



3 September 1977

MEMORANDUM FOR: The Honorable Zbigniew Brzezinski
Assistant to the President
for National Security Affairs

SUBJECT: Intelligence Charter Legislation

STAT 1. [] This responds to your memorandum of 20 August 1977
requesting my views on intelligence charter legislation.

STAT 2. [] Contact with the Senate Select Committee on Intelligence
(SSCI) on charter legislation has been maintained since the beginning of the
year and is expected to continue on a discussion level with both the SSCI
and the new House Permanent Select Committee on Intelligence, although no
formal positions will be taken without appropriate coordination with the
Executive Branch. It has been and continues to be my view that development
of appropriate and acceptable intelligence charter legislation can best be
accomplished by maintaining a close working relationship with key committees
in the Congress to minimize areas of disagreement and to progress on issues
of mutual agreement. At the same time, however, I recommend that a
reorganization plan, incorporating the decisions contained in Presidential
Directive/NSC-17, be submitted to the Congress pursuant to the Reorganization
Act of 1977 (P.L. 95-17). This procedure would retain the full opportunity
for joint Executive-Congressional effort on charter legislation while
expanding Presidential decisions in cooperation with the Congress.

STAT 3. [] The concepts I view as being embodied in charter legislation STAT
should include: (a) clear, succinct duties; (b) authority commensurate with
those duties, including in the case of CIA infrastructure needs []
STAT [] and (c) a delineation of acceptable restrictions on
intelligence activities. Within these three broad areas, I have the following
specific recommendations to make.

STAT 4. Recommendations for Intelligence Charter Legislation

a. [] Role of the DCI: Responsibility would be more clearly
assigned if the basic authorities and duties now spelled out in the
National Security Act were vested directly with the DCI. The Director
of Central Intelligence should remain as head of the CIA, and should
retain the powers and duties specified in the National Security Act of
1947, as amended, including the responsibility to protect intelligence
sources and methods and his termination authority. The authorities and
duties granted the CIA in the National Security Act of 1947, as amended,

should be granted to the DCI in a new intelligence charter. Under this scheme the DCI could assign whatever duties he deems appropriate to the Agency, whether identical with those now exercised by it or otherwise. The DCI would be able to delegate his authorities and duties on a Community basis, within limitations of appropriate laws, Executive Orders, etc. The DCI's Intelligence Community management mechanism should be administratively provided for as a separate statutory authority for the DCI (e.g., an "Office of the Director of Central Intelligence") as a part of the IC and with a budget [REDACTED]

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b. [REDACTED] Deputies to the DCI: The charter should not specify a single DDCI or a predetermined number of Deputy Directors. Rather, the legislation should allow for the appointment, by the President and with the advice and consent of the Senate, of such deputies (at least at the under secretary level) as the DCI may require in the discharge of his duties. The statute also should provide that the DCI shall direct, as the need arises and commensurate with his Community responsibilities, which deputy shall act in his name in his absence. Finally, the charter should contain necessary restrictions on the incumbency of military officers in the positions of DCI and his deputies.

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c. [REDACTED] Intelligence Collection: The DCI should be given the duty to direct and supervise the collection of foreign intelligence. The Director should have full authority to task all national resources for the collection of intelligence by the Intelligence Community in accordance with directives and requirements of the NSC. The DCI should be authorized by statute to establish such mechanisms as necessary to carry out his tasking responsibilities; this authority should include the power to detail personnel assigned to these entities. The CIA should be charged, by statute, with the responsibility for collection of foreign intelligence and counterintelligence and the conduct of foreign counterintelligence activities under the direction of the NSC and the DCI. The charter should specify that the CIA shall engage in such special activities in support of national foreign policy objectives as directed by the President and the NSC, again under the direction and supervision of the NSC and the DCI.

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d. [REDACTED] Intelligence Production: The DCI should be authorized to produce finished national foreign intelligence. He should have full responsibility for the production and dissemination of national foreign intelligence and authority to levy analytic tasks on departmental intelligence organizations.

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e. [REDACTED] Budget and Fiscal Responsibilities: In accordance with the decisions embodied in Presidential Directive/NSC-17, the new charter should specifically grant to the DCI full and exclusive authority for approval of the National Foreign Intelligence Program budget, and it should be stipulated that the DCI should provide guidance for program and budget development to program managers and heads of component activities involved

involved in the National Foreign Intelligence Program. In addition, the DCI should have full and exclusive authority within Congressional guidelines for reprogramming National Foreign Intelligence Program funds, and for the utilization under appropriate Congressional and Executive guidelines of the CIA Contingency Reserve.

STAT f. [] The CIA: The CIA should have its own statutory charter in view of its unique mission. The administrative and support authorities now given the CIA under the Central Intelligence Agency Act of 1949 should remain generally intact with certain specific changes [] STAT

STAT [] Moreover, to clarify existing statutory provisions, and to implement Presidential Directive/ NSC-17, the CIA should be tasked in the charter with collecting foreign intelligence and counterintelligence and the conduct of foreign counterintelligence activities.

STAT g. [] Reporting to the Congress: The charter should specify that the DCI shall be the primary adviser to the Congress on national foreign intelligence matters, including the provision of substantive intelligence product. Consideration also should be given to providing, by statute, for a single, exclusive joint intelligence oversight committee as the sole committee to which the Executive would be required to report pursuant to statute. I do not subscribe to the views, as expressed by the SSCI in commenting on the 15 August 1977 draft revision of Executive Order 11905 (section 8), regarding reporting to the Congress on aspects of intelligence activities and information. That section raises serious constitutional issues relating to the separation of powers and impinges on the authority of the President. A further issue which should be considered is a statutory requirement that the DCI shall provide intelligence to the Congress only under appropriate guidelines to insure protection of sources and methods.


STANSFIELD TURNER

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