

WASHINGTON, D.C. 20505

OGC Has Reviewed

Legislative Counsel

OLC 79-0114/d

25 APR 1979

Mr. James M. Frey  
Assistant Director for  
Legislative Reference  
Office of Management and Budget  
Washington, D.C. 20503

Dear Mr. Frey:

We have received a draft of the most recent changes to Section 5949 and the new Chapter 50 of the Administration's proposed "Classification and Compensation Act of 1979."

While we are pleased to note that cognizance has been taken of our position that the Central Intelligence Agency must be exempted from Section 5949, serious problems remain with regard to the scope and coverage of Chapter 50. On its face, elimination of the Compensation Agent from Chapter 50 would seem to rest the powers described in that Chapter in the President. If this were actually the case we would, of course, take no issue with the proposal. In practice, however, the President undoubtedly will designate an agent to recommend what premium pay and allowance provisions should be established, modified or abolished. It is also clear that this agent will in all likelihood be embodied within the Office of Personnel Management (OPM).

While employment in foreign areas is not covered in Chapter 50, many of CIA's premium pay and allowance provisions would be subject to the Chapter. Thus, the OPM in investigating such pay systems and allowances would, as we have noted previously, gain heretofore unauthorized access to sensitive CIA information and files.

Rather than repeat our previous comments on this subject, I would call to your attention paragraphs three through seven of my letter of 22 March 1979 (copy enclosed). The arguments contained therein, although directed toward the then-proposed Compensation Agent, are of equal applicability to the OPM. Our position on this matter is in conformity with President Carter's expressed desire to limit, indeed to reduce, the proliferation of access to sensitive intelligence information within the government.

The vesting of any authority over Central Intelligence Agency personnel matters in the OPM would create conflict of law problems.

FOIAB

FOIAB5

FOIAB5

Therefore,  
we again recommend that the draft bill be amended as follows:

Amend Subsection 5001(a) by inserting after the phrase "United States Postal Service": "or an employee of the Central Intelligence Agency".

I would appreciate your advising us as to the intentions of your office regarding this proposed amendatory language.

Sincerely,

SIGNED

Frederick P. Hitz  
Legislative Counsel

Enclosure  
As stated

Distribution

Orig - adse

1 - OGC

1 - DDA

1 - OP

1 - OF

1 - IG

1 - Compt

1 - OLC Subject

1 - OLC Chrono

OLC:MDC:RJW:GMC:sf (23 April 1979)

11 JUN 1979

MEMORANDUM FOR: Executive Committee Members

STATINTL FROM

[REDACTED]  
Secretary, Executive Committee

SUBJECT : Agenda for Executive Committee Meeting,  
13 June 1979

The Executive Committee will meet on Wednesday, 13 June, at 2:30  
in the DCI's Conference Room:

Briefing on Title V of the Civil Service Reform  
Act, Merit Pay. This provision links the pay increases  
of managers and supervisors in grades GS-13 through  
GS-15 to their performance, rather than to their  
length of service. The merit pay system should be  
considered within the context of the executive devel-  
opment program recommended by NAPA, and in relation  
to any Senior Executive Service equivalent that is  
developed.

STATINTL

cc: Inspector General  
✓ D/Personnel