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EO 12065

10 JAN 1978

MEMORANDUM FOR: General Counsel

FROM: Robert W. Gambino
Director of Security

SUBJECT: PRM/NSC-29: Revision of Executive Order 11652

REFERENCE: Memorandum from Office of General Counsel dated 3 January 1978, same subject (OGC 78-0016)

1. In accordance with your request the Office of Security has reviewed the proposed Executive Order entitled "National Security Information" which was forwarded with reference.

2. The following comments are offered:

a. Page 3, sec. 2, paragraph (b)(1): We continue to feel that inclusion of a requirement for the classifying official to weigh "the public's need for the greatest possible access" will provide the basis for unnecessary challenges in court to the proper classification of information.

b. Page 4, sec. 2, paragraph (c), line 8: Recognizing that some information provided in confidence by foreign governments or international organizations may be given on a "personal basis," it is suggested that the final words of this paragraph be amended to read "... by a foreign government or international organization <u>or a representative thereof</u> would satisfy ..."

c. Page 5, sec. 2, paragraph (d)(11): For the same reason outlined above this paragraph should be amended as follows: "... foreign government or international organization <u>or a representative thereof</u>".

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d. Page 5, sec. 2, paragraph (e)(1): It is felt that this paragraph should be strengthened so as to emphasize that although classification may not be used solely to conceal violations of law, etc., information regarding such violations may be classified for other legitimate reasons.

e. Page 7, sec. 2, paragraph (f)(4)(i), line 3: Limitations on the delegation of Top Secret classifying authority "only to principal subordinate officials" in the case of the Director of Central Intelligence would be administratively infeasible, especially if interpretation of "principal subordinate officials" included only the DDCI and the "vice presidents."

f. Page 17, sec. 6, paragraph (c)(1)(ii): The requirement that special access programs involve "reasonably small" numbers of persons will cause distinct problems with reference to existing compartmented programs, e.g., SI, TK, where the number of persons involved are in the tens of thousands. It is suggested that the words "reasonably small and" be deleted from this paragraph.

g. Page 17, sec. 6, paragraph (d), line 4: This paragraph unduly discriminates against historical researchers within the executive branch. It is suggested that the words "outside the executive branch" be deleted.

h. Page 17, sec. 6, paragraph (d)(1): To reemphasize that historical research access to classified information waives only the requirement for an official "need-to-know" justification but continues the need for determining clearability, this paragraph should be revised as follows: "(1) determines in writing that access is consistent with the interests of national security/ and the person engaged in historical research has been determined to be trustworthy;"

STAT

Robert W. Gambino

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