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OGC 69-2093

5 November 1969

MEMORANDUM FOR: Chief, European Division
ATTENTION: Mr. Edward Fennimore
SUBJECT: Lt. Col. William J. Herlihy

1. In accordance with our telephone conversation of 3 November, I am furnishing you the following information about the Army hearing. The Department of the Army has convened a board of general officers to review the record of Lt. Col. Herlihy to ascertain whether he should be retained in the service in accordance with statute 10 U.S.C. 3791. One of the bases for dismissal from the Army under this provision is the finding by the board that an individual officer's retention is not consistent with the interests of national security.

2. The board is set to hear the case of Lt. Col. William J. Herlihy at the Headquarters First U. S. Army, Fort Meade, Maryland, from 26 to 29 January 1970. The Army counsel who is defending Lt. Col. Herlihy has requested Mr. Peter Bagley to appear as a witness on behalf of Herlihy. The anticipated testimony of Mr. Bagley would cover the following:

- a. That Mr. Bagley had been interviewed by military authorities concerning Lt. Col. Herlihy;
- b. That the above interview was conducted in an improper manner;
- c. That Mr. Bagley told the investigators Lt. Col. Herlihy never represented himself as a member of the Central Intelligence Agency.

3. The Army has stated that one of the allegations against Lt. Col. Herlihy is that he committed acts not clearly consistent with the interests of national security, as defined in Army Regulation 604-10, by misrepresenting himself as being an agent of the Central Intelligence Agency. There is a classified written statement signed by Mr. Bagley contained in Lt. Col. Herlihy's dossier to the effect that, as of March 1968, Lt. Col. Herlihy was not involved in any CIA activities nor performing any functions in conjunction with members of the Central Intelligence Agency. The Army has requested permission of the Central Intelligence Agency to present this document to the Board of Inquiry.

4. It is my understanding after discussions with Army counsel that Mr. Bagley's testimony can be introduced by answering written interrogatories and not require his personal appearance. However, I ask that we be furnished promptly a complete report on all the facts available to Mr. Bagley and known to members of [redacted] about Lt. Col. William J. Herlihy's activities in Belgium. In particular we would like to know:

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- a. What was Herlihy's military assignment in Belgium?
- b. What contact did he have with [redacted] personnel?
- c. What knowledge did he have of [redacted] operations?
- d. Had Herlihy ever been officially affiliated with CIA?
- e. What are the circumstances surrounding the allegations against Herlihy?
- f. Did any [redacted] personnel participate in the investigation?
- g. What are the allegations that the investigation of Herlihy was improperly conducted?

/s/ JOHN K. GREANEY

JOHN K. GREANEY
Assistant General Counsel

OGC:JKG:bt

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