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16 JUN 1975

MEMORANDUM FOR: Deputy Director for Administration

SUBJECT : Meeting with the FBI on FOIA

1. On 12 June 1975 a meeting was held with representatives of the FBI on FOIA. Present from the FBI were

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and the undersigned.

2. The meeting extended over about a two-hour period. The Bureau agreed that the Third Agency material in each of our files was a problem and both the Agency and the Bureau agreed that we would prefer that no other agencies indicate to a requester that it has our material in their files. Bureau representatives also indicated that they find themselves in conflict with the Department of Justice on this material but they feel that if we could discuss the matter with responsible Justice officials and explain our problem, perhaps we could get them to modify their position.

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3. [REDACTED] speaking for the DDO, briefed the Bureau on our position on Third Agency material, i.e., that it is not our material and has been defined out of our files. He said that it was the DDO position that we should stick with this position until the matter is tested in court. DDA representatives were inclined to agree with [REDACTED] but felt that we would probably lose in court and should have a backup position. The Bureau thought that the Agency position was a highly desirable one but said that they already are admitting the existence of Third Agency information on instructions from the Department of Justice.

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4. At the conclusion of the meeting it was agreed that perhaps the best thing to do would be to define our position, both a primary one and a secondary one, and then discuss the matter with appropriate Justice Department officials after

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our problems had been explained to them. It was further agreed that the Agency's position should be:

a. We continue to stick with our definition of files until this position is overturned by the court, or formally rejected in writing by the Department of Justice.

b. If our primary position is rejected, either by the court or Justice, we would treat FOIA requests where Third Agency information is in our files (from the FBI) as follows: (1) We would answer the requester that we have information in the same name as the requester emanating from another Government agency which may or may not be identical with the requester. The requester would be told that the information would be referred to the other Government agency for identification and if identical that Agency would respond to the request.

5. The next course of action, as I see it, is for us to coordinate that position within the Agency, including the General Counsel's office. Once that is done we would arrange with the FBI for another meeting with them which would include their legal counsel and a Department of Justice representative. From that meeting we would hope to get a policy position regarding the Third Agency Rule.

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Charles W. Kane
Director of Security

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DS/CWKane:rjw (13 Jun 75)