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NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20506

August 26, 1975

MEMORANDUM FOR:

Mr. James B. Rhoads  
Acting Chairman  
Interagency Classification Review  
Committee

SUBJECT: ICRC Classification Review of 1952  
Truman Memorandum on Communications  
Intelligence Activities

I understand that the ICRC is planning to undertake a classification review of President Truman's October 24, 1952 Top Secret memorandum to the Secretaries of State and Defense concerning Communications Intelligence Activities. I request that such a review be postponed.

The Truman memorandum, which is concerned with the organization and management of communications intelligence activities within the Executive Branch, contains a directive to the United States Communications Intelligence Board concerning its membership and functioning, and a directive to the Secretary of Defense relating to the mission and operations of the National Security Agency (NSA). In addition, National Security Council Intelligence Directive (NSCID) No. 9, dated December 29, 1952 was derived directly from the Truman memorandum, and much of NSCID 6, which currently governs activities of this nature, is based upon it. As a result, the Truman memorandum is intimately related to a large body of material concerned with the President's overall management of the Intelligence Community.

This particular document has been reviewed for declassification many times. You are well aware of the requests from Mr. Louis Kruh, one of which was filed under the provisions of Executive Order 11652, appealed to the ICRC, and is now the subject of a lawsuit against the National Archives and Records Service (NARS).


NSS, NSA reviews completed

Mr. Kruh, as you know, has also sought this document under the provisions of the amended Freedom of Information Act (FOIA) and is now engaged in legal proceedings to overturn the NARS denial of his request and subsequent appeal. Throughout these administrative processes the Truman document and its classification have been reviewed many times and each review has reached the same conclusion -- the document should remain Top Secret. Since many of these reviews and re-reviews were conducted within the last few years, I see little merit in expending still more time and effort to examine it once again.

You should also be aware that the NSC Staff has received other FOIA requests for documents relating to communications intelligence and for the 1952 Truman directive itself. There has been a determination that these documents should remain classified Top Secret and that they are exempt from disclosure under 5 U. S. C. 552 (b)(1). In addition, these records are also protected by statute and thus exempt from release pursuant to 5 U. S. C. 552 (b)(3). The NSC Staff determinations concerning these documents have all been appealed and we have affirmed that these documents are properly classified Top Secret. Legal action has now been initiated to reverse these determinations.

In view of the pending litigation concerning the declassification and release of these documents, we believe it would be particularly untimely and unwise to have the ICRC undertake a classification review of the Truman memorandum. Accordingly, we request that the ICRC review be postponed until the legal issues surrounding the release of the Truman memorandum and derivative and related documents are resolved.

Once the pending lawsuit against the NSC has been resolved, we would have no objection to ICRC consideration of the Truman memorandum. Until this occurs, the proposed ICRC review should be held in abeyance.

  
Henry A. Kissinger

MEMORANDUM

## NATIONAL SECURITY COUNCIL

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August 21, 1975

MEMORANDUM FOR: GENERAL SCOWCROFT

FROM: Jeanne W. Davis *JWD*

SUBJECT: ICRC Review of 1952 Truman  
Memorandum on the NSA

On August 27, the Interagency Classification Review Committee (ICRC) is planning to review, with the possibility of downgrading or declassifying, the security classification of the Top Secret 1952 Truman directive (Tab B) which authorizes the establishment of the NSA and details its responsibilities and functions.

For many reasons we have opposed this Archives-sponsored ICRC action, but to date have been unable to turn it off. It has now reached the point, however, where it could jeopardize our defense in the legal action Morton Halperin has brought against us to compel disclosure of the NSCIDs, NSC 10 and 10/2 (covert operations), and the 1952 Truman memorandum itself. If the ICRC review goes ahead we could be faced with having to accept an ICRC recommendation for downgrading or even declassification, which we do not support, or with overruling the ICRC on a matter in which we have a substantial interest, both of which would create interagency controversy and, if revealed, would supply ammunition for Halperin.

I was tempted to recommend that the ICRC be directed to terminate its plan for a classification review. However, on further consideration, we believe the wiser course is to ask that they postpone the review until after the NSC legal problem has been resolved.

Clint Granger and Richard Ober concur.

RECOMMENDATION:

That you sign the memorandum at Tab A to the ICRC Chairman on behalf of Secretary Kissinger.

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24 October 1952

MEMORANDUM FOR: The Secretary of State  
The Secretary of Defense

SUBJECT: Communications Intelligence Activities

The communications intelligence (COMINT) activities of the United States are a national responsibility. They must be so organized and managed as to exploit to the maximum the available resources in all participating departments and agencies and to satisfy the legitimate intelligence requirements of all such departments and agencies.

I therefore designate the Secretaries of State and Defense as a Special Committee of the National Security Council for COMINT, which Committee shall, with the assistance of the Director of Central Intelligence, establish policies governing COMINT activities, and keep me advised of such policies through the Executive Secretary of the National Security Council.

I further designate the Department of Defense as executive agent of the Government, for the production of COMINT information.

I direct this Special Committee to prepare and issue directives which shall include the provisions set forth below and such other provisions as the Special Committee may determine to be necessary.

1. A directive to the United States Communications Intelligence Board (USCIB). This directive will replace the National Security Council Intelligence Directive No. 9, and shall prescribe USCIB's new composition, responsibilities and procedures in the COMINT fields. This directive shall include the following provisions:

a. USCIB shall be reconstituted as a body acting for and under the Special Committee, and shall operate in accordance with the provisions of the new directive. Only those departments or agencies represented in USCIB are authorized to engage in COMINT activities.

b. The Board shall be composed of the following members:

(1) The Director of Central Intelligence, who shall be the Chairman of the Board.

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- (2) A representative of the Secretary of State.
- (3) A representative of the Secretary of Defense.
- (4) A representative of the Director of the Federal Bureau of Investigation.
- (5) The Director of the National Security Agency.
- (6) A representative of the Department of the Army.
- (7) A representative of the Department of the Navy.
- (8) A representative of the Department of the Air Force.
- (9) A representative of the Central Intelligence Agency.

c. The Board shall have a staff headed by an executive secretary who shall be appointed by the Chairman with the approval of the majority of the Board.

d. It shall be the duty of the Board to advise and make recommendations to the Secretary of Defense, in accordance with the following procedure, with respect to any matter relating to communications intelligence which falls within the jurisdiction of the Director of NSA.

(1) The Board shall reach its decision by a majority vote. Each member of the Board shall have one vote except the representatives of the Secretary of State and of the Central Intelligence Agency who shall each have two votes. The Director of Central Intelligence, as Chairman, will have no vote. In the event that the Board votes and reaches a decision, any dissenting member of the Board may appeal from such decision within 7 days to the Special Committee. In the event that the Board votes but fails to reach a decision, any member of the Board may appeal within 7 days to the Special Committee. In either event the Special Committee shall review the matter, and its

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determination thereon shall be final. Appeals by the Director of NSA and/or the representatives of the Military Departments shall only be filed with the approval of the Secretary of Defense.

(2) If any matter is voted on by the Board but -

(a) no decision is reached and any member files an appeal;

(b) a decision is reached in which the representative of the Secretary of Defense does not concur and files an appeal; no action shall be taken with respect to the subject matter until the appeal is decided, provided that, if the Secretary of Defense determines, after consultation with the Secretary of State, that the subject matter presents a problem of an emergency nature and requires immediate action, his decision shall govern, pending the result of the appeal. In such an emergency situation the appeal may be taken directly to the President.

(3) Recommendations of the Board adopted in accordance with the foregoing procedures shall be binding on the Secretary of Defense. Except on matters which have been voted on by the Board, the Director of NSA shall discharge his responsibilities in accordance with his own judgment, subject to the direction of the Secretary of Defense.

(4) The Director of NSA shall make such reports and furnish such information from time to time to the Board, either orally or in writing, as the Board may request, and shall bring to the attention of the Board either in such reports or otherwise any new major policies or programs in advance of their adoption by him.

e. It shall also be the duty of the Board as to matters not falling within the jurisdiction of NSA;

(1) To coordinate the communications intelligence activities among all departments and agencies authorized by the President to participate therein;

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(2) To initiate, to formulate policies concerning, and subject to the provisions of NSCID No. 5, to supervise all arrangements with foreign governments in the field of communications intelligence; and

(3) To consider and make recommendations concerning policies relating to communications intelligence of common interest to the departments and agencies, including security standards and practices, and, for this purpose, to investigate and study the standards and practices of such departments and agencies in utilizing and protecting COMINT information.

f. Any recommendation of the Board with respect to the matters described in paragraph e above shall be binding on all departments or agencies of the Government if it is adopted by the unanimous vote of the members of the Board. Recommendations approved by a majority, but not all, of the members of the Board shall be transmitted by it to the Special Committee for such action as the Special Committee may see fit to take.

g. The Board will meet monthly, or oftener at the call of the Chairman or any member, and shall determine its own procedures.

2. A directive to the Secretary of Defense. This directive shall include the following provisions:

a. Subject to the specific provisions of this directive, the Secretary of Defense may delegate in whole or in part authority over the Director of NSA within his department as he sees fit.

b. The COMINT mission of the National Security Agency (NSA) shall be to provide an effective, unified organization and control of the communications intelligence activities of the United States conducted against foreign governments, to provide for integrated operational policies and procedures pertaining thereto. As used in this directive, the terms "communications intelligence" or "COMINT" shall be construed to mean all procedures and methods used in the interception of communications other than foreign press and propaganda broadcasts and the obtaining of information from such communications by other

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than the intended recipients,\* but shall exclude censorship and the production and dissemination of finished intelligence.

c. NSA shall be administered by a Director, designated by the Secretary of Defense after consultation with the Joint Chiefs of Staff, who shall serve for a minimum term of 4 years and who shall be eligible for reappointment. The Director shall be a career commissioned officer of the armed services on active or reactivated status, and shall enjoy at least 3-star rank during the period of his incumbancy.

d. Under the Secretary of Defense, and in accordance with approved policies of USCIB, the Director of NSA shall be responsible for accomplishing the mission of NSA. For this purpose all COMINT collection and production resources of the United States are placed under his operational and technical control. When action by the Chiefs of the operating agencies of the Services or civilian departments or agencies is required, the Director shall normally issue instructions pertaining to COMINT operations through them. However, due to the unique technical character of COMINT operations, the Director is authorized to issue direct to any operating elements under his operational control task assignments and pertinent instructions which are within the capacity of such elements to accomplish. He shall also have direct access to, and direct communication with, any elements of the Service or civilian COMINT agencies on any other matters of operational and technical control as may be necessary, and he is authorized to obtain such information and intelligence material from them as he may require. All instructions issued by the Director under the authority provided in this paragraph shall be mandatory, subject only to appeal to the Secretary of Defense by the Chief of Service or head of civilian department or agency concerned.

e. Specific responsibilities of the Director of NSA include the following:

- (1) Formulating necessary operational plans and policies for the conduct of the U.S. COMINT activities.
- (2) Conducting COMINT activities, including research and development, as required to meet the

See Public Law 513--81st Congress 1950

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needs of the departments and agencies which are authorized to receive the products of COMINT.

(3) Determining, and submitting to appropriate authorities, requirements for logistic support for the conduct of COMINT activities, together with specific recommendations as to what each of the responsible departments and agencies of the Government should supply.

(4) Within NSA's field of authorized operations prescribing requisite security regulations covering operating practices, including the transmission, handling and distribution of COMINT material within and among the COMINT elements under his operational or technical control; and exercising the necessary monitoring and supervisory control, including inspections if necessary, to ensure compliance with the regulations.

(5) Subject to the authorities granted the Director of Central Intelligence under NSCID No. 5, conducting all liaison on COMINT matters with foreign governmental communications intelligence agencies.

f. To the extent he deems feasible and in consonance with the aims of maximum over-all efficiency, economy, and effectiveness, the Director shall centralize or consolidate the performance of COMINT functions for which he is responsible. It is recognized that in certain circumstances elements of the Armed Forces and other agencies being served will require close COMINT support. Where necessary for this close support, direct operational control of specified COMINT facilities and resources will be delegated by the Director, during such periods and for such tasks as are determined by him, to military commanders or to the Chiefs of other agencies supported.

g. The Director shall exercise such administrative control over COMINT activities as he deems necessary to the effective performance of his mission. Otherwise, administrative control of personnel and facilities will remain with the departments and agencies providing them.

h. The Director shall make provision for participation by representatives of each of the departments and agencies eligible to receive COMINT products in those offices of NSA where priorities of intercept and processing are finally planned.

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i. The Director shall have a civilian deputy whose primary responsibility shall be to ensure the mobilization and effective employment of the best available human and scientific resources in the field of cryptologic research and development.

j. Nothing in this directive shall contravene the responsibilities of the individual departments and agencies for the final evaluation of COMINT information, its synthesis with information from other sources, and the dissemination of finished intelligence to users.

3. The special nature of COMINT activities requires that they be treated in all respects as being outside the framework of other or general intelligence activities. Orders, directives, policies, or recommendations of any authority of the Executive Branch relating to the collection, production, security, handling, dissemination, or utilization of intelligence, and/or classified material, shall not be applicable to COMINT activities, unless specifically so stated and issued by competent departmental or agency authority represented on the Board. Other National Security Council Intelligence Directives to the Director of Central Intelligence and related implementing directives issued by the Director of Central Intelligence shall be construed as non-applicable to COMINT activities, unless the National Security Council has made its directive specifically applicable to COMINT.

/s/ HARRY S. TRUMAN

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NATIONAL SECURITY COUNCIL

August 21, 1975

JWD

Through: Mike Hornblow *MH*

REVIEW AND SIGNATURE.

The enclosed memo has been revised as requested. Both ~~EX~~Ober and Granger (MacDonald for) concur.

A Note concerning my conversation with Roger Edgar is enclosed on the left

*Steve,*

MEMORANDUM

NATIONAL SECURITY COUNCIL

August 21, 1975

MEMORANDUM FOR THE RECORD

**Note:** Roger Edgar called to present his views on the ICRC review of the Truman memorandum. Our exchanges are essentially as follows:

- Roger believes the ICRC plans to review the Truman item at its August 27 meeting, and this cannot and probably should not be stopped.
- If there is no ICRC agreement after the review or if they disagree with the NSC position, the issue of NSC authority to overrule will then be resolved.
- When I explained that we did not want to be in a position of having to overrule them and wanted to avoid any possible confrontation, he said he understood our concern.
- Subsequently, Roger suggested that unless we believe the ICRC will not reconfirm its previous decisions we gain nothing by intervening. I responded that it is very conceivable that the ICRC would decide that the document is not Top Secret and that it should be downgraded. Such a move would serve no useful purpose and would weaken our position. Besides, I explained, the first line of defense is the (b)(3) exemption anyway. By focusing attention on the (b)(1) criteria the issues would not be quite so clear. He agreed that (b)(3) should be our primary defense.
- In closing I stated that we felt strongly that the ICRC should postpone its review and unless Justice or he thought otherwise, we would proceed as planned. He said they had no objection to our requesting an ICRC delay.

Steven  Skancke

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ACTION

*JWR*  
*Don has occurred - has occurred*

MEMORANDUM FOR GENERAL SCOWCROFT

FROM: Jeanne W. Davis

SUBJECT: ICRC Review of 1952 Truman Memorandum on the NSA

On August 27, the Interagency Classification Review Committee (ICRC) is planning to review the security classification of the Top Secret 1952 Truman directive (Tab B) which authorizes the establishment of the NSA and details its responsibilities and functions.

*with the possibility of downgrading or declassifying*

For many reasons we have opposed this Archives-sponsored ICRC action, but to date have been unable to turn it off. It has now reached the point, however, where it could jeopardize our defense in the legal action Morton Halperin has brought against us to compel disclosure of the NSCIDs, NSC 10 and 10/2 (covert operations), and the 1952 Truman memorandum itself. If the ICRC

review goes ahead we could be faced with having to accept a ~~declassification~~ <sup>an ICRC</sup> recommendation ~~we don't support~~ <sup>which we don't support</sup> or with overruling the ICRC

on a matter in which we have a substantial interest, both of which ~~would be a~~ <sup>create interagency controversy and, if ruled,</sup> would supply ammunition for Halperin.

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*I was tempted to order the ICRC to*

*↑* Rather than ordering them to terminate <sup>its</sup> plans, for a classification review, *however, on further consideration*, we believe ~~we have decided to request that they only~~

*we believe the way cover is to ask*

postpone the review until after the NSC legal problem has been resolved. ~~We also contend that an ICRC review at this time would~~

~~further complicate current investigations of the intelligence community~~

Concurrence: Clint Granger } *unt*  
Richard Ober }

RECOMMENDATION:

That you sign the memorandum at Tab A to the ICRC Chairman on behalf of Secretary Kissinger

Approve \_\_\_\_\_

Approve as amended \_\_\_\_\_

Davis should sign \_\_\_\_\_

Other \_\_\_\_\_

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DRAFT

MEMORANDUM FOR:

Mr. James B. Rhoads  
Acting Chairman  
Interagency Classification Review  
Committee

SUBJECT: ICRC Classification Review of 1952  
Truman Memorandum on Communications  
Intelligence Activities

I understand that the ICRC is planning to undertake a classification review of President Truman's October 24, 1952 Top Secret memorandum to the Secretaries of State and Defense concerning Communications Intelligence Activities, ~~and am writing to request~~ <sup>I</sup> request that such a review be postponed.

The Truman memorandum, which is concerned with the organization and management of communications intelligence activities within the Executive Branch, contains a directive to the United States Communications Intelligence Board concerning its membership and functioning, and a directive to the Secretary of Defense relating to the mission and operations of the National Security Agency (NSA). In addition, National Security Council Intelligence Directive (NSCID) No. 9, dated December 29, 1952 was derived <sup>directly</sup> from the Truman memorandum, and much of NSCID 6, which currently governs activities of this nature, is based upon it. As a result, the Truman memorandum is intimately related to a large body of material concerned with the President's overall management of the

Intelligence Community.

This particular document has been reviewed for declassification many times. You are well aware of the requests from Mr. Louis Kruh, one of which was filed under the provisions of Executive Order 11652, appealed to the ICRC, and is now the subject of a lawsuit against the National Archives and Records Service (NARS). Mr. Kruh, as you know, has also sought this document under the provisions of the amended Freedom of Information Act (FOIA) and is now engaged in legal proceedings to overturn the NARS denial of his request and subsequent appeal. Throughout these administrative processes the Truman document and its classification have been reviewed many times and each review has reached the same conclusion <sup>—</sup> the document should remain Top Secret. Since many of these reviews and re-reviews were conducted within the last few years, I see little merit in expending still more time and effort to examine it once again.

You should also be aware that the NSC Staff has received other FOIA requests for documents relating to communications intelligence and for the 1952 Truman directive itself. There ~~was an affirmative~~ <sup>has been a</sup> determination ~~made~~ that these ~~Top Secret~~ documents should remain classified Top Secret and that they are exempt from disclosure under 5 U.S.C. 552 (b)(1). In addition, these records are also protected by statute and thus exempt from release pursuant to 5 U.S.C. 552 (b)(3). The NSC Staff determinations concerning these documents have all been appealed and we have affirmed



that these documents are properly classified Top Secret. Legal action has now been initiated to reverse these determinations.

In view of the pending litigation concerning the declassification and release of these documents, we believe it would be particularly untimely and unwise to have the ICRC undertake a classification review of the Truman memorandum. ~~Our legal position will not benefit from~~

~~this review and could be seriously jeopardized. For this reason I must~~  
*Accordingly, we request* *postponed*  
 request that the ICRC review be ~~set aside~~ until the legal issues surrounding the release of the Truman memorandum and derivative and related documents are resolved.

In addition, the organization of the intelligence community is currently under an intensive review by the Executive and Legislative branches of government. Among the matters being investigated are communications intelligence activities, and the 1952 Truman memorandum has itself been the subject of many queries. Consequently, it is our judgement that any ICRC involvement at this time will serve only to complicate this review.

*Over*  
~~When~~ the pending lawsuit against the NSC and ~~the current investigations~~  
~~of intelligence activities~~ *has* *been completed* we would have no objection to ICRC consideration of the Truman memorandum. Until this occurs, the proposed ICRC review should be held in abeyance.

Henry A. Kissinger