

off for the testimony that now will be taken by the witness I am about to call, Dr. Nathan Gordon. Dr. Gordon, will you please come forward and take the stand? If you will please stand and take the oath. Would you raise your right hand, please. Do you solemnly swear that all the testimony you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. GORDON. Senator Church, I do.

The CHAIRMAN. Doctor Gordon, do you have any prepared statement you wish to make at this time?

Mr. GORDON. Senator Church, I do have an opening statement I would like to make at this time.

The CHAIRMAN. I have not seen your statement. Before you begin to read it, I think that you should know of the committee rule in connection with opening statements, which is they should be limited to 10 minutes. If your written statement is longer than that, you may submit your written statement for the record. We would appreciate it if you will then summarize it so that the 10-minute rule is observed.

Mr. GORDON. Thank you very much, sir. I would also request permission to give you a concluding statement.

The CHAIRMAN. Very well; again subject to the same rule with respect to its duration.

Mr. GORDON. I understand, sir.

**TESTIMONY OF NATHAN GORDON, FORMER CHIEF, CHEMISTRY
BRANCH, TECHNICAL SERVICES DIVISION, CENTRAL INTELLI-
GENCE AGENCY**

Mr. GORDON. Gentlemen, I am appearing before this select committee freely and willingly. I am here, not as a mystery witness or a secret witness. I acknowledge that I have been served technically with a subpoena, but the record will show that I indicated to staff that I did not necessarily need a subpoena; I would be happy to appear before the closed session and the public testimony of my own free will.

I would like to dispel the myth that has been circulating around with respect to a mysterious or secret witness.

The CHAIRMAN. May I say, Dr. Gordon, that a subpoena was issued by the committee with the understanding that it was necessary.

The rule that has been invoked is based upon the issuance of the subpoena.

Do I understand you to say that you are here as a result of the issuance of the subpoena, or are you here on some other basis? I want you to know your rights under the rule, and I think I should read the rule to you.

Mr. GORDON. Please do.

The CHAIRMAN. The rule is rule 6.7. It has to do with lights and broadcasting. It reads as follows:

A witness may request on grounds of distraction, harrassment or physical discomfort, that during his testimony television, motion picture and other cameras and lights shall not be directed at him. Such request to be ruled on in accordance with Rule 2.4.

Part (b) of the rule reads:

No witness subpoenaed by the Committee shall be required, against his will, to be photographed at any hearing, or to give evidence or testimony while the broad

casting of that hearing by radio or television is being conducted. At the request of any witness who does not wish to be subjected to radio and television or still photography coverage, all lenses shall be covered and all microphones used for coverage turned off. As far as practicable, a witness desiring to make such a request shall so inform the Chief Counsel for the Committee at least 24 hours prior to the time that the witness is scheduled to testify.

So, the rule that we have invoked has to do with a witness subpoenaed by the committee.

Now you have been subpoenaed by the committee?

Mr. GORDON. Yes, I have, sir.

The CHAIRMAN. Do you stand on that subpoena?

Mr. GORDON. I accept the subpoena.

The CHAIRMAN. You accept the subpoena?

Mr. GORDON. Yes.

The CHAIRMAN. You accept your rights as a subpoenaed witness, sir?

Mr. GORDON. Yes.

The CHAIRMAN. All right.

Mr. GORDON. May I continue?

The CHAIRMAN. Now you may continue.

Mr. GORDON. Let me start from the beginning, please, if I may.

I am appearing before this select committee freely and willingly, to describe my involvement in a classified project known as MKNAOMI.

I wish to state that I was a CIA employee, specifically, a chemist, charged with the function of supporting and servicing operational requirements of the DDP—Deputy Director for Plans. Currently, I believe the designated title, since the date of my retirement from the Agency, September 30, 1972, it is the DDO—Deputy Director for Operations.

It was, and is, my belief that the Agency's policy in this field of behavioral materials was to maintain a potential capability—I emphasize, gentlemen, the phrase "potential capability"—in the event the need should arise to use these materials, biological and/or chemical, operationally.

I shall also attempt to explain, in the course of this testimony, our interpretation of the White House announcements on the subject of renouncing all offensive preparations for, and any use by the United States of biological or bacteriological agents and weapons, to include toxins in war. I would emphasize the word "war."

I shall also attempt to explain why we, in TSD/CIA—TSD being Technical Services Division—made the decision to accept the shellfish toxin in February 1970 from the Special Operations Division of the U.S. Army Biological Laboratories at Fort Detrick, Md.

I would also like to emphasize that to the best of my knowledge there was never a CIA directive, or any directive to my knowledge, that impinged on the CIA to destroy biological agents or toxins.

This concludes my opening statement, gentlemen.

The CHAIRMAN. Very well, Mr. Gordon. I will ask our counsel, Mr. Schwarz, to commence the questioning.

Mr. SCHWARZ. Mr. Gordon, as of 1970, what was your job at the CIA?

Mr. GORDON. I would like to counter that, if I may, by telling you a little bit about the history of my employment with the CIA if the committee would indulge me.

The CHAIRMAN. Can you answer the question and then tell us?

Mr. GORDON. It would be a little more logical, Senator Church, if you will allow me to give the history of my employment with the CIA.

The CHAIRMAN. Very well, if in doing so you will answer the questions.

Mr. GORDON. Of course.

I joined the TSD/CIA in October 1967, as the Deputy Chief of the Biology Branch of TSD. A few months later, in February 1968, when my predecessor retired from the Agency, I assumed the function of the Chief of the Biology Branch of TSD.

In February of 1968, then, as Chief of the Biology Branch—I continued in that capacity through February of 1969, 1 year later. In my judgment, and in my Division Chief's judgment, we decided that the Biological Branch—which was a two-man operation, myself and Mr. David Boston, a project officer, plus a technical consultant, Dr. Alex Batlin, who would consult with us roughly once a week on all matters pertaining to our interests in the Biological and Chemistry Branches, because in February 1969, we merged the Biology Branch into the then existing Chemistry Branch. And as of that particular day, February 1969, I assumed the function of Chief, Chemistry Branch.

I held that position until April 1970. At all times I also wore another hat; that was entitled program manager of the behavioral activities program.

In April of 1970 I reverted to the full-time occupation of wearing a single hat; that of program manager for behavioral activities. I held that particular position within the Chemistry Branch until the date of my retirement from the Agency, which was September 30, 1972.

Now I hope that I have not neglected to come back to the point that Mr. Schwarz made, and I will now be ready to answer it.

First, I would appreciate, after the few minutes of my discussion, would you repeat your question, sir.

Mr. SCHWARZ. What was your job in 1970 with the CIA?

Mr. GORDON. What part of 1970?

Mr. SCHWARZ. Let us take February 1970.

Mr. GORDON. February 1970 I was Chief of Chemistry Branch and program manager of behavioral activities.

Mr. SCHWARZ. At that time was the chain of command running from yourself to a Deputy Director of the TSD, then to Dr. Gottlieb, then to Mr. Thomas Karamessines, who was the Deputy Director for Plans, then from him to the Director of the Agency, Mr. Richard Helms?

Mr. GORDON. That is correct, sir.

Mr. SCHWARZ. Do you remember being examined under oath by deposition by the staff on Saturday?

Mr. GORDON. Yes, sir.

Mr. SCHWARZ. I am just going to read a couple of answers to you, and ask whether they are your testimony. You were asked this question: "Were you ever told that either the Director of the Central Intelligence Agency, or the Deputy Director for Plans, instructed that the CIA stock of biological warfare agents be destroyed?" Answer: "No."

Is that your testimony?

Mr. GORDON. That is correct, sir.

Mr. SCHWARZ. Did you further testify in the afternoon session as follows, from page 1—excuse me, page 2, of the afternoon session, as follows: "There was never, to my knowledge, a CIA directive, or any other directive that impinged upon the CIA to destroy biological agents or toxins."

A further question, "When you say a CIA directive, what do you mean?" Answer: "A directive prepared from the Director of the CIA to the troops." That is also your testimony?

Mr. GORDON. That is correct, sir.

Mr. SCHWARZ. I would like to follow with you a moment, very briefly, two problems. Some material that was in the laboratory before transferring material to Fort Detrick, and the other material that came down from Fort Detrick.

Starting with the laboratory material—that is, the material that was already there. I will read to you from the morning session, your answer with respect to your knowledge—I am not going to use the precise name of the laboratory: I am just going to call it "the laboratory," Dr. Gordon, if that is acceptable to you?

Mr. GORDON. Surely.

Mr. SCHWARZ.

Question. You did not know the specific materials. You did know the general nature of what was in the laboratory, is that not what you said?

Mr. GORDON. Yes.

Question. The general nature included materials that had been of interest as incapacitants or lethal agents.

Mr. GORDON. At one time or another.

Is that right?

Mr. GORDON. I would address at this particular moment in time the part relating to incapacitants as being the query to which I have replied. I see in the record it says, "one time or another," which includes both incapacitants and lethal.

Subsequent in the testimony, I believe we will find that I was not knowledgeable, to the best of my knowledge, prior to the time of receiving the shellfish toxin of lethal agents, chemical agents in a lethal category, our G agents—these are nerve gases—V agents, also nerve gases. The mode of action differs in that G agents are being volatile when inhaled cause death, and V agents are systemic, absorbed, to the same effect. These are categories of chemical warfare agents. There was never, to my knowledge, any of these kinds of materials in the laboratory during my 5 years.

Biological agents, I am not aware of the existence of any lethal biological agents in the laboratory during my particular tenure up until the time I accepted the Agency's stockpile of five grams in February of 1970.

The CHAIRMAN. Five grams of shellfish toxin.

Mr. GORDON. Let me explain that, Senator Church. I would welcome a few minutes time, if I may—if the Chief Counsel would indulge me—to dwell a few minutes on what I feel is apparently a critical point in this particular testimony—

Mr. SCHWARZ. Are you going to turn to the transfer from Fort Detrick? Because I would like to ask you one more question on the laboratory before we get to that.

Mr. GORDON. Surely.

Mr. SCHWARZ. You testified, and I take it it is still your testimony, that you did not search the laboratory in 1970?

Mr. GORDON. In 1970, sir, I did not search the laboratory. I might also add that in my capacity as Chief of the Chemistry Branch in 1970, up through April of 1970, I relied upon Mr. Boston and the project officer to carry on with the everyday, if you will, details of any particular matters pertaining to that particular laboratory.

I again repeat, I am not aware of any lethal agents, either chemical or biological, in the laboratory prior to the time that we accepted the CIA Agency stockpile of 5 grams of shellfish toxin.

Mr. SCHWARZ. By the laboratory—by those answers, you mean the CIA facilities here in Washington, D.C.?

Mr. GORDON. Yes.

Mr. SCHWARZ. You testified this afternoon, as you testified on Saturday, that you did not receive an order from the Director of Central Intelligence, or anyone else, to search out and destroy the CIA's stocks of biological agents.

Mr. GORDON. That is correct.

Mr. SCHWARZ. I am going to read to you now, Mr. Gordon, from page 20 of the p.m. session, commencing on line 21, a question directed to you—of what you would have done with respect to the south laboratory if there had been an order from the Director of Central Intelligence, and the question and answer read as follows:

Question: "Had there been from the Director of the CIA an order that said search out and destroy any biological agents, would you, under those circumstances, have searched the south laboratory?" Answer: "Very likely, very likely; Yes; I would have been a darned fool if I did not."

And then you went on to give your explanation for the interpretation of the order which we are going to come to.

But your testimony is, Dr. Gordon, is it not, that first, there was an order transmitted to you from higher authority to search out and destroy CIA stock of biological agents. Second, had there been so, you would have searched the laboratory because you would have, as you said, been a darned fool if you did not.

Mr. GORDON. To answer the first part of your question, it appears to me—one moment please.

[Pause.]

To the best of my knowledge, I never was aware of any CIA directive to search out and destroy any biological agents and/or chemical agents at that particular laboratory.

On the second part of your question, I would repeat that if such an order had been brought to my attention by the chain of command, it would have been—I have been too long, I feel, a devoted team player, a civil servant, if you will, dedicated to my responsibilities and would never, never have ignored such a directive.

Mr. SCHWARZ. Mr. Chairman and members, as you know, exhibit is a CIA inventory which indicates that, in fact, in the laboratory there were several lethal substances, including some of the shellfish toxin before the transfer from Fort Detrick occurred.

Now you did know that there was some kind of a Presidential order, did you not, Dr. Gordon?

Mr. GORDON. May I be given, if the chief counsel and Senator Church would indulge me, a 5-minute period to develop on that particular subject of the White House announcements in my own way?

The CHAIRMAN. Yes; of course, Dr. Gordon. Just proceed, and then we will follow your explanation with further questions.

Mr. GORDON. Thank you. I appreciate that, Senator Church.

On November 25, 1969, the White House Press Secretary released actually two releases. I have copies of both here, and they are, I believe, exhibits 4 and 5 among your papers. I became aware of the substance of those announcements by reading an editorial in the Washington Post which expressed, in essence, the gist of exhibits 4 and 5. Both appeared on the same day.

They pertained to the remarks of the President—the President meaning President Nixon at that time—on announcing the chemical and biological defense policies and programs. The other release of the same date [exhibit 5¹] is simply entitled “A White House Statement by the President.” In that particular sheet or announcement or instruction, under the category biological research program, it specifically states that DOD—Department of Defense—has been asked to make recommendations as to the disposal of existing stocks of bacteriological weapons.

It also, on the back page, indicated—and I think very properly—the sentence, “Our intelligence community will continue to watch carefully the nature and extent of the biological programs of others.” I particularly relate to that particular statement because of my previous 10 years' experience in Army intelligence as Chief of the Chemical Corps Intelligence Agency, first as Director of Technical Operations, subsequently as Chief of the Atomic, Biological, and Chemical Division when the Army was reorganized. In 1962, it became a part of the U.S. Army Foreign Science and Technology Center.

So I had a keen, particular and satisfying feeling when I read that statement in that sentence. Because it showed that, even though—and obviously, we saw the handwriting on the wall here—our country saw it unilaterally as they did, to give up the biological warfare weapons program, military system, there was an element at the White House, probably in Congress, that felt that certainly the intelligence capabilities and/or intentions of any potential enemy in the field of biological warfare weapons systems should be followed and never stopped.

On February 14, 1970, a few short months after that particular announcement, an addendum to the original November 25 announcement was prepared by the White House. And in this particular announcement, they referred to the November 25, 1969, announcement wherein the President renounced all offensive preparations for and any use by the United States of biological or bacteriological agents and weapons in war—and I emphasize again the phrase, in war—since that decision in the direction of the President, the comprehensive review of the U.S. chemical or military programs—I emphasize the phrase, military programs—concerning toxins has been in progress.

I go on to describe what toxins are, and here we enter a gray area and I will get back to in a moment, if I may. Within the remaining part of the text, such phrases as method of warfare, military programs, biological methods of warfare, are used throughout the tenure of the second, or February 14, announcement.

I urge strongly that this select committee please consider the February 14, 1970, announcement as a direct appendage to the Novem-

ber 25, 1969, announcement. Because if this is not done—repeat—if this is not done, it is simply looking at the subject of toxins out, if you will, in left field, without any direct bearing or relationship to the original announcements on biological or bacteriological agents and weapons.

Toxins are indeed a controversial subject. I am sure, in the course of this public testimony, you will deem fit—I feel I do not know—to call in an expert, certainly with far more expertise scientifically in the field of toxins than myself. Those of us who are chemists, and myself—

The CHAIRMAN. I might say, Dr. Gordon, we will have an expert on toxins.

Mr. GORDON. Very good, sir. I applaud you for that.

The Chemistry Branch, sir, comprised of myself—a chemist—my project officer, a chemist, and a technical consultant, also a microbiologist/biochemist, all in discussions which I am sure will shortly come out by chief counsel, looked upon specifically the shellfish toxin as a chemical entity, a chemical substance, not of bacterial origin. Toxins, indeed, are chemical substances, not living organisms, and are so regarded by the Secretary General of the World Health Organization. That is a statement right in the February 14, 1970 announcement.

This is a crucial point I make in this particular testimony. Because of their consideration, we felt—myself, my project officer and technical consultant—that we were, indeed, considering a chemical substance, not a biological agent, not a biological toxin, when the offer of retaining and obtaining, and storing in a secure vault area, our own Agency stockpile of 5 grams of shellfish toxin was made to us during the latter part of February of 1970.

Parenthetically, may I please get into the record that everything I am talking about is relying on no notes, but 5½ years ago, hitting my memory banks to the fullest extent, and it has been agonizing. I will rest.

The CHAIRMAN. Mr. Schwarz, will you take up the questioning?

Mr. SCHWARZ. I am not quite sure where we are. Let us talk about MKNAOMI quickly, and the decision to move the stuff down to CIA facilities. You were aware, were you not, that Fort Detrick was a center involved in biological warfare, right?

Mr. GORDON. Yes, sir.

Mr. SCHWARZ. Not chemical?

Mr. GORDON. Its mission was not chemical—essentially biological warfare. I parenthetically add, they were doing experimentation in what I personally consider, my project officer and technical consultant to be considered gray areas. These are the shellfish toxins.

I might also take this opportunity to indicate that at the Edgewood Arsenal, the chemical laboratory, a substance known as polytoxin was being researched, and they are still in research at this time, I am aware, though I am away from the field for a 3-year period. Polytoxin and its insidious properties were being looked at; were derived, not from a bacteria or a virus or a fungi, but a little sea animal known as the sea anemone, that clings to the coral rock. And it is in fact collected, extracted, and isolated.

An attempt at purification is made to get out and isolate an active component, chemical component; extremely complex protein chemistry is involved here. Again, I am sure—I will rest on that one. You will hear at some future time in the next 2 days, 3 days, from an expert who

I am sure will know fully and much more about it than myself, about the intricacies of this type of research.

Mr. SCHWARZ. After you read about the President's initial order in the newspapers, did you go and talk to Dr. Gottlieb?

Mr. GORDON. November 25, 1969, after I obtained, by requesting a copy of the White House press release from our administrative people, I did go and talk to Dr. Gottlieb, to indicate to him that, in my opinion, we were seeing the beginning of the demise of the military biological warfare weapons system.

Mr. SCHWARZ. Did he tell you, in effect, to wait and see what happens?

Mr. GORDON. To the best of my knowledge, that is an agreement that we both had; yes, sir.

Mr. SCHWARZ. After you read about the President's order of February 14, 1970, also in the newspapers, did you again go and see Dr. Gottlieb?

Mr. GORDON. After I read about that particular addendum in the newspapers, if you will, I then proceeded to follow the same route, and requested an actual copy that I have here as exhibit 5¹, which I describe in this testimony on the subject of toxins, and went to see Dr. Gottlieb to indicate to him—now, as a result of conversations back between my project officer, technical consultant and myself. I might add parenthetically that this was a very small, closely held technical group, and I must say, over the years, we had a fine working relationship among each other. While we would disagree among each other, eventually a consensus would be beaten out, and we would not accordingly on some technical matter. Coming back to Dr. Gottlieb, in our discussion after that particular announcement, I proposed—and I suspect we collectively proposed and came up with the same concept—that we better study some options as to what we want done with that particular classified project, MKNAOMI. Because this indicated to us, really, deepening the handwriting on the wall for the demise of all biological agents and biological toxin research at the U.S. Army Biological Laboratories at Fort Detrick, Md.

We then determined—and I did—that I would prepare a memo for Dr. Gottlieb, and that is, I believe, exhibit 2.

Mr. SCHWARZ. The exhibit numbers have been changed. Let me help you out on that. You prepared a memo for Dr. Gottlieb himself, but that no longer exists. Is that right, as far as you know?

Mr. GORDON. Fine. Let me develop that; you are right.

I prepared a memo for Dr. Gottlieb, and indicated to him, upon showing it to him, that this was a suggested option to consider.

Mr. SCHWARZ. By this, you mean the transfer? I think I can help you along, Dr. Gordon. By this as an option, do you mean transferring the material from Fort Detrick to a private company that would hold it for the account of the CIA? Is that correct?

Mr. GORDON. Correct.

Mr. SCHWARZ. Did Dr. Gottlieb ask you, after you discussed that matter with him, to prepare a memorandum to that effect from Mr. Harassines to Mr. Helms?

Mr. GORDON. That is correct.

Mr. SCHWARZ. Did you do so?

Mr. GORDON. That I proceeded to do. As I indicated to you the other day after the closed session, working my memory banks over the weekend, I indicated to both you and Mr. James Johnston of your staff that a piece of the memory bank seemed to have fallen rather heavily, as I thought this thing through very carefully subsequent to our conversation. Now it appears to me—and I may be wrong—but it really sincerely appears to me that after Dr. Gottlieb received the memos now prepared for Mr. Karamessines' signature to the Director of the CIA, then Mr. Helms, that a day later—to the best of my recollections, now—Dr. Gottlieb indicated that he would not elect to send that memo forward for Tom Karamessines' signature. But instead, he right then and there—probably the next day, February 19—is making the decision that we would not go for the option of transferring those materials to a private laboratory.

But instead, we would—and I concurred at that particular point—get out of the classified project known as MKNAOMI. Which meant, a day or two later, I proceeded to go up to the—

Mr. SCHWARZ. Before we get to that, could we put in the record as exhibit 1,¹ the draft letter from Karamessines to Helms. This includes the paralytic shellfish poison as an item that you were covering, and that you knew that the Army was about to destroy.

Mr. GORDON. Yes.

Mr. SCHWARZ. Did you then go there?

Mr. GORDON. I obtained approval to go up there in a day or so—I do not remember—but shortly thereafter, and met with the Commanding Officer of the U.S. Army Biological Laboratories and the chain of command, to include the Chief of the Special Operations Division, the project officer for MKNAOMI at the Army, and inform the people gathered on that particular day that it was our desire to cease operating the classified project MKNAOMI as of that particular day; which meant that we would terminate the project that day, and all holdings that they were holding for us as our Agency stockpile would revert to the Special Operations Division or the Biological Warfare Laboratories, to do with whatever they saw fit at their particular discretion.

Mr. SCHWARZ. Did someone from that laboratory—and if someone did, please give his name—thereafter telephone you on the subject of the shellfish toxin?

Mr. GORDON. Yes. Some days later, I did receive a call—again, to the best of my recollection—from the project officer, Mr. Charles Senseney, who indicated that they were making the following offer before listing our stockpile for destruction, which was now a mandatory DOD requirement, implemented as a result of the White House announcements to the Department of Defense, to destroy biological stocks and biological toxins. The offer was made to us, would we want to retain for our own potential agency use, whether it be suicide pills or any other particular application of shellfish toxin, the 5 grams of the agency stockpile? I indicated at that particular time that I thanked them for the offer, I would be consulting with my small staff, and get back to them.

Mr. SCHWARZ. Did you get back to them and accept the offer?

¹ See p. 189.

Mr. GORDON. After the consultation with my project office and technical consultant, we agreed that the offer was valid for a number of factors. We knew that many years of hard, costly research had gone into the development of shellfish toxin and that those particular quantities, 5 grams or more, were realistic quantities for purposes of experiment, research and development, because if one had to really, in effect, study immunization methods for diseases vis-a-vis—who knows, cancer, anything of that particular ilk, it would take a considerable amount of this particular antigenic material to develop immunization. So that we know that was a reasonable quantity for that kind of purpose.

It certainly was not a reasonable quantity for, as it turned out in my tenure, any operational requirements or needs during my tenure with the agency. However, I might add that that particular quantity of 5 grams of shellfish toxin had been on a list of material held for us at Special Operations Division in Fort Detrick for many years before I ever entered the picture. And in retrospect, I can see clearly now that our project officer just continued, including myself, to continue the listing, shellfish toxin being one of the listing of about a dozen or more different materials, never questioning the quantities that were being held.

Mr. SCHWARZ. Did you do any research after it was brought down to the CIA laboratory?

Mr. GORDON. No, sir.

Mr. SCHWARZ. Did you do any research before it was brought down to the CIA laboratory?

Mr. GORDON. No, sir, I never opened—I am speaking for myself now. Let me go back a minute. I did not quite finish.

I believe the agreement was made among my small staff that, considering that we were looking at a chemical substance or entity, and since we did, in our considered judgment, make that judgment that shellfish toxin was a chemical, we elected to say yes to the offer. And subsequently, it was hand-carried down to our laboratory.

We did not feel at that particular time, we did not feel the necessity, because we were thinking in terms of a chemical substance, not a biological warfare agent or bacterial toxin. We did not feel the necessity or need to inform our higher chain of command individual. We simply had it placed in our secure vaulted laboratory, in a freezer, in the original containers that were brought down to us, thinking, in all good faith, at the particular time of delivery that we would be given our Agency stockpile quantity of 5 grams of shellfish toxin. At that point, I might add, we did not have any idea as to the purity of that particular material, except comments like, "It is good stuff."

Mr. SCHWARZ. You in fact not only got your material but more than 5 additional grams that belonged to someone else. Is that correct?

Mr. GORDON. That is right. I learned of that in May or early June of this particular year.

Mr. SCHWARZ. Did they belong to the Army?

Mr. GORDON. The additional grams, by deduction, belonged to the Special Operations Division of Fort Detrick Army Biological Laboratories.

Mr. SCHWARZ. Did you tell any of your superiors within the Agency that you had retained this material?

Mr. GORDON. No, sir.

Mr. SCHWARZ. I have nothing further, Mr. Chairman.

Mr. GORDON. Because of the explanations I hope I amplified and clarified.

The CHAIRMAN. Mr. Smothers, do you have any supplementary questions before we go to the members?

Mr. SMOTHERS. Yes, Mr. Chairman. Dr. Gordon, to the best of your knowledge, what kinds of substances were kept in this laboratory we have talked about, the laboratory you worked in?

Mr. GORDON. My predecessors—I suspect, Mr. Smothers, we are going back about 10 years prior to my joining, so roughly, we are talking, maybe, in the middle or late fifties—I suspect had a penchant of a person who could be considered as a collector—

Mr. SMOTHERS. When you are speaking of your predecessor, are you speaking of Dr. Treichler?

Mr. GORDON. Treichler was my immediate predecessor. And to the best of my knowledge, it could have involved others also. But to get back to your question, Mr. Smothers, the kinds of materials were, in my opinion, considered as interesting samples of candidate chemical substances that had been experimented with for some years at the U.S. Army Chemical Warfare Laboratory at Edgewood, Md., things of an incapacitant nature or some behavioral aspects. Some of the things that interested us in the nature of incapacitating agents would be, in effect, under the broad category of behavioral effects.

What were the physiological reactions? There are certain substances that can give you a real severe case of the “tummy’s,” as we know it. This has a potential application in the field. If we want to, in effect, put an individual, shall we say, indisposed at a particular evening, at a particular place, and any other scenario that you want to mention along those lines.

Essentially, these were the kind of materials, to my recollection and knowledge. I never called for an inventory of the materials at the laboratory. Frankly, I assumed that responsibility, or laid it on, if you will, to the project officer. This was not carried out, because this was not a research or testing laboratory. This was a storeroom, a secure, safe vault storeroom. All substances behind glass containers, sliding door panels were under lock and key. We were the custodians of the key.

Mr. SMOTHERS. You never inventoried the vault?

Mr. GORDON. That is correct, sir.

Mr. SMOTHERS. Did you have any reason to believe that there were lethal substances in the vault?

Mr. GORDON. No, sir.

Mr. SMOTHERS. Was there any information in the transfer of control to you from Dr. Treichler that should have put you on notice as to the presence of lethal substances?

Mr. GORDON. None to my recollection, sir.

Mr. SMOTHERS. Are you saying that you would not have any reason to tell your superiors in the Agency that this would be a likely place for the presence of lethal substances?

Mr. GORDON. May I have that question again, please?

Mr. SMOTHERS. Are you saying that you would have had no reason to tell your superiors in the Agency, even after knowledge of the

Presidential order, that this would be a likely place to search for lethal substances?

Mr. GORDON. For lethal substances? Considering what I just indicated to you, to the best of my knowledge that there were no lethal substances, I would not indicate any point in searching for a lethal substance, on the basis of my knowledge at that time.

However, if such an order came down, I would be possibly a little bit foolish if I did not go through at least the steps of opening that door, myself and my project officer, of taking a good hard look at what was in that laboratory, something that I had never done and, I suspect in retrospect, my project officer had never done.

Mr. SMOTHERS. Did you from time to time receive substances from Fort Detrick? Were they transported from Fort Detrick to your facility?

Mr. GORDON. Is that a general question?

Mr. SMOTHERS. Any substances?

Mr. GORDON. Yes. My project officer at the time had a project which pertained to a dart tranquilizer for animals, specifically dogs. There were certain substances of a temporary paralyzing nature, a chemical. CS 4640, for example, has this kind of an effect.

Prior to my joining, a very simplified, if you will, field dart disseminating device had been developed, the purpose of which was to use along with such a physical incapacitant chemical substance. And I suspect some tests—and I am not sure of this, and I believe it did happen before 1967—some tests had been conducted under controlled conditions on dogs, and, I believe, successfully.

This is parallel to the kinds of military efforts that were going on at the Chemical Warfare Laboratories. I might add that our own interest, being charged with the responsibility of maintaining at all times a technical interest, from the point of view of services support for any future possible operational needs within the Agency, our interests were parallel to what was going on at chemical warfare and biological warfare laboratories at all times.

The liaison had been established and maintained. We were invited in to attend classified briefings from time to time. In effect, Mr. Smothers, what I am indicating to you is that we were making every sincere attempt to stay abreast technically of the state of the art.

Mr. SMOTHERS. Dr. Gordon, you knew of the existence of lethal substances, did you not? You knew of the existence and the development of lethal biological and chemical agents?

Mr. GORDON. To an extent, certainly. To a full extent, possibly not.

Mr. SMOTHERS. Did you have any knowledge of where these agents were being kept, stockpiled or stored?

Mr. GORDON. We are talking about chemical agents and biological agents?

Mr. SMOTHERS. Yes; we are.

Mr. GORDON. To my knowledge, during the tenure that I served with Army Intelligence in chemical and biological warfare, yes, sir, I was aware of locations, classified locations of military and biological agents and chemical agents.

Mr. SMOTHERS. Were these materials being stored by the Army or the Department of Defense?

Mr. GORDON. These materials were being stored by the Army/DOD.

Mr. SMOTHERS. Did you have any reason to believe that stockpiles were being stored by the CIA?

Mr. GORDON. No, sir.

Mr. SMOTHERS. The laboratory we alluded to or elsewhere?

Mr. GORDON. Lethal agents?

Mr. SMOTHERS. Yes.

Mr. GORDON. There were no lethal agents going into the laboratory until we agreed to accept our own Agency's stockpile of 5 grams or subsequently, now, it turns out to be 11 grams of shellfish toxin, in our judgment, again, a chemical entity, a chemical substance.

Mr. SMOTHERS. Was it your belief, then, that if the Department of Defense had complied with its own directive, that, with the exception of the shellfish toxin you received, all other stockpiles of lethal agents, even those belonging to the CIA, would have been destroyed?

Mr. GORDON. I think I did not get your question, could you repeat it? Are you making a statement or a question, sir?

Mr. SMOTHERS. I can do either one. It was your testimony that you believe that all the lethal agents being held for the CIA were being held by the Department of the Army or DOD, as you said. My question then, was it your belief at the time that, with the exception of the shellfish toxin which you received from Fort Detrick, all other stockpiles of lethal agents would be destroyed?

Mr. GORDON. Lethal biological agents.

Mr. SMOTHERS. Or a chemical?

Mr. GORDON. No, sir, lethal biological agents.

Mr. SMOTHERS. Lethal biological agents?

Mr. GORDON. There is nothing in the record indicating destruction of chemical agents.

Mr. SMOTHERS. All lethal biological agents would be destroyed as a result of the Executive order.

Mr. GORDON. Yes, sir.

Mr. SMOTHERS. At the time that you had agreed or you proposed the retaining of this material, did you have occasion to indicate to anyone higher than your laboratory that there had been some discussion with the Army regarding CIA retaining the Army stockpiles?

Mr. GORDON. Mr. Smothers, because we consider shellfish toxin as a chemical material and not as a biological material and/or bacterial toxin we felt we are simply looking at a highly lethal chemical agent which would be secured in a maximum security vault.

The CHAIRMAN. Dr. Gordon, I find your testimony rather astounding. You say that you and your fellow scientists decided to retain the shellfish toxin and indeed to accept additional quantities of it from the Army.

Mr. GORDON. Unbeknownst to me, sir. That is a fact, it happened.

The CHAIRMAN. It is a fact, it happened?

Mr. GORDON. Correct.

The CHAIRMAN. You and your associates decided to retain this toxin although you knew that it might very well have been a violation of the President's order because by your own testimony you have just told us that you asked, you discussed with Mr. Gottlieb and Mr. Gottlieb was going to prepare for Mr. Karamessines a memorandum to the Director in which this very question was raised and an option was given to the Director to store it with a private firm. So it must have been in

your mind that this toxin was highly questionable in view of the order that the President had given.

Mr. GORDON. That is not correct in my interpretation, sir.

The CHAIRMAN. If it is not correct, why raise the question and suggest the option to the Director?

Mr. GORDON. At that particular time, we had considered the option of whether we wanted to keep all of the agency's stockpile, including the shellfish toxin. There were a dozen or so biological agents and a few other kinds of toxins. We wanted to consider the option as to whether or not we should retain our own materials which were not going to be placed on a Department of Defense destruction list. They were being held for us. If the decision was made by higher authorities, and eventually Sid Gottlieb elected to make the decision, that he would not go for the option if a decision had been made by higher authorities to move that stockpile, I would have had no compunction to have done so.

The CHAIRMAN. According to your testimony, you did not give authorities a chance to make that decision because Mr. Gottlieb and you and your associates decided to do it on your own.

Mr. GORDON. Senator Church, I have prepared and you have a copy of the memorandum [exhibit 1¹] with Dr. Gottlieb's approval for that memorandum to be signed by Mr. Karamessines to the Director. And Dr. Gottlieb's judgment—to the best of my recollection, he determined that it did not need to go forward. He would make a decision and he elected not to take that option and indeed that we would once and for all get out of the classified project at the Special Operations Division at Fort Detrick.

The CHAIRMAN. You would retain the poisons and tell no one?

Mr. GORDON. Negative. That particular sequence, Senator Church, with all respect, is a consequence which occurred after the fact. At that particular time it was our intention simply to have Fort Detrick, as I indicated, terminate that project and take all the materials that they wanted. When the phone call—

The CHAIRMAN. Let us not get into a discussion of points in time because before this proceeding was over you got a phone call from the Army. They made suggestions and you finally decided to keep the stuff and not tell higher authorities about it. Is that not true?

Mr. GORDON. Because it was not considered, in our judgment at the branch level, anything but a chemical poison.

The CHAIRMAN. That is very curious because everybody else we have talked to including the experts are of the opinion that it clearly was of a kind of biological poison or toxin that came within the Presidential order.

Mr. GORDON. Do you know where the material that was used for Gary Powers' suicide weapon came from? It came from Edgewood Arsenal.

The CHAIRMAN. What does that have to do with the question?

Mr. GORDON. It means that it is a chemical considered substance that was utilized and obtained from a chemical warfare laboratory. This is the kind of thing—excuse me Senator Church—this is the kind of thinking that chemists have used. I indicated earlier in testimony that we are getting into a gray area. Admittedly, it is a gray area.

¹ See p. 189.

The CHAIRMAN. If it is a gray area?

Mr. GORDON. Yes, sir.

The CHAIRMAN. If you, by your own admission, say it is a gray area, why then, in view of the Presidential order, did you take it upon yourselves to decide to set this poison aside?

Mr. GORDON. The Presidential order, Senator Church, as I indicated earlier, in our judgment, did not pertain to the CIA. It pertained to the Department of Defense.

The CHAIRMAN. That is not the judgment of the Directors of CIA.

Mr. GORDON. I understand that, sir, but we are talking in terms of February of 1970.

The CHAIRMAN. Is it not true, Dr. Gordon, that you disagree with Mr. Nixon's order?

Mr. GORDON. No, sir.

The CHAIRMAN. Well—

Mr. GORDON. I was not a Department of Defense employee. I did not feel under the obligation, Senator Church, to be responsible for the DOD directive, indicating destruction of bacteriological agents or bacteriological toxins.

The CHAIRMAN. I call your attention to your testimony given under oath on Saturday, page 50 of that testimony from the morning record, if you would go to line 24 on page 50. Our counsel, Mr. Schwarz, asked you the following question.

"Let us be clear what we are talking about. President Nixon had decided that the United States should destroy biological toxins. Right?"

And you answered, "right." Then Mr. Schwarz said, "The matter you discuss that some new President or administration official might come along and say, we would like to have such stuff in order to kill people. Is that right?"

And you answered, "that is right."

"But again, this is conversation in the philosophical category, that is all."

Mr. GORDON. I do not see anything wrong with a group of people like myself, my project officer and technical consultant—by the way, Senator Church, I would appreciate if you do not already have the testimony of my technical consultant, Dr. Alex Battin, you should get in the record his viewpoint as to whether shellfish toxin is considered a chemical substance. I think he considers it such. In our discussions we are certainly—

The CHAIRMAN. Senator Mondale has a point to raise on that very question.

Senator MONDALE. I would like to point out that the whole reason for the February 14 memo from the President was to solve the issue that you continue to raise. I quote from the President's announcement [exhibit 5¹] of February 14, he said, "Moreover though toxins of this type useful for military purposes could conceivably be produced by chemical synthesis in the future the end products would be the same and their effects would be indistinguishable from toxins produced by bacteriological or other biological substances."

It continues, "the President has further directed the destruction of all existing toxins." Moreover, by the National Security memorandum

¹ See p. 202.

44, the Secretary of Defense will submit recommendations concerning the disposal of existing stocks of toxins, weapons, and agents.

No. 1, "the United States will renounce the production, for operational purposes, stockpiling, and the use in retaliation of toxins produced either by bacteriological or biological processes or by chemical synthesis." In other words, the whole reason for the February 14 memo was to settle the dispute which you continually raised as a defense and that memo was directed, among others, to the CIA. That is the whole reason.

Mr. GORDON. I have never been aware of that memo. The only thing I alluded to—

Senator MONDALE. What about the public statement? Were you aware of that?

Mr. GORDON. No, sir. The only thing I am alluding to is what I have indicated to you and the testimony, both in closed session and public, and I have it in front of me and furthermore it says in that same February 14, 1970, directive that the United States will confine its military programs for toxins.

I think that really the point is being pushed in my humble opinion to include the CIA in this particular category of a Department of Defense responsibility.

The CHAIRMAN. Well, Dr. Gordon, if you viewed it as merely a Department of Defense responsibility, why did you accept from the Department of Defense toxins that clearly should have been destroyed?

Mr. GORDON. The toxins that we accepted at that particular time, thinking that it was our own Agency stockpile, 5 grams to be held all those years for us, was considered as a chemical substance, Senator Church, in our judgment. And that is the reason.

The CHAIRMAN. You knew the Army was going to destroy it, did you not?

Mr. GORDON. The Army has still retained for experimental purposes, I read, a little bit over 4 grams.

The CHAIRMAN. You know they gave you this toxin so it would not be destroyed. If they had not given it to you, they would have destroyed it pursuant to Presidential order. You knew that.

Mr. GORDON. I could not speak for what they would have done or not. They asked if we wanted our particular stockpile, and after careful deliberation and consideration among our staff and I indicated this to you, this is the particular rationale that we opted for in taking it and considering it as an ordinarily highly lethal chemical agent. And I wish—

The CHAIRMAN. This is the other outstanding part of your testimony. When a second Presidential order was issued just to clear up any question about the inclusion of this shellfish toxin in the directive that none of these directives were passed down through the Agency to you and that you testified about your knowledge of the Presidential directive on the basis of what you read in the newspaper. That is your testimony, is it not?

Mr. GORDON. That is my testimony and I repeat that I never saw—

The CHAIRMAN. I did not say that is your fault, but that is an astounding thing.

Mr. GORDON. That is so.

The CHAIRMAN. That is so. Senator Tower?

Senator TOWER. You received no direct order to destroy the substance. Is that a fact or is it not?

Mr. GORDON. That is a fact, sir.

Senator TOWER. In fact, you asked the DCI for permission to retain and store these substances.

Mr. GORDON. I did not seek additional guidance or consent from any of the chain of command higher than myself as chief of the chemistry branch to obtain and store the highly lethal shellfish toxin, which we in our technical judgment, considered as a chemical agent, sir.

Senator TOWER. What about Gottlieb? Did anyone propose to the DCI that this material be retained?

Mr. GORDON. Dr. Gottlieb was not informed, Senator Tower, that the lethal shellfish toxin was being offered, received and stored in a secure vault in the laboratory, since we in the branch, myself, project officer and technical consultant made the judgment that we were considering shellfish toxin as a chemical agent, highly lethal, but a chemical agent.

Senator TOWER. Are you saying that you never had any indication of Helms rejecting the notion of retaining the substance?

Mr. GORDON. This specific substance?

Senator TOWER. Yes.

Mr. GORDON. He could not in my humble opinion have made that kind of a statement because of the fact, as I indicated, Senator Tower, we did not, considering we were talking in terms of a lethal chemical, we did not in our judgment feel that we, we were in need of informing anyone.

Senator TOWER. You were aware that you were not to retain lethal chemicals?

Mr. GORDON. I am not aware of any directives indicating that a lethal chemical could not be retained or stored.

Senator TOWER. Do we not normally classify a chemical and a biological agent together?

Mr. GORDON. No, sir. That is a separate and distinct entity. There is a chemical warfare laboratory which still today does research in chemical agents. There is a munitions system still under development for chemical agents. There is a stockpile in the military for chemical agents, both incapacitating and lethal.

Senator TOWER. Were you not aware that the order category included both chemical and biological agents?

Mr. GORDON. No, sir. We made a distinct distinction, if I may put it that way, between the fact that in our judgment this shellfish toxin was a lethal, highly lethal, chemical agent. And we took the proper steps to put it in our freezer, secure it, store it. I must say, over the years, Senator Tower, we have never had to my knowledge, in the period 1967 through 1972, any call for those kinds of materials.

That was in essence an example of maintaining to the best of our technical ability, maintaining the technical capability in behavioral materials in the event that the need should arise to use these materials one day.

Senator TOWER. Let me ask you whether a substance is classified as generically chemical or generically biological, can they not be applied to achieve the same kind of results. They are both a specific means to a common end, are they not?

Mr. GORDON. Senator Tower, I have to say yes; and I have to qualify it. I must say I still feel the sharpness somehow of some of the questions, and properly so, of Senator Church, and, Senator Tower, may I indicate to you that technically that we always make a distinction between chemical and biological agents. Now there are gray areas and this toxin, this particular substance, in our judgment, falls into a gray area, depending on who you will be talking to in the public testimony in the next 3 days, depending on his viewpoint, I feel certain that you will find the testimony being given to indicate both sides of the question.

Senator TOWER. If indeed this falls into a gray area or could be construed as falling into a gray area, was there not a certain responsibility on your part to inquire as to whether or not that was included within the purview of the order to destroy these chemical substances?

Mr. GORDON. Again, relying upon discussions with my project officer and technical consultant, both technical people in the field of biological, chemical warfare, including my own knowledge and judgment, we made the decision at that particular level. Senator Church has asked who made the decision. We made the decision at the particular branch level that we were indeed considering and looking at a lethal chemical agent. We were not aware of any particular ban on lethal chemical agents and in all good conscience, in all good conscience and judgment we elected to retain that particular kind of material as a lethal agent in our laboratory in a secure vault condition at all times. In the event that one day we would be called upon to prepare supplies of suicide pills and/or any other uses that could be considered from a higher level of authority than my own, certainly, for operational use of these materials.

Senator TOWER. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Mondale.

Senator MONDALE. Dr. Gordon, the National Security Decision Memorandum No. 44 [exhibit 8¹], dated February 20, 1970, says:

The President has decided that: the U.S. will renounce the production for operational purposes, stockpiling and use in retaliation of toxins produced either by bacteriological or biological processes or by chemical synthesis.

The public announcement on February 14 entitled "U.S. Policy on Toxins" says among other things:

The President has decided that the United States will confine its military programs for toxins, whether produced by bacteriological or other biological methods or by chemical synthesis, to research for defense purposes only, such as to improve techniques of immunization and medical technology. The President has directed destruction of all existing toxin weapons.

In light of that National Security memo—

Mr. GORDON. Excuse me, Senator Mondale, I have a question in that particular last paragraph, sir, where the words—Is that the same paragraph that I am looking at, sir, if you will indulge me. Does it read the United States will confine its military programs for toxins?

Senator MONDALE. Right.

Mr. GORDON. Military programs, sir.

Senator MONDALE. That is right. Had you ever heard of either one of those paragraphs, either in the National Security memo or the President's public announcements?

¹ See p. 210.

Mr. GORDON. I have a copy.

Senator MONDALE. Did you at the time? Were you aware of the formulation of the President's orders which specifically settled the issue of chemical or nonchemical basis for toxins?

Mr. GORDON. Are you referring to the National Security Memorandum?

Senator MONDALE. Either one. Both say the same thing. The toxins would be defined as toxins whether created biologically or chemically. Were you aware that that policy decision settled the question that you seem to be raising?

Mr. GORDON. In our interpretation, we did not put the emphasis that you have just placed on that particular paragraph, sir.

Senator MONDALE. What emphasis?

Mr. GORDON. In our judgment, we put consideration for that the shellfish toxin was indeed to be considered in the category of a chemical substance or a chemical entity, regardless of how it was derived.

Senator MONDALE. So you would say that because you did so, it did not come within the meaning of either the National Security memo or the President's announcement.

Mr. GORDON. I felt it did not come in the purview of the President's announcement of February 1970 and I cannot address myself to that National Security memo. I have never seen it.

Senator MONDALE. Since the President had decided to reduce the programs, both biological and chemical, how do you arrive at the position that the shellfish toxin does not come in that definition?

Mr. GORDON. Senator Mondale, we were not in a military program—

Senator MONDALE. I understand the chemical thing. We were taking your second defense, the military. I want to know whether you are still sticking with the chemical defense, even though the Presidential directives clearly settled that issue? If so, how?

Mr. GORDON. All I can say to respond to that particular query is that we saw, in our own judgment this particular substance as a chemical lethal agent.

Senator MONDALE. Did you further decide that because you saw it in that light, that it does come within this order, even though the order says, toxins produced by chemical synthesis. If so, how could you conclude that?

Mr. GORDON. Because we tied it in with the previous statement that the United States will confine its military program for toxins.

Senator MONDALE. All right. We will set aside our chemical argument, because really you are basing your defense on the grounds that it is not a military program. Is that right?

Mr. GORDON. This was a part of our consideration.

Senator MONDALE. Can we then set the chemical argument aside?

Mr. GORDON. No, sir.

Senator MONDALE. Why?

Mr. GORDON. Because we felt strongly, and continue to feel, that this was a chemical substance.

Senator MONDALE. I know that is what they said, by biological or chemical synthesis.

Mr. GORDON. Shellfish toxin is not, in the truest sense of the term, a synthesis. It is a complicated process, starting with an algae and clams.

Senator MONDALE. When you say it is a chemical substance—

Mr. GORDON. A chemical substance, sir.

Senator MONDALE. The second paragraph of the Presidential public announcement says, "Toxins are chemical substances, not living organisms and are so regarded by the U.N. Secretary General of the World Health Organization" That being true, is it not clear that the President intended it to mean such things as shellfish toxins derived from a chemical synthesis or substance?

Mr. GORDON. I would have to say, in listening to your detailed explanation, Senator Mondale, that that is true. I also have to say that—and it has been some time, as you know, since we examined this particular thing—I am trying to restructure it at some length, and in detail. Our thinking here—we were swayed, it would appear to me, by the phrase, military programs.

Senator MONDALE. Let us turn to that defense, and I will not go into this, but I think the reading of the proposed Karamessines memo clearly reflects—and I believe that was prepared by you; was it not?

Mr. GORDON. Yes, sir.

Senator MONDALE. Clearly reflects that you understood this toxin to be included in the Presidential order. In any event, another defense you have for not destroying the toxin is that it was not a military program; is that correct?

Mr. GORDON. That is correct, sir.

Senator MONDALE. What is it, then?

Mr. GORDON. It was a substance which we felt being in the category of a chemical could be used at some future time for whatever operational need or desire on the part of higher authorities within the CIA, and we know that it had an application in the preparation of previously prepared suicide weapons or devices.

Senator MONDALE. It says it can only be retained for research or defensive purposes, such as improving techniques in immunization and medical therapy.

Mr. GORDON. Again, applied to military programs.

Senator MONDALE. So it does not come within that exception. It comes within the military exception; is that right?

Mr. GORDON. In our opinion, Senator Mondale.

Senator MONDALE. So what the CIA was involved in was not military?

Mr. GORDON. The CIA is not a military organization. It is not, nor has never been charged with the functions of the Department of Defense. Yes; it is not a military organization.

Senator MONDALE. Would you say that your memorandum proposed for Mr. Karamessines reflects this viewpoint that you are not covered?

Mr. GORDON. At the particular time of that memorandum, a discussion on this particular point had never taken place. That particular memorandum was described as an option which we had considered between Dr. Gottlieb and myself as one for consideration. And as I indicated earlier, that option was decided against, and at a subsequent point in time, the offer was made to receive the shellfish toxin.

Senator MONDALE. That means something, and it indicates that you had a hot item that you did not want to destroy. The National Security memo—

Mr. GORDON. That is not my opinion, sir.

Senator MONDALE. I recognize that. It was directed to the CIA, as well. As far as I'm concerned, based upon your testimony, the only conceivable way that the President could have his order executed was to have you over for dinner and plead with you.

Mr. GORDON. If there was a CIA directive that did not exist at that particular time, implementing the White House directive for the Department of Defense, I have no doubt, at that particular instance, the proper steps would have been taken, and this day, there would not be a discussion of the subject of shellfish toxins, Senator Mondale.

Senator MONDALE. Thank you, Mr. Chairman.

The CHAIRMAN. In effect, you say it was a failure of higher authority within the CIA to properly direct you that led you to the decision?

Mr. GORDON. I cannot place the blame on Mr. Helms' shoulder.

The CHAIRMAN. Where does the blame lie? You say it does not lie with you? If you say it does not lie with Mr. Helms, where does the blame lie?

Mr. GORDON. You asked the question, who in the CIA made the decision. Now you know that it was the Chemistry Branch Chief, the project director, and his technical consultant.

The CHAIRMAN. The blame lies with you?

Mr. GORDON. The blame lies with the group I have just specified.

The CHAIRMAN. Very well. Senator Mathias.

Senator MATHIAS. Thank you, Mr. Chairman.

Dr. Gordon, I think you testified that you had been to Fort Detrick?

Mr. GORDON. Yes, sir.

Senator MATHIAS. Did you go there frequently?

Mr. GORDON. I would say, Senator Mathias, during the course of a year—and this is somewhat tenuous—certainly less than a dozen times a year.

Senator MATHIAS. Did you know Dr. Housewright, for example?

Mr. GORDON. Yes; I did, sir.

Senator MATHIAS. Did you have occasion to talk with the Detrick staff by telephone on occasion, in addition to your visits?

Mr. GORDON. At times, sir.

Senator MATHIAS. In other words, you had a working relationship with the Detrick organization?

Mr. GORDON. My project officer more than I, sir, at that particular point in time. I am sorry to overuse that particular phrase.

Senator MATHIAS. Were you aware that, following President Nixon's decision of November 25, 1969, an interagency group was assembled to consider the very question of the definition of toxins?

Mr. GORDON. No; I was not, sir.

Senator MATHIAS. That this Valentine's Day memorandum did not issue just out of the goodness of President Nixon's heart on Valentine's Day, but it was the considered judgment of a number of scientists in the Federal establishment?

Mr. GORDON. I will agree to that, sir. Yes, sir.

Senator MATHIAS. You did not know that at the time?

Mr. GORDON. I did not know that at the time.

Senator MATHIAS. Even with your relationship with the people at Fort Detrick, this never came to your attention?

Mr. GORDON. No, sir. Again, Senator Mathias, I would like to repeat, hopefully not ad nauseum, that in our judgment we considered this particular announcement directed only at the Department of Defense.

Senator MATHIAS. Again, I do not think either of us gain anything by repeating arguments already made. As Senator Mondale pointed out, this was a decision that was lifted from your shoulders. This was a decision that had been made Government-wide, after an interagency study by Presidential order.

Mr. GORDON. May I point out something, Senator Mathias? I think that it is somewhat unfair to take this February 14 announcement in and by itself without always looking back to the November 25, 1969, announcement, because the February 14 announcement, as you put it, sir, the Valentine's Day announcement, is a natural extension of the November 25 announcement, which includes the sentence "I have ordered the Defense Department to make recommendations about the disposal of existing stocks of bacteriological weapons."

This, I think, is, again to our judgment, a clear mandate, and again, the other version of the November 25 announcement—that the DOD has been asked to make recommendations as to the disposal of existing stocks of bacteriological weapons. The toxins, again, in our judgment, despite Senator Mondale's explicit pointing out to me the statement about the chemical synthesis, and so on—I think these have to be put into a package for any discussion and consideration, because, again, this is the only way we make a judgment, by putting these papers together, examining them carefully, agonizing over them, disagreeing, agreeing, and finally, making the conclusion that, indeed, we were looking at a lethal chemical agent, no different than any of the other highly toxics, but certainly, to be respected as a V agent, or a G agent.

Senator MATHIAS. You see, Dr. Gordon, this is exactly what I think is concerning the members of the committee. We do put the Valentine's Day announcement in context with the November 25 announcement. We take into consideration the fact that there is an interagency study, created by order of the President of the United States. We take into consideration the high office that you held, as one of the principal officers of the CIA, charged with knowledge and responsibility in this area, and you come to us, and you tell us that you have not even heard of the existence of the interagency group.

Just let me finish. You will have plenty of time. I want to make this point, because this may not reflect on you, giving the thing the best gloss you can give it. I have spent a good many years in the Navy, and I know there is always somebody who does not get the word, and apparently you were that guy in this instance. That is the best gloss we can put on it. That is enormously concerning to us.

Let us leave Dr. Gordon out of it as an individual. Let us talk about people. When somebody does not get the word, serious problems can arise, in the course of any operation, and one of the objects of this committee is to try to find out where these short circuits were, why they occurred, how we can prevent them occurring again. Because obviously, when they occur at the high level of responsibility that you occupy at this time, they can have serious national consequences.

Mr. GORDON. Thank you, Senator Mathias. I would like to state, with all due respect to the description that you have placed upon my particular function, at that particular time that I was a chief of a branch,

a chemist, who had the technical responsibility of performing a support and service function for the Technical Services Division, in response to any possible future use, operational requirements, if you will, of the DDP. Certainly, I agree, I was not in a policy position. Certainly I would agree—and I do not think that you would expect me to be privy to a National Security memorandum, or any other possible highly placed documents of that particular sort.

Senator MATHIAS. Just to refresh your recollection, the Valentine's Day press release from the White House, which was issued at 6 p.m. that day from the press office at Key Biscayne said in part, "the President has further directed the destruction of all existing toxin weapons."

Mr. GORDON. Within the DOD—yes, sir, that is correct. As a—

Senator MATHIAS. It was not so limited. We have been over that.

Mr. GORDON. Right, sir. Exactly.

Senator MATHIAS. Let me ask you this question—

Mr. GORDON. Yes, sir.

Senator MATHIAS. Was the transfer an idea that originated with you, or did the Army suggest it to you?

Mr. GORDON. The Special Operations Division of the Biological Laboratories, Fort Detrick, Md., suggested it, sir.

Senator MATHIAS. What did they actually say to you, to the best of your recollection?

Mr. GORDON. Would we consider taking, in effect, in the repository of our own, the CIA stockpile of, as I understood it, 5 grams from our old listings, of the shellfish toxin, and the reason being because—and I think it was generally agreed—we all had a keen appreciation of the extreme cost, resources, material, personnel that had gone in over a 10-year period for these materials.

I would like to add that since this has become publicized, I have read in the newspapers Dr. Ritchie's comment from Yale University. I suspect that it was in the nature of a plea to this committee in considering the final disposition of these materials whether or not it could be considered—and that is a considerable quantity, now, 11 grams, to go back into the medical science research.

Senator MATHIAS. I am aware of that.

One further question, Dr. Gordon. I want to be fair to you. I want you to understand that I am trying to put myself into your shoes and into your mind and try to understand the motivations which caused you to take the acts that you did. But I did say earlier, and I meant it, that this is a problem that could have arisen because we used to say, someone did not get the word.

The other possibility which is not as happy a one was suggested by a statement that you made earlier this afternoon, when you described your reaction to learning of the November 25, 1969, decision of President Nixon, when you, as I recall your words, you said, you turned to Mr. Gottlieb and you said, you realize that this is the beginning of the demise of the military biological warfare system.

Mr. GORDON. From the point of view of any parallel interests, sir, that we might have in the field, there was nowhere to go to, to stay abreast of a BW capability. Fort Detrick, as you know, Senator Mathias, subsequently was closed down and converted to the National

Cancer Institute. This, I believe, if my memory serves me correctly, was 1971-72, or thereabouts.

Senator MATHIAS. It took that long to get done. That is something else.

Mr. GORDON. Again, as I recall, it was over a year from the time that they said it would be done, and then, finally, it did get done. Let me rest there.

Senator MATHIAS. Having recalled to you your words, the only question that I raise is whether or not you had, in fact, a visceral reaction which perhaps clouded your judgment in order to preserve from disruption at least one small corner of this area of enterprise?

Mr. GORDON. Senator Mathias, I appreciate the way you put that. I really do. I want to use this opportunity for my response, to repeat once again—please bear with me, Senator Church—that our judgment was collectively made, and we considered it as a lethal chemical agent. If that was not the decision at that particular time, we never would have gone back to accept and say yes to the offer of our own stockpile of 5 grams, sir.

Senator MATHIAS. My time is up, and I will only say that I cannot understand why your decision which was so agonizingly made—and I accept that it was agonizingly made, as you described it, why a decision so agonizingly made, and in the full consciousness of the difficulties under which you were operating was not referred to higher authority within the Agency for some confirmation, before you went through with it.

That is all, Mr. Chairman.

Mr. GORDON. Thank you, Senator Mathias.

The CHAIRMAN. Senator Huddleston.

Senator HUDDLESTON. Thank you, Mr. Chairman.

I do not wish to belabor the point, but I do think it is quite important, as to what your understanding was at the time, back in February of 1970 on why this decision was made. I find it very difficult to reconcile what you are saying now about the concern that you had at that time as to the true nature of shellfish toxin.

Shellfish toxin is a toxin, is it not? There is no question about that?

Mr. GORDON. That is correct, sir.

Senator HUDDLESTON. It is also a weapon. You mentioned a moment ago it could be used as a weapon, against oneself as a suicide weapon, or against somebody else.

Mr. GORDON. We would consider it, I think, certainly, as a weapon, but the tactical description for that, Senator Huddleston, would be as an agent in a weapons system, our weapons system being any means.

Senator HUDDLESTON. It is a potential weapon or a part of a weapon.

Mr. GORDON. Exactly.

Senator HUDDLESTON. In the first paragraph of the memorandum which you prepared for Mr. Karamessines, you point out that in the November 26 memorandum of the President or the order of the President and then you put in parentheses that on February 14, 1970, the Valentine's order, he included all toxic weapons. There seems to me no doubt that at that time you understood precisely what the President said.

Mr. GORDON. As it applied to the Department of Defense that is correct, Senator.

Senator HUDDLESTON. If you felt at this time that this just applied to the Department of Defense, I am wondering why you felt it necessary that Mr. Karamessines make a determination as to whether or not the CIA should move to protect its supply. It seems to me it would be perfectly clear that he would not have to take any action if it were perfectly clear that this would apply only to Department of Defense.

Mr. GORDON. This was tied in with the relationship that we had with the Special Operations Division and, for that matter, the rest of the Army Biological Warfare Laboratory with respect to staying abreast of the state of the art.

Again, intuition indicated to us at that particular time that before too long, as Senator Mathias said, if it took too long the Biological Warfare Research Laboratories would no longer exist. There would be no sense in continuing to support a project, and I might add—and this has not been brought out by me—I have never had a question with that respect. We were, in effect, piggybacking or giving some additional dollar technical support to Special Operations Division, who were being funded by the Army component, namely, the Special Forces, for purposes which interested us and we wanted to stay with the developments as time proceeded.

Senator HUDDLESTON. I do not see that there is anything that would have clouded your perception based on your own words and recommendations here that this toxin was, indeed, part of the order that the President had issued. Let me make one other point, again relying on your own memorandum dated February 1970, when you list for the Director those items that would be in jeopardy if some action were not taken by the President's order. You do, in fact, list paralytic shellfish poison.

Mr. GORDON. Which was part of the inventory being held, yes, sir. At that particular time, the other option, which is what we exercised a day or two later, February 19 or 20, was to, as I indicated, let the Special Operations Division of the Army Biological Laboratories know that we no longer would support them and terminate the project and for them to do with what they saw fit with all the stocks.

It was subsequent, and only subsequent, that we rethought the matter of the shellfish toxin. When the telephone call came down to us with respect to the offer of retaining and considering for retaining the shellfish stocks, at that time after careful deliberation we determined that in our judgment, knowing we were in a gray area, going through the same testimony, and deciding it was a chemical agent.

Senator HUDDLESTON. You have changed your perception then from what it originally had been, which seems to be crystal clear here, to raise the question as to whether or not there might be a slight loophole through which you might—

Mr. GORDON. We rethought the question of shellfish toxin.

Senator HUDDLESTON. That was subsequent to this memorandum, which, at that time, seemed very clear and precise?

Mr. GORDON. Right, that is correct, Senator.

Senator HUDDLESTON. As to what the problem was and how it might be avoided by the Director, if he wanted to take this action?

Mr. GORDON. That is correct.

Senator HUDDLESTON. Just one other question. As I mentioned this morning to Mr. Colby, included in that inventory, were agents that were designed to induce tuberculosis in an individual. Were you involved in that experimentation?

Mr. GORDON. No, sir.

Senator HUDDLESTON. What about the one for brucellosis?

Mr. GORDON. We were not involved in any experimentation.

Senator HUDDLESTON. Do you have any knowledge of these agents and what they were used for?

Mr. GORDON. From the nomenclature of those particular ones you described, they would be the causative agents to produce that kind of a disease. Those are biological agents.

Senator HUDDLESTON. Did you ever have instructions from your superiors to develop this kind of capability?

Mr. GORDON. No, sir; not during my tenure.

Senator HUDDLESTON. How do you propose they were included in the CIA inventory?

Mr. GORDON. I surmise that my predecessor or predecessors, that over the years in their wisdom and judgment and with the expertise of the people at the laboratories that determined in the event of some need or use of these kinds of materials it would be technically feasible to be considered and used. Hence, certain quantities were attributed as grams or whatever they may be in their listing to those particular organisms and toxins. That is the way the list, I suspect, was developed and simply transferred from year to year to year.

Senator HUDDLESTON. From your personal knowledge and experience, you had no contact with these agents.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Huddleston. Senator Schweiker.

Senator SCHWEIKER. Thank you, Mr. Chairman. Dr. Gordon, can you shed any light on the designation of P600 that appeared on the cans he received in the lab?

Mr. GORDON. No; I cannot, sir. As of this moment, I do not recollect any of the information that appeared on the cans. Are you referring, Senator Schweiker, to the cans of the shellfish—containers of shellfish toxin?

Senator SCHWEIKER. Yes. The ones in this picture, I assume.

Mr. GORDON. No, sir, I cannot. What does P600 mean?

Senator SCHWEIKER. That is what I am trying to find out.

Mr. GORDON. I think I could suggest who might give you the answer, sir.

Senator SCHWEIKER. I thought you would be in a good position to tell us. It says, "Do not use unless directed by P600." How can you store a quantity of poison in your lab in a vault and lock it up, when it says do not open unless you have permission of so and so, and you do not even know so and so?

Mr. GORDON. Is "P600" a person?

Senator SCHWEIKER. It is your code.

Mr. GORDON. That particular label—we are on the subject of labeling, Senator Schweiker, was prepared at the Special Operations Division, Biological Laboratories.

Senator SCHWEIKER. At Fort Detrick?

Mr. GORDON. They would be in a position to give you that answer. I'd like to know it myself.

Senator SCHWEIKER. The second part of my question is, you keep mentioning 5 grams in your testimony here with the other Senators. Yet it is clear from Director Colby's testimony that, in fact, there were 11 grams. The picture shows 11 grams. Can you account for the 6-gram discrepancy?

Mr. GORDON. When I received, or we received, the containers of the shellfish toxin, it was our best understanding that we received what was the Agency stockpile of shellfish toxin in the amount of 5 grams, and we put it away in the freezer, and never, at least during my tenure, had occasion to ever open those containers, did not want to open those containers unless there was a need, and that is the way it sat and got forgotten about over the years, because no queries—obviously, no applications—

If I may continue, in May or June of this year—and I am told this by my project officer at that time, Mr. David Boston—he was asked by the present Director, Mr. Colby of the CIA, as part of an agency-wide query, to look into particular matters or things that he, Mr. Colby, should know about. This is secondhand information. My understanding is, as a result of that particular memo, directive—call it what you will—Mr. Boston then proceeded to then very carefully look into that particular freezer, and he called me, and asked, did I remember that there was shellfish toxin and I most certainly remembered that there was shellfish toxin containers. Then he proceeded to open it, the containers, laid the vials out, as I understand, added up the figures, and then informed me that there was not 5 grams, but close to it. I do not know the exact figures. It is 3 in decimal points, but 11 grams.

The inference, the only inference in my mind is that the Special Operations Division, in their wisdom, or lack of it, decided to send along the 6 grams that were in their particular repository.

Senator SCHWEIKER. Dr. Gordon, the part I have trouble comprehending, in view of your testimony is that labels on these cans are stuck on the top of the cans. You could not possibly pick a can up and put it in a file, without reading the label. One label says very clearly 5 grams of stockpile, manufactured in Ohio, which is probably very directly the 5 grams we have been talking about. The interesting label on the other can—this may clear up the 6 gram mystery—it says paralytic shellfish toxin, working fund investigation Northeast Shellfish Sanitation Center. Then it says, USPHS—you do not have to be James Bond to figure out that means U.S. Public Health Service, Narragansett, R.I. And my question is why the U.S. Public Health Service is producing a deadly poison for this country, and who is paying for it, and you could see that by just reading the label on the can, so why all the mystery about where these 6 grams came from?

Mr. GORDON. Senator Schweiker, I do not recollect—and I saw what you are referring to in closed testimony as two exhibits—and I was asked in closed testimony, closed session, that, did I recall seeing those particular exhibits that you are referring to. I honestly do not remember seeing those.

Insofar as the Public Health Service or—as being a source of the shellfish toxin material, this reflects a program that had been going

on for some years. This is part of the cost in resources and value intrinsic in the quantity of shellfish toxin that was expended by those two particular Government agencies for many years for the purposes of developing possibly—again, I am summarizing this, an immunization therapy or technique against this very deadly shellfish toxin.

Senator SCHWEIKER. If it was developed for that purpose, why did they not keep it for that purpose, instead of giving it to you?

Mr. GORDON. They gave it to the Special Operations Division at Fort Detrick Biological Laboratories. How that was obtained, the mechanism, the purchase, acquisition, I have no knowledge about. I can only reflect that they were holding for us year after year, from the time that I entered the TSD, 5 grams of paralytic shellfish toxin. It was on the Agency's stockpile list.

Senator SCHWEIKER. Your testimony is that we have, in fact, been receiving deadly poison manufactured by the U.S. Public Health Service and delivered, indirectly at least, to Fort Detrick. It came to your hands, but first of all to Fort Detrick. And I am wondering whether our House subcommittee that appropriates money for health research is really aware that that is exactly where our health funds have been going.

Mr. GORDON. I understand your question, Senator. I do not have a response to it.

Senator SCHWEIKER. I have a great deal of difficulty understanding why you could not size up the two cans, one being the stockpile from the CIA and Fort Detrick and the other coming from Narragansett, R.I. There's a discrepancy. Does this not ring any bell, or do you not recollect a thing?

Mr. GORDON. I honestly have to say no, sir. I do not understand. In trying to reconstruct events, I just do not remember seeing those particular listings. All I can indicate to you, the materials—by the way, are you saying those listings were attached to the labels?

Senator SCHWEIKER. They were not only attached; they were on top of the can. You could not possibly pick a can up without seeing the text, that is, 5 grams and 6 grams, and the manufacturer, U.S. Public Health Service.

Mr. GORDON. I admit, Senator, I do not have any recollection of that particular photograph or object.

Senator SCHWEIKER. You testified earlier, Dr. Gordon, that someone called from Fort Detrick asking if you would receive or accept these toxins; is that correct, in essence?

Mr. GORDON. Shellfish toxin?

Senator SCHWEIKER. Shellfish toxin.

Mr. GORDON. Yes.

Senator SCHWEIKER. What was the rationale or reason by which he said you should accept it? Why was he not reporting? Because he did report, Fort Detrick did report some 3 grams, as was testified to, that they inventoried and got approval from the National Security Council. I am sure you are well aware of that procedure, yet you elect not to go the accountability route. You elected to follow his suggestion to go the other route?

Mr. GORDON. The Agency's stockpile of all those materials was not on a reported destruction list at Fort Detrick. They were being held

separate and apart, to the best of my understanding. They were being held separate and apart from their own military or Army holdings.

Senator SCHWEIKER. The memo we have from the Army indicates that they reported through official channels, and apparently received National Security Council approval to keep the 3 grams for research purposes.

Mr. GORDON. May I make a surmise, sir? I do not believe—I may be wrong, but I do not believe, that that was the Special Operations Division, or the Biological Laboratories that made that request. I believe that it was another component, research component, separate and apart from the Special Operations Division of the Biological Laboratories that made that request to retain the quantities—that is what I read myself in the newspapers the other day—and apparently received the approval for experimental and R & D purposes, a very legitimate request, in my opinion.

Senator SCHWEIKER. There are two things that I think this committee has to ascertain. First, after the order was issued, did someone make a decision at Fort Detrick to send back your 5 grams. Also, did someone make a decision to include the U.S. Public Health Service quantity that probably momentarily was up in Narragansett, R.I., and throw that in.

Mr. Chairman, I have here a number of requests. As well as the Army, we are going to have to call the Public Health Service to find out why they were producing deadly poison, why they were a part of this whole thing.

Mr. GORDON. I believe, sir, Senator Schweiker, if I could have a moment—

Senator SCHWEIKER. Yes.

Mr. GORDON. I can surmise, sir, for what it is worth. I believe the U.S. Public Health Service—I cannot address myself to the mechanism of how it arrived from the Public Health Service to Fort Detrick, specifically the Special Operations Division.

Senator SCHWEIKER. That is what we want to know, and that is our job to find out, Dr. Gordon.

Mr. GORDON. I believe the Public Health Service—and I say this sincerely—I think, it is injustice, if I may say this, that the Public Health Service was raising or cultivating or making shellfish toxin for the purpose of a poison, per se; in my humble opinion, they were making these quantities to study defensively immunization techniques against the shellfish toxin.

Senator SCHWEIKER. If they had kept it there, Dr. Gordon, and used it for that purpose, I would not be questioning that either. It looked like they were producing a supply of far more than they needed at somebody's expense.

Mr. GORDON. I follow your rationale.

Senator SCHWEIKER. Thank you, Mr. Chairman.

The CHAIRMAN. I follow your view that there is a suggestion here that the committee will have to fully inquire into whether other departments of the Government in addition to the CIA undertook to circumvent the Presidential order by depositing this toxin in this particular cache. And we will look into that, because we want to really get to the root of the whole question presented here. Senator Morgan.

Senator MORGAN. Dr. Gordon, as I understand your testimony, you take responsibility, along with the two of your colleagues for retaining the toxins that we are talking about.

Mr. GORDON. Because of the rationale that I indicated earlier.

Senator MORGAN. That rationale was first, that the National Security Decision Memorandum of February 20 [exhibit 8¹]¹—and I believe you refer to also the 1969 order—

Mr. GORDON. The press releases of November 25, 1969, and February 14, 1970.

Senator MORGAN. You referred to military programs, wherein since the February 20 order, which is actually the National Security Council order—

Mr. GORDON. Which I have not seen.

Senator MORGAN. The memorandum that you have been referring to, or the document that you have been referring to is February 14, was actually the press release—that the memorandum itself was dated February 20.

Mr. GORDON. I understand that.

Senator MORGAN. That reads, following the review of the United States military programs for toxins, the President has decided—so that, part of your rationale was, it applied to military programs?

Mr. GORDON. That is correct.

Senator MORGAN. And you contended that shellfish toxin was not a biological weapon?

Mr. GORDON. In a true sense of the definition, sir—and again, parenthetically, we recognized and admit to a gray area here. Also parenthetically, that both chemical warfare laboratories and biological warfare laboratories, both groups worked on this particular substance, sir. I would like to throw in that there is a chemical, or was a chemical agent program, polytoxin, at, and only at the chemical warfare laboratories.

Senator MORGAN. Dr. Gordon, I see some faults with your rationale, especially with regard to the toxin part. I must say I do not attribute any bad faith or motives at your having arrived at that decision, but let me ask you further—you say you have never seen any memorandum from the President or from the Director of the CIA, with regard to disposal of these toxins?

Mr. GORDON. That is correct, Senator Morgan.

Senator MORGAN. Your decision not to destroy these was based on your rationale, without any guidelines from the Department of Defense, the National Security Council, or anyone else?

Mr. GORDON. That is correct, based on the announcements that I alluded to in this testimony.

Senator MORGAN. Since you originally made that decision, have you, at any time, ever seen a memorandum, even since this matter came up, which later set forth any guidelines for the destruction of biological or bacteriological toxins?

Mr. GORDON. Within the Department of Defense?

Senator MORGAN. The Department of Defense, or the CIA?

Mr. GORDON. I have never seen anything along those lines in the CIA, because in my judgment, again, I am repeating myself, I know—because, in my judgment, these particular press releases, and including

¹ See p. 210.

the National Security memorandum, referred to military programs, and was directed only to the Department of Defense.

Senator MORGAN. Dr. Gordon, as I read the memorandum of November of 1969 and February 20, 1970, or the press release of February 14, the President instructed the Secretary of Defense to make recommendations concerning the disposal of existing stocks of toxins, weapons, or agents. To my knowledge I will state to you, Dr. Gordon, that these recommendations have not been promulgated. I have not been shown a copy of them.

As a matter of fact, I refer to a document dated January 25, 1973, a memorandum for the President, made by a committee of the National Security Council, and has been classified Top Secret. I understand, Mr. Chairman, I would have to have permission from the White House to quote from it.

The CHAIRMAN. Very well; I am told by staff that that is correct.

Senator MORGAN. In this memorandum, Dr. Gordon, dated January 25, 1973, the Committee reports to the President as follows: "No procurement or production of offensive weapons was undertaken during the period under review. Within the framework of applicable environmental legislation, disposal or demilitarization of unneeded stockpiles of chemical weapons has continued."

Then, let's get down to the second paragraph, the main part, and still classified, "All research and development of biological weapons has been terminated. Programs for disposal of stocks of these weapons is now virtually complete." Does that not indicate to you—that as of January 25, 1973, the program for the disposal of biological weapons had not been promulgated?

Mr. GORDON. Within the Department of Defense, Senator?

Senator MORGAN. This is a memorandum from a committee of the National Security Council to the President.

Mr. GORDON. In my judgment, I construe that as pertaining to the Department of Defense only.

Senator MORGAN. It goes on to say, "The laboratory quantities of agents (not weapons) will be retained to support defensive research." Does this not indicate that as late as January 25, 1973, the President knew that biological weapons still existed and that some biological weapons would be retained for research? Is that not a logical conclusion to you?

Mr. GORDON. Within, again, the Department of Defense; yes, sir.

Senator MORGAN. Referring to the Department of Defense—

Mr. GORDON. I agree. I put it in the context of my judgment, Senator Morgan, that it applies to the Secretary of Defense, and the Defense Department. I keep repeating that.

Senator MORGAN. If the Secretary of Defense had promulgated regulations at the request of the President for the destruction of biological weapons, do you not think it would have applied to all of them, all agencies?

Mr. GORDON. In my opinion, this is the directive promulgated by the Secretary of Defense for his particular responsibilities, echelons within the Defense Department, ultimately.

Senator MORGAN. I am not reading a document of the Department of Defense. What I am saying, Dr. Gordon—you may not understand

me—I think the President understood that there would be some problems in the disposal of biological and bacteriological weapons, and I think he must have understood that there would be some need to retain some for research, and I think this is why he asked the Secretary of Defense, who is on the National Security Council, to promulgate some guidelines for doing this very thing.

And according to this memorandum to the President, it appears to me that as of as late as January 25, 1973, these guidelines had not been promulgated. I think what I am saying, Dr. Gordon, is that somebody is trying to tree you, and I think we are treeing the wrong one. I think the fault lies at a higher level.

Mr. GORDON. Senator Morgan, I would appreciate some clarification as to how you see the Agency's role in that particular directive, sir.

Senator MORGAN. I think the Agency role would have been to follow whatever guidelines the President and National Security Council may have set up after receiving recommendations from the DOD. I think you exercised your judgment, perhaps wrongly, but exercised it, based on the fact of what you understood it to mean—from what I read, what I have here, something else may turn up later on. The way I read this, as late as 3 years after the original order there had been no program devised or prepared or promulgated for the disposal of these bacteriological or biological drugs, and it was the responsibility of the President to enunciate this program.

I have 1 minute left. If I could ask you one question. What quantity of shellfish toxin was considered to be adequate for laboratory purposes?

Mr. GORDON. For experimental laboratory purposes, from the point of view of immunization, serving, defense, I am informed—and it is not too unreasonable—by my technical consultant, Dr. Batlin, that the 2, 3, 4 gram—that range is not unreasonable.

Senator MORGAN. Thank you, sir.

Mr. GORDON. Thank you, sir.

The CHAIRMAN. Senator Baker.

Senator BAKER. Mr. Chairman, I was necessarily absent from the hearing room. Therefore, I will relinquish my rights at this time for questioning.

The CHAIRMAN. Senator Hart.

Senator HART of Colorado. Mr. Gordon, if you had been the President of the United States in 1970, and you had wanted to order the destruction of highly toxic material that the CIA had had produced by the Department of the Army, what kind of language would you have used?

Mr. GORDON. Wow. Senator Hart, with all due respect, I do not think I could possibly put myself into the position of the President of the United States. I do not know how to answer that question, Senator.

Senator HART of Colorado. Was there no language, as far as you were concerned as an operating officer in the CIA, that would have conveyed to you the proper meaning, that you and Dr. Gottlieb should have destroyed that material? You could not devise that language in your mind, other than to say "Now, Dr. Gordon, Dr. Gottlieb, I understand you have some material over there. I want it destroyed, along with everything else."

Mr. GORDON. Senator Hart, with all due respect, if we are going to build this scenario, I would be happy to participate in a scenario that

follows. If I were the President of the United States, and it bothers me to say this—in what way, it appears to me possibly that the National Security Council representatives—the Director of the CIA being one of them, might have been asked in some manner whether or not these kinds of materials were materials that were of interest at any one time, current interest—if so, a report on that whole subject matter, pursuant to the White House announcement possibly could have been requested from the CIA. If such a report had been requested, I think much of this would have surfaced undoubtedly, in my mind, at that time.

Senator HART of Colorado. Following up on that point, if the Director of the CIA had asked you whether to your knowledge the CIA possessed, either in its own facilities, or someplace else, materials falling under the Presidential order, would you have responded affirmatively or negatively?

Mr. GORDON. Affirmatively.

Senator HART of Colorado. Is that with hindsight?

Mr. GORDON. Let me think this thing through, Senator Hart. If at that particular time, the Director, through the chain of command had indicated by memo or by some indication of a request which reached me, to search and report and inventory—for that matter, I suspect any behavioral materials, whether they be lethal, incapacitating, of a biological and/or chemical nature, or in the case of toxins, the grey area of both, that would have immediately been complied with.

Senator HART of Colorado. If you had used the language that the President had used, would you have printed these materials on the list?

Mr. GORDON. The President's language in the public announcements?

Senator HART of Colorado. Would you please put these materials on your list, if the Director of the CIA, Mr. Helms, had asked you to list all of the materials that you knew of that fall within the description of the statement of the President?

Mr. GORDON. Yes; I would have so indicated that a stockpile of these particular materials were being held at the Special Operations Division of the Army Biological Warfare Laboratories, Fort Detrick.

Senator HART of Colorado. Contrary to what opinions you may have formed this afternoon, this committee is not prosecutorial. Our function is remedial and not one to find out who was wrong in the past but prevent any wrongdoing from happening in the future. Based on the hindsight that you now possess, what kinds of guidelines would you suggest that this committee recommend or would you recommend directly to the CIA to prevent misunderstanding of this kind arising in the future?

Mr. GORDON. I do not see how this kind of a thing could ever occur again within the Agency.

Senator HART of Colorado. Why is that?

Mr. GORDON. Because of the fact of the discussions, testimony that you have heard here from myself and will hear from others that there was a loose control existing, established by my predecessors and continued to be established because of the nature of that particular vault, that of a storeroom. In hindsight and I am not at all sure on hindsight. I do not know whether or not a storeroom is really ever inventoried because there is no in or out traffic, Senator Hart.

Senator HART of Colorado. I am talking about the breakdown of communications between mid-level and higher level officials, not just this particular vault.

Mr. GORDON. If, in your judgment, Senator, of the policy of the highest level, if they felt that these particular directives were applicable to Agency policies and actions I suspect that there is a case to be made, Senator Hart, that some implementation for Agency consideration and interest should then have come down as a directive through channels.

Senator HART of Colorado. You are suggesting as a remedial step, that under circumstances such as this, not identical but such as this, that the Director and his deputies send down orders spelling out what the CIA's obligations are.

Mr. GORDON. I think that is a reasonable statement, sir.

Senator HART of Colorado. How about information flowing up? What if they have no idea that this kind of capability exists; how are they supposed to find out?

Mr. GORDON. Correct. I think that it is a two-way street. I think periodically and I suspect to some degree at the time, I do not know the depth because I cannot speak past my particular position, conversations were held. I am not aware of anything in writing, but I suspect that conversations were periodically held; to what depth I have no idea, sir.

Senator HART of Colorado. In your career in the CIA, were you ever aware of events or facts that you thought the Director or his immediate staff did not want to be aware of or did not want to know?

Mr. GORDON. Could I have that question again, sir?

Senator HART of Colorado. In your career in the CIA were you ever aware of a set of facts or a set of circumstances that you thought that the Director did not want to know about and it was made clear to you that you were not to convey up?

Mr. GORDON. No, sir.

Senator HART of Colorado. That is all. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Hart has suggested, Dr. Gordon, that perhaps you are overly generous in assuming for you and your immediate associates the blame for what has happened here. I would like to put this one question to you and then Senator Mathias has a final question.

If you had been shown the memorandum of the National Security Council, dated February 20, 1970, and had read it, and had been told that it applied to the CIA and had read the first paragraph of the memorandum, which reads: "The United States will renounce the production for operational purposes, stockpiling and use in retaliation of toxins produced either by bacteriological or biological processes or by chemical synthesis;" would you have read that and understood that to mean the shellfish toxin?

Mr. GORDON. Senator Church, if I had seen such a directive from the top management levels of the CIA, I seriously doubt whether I or my little staff would have moved—in our judgment—I seriously doubt whether we would have not been triggered by such an announcement and certainly would have had a different kind of discussion which would have rendered a different kind of a decision.

The CHAIRMAN. What you are saying is, had you been told of such a directive and had it come down properly through channels to you, that you would not have taken the action that you did in fact take?

Mr. GORDON. I believe that is correct, sir.

The CHAIRMAN. Senator Mathias?

Senator MATHIAS. Mr. Chairman, it seems to me that this phone call that Dr. Gordon received from Fort Detrick raising the question of retention of the shellfish toxin may be of some importance in our investigation, as apparently it was in his thinking, because he testified that is really where the idea originated. Dr. Gordon, were you aware of what was happening at Fort Detrick at about the time you received the call?

Mr. GORDON. With respect to?

Senator MATHIAS. Let me be more specific: Were you aware that the Army had set up an elaborate system of procedures, a very complicated and dramatic procedure by which they were destroying the existing biological warfare stockpiles?

Mr. GORDON. That this was to occur, Senator, yes indeed.

Senator MATHIAS. You were aware of that at the time of the call?

Mr. GORDON. As of the DOD directive and program, hence the two announcements.

Senator MATHIAS. I do not believe you told me from whom the call came.

Mr. GORDON. I believe I did, sir. I believe, to my recollection, it was from the project officer, a Mr. Senseney, in the Special Operations Division of Fort Detrick, Md., Army Biological Warfare Laboratories.

Senator MATHIAS. On whose payroll was he?

Mr. GORDON. Biological Laboratories payroll, the Army project officer, to my recollection.

Senator MATHIAS. He was a Detrick employee and not an Agency employee?

Mr. GORDON. That is correct, sir.

Senator MATHIAS. Now, since he was a Detrick employee, and since he was presumably speaking for the Army, did you read anything special into his message?

Mr. GORDON. No, sir, because I suspected his consideration for salvaging the shellfish toxin was no different than the considerations that we had expressed earlier of the extreme amount of time, money, and resources that have gone into getting the shellfish toxin in those quantities to the particular component.

Senator MATHIAS. You recounted the conversation. You said he merely called up and said, "If you want to, come get it."

Mr. GORDON. That is correct.

Senator MATHIAS. Did he imply that this procedure had been considered or discussed by anyone in the Army or was this just his own idea?

Mr. GORDON. Procedure meaning the offering?

Senator MATHIAS. Yes; the offering.

Mr. GORDON. I have to simply indicate in retrospect that he was representing the feelings of the Special Operations Division to offer—Mr. Senseney being, in my opinion, the spokesman, for I suspect some conversation had taken place at the Special Operations Division.

Senator MATHIAS. The conversation did not reflect either that the retention of the toxin would or would not be violative of the President's order or that it would or would not be within the exceptions that might have been created for research purposes.

Mr. GORDON. No, sir.

Senator MATHIAS. Thank you.

The CHAIRMAN. Senator Mondale?

Senator MONDALE. I believe that you just testified that Mr. Senseney of the Department of Defense in his conversation with you suggested a transfer of their stocks to CIA. Did I understand that correctly?

Mr. GORDON. Our stocks, the Agency's holdings.

Senator MONDALE. Let me understand, would it be that you would accept control of the DOD toxin, shellfish toxin?

Mr. GORDON. All these years they had been holding in their repository, Senator Mondale, the Agency's stockpile—is all that was being offered, and again for the record, to the best of my recollection—and I indicated this earlier in closed session—I use the name of Mr. Senseney as the project officer. I do not have any documentation. The phone call could have been made by his superior but it was the Special Operations Division representative—but it was our particular Agency stockpile, Senator Mondale, that was being offered back to us. We never had it as a repository. Now, it is being offered back to us to maintain in our secure safe vault.

Senator MONDALE. As I understand it, in the same vault there were some CIA stocks of shellfish toxin at the Fort Detrick facility and there were also some DOD-owned stocks.

Mr. GORDON. It appears that way.

Senator MONDALE. Both the DOD- and the CIA-owned stocks were returned to Washington and placed in the warehouse here, is that correct?

Mr. GORDON. In a secure safe.

Senator MONDALE. Were you aware that these stocks which were transferred then to the warehouse in Washington contained toxins formerly owned by the DOD?

Mr. GORDON. No, sir.

Senator MONDALE. You did not know that?

Mr. GORDON. No, sir. I thought in all good faith I was to be given the Agency stockpile of five grams. I read, of course—I just do not recall the exhibit shown to me with the specific listings of the contents of those cans.

Senator MONDALE. As I understand it, as the testimony developed today, your final judgment was that the order to destroy shellfish toxin was directed at the Department of Defense and not CIA?

Mr. GORDON. That is correct, sir.

Senator MONDALE. All right. That decision was made by you, Dr. Gottlieb, and who else?

Mr. GORDON. Let me, if I may, refer back to the conversation that I indicated here, where after the memorandum outlining the options, the possibility of transferring our stocks to the private laboratory was turned down. I was informed by Dr. Gottlieb and I hastened to comply and I went up to Fort Detrick to terminate our particular project and told them that all the Agency holdings were to revert to their own particular repository, to do whatever they pleased with. That was the extent, to the best of my recollection, of the conversation.

Senator MONDALE. The decision was that the CIA stocks need not be destroyed because they were owned by the CIA and not the mili-

tary and that the order was directed to the military, not the CIA; is that correct?

Mr. GORDON. Senator Mondale, after that conversation from Fort Detrick subsequent to going up there, the particular stockpile was to be theirs for their use in the disposition. The only subject that then became a topic for conversation was shellfish toxin, not anything else.

Senator MONDALE. Right. Listening to your testimony today I thought what you were telling us was this: that the reason that it was fundamentally determined that you need not destroy the toxin was that the order ran to the Defense Department, not the CIA.

Mr. GORDON. That, plus the consideration that we, in our judgment, considered this as a chemical entity.

Senator MONDALE. All right. In urging that consideration, you, Dr. Gottlieb, and who else decided it?

Mr. GORDON. Dr. Gottlieb was not informed at the time that a small group made the decision to receive the shellfish toxin. Dr. Gottlieb was not in the picture, Senator Mondale.

Senator MONDALE. It was you and others in your shop who made the decision that because you were not in the military, the order of destruction did not apply to you.

Mr. GORDON. That is correct.

Senator MONDALE. You are all technicians, chemists, biologists, and so on. What led you to believe that you had the authority to make what is essentially a legal judgment?

Mr. GORDON. We did not look at it in that light. We looked upon it as a technical consideration.

Senator MONDALE. How could you do that? This is a consideration of the order as to whether you were technically in the reach of the Presidential decree to destroy these toxins. You decided that you were not because you were not in the military. Did you assume that you had the authority to make that legal judgment?

Mr. GORDON. I can only repeat that I never, in our conversations among ourselves, ever considered or talked about, not being lawyers, any legal considerations or implications, sir. We worked on the subject matter strictly from the point of view of a chemist. Was this substance something that had definite, interesting, highly lethal qualities as a chemical agent? The answer collectively after much discussion apparently was yes, and we made the decision on that basis. Because the decision was rendered as, in our judgment, as a chemical agent, we felt that this was an ordinary, highly lethal agent to be kept in a safe, secure storage area, and proceeded to do so.

Senator MONDALE. We have gone far enough.

The CHAIRMAN. It never even occurred to you to raise the question with legal counsel as to the scope or direction of the Presidential order, and how it would apply to you? Do you think that is a judgment that scientists are competent to make?

Mr. GORDON. I have to answer candidly. It did not occur to us at that particular time that we were in violation of a particular directive that we had referred to the White House announcements and again, in our judgment, based upon earlier consideration, the course of events was made and followed, sir.

Senator MONDALE. It seems to me that when we press the defense that this was not practicable within the meaning of the order because

it was a chemical, we hear the military defense and when we press the military, we get a chemical defense. There is no way to get an answer.

The CHAIRMAN. Senator Schweiker has asked for a final question and Senator Hart will follow.

Senator SCHWEIKER. Thank you, Mr. Chairman.

Dr. Gordon, when you received these two cans of material, did you log them in in any way?

Mr. GORDON. No; we did not, sir. We did not have a practice of logging. We did not have a practice in that small, secure laboratory of logging in material because the degree of activity was practically nil. We did not look at it as a use laboratory, Senator Schweiker. It was essentially, in effect, a storage, secure storage area—in the event that it would ever be needed for an operational need, pill, or any other application.

Senator SCHWEIKER. Here is a toxin that could kill thousands of people. If you walk into the CIA building you have to be logged in. I do not know why we do not log a toxin that could kill many thousands of people.

Mr. GORDON. I would like to make a comment with respect to what has been in the press a number of times. The only way admittedly, and unequivocally, that is a large amount of material for any purposes of applying it in a lethal form to people—the only way that you could kill those large numbers of people as related to the quantity of stockpile, is, in my humble opinion, to put some of them in one long line and inoculate each and every one.

Senator SCHWEIKER. My next question is, did you take periodic inventories of your laboratory?

Mr. GORDON. We did not, sir. I indicated, we did not ever take inventory during my stay. I relied upon my project officer for that kind of thing and I myself did not take inventory.

Senator SCHWEIKER. Is it true throughout the whole CIA that you do not take inventory of the assets you have, the investment you have made, and the materials on hand? Is that a normal policy throughout the organization?

Mr. GORDON. I do not understand that.

Senator SCHWEIKER. It is hard for me to understand. That is, I thought the CIA pretty much had to OK everything that went in or out or had any money attached to it whatsoever. Do I understand we had no policy for this, none at all, no recordkeeping at all?

Mr. GORDON. I can only address myself to the specific laboratory or secure vault area. We did not, in my particular period, even run an inventory on those materials. They were simply there as they would be in storage. If one were to inquire whether compound A was in the facility, I would simply ask my project officer to go down and inspect the holdings and tell me or tell someone whether that substance existed. In retrospect, and I concur, we should have had an inventory.

Senator SCHWEIKER. The other question I had—basically you testified earlier that you asked a scientific colleague of yours whether the directive issued by the President covered shellfish toxin; is that correct? You asked someone their opinion?

Mr. GORDON. My project officer and technical consultant and myself were the people concerned in the discussion.

Senator SCHWEIKER. Did you ask the General Counsel of CIA for his legal opinion about the order?

Mr. GORDON. No; I did not, Senator. We did not ever in our discussions, not being lawyers, think in those particular terms—of legal counsel or legal opinion, sir.

Senator SCHWEIKER. Not being a lawyer, Doctor, it seems the first person to call is a lawyer to find out what the legal parameters are of the problem.

Mr. GORDON. We looked upon this as a technical consideration only. Hence, I have to indicate to you, Senator, that we did not think—or as a result of not thinking—we did not ask for any legal opinion or counsel.

Senator SCHWEIKER. That is all I have, thank you.

The CHAIRMAN. Senator Hart?

Senator HART of Colorado. One final question, Dr. Gordon. Is it your view that, had you to do it all over again, you would have swallowed these poisons?

Mr. GORDON. No, sir.

The CHAIRMAN. Senator Huddleston?

Senator HUDDLESTON. One question. You said that Dr. Gottlieb was not a party to this decision. Is that correct?

Mr. GORDON. That is correct.

Senator HUDDLESTON. Was he subsequently advised?

Mr. GORDON. No; he was not.

Senator HUDDLESTON. Was any person higher than you?

Mr. GORDON. No; the only people informed among our own low group was myself, my project officer, and technical consultant.

Senator HUDDLESTON. For what purpose did you conceive that you were storing this and retaining it?

Mr. GORDON. I will answer that and then before I close this session, Senators, I would appreciate if I could have the opportunity of a concluding statement?

The CHAIRMAN. Yes; of course.

Mr. GORDON. We felt that we would retain this material first of all because of an extremely high cost in resources that had gone into it as we knew it at that time—into the preparation and accumulation of this kind of material in that amount.

Second, we knew that this was information that I became aware of following discussion with my technical consultant, that this material was a kind of material that was used in the suicide device that was issued to U-2 pilots.

Senator HUDDLESTON. How did you perceive that this might be utilized for this purpose and that the individuals who had a responsibility for making that decision did not know that it existed?

Mr. GORDON. If we were asked from the highest level on down what substances we would recommend for the kind of purpose to supercede the cyanide pill which was the state of the art. I would then undoubtedly, after informing my colleagues, my project officer, and technical consultant, making our decision—this is hindsight—that we would have informed those who had a need, that we had these materials and we could service their requirement.

Senator HUDDLESTON. You just kept it as a hedge against a possible order or instruction?

Mr. GORDON. Operational need.

Senator HUDDLESTON. Thank you.

The CHAIRMAN. You would then be in the position to say, "We have good news. In a little corner here, we have some of these poisons, and we have not said anything about them until now, and you have asked us. We just happen to have a supply available."

Mr. GORDON. One of the things I indicated, Senator Church, over the years, my predecessor—or predecessors, if you will—accumulated many chemical agents that have been experimented with for a variety of purposes in the physically incapacitating or mentally incapacitating area. These are the things that became physical objects, if you will, in those particular areas.

The CHAIRMAN. That was before the President issued his order directing the elimination?

Mr. GORDON. Much before.

The CHAIRMAN. All right.

You have asked to make a concluding statement, Dr. Gordon. Would you please proceed?

Mr. GORDON. Thank you, Senator Church. I appreciate the opportunity to make this concluding statement.

I thank the committee and staff for the close attention they have given me during the course of this public testimony. Finally, I believe sincerely that our action at the Technical Services Division was in the interest of the Agency's policy in the field of behavioral materials, both biological and/or chemical, to maintain a potential capability—I emphasize potential capability—in the event that the need should arise to use these materials operationally one day. Thank you, sir.

The CHAIRMAN. Thank you very much, Dr. Gordon.

The committee will meet at 10 o'clock tomorrow morning. Our first witness will be Ambassador Richard Helms, who was Director of the Agency at the time under examination this week.

This hearing is adjourned until 10 o'clock tomorrow morning.

[Whereupon, at 4:40 p.m., the committee recessed, to reconvene at 10 a.m., Wednesday, September 17, 1975.]

