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obtain any necessary concurrences.**



## OFFICE OF THE VICE PRESIDENT

WASHINGTON

SECRET

November 29, 1978

MEMORANDUM FOR TRED DAVIS  
MARTY BEAMAN

SUBJECT: PEADs

Thank you for having sent me your October 30 draft of the PEADs. Allow me to offer the following comments with the caveat that I have not been privy to the earlier review process and have made comparisons based only on the 1970 Federal Emergency Plan D, Annex A.

I have looked to the proposed changes primarily in terms of whether or not they make it easier or more difficult to govern under circumstances following a nuclear exchange.

In doing so, I find that the two apparently most significant directives in terms of actually governing the country have been modified in ways which are to me not altogether clear in their impact. Specifically, there appear to have been limits and/or constraints placed on the authority of the Office of Defense Resources (new PEAD 5) to carry out its many tasks and on the Secretary of State's (new PEADs 16 and 17) ability to constrain foreign diplomatic and other related activities within the United States. (In this regard, I also note that two previous PEADs -- #10 - dealing with censorship, and #100A - a reserve PEAD temporarily suspending Habeas Corpus -- have been recommended for deletion.) The following are examples of such modifications:

- The Office of Defense Resources Director (PEAD 5) is now required to be confirmed by the Senate, a process which may or may not be important in the immediate aftermath of a nuclear attack, but which is certainly not achievable in a meaningful time frame. In addition, he is now to be supervised ("assisted") by a "Defense Resource Board," which would appear to limit further his flexibility during a time of great demands on every. The "advisers" have a lot of horsepower. It is not clear to me that the Chairman or anyone else has the clear authority required -- can we improve the language?

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-- The Secretary of State (PEADs 16 & 17) now appears to be required to operate in accordance with "relevant treaties and international law" as equal determinants in restraining activities of foreign diplomats and related individuals in this country. Such restrictions may not apply to those countries who either would oppose us or in any other way constrain our recovery ("protective custody" has been deleted, for example). There appear also to be further limits as to who may or may not be covered. What about authority to restrain the USSR's AMTORG, for example. I would like to have this explained to me.

Of a more specific nature:

- It appears that in asking the Congress to convene under the circumstances in which these directives would be used you have made their location/reaction a less than automatic one, and also one known potentially to the enemy by specifying in the PEAD where they will convene. There may be good reason for this flexibility, but it is not apparent.
- I presume that the PEADs dealing with the Canal Zone have been coordinated with our new obligations/understandings in that area. There have also been numerous deletions of the phrase "and a state of civil defense emergency" in several PEADs. Is there a reason for this?
- In the current PEAD book there is a description of each document in plain language as to what it does. This seems to me to be necessary for any one having to sign these documents as the President, and may in fact also be a good way to structure further review (in this case a phrase would be included describing what is being changed from the old document). In addition, your decision flow chart should be included in the PEADs to permit principals to grasp more readily during peacetime how each PEAD translates into an action directive in time of emergency.
- I think it would be wise when we have reached agreement on the language to talk about how these documents will be promulgated mechanically, i.e., will they be sent out over telex lines with an accompanying broadcast by the President or his successor? If so, should there not be an appropriate statement to accompany them?

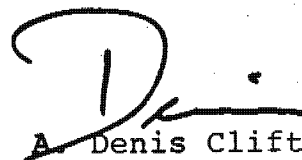
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- It is not altogether clear how the Congress can reach the President and/or the American people with its Joint Resolution (PEAD 3) -- are Congressional representatives so equipped at present to do so?
  
- I think it is important not only for diplomatic reasons but for internal reasons as well to limit distribution of these documents (I notice none of the pages are stamped Secret or Sensitive). If we get into the business of seeking a consensus among the bureaucrats as to the correctness of various formulations, limits, etc., we risk at best diluting the product and at worst unnecessarily constraining the activities of these who must deal with the reality of a catastrophic war.

In sum, it appears at first glance that in the process of attempting to include fully the Congress in the governing process (War Powers Resolution, etc.) on the one hand, and trying to bring such extraordinary authority as may be needed by the President and Cabinet officers more in line with peacetime rights and privileges enjoyed by our citizenry on the other, we may have risked unnecessarily constraining the effectiveness of those who would be charged with attempting to govern the country during a time of extreme hardship and deprivation.

Realizing that it is difficult to resolve many of these questions without a greater knowledge of what has transpired prior to this draft or what is intended by the language being used, I feel that we should get together to discuss the new draft. A copy of your draft with penciled notations and clips is included at Tab A.



A Denis Clift  
Assistant to the  
Vice President for  
National Security Affairs

Cy to: Mike Berman

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