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May 12, 1981

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MEMORANDUM FOR: [Redacted]

Director
Intelligence Community Staff

SUBJECT: Revisions of E.O. 12036

In light of the IG discussion on May 7, following are the State Department's suggestions concerning the proposed new Executive Order on United States intelligence activities. Our comments are keyed to the version attached to the DCI's memorandum of May 4 to the Assistant to the President for National Security Affairs.

1-301(i) and (j) concerning security

We believe that (i) would be clearer if the word "common" in the second line were changed to "minimum".

Then the distinction between (j) and (i) could be sharpened by wording (j) as follows:

"(j) Develop, in accordance with applicable law and regulations, a program specifically designed to strengthen the protection of intelligence sources and methods from unauthorized disclosure."

Comment: These suggested changes are intended to clarify the intent of the two paragraphs (i) and (j). In the case of (i) the use of the word "common" is not necessary and we believe the intent would be clearer by substituting the word "minimum".

In the case of (j), we have tried to achieve a clearer statement of the objective of addressing the problem of leaks.

1-301(o) concerning production and dissemination of national foreign intelligence

A more positive wording might be as follows:

"(o) Produce and disseminate national foreign intelligence and, in consultation with departmental intelligence production organizations, levy analytic tasks on these organizations, ensuring full consideration of diverse views and presentation of significant differences of judgment to national policymakers"

State Dept. review completed

1-301(y) concerning Secretary of Defense

If this provision is retained in the DCI section, it would be appropriate to have a parallel provision in 1-301 for the Secretary of State as follows:

"Together with the Secretary of State, ensure that national foreign intelligence activities are useful to and consistent with United States foreign policy."

The provision in 1-704 could then be deleted unless a provision concerning the Secretary of Defense, similar to 1-301(y), is included in both 1-3 and 1-9 or is placed only in 1-9.

1-607 on coordination of clandestine collection

The proposed language is confusing. We suggest that the wording of 1-807 in E.O. 12036 be retained as follows:

"1-607. Coordinate the collection outside the United States of intelligence information not otherwise obtainable."

3-103, 3-201, 3-202, 3-204, 3-205 concerning reports on questions of legality or propriety

The issue here is whether the addition of the word "serious" is necessary and prudent. The change would almost certainly be publicly perceived as a weakening of the requirement for reporting questionable activities. The use of the term "serious" would be particularly difficult to explain in relation to questions of legality.

4-212 on special activities

As discussed in the May 7 meeting of the IG, we suggest that the definition of "special activities" be clarified as follows:

"Special activities means activities conducted in support of national foreign policy objectives abroad which are planned and executed so that the role of the United States Government is not apparent or acknowledged publicly, and functions in support of such activities, but which are not intended to influence U.S. public opinion or policies and do not include diplomatic activities or the collection and production of intelligence or related support functions."



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