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29 OCTOBER 1975

I. STATEMENT OF LT GENERAL LEW ALLEN, JR., DIRECTOR NATIONAL SECURITY AGENCY

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 WITH THIS COMMITTEE TO PROVIDE A THOROUGH INFORMATION BASE, INCLUDING DATA WHOSE CONTINUED SECRECY IS MOST IMPORTANT TO OUR NATION.

I AM NOW HERE TO DISCUSS IN OPEN SESSION 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 ALSO UNDERSTAND THAT THE COMMITTEE INTENDS TO RESTRICT THIS OPEN DISCUSSION TO CERTAIN SPECIFIED ACTIVITIES AND TO AVOID CURRENT FOREIGN INTELLIGENCE OPERATIONS. IT MAY NOT BE POSSIBLE TO DISCUSS ALL THESE ACTIVITIES COMPLETELY WITHOUT SOME RISK OF DAMAGE TO CONTINUING FOREIGN INTELLIGENCE CAPABILITIES. THEREFORE, I MAY REQUEST SOME ASPECTS

OF OUR DISCUSSION BE CONDUCTED IN EXECUTIVE SESSION WHERE THERE CAN BE OPPORTUNITY TO CONTINUE OUR 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 IN BRINGING THESE MATTERS BEFORE YOUR COMMITTEE.

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." THIS ACTIVITY HAS BEEN SUBJECT TO AN INTENSIVE REVIEW BY THIS COMMITTEE AND STAFF IN CLOSED SESSION.

III. NSA'S MISSION

UNDER THE AUTHORITY OF THE PRESIDENT, THE SECRETARY OF DEFENSE HAS BEEN DELEGATED RESPONSIBILITY FOR BOTH PROVIDING SECURITY OF U.S. GOVERNMENTAL COMMUNICATIONS AND SEEKING INTELLIGENCE FROM FOREIGN ELECTRICAL COMMUNICATIONS. 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 NUCLEUS.

IT IS APPROPRIATE FOR THE SECRETARY OF DEFENSE TO HAVE THESE EXECUTIVE AGENT RESPONSIBILITIES, SINCE THE GREAT MAJORITY OF THE EFFORT TO ACCOMPLISH BOTH OF THESE MISSIONS IS 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 WHENEVER NEEDED TO PROTECT THE COMMUNICATIONS FROM EXPLOITATION BY FOREIGN GOVERNMENTS - A COMPLEX UNDERTAKING IN TODAY'S ADVANCED ELECTRONIC WORLD.

THE UNITED STATES, AS PART OF ITS EFFORT TO PRODUCE FOREIGN INTELLIGENCE, HAS INTERCEPTED FOREIGN COMMUNICATIONS, ANALYZED, AND IN SOME CASES DECODED, THESE COMMUNICATIONS TO PRODUCE SUCH FOREIGN INTELLIGENCE SINCE THE REVOLUTIONARY WAR. DURING THE CIVIL WAR AND WORLD WAR I THESE COMMUNICATIONS WERE OFTEN TELEGRAMS SENT BY WIRE.

IN MODERN TIMES, WITH THE ADVENT OF WIRELESS COMMUNICATIONS, PARTICULAR EMPHASIS HAS BEEN PLACED BY THE GOVERNMENT ON THE

SPECIALIZED FIELD OF INTERCEPTING AND ANALYZING COMMUNICATIONS TRANSMITTED BY RADIO. SINCE THE 1930'S, ELEMENTS OF THE MILITARY ESTABLISHMENT HAVE BEEN ASSIGNED TASKS TO OBTAIN INTELLIGENCE FROM FOREIGN RADIO TRANSMISSIONS. IN THE MONTHS PRECEDING PEARL HARBOR AND THROUGHOUT WORLD WAR II, HIGHLY SUCCESSFUL ACCOMPLISHMENTS WERE MADE BY GROUPS IN THE ARMY AND THE NAVY TO INTERCEPT AND ANALYZE JAPANESE AND GERMAN CODED RADIO MESSAGES. ADMIRAL NIMITZ IS REPORTED AS RATING ITS VALUE IN THE PACIFIC TO THE EQUIVALENT OF ANOTHER WHOLE FLEET; GENERAL HANDY IS REPORTED TO HAVE SAID THAT IT SHORTENED THE WAR IN EUROPE BY AT LEAST A YEAR. ACCORDING TO ANOTHER OFFICIAL REPORT, IN THE VICTORY IN THE BATTLE OF MIDWAY, IT WOULD HAVE BEEN IMPOSSIBLE TO HAVE ACHIEVED THE CONCENTRATION OF FORCES AND THE TACTICAL SURPRISE WITHOUT COMMUNICATIONS INTELLIGENCE. IT ALSO CONTRIBUTED TO THE SUCCESS OF THE NORMANDY INVASION. BOTH THE ARMY AND NAVY OBTAINED INVALUABLE INTELLIGENCE FROM THE ENCIPHERED RADIO MESSAGES IN BOTH EUROPE AND THE PACIFIC. A CONGRESSIONAL COMMITTEE, IN ITS INVESTIGATION OF PEARL HARBOR, STATED THAT THE SUCCESS OF COMMUNICATIONS INTELLIGENCE "CONTRIBUTED ENORMOUSLY TO THE DEFEAT OF THE ENEMY, GREATLY SHORTENED THE WAR, AND SAVED MANY THOUSANDS OF LIVES." GENERAL GEORGE C. MARSHALL, REFERRING TO SIMILAR ACTIVITIES DURING WORLD WAR II, COMMENTED THAT THEY

HAD CONTRIBUTED "GREATLY TO THE VICTORIES AND TREMENDOUSLY TO THE SAVINGS OF AMERICAN LIVES." SIMILAR THEMES RUN THROUGH THE WRITINGS OF MANY U.S. MILITARY OFFICERS AND POLICY OFFICIALS FROM THAT PERIOD AND SUBSEQUENTLY IN OUR MORE RECENT HISTORY. FOLLOWING WORLD WAR II, THE SEPARATE MILITARY EFFORTS WERE BROUGHT TOGETHER AND THE NATIONAL SECURITY AGENCY WAS FORMED TO FOCUS THE GOVERNMENT'S EFFORTS. THE PURPOSE WAS TO MAINTAIN AND IMPROVE THIS SOURCE OF INTELLIGENCE WHICH WAS CONSIDERED OF VITAL IMPORTANCE TO THE NATIONAL SECURITY, TO OUR ABILITY TO WAGE WAR, AND TO THE CONDUCT OF FOREIGN AFFAIRS.

THIS MISSION OF NSA IS DIRECTED TO FOREIGN INTELLIGENCE, OBTAINED FROM FOREIGN ELECTRICAL COMMUNICATIONS AND ALSO FROM OTHER FOREIGN SIGNALS SUCH AS RADARS. SIGNALS ARE INTERCEPTED BY MANY TECHNIQUES AND PROCESSED, SORTED AND ANALYZED BY PROCEDURES WHICH REJECT INAPPROPRIATE OR UNNECESSARY SIGNALS. THE FOREIGN INTELLIGENCE DERIVED FROM THESE SIGNALS IS THEN REPORTED TO VARIOUS AGENCIES OF THE GOVERNMENT IN RESPONSE TO THEIR APPROVED REQUIREMENTS FOR FOREIGN INTELLIGENCE. THE NATIONAL SECURITY AGENCY WORKS VERY HARD AT THIS TASK, AND IS COMPOSED OF DEDICATED, PATRIOTIC CITIZENS, CIVILIAN AND MILITARY, MOST OF WHOM HAVE DEDICATED THEIR PROFESSIONAL CAREERS TO THIS IMPORTANT AND REWARDING JOB. THEY ARE JUSTIFIABLY PROUD OF THEIR SERVICE TO THEIR COUNTRY AND FULLY ACCEPT THE FACT THAT THEIR CONTINUED REMARKABLE EFFORTS CAN BE APPRECIATED ONLY BY THOSE FEW IN GOVERNMENT WHO KNOW OF THEIR GREAT IMPORTANCE TO THE U.S.

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, PREJUDICIAL USE, OR PUBLICATION OF CLASSIFIED INFORMATION OF THE GOVERNMENT CONCERNING COMMUNICATIONS INTELLIGENCE ACTIVITES, CRYPTOLOGIC ACTIVITIES, OR THE RESULTS THEREOF. IT INDICATES THAT THE PRESIDENT IS AUTHORIZED: (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 STRENGTHEN 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 FUNCTIONS 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 ACTIVITIES 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 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 INTELLIGENCE 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.

TITLE 18 U.S.C. 2511(3) PROVIDES AS FOLLOWS: "NOTHING CONTAINED IN THIS CHAPTER OR IN SECTION 605 OF THE COMMUNIATIONS ACT OF 1934 (47 U.S.C. 605) SHALL LIMIT THE CONSTITUTIONAL POWER OF THE PRESIDENT TO TAKE SUCH MEASURES AS HE DEEMS NECESSARY TO PROTECT THE NATION AGAINST ACTUAL OR POTENTIAL ATTACK OR OTHER HOSTILE ACTS OF A FOREIGN POWER, TO OBTAIN FOREIGN INTELLIGENCE INFORMATION DEEMED ESSENTIAL TO THE SECURITY OF THE UNITED STATES, OR TO PROTECT NATIONAL SECURITY INFORMATION AGAINST FOREIGN INTELLIGENCE ACTIVITIES..."

IN UNITED STATES V. BROWN, UNITED STATES COURT OF APPEALS, FIFTH CIRCUIT, DECIDED 22 AUGUST 1973, THE COURT DISCUSSED THIS PROVISION OF THE LAW AS FOLLOWS:

"THE CONSTITUTIONAL POWER OF THE PRESIDENT IS ADVERTED TO, ALTHOUGH NOT CONFERRED, BY CONGRESS IN TITLE III OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968."

THUS, WHILE NSA DOES NOT LOOK UPON SECTION 2511(3) AS AUTHORITY TO CONDUCT COMMUNICATIONS INTELLIGENCE, IT IS OUR POSITION THAT NOTHING IN CHAPTER 119 OF TITLE 18 AFFECTS OR GOVERNS THE CONDUCT OF COMMUNICATIONS INTELLIGENCE FOR THE PURPOSE OF GATHERING FOREIGN INTELLIGENCE.

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.

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. WE DO THIS IN FORMAL EXECUTIVE SESSION, IN WHICH WE DISCUSS OUR ACTIVITIES IN WHATEVER DETAIL REQUIRED BY THE CONGRESS. 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 RESPONSE 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. 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.

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 A SENATOR IN FEBRUARY OF THIS YEAR.

IN ADDITION, RESIDENT AUDITORS OF THE OFFICE OF SECRETARY OF DEFENSE, COMPTROLLER, CONDUCT IN DEPTH MANAGEMENT REVIEWS OF OUR ORGANIZATION.

A PARTICULAR ASPECT OF NSA AUTHORITIES WHICH IS PERTINENT TO TODAY'S DISCUSSION RELATES TO THE DEFINITION OF FOREIGN COMMUNICATIONS. NEITHER THE PRESIDENTIAL DIRECTIVE OF 1952 NOR THE NATIONAL SECURITY COUNCIL DIRECTIVE NO. 6 DEFINES THE TERM FOREIGN COMMUNICATIONS. THE NATIONAL SECURITY AGENCY HAS ALWAYS CONFINED ITS ACTIVITIES TO COMMUNICATIONS INVOLVING AT LEAST ONE FOREIGN TERMINAL. THIS INTERPRETATION IS CONSISTENT WITH THE DEFINITION OF FOREIGN COMMUNICATIONS IN THE COMMUNICATIONS ACT OF 1934. THERE IS ALSO A DIRECTIVE OF THE DIRECTOR OF CENTRAL INTELLIGENCE DEALING WITH SECURITY REGULATIONS WHICH EMPLOYS A DEFINITION WHICH EXCLUDES COMMUNICATIONS BETWEEN U.S. CITIZENS OR ENTITITES. WHILE THIS DIRECTIVE HAS NOT BEEN CONSTRUED AS DEFINING THE NSA MISSION IN THE SAME SENSE AS HAS THE NATIONAL SECURITY COUNCIL DIRECTIVE, IN THE PAST, THIS EXCLUSION HAS USUALLY BEEN APPLIED AND IS APPLIED NOW. HOWEVER, WE WILL DESCRIBE A PARTICULAR ACTIVITY IN THE PAST WHEN THAT EXCLUSION WAS NOT APPLIED. NSA DOES NOT NOW, AND WITH AN EXCEPTION TO BE DESCRIBED, HAS NOT IN THE PAST CONDUCTED INTERCEPT OPERATIONS FOR THE PURPOSE OF OBTAINING THE COMMUNICATIONS OF U.S. CITIZENS. HOWEVER, IT NECESSARILY OCCURS THAT SOME CIRCUITS WHICH ARE KNOWN TO CARRY FOREIGN COMMUNICATIONS NECESSARY FOR FOREIGN

INTELLIGENCE WILL ALSO CARRY PERSONAL COMMUNICATIONS BETWEEN U.S. CITIZENS, ONE OF WHOM IS AT A FOREIGN LOCATION. THE INTERCEPTION OF COMMUNICATIONS, HOWEVER IT MAY OCCUR, IS CONDUCTED IN SUCH A MANNER AS TO MINIMIZE THE UNWANTED MESSAGES. NEVERTHELESS, MANY UNWANTED COMMUNICATIONS ARE POTENTIALLY AVAILABLE FOR SELECTION. SUBSEQUENT PROCESSING, SORTING AND SELECTING FOR ANALYSIS, IS CONDUCTED IN ACCORDANCE WITH STRICT PROCEDURES TO INSURE IMMEDIATE AND, WHERE POSSIBLE, AUTOMATIC REJECTION OF INAPPROPRIATE MESSAGES. THE ANALYSIS AND REPORTING IS ACCOMPLISHED ONLY FOR THOSE MESSAGES WHICH MEET SPECIFIED CONDITIONS AND REQUIREMENTS FOR FOREIGN INTELLIGENCE. IT IS CERTAINLY BELIEVED BY NSA THAT OUR COMMUNICATIONS INTELLIGENCE ACTIVITIES ARE SOLELY FOR THE PURPOSE OF OBTAINING FOREIGN INTELLIGENCE IN ACCORDANCE WITH THE AUTHORITIES DELEGATED BY THE PRESIDENT STEMMING FROM HIS CONSTITUTIONAL POWER TO CONDUCT FOREIGN INTELLIGENCE.

V. OVERALL REQUIREMENTS ON NSA

NSA 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 SPECIFYING IN SOME DETAIL THE SIGNALS INTELLIGENCE NEEDED BY THE VARIOUS ELEMENTS OF GOVERNMENT. 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 A SINGLE LISTING, UPDATED ANNUALLY NEEDS TO BE SUPPLEMENTED WITH ADDITIONAL DETAIL AND TIME-SENSITIVE FACTORS AND IT ESTABLISHES A PROCEDURE WHEREBY THE USIB AGENCIES CAN EXPRESS, DIRECTLY TO THE NATIONAL SECURITY AGENCY, INFORMATION NEEDS WHICH REASONABLY AMPLIFY REQUIREMENTS APPROVED BY USIB OR HIGHER AUTHORITY. IN ADDITION, THERE ARE ESTABLISHED 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 BUT WE DO NOT GENERATE OUR OWN REQUIREMENTS FOR FOREIGN INTELLIGENCE. THE DIRECTOR, NSA IS DIRECTED TO BE RESPONSIVE TO THE REQUIREMENTS FORMULATED BY THE DIRECTOR OF CENTRAL INTELLIGENCE; HOWEVER, I CLEARLY MUST NOT RESPOND TO ANY REQUIREMENTS WHICH I FEEL ARE NOT PROPER.

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 ALL REQUIREMENTS FOR SIGNALS INTELLIGENCE INFORMATION AND TO ESTABLISH THEIR RELATIVE PRIORITIES.

VI. THE WATCH LIST

NOW TO THE SUBJECT WHICH THE COMMITTEE ASKED ME TO ADDRESS IN SOME DETAIL - THE SO-CALLED WATCH LIST ACTIVITY OF 1967-1973.

THE USE OF LISTS OF WORDS, INCLUDING INDIVIDUAL NAMES, SUBJECTS, LOCATIONS, ETC, HAS LONG BEEN ONE OF THE METHODS USED TO SORT OUT INFORMATION OF FOREIGN INTELLIGENCE VALUE FROM THAT WHICH IS NOT OF INTEREST. IN THE PAST SUCH LISTS HAVE BEEN REFERRED TO OCCASIONALLY AS "WATCH LISTS," BECAUSE THE LISTS WERE USED AS AN AID TO WATCH FOR FOREIGN ACTIVITY OF REPORTABLE INTELLIGENCE INTEREST. HOWEVER, THESE LISTS GENERALLY DID NOT CONTAIN NAMES OF U.S. CITIZENS OR ORGANIZATIONS. THE ACTIVITY IN QUESTION IS ONE IN WHICH U.S. NAMES WERE USED SYSTEMATICALLY AS A BASIS FOR SELECTING MESSAGES, INCLUDING SOME BETWEEN U.S. CITIZENS WHEN ONE OF THE COMMUNICANTS WAS AT A FOREIGN LOCATION.

THE ORIGIN OF SUCH ACTIVITY IS UNCLEAR. DURING THE EARLY '60'S, REQUESTING AGENCIES HAD ASKED THE NATIONAL SECURITY AGENCY TO LOOK FOR REFLECTIONS IN INTERNATIONAL COMMUNICATIONS OF CERTAIN U.S. CITIZENS TRAVELLING TO CUBA. BEGINNING IN 1967, REQUESTING AGENCIES PROVIDED NAMES OF PERSONS AND ORGANIZATIONS (SOME OF WHOM WERE U.S. CITIZENS) TO THE NATIONAL SECURITY AGENCY IN AN EFFORT TO OBTAIN INFORMATION WHICH WAS AVAILABLE IN FOREIGN COMMUNICATIONS 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 DISTURBANCES OCCURRING THROUGHOUT THE NATION. LATER, BECAUSE OF OTHER DEVELOPMENTS, SUCH AS WIDESPREAD NATIONAL CONCERN OVER SUCH CRIMINAL ACTIVITY AS DRUG TRAFFICKING AND ACTS OF TERRORISM, BOTH DOMESTIC AND INTERNATIONAL, THE EMPHASIS CAME TO INCLUDE THESE AREAS. THUS, DURING THIS PERIOD, 1967-1973, REQUIREMENTS FOR WATCH LISTS WERE DEVELOPED IN FOUR BASIC AREAS: INTERNATIONAL DRUG TRAFFICKING, PRESIDENTIAL PROTECTION, ACTS OF TERRORISM, AND POSSIBLE FOREIGN SUPPORT OR INFLUENCE ON CIVIL DISTURBANCES.

IN THE '60'S, THERE WAS PRESIDENTIAL CONCERN VOICED OVER THE MASSIVE FLOW OF DRUGS INTO OUR COUNTRY FROM OUTSIDE THE UNITED STATES. EARLY IN PRESIDENT NIXON'S ADMINISTRATION, HE INSTRUCTED THE CIA TO PURSUE WITH VIGOR, INTELLIGENCE EFFORTS TO IDENTIFY FOREIGN SOURCES OF DRUGS AND THE FOREIGN ORGANIZATIONS AND METHODS USED TO INTRODUCE ILLICIT DRUGS INTO THE U.S. THE BNDD IN 1970 ASKED THE NATIONAL SECURITY AGENCY TO PROVIDE COMMUNICATIONS INTELLIGENCE RELEVANT TO THESE FOREIGN ASPECTS AND BNDD PROVIDED "WATCH LISTS" WITH SOME U.S. NAMES. INTERNATIONAL DRUG TRAFFICKING REQUIREMENTS WERE FORMALLY DOCUMENTED IN USIB REQUIREMENTS IN AUGUST 1971.

AS WE ALL KNOW, DURING THIS PERIOD THERE WAS ALSO HEIGHTENED CONCERN BY THE COUNTRY AND THE SECRET SERVICE OVER PRESIDENTIAL PROTECTION BECAUSE OF PRESIDENT KENNEDY'S ASSASSINATION. AFTER THE WARREN REPORT, REQUIREMENTS LISTS CONTAINING NAMES OF U. S. CITIZENS AND ORGANIZATIONS WERE PROVIDED TO NSA BY THE SECRET SERVICE IN SUPPORT OF THEIR EFFORTS TO PROTECT THE PRESIDENT AND OTHER SENIOR OFFICIALS. SUCH REQUIREMENTS WERE LATER INCORPORATED INTO USIB DOCUMENTATION. AT THAT TIME INTELLIGENCE DERIVED FROM FOREIGN COMMUNICATIONS WAS REGARDED AS A VALUABLE TOOL IN SUPPORT OF EXECUTIVE PROTECTION.

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 AN INTERDEPARTMENTAL WORKING GROUP WITH USIB REPRESENTATION. 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 BNDD SUBMITTED A "WATCH LIST" COVERING THEIR REQUIREMENTS FOR INTELLIGENCE ON INTERNATIONAL NARCOTICS TRAFFICKING. ON SEPTEMBER 8, 1972, PRESIDENT NIXON SUMMARIZED THE EFFORTS OF HIS ADMINISTRATION AGAINST DRUG ABUSE. THE PRESIDENT STATED THAT HE ORDERED THE CENTRAL INTELLIGENCE AGENCY, EARLY IN HIS ADMINISTRATION,

TO MOBILIZE ITS FULL RESOURCES TO FIGHT THE INTERNATIONAL DRUG TRADE. THE KEY PRIORITY, THE PRESIDENT NOTED, WAS TO DESTROY THE TRAFFICKING THROUGH LAW ENFORCEMENT AND INTELLIGENCE EFFORTS. THE BNDD 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 FOR INTELLIGENCE RELATING TO PRESIDENTIAL AND EXECUTIVE PROTECTION. PUBLIC LAW 90-331 OF JUNE 6, 1968, MADE IT MANDATORY FOR FEDERAL AGENCIES TO ASSIST THE SECRET SERVICE IN THE PERFORMANCE OF ITS PROTECTIVE DUTIES. THESE LISTS CONTAINED NAMES OF PERSONS AND GROUPS WHO IN THE OPINION OF THE SECRET SERVICE WERE POTENTIALLY A THREAT TO SECRET SERVICE PROTECTEES, AS WELL AS THE NAMES OF THE PROTECTEES THEMSELVES. ON THESE LISTS WERE ABOUT 180 U.S. INDIVIDUALS AND GROUPS AND ABOUT 525 FOREIGN INDIVIDUALS AND GROUPS.

AN ARMY MESSAGE OF 20 OCTOBER 1967 INFORMED THE NATIONAL SECURITY AGENCY THAT ARMY ACSI HAD BEEN DESIGNATED EXECUTIVE AGENT BY DOD FOR CIVIL DISTURBANCE MATTERS AND REQUESTED ANY AVAILABLE INFORMATION ON FOREIGN INFLUENCE OVER, OR CONTROL OF, CIVIL DISTURBANCES IN THE U.S. THE DIRECTOR, NATIONAL SECURITY AGENCY SENT A CABLE THE SAME DAY TO THE DCI AND TO EACH USIB MEMBER AND 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.

THE BROWNELL COMMITTEE, WHOSE REPORT LED TO THE CREATION OF NSA, AND STATED THAT COMMUNICATIONS INTELLIGENCE SHOULD BE PROVIDED TO THE FEDERAL BUREAU OF INVESTIGATION BECAUSE OF THE ESSENTIAL ROLE OF THE BUREAU IN THE NATIONAL SECURITY.

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, 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 FOREIGN SUPPORT OF "SO-CALLED" U.S. EXTREMISTS AND TERRORISTS. SECTION 403(D)(3) OF TITLE 50, U.S. CODE, PROVIDED THAT IT WAS THE DUTY OF THE CENTRAL INTELLIGENCE AGENCY TO CORRELATE AND EVALUATE INTELLIGENCE RELATING TO THE NATIONAL SECURITY AND TO PROVIDE FOR THE APPROPRIATE DISSEMINATION OF SUCH INTELLIGENCE WITHIN THE GOVERNMENT USING, WHERE APPROPRIATE, EXISTING AGENCIES AND FACILITIES. 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. DIA IS RESPONSIBILE UNDER DOD DIRECTIVES FOR SATISFYING

THE INTELLIGENCE REQUIREMENTS OF THE MAJOR COMPONENTS OF THE DoD AND TO VALIDATE AND ASSIGN TO NSA REQUIREMENTS FOR INTELLIGENCE REQUIRED BY DoD COMPONENTS.

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. 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 1,900 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. THESE REPORTS INCLUDED SOME MESSAGES BETWEEN U.S. CITIZENS, BUT OVER 90% HAD AT LEAST ONE FOREIGN COMMUNICANT AND ALL MESSAGES HAD AT LEAST ONE FOREIGN TERMINAL. USING AGENCIES DID PERIODICALLY REVIEW (AND WERE ASKED BY THE NATIONAL SECURITY AGENCY TO REVIEW) THEIR "WATCH LISTS" TO ENSURE INAPPROPRIATE OR UNNECESSARY ENTRIES WERE PROMPTLY REMOVED. I AM NOT THE PROPER PERSON TO ASK CONCERNING THE VALUE OF THE PRODUCT FROM THESE FOUR SPECIAL EFFORTS. WE ARE AWARE THAT A MAJOR TERRORIST ACT IN THE U.S. WAS PREVENTED. IN ADDITION, SOME LARGE DRUG SHIPMENTS WERE PREVENTED FROM

ENTERING THE U.S. BECAUSE OF OUR EFFORTS ON INTERNATIONAL NARCOTICS TRAFFICKING. WE HAVE STATEMENTS FROM THE REQUESTING AGENCIES IN WHICH THEY HAVE EXPRESSED 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 INTELLIGENCE WERE SO RESTRICTIVE THAT THE VALUE WAS SIGNIFICANTLY DIMINISHED.

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 NATIONAL SECURITY AGENCY AND BY COMPETENT EXTERNAL AUTHORITY. THIS INCLUDED TWO FORMER ATTORNEYS GENERAL AND A FORMER SECRETARY OF DEFENSE. THE REQUIREMENTS FOR INFORMATION HAD ALSO BEEN APPROVED BY OFFICIALS OF THE USING AGENCIES AND SUBSEQUENTLY VALIDATED BY THE UNITED STATES INTELLIGENCE BOARD. FOR EXAMPLE, THE SECRET SERVICE AND BNDD REQUIREMENTS WERE FORMALLY INCLUDED IN USIB GUIDANCE IN 1970 AND 1971, RESPECTIVELY. IN THE AREAS OF NARCOTICS 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 IN THE UNITED STATES.

FROM 1967-1969 THE PROCEDURE FOR SUBMITTING NAMES WAS MORE INFORMAL WITH WRITTEN REQUESTS FOLLOWING AS THE USUAL PRACTICE. STARTING IN 1969 THE PROCEDURE WAS FORMALIZED AND THE NAMES FOR "WATCH LISTS" WERE SUBMITTED THROUGH CHANNELS IN WRITING. 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, 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. THAT IS, THE COMMUNICATIONS WERE OBTAINED, FOR EXAMPLE, BY MONITORING COMMUNICATIONS TO AND FROM HANOI. ALL COMMUNICATIONS HAD A FOREIGN TERMINAL AND THE FOREIGN TERMINAL OR COMMUNICANT

(WITH THE ONE EXCEPTION) WAS THE INITIAL OBJECT OF THE COMMUNICATIONS COLLECTION. THE "WATCH LIST" ACTIVITY ITSELF SPECIFICALLY CONSISTED OF SCANNING INTERNATIONAL COMMUNICATIONS ALREADY INTERCEPTED FOR OTHER PURPOSES TO DERIVE INFORMATION WHICH MET "WATCH LIST" REQUIREMENTS. THIS SCANNING WAS ACCOMPLISHED BY USING THE ENTRIES PROVIDED TO NSA 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.

NOW LET ME DISCUSS FOR A MOMENT THE MANNER IN WHICH INTELLIGENCE DERIVED FROM THE "WATCH LISTS" WAS HANDLED. FOR THE PERIOD 1967-1969, INTERNATIONAL MESSAGES BETWEEN U.S. CITIZENS AND ORGANIZATIONS, SELECTED ON THE BASIS OF "WATCH LIST" ENTRIES AND 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 CORRESPONDENT OF THE INTERNATIONAL COMMUNICATION, IT WAS PUBLISHED AS A NORMAL PRODUCT REPORT BUT IN A SPECIAL SERIES TO LIMIT DISTRIBUTION ON A STRICT NEED-TO-KNOW BASIS.

STARTING IN 1969, ANY MESSAGES THAT FELL INTO THE CATEGORIES OF PRESIDENTIAL/EXECUTIVE PROTECTION AND FOREIGN INFLUENCE OVER U.S. CITIZENS AND GROUPS WERE TREATED IN AN EVEN MORE RESTRICTED FASHION. THEY WERE PROVIDED FOR BACKGROUND USE ONLY AND HAND-

DELIVERED TO REQUESTING AGENCIES. WHEN THE REQUIREMENTS TO SUPPLY INTELLIGENCE REGARDING INTERNATIONAL DRUG TRAFFICKING IN 1970 AND INTERNATIONAL TERRORISM IN 1971 WERE RECEIVED, INTELLIGENCE ON THESE SUBJECTS WAS HANDLED IN A SIMILAR MANNER. THIS PROCEDURE CONTINUED UNTIL I TERMINATED THE ACTIVITY IN 1973.

THE ONE INSTANCE IN WHICH FOREIGN MESSAGES WERE INTERCEPTED FOR SPECIFIC "WATCH LIST" PURPOSES WAS THE COLLECTION OF SOME TELEPHONE CALLS PASSED OVER INTERNATIONAL COMMUNICATIONS FACILITIES BETWEEN THE UNITED STATES AND SOUTH AMERICA. THE COLLECTION WAS CONDUCTED AT THE SPECIFIC REQUEST OF THE BNDD TO PRODUCE INTELLIGENCE INFORMATION ON THE METHODS AND LOCATIONS OF FOREIGN NARCOTICS TRAFFICKING. IN ADDITION TO OUR OWN INTERCEPT, CIA WAS ASKED BY NSA TO ASSIST IN THIS COLLECTION. NSA 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 CIA STATUTORY RESTRICTIONS.

WHEN THE "WATCH LIST" ACTIVITY BEGAN, THE NATIONAL SECURITY AGENCY AND OTHERS VIEWED THE EFFORT AS AN APPROPRIATE PART OF THE FOREIGN INTELLIGENCE MISSION. THE EMPHASIS OF THE PRESIDENT THAT A CONCERTED NATIONAL EFFORT WAS REQUIRED TO COMBAT THESE GRAVE PROBLEMS WAS CLEARLY EXPRESSED. THE ACTIVITY WAS KNOWN TO HIGHER AUTHORITIES, KEPT QUITE SECRET, AND RESTRICTIVE CONTROLS WERE PLACED ON THE USE OF THE INTELLIGENCE.

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 GOVERNMENT AGENCIES RECEIVING THE INFORMATION HAD DUAL FUNCTIONS: FOR INSTANCE BNDD WAS CONCERNED ON THE ONE HAND WITH DOMESTIC DRUG LAW ENFORCEMENT ACTIVITIES AND ON THE OTHER HAND WITH THE CURTAILING OF INTERNATIONAL NARCOTICS TRAFFICKING. IT WOULD BE TO THE LATTER AREA OF RESPONSIBILITY THAT THE NATIONAL SECURITY AGENCY DELIVERED ITS INTELLIGENCE. 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 INFORMATION OF BROADER INTEREST.

VII. WATCH LIST ACTIVITIES AND TERMINATION THEREOF

IN 1973, CONCERN ABOUT THE NATIONAL SECURITY AGENCY'S ROLE IN THESE ACTIVITIES WAS INCREASED, FIRST, BY CONCERNS THAT IT MIGHT NOT BE POSSIBLE TO DISTINGUISH DEFINITELY 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, THAT REQUIREMENTS FROM SUCH AGENCIES WERE GROWING. FINALLY, NEW BROAD DISCOVERY PROCEDURES IN COURT CASES WERE COMING INTO USE WHICH MIGHT LEAD TO DISCLOSURE OF SENSITIVE INTELLIGENCE SOURCES AND METHODS.

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 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, IN PARTICULAR THE WATCH LIST ACTIVITY WAS STOPPED. NSA DID NOT RETAIN ANY OF THE BNDD WATCH LISTS OR PRODUCT. IT WAS DESTROYED

IN THE FALL OF 1973 SINCE THERE WAS NO PURPOSE OR REQUIREMENT TO RETAIN IT.

WITH REGARD TO "WATCH LISTS" 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 SEPTEMBER 1973, 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.

ON 1 OCTOBER 1973, ATTORNEY GENERAL RICHARDSON WROTE ME INDICATING THAT HE WAS CONCERNED WITH RESPECT TO THE PROPRIETY OF REQUESTS FOR INFORMATION CONCERNING U.S. CITIZENS WHICH NSA HAD RECEIVED FROM THE FBI AND SECRET SERVICE. HE WROTE THE FOLLOWING:

"UNTIL I AM ABLE MORE CAREFULLY TO ASSESS THE EFFECT OF KEITH AND OTHER SUPREME COURT DECISIONS CONCERNING ELECTRONIC SURVEILLANCE UPON YOUR CURRENT PRACTICE OF DISSEMINATING TO THE FBI AND SECRET SERVICE INFORMATION ACQUIRED BY YOU THROUGH ELECTRONIC DEVICES PURSUANT TO REQUESTS FROM THE FBI AND SECRET SERVICE, IT IS REQUESTED THAT YOU IMMEDIATELY CURTAIL THE FURTHER DISSEMINATION OF SUCH INFORMATION TO THESE AGENCIES.

OF COURSE, RELEVANT INFORMATION ACQUIRED BY YOU IN THE ROUTINE PURSUIT OF THE COLLECTION OF FOREIGN INTELLIGENCE INFORMATION MAY CONTINUE TO BE FURNISHED TO APPROPRIATE GOVERNMENT AGENCIES. . ."

THE OVERALL RESULT OF THESE ACTIONS WAS THAT WE STOPPED ACCEPTING "WATCH LISTS" CONTAINING NAMES OF U.S. CITIZENS AND NO INFORMATION IS PRODUCED OR DISSEMINATED TO OTHER AGENCIES USING THESE METHODS. THUS, THE "WATCH LIST" ACTIVITY WHICH INVOLVED U.S. CITIZENS CEASED OPERATIONALLY IN THE SUMMER OF 1973, AND WAS TERMINATED OFFICIALLY IN THE FALL OF 1973. AS TO THE FUTURE, THE ATTORNEY GENERAL'S DIRECTION IS THAT WE MAY NOT ACCEPT ANY REQUIREMENT BASED ON THE NAMES OF U.S. CITIZENS UNLESS HE HAS PERSONALLY APPROVED SUCH A REQUIREMENT; AND NO SUCH APPROVAL HAS BEEN GIVEN. ADDITIONALLY, DIRECTIVES NOW IN EFFECT IN VARIOUS AGENCIES ALSO PRECLUDE THE RESUMPTION OF SUCH ACTIVITY.