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NATIONAL ARCHIVES AND RECORDS SERVICE
WITHDRAWAL SHEET (PRESIDENTIAL LIBRARIES)

FORM OF DOCUMENT	CORRESPONDENTS OR TITLE	DATE	RESTRICTION
1a. Memo	<p>1. <u>Buchen to Cheney, 3/27/75</u></p> <p>National Security Council Intelligence Directive (29 pp.)</p>	3/21/75	A

FILE LOCATION

Cheney Files
General Subject File
Intelligence - Buchen Memo on Intelligence Reorganization, 3/27/75

Box 7

RESTRICTION CODES

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WHM, 5/17/85

THE WHITE HOUSE

WASHINGTON

March 27, 1975

MEMORANDUM FOR:

RICHARD CHENEY

Following our discussion of March 25, I have been thinking about your idea of preparing to recommend a Presidential initiative for newly defining and controlling the respective functions at the different agencies engaged in foreign intelligence operations and covert activities. You thought of a three-category approach, whereby certain specified types of such operations and activities could be routinely carried on, others would be absolutely prohibited, and a third group would be allowed only after certain prescribed high-level clearances or directions had been given.

As a means of finding out what rethinking of the structural and operational situation was already under way within the Intelligence Community and to demonstrate how complex are the problems of formulating a comprehensive new approach to this subject, I have collected the following:

- (1) A USIB working draft of an overall directive to replace the approximately eight NSCID's under which the different agencies now operate. I understand that work on this draft was begun over a year ago, but that not all paragraphs have yet been given full consideration by USIB and that there is little innovation involved in the proposal made.
- (2) Working draft of February 6, 1975, on "Possible Clarifications in the Law and Changes in Procedures".
- (3) Draft undated which is entitled "Ambiguities and the Law".

I thought you might want to study these and afterwards meet to discuss your impressions.

P.W.B.

Philip W. Buchen

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This form marks the file location of item number 1a as listed
on the pink form (GSA form 7122, Withdrawal Sheet) at the front of the folder.

Protecting against unauthorized disclosures

- attach sanctions to unauthorized disclosure of classified foreign intelligence information and intelligence sources and methods;
- provide for effective injunctive authority;
- responsibility regarding overseas investigation of suspected or discovered disclosures;
- responsibility for investigation, within United States territory, of suspected or discovered disclosures;
- insure that new codification of Title 18 preserves the substance of present Section 798;
- use of information in criminal proceedings where that information has been obtained as a by-product of foreign intelligence collection operations.

Interagency Assistance

- cooperation in R&D;
- loan or supply of equipment;
- detailing personnel to assist in activities which are of interest to more than one agency;
- provision of training in special skills and techniques;
- exchange of information.

Intelligence Community Management

- role and mission of DCI;
- relationships and responsibilities of IC members to the Community and to each other;
- provision of necessary authorities to discharge responsibilities;
- security policy and guidelines for protection of intelligence sources and methods.



6 February 1975

Possible Clarifications in the Law
and Changes in Procedures

Missions and Charters

- CIA

- "foreign" not "domestic" (internal security) intelligence;
- role re intelligence on terrorist threats from abroad and on international illegal drug activities;
- need and authority to carry on certain activities within United States.

- FBI

- responsible for "domestic" (internal security) intelligence and foreign counterintelligence in the United States;
- pursuit of domestic intelligence matters outside United States territory;
- authority for electronic surveillance, mail cover, etc., in connection with foreign counterintelligence activities within the United States.

- NSA

- need and authority to carry on activities within United States.

- All agencies

- need and authority to protect against penetration;
- investigation of applicants and clearance of employees;
- more open statement in general terms of the role and functions of each agency.



Review of Intelligence Activities

- provision for joint committee of Congress;
 - to oversee all intelligence activities on behalf of Congress;
 - to serve as congressional focal point on intelligence matters;
 - to control all classified intelligence information provided to the legislative branch, and to insure proper protection of such information;
 - to facilitate changes in laws affecting intelligence activities;
- audit procedures;
- agreement on ground rules and procedures for legislative branch access to, and handling of, classified intelligence information.



AMBIGUITIES AND THE LAW

CIA, NSA, DIA, FBI and, to some extent, several other Federal Agencies, collect information and produce intelligence, but of different kinds and for different purposes. This is recognized in practice but is not as clearly established in the law. Given some lack of clarity in the law and some uncertainty regarding limits placed on intelligence activities, misunderstanding and fear of abuse of power easily thrive. In reality, however, in the implementation of mission and charters and in direction and control, there are not as many unresolved ambiguities as the uninformed may suppose.

The experience following the National Security Act of 1947 is such that it is now possible to eliminate some of the vagueness of the language of the Act. The certainty and public confidence that should result from clarifications in the law should far outweigh any disadvantages. A number of possible amendments or additions to current laws have already been mentioned, and proposed legislation has already been submitted for some. These ideas and others are suggested, below.



1) Clarify CIA's mission and charter by amending the National Security Act of 1947 to reflect:

--that included in the proper functions of the Agency are (a) collection of foreign intelligence information; (b) conduct of activities to carry out CIA's counter-intelligence responsibilities overseas; and (c) conduct of covert action operations overseas when authorized by the President;

--that CIA's responsibility to produce intelligence relates only to foreign intelligence;

--that it is a duty of the Agency to develop advanced technical equipment to improve the collection and processing of foreign intelligence information; and



--that the conduct of any counterintelligence operation or other activity overseas directed specifically at U. S. citizens (other than CIA employees) will be undertaken in coordination with the FBI or as requested by the FBI or by other USG agencies in coordination with the FBI.

2) Establish the authority for those agencies engaged in the collection and production of foreign intelligence to carry on certain specified activities within the United States, such as:

--protection of classified information and their own installations against penetration and compromise;

--investigation of employees, applicants, and those persons who could assist the U.S. foreign intelligence effort;



--investigation of employees and other individuals to be granted access to sensitive information;

--collection of foreign intelligence information from foreign nationals and from cooperating U.S. citizens;

--establishment of mechanisms in support of foreign intelligence activities; and

--cooperation with the FBI in investigations relating to the unauthorized disclosure of foreign intelligence.

3) Remove uncertainty regarding responsibility for internal security matters by modifying appropriate laws to establish clearly:

--that the collection of counterintelligence information in the United States and the collection of information related to internal security are functions of the FBI;



--that the responsibility for the production of intelligence related to internal security rests with the FBI; and

--that with due regard to assessed reliability of the information and responsibilities for protecting sources and methods, those agencies engaged in foreign intelligence activities will make available to the FBI and other Federal agencies, as appropriate, the security and counterintelligence information relating to foreign nationals in the United States and to U.S. citizens which is derived as a by-product of foreign intelligence activities.

4) Recognize international terrorism and international illegal drug activities as threats to U.S. national security and proper targets for U.S. foreign intelligence efforts, as well as for internal security operations.



5) Provide protection against the unauthorized disclosure of intelligence sources and methods by:

--providing for the protection of intelligence sources and methods on a statutory basis independent of Executive Order 11652;

--clarifying that the Director of Central Intelligence is responsible for protecting intelligence sources and methods related to foreign intelligence and foreign counterintelligence;

--assigning to the Director of the Federal Bureau of Investigation the duty of protecting intelligence sources and methods related to internal security and to counterintelligence within the United States;

--imposing specific burdens, upon officers and employees of all branches of the government and others granted official access, not to disclose such information without authorization,



and providing criminal sanctions for unauthorized disclosures;

--establishing effective injunctive recourse, through the Attorney General, for protection of all intelligence sources and methods;

--providing for in camera judicial review of material revealing intelligence sources and methods when relevant and necessary to criminal and civil proceedings;

--delineating authorities and responsibilities for investigating suspected or discovered unauthorized disclosures by (a) U.S. citizens overseas and (b) all persons within the United States.

6) Delineate areas of interagency assistance that facilitate performance of authorized missions, promote economy of resources, and as a matter of policy are desirable, for example:



- cooperation in research and development of technical collection and information processing equipment, methods and techniques;
- loan or supply of equipment, methods and techniques;
- provision of training in special skills and techniques;
- passage of information derived as a by-product of foreign intelligence activities to those agencies responsible for the matters involved.

A few changes in the procedures for reviewing intelligence activities might add considerable understanding and confidence. Of paramount importance is a form of congressional oversight that permits the provision to Congress of the necessary information in a timely, efficient and controlled manner. It is recognized that a number of Committees in both the Senate and House must be informed of substantive intelligence, operational matters and fiscal details in varying degrees. Just as in the executive branch, the test of access should be



"need-to-know." To apply this test and to control and protect sensitive information provided to Congress, a focal point within Congress would be extremely helpful. Whether a joint committee or not, such a focal point would also be valuable in facilitating changes in laws affecting intelligence activities. Congress might find that a more uniform approach to budget presentation and review would provide better insight and understanding.

The foregoing suggestions are by no means definitive. They do, however, present areas that in the experience of the intelligence community deserve careful attention.

