



Washington, D. C. 20505

SYSTEM II  
91294

24 December 1985

MEMORANDUM FOR: Assistant to the President for National  
Security Affairs

SUBJECT: CIA Secrecy Agreements

1. In light of a recent request from the Information Security Oversight Office (ISOO) that we adopt for Agency use the standard ISOO nondisclosure agreement, we believe it is necessary to reconfirm our position as set forth in our letter to Mr. McFarlane dated 14 December 1983. A copy of that letter is attached.

2. In National Security Decision Directive No. 84 (NSDD-84), the President mandated the institution of certain security practices and procedures designed to improve the protection of classified information within the United States Government. As you know, one feature of the NSDD was a requirement that individuals being granted access to classified information sign, as a condition of such access, a legally binding agreement not to disclose classified information to unauthorized persons. To assist departments and agencies with no expertise in this area, NSDD-84 provided that the Director of ISOO would develop a standardized form that would satisfy the requirements of the NSDD. Such a standardized classified information nondisclosure agreement was promulgated by ISOO and made available for Government-wide use.

3. These efforts to protect classified information go a long way toward upgrading security within the Government and have my full support. Of course, the Central Intelligence Agency (CIA) does not need to use, and will not use the standardized form made available by ISOO, since the execution of a far more stringent Secrecy Agreement is currently required as a condition of CIA employment, and of access to CIA information, and has been required by every Director of Central Intelligence (DCI) as a condition of CIA employment, and access to CIA information, since the CIA was

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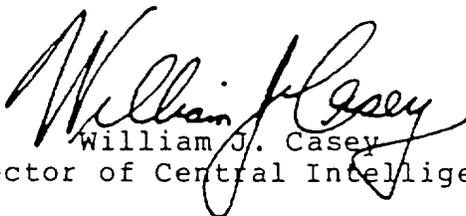
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established. The requirement that such a Secrecy Agreement be executed flows from the responsibility of the DCI to protect intelligence sources and methods from unauthorized disclosure as set forth in section 102(d)(3) of the National Security Act of 1947. This responsibility has also been specifically recognized in National Security Council Intelligence Directive No. 1 and Executive Order 12333.

4. Obviously, NSDD-84 does not purport to divest the DCI of his responsibility under law to set CIA security standards that will ensure the protection of intelligence sources and methods, nor does it even suggest that ISOO's standardized form shall replace the CIA's more stringent Secrecy Agreements (it should be noted that the prototype for such agreements was upheld by the Supreme Court in the Snepp case). Since we do not believe that it was ever intended that the NSDD substitute the judgment of the Director of ISOO for the judgment of the DCI concerning the level of protection necessary to safeguard classified information within CIA, we do not believe the NSDD can reasonably be construed as requiring the CIA to seek ISOO review of its Secrecy Agreements. Accordingly, we do not regard the CIA's Secrecy Agreements as being subject to ISOO or any other review and we do not intend to seek or accept ISOO review, or any other review, of our agreements.

5. Please indicate your concurrence by signing below.

  
William J. Casey  
Director of Central Intelligence

Attachment

CONCUR:

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John M. Poindexter

Central Intelligence Agency

Washington, D.C. 20505

14 DEC 1983

The Honorable Robert C. McFarlane  
Assistant to the President  
for National Security Affairs  
The White House  
Washington, D. C. 20500

Dear Bud:

In National Security Decision Directive No. 84 (NSDD-84), the President mandated the institution of certain security practices and procedures designed to improve the protection of classified information within the United States Government. One feature of the NSDD was a requirement that individuals being granted access to classified information sign, as a condition of such access, a legally binding agreement not to disclose classified information to unauthorized persons. To assist departments and agencies with no expertise in this area, NSDD-84 provided that the Director of the Information Security Oversight Office (ISOO) would develop a standardized form that would satisfy the requirements of the NSDD. Recently, such a standardized classified information nondisclosure agreement was promulgated by ISOO and made available for Government-wide use.

These efforts to protect classified information go a long way toward upgrading security within the Government and have my full support. However, the execution of a far more stringent, legally binding Secrecy Agreement is currently required as a condition of CIA employment and has been required by every Director of Central Intelligence (DCI) as a condition of employment since the CIA was established. The requirement that such a Secrecy Agreement be executed flows from the responsibility of the DCI to protect intelligence sources and methods from unauthorized disclosure as set forth in Section 102(d)(3) of the National Security Act of 1947. This responsibility has also been specifically recognized in National Security Council Intelligence Directive No. 1 and Executive Order 12333. Therefore, the Central Intelligence Agency does not need to use, and does not intend to use, the standardized form made available by ISOO.

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NSDD-84 does not purport to divest the DCI of his responsibility under law to set CIA security standards that will ensure the protection of intelligence sources and methods, nor does it even suggest that ISOO's standardized form shall replace the CIA's more stringent Secrecy Agreement, which was upheld by the Supreme Court in the Snepp case. Since we do not believe it was ever intended that the NSDD substitute the judgment of the Director of ISOO for the judgment of the DCI concerning the level of protection necessary to safeguard classified information within CIA, we do not believe the NSDD can reasonably be construed as requiring the CIA to seek ISOO review of its Secrecy Agreement. Accordingly, we do not regard the CIA's Secrecy Agreement as being subject to ISOO review. We intend to continue the use of our current Form 368 Secrecy Agreement which I am enclosing a copy of for your information.

Yours,

*1s/ William J. Casey*

William J. Casey

Enclosure