

OLC 78-2002/12

24 July 1978

MR

MEMORANDUM FOR THE RECORD

SUBJECT: "Role of the Ambassador" Amendment (section 119) in H.R. 12598

1. Senator Goldwater sent the Director a short note dated 12 July 1978, which accompanied a staff memorandum for the Senator prepared by Mr. David Bushong. The subject of this memorandum was various provisions in H.R. 12598, the Foreign Relations Authorization Act for FY 79, which the Director discussed with Senator Goldwater on 11 July 1978. In the absence of Mr. Bushong, I spoke today with Mr. Earl Eisenhower regarding the analysis in the memorandum on the "Role of the Ambassador Amendment" (section 119 of H.R. 12598).

2. The specific points I raised with Mr. Eisenhower concerned the following passage from the memorandum, which followed recitation of the present language of the "Role of the Ambassador Legislation" (22 U.S.C. 2680a)*:

"Proponents read this law as consistent with the DCI's responsibility to protect sources and methods from unauthorized disclosure. They argue that ambassadors are authorized recipients as a class but may be denied access at the ad hoc direction of the President. CIA has contested this interpretation, believing that the DCI has a statutory duty to withhold at least some sources and methods information from ambassadors.

"State Department and CIA attempted last fall to resolve their differing interpretations of the statutes."
(Emphasis added)

I told Mr. Eisenhower it was important that any analysis of this problem not explicitly or implicitly leave the impression that it is or has been the position of the DCI that the Director's sources and methods authority

*Section 119 of H.R. 12598 would amend 22 U.S.C. 2680a by inserting the following language therein: "notwithstanding any other provision of law."

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could or should be used to deny an Ambassador information if the President had directed such disclosure. In other words, I said we were concerned the cited language from the memorandum indicated the CIA has argued that the sources and methods authority might override a Presidential determination that certain information should be given to an Ambassador. I said it was our position that the present statutory language afforded the appropriate statutory formulation, whereby the President determines what information U.S. Ambassadors should receive.

3. I also noted to Mr. Eisenhower that insofar as the memorandum implied that the President's authority to withhold information from an Ambassador could be done only on an ad hoc basis, this was not in accord with our view that the prefatory proviso, "under the direction of the President," provided the President complete discretion as to the manner in which Ambassadors would receive information (i.e., a directive could apply to a class of information).

4. Finally, I said that the language of the memorandum could be read to imply that CIA and State had not in fact been able to reach an agreement last year as to interpretations of 22 U.S.C. 2680a. I suggested that, rather than state only that CIA and State "attempted ... to resolve" differences, the memorandum should reflect that there is complete agreement between CIA and State as to 22 U.S.C. 2680a.

5. I told Mr. Eisenhower we would be glad to provide any further information in this regard. He said he would review the memorandum in light of our discussion and would be back in touch if it were not clear we were on the same wavelength.



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