

STATEMENT OF CYRUS VANCE, FORMER GENERAL COUNSEL, DEPARTMENT OF DEFENSE; FORMER SECRETARY OF THE ARMY; FORMER DEPUTY SECRETARY OF DEFENSE; FORMER SPECIAL REPRESENTATIVE OF THE PRESIDENT; FORMER MEMBER OF THE DELEGATION TO THE VIETNAM PEACE NEGOTIATIONS IN PARIS

Mr. VANCE. Thank you, Mr. Chairman.

I do not have any written statement. However, I would like to speak briefly to what I believe is the central thrust of this committee's investigation: should there be any covert action? If so, what kinds and under what restraints?

At the outset, I think it is important to underscore the distinction between covert collection of intelligence and covert actions other than collection. I believe that with respect to covert collection of intelligence, the continuation of such collection should be permitted as I believe it is essential to the national security.

With respect to covert actions, I would not recommend that all covert actions be prohibited by law. I believe it is too difficult to see that clearly into the future. I believe it would be wise to enact legislation prohibiting involvement in assassinations, as has been suggested by this committee. In addition, I would be in favor of legislation prohibiting interference with the electoral processes in other countries. I would note that the drafting of such legislation is a complex business, and it would have to be so drafted as not to block covert intelligence collection.

Now, with respect to other covert actions, I believe it should be the policy of the United States to engage in covert actions only when they are absolutely essential to the national security.

The statutes, as now drafted, use the words "affect" or "are important to." [See app. B, p. 210.] I think those words are inadequate. I think covert actions should be authorized only when they are essential to the national security. Under such a test, I believe that the number of covert actions would be very, very small.

As to procedures to insure that such a policy would be carried out, I would suggest the following, and in this connection I might note that I agree with most of the recommendations that Mr. Clifford has made.

First, I believe that any proposal for a covert action should first go to the National Security Council, not a sub-Cabinet level committee. The highest level of the Government should focus upon the question, and therefore it should go before the National Security Council.

I would further suggest that the Attorney General of the United States be made a member of the National Security Council. This would insure that the chief legal officer of the United States would be one of those who would be passing upon the recommendation that goes to the President if it is in the affirmative.

I would also recommend that the President be required to give his approval in writing, certifying that he believes the proposed action is essential to the national security. After the President's approval, I would suggest that a full and complete description of the proposed action be communicated immediately to a joint Congressional oversight committee along the lines which Mr. Clifford has suggested. I believe that such a step would then put the committee or any of its members

in a position to express their disapproval or concerns about the proposed action, and to communicate them to the President of the United States.

I am not suggesting that the committee should have a veto. I do not believe that is necessary. I am suggesting that the committee or its individual members would be able to communicate with the President, thus giving him the benefit of the committee's advice or of the advice of individual members.

I believe this is and would be important to Presidents. I do not believe there would be inevitable leaks from such a committee. I know that the Congress can safeguard security matters which are essential to our national security.

Finally, I believe it's necessary that a monitoring system be set up which would require frequent reports. I would suggest at least monthly to the highest level; namely, the National Security Council and the Congress and to the joint oversight committee as to the progress of any action which has been authorized to go forward. I think this would tend to help in meeting the problem that Mr. Clifford suggested with respect to a covert operation moving from A to B and then from B to C and so on.

Again, Mr. Chairman, I would stress that I believe such actions should and would be very rare and that under such a set of procedures there would be adequate oversight to control such activities.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Mr. Vance. I appreciate the specificity of your recommendations, as well as Mr. Clifford's.

They will be very helpful.

May we go next to Mr. Phillips, please?

TESTIMONY OF DAVID A. PHILLIPS, FORMER OFFICER, CENTRAL INTELLIGENCE AGENCY; PRESIDENT, ASSOCIATION OF RETIRED INTELLIGENCE OFFICERS

Mr. PHILLIPS. Mr. Chairman and Senators, for the record I would like to make it clear that any viewpoints that I express today are personal ones. They do not represent the Association of Retired Intelligence Agents, an organization of intelligence people from all services, of which I happen to be President.

I would like to discuss covert action and covert activity. There's nothing new about covert action, the term which describes a variety of hugger-mugger gambits which can be taken to influence another nation's actions, attitudes, or public opinion.

What is new is the current controversy as to whether our country should engage in covert action. This is a valid subject for debate. Even though covert operations have been drastically reduced, American intelligence personnel realize that many of the problems which beset the intelligence community result from historical slips on the banana peels of covert action. The biggest banana peel of all is that vague phrase in the charter of CIA which reads "and other such functions and duties * * *" an ambiguous instruction which should be omitted from future legislation.

There are two dimensions to covert operations. The first is the major political or paramilitary endeavor, such as an attempt to change a