

REPORT ON INVESTIGATION
PURSUANT TO H. RES. 1042
Concerning Unauthorized Publication
of the Report of the
SELECT COMMITTEE ON INTELLIGENCE

R E P O R T
BY
COMMITTEE ON STANDARDS
OF
OFFICIAL CONDUCT
together with
ADDITIONAL AND INDIVIDUAL VIEWS



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INVESTIGATION PURSUANT TO HOUSE RESOLUTION 1042 CONCERNING UNAUTHORIZED PUBLICATION OF REPORT OF SELECT COMMITTEE ON INTELLIGENCE

OCTOBER 1, 1976.—Referred to the House Calendar and ordered to be printed

Mr. FLYNT, from the Committee on Standards of Official Conduct submitted the following report on the investigation pursuant to H. Res. 1042 concerning unauthorized publication of the report of the Select Committee on Intelligence.

INTRODUCTION

The House Select Committee on Intelligence initially was established by H. Res. 138, 94th Congress, on February 19, 1975, "to conduct an inquiry into the organization, operations, and oversight of the intelligence community of the United States Government." (Appendix 1.)

On July 17, 1975, H. Res. 591 abolished the Select Committee established by H. Res. 138 and established a new House Select Committee on Intelligence. (Appendix 2.)

Sections 2 and 6 of H. Res. 591 required that before the Select Committee conduct any inquiry it "shall institute and carry out such rules and procedures as it may deem necessary to prevent (1) the disclosure, outside the Select Committee, of any information relating to the activities of the Central Intelligence Agency or any other department or agency of the Federal Government engaged in intelligence activities, obtained by the Select Committee during the course of its study and investigation, not authorized by the Select Committee to be disclosed; and (2) the disclosure, outside the Select Committee, of any information which would adversely affect the intelligence activities of the Central Intelligence Agency in foreign countries or the intelligence activities in foreign countries of any other department or agency of the Federal Government."

A set of "Rules and Security Regulations" was devised by the Select Committee on Intelligence to carry out its functions and duties. (Appendix 3.) All employees of the Committee were required to sign an Employee Agreement that they would abide by H. Res. 591 and by the Committee Rules and Security Regulations. (Appendix 4.)

On Monday, January 19, 1976, the Select Committee staff distributed the first draft of its report to Committee Members and gave a copy to the Central Intelligence Agency. After making numerous changes in the draft, the Committee, on Friday, January 23, 1976, voted nine to four to adopt the report. The staff was to make the approved changes and have the report printed.

By the time the report was adopted, considerable details about its contents already had been leaked to the press. Daniel Schorr, CBS news correspondent, on or about Sunday, January 25, 1976, secured a copy of the report. He broadcast excerpts from it on CBS News that evening, highlighting and displaying a memorandum concerning a Senator which appeared only in footnote 119 on page 73 of the draft.

On the morning of January 26 and the evening of January 28, Schorr displayed other portions of the report on television.

The New York Times on January 26, 1976, published a major article about the Select Committee report, indicating it had portions of the document. The Times also chose the rather obscure memorandum about the Senator as its lead item. (Appendix 5.)

The Chairman of the Select Committee on January 27, 1976, asked unanimous consent that the Committee have until midnight, January 30, 1976, to file its report. A Congressman objected, and the Chairman then introduced H. Res. 982, which follows:

Resolved, That the Select Committee on Intelligence have until midnight Friday, January 30, 1976, to file its report pursuant to section 8 of H. Res. 591, and that the Select Committee on Intelligence have until midnight, Wednesday, February 11, 1976, to file a supplemental report containing the select committee's recommendations.

The Committee on Rules, on January 28, 1976, reported H. Res. 982 after it added the following amendment:

Resolved further, That the Select Committee on Intelligence shall not release any report containing materials, information, data, or subjects that presently bear security classification, unless and until such reports are published with appropriate security markings and distributed only to persons authorized to receive such classified information, or until the report has been certified by the President as not containing information which would adversely affect the intelligence activities of the Central Intelligence Agency in foreign countries or the intelligence activities in foreign countries of any other department or agency of the Federal Government.

The House by a vote of 246 to 124 adopted the amendment to H. Res. 982, and by a voice vote approved the Resolution on January 29, 1976. (Appendix 6.)

The Select Committee filed its report with the Clerk of the House on January 30, 1976, and copies of the report were placed under secure custody. At least one copy remained outside Government control—the one in the possession of Daniel Schorr.

The February 16 1976 issue of The Village Voice, a New York City weekly publication, appeared on newsstands on February 11, 1976, announcing on page 1 its "EXCLUSIVE," a 24-page supplement which it titled in large red letters, "THE REPORT ON THE CIA THAT PRESIDENT FORD DOESN'T WANT YOU TO READ." (Appendix 7.) This supplement contained the text of the second section of the Select Committee report entitled "The Select Committee's Investigative Record."

The February 23 1976, Village Voice, issued on February 18, contained the text of the first section of the Select Committee report entitled "The Select Committee's Oversight Experience."

On February 19, 1976, the House adopted House Resolution 1042 by a vote of 269 to 115. This Resolution authorized and directed the Committee on Standards of Official Conduct to "inquire into the circumstances surrounding the publication of the text and of any part of the report of the Select Committee on Intelligence, and to report back to the House in a timely fashion its findings and recommendations thereon." (Appendix 8.)

On February 25, 1976, H. Res. 1054 was introduced, requesting the Committee on Standards of Official Conduct be given subpoena power. This was adopted on March 3, 1976, by a vote 321 to 85. (Appendix 9.)

On March 2, 1976, H. Res. 1060 was introduced requesting authorization not to exceed \$350,000 to cover expenses of the investigation. H. Res. 1060 was adopted on March 29, 1976, by a vote of 278 to 87, after the Committee on House Administration reduced the authorization to \$150,000. (Appendix 10.)

An investigative staff was organized during the first week in March, but the delay in approving the budget precluded the start of the investigation until April 1, 1976.

The Committee decided to limit the original inquiry to the Members of the Select Committee on Intelligence and their staffs and the staff of the Select Committee. The second phase of the investigation concerned the Executive agencies where the draft report was circulated.

After these two phases of the investigation were completed, the Committee decided on May 13, 1976, to contact members of the news media in an effort to positively identify the source of the leaks.

On June 24, 1976, the Committee adopted a motion calling for investigative hearings to commence on July 19, 1976.

On June 29, 1976, the Committee adopted motions to call as witnesses all Members of the Select Committee on Intelligence and some staff personnel. No decision was made at that time to call representatives of the news media.

Prior to the start of the hearings, representatives of the Central Intelligence Agency and Department of State also were called as witnesses. These hearings continued through July 29, 1976.

On July 19, 1976, Congressman John J. Flynt, Jr., Chairman of the Committee on Standards of Official Conduct, in a statement opening the investigative hearings pursuant to House Resolution 1042, declared:

In recent months, the Congress of the United States has sought to take a more active role in the conduct of this nation's foreign policy and its concomitant intelligence operations. In furtherance of these efforts, the House of Representatives established a Select Committee on Intelligence to conduct an inquiry into the organization, operations, and oversight of the intelligence community of the United States Government.

Sections 2 and 6 of House Res. 591, required the Select Committee to establish and implement such rules and procedures as it deemed necessary to prevent the unauthorized disclosure, outside the Select Committee, of "any information relating to the activities of the Central Intelligence Agency or any other department or agency of the Federal Government engaged in intelligence activities, obtained by the

Select Committee during the course of its study and investigation," and to prevent "the disclosure, outside the Select Committee, of any information which would adversely affect the intelligence activities of the Central Intelligence Agency in foreign countries or the intelligence activities in foreign countries of any other department or agency of the Federal Government."

Although certain rules and procedures were established by the Select Committee on Intelligence, we now have reason to believe that there were serious violations and breaches of security during the course of the Select Committee's investigation.

On January 29, 1976, the House of Representatives adopted H. Res. 982 resolving that the Select Committee on Intelligence not release any report, prepared by the Committee pursuant to House Resolution 591, containing materials, information, data or subjects that then bore security classification, unless and until such report or reports were published with appropriate security markings and distributed only to persons authorized to receive such classified information, or until the report or reports had been certified by the President as not containing information which would adversely affect the intelligence activities of the Central Intelligence Agency in foreign countries or the intelligence activities in foreign countries of any other department or agency of the Federal Government.

H. Res. 982 further authorized the Select Committee to file its report by midnight Friday, January 30, 1976, and to file a supplemental report containing the Select Committee's recommendations on or before midnight, Wednesday, February 11, 1976.

We now know that portions and/or all of the Select Committee's report were disclosed to unauthorized persons outside of the Select Committee and that the Select Committee's report was published in part, in "The Village Voice," a New York periodical, on February 16 and February 23, 1976.

In response to this apparent violation of House Resolution 982, the House of Representatives, on February 19, 1976, adopted H. Res. 1042, which authorized and directed the Committee on Standards of Official Conduct to "inquire into the circumstances surrounding the publication of the text and of any part of the report of the Select Committee on Intelligence, and to report back to the House in a timely fashion its findings and recommendations thereon."

There can be no question about the need to protect certain types of classified information from unauthorized disclosure. Because of the great mobility of modern conventional forces and the instant strike capability of inter-continental weapons, the United States must rely increasingly on military and diplomatic intelligence to provide advance warning about threats to its security. If the House of Representatives is to play an important and vital role in our country's defense, it must continue to have appropriate access to classified information and it must devise appropriate safeguards to prevent unauthorized disclosure of such information.

Unauthorized disclosure of classified information jeopardizes the credibility of the House and threatens the very ability of the House to deal with foreign policy, international affairs, and intelligence operations.

Accordingly, the House has the authority, indeed the duty, to investigate possible violations of its resolutions and protective orders by those subject to its jurisdiction in order to protect the integrity of the legislative process.

These hearings are being held for the purpose of inquiring into, as fully as possible, the circumstances surrounding the publication of the text and of any part of the report of the Select Committee on Intelligence and reporting back up to the House its findings and recommendations. The Congressional power in question concerns the internal processes of Congress moving within its legislative command; it involves the utilization of the Committee on Standards of Official Conduct to secure testimony and evidence needed to enable the House to investigate and exercise legislative functions belonging to the House of Representatives under the United States Constitution.

The specific legislative purposes involved in these hearings are several.

If the House of Representatives is to participate meaningfully in this nation's foreign policy and oversight of intelligence operations, the House must consider whether new legislation is needed or the Rules of the House should be amended to insure that the House can account for and safeguard the security of classified information which comes into its possession. This requires inquiry into the rules and procedures adopted by the Select Committee on Intelligence for safeguarding classified information and evaluation of the effectiveness of these rules and procedures. The Committee on Standards of Official Conduct, then, seeks to make findings and recommendations concerning the need for more effective security procedures and whether more effective security procedures can be designed to enable the House to carry out a larger role in this nation's foreign policy and the oversight of intelligence operations.

Moreover, the House must consider whether new legislation is needed or whether the Rules of the House should be amended to define and set out standards and conditions for the handling and filing of House Committee reports containing classified information. In these hearings, this Committee will seek to develop whether the circumstances surrounding the publication of the text or of any part of the report of the Select Committee on Intelligence demonstrate a present need for such legislation or amendment to Rules of the House.

Section 5 of Article I of the United States Constitution provides, in part, that "Each House may determine the rules of its proceedings" and "punish its members for disorderly behaviour." This function may appropriately be described as the power of Congress, in particular of the House of Representatives, to discipline its Members, officers and

employees. In these hearings, this Committee will seek to develop evidence as to whether the circumstances surrounding the publication of the text and of any part of the report of the Select Committee on Intelligence should result in appropriate findings and recommendations by this Committee to the House for discipline of any Members, officers or employee of the House.

Section 5 of Article I of the United States Constitution further provides, in part, that "(E)ach House shall keep a Journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy * * *."

The issue here is whether or not the House presently has the effective power to determine which of its proceedings are to be kept secret, and upon making that decision, whether the House has the effective power to enforce that decision by Constitutional means. In these hearings, this Committee will seek to develop evidence as to whether the circumstances surrounding the publication of the text and of any part of the report of the Select Committee on Intelligence demonstrate a need for the House to enact appropriate legislation of this subject or to amend the Rules of the House in appropriate fashion.

In view of the nature of these proceedings and the subject matter under inquiry, it is expected that some evidence and testimony will, of necessity, be required to be received in Executive Session. Evidence or testimony received in Executive Session cannot be released or revealed in public session or otherwise without the consent of this Committee. These are rules of the House of Representatives and this Committee. The Members, staff and employees of the House are bound by these rules. If this Committee learns that these rules are being violated, it will act promptly and unequivocally in dealing with the persons or organizations involved.

Let the hearings commence.

On August 25, 1976, the Committee voted to subpoena 18 additional former staff members of the Select Committee on Intelligence and four news media representatives, including Daniel Schorr, for hearings on September 8, 1976 and September 15, 1976.

As a result of testimony on September 8, 1976, the Committee voted to recall three former Select Committee staff members and a member of the staff of a Congressman who was on the House Select Committee on Intelligence, for hearings on September 14, 1976.

SCOPE OF INVESTIGATION

The Committee decided the initial phases of the investigation would include interviews with the Members and staff of the Select Committee and those Executive agency personnel who had access to the report. No news media representatives were to be contacted unless such interviews later were deemed essential to the completion of the investigation.

Voluntary interviews began on April 1, 1976. The investigative staff conducted 432 interviews and reinterviews involving 396 people.

These included the 13 Members of the Select Committee, 94 employees and former employees of the House, and 246 officials and employees of the Executive Branch.

Late in the investigation the Committee voted to seek the assistance of certain news media personnel to obtain information not otherwise available. Some 25 contacts were made with them or their attorneys. Only five of those with whom interviews were sought agreed to answer questions on the record.

All of the interviews were voluntary, and the persons interviewed were not required to take an oath. The presence of counsel during interview always was allowed. Transcripts were made of the interviews whenever requested and copies of the transcript were furnished to the person interviewed if requested.

All 13 Members of the Select Committee were interviewed at least twice during the investigation concerning information and documents in their possession pertinent to this inquiry. In addition, 33 members of the staffs of the Select Committee Members who had access to the Select Committee report were interviewed.

Records of the House indicated 43 individuals had served on the Select Committee staff. It was determined that one of these never actually served on the staff. Another was affiliated with the Committee only three days early in 1975. A third individual, whose employment terminated in August, 1975, declined to be interviewed. The other 40 were interviewed, some more than once.

The investigation within the Executive Branch was aimed at determining how many copies of the report existed there and identifying and interviewing persons who had access to such copies. This revealed 136 copies of three versions of the report existed in the Executive Branch—88 of the initial draft, one of a later draft, and 47 of the final draft. Interviews were conducted with 246 Executive agency employees.

Twenty copies of the draft report were made and 18 remained within the Select Committee for use of Members and staff. The other two copies went to the Executive Branch. All but six of the 20 copies were turned over to this Committee. The other six reportedly were destroyed.

A detailed comparison was made of the text of the Select Committee report published in *The Village Voice* against copies of the draft located in the Executive Branch and those obtained from Committee Members. None matched exactly.

Investigative hearings were conducted on July 19, 20, 21, 22, 26, 27, 28, and 29; September 8, 14, and 15, 1976. During these hearings sworn testimony was taken from this Committee's Director of Investigation; from all 13 Members of the Select Committee on Intelligence; from two staff members and one former staff member of Select Committee Members; from all but one of the 35 persons employed by the Select Committee during January, 1976, (the one not called was out of the country); from three representatives of the Central Intelligence Agency; from two officials of the Department of State; from four individuals affiliated with *The Village Voice*; and from Daniel Schorr. Three former employees of the Select Committee and one staff member of a Member of the Select Committee were subpoenaed to testify a second time.

FINDINGS OF INVESTIGATION

THE HOUSE OF REPRESENTATIVES

The Select Committee concluded its hearings on December 19, 1975, amid a flurry of leaks about CIA covert activities.

Some staff members had assembled a preliminary draft report, but this was discarded in favor of a more "hard-hitting, calling it as we saw it" report. The staff had until January 19, 1976, when Congress was to reconvene, to complete the draft. Time was short and pressure was great.

Security procedures frequently were ignored or relaxed in favor of expediency. Staff personnel took work home with them and this often included classified material.

On the weekend of January 17-18, 1976, the staff worked long hours, revising, polishing, typing, assembling the report which exceeded 330 pages. Early on January 19, 1976, they made 20 Xerox copies, dividing the pages of each about equally into two volumes placed in black, spring-clip folders.

The distribution method had been decided a few days earlier, about January 16, 1976, at a meeting of the Select Committee Chairman and top staff personnel. According to one of the staff, he recommended the draft be retained in Committee space and made available to Members for review there. He said the Chairman rejected this plan.

Consequently, one copy of the draft report was delivered to each Member of the Committee or to the Member's office, on the afternoon of January 19, 1976. The copies were not marked in any way for identification; no receipts were required; no log was kept to record delivery. The draft bore no security classification. A copy of a letter signed by the Staff Director accompanied each draft sent to a Member reminding that unauthorized release of the draft "constitutes a violation of Committee Rules." (Appendix 11)

Even before delivery of copies to the Members was completed, an error was discovered. Staff employees had to retrieve various Members' copies to replace page 73 and add a supplemental page 73-A.

This resulted from the insertion of Footnote 119 quoting a memorandum concerning a Senator which had been copied in part from CIA files by a Select Committee employee.

Staff personnel reported the Staff Director had wanted to use the above memo as the lead item in the report. Others reportedly counselled against highlighting it and it was relegated to a footnote on page 73.

The Staff Director denied this report, testifying, "When I wrote the draft of the report I didn't even know we had that memo. The only reason it got in late as a footnote was because the Chairman asked where it was. I went down and found it, read it, and put it in at his request."

Part of the memo was copied in longhand from CIA files on December 15, 1975, by a member of the Select Committee staff. She testified she typed the memo when she returned to the Select Committee office and brought it to the Staff Director's attention "within the next hour."

A copy of the draft report was furnished to CIA about 4:00 p.m. on January 19, 1976. This copy did not contain the revised pages 73 and 73-A.

Leaks of information contained in the report began shortly after distribution was made. By 4:00 p.m. on January 19, 1976, a New York Times reporter had called the Select Committee office with questions indicating he had access to portions of the draft. About the same time another New York Times reporter made inquiry of CIA about information in the draft.

The following morning The Times published a major article revealing data from the report. (Appendix 12.) On succeeding days there were a number of news articles in various papers and frequent radio and TV broadcasts reporting information in the draft report.

The Select Committee met each day from January 20-23, 1976, to consider the drafts. During the meetings some Members occasionally borrowed a staff copy of the report, having failed to bring their own to the meeting. In at least one instance a Member kept an extra copy of Volume I. It was returned to the staff sometime after January 26, 1976.

Several key staff members admitted the disorganized nature of the distribution and accounting for the various copies of the draft and changed pages to it. One staffer commented there was a rush, a lot of pressure and control was lost insofar as accounting for copies was concerned on January 21, 1976.

On Friday, January 23, 1976, the Committee concluded deliberation on the draft. By a vote of nine to four the Committee adopted the report as amended. The Chairman and Ranking Minority Member were to agree on changes in references to the Secretary of State, and the staff had authority to make technical and grammatical changes. The Committee, through its deliberations, and the staff, through negotiations with the Executive Branch, revised approximately 110 pages of the draft before it was adopted.

The staff endeavored to complete the changes approved by the Committee on January 23, 1976, and update the Members' copies as soon as possible. In the rush the staff overlooked making changes to four pages. This was corrected after it was mentioned by a Select Committee Member at a meeting of the Committee on Monday, January 26, 1976. The staff also failed to accurately update some of the Members' copies. Pages were omitted and other mistakes resulted.

During the weekend of January 24-25, 1976, when a copy of the report was made available to Daniel Schorr, all Members of the Select Committee, except two, who said they left their copies with the Committee staff, had custody of a copy of the draft. Two assistants to Members, and two employees of the Committee had copies of the draft in their possession away from their offices.

An Administrative Assistant to a Select Committee Member testified a copy of the report was delivered to him by a Select Committee staffer around 6:00 to 6:30 p.m. on January 23, 1976, in the horseshoe driveway at the Rayburn Building. He stated an unrecalled member of the Committee staff had telephoned the Member's office earlier that day asking if the office needed a copy of the report to work on supplementary views. He said he accepted the offer of a copy which he took home with him and wrote a draft of supplementary views. He kept this copy at his residence until Sunday morning, January 25, 1976, when he took it to the residence of the Staff Director of the Select Committee after arranging to do so by telephone. He said he delivered the copy to the Staff Director since he no longer needed it

and did not want to be burdened with it when going to work Monday on the bus.

A former Legislative Assistant to a Select Committee Member testified he obtained the Congressman's copy of the report from his office on Saturday afternoon, January 24, 1976. He then went to the Select Committee office where he obtained the latest changed pages. He took both items to the Congressman's residence where they worked together on the report.

A Select Committee staff employee, late on Saturday, January 24, 1976, took a copy of the report from the Committee office to her residence for review. She returned the copy to the Committee office on January 26, 1976.

A member of the Committee staff advised that the Staff Director also took a copy to his residence during the weekend of January 24-25, 1976. He denied this; however, he did admit he had at his residence for a time the copy of the report delivered to him by an Administrative Assistant to a Select Committee Member around noon on January 25.

Each of the above individuals specifically denied allowing access to the report by any other individuals or making copies of the report.

A Member voluntarily admitted when first contacted during this inquiry that he had loaned his copy of the report to the CIA on the morning of January 24, 1976. He said this was done after a representative of CIA advised he had been denied a copy of the adopted draft by a member of the Select Committee staff. The Member said he took this action because he hoped there might still be an opportunity for the Committee and the Executive agencies to resolve their differences over the contents of the report. He did not think he was acting contrary to Committee rules.

Asked for his opinion concerning the supplying of a copy of the final draft to CIA, the Select Committee Chairman stated, "I would consider that a leak." He said he would have been surprised if the CIA had not gotten the report since "they got everything" the Committee was doing.

The Chairman of the Select Committee had concurred in the staff member's denial of a copy for CIA.

A Legislative Assistant to a Select Committee Member also admitted on initial contact during this investigation that he had furnished copies of two or three pages of the draft report to a reporter for the Reuters News Agency. He believed this occurred prior to January 23, 1976. He said he took the action because he felt information in the pages alleging CIA used Reuters to circulate "agency-espoused 'news' articles" was incorrect. He felt Reuters should have an opportunity to comment.

Each Member of the Select Committee, their staff assistants, and staff personnel of the Committee were questioned regarding any information they might have concerning the possible source of the leaks.

The Chairman referred to his comments on the House floor on March 9, 1976, wherein he outlined his contention that the Executive Branch had access to the complete Committee report. (Appendix 13.)

He also recited what he termed a series of interesting facts. He said Daniel Schorr, in an article published in the April 8, 1976, issue of Rolling Stone, identified a Department of State official as a source of

prior classified information given to Mr. Schorr. The Chairman noted a former member of the staff of a Select Committee Member who had been closely involved with the work of the Committee, recently had been employed by the Department of State and is working for the official identified. The Chairman pointed out the police log maintained at the Select Committee office showed the former staff member of the Committee Member was in the Committee space on January 24, 1976.

The Department of State official vigorously denied there was any validity to any implication that through this former staff member the official was involved in the leak of the Committee report. The former staff member testified he had not furnished the report or any part of it to unauthorized persons. He admitted being in the Committee space on the afternoon of January 24, 1976, to obtain the latest changes for delivery to the Select Committee Member for whom he worked.

A Select Committee Member on June 23, 1976, advised Committee investigators he had a conversation with Daniel Schorr in the Speaker's lobby shortly after Mr. Schorr displayed a copy of the Committee report on television. He said Mr. Schorr stated he did not get the report from the Committee and that he (the Member) would be surprised if he knew the source of the leak. The Member said he did not know whether or not to believe Mr. Schorr.

On July 29, 1976, the Member testified before this Committee that when he talked to Mr. Schorr in the Speaker's lobby, Mr. Schorr indicated he had received the report from the CIA and said, "Of course I would deny that if anybody ever asked me."

Mr. Schorr testified before this Committee on September 15, 1976. In response to a question as to whether or not he had told the Member he received the report from CIA, Mr. Schorr declared, "I have never discussed with anyone the source from which I obtained the report other than two privileged persons." He subsequently identified the privileged persons as his wife and his counsel, Joseph Califano, but refused to comment further on this matter.

Both the Select Committee Chairman and Staff Director noted there had been no leaks of information in the report until the draft was distributed to the Committee Members and to CIA on January 19, 1976. The Staff Director, in making a strong defense of the Committee staff, declared there were never any leaks of information until the matter came before the Committee and the Executive Branch at Committee meetings or hearings.

The Select Committee, however, was plagued by leaks, whether of its own making or from some other sources. Staff personnel reported frequent discussions about leaks and stern warnings from the Chairman and the Staff Director against talking to the press and leaking information. Several staff members told of concluding that various leaks came from Executive agencies or from Members of the Committee. There was considerable speculation but little evidence of any official action within the Committee to identify the source of the leaks.

Leaks of information being considered by the Select Committee were discussed several times within the Committee. On November 4, 1975, the Chairman opened a meeting by referring to a story broadcast by Daniel Schorr on November 1, 1975, which was "not exactly" but "sort of attributed to this Committee . . . as the

source . . ." The Chairman said it was possible "we do have a leak on this Committee" or it could be someone trying to discredit this Committee.

The Chairman asked Mr. Schorr, who was present, if "you would want to reveal your source or method at this particular time." Mr. Schorr replied, "No thank you."

There followed a discussion among the Select Committee Members concerning possible action regarding the leak. The Chairman said he felt it might not be proper for the Committee to be investigating itself. He said he would not hesitate to ask the FBI to investigate the leak if the Committee thought that was desirable. He stated there was no organization within the Congress to handle such a serious investigation. Various Members voiced the conviction that the leak had not come from a Member of the Committee.

A Select Committee Member moved that Mr. Schorr be called before the Committee in executive session to inquire about the source of the story. After some discussion, during which the Chairman remarked this was not the first leak, the motion was tabled by a voice vote.

On December 19, 1975, the Select Committee discussed a leak of information appearing in an Associated Press story indicating Members of the Committee were considering the release of certain information. A Member commented information on three operations had been discussed by Daniel Schorr on the previous Monday, December 15, 1975.

The Select Committee Chairman declared he did not know who was leaking the information. He said if he did know, he would ask the Speaker "to kick him off the Committee."

During a meeting of the Select Committee on January 20, 1976, the Chairman expressed concern over "the number of leaks which have developed," and said, "I think that the sooner we finish our business, the less this is a problem."

Later that day a Select Committee Member commented that a newspaper report that morning had referred to a footnote in the Committee report. The Chairman added The New York Times directly quotes from the report.

The Member asked how the Members could respond to questions raised about what the Committee is doing to determine the source of leaks. He inquired if the Chairman could enlighten the Members on the source of the leaks.

The Chairman said he could not enlighten the Committee, that he has "some evidence" of the source of leaks, "but rarely any proof." The Member asked if the Committee should not conduct some inquiry regarding the leaks lest it be criticized for not doing so. He suggested the Chairman create a subcommittee for this purpose. The Chairman declared he was not going to appoint "a subcommittee to investigate Members of Congress."

The Member requested the Chairman to at least emphasize the report should be treated as executive session material. The Chairman replied such a warning accompanied the report and the recommendations sent to the Members, adding that he could not supervise "the execution of the individual Member's responsibilities."

On January 28, 1976, the leak of the memorandum relating to a Senator was raised in a Select Committee meeting. A Member in-

quired why the memorandum was never discussed in the Committee. He asked "why it turns up in a footnote and is leaked to the newspapers." The Staff Director replied the memorandum was discussed in executive session on January 21. The Member stated at that point the report already had been leaked to the press. The Staff Director replied, "No, it had not. As I recall, it did not appear until Friday."

This discussion is followed by a motion by another Select Committee Member that the Chairman appoint a three-man subcommittee to investigate "the allegations that have occurred during the last few days and the leaks that apparently occurred during the last few days and report back to this Committee before its termination." The motion was defeated by a vote of eight to four.

The Select Committee Chairman, in testifying before this Committee, stated "We tried on a continuing basis to identify the source of the leaks. We were not very successful."

He also testified the Select Committee did not conduct an investigation to determine the source of the leak to Mr. Schorr. He said the Committee's charter was about to expire and it did not have the staff to undertake such an inquiry.

The Chairman refused to provide this Committee with information he had concerning the possible source of leaks. He testified, "No, I am not going to do that because all I have is suspicions and I am not going to indulge in suspicions."

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

THE EXECUTIVE BRANCH

About 4:00 p.m. on January 19, 1976, the Select Committee Staff Director gave a copy of the initial draft report to a CIA representative. The CIA representative received this copy in the Committee offices with the understanding that CIA would coordinate the review of the draft throughout the Executive Branch. He was asked not to distribute copies of the draft outside CIA until January 20, 1976, since all Members of the Select Committee had not yet received their copy.

The CIA representative returned to CIA Headquarters about 5:00 p.m. on January 19, 1976, where 30 copies of the draft were made. The first of the copies was ready about 6:30 p.m. Three were disseminated within CIA. One was delivered to an official at the White House, since he was leaving for a conference in Europe that night. He took the copy with him.

On January 20, 1976, CIA delivered two additional copies of the draft to the White House, two to the Department of State, one to the Department of Defense, one to the Department of Justice, one to the Office of Management and Budget, and one to the CIA Director-designate. CIA made 20 additional copies, for a total of 42 copies for use within the agency for analysis.

In order to obtain an assessment of parts of the report dealing with foreign operations, portions were sent to officials abroad on January 23, 1976. One portion was cabled to an Ambassador in Europe and another section was delivered to CIA representatives in Athens, Greece.

The Executive agencies had only one workday to analyze the draft report since their comments had to be submitted to the Select Committee by the CIA on January 21, 1976. The document containing the comments of the intelligence community was classified Top Secret based on the highest classification of the material contained therein.

The CIA established no control system with respect to copies of the draft report which were circulated within the agency. It could not account for all of the 42 copies it used, many of which were broken into sections to facilitate review.

The White House received three copies of the draft from the CIA and made four additional copies. One copy was destroyed; however, seven copies remained in the White House. The origin of the extra copy is unknown.

The State Department received two copies and made four or five more. Six copies were retained by the Department.

The Defense Department received one copy and made nine. It returned one copy to the CIA, destroyed two and retained seven. On January 23, 1976, Defense sent a complete copy to the National Security Agency which made 16 additional copies, all of which the agency retained.

The Department of Justice received one copy and made six more. Three were returned to CIA, three were destroyed and one was retained. One extra copy was located at the Department of Justice and the official who had it could not recall its origin.

The Office of Management and Budget received one copy which it retained. No copies were made.

The CIA Director-designate received one copy which he retained in his safe. He made no copies.

On January 22-23, 1976, the Select Committee staff met with representatives of various Executive Branch Agencies concerning proposed changes to the draft report. During one such meeting on the night of January 22, 1976, a Department of State official was given a copy of the draft report by a member of the Committee staff.

This copy was retained under secure conditions in the Department of State until April 27, 1976, when it was turned over to investigators of this Committee. No copies of this draft were made.

On January 23, 1976, the Select Committee voted nine to four to approve the draft report.

A CIA representative requested a copy of the approved report from the Select Committee staff on the afternoon of January 23, 1976. The staff, with the concurrence of the Committee Chairman, refused. On January 24, 1976, a Select Committee Member loaned his copy of the report to CIA for copying. His copy had been updated by the Committee staff on the afternoon of January 23, 1976, and returned to him around 7:00 p.m.

The CIA made 30 copies from the Committee Member's copy of the report and returned it to him on the afternoon of January 24, 1976.

The CIA numbered these copies for accountability and on the afternoon of January 24, 1976, delivered two to the White House, two to the Department of State, one to the Department of Defense, one to the FBI and one to the Office of Management and Budget. The remaining copies were kept for review within the CIA.

Seventeen additional copies were made by the agencies to which CIA made distribution for a total of 24 copies in possession of these agencies. Of these, 14 were returned to the CIA, five were destroyed and five were retained by the agencies, four at the White House, and one at the Office of Management and Budget.

The CIA destroyed all extra copies returned. The agency retained 25 copies, one of which was furnished to this Committee.

Every copy of the report located in the Executive Branch and examined by the investigative staff of this Committee was determined to be the initial draft obtained from the Committee on January 19, 1976, or the draft obtained from the Committee Member on January 24, 1976, with the exception of the one copy furnished by the Committee staff to the Department of State official.

Everyone in the Executive Branch identified as having had possession of a complete copy of any version of the draft report was interviewed. Each denied furnishing the report or any portion thereof to unauthorized persons. These interviews involved 70 persons at CIA, 10 persons at the White House, 46 individuals at the Department of State, 54 people in the Department of Defense, 27 people at National Security Agency, 26 persons in the Department of Justice, and 10 employees at the Office of Management and Budget.

The Select Committee Chairman, in remarks on the House floor on March 9, 1976, during interview with investigators of this Committee,

and in testimony before this Committee on July 19, 1976, asserted CIA and State Department representatives were given copies of the draft report and corrected pages to update the drafts during a lengthy meeting with Committee staff personnel on the night of January 22-23, 1976. Some staff personnel who participated in this meeting, including the Staff Director, provided much the same information, at least in part.

The Staff Director contended it would have been a simple matter for the Executive agencies to have determined the few changes the Select Committee approved on January 23, 1976, prior to adopting the report.

This information, coupled with what these agencies were supplied during the meeting with the staff, would have provided virtually a complete report, he claimed. The Staff Director noted The Village Voice published a "funny draft" of the report, one which had some but not all of the changes made by the Select Committee on January 23, 1976.

A Department of State official and two CIA representatives participated in the January 22-23 meeting. The Department of State official said he was given a copy of the draft report during the meeting since he did not have a copy. This copy was later turned over to investigators for this Committee. He testified he did not receive any changed pages. The two CIA representatives testified they were loaned a copy of the draft more current than the one they had for use during the meeting. They testified they did not take this copy with them, leaving with only the copy they brought. They also denied being supplied any changed pages to update their copy.

The Select Committee maintained no receipts or other records to support the claim that Executive Branch representatives were supplied additional copies of the draft or copies of changed pages.

Even if the Executive agencies received the changed pages, and even if they were informed of changes approved at the Select Committee meeting on January 23, 1976, the implication that these agencies were the source of the leak to Mr. Schorr is highly improbable.

The Select Committee staff neglected to make some changes approved on January 23, 1976. This oversight was called to the Staff Director's attention by a Member when the Committee met on Monday, January 26, 1976. The next day, the Member again asked about these changes.

The Staff Director replied, "You are correct on all four. They have been changed."

Some of the changes overlooked by the staff were in footnotes which The Village Voice did not print. Two changes, however, were in material printed by The Village Voice, and the approved changes do not appear in The Village Voice text.

Had the Executive agencies compiled the report as the Staff Director of the Select Committee contended, they undoubtedly would have made the approved changes which the staff overlooked. Hence, had the Executive agencies leaked the report to Mr. Schorr, the overlooked changes would have appeared in The Village Voice text. It should be recalled Mr. Schorr obtained a copy of the report on or about January 25, 1976, before the staff oversight concerning the approved changes was discovered.

Officials of the various Executive agencies asserted no leak of the Select Committee report on portions of it emanated from the Execu-

tive Branch. They pointed out CIA did not obtain a copy of the initial draft report until 4:00 p.m. on January 19, 1976, and copies of this were not available at CIA Headquarters until about 6:30 p.m. Only one copy was disseminated outside CIA that date, this to a White House official who departed for Europe that night.

The CIA Assistant for Press Affairs reported receiving a telephone call prior to 5:10 p.m. on January 19, 1976, from a New York Times Reporter who was attempting to verify information apparently from the draft report.

The Select Committee Staff Director advised that by 4:00 p.m. on January 19, 1976, when the draft was first distributed, The New York Times was calling with questions which indicated they had the contents of some of the more dramatic sections of the report.

CIA officials conducted a detailed comparison of The Village Voice text against the two versions of the draft report they obtained—the draft secured on January 19, 1976, from the Select Committee staff, and the one obtained on January 24, 1976, from a Committee Member. They reported numerous and substantial differences between Village Voice and the January 19 version, and 88 differences with the copy obtained on January 24.

The CIA officials concluded neither of the two versions of the report obtained by CIA and distributed through the Executive Branch could have been the source of The Village Voice text. They also concluded it is impossible to combine pages from the two versions to match the Village Voice text.

Executive agency officials pointed out that on January 25, 1976, when Mr. Schorr and The New York Times apparently gained access to the report, representatives of the various agencies were meeting at the White House considering means to induce the Select Committee to delete or revise objectionable information.

An official of the CIA, who worked with both the Senate and the House Select Committees on Intelligence, testified the publication of classified information contained in the House Select Committee's report caused considerable damage to the CIA's foreign intelligence mission.

THE NEWS MEDIA

This Committee on May 13, 1976, adopted a motion authorizing and directing its investigative staff to interview those representatives of the news media necessary to carry out the mandate of H. Res. 1042 and H. Res. 1054.

These contacts began on June 3, 1976. By then virtually all investigation in the House of Representatives and the Executive Branch had been completed without positively identifying the source of the leak of the Select Committee report.

Information was sought from 24 persons associated with the news media including Daniel Schorr. Little information was received and most media representatives declined to be interviewed.

Four persons affiliated with The Village Voice or its sister publication, New York Magazine, agreed to interview and each later testified before this Committee. They were Clay Felker, Editor-in-Chief of The Village Voice; Aaron Latham, who wrote the introduction to the text of the report; Sheldon Zaiaznick, who edited the report; and Susan Parker, secretary to Mr. Felker.

Mr. Felker related he was contacted by a New York City attorney, and advised of the availability of the Select Committee report. Mr. Felker agreed to publish it in *The Village Voice*. The attorney suggested that *The Village Voice* consider a contribution to the Reporters Committee, but Mr. Felker said: "There were no negotiations per se. There was discussion, a request, that we consider making a contribution to the Reporters Committee. However, the request was not made contingent upon the publication of the report. The report was made available to us, no strings attached." He declared no contribution was made to the Reporters Committee or anyone else with respect to this matter.

Mrs. Parker testified she flew from New York City to Washington, D.C., on February 6, 1976, and traveled by cab to Daniel Schorr's residence. She told a maid who answered the door that she had "come for a package for New York." The maid gave her the report which was in a plastic bag in a manila envelope. She returned to New York and delivered it to Mr. Felker.

Mr. Latham reported he made three additional copies of the report. He gave one copy to Mr. Felker, two to Mr. Zalaznick, and kept one for himself.

The Washington Monthly issue of April, 1976, reported Mr. Latham called "a friend on the Pike Committee" to determine if the copy he had was the only one available for publication. The magazine reported that Mr. Latham's contact "made it clear that the Schorr copy, now in possession of Clay Felker, was probably the only one extant."

Mr. Latham declined to discuss his contact on the "Committee staff" when questioned by investigators for this Committee.

Mr. Zalaznick advised he used the original and one copy of the report in editing it for publication. When this was completed he took both copies to his home where he burned them in his back yard grill late in February, 1976.

Mr. Felker testified he threw his copy of the draft in his trash.

Mr. Latham said he took his copy of the report to the office of Joseph Califano, attorney for Daniel Schorr, shortly after the first article appeared in *The Village Voice* on February 11, 1976. He did this on instructions from an unrecalled person in the New York office of his employer. He did not recall if this had been requested by Mr. Schorr or Mr. Califano.

During testimony, Mr. Latham, citing First Amendment protection of sources, declined to answer questions regarding any knowledge he might have about the source of the draft report obtained by Mr. Schorr. He maintained that position even after Chairman Flynt advised him of the necessity of his answering, warned him of the possible consequences, and directed him to answer.

Mr. Califano was asked on June 21, 1976, if *The Village Voice* had returned to him the copy of the draft report it received from Mr. Schorr. He believed the copy was being held by his firm for Mr. Schorr. He refused to turn it over to the investigative staff of this Committee. He doubted it would be made available on subpoena since it might lead to the identity of the source. He did not remember if the return of the document was requested but thought it was by "mutual agreement with *The Village Voice*."

In response to a subpoena, Mr. Schorr appeared before this Committee on September 15, 1976. In an opening statement he said he

would consider making available to the Committee two categories of documents but would not produce his notes or the copies of the Select Committee report in his possession. He also declared he would not, could not, betray a source.

Mr. Schorr testified he had attempted to have the Select Committee report printed by various publishers to no avail. He had hoped it would be published as a book or pamphlet. In discussing the report's publication with a representative of the Reporters Committee he had suggested any royalties resulting go to that Committee.

He was aware the House of Representatives had voted the report should not be released when he turned it over to The Village Voice for publication.

Mr. Schorr testified he had discussed his source only with his attorney, Mr. Califano, and his wife. He testified no payments were made by him to obtain the report.

Shortly after Mr. Schorr concluded his opening statement the following exchange took place:

Mr. MARSHALL. Now, with regard to the third category, that is notes taken during coverage of the House Select Committee and scripts, as well as the copies of the report of the House Select Committee on Intelligence prepared pursuant to House Resolution 591, on behalf of the committee I now direct that you produce all copies and drafts of the report prepared pursuant to House Resolution 591 in your possession, custody or control.

Mr. SCHORR. Sir, I must respectfully decline to do so for the reasons stated, that I believe that they are a work product, protected by the First Amendment in the first place, and secondly and more importantly, could conceivably assist you in ascertaining the source.

Mr. MARSHALL. So the record will also be clear, I am making an additional demand, solely related to the report of the Select Committee prepared pursuant to House Resolution 591, and am directing on behalf of the committee that you produce those copies of that report in your possession, and that you produce them at this time.

Mr. SCHORR. My answer remains the same.

Mr. CALIFANO. Mr. Marshall, may I just briefly note that there are two types of documents involved here, as you have noted.

With respect to one item, memoranda, internal reporters' notes, out-takes, if you will, may I cite to the Chair, may I ask of the Chair if he is going to direct the witness to answer, direct separately because with respect to notes and out-takes there is a precedent in the House of Representatives.

That precedent was when Dr. Frank Stanton testified and refused to provide similar material. The House voted at that time 226 to 181 not to cite Dr. Stanton for contempt for refusing to provide that material.

Mr. FLYNT. I have carefully studied the legal memorandum, Mr. Califano, which you have filed with the committee.

I must at this time advise the witness that this committee is acting pursuant to the authority vested in it by Resolutions

1042 and 1054 of the House of Representatives, 94th Congress.

Copies of those resolutions and the opening statement of the Chairman of this committee setting out the legislative purpose of these hearings were served upon you prior to your appearance as a witness here today.

The subject of these hearings is an inquiry into the circumstances surrounding the publication in *The Village Voice* of the text and of any part of the report of the House Select Committee on Intelligence, so that this committee can report back to the House its findings and recommendations thereon.

The papers described in the subpoena duces tecum, including any and all copies or drafts of the report prepared by the House Select Committee on Intelligence, pursuant to House Resolution 591, are pertinent to the subject under inquiry in that these papers may identify or lead to the identification of the person from whom the text and any part of that report were obtained.

This report of the House Select Committee on Intelligence, pursuant to House Resolution 591, is further pertinent to the subject under inquiry, in that it may constitute evidence or lead to evidence as to the method by which the text and any part of the text of that report were obtained.

These matters are part of the circumstances surrounding the publication of the text and any part of the report of the House Select Committee on Intelligence. Production of the copy of this report is necessary to carry out the mandate of the House of Representatives.

If you continue to refuse your copy of this report, notwithstanding the fact that you have been duly served with a subpoena duces tecum, your refusal will be deemed by this committee to constitute a willful refusal to produce your copy of this report upon a matter pertinent to the subject under inquiry, and will subject you to prosecution and punishment by a fine or imprisonment or both, under Title 2 of the United States Code, Sections 192, 193 and 194.

Your refusal to produce your copy of this report will also subject you to prosecution and punishment for contempt of the House of Representatives.

Accordingly, you are hereby advised that I overrule your refusal to produce your copy of this report described in the subpoena duces tecum, served upon you, including your refusal to produce any and all copies of the drafts of the report prepared by the House Select Committee on Intelligence pursuant to House Resolution 591.

As Chairman of this committee, I hereby demand and direct that you produce your copy of this report.

Mr. SCHORR. Mr. Chairman, for the reasons stated, that I cannot engage in a venture aimed at ascertaining the source, I must repeat that I respectfully decline to provide any copies of the report.

Committee Counsel Marshall later stated:

This committee has received testimony under oath from Congressman James V. Stanton that approximately one week after that report was published in *The Village Voice* Congressman Stanton talked with you in the Speaker's lobby of the House of Representatives.

I have supplied counsel, your counsel, with a copy of Mr. Stanton's testimony in public sessions of this hearing.

At that conversation, Congressman Stanton testified that you told him that you obtained a copy of the text of the report from the Central Intelligence Agency, and that you also said, "Of course, I would deny that if anyone asked me."

Did you make those statements to Congressman Stanton?

Mr. Schorr replied:

Mr. Marshall, I have never discussed with anyone the source from which I obtained the report other than two privileged persons.

Mr. Marshall asked if Mr. Schorr meant by this response that he did not have the conversation with Mr. Stanton. Mr. Schorr said his response "must speak for itself," adding later that he felt his reply was adequate.

Mr. Marshall insisted on an answer to the question concerning the conversation with Mr. Stanton. Mr. Schorr refused to answer.

Chairman Flynt stated he had listened carefully to Mr. Califano's oral argument and had also carefully studied legal memoranda filed with the Committee. Using language similar to that quoted earlier, Chairman Flynt then advised Mr. Schorr of the necessity for him to answer the question, the consequences for his refusing to answer, and directed him to answer.

Mr. Schorr contended his prior answer was sufficiently responsive and refused to comment further.

Following are additional questions put to Mr. Schorr and his response in refusing to answer. After each refusal, Chairman Flynt read him a warning similar to the language quoted earlier and directed him to answer. In each instance, Mr. Schorr persisted in his refusal to answer:

MR. MARSHALL. Mr. Schorr, from whom did you obtain the copy of the report of the Select Committee on Intelligence, that report being prepared pursuant to House Resolution 591?

MR. SCHORR. Counsel, I respectfully decline to answer that question on the grounds that I feel that my right to withhold the source is protected by the First Amendment and absolutely essential to the functioning of a free press in this country.

MR. MARSHALL. Mr. Schorr, did you obtain a copy of the report prepared by the House Select Committee on Intelligence from a member, officer, agent, employee or a staff member of the House of Representatives?

MR. SCHORR. For the reasons stated, and I won't bore you by repeating them, I decline to answer that question.

MR. MARSHALL. Mr. Schorr, did you obtain a copy of the report of the House Select Committee on Intelligence prepared pursuant to House Resolution 591 from a member or a staff employee of the House Select Committee on Intelligence?

Mr. SCHORR. As a matter of conscience, and in invoking my First Amendment protection, I respectfully decline to reply to that question.

Mr. MARSHALL. Mr. Schorr, did you obtain a copy of the report prepared by the House Select Committee on Intelligence pursuant to House Resolution 591 from any person or agency employed in the Executive Branch of the United States Government?

Mr. SCHORR. Mr. Counsel, as a matter of personal conscience and relying on my First Amendment protection, I also decline to reply to that question.

Mr. MARSHALL. Mr. Schorr, on what date did you obtain the copy of the report prepared by the House Select Committee on Intelligence pursuant to House Resolution 591?

Mr. SCHORR. For Constitutional reasons, or on Constitutional ground, and for personal reasons, because it is not my intention to provide you with any information which could possibly help you to ascertain the source, I respectfully decline to reply to that question.

Mr. MARSHALL. Those are two separate questions. How many copies (of the Select Committee report) did you make, and of those copies, how many are in your possession?

Mr. SCHORR. Answering the second question first, there are four copies in my possession. With respect to the first question, as to how many copies I made, I must respectfully decline to answer because I cannot answer that question without entering into the internal editorial process of preparing news for dissemination which I believe is protected by the First Amendment. That is to say, that I could not answer that question by telling you something about the internal news workings which I believe are protected by the First amendment.

Mr. BENNETT. Then my final question to you is that did you ever say to your wife or your attorney that the CIA gave you this report?

Mr. CALIFANO. His conversations with his attorney and his wife we regard as privileged.

Mr. BENNETT. Well, they are privileged, but I think they could be waived. So, I am asking the question.

Mr. SCHORR. With due respect, I choose not to waive anything right now.

Mr. Califano, on September 13, 1976, filed a lengthy brief with this Committee.

The brief is based primarily on the premise that the Select Committee on Intelligence voted on January 23, 1976, "to make the report public."

In fact, the motion adopted by the Select Committee on January 23, 1976, was as follows:

Mr. Chairman, I move the adoption of the draft report as adopted to this point, as amended, not as adopted to this point, but as amended.

The motion is absolutely silent with respect to making the report public.

The preceding day the Select Committee had discussed at some length when the report should be released. Several Members ex-

pressed the view that the report should not be released publicly until after it was filed with the House. The Chairman agreed.

The Select Committee Chairman, when interviewed by investigators of this Committee on April 2, 1976, was asked if arrangements had been made for furnishing the news media advance copies of the Committee's report. He replied, "Categorically, no."

Further evidence of the attitude of Members of the Select Committee regarding the public release of the report was provided in testimony before this Committee. A Member of the Select Committee testified on July 20, 1976, that it was his understanding the adoption of the report did not make it public.

The following exchange took place between Chairman Flynt and another Member of the Select Committee when he testified before this Committee on July 26, 1976:

Mr. FLYNT. Do you think it was either appropriate or proper for it to be given to the news media prior to filing with the House?

MEMBER. No, no, sir. I do not think so. But, of course, I do not think—I think that would be inappropriate to give it to the news media in any event, whether it was a classified—well, certainly if it were a classified document, it would be inappropriate to give it to the news media. But even if it were not, even if it had nothing in it which endangered security, it would have violated our rule of prior release.

Mr. FLYNT. And also the executive session rules.

MEMBER. And also the executive session rules of the committee. So that, no, it should not have been released. And I have to reiterate what I heard here in testimony the other day, that the release of it, in my opinion, injured the very serious and important work of this committee.

Other contentions in the brief filed on behalf of Mr. Schorr, were that no resolution, rule or regulation of the House or its Committees were violated by the transfer of the Select Committee report to Mr. Schorr.

Section 6(a) of H. Res. 591 provides: "The select committee shall institute and carry out such rules and procedures as it may deem necessary to prevent (1) the disclosure outside the select committee, of any information relating to the activities of the Central Intelligence Agency or any other department or agency of the Federal Government engaged in intelligence activities, obtained by the select committee during the course of its study and investigation, not authorized by the select committee to be disclosed; and (2) the disclosure, outside the select committee, of any information which would adversely affect the intelligence activities of the Central Intelligence Agency in foreign countries or the intelligence activities in foreign countries of any other department or agency of the Federal Government."

Rule 7.3 of the Rules and Security Regulations of the Select Committee on Intelligence, states: "Until such time as the committee has submitted its final report to the House, classified or other sensitive information in the committee records and files shall not be made available or disclosed to other than the committee membership and the committee staff, except as may be otherwise determined by the committee."

This Committee received testimony from numerous witnesses to the effect that the Select Committee report did contain classified information.

The report was filed with the House on January 30, 1976, the day after the House voted to prohibit its public release unless certain conditions were met.

EXAMINATION OF PHYSICAL EVIDENCE

An effort was made by this Committee to identify and account for every copy of the draft of the Select Committee report as well as any records concerning their distribution.

Twenty copies were produced by the Select Committee staff with one going to each of the 13 Members of the Committee and one to CIA on January 19, 1976. A copy was furnished to a Department of State official on January 22, 1976, leaving the Committee staff with five copies.

The copies were not marked for identification. Staff personnel stated some memoranda were prepared during the period of January 19-23, 1976, accounting for the copies but added these records were destroyed.

The investigative staff of this Committee, with authorization, carefully searched the records of the Select Committee stored at National Archives under custody of the Clerk of the House and found no copies of the draft report nor any records concerning distribution of the draft or changed pages made for it. Likewise, no records were found in the files concerning charge-outs of classified documents or accounting for copies of such documents. Select Committee staff personnel testified these records were destroyed.

During the early stages of this inquiry the investigative staff obtained copies of the draft report from five Members of the Select Committee. The staff also obtained the copy of the draft furnished to the Department of State official and two copies from CIA.

The copies from CIA represented the two versions of the draft obtained by that agency and circulated through the Executive Branch. These were the version of January 19, 1976, obtained from the Select Committee Staff Director and the version of January 23, 1976, obtained from a Select Committee Member. These were the only two versions of the report located in the Executive Branch except for the copy given to a Department of State official which was not reproduced.

The investigative staff conducted a word-by-word comparison of the above identified copies of the draft against the text of the report published in *The Village Voice*.

This disclosed over 90 significant differences between *The Village Voice* text and the draft of the report obtained by CIA on January 19, 1976, and the copy obtained on January 22, 1976, by the Department of State official. The number of significant differences strongly indicates these two versions could not have been the source of *The Village Voice* text.

The comparison of the remaining copies disclosed a varying number of differences, the lowest number being five which appeared in a Select Committee Member's copy and in the copies CIA made from it. These copies contained a page 266 which *Village Voice* reported was missing

from its copy. They each were missing pages 249 and 250 which Village Voice published. Both the Member's and CIA's copies contained identical significant differences on pages 198 and 199 compared to Village Voice.

Subsequently, copies from five additional Select Committee Members were obtained. Three Members reported they returned their copies to the Select Committee office where presumably these copies were destroyed. A staff member testified the Select Committee Chairman directed that all copies of the draft in the possession of the staff, except two, be destroyed for security reasons on January 29, 1976, after the House voted not to release the report. She could not recall how many or whose copies were destroyed.

The Chairman retained the two staff copies, one labeled "Emily—Original" and the other labeled "Vol. I" and "Vol. II." The former is the original of the initial draft; the latter is the master copy kept up to date as changes were made. These were turned over to this Committee by the Chairman of the Select Committee on July 19, 1976. The copies obtained after the initial comparison with Village Voice also were checked. None matched The Village Voice text with the significant differences ranging from three to over 50.

Pages 198 and 199 of the draft were considered the most significant in the comparison since they were revised substantially and were not resolved finally until an error on one of them was corrected on Saturday, January 24, 1976.

Only four of the copies examined contained versions of pages 198 and 199 identical to the text in The Village Voice. These were the master copy obtained from the Select Committee Chairman and the copies obtained from three Committee Members. It was determined these three Members received their copies of the report or the amended pages for updating their copies from the Committee staff on or after Monday, January 26, 1976.

The differences in the various copies examined resulted from staff or Member failure to properly make current changes. This, of course, should not apply to the master copy which presumably was maintained in a current status at all times. When this copy was checked it was found to contain a number of changes made after January 24, 1976.

The text published in The Village Voice reflects the changes made by the Select Committee staff up to Saturday, January 24, 1976.

THE AGREEMENT BETWEEN THE SELECT COMMITTEE AND THE EXECUTIVE BRANCH

For some time after the reorganization of the Select Committee on July 17, 1975, there was growing discord between the Committee and the Executive Branch. The Committee was demanding access to classified information but was receiving little. A confrontation in the courts seemed imminent.

Congressman McClory, Ranking Minority Member of the Select Committee, with support of the other Minority Members, initiated action which led to a meeting at the White House on September 26, 1975. Present were the President, Speaker Carl Albert, Minority Leader John Rhodes, Chairman Pike, Mr. McClory, William Colby,

Director of CIA, Secretary of State Henry Kissinger, and several others.

An agreement was reached at this meeting concerning access by the Committee to classified information and procedures governing the release of this data.

The specifics of the agreement were set forth in a letter from CIA Director Colby to Chairman Pike which was read into the record of the Select Committee meeting on October 1, 1975. This letter reads:

DEAR MR. CHAIRMAN: With the approval of the President, I am forwarding herewith the classified material additional to the unclassified material forwarded with my letter of 29 September 1975, which is responsive to your subpoena of September 12, 1975. This is forwarded on loan with the understanding that there will be no public disclosure of this classified material nor of testimony, depositions, or interviews concerning it without a reasonable opportunity for us to consult with respect to it. In the event of disagreement, the matter will be referred to the President. If the President then certifies in writing that the disclosure of the material would be detrimental to the national security of the United States the matter will not be disclosed by the committee, except that the committee would reserve its right to submit the matter to judicial determination. In some 12 instances in the enclosed material excisions have been made of particularly sensitive matters. In ten of these instances they would pinpoint the identity of individuals who would be subject to exposure.

In two cases this would violate an understanding with a foreign government that its cooperation will not be disclosed. In each such case, Mr. Chairman, I am prepared to discuss with you and the committee, if necessary, the specific basis for this exclusion due to the exceptionally high risk involved. I am sure that we can come to a mutual understanding with respect to its continued secrecy or a form in which its substance could be made available to the committee and still give it the high degree of protection it deserves. In case of disagreement, the matter will be submitted to the President under the procedure outlined above and the committee would, of course, reserve its right to undertake judicial action.

Sincerely,

W. E. COLBY, *Director*.

Following discussion Mr. McClory moved the Committee accept the materials on the conditions contained in the letter from Mr. Colby. The motion was adopted by a vote of nine to three. (Appendix 14.)

The Select Committee attempted to release certain classified information in mid-December 1975, under terms of the agreement. The Executive agency concerned objected, and the Committee voted to refer two of the three items to the President. The President subsequently exercised his prerogative and ruled against release. His action was moot since the gist of the information involved had been leaked to the press shortly after it was discussed in an executive session of the Select Committee.

According to the news reports the information concerned covert operations in three foreign countries. This was broadcast by Daniel Schorr on CBS news on the evening of December 19, 1975. The Washington Post of December 20, 1975, reported the Select Committee had "balked" at efforts to make public information regarding one of the covert operations. This article reported how the Members of the Select Committee voted on that issue. (Appendix 15.)

During discussion about the release of information concerning covert operations, the Select Committee Chairman indicated the Committee would abide by the agreement and release the data only if the President certified it could be released. He added, however, the Committee would not go through that procedure with respect to the Committee report.

Asked by a Select Committee Member if he thought the Committee could declassify information for the report, the Chairman responded, "Yes."

The agreement became the central issue when the Select Committee first met on January 20, 1976, to consider the draft report.

One Member suggested the Committee receive the comments and observations of the affected intelligence agencies and then take such action as the Committee may decide under the terms of the agreement.

The Chairman responded he did not think he had agreed, and it was not the intention of the Committee to agree, to allow the Executive Branch to write the Committee's report.

The Member persisted he saw no reason to distinguish between material in the report and material arising in Executive Sessions.

The Chairman replied that what the Member was saying was that the President could "tell us what we may have in our report."

The argument continued into the Committee meeting on January 21, 1976, when a Member declared his belief the release of information in the report "is a violation of a solemn agreement between this Committee and the Administration." He felt the Committee had no authority to make the release without the approval of the full House. He said he understood the Chairman considers the agreement not to be binding with respect to the report and that the Executive Branch does not have the right to edit or dictate what should be included in a Congressional report. The Chairman agreed that summarized his views.

This same Member moved that all classified information contained in the draft report be struck unless the full House of Representatives approved its inclusion or unless the provisions of the agreement were complied with. Considerable discussion followed, during which another Member observed that to suggest "the intelligence community would be willing to give us classified information that is considered extremely sensitive with the thought in mind that as of January 31, the reporting date, it could all be made public, that it was only sensitive up until that time. . . . is preposterous, and I think an outrageous interpretation of the final sense of the agreement."

By vote of eight to four, this motion was defeated.

The staff of the Select Committee apparently felt the agreement did not apply to classified documents reviewed by staff members at the various agencies.

On January 22, 1976, the Staff Director told a Select Committee Member that a letter reciting the terms of the agreement accompanied

classified documents sent to the Committee by Executive agencies. He said there had been no "general letter to the Chairman" specifying that any classified material the Committee sees anywhere also is covered by the agreement. He declared "the staff" never signed anything acknowledging the terms of the agreement applied to documents staff members reviewed at the Executive agencies. The Select Committee Chairman was present during this conversation and indicated his concurrence with the Staff Director's views.

The argument over how the agreement should be interpreted spread to the full House on January 26, 1976. The matter came to a head on January 29, 1976, when the House, by a vote of 246 to 124, adopted the amendment to H. Res. 982 which restricted release of the report. (Appendix 16.)

THE NEW YEAR'S EVE INCIDENT

On December 31, 1975, several newsmen, including Daniel Schorr, were invited to the Select Committee office. They were supplied information dealing with a phase of the Select Committee's investigation.

They also were allowed access to the transcript of a sworn interview with a witness conducted the day before by three of the Committee counsel. The original of this transcript, maintained in the files of the Select Committee now in custody of the Clerk of the House, is stamped "Executive Session."

The Select Committee Staff Director said the meeting with the newsmen in the Committee space was "at my direction." He also directed a letter to the Attorney General, copies of which were furnished to the newsmen.

The Select Committee General Counsel advised he did not believe the Select Committee Chairman was contacted. He stated the Staff Director had consulted him on the matter and he "did concur in this action . . . I did concur in the letter to the Attorney General." He said he approved the contents of the letter, its transmission to the Attorney General, "and approved that a copy of the letter be made public." He said as far as he knew, the release of the information on December 31, 1975, was the only such action undertaken by the staff during its existence.

Two of the Select Committee's counsel, who participated in the interview with the witness, testified before this Committee that they had recommended against public disclosure of the situation involved. They recommended it be referred to the Department of Justice. They testified the Staff Director furnished the address of the witness to someone he was talking to by telephone, whom he later identified as Daniel Schorr.

One of the counsel stated the Staff Director said Mr. Schorr is "O.K., don't worry about him."

The other counsel said the Staff Director related, "I called Daniel Schorr . . . He has given me a lot of good advice, and I asked him what to do on this situation and he said the best thing to do is to make a direct attack."

The Staff Director testified he called Daniel Schorr to determine if there would be a newscast that evening, noting it was New Year's Eve. He testified he did not recall stating that Mr. Schorr told him "the best thing to do is to make a direct attack."

All employees of the Select Committee were required to sign an Employee Agreement. Item 5 of this Agreement states:

I further agree that until such time as the Committee has made its final report to the House I will not divulge to any unauthorized person in any way, form, shape or manner the work product or memoranda of the Committee or any material or testimony received or obtained pursuant to House Resolution 591, 94th Congress, unless specifically authorized by the Committee.

Congress was not in session on December 31, 1975. None of the participants in the incident gave any indication that approval for release of the information had been sought from the Select Committee.

The Chairman of the Select Committee testified on July 19, 1976, that he had not approved the release of this information to the news media. He was asked if he considered the action a violation of the Employee Agreement. He said he could not generalize and would want to know what the document was about and what the briefing was about.

By letter dated September 9, 1976, Chairman Flynt furnished to the Chairman of the Select Committee pertinent information concerning the foregoing matter, including a copy of the letter to the Attorney General, a copy of the transcript of the sworn interview, and a copy of a news article reporting on this matter.

By letter of September 10, 1976, the Chairman of the Select Committee responded:

Having examined the contents contained within your letter and assuming the accuracy of all of the allegations contained in your letter, the answer to your question would have to be technically that providing a copy of the interview with [] to the press would appear to violate the employee agreement.

SECURITY

Both House Resolution 138 and House Resolution 591, recognizing the sensitive nature of the proceedings mandated, required the Select Committee on Intelligence to adopt rules, procedures and regulations to assure protection of classified material from unwarranted publication.

The Committee adopted Rules and Security Regulations and issued them in booklet form. These formed the basis for the Committee's efforts to maintain control of the large amount of highly sensitive information it received during its inquiry into the U.S. intelligence community.

There follows a listing of the security procedures and regulations adopted, and information developed during this investigation concerning the Select Committee's adherence to them:

1. Members of the Committee shall have access at all times to all materials received or obtained pursuant to H. Res. 138 and H. Res. 591, 94th Congress.

No information was developed during the investigation to indicate non-adherence to this regulation.

2. All committee staff members with appropriate security clearances, as determined by the Committee, will have access to documents and materials as determined by the Staff Director, the Chairman, and the Ranking Minority Member.

Employees of the Select Committee were subjects of FBI background investigations and were required to sign an "Employee Agreement" when entering on duty. Following these two actions and authorization by the Chairman for clearance, staff persons were given clearances and appropriate briefings by CIA. Based on the comments of several staff members, strict adherence was paid to the requirement that clearances be held by staff members prior to their access to classified materials.

3. All Committee staff will submit to the person designated to control the security of materials any and all materials received or obtained pursuant to House Resolution 138 and House Resolution 591, 94th Congress.

An estimated 74,000 to 77,000 classified documents handled by the Select Committee staff indicates the extent of the problem involving security of documents. Generally, these documents were delivered by Executive agencies to the Select Committee with cover letters. On occasion, documents, some classified, were obtained by staff members during visits to intelligence agencies.

A former Select Committee staff member advised on April 21, 1976, there were instances when staff members would obtain documents direct from the agency representatives and then delay placing them in the central files, preferring to keep them in their desks.

A Select Committee Member commented about weak security of the Committee and reported a lack of accounting by staff members of material in the Committee's possession.

A member of the Select Committee staff who was charged with the security of documents, in an undated memorandum to the staff, stated, "It is my considered opinion that, as staffers persist in Xeroxing multiple copies of all memos and briefing summaries they have done, regardless of classification, it makes no sense to continue to deliver the original typed copies to my department. Since [——] decision has been thus far that staffers may keep personal files, if necessary, and since all staffers have deemed it necessary to keep such files, plus the compilation of a private 'central file' by one staffer, it merely wastes the time of this department and the energy of the secretarial staff, to attempt to keep copies at a minimum. I suggest that all staffers be given the original typed copies initially."

This memorandum further states, "We simply cannot be held responsible for documents which are held to be outside of the realm of document control. This includes documents which are signed for, or brought from an agency, by staff members and kept at their desks because they 'simply have to use them.' My being verbally informed of the receipt of documents does not constitute turning them over to the files for protection."

4. Strict security procedures shall be in force at all times at the offices of the Committee staff, security devices shall be installed and operational and at least one security guard shall be on duty at all times at the entrance to the offices

containing materials. Identification of all persons seeking admission will be required.

When the Select Committee was created by H. Res. 138, a security system was developed by staff members in consultation with intelligence agency personnel, especially with CIA. The Committee occupied space in Rooms 232 and 233 in the Cannon House Office Building in June, 1975, and a uniformed Capitol Policeman was assigned on a round-the-clock basis. Alarms were installed on the doors and windows and all individuals entering the space except Committee Members and staff personnel were required to sign in and out in a log book maintained by the guard and to be escorted by a staff member. Staff personnel were required to sign in and out on the log book when entering the space after 7:00 p.m., on holidays, and weekends.

In August, 1975, the Committee staff moved to Rooms B316 and B317 in the Rayburn House Office Building. The space included a reception room with guard desk and desks for secretaries and typists; a large room divided into sections by low partitions for Staff Director, Counsel, and investigative staff; two interview rooms; a writers and editors room; and a room divided in half by a row of safetype cabinets used to store the documents obtained and developed in the Committee's work.

On one side of the file room were three doors into rooms not assigned to the Select Committee. These doors were sealed by metal strips so they could not be opened without extensive unbolting and the removal of the bindings.

Capitol Police guard service was continued in this space on a round-the-clock basis. Initially, two officers were on duty, one at the B316 entrance, the other in the B317 entrance area. After installation of an alarm on the B317 door, the officer was removed from that post. The door subsequently was secured by a lock which required a key to open from the inside or outside, and the key was not furnished to staffers.

The guard in B316 was provided rosters containing the names of Committee Members and staff personnel authorized to enter the space. All other individuals were required to sign in and out on the guard's log book and were admitted only with the authorization of staff personnel. These visitors were escorted by staff personnel whenever going beyond the reception room into the staff working area. Comments by staff members and others interviewed indicated the escort requirement was followed.

An obvious problem existed in the reception room where visitors could observe the work being performed by the Office Manager, secretaries and typists located there. Visitors here also were in position to overhear conversations among staff personnel and telephone conversations. Visitors in this room were not required to sign in and out.

The alarm system installed on the door for B317 and in the safe cabinet file area was activated after working hours and on weekends by a switch located near the desk of the officer on duty in B316. The alarm sounded in the Capitol Police House Office Building detail duty room, B220, Longworth House Office Building. The duty officer there would telephonically advise the officer on guard in B316 when it sounded, and he would check the Committee space and take appropriate action. He also was required to notify one of several designated staff members at home.

During the period of August, 1975, through January, 1976, two electronic sweeps were made of the staff working space by Capitol Police. Telephones in the staff working area were checked and sealed twice in the same period.

Consideration was given to the use of a closed circuit television monitoring system but its cost precluded installation.

CIA offered to assist the Committee in setting up a proper security system. CIA was told that its help was not needed.

Comments from various Select Committee staff members and from Executive Branch personnel involved with the Committee inquiry ran the gamut from good to bad concerning security practices by the staff. Some staffers believed there was a strong motivation for the staff to maintain security. Despite this, they noted during times of haste when preparing for hearings and working on the report, some staffers who otherwise had been very security conscious tended to bypass security procedures relating to document handling.

The Committee staffer in charge of security had little prior experience and trained on the job. Some said this made it difficult to maintain staff security. Others said the staff member was most conscientious, did a good job in maintaining staff security under difficult circumstances and badgered staff members to comply with security requirements. There is evidence that over a long period of time some staff members cooperated little in maintaining security.

Asked if there was a "security officer," the Staff Director suggested the Chairman would have to be asked "about this." He said the Chairman "didn't want to call somebody a security officer. He didn't want people walking around with guns, and so on, but that he would rely upon administration and such people and that kind of thing and that we were not going to go around making a lot of show. So he objected rather vehemently to calling [. . .] a security officer or calling anybody a security officer."

On July 22, 1976, the Staff Director testified before this Committee he was in charge of security, and that another staff member had carried out a number of functions relating to security. In a letter dated January 28, 1976, to CIA, the Staff Director refers to "our security officer, [. . .]"

The Select Committee Chairman advised on June 23, 1976, he had discussed security matters with the Committee staff on numerous occasions. This was corroborated by numerous employees. Frequent briefings were given by the Staff Director to the staff concerning security practices to be followed. He stressed that any breach of security resulting in leaks of Committee material or of any information on Committee activities would result in dismissal.

On May 3, 1976, the Staff Director advised he had discussed with the Chairman whether the Committee should have a press secretary or press relations officer. It was decided not to have a press person. The policy was established that the two top staff members, the Chairman, and the Committee Members would be the only ones authorized to talk to the press.

On February 18, 1976, a staff member with security responsibilities advised a Member of the Select Committee there was a lack of security on the Committee. She said the Chairman referred to her as the "librarian" and "laughed off" her complaints. She advised that

joking remarks were made about her role. On one occasion comment was made that she should not refer to herself as the security officer or people would think she was packing a gun. She said there was no regard for security, documents were taken home by members of the staff, and she could not give any assurances that copies were not made. She related that security was breached by members of the staff and Members of the Committee.

A member of the Select Committee furnished a copy of a memorandum prepared by one of the staff members of the Select Committee regarding security. This memorandum indicated the security system and security devices were adequate to insure safekeeping and to prevent mishandling of classified documents and other materials. However, as time passed the strict operating procedures gave way to the Committee's hectic hearing schedule and regulations were overlooked. Staff members signed for documents and were able to take them to their desks and, presumably, out of the office. They could use them for days without returning them to the secure area. Copying and duplicating of the materials was not controlled or regulated. Some staff members obtained documents directly from the agencies and failed to place them in the central files.

A former staff member who had extensive prior security experience and who was with the Select Committee over six months, made a statement before this Committee concerning security.

In this statement he said, "There seemed to be a general misunderstanding on the part of some of the Committee Members and most of its staff of the consequences of poor security or even of what constituted poor security."

He stated, "The incredible pressure of conducting a thorough investigation and producing a meaningful report within only six months resulted in, or encouraged, an attitude that nothing mattered so much as 'getting the job done.' Nothing. Including security."

His statement revealed the following additional information.

Office machine repairmen had routine access to the area where the machines were located. Conversation which flowed freely could easily be overheard by them, and documents, most of them containing highly classified information, were literally scattered about the room.

Classified material was shredded by a mechanical device but the shredded paper was placed in plastic bags in the hallway outside the Committee offices for pick-up by the cleaning crew.

Control numbers were not assigned to Top Secret documents; hence, there was no means of accounting for them.

Staff members loudly discussed classified information within earshot of persons who had "no need to know."

People not officially connected with the Committee had very good access to information coming into the Committee's possession.

The former staff member furnished a photograph taken by him in the Committee offices which he said "illustrates how sloppily the papers were kept, things scattered all over the floor. The mere fact that I could get into the Committee office with a camera and blithely take photographs is, itself, evidence of poor security."

He advised the photograph depicts a room used for typing and interviews of witnesses scheduled to appear before the Committee. He stated the photograph shows "copies of documents which were both

classified and unclassified scattered somewhat willy-nilly over the work area, including the floor." (Appendix 17.)

An employee of General Accounting Office, who served on loan to the Select Committee, furnished a copy of a memorandum he had written to a Committee Counsel on September 8, 1975, setting forth a number of security problems he felt should be corrected. These related to control of incoming documents; control of material extracted from sensitive agency documents by staff members; internal control of work in process; typewriter, tape recorder, and Xerox controls; and file and desk security measures.

He declared in this memorandum that desk check, the timely destruction of sensitive documents and the continuing control of documents were "the only chance this Committee staff has of not being extremely embarrassed at some future date."

He also furnished a copy of a memorandum dated February 17, 1976, he had written to his agency upon completion of his assignment with the Select Committee. In this memorandum he stated:

"I found one problem that existed from the day I was assigned to the Committee to the day I was reassigned—namely, security of classified matter. . . . Initially, until about September 1, 1975, there was little or no control of classified documents received from the agency. This was improved materially in the following months by assignment of a staff member to handle security arrangements in the classified safe file room. However, a continuing problem existed, in that staff members retained classified documents in their desks and briefcases with no thought of the security implications involved. The documents carried agency classifications ranging from Top Secret to Confidential, plus some special classifications which limited distribution of the document to specific channels in the intelligence community. Xerox copies of classified documents which were made by the staff, were not controlled. I brought these problems to the attention of the Staff Director, both orally and in writing, with little or no success."

One Select Committee Member advised it was his belief guards may have admitted unauthorized persons on limited occasions to staff space. He said there was a need for more accurate records to be kept as to when, how and who were to receive the various sensitive documents, and guards should be given a more clear and precise set of security requirements.

Another Select Committee Member advised he felt there was a lack of effective controls on people coming into and using the Committee space.

5. All classified materials will be maintained in safes in a segregated secure area within the Committee's offices. Records of receipt will be kept. The internal handling and disposition of such classified material, including classified waste, will be the responsibility of the security officer.

The documents received from intelligence agencies and those created by the staff, both classified and unclassified, were housed for security purposes in 14 cabinets in the rear area of the staff space. Twelve of these cabinets had combination locks, the other two had key locks. All were located in the room protected by a motion detector alarm system.

A document control clerk was located just outside the safe area. He maintained a log showing the staff member or Committee Member who requested a particular document, the identity of the document, its classification, its date, the time it was signed out, and the initials of the document control clerk who checked it back in.

The log maintained by the document control clerk apparently was destroyed by shredding when the Committee staff was dismantling its operation.

A Select Committee staff member advised that on January 11, 1976, a staff member having security responsibilities, opened the safes but shortly thereafter locked them and left. The first staff member observed a packet containing combinations to the safes had been left on a desk. Some of the staff members needed information and one of the top staff members took the combinations and opened the safes. He left the area, returning with the original and a Xerox copy of the combinations. When questioned during the investigation, he denied Xeroxing the combinations, indicating there was a need to get into the safes and somebody gave him the combinations.

6. All classified materials may be examined only at reading facilities located in a secure area. Notes may be taken but must remain in the secure area of the Committee's offices. Copying, duplicating, recording or removing from the Committee staff offices such materials is prohibited, except as specifically approved by the Staff Director.

For a while staff members were permitted to review documents only at desks in a library area where the document control clerk was located. Later, with authority from the Staff Director, staff members were authorized to take charged-out documents to their desks on a case-by-case basis.

The sense of urgency on the part of staff members often caused problems. Instead of telephoning their requests, staff members began coming directly to the document control clerk and waiting for the documents.

While this was not a violation of security, it made the system more difficult to operate and the staff members who did this tended to depart without signing for the documents. On occasions some staff members reportedly took documents out of the cabinets.

At night documents were supposed to be returned to the safe cabinets but there were occasions reported where documents were located in staff members' desks or taken home. This practice occurred generally during rush periods, allegedly with approval.

Copies of documents frequently were made on a Xerox machine located in the office immediately behind the reception room. A log was maintained to indicate who was using the Xerox machine and how many copies were being made, but this was for cost control rather than document security. There were no security restrictions on the use of the Xerox machine and no accounting for copies made of classified documents.

One of the police officers on duty in the Select Committee space reported finding a secret document in the Xerox machine one night.

One Select Committee Member stated he felt that in some instances, classified documents were not afforded proper security, noting that the Xerox machine appeared to be "going all the time with little or

no accountability of what was being copied." He further stated that he did not think security procedures were adequate and did not think the procedures in effect were properly followed and enforced.

During the investigation of this matter, nine former employees of the Select Committee and one Member of the Committee turned over to this Committee copies of documents they had in their personal possession relating to the work of the Committee. The Member and one of the former employees had in their possession documents clearly marked with security classifications up to Top Secret. One another former staff member had in his possession documents which he admitted were "highly sensitive" and which the Committee determined did contain classified information.

He explained he had these documents in his possession because of a situation which developed during the final days of the Committee staff. He went to the Select Committee office one day and was told by other staff members the CIA was there going over documents and anything he did not want CIA to get he had better shred. Since there was a line of people waiting to use the shredder he put the documents in an envelope and took them home with him.

The Select Committee Staff Director reported the Committee Chairman directed the draft of the Select Committee report should not be classified. He said the Chairman asked him and other top staff members if the report contained anything harmful to national security. They said not in their opinion. The Chairman then instructed it be handled as a normal Committee report.

The Chairman recalled meeting with the top staff people during the week before the draft report was distributed but he did not remember any discussion regarding classification of the report. One former top staff member said he participated in discussion about restrictions on the report and stated the Chairman decided there was no alternative but to give each Committee Member a copy with a cover letter reminding them of Committee regulations.

7. Classified materials used in meetings and hearings will not be removed, copied, recorded or duplicated. At the conclusion of the meeting or hearing the materials will be collected and secured by the security officer.

During the Select Committee hearings a Capitol Police Officer was on duty at the door to the hearing room at all sessions. Numerous classified documents frequently were brought to the hearing room for use of the Members and staff. On one occasion the Chairman asked all staff personnel, except the Staff Director, to leave the hearing room. A staff member voiced concern over the classified documents in the room, for which she was responsible but the Staff Director insisted the Chairman's instructions be followed and she withdrew.

8. Material not classified or material in the public domain will be made available upon request to designated staff of Committee Members. The material will be checked in and out and examined in a designated area of the Committee's office.

No information was developed during the investigation to indicate non-adherence to this regulation.

9. As a condition of employment, each staff member shall execute a security agreement. Staff members failing to abide

by the agreement and these security regulations shall be subject to immediate termination of employment.

In signing the Employment Agreement, Committee employees pledged not to divulge to unauthorized persons any classified information received pursuant to H. Res. 591, both during and after employment, with the Select Committee. In addition they agreed not to divulge to unauthorized persons, until after the Committee's report was made to the House, any material or testimony received under H. Res. 591, unless specifically authorized by the Committee.

As previously set forth in this report, information was developed concerning a situation where information pertaining to an investigation was furnished to the press on December 31, 1975, by employees of the Select Committee without the authority of the Committee.

Information was also developed that a former employee of the Select Committee wrote an article which appeared in a national publication subsequent to his employment on the staff. He indicated that because the House had voted not to release the Committee's findings, the article was derived from the public record.

ACTION BY COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

On September 22, 1976, this Committee took the following actions: Mr. Hutchinson made the following motion:

Whereas, Mr. Daniel Schorr was summoned to appear before this committee on September 15, 1976, pursuant to a subpoena duces tecum duly issued under authority of the Committee on Standards of Official Conduct of the U.S. House of Representatives, and having appeared, willfully refused to produce certain papers described by said subpoena, as set out in the Resolution attached hereto as Exhibit A.

I move that this Committee report the fact of Mr. Schorr's conduct to the House of Representatives, that the attached resolution be brought before the House of Representatives, and that this committee recommend to the House of Representatives that proceedings be initiated against Daniel Schorr pursuant to 2 U.S.C. Section 192, U.S.C. Section 193, and 2 U.S.C. Section 194.

Mr. Hutchinson read the Resolution identified as Exhibit A to his motion, as follows:

Resolved, That the Speaker of the House of Representatives certify the report of the Committee on Standards of Official Conduct stating the fact of the refusal of Daniel Schorr at a public hearing on September 15, 1976, to obey a duly issued and served subpoena duces tecum demanding that Daniel Schorr produce certain copies of the Report of the House Select Committee on Intelligence prepared pursuant to House Resolution 591, together with all the fact in connection with said refusal, under the Seal of the House of Representatives, to the United States Attorney for the District of Columbia, to the end that said Daniel Schorr may be proceeded against in the manner and form provided by law.

On this vote the ayes were five and the nays were six, and the motion was not agreed to.

Mr. Cochran made the following motion:

Whereas, the House of Representatives adopted on January 29, 1976, H. Res. 982, which prohibited the release of the report of the Select Committee on Intelligence until certain conditions were fulfilled, and,

Whereas, Daniel Schorr, a Washington correspondent for the Columbia Broadcasting System, with full knowledge of such House action did cause to be published in The Village Voice newspaper a substantial part of the text of the report of the Select Committee on Intelligence on February 16, 1976, and on February 23, 1976, deliberately disregarding the will of the House as expressed in H. Res. 982, and,

Whereas, Daniel Schorr is an accredited Member of the House Radio and Television Gallery, subject to the terms of Rule XXXIV, Clause 3 of the Rules and Practice of the House of Representatives, and,

Whereas, Rule XXXIV, Clause 3 of the Rules and Practice of the House of Representatives vests in the Speaker the responsibility for and authority to prescribe such regulations and procedures as may be necessary to maintain the House Radio and Television Gallery, therefore,

I hereby move that this committee recommend to the Speaker of the House of Representatives and to the House of Representatives that the privileges of the House Radio and Television Gallery be withdrawn from Daniel Schorr for the remainder of the 94th Congress.

On this vote the ayes were four and the nays were seven, and the motion was not agreed to.

Mr. Foley made the following motion:

Mr. Chairman, I move that the committee release Daniel Schorr, Aaron Latham, Clay Felker and Sheldon Zalaznick from further attendance, testimony and production of books, records, correspondence, memoranda, papers, documents, writings or other tangible things pursuant to the subpoenas of the House Committee on Standards of Official Conduct issued on August 26, 1976. I move further that in taking such action that the committee makes no finding and establishes no precedent regarding the validity of any claim of privilege by said Daniel Schorr or Aaron Latham to refuse to answer questions put to them by counsel of the Committee on Standards of Official Conduct in public session on September 15, 1976, under said subpoenas and further that the committee make no findings as to the validity of any claim of privilege made by the said Daniel Schorr in refusing to produce copies of the report of the Select Committee on Intelligence and other documents and writings under subpoena duces tecum at public hearings of the committee on September 15, 1976. This motion is based on the particular facts that presently appear to the committee.

On this vote the ayes were nine and the nays were one, and the motion was agreed to.

Mr. Bennett made the following motion:

I move this committee do not recommend citation for contempt of Congress for Daniel Schorr and others in these proceedings.

On this vote the ayes were five and the nays were five, and the motion was not agreed to.

OBSERVATIONS AND CONCLUSIONS

LEAK OF THE REPORT

The evidence is uncontested that Daniel Schorr obtained a copy of the Select Committee report and made it available to Clay Felker for publication.

While some testimony indicated the source of the leak was within the Executive Branch, based on all the evidence, this Committee concludes that the source was not associated with the Executive Branch.

This Committee further concludes that the original leak was someone on or very close to the Select Committee staff. The person who leaked the report had to have access to all changes made by the staff through January 23, 1976.

A comparison of the text of the Select Committee report which appeared in The Village Voice with available copies of the draft of the report shows that Village Voice editorial personnel were accurate and thorough in their editing. The Village Voice identified material missing from the copy it had and material which it omitted for space reasons. A few words published were in error, apparently resulting from a bad reproduction of some pages.

None of the copies of the report examined by this Committee, including all versions located in the Executive Branch, matched The Village Voice text. Each contained significant variations, not just minor differences.

This Committee located and examined 14 of the 20 copies the Select Committee made of the draft. The other six reportedly were destroyed by the Select Committee staff on January 29, 1976. These involved three staff copies and the copies of three Committee Members.

Daniel Schorr obtained a copy of the draft which was current with all changes made in the report through Friday, January 23, 1976.

CONFLICT BETWEEN SELECT COMMITTEE AND EXECUTIVE BRANCH

The Select Committee devoted the first section of its report to a recitation of its frustration with the tactics employed by the Executive Branch.

The Committee reported while the words from the Executive were always of cooperation, the reality was delay, refusal, missing information and asserted privileges. It reported the President on September 12, 1975, cut the Committee off from all classified information, and the State Department issued an order prohibiting a witness from furnishing data.

The Select Committee found the classification system in the Executive Branch presented many areas of conflict. Problems of oaths and agreements, selective briefings, special restrictions, and the release of classified information frequently arose. The difficulties encountered prompted the Staff Director to comment the staff was "treated as though we were almost a foreign government."

The Committee reported it "began by asserting that Congress alone must decide who, acting in its behalf, has a right to know secret information. This led to a rejection of Executive 'clearances' or the 'compartmentalization' of our staff. The Committee refused, as a matter of policy, to sign agreements. It refused to allow intelligence officials to read and review our investigators' notes, and avoided canned briefings in favor of primary source material. The Committee maintained that Congress has a right to all information short of direct communications with the President."

The Executive agencies, particularly the intelligence community, from the inception were concerned that security measures and practices of the Select Committee were not adequate to insure protection of the highly classified information the Committee was seeking. Some officials in the intelligence community said the Chairman of the Select Committee showed antipathy towards security and that this antipathy permeated the entire Committee staff. The intelligence community offers of assistance to the Committee in setting up and conducting a secure operation were rejected.

Of further concern to intelligence agencies officials was their feeling the Select Committee staff members were basically young, inexperienced, overly aggressive and threatening in their approach. An attitude of distrust resulted.

The agreement worked out in late September 1975, between the Select Committee and the Executive Branch did not resolve the major problems. In the end, this proved the area of greatest conflict between the Committee and the Executive and within the House. A majority of the Select Committee Members concluded the agreement was not applicable to its final report. The House, however, adopted H. Res. 982 on January 29, 1976, to restrict release of the report. This resolution contained basic provisions of the agreement regarding release of classified information.

One Member of the Select Committee, in testimony before this Committee, observed that the Select Committee's problems were in part due to the strong personalities of the Chairman and the Special Counsel for the CIA which led to a "fencing duel." Another problem, he said, was the rush to get out the final report, which placed a severe burden on the staff and representatives of the Executive agencies.

SECURITY

The rules and security regulations adopted by the Select Committee were adequate. They were not, however, strictly adhered to or executed.

The handling of a large volume of highly classified and sensitive data requires the services of a trained professional security officer, with strong administrative support.

This Committee is concerned by information that staff assistants to various Members of the Select Committee, not subject to the restraints put on Committee staff personnel, had considerable access to matters investigated by the Select Committee.

This Committee also is concerned by the fact that when the Select Committee was closed down, apparently little or no effort was made to insure Members and staff personnel left behind documents they obtained during their affiliation with the Committee. A number of classified and highly sensitive documents were discovered by this Committee still in the possession of Select Committee Members and staff personnel months after that Committee ceased to exist.

DANIEL SCHORR

This Committee did not recommend citing Daniel Schorr for contempt for refusing to disclose his source of the Select Committee on Intelligence report.

This Committee does conclude, however, that Mr. Schorr's role in publishing the report was a defiant act in disregard of the expressed will of the House of Representatives to preclude publication of highly classified national security information.

In an article, published in Rolling Stone of April 8, 1976, Mr. Schorr wrote that by early February, 1976, no headlines were left in the Select Committee report since CBS and The New York Times had told the main story. He had concluded he might have the only copy out of Government control. He continued:

I don't think that, as a report, it's all that great. It has about it a sense of advocacy, a way of taking the goriest details out of context to make a case against the CIA. But good report or bad report, it is the result of a long congressional investigation, and I feel that it will die—if I let it die. So, I reach the decision that I must try to arrange to have it published as a book and, if that is not possible, by anyone who will promise to publish the full unexpurgated text.

Mr. Schorr testified before this Committee that he was aware the House of Representatives had voted on January 29, 1976, that the Select Committee report should not be released to the public unless certain conditions were met. He testified he "contacted several persons who I thought might be able to make arrangements, or make inquiries of book publishers, to find out whether it could be published as a book." He said these inquiries "never resulted in anything."

Mr. Schorr testified the Reporters Committee for Freedom of the Press put him in touch with a New York attorney who contacted some book publishers to no avail. This attorney finally advised him that Mr. Felker was the only person willing to publish the report. Mr. Schorr said he made a copy of the report in his possession available to Mr. Felker on February 6, 1976.

While Mr. Schorr claimed he wanted no money for himself from the publication of the Select Committee report, he indicated his willingness to designate a favorite charity to receive such funds. He testified he suggested any royalties or remuneration resulting from his role go to the Reporters Committee.

Mr. Felker testified his printing of the report was not contingent on making any payment to anyone. He said no payment was made.

Disclosure by The Washington Post of the involvement of Mr. Schorr and the Reporters Committee in the publication of the report initially resulted in a denial by one and no comment from the other.

Mr. Schorr, according to the Post article of February 12, 1976, declared, "I have no knowledge of how The Village Voice acquired its copy. I had no connection with it and I do not mean by that to state that I have a copy."

The article also reported, "The reporters committee agreed, after a telephone poll of its trustees, not to say anything publicly because of the 'confidentiality' of its conversation with Schorr."

This Committee is encouraged by the fact the journalism profession itself exposed the involvement of Mr. Schorr and the Reporters Committee in the publication of the Select Committee report. In addition to the Post, The Washington Monthly issue of April, 1976, and Esquire of June, 1976, revealed additional information about this matter. (Appendix 18, 19, 20.)

Such self-policing of the profession certainly will reduce the potential for a constitutional confrontation on the First Amendment. A wider adherence by journalists to their canons and ethics also would help.

This Committee recognizes the free press, as is its right, often disagrees with the Government over the control of information. It is not axiomatic, however, that the news media is always right and the Government is always wrong. We suggest those who embrace this concept reevaluate their position and adopt a more objective outlook.

No doubt a newsman can find someone who will print information without regard to potential damage to our national welfare. Newsmen, just like anyone else, are not infallible in their judgment of what is right or wrong, good or bad, for our Nation.

The mere assertion by a newsman that he revealed some Government secret "for the good of the country" does not insure the country actually will benefit. Nor is the assertion that the Government overclassifies or improperly classifies much information a guarantee that the revealed secret will not do great harm.

The fact is, the news media frequently do not possess sufficient information on which to make a prudent decision on whether the revelation of a secret will help or harm. We suggest caution and discretion should be the watchwords.

This Committee did not recommend that Mr. Schorr be held in contempt, but it does consider his actions in causing publication of the report to be reprehensible.

COMMITTEE RECOMMENDATIONS

LEGISLATION DEALING WITH CLASSIFICATION AND DECLASSIFICATION OF SECURITY INFORMATION

This Committee recommends that the Leadership of the House assign a Committee to promptly initiate research and study which will lead to establishing a classification and declassification system. This task should begin immediately.

Disputes about classification and declassification of national security information will continue to cause difficulties, conflicts and confrontations, and impede the flow of vital information among the three Branches of Government unless there is a vehicle for resolving these disputes in an orderly manner.

Specific criteria should be established to define the type of information which can be classified, how and when it can be declassified, and the selection of persons authorized to carry out these functions.

Thought also should be given to providing a system whereby conflicts between the Branches over declassification can be resolved to preclude unilateral release of security information.

HOUSE RULES GOVERNING CLASSIFIED INFORMATION

This Committee recommends that the Leadership of the House direct an appropriate Committee to promptly undertake the drafting of new House rules applicable to all Members, Committees and employees of the House, concerning obtaining, retaining and using classified information.

To insure uniformity in the execution of whatever rules result, this Committee suggests a small staff of professionals be recruited and trained as security officers, to function under the authority of the Speaker or perhaps the Sergeant at Arms. These individuals could be responsible for obtaining and controlling all classified documents sought by or in the possession of the House, its Members, Committees and employees.

Secure depositories should be constructed within the House complex for the storage of all such records, to replace the current patchwork system whereby every Committee, old or new, has to devise its own ways and means and whereby individual Members and their staffs frequently have virtually no secure means of retaining classified data.

The professional staff of security officers also could take over the responsibility of screening those applicants for security clearance in the House, again to replace the current system whereby Members and/or Committee Chairman make the decision.

This professional staff also could be used to conduct inquiries into leaks of information within the House, there being no present organization to handle this function.

This Committee recommends the House consult the Executive Branch in establishing the proposed rules and suggested professional staff to draw on its knowledge and expertise in the area of security.

ADOPTION OF THE REPORT

This Committee met in executive session on September 29, 1976, to consider the report of its investigation pursuant to H. Res. 1042.

Mr. Quie made the following motion:

Mr. Chairman, I move the report of this committee be adopted.

On this vote the ayes were seven and the nays were one, and the motion was agreed to.

STATEMENT UNDER CLAUSE 2(1)(3), AND CLAUSE 2(1)(4) OF RULE XI
OF THE RULES OF THE HOUSE OF REPRESENTATIVES

A. Oversight statement

The Committee made no special oversight findings on this resolution.

B. Budget statement

No budget statement is submitted.

C. Estimate of the Congressional Budget Office

No estimate or comparison was received from the Director of the Congressional Budget Office as referred to in subdivision (C) of Clause 2(1)(3) of House Rule XI.

D. Oversight findings and recommendations of the Committee on Government Operations

No findings or recommendations of the Committee on Government Operations were received as referred to in subdivision (D) of clause 2(1)(3) of House Rule XI.

ADDITIONAL VIEWS OF REPRESENTATIVES FLOYD SPENCE, OLIN TEAGUE, EDWARD HUTCHINSON AND JOHN J. FLYNT, Jr.

In failing to follow through on its investigation of the circumstances surrounding the unauthorized release of the Report of the Select Committee on Intelligence, the Committee on Standards of Official Conduct has succumbed to a concerted effort on the part of the media to influence its judgement. By voting against even the most rudimentary effort to obtain the information that we needed from the one man who was sure to know, the Committee has shown that it is intimidated by the specter of Constitutional questions which do not in fact exist in this case.

Freedom of the press is basic to our system of government, and not one among us would ever attempt to compromise this vital guarantee. But our attention was diverted from the real issue which was:

Do the people of this nation, through their elected representatives, have the right to investigate the circumstances surrounding the unauthorized release of information which can undermine the security of our nation?

Time and again we were told through the press that we should avoid a "constitutional confrontation" at all costs. "There is nothing to gain from forcing the issue," they urged. "Everyone would be the loser." Why? Why would "everybody" lose? Who has won now? Certainly not the American people who have sent us here to represent their interest, and have trusted us to protect their security. Certainly not the Congress, which has been made to appear as a group of publicity seekers who are willing to trade government secrets for favorable treatment by the press. Most certainly not the Committee on Standards of Official Conduct itself, which has managed to ratify in the minds of some people the actions of a man some of whose own colleagues have described as "unprofessional" and "irresponsible."

The real reason that the media fought us so hard on the subpoena issue is very simple: They knew that they would lose. The Schorr case provided them with a very slender reed upon which to lean, with their weighty constitutional arguments, and they knew that an adverse precedent would discourage future leaks of congressional documents and future sensational news stories.

Like any other privilege, freedom of the press carries with it a heavy responsibility. Nothing in the Constitution guarantees that a newsman will never be asked to account for his actions. While he cannot be subjected to prior restraint, having published, he is subject to the same laws that govern the rest of society. As "The State" newspaper in South Carolina has noted, "... journalists enjoy no special status as American citizens that exempts them from ordinary responsibilities."

The privilege of free press does not bestow all wisdom on every person who happens to be a part of the media. The unilateral declassification of national secrets is tricky business, and there are few who are qualified to make the delicate distinctions called for in the highly technical security field.

A reporter who forgets his own limitations, or his fallibility, may find that he has undermined the very strength which guarantees his protected status. If this occurs, we lose our freedom of the press, our freedom of speech, our freedom from slavery, and all of the other rights which our Constitution provides, but which only our national security can guarantee us.

An individual who appoints himself as a representative of the people's interest without having been elected by anyone for that purpose, is merely presumptuous. But when he takes it upon himself to determine which national secrets belong in the public domain, he becomes a threat.

Daniel Schorr came before us as a self-appointed champion of the people's right to know, yet before the elected representatives of the people, he refused to respond. He even took the position that the people had no right to ask. By choosing not to pursue Mr. Schorr, we have delivered the mantle of truth and right to a man about whom "The State" wrote, "He deserves no prize for American citizenship or journalism." We have created a most unlikely hero.

So many questions are left hanging. Even if Mr. Schorr could have met the conditions laid down by courts for protection of source, did he qualify as a newsman in this case? Was he not merely a conduit—a purveyor of information to the press? Should he be accorded a status different from another citizen who deals in unauthorized information, but who does not happen to be a newsman?

What effect will this precedent have on any future attempts to keep our house in order? Surely we have a right to discipline our members, to conduct oversight, and to carry on investigations necessary to our legislative function. These rights are meaningless without the power to subpoena. A subpoena is meaningless without the ability to enforce it. Will our hands be tied in the future, if a newsman happens to be involved?

To avoid the sort of problems that we have had, the Senate has approved rules so strict that Members cannot even discuss information with each other. Is this the answer? Is this effective oversight? Would it not be more proper and respectable for the Congress to be able to assure the Executive Branch, and the American people, that it can be trusted?

These are only a few of the questions plaguing us in the wake of the Committee's capitulation. They are important questions which deserve the serious and thoughtful consideration of every Member of Congress.

Unfortunately, we have denied them that opportunity.

FLOYD SPENCE.
OLIN TEAGUE.
EDWARD HUTCHINSON.
JOHN J. FLYNT, Jr.

INDIVIDUAL VIEWS OF REPRESENTATIVE THOMAS S. FOLEY

On February 19, 1976, the House, by a vote of 269 to 115 with three Members voting present, adopted H. Res. 1042 authorizing and directing this Committee to "inquire into the circumstances surrounding the publication of the text and of any part of the report of the Select Committee on Intelligence and to report back to the House in a timely fashion its findings and recommendations thereon."

The Committee and its staff, regular and special, has worked hard to fulfill their responsibilities under the mandate of the House in its Res. 1042. The Committee retained able, special counsel and experienced investigative staff who conducted thorough interviews and prepared for extensive hearings.

Neither this investigation, nor any investigation of a quasi-judicial nature on the facts of a specific case, can ever guarantee specific results. Such a task is exceedingly difficult and this Committee has performed fully as well as could be expected under the circumstances.

Specifically, I have no quarrel with the diligent manner in which this Committee and its staff prepared this report in accordance with H. Res. 1042 or with most of the general narrative description of the circumstances leading up to the unauthorized disclosure and later publication of the report of the Select Committee on Intelligence. I disagree with some of the ultimate evidentiary findings and recommendations which the Committee has made.

First, I do not think this Committee has a sufficient evidentiary basis for concluding that the source of the leak of the Intelligence Committee's report to Daniel Schorr and from him to the "Village Voice" "was not associated with the Executive Branch" and "was someone on or very close to the Select Committee staff."

After all of our interviews and all of our hearings, both public and executive, we still do not know what precise chain of events led to Mr. Schorr's obtaining the report. Although I do not think that any persuasive evidence exists that someone in the Executive Branch was responsible for the leak to Mr. Schorr, the flat conclusion of the Committee that this is not the case goes beyond the reach of the evidence available to the Committee.

Again, we simply do not know who provided the report to Mr. Schorr or by what chain of circumstances he obtained the report. Similarly, evidence available to the Committee is too thin and fragile to conclude that the original leak was someone "on or very close to the Select Committee on Intelligence staff."

Second, while I understand that many members of this Committee and this House feel strongly about Mr. Schorr's first securing and later cooperating in the publication of the report of the Select Committee on Intelligence, I do not feel that the resolution calls for an inquiry into the conduct of the press. The Committee's denunciation of Mr. Schorr and its general lecture to the press on its responsibilities

under the First Amendment contained in the report and the additional views seem to me to be unnecessary and gratuitous.

I do agree with this Committee's findings that the House should instigate research and study into how classified and sensitive information is currently handled by the House and its committees with a view toward consideration of appropriate rules and procedural changes to safeguard such sensitive material and information. In pursuing such an inquiry, the House would do well to refer to the thoughtful and useful suggestions of the Bolling Committee Report (Report of the Select Committee on Committees of the 93rd Congress, Report No. 93-916, Pt. 2, pp 93-95). Consultation with and recommendations from those experienced with the handling of security information is a reasonable, indeed, essential, part of such a study.

However, I disagree strongly with the suggestion that the House should employ a staff of "professional security officers," acting under the Speaker or Sergeant at Arms, with wide-ranging and discretionary authority over the handling, disposition and access to all security or sensitive information by the House, its Members, committees or employees.

To repose in a group of "professional security officers" the responsibility to police the flow of sensitive information, to obtain and control the physical possession and storage of "all classified documents sought by or in the possession of the House, its Members, committees and employees," to judge the trustworthiness and reliability of the Members, officers and employees of the House and to approve or deny their security clearances, to "conduct inquiries into leaks of information within the House," and to remove all of these judgements and powers from Members and committees, is an unprecedented and startling proposal whose dangerous implications for the House should be obvious.

THOMAS S. FOLEY.

APPENDIX

1. House Resolution 138.
2. House Resolution 591.
3. Rules and Security Regulations, House Select Committee on Intelligence.
4. Employee Agreement, House Select Committee on Intelligence.
5. New York Times article, January 26, 1976.
6. House Resolution 982.
7. Front Page, Village Voice, February 16, 1976.
8. House Resolution 1042.
9. House Resolution 1054.
10. House Resolution 1060.
11. Copy of letter signed by Field accompanying delivery of report.
12. New York Times article, January 20, 1976.
13. Pike Comments, House Floor, Congressional Record March 9, 1976.
14. Congressional Record, January 26, 1976.
15. Washington Post article, December 20, 1975.
16. Congressional Record, January 29, 1976.
17. Photograph of House Select Committee on Intelligence work area.
18. Washington Post, February 12, 1976.
19. The Washington Monthly, April, 1976.
20. Esquire, June, 1976.

APPENDIX 1

[H. Res. 138, 94th Cong., 1st sess.]

RESOLUTION

Resolved, That (a) there is hereby established in the House of Representatives a Select Committee on Intelligence to conduct an inquiry into the organization, operations, and oversight of the intelligence community of the United States Government.

(b) The select committee shall be composed of ten Members of the House of Representatives to be appointed by the Speaker. The Speaker shall designate one of the Members as chairman.

(c) For the purposes of this resolution the select committee is authorized to sit during sessions of the House and during the present Congress whether or not the House has recessed or adjourned. A majority of the members of the select committee shall constitute a quorum for the transaction of business except that the select committee may designate a lesser number as a quorum for the purpose of taking testimony.

SEC. 2. The select committee is authorized and directed to conduct an inquiry into—

(1) the collection, analysis, use, and cost of intelligence information and allegations of illegal or improper activities of intelligence agencies in the United States and abroad;

(2) the procedures and effectiveness of coordination among and between the various intelligence components of the United States Government;

(3) the nature and extent of executive branch oversight and control of United States intelligence activities;

(4) the need for improved or reorganized oversight by the Congress of United States intelligence activities;

(5) the necessity, nature, and extent of overt and covert intelligence activities by United States intelligence instrumentalities in the United States and abroad;

(6) the procedures for and means of the protection of sensitive intelligence information;

(7) procedures for and means of the protection of rights and privileges of citizens of the United States from illegal or improper intelligence activities; and

(8) such other related matters as the select committee shall deem necessary to carry out the purposes of this resolution.

SEC. 3. In carrying out the purposes of this resolution, the select committee is authorized to inquire into the activities of the following:

(1) the National Security Council;

(2) the United States Intelligence Board;

(3) the President's Foreign Intelligence Advisory Board;

- (4) the Central Intelligence Agency;
- (5) the Defense Intelligence Agency;
- (6) the intelligence components of the Departments of the Army, Navy, and Air Force;
- (7) the National Security Agency;
- (8) the Intelligence and Research Bureau of the Department of State;
- (9) the Federal Bureau of Investigation;
- (10) the Department of the Treasury and the Department of Justice;
- (11) the Energy Research and Development Administration; and
- (12) any other instrumentalities of the United States Government engaged in or otherwise responsible for intelligence operations in the United States and abroad.

SEC. 4. The select committee may require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as it deems necessary. Subpenas may be issued over the signature of the chairman of the select committee or any member designated by him, and may be served by any person designated by the chairman or such member. The chairman of the select committee, or any member designated by him, may administer oaths to any witness.

SEC. 5. To enable the select committee to carry out the purposes of this resolution, it is authorized to employ investigators, attorneys, consultants, or organizations thereof, and clerical, stenographic, and other assistance.

SEC. 6. (a) The select committee shall institute and carry out such rules and procedures as it may deem necessary to prevent (1) the disclosure, outside the select committee, of any information relating to the activities of the Central Intelligence Agency or any other department or agency of the Federal Government engaged in intelligence activities, obtained by the select committee during the course of its study and investigation, not authorized by the select committee to be disclosed; and (2) the disclosure, outside the select committee, of any information which would adversely affect the intelligence activities of the Central Intelligence Agency in foreign countries or the intelligence activities in foreign countries of any other department or agency of the Federal Government.

(b) No employee of the select committee or any person engaged by contract or otherwise to perform services for the select committee shall be given access to any classified information by the select committee unless such employee or person has received an appropriate security clearance as determined by the select committee. The type of security clearance to be required in the case of any such employee or person shall, within the determination of the select committee, be commensurate with the sensitivity of the classified information to which such employee or person will be given access by the select committee.

(c) As a condition for employment as described in section 5 of this resolution, each person shall agree not to accept any honorarium, royalty, or other payment for a speaking engagement, magazine article, book, or other endeavor connected with the investigation and study undertaken by this committee.

SEC. 7 The expenses of the select committee under this resolution shall not exceed \$750,000 of which amount not to exceed \$100,000 shall be available for the procurement of the services of individual consultants or organizations thereof. Such expenses shall be paid from the contingent fund of the House upon vouchers signed by the chairman of the select committee and approved by the Speaker.

SEC. 8. The select committee is authorized and directed to report to the House with respect to the matters covered by this resolution as soon as practicable but no later than January 3, 1976.

SEC. 9. The authority granted herein shall expire three months after the filing of the report with the House of Representatives.

APPENDIX 2

[H. Res. 591, 94th Cong., 1st sess.]

RESOLUTION

Resolved, That (a) there is hereby established in the House of Representatives a Select Committee on Intelligence to conduct an inquiry into the organization, operations, and oversight of the intelligence community of the United States Government.

(b) The select committee shall be composed of thirteen Members of the House of Representatives to be appointed by the Speaker. The Speaker shall designate one of the members as chairman.

(c) For the purposes of this resolution the select committee is authorized to sit during sessions of the House and during the present Congress whether or not the House has recessed or adjourned. A majority of the members of the select committee shall constitute a quorum for the transaction of business except that the select committee may designate a lesser number as a quorum for the purpose of taking testimony.

SEC. 2. The select committee is authorized and directed to conduct an inquiry into—

(1) the collection, analysis, use, and cost of intelligence information and allegations of illegal or improper activities of intelligence agencies in the United States and abroad;

(2) the procedures and effectiveness of coordination among and between the various intelligence components of the United States Government;

(3) the nature and extent of executive branch oversight and control of United States intelligence activities;

(4) the need for improved or reorganized oversight by the Congress of United States intelligence activities;

(5) the necessity, nature, and extent of overt and covert intelligence activities by United States intelligence instrumentalities in the United States and abroad;

(6) the procedures for and means of the protection of sensitive intelligence information;

(7) procedures for and means of the protection of rights and privileges of citizens of the United States from illegal or improper intelligence activities; and

(8) such other related matters as the select committee shall deem necessary to carry out the purposes of this resolution:

Provided, That the authority conferred by this section shall not be exercised until the committee shall have adopted the rules, procedures, and regulations required by section 6 of this resolution.

SEC. 3. In carrying out the purposes of this resolution, the select committee is authorized to inquire into the activities of the following:

(1) the National Security Council;

(2) the United States Intelligence Board;

- (3) the President's Foreign Intelligence Advisory Board;
- (4) the Central Intelligence Agency;
- (5) the Defense Intelligence Agency;
- (6) the intelligence components of the Departments of the Army, Navy, and Air Force;
- (7) the National Security Agency;
- (8) the Intelligence and Research Bureau of the Department of State;
- (9) the Federal Bureau of Investigation;
- (10) the Department of the Treasury and the Department of Justice;
- (11) the Energy Research and Development Administration; and
- (12) any other instrumentalities of the United States Government engaged in or otherwise responsible for intelligence operations in the United States and abroad.

SEC. 4. The select committee may require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as it deems necessary. Subpenas may be issued over the signature of the chairman of the select committee or any member designated by him, and may be served by any person designated by the chairman or such member. The chairman of the select committee, or any member designated by him, may administer oaths to any witness.

SEC. 5. To enable the select committee to carry out the purposes of this resolution, it is authorized to employ investigators, attorneys, consultants, or organizations thereof, and clerical, stenographic, and other assistance.

SEC. 6. (a) The select committee shall institute and carry out such rules and procedures as it may deem necessary to prevent (1) the disclosure, outside the select committee, of any information relating to the activities of the Central Intelligence Agency or any other department or agency of the Federal Government engaged in intelligence activities, obtained by the select committee during the course of its study and investigation, not authorized by the select committee to be disclosed; and (2) the disclosure, outside the select committee, of any information which would adversely affect the intelligence activities of the Central Intelligence Agency in foreign countries or the intelligence activities in foreign countries of any other department or agency of the Federal Government.

(b) No employee of the select committee or any person engaged by contract or otherwise to perform services for the select committee shall be given access to any classified information by the select committee unless such employee or person has received an appropriate security clearance as determined by the select committee. The type of security clearance to be required in the case of any such employee or person shall, within the determination of the select committee, be commensurate with the sensitivity of the classified information to which such employee or person will be given access by the select committee.

(c) As a condition for employment as described in section 5 of this resolution, each person shall agree not to accept any honorarium, royalty, or other payment for a speaking engagement, magazine article, book, or other endeavor connected with the investigation and study undertaken by this committee.

SEC. 7. The expenses of the select committee under this Resolution shall not exceed \$750,000 of which amount not to exceed \$100,000 shall be available for the procurement of the services of individual consultants or organizations thereof. Such expenses shall be paid from the contingent fund of the House upon vouchers signed by the chairman of the select committee and approved by the Speaker.

SEC. 8. The select committee is authorized and directed to report to the House with respect to the matters covered by this resolution as soon as practicable but no later than January 31, 1976.

SEC. 9. The authority granted herein shall expire three months after the filing of the report with the House of Representatives.

SEC. 10. The select committee established by H. Res. 138 is abolished immediately upon the adoption of this resolution. Unexpended funds authorized for the use of the select committee under H. Res. 138 and all papers, documents, and other materials generated by the select committee shall be transferred immediately upon the adoption of this resolution to the select committee created by this resolution.



APPENDIX 3

SELECT COMMITTEE ON INTELLIGENCE

U.S. HOUSE OF REPRESENTATIVES, 94TH CONGRESS, RULES AND SECURITY REGULATIONS

MEMBERS OF COMMITTEE

OTIS G. PIKE, New York, *Chairman*
ROBERT N. GIAIMO, Connecticut
JAMES V. STANTON, Ohio
RONALD V. DELLUMS, California
MORGAN F. MURPHY, Illinois
LES ASPIN, Wisconsin
DALE MILFORD, Texas
PHILIP H. HAYES, Indiana
WILLIAM LEHMAN, Florida
ROBERT MCCLORY, Illinois
DAVID C. TREEN, Louisiana
JAMES P. (JIM) JOHNSON, Colorado
ROBERT W. KASTEN, Jr., Wisconsin

A. SEARLE FIELD, *Staff Director*
AARON B. DONNER, *Counsel*

RULES FOR THE SELECT COMMITTEE ON INTELLIGENCE

1. The Rules of the House of Representatives are the rules of the committee except as otherwise provided herein.

RULE 2. MEETING PROCEDURES

2.1 For the purpose of carrying out any of its functions and duties, the committee is authorized to sit and act at such times and places, within the United States whether the House is in session, has recessed, or has adjourned, and to hold hearings. The committee will meet at such times as may be fixed by the chairman or by the written request of a majority of the members of the committee in accordance with House rule XI, clause 2(c). Members of the committee shall be given reasonable notice which, except in extraordinary circumstances, shall be at least 24 hours in advance of any meeting.

2.2 No general proxies may be used for any purpose. A member may vote by special proxy, which must be in writing, shall assert that the member is unable to be present at the meeting of the committee, shall designate the person who is to execute the proxy authorization, and shall be limited to a specific measure or matter and any amendments or motions pertaining thereto; except that a member may authorize a general proxy only for motions to recess, adjourn or other procedural matters. Each proxy to be effective shall be signed by the member assigning his vote and shall contain the date and time of day

that the proxy is signed. Proxies may not be counted for a quorum. All proxies must be filed with the committee counsel and be available for inspection at any time.

2.3 No recommendation shall be reported or tabled by the committee unless a majority of the committee is actually present.

2.4 A rollcall of the members may be had on the request of two members.

2.5 A majority of the committee shall constitute a quorum for the purpose of taking final action on matters before the committee. However, a quorum for the purpose of taking testimony and receiving evidence by the committee shall consist of two members, at least one of which shall be a member of the minority party unless the ranking minority member consents otherwise.

2.6 At each hearing the chairman shall announce prior to the opening statement of the witness the subject of the investigation and a copy of the committee rules shall be made available to each witness.

2.7 The time any one member may address the committee on any matter under consideration by the committee shall not exceed 5 minutes, and then only when he has been recognized by the chairman, except that this time limit may be exceeded by unanimous consent.

2.8 Each committee meeting for the transaction of business shall be open to the public except when the committee, in open session and with a quorum being present, determines by rollcall vote that all or part of the remainder of the meeting on that day shall be closed to the public. No person other than members of the committee and such committee staff and such departmental representatives as may be authorized by the committee shall be present at any business session which has been closed to the public: *Provided*, however that the committee may by the same procedure vote to close one subsequent meeting; and *Provided*, further, that the committee may hold joint hearings or meetings at the discretion of the chairman in consultation with the ranking minority member with committees having concurrent jurisdiction over intelligence matters.

2.9 Each hearing conducted by the committee shall be open to the public except when the committee, in open session with a quorum being present, determines by rollcall vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of testimony, evidence or other matters to be considered would endanger the national security or would violate any law or rule of the House of Representatives. No person other than members of the committee and committee staff and such departmental representatives as may be authorized by the committee shall be present at any hearing which has been closed to the public: *Provided*, however, that the committee may by the same procedure vote to close one subsequent day of hearing.

2.10 The committee shall make public announcement of the date, place and subject matter of the committee hearing at least one week before the commencement of the hearing. However, if the chairman of the committee determines that there is good cause to begin the hearing sooner, he shall make the announcement at the earliest possible date. Any announcement made under this paragraph shall be promptly published in the Daily Digest.

RULE 3. SUBPENAS

3.1 The committee may require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, documents and other memorandums and materials as it deems necessary. Any such subpoena may be issued by the committee in the conduct of an investigation or activity or a series of investigations or activities, only when authorized by a majority of the members of the committee, and authorized subpoenas shall be signed by the chairman of the committee or by any member designated by the chairman. Each subpoena shall contain a copy of House Resolution 591, 94th Congress, 1st session. Compliance with any subpoena issued by the committee may be enforced only as authorized by the House.

RULE 4. PROCEDURES FOR TAKING TESTIMONY

4.1 When giving testimony, witnesses may be accompanied by their own counsel. There shall be no direct or cross examination by witness' counsel. The chairman of the committee, or any member of the committee or staff member designated by the chairman may administer oaths to any witness.

4.2 Any prepared statement to be presented by a witness to the committee shall be submitted to the committee at least 72 hours in advance of presentation and shall be distributed to all members of the committee at least 48 hours in advance of presentation. If a prepared statement contains security information bearing a classification the statement shall be made available only in the committee rooms to all members of the committee at least 48 hours in advance of presentation; however, no such statement shall be removed from the committee offices: *Provided, however*, that these requirements may be waived by the chairman.

4.3 In the discretion of the committee, witnesses may submit brief and pertinent sworn statements for inclusion in the record. The committee is the sole judge of the pertinency of testimony and evidence adduced at its hearings.

4.4 If the committee determines that evidence or testimony at a hearing may tend to defame, degrade, or incriminate any person, it shall:

- a. receive such evidence or testimony in executive session,
- b. afford such person an opportunity voluntarily to appear as a witness, and
- c. receive and dispose of requests from such person to subpoena additional witnesses.

4.5 Except as provided in rule 4.4 above, the chairman shall receive and the committee shall dispose of requests to subpoena additional witnesses.

4.6 The minority party members of the committee shall be entitled, upon timely requests to the chairman of a majority of them, to call witnesses selected by the minority to testify with respect to the matter in question.

4.7 When a witness is before the committee, members of the committee may put questions to the witness only when they have been recognized by the chairman for that purpose.

4.8 Members of the committee who so desire shall have not to exceed five minutes to interrogate each witness until such times as each member has had an opportunity to interrogate such witness; thereafter, additional time for questioning witnesses by members is discretionary with the chairman.

4.9 No sworn depositions will be taken unless authorized by the chairman, who shall inform the ranking minority member, or by vote of the committee.

RULE 5. COMMITTEE RECORDS

5.1 The result of each rollcall in any meeting of the committee shall be made available by the committee for public inspection in the offices of the committee pursuant to such procedures as the chairman may establish. Information so available for public inspection shall include a description of the amendment, motion, order, or other proposition and the name of each member voting for and each member voting against such amendment, motion, order, or proposition, and whether by proxy or in person, and the names of those members present but not voting: *Provided, however*, that the chairman, in consultation with the ranking minority member shall take appropriate measures to delete classified or sensitive material.

5.2 The attendance records of members at committee meetings shall be available for public inspection in the offices of the committee pursuant to such procedures as the chairman may establish.

RULE 6. STAFF

6.1 The appointment of all staff members and consultants shall be made by the chairman and the staff director in consultation with the ranking minority member. Staff members shall be under the direct supervision and control of the chairman and staff director in consultation with the ranking minority member, and shall be responsive to all members of the committee.

6.2 The staff of the committee shall not discuss either the substance or procedure of the work of the committee with anyone other than a member of the committee or committee personnel.

6.3 As a condition of employment each staff member shall affirm that he fully understands the rules and regulations of the committee and agrees to abide by them.

6.4 The chairman shall have the authority to utilize the services, information, facilities, and personnel of the departments and establishments of the Government, and to procure the temporary and intermittent services of experts or consultants or organizations thereof to make studies or assist or advise the committee with respect to any matter under investigation.

RULE 7. PROTECTION OF PAPERS AND DOCUMENTS

7.1 All material and testimony received or obtained pursuant to House Resolution 591, 94th Congress, shall be deemed to have been received by the committee in executive session and shall be given appropriate safekeeping.

7.2 The chairman in consultation with the ranking minority member of the committee shall, with the approval of the committee,

establish such procedures as in his judgment may be necessary to prevent the unauthorized disclosure of all material and testimony received or obtained pursuant to House Resolution 591, 94th Congress. Such procedures shall, however, insure access to this information by any member of the committee under such procedures as may be established by the committee.

7.3 Until such time as the committee has submitted its final report to the House, classified or other sensitive information in the committee records and files shall not be made available or disclosed to other than the committee membership and the committee staff, except as may be otherwise determined by the committee.

RULE 8. COMMITTEE REPORT

8.1 If, at any time of approval of any report by the committee, any member of the committee gives notice of intention to file supplemental, minority, or additional views, that member shall be entitled to not less than 5 calendar days (excluding Saturdays, Sundays, and legal holidays) in which to file such views, in writing and signed by that member, with the staff director of the committee. All such views so filed by one or more members of the committee shall be included within, and shall be a part of, the report filed by the committee with respect to that matter.

RULE 9. RULE CHANGES

9.1 These rules may be amended or replaced by the committee, provided that a notice in writing of the proposed change has been given to each member at least 48 hours prior to the meeting at which action thereon is to be taken.

SECURITY PROCEDURES AND REGULATIONS

Pursuant to rule 7.2 of the House Select Committee on Intelligence, the following security procedures and regulations have been approved:

1. Members of the committee shall have access at all times to all materials received or obtained pursuant to House Resolution 138 and House Resolution 591, 94th Congress.

2. All committee staff members, with appropriate security clearances, as determined by the Committee, will have access to documents and materials as determined by the staff director, the chairman and the ranking minority member.

3. All committee staff will submit to the person designated to control the security of materials, any and all materials received or obtained pursuant to House Resolution 138 and House Resolution 591, 94th Congress.

4. Strict security procedures shall be in force at all times at the offices of the committee staff; security devices shall be installed and operational and at least one security guard shall be on duty at all times at the entrance to the offices containing materials. Identification of all persons seeking admission will be required.

5. All classified materials will be maintained in safes in a segregated secure area within the committee's offices. Records of receipt will be kept. The internal handling and disposition of such classified material,

including classified waste, will be the responsibility of the security officer.

6. All classified materials may be examined only at reading facilities located in a secure area. Notes may be taken, but must remain in the secure area of the committee's offices. Copying, duplicating, recording, or removing from the committee staff offices such materials is prohibited, except as specifically approved by the staff director.

7. Classified materials used in meetings and hearings will not be removed, copied, recorded, or duplicated. At the conclusion of the meeting or hearing the materials will be collected and secured by the security officer.

8. Material not classified or material in the public domain will be made available upon request to designated staff of committee members. The material will be checked in and out and examined in a designated area of the committee's office.

9. As a condition of employment, each staff member shall execute a security agreement. Staff members failing to abide by the agreement and these security regulations shall be subject to immediate termination of employment.

APPENDIX 4

EMPLOYEE AGREEMENT

1. I have read House Resolution 591, 94th Congress, establishing the House Select Committee on Intelligence, and the Committee's Rules and Security Regulations.

2. I understand that as a condition of employment with the Committee I am required to, and hereby agree to, abide by House Resolution 591, 94th Congress, and by the Committee's Rules and Security Regulations.

3. I agree not to accept any honorarium, royalty, or other payment for a speaking engagement, magazine article, book, or other endeavor connected with the investigation and study undertaken by the Committee.

4. I further agree that I will not divulge to any unauthorized person in any way, form, shape or manner the contents of classified information received or obtained pursuant to House Resolution 591, 94th Congress. I understand that it is my responsibility to ascertain whether information so received or obtained is classified. I further understand and agree that the obligations hereby placed on me by this paragraph continue after my employment with the Committee has terminated.

5. I further agree that until such time as the Committee has made its final report to the House I will not divulge to any unauthorized person in any way, form, shape or manner the work product or memoranda of the Committee or any material or testimony received or obtained pursuant to House Resolution 591, 94th Congress. unless specifically authorized by the Committee.

6. I understand that failure to abide by any of the foregoing will subject me to immediate termination of my employment with the Committee.

(Signature)

(Date signed)

[From New York Times, Jan. 26, 1976]

APPENDIX 5

HOUSE COMMITTEE FINDS INTELLIGENCE AGENCIES GENERALLY GO UNCHECKED

A YEAR'S INVESTIGATION UNCOVERED NUMBER OF IRREGULARITIES

(By John M. Crewdson)

WASHINGTON, Jan. 25.—The House Select Committee on Intelligence has concluded following a year-long investigation that the Federal intelligence agencies, as they are currently constituted, operate in such secret ways that they are “beyond the scrutiny” of Congress, according to the panels’ final report.

The 338-page report, which has not been released but a copy of which was obtained by The New York Times, discloses a number of irregularities uncovered by committee investigators. These include an apparent violation by the Central Intelligence Agency of a 1967 Presidential directive prohibiting it from providing secret financial assistance to any of the nation’s educational institutions.

Low Budget Figures

The House committee also concluded that secret budget figures given to Congress by Federal intelligence agencies over the years were “three or four times” lower than the totals actually spent by the United States in gathering intelligence at home and abroad.

Many of those expenditures, it said, were obscured from Congress and were not adequately audited either by the Office of Management and Budget or by the agencies’ own accountants, with the result that wastefulness and questionable expenditures had occurred.

The document is the third major government report in eight months detailing improper C.I.A. covert activities at home and abroad. On June 10 a Presidential commission headed by Vice President Rockefeller released its report on the agency’s domestic spying activities and on Nov. 20 the Senate Select Committee on Intelligence issued its report that included assassination plots against foreign leaders.

9-to-4 Vote

The committee’s investigation, the report on which was approved in final form by a 9-to-4 vote of the panel’s members on Friday, but which will not be made public until the end of this month, also turned up the following revelations:

That the National Security Agency, which has the responsibility for monitoring the communications of other nations and attempting to break their codes, illegally listened in on overseas telephone conversations of specific American citizens whose names or telephone numbers had been provided to it by “another government agency.”

That the Federal Bureau of Investigation violated its own manual of regulations by preserving in its files "intimate sexual gossip" picked up by agents during a criminal investigation.

That Robert A. Maheu, a former top aide to Howard R. Hughes, the billionaire, arranged at the behest of the C.I.A. to supply King Hussein of Jordan and other foreign leaders with female companions, who were reimbursed for their efforts with Federal funds.

That "thousands, if not millions, of dollars of unwarranted mark-ups" were added to the cost of bugging equipment purchased by the F.B.I. through a private company whose president was a close friend of high bureau officials.

An F.B.I. spokesman said he would have no comment on the report's allegations until it was made public.

Colby Calls It Biased

But William E. Colby, the outgoing Director of Central Intelligence, said that a preliminary draft of the House report he had seen was "biased and irresponsible."

Mr. Colby said through a spokesman that the panel's disclosure of several of the agency's sensitive activities would harm American foreign policy, and he criticized what he termed "a selective use of evidence" by the committee "to present a totally false picture of American intelligence as a whole."

A Searle Field, the committee's staff director, responded that Mr. Colby had not yet seen the final version of the report approved by the panel on Friday, from which a number of names and other sensitive details were deleted.

Mr. Field added that the committee "would appreciate his not attempting to irresponsibly characterize the report before the public has had a chance to read it for themselves."

The committee's three Republican members and one of its 10 Democrats voted on Friday against releasing the report in its present form. However, one source present at that meeting said that none of the four had objected to the report's tone or conclusions, only to the inclusion of sensitive information about three covert C.I.A. operations.

On Arms Shipments

The document contains long sections on the C.I.A.'s financing of political parties in Italy and its shipment of arms to anti-Communist forces in Angola and to Kurdish rebels in Iraq, although none of the countries is identified.

Mr. Colby pointed out today, however, that the unilateral release of that information, much of which has already appeared in news accounts, violated the committee's agreement with the White House to first seek President Ford's approval to make it public.

In a subsequent interview tonight with NBC, Mr. Colby, asked what he might do after leaving office later this week, replied that he was considering writing a book about "modern intelligence" methods.

The C.I.A. has also expressed private concern about the committee report's description of its failure to give foreign policymakers sufficient advance warning of the outbreak of the 1973 Middle East war, the 1974 political coups in Cyprus and Portugal, the Indian nuclear explosion that same year and the 1968 Soviet invasion of Czechoslovakia.

But a committee source said today that the intelligence agency had not responded to the panel's request for details on comparable intelligence successes, except to cite the "saving of Europe" from Communist control following World War II and the frustration of efforts by Prime Minister Fidel Castro of Cuba to "export revolution" to Latin America.

"In Compliance"

Told of the committee assertion regarding the violation by the C.I.A. of the 1967 Presidential directive, Mr. Colby replied through a spokesman that he believed the agency to have been in compliance with President Johnson's order to halt "any covert financial assistance or support, direct or indirect, to any of the nation's educational or private voluntary organizations."

The House report noted, however, that Carl Duckett, who heads the C.I.A.'s division of science and technology, testified to the panel last Nov. 4 that the agency "still has ongoing contracts" for research and development "with a small number of universities," and that some of them were covertly let—that is, that the institutions performing the work were unaware that they were working for the C.I.A.

The agency, the report declared, has "unilaterally reserved the right to, and does, depart from the [1967] Presidential order when it has the need to do so."

Retaining Flexibility

It quoted a June 21, 1967, memorandum to Richard Helms, then the Director of Central Intelligence, noting that the agency would try to conform to the Johnson guidelines "as rapidly as feasible and wherever possible," but that "the agency must retain some flexibility for contracting arrangements with academic institutions."

The panel also cited a study it requested from auditors for the General Accounting Office that concluded that significant portions of the Federal intelligence budget had gone unreported to Congress in recent years.

The secret intelligence budgets given to Congress, the G.A.O. said, did not contain a number of important items, including 20 percent of the National Security Agency's annual budget, the budgets of the Pentagon's Advanced Projects Research Administration and the National Security Council, and the costs of domestic counter-intelligence functions performed by the F.B.I.

The expenditures of those funds, the report said, were largely unchecked by Congress and even by the Office of Management and Budget, which assigned only six full-time auditors to the foreign intelligence agencies. It said this spending was also inadequately monitored by C.I.A. accountants, who told the committee that in many cases they had been forced to "rely solely on the integrity" of many agency officials.

One of the categories of inappropriate expenditures cited by the agency was Mr. Maheu's procurement of women, which a committee source said occurred around 1957. This was some years after he became a consultant to Mr. Hughes and about the same time that he produced for the agency a pornographic film, "Harry Days," which starred an actor who resembled Indonesian President Sukarno

The report did not elaborate on the production of the film, or whether it was ever used to embarrass Mr. Sukarno, as the agency had intended.

Neither Mr. Maheu nor Mr. Sukarno were named in the report, from which all identities have been excised. But their names, like that of King Hussein, were provided by sources familiar with the House panel's investigation.

APPENDIX 6

House Calendar No. 249

[H. RES. 982, 94th Cong., 2d sess.]

[Report No. 94-796]

RESOLUTION

Resolved, That the Select Committee on Intelligence have until midnight Friday, January 30, 1976, to file its report pursuant to section 8 of H. Res. 591, and that the Select Committee on Intelligence have until midnight, Wednesday, February 11, 1976, to file a supplemental report containing the select committee's recommendations.

Resolved further, That the Select Committee on Intelligence shall not release any report containing materials, information, data, or subjects that presently bear security classification, unless and until such reports are published with appropriate security markings and distributed only to persons authorized to receive such classified information, or until the report has been certified by the President as not containing information which would adversely affect the intelligence activities of the Central Intelligence Agency in foreign countries or the intelligence activities in foreign countries of any other department or agency of the Federal Government.

(73)

APPENDIX 7

VOICE

EXCLUSIVE

24-Page Supplement

**THE REPORT ON
THE CIA THAT
PRESIDENT FORD
DOESN'T WANT
YOU TO READ**

**TEXT HIGHLIGHTS FROM THE SUPPRESSED HOUSE
INTELLIGENCE COMMITTEE REPORT (C 68)**

APPENDIX 8

[H. RES. 1042, 94th Cong., 2d sess.]

RESOLUTION

Whereas the February 16, 1976, issue of The Village Voice, a New York City newspaper, contains the partial text of a report or a preliminary report prepared by the Select Committee on Intelligence of the House, pursuant to H. Res. 591, which relates to the foreign activities of the intelligence agencies of the United States and which contains sensitive classified information; and

Whereas the House, pursuant to H. Res. 982, adopted January 29, 1976, resolved that the Select Committee on Intelligence not release any report prepared by it pursuant to H. Res. 591 until the report is certified by the President as not containing information which would adversely affect the intelligence activities of the CIA in foreign countries or the intelligence activities in foreign countries of any other department or agency of the Federal Government; and

Whereas it appears that Daniel Schorr, a correspondent for the Columbia Broadcasting System, and a member entitled to admission to the Radio and Television Galleries of Congress, has allegedly admitted publicly that he had obtained a copy of the report referred to above and, as a result of his alleged personal disagreement with the action of the House in adopting H. Res. 982, allegedly took actions which resulted in the publication of portions of this aforementioned report in The Village Voice; and

Whereas it therefore appears that the aforementioned alleged actions of the said Daniel Schorr may be in contempt of, or a breach of the privileges of, this House: Now, therefore, be it

Resolved, That the Committee on Standards of Official Conduct be and is hereby authorized and directed to inquire into the circumstances surrounding the publication of the text and of any part of the report of the Select Committee on Intelligence, and to report back to the House in a timely fashion its findings and recommendations thereon.

(77)



APPENDIX 9

House Calendar No. 271

[H. RES. 1054, 94th Cong., 2d sess.—Report No. 94-865]

RESOLUTION

Resolved, That for the purpose of carrying out H. Res. 1042, the Committee on Standards of Official Conduct is authorized to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as it deems necessary. The chairman of the committee, or any member designated by such chairman, may administer oaths to any such witness.

(79)



APPENDIX 10

House Calendar No. 300

[H. RES. 1060, 94th Cong., 2d sess.—Report No. 94-965]

RESOLUTION

[Strike out all after "*Resolved*," and insert the part printed in italic]

Resolved, [That expenses of the investigation to be conducted pursuant to H. Res. 1042, by the Committee on Standards of Official Conduct, acting as a whole or by subcommittee, not to exceed \$350,000, including expenditures for the employment of investigators, attorneys, and clerical, stenographic, and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed \$300,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

[SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Committee on Standards of Official Conduct shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

[SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.]

That expenses of the investigation to be conducted pursuant to H. Res. 1042, by the Committee on Standards of Official Conduct, acting as a whole or by subcommittee, not to exceed \$150,000, including expenditures for the employment of investigators, attorneys, and clerical, stenographic, and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration. Not to exceed \$130,000 of the total amount provided by this resolution may be used to procure the temporary or intermit-

tent services of individual consultants or organizations thereof pursuant to section 902(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a (i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Committee on Standards of Official Conduct shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

APPENDIX 11

SELECT COMMITTEE ON INTELLIGENCE,
U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., January 19, 1976.

Hon. DAVID C. TREEN,
Cannon House Office Building,
Washington, D.C.

DEAR CONGRESSMAN TREEN: Enclosed is a copy of the Draft Final Report of the Select Committee. Draft recommendations and appendices will follow shortly.

The Chairman has scheduled a meeting for Tuesday, January 20, 1976, for the purpose of discussing the report and recommendations.

I remind you that release of this Draft Report to unauthorized persons constitutes a violation of Committee Rules.

Sincerely,

A. SEARLE FIELD,
Staff Director.

