

EXECUTIVE ORDERS ON UNITED STATES FOREIGN INTELLIGENCE
ACTIVITIES AND THE U.S. INTELLIGENCE COMMUNITY

by

ANTHONY C. DELEGGE

A MASTER'S REPORT

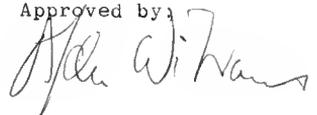
submitted in partial fulfillment of the
requirements for the degree

MASTER OF ARTS

KANSAS STATE UNIVERSITY
Manhattan, Kansas

1988

Approved by:

A handwritten signature in cursive script, appearing to read "Allen Williams", is written over the printed text "Approved by:".

LD
2668
R4
PLSC
1988
D45
C. Z

T A B L E O F C O N T E N T S

CHAPTER	PAGE
1. INTRODUCTION.....	1
2. NATIONAL SECURITY.....	3
3. THE ROLE OF INTELLIGENCE: THE DEBATE.....	7
4. EXECUTIVE ORDERS: MANAGEMENT AND CONTROL.....	15
5. EXECUTIVE ORDER 11905: CALMING THE WATERS.....	19
6. EXECUTIVE ORDER 12036: A NARROW COURSE.....	24
7. EXECUTIVE ORDER 12333: CHANGE OF DIRECTION.....	31
8. CONCLUSION.....	36
REFERENCES.....	39
BIBLIOGRAPHY.....	45
APPENDIXES	
A. <u>UNITED STATES FOREIGN INTELLIGENCE ACTIVITIES</u> <u>EXECUTIVE ORDER 11905. FEBRUARY 18, 1976.....</u>	48
B. <u>UNITED STATES FOREIGN INTELLIGENCE ACTIVITIES</u> <u>Remarks on Signing Executive Order 12036</u> <u>January 24, 1978.....</u>	59
C. <u>UNITED STATES FOREIGN INTELLIGENCE ACTIVITIES</u> <u>EXECUTIVE ORDER 12036. JANUARY 24, 1978.....</u>	64
D. <u>UNITED STATES INTELLIGENCE ACTIVITIES</u> <u>Statement by the President.</u> <u>December 4, 1981.....</u>	87
E. <u>UNITED STATES INTELLIGENCE ACTIVITIES</u> <u>Executive Order 12333 December 4, 1981.....</u>	88

Chapter 1

INTRODUCTION

During the first two decades following the Second World War the United States intelligence community operated for the most part out of the sight and mind of the American public. While subject to periodic investigations and Congressional inquiries, intelligence activities were conducted with a minimum of public knowledge or accountability. The manner in which the United States intelligence community conducted its activities would change in the early 1970's when it became the subject of numerous public and Congressional exposes and investigations. The decade of the 1970's was one of the most turbulent in the history of the intelligence community and brought to the forefront a basic issue: how to balance the secret activities of the intelligence community with the values, rights, and concerns of citizens in a free and open society.

This paper examines changes made in the activities of the United States intelligence community in response to public and Congressional concerns over constitutional and administrative issues related to intelligence activities. The paper focuses on the responsiveness to criticism by the United States intelligence community as implemented through Presidential Executive Orders on United States

Foreign Intelligence Activities and involves a comparative examination of President Ford's Executive Order 11905, President Carter's Executive Order 12036 and President Reagan's Executive Order 12333. These three Executive Orders cover a period of time from February 1976 through December 1981 and are compared with public and Congressional criticism of intelligence activities raised during the period in question. Such an examination provides for an increased understanding of the responsiveness (or nonresponsiveness) of the intelligence community to constitutional and administrative issues related to intelligence activities.

Chapter 2

NATIONAL SECURITY

The National Security Act of 1947 established the overall direction of United States national security and intelligence policies and laid the foundation for the postwar United States intelligence community. Under the National Security Act the National Security Council was established to advise the President with respect to the integration of domestic, foreign and military policies relating to national security. ¹ The Council allowed for the coordination and cooperation of the various Government agencies involved in security and security related issues and allowed the President to monitor all security activities. The Act also established the Central Intelligence Agency for the purposes of:

coordinating the intelligence activities
of the Government departments and agencies
in the interest of national security. 2

As established by the National Security Act of 1947, the CIA, along with other agencies such as the National Security Agency, the State Department, the Department of Defense and the Defense Intelligence Agency, make up what is known as the United States intelligence community. Individually and combined, these agencies contribute to the collection and processing of intelligence and national

security related information.

National security has been and continues to be a major concern for most if not all nations in the world community. The need for a viable defense is a continuing problem involving commitment of both manpower and resources. Retired US Army Lieutenant Colonel Sam Sarkesian defines national security as:

that policy designed to protect the nation from external threat and to project the nation's power into areas of the world in order to create an environment enhancing the nation's capability to carry out these policies. 3

As described in Sarkesian's definition, the United States as a world power maintains a national security policy designed to deal effectively with external threats and project US power into various regions of the world. One aspect of the pursuit of national security following World War II was the enactment of the National Security Act of 1947. The Act was to:

provide a comprehensive program for the future security of the United States; to provide for the establishment of integrated policies and procedures for the departments, agencies, and functions of the Government relating to national security. 4

Both Sarkesian and the National Security Act of 1947 define national security in terms of the process and policies required to establish and maintain national security. However, national security may also be defined as a dynamic popular expectation of relative constitutional

integrity. Under this definition national security involves a general popular feeling that despite occasional problems and uncertainties, an acceptable level of control and security is being maintained. Such a definition may be more appropriate in terms of national security and intelligence activities. While the National Security Act of 1947 and Executive Orders on intelligence provide detailed guidelines on the conduct of such activities, the complex and often classified nature of intelligence work does not lend itself to a strict and comprehensive public accounting. Such a public accounting is further complicated by interagency disagreements and bureaucratic in-fighting within the intelligence community itself. The result is the public acceptance of a condition of national security based upon an often vague understanding of the activities which maintain such a condition.

In A Season of Inquiry, Loch K. Johnson writes that such a vague understanding or hands off approach has helped establish a belief that the "leaders of the intelligence agencies were honorable men who could be relied on to do the right thing."⁵

Public acceptance of such a condition of national security creates a cycle. Intelligence activities are conducted with little public knowledge or interest. As a result periodic exposures and investigations are sensational in nature with the motives and decisions

of even the most honorable men becoming the subject of intense controversy and debate.

During the decade of the 1970's such a cycle spanned three Presidential administrations and involved almost every aspect of intelligence gathering activities performed by the United States intelligence community.

Chapter 3

THE ROLE OF INTELLIGENCE: THE DEBATE

The role of intelligence in United States foreign policy and the control of intelligence activities has been the subject of intense and prolonged debate including almost every aspect of intelligence activities, from the criticism of former intelligence officers to the study of the "protective and informative role" of intelligence as discussed in former Director of Central Intelligence Allen Dulles' The Craft of Intelligence.⁶

During the period 1974 through 1981 the US intelligence community and its activities came under prolonged and intense scrutiny by the mass media, the House, and Senate, and former intelligence operatives. The public questions and criticism raised by the various factions can be divided into two categories:

- 1) Constitutional: criticisms, examinations of executive accountability, prohibitions on certain activities such as political assassination, violations of civil and human rights, oversight, and other considerations inspired and informed by U.S. constitutional and statute law.
- 2) Administrative: organizational problems, structure of the intelligence community, internal management and personnel issues based on procedural and operational requirements less concerned with constitutional issues.

While constitutional issues provided a main focus of investigation during the 1970's, previous studies

on intelligence activities address the issues as well. In 1964 in The Invisible Government, David Wise and Thomas B. Ross present a critical examination of the US intelligence community and the dangers of maintaining such a community. The discussion focuses on what is described as an "invisible government" as compared with the more public and visible functions of the everyday business of running the country. This second, more invisible government serves to gather intelligence, conduct espionage and plans and executes secret operations all over the globe. Such intelligence activities are hidden or invisible and operate outside normal constitutional checks and balances and pose a threat to the very system the activities are designed to protect.⁷

The authors conclude that the secret activities of the government in the area of intelligence can never be totally reconciled with the traditions of a free society and call for more increased control of intelligence and intelligence gathering activities.⁸

The operation of intelligence activities in a free society was questioned in December 1974 in an article published in The New York Times by investigative reporter Seymour Hersch. The allegations stated in the hotly debated article included information that the Central Intelligence Agency (CIA) had violated its charter and had conducted illegal domestic intelligence operations during

the Nixon administration against antiwar groups. Other CIA activities included domestic break-ins, wiretapping and the opening of mail.

The Hersch article sparked both controversy and debate and was followed by other mass media studies. Newsweek continued the investigation and published their findings which decribed President Nixon as "obsessed" with fears that foreign elements were inciting domestic radicals to riot. Further evidence listed one CIA source as acknowledging that the Agency had conducted investigations of campus disorders in the late sixties and early seventies in clear violation of its charter.

The public pressure brought to bear by media attention on the issue of intelligence activities can be seen in the fact that CIA Director William Colby gave at least thirty public speeches between the months of January and May 1975 to portray a more open CIA and to gain public support.

In addition to media interest in constitutional and administrative issues related to intelligence activities, the Congress became involved as well. In Congress during 1976 the House Select Intelligence Committee (the Pike Committee) developed a set of recommendations following its examination of the US intelligence community. The recommendations of the Pike Committee included a prohibition on attempts to

assassinate any individual except during war. Pike

Committee administrative reform involved:

- the creation of the position of Director of Central Intelligence (DCI) for the coordination and oversight of the entire foreign intelligence community;
- empowering of the General Accounting Office (GAO) to conduct full and complete management and financial audits of all intelligence activities;
- establishment of an independent office of the Inspector General for intelligence. 12

As did the House during 1976, the Senate also published its report, the Senate Committee Report on Foreign and Military Intelligence (the Church Committee Report). The Church Committee Report recommended the position of a Director of Central Intelligence (DCI) and prohibition on assassinations. The other recommendations included:

- establishment of a Committee on Foreign Intelligence (CFI);
- General Accounting Office (GAO) auditing of the intelligence community for management and compliance purposes. 13

During the investigations of intelligence activities by the media and Congress, former intelligence operatives also came forth with allegations and exposures of various intelligence operations at home and abroad. Phillip Agee, ex-intelligence officer, and Louis Wolf present a highly critical examination of CIA activities in their book

entitled Dirty Work. Their study and expose of CIA secret operations in several regions of the world presents a negative picture of such activities and calls for the establishment of an international "CIA watch" to monitor CIA activities and operations, "demystify" the CIA and expose the secrecy and illegality of intelligence operations around the world.

14

The extent to which the activities of the CIA and the intelligence community have aroused controversy, distrust and debate may be illustrated by Agee's inclusion in Dirty Work of "Official Biographies", a section which consists of an alphabetical listing of actual or apparent United States intelligence operatives at stations around the world. By the publication of such a listing the authors hope to expose secret or possibly illegal activities to the public and bring controversy, criticism and control to the area of intelligence gathering by CIA and the US

15

intelligence community.

Former intelligence official John Oseth discusses the problems of intelligence and information gathering activities in Regulating US Intelligence Operations. Oseth sees the control of intelligence functions as important but not excessively public in nature. In this, Oseth means that as a republic, the people's voice is expressed through their elected officials. Excessive access to classified information or the abuse of the Freedom of Information

Act may result in a compromise of intelligence operations. Oseth writes that elected officials must be trusted to perform in the best interests of the public in the control and direction of the intelligence community.¹⁶

Where Oseth's analysis favors a condition of national security wherein elected officials are trusted to conduct intelligence activities with a minimum of regulation, other studies outline the apparent abuse of such a low level of interest and monitoring.

In The Puzzle Palace, James Bamford presents a rare and detailed expose of the activities of one of the most secret agencies of the US intelligence community, the National Security Agency (NSA). Bamford describes the NSA as an all powerful, eavesdropping, highly organized and capable government agency which collects masses of data on US citizens at home and abroad. The super-secret NSA is further described by Bamford as having a free hand in the United States for gathering information and on all US citizens leaving the country.¹⁷

While the majority of criticism of intelligence gathering activities addresses constitutional issues, some studies stressed the need for structural and administrative type changes. As discussed earlier, both the House and Senate investigations of 1976 examined constitutional issues but also recommended administrative reforms, recommendations which included the position of Director of

Central Intelligence (DCI) to oversee the administration
18
of the US intelligence community.

In Intelligence Requirements for the 1980's, Roy Godson examines conclusions reached by a panel of experts in the field of intelligence and security. The recommendations of the panel include the need for an improved clandestine collection capability, improvement in analysis and estimates, and overall shortening of lead time for intelligence requirements. The panel discussion did not favor increased legislation for the control of intelligence activities and in fact determined that legal or legislative actions could be more detrimental
19
to intelligence activities than beneficial.

The conclusions reached in Godson's panel study can be seen as administrative in nature, in-house functions which may be remedied or improved by existing or additional regulations and procedures which impact on day to day operations.

Another study approaches administrative problems in the intelligence community from another direction, downplaying the need for bureaucratic control and regulation.

In US Intelligence: Evolution and Anatomy Mark M. Lowenthal observes that reorganizations seldom change intelligence agencies or their method of operation. Lowenthal sees the unique and varied procedures of the intelligence community as being at odds with the regular

and scheduled procedures of normal bureaucratic activity. Attempts at forcing the intelligence community into such stable behavior, according to Lowenthal, may not be successful. Further, the author describes the role of the intelligence community as open-ended in nature, there being no final answers (as situations are subject to sudden change). Lowenthal concludes that given such a unique activity and community, there may be no best organizational model with which to control intelligence gathering activities.²⁰

Since its creation by the National Security Act of 1947 the US intelligence community and its activities have been subjected to periodic investigations and controversy involving both constitutional and administrative issues. Such periodic events, culminating in the turbulent decade of the seventies, give an indication of the problems inherent in the operation of secret information gathering agencies in a free and open society and the control and accountability of such organizations.

Chapter 4

EXECUTIVE ORDERS: MANAGEMENT AND CONTROL

As the United States intelligence community falls under the direction of the Executive branch of Government, the main responsibility for guiding and controlling intelligence activities is with the President. The intelligence community performs its assigned tasks and responds to directives and guidelines as issued by the President or other department heads responsible to the President. Each new President may bring changes or new guidelines for conduct of intelligence activities and each has done so since the National security Act of 1947.²¹ The structure and control of the US intelligence community may be accomplished in three ways; Executive orders, Presidential directives, and agency or department regulations.²² Of the three the Executive Order can be one of the most useful means for providing guidance to the intelligence community as well in addressing public concern and criticism. President Ford used Executive Order 11905 to address both intelligence problems and public concerns. In his message to Congress on February 1976 President Ford said the Executive Order (E.O.11905) establishes "Government-wide direction for the foreign intelligence agencies and places responsibility and accountability on individuals, not institutions".²³

The use of Presidential Executive Orders has not been limited to the area of intelligence. Each US president has used the Executive Order to implement policy and administrative actions with limited Congressional debate or delay.

In 1951 President Truman used Executive Order 10210 to provide authorization for the Department of Defense to expedite procurement activities in the interests of the national defense. Executive Order 10210 waived competitive bidding requirements and directed a clause be inserted in all contracts authorizing the Comptroller General of the United States to have access to, and the right to examine, any information held by a defense contractor in the performance of a Government contract.²⁴ The use of an Executive Order enabled President Truman to implement administrative changes in the field of Government procurement without prolonged debate and delay.

President Kennedy made use of the Executive Order in 1961 to direct the Secretary of State to establish the Peace Corps as part of his approach to foreign policy. Executive Order 10924 established the Peace Corps which was described as being responsible for the training and service abroad of men and women of the United States in the then new programs of assistance to nations and areas of the world.²⁵

President Kennedy made further use of the Executive Order in terms of constitutional issues in 1961 with the signing of Executive Order 10925 which established the President's Committee on Equal Employment Opportunity. E.O. 10925 established the Committee which was responsible for the study of employment practices in the Government and the recommendation of affirmative steps to be taken to realize more fully the goals of the national policy of nondiscrimination.²⁶

Other Executive Orders addressed both constitutional and administrative issues and had a greater impact on Government agencies. In May 1965 President Johnson signed Executive Order 11222 Prescribing Standards of Ethical Conduct for Government Officers and Employees. Executive Order 11222, which remains in effect for all Government employees, outlines ethical standards and behavior for federal employees. The E.O. provides detailed guidance in terms of actual and apparent misconduct, conflict of interest and unethical behavior.²⁷ In signing Executive Order 11222, President Johnson stated the purpose as being to codify, clarify and strengthen ethical conduct and demonstrate that conflicts of interest, or favoritism, or even the appearance that such actions were occurring, would not be tolerated.²⁸

Each Executive Order issued by a President, while not a product of legislation or judicial decision, serves as an

administrative directive which is to be implemented and obeyed in each applicable agency. Noncompliance with an Executive Order such as President Johnson's E.O. 11222 on ethical conduct can result in punitive actions taken against the offending agency or the dismissal of an employee or number of employees from Government service.

The Presidential Executive Order on Foreign Intelligence Activities addresses both constitutional and administrative issues of intelligence. The public debate during the early 1970's accompanied by House and Senate investigations is an indication of the need for Executive Orders on intelligence activities. The E.O. serves as a public affirmation of Presidential control and accountability of the intelligence community while dealing directly with the problems of oversight and restrictions on intelligence gathering activities. As such the Executive Order can be seen as responsive to the criticisms and investigations and a positive means for the direction of intelligence activities.

Chapter 5

EXECUTIVE ORDER 11905: CALMING THE WATERS

In January of 1974 Gerald Ford assumed Presidential control of an intelligence community under seige. The revelations of Watergate and continued investigations of intelligence activities resulted in the erosion of public confidence and trust in the intelligence community and a reduction in the morale and effectiveness of the community itself. Finally, in February 1976 President Ford signed Executive Order 11905, a document described by John Oseth as:

truly unprecedented in scope ...[It] was clearly intended to be the open, public charter that many critics had been advocating for some time. 29

Signing Executive Order 11905 Foreign Intelligence Activities February 1976, President Ford in his message to the Congress described the document as one that established clear accountability for the nation's foreign intelligence community and set forth strict controls on activities in which those agencies could become involved or participate.³⁰

In the public and Congressional criticisms and investigations of intelligence activities much of the focus had been on the moral, legal and constitutional issues raised by covert and other activities. E.O. 11905

addressed such concerns and does include restrictions and increased guidance.

One of the most controversial constitutional issues brought to light in the investigation of intelligence activities is in the area of political assassination. While not specifically prohibited by the Constitution, the use of political assassination by a Government agency involves not only political considerations, but raises ethical and moral issues stemming from well established American Constitutional and cultural values concerning the sanctity of human life.

While a number of the prohibitions on intelligence activities may be subject to other laws or exemptions, the prohibition on assassination is stated in a direct and concise manner:

No employee of the United States
Government may engage in, or conspire
to engage in, political assassination. 31

Such a direct prohibition reflects the President Ford's stated concern over the control of "abuses and questionable activities" on the part of the intelligence community.³²

In addition to the prohibition on assassination, E.O. 11905 specifically prohibits the US intelligence community from engaging in the physical surveillance of a United States person, unconsented physical searches, the opening

of mail, the collection of information on domestic activities and infiltration of any organization within the United States for the purposes of reporting on or influencing members. The above prohibitions of E.O. 11905 provide clear guidance for restrictions on certain activities, although subject to some exemptions or other current US law.³³

Another aspect of E.O. 11905 responsive to criticism is Section 5 (d) which addressed the issue of experimentation on human subjects by placing a direct prohibition on such activities unless conducted under established guidelines.³⁴

Executive Order 11905 addressed constitutional issues but also included administrative concerns by providing guidance designed to improve intelligence information gathering activities and encourage a more responsive intelligence community.

Section 3, Para.(b) 1-5 emphasized individual responsibility and accountability by describing the duties of the Committee on Foreign Intelligence (CFI) which is composed of the Director of Central Intelligence (DCI), Deputy Secretary of Defense for Intelligence, and the Deputy Assistant to the President for National Security Affairs. The CFI reports to the National Security Council and its duties include budget control and establishment of policy for the National Foreign Intelligence Program, and

continuing guidance to the intelligence community to ensure compliance with the policy directives of the National Security Council.

35

Executive Order 11905 discussed the role of the CFI and further expands the responsibilities of the Director of Central Intelligence (DCI), a position established by the National Security Act of 1947. Under E.O. 11905 the DCI chairs the Committee on Foreign Intelligence (CFI) and is responsible to the President and National Security Council as primary advisor on foreign intelligence. Further DCI duties include development of intelligence programs, ensuring strong Inspector General capabilities and serving as the principal spokesman to Congress for the intelligence community.

36

E.O. 11905 also provided for additional administrative oversight of intelligence organizations in Section 6, Paragraphs a through d by the establishment of an Intelligence Oversight Board which consists of three members from outside the Government, appointed by the President. The Oversight Board receives and considers reports by the Inspector General and General Counsels of the intelligence community concerning activities that raise questions of legality or propriety. The Oversight Board also reviews the practices and procedures of the Inspector General and General Councils, the internal

guidelines of the intelligence community; it reports to the President and Attorney General on questions of legality or propriety in a timely manner.

Section 6 (b) of Executive Order 11905 outlined the responsibilities of the Inspector General and General Councils within the intelligence community. Both offices are required to report to the Oversight Board those activities which raise questions of legality or propriety. More importantly, they are required to report any occasion on which they are directed by their agency or department heads not to submit a report involving questionable activities to the Oversight Board.

Taken as a whole President Ford's Executive Order 11905 on Foreign Intelligence Activities signed in February 1976 can be seen as a document which addressed constitutional and administrative issues of the intelligence community brought to light by public concern media examination and Congressional investigation.

Prohibitions on surveillance, human experimentation, and political assassination, and the implementation of oversight bodies served to make Executive Order 11905 a responsive measure for the control and accountability of intelligence activities. It further served as a public affirmation of the desire for control of past abuses and the prevention of continued illegal or improper activities on the part of the US intelligence community.

Chapter 6

EXECUTIVE ORDER 12036: A NARROW COURSE

The election of Jimmy Carter as President in January 1976 was accompanied by the establishment of an administration which favored open government, an aggressive human rights policy and increased control of intelligence activities. In order to establish such control President Carter signed Executive Order 12036, the most lengthy and comprehensive of the Executive Orders examined. In signing E.O. 12036 in January 1976 President Carter stated that the order demonstrates:

we can fully protect our Nation and do so within the law, and not only do it better than under a circumstance which permits us to resort to illegality. 39

Both President Carter's remarks and the content of E.O. 12036 make it the most responsive to public criticism and concern. The E.O. continued the restrictions on experimentation and assassination established under Executive Order 11905 and increased controls on intelligence activities in general. The Executive Order 12036 also established oversight committees which were accountable to the President and responsible for monitoring intelligence activities.

Under E.O. 12036 the duties of the Director of Central Intelligence were reexamined. The DCI continued

to serve as the spokesperson to Congress, making for continued public accountability. The responsive nature of President Carter's E.O. may be reflected in his choice for the position of DCI. Concerned with the need for intelligence while controlling past abuses, the President designated Admiral Stansfield Turner as DCI. Turner wrote of his duties as DCI:

one of my first and most urgent concerns was to put CIA's much criticized past behind us. Neither the CIA nor I wanted to push problems under the rug, so I resolved to address them directly, make whatever changes were needed to prevent reoccurrence, and move on to the work we were being paid to do. 40

President Carter's E.O. 12036 addressed many of the same constitutional and administrative issues, in some cases building on to what was established under E.O. 11905.

In order to ensure that foreign intelligence and counterintelligence activities are conducted in full accordance with the law, E.O. 12036 went further in terms of restrictions than Ford's Executive Order 11905. Restrictions on both human experimentation and assassination are expressed in stronger terms than previously. The intelligence community is specifically prohibited from sponsoring, contracting for, or conducting research on human subjects except under Department of Health, Education and Welfare guidelines. E.O. 12036 also requires the documented consent of the subject.⁴¹

In the controversial area of political assassination E.O. 12036 prohibits persons employed by the US Government to engage in such activities and went even further than the previous E.O. by including persons acting on behalf of
42
the US Government.

Further expanding on Executive Order 11905, E.O. 12036 places restrictions on special activities and indirect participation in prohibited activities by US Government personnel. The conduct of special activities (activities conducted abroad in support of national foreign policy objectives where the role of the United States is not apparent or acknowledged) is limited to the Central Intelligence Agency or the military in the event of war, as directed by the President. In addition the intelligence community is prohibited from requesting or encouraging persons, organizations or governments to
43
undertake prohibited activities.

In E.O. 11905 foreign intelligence agencies are prohibited from conducting electronic surveillance in the United States and against US citizens abroad except under certain conditions and guidelines. In President Carter's E.O. 12036, Section 2, Paragraph 2-202 strengthens the past prohibition by directly prohibiting the Central Intelligence Agency from conducting such activity in the United States. Further limitations apply on the testing of sur-

veillance and electronic equipment, the scope of such
testing and the use of the results of such tests.⁴⁴

Whereas E.O. 11905 presented guidelines for the collection of information on the domestic activities of US citizens, E.O. 12036 presents a more direct and detailed prohibition on such collection activities. Section 2, Paragraph 2-208 of E.O. 12036 prohibits any agency from the US intelligence community from collecting what is described as nonpublicly available information without the consent of the persons investigated or as proscribed by law. The collection, storage and dissemination of such information is limited under E.O. 12036 to certain types, such as overhead reconnaissance, necessary to fulfill lawful investigations.⁴⁵ The more clearly defined limits for intelligence agencies in the collection of information under E.O. 12036 provided for a more controlled and responsible use of such information.

Administratively, E.O. 12036 continued the Intelligence Oversight Board as established under E.O. 11905. While maintaining essentially the same role for the Oversight Board, E.O. 12036 expands the duties of the Attorney General. In addition to receiving and considering reports and reporting to the President, the Attorney General under E.O. 12036 establishes and/or approves procedures for the conduct of intelligence activities and ensures such activities are in compliance

with law, and protect constitutional rights and privacy. The Attorney General ensures intelligence activities directed against a United States person are by the least intrusive means possible.⁴⁶

Under E.O. 12036 the role of the Director of Central Intelligence was expanded also. The E.O. includes new directives for the DCI and heads of agencies and departments in terms of accountability. Whereas E.O. 11905 required the DCI to act as principal spokesman to the Congress, E.O. 12036 elaborates on such reporting. Under E.O. 12036 the DCI and heads of the agencies as directed by the President and in accordance with applicable authorities and duties, shall keep the Permanent Select Committees of the House and Senate on Intelligence fully and currently informed with regard to intelligence activities. They may further be directed to provide any information or document at the request of Congressional committees and report in a timely fashion information relating to intelligence activities that are illegal or improper and the corrective actions taken or planned.⁴⁷

To coordinate and control the activities of the US intelligence community further and to provide additional guidance to the President on intelligence activities, E.O. 12036 redefined the role of the National Security Council. Under E.O. 12036 the NSC includes two committees, the Policy Review Committee (PRC) and the Special Coordinating

Committee (SCC). As described by President Carter and in the E.O. the PRC is chaired by the Director of Central Intelligence (DCI) and is charged with defining and establishing priorities for consumer requirements for intelligence, monitoring budget decisions and evaluating analytical products. Such duties are to serve to ensure that the needs of the most important intelligence users guide the entire process.

48

The Special Coordinating Committee is chaired by the Assistant to the President for National security Affairs and reviews and makes recommendations to the President on the most sensitive intelligence activities. The SCC is also concerned with the development and coordination of all counterintelligence activities.

49

Other oversight aspects of E.O. 12036 included a National Foreign Intelligence Board (NFIB) and the National Intelligence Tasking Center (NITC). The NFIB serves to advise the Director of Central Intelligence concerning collection, processing and coordinating national foreign intelligence budget issues, intra-agency exchanges of information and other matters of common concern.

50

The NITC under the direction of the DCI has the responsibility for the coordinating and tasking national foreign intelligence collection activities. The NITC also has the authority to resolve conflicts of priority.

51

Overall, Executive Order 12036 reflects the open approach toward government activities and increased public accountability taken during the Carter administration. E.O. 12036 built on the previous Executive Order and further defined and addressed constitutional issues. The roles of the various agencies and agency heads are expanded and the duties made clear thus allowing for better understanding of responsibilities and performance. E.O. 12036 also provided for more oversight capability to lessen the incidence of illegal or improper activities by the intelligence community. Such increased control and accountability allows for a more responsive approach to the abuses and illegal activities of the past and provides the President with clear and well defined guidelines for directing the US intelligence community while providing reassurance to the public in terms of the proper use of intelligence capabilities.

Chapter 7

EXECUTIVE ORDER 12333: CHANGE OF DIRECTION

With the signing of Executive Order 12333, United States Foreign Intelligence Activities, December 4, 1981 President Reagan promulgated an Executive document which he hoped would "provide America's intelligence community with clearer, more positive guidance and to remove the aura of suspicion and mistrust that can hobble our nation's intelligence efforts."⁵²

Executive Order 12333 addresses both constitutional and administrative issues involving the US intelligence community. E.O. 12333 reflects the "Reagan revolution" approach which involves a strong military capability and aggressive foreign policy. Such an approach also includes the rebuilding of intelligence capabilities alleged to have been weakened during the crisis plagued seventies and the Carter administration.

Where President Carter's E.O. stressed control and accountability, President Reagan's E.O. 12333 seems to stress an aggressive collection effort guided by streamlined if not specific regulations. As President Reagan stated upon signing the E.O.:

As we move into the 1980's, we need to free ourselves from the negative attitudes of the past and look to meeting the needs of the country. 53

In order to meet those needs the President changed many of the aspects of E.O. 12036, deleting and restructuring the oversight capabilities. The prohibitions on some activities remain, but the overall approach is one of simplified procedures. In E.O. 12333 the President takes the responsibility for the activities of the intelligence community and implies the need for a public reliance on the President and the intelligence community to "do the right thing". If not totally nonresponsive to public concerns, E.O. 12333 seems a document more open to ambiguity and interpretation. Under E.O. 12333 the prohibitions established by previous E.O.s in terms of human experimentation and political assassination remain essentially unchanged.

A comparison of E.O. 12333 and President Carter's E.O. 12036 helps to illustrate the difference in approaches taken by the Presidents in the area of intelligence activities:

E.O. 12333 - 2.12 Indirect Participation. No agency of the Intelligence Community shall participate in or request any person to undertake activities forbidden by this Order. 54

E.O. 12036 - 2-307 Restrictions on Indirect Participation in Prohibited Activities. No agency of the Intelligence Community shall request or otherwise encourage, directly or indirectly, any person, organization or government agency to undertake activities prohibited by this Order or applicable law. 55

While at first examination a simplified and clearer approach to prohibiting certain activities, E.O. 12333 may allow for a more ambiguous interpretation as it has deleted all other phrasing which in E.O. 12036 clearly established restrictions on participation in illegal activities by any Government agency.

The emphasis on increased capabilities under E.O. 12333 is evident in Part 2, Para. 2.1. The collection of information is to be pursued in a "vigorous, innovative and responsible manner" while remaining consistent with the Constitution and principles upon which the United States was founded. Executive Order 12333 thus takes a more aggressive approach to the collection of information than previous E.O.'s. Concerns over such collection activities are addressed under general Constitutional principles, open to interpretation and less than⁵⁶ regulatory in nature.

Under Part 2 Para. 2.5 of E.O. 12333 the Attorney General is delegated the power to approve the use for intelligence purposes of any technique for which a warrant would be required. Such authority may be used within the US or against US persons abroad, expanding the role and power of the Attorney General and reducing the duties⁵⁷ outlined under the previous E.O. 12036.

In terms of oversight under E.O. 12333, accountability is reduced from previously established

guidelines. The Director of Central Intelligence (DCI) and the heads of agencies are to cooperate with Congress in the oversight of intelligence activities. Such coordination is to be conducted not in accordance with E.O. 12333 per se, but in terms of general procedures established by United States Code 413, the Foreign Assistance Act of 1961⁵⁸ and the National Security Act of 1947.

As a supplement to E.O. 12333 President Reagan also signed E.O. 12334 President's Intelligence Oversight Board on December 4, 1981, to address the issue of the oversight and accountability of the intelligence community and as a reassurance of continued responsibility and accountability. Members of the board are appointed by the President and the board consists of three members. The responsibilities of the board include informing the President of activities believed by the board to be in violation of the law, and review internal guidelines of the intelligence community in terms of lawfulness and conducting investigations. The Board reports directly to the President and may reveal classified information obtained under its duties only to the President or persons⁵⁹ designated by the President.

While the President's Intelligence Oversight Board may investigate and provide information to the President, Congressional involvement in such a board and throughout Executive Order 12333 appears to be held to a minimum.

E.O. 12333 involves a less aggressive approach to the constitutional issues and presents a more streamlined approach to the administrative issues.

Such approaches place total direction and controls as well as accountability in the office of the President. While the document is clearer and more direct in parts, the simplified wording and deletions from the previous Executive Order may allow for a more ambiguous document, less responsive in nature to public concerns and more open to interpretation and debate.

Chapter 9

CONCLUSION

Executive Orders on foreign intelligence activities as discussed in this paper have provided control and accountability of the US intelligence community partly in response to public and Congressional concern over the conduct of intelligence activities. Publicly signed and issued by the President of each new administration, the Executive Orders provide a means of setting guidelines for the intelligence community which is responsible to the President and for reassuring the public that intelligence activities are conducted under law and in the public interest.

Presidential executive orders on foreign intelligence activities are similar in that each addresses both constitutional and administrative issues. These include:

- Assassination/experimentation: All three E.O.s prohibit such activities and can be seen as responsive to public concerns.
- Oversight: Each E.O. addresses the problem of oversight of intelligence activities. Oversight boards, committees and separate offices respond to the problems of legality and propriety.
- Organization: The E.O.s examined all address in specific terms the duties, responsibilities and titles of each agency of the intelligence community.

In addition to addressing public concerns over the conduct of intelligence activities, the Executive Orders were written with a larger audience in mind. All three serve as operational documents for the control of the intelligence community and are further designed to retain the control of the intelligence community within the Office of the President. All oversight committees and agency heads report to the President, the President remaining solely responsible for accounting to the public and to the Congress. While each E.O. varies somewhat, reflecting the policies of the President who signs it, the Executive Order as a policy tool serves to retain the intelligence community, including the CIA, as the "...quiet intelligence arm of the President."⁶⁰

An examination of Executive Orders on Foreign Intelligence Activities brings to light the same apparent paradox present in the existence of a secret information gathering organization in a free and open society. On one hand is the valid need for continuous and factual information on the intentions and capabilities of both friendly and hostile nations. On the other hand are the values, concerns and rights of free citizens in a democratic society, citizens with a vested interest in the actions and foreign policy decisions made by their government.

The Executive Order serves both purposes by providing for control and accountability of intelligence activities while addressing public concerns and publicly committing the President to the guidelines and restrictions stated therein.

No single document can provide all the answers, particularly in the complex and controversial field of intelligence. At best, the Executive Order provides a framework, a public agreement on control and accountability of the intelligence community. It provides the public with a rare means for holding its elected officials responsible for the secret and often controversial activities conducted in its name.

REFERENCES

1 "National Security Act of 1947" United States Statutes at Large 1947, Volume 61, Part 1. (Washington D.C.: GPO 1948), Section 10, 101 (a).

2 Ibid., Sect. 102 (d).

3 Sam C. Sarkesian. "Presidential Leadership and National Security Policy" National Security Strategy, ed. Stephan J. Cimbala (New York: Prager Publishers 1984), p. 300.

4 "National Security Act of 1947" United States Statutes at Large 1947, Volume 61, Part 1. (Washington D.C.: US Government Printing Office, 1948), Sect.2.

5 Loch K. Johnson. A Season of Inquiry (Lexington, Kentucky: The University Press of Kentucky, 1985), p. 7.

6 Allen Dulles. The Craft of Intelligence (New York: Harper & Row Publishers, 1963), p. 264.

7 David Wise and Thomas B. Ross. The Invisible Government (New York: Random House, 1964), p. 3.

8 Ibid., p.356.

9 Seymour Hersch. "Huge CIA Operation Reported in U.S. Against Antiwar Forces, Other Dissidents in Nixon Years," The New York Times, December 22, 1974, 1975, p. 1.

10 "A New CIA Furor," Newsweek, January 6, 1975, pp. 10-12.

11 "The CIA Going Public," Newsweek, May 26, 1975, pp. 32-33.

12 Tyrus G. Fain. The Intelligence Community (New York: R. R. Bunker Co. 1977), pp. 603-609.

13 Judith F. Buncher and others. "Excerpts from Senate Committee Report on Foreign and Military Intelligence," The CIA and the Security Debate: 1975-1976 (New York: Facts on File, 1977), pp. 39-42.

14 Phillip Agee and Louis Wolf. Dirty Work, The CIA in Western Europe (Secaucus, NY: Lyle Stuart Inc./C.I. Publications Inc., 1978), p. 15.

15 Ibid., p. 319.

16 John Oseth. Regulating US intelligence Operations (Lexington, Ky: The University of Kentucky Press 1985), pp. 184-186.

17 James Bamford. The Puzzle Palace (New York: Penguin Books, 1983), p. 468.

18 Buncher (ed.), Op. cit., pp. 39-42.

19 Roy Godson. Intelligence Requirements for the 1980's: Elements of Intelligence. (Washington D.C.: National Strategy Information Center, 1979), p. 5.

20 Mark Lowenthal. US Intelligence. Evolution and Anatomy (Washington D.C.: Praeger Publishers, 1984), pp. 114-115.

21 Stafford T. Thomas. The US Intelligence Community (Lanham, MD: University Press of America, 1983), p. 23.

22 Jeffrey Richelson. The US Intelligence Community (Cambridge, Mass: Ballinger Publishing Co., 1985), p. 263.

23 "Executive Order 11905" Weekly Compilation of Presidential Documents Monday, February 23, 1976 Vol.12 No.8. (Washington D.C.: Office of the Federal Register, National Archives and Records Services), p. 243.

24 "Executive Order 10210" Federal Register Volume 16 Number 25 Tuesday, February 6, 1951 (Washington D.C.: GPO 1951), pp. 1049-1051.

25 "Executive Order 10924. The Establishment and Administration of the Peace Corps in the Department of State" Federal Register, Volume 26 Number 40 Thursday, March 2, 1961 (Washington D.C.: GPO, 1961), p. 1789.

26 "Executive Order 10925. Establishing the President's Committee on Equal Employment Opportunity" Federal Register, Volume 26 Number 44 Wednesday, March 8, 1961 (Washington D.C.:GPO).

27 "Executive Order 11222. Prescribing Standards of Ethical Conduct for Government Officers and Employees" Federal Register, Tuesday May 11, 1965 (Washington D.C.: GPO 1965), p. 6469.

28 "Statement by the President Upon Issuing Order Prescribing Standards of Ethical Conduct for Government Officers and Employees. May 9, 1965" Public Papers of the Presidents of the United States Containing the Public Messages, Speeches and Statements of the President. Lyndon B. Johnson 1965., Book 1 January 1 to May 31, 1965 (Washington D.C.: Office of the Federal Register National Records and Archives Service 1965), p. 240.

29 Oseth, Op. cit., p. 91.

30 "Executive Order 11905" Weekly Compilation of Presidential Documents, Monday, February 23, 1976 Volume 12, Number 8 (Washington D.C.: Office of the Federal Register National Archives and Records Services 1976), p. 243.

31 Ibid., p. 241.

32 "Executive Order 11905," Op. cit., p. 243.

33 Ibid., pp. 240-241.

34 Ibid.

35 Ibid., pp. 235-236.

36 Ibid.

37 Ibid., pp. 241-243.

38 Ibid.

39 "Executive Order 12036," Op. cit., p. 190.

40 Stansfield Turner. Secrecy and Democracy. The CIA in Transition (Boston: Houghton Mifflin Co., 1985), p. 39.

41 "US Foreign Intelligence Activities Executive Order 12036 January 24, 1978" Weekly Compilation of Presidential Documents Monday, January 30, 1978, Vol. 14, No.4 (Washington D.C.: Office of the Federal Register, National Archives and Records Services), p. 209.

42 Ibid., p. 209.

43 Ibid.

44 Ibid., p. 207.

45 Ibid., p. 208.

46 Ibid., p. 211.

47 Ibid., p. 212.

48 Ibid., p. 215.

49 Ibid.

50 Ibid., p. 197.

51 Ibid., p. 198.

52 "Statement on United States Foreign Intelligence Activities December 4, 1981" Public Papers of the Presidents of the United States Containing the Public Messages, Speeches and Statements of the Presidents. Ronald Reagan 1981 (Washington D.C.: Government Printing Office, 1982), p. 1126.

53 "Executive Order 12333," Op. cit., p. 1127.

54 Ibid., p. 1137.

55 "Executive Order 12036," Op. cit., p. 209.

56 "Executive Order 12333 United States Foreign Intelligence Activities December 4, 1981" Public Papers of the Presidents of the United States Containing the Public Messages, Speeches and Statements of the Presidents. Ronald Reagan 1981 (Washington D.C.: US Government Printing Office, 1982), p. 1137.

57 Ibid., p. 1137.

58 Ibid., p. 1138.

59

"Executive Order 12334 President's Intelligence Oversight Board December 4, 1981" Public Papers of the Presidents of the United States. Containing the Public Messages, Speeches and Statements of the Presidents. Ronald Reagan 1981 (Washington D.C.: US Government Printing Office, 1982), p. 1140.

60

Thomas F. Troy. Donovan and the CIA. A History of the Establishment of the Central Intelligence Agency (Frederick, MD: Alethia Books/ University Publications of America Inc., 1981), p. 411.

BIBLIOGRAPHY

1. Agee, Phillip and Louis Wolf. Dirty Work: The CIA in Western Europe. Secaucus, NY: Lyle Stuart Inc./C.I. Publications Inc., 1978.
2. Bamford, James. The Puzzle Palace. Harrisonburg, VA: R. R. Donnelley & Sons Co., 1983.
3. Buncher, Judith F. (ed.). The CIA and the Security Debate: 1975-1976. New York: Facts on File, 1977.
4. Cimbala, Stephan J. (ed.). Intelligence and Intelligence Policy in a Democratic Society. Dobbs Ferry, NY: Transnational Publishers Inc., 1987.
5. Dulles, Allen. The Craft of Intelligence. New York: Harper & Row Publishers 1963.
6. Fain, Tyrus G.; C. Plant and Ross Milloy. The Intelligence Community. History, Organization and Issues. New York: R. R. Bowker Co., 1977.
7. Johnson, Loch K. A Season of Inquiry: The Senate Intelligence Investigation. Lexington, Ky: The University Press of Kentucky, 1985.
8. Godson, Roy (ed.). Intelligence Requirements for the 1980's: Elements of Intelligence. Washington D.C.: National Strategy Information Center, 1979.
9. Lowenthal, Mark M. US Intelligence: Evolution and Anatomy. New York: Praeger Publishers for the Center for Strategic and International Studies, 1984.
10. Oseth, John M. Regulating US Intelligence Operations: A Study in Definition of the National Interest. Lexington, Ky: The University Press of Kentucky, 1985.
11. Richelson, Jeffrey. The US Intelligence Community. Cambridge, Mass: Ballinger Publishing Co., 1985.
12. Thomas, Stafford T. The US Intelligence Community. New York: University Press of America, 1983.

13. Troy, Thomas F. Donovan and the CIA: A History of the Establishment of the Central Intelligence Agency. Frederick, Md: Alethia Books/University Publications of America, 1981.
14. Turner, Stansfield. Secrecy and Democracy: The CIA in Transition. Boston: Houghton Mifflin Co., 1985.
15. Wise, David and Thomas B. Ross. The Invisible Government. New York: Random House, 1964.

GOVERNMENT DOCUMENTS

1. Federal Register, Volume 16, No. 25, February 6, 1951.
Washington, DC: Government Printing Office, 1957.
2. Federal Register, Volume 26, No. 40, March 2, 1961.
Washington, DC: Government Printing Office, 1961.
3. Federal Register, Volume 26, No. 44, March 8, 1961.
Washington, DC: Government Printing Office, 1961.
4. Federal Register, Tuesday, May 11, 1965.
Washington, DC: Government Printing Office, 1965.
5. U.S., Presidents, Public Papers of the Presidents of the United States. Containing the Messages, Speeches and Statements of the Presidents.
Lyndon B. Johnson 1965. Book 1, January 1 to May 31, 1965. Washington DC: US Government Printing Office, 1966.
6. U.S. Statutes at Large, Vol. 61, pt. 1 (1948).
"Public Laws, Reorganization Plans, Proposed Amendment to the Constitution," 1947.
7. U.S., National Archives and Records Service. Office of the Federal Register. Weekly Compilation of Presidential Documents. Vol. 12. Number 8, February 23, 1976.

8. U.S., National Archives and Records Service. Office of the Federal Register. Weekly Compilation of Presidential Documents. Vol. 14. Number 4, January 30, 1978.
9. U.S., Presidents, Public Papers of the Presidents of the United States. Containing the Public Messages, Speeches and Statements of the Presidents. Ronald Reagan 1981. January 20 to December 31, 1981. Washington, DC: US Government Printing Office, 1982.

PERIODICALS

1. Newsweek, January 6, 1975.
2. Newsweek, May 26, 1975.
3. The New York Times, December 22, 1974.

States support for and encouragement of the important evolution which has begun in Spain and to which the Spanish Government renewed its commitment in connection with the signing of the Treaty. The Treaty reflects the mutual conviction of Spain and the United States that the proper course of this evolution should include, as major objectives, the integration of Spain into the institutions of Europe and the North Atlantic defense system and should include a broadly based cooperative relationship with the United States in all areas of mutual interest. The Treaty should contribute positively to the achievement of these goals.

In the area of western security, the agreement provides for a continuation of the important contribution made by Spain through facilities and related military rights accorded United States forces on Spanish territory. The agreement reflects a careful balancing of Spanish concerns with the changing requirements of United States military deployment. As a new development of the United States-Spanish defense relationship, the Treaty establishes mechanisms and guidelines, such as those referred to in the provisions dealing with military planning and coordination, to help develop an active Spanish contribution to western security, a contribution which complements and is coordinated with existing arrangements. The Treaty does not expand the existing United States defense commitment in the North Atlantic Treaty area nor does it create an additional bilateral one. Finally, the Treaty pledges military assistance to the Spanish armed forces in their program of upgrading and modernization. The major portion of that assistance is in the form of loan repayment guarantees. The actual cost to the United States taxpayer is expected to be far lower than the figures listed in the agreement.

I recommend that the Senate give prompt consideration to the Treaty and consent to its ratification.

GERALD R. FORD

The White House,
February 18, 1976.

U.S.-Swiss Treaty on Mutual Assistance in Criminal Matters

The President's Message to the Senate Transmitting the Treaty for Advice and Consent to Ratification.
February 18, 1976

To the Senate of the United States:

I transmit herewith the Treaty between the United States of America and the Swiss Confederation on Mutual Assistance in Criminal Matters, signed at Bern on

May 25, 1973, six exchanges of interpretative letters of the same date, and an exchange of interpretative letters dated December 23, 1975. I urge that the Senate advise and consent to ratification of the Treaty and related matters.

The Treaty is the first major international agreement by the United States aimed at obtaining information and evidence needed for criminal investigations and prosecutions. Cooperation of this kind with Switzerland is uniquely important because of its position as an international financial center. Despite the general cooperation of Swiss authorities in criminal cases, the procedures for obtaining needed information have been generally ponderous and inadequate. Despite this cooperation, United States law enforcement and investigative agencies have frequently encountered severe difficulties in obtaining needed information from Swiss banks because of banking secrecy laws.

The new Treaty, as implemented by Swiss legislation, should open up new avenues of cooperation in Switzerland and greatly facilitate the work of the United States law enforcement and prosecutive agencies, especially in dealing with cases involving organized crime. Assistance will extend to ascertaining the whereabouts of persons, taking testimony, producing and preserving judicial and other documents, records and evidence, and serving and authenticating judicial and administrative documents.

The Treaty is expected to provide a useful and significant tool in combating crime and bringing offenders to justice. I recommend that the Senate give the Treaty and related letters prompt consideration and consent to their ratification.

GERALD R. FORD

The White House,
February 18, 1976.

United States Foreign Intelligence Activities

Executive Order 11905. February 18, 1976

By virtue of the authority vested in me by the Constitution and statutes of the United States, including the National Security Act of 1947, as amended, and as President of the United States of America, it is hereby ordered as follows:

TABLE OF CONTENTS

Section	Description	[WCPD Page Number] ¹
1.	PURPOSE	[235]
2.	DEFINITIONS	[235]
3.	CONTROL AND DIRECTION OF INTELLIGENCE ORGANIZATIONS	[237]
(a)	National Security Council	[236]
(b)	Committee on Foreign Intelligence	[236]
(c)	Operations Advisory Group	[236]
(d)	Director of Central Intelligence	[236]
4.	RESPONSIBILITIES AND DUTIES OF THE INTELLIGENCE COMMUNITY	[237]
(a)	Senior Official of Each Organization of the Intelligence Community	[237]
(b)	Central Intelligence Agency	[238]
(c)	Department of State	[238]
(d)	Department of the Treasury	[238]
(e)	Department of Defense	[238]
(f)	Energy Research and Development Administration	[239]
(g)	Federal Bureau of Investigation	[239]
5.	RESTRICTIONS ON INTELLIGENCE ACTIVITIES	[240]
6.	OVERSIGHT OF INTELLIGENCE ORGANIZATIONS	[244]
7.	SECURITY PROTECTION	[242]
8.	ENABLING DATA	[242]

SECTION 1. Purpose. The purpose of this Order is to establish policies to improve the quality of intelligence needed for national security, to clarify the authority and responsibilities of the intelligence departments and agencies, and to establish effective oversight to assure compliance with law in the management and direction of intelligence agencies and departments of the national government.

SEC. 2. Definitions. For the purpose of this Order, unless otherwise indicated, the following terms shall have these meanings:

- (a) *Intelligence means:*
- (1) *Foreign intelligence* which means information, other than foreign counterintelligence, on the capabilities, intentions and activities of foreign powers, organizations or their agents; and
 - (2) *Foreign counterintelligence* which means activities conducted to protect the United States and United States citizens from foreign espionage, sabotage, subversion, assassination or terrorism.
- (b) *Intelligence Community* refers to the following organizations:
- (1) Central Intelligence Agency;
 - (2) National Security Agency;
 - (3) Defense Intelligence Agency;
 - (4) Special offices within the Department of Defense for the collection of specialized intelligence through reconnaissance programs;
 - (5) Intelligence elements of the military services;
 - (6) Intelligence element of the Federal Bureau of Investigation;

¹ **Editor's Note:** The page numbers of the above table of contents reflect page citations in the Weekly Compilation of Presidential Documents. The page numbers which they replace were references to pages in the original document.

- (7) Intelligence element of the Department of State;
- (8) Intelligence element of the Department of the Treasury; and

(9) Intelligence element of the Energy Research and Development Administration.

(c) *Special activities in support of national foreign policy objectives* means activities, other than the collection and production of intelligence and related support functions, designed to further official United States programs and policies abroad which are planned and executed so that the role of the United States Government is not apparent or publicly acknowledged.

(d) *National Foreign Intelligence Program* means the programs of the Central Intelligence Agency and the special offices within the Department of Defense for the collection of specialized intelligence through reconnaissance programs, the Consolidated Cryptologic Program, and those elements of the General Defense Intelligence Program and other programs of the departments and agencies, not including tactical intelligence, designated by the Committee on Foreign Intelligence as part of the Program.

SEC. 3. Control and Direction of National Intelligence Organizations.

(a) *National Security Council.*

(1) The National Security Council was established by the National Security Act of 1947 to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security. Statutory members of the National Security Council are the President, the Vice President, the Secretary of State, and the Secretary of Defense.

(2) Among its responsibilities, the National Security Council shall provide guidance and direction to the development and formulation of national intelligence activities.

(3) The National Security Council shall conduct a semi-annual review of intelligence policies and of ongoing special activities in support of national foreign policy objectives. These reviews shall consider the needs of users of intelligence and the timeliness and quality of intelligence products and the continued appropriateness of special activities in support of national foreign policy objectives. The National Security Council shall consult with the Secretary of the Treasury and such other users of intelligence as designated by the President as part of these reviews.

(b) *Committee on Foreign Intelligence.*

(1) There is established the Committee on Foreign Intelligence (hereinafter referred to as the CFI), which shall be composed of the Director of Central Intelligence, hereinafter referred to as the DCI, who shall be the Chairman; the Deputy Secretary of Defense for Intelligence; and the Deputy Assistant to the President for National Security Affairs. The CFI shall report directly to the National Security Council.

(2) The CFI shall (i) control budget preparation and resource allocation for the National Foreign Intelligence Program.

(A) The CFI shall, prior to submission to the Office of Management and Budget, review, and amend as it deems appropriate, the budget for the National Foreign Intelligence Program.

(B) The CFI shall also adopt rules governing the reprogramming of funds within this budget. Such rules may require that reprogrammings of certain types or amounts be given prior approval by the CFI.

(i) Establish policy priorities for the collection and production of national intelligence.

(ii) Establish policy for the management of the National Foreign Intelligence Program.

(iv) Provide guidance on the relationship between tactical and national intelligence; however, neither the DCI nor the CFI shall have responsibility for tactical intelligence.

(v) Provide continuing guidance to the Intelligence Community in order to ensure compliance with policy directions of the NSC.

(3) The CFI shall be supported by the Intelligence Community staff headed by the Deputy to the Director of Central Intelligence for the Intelligence Community.

(4) The CFI shall establish such subcommittees as it deems appropriate to ensure consultation with members of the Intelligence Community on policies and guidance issued by the CFI.

(5) Decisions of the CFI may be reviewed by the National Security Council upon appeal by the Director of Central Intelligence or any member of the National Security Council.

(c) *The Operations Advisory Group.*

(1) There is established the Operations Advisory Group (hereinafter referred to as the Operations Group), which shall be composed of the Assistant to the President for National Security Affairs; the Secretaries of State and Defense; the Chairman of the Joint Chiefs of Staff; and the Director of Central Intelligence. The Chairman shall be designated by the President. The Attorney General and the Director of the Office of Management and Budget or their representatives, and others who may be designated by the President, shall attend all meetings as observers.

(2) The Operations Group shall (i) consider and develop a policy recommendation, including any dissent, for the President prior to his decision on each special activity in support of national foreign policy objectives.

(ii) Conduct periodic reviews of programs previously considered by the Operations Group.

(iii) Give approval for specific sensitive intelligence collection operations as designated by the Operations Group.

(iv) Conduct periodic reviews of ongoing sensitive intelligence collection operations.

(3) The Operations Group shall discharge the responsibilities assigned by subparagraphs (c) (2) (i) and (c) (2) (ii) of this section only after consideration in a formal meeting attended by all members and observers; or, in unusual circumstances when any member or observer is unavailable, when a designated representative of the member or observer attends.

(4) The staff of the National Security Council shall provide support to the Operations Group.

(d) *Director of Central Intelligence.*

(1) The Director of Central Intelligence, pursuant to the National Security Act of 1947, shall be responsible directly to the National Security Council and the President. He shall:

(i) Chair the CFI.

(ii) Act as executive head of the CIA and Intelligence Community staff.

(iii) Ensure the development and submission of a budget for the National Foreign Intelligence Program to the CFI.

(iv) Act as the President's primary adviser on foreign intelligence and provide him and other officials in the Executive branch with foreign intelligence, including National Intelligence Estimates; develop national intelligence requirements and priorities; and supervise production and dissemination of national intelligence.

(v) Ensure appropriate implementation of special activities in support of national foreign policy objectives.

(vi) Establish procedures to ensure the propriety of requests, and responses thereto, from the White House Staff or other Executive departments and agencies to the Intelligence Community.

(vii) Ensure that appropriate programs are developed which properly protect intelligence sources, methods and analytical procedures. His responsibility within the United States shall be limited to:

(A) Protection by lawful means against disclosure by present or former employees of the Central Intelligence Agency or persons, or employees of persons or organizations, presently or formerly under contract with the Agency;

(B) providing leadership, guidance and technical assistance to other government departments and agencies performing foreign intelligence activities; and

(C) in cases involving serious or continuing security violations, recommending to the Attorney General that the case be referred to the Federal Bureau of Investigation for further investigation.

(viii) Establish a vigorous program to downgrade and declassify foreign intelligence information as appropriate and consistent with Executive Order No. 11652.

(ix) Ensure the existence of strong Inspector General capabilities in all elements of the Intelligence Community

and that each Inspector General submit quarterly to the Intelligence Oversight Board a report which sets forth any questionable activities in which that intelligence organization has engaged or is engaged.

(x) Ensure the establishment, by the Intelligence Community, of common security standards for managing and handling foreign intelligence systems, information and products, and for granting access thereto.

(xi) Act as the principal spokesman to the Congress for the Intelligence Community and facilitate the use of foreign intelligence products by Congress.

(xii) Promote the development and maintenance by the Central Intelligence Agency of services of common concern to the Intelligence Community organizations, including multi-discipline analysis, national level intelligence products, and a national level current intelligence publication.

(xiii) Establish uniform criteria for the identification, selection, and designation of relative priorities for the transmission of critical intelligence, and provide the Secretary of Defense with continuing guidance as to the communications requirements of the Intelligence Community for the transmission of such intelligence.

(xiv) Establish such committees of collectors, producers and users of intelligence to assist in his conduct of his responsibilities as he deems appropriate.

(xv) Consult with users and producers of intelligence, including the Departments of State, Treasury, and Defense, the military services, the Federal Bureau of Investigation, the Energy Research and Development Administration, and the Council of Economic Advisors, to ensure the timeliness, relevancy and quality of the intelligence product.

(2) To assist the Director of Central Intelligence in the supervision and direction of the Intelligence Community, the position of Deputy to the Director of Central Intelligence for the Intelligence Community is hereby established (Committee on Foreign Intelligence).

(3) To assist the Director of Central Intelligence in the supervision and direction of the Central Intelligence Agency, the Director of Central Intelligence shall, to the extent consistent with his statutory responsibilities, delegate the day-to-day operation of the Central Intelligence Agency to the Deputy Director of Central Intelligence (50 U.S.C. 403(a)).

(4) To assist the DCI in the fulfillment of his responsibilities, the heads of all departments and agencies shall give him access to all information relevant to the foreign intelligence needs of the United States. Relevant information requested by the DCI shall be provided, and the DCI shall take appropriate steps to maintain its confidentiality.

SEC. 4. Responsibilities and Duties of the Intelligence Community. Purpose. The rules of operation prescribed by this section of the Order relate to the activities of our foreign intelligence agencies. In some instances, detailed

implementation of this Executive order will be contained in classified documents hereuse of the sensitivity of the information and its relation to national security. All such classified instructions will be consistent with this Order. Unless otherwise specified within this section, its provisions apply to activities both inside and outside the United States, and all references to law are to applicable laws of the United States. Nothing in this section of this Order shall be construed to interfere with any law-enforcement responsibility of any department or agency.

(a) *Senior Officials of the Intelligence Community.* The senior officials of the CIA, Departments of State, Treasury and Defense, ERDA and the FBI shall ensure that, in discharging the duties and responsibilities enumerated for their organizations which relate to foreign intelligence, they are responsive to the needs of the President, the National Security Council and other elements of the Government. In carrying out their duties and responsibilities, senior officials shall ensure that all policies and directives relating to intelligence activities are carried out in accordance with law and this Order, including Section 5, and shall:

(1) Make appropriate use of the capabilities of the other elements of the Intelligence Community in order to achieve maximum efficiency.

(2) Contribute in areas of his responsibility to the national intelligence products produced under auspices of the Director of Central Intelligence.

(3) Establish internal policies and guidelines governing employee conduct and ensuring that such are made known to, and acknowledged by, each employee.

(4) Provide for a strong and independent organization for identification and inspection of, and reporting on, unauthorized activity.

(5) Report to the Attorney General that information which relates to detection or prevention of possible violations of law by any person, including an employee of the senior official's department or agency.

(6) Furnish to the Director of Central Intelligence, the CFI, the Operations Group, the President's Foreign Intelligence Advisory Board, and the Intelligence Oversight Board all of the information required for the performance of their respective duties.

(7) Participate, as appropriate, in the provision of services of common concern as directed by the Director of Central Intelligence and provide other departments and agencies with such mutual assistance as may be within his capabilities and as may be required in the interests of the Intelligence Community for reasons of economy, effectiveness, or operational necessity.

(8) Protect intelligence and intelligence sources and methods within his department or agency, consistent with policies and guidance of the Director of Central Intelligence.

(9) Conduct a continuing review of all classified material originating within his organization and promptly

declassifying such material consistent with Executive Order No. 11652, as amended.

(10) Provide administrative and support functions required by his department or agency.

(b) *The Central Intelligence Agency.* All duties and responsibilities of the Central Intelligence Agency shall be related to the foreign intelligence functions outlined below. As authorized by the National Security Act of 1947, as amended, the CIA Act of 1949, as amended, and other laws, regulations, and directives, the Central Intelligence Agency shall:

(1) Produce and disseminate foreign intelligence relating to the national security, including foreign political, economic, scientific, technical, military, sociological, and geographic intelligence, to meet the needs of the President, the National Security Council, and other elements of the United States Government.

(2) Develop and conduct programs to collect political, economic, scientific, technical, military, geographic, and sociological information, not otherwise obtainable, relating to foreign intelligence, in accordance with directives of the National Security Council.

(3) Collect and produce intelligence on foreign aspects of international terrorist activities and traffic in narcotics.

(4) Conduct foreign counterintelligence activities outside the United States and when in the United States in coordination with the FBI subject to the approval of the Attorney General.

(5) Carry out such other special activities in support of national foreign policy objectives as may be directed by the President or the National Security Council and which are within the limits of applicable law.

(6) Conduct, for the Intelligence Community, services of common concern as directed by the National Security Council, such as monitoring of foreign public radio and television broadcasts and foreign press services, collection of foreign intelligence information from cooperating sources in the United States, acquisition and translation of foreign publications and photographic interpretation.

(7) Carry out or contract for research, development and procurement of technical systems and devices relating to the functions authorized in this subsection.

(8) Protect the security of its installations, activities, information and personnel. In order to maintain this security, the CIA shall conduct such investigations of applicants, employees, and other persons with similar associations with the CIA as are necessary.

(9) Conduct administrative, technical and support activities in the United States or abroad as may be necessary to perform the functions described in paragraphs (1) through (8) above, including procurement, maintenance and transport; communications and data processing; recruitment and training; the provision of personnel, financial and medical services; development of essential cover and proprietary arrangements; entering into contracts and

arrangements with appropriate private companies and institutions to provide classified or unclassified research, analytical and developmental services and specialized expertise; and entering into similar arrangements with academic institutions, provided CIA sponsorship is known to the appropriate senior officials of the academic institutions and to senior project officials.

(c) *The Department of State.* The Secretary of State shall:

(1) Collect, overth, foreign political, political-military, sociological, economic, scientific, technical and associated biographic information.

(2) Produce and disseminate foreign intelligence relating to United States foreign policy as required for the execution of his responsibilities and in support of policymakers involved in foreign relations within the United States Government.

(3) Disseminate within the United States Government, as appropriate, reports received from United States diplomatic missions abroad.

(4) Coordinate with the Director of Central Intelligence to ensure that United States intelligence activities and programs are useful for and consistent with United States foreign policy.

(5) Transmit reporting requirements of the Intelligence Community to our Chiefs of Missions abroad and provide guidance for their collection effort.

(6) Contribute to the Intelligence Community guidance for its collection of intelligence based on the needs of those responsible for foreign policy decisions.

(7) Support Chiefs of Missions in discharge their responsibilities to collect and coordinate the activities of all elements of their missions.

(d) *The Department of the Treasury.* The Secretary of the Treasury shall:

(1) Collect, overth, foreign financial and monetary information.

(2) Participate with the Department of State in the overt collection of general foreign economic information.

(3) Produce that intelligence required for the execution of the Secretary's interdepartmental responsibilities and the mission of the Department of the Treasury.

(4) Contribute intelligence and guidance required for the development of national intelligence.

(5) Disseminate within the United States Government, as appropriate, foreign intelligence information as required.

(e) *Department of Defense.*

(1) The Secretary of Defense shall:

(i) Collect foreign military intelligence information as well as military-related foreign intelligence information, including scientific, technical, political and economic information as required for the execution of his responsibilities.

(ii) Produce and disseminate, as appropriate, intelligence emphasizing foreign military capabilities and in-

tentions and scientific, technical and economic developments pertinent to his responsibilities.

(iii) Conduct such programs and missions necessary to fulfill national intelligence requirements as determined by the CFI.

(iv) Direct, fund and operate the National Security Agency, and national, defense and military intelligence and reconnaissance entities as required.

(v) Conduct, as the executive agent of the United States Government, signals intelligence activities and communications security, except as otherwise approved by the CFI.

(vi) Provide for the timely transmission of critical intelligence, as defined by the Director of Central Intelligence, within the United States Government.

(2) In carrying out these assigned responsibilities, the Secretary of Defense is authorized to utilize the following:

(i) The Defense Intelligence Agency (whose functions, authorities and responsibilities are currently publicly assigned by Department of Defense Directive No. 5105.21) to:

(A) Produce or provide military intelligence for the Secretary of Defense, the Joint Chiefs of Staff, other Defense components, and, as appropriate, non-Defense agencies.

(B) Coordinate all Department of Defense intelligence collection requirements and manage the Defense Attache system.

(C) Establish substantive intelligence priority goals and objectives for the Department of Defense and provide guidance on substantive intelligence matters to all major Defense intelligence activities.

(D) Review and maintain cognizance over all plans, policies and procedures for noncryptologic intelligence functions of the Department of Defense.

(E) Provide intelligence staff support as directed by the Joint Chiefs of Staff.

(ii) The National Security Agency, whose functions, authorities and responsibilities shall include:

(A) Establishment and operation of an effective unified organization for the signals intelligence activities of the United States Government, except for certain operations which are normally exercised through appropriate elements of the military command structure, or by the CIA.

(B) Exercise control over signals intelligence collection and processing activities of the Government, delegating to an appropriate agent specified resources for such periods and tasks as required for the direct support of military commanders.

(C) Collection, processing and dissemination of signals intelligence in a manner consistent with objectives, requirements, and priorities established by the Director of Central Intelligence.

(D) Dissemination of signals intelligence to all authorized elements of the Government, including the Armed Services, as requested.

(E) Serving under the Secretary of Defense as the central communications security authority of the United States Government.

(F) Conduct of research and development to meet the needs of the United States for signals intelligence and communications security.

(iii) Special offices for the collection of specialized intelligence through reconnaissance programs, whose functions, authorities, and responsibilities shall include:

(A) Carrying out consolidated programs for reconnaissance.

(B) Assigning responsibility to the various departments and agencies of the Government, according to their capabilities, for the research, development, procurement, operation and control of designated means of collection.

(iv) Such other affairs within the Department of Defense as shall be deemed appropriate for rendition of the intelligence missions and responsibilities assigned to the Secretary of Defense.

(1) *Energy Research and Development Administration.* The Administrator of the Energy Research and Development Administration shall:

(1) Produce intelligence required for the execution of his responsibilities and the mission of the Energy Research and Development Administration, hereinafter referred to as ERDA, including the area of nuclear and atomic energy.

(2) Disseminate such intelligence and provide technical and analytical expertise to other Intelligence Community organizations and be responsive to the guidance of the Director of Central Intelligence and the Committee on Foreign Intelligence.

(3) Participate with other Intelligence Community agencies and departments in formulating collection requirements where its special technical expertise can contribute to such collection requirements.

(4) *The Federal Bureau of Investigation.* Under the supervision of the Attorney General and pursuant to such regulations as the Attorney General may establish, the Director of the FBI shall:

(1) Detect and prevent espionage, sabotage, subversion, and other unlawful activities by or on behalf of foreign powers through such lawful counterintelligence operations within the United States, including electronic surveillance, as are necessary or useful for such purposes.

(2) Conduct within the United States and its territories, when requested by officials of the Intelligence Community designated by the President, those lawful activities, including electronic surveillance, authorized by the President and specifically approved by the Attorney General, to be undertaken in support of foreign intelligence collection requirements of other intelligence agencies.

(3) Collect foreign intelligence by lawful means within the United States and its territories when requested

by officials of the Intelligence Community designated by the President to make such requests.

(4) Disseminate, as appropriate, foreign intelligence and counterintelligence information which it acquires to appropriate Federal agencies, State and local law enforcement agencies and cooperating foreign governments.

(5) Carry out or contract for research, development and procurement of technical systems and devices relating to the functions authorized above.

Sec. 5. Restrictions on Intelligence Activities. Information about the capabilities, intentions and activities of other governments is essential to informed decision-making in the field of national defense and foreign relations. The measures employed to acquire such information should be responsive to the legitimate needs of our Government and must be conducted in a manner which preserves and respects our established concepts of privacy and our civil liberties.

Recent events have clearly indicated the desirability of government-wide direction which will ensure a proper balancing of these interests. This section of this Order does not authorize any activity not previously authorized and does not provide exemption from any restrictions otherwise applicable. Unless otherwise specified, the provisions of this section apply to activities both inside and outside the United States. References to law are to applicable laws of the United States.

(a) *Definitions.* As used in this section of this Order, the following terms shall have the meanings ascribed to them below:

(1) "Collection" means any one or more of the gathering, analysis, dissemination or storage of non-publicly available information without the informed express consent of the subject of the information.

(2) "Counterintelligence" means information concerning the protection of foreign intelligence or of national security information and its collection from detection or disclosure.

(3) "Electronic surveillance" means acquisition of a non-public communication by electronic means, without the consent of a person who is a party to, or, in the case of a non-electronic communication, visibly present at, the communication.

(4) "Employee" means a person employed by, assigned or detailed to, or acting for a United States foreign intelligence agency.

(5) "Foreign intelligence" means information concerning the capabilities, intentions and activities of any foreign power, or of any non-United States person, whether within or outside the United States, or concerning areas outside the United States.

(6) "Foreign intelligence agency" means the Central Intelligence Agency, National Security Agency, and Defense Intelligence Agency; and further includes any other department or agency of the United States Government

or component thereof while it is engaged in the collection of foreign intelligence or counterintelligence, but shall not include any such department, agency or component thereof to the extent that it is engaged in its authorized civil or criminal law enforcement functions; nor shall it include in any case the Federal Bureau of Investigation.

(7) "National security information" has the meaning ascribed to it in Executive Order No. 11652, as amended.

(8) "Physical surveillance" means continuing visual observation by any means; or acquisition of a non-public communication by a person not a party thereto or visibly present thereat through any means which does not involve electronic surveillance.

(9) "United States person" means United States citizens, aliens admitted to the United States for permanent residence and expatriations or other organizations incorporated or organized in the United States.

(b) *Restrictions on Collection.* Foreign intelligence agencies shall not engage in any of the following activities:

(1) Physical surveillance directed against a United States person, unless it is a lawful surveillance conducted pursuant to procedures approved by the head of the foreign intelligence agency and directed against any of the following:

(i) A present or former employee of such agency, its present or former contractors or their present or former employees, for the purpose of protecting foreign intelligence or counterintelligence sources or methods or national security information from unauthorized disclosure; or

(ii) a United States person, who is in contact with either such a present or former contractor or employee or with a non-United States person who is the subject of a foreign intelligence or counterintelligence inquiry, but only to the extent necessary to identify such United States person; or

(iii) a United States person outside the United States who is reasonably believed to be acting on behalf of a foreign power or engaging in international terrorist or narcotics activities or activities threatening the national security.

(2) Electronic surveillance to intercept a communication which is made from, or is intended by the sender to be received in, the United States, or directed against United States persons abroad, except lawful electronic surveillance under procedures approved by the Attorney General; provided, that the Central Intelligence Agency shall not perform electronic surveillance within the United States, except for the purpose of testing equipment under procedures approved by the Attorney General consistent with law.

(3) Unconsented physical searches within the United States; or unconsented physical searches directed against United States persons abroad, except lawful searches under procedures approved by the Attorney General.

(4) Opening of mail or examination of envelopes of mail in United States postal channels except in accordance with applicable statutes and regulations.

(5) Examination of Federal tax returns or tax information except in accordance with applicable statutes and regulations.

(6) Infiltration or undisclosed participation within the United States in any organization for the purpose of reporting on or influencing its activities or members; except such infiltration or participation with respect to an organization composed primarily of non-United States persons which is reasonably believed to be acting on behalf of a foreign power.

(7) Collection of information, however acquired, concerning the domestic activities of United States persons except:

(i) Information concerning corporations or other commercial organizations which constitutes foreign intelligence or counterintelligence.

(ii) Information concerning present or former employees, present or former contractors or their present or former employees, or applicants for any such employment or contracting, necessary to protect foreign intelligence or counterintelligence sources or methods or national security information from unauthorized disclosure; and the identity of persons in contact with the foregoing or with a non-United States person who is the subject of a foreign intelligence or counterintelligence inquiry.

(iii) Information concerning persons who are reasonably believed to be potential sources or contacts, but only for the purpose of determining the suitability or credibility of such persons.

(iv) Foreign intelligence or counterintelligence gathered abroad or from electronic surveillance conducted in compliance with Section 5(h)(2); or foreign intelligence acquired from cooperating sources in the United States.

(v) Information about a United States person who is reasonably believed to be acting on behalf of a foreign power or engaging in international terrorist or subversive activities.

(vi) Information concerning persons or activities that pose a clear threat to foreign intelligence agency facilities or personnel, provided that such information is retained only by the foreign intelligence agency threatened and that proper consultation with the Federal Bureau of Investigation is accomplished.

(c) *Dissemination and Storage.* Nothing in this section of this Order shall prohibit:

(1) Lawful dissemination to the appropriate law enforcement agencies of incidentally gathered information indicating involvement in activities which may be in violation of law.

(2) Storage of information required by law to be retained.

(3) Dissemination to foreign intelligence agencies of information of the subject matter types listed in Section 5(h)(7).

(d) *Restrictions on Experimentation.* Foreign intelligence agencies shall not engage in experimentation with drugs on human subjects, except with the informed consent, in writing and witnessed by a disinterested third party, of each such human subject and in accordance with the guidelines issued by the National Commission for the Protection of Human Subjects for Biomedical and Behavioral Research.

(e) *Assistance to Law Enforcement Authorities.*

(1) No foreign intelligence agency shall, except as expressly authorized by law (i) provide services, equipment, personnel or facilities to the Law Enforcement Assistance Administration or to State or local police organizations of the United States or (ii) participate in or lend any law enforcement activity within the United States.

(2) These prohibitions shall not, however, preclude: (i) cooperation between a foreign intelligence agency and appropriate law enforcement agencies for the purpose of protecting the personnel and facilities of the foreign intelligence agency or preventing espionage or other criminal activity related to foreign intelligence or counterintelligence or (ii) provision of specialized equipment or technical knowledge for use by any other Federal department or agency.

(f) *Assignment of Personnel.* An employee of a foreign intelligence agency detailed elsewhere within the Federal Government shall be responsible to the host agency and shall not report to such employee's parent agency on the affairs of the host agency, except as may be directed by the latter. The head of the host agency, and any successor, shall be informed of the detail's association with the parent agency.

(g) *Prohibition of Assassination.* No employee of the United States Government shall engage in, or conspire to engage in, political assassination.

(h) *Implementation.*

(1) This section of this Order shall be effective on March 1, 1976. Each department and agency affected by this section of this Order shall promptly issue internal directives to implement this section with respect to its foreign intelligence and counterintelligence operations.

(2) The Attorney General shall, within ninety days of the effective date of this section of this Order, issue guidelines relating to activities of the Federal Bureau of Investigation in the areas of foreign intelligence and counterintelligence.

Sec. 6. Oversight of Intelligence Organization.

(a) There is hereby established an Intelligence Oversight Board, hereinafter referred to as the Oversight Board.

(1) The Oversight Board shall have three members who shall be appointed by the President and who shall be from outside the Government and be qualified on the basis of ability, knowledge, diversity of background and

experience. The members of the Oversight Board may also serve on the President's Foreign Intelligence Advisory Board (Executive Order No. 11460 of March 20, 1969). No member of the Oversight Board shall have any personal contractual relationship with any agency or department of the Intelligence Community.

(2) One member of the Oversight Board shall be designated by the President as its Chairman.

(3) The Oversight Board shall:

(i) Receive and consider reports by Inspectors General and General Counsels of the Intelligence Community concerning activities that raise questions of legality or propriety.

(ii) Review periodically the practices and procedures of the Inspectors General and General Counsels of the Intelligence Community designed to discover and report to the Oversight Board activities that raise questions of legality or propriety.

(iii) Review periodically with each member of the Intelligence Community their internal guidelines to ensure their adequacy.

(iv) Report periodically, at least quarterly, to the Attorney General and the President on its findings.

(v) Report in a timely manner to the Attorney General and to the President any activities that raise serious questions about legality.

(vi) Report in a timely manner to the President any activities that raise serious questions about propriety.

(b) Inspectors General and General Counsels within the Intelligence Community shall:

(1) Transmit to the Oversight Board reports of any activities that come to their attention that raise questions of legality or propriety.

(2) Report periodically, at least quarterly, to the Oversight Board on its findings concerning questionable activities, if any.

(3) Provide to the Oversight Board all information requested about activities within their respective departments or agencies.

(4) Report to the Oversight Board any occasion on which they were directed not to report any activity to the Oversight Board by their agency or department heads.

(5) Formulate practices and procedures designed to discover and report to the Oversight Board activities that raise questions of legality or propriety.

(c) Heads of intelligence agencies or departments shall:

(1) Report periodically to the Oversight Board on any activities of their organizations that raise questions of legality or propriety.

(2) Instruct their employees to cooperate fully with the Oversight Board.

(3) Ensure that Inspectors General and General Counsels of their agencies have access to any information necessary to perform their duties assigned by paragraph (4) of this section.

(d) The Attorney General shall:

(1) Receive and consider reports from the Oversight Board.

(2) Report periodically, at least quarterly, to the President with respect to activities of the Intelligence Community, if any, which raise questions of legality.

(e) The Oversight Board shall receive staff support. No person who serves on the staff of the Oversight Board shall have any contractual or employment relationship with any department or agency in the Intelligence Community.

(f) The President's Foreign Intelligence Advisory Board established by Executive Order No. 11460 of March 20, 1969, remains in effect.

Sec. 7. *Security Protection.*

(a) In order to improve the protection of sources and methods of intelligence, all members of the Executive branch and its contractors given access to information containing sources or methods of intelligence shall, as a condition of obtaining access, sign an agreement that they will not disclose that information to persons not authorized to receive it.

(b) In the event of any unauthorized disclosure of information concerning sources or methods of intelligence, the names of any persons found to have made unauthorized disclosure shall be forwarded (1) to the head of applicable departments or agencies for appropriate disciplinary action; and (2) to the Attorney General for appropriate legal action.

(c) In the event of any threatened unauthorized disclosure of information concerning sources or methods of intelligence by a person who has agreed not to make such disclosure, the details of the threatened disclosure shall be transmitted to the Attorney General for appropriate legal action, including the seeking of a judicial order to prevent such disclosure.

(d) In further pursuit of the need to provide protection for other significant areas of intelligence, the Director of Central Intelligence is authorized to promulgate rules and regulations to expand the scope of agreements secured from those persons who, as an aspect of their relationship with the United States Government, have access to classified intelligence material.

Sec. 8. *Enabling Data.*

(a) The Committee on Foreign Intelligence and the Director of Central Intelligence shall provide for detailed implementation of this Order by issuing appropriate directives.

(b) All existing National Security Council and Director of Central Intelligence directives shall be amended to be consistent with this Order within ninety days of its effective date.

(c) This Order shall supersede the Presidential Memorandum of November 5, 1971, on the "Organization and Management of the U.S. Foreign Intelligence Community."

(d) Heads of departments and agencies within the Intelligence Community shall issue supplementary directives to their organizations consistent with this Order within ninety days of its effective date.

(e) This Order will be implemented within current manning authorizations of the Intelligence Community. To this end, the Director of the Office of Management and Budget will facilitate the required realignment of personnel positions. The Director of the Office of Management and Budget will also assist in the allocation of appropriate facilities.

GERALD R. FORD

The White House,
February 18, 1976.

[Filed with the Office of the Federal Register, 12:36 p.m.,
February 18, 1976.]

note: For the President's remarks at his news conference of February 17, 1976, announcing plans for a reorganization of the intelligence community, see page 227 of this issue.

United States Foreign Intelligence Activities

*The President's Message to the Congress Proposing
Legislative Reforms. February 18, 1976*

To the Congress of the United States:

By virtue of the authority vested in me by Article II, Sections 2 and 3 of the Constitution, and other provisions of law, I have today issued an Executive Order pertaining to the organization and control of the United States foreign intelligence community. This order establishes clear lines of accountability for the Nation's foreign intelligence agencies. It sets forth strict guidelines to control the activities of these agencies and specifies as well those activities in which they shall not engage.

In carrying out my Constitutional responsibilities to manage and conduct foreign policy and provide for the Nation's defense, I believe it essential to have the best possible intelligence about the capabilities, intentions and activities of governments and other entities and individuals abroad. To this end, the foreign intelligence agencies of the United States play a vital role in collecting and analyzing information related to the national defense and foreign policy.

It is equally as important that the methods these agencies employ to collect such information for the legitimate needs of the government conform to the standards set out in the Constitution to preserve and respect the privacy and civil liberties of American citizens.

The Executive Order I have issued today will insure a proper balancing of these interests. It establishes government-wide direction for the foreign intelligence agencies

and places responsibility and accountability on individuals, not institutions.

I believe it will eliminate abuses and questionable activities on the part of the foreign intelligence agencies while at the same time permitting them to get on with their vital work of gathering and assessing information. It is also my hope that these steps will help to restore public confidence in these agencies and encourage our citizens to appreciate the valuable contribution they make to our national security.

Beyond the steps I have taken in the Executive Order, I also believe there is a clear need for some specific legislative actions. I am today submitting to the Congress of the United States proposals which will go far toward reforming the protection of our intelligence secrets as well as regularizing procedures for intelligence collection in the United States.

My first proposal deals with the protection of intelligence sources and methods. The Director of Central Intelligence is charged, under the National Security Act of 1947, as amended, with protecting intelligence sources and methods. The Act, however, gives the Director no authorities commensurate with this responsibility.

Therefore, I am proposing legislation to impose criminal and civil sanctions on those who are authorized access to intelligence secrets and who willfully and wrongfully reveal this information. This legislation is not an "Official Secrets Act", since it would affect only those who improperly disclose secrets, not those to whom secrets are disclosed. Moreover, this legislation could not be used to cover up abuses and injustices. It would in no way prevent people from reporting questionable activities to appropriate authorities in the Executive and Legislative Branches of the government.

It is essential, however, that the irresponsible and dangerous exposure of our Nation's intelligence secrets be stopped. The American people have long accepted the principles of confidentiality and secrecy in many dealings—such as with doctors, lawyers and the clergy. It makes absolutely no sense to deny this same protection to our intelligence secrets. Openness is a hallmark of our democratic society, but the American people have never believed that it was necessary to reveal the secret war plans of the Department of Defense, and I do not think they wish to have true intelligence secrets revealed either.

I urge the adoption of this legislation with all possible speed.

Second, I support proposals that would clarify and set statutory limits, where necessary, on the activities of the foreign intelligence agencies. In particular, I will support legislation making it a crime to assassinate or attempt or conspire to assassinate a foreign official in peacetime. Since it defines a crime, legislation is necessary.

Third, I will meet with the appropriate leaders of Congress to try to develop sound legislation to deal with a critical problem involving personal privacy—electronic

surveillance. Working with Congressional leaders and the Justice Department and other Executive agencies, we will seek to develop a procedure for undertaking electronic surveillance for foreign intelligence purposes. It should create a special procedure for seeking a judicial warrant authorizing the use of electronic surveillance in the United States for foreign intelligence purposes.

I will also seek Congressional support for sound legislation to expand judicial supervision of mail opening. The law now permits the opening of United States mail under proper judicial safeguards, in the conduct of criminal investigations. We need authority to open mail under the limitations and safeguards that now apply in order to obtain vitally needed foreign intelligence information.

This would require a showing that there is probable cause to believe that the sender or recipient is an agent of a foreign power who is engaged in spying, sabotage or terrorism. As is now the case the criminal investigations, those seeking authority to examine mail for foreign intelligence purposes will have to convince a federal judge of the necessity to do so and accept the limitations upon their authorization to examine the mail provided in the order of the court.

Fourth, I would like to share my views regarding appropriate Congressional oversight of the foreign intelligence agencies. It is clearly the business of the Congress to organize itself to deal with these matters. Certain principles, however, should be recognized by both the Executive and Legislative Branches if this oversight is to be effective. I believe good Congressional oversight is essential so that the Congress and the American people whom you represent can be assured that the foreign intelligence agencies are adhering to the law in all of their activities.

Congress should seek to centralize the responsibility for oversight of the foreign intelligence community. The more committees and subcommittees dealing with highly sensitive secrets, the greater the risks of disclosure. I recommend that Congress establish a Joint Foreign Intelligence Oversight Committee. Consolidating Congressional oversight in one committee will facilitate the efforts of the Administration to keep the Congress fully informed of foreign intelligence activities.

It is essential that both the House and the Senate establish firm rules to insure that foreign intelligence secrets will not be improperly disclosed. There must be established a clear process to safeguard these secrets and effective measures to deal with unauthorized disclosures.

Any foreign intelligence information transmitted by the Executive Branch to the Oversight Committee, under an injunction of secrecy, should not be unilaterally disclosed without my agreement. Respect for the integrity of the Constitution requires adherence to the principle that no individual member nor committee, nor single House of Congress can overrule an act of the Executive. Unilateral publication of classified information over the objection

of the President, by one committee or one House of Congress, not only violates the doctrine of separation of powers, but also effectively overrides the actions of the other House of Congress, and perhaps even the majority of both Houses.

Finally, successful and effective Congressional oversight of the foreign intelligence agencies depends on mutual trust between the Congress and Executive. Each branch must recognize and respect the rights and prerogatives of the other if anything is to be achieved.

In this context, a Congressional requirement to keep the Oversight Committee "fully" informed is more desirable and workable as a practical matter than formal requirements for notification of specific activities in a large number of committees. Specifically, Section 662 of the Foreign Assistance Act, which has resulted in over six separate committee briefings, should be modified as recommended by the Commission on the Organization of the Government for the Conduct of Foreign Policy, and reporting should be limited to the new Oversight Committee.

Both the Congress and the Executive Branch recognize the importance to this Nation of a strong intelligence service. I believe it urgent that we take the steps I have outlined above to insure that America not only has the best foreign intelligence service in the world, but also the most unique — one which operates in a manner fully consistent with the Constitutional rights of our citizens.

GERALD R. FORD

The White House,
February 18, 1976.

National Poison Prevention Week, 1976

Proclamation 4416. February 18, 1976

By the President of the United States of America
a Proclamation

"The life of a child is precious. The loss of even one child is tragic. Yet each year an accidental poisoning cause two million of our Nation's children to suffer illness and injury from which they may never recover.

As every parent knows, children are by nature inquisitive. They are explorers and experimenters. It is our responsibility not only to teach them the dangers that poisonous substances present, but to provide them with a safe environment. Special packaging required under the provisions of the Poison Prevention Packaging Act of 1970 plays a major role in achieving this aim. Data recently released by the National Center for Health Statistics indicate that in the year since aspirin products were

helps us to meet the demands of the future. In recent years the Congress has taken important steps—through the establishment of the congressional budget process—to improve its own means of establishing priorities. This administration has worked closely with the congressional appropriations and budget committees and has found them invaluable sources of advice. We will continue in this spirit of cooperation, and I look forward to working with the Congress and its leadership to obtain adoption of my budget for fiscal year 1979.

JIMMY CARTER

January 20, 1978.

NOTE: The text of the message was released on January 23.

Secretary of State Vance's Trip to the Middle East

White House Statement on the President's Meeting With Secretary Vance, January 23, 1978

Secretary Vance reported this evening to the President on his trip last week to the Middle East to attend the opening sessions of the Political Committee of the Cairo Conference in Jerusalem and on his visits to Greece and Turkey this past weekend.

On the Middle East, Secretary Vance described for the President the work on a declaration of principles which would govern the negotiation of a comprehensive peace settlement in the Middle East that had begun in the Political Committee before the Egyptian delegation was withdrawn.

The Secretary expressed his judgment that, while the work of the Political Committee is temporarily suspended, the negotiating process can continue. Both the

President and the Secretary have urged that discussions between Egypt and Israel in the Security Committee of the Cairo Conference continue. They hope that these talks may resume soon. The President stressed that we are prepared to continue the exchanges with Prime Minister Begin and President Sadat that the Secretary began last week on a declaration of principles. Assistant Secretary Atherton is staying in the Middle East to be helpful in this effort.

The President and the Secretary expressed the hope that the public exchanges of recent days are now behind us and that every effort will be made to recapture the spirit that followed recent meetings between Prime Minister Begin and President Sadat and to turn full attention through quiet diplomacy to the substance of the negotiations.

Secretary Vance also reported on his brief visits to Ankara and Athens. In each place, he had extended discussions with the respective leaders on matters of bilateral cooperation and on regional and global issues of concern to us as allies. No decisions were taken in these conversations. Our ties with both countries remain strong and vital.

United States Foreign Intelligence Activities

Remarks on Signing Executive Order 12036, January 24, 1978

THE PRESIDENT. This morning, we've gathered to sign an Executive order which makes a major stride forward in better coordination within the Intelligence Community.

One of the pleasant experiences that I've had as President is to see the profes-

sionalism and the competence of the collection and analysis and distribution of intelligence information to me and to other consumers in the Federal Government. Under Admiral Turner, this coordination has been superb. And I'm very pleased this morning, after months of work with the NSC—the National Security Council—with the Department of Defense, with Admiral Turner, the CIA, the Congress committees, particularly the Senate Intelligence Committee, to have evolved an Executive order which establishes in clear terms the responsibilities and limitations of the collection of intelligence, of counterintelligence, and also the distribution of material that hasn't been analyzed.

The Director of Central Intelligence, Admiral Turner, will be responsible for tasking or assigning tasks to all those who collect intelligence. He will also have full control of the intelligence budget and will also be responsible for the analysis of information that does come in from all sources in the foreign intelligence field.

This order also gives a great deal of additional responsibility to the Attorney General to make sure that the civil liberties and the privacy of American citizens is adequately protected and that the constitutional provisions and the laws of our Nation are carried out precisely. There's a clear description of the duties and responsibilities of all those that are involved in the collection and distribution of intelligence information.

I'm very proud of this Executive order. It will be a basis for congressional action on a charter to be written for the Intelligence Community and, I think later on, we'll have one for the FBI, as well.

Under this order, though, under counterintelligence, the duties of the FBI are also spelled out. So, this is a fairly concise, clear delineation of how the In-

telligence Community will be operating in the months ahead.

I want to express my thanks to all those that have been involved in the process. And after I sign the Executive order this morning, there will be a complete briefing for the press by the members of the NSC, the Department of Defense, the Attorney General's office, and Admiral Turner representing the Intelligence Community.

So, I want to thank all of you standing behind me, and I will now sign the Executive order which, I think, is a major stride forward. Thank you very much.

[At this point the President signed the Executive order.]

Fritz, if you would come over and say a word?

VICE PRESIDENT MONDALF. I have some notes.

THE PRESIDENT. Very good. [Laughter]

VICE PRESIDENT MONDALF. *Mr. President, members of the Senate and House intelligence committees:*

When I served in the Senate, it was our task for some time to explore and investigate abuses by our intelligence agencies. It was not a happy job, and it disclosed not only many abuses of the civil liberties of our people but, in many ways, decisions and actions that were counterproductive to the interests of our country.

In my opinion, the most important principle that this Executive order stands for is that it demonstrates that we can fully protect our Nation and do so within the law, and not only do it within the law but do it better than under a circumstance which permits us to resort to illegality.

Underlying the abuses that we uncovered was an unexpressed but clearly evident conclusion on the part of some that we could not defend our country against her real enemies except through illegality. Once you examine that, it's true that

the only way you can effectively protect against our enemies is through legal process.

And that's what this Executive order stands for. It's a historic document. It's the first time, I think, any major nation has tried to rationalize in writing, through legislative charters, the protection of their nation from enemies, and to do so within the law.

We need the best Intelligence Community in the world, and we have it. And under this Executive order, it will be even better. I think what it really stands for is that the framers of our Constitution were pretty wise men after all.

THE PRESIDENT: Thank you. The chairman of the Senate Intelligence Committee this past year has been Senator Danny Inouye, who had worked very closely with us. He has done a superb job. One of the facets of this Executive order is it directs those who are involved in the Intelligence Community to share information, sometimes of a highly confidential or secret nature, with the Members of the Congress, so that there can be a joint sharing of responsibility for the collection and dissemination of intelligence information in a legal way.

Danny, I'd like to call on you to say a word.

SENATOR INOUE: Mr. President, on behalf of the committee, I wish to thank you and commend you for giving us an opportunity to participate in the drafting of this extraordinary Executive order. We concur with you that statutory charters are important and, accordingly, I'm pleased to advise you that next week, a draft charter brought about by the work of Senators Huddleston and Mathias will be introduced in the Senate, and we look forward to working with you, sir. Thank you.

THE PRESIDENT: Very fine. The new chairman of the Intelligence Committee

and one who's served long and well on the committee is Senator Birch Bayh. Birch, would you like to say just a word?

SENATOR BAYH: Mr. President, I'm looking forward to having a chance to continue the strong leadership that Senator Inouye has provided for the committee. I would like to add my commendation. This is the first time in history that the Congress has had this kind of cooperation with the executive branch. And this is the second step—I would like to remind those who are here—in which you, as President, have undertaken a landmark initiative. We met in the Rose Garden in the spring, where for the first time in history you were willing to waive your inherent authority to get involved in electronic surveillance.

So, as we move forward with the charters, I think it is important to understand that this is critical. Presidents and Congresses are mortal. We have been reminded of that rather tragically in the last few days. And it's important to put these basic protections in the bedrock law of our land.

THE PRESIDENT: Thank you. A new committee that's just been formed in the Congress this past year, certainly with my strong approval and support, has been the House Intelligence Committee. Eddie Boland is the chairman. Eddie, perhaps you'd like to say a word.

REPRESENTATIVE BOLAND: Mr. President, first of all I want to express, on behalf of all my colleagues on the House side, our appreciation at the invitation that brings us to this very significant and very meaningful occasion. I only have a couple of observations. I'm delighted to come, first of all, to find out whether or not the signatures on the letters that I get from you are genuine. [Laughter] I've seen you sign here; I know they are. [Laughter]

Then I'm delighted to see that behind us—and I think the press will recognize

this—there is no dispute within the Intelligence Community over what we're doing, either what Admiral Turner is doing or what the President is doing. Everybody is here, and everybody is happy with it.

I'm also conscious of the fact that the Senators are way ahead of us in this area and have been for some time. It's the only area in which the Senate is ahead of us, incidentally. *[Laughter]* We hope to catch up. It's going to be a difficult job. But frankly, they have led the way and, I think, perhaps, they have taken the Congress through the thickest of what this particular activity within the Congress means and its significance.

And as the Vice President has so well said and you have so well said, this Executive order is historical. It does indicate that we can operate an Intelligence Community within the framework of our Constitution, to protect the rights and ensure the rights of the people of our Nation. And that's exactly why we are in business.

So, Mr. President, with this Executive order, with the charter legislation that is coming out of the Senate, with the foreign surveillance intelligence legislation that has been considered by the House, is being considered by Chairman Murphy of our committee, why, we can assure you that you will find the House in cooperation with you, with the administration, and with the Senate committee.

Thank you very much for inviting us.

THE PRESIDENT. Thank you very much. Eddie, Dee Huddleston has been the chairman of the subcommittee responsible for the drafting of legislation precedent to the actual evolution of the charter which will be part of our Nation's laws.

Senator Huddleston has worked very closely with me and others in the basic premises included in the Executive order. This is a good basis. We all recognized

that the Intelligence Community has to have some degree of flexibility. And there are a few directives that will not be included in this Executive order because of their highly confidential nature, but all those are being shared and will be shared with the Senate and the House committees. We are very proud of the relationship that we have.

SENATOR HUOOLESTON. Well, thank you, Mr. President. I certainly want to express my appreciation and that of our subcommittee to you and your entire staff for the cooperation and help you've given. I doubt if there has been an Executive order in recent years, maybe never, that has had as much congressional input as this particular one.

And I have to say that Bill Miller and Elliott Maxwell on our committee staff have done a tremendous job in providing us with the input that we've been able to make. I think this, certainly, is an appropriate interim step between where we have been in our intelligence operations and the control and accountability and authority that's been exercised there and where we all know that we want to go; and that is, with legislative, statutory charters setting out the missions, the accountability, the authorities of all of our intelligence agencies.

Uppernmost in our mind, Mr. President—and I, too, along with Vice President Mondale, went through the so-called Church committee's investigative period—in spite of the abuses that we saw revealed, I think our major objective still, as we protect the rights and privileges of our citizens, is to provide the machinery under which the United States of America can have the best, most efficient, most effective intelligence apparatus in the world. That's what we are going to work toward. As our chairman has indicated, we're prepared now, and

certainly will be by the end of next week, to introduce legislation, our first piece of legislation relating to the charters. We see that as a starting point.

The long period of time it took to bring this into being, I think, demonstrates the very complex and difficult problems that we are faced with. So, I'm sure we're going to have the same kind of cooperation between the Intelligent Community and the executive that we've had previously. And I believe that we can develop the kind of charters that will bring about the assurances that all of us want.

Thank you, sir, very much.

THE PRESIDENT. Thank you. Senator Huddleston said that never before in history has an Executive order by the President had so much congressional input. I doubt if ever before in history an Executive order has had so much input from the President. [Laughter] I have sent it back three or four times to be redrafted so I could understand it. [Laughter] I think now it's in very good shape.

I'd like to call on Congressman Murphy. He has the same responsibility in the House as Dee Huddleston does in the Senate, the drafting of a new charter.

REPRESENTATIVE MURPHY. Thank you, Mr. President. On behalf of the committee, I'd like to congratulate you. Mr. President, on keeping your promise that you made during your campaign that you would bring the intelligence agencies into some meaningful order under this Executive order. I'd also like to thank Attorney General Bell and his staff.

We have already begun our work on the national surveillance act. And as my chairman, Mr. Boland, has reminded us, we are behind. I think that's an admonishment to me. We will catch up.

Thank you, sir.

THE PRESIDENT. Thank you. I wanted to call on, also, Senator Mathias, who's been a great help to us. Senator Goldwater has been the vice chairman of the committee for a long time. He's not here today.

SENATOR MATHIAS. Mr. President, as I stood here this morning, I thought a little bit about the advice of Speaker Reed, who defined the duties of the minority as to draw your pay and help make a quorum. [Laughter] I want to assure you that the minority in this case is going to do more than that, that we're going to work very hard on this statutory charter and to try to develop in the spirit in which you have started us out this morning.

I think it needs to be said that we want it to be not only an effective instrument which provides us with the best intelligence and that we want it to provide the kind of restraints which ensure the rule of law in our country, but we also want it to be a shield for the men and women who devote their lives to the intelligence services and to give them the kind of guidance within which they can develop their own careers.

Thank you very much, Mr. President.

REPRESENTATIVE WILSON. I'm again the minority on our side, but we are very much interested in this Executive order. I commend you for having taken all of the different intelligence responsibilities from various agencies and putting them under one executive lead, which has been one of the problems we have seen in the past. And I predict that we'll come along and support you continuously in the future.

Thank you very much.

THE PRESIDENT. I want to say I won't call anyone else from the executive branch, because you will be getting a briefing in detail from the National Security Council, Department of Defense, the

DCI, which is the Director of Central Intelligence, and also the Attorney General.

But in closing, let me remind the group once again of what I said at the beginning: One of the most professional and competent organizations with which I have ever dealt has been the Intelligence Community. It consists of several thousand highly professional, dedicated American people whose knowledge and experience stands as a bulwark in protecting the security of our Nation.

And although there have been problems in the past, probably because of an absence of a clear directive about delineations of responsibility, I think that this has quite often obscured the sacrificial work that these good men and women have done.

Again, I want to express my complete appreciation and confidence in Admiral Stan Turner, whose responsibilities under this Executive order will be greatly magnified. He's worked very closely with the Attorney General and with the Secretary of Defense. During normal peacetime, which I hope will prevail throughout all of our lifetime, he will have the responsibilities that I outlined.

In case of a conflict or extreme national emergency, under the Executive order, the President has the authority to shift part of that responsibility to the Secretary of Defense to defend our Nation in time of war. But that will be done in a very careful, preplanned way. And the present interrelationship that exists today, to be enhanced by the Executive order, between Defense, Justice, and intelligence, is very clearly defined and is a harmonious working relationship.

This could not have been possible without a great deal of consultation and a close cooperation and, I think, a mutual purpose that was recognized by everyone.

I think this is a major step forward. I'm very deeply grateful to all of you.

Thank you very much.

NOTE: The President spoke at 11:45 a.m. in the Cabinet Room at the White House.

United States Foreign Intelligence Activities

Executive Order 12036. January 24, 1978

UNITED STATES INTELLIGENCE ACTIVITIES

By virtue of the authority vested in me by the Constitution and statutes of the United States of America including the National Security Act of 1947, as amended, and as President of the United States of America, in order to provide for the organization and control of United States foreign intelligence activities, it is hereby ordered as follows:

TABLE OF CONTENTS

SECTION 1	DIRECTION, DUTIES AND RESPONSIBILITIES WITH RESPECT TO THE NATIONAL INTELLIGENCE EFFORT.....	[195] ¹
1-1	National Security Council	[195]
1-2	NSC Policy Review Committee.....	[195]
1-3	NSC Special Coordination Committee.....	[196]
1-4	National Foreign Intelligence Board	[197]
1-5	National Intelligence Tasking Center.....	[197]
1-6	The Director of Central Intelligence	[198]
1-7	Senior Officials of the Intelligence Community....	[200]

¹ EDITOR'S NOTE: The page numbers of the above table of contents reflect page citations in this publication. The page numbers which they replace were references to pages in the original document.

1-8	The Central Intelligence Agency.....	[201]	SECTION 3	OVERSIGHT OF INTELLIGENCE ORGANIZATIONS.....	[210]
1-9	The Department of State..	[202]	3-1	Intelligence Oversight Board.....	[210]
1-10	The Department of the Treasury.....	[202]	3-2	Inspectors General and General Counsel.....	[210]
1-11	The Department of Defense, Intelligence Components Utilized by the Secretary of Defense.....	[203]	3-3	Attorney General.....	[211]
1-12		[205]	3-4	Congressional Intelligence Committees.....	[211]
1-13	The Department of Energy, The Federal Bureau of Investigation.....	[205]	SECTION 4	GENERAL PROVISIONS.....	[212]
1-14		[205]	4-1	Implementation.....	[212]
1-15	The Drug Enforcement Administration.....	[205]	4-2	Definitions.....	[212]
SECTION 2	RESTRICTIONS ON INTELLIGENCE ACTIVITIES.....	[206]		SECTION 1	
2-1	Adherence to Law.....	[206]		DIRECTION, DUTIES AND RESPONSIBILITIES WITH RESPECT TO THE NATIONAL INTELLIGENCE EFFORT*	
2-2	Restrictions on Certain Collection Techniques.....	[206]		1-1. National Security Council.	
2-201	General Provisions.....	[206]		1-101. Purpose. The National Security Council (NSC) was established by the National Security Act of 1947 to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security. The NSC shall act as the highest Executive Branch entity that provides review of, guidance for, and direction to the conduct of all national foreign intelligence and counterintelligence activities.	
2-202	Electronic Surveillance.....	[206]		1-102. Committees. The NSC Policy Review Committee and Special Coordination Committee, in accordance with procedures established by the Assistant to the President for National Security Affairs, shall assist in carrying out the NSC's responsibilities in the foreign intelligence field.	
2-203	Television Cameras and Other Monitoring.....	[207]		1-2. NSC Policy Review Committee.	
2-204	Physical Searches.....	[207]		1-201. Membership. The NSC Policy Review Committee (PRC), when carry-	
2-205	Mail Surveillance.....	[207]			
2-206	Physical Surveillance.....	[207]			
2-207	Undisclosed Participation in Domestic Organizations..	[207]			
2-208	Collection of Nonpublicly Available Information...	[208]			
2-3	Additional Restrictions and Limitations.....	[209]			
2-301	Tax Information.....	[209]			
2-302	Restrictions on Experimentation.....	[209]			
2-303	Restrictions on Contracting.	[209]			
2-304	Restrictions on Personnel Assigned to Other Agencies.....	[209]			
2-305	Prohibition on Assassination.....	[209]			
2-306	Restrictions on Special Activities.....	[209]			
2-307	Restrictions on Indirect Participation in Prohibited Activities.....	[209]			
2-308	Restrictions on Assistance to Law Enforcement Authorities.....	[209]			
2-309	Permissible Assistance to Law Enforcement Authorities.....	[209]			
2-310	Permissible Dissemination and Storage of Information.....	[210]			

*Certain technical terms are defined in Section 4-2.

ing out responsibilities assigned in this Order, shall be chaired by the Director of Central Intelligence and composed of the Vice President, the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the Assistant to the President for National Security Affairs, and the Chairman of the Joint Chiefs of Staff, or their designees, and other senior officials, as appropriate.

1-202. *Duties.* The PRC shall:

(a) Establish requirements and priorities for national foreign intelligence;

(b) Review the National Foreign Intelligence Program and budget proposals and report to the President as to whether the resource allocations for intelligence capabilities are responsive to the intelligence requirements of the members of the NSC.

(c) Conduct periodic reviews of national foreign intelligence products, evaluate the quality of the intelligence product, develop policy guidance to ensure quality intelligence and to meet changing intelligence requirements; and

(d) Submit an annual report on its activities to the NSC.

1-203. *Appeals.* Recommendations of the PRC on intelligence matters may be appealed to the President or the NSC by any member of the PRC.

1-3. *NSC Special Coordination Committee.*

1-301. *Membership.* The NSC Special Coordination Committee (SCC) is chaired by the Assistant to the President for National Security Affairs and its membership includes the statutory members of the NSC and other senior officials, as appropriate.

1-302. *Special Activities.* The SCC shall consider and submit to the President a policy recommendation, including all dissents, on each special activity. When meeting for this purpose, the members of

the SCC shall include the Secretary of State, the Secretary of Defense, the Attorney General, the Director of the Office of Management and Budget, the Assistant to the President for National Security Affairs, the Chairman of the Joint Chiefs of Staff, and the Director of Central Intelligence.

1-303. *Sensitive Foreign Intelligence Collection Operations.* Under standards established by the President, proposals for sensitive foreign intelligence collection operations shall be reported to the Chairman by the Director of Central Intelligence for appropriate review and approval. When meeting for the purpose of reviewing proposals for sensitive foreign intelligence collection operations, the members of the SCC shall include the Secretary of State, the Secretary of Defense, the Attorney General, the Assistant to the President for National Security Affairs, the Director of Central Intelligence, and such other members designated by the Chairman to ensure proper consideration of these operations.

1-304. *Counterintelligence.* The SCC shall develop policy with respect to the conduct of counterintelligence activities. When meeting for this purpose the members of the SCC shall include the Secretary of State, the Secretary of Defense, the Attorney General, the Director of the Office of Management and Budget, the Assistant to the President for National Security Affairs, the Chairman of the Joint Chiefs of Staff, the Director of Central Intelligence, and the Director of the FBI. The SCC's counterintelligence functions shall include:

(a) Developing standards and doctrine for the counterintelligence activities of the United States;

(b) Resolving interagency differences concerning implementation of counterintelligence policy;

(c) Developing and monitoring guidelines consistent with this Order for the maintenance of central records of counterintelligence information;

(d) Submitting to the President an overall annual assessment of the relative threat to United States interests from intelligence and security services of foreign powers and from international terrorist activities, including an assessment of the effectiveness of the United States counterintelligence activities; and

(e) Approving counterintelligence activities which, under such standards as may be established by the President, require SCC approval.

1-305. *Required Membership.* The SCC shall discharge the responsibilities assigned by sections 1-302 through 1-304 only after consideration in a meeting at which all designated members are present or, in unusual circumstances when any such member is unavailable, when a designated representative of the member attends.

1-306. *Additional Duties.* The SCC shall also:

(a) Conduct an annual review of ongoing special activities and sensitive national foreign intelligence collection operations and report thereon to the NSC; and

(b) Carry out such other coordination and review activities as the President may direct.

1-307. *Appeals.* Any member of the SCC may appeal any decision to the President or the NSC.

1-4. *National Foreign Intelligence Board.*

1-401. *Establishment and Duties.* There is established a National Foreign Intelligence Board (NFIB) to advise the Director of Central Intelligence concerning:

(a) Production, review, and coordination of national foreign intelligence;

(b) The National Foreign Intelligence Program budget;

(c) Interagency exchanges of foreign intelligence information;

(d) Arrangements with foreign governments on intelligence matters;

(e) The protection of intelligence sources and methods;

(f) Activities of common concern; and

(g) Other matters referred to it by the Director of Central Intelligence.

1-402. *Membership.* The NFIB shall be chaired by the Director of Central Intelligence and shall include other appropriate officers of the CIA, the Office of the Director of Central Intelligence, the Department of State, the Department of Defense, the Department of Justice, the Department of the Treasury, the Department of Energy, the Defense Intelligence Agency, the offices within the Department of Defense for reconnaissance programs, the National Security Agency and the FBI. A representative of the Assistant to the President for National Security Affairs may attend meetings of the NFIB as an observer.

1-403. *Restricted Membership and Observers.* When the NFIB meets for the purpose of section 1-401 (a), it shall be composed solely of the senior intelligence officers of the designated agencies. The senior intelligence officers of the Army, Navy and Air Force may attend all meetings of the NFIB as observers.

1-5. *National Intelligence Tasking Center.*

1-501. *Establishment.* There is established a National Intelligence Tasking Center (NITC) under the direction, control and management of the Director of Central Intelligence for coordinating and tasking national foreign intelligence collection activities. The NITC shall be staffed jointly by civilian and military personnel including designated representa-

tives of the chiefs of each of the Department of Defense intelligence organizations engaged in national foreign intelligence activities. Other agencies within the Intelligence Community may also designate representatives.

1-502. *Responsibilities.* The NITC shall be the central mechanism by which the Director of Central Intelligence:

(a) Translates national foreign intelligence requirements and priorities developed by the PRC into specific collection objectives and targets for the Intelligence Community;

(b) Assigns targets and objectives to national foreign intelligence collection organizations and systems;

(c) Ensures the timely dissemination and exploitation of data for national foreign intelligence purposes gathered by national foreign intelligence collection means, and ensures the resulting intelligence flow is routed immediately to relevant components and commands;

(d) Provides advisory tasking concerning collection of national foreign intelligence to departments and agencies having information collection capabilities or intelligence assets that are not a part of the National Foreign Intelligence Program. Particular emphasis shall be placed on increasing the contribution of departments or agencies to the collection of information through overt means.

1-503. *Resolution of Conflicts.* The NITC shall have the authority to resolve conflicts of priority. Any PRC member may appeal such a resolution to the PRC; pending the PRC's decision, the tasking remains in effect.

1-504. *Transfer of Authority.* All responsibilities and authorities of the Director of Central Intelligence concerning the NITC shall be transferred to the Secretary of Defense upon the express direction of the President. To maintain readiness

for such transfer, the Secretary of Defense shall, with advance agreement of the Director of Central Intelligence, assume temporarily during regular practice exercises all responsibilities and authorities of the Director of Central Intelligence concerning the NITC.

1-6 *The Director of Central Intelligence.*

1-601. *Duties.* The Director of Central Intelligence shall be responsible directly to the NSC and, in addition to the duties specified elsewhere in this Order, shall:

(a) Act as the primary adviser to the President and the NSC on national foreign intelligence and provide the President and other officials in the Executive Branch with national foreign intelligence;

(b) Be the head of the CIA and of such staff elements as may be required for discharge of the Director's Intelligence Community responsibilities;

(c) Act, in appropriate consultation with the departments and agencies, as the Intelligence Community's principal spokesperson to the Congress, the news media and the public, and facilitate the use of national foreign intelligence products by the Congress in a secure manner;

(d) Develop, consistent with the requirements and priorities established by the PRC, such objectives and guidance for the Intelligence Community as will enhance capabilities for responding to expected future needs for national foreign intelligence;

(e) Promote the development and maintenance of services of common concern by designated foreign intelligence organizations on behalf of the Intelligence Community;

(f) Ensure implementation of special activities;

(g) Formulate policies concerning intelligence arrangements with foreign governments, and coordinate intelligence relationships between agencies of the Intel-

ligence Community and the intelligence or internal security services of foreign governments;

(h) Conduct a program to protect against overclassification of foreign intelligence information;

(i) Ensure the establishment by the Intelligence Community of common security and access standards for managing and handling foreign intelligence systems, information and products;

(j) Participate in the development of procedures required to be approved by the Attorney General governing the conduct of intelligence activities;

(k) Establish uniform criteria for the determination of relative priorities for the transmission of critical national foreign intelligence, and advise the Secretary of Defense concerning the communications requirements of the Intelligence Community for the transmission of such intelligence;

(l) Provide appropriate intelligence to departments and agencies not within the Intelligence Community; and

(m) Establish appropriate committees or other advisory groups to assist in the execution of the foregoing responsibilities.

1-602. *National Foreign Intelligence Program Budget.* The Director of Central Intelligence shall, to the extent consistent with applicable law, have full and exclusive authority for approval of the National Foreign Intelligence Program budget submitted to the President. Pursuant to this authority:

(a) The Director of Central Intelligence shall provide guidance for program and budget development to program managers and heads of component activities and to department and agency heads;

(b) The heads of departments and agencies involved in the National Foreign Intelligence Program shall ensure timely

development and submission to the Director of Central Intelligence of proposed national programs and budgets in the format designated by the Director of Central Intelligence, by the program managers and heads of component activities, and shall also ensure that the Director of Central Intelligence is provided, in a timely and responsive manner, all information necessary to perform the Director's program and budget responsibilities;

(c) The Director of Central Intelligence shall review and evaluate the national program and budget submissions and, with the advice of the NFIB and the departments and agencies concerned, develop the consolidated National Foreign Intelligence Program budget and present it to the President through the Office of Management and Budget;

(d) The Director of Central Intelligence shall present and justify the National Foreign Intelligence Program budget to the Congress;

(e) The heads of the departments and agencies shall, in consultation with the Director of Central Intelligence, establish rates of obligation for appropriated funds;

(f) The Director of Central Intelligence shall have full and exclusive authority for reprogramming National Foreign Intelligence Program funds, in accord with guidelines established by the Office of Management and Budget, but shall do so only after consultation with the head of the department affected and appropriate consultation with the Congress;

(g) The departments and agencies may appeal to the President decisions by the Director of Central Intelligence on budget or reprogramming matters of the National Foreign Intelligence Program.

(h) The Director of Central Intelligence shall monitor National Foreign In-

telligence Program implementation and may conduct program and performance audits and evaluations.

1-603. *Responsibility For National Foreign Intelligence.* The Director of Central Intelligence shall have full responsibility for production and dissemination of national foreign intelligence and have authority to levy analytic tasks on departmental intelligence production organizations, in consultation with those organizations. In doing so, the Director of Central Intelligence shall ensure that diverse points of view are considered fully and that differences of judgment within the Intelligence Community are brought to the attention of national policymakers.

1-604. *Protection of Sources, Methods and Procedures.* The Director of Central Intelligence shall ensure that programs are developed which protect intelligence sources, methods and analytical procedures, provided that this responsibility shall be limited within the United States to:

(a) Using lawful means to protect against disclosure by present or former employees of the CIA or the Office of the Director of Central Intelligence, or by persons or organizations presently or formerly under contract with such entities; and

(b) Providing policy, guidance and technical assistance to departments and agencies regarding protection of intelligence information, including information that may reveal intelligence sources and methods.

1-605. *Responsibility of Executive Branch Agencies.* The heads of all Executive Branch departments and agencies shall, in accordance with law and relevant Attorney General procedures, give the Director of Central Intelligence access to all information relevant to the national intelligence needs of the United

States and shall give due consideration to requests from the Director of Central Intelligence for appropriate support for CIA activities.

1-606. *Access to CIA Intelligence.* The Director of Central Intelligence, shall, in accordance with law and relevant Attorney General procedures, give the heads of the departments and agencies access to all intelligence, developed by the CIA or the staff elements of the office of the Director of Central Intelligence, relevant to the national intelligence needs of the departments and agencies.

1-7. *Senior Officials of the Intelligence Community.* The senior officials of each of the agencies within the Intelligence Community shall:

1-701. Ensure that all activities of their agencies are carried out in accordance with applicable law;

1-702. Make use of the capabilities of other agencies within the Intelligence Community in order to achieve efficiency and mutual assistance;

1-703. Contribute in their areas of responsibility to the national foreign intelligence products;

1-704. Establish internal policies and guidelines governing employee conduct and ensure that such are made known to each employee;

1-705. Provide for strong, independent, internal means to identify, inspect, and report on unlawful or improper activity;

1-706. Report to the Attorney General evidence of possible violations of federal criminal law by an employee of their department or agency, and report to the Attorney General evidence of possible violations by any other person of those federal criminal laws specified in guidelines adopted by the Attorney General;

1-707. In any case involving serious or continuing breaches of security, recommend to the Attorney General that the

case be referred to the FBI for further investigation;

1-708. Furnish the Director of Central Intelligence, the PRC and the SCC, in accordance with applicable law and Attorney General procedures, the information required for the performance of their respective duties;

1-709. Report to the Intelligence Oversight Board, and keep the Director of Central Intelligence appropriately informed, concerning any intelligence activities of their organizations which raise questions of legality or propriety;

1-710. Protect intelligence and intelligence sources and methods consistent with guidance from the Director of Central Intelligence and the NSC;

1-711. Disseminate intelligence to cooperating foreign governments under arrangements established or agreed to by the Director of Central Intelligence;

1-712. Execute programs to protect against overclassification of foreign intelligence;

1-713. Instruct their employees to cooperate fully with the Intelligence Oversight Board; and

1-714. Ensure that the Inspectors General and General Counsel of their agencies have access to any information necessary to perform their duties assigned by this Order.

1-8. *The Central Intelligence Agency.* All duties and responsibilities of the CIA shall be related to the intelligence functions set out below. As authorized by the National Security Act of 1947, as amended, the CIA Act of 1949, as amended, and other laws, regulations and directives, the CIA, under the direction of the NSC, shall:

1-801. Collect foreign intelligence, including information not otherwise obtainable, and develop, conduct, or provide support for technical and other programs

which collect national foreign intelligence. The collection of information within the United States shall be coordinated with the FBI as required by procedures agreed upon by the Director of Central Intelligence and the Attorney General;

1-802. Produce and disseminate foreign intelligence relating to the national security, including foreign political, economic, scientific, technical, military, geographic and sociological intelligence to meet the needs of the President, the NSC, and other elements of the United States Government;

1-803. Collect, produce and disseminate intelligence on foreign aspects of narcotics production and trafficking;

1-804. Conduct counterintelligence activities outside the United States and coordinate counterintelligence activities conducted outside the United States by other agencies within the Intelligence Community;

1-805. Without assuming or performing any internal security functions, conduct counterintelligence activities within the United States, but only in coordination with the FBI and subject to the approval of the Attorney General;

1-806. Produce and disseminate counterintelligence studies and reports;

1-807. Coordinate the collection outside the United States of intelligence information not otherwise obtainable;

1-808. Conduct special activities approved by the President and carry out such activities consistent with applicable law;

1-809. Conduct services of common concern for the Intelligence Community as directed by the NSC;

1-810. Carry out or contract for research, development and procurement of technical systems and devices relating to authorized functions;

1-811. Protect the security of its installations, activities, information and

personnel by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the CIA as are necessary;

1-812. Conduct such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections 1-801 through 1-811 above, including procurement and essential cover and proprietary arrangements;

1-813. Provide legal and legislative services and other administrative support to the Office of the Director of Central Intelligence.

1-9. *The Department of State.* The Secretary of State shall:

1-901. Overtly collect foreign political, sociological, economic, scientific, technical, political-military and associated biographic information;

1-902. Produce and disseminate foreign intelligence relating to United States foreign policy as required for the execution of the Secretary's responsibilities;

1-903. Disseminate, as appropriate, reports received from United States diplomatic and consular posts abroad;

1-904. Coordinate with the Director of Central Intelligence to ensure that national foreign intelligence activities are useful to and consistent with United States foreign policy;

1-905. Transmit reporting requirements of the Intelligence Community to the Chiefs of United States Missions abroad; and

1-906. Support Chiefs of Mission in discharging their statutory responsibilities for direction and coordination of mission activities.

1-10. *The Department of the Treasury.* The Secretary of the Treasury shall:

1-1001. Overtly collect foreign financial and monetary information;

1-1002. Participate with the Department of State in the overt collection of general foreign economic information;

1-1003. Produce and disseminate foreign intelligence relating to United States economic policy as required for the execution of the Secretary's responsibilities; and

1-1004. Conduct, through the United States Secret Service, activities to determine the existence and capability of surveillance equipment being used against the President of the United States, the Executive Office of the President, and, as authorized by the Secretary of the Treasury or the President, other Secret Service protectees and United States officials. No information shall be acquired intentionally through such activities except to protect against such surveillance, and those activities shall be conducted pursuant to procedures agreed upon by the Secretary of the Treasury and the Attorney General.

1-11. *The Department of Defense.* The Secretary of Defense shall:

1-1101. Collect national foreign intelligence and be responsive to collection tasking by the NITC;

1-1102. Collect, produce and disseminate foreign military and military-related intelligence information, including scientific, technical, political, geographic and economic information as required for execution of the Secretary's responsibilities;

1-1103. Conduct programs and missions necessary to fulfill national and tactical foreign intelligence requirements;

1-1104. Conduct counterintelligence activities in support of Department of Defense components outside the United States in coordination with the CIA, and within the United States in coordination with the FBI pursuant to procedures agreed upon by the Secretary of Defense

and the Attorney General, and produce and disseminate counterintelligence studies and reports;

1-1105. Direct, operate, control and provide fiscal management for the National Security Agency and for defense and military intelligence and national reconnaissance entities;

1-1106. Conduct, as the executive agent of the United States Government, signals intelligence and communications security activities, except as otherwise directed by the NSC;

1-1107. Provide for the timely transmission of critical intelligence, as defined by the Director of Central Intelligence, within the United States Government;

1-1108. Review budget data and information on Department of Defense programs within the National Foreign Intelligence Program and review budgets submitted by program managers to the Director of Central Intelligence to ensure the appropriate relationship of the National Foreign Intelligence Program elements to the other elements of the Defense program;

1-1109. Monitor, evaluate and conduct performance audits of Department of Defense intelligence programs;

1-1110. Carry out or contract for research, development and procurement of technical systems and devices relating to authorized intelligence functions;

1-1111. Together with the Director of Central Intelligence, ensure that there is no unnecessary overlap between national foreign intelligence programs and Department of Defense intelligence programs and provide the Director of Central Intelligence all information necessary for this purpose;

1-1112. Protect the security of Department of Defense installations, activities, information and personnel by appro-

priate means including such investigations of applicants, employees, contractors and other persons with similar associations with the Department of Defense as are necessary; and

1-1113. Conduct such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections 1-1101 through 1-1112 above.

1-12. *Intelligence Components Utilized by the Secretary of Defense.* In carrying out the responsibilities assigned in sections 1-1101 through 1-1113, the Secretary of Defense is authorized to utilize the following:

1-1201. *Defense Intelligence Agency*, whose responsibilities shall include:

(a) Production or, through tasking and coordination, provision of military and military-related intelligence for the Secretary of Defense, the Joint Chiefs of Staff, other Defense components, and, as appropriate, non-Defense agencies;

(b) Provision of military intelligence for national foreign intelligence products;

(c) Coordination of all Department of Defense intelligence collection requirements for departmental needs;

(d) Management of the Defense Attache system; and

(e) Provision of foreign intelligence and counter-intelligence staff support as directed by the Joint Chiefs of Staff.

1-1202. *National Security Agency (NSA)*, whose responsibilities shall include:

(a) Establishment and operation of an effective unified organization for signals intelligence activities, except for the delegation of operational control over certain operations that are conducted through other elements of the Intelligence Community. No other department or

agency may engage in signals intelligence activities except pursuant to a delegation by the Secretary of Defense;

(b) Control of signals intelligence collection and processing activities, including assignment of resources to an appropriate agent for such periods and tasks as required for the direct support of military commanders;

(c) Collection of signals intelligence information for national foreign intelligence purposes in accordance with tasking by the NITC;

(d) Processing of signals intelligence data for national foreign intelligence purposes consistent with standards for timeliness established by the Director of Central Intelligence;

(e) Dissemination of signals intelligence information for national foreign intelligence purposes to authorized elements of the Government, including the military services, in accordance with guidance from the NITC;

(f) Collection, processing, and dissemination of signals intelligence information for counterintelligence purposes;

(g) Provision of signals intelligence support for the conduct of military operations in accordance with tasking, priorities and standards of timeliness assigned by the Secretary of Defense. If provision of such support requires use of national collection systems, these systems will be tasked within existing guidance from the Director of Central Intelligence;

(h) Executing the responsibilities of the Secretary of Defense as executive agent for the communications security of the United States Government;

(i) Conduct of research and development to meet needs of the United States

for signals intelligence and communications security;

(j) Protection of the security of its installations, activities, information and personnel by appropriate means including such investigations of applicants, employees, contractors and other persons with similar associations with the NSA as are necessary; and

(k) Prescribing, within its field of authorized operations, security regulations covering operating practices, including the transmission, handling and distribution of signals intelligence and communications security material within and among the elements under control of the Director of the NSA, and exercising the necessary supervisory control to ensure compliance with the regulations.

1-1203. *Offices for the collection of specialized intelligence through reconnaissance programs*, whose responsibilities shall include:

(a) Carrying out consolidated reconnaissance programs for specialized intelligence;

(h) Responding to tasking through the NITC; and

(c) Delegating authority to the various departments and agencies for research, development, procurement, and operation of designated means of collection.

1-1204. *The foreign intelligence and counterintelligence elements of the military services*, whose responsibilities shall include:

(a) Collection, production and dissemination of military-related foreign intelligence, including information on indications and warnings, foreign capabilities, plans and weapons systems, scientific and technical developments and narcotics production and trafficking. When collection is conducted in response to national

foreign intelligence requirements, it will be tasked by the NITC. Collection of national foreign intelligence, not otherwise obtainable, outside the United States shall be coordinated with the CIA, and such collection within the United States shall be coordinated with the FBI;

(b) Conduct of counterintelligence activities outside the United States in coordination with the CIA, and within the United States in coordination with the FBI, and production and dissemination of counterintelligence studies or reports; and

(c) Monitoring of the development, procurement and management of tactical intelligence systems and equipment and conducting related research, development, and test and evaluation activities.

1-1205. *Other offices within the Department of Defense* appropriate for conduct of the intelligence missions and responsibilities assigned to the Secretary of Defense. If such other offices are used for intelligence purposes, the provisions of Sections 2-101 through 2-309 of this Order shall apply to those offices when used for those purposes.

1-13. *The Department of Energy*. The Secretary of Energy shall:

1-1301. Participate with the Department of State in overtly collecting political, economic and technical information with respect to foreign energy matters;

1-1302. Produce and disseminate foreign intelligence necessary for the Secretary's responsibilities;

1-1303. Participate in formulating intelligence collection and analysis requirements where the special expert capability of the Department can contribute; and

1-1304. Provide expert technical, analytical and research capability to other agencies within the Intelligence Community.

1-14. *The Federal Bureau of Investigation*. Under the supervision of the Attorney General and pursuant to such regulations as the Attorney General may establish, the Director of the FBI shall:

1-1401. Within the United States conduct counterintelligence and coordinate counterintelligence activities of other agencies within the Intelligence Community. When a counterintelligence activity of the FBI involves military or civilian personnel of the Department of Defense, the FBI shall coordinate with the Department of Defense;

1-1402. Conduct counterintelligence activities outside the United States in coordination with the CIA, subject to the approval of the Director of Central Intelligence;

1-1403. Conduct within the United States, when requested by officials of the Intelligence Community designated by the President, lawful activities undertaken to collect foreign intelligence or support foreign intelligence collection requirements of other agencies within the Intelligence Community;

1-1404. Produce and disseminate foreign intelligence, counterintelligence and counterintelligence studies and reports; and

1-1405. Carry out or contract for research, development and procurement of technical systems and devices relating to the functions authorized above.

1-15. *The Drug Enforcement Administration*. Under the supervision of the Attorney General and pursuant to such regulations as the Attorney General may establish, the Administrator of DEA shall:

1-1501. Collect, produce and disseminate intelligence on the foreign and domestic aspects of narcotics production and trafficking in coordination with other agencies with responsibilities in these areas;

1-1502. Participate with the Department of State in the overt collection of general foreign political, economic and agricultural information relating to narcotics production and trafficking; and

1-1503. Coordinate with the Director of Central Intelligence to ensure that the foreign narcotics intelligence activities of DEA are consistent with other foreign intelligence programs.

SECTION 2

RESTRICTIONS ON INTELLIGENCE ACTIVITIES

2-1. *Adherence to Law.*

2-101. *Purpose.* Information about the capabilities, intentions and activities of foreign powers, organizations, or persons and their agents is essential to informed decision-making in the areas of national defense and foreign relations. The measures employed to acquire such information should be responsive to legitimate governmental needs and must be conducted in a manner that preserves and respects established concepts of privacy and civil liberties.

2-102. *Principles of Interpretation.* Sections 2-201 through 2-309 set forth limitations which, in addition to other applicable laws, are intended to achieve the proper balance between protection of individual rights and acquisition of essential information. Those sections do not authorize any activity not authorized by sections 1-101 through 1-1503 and do not provide any exemption from any other law.

2-2. *Restrictions on Certain Collection Techniques.*

2-201. *General Provisions.*

(a) The activities described in Sections 2-202 through 2-208 shall be undertaken only as permitted by this Order and by procedures established by the head of the

agency concerned and approved by the Attorney General. Those procedures shall protect constitutional rights and privacy, ensure that information is gathered by the least intrusive means possible, and limit use of such information to lawful governmental purposes.

(h) Activities described in sections 2-202 through 2-205 for which a warrant would be required if undertaken for law enforcement rather than intelligence purposes shall not be undertaken against a United States person without a judicial warrant, unless the President has authorized the type of activity involved and the Attorney General has both approved the particular activity and determined that there is probable cause to believe that the United States person is an agent of a foreign power.

2-202. *Electronic Surveillance.* The CIA may not engage in any electronic surveillance within the United States. No agency within the Intelligence Community shall engage in any electronic surveillance directed against a United States person abroad or designed to intercept a communication sent from, or intended for receipt within, the United States except as permitted by the procedures established pursuant to section 2-201. Training of personnel by agencies in the Intelligence Community in the use of electronic communications equipment, testing by such agencies of such equipment, and the use of measures to determine the existence and capability of electronic surveillance equipment being used unlawfully shall not be prohibited and shall also be governed by such procedures. Such activities shall be limited in scope and duration to those necessary to carry out the training, testing or countermeasures purpose. No information derived from communications intercepted in the course of such training, testing or use of counter-

measures may be retained or used for any other purpose.

2-203. *Television Cameras and Other Monitoring.* No agency within the Intelligence Community shall use any electronic or mechanical device surreptitiously and continuously to monitor any person within the United States, or any United States person abroad, except as permitted by the procedures established pursuant to Section 2-201.

2-204. *Physical Searches.* No agency within the Intelligence Community except the FBI may conduct any unconsented physical searches within the United States. All such searches conducted by the FBI, as well as all such searches conducted by any agency within the Intelligence Community outside the United States and directed against United States persons, shall be undertaken only as permitted by procedures established pursuant to Section 2-201.

2-205. *Mail Surveillance.* No agency within the Intelligence Community shall open mail or examine envelopes in United States postal channels, except in accordance with applicable statutes and regulations. No agency within the Intelligence Community shall open mail of a United States person abroad except as permitted by procedures established pursuant to Section 2-201.

2-206. *Physical Surveillance.* The FBI may conduct physical surveillance directed against United States persons or others only in the course of a lawful investigation. Other agencies within the Intelligence Community may not undertake any physical surveillance directed against a United States person unless:

(a) The surveillance is conducted outside the United States and the person being surveilled is reasonably believed to be acting on behalf of a foreign power, engaging in international terrorist activities,

or engaging in narcotics production or trafficking;

(b) The surveillance is conducted solely for the purpose of identifying a person who is in contact with someone who is the subject of a foreign intelligence or counterintelligence investigation; or

(c) That person is being surveilled for the purpose of protecting foreign intelligence and counterintelligence sources and methods from unauthorized disclosure or is the subject of a lawful counterintelligence, personnel, physical or communications security investigation.

(d) No surveillance under paragraph (c) of this section may be conducted within the United States unless the person being surveilled is a present employee, intelligence agency contractor or employee of such a contractor, or is a military person employed by a non-intelligence element of a military service. Outside the United States such surveillance may also be conducted against a former employee, intelligence agency contractor or employee of a contractor or a civilian person employed by a non-intelligence element of an agency within the Intelligence Community. A person who is in contact with such a present or former employee or contractor may also be surveilled, but only to the extent necessary to identify that person.

2-207. *Undisclosed Participation in Domestic Organizations.* No employees may join, or otherwise participate in, any organization within the United States on behalf of any agency within the Intelligence Community without disclosing their intelligence affiliation to appropriate officials of the organization, except as permitted by procedures established pursuant to Section 2-201. Such procedures shall provide for disclosure of such affiliation in all cases unless the agency head or

a designee approved by the Attorney General finds that non-disclosure is essential to achieving lawful purposes, and that finding is subject to review by the Attorney General. Those procedures shall further limit undisclosed participation to cases where:

(a) The participation is undertaken on behalf of the FBI in the course of a lawful investigation;

(b) The organization concerned is composed primarily of individuals who are not United States persons and is reasonably believed to be acting on behalf of a foreign power; or

(c) The participation is strictly limited in its nature, scope and duration to that necessary for other lawful purposes relating to foreign intelligence and is a type of participation approved by the Attorney General and set forth in a public document. No such participation may be undertaken for the purpose of influencing the activity of the organization or its members.

2-208. *Collection of Nonpublicly Available Information.* No agency within the Intelligence Community may collect, disseminate or store information concerning the activities of United States persons that is not available publicly, unless it does so with their consent or as permitted by procedures established pursuant to Section 2-201. Those procedures shall limit collection, storage or dissemination to the following types of information:

(a) Information concerning corporations or other commercial organizations or activities that constitutes foreign intelligence or counterintelligence;

(b) Information arising out of a lawful counterintelligence or personnel, physical or communications security investigation;

(c) Information concerning present or former employees, present or former intel-

ligence agency contractors or their present or former employees, or applicants for any such employment or contracting, which is needed to protect foreign intelligence or counterintelligence sources or methods from unauthorized disclosure;

(d) Information needed solely to identify individuals in contact with those persons described in paragraph (c) of this section or with someone who is the subject of a lawful foreign intelligence or counterintelligence investigation;

(e) Information concerning persons who are reasonably believed to be potential sources or contacts, but only for the purpose of determining the suitability or credibility of such persons;

(f) Information constituting foreign intelligence or counterintelligence gathered abroad or from electronic surveillance conducted in compliance with Section 2-202 or from cooperating sources in the United States;

(g) Information about a person who is reasonably believed to be acting on behalf of a foreign power, engaging in international terrorist activities or narcotics production or trafficking, or endangering the safety of a person protected by the United States Secret Service or the Department of State;

(h) Information acquired by overhead reconnaissance not directed at specific United States persons;

(i) Information concerning United States persons abroad that is obtained in response to requests from the Department of State for support of its consular responsibilities relating to the welfare of those persons;

(j) Information collected, received, disseminated or stored by the FBI and necessary to fulfill its lawful investigative responsibilities; or

(k) Information concerning persons or activities that pose a clear threat to any facility or personnel of an agency within

the Intelligence Community. Such information may be retained only by the agency threatened and, if appropriate, by the United States Secret Service and the FBI.

2-3. Additional Restrictions and Limitations.

2-301. Tax Information. No agency within the Intelligence Community shall examine tax returns or tax information except as permitted by applicable law.

2-302. Restrictions on Experimentation. No agency within the Intelligence Community shall sponsor, contract for, or conduct research on human subjects except in accordance with guidelines issued by the Department of Health, Education and Welfare. The subject's informed consent shall be documented as required by those guidelines.

2-303. Restrictions on Contracting. No agency within the Intelligence Community shall enter into a contract or arrangement for the provision of goods or services with private companies or institutions in the United States unless the agency sponsorship is known to the appropriate officials of the company or institution. In the case of any company or institution other than an academic institution, intelligence agency sponsorship may be concealed where it is determined, pursuant to procedures approved by the Attorney General, that such concealment is necessary to maintain essential cover or proprietary arrangements for authorized intelligence purposes.

2-304. Restrictions on Personnel Assigned to Other Agencies. An employee detailed to another agency within the federal government shall be responsible to the host agency and shall not report to the parent agency on the affairs of the host agency unless so directed by the host agency. The head of the host agency, and any successor, shall be informed of the

employee's relationship with the parent agency.

2-305. Prohibition on Assassination. No person employed by or acting on behalf of the United States Government shall engage in, or conspire to engage in, assassination.

2-306. Restrictions on Special Activities. No component of the United States Government except an agency within the Intelligence Community may conduct any special activity. No such agency except the CIA (or the military services in wartime) may conduct any special activity unless the President determines, with the SCC's advice, that another agency is more likely to achieve a particular objective.

2-307. Restrictions on Indirect Participation in Prohibited Activities. No agency of the Intelligence Community shall request or otherwise encourage, directly or indirectly, any person, organization, or government agency to undertake activities forbidden by this Order or by applicable law.

2-308. Restrictions on Assistance to Law Enforcement Authorities. Agencies within the Intelligence Community other than the FBI shall not, except as expressly authorized by law:

(a) Provide services, equipment, personnel or facilities to the Law Enforcement Assistance Administration (or its successor agencies) or to state or local police organizations of the United States; or

(b) Participate in or fund any law enforcement activity within the United States.

2-309. Permissible Assistance to Law Enforcement Authorities. The restrictions in Section 2-308 shall not preclude:

(a) Cooperation with appropriate law enforcement agencies for the purpose of protecting the personnel and facilities of

any agency within the Intelligence Community;

(b) Participation in law enforcement activities, in accordance with law and this Order, to investigate or prevent clandestine intelligence activities by foreign powers, international narcotics production and trafficking, or international terrorist activities; or

(c) Provision of specialized equipment, technical knowledge, or assistance of expert personnel for use by any department or agency or, when lives are endangered, to support local law enforcement agencies. Provision of assistance by expert personnel shall be governed by procedures approved by the Attorney General.

2-310. *Permissible Dissemination and Storage of Information.* Nothing in Sections 2-201 through 2-309 of this Order shall prohibit:

(a) Dissemination to appropriate law enforcement agencies of information which indicates involvement in activities that may violate federal, state, local or foreign laws;

(b) Storage of information required by law to be retained;

(c) Dissemination of information covered by Section 2-208 (a)-(j) to agencies within the Intelligence Community or entities of cooperating foreign governments; or

(d) Lawful storage or dissemination of information solely for administrative purposes not related to intelligence or security.

SECTION 3

OVERSIGHT OF INTELLIGENCE ORGANIZATIONS

3-1. *Intelligence Oversight Board.*

3-101. *Membership.* The President's Intelligence Oversight Board (IOB) shall function within the White House. The IOB shall have three members who shall be appointed by the President and who

shall be from outside the government and be qualified on the basis of ability, knowledge, diversity of background and experience. No member shall have any personal interest in any contractual relationship with any agency within the Intelligence Community. One member shall be designated by the President as chairman.

3-102. *Duties.* The IOB shall:

(a) Review periodically the practices and procedures of the Inspectors General and General Counsel with responsibilities for agencies within the Intelligence Community for discovering and reporting to the IOB intelligence activities that raise questions of legality or propriety, and consider written and oral reports referred under Section 3-201;

(b) Review periodically for adequacy the internal guidelines of each agency within the Intelligence Community concerning the legality or propriety of intelligence activities;

(c) Report periodically, at least quarterly, to the President on its findings; and report in a timely manner to the President any intelligence activities that raise serious questions of legality or propriety;

(d) Forward to the Attorney General, in a timely manner, reports received concerning intelligence activities in which a question of legality has been raised or which the IOB believes to involve questions of legality; and

(e) Conduct such investigations of the intelligence activities of agencies within the Intelligence Community as the Board deems necessary to carry out its functions under this Order.

3-103. *Restriction on Staff.* No person who serves on the staff of the IOB shall have any contractual or employment relationship with any agency within the Intelligence Community.

3-2. *Inspectors General and General Counsel.* Inspectors General and General

Counsel with responsibility for agencies within the Intelligence Community shall:

3-201. Transmit timely reports to the IOB concerning any intelligence activities that come to their attention and that raise questions of legality or propriety;

3-202. Promptly report to the IOB actions taken concerning the Board's findings on intelligence activities that raise questions of legality or propriety;

3-203. Provide to the IOB information requested concerning the legality or propriety of intelligence activities within their respective agencies;

3-204. Formulate practices and procedures for discovering and reporting to the IOB intelligence activities that raise questions of legality or propriety; and

3-205. Report to the IOB any occasion on which the Inspectors General or General Counsel were directed not to report any intelligence activity to the IOB which they believed raised questions of legality or propriety.

3-3. *Attorney General.* The Attorney General shall:

3-301. Receive and consider reports from agencies within the Intelligence Community forwarded by the IOB;

3-302. Report to the President in a timely fashion any intelligence activities which raise questions of legality;

3-303. Report to the IOB and to the President in a timely fashion decisions made or actions taken in response to reports from agencies within the Intelligence Community forwarded to the Attorney General by the IOB;

3-304. Inform the IOB of legal opinions affecting the operations of the Intelligence Community; and

3-305. Establish or approve procedures, as required by this Order, for the conduct of intelligence activities. Such procedures shall ensure compliance with law, protect constitutional rights and privacy,

and ensure that any intelligence activity within the United States or directed against any United States person is conducted by the least intrusive means possible. The procedures shall also ensure that any use, dissemination and storage of information about United States persons acquired through intelligence activities is limited to that necessary to achieve lawful governmental purposes.

3-4. *Congressional Intelligence Committees.* Under such procedures as the President may establish and consistent with applicable authorities and duties, including those conferred by the Constitution upon the Executive and Legislative Branches and by law to protect sources and methods, the Director of Central Intelligence and heads of departments and agencies of the United States involved in intelligence activities shall:

3-401. Keep the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate fully and currently informed concerning intelligence activities, including any significant anticipated activities which are the responsibility of, or engaged in, by such department or agency. This requirement does not constitute a condition precedent to the implementation of such intelligence activities;

3-402. Provide any information or document in the possession, custody, or control of the department or agency or person paid by such department or agency, within the jurisdiction of the Permanent Select Committee on Intelligence of the House of Representatives or the Select Committee on Intelligence of the Senate, upon the request of such committee; and

3-403. Report in a timely fashion to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence

of the Senate information relating to intelligence activities that are illegal or improper and corrective actions that are taken or planned.

SECTION 4

GENERAL PROVISIONS

4-1. Implementation

4-101. Except as provided in section 4-105 of this section, this Order shall supersede Executive Order 11905, "United States Foreign Intelligence Activities," dated February 18, 1976; Executive Order 11985, same subject, dated May 13, 1977; and Executive Order 11994, same subject, dated June 1, 1977.

4-102. The NSC, the Secretary of Defense, the Attorney General and the Director of Central Intelligence shall issue such appropriate directives and procedures as are necessary to implement this Order.

4-103. Heads of agencies within the Intelligence Community shall issue appropriate supplementary directives and procedures consistent with this Order.

4-104. The Attorney General shall have sole authority to issue and revise procedures required by section 2-201 for the activities of the FBI relating to foreign intelligence and counterintelligence.

4-105. Where intelligence activities under this Order are to be conducted pursuant to procedures approved or agreed to by the Attorney General, those activities may be conducted under terms and conditions of Executive Order 11905 and any procedures promulgated thereunder until such Attorney General procedures are established. Such Attorney General procedures shall be established as expeditiously as possible after the issuance of this Order.

4-106. In some instances, the documents that implement this Order will be classified because of the sensitivity of the information and its relation to national security. All instructions contained in

classified documents will be consistent with this Order. All procedures promulgated pursuant to this Order will be made available to the Congressional intelligence committees in accordance with Section 3-402.

4-107. Unless otherwise specified, the provisions of this Order shall apply to activities both within and outside the United States, and all references to law are to applicable laws of the United States, including the Constitution and this Order. Nothing in this Order shall be construed to apply to or interfere with any authorized civil or criminal law enforcement responsibility of any department or agency.

4-2. *Definitions.* For the purposes of this Order, the following terms shall have these meanings:

4-201. *Communications security* means protective measures taken to deny unauthorized persons information derived from telecommunications of the United States Government related to national security and to ensure the authenticity of such telecommunications.

4-202. *Counterintelligence* means information gathered and activities conducted to protect against espionage and other clandestine intelligence activities, sabotage, international terrorist activities or assassinations conducted for or on behalf of foreign powers, organizations or persons, but not including personnel, physical, document, or communications security programs.

4-203. *Electronic Surveillance* means acquisition of a nonpublic communication by electronic means without the consent of a person who is a party to an electronic communication or, in the case of a nonelectronic communication, without the consent of a person who is visibly present at the place of communication, but not including the use of radio direction finding equipment solely to deter-

mine the location of a transmitter.

4-204. *Employee* means a person employed by, assigned to, or acting for an agency within the Intelligence Community.

4-205. *Foreign Intelligence* means information relating to the capabilities, intentions and activities of foreign powers, organizations or persons, but not including counterintelligence except for information on international terrorist activities.

4-206. *Intelligence* means foreign intelligence and counterintelligence.

4-207. *Intelligence Community* and *agency or agencies within the Intelligence Community* refer to the following organizations:

- (a) The Central Intelligence Agency (CIA);
- (b) The National Security Agency (NSA);
- (c) The Defense Intelligence Agency;
- (d) The Offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;
- (e) The Bureau of Intelligence and Research of the Department of State;
- (f) The intelligence elements of the military services, the Federal Bureau of Investigation (FBI), the Department of the Treasury, the Department of Energy, and the Drug Enforcement Administration (DEA); and
- (g) The staff elements of the Office of the Director of Central Intelligence.

4-208. *Intelligence product* means the estimates, memoranda and other reports produced from the analysis of available information.

4-209. *International terrorist activities* means any activity or activities which:

- (a) involves killing, causing serious bodily harm, kidnapping, or violent destruction of property, or an attempt or credible threat to commit such acts; and
- (b) appears intended to endanger a

protector of the Secret Service or the Department of State or to further political, social or economic goals by intimidating or coercing a civilian population or any segment thereof, influencing the policy of a government or international organization by intimidation or coercion, or obtaining widespread publicity for a group or its cause; and

(c) transcends national boundaries in terms of the means by which it is accomplished, the civilian population, government, or international organization it appears intended to coerce or intimidate, or the locale in which its perpetrators operate or seek asylum.

4-210. *The National Foreign Intelligence Program* includes the programs listed below, but its composition shall be subject to review by the National Security Council and modification by the President.

- (a) The programs of the CIA;
- (b) The Consolidated Cryptologic Program, the General Defense Intelligence Program, and the programs of the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance except such elements as the Director of Central Intelligence and the Secretary of Defense agree should be excluded;

(c) Other programs of agencies within the Intelligence Community designated jointly by the Director of Central Intelligence and the head of the department or by the President as national foreign intelligence or counterintelligence activities;

(d) Activities of the staff elements of the Office of the Director of Central Intelligence.

(e) Activities to acquire the intelligence required for the planning and conduct of tactical operations by the United States military forces are not included in

the National Foreign Intelligence Program.

4-211. *Physical surveillance* means an unconsented, systematic and deliberate observation of a person by any means on a continuing basis, or unconsented acquisition of a nonpublic communication by a person not a party thereto or visibly present thereat through any means not involving electronic surveillance. This definition does not include overhead reconnaissance not directed at specific United States persons.

4-212. *Special activities* means activities conducted abroad in support of national foreign policy objectives which are designed to further official United States programs and policies abroad and which are planned and executed so that the role of the United States Government is not apparent or acknowledged publicly, and functions in support of such activities, but not including diplomatic activity or the collection and production of intelligence or related support functions.

4-213. *United States*, when used to describe a place, includes the territories of the United States.

4-214. *United States person* means a citizen of the United States, an alien lawfully admitted for permanent residence, an unincorporated association organized in the United States or substantially composed of United States citizens or aliens admitted for permanent residence, or a corporation incorporated in the United States.

JIMMY CARTER

The White House,
January 24, 1978.

[Filed with the Office of the Federal Register,
11:12 a.m., January 25, 1978]

United States Foreign Intelligence Activities

*Statement on Executive Order 12036,
January 24, 1978*

I have issued today an Executive order concerning the organization and control of United States foreign intelligence activities. It is the product of the most extensive and highest level review ever conducted through the National Security Council system of our Nation's foreign intelligence activities and of an unprecedented dialog with the congressional oversight committees.

The new order, which builds on the experience under President Ford's Executive Order 11905, is intended to provide a foundation for the drafting of statutory charters, and I intend to work closely with congressional leaders to enact such legislation. Until then, however, the new order will:

- ensure that foreign intelligence and counterintelligence activities are conducted in full compliance with the laws of the United States and are consistent with broader national security policies;
- establish effective oversight of the direction, management, and conduct of the foreign intelligence activities of the Federal Government;
- clarify the authority and responsibilities of the Director of Central Intelligence (DCI) and the departments and agencies that have foreign intelligence and counterintelligence responsibilities.

The most important features of the new Executive order are as follows:

1. The National Security Council and its two standing committees—the Special Coordination Committee (SCC) and the Policy Review Committee (PRC)—will, short of the President, provide the high-

est level review of and guidance for the policies and practices of the Intelligence Community.

—The PRC, when acting on intelligence matters, will be chaired by the DCI and is charged with defining and establishing priorities for consumer requirements for intelligence, making sure these are reflected in budget decisions, and evaluation of analytical products. This ensures that the needs of the most important users of intelligence will guide the entire intelligence process.

—The SCC, chaired by the Assistant to the President for National Security Affairs, will review and make recommendations to the President on the most sensitive intelligence operations and, as appropriate, on collection activities. This committee will also, for the first time, assume responsibility for developing policy for and coordination of all counterintelligence activities.

2. The authorities and responsibilities of all departments, agencies, and senior officials engaged in foreign intelligence and counterintelligence activities are being made public. Those implementing directives which must remain classified for security reasons will be made available to the appropriate congressional oversight committees. The new order implements my earlier decision to centralize under the DCI the most important national intelligence management functions—collection requirements, budget control, and analysis—while operational and support activities are left unchanged and decentralized.

The specific operational responsibilities of each of the elements of the Intelligence Community, as well as their most important community relationships, are spelled out. Two important organizational mechanisms are established to facilitate these functions:

—The National Intelligence Tasking Center, operating in peacetime under the control of the DCI or under the Secretary of Defense when the President so directs, will be responsible for coordinating and tasking national foreign intelligence collection programs.

—The National Foreign Intelligence Board, which includes the members of the Intelligence Community, is an advisory body to the DCI on all national intelligence activities and the budget.

3. Our intelligence agencies have a critical role to play in collecting and analyzing information important to our national security interests and, on occasion, acting in direct support of major foreign policy objectives. It is equally important, however, that the methods employed by these agencies meet constitutional standards protecting the privacy and civil liberties of U.S. persons and are in full compliance with the law.

To accomplish this objective a major section of the Executive order is devoted entirely to setting forth detailed restrictions on intelligence collection, covert activities in support of foreign policy objectives, experimentation, contracting, assistance to law enforcement authorities, personnel assigned to other agencies, indirect participation in prohibited activities, dissemination and storage of information, and a prohibition on assassinations. The FBI's intelligence activities no longer have a blanket exception to these restrictions.

At the heart of the restriction process is a greatly enhanced role for the Attorney General, as the Nation's top legal officer, to establish and approve procedures to regulate the conduct of the most sensitive intelligence activities. These detailed procedures, which will be made available to the congressional oversight committees, will ensure compliance with the law, protect constitutional rights and privacy, and ensure that any intelligence activity with-

in the United States or directed against Americans will employ the least intrusive means possible and that the use, dissemination, and storage of such information is limited to that necessary to achieve lawful governmental purposes.

4. As an added protection against abuses and to help ensure effective performance, the intelligence oversight process is strengthened.

—The Intelligence Oversight Board is retained, and its responsibilities for review of foreign intelligence activities that may be illegal or improper is extended to the counterintelligence area, and it is given new authority to conduct investigations.

—The DCI and senior officers of the Intelligence Community are instructed to report to the congressional intelligence committees in a complete and prompt manner.

I believe that this Executive order represents an important step forward in assuring the American people that their intelligence agencies will be working effectively for them and not infringing on their legal rights. The next step will be to establish these authorities and restrictions in legislation binding on this and future administrations.

President's Committee on Employment of the Handicapped

Appointment of Charles H. Pillard as Vice Chairman. January 24, 1978

The President today announced the appointment of Charles H. Pillard as Vice Chairman of the President's Committee on Employment of the Handicapped.

Pillard, 59, has been international president of the International Brotherhood of Electrical Workers since 1968. From 1952 to 1968, he was business manager of Local Union 41.

International North Pacific Fisheries Commission

Appointment of Dennis A. Grotting as Commissioner of the United States Section. January 24, 1978

The President today announced the re-appointment of Dennis A. Grotting as Commissioner of the United States Section of the International North Pacific Fisheries Commission.

Grotting, 36, has served on the Commission since 1975. He is secretary-manager of the Fisherman's Marketing Association in Eureka, Calif.

Federal Prevailing Rate Advisory Committee

Message to the Congress Transmitting the Annual Report. January 24, 1978

To the Congress of the United States:

In accordance with section 5347(e) of title 5 of the United States Code, I hereby transmit to you the 1976 Annual Report of the Federal Prevailing Rate Advisory Committee.

While not specifically addressed in the attached report, I want to express my concern that little progress appears to have been made in reforming the prevailing rate system for adjusting wages of Federal blue collar employees. In my February 22, 1977 message to the Congress, I strongly recommended early enactment of legislation to correct those provisions of current law that cause significant departures from the local prevailing rate principle, and result in an unfair competitive advantage for the Federal Government and unjustifiable payroll costs. A draft bill which would achieve these objectives was submitted to the Congress early last year. I am convinced that this bill will correct the

States Marine Corps in 1953-57 and attained the rank of captain. Mr. Borchardt graduated from Stanford University (A.B., 1953; M.B.A., 1957). He is married, has two children, and resides in Los Angeles, Calif. He was born July 12, 1930, in Butte, Mont.

Bernard E. Smith, Jr. is a partner with the firm of Lawrence O'Donnell & Co. of New York, N.Y. Previously, he was a partner with the firm Lasker, Stone and Stern in 1967-78 and a partner with LaMotte Maloney & Co. in 1970-67. He served in the United States Navy and Naval Reserve as assistant navigator and aide to executive officer, USS *Midway*. He graduated from the United States Naval Academy (B.S., E.E., 1946). He is married, has 11 children, and resides in New York, N.Y. He was born December 20, 1924, in New York City.

United States Air Force Academy

Appointment of Two Members of the Board of Visitors. December 4, 1981

The President today announced his intention to appoint the following individuals to be members of the Board of Visitors, United States Air Force Academy:

Terrence O'Donnell is an attorney with the firm of Williams & Connolly, Washington, D.C. He was staff assistant and later Special Assistant to the President in 1972-77 and was a commissioned officer in the United States Air Force in 1966-72. He was a legal officer, Office of the Judge Advocate General, in 1971-72. He was a counter-intelligence officer in South Vietnam in 1969-70 and assigned to Headquarters, USAF, Washington, D.C., in 1966-69. He attained the rank of Captain. Mr. O'Donnell graduated from the United States Air Force Academy (B.S., 1966) and Georgetown University Law Center (J.D., 1971). He is married, has three children, and resides in Bethesda, Md. He was born March 3, 1944, in New York, N.Y.

Henry B. Saylor is chairman of the Republican Party of Florida. He was a member of the Florida State Senate in 1966-78 and is director of the Community Bank of Pinellas. He served in the United States Air Force in 1943-55 as a fighter pilot in the 8th Air Force. He was awarded the Distinguished Flying Cross and the Air Medal with 7 Clusters. He graduated from the United States Military Academy (B.S., 1943). He is married, has four children, and resides in St. Petersburg, Fla. He was born January 16, 1921, in Savannah, Ga.

United States Intelligence Activities

Statement by the President. December 4, 1981

Today I am issuing two Executive orders, one to govern the activities of our intelligence agencies and one to reestablish the Intelligence Oversight Board, which works to ensure that our intelligence activities are lawful. These orders are designed to provide America's intelligence community with clearer, more positive guidance and to remove the aura of suspicion and mistrust that can hobble our Nation's intelligence efforts.

This action is consistent with my promise in the campaign to revitalize America's intelligence system. The American people are well aware that the security of their country—and in an age of terrorism, their personal safety as well—is tied to the strength and efficiency of our intelligence-gathering organizations.

These orders have been carefully drafted—in consultation with the intelligence committees of both Houses of the Congress—to maintain the legal protection of all American citizens. They also give our intelligence professionals clear guidelines within which to do their difficult and essential job. Contrary to a distorted image that emerged during the last decade, there is no inherent conflict between the intelligence community and the rights of our citizens. Indeed, the purpose of the intelligence community is the protection of our people.

This is not to say mistakes were never made and that vigilance against abuse is unnecessary. But an approach that emphasizes suspicion and mistrust of our own intelligence efforts can undermine this Nation's ability to confront the increasing challenge of espionage and terrorism. This is particularly true in a world in which our adversaries pay no heed to the concerns for individual rights and freedoms that are so important to Americans and their Government. As we move into the 1980's, we need to free ourselves from the negative attitudes of the past and look to meeting the needs of the country.

To those who view this change of direction with suspicion, let me assure you that

while I occupy this office, no intelligence agency of the United States, or any other agency for that matter, will be given the authority to violate the rights and liberties guaranteed to all Americans by our Constitution and laws. The provisions of these Executive orders make this abundantly clear.

Most Americans realize that intelligence is a good and necessary profession to which high caliber men and women dedicate their lives. We respect them for their honorable and often perilous service to our Nation and the cause of freedom. For all our technological advances, the gathering of information and its analysis depend finally on human judgment; and good judgment depends on the experience, integrity, and professionalism of those who serve us in the intelligence community.

Let us never forget that good intelligence saves American lives and protects our freedom. The loyalty and selflessness of our intelligence community during hard times are testimony to its commitment to the principles on which our country is based. I have faith in our intelligence professionals and expect each and every one of them to live up to the ideals and standards set by these Executive orders.

These orders charge our intelligence agencies to be vigorous, innovative, and responsible in the collection of accurate and timely information—information essential for the conduct of our foreign policy and crucial to our national safety. The country needs this service and is willing to allocate the resources necessary to do the job right.

It is not enough, of course, simply to collect information. Thoughtful analysis is vital to sound decisionmaking. The goal of our intelligence analysts can be nothing short of the truth, even when that truth is unpleasant or unpopular. I have asked for honest, objective analysis, and I shall expect nothing less. When there is disagreement, as there often is, on the difficult questions of our time, I expect those honest differences of view to be fully expressed.

These orders stipulate that special attention be given to detecting and countering the espionage and other threats that are directed by hostile intelligence services against us at home and abroad. These hostile services respect none of the liberties and rights of privacy that these orders pro-

tect. Certainly the same can be said of international terrorists, who present another important area of concern and responsibility for our intelligence professionals.

I want to stress that the primary job of the CIA is to conduct intelligence activities overseas and to deal with certain foreign persons who come into this country. The FBI takes primary responsibility for security activities within the United States, directed against hostile foreigners and those Americans who seek to do damage to our national security.

These orders do not alter this basic division of labor; they reaffirm it. They also encourage the fullest possible cooperation among the CIA, the FBI, and other agencies of the intelligence community as they seek to deal with fundamental challenges to our national security—challenges that respect neither national boundaries nor citizenship.

As these Executive orders are issued, I again want to express my respect and admiration for the men and women of our intelligence community. They run the risks; they bear the tensions; they serve in silence. They cannot fully be thanked in public, but I want them to know that their job is vital and that the American people, and their President, are profoundly grateful for what they do.

United States Intelligence Activities

Executive Order 12333 December 4, 1981

Table of Contents

	Page
Preamble	1337
Part I. Goals, Direction, Duties, and Responsibilities With Respect to the National Intelligence Effort	1337
11 Goals	1337

¹ Editorial note: The page numbers in the original text have been changed to those of this publication.

1.2	The National Security Council	1337	
1.3	National Foreign Intelligence Advisory Groups	1338	
1.4	The Intelligence Community	1338	
1.5	Director of Central Intelligence	1338	
1.6	Duties and Responsibilities of the Heads of Executive Branch Departments and Agencies	1340	
1.7	Senior Officials of the Intelligence Community	1340	
1.8	The Central Intelligence Agency	1340	
1.9	The Department of State	1341	
1.10	The Department of the Treasury	1341	
1.11	The Department of Defense	1341	
1.12	Intelligence Components Utilized by the Secretary of Defense	1342	
1.13	The Department of Energy	1343	
1.14	The Federal Bureau of Investigation	1343	
Part 2.	<i>Conduct of Intelligence Activities</i>	1344	
2.1	Need	1344	
2.2	Purpose	1344	
2.3	Collection of Information	1344	
2.4	Collection Techniques	1345	
2.5	Attorney General Approval	1345	
2.6	Assistance to Law Enforcement Authorities	1345	
2.7	Contracting	1346	
2.8	Consistency With Other Laws	1346	
2.9	Un disclosed Participation in Organizations Within the United States	1346	
2.10	Human Experimentation	1346	
2.11	Prohibition on Assassination	1346	
2.12	Indirect Participation	1346	
Part 3.	<i>General Provisions</i>	1346	
3.1	Congressional Oversight	1346	
3.2	Implementation	1346	
3.3	Procedures	1346	
3.4	Definitions	1347	
3.5	Purpose and Effect	1348	
3.6	Revocation	1348	

Timely and accurate information about the activities, capabilities, plans, and intentions of foreign powers, organizations, and persons, and their agents, is essential to the national security of the United States. All reasonable and lawful means must be used to ensure that the United States will receive the best intelligence available. For that purpose, by virtue of the authority vested in

me by the Constitution and statutes of the United States of America, including the National Security Act of 1947, as amended, and as President of the United States of America, in order to provide for the effective conduct of United States intelligence activities and the protection of constitutional rights, it is hereby ordered as follows:

Part I Goals, Direction, Duties and Responsibilities With Respect to the National Intelligence Effort

1.1 *Goals.* The United States intelligence effort shall provide the President and the National Security Council with the necessary information on which to base decisions concerning the conduct and development of foreign, defense and economic policy, and the protection of United States national interests from foreign security threats. All departments and agencies shall cooperate fully to fulfill this goal.

(a) Maximum emphasis should be given to fostering analytical competition among appropriate elements of the Intelligence Community.

(b) All means, consistent with applicable United States law and this Order, and with full consideration of the rights of United States persons, shall be used to develop intelligence information for the President and the National Security Council. A balanced approach between technical collection efforts and other means should be maintained and encouraged.

(c) Special emphasis should be given to detecting and countering espionage and other threats and activities directed by foreign intelligence services against the United States Government, or United States corporations, establishments, or persons.

(d) To the greatest extent possible consistent with applicable United States law and this Order, and with full consideration of the rights of United States persons, all agencies and departments should seek to ensure full and free exchange of information in order to derive maximum benefit from the United States intelligence effort.

1.2 *The National Security Council.* The National Security Council (NSC) was established by the National Security Act of 1947 to advise the President with respect to the integration of domestic,

foreign and military policies relating to the national security. The NSC shall act as the highest Executive Branch entity that provides review of, guidance for and direction to the conduct of all national foreign intelligence, counterintelligence, and special activities, and attendant policies and programs.

(b) *Committees.* The NSC shall establish such committees as may be necessary to carry out its functions and responsibilities under this Order. The NSC, or a committee established by it, shall consider and submit to the President a policy recommendation, including all dissents, on each special activity and shall review proposals for other sensitive intelligence operations.

1.3 *National Foreign Intelligence Advisory Groups.*

(a) *Establishment and Duties.* The Director of Central Intelligence shall establish such boards, councils, or groups as required for the purpose of obtaining advice from within the Intelligence Community concerning:

- (1) Production, review and coordination of national foreign intelligence;
- (2) Priorities for the National Foreign Intelligence Program budget;
- (3) Interagency exchanges of foreign intelligence information;
- (4) Arrangements with foreign governments on intelligence matters;
- (5) Protection of intelligence sources and methods;
- (6) Activities of common concern; and
- (7) Such other matters as may be referred by the Director of Central Intelligence.

(b) *Membership.* Advisory groups established pursuant to this section shall be chaired by the Director of Central Intelligence or his designated representative and shall consist of senior representatives from organizations within the Intelligence Community and from departments or agencies containing such organizations, as designated by the Director of Central Intelligence. Groups for consideration of substantive intelligence matters will include representatives of organizations involved in the collection, processing and analysis of intelligence. A senior representative of the Secretary of Commerce, the Attorney General, the Assistant to the President for National Security Affairs, and the Office of the Secretary

of Defense shall be invited to participate in any group which deals with other than substantive intelligence matters.

1.4 *The Intelligence Community.* The agencies within the Intelligence Community shall, in accordance with applicable United States law and with the other provisions of this Order, conduct intelligence activities necessary for the conduct of foreign relations and the protection of the national security of the United States, including:

(a) Collection of information needed by the President, the National Security Council, the Secretaries of State and Defense, and other Executive Branch officials for the performance of their duties and responsibilities;

(b) Production and dissemination of intelligence;

(c) Collection of information concerning, and the conduct of activities to protect against, intelligence activities directed against the United States, international terrorist and international narcotics activities, and other hostile activities directed against the United States by foreign powers, organizations, persons, and their agents;

(d) Special activities;

(e) Administrative and support activities within the United States and abroad necessary for the performance of authorized activities; and

(f) Such other intelligence activities as the President may direct from time to time.

1.5 *Director of Central Intelligence.* In order to discharge the duties and responsibilities prescribed by law, the Director of Central Intelligence shall be responsible directly to the President and the NSC and shall:

(a) Act as the primary adviser to the President and the NSC on national foreign intelligence and provide the President and other officials in the Executive Branch with national foreign intelligence;

(b) Develop such objectives and guidance for the Intelligence Community as will enhance capabilities for responding to expected future needs for national foreign intelligence;

(c) Promote the development and maintenance of services of common concern by designated intelligence organizations on behalf of the Intelligence Community;

(d) Ensure implementation of special activities;

(e) Formulate policies concerning foreign intelligence and counterintelligence arrangements with foreign governments, coordinate foreign intelligence and counterintelligence relationships between agencies of the Intelligence Community and the intelligence or internal security services of foreign governments, and establish procedures governing the conduct of liaison by any department or agency with such services on narcotics activities;

(f) Participate in the development of procedures approved by the Attorney General governing criminal narcotics intelligence activities abroad to ensure that these activities are consistent with foreign intelligence programs;

(g) Ensure the establishment by the Intelligence Community of common security and access standards for managing and handling foreign intelligence systems, information, and products;

(h) Ensure that programs are developed which protect intelligence sources, methods, and analytical procedures;

(i) Establish uniform criteria for the determination of relative priorities for the transmission of critical national foreign intelligence, and advise the Secretary of Defense concerning the communications requirements of the Intelligence Community for the transmission of such intelligence;

(j) Establish appropriate staffs, committees, or other advisory groups to assist in the execution of the Director's responsibilities;

(k) Have full responsibility for production and dissemination of national foreign intelligence, and authority to levy analytic tasks on departmental intelligence production organizations, in consultation with those organizations, ensuring that appropriate mechanisms for competitive analysis are developed so that diverse points of view are considered fully and differences of judgment within the Intelligence Community are brought to the attention of national policymakers;

(l) Ensure the timely exploitation and dissemination of data gathered by national foreign intelligence collection means, and ensure that the resulting intelligence is dis-

seminated immediately to appropriate government entities and military commands;

(m) Establish mechanisms which translate national foreign intelligence objectives and priorities approved by the NSC into specific guidance for the Intelligence Community, resolve conflicts in tasking priority, provide to departments and agencies having information collection capabilities that are not part of the National Foreign Intelligence Program advisory tasking concerning collection of national foreign intelligence, and provide for the development of plans and arrangements for transfer of required collection tasking authority to the Secretary of Defense when directed by the President;

(n) Develop, with the advice of the program managers and departments and agencies concerned, the consolidated National Foreign Intelligence Program budget, and present it to the President and the Congress;

(o) Review and approve all requests for reprogramming National Foreign Intelligence Program funds, in accordance with guidelines established by the Office of Management and Budget;

(p) Monitor National Foreign Intelligence Program implementation, and, as necessary, conduct program and performance audits and evaluations;

(q) Together with the Secretary of Defense, ensure that there is no unnecessary overlap between national foreign intelligence programs and Department of Defense intelligence programs consistent with the requirement to develop competitive analysis, and provide to and obtain from the Secretary of Defense all information necessary for this purpose;

(r) In accordance with law and relevant procedures approved by the Attorney General under this Order, give the heads of the departments and agencies access to all intelligence, developed by the CIA or the staff elements of the Director of Central Intelligence, relevant to the national intelligence needs of the departments and agencies; and

(s) Facilitate the use of national foreign intelligence products by Congress in a secure manner.

1.6 Duties and Responsibilities of the Heads of Executive Branch Departments and Agencies.

(a) The heads of all Executive Branch departments and agencies shall, in accordance with law and relevant procedures approved by the Attorney General under this Order, give the Director of Central Intelligence access to all information relevant to the national intelligence needs of the United States, and shall give due consideration to requests from the Director of Central Intelligence for appropriate support for Intelligence Community activities.

(b) The heads of departments and agencies involved in the National Foreign Intelligence Program shall ensure timely development and submission to the Director of Central Intelligence by the program managers and heads of component activities of proposed national programs and budgets in the format designated by the Director of Central Intelligence, and shall also ensure that the Director of Central Intelligence is provided, in a timely and responsive manner, all information necessary to perform the Director's program and budget responsibilities.

(c) The heads of departments and agencies involved in the National Foreign Intelligence Program may appeal to the President decisions by the Director of Central Intelligence on budget or reprogramming matters of the National Foreign Intelligence Program.

1.7 Senior Officials of the Intelligence Community. The heads of departments and agencies with organizations in the Intelligence Community or the heads of such organizations, as appropriate, shall:

(a) Report to the Attorney General possible violations of federal criminal laws by employees and of specified federal criminal laws by any other person as provided in procedures agreed upon by the Attorney General and the head of the department or agency concerned, in a manner consistent with the protection of intelligence sources and methods, as specified in those procedures;

(b) In any case involving serious or continuing breaches of security, recommend to the Attorney General that the case be referred to the FBI for further investigation;

(c) Furnish the Director of Central Intelligence and the NSC, in accordance with applicable law and procedures approved by the Attorney General under this Order, the information required for the performance of their respective duties;

(d) Report to the Intelligence Oversight Board, and keep the Director of Central Intelligence appropriately informed, concerning any intelligence activities of their organizations that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive;

(e) Protect intelligence and intelligence sources and methods from unauthorized disclosure consistent with guidance from the Director of Central Intelligence;

(f) Disseminate intelligence to cooperating foreign governments under arrangements established or agreed to by the Director of Central Intelligence;

(g) Participate in the development of procedures approved by the Attorney General governing production and dissemination of intelligence resulting from criminal narcotics intelligence activities abroad if their departments, agencies, or organizations have intelligence responsibilities for foreign or domestic narcotics production and trafficking;

(h) Instruct their employees to cooperate fully with the Intelligence Oversight Board; and

(i) Ensure that the Inspectors General and General Counsels for their organizations have access to any information necessary to perform their duties assigned by this Order.

1.8 The Central Intelligence Agency. All duties and responsibilities of the CIA shall be related to the intelligence functions set out below. As authorized by this Order; the National Security Act of 1947, as amended; the CIA Act of 1949, as amended; appropriate directives or other applicable law, the CIA shall:

(a) Collect, produce and disseminate foreign intelligence and counterintelligence, including information not otherwise obtainable. The collection of foreign intelligence or counterintelligence within the United States shall be coordinated with the FBI as required by procedures agreed upon by the Director of Central Intelligence and the Attorney General;

(b) Collect, produce and disseminate intelligence on foreign aspects of narcotics production and trafficking;

(c) Conduct counterintelligence activities outside the United States and, without assuming or performing any internal security functions, conduct counterintelligence activities within the United States in coordination with the FBI as required by procedures agreed upon by the Director of Central Intelligence and the Attorney General;

(d) Coordinate counterintelligence activities and the collection of information not otherwise obtainable when conducted outside the United States by other departments and agencies;

(e) Conduct special activities approved by the President. No agency except the CIA (or the Armed Forces of the United States in time of war declared by Congress or during any period covered by a report from the President to the Congress under the War Powers Resolution (87 Stat 855)) may conduct any special activity unless the President determines that another agency is more likely to achieve a particular objective;

(f) Conduct services of common concern to the Intelligence Community as directed by the NSC;

(g) Carry out or contract for research, development and procurement of technical systems and devices relating to authorized functions;

(h) Protect the security of its installations, activities, information, property, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the CIA as are necessary; and

(i) Conduct such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections (a) through (h) above, including procurement and essential cover and proprietary arrangements.

1.9 *The Department of State.* The Secretary of State shall:

(a) Overtly collect information relevant to United States foreign policy concerns;

(b) Produce and disseminate foreign intelligence relating to United States foreign

policy as required for the execution of the Secretary's responsibilities;

(c) Disseminate, as appropriate, reports received from United States diplomatic and consular posts;

(d) Transmit reporting requirements of the Intelligence Community to the Chiefs of United States Missions abroad; and

(e) Support Chiefs of Missions in discharging their statutory responsibilities for direction and coordination of mission activities.

1.10 *The Department of the Treasury.* The Secretary of the Treasury shall:

(a) Overtly collect foreign financial and monetary information;

(b) Participate with the Department of State in the overt collection of general foreign economic information;

(c) Produce and disseminate foreign intelligence relating to United States economic policy as required for the execution of the Secretary's responsibilities; and

(d) Conduct, through the United States Secret Service, activities to determine the existence and capability of surveillance equipment being used against the President of the United States, the Executive Office of the President, and, as authorized by the Secretary of the Treasury or the President, other Secret Service protectees and United States officials. No information shall be acquired intentionally through such activities except to protect against such surveillance, and those activities shall be conducted pursuant to procedures agreed upon by the Secretary of the Treasury and the Attorney General.

1.11 *The Department of Defense.* The Secretary of Defense shall:

(a) Collect national foreign intelligence and be responsive to collection tasking by the Director of Central Intelligence;

(b) Collect, produce and disseminate military and military-related foreign intelligence and counterintelligence as required for execution of the Secretary's responsibilities;

(c) Conduct programs and missions necessary to fulfill national, departmental and tactical foreign intelligence requirements;

(d) Conduct counterintelligence activities in support of Department of Defense components outside the United States in coordination with the CIA, and within the United

States in coordination with the FBI pursuant to procedures agreed upon by the Secretary of Defense and the Attorney General;

(e) Conduct, as the executive agent of the United States Government, signals intelligence and communications security activities, except as otherwise directed by the NSC;

(f) Provide for the timely transmission of critical intelligence, as defined by the Director of Central Intelligence, within the United States Government;

(g) Carry out or contract for research, development and procurement of technical systems and devices relating to authorized intelligence functions;

(h) Protect the security of Department of Defense installations, activities, property, information, and employees by appropriate means including such investigations of applicants, employees, contractors, and other persons with similar associations with the Department of Defense as are necessary;

(i) Establish and maintain military intelligence relationships and military intelligence-exchange programs with selected cooperative foreign defense establishments and international organizations, and ensure that such relationships and programs are in accordance with policies formulated by the Director of Central Intelligence;

(j) Direct, operate, control and provide fiscal management for the National Security Agency and for defense and military intelligence and national reconnaissance entities; and

(k) Conduct such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections (a) through (j) above.

1.12 *Intelligence Components Utilized by the Secretary of Defense.* In carrying out the responsibilities assigned in section 1.11, the Secretary of Defense is authorized to utilize the following:

(a) *Defense Intelligence Agency,* whose responsibilities shall include:

(1) Collection, production, or, through tasking and coordination, provision of military and military-related intelligence for the Secretary of Defense, the Joint Chiefs of Staff, other Defense components, and, as appropriate, non-Defense agencies;

(2) Collection and provision of military intelligence for national foreign intelligence and counterintelligence products;

(3) Coordination of all Department of Defense intelligence collection requirements;

(4) Management of the Defense Attache system; and

(5) Provision of foreign intelligence and counterintelligence staff support as directed by the Joint Chiefs of Staff.

(b) *National Security Agency,* whose responsibilities shall include:

(1) Establishment and operation of an effective unified organization for signals intelligence activities, except for the delegation of operational control over certain operations that are conducted through other elements of the Intelligence Community. No other department or agency may engage in signals intelligence activities except pursuant to a delegation by the Secretary of Defense;

(2) Control of signals intelligence collection and processing activities, including assignment of resources to an appropriate agent for such periods and tasks as required for the direct support of military commanders;

(3) Collection of signals intelligence information for national foreign intelligence purposes in accordance with guidance from the Director of Central Intelligence;

(4) Processing of signals intelligence data for national foreign intelligence purposes in accordance with guidance from the Director of Central Intelligence;

(5) Dissemination of signals intelligence information for national foreign intelligence purposes to authorized elements of the Government, including the military services, in accordance with guidance from the Director of Central Intelligence;

(6) Collection, processing and dissemination of signals intelligence information for counterintelligence purposes;

(7) Provision of signals intelligence support for the conduct of military operations in accordance with tasking, priorities, and standards of timeliness assigned by the Secretary of Defense. If provision of such support requires use of national collection systems, these systems will be tasked within existing guidance from the Director of Central Intelligence;

(8) Executing the responsibilities of the Secretary of Defense as executive agent for the communications security of the United States Government;

(9) Conduct of research and development to meet needs of the United States for signals intelligence and communications security;

(10) Protection of the security of its installations, activities, property, information, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the NSA as are necessary;

(11) Prescribing, within its field of authorized operations, security regulations covering operating practices, including the transmission, handling and distribution of signals intelligence and communications security material within and among the elements under control of the Director of the NSA, and exercising the necessary supervisory control to ensure compliance with the regulations;

(12) Conduct of foreign cryptologic liaison relationships, with liaison for intelligence purposes conducted in accordance with policies formulated by the Director of Central Intelligence; and

(13) Conduct of such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections (1) through (12) above, including procurement.

(c) *Offices for the collection of specialized intelligence through reconnaissance programs*, whose responsibilities shall include:

(1) Carrying out consolidated reconnaissance programs for specialized intelligence;

(2) Responding to tasking in accordance with procedures established by the Director of Central Intelligence; and

(3) Delegating authority to the various departments and agencies for research, development, procurement, and operation of designated means of collection.

(d) *The foreign intelligence and counterintelligence elements of the Army, Navy, Air Force, and Marine Corps*, whose responsibilities shall include:

(1) Collection, production and dissemination of military and military-related foreign intelligence and counterintelligence, and in-

formation on the foreign aspects of narcotics production and trafficking. When collection is conducted in response to national foreign intelligence requirements, it will be conducted in accordance with guidance from the Director of Central Intelligence. Collection of national foreign intelligence, not otherwise obtainable, outside the United States shall be coordinated with the CIA, and such collection within the United States shall be conducted with the FBI;

(2) Conduct of counterintelligence activities outside the United States in coordination with the CIA, and within the United States in coordination with the FBI; and

(3) Monitoring of the development, procurement and management of tactical intelligence systems and equipment and conducting related research, development, and test and evaluation activities.

(e) *Other offices within the Department of Defense appropriate for conduct of the intelligence missions and responsibilities assigned to the Secretary of Defense*. If such other offices are used for intelligence purposes, the provisions of Part 2 of this Order shall apply to those offices when used for those purposes.

1.13 *The Department of Energy*. The Secretary of Energy shall:

(a) Participate with the Department of State in overtly collecting information with respect to foreign energy matters;

(b) Produce and disseminate foreign intelligence necessary for the Secretary's responsibilities;

(c) Participate in formulating intelligence collection and analysis requirements where the special expert capability of the Department can contribute; and

(d) Provide expert technical, analytical and research capability to other agencies within the Intelligence Community.

1.14 *The Federal Bureau of Investigation*. Under the supervision of the Attorney General and pursuant to such regulations as the Attorney General may establish, the Director of the FBI shall:

(a) Within the United States conduct counterintelligence and coordinate counterintelligence activities of other agencies within the Intelligence Community. When a counterintelligence activity of the FBI involves military or civilian personnel of the

Department of Defense, the FBI shall coordinate with the Department of Defense;

(b) Conduct counterintelligence activities outside the United States in coordination with the CIA as required by procedures agreed upon by the Director of Central Intelligence and the Attorney General;

(c) Conduct within the United States, when requested by officials of the Intelligence Community designated by the President, activities undertaken to collect foreign intelligence or support foreign intelligence collection requirements of other agencies within the Intelligence Community, or, when requested by the Director of the National Security Agency, to support the communications security activities of the United States Government;

(d) Produce and disseminate foreign intelligence and counterintelligence; and

(e) Carry out or contract for research, development and procurement of technical systems and devices relating to the functions authorized above.

Part 2 *Conduct of Intelligence Activities*

2.1 *Need.* Accurate and timely information about the capabilities, intentions and activities of foreign powers, organizations, or persons and their agents is essential to informed decision-making in the areas of national defense and foreign relations. Collection of such information is a priority objective and will be pursued in a vigorous, innovative and responsible manner that is consistent with the Constitution and applicable law and respectful of the principles upon which the United States was founded.

2.2 *Purpose.* This Order is intended to enhance human and technical collection techniques, especially those undertaken abroad, and the acquisition of significant foreign intelligence, as well as the detection and countering of international terrorist activities and espionage conducted by foreign powers. Set forth below are certain general principles that, in addition to and consistent with applicable laws, are intended to achieve the proper balance between the acquisition of essential information and protection of individual interests. Nothing in this Order shall be construed to apply to or interfere with any authorized civil or criminal law enforcement responsibility of any department or agency.

2.3 *Collection of Information.* Agencies within the Intelligence Community are authorized to collect, retain or disseminate information concerning United States persons only in accordance with procedures established by the head of the agency concerned and approved by the Attorney General, consistent with the authorities provided by Part 1 of this Order. Those procedures shall permit collection, retention and dissemination of the following types of information:

(a) Information that is publicly available or collected with the consent of the person concerned;

(b) Information constituting foreign intelligence or counterintelligence, including such information concerning corporations or other commercial organizations. Collection within the United States of foreign intelligence not otherwise obtainable shall be undertaken by the FBI or, when significant foreign intelligence is sought, by other authorized agencies of the Intelligence Community, provided that no foreign intelligence collection by such agencies may be undertaken for the purpose of acquiring information concerning the domestic activities of United States persons;

(c) Information obtained in the course of a lawful foreign intelligence, counterintelligence, international narcotics or international terrorism investigation;

(d) Information needed to protect the safety of any persons or organizations, including those who are targets, victims or hostages of international terrorists organizations;

(e) Information needed to protect foreign intelligence or counterintelligence sources or methods from unauthorized disclosure. Collection within the United States shall be undertaken by the FBI except that other agencies of the Intelligence Community may also collect such information concerning present or former employees, present or former intelligence agency contractors or their present or former employees, or applicants for any such employment or contracting;

(f) Information concerning persons who are reasonably believed to be potential sources or contacts for the purpose of determining their suitability or credibility;

(g) Information arising out of a lawful personnel, physical or communications security investigation;

(h) Information acquired by overhead reconnaissance not directed at specific United States persons;

(i) Incidentally obtained information that may indicate involvement in activities that may violate federal, state, local or foreign laws; and

(j) Information necessary for administrative purposes.

In addition, agencies within the Intelligence Community may disseminate information, other than information derived from signals intelligence, to each appropriate agency within the Intelligence Community for purposes of allowing the recipient agency to determine whether the information is relevant to its responsibilities and can be retained by it.

2.4 Collection Techniques. Agencies within the Intelligence Community shall use the least intrusive collection techniques feasible within the United States or directed against United States persons abroad. Agencies are not authorized to use such techniques as electronic surveillance, unconsented physical search, mail surveillance, physical surveillance, or monitoring devices unless they are in accordance with procedures established by the head of the agency concerned and approved by the Attorney General. Such procedures shall protect constitutional and other legal rights and limit use of such information to lawful governmental purposes. These procedures shall not authorize:

(a) The CIA to engage in electronic surveillance within the United States except for the purpose of training, testing, or conducting countermeasures to hostile electronic surveillance;

(b) Unconsented physical searches in the United States by agencies other than the FBI, except for:

(1) Searches by counterintelligence elements of the military services directed against military personnel within the United States or abroad for intelligence purposes, when authorized by a military commander empowered to approve physical searches for law enforcement purposes, based upon a finding of probable cause to

believe that such persons are acting as agents of foreign powers; and

(2) Searches by CIA of personal property of non-United States persons lawfully in its possession.

(c) Physical surveillance of a United States person in the United States by agencies other than the FBI, except for:

(1) Physical surveillance of present or former employees, present or former intelligence agency contractors or their present or former employees, or applicants for any such employment or contracting; and

(2) Physical surveillance of a military person employed by a nonintelligence element of a military service.

(d) Physical surveillance of a United States person abroad to collect foreign intelligence, except to obtain significant information that cannot reasonably be acquired by other means.

2.5 Attorney General Approval. The Attorney General hereby is delegated the power to approve the use for intelligence purposes, within the United States or against a United States person abroad, of any technique for which a warrant would be required if undertaken for law enforcement purposes, provided that such techniques shall not be undertaken unless the Attorney General has determined in each case that there is probable cause to believe that the technique is directed against a foreign power or an agent of a foreign power. Electronic surveillance, as defined in the Foreign Intelligence Surveillance Act of 1978, shall be conducted in accordance with that Act, as well as this Order.

2.6 Assistance to Law Enforcement Authorities. Agencies within the Intelligence Community are authorized to:

(a) Cooperate with appropriate law enforcement agencies for the purpose of protecting the employees, information, property and facilities of any agency within the Intelligence Community;

(b) Unless otherwise prohibited by law or this Order, participate in law enforcement activities to investigate or prevent clandestine intelligence activities by foreign powers, or international terrorist or narcotics activities;

(c) Provide specialized equipment, technical knowledge, or assistance of expert per-

sonnel for use by any department or agency, or, when lives are endangered, to support local law enforcement agencies. Provision of assistance by expert personnel shall be approved in each case by the General Counsel of the providing agency; and

(d) Render any other assistance and cooperation to law enforcement authorities not precluded by applicable law.

2.7 Contracting. Agencies within the Intelligence Community are authorized to enter into contracts or arrangements for the provision of goods or services with private companies or institutions in the United States and need not reveal the sponsorship of such contracts or arrangements for authorized intelligence purposes. Contracts or arrangements with academic institutions may be undertaken only with the consent of appropriate officials of the institution.

2.8 Consistency With Other Laws. Nothing in this Order shall be construed to authorize any activity in violation of the Constitution or statutes of the United States.

2.9 Undisclosed Participation in Organizations Within the United States. No one acting on behalf of agencies within the Intelligence Community may join or otherwise participate in any organization in the United States on behalf of any agency within the Intelligence Community without disclosing his intelligence affiliation to appropriate officials of the organization, except in accordance with procedures established by the head of the agency concerned and approved by the Attorney General. Such participation shall be authorized only if it is essential to achieving lawful purposes as determined by the agency head or designee. No such participation may be undertaken for the purpose of influencing the activity of the organization or its members except in cases where:

(a) The participation is undertaken on behalf of the FBI in the course of a lawful investigation; or

(b) The organization concerned is composed primarily of individuals who are not United States persons and is reasonably believed to be acting on behalf of a foreign power.

2.10 Human Experimentation. No agency within the Intelligence Community shall sponsor, contract for or conduct research on human subjects except in accordance with

guidelines issued by the Department of Health and Human Services. The subject's informed consent shall be documented as required by those guidelines.

2.11 Prohibition on Assassination. No person employed by or acting on behalf of the United States Government shall engage in, or conspire to engage in, assassination.

2.12 Indirect Participation. No agency of the Intelligence Community shall participate in or request any person to undertake activities forbidden by this Order.

Part 3 General Provisions

3.1 Congressional Oversight. The duties and responsibilities of the Director of Central Intelligence and the heads of other departments, agencies, and entities engaged in intelligence activities to cooperate with the Congress in the conduct of its responsibilities for oversight of intelligence activities shall be as provided in title 50, United States Code, section 413. The requirements of section 662 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2122), and section 501 of the National Security Act of 1947, as amended (50 U.S.C. 413), shall apply to all special activities as defined in this Order.

3.2 Implementation. The NSC, the Secretary of Defense, the Attorney General, and the Director of Central Intelligence shall issue such appropriate directives and procedures as are necessary to implement this Order. Heads of agencies within the Intelligence Community shall issue appropriate supplementary directives and procedures consistent with this Order. The Attorney General shall provide a statement of reasons for not approving any procedures established by the head of an agency in the Intelligence Community other than the FBI. The National Security Council may establish procedures in instances where the agency head and the Attorney General are unable to reach agreement on other than constitutional or other legal grounds.

3.3 Procedures. Until the procedures required by this Order have been established, the activities herein authorized which require procedures shall be conducted in accordance with existing procedures or requirements established under Executive Order No. 12036. Procedures required by

this Order shall be established as expeditiously as possible. All procedures promulgated pursuant to this Order shall be made available to the congressional intelligence committees.

3.4 *Definitions.* For the purposes of this Order, the following terms shall have these meanings:

(a) *Counterintelligence* means information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage, or assassinations conducted for or on behalf of foreign powers, organizations or persons, or international terrorist activities, but not including personnel, physical, document or communications security programs.

(b) *Electronic surveillance* means acquisition of a nonpublic communication by electronic means without the consent of a person who is a party to an electronic communication or, in the case of a nonelectronic communication, without the consent of a person who is visibly present at the place of communication, but not including the use of radio direction-finding equipment solely to determine the location of a transmitter.

(c) *Employee* means a person employed by, assigned to or acting for an agency within the Intelligence Community.

(d) *Foreign intelligence* means information relating to the capabilities, intentions and activities of foreign powers, organizations or persons, but not including counterintelligence except for information on international terrorist activities.

(e) *Intelligence activities* means all activities that agencies within the Intelligence Community are authorized to conduct pursuant to this Order.

(f) *Intelligence Community and agencies within the Intelligence Community* refer to the following agencies or organizations:

(1) The Central Intelligence Agency (CIA);

(2) The National Security Agency (NSA);

(3) The Defense Intelligence Agency (DIA);

(4) The offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) The Bureau of Intelligence and Research of the Department of State;

(6) The intelligence elements of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation (FBI), the Department of the Treasury, and the Department of Energy; and

(7) The staff elements of the Director of Central Intelligence.

(g) *The National Foreign Intelligence Program* includes the programs listed below, but its composition shall be subject to review by the National Security Council and modification by the President:

(1) The programs of the CIA;

(2) The Consolidated Cryptologic Program, the General Defense Intelligence Program, and the programs of the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance, except such elements as the Director of Central Intelligence and the Secretary of Defense agree should be excluded;

(3) Other programs of agencies within the Intelligence Community designated jointly by the Director of Central Intelligence and the head of the department or by the President as national foreign intelligence or counterintelligence activities;

(4) Activities of the staff elements of the Director of Central Intelligence;

(5) Activities to acquire the intelligence required for the planning and conduct of tactical operations by the United States military forces are not included in the National Foreign Intelligence Program.

(h) *Special activities* means activities conducted in support of national foreign policy objectives abroad which are planned and executed so that the role of the United States Government is not apparent or acknowledged publicly, and functions in support of such activities, but which are not intended to influence United States political processes, public opinion, policies, or media and do not include diplomatic activities or the collection and production of intelligence or related support functions.

(i) *United States person* means a United States citizen, an alien known by the intelligence agency concerned to be a permanent resident alien, an unincorporated association substantially composed of United States citizens or permanent resident aliens, or a corporation incorporated in the United

States, except for a corporation directed and controlled by a foreign government or governments.

3.5 *Purpose and Effect.* This Order is intended to control and provide direction and guidance to the Intelligence Community. Nothing contained herein or in any procedures promulgated hereunder is intended to confer any substantive or procedural right or privilege on any person or organization.

3.6 *Revocation.* Executive Order No. 12036 of January 24, 1978, as amended, entitled "United States Intelligence Activities," is revoked.

Ronald Reagan

The White House,
December 4, 1981.

[Filed with the Office of the Federal Register, 4:09 p.m., December 4, 1981]

President's Intelligence Oversight Board

Executive Order 12334. December 4, 1981

By the authority vested in me as President by the Constitution and statutes of the United States of America, and in order to enhance the security of the United States by assuring the legality of activities of the Intelligence Community, it is hereby ordered as follows:

Section 1. There is hereby established within the White House Office, Executive Office of the President, the President's Intelligence Oversight Board, which shall be composed of three members. One member, appointed from among the membership of the President's Foreign Intelligence Advisory Board, shall be designated by the President as Chairman. Members of the Board shall serve at the pleasure of the President and shall be appointed by the President from among trustworthy and distinguished citizens outside the Government who are qualified on the basis of achievement, experience and independence. The Board shall utilize such full-time staff and consultants as authorized by the President.

Sec. 2. The Board shall:

(a) Inform the President of intelligence activities that any member of the Board believes are in violation of the Constitution or laws of the United States, Executive orders, or Presidential directives;

(b) Forward to the Attorney General reports received concerning intelligence activities that the Board believes may be unlawful;

(c) Review the internal guidelines of each agency within the Intelligence Community concerning the lawfulness of intelligence activities;

(d) Review the practices and procedures of the Inspectors General and General Counsel of the Intelligence Community for discovering and reporting intelligence activities that may be unlawful or contrary to Executive order or Presidential directive; and

(e) Conduct such investigations as the Board deems necessary to carry out its functions under this Order.

Sec. 3. The Board shall, when required by this Order, report directly to the President. The Board shall consider and take appropriate action with respect to matters identified by the Director of Central Intelligence, the Central Intelligence Agency or other agencies of the Intelligence Community. With respect to matters deemed appropriate by the President, the Board shall advise and make appropriate recommendations to the Director of Central Intelligence, the Central Intelligence Agency, and other agencies of the Intelligence Community.

Sec. 4. The heads of departments and agencies of the Intelligence Community shall, to the extent permitted by law, provide the Board with all information necessary to carry out its responsibilities. Inspectors General and General Counsel of the Intelligence Community shall, to the extent permitted by law, report to the Board concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive.

Sec. 5. Information made available to the Board shall be given all necessary security protection in accordance with applicable laws and regulations. Each member of the Board, each member of the Board's staff, and each of the Board's consultants shall

execute an agreement never to reveal any classified information obtained by virtue of his or her service with the Board except to the President or to such persons as the President may designate.

Sec. 6. Members of the Board shall serve without compensation, but may receive transportation, expense, and per diem allowances as authorized by law. Staff and consultants to the Board shall receive pay and allowances as authorized by the President.

Ronald Reagan

The White House,
December 4, 1981.

[Filed with the Office of the Federal Register, 4:10 p.m., December 4, 1981]

Intelligence Authorization Act for Fiscal Year 1982

Statement on Signing H.R. 3454 Into Law
December 4, 1981

I am pleased today to sign into law H.R. 3454, the Intelligence Authorization Act for Fiscal Year 1982. This act represents a significant first step toward achieving revitalization of our Nation's intelligence community. The President of the United States must have timely, accurate, and insightful foreign intelligence in order to make sound national defense and foreign policy decisions. This act helps to assure that we will have the necessary intelligence information to make these difficult decisions.

The Congress has with this act authorized appropriations sufficient to assure that we continue to have the world's best and most professional intelligence service. The Congress has also provided new administrative authorities to the heads of the Nation's three major intelligence agencies to assure that they can perform their missions more effectively. I hope that the spirit of cooperation between the legislative and executive branches which resulted in this act will continue as we move to rebuild our Nation's intelligence capabilities.

I would also note my hope that I will soon be able to sign the Intelligence Identifi-

ties Protection Act, which has passed the House and is awaiting floor action in the Senate. I strongly support enactment of this measure, preferably in the form in which it was passed by the House of Representatives; we must act now to protect our intelligence personnel, who serve our Nation under what are often difficult and dangerous circumstances.

Note: As enacted, H.R. 3454 is Public Law 97-89, approved December 4.

United States Ambassador to Tunisia

Nomination of Walter Leon Cutler.
December 4, 1981

The President today announced his intention to nominate Walter Leon Cutler, of Maryland, to be Ambassador to the Republic of Tunisia. He would succeed Stephen Warren Bosworth.

Mr. Cutler served in the United States Army in 1954-56, prior to entering the Foreign Service. He was Consular Officer in Yaounde in 1957-59. In the Department, he was Foreign Affairs Officer in the Executive Secretariat (1959-61) and Staff Assistant to the Secretary of State (1961-62). He was Political Officer in Algiers (1962-65), Principal Officer in Tabriz (1965-67), Political Officer in Seoul (1967-69), and in Saigon (1969-71). In 1971-73, he was International Relations Officer in the Department. He attended the Senior Seminar at the Foreign Service Institute in 1973-74. He was Country Director of Central African Affairs in the Department in 1974-75 and served as Ambassador to the Republic of Zaire in 1975-79. He was Deputy Assistant Secretary of State for Congressional Relations in 1979-81.

Mr. Cutler graduated from Wesleyan University (B.A., 1953) and Fletcher School of Law and Diplomacy (M.A., 1954). He is married, has three children, and resides in Chevy Chase, Md. He was born November 25, 1931, in Boston, Mass.

EXECUTIVE ORDERS ON UNITED STATES FOREIGN INTELLIGENCE
ACTIVITIES AND THE U.S. INTELLIGENCE COMMUNITY

by

ANTHONY C. DELEGGE

AN ABSTRACT OF A REPORT

submitted in partial fulfillment of the
requirements for the degree

MASTER OF ARTS

KANSAS STATE UNIVERSITY
Manhattan, Kansas

1988

During the decades following the Second World War the US intelligence community operated for the most part out of the sight and mind of the American public. While subject to periodic investigations and Congressional inquiries, intelligence activities were conducted with a minimum of public knowledge or accountability. The manner in which the US intelligence community conducted its activities would change in the early 1970's when it became the subject of numerous public and Congressional exposes and investigations. The decade of the 1970's was one of the most turbulent in the history of the intelligence community and raised issues of governmental ethics, responsiveness and accountability.

This paper examines 1) changes made in the activities of the US intelligence community to 2) public and Congressional concerns over constitutional and administrative issues related to intelligence activities. The paper focuses on the responsiveness to criticism by the US intelligence community as implemented through Presidential Executive Orders on United States Foreign Intelligence Activities. A comparative examination is conducted on President Ford's Executive Order 11905, President Carter's Executive Order 12036 and President

Reagan's Executive Order 12333. These three Executive Orders cover a period of time from February 1976 through December 1981 and are compared with public and Congressional criticism of intelligence activities raised during the period in question. Such an examination provides for an increased understanding of the responsiveness (or nonresponsiveness) of the intelligence community to constitutional and administrative issues related to intelligence activities. The Executive Order is shown as a document which provides a framework, a public agreement on the control and accountability of the intelligence community. It provides the public with a rare means for holding its elected officials responsible for the secret and often controversial activities conducted in its name.