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MEMORANDUM

THE WHITE HOUSE

WASHINGTON

INFORMATION

September 30, 1970

May contain sensitive
Congressional information.

MEMORANDUM FOR HENRY A. KISSINGER

FROM: J. F. Lehman

SUBJECT: Latest Leak

ON-FILE NSC RELEASE INSTRUCTIONS
APPLY

At Tab A are pages from the Symington Subcommittee Transcript on Japan/Okinawa published early in September. The lines highlighted in yellow are Top-Secret references to psyops activities in Laos. There are many cogent reasons to keep those activities in Laos highly classified and the SFRC staff was told this many times. But, as usual, they declassified them on their own authority.

At Tab B is a memcon in which Pincus was told for the last time before publication that the references must remain classified. He did not agree, because "in his view" there was no good reason.

A compendium of leaks from SFRC is under preparation.

DOS, OSD, DOJ Reviews
Completed

Senator SYMINGTON. Were there any Chinese troops fighting in Thailand, or in Laos, or in Vietnam? Are Taiwanese troops?

Mr. PINCUS. There is a psychological warfare team in Vietnam.

Senator SYMINGTON. In Vietnam from Taiwan?

Mr. PINCUS. From Taiwan.

Senator SYMINGTON. [Deleted.]

ACTIVITIES IN THAILAND AND LAOS

Mr. PINCUS. The major 7th Psyops operation is its support of Vietnam, and this is where most of their money goes for preparation of leaflets which are dropped in Vietnam and also for other publications.

Because of the thrust of the committee's activities we did not go into too much—we did not go into any detail in Vietnam.

There is another detachment from the Okinawa group in Thailand where, with USIA people in Thailand, they have in the past been supporting psychological warfare operations by the Thais, the effort being to try to get the Thais involved in counterinsurgency in their own country, to pick up psychological warfare as one of the elements of the counterinsurgency movement.

[Deleted.]

Senator SYMINGTON. What was that again?

Mr. PINCUS. [Deleted.] We were told that a new high and medium altitude leaflet program of four leaflet drops a month, of 45 to 50 million leaflets per drop, was to begin some time subsequent to this past summer in Northern Laos.

Senator SYMINGTON. The USIA comes before this committee. We know something about their recruiting people.

Mr. KNAUR, Secretary Laird did not tell you this himself, did he?

Mr. KNAUR. No, he did not, sir. But I would like to state that we are not unwilling to testify on this.

Senator SYMINGTON. It is all very complicated.

Mr. KNAUR. The instructions that I received were with regard to how the testimony was to be taken and the special protection that was to be given it.

Senator SYMINGTON. We had the same mixup about whether or not military people in Laos could testify because they were part of the attaché operation. I know Secretary Laird well enough to know he would not give you such instructions. We have not had any problem with the Department of Defense in these matters.

Mr. KNAUR. Sir, if I can, perhaps, correct a misunderstanding, we are not trying to withhold either the information or Colonel Bentz from the committee.

Senator SYMINGTON. If you all would like another hearing we will have another hearing.

We should not be told that certain things are to be allowed to be kept in a transcript, and other things not. Let's get it cleared up, and we will have additional hearings any time you say. Let me emphasize I know of no arrangements made whereby what the Army and USIA

CRIBBED AS EXERCISE

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Okinawa the exer-Government has to inland. The theme, ng our briefing on g part or at least ercises.

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PSYOPS IN THAILAND

psyops program in Thailand was a Thai soap which Taiwan, and apparently there is a new message.

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it say? but we asked what the [deleted] they put out is one of these.

er here? age unclassified context; choose between candi-

is it part of the record? is to find some way we d. Here are examples of is a U.S. Forces Korea distributed to the ROK

am in Korea. this? whether there is a need that I think rightfully hat they are doing, the kind of general activity

to promote U.S. inter- tion with Psyops? e for the subcommittee 1 USIA. That question

can only be raised when, on the one hand, you know exactly what the Seventh Psyops is doing and, on the other hand, you know what USIA is doing. We have had testimony in both Thailand and Taiwan in some detail, I believe, as to the activities of USIA; also in Laos

SIGNIFICANCE OF NAME "7TH PSYOPS"

Senator SYMINGTON. Why do they call it 7th Psyops? Is there a 6th, and 4th, et cetera?

Mr. PINCUS. There is a limit to my knowledge. I do not know how they were numbered. That is a question that they would be able to testify to.

LEAFLETS CONCERNING THAI FORCES IN VIETNAM PRODUCED BY 7TH PSYOPS

Let me see, they have also put out a cartoon book about the Thai, about the Thai forces in Vietnam.

Senator SYMINGTON. Thai?

Mr. PINCUS. These are the Thai forces in Vietnam, and I am not sure in my own mind as to where it was distributed. I think it was distributed in Thailand.

Senator SYMINGTON. By whom?

Mr. PINCUS. The manner of distribution and the attribution are both questions that I think can be reasonably raised.

We were told that overall the 7th Psyops plans to put out 11.8 billion leaflets in fiscal 1969, and in fiscal 1970 they were aiming for 16.2 billion. The leaflet drop program, in Korea, which we used to fly—and I would like to put these in the record—

Senator SYMINGTON. Wait now. It says frame 1, this is a story of our troops in Vietnam where they have been fighting the VC. What has this to do with Thailand?

Mr. PINCUS. This is about the Thai troops in Vietnam.

Senator SYMINGTON. I see. Is this put out to the Thai troops in Vietnam?

Mr. PINCUS. I think it is put out to the people back home.

Senator SYMINGTON. There is nothing wrong about that, is there, if the Thais are fighting with our people in Vietnam? It is nice to have it known that they are so doing. What is the matter with that?

Mr. PINCUS. Well, the question is, Is it coordinated with the embassy people in Thailand? The contents are something I have not gone through, just the manner of how it is done. We have a real interest in it which is basically the coordination. Is there a policy decision with the military—

Senator SYMINGTON. We are paying for it? There must be some coordination.

Mr. PINCUS. Well, the military is paying for it. The question of where the coordination comes in is a matter to be explored. I would imagine there is, but I think the only way you can find out is, one, to know what they are doing and then to go back and ask what kind of coordination led up to what they are doing.

Senator SYMINGTON. These people are fighting in Vietnam, and that is reported back and dropped to the people in Thailand, right?

Mr. PINCUS. I think that is what happened. I do not know.

Senator SYMINGTON. We are giving the Thais a break as against the American people; maybe. I do not know either.

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WHAT WERE THE REASONS BRIEFINGS WERE NOT OFFERED ON 7TH PSYOPS?

Mr. PINCUS. That is the thrust of the information that we picked up, and which we wanted to use as the basis of a detailed explanation and a detailed dissertation of the facts of this organization which we had hoped to get for the subcommittee.

Senator SYMINGTON. Do you know why you were briefed by the Army, Navy, Air Force, and the Embassy, but not given this information which you found yourself by looking at a telephone book in another country?

Mr. PINCUS. I do not know why we were not briefed on it in Korea. Because they were small there were a number of these units on which we would have to ask for special briefings. I suppose whoever laid on our trip did not feel that we wanted to know about it and, of course, we did not request to be briefed on it because we never heard of it before we left here.

Senator SYMINGTON. Anything else?

ATTRIBUTIONS OF DIFFERENT FUNCTIONS OF 7TH PSYOPS

Mr. PAUL. I have a document here that was given to me by Mr. Knauer in anticipation of our interest in the 7th Psychological Operations. It was given to me yesterday after the morning session and left with me until now. It is stamped top secret. With respect to the question of attribution of the different functions, it says as far as Korea is concerned all of the activities are attributed to the United Nations Command except for the leaflets which are supposedly emanating from the Republic of Korea sources.

The operations in Okinawa are attributed to either the High Commission [deleted] and, it says, the U.S. Civil Administration, Ryukyu Islands.

Do I understand from what you say, though, that some of the attribution of this radio news would not appear to be coming from a U.S. Government-sponsored organization?

Mr. PINCUS. That is correct.

Mr. PAUL. With regard to the operations in Thailand, this document says the group only prints materials prepared by the Royal Thai Government, Communist Suppression Operations Directorate, advised by the U.S. Embassy. Attribution of these miscellaneous materials is to the Government of Thailand.

[Deleted.]

From briefings you have received, do you know anything inconsistent with these various attributions?

Mr. PINCUS. No, no, and it is the same type of attribution that the USIA people gave us in Thailand and Laos and testified to during those hearings.

Mr. PAUL. I would like at this point to put in the record of this hearing this document that was prepared giving the details of the 7th Psychological Operations Group.

Senator SYMINGTON. Without objection.

(The document referred

7th Psyo

a. Following the merger of United States Army, Pacific (USARPAC) control of PSYOP planning, national political implications, forces should be centralized toward as possible near areas. In consequence, the United States Army (USABVAF), in Tokyo, and the consolidation PSYOP in Japan, Hawaii, the 14th Radio Broadcast were brought together on Okinawa the United States Army Broadcast (PAC), on 15 February 1958. On the same date, Japan Broadcast Radio Detachment, USABVAF, USABVAPAC.

b. To coordinate PSYOP in China, Taiwan Detachment, 1963. The primary missions of the United States Military Taiwan Defense Command, China, (ROC) PSYWAR assigned to the Activity.

c. With the increasing Viet insurgency situation, another Vietnam, in May 1964. The maintain liaison with United States, particularly for coordination.

d. USABVAPAC was reorganized. VAPAC was discontinued. PSYOP Group) was activated under control of United States Army.

e. The 7th PSYOP Group was established at Bangkok, PSYOP support for Thailand requirements from the Command (MACTHAI) Thailand.

f. (Deleted).

g. Beginning 1 July 1968, operational control of the Command (CINCUSARPAC), but retained United States Army Ryukyu Islands support.

a. Organization. The 7th Group Headquarters and 15th PSYOP Detachment HQ, 7th PSYOP Group—15th PSYOP Detachment HQ, 14th PSYOP Battalion HQ, 16th PSYOP Company (1) 18th PSYOP Company (1) US Army Psychological Japan Detachment—North 21st PSYOP Detachment Taiwan Detachment—Taiwan 24th PSYOP Detachment 3rd PSYOP Detachment

b. Personnel.

(1) The 7th PSYOP Group

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Senator SYMINGTON. Senator Cooper, have you any questions?

IS THERE A LEAFLET DROP PROGRAM IN VIETNAM?

Senator COOPER. Did I understand you to say you were told that American planes dropped leaflets over North Korea?

Mr. PINCUS. These are American planes flying over water near the coast which dropped leaflets that were then carried into North Korea. They did not, as described to us, ever go over the mainland, but the leaflets themselves were dropped in North Korea.

Senator COOPER. Flown by American planes?

Mr. PINCUS. Flown by American officers. The leaflets are printed by this American group.

Senator COOPER. Do you have any information whether or not that same kind of operation was done in North Vietnam?

Mr. PINCUS. Although we tried to avoid getting into Vietnam, I have here another sample that was given to us on this trip of a national safe conduct pass which is printed. This is again a nonclassified document. It is a national safe conduct pass. It is printed in Vietnamese, Korean, and English. Its target area is listed as insurgents and others in VC-controlled areas.

The purpose is to encourage defections, and a safe conduct message, a special message, in Vietnamese is signed by Ngo Cao Ky.

Senator COOPER. Would you be able to answer whether or not they were dropped by American planes flown by American personnel?

Mr. PINCUS. In Vietnam I could not say. We were told that a program like this is to begin in Laos, and that the same type of leaflet was to be dropped over northern Laos and Pathet Lao and North Vietnamese occupied territory. These are to be flown by Americans in American planes.

OTHER AREAS IN WHICH USIA OPERATES

Senator COOPER. Does USIA have an operation in Okinawa, Japan, Taiwan, South Vietnam, Thailand?

Mr. PINCUS. Well, they have activities in each of those places except Okinawa, as far as I know.

Senator COOPER. Do I understand the chief headquarters of this operation are in Okinawa?

Mr. PINCUS. Yes, sir.

Senator COOPER. And they have branches in Taiwan, Japan, South Vietnam, and Thailand?

Mr. PINCUS. Korea.

Senator COOPER. Korea.

Mr. PINCUS. Yes, sir.

REQUEST FOR CLARIFICATION OF RELATIONSHIP BETWEEN DIFFERENT AGENCIES

Senator SYMINGTON. Could I ask a question there, Senator Cooper? What is the relationship of the USIA and Army with the CIA in this connection?

Mr. PINCUS. Senator, I just do not know.

Senator SYMINGTON. What is the relation of the CIA and the Army with the DIA in this connection?

Mr. PINCUS. I do not know. I just do not know. We have had some testimony on one program that involved, I guess, the CIA, Army in Taiwan.

Senator SYMINGTON. What is the connection between the 7th Psyops, and the NSA in this connection?

Mr. PINCUS. None that I know of.

RELUCTANCE TO PROVIDE INFORMATION CITED

Senator SYMINGTON. I do not see anything wrong in many of these things, perhaps all of them, but am disturbed as to why there is such reticence to have this information on the record, especially as we have been reading so much of it in recent weeks in the press.

It seems that the farther away you get from Washington the more information you get. I just do not understand that part of it because the truth is known to just about everybody else. If one of those pamphlets is dropped in Korea it is known in Korea. If one is dropped in Laos it is certainly known in Laos; and if they know it, why is there so much apprehension about our people knowing it?

Mr. PINCUS. I was told by both Mr. Stevenson of the State Department and Mr. French of the Department of Defense that the prime reason for this approach on their part was because this agency is now the subject of the National Security Council review as to what its role should be, and because of the internal executive department—

Senator SYMINGTON. But that has nothing to do with our getting the information. Whether they change policies and programs or not is their prerogative. But certainly we have a right to know what they have done.

The public should know about what is being done with the taxpayers' money which we appropriate around here; and we should, before the proper committee of course, know in executive session. I do not understand this policy of refusing to give the truth.

Mr. PINCUS. That was the substance of the remarks I made to Mr. Stevenson and Mr. French.

Senator SYMINGTON. What was their answer?

Mr. PINCUS. Mr. Stevenson said that he had no control over the Department of Defense, which was adamant; and Mr. French said he had no control over it, it was out of the Department of Defense.

Senator SYMINGTON. We would like to know what they are going to do, but I feel strongly that we have the right to know what they have done.

Mr. Stevenson says the Department of Defense—

Mr. PINCUS. His comment to me last evening was that the Department of Defense was adamant, that they would not put this on the regular record.

Senator SYMINGTON. The difference between a regular record and a special record is that they hold the special record and we the regular record; correct?

Mr. PINCUS. That is right. There is only one copy of a special record which is reserved for intelligence.

Senator SYMINGTON. What are we permitted to do with that special record. Can we go over there and look at it?

Mr. PINCUS. They will bring it to us, and there is an understanding that except for the CIA record there will be an initial review, and if

any questions?

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UNITED STATES GOVERNMENT



DEPARTMENT OF STATE

Washington, D.C. 20520

August 18, 1970

MEMORANDUM

TO: Mr. John F. Lehman, Jr.
White House Staff

FROM: L/EUR - Charles N. Brower *CB*

SUBJECT: Symington Subcommittee Transcript
on Japan

Upon receipt of your short memorandum late yesterday afternoon on behalf of the White House Working Group requesting that all previously deleted material be eliminated from the final published transcript on Japan of the Symington Subcommittee, and that an attempt be made to obtain further deletions with respect to 7th psyops, I immediately telephoned Walter Pincus and told him that we could not give him the final clearance on the transcript yet and that I would be in touch with him again. After some further discussions of the matter with Bob Monahan and those concerned at the State Department, I phoned you and learned that your precise goal was to obtain the deletion of material on 7th psyops appearing on galley proofs pages 10-12 which originally had been deleted in red but later restored in green. Due to the publication time pressure, it did not appear practical to attempt to negotiate deletions which had not been previously discussed.

I sent off to Pincus the page proofs of those portions of the transcript which were not in issue, and I later sent him page proofs of the section in issue, indicating in red pencil the portions which would be deleted pursuant to the request of the White House Working Group.

LIMITED OFFICIAL USE

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In addition, I called Pincus on the phone and gave him each one of the deletions. He argued with respect to each one of them and requested at least some explanation of the reasons for insisting on the deletions. After talking with him, I discussed the matter further with Bob Monahan and again called Pincus. Despite our explanations he insisted that the deletions "did not make much sense", mostly because the subjects of the deletions, in his view, previously had appeared in published material, particularly starting at page 585 of the Subcommittee's published transcript on Laos. I informed Mr. Pincus that it was our firm position that these deletions should be made and he acknowledged his understanding of our position. Nonetheless, he stated that he had in the interim been discussing the matter with "the Senator", undoubtedly meaning Fulbright, and he stated he could not promise all the deletions would be made, that he would do his best but that probably some of the material would be published since, in his view, there seemed to be no good reason for keeping it out.

I have communicated the substance of this conversation to you by telephone this morning, but, at your request, have recorded it in this memorandum.

Cc: L - Mr. Stevenson
PM - Mr. Wolf

L/EUR:CNB:mjah

ASSISTANT ATTORNEY GENERAL

Department of Justice
Washington

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OCT 1 1970

MEMORANDUM FOR MR. JOHN LEHMAN
Staff Member, National Security Council

Re: GAO Examination of Berlin Occupa-
tion Costs.

You have asked us whether there is a legal justification for not permitting the General Accounting Office to audit the U.S. Army's occupation costs in Berlin.

The GAO's position is set out in a letter to the State Department of May 25, 1970, which states that the primary objective of the audit is to assure that costs of the United States properly chargeable to the West German Government for Berlin occupation expenses are, in fact, borne by them. GAO is concerned with the manner in which the U.S. Army documents expenses and with the process for deciding which costs are chargeable to the German Government or reimbursable by it. The GAO request relies on section 54 of title 31, United States Code (§ 313 of the Budget and Accounting Act, 1921) which provides, in general, that executive departments shall furnish the Comptroller General with such information and records as he requires, regarding their financial transactions and methods of business.

The State Department's Legal Adviser states that he does not find a legal basis for opposing the GAO's request. The documents submitted by the State Department do not include any discussion of this conclusion.

There seem to us to be two legal grounds that can be used to support a decision to deny the GAO access to the records involved: (1) a statutory exception to the visitatorial power

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of the Comptroller General which can be invoked in matters involving "intercourse or treaty with foreign nations", and (2) the doctrine of executive privilege.

1. Exception to GAO authority

The law which the GAO cites in support of its authority (31 U.S.C. 54) contains an exception for expenditures made under § 107 of title 31, United States Code. Section 107 permits the Executive to settle accounts with the GAO expended "for the purposes of intercourse or treaty with foreign nations" by certificate if it is considered advisable not to account specifically for the expenditure. The text of § 107 reads as follows:

Whenever any sum of money has been or shall be issued, from the Treasury, for the purposes of intercourse or treaty with foreign nations, in pursuance of any law, the President is authorized to cause the same to be duly settled annually with the General Accounting Office, by causing the same to be accounted for, specifically, if the expenditure may, in his judgment, be made public; and by making or causing the Secretary of State to make a certificate of the amount of such expenditure, as he may think it advisable not to specify; and every such certificate shall be deemed a sufficient voucher for the sum therein expressed to have been expended.

The language of this paragraph raises a number of issues concerning its application to the present situation:

a. Does that situation concern "money . . . issued, from the Treasury?" The audit will inevitably go into expenditures of U.S. funds even if German funds are also involved. In his draft telegram to Bonn the Legal Adviser treats the matter as

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if it concerned only foreign funds. However, the proposition seems to be stated in an unduly narrow fashion. The GAO's letter to State of May 25, 1970, indicates that accounting for receipts from the German Government is only one aspect of the request. The GAO wants to study "the manner in which the Army accumulates and documents United States expenses in Berlin" and "the internal United States administrative processes for deciding which costs are chargeable to the German Government or reimbursable by them." The GAO would, of necessity, therefore also be auditing disbursement of U.S. funds.

b. Does the present situation concern an expenditure "for the purposes of intercourse or treaty with foreign nations?" Although we have no special knowledge of how the occupation is being conducted, the words of the statute seem broad enough to cover the present situation. It appears from the papers submitted to us that the occupation requires close and continuing intercourse not only with the Bonn government but with the other occupying powers as well.

Once a determination is made that it is advisable not to account specifically for funds it appears that the decision of the Executive in such matters is final and not subject to review. In refusing to turn over certain papers to Congress pursuant to a predecessor of § 107, President Polk stated, "The President in office at the time of the expenditure is made by the law the sole judge whether it shall be public or private. * * * The President who makes the 'certificate' may, if he chooses, keep all the information and evidence upon which he acts in his own possession." 4 Richardson, Messages and Papers of the Presidents 431-33 (1897).

This does not mean, however, that there will be no adverse reaction to this decision. It is difficult to predict how the GAO will respond to the above analysis. We have found no published opinions of the Comptroller General which discuss the

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scope of the section and the papers prepared by the State Department give no indication of what recent use has been made of this provision. We believe, however, that the broad language of the statute suggests that it may be invoked here, and that the burden is placed on anyone seeking to assert the contrary.

2. Executive privilege

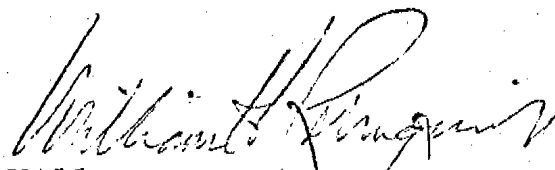
The applicable historical precedents, while none are directly in point, would generally support the invocation of executive privilege in this situation, quite apart from the statutory exemption previously discussed. We have pointed out in the past that this question is primarily a matter of policy rather than of law. See Memo. for White House Working Group on the Symington subcommittee hearings, March 12, 1970. Of course, Congress and the GAO are free to assail the Executive for using the privilege and take the matter to the people even if they recognize the legal power and right of the President to invoke it.

The GAO is apparently treated as an arm of Congress and there does not appear to be any distinction between the way that the privilege is used vis-a-vis the Comptroller General and the Congress. Examples of the invocation of the privilege against the GAO are set out in detail in Kramer and Marcuse, Executive Privilege--A study of the Period 1953-1960, 29 Geo. Wash. L. Rev. 623, 847 ff. This issue has been put to the ultimate political test. As a result of claims of Executive privilege, Congress tried by legislation in 1959 to override the privilege by specific provision in foreign aid legislation making it mandatory that information be turned over to the GAO. President Eisenhower signed the law but noted that the law could not affect the privilege and its constitutional basis. ^{1/} In similar fashion the privilege would prevail over 31 U.S.C. 54, which the GAO cites in the instant case.

1/ Public Papers of the Presidents of the United States: Dwight D. Eisenhower 1959, p. 549. See the opinion of A.G. Rogers in 41 Op. A.G. 507, 525 (1960), which covers this episode in detail. In subsequent years Congress amended the GAO provision as it applied to foreign aid legislation to specifically allow for Executive privilege.

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It is very hard to compare the situations where the privilege has been used since one never knows just what was not disclosed by invoking it. The various formulas used by the Executive branch all manage to convey the idea that a situation of delicacy is involved. As a legal matter, it is only necessary to note that disclosure does "not comport with the public interest." As a practical matter, it seems that a thoroughly defensible letter could be written which stressed the importance of East-West relations, the sanctity of covert operations, the problems of functioning with our allies, and any similar considerations which may obtain.



William H. Rehnquist
Assistant Attorney General
Office of Legal Counsel

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