House

STATEMENT OF LT GENERAL LEW ALLEN, JR.,
DIRECTOR NATIONAL SECURITY AGENCY
BEFORE THE HOUSE SELECT COMMITTEE ON INTELLIGENCE

Mr. Chairman, Members of the Committee

I appreciate this opportunity to set forth for you the missions and operations of the national Security Agency (NSA). I am here to assist the Committee in any way I can, and I shall be forthright and candid in providing whatever information is required

I shall review the missions of the National Security Agency, the authorities under which it operates, its relationships to other agencies and departments of government and its budget process Certain aspects of our operations involve the most sensitive intelligence matters Consequently, I will defer discussion of these matters until the Committee convenes in closed session To do otherwise would risk compromise of and possible irreparable damage to cryptologic sources and methods

MISSION

NSA has two missions One is that of protecting U S communications from foreign intelligence exploitation -- this is our Communications Security (COMSEC) mission Our other mission is to exploit foreign communications in order to provide information to our own government -- this is called our Signals Intelligence (SIGINT) mission.

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Our COMSEC mission - that is the enhancement of the security of our own communications -- is a complex undertaking in our modern electronic world. It requires that we know and understand the threats to the security of our communications against which we are trying to protect ourselves. Thus, our two missions -- COMSEC and SIGINT -- are mutually enhancing -- opposite sides of the same coin, so to speak.

The Secretary of Defense is the Executive Agent of the Government for communications security. His responsibility in insuring the security of our communications is carried out by the Director, NSA as the program manager for the national communications security program. This effort includes research and development on modern techniques of encipherment and of communicating the development of prototype equipments and the printing of all of our code material which is used by both the civilian elements of our government such as embassies and consulates, and by our military forces all over the world.

The Secretary of Defense is the Executive Agent of the Government for Signal Intelligence. We respond essentially to information needs expressed by military and civilian authorities of the government and approved by the United States Intelligence Board. Many of our resources are keyed to tasks that support combatant forces

Information needs are derived from two basic sources. First, there are the very broad intelligence objectives and priorities which are identified as a result of work by bodies like United States Intelligence Board, National Security Council, and the President's Foreign Intelligence Advisory Board. These come to us through the United States Intelligence Board, in the form of policies which guide our overall resource application. One such objective, for example, is to provide the nation advance warning of military attack, and we endeavor to collect information which will contribute to an assessment of that possibility. Second, there are specific information needs which are identified directly to us by other governmental or military authorities, and which are satisfied without any reallocation of resources, and within the policy and approval of the USIB. An example might be to contribute to intelligence support to a military exercise or action.

When a need for information is approved, NSA accepts it as a "requirement." A requirement might best be defined as a statement of information need from an authorized source which we believe we are capable of satisfying within the constraints of our authorities and resources, and which we have, therefore, accepted as a task.

When we receive such a statement of information need, we examine our on-going operation, our authorities and our data base, and then perform

such processing or reporting as may be necessary to satisfy that need. If a requirement or statement of need cannot be satisified without some major adjustment in the collection or processing system, then we would seek DoD or USIB consideration or both before undertaking such an adjustment.

Legal Basis for NSA and Cryptologic Activities

Let me now turn our attention to the legal authorities relating to the National Security Agency.

Our original authority is based on the President's constitutional authority to engage in foreign intelligence gathering operations which he believes necessary to the exercise of his inherent powers as Commander-in Chief and as a principal organ of the nation in the field of foreign affairs.

Prior to and during World War II signals intelligence was conducted by the Military Services. In 1951 President Truman commissioned a group of distinguished Americans under the Chairmanship of Mr. George Brownell to study the issues involved in conducting the national Signals Intelligence effort and to make recommendations regarding how this effort should be managed. Pursuant to recommendations contained in the Brownell Report, President Truman unified those military efforts under

a single program manager; that management concept evolved into our present day National Security Agency By Presidential memorandum, he designated the Secretary of Defense as the Executive Agent of the Government for communications intelligence and communications security matters and directed him to establish the National Security Agency.

The Secretary's authority to create the National Security Agency is found in Section 133(d) of Title 10 United States Code This law provides that the Secretary may exercise any of his duties through persons or organizations of the Department of Defense The NSA is the means by which the Secretary discharges his Executive Agent responsibilities. In 1962 a Special Subcommittee on Defense Agencies of the House Armed Services Committee concluded, after examining the circumstances leading to the creation of defense agencies, that the Secretary of Defense had the legal authority to establish the National Security Agency

While the legal basis for the gathering of foreign intelligence information is derived from the Constitution itself, the Congress has acted on its own initiative to enable and facilitate the President to acquire foreign intelligence through signals intelligence activities The Congress has passed a complex of statutes which recognize the legality of signals intelligence activities and provide for the conduct and safeguarding of these activities

As far back as 1933 the Congress recognized the right of the President to intercept the communications of foreign governments by prohibiting the divulging of the contents of diplomatic messages of foreign countries which have been successfully decoded (18 U S.C 952).

The keystone statute is 18 U.S.C 798, enacted in 1950, which prohibits the unauthorized disclosure or prejudicial use of classified information of the Government concerning communications intelligence activities, cryptologic activities, or the results thereof. This law specifically authorizes the President (1) to designate agencies to engage in communications intelligence activities for the United States, (2) to classify cryptologic documents and information, and (3) to determine those persons who shall be given access to sensitive cryptologic documents and information. Further, this law defines the term "communication intelligence" to mean all procedures and methods used in the interception of communications and the obtaining of information from such communications by other than the intended recipients.

Public Law 86-36, enacted in 1959, provides authority to enable the National Security Agency, as the principal agency of the Government responsible for signals intelligence activities, to function without the disclosure of information which would endanger the accomplishment of its functions.

Public Law 88-290, enacted in 1964, establishes a personnel security system and procedures governing persons employed by the National Security Agency or granted access to its sensitive cryptologic information. Public Law 88-290 also delegates authority to the Secretary of Defense to apply these personnel security procedures to employees and persons granted access to NSA's sensitive information. This law underscores the concern of the Congress regarding the extreme importance of our signals intelligence enterprise. Most personnel security programs of the Government, as you know, are based upon an executive order and some upon a delegation of authority by the Congress to the head of the Agency. In Public Law 88-290, however, the Congress mandated that the Secretary of Defense, and the Director, National Security Agency, take measures to achieve security for the activities of the National Security Agency.

In 18 U.S.C. 2511 (3) the Congress recognized the constitutional authority of the President to obtain by whatever means, including the interception of oral or wire communications, foreign intelligence information deemed essential to the security of the United States. In this same statute the Congress also recognized the constitutional authority of the President to protect classified information of the United States against foreign intelligence (including foreign communications

intelligence) activities Thus, the Congress acted in Title 18, U S C Section 2511 (3) to recognize that the President's constitutional powers to conduct signals intelligence and communications security activities were not limited by the statutes prohibiting electronic surveillance.

Finally, for the past 22 years, Congress has annually appropriated funds for the operation of NSA Following hearings before the Armed Services and Appropriations Committee of both Houses of Congress in which extensive briefings of NSA's signals intelligence mission have been conducted the Congress has provided the funds to permit the National Security Agency to perform this mission As previously noted, it has also clearly expressed its intent in legislation to ensure maximum protection against unauthorized disclosures of NSA's activities

The President's constitutional and statutory authorities to obtain foreign intelligence through signals intelligence are implemented through National Security Council and Director of Central Intelligence Directives which govern the conduct of signals intelligence activities by the Executive Branch of the Government

I understand that you have been provided a copy of the National Security Council Intelligence Directive (NSCID) #6 It describes NSA's authority within the executive branch to conduct the Nation's Signals

Intelligence operations, and, as you can see, that authority clearly is limited to foreign intelligence operations.

I might also note that the concern of the Congress regarding NSA's activities has not been limited merely to protecting its mission. As you know, the National Security Agency keeps the Congress informed of its activities through the Subcommittees of the House and Senate Appropriations and Armed Services Committees. We appear before both the House and the Senate Defense Appropriations Subcommittees to discuss and report on the U.S. signals intelligence and communications security programs, and to justify the budgetary requirements associated with these programs. This testimony includes the activities and dollar requirements of both the National Security Agency itself and of the Services cryptologic components working with us on these missions. We do this in formal executive session, in which we forthrightly discuss activities of the most sensitive nature. In considering the Fiscal Year '76 total cryptologic budget now before Congress, I appeared before the Defense Subcommittee of the House Appropriations Committee on two separate occasions for approximately seven hours. In addition, I provided follow-up responses to over one hundred questions of the Subcommittee members and staff. We also appeared before Armed Services Subcommittees concerned with authorizing research, development, test and evaluation (RDT&E),

construction and housing programs and also before the Appropriations Subcommittees on construction and housing

In addition to this testimony, Congressional oversight is accomplished in other ways. Staff members of these Subcommittees have periodically visited the Agency for detailed briefings on specific aspects of our operations. Recently we have also had members of the investigations staff of the House Appropriations Committee at the Agency for more than a year. The results of this investigation have been provided to that Committee in a detailed report

Another feature of Congressional review has been that since 1955, representatives of the General Accounting Office have been assigned at the Agency on a permanent basis to perform on-site audits. These resident auditors have generally done administrative compliance audits and report to the Comptroller General. These audits are distinguished from management type reviews which are done on the National Security Agency by resident auditors from the Office of the Assistant Secretary of Defense (Comptroller). In our official regulations concerning the General Accounting Office, we have emphasized that the sensitivity of a particular activity should not be an obstacle to properly cleared auditors in their review of any activity affecting their assessment of the Agency's efficiency.

While two General Accounting Office personnel are generally in residence, a number of other General Accounting Office individuals have been given clearances in preparation for undertaking substantive reviews in selected areas. I understand that Comptroller General Staats has recently commented favorably on our cooperation with his office.

Since 1960, the Congress has conducted no less than 11 different major inquiries into various aspects of NSA activities or into activities in which NSA was a participant. These have included:

1. Security Practices in the National Security Agency - Defection of Bernon F. Mitchell and William H Martin. House Committee on Un-American Activities June 1960

2. Defection of Bernon F Mitchell and William H. Martin. House Committee on Armed Services June 1960.

3. Security Practices in the NSA. House Committee on Un-American Activities. July 1961 - June 1962

4. Investigation of Defense Agencies by Special Subcommittee on Defense Agencies of the House Armed Services Committee. July - August 1962.

5. Investigation of the Administration of Interal Security Act and Other Internal Security Laws by the Senate Committee on the Judiciary November 1963.

6. Use of Polygraphs as Lie Detectors by the Federal Government. House Subcommittee on Foreign Operations and Government Information. August 1964.

7. Gulf of Tonkin - the 1964 Incident. Senate Committee on Foreign Relations. February 1968.

8. Special House Armed Services Subcommittee on National Security Implications Arising from the Loss of the U S.S. Pueblo and the Navy EC 121 Aircraft. July - August 1969.

9. Senate Foreign Relations Subcommittee on U.S. Security Agreements and Commitments Abroad.- 1970-1971.

10. House Armed Services Special Subcommittee on Defense Communications. September 1970-1971.

11. House Appropriations Committee Investigation Team. March 1975

As you know, there are also a number of Congressional reviews on-going at this time.

The Executive Branch also maintains close supervision over the activities of the National Security Agency. Five major investigations of Signals Intelligence have been conducted by the Executive Branch These include:

1. George A. Brownell Committee 1951-52. Recommended organization of the National Security Agency.

2. Hoover Commission Task Force on Intelligence Activities - 1955. Survey of Central Intelligence Agency and other foreign intelligence activities.

3. Defense Ad Hoc Committee to inquire into the Use of the Polygraph in the Selection of Military Personnel for Conversion to Civilian Positions at the National Security Agency - 1963.

4. Special Study Group on the U.S. Signals Intelligence (SIGINT) Effort, 1967 - Eaton Committee - Executive Committee.

5. Blue Ribbon Defense Panel - 1 July 1970. Study of the organization, structure and operations of the Department of Defense.

The Secretary of Defense is the Executive Agent for the Government for all NSA activities. As an agency functioning within the framework of the Department of Defense, we are fully responsive to applicable directives of that Department, work with the Assistant Secretary of Defense (Intelligence) in developing our programs, and submit our programs and budgets for Departmental review. As a member of the Intelligence Community, we adhere to the intelligence policies and priorities established by the Director, Central Intelligence, are responsive to his direction, participate in the activities of the United States Intelligence Board and provide our program recommendations for his consideration and inclusion in his National Foreign Intelligence Program.

Other organizations of the Executive Branch concerned with the review of the National Security Agency programs and the provision of direction or guidance to me as program manager for signals intelligence and communications security include

President's Foreign Intelligence Advisory Board

The DCI Intelligence Resources Advisory Committee

The United States Communications Security Board

The Office of Management and Budget

The Assistant Secretary of Defense (Intelligence) testimony on Tuesday covered the basic program and budget procedure used in the Department of Defense, and the respective roles of the Office of Management and Budget and Intelligence Community staff of the Director, Central Intelligence in this process. He indicated that as Director, National Security Agency, I am the program manager for the signals intelligence (SIGINT) and communications security (COMSEC) efforts of the United States Government. In this capacity, I am responsible for developing a consolidated program involving my Agency and other Defense components engaged in both missions. These program plans are developed and reviewed during the Spring of the year based on objectives and priorities set forth by the Director of Central Intelligence and the Secretary of Defense and within fiscal constraints established by the latter. The recommended program for signals intelligence is then reviewed for the Secretary of Defense by the Assistant Secretary of Defense (Intelligence) in the early Summer. My recommended communications security program is reviewed by the Defense Director of Telecommunications and Control and Command Systems. This program, when approved by the Secretary of Defense, is the basis against which detailed budget estimates are developed and submitted in the Fall to the Assistant Secretary of Defense (Comptroller) and the Office of Management and Budget. NSA and each Military Department include the funds required for

its part of the program in their own request for appropriations. The budget for the National Security Agency is carried in the appropriations of the Defense Agencies. The pay for the Military personnel assigned to the National Security Agency are budgeted by the parent department.

These budget requests are reviewed in detail by the Assistant Secretary of Defense (Comptroller) and the Office of Management and Budget Mr. Colby's Intelligence Community Staff and the Staff of the Assistant Secretary of Defense (Intelligence) participate in the review of intelligence budget estimates. The Staff of the Director of Telecommunications and Command and Control Systems is included in the review of the Communications Security budget. Based on these reviews, the approved budget requests for signals intelligence and communications security are included within the Department and Agency budgets for submission to Congress as part of the President's overall federal budget.

Thus, our activities now and throughout our existence have had the most thorough and detailed scrutiny of the DCI, the DoD, and the Congress The participation of both the Legislative and Executive Branches of the Government in the activities of NSA has been most active and most vigorous.

In the closed session I will address the intelligence requirements which are levied on NSA, and which generally are answerable without in

any way adjusting out collection activities. I will specifically explain NSA's role with respect to international communications, describe how the operation is conducted, the manner in which NSA responds to a requirement, and the disposition of requests made by other government agencies for information that might be generated by those operations.

I hope this statement has been helpful to this Committee in understanding the nature of NSA's operations I would like to emphasize that the signals intelligence and communications security activities of our government are uniquely vulnerable to compromise, and that the effects of unauthorized or unwise revelations concerning those operations are often very far reaching and prejudicial to our national interests In May 1974, Mr McGeorge Bundy in his testimony before the Senate Subcommittee on Government Operations identified the intercept of electronic transmissions as one of six activities which he believed constituted "real secrets." I agree with that assessment. Even small compromises in our interrelated protective and intelligence mechanisms make it possible for foreign governments to institute countermeasures that can dramatically reduce our effectiveness Such countermeasures could bring to naught our communication security efforts, or deny access to information sorely needed for national security purposes Indeed, this already has happened in several cases when unfortunate and unauthorized disclosures have been made with damaging effect

That concludes my prepared statement. I would be pleased to try to answer any questions the Committee may wish to put to me.