

FRANK CHURCH, IDAHO, CHAIRMAN
 JOHN G. TOWER, TEXAS, VICE CHAIRMAN
 PHILIP A. HART, MICH.
 WALTER F. MONDALE, MINN.
 WALTER D. HUBLETON, KY.
 ROBERT MORGAN, N.C.
 GARY HART, COLO.
 HOWARD H. BAKER, JR., TENN.
 DANNY GOLDWATER, ARIZ.
 CHARLES MCC. MATHIAS, JR., MD.
 RICHARD S. SCHWEIKER, PA.
 WILLIAM G. MILLER, STAFF DIRECTOR
 FREDERICK A. O. SCHWARZ, JR., CHIEF COUNSEL
 CURTIS R. SMOTHERS, MINORITY COUNSEL

~~TOP SECRET/COMINT~~
 (when TAB A is attached)

United States Senate

SELECT COMMITTEE TO
 STUDY GOVERNMENTAL OPERATIONS WITH
 RESPECT TO INTELLIGENCE ACTIVITIES
 (PURSUANT TO S. RES. 21, 94TH CONGRESS)

WASHINGTON, D.C. 20510

September 16, 1975

Mr. Thomas K. Latimer
 Special Assistant to the Secretary
 OSD 3E941, The Pentagon
 Washington, D.C. 20301

Dear Mr. Latimer:

As Committee staff members discussed with you last Tuesday, and with General Allen of the NSA last Thursday and yesterday, the Select Committee may wish to hold public hearings that focus on NSA's monitoring of international lines of communication (ILC) that have one terminal in the United States. Such public hearings will be preceded by an executive session of the full Committee to discuss not only the substantive issues, but also the question of what could properly be made public. The executive session is now tentatively scheduled for Friday morning, September 19.

To prepare for the executive session, we have drafted an Outline of Facts (Tab A) that we tentatively believe can or cannot be made public. I emphasize that this outline is very rough. We are still obtaining testimony and documents, and we have not had the benefit of your detailed views.

Committee staff representatives would hope to meet with NSA officials and any other DoD officials you believe appropriate to seek agreement on what could be made public and, where there might be differences of opinion, to crystallize these differences so that they can be addressed effectively at the executive session of the Committee. It would be helpful if the meeting between the Committee staff and DoD representatives could be by this Thursday morning, September 18.

I also include a proposed format for proceeding in the executive session and the public hearings (Tab B). Your views on this would be appreciated.

Mr. Thomas K. Latimer
September 16, 1975
Page Two

Let me emphasize my strong confidence that we can mutually and amicably agree on these matters.

Sincerely,

Frederick A. O. Schwarz, Jr.
Chief Counsel

cc: General Lew Allen, Jr.

Attachments

Tab A

Tab B

OUTLINEFACTUAL ISSUESMaterial That Can Be Developed
At A Public HearingI. General: Size, Authority, Capability

The National Security Agency (NSA) is by far the largest intelligence organization in the United States. Its budget is well over \$1 billion, and it has between 40-60,000 personnel. These figures include the individual Service Security Agencies which are responsible to NSA -- i.e., the Army Security Agency, the Naval Security Group, and the Air Force Security Service.

NSA is generally marked by a very high degree of professionalism and many of its activities are extremely sensitive.

NSA's mission is defined in no statute and only very ambiguously in an NSC Intelligence Directive 6 (NSCID 6) and supporting documents. The Director of NSA is program manager for the signals intelligence (SIGINT) and communications security efforts of the U.S. Government. NSA's primary mission is to collect and analyze SIGINT, which includes communications intelligence (COMINT) plus a variety of other signals, such as radar emissions. Much of the COMINT is encrypted.

This intelligence mission necessarily requires highly sophisticated monitoring equipment and NSA has it. There is no known agency in the world with as sophisticated communications gear or computers.

Material That Should Not Be Developed
At A Public Hearing

No breakdown of NSA's budget into various categories, such as SIGINT, Communications Security, or collection.

No discussion of sensitive technology -- e.g., regarding the size or capabilities of NSA's equipment or computers, except for elementary discussion of the Puerto Rican intercept (see p. 3) and the keyword computer dictionaries (see p. 4).

Avoid discussion, except in the most general terms, of our capability or effort against the Soviet Union, the People's

Material That Can Be Developed
At A Public HearingMaterial That Should Not Be Developed
At A Public Hearing

[redacted] the Middle East, or the Third World. (This principle will sometimes conflict with public discussion of NSA capabilities and practices against U.S. citizens communicating on international lines of communications with one terminal in the U.S.)

Avoid discussion of any treaty relationships with our Allies re: SIGINT activities.

NSA does not produce "finished" intelligence reports, but does only preliminary analysis so that it can determine the context of messages and to whom they should be disseminated.

II. Monitoring of International Lines of Communications

NSA uses a substantial part of its resources and unparalleled technology to intercept and analyze "foreign communications." The Executive Branch directives define this phrase as including most communications involving one foreign citizen, but NSA limits itself to communications with at least one foreign terminal. Hence, NSA does not intercept domestic communications between U.S. citizens.

One targeted type of communications is the international lines of communications (ILCs).* Although intercepting all ILCs is far beyond NSA's capabilities and resources, NSA does intercept vast numbers of communications over some of them, including some that have one terminal in the United States.

* These are international commercial links, and do not include domestic (internal) communications links, military links, etc.

Material That Can Be Developed
At A Public Hearing

A. Voice Traffic

While sorting and analyzing voice communications over the ILCs is difficult, NSA does do some of this. Only a handful of the links now monitored or monitored in the past year have one terminal in the United States. Many additional links, however, can be listened to very simply.

Questionable Practice: U.S.-South American Monitoring.
NSA has intercepted telephone calls between the United States and some South American cities. NSA did this most recently by intercepting at a military base in Puerto Rico the high-frequency radio waves carrying these calls. This was a simple technological effort that a good "ham" radio operator could do in the same general locations.

This activity just ended on July 9, 1975, after continuing with one brief interruption since late 1970. Neither NSA nor any other agency had obtained a warrant to conduct this monitoring.

For the last two years, this monitoring was to collect economic intelligence and

1. When a frequency was being monitored, each telephone call, even a personal call between husband and wife, had to be listened to and recorded by the operators and reduced to a summary and sometimes a transcript. There can be no computer sorting until then. [Note: See comments later, under II.B, about public discussion of computer sorting.]

2. The value of the monitoring was marginal. In 1974-75, the Puerto Rican station sent only 6-7 call summaries ("gists") a day back to NSA for even the most elementary analysis, and NSA only requested one or two full transcripts.

Material That Should Not Be Developed
At A Public Hearing

No listing of any specific voice links other than those mentioned below.

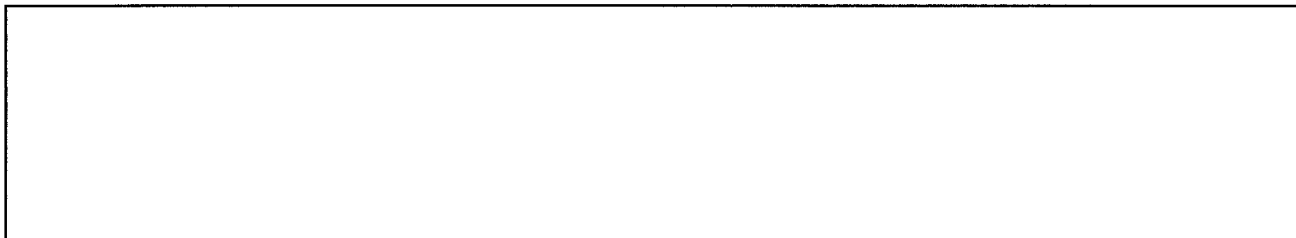
EO 3.3b(3)
PL 86-36/50 USC 3605

No discussion of technical details of the Puerto Rican operation -- such as the number of links that could be monitored.

~~VERY SENSITIVE~~
~~TOP SECRET/COMINT~~Material That Can Be Developed
At A Public Hearing

In the initial period, from late 1970 through June 1973, the primary purpose of this U.S.-South American monitoring was to gather information about drug traffic. The Bureau of Narcotics and Dangerous Drugs (BNDD) asked NSA to initiate the monitoring and also supplied NSA with the names of various individuals, including U.S. citizens who were especially suspicious.

Existing laws and Executive Branch directives are unclear whether combating drug traffic is a valid foreign intelligence purpose.* The NSA General Counsel distinguishes between control of international drug traffic and domestic law enforcement; only the former he considers a valid foreign intelligence purpose.

B. Non-Voice Traffic

A very high proportion of NSA's monitoring effort against ILCs is to intercept telegrams. This is because (a) telegrams can be fed directly into the computer, which can sort through them, looking for key words, and select out the most valuable messages; and (b) NSA believes that most important information is communicated at some point by telegram. [Note: The basic fact that NSA computers sort through messages by using a keyword dictionary should not be

* Existing directives do not limit NSA to foreign intelligence collection, but NSA consistently tells Congressional committees that it perceives this to be its purpose and believes this is the only collection it is now engaged in.

Material That Should Not Be Developed
At A Public Hearing

EO 3.3b(1)

Do not use a 95-99% figure.

Material That Can Be Developed
At A Public Hearing

sensitive technology today. Many private companies index and sort through material by use of computer dictionaries. It is the size of the dictionary and the capabilities of NSA's computers that seem sensitive.]

Contrary to some statements in the media, NSA does not monitor most telegram traffic; on the other hand, it does handle an enormous volume. An estimated 2 billion telegrams a month pass over ILC channels. Computers at NSA field stations scan many millions of them, forward about 2.8 million to NSA headquarters, and NSA analysts probably see 1 million of these.

Questionable Practice: The Watch List Activity. Starting sometime in the early 1960s, and switching into high gear in 1967, NSA included the names of U.S. citizens/entities on its "watch list" of names. (Foreign citizens or entities were also on the list.) This meant that intercepted messages to or from these individuals or even mentioning them would be sent to NSA analysts and often forwarded to consumer agencies -- especially the FBI, CIA, and Secret Service.

At one time or another, the list included the names of at least 1,200 U.S. citizens. At its high point in 1973, it had about 250-300 names on it. One document from NSA's files, a four-page memorandum, contains some names that may have been included on the watch list; NSA does not know the history of the document or whether the names were entered on the watch list. The names in the memorandum include Whitney Young, Benjamin Spock, the NAACP, and the Urban League. Already documented as entries on the watch list are such other names as Donald Sutherland (FBI, 1971-73); Muhammed Ali (FBI, 1971-73); Roy Innis (FBI, 1971-73); the Women's Liberation Movement (Secret Service, 1971-73); Vietnam Veterans Against the War (Secret Service, 1971-73); Quaker Action Group (Secret Service, 1971-73); and Bertram Zweibon (Secret Service, 1971-73; a U.S. Court of Appeals recently ruled that an FBI wiretap on Zweibon during some of the same period was illegal without a warrant).

*On "NSA name list" of
intercepted names from
consumer agencies,
the relation
to watchlist*

Material That Should Not Be Developed
At A Public Hearing

No discussion of the number of words in the dictionary or the speed of the computers. No discussion of NSA use of voice prints.

Material That Can Be Developed
At A Public Hearing

The inclusion of U.S. names was sharply curtailed in August-October 1973 as a result of self-doubts by NSA officials and the intervention of the Department of Justice. Attorney General Richardson found that this was electronic surveillance without a warrant and that the dissemination of information obtained to the FBI might be illegal. NSA then asked other agencies to eliminate all U.S. names from the watch list, except for a few that the Secret Service now maintains to carry out its purposes.

Some characteristics of the watch list are:

1. There usually was some justification given that a name was on the list to help determine the individual's or the group's links to foreign governments, terrorists, or subversive groups.
2. The inclusion of names was extremely casual. Some requests were initially given over the telephone at a relatively low staff level. Written requests often contained only a very brief justification for including names. The four-page unidentified memorandum from NSA's files was poorly typed and some names were presented in almost random order.
3. Communications between two U.S. citizens would be intercepted if one of them was on the watch list or if the cable mentioned one of them. Note that one of them would have to be at a foreign terminal. (Even now the NSA computer might send a communication between two U.S. citizens to an analyst if a keyword is contained in the message.)
4. The incidental fallout from the watch list meant that there was a considerable collection effort against other U.S. citizens. For instance, a cable mentioning the "Women's Liberation Movement" (a target) might include the names of U.S. citizens as senders, recipients, and attendees at a meeting.

*ASC
didn't
get
traffic*

Material That Should Not Be Developed
At A Public Hearing

Do not discuss the number or identity of the Secret Service entries.

Material That Can Be Developed
At A Public Hearing

The normal practice was to leave these names in the text disseminated to other agencies and to add them to NSA's biographic files.

Note: Even though the use of the names of U.S. citizens/entities in the computer has been sharply curtailed, some of the intercepted communications (telephone as well as telegram) still sent to NSA analysts have U.S. citizens/entities as a party or mentioned in the text. This is because the messages contain other keywords that identify it as appropriate for analysis. NSA now has internal regulations that require that specific U.S. citizens/entities not be identified in any material disseminated to other agencies as a result of ILC intercepts "only if great intelligence significance is gained by doing so."

Another Questionable Practice: [redacted] NSA, with the aid of CIA, had an arrangement in New York whereby some telegram companies provided NSA the opportunity to duplicate certain telegrams. This practice apparently continued for many years, possibly three or four decades. It was recently terminated.

EO 3.3b(1)

This activity would only be considered insofar as it involved looking for communications to, from, or involving U.S. citizens/entities. There would be no discussion of targeting telegrams of foreign governments, entities, or individuals.

C. Files on U.S. Citizens/Entities

In the course of monitoring many communications links (ILC and otherwise), NSA intercepts, analyzes, and stores hundreds of millions of messages per year. The information therein, much irrelevant to the reason the message was intercepted, is filed in many ways.

Questionable Practice: The C5 Files on U.S. Citizens. Until 1973, as part of its overall responsibility to maintain world-wide biographic information in support of NSA's mission, maintained limited biographic and organization^{al} files on tens of thousands of U.S. citizens, including members of Congress, such as Senators Church and Goldwater who would likely appear in foreign diplomatic communications. The files themselves, composed of 8x8 microprints or hard copy page containing information filled, at their high point, 8 filing cabinets, each with approximately nine cubic feet of storage space. The information came not only from published SIGINT but also press and published USIB Agency Intelligence Reports. NSA used the files to support NSA analysts in various stages of product preparation. If clarification of message text was required, identification of U.S. personalities ~~were~~ were infrequently included in a footnote. Access to ~~the~~ C5 files was restricted to NSA analysts with a need-to-know and accredited USIB agency personnel on a very limited basis.

inactive

The files were ~~inactive~~ after 1973 because of lack of manpower to maintain them and were destroyed in Oct 1974 because the use of the files had decreased to the point they did not warrant utilization of the very limited floor space available for filing *equipment*.

Material That Can Be Developed
At A Public Hearing

Questionable Practice: The C-5 Files on U.S. Citizens.
Until 1973, NSA maintained extensive biographic and organization files on U.S. citizens and entities. The biographic files included files on tens of thousands of U.S. citizens, including members of Congress, such as Senators Church and Goldwater. The files themselves, composed of 5x8 cards with small print, filled at their high point 8 to 10 filing cabinets, each with 9 cubic feet of storage space. The information came not only from SIGINT intercepts, but also from other agencies. NSA apparently used the files with few restrictions in adding biographic information to messages that were disseminated to other agencies. In addition, agencies had easy access to the files; CIA had an employee who worked among the files without NSA supervision from at least 1971-73.

Material That Should Not Be Developed
At A Public Hearing*Press
State leaders*

The files were inactive after 1971 and destroyed in 1973 because, NSA says, they were running out of space. For background information on U.S. citizens/entities, NSA now apparently relies on the data bank maintained by the New York Times.

III. Underlying Problems

An underlying problem appears to be the lack of a statutory charter and clear Executive Branch directives. Three phrases might be examined more carefully:

A. "Foreign communications." This phrase now seems to include under present Executive Branch directives almost all communications except those between two U.S. citizens. As a result, except for NSA's own directive, a telephone call between a foreigner in Des Moines and a U.S. citizen in Chicago appears to be a foreign communication.

No discussion of
citizens or entities being treated as
U.S. citizens.

Material That Can Be Developed
At A Public Hearing

B. "Foreign intelligence." Does this include, for example, intelligence relating to national security only; national security and foreign affairs; national security, foreign affairs (including possible foreign influence on domestic groups), economic matters, and domestic law enforcement?

C. "National security."

Material That Should Not Be Developed
At A Public Hearing

TAB B

September 16, 1975
SENSITIVEPROPOSED PRESENTATION OF ISSUES

The hearings on NSA monitoring would begin with an executive session of the full Committee where General Allen, the Director of NSA, can brief the Senators about NSA and, to avoid later questions in public hearings, about some of the technical means for intercepting communications. Drawing upon prior negotiations between the Committee staff and the Department of Defense, Allen would address what NSA believes can be presented in public and what cannot. The executive session would be on Friday, September 19.

After a few days' interval to iron out any disputes over the classification issue, the Committee would hold public hearings designed to last three mornings. These hearings would be on Tuesday, September 23, through Thursday, September 25. The public hearings would proceed with the following witnesses from NSA:

1. General Allen, NSA Director. He would sketch the role of NSA, its size, and its monitoring capabilities -- the latter in very general terms. He might also note that NSA has stopped the questionable practices to be addressed. (See Outline of Factual Issues.)

2. Mrs. Moody, director of the NSA group in charge of customer relations (V Group). She has had long experience in the Agency and is very familiar with the questionable practices to be investigated. She would be accompanied by Milton Iredell, who knows more about the drug monitoring than Mrs. Moody.

With Mrs. Moody in the lead, the two would discuss NSA's questionable practices in the past in the voice (U.S.-South American monitoring) and then the non-voice (watch list, [redacted] area).

3. Mr. Richard Tracy. Tracy was in charge of the biographic and organization files from 1971-73. He would describe the extent of the files on U.S. citizens/entities and the fact that outside intelligence agencies, [redacted] had easy access to these files.

4. Mr. Richard Kern, the recently appointed head of the NSA group responsible for LLC monitoring (G Group). He was not very involved in the questionable practices. He would testify that NSA has stopped these practices through internal regulation.

5. Mr. Roy Banner, the General Counsel of NSA. Banner would discuss the applicable statutes and Executive Branch directives, noting the wide discretion for the Agency under the terms "foreign communications" and "foreign intelligence."

EO 3.3b(1)



National Security Archive,
Suite 701, Gelman Library, The George Washington University,
2130 H Street, NW, Washington, D.C., 20037,
Phone: 202/994-7000, Fax: 202/994-7005, nsarchiv@gwu.edu