

CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

3 January 1977

Honorable Bella S. Abzug, Chairwoman
Subcommittee on Government
Information & Individual Rights
Committee on Government Operations
U. S. House of Representatives
Washington, D. C. 20515

Dear Madam Chairwoman:

This letter is in response to your inquiry as to whether the Federal Records Act applies to the Central Intelligence Agency.

The Federal Records Act was enacted in 1950, as an amendment to the Federal Property and Administrative Services Act (FPAS), and its provisions, as amended, now appear as Chapters 21, 25, 27, 29 and 31 of Title 44 of the U. S. Code. The FPAS Act, originally enacted in 1949 within a few days after the enactment of the CIA Act of 1949, provided in part that nothing therein "shall impair or affect any authority of . . . [the] Central Intelligence Agency," and this proviso was carried over by the 1950 legislation that added the Federal Records Act, as a new Title V, to the FPAS Act. The proviso remains in force and therefore represents a continuing and valid limitation on the applicability of the Federal Records Act to the CIA. We do not understand or consider that the proviso totally exempts the CIA from the requirements of the Federal Records Act, but only that the Agency is not bound by those requirements to the limited extent that they may be in conflict with the Agency's basic authorities and missions.

The matter of the disposal and destruction of Government records is governed not by the Federal Records Act but rather by the provisions of Chapter 33 of Title 44 of the U. S. Code. Those provisions apply broadly to all executive agencies, including CIA. In our view these provisions can and should be administered in a manner that is compatible with the responsibility of the

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5

Director of Central Intelligence, under section 102(d)(3) of the National Security Act of 1947, 50 U.S.C. §403(d)(3), to protect intelligence sources and methods against unauthorized disclosure, and with the implementing language in section 6 of the CIA Act of 1949, 50 U.S.C. §403g, exempting the Agency from the mandate of "any other law" that would require "the publication or disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency."

Sincerely,

Anthony A. Lapham
General Counsel

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