

CORD

Special Report of the Select Committee on Intelligence United States Senate January 3, 1989 to January 2, 1990

Item Type	Senate Committee Approved Report
Download date	2026-03-15 03:17:52
Link to Item	https://hdl.handle.net/20.500.14300/2921

SPECIAL REPORT
COMMITTEE ACTIVITIES
OF THE
SELECT COMMITTEE ON INTELLIGENCE
UNITED STATES SENATE
JANUARY 3, 1989 TO OCTOBER 28, 1990



MARCH 15 (legislative day, MARCH 3), 1993.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1993

SELECT COMMITTEE ON INTELLIGENCE

DAVID L. BOREN, Oklahoma, *Chairman*
WILLIAM S. COHEN, Maine, *Vice Chairman*

SAM NUNN, Georgia	ORRIN HATCH, Utah
ERNEST F. HOLLINGS, South Carolina	FRANK MURKOWSKI, Alaska
BILL BRADLEY, New Jersey	ARLEN SPECTER, Pennsylvania
ALAN CRANSTON, California	JOHN W. WARNER, Virginia
DENNIS DeCONCINI, Arizona	ALFONSE D'AMATO, New York
HOWARD M. METZENBAUM, Ohio	JOHN C. DANFORTH, Missouri
JOHN GLENN, Ohio	

EX OFFICIO

GEORGE J. MITCHELL, Maine ROBERT DOLE, Kansas

GEORGE J. TENET, *Staff Director*
JAMES H. DYKSTRA, *Minority Staff Director*
L. BRITT SNIDER, *General Counsel*
KATHLEEN P. MCGHEE, *Chief Clerk*

P R E F A C E

The Senate Select Committee on Intelligence submits to the Senate a report of its activities from January 3, 1989 to October 28, 1990. The Committee has been charged by the Senate with the responsibility of carrying out oversight over the intelligence activities of the United States. Most of the work of the Committee is of necessity conducted in secrecy, yet the Committee believes that intelligence activities should be as accountable as possible to the public. This public report to the Senate is intended to contribute to that requirement.

DAVID L. BOREN,
Chairman.
WILLIAM S. COHEN,
Vice Chairman.

CONTENTS

	Page
Preface	iii
I. Introduction	1
II. Legislation:	
A. CIA inspector general	2
B. Intelligence oversight	3
III. Arms control monitoring:	
A. TTBT/PNET	5
B. Chemical, biological and nuclear weapons	5
IV. Counterintelligence:	
A. The FBI and the CISPES	6
B. Jacobs CI panel	6
V. Oversight activities:	
A. Covert action	7
B. SSCI audit and investigations staff	8
C. Review of Iran-Contra documents	8
D. Counternarcotics	9
VI. Budget authorization process	10
VII. Confirmations:	
A. Nomination of Richard J. Kerr	10
B. Nomination of Frederick P. Hitz	11

APPENDIX

I. Summary of committee activities:	
A. Number of meetings/hearings	13
B. Bills and resolutions originated by the committee	13
C. Bills referred to the committee	13
D. Publications	14

OVERSIGHT OVER INTELLIGENCE ACTIVITIES

MARCH 15 (legislative day, MARCH 3), 1993.—Ordered to be printed

Mr. BOREN, from the Select Committee on Intelligence,
submitted the following

REPORT

I. INTRODUCTION

The Select Committee on Intelligence (SSCI), established by the United States Senate on May 19, 1976, to conduct oversight of the programs and activities of the Intelligence Community, submits the following report to fulfill the requirement of section 1 of Senate Resolution 400 which states that it would be the purpose of this Committee to "report to the Senate concerning * * * intelligence activities and programs" of the United States government. This introduction covers a broad overview of the activities during the 101st Congress which convened January 3, 1989, and adjourned October 28, 1990.

Chairman David L. Boren and Vice Chairman William S. Cohen continued their leadership of the Committee in the new Congress in the same bipartisanship manner where the Committee staff serves all members without regard to party affiliation.

Several initiatives were continued that began in the 100th Congress to safeguard classified information and a systematic quarterly review of all covert action programs as well as audits by the new Audit and Investigation Staff to strengthen Congressional oversight.

The Committee continued the challenge of enacting the oversight legislation that was a result of a thorough review of the laws and procedures for covert action by the Committee after the investigation of the Iran-Contra affair. A section in this report provides the details about the initial passage of S. 1721 in the FY 1990 Intelligence Authorization by the Senate but not by the House, the incorporation of these provisions as Title VII in the FY 1991 intelligence authorization, the inclusion in the FY 1991 conference report approved by both Houses of Congress and the resulting Memorandum of Disapproval by the President on November 30, 1990. The Chair-

man and the Vice Chairman of the Committee intended to work with the Administration to resolve the remaining difficulties in the 102nd Congress.

An amendment to establish an independent Inspector General of the Central Intelligence Agency was included in the FY 1990 intelligence authorization legislation and became law. Senator Specter had introduced this legislation in the 100th Congress and again in this Congress. Discussion of this important change occurred in two public hearings in 1987 and then was the sole topic of a hearing on March 1, 1988. The reasons why the CIA Inspector General must operate under different provisions than other independent inspector generals is discussed at length later in this report. The Committee also held the hearing on the first nominee as CIA Inspector General, Frederick P. Hitz, in a public confirmation hearing October 10, 1990. Senate Hearing Report 101-1083 and a section in this report more fully discuss the passage of this landmark legislation and the confirmation process.

An important endeavor during the 101st Congress was undertaken by a panel of distinguished private citizens and chaired by Eli Jacobs. This group, after six months of extensive review of the statutory framework for the conduct of U.S. counterintelligence activities, reported 13 recommendations to this committee. A section in this report provides details on this valuable effort as does the unclassified Senate Hearing Report 101-1293 on S. 2726 to improve U.S. counterintelligence measures.

More than two years of research and analysis was spent on an assessment of the monitoring and counterintelligence issues involved in the Threshold Test Ban Treaty (TTBT) and the Treaty on Peaceful Nuclear Explosions (PNET). Three hearings were held in July 1990 and the committee concluded that the cooperative monitoring and the inspection measures negotiated with the Soviets and recent improvements in our own analytical methodologies significantly improved the overall U.S. monitoring capability.

The Committee also held the confirmation hearing on Richard J. Kerr as Deputy Director of Central Intelligence which is more fully described later in this report.

A total of 118 on-the-record meetings and hearings were held during the 101st Congress. Fifty-one were oversight, 14 were business meetings and 18 were on the budget authorization process. Nine meetings were held on the TTBT/PNET treaties, four on nominations, one on legislation, eight mark-up sessions and one conference committee meeting.

Once again, the Committee believes that the public's confidence in U.S. intelligence activities can be preserved and enhanced through Congressional oversight and has attempted to discharge its Constitutional and statutory functions while preserving necessary secrecy.

II. LEGISLATION

A. Inspector general for the Central Intelligence Agency

An amendment was included in the FY 1990 authorization legislation to establish an independent Inspector General of the Central Intelligence Agency. This Committee began to study this issue after

the congressional committees investigating the Iran-Contra affair recommended the creation of a statutory Inspector General stating that the present IG office at the CIA "appears not to have had the manpower, resources or tenacity to acquire key facts uncovered by the other investigations [of the Iran-Contra affair]."

Senator Specter had included a provision to create such a position in S. 1818 introduced in the 100th Congress. Discussion of these provisions occurred in the two public hearings held on oversight legislation in 1987. A third hearing devoted entirely to the Inspector General legislation was held on March 1, 1988.

In the 101st Congress, Senator Specter again introduced a similar bill, S. 199. On the basis of the Committee's previous consideration on this issue and of its ongoing evaluation of the work of the CIA Inspector General, the Committee decided the creation of the statutory Inspector General would improve the effectiveness and objectivity of that office and included language to do so in the Intelligence Authorization Act of 1990.

The Committee was of the view that the CIA Inspector General must operate under somewhat different provisions than those at other departments and agencies because of the unique congressional oversight arrangement for CIA. The establishment of the statutory IG, therefore, was made part of the "organic" statute setting forth the authorities of the Agency rather than the Inspector General Act of 1978.

The bill provides for the appointment of the IG by the President with confirmation by the Senate. Only the President may remove the IG from office and must communicate reasons in writing to the two intelligence committees.

The bill clarifies that the IG shall report directly to the DCI and shall be under his general supervision. To protect vital national security interests, the DCI may prohibit certain audits, inspections or investigations. In these circumstances, the DCI must submit a statement of his reasons for such actions within seven days to the two intelligence committees and the IG is given the opportunity to submit comments if he so desires.

The CIA IG will report directly to the DCI because of certain authorities only exercised by the DCI and also because of the DCI's obligations to the congressional oversight committees. The DCI must also report any suspected violations of law to the intelligence committees and the IG can raise with the committees any failure of the DCI to do so.

Since the enactment of the National Security Act of 1947, the CIA has been barred from possessing subpoena power as a key limitation on CIA's authority to intrude into domestic affairs. The Committee did not believe such a safeguard should be jeopardized and, therefore, decline to give the subpoena power.

B. Intelligence oversight

It is important to note that prior to the Iran-Contra affair, the Intelligence Committee had continuously analyzed the issues raised by the ambiguities in the applicable oversight statutes. In fact, consideration of these issues dates back to 1981, almost immediately after enactment in 1980 of the Intelligence Authorization Act for

Fiscal Year 1981 which established the essential features of the present oversight process.

Prior to the 1980 Act, the Hughes-Ryan Amendment had required a Presidential finding for CIA covert action but not other agencies. Attempting to close this gap, Executive Order 12333, Sec. 3.1. provided that the finding requirement "shall apply to all special activities as defined in this Order," which included covert actions undertaken by agencies other than CIA. Events proved that a provision in an executive order was not enough and presented an opportunity for abuse.

A bill, S. 1721 introduced in the 100th Congress in the aftermath of the Iran-Contra affair, passed the Senate on March 15, 1988, by a vote of 71-19. The House of Representatives did not take action on this bill nor H.R. 3822 which was reported out of the House Select Committee on Intelligence. The same provisions were substantially incorporated in S. 1324, the Intelligence Authorization for FY 1990, as reported by this committee and passed the Senate by voice vote in 1989. The oversight provisions of the Intelligence Authorization for FY 1990 did not survive the conference because the House conferees requested to defer consideration until the second session of the 101st Congress in order to explore whether further improvements might be necessary.

Again, this committee incorporated these provisions as Title VII of the FY 1991 Intelligence Authorization. Finally, the October 1990 vote of both Houses approved the conference committee report on S. 2834 including the oversight provisions. A comprehensive review of these provisions and the history of the legislation can be found in Senate Report 101-358.

There are several objectives of these provisions. The first is to clarify the respective roles of the President and the Congress in approving and overseeing intelligence activities, particularly covert actions. The second objective is to eliminate certain ambiguities in the law; for example, the legislation provides that Presidential findings must be written, and, for the first time, attempts to define what a covert action is and is not.

Although the Administration had advised that the President would sign S. 2834, on November 30, 1990, the President issued a "Memorandum of Disapproval" stating that he would not sign the bill and thus prevented it from becoming law. He gave as his principal reason the sentence in the definition of "covert action" which provided that any request to a foreign government or private citizen to conduct a covert action on behalf of the United States was itself deemed to be a covert action requiring a presidential finding and reporting to the Congress pursuant to the procedures set forth in the bill.

The Chairman and the Vice Chairman of the Committee announced their intention to work with the Administration in the next Congress to resolve the Administration's difficulties with the oversight provisions.

III. ARMS CONTROL MONITORING

A. *Threshold Test Ban Treaty and the Treaty on Peaceful Nuclear Explosions*

The Committee routinely follows arms control negotiations and schedules formal on-the-record briefings when an agreement appears imminent. More than two years of research and analysis by the Committee was spent on an assessment of the monitoring and counterintelligence issues raised by the Threshold Test Ban Treaty (TTBT) and the Treaty on Peaceful Nuclear Explosions (PNET). As agreement appeared near on the new Protocols, the Committee intensified its attention by holding on-the-record briefings both before and after the signing from late 1988 through July 1990.

In September 1988, the Committee requested a formal document from the DCI concerning the ability of the U.S. government, through cooperative and unilateral means, to monitor Soviet compliance with these two treaties. An analysis was published in July 1989 by the DCI's Joint Atomic Energy Intelligence Committee and a National Intelligence Estimate was published in July 1990.

There were three hearings in July 1990 and an on-the-record staff briefing on counterintelligence and security issues was held in August 1990.

The Committee concluded that the cooperative monitoring and inspection measures negotiated with the Soviets and recent improvements in U.S. analytical methodologies significantly improved the overall U.S. monitoring capability. A comprehensive summary of the background and key findings from the Committee can be found in Senate Report 101-462.

The dramatic changes in the Soviet Union and Eastern Europe have provided a vast amount of information but it is clear that U.S. intelligence will have to cope with a more daunting arms control monitoring regime than ever envisioned. The Committee will continue to press the Intelligence Community to make investments that are helpful in verifying a START Treaty.

B. *Chemical, biological and nuclear weapons proliferation*

In the 101st Congress, the Committee continued its on-going review of the growing threat to U.S. national security interests posed by the world-wide proliferation of nuclear, chemical, and biological weapons, as well as ballistic missiles and other delivery systems. The Committee directed the Intelligence Community to strengthen its efforts in this important area, and, among other things, encouraged the Community to do everything possible to provide unclassified information to the American public on international proliferation developments.

In addition, the Committee's examination of this important issue led it to the conclusion that the growing threat posed to international stability by the proliferation of weapons of mass destruction warranted a more comprehensive and coordinated Intelligence Community effort. Accordingly, prior to the Iraqi invasion of Kuwait in 1990, the Committee included in the FY 1991 Intelligence Authorization Bill language requesting the DCI to establish an interagency proliferation structure to have representation from all relevant components of the Intelligence Community, and to

make recommendations to the DCI to enhance all-source collection concerning the proliferation target. The CIA responded to this request by establishing the Nonproliferation Center.

IV. COUNTERINTELLIGENCE

A. *The FBI and CISPES*

During the first session of the 101st Congress, the Committee completed its investigation of alleged FBI misconduct in the international terrorism investigation of a domestic political group, the Committee in Solidarity with the People of El Salvador (CISPES), during 1982-85. The Committee issued a 138-page public report on the FBI and CISPES in July 1989 and transmitted it to the Judiciary Committee for attention to matters within that committee's jurisdiction. In their letter of transmittal, Chairman Boren and Vice Chairman Cohen stated, "Although the CISPES investigation was an aberration that contrasts sharply with the FBI's overall record in recent years, it has served as a reminder of the need for close and continuing congressional oversight of the FBI. Americans should be free to disagree with the policies of their government without fear of investigation by any government agency. Corrective actions based on the lessons of the CISPES investigation should strengthen our nation's ability to fight terrorism without jeopardizing the free exercise of constitutional rights."

Later in 1989, the FBI informed the Committee that it had adopted the Committee's recommendation that the records of the entire nationwide CISPES investigation be removed from FBI files and transferred to the National Archives. In addition, the Attorney General responded to the Committee's report by making several revisions in the guidelines for FBI international terrorism investigations so as to strengthen safeguards for First Amendment rights. As noted in the report, FBI Director William Sessions instituted a series of internal management reforms and took disciplinary actions against FBI supervisory personnel as a result of the findings of the FBI Inspection Division regarding the CISPES investigation.

B. *Jacobs Counterintelligence Panel*

Since its conception in 1976, the Committee has seen as a priority the need to insure that our laws provide for effective counterintelligence while insuring the liberties of American citizens. In the 1970's, the Committee helped develop the Foreign Intelligence Surveillance Act and in the early 1980's, the Classified Information Procedures Act. The Vice Chairman, Senator Cohen, played an important role in passing legislation limiting the size and activities of hostile intelligence services within the United States. In 1986, the Committee published over 100 recommendations in a report entitled "Meeting the Espionage Challenge."

During the 1980s, the problems continued to mount. More spies were uncovered than ever before in our history. These were not cloak and dagger agents but clerks, analysts, cryptanalysts, officers and enlisted personnel. By 1989, the Committee had become increasingly concerned that U.S. law and policy may be inadequate in terms of the capabilities of the Government to deal effectively with the espionage threat.

Accordingly, during the 101st Congress, Chairman Boren and Vice Chairman Cohen decided to form a panel of distinguished private citizens to examine the statutory framework for the conduct of U.S. counterintelligence activities. This panel was chaired by Eli Jacobs, a New York businessman with extensive participation on panels in the defense and foreign policy areas. Other members included former NSA Director and Deputy Director of Central Intelligence, Bobby Inman; former Deputy Secretary of State and former Deputy Attorney General Warran Christopher; former Counsel to President Carter, Lloyd Cutler; former Counsel to President Reagan, A.B. Culvahouse; former Director of Central Intelligence, Richard Helms; former Ambassador to the Organization of American States, Sol Linowitz; former Ambassador and State Department official, Seymour Weiss; and Columbia University of Law Professor Harold Edgar.

After six months of review, the panel provided the committee with 13 recommendations for additional laws, largely based on the extensive study of cases that have occurred since 1970. The large amount of existing case law interprets the basic espionage statutes set forth in Title 18, United States Code, Sections 793, 794, and 798 so that the panel found no compelling reasons to amend them.

Chairman Boren and Vice chairman Cohen introduced S. 2726 based on the recommendations of the Jacobs panel and held a hearing on July 12, 1990. The Committee's Hearing Report 101-1293 provides a more complete review of the panel's work and the resulting legislation. The Jacobs panel presented its recommendations at a public hearing on May 23, 1990 and the hearing on S. 2726 was held on July 12, 1990.

By this time, however, dramatic changes had taken place in Eastern Europe, and the former Soviet Union itself was in the process of disintegration. These changes seemed to portend a reduction in the traditional espionage threat. At the same time, it was clear that the threat might only take a new shape. For example, espionage against commercial targets in the United States could become the great equalizer for the shortcomings of the Soviet economy. Intelligence services once hostile may become friendly and those that have been friendly may become, in some degree, hostile.

In view of these changes and the uncertain outlook ahead, the Committee did not proceed to report S. 2726, deferring the legislation until the nature of the espionage threat in the post Cold-War world became clearer. Certain of the provisions of the bill were, however, enacted by the Congress in other legislation. For example, the provision permitting the Director of the National Security Agency to deal with former employees who posed a security threat was enacted as part of the Intelligence Authorization Act for Fiscal Year 1991.

V. OVERSIGHT ACTIVITIES

A. *Covert action*

The Committee continued the oversight reforms begun in the 100th Congress. Although a small portion of the total intelligence budget, covert actions require intense scrutiny by the congressional

intelligence committees because of their sensitivity and potential for foreign policy disaster or problems.

The quarterly reviews of all covert action programs now conducted by our committee, we believe, have imposed an important discipline on the Executive Branch creating a constant reassessment of not only the covert actions but the policies which serve as their foundations.

The Committee also holds special sessions whenever the President initiates a new covert action and submits the required justification and analysis.

B. The SSCI audit and investigations staff

The audit staff, initiated in January 1988, has continued to conduct several independent audits of highly sensitive intelligence programs at the Central Intelligence Agency, the National Security Agency and the Department of Defense.

The Committee believes that the relationship between the intelligence community and the Congress has been strengthened by the close cooperation between this staff, the offices of Inspector General and the various personnel from the agencies involved.

The audit staff continues to broaden the oversight capability of the Committee by the depth and quality of these program reviews. In turn, this team has helped impose tighter discipline on the management of many sensitive operations.

C. Review of Iran-Contra documents

In April 1989, the Committee was asked by the Majority Leader, Senator Mitchell, and Senators Inouye and Rudman, the former Chairman and Vice Chairman of the Senate Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition, to ascertain whether certain documents released to the public during the trial of Oliver North had been provided to the Iran-Contra Committee and if not, why such a failure occurred.

While the accounting system of the Senate Iran-Contra Committee's files are not as comprehensive as this Committee, the SSCI concluded that the records provided a high degree of reliability. The Committee did not find any versions of the six pertinent documents released during the North trial in either the House or Senate Iran-Contra files. Yet it was felt that these documents fell within the terms of the document requests made to the White House including the National Security Council.

The Committee met with the former chief counsels of the investigating committees and interviewed other former staff to ascertain how the document production process worked and if they could recall anything about these documents. The White House Counsel's office, NSC staff, archivists, FBI agents involved in the searches and staff from the Independent Counsel's office also cooperated in this review. The White House provided copies of the work sheets on each document that indicated how the document had been handled within the White House. SSCI staff was permitted to examine the actual documents that came to light during the North trial in the folders and boxes in which they had been stored.

In examining all the documents released to the public during the North trial, the Committee decided to include one additional docu-

ment which had been provided in draft form to the Committee whereas in the North trial, it was the signed version.

The Committee found no evidence to suggest that six of the seven documents, involving aspects of a U.S. diplomatic approach to Honduras in February-April 1985, were deliberately and systematically withheld by the White House or persons within the White House from the congressional investigating committees. Any systematic effort by the White House to prevent their production would have been difficult to accomplish and inconsistent with a number of other actions taken by the White House.

The SSCI review could not absolutely rule out the possibility that selective efforts could have been made by an unknown person or persons to remove certain copies of the documents in question from certain files, without attempting a comprehensive effort to remove all such copies. It is believed that the failure to produce six Honduran documents can most likely be attributed to the mistaken but good faith judgment of the FBI agents conducting the search. There was ambiguity in the selection criteria in both searches made for the investigating committees.

The seventh document is shown in White House records as pulled and forwarded to the congressional committees in redacted form and included a signed receipt. Neither House nor Senate records show that the document was entered into the files. No staff recalls having seen it. White House records also show that an unredacted version without the North note was placed in an "access only" file at the Old Executive Office Building and reviewed by Senate and House Committee staff.

A complete report entitled "Were Relevant Documents Withheld from the Congressional Committees Investigating the Iran-Contra Affair" was published in June 1989 as Senate Report 101-44.

D. Counternarcotics

The Committee decided to form a staff-level Drug Task Force in early October 1989 to focus on the role of intelligence in the new emphasis on the war on drugs. Because task force staff members have widely varying backgrounds in the counternarcotics area, a decision was taken to establish a common knowledge base for all of the participants and as many other Committee staff who were interested. Accordingly, a series of staff briefings by officials from the National Security Council, the Office of National Drug Control Policy, the CIA, and the Defense Department were organized.

Following those briefings, two trips were organized for members of the Task Force. One trip was devoted to visiting counternarcotics activities on the East Coast and the other was designed in parallel for the West Coast. No foreign travel was undertaken.

The task force has continued its study through briefings and visits to Washington sites. Many classified reports covering its findings and recommendations on the activities of several federal agencies and departments have been written and are in Committee files.

VI. BUDGET AUTHORIZATION PROCESS

The annual budget authorization process is one of the principal means by which the Committee discharges its responsibility of Congressional oversight of U.S. intelligence activities. It is the optimum that the long-term direction of U.S. intelligence is influenced in a way that improves and strengthens the efforts.

A detailed and extensive annual evaluation of the National Foreign Intelligence Program (NFIP) is conducted. The NFIP includes all intelligence activities designed to serve the foreign intelligence and counterintelligence needs of the policymaking officials of the U.S. government. During the 101st Congress, the Committee took action on the Fiscal Year 1990 and Fiscal Year 1991 intelligence budgets.

Additionally, the Committee reviews the intelligence activities funded in the Tactical Intelligence and Related Activities (TIARA) programs under the Department of Defense. TIARA programs are designed to meet the needs of military commanders in combat. The recommendations of the Committee are submitted to the Armed Services Committee for its consideration in the Department of Defense authorization bill.

The annual budget review consists of a series of hearings with the Director and Deputy Director of Central Intelligence, the Directors of the National Security Agency and the Defense Intelligence Agency as well as senior officials from the Department of Defense, the four military services, the Department of State and the Federal Bureau of Investigation. In addition to the hearings, the process requires the review of thousands of pages of budget justification material; review of written responses to several hundred questions for the record; special analyses and studies; and an extensive number of staff briefings by a broad range of intelligence community budget and program officials.

The specific details of the Committee's budgetary recommendations cannot be made public because of the classified nature of intelligence activities. A classified report, which describes in detail the full scope and intent of its recommendations and the specific amounts authorized, is available to all Members of the Senate according to the provisions of Senate Resolution 400, 94th Congress. Copies of the classified report are also provided to the Senate Armed Services Committee, the Senate and House Appropriations Committees, the House Permanent Select Committee on Intelligence and the President.

Some specific legislative actions included in the authorization bills are discussed in other parts of this report. Examples are the Inspector General for the Central Intelligence Agency which is found in the FY 1990 legislation and Title VII, Intelligence Oversight in the FY 1991 bill.

VII. CONFIRMATIONS

The Committee conducted two confirmation hearings during the 101st Congress. The first occurred on February 28, 1989, to examine the qualifications and experience of Richard J. Kerr to be the Deputy Director of Central Intelligence. The second hearing was held September 25, 1990, on the nomination of Frederick P. Hitz as

the first statutory Inspector General for the CIA as a result of legislation passed in the first session of the 101st Congress to create an independent office of Inspector General for the CIA.

A. Nomination of Richard J. Kerr

The hearing on the nomination of Richard J. Kerr to be Deputy Director of Central Intelligence occurred on February 28, 1989. Mr. Kerr, a 28-year veteran of the Central Intelligence Agency, has gained some knowledge of the intelligence community as a whole by serving as executive officer to the Director of the Intelligence Community staff in the 1970s. He has also chaired the Intelligence Producers Group and served on the National Foreign Intelligence Council. For a short period in the mid-1980s, he was Deputy Director for Administration of the CIA and then became Deputy Director of Intelligence in April 1986 where he presently serves.

Mr. Kerr testified that he has always and will continue to adhere to the belief that the most important function of the Intelligence Community is to provide timely, accurate and unbiased information to the policymakers even when it does not support present policy. He stated that from his experience as a member of the Covert Action Review Group at CIA, he believes that to gain the bipartisan support of Congress, which is essential for the success of any covert action, the Intelligence Committee must be kept fully and currently informed on such activities.

Members questioned Mr. Kerr on several matters and some members addressed additional classified questions in writing. The Committee met again on Tuesday, March 14, 1989, and voted consideration by the full Senate.

B. Nomination of Frederick P. Hitz

This nomination of Frederick P. Hitz represented the Committee's efforts to improve internal oversight at the CIA and to respond to a recommendation by the congressional committees investigation of the Iran-Contra affair. The enactment of legislation to create an independent Office of Inspector General at CIA was included in the Intelligence Authorization of FY 1990.

Two hearings were held in 1987 on S. 1818 containing a provision to establish a statutory Inspection General and which was introduced by Senator Specter, a member of this committee. Then in 1988, the Committee held a hearing solely on the Inspector General provisions. The committee voted eleven to four to include this legislation establishing an independent statutory Inspector General in the Intelligence Authorization Act of 1990. An amendment to delete this provision on the floor of the Senate was defeated by a vote of sixty-four to thirty-four. The House and Senate conference approved the provision in the authorization bill and it was signed into law by the President.

Mr. Hitz is the first nominee by the President requiring confirmation by the Senate as a result of this Act. He testified that he believed his management experience at CIA as well as representing several executive agencies will help him conduct the independent office of the Inspector General as the Congress expects. He believes that a successful Inspector General and his staff must have the trust and cooperation of CIA employees to conduct the thorough re-

views necessary to uncover the problems that need correcting, his main objective would be to conduct inspections, investigations and audits that would provide recommendations to promote efficiency and prevent abuse. His responsibility would be to keep the DCI and the Intelligence Committees fully informed of significant problems and corrective actions taken.

The nominee responded to the standard questionnaire for nominees and provided his financial disclosure statement. The Office of Government Ethics certified he had no conflict of interest problems. He also responded to two sets of written interrogatories detailing his understanding of the statute. Twenty people were interviewed by committee staff.

The Committee met at 1 p.m. on Wednesday, October 10, 1990, and reported this nomination to the Senate by a vote of fourteen to one.

A P P E N D I X

I. SUMMARY OF COMMITTEE ACTIVITIES, JANUARY 3, 1989 TO OCTOBER 28, 1990

A. Number of meetings/hearings: Total 118

Total on-the-record meetings and hearings of the Committee during the 101st Congress were 118. Of these, 51 were oversight; 14 were business and 18 were on the budget. The Committee held 2 meetings and the staff held 7 meetings on the TTBT/PNET treaties. There were 4 meetings on nominations, 1 on legislation, 8 mark-up sessions and 1 conference committee meeting. Staff also held 12 meetings on miscellaneous topics. The committee staff also conducted interviews and briefings continuously throughout the 101st Congress.

B. Bills and resolutions originated by the committee: Total 6

S. Res. 57—An original resolution authorizing expenditures by the Select Committee on Intelligence.

S. 1324—A bill to authorize appropriations for fiscal years 1990 and 1991 for intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

S. 2726—A bill to amend the National Security Act of 1947 to improve counterintelligence measures through enhanced security for classified information, and for other purposes.

S. 2834—An original bill to authorize appropriations for fiscal year 1991 for intelligence activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System and for other purposes.

S. 3251—A bill to amend the National Security Act of 1947 to improve counterintelligence measures through enhanced security for classified information and for other purposes.

C. Bills referred to the committee: Total 4

S. 145—A bill to make requirements for the preparation and transmittal to the Congress, of Presidential findings for certain intelligence operations and to provide mandatory penalties for deceiving Congress.

S. 175—A bill to improve the objectivity, reliability, coordination and timeliness of national foreign intelligence through a reorganization of positions and for other purposes.

S. 199—A bill to establish an Inspector General for the CIA.

S. 499—A bill to amend the National Security Act of 1947 to make the Secretary of Commerce a member of the National Security Council.

D. Publications from January 3, 1989 to October 28, 1990

Senate Hearing 101-180. Nomination of Richard J. Kerr to be Deputy Director of Central Intelligence. February 28, 1989.

Senate Report 101-78. Report to accompany S. 1324 authorizing appropriations for fiscal years 1990 and 1991 for Intelligence Activities of the U.S. Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System and for other purposes. July 14, 1989.

Senate Report 101-174. Report to accompany S. 1324 (Intelligence Authorization Bill). Includes language on Statutory Inspector General for the Central Intelligence Agency.

Committee Print 101-44. Select Committee on Intelligence Report. Were Relevant Documents Withheld from the Congressional Committees Investigating the Iran Contra Affair? June 1989.

Committee Print 101-46. Select Committee on Intelligence Report on the FBI and CISPES. July 14, 1989.

Senate Report 101-219. Select Committee on Intelligence Report to the Congress on its activities during the 100th Congress.

Senate Report s101-358. Select Committee on Intelligence Report to Accompany S. 2834 (Intelligence Authorization Bill).

Senate Report 101-462. U.S. Capability to Monitor Soviet Compliance with the Threshold Test Ban Treaty (TTBT) and the Treaty on Peaceful Nuclear Explosions (PNET). September 14, 1990.

Conference Report H.R. 101-928. Conference Report to accompany S. 2834 (Intelligence Authorization Bill for fiscal year 1991).

Senate Hearing 101-1083. Nomination of Frederick P. Hitz to be Inspector General of the Central Intelligence Agency. September 25, 1990.

Conference Report H.R. 101-367. Conference Report to accompany H.R. 2748 (Intelligence Authorization Bill for fiscal years 1990/1991). November 16, 1989.

Public Law 101-193. Intelligence Authorization Bill for fiscal years 1990 and 1991, signed into law November 30, 1989.

Senate Report 101-236. Select Committee on Intelligence Report to Congress on its activities during the 99th Congress.

Senate Print 101-134. Rules of Procedure for the Senate Select Committee on Intelligence, amended October 24, 1990.

Senate Hearing 101-1293. S. 2726 to improve U.S. Counterintelligence Measures.