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37-0620X

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17 March 1987

MEMORANDUM FOR: OGC
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C/SRD/OS

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FROM: Chief, Classification Review Division

SUBJECT: Proposed Release of the Nixon Special Files

1. In a letter dated 19 February 1987 the Counsel to the President advised the CIA General Counsel that the Archivist of the U.S. planned to release to the public 1.5 million pages of former President Nixon's papers called the "Special Files." The release date is set for 4 May 1987. The "Special Files" are a collection of those records of the Nixon Administration that related to "Watergate" and were collected in part to document any "abuse of power" allegedly engaged in by members of the Nixon Administration. They were collected by Ms. Trudy Frye, a member of Nixon's staff, initially for the purpose of providing tighter security for the Administration's records as it became clear that it was entering a threatening period. Later, the Special Prosecute ordered the collection of all records that could reflect on "abuse of power." These records will be of intense interest to the public. It also is possible that former President Nixon will initiate legal action to prevent release of the records at this time.

2. National Archives and Records Administration (NARA) has custody of the records and they have had from 40 to the present group of 23 persons processing and reviewing the records. They have described their review of the "Special Files" as having been done "very carefully." This included withdrawing all classified information whether marked or not, law enforcement investigatory material, trade secrets, and material the disclosure of which would constitute a clearly unwarranted invasion of privacy. The withdrawn material is held separately and will not be released with the balance of the collection. NARA personnel inserted withdrawal notices in place of the documents removed so the public will be able to request them under the Executive Order Mandatory Review provision or FOIA. There are about 350 archives boxes of this withdrawn material. A spot check of about 20 boxes reflected that roughly 50 percent was withheld on national security grounds. Of this material about 75 percent was marked classified and 25 percent was

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unmarked but the NARA reviewers believed it was classified. This percentage of "possible" classified and a survey of the substance of the material withheld supports the NARA contention that their review was done in a very careful manner.

3. On 10 March 1987 Peter Keisler, Assistant Counsel in the Office of the Legal Counsel to the President, called a meeting at the EOB to establish procedures for classified government agencies to make a final review of the "Special Files" before they are released to the public. The meeting was attended by representatives of State, Defense, Justice, FBI, Treasury, Office of the U.S. Trade Representative, and CIA. Keisler, and Mark Miller of Justice, had already divided the "Special Files" on the basis of the descriptions given in the Finding Aids that were prepared by NARA personnel. The Finding Aids themselves are 4 1/2 inches thick. CIA, for example, was made responsible to review: The personal files of John D. Erlichman, Richard C. Tufaro, and David R. Young (the latter two were involved in developing directives dealing with information security and with counter-terrorism); boxes numbered 1-119 of the President's Personal Files; and boxes numbered 51-59 of the White House Central Files.

4. C/CRD and three experienced CRD reviewers began the review on 11 March 1987. They completed review of the assigned material by COB 16 March 1987. We reviewed all or part of 70 archives boxes. We identified 12 items that we believe were classified. The specific types of information that was troublesome in descending order of seriousness were as follows:

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5. NARA personnel stated that they would excise the classified information before they released these documents, i.e. they would sanitize these specific documents. They also provided us with copies of these items to show Agency management the nature of the problem (NOTE: NARA provided the copies on condition that, 1) they would be shown only within the CIA and on a need to know basis; 2) we would not reproduce them; and 3) that we would return them to NARA for destruction. The reason for this tight control is to prevent legal complications in handling the Nixon papers.)

6. The question now is what about the material being reviewed by the other agencies. Since the review is conducted in one large room we have been able to alert the representatives of the other agencies to our problems as they came to our attention and they have done likewise. In this way we have exchanged items with State, DoD, and the FBI. Since we still have over two weeks available to review this material we plan to focus our continued efforts by using the Finding Aids and by discussing this with the representatives of the other agencies. This process will begin on 17 March when we all meet again with Peter Keisler in the EOB.

7. Any addressee comments or suggestions would be welcome. The single copy of the identified documents will be brought to each addressee in turn as time permits. We will report future developments as they occur.



C/CRD

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