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APPENDIX

SIGNIFICANT CHANGES IN NEW PROCEDURES

IMPLEMENTING EXECUTIVE ORDER 12333

1. Simplicity and Operational Orientation - The procedures governing CIA activities have been written in a concise, straightforward manner that is positive in tone and meaningful to operational personnel whose activities will be guided by them. They are divided into an 11-page set governing activities abroad and another 21-page set governing activities in the United States, with detailed appendices for definitions and subjects not of general interest. Together, both sets comprise less than 25% of the number of pages in the existing complex and cumbersome procedures. Further, there will no longer be a need for operational personnel to have additional written guidance to interpret the procedures. Currently, a handbook totalling 130 pages is required for this purpose. The new procedures have been written with an operational perspective in mind by an officer in the Directorate of Operations and an attorney in OGC with the assistance of other operational components. An attempt has been made to accommodate every operational concern within the limits of the law and the new Executive Order. The old procedures were written by an Agency-wide committee. 25X1

2. Approval Authority - Throughout the new procedures an attempt has been made to specify the internal approval requirements for CIA intelligence activities at realistic levels consistent with the new Executive Order, other legal requirements, and relevant policy considerations. The specific approval authorities are as follows: 25X1

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4. Foreign Intelligence Collection in the United States.
The new Order provides that collection of foreign intelligence not otherwise obtainable by CIA and other intelligence agencies other than the FBI may be undertaken in the United States only if the foreign intelligence sought is significant and not undertaken for the purpose of acquiring information concerning the domestic activities of United States persons. The new procedures permit this authority to be exercised only in very limited circumstances. (See V. C.2.a.(2)(b) of the guidance for CIA

activities in the United States). A specific senior official -- the DDO or his designee -- must approve the collection (unlike other collection categories which require only field level approval). He may approve such collection only if "he determines that (i) the foreign intelligence sought is significant (important and material and not merely routine) and cannot reasonably be obtained by any other means, (ii) the subject cannot be advised of CIA's interest because such notification would frustrate the collection or jeopardize or compromise a CIA activity or operation, and (iii) such collection is not undertaken for the purpose of acquiring information concerning the domestic activities of U.S. persons." "Domestic activities" is defined to "mean activities that occur within the United States and do not have a significant connection with a foreign power, person, or organization." In addition, the procedures further limit the exercise of this authority. All foreign intelligence activities in the United States, must be coordinated with the Bureau as specified in the procedures. Moreover, any foreign intelligence collection involving joining or participation in organizations in the United States would have to satisfy the requirements governing undisclosed participation.

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5. Potential Sources and Contacts. Collection of information concerning U.S. persons who are potential sources or contacts beyond records checks is now permitted for security reasons as well as to determine operational suitability. The period for which such information may be kept before approaching the individual is now three years because the existing one year limit has proven to be insufficient to adequately appraise all potential sources. (See V.C.2.a.(1)(a), V.C.2.a.(2)(e), and VI.A.1.c. of the guidance for CIA activities in the United States, and V.C.2.a. and VI.A.1.c. of the guidance for CIA activities outside the United States.)

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7. Counterintelligence Activities in the United States. The procedures have been generally simplified (See VII. B. of the guidance for counterintelligence activities in the United States). Translation assistance may be provided to the FBI and other intelligence agencies without General Counsel approval if CIA personnel do not participate in collection of raw information. Counterintelligence activities other than technical assistance to other agencies still require General Counsel concurrence, DCI or DDCI approval, and coordination with the FBI. Attorney General approval is required only as specified in FBI procedures.

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8. Emergencies. Specific provisions permitting any authorized employee to use standard collection techniques in the United States in situations involving threats to life or physical safety and risks of intelligence loss under carefully defined circumstances have been added. (See IV. E. of the guidance for CIA activities in the United States.) Similar provisions permit the exercise of such authority abroad, including use of special collection techniques (intrusive techniques). (See IV. E. of the guidance for CIA activities abroad.)

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9. Physical Surveillance. The new procedures treat physical surveillance of U.S. persons as a standard collection technique. (See V. C. 1.j. of the guidance for CIA activities in the United States and abroad) This means that the technique may be used for foreign intelligence or counterintelligence purposes without meeting the threshold that the U.S. person is reasonably believed to be acting on behalf of a foreign power as is required under existing procedures. This change is permissible because of changes in the Executive Order. Physical surveillance in the United States will, however, be limited to current and former CIA employees and others with similar associations as required by the Order. (See V. C. 1.j. of the guidance for CIA activities in the United States.) Physical surveillance abroad to collect foreign intelligence is permissible only to obtain significant information that cannot be reasonably be obtained by other means. (See V. C. 3. of the guidance for CIA activities abroad.)

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10. U.S. Persons. The definition of U.S. person has been narrowed to reflect changes in the new Executive Order. The definition now excludes aliens in the United States who are not known by CIA to be permanent resident aliens. The procedures add a new presumption that aliens in the United States are treated as non-U.S. persons unless specific information to the contrary is obtained. The definition also excludes corporations incorporated in the United States that are directed and controlled by a foreign government. (See V. A. in the guidance for CIA activities in the United States and outside the United States.)

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11. International Terrorism. The new procedures define international terrorism in a manner that now encompasses domestic terrorism in foreign nations abroad that do not have international aspects. (See definition of international terrorism in Appendix A to the CIA procedures.)

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12. Dissemination of U.S. Person Information. The new procedures, reflecting the new Executive Order, permit dissemination of information about a U.S. person (other than that derived from electronic surveillance) to other appropriate intelligence agencies such as the FBI without first determining that the information qualifies as foreign intelligence or counterintelligence (or some other category of information). The other agencies must then determine whether or not the information is relevant to their responsibilities and can be retained by them. (See VI. A. 2. of the guidance for CIA activities in the United States and abroad.)

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13. Effective Date. The effective date of the CIA procedures will be seven days after signature by both the DCI and the Attorney General. This period is responsive to a request from the SSCI through its Chief Counsel, Victoria Toensing, that, in lieu of prior review of the procedures by the oversight committees, the committee would appreciate obtaining a copy of the procedures after Attorney General approval but prior to their effective date. Ms. Toensing indicated that seven days would be sufficient.

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Central Intelligence Agency



Washington, D.C. 20505

Honorable William French Smith
Attorney General
Department of Justice
Washington, D.C. 20530

Dear Bill:

Enclosed for your review and approval are draft procedures implementing Executive Order 12333, the new Order on intelligence activities.

Draft procedures governing CIA activities abroad are at Tab A and draft procedures governing CIA activities in the United States that have been coordinated with the FBI are at Tab B. Appendices to both sets are at Tab C. These procedures are written in a concise, straightforward manner that is positive in approach and meaningful to operational personnel whose activities will be guided by them. They would replace earlier complex and cumbersome procedures that are more than four times as lengthy.

In addition to CIA procedures, draft procedures governing FBI counterintelligence activities abroad are at Tab D and another draft governing the conduct and coordination of narcotics activities abroad is at Tab E. These counterintelligence procedures have been coordinated with the FBI and the narcotics procedures have been provided to the Bureau for comment.

It is important that we formalize all of these procedures as soon as possible so that field personnel may benefit from them. As you know, until such time as they are approved, existing procedures, developed under President Carter's Executive Order 12036, will continue to govern CIA activities. I am hopeful that these new procedures can be signed by you and me no later than the end of March 1982. In this regard, I have asked my General Counsel to brief personnel in your Office of Intelligence Policy and Review on the substance of these procedures and to assist in

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their review as much as possible. If you have any questions regarding these procedures, please have your staff contact my General Counsel, Mr. Stanley Sporkin, or of his Office. 25X1

Sincerely,

William J. Casey
Director of Central Intelligence

Enclosures

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