

5 November 1984

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MEMORANDUM FOR THE RECORD

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SUBJECT: Methods of Dealing with Classified Material in Possession
of Former Government Officials

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1. The meeting was held to discuss a DDA proposal for closing this loophole by amending Executive Order 12356. The meeting was attended by D/OIS, DD/OIS, Chief, IRMD, Chief, CRD, [redacted] and a [redacted] from OS.

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2. [redacted] chaired the meeting indicating that the proposed amendment would affect only Presidential employees. He proposed instead that if the amendment route were pursued it should involve Section 4.1. [redacted] also suggested that Section 4.3 allow for exceptions and specify conditions under which people would have access to classified material. He thought that Section 5.4 would be the proper place to spell out sanctions.

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3. [redacted] indicated that he felt, while amending the Executive Order was the most expedient way of dealing with this problem, it was not the most desirable. He felt that the Agency should attempt to get legislation to cover this matter from the beginning. The Agency was going to draw considerable flack from Congress anyway, so why endure the pain twice. [redacted] believes that the Agency should go to the oversight committees at the beginning and try to enlist their support. He felt that support would be forthcoming.

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4. All at the meeting were supportive of [redacted] suggestion. [redacted] felt the secrecy agreement could serve as the basis for extending coverage to former government employees. All agencies are now using a secrecy agreement as a precondition for granting access to Secret and SCI material as required by NSDD 84. [redacted] said that this language could be used in the proposed amendment to the Executive Order.

5. There was considerable discussion of possible sanctions against offenders. The problem on sanctions is that only the espionage law has teeth, but it is difficult to prosecute people under this law. For former employees, you cut off their retirement if they take classified material. Some amendment probably would be required of the OPM Retirement Act also. It was decided that the best course might be to handle violations as a breach of contract, i.e., violation of the secrecy agreement. Using this approach, the Agency would not have to justify the classification level of the document.

6. The consensus was that OS should advise the DDA that he could go ahead with the proposal to amend the Executive Order 12356, but that this was not the best course of action. OS would indicate that the preferred course of action was to go for legislation and have closed hearings through the oversight committees. It would apply to all agencies that use the secrecy agreement.



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Chief, Information Resources Management Division