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EO-12036

"Umbrella Procedures"
18 SEP 1978

MEMORANDUM FOR: Assistant for Information, DDA

FROM: Robert W. Gambino
Director of Security

SUBJECT: Department of Justice "Umbrella" Procedures
(E.O. 12036)

REFERENCE: Your request of 31 August for comments
on subject matter

1. The Office of Security has reviewed the 27 July 1978 draft umbrella procedures and offers the following comments.

2. Under the definition of "Consent," page 3, we feel that the provision under (3) is excessive in requiring that a government employee who is the subject of a lawful investigation must be provided with a copy beforehand of the procedures applicable to his investigation. This would seem to apply, for instance, to a Department of Commerce employee who applied for employment with this Agency. The Office of Personnel would have to include in the package of documents provided to all applicants a copy of the above-mentioned procedures.

3. Also with respect to Part (4) of the definition of "Consent," we would object if this can be construed as applicable to an investigation of a contractor employee. In most cases, the subjects of such investigations authorize a Department of Defense representative to conduct a background investigation of them and provide this authorization to an intermediary, such as a witting company security officer who is not an employee of the Agency. The section in question would seem to not permit an investigation because the subject was not witting of the Agency's interest and had no direct contact with any Agency employee.

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Moreover, similar restrictions would apply with respect to covert investigations where an individual has been informed by company officials that he will be investigated, for instance, in order to work on a sensitive project, and gives his consent without knowing that the government is the interested party and will conduct the investigation.

4. Accordingly, we would prefer to see the section in question (Part 4 of the definition under "Consent") amended along the lines of proposed [redacted] Paragraph c(4)(b)(2)(g), to wit: "The subject has expressly consented or has otherwise been informed or has knowledge that inquiries will be made without voicing an objection."

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[redacted]

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Robert W. Gambino

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