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FBI and DOJ officials believe that, although we would be adequately protected if the current administration (General Scrowcroft or above) approved the course of action set forth above, and the Congressional and new administration briefings were done promptly, there is not a substantial practical advantage in achieving this at this point. We also believe that going forward with the installation of the Clipper chip based on the approval of the current Administration has some potential pitfalls. The most serious concern is that the scenario regarding the use of the "exploitable" chip could surface publicly during the transition period or shortly after the Clinton administration arrives, but before they approve the proposed overall solution. If that happened, it might result in their being pushed toward disavowing the prior Bush Administration approach in order to avoid the controversy, rather than the Clinton administration moving forward with us in a consolidated effort to convince Congress and the public of the merits of our position.

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My recommendation to you is two fold:

That you consider making one last effort today or tomorrow (personally or through Mr. Bayse) to convince General Scrowcroft that we need his approval now to: (1) request AT&T to use Clipper in Phase II (expected to begin in early February 1993), (2) brief key Congressional leaders on the problems and our proposed short and long term solution, and (3) brief key transition (or newly appointed Clinton administration) officials regarding the same matters.

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Both Mr. Bayse and I have attempted to contract CIA officials but as of this time we have been unable to get any feedback as to the Agency's position. Mr. Bayse expects to hear from Admiral Studeman later today, and we will communicate his position to you by telephone.

Mr. Bayse and I are available today to discuss this with you. (I will be on AL tomorrow (Thursday), but in the area and available by pager.)

J. R. Davis
12/23

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