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FROM: Chief, Division D - 7B44	Hqs - Red DATE: 7 May 1973	
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	7 May 1973	• ,	

MEMORANDUM FOR: Deputy Director for Operations

FROM : Chief

Chief, Division D

SUBJECT

Potentially Embarrassing Activities

Conducted by Division D

REFERENCE

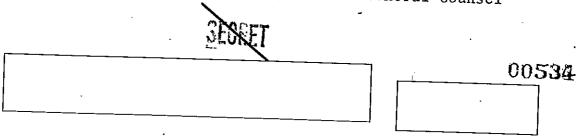
: Your staff meeting, 7 May 1973

1. There is one instance of an activity by Division D, with which you are already familiar, which the Agency General Counsel has ruled to be barred to this Agency by statute: the collection of international commercial radio telephone conversations between several Latin American cities and New York, aimed at the interception of drug-related communications. The background on this is briefly as follows:

Therefore on Coverage, and on 12 October 1972 we agreed to do so. On 14 October a team of intercept operators from the began the coverage experimentally.

Sound of the coverage experimentally and that it was hoped this coverage could continue.

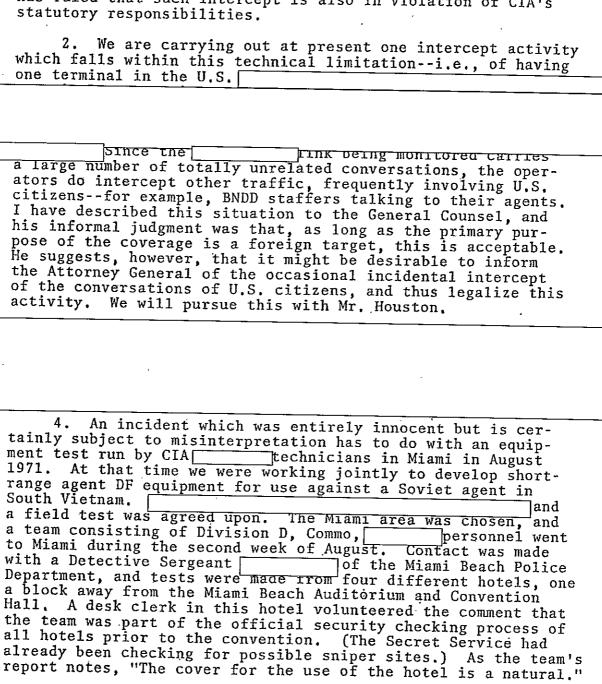
Because a question had arisen within Division D as to the legality of this activity, a query was addressed to the General Counsel on this score (Attachment A hereto). With the receipt of his reply (Attachment B), the intercept activity was immediately terminated. There has been a subsequent series of exchanges between Division D and the General Counsel as to the legality of radio intercepts made outside the U.S., but with one terminal being in the U.S., and the General Counsel

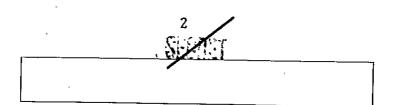


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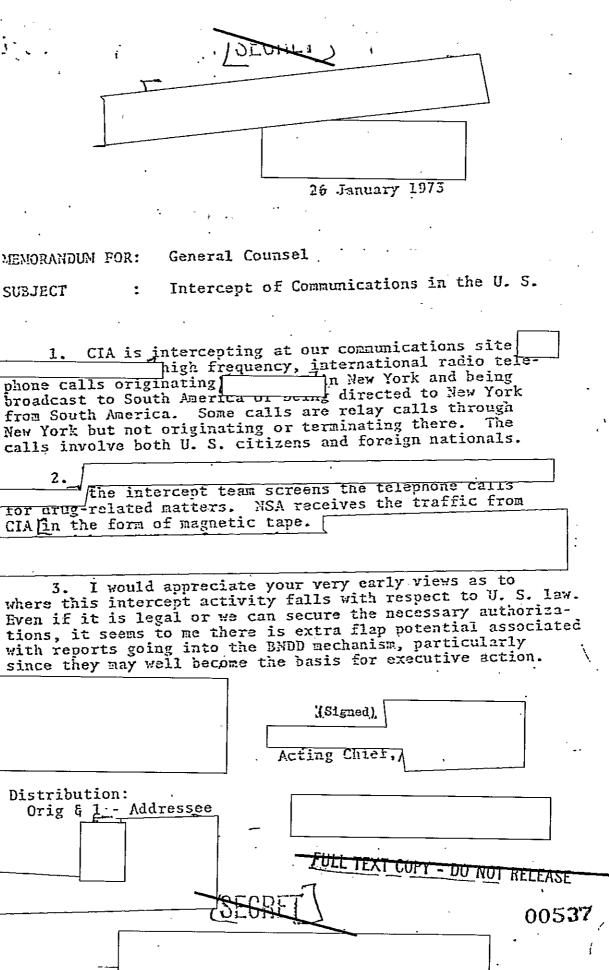
has ruled that such intercept is also in violation of CIA's





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5.	Another subject			
•	Another subje	ct worthy of	mention is th	ne following:
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panies			S, telecommun	
to FE/Ch by Divis told DCS Ober. So and they opinion, the collections Act keeping f	to U.SChina can be used to U.SChina can be used to ington, and turning operations in D in March to forward the con the reafter, have ceased to the Office of ection of these in in a smuch as unction of the y involve eaves	act Service in the over to the DDP was 1972, and on the source come to Mr. General Count slips did not they are a part over the same as part over the same	Division D for sapprised of 28 April 1972 to CI Staff, Nof these slips Ober. In an sel stated its to violate the	ained regu- ouched to r passage this activity 2 Division D Mr. Richard 5 dried up, advisory 6 belief that
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MEMORANDUM FOR: Acting Chief, Division D

SUBJECT:

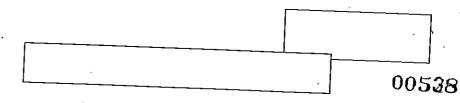
Intercept of Communications in the U. S.

REFERENCE:

26 Jan 73 Memo for GC fr AC/Division D,

Same Subject

- 1. In referent you request our views as to the legal . aspects of a radio telephone intercept activity carried on at our communications site
- 2. The basic law is contained in section 605 of the Communications Act of 1934, 47 U.S.C. 605, which prohibits interception of any radio communication without the authorization of the sender and also prohibits divulging the substance thereof to any person. Chapter 119 of Title 18, U.S.C., makes the interception of any wire or oral communication a crime punishable by \$10,000 or five years' imprisonment, or both. There are two exceptions to these prohibitions:
  - The first provides for application through the Department of Justice to a Federal court for a court order authorizing such interception for specific purposes in connection with law-enforcement duties. Since this Agency is prohibited by statute from any police or law-enforcement activities, obviously we cannot operate under this exception.
  - b. The other exception is contained in section 2511 of Title 18, U.S.C., at subsection (3). This provides that the prohibition cited above on interception shall not



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limit the constitutional power of the President to take such measures as he deems necessary to protect against attack, to obtain foreign intelligence information deemed essential to the security of the United States or to protect such information, and to protect the United States against overthrow by force or other unlawful means or against any other clear and present danger to the structure or existence of the Government.

- 3. The type of information you describe in your memorandum does not appear to fall within any of these categories and since its ultimate destination is BNDD, it appears to be collection for lawenforcement purposes, which as noted above is barred to this Agency by statute.
- 4. For your information, in most cases where there is a criminal prosecution for violation of the narcotics laws, the Department of Justice queries us as to whether we have engaged in any interception in connection with the defendants. If a case should involve the interception being made it would be deemed to be unauthorized and in an propagative me prosecution would have to be dropped by the Government. It is our view, therefore, that such interception should be carried on by appropriate law-enforcement agencies in accordance with the authority of chapter 119 of Title 18, U.S.C.

LAWRENCE R. HOUSTON
General Counsel

Distribution: Copy 1-Addressee Copy 2-General Counsel