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46740937

Mr. Norvill Jones, Staff Member
Committee on Foreign Relations
United States Senate
Washington, D.C. 20510

Dear Mr. Jones:

In ~~partial~~ reply to your letter of February 12, 1974, addressed to the Legal Adviser, the following are the answers to the questions posed in the questionnaire you enclosed. The answers are as complete as possible at this date. Because of the contents, this letter is classified. Where particular responses are unclassified, this is so indicated.

1.(a) What are the written or unwritten regulations, if any, requiring the State Department's clearance of requests from the FBI for the initiation of electronic surveillance of foreign diplomatic personnel or other foreigners in the U.S.? Surveillance of Americans abroad by the FBI or other security agencies?

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1.(a) There are no regulations requiring State Department clearance of, or liaison or consultation regarding, FBI requests for initiation of electronic surveillance. The FBI does not consult the Department of State on surveillance of foreigners other than those on the diplomatic list and those who are employees of diplomatic establishments but do not have diplomatic status.

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We know of no regulations that require State Department clearance for surveillance of Americans abroad by the FBI or other security agencies.

1.(b) What procedures are in effect between the State Department and the FBI relative to clearance of electronic surveillances of foreigners who are not on the diplomatic list?

1.(b) As indicated in (a), there are no procedures in effect as to foreigners except those on the diplomatic list and those who are employees of diplomatic establishments but do not have diplomatic status. The procedures for both are the same and are described in 2 below.

1.(c) How many people are on the diplomatic list? What is the estimate of the number of people who work in foreign missions in the U.S. who are not on the diplomatic list?

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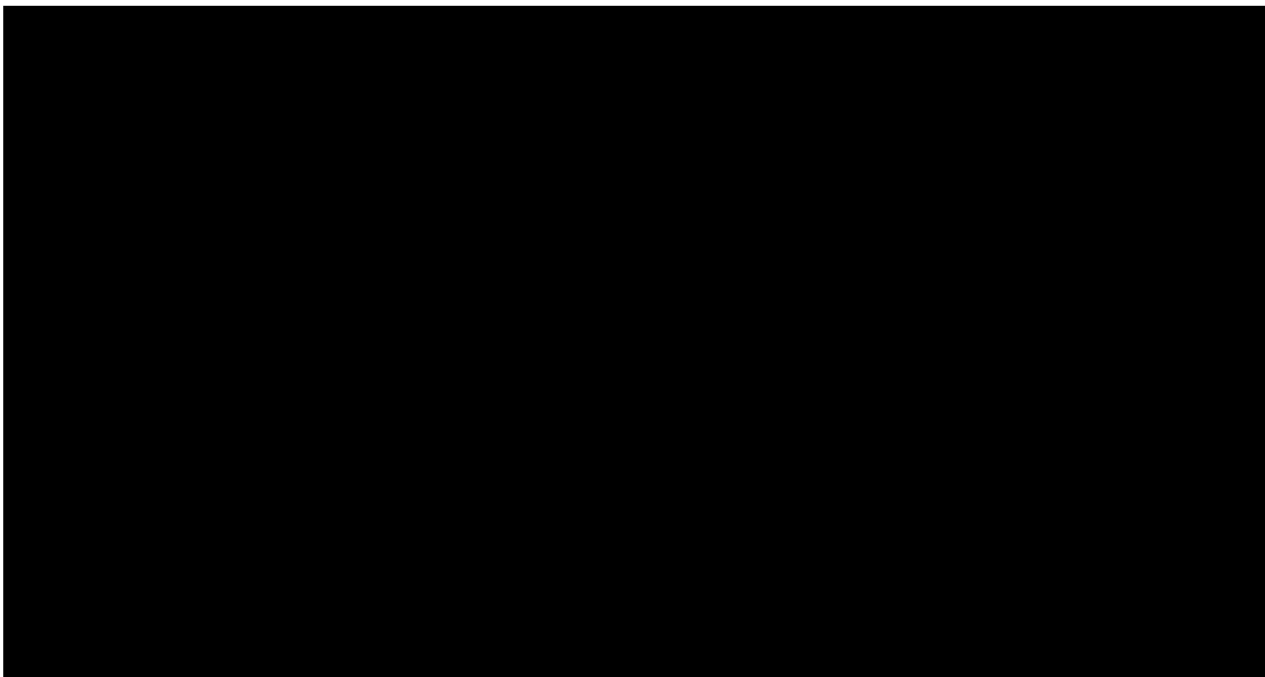
| | |
|---|--------------|
| 1.(c) Diplomats listed on November 1973 Diplomatic List | 1,968 |
| Embassy Staff employees in Washington | 3,700 |
| International organizations (includes all career and staff employees) | 9,581 |
| Consular officers | <u>2,000</u> |
| | 17,249 |

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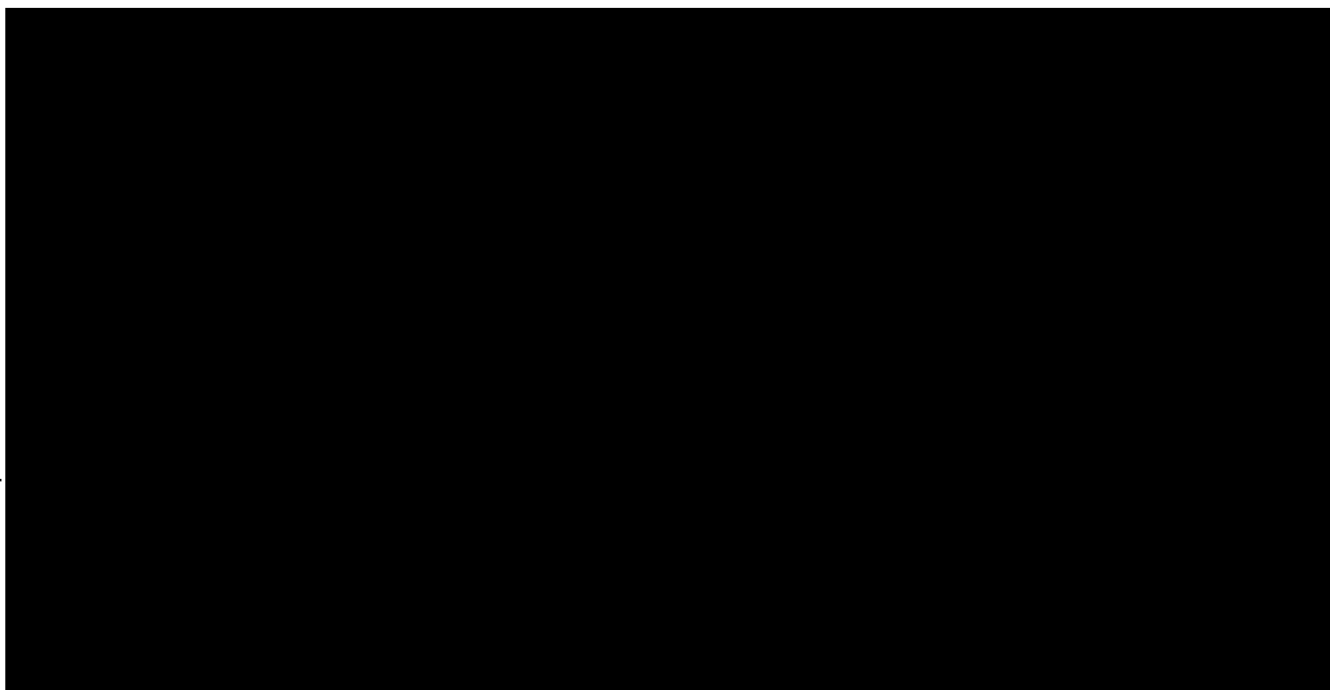


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The FBI does not consult State regarding the surveillance of foreigners who are not connected with diplomatic offices.

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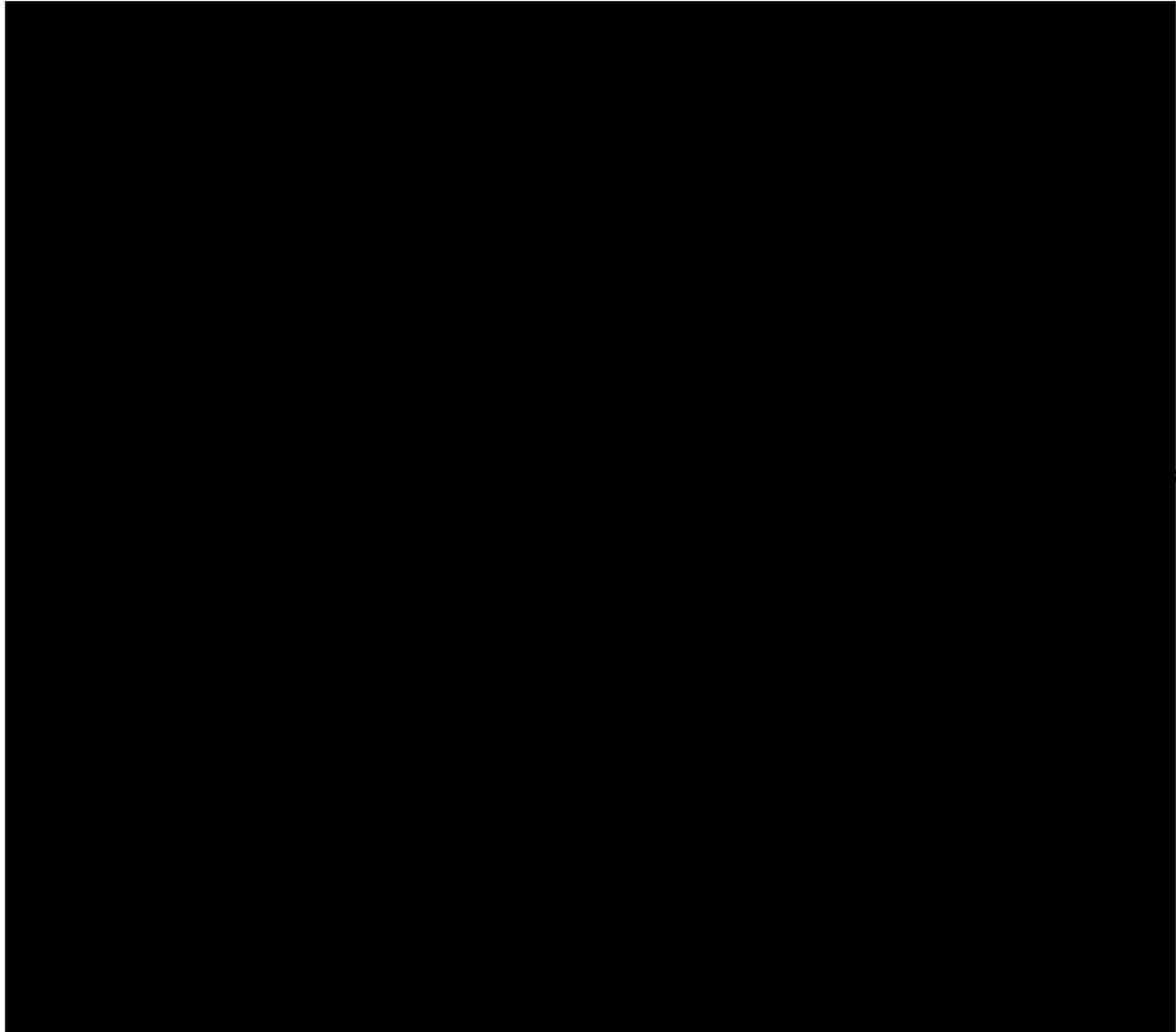
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A search of the State Department's records for the period 1964-1974 has disclosed no instance of electronic surveillance of American citizens having been requested or conducted by the Department of State.

In discharge of its special responsibilities in Berlin, the United States Government has carried on electronic surveillance there. Several Americans, alleging that they were placed under surveillance,

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have filed suit against the Department of Defense. Inasmuch as this litigation is pending, the Department of State is unable to provide details on participation by its constituent elements.

An element of the Defense Department employed a telephone tap in an American Embassy at an overseas location during the period 21-27 March 1973. This telephone intercept was used in the office of an American military member who was the subject of a criminal investigation together with various local national suspects. It was carried out under the provisions of DoD Directive 5200.24 and reported to the office of the Secretary of Defense as required by that regulation. The action was taken with the concurrence of the Chief of Mission based on probable cause which was determined by the subject's military commander. The investigation involved was jointly conducted by U.S. military investigative personnel and local national police authorities. The investigation was of mutual concern to both countries. In this instance, the approval and conduct originated with the Department of Defense under the provisions of a DoD regulation as cited above. Since the concurrence of the Chief of Mission was obtained, however, it is being included in our reply.

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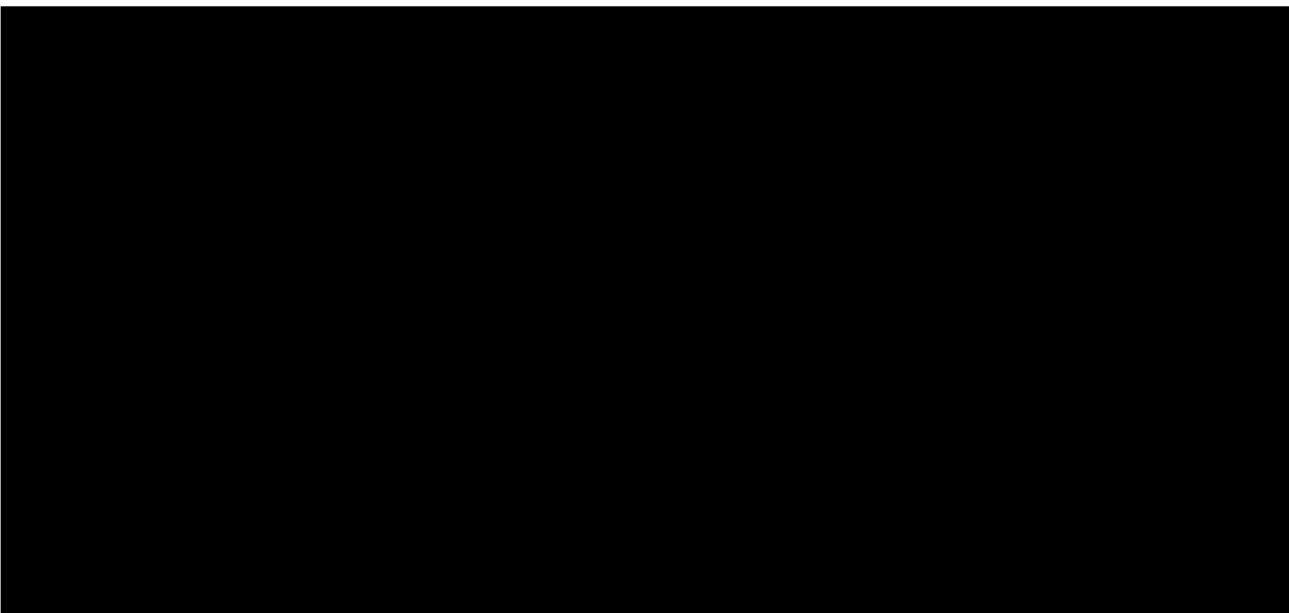

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11. For each of the last ten years please provide the number of:

(a) surveillances of Americans within the U.S. initiated, approved, or conducted by the Department of State, broken down between wiretaps, electronic eavesdropping ("bugs"), physical surveillance, cover surveillance, and other surveillance?

11.(a) None.

11. For each of the last ten years please provide the number of:

(b) surveillances of Americans abroad which were initiated, approved, or conducted by the Department of State, broken down between wiretaps, electronic eavesdropping ("bugs"), physical surveillance, cover surveillance, and other surveillance (please indicate any overlaps, e.g., if an American was the subject of both a wiretap and a bug)?

11.(b) A search in the State Department records for the period 1964-1974 has disclosed no instance in which surveillance of Americans, either in the United States or abroad, has been requested, approved, or conducted by the Department of State, except for the special cases, *two* in Berlin mentioned in 7 above.

12. With reference to electronic or personal surveillance of Americans abroad:

(a) Are there any regulations governing the clearance and conduct of such operations?

12.(a) Yes, the general regulations on special investigative techniques previously furnished apply to this kind of case as well as to others (see SY 433.10 attached).

12. With reference to electronic or personal surveillance of Americans abroad:

(b) Does the FBI or CIA normally ask for the ambassador's approval for such operations? If so, does the ambassador seek the Department's advice or keep the Department informed about such requests?

12.(b) State Department instructions require representatives of the CIA and FBI abroad to review their covert action and clandestine intelligence collection programs with the Ambassador. The Ambassador is not expected to be cognizant of operational details, nor is he required to seek the Department's advice or to keep the Department informed of the details of such programs or operations.

*By this
invest account?*

Such requests are normally

12. With reference to electronic or personal surveillance of Americans abroad:

(c) Does the Department know how many Americans abroad are currently under U.S.-initiated surveillance, either being carried out by a U.S. agency or by cooperating foreign officials?

12.(c) No.

12. With reference to electronic or personal surveillance of Americans abroad:

(d) In what proportion of the cases is surveillance of Americans abroad carried out without the approval or knowledge of the ambassador?

12.(d) Not known.

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13. With reference to investigations for leaks, please provide:

(a) the number of investigations for leaks in each of the last ten years, including the specific leak investigated.

13.(a) During the past ten years, the Department has investigated 23 cases of unauthorized disclosure of classified or privileged information. In many cases, the Department's inquiries were but a part of a broader investigation involving other Federal agencies.

The incidence of cases, by year, was as follows:

| | |
|---------|---------|
| 1964: 2 | 1969: 3 |
| 1965: 0 | 1970: 2 |
| 1966: 1 | 1971: 8 |
| 1967: 0 | 1972: 3 |
| 1968: 4 | 1973: 0 |

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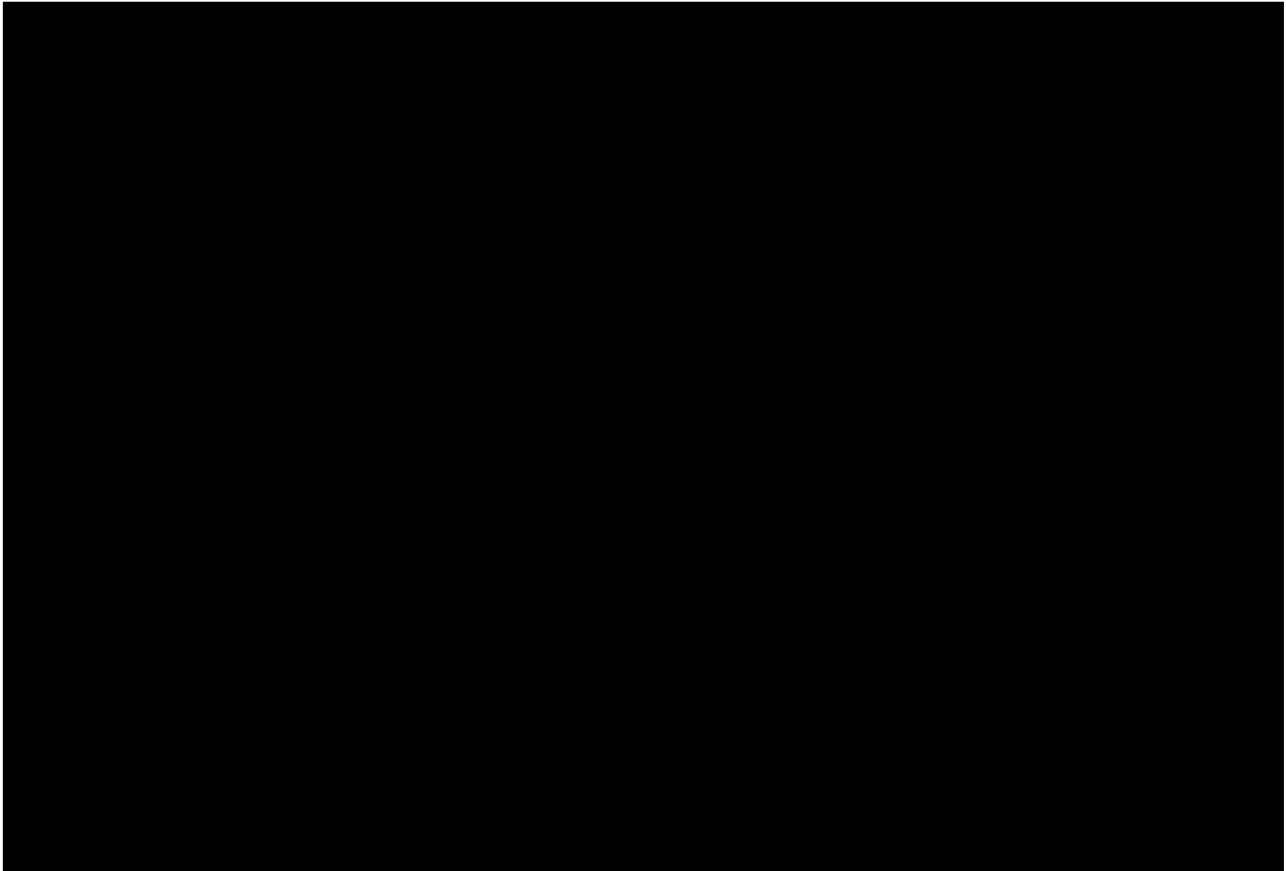
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14. With reference to the U.S. Intelligence Board, please provide the following information insofar as it is known from Departmental participation in the Board:

(a) Does the Board ever recommend the initiation of electronic surveillance operations?

(b) Is the Board apprised of the existence of electronic surveillances for national security purposes? If so, in what manner?

(c) Describe the Board's role, if any, in investigations for leaks.

(d) What was the Board's involvement, if any, in the investigations for leaks of information regarding the SALT negotiations, the Pentagon Papers, the Jack Anderson documents and other leaks during the period 1969-1972?

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17.

(e) Does the Board ever consider inter-agency matters relating to U.S. electronic surveillance activities?

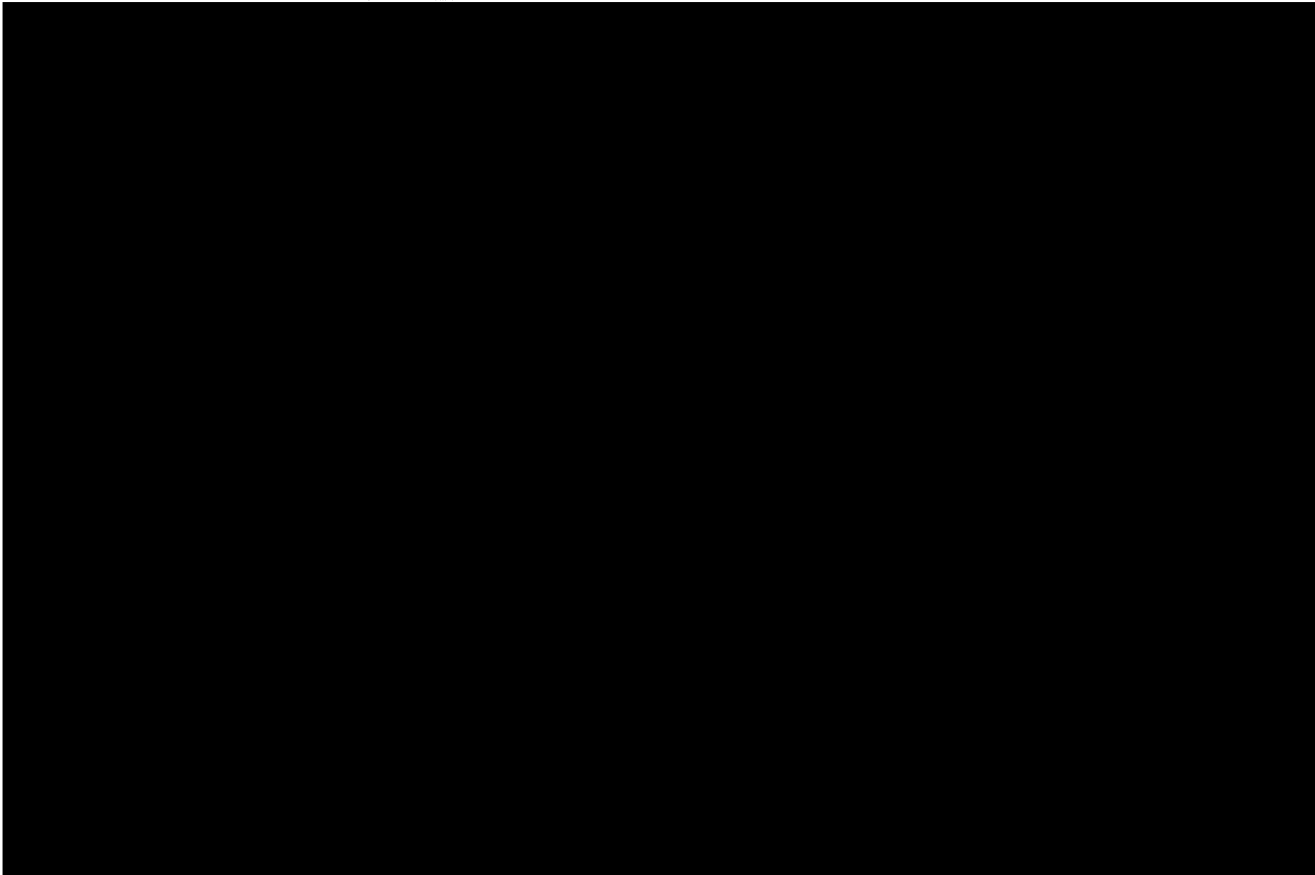
14. While the Department of State has membership on the United States Intelligence Board, its Chairman is the Director of the Central Intelligence Agency and the Department believes that any questions concerning the Board's activities or policies would more properly be addressed to the Chairman.

15. How many electronic surveillances initiated, approved, or carried out by State were terminated as a result of the Supreme Court decision in the Keith case, United States v. United States District Court, 407 U.S. 297 (1972)?

15. None, insofar as we are aware.

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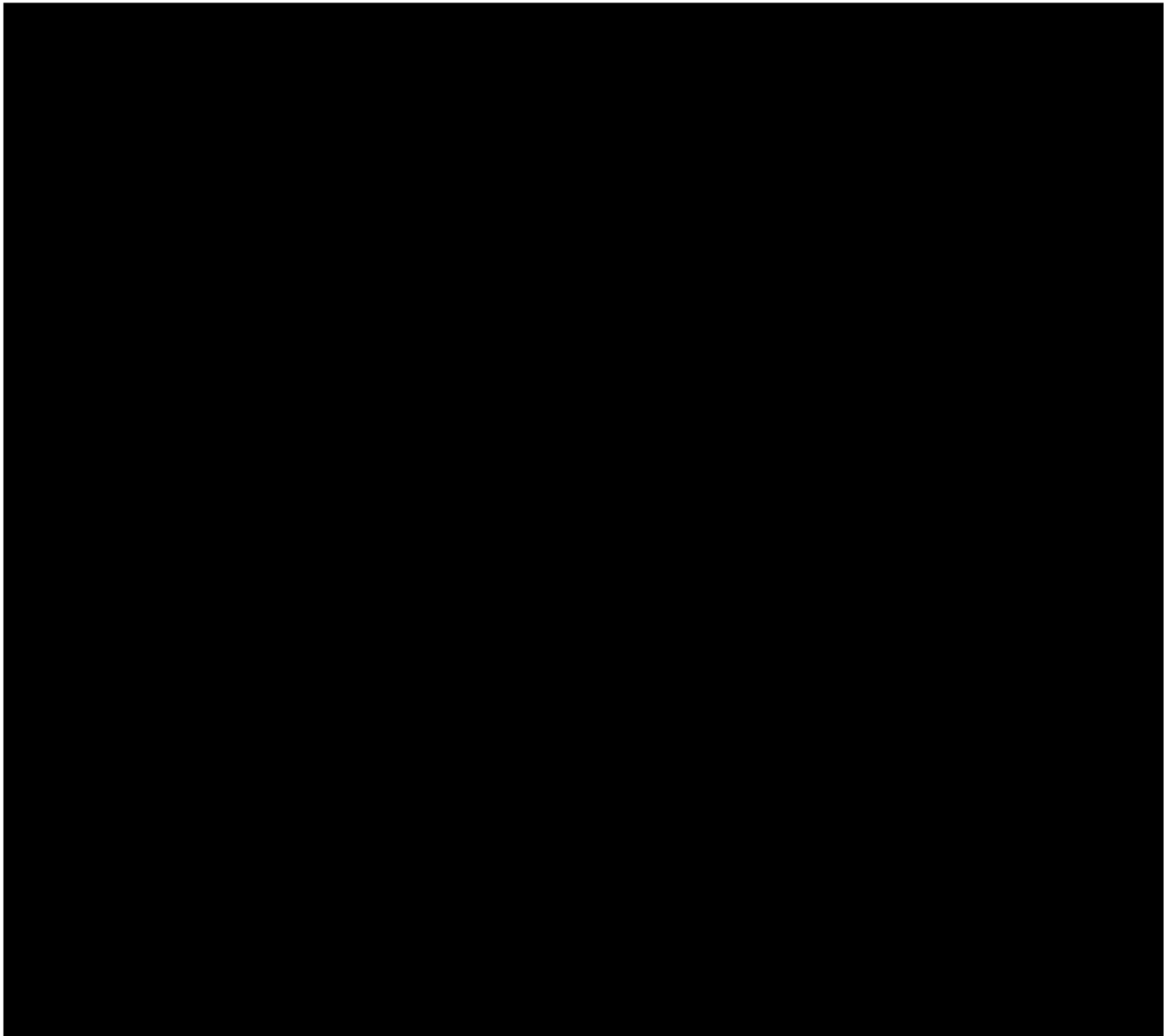


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17. To the best of the Department's knowledge, none of its personnel has employed any "special investigative techniques" in relation to any American citizens at home or abroad in the past ten years.

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.19.

18. How many reports have been received from posts abroad for each of the last five years concerning U.S. citizens traveling abroad who "indicate a disaffection toward the United States", as specified in 11 FAM 430.1?

18. There is no statistical breakdown possible on this. A manual check of passport records would be necessary.

19. How many reports have been made pursuant to the telegram of November 2, 1972, concerning the reporting by U.S. diplomatic posts on the activities of U.S. military absentees in foreign countries?

19. The Department of State does not record these reports, which are primarily of concern to the Defense Department.

20. Please supply the following information for the Department of State:

(a) Number of personnel on the Department's rolls with the technical skills to conduct electronic surveillance (either bugging or tapping).

20.(a). The Department assumes that virtually anyone who can operate a home tape recorder could effect an electronic surveillance. Anyone with any of a wide variety of technical skills or experience would be even more likely to be able to do so, using equipment readily available in open commerce. Thus, it is a virtual impossibility to determine the number of personnel on the Department's rolls with adequate technical knowledge to conduct electronic surveillance. To be sure, any of the engineers or technicians of the Office of Security who are involved in the effort to counter electronic and other forms of surveillance of State premises and personnel presumably could conduct positive surveillance but none do nor are there any personnel on the rolls or on contract to the Department of State whose duties are to engage in such surveillance activities.

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20. Please supply the following information for the Department of State:

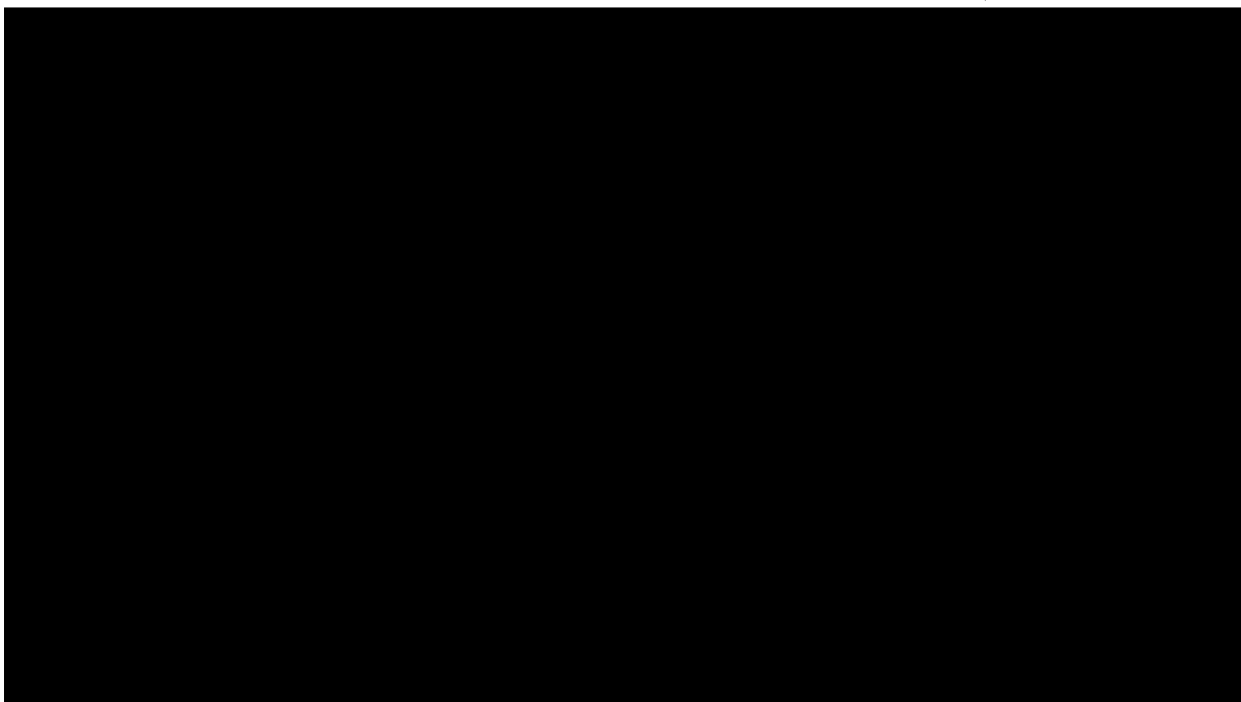
(b) The number of pieces of equipment owned by or in the control of the Department capable of being used for:

- (1) telephone surveillances
- (2) microphone surveillances
- (3) recording telephone calls without knowledge of the caller.

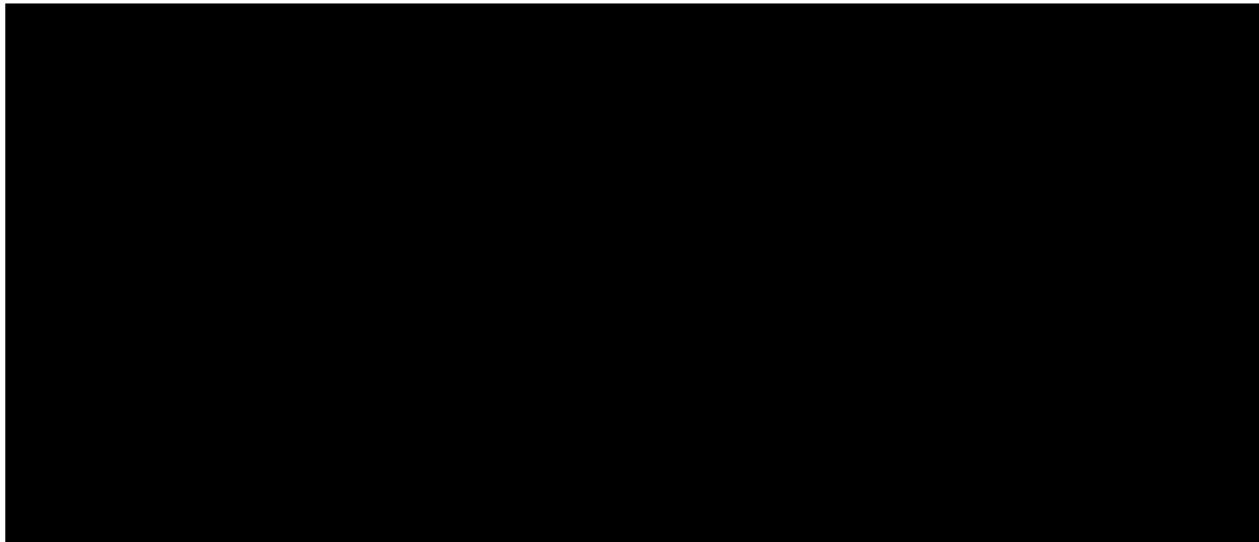
20.(b). Again, assuming virtually any tape recorder could be used to record telephone or other conversations surreptitiously, any effort to account for all such pieces of equipment would require the review of literally hundreds of inventory records and to little practical purpose. In actual fact, the Department does not engage in electronic surveillance and, therefore, has no equipment intended for that purpose.

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22.(a) Copies of Foreign Affairs Manual Circular No. 102A and Department of State Instructions CW-4099 (November 9, 1961) and CW-4999 (December 19, 1961) were submitted previously in the informal stage of this review. Executive Order 10450 (Section 8-d), of course, requires referral to the FBI or any information developed during the background investigation of an applicant or employee which indicates the individual may have been guilty of disloyalty or certain other activities adversely affecting the national security.

22. Please provide:

(b) copies of all existing statutes, executive orders, and regulations concerning reporting on Americans resident abroad.

22.(b). See 11 FAM 430 previously furnished.

23. Does the Department maintain files on individual U.S. citizens who could be classified as potential "trouble makers" for foreign policy or security reasons? If so, please describe the extent of these files. Describe the inter-agency procedures in effect for sharing information of this nature.

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22.

23. There is no category of files which fits into this description. Under Department regulations (22 C.F.R. 51.70(b)(4)) a passport may be refused to a person when the Secretary determines that his activities abroad are causing or are likely to cause serious damage to the national security or the foreign policy of the United States. Information received by the Department bearing on the application of this regulation to a particular individual would be placed in the passport file of that individual. Also under Department regulations (22 C.F.R. 51.33), information in passport files is privileged and may not be released except:

"(b) Pursuant to a subpoena or court order directing the production of passport records.

"(c) At the request of another Government agency.

"(d) When expressly authorized by the Secretary."

~~The Office of Security in individual employee files or files on investigations could include information which might result in characterizing the individual in this category. However, such information is accessible only through manual search of name or incident files.~~

Finally, as indicated in the attachment (Tab E) labeled "Protective Intelligence", the Office of Security maintains some files on what might be called "trouble-makers."

24. Has the United States entered into international agreements for commitments concerning electronic surveillance operations involving foreign diplomatic missions in the U.S.? If so, please provide the text of those agreements or commitments?

24. There are no agreements of this kind. The Department is not aware of any commitments of this kind.

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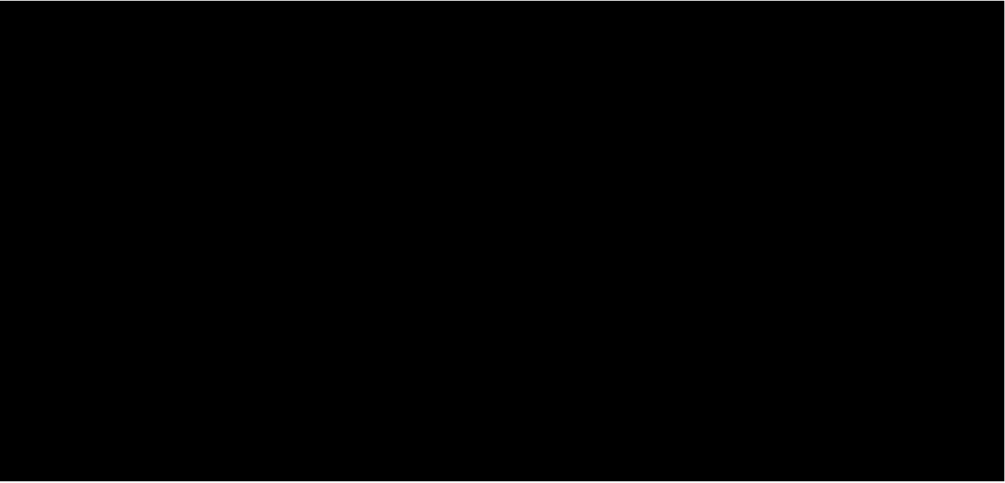
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Linwood Holton
Assistant Secretary
for Congressional Relations

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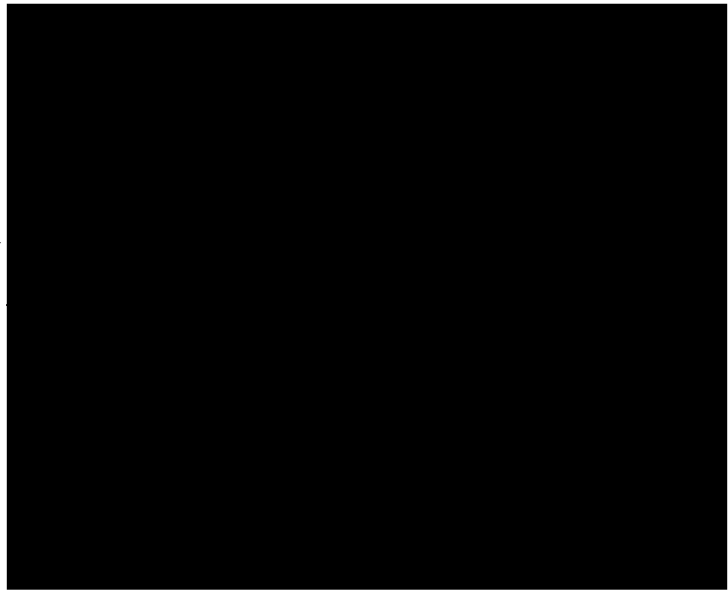


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(TAB A)

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GROUP 1
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TAB C

446 Miscellaneous Investigations

446.1 Leak of Information Cases

446.11 General

A leak of information case arises when classified or administratively controlled information becomes available to a person or persons not authorized to receive it. Obviously a person unauthorized to receive classified information is unlikely to reveal the source from which he obtained it. Therefore, the Special Agent, in all probability, will have to use an indirect method of investigation. Cases of this kind are extremely difficult to solve, since information may be disseminated in a variety of ways. However, certain inquiries may aid in determining how the material was compromised, or at least indicate some of the ways in which compromise could have occurred.

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GROUP 1

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declassification

The Department receives information from offices abroad, other governments, other United States agencies, and private individual in addition to information that originates in the Department. The first step in a leak of information that has been compromised. After determining the origin and the date of its arrival in the Department of State, the Special Agent should look into the possibilities of compromise outside the Department. In this regard it may be necessary to request that inquiry be made abroad or by some other agency through Headquarters.

446.13 Investigation of Possibility of Leak in the Department

In following up possibilities of compromise within the Department, the number of copies of the basic document involved, together with the distribution given the copies, should be determined. If the basic document is (1) an Operations Memorandum; (2) a telegram; (3) a WIROM; or (4) an airgram, this information should be obtained from the Records Services Division. If the document in question is an Official-Informal letter or an office memorandum, the office of primary interest (action) will have to be contacted. Following this, inquiry must be made at each office receiving copies to determine the names of the individuals who received the document; the present location of the copies; whether any copies have been destroyed; and whether or not any person having access to the compromised information made the document available to others, discussed it with others, or discussed it in any place where the information might be inadvertently overheard by others. Inquiry must also be made to establish if any copy has been left exposed in an unoccupied office, has been taken from the Department, or otherwise handled in a way that might lend itself to compromise. In making these investigations, the Special Agent should coordinate with the appropriate unit security officers. The cooperation of the Special Assistant for Press Relations has been valuable in such cases, and he may be contacted. Representatives of the Press are not to be interviewed by Special Agents in connection with these cases without special permission from Headquarters.

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TAB D

MEMORANDUM

Date: _____
INR/OIL No. _____

TO:

FROM: INR/OIL - William C. Jones III

SUBJECT:

The attached FBI report contains material obtained from particularly SENSITIVE sources, and must therefore be given SPECIAL HANDLING. Frequently the substance of the report will appear to be of lesser importance; but in such cases it is the origin and not the information which determines the sensitivity. Use of or allusion to the information could jeopardize these sources. It should be held as closely as possible. If in the judgment of the addressee it is necessary to disclose it to other officers concerned with the substance, they should be cautioned as to its sensitivity. Should it appear necessary to communicate the information outside of the Department or to the field, INR concurrence is required. All persons reading the report should sign below. Return of the report (BY HAND) to INR/OIL, Room 6636 would be appreciated.

NAME

DATE

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which have been commented on above, but rather to observe other procedures as outlined in the attached instructions.

PROTECTIVE INTELLIGENCE

In fulfilling its responsibilities for the protection of the Secretary of State and certain other dignitaries, the Office of Security maintains files concerning persons who have written threatening letters or otherwise made themselves suspect as potential threats to the safety of the Secretary or other persons protected. The relevant portion of our Instructions and Procedures is quoted below:

"The Office of Security maintains a 'crank and threat' file. The file is maintained in two parts: 1, alphabetical, by name; 2, geographical.

The file consists of all 'crank and threat' letters received by mail, summaries of all crank telephone calls, summaries of statements made by and the physical descriptions of all unauthorized visitors to the Secretary of State and foreign dignitaries visiting the United States, and information furnished by other intelligence agencies of the U.S. Government.

When the Secretary of State travels abroad or visiting dignitaries travel in the United States, pertinent information from this file is forwarded to the Special Agents and Security Officers concerned."

When the Secretary or other persons being protected travels to a different jurisdiction either home or abroad and we have reason to believe any potential sources of threat are located in these jurisdictions, it is our practice to provide a summary of information available regarding these sources of threat to the local official sharing the protective responsibilities. We also share protective intelligence information with the United States Secret Service and other Federal agencies as appropriate when the nature of the information suggest that it falls within the scope of the latter's lawful responsibilities.

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| SENDER WILL CHECK CLASSIFICATION TOP AND BOTTOM | | | | | |
|---|---------------------|--------------------------|--------------|--------------------------|----------------|
| UNCLASSIFIED | CONFIDENTIAL SECRET | | | | |
| OFFICIAL ROUTING SLIP | | | | | |
| TO | NAME AND ADDRESS | DATE | INITIALS | | |
| 1 | <i>ypp Br -</i> | <i>9 May 74</i> | <i>SK</i> | | |
| 2 | <i>a/ssc</i> | <i>10 May</i> | <i>LD</i> | | |
| 3 | | | | | |
| 4 | | | | | |
| 5 | | | | | |
| 6 | | | | | |
| <input type="checkbox"/> | ACTION | <input type="checkbox"/> | DIRECT REPLY | <input type="checkbox"/> | PREPARE REPLY |
| <input type="checkbox"/> | APPROVAL | <input type="checkbox"/> | DISPATCH | <input type="checkbox"/> | RECOMMENDATION |
| <input type="checkbox"/> | COMMENT | <input type="checkbox"/> | FILE | <input type="checkbox"/> | RETURN |
| <input type="checkbox"/> | CONCURRENCE | <input type="checkbox"/> | INFORMATION | <input type="checkbox"/> | SIGNATURE |
| Remarks: | | | | | |
| <i>Note one deadline mid-day Monday, 13 May</i> | | | | | |
| FOLD HERE TO RETURN TO SENDER | | | | | |
| FROM: NAME, ADDRESS AND PHONE NO. | | | | DATE | |
| <i>SDD/P&M</i> | | | | <i>9 MAY 1974</i> | |

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SECRET 9 MAY 1974

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

FROM:

Legislative Council 7D43

EXTENSION

612i

NO.

DATE

9 May 1974

TO: (Officer designation, room number, and building)

DATE

RECEIVED

FORWARDED

OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1.
D/Security 4E60

The attached has been submitted to us by State for our review and concurrence. A copy has also been forwarded to the FBI. I would like to have your comments on it not later than mid-day Monday, 13 May 1974.

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[Redacted]

Legislative Counsel

cc sent: IG and DDO