Approved For Release 2006/12/16 : CIA-RDP81M00980R001900060019-6

OGC 78-7951
30 November 1978

OLC 78-3567

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MEMORANDUM FOR: [redacted]
Associate Legislative Counsel

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FROM : [redacted]
Assistant General Counsel

SUBJECT : Application of §236 of the Legislative Reorganization Act of 1970 (31 USC§1176) to CIA

1. The subject statute provides that whenever the General Accounting Office has made a report containing recommendations to the head of any federal agency, that agency shall, within sixty days, submit a report to the House and Senate Committees on Government Operations of action taken with respect to the recommendations made, and shall make a similar report to the Committees on Appropriations in connection with the agency's next request for appropriations. It is the opinion of this Office that this statute applies to the Central Intelligence Agency, subject to the authority of the Director of Central Intelligence under the National Security Act and CIA Act to protect intelligence sources and methods and to specially certify the expenditure of certain funds pursuant to section 8 of the CIA Act.

2. The statute itself is broadly worded in terms which make it applicable whenever GAO makes recommendations "to the head of any federal agency." There is nothing within the language of the statute itself or in its legislative history which would offer a basis on which to conclude that CIA was not intended to be included within the scope of "any federal agency."

3. The Legislative Reorganization Act of 1970 was the first comprehensive statute to reorganize the federal legislature since the Legislative Reorganization Act of 1946, which was the first such enactment in the history of the Congress. The comprehensive nature of this legislation, dealing generally with the congressional committee system, fiscal controls, sources of information, and the Congress as an institution, make it difficult to lightly conclude that its provisions were intended to apply in certain situations but not in others.

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4. Included within the avowed purpose of the bill was the goal of providing the Congress with new sources of information and research, and additional budgeting information.[1] The Congress clearly viewed the requirement for additional information as an essential element in more effectively exercising the spending power accorded it under the Constitution.[2] To the extent that requirements for information are validly linked in this manner to the appropriations power, the authority of Congress to demand such information could hardly be placed on more solid footing.[3]

5. The provision in question, now codified at 31 USC§1176, was enacted on 26 October 1970. It was solely a part of the Senate version of the overall legislation until 8 October 1970, when the House agreed to the Senate amendments.[4] The Senate report on this legislation offers little enlightenment regarding the purpose and scope of this provision not already evident on its face.5

6. Absent some indication in the record that the purpose or scope of the provision in question, as envisioned by the Congress, would not include reports by the Central Intelligence Agency, the language of the provision itself forces us to conclude that such CIA reporting is required in the same manner as it would be for other agencies. However, there is nothing to suggest that this legislation in any way modified the statutory duty of the Director of Central Intelligence to protect intelligence sources and methods.[6] Similarly, the authority of the DCI to specially certify expenditures, with such certifications conclusively deemed sufficient, retains its full vitality in the face of this, as well as any other, GAO authority.[7] The reporting requirement under 31 USC§1176 as applied to CIA is not fundamentally at odds with the DCI special authorities. It is likely that most reporting required under the provision in question could be accomplished without presenting problems of security. To the extent that the respective provisions can be interpreted in a manner consistent with each other, this is what should be done. Accordingly, the appropriate interpretation of the provision in question would seem to be that it requires an Agency report under the

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1. H.Rep.No. 1215, 91st Cong. 2nd Sess. p.3 (1970)
2. id,p. 10; S.Rep.No. 202,91st Cong., 1st Sess. p.10 (1969)
3. U.S. Constitution, art. I,§8, cl1 and 18; art.I, §9,cl 7.
4. 116 Cong. Rec. 35840, 35842 (1970); H.R. 17654, 91st Cong. 2nd Sess.§236 (1970)
5. S.Rep.No. 202, 91st Cong. 1st Sess. 14,35 (1969)
6. 50 USC§403(d)(3); 50 USC&403g
7. 50 USC§403j(b)

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circumstances described to the extent that this may be done without eroding the DCI's responsibility to protect intelligence sources and methods from unauthorized disclosure.

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ROUTING AND RECORD SHEET

SUBJECT: (Optional)

STAT

FROM [redacted]
Assistant General Counsel

EXTENSION

NO. OGC

STAT

DATE 4 Dec. 1978

TO: (Officer designation, room number, and building)	DATE RECEIVED	DATE FORWARDED	OFFICER'S INITIALS	COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)
1. [redacted] Associate Legislative Counsel Rm. 5E11				STAT
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