

INSPECTOR GENERAL
82-233

19 MAR
1982

OEXA-82-0063/14

MEMORANDUM FOR: Chief, House Liaison

VIA: Chief, Legislative Liaison

FROM: Charles A. Briggs
Inspector General

SUBJECT: Wilson-Terpil Follow-on Questions

REFERENCES: Your memo, dated 12 February 1982
(EA 82-0063), same subject

1. Attached responses, in the format you requested, were consolidated and edited by my Wilson-Terpil team, coordinated with OGC representatives, with some further scrubbing by me, as reflected in the copy of my memo to the General Counsel, which I have also attached.

2. If Stan does want to suggest changes on Questions 2 or 3, as you see, I have asked him to send them directly to you to expedite the response to HPSCI. You might then simply inform me of the fact.

3. The DDCI is aware of the general nature of the responses, prior to my having taken a hand to them. Given his considerable interest in the case, I suggest that you run the final package through him prior to transmittal to HPSCI.

[Redacted Signature Box]

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Charles A. Briggs

Attachments:
As Stated

All portions are classified
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[Redacted Box]

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INSPECTOR GENERAL

82-233/1

19 MAR
1982

MEMORANDUM FOR: General Counsel

FROM: Charles A. Briggs
Inspector General

SUBJECT: Stau. Wilson-Terpil Follow-on Questions

1. Attached reflects my personal scrubbing of the Agency responses, and subsequent detailed consolidation and editing work by my Wilson/Terpil team and [redacted] of your office. I have made some changes to the text which Barbara last saw on Questions 1, 4, 5, 6, 15, 20, 25 and 28. 25X1

2. Given yesterday's ExCom decision on a legislative draft, you might want to check again the reference made to potential legislation in responses to Question 2 (second paragraph) and 3 (first paragraph). The conditional phrasing on Question 2 and factual statement re Question 3 that legislation is more effective (by definition) than an expansion of the employment contract, do not seem to conflict with the tenor of the ExCom meeting. However, if we would not be inclined to encourage legislation would you want to rephrase the first paragraph, second sentence, changing "...we question..." to something like "...we are not sure how effective such a contract would be in other than a moral control context, given the limitations..."

3. I do think it behooves us to respond soonest to HPSCI, now that we have the factual responses from the components, hence I've passed a complete package, with this letter, to [redacted] 25X1
[redacted] If you do suggest changes to Questions 2 or 3, send them directly to him. If the other scrubbing that I did, noted in para 1 above, gives you any serious problems, let's discuss. 25X1

[redacted]
Charles A. Briggs

Attachments:
As Stated

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1. What is the charter, the job description of the CIA's Inspector General?

The Inspector General, on behalf of the Director, directs and coordinates the activities of the Inspection Staff and Audit Staff in conducting special investigations, inspections, and audits of Agency components and the staff elements of the Office of the Director, both at headquarters and in the field, and oversees the Agency-wide grievance handling system. CIA regulations [redacted] describing these duties are attached. The grade of the Inspector General is equivalent to that of a Deputy Director (SIS-6). The Inspector General has access to any information within the Agency and the staff elements of the Office of the Director.

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The Executive Order 12036 requirements were modified by Presidential Executive Order 12333 which was approved on 4 December 1981. Executive Order 12333 requires that senior members of the Intelligence Community:

"(d) Report to the Intelligence Oversight Board, and keep the Director of Central Intelligence appropriately informed, concerning any intelligence activities of their organization that they have reason to believe may be unlawful or contrary to Executive Order or Presidential Directive;"

"(h) Instruct their employees to cooperate fully with the Intelligence Oversight Board;" and

"(i) Insure that the Inspectors General and General Counsels have access to any information necessary to perform their duties assigned by this Order."

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2. What restrictions on ex-employees' employment -- if any -- do you believe are needed in the wake of Wilson/Terpil?

Current laws as applicable to government employees generally, restrict certain activities on the part of former government employees. For example, the conflict of interest laws restrict post-employment representational activities as they pertain to the former agency employee.

The concerns raised by the Wilson and Terpil case apply equally to personnel in the intelligence, defense and foreign policy communities. It may be appropriate to place certain limitations on, or to legislate reporting requirements concerning, post-government employment throughout the Federal government, but the development of an equitable text would not be easy.

Wilson and Terpil have been indicted for numerous violations of criminal law. It is doubtful whether any contractual or legislative ban on their activities would have been effective. In any event, legislation in this area should be balanced and attempt to deal with systemic problems.

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3. To what extent can CIA employment contracts be utilized to require ex-employees to register their dealings with foreign governments after leaving CIA? To limit such employment? Do you feel such restrictions would be fair?

We believe such a contractual provision (reasonable as to scope) would be lawful. However, we question how effective such a contract would be, given the limitations on enforcement of such provisions by traditional breach of contract remedies. The type of activities the contract would address exceed the scope of contract enforcement actions. Legislation, naturally, would present a more formidable and effective means to deal with post-government employment restrictions.

As posed, the restrictions would be unfair to ex-employees of CIA. The restrictions focus only on CIA employees, neglecting the potential for former employees of other government agencies to work directly for foreign governments. This is pertinent since Wilson was an employee of the Navy after his employment with the Agency.

The second objection is that it is an across-the-board restriction that does not discriminate on the type of activity being undertaken. For example, many Agency employees have skills that are appealing to the U.S. business community, and to universities, foundations, etc. If their right to work in these sectors were abridged by the terms of their employment with CIA, our ability to recruit new employees and to retain current ones would be seriously constrained, to say nothing of its being fundamentally discriminatory.

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4. What do you think of prohibiting and criminalizing all ex-Government employees, or those who once held security clearances, from employment with foreign governments determined by the President to be supporting terrorism?

Under current legislation, commercial relationship with certain foreign governments are proscribed: e.g., Trading with the Enemy Act, 50 U.S.C. App. ss. 5 under which criminal penalties may be imposed; e.g., Johnson Debt Default Act, 18 U.S.C. ss. 955. Similar legislation could be adopted with respect to employment relationships with countries designated by the President as hostile to United States interests. The prohibition on employment with those foreign governments should apply to all U.S. citizens, not merely to former U.S. government employees, and be concerned with activities specifically defined as supporting international terrorism.

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5. In restricting post-government employment, or requiring that it be registered with the Government, how do you treat the cases of ex-government employees who work for companies which contract to perform services for foreign governments?

We don't. If we did and if a company has a contract on which the former government employee could not work directly because of restrictions imposed by a government regulation, that employee would have to be quarantined from the contract and not have a role in its negotiation or execution.

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6. Do you see objections to a statute which criminalizes recruiting by anyone for purposes of international terrorism?

We would have no objection to making criminal activities such as recruitment by private individuals on behalf of a hostile foreign government or organization for support of international terrorism. We note, however, the difficulty encountered to date in defining "international terrorism."

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7. Were there in 1971, or have there been at any time thereafter, any CIA regulations, procedures, or policies concerning Agency and individual employee relations -- social or Agency related -- with ex-employees working for or with foreign governments?

The Agency's policy concerning such relationships is contained in the Employee Code of Conduct and the regulations referenced therein. This policy not only mandates arm's length dealings with former employees working for foreign governments but also sets forth standards and procedures which govern all contacts with ex-employees regardless of their current activities.

Two Headquarters Notices, one issued by Admiral Turner on 27 June 1977 and one by DCI Casey on 25 June 1981, reminded employees of the standards and policy which govern their contacts with former employees.

Copies of the three documents referred to above are attached for the Committee's review.

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EMPLOYEE BULLETIN

EB No. 911

3 February 1982

CODE OF CONDUCT

The DDCI has requested that this bulletin be circulated to all employees concerning the standards of conduct they are expected to meet both during and after their Agency service.

1. Current and former CIA personnel are expected to maintain high standards of conduct consistent with the Agency's mission. There has long been a tradition of discipline and loyalty to the Agency that has guided the conduct of Agency personnel in the performance of their official duties and in their private lives. The Agency continues to rely heavily on this discipline and loyalty, not only during the period of employment but, of equal importance, after employment.

2. Certain types of activities are specifically prohibited by law or regulation. These various prohibitions and other standards of conduct which employees are required to observe are set forth in Agency regulations. This bulletin summarizes information contained in regulations and with which employees must be familiar and are required to review annually. Additional standards of ethical conduct are imposed on Agency employees by Executive Order 11222. This order, among other things, restricts the receipt of gifts, limits the use of insider information, bars the use of public office for private gain, and directs employees to avoid situations which might result in or create an "appearance of impropriety." Given the special position of trust in which employees are placed by virtue of their Agency service, employees are expected to honor this trust through their own integrity and conduct in all official actions. Because of this special position of trust, certain obligations also are contained in each employee's contract agreement to protect from unauthorized disclosure information that is classified, information concerning intelligence sources or methods, and other sensitive information the disclosure of which may adversely affect CIA or national security equities. The obligation to protect such information from unauthorized disclosure applies during an individual's employment or other service with the CIA and at all times thereafter. On occasion former employees and others may try to exploit their prior and current relationships with Agency personnel. The conferring of any preference or privilege upon former employees as a result of past or present relationships should be avoided, and Agency personnel constantly must be on guard to ensure that such relationships are not being misused. Once an employee has terminated his or her service, that person is not entitled to be treated any differently than other individuals conducting business with the Agency.

3. Besides the continuing obligations contained in a former employee's contract agreement, the Agency expects, and indeed depends on, continued adherence by former employees to the same high standards of conduct which governed them during their employment. This continuing duty is implicit in their seeking and accepting Agency employment. Certain postemployment activities are restricted by explicit provisions of law (18 U.S.C., Section 207). Beyond these requirements provided by law and contract, former CIA personnel also are expected to avoid any personal or professional activity which could harm or embarrass the Agency or the United States. In this regard, former Agency personnel may draw upon their prior training and experience in pursuing second careers or opportunities outside the Agency. An employee's former Agency status should not be traded upon to obtain preferential treatment for the employee or his or her private employer, or to otherwise create any appearance of sponsorship, endorsement, or approval by the Agency of such activities or transactions. This does a disservice not only to the individual involved but also to the Agency and its present employees.

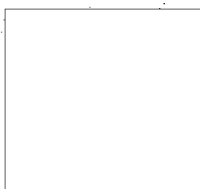
4. Former Agency personnel also should avoid entering into financial transactions in reliance upon information, contracts, or relationships developed through and available only as a result of Agency employment. The use of such "insider information" for personal profit is an abuse of the position of trust which employees occupy, which abuse adversely affects the confidence of the public in the integrity of the Agency and its mission, brings discredit to the individual involved, and may involve a possible violation of law. Former employees also should carefully consider any proposed involvement with or provision of services to a foreign government, particularly any military, intelligence, or security service of such government. In this regard, various provisions of law apply to such business transactions and should be reviewed by the individual before engaging in the proposed activity. When former personnel have questions as to whether a proposed activity may fall within the Agency's concern, the Agency is prepared to provide guidance upon request. Former employees who are rehired by the Agency are subject to the above standards of conduct and are expected to fully comply with and familiarize themselves with this Code of Conduct.

DISTRIBUTION: ALL EMPLOYEES

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REFERENCES ON RELATIONSHIPS WITH FORMER EMPLOYEES



E.O. 11222

Restrictions on Intelligence Activities

Handbook of Regulatory Readings

Employee Conduct and Discipline

Standards of Ethical Conduct for Government Employees

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12. Mulcahy and Schlacter mention frequent contacts between Shackley and Wilson, several of them concerning Wilson's Libyan operation. If such contacts took place, should Shackley have made notes reflecting these conversations? Should such memos be found at CIA?

Yes, if such contacts were operational. Based on available records, we are unable to verify the Mulcahy and Schlacter allegations concerning frequent contacts between Shackley and Wilson. However, if one assumes such contacts did take place, there is no CIA regulation which would require Shackley (or any other Agency employee) to officially record social contacts. On the other hand, if in the course of social contacts Shackley obtained information of potential intelligence value or of possible operational use, then we would expect to find memoranda. If such memoranda were written, they would have been retrievable in the existing DO records management system. Shackley's memoranda, circa 1976, concerning potential leads which surfaced during social contacts with Wilson were retrieved.

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13. If the DDO or ADDO or any other high-ranking DO officer had wanted information about Libya that they believed could be obtained by Wilson, Schlacter and others, should there be a record of such tasking and reports on what these individuals reported back, even if the reports were not high grade or unique intelligence?

Yes, there should be a record of tasking if it occurred. The quality of the information obtained would not be the standard for making such reports a matter of record.

14. Do you feel that Shackley, had he known of the real purpose of Wilson's operations in Libya, should have reported this to CIA. Do you have any information that suggests he did?

Yes, all DO operations officers have been tasked for many years to report any information they receive concerning participation in, or support for, terrorist activity in any part of the world.

There is nothing in our records that would suggest that Shackley had any knowledge of the true nature of Wilson's involvement with the Government of Libya until Mulcahy told him of his suspicions of Wilson's activities on 7 September 1976. Our records do show that in an 8 September 1976 memorandum, Shackley indicated that he was unaware of the full details of Wilson's commercial involvement in Libya, but that he believed that Wilson was involved in a contract to clear World War II mine fields in Libya.

15. Mulcahy says that at one meeting he and Wilson had at Shackley's home, Shackley told Wilson to report certain information to a Domestic Contacts Division office in Washington. Do you have a record of such a report?

We have no information to confirm the above statement. We have no record of such a report.

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19. In 1978, CIA (NFAC) began to report a decrease in Libyan support for international terrorism. Why?

In March 1979, Office of Political Analysis' International Issues Division, which had the terrorism account, published an unclassified research paper, International Terrorism in 1978. It contained the following paragraph (p.3):

Libya, often characterized as a major patron of various terrorist groups throughout the world, has recently taken steps towards improving its image in the West. In November Colonel Qadhafi met with the West German Interior Minister to discuss closer cooperation against terrorists. In December the Libyan Interior Minister vowed to arrest and extradite any German terrorists seeking refuge.

The paragraph, which lacks any background information (perhaps because the paper was unclassified), is not a sharp departure from previous NFAC reporting. In December 1977, an NFAC memo on International Terrorism: The Problem of Patron State Support contained a long annex on Libya which made it clear that Qadhafi's support for terrorism has ebbed and flowed in response to various pressures. It traced an activist period beginning in 1973, followed by a decline in support the following year in response to adverse publicity, and then a major increase in Libyan aid in 1975. It concluded by noting another drop in activity:

For the present, Qadhafi's interest in broader terrorist activity has been diverted by mounting military and political pressure from Egypt, troubles at home, and concern over Libya's isolation in the Arab world. In the past year and a half, there has been a marked drop in Libyan involvement in terrorism beyond its immediate neighborhood...Libyan support to specific terrorist groups has also been restrained by an inability to maintain control over the organizations' activities. This has led to repeated attempts by Qadhafi to create his own groups, which would be more responsive to his direction.

The March 1979 paragraph prompted a senatorial request for a fuller treatment of the topic of Libyan support for world terrorism; the result was a typescript memorandum published on 1 June 1979 on "Libya's Changing Role as a Patron State." The memorandum stated that "Libya's Colonel Qadhafi continues to operate as a major patron of terrorist organizations," but that since late 1977 he "evidently has decided to risk fewer resources and to involve less of his prestige in sponsoring terrorist operations, at least those directed against the industrial democracies." The memo outlined the steps Qadhafi had taken to reduce his support to terrorism in Europe, noting that "this

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stance has been in response to considerable Western pressure and, in good measure, has been handled as a public relations gambit." It went on to detail Libya's continuing extensive support for Palestinian groups, as well as non-Palestinian Arab, black African, and Asian Muslim groups, making it clear that the reduction in Libyan activity was pretty much confined to European terrorism, and that it was "more a change of tactics than a change of heart," which would be quickly reversed.

Subsequent NFAC reporting (Ominous Changes in Libya's Support for Terrorism, June 1980) discussed the reasons (discontent at home, reversals in his foreign policy) that caused Qadhafi to step up his support for terrorist activity following some signs of temporary moderation in late 1978 and early 1979.

20. Was there any relationship between this reporting and the relationship between Libya and Billy Carter which covered July 1978 to April 1980?

Absolutely none.

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21. Would a CIA officer reading these NFAC reports have reason to believe that Libya was becoming more moderate?

Only in the sense that in late 1978 and early 1979, the Libyans cut back on their activity with European terrorist groups and held several meetings with US and European leaders in an effort to persuade them that they were prepared to cooperate on some aspects of the terrorist problem of greatest concern to western countries. The reporting made it clear that this effort was an exercise in public relations, not a change of heart, and did not apply to Libyan activity with the Palestinians and other third world groups.

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22. Why did CIA wait until 2 April 1980 to disseminate a report that, "For the past several months, intelligence sources have been reporting that Libyan leader Muammar Qadhafi has ordered his embassies and followers overseas to begin a campaign to crack down on anti-Qadhafi elements?" This included assassinations.

The report in question appeared in the Weekly Situation Report on International Terrorism. It was not, however, the first CIA report that Qadhafi was considering assassination operations against dissidents overseas. On 28 February, 1980--well before the first murder, which took place on 21 March--the National Intelligence Daily reported a crackdown by Qadhafi on opponents both at home and abroad. After detailing reports of arrests and planned purges inside Libya, it noted that "Qadhafi's opponents outside Libya have been plotting against him for years without result... The threat from this quarter does not appear to be immediate, but Qadhafi is trying to eliminate it. According to sources with good access, he has formed a 20-man assassination team that would operate from bases in London and Paris against exiled dissidents. Subsequent CIA reporting in March confirmed the preliminary reports that had led NFAC to write on the subject in February; indeed, in March the regime published a declaration calling for the physical liquidation of enemies of the revolution abroad. By April, when the wave of killings began in earnest (there were four that month), we had furnished the intelligence community considerable information on the nature and plans of Libyan hit teams.

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24. When did CIA order its officers to break relations with Wilson and Terpil?

The Agency never ordered its employees to break relations with Wilson or Terpil. The Agency first learned about Wilson/Terpil's suspected connection with Libyan terrorism in September 1976. At that time neither individual was an employee of the Agency. On 3 May 1977, the Agency issued a world wide message to all its employees directing them to advise of any current or official relationship or contact with Wilson and asked supervisors to determine if Wilson had any unofficial relationship or contact with any staff employee which could be construed as providing Wilson with Agency support, assistance or endorsement.

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25. Why was this order issued? Was it because of the Libyan connection?

No order was issued. The 3 May 1977 world wide message was issued because of the allegedly illegal activities of Wilson which had come to the attention of the Agency in 1976.

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26. Was this order ever rescinded?

No order was issued; no order was rescinded.

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27. Have any current active duty officers had contact with Wilson, Terpil or their associates or employees since the order was issued?

There is no record that CIA ever ordered its employees to break relations with Wilson or Terpil. We do have an Urgent Employee Bulletin dated 26 April 1977 and signed by DCI Turner. This bulletin deals with the termination of Agency employees who acted for "friends who happen to be former CIA officers." Wilson and Terpil are not named, and there is no prohibition as to contact. Earlier, in 1974, cable messages were sent to various Mideast stations, warning them of Terpil's questionable activities, his attempts to imply a continued affiliation with the Agency, and providing a biographic summary.

There is a problem in defining the term "associates or employees" in this question. There are Agency employees who have had contact during the past several years with former employees Ted Shackley and Tom Clines, both formerly associated with Ed Wilson.

With respect to Wilson, Terpil, or persons working directly for them, we are aware of only one active duty officer who has had contact which may have, based on personal recall, come after the May 1977 world wide message. Another officer resigned in 1980 when approached about his recent (circa 1979) contacts with Wilson.

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28. Are any other former CIA employees engaged in the same kind of relationship with foreign intelligence services? This, of course, refers to relationships not on behalf of, or sanctioned by the U.S. Government.

We are unaware of any other former CIA employees engaged in the same kind of relationship with a foreign intelligence service as Wilson-Terpil; i.e., a relationship involving the violation of U.S. laws. We are aware of statements that former CIA employees have accepted employment with foreign governments.

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