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TRANSMITTAL SLIP | DATE 7/30/82

TO: Bruce Johnson D/ODP

ROOM NO. 2D00 | BUILDING

REMARKS:

FYI copies to ~~BOD~~ ~~DD/A~~ ~~DD/P~~ ~~C/SPS~~

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FROM [redacted] C/LED/OGC

ROOM NO. 7B42 | BUILDING HQS. | EXTENSION [redacted]

FORM NO. 241 1 FEB 55 REPLACES FORM 36-8 WHICH MAY BE USED. (47)

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Central Intelligence Agency

Washington, D.C. 20505

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20 July 1982

Honorable Edward P. Boland, Chairman
Permanent Select Committee on Intelligence
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I would like to convey to you my views on several of the substantive legislative provisions in the Fiscal Year 1983 Intelligence Authorization Act. There are a number of differences between the Senate and House versions of the Bill, and the Senate Bill contains provisions not addressed by the House.

H.R. 6068 as passed by the House of Representatives includes the Drug Enforcement Administration (DEA) among the elements of the United States Government listed in section 101. The Senate version of this section omits the DEA. I believe that the Senate Bill more accurately reflects the current relationship between the DEA and the Intelligence Community. As you know, section 3.4(f) of Executive Order 12333, which defines "Intelligence Community" and lists the agencies within it, does not include the DEA.

Section 402 of H.R. 6068 as passed by the Senate amends the Fiscal Year 1982 Intelligence Authorization Act to permit the Director of Central Intelligence to authorize the employment of additional civilian personnel by the CIA, in numbers not to exceed two percent of the number authorized for the Agency by the Fiscal Year 1982 Act, when it is determined that such action is necessary to the performance of important intelligence functions. The need for this amendment has been the subject of detailed discussion between our respective staffs, and I urge the Committee of Conference to retain the provision.

Section 502 of H.R. 6068 as passed by the Senate amends the Central Intelligence Agency Act of 1949 to remove the constraints placed on CIA automatic data processing (ADP) equipment and services procurement by section 111 of the Federal Property and Administrative Services Act (FPASA)

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(40 U.S.C. § 759). The Central Intelligence Agency must be able to acquire state-of-the-art ADP equipment and services in a timely, efficient, and highly secure manner to conduct its unique intelligence mission. The Congress already has recognized the incompatibility of the section 111 constraints with effective ADP equipment and services acquisition for the conduct of intelligence activities. It has excluded ADP equipment and services acquisition for Department of Defense intelligence activities from the scope of section 111 by virtue of the Fiscal Year 1982 Department of Defense Authorization Act, P.L. 97-86. Extending similar relief from the confines of section 111 to the Central Intelligence Agency will assure that the Agency can provide effective ADP support in the conduct of its mission in the coming decades. I strongly urge the Committee of Conference to retain section 502 of H.R. 6068 as passed by the Senate.

Another matter which the conferees must address is the "former spouses" issue. Title VI of both the House and Senate Bills would apply the provisions of the Foreign Service Act of 1980 regarding the division of retirement and other related benefits in the event of divorce to certain personnel in the two federal retirement systems in which Central Intelligence Agency employees participate. The approaches which the two Bills take, however, are somewhat different. I would like to note briefly some of the more important features of the two Bills in this area and to comment on the differences between them.

As you know, the Agency's General Counsel, Stan Sporkin, testified before your Committee on this subject. We are pleased to see that the concerns expressed in his testimony have been taken into account in the drafting of the legislation. In this regard, we are especially pleased to note that the Committee saw fit to apply the "former spouses" provisions to certain personnel in the Civil Service Retirement and Disability System (CSRDS) as well as the Central Intelligence Agency Retirement and Disability System (CIARDS), and to include a requirement that the former spouse have accompanied the employee spouse abroad for a minimum period of time. We also wish to thank the Committee for taking the time to include various technical amendments which will permit the Agency to correct certain long-standing anomalies in the CIARDS statutory framework. We especially appreciate the willingness of Committee staff to work closely and cooperatively with Agency personnel to address the concerns we raised.

Turning to the differences between the two Bills, I note that the most basic difference is in their overall approach to the subject. The Senate Bill seeks to replicate

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the detailed provisions of the Foreign Service Act of 1980 in this area. The House Bill, on the other hand, simply directs the Director of Central Intelligence to apply the pertinent provisions of that Act by regulation to CIARDS and CSRDS (insofar as it encompasses certain personnel who retire from the Agency). While we are aware of the rationale behind the approach taken by the Senate, I must say that of the two approaches the Agency prefers the one taken by the House. Our reasons for this are two. The first involves what can best be called regulatory flexibility. The Agency's special requirements, such as cover and security, pose unique and ever-changing problems for the administration of our retirement system. These problems can be effectively addressed only if the system contains a degree of flexibility sufficient to meet them. Such flexibility is provided by the grant of authority to the Agency, contained in the House Bill, to adopt and revise the necessary implementing regulations, subject, of course, to the broad mandates of the Foreign Service Act. This grant of authority, in effect, represents the regulatory flexibility that the Agency needs in this area. The House approach is also preferable in that it avoids the possibility that inadvertent errors could be made in attempting to reproduce the intricate provisions of the Foreign Service Act. In sum, I believe that it would be preferable to use the Foreign Service Act as a guide, rather than to attempt to reproduce it in all its complexity.

I must also point out a difference between the two Bills which has caused the Administration some concern. Both versions of the "former spouses" legislation would apply to the CSRDS insofar as it includes certain Agency employees. The House Bill would limit this application to certain Agency employees who retire in CSRDS from the Agency. The Senate Bill, however, does not contain any such limitation and, hence, could apply to an individual who, after meeting the eligibility criteria of the Bill, leaves the Agency and subsequently retires in CSRDS from another government agency. As you know, the CSRDS is administered by the Office of Personnel Management (OPM), and that Office has an interest in this area of the legislation. The limitation in the House Bill was included at OPM's request, along with the provision that requires the regulations for CSRDS to be issued by the Director, OPM, in consultation with the DCI. I am informed that OPM's reason for requesting this limitation is that the amount of administrative effort that would be necessary to follow an affected individual through a career in the Federal Government and to apply the provisions of the legislation in the event of divorce would be quite large. OPM representatives are prepared to discuss this point in more detail at the Conference Committee's convenience.

Approved For Release 2005/07/12 : CIA-RDP84-00933R000200020003-7

Approved For Release 2005/07/12 : CIA-RDP84-00933R000200020003-7

There is one further difference between the two Bills in the "former spouses" area which deserves mention; this is in the matter of the legislation's effective date. The House Bill would make the "former spouses" provisions effective 30 days after enactment; the Senate Bill would allow 90 days. A delay between enactment and effective date was included at our request in order to allow time for the drafting of the necessary regulations and for the implementation of adjustments in the administration of our personnel and retirement systems. We note that the 90-day time frame of the Senate Bill more closely parallels that adopted by the Foreign Service Act (118 days) in this area. We believe that this is appropriate, given the preparations which will be necessary, and we therefore prefer the approach taken in the Senate Bill on this point.

My staff and I stand ready to provide additional information or to assist in any fashion with the conferees' deliberations on the issues which I have discussed, or on any matter related to the Authorization Act.

The Office of Management and Budget has advised that there is no objection to the submission of this report, and that enactment of the Fiscal Year 1983 Intelligence Authorization Act consistent with the comments made above would be in accord with the program of the President.

Sincerely,

William J. Casey

William J. Casey
Director of Central Intelligence

cc: Honorable J. Kenneth Robinson
Ranking Minority Member

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