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OLC 78-1736/B

THE DIRECTOR OF CENTRAL INTELLIGENCE

WASHINGTON, D. C. 20505

Office of Legislative Counsel

OLC RECORD COPY

Pro Leg.

5 JUN 1978

Mr. Michael J. O'Neil, Chief Counsel
Permanent Select Committee on Intelligence
House of Representatives
Washington, D.C. 20515

Dear Mike:

To help keep you informed of our interest in current legislation potentially impacting on the Intelligence Community or the Director of Central Intelligence, enclosed is a copy of a letter to the Office of Management and Budget explaining our interest in H.R. 12171, the "Federal Accounting and Auditing Act of 1978." Please let us know if you have any questions regarding this matter.

Sincerely,

SIGNED

[redacted]

Acting Legislative Counsel

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Enclosure

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Central Intelligence Agency
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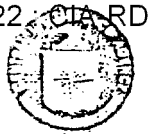

Washington, D.C. 20505

5 June 1978

Mr. James M. Frey
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Frey:

I am writing in response to your request for views on H.R. 12171, the "Federal Accounting and Auditing Act of 1978."

H.R. 12171 would allow the General Accounting Office unlimited access to all information required to verify confidential funds expenditures, including those currently made by Director of Central Intelligence certification pursuant to authority in subsection 8(b) of the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. §403j(b)). If enacted, this would have the operative effect of eliminating confidential funds as a resource available to the Director. Authority to account for expenditure of funds solely on the certificate of an officer of the Government is meaningless if such officer is subsequently required to produce to an external authority complete documentation supporting the expenditure. This authority is particularly crucial where the conduct of sensitive intelligence activities is concerned, and we strongly oppose legislation to override it.

The capability to carry out certain operations in the interests of the United States Government in secret fashion is a capability that has been continued through the nation's history. President Washington, for example, asked for, and was granted, a secret "contingent fund" expenditures authority, for which he could account "by making a certificate of the amount of such expenditure, as he may think it advisable not to specify; and every such certificate shall be deemed a sufficient voucher for the sums therein expressed to have been expended." (Stat. at Large. I. 299) This fund was used by President Washington and successive Presidents in conducting foreign intelligence efforts, and it was well-understood that the existence of the fund was grounded on the need for extreme secrecy in certain matters. This rather special capability comes down to us in present times of more complex government in the form of statutory authority for the President's Director of Central Intelligence to exercise control over the expenditures of confidential funds. This is the Director's "8(b) Authority," cited above, the actual terms of which closely parallel the authority given President Washington.

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