

OLC RECORD COPY

OLC 78-2045/1

31 August 1978

MR.

MEMORANDUM FOR THE RECORD

SUBJECT: "Government in the Sunshine Act" (Pub. L. 94-409, 90 Stat. 1241 (1976)) -- Inapplicability to CIA

1. The Office of Management and Budget, in a follow-up to the President's 9 June 1978 memorandum re "Implementation of the Government in the Sunshine Act," is asking that each agency (as that term is defined by subject Act) provide the following information and materials to OMB by 15 September 1978:

a. The name, title, mailing address, and telephone number of the person or persons within the agency responsible for responding to official or public inquiries about the agency's Sunshine Act regulations, practices and procedures (including location and availability of minutes, transcripts, etc.);

b. A copy of the agency regulations required by Section 3(g) of the Act;

c. A copy of any formal agency procedures, manuals or guidelines for implementing the Act and the related regulations. If there are no formal documents, briefly describe current agency practices in implementing the Act.

2. On 9 June 1978, the President forwarded to the heads of departments and agencies a memorandum urging agencies covered by the Sunshine Act, known as "Sunshine Act agencies" to "respect [the act] by opening to the public as many meetings as possible." Moreover, the President in his memorandum indicates that he has asked the Director of the Office of Management and Budget to compile a record of the number of Sunshine Act agency meetings subject to the Act, noting whether these meetings are open or closed, and if closed, stating the reason for their being closed. This compilation is to be reported to the President and the Congress in compliance with subsection (j) of the Act (5 U.S.C. 552b(j), Pub. L. No. 94-409, 90 Stat. 1241 (1976)).

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3. The Sunshine Act was enacted in 1976 and requires most Federal agencies to open their meetings to the public in an effort to provide the public with the "fullest practicable information regarding the decision-making processes of the Federal Government" (Section 2, Pub. L. No. 94-409). The law also provides certain exemptions in an effort to balance the right of the people to know against "the rights of individuals and the ability of the Government to carry out its responsibilities." (Section 2, supra)

4. As used in the term "agency" (5 U.S.C. 552b(a)(1)) is defined as:

"... any agency ... headed by a collegial body composed of two or more individual members, a majority of whom are appointed to such position by the President with the advice and consent of the Senate, and any subdivision thereof authorized to act on behalf of the agency."
(emphasis added)

5. Accordingly, since not "headed by a collegial body composed of two or more individual members ...," the CIA is a "non-Sunshine Act agency" and is therefore exempt from the provisions of the Sunshine Act.



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