



THE WHITE HOUSE

WASHINGTON

October 2, 1975

MEMORANDUM FOR:

~~PHIL BUCHEN~~
BILL COLBY
HENRY KISSINGER
ED LEVI
JIM LYNN
DON RUMSFELD
JIM SCHLESINGER

FROM:

JACK MARSH

SUBJECT:

Executive Order Establishing
Restrictions on the Intelligence
Agencies

As you know, the President has decided to issue an Executive Order establishing appropriate restrictions on the domestic activities of all agencies and departments in the intelligence community. In view of the work now underway in the Department of Justice to establish appropriate safeguards and restrictions with respect to the Federal Bureau of Investigation, including the FBI's intelligence activities, the President has decided that such an Executive Order should exclude the FBI.

Attached at Tab A is a draft Executive Order establishing appropriate restrictions on the domestic activities of all intelligence agencies except the FBI. This draft Order is based on the work already done by the group established to implement the recommendations of the Rockefeller Commission.

I would appreciate your comments on this draft Executive Order by COB ~~Monday~~ ⁸ay, October 8. To the extent that differences remain, Mike Duval will schedule a meeting of affected agencies to resolve them.

Attachment

Approved For Release 2004/10/28 : CIA-RDP80M01066A000800260010-7

TAB A

Approved For Release 2004/10/28 : CIA-RDP80M01066A000800260010-7

EXECUTIVE ORDER

ESTABLISHING RESTRICTIONS ON FOREIGN
INTELLIGENCE ACTIVITIES

By virtue of the authority vested in me as President of the United States, it is hereby ordered as follows:

SECTION I. Definitions. As used in this Order the following terms shall have the meanings ascribed to them below:

- (a) "Collection" means the gathering and storage, or the gathering and dissemination, of information.
- (b) "United States" includes the United States, its territories, possessions, and the Commonwealth of Puerto Rico.
- (c) "Domestic activities" means activities within the United States.
- (d) "Foreign intelligence" means information, other than foreign counterintelligence, on the capabilities, intentions, and activities of foreign powers or their agents.
- (e) "Foreign counterintelligence" means information on the capabilities, intentions and activities of foreign powers or their agents with respect to their collection, evaluation or dissemination of intelligence about the United States.

(f) "Infiltration" means secret participation in an organization for the purpose of reporting on it.

(g) "Incidental reception" means the receipt of information, whose collection by an agency is otherwise prohibited by this order, during the course of such agency's authorized foreign intelligence or foreign counterintelligence activities, without specific intent to secure such information from a United States citizen and without direction or request from any other agency of the United States Government.

(h) "Foreign intelligence agency" means any department or agency, or division thereof, which is primarily engaged in foreign intelligence or foreign counterintelligence.

SECTION II. The following activities shall not be conducted either by any foreign intelligence agency or by any other department or agency in pursuit of foreign intelligence or foreign counterintelligence:

(a) Collection, evaluation, correlation or analysis, of information concerning the domestic activities of United States citizens; provided, however, that nothing herein shall preclude:

(1) the collection, evaluation, correlation and analysis of information of foreign intelligence or foreign counterintelligence interest derived from public sources; or

(2) the collection, evaluation, correlation and analysis of:

(i) information on current or former employees (including employees of other Federal departments or agencies detailed for service with the foreign intelligence agency); applicants for employment with such agency; actual or imminent voluntary sources or contacts; current and former contractors and current or former employees or applicants for employment by such contractors; and all persons not included above who must be given authorized access to information which could disclose foreign intelligence sources and methods; provided, however, that the same is done only in accordance with law and by authority from the head of such agency to determine the fitness of such persons to become or remain associated with such agency or to have such access, or in the case of a voluntary source or contact, to determine suitability or credibility, or otherwise to the extent the head of such agency determines is necessary to protect foreign intelligence sources and methods from unauthorized disclosure.

(ii) Information from or about a United States citizen collected abroad or from foreign sources in the course of an authorized foreign intelligence or foreign counterintelligence activity.

(iii) Foreign intelligence from United States citizens provided on a witting and voluntary basis. The foreign intelligence agency shall disclose its identity when seeking such foreign intelligence within the United States from United States citizens. When collection of foreign intelligence within the United States from persons who are not United States citizens results in the incidental reception of information from unknowing citizens, however, the receiving agency shall be permitted to make appropriate use of such information as permitted under this Order.

(iv) Administrative information of the kind customarily developed and utilized by departments and agencies of the Federal government.

(3) the transmission of any information concerning criminal activities that is received through incidental reception to any law enforcement agency with appropriate jurisdiction.

(4) the retention of information collected in violation of this Order to maintain a record for possible court action.

(b) Electronic interception of wire or oral communication the specific purpose of which is to obtain the communications of United States citizens within the United States without the consent of the subject or one of the parties thereof or without prior written authorization of the Attorney General.

(c) Testing of electronic surveillance and monitoring equipment within the United States in violation of law. All such tests shall be with the consent of the persons monitored unless:

(1) it is technically impractical to test such surveillance and monitoring equipment in a manner that would include consent; and

(2) any communication intercepted is disclosed only to test engineers and is destroyed immediately upon termination of the test.

(d) Any opening of mail or examination of envelopes contrary to the explicit provisions of United States postal laws and regulations.

(e) Overseas activities other than those intended solely for obtaining necessary foreign intelligence and foreign counter-intelligence or directly supporting such intelligence gathering activities, unless such activities shall have been determined by the President to be important to the national security of the United States.

(f) Infiltration in the United States of any organizations of United States citizens.

(g) Experimentation with drugs on human subjects, except with the informed consent of each such human subject and in accordance with the guidelines of the National Commission for the Protection of Human Subjects for Biomedical and Behavioral Research.

(h) Provision of services, equipment, personnel or facilities to the Law Enforcement Assistance Administration or State or local police organizations of the United States except as expressly authorized by law.

(i) Access to Federal income tax returns or tax information in violation of statutes and regulations.

(j) Physical surveillance of persons within the United States except to the extent that such surveillance is not in violation of the law and is:

(i) Surveillance, in coordination with the Federal Bureau of Investigation, of foreign nationals in the United States in connection with foreign intelligence or counterintelligence operations;

(ii) Surveillance of a person involved with a foreign national under subparagraph (i), but only to the extent necessary to identify such person; or

(iii) Surveillance, upon written approval by the head of the foreign intelligence agency, of individuals currently or formerly employed by that agency, its present or former contractors, or such contractors' employees, for the purpose of protecting foreign intelligence sources and methods from unauthorized disclosure.

(k) Operation of a proprietary company on a commercially competitive basis with United States businesses except to the minimum extent necessary to establish commercial credibility. No investments by a proprietary company shall be made on the basis of any substantive intelligence not available to the public.

SECTION III. No foreign intelligence agency shall participate in or fund any law enforcement activity within the United States except as may be explicitly authorized by law. Provided, that this prohibition shall not preclude:

(a) Cooperation between a foreign intelligence agency and appropriate law enforcement agencies for the purpose of protecting

the personnel and facilities of the foreign intelligence agency or preventing espionage or other criminal activity related to foreign intelligence or foreign counterintelligence; or

(b) Provision of specialized equipment or technical knowledge for use by any other Federal department or agency.

SECTION IV. Foreign intelligence agency personnel may be detailed elsewhere within the Federal government as authorized by law. Employees so detailed shall be responsible to the host agency and shall not report to their parent agency on the affairs of the host agency except as may be directed by that agency. The head of the host agency and any subsequent successor shall be informed of the detailee's association with the parent agency.

SECTION V. Nothing in this Order shall prohibit any agency having law enforcement responsibilities from discharging such responsibilities pursuant to law. Nor shall this Order apply to any activities of the Federal Bureau of Investigation.

SECTION VI. This Order does not set forth all restrictions under which foreign intelligence agencies are obligated to operate, and it shall not be construed to derogate from any other restrictions imposed by law or by applicable administrative rules, regulations, or directives or to limit the authority of the National Security Council or the head of any foreign intelligence agency to promulgate and enforce further restrictions on the activities of such agency.

ROUTING AND RECORD SHEET

Approved For Release 2004/10/28 : CIA-RDP80M01066A000800260010-7

SUBJECT: (Optional)

FROM: John F. Blake DDA		EXTENSION	NO.	
			DATE	
TO: (Officer designation, room number, and building)	DATE		OFFICER'S INITIALS	COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)
	RECEIVED	FORWARDED		
1. <i>DDCT</i>				<p>The attached package relating to the proposed executive order on intelligence activities will be considered at the Director's morning meeting on 10/8. The package includes (a) the proposed order revised by the ADD group as indicated by the interlineations, (b) a clean draft incorporating the changes, (c) a draft of a covering memorandum from Mr. Colby to Mr. Marsh forwarding the revised order and (d) a copy of an OGC memorandum raising a question on the legality of the proposed executive order paragraph on the testing of equipment.</p>
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OFFICIAL ROUTING SLIP

TO	NAME AND ADDRESS	DATE	INITIALS
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ACTION	DIRECT REPLY	PREPARE REPLY
APPROVAL	DISPATCH	RECOMMENDATION
COMMENT	FILE	RETURN
CONCURRENCE	INFORMATION	SIGNATURE

Remarks:

The attached must be closely held. It will be discussed this afternoon at our 5:30 meeting.

- DDCI
- DDO
- DDI
- DDS&T
- DDA
- Assistant to the Director
- IG
- OGC
- D/DCI/IC
- D/DCI/NIO
- OLC
- Comptroller
- D/OCI
- SC/DCI
- Review Staff
- D/ES
- ES

EA/DCI

FOLD HERE TO RETURN TO SENDER			
FROM: NAME, ADDRESS AND PHONE NO.			DATE
DCI			3 Oct 7
UNCLASSIFIED	CONFIDENTIAL	SECRET	

EXECUTIVE REGISTRY FILE

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LER: Please handcarry direct to Secretary of each man. Put PRIORITY sticker on it.