Not OGC

17 June 1947

MEMORANDUM FOR THE CHIEF, SPECIAL FUNDS

Delegation of Authority

Subject: Approvals Required for Disbursements which are not in Accordance with Special Funds Regulations

1. Reference is made to your memorandum to this office, dated 3 June 1947, in which you request clarification of the manner in which expenditures, which are beyond the scope of Special Funds Regulations No. 1 and 1-A, must be approved. It appears that two questions are involved:

(a) Where a proposed expenditure is not in accordance with existing Special Funds Regulations, must the Director, CIG, approve such disbursements?

(b) If the Director's approval is required, must it be in writing and signed personally by the Director, or may such approval be in the form of written memoranda from other individuals who state that the approval of the Director has been granted or who sign "For the Director"?

2. In order to present clearly the situation, it is deemed desirable to outline the manner in which Special Funds are made available to CIG for expenditure. By letter dated 30 July 1946, signed by the members of the National Intelligence Authority, the Secretary of the Treasury and the Comptroller General were requested to establish a Working Fund available to the Director of Central Intelligence. With approval of the Treasury Department and the Comptroller General, a Working Fund, [illegible] General, 1947, was constituted and assigned Symbol No. 2173900. On 5 September 1946, a letter was addressed to the Comptroller General, in which it was stated:

"We now on behalf of the Departments we represent, and in our capacity as members of the National Intelligence Authority, authorize the Director, subject to policies established by the National Intelligence Authority, to control, supervise and administer this

Presidential Directive of January 22, 1946, is superseded and voided by the expression of the will of Congress. This, too, was repeatedly affirmed in hearings and debate on the Morgan Bill, i.e. that functions of the Executive Branch should be established by Congress, not by Executive order. It would appear that presently the IAB has no legal status, and if it is to continue to function, it should do so only on direction from the N.S.C. as a result of a request from, and recommendations by, the Director of Central Intelligence.

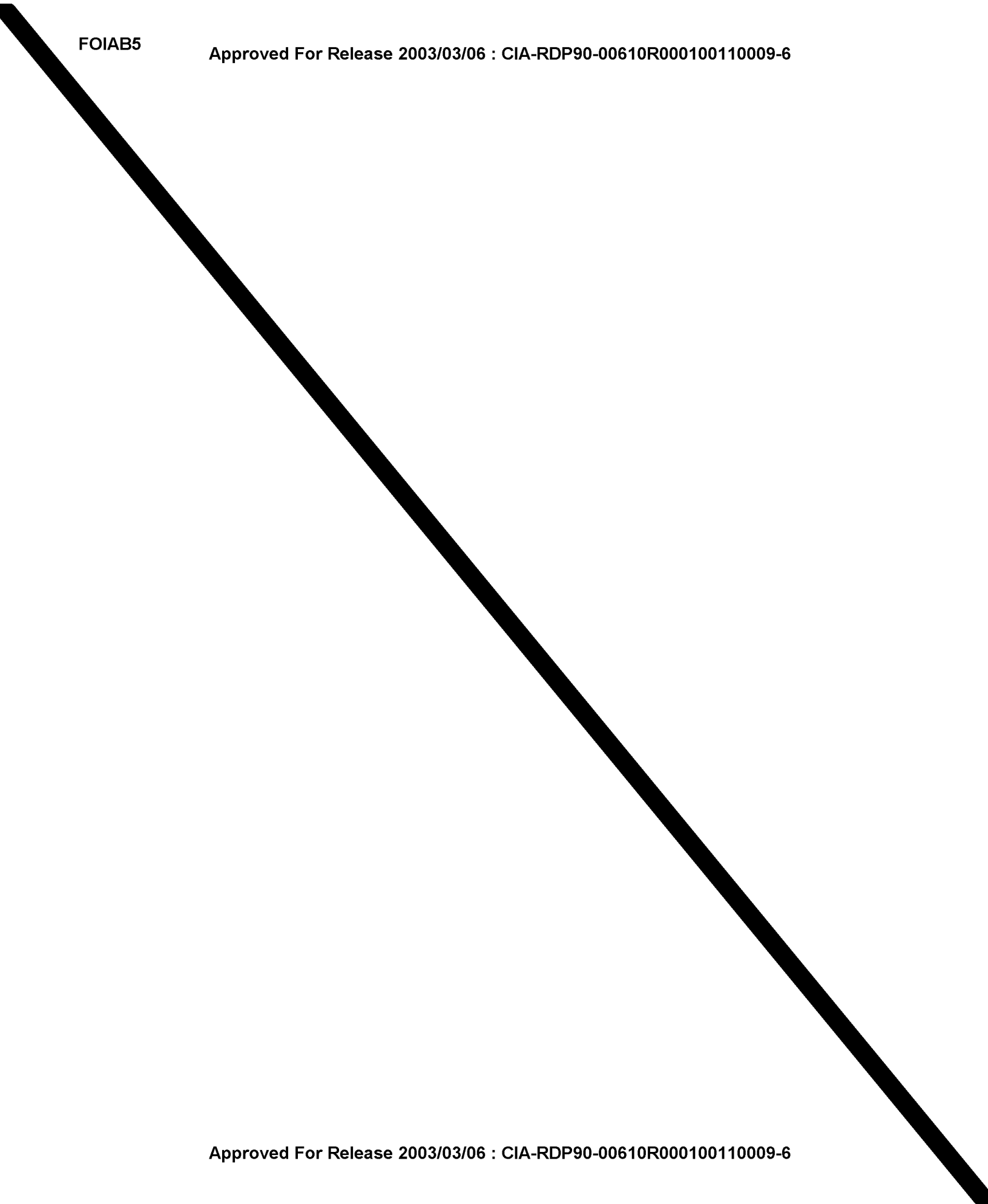
LAWRENCE R. HOUSTON
General Counsel

practical matter it is unlikely that such proceedings would be instituted, and if they were, that the cases cited by [redacted] STAT indicate that such proceedings would be set aside.

4. It will be apparent from the above that the decision as to release in each case, is the sole responsibility of the Director of Central Intelligence. Congress has seen fit to strengthen this position in this respect in Section 102-D, sub-section 3, by providing "That the Director of Central Intelligence Group shall be responsible for protecting intelligence sources and methods from unauthorized disclosure."

5. The question of employees who might be called upon by Congressional Committees or other agencies to testify relates in essence to the points discussed above. Any confidential information possessed by them is in the same category as information in records. At the time of employment they are required to take an oath not to reveal such information unless authorized in writing by the Director of Central Intelligence. This oath is a condition of their employment by CIG. It also puts them on notice that release of such information affecting the national security or defense, may subject them to prosecution under the Espionage Act. If called, therefore, to testify in connection with confidential matters such as identification of sources, or disclosures of methods and techniques, they should cite the oath and conditions of employment and their responsibility to the Director. If he does not see fit to authorize release of the information, the Director is in the same position as in a request for production of confidential documents. In our opinion therefore, confidential records pertaining to investigations by your office and other information in your files which may pertain to the national defense or security, are but part of all such files of CIG and it would be our position they are not subject to subpoena. Also, in our opinion, employees of CIG may not be required to testify concerning such information without express permission from the Director of Central Intelligence.

6. In conclusion we wish to comment on your remarks concerning the Espionage laws, particularly your statement that intent must be proved to find a man guilty. Under Section 3, of Title 50, U.S.C., subsection E, a man may be fined $10,000 or imprisoned for 2 years who, through gross negligence, permits information relating to the national defense to be removed from its proper place of custody or delivered to any one in violation of his trust, or to be lost, stolen, abstracted, or destroyed. Under section 32 of the Act, whoever with intent,



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