

1 May 1974

NOTE FOR: The Director
FROM : Ed Proctor
SUBJECT : FCRC's (RAND) Access to Intelligence

Rather than talking about access to intelligence by FCRCs in general, let's focus on RAND's access in particular. Any changes made for RAND could be extended to certain other FCRCs which are similar to RAND.

RAND's complaints are:

--Use of the terms "controlled dissem" and "sensitive sources and methods" inhibits dissemination of unique intelligence to RAND.

--RAND believes that non-profit making research centers like RAND should not have the same constraints as profit-oriented research centers and should receive sensitive intelligence items. (The argument is that the efforts of profit-making outfits are usually confined to specific projects; FCRC centers like RAND are engaged in basic, long-term policy-oriented research. To do this, they must have access to privileged information.)

OFFICE OF THE DD/I

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The USIB rules governing release of intelligence to contractors make clear that special permission must be granted in writing from the originator of all sensitive intelligence reports, i.e., those marked "controlled dissem," etc. RAND says that this procedure delays their receipt of this information for as much as six months. In effect, RAND is pleading to waive this USIB policy. RAND does have a legitimate complaint on the time-lag problem, but their complaint should be made to their sponsoring agency, the Air Force, not to CIA.

I believe this is one of those instances where your responsibility for protecting sensitive sources and methods is at issue. Despite the assurances regarding RAND's security measures (made by Donald Rice in his attached memorandum), it was through RAND's facilities that the Ellsberg papers were leaked. There would be an uproar on Capitol Hill and even at PFIAB if there were another leak of sensitive intelligence to the public (or any other unauthorized recipient).

Therefore, I recommend that you inform RAND we can make no exceptions to our present policy on disseminating sensitive intelligence to contractors like RAND.

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CONFIDENTIAL INFORMATION

Rand
SANTA MONICA, CA. 90406

DDI-1187-74

DONALD B. RICE
President

April 17, 1974

The Honorable William E. Colby
Director, Central Intelligence Agency
Washington, D.C. 20505

Dear Mr. Colby:

George Tanham has told me of your interest in some of the problems of intelligence access for Federal Contract Research Centers (FCRCs), including The Rand Corporation. We believe that the current regulations impose an unnecessary and counterproductive constraint on the value of national security research by FCRCs for their clients. I thought I would take this opportunity to assure you that our interest in the matter is genuine and extends beyond just our Project RAND research for the Air Force.

Enclosed is a discussion of our views on some possible modifications to the current procedures. While we have not discussed this matter with other FCRCs for several years, we would expect our proposal to find broad support from them and, indeed, from their (and our) clients, as was the case on an earlier Navy-sponsored proposal to DIA.

We would be pleased to elaborate further on this or provide any other information you would find pertinent to this matter.

Sincerely,

Donald B. Rice

Enclosure

INTELLIGENCE ACCESS ISSUES RELATING TO CONTROLLED DISSEMINATION

I. Introduction to the Problem

The present Controlled Dissemination (CD) caveat prohibits the release of intelligence materials to an industrial contractor without written permission from the office of origin. The same prohibition applies to the designation Sensitive Intelligence Sources and Methods Involved (SIMI), which is now being applied much more frequently to document series formerly distributed without caveat. At present, both caveats make no distinction between profit making, industrial corporations engaged in for-profit contract research or hardware production and a non-profit, Federal Contract Research Center (FCRC) engaged in basic, long-term, policy oriented research. Rand thinks that such a distinction logically should be made and that the present restrictions and limitations of the CD caveat should be modified to reflect this distinction. Our reasons are outlined below.

II. FCRCs versus Other Contractors

Contracts awarded to the profit making, non-FCRC contractors are normally directed to a specific project, e.g., a weapon system development. Being narrow in scope, they do not usually require extensive access to a wide variety of intelligence materials. Consequently, such contractors are usually provided with very narrow access to data covering a specific project of limited scope. Contracts are normally awarded on the basis of competitive bidding and are of limited duration -- usually terminated when the specific task is completed. To place such a contractor on "regular distribution" for a wide variety of intelligence material covering a myriad of subjects would make little sense. We understand that this was the original rationale for the policy of restricting certain intelligence material from distribution to industrial contractors.

The situation with regard to FCRCs is quite different. Extensive Congressional hearings and testimony by various defense officials underscores the special, indeed unique, distinctions between FCRCs and other contractors.

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It has been said that the studies and analyses FCRCs enjoy a favored position. This is true, almost by definition. In order for organizations like IDA and Rand to be effective, they must have access to privileged information from both Government and industry. In order to make objective and penetrating evaluations of the potential effectiveness of our future weapons systems, they must have a complete background on a continuing basis regarding our objectives, our plans, and the details of competing systems. The very effectiveness of these organizations requires a special position in the sense just described.*

Moreover, Rand and the other FCRCs are closely monitored by their sponsors and limited in both the amount and nature of the research assigned to them:

We are persuaded that there is a strong need for organizations like the FCRCs.... This type of organization is thus particularly useful as a means of allowing this talent to be privy to a broad scope of information on a continuing basis. However, in providing these organizations and their technical personnel with privy information, the DoD places them in a special position. Thus, they must expect limits, as they do, on the total amount of effort that they will undertake for the DoD.

I do not think it is at all feasible to have the type of studies and engineering support required from the FCRCs supplied by private companies....

The other alternative is to accomplish all these activities strictly in-house by personnel under civil service. In my view, we would lose by that approach....

In recognition of the FCRCs' special characteristics, the content of the tasks assigned to these organizations will be thoroughly reviewed to assure that they cannot be performed effectively and objectively by other organizations....**

* Testimony of Dr. John S. Foster, Jr., Hearings on S. 3108 (FCRCs); Extract-FY '73 Authorization for Military Procurement and RDT&E, Committee on Armed Services, p. 3229.

** Ibid., pp. 3230-31.

Such broad policy oriented research is based on a long-term, continuing relationship with the sponsor; this relationship is what originally led to the creation of the FCRC classification. We feel that an awareness of the special nature of the research performed, and of the special relationship which exists between each FCRC and its sponsor dictates a special approach to the subject of access to classified intelligence material in general, and intelligence carrying the CD or SIMI caveats in particular.

III. Problems with the Present System

It is the current policy of the originating and contracting agencies to require a full and detailed justification for all contractor requests for the release of CD material. The preparation of such lengthy and formal requests is time consuming. This delay is further compounded by the fact that such requests must pass through a series of channels, involving both the contracting and originating agency. Delays of 5-6 months are not uncommon, and some requests have been delayed for more than a year; even routine requests may require staffing and coordination in more than half a dozen offices of each agency involved.

This long time lag impacts adversely on our studies in several ways. Because of the delay we are often forced to send in our request at an early stage of our study; then, as the study progresses, we typically find that when received some data requested is superfluous to our by then better defined needs, and that other data which we now find we require was not originally requested. We thus must either suffer additional delays in our study, or to meet a deadline, dilute our effort in an area which merits fuller attention. Another danger inherent in the present system arises from the necessity of using "next best" uncaveated data when we are unable to obtain CD intelligence in sufficient time. Such substitute data is, at times, at variance with or in direct contradiction to intelligence carrying the CD caveat.

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It should also be pointed out that intelligence bearing the CD or SIMI caveat is highly useful because it often pulls together data from scattered sources and presents it in a convenient and complete form -- often arranged in the form of charts and tables. While our staff could and sometimes does perform a similar synthesis of scattered data, this obviously duplicates the efforts of others -- without the benefits of their analytical expertise and without their broad access to a greater variety of data. Such duplication on our part is also time consuming and costly, and dilutes the amount of original, substantial work we can do for our clients.

IV. Proposed Solution

The recognition of the distinction which exists between the designated FCRCs and all other defense contractors, and of the special nature and scope of the FCRC relationship, should be reflected in a revision of DCID 1/7. The procedure could possibly involve a discussion between the DCI and the Director, DIA, along the lines of an earlier Navy-sponsored proposal to liberalize release policy for FCRCs. Following the revision of DCID 1/7, DIA could make the appropriate revisions to DIAI 50-4, and notify the FCRCs through the contract monitors. The FCRCs could then prepare intelligence interest/requirements and, upon approval by the sponsoring agency, file these with DIA, so that distribution could be made automatically to FCRCs in certain approved subject areas.

V. Security

With regard to security of such data, The Rand Corporation has established procedures to ensure that all intelligence materials released to it are used properly in the study and are not disseminated in external reports. Rand has effective procedures for ensuring proper adherence to the provisions of DIAI 50-4, and for ensuring that proper need-to-know exists before intelligence material is released. The Rand Intelligence Facility acts to ensure compliance with the provisions of DIAI 50-4, and maintains

Records of Access of all staff members having access to intelligence material.

Finally, Rand has the benefit of an Air Force officer, representing AF/IN, assigned to Rand. He provides valuable assistance and guidance in the proper use of intelligence materials at Rand, and helps ensure that effective security procedures are maintained.

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MEMORANDUM FOR: Mr. Colby

chums at RAND told him
you'd be having a meeting today to talk
about giving RAND folk these clearances; and
they sent this letter by special ~~xxxx~~ courier
to to get to you . . . ?

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(DATE)

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