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24 april 78

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SEC

MEMORANDUM OF UNDERSTANDING BETWEEN THE DIRECTOR OF CENTRAL INTELLIGENCE AND THE MORGAN-SCHMITT SENATE SELECT COMMITTEE ON ETHICS SUBCOMMITTEE (SSCES) REGARDING SUBCOMMITTEE INVESTIGATIONS OF UNAUTHORIZED DISCLOSURES OF INTELLIGENCE INFORMATION

1. The Director of Central Intelligence (DCI) is prepared to cooperate fully in Subcommittee investigations of possible unauthorized disclosures of intelligence information by Members, officers, or employees of the Senate undertaken pursuant to S. Res. 338, 88th Congress (as amended) and S. Res. 400, 94th Congress.

2. The Subcommittee recognizes the DCI's statutory responsibility for the protection of intelligence sources and methods, and the obligation of senior Intelligence Community officials to report serious or continuing breaches of security to the Attorney General in accordance with Section 1-707 of E.O. 12036.

3. The DCI and the Subcommittee are aware that public acknowledgements of investigations of unauthorized disclosures that tend to confirm the authenticity of the information disclosed can jeopardize the intelligence sources and methods involved and do additional damage to U.S. interests.

4. To assist the Subcommittee in its investigations of possible unauthorized disclosures by Members or staff of the Senate, the DCI will, when requested, provide access to relevant classified material originated by the Central Intelligence Agency (CIA). Information not clearly relevant to such investigations will be deleted from any material made available; however, the subject of relevancy in a given situation can be raised for discussion by the Subcommittee and the CIA. Material revealing intelligence sources or methods will be sanitized before being provided to the Subcommittee. All requests for classified material will be in writing. The element which is responsible for conducting liaison with the Subcommittee is the Coordination and Review Staff of the Office of Legislative Counsel; Subcommittee requests for information will be directed exclusively to this component.

5. All classified material to which access is granted will normally be reviewed on CIA premises. Requests for the removal and storage of classified material will be considered on a case-by-case basis. Classified material which is removed will not be reproduced. Upon completion of an investigation of a particular incident any material made available to the Subcommittee by the DCI to support that investigation, and which may still be in the custody of the Subcommittee, will be returned to the DCI. The Subcommittee recognizes and is sensitive to the DCI's statutory responsibility for the protection of intelligence sources and methods and will take appropriate action in those instances where the findings or conclusions of its investigations bear upon this statutory responsibility.

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6. The Coordination and Review Staff of the Office of Legislative Counsel will ensure that notes based on classified material provided by the DCI which are taken by Subcommittee personnel are classified prior to their removal from CIA premises at a level commensurate with the sensitivity of the material reviewed. Classified notes may be stored at a location designated by the Subcommittee provided the storage facility is approved by the DCI.

7. Access by Ethics Committee or Subcommittee personnel to any material which has been designated by the Director of Central Intelligence for protection from unauthorized disclosure will be granted only on the basis of a security clearance which meets the standards established by the DCI and set forth in DCID 1/14, 13 May 1976. Prior to being granted such access, Committee or Subcommittee personnel will execute a nondisclosure agreement which is acceptable to the Subcommittee Chairman and Vice Chairman and to the DCI, and a copy of the agreement will be furnished to the DCI.

8. Subcommittee procedures for access, control or storage of material which the DCI has designated as requiring protection, and of notes derived from such material, will be in accordance with security standards established and approved by the DCI. The Subcommittee accepts full responsibility to ensure proper protection and control of all such material, in accordance with security standards established by the DCI, when such material is in the custody of the Subcommittee.

9. The Subcommittee recognizes that CIA affiliation can be sensitive, and the Subcommittee will not directly contact CIA personnel. Upon request, the DCI will obtain and make available information known to CIA personnel which is relevant to Subcommittee investigations. The Subcommittee agrees to advise the DCI of information coming to its attention regarding the possible involvement of CIA personnel in an unauthorized disclosure so that a full investigation may be undertaken by the CIA in accordance with established procedures.

10. In view of the fact that certain former CIA personnel would be placed in jeopardy by sudden and unexpected disclosure of their past CIA affiliation, the Subcommittee will give the DCI an opportunity to advise it in advance concerning the circumstances of each such person the Subcommittee may wish to interview.

11. If at any time the Subcommittee determines that it wishes to make public any classified information, any information which constitutes intelligence sources or methods, or any information that would tend to confirm the authenticity of the information involved in an unauthorized disclosure, either as an official Subcommittee action or pursuant to the nondisclosure agreement executed by Subcommittee personnel, the Subcommittee will notify the DCI in writing. The DCI shall respond in writing within five working days after receipt of such a communication. If the DCI objects to public disclosure,

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representatives of the DCI and the Subcommittee will meet and attempt to resolve the matter. If these representatives are unable to resolve all points at issue, those remaining points will be taken up by the Chairman of the Senate Select Committee on Ethics and the DCI. If issues still remain following discussion between the Chairman and the DCI, the Chairman will forward these issues to the Senate Select Committee on Intelligence for resolution pursuant to Section 8 of Senate Resolution 400, 94th Congress, 2d Session.

Director of Central Intelligence

24 April 1978
Date

Chairman, Senate Select Committee on Ethics Subcommittee

4-26-78
Date

Vice-Chairman, Senate Select Committee on Ethics Subcommittee

28 April 1978
Date

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