OLC 76-3480
29 November 1976

MEMORANDUM FOR THE RECORD

SUBJECT: Conversation with Mr. Richard Sprague, Chief Counsel, House Select Committee on Assassinations

1. In the wake of the testimony of former Agency employee, David Phillips, before the House Select Committee on Assassinations on Saturday, 27 November, I called Richard Sprague, Chief Counsel of the Committee, this morning in an effort to determine what, if any, arrangements have been made or are in the process of being made with the FBI for clearances of Select Committee staff members and to try to facilitate access by Sprague and appropriate members of the Committee staff to Agency records on the subject of the intercept of information in the Cuban and Soviet embassies in Mexico regarding the activities of Lee Harvey Oswald. Without questioning Sprague specifically on whether Phillips' testimony had gone into classified areas, I told him that we were concerned that the lack of security clearances was precluding the Committee from getting access to pertinent classified information.

2. Mr. Sprague told me that he met with Attorney General Levi last Wednesday and at that session Levi provided him with a copy of a Memorandum of Understanding which would be the basis for FBI clearance investigations of Select Committee staff personnel. Sprague said his people were currently reviewing the draft memorandum which Levi had provided him and he would be quite happy to have me drop by today to look at it to see if I had any suggestions for changes. It was agreed that I would drop by his office at 4:00 p.m. this afternoon.

3. I went to Mr. Sprague's office in the old FBI building at 4:00 p.m. as scheduled but Sprague had gotten tied up in meetings in the Senate Office Building and I didn't get to see him until approximately 4:40 p.m. At that time, Sprague showed me a letter he had received from Levi transmitting a copy of the proposed Memorandum of Understanding with the Committee. I was familiar with the Memorandum of Understanding negotiated by the Bureau with the Senate Select Committee on Intelligence under similar circumstances and reviewed the current draft against that background. I told Sprague that the agreement appeared quite similar to the Memorandum of Understanding which I was told had been negotiated by the Bureau with the Senate Select Committee on Intelligence.

19130

4. I noted, however, that there appeared to be one difference between this Understanding and the one negotiated with the SSCI and that was the omission of any reference to the requirements of DCID 1/14 in the procedures relating to security clearances. I reviewed with Sprague the negotiations we have concluded with the SSCI and their agreement with the wisdom of establishing security clearance procedures in accordance with 1/14 to avoid any problems of disparity in clearance requirements between the Bureau and intelligence agencies. I outlined in general the arrangements that had been worked out between the Bureau, the SSCI, and the Agency. Mr. Sprague seemed to appreciate the advantages to them of an arrangement similar to that worked out for SSCI clearances and said he would welcome our adding to the document any language which we thought was appropriate to accomplish the inclusion of the 1/14 procedures I told him if it was agreeable with him that I would have our people contact the FBI in order to work with them in revising this language. He said that was fine, in fact he would welcome such a move on our part. I also told Sprague that I would give him a short paper pointing out the differences between the general requirements for security clearances as applicable to the FBI as opposed to the requirements of DCID 1/14. This way he would have a better idea of the value of clearances in accordance with this latter authority. Sprague said he would withhold any action in accepting the FBI memorandum until he had heard from us. I told him that I hoped to accomplish this by sometime tomorrow.

5. I also mentioned to Sprague the arrangements which we had worked out with the Senate Select Committee with respect to secrecy agreements and in doing so referred to the very strict disclosure requirements contained in S. Res. 400 relating to the SSCI. Not understanding precisely what I had in mind, Sprague asserted that the Committee would have to retain its own authorities with respect to disclosures and couldn't capitulate to Executive Branch requirements in this regard. I hastened to explain to him that I was referring to unauthorized disclosures by individuals and not disclosures by the Committee, which I said would have to be the subject of different negotiations. It should be noted here that my conversation with Mr. Sprague was thoroughly friendly and followed the pattern of his earlier talks with Mr. Lyle Miller of our office. Following the pattern of our relationships with the Senate Select Committee on Intelligence, both Sprague and I asserted our desire not to get into parochial issues between the Committee and the Agency but to recognize the prerogatives of each and work out problems rather than assert prerogatives which could unnecessarily complicate our relationships over issues where problems did not exist. In connection with the subject of the secrecy agreement, I think it would be desirable to provide Sprague with a copy of the agreement which has been developed in conjunction with the Senate Select Committee on Intelligence. The difference, however, is that the Select Committee on Assassinations does not currently have any tight disclosure provisions within its charter. I noted this and asked Sprague if he intended to

request additional charter language in another resolution in the 95th Congress which would set out some of these provisions. He said indeed that was their intention and he noted somewhat gratuitously that he was also hoping to obtain authorization in the resolution for the Committee staff to take testimony from witnesses. At first blush, this appears to be an undesirable feature but Sprague pointed out his concern that under present rules it was necessary to have two members of the Committee present whenever testimony was taken from witnesses and he was concerned that this was exposing members of the Committee unduly to sensitive information, which it might not be necessary for them to have in the course of their ultimate deliberations. As he has indicated to Mr. Miller, Mr. Sprague said that he has no desire to obtain any more classified information than is absolutely necessary and he is very mindful of the need to "run a tight ship" in the aftermath of the disastrous record of the House Select Committee on Intelligence. He also advised me that all employees hired by the Committee thus far have been appointed subject to security clearance, including himself.

6. I asked Mr. Sprague if he had yet hired a professional security director and he said he had not, but would welcome any recomendations that we could make to him in this regard. I again suggested that he or senior members of his staff be in touch with Mr. Ben Marshall, Security Director of the Senate Select Committee on Intelligence, who I identified as a very responsible individual who might be helpful to the House Select Committee in setting up its security procedures. Sprague and I agreed that it would not be desirable to have an Agency type employed by the Committee as security director, but he is amenable to receiving any suggestions which we might make to him in this regard.

7. As we continued our discussions, I told Mr. Sprague that we were very anxious to work out arrangements for him and one or two senior members of his staff to have access to Agency records on the matter involving the Oswald contacts in Mexico City. I pointed out that we felt it would be useful to them to have access to the specific documents involved rather than to rely on the recollections of individuals. Sprague said he was most anxious to do this and would welcome anything we could do to facilitate clearances on an ad hoc basis so that this access could be accomplished. I told him I would look into the question of ad hoc clearances, but pointed out that this was an unusual procedure since normally we would want to negotiate our own Memorandum of Understanding with the Committee and establish some security guidelines for our deliberations and for their access to information and witnesses. I believe Mr. Sprague fully understands our intentions and desire to cooperate and to be forward leaning in this respect. I told him that I would contact our security people with the suggestion that

the House Select Committee staff might do well to contact Ben Marshall, of the SSCI, who had been quite effective in establishing physical security facilities for that Committee.

8. I would note parenthetically here that in a conversation with William Miller, Staff Director, SSCI, earlier in the day I happened to mention my plans to be in touch with Mr. Sprague today and asked if there had been any contact between the two Committees. Miller mentioned at that time that the House Committee had contacted the SSCI and that they would be willing to give the House Commitee access to SSCI records provided them so long as the House Committee agreed to abide by the disclosure provisions of S. Res. 400.

9. Finally, Mr. Sprague brought up the subject of the Director's letter of 23 November to the Chairman regarding the preservation of records material to the Committee's investigation in connection with the moratorium that had been established in response to the request of Senators Mansfield and Scott when the Church Committee was first established. Mr. Sprague indicated that he had some problems with the letter, especially references in paragraph one to the fact that information would be retained which was "important" to the Committee's investigation of the assassinations of John F. Kennedy and Martin Luther King, Jr. He also had difficulty with the last paragraph which indicated something to the effect that the Agency would retain records pertinent to current FOIA cases, subjects of litigation, and investigations. Mr. Sprague had some suggested alternative language which I had some difficulty with and told him we would "tinker with it" and get back to him with a clean draft of the Director's letter before we put it in final form again for DCI signature. I told Mr. Sprague I would be back in touch with him on all of these matters as soon as possible, hopefully, tomorrow. Following my meeting with Mr. Sprague, I briefed Mr. Knoche on the substance of our conversations.

George L. Cary

GEORGE L. CARY
Legislative Counsel

Distribution:
1 - DCI
1 - DDCI
1 - ER
1 - D/DCI/IC
1 - IG
1 - OGC
1 - DDO
1 - DD/Sec

OLC:GLC:ndl (30 November 1976)

JOURNAL

OFFICE OF LEGISLATIVE COUNSEL

Monday - 29 November 1976

1. (Unclassified - KSN) LIAISON Richard Abrams, in the office of Representative Harold Ford (D., Tenn.), called to request two Agency publications entitled, "Soviet Energy - Soviet Long Range Energy Forcast - September 1976" and "Statistical Survey - International Oil Developments" dated 25 March 1976. I have asked Robert Hepworth's, OCI, office for the publications and will send them to Abrams as soon as they are received.

2. (Unclassified - BAA) LIAISON Called Richard Moose, Senate Foreign Relations Committee staff, and told him the message he was expecting from Senator Dick Clark (D., Iowa) was in and that I would send it to him via an Agency courier. The message was sent to Moose at the State Department where he will be for the next three to four weeks working with the transition team.

3. (Unclassified - GLC) LIAISON Met with Richard Sprague, Acting Director, House Select Committee on Assassinations, re secrecy agreements. (See Memorandum for the Record.)

4. (Confidential - GLC) LIAISON Bill Miller, Staff Director, Senate Select Committee on Intelligence, called and said that Senator Jake Garn (R., Utah) is planning a trip to England and would like to meet with the British. Miller said he explained to the Senator the problems we had with this but he told Senator Garn that he (Miller) was sure that arrangements could be made through the Agency on the subject and perhaps contacts could be set up with the people here in Washington. Miller said the Senator would probably want to travel sometime after the first of the year and he would let us know. I said I would check on this and be back in touch.

5. (Internal Use Only - GLC) AGENCY VISIT Bill Miller, Staff Director, Senate Select Committee on Intelligence, visited Headquarters for lunch with Mr. Knoche, DDCI, John Waller, IG, William Wells, DDO, and George Cary, LC, to discuss Chairman Daniel Inouye's (D., Hawaii) letter of 11 November 1976. (See Memorandum for the Record.)