

[COMMITTEE PRINT]

SECURITY PRACTICES IN THE
NATIONAL SECURITY AGENCY

(DEFECTION OF BERNON F. MITCHELL
AND WILLIAM H. MARTIN)

REPORT

BY THE

COMMITTEE ON UN-AMERICAN ACTIVITIES
HOUSE OF REPRESENTATIVES
EIGHTY-SEVENTH CONGRESS
SECOND SESSION

INCLUDING INDEX



AUGUST 13, 1962

Published by the House Committee on Un-American Activities

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1962

85957

For sale by the Superintendent of Documents, U.S. Government Printing Office
Washington 25, D.C. - Price 15 cents

COMMITTEE ON UN-AMERICAN ACTIVITIES

UNITED STATES HOUSE OF REPRESENTATIVES

- FRANCIS E. WALTER, Pennsylvania, *Chairman*
MORGAN M. MOULDER, Missouri
CLYDE DOYLE, California
EDWIN E. WILKS, Louisiana
WILLIAM M. TUCK, Virginia
- FRANK S. TAYLOR, Jr., *Director*
ALFRED M. NETTLE, *Counsel*
JOHN C. WALSH, *Co-counsel*

ii

CONTENTS

Introduction.....	Page 1
National Security Agency.....	2
Background.....	2
Facts Developed from the Investigation.....	4
Conclusions.....	12
Corrective Action.....	17
Legislative Recommendations.....	19
Index.....	1

iii

PUBLIC LAW 601, 79TH CONGRESS

The legislation under which the House Committee on Un-American Activities operates is Public Law 601, 79th Congress [1946]; 60 Stat. 812, which provides:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, * * **

PART 2—RULES OF THE HOUSE OF REPRESENTATIVES

RULE X

SEC. 121. STANDING COMMITTEES

* * * * *
17. Committee on Un-American Activities, to consist of nine Members.

RULE XI

POWERS AND DUTIES OF COMMITTEES

* * * * *
(g) (1) Committee on Un-American Activities.
(A) Un-American activities.

(2) The Committee on Un-American Activities, as a whole or by subcommittee, is authorized to make from time to time investigations of (i) the extent, character, and objects of un-American propaganda activities in the United States, (ii) the diffusion within the United States of subversive and un-American propaganda that is instigated from foreign countries or of a domestic origin and attacks the principle of the form of government as guaranteed by our Constitution, and (iii) all other questions in relation thereto that would aid Congress in any necessary remedial legislation.

The Committee on Un-American Activities shall report to the House (or to the Clerk of the House if the House is not in session) the results of any such investigation, together with such recommendations as it deems advisable.

For the purpose of any such investigation, the Committee on Un-American Activities, or any subcommittee thereof, is authorized to sit and act at such times and places within the United States, whether or not the House is sitting, has recessed, or has adjourned, to hold such hearings, to require the attendance of such witnesses and the production of such books, papers, and documents, and to take such testimony, as it deems necessary. Subpoenas may be issued under the signature of the chairman of the committee or any subcommittee, or by any member designated by any such chairman, and may be served by any person designated by such chairman or member.

RULE XII

LEGISLATIVE OVERSIGHT BY STANDING COMMITTEES

Sec. 136. To assist the Congress in appraising the administration of the laws and in developing such amendments or related legislation as it may deem necessary, each standing committee of the Senate and the House of Representatives shall exercise continuous watchfulness of the execution by the administrative agencies concerned of any laws, the subject matter of which is within the jurisdiction of such committee; and, for that purpose, shall study all pertinent reports and data submitted to the Congress by the agencies in the executive branch of the Government.

RULES ADOPTED BY THE 87TH CONGRESS

House Resolution 8, January 3, 1961

RULE X

STANDING COMMITTEES

1. There shall be elected by the House, at the commencement of each Congress,
 - (r) Committee on Un-American Activities, to consist of nine Members.

RULE XI

POWERS AND DUTIES OF COMMITTEES

18. Committee on Un-American Activities.

(a) Un-American activities.

(b) The Committee on Un-American Activities, as a whole or by subcommittee, is authorized to make from time to time investigations of (1) the extent, character, and objects of un-American propaganda activities in the United States, (2) the diffusion within the United States of subversive and un-American propaganda that is instigated from foreign countries or of a domestic origin and attacks the principle of the form of government as guaranteed by our Constitution, and (3) all other questions in relation thereto that would aid Congress in any necessary remedial legislation.

The Committee on Un-American Activities shall report to the House (or to the Clerk of the House if the House is not in session) the results of any such investigation, together with such recommendations as it deems advisable.

For the purpose of any such investigation, the Committee on Un-American Activities, or any subcommittee thereof, is authorized to sit and act at such times and places within the United States, whether or not the House is sitting, has recessed, or has adjourned, to hold such hearings, to require the attendance of such witnesses and the production of such books, papers, and documents, and to take such testimony, as it deems necessary. Subpoenas may be issued under the signature of the chairman of the committee or any subcommittee, or by any member designated by any such chairman, and may be served by any person designated by any such chairman or member.

27. To assist the House in appraising the administration of the laws and in developing such amendments or related legislation as it may deem necessary, each standing committee of the House shall exercise continuous watchfulness of the execution by the administrative agencies concerned of any laws, the subject matter of which is within the jurisdiction of such committee; and, for that purpose, shall study all pertinent reports and data submitted to the House by the agencies in the executive branch of the Government.

VI

INTRODUCTION

There was uneasiness in the minds of millions of Americans when, on August 1, 1960, the news broke that two employees of the supersecret National Security Agency were missing and unaccounted for, having failed to return from a "vacation" trip they had taken together. Uneasiness deepened into shock as, in the days immediately following, it was learned that they had purchased one-way airline tickets to Mexico City and then to Castro's Cuba. There was no relief for the anxiety of the people of this country in the Department of Defense's statement of August 5, 1960, that, "it must be assumed that there is a likelihood that they have gone behind the Iron Curtain." This statement was climaxed by the appearance of the two men at an elaborately staged press conference in Moscow on September 6, 1960. In the course of this conference, the two former NSA employees revealed that they had left a "parting statement" to the American people in a safe deposit box in a Maryland bank, and then gave their all to a Soviet propaganda attack on the United States that had worldwide repercussions.

It was hard to believe. These two men, Bernon F. Mitchell and William H. Martin, had supposedly gone through the most rigorous of loyalty and security checks prior to and during their employment with the most sensitive and secretive of all agencies established by the U.S. Government to protect the Nation's security and that of its people in a deadly cold war. Yet, they had gone over to the enemy.

The propaganda and psychological blows these men had struck against their country and in behalf of the enemy were telling and hurt deeply. But the damage done was not limited to these. There was also the question of how much they knew of our most vital secrets—because their actions indicated that whatever they knew, they would surely pass on to the rulers of the Soviet Union. That they had had access to top secret cryptologic¹ information and knew the operations of highly specialized electronic devices used by NSA was apparent. How much more information of a dangerous nature was in their hands, no one knew, except NSA officials and a few other top security officers of the Nation.

Something was obviously wrong. Was it just Mitchell and Martin? Were others involved? Was there something basically wrong with our security program and the procedures of the NSA? Congress and the American people wanted answers to these and other questions.

The Committee on Un-American Activities began a preliminary investigation of the case shortly after the news of the Mitchell-Martin disappearance. The day after the two defectors appeared at the Moscow press conference, the committee authorized a formal investigation. In the 13 months that followed, its investigative staff devoted 2,000 man-hours—and covered 15 States—in developing information and leads that served as the basis for 16 separate executive-session

¹ Pertaining to the science of coded security communications.

hearings. In addition, the committee interviewed scores of former NSA employees and heard 34 present and former employees of the Agency testify in executive sessions.

It will be apparent to all who read this report that the committee was amazed and shocked by some of the facts uncovered in the course of its inquiry. It will also be apparent, however, that to the credit of NSA, the investigation and hearings were accompanied and followed by substantial changes and improvements in the management and procedures concerned with security in the Agency.

The committee believes that these results—the application of lessons learned in the course of the extensive investigations described in this report—constitute important gains. The committee is confident that, through its efforts, NSA has been helped and the national interest and security strengthened. It also believes that the NSA and Defense Department have made a significant contribution to the national security by the manner in which they assisted the investigation and took steps to correct deficiencies pointed up in the course of the inquiry. Despite the formerly existing conditions which prompted the inquiry, the committee wishes to emphasize that NSA employees are dedicated and loyal citizens performing a vital task for the Nation and deserving the confidence and support of the American people.

NATIONAL SECURITY AGENCY

BACKGROUND

The Mitchell-Martin case became a matter of immediate interest to the committee on August 1, 1960, when the Department of Defense made a public announcement that these two NSA employees had failed to return from a supposed vacation trip which they had taken together. The committee had already begun a preliminary investigation when, on August 5, 1960, the Defense Department made a followup statement concluding that, as a result of its own investigation into why Mitchell and Martin had not returned from leave, "there is a likelihood that they have gone behind the Iron Curtain."

Other events which provided the background for the committee's hearings, which began on September 14, 1960, occurred as follows: (a) By the end of August, committee investigators had uncovered important evidence indicating there was far more involved than just the fact that two NSA employees had defected to the U.S.S.R. Accordingly, in a letter to Secretary of Defense Thomas S. Gates, Jr., on August 31, 1960, Chairman Walter said:

It is apparent to me that Executive regulations intended to guarantee the loyalty of Government employees, especially of sensitive agencies, are not effective and are not safeguarding the security of the United States.

(b) On September 6, 1960, at a press conference in Moscow, the Soviet Union presented Mitchell and Martin to the world in the role of traitors, willing to accuse the United States of acts about which they possessed no knowledge. Mitchell and Martin did possess much knowledge, however, about the organization and operation of the supersensitive National Security Agency, and it was reasonable to

presume that their disclosure to the U.S.S.R. of information about the NSA adversely affected the security of the United States.

(c) On September 7, 1960, the Committee on Un-American Activities authorized a formal investigation and hearings on the National Security Agency for the following legislative purposes:

1. Strengthening of security laws and regulations by amending those parts of H.R. 2232 referred to this Committee on January 12, 1959 relating to unauthorized disclosure of certain information affecting national defense and Section 349 of the Immigration and Nationality Act, providing for loss of nationality in certain cases;
2. Consideration of legislation to amend the Act of August 26, 1950, relating to the suspension of employment of civilian personnel of the United States in the interest of national security in line with H.R. 1989, introduced by the Chairman on January 9, 1959;
3. Proposed legislation affixing procedures for investigative clearance of individuals prior to government employment with a view to eliminating employment of subversives and security risks;
4. Performance of the duties of legislative oversight.

(d) Also on September 7, 1960, the Department of Defense denied, in the face of reports to the contrary, that the records of either Mitchell or Martin indicated homosexuality or other sex abnormality.

(e) On September 12, 1960, a corrective public statement was made in behalf of the Department of Defense to the effect that "one of the men, Mitchell, in his employment interview, stated that in his teens he had engaged in certain abnormal sexual practices."

At the outset of the committee's probe into the National Security Agency, the Defense Department, which has jurisdiction over NSA, exhibited great reluctance to cooperate. As an example, a committee request for the Government employment application forms filled out by Mitchell and Martin was denied by the Department and the desired records were produced only after issuance of subpoenas *duces tecum*. Furthermore, in an executive session of the committee on September 16, 1960, the then General Counsel of the Department of Defense attempted to present as his testimony the verbatim text of a statement which had been released to the public the day before. Under the circumstances, the committee refused to accept the prepared statement or a summary of it.

In order to understand the significance of the defection of Mitchell and Martin, it is sufficient to say that the National Security Agency was established approximately 10 years ago by a Presidential directive to provide centralized coordination and direction for certain very highly classified functions of the Government vital to the national security. The functions assumed by the NSA were similar to those performed by military security agencies during and after World War II. In fact, much of the civilian leadership of the NSA has been composed of former military personnel who served with the wartime military security agencies. Today the military services still contribute large numbers of personnel to the National Security Agency, whose operations are subject to the direction and control of the Secretary of Defense.

The specific functions of the National Security Agency and the role they play in the security of the United States are so highly sensitive that they are carefully guarded, not only from the public, but from other Government agencies as well. Since July 1959 even the Civil Service Commission has been prohibited by act of Congress from conducting job audits of NSA positions, despite the fact this has been a major Commission responsibility for most Federal Government positions subsequent to the passage of the Classification Act of 1949. Congress granted NSA this authority to evaluate and classify its own positions solely for the purpose of further protecting the secret nature of its operations.

The sensitive nature of the operation of the National Security Agency was recognized and respected by the Committee on Un-American Activities during its investigation and hearings. The committee did not attempt to learn the details of the organizational structure or the products of the Agency, feeling it had no need for knowledge in these areas. In addition, to reduce even further the chance that the security of the Agency's work would be in any way compromised, the committee will not make public the testimony acquired in executive sessions.

FACTS DEVELOPED FROM THE INVESTIGATION VIOLATIONS OF AND INCONSISTENT APPLICATION OF SECURITY PROCEDURES

The mission of the National Security Agency, whether performed by it or its predecessor, the Armed Forces Security Agency, is and has always been extremely sensitive. Its sensitivity was demonstrated by the following testimony of a top Defense Department official before a subcommittee of the House Armed Services Committee on September 15, 1960, as follows:

Appointment of civilians in the Department of Defense is subject to investigation, the scope of which depends upon the degree of security importance of the position in question. Clearance to handle classified information is also the result of investigations whose extent is measured by the security level of the information handled. Because of the sensitive nature of the National Security Agency's activities, and because employment in the Agency requires access to very highly classified information, NSA employees must meet the strictest of all the security standards in the Department.

While this position sensitivity has always existed, it was not until August 1959 that it was so designated by formal action of the Department of Defense. The absence of this designation prior to 1959 had the effect of reducing the value of security directives and confusing their application to employees and applicants for employment at NSA. It further made it possible for the Agency to frustrate the security regulations by instituting security requirements which did not meet the standard intended for positions within the Armed Forces Security Agency and subsequently NSA. As a result, until the time of the committee's investigation, interim access to cryptologic (highest security classification) information was permitted on the basis of a mere national agency check¹ and polygraph interview. Through

¹ A check with several specified agencies, such as the Federal Bureau of Investigation, the Civil Service Commission, etc., which might be in possession of facts bearing on the trustworthiness and loyalty of an individual concerned.

this procedure, the Agency was failing to assure itself that an employee given access to cryptologic information was "of excellent character and discretion and of unquestioned loyalty to the United States without qualification or exception."¹ (Department of Defense Directive, "Eligibility Criteria for Cryptographic Clearances," June 5, 1952.)

While the committee found that NSA was technically complying with Department of Defense security regulations, it found further that the Agency, specifically its Office of Security Services, was not complying with the intent of the regulations, namely, guaranteeing that employees granted interim clearances posed no threat to the security of the United States.

Not only did the Office of Security Services fail to live up to Department of Defense intent in granting interim clearances but, beginning in 1951 or 1952—NSA officials were unable to provide precise testimony as to the date—the Agency began making appointments prior to conducting national agency checks or initiating full field investigations. Such appointments were not in accordance with Department of Defense appointment directives, which provided that positions as sensitive as NSA's should not be filled "prior to completion with satisfactory results of a full field investigation, which in no event will be less than a Background Investigation * * *"

These same regulations provided for appointment to less sensitive positions in the Defense Department without full field investigations, but even in these categories the minimum investigation requirement would be "a national agency check with satisfactory results * * * prior to appointment * * *"

These Defense Department directives provided relief from the pre-appointment investigative requirements, referred to above, in cases of emergency. However, to avoid abuse, it was further provided that emergency appointments would be on a position-by-position basis; that in each case there would be a finding that the appointment was necessary in the interest of national defense; and that this finding be made a part of the records of the department or agency concerned. The committee's investigation uncovered the fact that neither the Armed Forces Security Agency nor NSA had made an attempt to satisfy these requirements of the appointment directives. It further found that the Department of Defense had been aware of this fact.

NSA officials, in attempting to justify the appointment-before-investigation practice that was still being followed at the time the committee initiated its inquiry, claimed that this policy had originally been adopted because of an urgent need for personnel during the Korean war. The committee found, however, that NSA had continued the practice after the Korean emergency and until the very time the committee, during the course of its investigation, concerned itself with this practice. As will be pointed out hereafter under "Corrective Action" taken by the Agency, this practice is no longer followed.

The appointment-before-investigation practice resulted in large numbers of individuals being placed on the Agency payroll without prior investigation. Initially, in accordance with the basic provisions of Defense Department regulations, these appointees were not given access to cryptologic information and material until they had been

¹ Emphasis in quotations on this page added by committee.

properly cleared. In order to make use of these appointees after they had been placed on the payroll but before they had received security clearance, the Agency assigned them to unclassified job-related training in the Agency school. This was not a satisfactory solution, however, because many completed their training course before security investigations on them had been concluded and thus still could not be used in the positions for which they had been hired.

Accordingly, the Agency adopted as routine practice the utilization of another emergency provision contained in Defense Department security regulations—that which authorizes the granting of an interim clearance to a new employee after a satisfactory national agency check has been made, but prior to the completion of a full field investigation. Also, the Office of Security Services overlooked the fact that the above provision required the Agency to have in its possession the results of a pre-appointment background investigation before granting this interim clearance. In effect, therefore, instead of granting such clearances to individual emergency appointees on the basis of a successful national agency check and on a position-by-position basis as authorized by the regulations, the Agency simply decreed a general emergency and began granting interim security clearances to all employees who had passed national agency checks but who were still awaiting the completion of field investigations.

The departures from the spirit and intent of the appointment and interim clearance regulations, the latter coming on top of the former, had the effect of vitiating their effectiveness as security measures even while there was technical compliance with them.

In an attempt to augment its now relaxed security procedures, the Agency—at the suggestion of its Office of Security Services—initiated the use of the polygraph (popularly known as the "lie detector") interview as a security-screening device. In the absence of derogatory information resulting from the national agency check, interim clearance was granted or denied by the Office of Security Services according to an evaluation of data obtained during the polygraph interview.

When the polygraph was first instituted by the NSA as a means of screening new employees and updating security clearances on old ones, some of the older employees protested by threatening to resign from the Agency rather than submit to the polygraph interview. Although leading NSA officials subsequently placed far more importance and reliance upon the polygraph as a security device than was justified, they did not make the older employees submit to the new procedure. However, since the institution of this procedure in 1951, many older employees have submitted to polygraph interviews. In addition to the old-time civilian employees who were exempted from the polygraph, the Agency was confronted with reluctance on the part of the military services to have the large components of their enlisted and officer personnel assigned to NSA submit to the polygraph interview. They were, therefore, also exempted, and this exemption is still in effect.

Some of the former NSA employees interviewed related examples of laxity in NSA security practices. One example was NSA's hiring of a person who had been denied employment by another Government agency because he was strongly suspected of both homosexuality and Communist activities. (When this information was later uncovered, NSA demanded and received the employee's resignation.)

Former investigators for agencies which conduct background inquiries of NSA employees told of homosexuals and sex deviates within the Agency.¹ They related how difficult it was to check on some NSA personnel because often the only references given by employees were personal friends or fellow employees. The most outspoken complaint against NSA by former investigators, however, was that occasionally, prior to the committee's investigation, when derogatory information was uncovered during background investigations, responsible officials in the Office of Security Services ignored it.

NSA'S OFFICE OF SECURITY SERVICES

Much of the committee's probe centered on the Office of Security Services, because it was discovered that this office handled all personnel and physical and industrial security matters involving the National Security Agency. It was this office that initiated, or caused to be initiated, national agency checks and background investigations on NSA employees. While most of the field investigations were conducted for NSA by the investigative branches of the Army, Navy, and Air Force, a relatively few of them were conducted by agents of the Office of Security Services. The findings of all investigations and polygraph interviews were evaluated by NSA's own Office of Security Services and it was this office that granted all security clearances, interim and final.

The committee found in the course of its hearings and investigation that, at the time Mitchell and Martin were hired, it was possible that the judgment of only one medium-grade (GS-9) evaluator would determine whether the results of a particular investigation or polygraph interview were favorable or unfavorable. If nothing appeared out of order to this evaluator in the report of investigation or polygraph interview, he was not required to refer it to anyone else for concurrence in his judgment. In some cases, although the hearings made it clear that it was not standard practice, this same evaluator was assigned to review all phases of the investigative findings pertaining to an employee, and thus was the only person to pass judgment on the subject's acceptability from an overall security standpoint. The director of the Office of Security Services had delegated exceptional authority to individual evaluators with minimum cross-control.

Another important factor ascertained by the committee was that the Office of Security Services was the only office permitted access to information resulting from polygraph interviews of NSA employees. NSA's personnel office was not allowed to review the security files. And, of possibly greater significance, the Office of Security Services did not furnish Army, Navy, or Air Force investigators with the results of polygraph interviews for investigative direction when they were conducting full field investigations of NSA employees.

THE DEFECTORS

Bernon F. Mitchell was born on March 11, 1929, at San Francisco, California. He was interviewed by an NSA recruiter on February 25, 1957, while a student at Stanford University. He had gained field experience in cryptology during the course of Navy service from 1951

¹ This condition, it is believed, has been corrected by NSA's subsequent dismissal of 26 individuals because of indications of sexual deviation. See "Corrective Action," par. 19, p. 18.

to 1954 (during which time he and William Martin became friends) and had acquired familiarization and experience with computers. Based on Mitchell's academic record, the recruiter's recommendation, the personal knowledge of an NSA supervisor as to Mitchell's work performance while in the Navy, and the fact that he had been previously cleared by the Navy for access to cryptologic information, he was offered, and accepted, employment as a mathematician, GS-7, reporting for duty on July 8, 1957.

On July 17, 1957, the Office of Security Services requested the Civil Service Commission to conduct a national agency check on Mitchell. On July 23, 1957, Mitchell was given a polygraph interview. At that time he refused to answer any questions about sexual perversion or blackmail. Eleven days later Mitchell submitted to another polygraph interview and admitted that, between the ages of 13 and 19, he had participated in sexual experimentations with dogs and chickens.

The Office of Security Services evaluators who reviewed the data on Mitchell—including the results of the polygraph interviews, a national agency check, and a background investigation conducted by the Navy in 1951—did not refer the case to another evaluator for a supporting or dissenting judgment before approving Mitchell for an interim security clearance, which was granted on August 7, 1957, 5 days after his second polygraph session. On September 4, 1957, Mitchell executed a Security Indocctrination Oath. On the same day he was issued a badge permitting access to information through top secret on a "need-to-know" basis. It was not until September 9, 1957—2 months after he had been placed on the payroll—that NSA requested a full field investigation into his background. The Air Force agency which conducted this investigation was not given the benefit of any of the information revealed during his polygraph interviews.

On January 3, 1958, the Air Force Office of Special Investigations submitted its report on Mitchell's background investigation to NSA. On January 23, 1958, he was given final clearance.

NSA's director of the Office of Security Services told the committee at an executive session that the Agency did not turn over information obtained from polygraph interviews to other investigative organizations because NSA employees had been promised by NSA that polygraph interviews would be kept confidential. The only exceptions to this policy, the committee was told, would be in cases where interviews turned up information about undetected crimes and subversive activities.

William H. Martin was born on May 27, 1931, at Columbus, Georgia. He was interviewed by an NSA recruiter on March 8, 1957, while a student at the University of Washington in Seattle. He had become experienced as a cryptologist during a tour of duty in the Navy from 1951 to 1955 and continued the same type of work as a civilian for the Army in Japan for nearly a year after receiving his discharge from the Navy. As in the case of Mitchell, the recruiter detected no reason why Martin would have any difficulty in obtaining security clearance to work at NSA. Based on the recruiter's recommendation, Martin's academic record, and the recommendation of an NSA supervisor who had known both Martin and Mitchell in Japan,

he was hired as a mathematician, GS-7, and reported for duty on July 8, 1957, with Mitchell.

The national agency check on Martin and his polygraph interview disclosed no information that the NSA evaluator considered to be a bar to interim security clearance. During the background investigation on Martin, which included the results of the 1951 Navy investigation, it was revealed that acquaintances described him as (1) an insufferable egotist; (2) a little effeminate; (3) not wholly normal; (4) rather irresponsible; and (5) one who might be swayed by flattery. Former supervisors of Martin, both Navy and Army, were almost unanimous in expressing the opinion they would not want to have him work for them again. Nevertheless, with only one exception, persons interviewed recommended him as one who could have access to classified information.

The NSA security evaluator concerned saw nothing sufficiently derogatory about the above characterizations of Martin to recommend that he be denied a security clearance. The findings of the field investigators, of course—in accordance with the practice at that time—were not turned over to NSA's personnel office or any other office having to do with Martin's employment. Martin was granted an interim clearance on August 14, 1957.

On August 28, 1957, more than a month and a half after he had been hired, NSA requested the Department of the Navy to conduct a full field investigation on Martin. On September 4, 1957, he executed a Security Indocctrination Oath and on the same day he was issued a badge permitting access to information classified through top secret on a "need-to-know" basis. NSA received the Navy's report of investigation on April 22, 1958. On May 12, 1958, Martin was granted a final clearance.

Despite the sensitive nature of the work of the National Security Agency and the Office of Security Services' declared program of periodically updating security investigations on all NSA employees, the committee's investigators turned up some startling facts about Martin and Mitchell which were unknown to the Agency's security office until after they had defected. Examples follow:

1. When Martin, as an employee of NSA, was sent to study at the University of Illinois in 1959, he had associations with members of the Communist Party.
2. In December 1959, Mitchell and Martin traveled to Cuba without permission of the Agency and in violation of its directives.
3. Martin was sexually abnormal; in fact, a masochist.

4. Mitchell had posed for nude color slides perched on a velvet-covered stool.

5. Mitchell and Martin were agnostics who were critical of the United States and complimentary of the Soviet way of life. This was known by several dozen employes of NSA, yet unknown to its Office of Security Services.

6. In May 1960, Mitchell sought the services of a psychiatrist, whose offices are located near the Nation's Capital in suburban Maryland. The psychiatrist testified in executive session before the committee in September 1960 to the effect that, on the basis of three consultations with Mitchell, he had concluded that Mitchell had had homosexual problems for many years.

NSA'S FORMER DIRECTOR OF PERSONNEL

Among other things, the investigation established that the then director of personnel had, over the years, acquired such power that some former NSA employees were fearful of supplying the committee with information. One example of such fear was provided by an employee who had transferred from NSA to another security agency and who told a committee investigator: "If I tell you what I know, Mr. _____ will see that my security clearance is taken away and I will be unable to continue employment in this field." Other former NSA employees expressed similar fears, though the committee was not seeking information of a classified nature, but simply making inquiries which dealt with employment practices that affected the security of the Agency.

As the committee's investigation deepened, evidence indicated more and more clearly that the then director of personnel was also lacking in integrity. It was reliably reported, for example, that he had made several false statements in the execution of official Government personnel documents at the time his employment with the Agency was changed from a military to a civilian status. He had falsely listed Harvey as the college from which he obtained his J.L.B. degree; he had concealed a change in his name; he had listed several different dates for his birth; and he had supplied an employment history which was not factual.

This making of false statements on official Government documents, when discovered by NSA, should have been a bar to his continued employment as director of personnel in such a sensitive agency. However, the committee's investigation did not concern itself with this subject. What did particularly concern the committee was reliable information that he had later substituted, without authorization, corrected documents for the original ones containing the false information.

When evidence continued to mount in support of the reports about the director of personnel's falsification of records and record switching, the committee requested permission from the Department of Defense to review this highly placed NSA official's personnel file. On the day the official's file was being prepared at NSA for delivery to the Department of Defense for examination by an investigator for this committee, document switching again took place for the purpose of concealing the original substitution.

Continued digging by the committee led to the reconstruction of the following facts regarding NSA's director of personnel:

Subject official made application for civilian employment with the Agency on June 15, 1949. At that time he was an Army major, already assigned to the Agency as assistant chief of the Operations Division. In preparing Form 57 (standard Government employment application form), he provided false information to make it conform with false information he had supplied the Government earlier and which was contained in his military personnel file. He was accepted as a civilian employee by NSA and granted cryptologic clearance on the basis of background investigations which had been conducted while he was in military service. Unfortunately, those investigations had been made during World War II and lacked the thoroughness of the usual investigative inquiries carried out by security agencies in normal times.

After President Eisenhower entered the White House, he issued a directive for all civilian Government employees occupying sensitive positions to be reinvestigated. During the resulting reinvestigation of the subject NSA official, it was discovered that he had made the false statements on his personnel forms. This discovery was reported to NSA, together with other derogatory information about the employee. The director of security interrogated the official about the discrepancies in his records, but apparently was not alarmed by them for he continued to certify the employee in question, not only for employment with NSA, but for cryptologic clearance as well. Thereafter, the subject official used the director of security as one of his references when he filled out security forms for the Agency.

Following his interrogation by the director of security, the director of personnel—who had ready access to his own personnel file—removed the original Form 57 containing false information and replaced it with a newly prepared form containing accurate information about his background. This substituted form remained in the NSA personnel file until the time the subject's records were being prepared for delivery to the Department of Defense for examination by an investigator for this committee. Realizing that it would be discovered that the substituted Form 57 had been printed by the Government Printing Office later than the form's supposed date of execution (June 15, 1949), the director of personnel made another Form 57 substitution. The second substitution was an old Form 57 (bearing an earlier GPO printing date than June 15, 1949), which the subject official apparently obtained from his personal effects and on which he had made erasures of some earlier penciled entries and had typed correct information about his background. On this form, also, he had typed June 15, 1949, as the date of execution.

The erasures on the document caused the committee staff to become suspicious of its authenticity. The suspicion was strengthened by the fact that this Form 57 (which the director of personnel had made available to the Defense Department for examination by committee staff members) contained no entries on that portion of the form reserved for remarks by NSA's personnel division and the Civil Service Commission. The committee learned that notations had been made on this portion of other employees' Forms 57 in NSA files.

The typewritten entries contained on the Form 57 supplied the Defense Department by NSA also appeared to have been made by a later model typewriter than was in existence in 1949. With the assistance of the Identification and Detection Division of the Veterans' Administration, which examined a photo copy of the questionable Form 57, it was determined by the committee that the document had been prepared by an IBM Electronic typewriter, bearing elite type, spaced 12 letters to the inch. The year of the typewriter's manufacture could not be determined without making an examination of the original Form 57 from which the photo copy had been made. Inasmuch as the original was still in the possession of the Department of Defense, Secretary of Defense Robert S. McNamara was furnished the committee's findings and requested to make an independent investigation.

Moving with dispatch, the Defense Department called upon its investigative services and the Federal Bureau of Investigation before arriving at the conclusion that the Form 57 in question could not have

been the one filed by NSA's director of personnel when he became a civilian employee of the Agency in 1949. In fact, the Defense Department's own probe clearly established that the subject Form 57 had not been filled out until the time the director of personnel's records were requested by the Pentagon for review by this committee.

In light of the findings of the committee, the investigating unit of the Veterans' Administration, and the Defense Department's inquiry, the following exchange between the committee's general counsel, Frank S. Tavenner, Jr., and NSA's director of personnel, which took place at an executive hearing in 1961, assumed considerable significance:

Mr. TAVENNER. Information has come to our attention that you were permitted to withdraw Form 57 and sup-
planted this form [the one sent the Defense Department] in its place.

Witness. Absolutely not, sir.

Mr. TAVENNER. Did you withdraw—

Witness. No, sir.

Mr. TAVENNER. Did you withdraw a 1957 and supplant it by another form?

Witness. No, sir. 1957?

Mr. TAVENNER. A Form 57.

Witness. No, sir.

In view of the contradictions between the testimony quoted above and the facts uncovered by both the committee's and Department's investigations, this matter was referred to the Department of Justice for possible prosecution of the witness for perjury before the committee or for any other criminal offense justified by the evidence.

During its long investigation, the committee discovered evidence of misconduct on the part of other National Security Agency officials. Inasmuch as the nature of most of the misconduct was outside the jurisdictional scope of this committee, the evidence and investigative leads pertaining to it were turned over to the Department of Defense. Followup inquiries and joint action by the Defense Department and the Agency have resulted in the removal from the payroll of several officials in NSA's Office of Security Services.

CONCLUSIONS

Officials of the National Security Agency, most of whom were associated with the operation when it was the Armed Forces Security Agency, operated this most sensitive organization over a period of many years without proper regard for Department of Defense security regulations pertaining to appointment of personnel.

Even before the detection of Mitchell and Martin, one NSA employee and one AFSA employee had been dismissed—the former after being indicted for espionage and the latter after being convicted of contempt of a grand jury investigating espionage. In addition, some AFSA polygraph operators had been exposed and dismissed for engaging in unethical conduct.

Past efforts by the Defense Department to investigate NSA were ineffective for the most part because, when matters involving irregularities at the Agency were brought to the attention of the Department,

it more often than not appointed as the investigators of the irregularities the very NSA officials responsible for their existence. This is in sharp contrast with recent investigations conducted by the Department after irregularities were called to its attention by the committee and the salutary reforms that resulted therefrom.

The committee found that the basic provisions of the Defense Department security regulations, as applicable to NSA, were in themselves sound, but they failed to achieve their objectives because (1) too much authority to administer them was delegated from the Secretary of Defense to the Director of NSA and, in turn, to lesser NSA officials, and (2) in its haste to make personnel appointments, NSA did so without adequate background investigations.

Through Department of Defense Directive 5100.23, the Director of the National Security Agency or, in his absence or incapacity, the person acting for him was delegated all authority required for the administration and operation of the Agency. Under this delegation of authority, the Director of NSA was authorized, in case of an emergency, to appoint a person to a sensitive position for a limited period, even though a full field investigation on that person had not been completed. The Director was further authorized to clear personnel of NSA for interim access to classified material before full field investigations had been completed.

In all events, when granting a temporary appointment to a person who had not been fully investigated, the Director of NSA was required to submit a written record of such action, citing the emergency which dictated it, to the Department of Defense. Nothing in the regulations authorized blanket hiring under a general and longstanding declaration of emergency without national agency checks and background investigations.

The committee found that the NSA and its predecessor, the Armed Forces Security Agency, acted wholly outside the spirit of Defense Department security regulations by operating generally and for an extended period of time under those provisions which permitted use of interim clearances for access to sensitive cryptologic information. That the Agency began utilizing these provisions in order to get new appointees on the job more quickly to fulfill emergency needs during the Korean war was no justification for its still being the practice nearly a decade later, when Mitchell and Martin defected to the U.S.S.R.

Awareness that the United States is in a death struggle with the international conspiracy of communism dictates that extraordinary procedures be applied in obtaining data upon which to make a determination of an individual's eligibility for access to activities as vital as those of the National Security Agency. While the National Security Agency did employ an additional investigative step (the polygraph) beyond the minimum required by departmental regulation for interim clearance, the automatic granting of interim clearances was inconsistent with the security objectives of the Agency.

Furthermore, despite the fact that the Defense Department regulations delegated authority to the Director of NSA to determine when a person was suitable for hire and safe for access to classified material, in practice it was actually medium-grade personnel in the Agency's Office of Security Services who made these determinations in many cases.

The procedure at NSA at the time Mitchell and Martin were hired, as well as when they defected, permitted the Office of Security Services to retain exclusively for its own use all investigative reports and records of polygraph interviews. The personnel office, which did the actual hiring, therefore may well have been deprived of information not bearing directly on the appointees' loyalty but which might have been important in determining their suitability to perform the duties for which they were hired.

The committee found that the Agency relied on the polygraph primarily for purposes of adjudication rather than for investigative leads. Few persons familiar with the limitations of the polygraph would use it for any purpose other than as an aid to investigation. The committee does not know of any competent criminal investigative agency or department which uses the polygraph alone for making a final determination of either innocence or guilt.

On March 27, 1953, J. Edgar Hoover, Director of the Federal Bureau of Investigation, testified before the Senate Appropriations Committee as follows about the use of the polygraph as a lie detector:

The name "lie detector" is a complete misnomer. The machine used is not a lie detector. It shows the variations of your blood pressure and of your emotions. The person who operates the machine is the lie detector by reason of his interpretations. The machine technically is known as the polygraph. The man operating it must be extremely skilled and must be conservative and objective. He must be able to properly interpret the recordings made. However, whenever the human element enters into an interpretation of anything, there is always a variance. I would never accept the conclusion of a lie detector as proof of innocence or guilt. All that it can be called is a psychological aid.

For instance, I have in mind defalcations in banks. There was a case where one or two defalcations had been reported. We never use the lie detector except upon agreement of the employees. Two employees immediately admitted they had committed this defalcation and 11 others admitted other defalcations which the bank did not know of and which had not been reported. That was psychological.

I saw the lie detector used in a kidnaping case which I handled some years ago in which a young man in his early twenties was picked up. He was quite a nervous and high-strung individual. The lie detector indicated he was guilty of kidnaping and murdering a child. We were not satisfied to accept that. We tried it on another suspect. He proved to be as innocent as any man could be. Five days later I received a full confession from the second suspect whom the lie detector proved to be innocent and he went to the chair and paid the penalty.

That is why I have said I do not have confidence in it as specifically proving anything. It is a psychological aid but as you and I both know, there are many persons who are highly excitable and highly emotional, who get very nervous when they have committed no crime.

NSA's reliance upon polygraphy as almost an exact science was so contrary to Mr. Hoover's 1953 evaluation that the committee asked the FBI Director if his above-quoted views had changed. Mr. Hoover advised the committee by letter, dated September 22, 1961, as follows:

The position I took in 1953 regarding the polygraph or so-called "lie detector" remains basically and essentially unchanged. I feel that the polygraph technique is still not sufficiently precise to permit absolute judgments of guilt or nonguilt without qualifications. The polygraph is currently being used by the FBI as an investigative aid in carefully selected cases. The examination results must be considered within the context of a complete investigation. The polygraph can be helpful to implement an interrogation and provide investigative direction but must not be relied on solely or used as a substitute for logical investigation.

The committee found that NSA not only placed far too much importance upon the polygraph as a means of conclusively determining an employee's security suitability but too little, if any, importance upon the polygraph's real value in providing "investigative direction." It is the opinion of this committee, now concurred in by NSA, that the Agency should furnish outside agencies which do field investigations on NSA applicants and employees all the raw material possible—including any significant results from polygraph interviews—that would be helpful in giving leads to the subjects' backgrounds.

It is the opinion of the committee that, without knowledge of Bernon Mitchell's polygraph admissions of sex deviation, the Air Force investigators who checked on his background for NSA were denied leads into an area of considerable significance as far as determining his security suitability was concerned. By the same token, the investigators were deprived of other information that would have made possible a more accurate evaluation of statements from persons queried about Mitchell's habits and characteristics. Without Mitchell's polygraph admissions, the effectiveness of the background investigation was bound to be reduced considerably. The committee does not think it unreasonable, therefore, to conclude that Mitchell's appointment to NSA employment and his clearance for cryptologic work were a miscarriage of security awareness.

The personnel security procedures which permitted Mitchell to be hired by the National Security Agency have been responsible for the employment by the same Agency of more than a score of persons who were security risks to the United States. Evidence to this effect was ridiculed by the Defense Department until the committee's investigation brought about admission that, after the committee had initiated its series of executive hearings in September 1960, NSA began a review of all employees' files which contained any derogatory information. As a result of this review, by August 1961, 26 persons on the payroll had been fired by NSA for reasons of sex deviation. Just one year earlier, based on assurances from NSA, the Defense Department had denied that NSA possessed derogatory information of this nature on even one of its employees. Yet, of the 26 subsequently released, several were persons whose security files had contained damaging facts for more than 5 years.

The committee investigation obtained evidence that, prior to the investigation, NSA did not understand the homosexual or sex deviate. The directive from which security evaluators received their guidance was so ambiguous that it failed to establish a clear-cut policy. After stating that criteria used by other Government agencies would not be used by NSA, it set forth NSA rules on the sex pervert as follows:

NSA's general rule therefore must be that we will look at all of the circumstances in this type of case to determine whether the acts are isolated instances, whether there are mitigating circumstances, whether the acts constitute a pattern, whether the Subject has a genuine perverted compulsion, as well as other facts to determine whether there is a likelihood of repetition. Where the results of interview indicate that the Subject may be a latent pervert, or is confused in his own mind as to his sexual desires, the Subject will normally be referred to the Office of Personnel for referral to the NSA Medical Center if he is an employee. If the Subject is an Applicant the Office of Security will normally advise the Office of Personnel that there is insufficient information upon which to make a security determination.

Another weakness in the National Security Agency's personnel security program involved its relationship with the Federal Bureau of Investigation. Wisely, the Agency notified the FBI of the names of its employees at the time they were hired. Unwisely, however, NSA failed to notify the FBI when one of its employees was relocated for some special reason in a different part of the country. Thus, when NSA sent William Martin to the University of Illinois in 1959 to undertake a special academic course, the FBI was not informed. As it turned out, Martin had associations with known members of the Communist Party while he attended the university. Had the FBI been aware that the William Martin associating with Communists while he attended the University of Illinois was the William Martin employed by NSA, it could have immediately effected appropriate security measures.

The NSA investigation has made the committee acutely aware of how much can be accomplished when there is proper cooperation between a committee of Congress and a department of the executive branch. The committee experienced considerable contrast in the degree of cooperation received from the Department of Defense and the Agency at various stages of the investigation.

In 1960, when the investigation began, obstacle after obstacle was placed in the path of the committee. Its requests for routine documents were denied by the Department of Defense, thus necessitating the issuance of a congressional subpoena. The Defense Department released misleading statements to the press which had the effect of discrediting the committee's investigation. Consequently, the committee had to undertake considerable work which would not have been necessary if there had been full cooperation from the very beginning.

Chairman Walter addressed a letter to the Secretary of Defense on February 8, 1961, in which he set forth the difficulties encountered by the committee during the administration of the Secretary's predecessor with regard to the production of certain records needed in the com-

mittee's investigation, and requested that the decision of his predecessor be reviewed. The letter also set forth adequate precedent for the furnishing of the desired information. The results were rewarding. A plan of cooperation was agreed upon which proved most beneficial to the committee's investigation and to the Agency's self-analysis of its programs and practices. This plan could well serve as a model for proper cooperation between executive agencies and legislative committees.

CORRECTIVE ACTION

The committee's investigation has produced positive results. A number of far-reaching reforms have been instituted at NSA. At the request of the committee, the Director of the Agency has listed the following corrective measures adopted:

1. The mandatory pre-employment medical examination has been expanded to include clinical psychological screening instruments to help assess a job candidate's mental and emotional fitness.
2. Professional psychological and psychiatric services are now immediately available for use in the assessment of applicants and employees who reveal an indication of emotional instability.
3. The Director of NSA has appointed a board of renowned psychiatric consultants to advise him of the adequacy of the Agency's clinical psychological and psychiatric assessment program and to make recommendations as to how it might be improved.
4. NSA's screening techniques now consist of an examination of the applicant's professional qualifications and mental attributes, a polygraph screening interview, a national agency check, a medical examination, aptitude or achievement tests, and the background investigation.
5. NSA job candidates must pass all screening devices except the full field background investigation before receiving conditional appointments.
6. Conditional appointees are not permitted access to sensitive cryptologic information until the full field investigation has been completed and evaluated.
7. Authority delegated by the Director of NSA to grant security clearance to new employees for access to top secret cryptologic information has been terminated. Under present procedures, no new employee can be granted interim clearance for access to cryptologic information except upon the personal authorization of the Director, NSA. To date, no new employee has been granted such an interim clearance. Security clearance for access to cryptologic information is now granted only after evaluation of the results produced by the full field background investigation verifies the suitability and loyalty of the employee.
8. A review of the security clearance record of each employee of the Agency has been completed. When the review disclosed information which raised any question as to an individual's eligibility for continued security clearance, the case was placed under the most searching scrutiny. Further investigations, medical and psychiatric assessments, and interviews of the employees concerned were undertaken as required. The Director, NSA, was kept fully apprised of the facts disclosed through this re-evaluation process and personally partici-

ated in the final resolution of individual cases. Employment was terminated in each case where such action was justified by the findings.

9. As a preventive measure, supervisors have been apprised of the available psychological counseling services and are being actively alerted to greater awareness of any indications of undue mental or emotional strain on the part of their subordinates.

10. A requirement has been established that the Office of Security Services and the Office of Personnel Services be notified of any unexplained absences of employees within 2 hours of the time the absence without official leave is known.

11. Procedures have been instituted to assure prompt investigative action to determine the whereabouts of any missing employees and ascertain the circumstances of unauthorized absences.

12. The Agency's security indoctrination has been revised to provide more comprehensive coverage of personnel and physical security programs.

13. A revised security manual has been prepared and distributed throughout NSA to provide each employee with a ready reference to accurate and current information about security policies and practices and with a security guide for individual conduct.

14. In the area of physical security, controls over custodial and contract personnel have been improved.

15. Information derived by the Office of Security Services from its investigative sources, including all polygraph information, is now made available routinely to the Office of Personnel Services for the latter's use in evaluating the suitability of individuals for initial employment or for continued employment. Present practice calls for the exchange of information between the Offices of Personnel Services and Security Services to assure fully integrated action in the employment and security clearance of individuals.

16. At least two independent evaluations are made of available information by the Office of Security Services regarding a candidate's eligibility for clearance and at least two additional independent evaluations are made by the Office of Personnel Services regarding a candidate's suitability for hiring. In instances of doubt the cases are referred to the director of security and director of personnel. If differences of opinion exist between the director of security and director of personnel, the case is referred to the Director, NSA.

17. Data obtained during polygraph interviews of job candidates are made available to the investigative agencies conducting the full field background investigations.

18. NSA's director of personnel, the official who had falsified his Form 57 and then attempted to cover it up by substituting a corrected version illegally, was ordered to resign by the Defense Department, which he did, effective November 10, 1961. The director of security and two other employees in the Office of Security Services were also ordered to resign for misconduct.

19. Twenty-six individuals were dropped from the rolls of the Agency because of indications of sexual deviation.

20. The Director, NSA, re-established the Office of the Inspector General reporting directly to him. This office, through conduct of periodic inspections, guards against deviations from approved policies and procedures and ferrets out violations of public trust, conflicts of interest, or other improper activities.

21. The Office of Security Services has been reorganized to permit maximum emphasis on counterintelligence and personnel security.

22. The investigative staff of the Office of Security Services has been expanded. The Agency now has the capability to handle a larger number of selected cases through its own resources.

The committee comments both the Secretary of Defense and the Director of the National Security Agency for noteworthy leadership in bringing about the impressive list of NSA personnel security reforms and corrective actions enumerated above. In concluding this report, it again wishes to emphasize the vital role that cooperation between the executive and legislative branches of the Federal Government played in bringing the investigation of NSA to a successful conclusion. As a result, more than 180 million Americans live in a nation better prepared to cope with the international conspiracy of communism.

LEGISLATIVE RECOMMENDATIONS

The committee is aware that proper enforcement of Department of Defense directives which relate to NSA personnel security is dependent primarily upon continuing effective administrative leadership and practices. The committee has, nevertheless, concluded that additional legislation is necessary to achieve maximum security for the Agency and to strengthen the hands of the Secretary of Defense and the Director of NSA in providing it. The Department of Defense and NSA concur in this conclusion.

On February 8, 1962, the chairman of this committee, Mr. Walter, introduced H.R. 10174 for that purpose. On March 21, 1962, hearings on this bill were held in executive session. Interested departments of Government, namely, Defense and Justice, together with the Civil Service Commission, were invited to present their views. Assistant Secretary of Defense John H. Rubel, accompanied by Vice Adm. I. H. Frost, then Director of the National Security Agency; Frank A. Bartimo, Assistant General Counsel (Manpower) of the Department of Defense; and Roy R. Banner, Counsel for the National Security Agency, testified at committee hearings with respect to the need for this legislation. Mr. John W. Macy, Jr., Chairman, and Lawrence V. Meloy, General Counsel, of the Civil Service Commission, also appeared before the committee to present the views of the Commission.

After hearing the views presented by the witnesses, the committee decided to introduce a clean bill which would incorporate certain suggestions made, and revisions requested, by the Departments of Defense and Justice and the Civil Service Commission. For that purpose, Chairman Walter, on June 12, 1962, introduced H.R. 12082, and subsequently on June 19, 1962, Mr. Scherer, ranking minority member of the committee, introduced an identical bill, H.R. 12207, in support of the chairman's proposal. On August 2, 1962, the committee favorably reported H.R. 12082 and recommended to the House that the bill do pass. See House Rept. No. 2120. (For text of H.R. 12082, see pp. 21-23.)

By section 401 of the bill, the committee desires to make clear the intent of Congress that a strict security standard shall govern employment practices in the Agency and that procedures be established to secure continuing maintenance of this standard in both pre- and post-employment periods and in the overall conduct of the Agency's op-

erations. Moreover, it is believed that express statutory authorization for personnel procedures would preclude any objection that might be raised concerning due authorization for such regulations as may be promulgated by the Secretary of Defense. It is advisable to accomplish in this instance what the Congress has accomplished by similar legislation relating to the Atomic Energy Commission. (By sec. 145(b) of the Atomic Energy Act of 1946, the Congress established definite security standards for employment in the Commission.)

Section 402, subsection (a) of H.R. 12082, requires a full field investigation in connection with the employment, detail, or assignment of any person to the Agency, subject to certain conditions which are designed to give adequate play for the practical operation of the Agency and the recruitment of qualified personnel. Subsection (b) establishes one or more boards of appraisal to assist the Secretary of Defense and the Director of the Agency in discharging the personnel security responsibilities imposed upon them.

It is considered that the Director will normally refer to such a board only those cases in which he determines that there is a doubt whether final clearance for, or continued access to, classified information would be clearly consistent with the national security. The committee does not by this subsection intend to create, nor does this provision mandate, additional procedural requirements to protect the interests of employees or persons assigned to the Agency. Nor is appraisal by such a board required before the Secretary can terminate employment. Its objective is only to assure that mature consideration shall be given prior to the resolution of doubtful security cases. While it is noted that the Director of the Agency has recently set up a comparable board on his own initiative, which action the committee commends, it is considered desirable that such boards be created by statute to assure their continuing existence and function.

Section 403(a) authorizes the Secretary of Defense summarily to terminate the services of employees of the Agency when such action is deemed necessary in the interest of the United States, provided the Secretary determines that procedures prescribed in other provisions of law which authorize termination of employment cannot be invoked consistently with the national security. This section enables the Secretary to terminate employment, when necessary, without jeopardizing the integrity and security of Agency activities through compliance with prolonged adversary proceedings.

The committee proposed in this respect is likewise consonant with a finding by the Commission on Government Security in its report of June 21, 1957, to the President and the Congress. The Commission found, from its review of the responsibilities of the National Security Agency, that the security interests committed to its care were so great, and the consequences of error so devastating, that authority to deviate from a proposed uniform loyalty program for Federal employees should be granted to this Agency. Moreover, statutory precedent exists. A similar authority to that granted in the bill has been vested by the Congress in the Director of Central Intelligence in section 102(c) of the National Security Act of 1947. The activities of the National Security Agency undoubtedly require equivalent protection.

Section 406 would amend the Civil Service Act of 1883 and the Performance Rating Act of 1950. With respect to the former, the

amendment would expressly except appointment to NSA positions from the provisions of the act. Agency appointments have been administratively excepted by the U.S. Civil Service Commission from the competitive civil service. Statutory exemption obviates the possibility that the administrative exemptions might be withdrawn or amended, and will assure to the Agency that appointments may be made without requirements for disclosure of classified information concerning the duties of individual positions, bearing in mind that the Congress, in section 6 of Public Law 36, 86th Congress, has expressly provided that no law shall be construed to require the disclosure of an activity or function of the National Security Agency.

With respect to the Performance Rating Act of 1950, the amendment will assure to the National Security Agency the same exemption which is now granted by the Congress to other agencies engaged in highly sensitive activities, and will provide statutory assurance that classified information about the Agency's activities need not be disclosed pursuant to that act, which presently authorizes the Civil Service Commission to inspect the administration of performance rating plans and authorizes employees to appeal such performance ratings to the Civil Service Commission.

[H.R. 12082, 87th Cong., 2d sess.]
A BILL To amend the Internal Security Act of 1950.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Internal Security Act of 1950 is amended by adding at the end thereof the following new title:

“TITLE IV—PERSONNEL SECURITY PROCEDURES IN
NATIONAL SECURITY AGENCY

“REGULATIONS FOR EMPLOYMENT SECURITY

“SEC. 401. Subject to the provisions of this title, the Secretary of Defense (hereafter in this title referred to as the ‘Secretary’) shall prescribe such regulations relating to continuing security procedures as he considers necessary to assure—

“(1) that no person shall be employed in, or detailed or assigned to, the National Security Agency (hereafter in this title referred to as the ‘Agency’), or continue to be so employed, detailed, or assigned; and

“(2) that no person so employed, detailed, or assigned shall have access to any classified information; unless such employment, detail, assignment, or access to classified information is clearly consistent with the national security.

“FULL FIELD INVESTIGATION AND APPRAISAL

“SEC. 402. (a) No person shall be employed in, or detailed or assigned to, the Agency unless he has been the subject of a full field investigation in connection with such employment, detail, or assignment, and is cleared for access to classified information in accordance with the provisions of this title; excepting that conditional employment without access to sensitive cryptologic information or material may be tendered any applicant, under such regulations as the Secre-

tary may prescribe, pending the completion of such full field investigation: *And provided further*, That such full field investigation at the discretion of the Secretary need not be required in the case of persons assigned or detailed to the Agency who have a current security clearance for access to sensitive cryptologic information under equivalent standards of investigation and clearance. During any period of war declared by the Congress, or during any period when the Secretary determines that a national disaster exists, or in exceptional cases in which the Secretary (or his designee for such purpose) makes a determination in writing that his action is necessary or advisable in the national interest, he may authorize the employment of any person in, or the detail or assignment of any person to, the Agency, and may grant to any such person access to classified information, on a temporary basis, pending the completion of the full field investigation and the clearance for access to classified information required by this subsection, if the Secretary determines that such action is clearly consistent with the national security.

"(b) To assist the Secretary and the Director of the Agency in carrying out their personnel security responsibilities, one or more boards of appraisal of three members each, to be appointed by the Director of the Agency, shall be established in the Agency. Such a board shall appraise the loyalty and suitability of persons for access to classified information, in those cases in which the Director of the Agency determines that there is a doubt whether their access to that information would be clearly consistent with the national security, and shall submit a report and recommendation on each such a case. However, appraisal by such a board is not required before action may be taken under section 14 of the Act of June 27, 1944, chapter 287, as amended (5 U.S.C. 863), section 1 of the Act of August 26, 1950, chapter 803, as amended (5 U.S.C. 22-1), or any other similar provision of law. Each member of such a board shall be specially qualified and trained for his duties as such a member, shall have been the subject of a full field investigation in connection with his appointment as such a member, and shall have been cleared by the Director for access to classified information at the time of his appointment as such a member. No person shall be cleared for access to classified information, contrary to the recommendations of any such board, unless the Secretary (or his designee for such purpose) shall make a determination in writing that such employment, detail, assignment, or access to classified information is in the national interest.

"TERMINATION OF EMPLOYMENT"

"Sec. 403. (a) Notwithstanding section 14 of the Act of June 27, 1944, chapter 287, as amended (5 U.S.C. 863), section 1 of the Act of August 26, 1950, chapter 803, as amended (5 U.S.C. 22-1), or any other provision of law, the Secretary may terminate the employment of any officer or employee of the Agency whenever he considers that action to be in the interest of the United States, and he determines that the procedures prescribed in other provisions of law that authorize the termination of the employment of that officer or employee cannot be invoked consistently with the national security. Such a determination is final.

"(b) Termination of employment under this section shall not affect the right of the officer or employee involved to seek or accept employment with any other department or agency of the United States if he is declared eligible for such employment by the United States Civil Service Commission.

"DEFINITION OF CLASSIFIED INFORMATION"

"Sec. 404. For the purposes of this section, the term 'classified information' means information which, for reasons of national security, is specifically designated by a United States Government agency for limited or restricted dissemination or distribution.

"NONAPPLICABILITY OF ADMINISTRATIVE PROCEDURE ACT"

"Sec. 405. The Administrative Procedure Act, as amended (5 U.S.C. 1001 et seq.), shall not apply to the use or exercise of any authority granted by this title.

"AMENDMENTS"

"Sec. 406. (a) The first sentence of section 2 of the Act of May 29, 1959 (50 U.S.C. 402 note), is amended by inserting 'without regard to the civil service laws,' immediately after 'and to appoint thereto'.

"(b) Subsection (b) of section 2 of the Performance Rating Act of 1950 (5 U.S.C. 2001(b)) is amended—

"(1) by striking out the period at the end of paragraph (13) and inserting in lieu thereof a semicolon; and

"(2) by adding at the end thereof the following new paragraph:

"(14) The National Security Agency.'"

...the following provisions shall apply to the members of the Board of Directors of the Federal Bureau of Investigation... (The text is extremely faint and largely illegible due to the quality of the scan.)

INDEX

INDIVIDUALS

Banner, Roy R.....	Page
Bartmo, Frank A.....	19
Frost, L. H.....	19
Gates, Thomas S., Jr.....	2
Hoover, J. Edgar.....	14, 15
Macy, John W., Jr.....	19
Martin, William Hamilton.....	1-3, 7-9, 12, 14, 16
Meloy, Lawrence V.....	19
Mitchell, Bennon Ferguson.....	1-3, 7-9, 12, 14, 15
Reubel, John H.....	19

ORGANIZATIONS

U.S. Government:	
Defense, Department of.....	3-5, 16, 17
Armed Forces Security Agency.....	4, 5
National Security Agency.....	1-23
National Security Agency, (See entry under U.S. Government, Defense, Department of.)	