

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

FROM: Legislative Counsel
6D15 HQ

EXTENSION

NO.

DATE

STAT

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

DATE

OFFICER'S INITIALS

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

RECEIVED FORWARDED

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DDA
Attn: [Redacted]

16 JAN 1978

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Attached for your review is section 114 of the SSCI draft Title I relating to sensitive collection projects and special activities. Elliot Maxwell gave us this material during our meeting on Title IV last Friday. We also obtained last Friday a copy of Title VI, the FBI charter. This is the first draft of that title which we have seen. Unless your office has a special need or interest in obtaining a copy of this Title VI right away, I will hold off having it printed up and disseminated until we receive from the SSCI the new drafts of Titles I and II. As you know we have been anticipating receiving these two titles today. It now appears that the Committee may not have them ready until very late this afternoon or tomorrow morning; I will let you know as soon as we know for sure. Also, I will be sending around a short paper summarizing our meeting Friday on Title IV.

[Redacted Signature]

Assistant Legislative Counsel

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PROCEDURES AND REQUIREMENTS FOR SENSITIVE
INTELLIGENCE COLLECTION PROJECTS AND SPECIAL ACTIVITIES

Sec. 114. (a) The National Security Council shall review each proposed special activity and such clandestine collection activities as the President, in accordance with this section, specifies, conducted by any entity of the Intelligence Community or by any foreign government or any agent of any foreign government for or on behalf of the United States. For the purpose of any such review, the National Security Council shall include, in addition to members otherwise required by statute, the Attorney General and the Director of National Intelligence. No decision or recommendation to the President with respect to any such activity may be made by the National Security Council unless the activity has been considered by the National Security Council at a formal meeting at which each member required by statute was present or represented by a representative designated by that member.

(b) (1) The President shall establish standards and procedures by which all activities involving clandestine collection of foreign intelligence shall be reviewed and approved. Such standards shall provide criteria by which to identify activities whose importance or sensitivity requires review by the National Security Council and notification to the President of such review prior to initiation, and activities whose exceptional importance or sensitivity requires, in addition to National Security Council review, the President's personal approval prior to initiation.

(2) Any standard or procedure issued pursuant to paragraph (1), and any regulation promulgated to implement any such standard or procedure, shall be submitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate. No such standard, procedure, regulation, or any amendment thereto, shall take effect until the expiration of a period of 60 days from the date such standard, procedure, regulation, or amendment was so submitted.

(c) Whenever the National Security Council or the President reviews any special activity or clandestine collection

activity, a careful and systematic analysis of such activity shall be available, including, but not limited to, the following:

(1) the proposed justification for such proposed activity;

(2) the nature, scope, probable duration, estimated cost, anticipated risks, likely consequences of disclosure, and actions necessary in the case of the termination of such activity;

(3) the relationship between the proposed activity and any previously approved related activity;

(4) overt or less sensitive alternatives and indications that the objectives of such activity would be unlikely to be achieved by such overt or less sensitive means; and

(5) the legal implications of the proposed activity under the Constitution and laws of the United States and under treaties and other international agreements to which the United States is a party.

(d) No special activity may be initiated unless the activity has been approved by the President and the President has made a written finding that, in the President's opinion--

(1) such activity is essential to the national defense or the conduct of the foreign policy of the United States;

(2) the likely benefits of such activity justify the risk of its likely consequences and the likely consequences of its disclosure to a foreign power; and

(3) overt activity would be unlikely to accomplish substantially the intended objective.

(e) No clandestine collection activity requiring, under standards established by the President pursuant to subsection (b), the President's personal approval, may be initiated unless such activity has been approved by the President and the President has made a written finding that, in the President's opinion--

(1) the information to be obtained by such project is vital to the national defense or the conduct of the foreign policy of the United States;

(2) the importance of the information justifies the risk of the likely consequences of discovery by or disclosure to a foreign power of such activity; and

(3) overt or less sensitive clandestine collection activity would be unlikely to accomplish the objective of such activity.

(f) The National Security Council shall review at least annually each ongoing special activity and each ongoing clandestine collection activity which, prior to initiation, requires approval by the President or review by the National Security Council and notification of the President to determine whether the continuation of each such activity is in the national interest. Any such activity whose initiation required the President's personal approval may be continued after such annual review by the National Security Council only if the President reaffirms in a timely manner the findings required by subsection (d) or (e), as the case may be.

(g) The Director shall, prior to the initiation of any special activity or any clandestine collection activity which, prior to initiation, requires approval by the President or review by the National Security Council and notification to the President, notify the appropriate committees of the Congress of the facts and circumstances of such activity, and of the Presidential findings, if any, required by subsections (d) or (e). In extraordinary circumstances, any such special activity or clandestine collection activity may be initiated without such prior notification if the President notifies the appropriate committees of the Congress within 48 hours after the initiation of such activity, certifies to such committees that prior notification would have resulted in a delay which would have been harmful to the United States, and discloses to such committees the reasons why such delay would have been harmful. This subsection shall not, however, be construed as requiring the

approval of any committee of the Congress prior to the initiation of any such activity.

(h) Any significant change in any special activity or in any clandestine collection activity which, prior to initiation, requires approval by the President or review by the National Security Council and notification to the President shall require review, approval, and reporting to the Congress in the same manner as the activity itself.

(i) Any important change in the circumstances regarding any special activity or any clandestine collection activity which, prior to initiation, requires approval by the President or review by the National Security Council and notification of the President shall be reported to the National Security Council and to the appropriate committees of the Congress.

(j) No department or agency except the Central Intelligence Agency and, during any period of war declared by the Congress, the armed forces, may conduct any special activity.

(k) The National Security Council shall retain all analyses required by subsection (c) and shall maintain a record of all written findings made by the President pursuant to subsections (d) and (e).

(l) The Director shall submit a written report semiannually to the appropriate committees of the Congress on all ongoing special activities and clandestine collection activities which, prior to initiation, require approval by the President or review by the National Security Council and notification of the President being carried out by, for, or on behalf of, the United States.