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Declassified and approved for release by NSA on 06-14-2012 pursuant to E.O. 13526

UNITED STATES GOVERNMENT

memorandum

DATE: 3 November 1978

REPLY TO ATTN OF: DIRECTOR

SUBJECT: Foreign Intelligence Surveillance Act

TO: DISTRIBUTION I - Plus Field Elements

1. The Congress has passed, and the President has now signed, the Foreign Intelligence Surveillance Act. The purpose of this Act is to regulate the use of electronic surveillances in the United States for foreign intelligence purposes. The statute directly affects many of the intelligence gathering activities of this Agency. Under the Act, the Agency will be required to seek a court order, or in certain cases a special authorization from the Attorney General, to conduct electronic surveillances for foreign intelligence purposes in the United States. In addition, the Act imposes restrictions on the use in the United States of electronic surveillance equipment for training and testing purposes. The requirements of the Act, including but not limited to the requirement to seek the approval of the court or the Attorney General, cut across a broad spectrum of the operations of the National Security Agency.

2. The General Counsel has the principal responsibility for the implementation of the Act in this Agency. The General Counsel is the only official of this Agency who is authorized to interpret the statute and to determine which Agency operations come within its purview and what requirements of the statute apply to those operations. For this reason, The General Counsel shall be advised of all operations which are currently authorized through the Interagency Review Panel, all operations currently contemplated which would require approval by the Panel and all operations which involve the use of electronic surveillance equipment within the United States or which involve communications within the United States or to or from the United States or which are directed at United States persons whether within or outside the United States. It is the General Counsel's responsibility to determine which of these operations will be affected by this new legislation and what steps the Agency must take to secure continued approval for those governed by the Act.

3. In the future as new operations which occur in these areas are being considered, the General Counsel should be consulted at the earliest possible stage so that he may advise on any statutory requirements which pertain. I do not intend to forward any requests for electronic surveillance to the Attorney General without first receiving advice from the General Counsel on the relationship of the surveillance to this statute and whether the Agency has complied with all statutory requirements in seeking approval of the surveillance.

~~HANDLE VIA COMINT CHANNELS ONLY~~

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(REV. 7-76)
GSA FPMR (41 CFR) 101-11.6
5010-112

4. The Act imposes criminal liability on persons who conduct unauthorized electronic surveillances. To enhance legal protection for our employees, it is imperative that the General Counsel pass on the legality of all operations to ensure that the requirements of this statute are fully observed.

B. R. INMAN
Vice Admiral, U. S. Navy
Director