94TH CONGRESS
2d Session
SENATE
REPORT
No. 94-675

SENATE COMMITTEE ON INTELLIGENCE ACTIVITIES

REPORT

OF THE

COMMITTEE ON GOVERNMENT OPERATIONS UNITED STATES SENATE

TO ACCOMPANY

S. Res. 400

RESOLUTION TO ESTABLISH A STANDING COMMITTEE OF THE SENATE ON INTELLIGENCE ACTIVITIES, AND FOR OTHER PURPOSES

MARCH 1, 1976.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
57-008 O WASHINGTON : 1976

COMMITTEE ON GOVERNMENT OPERATIONS

ABRAHAM RIBICOFF, Connecticut, *Chairman*

JOHN L. McCLELLAN, Arkansas
HENRY M. JACKSON, Washington
EDMUND S. MUSKIE, Maine
LEE METCALF, Montana
JAMES B. ALLEN, Alabama
LAWTON CHILES, Florida
SAM NUNN, Georgia
JOHN GLENN, Ohio

CHARLES H. PERCY, Illinois
JACOB K. JAVITS, New York
WILLIAM V. ROTH, JR., Delaware
BILL BROCK, Tennessee
LOWELL P. WEICKER, JR., Connecticut

RICHARD A. WEGMAN, *Chief Counsel and Staff Director*
PAUL HOFF, *Counsel*
PAUL L. LEVENTHAL, *Counsel*
ELI E. NOBLEMAN, *Counsel*
DAVID R. SCHAEFER, *Counsel*
MATTHEW SCHNEIDER, *Counsel*
PAUL ROSENTHAL, *Assistant Counsel*
JOHN B. CHILDERS, *Chief Counsel to the Minority*
BRAIN CONBOY, *Special Counsel to the Minority*
MARILYN A. HARRIS, *Chief Clerk*
ELIZABETH A. PREAST, *Assistant Chief Clerk*
HAROLD C. ANDERSON, *Staff Editor*

CONTENTS

94TH CONGRESS } SENATE { REPORT
2d Session } { No. 94-675

SENATE COMMITTEE ON INTELLIGENCE ACTIVITIES

MARCH 1, 1976.—Ordered to be printed

Mr. MANSFIELD (for Mr. RIBICOFF), from the Committee on Government Operations, submitted the following

REPORT

[To accompany S. Res. 400]

The Committee on Government Operations, to which was referred the resolution (S. Res. 400), having considered the same, reports favorably thereon without amendment and recommends that the resolution be agreed to.

I. SUMMARY OF RESOLUTION

The resolution reported by the Government Operations Committee creates a permanent 11-member Senate Committee on Intelligence Activities with legislative jurisdiction, including authorization authority, over the intelligence activities of the Government.

The Senate's oversight of the intelligence community will be centered in this new committee.

The chief intelligence agencies it will have jurisdiction over are the Central Intelligence Agency, and the intelligence activities of the Department of State, Department of Defense, and the Federal Bureau of Investigation, including its domestic intelligence activities.

The companies will have all necessary authority to exercise effective oversight over the intelligence agencies. The executive branch will be expected to keep the new committee fully and currently informed about its activities, including advanced notice of significant anticipated activities, including any significant covert operations.

The resolution also establishes procedures controlling the disclosure of information by the committee to the public and to other com-

mittees, or to other Members of the Senate in order to safeguard the unauthorized disclosure of information that the committee, or the Senate, has determined should not be publicly disclosed.

II. History of Legislation

During the 93rd Congress four bills or resolutions were referred to the Government Operations Committee creating a new intelligence oversight committee. In December 1974, 2 days of subcommittee hearings were held by Senator Muskie on the proposals but no further committee action was taken.

At the outset of the 94th Congress three bills or resolutions were referred to the committee establishing a permanent new unit of Congress to oversee the government's intelligence activities. These proposals were S. 189, S. 317, and S. Con. Res. 4. In 1976 three additional bills to create a new intelligence committee were introduced and referred to this committee. S. 2865 was referred to this committee on January 26; S. 2893 on January 29; and S. 2983 on February 17. S. 2893, introduced by Senator Church and seven other members of the Select Committee on Intelligence Oversight, was referred to the Government Operations Committee pursuant to a unanimous consent agreement with instructions that this committee report back to the full Senate on the legislation by March 1, 1976.

The committee held 9 days of hearings on proposals to create a new intelligence oversight committee in January and February of this year. The following is a list of the 26 witnesses who certified at these hearings, in order of their appearance:

Senator Mike Mansfield, Democrat of Montana.
Senator Frank Church, Democrat of Idaho.
Senator John G. Tower, Republican of Texas.
Senator Howard H. Baker, Jr., Republican of Tennessee.
Dean Rusk, former Secretary of State.
Nicholas Katzenbach, former Attorney General of the United States, and Under Secretary of State.
David Phillips, President, Association of Retired Intelligence Officers.
William Colby, Director of the Central Intelligence Agency.
McGeorge Bundy, former Special Assistant to the President for National Security Affairs.
Clarence Kelley, Director of the Federal Bureau of Investigation.
John McCone, former Director of the Central Intelligence Agency.
Clark Clifford, former Secretary of Defense.
Ambassador Richard Helms, former Director of the Central Intelligence Agency.
Robert F. Ellsworth, Deputy Secretary of Defense.
Senator Gaylord Nelson, Democrat of Wisconsin.
Senator Alan Cranston, Democrat of California.
Morton H. Halperin, Director of the Project on National Security and Civil Liberties.
Raymond S. Calamaro, Executive Director, Committee for Public Justice.
Senator Barry M. Goldwater, Republican of Arizona.
Senator Ernest F. Hollings, Democrat of South Carolina.

Congressman Michael Harrington, Democrat of Massachusetts.
Congressman Robin L. Beard, Republican of Tennessee.
Senator Strom Thurmond, Republican of South Carolina.
Dr. Henry A. Kissinger, Secretary of State.
Senator Walter D. Huddleston, Democrat of Kentucky.
Attorney General Edward H. Levi.

Following completion of these hearings, the committee met on February 19, 20, and 24. The committee completed action on this legislation on February 24 and voted unanimously to approve this resolution.

III. Background of the Legislation

Brief History of Congressional Oversight of the Intelligence Agencies

Since the passage of the National Security Act of 1947, establishing the National Security Council and the Central Intelligence Agency, Congress has tried in a number of different ways to achieve close congressional supervision of the intelligence activities of the Government.

Congressional efforts to restructure congressional oversight of the intelligence community, either through creation of a joint committee or a special intelligence committee in each House, began as early as 1948. In that year Representative Devitt introduced legislation to establish a Joint Committee on Intelligence. This effort was the first of nearly 200 bills introduced in both Houses since 1948.

Soon after the creation of the CIA, an informal arrangement in the Senate was worked out with Senators Vandenburg and Russell whereby small subcommittees of the Armed Services and Appropriations Committees assumed responsibility for the oversight of the CIA. By the early 1950's, congressional oversight was routinely conducted by separate subcommittees of the House and Senate Armed Services and Appropriations Committees.

Subsequently, the Senate Foreign Relations and House Foreign Affairs Committees expressed growing interest in participating in congressional oversight of the intelligence community because of the possible effect on this country's foreign relations.

In January 1955, Senator Mansfield introduced S. Con. Res. 2, which would have established a 12-member Joint Committee on Central Intelligence. It gave the new committee legislative authority over the agency and required that the CIA keep the new committee "fully and currently informed with respect to its activities." The Mansfield resolution, originally co-sponsored by 32 other Senators, was defeated by the full Senate.

In July 1966, the Foreign Relations Committee reported out Senate Resolution 283, calling for the creation of a new Committee on Intelligence Operations in the Senate. However, after floor debate, the Senate failed to take final action on the proposal.

In 1967, the chairman of the Senate Armed Services Subcommittee on Intelligence invited three members of the Foreign Relations Committee to attend the CIA oversight sessions of his committee. This ad hoc arrangement was discontinued in the early 1970's.

The recurring need for reexamining the way Congress monitors the activities of the intelligence agencies was again highlighted during the investigations in 1973 of the Senate Select Committee on Presidential Campaign Activities when questions were raised about the legality or propriety of certain intelligence activities of the Central Intelligence Agency, the Federal Bureau of Investigation, and other agencies.

In 1974 the chairman of the Senate Armed Services Subcommittee invited the majority and minority leaders to attend CIA oversight sessions of the subcommittee as nonvoting members.

The House took action in 1974 (H. Res. 988) to give "special oversight (of) intelligence activities relating to foreign policy" to its Foreign Affairs Committee. In 1975 the committee, renamed the International Relations Committee, created a Subcommittee on Investigations to handle its oversight responsibilities under H. Res. 988.

In December 1974 the New York Times charged that the Central Intelligence Agency, in direct violation of its statutory charter, conducted a "massive, illegal domestic intelligence operation during the Nixon Administration against the antiwar movement and other dissident groups in the United States." The article also charged that "intelligence files on at least 10,000 American citizens" had been maintained by the CIA and that the agency had engaged in "dozens of other illegal activities," starting in the 1950's "including break-ins, wiretapping and the surreptitious inspection of mail."

On January 15, 1975, testifying before the Senate Appropriations Committee, Mr. William Colby, Director of the Central Intelligence Agency, stated that officers of the CIA had spied on American journalists and political dissidents, placed informants within domestic protest groups, opened the mail of U.S. citizens, and assembled secret files on more than 10,000 American citizens.

In response to public allegations of abuses by the Central Intelligence Agency, in particular, both the Senate and the House moved rapidly in 1975 to create temporary committees to investigate possible abuses by the intelligence agencies.

On January 28, 1975 the Senate agreed to S. Res. 21, as amended, to establish a Select Committee to Study Governmental Operations with Respect to Intelligence Activities. On February 19, 1975 the House established a Select Committee on Intelligence by agreeing to H. Res. 138. On July 17, 1975 the House agreed to H. Res. 591, which replaced that committee with another having the same name and functions. Both Senate and House committees were temporary study committees, ordered to report finally by February 29, 1976, and January 31, 1976, respectively.

RECOMMENDATIONS OF COMMITTEES AND COMMISSIONS

The committees of Congress, as well as the special executive commissions, that have examined the matter of congressional oversight of the intelligence community have consistently concluded that a new intelligence committee should be established.

As long ago as 1955 the Hoover Commission recommended creation of a new congressional oversight committee.

The recommendation climaxed a period of 6 years during which special executive commissions studied the Central Intelligence Agency

four times. The studies voiced criticisms of the agency and its failure to correct inadequacies and poor organization.

When recommending creation of a new congressional unit in 1956, the Senate Rules Committee stated that creation of a new committee would:

> Insure the existence of a trained, specialized, and dedicated staff to gather information and make independent checks and appraisals of CIA activities pursuant to the committee's directives and supervision. The effect should be to allay much of the suspicion already expressed in Congress concerning the activities and efficiency of CIA operations. (S. Rept. No. 1570, 84th Congress, 2d sess.)

When explaining the resolution reported by the Foreign Relations Committee in 1966 to create a new congressional unit, Chairman Fulbright stated that a new committee would bring about "a more efficient coordination of the various intelligence activities of the Government." He added that creation of a new committee "would contribute to the quieting of criticism, the allaying of public fears, and the restoring of confidence in the Agency." (Cong. Rec., July 14, 1966, at p. 15673.)

In recent years, as the activities of the intelligence agencies have become the subject of increased public scrutiny, recommendations for a new congressional oversight committee have been renewed. In June 1975 the Commission on the Organization of the Government for the conduct of Foreign Policy (the Murphy Commission), after an extensive study lasting almost 2 years, recommended that Congress create a new structure for overseeing the intelligence community.

In June 1975 the President's Commission on CIA Activities Within the United States recommended in its final report that a new intelligence committee be established in order to improve the operations of the intelligence agencies and help prevent abuses in the future. This special commission, under the direction of Vice President Rockefeller, was created by the President in January 1975 to investigate allegations of abuses committed by the CIA within this country.

The Commission noted "Congress has established special procedures for review of the CIA and its secret budget within four small subcommittees. Historically, these subcommittees have been composed of Members of Congress with many other demands on their time. The CIA has not as a general rule received detailed scrutiny by the Congress." (Report of the President's Commission on CIA Activities Within the United States, p. 14.)

Although the Senate Select Committee on Intelligence has not yet completed its final report and recommendations, Chairman Church and other members of the committee introduced legislation to create a permanent intelligence committee in the Senate. At the time Chairman Church introduced the legislation he commented, "The present situation is clearly inadequate and even verging upon the chaotic. Restructuring is clearly needed."

The House Select Committee on Intelligence recommended, upon completion of its study creation of a separate House committee similar in scope and nature to the Senate Committee on Intelligence pro-

posed by most of the Senate select committee. (H. Report No. 94–833, 94th Cong., 2d sess.).

This resolution is thus preceded by years of debate and study concerning congressional oversight of the intelligence agencies. It is preceded by a substantial number of proposals that have been made over the years for creation of a new committee.

IV. Nature and Purpose of the Resolution

NEED FOR A NEW COMMITTEE

The work during the last year of the Senate select committee and the Rockefeller Commission, and the abuses that have been discovered or alleged, have served to reemphasize the long-standing need for Congress to act in the area of intelligence oversight. But proposals for a new intelligence committee first began to be made only a few years after the Central Intelligence Agency was created. Concern over the activities of the intelligence agencies and congressional control over them clearly predates the events of the last few years.

The need and advisability of a new intelligence committee rests on a few basic facts.

A new intelligence committee can mark a new start. It can provide a forum to begin restoring the trust and confidence the intelligence agencies must have to operate effectively. It can formalize in an open and definitive manner the Senate's intention to exercise close oversight over a very important part of the Government's activities. Oversight by Congress is essential under our constitutional system. By its actions it can help assure the public that the abuses of the past will not be repeated in the future. Until full trust and confidence in our intelligence agencies is restored, the country will be unable to conduct a fully effective intelligence program.

The intelligence functions of this Government are unique in their importance to this Nation's security. At the same time, however, executive branch responsibility for intelligence is now spread among a number of organizations whose primary responsibilities involve diplomatic, military, economic or other matters. No one agency or department is solely responsible for our intelligence program. Direction and evaluation comes from interagency committees, and ultimately the National Security Council and the President.

Jurisdiction in the Senate over intelligence matters is correspondingly spread between a number of committees. No one committee is able to bring together through its oversight or legislative functions all the divergent portions of the intelligence community. For instance, the Director of Central Intelligence, the intelligence arms of the three military services, the Treasury Department, the Bureau of Intelligence and Research in the Department of State, the National Security Agency, the Defense Intelligence Agency, the Federal Bureau of Investigation, the Central Intelligence Agency, and the Energy Research and Development Administration all have representatives on the U.S. Intelligence Board. In the Senate responsibility for the 11 agencies that sit on the board and for their intelligence activities is shared by five legislative committees—the Armed Services Committee, the Foreign Relations Committee, the Finance Committee, the

Judiciary Committee, and the Joint Committee on Atomic Energy. Because responsibility for the intelligence community is distributed among a number of different committees, it is not the prime focus of any single committee. The committees with responsibilty in the area cannot devote te time, or develop the staff, necessary to oversee fully the Government's intelligence activities. Because the area of intelligence is so important and complex, effective congressional oversight requires that any oversight committee devote a large proportion of its time and resources to the subject.

The Senate's present organization for oversight of intelligence also means that when the executive branch wishes to brief the Congress, on its own initiative, or in response to general congressional interest in a matter, it must brief a number of committees. This may place unnecessary burdens on the time of agency officials. Centralizing oversight responsibilities in a single Senate committee will provide a more orderly working relationship between Congress and the executive branch.

Centralizing oversight of the intelligence community will also help to assure the preservation of necessary security of sensitive information. Inevitably, the security of sensitive information is sacrificed whenever a substantial number of people have access to it. A single committee will help alleviate this problem by establishing a single body to receive most of the information on intelligence provided by the executive branch.

Congress itself can never run the intelligence agencies. Day-by-day oversight and direction must come from within the executive branch. Congress must exercise oversight, however, over the agencies and their activities, including covert operations and make sure that before the President initiates important new activities or programs he knows the attitude Congress is likely to take towards them. Congress must examine the economy and efficiencies of the intelligence programs which cost billions of dollars each year, and eliminate any unnecessary duplication or fragmentation among the maze of agencies now involved in intelligence.

As Senator Church, chairman of the Select Committee on Intelligence, testified before this committee:

> The work cannot be done on a piecemeal basis or by a subcommittee of another standing committee which is primarily engaged in a different preoccupation. It will require a well-staffed committee directing all of its attention to the intelligence community.

A wide range of other witnesses who testified during the nine days of hearings held by the committee also supported the need for a new committee. Present or former Government officials who supported a new intelligence oversight committee included Dr. Kissinger, who stated that creation of a new committee would be in the interests of national security, and Mr. Colby. Additional officials who supported creation of a new oversight committee included two other former directors of the Central Intelligence Agency, Mr. John McCone and Mr. Richard Helms; Mr. Clark Clifford, former Secretary of Defense; and Mr. McGeorge Bundy, former National Security Adviser to the

President. Mr. David Phillips, President of the Association of Retired Intelligence Officers, stated that 98 percent of the members of the association polled by him favored creation of a new oversight committee.

SCOPE OF NEW COMMITTEE'S AUTHORITY AND RESPONSIBILITIES

It is the intent of this committee to create a committee with the necessary power to exercise full and diligent oversight.

An essential part of the new committee's jurisdiction will be authorization authority over the intelligence activities of the Department of Defense, the Department of State, the Federal Bureau of Investigation, and the Central Intelligence Agency. Without this authority the new committee would not be assured the practical ability to monitor the activities of these agencies, to obtain full access to information which the committee must have, to exercise control over the budgets of the agencies in order to reduce waste and inefficiency, and to impose changes in agency practices.

The resolution expressly provides that the Senate does not expect the intelligence community just to respond to inquiries or proposals made by the new committee. To be effective the intelligence community must take an active part in initiating the exchange of views and information between Congress and the executive branch. The resolution accordingly provides that the intelligence agencies should on their own take whatever steps necessary to keep the new committee fully and currently informed of their activities. This includes informing the new committee of significant anticipated activities, including covert and clandestine activities, before they are initiated so that there may be a meaningful exchange of views before any final decision is reached. It is expected that the President will fully consider such views and reassess the wisdom of any proposed programs which is strongly oppose by the committee. By creating a new committee that consults frequently with the executive branch, the committee hopes that Congress, the President, and the public can be spared future instances where covert activities initiated by the executive branch are subsequently rejected by Congress.

The scope of the new committee's jurisdiction is intended to include both foreign and domestic intelligence.

Without jurisdiction over both the domestic and foreign intelligence activities of the government, the new committee could not act in the comprehensive way it must. Many domestic and foreign intelligence activities are now closely related. For example, responsibility for the covert collection of intelligence from foreign sources residing within the United States may be shared by the Central Intelligence Agency and the Federal Bureau of Investigation. These same agencies may both be involved as well in gathering information on whether domestic groups in the United States are under foreign control.

The new committee must be able to review such relationship and consider, where necessary, legislation readjusting the division of responsibility among agencies for domestic and foreign intelligence. Past abuses in the intelligence area have in part involved a confusion between the proper role and function of domestic and foreign intelligence agencies.

STRUCTURE OF NEW COMMITTEE

The resolution establishes a permanent standing committee of the Senate consisting of 11 members. The committee concluded that at this time there were a number of advantages to a Senate committee, rather than a joint committee, and that on balance, there were no compelling reasons requiring Congress to depart from the normal practice of creating separate Senate and House legislative committees.

A Senate committee is more consistent with the bicameral nature of the Nation's legislative system. The new committee will in all likelihood be considering very important legislation concerning the nature and effectiveness of the Government's entire intelligence community. A single joint committee should not write legislation for both Houses.

A Seante committee wil give better recognition of the unique role the U.S. Senate plays under its constitutional advise and consent powers in the area of foreign relations.

Separate Senate and House committees will better assure that each House is able to conduct its oversight of the intelligence community in the manner that seems most appropriate to that House, its concerns, its rules, and its existing committee structure.

Separate Senate and House committees will better promote coordination between the new committee and the other committees in each House with interests in the intelligence area.

Separate Senate and House committees will help reduce the danger that a single joint committee, by overlooking certain practices or becoming too wedded to a particular point of view, will miss important abuses or fail to consider important legislative reform proposals.

Because the very nature of the committee's work will require the committee to act without informing the full Senate in many instances, the resolution contains special provisions to assure that the committee membership remain representative of the Senate as a whole. No member will be able to serve on the new committee for longer than 6 years at a time. This will assure a continual rotation of members, new viewpoints, and new interests.

In creating a new Senate intelligence committee, the committee was also very aware of the need to reduce the proliferation of committees.

The resolution has been drafted with this concern in mind. In order to reduce the proliferation of committees now involved in overseeing the Government's intelligence activities, the new committee is given jurisdiction over the entire intelligence community. It will have authorization authority over all major expenditures for intelligence. The resolution expressly provides that other committees in the Senate will no longer have jurisdiction in these areas. The number of legislative or select committees involved in this area in the Senate will be reduced from four to one.

It is expected that after creation of the new committee, the Senate may also want to review the effect of other relevant laws with the possible aim of further reordering Senate oversight of the intelligence agencies. This could include, for example, the present law requiring the President to brief all appropriate committees on covert operations conducted by the Central Intelligence Agency, or the present division of responsibilities between the legislative committees and the appropria-

tions committee. The new committee is required by this resolution to study some of these questions itself, and report its conclusions to the full Senate no later than July, 1977.

PROCEDURES FOR PROTECTING CONFIDENTIAL INFORMATION

The committee devoted considerable discussion to how best to assure that the new committee would protect the confidentiality of some of the information that will be in its possession, while assuring that the Senate and the public have access to information on intelligence in a manner consistent with the public interest. A very delicate balance must be struck between the right of the people in a democracy to know what their government is doing, and the need to protect some information in the interests of national security.

Both the Senate Select Committee on Intelligence and the standing committees of the Senate that have been extensively involved in the intelligence area in the past have had an excellent record in protecting the confidentiality of information. The past experience of these committees is evidence that the Senate can exercise effective congressional oversight without the unauthorized disclosure of sensitive information occurring. In order to assure that this continues in the future, the new committee will have all the authority it needs to establish necessary security and clearance procedures. The new committee will be expected, for example, to make special physical arrangements to safeguard material.

Provisions in the resolution will assure the full Senate the opportunity to determine whether in particular instances information should be disclosed if the President objects. Other security procedures established by the resolution will apply when the new committee provides other Senators information which the committee, or the Senate, has determined should not be made public. Finally, the resolution creates a special procedure requiring the Select Committee on Standards and Conduct to investigation allegations made by a certain number of Senators that a Member, officer, or employee of the Senate has engaged in the unauthorized disclosure of information.

The resolution requires the staff to receive appropriate security clearances from the committee before they are hired and to agree in writing, before beginning to work for the committee, that they will not divulge any information either during or after their employment, unless authorized by the committee.

The ability of the new committee to obtain the information it needs to do an effective job of oversight will depend in large part on its ability to protect information which should not be disclosed to the public. The committee is confident that the new intelligence committee will strike the necessary balance between the necessity of protecting the confidentiality of certain information, and the need to provide the public the information it must have in a democracy to participate in the basic policy discussions about the nature of this country's intelligence program.

V. SECTION-BY-SECTION ANALYSIS

SECTION 1—STATEMENT OF PURPOSE

This section states that it is the purpose of the resolution to create a new standing committee of the Senate with legislative jurisdiction to oversee and make continuing studies of the intelligence activities and programs of the U.S. Government. The new committee, called the Committee on Intelligence Activities, would have the duty to report to the Senate appropriate proposals for legislation concerning intelligence activities and programs. This section obliges the committee to make every effort to assure that the appropriate departments and agencies of the United States provide informed and timely intelligence necessary for the executive and legislative branches to make sound decisions affecting the security and vital interests of the nation. It is further the purpose of the new committee to provide vigilant oversight over the intelligence activities of the United States so as to assure that the intelligence activities of the Government are in conformity with the Constitution and the laws of the United States.

Nothing in the resolution is intended to inhibit the full access of other committees and other Senators to the product of the intelligence agencies. As the wording of this section suggests, one of the goals of the new committee should be to assure that other members and committees of the Senate receive directly from the agencies all the intelligence analysis they need to fulfill their responsibilities.

SECTION 2—COMMITTEE MEMBERSHIP

Section 2 of the resolution amends Rule XXIV of the Standing Rules of the Senate to provide for the appointment of members to the intelligence committees. It provides that six members of the Committee on Intelligence Activities will be members from the majority party and five members of the committee will be from the minority party of the Senate. Members would be selected for these committees in the same way as for other standing committees.

This section also provides that, at the beginning of each Congress, the majority members on the committee would select a chairman and the minority members would select a vice chairman. The resolution expressly provides that neither the chairman nor the vice chairman may serve at the same time as a chairman or ranking minority member of any other permanent committee. The vice chairman is to act in the place of the chairman in the chairman's absence. This wording, which is consistent with the bipartisan nature of the committee, will help expedite the business of the committee by permitting the vice chairman to preside over hearings which the chairman cannot himself attend.

The provisions for a set majority-minority ratio and election of a minority vice chairman underline the importance that the new committee act in a fully bipartisan way. The unique importance and nature of the matters the committee will consider make such bipartisanship

essential. The existence of trust and confidence between the executive branch and the committee will enable the committee to exercise more effective oversight. This trust and confidence will only be achieved if the committee does act in a fully bipartisan manner.

Subsection (b) prohibits a Senator from serving on the committee for more than 6 consecutive years. After 6 years of continuous service a Senator must leave the intelligence committee. In an extraordinary case it may be consistent with the general concept of rotating membership for a member who has served 6 years to serve again on the committee after a period of years. This might be a member who did not serve a full 6 years originally, or who did, but who subsequently gains special expertise which makes additional service on the committee especially appropriate. It is expected that in each Congress approximately one-third of the 11-member committee will be new members in order to assure continuity, as well as the addition of new members on a regular basis. Thus, to the extent practicable, between three and four new members are to be chosen at the beginning of the 96th Congress and each Congress thereafter. It is expected that in order to initiate such a system of rotating membership, those Senators who are appointed to serve on the new committee beginning with the 95th Congress will be divided into three categories, with approximately one-third serving 2 more years, one-third 4 more years, and one-third 6 more years.

The resolution reserves no seats on the Committee on Intelligence Activities for members of particular standing committees. Existing committees such as Armed Services, Foreign Relations, and Judiciary will continue, of course, to have an interest in the work of the intelligence committee. It is expected that some members of those committees will be chosen to serve on the new intelligence committee. By so doing, the experience of these members might be shared, and coordination between Senate committees facilitated.

The intelligence committee should reflect the membership of the Senate-at-large. To give the committee a broad base it is expected that many members of the intelligence committee will come from committees other than Armed Services, Judiciary, and Foreign Relations. Whatever the exact ratio between members from these three committees and other committees, it should be consistent with the overall goal to create a committee that truly reflects the divergent views and interests of the entire Senate.

Section 3—Committee Jurisdiction

Section 3 establishes the Senate Committee on Intelligence Activities by amending Rule XXV of the Senate Rules.

Subsection (a) defines the new committee's jurisdiction. The resolution gives the committee legislative jurisdiction over the Central Intelligence Agency and the Director of Central Intelligence, as well as over the intelligence activities of all other departments and agencies of the Government. These other agencies and departments include, but are not limited to, the intelligence activities of the Department of Defense, including the Defense Intelligence Agency, and the National Security Agency, and the intelligence activities of the Departments of State, Justice, and Treasury.

Any activities of these agencies which are not intelligence activities will fall outside the committee's jurisdiction. Jurisdiction over the Department of Defense's weapons development programs, for example, would remain with the Armed Services Committee. "Intelligence activities" is defined in section 13 to include (1) foreign intelligence; (2) counterintelligence; (3) clandestine and covert activities; and (4) domestic intelligence. The term specifically does not include tactical foreign military intelligence, serving no national policymaking function.

LEGISLATIVE JURISDICTION OVER FOREIGN INTELLIGENCE

The following is a brief description of some of the major agencies or departments that are publicly known to engage in foreign intelligence activities. The new committee would have jurisdiction over the intelligence activities of these agencies or departments. Since a complete list of intelligence agencies, and their activities, is secret, this description can not fully describe the total extent of the committee's jurisdiction.

DIRECTOR OF CENTRAL INTELLIGENCE

The DCI is intended to be the President's principal adviser on national intelligence matters and to coordinate the allocation of resources within the intelligence community. He is also charged by the National Security Act of 1947 with the responsibility "for protecting intelligence sources and methods from unauthorized disclosures." He serves in several functions, including the head of the Central Intelligence Agency, the U.S. Intelligence Board, and the U.S. Intelligence Resource Advisory Committee. Under the changes announced by the President on February 17, 1976, the DCI is specifically charged with, among other responsibilities, developing national intelligence requirements and priorities, directing covert operations, reviewing White House requests for service from the intelligence community, and ensuring the existence of a strong inspector general's office in the intelligence agencies.

CENTRAL INTELLIGENCE AGENCY

According to the 1947 Act which created it, it is the function of the CIA to—

(a) Advise the National Security Council as to the intelligence activities of the departments and agencies;

(b) Make recommendations to the National Security Council on ways to coordinate these activities;

(c) To correlate and evaluate intelligence relating to national security; It is specifically prohibited from exercising, in connection with this authority, police, subpoena, or law-enforcement powers, or internal security functions;

(d) To perform, for the benefit of the existing intelligence agencies, such additional services of common concern as the National Security Council determines can be more efficiently accomplished centrally; and

(e) To perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct.

DEFENSE DEPARTMENT

The Defense Department accounts for approximately 85 percent of the intelligence community's manpower and budget. The following components of DOD are among those actively involved in national intelligence:

Defense Intelligence Agency

The Director of DIA is the principal intelligence staff officer to the Secretary of Defense, to whom he reports through the Joint Chiefs of Staff. The agency was established in 1961 by a DOD directive to rationalize and unify the national intelligence activities of the entire military.

National Security Agency

This agency is responsible for communications security, including cryptographic work, and the development of techniques for the secret transmission of information. The agency was established in 1952 by Presidential directive.

Army Intelligence (G-2)

Under the Office of Assistant Chief of Staff for Intelligence, Army Intelligence is responsible for the national intelligence and counter-intelligence activities of the Army. The responsibilities of the Army intelligence units are largely defined and authorized by internal DOD directives.

Air Force Intelligence

This unit is headed by the Office of Assistant Chief of Staff for Intelligence, Department of the Air Force. It collects information relevant to military threats to the United States and its allies. It is one of the chief consumers of, and contributors to, the national intelligence product.

Naval Intelligence

National intelligence and counter-intelligence for the Navy is under the direction of the Office of Naval Intelligence. It collects, processes, evaluates, and disseminates intelligence of naval interest.

DEPARTMENT OF STATE, BUREAU OF INTELLIGENCE AND RESEARCH

The Bureau provides the Secretary of State with research and analyses. It is also charged with responsibility for ensuring that the Government's overall intelligence effort is consistent with U.S. foreign policy objectives. It does not engage in the covert collection of intelligence information.

TREASURY DEPARTMENT

The Department's intelligence work is the direct responsibility of the Office of National Security, its chief responsibility being in the foreign economic area. The Department engages in no covert collection of intelligence.

FEDERAL BUREAU OF INVESTIGATION, INTELLIGENCE DIVISION

The FBI is the agency chiefly responsible for intelligence activities in this country. The work is the responsibility of the Bureau's In-

telligence Division. Its primary national intelligence responsibility involves investigation in this country of espionage, sabotage, treason, and other crimes affecting the country's internal security. In addition to gathering intelligence in this country, it has liaison posts in 16 foreign countries. Through its domestic and foreign operations, the FBI provides the remainder of the intelligence community with information it discovers as part of its other responsibilities.

LEGISLATIVE JURISDICTION OVER DOMESTIC INTELLIGENCE

The committee's legislative jurisdiction extends to domestic intelligence agencies as well. This is in recognition of the fact that it is difficult, and probably unwise, to separate jurisdiction over domestic intelligence from foreign intelligence activities, for, as discussed above, foreign and domestic intelligence activities have been inextricably linked. Domestic intelligence is defined by section 13, clause (4), to it is the politically sensitive kind which may give rise to political abuses. The new committee's jurisdiction will not cover the normal criminal or civil investigations of agencies, related to their regular law enforcement functions, which do not focus on the political and related activities of groups.

The Internal Security Branch of the FBI's Intelligence Division is the primary domestic intelligence organization included within the committee's jurisdiction. The fact that the FBI has already placed these domestic intelligence activities within a special branch will facilitate the separation of the FBI's domestic intelligence activities from the rest of the Bureau's operations. The Internal Security Branch is responsible under FBI guidelines and procedures for domestic security investigations conducted where there is a likelihood that domestic groups or individuals will engage in acts of violence in connection with activities designed (1) to overthrow the Government of the United States or of a State, (2) to impair the functioning of Federal or State Government, or interstate commerce, in order to influence governmental policies, (3) to interfere within the United States with the activities of a foreign government, (4) to deprive persons of their civil rights, or (5) to create widespread domestic violence or rioting necessitating the use of Federal militia or other armed forces.

The committee would also have jurisdiction should other agencies in the future engage in domestic intelligence activities. If, for example, the Postal Service again undertakes "mail covers," one form of intelligence gathering, such activity would be within the purview of the new committee.

JURISDICTION OVER AUTHORIZATION AND REORGANIZATION LEGISLATION

Subsection 3(a) also specifies that the intelligence committee will have jurisdiction over authorizations of budget authority for the chief intelligence agencies in the government: the Central Intelligence Agency; the intelligence activities of the Department of Defense (including the Defense Intelligence Agency and the National Security Agency); the intelligence activities of the Department of State; and the intelligence activities of the Federal Bureau of Investigation, specifically, all activities of the Bureau's Intelligence Division. The committee will continue to have jurisdiction over these parts of the intelligence community even if they are transferred to successor agencies.

These four agencies account for almost all the money spent by the Government on intelligence. The new committee will not have authorization jurisdiction over the other agencies that engage in intelligence activities, such as the Energy Research and Development Administration. The small size of the expenditure by these agencies on intelligence does not justify giving the new committee authorization authority over them.

This committee expects that to the extent that any practical budgetary problems do arise out of the division of authorization of an agency between two committees, the new committee will work with the other existing committees to resolve these problems as soon as possible.

The intelligence committee would also have jurisdiction over any organization or reorganization of a department or agency of the Government to the extent that it relates to a function or activity involving intelligence activities.

SIZE AND TYPE OF COMMITTEE

Subsection (b) of section 3 amends paragraph 3 of Rule XXV by making the intelligence committee a "B" committee, and specifying that the new committee will have 11 members. The committee felt that an 11 member committee was large enough to permit it to be truly representative, while small enough to facilitate the protection of information that may not be disclosed publicly. The Senate Select Committee on Intelligence also had 11 members.

As a "B" committee, described in paragraph 3 of Rule XXV, membership on the committee will be subject to paragraph 6 of Senate Rule XXV. In general, no member of the intelligence committee will also be able to serve on any of the other following committees: the Committee on the District of Columbia, the Post Office and Civil Service Committee, the Committee on Rules and Administration, the Committee on Veterans' Affairs, or any select, special, or joint committee, The committee felt no special exception should be made to paragraph 6(a) of Rule XXV of the Senate, limiting Senators as general rule to membership on only one of these committees. The work of the intelligence committee will require considerable time and attention. A member of the Senate should not be expected to take on the demands of the new committee simply as an addition to all his other committee responsibilities.

JURISDICTION OF OTHER COMMITTEES

Subsection (c) is a conforming amendment, amending the jurisdiction of certain other committees to simply reflect the fact that the other committees that formely had jurisdiction over the intelligence agencies would not continue to have jurisdiction. The four committees whose jurisdictional wording is amended to account for the jurisdiction of the new committee are the Armed Services Committee, the Government Operations Committee, the Foreign Relations Committee, and the Judiciary Committee. The amendment is necessary simply to assure that the general wording for these other committees does not

appear to include the specific jurisdiction given the new committee by subsection (a).

As in the case of any other committee in the Senate, there will unavoidably be instances where both the new committee and other committees will have jurisdiction over some portions of the bill, but not others. When an authorization bill is introduced for an agency that engages in intelligence, as will as other activities, a separate bill should be introduced covering only the authorization for the agency's intelligence activities. The latter bill would go exclusively to the intelligence committee, while the remainder of the agency's authorization bill would go to another, appropriate committee. Or the same bill may be referred to both committees under an agreement whereby the new intelligence committee alone is responsible for the portion of the legislation dealing with intelligence, and the other committee is alone responsible for the remaining portions. In situations where the intelligence matters are inextricably intertwined with other matters not under the new committee's jurisdiction, the legislation should go primarily to the committee whose jurisdiction predominates.

For example, a bill that involved the Justice Department's general investigative techniques, such as the constitutionality of its surveillance or investigative policies in general, would be referred to the Judiciary Committee, even though it also affected the FBI's Intelligence Division. The opposite would be the case with legislation whose purpose was to reorganize the FBI's Intelligence Division.

The committee of course expects that, in fact, instances of overlapping jurisdiction will in practice be resolved, as in the past, on the basis of comity and mutual accommodation.

Section 4—Committee Reports

Subsection (a) requires the new committee to make regular and periodic reports to the Senate on the nature and extent of the Government's intelligence activities. This committee expects that at a minimum this will require an annual report by the new committee to the Senate. The committee must call to the attention of the Senate or any other appropriate committee any matters which require the immediate attention of the Senate or other committees. If, for example, the intelligence committee possesses information on intelligence activities that may have a significant affect on foreign policy, the intelligence committee should notify the Foreign Relations Committee. In addition to these reports, the Committee on Intelligence Activities, as a standing committee of the Senate, will also be required to make a report on March 15 of each year in accordance with section 310(c) of the Congressional Budget and Impoundment Control Act of 1974. Any report the intelligence committee makes will be subject to the provision in section 7 governing the disclosure of information. The report should be made in a manner necessary to protect national security.

Subsection (b) requires the intelligence committee to obtain an annual report from the Director of the Central Intelligence Agency, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation. Each report should review the intelligence activities of the particular agency or department submit-

ting the report. Included in this report should be a review of the intelligence activities directed against the United States or its interests by other countries. The intent of these reports is to give Congress and the public a greater understanding of the intelligence activities of other countries, which may be inimical to the United States, as well as a greater understanding of the intelligence activities of the United States.

The reports by the four intelligence agencies and departments are to be made to the intelligence committee in an unclassified form. The Commmittee on Intelligence Activities shall then make them available to the public. In preparing these public reports, the agencies should not disclose the names of individuals engaged in intelligence activities for the United States, or the sources of information on which the reports are based, where to do so would be contrary to the public interest.

SECTION 5—COMMITTEE STAFF

Subsection 5(a) provides for the rotation of committee staff. The maximum term for a professional staff member is a total of 6 years, equal to the maximum term for committee members. Unlike a member of the committee, however, no employee who leaves the staff at the end of 6 years may rejoin the staff later under any circumstances. The 6-year limitation applies to committee consultants and any others who perform professional services for or at the request of such committee. It does not apply, however, to nonprofessional staff members. In order to maintain an experienced staff, approximately one-third of the staff should be hired every 2 years.

Subsection 5(b) requires that intelligence committee staff members with access to classified material have security clearances, the standards for which will be determined by the committee in consultation with the Director of Central Intelligence. This provision prescribes for the new committee the same procedure that was followed by the Senate Select Committee on Intelligence. Under the select committee procedure, the executive branch conducted background investigations, but the decisions on clearances rested with the select committee. The new intelligence committee should consult with the Director of Central Intelligence concerning clearances. The Director of Central Intelligence may offer advice, but will not have authority to grant or deny clearance to any committee employee. The committee will have the final say on such matters. The type of security clearance required should be commensurate with the sensitivity of the information to which an employee has access.

A second provision in subsection 5(b) requires staff members with access to classified information to agree, in writing, to be bound by the Rules of the Senate and the intelligence committee governing the disclosure of information during and after their employment with the committee. The purposes of such an agreement is to insure that former staff members, no longer subject to the sanction of discharge, will be bound in contract not to disclose information made available to them in the course of committee employment which the committee, or the Senate, has determined should not be made public. If any per-

son engages in the unauthorized disclosure of information in violation of the agreement while still employed by the committee, the committee would be expected to terminate the person's employment.

Section 6—Individual Privacy

Section 6 imposes upon the intelligence committee a responsibility to establish rules and procedures to protect the privacy of individuals. These rules and procedures should be designed to prevent the disclosure, without the consent of the person involved, of information which unduly infringes on the person's privacy or violates his constitutional rights.

The committee's duty to protect against disclosure of information which infringes upon the privacy of an individual is not absolute. This section limits its prohibition on disclosure to those which unduly infringe on privacy. The section explicitly states that privacy considerations shall not prevent the committee from publicly disclosing information in any case in which the committee determines that the public interest in disclosure clearly outweighs any infringement on any person's privacy. This might occur, for example, when the conduct of an employee of an intelligence agency raises serious questions about the lawfulness of the agency's activities, or the adequacies of its procedures to protect classified information. An individual may not cloak himself in the protection of this section simply to avoid the disclosure of embarrassing or incriminating information if the committee finds that the balance clearly weighs in favor of public disclosure. The final determination in each case is intended to remain within the committee's full discretion.

Section 7—Disclosure of Information

Section 7 establishes formal procedures governing the disclosure of certain information to the public and to other Members of the Senate, provides a special procedure to safeguard information made available only to other Senators, and requires the Select Committee on Standards and Conduct to investigate violations of these procedures. This section should provide for the necessary safeguarding of information which the committee or the Senate has determined should not be disclosed to the public, while providing for as much public disclosure as possible, consistent with the public interest.

Committee Authority to Disclose Information

Subsection (a) establishes the basic rule that the Committee on Intelligence Activities may disclose publicly any information in its possession after the committee determines that the public interest would be served by such disclosure. Subsection (a) also assures that any member of the committee would have an opportunity to have the committee vote on a disclosure question whenever he desires to bring such a question before the committee.

The provision covers all information which the committee has gained from any source. The new committee will have the greatest experience in such matters and in most cases it is appropriate that the

committee, as an agent of the Senate, will play the primary role, in consultation with the executive branch, in controlling access to information in its possession. At the same time, the ability of the committee under this section to disclose information to the public is subject to the procedures described in subsection (b). The provisions of subsection (b) gives the full Senate the opportunity to vote on the matter of disclosure whenever the committee and the President are formally and explicitly in disagreement about the wisdom of disclosing certain information provided the committee by the executive branch, and three members of the committee request full Senate consideration of the matter. This committee expects that such a disagreement will occur only rarely. Normally the committee and the executive branch should be able to resolve any differences on such matters. However, subsection (b) does provide an important check on the committee's powers, should such a disagreement occur.

Full Senate Review of Committee Action

Subsection (b) preserves the right of the full Senate to decide whether or not information should be disclosed over the objection of the President. It also preserves the right of the full Senate to consider the desirability of disclosing information when at least three members dissent from a decision of the committee *not* to disclose certain information. Thus the procedures providing the opportunity for full Senate involvement is an even-handed one, applicable whether the committee is inclined toward disclosing, or toward not disclosing, the information.

This subsection is intended to include all executive branch information which the committee possesses, whether the information was submitted by the executive branch directly to the committee, or whether it came from the executive branch to the committee indirectly, through the full Senate. The request that information not be disclosed may consist simply of a restrictive security classification attached to a document at the time it was provided to the committee, or it may consist of a specific request to the committee in response to an inquiry from it. The word "information" is not necessarily synonymous with "document." The committee is, of course, free to consider separately a portion of an executive branch document which the executive branch has requested not be disclosed, and to disclose any such portion of the entire document which it deems appropriate. Similarly, if the executive branch has requested that only a portion of the document not be disclosed, the committee will be free, of course, to disclose the remainder of the material without following the procedures of this subsection. Paragraph (b)(1) requires the committee to notify the President of any vote to disclose publicly any information submitted to it by the executive branch which the executive branch has requested be kept secret.

Paragraph (b)(2) requires the committee to wait 5 calendar days following the day on which notice of the vote is transmitted to the President before the committee may disclose the information. If, prior to the expiration of the 5-day period, the President notifies the committee that he objects to the disclosure of such information, provides his reasons for his objections, and certifies that the threat to the na-

tional interest of the United States posed by such disclosure is vital and outweighs any public interest in disclosure, the committee may not then disclose without following the procedures described in the remainder of subsection (b). If the President fails to object, the committee may publicly disclose the information at the end of the 5-day period. The President's objections and reasons supporting those objections, as well as his certification concerning the threat to the national interest, should be in writing. In light of the formal nature of this procedure, and the fact that the full Senate will want to study the President's position with care if it is required to review the matter, it is expected that the President will set forth his reasons with sufficient specificity and detail to aid the committee and the entire Senate in making a final determination of the matter in a manner consistent with the public interest.

If the President objects to the disclosure of the information, paragraph (3) requires the committee to wait 3 calendar days following the day on which it receives the President's objection before disclosing. If, during this period of 3 days, three or more members of the intelligence committee file a request in writing with the chairman of the committee that the question of public disclosure of such information be referred to the Senate for decision, the committee must refer the matter to the full Senate.

Paragraph (4) applies to instances where the committee votes not to disclose. The procedure the committee must follow in such instances is reviewed below, following the discussion of the procedures applicable to a committee decision in favor of disclosure.

Paragraph (5) specifies that when three or more members of the committee file a request with the chairman of the committee to refer the committee decision to disclose to the full Senate, the chairman must report the matter to the Senate for its consideration. The Chairman must make his report not later than the first day on which the Senate is in session following the day on which the request of three members of the committee is filed with the chairman.

Paragraph (6) provides that the matter of disclosure shall be taken up by the Senate one hour after the Senate convenes on the first day on which the Senate is in session following the day on which the chairman of the Committee on Intelligence Activities reported the matter to the Senate. The matter must be heard in closed session of the Senate.

In considering the matter in closed session, the Senate has three options. First, it may approve the public disclosure of the information in question, in which case the committee must publicly disclose such information. Second, the Senate may disapprove the public disclosure of the information in question, in which case the committee must not publicly disclose the information. Third, the Senate may decide to refer the matter back to the committee, with instructions that the committee make the final determination with respect to the public disclosure of the information in question. The Senate need not treat all the information which it is considering the same way. For example, it may decide to disclose a portion of the information and decide against the disclosure of other portions.

Paragraph (6) requires that the Senate act in one or more of these three ways within 5 days after the matter is referred to it. The Senate may vote, for example, to disclose a portion of the information and vote not disclose another portion of the same material. The vote on the matter must be in open session. If a dispositive vote has not already been taken in open session prior to the fifth day, the closed session of the Senate shall be automatically dissolved at the end of this period and a vote must then be immediately taken in public session on the matter.

Section 7 also provides a procedure for Senate review of a committee decision not to publicly disclose information. The procedure is essentially the same as outlined above for review of a committee decision to publicly disclose information. The only difference is that where the committee initially votes not to disclose the information the provisions requiring a Presidential certification are no longer applicable.

If the intelligence committee votes not to disclose publicly any information submitted to it by the executive branch which the executive branch has requested be kept secret, that information may not be disclosed unless three or more members file a written request with the chairman that the question of public disclosure be referred to the Senate for decision. As in the case of the review of a committee decision to disclose information, the written request to the chairman must be made within 3 calendar days after the vote of the committee disapproving the public disclosure of the information. Following this written request the Senate must consider the matter according to the same procedures applicable to Senate review of a committee decision to disclose certain information.

Information that May Not Be Disclosed Publicly

Subsection (c) prohibits the public disclosure of certain information by any member, officer, or employee of the Senate. It also regulates access of other Members of the Senate, and other committees, to information which the intelligence committee, or the Senate, has determined should not be disclosed to the public.

Paragraph (c)(1) of section 7 prohibits the public disclosure by any member of the intelligence committee of classified information in the possession of the intelligence committee relating to this country's lawful intelligence activities which the committee or the Senate has determined should not be disclosed publicly. Paragraph (c)(1) also applies to any other Member, officer or employee of the Senate to whom the intelligence committee provides information relating to the lawful intelligence activities of the government. Any Member, officer, or employee of the Senate who is provided such information by the intelligence committee, whether in closed session or individually, is prohibited as well from disclosing the information to the public as long as the committee or the Senate has determined that the information should not be disclosed. The subsection also requires the committee to make the information available to other Senators, or other committees, only in the manner provided in paragraph (c)(2).

The committee will receive a considerable amount of information from the executive branch with a restrictive executive branch classification on it. It is this committee's intention that the new intelligence

committee will adopt rules establishing a regular procedure for the automatic review of the material as soon as it arrives so that an immediate, initial determination will be made whether the material may be disclosed to the public. If the inital determination of the committee is against disclosure, the prohibition of subsection (c) would apply until the committee or the Senate reconsiders the matter pursuant to paragraph 7(b).

Paragraph (c)(2) regulates the access of other committees, or other Senators, not members of the intelligence committee, to information which may not be disclosed publicly. The intelligence committee, or any member of the committee, may make such information available to other State committees or other Members of the Senate. Whenever the intelligence committee, or a member of the committe makes this information available to another committee or another Member of the Senate, the intelligence committee must keep a written record of the communication. The written record must show the specific information that was transmitted, and which committee or members of the Senate received the information. This requirement of a written record applies to oral as well as to written communications. The adoption of other rules further governing access of other committees and Senators to information that may not be made public is left to the discretion of the new committee. The committee might decide it would be appropriate, for example, that when a Senator reviews a written document that may not be disclosed to the public, the Senator would have to read that document in a secure room and without making any copies of it.

No committee that in turn receives information pursuant to this procedure may disclose such information to any other person. A Member who receives information under this subsection may make the information available in a closed session of the Senate. He may also make the information available to another Member of the Senate provided that the Senator communicating the information promptly informs the Committee on Intelligence Activities. The intelligence committee will then record the substance of the information conveyed, the name of the Senator or committee who transmitted the information, and the name of the Senator that received the information. In this way, the intelligence committee will have a record of each Senator and each committee who has received the information.

Subsection (c) does not affect the right of any Senator under Rule XXXV to request a closed session of the Senate at which to discuss any matter he wishes. The requirement that a record be kept of the names of any Member of the Senate, or any committee, that receives information from the intelligence committee would not apply during a closed session.

Subsection (d) permits the Select Committee on Standards and Conduct to investigate any alleged disclosure of intelligence information by a Member, officer, or employee of the Senate in violation of subsection (c). The second sentence of subsection (d) places special responsibilities on the Select Committee on Standards and Conduct to make an investigation and report its findings whenever five members of the intelligence committee, or 16 members of the Senate, file a written request with the committee that it investigate any alleged un-

authorized disclosure of intelligence information by a member or employee of the intelligence committee or by a member, officer or employee of the Senate who obtained the information from the intelligence committee. The request should refer, where known, to the Senator, officer, or employee by name. Subsection (e) provides that the select committee shall recommend appropriate action be taken against the individual in the case of any significant breach of confidentiality or significant unauthorized disclosure.

The substantial number of Senators required to file such a charge should assure that the charge will not be lightly made. Only a violation of the provisions of this section which results in substantial damage to the Nation's security should warrant the filing of the request with the Select Committee on Standards and Conduct.

It is anticipated that in the event of such a serious disclosure of intelligence information in violation of subsection (c), the intelligence committee will conduct its own investigation, or that the Select Committee on Standards and Conduct will make an investigation on its own initiative. But in the event that neither committee takes action, subsection (d) provides that either a minority of the intelligence committee or a minority of the Senate—but a fairly substantial minority in either case—can mandate an investigation by the Select Committee on Standards and Conduct.

In the event the required number of Senators do file a request for an investigation, the Select Committee on Standards and Conduct must conduct an appropriate investigation and report its findings and recommendations to the Senate. Such findings and recommendations may be submitted in confidence to the Senate whenever the committee deems it appropriate.

Subsection (e) provides that if the subject of the investigation so requests, the Select Committee on Standards and Conduct, shall release to him at the conclusion of its investigation, a summary of its investigation together with its findings. The person who is the subject of the investigation may then determine whether he wishes to make this summary public.

The Select Committee on Standards and Conduct may recommend appropriate sanctions only if it determines that there has been a significant breach of confidentiality or a significant unauthorized disclosure of information relating to the lawful intelligence activities of the government by a Member, officer, or employee of the Senate. A significant breach of confidentiality or a significant unauthorized disclosure of information is one which substantially harms the effective conduct of foreign policy, reveals important confidential defense information, places in jeopardy the life of a named intelligence agent, or otherwise causes substantial injury to the public interest.

Possible sanctions include, in the case of a Senator, censure, removal from the committee membership, or expulsion from the Senate. In the case of an officer or employee of the Senate, it may include loss of employment. These sanctions are meant to be illustrative only. The Select Committee on Standards and Conduct will be free to consider a wide range of sanctions according to the seriousness of the unauthorized disclosure. In deciding what sanction may be appropriate, the Select Committee on Standards and Conduct should take into

consideration the nature of the information disclosed, the intent of the person in acting as he did, whether or not the violation was deliberate, and the impact of the disclosure on the public interest, including the conduct of foreign relations or national defense. If the committee concludes that there was a public interest in disclosure which outweighed any damage to the national defense or foreign policy, the Select Committee on Standards and Conduct will in all likelihood, recommend no sanction.

The rules and procedures established by section 7 apply only to the control of information by the intelligence committee since the only matter that was before this committee was the creation of a new intelligence committee. It is the feeling of this committee, however, that it would be desirable to apply the same provisions to all other Senate committees. It is hoped that other, appropriate committees of the Senate will consider making these provisions applicable to the entire Senate.

SECTION 8—PRESIDENTIAL REPRESENTATIVE AT COMMITTEE MEETING

Section 8 authorizes the Committee on Intelligence Activities to permit, under rules established by the committee, a personal representative of the President to attend closed meetings of the committee. The provision does not require the new committee to invite a representative of the executive branch to attend closed meetings or establish a presumption that the committee will do so. It merely makes explicit the power that any committee has to invite a Presidential representative to attend commitee deliberations if the committee finds such representation helpful in conducting its duties. Because of the special nature of the new committee's work, however, it may find this procedure especially useful.

SECTION 9—DISPOSITION OF THE MATERIAL OF THE SELECT COMMITTEE ON INTELLIGENCE

Section 9 provides for the transfer of documents, records, files, and other materials from the Select Committee on Governmental Operations with Respect to Intelligence Activities to the new Committee on Intelligence Activities.

This committee has been informed that, since its inception, the select committee has reached certain understandings with the CIA and other intelligence agencies concerning the ultimate disposition of written material provided to the select committee. Under these agreements, some material provided to the select committee was to be returned to the appropriate agencies. Other materials were not to have been returned. This section respects those agreements. Thus, the new intelligence committee will receive all the material in the possession of the select committee except in those cases where there is explicit agreement that the material should be returned to the executive branch. It is expected that before the Select Committee on Intelligence concludes its work it will reduce its understanding with the executive branch on these matters to writing. This will assist the new committee in understanding the nature of any material that is transferred to it pursuant

to this section. It would also be helpful if the new intelligence committee receives an index from the select committee of the material the latter returns to the intelligence agencies.

Section 10—Committee Access to Information

Section 10 concerns the access the committee will have to information in the possession of the Executive Branch.

COMMITTEE FULLY AND CURRENTLY INFORMED

Subsection (a) provides that it is the sense of the Senate that the head of each department and agency of the United States should keep the intelligence committee fully and currently informed with respect to intelligence activities which are the responsibility of, or engaged in by, such agency. The provision specifies that the information with respect to intelligence activities that should be provided to the committee include information concerning any significant anticipated activities of each department or agency. Effective access to information is the most important ingredient of effective oversight. Under this provision the departments and agencies of the government are under an affirmative obligation to provide the committee all the information it needs to do an effective job of oversight.

The reference in the section to agencies keeping the committee "fully and currently informed" is similar to the requirement contained in section 202 of the Atomic Energy Act. For over 30 years this requirement has assured the Joint Committee on Atomic Energy complete and timely notice of actions and policies of the Federal Government in the field of atomic energy. The language in subsection 10(a) of the resolution means that the Committee on Intelligence Activities should similarly receive full and complete information on matters within its jurisdiction. The obligation imposed is not legally binding on the agencies since it is in the form of a Senate resolution. Nevertheless, it is fully expected that the departments and agencies of government will recognize the Senate's intent concerning this matter and act accordingly.

The obligation is not limited simply to providing full and complete information when requested by the committee. It also includes regular briefings at the agency's initiative so that the committee is completely apprised of all aspects of intelligence functions. Although the head of each department or agency will remain responsible for keeping the committee fully and currently informed, briefings may be undertaken by persons delegated such authority by the head of the agency or department. Insuring that the committee is fully and currently informed will not require an agency to provide the committee with myriad details of day-to-day intelligence operations. The committee should not and need not engage in the management of intelligence operations. The committee should, however, have all the information it needs to make informed judgments on policy questions.

The language in subsection 10(a) specifically provides that the expectation that the committee will be "fully and currently informed" includes information concerning "any significant anticipated activities." This language covers proposed covert and clandestine operations, as well as any other significant proposed activities. An anticipated

activity should be considered significant if it has policy implications. This would include, for example, activities which are particularly costly financially, as well as those which are not necessarily costly, but which have any potential for affecting this country's diplomatic, political, or military relations with other countries or groups. For example, government paramilitary operations and covert political actions designed to influence political situations in foreign countries, including providing aid to political parties, would be covered. It excludes day-to-day implementation of previously adapted policies or programs.

The new committee could not be kept fully and currently informed unless it receives notification of significant activities before they occurred. It is the committee's understanding that the requirement that the Joint Committee on Atomic Energy be kept fully and currently informed has also resulted in many cases in the committee receiving briefings on significant actions before they are implemented. The same broad interpretation should be given the phrase "fully and currently" in this provision as well.

The committee will not be able formally to "veto" by a veto of its members any proposed significant activity it learns about in advance. As a number of present and former government officials pointed out, however, including Secretary Kissinger, Mr. Rusk, Mr. Phillips, Mr. Colby, Mr. McCone, Mr. Clifford, and Mr. Helms, it would be in the interest of sound national policy for the President to be apprised in advance if the committee is strongly opposed to any particular proposed activity. In making his final decision, the President should have the benefit of knowing the views of the committee on such important matters.

Committee requests for information

Subsection (b) of section 10 expresses the sense of the Senate that the head of any department or agency of the United States involved in any intelligence activities should furnish upon request any document or information which the department or agency has in its possession, custody, or control. An agency or department should also make available any person in its employ the committee desires to have testify as a witness. Independent of this provision, the committee will, of course, have the usual subpena power possessed by any standing committee of the Senate.

Reports of unlawful activities

Subsection (c) expresses the sense of the Senate that each department and agency report any intelligence activity that violates the constitutional rights of any person, or violates any law, Executive order, Presidential directive, or departmental or agency rule or regulation. Such reports should be made to the intelligence committee immediately upon discovery of the wrongdoing. Each department or agency should further report to the committee what action is taken or expected to be taken by the department or agency with respect to such violations.

SECTION 11—AUTHORIZATIONS

Section 11 requires periodic authorizations for appropriations for those inteligence activities over which the intelligence committee has authorization jurisdiction. It will be out of order for the Senate to

consider any bill, resolution, amendment, or conference report which appropriates funds for any activity listed in this section unless the Congress has already authorized funds for the activity for that fiscal year. Section 11 applies to authorizations for the Central Intelligence Agency, the intelligence activities of the FBI, and the intelligence activities of the Departments of State and Defense, including the Defense Intelligence Agency and the National Security Agency. The section will apply to all appropriations beginning with September 30, 1976.

This requirement will constitute a very important aspect of the committee's oversight over the agencies. It should assure a regular review of each agency's intelligence activities, its efficiency, and its priorities

Section 12—Committee Studies

In the course of its consideration of this legislation, this committee identified a number of other issues which, though important, should more appropriately be deferred until after the actual creation of a new intelligence committee. This committee believes, however, that these issues are of such importance that the Committee on Intelligence Activities should be required to give them specific study and to report back to the Senate by July 1, 1977. By that time the new committee will have had an opportunity to explore some of these issues, seek practical answers to other questions on the basis of comity with the executive branch, and to become familiar generally with its responsibilities. The recommendations the intelligence committee reaches at the conclusion of this period should be especially helpful to the Senate.

In addressing these specific issues, the Committee on Intelligence Activities should give careful consideration wherever relevant to how its recommendations will help improve each aspect of the country's intelligence activities. The separate aspects of intelligence, which should be considered, wherever relevant, in connection with the review of each of these issues, are the planning, gathering, use, security, and dissemination of intelligence. An effective intelligence operation requires careful planning to determine what information should be gathered. How the intelligence collected is used, to whom it is disseminated, and how it is kept secure are interrelated and essential aspects of any intelligence function.

The specific issues to be addressed are the following:

(1) The quality of the analysis of foreign intelligence information and the use of analysis in policymaking. In addressing this question, the committee may wish to compare the analytical capability and techniques of the personnel of U.S. intelligence agencies, as well as the recruitment policies and methods of the intelligence agencies in other countries.

(2) The extent and nature of the authority of each agency and department to engage in intelligence activities and the desirability of developing legislative charters to govern the intelligence activities of intelligence agencies. Some agencies, such as the FBI, do not now have charters that precisely and authoritatively define the scope of each agency's legitimate intelligence activities. Others are governed only by exceedingly broad statutes, and Executive orders or Presidential directives implementing the statutes.

(3) The effectiveness of the organization of the executive branch in maximizing the conduct, oversight, and accountability of intelligence activities, in maintaining a high level of morale among intelligence personnel, and in minimizing duplication and overlap.

(4) The legality and appropriateness of the conduct of covert and clandestine activities by intelligence agencies and the adequacy and nature of procedures by which Congress is informed of such activities. This should include a review of the effectiveness and desirability of the Foreign Assistance Act of 1974, under which the President must inform the appropriate committees in a timely fashion of any covert activities by the Central Intelligence Agency.

(5) The desirability of making changes in laws, Senate rules and procedures, or Executive orders, rules and regulations to improve the protection of intelligence secrets and to facilitate the disclosure of information where, on balance, the public interest would be served by disclosure.

(6) The desirability of establishing a joint intelligence committee, and, in the event a joint committee is not established, the desirability of establishing procedures whereby the separate committees on intelligence in the two Houses would, at their discretion, receive joint briefings and coordinate their policies with respect to the safeguarding of information. Coordination between House and Senate intelligence committees would help assure that the creation of separate intelligence committees will not place unreasonable demands on the time of intelligence officials.

It will also assure that the policies of the two committees on the disclosure of information will be consistent with each other and with the interests of national security.

(7) The procedures under which funds for intelligence activities are authorized, and whether disclosure of the amounts of funding is in the public interest. This should include an examination of whether or not the budget figures for the intelligence agencies should be made public in some form. It should also determine what procedures should be established to coordinate the authorization functions of the new committee with the budgetary responsibilities of the Armed Services Committee, the Appropriations Committees, and the other committees, as well as the House of Representatives.

(8) In view of the vagueness and ambiguity of such terms as "covert operations," the Committee on Intelligence Activities should examine ways to develop, for use in policies and guidelines, a common set of terms that both the executive branch and the Congress will find helpful in governing, clarifying, and strengthening the operation of intelligence activities.

It is not the intent of the committee that the study divert the Committee on Intelligence Activities from its other important legislative and oversight functions. If necessary the committee should retain additional staff for a period in order to expedite completion of the study. It is anticipated, however, that the Committee on Intelligence Activities should be in a position to report its initial findings on each of these

issues by July 1, 1977, together with any legislative recommendations it finds desirable. Since the President has already submitted recommendations on some of these matters, and the final report of the Select Committee on Intelligence should help the committee's study of these matters, it is hoped that the Committee on Intelligence Activities may be able to report its recommendations and legislation on some aspects sooner than July 1, 1977.

Section 13—Definitions

Section 13 defines terms used throughout the resolution.

Subsection (a) defines the four aspects of the term "intelligence activities." Clause (a)(1) concerns foreign or national intelligence. This includes the collection, analysis, production, dissemination, or use of information which relates to any foreign country, or any government, political group, party, military force, movement, or other association in a foreign country. In order to fall within this provision, the intelligence activity must also relate to the defense, foreign policy, national security, or related policies of the United States. In other words, there must be a relationship between the intelligence and this country's defense, foreign policy, national security, or related policies. If, for example, the Department of Health, Education, and Welfare were to analyze reports of drug treatment programs in Euope, so as to compare them to this country's policy on drugs, such an activity would not be considered a foreign intelligence activity. While such a program may be important to this government's drug treatment program, it does not relate to the defense, foreign policy, national security, or similar policies of the United States. Activities may also be included within the purview of clause (a)(1) if they are in support of the activities mentioned above. For example, activities undertaken in order to collect national intelligence information would be covered as well.

Clause (a)(2) covers counterintelligence. Under this provision, activities taken to counter a foreign nation's intelligence operations directed against the United States are deemed to be "intelligence activities." The counterintelligence activities of the Federal Bureau of Investigation's Intelligence Division are included within this definition.

Clause (a)(3) provides that covert or clandestine activities which could affect the relations of the United States with any foreign government, political group, party, military force, movement or other association are also "intelligence activities." The phrase "covert and clandestine activities" includes but is not limited to, covert political actions designed to exercise influence on political situations in foreign countries, including support for political parties or economic action programs; covert propaganda or the covert use of foreign media to disseminate information helpful to the United States; intelligence deception operations involving the calculated feeding of information to a foreign government for the purpose of influencing it to act in a certain way; and covert paramilitary actions, including the provision of covert military assistance and advice to foreign military forces or organizations, and counterinsurgency programs. All these activities are intended to affect the relations of this country with a foreign government, political group, party, military force, movement or other association and thus come within the meaning of the term. It is not, of

course, necessary to come within this definition that the covert operation actually succeed, or that this country's relations with a foreign country are actually affected as a result of such operation.

Clause (a)(4) covers the Federal Government's domestic intelligence activities. It includes the collection, analysis, production, dissemination, or use of information about activities of persons within the United States whose political and related activities pose, or may be considered by any government instrumentality to pose, a threat to the internal security of the United States. This definition is not intended to cover the investigatory work that all law enforcement agencies engage in as part of their normal responsibilities to enforce the criminal or civil laws. For example, if the Drug Enforcement Agency kept dossiers on suspected smugglers, and engaged in surveillance of suspected drug pushers, for the purpose of enforcing the drug laws, those activities would not come within clause 5 of subsection 13(a).

The only intelligence activities covered are those that center on the political and related activities of Americans, including activities designed to deprive people of their civil rights on racial or religious grounds, because of the threat such activities pose, or are believed to pose, to the fundamental interests of the United States.

The Federal Bureau of Investigation recognizes the distinction between its normal criminal investigatory and its domestic intelligence activities. The latter are the responsibility of the Internal Security Branch of the Bureau's Intelligence Division pursuant to specific guidelines that the Bureau has developed on the basis of its experience. It is this special type of intelligence activities now conducted by the Internal Security Branch that this definition is intended to cover. If in the future other organizational units within the FBI, or other agencies or departments, engage in this activity, their activities would also be covered by this definition.

The entire definition of intelligence activities is subject to the general statement that it does not include tactical foreign military intelligence serving no national policymaking function. This is intended to exclude the established budgetary and programatic categories in the Department of Defense for tactical, rather than national intelligence. The new committee will not have jurisdiction over tactical intelligence.

Subsection (b) of section 13 defines the term "department or agency". The term includes any organization, committee, council, establishment, or office within the Federal Government. Any ad hoc interagency committee or government corporation is included within this definition.

Subsection (c) states that any reference in the resolution to any particular department or agency of the government, or to departments and agencies generally, is also intended to include any other department or agency that assumes the intelligence activities now conducted by the department, agency, bureau, or subdivision referred to in the resolution. If, for example, the CIA were to be reorganized and renamed, this wording assures that the intelligence committee would have jurisdiction over the new agency. The scope of the committee's jurisdiction over a new agency would be the same as its jurisdiction over the predecessor agency.

Section 14—Effect on Other Laws

Section 14 states that nothing in the resolution is intended to imply approval by the Senate in any activity or practice not otherwise authorized by law. This section is intended to make it clear that by assigning the new committee jurisdiction over a particular activity, such as covert or clandestine activities, or the domestic intelligence activities of the Federal Bureau of Investigation, the Senate does not thereby intend to express any view as to the legality of such activity. Such reference is also not meant to imply acquiescence in the legality of any practices an agency now follows, as for example, the manner in which the CIA briefs Congress on covert operations.

VI. Changes in the Standing Rules of the Senate

Changes made by Senate Resolution 400, as reported by the Committee on Government Operations, are shown as follows (existing portions of the rules proposed to be omittted are enclosed in black brackets, new proposals are printed in italic, and existing portions in which no change is proposed are shown in roman):

STANDING RULES OF THE SENATE

RULE XXIV

APPOINTMENT OF COMMITTEES

1. * * *

* * * * * * *

3. (a) Six members of the Committee on Intelligence Activities shall be from the majority party of the Senate and five members shall be from the minority party of the Senate.

(b) No Senator may serve on the Committee on Intelligence Activities for more than six years of continuous service, exclusive of service by any Senator on such committee during the Ninety-fourth Congress. To the greatest extent practicable, at least three but not more than four Members of the Senate appointed to the Committee on Intelligence Activities at the beginning of the Ninety-sixth Congress and each Congress thereafter shall be Members of the Senate who did not serve on such committee during the preceding Congress.

(c) At the beginning of each Congress, the members of the Committee on Intelligence Activities, who are members of the majority party of the Senate, shall select a chairman and the members of such committee who are from the minority party of the Senate shall elect a vice chairman. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman. Neither the chairman nor the vice chairman of the Committee on Intelligence Activities shall at the same time serve as chairman or ranking minority member of any other committee referred to in paragraph 1(f) of rule XXV of the Standing Rules of the Senate.

RULE XXV

STANDING COMMITTEES

1. The following standing committees shall be appointed at the commencement of each Congress, with leave to report by bill or otherwise:

(a) * * *

* * * * * * *

(d) Committee on Armed Services, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters (*except matters specified in subparagraph (s)*) relating to the following subjects:

* * * * * * *

(i) Committee on Foreign Relations, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters (*except matters specified in subparagraph (s)*) relating to the following subjects:

* * * * * * *

(j)(1) Committee on Government Operations, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters (*except matters specified in subparagraph (s)*) relating to the following subjects:

* * * * * * *

(l) Committee on the Judiciary, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters (*except matters specified in subparagraph (s)*) relating to the following subjects:

* * * * * * *

(s) Committee on Intelligence Activities, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following:

(A) The Central Intelligence Agency and the Director of Central Intelligence.

(B) Intelligence activities of all other departments and agencies of the Government, including, but not limited to, the intelligence activities of the Defense Intelligence Agency, the National Security Agency, and other agencies of the Department of Defense; the Department of State; the Department of Justice; and the Department of the Treasury.

(C) The organization or reorganization of any department or agency of the Government to the extent that the organization or reorganization relates to a function or activity involving intelligence activities.

(D) Authorizations for appropriations for the following:

(i) The Central Intelligence Agency.

(ii) The Defense Intelligence Agency.

(iii) The National Security Agency.

(iv) The intelligence activities of other agencies and subdivisions of the Department of Defense.

(v) The intelligence activities of the Department of State.

(vi) The intelligence activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

(vii) Any department, agency, or subdivision which is the successor to any agency named in item (i), (ii), or (iii); and the activities of any department, agency, or subdivision which is the successor of any department or bureau named in item (iv), (v), or (vi) to the extent that the activities of such successor department, agency, or subdivision are activities described in item (iv), (v), or (vi).

* * * * * * *

3. Except as otherwise provided by paragraph 6 of this rule, each of the following standing committees shall consist of the number of Senators set forth in the following table on the line on which the name of that committee appears:

Committee	*Members*
District of Columbia	7
Intelligence Activities	11
Post Office and Civil Service	9
Rules and Administration	8
Veterans' Affairs	9

VII. Rollcall Votes in Committee

In compliance with section 133 of the Legislative Reorganization Act of 1946, as amended, the rollcall votes taken during committee consideration of this legislation are as follows:

Section 7, as amended:

Yeas: (7)
- Chiles
- Nunn
- Glenn
- Ribicoff
- Percy
- Javits
- Roth
  - (Proxy)
    - McClellan
    - Muskie
    - Metcalf
    - Allen

Nays: (1)
- Weicker

Roth amendment to require an investigation by the Select Committee on Standards and Conduct if so requested by 5 members of the intelligence committee or 16 members of the Senate:

Yeas (6)	Nays: (2)
Chiles	Javits
Nunn	Weicker
Glenn	
Ribicoff	
Percy	
Roth	
(Proxy)	
McClellan	
Muskie	
Allen	

Final passage: Ordered Reported: 8 yeas—0 nays.

Yeas (8)	Nays: (0)
Chiles	
Nunn	
Glenn	
Ribicoff	
Percy	
Javits	
Roth	
Weicker	
(Proxy)	
McClellan	
Muskie	
Metcalf	
Allen	

VIII. Text of Senate Resolution 400, as Reported

[S. Res. 400, 94th Cong., 2d sess.]

REPORT NO. 94-675

RESOLUTION

To establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes

Resolved, That is is the purpose of this resolution to establish a new standing committee of the Senate, to be known as the Committee on Intelligence Activities, to oversee and make continuing studies of the intelligence activities and programs of the United States Government, and to submit to the Senate appropriate proposals for legislation concerning such intelligence activities and programs. In carrying out this purpose, the Committee on Intelligence Activities shall make every effort to assure that the appropriate departments and agencies

of the United States provide informed and timely intelligence necessary for the executive and legislative branches to make sound decisions affecting the security and vital interests of the Nation. It is further the purpose of this resolution to provide vigilant legislative oversight over the intelligence activities of the United States to assure that such activities are in conformity with the Constitution and laws of the United States.

SEC. 2. Rule XXIV of the Standing Rules of the Senate is amended by adding at the end thereof a new paragraph as follows:

"3. (a) Six members of the Committee on Intelligence Activities shall be from the majority party of the Senate and five members shall be from the minority party of the Senate.

"(b) No Senator may serve on the Committee on Intelligence Activities for more than six years of continuous services, exclusive of service by any Senator on such committee during the Ninety-fourth Congress. To the greatest extent practicable, at least three but not more than four Members of the Senate appointed to the Committee on Intelligence Activities at the beginning of the Ninety-sixth Congress and each Congress thereafter shall be Members of the Senate who did not serve on such committee during the preceding Congress.

"(c) At the beginning of each Congress, the members of the Committee on Intelligence Activities who are members of the majority party of the Senate shall select a chairman, and the members of such committee who are from the minority party of the Senate shall elect a vice chairman. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman. Neither the chairman nor the vice chairman of the Committee on Intelligence Activities shall at the same time serve as chairman or ranking minority member of any other committee referred to in paragraph 6(f) of rule XXV of the Standing Rules of the Senate.".

SEC. 3. (a) Paragraph 1 of rule XXV of the Standing Rules of the Senate is amended by adding at the end thereof the following new subparagraph:

"(s) Committee on Intelligence Activities, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following:

"(A) The Central Intelligence Agency and the Director of Central Intelligence.

"(B) Intelligence activities of all other departments and agencies of the Government, including, but not limited to, the intelligence activities of the Defence Intelligence Agency, the National Security Agency, and other agencies of the Department of Defense; the Department of State; the Department of Justice; and the Department of the Treasury.

"(C) The organization or reorganization of any department or agency of the Government to the extent that the organization or reorganization relates to a function or activity involving intelligence activities.

"(D) Authorizations for appropriations for the following:

"(i) The Central Intelligence Agency.

"(ii) The Defense Intelligence Agency.

"(iii) The National Security Agency.

"(iv) The intelligence activities of other agencies and subdivisions of the Department of Defense.

"(v) The intelligence activities of the Department of State.

"(vi) The intelligence activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

"(vii) Any department, agency, or subdivision which is the successor to any agency named in item (i), (ii), or (iii); and the activities of any department, agency, or subdivision which is the successor to any department or bureau named in item (iv), (v), or (vi) to the extent that the activities of such successor department, agency, or subdivision are activities described in item (iv), (v), or (vi).".

(b) Paragraph 3 of rule XXV of the Standing Rules of the Senate is amended by inserting:

"Intelligence Activities ..... 11"

immediately below

"District of Columbia ..... 7".

(c)(1) Subparagraph (d) of paragraph 1 of rule XXV of the Standing Rules of the Senate is amended by inserting "(except matters specified in subparagraph (s))" immediately after the word "matters" in the language preceding item 1.

(2) Subparagraph (i) of paragraph 1 of such rule is amended by inserting "(except matters specified in subparagraph (s))" immediately after the word "matters" in the language preceding item 1.

(3) Subparagraph (j)(1) of paragraph 1 of such rule is amended by inserting "(except matters specified in subparagraph (s))" immediately after the word "matters" in the language preceding item (A).

(4) Subparagraph (l) of paragraph 1 of such rule is amended by inserting "(except matters specified in subparagraphs (s))" immediately after the word "matters" in the language preceding item 1.

SEC. 4. (a) The Committee on Intelligence Activities of the Senate, for the purposes of accountability to the Senate, shall make regular and periodic reports to the Senate on the nature and extent of the intelligence activities of the various departments and agencies of the United States. Such committee shall promptly call to the attention of the Senate or to any other appropriate committee or committees of the Senate any matters deemed by the Committee on Intelligence Activities to require the immediate attention of the Senate or such other committee or committees. In making such reports, the committee shall proceed in a manner consistent with paragraph 7(c)(2) to protect national security.

(b) The Committee on Intelligence Activities of the Senate shall obtain an annual report from the Director of the Central Intelligence Agency, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation. Such report shall review the intelligence activities of the agency or department concerned and the intelligence activities of foreign countries directed at the United States or its interests. Such report shall be unclassified and shall be made available to the public by the Committee on Intelligence

Activities. Nothing herein shall be construed as requiring the disclosure in such reports of the names of individuals engaged in intelligence activities for the United States or the sources of information on which such reports are based.

SEC. 5. (a) No person may be employed as a professional staff member of the Committee on Intelligence Activities of the Senate or be engaged by contract or otherwise to perform professional services for or at the request of such committee for a period totaling more than six years.

(b) No employee of such committee or any person engaged by contract or otherwise to perform services for or at the request of such committee shall be given access to any classified information by such committee unless such employee or person has (1) agreed in writing to be bound by the rules of the Senate and of such committee as to the security of such information during and after the period of his employment or contractual agreement with such committee; and (2) received an appropriate security clearance as determined by such committee in consultation with the Director of Central Intelligence. The type of security clearance to be required in the case of any such employee or person shall, within the determination of such committee in consultation with the Director of Central Intelligence, be commensurate with the sensitivity of the classified information to which such employee or person will be given access by such committee.

SEC. 6. The Committee on Intelligence Activities of the Senate shall formulate and carry out such rules and procedures as it deems necessary to prevent the disclosure, without the consent of the person or persons concerned, of information in the possession of such committee which unduly infringes upon the privacy or which violates the constitutional rights of such person or persons. Nothing herein shall be construed to prevent such committee from publicly disclosing any such information in any case in which such committee determines the national interest in the disclosure of such information clearly outweighs any infringement on the privacy of any person or persons.

SEC. 7. (a) The Committee on Intelligence Activities of the Senate may, subject to the provisions of this section, disclose publicly any information in the possession of such committee after a determination by such committee that the public interest would be served by such disclosure. Whenever committee action is required to disclose any information under this section, the committee shall meet to vote on the matter within five days after any member of the committee requests such a vote.

(b) (1) In any case in which the Committee on Intelligence Activities of the Senate votes to disclose publicly any information submitted to it by the executive branch which the executive branch requests be kept secret, such committee shall notify the President of such vote.

(2) The committee may disclose publicly such information after the expiraiton of a five-day period following the day on which notice of such vote is transmitted to the President, unless, prior to the expiration of such five-day period, the President notifies the committee that he objects to the disclosure of such information, provides his reasons therefor, and certifies that the threat to the national interest of the United States posed by such disclosure is vital and outweighs any public interest in the disclosure.

(3) The Committee on Intelligence Activities may disclose publicly such information at any time after the expiration of three days following the day on which it receives an objection from the President pursuant to paragraph (2), unless, prior to the expiration of such three days, three or more members of such committee file a request in writing with the chairman of the committee that the question of public disclosure of such information be referred to the Senate for decision.

(4) In any case in which hte Committee on Intelligence Activities votes not to disclose publicly any information submitted to it by the executive branch which the executive branch requests be kept secret, such information shall not be publicly disclosed unless three or more members of such committee file, within three days after the vote of such committee disapproving the public disclosure of such information, a request in writing with the chairman of such committee that the question of public disclosure of such information be referred to the Senate for decision, and public disclosure of such information is thereafter authorized as provided in paragraph (5) or (6).

(5) Whenever three or more members of the Committee on Intelligence Activities file a request with the chairman of such committee pursuant to paragraph (3) or (4), the chairman shall, not later than the first day on which the Senate is in session following the day on which the request is filed, report the matter to the Senate for its consideration.

(6) One hour after the Senate convenes on the first day on which the Senate is in session following the day on which any such matter is reported to the Senate, the Senate shall go into closed session and the matter shall be the pending business. In considering the matter in closed session the Senate may—

(A) approve the public disclosure of the information in question, in which case the committee shall publicly disclose such information.

(B) disapprove the public disclosure of the information in question, in which case the committee shall not publicly disclose such information, or

(C) refer the matter back to the committee, in which case the committee shall make the final determination with respect to the public disclosure of the information in question.

Upon conclusion of the consideration of such matter in closed session, which may not extend beyond the close of the fifth day following the day on which such matter was reported to the Senate, the Senate shall immediately vote on the disposition of such matter in open session, without debate, and without divulging the information with respect to which the vote is being taken. The Senate shall vote to dispose of such matter by the means specified in clauses (A), (B), and (C) of the second sentence of this paragraph.

(c) (1) No classified information in the possession of the Committee on Intelligence Activities relating to the lawful intelligence activities of any department or agency of the United States which the committee or the Senate, pursuant to subsection (a) or (b) of this section, has determined should not be disclosed shall be made available to any person by a Member, officer, or employee of the Senate except in a closed session of the Senate or as provided in paragraph (2).

(2) The Committee on Intelligence Activities, or any member of such committee, may, under such regulations as the committee shall prescribe to protect the confidentiality of such information, make any information described in paragraph (1) available to any other committee or any other Member of the Senate. Whenever the Committee on Intelligence Activities, or any member of such committee, makes such information available, the committee shall keep a written record showing, in the case of any particular information, which committee or which Members of the Senate received such information. No Member of the Senate who, and no committee, which, receives any information under this subsection, shall make the information available to any other person, except that a Senator may make such information available either in a closed session of the Senate, or to another Member of the Senate; however, a Senator who communicates such information to another Senator not a member of the committee shall promptly inform the Committee on Intelligence Activities.

(d) The Select Committee on Standards and Conduct may investigate any alleged disclosure of intelligence information by a Member, officer, or employee of the Senate in violation of subsection (c). At the request of five of the members of the Committee on Intelligence Activities or sixteen Members of the Senate, the Select Committee on Standards and Conduct shall investigate any such alleged disclosure of intelligence information and report its findings and recommendations to the Senate.

(e) Upon the request of any person who is subject to any such investigation, the Select Committee on Standards and Conduct shall release to such individual at the conclusion of its investigation a summary of its investigation together with its findings. If, at the conclusion of its investigation, the Select Committee on Standards and Conduct determines that there has been a significant breach of confidentiality or unauthorized disclosure by a Member, officer, or employee of the Senate, it shall report its findings to the Senate and recommend appropriate action such as censure, removal from committee membership, or explusion from the Senate, in the case of Member, or removal from office or employment, in the case of an officer or employee.

SEC. 8. The Committee on Intelligence Activities of the Senate is authorized to permit any personal representative of the President, designated by the President to serve as a liaison to such committee, to attend any closed meeting of such committee.

SEC. 9. Upon expiration of the Select Committee on Governmental Operations With Respect to Intelligence Activities, established by S. Res. 21, Ninety-fourth Congress, all records, files, documents and other materials in the possession, custody, or control of such committee, under appropriate conditions established by it, shall be transferred to the Committee on Intelligence Activities.

SEC. 10. (a) It is the sense of the Senate that the head of each department and agency of the United States should keep the Committee on Intelligence Activities of the Senate fully and currently informed with respect to intelligence activities, including any significant anticipated activities, which are the responsibility of or engaged in by such department or agency.

(b) It is the sense of the Senate that the head of any department or agency of the United States involved in any intelligence activities

should furnish any information or document in the possession, custody, or control of the department or agency, or witness in its employ, whenever requested by the Committee on Intelligence Activities of the Senate with respect to any matter within such committee's jurisdiction.

(c) It is the sense of the Senate that each department and agency of the United States should report immediately upon discovery to the Committee on Intelligence Activities of the Senate any and all intelligence activities which constitute violations of the constitutional rights of any person, violations of law, or violations of Executive orders, Presidential directives, or departmental or agency rules or regulations; each department and agency should further report to such committee what actions have been taken or are expected to be taken by the departments or agencies with respect to such violations.

SEC. 11. It shall not be in order in the Senate to consider any bill or resolution, or amendment thereto, or conference report thereon, which appropriates funds for any fiscal year beginning after September 30, 1976, to, or for the use of, any department or agency of the United States to carry out any of the following activities, unless such funds have been previously authorized by law to carry out such activity for such fiscal year—

(1) The activities of the Central Intelligence Agency.

(2) The activities of the Defense Intelligence Agency.

(3) The activities of the National Security Agency.

(4) The intelligence activities of other agencies and subdivisions of the Department of Defense.

(5) The intelligence activities of the Department of State.

(6) The intelligence activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

SEC. 12. (a) The Committee on Intelligence Activities shall make a study with respect to the following matters, taking into consideration with respect to each such matter, all relevant aspects of the effectiveness of planning, gathering, use, security, and dissemination of intelligence—

(1) the quality of the analytical capabilities of United States foreign intelligence agencies and means for integrating more closely analytical intelligence and policy formulation;

(2) the extent and nature of the authority of the departments and agencies of the executive branch to engage in intelligence activities and the desirability of developing charters for each intelligence agency or department;

(3) the organization of intelligence activities in the executive branch to maximize the effectiveness of the conduct, oversight, and accountability of intelligence activities; to reduce duplication or overlap; and to improve the morale of the personnel of the foreign intelligence agencies;

(4) the conduct of covert and clandestine activities and the procedures by which Congress is informed of such activities;

(5) the desirability of changing any law, Senate rule or procedure, or any Executive order, rule, or regulation to improve the protection of intelligence secrets and provide for disclosure of information for which there is no compelling reason for secrecy;

(6) the desirability of establishing a joint committee of the Senate and the House of Representatives on intelligence activities

in lieu of having separate committees in each House of Congress, or of establishing procedures under which separate committees on intelligence activities of the two Houses of Congress would receive joint briefings from the intelligence agencies and coordinate their policies with respect to the safeguard of sensitive intelligence information;

(7) the authorization of funds for the intelligence activities of the government and whether disclosure of any of the amounts of such funds is in the public interest; and

(8) the development of a uniform set of definitions for terms to be used in policies or guidelines which may be adopted by the executive or legislative branches to govern, clarify, and strengthen the operation of intelligence activities.

(b) The Committee on Intelligence Activities of the Senate shall report the results of the study provided for under subsection (a) to the Senate, together with any recommendations for legislative or other actions it deems appropriate, no later than July 1, 1977, and from time to time thereafter as it deems appropriate.

SEC. 13. (a) As used in this resolution, the term "intelligence activities" includes (1) the collection, analysis, production, dissemination, or use of information which relates to any foreign country, or any government, political group, party, military force, movement, or other association in such foreign country, and which relates to the defense, foreign policy, national security, or related policies of the United States, and other activity which is in support of such activities; (2) activities taken to counter similar activities directed against the United States; (3) covert or clandestine activities affecting the relations of the United States with any foreign government, political group, party, military force, movement or other association; (4) the collection, analysis, production, dissemination, or use of information about activities of persons within the United States, its territories and possessions, or nationals of the United States abroad whose political and related activities pose, or may be considered by any department, agency, bureau, office, division, instrumentality, or employee of the United States to pose, a threat to the internal security of the United States, and covert or clandestine activities directed against such persons. Such term does not include tactical foreign military intelligence serving no national policymaking function.

(b) As used in this resolution, the term "department or agency" includes any organization, committee, council, establishment, or office within the Federal Government.

(c) For purposes of this resolution, reference to any department, agency, bureau, or subdivision shall include a reference to any successor department, agency, bureau, or subdivision to the extent that such successor engages in intelligence activities now conducted by the department, agency, bureau, or subdivision referred to in this resolution.

SEC. 14. Nothing in this resolution shall be construed as constituting acquiescence by the Senate in any practice, or in the conduct of any activity, not otherwise authorized by law.

○