

NOMINATION OF FREDERICK P. HITZ

HEARING

BEFORE THE

SELECT COMMITTEE ON INTELLIGENCE

OF THE

UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

ON

NOMINATION OF FREDERICK P. HITZ TO BE INSPECTOR GENERAL OF
THE CENTRAL INTELLIGENCE AGENCY

SEPTEMBER 25, 1990



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CONTENTS

	Page
Hearings held in Washington, DC:	
September 25, 1990.....	1
Statement of:	
Boren, Hon. David L., a U.S. Senator from the State of Oklahoma and Chairman of the Senate Select Committee on Intelligence	2
Cohen, Hon. William S., a U.S. Senator from the State of Maine and Vice Chairman of the Senate Select Committee on Intelligence	30
D'Amato, Hon. John C., a U.S. Senator from the State of New York	34
Glenn, Hon. John, a U.S. Senator from the State of Ohio	32
Murkowski, Hon. Frank H., a U.S. Senator from the State of Alaska	35
Specter, Hon. Arlen, a U.S. Senator from the State of Pennsylvania	42
Warner, Hon. John W., a U.S. Senator from the State of Virginia, intro- duction of nominee.....	1
Supplemental materials, letters, etc.:	
Affidavit of Frederick P. Hitz	10
Dietel, J. Edwin, Designated Agency Ethics Official, letter to Stephen D. Potts, Director, Office of Government Ethics	15
Financial Disclosure Report.....	17
Potts, Stephen D., Director, Office of Government Ethics, a letter to Hon. David L. Boren, Chairman, Senate Select Committee on Intelligence.....	15
Questionnaire for Completion by Presidential Nominees	3
Responses of Frederick P. Hitz to SSCI Questions for the record	11
Testimony of Frederick P. Hitz	36
Vote on the nomination of Frederick P. Hitz to be Inspector General of CIA	45

NOMINATION OF FREDERICK P. HITZ TO BE INSPECTOR GENERAL OF THE CENTRAL INTELLIGENCE AGENCY

Tuesday, September 25, 1990

UNITED STATES SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC.

The Select Committee met, pursuant to notice, at 2:35 p.m., in room SH-216, Hart Senate Office Building, Hon. David L. Boren (chairman) presiding.

Present: Senators Boren, Glenn, Cohen, Specter, Warner and D'Amato.

Also present: George Tenet, Staff Director; James Dykstra, Minority Staff Director; Britt Snider, Chief Counsel; Kathleen McGhee, Chief Clerk; and Keith Hall, David Holliday, Fred Ward, Richard Arenberg, Christopher Mellon, James Currie, Connell Sullivan, Tawanda Sullivan, Richard Combs, James Wolfe, Edward Levine, Charles Battaglia, Marvin Ott, Don Mitchell, Chris Straub, Regina Genton, James Martin, Michael Hathaway, Gary Sojka, Marin Strmecki, Blythe Thomas, John Elliff, Sarah Holmes, John Despres, and Anne Brashear, staff members.

Senator COHEN. Senator Warner, would you do the honors of introducing your guest?

Senator WARNER. I thank you, Mr. Chairman. I am privileged to appear on behalf of the President's nominee.

I have known Mr. Hitz for many, many years, and members of his family for even a longer period of time. I also wish to welcome here today his wife, Mary, his daughter, Eliza, and his mother, Elizabeth, all of whom deserve some of the credit for his success to date.

I congratulate Fred on receiving the President's nomination to serve as the Inspector General to the Central Intelligence Agency. Such a nomination is clear evidence of the trust which the President and his senior officials place in this outstanding American.

This trust, I note, is the result of his education, experience, performance and qualities. He is a lawyer, receiving his Bachelor of Arts Degree from Princeton and his law degree from Harvard. He has served as Legislative Counsel to the Director of Central Intelligence Agency, and as Director of Congressional Affairs in the Department of Energy, Deputy Assistant Secretary of Defense for Legislative Affairs, and as a member of the Energy Policy and Planning Staff at the White House.

During his years in government, Fred has received both the Secretary of Defense medal for Outstanding Public Service and the Department of Defense Distinguished Civilian Service Medal. The Central Intelligence Agency has also recognized him for his outstanding contributions to that organization.

Since 1982, he has served as a partner with the law firm of Schwabe, Williamson and Wyatt, working with Congress on matters relating to energy, transportation, forest products, national security and health care. In addition, he serves as the American Bar Association's Vice Chairman of the Committee on Energy of the Administrative Law Section and as a consultant to the ABA's Committee on Law and National Security.

Both in and out of government, his qualities are known to all of us. He is an intelligent, thoughtful, honest, fair, experienced, well-rounded and witty person.

In conclusion, Mr. Chairman, his experience, performance, and qualities have equipped him to deal effectively with the critical issues and challenges facing the newly established position of a statutory Inspector General. Without a doubt, he is well qualified to develop the type of audit and investigative arm within the Central Intelligence Agency that we have come to expect of our Inspector Generals in other departments and agencies of the U.S. Government.

Therefore, Mr. Chairman, and Members of the Committee, I present to you with great pleasure, Frederick P. Hitz, an outstanding American.

Mr. Hitz. Thank you.

Senator COHEN. Thank you very much, Senator Warner.

We will proceed in a moment, Mr. Hitz. The Chairman of the Committee and Senator Glenn are approaching the podium as we speak.

Why don't I do this. Mr. Hitz, why don't you stand and raise your right hand.

Do you swear to tell the whole truth, and nothing but the truth, so help you God?

Mr. Hitz. I do.

Chairman BOREN. I want to thank the Vice Chairman for proceeding and also thank our colleague, Senator Warner, for introducing the nominee to us today. I would like to make just some brief opening comments before we begin. I would not normally do so but I think it is important so that we can have before us some of the history and put the proceedings into some perspective.

As we well know, the Committee meets today to consider the President's nomination of Frederick Porter Hitz to be Inspector General of the Central Intelligence Agency. Mr. Hitz is a native of Virginia and holds a Bachelor's Degree from Princeton where he was a Phi Beta Kappa. He earned his law degree from Harvard. He has held a variety of posts within the government from 1967 until 1982, including four years at the CIA where he headed the Congressional Affairs Office. Since 1982, he has been a partner in the law firm of Schwabe, Williamson and Wyatt.

We welcome Mr. Hitz and the members of his family who are accompanying him today, including his mother, Elizabeth, his wife, Mary, and their daughter, Eliza. We are glad to have all of you

with us today and we want to say a special word of welcome to you on behalf of the Committee.

Mr. Hitz has complied with the Committee's requirements for nominees by submitting answers to our background questionnaire. He has also responded to a series of questions by the Committee in writing in terms of his own understanding and interpretation of the new Inspector General statute. And without objection, I ask that these documents be inserted at this point into the hearing record.

[The documents referred to follow:]

SELECT COMMITTEE ON INTELLIGENCE UNITED STATES SENATE

QUESTIONNAIRE FOR COMPLETION BY PRESIDENTIAL NOMINEES

PART A—BIOGRAPHICAL INFORMATION

1. *Name:* Frederick Porter Hitz.
2. *Date and place of birth:* 10/14/39, Washington, D.C.
3. *Marital status:* Married.
4. *Spouse's name:* Mary Buford Bocoek Hitz.
5. *Spouse's maiden name if applicable:* Mary Buford Bocoek.
6. *Names and ages of children:* Name: Eliza; Age: 15.
7. *Education since high school:*

<i>Institution</i>	<i>Dates attended</i>	<i>Degree received</i>	<i>Date of degree</i>
Princeton University	1957-1961	A.B. (Cum Laude, Phi Beta Kappa)	1961
Harvard Law School	1961-1964	L.L.B. (J.D.)	1964

8. *Employment record (list all positions held since college, including military service. Indicate name of employer, position title or description, location, and dates of employment):*

<i>Employer</i>	<i>Position/title</i>	<i>Location</i>	<i>Dates of employment</i>
1. Ford Foundation	Asst. Lecturer in Law, Univ. of IFE	Ibadan, Nigeria	9/64-10/65
2. Boothe, Prichard & Dudley	Associate	Fairfax, Virginia	10/65-6/67
3. Agency for Int'l Dev't	Special Projects Officer	Washington, DC	6/67-5/69
4. U.S. Dept. of State	Foreign Service Reserve Officer	U.S.Emb., Abidjan, Ivory Coast	5/69-10/73
5. Smith, Harrison & Ramsey	Partner	Arlington, Virginia	10/72-11/73
6. U.S. Dept. of State	Legislative Management Officer, Office of Legislative Affairs	Washington, DC	11/73-11/74
7. U.S. Dept. of Defense	Deputy Asst. Sec. Defense, (Legislative Affairs	Washington, DC	11/74-11/76
8. U.S. Dept. of Energy	Sr. Staff Mbr., White House Energy, Policy & Planning; Director, Congressional Af- fairs	Washington, DC	11/76-6/78
9. CIA	Legislative Counsel to DCI, Deputy Chief, EUR (DDO)	Washington, DC	6/78-7/82
10. Schwabe, Williamson, & Wyatt	Managing Partner	Washington, DC	7/82

9. *Government experience (indicate experience in or association with Federal, State or local governments, including advisory, consultative, honorary or other part-time service or position. do not repeat information already provided in answer to question 8):*

See #8 above.

10. Honors and awards (provide information on scholarships, fellowships, honorary degrees, military decorations, civilian service citations, or any other special recognition for outstanding performance or achievement):

1. Phi Beta Kappa, Cum Laude In History from Princeton University, 1961 Class of 1933 Scholarship at Princeton and Scholarship to Harvard Law School.
2. Dept. of Defense Distinguished Civilian Service Medal in 1975.
3. Secretary of Defense Medal for Outstanding Public Service in 1977.
4. Meritorious Officer Award, Senior Intelligence Service, 1980.

11. Organizational affiliations (list memberships in and offices held within the last ten years in any professional, civic, fraternal, business, scholarly, cultural, charitable or other similar organizations):

Organization	Office held	Dates
American Bar Assn.....	Vice Chair. (Energy), Administrative Law Section Member Working Group on Leg. Oversight of Intelligence, Standing Committee on Law & National Security.	1984-present 1985
Virginia Bar Assn.....	1986-present
Atlantic Council of U.S.....	Counsellor.....	1989-present

12. Published writings and speeches (list the titles, publishers, and publication dates of any books, articles, reports or other published materials you have authored. also list the titles of any public speeches you have made within the last 10 years for which there is a text or transcript. To the extent possible, please provide a copy of each such publication, text or transcript):

Co-author of Oversight and Accountability of the U.S. Intelligence Agencies: An Evaluation A report by the Working Group on Intelligence Oversight to the Standing Committee on Law & National Security of the ABA (copy attached).

PART B—QUALIFICATIONS AND REFERENCES

13. Qualifications (describe why you believe you are qualified to serve in the position for which you have been nominated):

I believe that I have had sufficient experience at a management and operational level at CIA as well as in representing several executive branch agencies to and from the Congress to be able to understand the importance of the new statutory Inspector General function at the agency and what the Congress expects of it. If I am fortunate, I believe I should be able to discharge my obligations to the DCI and CIA employees in such a fashion that the ends of Section 17 creating the IG will be properly served. I have also spent time in the private sector as a practicing attorney and appreciate the need for independence and objectivity in the inspector general function.

14. References (provide the names and business addresses and telephone numbers of five individuals whom you believe are in a position to comment on your qualifications to serve in the position for which you have been nominated. Include three individuals who have know you for at least five years):

Name	Business address	Business telephone	Years known
James R. Schlesinger	Shearson Lehman, Inc., 1627 Eye St., N.W #1100, Washington, DC 20006.	(202) 452-4730	15
Daniel B. Silver.....	Cleary, Gottlieb, Steen & Hamilton, 1752 N. St., N.W, Washington, DC 20036.	(202) 728-2717	11
Gary M. Miller.....	10404 Mercado Way, Gaithersburg, MD 20879.....	(301) 874-3900	20
Lawrence M. Redway.....	Prudential Bache Securities, 1130 Connecticut Ave., N.W, Washington, DC 20036.	(202) 872-6550	10
John Akridge.....	John Akridge Co., The Homer Bldg., 13th & F Sts. N.W., Washington, DC 20005.	(202) 833-5850	15

PART C—POLITICAL AND FOREIGN AFFILIATIONS

15. *Political activities (list any memberships or offices held in or financial contributions or services rendered to, any political party, election committee, political action committee, or individual candidate during the last ten years):*

I have never held an office in any PAC or political party or election committee, but have made personal financial contributions, largely in connection with my law firms' Northwest interests, to Northwest representatives, Democrat and Republican such as Sens. Hatfield, Packwood and Gorton and Reps. AuCoin, Wyden, Bob Smith, Dicks and John Miller. I have also contributed to the campaigns of Sen. Tim Wirth, a personal friend, and Sen. Al Gore.

16. *Candidacy for public office (furnish details of any candidacy for elective public office):*

None.

17. *Foreign affiliations*

Note: Questions 17 a and b are not limited to relationships requiring registration under the Foreign Agents Registration Act. Questions 17 a, b and c do not call for a positive response if the representation or transaction was authorized by the United States Government in connection with your or your spouse's employment in Government service.

A. *Have you or your spouse ever represented in any capacity (e.g., employee, attorney, business, or political advisor or consultant), with or without compensation a foreign government or an entity controlled by a foreign government? If so, please fully describe such relationship.*

No.

B. *If you or your spouse has ever been formally associated with a law, accounting, public relations firm or other service organization, have any of your or your spouse's associates represented, in any capacity, with or without compensation, a foreign government or an entity controlled by a foreign government? If so, please fully describe such relationship.*

Not to my knowledge.

C. *During the past ten years have you or your spouse received any compensation from, or been involved in any financial or business transactions with, a foreign government or an entity controlled by a foreign government? If so, please furnish details.*

No.

D. *Have you or your spouse ever registered under the Foreign Agents Registration Act? If so, please furnish details.*

No.

18. *Describe any lobbying activity during the past ten years, other than in an official U.S. Government capacity, in which you or your spouse have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of legislation at the national level of government, or for the purpose of affecting the administration and execution of national law or public policy.*

I represented a number of Pacific Northwest public generating utilities during consideration of the Electric Consumers Protection Act in 1983 and 1984 in an effort to preserve the public generators' right to relicense their projects on federal streams and rivers. I have represented the interests of these and other clients in connection with matters contained in the Energy and Water and Transportation Appropriation Bills over the past seven years.

PART D—FINANCIAL DISCLOSURE AND CONFLICT OF INTEREST

19. *Describe any employment, business relationship, financial transaction, investment, association or activity (including, but not limited to, dealings with the Federal Government on your own behalf or on behalf of a client), which could create, or appear to create, a conflict of interest in the position to which you have been nominated.*

I know of no conflicts or appearances thereof with respect to my law practice since 1982 involving CIA since I have had no business contact with CIA since that time. I shall be putting my and my family's personal investments in a qualified blind trust overseen by the Office of Gov't Ethics if I am confirmed in this position.

20. Do you intend to sever all business connections with your present employers, firms, business associates and/or partnerships or other organizations in the event that you are confirmed by the Senate? If not, please explain.

Yes. All I shall retain is my interest in my law firm's Keogh plan for retirement purposes.

21. Describe the financial arrangements you have made or plan to make, if you are confirmed, in connection with severance from your current position. Please include severance pay, pension rights, stock options, deferred income arrangements, and any and all compensation that will or might be received in the future, as a result of your current business or professional relationships.

I shall resign as a partner in my law firm upon confirmation. At that point the firm will restore to me my paid-in capital and compensate me for the work I have undertaken this year on their behalf. My only financial tie will be my interest in the firm's Keogh plan which I shall retain until my retirement.

22. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the Government? If so, please furnish details.

I shall remain as an unpaid Trustee of the Potomac School in McLean, VA, a private school from K through 12 which my daughter attends.

23. As far as can be foreseen, state your plans after completing government service. Please specifically describe any agreements or understandings, written or unwritten, concerning employment after leaving government service. In particular, describe any agreements, understandings or options to return to your current position.

I have reached an understanding with my current law firm that if there should be a need for my services in Washington, DC upon my departure from government service and if I wish to return, they will give me thorough consideration. The understanding will be contained in an exchange of letters and will not contractually bind either party. No time will be specified nor will any guarantee of compensation.

24. If you are presently in government service, during the past five years of such service, have you received from a person outside of Government an offer or expression of interest to employ your services after you leave Government service?

N.A.

25. Is your spouse employed? If the nature of this employment is related in any way to the position for which you are seeking confirmation, please indicate your spouse's employer, the position and the length of time the position has been held. If your spouse's employment is not related to the position to which you have been nominated, please so state.

My spouse is employed as a free lance writer doing features on occasion for the Richmond, Va. newspapers.

26. List below all partnerships, foundations, trusts, corporations, or other entities toward which you or your spouse have fiduciary obligations or in which you or your spouse have held directorships or other positions of trust during the past five years.

Name of entity	Position	Dates held	Spouse
Schwabe, Williamson & Wyatt (law firm)	Partner	1982-present	Self
The Potomac School McLean, VA	Trustee	1989-present	Self
St. Timothy's School Stephenson, MD	Chairman, Board of Trustees	1987-present	Spouse
Virginia Theological Seminary	Trustee	1985-present	Spouse

27. List all gifts exceeding \$500 in value received during the past five years by you spouse, or your dependents. Gifts received from relatives and gifts given to a spouse or dependent totally independent of their relationship to you need not be included.

None.

28. List all securities, real property, partnership interests, or other investments or receivables with a current market value (or, if market value is not ascertainable, estimated current fair value) in excess of \$1,000. (Note: The information provided in response to Schedule A of the 015 closure forms of the Office of Government Ethics may be incorporated by reference, provided that current valuations are used.

Description of property value method of valuation

See form 278, Sec. A. OGE—Financial Disclosure Report. Supplementary material on file with the Committee.

29. List all loans, mortgages, or other indebtedness (including any contingent liabilities) in excess of \$10,000. (Note: The information provided in response to Schedule O of the disclosure form of the Office of Government Ethics may be incorporated by reference, provided that contingent liabilities are also included.)

See Sched D. Form 278 OGE 30. Supplementary material on file with the Committee.

Are you or your spouse now in default on any loan, debt or other financial obligation? Have you or your spouse been in default on any loan, debt or other financial obligation in the past ten years? If the answer to either question is yes, please provide details.

No.

31. List sources and amounts of all income received during the last five years, including all salaries, fees, dividends, interest, gifts, rents, royalties, patents, honoraria, and other items exceeding \$500. (If you prefer to do so, copies of U.S. income tax returns for these years may be substituted here, but their submission is not required).

Schedule A. Supplementary material on file with the Committee.

32. If asked, would you provide the committee with copies of you and your spouse's Federal income tax returns for the past three years?

Yes.

33. Have your Federal or State tax returns been the subject of any audit, investigation or inquiry at any time? if so, please provide details, including the result of any such proceeding.

Schedule A is on file with the Committee.

34. Attach a schedule itemizing each individual source of income which exceeds \$500. If you are an attorney, accountant, or other professional, also attach a schedule listing all clients and customers whom you billed more than \$500 worth of services during the past five years.

See Schedule B, attached. Supplementary material on file with the Committee.

35. Do you intend to place your financial holdings and those of your spouse and dependent members of your immediate household in a blind trust? If yes, please furnish details.

Yes, a qualified blind-trust to be administered by the Sovran Banks N.A. as institutional trustee, pursuant to OGE direction.

36. Explain how you will resolve any actual or potential conflicts of interest that may be indicated by your response to the questions in this part or in Part C (questions 15 thru 35).

The CIA Office of General Counsel will screen the holdings of the qualified blind trust to head off potential conflicts of interest.

PART E—ETHICAL MATTERS

37. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to, any court, administrative agency, professional association, disciplinary committee or other professional group? If so, provide details.

No.

38. Have you ever been investigated, held, arrested, or charged by any Federal, State, or other law enforcement authority for violation of any Federal, State, county, or municipal law, region, or ordinance, other than a minor traffic offense, or named either as a defendant or otherwise in any indictment or information relating to such violation? If so, provide details.

No.

39. Have you ever been convicted of or entered a plea of guilty or nolo contendere to any criminal violation other than a minor traffic offense? If so, provide details.

No.

40. Are you presently or have you ever been a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

No.

41. *Have you been interviewed or asked to supply any information as a witness or otherwise in connection with any congressional investigation, Federal or State agency proceeding, grand jury investigations or criminal or civil litigation in the past ten years? If so, provide details.*

No.

42. *Has any business of which you are or were an officer, director or partner been a party to any administrative agency proceeding or criminal or civil litigation relevant to the position to which you have been nominated? If so, provide details. (With respect to a business of which you are or were an officer, you need only consider proceedings and litigation that occurred while you were an officer of that business.)*

No.

PART F—ADDITIONAL INFORMATION

43. *Describe in your own words the concept of congressional oversight of U.S. intelligence activities. In particular, characterize what you believe to be the obligations of the Director of Central Intelligence, the Deputy Director of Central Intelligence, and the Intelligence Committees of the Congress respectively in this process.*

The DCI is required by the oversight act of 1980 to keep the intelligence committees fully and currently informed of all intelligence activities, illegal activities and failures etc. subject to the DCI's responsibility to protect sources and methods and classified information from unauthorized disclosure, and to the separation of powers under the Constitution. Derivatively, under Section 17 of the CIA act of 1949 creating the statutory Inspector General, the IG must keep the DCI fully and currently informed about problems and deficiencies relating to the administration of CIA programs and operations and violations of law and regulations, fraud and abuse occurring in CIA programs. The DCI with several reservations set forth in Section 17 transmits reports on a regular basis from the IG to the Intelligence Committees and/or the Attorney General to fulfill this information/oversight function.

44. *Define in your own words the duties of the position to which you have been nominated.*

It shall be the duty of the statutory Inspector General to provide policy direction for, conduct and supervise independently the inspections, audits and investigations of programs and operations of the CIA to see that they are being conducted lawfully and efficiently; to keep the DCI fully and currently informed as to same and any violations of law and regulation fraud and abuse occurring, with suggestion for corrective action; to take due regard for the protection of sources and methods in the preparation of all reports and to minimize their disclosure; and to adhere, to generally accepted government auditing standards.

45. *Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.*

None to my knowledge.

AFFIDAVIT

I, Frederick P. Hitz, do swear that
the answers I have provided to this questionnaire are, to the best
of my knowledge, accurate and complete.

9/4/90
(DATE)

F. P. Hitz
(NAME)

(NOTARY)

**RESPONSES OF FREDERICK P. HITZ TO SSCI QUESTIONS FOR
THE RECORD ***

Question 1. Subsection (b)(2) of section 17 of the CIA Act of 1949 provides that the Inspector General "shall report directly to and be under the general supervision of the Director of Central Intelligence."

(a) What is your understanding of this supervisory relationship contemplated by the statute?

(b) Do you view this provision as requiring the approval of the Director of Central Intelligence (DCI) before undertaking investigations or audits? As requiring consultation with the DCI before undertaking such activities? As advising him only?

Answer. (a) While trying to achieve the desired objectivity and independence the Congress has mandated for investigations, audits and inspections, the statutory IG still reports directly to the DCI and is responsible for keeping him fully and currently informed about problems and deficiencies in CIA programs and operations and of violations of law, fraud and abuse. In short, the statutory IG must serve the DCI's needs to make CIA run efficiently and well, subject to oversight by the Intelligence Committees. Since many of the statutory IG functions run to or through the DCI, he is under the DCI's direct supervision.

(b) Since the statutory IG's success in fulfilling his obligations depends upon a high degree of communication and trust between him and the DCI, and since the DCI may prohibit the IG from initiating any audit, inspection or investigation to protect vital U.S. national security interests under Section 17(b)(3), the statutory IG should consult with the DCI before undertaking such activities.

Question 2. Subsection (b)(3) permits the DCI to disapprove or terminate an audit, inspection or investigation of the Inspector General if he determines that such prohibition is necessary to protect vital security interests of the United States. But subsection (b)(4) provides that when the DCI exercises such authority, he must report such action within seven days to the intelligence committee. The Inspector General may submit comments at the same time to the committees, if he chooses.

(a) Assuming, as a result of your consultations with the DCI, that he would have objection to something you wanted to do and you felt his reasons were valid ones, would you continue to push for the inquiry or investigation and thus trigger a report to the intelligence committees, or would you simply not press the matter and force the DCI to make the report required by the statute?

(b) Assume the same situation but that you did not agree that his concerns were valid ones. Would you press the point, and require him to exercise his authority under the statute?

(c) What do you believe is contemplated by section 17 if the DCI refuses to make the report he is required to make pursuant to section (b)(4)?

Answer. (a) If the DCI objected to a proposed IG audit, inspection or investigation, on subsection (b)(3) grounds such as risk of disclosure of sources and methods, and, after consultation, the statutory IG was convinced that the DCI's objections were valid, in my opinion the statutory IG ought to stand down and the 17(b)(4) reporting requirement would not be triggered because the DCI would not, under these circumstances, be prohibiting the IG from proceeding. I would anticipate that in most circumstances the DCI and the IG might work out mutually agreeable mechanisms to accomplish what the IG wanted to do in a manner that would alleviate the DCI's concerns.

If, however, the IG and the DCI could not resolve their differences in this area, it would be incumbent on the IG to press the matter and trigger the 17(b)(4) reporting requirement.

(b) If the DCI sought to prohibit an audit, inspection or investigation for reasons that the statutory IG thought were invalid, then the (b)(4) report is required and presumably the statutory IG will have his opportunity to comment.

(c) I believe that the DCI will make the report. However, subsection (b)(4) is clear that the DCI "shall submit" an appropriately classified statement of his reasons for invoking a subsection (b)(3) prohibition. Not to do so would be a violation of law triggering possible reports by the IG under subsections (d)(3)(A) and (B).

Question 3. Subsection (b)(5) requires the DCI to report any information, allegation, or complaint received from the Inspector General relating to violations of fed-

* The responses of Mr. Hitz have been retyped after the pertinent question. The original of Mr. Hitz's responses is on file with the Committee.

eral criminal law by CIA employees to the Attorney General. The Inspector General is to receive a copy of all such reports.

(a) In making such information, allegation, or complaint to the DCI, would you anticipate reminding him or her of this obligation under existing law?

(b) What would be your course of action if you find that the DCI had failed to make the reports as required?

(c) Do you believe that you have any independent responsibility under this or any other law to report such information to the Attorney General?

Answer. (a) I would not think a reminder would be necessary. The statutory IG should be prepared to give a reminder to the DCI if the copy of the report to be furnished to the statutory IG is not forthcoming within a reasonable time pursuant to subsection (b)(5).

(b) Remind the DCI as stated in answer to (a) above and seek consultations with the DCI as to his reasoning.

(c) The DCI is required by 28 U.S.C. 535 and E.O. 12333 to report to the Attorney General all violations of federal law brought to his attention. I feel confident that the DCI would respond to these mandates. If not, the IG could raise the matter with the Intelligence Committees.

Question 4. Subsection (c)(1) provides that it shall be the duty of the Inspector General to provide policy direction for the conduct of inspections, investigations, and audits relating to the programs and operations of the CIA, and to conduct, supervise, and coordinate such inspections, investigations, and audits.

(a) How do you intend to carry out this responsibility? Specifically, do you intend to undertake a review of existing CIA policy to determine whether it meets (or should meet) generally accepted governmental standards for such activities?

(b) Do you interpret this responsibility as providing policy guidance for any investigative activity at CIA that the DCI might authorize independent of the Inspector General's Office?

Answer. (a) If confirmed, I shall undertake a review of existing CIA policy to see whether it meets government standards for the conduct of inspections, audits and investigations. CIA's statutory responsibilities are different from other government departments and agencies which are subject to the IG Act of 1978 as amended, but the practices at sister departments involved in national security matters such as State and Defense should be informative.

(b) Since under subsection (a)(3), the statutory IG is required to keep the DCI fully and currently informed about problems and deficiencies relating to CIA programs and operations, I would hope that the DCI would rely on the Office of IG for all investigative activities at CIA appropriate to the IG's charter as set forth in Section 17. The high degree of communication and trust between the DCI and the statutory IG which the Committee expects should make that a reality.

Question 5. Subsection (c)(2) makes the Inspector General responsible for keeping the DCI fully and currently informed of violations of law and regulations, or other serious problems, and to report on progress made in correcting such problems.

(a) How to you intend to carry out this responsibility?

Answer. (a) Almost as important as the existence of a solid bond of trust and communication between the DCI and the statutory IG will be the creation of a similar confidence and path of communication between CIA employees and the IG's office. In that context the obligations of CIA employees to report violations of law and agency regulation are clear, and the statutory IG should have the requisite tools under Section 17, Executive Order 12333 and agency regulations to keep the DCI fully and currently informed as to these matters.

Question 6. Subsection (c)(3) requires the Inspector General to take due regard for the protection of sources and methods in the preparation of and issuance of his reports.

(a) Obviously, there will be times when the discussion of intelligence sources and methods will be unavoidable. Do you see this as a serious problem? If the DCI were to object to the mention of such sources and methods, citing his own statutory responsibilities, how would this be resolved?

Answer. (a) The statutory IG is personally charged to take "due regard for the protection of intelligence sources and methods" in the preparation of all reports from his office so this is a grave responsibility. I do not see a serious problem in meeting this responsibility as long as the appropriate congressional recipients of these reports acknowledge the IG's responsibility to protect sources and methods and do not press the IG to disclose more of this information than is required to establish the bona fides of the audit, investigation or inspection. If the DCI objected to the mention of sources and methods, obviously his concerns would carry great

weight with the IG. If the matter could not be resolved in consultations between them, the DCI could always rely on his subsection (b)(3) and (b)(4) authorities to prevent disclosure.

Question 7. Subsection (c)(4) requires the Inspector General to comply with generally accepted government auditing standards.

(a) In your view, what does this mean? What are generally accepted government auditing standards?

Answer. (a) I would suspect "generally accepted government auditing standards" is a term of art discernible from OMB circular, observation of the auditing practices of other government agencies and departments and the GAO. I do not know what these standards are at present but shall find out.

Question 8. Subsection (d)(1) requires the Inspector General to prepare semiannual reports summarizing the activities of his office during the immediately preceding six-month period. These are submitted to the DCI, who within 30 days, must transmit them to the intelligence committees with any comments he may wish to make. These reports must describe any significant problems, abuses, or deficiencies found by the Inspector General and describe the corrective actions he has recommended. It also requires the Inspector General to identify significant recommendations in prior reports that have not been acted upon, and it requires the Inspector General to identify cases during the reporting period where relevant documentary evidence could not be obtained due to the lack of subpoena power.

(a) The statute obviously provides the Inspector General with the flexibility of deciding what are "significant" problems, abuses, and deficiencies to be reported. What standards or criteria do you intend to apply to making this determination?

(b) During the consideration of this legislation, CIA advised the Committee that the lack of subpoena power had not posed a problem heretofore to Inspector General investigations. In light of this, and the concern with permitting an exception to this longstanding limitation on CIA domestic activities, the Committee opted not to provide the Inspector General with subpoena power at this time unless the lack of such power could be documented as causing a serious investigative deficiency. Hence, the Committee imposed this specific requirement for the semiannual reports. What is your view of the subpoena issue?

Answer. (a) The statutory IG's duty to report to the DCI "significant problems, abuses and deficiencies" every six months under subsection (d)(1) contrasts with his obligation to report "particularly serious or flagrant problems or deficiencies" to the DCI immediately. Thus the standards for the semi-annual reports are less onerous or demanding than the subsection (d)(2) standards. I would guess that subsection (d)(1) problems and deficiencies are ones that the DCI ought to know about personally in order to discharge his responsibilities as head of a sensitive and important agency but are not so compelling that their correction or elimination has to be immediate in order to avoid their interference with the proper discharge of the DCI's responsibilities.

(b) Given public sensitivity about the powers of CIA and the historic concern to keep CIA out of domestic law enforcement, I believe the Congress was wise in denying the statutory IG subpoena authority until and unless the semi-annual reports produce the evidence that the IG cannot do his job without it.

Question 9. Subsection (d)(2) requires the Inspector General to report immediately to the DCI any particularly serious or flagrant problems he may discover without waiting for the semiannual reports, and that the DCI shall transmit such reports to the intelligence committees within seven days with any comments he may wish to make.

(a) What standards or criteria do you anticipate applying in determining whether a "particularly serious or flagrant" problem is?

(b) How would you deal with a situation if the DCI disagreed that such problems were "serious or flagrant" and refused to transmit your report to the committees?

(c) As a practical matter, would you anticipate raising such problems informally with the DCI prior to making a formal report to the DCI (and hence the committees) under this subsection? If so, would you prepare a formal report if the DCI did not regard the problem as "particularly serious or flagrant"?

Answer. (a) See answer to 8(a) above. If a problem, abuse or deficiency is so serious that it might interfere with the DCI's ability to discharge his statutory responsibilities as head of CIA, than it should be reported to him immediately and thence to the Intelligence Committees.

(b) I believe that such a disagreement is most unlikely. I believe that the statutory IG will have little difficulty in convincing the DCI of the seriousness of an abuse under subsection (d)(2) if it affects the DCI's discharge of his statutory responsibilities.

ities as head of CIA and affects his credibility with the oversight committees. If such a disagreement were to arise, however, this might be an instance where the requirements of subsection (d)(3)(A) would obtain.

(c) I would certainly raise any problem under subsection (d)(2) informally first with the DCI. If the DCI disagreed as to the seriousness of the problem and was unable to convince the IG of his view of the matter, the IG should prepare the formal report.

Question 10. Subsection (d)(3) specifies three instances where the Inspector General is required to make immediate reports directly to the intelligence committees without going through the DCI.

(a) The first is where the Inspector General is unable to resolve any differences with the DCI affecting the execution of his duties or responsibilities. The report language explaining this provision says that it does not mean that differences the IG may have with the DCI over CIA policy or management should be reported unless they might preclude the DCI from executing his responsibilities. What are the sorts of differences that you might report under this provision?

(b) The second instance requiring a direct report is where an IG investigation, inspection or audit focuses upon the DCI or acting DCI. Should this ever occur, at what point would you make such a report to the committees? When evidence of wrongdoing was received by the IG? When it was confirmed by the IG?

(c) The third instance where a direct report is required to the committees is where the Inspector General is unable to obtain significant documentary information in the course of an investigation after exhausting all other investigative alternatives. The report language explaining this provision says that the purpose of this provision is to allow the Committee to consider whether other actions to acquire such information might be feasible. Obviously, this provision leaves some measure of discretion with the IG, who must decide whether all investigative measures have been exhausted and whether the information concerned is "significant." At the same time, this provision would require a report presumably in the course of an on-going investigation. What are your views of this requirement?

Answer. (a) I assume that there is a typo in the last part of this question and that the Committee intended to refer to types of differences that "might preclude the IG from executing his responsibilities." By explicit statutory provision, many of the statutory IG's powers funnel through and derive from the DCI: The IG's duty to keep the DCI fully and currently informed, Section 17(a)(3) and Section 17(c)(2); the IG reports directly to the DCI, Section 17(b)(2); the DCI reports information from the IG to the Attorney General relating to violations of federal criminal law, Section 17(b)(5); the IG provides the DCI with semi-annual reports, Section 17(d)(1); the IG reports immediately to the DCI on particularly serious or flagrant problems, Section 17(d)(2); the IG hires employees subject to DCI's policies, Section 17(e)(6); the IG obtains information or assistance from other agencies with DCI concurrences, Section 17(e)(7). That is why such a premium exists on the need for a high level of communication and trust between the DCI and the statutory IG. Presumably, if the IG were to be frustrated in the exercise of these Section 17 responsibilities by the DCI in a fundamental and unavoidable way, that might be the occasion for a subsection (d)(3)(A) report.

(b) Subsection (d)(3)(B) is a grave responsibility. I would hesitate to formally report such a matter to the committees before there were confirmed evidence of wrongdoing. I might informally brief the committees if there were substantiated allegations of wrongdoing.

(c) Subsection (d)(3)(C) seems to me to dovetail with subsections (d)(1)(D) and (E) and subsection (e)(7) in that the committees want to be certain that the statutory IG has the requisite tools and authorities to perform his functions. Accordingly, if in an audit, inspection or investigation, a material document is unobtainable after all avenues have been explored, the committee wishes to be apprised of that fact to determine whether in the future the statutory IG may require greater authority.

Question 11. Subsection (e) sets forth the authorities of the Inspector General.

(a) Subsection (e)(1) gives the Inspector General "direct and prompt access to the Director, when necessary for any purpose pertaining to the performance of his duties." How do you interpret this authority?

(b) Subsection (e)(2) gives the Inspector General access to all employees and contractors of CIA, as well as all records of CIA relating to programs or operations he is inspecting, investigating, or auditing. Who will make the determination that access to such records or personnel is related to matters you are investigating? Do you anticipate this will be a problem?

(c) Subsection (e)(6) authorizes the Inspector General to select, appoint and employ such officers and employees as may be necessary to carry out his functions. This provision also contains a sense of the Congress provision that the Inspector General should create a career cadre within the organization of sufficient size to provide continuity and objectivity. What will be your approach to staffing this office? What mix of career employees and rotational assignments is desirable? Should persons outside CIA altogether (e.g. professional auditors or investigators) be hired?

(d) Subsection (e)(7) authorizes the Inspector General, with the concurrence of the DCI, to request assistance from other federal agencies. In what circumstances, if any, would you anticipate that such assistance may be required?

Answer. (a) If the statutory IG is to keep the DCI fully and currently informed pursuant to subsections (a)(3) and (b)(5) and subsection (c)(2) then he will require prompt and frequent access to the DCI and the DCI should welcome this.

(b) The statutory IG will make the determination regarding access, in consultation with the DCI on matters of vital national security and where otherwise advisable. I don't expect this to be a problem.

(c) I am aware of the sense of the Congress provision that a career cadre should be created, but at this point I am unsure as to how the balance between a career cadre and rotationals in the Office of Inspector General should evolve. If confirmed, I intend to observe the practice of other IG offices in departments with national security responsibilities and to consult thoroughly with the DCI.

Question 12. If, in the course of an investigation, you found that information requested by either of the intelligence committees had deliberately been withheld by a CIA employee, or that the committees had been deliberately deceived or misled by a CIA employee, what course of action do you believe is appropriate under section 17? Would you report allegations of such actions to the committees?

Answer. I would immediately report such findings to the DCI pursuant to Section 17(d)(2) with the knowledge that he would report the same to the committees within seven days, with any comment he might have. I would hesitate to report mere allegations to the DCI without seeking to determine their validity.

Question 13. In your view, does the CIA IG law and legislative history provide you with the full authority to undertake an investigation, inspection, or audit at the behest of either of the intelligence oversight committees?

Answer. I have not found explicit authority in Section 17 directing the statutory IG to undertake audits, investigations or inspections at the behest of the Intelligence Committees. However, if the Intelligence Committees were to become aware of problems and deficiencies in CIA within the context of the statutory IG's responsibilities as set forth in Section 17, and requested that the IG investigate the same, there is in my opinion ample authority under Section 17(a)(1) and (c)(1) to permit such an investigation by the IG.

Chairman BOREN. I would also note that the Committee has received a letter from Stephen Potts, Director of the Office of Government Ethics, which advises the Committee that Mr. Hitz, if confirmed, intends to create a blind trust into which his securities portfolio and those in which his immediate family has an interest will be folded. There are two trusts in which Mr. Hitz' wife has a partial interest which are not being folded into this blind trust. The Office of Government Ethics and the CIA have granted a waiver for these two trusts in terms of requiring safeguards against possible conflict of interest problems.

Mr. Potts, in the concluding paragraph of his letter, has insured the Committee that when these arrangements are implemented, "it appears Mr. Hitz will be in full compliance with applicable laws and regulations governing conflicts of interest."

Without objection, I ask also that Mr. Potts' letter, including Mr. Hitz's financial disclosure statement, be inserted at this point into the hearing record.

[The letter of Mr. Potts follows:]

UNITED STATES OFFICE OF GOVERNMENT ETHICS,
SUITE 500, 1201 NEW YORK AVENUE, N.W.,
Washington, DC 20005-3917, September 14, 1990.

The Honorable DAVID L. BOREN,
Chairman, Select Committee on Intelligence,
United States Senate, Washington, DC 20510-6475.

DEAR MR. CHAIRMAN. In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Frederick P. Hitz, who has been nominated by President Bush for the position of Inspector General of the Central Intelligence Agency.

We have reviewed the report and have also obtained advice from the Agency concerning any possible conflict in light of its functions and the nominee's proposed duties. In their letter to us of September 14, 1990, a copy of which is also enclosed, the ethics officials of the Agency discuss the ethics agreements which have been structured for Mr. Hitz. Mr. Hitz and the immediate members of his family have interests in several securities portfolios, which are detailed in attachments to his report. Several of these portfolios will be placed in qualified blind trusts. Pursuant to section 102(f)(4)(A) of the Ethics Act, each asset of the portfolio of this type of trust at the time of certification by this Office will remain a financial interest of Mr. Hitz for purposes of Federal ethics principles, including 18 U.S.C. § 208(a), until such time as he is notified by the trustee that it has been disposed of or has a value of less than \$1,000. Two portfolios not appropriately susceptible to blind trust treatment are the subject of a waiver pursuant to 18 U.S.C. § 208(b). These actions are discussed in the waiver document which is a further attachment to the report.

Accordingly, it appears that Mr. Hitz will be in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

STEPHEN D. POTTS,
Director.

Enclosures

CENTRAL INTELLIGENCE AGENCY
WASHINGTON, DC
14 September 1990.

The Honorable STEPHEN D. POTTS,
Director, Office of Government Ethics,
1201 New York Avenue, N.W., Suite 500,
Washington, DC 20005-3917.

DEAR MR. POTTS. Pursuant to the requirements of the Ethics in Government Act and accompanying federal regulations at 5 C.F.R. 2634, I have reviewed and certified the enclosed financial disclosure report of Frederick P. Hitz, who has been nominated to the new statutory position of Inspector General of the Central Intelligence Agency.

I have carefully reviewed the report with Mr. Hitz and have determined to my satisfaction that each item is complete. I am aware that Mr. Hitz and other members of his family will be establishing qualified blind trusts that will be approved by your Office. The portfolios to be placed in the blind trusts are set forth at Tabs A, 8, C, E, H, and possibly G and I, to his financial disclosure report. The portfolios at Tabs G and I will either be placed into the trusts or rolled over into neutral investments. Upon establishment of the qualified blind trusts, this Office will initiate appropriate screening arrangements to ensure that no actual or apparent conflict of interest arises with respect to the trusts' assets. Additionally, and as you are aware, this Office has granted Mr. Hitz a waiver, pursuant to 18 U.S.C. 208(b)1, for the portfolios of assets set forth at Tabs D and F to his financial disclosure report. A copy of that waiver is attached to his report. Based upon this information and my careful review, I am of the opinion that no interest or position disclosed on the form violates or appears to violate any applicable provision of Chapter II of 18 U.S.C., Part 1, the Ethics in Government Act of 1978, as amended, and the regulations promulgated thereunder, Executive Order 12674 and applicable regulations promulgated thereunder, or any other statute or regulation applicable to an employee of the Central Intelligence Agency. Accordingly, I have concluded that Mr. Hitz's report evidences no conflict of interest under applicable law and regulations, and I have so certified on the report.

I have also enclosed a copy of the provisions of the Central Intelligence Agency Act of 1949, as amended, which set forth the statutory duties of the Inspector General of the Central Intelligence Agency. I ask that you review the enclosed report, and if you are satisfied that there is no unresolved conflict, submit the report with your covering letter to the Senate Select Committee on Intelligence. I understand that the confirmation hearing for Mr. Hitz is scheduled for 25 September; therefore, given the Senate rules that the necessary documentation relating to a nomination be received 7 days prior to the scheduled hearing date, we would appreciate your getting your report on this matter to the Senate Select Committee on Intelligence by Monday, 17 September.

I will be happy to answer any questions concerning this matter. If you have any questions, please call me at 874-3202.

Sincerely,

J. EDWIN DIETEL,
Designated Agency Ethics Official.

Financial Disclosure Report

Reporting Status (Check Appropriate Box)		Agency Use Only	OOE Use Only	Date of Appointment, Candidacy, Election or Nomination (Mo., Day, Yr.)	Termination Date (If Applicable) (Month, Day, Year)
<input type="checkbox"/> Incumbent	<input checked="" type="checkbox"/> New Entrant, Nominee, or Candidate	<input type="checkbox"/> Termination Filer	SEP 14 1990	September 10, 1990	
Reporting Individual's Name		First Name and Middle Initial		Reporting Periods	
Last Name		Frederick P.			
Title of Position		Department or Agency (If Applicable)			
Position for Which Filing		Central Intelligence Agency		<p>Incumbents: Complete Schedules A, B, C, and Part I of D. The reporting period is the preceding calendar year except for Part II of Schedule C and Part I of Schedule D where you must also include any positions held or agreements or arrangements made from the beginning of the filing year until the date you file.</p> <p>Termination Filers: Complete Schedules A, B, C, and Part I of D. The reporting period begins at the end of the period covered by your previous filing and ends at the date of termination.</p> <p>Nominees, New Entrants and Candidates for President and Vice President: Complete Schedules A (except for BLOCK D), C, and D. (Candidates do not file Part II of Schedule D.)</p> <ul style="list-style-type: none"> • Schedule A—The reporting period for income (BLOCK C) is the preceding calendar year and the current calendar year up to the date of filing. Value assets in BLOCK B as of any date you choose that is within 31 days of the date of filing. • Schedule C, Part I (Liabilities)—The reporting period is the preceding calendar year and the current calendar year up to any date you choose that is within 31 days of the date of filing. • Schedule C, Part B (Agreements and Arrangements)—Show any agreements or arrangements as of the date of filing. • Schedule D—The reporting period is the preceding two calendar years and the current calendar year up to the date of filing. 	
Location of Present Office		Address (Number, Street, City, State and ZIP Code)			
2000 Pennsylvania Avenue, N.W., Suite 8335 Washington, D.C. 20006		Telephone No. (Include Area Code) (202) 785-5960			
Position(s) Held With the Federal Government During the Preceding 12 Months (If Not Same as Above)		Title of Position(s) and General Title			
Presidential Nominee Subject to Senate Confirmation		Name of Congressional Committee Considering Nomination	Do You Intend to Create a Qualified Diversified Trust?		
		Senate Select Committee on Intelligence	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Certification		Signature of Reporting Individual	Date (Month, Day, Year)		
I CERTIFY that the statements I have made on this form and all attached schedules are true, complete and correct to the best of my knowledge and belief.		<i>F. P. Hitz</i>	9/14/90		
Other Review (If desired by agency)		Signature of Other Reviewer	Date (Month, Day, Year)		
Agency Ethics Official's Opinion		Signature of Designated Agency Ethics Official/Reviewing Official	Date (Month, Day, Year)		
The information contained in this report discloses no conflict of interest under applicable laws and regulations.		<i>[Signature]</i>	14 SEPT 1990		
Office of Government Ethics Use Only		Signature	Date (Month, Day, Year)		
		<i>[Signature]</i>	9/14/90		
Comments of Reviewing Official (If additional space is required, use the reverse side of this sheet)					
* I intend to create a qualified blind trust approved by the Office of Government Ethics.					

17

Reporting Individual's Name Frederick P. Hitz	Assets and Income	Page Number 4	Schedule A
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<p>All Filers: In BLOCK A report (a) the identity of each asset held for the production of income at the close of the reporting period which had a fair market value exceeding \$1000 and (b) any other asset or source of income which generated over \$100 in income during the reporting period. This includes but is not limited to employer's stocks, bonds, tax shelters, bank accounts, real property, mutual funds, pensions, IRA assets, assets of certain trusts, commodities futures, personal businesses and partnership interests. Exclude your personal residence unless you rent it out. See instructions for rules on bank accounts and complex holdings.</p>	<p>All Filers: In BLOCK B report the value of each asset listed in BLOCK A which had a fair market value exceeding \$1000 at the close of the reporting period.</p>	<p>All Filers: In BLOCK C report the type and amount of income exceeding \$100 received from the assets and other sources of income listed in BLOCK A. You must report the actual amount of any income not of a type specifically noted below. You need not report the actual amount of your spouse's earned income, only the source in BLOCK A. You may not check "qualified trust" unless you have a blind trust which has been specifically approved by the Office of Government Ethics. If you, your spouse or dependent child are the beneficiary of a trust which no one of you created and has no knowledge of the assets, refer to the instructions to see if it qualifies as an "excepted trust." If "none" (or less than \$101) is checked under Category of Amount of Income, no other entries need be made in BLOCK C for that item.</p>	<p>Incumbents and Termination Filers only: In BLOCK D, for any real property, stocks, bonds, commodities futures and other securities listed in BLOCK A, did you purchase, sell, or exchange the item during the reporting period for a value that exceeds \$1000?</p>
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BLOCK A Assets & Income Sources		BLOCK B Valuation of Assets										BLOCK C Income										BLOCK D Transactions Test																												
																								Identify each asset and income source of yours, your spouse(S) and your dependent child (DC).						NONE <input type="checkbox"/>																				
																								Category of Value (X)						Type of Income (X)						Category of Amount of Income (X)						Actual Amount Only if "Other" Specified		Date (Mo., Day, Yr.) Only if Honoraria		If yes, complete Sched. B Part I for those assets including those sold for a loss.				
		None (or less than \$1001)	\$1,001-\$5,000	\$5,001-\$10,000	\$10,001-\$50,000	\$50,001-\$100,000	\$100,001-\$500,000	\$500,001-\$1,000,000	Over \$1,000,000	Dividends	Rent	Interest	Capital Gain	Qualified Trust	Other (Specify Type)	None (or less than \$101)	\$101-\$1,000	\$1,001-\$2,500	\$2,501-\$5,000	\$5,001-\$10,000	\$10,001-\$50,000	\$50,001-\$100,000	\$100,001-\$500,000	Over \$500,000			YES	NO																						
S	Exam- ples	X Y Z Common Doe Jones & Smith, Hometown, USA																																																
1	S	1/3 interest in Real Property - Bear Den Mountain, Va.																																																
2	S	Common Shares of Royal Orchard Land Corporation																																																
3	S	Trust: U/A Elisabeth S. Boock dated 1/3/74 (items 4 & 5)																																																
4	S	Scott & Stringfellow Account - TAB E																																																
5	S	1/3 interest in Real Property in Albemarle, Augusta, Nelson Counties, Va.																																																
6	S	Church Point Farm Trust (items 7 & 8)																																																
7	S	1/3 interest in Scott & Stringfellow Account - TAB F																																																
8	S	1/3 interest in Church Point Farm																																																
9	S	Revocable Trust (w/Frederick P. Hitz - Scott & Stringfellow Account - TAB G																																																
10																																																		

Reporting Individual's Name
 Frederick P. Hitz

Page Number 6 Schedule B

Part I
Transactions

Incumbents and Termination Filers only: Report any purchase, sale or exchange by you, your spouse or dependent child during the reporting period of any real property, stocks, bonds, commodities, futures, and other securities when the amount of the transaction exceeded \$1,000. Include trans-

actions that resulted in a loss. Do not report a transaction involving property used solely as your personal residence, or a transaction between you, your spouse or your dependent child.

NONE

S or DC	Exam Date	Identification of Assets	Type of Transaction (X)			Date Mo., Day, Yr.	Amount of Transaction (X)							
			Purchase	Sale	Exchange		\$1,001- \$5,000	\$5,001- \$15,000	\$15,001- \$50,000	\$50,001- \$100,000	\$100,001- \$250,000	\$250,001- Over		
1		X Y Z Common	X			2/1/83			X					
2		Nominee - N/A												
3														
4														
5														
6														

Part II
Gifts, Reimbursements and Travel Expenses

Incumbents and Termination Filers only:
 Report the source, a brief description and the value of: (1) in-kind gifts of transportation, lodging, food or entertainment

received from one source totaling \$250 or more unless received as personal hospitality at the donor's personal or family residence; (2) other gifts received from one source totaling \$100 or more in value; and (3) cash reimbursements of \$250 or more received from one source. Exclude gifts and reimbursements received by your spouse that were given to-

ally independent of their relationship to you. Exclude transportation, lodging, food and reimbursements from the U.S. Government. For (1) and (2), exclude gifts from relatives and exclude gifts of \$35 or less when aggregating them for the total from one source. See instructions for further exclusions.

NONE

S or DC	Exam Date	Source (Name and Address)	Brief Description	Value
2		Nat'l Assn. of Rock Collectors, NY, NY	Leather briefcase for retiring president	\$125
3		Nominee - N/A		
4				
5				
6				

Reporting Individual's Name
Frederick P. Hitz

Page Number **7** Schedule **C**

Part I

Liabilities

All Filers: Report liabilities over \$10,000 owed to any one creditor at any time during the reporting period by you, your

spouse or dependent child. Check the highest amount owed during the reporting period. Exclude a mortgage on your personal residence unless it is rented out, loans secured by

automobiles, household furniture or appliances, and liabilities owed to relatives. See instructions for revolving charge accounts

NONE

S or DC	Exam. Dies.	Creditor (Name and Address)	Type of Liability	Date Incurred	Interest Rate	Term if applicable	Category of Amount or Value (X)					
							\$10,001 to \$15,000	\$15,001 to \$50,000	\$50,001 to \$100,000	\$100,001 to \$750,000	Over \$750,000	
		First District Bank, Washington, DC John Jones, 123 J St., Washington, DC	Mortgage on rental property, Rehoboth Beach, Delaware Promissory note	1981 1979	13% 10%	25 yrs on demand			X			
1		None										
2												
3												
4												
5												
6												

Part II

Agreements Or Arrangements

All Filers: Report your agreements or arrangements for future employment, leaves of absence, continuation of payment by a former employer (including severance payments),

or continuing participation in an employee benefit plan. See instructions regarding the reporting of negotiations for any of these arrangements or benefits.

NONE

State and Terms of any Agreement or Arrangement		Parties	Date (App. Yr.)
Example:	Partner to partnership agreement, will receive capital account & partnership share calculated on service performed through 11/83	Doc Jones & Smith, Home town, USA	7/79 partnership agmt.
	I intend to retain my interest in my law firm's Keogh Plan which now totals \$77,973.40.		
	I shall resign as a partner in my law firm (Schwabe, Williamson & Wyatt) upon confirmation. At that point the firm will restore to me my paid-in capital and compensate me for the work I have undertaken this year on their behalf. My only financial tie will be my interest in the firm's Keogh plan which I shall retain until my retirement.		Partner since July 1982

Reporting Individual's Name
Frederick P. Hitz

Page Number	8	Schedule D
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**Part I
 Positions Held Outside U.S. Government**

All Filers: Report any positions held during the applicable reporting period. Positions include but are not limited to those of an officer, director, trustee, general partner, pro-

prietor, representative, employee or consultant of any corporation, partnership, or other business enterprise or any nonprofit organization or educational institution.

Exclude positions with religious, social, fraternal, or political entities or those solely of an honorary nature.

NONE

Organization (Name and Address)	Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)
Examples: Nat'l Assn of Rock Collectors, NY, NY Doe Jones & Smith, Hometown, USA	Non-professional Law firm	President Partner	8/82 7/78	8/83 11/83
Schube, Williamson & Wyatt, 1800-1950 Paocrest Center, 1211 S.W. 5th St., Portland, Or. 97208	Law Firm	Partner	7/82	Present
The Potomac School, McLean, Virginia	Private School K-12	Trustee (unpaid)	7/89	Present

**Part II
 Compensation In Excess Of \$5000
 Paid by One Source**

Nominees and New Entrants only: Report sources of such compensation received by you or your business affiliation for services directly provided by you during the reporting period.

This includes the names of clients and customers of any corporation, firm, partnership or other business enterprise, or any nonprofit organization, when you directly provided the

services generating a fee or payment of more than \$5,000. You need not report the U.S. Government as a source.

NONE

Source (Name and Address)	Brief Description of Duties
Examples: Doe Jones & Smith, Hometown, USA Metro University (Client of Doe Jones & Smith) Hometown, USA	Legal services Legal services in connection with university construction
Oregon Steel Mills, Inc. P.O. Box 2760, Portland, Or 97208	Legal services in connection with extension of Voluntary Restraint Agreement (VRA's) regarding steel imports to the United States
Public Generating Pool (Seattle City Light, Tacoma Public Utility, Eugene Water & Electric Board, Oregon, Douglas and Grant County PD's in Washington State 1015 Third Avenue, Seattle, WA 98104	Legal services in connection with FERC re-licensing, 3rd A/C Intertie deliberations and the Clean Air Act.
International Display Materials, P.O. Box 7456, Princeton, N.J. 08543	Legal services in connection with Hungarian Joint Venture
Seattle City Light, Seattle, Washington Grant Co. (WA) Public Utility District Eugene Water and Electric Board, Eugene, OR.	Legal services in connection with FERC re-licensing and notices of proposed rulemaking. Legal services in connection with FERC re-licensing and notices of proposed rulemaking. Legal services in connection with rehearing on petition for license

Chairman BOREN. The Committee's consideration of this nomination marks the culmination of our efforts to improve the internal oversight arrangements at CIA. The legislation establishing an Inspector General position was developed and reported by this Committee last year and approved overwhelmingly by the Senate as part of the Intelligence Authorization Act of Fiscal Year 1990.

Creating an independent Office of Inspector General at the CIA was by no means a new idea, nor did this Committee act hastily in recommending it to the Senate and indeed to the President.

In 1976, the Church and Pike Committees, the forerunners of the two Congressional Intelligence Committees, were critical of the CIA Office of Inspector General, citing its lack of objectivity, as well as its lack of sufficient authority and independence.

In 1978, the Committee considered the creation of a permanent position of Inspector General for the CIA as part of its consideration of Charter legislation for the Intelligence Community. But that legislation was never enacted and the Committee opted to allow the CIA time to make internal reforms.

In November of 1987, almost ten years later, the issue was still before us. The Congressional Committees investigating the Iran-Contra affair concluded in their final report that the existing Inspector General's Office at CIA, and I quote the Iran-Contra report, "appears not to have had the manpower, resources or tenacity to acquire key facts uncovered by the other investigations of the Iran-Contra affair."

The Committees recommended the creation of a statutory Inspector General for the CIA as the best way of improving its standing and performance. This Committee then began its own investigation of the merits of this proposal in light of the special Committees' recommendations to us and to the Senate.

Similar concerns had led Senator Specter the month before to introduce a bill, S. 1818, which would have established, among other things, an independent Inspector General for the CIA. In 1987, the Committee held two sets of public hearings on this bill and considered the Inspector General provisions. In 1988, the Committee held a third hearing devoted solely to consideration of the Inspector General provisions in S. 1818.

The Director of Central Intelligence, William Webster, testified at these hearings in opposition to this legislation. He urged the Committee to defer action until the Agency had time to make changes to improve the effectiveness of the existing Inspector General system.

Because of our great respect for Judge Webster and his judgment, the Committee deferred action on the independent statutory provisions in order to permit enough time for the actions initiated by the Director to take effect. The Committee attempted to carefully evaluate the performance of the IG operation utilizing both the audit and investigations staff of our Committee.

The Committee specifically requested the DCI to undertake several investigations of allegations which had come to our attention. These investigations were assigned to the Inspector General to carry out and give the Committee additional opportunities to evaluate the work of the existing office.

In reviewing the work of the Office of Inspector General, the Committee found that while some reports appeared to have been based on thorough investigations and to have reached objective conclusions, some appeared otherwise. The Committee primarily attributed these shortcomings not to the level of competence of those involved, and not to the integrity of those involved, but rather to the institutional limitations on the office as it was then operating. The Committee believed that the creation of an independent statutory Inspector General at CIA would improve the effectiveness and objectivity of that office.

Under the old system, the Inspector General was a member of the CIA management team and served at the discretion of the Director. Moreover, performance of the office had been affected by an over-reliance upon CIA employees who were rotated into office as inspectors and investigators. These employees had no previous training or experience in such work, and had to return to other agency positions once their tour with the Inspector General was completed. To put it bluntly, they very often had to go back into divisions that they were called upon to investigate as members of the Inspector General's team. An aggressive approach to those investigations might hinder promotion when they returned to be evaluated by the very people they had been charged to investigate.

This was frequently true as well of the individuals assigned to the position of Inspector General, several of whom were reassigned to senior positions within the CIA when their tour was over. So despite the very best efforts of these individuals assigned to the IG's office, these inherent institutional constraints gave the Committee serious concern.

By the summer of 1989, we had come to the conclusion that legislation was needed to improve performance and effectiveness of that vital element of the oversight process, both in terms of assisting the DCI and assisting the oversight committees of the Congress in carrying out their respective responsibilities. Accordingly, the Committee included the legislation establishing an independent statutory Inspector General at the CIA in the Intelligence Authorization Act for 1990. The Committee vote was eleven to four in favor of this proposal.

When the Senate took up the Intelligence Authorization Act on November 7 of last year, a motion to table an amendment to delete the Inspector General provision passed by a vote of sixty-four to thirty-four. So it was not only an overwhelming vote in this Committee but an overwhelming vote on the Senate Floor in favor of the action. And the provision was subsequently approved by the House and Senate conference and signed into law by the President as part of the Authorization Act.

I might say, the President engaged in a number of conversations with myself, the Vice Chairman and other Members of the Committee about this issue. I know he gave long and careful consideration to it in trying to strike a balance between the need for improved oversight and also to assure that the confidentiality and the security of our intelligence operations would not be compromised.

Now, ten months later, after the enactment of this legislation, the President has sent us a nominee for the advice and consent of the Senate.

In many respects, the provision of the Inspector General Act of 1978 served as a model for the Committee in the development of the CIA Inspector General Act of 1989. Twenty-five statutory Inspectors General for federal agencies had been appointed pursuant to that statute.

With the exception of the CIA, all major departments and agencies of the Federal government, including those with national security responsibilities, are included in that number.

The Committee believes that the appointment of Inspectors General by the President with Senate confirmation with certain independent responsibilities to the Congress has in fact bolstered the status of such offices within other departments.

However, in approving legislation establishing a statutory Inspector General at CIA, the Committee obviously believed that the CIA presented a unique case situation. And we were very sensitive therefore to the kinds of special considerations that would be involved in having an Inspector General position at the CIA. We understood the unique oversight relationship with Congress and that we should have an Inspector General with somewhat different duties, powers and relationships than in other agencies.

The CIA's IG is to be appointed by the President, subject to Senate confirmation, and may be removed only by the President.

The IG will report to, and be under the general supervision of the Director of Central Intelligence.

The Director of Central Intelligence may prohibit the Inspector General from undertaking an investigation or an inspection for national security reasons but is obligated to report such action to the Intelligence Committees within seven days. The IG would be permitted to comment on such action. So we allow the DCI to act in the case of national security, but made certain that it would come to the attention of these Committees if indeed the IG should be prohibited from proceeding.

The Inspector General is given authority to seek assistance from other federal agencies with the concurrence of the DCI.

The IG is required to submit semi-annual reports to the Intelligence Committees on the activities of the IG's office, and to make reports within seven days when he discovers a serious or flagrant problem. That would include notifying us if there's a necessity of investigating the DCI himself or high-ranking officials of the department.

While subpoena power is not granted to the Inspector General at the CIA as it is to other Inspectors General, the law makes clear that it will be grounds for termination of employment or contractual relationship with the CIA if information is not provided in appropriate circumstances.

The IG may select his or her own staff, but may only employ persons who meet the DCI's personnel and security requirements.

So we have made room for some very specialized provisions in relationship to the position to which Mr. Hitz has been nominated by the President.

Let me say also that the Committee, and I know Senator Cohen would join me in this, expresses its appreciation to Senator Glenn, the Chairman of the Committee on Governmental Affairs, his staff, and Committee members for their assistance and their cooperation

as we work through these provisions. We consulted extensively with the Committee on Governmental Affairs in this process as well as with the Intelligence Community.

I think the President has sent us a very fine nominee in Mr. Hitz. I can't think of a person that would have higher qualifications and better experience to make an excellent Inspector General.

But it won't be an easy task. And it's extremely important that this effort get off to a good start so that the pattern is set for the future. Having talked with the nominee, I know he understands that in many ways his actions will be precedent setting in terms of how this particular office will function for years to come.

The Committee wants an Inspector General who will be candid and objective and, above all, independent. The Committee wants an Inspector General who will let us know when he sees serious problems. We want an Inspector General who will let us know when obstacles are being thrown in his way to do his duty as he sees it.

We also want an Inspector General who will work within the DCI's overall supervision, and provide the critical support he needs to manage the Agency effectively. In many ways it will be a partnership, certainly with the current occupant of the DCI's position and his commitment to the rule of law and the spirit of law as well. I know the DCI views the Inspector General not in a threatening way, but in a positive way to help him operate the Agency more effectively and always according to the highest standards of integrity.

We also want an IG who will receive the cooperation and support of the Agency, all of its employees and who will serve their interests. So it is clear that if Mr. Hitz is confirmed, he will have to strike a balance between his own independence and the unique requirements of an intelligence service. There is no reason why these objectives cannot be realized. They are not mutually exclusive. To a large degree how well the system works will ultimately depend upon the good faith and diligence, the constructive attitude of all of us, and the new Inspector General, the DCI, and the oversight committees.

Mr. Hitz, we look forward to your testimony. We are very positive about this nomination, the experience, qualifications, the personal integrity as well as the ability that you bring to this position. I apologize to my colleagues for taking so much time to read into the record some of this background. But I think it's important as we consider the nomination today, as we hear your statement and move into the questioning period, that we understand the reasons why this position has been created. And that we also understand the great care the Committee has taken in trying to craft this position in a way unique to this particular agency that will strike that proper balance.

Let me ask my colleagues if any others wish to make any comments before we turn to questions.

Vice Chairman, Senator Cohen?

Senator COHEN. Thank you Mr. Chairman. I'll try and be brief. As Senator Warner indicated, the nominee has his roots in Virginia but I would also hasten to point out that like his mother, who is in the audience today, they are also in Deer Isle, Maine. And that

may create something of a conflict of interest as he witnesses the recent brilliant recounting of a truly monumental crisis in our history, the Civil War. But I would dare to say that when we talk about his independence, he will draw upon his roots in Deer Isle rather than Virginia as he exercises his—

Chairman BOREN. Let's hope not, Mr. Vice Chairman.

Senator WARNER. Well now, Mr. Chairman, I—

Senator COHEN. No, no, no, no, no. I refuse to yield to the Senator from Virginia.

Senator WARNER. I would simply ask that my statement be amended to include the fact that he's uncle of one Natalie Bocock, one of the most respected and valued staff members of this Committee for many years who also came from Virginia.

Thank you.

Chairman BOREN. That certainly is going to be positively noted by the Members of the Committee, Senator Warner.

Senator COHEN. Mr. Chairman, I would ask that my full statement appear in the record, but I would like to quote from a 1985 report from a Committee of the American Bar Association, the Standing Committee of Law and National Security on Intelligence Oversight. I believe the nominee was a co-author of that report. And I think the words are worth reading into the record. The report said, "It is extremely important to recognize that external oversight, whether from Congress or elsewhere, will not in itself suffice to ensure that the activities of the intelligence agencies are conducted in accordance with the applicable law in a manner consistent with appropriate standards of propriety. No system of outside review, even one enjoying many time more resources than those available to the Congressional Oversight Committees, could possibly hope to monitor all the activities of the intelligence agencies. These activities are multitudinous. They are conducted in conditions of the greatest secrecy, often outside the United States, and by their very nature are neither accessible to external review in detail nor capable of being successfully conducted under exposure to such outside review. Thus, it is imperative, if appropriate standards of conduct be maintained, that the job be done primarily within the Executive branch, and principally within the agencies themselves, starting from the bottom up."

And then the report goes on to say that one approach to solving this problem is to strengthen the role of the offices of Inspector General in the intelligence agencies. And there was this statement.

"At present the agency Inspectors General exist largely to react to allegations of wrongdoing and to investigate specific cases brought to their attention. While the Inspectors General in some cases conduct general audits of specific agency activities or programs, it is our impression that these are not sufficiently systematic or frequent, nor are they sufficiently focused on high risk areas, to satisfactorily perform the monitoring function. Moreover, the Inspectors General and their staffs usually are drawn from among long-time agency employees with a background in operations and thus may find it difficult to take an appropriate critical stance towards current operations."

I must say to our nominee that these words were written five years ago but they are certainly reflective of and fairly character-

ize the Committee's own perception of the Office of Inspector General at the CIA. And it was largely this same perception that motivated the Committee to approve the creation of a statutory Inspector General for the CIA.

I look forward to your testimony, Mr. Hitz. I am satisfied knowing you and having talked with you that you will approach this job consistent with the words that you wrote or helped to write back in 1985.

I might say I do have to go to the floor, Mr. Chairman, to partake in a debate, but some of the questions that were asked and some of the answers leave room for clarification. And if I don't return in time to ask these questions, I would ask they be included in the record and that the nominee be given an opportunity to answer them.

But they have to do with questions of how you would see your role if you happen to have a conflict with the DCI. If the DCI should suggest that this is too highly sensitive and don't want any disclosure to members of the Committee, how would you resolve that conflict? And I think there are some areas of ambiguity in the responses which ought to be fleshed out a bit.

I thank the Chairman.

[The prepared statement of Senator Cohen follows:]

**OPENING STATEMENT OF THE HONORABLE WILLIAM S. COHEN
VICE CHAIRMAN, SENATE SELECT COMMITTEE ON INTELLIGENCE
FOR CONFIRMATION HEARING OF FREDERICK PORTER
HITZ TO BE INSPECTOR GENERAL OF THE CIA**

I join with the Chairman in welcoming Mr. Hitz and his family to the Committee.

I agree with him that Mr. Hitz seems to bring many talents and truly valuable experience to this position. He has had a fine education; extensive government experience, including a number of years at the CIA itself; as well as a number of years in private law practice. He has been an insider at the agency, and yet has been at a distance now for some time.

That he is willing to give up a lucrative position in private practice and return to the government in what will surely be a difficult and demanding role is, in my view, a very commendable example of public service.

I think it is important that he understand, however, that, at least as far as we are concerned, the situation has been changed by the statute enacted last year. The office of Inspector General at CIA is not the office he remembers.

While the IG remains subject to the supervision of the Director of Central Intelligence, he now has certain responsibilities with respect to the Committees that are set forth in law. He is required to make periodic reports to us, through the DCI, and to let us know if he runs into problems in carrying out his duties. We want him to be thorough, we want him to be objective, and we want him to be candid, even if it means stepping on some toes.

We also want the IG to ensure that an agency with considerable and far-reaching resources, some involving the most sensitive type of work under the tightest of security, remains within the constraints of applicable law and policy. The Committees cannot do this job alone. We have neither the staff nor the time to look into the details of every CIA program or activity.

I am obliged to note that the same point was emphasized in a 1985 report of a committee of the American Bar Association on Intelligence Oversight, which I understand you, Mr. Hitz, co-authored. Let me quote a bit of this:

"It is extremely important to recognize that external oversight, whether from the Congress or elsewhere, will not in itself suffice to ensure that the activities of the intelligence agencies are conducted in accordance with applicable law and in a manner consistent with appropriate standards of propriety. No system of outside review, even one enjoying many times more resources than those available to the Congressional Oversight Committees, could possibly hope to monitor all the activities of the intelligence agencies. These activities are multitudinous. They are con-

ducted in conditions of the greatest secrecy, often outside the United States, and by their very nature are neither accessible to external review in detail nor capable of being successfully conducted under exposure to such outside review. Thus, it is imperative, if appropriate standards of conduct be maintained, that the job be done primarily within the Executive branch, and principally within the agencies themselves, starting from the bottom up."

The report goes on to say that one approach to this problem that should be taken is to strengthen the role of the offices of Inspector General in intelligence agencies:

"At present the Agency Inspectors General exist largely to react to allegations of wrongdoing and to investigate specific cases brought to their attention. While the Inspectors General in some cases conduct general audits of specific agency activities or programs, it is our impression that these are not sufficiently systematic or frequent, nor are they sufficiently focused on high risk areas, to satisfactorily perform the monitoring function . . . Moreover, the Inspectors General and their staffs usually are drawn from among long-time agency employees with a background in operations and thus may find it difficult to take an appropriately critical stance towards current operations."

I must say to the nominee that although these words were written five years ago, and did not single out the Central Intelligence Agency, they fairly characterize this Committee's own perception of the office of Inspector General at CIA which predated last year's legislation. Indeed, it was largely this perception that motivated the Committee to approve a statutory Inspector General for CIA almost a year ago.

While I want to hear your testimony, I feel confident, having met with you several days ago, that you share our commitment to achieve the goals of this legislation, namely to provide objective and comprehensive oversight of the activities of the CIA. Given what I know of your background and what I perceive as your enthusiasm for the task ahead, I believe your appointment should prove to be a significant step in the right direction. I welcome you and your family to the Committee.

Chairman BOREN. Thank you very much, Senator Cohen.

Without objection, we will hold the record open for you to be able to submit any additional questions if you are not able to ask them in person today.

Senator Glenn?

Senator GLENN. Thank you, Mr. Chairman. I ask unanimous consent that my more lengthy statement be included in the record as though delivered. I would just like to make some brief comments here.

The Chairman indicated that the Inspector General Act of 1978 served as a model for the new CIA IG office. In 1978, we passed the Inspector General legislation in the Governmental Affairs Committee that I now Chair. It was sort of an experiment. We didn't know whether the IG position was going to work and be worth the money expended on it or not. And through the years, it has proven to be very valuable.

When Senator Specter initiated legislation to establish an Inspector General at the CIA, I worked closely with him here on this Committee. So it really did turn out to be a joint effort.

The whole IG experiment is a success story. The statutory Inspectors General can point to some one hundred billion dollars they've saved the federal government by uncovering fat, fraud, waste and abuse. Now certainly CIA is no exception and has its share of problems—like all bureaucracies. And so I look at your efforts out there as being particularly important given the CIA's unique national security role.

The unique nature of the CIA's mission was reflected in some of the changes we made in Senator Specter's legislation, and we worked together on these issues, as the Chairman said. These changes included requiring notification to the Committees when the IG believes problems focus upon the Director of the CIA. And

this provision is not just witch-hunting. There were some serious questions raised in the not too distant past about what was going on at the CIA. And so we put that provision in the legislation.

Other changes in the original legislation include: requiring the IG's access to CIA personnel and contractors; providing a separate budget line for the IG's office so you didn't get frozen out at budget time; allowing the IG to hire and fire his own staff, subject, of course, to CIA clearance procedures; and giving the IG necessary housekeeping powers such as access to CIA facilities, power to administer oaths, imposition of GAO audit standards as the basis for IG audit work, and allowing the IG to comment on legislation. We also restricted the CIA IG's reporting relationship to the House and Senate Intelligence Committees, which is rather unique in relation to other IG's, as you are aware.

I have additional comments that are included in my complete statement. We look forward to getting you confirmed and in place at the Agency. You will be the first statutorily approved IG at the CIA and we wish you very well. If you get tired of this bickering back and forth between Virginia and Maine, we'd always welcome you in Ohio, too.

Mr. Chairman, I have a couple of questions I'd like to submit for Mr. Hitz to answer for the record. I have another hearing I have to attend over in Armed Services. I'm sorry that I have a conflict, Fred. I enjoyed talking to you the other day in my office, and I look forward to working with you in your new position.

[The prepared statement of Senator Glenn follows:]

**REMARKS BY SENATOR JOHN GLENN, FOR THE SSCI HEARING
ON THE NOMINATION OF FREDERICK HITZ TO SERVE AS STAT-
UTORY INSPECTOR GENERAL AT THE CIA**

Mr. Chairman, I want to join you in welcoming Fred Hitz, President Bush's nominee to be the first statutory CIA Inspector General. I have met with Mr. Hitz, and he is an impressive individual with a fine record of achievement in government and the law. I look forward to hearing Mr. Hitz's views on his new role.

I was one of the strongest supporters of the provision in the Intelligence Authorization Act of fiscal year 1990 establishing an independent, presidentially-appointed statutory Inspector General (IG) at the CIA. As a member of both the Senate Select Committee on Intelligence and the Senate Governmental Affairs Committee, which I chair, I have had a unique vantage point to assess both the track record of the existing statutory IGs in the federal government as well as the need for a statutory IG's at the CIA. I believe this action is sorely needed and long overdue.

The Governmental Affairs Committee has primary jurisdiction over the statutory Inspectors General established throughout the federal government under the Inspector General Act of 1978, and amendments thereto. The IG concept has worked extremely well at other agencies—including agencies with extremely sensitive national security missions such as the Department of Defense and the Department of Energy—and I have every confidence that it will work at the CIA as well.

The Intelligence Committee considered the unique nature of the CIA's mission in crafting legislation designed to provide adequate assurance that the IG's office will act in a manner consistent with the CIA's mission, and we carefully evaluated aspects of the generic IG statute before accepting or rejecting specific provisions.

Last year, the bill's original sponsor, Senator Specter, and my colleagues on the Intelligence Committee, were willing to accommodate my desire for various enhancements of the original CIA Inspector General legislation in order to bring the bill into greater accord with the 1978 Inspector General Act.

These changes include:

—requiring notification of the Committees where the IG believes problems focus upon the Director of Central Intelligence (DCI), or serious problems are found at the agency;

- requiring the IG's access to CIA personnel and contractors;
- providing for a separate budget line for the IG's office;
- allowing the IG to hire and fire his own staff, subject to CIA clearance procedures; and

- giving the IG necessary housekeeping powers: for example, access to CIA facilities; power to administer oaths; imposition of GAO audit standards as the basis of the IG audit work; and allowing the IG to comment on legislation.

I am convinced that these and other changes will make the statutory CIA IG office far more likely to be both effective and objective. However, the unique nature of the CIA's sensitive national security mission also required some changes and accommodations from the standard model of the IG office.

For example, I had no objection to restricting the reporting relationship of the CIA IG to both the House and Senate Intelligence Committees. Normally, all IGs report both to the relevant authorizing Committees in Congress as well as to the Senate Governmental Affairs Committee and the House Government Operations Committee. Therefore, I agreed to relinquish what would normally be the jurisdiction of the Committee I chair in order to restrict dissemination of inherently sensitive CIA IG reports.

I am convinced that the Intelligence Committee's establishment of a statutory CIA IG represents a significant improvement over the existing IG structure at the CIA and I am pleased that we will soon have someone to head the statutory IG office at the Agency.

In order to place this issue in its proper perspective, it is important to understand the track record of the other statutory IGs that exist throughout the federal government.

This time, twenty-five presidentially appointed Inspector General positions have been created by the Congress. With the 1988 amendments to the 1978 Inspector General Act, offices of Inspector General have been extended to all of the cabinet departments and major federal agencies (including those with significant national security responsibilities such as the Department of Defense, the Department of State, and the Department of Energy).

It should be no surprise to anyone that there was resistance to a statutory Inspector General at the CIA. Most federal agencies were adamantly opposed to the establishment of a statutory IG for their agency, but most agency heads ultimately come to appreciate the considerable benefits to be derived from an independent IG office. These statutory IGs have a proven track record of:

- 1) conducting audits and investigations of agency programs;
- 2) promoting economy and efficiency, and detecting waste, fraud, and abuse involving programs and operation within that agency; and
- 3) keeping the Agency head and congress fully informed about problems.

Everyone likes to complain about waste, fraud, and abuse in the federal government, but the statutory IGs are in the unique position of actually being able to do something about it. At a time when it is essential to more effectively utilize increasingly scarce resources and learn about problems before they get out of hand, the statutory IG performs a significant public service.

It is also important to place this issue in its proper historical context. The performance of the administratively created CIA Inspector General has been found wanting since the mid-1970s. In 1976, the forerunner Intelligence Committees in the House and Senate found a series of problems and defects in the CIA office of Inspector General ranging from lack of objectivity to insufficient authority and independence. In November, 1987, the Congressional Committees investigating the Iran-Contra affair, recommended, among other things, the creation of a statutory Inspector General for the CIA, stating that the present office at CIA "appears not to have had the power, resources or tenacity to acquire key facts uncovered by the other investigations of the Iran-Contra affair."

Prior to enactment of the Committee's CIA IG legislation, the CIA Inspector General was appointed by, and served at the pleasure of, the Director of Central Intelligence. This arrangement necessarily encouraged the CIA IG to maintain a favorable relationship with the Director in order to preserve his job, rather than act as a proper independent fact-finder when necessary, a critic of CIA programs and operations.

In my view, this was a serious institutional flaw in the previously existing office of CIA Inspector General.

Some opponents of the statutory CIA Inspector General argued that the previously existing IG had the requisite independent streak to do the job correctly. But this was not enough assurance for two reasons: first, the previously existing IG could be

fired by the DCI at any time; and second, there remains an appearance problem which no single individual can overcome.

In addition, the credibility and performance of the CIA's IG office was harmed by an over-reliance upon CIA employees who were rotated into office as inspectors and investigators with no previous training or experience in such work, and who returned to positions in other parts of the agency once their tour with the Inspector General was completed. It is difficult to expect thoroughness and objectivity with these inherent institutional constraints. This has been especially true of the individual assigned to the position of Inspector General, several of whom have been reassigned to a senior position within the CIA after their tour as Inspector General.

Opponents of a statutory CIA Inspector General argued that Judge Webster needed to be given sufficient time to bring about additional changes in the CIA IG. However, since the current Inspector General at the CIA serves at the Director's discretion, the office can only be as thorough and objective as the individual DCI wishes it to be.

While I believe that Director Webster has done a good job at the CIA and is a man of integrity, both common sense and experience indicate that we must have an institutional check in place to guard against a future DCI who may not live up to Judge Webster's standards. And that check is the Presidential control over the hiring and firing of the CIA IG.

Opponents of the establishment of a statutory CIA Inspector General also argued that the creation of a statutory IG would, "instill undue risk-aversion in what should be one of our nation's most entrepreneurial institutions." This is a mistaken notion and one that I find completely unpersuasive. This legislation could only serve to make the CIA "averse" to violating U.S. law and policy. Bold and creative intelligence operations that fail to live up to this criteria simply do not merit consideration by our government.

I am second to no one in my desire for our nation to have robust and effective intelligence capability. Congress and the American people have entrusted the CIA with our nation's secrets and provided this vitally important agency with extraordinarily sweeping power and authority to complete its mission. However, with this enormous power comes enormous potential for abuse. Increased accountability to the American people through their duly elected representatives is an essential goal in our democratic system of government. The establishment of an independent Inspector General at the CIA is an indispensable means to that end.

In conclusion, I would like to say how pleased I am that at long last this important nomination is before us. I look forward to hearing Mr. Hitz's views on the role of the statutory Inspector General at CIA.

Mr. Hitz, welcome to the committee.

Mr. Hitz. Thank you, Senator.

Chairman BOREN. Thank you very much, Senator Glenn.

Senator D'Amato.

Senator D'AMATO. Mr. Chairman, in the interest of time, I'm just going to put my statement in the record and ask that it be included as it if read in its entirety and give my best wishes to Fred. And I believe he will be speedily confirmed.

[The prepared statement of Senator D'Amato follows:]

SENATOR ALFONSE D'AMATO'S OPENING STATEMENT

Mr. Chairman:

I am pleased to have the opportunity to meet Mr. Hitz and to learn his views on the office of Inspector General of the CIA. As a supporter of establishment of a statutory Inspector General within the agency, I believe the President has nominated in Mr. Hitz a highly qualified person to become the first incumbent in this position, if he is confirmed.

The Central Intelligence Agency is a very important agency to the security of the United States. It is vital that the American people have confidence in the agency and its integrity. A statutory Inspector General who is vigorous in the pursuit of his duties can help ensure that events that would undermine that confidence are kept to a minimum.

Preserving and sustaining public support for the Central Intelligence Agency and its efforts depends upon maintaining public confidence in the agency. This means that the American people must be convinced that the Agency is doing what the President tells it to do and what our laws and Constitution permit it to do, and no

more. The Inspector General, along with this Committee and our counterparts in the House, are here to ensure that the limits on CIA actions are well understood and are firmly enforced.

Everyone is familiar with the various problems with U.S. intelligence that have been reported on the front pages of the world's newspapers over the years. While no one claims that a statutory Inspector General would have been able to prevent all—or even many—of these problems, the very existence of the office will tend to chill activities that are not authorized or are, in fact, illegal. That deterrent effect is more than worth the cost of establishing and maintaining the office.

Those who opposed the creation of a statutory Inspector General's office for the Central Intelligence Agency were afraid that such an office would have a chilling effect on the proper conduct of intelligence activities—that officials would be concerned that a watchdog was looking over their shoulder and would thus take fewer bold initiatives to attain our legitimate goals, when what we need is innovation and initiative in our intelligence officers.

I do not want to stifle initiative or stop innovative approaches to solving serious intelligence problems. We need initiative and innovation, and perhaps some dash and daring, too. These desirable qualities must, however, manifest themselves within the scope of United States law and Constitutional authority. The Inspector General must ensure that these limits are well known and firmly enforced.

The statutory Inspector General can provide support for the Agency's credibility when it must deny the unfounded charges frequently hurled at it by those who oppose one or another aspect of our foreign policy. The statutory Inspector General can be the Director's—and the President's—best fly in this effort, but only if the IG has demonstrated integrity, strength of character, and public stature. A weak Inspector General would be of no service to the CIA or to this nation.

I look forward to learning Mr. Hitz's views on the role of the CIA's statutory Inspector General and of his future in this office if he is confirmed. Let me hasten to make clear that I know of no reason why he shouldn't be so confirmed, and, unless something should unexpectedly come up in the course of this hearing, I expect to enthusiastically support his confirmation.

Thank you, Mr. Chairman.

Mr. HITZ. Thank you, Senator.

Chairman BOREN. Thank you very much, Senator D'Amato.

Senator Murkowski, who is not able to be here today because of conflicts in Committee meetings, has asked that we insert in the record his statement on the nomination of Mr. Hitz.

Without objection, it will be included in the record at this point.

[The prepared statement of Senator Murkowski follows:]

SENATOR MURKOWSKI—OPENING STATEMENT—CONFIRMATION OF CIA INSPECTOR GENERAL

I would like to join my colleagues in welcoming Mr. Fred Hitz this afternoon. He is a man with a distinguished career in public service and the private sector.

As we all know, Mr. Hitz has been nominated to be the first statutory Inspector General of the CIA. If confirmed, he will bear a heavy responsibility to assist the DCI in assuring that the CIA is run efficiently and honestly. At the same time, like other statutory IGs, he will be obligated to keep the Congress informed of his activities and findings—particularly where instances of serious abuse or malfeasance occur. In short, he must simultaneously serve both the executive which appoints him, and the Congress which confirms him.

This will not be easy. It will require good judgment, a deft touch, and immovable integrity.

I look forward to today's hearing to help us determine whether Mr. Hitz has these requisite qualities.

Chairman BOREN. I might mention before Senator Glenn and Senator D'Amato depart that the Committee rules require that no vote may occur on the nomination pending in the Committee until the transcript of the hearing has been available to Members for a period of at least forty-eight hours. While we must follow that rule, we will take action on this nomination as quickly as we possibly can do so within the boundaries of our rules assuming that no un-

expected matters come up in the course of our proceedings this afternoon.

I thank my colleagues. And, again, Mr. Hitz we are pleased to have you with us. We are pleased that the President has sent us this nomination. Since you have been previously sworn in, we would welcome your opening statement at his time.

TESTIMONY OF FREDERICK P. HITZ NOMINEE TO THE POSITION OF INSPECTOR GENERAL OF THE CENTRAL INTELLIGENCE AGENCY

Mr. Hitz. Thank you, Senator Boren, I appreciate your remarks, Senator Glenn, Senator D'Amato. I have a short statement and I think I will read it. Let me get my specs on.

Mr. Chairman, Mr. Vice Chairman, and Members of the Senate Select Committee on Intelligence, it is my privilege and honor to appear before you today to discuss my nomination as the first statutory Inspector General for the Central Intelligence Agency. I am grateful for the President's expression of confidence in my abilities to undertake this important assignment, and I approach this new challenge with enthusiasm and determination to make the statutory Inspector General a positive contribution to the management of the Central Intelligence Agency.

My enthusiasm, however, is not without some concern. I come to this position with a clear understanding of the heavy seas upon which the legislation sailed. Despite their opposition to the creation of the statutory IG position, I know that the President and the Director of Central Intelligence are now committed to making this new arrangement work. If confirmed, I believe that I can make a contribution to fulfilling this commitment. You have a record of my background, I believe that my past experience in CIA, in liaison between the Executive and Legislative branches at CIA and other departments, and as a practicing attorney, will aid me in the performance of my duties as IG.

I believe that the Inspector General's principal role is to provide objective and independent oversight to the programs and operations of the CIA—to ensure that they are conducted in accordance with applicable law and regulations. This is accomplished by conducting inspections, investigations and audits of agency activities; providing recommendations to promote efficiency and to prevent abuse; keeping the DCI fully informed about problems and the progress of corrective action; and ensuring that the Intelligence Committees are informed of significant problems and corrective actions taken.

It is my view that there are two critical elements necessary for effectiveness in this job. First, I believe that it is essential that the IG and his staff understand intelligence operations and procedures. I believe that my prior experience in the intelligence field combined with that of the IG staff, which I shall inherit and develop, will provide this necessary knowledge and understanding of intelligence activities.

Second, the Inspector General and his staff must have the trust and cooperation of Agency employees. Without such cooperation, it would be difficult to conduct thorough reviews and to uncover problems that need correcting. Of significance here is the IG's role in protecting sources and methods and the importance of the IG operating in such a manner as to dispel any perceptions that confidentiality cannot be guaranteed. The statute, while providing ample authority for the IG to competently and effectively carry out his mandate, recognizes the unique mission of the CIA by providing that the IG must take due care to protect sources and methods in IG reports and by providing that the DCI may prohibit the IG from investigating, carrying out, or completing any investigation or audit when vital to national security interests. The Intelligence Committees will, of course, be informed when the DCI exercises this prohibition authority and the grounds therefore. These protections should serve to signal our friends abroad that our concern for protection of intelligence sources and methods is undiminished, and that this concern is shared by the Executive and the Legislative branches.

Let me say, Mr. Chairman, occasionally public service affords an opportunity to have an impact on the formative phase of a new organization. The creation of a statutory IG at the CIA is one of those occasions, and I consider myself fortunate indeed to have been asked to play a leading role in this endeavor. If confirmed, I am determined to create an office of Inspector General of which both the Agency and the Intelligence Committees will be proud.

That concludes my prepared remarks, Mr. Chairman.

Chairman BOREN. Thank you very much, Mr. Hitz.

Let me just ask a few questions. Do you view the role of an independent statutory Inspector General as being a help or hindrance to the CIA in the conduct of its mission?

Mr. HRTZ. I view it as a help to the CIA. I think I'm aware of the instances you cite in history, the Church Committee observations, the Iran-Contra Committee observations. And it's clear to me that an Inspector General or an Office of Inspector General that functions with the objectivity and judgment which you have sought to structure in the statute will be an aid to the CIA and an aid to the Director in the performance of his mission. And I hope it is an aid to the Committees as well.

Chairman BOREN. I appreciate your answer. I certainly agree with it. We view it in a very positive way. We have so many fine and extraordinary people serving in the Intelligence Community. It has been the very rare exception that these professionals are subject to political pressure to take actions that are not consistent with their own professional standards.

The Inspector General, like the oversight Committees themselves, should operate in a constructive way, not in a destructive fashion. If the job is done properly the independent statutory Inspector General and the oversight process can serve as institutions for the protection of those professional standards and for the protection of those professionals in the Intelligence Community. Then if people are pushed to do something they should not do, something that violates their own professional standards, there are agencies and institutions to whom they're obligated to make a report. This, I think, can serve as a deterrent and a check upon those who would abuse their authority and abuse individual employees of the Agency, trying to get them to do something they shouldn't do.

If there is an Inspector General to whom an employee can report with confidence and an oversight process that can protect those individuals, I think that it can enhance the professionalism and serve as an institutional protection for those men and women of integrity that serve in our Intelligence Community.

If the DCI requests that you conduct an audit or inspection of an agency program or component, do you feel you would feel obligated to do so? And on the other hand, would you feel that as Inspector General, you have sufficient authority without direction from the DCI to set your own agenda? If matters come to your attention from other sources other than the DCI, would you feel that you have the independent capability of forming your own judgment and not limited strictly by the agenda set forth by the DCI?

So there are really two different questions. Do you have the ability to put your own items on the agenda that you in your judgment feel should belong there? Would you feel a sense of obligation of carrying through with items that the DCI requested to be placed on your agenda?

Mr. HRTZ. To answer the first part first, Senator, I think that if the DCI asked that I undertake an inspection or an audit, in most instances I would comply. And I would think if there are questions of resource limitations or something about which I wasn't certain that he or she had been fully briefed, then we could consult about

that. But I think the tougher part of your question is the second part and I think in Section I, you have created sufficient responsibilities so the Inspector General does have an obligation to see that Agency regulation is followed, to review problem areas and keep the DCI fully informed as to them, and hence the Committees.

So I think there is an element in the Office of the Inspector General of setting ones own agenda, subject to resource constraints and consultation.

Chairman BOREN. Let us consider a very rare situation. Knowing the current occupant of the position of DCI and the other top officials of the Agency, I cannot conceive of any of them straying from what would be both legal and proper. But what if information came to you of an alarming nature with enough evidence to back it up that you would feel it would merit an investigation into the conduct of the DCI himself, or herself. Would you feel you had inherent authority that would allow you to maintain confidentiality and commence that investigation if it were of the DCI himself, or herself, without making a notification to the DCI that he was the target of an investigation?

Mr. HRRZ. Well, that's a tough one. I want to say at the outset that I concur with you absolutely down the line with respect to your estimation of Judge Webster. We're talking about hypotheticals here. Judge Webster is absolutely, totally apart from this question.

I think the question should focus on the seriousness of the allegations and the extent of evidence that one has, Senator. I think that that's not to be taken lightly. It seems to me unless one felt that the Director were going to, in some fashion, inhibit that investigation, at which point one would consider not informing him, I think you inform him of the fact that serious information, or serious evidence affecting his conduct of the position had come to your attention and you intended to pursue it. And of course you have a reporting requirement in the statute which means that that information would be supplied to the Committee.

Chairman BOREN. Well, I can understand why you would say that in the normal case, but let me make it a little bit more difficult. What if you obtained evidence that really convinced you there was a pattern of behavior that would not only be very, very damaging, but also that it established a likelihood that if informed, the Director would compromise the ability of the investigation to be conducted. This would certainly be true, for example, in a criminal investigation under some circumstances. Obviously even in counterespionage we certainly don't always notify the target if there's special circumstances that would make it impossible for you to carry out an investigation successfully. Can you envision that there might potentially be some circumstance in which you'd have to conduct such an investigation in consultation with the Committees at that point?

Mr. HRRZ. Yes, I can envision that, Senator, regretfully. I think if you believe the investigation might be compromised, you have an obligation to go forward without disclosing.

Chairman BOREN. And you would be prepared to do so if you reached that conclusion?

Mr. HRRZ. Yes, I would.

Chairman BOREN. If that were your duty as you saw it?

Mr. HIRTZ. Regretfully, I would.

Chairman BOREN. I notice in your answers to questions asked in advance, one answer that causes me some pause. The statute requires that you are to report to the Committee if you have a difference with the DCI that affects your ability to carry out your duties. And in your answer for the record you state that if the DCI were to frustrate the exercise of the IG's responsibilities, and I quote this, "in a fundamental and unavoidable way that it might be the occasion for a report to the Committee."

So your answer, by using the word "might", makes it sound that you would have some doubt in your mind as to whether or not you should report to us.

Do you have any doubt about that? And why did you use the word "might" as opposed to "would".

Mr. HIRTZ. I stand corrected on that one, Senator Boren. I think if the Director interfered with the obligations of the office of Inspector General and the Inspector General in a fundamental way and there was no other way to convince him to back off, I think under the statute, I report to the committees.

Chairman BOREN. Before I ask my last question, let me say, Senator Specter, in your absence in my opening statement I indicated the very key role that you played in crafting this legislation and that you were the original proponent of the Bill which eventually became the law. So we welcome you and again express appreciation to you for the key role you've played in the establishment of this statute that brings us to this point today.

Let me ask just one more question and then I will turn to you for any questions you might have. On one other answer, Mr. Hitz, you indicated that if you had a difference of opinion with the DCI and then the DCI convinced you that indeed the action you thought you should take would not be appropriate, and you come to an honest understanding with the DCI, or what starts out as a disagreement ends up being an agreement after discussion with him, in that case you would not feel a responsibility to report to the Committee the fact that you had an initial disagreement that later was resolved between the two of you. Does that accurately portray your point of view?

Mr. HIRTZ. Yes, it does, Mr. Chairman.

Chairman BOREN. And you would distinguish that situation from a case in which you just were not able to resolve a point of agreement?

Mr. HIRTZ. That is correct. If there were a difference in view as to that, then I would insist that the Director invoke his prohibition authority.

Chairman BOREN. And that we would be notified.

Mr. HIRTZ. Then you would be notified.

But I am envisioning a situation in answer to your original question—and maybe it is pointing out something that is really of no consequence—I was envisioning a situation where the IG mounts an inspection of an office, for example, which for budgetary reasons might be abolished in the next fiscal year. The IG might not have known about that before the DCI informed him and as a consequence an inspection of that office would be unnecessary. The IG

may not be aware of certain things that were he aware of them, the problem would go away. That was the instance that I was thinking of.

Chairman BOREN. Well, I have to say I agree with your answer. I think this gets to striking the balance that we are talking about. The IG while independent should not use it in a way that is viewed as automatically hostile to the interests of the DCI or the Agency. I think that is exactly appropriate. If differences of opinion can be resolved without plunging the rest of the world into the fact that you had an initial disagreement, I think that is the appropriate to do it and strikes a proper balance.

And on the other hand, if there is an irreconcilable difference or if the DCI were to compromise what you see as your duty, then you would feel bound to notify the Committee and bring the Committee into the process.

Mr. HRTZ. The point I was trying to get at, Mr. Chairman, was you don't want to see a lot of petty squabbling or different points of view about policy or arrangements. You have said that clearly in your Committee report. The IG reports to the Intelligence Committees are reserved for serious matters. That is all I was trying to point out.

Chairman BOREN. Exactly. I think that strikes exactly the proper balance and it is appropriate because this Committee is not here to micro-manage, to engage in petty quarrels or to engender minor differences of opinion within the Community. The Committee is here to set policy, provide oversight to make sure that the law is being complied with and to ensure that the operation is being conducted efficiently from the taxpayers point of view.

I thank you very much for your answers. There are a few additional questions that I would like to submit for the record, but I won't take the time of the Committee at this time to do that. We can receive your replies in writing as we have to some of the earlier questions.

Senator Specter, we welcome your questions at this time.

Senator SPECTER. Yes, thank you very much, Mr. Chairman.

I thank you for your gracious comments about my activities in connection with this legislation, and I thank you, Senator Boren, for your work as Chairman in facilitating the passage of this legislation and in making very many useful additions. The Vice Chairman, Senator Cohen did as well. And Senator Glenn was instrumental in the legislation.

And I believe that is very important legislation. The only reform legislation to come out of our experience in the Iran/Contra affair. We had other legislative proposals on notification to the Congress on a mandatory basis and there was extensive discussion with the Executive branch—first President Reagan, and later President Bush—and that could not be worked out.

So what we have come to is a balanced Inspector General's report which does give very significant authority for the Inspector General to come to the Intelligence Committees within 7 days when there is disagreement with the Director of the CIA about inspections or investigations. And also a requirement or a provision that the Inspector General comes directly to the Intelligence Committee in three instances which have already been delineated. And

a further provision that the Inspector General shall prepare reports within 7 days of particularly serious or flagrant problems to be forwarded through the DCI to the Intelligence Committees.

And Senator Boren, the Chairman, has accurately characterized our interest as a check and balance on major matters of policy and really on oversight. We need not articulate today what really tore this country apart on the Iran/Contra matter. That could have been resolved, I think, had the Congress been notified in time so that there could have been some extra attention to that issue at an early stage. This country functions only when the Executive and the Legislative branches are working in harmony.

I have already had a chance to talk at length to Mr. Hitz. We met privately and I like his record. He has an outstanding record in government with the CIA in a senior directorate position, and as a practicing lawyer. And I think that what we need to get from Mr. Hitz, more importantly than his private assurances to me or the public today is that he is going to be a vigorous Inspector General. We have had public criticisms about Inspectors General in other branches who are not carrying forward their duties with sufficient vigor, and have become subservient to their own branches. Somebody used the word lap dog as opposed to watchdog. And I don't know whether that is right or wrong, but I do know that it is the intention of the Congress, and the President signed this bill, that the Inspector General for the CIA is supposed to carry out his duties in a vigorous way.

Let me start with that question, Mr. Hitz, because I think that is the central question. What assurances are you prepared to give this Committee, prior to your confirmation, that you will be vigorous? And when there are issues where, in conscience, you disagree with what the Director of the CIA is doing, will you have the courage and determination to step forward and bring those disputes to this Committee and the House Intelligence Committee so that they may be resolved by the Committees as contemplated by the statute.

Mr. Hitz. I have made a study, Senator Specter, of the statute and the legislative history, and I believe I am prepared to assure you that I will be a vigorous Inspector General if I am confirmed. I think the job is an important one and I think that I am aware of those instances where the Committee expects to be informed of breakdowns and of things that are awry, pursuant to the statute.

Senator SPECTER. Well, Mr. Hitz, we have a lot of confidence in Judge Webster, but no man is perfect. No man or woman is perfect. And Judge Webster will not be the Director of the CIA forever. And we expect you to live up to that. Because you are on the spot, for you really have tremendous authority, not quite as much authority as the Director of CIA has, but a tremendous amount of authority. It is so constructed that those matters would come before this Committee.

I don't know why, Mr. Hitz, but there is not quite as much attention on your confirmation hearings as there was in this room a week ago while Judge Souter was being confirmed.

I have quite a number of questions for the record, Mr. Chairman.

I would like to acknowledge the presence of the Brooks County Chamber of Commerce from Pennsylvania, whom I have kept waiting and I have invited them into this hearing.

I will submit the balance of the questions and my opening statement for the record.

And I thank you very much Mr. Hitz, and I thank you Mr. Chairman.

[The prepared statement of Senator Specter follows:]

OPENING STATEMENT OF SENATOR ARLEN SPECTER AT THE CONFIRMATION HEARING OF MR. FRED HITZ TO BE THE INSPECTOR GENERAL OF THE CENTRAL INTELLIGENCE AGENCY, 25 SEPTEMBER 1990

I am pleased that this Committee has before it today a nomination for the position of Inspector General. The Committee has looked forward to this nomination as a means to enhance the credibility of the Central Intelligence Agency and public confidence that it is functioning within the guidelines of law, Executive Orders and clearly stated foreign policy. This is the primary purpose for creating the statutory position of Inspector General. Intelligence agencies necessarily operate under a cloak of secrecy. But, the Congressional Oversight Committees have found that they alone do not have the resources to ensure effective oversight and to ensure the American public that its intelligence agencies are carrying out their responsibilities lawfully and effectively.

We have before us today the first nominee—Mr. Fred Hitz—for the position of CIA's Inspector General. And, according to the qualifications outlined in the law, Mr. Hitz appears to be qualified for the position. Among those qualifications are experience in a senior intelligence position. As a former senior officer in the Directorate of Operations, Fred Hitz should be well versed in the policies and workings governing clandestine collection and covert actions. As a former director of the CIA's office of Congressional Affairs, I would expect that Mr. Hitz is equally well versed in the oversight responsibilities of the Congress since during the period from 1978 to 1981, he had a hand in shaping the legislation which has governed the work of this Committee for the past ten years.

But, past experience is not in itself the overarching criteria for confirmation to this position. What this Committee and the Congress considers of paramount importance is the independence and objectivity a nominee will convey in the execution of his duties.

Since 1976, the Congress has considered making CIA's Inspector General a statutory position. Past misguided policy direction to the CIA and from senior policy levels within the CIA impaired the ability of the CIA to carry out its responsibilities with the full confidence of the American public and the U.S. Congress. That diminished confidence has, in part not been allayed because the Congress has continued to question the CIA's ability to police itself internally.

In the past 14 years the performance of CIA's IG office has been uneven at best and, in some cases inadequate. My original legislation citing this inadequacy was reinforced by the Iran-Contra Committee's November 1987 report in which it found that the CIA's IG office "appears not to have had the manpower, resources or tenacity to acquire key facts uncovered by the other investigations of the Iran-Contra Affair."

I would suggest to Mr. Hitz that the degree of independence and objectivity which he would bring to the position will equate to the CIA's credibility and confidence. The country's premier intelligence agency must continually demonstrate to the American public through the Congress that it is operating within the law and within the guidelines of clearly understood and approved policy. The public expects it; the Congress demands it. The position of Inspector General, therefore, may well rank in importance second only to the DCI. If you are confirmed Mr. Hitz, you will be bear a heavy responsibility of being the linchpin of credibility to the American public.

Yours is not an easy task, for you must report through the Director of Central Intelligence and work with him on a daily basis. On the other hand, you must be independent of him in what you decide to investigate, how you investigate and what you report.

I have reviewed your record and have found your experience and credentials impeccable. My judgment today on a decision to confirm will be based in part should be on them, but more so, on whether I believe that you possess the independence and objectivity and, indeed, the underlying fortitude to carry out your responsibilities.

Chairman BOREN. Thank you very much, Senator Specter. Again let me compliment you for the diligence you have shown in bringing this legislation through to fruition. We have an outstanding nominee and we have commitment obviously from the President and from the DCI to make this system work. We also have a strong commitment today from this nominee to fulfill the responsibilities of this position in an aggressive way. Mr. Hitz, I think in many ways you are the defender and guardian of the integrity of the fine cadre of professionals we have at the Central Intelligence Agency. Those giving testimony to the Iran/Contra Committee said they were being asked to do things by superiors and by others that they didn't want to do, and yet they felt that their careers were in jeopardy if they didn't. It is heartbreaking when you see people put in that position in which they are forced to choose between continuation of their own careers and their own personal and professional convictions. I think a strong Inspector General institutional framework can help avoid that.

I am reassured by your answers. And again, Senator Specter, I want to say you certainly had a lot to do with the fact that we have come to this day. I wanted to make sure that we had a sufficient amount of time to listen fully to the views of everyone concerned, to consider the views of the Intelligence Community and the DCI and the President, and Senator Specter, I can assure you, did not allow this matter to be taken off the agenda for one moment.

He pressed me as Chairman of the Committee to make sure that this item would stay on the agenda and that it would stay here until we had appropriate action on it.

So again, I want to pay tribute to your determination and tenacity in this matter.

Again Mr. Hitz, I want to thank you on behalf of the Committee for being with us today. During this period of time, we all understand that sacrifices are going to have to be made to bring our country back into a position of strength, both in terms of its economic strength and its morale and social strength. It is reassuring to me that a person of your capability, with your obvious ability to serve in the private sector in a way that would certainly compensate you far more generously in material terms, would be willing to give up those opportunities to come back into government service. I am just appreciative of your willingness to do that, not only as a Senator, but as a citizen.

I wish I could see in all the agencies of government sufficient numbers of people of intellectual ability and stature and proper character who were willing to come in and fill all of those positions. One of my grave concerns is that the layer of people who are extremely competent in government seems to get a little thinner each year. It is also harder and harder to make government service attractive enough to keep people in it. Thus I am especially appreciative of the fact that you would be willing to come back and serve in this very special way.

We have one matter that we need to discuss with the nominee in closed session because it does involve some classified information. I stress to our audience that it is not information of a negative nature about this nominee but it is positive information that the

Committee is obligated to hear in closed session because it is sensitive and classified.

So we will recess the hearing in this room, and just for very brief period of time, complete our hearings next door in our secure space. If there are no other matters that come to our attention—and I know of none at this time - that will then conclude this hearing process.

We then, as I indicated in compliance with the 48 hour rule and the typing of the transcripts, are prepared to act very expeditiously on this nomination.

So, again Mr. Hitz, I thank you and we were happy to have had members of your family with us today for these proceedings.

We will stand in recess to continue these proceedings next door in the secure space.

Mr. Hitz. Thank you, Mr. Chairman.

[Thereupon, at 3:39 o'clock pm., the hearing was recessed to reconvene in SH-219.]

VOTE ON THE NOMINATION OF FREDERICK P. HITZ TO BE INSPECTOR GENERAL OF THE CIA

Wednesday, October 10, 1990

UNITED STATES SENATE
SELECT COMMITTEE ON INTELLIGENCE
Washington, DC.

The Select Committee met, pursuant to notice, at 1:00 o'clock pm., in room S-216, the Capitol, Hon. David Boren (chairman) presiding.

Present: Senators Boren, Nunn, Hollings, Bradley, Cranston, DeConcini, Metzenbaum, Glenn, Cohen, Hatch, Murkowski, Specter, Warner, D'Amato and Danforth.

Also present: George Tenet, Staff Director; James Dykstra, Minority Staff Director; Britt Snider, Chief Counsel; Kathleen McGhee, Chief Clerk; and Charles Battaglia, Regina Genton, Fred Ward, Chris Straub, John Elliff and Gary Sojka, staff members.

Chairman BOREN. The Committee will now consider the nomination of Frederick P. Hitz to be the Inspector General of the Central Intelligence Agency.

This nomination was referred to the Committee on September 10th. A public hearing was held on September 25th at which the nominee appeared. The Committee received no requests from members of the public to testify.

The nominee has answered our standard questionnaire for nominees, and has provided us with his financial disclosure statement. The Office of Government Ethics has certified that he has no conflict of interest problems under the Ethics in Government Act.

The nominee has also responded to two sets of written interrogatories from the Committee, detailing his understanding of the statute creating his office.

In addition, the staff has made inquiries of approximately twenty people who have worked with Fred in years past. He has been described by most as independent and aggressive. We have turned up nothing negative.

Some of us have been concerned with several of his responses to our questions in terms of what they seem to indicate about his perception of the IG's role vis-a-vis the DCI and the Oversight Committees. I would have hoped for firmer responses myself.

But I think we must weigh these against what we have otherwise been told about Fred, and we must weigh them against his background and experience. He has a fine education, is a lawyer with a good deal of government experience, and, indeed, knows the CIA

both as a line officer and as a manager. It is difficult to imagine another nominee with this combination of training and experience.

I must also say that from my conversation with him, he seems genuinely enthusiastic about this appointment. He sees his as something of a personal challenge and is very anxious to get into it.

We will certainly be watching his performance. If we find deficiencies, we will let him know. But it's time we get someone in the job and let him begin to take charge. The office has been largely in limbo since we created the position last fall.

So, unless there is further discussion, I move that the Committee favorably report this nomination to the Senate.

The Clerk will call the roll.

Mrs. MCGHEE. Mr. Nunn.

Senator NUNN. Aye.

Mrs. MCGHEE. Mr. Hollings.

Senator HOLLINGS. Aye.

Mrs. MCGHEE. Mr. Bradley.

Senator BRADLEY. Aye.

Mrs. MCGHEE. Mr. Cranston.

Senator CRANSTON. Aye.

Mrs. MCGHEE. Mr. DeConcini.

Senator DECONCINI. Aye.

Mrs. MCGHEE. Mr. Metzenbaum.

Senator METZENBAUM. I have no strong feelings about this nomination, but I do have some reservations as to whether Mr. Hitz meets what I consider the necessary requirements to be Inspectors General in this area. It is my opinion that a stronger appointment could have been made. I don't find any special fault with him personally, but I am just not comfortable voting for him, and I therefore vote no.

Mrs. MCGHEE. Mr. Glenn.

Senator GLENN. Aye.

Mrs. MCGHEE. Mr. Hatch.

Senator HATCH. Aye.

Mrs. MCGHEE. Mr. Murkowski.

Senator MURKOWSKI. Aye.

Mrs. MCGHEE. Mr. Specter.

Senator SPECTER. Aye.

Mrs. MCGHEE. Mr. Warner.

Senator WARNER. Aye.

Mrs. MCGHEE. Mr. D'Amato.

Senator D'AMATO. Aye.

Mrs. MCGHEE. Mr. Danforth.

Senator DANFORTH. Aye.

Mrs. MCGHEE. Fourteen ayes, one nay, Mr. Chairman.

Chairman BOREN. The nomination is approved.

Thank you all very much.

[Thereupon, at 1:28 o'clock pm., the hearing was concluded.]

