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26 Feb 1976

COMMENTS ON THE EXECUTIVE ORDER

ON

UNITED STATES FOREIGN INTELLIGENCE ACTIVITIES

GENERAL COMMENTS

1. The National Reconnaissance Office is included in the Executive Order of 18 February 1976 under the heading of "special offices within the Department of Defense for the collection of specialized intelligence through reconnaissance programs." Unlike many intelligence organizations, the NRO has not been chartered by a National Security Council Intelligence Directive, but is covered by a joint DOD-CIA Agreement. It appears most appropriate to update the NRO organizational framework by publication of a classified charter, signed by the Committee on Foreign Intelligence. The NRO will prepare a draft of this document. As a corollary action, the NRO will draft a revision to DOD Directive 5105.23 which identifies the NRO within the DOD and levies requirements to support the NRP.
2. Given the NRO will be covered by a charter type document, it seems desirable that the implementing provisions of the charter be covered by a Committee on Foreign Intelligence Directive (CFID). This mechanism could provide some of the details of implementation not appropriate for a charter document and could more easily be changed to reflect changes in the intelligence community management structure. As the NRO

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proceeds with the draft of a charter, a suitable CFID will also be proposed.

3. One of the key documents which implements the policy that satellite reconnaissance activities will be conducted only by the National Reconnaissance Office is the memorandum signed by Deputy Secretary of Defense Rush, titled "Department of Defense Satellite-Borne Earth Sensing and Space Shuttle Planning Activities," dated 17 October 1972. This memorandum will be updated in consonance with the revision of other documents noted above.

4. The term "special activities" is used in the Executive Order to mean covert actions which are not related to satellite reconnaissance. There may be a tendency to confuse this with "special offices," which does refer to the NRO. It may be worthwhile to provide a clearer distinction in preparing implementing documents.

5. Section 5 of the Executive Order covers domestic surveillance. There are implications in this regard for engineering operations; system testing and system exercising used by both photographic and SIGINT NRO satellite collectors. It appears that these activities must be clearly defined and discussed with the Attorney General for the purpose of obtaining authorization to continue our testing operations. The NRO is preparing the necessary position papers.


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6. The Executive Order calls for amendment of existing NSCIDs. An action item for the NRO is to work closely with participating organizations to assure that changes to the NSCIDs do not impact adversely on the National Reconnaissance Office.

SPECIFIC COMMENTS

1. Page 4, Sec 3, para (a)(3). It is presumed that the CFI provides the data to the NSC for the semi-annual review called for in this paragraph. If not, procedures should be specified in the various organizations to use in furnishing the information themselves.

2. Page 5, Sec 3, para b(2)(A). Recognizing that the CFI will replace the NRP ExCom, this paragraph would make it appropriate for OMB to no longer participate in an "ExCom advisory" role. In the past, OMB has participated in detailed programmatic reviews of the NFIP. It would appear appropriate, in light of the responsibilities specified for the CFI, that OMB now assume strictly a budget allocation function adjudicating between the major elements of the President's Budget. Procedures for operating relations with OMB are needed.

3. Page 5, Sec 3, para b(2)(B). The rules established for reprogramming should be in consonance with the desires of the Congressional Appropriation Oversight Committees; however, above threshold reprogramming actions  in R&D or


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[REDACTED] in Procurement funds) within specific program elements of the budget or new starts in excess of [REDACTED] total cost should be handled on an informal notification basis with the Congressional staffs following CFI approval.

4. Page 6, Sec 3, para b(2)(B)(IV). While the Executive Order establishes that the CFI will not be responsible for tactical intelligence, there is much overlap with national intelligence. Briefly, the relationships between the two should be expressed in the following way:

National - The support of U.S. national security policy (foreign policy plus military policy) in such areas as indications and warning/crisis monitoring, monitoring international agreements and compliance with their provisions, development of economic assessments, monitor changing military posture, force strength, and introduction of new weapons systems.

Tactical - The support of U.S. military operations requiring timely indications and warning of attack, the size, disposition, and capabilities of opposing strategic and tactical forces and their support facilities, and the production of maps for military purposes.

There exists little difference between the tactical or national intelligence data, the differences are only in the application. Clearly many organic resources of the services support tactical force elements. However, the overlap of

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common data is so all encompassing in the case of the NRP, that to the degree that satellite systems can support tactical intelligence it should be funded and developed within the NRP, with management oversight by the CFI. In meeting the national needs, the NRP can meet many of the tactical needs especially with improvements in timeliness and frequency of coverage. Within the context of the defined national role, timeliness is not as critical a parameter in comparison to data quality.

The basic issue yet to be squarely addressed by the Community is--What degree should the NRP modify its current and projected efforts in support of tactical requirements, and what would be the resultant implications?

5. Page 8, Sec 3, para (d)(iv). If the DCI truly is to fulfill this task, procedures must be established to provide full access to military intelligence. Without substantive output from DOD, he will be insulated by the Community from an essential need. This appears to be an historic and continuing problem area.

6. Page 10, Sec 3, para (d)(1)(xi). This paragraph provides that the DCI acts as the principal spokesman to the Congress for the foreign intelligence community. It would seem appropriate that each head of an intelligence organization be the principal witness for the defense of his program. It is suggested that this matter be further expanded upon in implementing documents.

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7. Page 10, Sec 3, para (d)(1)(xiv). Assuming this will replace this existing ~~USIB~~ mechanism procedures should be established to provide the Services with a more substantive opportunity for input.
8. Page 11, Sec 4. This section provides for detailed implementation of the Executive Order to include classified documents. The NRO will prepare a BYEMAN document to implement the provisions of the Executive Order and to recognize the position of the NRP in the new intelligence community arena.
9. Page 12, Sec 4, para (a). There needs to be a definition of "senior officials" in the various departments and agencies. Within the Department of Defense, for example, who are the "senior officials"--it is assumed that the Director of the NRO is considered in this category.
10. Page 12, Sec 4, para (a)(1). Recognizing that the DCI does not have a responsibility for tactical intelligence programs, there is still a need to disseminate tactical data to many members of the intelligence community. This paragraph, which refers to maximum efficiency, may provide the framework for integrating tactical data flow with national level intelligence when appropriate.
11. Page 14, Sec 4, para (b)(1). The CIA is given a responsibility to produce and disseminate foreign military intelligence.


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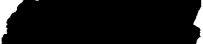
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This is an obvious overlap with DIA and the military services intelligence functions. Although this is not necessarily all bad, there needs to be a further clarification of the role or limitations of CIA military intelligence collection.

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