

MEMORANDUM FOR: Director of Central Intelligence
SUBJECT : The Problem of Timing

1. This memorandum identifies an urgent problem for the future of the Agency and presents a recommendation for your action in Paragraph 7.

2. Now that most if not all of the issues related to the Executive Orders on restrictions on intelligence in the US and on a reorganized PFIAB have been settled, the Executive and Legislative Branches must face more fundamental issues of change in the organization and management of the Community and CIA. Change is under discussion in both Branches; the intelligence provisions of the National Security Act of 1947 are certain to be reconsidered and probably will be rewritten. Before this can be accomplished, however, Congress, the Administration and the Community itself will have to engage in lengthy and intensive debate on many complex matters.

3. We cannot confidently predict whether the House and Senate will be considering new legislation

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on intelligence by late in the spring of 1976 or whether requirements of the 1976 election will force the participants to set the investigations aside, with the result that recommended new legislation will not be addressed until a new Congress takes office in 1977. The latter, however, could well occur. One possibility, for instance, is that the Senate Committee will recommend formation of a temporary Joint Committee to study

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possible legislation. And in any case legislation acceptable to the Executive can be developed only through a time-consuming process of education and argument.

4. Whether the time is mid-1976 or early 1977, however, it is important to begin moving now to speed the process of bringing the investigations to a close and getting legislation drafted. Rudderless drift for as much as two years, during which CIA and the rest of the Intelligence Community will have no guidance as to the future shape or purpose of American intelligence, can only be damaging. The present fraying away of the morale and cohesion of CIA is one of the dangerous symptoms.

5. Moreover, important events are on the horizon that will require decision on things which may appear to be matters of detail but are in fact rooted in principle--and such decisions will depend on the future structure of the Community. One example is organization for These decisions must fit into a larger blueprint for the Community if they are to make sense and to be something the Community can live with for years to come. No such blueprint can be prepared until the Legislative-Executive dialogue is over and

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there is clear understanding of the relative roles of the senior US intelligence officer, the central intelligence organization, and the Department of Defense. Moreover, should the President wish to appoint a new senior US intelligence officer, it is difficult to imagine a qualified candidate who would take the job until he knows how it is to be defined.

6. The chances of providing a strong, independent and objective national intelligence capability--the intent of Congress in 1947 (and there is no current reason to believe that intent has changed)--will measurably decline the longer that action on new legislation is delayed. What is needed is positive action to shortcut the process. There is no reason why informed debate cannot begin while the investigations are still in progress. If an active effort is launched now, it should be possible to arrive at an agreed package of changes early in 1976, and to enact these into statute before the political campaign. A long and destructive uncertainty for our national intelligence system might thus be avoided.

7. We recommend that the DCI suggest to the President that he:

- Call in the Congressional leadership, including the CIA oversight subcommittees and the Select Committees;
- Point out to them the destructive effects of delay, and urge that proposals for the future be decoupled from investigation and correction of past abuses;
- Request that they, in cooperation with the Executive, begin work now to develop whatever legislative proposals in the organizational field seem appropriate; and
- Set a target date of, perhaps, 1 February, for submission of agreed legislation to the Congress.

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Study Group*

OBJECTIVES

The Intelligence Community, and CIA in particular are passing through a crisis of public confidence. If the nation is to have the intelligence system it needs, that confidence must be restored.

At the same time the political atmosphere of the day, together with the breakdown in confidence, has encouraged an attack on the conventional defenses of intelligence security. If the national intelligence system is to be effective, better defenses must be found for those things essential to intelligence operations.

The need for public confidence and the need for secrecy mean that change is inevitable. Congress will clearly reconsider the intelligence provisions of the National Security Act of 1947. There is thus a unique opportunity to make fundamental improvements in Community management, and ultimately in the intelligence product, improvements that many intelligence officers have believed long overdue.

There are thus three major and inter-related categories of measures that are needed: measures to restore public confidence; measures to protect secrecy; measures to improve management.

I. Measures to Restore Confidence

A. In the short range, stronger external oversight. (There is a question whether it is proper for CIA to have a position on how it is to be overseen.)

1. Executive. A body devoted to ensuring that foreign intelligence activities are proper and legal (Preferably neither PFIAB nor NSCIC, which have other purposes) Such a body might also serve as a court of appeal and authorization for covert action and for collection operations that raise a question of propriety.

2. Congress. A Joint Committee, or one in each house, to supervise the full range of intelligence activities. No other committees except Appropriations (and Budget?) would have any jurisdiction over CIA.

3. Public. A public commission, formed in some way by agreement of the President and Congress, might serve the purposes of A1 above for both the Legislative and the Executive Branches.

B. Stronger Internal Controls

1. Character of the DCI. As the Rockefeller Commission pointed out, this is basic but hardly appropriate as an objective.

2. A Stronger IG. Question: Should there be an IG for the Community?

3. Better reporting within the Agency, but this must be balanced against our need not to become bureaucratically muscle-bound.

4. Better record-keeping.

C. In the longer run, public education on the purpose, goals, and techniques of national intelligence.

II. Measures to Protect Secrecy

A. A statutory basis for classification, more narrowly focused than "national security", more broadly than "sources and methods."

B. Criminal penalties for unauthorized disclosure of classified information by government employees.

C. Acceptance, particularly by the Congress, of the principle of "surrogates", i.e., the delegation to a trusted few of the right of access to sensitive classified information.

D. Some modification of the Freedom of Information Act and Privacy Act as they apply to foreign intelligence. (This does not mean to seek blanket exemptions.)

E. Continued concealment of the CIA budget.

F. Measures to accommodate inevitable GAO audit.

III. Measures to Improve Management.

A. Preservation of a national organization for collation and analysis independent of State and Defense.

B. Preservation of national capabilities for covert action and clandestine collection.

C. Preservation of a national capability for R&D on technical collection independent of Defense Dept. constraints.

D. Maintenance of the principle that covert action and clandestine collection cannot be organizationally separated.

E. A redefinition of roles for the DCI and Defense in the intelligence field to take into account both the DCI's national interests and Defense's legitimate departmental vies, thereby to reduce the present bureaucratic guerilla warfare. Consideration must also be given to the rapidly growing need.

for the DCI to involve himself in certain aspects of tactical intelligence.

E. On the basis of the above, a greater voice for the DCI in the management of the Community.

1. Greatly strengthened budgetary authority, while preserving the flexibility in handling funds given to the DCI by the CIA Act of 1949.

2. A voice in the management of NSA.

3. A reorganization of the NRO.

4. A mechanism at the senior management level for handling the many important matters involving both State and elements of the Community.

5. A rationalization of the Boards and Committees serving the DCI (USIB, IRAC, EXCOM).

F. Reduction of the DCI's responsibility for management of CIA, both to free him for his Community responsibilities and to avoid the impression of creating a "czar." (There is clearly a political necessity for more than cosmetic change: the DCI and CIA must not come out more powerful than they now appear.)