

Recollections from the Church Committee's Investigation of NSA

L. Britt Snider

“
Over a period of months, a story emerged that previously had not seen the light of day—a story that had long-term implications for NSA and for the relationship of the Intelligence Community to the private sector.
”

In January 1975, I was offered a position as counsel on the staff of the Church Committee. I was 30, and Senator Sam Ervin, for whom I had worked since 1971, had retired and returned to North Carolina. While I had participated in Senator Ervin's inquiry into the domestic activities of Army intelligence elements during the Vietnam era, the foreign intelligence apparatus of the United States, which I now confronted, was, quite literally, *foreign* to me, as it was to many of those joining the Church Committee staff.

To make matters worse, I was given the task (along with a staff colleague, Peter Fenn¹) of trying to crack what was perceived to be the most secretive of US intelligence agencies, the National Security Agency (NSA). Unlike the CIA and FBI, which were the agencies principally in the Committee's sights—thanks to a number of sensational press accounts—there had been no press exposés about NSA. Our supervisor, in fact, seemed to take particular delight in pitting Pete and me against this mysterious Goliath. “They call it ‘No Such Agency,’” he said. “Let's see what you boys can find out about it.” It was the first time I had heard the agency referred to this way, and it was not long before I understood why.

What ensued was something of an odyssey that lasted over the better part of a year. It began with a series of fruitless, sometimes comical, efforts to penetrate NSA's defenses. (“They must have done *something*,” our boss wailed.) Then, an unex-

pected breakthrough caused us to redirect our inquiry along two separate, but ultimately converging, lines; Peter took the lead on one inquiry, and I took the other lead. Over a period of months, a story emerged that previously had not seen the light of day—a story that had long-term implications for NSA and for the relationship of the Intelligence Community to the private sector. Our work also provided the context for a rare Congressional challenge to the President's authority in the national security area.

I decided to write about this episode primarily to preserve it for the historical record. While much of the story was disclosed over the course of the Church Committee's inquiry, there were aspects that never became public. Given the way the Committee operated, no one other than the staffers doing the work knew the whole story.

Initial Futility

We began by asking the Congressional Research Service (CRS) for everything on the public record that referred to NSA. The CRS soon supplied us with a one-paragraph description from the Government Organization Manual and a patently erroneous piece from *Rolling Stone* magazine.

Striking out there, I paid visits to the Senate Armed Services and Appropriations Committees, which were responsible for NSA's annual funding. Only one staff person on

L. Britt Snider is CIA's Inspector General.

Report Documentation Page				Form Approved OMB No. 0704-0188	
Public reporting burden for the collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to a penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.					
1. REPORT DATE 2000		2. REPORT TYPE		3. DATES COVERED 00-00-1999 to 00-00-2000	
4. TITLE AND SUBTITLE Recollections from the Church Committee's Investigation of NSA				5a. CONTRACT NUMBER	
				5b. GRANT NUMBER	
				5c. PROGRAM ELEMENT NUMBER	
6. AUTHOR(S)				5d. PROJECT NUMBER	
				5e. TASK NUMBER	
				5f. WORK UNIT NUMBER	
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES) Center for the Study of Intelligence,Central Intelligence Agency,Washington,DC,20505				8. PERFORMING ORGANIZATION REPORT NUMBER	
9. SPONSORING/MONITORING AGENCY NAME(S) AND ADDRESS(ES)				10. SPONSOR/MONITOR'S ACRONYM(S)	
				11. SPONSOR/MONITOR'S REPORT NUMBER(S)	
12. DISTRIBUTION/AVAILABILITY STATEMENT Approved for public release; distribution unlimited					
13. SUPPLEMENTARY NOTES Studies in Intelligence. Volume 43, No. 3, Winter 1999-2000					
14. ABSTRACT					
15. SUBJECT TERMS					
16. SECURITY CLASSIFICATION OF:			17. LIMITATION OF ABSTRACT Same as Report (SAR)	18. NUMBER OF PAGES 9	19a. NAME OF RESPONSIBLE PERSON
a. REPORT unclassified	b. ABSTRACT unclassified	c. THIS PAGE unclassified			

each committee was cleared for NSA information, and I managed to obtain appointments with each. Both committees had budget and program data on NSA, but nothing that dealt with oversight. Neither of the staffers I interviewed was aware of NSA ever doing anything to raise oversight concerns. "You've got to understand," I was told, "they focus on foreign targets."

Regrouping, Peter and I decided to try to identify some former NSA employees willing to spill the beans on their old agency. Using the connections of others on the staff, we managed to identify a handful of NSA retirees living in the Washington area whom we contacted and interviewed. While we were encouraged by their willingness to talk with us, the most egregious "abuses" we were told about were complaints about how NSA allocated its parking spaces among employees and about a few cases of time and attendance fraud. None of the people we interviewed had any knowledge of NSA's having undertaken surveillance against American citizens. It became clear to us from these interviews that NSA's operations were so compartmented that, unless we had the right person, others were not apt to know. How, though, did we find the right person? At that point, we did not even have an organization chart.

We decided to try the front door and asked for a meeting with the Director. It was our first trip to Fort Meade, and, although our visit predated the construction of the "new" headquarters building, the size of the old complex was daunting. NSA was housed in an enormous glass edifice, with large parabolic antennas on its roof and surrounded by acres of parking lots. We were given visitors'

spaces near the main entrance and were met by our broadly smiling "handlers." After going through the normal security checks, we were escorted to the top floor into the large and imposing office of the NSA Director. At the time, this was Air Force Lt. Gen. Lew Allen, who came across as a stern, no-nonsense sort, and, based on all we had been able to learn in advance of the meeting, was a man of impeccable integrity.²

General Allen welcomed us and motioned for us to sit at the large conference table in his office. "Well, gentlemen," he began, "what can we do for you?"

I wanted to respond, "Well, General, you might begin by running through all your abuses and improprieties," but, with no arrows in our quiver, we were hardly in a position to be so bold. We told Allen we would like to be given more information about the Agency's organization and activities, and he offered to arrange whatever briefings we might require.

These occurred over the ensuing weeks, and implicitly the message came through: "Whatever you do, kids, don't screw this up—it's important to the country." In fact, the briefings did give us a considerably improved understanding of NSA's mission and accomplishments, but they failed to identify a single avenue that appeared promising from an investigative standpoint. Part of it was due to our own ignorance and uncertainty in terms of where to probe and how hard to push, and part of it was due to NSA's uncertainty in terms of what to share with us. Given the current highly intrusive nature of Congressional oversight, it may seem strange that in 1975 NSA was an agency that had

never before had an oversight relationship with the Congress. That became painfully clear as our investigation progressed.

A Breakthrough

In May 1975, after Peter and I had been struggling in vain for weeks, the Committee received from the Rockefeller Commission³ a copy of the "family jewels," the name given to a roughly 800-page compilation of the recollections of CIA employees who had previously been directed by then DCI James Schlesinger to identify any past abuses or improprieties in which CIA may have been involved. Buried within this infamous tome were two references to NSA. The first was a reference to an office in New York that CIA had provided NSA for the purpose of copying telegrams. The other disclosed that CIA had asked NSA to monitor the communications of certain US citizens active in the antiwar movement.

At last we had something to sink our teeth into. We decided that I would run down the reference to the office in New York, and Peter, together with a young lawyer who had since joined the staff, would look into the request to monitor the communications of the antiwar protesters.

I began by making an oral inquiry to NSA, asking for an explanation of the reference in the "family jewels" to the New York office and any documents that may pertain to the matter. Weeks passed without a response. In July, out of growing frustration, I prepared a list of written interrogatories that were sent to NSA over the Chairman's signature. This at last produced a response, albeit one in which NSA said the subject was so

“

In early August, a press leak appeared in an article in *The New York Times* alleging that NSA had eavesdropped on the international communications of US citizens.

”

sensitive that it could be briefed only to Senators Church and Tower, the Chairman and ranking minority member, respectively. My efforts to arrange such a briefing failed, however, largely because of the difficulty in getting the two Senators together at the same time.

In early August, a press leak appeared in an article in *The New York Times* alleging that NSA had eavesdropped on the international communications of US citizens.⁴ The article discussed in general terms the matters we were investigating, and it was a source of considerable consternation for the Committee as well as NSA.⁵ The leak had the salutary effect, however, of breaking the bureaucratic logjam that had stymied us. With the allegations now a matter of public record, NSA wanted to explain its side of the story. So, in late August, NSA told me that a briefing was being arranged.

I can remember the clean-cut, earnest man in his early forties who met with me, but I do not recall his name. It was true, he said, that NSA had had access for many years to most of the international telegrams leaving New York City for foreign destinations. The program was codenamed SHAMROCK and known to only a few people within the government. Every day, a courier went up to New York on the train and returned to Fort Meade with large reels of magnetic tape, which were copies of the international telegrams sent from New York the preceding day using the facilities of three telegraph companies. The tapes would then be electronically processed for items of foreign intelligence interest, typically telegrams sent by foreign establishments in the United States or

telegrams that appeared to be encrypted.

While telegrams sent by US citizens to foreign destinations were also present in the tapes NSA received, the briefer said that, as a practical matter, no one ever looked at them. “We’re too busy just keeping up with the real stuff,” he said. The program had been terminated in May, he told me, by order of the Secretary of Defense. I asked if the Secretary had ended it because he knew the Committee was on to it. “Not really,” he said, “the program just wasn’t producing very much of value.”

When I asked how long this had been going on, he said he did not know. When I asked how it had begun, he said he did not know. When I asked who had approved it, he said he did not know. I then asked who *would* know, and he said he thought the only person alive who would know the whole story would probably be “Dr. Tordella.” That name was familiar to me. Louis Tordella had been the civilian Deputy Director at NSA for many years and had recently retired.⁶

The Story of SHAMROCK

I wasted little time in locating Dr. Tordella. To my surprise, he readily agreed to see me. On a Sunday afternoon in September 1975, I visited his home in suburban Maryland. While he greeted me politely, Tordella was clearly uncomfortable with the whole idea of confiding in someone like me, young, with little knowledge or appreciation of intelligence, who was, as far as he knew, hell-bent on making NSA look bad.

We began by questioning each other about our backgrounds. I tried to convey the impression I was “responsible,” interested only in the facts. He said he was not so worried about me as about the Committee and what it might make of the “facts.” He asked me what I knew about SHAMROCK. I told him. He sighed a long sigh and then began a discourse on SHAMROCK that lasted into the early evening. The more he talked, the more he seemed to relax.

SHAMROCK actually predated NSA, which was created by President Truman in 1952. It had been essentially a continuation of the military censorship program of World War II. Copies of foreign telegraph traffic had been turned over to military intelligence during the war, and, when the war ended, the Army Security Agency (ASA) sought to have this continue. All the big international carriers were involved, Tordella said, “but none of ‘em ever got a nickel for what they did.”

Tordella thought the companies had been assured at the time that President Truman and Attorney General Tom Clark were aware of and approved the continuation of the program, but he did not know if any

“
**SHAMROCK just
 ran on without a
 great deal of
 attention
 from anyone.**
 ”

subsequent President or Attorney General had ever been briefed on it. He did say he had personally briefed Secretary of Defense Schlesinger on the program in 1973, and, to his knowledge, Schlesinger had been the only Secretary to have such a briefing, at least before Tordella's retirement.

Tordella went on to describe in detail how the program evolved. During the 1950s, paper tape had been the medium of choice. Holes were punched in the paper tape and then scanned to create an electronic transmission. Every day, an NSA courier would pick up the reels of punched paper tape that were left over and take them back to Fort Meade. In the early 1960s, the companies switched to magnetic tape. While the companies were agreeable to continuing the program, they wanted to retain the reels of magnetic tape. This necessitated NSA's finding a place to make copies of the magnetic tapes the companies were using. In 1966, Tordella had personally sought assistance from the CIA to rent office space in New York City so that NSA could duplicate the magnetic tapes there. This lasted until 1973, Tordella said, when CIA pulled out of the arrangement because of concerns raised by its lawyers. NSA then arranged for its own office space in Manhattan.

Tordella recalled that while many NSA employees were aware of SHAMROCK, only one lower-level manager—who reported to him directly—had had ongoing responsibility for the program over the years. The first person who served in this capacity had started doing it in 1952 and had continued until he retired in 1970. Another person was appointed to take his place. Tordella recalled

that years would sometimes go by without his hearing anything about SHAMROCK. It just ran on, he said, without a great deal of attention from anyone.

I asked if NSA used the take from SHAMROCK to spy on the international communications of American citizens. Tordella responded, “Not per se.” NSA was not interested in these kinds of communications as a rule, he said, but he said there were a few cases where the names of American citizens had been used by NSA to select out their international communications, and to the extent this was done, the take from SHAMROCK would also have been sorted in accordance with these criteria. He noted that, at the time the Huston Plan⁷ was being considered, the Nixon administration had thought about turning over SHAMROCK to the FBI, but the FBI did not want it.

When I asked if it was legal for NSA to read the telegrams of American citizens,⁸ he replied, “You'll have to ask the lawyers.”

I noted that I would have expected the companies themselves to be concerned, and Tordella remarked that, “the companies are what worry me about this.” He said that whatever they did, they did out of patriotic reasons. They had presumed NSA wanted the tapes to look for foreign intelligence. That was NSA's mission. If the telegrams of American

citizens were looked at, the companies had no knowledge of it.

I countered with the observation that, by making the tapes available to the government, the companies had to know they were providing the wherewithal for the government to use them however it wanted. They had to bear some responsibility.

This comment caused Tordella's temper to flare for the first time during our interview. The companies were not responsible, he reiterated, they were just doing what the government asked them to do because they were assured it was important to national security. If their role were exposed by the Committee, it would subject them to embarrassment, if not lawsuits, and it would discourage other companies from cooperating with US intelligence for years to come.

I told him that the Committee had yet to determine how the whole matter would be treated, including the involvement of the companies. We parted amicably, but he clearly had misgivings about how this would turn out. His distrust of politicians was manifest.

The Companies

Several days after my interview with Tordella, an NSA official briefed the Committee in closed session, confirming essentially what Tordella had told me about SHAMROCK.

It was clear that the issue for the Committee was likely to be the companies themselves and how to treat them in its report. We decided to explore for ourselves the companies' involvement to see whether they

were as oblivious to the implications of their conduct as Tordella and the NSA briefer contended.

We sought pertinent documents and witnesses from each of the three companies involved: RCA Global, ITT World Communications, and Western Union International. No one could find any record whatsoever of an agreement with NSA or ASA setting forth the terms of the operation. Only RCA Global could produce a witness who had been involved in establishing the arrangement after World War II; the other two companies could produce a few witnesses—mid-level executives—who had become aware of the arrangement over the course of its existence. I deposed each of the witnesses the companies identified.

The RCA Global executive, then retired, was the most colorful and forthright of the lot. He offered no apologies for what he or the company had done. He said the Army had come to him and asked for the company's cooperation; and, by damn, that was enough for him.

The executive from ITT World Communications, by comparison, came to the deposition surrounded by a phalanx of corporate lawyers who proceeded to object to every question I asked once I had gotten past the man's name and position. I pointed out to them that this was the United States Senate—not a court of law—and, if they wanted to object to the questions I was asking, I would have a Senator come in and overrule every one of their objections. They piped down after that and allowed the witness to respond to my questions.

The executive from Western Union International gave a slightly different version of the operation. He said that in his company, employees would microfilm copies of outgoing international telegrams that would then be picked up by a government courier.

All the company witnesses testified that their companies had assumed NSA was using the telegraph traffic only for foreign intelligence purposes. It did not occur to any of them that NSA might have used their access to look for the international telegrams of American citizens, nor were they aware that their companies had ever sought assurances from NSA on this point. Moreover, all were adamant that their companies had never received any compensation or favoritism from the government in return for their cooperation.

Action Within the Committee

Based upon the information I had developed, I prepared a report on SHAMROCK for the Committee, outlining the facts as we then knew them. I submitted it to the Committee Chief Counsel, Frederick A. O. "Fritz" Schwarz, a lineal descendant of the toy store magnate on leave from a Wall Street law firm, with a recommendation that the Committee *not* make public the names of the three cooperating companies.

Fritz called me into his office to discuss the report and told me he disagreed with my recommendation that the companies not be identified. I pointed out to him that the companies had cooperated purely out of patriotic motives and, as far as we knew, had never received anything

from the government. I said that if we exposed them, it would cause them public embarrassment and perhaps subject them to lawsuits, thereby making it difficult for US intelligence agencies to obtain the cooperation of private companies in the future. Fritz countered that the companies had a duty to protect the privacy of their customers. In his view, they deserved to be exposed. If the Committee did not do it, it would become the subject of criticism itself. So, for the time being, the names stayed in, and the draft report was submitted to NSA for security review.

The next step in the process took place on 28 October 1975, when the Committee met in executive session to consider what it would do with respect to the matters the staff had been investigating: SHAMROCK and the NSA "watch list."⁹ Lieutenant General Allen, the NSA Director, was scheduled to appear before the Committee the following day in public session. It would be the first time that an NSA Director had appeared in public before a Congressional committee, and the Committee was meeting on the 28th to get its ducks in a row.

The Ford administration had agreed to allow Allen to testify publicly about the "watch list" but had refused to allow him (or anyone else) to testify about SHAMROCK. While NSA had little to say about the accuracy of the draft report on SHAMROCK, it objected to making the report public. Without a knowledgeable advocate for NSA's position in the room, however, Chairman Church rather easily obtained consensus from a bare quorum of the Committee—without taking a vote—that the SHAMROCK report

“
**Senators were
bothered that
the telegrams of
Americans had for
years been handed
over to an
intelligence agency.**
”

should be made public, notwithstanding the administration's objection. This action by Senator Church and the Committee was based on a provision in the resolution establishing the Committee that allowed it to release information in its possession, classified or not, by majority vote.

After the meeting, however, Senator Tower and other Republican members who had not been present began voicing their displeasure with the Chairman's action. In a rare display of administration concern, President Ford telephoned the Chairman and other members of the Committee imploring them to reconsider. While the Chairman may have been confident he had the votes to maintain his position, no vote had actually been taken.

This disagreement among the members played itself out in public the following day at the conclusion of General Allen's testimony. Senator Church raised the matter himself and proceeded to describe SHAMROCK in general terms, alluding to the "companies" but not actually naming them. In his view, the program was illegal, and its disclosure would not harm national security.

According to Church, moreover, the Committee had acted in accordance with its rules. Senators Tower, Goldwater, and Baker challenged him on both substantive and procedural grounds, among other things, revealing that President Truman had approved the program and contending that disclosure of the details would have far-reaching repercussions for US security. In what seemed a pre-ordained finale to the discussion, Church gave in to the dissenters, agreeing that the Committee would consider the matter further

and take an "up or down" vote on disclosure.

In the next few days, the Committee met to consider the disclosure of SHAMROCK. For the first time since the Committee began operations, Attorney General Edward Levi, speaking expressly on behalf of the President, personally appealed to the Committee not to publish the SHAMROCK report on the grounds that publication would damage national security. Before a hushed hearing room, Levi made an eloquent appeal to the Committee, objecting to the publication of the report, and, in particular, to disclosing the names of the three companies. Levi's arguments generally mirrored those I had made to Fritz Schwarz a few weeks before, and I was hoping they would carry the day.

In the discussion that followed, however, with Levi out of the room, it soon became clear which way the wind was blowing. Senators were bothered that the telegrams of Americans had for years been handed over to an intelligence agency. Whatever its legality, it should not have happened. The program was now terminated. Why would it matter if it were disclosed? Why was the identification of the companies a national security concern? Yes, the report might be embarrassing to them and they might even get sued because

of it, but why should that make it classified?

In what I recall was largely a party-line vote, the Committee voted to ignore the President's objections and to publish the report with the three companies identified therein. It remains to this day the only occasion I know of where a Congressional committee voted to override a presidential objection and publish information the President contended was classified.

A few days later, on 6 November 1975, the Chairman read the report I had written, including the names of the companies, into the public record of the Committee. The witness table was empty that day, the executive branch having refused to send witnesses to testify.¹⁰

Belated Discoveries

For all practical purposes, my investigative work on SHAMROCK ended with the Chairman's recitation, and I moved on to other tasks for the Committee. In March 1976, however, as the Committee staff was at work putting together its final seven-volume report, a lawyer in the General Counsel's office at the Department of Defense called me to say that "a lower-level employee" at NSA had recently discovered a file relating to SHAMROCK and, while "it did not really change anything," he asked whether I would be interested in seeing it.

The file proved to be a mother lode of information. In it were internal memorandums of the Army Signal Security Agency that described visits by Army representatives to the three

“
**I found it highly
 suspicious that these
 documents had
 been located by the
 government months
 after the Committee's
 investigation had
 closed.**
 ”

international telegraph companies in August 1945 at the conclusion of the war and reflected the initial responses of the companies. ITT World International at first refused to cooperate, but went along after it was told that the presidents of RCA Global and Western Union had agreed to cooperate if Attorney General Tom Clark said the operation was “not illegal.” ITT said it would cooperate on the same basis.

According to the Army memoranda, however, the program began shortly after the August 1945 meetings without an opinion from the Attorney General. It involved all the international telegraph offices of the three companies, not simply those in New York, but those in Washington, DC, San Francisco, and San Antonio as well.

The file also indicated that the concerns of the companies over the legality of their cooperation did not abate once the operation began. In an internal memo written more than a year later, the Army noted that, because of the concern over the legality of their conduct, the companies had limited knowledge of the operation to two or three individuals in each company.

With the discovery of this file, I set about revising the chapter of the Committee's final report that dealt with SHAMROCK to incorporate the new information. About a month later, in April 1976, as I was putting the final touches on the revision, I received a call from the Department of Defense, this time advising that nine more documents pertaining to SHAMROCK had been discovered at the National Archives and were en route to me.

These documents filled out the picture even further. They reflected that in 1947 the three companies had sought assurances from the President, Attorney General, and Secretary of Defense that their cooperation in the SHAMROCK program was essential to the national interest and that they would not be subject to Federal prosecution for their activities. In fact, the documents showed that Secretary of Defense James Forrestal, stating that he was speaking for the President, had met with representatives of ITT and RCA in December 1947 and provided such assurances, but with a warning that he could not bind his successors in office. Western Union representatives were briefed subsequently on this meeting.

In apparent follow-up to this meeting, the documents showed that Secretary Forrestal in June 1948 quietly tried to have Congress amend section 605 of the Communications Act of 1934 in a way which would have made the companies' cooperation in SHAMROCK clearly legal. He met informally with the Chairmen of the Senate and House Judiciary Committees to explain the situation, and an amendment was drafted to accomplish the objective. The amendment was never reported by either committee.¹¹

With the failure of the effort to enact legislation, the companies in 1949 sought and obtained assurances from Forrestal's successor, Louis Johnson, that they would not be prosecuted. On this occasion, Johnson said he was speaking on behalf of the President and the Attorney General as well.

I found it highly suspicious that these documents had been located by the government months after the Committee's investigation had closed. (Why were they still looking for them at this juncture?) The documents also cast doubts on the veracity of the companies' claims that they could find no documentation pertaining to SHAMROCK. After all, this had concerned the highest levels of their corporate management for at least four years. With the Committee about to go out of business, however, there was no time for me to investigate the failure to produce these documents earlier. I had to be content that they had arrived in time to be reflected in the Committee's final report.¹²

Denouement

Several weeks after the Committee issued its final report, I walked over to the House side of the Capitol to attend a hearing of the subcommittee chaired by Bella Abzug, the “gentlewoman” from New York, as she was referred to by her colleagues. Her hearings brought to mind the days of Nero, when Christians were thrown to the lions for sport. Ms. Abzug's “red meat” that particular day consisted of executives from RCA Global, ITT International, and Western Union International. As I leaned back against the wall of the hearing room,

I saw many of those I had met months before.

Berating the witnesses as only she could, Ms. Abzug made it clear she "stood solidly for the privacy of the American people and squarely against the corporate thugs of this country who thought they could run roughshod over the rights of the American people." (I am paraphrasing here.) I knew they were getting a bum rap, but they had no defenders that day. One of their attorneys turned and caught my eye in the back of the room, nodding grimly as if to say I told you so.

And the companies' troubles would not end there. In the weeks that followed, they would be sued by a group of people claiming their rights had been violated by the SHAMROCK program.

As I walked back to the Senate side after the hearing that day, it occurred to me that none of this would be happening if not for me. Yet I hardly felt like gloating. Indeed, I was somewhat shaken to see the consequences I had predicted to Fritz Schwarz a few months before come to pass. For the moment, I was overcome by doubt. Had we, in fact, "poisoned the well" in terms of future cooperation with the private sector, as Dr. Tordella had feared?

Because I decided to stay in government and, indeed, served in positions that offered a vantage point, I came to see that relations between intelligence agencies and the private sector endured. Lawyers became more involved than they used to be, but questions of legality were no longer ignored or unresolved. Agreements were put in writing and signed by the responsible officials.

I also came to think that the investigation, in the long term, had a beneficial effect on NSA. With no desire to undergo another such experience, NSA adopted very stringent rules in the wake of the Church Committee to ensure that its operations were carried out in accordance with applicable law. Where the communications of US citizens were concerned, I can attest from my personal experience that NSA has been especially scrupulous. As upsetting and demoralizing as the Church Committee's investigation undoubtedly was, it caused NSA to institute a system which keeps it within the bounds of US law and focused on its essential mission. Twenty-three years later, I still take some satisfaction from that.

NOTES

1. Peter Fenn is now a political consultant to Democratic candidates and frequently appears on *Geraldo Rivera Live*, *Hardball*, and other talk shows.
2. I have since worked closely with General Allen (who retired some time ago) as a member of the Aspin-Brown Commission and as a member of the President's Foreign Intelligence Advisory Board. He seems considerably more mellow to me today than he did then and still a man of impeccable integrity.
3. The Rockefeller Commission was created by President Ford in 1974 to look into allegations of CIA involvement in monitoring domestic political dissent. It issued its report on 6 June 1975, five months after the Church Committee had been formed.
4. Horrock, Nicholas, "National Security Agency Reported Eavesdropping on Most Private Cables," *The New York Times*, 8 August 1975, p. 1.

5. The leak apparently did come from the Committee or, more likely, its staff; members were not yet engaged on NSA. Like most such situations, however, the Committee was unable to prove conclusively who the culprit was. The episode did make us far more wary of discussing with the staff what we were doing.
6. Tordella was Deputy Director of NSA from 1958 until 1974.
7. The Huston Plan was devised by Nixon White House aide Tom Huston to organize the resources of the government to counter antiwar protesters and others opposed to the views of the administration.
8. The issue of legality stemmed from applicability of section 605 of the Communications Act of 1934 to the companies' activities. Section 605 on its face prohibited people involved in sending or receiving foreign communications by wire, that is, the employees of telegraph companies, from divulging the contents of those communications to other people. In 1968, section 605 had been amended by a new wiretap law to clarify that it was not meant to preclude the employees of telegraph companies from divulging the contents of wire communications whose acquisition by the government had been subject of a court order. While a 1972 Supreme Court case involving the 1968 wiretap law had suggested the President might possess residual constitutional authority to authorize wiretaps for national security purposes (without actually deciding this issue), no court had ever applied this principle to override the prohibition contained in section 605.
9. The "watch list" referred to a list of names of US citizens used by NSA to select the international communications of such citizens from its holdings, including the telegrams provided by SHAMROCK. NSA had begun doing this in the early 1960s on a limited basis in order to monitor US

citizen travel to Cuba and threats to the President. In 1967, however, the list was expanded to include the names of US citizens involved in anti-war and civil rights disturbances, ostensibly to determine any foreign influence over such persons. In 1973, at the height of this activity, the names of 600 US citizens were on the list. In the fall of 1973, however, in response to concerns raised by Attorney General Elliot Richardson regarding its legality, the "watch list" program was terminated.

10. Attorney General Levi was present in the hearing room when the Chairman read the statement and did subsequently testify on the legal issues surrounding NSA's foreign intelligence activities, but he did not mention SHAMROCK in his testimony.
11. The Senate Judiciary Committee voted to allow the Chairman discretion to report the amendment to the floor or not, but, because of the Defense Department's reluctance to have the matter discussed on the floor, the amendment was never reported out by the Chairman.
12. The description of the SHAMROCK program appears at pages 765-776 of Book III, *Supplementary Detailed Staff Reports on Intelligence Activities and the Rights of Americans*, Final Report of the Select Committee to Study Governmental Operations with respect to Intelligence Activities, US Senate, 1976.