

I. INTRODUCTION

The Senate Select Committee on Intelligence Activities has conducted a fifteen month long inquiry, the first major inquiry into intelligence since World War II. The inquiry arose out of allegations of substantial, even massive wrong-doing within the "national intelligence" system.¹ This final report provides a history of the evolution of intelligence, an evaluation of the intelligence system of the United States, a critique of its problems, recommendations for legislative action and recommendations to the executive branch. The Committee believes that its recommendations will provide a sound framework for conducting the vital intelligence activities of the United States in a manner which meets the nation's intelligence requirements and protects the liberties of American citizens and the freedoms which our Constitution guarantees.

The shortcomings of the intelligence system, the adverse effects of secrecy, and the failure of congressional oversight to assure adequate accountability for executive branch decisions concerning intelligence activities were major subjects of the Committee's inquiry. Equally important to the obligation to investigate allegations of abuse was the duty to review systematically the intelligence community's overall activities since 1945, and to evaluate its present structure and performance.

An extensive national intelligence system has been a vital part of the United States government since 1941. Intelligence information has had an important influence on the direction and development of American foreign policy and has been essential to the maintenance of our national security. The Committee is convinced that the United States requires an intelligence system which will provide policymakers with accurate intelligence and analysis. We must have an early warning system to monitor potential military threats by countries hostile to United States interests. We need a strong intelligence system to verify that treaties concerning arms limitation are being honored. Information derived from the intelligence agencies is a necessary ingredient in making national defense and foreign policy decisions. Such information is also necessary in countering the efforts of hostile intelligence services, and in halting terrorists, international drug traffickers and other international criminal activities. Within this country certain carefully controlled intelligence activities are essential for effective law enforcement.

The United States has devoted enormous resources to the creation of a national intelligence system, and today there is an awareness on the part of many citizens that a national intelligence system is a per-

¹ National intelligence includes but is not limited to the CIA, NSA, DIA, elements within the Department of Defense for the collection of intelligence through reconnaissance programs, the Intelligence Division of the FBI, and the intelligence elements of the State Department and the Treasury Department.

manent and necessary component of our government. The system's value to the country has been proven and it will be needed for the foreseeable future. But a major conclusion of this inquiry is that congressional oversight is necessary to assure that in the future our intelligence community functions effectively, within the framework of the Constitution.

The Committee is of the view that many of the unlawful actions taken by officials of the intelligence agencies were rationalized as their public duty. It was necessary for the Committee to understand how the pursuit of the public good could have the opposite effect. As Justice Brandeis observed:

Experience should teach us to be most on our guard to protect liberty when the Government's purposes are beneficent. Men born to freedom are naturally alert to repel invasion of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding.²

A. THE MANDATE OF THE COMMITTEE'S INQUIRY

On January 27, 1975, Senate Resolution 21 established a select committee "to conduct an investigation and study of governmental operations with respect to intelligence activities and of the extent, if any, to which illegal, improper, or unethical activities were engaged in by any agency of the Federal Government." Senate Resolution 21 lists specific areas of inquiry and study:

(1) Whether the Central Intelligence Agency has conducted an illegal domestic intelligence operation in the United States.

(2) The conduct of domestic intelligence or counterintelligence operations against United States citizens by the Federal Bureau of Investigation or any other Federal agency.

(3) The origin and disposition of the so-called Huston Plan to apply United States intelligence agency capabilities against individuals or organizations within the United States.

(4) The extent to which the Federal Bureau of Investigation, the Central Intelligence Agency, and other Federal law enforcement or intelligence agencies coordinate their respective activities, any agreements which govern that coordination, and the extent to which a lack of coordination has contributed to activities or actions which are illegal, improper, inefficient, unethical, or contrary to the intent of Congress.

(5) The extent to which the operation of domestic intelligence or counterintelligence activities and the operation of any other activities within the United States by the Central Intelligence Agency conforms to the legislative charter of that Agency and the intent of the Congress.

(6) The past and present interpretation by the Director of Central Intelligence of the responsibility to protect intelligence sources and methods as it relates to that provision of the National Security Act of 1947 which provides "...

² *Olmstead v. United States*, 277 U.S. 438, 479 (1928).

that the agency shall have no police, subpoena, law enforcement powers, or internal security functions. . . ."³

(7) The nature and extent of executive branch oversight of all United States intelligence activities.

(8) The need for specific legislative authority to govern the operations of any intelligence agencies of the Federal Government now existing without that explicit statutory authority, including but not limited to agencies such as the Defense Intelligence Agency and the National Security Agency.

(9) The nature and extent to which Federal agencies cooperate and exchange intelligence information and the adequacy of any regulations or statutes which govern such cooperation and exchange of intelligence information.

(10) The extent to which United States intelligence agencies are governed by Executive Orders, rules, or regulations either published or secret and the extent to which those Executive Orders, rules, or regulations interpret, expand, or are in conflict with specific legislative authority.

(11) The violation or suspected violation of any State or Federal statute by any intelligence agency or by any person by or on behalf of any intelligence agency of the Federal Government including but not limited to surreptitious entries, surveillance, wiretaps, or eavesdropping, illegal opening of the United States mail, or the monitoring of the United States mail.

(12) The need for improved, strengthened, or consolidated oversight of United States intelligence activities by the Congress.

(13) Whether any of the existing laws of the United States are inadequate, either in their provisions or manner of enforcement, to safeguard the rights of American citizens, to improve executive and legislative control of intelligence and related activities, and to resolve uncertainties as to the authority of United States intelligence and related agencies.

(14) Whether there is unnecessary duplication of expenditure and effort in the collection and processing of intelligence information by United States agencies.

(15) The extent and necessity of overt and covert intelligence activities in the United States and abroad.

In addressing these mandated areas of inquiry, the Committee has focused on three broad questions:

1. Whether intelligence activities have functioned in accordance with the Constitution and the laws of the United States.
2. Whether the structure, programs, past history, and present policies of the American intelligence system have served the national interests in a manner consistent with declared national policies and purposes.

³ 50 U.S.C. 403(d)(3); Appendix B, Senate Select Committee Hearings (hereinafter cited as hearings), Vol 7, p. 210.

3. Whether the processes through which the intelligence agencies have been directed and controlled have been adequate to assure conformity with policy and the law.

Over the past year, the Committee and its staff have carefully examined the intelligence structure of the United States. Considerable time and effort have been devoted in order to understand what has been done by the United States Government in secrecy during the thirty-year period since the end of World War II. It is clear to the Committee that there are many necessary and proper governmental activities that must be conducted in secrecy. Some of these activities affect the security and the very existence of the nation.

It is also clear from the Committee's inquiry that intelligence activities conducted outside the framework of the Constitution and statutes can undermine the treasured values guaranteed in the Bill of Rights. Further, if the intelligence agencies act in ways inimical to declared national purposes, they damage the reputation, power, and influence of the United States abroad.

The Committee's investigation has documented that a number of actions committed in the name of "national security" were inconsistent with declared policy and the law. Hearings have been held and the Committee has issued reports on alleged assassination plots, covert action in Chile and the interception of domestic communications by the National Security Agency (NSA). Regrettably, some of these abuses cannot be regarded as aberrations.

B. THE PURPOSE OF THE COMMITTEE'S FINDINGS AND RECOMMENDATIONS

It is clear that a primary task for any successor oversight committee, and the Congress as a whole, will be to frame basic statutes necessary under the Constitution within which the intelligence agencies of the United States can function efficiently under clear guidelines. Charters delineating the missions, authorities, and limitations for some of the United States most important intelligence agencies do not exist. For example, there is no statutory authority for the NSA's intelligence activities. Where statutes do exist, as with the CIA, they are vague and have failed to provide the necessary guidelines defining missions and limitations.

The Committee's investigation has demonstrated, moreover, that the lack of legislation has had the effect of limiting public debate upon some important national issues.

The CIA's broad statutory charter, the 1947 National Security Act, makes no specific mention of covert action. The CIA's former General Counsel, Lawrence Houston, who was deeply involved in drafting the 1947 Act, wrote in September 1947, "we do not believe that there was any thought in the minds of Congress that the CIA under [the authority of the National Security Act] would take positive action for subversion and sabotage."⁴ Yet, a few months after enactment of the 1947 legislation, the National Security Council authorized the CIA to engage in covert action programs. The provision of the Act often cited as authorizing CIA covert activities provides for the Agency:

⁴ Memorandum from CIA General Council Lawrence Houston to DCI Hillenkoetter, 9/25/47.

... to perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct.^{4a}

Secret Executive Orders issued by the NSC to carry out covert action programs were not subject to congressional review. Indeed, until recent years, except for a few members, Congress was not fully aware of the existence of the so-called "secret charter for intelligence activities." Those members who did know had no institutional means for discussing their knowledge of secret intelligence activities with their colleagues. The problem of how the Congress can effectively use secret knowledge in its legislative processes remains to be resolved. It is the Committee's view that a strong and effective oversight committee is an essential first step that must be taken to resolve this fundamental issue.

C. THE FOCUS AND SCOPE OF THE COMMITTEE'S INQUIRY AND OBSTACLES ENCOUNTERED

The inquiry mandated in S. Res. 21 falls into two main categories. The first concerns allegations of wrong-doing. The nature of the Committee's inquiry into these matters tends, quite properly, to be akin to the investigations conducted by Senate and Congressional committees in the past. We decided from the outset, however, that this committee is neither a court, nor a law enforcement agency, and that while using many traditional congressional investigative techniques, our inquiry has served primarily to illustrate the problems before Congress and the country. The Justice Department and the courts in turn have their proper roles to play.

The second category of inquiry has been an examination of the intelligence agencies themselves. The Committee wished to learn enough about their past and present activities to make the legislative judgments required to assure the American people that whatever necessary secret intelligence activities were being undertaken were subject to constitutional processes and were being conducted in as effective, humane, and efficient a manner as possible.

The Committee focused on many issues affecting the intelligence agencies which had not been seriously addressed since our peacetime intelligence system was created in 1947. The most important questions relating to intelligence, such as its value to national security purposes and its cost and quality, have been carefully examined over the past year. Although some of the Committee's findings can be reported to the public only in outline, enough can be set forth to justify the recommendations. The Committee has necessarily been selective. A year was not enough time to investigate everything relevant to intelligence activities.

These considerations guided the Committee's choices:

- (1) A limited number of programs and incidents were examined in depth rather than reviewing hundreds superficially. The Committee's purpose was to understand the causes for the particular performance or behavior of an agency.
- (2) The specific cases examined were chosen because they reflected generic problems.

^{4a} 50 U.S.C. 403(d) (5).

(3) Where broad programs were closely reviewed (for example, the CIA's covert action programs), the Committee sought to examine successes as well as apparent failures.

(4) Programs were examined from Franklin Roosevelt's administration to the present. This was done in order to present the historical context within which intelligence activities have developed and to assure that sensitive, fundamental issues would not be subject to possible partisan biases.

It is clear from the Committee's inquiry that problems arising from the use of the national intelligence system at home and abroad are to be found in every administration. Accordingly, the Committee chose to emphasize particular parts of the national intelligence system and to address particular cases in depth. The Committee has concentrated its energies on the six executive branch groups that make up what is called "National Intelligence".

- (1) The Central Intelligence Agency.
- (2) The counterintelligence activities of the Federal Bureau of Investigation.
- (3) The National Security Agency.
- (4) The national intelligence components of the Department of Defense other than NSA.
- (5) The National Security Council.
- (6) The intelligence activities of the Department of State.

The investigation of these national intelligence groupings included examining the degree of command and control exercised over them by the President and other key Government officials or institutions. The Committee also sought to evaluate the ability and effectiveness of Congress to assert its oversight right and responsibilities. The agencies the Committee has concentrated on have great powers and extensive activities which must be understood in order to judge fairly whether the United States intelligence system needs reform and change. The Committee believes that many of its general recommendations can and should be applied to the intelligence operations of all other government agencies.

Based on its investigation, the Committee concludes that solutions to the main problems can be developed by analyzing the broad patterns emerging from the examination of particular cases. At the same time, neither the dangers, nor the causes of abuses within the intelligence system, nor their possible solutions can be fairly understood without evaluating the historical context in which intelligence operations have been conducted.

Individual cases and programs of government surveillance which the Committee examined raise questions concerning the inherent conflict between the government's perceived need to conduct surveillance and the citizens' constitutionally protected rights of privacy and dissent. It has become clear that if some lose their liberties unjustly, all may lose their liberties. The protections and obligations of law must apply to all. Only by looking at the broad scope of questionable activity over a long period can we realistically assess the potential dangers of intrusive government. For example, only through an understanding of the

totality of government efforts against dissenters over the past thirty years can one weigh the extent to which such an emphasis may "chill" legitimate free expression and assembly.

The Select Committee has conducted the only thorough investigation ever made of United States intelligence and its post World War II emergence as a complex, sophisticated system of multiple agencies and extensive activities. The Committee staff of 100, including 60 professionals, has assisted the 11 members of the Committee in this in-depth inquiry which involved more than 800 interviews, over 250 executive hearings, and documentation in excess of 110,000 pages.

The advice of former and current intelligence officials, Cabinet members, State, Defense, and Justice Department experts, and citizens from the private sector who have served in national security areas has been sought throughout the Committee's inquiry. The Committee has made a conscious effort to seek the views of all principal officials who have served in the intelligence agencies since the end of World War II. We also solicited the opinions of constitutional experts and the wisdom of scientists knowledgeable about the technology used by intelligence agencies. It was essential to learn the views of these sources outside of the government to obtain as full and balanced an understanding of intelligence activities as possible.

The fact that government intelligence agencies resist any examination of their secret activities even by another part of the same government should not be minimized. The intelligence agencies are a sector of American government set apart. Employees' loyalties to their organizations have been conditioned by the closed, compartmented and secretive circumstances of their agencies' formation and operation. In some respects, the intelligence profession resembles monastic life with some of the disciplines and personal sacrifices reminiscent of medieval orders. Intelligence work is a life of service, but one in which the norms of American national life are sometimes distressingly distorted.

Despite its legal Senate mandate, and the issuance of subpoenas, in no instance has the Committee been able to examine the agencies' files on its own. In all the agencies, whether CIA, FBI, NSA, INR, DIA, or the NSC, documents and evidence have been presented through the filter of the agency itself.

Although the Senate inquiry was congressionally ordered and although properly constituted committees under the Constitution have the right of full inquiry, the Central Intelligence Agency and other agencies of the executive branch have limited the Committee's access to the full record. Several reasons have been given for this limitation. In some instances, the so-called doctrine of executive privilege has been asserted. Despite these assertions of executive privilege, there are no classes of documents which the Committee has not obtained, whether from the NSC, the personal papers of former Presidents and their advisors, or, as in the case of the Committee's Report on Alleged Assassination Plots Involving Foreign Leaders, all classes of documents available in the executive branch. The exception, of course, involves the Nixon files which were not made available because of court order.

It should be noted that in some highly important areas of its in-

vestigation, the Committee has been refused access to files or documents. These involve, among others, the arrangements and agreements made between the intelligence agencies and their informers and sources, including other intelligence agencies and governments. The Committee has agreed that in general, the names of agents, and their methods of conducting certain intelligence activities should remain in the custody of a few within the executive branch. But there is a danger and an uncertainty which arises from accepting at face value the assertions of the agencies and departments which in the past have abused or exceeded their authority. If the occasion demands, a duly authorized congressional committee must have the right to go behind agency assertions, and review the full evidence on which agency responses to committee inquiries have been based. There must be a check: some means to ascertain whether the secrets being kept are, in fact, valid national secrets. The Committee believes that the burden of proof should be on those who ask that a secret program or policy be kept secret.

The Committee's report consists of a number of case studies which have been pursued to the best of the Committee's ability and which the Committee believes illuminate the purposes, character, and usefulness of the shielded world of intelligence activities. The inquiry conducted over the past 15 months will probably provide the only broad insight for some time into the now permanent role of the intelligence community in our national government. Because of this, and because of the need to assure that necessary secret activities remain under constitutional control, the recommendations set forth by the Committee are submitted with a sense of urgency and with the admonition that to ignore the dangers posed by secret government action is to invite the further weakening of our democracy.

D. THE HISTORICAL CONTEXT OF THE INQUIRY

The thirty years since the end of World War II have been marked by continuing experimentation and change in the scope and methods of the United States Government's activities abroad. From the all-out World War between the Axis powers and the allies, to the Cold War and fears of nuclear holocaust between the communist bloc and Western democratic powers, to the period of "wars of liberation" in the former colonial areas, the world has progressed to an era of negotiations leading to some easing of tensions between the United States and the Soviet Union. In addition, the People's Republic of China has emerged as a world power which the United States and other nations must consider. The recognizable distinctions between declared war and credible peace have been blurred throughout these years by a series of regional wars and uprisings in Asia, the Middle East, Latin America, Europe, and Africa. The competing great powers have participated directly or indirectly in almost all of these wars.

Of necessity, this country's intelligence agencies have played an important role in the diplomacy and military activities of the United States during the last three decades. Intelligence information has helped shape policy, and intelligence resources have been used to carry out those policies.

The fear of war, and its attendant uncertainties and doubts, has fostered a series of secret practices that have eroded the processes of open democratic government. Secrecy, even what would be agreed by reasonable men to be necessary secrecy, has, by a subtle and barely perceptible accretive process, placed constraints upon the liberties of the American people.

Shortly after World War II, the United States, based on its war-time experience, created an intelligence system with the assigned mission at home and abroad of protecting to protect the national security, primarily through the gathering and evaluation of intelligence about individuals, groups, or governments perceived to threaten or potentially threaten the United States. In general, these intelligence functions were performed with distinction. However, both at home and abroad, the new intelligence system involved more than merely acquiring intelligence and evaluating information; the system also undertook activities to counter, combat, disrupt, and sometimes destroy those who were perceived as enemies. The belief that there was a need for such measures was widely held, as illustrated in the following report related to the 1954 Hoover Commission Report on government organization:

It is now clear that we are facing an implacable enemy whose avowed objective is world domination by whatever means and at whatever cost. There are no rules in such a game. Hitherto acceptable norms of human conduct do not apply. If the U.S. is to survive, long-standing American concepts of "fair play" must be reconsidered. We must develop effective espionage and counterespionage services. We must learn to subvert, sabotage and destroy our enemies by more clever, more sophisticated and more effective methods than those used against us. It may become necessary that the American people will be made acquainted with, understand and support this fundamentally repugnant philosophy.

The gray, shadowy world between war and peace became the natural haunt for covert action, espionage, propaganda, and other clandestine intelligence activities. Former Secretary of State Dean Rusk described it as the environment for the nasty wars "in the back alleys of the world."

Although there had been many occasions requiring intelligence-gathering and secret government action against foreign and domestic national security threats prior to World War II, the intelligence community developed during and after that war is vastly different in degree and kind from anything that had existed previously. The sig-

nificant new facets of the post-war system are the great size, technological capacity and bureaucratic momentum of the intelligence apparatus, and, more importantly, the public's acceptance of the necessity for a substantial permanent intelligence system. This capability contrasts with the previous sporadic, *ad hoc* efforts which generally occurred during wars and national emergencies. The extent and magnitude of secret intelligence activities is alien to the previous American experience.

Three other developments since World War II have contributed to the power, influence and importance of the intelligence agencies.

First, the executive branch generally and the President in particular have become paramount within the federal system, primarily through the retention of powers accrued during the emergency of World War II. The intelligence agencies are generally responsible directly to the President and because of their capabilities and because they have usually operated out of the spotlight, and often in secret, they have also contributed to the growth of executive power.

Second, the direct and indirect impact of federal programs on the lives of individual citizens has increased tremendously since World War II.

Third, in the thirty years since World War II, technology has made unparalleled advances. New technological innovations have markedly increased the agencies' intelligence collection capabilities, a circumstance which has greatly enlarged the potential for abuses of personal liberties. To illustrate, the SALT negotiations and treaties have been possible because technological advances make it possible to accurately monitor arms limitations, but the very technology which permits such precise weapons monitoring also enables the user to intrude on the private conversations and activities of citizens.

The targets of our intelligence efforts after World War II—the activities of hostile intelligence services, communists, and groups associated with them both at home and abroad—were determined by successive administrations. In the 1960's, as the civil rights movement grew in the country, some intelligence agencies directed attention to civil rights organizations and groups hostile to them, such as the Ku Klux Klan. From the mid-1960's until the end of the Vietnam war, intelligence efforts were focused on antiwar groups.

Just as the nature of intelligence activity has changed as a result of international and national developments, the public's attitude toward intelligence has also altered. During the last eight years, beginning with *Ramparts* magazine's exposure of CIA covert relationships with non-governmental organizations, there has been a series of allegations in the press and Congress which have provoked serious questions about the conduct of intelligence agencies at home and abroad. The Watergate disclosures raised additional questions concerning abuse of power by the executive branch, misuse of intelligence agencies, and the need to strengthen legal restraints against such abuses.

While the evidence in the Committee's Report emphasizes the misguided or improper activities of a few individuals in the executive branch, it is clear that the growth of intelligence abuses reflects a more general failure of our basic institutions.

³ See the Select Committee's detailed report on "Intelligence and Technology."

Throughout its investigation, the Committee has carefully inquired into the role of presidents and their advisors with respect to particular intelligence programs. On occasion, intelligence agencies concealed their programs from those in higher authority, more frequently it was the senior officials themselves who, through pressure for results, created the climate within which the abuses occurred. It is clear that greater executive control and accountability is necessary.

The legislative branch has been remiss in exercising its control over the intelligence agencies. For twenty-five years Congress has appropriated funds for intelligence activities. The closeted and fragmentary accounting which the intelligence community has given to a designated small group of legislators was accepted by the Congress as adequate and in the best interest of national security. There were occasions when the executive intentionally withheld information relating to intelligence programs from the Congress, but there were also occasions when the principal role of the Congress was to call for more intelligence activity, including activity which infringed the rights of citizens. In general, as with the executive, it is clear that Congress did not carry out effective oversight.

The courts have also not confronted intelligence issues. As the Supreme Court noted in 1972 in commenting on warrantless electronic surveillance, the practice had been permitted by successive presidents for more than a quarter of a century without "guidance from the Congress or a definitive decision of the Courts". Of course, courts only consider the issues brought before them by litigants, and pervasive secrecy—coupled with tight judicially imposed rules of standing—have contributed to the absence of judicial decisions on intelligence issues. Nevertheless, the Committee's investigation has uncovered a host of serious legal and constitutional issues relating to intelligence activity and it is strong proof of the need for reform to note that scarcely any of those issues have been addressed in the courts.

Throughout the period, the general public, while generally excluded from debate on intelligence issues, nevertheless supported the known and perceived activities of the intelligence agencies. In the few years prior to the establishment of this Committee, however, the public's awareness of the need to examine intelligence issues was heightened. The series of allegations and partial exposures in the press and the Congress provoked serious questions about the conduct of intelligence activities at home and abroad. The Watergate affair increased the public's concern about abuse of governmental power and caused greater attention to be paid to the need to follow and to strengthen the role of law to check such abuses.

Against this background, the Committee considered its main task as making informed recommendations and judgments on the extent to which intelligence activities are necessary and how such necessary activities can be conducted within the framework of the Constitution.

E. THE DILEMMA OF SECRECY AND OPEN CONSTITUTIONAL GOVERNMENT

Since World War II, with steadily escalating consequences, many decisions of national importance have been made in secrecy, often by the executive branch alone. These decisions are frequently based on

information obtained by clandestine means and available only to the executive branch. Until very recently, the Congress has not shared in this process. The cautions expressed by the Founding Fathers and the constitutional checks designed to assure that policymaking not become the province of one man or a few men have been avoided on notable recent occasions through the use of secrecy. John Adams expressed his concern about the dangers of arbitrary power 200 years ago:

Whenever we leave principles and clear positive laws we are soon lost in the wild regions of imagination and possibility where arbitrary power sits upon her brazen throne and governs with an iron scepter.

Recent Presidents have justified this secrecy on the basis of "national security," "the requirements of national defense," or "the confidentiality required by sensitive, ongoing negotiations or operations." These justifications were generally accepted at face value. The Bay of Pigs fiasco, the secret war in Laos, the secret bombing of Cambodia, the anti-Allende activities in Chile, the Watergate affair, were all instances of the use of power cloaked in secrecy which, when revealed, provoked widespread popular disapproval. This series of events has ended, for the time being at least, passive and uncritical acceptance by the Congress of executive decisions in the areas of foreign policy, national security and intelligence activities. If Congress had met its oversight responsibilities some of these activities might have been averted.

An examination of the scope of secret intelligence activities undertaken in the past three decades reveals that they ranged from war to conventional espionage. It appears that some United States intelligence activities may have violated treaty and covenant obligations, but more importantly, the rights of United States citizens have been infringed upon. Despite citizen and congressional concern about these programs, no processes or procedures have been developed by either the Congress or the executive branch which would assure Congress of access to secret information which it must have to carry out its constitutional responsibilities in authorizing and giving its advice and consent. The hindsight of history suggests that many secret operations were ill-advised or might have been more beneficial to United States interests had they been conducted openly, rather than secretly.

What is a valid national secret? What can properly be concealed from the scrutiny of the American people, from various segments of the executive branch or from a duly constituted oversight body of their elected representatives? Assassination plots? The overthrow of an elected democratic government? Drug testing on unwitting American citizens? Obtaining millions of private cables? Massive domestic spying by the CIA and the military? The illegal opening of mail? Attempts by an agency of the government to blackmail a civil rights leader? These have occurred and each has been withheld from scrutiny by the public and the Congress by the label "secret intelligence."

In the Committee's view, these illegal, improper or unwise acts are not valid national secrets and most certainly should not be kept from the scrutiny of a duly-constituted congressional oversight body.

The definition of a *valid* national secret is far more difficult to set forth. It varies from time to time. There is presently general agree-

ment that details about military activities, technology, sources of information and particular intelligence methods are secrets that should be carefully protected. It is most important that a process be devised for agreeing on what national secrets are, so that the reasons for necessary secrecy are understood by all three branches of government and the public, that they be under constant review, and that any changes requiring the protection of new types of information can be addressed, understood and agreed on within a framework of constitutional consensus.

The Committee stresses that these questions remain to be decided by the Congress and the executive jointly:

- What should be regarded as a national secret?
- Who determines what is to be kept secret?
- How can decisions made in secret or programs secretly approved be reviewed?

Two great problems have confronted the Committee in carrying out its charge to address these issues:

The first is how our open democratic society, which has endured and flourished for 200 years, can be adapted to overcome the threats to liberty posed by the continuation of secret government activities. The leaders of the United States must devise ways to meet their respective intelligence responsibilities, including informed and effective congressional oversight, in a manner which brings secrecy and the power that secrecy affords within constitutional bounds.

For the executive branch, the specific problem concerns instituting effective control and accountability systems and improving efficiency. Many aspects of these two problem areas which have been examined during the Committee's inquiry of intelligence agencies are addressed in the recommendations in Chapter XVIII. It is our hope that intelligence oversight committees working with the executive branch will develop legislation to remedy the problems exposed by our inquiry and described in this report. The Committee has already recommended the creation of an oversight committee with the necessary powers to exercise legislative authority over the intelligence activities of the United States.

It is clear that the Congress must exert its will and devise procedures that will enable it to play its full constitutional role in making policy decisions concerning intelligence activities. Failure to do so would permit further erosion of constitutional government.

This Committee has endeavored to include in its final public report enough information to validate its findings and recommendations. Most of the inquiry and the documentation obtained by the Committee, particularly that concerning foreign and military intelligence, is of a highly classified nature. Determining what could and should be revealed has been a major concern.

In a meeting with President Ford at the outset of our inquiry in February 1975, the Committee agreed not to disclose any classified information provided by the executive branch without first consulting the appropriate agencies, offices and departments. In the case of objections, the Committee agreed to carefully consider the Executive's reasons for maintaining secrecy, but the Committee determined that final decisions on any disclosure would be up to the Committee.

The Select Committee has scrupulously adhered to this agreement. The Interim Report on Alleged Assassination Plots Involving Foreign Leaders, the report on CIA activities in Chile, the report on illegal NSA surveillances, and the disclosures of illegal activities on the part of FBI COINTELPRO, the FBI's harassment of Dr. Martin Luther King, Jr., and other matters revealed in the Committee's public hearings, were all carefully considered by the Committee and the executive branch working together to determine what information could be declassified and revealed without damaging national security. In those reports and hearings, virtually all differences between the Committee and the Executive were resolved. The only significant exception concerned the release to the public of the Assassination Report, which the executive branch believed would harm national security. The Committee decided otherwise.

Some criteria for defining a valid national secret have been agreed to over the past year. Both the Committee and the executive branch now agree that generally the names of intelligence sources and the details of sensitive methods used by the intelligence services should remain secret. Wherever possible, the right of privacy of individuals and groups should also be preserved. It was agreed, however, that the details of illegal acts should be disclosed and that the broad scope of United States intelligence activities should be sufficiently described to give public reassurance that the intelligence agencies are operating consistent with the law and declared national policy.

The declassification working procedures developed between this Committee, the CIA and other parts of the intelligence community constitute the beginnings of agreed, sound and sensible methods and criteria for making public matters that should be made public. This disclosure process is an important step toward achieving the national consensus required if our intelligence system is to enjoy essential public support.

There is a clear necessity, after thirty years of substantial secret activities, for public debate and legislative decisions about the future course of our intelligence system. This report is intended to assist the Senate, the Congress, and the country in making the vital decisions that are required to be made in the coming years.

This section of the Final Report focuses on the departments and agencies engaged in foreign and military intelligence. The Committee's findings, conclusions, and recommendations in these areas can be found in Chapter XVIII.