday fr Comptroller General, dtd
16 May 1961 [REDACTED]
- H. Ltr to Hon. Allen Dulles fr Comptroller General, dtd 16 May 1961
(Confidential)
- 25X1 I. Ltr to Comptroller General fr Congressman Carl Vinson, dtd
18 May 1961 [REDACTED]
- 25X1 J. Ltr to Congressman Carl Vinson fr Comptroller General, dtd
21 June 1962 [REDACTED]
- K. Draft Ltr to Comptroller General fr Congressman Carl Vinson,
dtd 11 July 1962
- L. Ltr to Congressman Carl Vinson fr Comptroller General, dtd
26 July 1962

COMPTROLLER GENERAL OF THE UNITED STATES

Washington 25, D. C.

~~CONFIDENTIAL~~
(May 29, 1959)

B-133200

Honorable Paul J. Kilday, Chairman
Special Subcommittee, Central Intelligence Agency
Committee on Armed Services
House of Representatives

Dear Mr. Chairman:

On May 15, 1959, Mr. A. T. Samuelson, Director of our Civil Accounting and Auditing Division, attended an executive meeting of your Subcommittee to discuss our audit responsibilities and activities at Central Intelligence Agency. At the conclusion of this meeting, it was suggested that recommendations be submitted for the future audit activities by the General Accounting Office at this Agency.

Following the enactment of the Central Intelligence Agency Act of 1949, the then Director of the Agency requested that notwithstanding the very broad and unusual powers granted to the Central Intelligence Agency by the Act an audit of expenditures at the site, as previously performed by the General Accounting Office, be continued. Accordingly, the General Accounting Office has continued to make audits of vouchered expenditures, under the same arrangements that were in effect with the predecessor Central Intelligence Group. However, in view of the provisions of section 10 of the Central Intelligence Agency Act, no exceptions have been taken to any expenditures. In those cases where questionable payments come to our attention, we refer the cases to the CIA Comptroller's Office for corrective action. In using the term questionable payments, we mean any expenditures which, except for section 10 (a) of the Act, would appear to be improper or illegal either under law or under the decisions of the Comptroller General. In our audit work, we have not made a substantive review of Agency policies, nor of its practices and procedures, and we have made no audit of expenditures of unvouchered funds.

Since the enactment of Central Intelligence legislation, we have generally broadened the type of audit we make of the activities of most Government agencies. Under our comprehensive audit approach, our basic purpose is to review and evaluate the manner in which the agency or activity under audit carries out its financial responsibilities. We construe financial responsibilities as including the expenditure of funds and the utilization of property and personnel in the furtherance only of authorized programs or activities in an effective, efficient, and economical manner. In carrying out this kind of an audit, we examine the organization structure and review the established agency policies for conformity with legislative intent and applicability to agency activities. We also examine agency practices and procedures followed in carrying out the agency policies and make selective examination of actual transactions as a means of appraising the application of agency practices and procedures. Reports on the results of our work are submitted to the Congress and to agency management officials.

We believe that a broader type of audit is appropriate for our work at Central Intelligence Agency and is more likely to be productive of evaluations of the administrative functions which would be helpful to the Congress and the Agency Director. We have accordingly concluded that it would be desirable to expand our audit work at Central Intelligence Agency more in line with our regular comprehensive audit approach. The expanded work would include an examination of vouchered expenditures, and, at the outset, the controls and procedures used in processing unvouchered expenditures. Also we would propose to make a limited examination of the support for unvouchered expenditures in accordance with such agreement as to access as can be worked out between CIA and our Office. As indicated by the preceding comments we have heretofore carried out only limited audit work at CIA, and we do not believe such limited work should be continued.

At this time we do not recommend any change in section 10 of the Central Intelligence Agency Act. We believe, however, that your Subcommittee could be very helpful in effecting a change in the scope of our audit work at CIA by advising the Agency of your interest in broadening the audit performed by the General Accounting Office. Any broadening of our audit activities should not include an evaluation of the intelligence activities of the Agency.

We are prepared to discuss this matter further at your convenience.

Sincerely yours,

/s/

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HOUSE OF REPRESENTATIVES
Committee on Armed Services
Suite 313, House Office Building
Washington 25, D. C.

June 18, 1959

Honorable Allen Dulles
Central Intelligence Agency
Washington 25, D. C.

Dear Mr. Dulles:

On March 2, 1959 and subsequent dates staff meetings were held between the CIA Subcommittee and the General Accounting Office in order to develop a clearer understanding of the relationship between the General Accounting Office and the Central Intelligence Agency. Upon completion of these staff meetings the CIA Subcommittee met on May 15 with a senior representative of the General Accounting Office for the purpose of pursuing the information developed in the staff conferences.

The Subcommittee fully appreciates the legal exemption of the Central Intelligence Agency from audit by the General Accounting Office. However, since representatives of GAO have been assigned to the Central Intelligence Agency since you became Director and prior thereto, there is a general impression that the vouchered funds of CIA have been subjected to the normal audit function of the General Accounting Office. It is this particular point that the Subcommittee pursued at its meeting on May 18.

At the conclusion of its meeting, the Subcommittee informally concluded that:

(1) the degree of audit of vouchered funds performed by GAO representatives in the Central Intelligence Agency was considerably less than had been thought;

(2) for the protection of the Agency and the assurance of the Congress, the audit function should continue;

(3) that more senior representatives of the General Accounting Office should be assigned to this function; and,

(4) that the Chairman of the Subcommittee should seek the formal opinion of the Comptroller General with respect to this matter.

In keeping with the above, I requested the official opinion of the Comptroller General on the relationship of his office with the Central Intelligence Agency. Under date of May 29, I received a letter from the Comptroller General, a self-explanatory copy being hereto attached. You will note that the Comptroller General recommend a broader type of audit than is presently accomplished. At the same time he takes cognizance of appropriate restrictions which are inherent in this endeavor.

The question now arises as to the action that will be taken with reference to this matter. Inasmuch as the General Accounting Office participates in the activities of your Agency by invitation, it is my opinion that it would be both appropriate and desirable for you to initiate a conference with the Comptroller General in an effort to clarify the existing situation. The CIA Subcommittee stands ready to assist in any manner, but I believe you will concur in my thought that the conference which I have suggested represents the most desirable approach to a solution.

As soon as you have had an opportunity to consider this matter I would appreciate an expression of your reaction.

Sincerely,

/s/

Paul J. Kilday, Chairman
Subcommittee on CIA

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30 JUN 1959

The President
The White House
Washington 25, D. C.

Dear Mr. President:

I have received a letter dated June 18, 1959, from Representative Paul J. Kilday, Chairman of the CIA Subcommittee of the House Armed Services Committee, concerning the audit of the so-called vouchered funds of this Agency as distinguished from the funds expended for highly classified confidential purposes. With this letter Mr. Kilday sent me a communication to him from the Comptroller General on the same subject.

The Comptroller General notes that since the enactment of Central Intelligence Agency legislation the General Accounting Office has generally broadened the type of audit made of activities of most Government agencies but that with the Central Intelligence Agency it has continued to make only a voucher audit of vouchered funds and no audit of confidential funds. He, therefore, recommends "... a change in the scope of our audit work at CIA ..." by broadening the General Accounting Office's audit while recognizing that "Any broadening of our audit activities should not include an evaluation of the intelligence activities of the Agency." Mr. Kilday, speaking for his Subcommittee in his letter of June 18th, recommends that the Agency consider with the Comptroller General "a broader type of audit than is presently accomplished."

The history and facts in this matter are as follows: Section 10(b) of the Central Intelligence Agency Act of 1949 provides

"The sums made available to the Agency may be expended without regard to the provisions of law and regulations relating to the expenditure of Government funds; and for objects of a confidential, extraordinary, or emergency nature, such expenditures to be accounted for solely on the certificate of the Director and every such certificate shall be deemed a sufficient voucher for the amount therein certified."

(CONFIDENTIAL)

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In view of the close interrelation of all of this Agency's activities, I believe it could have been correctly argued that all of the funds of the Agency should be expended under the authority of this section so that none of them would be subject to outside audit. However, it has been our practice, as you know, to put as much of our expenditures on the "vouchered" side as is possible and still protect sensitive activities. Such expenditures have been subject to a voucher audit by representatives of the General Accounting Office. All other expenditures have been subject to the strictest kind of internal control and auditing by our own Audit Staff and Comptroller. The proportion as between vouchered and confidential has varied from year to year but on the average has been about 45 per cent vouchered to 55 per cent confidential.

I would be pleased to continue with these procedures; however, if there is a broadening of the General Accounting Office's review into a comprehensive audit of the vouchered side, we will encounter serious problems as such an examination would necessarily extend into the field of intelligence sources and methods unless its scope were limited at our direction.

The Central Intelligence Agency is a particularly sensitive arm of the executive branch of the Government in the general field of foreign relations, and I would not wish its usefulness to be impaired in any way by accepting from a body responsible to the legislative branch or from the legislative branch a measure of control or supervision detrimental to its effectiveness. Accordingly, I felt I should submit these facts to you. At the same time, I would suggest that I discuss the matter with the Comptroller General, Mr. Campbell, as well as Mr. Kilday, if you approve, to determine whether a form of audit of so-called vouchered funds satisfactory to the General Accounting Office and to Mr. Kilday and his Subcommittee can be agreed upon without impairing the powers and authorities with regard to expenditures for confidential purposes which we have found essential to our operations.

If you agree, I shall proceed to have such conversations and I shall report the results to you without reaching any commitment until I have obtained your concurrence.

Sincerely,

SIGNED

Allen W. Dulles
Director

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25 July 1959

The Honorable Paul J. Kilday
Chairman, Subcommittee on CIA
Committee on Armed Services
U. S. House of Representatives
Washington 25, D. C.

Dear Mr. Kilday:

I refer to your letter of 18 June 1959 and to our discussion on 30 June 1959 with regard to your desire that I initiate a conference with the Comptroller General to consider the possibility of a broader type of audit in the Central Intelligence Agency by the General Accounting Office.

This is an interim report to advise you that I have contacted Mr. Campbell who designated Mr. A. T. Samuelson to discuss this matter with us initially. Colonel L. K. White, my Deputy Director for Support, has had a meeting with Mr. Samuelson, and Mr. Campbell and Mr. Samuelson have accepted my invitation to a briefing next week in order to gain a better understanding of our activities and of the problems inherent in the conduct of a comprehensive audit. After this briefing and any other subsequent discussions which the Comptroller General and I may feel necessary, I shall report further to you on this matter.

Sincerely,

Allen W. Dulles
Director

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3 August 1959

The Honorable Paul J. Kilday
Chairman, Subcommittee on CIA
Committee on Armed Services
U. S. House of Representatives
Washington 25, D. C.

Dear Mr. Kilday:

With further reference to my letter of 25 July 1959 in connection with the relationship between the Central Intelligence Agency and the General Accounting Office I should like to report that Mr. Campbell, the Comptroller General, accompanied by Mr. Keller, his General Counsel, and Mr. Samuelson, Director of the Civil Accounting and Auditing Division, GAO, attended a briefing of approximately three hours duration in my offices on 30 July 1959. This briefing included presentations by our most senior officials who are responsible to me for the conduct of our operations and financial activities.

Insofar as was possible within the time available, we gave Mr. Campbell a full explanation of the activities of the entire Agency. He indicated that the briefing was extremely helpful and that he would be in touch with us again soon.

I shall keep you advised as to our progress.

Sincerely,

Allen W. Dulles
Director

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The Honorable Joseph Campbell
The Comptroller General of
the United States
Washington 25, D. C.

16 October 1959

The Honorable Joseph Campbell

The Comptroller General of

the United States

Washington 25, D. C.

Dear Mr. Campbell:

Since we had the pleasure of briefing you on 30 July, we have discussed further with Mr. Samuelson how the General Accounting Office's audit of this Agency might be improved. I believe that the General Accounting Office can expend its current audit activities in a considerable portion of the Agency, and in moving forward in this direction I feel that we should reach agreement on certain fundamental aspects.

In the Central Intelligence Agency Act of 1949, the Congress, recognizing some of the unique problems involved in the conduct of intelligence activities, provided broad authorities over the expenditure of and accounting for Agency funds. In particular, Section 5 of that Act (formerly Section 10) provides that expenditures for objects of a confidential, extraordinary, or emergency nature are to be accounted for solely on the certificate of the Director and every such certificate shall be deemed a sufficient voucher for the amount therein certified. This wording does not contemplate the review of expenditures which the Director certified were made for confidential, extraordinary, or emergency purposes.

While all funds appropriated to the Agency are technically on an "unvouchered" basis, it has been my policy and that of my predecessors to limit the exercise of this special authority to those activities which in the national interest should have the maximum security protection. To the extent possible Agency funds are expended under the other provisions of the Central Intelligence Agency Act and the vouchers for these expenditures are available to the General Accounting Office. This policy has been exercised to such a degree that certain activities, not in themselves sensitive but conducted solely in support of highly

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confidential operations, are funded under general authorities without invoking my special authority to make final accounting therefor. A comprehensive audit of the sort now conducted by the General Accounting Office in other agencies, if applied to our so-called ~~vettered~~ expenditures, would necessarily reach into the confidential operations which they support and which are protected by my special authority under Section 3 of the Act. In these instances, therefore, the comprehensive audit would have to be limited so as to remain outside the area of sensitive security operations.

In view of the statutory background, I trust that you will agree with the position set forth above. If you have any question I would be delighted to discuss the subject with you at your convenience. If we are in agreement on these fundamental principles, I suggest that your representatives continue to explore with my Staff the manner in which the scope of the General Accounting Office's audit of the Agency may be broadened, consistent with the security requirements described above.

Sincerely,

/s/

Allen W. Dulles
Director

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RECEIVED

DRAFT
OGC:LRH:jeb
11 July 1962

Honorable Joseph Campbell
The Comptroller General
of the United States
Washington 25, D. C.

Dear Mr. Campbell:

I have read your letter concerning the restrictions on performance of an audit of the Central Intelligence Agency and your opinion that as a result of these restrictions you could not effectively accomplish any worthwhile audit objectives at the Central Intelligence Agency.

As you know, the restrictions you met with in the Central Intelligence Agency are necessary, I believe, for the proper protection of its intelligence activities and should be maintained. Also, Mr. McCone has informed us that among the reorganizational steps he has carried out is a major strengthening of the comptroller and internal audit functions in the Agency. Consequently, I believe you have met the objectives of my letter of May 18, 1961, which recommended that you continue your work at that time, and since you feel confirmed in your opinion that it is not a worthwhile effort, I am agreeable that you withdraw from further audit activities in the Central Intelligence Agency.

Sincerely,



COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON

JUL 26 1962

Dear Mr. Chairman:

Your letter dated July 18, 1962, on further audit activities by the General Accounting Office at Central Intelligence Agency is acknowledged.

Your acceptance of our conclusion that we withdraw from further audit activities at this Agency is appreciated and we will proceed to complete the work that is in process at a relatively early date.

Sincerely,

Joseph Campbell

Comptroller General
of the United States

Honorable Carl Vinson
Chairman, Committee on
Armed Services
House of Representatives