FOR OFFICIAL USE ONLY

Approved For Release 2004/10/27 : CIA-RDP78M02660R000800110009-0

OLC 76 1542

WH Liaison

CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

28 May 1976

MEMORANDUM FOR: John O. Marsh, Jr.
Counsellor to the President

STAT

FROM: [redacted]
Acting Legislative Counsel

SUBJECT: CIA Views of S. Res. 400

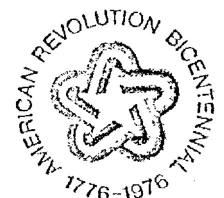
This memorandum is CIA's response to your request at the 25 May ICG meeting that each agency summarize its views on S. Res. 400. CIA views are part I of this memorandum. The passage of S. Res. 400 requires some decisions and action by the Executive branch and by individual agencies. Part II of this memorandum enumerates some areas which need Executive branch attention. The Director has not reviewed this paper, and therefore this should be considered a working draft.

I. OPPORTUNITIES AND PROBLEMS

A. Both Mr. Bush and Mr. Colby have made strong statements supporting the concept of strong and effective congressional oversight. During his 31 March testimony before the Senate Rules Committee on S. Res. 400, Mr. Bush said:

> "The Central Intelligence Agency welcomes strong and effective congressional oversight. We have a great deal to gain from it. We gain the advice and counsel of knowledgeable Members. Through it, we can maintain the trust and support of the American people. We will retain this support only so long as the people remain confident that the political structure provides clear accountability of our intelligence services, through effective Executive and congressional oversight."

Intelligence oversight committees have been criticized, even by members of the committees, of not adequately performing their responsibilities. Because of this criticism, these committees were not in a position to defend intelligence agencies, even in the face of patently ridiculous charges.



Approved For Release 2004/10/27 : CIA-RDP78M02660R000800110009-0

FOR OFFICIAL USE ONLY

A new committee, composed of members not associated with past oversight, could prove a powerful asset, a powerful defender. Of course the committee will first have to gain a thorough knowledge of intelligence programs.

B. Another positive aspect of S. Res. 400 is its recognition that Congress must find the means to halt the unauthorized disclosure of classified information by Members and staff. Section 8(c)(1) prohibits the disclosure of information relating to lawful U.S. intelligence activities by individual Members and staff. Section 8(d) directs the Select Committee on Standards and Conduct to investigate any unauthorized disclosure by a Member or staff member. If the Select Committee on Standards and Conduct finds the charges to be substantiated, it is to recommend "appropriate action such as censure, removal from committee membership, or expulsion from the Senate, in the case of a Member, or removal from office or employment or punishment for contempt, in the case of an officer or employee."

The legislative history of the Resolution, particularly its consideration by the Government Operations Committee, shows concern about the Senate's responsibility to discipline its own Members, especially because of the Speech and Debate Clause of the Constitution. Senator Huddleston, a member of the new committee, was instrumental in placing disclosure restrictions in the Resolution. Although it remains to be seen whether this spirit will prove stronger than traditional congressional reluctance to chastise or discipline another Member, the Senate is on record as acknowledging its responsibilities in this area.

C. The Resolution does not provide for the exclusivity or concentration of oversight which would assure that exposure to such sensitive matters would be limited to the minimum number of members or committees required to exercise effective oversight. For most agencies, the Resolution simply creates another committee (a very large one) to delve into agency programs and activities, without removing jurisdiction from standing committees. Legislative and authorization jurisdiction for CIA is exclusively the province of the new committee. However, section 3(c) of the Resolution provides:

> "(c) The select committee shall also have the duty to study and review the organization and reorganization of any department or agency of the Government to the extent that the organization or reorganization relates to a function or activity involving intelligence activities."

This provision was meant primarily to assure other committees that they could still exercise a general oversight of the intelligence activities of the agencies they oversee. For example, the Judiciary Committee would be able

to review and study FBI intelligence activities. However, the provision does not exclude CIA, and a floor colloquy between Senators Ribicoff and Pell (Appendix A) gave a very expansive interpretation to this section. We are hopeful that the new committee will quickly develop the respect and muscle to forestall the proliferation of information on sensitive intelligence through the review and study of CIA activities by other committees. (Of course, reporting responsibilities under section 662 of the Foreign Assistance Act remain.)

D. Section 8(a) of the Resolution asserts the right of the Committee to "disclose publicly any information in the possession of such committee after a determination by such committee that the public interest would be served by such disclosure." Section 8(b) establishes procedures the Committee must follow in order to release classified information. These procedures involve notification of the President, and referral of the issue to the full Senate should the President personally object and should the Committee maintain its desire to release the information. Procedurally, this section is as good as the Executive branch could have hoped for.

Clearly this section could pose constitutional questions. The President's position on the release of classified information by Congress was stated in his 18 February message to Congress:

> "Any foreign intelligence information transmitted by the Executive Branch to the Oversight Committee, under an injunction of secrecy, should not be unilaterally disclosed without my agreement. Respect for the integrity of the Constitution requires adherence to the principle that no individual member nor committee, nor single House of Congress can overrule an act of the Executive. Unilateral publication of classified information over the objection of the President, by one committee or one House of Congress, not only violates the doctrine of separation of powers, but also effectively overrules the actions of the other Houses of Congress, and perhaps even the majority of both Houses."

Assistant Attorney General Antonin Scalia also addressed this issue in his 12 March 1976 statement before the Senate Judiciary Committee.

> "I would not assert that this [classification by the Executive branch] alone should prevent publication by a House of Congress. The need for secrecy is, like most needs, a relative matter, and merely because the Executive Branch has determined for its internal purposes that a particular item should not generally be disclosed, it does not follow that the item should not be published when a House of Congress considers publication essential for the proper performance of its functions."

FOR OFFICIAL USE ONLY
Approved For Release 2004/10/27 : CIA-RDP78M02660R000800110009-0

It is possible that this provision will be called into play only rarely. Requests for declassification of information by committees have in the past nearly always been worked out to the satisfaction of both parties. Often only a few words need to be deleted or altered to "sanitize" a document. On the other hand, this section could prove a continuing source of discord. Much will depend on whether the new committee is of a disposition to confront or to cooperate with the Executive branch.

E. Section 12 of S. Res. 400 requires all intelligence funds to be authorized in bills or joint resolutions passed by the Senate prior to Senate consideration of appropriation bills for intelligence activities. It is not clear what action the House would take on a Senate authorization of funds which has not been subject to the authorization process in the House. An annual authorization of CIA funds is an entirely new requirement. The CIA Act of 1949 permits funds to be appropriated for CIA without an annual authorization [50 U.S.C. 403(j)]. However, the Act does not preclude an annual authorization, and the Senate has now determined that there should be one.

The chief problem this requirement presents from CIA's point of view is the danger of budget disclosure it entails. The Agency did not object to giving the new Committee a role in the determination of the level of our budget and its program content. We urged, however, that this be done by means which would give a higher degree of assurance that budget secrecy could be maintained than does an annual authorization "by bill or joint resolution."

A floor colloquy between Senators Nunn and Ribicoff established that this new procedure is not automatically to result in budget disclosure (see Appendix B). However, despite a 55-33 June 1974 vote against disclosure of a single intelligence community budget figure, ten of the thirteen members of this Committee who have voted on this issue voted for some form of budget disclosure. Under these circumstances, the Executive branch must continue to develop convincing arguments and education to assure maintaining budget secrecy.

FOR OFFICIAL USE ONLY
Approved For Release 2004/10/27 : CIA-RDP78M02660R000800110009-0

FOR OFFICIAL USE ONLY
Approved For Release 2004/10/27 : CIA-RDP78M02660R000800110009-0

II. POSSIBLE EXECUTIVE BRANCH ACTION

A. Jurisdiction

1. Section 3(c) of the Resolution provides that other Senate committees can continue to review and study intelligence activities to the extent such activities directly affect a matter within the jurisdiction of the other committee. This is precisely the grounds on which 11 other committees and subcommittees in the past year have asserted their right to access to sensitive CIA matters. It is in CIA's interest that other committees not gain access to information on CIA activities, and the DCI should consider urging the Chairman to attempt to restrain other committees from seeking access to operational information.

2. The jurisdiction of the new Committee encompasses both foreign and domestic intelligence. The Executive branch opposed this, because Justice did not want FBI intelligence activities split from the remainder of the Bureau's operations. Also a factor was the fear that the Committee would attempt to develop identical standards for both domestic and foreign intelligence activities, despite the entirely different constitutional bases, problems, and considerations involved. The concurrent jurisdiction arrangement worked out by Senator Mansfield may have ameliorated Justice's jurisdictional concerns. It may be wise to develop a paper pointing out the inappropriateness of identical standards for the two types of activities in anticipation of the emergence of the second problem.

3. Section 662 of the Foreign Assistance Act requires reports on covert action to be made to "appropriate" congressional committees. The only Senate committee specifically named is the Foreign Relations Committee. However, the Armed Services and Appropriations Committees have been considered "appropriate" committees, and have been receiving section 662 reports. Because covert action is the exclusive province of CIA, there is a reasonable basis for terminating the reports to the Senate Armed Services Committee. This would reduce the number of committees exposed to this information, although it would eliminate a committee which has posed no security problems. The issue of termination of section 662 reports to the Senate Armed Services Committee might best be resolved between Chairman Inouye and Chairman Stennis.

4. CIA attempted in the Government Operations Committee to have section 662 amended to require reports only to the Appropriations and new intelligence committees. However, when the Committee converted the Church Committee's oversight proposal, S. 2893, into a resolution, this became impossible. Subsequently, Senators Percy and Ribicoff announced that they would introduce a bill to amend section 662 in this manner. The Administration should strongly back such a bill and actively push it. However, it might be tactically advantageous to wait until the House of Representatives

FOR OFFICIAL USE ONLY
Approved For Release 2004/10/27 : CIA-RDP78M02660R000800110009-0

FOR OFFICIAL USE ONLY
Approved For Release 2004/10/27 : CIA-RDP78M02660R000800110009-0

has considered the oversight issue, as they may do this summer. At least one House oversight proposal, H. J. Res. 945, introduced recently by Representative Cederberg, would amend these reporting requirements. The House would presumably be reluctant to amend the Act before it has reached its major intelligence oversight decisions.

B. Staff Clearance

Section 6 of the Resolution provides for staff background investigations, oaths, and written secrecy agreements that the staff member will not disclose Committee information during or after his employment. The Director of Central Intelligence is to consult with the Committee regarding these clearances. The Executive branch should have in mind, before these consultations begin, proposed security agreement language, which agency should conduct the background investigations, and whether or not we should push hard for polygraphs to be administered to the staff.

C. Disclosure

1. The Executive branch must carefully consider its options in light of the Senate's assertion of its authority to unilaterally declassify Executive branch information. One option, asserting our constitutional objections to this provision, would be to refuse to provide the Committee information unless it agreed in advance not to disclose it. A second option would be to try to win the Committee's agreement to narrow the breadth of this provision. For example, Assistant Attorney General Scalia asserted in his 12 March testimony that in a few situations it would be improper for a House of Congress to authorize any disclosure. The examples he gave were:

(1) When the information has been received under an agreement of non-disclosure.

(2) When the information is protected from disclosure by statutes, e.g., classified communications intelligence. We should seek to have this category include intelligence sources and methods, although the statute is not as helpful as in other cases. Information submitted to the Committee might then be stamped with special designators in addition to the normal Executive branch classification. These designators might include "communications intelligence - protected from disclosure by 18 U.S.C. 798" or "sensitive intelligence sources and methods information - subject to the DCI's statutory responsibility to protect this information from unauthorized disclosure."

(3) When its disclosure has the purpose and effect of negating or frustrating action which both Houses of Congress have authorized the Executive to perform.

A third option would be merely to attempt to build a spirit of cooperation which would enable us to avoid disclosure disputes. As previously pointed out, such disputes have been extremely rare in the past, although a few, such as the four words released by the Pike Committee, have been well publicized.

Approved For Release 2004/10/27 : CIA-RDP78M02660R000800110009-0
FOR OFFICIAL USE ONLY

FOR OFFICIAL USE ONLY
Approved For Release 2004/10/27 : CIA-RDP78M02660R000800110009-0

2. Section 8(c)(1) prohibits the disclosure of information in the possession of the Select Committee relating to "lawful" U.S. intelligence activities. Nowhere in the legislative history is there a reference to who should make the decision whether an intelligence activity is lawful. If this decision were left to individual members of the Committee, a member who felt covert action was illegal because it violates international law would be able to unilaterally leak this information. The Executive branch should seek Committee agreement that, at a minimum, this determination would be made by the full Committee in consultation with the Executive branch.

D. President's Representative

Section 9 provides that the Select Committee may permit a representative of the President to attend any closed Committee meetings. A decision must be made regarding who should serve in this liaison position.

E. Transfer of Church Committee Documents

Section 10 provides that all records, files, documents, and other materials in the possession, custody, or control of the Church Committee should be transferred to the new Committee. Legislative history establishes that the Church Committee is to live up to its agreements with the Executive branch for return of documents. The Executive branch should seek the return of as many of these documents as possible.

F. Reporting Responsibilities

1. Section 11 sets forth the Senate's view of agencies' responsibilities to report to the Committee. Specifically, the section states that it is the sense of the Senate that the head of each agency should:

a. keep the Committee fully and currently informed on intelligence activities;

b. furnish the Committee any information or document in its possession upon request;

c. report immediately violations of constitutional rights, law, Executive orders, Presidential directives, or departmental or agency rules or regulations.

The Executive branch should carefully consider the mechanisms and criteria under which it reports to the Committee, and specifically whether existing mechanisms and criteria are satisfactory. The new Committee may well ask for more formalized reporting procedures and may attempt to reach agreement with agencies on reporting responsibilities.

FOR OFFICIAL USE ONLY

Approved For Release 2004/10/27 : CIA-RDP78M02660R000800110009-0

FOR OFFICIAL USE ONLY
Approved For Release 2004/10/27 : CIA-RDP78M02660R000800110009-0

2. Section 11(c) provides that agencies should report immediately activities which amount to violations of the "constitutional rights of any person, violations of law, or violations of Executive orders, Presidential directives, or departmental or agency rules or regulations." A reporting of every violation of minor agency regulations would unacceptably involve the Committee in day-to-day management of the agencies and is probably outside the Committee's interest. The Executive branch should consider uniform reporting standards in this area and should consider seeking Committee acceptance of these standards.

G. Annual Authorization

Section 12 requires an annual authorization of all intelligence funds. Intelligence agencies should attempt to reach agreement on how this requirement can best be fulfilled with a minimum of disruption and additional effort, and what procedures would permit intelligence budgets to remain secret. Assuming the Senate continues to support secret budgets, we would then be in a position to recommend a particular course of action to the new Committee.

H. Special Study

Section 13 directs the Select Committee to make a study of several matters and to report to the full Senate their recommendations by 1 July 1977. The Select Committee may omit subjects which it determines have been adequately studied by the Church Committee. The Executive branch should determine which of the subjects would benefit from study by the new Committee, either because they may lead to improvements in intelligence activities or congressional procedures, or because there is a reasonable chance that the new Committee would overturn unfavorable findings of the Church Committee. The Executive branch should seek to prove to the Select Committee that the other subjects have been adequately studied.

I. Legislation

The Church Committee's final report contained 87 recommendations, over half of which were recommended as new laws. Chairman Inouye has already announced that the new Committee will proceed to consider changes in agencies' charters. The Executive branch should be prepared with its responses to the Church Committee recommendations, as these will no doubt be the starting point for the new Committee's work. There may also be the opportunity to seize the initiative by publicly endorsing certain recommendations.

SIGNED

STAT

Approved For Release 2004/10/27 : CIA-RDP78M02660R000800110009-0

Approved For Release 2004/10/27 : CIA-RDP78M02660R000800110009-0

Nevada. A strong intelligence oversight committee will be established if the amendment to Senate Resolution 400 is adopted.

A strong and effective Senate Oversight Committee with legislative authority is required in order to insure that the intelligence activities of the United States directly support American security interests, are conducted under clear legal authority, and do not violate the civil rights of American citizens. The Select Committee headed by the distinguished Senator from Idaho has done an excellent job in studying all facets of the activities of the intelligence community and in making recommendations for legislative action. But it is now essential that legislation be developed and acted upon. That is why I support the creation of the kind of intelligence committee proposed in the amendment before us.

Although I support this amendment, I do have some questions relating to the effect of the amendment on the jurisdiction and activities of other interested committees, particularly the Foreign Relations Committee, of which I am a member. I would therefore appreciate it if the distinguished Senator from Connecticut who has done such a fine job in developing this compromise as the floor manager of Senate Resolution 400, would be so kind as to respond to the following questions:

The Committee on Rules, in its report, raised the possibility that the Hughes-Ryan amendment to the Foreign Assistance Act, which provides for Presidential reports to four standing committees of the Senate on covert actions, may be superseded if an intelligence committee is established. The report states that it is arguable that the Foreign Relations Committee could lose its statutory authority to receive Presidential reports on covert activity. I understand that it is not the intent of Senate Resolution 400 to affect the Hughes-Ryan amendment, but I do believe that it would be useful to clarify the matter in light of what has been said by the Rules Committee.

Mr. RIBICOFF. May I respond this way to the Senator from Rhode Island, who was deeply involved in the Committee on Rules hearings on these proposals: Senate Resolution 400 does not repeal the Hughes-Ryan Act. As a resolution, it could not do so. Accordingly, creation of a new committee will not repeal the requirement of the CIA to brief the Committee on Foreign Relations.

Mr. PELL. I thank the Senator.

Does the granting of exclusive jurisdiction to the proposed intelligence committee over the CIA mean that paragraph 1(i)(1) of Senate rule XXV, which states that the Committee on Foreign Relations has jurisdiction over "relations of the United States with foreign nations generally," should be taken to exclude jurisdiction over CIA activities which have foreign relations implications?

Mr. RIBICOFF. The jurisdiction of the Committee on Foreign Relations over legislation affecting the CIA is not changed by Senate Resolution 400. Legislation which now would go to the Committee on Foreign Relations because of its predominant foreign policy implications, rather than intelligence implications, would continue to go to the Foreign Relations Committee, with the right of the new committee to ask for a sequential referral.

Mr. PELL. I thank my colleague. In section 3, paragraph (b) of the amendment it is stated that "any legislation reported by the select committee, except any legislation involving matters specified in clause (1)"—that is, the CIA—or (4)(A)—CIA budget—"of subsection (a), containing any matter otherwise within the jurisdiction of any standing committee shall, at the request of the chairman of such standing committe, be referred to such standing committee for its consideration."

Does that mean that any legislation developed by the proposed intelligence committee relating to CIA activities having foreign policy implications would be referred upon request to the Foreign Relations Committee?

Mr. RIBICOFF. If the legislation reported by the Select Committee has significant foreign policy implications, the Committee on Foreign Relations would be able to ask for a sequential referral of the legislation.

Mr. PELL. I thank the Senator. Later on in that same paragraph, it is stated that—

> Any proposed legislation reported by any committee, other than the select committee, which contains any matter within the jurisdiction of the select committee shall, at the request of the chairman of the select committee, be referred to the select committee for its consideration.

Does that mean that the Committee on Foreign Relations could initiate legislation of its own on CIA activities having foreign policy implications as long as such legislation is referred subsequently to the proposed Intelligence Committee?

Mr. RIBICOFF. That is correct. As I said in response to your second question, such legislation would be sequentially referred to the Intelligence Committee.

Mr. PELL. Finally, section 3, paragraphs (c) and (d), state that other committees may "study and review any intelligence activity to the extent that such activity directly affects a matter otherwise within the jurisdiction of such committee" and that such committees would "obtain full and prompt access to the product of the intelligence activities of any department or agency of the government relevant to a matter otherwise within the jurisdiction of such committee." Do these provisions mean that the administration would be expected to provide all of the information, which the Committee on Foreign Relations requires, except of course raw data? I recall in this regard that, when I was conducting hearings several years ago on weather modification activities in Southeast Asia, I was denied information on the grounds that the "appropriate" committee—in this case, Armed Services—had been notified.

Mr. RIBICOFF. That is correct. Creation of the new committee should not be used by the intelligence agencies to deny the standing committee any information on any matter with which the committee is concerned, such as an investigation described by section 3(c) of the proposed substitute to Senate Resolution 400.

Mr. PELL. I thank my colleague very much for his [illegible], which will be an important part of the recommended action on this amendment. I look forward to supporting the Senator.

Mr. RIBICOFF. I thank the Senator very much.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, first, I congratulate the distinguished Senator from Connecticut (Mr. RIBICOFF) and the distinguished Senator from Illinois (Mr. PERCY) on the remarkable job they have done in taking ideas contributed by many Members of the Senate, melding them with their own very important views, and then bringing them here in the form of a legislative proposal that I think is going to pass. I believe it should pass. I take this time simply to express my views and my appreciation to them.

Mr. President, we are finally approaching the climax of a year and a half of an unprecedented investigation into the world of intelligence. When the majority leader and I introduced the resolution in October 1974 that led to the creation of the Select Committee on Intelligence, it was in the aftermath of Watergate, charges of domestic spying by the intelligence agencies and their misuse for political purposes. The last long hard look the Congress had taken at the Nation's intelligence arm occurred in the 1940's—in the wake of the great intelligence failure at Pearl Harbor.

The investigations and exposures of the past year have revealed another type of intelligence failure—this time not a failure of military preparedness but of adherence to the Constitution and the law. The resolution before us today—a product of a bipartisan effort to achieve agreement on essentials—is a significant breakthrough in the effort to remedy the intelligence failure we have recently experienced. The resolution deserves our maximum support.

Today we see presidential hopefuls receiving standing ovations for telling audiences "I promise I will never lie to you." In a democratic society, when a line like that brings people to their feet applauding, you have really hit bottom. Government rests on the confidence of the people. This resolution is designed to restore the confidence of the people in the intelligence agencies. The way to bring the intelligence community out of its present disarray and the drumfire of criticism is to assure the American people that Congress is meeting its constitutional responsibilities to oversee intelligence operations. Only then will the clamor of attack and attention recede.

In this, our Bicentennial Year, the Senate has a special opportunity to renew the values of those who founded this country. Seventeen months ago, on Jan-

Approved For Release 2004/10/27 : CIA-RDP78M02660R000800110009-0

MR NUNN

Senator from Nevada and the Senator from West Virgina, on the Rules Committee, for all the diligent work which has gone into this.

I really have three separate lines of questioning, but I will start with the question of whether or not there is anything in the pending substitute to Senate Resolution 400 which would require public disclosure in any form of the amount spent on intelligence.

Mr. RIBICOFF. No. Senate Resoluiton 400 creates a new committee and defines its jurisdiction. It does not try to decide the important issue whether the intelligence budget should be disclosed publicly, and, if so, in what form. The new committee is encouraged by section 13(a)(8) to study this issue. I would expect the full Senate to give this difficult issue full consideration after the new committee submits any recommendations it may have on the matter no later than next July 1.

Section 12 establishes a procedure which assures that, for the first time, the intelligence activities subject to the select committee's jurisdiction will be authorized on an annual basis. The section constitutes a commitment, on behalf of the Senate, that funds will not be appropriated for these agencies before such an authorization. Approval of an authorization, however, may be given in a way that keeps the figures secret, just as now the Senate appropriates funds for intelligence in a way that maintains the secrecy of the figures.

Mr. NUNN. I thank the Senator from Connecticut.

Another question along that line:

When the select committee reports an authorization bill for intelligence funds, how will the full Senate then consider the matter, assuming that the Senate has decided to continue to keep these figures secret?

Mr. RIBICOFF. If the Senate decided to continue to keep the overall figures secret, the process could work this way:

In the case of authorizations for defense-related intelligence activities, any bill reported by the new committee would be sequentially referred to the Armed Services Committee. As in the case of sequential referral of other legislation, there would be no need for full Senate debate prior to this sequential referral. The authorization figure would then be disguised in the DOD authorization bill approved by the Armed Services Committee, as is the case now.

In the case of an annual authorization for the CIA, after the select committee approves an authorization, I would expect that the figure would be disguised in some other authorization measure.

Mr. NUNN. I thank the Senator. I think that is extremely important, and clarifies a point that has been of considerable concern to the Senator from Georgia and I think many other Senators.

Another question along the same line: How would the new committee bring a matter involving the intelligence authorization figure to the attention of the full Senate, assuming the figures are still secret?

Mr. RIBICOFF. In that event, the Senate could invoke the same procedure for a secret session now available to the Senate. Under rule XXXV, the Senate could go into closed session and debate the matter in secrecy, just as they could debate the intelligence budget now in secret session.

Mr. NUNN. A further question: Will the requirement in section 12 for an annual authorization of the intelligence budget interfere with the ability of the Appropriations Committee to appropriate funds for intelligence in a timely fashion?

Mr. RIBICOFF. The committee authorizing expenditures for intelligence activities would be subject, like other committees, to the requirements of the Budget Act. The committees will have until May 15 to complete action on authorizations for intelligence. At the same time, the Budget Act contemplates that the Senate will not act on approriation measures until after May 15. This would apply to appropriations for the intelligence community. Assuming that all the committees adhere to the Budget Act, the requirements in section 12 will not affect the schedule the Appropriations Committee would follow for the appropriation of intelligence funds.

Mr. NUNN. One clarifying question on that latter point: I understand the timetable and that we may have to revise that timetable as the budgeting process is reviewed; but suppose, for instance, in terms of the overall intelligence activities, that there is a sequential referral of the annual authorization from the Intelligence Committee to the Armed Services Committee. I understand that under the provisions of Senate Resoltuion 400, in the case of such a referral the Armed Services Committee would be allowed to have that bill for 30 days. Suppose the Intelligence Committee gives them the bill on, say, May 14. Then the Armed Service Committee would be right up against the May 15 deadline. I suppose the committees would just have to work together under those circumstances.

Mr. RIBICOFF. I would say so. I would assume that the Intelligence Committee would, on a basis of comity, adopt a schedule that would assure that the Armed Services Committee had the full 30 days to do its job.

It should be remembered that on the Intelligence Committee there will be two members of the Armed Services Committee, and I personally would be very disappointed in the Intelligence Committee if they did not make sure that any committee entitled sequentially to 30 days would have the full 30 days before May 15 to comply with the Budget Act.

Mr. NUNN. I thank the Senator. I have another line of questioning on this point: Under present law, the Committee on Armed Services has authorizing jurisdiction over all of the military personnel and all of the civilian personnel in the Department of Defense. The manpower requirements report indicates that there are 42,000 military personnel, 9,500 civilians, and 5,300 reservists in the overall manpower authorization for fiscal year 1976 for the intelligence and security category.

[illegible] the new Intelligence Committee having authorizing jurisdiction over Defense Department intelligence, how would the two committees handle the manpower authorization which relates to Defense Department personnel in general, but also includes intelligence personnel?

Mr. RIBICOFF. Let me respond to the distinguished Senator from Georgia and the distinguished Senators from Mississippi and North Dakota, who are so deeply involved in such matters: This is the type of situation where, in my opinion, it would first go to the Armed Services Committee and then, sequentially, to the Intelligence Committee. You would come first, in my opinion, where the bill is a general Defense Department manpower bill.

The Armed Services Committee would continue to have exclusive jurisdiction over all aspects of the legislation except for the portion affecting national intelligence. The portion of the legislation affecting national intelligence would be reviewed by both the Committee on Armed Services and the new committee, under section 3. It would be up to the new committee and the Armed Services Committee to work out the details on the procedure for actual consideration by both committees of the intelligence portion of this bill.

Mr. STENNIS. Mr. President, will the Senator yield to me and let me intervene on that same point?

If the Senator will yield, I appreciate the suggestion of the Senator from Connecticut, but the bill, as I understand it, provides to the contrary, that it would go to the Intelligence Committee first. Senators will understand that our hearings on manpower start in the fall of the year, before the budget even comes in.

Mr. RIBICOFF. Well, basically it is up to the Parliamentarian, in a sequential referral, on the basis of what is in the bill. If it is basically armed services, it goes to the Committee on Armed Services first. If it is basically intelligence, it goes to Intelligence first. It is my personal interpretation that if it provided for overall manpower, covering the entire Department of Defense, commonsense would dictate—and, of course, the Parliamentarian is the final judge—that that would go to armed services first.

The PRESIDING OFFICER (Mr. ALLEN). The allotted time has expired.

Mr. RIBICOFF. I yield myself 2 more minutes.

It would go to Armed Services first, because intelligence would be only a part of the overall Department of Defense manpower authorization.

Then out of that would be carved out only the intelligence portion, which would then be referred sequentially to the Intelligence Committee.

May I say for the benefit of the Senate that it is my feeling that there are a lot of gray areas in this legislation. It is impossible to answer all the questions. We are going to have to work it out between all the committees and the In-

Approved For Release 2004/10/27 : CIA-RDP78M02660R000800110009-0

Approved For Release 2004/10/27 : CIA-RDP78M02660R000800110009-0

Approved For Release 2004/10/27 : CIA-RDP78M02660R000800110009-0

MEMORANDUM FOR: John O. Marsh, Jr. Counsellor to the President

STAT

FROM: [redacted] Acting Legislative Counsel

SUBJECT: CIA Views of S. Res. 400

Distribution:
Orig - Addressee
1 - DCI
1 - DDCI
1 - ER
1 - Mr. Knoche
1 - D/DCI/IC
1 - DDA
1 - DDI
1 - DDS&T
1 - DDO
1 - OGC
1 - Review Staff

1 - OLC Subject
1 - OLC Chrono
OLC:DFM:sm (28 May 76)

Approved For Release 2004/10/27 : CIA-RDP78M02660R000800110009-0

Approved For Release 2004/10/27 : CIA-RDP78M02660R000800110009-0

FROM

Central Intelligence Agency

Washington, D.C. 20505

TO: John O. Marsh, Jr.
Counsellor to the President
The White House
Washington, D.C. 20500
Attn: Tim Hardy

NO. Q173411

DATE

TYPE OF MATERIAL

ENVELOPE (S)

PACKAGE (S)

OTHER

LOG DATA

DATE AND TIME OF PICK-UP
6/28/76 1445

COURIER'S INITIALS

ORIGINATING OFFICE LOG 2

Approved For Release 2004/10/27 : CIA-RDP78M02660R000800110009-0