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Central Intelligence Agency

Washington D.C. 20505

OLL 84-3736

Mr. James M. Frey
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Frey:

This letter is in response to your request for the views of the Central Intelligence Agency (CIA) on enrolled bill H.R. 5164, the "Central Intelligence Agency Information Act". This legislation represents the culmination of several years of effort by the CIA to achieve meaningful relief from the unique burdens and serious problems posed to it by the Freedom of Information Act (FOIA).

H.R. 5164 adds a new title VII to the National Security Act of 1947 to allow the Director of Central Intelligence (DCI) to exempt operational files, as defined in the legislation, from the search, review, publication and disclosure requirements of the FOIA. All files of the CIA not falling within the definition of operational files will remain subject to the current requirements of the FOIA. Furthermore, the legislation provides for continued search and review of exempted operational files in response to FOIA requests in the following three areas:

(1) requests from United States citizens or permanent resident aliens seeking information on themselves;

(2) requests concerning any special activity where the existence of the activity is not exempt from disclosure under the FOIA; and

(3) requests concerning the specific subject matter of an investigation conducted by those Congressional committees or Executive Branch agencies designated in the bill.

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H.R. 5164 retains the de novo judicial review provided in the FOIA and specifies how the federal courts shall proceed in litigation filed against the CIA pursuant to this legislation. However, the provisions of the bill will not apply to any civil action filed prior to 7 February 1984. The courts are also given the authority to review whether the DCI has conducted the required decennial review of exempted operational files, consistent with the criteria set forth in the bill, to determine if any of the exemptions can be removed.

There will be close and continuing Congressional oversight of the implementation of this legislation. The bill requires the DCI to file four semi-annual unclassified reports with four designated Congressional committees describing the status of CIA processing of FOIA requests. A provision amending the Privacy Act will prohibit the CIA or any other agency from using the Privacy Act as an exemption (b)(3) withholding statute under the FOIA. The DCI is also required to submit a report by June 1985 on the feasibility of conducting systematic declassification review of CIA information of historical value for release to the public.

The CIA does not expect either an increase or decrease in its costs of processing FOIA requests. The Agency has committed itself to maintain its current resource allocation for FOIA processing for two fiscal years with the goal of substantially reducing, if not eliminating, its two to three year backlog.

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Sincerely,

John N. McMahon
Acting Director of Central Intelligence

Enclosure

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