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STATEMENT
OF
THE HONORABLE EDWARD H. LEVI
ATTORNEY GENERAL OF THE UNITED STATES
BEFORE
THE SENATE JUDICIARY COMMITTEE

10:30 A.M.
THURSDAY, MARCH 25, 1976
DIRKSEN SENATE OFFICE BUILDING
WASHINGTON, D. C.
I welcome the opportunity to speak with the Committee today about Senate Resolution 400 and the allocation of Congressional oversight responsibilities concerning the Federal Bureau of Investigation. The resolution, of course, would establish a single committee of the Senate with oversight and appropriations jurisdiction over the FBI. I approach with deference in making any suggestion about internal Senate policy. However, I have already testified at length on February 6 before the Senate Government Operations Committee on this same subject, and I will be taking the same position today that I did then. I believe the internal institutional arrangements in the Senate and House of Representatives will have a significant impact both upon the work of the FBI and upon the quality of the Congress' important oversight function. I would like to begin with a few brief observations.

Senate Resolution 400 would, in effect, split off for purposes of oversight and debate on appropriations the intelligence units with the Bureau--the units engaged in domestic security, foreign counter-intelligence and foreign intelligence investigations--from all other units in the Bureau. I believe that this separation would be a mistake for several reasons.

First, as I have said before, the domestic security investigations of the Bureau should be tied closely with
the criminal law. The FBI guidelines in this area, which will soon be going into effect on a trial basis, seek to require this connection by authorizing domestic security investigations only into conduct which involves or will involve violence and the violation of the federal law.

A similar point can be made about the Bureau's counterintelligence responsibilities. Though these investigations into the espionage and terrorist activities of foreign powers and political organizations sometimes for a variety of reasons do not lead to prosecution, they are essentially connected to federal criminal statutes relating to espionage and terrorism.

The Bureau's discipline of perceiving its intelligence functions as closely connected to the federal criminal law is important in that it is a reminder of the need--so clearly seen in ordinary criminal cases because of the ultimate scrutiny of the courts--carefully to protect individual rights. Congressional oversight arrangements that would split off the intelligence functions from the more ordinary law enforcement functions of the Bureau would tend to diminish the force of this perception.

In the positive foreign intelligence area--concerned with the collection of useful information about foreign powers--the Bureau's role has been a derivative one. The Bureau, with the authorization of the Attorney General, at the request of other intelligence agencies does some positive foreign intelligence collection and also supports
other agencies' foreign intelligence operations. Because of the derivative nature of this type investigation, some Bureau activities would doubtlessly come under the scrutiny of an oversight committee responsible for the intelligence agencies which request Bureau assistance. This could be accomplished without going so far as to transfer oversight or appropriations jurisdiction over any Bureau activities to an intelligence committee.

A second reason I believe any such transfer would be a mistake is that not only should the Bureau perceive itself and be perceived as a single law enforcement organization, but it should also be viewed as part of the Department of Justice, the oversight of all other aspects of which is vested in the Judiciary Committee.

A third, and related reason, is that a single committee with oversight and appropriations jurisdiction will develop an expertness about the Bureau and the Department of Justice of which it is a part. The activities of the Bureau even in the intelligence area are fundamentally interrelated with the activities of other parts of the Department of Justice. In the development and nurture of expertness, an understanding and concern about one part cannot be separated from an understanding and concern about the other.
Finally, there is always the risk if there is a multiplicity of committees with oversight responsibilities over a single agency that each committee will learn something about the activities of the agency but no committee will learn enough.

For these reasons, I believe it would be unwise to vest, as Senate Resolution 400 would, the oversight and appropriation jurisdiction concerning the Federal Bureau of Investigation in a separate intelligence committee.