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PRO LEG

OGC 78-7485
9 November 1978

78-2868/7

OLC 78-5334/5

MEMORANDUM FOR : Director of Central Intelligence

VIA : Deputy Director of Central Intelligence

FROM : Anthony A. Lapham
General Counsel

SUBJECT : Draft Correspondence to Former DCI McCone

REFERENCE : Your Draft Memo Dated 1 November 1978

1. Action Requested: None. This memorandum is in response to your request for comments concerning your draft reply to former DCI McCone's 26 October 1978 report of his correspondence with Senator Cranston.

2. Background: The last full sentence on the first page, in combination with the discussion in the remainder of that paragraph running over to the second page leaves the impression that we notify and brief eight committees. As you know, in actuality we notify seven committees but brief only six since the House Armed Services Committee has dropped out altogether and the Senate Armed Services Committee has agreed that it is satisfied with mere notice.

3. The distinction between civil and criminal litigation could be clarified in the last paragraph on the second page, running over to page three. The second sentence in that paragraph, for instance, should speak of "instituting legal proceedings against" instead of "prosecuting" since that term is appropriate only in a criminal context. For similar reasons, the fourth sentence should refer to similar "actions," rather than "prosecutions," and in the fifth and sixth sentences "act" should be substituted for "prosecute" where it appears. Also, "criminal actions" should be inserted after "prosecute" at the end of the first full sentence on page three.

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4. The following could be substituted for the penultimate paragraph:

> Finally, I would like to be of help to you in commenting to Senator Cranston but the Administration position regarding S.2525 is being developed currently with the Senate Select Committee on Intelligence and may represent such a substantial departure from the bill as introduced that it would not be worth your time to wade through that voluminous document in order to arrive at your assessment. It is my understanding that the committee intends to reintroduce what will essentially be a new version of the bill in the next Congress. I believe it is possible that a very satisfactory proposal, both definitively authorizing and regulating intelligence activities, may be the end result of our close and extensive work with the committee on this important legislation.

5. I understand that Walt Elder previously has supplied Mr. McCone with Agency comments concerning S.2525. If the set of views you propose to send with your letter are duplications of the materials already furnished to Mr. McCone, you might acknowledge instead that he is in possession of the Agency's views in general as to this legislation and that you have asked Walt Elder to continue to keep him informed of further developments.

STAT

Anthony A. Lapham

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