

EXCISE

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79 GEORGETOWN 2214

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PAGE 01 GEORGE 02214 200950Z

ACTION DRC-01

INFO OCT-01 ARA-11 ADS-00 L-03 CA-01 /017 W
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FM AMEMBASSY GEORGETOWN

TO SECSTATE WASHDC 9683

INFO AMEMBASSY SANTO DOMINGO

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FOR L AND CA

E.O. 12065: NA

TAGS: AINF, CASC (PEOPLES TEMPLE)

SUBJ: PRIVACY ACT: RECOMMENDATION REGARDING THE HANDLING OF
REPORTING ON AMERICANCITIZENS.

1. PEOPLES TEMPLE, JONESTOWN, AND THE ASSASSINATION OF
CONGRESSMAN RYAN, HAVE ALL UNDERLINED -- IF UNDERLINGING WERE
NEEDED -- THE ESSENTIAL DILEMA FACING NOT ONLY EMBASSY
GEORGETOWN SPECIFICALLY, BUT ALL U.S. DIPLOMATIC AND CONSULAR
MISSIONS ABROAD IN TERMS OF WHAT CAN AND CANNOT BE REPORTED
REGARDING PRIVATE AMERICAN SITIZENS AND THEIR ACTIVITIES
SO AS TO SAFGUARD THEIR CONSTITUTIONAL RIGHTS, AS WELL
AS THE PROTECTIONS AFFORDED THEM BY THE PRIVACY ACT. IT
SEEMS QUITE OBVIOUS THAT IN THE PERIOD SINCE THE ENACTMENT
OF THE PRIVACY ACT IN 1974, AND THE ISSUANCE OF GUIDELINES
BY THE DEPARTMENT, AS WELL AS OTHER AGENCIES OF THE
EXECUTIVE BRANCH, THAT THERE HAS BEEN AN INHIBITION ON
REPORTING WHICH MISSIONS MIGHT HAVE DONE ON THE ACTIVITIES
OF PRIVATE AMERICANS ABROAD. THIS INHIBITION IS QUITE
UNDERSTANDABLE IN VIEW OF THE PERSONAL LIABILITY FEATURE
WHICH THE PRIVACY ACT IMPOSES ON INDIVIDUAL OFFICERS
SHOULD THEY ENGAGE IN REPORTING ON AMERICAN CITIZENS
WHICH IS LATER DEEMED IMPROPER UNDER THE TERMS OF THE

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PRIVACY ACT. IN FACT, EACH OFFICER IS NOW ALMOST OBLIGED
TO BE HIS OWN LAWYER IN DECIDING WHETHER OR NOT A
PARTICULAR REPORT CONTRAVENES THE SECTIONS OF THE
PRIVACY ACT. BECAUSE OF COURSE, MOST MISSIONS ABROAD
ARE WITHOUT THE SERVICES OF RESIDENT LEGAL ADVISORS
QUALIFIED TO PROVIDE EXPERT ADVICE IN THIS AREA.

2. IN AN EFFORT TO FACE UP TO THIS PROBLEM AND AT THE
SAME TIME PRESERVE THE PRIVACY OF AMERICAN CITIZENS AND
PROTECT THEIR CONVTITUTIONAL GUARANTEES, WOULD THE
FOLLOWING PROPOSAL (1) HAVE MERIT, AND (2) BE POSSIBLE
UNDER EXISTING LEGISLATION?

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REVEREND BY [Signature] DATE 2/26/81
DEPARTMENT OF STATE A/QDC/MR
FOOTNOTES DEEMED AS INDICATED



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4. THERE MAY BE LEGAL CONSIDERATIONS WHICH MAKE THIS PROPOSAL IMPRACTICAL: NEVERTHELESS IT IS SUBMITTED FOR CONSIDERATION BECAUSE IT SEEMS ESSENTIAL THAT A WAY BE FOUND TO FREE INDIVIDUAL OFFICERS AND MISSIONS FROM THE INHIBITIONS WHICH NOW RESTRICT REPORTING IN CERTAIN SPECIFIED AREAS REGARDING THE ACTIVITIES OF AMERICAN CITIZENS ABROAD.

5. THIS PROPOSAL MIGHT BE USEFULLY DISCUSSED AT THE FORTHCOMING ARA CONSULAR CONFERENCE. ACCORDINGLY, IT IS BEING REPEATED TO EMBASSY SANTO DOMINGO FOR INFORMATION.

BURKE

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