

MEMORANDUM

NATIONAL SECURITY COUNCIL

ON-FILE NSC RELEASE
INSTRUCTIONS APPLY

October 29, 1975

MEMORANDUM FOR: GENERAL SCOWCROFT
FROM: Richard Oberly
SUBJECT: Comments on Revised E.O. on PABFIC
REFERENCE: Memorandum from Jack Marsh,
dated October 24, 1975

Attached, as requested, are suggestions concerning the most recent draft of the Executive Order establishing the President's Advisory Board on the Foreign Intelligence Community.

FBI, OSD Reviews
Completed

*Revised to
Final 10/29/75
RCM*

Attachments: Tab A - Comments
Tab B - Reference Memorandum

October 29, 1975

Revised Executive Order on the President's
Advisory Board on the Foreign Intelligence Community

Suggested revisions:

- page 1: Section I(a) first line "concerning" vice "concering"
- page 2: Section I(c) delete entire section. (It is inappropriate for PABFIC as an advisory body to the President to be used by heads of Executive departments or agencies to carry out their responsibilities. Furthermore, it is even more inappropriate for the DCI to be able to utilize the PABFIC in carrying out his responsibilities since the PABFIC is charged with the oversight of the DCI's organization and its activities. In addition, the exact meaning of this section is unclear.)
- page 4: Section 7(a) delete entire section and replace it with the language used in Jack Marsh's memorandum:

(a) Neither he nor any other permanent staff member shall be employed by or under contract with an agency or department within the foreign intelligence community during their tenure with the Board.

(This language prohibiting the detailing of Intelligence Community personnel to the PABFIC is preferable because it strengthens the concept of the Board's independence from the intelligence agencies. It will be this independence that will make the PABFIC acceptable to the Congress and the public as an oversight body.)

THE WHITE HOUSE

WASHINGTON

October 24, 1975

MEMORANDUM FOR: PHIL BUCHEN
BILL COLBY
HENRY KISSINGER
ED LEVI
JIM LYNN
DON RUMSFELD
JIM SCHLESINGER

FROM: JACK MARSH

SUBJECT: Revised Executive Order on the
President's Advisory Board on the
Foreign Intelligence Community

Transmitted herewith is a draft of the executive order on the PABFIC that reflects your comments on the draft circulated last week.

Only one substantive difference remains concerning this executive order: will the Board be allowed to have staff employees detailed from the foreign intelligence community? The draft circulated on October 16 allowed detailing. Comments received from OMB, the NSC and Peter Wallison opposed any detailing. If the draft is amended to disallow detailing, section 7(a) would read:

(a) Neither he nor any other permanent staff member shall be employed by or under contract with an agency or department within the foreign intelligence community during their tenure with the Board.

The arguments in favor of not prohibiting detailing of intelligence community employees to the PABFIC include: (a) the restrictions contained in Section 7 will effectively prevent PABFIC staff employees from being either influenced by their parent agencies or having undue influence over their parent agencies; (b) use of detailed employees in the past has caused no serious problems; (c) if detailing is not prohibited, the current staff members can continue to serve the new board.

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The arguments in favor of prohibiting detailing include:
(a) the restrictions currently contained in Section 7 are insufficient because any employee who continues to maintain a connection with an intelligence agency will be in some way influenced in his work with the Board by that connection;
(b) the PABFIC is being given new responsibilities which make it inappropriate for an overseer to be an employee of the agency being monitored; (c) the public and Congress will not accept the PABFIC as a sufficiently detached body to perform oversight functions if it is staffed by employees of the intelligence agencies.

PRESIDENT'S ADVISORY BOARD ON THE FOREIGN
INTELLIGENCE COMMUNITY

There is a need for improved review of the foreign intelligence community and advice to the President on the quality of the community's activities and its compliance with law and applicable Executive Orders. This order establishes the President's Advisory Board on the Foreign Intelligence Community to perform these tasks.

By virtue of the authority vested in me as President of the United States, it is hereby ordered as follows:

Section I. There is hereby established the President's Advisory Board on the Foreign Intelligence Community, hereinafter referred to as "the Board." It shall:

(a) advise the President concerning its review of the foreign intelligence and counterintelligence activities of the United States Government. The Board's areas of concern shall include quality of foreign intelligence collection and estimates, organization and management of the foreign intelligence community, and compliance of the foreign intelligence community with applicable provisions of the Constitution and laws of the United States, executive orders, and directives of the National Security Council;

(b) receive, consider, and make recommendations with respect to matters identified to the Board by the Director of Central

Intelligence, the Secretary of Defense, the Director of the Federal Bureau of Investigation and heads of other government departments of the foreign intelligence community.

(c) where appropriate, be utilized by the Director of Central Intelligence and the Attorney General in carrying out their responsibilities; and

(d) submit interim reports and recommendations, at least annually, to the President on its findings and appraisals.

Section 2. The Board may receive, investigate, consider, and make appropriate recommendations with respect to allegations of improprieties involving agencies within the foreign intelligence community made by employees of such agencies. In this connection, the Director of Central Intelligence, the Director of the Federal Bureau of Investigation, and the heads of other departments, agencies and organizations comprising the foreign intelligence community, and the Inspectors General thereof, after notification to their organization heads, may seek the advice of the Board with respect to activities or categories of activities which in the light of the statutory authority of any such agency, or any restrictions imposed by law or Executive Order, may have been, or, if implemented, might be, improper or appear to be improper. As appropriate, the Chairman of the Board may designate a special panel of the Board to receive and make recommendations to the Board on such allegations.

Section 3. As used in this order, the term "foreign intelligence community" means those organizations (or subdivisions thereof) which collect, disseminate or evaluate foreign intelligence or counterintelligence.

Section 4. (a) In order to facilitate performance of the Board's functions, the Director of Central Intelligence, the Secretary of Defense, the Director of the Federal Bureau of Investigation and heads of other government departments of the foreign intelligence community shall regularly:

(1) make available to the Board all information with respect to foreign intelligence, foreign counterintelligence, and related matters which the Board may require for the purpose of carrying out its responsibilities to the President in accordance with the terms of this Order;

(2) notify the Board of major issues in the foreign intelligence community;

(3) identify to the Board specific operational issues or matters in which there is a potential for official or public concern;

(b) Each Inspector General (or other official with equivalent duties) of the foreign intelligence community shall have the authority to report directly to the Board, after notifying the head of his organization concerning matters over which the Board has cognizance.

(c) The head of each organization in the foreign intelligence

community shall designate in writing to the Board the name of an individual and office to serve as the primary point of contact in support of Board functions. In addition, the Board is authorized to call upon persons at all levels within the foreign intelligence community.

Section 5. Members of the Board shall be appointed by the President from among persons outside the Government, qualified on the basis of ability, knowledge, diversity of background and experience, and with a view toward achieving continuity. The members shall receive compensation and allowances consonant with law.

Section 6. The President shall designate from among the Board members a Chairman who shall devote substantial time to his duties with the Board.

Section 7. The Board shall employ a staff headed by an Executive Secretary, who shall be appointed by the President.

(a) If the Executive Secretary or any member of the staff of the Board is appointed from an agency or department within the foreign intelligence community, then during his tenure with the Board, he shall be subject to no supervision, control, restriction or prohibition from such agency or department, and shall neither possess nor exercise any supervision, control, powers or functions (other than as a member of the staff of the Board) with respect to such agency or department.

(b) The Executive Secretary shall be authorized, subject to the approval of the Board and in a manner consonant with law, to hire and fix the compensation of such additional personnel as may be necessary for performance of the Board's duties.

Section 8. Compensation and allowances of the Board, the Executive Secretary, and other members of the staff, together with other expenses arising in connection with the work of the Board, shall be paid from the Executive Office Appropriation Act or from corresponding appropriations made in future years. Such payments shall be made without regard to the provisions of Section 3681 of the Revised Statutes and Section 9 of the Act of March 4, 1909, 35 Stat. 1027 (31 U.S.C. 672 and 673).

Section 9. The Board shall succeed to the records held by the President's Foreign Intelligence Advisory Board, established by Executive Order No. 11460 of March 20, 1969.

Section 10. Executive Order No. 11460 of March 20, 1969, is hereby revoked.