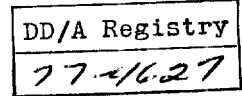


17 AUG 1977

MEMORANDUM FOR: Deputy Director for Operations
Deputy Director for Intelligence
Deputy Director for Science & Technology
Acting Deputy Director for Administration
Deputy to the DCI for National Intelligence Officers
Inspector General
Comptroller
Legislative Counsel
General Counsel



FROM : John F. Blake
Acting Deputy Director of
Central Intelligence

SUBJECT : Proposed Replacement for Executive Order 11905

1. Attached for your review and comment is a DOD-CIA draft of an executive order which is a proposed replacement for Executive Order 11905. Neither the Director of Central Intelligence, nor the Secretary of Defense has yet officially approved the specific language or direction of this draft and comments are only now being solicited from other entities in the Intelligence Community, the Department of Justice, and appropriate congressional staffs. The differences between this draft and the existing executive order may be reduced roughly to five categories:

a. Format changes have been suggested where deemed desirable. The principal change of this nature is the incorporation of the definitions presently included in Section 5 into the general Definitions of Section 2 in order to avoid the existence of two definitions sections in the order. Also the subsections of Section 5 have been arranged in a more logical order.

b. The proposed order includes provisions deemed necessary or appropriate to implement Presidential Directive/NSC-17 of 4 August 1977, which granted extended budgetary, requirements and tasking authorities to the DCI. These provisions are concentrated in Section 3 of the draft order which describes DCI authorities, the functions of the Policy Review Committee and the Special Coordination Committee,

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and establishes the National Intelligence Tasking Center and the National Foreign Intelligence Board as important entities in support of the DCI responsibilities. Other more minor amendments have been made in Sections 1 and 4 to conform to and acknowledge the expanded role of the DCI.

c. The functions of the Special Coordination Committee are described in Section 3(c). These functions have been enlarged to incorporate, in Section 3(c)(3), a role regarding foreign counter-intelligence policy and coordination envisioned for that committee by the recommendations of the PRM/NSC-11, Section 3 report.

d. Additional amendments to various sections may be traced to recommendations that were made last spring by the PRM/NSC-11 (part I) working group and that were approved by the Special Coordination Committee in May. These changes account for, among other things, the inclusion of a definition of "International Terrorist Activities," the inclusion of the Drug Enforcement Administration in the Intelligence Community in Section 2, and, with the exception of one recently added point, the revision of the provisions of Section 5(d), formerly Section 5(e), regarding Assistance to Law Enforcement Authorities. Other changes resulting from the PRM/NSC-11, part I, exercise have themselves been revised in this draft. For instance, the definition of "Foreign Counterintelligence" in Section 2 approved by the Special Coordination Committee has been altered to omit any reference to "activities" as well as information "relating to," etc. A further example is the retention of Section 7, the elimination of which had been approved previously.

e. The final category of modification includes those changes which the drafters of this proposed order believed, for one reason or another, would increase the clarity and conciseness of the order or would render the provisions of the order more compatible with the needs and desires of the Intelligence Community organizations. Included in this category, for example, is the deletion of the broad definition of "collection" from Section 5, and the modification of Section 4(b)(8), formerly Section 4(c)(5), concerning the reporting of crimes.

2. The altered provisions of this draft have been underlined in order that they may be more easily identified. Also attached is a copy of the existing executive order with interlineations which indicate how the current order has been altered.

3. A meeting is scheduled for 3:30 p.m. on Thursday, 18 August 1977, at the Community Headquarters Building on F Street, to discuss the initial reactions of the organizations of the Intelligence Community. Your responses and comments would be appreciated at the 9:00 a.m. staff meeting tomorrow morning in order that the CIA position may be expressed, at least in preliminary fashion. It is recognized, however, that a full analysis of the impact of this revised order may require additional time and it is requested that your comments be forwarded as soon as possible in any event.

/s/John F. Blake

John F. Blake

Attachments

Open Circuit
Executive Registry
77-1991/L
OGC 77-5241
8-16-77

15 August 1977

MEMORANDUM FOR JACK BLAKE, CIA
HAROLD SAUNDERS, STATE
LTG WILLIAM Y. SMITH, OJCS

[REDACTED]

EDWARD GILLER, ERDA
THOMAS LEAVITT, FBI
FOSTER COLLINS, TREASURY
MG HAROLD AARON, ARMY
RADM D. P. HARVEY, NAVY
MG JAMES L. BROWN, USAF

SUBJECT; Revised Executive Order 11905

Attached is a draft of the Executive Order to implement Presidential Directive NSC-17 on intelligence reorganization. The draft was put together by a small working group in which Deanne Siemer, John Morrison and the undersigned represented Defense and the DCI.

A meeting of all addressees is scheduled for 1530 hours, Thursday, 18 August 1977, at the Community Headquarters Building [REDACTED] to discuss the proposed Executive Order.

STATINTL

[REDACTED]

John N. McMahon
Acting Deputy to the Director of
Central Intelligence for the
Intelligence Community

Daniel J. Murphy
Daniel J. Murphy
Admiral, USN (Ret.)
Director of Policy Review
Office of the Secretary of Defense

1 Attachment
a/s

Executive Order _____

United States Foreign Intelligence Activities

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By virtue of the authority vested in me by the Constitution and statutes of the United States, including the National Security Act of 1947, as amended, and as President of the United States of America, it is hereby ordered as follows:

Section 1. Purpose. The purpose of this Order is to establish policies to improve the quality of intelligence needed for national security, to improve the effectiveness of counterintelligence activities, to clarify the authority and responsibilities of the Director of Central Intelligence and the intelligence departments and agencies, and to establish effective oversight to assure compliance with law in the management and direction of intelligence agencies and departments of the federal government.

Section 2. Definitions. For the purpose of this Order, the following terms shall have these meanings:

(a) Electronic surveillance means acquisition of a non-public communication by electronic means, without the consent of a person who is a party to, or, in the case of a non-electronic communication, visibly present at, the communication.

(b) Employee means a person employed by, assigned or detailed to, or acting for an agency, office or element of the Intelligence Community.

(1) Foreign intelligence which means information, other than foreign counterintelligence, relating to the capabilities, intentions and activities of foreign powers, organizations, persons or their agents; and

(2) Foreign counterintelligence which means information relating to:

(i) the protection of the United States and United States citizens from espionage and other clandestine intelligence activities, sabotage, international terrorist activities or assassination conducted for or on behalf of foreign powers, organizations or persons; and

(ii) the protection of intelligence or national security information and its means of collection from detection or disclosure, but not including personal, physical or document security programs.

(d) Intelligence Community and agency or agencies within the Intelligence Community refers to the following organizations:

- (1) Central Intelligence Agency (hereinafter CIA);
- (2) National Security Agency (hereinafter NSA);
- (3) Defense Intelligence Agency (hereinafter DIA);
- (4) Offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

- (5) National foreign intelligence and foreign counterintelligence elements of the military services;
- (6) Foreign counterintelligence element of the Federal Bureau of Investigation (hereinafter FBI);
- (7) Foreign intelligence element of the Department of State;
- (8) Foreign intelligence element of the Department of the Treasury;
- (9) Foreign intelligence element of the Department of Energy; and
- (10) Foreign intelligence element of the Drug Enforcement Administration (hereinafter DEA).

(e) National Foreign Intelligence Program means the programs of:

- (1) CIA;
- (2) The Consolidated Cryptologic Program;
- (3) The offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;
- (4) General Defense Intelligence Program; and
- (5) Elements of the agencies within the Intelligence Community designated by both the Director of Central Intelligence and the head of the department or agency involved as operating programs that are national in scope, including national counterintelligence programs, but not including tactical intelligence programs.

(f) International terrorist activities means violent acts or acts dangerous to human life, or threats of such acts, transcending national boundaries, which appear to be

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intended to further political, social, or economic goals by assassination, kidnapping, or intimidating or coercing the public or a government or to obtain widespread publicity for a group or its cause, and includes acts directly supportive of such acts.

(g) National security information has the meaning ascribed to it in Executive Order No. 11652, as amended.

(h) Physical surveillance means an unconsented systematic and deliberate observation by any means on a continuing basis, except for overhead reconnaissance not directed at specific United States persons; or unconsented acquisition of a non-public oral communication by a person not a party thereto or visibly present thereat through any means not involving electronic surveillance.

(i) Special activities in support of national foreign policy objectives means activities, other than the collection and production of intelligence and related support functions, which are designed to further official United States programs and policies abroad and which are planned and executed so that the role of the United States Government is not apparent or publicly acknowledged.

(j) United States person means a citizen of the United States, an alien lawfully admitted for permanent residence, an unincorporated association a substantial number of members of which are citizens of the United States or aliens lawfully admitted for permanent residence

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or a corporation incorporated in the United States, but

not including an unincorporated association or a corporation directed and controlled by a foreign power or an agent or agents of a foreign power.

Section 3. Control and Direction of National Intelligence Organizations.

(a) National Security Council.

(1) The National Security Council was established by the National Security Act of 1947 to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security. Statutory members of the National Security Council are the President, the Vice President, the Secretary of State, and the Secretary of Defense.

(2) The National Security Council shall:

(i) Provide guidance for and direction to the development and formulation of national intelligence activities;

(ii) Make recommendations to the President with respect to the transfer of functions from the Director of Central Intelligence to the Secretary of Defense when a change from peacetime occurs and with respect to other matters affecting the organization of national intelligence activities; and

(iii) Conduct a semi-annual review of national intelligence policy and of ongoing special activities

(3) The National Security Council shall establish such subcommittees or advisory committees for policy review or coordination as it deems appropriate to carry out its functions. When such committees are utilized under the titles Policy Review Committee or Special Coordination Committee, they shall be distinguished clearly from the committees described in Section 3 of this Order.

(b) Policy Review Committee

(1) There is established the Policy Review Committee which shall be composed of the Director of Central Intelligence, who shall be chairman, the Secretary of State, the Secretary of Defense, the Secretary of the Treasury, and the Assistant to the President for National Security Affairs, or their designees, and such other representatives of other Executive departments and agencies as the chairman, with the advice of the committee, shall deem appropriate. The Policy Review Committee shall report directly to the National Security Council.

(2) The Policy Review Committee shall:

(i) Define and set out national foreign intelligence requirements;

(ii) Establish appropriate priorities among the national foreign intelligence requirements

(iii) Evaluate analytical intelligence product performance and develop policy for assuring high quality in intelligence products;

(iv) Develop effective working relationships between agencies within the Intelligence Community and other government agencies and departments which will protect the mission integrity and program autonomy of reporting entities and optimize support and responsiveness to national foreign intelligence requirements; and

(v) Conduct a semi-annual review of national intelligence product and performance which shall consider the needs of users of national intelligence and the timeliness and quality of national intelligence products. As part of these reviews, the Policy Review Committee shall consult with such users of national intelligence, not regularly represented on the Committee, as designated by the National Security Council.

(3) The Policy Review Committee shall be supported by the staff of the National Security Council headed by the Deputy Assistant to the President for National Security Affairs.

(4) The Policy Review Committee shall establish such subcommittees or advisory committees as it deems appropriate to carry out its functions.

(5) Decisions of the Policy Review Committee may be reviewed by the National Security Council on appeal by any member of the National Security Council or the Director of Central Intelligence.

(c) The Special Coordination Committee

(1) There is established the Special Coordination Committee which shall be composed of the Assistant to the President for National Security Affairs, who shall be chairman, the Secretary of State, the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the Director of Central Intelligence, or their designees. The Attorney General and the Director of the Office of Management and Budget or their designees and others designated by the President may attend all meetings as observers. The Special Coordination Committee shall report directly to the National Security Council.

(2) The Special Coordination Committee shall, with respect to national foreign intelligence:

(i) Consider and develop a policy recommendation, including any dissents, for the President prior to his decision on each special activity in support of national foreign policy objectives;

(ii) Develop guidelines for the Director of Central Intelligence as to the special activities in

support of national foreign policy objectives that warrant consideration by the Special Coordination Committee;

(iii) Approve specific sensitive national intelligence collection operations as designated by the Special Coordination Committee;

(iv) Conduct periodic reviews of programs previously considered by the Special Coordination Committee and of ongoing sensitive national intelligence collection operations; and

(v) Provide to the National Security Council a semiannual report on activities of the Special Coordination Committee.

(3) The Special Coordination Committee shall, with respect to foreign counterintelligence:

(i) Develop policy for the management of the national foreign counterintelligence program, including objectives, priorities, conduct and unified direction;

(ii) Develop uniform standards and doctrine for the national foreign counterintelligence activities of the United States;

(iii) Oversee the execution of national foreign counterintelligence policy by resolving

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 implementation problems including:

locus of coordination; training; liaison with foreign
 services; and methods of operations;

(iv) Develop and monitor guidelines
 for the maintenance of central records of national foreign
 counterintelligence information;

(v) Prepare and submit to the President
 an annual assessment of the threat to United States interests
 from the activities of intelligence and security services
 of foreign powers, and an assessment of the effectiveness of
 the United States counterintelligence activities against this
 threat; and

(vi) Review any specific national foreign
 counterintelligence proposal or activity which involves parti-
 cularly sensitive or important national policy or political
 factors.

(4) The Special Coordination Committee shall dis-
 charge the responsibilities assigned by subparagraphs (c)(2)(i)
 and (c)(2)(iii) of this section only after consideration in a
 formal meeting attended by all members and observers or their
 designees.

(5) The Special Coordination Committee shall be
 supported by the staff of the National Security Council
 headed by the Deputy Assistant to the President for National
Security Affairs.

(6) Decisions of the Special Coordination Committee
 may be reviewed by the National Security Council on appeal

(d) The Director of Central Intelligence

(1) The Director of Central Intelligence, whose position was established by the National Security Act of 1947, shall be responsible directly to the President and the National Security Council.

(2) The Director of Central Intelligence shall:

(i) Act as the President's primary adviser on national foreign intelligence and provide the President and other officials in the Executive Branch with national foreign intelligence.

(ii) Act as Executive Head of the CIA and of such staff elements as may be required for discharge of his Intelligence Community responsibilities.

(iii) Chair the Policy Review Committee and the National Foreign Intelligence Board.

(iv) Act as the principal spokesman to the Congress for the Intelligence Community and facilitate the use of national foreign intelligence products by the Congress.

(v) Have full and exclusive authority for approval of the National Foreign Intelligence Program budget.

Related budget actions shall be executed as follows:

(A) The Director of Central Intelligence shall provide guidance for program and budget development to department and agency heads as well as to program managers and heads of component activities

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involved in the National Foreign Intelligence Program,
to include submission format, review schedules and
essential justification.

(B) The heads of departments and agencies involved
in national foreign intelligence activities shall ensure
timely development and submission of proposed national
program budgets to the Director of Central Intelligence
by the program managers and heads of component activities.

(C) The heads of departments and agencies involved
in national foreign intelligence activities shall ensure
that the Director of Central Intelligence is provided
all the information necessary to perform the Director's
budgetary responsibilities in a timely and responsive
manner.

(D) The Director of Central Intelligence shall review
and evaluate the national program budget submissions and,
with the advice of the National Foreign Intelligence Board
and the departments and agencies concerned, develop the
consolidated National Foreign Intelligence Program budget
and present it to the President through the Office of
Management and Budget.

(E) The departments and agencies may appeal decisions
by the Director of Central Intelligence on budget matters to
the President.

(F) After its approval by the President, the Director
of Central Intelligence shall present and justify the

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National Foreign Intelligence Program budget to the
Congress.

(G) The Director of Central Intelligence shall have full and exclusive authority within Congressional guidelines for reprogramming National Foreign Intelligence Program funds.

(H) The Director of Central Intelligence shall monitor National Foreign Intelligence Program implementation and may conduct, as appropriate, program audits and evaluations.

(vi) Develop, from the requirements and priorities established by the Policy Review Committee, appropriate goals, objectives and such other guidance for the Intelligence Community as will enhance capabilities to respond to expected future needs for national foreign intelligence.

(vii) Have full responsibility for production and dissemination of national foreign intelligence, in appropriate consultation with departmental intelligence production organizations, and have authority to levy analytic tasks on such organizations.

(viii) Organize and direct the activities of the National Intelligence Tasking Center.

(ix) Promote the development and maintenance of services of common concern by designated foreign intelligence organizations on behalf of the Intelligence Community.

(x) Ensure appropriate implementation of special activities in support of national foreign policy objectives.

(xi) Establish procedures to ensure the propriety of requests, and responses thereto, from the White House staff and other Executive departments and agencies to the Intelligence Community.

(xii) Establish a vigorous program to downgrade and declassify foreign intelligence information as appropriate and consistent with relevant Executive Orders, and with due regard to protection of sources and methods.

(xiii) Ensure that appropriate programs are developed which properly protect intelligence sources, methods and analytical procedures. This responsibility shall be limited within the United States to:

(A) Protection by lawful means against disclosure by present or former employees of Federal departments and agencies, or persons, or employees of persons or organizations, presently or formerly under contract with them;

(B) Providing criteria, guidance and technical assistance to Government departments and agencies performing national foreign intelligence activities;

(C) Devising procedures and issuing criteria to protect intelligence information, including information that may reveal intelligence sources and methods, which is disseminated to Federal departments and agencies, or their contractors, within the United States; and

(D) In cases involving serious or continuing security violations, recommending to the Attorney General that the case be referred to the FBI for further investigation.

(xiv) Undertake to represent the Executive Branch in matters involving the Judicial Branch where there is a need to explain or verify the need for protection of intelligence sources or methods or national foreign intelligence information.

(xv) Ensure the establishment, by the Intelligence Community, of common security standards for managing and handling foreign intelligence systems, information and products, and for granting access thereto in accordance with relevant Executive Orders.

(xvi) Participate with the Attorney General in the development of procedures governing intelligence activities and promulgate guidelines, as approved by the Attorney General, for the implementation of such procedures.

(xvii) Establish uniform criteria for the identification, selection and designation of relative priorities for the transmission of critical national foreign intelligence

continuing guidance as to the communications requirements of the Intelligence Community for the transmission of such intelligence.

(xviii) Establish such committees or other advisory groups as are deemed appropriate to assist in the execution of the foregoing responsibilities.

(3) The Director of Central Intelligence shall have authority to appoint such subordinate management officers as are considered necessary, and these officers shall have such authority as the Director of Central Intelligence may prescribe in accordance with relevant Executive Orders.

(4) To assist the Director of Central Intelligence in the fulfillment of responsibilities assigned ^{by} to this Order, the heads of all Executive Branch departments and agencies shall give the Director of Central Intelligence access to all information relevant to the foreign intelligence needs of the United States. The Director of Central Intelligence shall take appropriate steps to maintain its confidentiality.

(e) National Intelligence Tasking Center

(1) There is established a National Intelligence Tasking Center under the operational direction and management of the Director of Central Intelligence for coordinating and tasking national intelligence collection activities. The Director of Central Intelligence shall appoint the senior officer of the Center.

(2) The National Intelligence Tasking Center shall be the central mechanism by which the Director of Central Intelligence:

(i) Translates the national foreign intelligence requirements and priorities developed by the Policy Review Committee into specific collection guidance to the Intelligence Community.

(ii) Assign tasks to all national intelligence collection systems;

(iii) Ensures the timely dissemination and processing exploitation of information gathered by national foreign intelligence collection means; and

(iv) Provides advisory tasking or guidance with respect to collection of national foreign intelligence information to departments and agencies that have information collection capabilities or intelligence assets that are not a part of the National Foreign Intelligence Program. Particular emphasis shall be placed on increasing the contribution of Executive departments or agencies to the collection of information through overt means.

(4) The tasking authority of the National Intelligence Tasking Center shall include:

(i) Specification of the information sought;

(ii) Identification of the targets to be covered;

(iii) Indication of the priority of needs; and

(iv) The required timeliness.

(5) The National Intelligence Tasking Center shall have the authority to resolve conflicts of priority as necessary.

(6) The National Intelligence Tasking Center shall be jointly manned by civilian and military personnel, who shall include designated representatives of the chiefs of each of the Department of Defense intelligence organizations engaged in national foreign intelligence activities. Other organizations of the Intelligence Community may also designate representatives.

(7) In time of crisis or war, all powers, functions and responsibilities of the Director of Central Intelligence with respect to the National Intelligence Tasking Center may be transferred to the Secretary of Defense upon the express direction of the President. To maintain readiness for such transfer, the Secretary of Defense shall, on regular and appropriate occasions as jointly agreed with the Director of Central Intelligence, assume temporarily all powers, functions and responsibilities of the Director of Central Intelligence with respect to the National Intelligence Tasking Center.

(f) National Foreign Intelligence Board

(1) There is established a National Foreign Intelligence Board which shall be composed of the Director of Central Intelligence, who shall be chairman, a Deputy Director of Central Intelligence, and the senior intelligence officers of the Department of State, the Department of Defense, the Defense Intelligence Agency, the National Security Agency, the Department of Energy, the Federal Bureau of Investigation, and the Department of the Treasury. The senior intelligence officers of the Army, Air Force and Navy may attend all meetings as observers.

(2) The National Foreign Intelligence Board shall advise the Director of Central Intelligence with respect to:

- (i) the National Foreign Intelligence Program budget;
- (ii) interagency exchanges of foreign intelligence information;
- (iii) policy on arrangements with foreign governments on intelligence matters;
- (iv) production, review and coordination of national foreign intelligence;

(v) the protection of sensitive intelligence sources and methods and of sensitive intelligence information; and

(vi) such other matters as referred to it by the Director of Central Intelligence.

(3) The National Foreign Intelligence Board shall be supported by staff provided by the Director of Central Intelligence.

Section 4. Responsibilities and Duties of the Intelligence Community.

(a) Purpose. The rules of operation prescribed by this section of the Order relate to the activities of the Intelligence Community. In some instances, detailed implementation of this Order will be contained in classified documents because of the sensitivity of the information and its relation to national security. All such classified instructions will be consistent with this Order. Unless otherwise specified, the provisions of this section apply to activities both inside and outside the United States, and all references to law are to applicable laws of the United States. Nothing in this section of this Order shall be construed to interfere with any law enforcement responsibility of any department or agency.

(b) Senior Officials of the Intelligence Community.

The senior officials of each of the organizations in the Intelligence Community, in discharging the duties and responsibilities set out in paragraphs (c) through (h) of this section, shall:

(1) Be responsive to the needs of the President, the National Security Council and other elements of the United States Government.

(2) Be responsive to budgetary and collection tasking by the Director of Central Intelligence for national foreign intelligence purposes.

(3) Ensure that all policies and directives relating to foreign intelligence and foreign counter-intelligence activities are carried out in accordance with applicable law and this Order.

(4) Make appropriate use of the capabilities of other elements of the Intelligence Community in order to achieve maximum efficiency.

(5) Contribute in their areas of responsibility to the national intelligence products produced under auspices of the Director of Central Intelligence.

(6) Establish internal policies and guidelines governing employee conduct and ensure that such are made known to, and acknowledged by, each employee.

(7) Provide for strong, independent internal

means to identify, inspect and report on unauthorized activity.

(8) Report to the Attorney General criminal violations of federal law by any person, including an employee of the senior official's department or agency, pursuant to guidelines adopted by the Attorney General.

(9) Furnish to the Director of Central Intelligence, the Policy Review Committee, the Special Coordination Committee, and the Intelligence Oversight Board the information required for the performance of their respective duties.

(10) Participate, as appropriate, in the provision of services of common concern as directed by the Director of Central Intelligence.

(11) Protect intelligence and intelligence sources and methods consistent with policies and guidance of the Director of Central Intelligence.

(12) Carry out programs to downgrade and declassify foreign intelligence information as appropriate and consistent with relevant Executive Orders.

(c) The Central Intelligence Agency. All duties and responsibilities of the CIA shall be related to the

foreign intelligence and foreign counterintelligence functions set out below. As authorized by the National Security Act of 1947, as amended, the CIA Act of 1949, as amended, and other laws, regulations, and directives, the CIA shall:

(1) Produce and disseminate foreign intelligence relating to the national security, including foreign political, economic, scientific, technical, military, sociological, and geographic intelligence, to meet the needs of the President, the National Security Council, and other elements of the United States Government.

(2) Develop and conduct programs to collect political, economic, scientific, technical, military, geographic, and sociological information, not otherwise obtainable, relating to foreign intelligence, in accordance with directives of the National Security Council and the Director of Central Intelligence.

(3) Collect and produce intelligence on foreign aspects of international terrorist activities and traffic in narcotics.

(4) Conduct foreign counterintelligence outside the United States and coordinate foreign counterintelligence activities of other agencies within the Intelligence Community

(5) Conduct foreign counterintelligence activities within the United States in coordination with the FBI subject to the approval of the Attorney General.

(6) Carry out such other special activities in support of national foreign policy objectives which are directed by the President or the National Security Council and which are within the limits of applicable law.

(7) Conduct, for the Intelligence Community, services of common concern as directed by the National Security Council.

(8) Carry out or contract for research, development and procurement of technical systems and devices relating to the functions authorized in this subsection.

(9) Protect the security of its installations, activities, information and personnel. In order to maintain this security, the CIA shall conduct such investigations of applicants, employees, and other persons with similar associations with the CIA as are necessary.

(10) Conduct administrative, technical and support activities in the United States or abroad as may be necessary to perform the functions described in paragraphs (1) through (9) above, including procurement, maintenance and transport; communications and data processing; recruitment and training, the provision of

personnel, financial and medical services; development of essential cover and propriety arrangements and their necessary support; entering into contracts and arrangements with appropriate private companies and institutions to provide classified or unclassified research, analytical and developmental services and specialized expertise; and entering into similar arrangements with academic institutions, provided CIA sponsorship is known to the appropriate senior officials of the academic institutions and to senior project officials.

(d) The Department of State. The Secretary of State shall:

(1) Collect, overtly, foreign political, political-military, sociological, economic, scientific, technical and associated biographic information.

(2) Be responsive to tasking by the Director of Central Intelligence for national foreign intelligence purposes.

(3) Produce and disseminate foreign intelligence relating to United States foreign policy as required for the execution of the Secretary's responsibilities and in support of policy-makers involved in foreign relations within the United States Government.

(4) Disseminate within the United States Government, as appropriate, reports received from United States diplomatic missions abroad.

(5) Coordinate with the Director of Central Intelligence to ensure that United States intelligence activities and programs are useful for and consistent with United States foreign policy.

(6) Transmit reporting requirements of the Intelligence Community to the Chiefs of United States Missions abroad.

(7) Contribute to the Intelligence Community guidance for its collection of intelligence based on the needs of those responsible for foreign policy decisions.

(8) Support Chiefs of Missions in discharging their responsibilities to direct and coordinate the activities of all elements of their missions.

(e) The Department of the Treasury: The Secretary of the Treasury shall:

(1) Collect, overtly, foreign financial and monetary information.

(2) Participate with the Department of State in the overt collection of general foreign economic information.

(3) Produce that intelligence required for the execution of the Secretary's interdepartmental responsibilities and the mission of the Department of the Treasury.

(4) Contribute intelligence and guidance required for the development of national intelligence.

(5) Disseminate within the United States Government, as appropriate, foreign intelligence information acquired.

(f) Department of Defense.

(1) The Secretary of Defense shall:

(i) Collect foreign military intelligence information as well as military-related foreign intelligence information, including scientific, technical, political and economic information as required for the execution of the Secretary's responsibilities;

(ii) Be responsive to tasking by the Director of Central Intelligence for national foreign intelligence purposes;

(iii) Produce and disseminate, as appropriate, intelligence emphasizing foreign military capabilities and intentions and scientific, technical and economic developments pertinent to the Secretary's responsibilities;

(iv) Conduct such programs and missions necessary to fulfill national intelligence requirements;

(v) Direct, operate and provide fiscal management for the National Security Agency, and national, defense and military intelligence and reconnaissance entities as required;

(vi) Conduct, as the executive agent of the United States Government, signals intelligence activities and communications security, except as otherwise approved by the National Security Council;

(vii) Provide for the timely transmission of critical intelligence, as defined by the Director of Central Intelligence, within the United States Government; and

(viii) Conduct foreign counterintelligence activities worldwide in support of Department of Defense components, in coordination with the FBI in the United States and in coordination with the CIA overseas.

(2) In carrying out these assigned responsibilities, the Secretary is authorized to

utilize the following:

(i) The Defense Intelligence Agency whose functions, authorities and responsibilities _____ (currently publicly assigned by Department of Defense Directive No. 5105.21) include:

(A) Production or provision of military intelligence for the Secretary of Defense, the Joint Chiefs of Staff, other Defense components, and, as appropriate, non-Defense agencies.

(B) Coordination of all Department of Defense intelligence collection requirements.

(C) Management of the Defense Attache system.

(D) Provision of intelligence staff support as directed by the Joint Chiefs of Staff.

(ii) The National Security Agency, whose functions, authorities and responsibilities shall include:

(A) Operation of an effective unified organization for the signals intelligence activities of the United States Government, except for certain operations which are normally exercised through appropriate elements of the military command structure, or by the CIA.

(B) Exercise of control over signals intelligence collection and processing activities of the Government, delegating to an appropriate agent specified resources for such periods and tasks as required for the direct support of military commanders.

(C) Ensure collection of signals intelligence in accordance with tasking established by the Director of Central Intelligence through the National Intelligence Tasking Center.

(D) Processing and dissemination of signals intelligence to all authorized elements of the Government, including the Armed Services.

(E) Operation, under the Secretary of Defense, of the central communications security authority of the United States Government.

(F) Conduct of research and development to meet the needs of the United States for signals intelligence and communications security.

(iii) Special offices for the collection of specialized intelligence through reconnaissance programs whose functions, authorities, and responsibilities shall include:

(A) Carrying out reconnaissance programs for specialized intelligence in accordance with tasking by the Director of Central Intelligence through

(b) Assigning responsibility to the various departments and agencies of the Government, according to their capabilities, for the research, development, procurement, operations and control of designated means of collection.

(iv) The intelligence and counter-intelligence elements of the military services whose respective functions, authorities and responsibilities shall include:

(A) The collection, production, and dissemination of foreign intelligence in support of military commands and departments, the Department of Defense, and national intelligence requirements, provided that, the collection abroad of foreign intelligence information, not otherwise obtainable, shall be coordinated with the CIA.

(B) The conduct of foreign counter-intelligence activities in support of Department of Defense components in coordination with the FBI in the United States and in coordination with the CIA overseas.

(v) Such other offices within the Department of Defense as shall be deemed appropriate for conduct of the intelligence missions and responsibilities assigned to the Secretary of Defense.

(g) The Department of Energy
The Secretary of Energy shall:

(1) Produce intelligence required for the

execution of the Secretary's responsibilities and the mission of the Department of Energy, including the area of nuclear and atomic energy.

(2) Disseminate such intelligence and provide technical and analytical expertise to other Intelligence Community organizations.

(3) Participate with other Intelligence Community agencies and departments in formulating collection requirements where the special technical expertise of the Department of Energy can contribute to such collection requirements.

(h) The Federal Bureau of Investigation. Under the supervision of the Attorney General and pursuant to such regulations as the Attorney General may establish, the Director of the FBI shall:

(1) Detect and prevent within the United States and its territories and, in coordination with the CIA subject to the approval of the Director of Central Intelligence, outside the United States, sabotage, international terrorist activities, clandestine intelligence activities, and other unlawful activities by or on behalf of foreign powers through such lawful foreign counterintelligence operations, including electronic surveillance, as are useful for such purposes.

(2) Conduct within the United States and its

territories, when requested by officials of the intelligence Community designated by the President, those lawful activities, including electronic surveillance, authorized by the President and specifically approved by the Attorney General, to be undertaken in support of foreign intelligence collection requirements of other agencies within the Intelligence Community.

(3) Collect foreign intelligence by lawful means within the United States and its territories when requested by officials of agencies within the Intelligence Community designated by the President to make such requests.

(4) Disseminate, as appropriate, foreign intelligence and foreign counterintelligence information which it acquires to appropriate Federal agencies, state and local law enforcement agencies and, in coordination with the Director of Central Intelligence, cooperating foreign governments.

(5) Investigate-unauthorized disclosure of intelligence sources and methods, classified intelligence information and intelligence analytical procedures when requested by the Director of Central Intelligence or the operating head of an organization within the Intelligence Community for the purpose of carrying out the responsibilities assigned by this Executive Order.

(6) Carry out or contract for research, development and procurement of technical systems and devices relating to the functions authorized above.

(i) The Drug Enforcement Administration. Under the supervision of the Attorney General and pursuant to such regulations as the Attorney General may establish, the Administrator of DEA shall:

(1) Collect, produce and disseminate intelligence in the foreign and domestic aspects of narcotics production and trafficking in consideration with other agencies within the Intelligence Community with responsibilities in any of these areas.

(2) Participates with the Department of State in the overt collection of general foreign economic, agricultural, and political information relating to narcotics activities.

(3) Coordinate with the Director of Central Intelligence to ensure that foreign narcotics intelligence activities are consistent with foreign intelligence policy.

Section 5. Restrictions on Intelligence Activities.

(a) Purpose. Information about the capabilities, intentions and activities of foreign powers, organizations, or persons and their agents is essential to informed

decision-making in the field of national defense and foreign relations. The measures employed to acquire such information should be responsive to the legitimate needs of our Government and must be conducted in a manner which preserves and respects our established concepts of privacy and our civil liberties. This section ensures a proper balancing of these interests. This section does not authorize any activity not previously authorized and does not provide exemption from any restrictions made applicable by statute or Executive Order. Unless otherwise specified, the provisions of this section apply to activities both inside and outside the United States. References to law are to applicable laws of the United States.

(b) Restrictions on Collection. Agencies within the Intelligence Community shall not engage in any of the following activities for the purpose of collecting foreign intelligence or foreign counterintelligence:

(1) Unconsented physical surveillance directed against a United States person, unless it is a lawful surveillance conducted pursuant to procedures approved by the head of the agency and directed against any of the following:

(i) Present or former employees of such organization, including employees of a non-intelligence element of the department or agency of which the intelligence organization is a part, its present or former contractors or their present or former employees, for the purpose of protecting foreign intelligence or foreign counterintelligence sources or methods or national security information from unauthorized disclosure;

(ii) a United States person, who is in contact with either such a present or former contractor or employee or with a non-United States person who is the subject of a foreign intelligence or foreign counterintelligence inquiry, but only to the extent necessary to identify such United States person; or

(iii) a United States person outside the United States who is reasonably believed to be acting on behalf of a foreign power or engaging in international terrorist or narcotics activities or activities threatening the national security.

(2) Unconsented electronic surveillance to intercept a communication which is made from, or is intended by the sender to be received in, the United States, or directed against United States persons abroad, except lawful electronic surveillance under procedures approved by the

Attorney General and promulgated by the Director of Central Intelligence; provided that the CIA shall not perform electronic surveillance within the United States except to take action permissible under Section 5(d)(2) including the provision to the FBI of technical assistance, expert capability and knowledge and to test equipment under procedures approved by the Attorney General and promulgated by the Director of Central Intelligence.

(3) Unconsented physical searches within the United States; or unconsented physical searches directed against United States persons abroad, except lawful searches under procedures approved by the Attorney General and promulgated by the Director of Central Intelligence.

(4) Opening of mail or examination of envelopes of mail in United States postal channels except in accordance with applicable statutes and regulations.

(5) Examination of Federal tax returns or tax information except in accordance with applicable statutes and regulations.

(6) Infiltration or undisclosed participation within the United States in any organization for the purpose of reporting on or influencing its activities or members; except such infiltration or participation with respect to an organization composed primarily of non-United States persons which is reasonably believed

to be acting on behalf of a foreign power; and except reporting on members of organizations who are reasonably believed to be potential sources or contacts, but only for the purpose of determining whether the person is a desirable source or contact.

(7) Collection, dissemination and storage of non-publicly available information, however acquired, concerning the activities of United States persons within the United States except:

(i) Information concerning corporations or other commercial organizations which constitutes foreign intelligence or foreign counterintelligence;

(ii) information concerning present or former employees, including employees of a non-intelligence element of the department or agency, present or former contractors or their present or former employees, or applicants for any such employment or contracting, necessary to protect foreign intelligence or foreign counterintelligence sources or methods or national security information from unauthorized disclosure; and the identity of persons in contact with the foregoing or with a non-United States person who is the subject of a foreign intelligence or foreign counterintelligence inquiry;

(iii) information concerning persons who

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are reasonably believed to be potential sources or contacts,

but only for the purpose of determining the suitability or credibility of such persons;

(iv) foreign intelligence or foreign counterintelligence gathered abroad or from electronic surveillance conducted in compliance with Section 5(b)(2); or foreign intelligence or foreign counterintelligence acquired from cooperating sources in the United States;

(v) information about a United States person who is reasonably believed to be acting on behalf of a foreign power or engaging in international terrorist or narcotics activities, or to present a danger to the safety of a person protected by the United States Secret Service; or

(vi) information concerning persons or activities that pose a clear threat to any facilities or personnel of an agency within the Intelligence Community, provided, that such information is retained only by the agency threatened and that proper coordination with the FBI is accomplished.

(8) The restrictions on collection set out in this section shall not apply to any agency within the Intelligence Community to the extent that it is engaged in its authorized civil or criminal law enforcement functions, nor shall it apply in any case to the Federal Bureau of Investigation.

(c) Restrictions on Experimentation. Agencies within the Intelligence Community shall not engage in experimentation with drugs on human subjects, except with the informed consent, in writing and witnessed by a disinterested third party, of each such human subject and in accordance with the guidelines issued by the National Commission for the Protection of Human Subjects for Biomedical and Behavioral Research.

(d) Restrictions on Assistance to Law Enforcement Authorities.

(1) Agencies within the Intelligence Community, while engaged in the collection of foreign intelligence or counterintelligence, shall not, except as expressly authorized by law:

(i) provide services, equipment, personnel or facilities to the Law Enforcement Assistance Administration or to state or local police organizations of the United States; or

(ii) within the United States participate in or fund any law enforcement activity.

(2) These prohibitions shall not apply to any agency within the Intelligence Community to the extent that it is engaged in its authorized civil or criminal law enforcement functions; nor shall it apply in any case to the FBI.

(3) These prohibitions shall not preclude:

(i) cooperation with appropriate law enforcement agencies for the purpose of protecting the per-

Community or preventing espionage or other criminal activity related to foreign intelligence or counter-intelligence;

(ii) participation in law enforcement activities, within the limits of Section 4 of this Order, to investigate clandestine intelligence activities by foreign powers, international narcotics trafficking, or international terrorist activities;

(iii) provision of specialized equipment, technical knowledge or the assistance of expert personnel for use by any federal department or agency or, when lives are endangered, in support of local law enforcement activities; or

(iv) the dissemination of information lawfully collected to any federal or local law enforcement agency to enable it to investigate, prevent or prosecute criminal activity.

(e) Restrictions on Personnel Assigned to Other Agencies. An employee of an agency within the Intelligence Community detailed elsewhere within the Federal Government shall be responsible to the host agency and shall not report to such employee's parent agency on the affairs of the host agency, except as may be directed by the latter. The head of the host agency, and any successor, shall be informed of the detailee's association with the parent agency.

(f) Prohibition of Assassination. No employee of the United States Government shall engage in, or conspire to engage in, political assassination.

(g) Dissemination and Storage. Nothing in this section of this Order shall prohibit:

(1) Lawful dissemination to the appropriate law enforcement agencies of incidentally gathered information indicating involvement in activities which may be in violation of federal, state or local laws or the laws of a foreign government.

(2) Storage of information required by law to be retained.

(3) Dissemination to foreign intelligence agencies of information of the subject matter types listed in Section 5(b)(7).

Section 6. Oversight of Intelligence Organizations.

(a) There is hereby established within the Executive Office of the President an Intelligence Oversight Board.

(1) The Intelligence Oversight Board shall have three members who shall be appointed by the President and who shall be from outside the Government and be qualified on the basis of ability, knowledge, diversity of background and experience. No member shall have any personal contractual relationship with any agency within the Intelligence Community. One member shall be designated by the President as Chairman.

(2) The Intelligence Oversight Board shall:

(i) Receive and consider written and oral reports by Inspectors General and General Counsels with responsibilities for organizations within the Intelligence Community concerning activities that raise questions of legality or propriety;

(ii) Review periodically the practices and procedures of the Inspectors General and General Counsels with responsibilities for organizations within the Intelligence Community designed to discover and report to the Intelligence Oversight Board activities that raise questions of legality or propriety;

(iii) Review periodically with each organization within the Intelligence Community internal organization guidelines to ensure their adequacy;

(iv) Report periodically, at least quarterly, to the Attorney General and the President on its findings;

(v) Report in a timely manner to the Attorney General and to the President any activities that raise serious questions about legality; and

(vi) Report in a timely manner to the President any activities that raise serious questions about propriety.

(b) Inspectors General and General Counsels with responsibility for organizations within the Intelligence

(1) Transmit in a timely manner to the Intelligence Oversight Board reports of any activities that come to their attention and that raise questions of legality or propriety.

(2) Report periodically, at least quarterly, to the Intelligence Oversight Board on actions taken with respect to its findings or any relevant findings of the Attorney General concerning questionable activities, if any.

(3) Provide to the Intelligence Oversight Board information requested about activities within their respective agencies.

(4) Report to the Intelligence Oversight Board any occasion on which they were directed not to report any activity to the Intelligence Oversight Board by their department or agency heads.

(5) Formulate practices and procedures designed to discover and report to the Intelligence Oversight Board activities that raise questions of legality or propriety.

(c) Heads of department or agencies having authority over elements within the Intelligence Community shall:

(1) Report periodically to the Intelligence Oversight Board on any activities of their organizations that raise questions of legality or propriety.

(2) Instruct their employees to cooperate fully with

(3) Ensure that Inspectors General and General Counsels of their departments or agencies have access to any information necessary to perform their duties assigned by paragraph (b) of this section.

(d) The Attorney General shall:

(1) Receive and consider reports from the Intelligence Oversight Board.

(2) Report periodically, at least quarterly, to the President with respect to activities of the Intelligence Community, if any, which raise questions of legality.

(3) Report to the Intelligence Oversight Board in a timely fashion with respect to activities of the Department of Justice undertaken in response to matters referred to the Department by the Board.

(4) Keep the Intelligence Oversight Board informed as to legal opinions affecting the operations of the Intelligence Community.

(e) The Intelligence Oversight Board shall receive staff support through the Executive Office of the President. No person who serves on the staff of the Intelligence Oversight Board shall have any contractual or employment relationship with any agency within the Intelligence Community.

Section 7. Protection of Intelligence.

(a) In order to improve the protection of sources and methods of intelligence, all members of the Executive branch and its contractors given access to information containing sources or methods of intelligence shall, as a condition of obtaining access, sign an agreement that they will not disclose that information to persons not authorized to receive it.

(b) In the event of any unauthorized disclosure of information concerning sources or methods of intelligence, the names of any persons found to have made unauthorized disclosure shall be forwarded (1) to the head of applicable departments or agencies for appropriate disciplinary action; and (2) to the Attorney General for appropriate legal action.

(c) In the event of any threatened unauthorized disclosure of information concerning sources or methods of intelligence by a person who has agreed not to make such disclosure, the details of the threatened disclosure shall be transmitted to the Attorney General for appropriate legal action, including the seeking of a judicial order to prevent such disclosure.

(d) In further pursuit of the need to provide protection for other significant areas of intelligence, the Director of Central Intelligence is authorized to

promulgate rules and regulations to expand the scope of agreements secured from those persons who, as an aspect of their relationship with the United States Government, have access to classified intelligence material.

Section 8. Enabling Provisions.

(a) The Policy Review Committee and the Director of Central Intelligence shall provide for detailed implementation of this Order by issuing appropriate directives.

(b) All existing National Security Council and Director of Central Intelligence directives shall be amended to be consistent with this Order.

(c) This Order shall supersede Executive Order 11905, "United States Foreign Intelligence Activities," dated February 19, 1976.

(d) Heads of agencies within the Intelligence Community shall issue supplementary directives to their organizations consistent with this Order.



PART III:

THE PRESIDENT

UNITED STATES FOREIGN INTELLIGENCE ACTIVITIES

Executive Order 11905

*MARKED TO INDICATE
CHANGES IN 15 AUGUST
DRAFT OF PROPOSED
SUBSTITUTE EXECUTIVE
ORDER*

Title 3—The President

Executive Order 11905

February 18, 1976

United States Foreign Intelligence Activities

By virtue of the authority vested in me by the Constitution and statutes of the United States, including the National Security Act of 1947, as amended, and as President of the United States of America, it is hereby ordered as follows:

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POLICY REVIEW COMMITTEE
 SPECIAL COORDINATION CENTER

(R) NATIONAL INTELLIGENCE TASKING CENTER
 (S) NATIONAL FOREIGN INTELLIGENCE BOARD

DEPARTMENT OF ENERGY

DRUG ENFORCEMENT AGENCY ADMINISTRATION

7704

THE PRESIDENT

TO IMPROVE THE EFFECTIVENESS OF COUNTERINTELLIGENCE ACTIVITIES

Section 1. Purpose. The purpose of this Order is to establish policies to improve the quality of intelligence needed for national security, to clarify the authority and responsibilities of the intelligence departments and agencies, and to establish effective oversight to assure compliance with law in the management and direction of intelligence agencies and departments of the national government.

DIRECTOR OF CENTRAL INTELLIGENCE AND

Sec. 2. Definitions. For the purpose of this Order, unless otherwise indicated, the following terms shall have these meanings:

(a) Intelligence means:

(1) Foreign intelligence which means information, other than foreign counterintelligence, ^{RELATING TO} the capabilities, intentions and activities of foreign powers, organizations, ^{PERSONS} or their agents; and

(2) Foreign counterintelligence which means activities conducted to protect the United States and United States citizens from foreign espionage, sabotage, subversion, assassination or terrorism.

(b) Intelligence Community refers to the following organizations:

- (1) Central Intelligence Agency;
- (2) National Security Agency;
- (3) Defense Intelligence Agency;

THE NEW ORDER MOVES TO THIS SECTION DEFINITIONS EARLIER IN SECTION 5
PP 24-26

NEW DEFINITION AT # 6-2
(c) (3)

Approve

(c) Special activities in support of national foreign policy objectives means activities, other than the collection and production of intelligence and related support functions, ^{which are} designed to further official United States programs and policies abroad which are planned and executed so that the role of the United States Government is not apparent or publicly acknowledged.

(d) National Foreign Intelligence Program means the programs of the Central Intelligence Agency and the ~~special~~ offices within the Department of Defense for the collection of specialized ^{NATIONAL FOREIGN} intelligence through reconnaissance programs, the Consolidated Cryptologic Program, ~~and those elements of the~~ General Defense Intelligence Program, and other programs of the departments and agencies, not including tactical intelligence, designated by the Committee on Foreign Intelligence as part

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THE PRESIDENT

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Sec. 3. Control and Direction of National Intelligence Organizations.

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(a) National Security Council.

(1) The National Security Council was established by the National Security Act of 1947 to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security. Statutory members of the National Security Council are the President, the Vice President, the Secretary of State, and the Secretary of Defense.

(2) ~~Among its responsibilities,~~ ⁽¹⁾ the National Security Council shall ^{FDR} provide guidance and direction to the development and formulation of national intelligence activities.

~~(iii) (a) The National Security Council shall conduct a semi-annual review of intelligence policies and of ongoing special activities in support of national Foreign policy objectives. These reviews shall consider the needs of users of intelligence and the timeliness and quality of intelligence products and the continued appropriateness of special activities in support of national Foreign policy objectives. The National Security Council shall consult with the Secretary of the Treasury and such other users of intelligence as~~

(3) NEW # ON NSC COMMITTEES

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(9) (S) Protect the security of its installations, activities, information and personnel. In order to maintain this security, the CIA shall conduct such investigations of applicants, employees, and other persons with similar associations with the CIA as are necessary.

(10) (S) Conduct administrative, technical and support activities in the United States or abroad as may be necessary to perform the functions described in paragraphs (1) through (9) above, including procurement, maintenance and transport; communications and data processing; recruitment and training; the provision of personnel, financial and medical services; development of essential cover and proprietary arrangements; ^{AND THEIR NECESSARY SUPPLIES} entering into contracts and arrangements with appropriate private companies and institutions to provide classified or unclassified research, analytical and developmental services and specialized expertise; and entering into similar arrangements with academic institutions, provided CIA sponsorship is known to the appropriate senior officials of the academic institutions and to senior project officials.

(c) The Department of State. The Secretary of State shall:

(1) Collect, overtly, foreign political, political-military, sociological, economic, scientific, technical and associated biographic information.

(2) BE RESPONSIVE TO TASKING ^{THE PRESIDENT} (BY THE DC) FOR NATIONAL FOREIGN INTELLIGENCE PURPOSES. 17

(3) (2) Produce and disseminate foreign intelligence relating to United States foreign policy as required for the execution of ^{THE SECRETARY'S} his responsibilities and in support of policy-makers involved in foreign relations within the United States Government.

(4) (2) Disseminate within the United States Government, as appropriate, reports received from United States diplomatic missions abroad.

(5) (4) Coordinate with the Director of Central Intelligence to ensure that United States intelligence activities and programs are useful for and consistent with United States foreign policy.

(6) (5) Transmit reporting requirements of the Intelligence Community to our Chiefs of Missions abroad, ~~and provide guidance for their collection efforts.~~

(7) (8) Contribute to the Intelligence Community guidance for its collection of intelligence based on the needs of those responsible for foreign policy decisions.

(8) (7) Support Chiefs of Missions in discharging their responsibilities to direct and coordinate the activities of all elements of their missions.

(d) The Department of the Treasury. The Secretary of the Treasury shall:

(1) Collect, overtly, foreign financial and monetary information.

(2) Participate with the Department of State in the overt collection of general foreign economic information.

(3) Produce that intelligence required for the execution of the Secretary's interdepartmental responsibilities and the mission of the Department of the Treasury.

(4) Contribute intelligence and guidance required for the development of national intelligence.

(5) Disseminate within the United States Government, as appropriate, foreign intelligence information acquired.

(e) Department of Defense.

(1) The Secretary of Defense shall:

(i) Collect foreign military intelligence information as well as military-related foreign intelligence information, including scientific, technical, political and economic information as required for the execution of his responsibilities.

(ii) Produce and disseminate, as appropriate, intelligence emphasizing foreign military capabilities and intentions and scientific, technical and economic developments pertinent to his responsibilities.

(iii) Conduct such programs and missions necessary to fulfill national intelligence requirements [as determined by the OPI].

Handwritten: (iii) BY THE DEPT OF DEFENSE FOR FOREIGN INTELLIGENCE PURPOSES

(V)(20) Direct, ~~fund and~~ ^{AND PROVIDE FISCAL MANAGEMENT FOR} operate the National Security Agency, and national, defense and military intelligence and reconnaissance entities as required.

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(V)(21) Conduct, as the executive agent of the United States Government, signals intelligence activities and communications security, except as otherwise approved by the ^{NATIONAL SECURITY COUNCIL} ~~CFR~~.

(V)(22) Provide for the timely transmission of critical intelligence, as defined by the Director of Central Intelligence, within the United States Government, ^{AI}

(2) In carrying out these assigned responsibilities, the Secretary of Defense is authorized to utilize the following:

(i) The Defense Intelligence Agency whose functions, authorities and responsibilities are (currently publicly assigned by Department of Defense Directive No. 5105.21) to: ^{INCLUDE:}

(A) ^{PRODUCTION OR DIVISION OF} Produce or provide military intelligence for the Secretary of Defense, the Joint Chiefs of Staff, other Defense components, and, as appropriate, non-Defense agencies.

(B) Coordinate ^{N OF} all Department of Defense intelligence collection requirements ~~and manage the~~ ^{(C) MANAGEMENT OF THE} Defense Attache system.

(C) Establish substantive intelligence

(D) Review and maintain cognizance over all plans, policies and procedures for noncryptologic intelligence functions of the Department of Defense.

(D) ^{PROVISION AT} Provide intelligence staff support as directed by the Joint Chiefs of Staff.

(ii) The National Security Agency, whose functions, authorities and responsibilities shall include:

(A) ~~Establishment and~~ Operation of an effective unified organization for the signals intelligence activities of the United States Government, except for certain operations which are normally exercised through appropriate elements of the military command structure, or by the CIA.

(B) Exercise ^{OF} control over signals intelligence collection and processing activities of the Government, delegating to an appropriate agent specified resources for such periods and tasks as required for the direct support of military commanders.

(C) ^{ENSURE} Collection, ~~processing and dissemination~~ of signals intelligence in accordance with ^{TASKING} objectives, requirements, and priorities established by the Director of Central Intelligence ^{THROUGH THE NATIONAL INTELLIGENCE}

(D) ^{PROCESSING AND} Dissemination of signals intelligence to all authorized elements of the Government, including the Armed Services ~~[as requested]~~

(E) ^{OPERATION} ~~[Serving]~~ under the Secretary of Defense ^{OF} the central communications security authority of the

(F) Conduct of research and development to meet the needs of the United States for signals intelligence and communications security.

(iii) Special offices for the collection of specialized intelligence through reconnaissance programs, whose functions, authorities, and responsibilities shall include:

(A) Carrying out ^{RECONNAISSANCE} consolidated programs ^{FOR SPECIALIZED} intelligence ^{IN ACCORDANCE WITH TASKING BY THE DCI THROUGH} for reconnaissance. ^{THE NATIONAL INTELLIGENCE TASKING CENTER.}

(B) Assigning responsibility to the various departments and agencies of the Government, according to their capabilities, for the research, development, procurement, operations and control of designated means of collection.

*INTELLIGENCE # ON
CONSIDER INTELIGENCE
ELEMENTS OF
MILITARY
SERVICES ADDED*

(C) Such other offices within the Department of Defense as shall be deemed appropriate for conduct of the intelligence missions and responsibilities assigned to the Secretary of Defense.

^{THE DEPARTMENT OF}
(f) ~~Energy Research and Development Administration.~~

^{SECRETARY}
The Administrator of the Energy Research and Development Administration shall:

(1) Produce intelligence required for the execution of ^{THE SECRETARY'S} his responsibilities and the mission of ^{DEPARTMENT OF} the Energy Research and Development Administration, hereinafter referred to as ERDA, including the area of nuclear and atomic energy.

(2) Disseminate such intelligence and provide technical and analytical expertise to other Intelligence Community organizations, ~~and be responsive to the guidance of the Director of Central Intelligence and the Committee on Foreign Intelligence~~

(3) Participate with other Intelligence Community agencies and departments in formulating collection requirements where ~~its~~ ^{THE} special technical expertise ^{OF THE DEPARTMENT OF ENERGY} can contribute to such collection requirements. ILLEGIB

(g) The Federal Bureau of Investigation. Under the supervision of the Attorney General and pursuant to such regulations as the Attorney General may establish the Director of the FBI shall:

(1) Detect and prevent ~~espionage, sabotage,~~ ^{INTERNATIONAL TERRORIST ACTIVITIES, CLANDESTINE INTELLIGENCE ACTIVITIES} subversion, and other unlawful activities by or on behalf of foreign powers through such lawful counterintelligence operations ~~within the United States,~~ including electronic surveillance, as are ~~necessary or~~ useful for such purposes.

(2) Conduct within the United States and its territories, when requested by officials of the Intelligence Community designated by the President, those lawful activities, including electronic surveillance, authorized by the President and specifically approved by the Attorney General, to be undertaken in support of foreign intelligence collection requirements of other ~~intelligence~~ ^{WITHIN THE INTELLIGENCE COMMUNITY} agencies.

(3) Collect foreign intelligence by lawful means within the United States and its territories when requested by officials of ^{AGENCIES WITHIN} the Intelligence Community designated by the President to make such requests.

(4) Disseminate, as appropriate, foreign intelligence and ^{FOREIGN} counterintelligence information which it acquires to appropriate Federal agencies, State and local law enforcement agencies and ^{IN COORDINATION WITH THE DCI,} cooperating foreign governments.

^{(5) NEW P. ON INVESTIGATIONS}
^{(6) (S)} Carry out or contract for research, development and procurement of technical systems and devices relating to the functions authorized above.

Sec. 5. Restrictions on Intelligence Activities.

Information about the capabilities, intentions and ^{FOREIGN POWERS, ORGANIZATIONS, OR PERSONS AND THEIR AGENTS} activities of ~~other governments~~ is essential to informed decision-making in the field of national defense and foreign relations. The measures employed to acquire such information should be responsive to the legitimate needs of our Government and must be conducted in a manner which preserves and respects our established concepts of privacy and our civil liberties.

^{THIS SECTION}
~~Recent events have clearly indicated the desirability of government-wide direction which will ensure a proper balancing of these interests. This section of this Order does not authorize any activity not previously authorized~~

FROM THE
LAW ENFORCEMENT
ADMINISTRATION
INTEREST AS (i)

and does not provide exemption from any restrictions ^{MADE BY STATUS OR EXECUTIVE ORDER} otherwise applicable. Unless otherwise specified, the provisions of this section apply to activities both inside and outside the United States. References to law are to applicable laws of the United States.

DEFINITIONS
SECTION ADDED
TO SEC. 2
OF THE
NEW DRAFT

(a) Definitions. As used in this section of this Order, the following terms shall have the meanings ascribed to them below:

(1) "Collection" means any one or more of the gathering, analysis, dissemination or storage of non-publicly available information without the informed express consent of the subject of the information.

EXPANDED
DEFINITION IN
SEC. 2

(2) "Counterintelligence" means information concerning the protection of foreign intelligence or of national security information and its collection from detection or disclosure.

MOVED TO
SEC. 2

(3) "Electronic surveillance" means acquisition of a non-public communication by electronic means, without the consent of a person who is a party to, or, in the case of a non-electronic communication, visibly present at, the communication.

MOVED TO
SEC. 2

(4) "Employee" means a person employed by, assigned or detailed to, or acting for a United States foreign intelligence agency. ^{AN AGENCY OFFICE OR ELEMENT OF THE INTELLIGENCE COMMUNITY}

THE PRESIDENT

IN
SEC-2
OF DRAFT

(5) "Foreign intelligence" means information ^{which} OTHER THAN ~~COUNTERINTELLIGENCE~~ RELATING TO ~~concerning~~ the capabilities, intentions and activities ^{ORGANIZATIONS, PERSONS OR THEIR AGENTS,} of any foreign power, or of any non-United States person, whether within or outside the United States, or concerning areas outside the United States.

(6) "Foreign intelligence agency" means the Central Intelligence Agency, National Security Agency, and Defense Intelligence Agency; and further includes any other department or agency of the United States Government or component thereof while it is engaged in the collection of foreign intelligence or counter-intelligence, but shall not include any such department, agency or component thereof to the extent that it is engaged in its authorized civil or criminal law enforcement functions; nor shall it include in any case the Federal Bureau of Investigation.

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(g) (7) "National security information" has the meaning ascribed to it in Executive Order No. 11652, as amended.

AN ENTIRELY
DIFFERENT
DEFINITION
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(8) "Physical surveillance" means continuing visual observation by any means; or acquisition of a non-public communication by a person not a party thereto or visibly present thereat through any means which does not involve electronic surveillance.

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DIFFERENT
DEFINITION IN
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(D) "United States person" means United States citizens, aliens admitted to the United States for permanent residence and corporations or other organizations incorporated or organized in the United States.

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(b) Restrictions on Collection. Foreign-intelligence Agencies ^{WITHIN THE INTELLIGENCE COMMUNITY} shall not engage in any of the following activities ^{FOR THE PURPOSE OF COLLECTING FOREIGN INTELLIGENCE}:

(1) ^{UNCONSENTED} Physical surveillance directed against a United States person, unless it is a lawful surveillance conducted pursuant to procedures approved by the head of the ~~foreign intelligence~~ agency and directed against any of the following:

(i) ~~X~~ ^P present or former employees of such ^{ORGANIZATION} agency, its present or former contractors or their present or former employees, for the purpose of protecting foreign intelligence or ^{FOREIGN} counterintelligence sources or methods or national security information from unauthorized disclosure; or

(ii) a United States person, who is in contact with either such a present or former contractor or employee or with a non-United States person who is the subject of a foreign intelligence or ^{FOREIGN} counterintelligence inquiry, but only to the extent necessary to identify such United States person; or

(iii) a United States person outside the United States who is reasonably believed to be acting on behalf

of a foreign power or engaging in international terrorist or narcotics activities or activities threatening the national security.

(2) ^{UNCONSENTED} Electronic surveillance to intercept

a communication which is made from, or is intended by the sender to be received in, the United States, or directed against United States persons abroad, except lawful

electronic surveillance under procedures approved by the Attorney General; ^{AND PROMULGATED BY THE DIRECTOR OF CENTRAL INTELLIGENCE} provided, that the Central Intelligence

Agency shall not perform electronic surveillance within the United States, except ~~for the purpose of testing~~

equipment under procedures approved by the Attorney General ^{AND PROMULGATED BY THE DCI.} consistent with law.

(3) Unconsented physical searches within the United States; or unconsented physical searches directed against United States persons abroad, except lawful searches under procedures approved by the Attorney General, ^{AND PROMULGATED BY THE DCI.}

(4) Opening of mail or examination of envelopes of mail in United States postal channels except in accordance with applicable statutes and regulations.

(5) Examination of Federal tax returns or tax information except in accordance with applicable statutes and regulations.

(6) Infiltration or undisclosed participation within the United States in any organization for the purpose of reporting on or influencing its activities

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or members; except such infiltration or participation with respect to an organization composed primarily of non-United States persons which is reasonably believed to be acting on behalf of a foreign power.

(7) ^{DISSEMINATION AND STORAGE OF NON-PUBLICLY} collection of information, however

acquired, concerning the domestic activities of United States persons ^{WITHIN THE UNITED STATES} except:

(i) Information concerning corporations or other commercial organizations which constitutes foreign intelligence or ^{FOREIGN} counterintelligence.

(ii) Information concerning present or former ^(INCLUDING EMPLOYEES OF A NON-INTELLIGENCE ELEMENT OF THE DEPARTMENT OR AGENCY) employees, present or former contractors or their present

or former employees, or applicants for any such employment or contracting, necessary to protect foreign intelligence or ^{FOREIGN} counterintelligence sources or methods or national security information from unauthorized disclosure; and the identity of persons in contact with the foregoing or with a non-United States person who is the subject of a foreign intelligence or counterintelligence inquiry.

(iii) Information concerning persons who are reasonably believed to be potential sources or contacts, but only for the purpose of determining the suitability or credibility of such persons.

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e (c) ~~RESTRICTED IN ASSIGNMENT~~ Assignment of Personnel. An employee of a foreign intelligence agency detailed elsewhere within the Federal Government shall be responsible to the host agency and shall not report to such employee's parent agency on the affairs of the host agency, except as may be directed by the latter. The head of the host agency, and any successor, shall be informed of the detailee's association with the parent agency.

(b) (1) Prohibition of Assassination. No employee of the United States Government shall engage in, or conspire to engage in, political assassination.

(h) Implementation.

(1) This section of this Order shall be effective on March 1, 1976. Each department and agency affected by this section of this Order shall promptly issue internal directives to implement this section with respect to its foreign intelligence and counter-intelligence operations.

(2) The Attorney General shall, within ninety days of the effective date of this section of this Order, issue guidelines relating to activities of the Federal Bureau of Investigation in the areas of foreign intelligence and counterintelligence.

Sec. 6. Oversight of Intelligence Organizations.

WITHIN THE EXECUTIVE OFFICE OF THE PRESIDENT
(a) There is hereby established an Intelligence Oversight Board, ~~hereinafter referred to as the Oversight Board~~.

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(1) The ^{INTELLIGENCE} Oversight Board shall have three members who shall be appointed by the President and who shall be from outside the Government and be qualified on the basis of ability, knowledge, diversity of background and experience. ~~The members of the Oversight Board may also serve on the President's Foreign Intelligence Advisory Board (Executive Order No. 11460 of March 20, 1969).~~ No member ~~of the Oversight Board~~ shall have any personal contractual relationship with any agency ^{WITHIN} ~~or department~~ of the Intelligence Community.

~~As~~ One member ~~of the Oversight Board~~ shall be designated by the President as ~~its~~ Chairman.

(2) ^{INTELLIGENCE} The Oversight Board shall:

(i) Receive and consider ^{WRITTEN AND ORAL} reports by Inspectors General and General Counsels ^{WITH RESPONSIBILITIES FOR ORGANIZATIONS WITHIN} of the Intelligence Community concerning activities that raise questions of legality or propriety.

(ii) Review periodically the practices and procedures ^{WITH RESPONSIBILITIES FOR ORGANIZATIONS WITHIN} of the Inspectors General and General Counsels ^{WITHIN} of the Intelligence Community designed to discover and report to the Oversight Board activities that raise questions of legality or propriety.

(iii) Review periodically with each ~~member of~~ ^{ORGANIZATION WITHIN} the Intelligence Community ~~their~~ ^{ORGANIZATION} internal guidelines to ensure their adequacy.

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and methods of intelligence, all members of the Executive branch and its contractors given access to information containing sources or methods of intelligence shall, as a condition of obtaining access, sign an agreement that they will not disclose that information to persons not authorized to receive it.

(b) In the event of any unauthorized disclosure of information concerning sources or methods of intelligence, the names of any persons found to have made unauthorized disclosure shall be forwarded (1) to the head of applicable departments or agencies for appropriate disciplinary action; and (2) to the Attorney General for appropriate legal action.

(c) In the event of any threatened unauthorized disclosure of information concerning sources or methods of intelligence by a person who has agreed not to make such disclosure, the details of the threatened disclosure shall be transmitted to the Attorney General for appropriate legal action, including the seeking of a judicial order to prevent such disclosure.

(d) In further pursuit of the need to provide protection for other significant areas of intelligence, the Director of Central Intelligence is authorized to promulgate rules and regulations to expand the scope of agreements secured from those persons who, as an aspect of their relationship with the United States Government, have access to classified intelligence

Sec. 8. Enabling Data.

(a) The ~~Committee on Foreign Intelligence~~ ^{POLICY REVIEW COMMITTEE} and the Director of Central Intelligence shall provide for detailed implementation of this Order by issuing appropriate directives.

(b) All existing National Security Council and Director of Central Intelligence directives shall be amended to be consistent with this Order ~~(within ninety days of its effective date)~~

(c) This Order shall supersede ^{EXECUTIVE ORDER 11905} ~~the Presidential Memorandum of November 5, 1971, on the "Organization and Management of the U.S. Foreign Intelligence Community,"~~ ^{"UNITED STATES FOREIGN INTELLIGENCE ACTIVITIES,"} ~~DATED FEBRUARY 19, 1976~~

(d) Heads of departments and agencies within the Intelligence Community shall issue supplementary directives to their organizations consistent with this Order ~~(within ninety days of its effective date)~~

(e) This Order will be implemented within current manning authorizations of the Intelligence Community. To this end, the Director of the Office of Management and Budget will facilitate the required realignment of personnel positions. The Director of the Office of Management and Budget will also assist in the allocation of appropriate facilities.

~~Herold R. Ford~~

THE WHITE HOUSE,
February 18, 1976.