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(U) Chapter 16

Cryptology and the Watergate Era

(U) BACKGROUND TO SCANDAL

(U) The greatest political scandal in American history originated with an obscure note in the Metro section of the *Washington Post* on Sunday, June 18, 1972. In it, two Metro section reporters, Bob Woodward and Carl Bernstein, covered what appeared to be an amateurish break-in at the Democratic National Headquarters in the Watergate Hotel in downtown Washington.

(U) The Nixon administration managed to cover over the political effects of the break-in until after the elections in November. But when Congress returned in January, it was ready to investigate. In February 1973, the Senate voted to establish a Select Committee, commonly referred to as the Ervin Committee after Senator Sam Ervin, Democratic senator from North Carolina, to hold hearings. At the time, no one associated with the committee knew where they would get information, since the administration was keeping a tight lip, and the Watergate burglars weren't talking. But on March 23, one of the burglars, James McCord, turned state's evidence. The federal judge, John Sirica, had been pressuring the defendants by threatening lengthy prison terms if they did not cooperate. Now McCord was cooperating, and the entire thing began to unravel. The president, concerned with getting on with his second term, tried to shush the whole thing.

(U) The scandal, of course, would not shush. Instead, it mushroomed, swallowing first Nixon's White House staff, then much of his cabinet, and finally the president himself. On August 8, 1974, Nixon resigned and Gerald Ford moved into the White House.

(U) In a real sense, Watergate resulted from Vietnam. President Nixon was obsessed with the disorder and demonstrations that hurled the Johnson administration down and



(U) President Nixon and his inner circle, 1973

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played a large role in the defeat of Hubert Humphrey in 1968. One of the central incidents of the disorderly 1960s was Daniel Ellsberg's decision to publish a collection of the Johnson administration's papers on the war, which came to be known as the *Pentagon Papers*. Nixon ordered an investigation of Ellsberg, and two of his White House confidants, Egil "Bud" Krogh and David Young, put together a clandestine unit, which they called the "Plumbers" because the objective was to plug leaks. The group obtained the assistance of White House Special Counsel Charles Colson, who brought in some experts in clandestine surveillance formerly from CIA and FBI, among them Howard Hunt and G. Gordon Liddy. The Plumbers broke into the office of Ellsberg's psychiatrist, Lewis Fielding. The unit itself was eventually disbanded, but the individuals were retained by the Committee to Re-Elect the President (CREEP), and they eventually bugged the office of Lawrence O'Brien, chairman of the Democratic National Committee, in the Watergate complex.¹

~~(TS-TK)~~ For a time, cryptology was a bystander in this turmoil, but the antiwar demonstrations eventually touched NSA's business. In 1966, Stanford University students picketed Stanford Electronic Laboratories, where Lockheed Missile and Space Corporation (LMSC) was designing the P-11 SIGINT satellite payloads. When students occupied the building, James DeBroekert of LMSC smuggled one of the payloads out of the building, through Moffett Naval Air Station and over to Building 190 where the rest of the Lockheed SIGINT satellite effort resided. This very close call for the cryptologic payload had a happy ending only because the students never really knew what they were picketing.²

~~(C)~~ Next year disorder hit the Princeton University campus. The radical group Students for a Democratic Society (SDS) discovered the existence on campus of the Communications Research Division of the Institutes for Defense Analyses (IDA/CRD), which had been set up in the late 1950s to help NSA with difficult cryptanalytic problems. Unclassified CRD publications appeared to link the organization with the Defense Department, and SDS set out to force a campus eviction. After several months of sporadic demonstrations, on May 4, 1970, students broke through police lines and vandalized the inside of the building. A few days later a student was arrested as he attempted to set the building on fire. CRD built an eight-foot-high fence around the building and occupied it in a permanent siege mode. But the students had already achieved their objective. The atmosphere was no longer good for defense contractors, and Princeton asked CRD to move. CRD found other quarters off campus and moved out in 1975.³

(U) In June 1971, amid the hysteria over the American invasion of Cambodia, the *New York Times* began publishing a series of documents relating to the war effort. The papers had originally been given to journalist Neil Sheehan of the *Times* by one Daniel Ellsberg, a former defense analyst during the Johnson administration. Two days later a federal judge issued a restraining order, but that did not stop the presses. Ellsberg sent copies to seventeen more newspapers, and the revelations continued. On June 30, the court lifted its restraining order, and the *Times* published the rest of the batch. Journalists quickly labeled them the *Pentagon Papers*.

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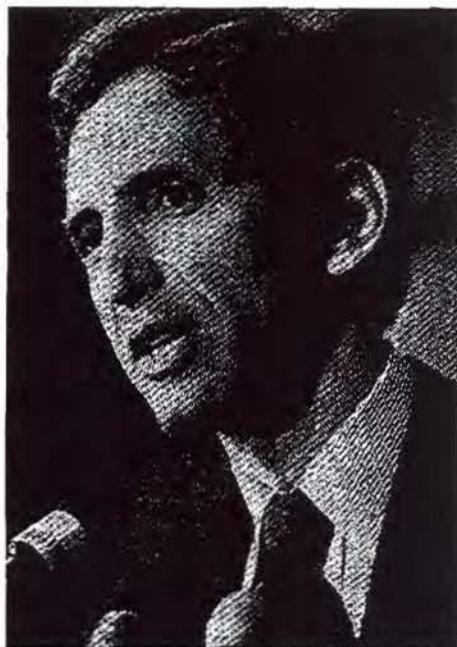
(U) Ellsberg had been hired into the Pentagon as one of Robert McNamara's "whiz kids." In 1967 Ellsberg was assigned to a project under Lawrence Gelb to undertake a study of U.S. involvement in Vietnam. Brilliant and dogmatic, Ellsberg turned against the war. He felt that the documents could be damaging to the war effort, so when he left the Pentagon to take a job with the Rand Corporation, he reproduced a copy and carried it with him.

(U) It was a very large document indeed - over 7,000 pages - and Ellsberg spent thousands of dollars making copies. For several years he tried to use the papers to convince policy makers (Henry Kissinger and William Fullbright, among others) to change U.S. policy in Southeast Asia, but in vain. As a last resort, then, in 1971 he turned the documents over to the newspapers.⁴

(U) Ellsberg claimed that the Pentagon Papers, although officially classified, were actually unclassified. In fact, the last four (of forty-seven) volumes contained COMINT relating to diplomatic negotiations with North Vietnam, and it was this information that the government was trying to protect when it applied for a restraining order. Newspapers did not release the information in 1971, but journalist Jack Anderson got the last four volumes and released them in 1972. Among the revelations was one concerning the intercept and exploitation of Soviet premier Kosygin's telephone calls while he was in London in February 1967. The intercept apparently came from the British, so from a technical point of view this incident revealed no American cryptologic information.⁵

~~(S-CG)~~ NSA examined the four volumes and found five instances in which COMINT was undoubtedly the source of the information. Ambiguity prevailed in each case, and NSA's policy people bent over backwards to avoid having to charge Ellsworth or Anderson with violation of Section 798 of Title 18. But the director was concerned enough that he sent an emissary, Milton Zaslow (then deputy director for production), on a secret mission to try to convince the *New York Times* not to publish on the basis of national security. The *Times* editors viewed NSA as a stalking horse for the Nixon administration and published anyway. "You could," Zaslow said later, "cut the suspicion with a knife."⁶

(U) The Pentagon Papers and subsequent Anderson columns began a trend. The trend was to tell all. It started small, but became a tidal wave of revelations. That same year, for instance, Anderson revealed that NSA was reading the communications of the South Vietnamese embassy in Washington, through the ingenious device of providing the



(U) Daniel Ellsberg

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ciphers which controlled the Vietnamese equipment. Soon after, the *Manchester Guardian* published an article about CIA COMINT operations in Laos.⁷ Then in the fall of 1971, in one of his more sensational columns, Anderson stated that the United States had an intercept operation in the American embassy in Moscow that not only intercepted Soviet communications, but was collecting and exploiting the private car phone communications of Politburo leaders.⁸

(U) Anderson, NSA later discovered, had acquired a box of top secret CIA National Intelligence Digests (NIDs), the unwitting courtesy of an NSC staffer who had been in the habit of taking them home for a little bedtime reading. After a marital falling out, his wife took the accumulated NIDs to Anderson, who kept them in his office and used them in his columns over a period of years.⁹

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The previous insider-tells-all account, Herbert Yardley's *The American Black Chamber*, had been written in a fit of greed (Yardley needed money). People like Fellwock could apparently be bought by ideology. It echoed the climate of the 1930s, when the Soviets got their spies for free (or at the very least, for expense money).

(U) Ideology-based public revelations became fashionable with the publication in 1975 of ex-CIA agent Phillip Agee's *Inside the Company - A CIA Diary*. Although Agee's aim was CIA's covert operations organization, he knew much about SIGINT, and he revealed what he knew. He claimed, for instance, that NSA had used close-in techniques to intercept plain text from the UAR embassy in Montevideo, Uruguay. He also claimed that Swiss-built Hagelin machines had vulnerabilities which NSA exploited to obtain plain text.¹¹

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(U) Using the indefatigable Fellwock as a key source, the Canadian Broadcasting Corporation did a 1974 series entitled "The Fifth Estate - the Espionage Establishment," which made a wide-ranging exposure of intelligence organizations in the United States and Canada. This series laid out in sharp detail the overall cryptologic cooperative system encompassed within the UKUSA agreements. It was followed up by tag-on magazine articles, including several by British journalist Chapman Pincher regarding SIGINT at GCHQ. Journalists exposed the role of the British intercept site in Cyprus during the coup in 1974, and GCHQ's efforts to keep the station running during the fighting. That same year a Marvin Kalb biography of Henry Kissinger discussed NSA's exploitation of Egyptian communications during the Yom Kippur War the previous year.¹²

(U) NSA AND CLANDESTINE ACTIVITIES

(U) Over the years, cryptologists had participated in two activities whose legality was eventually called into question. One, codenamed Shamrock, was a way to intercept messages without setting up intercept sites. The other, Minaret, became enmeshed with an illegal use of information for domestic law enforcement.

(U) *Shamrock*

(U) The easiest way to get access to telegrams was to get them from the cable companies which transmitted them. This method actually dated back to World War I, when the federal government, using the implied war powers of the president, set up cable and postal censorship offices. A copy of every cable arriving and departing from the United States was routinely sent to MI-8, which thus had a steady flow of traffic to analyze. After the war, the Army closed all intercept stations. Yardley's Black Chamber continued to use messages provided by the obliging cable companies until 1927, when the Radio Act of 1927 appeared to make this illegal, and the Communications Act of 1934 reinforced this. Lack of traffic forced Friedman's SIS to set up intercept stations in the 1930s.¹³

(U) In 1938, the Army's chief signal officer, General Joseph Mauborgne, approached David Sarnoff, president of RCA, with a request from the secretary of war to renew the arrangement whereby the Army received drop copies of cable traffic. Sarnoff was willing, and during the war the major cable companies (RCA, AT&T, and Western Union) once again provided cables to the cryptologists. Signal Intelligence Service set up Radio Intelligence Companies to collect cables through censors installed at the cable company offices. Following the surrender of Japan, military officials approached the companies to request their continued cooperation, as they had after World War I. This time, however, they met considerable resistance. Cable company officials argued that the Federal Communications Act of 1934 appeared to make this illegal in peacetime. They wanted legislation.

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(U) What they got was a promise from the attorney general, Tom Clark, that they would be protected from lawsuits while the Justice Department sought authorizing legislation. (Opinions differ as to whether or not President Truman put this in writing.) But the legislation was not forthcoming, and in 1947 the company executives contacted Secretary of Defense James Forrestal, who had to renew Tom Clark's assurance that they would not be prosecuted, and that the operations would not be exposed. Two years later, still lacking legislation, they approached the new secretary of defense, Louis Johnson. He advised them again that Clark and Truman had been consulted, and had once again approved the practice. Somewhat mollified, they finally dropped the subject.¹⁴

(U) At NSA the cable drop operation was treated as a compartmented matter, and only a few employees knew where the traffic came from. Couriers carried cabled messages to NSA, but there was no direct contact with the cable companies themselves. NSA selected about 150,000 cables per month for further analysis - the rest were destroyed. Although not technically illegal, Lew Allen, who was director in the mid-1970s, said it did not pass the "smell test" very well. Stopping it was not a difficult decision for him.¹⁵

(U) Minaret

(U) There is no stark line between "foreign intelligence" and domestic law enforcement. The phrases, which appear to be watertight, actually leak into each other at many points. But this never became an issue until the Watergate period.

(U) In the collection of foreign intelligence, cryptologists often came across unrelated communications, which were routinely destroyed because of their irrelevance. But when items of importance to the FBI came available, they were normally passed on. This was done without much thought given to the boundaries between foreign intelligence and law enforcement, which were by law to be kept separate. The practice began in the 1930s and continued through the war years and into the 1950s.¹⁶

(U) In 1962, following the Cuban Missile Crisis, the White House wanted to know who was traveling to Cuba (which had been made illegal but for exceptional cases). This involved passing on American names and violated customary SIGINT rules by which information on American citizens was to be ignored. It was clearly related to law enforcement, however, and it was the origins of the so-called "Watch List" which became known as the Minaret program.¹⁷

~~(S-CCO)~~ The idea proved to be irresistible. In 1965, as a result of the conclusions of the Warren Commission, the Secret Service asked NSA to be on the lookout for certain people who might be a threat to the president. The first list was composed almost entirely of Americans, but NSA complied because of the obvious implications of not providing such important information. In 1973 the Agency asked that the Americans be removed from the list and hung onto that position despite anguished protests from the Secret Service.¹⁸

(U) The Watch List expanded in the 1960s to include people suspected of narcotics trafficking, and at one point most of the names on the list were individuals suspected of

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narcotics-related activity. The list was formally documented by USIB in 1971.¹⁹ But by far the most controversial expansion of the list occurred in 1967, and it involved domestic terrorism.

(S-COO) In 1967 the country appeared to be going up in flames. Vietnam War protests were becoming common, and "ghetto riots" in America's urban centers had virtually destroyed sections of Detroit and Los Angeles. President Johnson wanted to know if the domestic antiwar movement was receiving help from abroad, and he commissioned Richard Helms at CIA to find out. CIA came up with very little, but in the process of mobilizing the intelligence community, the Army was tasked with monitoring communications for the purpose of answering Johnson's question. On October 20, Major General William P. Yarborough, the Army chief of staff for intelligence, informed NSA of the effort, in which ASA was involved, and asked for help.²⁰

(S-COO) With FBI as the prime source of names, NSA began expanding the watch list to include domestic terrorist and foreign radical suspects. The watch list eventually contained over 1,600 names and included such personages as columnist Art Buchwald, journalist Tom Wicker, civil rights leaders Martin Luther King and Whitney Young, the boxer Muhammed Ali, and even politicians such as Frank Church and Howard Baker. Virtually all the names were provided by other government organizations. However, NSA did add thirteen names, all but two of them Agency employees who were acknowledged spies, such as Martin and Mitchell. One of them was the aforementioned Percy Fellwock.²¹

(S-COO) The project, which became known officially as Minaret in 1969, employed unusual procedures. NSA distributed reports without the usual serialization. They were designed to look like HUMINT reports rather than SIGINT, and readers could find no originating agency. Years later the NSA lawyer who first looked at the procedural aspects stated that the people involved seemed to understand that the operation was disreputable if not outright illegal.²²

(U) ASA's monitoring of domestic radical communications was almost certainly illegal, according to the legal opinions of two different groups of government lawyers. Even worse, it had come to public notice in 1970 when NBC aired a program alleging that ASA had monitored civilian radios during the Democratic Convention of 1968. ASA quickly closed it down and went out of the civil disturbance monitoring business.²³

(S-COO) Minaret was quite another matter, and it did not depend on ASA for its existence. Lew Allen had been director for less than two weeks when his chief lawyer, Roy Banner, informed him of Minaret – it was the first the new director had known of the program. Banner noted a recent court decision on wiretaps that might affect the Watch List. A federal judge had ruled in a case involving leading Weathermen (SDS radical wing) that all federal agencies, including NSA, must disclose any illegal wiretaps of the defendants. NSA's communications monitoring, although not technically a wiretap, could be construed as such by recent court decisions. Although the Weathermen in question might not be on the Watch List, the time was not far off when a court case would expose the list.

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(S-CCO) This operation did not pass the "smell test" either. According to Allen, it appeared to be a possible violation of constitutional guarantees. He promptly wrote to Attorney General Elliot Richardson to request that Richardson himself authorize the retention of all individuals by name on the list.²⁴

(U) This was in September 1973. The Watergate hearings in Congress had just wrapped up, and the special prosecutor, Archibald Cox, had subpoenaed the presidential tapes. The executive department was in chaos. Richardson's predecessor, Richard Kleindeinst, had been forced out under pressure, and his predecessor, John Mitchell, was almost sure to go to jail. In that atmosphere, the attorney general was not going to permit the continuation of an operation of such doubtful legality. He requested that NSA stop the operation until he had had a chance to review it. With that, Minaret came to a well-deserved end.²⁵

(U) Clandestine Methods

(U) If you can't break a code, the time-honored method is to steal it. Two of NSA's most cherished secrets, the black bag job and the wiretap, became public knowledge during the Watergate period.

(U) Black bag jobs referred to the art of breaking, entering, and theft of codes and cipher equipment. The Office of Naval Intelligence (ONI), an unlikely leader in the field, became the first practitioner. In 1922 ONI picked the lock of the safe in the Japanese consulate in New York and filched a Japanese naval code. This theft led to the establishment of the first permanent American naval cryptologic effort, OP-20-G, in 1924.²⁶

(U) ONI continued to be the main practitioner of the art. Prior to World War II the Navy pilfered a diplomatic code which was used at embassies which lacked a Purple machine. Joseph Mauborgne, the head of the Army Signal Corps, hit the overhead when he found out. Mauborgne reasoned that if the Japanese ever discovered the loss, they might change all their systems, including Purple, and extracted from the Navy an agreement that all such break-ins in the future would be coordinated with the Signal Corps.²⁷

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(U) J. Edgar Hoover

(U) The Huston Plan

(U) Richard Nixon had been president just over a year when he initiated a string of actions which ultimately brought down his presidency. The White House-ordered invasion of Cambodia, a militarily ineffective foray, unleashed a wave of domestic protests, culminating in the shootings at Kent State in May of 1970. Stung by the reaction, the president called the heads of the intelligence agencies, and on June 5 he told Richard Helms of CIA, J. Edgar Hoover of the FBI, Lieutenant General Donald Bennett of DIA, and Admiral Noel Gayler of NSA that he wanted to know what steps they and their agencies could take to get a better handle on domestic radicalism. According to journalist Theodore White, who later reconstructed the meeting:

He was dissatisfied with them all...they were overstaffed, they weren't getting the story, they were spending too much money, there was no production, they had to get together. In sum, he wanted a thorough coordination of all American intelligence agencies; he wanted to know what the links were between foreign groups - al-Fatah; the Arab terrorists; the Algerian subsidy center - and domestic street turbulence. They would form a committee, J. Edgar Hoover would be the chairman, Tom Huston of the White House would be the staff man.³¹

(U) Thomas Charles Huston, the evident object of the president's displeasure, was a young right-wing lawyer who had been hired as an assistant to White House speech writer Patrick Buchanan. His only qualifications were political - he had been president of the Young Americans for Freedom, a conservative campus organization nationwide. And Huston wasn't even the key player. Hoover was named chair of the committee, in order to place him in a position in which the FBI would finally be forced to confront domestic radicalism.³²

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(U) The committee report confronted the issue, all right, and it laid out a number of "further steps," many of which were illegal. The report recommended increasing wiretapping and microphone surveillance of radicals; relaxing restrictions on mail covers and mail intercepts; carrying out selective break-ins against domestic radicals and organizations; lifting age restrictions on FBI campus informants; and broadening NSA's intercepts of the international communications of American citizens. But Hoover knew the score, and he attached footnotes to each of the techniques which he did not want the FBI involved in. When it went to the president, it was carefully qualified by the FBI, the one organizations that would be the most involved.³³

(U) The president sent word back to Huston, through Haldeman, of his approval, but did not initiate any paperwork. So when the committee was tasked to implement the recommendations, it was tasked by Tom Charles Huston, not the president. Hoover informed John Mitchell, the attorney general, that he would not participate without a written order from Mitchell. Mitchell discussed this with Nixon, and both agreed that it would be too dangerous. Ultimately, the president voided the plan, but not before NSA had become directly involved in the seamier side of life.³⁴

~~(S-CIO)~~ NSA was ambivalent. On the one hand, Gayler and his committee representative, Benson Buffham, viewed it as a way to get Hoover to relax his damaging restrictions on break-ins and wiretaps. Gayler had personally pleaded with Hoover, to no avail; now the committee mechanism might force the stubborn director into a corner. But that was a legal matter for the FBI to sort out. When asked about intercepting the communications of Americans involved in domestic radicalism, Gayler and Buffham became more pensive. They informed the committee that "NSA currently interprets its jurisdictional mandate as precluding the production and dissemination of intelligence from communications between U.S. citizens, and as precluding specific targeting against communications of U.S. nationals." Of course American names occasionally appeared in intercepted traffic, but use of even this incidental intercept needed to be regularized by a change to NSCID 6.³⁵ As with the FBI, NSA wanted a legal leg to stand on.

~~(S-CIO)~~ What stand did NSA take? Gayler genuinely wanted to be helpful, especially when the president so insisted on getting help. In meetings he seemed ready to turn NSA's legendary collection capability to the services of the Huston mandate. But his lawyers advised caution, and, according to Huston himself, NSA was more nervous than any of the other intelligence agencies. Gayler clearly wanted a legal mandate.³⁶

(U) The White House Tapes

~~(S-CIO)~~ General Lew Allen, General Phillips's successor, came to the job with a strong admonition from his boss, Secretary of Defense James Schlesinger: stay as far away from Watergate as possible. He was aghast, then, when he learned on a Friday in January 1974 that a virtual army of lawyers was on its way to Fort Meade with the White House tapes. Howard Rosenblum, the director of research and engineering, had made it known that NSA might be able to analyze the infamous White House tapes which had been

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subpoenaed by the special prosecutor. They all arrived in staff cars on a Friday with boxes of tapes. NSA's experts went through the tapes for hours, then gave them back to the lawyers. They had found an eighteen-minute gap on one of the tapes. It appeared to be a deliberate erasure, as the tape had been gone over multiple times in a manner that did not support the president's contention that the erasure had been accidental.³⁷

(U) THE ALLEN ERA AT NSA

(U) Occasionally a person's impact on events demands that the period be named after him or her. General Lew Allen was such a man. But the "Allen Era" did not actually begin with Allen.

(U) In July 1972 Noel Gayler departed the Agency. He got a fourth star and became CINCPAC. Gayler, an upwardly mobile officer with high ambitions, was the first director to move up. NSA had always been a dead end, where mavericks could end their careers at an agency where mavericks were appreciated, even required. He was not to be the last – rather, Noel Gayler was the first of four officers in succession who gained their fourth star and moved on. The second was his successor, Air Force lieutenant general Sam Phillips.

(C) Phillips came from a highly technical background. A fighter pilot in World War II, he came to NSA from the Apollo program, where he had been the director. The visibility of the program, and the accolades that had been heaped on his management of it, indicated that he was destined for bigger things. According to one source, he knew before he arrived that he would stay only one year, and would move on to command the Air Force Systems Command as a four-star general. However, his successor, Lew Allen, believed that Phillips became aware of NSA's vulnerability to the Watergate mess once he was ensconced and that this influenced his determination to move on.³⁸

(U) Lew Allen came from the same sort of background, but more so. He had a doctorate in nuclear physics, had worked at Lawrence Livermore Laboratories, worked in the satellite collection business for the Air Force, and when nominated to be DIRNSA, was de facto director of the Intelligence Community (IC) Staff.

(U) He had become a protégé of James Schlesinger, who had brought him onto the IC Staff. But owing to a temporary feud between Schlesinger and Congress over whether the job should be civilian or military, Allen had not been confirmed. So when Schlesinger became secretary of defense, he asked Allen to become DIRNSA, a position that did not require congressional confirmation.³⁹

(U) Lew Allen was easy to like. His quick mind was covered over by a kindly demeanor and a slowness to anger. Even Stansfield Turner, who feuded endlessly with Allen's successor, Bobby Inman, wrote that Allen "particularly impressed me with a firm statement that the NSA took its direction on what information to collect from the Director of Central Intelligence. All I needed, he said, was to tell him what I wanted."⁴⁰

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(U) Lieutenant General Sam Phillips



(U) Lieutenant General Lew Allen

~~(TS-CCO-TK)~~ Lew Allen once described candidly the baggage that he brought with him to NSA. Schlesinger was convinced that NSA was too large and too expensive, and he told Allen to look into the charge. (He found it to be unsubstantiated.) He had always been impressed with the technical competence resident at NSA, but he felt that "NSA, like many large bureaucracies, had a lot of turf. . ." Having come from the NRO side of the satellite business, he knew firsthand of NSA's desire to control SIGINT satellites and ground stations, and he felt that NSA harbored "ambitions for responsibilities that somewhat exceeded the grasp." He had heard that NSA had enormous warehouses of undecipherable tapes. (This too he found to be exaggerated.)⁴¹

~~(C)~~ His focus on the technical side of life was perfect for NSA, a technical agency. Allen had no patience with bureaucratic turf battles, and he did not think that constant reorganizations were a good use of time. But he did bring over from the Air Force a penchant for systems design, and for that, one needed a designer. So one of his first acts was to appoint an architectural planning staff to design the various components of the cryptologic system. He had an architect for everything: covert collection, Third Party, overhead, support to military operations, high-frequency systems, line-of-sight systems, signals search, and so on. One of Lew Allen's most important legacies was to institute a planning mentality where one had not existed.

(FOUO) In 1977, in the last year of his tenure, he confronted a congressional proposal to pull NSA out of the Defense Department. To a man as firmly grounded in the military

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as Allen, this was a nonstarter. Pointing out that 75 to 80 percent of NSA's material supported the military, he came down firmly on the side of staying in the Defense Department. As to the concurrent proposal to civilianize the director's job, the continued credibility with military commanders was too important a qualification to lose.⁴²

(U) THE CHURCH COMMITTEE

(U) When John Dean, the president's legal counsel, began unburdening himself to the Ervin Committee in the spring of 1973, the testimony implicated the CIA in aspects of the Watergate scandal. So William Colby, the deputy for operations, decided to do a survey.⁴³

(U) The "Family Jewels" was a 693-page report of possibly illegal CIA activities through the years. Colby, who had become DCI by the time the report was finished, informed the four chairmen of the House and Senate committees which had oversight of the CIA and succeeded in convincing all of them that the matter was over with and that CIA would clean up its own house. But by then so many people within the CIA knew about the report that its eventual exposure became almost inevitable.

(U) On December 22, 1974, journalist Seymour Hersh published a story in the *New York Times* based on the "Family Jewels," charging that the CIA had been involved in Chaos, an operation to monitor domestic radical groups during the Nixon administration.⁴⁴ The next day, President Ford detailed Henry Kissinger to look into Hersh's allegations. (Although informing Congress, Colby had never told the White House about the report.) Colby confirmed the general outlines of the story to Kissinger, and the president knew that he would have to investigate.⁴⁵ So on January 4, Ford appointed a President's Commission on CIA Activities within the United States. It was headed by Vice President Rockefeller, and the press promptly dubbed it the Rockefeller Commission.⁴⁶

(U) While the commission was deliberating, the president himself revealed, on January 16, that some of the allegations of wrongdoing included plots to assassinate foreign heads of state. As if enough controversy did not already surround the commission, this new charge served to scuttle its effectiveness. In the end it issued a very reasonable and workmanlike report which recommended certain structural reforms to guard against



(U) William Colby

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(U) Nelson Rockefeller

future transgressions, and it set forth specific prohibitions of certain activities like illegal wiretaps and participation in domestic intelligence operations. (It declined to rule on assassinations, pleading lack of time to get to the bottom of these allegations.) But by then no one was listening.⁴⁷

(U) Senators were clamoring for an investigation, and on January 27 the Senate established the Senate Select Committee on Intelligence. Philip Hart of Michigan was originally approached to chair the committee, but he was gravely ill with cancer, and so the job was offered to Frank Church of Idaho. Unlike Hart, Church harbored presidential ambitions, and some feared that he would use the committee as a pulpit to advance his ambitions. Like the Rockefeller Commission before it, this investigative body came to be known after its chair and has gone down in history as the Church Committee.

(U) Some, like Church himself, were suspicious of the intelligence community and sought to expose as much as possible. Into this camp fell Democrats Gary Hart of Colorado and Walter Mondale of Minnesota, along with Republicans Charles McMathias of Maryland and Richard Schweicker of Pennsylvania. Many were moderates (Warren Huddleston of Kentucky and Howard Baker of Tennessee being examples) while two senators, Barry Goldwater of Arizona and John Tower of Texas, did not believe in exposing intelligence secrets no matter what the provocation.⁴⁸

~~(S-CCO)~~ To begin with, NSA was not even on the target list. But in the course of preliminary investigation, two Senate staffers discovered in the National Archives files

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(U) Frank Church

some Defense paperwork relating to domestic wiretaps which referred to NSA as the source of the request. The committee was not inclined to make use of this material, but the two staffers leaked the documents to Representative Bella Abzug of New York, who was starting her own investigation. Church terminated the two staffers, but the damage had been done, and the committee somewhat reluctantly broadened its investigation to include the National Security Agency.⁴⁹

~~(S-CIO)~~ What the committee had found was the new Shamrock operation. It had become easier to use wiretaps than to get traffic from cable companies, and NSA was using this technique with increasing frequency. But the Church staffers quickly uncovered the older Shamrock operation, and this became the focus of its early investigation of NSA. Knowing the ramifications, Allen terminated the portion of Shamrock that dealt with the cable companies on May 15, in the middle of the preliminary hearings.⁵⁰

(FOUO) NSA's official relationship with the Church Committee began on May 20 with a visit from the committee staff; five days later Church himself came to Fort Meade for briefings and tours. This began a close association which extended over the entire summer and through October 1975. In the beginning it was a rough road, with committee staffers trying to dig deep, while NSA officials tried to protect. But with a few choice words from Allen, NSA's responsiveness improved and, with it, the cooperation of the committee. By the time it was all over it had become a model of how an intelligence agency should relate

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to Congress, and it enhanced NSA's reputation on Capitol Hill. But it had been tough slogging.⁵¹

(U) In September, the committee decided to request open testimony by Allen. They discussed two operations, Shamrock and Minaret, and in the end decided to question him about only Minaret. The committee discussions on the question were among the most rancorous of all, and Goldwater and Tower openly dissented from the proposition of requiring anyone at NSA to testify on any subject. But they were outvoted, and Allen was subpoenaed, despite a phone call from President Ford to Frank Church.⁵²

~~(S-CCO)~~ Never had NSA been forced into such a position, and Lew Allen was very nervous. In a preliminary letter to Church he stated:

As we prepare for open hearings, I am struck even more forcibly by the risks involved in this method of reporting to the American people.... Despite the honest and painstaking efforts of your Committee and Staff to work with us to limit damage, I remain concerned that the open hearing presents significant and unnecessary risks.⁵³

Allen pleaded that the cost of exposure of Minaret could be very high. The Watch List was a byproduct of NSA's operation to monitor ILC (international commercial) communications.

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(U) The Church Committee conducted its open hearing on NSA on October 29, after two days of meticulous closed-door rehearsals. The director began with a prepared statement describing NSA's mission in very general terms and used historical examples (the Battle of Midway and the decryption of the Japanese Purple machine being two) to depict the value of such operations. He detailed the Agency's legal authorities and defined what NSA thought was meant by "foreign intelligence" and "foreign communication." Conceding the murky nature of the definitions, he then launched into a discussion of the Watch List, placing it in historical context and discussing how NSA interpreted the tasking and executed the support to requesting agencies. He stated that he himself had closed down Minaret two years before.⁵⁴

(FOUO) Lew Allen's performance was a triumph. Future vice president Walter Mondale noted to the director that "the performance of your staff and yourself before the committee is perhaps the most impressive presentation that we have had. And I consider your agency and your work to be possibly the single most important source of intelligence for this nation." Despite the accolades, however, when the committee in closed session discussed how much to tell about NSA, the majority voted to include Shamrock, which Allen had opposed because of the embarrassment to the cable companies. Goldwater, Tower, and Howard Baker were set in bitter opposition, but Church contended that legislation would be necessary to insure that abuses would not be repeated, and both Shamrock and Minaret constituted important material to back up the request for

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legislation. When asked, Secretary of Defense James Schlesinger and the DCI, William Colby, viewed the release of these two projects to be affordable.⁵⁶

(U) When the Church Committee issued its final report in February 1976, the discussion of NSA was brief. Focusing on what NSA could *potentially* do, rather than what it *was* doing, Church concluded:

The capabilities that NSA now possess[es] to intercept and analyze communications are awesome. Future breakthroughs in technology will undoubtedly increase that capability. As the technological barriers to the interception of all forms of communication are being eroded, there must be a strengthening of the legal and operational safeguards that protect Americans.

NSA's existence should be based on a congressional statute which established the limitations, rather than on an executive order then twenty-three years old. And so ended the discussion of NSA, just seven pages in a report comprising seven volumes of hearings.⁵⁷

(U) THE PIKE COMMITTEE

(U) The backwash of Hersh's Family Jewels article also infected the House of Representatives and produced the predictable clamor to investigate. So the House held its own investigation, under Representative Otis Pike of New York. Not surprisingly, it became known as the Pike Committee.

(U) But it did not begin that way. The first chairman was to be Lucien Nedzi, who chaired the Intelligence Subcommittee of the Armed Services committee. But this effort dissolved in controversy when Democrats on the committee discovered that Colby had taken Nedzi into his confidence over the original Family Jewels report and had convinced him not to investigate. Fatally compromised, Nedzi resigned, and the task fell to Pike.⁵⁸

(U) While the Church Committee focused on CIA, the Pike Committee had a much broader charter. It was to review the entire intelligence apparatus and to focus on operational effectiveness, coordination procedures, the protection of individual liberties, possible need for more congressional oversight, and on planning, programming, and budgeting. Pike promised to evaluate the performance of the intelligence community



(U) Otis Pike

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against its budget. But the membership was liberal (somewhat more so than that of the Church Committee) and the staff intrusive. The focus quickly swung to the topic of abuses of individual liberties, and stayed there.⁵⁹

(FOUO) NSA had already had one experience with Pike, when he had chaired a subcommittee investigating the *Pueblo* capture of 1968. It had not been a happy encounter. The committee had leaked *in camera* testimony of the director, Lieutenant General Carter, to the press, and Carter was furious. Once burned, the NSA staff was wary (see *American Cryptology during the Cold War, 1945-1989, Book II: Centralization Wins, 1960-1972*, p. 449).

(FOUO) The House charter gave the committee the power to determine its own rules concerning classification, handling, and release of executive department documents. Burned during the *Pueblo* investigation, NSA lawyers were anxious to nail down an agreed-upon set of procedures, but preliminary meetings yielded no agreement on the procedures for handling SIGINT documents. Lew Allen, who later characterized the Pike Committee staffers as "irresponsible," issued instructions to "limit our discussions with the full House committee and staff to administrative, fiscal and management matters."⁶⁰

~~{S-CGQ}~~ Relationships quickly deteriorated. NSA officials described the committee staff as "hostile," the procedures for handling classified material as questionable, their willingness to learn about NSA as nonexistent. One NSA official noted that only one Pike staffer ever visited NSA, in contrast to the Church Committee, whose entire membership and staff visited Fort Meade in May 1975. Pike staffers objected to having NSA officials in the room when NSA employees were being questioned, and the staff interrogation of

degenerated into a shoving match.⁶¹

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(FOUO) In August, the committee called Lew Allen to testify. The letter requesting his presence stated that the budget policies and procedures would be the topic, but questioning soon turned to supposed monitoring of Americans. Allen objected to covering this ground in open session, and after a long committee wrangle and Allen's adamant refusal to go further, the committee voted to go into executive session. Summarizing NSA's objections, he said: "I know of no way to preserve secrecy for an agency such as NSA other than to be as anonymous as possible, and to abide by the statutory restrictions which the Congress instructed us to, and those are that we do not discuss our operations; we do not discuss our organization; we do not discuss our budget in public."⁶² Throughout Allen's appearance, Pike and Congressman Ron Dellums of California seemed suspicious and disbelieving. At one point Pike interrupted the interrogation to say:

Now why don't you just tell us and be forthcoming, without my having to drag it out of you, or any other member having to drag it out of you, what sort of communications of American citizens you are intercepting, how you are intercepting them, what you are doing with them, and why you feel it is necessary to keep on doing it.⁶³

The presumption of guilt was palpable.

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-(S-CCO) On September 8, the committee requested that NSA supply it with pertinent intelligence products relating to the Yom Kippur War. The documents arrived on the 10th, and by the next day they were in the press. The Ford administration cut off all contact with the committee at that point, citing the leak of NSA materials. The passage that resulted in the cut-off was a CIA summary which read:

Egypt - The (deleted) large-scale mobilization exercise may be an effort to soothe internal problems as much as to improve military capabilities. Mobilization of some personnel, increasing readiness of isolated units, *and greater communications security* are all assessed as part of the exercise routine....(Italics added.)⁶⁴

The phrase "and greater communications security" tipped off the COMINT origins of the information, and became known around NSA as the "four little words." It caused a crisis in executive-congressional relations because of the assertions by Pike that Congress could declassify on its own information classified by the executive department. The matter was resolved, after several weeks, by an agreement that the Ford administration did, indeed, control executive classified material, and in return agreed to relax its total ban on providing classified documents to the committee. NSA was soon forwarding material to the committee again.

-(S-CCO) The final report criticized NSA's reporting policy, which amounted to fire-hosing the intelligence community. "NSA intercepts of Egyptian-Syrian war preparations in this period [Yom Kippur War] were so voluminous - an average of over 200 reports each week - that few analysts had time to digest more than a small portion of them." It noted that NSA frequently had the right answers, but that customers probably did not fully understand what NSA was really saying. The Agency was also criticized for participating in the general intelligence failure during the 1968 Warsaw Pact invasion of Czechoslovakia. Like Church, Pike recommended that NSA's existence be authorized through congressional legislation and that "further, it is recommended that such legislation specifically define the role of NSA with reference to the monitoring of communications of Americans."⁶⁵

(U) The Pike Committee ended awash in controversy. On January 19, the committee distributed its final report. The Ford administration protested that it contained classified information, including several sections with codeword material. The committee voted, 8-4, not to delete the classified sections, and it sent the 340-page report to the House. Faced with anguished protests from the Ford administration, the House Rules Committee on January 29 voted 9-7 to reverse the Pike Committee decision. (Pike condemned this as "the biggest coverup since Watergate.")⁶⁶ But it was already too late. On January 22 the *New York Times* reported that it had knowledge of details of the report. On January 25, CBS correspondent Daniel Schorr stated triumphantly on national television, "I have the Pike Report." Four days later the House secured all copies of the report except the one in Schorr's possession. Fearing a Ford administration backlash and possible prosecution, CBS refused to publish. Schorr then contracted with the *Village Voice*, and the report

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appeared in entirety in that publication in February, an event which led CBS to terminate his employment.⁶⁷

(U) Despite protestations by Pike that the executive department was doing all the leaking, his own committee appears to have been the source. The draft report was distributed to committee members the morning of January 19, and by four o'clock that afternoon a *New York Times* reporter was already on the phone with the staff director asking questions based on the report. Versions of the report would appear in the press, the committee would make wording changes, and the next day the new wording would be in the newspapers.⁶⁸

(U) Pike apparently began the investigation determined to produce a fair and balanced evaluation of American intelligence. He focused at first on job performance measured against funds expended. But the committee was top-heavy with liberal Democrats, and things quickly got out of hand ideologically. The committee and its staff refused to agree to commonly accepted rules for handling classified material, and when the executive department thwarted its desire to release classified material, it leaked like a sieve. The dispute with the administration over the release of NSA material produced an impasse, and diverted the committee from its original task. The House committee that was appointed to investigate the investigators turned up a shabby performance by the Pike Committee. In the end, it did Pike and Congress more damage than it did the Ford administration. All in all, it was a poor start for congressional oversight.

(U) THE ABZUG COMMITTEE

(U) Serious (if ideologically polarized) inquiry descended into opéra bouffe with the charter of yet a third investigation. The leader was Bella Abzug, who had been elected to Congress in 1972 from a liberal district in New York City amid the early voter reactions to Watergate.

(S-CCO) Abzug chaired the Government Information and Individual Rights Subcommittee of the Committee on Government Operations. In mid-1975, with the Church Committee holding preliminary investigations in executive session, Abzug got hold of some of the more sensational information relating to Shamrock and Minaret. (The information was apparently leaked by Church Committee staffers.)⁶⁹ The climate for a



(U) Bella Abzug

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full investigation of NSA was right. The press had picked up some of the themes resonating in the Church and Pike hearings. An article in the September 8 edition of *Newsweek* described the "vacuum cleaner" approach to ILC collection and referred to NSA as "Orwellian." This was counterbalanced by a statement that "the NSA intends nothing like tyranny - it is probably the most apolitical agency in Washington." But the fourth estate had clearly discovered the technological advances that permitted NSA to cast a very broad net, and characterized it as a potential threat to individual liberty.⁷⁰

(S-CCO) NSA relationships with the Abzug Committee staff were poisonous. At their very first session, Abzug staffers refused to sign the normal indoctrination oath, and further discussions proceeded at the noncodeword level. Despite the refusal to accept executive department rules on clearances, the committee subpoenaed huge amounts of material. One subpoena, for instance, demanded every record, including tape recordings, of every scrap of information pertaining to the Agency's COMINT mission since 1947. (Tape recordings alone comprised in excess of a million reels.)⁷¹ Fearful of leaks that might dwarf those of the Pike Committee, the Ford administration decided to deny these requests.

(C) In October, Abzug began maneuvering to get Lew Allen to testify in open session. The sparring sessions (Allen had no intention of complying) ended on October 29 when Allen appeared before the considerably less hostile Church Committee. Preempted, Abzug pressed for lower level NSA officials, and subpoenas began arriving at NSA. With the climate of mutual suspicion that existed, NSA resisted. Allen went to Jack Brooks, chairman of the full committee, to protest, and extracted a promise that Abzug could subpoena, but Brooks would refuse to enforce the subpoenas. In the end, Abzug got her hands on one unfortunate NSA official, Joseph Tomba, who appeared in open session and refused, at the request of DoD lawyers, to answer most questions put to him. The committee held Tomba in contempt, but Jack Brooks was good to his promise, and the citation was not enforced.⁷²

(C) In the process of dealing with Abzug, Lew Allen and his staff were subjected to fearful browbeating, but they held fast, defended by not only the full executive department, but by Congressman Jack Brooks himself. Hearings dragged on into 1976, making Abzug the longest running of the investigative committees. Then, in September of 1976 they began to fade, as Abzug became involved in a campaign for the Senate, and hearings ceased. (She ultimately lost.) The committee eventually issued a draft report (February 1977) which predictably concluded that there were still loopholes which would allow NSA to intercept U.S. communications for foreign intelligence purposes and that these loopholes should be closed. But the importance was secondary. Church had already exposed the loopholes and had made the same recommendations. Moreover, by then President Ford had issued his new executive order, 11905, which forbade many of the "abuses" that Abzug had in mind. The committee faded into irrelevance.⁷³

(U) With that, the investigative process had run its course. It had been a pretty thorough public housecleaning for all intelligence agencies. For CIA (and to a lesser extent FBI) it had been traumatic and damaging. For NSA, the trauma had been much

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less. The principal reason was the director. Lew Allen – kindly, thoughtful, intellectual, and forthright – was just the right person at just the right time. He disarmed most of NSA's more reasoned critics with the way he directed his staff to respond to Congress. He headed off controversy before it got well started. Most of all, his five-star performance before the Church Committee convinced many that NSA had not gone seriously off track and that it should be preserved at all cost. A glimpse under the cryptologic curtain convinced most senators and congressmen that NSA was the true gem of the intelligence world.

(U) THE BACKWASH

(U) The Watergate era changed cryptology. The tell-all atmosphere resulted in a flood of revelations unprecedented then and now. It also resulted in new executive department restrictions on cryptologic operations and ushered in a new era of congressional oversight.

(U) *The Revelations*

(U) The investigations were conducted amid an absolute fury of press revelations, many apparently stemming from the committee staffs. The *Washington Post* termed NSA "America's Huge Vacuum Cleaner" and highlighted the reading of South Vietnamese diplomatic communications during the peace negotiations of 1972. *Post* articles in May 1975 revealed the atrocities of Pol Pot's government in Cambodia and indicated that COMINT was the source. (This was probably a Ford administration leak.) The *New York Times* and *Daily Telegram* both exposed an alleged navy underwater SIGINT collection program called Holystone (which, if true, would have held the program at serious risk). The *Times* published articles about the extensive American support for a new SIGINT program for the shah of Iran. *Penthouse* published a lengthy exposé of the nature and scope of NSA's operations, adding tidbits about a Third Party relationship with Israel, capability to track Soviet submarines, and the supposed monitoring of domestic communications.⁷⁴

(U) More serious still were articles on American cryptologic relationships with Second Parties. In November 1975 the *Sunday Los Angeles Times* revealed the location and function of three American SIGINT sites in Australia, including one at Pine Gap in central Australia. In New Zealand, members of Parliament demanded that the government confirm or deny the nation's membership in UKUSA.⁷⁵

(U) Revelations continued the following year. In February the *Far East Economic Review* shone the spotlight on Ramasun Station, and the press coverage continued through the spring, thus increasing the chance that Thailand would close the station (which it did). *Rolling Stone* chimed in with an article by an ex-operator named Chet Lippo, who evidently wanted to follow in the footsteps of Winslow Peck. David Kahn, the noted authority on cryptologic history, published a series of articles revealing cryptologic operations and sounding an alarm about potential violations of civil liberties. One article,

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"Big Ear or Big Brother," depicted the theme of Orwellian intrusion. (Kahn had become exercised over the DES (Data Encryption Standard) controversy which was then roiling academia; see p. 231). British and Australian journalists continued their revelations about the close UKUSA relationship – this trend ended in the exposure of every UKUSA monitoring site in both countries. William Beecher, the investigative journalist who had been so proficient in digging out intelligence operations in the past, published revelations about an American collection operation in the U.S. embassy in Moscow and about Soviet attempts to interfere with it by bombarding the embassy with microwaves.⁷⁸

(U) *Glomar Explorer*

(C) One of the most intriguing exposés related to a CIA operation called Azorian. In 1968 a Soviet Golf-class nuclear submarine on patrol in the Pacific mysteriously went to the bottom with all hands. The Soviets could not locate the wreck, but the U.S. Navy could, and the U.S. began to study the feasibility of capturing it. Once it was concluded that it would be feasible, the job was given to DCI Richard Helms.

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(S) Ultimately the Azorian task force came up with a special ship, which could lower a "capture ship" to the Soviet sub, which rested in 1,700 feet of water about 750 miles northwest of Hawaii. The capture ship had huge claws which would be capable of grabbing the submarine and bringing it to the surface as it was hoisted to the mother ship. Hughes Corporation became the prime contractor, and Sun Shipbuilding of Chester, Pennsylvania, was selected to build the vessel. CIA devised a cover story that the ship was designed for mineral prospecting on the ocean floor.

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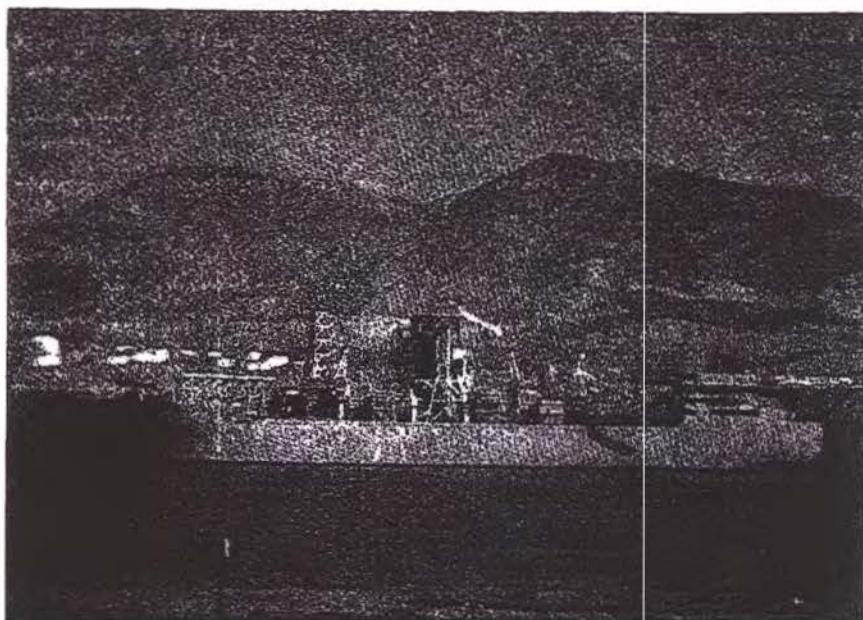
(S) In August 1974, with CIA [redacted] people aboard, the Hughes vessel, named *Glomar Explorer*, sent its capture vessel to the bottom. Everything went fine until the crew began lifting the submarine from the ocean floor. The submarine hull snapped, and [redacted] of it sank back down to the bottom. The portion that CIA retrieved had [redacted]. They would have to go back.

(S) Despite the fact that a Soviet seagoing salvage ship observed the operation from a safe distance, CIA planned to return to the site and risk exposure [redacted]. But then the press intruded. The original leak resulted from a burglary at Summa Corporation, a subcontractor for the operation. CIA feared that a Hughes Corporation memo regarding Azorian might have been in some papers that disappeared from the office, and they decided to brief a few of the police investigators

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(U) Glomar Explorer

involved with the case. It was a potentially sensational story and, sure enough, it was leaked to *Los Angeles Times* reporters covering the break-in. In March 1975, before the second salvage mission could be mounted, Jack Anderson went public with it, and CIA decided to cancel all further attempts.⁷⁷

(U) Koreagate

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(U) Newspapers were, of course, following the Fraser investigation, and rumors began appearing that the indictment was based on NSA information. On September 4, 1977, the *New York Times* published an article alleging that Henry Kissinger, Melvin Laird, and other top officials had been aware of the South Korean bribery ring at least as early as 1972. In discussing the source of this information, the *Times* said: "While the investigators did not identify the documents precisely, other sources said that the

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documents came from the Central Intelligence Agency, which was earlier reported to have agents in the presidential executive mansion in Seoul, and from the National Security Agency, which has been reported to have intercepted South Korean cable traffic between Seoul and Washington."

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(U) On September 6, two days after the *Times* story, a federal grand jury indicted Tong-Sun Park on thirty-six felony counts of bribery, conspiracy, mail fraud, illegal campaign contributions, and other charges. A California congressman and several former Korean intelligence officials were listed as "unindicted co-conspirators." This placed the issue in the realm of the courts.⁸³

(U) But the Koreagate affair was hardly dead. In October 1977, the *New York Times* reported the bizarre case of Sohn Young Ho. Sohn, the top KCIA agent in New York City, was in the process of asking the United States for political asylum when Edward J. Derwinski, a member of the Fraser Committee, allegedly tipped off the KCIA, which went looking for Sohn, possibly intending to mailbag him back to Seoul for safekeeping. Fortunately, the FBI got to him first, but the source of the information about the Derwinski leak, according to the *Times*, was NSA.⁸⁴

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Congressional oversight was fine as long it was kept within a narrow range and subjected to the greatest restrictions. As a test of providing SIGINT support to law enforcement, however, it had a much shorter influence. The Reagan administration began reversing that course in 1981,

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insisting that SIGINT be expanded to provide more, rather than less, support to domestic law enforcement.

(U) **Executive Order 11905**

(U) If the president did not act to restrict the intelligence community, it was clear that Congress would. So during the fall of 1975, with the Church hearings in full throttle, President Ford appointed an Intelligence Coordinating Group, chaired by White House counselor Jack Marsh, to draft a comprehensive order, at once organizing the intelligence community and placing checks on it.⁸⁶ The result was Executive Order 11905.

(U) Organizationally, the president gave the DCI more authority to supervise the intelligence community, including the critical budget review "club" that Nixon had tentatively proffered to Richard Helms in 1971. The DCI became chairman of a new Council on Foreign Intelligence, which included the assistant secretary of defense for intelligence (a newly created position which would supervise NSA's director). Ford abolished the 40 Committee, which had ruled on all covert operations (including SIGINT peripheral reconnaissance missions) and replaced it with an Operations Advisory Group. He continued the President's Foreign Intelligence Advisory Board and directed that three of its members constitute a special Intelligence Oversight Board to keep track of possibly illegal activities by intelligence organizations. The executive order attempted to draw a clear line between "foreign intelligence" and "domestic law enforcement."⁸⁷

(U) The organizational aspects were of less concern to NSA than were the specific prohibitions. The order prohibited the intercept of communications made from, or intended by the sender to be received in, the United States, or directed against U.S. persons abroad, except "under lawful electronic surveillance under procedures approved by the Attorney General."⁸⁸

~~(S-CIO)~~ The new executive order resulted in the termination of many NSA activities in support of law enforcement.

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~~(S-CIO)~~ The crisp wording of the order obscured the resident subtleties. How did an analyst know if a person was an American citizen, a resident alien, or just a person with an American-sounding name? How would NSA segregate within its database those

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individuals against whom collection was legal, from those against whom collection was authorized only in specific instances? In fast moving crises such as the *Mayaguez* affair, how could NSA determine if collection was authorized? If it was not, but lives were in danger, who would rule on permissibility? And how much easier it was to Monday morning quarterback the situation than to operate during crisis in the dim, floating world of possible prosecutability. In mid-1976 the NSA DDO, Robert Drake, noted to the IC staff that "To the question of whether or not day-to-day SIGINT production can continue under the provisions of the Executive Order, the answer is yes. In other words, although the guidance is annoying, at times conflicting, and necessarily subject to interpretations at the desk level, I can cope with it. . . . On Monday morning, of course, we all can judge that that incident [*Mayaguez*] was reportable but in cases such as this Monday may be too late." Despite such uncertainty, NSA drafted the general wording of the executive order into a new regulation, USSID 18, which stood the test of time for many years. As with the executive order, it was an attempt to preempt more restrictive congressional legislation. Lew Allen considered the matter to be extremely important and got White House approval.⁹⁰

(U) One result of the Watergate period was to complicate NSA's life in the area of domestic wiretapping. The matter of wiretapping for law enforcement had been contentious since the first Supreme Court decision in 1927, which gave the federal government broad latitude to do electronic surveillance. Courts gradually narrowed this down, and by the 1970s the new climate of concern for individual liberties had basically made warrantless electronic surveillance inadmissible as evidence. But wiretaps for foreign intelligence did not fall within this rule, and in the early 1970s federal courts ruled that foreign intelligence wiretaps were legal.⁹¹

~~(S-CIO)~~ The "New Shamrock" operations involved wiretapping foreign embassies in the United States. Begun in the 1950s, those wiretaps had continued for years despite periodic resistance by J. Edgar Hoover. Through the decade of the 1960s, the number of such wiretaps fluctuated in the sixty to seventy range. But in December 1974 Attorney General Levi instituted new and cumbersome approval procedures which both lengthened the time needed for approval and broadened the exposure of specific operations from just a few people to a number spread around the intelligence and national security community. At the top of the heap, the attorney general maintained personal control and began disapproving requests that sported justifications that he regarded as weak. Lew Allen tried to divest Levi of control of domestic foreign intelligence wiretaps, but was unsuccessful. But, though EO 11905 specifically stated that taps for foreign intelligence would be treated differently from taps for domestic law enforcement, successive attorneys general continued to control foreign intelligence taps through the Carter administration. To NSA, it was a cost of doing business that had not existed before Watergate.⁹²

(U) The last act in the play occurred in 1978 when Congress passed, and the president signed, the Foreign Intelligence Surveillance Act (FISA). This added another approval layer, consisting of a special court of seven judges which would rule on requests from the attorney general for warrantless taps. Although this lengthened further the process of

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instituting the taps, it had no effect on their approval.

(U) Congressional Oversight

(U) Congressional oversight of the intelligence community sprang from the Watergate period. Prior to the Church and Pike committees, oversight was more or less nominal and was confined to just four committees: the Armed Services and Appropriations committees in both houses of Congress. Had Congress no budget to approve, oversight probably would have been even more sketchy than it actually was.

(U) Each of the four committees set up special intelligence subcommittees, comprising the full committee chairman and three or four trusted members from both sides of the aisle. Their examination of funding requests was cursory, and they never asked embarrassing questions about operations. The president controlled the requests, and if someone's intelligence budget were to be shaved down, the executive department would have to do the shaving - congressmen did not get into those details. Thus, inclusion in the president's budget was tantamount to approval.

(U) In the Senate, one man dominated oversight - Richard Russell of Georgia. Serving from 1933 to 1971, Russell chaired both the Armed Services Committee and the Intelligence Subcommittee of the Appropriations Committee. In the House, a succession of chairmen, almost all from conservative southern states with strong national defense leanings, dominated the proceedings. Mendel Rivers, Carl Vinson, and F. Edward Hebern strongly supported intelligence projects and insured that the information was held as tightly as possible in Congress. Lawrence Houston, the CIA general counsel, once said that "Security was impeccable. We never had the slightest breach."⁹⁴ Summing up the dealings with Congress, Clark Clifford said, "Congress chose not to be involved and preferred to be uninformed."⁹⁵ This situation lasted as long as bipartisan consensus continued.

(U) Special intelligence clearances remained mysterious and obscure. In 1968, at the time of the Tonkin Gulf hearings in the Senate Foreign Relations Committee, no committee members, not even the chairman, William Fulbright, had even heard of clearances above top secret. This problem tied the committee in knots during the testimony of Robert McNamara relating to the August 4, 1964, attack (see Book II, p. 518):

Senator Gore: Mr. Chairman, could we know what particular classification that is? I had not heard of this particular classification.

Senator Fulbright: The staff, Mr. Marcy, and Mr. Hold are cleared for top secret information. This is something I never heard of before either. It is something special with regard to intelligence information. However, Mr. Bader was cleared for that.

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Secretary McNamara: If the staff would wish to request clearance, I am sure the Government would do it.

Mr. Marcy: All of the members who are here submitted renewal requests for top secret clearance recently and, so far as I know, all of those requests have been granted.

Secretary McNamara: But that is not the issue. Clearance is above top secret for the particular information involved in this situation.⁹⁶

(U) By the time the congressional hearings had ended in 1975, the culture had completely changed. Church had termed CIA a "rogue elephant," and closer congressional scrutiny was inevitable. The first thought of Congress was to set up a joint House-Senate committee, but the House fell behind and, unwilling to wait, the Senate established the Senate Select Committee on Intelligence (SSCI) on May 19, 1976. The tardy House, consumed with procedural wrangling over the release of the Pike Report, delayed until July 17, 1977, more than a year later, when it established the House Permanent Select Committee on Intelligence (HPSCI).⁹⁷

(FOUO) Ultimately, all members of Congress were to be presumed cleared, and all staff members from the two oversight committees had SI and other security clearances to allow them to do their job. Clearances were also granted to select staff members of certain other committees (like Appropriations) to permit them to do their jobs. Though there were some rough spots at first, NSA-congressional liaison came to be a more or less routine function bedeviled only occasionally by security problems. Certainly there were no repeats of the maverick Pike Committee performance. NSA senior Walter Deeley summed up the matter ten years later: "... I think one of the best things that ever happened to this country is the fact of the establishment of the House Committee on Intelligence and the Senate Committee on Intelligence, and they have total, absolute total, scrutiny over what NSA does."⁹⁸

(U) *The Enabling Legislation*

(U) The same Congress that decreed congressional oversight also wanted enabling legislation for the intelligence agencies that had not been established by law, as well as specific limiting legislation for CIA (which had already been established by the National Security Act of 1947). NSA was the most visible of the agencies that had come into being by executive order, and the Agency was one of the main targets of the draft legislation. All the drafts took the same basic form. NSA would have the same authorities as under the Truman Memorandum and would remain within the Department of Defense. The director and deputy director would be appointed by the president and confirmed by the Senate. As with the CIA, the director could be either civilian or military, but if military, the deputy must be a career civilian. What distinguished these drafts from the Truman Memorandum was the heavy emphasis on civil liberties, to be guaranteed through an overlay of oversight bodies - checkers and people to check the checkers. The driving force

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behind the legislation seemed to be the final report of the Church Committee, in which the committee promised to end the abuses of the past.⁹⁹

(C) Initially the enabling legislation was pushed along by the strong breeze of reform dominating the Carter White House. But as the president settled into the business of governing, he found this focus on supposed abuses of previous administrations to be increasingly irrelevant. Moreover, the intelligence agencies, and especially NSA, yielded a cornucopia of information. He became less and less interested in pushing legislation that would remove NSA from his total control and give part of that control to Congress. The Carter White House allowed the breezes of reform to blow themselves out, and NSA remained firmly tied to the president's authorities. The Truman Memorandum stood.¹⁰⁰

(U) The Enigma Revelations

(U) In England, far away from Watergate's tumultuous effects on government, a storm was brewing that was to help NSA, even as it stripped away the gauze of anonymity that remained. It became known as the Enigma revelations.

(U) The story of cryptology's role in World War II had been kept secret since 1945. Only the Americans, who had publicly investigated the surprise attack on Pearl Harbor, had uncapped that bottle, and even they had managed to confine the story to 1940 and 1941, and to limit the disclosures to the breaking of Japanese diplomatic codes and ciphers. The other 95 percent had remained hidden.

(U) The story began to trickle out in 1972, with the publication of John Masterman's book *The Double Cross System*, which covered the capture and turning of German human agents in Britain during the war. How they were captured was another story and went to the heart of the Enigma story, but Masterman kept that part a secret.¹⁰¹

(U) The first break to the Enigma story itself occurred in France in 1973, when Gustave Bertrand, the head of French intelligence before the war, published his memoirs revealing the Polish break into Enigma and the conference in 1939, just before the German Blitzkrieg swept over the country. Bertrand detailed his key role in obtaining information on Enigma for the Poles, and he described France's attack against Enigma in the final months preceding the German invasion of 1940. He also described what the British knew about the system.¹⁰²

(U) For a time the British remained silent. But within the ranks of World War II veterans there was a movement to tell their own story, largely to set right what they felt were distortions in the Bertrand account. Leading this effort was Frederick Winterbotham, a former RAF lieutenant colonel who had devised the system for protecting SIGINT during World War II. Winterbotham began working on his own book, published in 1974 as *The Ultra Secret*. He did not speak with a grant of authority from his government and had in fact been warned not to publish. But since the publication of Bertrand's book a year earlier, references to the British attack on Enigma had appeared in nooks and crevices of articles and book reviews, many of them authored by people who had

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participated in the operation during the war. Winterbotham knew that it was only a matter of time, and he determined to beat the rush. His book laid out the entire story of Bletchley Park, albeit with certain inaccuracies which came with the fading of memory.¹⁰³

(U) Following Winterbotham, many participants told their stories. For some, like Peter Calvocoressi, editor-in-chief of Penguin Books, revelation became eloquent literature. For others, like Gordon Welchman, it became a detailed technical description that caused the government to blanch (and NSA to pull his accesses).¹⁰⁴

(U) But none exceeded in scope and detail Harry Hinsley's book on British intelligence during World War II, which was largely a detailed history of Bletchley and the Enigma project. Alone among the writers and historians, Hinsley was given access to the still-classified documents, so that a well-documented story would emerge from among the welter of revelations and memoirs. Hinsley was given permission to use classified documents largely to correct misimpressions stemming from the memory-based accounts of Winterbotham, Calvocoressi, and others.¹⁰⁵

(U) The story of American codebreaking successes was later in coming. Ronald Clark's *The Man who Broke Purple*, a somewhat breathless (and not entirely accurate) biography of William Friedman, came out in 1977, and was followed by less memorable personal accounts by two Navy men, Edward Van Der Rhoer's *Deadly Magic* in 1978 and Jasper Holmes's *Double-Edged Secrets* in 1979. These could not compete in drama and readability with the stories churning out of the British press, and it took an Englishman, Ronald Lewin, to begin to tell the American story in his book *The American Magic*.¹⁰⁶ The British story captured the moment, while accounts of similarly significant American COMINT successes bobbed unhappily in their wake.

(U) Memoirs, biographies, and selective leaks of information would not, of course satisfy either the public or the historians. The only realistic alternative was to begin declassifying and releasing documents. Here, national security came to loggerheads with the public's right to know, and the issue was resolved only during the post-Watergate sorting out. The declassification effort resulted from two post-Watergate initiatives, FOIA and EO.

(U) Congress passed a new Freedom of Information Act (FOIA) in 1974. In it the congressmen took an old law relating to government documents, which required the requester to prove the need for the documents, and reversed it, instead requiring the government to prove the need to maintain secrecy.¹⁰⁷ Under this new law each government agency set up special arrangements to process FOIA requests. For several years NSA's FOIA team routinely denied every request based on national security. This worked under President Ford, but the new Carter administration in 1977 took the side of the plaintiffs on FOIA. Releasing significant numbers of documents became only a matter of time.

(FOUO) Executive Order 11652, issued in 1972, dealt with openness in government, and decreed that government documents be automatically declassified and released to the

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(U) World War II SIGINT histories

National Archives after thirty years.¹⁰⁸ The order actually preceded FOIA, but it did not have a major effect on NSA until after the Church and Pike hearings. By then, Lew Allen had become director, and Winterbotham had begun the Enigma revelations. Seeing that it was only a matter of time, Allen's staff began negotiating with GCHQ for a coordinated bilateral policy on release. They agreed to concentrate on World War II records (those most in demand) and to restrict their declassification initially to the COMINT effort against German, Japanese, and Italian armed forces. In Britain, declassified records would go to the Public Records Office – in the United States, to the National Archives in Washington. NSA would also look at selected Korean War and Vietnam era records, but the British declined, citing a rule against proceeding into the postwar period.¹⁰⁹

(U) NSA began the Herculean task of reviewing millions of pages of World War II (and prior) records in 1976, with four reemployed annuitants hired on a temporary, sixty-day basis. The program expanded as more and more files were discovered. Admiral Inman decided to set up a classified NSA archives to hold the records which had been saved but were not yet ready for declassification, and the new "Cryptologic Archival Holding Area" was set up in SAB-2, which had been built in the early 1970s as a warehouse to hold material being transported to a records destruction facility. (At the time NSA did not have its own facility.)¹¹⁰

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(FOUO) FOIA ran parallel to the systematic declassification effort, and the two threads became frequently intertwined. In 1978 a researcher named Earnest Bell, who had worked in the Army's wartime COMINT office in London, submitted a FOIA request for all German and Japanese COMINT material for the entire war. NSA's legal counsel, Roy Banner, advised Inman that NSA would likely lose a lawsuit, and the Bell FOIA request greatly expanded the volume of material that the reemployed annuitants had to review. Ultimately twenty-one REAs were hired under Inman to plow through the enormous pile of raw COMINT reports to satisfy Bell's request.¹¹¹

(U) THE IMPACT OF WATERGATE

(U) The Watergate period resulted in a massive change in the way the cryptologic system related to the American public. Congressional oversight, which sprang from the Church and Pike Committees, fundamentally altered the way NSA related to the legislative branch of government. In a real sense, NSA had to answer to two masters, and the relatively simple life of prior decades became more complex. The new arrangements took some getting used to, but in many ways accountability worked to the advantage of an agency that worked within the law, and within a decade few could imagine going back to the old way of doing business.

(U) If congressional oversight ultimately worked to NSA's benefit, the public exposures accompanying the Watergate period did not. Too many sensitive operations were exposed; too many exposés were splashed across the newspapers. The deleterious effects of the Watergate period stayed with the cryptologic community for many years to come.

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3. (U) CCH Series VI.A.1.6.2.
4. (U) Seymour Hersh, *The Price of Power: Kissinger in the Nixon White House* (New York: Summit Books, 1983), 321-32.
5. (U) CCH Series VI.H.H.19.6; 19.16.
6. (U) CCH Series VI.H.H.19.6; Harrison Salisbury, *Without Fear or Favor* (New York: Times Books, 1980), 315-18; Interview, Milton Zaslow, by Tom Johnson, 19 June 1998.
7. (U) Hersh, *Kissinger*, CCH VI.I.I.1.2.
8. (U) Ibid.
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11. (U) CCH Series VII.I.1.2.; DDIR files, 96026, box 13, "1974."
12. (U) CCH Series VI. I.I.1.2; Frank Smist, Jr., *Congress Oversees the United States Intelligence Community, 1947-1989* (Knoxville, Tenn: University of Tennessee Press, 1990), 184-86; DDIR files, NSA retired records, 96026.
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16. (U) CCH Series VII.B.4; F.19, Vol 1.
17. (U) David Kahn, "Big Ear or Big Brother?", *New York Times Magazine*, May 16, 1976, 13, 62-72.
18. (U) CCH Series XII.H.57.4.
19. (U) Church Committee hearings, Vol V, 10, in NSA records center, 28791-2, 80-079.
20. (U) Theoharis, *Spying on Americans*, 121-22; James Bamford, *The Puzzle Palace: A Report on America's Most Secret Agency* (Boston: Houghton Mifflin Co., 1982), 248; Church Committee correspondence.
21. (U) NSA Archives, acc nr 18238, CBTF 36; Church Committee correspondence, Vol V, 12. Kahn, "Big Ear or Big Brother?", 13, 62.
22. (U) Interview, Tom Charles Huston, by Gerald Haines [redacted] 31 January 1986, OH 6-86, NSA.
23. (U) Theoharis, *Spying on Americans*, 20, 121.
24. (U) Allen interview.
25. (U) Theoharis, *Spying on Americans*, 122-23.
26. (U) National Archives, Record Group 457, SRH-001.
27. (U) Ibid.
28. (U) DDIR files, 96026, box 8, "CIA Sensitive Items."
29. (U) When Nixon became president, Carter tried to brief him on a current wiretap program, but Haldeman, whom Carter called "a first class son of a bitch," insisted on being briefed first. Carter refused, and he and Hoover agreed to cancel the operation. See NSA's oral history interview with Carter, by Robert D. Farley, 3-6 October 1988, OH 15-88, NSA.
30. (U) Theoharis, *Spying on Americans*; DDIR files, 96026, box 13, "1974."
31. (U) White, *Breach of Faith*, 133; Theoharis, *Spying on Americans*, 22-26.
32. (U) Theoharis, *Spying on Americans*, 16, 22-31.
33. (U) Ibid.
34. (U) Ibid., 32-33.
35. (U) File on the Huston committee in CCH Series XII.D.; Church Committee correspondence.

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36. (U) Huston interview; Kahn, "Big Ear or Big Brother?," 13, 62; Theoharis, *Spying on Americans*, 27.
37. (U) Allen interview; Interview [redacted]
[redacted] by Charles Baker, Tom Johnson, Michael Peterson [redacted], 25 February 1993, OH 4-93, NSA;
Interview, Paul Brady, by [redacted], 25 July 1995, OH 22-95, NSA; Interview, Howard Rosenblum, by Robert
Farley and Charles Baker, 19 September 1991, OH 3-91, NSA. The existence of a taping system in the Oval
Office had been revealed to the Ervin Committee by a Nixon aide, Alexander Butterfield, in July of 1973.
Individual tapes were under subpoena, and the most controversial of them contained a gap of eighteen minutes at
a crucial point in the Watergate coverup. It was the tapes under subpoena, and especially the tape containing
that eighteen-minute gap, that were taken to NSA for examination.
38. (U) Allen interview.
39. (U) Ibid.
40. (U) Stansfield Turner, *Secrecy and Democracy: The CIA in Transition* (Boston: Houghton Mifflin, 1985),
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41. (U) Allen interview.
42. (U) CCH Series XII.D; DDIR files, 96026, box 10, "Directorate Correspondence, Nov. 75-Dec 76."
43. (U) Powers, *Man Who Kept the Secrets*, 288.
44. (U) Smist, *Congress Oversees the United States Intelligence Community*, 9-10, 149; Powers, *Man Who Kept
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45. (U) Theoharis, *Spying on Americans*, 9-11.
46. (U) John Robert Greene, *The Presidency of Gerald Ford* (Lawrence, Kansas: University of Kansas Press,
1995), 106.
47. (U) Greene, *The Presidency of Gerald Ford*, 106; NSA Archives acc nr 45146N, H07-0201-6.
48. (U) Smist, *Congress Oversees the United States Intelligence Community*, 30.
49. (U) Huston interview; Smist, *Congress Oversees the United States Intelligence Community*, 63.
50. (U) Huston interview; Church Committee correspondence.
51. (U) Ibid.
52. (U) Christopher Andrew, *For the President's Eyes Only: Secret Intelligence and the American Presidency
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53. (U) Church Committee correspondence; DIRNSA letter of 7 October 1975.
54. (U) Ibid.
55. (U) CCH Series VI.D.2.18; Smist, *Congress Oversees the United States Intelligence Community*, 73.
56. (U) Kahn, "Big Ear or Big Brother?," 65; Smist, *Congress Oversees the United States Intelligence
Community*, 73.
57. (U) Smist, *Congress Oversees the United States Intelligence Community*, 10; Kahn, "Big Ear or Big
Brother?," 72; Church Committee correspondence.
58. (U) Smist, *Congress Oversees the United States Intelligence Community*, 135; Gerald K. Haines, "The Pike
Committee Investigations and the CIA," *Studies in Intelligence* (1997), 41:3, 54.
59. (U) Church Committee correspondence; House Committee on Intelligence - correspondence files, 1975, in
NSA retired records 28792, 80-079. Haines, "The Pike Committee," 56.

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60. (U) Allen interview; House Committee on Intelligence - correspondence file; Smist, *Congress Oversees the United States Intelligence Community*, 175.
61. (U) House Committee on Intelligence - correspondence file.
62. (U) Ibid.
63. (U) Ibid.
64. (U) Smist, *Congress Oversees the United States Intelligence Community*, 185; The actual damage to national security occasioned by the "four little words" was surely less than was claimed by the administration and, anyway, Henry Kissinger had already leaked the wording of the report to a journalist. Thus the Pike Committee was not the first to leak. See Haines, "The Pike Committee Investigations."
65. (U) House Committee on Intelligence - correspondence file.
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73. (U) NSA retired records 28795, 80-079.
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75. (U) Ibid.
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84. (U) *New York Times*, October 20, 1977.
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90. (U) CCH Series XII.D., "EO 11095"; XII.H.57.4, Drake memo to IC staff, 9 August 1976; Allen interview. Ford Library, NSF, in CCH Series XVI.H., "Legal."
91. (U) Church committee hearings, Vol. 5, 81, in NSA retired records 28791-2, 80-079; House Committee on Intelligence - correspondence file, 1975, in NSA retired records 28792, 80-079.
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95. (U) Ibid., 5.
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