101ST CONGRESS
2d Session

SENATE

REPORT
101-236

REPORT

OF THE

SELECT COMMITTEE ON INTELLIGENCE
UNITED STATES SENATE

JANUARY 1, 1985 TO DECEMBER 31, 1986

JANUARY 29 (legislative day, JANUARY 23), 1990.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
39-010 WASHINGTON : 1990

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

SELECT COMMITTEE ON INTELLIGENCE

(Established by S. Res. 400, 94th Cong., 2d sess.)

MEMBERSHIP 99TH CONGRESS

DAVE DURENBERGER, Minnesota, *Chairman*
PATRICK LEAHY, Vermont, *Vice Chairman*

WILLIAM V. ROTH, JR., Delaware
WILLIAM S. COHEN, Maine
ORRIN HATCH, Utah
FRANK MURKOWSKI, Alaska
ARLEN SPECTER, Pennsylvania
CHIC HECHT, Nevada
MITCH McCONNELL, Kentucky

LLOYD BENTSEN, Texas
SAM NUNN, Georgia
THOMAS F. EAGLETON, Missouri
ERNEST F. HOLLINGS, South Carolina
DAVID L. BOREN, Oklahoma
BILL BRADLEY, New Jersey

ROBERT DOLE, Kansas, *Ex Officio*
ROBERT C. BYRD, West Virginia, *Ex Officio*

BERNARD F. MCMAHON, *Staff Director*
ERIC D. NEWSOM, *Minority Staff Director*
DOROTHEA ROBERSON, *Clerk*

PREFACE

The Senate Select Committee on Intelligence submits to the Senate a report of its activities from January 1, 1985, to December 31, 1986. The Committee has been charged by the Senate with the responsibility of carrying out oversight over the intelligence activities of the United States. Most of the work of the Committee is, of necessity, conducted in secrecy, yet the Committee believes that intelligence activities should be as accountable to the public as possible. This public report to the Senate is intended to contribute to that requirement.

DAVID L. BOREN,
Chairman.
WILLIAM S. COHEN,
Vice Chairman.

CONTENTS

	Page
Preface	III
I. Introduction	1
II. Main Efforts of the Committee	2
A. National Intelligence Strategy	2
B. Counterintelligence and Security	3
1. Meeting the Espionage Challenge	4
2. Hostile Intelligence Presence	5
3. Other Legislative Initiatives	6
4. Budget Initiatives	7
C. Oversight of Intelligence Operations	7
1. Covert Action Oversight	7
2. Covert Action and the National Intelligence Strategy	8
3. The Evaluation of Covert Action Programs	8
4. Issues in Covert Action Oversight	9
5. Procedures for Executive Branch Reporting on Covert Action Programs	10
6. The Iran/Contra Affair	11
7. Oversight of Sensitive Intelligence Collection Operations	13
8. Combatting International Terrorism	13
D. Intelligence Personnel Policies	13
E. Intelligence, Events, and Issues of Concern	14
1. Crisis in the Philippines	14
2. Arms Control Monitoring	15
3. Nicaragua and Central America	16
4. Allied Intelligence Relations	17
5. Strategic Forces and Defense Acquisition	17
6. Technology Transfer to China	18
Appendix I. Summary of Committee Activities	21
A. Total number of meetings/hearings	21
B. Bills and Resolutions originated by the Committee	21
C. Publications from January 1, 1985 to December 31, 1986	22

101ST CONGRESS
2d Session

SENATE

REPORT
101-236

OVERSIGHT OVER INTELLIGENCE ACTIVITIES

JANUARY 29 (legislative day, JANUARY 23), 1990.—Ordered to be printed

Mr. BOREN, from the Select Committee on Intelligence, submitted the following

REPORT

I. INTRODUCTION

By a vote of 72 to 22, the Senate established the Select Committee on Intelligence on May 19, 1976. Section 1 of that Resolution states that the Committee would "report to the Senate concerning * * * intelligence activities and programs" of the United States Government. In accordance with this provision, the Committee has prepared an unclassified report at the conclusion of each Congress which summarizes the oversight activities during that Congress.

The Committee feels it is important to enhance the public's confidence in U.S. intelligence oversight through a comprehensive process of Congressional oversight of the Intelligence Community's activities. Since so much of our work is conducted in secret, the job of reporting to the Senate and the nation is far more difficult than is the task of other oversight committees of the Congress.

The Committee continued to increase its oversight activities during the 99th Congress, ending the year with the preliminary investigation into the Iran-Contra affair. These 47 hearings consumed 103 hours. The Committee then issued its unclassified report entitled "Preliminary Investigation into the Sale of Arms to Iran and Possible Diversion of Funds to the Nicaraguan Resistance" during the 100th Congress. Two unclassified reports were also published during the 99th Congress. The first, dealing with counterintelligence, was entitled "Meeting the Espionage Challenge"; the second covered the special events in the Philippines and was called "Crisis in the Philippines." The following pages go into some detail on the primary issues that came before the Committee during the two years of the 99th Congress.

39-010

II. MAIN EFFORTS OF THE COMMITTEE

IIA. NATIONAL INTELLIGENCE STRATEGY

As part of its review of current Intelligence Community programs and the long-range planning by the Director of Central Intelligence, the Committee worked with the Intelligence Community (IC) in 1985 and 1986 to develop a National Intelligence Strategy.

The Committee intended the Intelligence Strategy to be a statement by the DCI outlinig his vision for U.S. intelligence. This statement was to include a listing of the missions the IC had assumed; the priority the DCI assigned to each mission; and the DCI's plans for meeting these missions.

The National Intelligence Strategy was intended to improve congressional oversight of intelligence. Although the IC has provided Congress extensive documentation on the operation of many individual programs, no previously existing document explained to the Members of the Committee how these individual programs fit together to serve the total national intelligence requirements. Committee Members have recognized the need for a comprehensive statement by the DCI explaining his objectives and goals along with the individual programs proposed to Congress.

The National Intelligence Strategy also strengthens planning within the Intelligence Community by making clear to program managers within the community the priority of their missions in an increasingly tight fiscal environment. The long-range perspective of the Strategy encourages planning that places intelligence investments on a prudent, efficient course for the years ahead.

Beginning in May, 1985, the Committee held hearings at which major intelligence consumers testified on the pluses and minuses of the current product of the IC with an emphasis on how their needs could be better served in the future. The witnesses ranged from principals representing the Departments of State and Defense, commanders of the unified and specified commands, designers and operators of intelligence systems, to members of the IC management team.

As a result of these hearings and many staff discussions with the Intelligence Community, the Committee's requirement for a National Intelligence Strategy was included in the Fiscal Year 1986 Intelligence Authorization Conference Report. Although the draft of the first Strategy was circulated among leading officials within the IC, the final version, presented to the Committee in February, 1986, can be considered the DCI's personal statement of what the aims and goals of the U.S. Intelligence Community should be.

Since the Strategy was included with the FY 1987 budget request, the Committee was able to use it as part of the annual budget review. Matching the National Foreign Intelligence Program to the missions defined in the National Intelligence Strategy, the Committee examined the effect of a number of budget scenarios, each with a different level of fiscal constraints, on the ability of the IC to carry out each mission. The Committee Members were thus able to make their decisions on individual programs based on both the available resources and the priorities of the Intelligence Community.

As a result of this review, Members were able to identify how specific shortfalls caused by the fiscal crisis would be felt in such areas as monitoring various kinds of arms control agreements, developing and maintaining a data based on the weapons and military forces of foreign powers, intelligence on international economic and political conditions, indications and warning, and U.S. counterintelligence programs.

The Committee is greatly pleased with the response of the DCI to the request for a National Intelligence Strategy. But the process of developing a Strategy will require several years to mature and become fully integrated into the planning of U.S. intelligence. The Committee therefore included a request in the Classified Annex of the FY 1987 Intelligence Authorization bill that the DCI continue to include his National Intelligence Strategy as part of his annual budget request.

The DCI has indicated that he believes the details of the National Intelligence Strategy must be fleshed out over time and has outlined to the Committee his plans to develop the Strategy. These plans include preparing a series of Intelligence Strategic studies which will show how each mission will be carried out and the contribution specific programs make to it. These studies will address some of the concerns raised by the Committee in its review of the first Strategy.

In addition, the Committee has requested that the DCI, in preparing the FY 1988 National Intelligence Strategy, include sections explaining the demands that will be imposed on national intelligence by weapons programs currently under development by the Department of Defense and certain operations currently included within U.S. defense planning.

The Members of the Committee believe that the National Intelligence Strategy complements other initiatives underway within the Senate to improve congressional oversight in general. For example, this year Congress enacted a two-year budget cycle for defense programs, beginning in the 100th Congress. This effort reflects the belief of many Members that Congress works best when it addresses broad issues of a strategic nature, rather than trying to "micromanage" individual programs piecemeal. The aims of the National Intelligence Strategy are similar and will reinforce the development of this type of oversight.

IIB. COUNTERINTELLIGENCE AND SECURITY

During 1985 and 1986, the Committee conducted a comprehensive review of U.S. counterintelligence and security countermeasures against hostile intelligence activities, including in-depth examination of the most serious espionage cases and security compromises. This review began before the Walker case and other espionage prosecutions focused public attention on the Soviet intelligence threat. The Committee issued a public report entitled "Meeting the Espionage Challenge." This provided an unclassified analysis of the hostile intelligence threat and the Committee's unclassified findings and recommendations regarding U.S. counterintelligence capabilities and security programs. A more detailed, classified report was submitted to the Senate and made available to the

Executive branch. In addition, the Committee proposed a series of legislative and budgetary initiatives on counterintelligence and security.

To inform the Senate and the public about a significant counterintelligence problem, the Committee issued a report, "Soviet Presence in the U.N. Secretariat," prepared by elements of the U.S. intelligence community.

Counterintelligence and security issues also remained an important part of the Committee's ongoing oversight of the Intelligence Community generally, including review of compliance with the Foreign Intelligence Surveillance Act and other laws and guidelines designed to ensure proper respect for the rights of the American people by agencies entrusted with sensitive national security responsibilities.

1. Meeting the Espionage Challenge

In June 1985, shortly after the initiation of the Committee's review of counterintelligence and security programs, the Walker arrest and attendant disclosures engendered a proposal for a National Commission on Espionage and Security. In response, the Committee pledged to prepare a report to the Senate on the results of its study, and the Administration agreed to cooperate with the Committee's inquiry. The outcome was a unique collaborative effort in which the relevant agencies made information and expertise available to the Committee, while the Administration structured a decision process to address issues identified by the Committee.

The Committee's report revealed that the hostile intelligence threat is more serious than anyone in the Government has yet acknowledged publicly. In making this assessment, the Committee benefited from recent studies conducted by the Executive branch, including DOD'S Security Review Commission, chaired by General Richard G. Stilwell, USA (Retired), and the State Department's Advisory Panel on Overseas Security, chaired by Admiral Bobby R. Inman (Retired). Executive branch experts and policymakers testified in 16 closed hearings on specific counterintelligence cases and the current state of U.S. programs to counter hostile intelligence activities. Committee recommendations were drawn primarily from internal Executive branch studies and other ideas developed at the working level in the various agencies.

The Intelligence Authorization Act for fiscal year 1986 required the President to submit to the House and Senate Intelligence Committees a report on U.S. capabilities to counter the foreign intelligence threat, including plans for improvements in such. To assist the Committee's work, the conferees on the Act requested an interim report which paralleled an interim report prepared by the Committee. The exchange of these reports in early 1986 greatly facilitated the process of reaching agreement on policy issues. The President's final report, which was received after completion of the Committee's report, is serving as an important benchmark of the progress achieved thus far and the goals that have been set by the Executive branch.

In brief, the Committee found that as a result of significant improvements in recent years, the Nation's counterintelligence struc-

ture is fundamentally sound, although particular elements need to be strengthened. The Executive branch and the Committee agreed on the importance of developing and implementing a coherent national counterintelligence strategy that integrates the work of the FBI, the CIA, and the Departments of State, Defense and Justice. The Committee expects this strategy to play a major role in its oversight of U.S. counterintelligence efforts in the future.

By contrast, the Committee concluded that defensive security programs lack the resources and national policy direction needed to cope with expanding hostile intelligence operations. Personnel security policies are fragmented, information security reforms are overdue, and communications and computer security vulnerabilities are growing. Consequently, the Committee recommended creation of a new, more permanent national policy mechanism to coordinate and foster the protection of information and activities having the greatest strategic importance. The Committee called on the Administration to establish by Executive Order a National Strategic Security Program to bridge the gaps between the various security disciplines.

Additional specific Committee recommendations addressed the lessons of recent espionage cases, improvements in security countermeasures, and legislative and budgetary actions needed to implement national counterintelligence and security objectives. The report provides a set of standards for ongoing assessment of Executive branch performance and for initiatives by the Legislative branch in the 100th Congress.

2. Hostile Intelligence Presence

A series of legislative recommendations by the Committee in 1985–86 addressed problems resulting from the large number of Soviet bloc officials and representatives in the United States, including embassy and consular personnel, employees of United Nations missions and the U.N. Secretariat, and officials of bloc-controlled commercial enterprises. In 1985, the Committee recommended, and the Congress enacted, a proposal by Senators Leahy and Cohen to require substantial equivalence between the number of Soviets at their embassy and consulate in the United States and the number of Americans at our embassy and consulate in the Soviet Union, unless the President makes an exception. The Committee also reported a proposal by Senator Roth which, as enacted and implemented, restricts unofficial travel by Soviet nationals employed at the U.N. Secretariat.

In 1986, the Committee recommended three additional legislative initiatives in this field. A proposal by Senators Durenberger and Leahy amended the Foreign Missions Act to enable the Office of Foreign Missions in the State Department to regulate any entity which is substantially owned or effectively controlled by a foreign government, such as Soviet bloc-owned commercial enterprises. A proposal by Senator Roth requires registration with the Justice Department by Soviet-bloc owned firms and others convicted of illegal technology export. And, a proposal by Senators Leahy and Cohen established a policy of substantial equivalence for the size of the Soviet and U.S. missions to the United Nations, thereby giving a Congressional sanction to the Administration's plan for reducing

the size of the Soviet mission from 275 to 170 over a three-year period.

Committee consideration of these issues was assisted by two reports submitted by the Executive branch: the first annual report from the President pursuant to the Leahy-Huddleston amendment of 1984 on the respective numbers and treatment of officials from countries that conduct intelligence activities in the United States contrary to our interests and numbers and treatment of U.S. officials in those countries; and a report from the Secretary of State and the Attorney General pursuant to the Leahy-Cohen amendment of 1985 on the plan to achieve equivalence between the number of U.S. and Soviet embassy and consular personnel.

3. Other Legislative Initiatives

The Intelligence Authorization Acts for FY 1986 and FY 1987 contained other statutory provisions to enhance U.S. counterintelligence and security efforts. In response to Members' questions during the Committee's review of FBI counterintelligence capabilities, FBI Director William Webster described the problems the FBI has in certain areas of the country in obtaining access to financial records and telephone toll records in counterintelligence investigations. To remedy these problems, the Committee reported legislation in 1986 giving the FBI the authority to require financial institutions and communications to provide access to such records. The legislation also established privacy safeguards limiting the exercise of this authority to cases where specific and articulable facts give reason to believe that the subject of the investigation is an "agent of a foreign power," as defined in the Foreign Intelligence Surveillance Act of 1978. This standard is substantially less stringent than the probable cause requirement for more intrusive electronic surveillance techniques, but there must be an objective, factual basis for the determination.

In 1985, the Committee cooperated with the Senate Armed Services Committee on legislation giving the Department of Defense, the Office of Personnel Management, and the CIA the authority to require state and local criminal justice agencies to provide criminal history record information about individuals who consent to undergo security background investigations. Difficulties in obtaining such records for security clearance purposes had surfaced earlier in hearings before the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs. The Chairman and Ranking Minority Member of that Subcommittee, Senators Roth and Nunn, brought this problem to the attention of the Intelligence Committee on which they also serve. In 1986, legislation was reported by the Committee to give the FBI the same authority for its security background investigations.

Another Committee initiative gave the counterintelligence components of the military departments the authority to use the proceeds from counterintelligence operations to offset necessary and reasonable expenses incurred in such operations, if such use was not otherwise prohibited by law. This authority was granted on a one-year trial basis in 1985 and in permanent form with requirements for internal accounting and administrative controls in 1986.

4. Budget Initiatives

The budgets for most of the counterintelligence and security programs under Committee jurisdiction are classified. The Committee's general approach to these budgets in 1985–86 was to support Administration requests and to find specific activities that had been underfunded and provide increases above the Administration request to remedy these deficiencies. The Committee's comprehensive hearings on counterintelligence and security requirements supplied a basis for significant resource enhancement proposals.

Two of these initiatives were unclassified and dealt with communications security and Defense Department personnel security programs that are outside the DCI's National Foreign Intelligence Program budget. The Committee decided to review the budgets for these programs because they are an integral part of U.S. countermeasures against hostile intelligence activities and because they supply the security protection for Defense Department intelligence components funded in the National Foreign Intelligence Program.

For FY 1987 the Committee recommended $129 million above the Administration request for communications security. The majority of the funds were for the first year of a five-year plan, developed by the National Security Agency in response to Congressional concerns, to encrypt sensitive domestic communications satellite channels. The aim of this initiative was to neutralize the Soviet ability to intercept, monitor and exploit domestic communications carried over satellite channels. These operations are being conducted from bases in Lourdes, Cuba and elsewhere.

The Committee also recommended $22 million above the FY 1987 request for Defense Department personnel and industrial security programs. These funds were to implement the recommendations of the Stilwell Commission for broadening the scope of background investigations for Secret clearances, improving processing of criminal history data for security clearances, safeguarding interim Top Secret clearances, expanding training and research by the DoD Security Institute, and increasing staff for OSD policy direction and oversight.

In 1985, Senator Bentsen proposed, and the Senate accepted, an increase in the FBI budget for domestic terrorism to remedy persistent shortfalls.

IIC. OVERSIGHT OF INTELLIGENCE OPERATIONS

1. Covert Action Oversight

In the area of covert action, as provided by Executive Order 12333, Senate Resolution 400 (94th Congress), Title V of the National Security Act of 1947 and Section 662 of the Foreign Assistance Act of 1961 (the Hughes-Ryan amendment, as revised in 1980), the Committee received detailed reports and heard testimony on covert action programs before implementation—with one important exception, the Iran arms sales program—and actively monitored the progress of those programs about which it was informed. Under the provisions of Senate Resolution 400, the Committee also provided briefings on some programs to members of other committees with an interest in these matters. Given the sensitivity of information regarding specific covert action programs and capabilities and the

Presidential findings submitted to the Committee, this report does not discuss the substance of these matters.

Covert action oversight was a major activity of the Committee during the 99th Congress, and certain programs were modified by the Executive branch to take into account the Committee's views. The Committee also reviewed covert action programs during the annual budget authorization process, and continued its practice of annually reviewing each covert action line-item in the budget process.

2. Covert Action and the National Intelligence Strategy

When the Director of Central Intelligence submitted the first National Intelligence Strategy to the Committee in 1986, he also submitted a separate annex covering covert action capabilities. This document first outlined the increasing challenges that the DCI felt would require a U.S. Government response over the coming years and then indicated what types of covert action capabilities were warranted in light of the DCI's estimate that policy makers would call increasingly upon the CIA to mount covert efforts to meet those challenges.

The covert action annex was important because it was the first effort to present a systematic rationale to the Committee for future covert action capabilities. The Committee used this as a basis for its consideration of CIA budget proposals relating to the funding of those capabilities. The Committee was also able to consider the credibility of the DCI's more general discussion of challenges to the United States, and how closely that discussion coincided with actual (current or planned) covert action programs.

The covert action annex to the National Intelligence Strategy was but a first attempt, and more refined analysis was clearly called for. But the annex marked a significant step forward from purely event-driven analyses of the need for individual covert action programs or purely theoretical discussions of covert action capability requirements.

3. The Evaluation of Covert Action Programs

While the covert action annex to the National Intelligence Strategy could help structure the Committee's consideration of long-term covert action needs and capabilities, the Committee also recognized shortcomings in its consideration of new covert action programs. Members of the Committee therefore discussed this problem and developed a set of criteria by which to judge these programs. These criteria were as follows:

Foreign Policy Context

1. What is the purpose of the program, and how will it support U.S. policy?
2. How will the covert program work in concert with other arms of U.S. policy?

Regional and Geopolitical Context

3. What is the role of other nations in the region and of major U.S. allies? Are they aware of the program? Will they support

it? If they are not to be aware of the program, would they support it if they were?

4. What other outside influences are at work in the country or the region, particularly from the Soviet bloc or Cuba?

Nature of Those We Support

5. What are the strengths and weaknesses of groups or individuals whom we support? How viable are they politically and/or militarily? What is the quality of their leadership, organization, equipment, training, or discipline?

6. What is the character of those whom we support? Do they support democratic processes and human rights? Do they refrain from criminal activity? Have they traditional or historical sources of appeal—or baggage to carry?

7. What are the goals of those whom we support? How consistent are they with U.S. goals? How attainable are they?

Nature of the Program

8. What level of activity will be supported, and what level of covert U.S. involvement will be required? Will those whom we support be engaged in political activity? counterterrorist operations? counterinsurgency? guerrilla warfare? Will the program provide funds? advice? training? non-military goods? military materiel? Will U.S. personnel participate in military or paramilitary operations?

9. How attainable is ultimate success, and what fall-back positions will be available? How long is the program expected to last, and what milestones have been established for it?

10. What risks does this program entail, and what actions will be open to the United States in that event?

11. How important is it that this program be covert, and how likely is it to remain secret? If it were to become known, could it be justified under international law?

This set of criteria was communicated to the Executive branch, so that presentations of individual new programs to the Committee could be structured to answer the Committee's expected questions. The Committee also instructed its staff to ensure that these questions were raised in staff briefings and presented to Members in the briefing materials for hearings on new covert action programs.

4. Issues in Covert Action Oversight

Two issues related to covert action oversight became topics of public discussion during the 99th Congress. The first was the problem of how to oversee covert action programs that had become public knowledge. The CIA's role in assisting the Nicaraguan resistance had been reported in the press, to a greater or lesser degree, since the early 1980s. Beginning in 1984, however, it became the subject of substantial open debate and votes in Congress. In the 99th Congress, the Committee presented the Executive branch with a choice: keep covert action programs secret, and enjoy the benefits of secret congressional consideration; or publicize them, but accept the fact that then such programs would be seen as fit for discussion and action in other, more open committees and on the floor of the Senate.

U.S. assistance to the Nicaraguan resistance continued to be a major issue in the 99th Congress. The Committee continued to oversee much of this assistance, as is discussed elsewhere in this report, but did not support the proposition that one could return the program to its former relative secrecy.

The Committee also pressed the Executive branch to stem the flow of leaks alleging covert action programs. In November of 1985, a letter from the Director of Central Intelligence, accusing the Intelligence Committees of being the source of one press story, was itself leaked to the press. Although it was quickly determined that the press story had been based upon material that the committees did not possess, the accusation continued to be used in political debate. The Committee responded by calling attention to subsequent presss stories on secret intelligence matters that were clearly sourced to the Executive branch.

The second issue related to covert action was the question of whether paramilitary operations—especially counterterrorist operations—would always be subject to timely congressional oversight. The Chairman and Vice Chairman raised this issue in speeches that noted a possible gap in coverage between the Intelligence Oversight Act of 1980 and the War Powers Resolution of 1973. The Committee also invited legal experts from the Executive branch to discuss this question on an informal basis. This exercise helped both the Committee counsels and their counterparts in various agencies to clarify the issues involved. After a promising start, however, the Executive branch declined to participate in further meetings that might have led to joint, informal recommendations.

5. Procedures for Executive Branch Reporting on Covert Action Programs

On June 6, 1984, the Committee and the DCI signed an agreement regarding the timing and content of Executive branch reporting of covert action information to the Committee. That agreement included a joint commitment to review those procedures a year later "to assess their effectiveness and their impact on the ability of the DCI and the Committee to fulfill their respective responsibilities." Such a review began in the summer of 1985 and lasted nearly a year.

On June 17, 1986, the Committee and the DCI reached agreement on an addendum to the reporting procedures of 1984. This addendum made clear that the DCI's reporting responsibilities extended not only to new covert action programs, but also to significant activities or developments in ongoing programs. It went on to state that for covert paramilitary programs, such developments would include, inter alia: the first decision to supply significant military equipment; any significant change in the quantity or quality of equipment provided; and any significant change in the level of participation of U.S. Government, contractor or agent involvement.

The addendum also provided that the Committee would be told if a covert action program were to involve nonroutine foreign participation or participation by agencies other than the one designated by the President to direct the program (which is usually the CIA). Another provision specified that "the Committee wishes to be in-

formed if the President ever decides to waive, change, or rescind any Executive Order provision applicable to the conduct of covert action operations."

Further provisions of the addendum covered any case in which the President determined to notify (on the Senate side) only the Chairman and Vice Chairman of the Committee and the Majority and Minority Leaders of the Senate, pursuant to section 501(a)(1)(B) of the National Security Act of 1947, rather than providing prior notice to the full Committee. These provisions made clear that the reason for using this section must be indicated and that, while the Chairman and Vice Chairman would help the DCI locate the Majority and Minority Leaders, the DCI would retain the obligation to find and inform them of the program.

At the DCI's request, the addendum also included the following provisions:

> The Committee and the DCI recognize that the understandings and undertakings set forth in this document are subject to the possible exceptional circumstances contemplated in section 501 of the National Security Act.

Section 501 of the National Security Act is also known as the Intelligence Oversight Act of 1980. It includes a preambular clause that conditions the DCI's reporting obligations:

> SEC. 501. (a) To the extent consistent with all applicable authorities and duties, including those conferred by the Constitution upon the executive and legislative branches of the Government, and to the extent consistent with due regard for the protection from unauthorized disclosure of classified information and information relating to intelligence sources and methods * * *.

When the Committee and the DCI signed the 1986 addendum to the 1984 procedures for covert action reporting, the Members of the Committee were unaware that the DCI had been withholding notice of a Presidential covert action finding—on the Iran arms sales—for five full months. Another five months would pass and a scandal would begin to unfold before the DCI would come before the Committee and testify on this matter.

6. The Iran/Contra Affair

The Committee first learned of the Iran/Contra affair the same way that the rest of America learned of it: through press stories and Presidential statements in early November, 1986, leading to the Attorney General's press conference of November 25, 1986. On November 21, 1986, the Director of Central Intelligence testified to the Committee in closed session—misleadingly, it would later be learned—on the Iran arms sales covert action program, knowledge of which had been withheld from the Committee for ten months since the signing of the Presidential finding that authorized it.

The Committee moved on December 1 to take testimony from as many relevant witnesses as could be located and to secure and collect documentation that would later be made available to the Senate Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition. Fifteen subpoenas were issued, and a

total of 36 witnesses gave testimony in closed session. The testimony of some witnesses was eventually found to have been incorrect in important respects. The Committee later presented the details of these matters to the Independent Counsel and, as appropriate, to other Committees of the Senate.

Thousands of pages of documents were gradually provided to the Committee, which undertook the first congressional effort to compile, collate and analyze that massive record. The Committee attempted to complete this analysis and write a report to the Senate before the end of the 99th Congress—a mere five weeks after it began its inquiry. On the last day of the 99th Congress, the Committee voted not to release its draft report. Work continued for another four weeks, and the report was transmitted to the Senate Iran/Contra Committee on January 27, 1987. The President's Special Review Board, popularly known as the Tower Commission, was appointed the same day that the Committee began its inquiry. Its report was issued some four weeks after the Committee's report.

In the wake of the Iran/Contra affair, many questions were raised regarding the clarity of the Intelligence Oversight Act of 1980 and the role of congressional oversight of covert actions. Certainly Congress had not anticipated that the President could assert that a 10-month delay was notice "in a timely fashion" to the Committee.

But it is important to distinguish the debate over the legal niceties of notice to Congress from the more general question of whether congressional oversight is warranted or effective. Had the Select Committee on Intelligence been briefed on the Iran arms sales covert action program, it would have learned that the Secretaries of State and Defense opposed that program. Significant debate would have ensued, and the Committee might well have convinced the President to cancel or to significantly modify the program. And certainly it would not have permitted the Executive branch to establish a covert action capability that was funded out of proceeds from one program that were put at the disposal of private citizens for use in efforts that Congress had forbidden the U.S. Government to support.

When top Executive branch high officials decided to embark on this unwise course, they kept professional intelligence personnel from knowing its full extent and prevented the Select Committee on Intelligence learning about it at all. It was possible for these officials to hide their actions from proper scrutiny, but only by stretching and, at least in some cases, violating the law. Thus, the existence of congressional oversight forced officials either to allow more careful consideration of their plans, or to accept the risk of the very scandal and subsequent legal proceedings that eventually took place. By raising the risks associated with such unwise actions, congressional oversight may well have forestalled other unwise or improper projects. And in the particular case of Iran/Contra, the fact that officials had chosen to hide from this oversight made amply clear the unwisdom and impropriety of their plans and actions.

To the best of the Committee's knowledge, the Iran arms sales program was the only covert action since the enactment of the In-

telligence Oversight Act of 1980 of which the Committee was not notified before implementation.

7. Oversight of Sensitive Intelligence Collection Operations

Although the Committee's efforts to oversee covert action operations are sometimes its most visible activities, much of its work concerns intelligence collection. Particularly through the budget authorization process, the Committee continued in the 99th Congress its efforts to promote efficient and effective intelligence collection. One major goal of the National Intelligence Strategy exercise was to enable the Director of Central Intelligence to make the difficult trade-offs between competing intelligence collection programs that were made necessary by the high cost of advanced technical systems.

The Committee also continued to oversee particular intelligence collection operations that were of a sensitivity similar to that of covert action programs. In one instance during the 99th Congress, the Committee felt that Executive branch officials had undertaken a sensitive operation without properly informing the Committee, despite their awareness that the particular operation was a matter of Committee interest. This instance was an aberration in a history of close but supportive oversight; the Committee and the Executive branch readily agreed on steps to avoid such occurrences in the future.

8. Combatting International Terrorism

In addition to raising the issues of congressional oversight discussed above, the Committee was an active participant in the work of the Vice President's Task Force on Combatting Terrorism. Two Members of the Committee were among the nine Senators and Representatives who met with the Vice President on September 17, 1985, to initiate discussions with the Task Force, and they gave the Task Force a message from the Committee that set forth several areas in which it might contribute ideas and share information. Several sessions were held between Committee staff and the staff of the Task Force, led by Admiral James Holloway, III, and the Committee submitted an extensive set of classified issue papers. These covered such areas as problems in intelligence coordination, the needs of counterterrorist elements of the U.S. armed forces for tactical intelligence on a timely basis, and the need to protect sensitive intelligence sources and methods when making a case against particular terrorist groups or states supporting such groups. The Committee considered its fruitful collaborative efforts with the Task Force a good example of how the two branches of government can focus on shared areas of common concern.

IID. INTELLIGENCE PERSONNEL POLICIES

In the National Foreign Intelligence Strategy, DCI William Casey noted that "our people are our greatest asset"; however, in a hearing on long-range personnel needs, Director Casey and other Intelligence Community (IC) witnesses outlined challenges of attracting and retaining quality people.

Against a backdrop of an increasing number of intelligence customers in government and growing demands for a greater quantity of more specific military, political and economic information, the IC is encountering a growing trend of a smaller qualified labor pool, intense competition from industry, and a negative perception of the attractiveness of federal service. In July, 1986, the Committee initiated a first-ever staff review of the IC's ability to recruit and retain quality personnel for the remainder of this decade and through the 1990's.

The Committee strongly believes that capable intelligence personnel are integral to national security and the linchpin to accomplishing the plan in the National Foreign Intelligence Strategy. The Committee staff has been directed to focus its review on each agency's current and planned personnel goals, policies and programs which support the key intelligence functions of human intelligence collection, counterintelligence, development and operation of technical intelligence collection systems and analysis. The ultimate aim of the Committee is to assess whether the Intelligence Community will possess the personnel capabilities required to perform these functional missions in the years ahead. A second aim is to determine what personnel policies, programs and legislative initiatives are required to ensure that U.S. Intelligence agencies are fully prepared to serve U.S. national security needs.

The following personnel policies and practices of the CIA, DIA, NSA, State's INR and FBI's Counterintelligence Division for each mission function are included in the review: planning; recruitment and selection; training; pay and benefits; retention; human resource management; and contracting out.

The Committee is expected to continue this analysis and work toward possible solutions in the 100th Congress.

IIE. INTELLIGENCE, EVENTS AND ISSUES OF CONCERN

1. The Philippines

Members of the Committee shared with other Senators a growing concern about events in the Philippines. Their sense of urgency was heightened by access to a succession of intelligence reports that painted an increasingly pessimistic picture of the Philippine situation—a venal and inept government confronted with a rapidly growing Communist-led insurgency.

Responding to these concerns, the Committee sent a staff delegation to obtain first-hand impressions of the situation in August-September, 1985. The delegation met with a variety of people, American and Filipino, and traveled to Cebu and Mindanao in addition to Manila.

Drawing upon informatioin and impressions gathered on the trip as well as on finished intelligence, the delegation produced a classified report for the Committee analyzing Philippine conditions and reviewing the activities and output of appropriate U.S. intelligence agencies. In addition, the Committee took the somewhat unusual step of directing the staff to produce an unclassified version for the public.

The Committee's decision was based on a judgment that the Philippine problem had become a major issue for U.S. policymakers, in-

cluding the Congress, and that the Committee had unique information and insight which should be shared with other Members of Congress and the general public.

Among the conclusions of the unclassified report, issued on October 21, 1985, were the following:

The U.S. has major political and strategic interests in the Philippines that are imperiled by a rapidly growing Communist insurgency.

The Communist-led New People's Army (NPA) has grown from a minor presence in the 1970's to an estimated 30,000 armed regular and irregular guerrillas.

The NPA holds the military initiative and with the Communist Party of the Philippines (CPP) controls or is contesting control of settlements inhabited by at least 10 million people.

The rapid expansion of the CPP/NPA is largely attributable to its skillful exploitation of popular grievances against a political and economic system characterized by extreme corruption and the concentration of power and wealth in the hands of a narrow oligarchy.

The Philippine economy is in desperate straits with a declining GNP, widespread unemployment, and a huge burden of debt to foreign creditors.

Manila's response to the NPA has been inept; the Philippine Armed Forces suffer from an inadequate budget, shortages of supplies and equipment, poor logistics and medical care, and a corrupt and politicized senior officer corps.

Popular political support for the Marcos regime fell sharply following the assassination of Marcos' principal political opponent, Benigno Aquino.

Hopeful elements in the situation include an increasingly active political opposition led by Aquino's widow, Cory; a nationwide grassroots organization dedicated to insuring honest elections; a cadre of reformist officers in the middle ranks of the Armed Forces; and a well organized and well led Catholic Church.

Subsequent events, notably the failure of the Marcos regime to command majority support at the polls, the effort to rig the vote, and the popular uprising, triggered by reform elements in the Armed Forces and supported by the Church, demonstrated the validity of these conclusions.

2. Arms Control

The Committee receives from the Intelligence Community and various arms control agencies periodic reports on Soviet military activities relevant to a range of arms limitation agreements and ongoing arms control talks. Pursuant to its obligations under Senate Resolution 400 (94th Congress), the Committee has continued to report such developments to other relevant committees, and to individual Senators. During the past two years, the staff has actively monitored Soviet activities of concern to: SALT I; the unratified but observed SALT II; the ABM Treaty; the Nuclear Threshhold Test Ban Treaty; the Geneva Protocol on Chemical Weapons and the Biological Weapons Convention; the ongoing Mutual and Balanced Force Reduction Talks (Vienna); the ongoing Conference on Disarmament in Europe (Stockholm); and the U.N. Committee on Disarmament (Geneva).

The resumption of U.S.-U.S.S.R. negotiations last year in Geneva posed new challenges for the Committee because of the broad range of the Nuclear and Space Talks (NST). These include strategic offensive forces, intermediate-range forces, space and defense forces. The Committee received testimony from Secretary Shultz, Ambassador Nitze, Ambassador Kampelman, and the Intelligence Community as the talks got underway. Initial testimony pointed to a range of concerns about verification that the Committee subsequently examined in detail. The Committee's focus was on determining the readiness of the IC to meet the challenges of monitoring potential agreements in the new era of smaller and more mobile, high technology weapons and weapons in space. A series of hearings were held in support of the budget process, and recommendations for improving intelligence capability in the outyears were developed in concert with the DCI's National Intelligence Strategy.

Along with continued monitoring of the NST talks in Geneva, challenges during the 100th Congress will include Nuclear Test Ban negotiations, potential talks on conventional force limitations "from the Atlantic to the Urals," and the fate of the stalled MBFR talks. The Committee staff has already heard from the private Natural Resources Defense Council, which is implementing an agreement with the Soviet Academy of Sciences for on-site monitoring of U.S. and Soviet nuclear tests.

3. Nicaragua and Central America

Until the last days of the 99th Congress, the question of U.S. support for the armed democratic resistance in Nicaragua, the "Contras," remained unsettled. While U.S. support of the Contras had previously been the subject of committee oversight, the funds appropriated for this aid were totally expended before the end of the 98th Congress. At the beginning of the 99th Congress, it was unclear whether there would be any assistance voted for the Contras or whether the CIA would be responsible for providing such assistance if it were approved. Eventually, however, the Congress appropriated $27 million in "humanitarian funds" for the Contras, excluding the CIA as executive agent for delivery. In the conference report accompanying this legislation, however, is the statement that "none of the prohibitions on the provision of military or paramilitary assistance to the democratic resistance prohibits the sharing of intelligence information with the democratic resistance." Such intelligence sharing continued direct CIA involvement in this area and necessitated Committee oversight of these activities.

Although the Committee did not have the primary oversight responsibility for the Nicaraguan humanitarian assistance as it existed during FY 1986, Members and staff took the lead in assuring proper Intelligence Community assistance in accounting for the expenditure of fund appropriated for contra aid. Meeting on a regular basis with representatives of the IC, and with State's Bureau of Inter-American Affairs and Office of Nicaraguan Humanitarian Assistance, Committee Members and staff conducted both on- and off-the-record hearings, briefings and discussions on the subject of IC support for program accountability. Additionally, both Members and staff made numerous trips to the region during the 99th Con-

gress gathering information which was useful in the oversight process.

During the Second Session of the 99th Congress, legislation was enacted granting $100 million in assistance to the Contras, and no restriction was placed upon any intelligence agency participation in the distribution of such aid. Insofar as the various intelligence agencies of the U.S. government should become active participants in this program, it was the Committee's intent to exercise lead oversight responsiblity.

4. Allied Intelligence Relations

An issue which the Committee began to examine is how our intelligence relations with our allies are managed and how effective they are. This is a very important issue because, just as our armed forces must cooperate effectively with our NATO partners' forces, so must intelligence support for our allied armed forces be effectively organized. Several Members of the Committee were briefed on this issue while in Europe, and a number of staff visits were tailored to this purpose as well. This is an area the Committee will continue to pursue.

5. Strategic Forces and Defense Acquisition

One issue, supporting U.S. defense programs and policies, was examined at length by the Committee as a direct result of the DCI's National Intelligence Strategy and the Committee's concern for long-range planning in the Intelligence Community. Two topics under this heading were considered by the Committee in a series of hearings: the support of U.S. policy for nuclear deterrence, and the role of intelligence in U.S. weapons procurement.

The Committee's examination of intelligence support to U.S. deterrence policies focused on two problems in particular. The first topic was survivability. Current U.S. policy for strategic deterrence assumes that U.S. forces must be capable of carrying out protracted operations in order to deter the Soviet Union from initiating nuclear war. To achieve this goal, the U.S. has invested heavily in strategic systems that can survive a Soviet strike and provide the National Command Authority with the flexibility in targeting capability necessary to develop a range of retaliatory options.

Survivability and flexibility for weapons, however, is of little use unless U.S. leaders have the intelligence necessary to decide how to use these weapons. As the Committee observed, building survivability into intelligence systems is a demanding, expensive task. To succeed, intelligence survivability measures must be planned several years before they are to be deployed and must be given the same priority as that assigned to the survivability of weapons.

The second topic of intelligence support to U.S. policy for strategic deterrence focused on the problem of tracking and targeting Soviet nuclear forces. Current U.S. doctrine assumes that to deter Soviet leaders, the U.S. must have the capability of destroying Soviet strategic forces following the outbreak of nuclear war. The problem from an intelligence perspective is that an increasing number of Soviet forces previously deployed on fixed launchers are now being deployed in a mobile mode. According to figures publicly released by the CIA, approximately one-fourth of the Soviet ICBM

force will be based on mobile launchers, in particular, the road-mobile SS-25 and the rail-mobile SS-X-24.

Tracking such mobile forces requires not only adequate collection systems, but also the automated data processing necessary to detect mobile weapons in a vast stream of data and to constantly update an order of battle. Like survivability, these capabilities must be programmed along with the weapons they are supposed to support if these forces are to meet their stated requirements.

The other set of hearings dealing with intelligence support of U.S. defense policies addressed the issue of the intelligence used in the planning, design, and development of U.S. weapon systems. Much of the work the Committee carried out on this subject was conducted in close cooperation with the Committee on Armed Services.

As this Committee discovered, almost all of the intelligence used in the weapons acquisition process is produced by agencies funded under the National Foreign Intelligence Program. Although the Committee was impressed by the overall quality of the intelligence supplied by the IC to the military services in support of weapons acquisition, it was determined that the linkage between this intelligence and the acquisition cycle could be improved. For example, under existing DOD regulations, the first official requirement for an intelligence assessment in the life of a weapons program does not occur until about 70 percent of the decisions affecting the lifetime costs of the weapon have already been made.

As the Armed Services Committee in conjunction with the Department of Defense and the Packard Commission developed its proposals for reforming the defense acquisition process, this Committee consulted with the Members on Armed Services to insure that the newly-created Under Secretary of Defense for Acquisition would have the ability to make the best use of intelligence in weapons planning. The general guidelines of the needs in this area have been sketched out in the rough, and will be fleshed out when the new Under Secretary enters office in the next budget cycle.

6. Technology Transfer to China

Future historians may well identify China's current modernization effort as the most far reaching development of the late 20th century. China is engaged in a vast experiment designed to alter fundamentally the standard pattern of a Marxist-Leninist command economy. The imperative which drives this effort is the perception of the senior Chinese leadership, led by Deng Xiaoping, that continued reliance on either the Soviet model of a command economy or on Maoist visions of perpetual revolution, would condemn China to a state of perpetual backwardness and weakness.

The drive toward rapid modernization has paralleled a dramatic change in U.S.-PRC relations. Following the 1972 Shanghai Communique, the two countries normalized relations in 1979, and President Reagan visited China in 1984. The warming of political relations has been accompanied by a rapid growth in U.S.-China trade (including a relaxation of controls on U.S. technololgy exports to China), a large influx of Chinese students at American universities, and steps toward some defense cooperation.

Science and technology are key to both Chinese modernization plans and U.S.-China relations. Economic modernization will depend on the success with which modern technology can be applied and absorbed in China. Consequently, Beijing's principal objective in its opening to the West is to gain access to science and technology.

This situation contains both opportunities and risks for the U.S. and raises important questions concerning the transfer of U.S. technology. The judgment of U.S. policymakers has been that the opportunities outweigh the risks; and that the flow of technology strengthens China's economy and defense capabilities. A more modernized China will be more open to Western ideas and influence, will develop a larger stake in global stability, will be less prone to act on a destabilizing manner, and will be better able to withstand pressures from the USSR.

Nevertheless, there are risks in both the defense and intelligence areas. Some transfers have involved military equipment, and the vast bulk of them involve "dual-use" technologies with potential military applications. Other transfers, while non-military, will affect the ability of U.S. intelligence agencies to gather information on China including the degree to which U.S. technology exports are being diverted from civilian to military applications. At the same time, China's push to acquire technology poses some unique and difficult challenges to U.S. domestic counterintelligence programs.

With these considerations in mind, the Committee directed the staff to produce a report on the objectives and methods of Chinese acquisition of U.S. technology; the nature and extent of actual technology transfers to China; the contribution to China's military modernization; China's capacity to absorb advanced technology; and the implications for U.S. policy, intelligence and counterintelligence.

(Blank)

APPENDIX I—SUMMARY OF COMMITTEE ACTIVITIES—JANUARY 1, 1985 TO DECEMBER 31, 1986

A. NUMBER OF MEETINGS/HEARINGS: TOTAL 212

The total on-the-record meetings and hearings of the 99th Congress is 212. Of these, 102 were oversight; 19 were business and 16 were on the budget. The largest number of hearings on one issue was 47 concentrating on the initial Iran/Contra investigation in late 1986. There was 1 nomination hearing, 5 arms control meetings and 22 staff meetings. Many other types of interviews were conducted continuously by the Committee staff throughout the 99th Congress.

B. BILLS AND RESOLUTIONS ORIGINATED BY THE COMMITTEE: TOTAL 9

S. Res. 55, To authorize expenditures by the Select Committee to carry out its prescribed duties. Actions: Referred to Committee on Rules and Administration on January 31, 1985. Ordered favorable reported on April 25, 1985. Passed by the Senate on May 5, 1985.

S. Res. 56, To commend Senator Barry Goldwater for exceptionally distinguished service to the Select Committee on Intelligence. Passed the Senate on January 31, 1985.

S. Res. 57, To commend Robert Ruhl Simmons for distinguished service to the United States of America. Passed the Senate on January 31, 1985.

S. Res. 58, To commend Senator Daniel Patrick Moynihan for exceptionally distinguished service on the Select Committee on Intelligence. Passed the Senate January 31, 1985.

S. Res. 59, To commend Peter M. Sullivan for his able and dedicated service on the Select Committee on Intelligence. Passed the Senate on January 31, 1985.

S. Res. 322, To authorize expenditures by the Select Committees on Intelligence. Actions: Referred to the Committee on Rules on January 31, 1986, and passed the Senate on March 13, 1986.

S. Res. 429, To increase the limitation on expenditures by the Select Committee on Intelligence for the procurement of consultants. Actions: Referred to the Committee on Rules on June 17, 1986, and passed the Senate on July 23. 1986.

S. 1271, Intelligence Authorization Act, Fiscal Year 1986. Actions: Referred to Committees on Armed Services, Judiciary, Governmental Affairs and Foreign Relations. Reported with Report No. 99–136. Incorporated in H.R. 2419 and passed by the Senate on September 26, 1985. Conference Report 99–373. Became Public Law 99–169 December 4, 1985.

S. 2477, Intelligence Authorization Act, Fiscal Year 1987. Actions: Reported by Intelligence Committee with Report No. 99–307. Incorporated in H.R. 4759 and passed by the Senate on September

24, 1986. Conference Report 99–952. Became Public Law 99–569 on October 27, 1986.

C. PUBLICATIONS FROM JANUARY 1, 1985 TO DECEMBER 31, 1986

S. Prt. 99–27, Rules of Procedure for the Select Committee on Intelligence (Committee Print) Amended February 28, 1985.

S. Prt. 99–52, Soviet Presence in the U.N. Secretariat (Committee Print).

Senate Report 99–79 on S. 1271, Authorizing Appropriations for FY 1986 for Intelligence Activities of the U.S. Government, The Intelligence Community Staff, The Central Intelligence Agency Retirement and Disability System (CIARDS) and for other purposes.

S. Prt. 99–96, The Philippines: A Situation Report (Committee Print).

Senate Report 99–307 on S. 2477, Authorizing Appropriations for FY 1987 for Intelligence Activities.

Senate Report 99–620, On the Nomination of Robert M. Gates.

Senate Report 99–323, Increasing the Limitation of Expenditures by the Select Committee on Intelligence for the Procurement of Consultants.

Senate Report 99–522, Meeting the Espionage Challenge: A Review of United States Counterintelligence and Security Programs.

○