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Remarks:

Attached are the DDO/Ops Staff suggestions for revisions to Executive Order 11905. They are only preliminary but can serve as a jumping off point for discussions at our next meeting.

[Redacted]

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AI/DDA		8/2
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AUTHORIZATION

Section 3(d)

Observation: There is no statement that gives the DCI clear authority to coordinate the clandestine collection of foreign intelligence abroad. This authority exists in NSCID #5.

Suggestion: That Section 3(d)(1) additionally include terminology such as: "Coordinate ^{all} foreign in-
^{activities.} telligence and foreign counterintelligence activities ^{of the U.S. Government.}
[abroad]."

AUTHORIZATION

Section 3(d)(1)(vii)

Observation: Provision is made in this Section for protection of information against disclosure by present or former employees, contract personnel and organizations associated with the Agency. Additionally, information provided by the Agency to other federal departments or agencies merits comparable protection. The DCI's authority in this respect should be made more explicit in the E.O.

Suggestion: That the following appear as paragraph (vii) (B): "Devising procedures and issuing regulations to protect intelligence information, including information which may reveal ^{intelligence} sources and methods, which receives dissemination to federal departments and agencies or their contractors within the United States"; and, that the present paragraphs (B) and (C) become (C) and (D), respectively.

AUTHORIZATION

Section 4(g) (4)

Observation: The FBI is permitted under Section 4(g) (4) of Executive Order 11905 to disseminate foreign intelligence and counterintelligence information to appropriate Federal, State and local law enforcement agencies "and cooperating foreign governments."

Under Section 4(b) which relates to the Central Intelligence Agency, there is no such explicit statement of permission for CIA to disseminate foreign intelligence and counterintelligence information to "cooperating foreign governments." Under E.O. 11905 sections that apply to other named members of the Intelligence Community, there is no implicit or explicit permission to pass information of the described type to foreign governments. If anything, the tenor of the language in the appropriate sections seems to restrict dissemination to "within the United States Government." Section 4(b) associates the National Security Act of 1947, the CIA Act of 1949 as amended, "and other laws, regulations, and directives" with the provisions of E.O. 11905. The Executive Memorandum that sets policy for furnishing "classified defense information" of the U.S. Government to foreign governments is dated 23

September 1958 and has as an attachment a document titled "Basic Policy Governing the Release of Classified Defense Information to Foreign Governments."

That document, in turn, prompted pertinent CIA issuances including the current [redacted] The cited Executive Memorandum does not explicitly authorize CIA in terms comparable to those of E.O. 11905 as applicable to the FBI to convey intelligence information to foreign governments. Moreover, the opening sentence of the same Section 4(b) of E.O. 11905 expressly states that "all duties and responsibilities of the Central Intelligence Agency shall be related to the foreign intelligence functions outlined below." This sentence, of more recent date, could be construed in a limiting manner because the dissemination of intelligence information to foreign governments is not, as in the case of the FBI, explicitly sanctioned. It is possible that authority for CIA to pass intelligence information to foreign governments is implicit in Section 4(b) (2) which authorizes the Agency to "develop and conduct programs to collect" but in an epoch when implications or assumptions based on interpretations are being questioned, an explicit statement may be preferable, despite the fact that many foreign governments do not wish to acknowledge that they are

25)

cooperating with CIA in the Agency's collection effort. In any event, CIA is now actively engaged in giving intelligence information to "cooperating foreign governments." (The FBI is as well but presumably on a less broad scale.)

Suggestion: That a paragraph be inserted in Section 4(b), logically after the present subparagraph (2), to read:

"Disseminate to cooperating foreign governments, as appropriate, foreign intelligence and counterintelligence information which it acquires."

*DCI staff should
to be considered ?*

*yes § 10, including
foreign intelligence
as appropriate. Includes*

X

AUTHORIZATION/DEFINITION

Section 5

Observation: The opening sentence of this Section gives the impression that information about other governments is all that is essential in the foreign intelligence field. Actually, other entities and individuals engage in activities and have capabilities and intentions that are of comparable interest.

Suggestion: That the term "foreign entities" be substituted for "other governments" in the opening sentence of Section 5 and in other sections where it logically should be employed, assuming acceptance of the broader concept.

AUTHORIZATION

Section 5(b)(2)

Observation: The exemptions in Section 5(e)(2)(ii) cause some concern because they may be in conflict with Section 5(b)(2).

Suggestion: That Section 5(b)(2) be modified to read: "provided, that the Central Intelligence Agency shall not perform electronic surveillance within the United States, except to take action permissible under Section 5(e)(2)(ii), including the provision of technical assistance, expertise and knowledge to the Federal Bureau of Investigation in CIA's conduct of foreign counterintelligence operations and foreign intelligence operations, and to test equipment under procedures approved by the Attorney General consistent with law.

AUTHORIZATION

Section 5(e)(2) ii

Observation: It is unclear from the text whether or not "technical knowledge" is intended to include assistance of expert personnel.

Suggestion: That paragraph (2) ii be revised to read: "provision of specialized equipment, technical knowledge or the assistance of expert personnel."

DEFINITIONS

Section 2(a)(1)

Observation: Foreign intelligence is needed by the United States Government on subjects that are not related to the "capabilities, intentions, and activities of foreign powers, organizations or their agents." We have major national interests abroad that are not "defense" related. The definition of "foreign intelligence" under this Section could be interpreted to exclude information on international narcotics activities, international terrorism, and international energy and economics matters. Later portions of the E.O. mention these areas of interest. Uncertainty could be decreased by modification of the definition of "foreign intelligence."

Suggestion: That in Section 2(a)(1) "foreign intelligence" be defined as that information, other than foreign counterintelligence, on the capabilities, intentions and activities of foreign powers, organizations, or ^{person} (their agents) as well as information required for the formulation and ^{achievement of} ~~execution of efforts to achieve~~ major national foreign policy objectives.

DEFINITIONS

Section 2(a)(2)

Observation: In the definition of "foreign counter-intelligence" in this Section, terrorism is specifically mentioned. The term is not used in the definition of "foreign intelligence" yet the major U.S. Government interest in international terrorism is reflected in the efforts to collect foreign intelligence on this topic. A more nearly adequate terminology that could encompass international terrorism, international narcotics, and international economics and energy topics has been proposed in a separate suggestion.

Suggestion: The definition of "foreign counterintelligence" should have the words, "assassination or terrorism," deleted.

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DEFINITIONS

Section 2 (b)

Observation: Narcotics intelligence or narcotics-related intelligence is currently of high priority interest in view of the severe social costs resulting from the abuse of drugs supplied by foreign sources. Many difficulties now result from the fact that the Drug Enforcement Administration is considered only an enforcement agency despite the fact that its activities and programs abroad are really in support of a foreign policy undertaking. It is advantageous to the DCI to have clearly defined authority over DEA foreign intelligence programs and activities.

Suggestion: That DEA be included in the membership of the foreign intelligence community for narcotics matters.

A paragraph (10) should be added:

- (10) Intelligence element of the Drug Enforcement Agency on all matters dealing with illicit narcotics trafficking.

*17 Mission
Statement of
alter assignments*

DEFINITIONS

Section 5(a)(9)

Observation: A "United States person" is defined so that restrictions on collection, a subject treated in this Section, will be clearer. Included in the definition of a "United States person" are "organizations incorporated or organized in the United States." This terminology, in our view, has the effect of giving protection to front groups of one type or another. The stated limitation on collection could, therefore, be more inhibiting than intended insofar as front groups, and particularly those sponsored by foreign adversaries, are concerned.

Suggestion: That consideration be given to a qualifying phrase so that the portion reads: "Organizations incorporated or otherwise established in the United States in accordance with applicable laws."

*Exclusion
OGE*