

INTELLIGENCE ACTIVITIES—INTERNAL REVENUE SERVICE

THURSDAY, OCTOBER 2, 1975

SELECT COMMITTEE TO STUDY GOVERNMENTAL OPERATIONS
WITH RESPECT TO INTELLIGENCE ACTIVITIES,
Washington, D.C.

The committee met, pursuant to notice, at 10:05 a.m., in room 318, Russell Senate Office Building, Senator Frank Church (chairman) presiding.

Present: Senators Church, Tower, Mondale, Huddleston, Morgan, Hart (Colorado), Baker, Mathias, and Schweiker.

Also present: William G. Miller, staff director; Frederick A. O. Schwarz, Jr., chief counsel, and Curtis R. Smothers, counsel to the minority.

The CHAIRMAN. The hearing will please come to order.

The Internal Revenue Service is one of the largest repositories of raw intelligence information in the United States. It has 700 offices spread across the country, and it employs over 88,000 people, including more than 2,500 special agents. The data collected by this behemoth lay bare the lives of 80 million individuals who file their tax forms each year.

In meeting our obligation to pay taxes on our earnings and thus support this country, we reveal to the IRS some of the most private and personal aspects of our lives. We tell the IRS for whom we work and how much money we make. We tell the IRS not only how many children we have, but additionally their educational achievements. We tell the IRS how we spend and invest our money, what charities we favor, and how we contribute to the churches we attend.

Upon examination of the 1040 income tax return, which the vast majority of us are required to file with IRS, one can determine if we suffered an extensive illness during the previous year, whether we bought eyeglasses, and the extent to which we traveled. In short, information we furnish the IRS constitutes an accurate profile of our lives and our lifestyles.

Moreover, the IRS conducts special tax audits and investigations to gather still more information. Unlike other intelligence agencies, the IRS can obtain financial information upon demand, without a subpoena.

The IRS is an intelligence agency in two respects. First, it is a vast reservoir of detailed personal information about Americans, and second, it conducts intelligence-collection activities through its own intelligence division.

The committee intends to explore both aspects of the IRS. In particular, we will examine closely ways in which other intelligence services have made use of the IRS as a lending library of tax information. This great storehouse of data on American citizens has proved to be irresistibly tantalizing to other Federal agencies, particularly the FBI.

The controls over the use of tax information which the IRS releases to other agencies are inadequate. The committee has found evidence indicating that the FBI has widely misused IRS tax information to disrupt political activists. Tax return confidentiality has eroded to the point where our Federal Government has turned these supposedly private documents into instruments of harassment used against citizens for political reasons.

If the law does not assure that tax returns filed by Americans will not be turned against them, our system of voluntary compliance with the tax laws faces a doubtful future. The committee will go into this misuse in detail next month, with our hearings on the FBI COINTEL PRO (Counterintelligence Program) activities.

Today, though, we wish to open this subject by looking at the IRS as a collector of intelligence.

Most Americans pay their taxes voluntarily and honestly. A few do not. Because of these few, the IRS has an Intelligence Division comprising 2,700 special agents, whose job is to investigate cases of criminal tax fraud.

The principal area of inquiry the committee will consider this morning with Commissioner Donald C. Alexander has to do with the scope of intelligence practices required by the IRS to do its job of collecting the taxes. We especially wish to learn to what extent the IRS intelligence capacity has been, and to what extent it should be, employed in the service of objectives which fall outside the strict realm of tax compliance. For example, a branch of the IRS, called the Special Service Staff [SSS], now defunct, had the task of investigating political activists. It was abolished by Commissioner Alexander shortly after he took office in 1973.

One wonders how an agency designed to collect revenue got into the business of defining and investigating political protesters. There were some 8,000 individuals and 3,000 organizations on the SSS list. The incredible overbreadth of the Special Service Staff target list can only be appreciated by hearing some of the SSS list of suspects.

Let me refer to some of the organizations that were on the list: the American Civil Liberties Union, the American Library Association, the Conservative Book Club, the Ford Foundation, the Headstart program, the NAACP, the Lawyers Committee for Civil Rights Under Law, the University of North Carolina, and approximately 50 branches of the National Urban League. Apparently, someone in the IRS or the FBI, and other outside contributors to the program, felt that these groups and individuals, plus many more, warranted special targeting for a concentrated tax-enforcement program. In essence, they were to be punished by the IRS for their political views.

Lists like this one highlight a most disturbing aspect of the IRS and other intelligence services. They seem to have an almost inexorable need to amass information for its own sake, and to find new reasons

for expanding intelligence collection—in the case of the IRS, reasons which may bear little relationship to the needs of a tax collection agency. Worse yet, the giant agencies begin to run out of control as administrators face the difficult task of knowing what is going on within their own mushrooming organizations. These are the dilemmas we wish to discuss today with the Commissioner of the IRS.

Before we move to the Commissioner, I want to defer to Senator Tower, if you would like to make an opening statement, Senator.

Senator Tower. Thank you, Mr. Chairman.

Amplifying on your statement that an abundance of intelligence data may pose a danger in and of itself, I am of the view that today's hearing moves the committee into another phase of our examination of the impact of governmental intelligence-gathering activities on fundamental concepts of privacy and individual liberties.

Agencies involved in clandestine collection on the international scene have acknowledged some incidental threats to the privacy and safety of American citizens. The rationale has been the need to maintain a vigilant watch on the national security.

Our examination of the Huston plan revealed a coming together of national security and concerns for enforcement of the domestic criminal laws. The potential threats posed by both areas of activity are real, and I do not seek to minimize our concern. We are indeed fortunate that deadly biological agents never left the governmental laboratories where they were stored.

Our Nation and fundamental freedom are the winners when, for whatever reasons, a comprehensive spying effort like the Huston plan is vetoed. The need for national security and criminal law enforcement are clearly legitimate concerns, and I firmly believe that needed legislative reforms can be fashioned to correct abuses while preserving necessary and proper intelligence efforts in these vital areas.

When I apply the same standards to the intelligence activities of the IRS, Mr. Chairman, I am far less sanguine on the issue of the need for such efforts by the tax collector. I am deeply concerned about the purpose of IRS intelligence-gathering activities. This concern is two-fold. First, there appears to be a belief that enforcement of the tax laws, as they relate to evasion of payment, is viewed as a matter to be handled completely within the IRS structure, as opposed to a situation warranting the attention of agencies charged with enforcement of the criminal statutes.

Evasion of taxes is a crime. However, I question the need for IRS surveillance of nightclub patrons as an investigative technique. I am uncomfortable with the notion that driving an expensive automobile to the parking lot of a stadium where a prize fight is being held should, standing alone, subject one to IRS scrutiny. In a nation which has always insisted upon the presence of reasonable grounds or probable cause as a basis for the focusing of its law enforcement apparatus upon the private citizen, there may be a real need for reassessing the propriety of vesting police powers in an agency which is, or should be, primarily concerned with collecting revenue. But at least these efforts purport to be in discharge of the agency's basic mission.

Of far greater concern to me is a second purpose for much of the IRS intelligence effort. That is the apparent reliance upon intelligence-gathering as a vehicle for protecting the image of the IRS. I refer par-

ticularly to the intelligence activities which were apparently initiated in response to congressional or executive branch inquiries questioning the vigor or evenhandedness of IRS efforts against prominent individuals and organizations.

We must not allow any agency of this Government to insure its existence or prestige by amassing files on citizens solely for the purpose of being in a position to represent that it has spied on the right as thoroughly as it has scrutinized the left, that it is as vigilant with nonprofit corporations as it is with gangsters. The invasions resulting from such actions far outweigh any need for assurances of IRS objectivity and only open wider the door that would make IRS an unwitting tool of those who would make improper or illegal use of such information.

Mr. Alexander, I hope that you might shed some light on the perceived need for IRS intelligence, if any, and the need for spending the capabilities of IRS in the field, as compared with other law enforcement agencies who might assist in ferreting out criminal tax evasion. And, finally, what, if any, additional guidance the Congress might legislate to insure that the revenue will be collected with minimum invasion of the taxpayer-citizen's rights.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Tower.

And now, Mr. Alexander, if you would please stand and take the oath.

Do you solemnly swear that all the testimony you will give in this proceeding will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. ALEXANDER. I do.

Mr. WHITAKER. I do.

The CHAIRMAN. Mr. Schwarz will begin the questioning.

TESTIMONY OF DONALD C. ALEXANDER, COMMISSIONER, INTERNAL REVENUE SERVICE; ACCOMPANIED BY SINGLETON WOLFE, ASSISTANT COMMISSIONER, COMPLIANCE; WARREN BATES, ASSISTANT COMMISSIONER, INSPECTION; MEADE WHITAKER, CHIEF COUNSEL; THOMAS J. CLANCY, DIRECTOR, INTELLIGENCE DIVISION; AND WILLIAM E. WILLIAMS, DEPUTY COMMISSIONER

Mr. SCHWARZ. Accompanying you is your Chief Counsel, Mr. Whitaker?

Mr. ALEXANDER. Yes, Meade Whitaker, Chief Counsel of the Internal Revenue Service. Mr. Chairman, I'd like to introduce some of the others who are with me, if I may. To the rear of Mr. Whitaker, on the far right, is Mr. Singleton Wolfe, our Assistant Commissioner for Compliance.

Senator TOWER. Why don't you have them stand so we can identify them?

Mr. ALEXANDER. To Mr. Wolfe's left is William E. Williams, the Deputy Commissioner of the Internal Revenue Service. And to Mr. Williams' left is Warren Bates, our Assistant Commissioner of Inspection. To the rear of Mr. Wolfe is Mr. Thomas Clancy, the Director of our Intelligence Division.

Certain of your specific questions may be better responded to by some of the gentlemen that I have introduced than by me, Mr. Chairman. Would you like to swear the group that I introduced?

The CHAIRMAN. Yes; I think if they are going to testify, they should be sworn.

Do each of you solemnly swear that any testimony you may give at this proceeding will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. WOLFE. I do.

Mr. BATES. I do.

Mr. CLANCY. I do.

Mr. WILLOAMS. I do.

The CHAIRMAN. All right, Mr. Schwarz.

Mr. SCHWARZ. Mr. Alexander, you took over as Commissioner when?

Mr. ALEXANDER. My commission dates from May 25, 1973. I was sworn in on May 29, 1973.

Mr. SCHWARZ. Now, the chairman and the vice chairman both made statements in which they indicated their concern about the use of the IRS as an intelligence-gathering arm of other agencies of the Government, and in which they indicated their concern about moving the IRS into activities other than tax enforcement.

The first question I have is a general question: do you share those concerns? And the second general question, have you tried to do anything about it?

Mr. ALEXANDER. First, I do share those concerns. Second, I have tried, I am trying, and I shall continue to try to do something about it. I find nothing antithetical between effective law enforcement and responsible and legal law enforcement.

I find that the IRS is a large agency having large powers, and having a vast store of confidential information. This information, these powers, these resources, mean that the IRS has a great duty to conduct itself effectively but also responsibly.

We in the management of the IRS have been doing our best to cause the IRS to so conduct itself.

Mr. SCHWARZ. Yesterday, when we were talking in your office, you gave, as an illustration of what you thought had been an excessive tendency to concentrate on intelligence gathering as opposed to tax enforcement, the number of agents in the Brooklyn office that were devoted to those two parts of your work. Would you recount that, and what lesson you drew from it, and what you did about it?

Mr. ALEXANDER. On one of my early field trips, I visited the Brooklyn office, and I was told during that visit that we had some 27 agents engaged at that time in gathering intelligence and a far smaller number engaged in actually working cases. I believe those numbers related to a particular group of people and probably they did not cover all the special agents assigned to that particular district. But I was concerned about whether our sense of priorities was a sound one. I was concerned about effective use of resources. And we have a duty to use the limited resources that we have effectively in the vast job that we have.

And I was concerned also about effective tax enforcement, on the one hand, and preservation of individual rights, on the other. I pre-

viously had the same concern about the workings of the Special Service Staff, another example of the use, if you will, of the IRS and its people and its powers in a way that can at best be described as inappropriate.

We set about to see what we were doing, and why we were doing it, why we needed to be engaged in generalized intelligence-gathering, as contrasted with obtaining the specific information that we must obtain to supplement that which is given to us, or to correct that which is given to us. Many taxpayers comply with the law, as you pointed out, Mr. Chairman, but some do not. And we have an obligation to see to it that the tax burden is spread as the law requires.

To fulfill that obligation, we must gather information, but we need to gather only that which is related to that job of ours, of tax administration and tax collection, and we need to be cognizant of individual rights and the Constitution, in our efforts to gather it.

Senator TOWER. I think we do need this function. I think it is badly needed, to have an effective enforcement of the internal revenue laws, and I think our people are generally fine people doing a difficult job well. I think there have been some isolated instances of aberrations and departures from these principles, and I think we need to correct these instances and to control our operations for the future, rather than to eliminate the intelligence gathering.

Mr. SCHWARZ. I am sure there are going to be specific examples that people come to, but trying to set the framework at the outset, have you taken steps to cut back on what can be characterized as generalized intelligence gathering or finding out information at random about American citizens?

Mr. ALEXANDER. Yes. In fiscal year 1973, this generalized intelligence gathering cost the IRS and, therefore, the American taxpayers, almost \$12 million. That was reduced in fiscal year 1975 to \$4.3 million. These dollars are a measure of the reduction.

Mr. SCHWARZ. In a couple of your answers, you have referred to the powers, or large powers, of the IRS. Now, everybody knows the IRS collects taxes, but what did you mean by focusing on large powers? What powers does it have that other Government agencies may not have?

Mr. ALEXANDER. We have powers that other agencies do not have to obtain information, peremptory powers, powers to issue summonses, to require information to be furnished to us. We have further powers: powers to seize property; powers to terminate a taxable year, and then, by assessing the tax immediately, and taking collection action, take money from a taxpayer; the power to make a jeopardy assessment.

Now, these powers are necessary to tax enforcement, but because they are so great, because they are so peremptory, because they can be exercised by the IRS without the intervention of other agencies or courts, assuming we're acting in good faith, we have an added obligation to use them wisely and only when necessary.

Mr. SCHWARZ. You drew an important distinction there, did you not? Supposedly—although we have now seen evidence to the contrary—agencies like the FBI cannot enter somebody's house and get their papers, without having a search warrant approved by a court and going through some process of checking and limiting, whereas the IRS has the power to compel an individual to provide the most inti-

mate details about his financial life, peremptorily, as you say, or without going through other processes, of the courts, for example. Is that right?

Mr. ALEXANDER. Well, subject, of course, to the fifth amendment privilege. Where appropriate, we give a Miranda-type warning immediately to the taxpayer, in order to make sure that the taxpayer is aware of his or her rights. But we do have powers to call upon third parties, for example, to supply financial information about a taxpayer to us.

Mr. SCHWARZ. I have nothing further at this point, Mr. Chairman.

The CHAIRMAN. Mr. Smothers, do you have any questions at this point?

Mr. SMOTHERS. Mr. Chairman, just one brief area of inquiry.

I have been concerned, Mr. Alexander, and the committee has received information regarding how the IRS deals with its enemies, if you will, particularly the tax protestor groups. We have information indicating that there has been an effort made to infiltrate these groups, if you will, primarily based on their anti-IRS activities, including things such as efforts at physical destruction at your offices and the filing of reams of blank returns. Is it your view that IRS investigators should be used in this capacity, or is this a matter better handled by other investigative agencies like the FBI?

Mr. ALEXANDER. Mr. Smothers, there are instances where the use of the techniques that you have described would be necessary. Those instances are few indeed. I think that the IRS has a responsibility to see to it that those who attempt to defeat tax administration and tax enforcement do not succeed. And, accordingly, as to tax resisters, we have an interest, and shall, I think, maintain an interest in making their efforts fail. But we also have a duty in the fulfillment of this limited goal to live up to the constitutional principles and the law, because we cannot enforce the law properly by violating the law.

Mr. SMOTHERS. Mr. Alexander, my question goes to who should be involved in this enforcement? For example, if we had dissidents bombing the State Department, then we would certainly ask the Federal Bureau of Investigation to look into that. We would attempt to apprehend the culprits. Should the IRS be devoting its energies to the essential task of catching criminals, criminals whose activities are really unrelated to your fundamental mission?

Mr. ALEXANDER. No.

Mr. SMOTHERS. Would it then be your recommendation that these efforts not be dedicated to these kinds of functions?

Mr. ALEXANDER. It is my recommendation that the efforts that the IRS makes in this general area, as well as the limited area that you first described, should be limited to those necessary to achieve our mission of administering and enforcing tax laws, rather than other goals. This accounts, I might suggest, for the action that I took that the chairman described with respect to the Special Service Staff. That also accounts for certain other actions that the IRS has taken.

Tax protesters are indirectly related to tax administration, in that those who preach resistance to the tax laws are likely to practice resistance as well. We do have an obligation to see to it that the tax laws are enforced, and we are concerned about scofflaws. We should not be overly concerned, however, so as to devote undue resources to

this task, or to go about this task in a way in which our enforcement techniques descend to the techniques of some of those who are opposed to taxes.

Mr. SMOTHERS. Thank you. I have nothing further at this time, Mr. Chairman.

The CHAIRMAN. Thank you.

Mr. Commissioner, when you became the Commissioner, were you informed by the staff of the IRS about the existence of this Special Service group?

Mr. ALEXANDER. Mr. Chairman, I had heard about the Special Service Staff from press reports prior to the time that I took office. The day after I took office, or the day after I was sworn in on May 30, I had a meeting in my office with respect to the Special Service Staff and its then activities.

The CHAIRMAN. And was a full disclosure made to you at that time of the activities of the Special Services Staff?

Mr. ALEXANDER. In my opinion, not.

The CHAIRMAN. In your opinion not?

Mr. ALEXANDER. Right.

The CHAIRMAN. What is the basis for that opinion?

Mr. ALEXANDER. The basis for that opinion, Mr. Chairman, is my recollection—which I consider entirely correct—that I was not told on May 30 of a fact which some others in the room knew; that a memorandum describing activities which are antithetical to proper tax administration was, indeed, an expression of the National Office of the Internal Revenue Service about the attitudes and the activities of the Special Service Staff. That memorandum suggested that the IRS should concern itself with rock festivals, where youth and narcotics may be present. I find nothing in title 26 of the Internal Revenue Code to suggest that we should have a concern about rock festivals.

I find that particular illustration, as well as the rest of that memorandum, to be antithetical to our job. And when I found out it was a National Office memorandum rather than an aberration in the field, I ordered the Special Service Staff abolished.

The CHAIRMAN. When was this memorandum which defines the purposes and objectives of the Special Service Staff called to your attention?

Mr. ALEXANDER. It was called to my attention, as a National Office document at the end of a dialog that I had with the then-Regional Commissioner of our North Atlantic region. I was trying to find out why on earth the North Atlantic region issued this memorandum, and did they really believe this sort of stuff; and if they did, I wanted to correct their attitude.

I finally learned, as I recall, on August 8 of 1973—

The CHAIRMAN. Was that 4 months after you took office that you first learned of this memorandum defining the functions of the Special Service Staff?

Mr. ALEXANDER. Almost 4 months.

The CHAIRMAN. Almost 4 months.

Calling your attention to the memorandum, which I think for the Senators' purposes is—

Mr. SCHWARZ. It is marked exhibit 1.¹

¹ See p. 39.

The CHAIRMAN. Do you have that, Mr. Commissioner?

Mr. ALEXANDER. Yes I do, Mr. Chairman.

Mr. SCHWARZ. Mr. Alexander, it is exhibit 1.

The CHAIRMAN. Now, I read from the memorandum the following excerpt:

Functioning under the Assistant Commissioner (Compliance) a special compliance group was established in August 1969 to receive and analyze all available information on organizations and individuals promoting extremist views and philosophies.

Now, stopping right there, do you think that it is the proper business of the IRS, which is set up to collect taxes for this country, to receive and analyze all available information on organizations and individuals promoting extremist views and their philosophies?

Mr. ALEXANDER. No.

The CHAIRMAN. Reading further from the memorandum: "These organizations and individuals can be generally categorized as, (1), Violent Groups"; and then, "in category (2), there is ample evidence of activities involving so-called Non-Violent Groups, who by alleged peaceful demonstrations oftentimes deliberately initiate violence and destruction."

Now, stopping right there, even if that were so, does it not follow that protection against violence and destruction is properly the work of the police—including the Federal police, the FBI—and not the concern or the work of the Internal Revenue Service?

Mr. ALEXANDER. Yes.

The CHAIRMAN [continuing].

Included are those who publicly destroy and burn draft cards, destroy Selective Service office records, participate in an [sic] organize May Day demonstrations, organize and attend rock festivals which attract youth and narcotics, aid in funding the sales of firearms to Irish Republican Army, Arab Terrorists, et cetera; travel to Cuba, Algeria, and North Vietnam in defiance of existing statutes relating to seditious acts; inciting commotion and resistance to authority by encouraging defectors in the Armed Forces to enter into alliances to subvert this nation.

Now, leaving aside whether or not the actual names of individuals and organizations that were placed on this watch list by the IRS—whether or not they fit in this category, that whole category has nothing to do with collecting taxes, does it?

Mr. ALEXANDER. It has nothing to do with it, except insofar as two things are concerned: First, if an organization claiming tax exemption is not entitled to it, it is our obligation to do something about it, and it is our obligation to determine whether an organization claiming that status is entitled to it. Second, if someone deducts a contribution to an organization that is not tax-exempt, and therefore not entitled to receive deductible contributions, it is our obligation to do something about that.

Beyond that, we have no concerns in these areas, and these areas are not a normal part of tax administration.

The CHAIRMAN. But this memorandum went way beyond that.

Mr. ALEXANDER. Way beyond that.

The CHAIRMAN. Way beyond that, and it even went—in actual practice—the Special Service Staff went way beyond these groups. I think it must have. We look at some of the individuals; what did columnist Joseph Alsop have to do with rock festivals?

Mr. ALEXANDER. I have no idea, Mr. Chairman.

Senator TOWER. That is an intriguing thought, Mr. Chairman.

The CHAIRMAN. Or funding the sale of firearms for the Irish Republican Army, or violating sedition laws by traveling to North Vietnam? I mean, what was Joseph Alsop's name doing on that list? Do you know?

Mr. ALEXANDER. I have no idea, Mr. Chairman. I have no idea why my name was on the IGRS (Information Gathering and Retrieval System) file.

The CHAIRMAN. What about Mayor John Lindsay? Do you know what connection he had with any of these organizations that would justify putting his name on the list?

Mr. ALEXANDER. No, I do not.

The CHAIRMAN. What about Nobel Prize winner Linus Pauling, who just last week received from the President of the United States the National Science Medal? Do you know why he was on this list to have his taxes looked at, this list of violent and nonviolent activist groups?

Mr. ALEXANDER. No.

The CHAIRMAN. What about Senators Charles Goodell and Ernest Gruening? Do you know why they were on the list?

Mr. ALEXANDER. No.

The CHAIRMAN. What about Congressman Charles Diggs? Is there any reason why he was put on a special watch list for examination of his taxes?

Mr. ALEXANDER. No.

The CHAIRMAN. Well, there are other names here that are equally puzzling—writer Jimmy Breslin, rock singer James Brown—

Mr. ALEXANDER. That would come under the rock singer category. [General laughter.]

Mr. ALEXANDER. There was apparently quite a concern about that. I suppose some of our people did not like rock music. Now, I share that view. I don't like rock music. But I don't think it has anything to do with tax enforcement or tax administration.

The CHAIRMAN. What about civil rights leaders Aaron Henry and Jesse Jackson and Coretta King?

Mr. ALEXANDER. The same answer, no.

The CHAIRMAN. Or actress Shirley MacLaine? Was that because she went—did she go to North Vietnam at one point? I do not think so. You do not know why she was on it?

Mr. ALEXANDER. I don't.

The CHAIRMAN. Well, when you discovered names of people and organizations that even went beyond a memorandum, which you yourself have described as unrelated in its thrust to tax collection as such, what did you do?

Mr. ALEXANDER. I ordered the Special Service Staff abolished. That order was given on August 9, 1973. It was implemented by manual supplements issued on August 13, 1973. We held the files. I ordered the files to be held intact—I'm not going to give any negative assurances to this committee—in order that this committee and other committees could review these files to see what was in them, and see what sort of information was supplied to us on these more than 11,000 individuals and organizations as to whom and on which files were maintained.

I suggested, Mr. Chairman, that at the end of all of these inquiries, I would like to take those files to the Ellipse and have the biggest bonfire since 1814.

The CHAIRMAN. Well, I concur in that judgment. I would only say this to you: in a way, it might be a more important bonfire than the Boston Tea Party when it comes to protecting individual rights of American citizens. I am glad you feel that way. I am glad you took that action.

What concerns me, and what should be of concern to this committee, is that there is apparently no law on the statute books restricting the extent to which the IRS can be used as the vehicle for harassing or investigating citizens who are engaged in other kinds of activities quite unrelated to the question of their tax liability. Though in your hands as Commissioner these abuses might be stopped, in the hands of a less scrupulous Commissioner they could be reinstated. And I think it is the work of this committee to write the laws in such a way that that will not happen in the future.

Mr. ALEXANDER. Mr. Chairman, there is one provision in the Internal Revenue Code that does provide a restriction on part of the improper activities that you have described. In section 7214 of the Internal Revenue Code, there is a provision making it a crime for an Internal Revenue employee to knowingly demand from a taxpayer a tax other than what the law reasonably requires. That does not go all the way. What the IRS, the administration, and Congress need to do to safeguard the future is to have sound laws, sound procedures, good people, continual oversight, and continual vigilance by the press.

The CHAIRMAN. I agree with that. We will be working on recommendations after we conclude this investigation that will help protect us against abuses of this kind in the future. And we would solicit your own recommendations in that regard. You tried, as Commissioner, to put a stop to these activities, and we naturally welcome any recommendations you might have to make. Senator Tower?

Senator TOWER. Thank you, Mr. Chairman.

First, I would like to commend Mr. Alexander for what he has done to cure some of the problems that we found within the IRS. Mr. Alexander, who decides when to utilize the intelligence apparatus of IRS, and how much discretion do the district directors exercise in determining when to employ this capability, and against whom it should be targeted?

Mr. ALEXANDER. Senator Tower, I will respond generally, and then I would like for Mr. Wolfe, who has been in Internal Revenue far longer than I, to supplement my answer.

Our special agents are frequently called in by revenue agents in our audit activity, or by revenue officers in our collection activity, when the revenue agent or revenue officer finds reason to believe, in the course of his audit investigation or his collection investigation, that fraud has been committed. This accounts for the greater part of investigations made by our special agents in our Intelligence Division.

Some cases, however, arise by reason of communications that we receive, from informants or otherwise, which indicate that tax evasion has been committed, and that the chances of fraud warrant the expenditure of time and money in an investigation. Some cases are developed

by the Intelligence Division, acting as such, after it has collected information tending to establish the likelihood of tax evasion. And, of course, our people also work closely with the Department of Justice lawyers, and other agencies, in the Strike Forces, of which we now have 17 around the country, whose activities are largely directed toward organized crime.

The decision would be made as to whether to go forward with an investigation on a decentralized basis in our districts by our field managers, not necessarily the division chief or the branch chief or the group manager, as I understand it. Now, Mr. Wolfe, would you care to supplement that answer?

MR. WOLFE. Mr. Tower, 60 percent of the work that our Intelligence Division engages in comes from referrals, either from the Audit Division of the Internal Revenue Service or the Collection Division. The rest of it comes through informants or through information that our special agents gather in their jobs.

Every investigation must be approved by the group manager of the group to which the special agent is assigned. We have very strict rules concerning the use of any investigative techniques. They must not only be legal but they must have the approval of the chief of the intelligence division of that district.

All of these people are then under the direct control of the District Director of the district to which they are assigned. They also are provided with very good manual instructions. In other words, the manual instructions under which they are to operate are prepared here in Washington.

They are also provided with handbooks, which are distributed from here in Washington, outlining the procedures which they are to follow. So those are, in general, the means by which we operate.

Senator Tower. Thank you.

Mr. Alexander, who sets the limits for determining when to employ undercover agents and when to accept and use information from an informant? For example, our committee has been told that undercover agents at a meeting of tax protestors listened to the protestors' legal defense plans and then passed that information on to the U.S. attorney's office.

This would appear to me to be an abuse of IRS intelligence capability. I would appreciate your comment on the propriety of tactics of that kind.

MR. ALEXANDER. I agree with your conclusion, Senator Tower. I do not think that IRS undercover agents should interfere with the right of anyone to counsel. And the incident that you mentioned is of considerable concern to me.

We have tightened up materially on the use of undercover agents. We now have, I believe, only two undercover agents in the country at this particular time doing this. And we have called for strict controls and decisions at the top level before further undercover projects may be undertaken.

Senator Tower. Mr. Alexander, the data bank of IRS contains a great deal of information in addition to the tax return documents that are supplied by the taxpayers. Why is so much additional information necessary if no question has been raised concerning returns filed by a given individual?

MR. ALEXANDER. We need to transcribe and retain a vast amount of information in our computer centers in order to do our job of seeing to it that people pay the correct tax, no more, no less, that we know how much they pay, that we know what the essential characteristics of their return are, so that we can select the returns for audit on an objective basis, which are most likely to need audit.

And so if someone finds he or she has overlooked something and files a claim for refund with us at a later time, we are able to process that claim; where if someone at a later time decides to use the benefits of the income averaging provisions, for example, we are able to determine from back years what that person's reported income was, in order to test to make sure that that person is entitled to the benefit which is being claimed. So we need to retain in our data banks, and use very carefully, information from tax returns. But by no means does this information that we transcribe contain the entire mass of information contained on an individual's tax return.

In the first place, it is not cost effective to transcribe and retain that which is not strictly necessary, and second, we want to maintain minimum information on computers, having in mind both the benefits of computers and also the risk of computers.

Now, we do have in our intelligence gathering a computerized system which we installed in 1973, modified in 1974, and curtailed earlier this year, and now I am making sure that it is limited to matters which should properly be maintained on a computer. That is a different system from what I have just described, Senator Tower.

SENATOR TOWER. Mr. Alexander, is there periodic destruction of information other than the returns of taxpayers? For those taxpayers whose returns have not been called into question, do you periodically destroy this information?

MR. ALEXANDER. Yes, we do, sir.

SENATOR TOWER. Thank you, Mr. Alexander, Mr. Chairman.

THE CHAIRMAN. Thank you, Senator Tower, Senator Mondale?

SENATOR MONDALE. Thank you very much, Mr. Chairman.

COMMISSIONER. May I first say that I find your attitude and approach very, very refreshing. I wish to say that.

As I look at this problem that you were confronted with when you assumed office, what you were seeing, apparently, was one part of a much broader program to have a secret Government counterintelligence capability on persons and organizations thought to be dangerous on some ill-defined basis ranging from war unrest and civil rights demonstrations, to rock festivals, just about everything. In any event, the net swept practically everyone, Joseph Alsop to Sally Quinn. That is what you found when you came in as Commissioner of Internal Revenue. Is that correct?

MR. ALEXANDER. I would not want to make it that sweeping, Senator Mondale. The Special Service Staff involved only eight people in the IRS. It did collect information on more than 11,000 individuals and organizations. It did not conduct audits. It did send information out to the field for audit and collection action. But I don't think it should be considered in any way illustrative of the Service as a whole. I think the Service held up well in resisting that.

SENATOR MONDALE. I did not want to suggest that I was getting at something else. My question was a broader one directed not just at

IRS but at other agencies which may have been involved directly and indirectly with this counterintelligence capability developed in various agencies in the Federal Government, of which we have seen some examples here.

Mr. ALEXANDER. Yes; I think there was a syndrome at that time. I would like to add that I greatly appreciate what you have said when you opened your questions. There are some, apparently highly vocal, that disagree flatly with your statement of approval of what I have been trying to do.

Senator MONDALE. No doubt. I would like to return to that point I raised in my first question, because I think it is central to understanding what it was that you were dealing with and the more fundamental issues that this committee must deal with.

I think what you saw was just a part of a broader, more basic project by which various agencies—the FBI, the CIA, and even the White House—decided that the criminal laws weren't adequate to deal with the threat to this nation and that therefore they needed a new tactic. That tactic was really borrowed from our tactics overseas against mainly Communist threats, called counterintelligence. Without any probable cause to believe a crime was being committed and taxes being unpaid, we would throw out a huge net; we would open mail, even though we did not know what was in it, and intercept communications with no grounds, thinking we might find something. We would send out Internal Revenue agents to look at people's taxes, not because we thought they weren't paying taxes, but because we might find out something. It is that concept of counterintelligence turned in on the American people which I think you had to deal with. That was a piece of it, because the IRS was getting these requests, as I understand it, from the FBI, from the CIA, and even from the White House, to investigate these people, and the question is why, since it was unrelated in most cases to taxes. The answer is because of a fundamental philosophy that the only way to protect this country was to start spying on a broad cross-section of Americans thought to be dangerous by someone somewhere in the bureaucracy without legal authority, without definition, without any restraints and laws. Is that accurate?

Mr. ALEXANDER. There certainly was a feeling of that kind, Senator Mondale. And this may well have been a cause, if not the cause, of such things as the Special Service Staff. Some perceived a need to accomplish a particular result, fill a void in the law, a void in capability to enforce a law. And IRS is a convenient vehicle, in the eyes of some, to fill the void. If a law is absent that someone wishes were there, there is always a tax law. If the people were absent that someone wishes were there, there are always the tax people.

Senator MONDALE. All right. Now do you agree with me that these tendencies of ill-defined counterintelligence activities, secretly pursued, without legal restraints, constitute tendencies that could destroy American democracy, if unrestrained?

Mr. ALEXANDER. If unrestrained, yes.

Senator MONDALE. So this is a very serious and profound matter of continuing a vital, uninhibited democracy.

Mr. ALEXANDER. It is.

The CHAIRMAN. Senator Mondale, may I just say at that point it has just been called to my attention, this is how the FBI greeted the IRS program we are discussing. I have a memorandum here that was

written by Mr. Brennan, directed to Mr. Sullivan, in which he made the following comment as to the FBI's reaction [exhibit 2¹]. "A concentrated program of this nature, if properly implemented, should deal a blow to dissident elements. This action is long overdue." That just underscores the point that Senator Mondale made. The purpose had nothing to do with taxes. The purpose was to use a tax collecting agency to strike, in the words of Mr. Brennan, "a blow to dissident elements."

Senator MONDALE. Now, happily, what we have here is a Commissioner—and I hear this from all sources—who once again believes in the law and resisting these kinds of pressures. But can you be sure that these pressures have, in fact, been frustrated completely under your administration, and is there anything to guarantee that it won't happen again?

Fundamentally, I guess what we are up against is this: If you have a President and people around who are paranoid enough to believe that we need this illegal, spooky capability of spying on the American people, how do agencies such as yours exist? How do you say no to a President?

Mr. ALEXANDER. I would suppose with extreme difficulty and some trepidation. Luckily, I have not had to say no to a President because I have not been asked to do anything illegal and I won't be by President Ford.

Now you asked several questions—

Senator MONDALE. Let us just take President A and President B and Commissioner B 10 years from now. I don't want to get into personalities, but we have seen so much evidence of orders going down directing subordinate commissioners and officials and the rest to do things that are illegal and very, very dangerous. I think one of the questions we have to answer, if possible, is how do you say no to that kind of pressure emanating from the White House and from the highest officials in American Government?

Mr. ALEXANDER. You have to be ready to do what I have stated several times that I would do. And what I absolutely would do. If I were asked to do anything improper, I would refuse to do it. The requester then would have two choices. One, to agree with my refusal. The other, to remove me from office. Now, I don't think that future commissioners should be subject to this particular difficulty. Particularly when a commissioner is new in office, the commissioner may think of all the great things that he or she is going to achieve and be concerned about the ability to stand up to an improper request. I think future commissioners, as I have testified before, should have 5-year terms of office. Now you asked me whether I am sure that the attitudes and actions that we have been discussing this morning have pervaded the entire IRS. I am not. I wish I could give that assurance, I cannot.

Senator MONDALE. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Mondale.

Mr. SMOTHERS. Mr. Chairman, Senator Goldwater has an opening statement and some questions [see questions, p. 104] he would like submitted for the record.

The CHAIRMAN. Without objection it is so ordered.

¹ See p. 42.

STATEMENT OF SENATOR BARRY GOLDWATER

The Internal Revenue Service receives more information from more people about more private affairs than any other agency in the United States Government.

And therefore, it has in its hands tremendous power to harass and intimidate American citizens.

It seems that nearly everybody that files a tax return with the IRS can assume that someone else will have access to it. Tax returns have shown up in the hands of insurance adjusters, private detectives, county clerk offices and even have been printed in newspapers.

Even though leaks that allow these returns to be distributed around may not be the fault of the Internal Revenue, the right of the taxpayer to privacy is being eroded because of it. In fact, the IRS is becoming a public lending library of private information.

Out of 81 million tax returns filed in 1974, about 69 million were furnished to State authorities in 38 States. As surprising as these numbers sound, this is a routine practice and it would be possible for all 81 million returns to be available for inspection if the remaining 12 States wanted them.

These returns have been provided to State governments with little or no control over the information. And, this may account for speculation over the years that tax information has been released during statewide political campaigns.

Even the jury process has not been exempt from IRS meddling. Jurors' tax returns have been audited.

Combine the power of the IRS with modern computer technology and the door is open to wholesale abuse of privacy and the humbling of proud and honest citizens.

Our tax system is based upon voluntary cooperation. That cooperation will erode and fade away, if the unconcerned bureaucrat uses his mighty computer to harass our friends and neighbors.

The CHAIRMAN. Thank you, Mr. Smothers.

Senator Mathias is next.

Senator MATHIAS. Thank you, Mr. Chairman.

Commissioner, I think we ought to try and get the record in as accurate shape as we can here. When you abolished the SSS, had you become aware of the circumstances under which it was created?

Mr. ALEXANDER. No; I was aware of some of the circumstances, but by no means aware of the circumstances as later developed and the details as later developed.

Senator MATHIAS. Had you been told that Mr. Huston, who appeared earlier before this committee, had been critical of the IRS in June of 1969 because it was not being active enough in investigating some of the organizations that were later investigated.

Mr. ALEXANDER. I think I heard something about the Huston plan, and of course Mr. Dean had testified.

Senator MATHIAS. Of course, this interest on the part of Mr. Huston predated the Huston plan by several years. Were you also aware that the Senate Permanent Subcommittee on Investigations had expressed a great interest in the IRS files on activist organizations and had been very critical of the IRS because it was not doing enough in this area?

Mr. ALEXANDER. Yes; I was generally aware of that.

Senator MATHIAS. And that in fact the SSS was established on the very day that Mr. Green testified before the Senate Permanent Subcommittee on Investigations and after he had been roasted by the committee because the IRS hadn't really been active enough.

Mr. ALEXANDER. I think I learned that later. But I am quite concerned about pressures from all sides.

Senator MATHIAS. Well I think you ought to be concerned by pressure from all sides. I think the whole purpose of this effort that we are making now is to insulate the IRS and other agencies from those pressures. The pressures can come from the Congress. They did come from the Congress in 1969 as well as from the White House. And I think, in considering what we are going to recommend to the Senate and to the House in the way of remedial legislation, we ought to remember that Congress itself was contributing pressure in the wrong direction in 1968 and 1969. So we have to provide against mistakes that we and our successors will make, as well as against mistakes that future Presidents may make, in trying to put the IRS and other agencies to improper uses.

There has been some conversation here this morning about informants. And I wonder if you could tell us exactly how you use informants for intelligence purposes. Do you still pay them a bounty?

Mr. ALEXANDER. I would hesitate to use the word bounty, but section 7623 of the Internal Revenue Code does provide for IRS paying for information that would aid the tax system. There are several types of informants. There are those who have grudges and want to do something about them and have no idea of monetary reward. There are those who supply information in a particular instance and would not only like to satisfy whatever grudge they may have but would like to gain a reward as well.

Senator MATHIAS. It is almost as sweet, not quite but almost as sweet, as a tax refund for yourself if you can be sure your neighbor is paying as much as you are, is that not right?

Mr. ALEXANDER. I suppose it would be. Sweetness is, of course, in the eyes of the beholder.

Senator MATHIAS. Bittersweet.

Mr. ALEXANDER. It may be bittersweet to the neighbor, but some are concerned not only about what they pay but about what others pay. And the law does provide—although we do not make mass efforts to encourage informants—for payments for information of value in tax administration. And finally we get to the third type of informant. And that is the Sarah Jane Moore type, if I may use a name that has been in the papers lately, a paid informant, an informant regularly furnishing information to a law enforcement agency and regularly being paid for that information.

This is, I am told, a very effective law enforcement technique and a technique very widely used. It is also a very dangerous technique and a technique that must be very carefully controlled.

Senator MATHIAS. That brings me to the question of control. Is this controlled in accordance with a centralized system or does each regional office, area office, control the informants, set up the standard of payments, and generally set out the program?

Mr. ALEXANDER. This last type of informant, the confidential informant seeking payment, frequently on a reasonably regular basis, for information furnished to us, is now controlled in the national office. Mr. Wolfe controls this. We have instituted tight controls in the IRS. We did not have these controls before, Senator Mathias, and this has accounted for some of our problems.

Senator MATHIAS. It was very decentralized in the past?

Mr. ALEXANDER. Well, decentralized if you will, uncontrolled if you will. I am not certain that the question of control is governed by centralization versus decentralization. We operate on a decentralized basis as, indeed, we think we must. Our job is largely tax administration, so we are unlike law enforcement agencies whose jobs are strictly law enforcement. Law enforcement is ancillary to our major job. Our major job, as we see it, can best be performed free of political influences, performed objectively and efficiently, on a decentralized basis. And we have had the same general relationships, the same general system since, 1952.

Law enforcement activities are also decentralized with certain exceptions. The narcotics program, for example, was controlled out of our national office. So, it was centralized rather than decentralized. That program was not a good program for the IRS, and we have discontinued it as such.

Senator MATHIAS. I think you should. It was a wise move to discontinue it because this whole area, the use of informants, is, it seems to me, a very dangerous kind of area to operate in, and one that has side effects that can be very dangerous, far more dangerous than the information that an informant may produce.

Let me ask you this: In your year or two as Commissioner, have you ever been faced with a decision in this area of investigation, this area of intelligence, the area of confidentiality of returns, in which you were puzzled as to know what was the right thing to do, what was the right decision for you to make; and that you had recourse to the law and could not find the answer or any guidance as to what was right?

Mr. ALEXANDER. Yes. There have been some tough calls.

Senator MATHIAS. Could you tell this committee, either now or perhaps you might like to submit it later in a memorandum, what some of those areas of decision are in which you felt the law did not give you the proper support, the proper guidance; which you felt the Congress had neglected to provide statutory guidelines for the proper conduct of the IRS?

Mr. ALEXANDER. I would like to think about that question, Senator Mathias. It seems to me generally that the law as it exists today provides the mechanism for proper and effective law enforcement, and at the same time, for responsible and responsive law enforcement. One of our problems in the IRS has been that in certain isolated instances the controls that then existed were not respected, or controls were lacking.

We are attempting at this time, and have been attempting this year, to institute new and considerably stricter controls in a number of areas, particularly the one that concerns you and concerns us, confidential informants. Now the institution of controls, strict controls, where controls did not previously exist, is a disturbing, unsettled thing to people. And the reaction of certain of those people has been very clear in the media this last weekend.

We also, the Chief Counsel and I, are reviewing and have revised a prior policy of the service toward illegal evidence; we do not believe that we have any business using it. This is unsettling and disturbing to some.

Senator MATHIAS. I thank you, Commissioner. I think I would, for one, value any thoughts you have in order to expand on this thing. I think you should impose controls, even in the absence of statutory direction. But I do not think the Congress can pass the buck to you, and I do not think it is a discharge of our responsibility for the Congress to pass the buck to you, to take all of the heat on the proper regulation of other agencies. It might work for Commissioner Alexander. It might not work with another commissioner, some years hence.

The Congress has a duty to perform and I do not think we can lay it all on your shoulders.

Mr. ALEXANDER. I am grateful to you for that statement.

The CHAIRMAN. We certainly cannot.

Senator Huddleston?

Senator HUDDLESTON. Thank you, Mr. Chairman.

I think that we could agree with the statements that have been expressed by Senator Mathias, that certainly the IRS is not totally at fault with whatever abuses may have occurred. However, I think we have to accept the fact that the IRS does probably gather more information on more Americans than any other agency. Certainly it is a very important aspect of this committee's work in achieving its objective. Probably more than any other agency, it, like Caesar's wife, ought to be above reproach. It is the one area of law enforcement where the fundamental right of a citizen to be considered innocent until proven guilty is reversed. He generally is considered guilty until he can prove himself innocent when a charge is brought.

So I do not think that we can stress too much the necessity for a high caliber operation of great integrity when we talk about the IRS.

And that brings me to exploring a little further another area that Senator Mathias was touching upon, and that is the use of informants—whether or not this might cause some substantial infringement upon citizens' rights, the rights of privacy and other constitutional rights. I recall, for instance, the operation in Miami that is generally referred to as Operation Leprauchaun where a special agent there had a number of informants working under him. Those informants also had informants working under them that the special agent did not even know. He certainly could not be aware of the total types of operations that they were engaged in, in order to get the information. They talked about it on various occasions. At one time a woman informant suggested to the agent that she could use her sexual prowess in order to secure certain information. He maintains that he did not suggest to her that she should do this. But at the same time, he did not suggest that she not do this. She could use whatever means that she might want to employ. Now it seems to me that if an informant that is directed by an agent and paid by the Federal Government becomes an agent of the Government, an arm of the IRS, and to whatever extent they abridge rights and freedoms, then the IRS is abridging rights and freedoms.

And I do not know how you can operate without more control than was demonstrated by the operation, for instance, in Miami; when an agent does not even know who the informants are, where there at least appeared to be regular payments rather than payments just for specific

information. Now what has been done and is being done now to improve that kind of situation?

Mr. ALEXANDER. Senator Huddleston, we have instituted new controls on payments to confidential informants and on such matters as Operation Leprechaun—and Operation Leprechaun is not typical of the way the IRS goes about its business or went about its business.

Senator HUDDLESTON. But the use of informants is not unusual.

Mr. ALEXANDER. It showed a lack of control and we have instituted new controls. We have called for the highest level of review of the use of confidential informants. We are reviewing the controls that other agencies have been using for some time with respect to confidential informants. And, strangely enough, a suit was brought against me for trying to find out to what extent we were using confidential informants and to what extent we were paying them and for what purposes. This suit has since been dismissed.

Now, Mr. Wolfe, our Assistant Commissioner for Compliance, can respond in more detail than I about the controls that we now have in place and I wish he would supplement my answer.

Mr. WOLFE. Senator Huddleston, what we have done is to cancel the authority of anybody in the field to pay a confidential informant. Any payments to any confidential informant must be personally approved by me with full details of what information we are paying for, signed personally by the Regional Commissioner of the region from which the request comes. Furthermore, our instructions are now that we will only pay for information. We will not permit our people to take an informant and direct what that informant is to do. If that informant has information of tax significance—and I stress that, of tax significance—then the field is permitted to come to my office with the request that it be permitted to pay for that information. Only then will I approve any payment for any information.

Senator HUDDLESTON. Do you make any effort to determine what method might be used by that informant to secure that information?

Mr. WOLFE. Our instructions also provide that no informant is to obtain information illegally. Now, the use of informants, as you have so well pointed out, can be dangerous. We do not always know when we are getting information exactly how it has been obtained. We do ask our people to try to determine any time an informant has information—you are not always sure, nor can you be sure, because you don't know whether he will tell you the truth or not—whether this information was legally obtained.

So we do ask our people to make reasonable inquiry, but we do that particularly to see whether it violates the rights of the taxpayer involved.

Senator HUDDLESTON. That is a departure from the previous policy.

Mr. ALEXANDER. It certainly is.

Senator HUDDLESTON. Now, in this matter of information that you give to other agencies for which I understand you really do not have much discretion. The statute sets up the provision for that under regulations issued by the President. Is that correct?

Mr. ALEXANDER. That is correct.

Senator HUDDLESTON. But it does indicate that the FBI, for instance, when requesting information, should be specific as to what the purpose is. Is that correct?

Mr. ALEXANDER. Yes.

Senator HUDDLESTON. The fact is they have not been specific.

Mr. ALEXANDER. Yes; the specificity is not as great as it might be.

Senator HUDDLESTON. As a matter of fact, on the requests that were given at least prior to April of this year, when I understand new regulations went into effect, it would be virtually impossible for you or any Commissioner to determine from the request by, for instance, the FBI, whether or not it did comply.

Mr. ALEXANDER. Yes; that is a fair statement. I centralized these requests in my office because we don't want any tax information going from the back door to anybody else, other agencies or the White House, et cetera. But it is very difficult to do more than just look at the face of the request. And if you see a name on the request that happens to be a very likely political opponent of the person making the request, then that naturally arouses curiosity, and that request does not go anywhere until we are certain it's proper.

Senator HUDDLESTON. But, in other words, when you supplied the FBI with a list, for instance, of contributors to a certain civil rights organization, you had no knowledge that they might have at the time proposed to take that list of contributors to contrive a fraudulent letter with the signature of the individual head of this organization on stationery that they had secured surreptitiously from this organization, and mail out a letter to that list of contributors designed to discourage them from further contributions, further participation?

Mr. ALEXANDER. Absolutely none. We have no knowledge of that.

Senator HUDDLESTON. If you thought that action was going to happen, what would your reaction have been to releasing that list?

Mr. ALEXANDER. Well, in the bureaucracy, the last one to sign off generally has the upper hand, all things considered. So, I have an idea that a request like that would find its way to the bottom of the pile and have great difficulty in emerging to the top.

Senator HUDDLESTON. But it is a possibility? It was a suggestion on the part of a responsible member of the other agency, a strong enough suggestion, in fact, to be put into writing as a recommendation that this be done, a memo [exhibit 3¹] of which we happen to have in the possession of the committee.

Mr. ALEXANDER. The law needs tightening up, Senator Huddleston, badly.

We need two things. We need good laws, and we need good people.

Senator HUDDLESTON. Mr. Alexander, a number of methods were used by the IRS to try to pinpoint areas where tax evasion is a way of life, a normal thing, and something that ought to be checked. This enables your agency to pick out groups and do a broad-based investigation.

For instance, in one district, at least, there was an effort made to check the five top-elected officials in every county, just as a routine thing, even though there was no indication that there had been any

¹ See p. 45.

kind of corruption, any kind of tax evasion there. Another group went to a fight of the world heavyweight champion, Mohammed Ali—who, I am glad to say is still the world heavyweight champ—in Atlanta, Ga. and took down the license numbers of all of those who attended, and conducted a survey of their returns. We have already mentioned the ideological groups that have been routinely checked.

First of all, among these kinds of checks, what is the percentage of returns of those individuals that are actually checked?

Mr. ALEXANDER. That are actually checked in this kind of thing?

Senator HUDDLESTON. Right. After they have been spotlighted or pinpointed.

Mr. ALEXANDER. I don't know.

Senator HUDDLESTON. Would it be 50 percent? We have heard evidence that perhaps 50 percent of them would actually be checked.

Mr. ALEXANDER. I'm going to ask Mr. Bates or Mr. Wolfe or Mr. Williams whether they know. I will dig that out and, to the extent we have anything, Senator, I will supply it for the record.

But I would like to comment on this method of using our resources. I think checking license plates is an ineffective way to use resources.

Senator HUDDLESTON. They checked go-go dancers, incidentally, too.

Mr. ALEXANDER. Go-go dancers? I didn't know there was a special concern as to go-go dancers. Perhaps we found tax evasion among that group.

But this sort of thing is not the best way to use our people and our money and our powers. It may be fun and games to the person—

Senator HUDDLESTON. It might be a little bit more serious than fun and games.

Mr. ALEXANDER. I agree with you. Some may consider it fun and games; I consider it very serious. We have a problem not only of sound and effective and proper use of resources, but we have a problem of living up to the Caesar's wife stricture that people should expect from an agency with the vast powers, people, and information that we have.

Senator HUDDLESTON. The fact is that if our figures are right, some 50 percent of people who are targeted like this have their returns inspected. That means, for those who happen to get on the list because somebody disagrees with them at the White House or the FBI, chances are 25 times better than for the normal citizen that his tax returns will be audited. And he will be at least harassed to that extent by the Federal agency.

And, to go one step further, when you roll all of this together—the ideological effort, the blanket provisions of picking out politicians, office-holders or whatever—what has to emerge is an agency here that has a great propensity and a great ability to conduct a very strong, thought-policing effort in this country. I think this is where the dangers lie, in the misuse of the kind of power that resides in the IRS.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator.

Our next member to question is Senator Schweiker.

Senator SCHWEIKER. Thank you, Mr. Chairman.

Commissioner Alexander, you have thrown this committee off balance a bit and to some extent caused us some difficulty, because the usual scenario that this committee follows is, first, we have to fight tooth and nail to get any document we can place our hands on. Sec-

ond, we are told we do not have a right to see the documents anyway. Third, we have a bottleneck, that the staff is not available to provide us with that information, and we have to wait a couple more weeks to bring some staffers in. Next, they argue that under the Constitution, the Bill of Rights really does not cover the points that we are trying to raise in their testimony. After that, they insist that no abuses existed; but whatever occurred, they stopped doing several years ago.

And where you throw us off balance is, you sort of reversed that scenario all along the way and made it a little bit more difficult for us to operate, because you have given us documents right from the start. Even over this weekend, I understand there were some 50 people working in your offices to give us information for these hearings.

In addition, you are telling us what the Bill of Rights means, instead of our telling you, which is a very pleasant change of pace. And also, you acknowledge that abuses have existed, and, I think more impressive than that, your record, beginning in 1973, began with correcting some of those abuses, which no doubt has gotten you into some of the controversy that you have gotten into.

So it is just a pleasant surprise to run into these kinds of scenarios instead of the kind we are used to. And, I think, to keep the record straight and to be objective, our committee should also make that a matter of record.

I would like, Commissioner, to go into a couple of things that were happening before you came into office. One of them that disturbed me particularly—which, again, your office very helpfully supplied information on—was a project called Operation Mercury, where, in essence, any individual who submitted a money order for over \$1,000 through Western Union, their name was given over, as well as any person who submitted a money order over \$5,000 in the 1969 to 1972 time frame. As I understand, the result was that anyone who submitted an order, particularly over \$5,000, probably had his tax status looked into in some degree.

Would that be a fair sum-up, or maybe you can elaborate anything you know about it, even though I know it was before your time.

Mr. ALEXANDER. I think that is a fair summary of that project, as I understand it. And I don't have a high regard for that project for two reasons.

The first goes to the utilization of resources. This sort of dragnet approach would seem questionable at best. A second goes to the problem that Mr. Wolfe and I have been discussing with you this morning, and that is the question of illegal, or illegally acquired or improperly acquired, evidence.

Senator SCHWEIKER. And one other project that I would just particularly like to cite—and this goes back probably into the late 1960's time frame. The CIA gave the IRS names of individuals who recently traveled to Vietnam, the implication being that their tax returns would be audited.

I wonder if you could tell us what your present policy is in this area at all, not necessarily Vietnam, but that kind of technique or anything else you might want to say.

Mr. ALEXANDER. That technique isn't a good technique. People should be audited and selected for audit on an objective basis without regard to their travel. If they attempted to deduct the cost of going to

Vietnam, then we would be interested in examining the validity of that claim. But we are not interested in examining people because of their views with respect to Vietnam or anything else.

Senator SCHWEIKER. Commissioner, one of the most frightening aspects, I think, of the awesome power that your department has, we have touched on in a number of our questions. We have actually seen it abused. We are going to come back with a number of hearings on that with the FBI and their COINTELPRO activities. Again, this is something preceding you.

But I think the larger question is how to keep political influence and political purposes out of any IRS actions or audits. I know this is your concern, too, and I raise the question as to what, legislatively, we might do to back up a Commissioner like yourself who wants to lay down policies that might change when a new administration or a new Commissioner comes in. Do you have any suggestions that we might hear to keep aspects of political life out of the IRS system, and what you have been doing to do that.

Mr. ALEXANDER. One suggestion is that of a 5-year term for future Commissioners. Another suggestion is continual, constructive oversight over the IRS and other agencies having broad powers like ours. Tax enforcement is too important to leave to the enforcers.

What we have been doing is not only attempting to institute new controls, not only attempting to dispose of aberrations in the tax system as we find them, such as the Special Service Staff, and to prevent aberrations from happening in the future, but to open up the process by providing our manual, that tells what we do and how we do it, and making everything about our organization open to the public, so that all will have access to information that they need to have, and so that the creation of a Special Service Staff would come to light when it was created, unless some future Commissioner decided to close the process. And no future Commissioner should be permitted to close the process.

Senator SCHWEIKER. Following up the awesome power that you have with the information that comes to your attention, power that is provided to you and no other Government agency, one of the concerns I have—and I know it is a difficult area, because you have to strike some kind of a balance—is the relationships you would logically and rightfully have with States and municipalities on exchanging information. You call this a tax treaty with the States.

And I want to make it clear that my question does not imply that States and municipalities should not have proper access to information. But it just strikes me that if we go to great lengths in your Department and in your area, even with new laws, we still have a tremendous area here that, to some extent, is a back-door problem, whereby a State unit, politically, or even a city unit, politically, would want to make use of this material in a political or adverse way to your instructions. What advice can you give this committee about legislation to somehow regulate that, without denying the State tax functions and city tax functions rightful use of this information, because here is a wide-open barn door that you really have not dealt with either.

Mr. ALEXANDER. As you point out, we have a balancing of competing interests. First, the interests that all of us have in effective State tax

administration; and second, the interests that all of us have in preserving taxpayer privacy and in preventing abuse of power.

Secretary Simon has sent to the Speaker of the House a recommendation for a new law to replace the current law with respect to disclosure of tax information. That new law will govern our future relationships with the States. It will tighten up on present law, in that Federal tax information would not be supplied to local governmental units for tax administration purposes. We think, in striking a proper balance, the place to stop is the States.

In the meantime, we are tightening up administratively by reviewing our agreements with the various States, 48 in all, and by imposing new restrictions on them with respect to their use of information, new requirements on them to safeguard information, and new rights in the IRS to terminate the agreement immediately if the States don't live up to their obligations.

Senator SCHWEIKER. Might there be some way of having—and maybe you do; I do not know—having some kind of inspector general or ombudsman that might just be assigned to sort of freelance around your whole structure to look out for this? Maybe there is a more formal thing. I do not know.

Mr. ALEXANDER. We have that now, Senator Schweiker. Mr. Bates is in charge of our Inspection Service, and Inspection reports directly to the Deputy Commissioner, Mr. Williams, and to me. And their duty is to freelance around, to look around, to see what we are doing and how we are doing it. And they have reviewed the very problem we were just discussing about disclosure of tax return information to State tax authorities and local tax authorities, and the use by them of this information, and the safeguards that they have instituted or failed to institute. So they have been looking into this very area. Inspection is a vitally important part of tax administration.

Senator SCHWEIKER. Thank you.

That is all the questions, Mr. Chairman.

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

Senator MORGAN. Mr. Commissioner, I want to join in with the comments of my colleagues, and especially those of Senator Mondale, in complimenting you for trying to administer your department, while at the same time living within the law.

I think one of the things that this committee, if I may say so, is involved in is not only the abuse of power, but also the actual violations of law that are being carried on by agencies of Government. And I do not know how we can talk about curbing increasing crime, how we can talk about generating more respect for law, when we ourselves violate it.

So I commend you for what you are doing. And while I do not know the facts in the most recent case for which you have come under criticism, I certainly again compliment you on the position you have taken publicly with regard to using proper law enforcement methods and techniques. I know it is not an easy position to take. I had difficulty in the same area with people who were working for me when I was trying to administer the laws of the State of North Carolina.

We were talking about intelligence gathering in this committee's work. And it seems to me that you have probably got more confidential

information on individuals and their finances than any other agency in Government. Do you agree with that?

Mr. ALEXANDER. Well, I surely hope so. If another agency has more than we have, they have no business having it.

Senator MORGAN. And of course, most of this information is submitted to your department voluntarily by the citizens of this country who willingly, as a general rule, try to uphold the tax laws.

Mr. ALEXANDER. That is correct.

Senator MORGAN. And I think, as you have pointed out previously, Mr. Commissioner, if the taxpayers of this country ever conclude that this information is being misused, I think you may have substantial difficulty enforcing these laws.

Mr. ALEXANDER. We would.

Senator MORGAN. But now, in addition to this information that is submitted to you voluntarily, you have certain powers that have been granted to the revenue department, the Internal Revenue Service, to gather information that other law enforcement agencies do not have. Is that not true?

Mr. ALEXANDER. That is correct, Senator Morgan.

Senator MORGAN. Such as—could you give us an illustration?

Mr. ALEXANDER. Such as one which I mentioned earlier, the right by administrative summons to call on a third party to give us information with respect to a taxpayer; the issuance, of course, of an administrative summons to a taxpayer; the right, with limitations that we have imposed administratively, to issue a John Doe summons, a summons issued not with respect to the liability of a named person, but in an effort to get us to first base where we believe that there has been a taxable event but we do not know the identity of the particular taxpayer.

We also have other rights, more in the enforcement area than in the area of acquiring information. I have touched on those earlier: terminations of taxable years, levies, and seizures.

Senator MORGAN. In other words, to give an illustration that is easily understood, you can go down to my bank, or any taxpayer's bank, and find out about my account, can you not?

Mr. ALEXANDER. We can, and we need to do that. We need to have that power. But we need to understand that a power of this nature can lead to misuse or abuse or excess.

Senator MORGAN. You need the power, but it was given to you for the purpose of enforcing the tax laws of this Nation, was it not?

Mr. ALEXANDER. That is correct.

Senator MORGAN. It was not given to you for the purpose of stifling dissent, was it?

Mr. ALEXANDER. That is correct; it certainly was not.

Senator MORGAN. It was not to be used for the purpose of harassing the steel manufacturers?

Mr. ALEXANDER. That is correct.

Senator MORGAN. It was not given to you for the power of enforcing the drug laws of this country either?

Mr. ALEXANDER. That is correct.

Senator MORGAN. Then how can anyone justify—I know you do not—but what is the rationale behind those who try to use these powers for purposes for other than which they were given?

Mr. ALEXANDER. People perceive a need. They perceive in their own minds a great need. Perhaps they perceive a void in the law in certain areas—or perhaps in the capability of enforcing a law. Perhaps law enforcement people are not there. The people are being used in other ways; perhaps one couldn't persuade the FBI to divert itself from things that the Attorney General called "always foolish and sometimes outrageous."

So IRS, then, may be considered by those people to be a convenient vehicle for filling a void that they have discovered; the use of the tax laws to achieve this perceived good, such as depriving narcotics traffickers of cash, for example, is not surprising, because narcotics traffickers would not be at the top of our list, I would say—if we had one—of people who come forward to comply with the tax laws.

Senator MORGAN. In other words, to put it more simply, in the minds of many well-meaning, well-intended public officials, the end justifies the means.

Mr. ALEXANDER. Yes.

Senator MORGAN. Now, and to do this, you have probably the largest intelligence-gathering organization. You have about 14,000 investigators and 2,500 special agents.

Mr. ALEXANDER. Well, those 14,000—actually, it's about 15,000—are revenue agents, and they are not criminal investigators. But we do have a large investigative force in the broad sense of the term. We have about 2,700 special agents, and our people are good.

Senator MORGAN. And so, because of these rather unusual laws which grant to the IRS special powers which are not normally given, and could not be given, to law enforcement agencies, and because of this vast reservoir of manpower, it is quite often tempting for others to look to your department for assistance in carrying out what they perceive to be worthwhile objectives.

Mr. ALEXANDER. It certainly has been tempting, and they would like to enlist us as foot soldiers in the wars against whomever they choose to do battle.

Senator MORGAN. I wish to say to you, Mr. Commissioner, and to others, that I think this pattern is not something that came about in recent years. As long as I have been a lawyer, I have been concerned about what I consider to be this pattern of abuse, or misuse, of our tax laws. For instance, as you may have pointed out, you have the right to make a jeopardy assessment and to take a person's property into possession without affording that individual any of the due process remedies that we now use.

Mr. ALEXANDER. That is a peremptory right. That person can challenge only the good faith of our action.

Senator MORGAN. Now, a good example of that would be 1971, I believe, when the President, in his well-meaning and well-intended action, ordered the IRS to cooperate with law enforcement officers in drug enforcement, didn't he?

Mr. ALEXANDER. That is correct.

Senator MORGAN. And the purpose of it being that, if the law enforcement officers were not able to make a case against someone that they suspected of being involved in a crime, then they would call on you to come in and make a jeopardy assessment, or exercise these extraordinary powers that you have.

Mr. ALEXANDER. I'm not sure it worked that way, but I will state that the narcotics program, which has been terminated, was, in my judgment, not a sound use of IRS's resources. And, in some instances, it was not a sound use or proper use of IRS's powers.

Senator MORGAN. Well, I can tell you of a personal experience, Mr. Commissioner, somewhat similar to your own. As attorney general—as the committee has heard me say before—the State Bureau of Investigation was under my charge. And I had the finest and most enlightened director that I think you would find anywhere. But he was so intent on doing something about the drug traffic—and it was such an emotional thing—that if he could not make out a case, then he would turn to you people and you would seize the money or the automobile. And I found out about it, and then he and I had our rather—not heated exchanges—but it was a position that was just as hard for me to defend publicly because of emotion as it is for you to defend your position. I think that's another reason why we need strong men in positions where they are called upon to exercise extraordinary power.

Mr. Commissioner, my time is up; I would like to pursue this much further, and I hope that after we go into the COINTELPRO activities that then we will be able to come back and put our fingers on some illustrative cases so that the American people can fully comprehend how dangerous it can be for the people of this country for your power to be abused and misused.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Morgan.

I would like to follow up on Senator Morgan's remark by giving a concrete illustration. This comes from an internal memorandum of the CIA [exhibit 4¹], and it had to do with the CIA's request to the IRS to do an audit on the magazine "Ramparts." And I read the memorandum which relates to the conversations between the CIA and the IRS working out this arrangement.

The CIA agent who writes the memorandum writes the following: "I told them of the information and rumors we have heard"—"them", being the IRS—"about 'Ramparts' proposed exposé with particular reference to the U.S. National Students Association." Now that, you will remember, was the association that the CIA was heavily involved in, and helped to finance. When that was exposed, I am told that the CIA then, after removing its connection from the organization, urged the IRS to no longer give it tax-exempt status.

Reading on from the memorandum, "I impressed upon them the Director's"—this would be Director Helms—"the Director's concern and expressed our certainty that this is an attack on CIA in particular, and the administration in general."

Reading from the next page of the memo:

I suggested that the corporate tax returns of "Ramparts" be examined, and that any leads to possible financial supporters be followed up by an examination of their individual tax returns. It is unlikely that such an examination will develop much worthwhile information as to the magazine's source of financial support, but it is possible that some leads will be evident. The returns can be called in for review by the Assistant Commissioner for Compliance without causing any particular notice in the respective IRS Districts. The proposed examination would be made by Mr. Green who would advise me if there appeared to be any information on the returns worth following up.

¹ See p. 46.

Now I can't imagine a more clear-cut case of the CIA attempting to use the IRS for the purpose of getting a magazine that proposed to expose activities that the CIA wanted to conceal, or a more threatening use of governmental power to undermine the freedom of the press in this country.

The question I have to ask you, Mr. Commissioner, is, is it legal for the IRS to examine individual tax returns, or organizational tax returns, and then supply the information it obtains to the CIA or to the FBI for purposes unrelated to tax collection?

Mr. ALEXANDER. Two points. Number one, the IRS has no business engaging in the use of its processes to harass people, to harass so-called enemies of any kind, the magazine you mentioned or anyone else.

Number two, the Director of the CIA can ask the IRS for information in connection with a matter officially before the Director, and the IRS would have a responsibility, under present law, to supply that information.

The CHAIRMAN. Do you know how a magazine publishing in this country, operating under the protective umbrella of the first amendment to the Constitution, could be officially a matter of concern, or be officially before the Director of CIA, for the purpose of entitling the agency to obtain the assistance of the IRS to do audits of its accounts?

Mr. ALEXANDER. No, I don't. But the one best capable of answering that would be the Director of the CIA.

The CHAIRMAN. I think we will have Mr. Helms back again and again and again.

These are the lists that we are referring to today—3,000 organizations appeared on the Special Services Staff list for audits, and 8,000 U.S. citizens. It is our understanding that about half of the names, organizational and individual names, came to the IRS and were included on the list at the request of the FBI.

The point that I made earlier I would like to make again at this time. It is established by the evidence that even the names of individuals and organizations that were connected with the war protest movement, or might have had some connection with the problem of violence at that time, were not a proper use of the tax-collecting power.

I shall ask the committee to release the lists in their entirety; time does not permit that now. When you look at these lists you will see how far afield they went even of the official purpose that, under the memorandum to which we have referred, they were supposed to be put. For example, here are some groups that I have taken from the list since I have been able to move through it this morning, in addition to those that I gave at the commencement of the hearing, groups that are well known to all of us, that appear on this list for purposes of having their tax returns audited. And it is very difficult to find any possible justification for such church groups as the American Jewish Committee, the American Jewish Congress, the Associated Catholic Charities, the Baptist Foundation of America, the B'nai B'rith Antidefamation League, or such Government institutions, if you please, as the U.S. Civil Rights Commission, or such professional associations as the American Law Institute and the Legal Aid Society. Or such political organizations as Americans for Democratic Action.

And, yes, on the other side of the spectrum as well, the Liberty Lobby, the John Birch Society, and the United Republicans of America. Or such citizens associations as Common Cause, the Legal Aid

Society, the Committee for a Sane Nuclear Policy, the National Education Association, the Women's Liberation Movement.

Somehow, the Women's Liberation Movement is on all of the lists. The Fund for the Republic, such foundations as the Carnegie Foundation, and such publications, magazines and newspapers in this country as "Human Events", "Playboy", "Commonweal", "Rolling Stone", "The National Observer", "The New York Review of Books", and "The Washington Monthly".

I just think that going down the list and pointing out how far afield the IRS was tasked to go, demonstrates the tremendous dangers to our privacy and to our liberty that are implicit in this kind of undertaking. We fought the Revolutionary War over a problem of taxation, and we had better make certain in the future that the IRS attends to collect taxes, and doesn't become the instrument for the harassment of other organizations and other citizens in this country, in connection with which, or with whom, there are no questions of tax liability.

Senator Schweiker has a question.

Senator SCHWEIKER. I do have one question for the Commissioner.

I realize again, Mr. Commissioner, this is before your time frame; maybe you could shed a little light. It has to do with another memo called "Tax Protest Movement" and a tax protest list, and it is dated December 6, 1972, to District Director, St. Louis District, from Intelligence Division [exhibit 5¹].

It says:

Attached herewith, for your information, is a copy of a list of various members involved in the tax protest movement. These individuals have been identified through investigations conducted in the San Francisco District relative to various tax protest groups. It is believed that some members of these groups are capable of violence against IRS personnel.

And going through the list of names, the name that obviously comes to attention first is Senator Joseph Montoya of New Mexico. I wonder, is there any light you can shed as to why you think Senator Montoya is violent, or is on a tax protest list? Can you help enlighten us how this got through the system?

Mr. ALEXANDER. I'm afraid I can't help very much because I can't put myself in the place of the author of that list. The only connection that I can think of immediately is that Senator Montoya is, after all, the Chairman of the IRS Appropriations Subcommittee, and someone might have thought that he did violence to our appropriation. I can't think of anything else. I think that points up the absurdity of some of the lengths to which a few people have gone.

Senator SCHWEIKER. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Mondale?

Senator MONDALE. Commissioner Alexander, in response to the chairman's question about the CIA inquiry about the tax status of the Ramparts magazine reporter who might be about to disclose CIA funding of the National Student Association, I thought I heard you say, in your opinion, it is still your duty under the law, should the

¹ See p. 48.

Director of the CIA request access to information, to turn it over to him?

Mr. ALEXANDER. It is.

The head of an agency—

Senator MONDALE. In other words, this could still happen today?

Mr. ALEXANDER. It could. The Director of the CIA is the head of an agency, and under these presidentially approved regulations, under present law, the head of an agency can call on the IRS to furnish tax information with respect to a matter officially before him. It would be difficult for IRS to question the Director of the CIA as to what's officially before him.

Senator MONDALE. So, if you had a Director who wanted to do the same thing today, and he asked you officially for the returns, you would provide them to him today, and you would not inquire of him as to what he had in mind.

Is that correct?

Mr. ALEXANDER. Let me modify what I have just stated.

The Chief Counsel has just pointed out that there is a word, "may," in that regulation, rather than "shall." We have been interpreting that to be "shall," except in these rare instances, of which I gave an example. It would be very difficult for me to make material changes in this established practice without a change in the law.

I think you are—

Senator MONDALE. Have you, since 1973, ever inquired of either the FBI, the Justice Department, or the CIA when they have requested tax information as to their real reasons and use?

Mr. ALEXANDER. Oh, yes.

Senator MONDALE. You have?

Mr. ALEXANDER. We certainly have.

I have personally, and the Chief of our Disclosure Division in our compliance function has. Yes, we have.

Senator MONDALE. Do you inquire, under all circumstances, whenever you receive a request to determine that the use of that material is solely for legitimate and official duties within the law?

Mr. ALEXANDER. The letter requesting the tax returns, under our new procedures, comes to me.

Now, I look at that letter—there are a number of them, a great number—in 1974, the tax returns of more than 8,200 people were requested.

Senator MONDALE. From the FBI?

Mr. ALEXANDER. No. These were total requests from governmental agencies.

Senator MONDALE. And roughly, what agencies?

Mr. ALEXANDER. Mainly from the Department of Justice and U.S. attorneys.

Senator MONDALE. Were some from the CIA?

Mr. ALEXANDER. According to the lists that have just been handed me, for the calendar year of 1974, which I believe to be correct, there are none from the CIA. The Department of Justice, which acts on its own behalf and on behalf of the FBI and U.S. attorneys, is, by far, our largest customer.

Senator MONDALE. Which other customers do you have?

Mr. ALEXANDER. The Department of Agriculture, the Bureau of Alcohol, Tobacco and Firearms, the Department of Commerce, the

U.S. Customs Service, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the General Accounting Office, the Interstate Commerce Commission, the Department of Labor, the SEC, and the Renegotiation Board were the requesters in calendar year 1974. And a total of 29,529 returns were requested, Senator Mondale.

Senator MONDALE. Under your interpretation of the regulation and statutes, any agency of the Federal Government can request these returns if they certify the purpose is official.

Mr. ALEXANDER. They need to do something more than that. They need to give us assurance that they will hold the information confidential. They need to give us, and are giving us, some detail as to why they need it, rather than just a simple statement that it is needed.

Now, Mr. Whitaker, would you amplify on that statement?

Senator MONDALE. Just a minute.

This is really disturbing, in my opinion, because I think you are doing a good job. But I think the horse is still out of the barn, and the IRS is still serving as a private investigative arm for these agencies whenever there is something they want to know, no matter what agency it is. As I read the law, there is supposed to be an inquiry into whether this is within the official duties of the Justice Department or the U.S. attorney requesting it. But instead, just about anybody in government can inquire, and I am not at all convinced that you are in a position to know what on earth they have in mind with those returns.

Mr. ALEXANDER. Senator Mondale, the concerns that you express, that we share, account in considerable measure for our request that the law be tightened up, so that the law and the regulations will give us the right to refuse to furnish tax information where we believe that the request is not a proper one, where we believe that there is not a real need for the information or it can be reasonably acquired elsewhere.

Senator MONDALE. The reason you want to tighten up is that right now these returns, as we sit here, can be requested and used for illegal purposes.

Mr. ALEXANDER. I believe that that statement is correct, and I believe that under the present regulations, it would be difficult, it would be awkward at best, for us to effectively police requests so as to be able to give you absolute assurance that the return was requested for a proper purpose.

Senator MONDALE. Now, I want to give one further example here of why I think the failure to have proper controls on this information could, if unrestricted, destroy this country's freedoms.

Senator Huddleston earlier referred to a civil rights organization in Atlanta, and I think you are familiar with this case. We do not know what actually happened, and the chances are that it did not go beyond what was recommended here, but we do know that the FBI obtained information, that was supposed to be classified in the IRS, listing the donors to this civil rights organization. And this is what the officer in the Atlanta office proposed to do—and I'm going to refer to this organization simply as "organization" and its nationally known leader as [deleted]. [See exhibit 3¹]. Here is what he said:

It is believed that donors and creditors of the organization present two important areas for counter-intelligence activities. In regard to the donors it is

¹ See p. 45.

suggested that official organization stationery bearing [deleted] signature, copies of which are available to the Atlanta office and will be furnished by separate communication to the Bureau laboratory for reproduction purposes, be utilized in advising the donors that the IRS is currently checking tax records of the organization, and that [deleted] through this phony correspondence"—in other words, they are going to sign [deleted] name for him—"wants to advise the donor, insuring that he reported his gifts in accordance with the IRS requirements so that he will not become involved in a tax investigation. It is believed that such a letter of this type from the organization may cause considerable concern and eliminate future contributions.

Now this was a decision based upon information they were able to obtain from the IRS, which they were going to use to destroy the funding of a moderate civil rights organization which apparently displeased them.

Now, in answer to Mr. Huddleston's question, you said such a request would go to the bottom of the pile. It didn't go to the bottom of the pile. They got the information from the IRS, and—we don't know whether this actually happened, apparently it did not—but at least one agent was going to use it to try to chill and undermine one of our moderate civil rights organizations.

So, do you not see, in the failure to have the tightest kinds of control on this information so that it is limited solely to tax enforcement and carefully defined other official legal uses, that the present loose control of this information makes it possible to resort to these kinds of outrageous and totally indefensible and exceedingly dangerous practices that threaten America's freedom?

Mr. ALEXANDER. Yes, Senator Mondale. We certainly believe that the laws should be tightened up. We are accountable for our own actions. The actions of other agencies are matters for which they should be held accountable. We rely upon the present law, upon good faith, and we think we have good reason to so rely. We would like to be able to give 100-percent assurance, but we cannot.

Senator MONDALE. Can there be any solution to this privacy matter so that they are not abused in these ways unless the Commissioner of the IRS possesses sole authority over those documents and power to determine whether or not their uses are proper and legal? If you must continue under present policy, that vests that authority in the FBI, the Justice Department and all the other agencies mentioned on those other lists, can there really be any control?

Mr. ALEXANDER. There can be some controls.

Senator MONDALE. But not much.

Mr. ALEXANDER. But not absolute controls.

Senator MONDALE. All right. Thank you.

The CHAIRMAN. Any other questions?

Senator HUDDLESTON. Just a loose end or two, Mr. Chairman.

The CHAIRMAN. Yes; certainly, Senator Huddleston.

Senator HUDDLESTON. In respect to the information that you have given us that certain procedures are now in effect to tighten up the use of confidential informants, we have a memo from the IRS to the special agents in the Jacksonville district which sets out the procedures to be used. This is dated July 9, 1974 [exhibit 6¹].

We also have a tax memo written by one of the agents, at least, to whom this was sent, which is headed "Instructions from JKW," who

¹ See p. 53.

is Mr. J. K. Wishwell, and apparently his comments on these suggestions—he writes, for instance, “No 1, reduce fund to \$500 for (a confidential informant),” on which he writes “ha, ha, ha.”

Senator HUDDLESTON. There is another entry in which he says, “restrict payout to \$250 without prior approval,” on which he writes, “ha, ha, ha.”

Another provision, “after each payout rendezvous with another special agent or JKW and hand deliver receipt, voucher and import and pick up reimbursement check.” He writes, “ha, ha, ha.”

“No. 7 said he would give me instructions in writing to minimize misunderstanding,” and again he notes, “ha, ha, ha.”

Is this the kind of response that you have been experiencing with these instructions that may have gone out to the agents in the field?

Mr. ALEXANDER. I don't think so. I think this gentleman obviously was a man of few words.

[General laughter.]

Mr. ALEXANDER. This is not typical of the IRS special agent. I think there are many fine, dedicated people doing a tough job well. I think there are a few, and a very vocal few, that are impeding efforts toward making our tax administration system sounder and more responsible, and this gentleman's repetition of his word “ha” would put him in this category.

Senator HUDDLESTON. I'm wondering, though, about a gentleman who's been out in the field dealing with informants who are not people who would be characterized as pillars of the community. There is one who turned in his own father as a tax evader. I am wondering if this is not a commentary on the workability of any set of rules or standards if you are going to deal with that kind of people.

Mr. ALEXANDER. Well, tight controls, sensible tight standards, are surely better than the alternative of lax or nonexistent controls and standards.

Senator HUDDLESTON. I agree with that. I was just suggesting it is an area that would require continual supervision if it is to be employed at all.

Mr. ALEXANDER. It does, Senator Huddleston. This is an area fraught with danger, the danger of misuse, the danger of actually employing people of, at best, doubtful character, doubtful reputation, and doubtful veracity by the IRS, with its great powers. An additional fact is that the institution of a criminal investigation itself, when made known by third party contacts, is a very severely damaging thing to the person investigated.

Senator HUDDLESTON. Now, the agency has also used undercover agents, as I understand, and there is at least one instance where undercover agents infiltrated the inner circle of an individual who was undergoing a tax investigation and tax prosecution, as a matter of fact. Because of this, he was able to learn what the defense strategy was, what kind of affidavits were to be filed, what plea was to be made, and did, in fact, convey this information to the prosecuting attorney.

Is this the kind of thing that undercover agents are expected to do?

Mr. ALEXANDER. No; it is not.

Senator HUDDLESTON. Do you know of any other incidents besides the ones I cited, which is a case out in Los Angeles, Calif., where this might have occurred?

MR. ALEXANDER. I am aware of that case, and I am disturbed by it. I do not know personally of any other instances. I don't know whether those with me today know of any others.

MR. WOLFE. I know of none.

Senator HUDDLESTON. The system which utilizes undercover agents and informants certainly lends itself to that kind of abuse.

MR. ALEXANDER. That is one of the dangers in the use of a confidential informant, particularly if the confidential informant is encouraged by silence, or by action, or by knowledge and acquiescence, to engage in activities beyond the line, beyond the line legally, beyond the line ethically and morally. These present very great dangers and I question whether the benefits to the enforcement of the tax laws are worth the cost to enforcement of the tax laws.

Senator HUDDLESTON. We also have information that documents which were maintained in the IGRU system were destroyed contrary to the regular document destruction schedule by the IRS.

First, what was the IGRU?

MR. ALEXANDER. The IGRU, to which I referred earlier, was the Intelligence Gathering and Retrieval Unit in the IRS. IGRS was the Intelligence Gathering and Retrieval System. This was to be a computerized system for maintaining general intelligence information that the IRS had gathered. It resulted from a study instituted, I believe, in 1969, implemented in 1973, and modified in 1974. The Deputy Commissioner and I suspended this system in January of this year. It was a system that accumulated a great deal of information of somewhat doubtful value. But the system itself, the idea of computerizing this information, is a sound idea. The implementation of the system was the problem.

Senator HUDDLESTON. Is there any way to make distinctions among that evidence that might have been collected illegally, if the evidence were valid?

MR. ALEXANDER. I think this operated as a vacuum cleaner; everything went in, in some districts; very little went in, in others. The district offices were encouraged to build up the system, and some of them reacted with great vigor to do precisely that, Miami being one of such offices.

On January 15, we found that 465,442 names were in the system, and included in those names was mine.

Senator HUDDLESTON. What about the destruction of these documents contrary to procedure? Were you aware of that?

MR. ALEXANDER. I became aware of that recently, and it is very disturbing to me.

Senator HUDDLESTON. How could it have happened, or how did it happen?

MR. ALEXANDER. I don't know of my own knowledge how that happened. We give instructions in the national office. We expect those instructions will be carried out, and in almost every instance they are. In some instances, people, through misunderstandings or through, I'm sorry to say, a willful act, refuse to carry them out.

Senator HUDDLESTON. Are you aware that in at least two instances documents were destroyed related to extremist organizations or extremist individuals?

MR. ALEXANDER. I have become aware of that, yes.

Senator HUDDLESTON. Do you attach any significance to that?

Mr. ALEXANDER. Yes; I do. It causes me deep concern because it would appear that someone thought that these should be destroyed because of the adverse impact on, perhaps, the assembler or perhaps the holder of the document, if they were not destroyed. Of course, that is a concern for the head of a law enforcement agency.

Senator HUDDLESTON. Also the revelation of how the information might have been obtained would leave some question.

Mr. ALEXANDER. That is another problem.

Senator HUDDLESTON. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Commissioner, did you testify that in 1974, something in excess of 20,000 income tax returns were turned over to other agencies of the Government?

Mr. ALEXANDER. Yes; I did. The number, I believe, was 29,520 plus.

The CHAIRMAN. 29,520 plus?

Mr. ALEXANDER. Yes. The returns were for those 8,210 taxpayers, Mr. Chairman.

The CHAIRMAN. 8,210 taxpayers. Now, does that include returns that may have been requested and turned over to State governments?

Mr. ALEXANDER. No; not at all.

The CHAIRMAN. Do you have the figure for the latter?

Mr. ALEXANDER. I have a figure, and I would like to supplement this for the record, to give you the full figure, Mr. Chairman. You see, returns turned over to the State governments actually consist in large part of taped transcripts.

Now, my understanding is that in 1974, the taped transcripts of some 63 million individual returns were turned over to State governments; but in addition to that I receive a number of requests from State governments for individual returns that are not included within this figure. We have agreements with 48 of the 50 States. We do not have agreements with Texas and Nevada, and I would like to supply for the record, if I can, Mr. Chairman, a full and complete listing for you [exhibit 17¹].

The CHAIRMAN. I wish you would.

You see, as the record stands now, in 1 year alone, nearly 30,000 returns involving more than 8,000 taxpayers, were turned over by the IRS to other Federal agencies. You have said this is a very loose arrangement. The laws need to be tightened to give a greater measure of confidentiality.

This committee is concerned about what is becoming obvious in the course of these hearings, and that is the spreading of "Big Brother" government methods, and what your testimony shows is that, at least as of now, every taxpayer in this country is on notice that when his tax return is filed in the IRS, it means any agency in the Government that can claim an official interest can get into that tax return for its own purposes. That is what it means. And, what better form is there to intimidate people, harass people, force them to comply with whatever it is some other agency may have in mind, than to have his tax return and information that it may contain.

¹ See p. 103.

This morning we have seen further that, until recently at least, the IRS itself maintained a list of 8,000 individuals and 3,000 organizations which other agencies of the Government asked them to compile for the purpose of making tax audits, though clearly from the nature of these organizations, they are not suspected of owing taxes. Now, if that isn't an abuse, I don't know what abuse is.

Furthermore, some of these agencies had no lawful right to request that these names be placed upon such a list. I gave you an example a few minutes ago of the CIA making such a request on "Ramparts" magazine because it feared that "Ramparts" might print something that the CIA did not want printed. Yet the law on which the CIA derives its powers provides expressly that the Agency shall have no police, subpoena, or law enforcement powers, or internal security functions. It was to stay out of domestic affairs. But it didn't, it hasn't, and it won't until we begin to write the laws much differently and prescribe penalties for their violation.

I want to thank you, Mr. Commissioner, and I want to thank your assistants who have come here. I want to thank you for the cooperation you have given us and the information you have turned over to us. It is very helpful to the committee.

The committee now stands adjourned.

Our next hearing will be announced by the Chair.

[Whereupon, at 12:32 p.m., the committee recessed, to reconvene upon the call of the Chair.]

