

~~SECRET//COMINT//X1~~

(U) Cryptologic Almanac 50th Anniversary Series

(U) The Time Of Investigations, Part 2 of 2

(U) SYNOPSIS: Stimulated by a climate of mistrust, a Senate committee chaired by Frank Church of Idaho investigated allegations of misdeeds by the U.S. intelligence community. After a period of adjustment, the committee and NSA learned to work together. The Church Committee substantiated charges that NSA had maintained "Watch Lists" of U.S. citizens and had a secret program to obtain copies of telegrams from private cable companies. The committee warned against NSA's potential for abuse and recommended legislation to protect American rights.

(U) NOW, ON WITH OUR STORY.

PIKE COMMITTEE

(U) If the Church Committee and NSA learned to get along after an initial period of uneasiness, this did not happen with two other congressional committees that investigated NSA.

(U) About the same time that the Senate established the Church Committee, the House of Representatives voted for a similar committee, under Otis Pike (D, NY). From the start, this committee had a broader mandate to investigate the entire intelligence community; in fact, it was set up not only to investigate alleged abuses but also to look at operational effectiveness and programming and budget issues.

~~(U//FOUO)~~ Some NSA seniors had already had less than positive experiences with Representative Pike. He had led a subcommittee investigating the PUEBLO incident of 1968; the subcommittee had leaked confidential testimony of then DIRNSA Marshall Carter to the press, angering many officials.

~~(U//FOUO)~~ Staff members of the Pike Committee were more aggressive, less willing to cooperate with NSA officials, which ensured a degree of resistance on NSA's part. Some questioning by committee staffers suggested that they presumed guilt on the part of NSA from the start.

~~(S//SI)~~ For some time, the two sides were unable to come to an agreement on how classified information was to be handled and protected. At one point, President Ford temporarily cut off Executive Branch contact with the committee because of alleged leaks

from it. The immediate cause became known as the "Four Words Controversy." In September 1975, despite NSA and CIA objections, the Pike Committee released a CIA report on the Yom Kippur War that discussed problems in indications/warning, and contained the phrase "and greater communications security." Secretary of State Henry Kissinger was greatly angered by this, for he felt it tipped sources of SIGINT to American monitoring in the Mideast, and that it imperiled information he needed for his efforts to broker peace in the region.

~~(S//SI)~~ Finally, on January 19, 1976, the Pike Committee voted to release its final report publicly to the House, despite the Ford administration's protests that it contained classified information. Responding to the administration, the House Rules Committee voted to reverse the committee decision and keep the distribution limited, but it was too late. Several journalists obtained copies, and the report appeared in its entirety in Village Voice, a counterculture newspaper.

(U) It was almost beside the point that the Pike Committee made reasonable recommendations similar to its Senate counterpart, that NSA be chartered by legislation, with legal safeguards against potential abuses. The Pike Committee also made valuable recommendations for more accountability in the intelligence community budget.

ABZUG COMMITTEE

(U) The longest-running congressional investigation of NSA was conducted by Bella Abzug, House member from New York. Ms. Abzug was known for her flamboyant hats and quotable utterances. She tackled serious concerns, but often seemed able to talk about them only in sensational terms.

(U) When early word of Projects MINARET and SHAMROCK appeared, Ms. Abzug, chair of the Government Information and Individual Rights Subcommittee of the Committee on Government Operations, decided to hold hearings.

~~(U//FOUO)~~ As with the Pike Committee, the Abzug Subcommittee started from a hostile attitude toward NSA. Staff members declined to sign an indoctrination oath for access to classified material, leading to conflict over subpoenas for NSA records. The subcommittee wanted to get General Allen to testify in open session, but, after the DIRNSA appeared before the Church Committee, sought others. One did appear before the subcommittee in open session, but, at the request of DoD lawyers, declined to answer most questions put to him.

~~(U//FOUO)~~ The chairman of the full Committee on Government Operations, Jack Brooks, apparently did not agree with the Abzug Subcommittee's actions, and supported NSA in some cases. For example, Brooks did not enforce a citation for contempt against the NSA

official who declined to answer questions in open hearings.

~~(U//FOUO)~~ The hearings ended when Ms. Abzug decided to run for the Senate and devoted more time to her campaign. The subcommittee's recommendations were similar to those of the Church and Pike Committees -- warnings against the potential for abuse of rights by NSA and suggestions for legislative fixes.

THE RESULTS

~~(S//SI)~~ While the congressional hearings were still going on, President Ford issued Executive Order 11905, seeking to stop abuses by members of the intelligence community and clarify its authorities. The role of the Director of Central Intelligence was enhanced, and an oversight board was created. Most important for NSA, EO 11905 prohibited the intercept of communications from or to the United States, or against U.S. persons abroad, except "under lawful electronic surveillance under procedures approved by the Attorney General." This order terminated several kinds of support NSA was then giving to the law enforcement community.

(U) In 1978 Congress passed the Foreign Intelligence Surveillance Act (FISA), which established a process by which warrants could be obtained for NSA intercept activities.

(U) When initial proposals for a joint Senate-House committee on intelligence fell through, the Senate established the Senate Select Committee on Intelligence (SSCI) on May 19, 1976. Over a year later, in July 1977, the House established the Permanent Select Committee on Intelligence (HPSCI). Designating them as "select" committees meant that congressmen would not serve on them as a normal assignment, but were chosen for the committee by the congressional leadership. (The addition of the word "permanent" in the title of the House committee was needed, because otherwise, under House rules, select committees expire when a House two-year term ends.)

(U) Special actions were taken to ensure that the committees would operate successfully in this sensitive area of government. First of all, strict rules were established for access to classified information by members and staff. Committee membership was carefully balanced among the shades of opinion about intelligence activities.

~~(U//FOUO)~~ NSA itself implemented stricter provisions in the process of signals intelligence to ensure compliance with all laws and to prevent abuses of power. USSID 18 was issued on May 26, 1976. USSIDs are the "constitution" of the cryptologic community, including not only NSA but also the Service Cryptologic Elements; USSIDs define all SIGINT activities and set out procedures by which they are to be conducted. USSID 18 not only defined and described the collection, processing, and storage of signals intelligence, but also placed clear limits on these activities. The document clearly stated the rights of

U.S. citizens and clearly prohibited any SIGINT actions that would violate those rights.

~~(U//FOUO)~~ Once USSID 18 was in place, NSA's leadership conducted a vigorous campaign to educate the workforce about its provisions. The leadership also established structural mechanisms to ensure compliance, including a stronger Office of Inspector General.

CONCLUSIONS

~~(U//FOUO)~~ The congressional investigations into NSA, with the accompanying media leaks and publicity, were wrenching for an agency accustomed to an exceptionally low public profile. It should be noted, however, that the publicity was not as bad as it could have been. The press concentrated on the sensational revelations of CIA activities, including charges of attempted assassinations, exotic poisons, and unusual weapons. Congressmen were more anxious to pose for photographs with a flashy CIA artifact than a piece of SIGINT.

~~(U//FOUO)~~ Much of the credit for NSA's successful weathering of the investigation goes to its director, General Lew Allen. He had a strong sense of the need to protect constitutional rights, and a sense of what was wrong with some older ways of conducting operations. He was willing to break precedent and cooperate with Congress, even to appear personally in an open session, but was also able to withhold cooperation when necessary to prevent compromises of classified material. General Allen went on to other military postings after leaving NSA, culminating in his service as Air Force chief of staff.

~~(U//FOUO)~~ The investigations clearly exposed inappropriate activities by NSA, some of them probably illegal. The exposure and actions taken in response changed the way SIGINT operations would be conducted from then on. NSA placed institutional and procedural safeguards in the system to protect American rights. NSA also entered a new era characterized by an active system of congressional oversight to ensure compliance with the law and to ensure budgetary responsibility.

~~(U)~~ By monitoring NSA and the other members of the intelligence community, the House and Senate Committees started the process of restoring trust in the nation's government and in its intelligence agencies.

~~(U//FOUO)~~ Finally, it is said that the NSA officials who had borne the brunt of the response to the congressional inquiries had a local trophy shop fashion a unique lapel pin for themselves -- an Idaho potato with a pike through the middle.

(U) FOR FURTHER READING: Frank J. Smist, Jr., *Congress Oversees the United States Intelligence Community, 1947-1994* (University of Tennessee Press, 1994); Thomas R.

Johnson, *American Intelligence during the Cold War*, Vol. III (CCH, 1998).

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