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THE WHITE HOUSE

WASHINGTON

January 7, 1977

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR:

MIKE DUVAL

FROM:

JIM CONNOR *JEB*

SUBJECT:

Intelligence Oversight Reports  
Submission to Congress

The President reviewed your memoranda of January 6 and January 7 on the above subject and made the following decisions:

Option 1: No Presidential decision on the ~~substantive~~ issue presented.

A. Instruct agencies and departments to develop their own response to the Select Committee.

- Disapproved -

B. Instruct departments and agencies to make no response and defer to incoming Administration.

- Disapproved -

Option 2: Use summary procedure similar to that outlined by CIA draft letter. Final letters to the Committee should be approved by Phil Buchen.

- Approved with the following notation added:

"But, let me see final version."

Please follow-up with appropriate action.

cc: Dick Cheney  
Phil Buchen

THE WHITE HOUSE

WASHINGTON

UNCLASSIFIED UPON REMOVAL  
OF CLASSIFIED ATTACHMENTS

January 7, 1977

MEMORANDUM FOR:

THE PRESIDENT

FROM:

MIKE DUVAL

*Mike*

SUBJECT:

Intelligence Oversight  
Reports - Submission to  
Congress -- Jack Marsh Input.

Jack Marsh has additional views which vary from those expressed in the attached memorandum. Please note his comments in the memorandum attached at TAB C.

ITEM WITHDRAWAL SHEET  
WITHDRAWAL ID 01036

Collection/Series/Folder ID No. .... : 004700174  
Reason for Withdrawal ..... : NS,National security restriction  
Type of Material ..... : MEM,Memo(s)  
Creator's Name ..... : Mike Duval  
Receiver's Name ..... : President  
Description ..... : re intelligence oversight reports  
- submission to Congress  
Creation Date ..... : 01/06/1977  
Volume (pages) ..... : 4  
Date Withdrawn ..... : 05/25/1988

TAB A

D R A F T

The Honorable Daniel K. Inouye  
Chairman, Select Committee on  
Intelligence  
United States Senate  
Washington, D.C. 20510

Dear Mr. Chairman:

As you know, Section 6<sup>b</sup>(d) of Executive Order 11905 requires that Inspectors General and General Counsels within the Intelligence Community submit periodic reports to the Intelligence Oversight Board (IOB) concerning activities of their respective agencies that raise questions of legality or propriety. It is the function of the IOB to consider these reports and make any appropriate reports of its own to the Attorney General or the President. Further, it is the responsibility of senior Intelligence Community officials under Section 4(a)(5) of E.O. 11905 to report possible violations of federal law to the Attorney General. That requirement is related to the obligations imposed on heads of all Executive departments and agencies by 28 U.S.C. §535.

At my confirmation hearing on 23 June 1976, you asked in effect whether the Agency would be willing to make available to your Committee reports similar to those submitted to the IOB or the Attorney General in respect of Agency activities that raise questions of legality or propriety or possible law violations. I answered in the affirmative. In line with that exchange, I propose the following arrangements: Within a month after any report has been furnished to the IOB by the Agency's Inspector General or General Counsel, these officials, unless the Agency is instructed to the contrary by the President, will inform the Committee's Staff Director in writing as to the general nature of the items reported. To the extent that the Committee or its Staff Director may be interested in pursuing further any of these items, the Inspector General or the General Counsel, as the case may be, will be available to provide additional detail. With respect to matters reported to the Attorney General, involving possible law violations, the Agency's

General Counsel will prepare and submit to the Committee Staff Director, quarterly, a written statement indicating the number of previously reported possible offenses closed out during the preceding quarter by a Department of Justice decision to prosecute or not to prosecute, together with a brief description of the circumstances, without, however, identifying the potential violators. These statements would also indicate the number and type of possible offenses reported for the first time during the preceding quarter.

I believe that these arrangements will serve the Committee's oversight needs without infringing on other legitimate interests that should properly be taken into account. So far as concerns the items reported to the IOB, it seems to me that a 30-day period is the minimum that should be allowed for executive consideration before involving the Congress, especially in view of the fact that the reporting threshold under Section 6(b) of E.O. 11905 is crossed when serious questions of legality or propriety appear, prior even to final determinations and resolutions of the issues raised by the particular activities. So far as concerns the matters reported to the Attorney General, there are considerations having to do both with fairness to the individuals involved, as to whom reports may be made on the basis of mere possibilities that they committed some offense, and with the integrity of any investigations that may be conducted by the Department of Justice pursuant to our reports.

The proposed arrangements have already been discussed by the Agency's General Counsel and Bill Miller, but I would be pleased to discuss them further at your convenience should you desire.

TAB B



ITEM WITHDRAWAL SHEET  
WITHDRAWAL ID 01037

Collection/Series/Folder ID No. .... : 004700174  
Reason for Withdrawal ..... : NS,National security restriction  
Type of Material ..... : LET,Letter(s)  
Creator's Name ..... : Robert Ellsworth  
Receiver's Name ..... : Daniel Inouye  
Receiver's Title ..... : Senate Select Committee on Intelli  
gence  
Description ..... : re intelligence oversight reporti  
ng  
Creation Date ..... : 01/05/1977  
Volume (pages) ..... : 2  
Date Withdrawn ..... : 05/25/1988

ITEM WITHDRAWAL SHEET  
WITHDRAWAL ID 01038

Collection/Series/Folder ID No. .... : 004700174  
Reason for Withdrawal ..... : NS,National security restriction  
Type of Material ..... : LET,Letter(s)  
Creator's Name ..... : Carl Feldbaum  
Creator's Title ..... : Inspector General for Intelligence  
Receiver's Name ..... : Daniel Inouye  
Receiver's Title ..... : Senate Select Committee on Intelli  
gence  
Description ..... : re intelligence oversight reporti  
ng  
Creation Date ..... : 01/04/1977  
Volume (pages) ..... : 3  
Date Withdrawn ..... : 05/25/1988

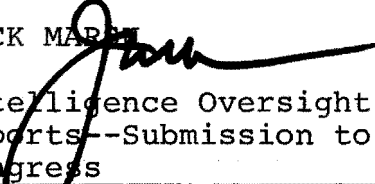
TAB C

THE WHITE HOUSE

WASHINGTON

January 7, 1977

MEMORANDUM FOR: MIKE DUVAL

FROM: JACK MARSH 

SUBJECT: Intelligence Oversight  
Reports--Submission to  
Congress

I do not feel we have sufficiently considered this question to establish a community-wide policy for the intelligence services in this highly sensitive area. Consequently, I opt for a deferring of the question without prejudicing the new Administration.

I think there should be a review of other possible precedents, namely, what disclosures do we make of improprieties by employees in other Departments of Government? Do we report to the Congress the investigations of possible criminal activities of Federal employees? Do we disclose a serviceman's complaint to an Inspector General?

I think these offer possible guidelines because under no circumstances do I think we should go further in the national security field than we presently go in the other affairs of Government.

THE WHITE HOUSE  
WASHINGTON

UNCLASSIFIED UPON REMOVAL  
OF CLASSIFIED ATTACHMENTS

January 7, 1977

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FROM: MIKE DUVAL  
SUBJECT: Intelligence Oversight  
Reports - Submission to  
Congress -- Jack Marsh Input.

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THE WHITE HOUSE

WASHINGTON

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SUBJECT: Intelligence Oversight  
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Reason for Withdrawal ..... : NS,National security restriction  
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Creator's Name ..... : Mike Duval  
Receiver's Name ..... : President  
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D R A F T

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Chairman, Select Committee on  
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United States Senate  
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ITEM WITHDRAWAL SHEET  
WITHDRAWAL ID 01040

Collection/Series/Folder ID No. .... : 004700174  
Reason for Withdrawal ..... : NS,National security restriction  
Type of Material ..... : LET,Letter(s)  
Creator's Name ..... : Robert Ellsworth  
Receiver's Name ..... : Daniel Inouye  
Receiver's Title ..... : Senate Select Committee on Intelli  
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Description ..... : re intelligence oversight reporti  
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Creation Date ..... : 01/05/1977  
Volume (pages) ..... : 2  
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ITEM WITHDRAWAL SHEET  
WITHDRAWAL ID 01041

Collection/Series/Folder ID No. .... : 004700174  
Reason for Withdrawal ..... : NS,National security restriction  
Type of Material ..... : LET,Letter(s)  
Creator's Name ..... : Carl Feldbaum  
Creator's Title ..... : Inspector General for Defense Intelligence  
Receiver's Name ..... : Daniel Inouye  
Receiver's Title ..... : Senate Select Committee on Intelligence  
Description ..... : re intelligence oversight reporting  
Creation Date ..... : 01/04/1977  
Volume (pages) ..... : 3  
Date Withdrawn ..... : 05/25/1988