

MEMORANDUM FOR:

DCI ✓

Stan Sporkin sent this over -  
Thought you ought to see it in  
case you had not.

FYI - Caslucci would like  
to discuss DoD + public  
reactions to new Ex Ord at  
your breakfast on Friday.

cc: DDCI  
D/OPP

Date

9 Dec 81

# Looser Reins for the C.I.A.

Could the Central Intelligence Agency, the nation's vital eyes and ears abroad, once again turn back to spy on law-abiding Americans and gather their names in surveillance files?

Presidents Johnson and Nixon let that happen and Presidents Ford and Carter issued orders against it. Last spring the Reagan Administration, which had pledged to "unshackle" the spy service, raised the possibility of a return to domestic spying with the first draft of a new intelligence order. Now the President has signed a revised order that is not reassuring.

The true domestic powers of the C.I.A. are to be spelled out in another, secret set of directives. The secrecy isn't new; the Carter Administration also kept two sets of books. But as the C.I.A. was the first to complain, some of the secret Carter procedures were more restrictive than the published ones. The Reagan rules are likely to be too permissive unless Congress increases its vigilance in overseeing the procedures.

When Congress created the C.I.A. in 1947, it envisioned an agency relatively unfettered by law, operating almost exclusively abroad while the F.B.I. stood guard on the home front. But the line between foreign and domestic activities is often fine. Consider, for example, the agency's need to create a cover for a spy by setting him up in some innocent-looking American setting before he is sent abroad on assignment.

This sometimes necessary ability to operate in the United States was subject to abuse. An extreme example was Operation Chaos, inspired by President Johnson's conviction that opponents of the Vietnam War, even those who broke no law, had foreign sup-

port. He ordered the C.I.A. to prove it, and the agency attempted to do so by compiling thousands of surveillance files that named hundreds of thousands of Americans.

The post-Watergate reforms required reasonable suspicion of a foreign connection before Americans could be catalogued or spied on. That also protected American businessmen from surveillance in their activities abroad. The Reagan order unshackles the agency in varying degrees, by requiring less suspicion of foreign ties as a condition of domestic surveillance. Thus only Congressional oversight can make sure that the C.I.A. does not again abuse its powers.

Mr. Reagan did not, however, turn back the clock to the days when Presidents decreed no limits at all. Rather than discard the Ford-Carter orders, he substituted his own. And it specifically recognizes the right of the Senate and House intelligence committees to obtain confidential oversight information. The rule of law thus remains embedded in the strange soil of intelligence.

More is needed, however, if civil liberties are to be truly protected. The Ford and Carter orders were, by design, only first steps toward the safeguard of a Congressional charter for the C.I.A. The 1978 Foreign Intelligence Surveillance Act made another advance by requiring court warrants for wiretaps and bugs.

The Reagan Administration shows no enthusiasm for a C.I.A. charter. The work of Congress, however diligently it polices the executive order, won't be finished until it produces one.

# Keep the Angola Amendment

The Reagan Administration wants Congress to repeal the five-year-old Clark Amendment, which forbids any aid — covert or overt — to insurgents in Angola. There are some good reasons for removing such a narrowly directed restraint on diplomacy, and they were cited in the Senate when it granted the President's request for greater freedom of maneuver. But at the moment there are better reasons for keeping the law, which the House ought to weigh as it votes today.

A little too piously, the Administration argues that it wants only to re-establish executive authority, that it has no current plan to supply arms to the rightist rebels led by Jonas Savimbi — who just happens to be visiting Washington this week. What makes that argument suspect is that the concern for tidiness has produced no comparable demand to eliminate a hundred other specific prohibitions on aid, to Cuba or Vietnam, for instance. Only Angola has touched the tender point of principle.

The repeal is plainly intended to emphasize Washington's objection to the presence in Angola of 20,000 Cuban troops and Soviet military advisers.

The Luanda regime insists that they are needed to deter South Africa's attacks on the Angolan bases of insurgents fighting for neighboring Namibia. They will depart, it says, once Namibia gains genuine independence from South Africa. And by all accounts, Angola has welcomed American efforts to achieve that independence.

So whether or not Congress should bind the executive as much as it has in recent years, a pragmatic judgment would find the Administration putting sand in the gears of its diplomacy. It asks Angola's collaboration on Namibia and wants the Cubans out; yet it pushes for a repeal that threatens intervention and is thus likely to provoke the opposite result.

President Reagan promised in his campaign to aid Mr. Savimbi, whose insurgency is championed by those who think Angola's Government is hopelessly compromised by reliance on Moscow. But a Namibia settlement that includes the departure of the Cubans would do much more to advance Mr. Savimbi's claims for a share of power. If there is no intention to intervene in Angola, this is an odd time to declare it legally possible again.