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COVERSHEET

THE ATTAHCED SECTION VI

(Pages VI-1 thru VI-8)

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Tab 4

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

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MR. CHAIRMAN, MEMBERS OF THE COMMITTEE

I recognize the important responsibility this Committee has to investigate the intelligence operations of the United States Government and to determine the need for improvement by legislative or other means. For several months, involving many thousands of manhours, the National Security Agency has, I believe cooperated very fully with this Committee to provide a thorough information base, including data whose continued secrecy is most important to our nation.

We are now here to discuss certain aspects of an important and hitherto secret operation of the U.S. Government. I recognize that the Committee is deeply concerned that we protect sensitive and fragile sources of information. I appreciate the care which this Committee and Staff have exercised to protect the sensitive data we have provided. I understand the Committee's conviction that certain past practices of the National Security Agency must be presented to the American public as part of the democratic process to examine legislative reform. I also understand that the Committee intends to restrict this open discussion to these questionable activities and to avoid current foreign intelligence operations. It may not be possible to discuss these activities completely without

some risk of damage to continuing foreign intelligence capabilities. Therefore, I may request some of our discussion be conducted in executive session where there can be the opportunity for full and frank disclosure to the Committee of all information required. The Committee may then develop an appropriate public statement. We are therefore, here, sir, at your request, prepared to cooperate as well as we are able in bringing these matters before the American public.

I again would like to note for the record that we have given this Committee and its staff all the information they have requested on our operations, including that of the highest security classification.

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## II. WHAT I PROPOSE TO COVER

In the interest of clarity and perspective, I shall first review the purpose of the National Security Agency and the authorities under which it operates. Next, I will describe the process by which requirements for information are levied on NSA by other government agencies. And, finally, I will give a more specific description of an operation conducted in 1967-1973 by NSA in response to external requirements, which I will refer to as "The Watch List Activity." The Committee identified the Watch List activity, early on, as one of questionable propriety, and the activity has been subject to an intensive review by this Committee and Staff in closed session. I will make every attempt to cover those aspects which affect the public welfare while trying to satisfy the Committee's desires for public disclosure. But I will try to do so in such a way as to limit the damage to ongoing foreign intelligence activities of the National Security Agency.



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## III. NSA'S MISSION

Now turning attention to NSA's mission.

Under the constitutional authority of the President, the Secretary of Defense has been delegated responsibility as Executive Agent, for the entire U.S. Government, both for providing security of our own communications and seeking intelligence from the communications of others. Both functions are executed for the Secretary of Defense by the Director, National Security Agency, through a complex national system which includes the National Security Agency at its hub.

It is appropriate for the Secretary of Defense to have these exeuctive agent responsibilities, since both of these missions are overwhelmingly applied to the support of the military aspects of the national security.

The Communications Security mission is directed at enhancing the security of U.S. Government communications across the board - a complex undertaking in today's advanced electronic world.

The Signals Intelligence function is directed at deriving information from foreign radio communications and other electronic emanation on activities of concern to our national security.

Only certain activities associated with the communications intelligence portion of this mission are pertinent to this hearing, these activities of concern represent an extremely small portion of the total communications

intelligence mission for which I am responsible.

Under the President's constitutional authority to collect foreign intelligence, activities in the field of communications intelligence have been carried out by the U.S. for nearly fifty years.

This effort has been of great value historically, and there are many examples of its key contributions to the course of world affairs. It certainly was one of the major factors leading to our victory in World War II over both the Germans and the Japanese.

Successful use of this source always is accompanied by the most stringent kinds of protection, both on the fact of success or the lack of success.



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## IV. NSA AUTHORITIES

Congress, in 1933, recognized the importance of communications intelligence activities and acted to protect the sensitive nature of the information derived from those activities by passing legislation that is now 18 U.S.C. 952. This statute prohibits the divulging of the contents of decoded foreign diplomatic messages, or information about them.

Later, in 1950, Congress enacted 18 U.S.C. 798, which prohibits the unauthorized disclosure or prejudicial use of classified information of the government concerning communications intelligence activities, cryptologic activities, or the results thereof. It 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.

After an intensive review by a panel of distinguished citizens, President Truman, in 1952, acted to reorganize and centralize communications intelligence activities. He

issued in October 1952 a Presidential memorandum outlining in detail how communications intelligence activities were to be conducted, designated the Secretary of Defense to be his executive agent in these matters, directed the establishment of the National Security Agency, and outlined the missions and f nctions to be performed by the National Security Agency.

The Secretary of Defense, pursuant to the Congressional authority delegated him in Section 133(d) of Title 10 of the U.S. Code, acted to establish the National Security Agency. The section of the law cited provides that the Secretary may exercise any of these duties through persons or organizations of the Department of Defense. 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.

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 acitivties by the Executive Branch of the government.

In 1959, the Congress enacted Public Law 86-36 which provides authority to enable the National Security Agency, as the principal agency of the government responsible for



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signals intelligence activities, to function without the disclosure of information which would endanger the accomplishment of its functions.

In 1964 Public Law 88-290 was enacted by the Congress to establish 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 the National Security Agency's sensitive information. This law underscores the concern of the Congress regarding the extreme importance of our signals intellig nce enterprise and mandates 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 Title 18 U.S.C. 2511(3), enacted in 1968, 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



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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 the National Security Agency. Following hearings before the Armed Services and Appropriations Committee of both Houses of Congress in which extensive briefings of the National Security Agency's signals intelligence mission have been conducted, the Congress has provided the funds to permit the National Security Agency to perform this mission. Further, the Congress has authorized and appropriated funds for the construction of the NSA headquarters facility and other National Security Agency facilities.

I might also note that the concern of the Congress regarding the National Security Agency'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,



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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 our activities. In considering the Fiscal Year '76 total cryptologic budget now before Congress, I appeared before the Defense Sub-committee 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 Sub-committee 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. Members of the investigations staff of the House Appropriations Committee recently conducted an extensive investigation of this Agency. The results of this study, which lasted over a year, have been provided to that Committee in a detailed report.



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Another feature of Congressional review is that since 1955, resident auditors of the General Accounting Office have been assigned at the Agency to perform on-site audits. Additional GAO auditors were cleared for access in 1973 and GAO, in addition to this audit, is initiating a classified review of our automatic data processing functions. NSA's cooperative efforts in this area were noted by Senator Proxmire in February of this year.

In addition, resident auditors of the Office of Secretary of Defense, Comptroller, conduct management reviews of our organization.



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## V. OVERALL REQUIREMENTS ON NSA

Let me now describe for you how requirements are levied upon the National Security Agency. Our Agency produces signals intelligence in response to objectives, requirements, and priorities as expressed by the Director of Central Intelligence with the advice of the United States Intelligence Board. There is a separate Committee of the Board which develops the particular requirements against which the National Security Agency is expected to respond.

The principal mechanism used by the Board in formulating requirements for signals intelligence information has been one of listing areas of intelligence interest and levels of details needed by the Intelligence Community. This listing which was begun in 1966 and fully implemented in 1970, is intended to provide guidance to the Director of the National SEcurity Agency (and to the Secretary of Defense) for programming and operating National Security Agency activities. It is intended as an expression of realistic and essential requirements for signals intelligence information. This process recognizes that no one listing, even with annual revisions, could cover all requirements and establishes a procedure whereby concerned agencies can express, directly to the National Security Agency, information needs which reasonably amplify requirements approved by USIB



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or higher authority. There are procedures for non-Board members (the Secret Service and the BNDD at the time) to task the National Security Agency for information. The National Security Agency does have operational discretion in responding to requirements. I clearly will not respond to any requirements which are not accepted or which I feel is not proper. In actual practice, there are nontheless processes very directly and very specifically tied to satisfying externally imposed requirements. We do not generate our own requirements.

In 1975 the USIB signals intelligence requirements process was revised. Under the new system, all basic requirements for signals intelligence information on United States Government agencies will be reviewed and validated by the Signals Intelligence Committee of USIB before being levied on the National Security Agency. An exception is those requirements which are highly time-sensitive; they will continue to be passed simultaneously to us for action and to USIB for information. The new system will also attempt to prioritize signals intelligence requirements. The new requirements process is an improvement in that it creates a formal mechanism to record and prioritize all requirements for signals intelligence information and to establish their relative priorities.



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THE FOLLOWING SECTION,

SECTION VI - THE WATCH LIST

(CONSISTING OF 10 PAGES),

IS CLASSIFIED AS FOLLOWS:

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Cover Sheet for Section VI

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## VI. THE WATCH LIST

The actual origins of the so-called Watch List are difficult to trace. During the early 60's, requesting Agencies had asked the National Security Agency to watch for certain U.S. citizens travelling to Cuba, although it was not our usual practice at the time. Later, beginning in 1967 requesting agencies described lists of names of persons and organizations to the National Security Agency in an effort to obtain information which was uniquely available as a by-product of our normal foreign intelligence mission. The purpose of the lists varied, but all possessed a common thread in which the National Security Agency was requested to review information available through our usual intercept sources. The initial purpose was to help determine the existence of foreign influence on specified activities of interest to agencies of the U.S. Government, with emphasis on Presidential protection and on civil distrubances occurring throughout the nation at this time. Later, because of other developments, such as widespread concern among the National Security Agency's customers over such criminal activity as drug trafficking and acts of terrorism, both domestic and international, the emphasis shifted to these areas. Thus, during this period, requirements for watch lists were developed in four basic areas: possible foreign support of influence of civil disturbances, Presidential protection, international drug trafficking, and acts of terrorism.

Looking back at the development of these requirements, we have found that the requirement for intelligence regarding foreign support of civil distrubances came originally from an



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Army message of 20 October 1967. That cable, known as the Yarborough message, informed the National Security Agency that Army ACSI had been designated executive agent by DoD for civil disturbance matters. The message requested that the National Security Agency provide any available information on foreign influence over, or control of, civil disturbances in the U.S. I want to underline the word "foreign." The National Security Agency accepted the request as an urgent, time-sensitive matter. The Director, National Security Agency sent a cable the same day to the DCI and to each USIB member. This cable notified them of the urgent request from the Army and stated that the National Security Agency would attempt to obtain COMINT regarding foreign control or influence over certain U.S. individuals and groups. From that troubled period on until calm returned to the nation, the National Security Agency used a relatively small amount of its resources to attempt to identify any foreign influence over these groups.

As we all know, during this period there was heightened concern by the country and the Secret Service over Presidential protection because of President Kennedy's assassination. After the Warren Report, watch list requirements containing names of U. S. citizens and organizations were levied by the Secret Service in support of their efforts to protect the President



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and other senior officials. Such requirements were later incorporated into USIB documentation. At that time COMINT information was regarded as a valuable tool in support of executive protection.

In the '60s, there was Presidential concern voiced over the massive flow of drugs into our country from outside the United States. This concern led to the establishment of a Cabinet Committee whose charge was to develop resources to combat international drug trafficking and to prevent drugs from entering the U.S. The Bureau of Narcotics and Dangerous Drugs, in 1970, asked the National Security Agency to undertake actions which included watch lists with some U.S. names. International drug trafficking requirements were formally brought into USIB requirements in August 1971.

About the same time as the concern over drugs, or shortly thereafter, there was a committee established by the President to combat international terrorism. This committee was supported by a working group from the USIB. Requirements to support this effort with communications intelligence were also incorporated into USIB documentation.

Now let me put the watch list in perspective regarding its size and the numbers of names submitted by the various agencies:

The FBI submitted watch lists covering their requirements on foreign ties and support to certain U.S. persons and groups. These lists contained names of so-called extremist persons and groups, individuals and groups active in civil disturbances,

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and terrorists. The lists contained a maximum of about 1,000 U.S. persons and groups and about 1,700 foreign persons and groups.

The CIA submitted watch lists covering their requirements on international travel, foreign influence and support of U.S. extremists and terrorists. These lists contained about 30 U.S. individuals and about 700 foreign individuals and groups.

The DIA submitted a watch list covering their requirements on possible foreign control of, or influence on, U.S. anti-war activity. The list contained names of individuals travelling to North Vietnam. There were about 20 U.S. individuals on this list.

The B NDD submitted a watch list covering their requirements on international narcotics trafficking. The list contained names of suspected drug traffickers. There were about 450 U.S. individuals and over 3,000 foreign individuals.

The Secret Service submitted watch lists covering their requirements on Presidential and Executive protection. The lists contained names of persons and groups who in the opinion of the Secret Service were potentially a threat to Secret Service protectees. On these lists were about 180 U.S. individuals and groups and about 525 foreign individuals and groups.

Between 1967 and 1973 there was a cumulative total of about 450 U.S. names on the narcotics list, and about 1,200 U.S.



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names on all other lists combined. What that amounted to was that at the height of the watch list activity, there were about 800 U.S. names on the watch list and about one third of this 800 were from the narcotics list.

We estimate that over this six year period (1967-1973) about 2,000 reports were issued by the National Security Agency on international narcotics trafficking; and about 1,700 reports were issued covering the three areas of terrorism, executive protection and foreign influence over U.S. groups. This would average about two reports per day. Customer agencies did periodically review (and were asked by the National Security Agency to review) their watch lists to ensure that only those names of continuing interest would remain in the system.

Now let me address the question of the watch list activity as the National Security Agency saw it at the time. This activity was reviewed by proper authority within the National Security Agency and by competent external authority. This included two Attorneys General and a Secretary of Defense. In each case, the National Security Agency was assured that this activity met their approval. The requirements for the information had also been approved by officials of the customer agencies concerned and subsequently validated by the United States Intelligence Board. For example, the Secret Service and NDD requirements were formally included in USIB guidance in 1970 and 1971, respectively. In the areas of narcotics



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trafficking, terrorism and requirements related to the protection of the lives of senior U.S. officials, the emphasis placed by the President on a strong, coordinated government effort was clearly understood. There also was no question that there was considerable Presidential concern and interest in determining the existence and extent of foreign support to groups fomenting civil disturbances inthe United States.

The names for watch lists were submitted through channels in writing. Although some names were submitted orally, a written request always followed. The Director and Deputy Director of the National Security Agency approved certain categories of subject matter from customer agencies, and were aware that U.S. individuals and organizations were being included on watch lists. While they did not review and approve each individual name, there were continuing management reviews at levels below the Directorate. National Security Agency personnel sometimes made analytic amplifications on customer watch list submissions in order to fulfill certain requirements. For example, when information was received that a name on the Watch List used an alias, the alias was inserted; or when an address was uncovered of a Watch List name, the address was included. This practice by analysts was done to enhance the selection process, not to expand the lists.

The information produced by the watch list activity was,



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with one exception, entirely a by-product of our foreign intelligence mission. All collection was conducted against international communications with at least one terminal in a foreign country and for purposes unrelated to the watch list activity. The watch list activity itself specifically consisted of scanning foreign communications already intercepted for other purposes to derive information which met watch list requirements. This scanning was accomplished by using the names as selection criteria. Once selected, the messages were analyzed to determine if the information therein met those requesting agencies requirements associated with the watch lists. If the message met the requirement, the information therein was reported to the requesting agency in writing.

For the period 1967-1969, messages just between U.S. citizens and organizations, containing foreign intelligence, were issued for background use only and were hand-delivered to certain requesting agencies. If the U.S. citizen or organization was only one side of the communication, it was published as a normal intelligence report, in a special series to limited distribution.

Starting in 1969, any message that fell into the categories of Presidential/executive protection and foreign influence over U.S. citizens and groups were treated as background use only and hand-delivered to requesting agencies.



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The one instance in which foreign messages were intercepted for specific watch lists purposes was the collection of some telephone messages between the United States and South America. The collection was conducted at the specific request of BNDD to produce intelligence information on the methods and locations of foreign narcotics trafficking. In addition to our own intercept, CIA was asked by us to assist in this collection. The National Security Agency provided to CIA names of individuals from the international narcotics trafficking watch list. This collection by CIA lasted for approximately six months from late 1972 to early 1973 when CIA stopped because of concern that the activity exceeded the CIA charter. Messages consisted of telephone calls. There were a few messages between U.S. citizens, but the overwhelming majority had at least one foreign communicant, and all messages had at least one foreign terminal. I would stress that this was a limited effort which involved only a small number of U.S. citizens.

It must be noted that at the time the National Security Agency viewed the effort as a legitimate part of its foreign intelligence mission. The agencies receiving the information were clearly instructed that the information could not be used for prosecutive or evidentiary purposes and to our knowledge it was not used for such purposes.

It is worth noting that some customer agencies have dual functions: for instance, one concerned with domestic drug law enforcement activities and another, concerned with the

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the curtailing of international narcotics trafficking. It would be to the latter area of responsibility that the National Security Agency delivered its material. However, since the intelligence was being reported to some agencies which did have law enforcement responsibilities, there was growing concern that the intelligence could be used for purposes other than foreign intelligence. To minimize this risk, the material was delivered only to designated offices in those agencies and the material was marked and protected in a special way to limit the number of people involved and to segregate it from intelligence material of broader interest.

Before information ever was released to a requesting agency, it was reviewed by at least three levels of supervision above the analyst and a supervisory staff group to establish that it met a validated requirement.

I have just described for you the manner in which the watch list activity was terminated and I have commented upon some legal concerns we had at the time. Now let me say that the National Security Agency did believe, at the time, that the watch list activity and product was of value to the requesting agencies; and I am aware of some examples of watch list product that indeed would be clearly recognized as valuable both to our requesting agencies and to the security of our nation. We have statements from these requesting agencies in which they have expressed



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appreciation for the value of the information which they had received from us. Nonetheless, in my own judgment, the controls which were placed on the handling of the product were so restrictive that the value was significantly diminished and consequently, in my judgment, was not worth the effort.



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## VII. WATCH LIST ACTIVITIES AND TERMINATION THEREOF

During this period we've been talking about (1967-1972), there was no law or case law which appeared to preclude such activities undertaken by the National Security Agency in response to requirements levied by other elements of the Executive Branch through the normal intelligence requirements mechanism. The validity and legality of the original requirements were never questioned.

In 1973, however, concern about the National Security Agency's role in these activities was aroused, first, by concerns that it might not be possible to definitively distinguish between the purpose for the intelligence gathering which NSA understood was served by these requirements and the missions and functions of the departments or agencies receiving the information, and second, requirements from such agencies growing. Finally, new broad discovery procedures in court cases were coming into use which might lead to disclosure of sensitive intelligence sources and methods. Clearly the tenor of the times was changing with regard to the concerns which had originally prompted the watch list activities.

The first action taken was the decision to terminate the activity in support of BNDD in the summer of 1973. This decision was made because of concern that it might not be possible to make a clear separation between the requests for information submitted by BNDD as it pertained to legitimate foreign



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intelligence requirements and the law enforcement responsibility of BNDD. CIA had determined in 1973 that it could not support these requests of BNDD because of statutory restrictions on CIA. The National Security Agency is not subject to the same sort of restrictions as CIA, but a review of the matter led to a decision that certain aspects of our support should be discontinued.

With regard to Watch List submitted by FBI, CIA and Secret Service, these matters were discussed with the National Security Agency Counsel and Counsel for the Department of Defense, and we stopped the distribution of information in the summer of 1973. In addition, I sent a letter to each agency head requesting him to recertify the requirement with respect to the appropriateness of the request including a review of that agency's legal authorities.

At about the same time, Attorney General Richardson questioned the propriety of Watch List requests from the FBI and the Secret Service. Following a review of the matter, the Attorney General requested that the National Security Agency not respond to these types of specific requests from these agencies but NSA could continue to provide information clearly dervied as a by-product of foreign intelligence activities. The result was that we stopped accepting "watch lists" containing U.S.



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citizens names. Thus the "watch list" activit- which involved U.S. citizens ceased in an operational way in the summer of 1973 and was terminated officially in the fall of 1973.

NSA did not retain any of the BNDD watch lists or product. This was destroyed in the fall of 1973 since there seemed to be no purpose to retain it by NSA.



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(Response to requirement for vacuum cleaner statement)

Within the conduct of its foreign intelligence mission, the National Security Agenc- uses a relatively small part of its resources and technology to intercept and analyze international communications. Executive Branch directives define "foreign communications" as including communications having at least one foreign terminal, so that no communications solely within the United States are ever intercepted. NSA does not, either in the U.S. or abroad, engage in the monitoring of any U.S. citizens' communications.

The National Security Agency, in the course of intercepting international communications that are needed to satisfy lawful and proper intelligence requirements levied on NSA, necessarily has available in some form all the communications over any link that is monitored. These intercepts of international communications sometimes may be between two U.S. citizens, but collection procedures now in effect are such that these messages are not selected. They are not desired, and are not processed if they become available through some other selection criteria.

Through internal controls, which are strictly enforced, NSA does not analyze and disseminate messages that do not satisfy foreign intelligence requirements.

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## VIII. RESULTS OF ACTIONS TAKEN

The overall result of these actions was the termination of all "watch list" activity with respect to U.S. citizens. We no longer attempt to determine, using these methods, whether there exists any foreign influence or any attempts to influence U.S. domestic activities, flow of international drug traffic, or planned action against protectees of the Secret Service. Actions taken by the Attorney General also ensure that no requests are honored for information involving U.S. citizens by the FBI, Secret Service or DEA unless there is specific approval by the Attorney General.

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