

25 September 1981

MEMORANDUM FOR:

[REDACTED]

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Chief, Administrative Law Division

FROM:

[REDACTED]

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Office of General Counsel

SUBJECT:

Discussion of DCI's Response to House
Government Operations Subcommittee on
Commerce, Consumer, and Monetary Affairs
Request for Declassification of Documents

Date/Time/Place:

23 September 1981, 1640-1710, B-377
Rayburn House Office Building

Participants:

Stephen R. McSpadden, Counsel to the
Subcommittee

[REDACTED]

Legislative Liaison
Branch, EAS/OPP, CIA

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[REDACTED]

Office of General
Counsel, CIA

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1. The DCI signed his response (OGC 81-08512) to Subcommittee Chairman Rosenthal's letter (ER 81-08286) at 1605 and [REDACTED] and I delivered it at 1640 to Mr. McSpadden. A discussion of the response ensued in which Mr. McSpadden expressed several concerns.

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a. Third Agency Involvement. Mr. McSpadden stated that our inclusion of two other agencies (Treasury Department and NSA) in the declassification review process unnecessarily complicated the process, indicating a possible lack of cooperative intent on our part. In response I explained that CIA included these two agencies to comply with the requirements of Executive Order 12065 and the Information Security Oversight Office's regulations implementing that Order, under which the declassification and dissemination decision on information contained in a document rests with the agency originating the information.

b. Treasury Department Obstinacy. Mr. McSpadden stated that the Treasury Department had flatly refused to provide certain OPEC information to the Subcommittee during its investigation, and therefore giving Treasury a veto power in the declassification review process would result in a complete refusal to permit the Subcommittee

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In response I reemphasized that the Treasury Department will make the declassification decision with respect to the Treasury Department information contained in the documents, but will not make the declassification decision with respect to information originated by other agencies.

c. Subcommittee Assistance in Declassification of Documents. Mr. McSpadden stated that the Subcommittee cannot tell in advance which portions of the documents it will need to use in its public report. I explained that the DCI's response offered the Subcommittee the opportunity to set priorities for the document reviewers so that the Subcommittee can receive declassification decisions relatively quickly for those portions of the documents in which it has the greatest interest. Mr. McSpadden stated that he strongly preferred not to have the Subcommittee involved at all in the process and that we should proceed with declassification review without Subcommittee guidance. [redacted] and I assured Mr. McSpadden that the declassification review will go forward. STAT

d. Lack of Need for Classification. Mr. McSpadden stated that most of the information contained in the documents is very general and thus its publication will not cause problems for intelligence sources. [redacted] and I both emphasized strongly that one unfamiliar with the genesis of the information cannot determine the extent to which its revelation would compromise sources, that the DCI has a statutory responsibility to protect intelligence sources and methods, and that publication of the classified information contained in the documents would have a grave impact on our ability to obtain foreign intelligence. Mr. McSpadden assured us that he understood all this, but that ~~it was his personal opinion that little of the information would compromise sources if published.~~ STAT

2. [redacted] raised with Mr. McSpadden the Agency's concern over Tad Szulc's New York Times Magazine article of 20 September quoting a classified CIA memorandum verbatim. Mr. McSpadden immediately displayed a volume of House hearings on OPEC investment in which the classified memorandum appears in full and said that since the material is already in the public domain the Szulc article should not cause any problem. Mr. McSpadden stated that the volume contained the document as a result of a misunderstanding he had with an Agency Assistant Legislative Counsel who transmitted the document to him two years ago at the Subcommittee's request. Mr. McSpadden stated that at the time the document went to the printer he did not notice the classification stamps, and the Assistant Legislative Counsel had not warned him that the document could not be printed. Subsequent to this episode the Agency obtained Subcommittee Chairman Rosenthal's signature on a Memorandum of Understanding (OLC 79-3043) to govern the CIA-Subcommittee liaison relationship. STAT

3. Mr. McSpadden emphasized during the course of the discussion that paragraph 9 of the Memorandum of Understanding provides that if he and the Agency representative, Associate General Counsel [redacted] cannot agree with respect to the declassification of portions of the documents, then the Subcommittee Chairman and the DCI will attempt to resolve the issue, followed if necessary by an appeal to the President and a vote on the matter by the House of Representatives. [redacted] explained that we fully expected that the matter can be handled with cooperation at the working level and that we should not focus at this early stage on procedures to resolve impasses. STAT

4. Both [redacted] and I came away from the meeting with the impression that Mr. McSpadden has at least tentatively made up his mind that the Subcommittee will not be satisfied with what the declassification review process will produce for the Subcommittee's public use. Given his skepticism of the declassification review process and his conviction that publication of most of the information contained in the documents will not compromise intelligence sources and methods, further contacts with Mr. McSpadden should reemphasize the need to protect the information in the documents from unauthorized disclosure. STAT



OGC:DSA:es

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