SECRET

OS REGISTRY

OGC HAS REVIEWED

FILE Reg Lib 14

Also: EO-12036 | section 2-208

Also: Security 17

24 AUG 1979

MEMORANDUM FOR: General Counsel

FROM: Robert W. Gambino
Director of Security

SUBJECT: "Consent" as it is Applicable to the Procedures for Section 2-208 of E.O. 12036 (U)

REFERENCE: Memo dtd 20 Aug 79 to Chief, Policy and Plans Group, OS, from [redacted] same Subject (U)

25X1A

Dan:

1. With respect to the deletion of the phrase "either directly or indirectly" from subpart (4) of paragraph 20, page 16 of the Procedures for implementing Section 2-208 of Executive Order 12036, the assertion in reference that we would still have the authority to conduct an investigation of a subject who had given consent to the contractor only, not to the Agency or any Agency employee, is, while comforting, rather surprising. It seems to me that if the Department of Justice officials insisted on deletion of the above-mentioned phrase, their reason would have been precisely to preclude any "indirect" charter. The language in the subpart "regardless of the subject's knowledge of the employee's Agency affiliation" leads to the result of indirect authorization (or direct) only if the subject had contact with that Agency employee. But what if there was no such contact whatsoever? (S)

2. I believe it is imperative that you should know that the Office of Security is at the present time conducting just such indirectly authorized investigations. That is to say, the subjects do not have any knowledge that the government, least of all the Agency, is involved in any way. They were informed by a witting official of their company that an investigation of

DERIVATIVE CL BY 022197
REVIEW ON 22AUG99
DERIVED FROM A9c (3.15)

OS 9-0073/15A

SECRET

their general character and suitability would be conducted by a commercial investigative entity and either expressly consented or voiced no objection [redacted] They are, in fact, being investigated by Office of Security investigators using commercial cover. (S)

25X1A

3. I am putting this in black and white because I am disturbed about the deletion of the indirect authorization. The previous language would have left no doubt. In fact, it went hand in glove with the cited [redacted] The ability of this Office to conduct such indirect inquiries is vital, an indispensable intelligence method. I believe that it is inappropriate to have settled for language which leaves us open to litigation and charges of exceeding our authorization. I regret that the deletion escaped our attention in the last, hurried review. (S)

25X1A

25X1A

4. This Office will continue to conduct investigations described in paragraph 2 above on the basis of [redacted] and the opinion expressed in reference. However, I urge you to review this matter to determine the feasibility of amending the cited Procedures or, at the very least, obtaining a written approval from the Department of Justice of our indirectly authorized investigations as described above. (S)

25X1A [redacted]

Robert W. Gambino

Attachment
Reference

Distribution:
0 - Adse
1 - OS/Reg
1 - PPG Chrono
1 - D/Sec

25X1A

OS/ADD/P&M/[redacted]:ba(22Aug79)

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

OS REGISTRY FILE Ref Lib 14

Also: EO-12036/Section 2-208

Also: Security 17

25X1A

FROM: [redacted]
Acting DD/P&M
4E-60 Hqs.

pjm

EXTENSION

NO.

DATE

TO: (Officer designation, room number, and building)	DATE RECEIVED	DATE FORWARDED	OFFICER'S INITIALS	COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)
1. DD/Security	23 AUG 1979	24 AUG 1979	K	25X1A Attached is OGC memo on [redacted] situation and a proposed reply. PJM
2.				
3. D/Security	24 AUG 1979	24 AUG 1979	G	
4.				
5. Registry				
6.				
7.				
8.				
9.				
10.				
11.				
12.				
13.				
14.				
15.				

~~AH-'83 9-0013/15~~

05-9-0013/15A

FORM 3-62 610 USE PREVIOUS EDITIONS