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CE RAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

OGC Has Reviewed

Honorable Richard L. Thornburgh
Assistant Attorney General
Criminal Division
Department of Justice
Washington, D.C. 20530

Dear Mr. Thornburgh:

In my letter to you dated 29 July I stated that CIA intends to comply fully with 18 U.S.C. 535. I indicated, however, that we would be seeking additional advice and guidance on reporting Federal criminal violations.

STATINTL

Conversations at the staff level were undertaken between [redacted] of my Office and Mr. Boucher in an effort to define in greater detail the reporting procedures which would be followed in order to fully comply with 28 U.S.C. 535. The procedures also sought to take cognizance of the statutory responsibilities of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure and his administrative responsibilities as head of CIA. I have set forth below the results of these staff consultations for your review and approval so that we may be certain that the procedures which we will follow are proper.

STATINTL

Procedures for Reporting Title 18 Violations

1. When allegations are received or complaints made that CIA employees may have violated Title 18 of the United States Code, CIA may investigate such allegations or complaints in an effort to obtain some substantiation. The investigation should not, however, seek total corroboration. Generally, interviews of the individual suspected of committing a crime will not occur but, when such interviews are necessary, Miranda Warnings will be given.

not well result

2. When a case arises in which no suspect can be identified, but it appears that a violation of the Federal Criminal Laws (Title 18) has occurred, CIA will contact the FBI and request the Bureau

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to undertake the investigation. If there are any problems, for example, if the FBI does not want to accept the case, CIA will contact the appropriate U.S. Attorney who may order the FBI into the case if such entry is warranted. Referral of the case to the FBI shall satisfy the reporting requirements set forth in 28 U.S.C. 535, but an information copy of the report to the FBI shall also be sent to the Criminal Division, Department of Justice. If CIA believes that prosecution or Bureau investigation would result in the exposure of classified information or intelligence sources and methods, the case will be reported to the Criminal Division, Department of Justice rather than to the FBI, and Criminal Division will determine the course of action to be pursued.

3. If CIA discovers a prima facie violation of the criminal code and believes that no damage to national security would result from prosecution, information about the case will be reported to the appropriate U.S. Attorney rather than to the Criminal Division, Department of Justice, except that all cases involving bribery or conflict of interest will be referred to the Criminal Division rather than to the U.S. Attorney.

4. When CIA believes that a successful prosecution would require the disclosure of classified information or intelligence sources and methods, the case will be reported to the Criminal Division, Department of Justice. Along with a letter detailing the facts in the case, a separate classified memorandum will be written explaining the security problems which would result if certain types of information needed to prove the elements of the crime were released. Justice may consult with CIA and then will make a determination. Justice will respond in writing on the memorandum and return it to CIA for permanent retention.

5. When information is developed which leads to the conclusion that a crime may have been committed by an individual and that individual is interviewed by CIA, we will inform the individual prior to questioning that he has a constitutional right to remain silent and that anything he does say

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can and will be used as evidence for disciplinary action against him by CIA or possible prosecution by Federal, state, or local authorities. The presence of an attorney, either retained or appointed, seems inappropriate in an essentially administrative investigation conducted by a representative of our Director of Security or Inspector General. We will not, therefore, apprise the individual of the Miranda Right of an attorney, either retained or appointed.

Sincerely,

John S. Warner
General Counsel

APPROVED _____
Richard L. Thornburgh

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