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NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20506

~~SECRET/SENSITIVE~~  
**UNCLASSIFIED**

March 30, 1977

Presidential Directive/NSC 9

TO:           The Secretary of State  
              The Secretary of Defense  
              The Attorney General  
              The Director of Central Intelligence

SUBJECT:    Army Special Operations Field Office in Berlin (C)

I have reviewed the recommendations of the National Security Council and have determined that the continuation of certain electronic surveillance [redacted] in Berlin is important to the national security and to fulfilling this nation's responsibilities as the occupying power in the United States sector in Berlin. Therefore:

1.5(d)

1. Under the authority vested in me as President of the United States, I hereby authorize the Department of the Army, within the strict limits of this Directive, in Berlin to conduct electronic surveillance [redacted]

1.5(d)

2. This authority shall be exercised on a strictly controlled and limited basis solely for the purpose of gathering significant foreign intelligence or counter-intelligence information or of supporting criminal investigations involving terrorism, illicit narcotics traffic, and other serious crimes affecting the security or public order of Berlin, the Federal Republic of Germany, the United States or its allies in Berlin.

3. This authority shall be exercised in strict conformity with the Constitution of the United States and applicable laws, regulations, and administrative procedures of the United States. I therefore direct the Attorney General of the United States to adopt procedures

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under provisions of E.O. 12958  
by R. Soubers, National Security Council

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governing the conduct of electronic surveillance [REDACTED] under this Directive to insure the lawfulness of these activities. These procedures shall include provision for obtaining a judicial warrant where deemed necessary by the Attorney General and shall require that, except in emergency situations, before a United States citizen or any group composed in substantial part of such citizens is made a target of any of these activities without a judicial warrant a finding be made by the Attorney General that there is probable cause to believe the citizen or group is an agent of a foreign power or foreign terrorist group engaged in hostile intelligence or terrorist activities and that significant foreign intelligence or counter-intelligence information is expected to be obtained. These procedures shall also include provision for minimizing the acquisition, retention, and dissemination of any communication, which involves a United States citizen or any group substantially composed of such citizens, not strictly necessary to the lawful functions of a proper governmental entity.

1.5(d)

4. In addition to any requirements that may be imposed by the Attorney General's procedures the following shall apply:

(a) No non-consensual electronic surveillance [REDACTED] shall be instituted by the United States Army in Berlin on behalf of a United States agency without the approval of that agency at the level of Assistant Secretary or above or, in the case of a branch of the Armed Services, the Secretary or Under Secretary of that Service;

1.5(d)

(b) [REDACTED]

1.5(d)

(c) In emergency situations, the United States Chief of Mission, Berlin, or his designee may waive the requirements of (a) and (b) for a limited time, usually no longer than 48 hours

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5. The United States Army shall continue to be responsible for the provision, management, supervision, and control of these sensitive activities in the United States Sector, within the framework of Executive Orders 10608 and 11905.
6. The United States Chief of Mission, Berlin, shall provide for such additional guidelines, procedures, and supervision consistent with this Directive as he determines appropriate and shall, in particular, be responsible for assuring that these and other sensitive methods of investigation are used in a manner consistent with the foreign relations interests of the United States and governmental responsibilities of the United States in Berlin.
7. The Central Intelligence Agency shall be responsible for advising on the appropriateness of electronic surveillance [REDACTED] in foreign intelligence and counterintelligence cases under the standards enunciated in paragraph 2, above. 1.5 (d)
8. The United States Army shall be responsible for determining the adequacy of requests for electronic surveillance [REDACTED] under applicable law, regulations, and procedures, and in cooperation with the Department of State, for the development and maintenance of an adequate regulatory regime appropriate to the special situation in Berlin. 1.5 (d)
9. NSDM 335 is hereby rescinded.

*Jimmy Carter*

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