

UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D. C. 20548

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STATEMENT OF
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DIRECTOR, INTERNATIONAL DIVISION, U. S. GENERAL ACCOUNTING OFFICE
BEFORE THE
SENATE APPROPRIATIONS COMMITTEE
SUBCOMMITTEE ON FOREIGN OPERATIONS

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Mr. Chairman and Members of the Committee:

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We are appearing in response to your request for our views on the problems of access to records and information needed for performance of our audit responsibilities relating to the military assistance programs.

One of the most important duties of the General Accounting Office is to make independent reviews of agency programs and to report to the Congress the manner in which Federal departments and agencies carry out the laws enacted by the Congress. The Congress in establishing the General Accounting Office, recognized that the Office would need to have complete access to the records of the Federal agencies, and provided the basic authority in section 313 of the Budget and Accounting Act, 1921, (31 U.S.C. 53, 54) as follows:

"All departments and establishments shall furnish to the Comptroller General such information regarding the powers, duties, activities, organization, financial transactions, and methods of business of their respective offices as he

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may from time to time require of them; and the Comptroller, or any of his assistants or employees, when duly authorized by him, shall, for the purpose of securing such information, have access to and the right to examine any books, documents, papers, or records of any such department or establishment."

GAO auditors, like all auditors, have to some degree always encountered problems in obtaining access to records and information. These are "occupational hazards" but we usually have been able to resolve most of our problems without undue difficulty. However, in our reviews of military assistance programs, we have encountered increasing difficulties in obtaining information needed to effectively evaluate and report on the administration of these programs. During the past year or so a number of our audit assignments involving the foreign assistance programs have been hampered and delayed with the result that we have had to some extent curtail the scope of the audit, in effect being precluded from fully carrying out our responsibilities in these cases.

It is not practical to raise the day-to-day access problems to the level of formal top requests and denials, and we have no evidence that any of the situations we have encountered involve the exercise of executive privilege. Absolute denial of access to a document is quite rare. Our reviews are hampered and delayed more by the time-consuming delaying tactics employed by the various organizational elements within and between the Departments of Defense and State in screening records and in deciding whether such records are releasable to the General Accounting Office. It is not unusual for our auditors to request access to a document at an overseas location and be required to wait

several weeks while such documents are screened up the channels from the overseas posts and through the hierarchy of the Departments of Defense and State.

Our experience in making a study of the Military Assistance Training Program at the request of the Chairman, Senate Committee on Foreign Relations, is an example of the problems we have encountered in obtaining access to information. In our report to the Chairman on this study in February 1971 we summarized our problems with access to records and set forth the following conclusion, which we believe points up the problems of access to records and the effect of these problems on our ability to carry out effective reviews.

"During our review of the training program on behalf of the Senate Foreign Relations Committee, representatives of the Departments of Defense and State have withheld or delayed the release of MAP reports and records essential to a full and complete review and evaluation of this program which is financed by considerable appropriated funds. The access-to-records problems experienced by our staffs during this review are a continuation of similar problems the GAO has encountered over the years in reviewing DOD programs, particularly evaluations of military assistance programs.

"While the DOD has taken the position in the past that future planning information is not releasable to GAO because it is subject to change, we do not believe that the DOD components should use this position to deny our access to such information as the operational status and capabilities of MAP recipient countries' forces merely because it is included as a part of future planning information.

"We believe further that the denial of access to routine reports prepared by MAAG personnel in the performance of advisory functions, on the basis that they are evaluative in nature, is unreasonable. The type of data and reports withheld from us during this review are necessary in our examination of the program as well as our review and evaluation of

the administration of the program by the MAAGs and by other DOD elements. In our opinion, it is essential for us to have access to all papers, records, and data which are available to those DOD personnel who make the program decisions in order that we can ascertain how their decisions were made and whether all available pertinent data was considered in reaching the decisions.

"The denial of our access to the CINCPAC program evaluation group reports also impaired our review of this program. In carrying out its statutory audit responsibilities, GAO gives due regard to the effectiveness of the internal audit of an agency, such as the MAP audits performed by the CINCPAC activity and other DOD groups. In conducting our audits on behalf of the Congress, we make use of internal audit reports and other internal evaluations and perform such independent tests of the records as we feel to be justified under the circumstances.

"If we are permitted extensive use of internal audits and other evaluative reports, we are able to concentrate a greater part of our efforts in determining whether action has been properly taken by responsible officials, on the basis of the facts presented in these reports and evaluations, to correct identified program weaknesses. This also helps to eliminate duplication and overlapping in audit effort, and promotes full utilization of existing audit and investigative data.

"We believe that this access-to-records problem involves a matter that critically affects our future ability to conduct on behalf of the Congress thorough and complete reviews of the MAP. In order for GAO to carry out its legal authority to make independent reviews of MAP, it must have access to and make appropriate review and analysis of all DOD reports and records which evidence the expenditure of appropriated funds.

"We believe further that these objectives can be achieved if the Secretary of Defense will refrain from issuing guidelines which have the effect of limiting our reviews and will instead, instruct DOD subordinate commands to take a more cooperative, flexible, and realistic approach in the release of data and information requested by GAO in future MAP reviews."

In early 1970, we undertook a review of the U.S. Assistance to the Philippine Government in support of the Philippine Civic Action Group at the request of the Chairman, Subcommittee on U.S. Security Agreements and

Commitments Abroad, Committee on Foreign Relations, U. S. Senate. The Departments of State and Defense delayed our work on this assignment to the extent that we had to curtail the scope of our review and qualify our report to the Chairman. Appendix II to our report to the Chairman (B-168501, dated June 1, 1970) set forth our problems as follows:

"ACCESS-TO-RECORDS DIFFICULTIES

"We were unable to complete our work and report on this assignment within a reasonable time because of the time-consuming screening process exercised by the Departments of State and Defense before making records available for our examination. Our work was seriously hampered and delayed by the reluctance of the Departments to give us access to the documents, papers, and records which we considered pertinent to our review. In general, we were given access to only those documents, papers, and records which we were able to specifically identify and request, and then we were given access only after time-consuming screening at various levels within the Departments.

"Members of our staff were required to wait for periods of 2 weeks to 2 months to look at some documents they had requested and frequently the documents proved to be of little value for our purposes. We were also restricted by ground rules established unilaterally by the Departments that effectively limited our review in the field to the Departments very narrow interpretation of what it judged to be the scope of our review. This was perhaps the most restrictive limitation placed on our work, and it completely frustrated our attempts to review assistance to the Philippines that was not funded in the military functions appropriations.

"Our audit staff members in the field were advised that documents which they requested that were releaseable to us under the restrictions of the so-called ground rules had to be dispatched to Washington for departmental clearance. By early May 1970, only four of 12 documents which were requested by our staff members on January 28, 1970, had been released to them in Manila.

"Our letter to the Secretary of Defense *** which is similar to a letter that we addressed to the Secretary of State, illustrates one of our many attempts to resolve our access-to-records problems. The reply from DOD *** characterizes, in our opinion, the attitude of DOD during our review.

"Although we have been able to obtain sufficient information upon which to base this report, we are not certain that we have the full story. In view of the restricted access to records, there is the possibility that the agencies may have withheld information which is pertinent to our study."

Following our review in the Philippines we initiated a study of United States assistance to the Government of Thailand. In an attempt to avoid the conditions previously experienced, the Comptroller General on June 26, 1970, wrote to the Secretaries of Defense and State citing the problems experienced in the Philippines review, requesting that they eliminate the necessity for the lengthy screening process, and citing the scope and authority for our review as follows:

"***the scope of our review will be broad enough to permit our representatives to investigate all matters concerning the receipt, disbursement, and application of public funds related in any way to our relations with the Government of Thailand. Pursuant to the authority of Section 313 of the Budget and Accounting Act of 1921, 31 U.S.C. 54, representatives of the General Accounting Office will be requesting officials in your Department for access to, and when we consider necessary, copies of any books, documents, papers, or records in the custody or control of your Department which we believe may contain information regarding the powers, duties, activities, organization, financial transactions, and methods of business related to the scope of the review."

Unfortunately, we have experienced similar problems in obtaining access to documents required for our review of assistance to Thailand.

In connection with processing our report on the Review of the Military Assistance Training Program mentioned earlier, the Special

Assistant to the Assistant Secretary of Defense, International Security Affairs, in a letter dated September 25, 1970, stated:

"Similarly, the Department of Defense cannot permit to go unchallenged that section of the report concerning complaints that the GAO auditors were hindered and delayed in their efforts because the Department of Defense had denied them access to 5 year MAP planning data and to inspection and evaluation reports known as PEG reports. Apart from the fact that custom, tradition and precedent have decreed that information of such internal nature will not be disclosed outside the Executive Branch in order to preserve the confidentiality of the relationship of superior and subordinate, an understanding was also reached a number of years ago between the General Accounting Office and the Department of Defense whereby planning data and inspector type reports would not be provided. The Department is, therefore, both surprised and chagrined over the fact that the GAO would endeavor to make such an issue over these specific categories, an issue which had been resolved years ago."

A copy of this Department of Defense letter was sent to the Chairman of the Committee by the Department.

In transmitting our report to the Chairman the Comptroller General took note of this Department of Defense letter and advised as follows:

"In regard to the Department's position concerning the access-to-records matters discussed in the report, the General Accounting Office has never reached such an understanding with the Department of Defense. To the contrary, we have always maintained that we are entitled by law to have access to, and the right to examine, all records of the Department of Defense and its component commands that we consider pertinent to the matter or subject under review.

"The inspection and evaluation reports referred to in the Department of Defense letter are management reports prepared by a program evaluation group of the Unified Command Headquarters. We have always regarded complete access to reports of this type as necessary in order for us to carry out the responsibilities we have to the Congress."

The policy of the executive branch, with respect to release of information to the Congress, was set forth by the President in a Memorandum to the Heads of Executive Departments and Agencies, on March 24, 1969, as follows:

"The policy of this Administration is to comply to the fullest extent possible with Congressional requests for information. While the Executive Branch has the responsibility of withholding certain information the disclosure of which would be incompatible with the public interest. This Administration will invoke this authority only in the most compelling circumstances and after a rigorous inquiry into the actual need for its exercise. For those reasons Executive privilege will not be used without specific Presidential approval."

Although the Departments of State and Defense indicate in their directives that it is their policy to provide maximum cooperation and assistance to the General Accounting Office, we have found it quite difficult to obtain the information which we need to conduct our reviews relating to foreign assistance activities.

In our discussions with departmental officials, they have frequently stated that the documents or information being withheld are not releasable to the GAO because of one or more of the following reasons:

- (1) review, examination, or disclosure would seriously impair relations between the United States and other countries, or otherwise prejudice the best interest of the United States,
- (2) access to documents including information and debates used in formulating policy decisions would seriously hamper a candid exchange of views within the agency, and

(3) access to information on future planning would not be appropriate because it has not received the approval of the President or been presented to the Congress.

Notwithstanding our difficulties in the past we will continue to press for information we think is necessary for us to have in order to carry out our responsibilities.

Mr. Chairman, this concludes our prepared statement. Mr. Duff and I will be glad to answer questions.