

MEMORANDUM

SUBJECT : Proposed Revisions of NSCID No. 5

REFERENCE: Department of the Navy draft, undated, headed National Security Council Directive No. 5

1. Reference was prepared by the Department of the Navy as an amendment of the CIA draft of a revised NSCID No. 5. It was submitted at the meeting of the IAC working group for NSCID No. 5, held on 24 July 1957.

2. In all important respects the deletions and additions proposed in reference are unacceptable. It is the purpose of this memorandum to point out the objections to reference as a whole as well as to major proposed changes.

3. The fundamental objection to reference is that its proposals are contrary to existing law. The primacy of the Director of Central Intelligence and, in certain respects, of the Central Intelligence Agency in matters of national intelligence and counterintelligence abroad is not merely recognized but stipulated in the National Security Act of 1947 (as amended), and in further implementing directives of the National Security Council.

4. Were reference to be validated by all concerned, the effect would be to return the U. S. intelligence community to that condition of divided and co-equal rights and responsibilities which was injurious to U. S. interests in the period before 1947 and which made essential the passage of the National

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Security Act and the establishment of a central intelligence agency.

5. The revision of NSCID No. 5 proposed by the Central Intelligence Agency is based upon the existing NSC directive to the extent possible. It is unsound to attempt to base a revision solely upon the National Security Act itself, because that act is in the public domain, is not classified, and therefore cannot include provisions which concern the clandestine activities of the United States. The extant NSCID No. 5, and any revisions thereof, must be designed to meet a need which, by its nature, the National Security Act cannot meet.

6. The National Security Act distinguishes unmistakably between departmental intelligence (102 d (3)) and "intelligence affecting the national security". The latter is termed organized Federal espionage and counterespionage in the present NSCID No. 5. The proposed CIA revision refers to "all national espionage outside the United States...." Whatever the term, the intent of Congress and the National Security Council to differentiate between national and departmental intelligence and to assign primacy in the former to the Central Intelligence Agency is self-evident. This vital distinction has been blurred and rejected in the Navy's proposed version.

7. In the following sub-paragraphs no attempt has been made to deal with each change proposed by reference but rather to illustrate, by citing the most radical of the proposals, that reference stands in opposition to established law and the intent of Congress.

a. The intent of the present NSCID No. 5 is clearly stated. National (or Federal) intelligence and counterintelligence conducted abroad, as distinct from intelligence and counterintelligence activity designed for the primary benefit of a single Agency, are the province of the Central Intelligence Agency, which bears this responsibility as a service of common concern. The effect of a number of passages in reference, including paras. 2, 4, 8, 9, 10, and 12, would be to destroy this concept and make of the Central Intelligence Agency not a central national instrument but one among many duplicative and parallel bodies.

b. The proposal that there be a free exchange of intelligence and counterintelligence information, both raw and finished, is not workable. If put into effect, it would swamp the IAC member agencies with a flood of information, much of it highly sensitive, to the detriment of their efficiency and the national security. The Director of Central Intelligence is charged by the National Security Act with the protection of intelligence sources and methods. A free exchange of raw intelligence would make it impossible for him to discharge this responsibility.

c. The definition of coordination proposed by para. 3c of reference is completely different from the sense of the National Security Act, Section 102 (d), which concerns "the purpose of coordinating the intelligence

activities of the several Government departments and agencies in the interest of national security. The definition proposed by reference embraces inter-service relationships, not coordination.

d. It is noteworthy that Title I of the National Security Act is "Coordination for National Security -- Central Intelligence Agency". Coordinating functions assigned to the Central Intelligence Agency were specifically allocated to the Director of Central Intelligence by the present NSCID No. 5. The effect of reference would be to charge him with insuring coordination (paras 6 and 7) without granting him the coordinator's central role.

e. Those provisions of the CIA draft which deal with liaison concern contact maintained by a U.S. Agency with a clandestine service to deal with clandestine matters. Within this realm the Director of Central Intelligence cannot discharge his responsibilities for coordination, the protection of sources and methods, and the national security unless he is given full and prior information by all concerned. If, as reference proposes, liaison activity were merely "coordinated" among the U.S. Agencies concerned, without a central point of reference, then confusion, competition, and security problems would inevitably result. This Agency has seen some

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unfortunate results ensue when liaison approaches were made without coordination with the central point of reference.

8. The listing of the above objections does not mean that the remaining changes proposed by reference are acceptable. It is considered, rather, that these objections go to the heart of the matter and demonstrate that the position advocated by reference and the position of this Agency are not divergent but irreconcilably opposed and that therefore a point-by-point rebuttal of the position of the Department of the Navy would obscure the more fundamental objection to the entire frame of reference in which that position has been stated.

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Copy No. 53
IAC-D-105/5
9 July 1957
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INTELLIGENCE ADVISORY COMMITTEE

Review of National Security Council Intelligence Directives

References: IAC-M-292, item 3; IAC-M-287, item 10

1. Attached is a draft revision of National Security Council Directive No. 5, prepared pursuant to a recommendation of the President's Board of Consultants on Foreign Intelligence Activities. Because this draft constitutes such an extensive revision of the text of the present NSCID No. 5, the prior practice of submitting a draft in which the old language is lined out and the new language underlined has not been followed in this case.

2. Members of the IAC working group on revision of the NSCID's will be notified by General Truscott's office when a meeting will be held to discuss this proposed revision of NSCID No. 5 and prepare a coordinated draft for submission to the IAC.

[Redacted Signature Box]

Secretary

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Class. Changed to: TS (S) C
Next Review Date: _____
Auth.: HR 70-3
Date: 9-18-91
By: [Redacted]

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TS #141599
IAC-D-105/5
9 July 1957
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NATIONAL SECURITY COUNCIL INTELLIGENCE DIRECTIVE NO. 5

ESPIONAGE AND COUNTERINTELLIGENCE

Pursuant to the provisions of Section 102 (d) of the National Security Act of 1947, as amended, the National Security Council hereby authorizes and directs that:

* 1. The Central Intelligence Agency shall conduct all national espionage outside the United States and its possessions in order to meet the needs of all Departments and Agencies concerned, in connection with the national security, except for certain agreed activities by other Departments and Agencies.

2. The Central Intelligence Agency shall conduct all counter-intelligence outside the United States and its possessions, except that this authority shall not preclude the departmental counterintelligence activities, and certain agreed counterintelligence activities pertaining thereto, of other Departments and Agencies, necessary for the protection of their respective personnel, operations, installations, material, and equipment. Each Department or Agency with personnel or installations located outside the United States and its possessions is responsible for the counterintelligence protection of such personnel or installations.

See to be to Army #3

** The representatives of the Army, Navy and J16 reviewed their position on this paragraph.*

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3. For the purpose of this directive:

Substitute # 4 a of Army draft

a. Espionage is defined as the clandestine procurement of information.

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b. Counterintelligence is defined as that activity, with its resultant product, which is undertaken to protect the security of the nation, and its personnel and installations [abroad], against espionage, counterespionage, sabotage, and subversion. As an activity, counterintelligence is the process of procuring, developing, and recording information concerning espionage, counterespionage, sabotage, and subversion directed against the national security, and of penetrating, manipulating, or repressing individuals, groups, or organizations conducting or capable of conducting, such acts.

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4. The Central Intelligence Agency shall be responsible for maintaining as a service of common concern the central indices and records of foreign counterintelligence information. It shall be the obligation of the Departments and Agencies to assist the Central Intelligence Agency in the execution of this responsibility by contributing to the central file, on a continuing basis, all pertinent material collected by them.

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5. To promote the over-all interests of the U. S. intelligence community the Director of Central Intelligence shall, in consultation with the Intelligence Advisory Committee, coordinate all activities authorized herein except in active theaters of war where U. S. forces are engaged in combat, in which event the provisions of paragraph 12, below, shall apply.

6. The Director of Central Intelligence shall coordinate foreign clandestine intelligence collection with overt collection abroad. He shall also insure in consultation with the Intelligence Advisory Committee that counterintelligence activity abroad is coordinated with the Departments and Agencies responsible for domestic counterintelligence to the extent necessary to insure conformity with the policies enunciated by the National Security Council. The Director of Central Intelligence shall invite Departments and Agencies not permanent members of the Intelligence Advisory Committee which have counterintelligence responsibilities abroad to participate in the Intelligence Advisory Committee deliberations when counterintelligence matters affecting such responsibilities are under consideration.

7. Other Departments and Agencies shall assist the Central Intelligence Agency in its conduct of espionage by providing continuous

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and timely guidance, specific collection requirements, and assessments of intelligence information collected.

8. In the conduct of national espionage and counterintelligence the Director of Central Intelligence shall make arrangements with the Departments and Agencies for such cover support as may be needed by the Central Intelligence Agency.

9. In a foreign area other than an active theater of war where U. S. forces are engaged in combat, the designated representative of the Director of Central Intelligence shall keep the senior U. S. representative appropriately advised of U. S. espionage and counterintelligence activities conducted in or from the area.

10. In a foreign area where major U. S. military commands are stationed, the designated representative of the Director of Central Intelligence shall keep the senior U. S. military commanders informed of the espionage and counterintelligence operations conducted by the Central Intelligence Agency in or from the area in direct support of the commanders.

11. The Central Intelligence Agency is responsible for the establishment, conduct, and development of liaison concerning clandestine matters with foreign intelligence and security services.

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Other Departments and Agencies may conduct liaison on non-clandestine matters with foreign intelligence and security services as required for the proper execution of their missions. However, all liaison which concerns or affects clandestine matters shall be coordinated in advance and on a continuing basis with the Central Intelligence Agency in order to insure that such relationships are beneficial to the over-all clandestine interests of the U. S.

12. In active theaters of war where U. S. forces are engaged in combat:

a. All resources of the Central Intelligence Agency shall be included in a CIA Theater Force and, through the CIA commander thereof, shall provide espionage and counterintelligence support to military operations in accordance with the requirements of the U. S. Military Theater Commander or the Joint Chiefs of Staff.

b. Such exceptional espionage and counterintelligence operations as may be conducted by the CIA Theater Force in support of national requirements as distinguished from those operations conducted in support of the Military Theater

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Commander shall be coordinated by the Director of Central Intelligence with the Joint Chiefs of Staff.

c. The Director of Central Intelligence and the Joint Chiefs of Staff shall establish procedures for the coordination of liaison between U. S. military commanders and foreign services concerning clandestine matters.