



# Department of Justice

STATEMENT

OF

REX E. LEE  
ASSISTANT ATTORNEY GENERAL  
CIVIL DIVISION

Before  
the

HOUSE SELECT COMMITTEE ON INTELLIGENCE

FRIDAY, SEPTEMBER 12, 1975



Casey Rife's Office: Loan + Leppard Files, b. 14, f. 1 "Intel: House Select Com, Handling + Release of Documents,"  
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My name is Rex E. Lee. I am an Assistant Attorney General, and I appear this morning on behalf of the Executive Branch.

We understand that this Committee yesterday, acting in executive session and over the protests of representatives of the Department of State, the Department of Defense, and the Central Intelligence Agency voted to declassify and release to the public and did in fact subsequently make available to the public materials properly classified under law. These materials had been provided to the Committee as classified documents pursuant to its requests. The materials released by the Select Committee concerned, among other things, certain foreign communication intelligence activities of the United States Government.

The Committee Chairman also advised the representatives of State, Defense, and the CIA that it was his position that the Select Committee possessed the inherent right to declassify any materials classified by the Executive Branch and that the Select Committee would continue to exercise that asserted inherent right in its sole discretion.

We object strongly to the unilateral and unprecedented action of the Committee in declassifying sensitive information furnished to the Committee by the Executive Branch. The successful and efficient conduct of the work of several congressional committees depends upon the receipt by those committees of classified information, which has consistently been delivered to those committees on the understanding that the integrity of the classification would be maintained. The action of the Committee

Max L. Friedersdorf Files, Subject Series, b.10, F. "CIA Investigation (5)"

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yesterday stands as a sharp departure from the traditional manner of handling classified information to accommodate the respective constitutional responsibilities of the Executive and Legislative branches. In addition, the release of classified information such as the Committee has done, and has stated it will continue to do, causes a serious and irreparable harm to the national security and foreign relations of the United States. Finally, the Committee's action is contrary to the express policies of Congress concerning the handling of classified information. I refer to the Case Act (1 U.S.C. Sect. 112b) and the Freedom of Information Act (5 U.S.C. Sect. 552). The Committee's action is also inconsistent with the purposes and policies of several statutes enacted by the Congress to prevent and penalize disclosure of properly classified information except as authorized by the Executive Branch.

The constitutional question raised by the Committee's action is a most serious one. The Executive Branch has endeavored, in a spirit of comity and cooperation, to work with the Select Committee on Intelligence, but it cannot accept this unprecedented action, which in our view is an unconstitutional act.

The Congress is vested with the powers to legislate and to oversee the administration of the laws passed by it, but action of this Committee is not a legislative act nor is it oversight. It is a vote by



a single Committee to review and overturn an Executive act and, therefore, beyond any power vested in it.

In view of the position expressed by the Committee to our representatives yesterday, the President's responsibilities for the national security and foreign relations of the United States leave him no alternative but to request the immediate return of all classified information previously provided to this Committee and, in addition, to direct all departments and agencies of the Executive Branch respectfully to decline to provide the Select Committee with classified materials, including testimony and interviews which disclose such materials, until the Committee satisfactorily alters its position.

We regret the Committee's action and the consequent necessity for this response. We would prefer the relationship of constitutional accommodation and cooperation that exists between the Executive Branch and other congressional committees.



Department of Justice, Statement of Asst AG Rex E. LEE -  
House Select Committee on Intelligence

Sept 12, 1975

demands return of all classified documents  
given to the HSC

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