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15 November 1978

OLC #78-5131/A

MEMORANDUM FOR: Assistant to the President for  
National Security Affairs  
Assistant to the President for  
Domestic Affairs and Policy  
Assistant to the President for  
Congressional Liaison

FROM: Director of Central Intelligence

SUBJECT: 1979 Legislative Agenda

1. I welcome the opportunity to provide my personal recommendation on the priority of the items contained in the 1979 NFIP legislative program. Each of the initiatives is significant, but obviously, some are more critical to the performance of my job than others.

2. Attached is the proposed legislative program as it was provided to the Director of OMB. In it, each of the initiatives is described in detail. You will note that charter legislation which was introduced in both houses of Congress during the second session of the 95th Congress is not identified as a new separate proposal. Nevertheless, it is the most significant carryover from the last legislative session.

3. In response to your 30 October memorandum, following is a list of the initiatives and the priorities I would attach to each.

A. There are four of what I consider Presidential-level initiatives:

- The FY 1980 Intelligence Authorization Bill should be accorded "Highest Priority." It is essential to establishing the role of the DCI in the preparation of the National Foreign Intelligence Program and budget, as set forth in Executive Order 12036. I expect to establish clearly in the draft legislation the relationship between the Executive and the Congress regarding intelligence resources. It is important, I contend, to deal with matters such as the incorporation of classified annexes in legislation, the inclusion of certain functions performed by components of the Intelligence Community in "intelligence," as well as other issues that developed during enactment of the FY 79 authorization bill.

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- Intelligence charter legislation is also "Highest Priority." In anticipation of the process of developing intelligence charter legislation, I am considering the full range of legislative matters, both proposed and current, which pertain to all entities of the Intelligence Community, in the context of the charter legislation to be introduced during the first session of the 96th Congress. This is designated highest priority in recognition of the Administration's commitment to cooperate with the Congress in the development of charters for the Community.

- Legislation to protect against the unauthorized disclosure of intelligence sources and methods, including information revealing the identities of certain intelligence personnel should be accorded "Highest Priority." Recent publication of information that purports to identify covert operations, contacts, and identities of U.S. Government intelligence officers underscores the importance of securing legislation which would provide criminal penalties for the unauthorized disclosure of identities of present and former intelligence personnel undercover. This is included in the program among the items of highest priority in recognition of the importance to the Government of protecting the lives, well-being and professions of undercover intelligence officers.

- Legislation to provide relief from the Freedom of Information Act (FOIA) is accorded "High Priority." Compliance with the requirements of the FOIA pose a substantial burden on the CIA and other elements of the Intelligence Community. In the case of the CIA, this burden is particularly troublesome when balanced against the small amount of information ultimately released to the public under the Act. As the FOIA is a statute with Government-wide applicability, and legislative relief from it would likely be subject to intense public scrutiny. I believe such legislative relief would stand a chance of passage only if presented as a Presidential initiative.

B. Two items in this legislative program should be designated as Departmental-level initiatives:

- Clarifying firearms authority for CIA personnel is necessary in order to avoid potential problems for CIA employees by clarifying the existing statutory firearms authority.

• Legislation to allow certain additional educational travel for dependents of CIA employees and to provide for the payment of a death gratuity to dependents of certain deceased Agency employees is important to correct inequities between Agency officers and employees of other Government agencies serving abroad under similar circumstances who currently receive such statutory benefits.



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INTELLIGENCE COMMUNITY  
PROPOSED LEGISLATIVE PROGRAM  
FOR THE FIRST SESSION OF THE  
96TH CONGRESS

PART I--PRESIDENT'S PROGRAM PROPOSAL

96-1. Fiscal Year 1980 Intelligence Authorization Bill: The Government's first Intelligence Authorization bill was passed by the Congress and signed into law by the President in 1978. The Director of Central Intelligence intends to submit to OMB a proposed fiscal year 1980 Intelligence Authorization bill for submission to the Congress early in the first session of the 96th Congress. The language and terms of such a proposed authorization bill are currently being studied by the Director and components of the Intelligence Community. It is anticipated that the bill to be proposed will, among other things, address the problems and potential problems which developed during the process of enacting the FY 1979 authorization bill and which may develop as a result of the implementation of that legislation. Such problems include, for example, language in the legislation incorporating classified annexes by reference; some ambiguity over specific functions performed by certain components of the Intelligence Community and whether these are intelligence matters; and whether it is possible in the legislation to define "intelligence related activities." A major programmatic initiative being considered in order to provide incentives to intelligence production analysts is a request to authorize either a specialist grade structure in DIA or to allow the DCI to administer a bonus or incentive program.

CENTRAL INTELLIGENCE AGENCY  
PROPOSED LEGISLATIVE PROGRAM FOR THE  
FIRST SESSION OF THE 96TH CONGRESS

PART I--PRESIDENT'S PROGRAM PROPOSALS

96-1. Legislation to Provide Legislative Relief from the Freedom of Information Act: The fiscal year 1980 budget submission of the Director of Central Intelligence contained, as an integral provision thereof related to budgetary cuts, proposed legislative relieve from the Freedom of Information Act (FOIA). The Director of Central Intelligence intends to propose during the first session of the 96th Congress, legislation which would have the effect of excluding from the provisions of the FOIA certain CIA records systems.

This legislation is a major concern for the CIA for several reasons. In the first place, the amount of information of this type which is releasable to the public is extremely small in comparison to both the tremendous number of man-hours required to review it and to the actual quantity of information which must be reviewed pursuant to the terms of the FOIA as currently drafted. In the final analysis, the Agency is unable to release all but a very small portion of this vast quantity of material that must be reviewed. The manpower required by this task necessarily must be drawn from areas in which it would normally be utilized to further the intelligence mission of the CIA. Furthermore, an expanded exemption would clearly demonstrate to those individuals and agencies abroad with which the CIA deals that the information which is provided to us will not be released in any form, a condition without which the information would simply not be provided to us.

The Agency currently is studying the form such an exemption would take. It could, for example, be formulated along the lines of exempting from the Act itself, and thereby from the review requirements of the Act, certain record systems maintained by the Agency which consist of raw and unevaluated intelligence information. Additional vehicles under consideration are the intelligence charter legislation and provisions in the intelligence authorization bill.

This legislation would result in significant savings to the public and to the Agency, since an exemption of particular record systems from the review requirements of the FOIA would greatly reduce the currently enormous time necessary to process and review such requests.

96-2. Legislation to Protect Against the Unauthorized Disclosure of Intelligence Sources and Methods, Including Information Revealing the Identities of Certain Intelligence Personnel: Recent publication of information purporting to identify the covert operations, contacts and identities of U.S. Government intelligence officers serving at home and abroad serves to underline the importance of securing legislation which would provide criminal penalties for the unauthorized disclosure of identities of present and former intelligence personnel who are or have been undercover. Toward this goal, the Director of Central Intelligence in conjunction with the Attorney General and other appropriate agencies and departments, is considering legislative proposals to protect against the unauthorized disclosure of intelligence sources and methods. This review is taking place in the context of the present statutory authority of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure (paragraph 102(d)(3) of the National Security Act of 1947, as amended), the pending intelligence charter legislation (S. 2525/H.R. 11245), and separate legislation introduced by various members of Congress during the 95th Congress.

Action by the 96th Congress to protect against the unauthorized disclosure of intelligence information is essential in order to prevent, to a much greater degree than is possible under current law, serious damage to our foreign intelligence effort resulting from the unauthorized disclosure of information relating to intelligence sources and methods.

96-3. Authority of the Director of Central Intelligence to Authorize Personnel of the Central Intelligence Agency to Carry Firearms Under Certain Circumstances: The Director of Central Intelligence submitted through OMB to the Congress during the second session of the 95th Congress, legislation that would amend those provisions of the Central Intelligence Act of 1949, as amended which relate to the carrying of firearms by CIA personnel. This legislation was referred to the Intelligence Oversight Committee in each House but no further action was taken by the

95th Congress. Although this matter is addressed in provisions of the Intelligence Charter legislation (S. 2525/H.R. 11245), the Director of Central Intelligence continues to believe that legislative clarification of the authority for CIA personnel to carry firearms is of sufficient importance and urgency to warrant separate prompt action by the Congress. The Director, therefore, intends to resubmit such legislation early in the first session of the 96th Congress. The terms of, and explanation for, this legislative proposal are contained in the Director's proposed legislative program for the second session of the 95th Congress and in the separate legislative proposal submitted in 1978 pursuant to that program.

96-4. Legislation to Allow Annual Educational Travel for Dependents of Employees of the Central Intelligence Agency Serving Overseas, and to Allow for the Payment of a Death Gratuity to Surviving Dependents of Employees of the Central Intelligence Agency who Die as a Result of Injury Sustained in the Line of Duty: P.L. 93-475, approved 26 October 1974, granted authority for two new benefits for employees of the Department of State, AID and USIA (now ICA) serving overseas. The benefits provide for (1) one round trip per year to and from overseas posts for student-dependents who attend high school or college in the United States; and, (2) payment of a death gratuity to the surviving dependent[s] of an employee who dies as a result of injuries sustained in the line of duty which is in addition to any other benefit[s]. Although a portion of CIA officers serving overseas receive the travel benefit, others do not. Currently no Agency officers serving overseas receive the death gratuity.

As Agency officers serve in circumstances similar to employees of State, USIA and ICA, it is inequitable that they do not receive the same statutory benefits as do their counterparts. The Director of Central Intelligence, therefore, intends to submit legislation in the first session of the 96th Congress to correct this inequity, so that benefits available to CIA personnel serving overseas are comparable to those received by employees of other Executive Branch agencies in similar circumstances.

It is estimated that, in light of past experience and numbers of employees that would be eligible for the two benefits, the cost to the United States Government would be in neighborhood of \$200,000 per year.