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EO 13526 3.5(c)

Memorandum of Conversation

On September 25, 1979, representatives of the Office of the Historian (PA/HO) met with representatives of the Central Intelligence Agency's declassification operation at the latter's offices [redacted]. The primary purpose of the meeting was to discuss CIA objections to the publication in the Foreign Relations series of certain documents dealing with Asian matters in v. XII, 1952-54. The meeting lasted from 2:00 P.M. to approximately 3:40. Present from PA/HO were John Glennon, Dave Mabon, Dave Baehler, and Ron Landa. The following were present from CIA:

[redacted] Information Review Officer in the Directorate for Operations (DDO)

Gale W. Allen, Chief, Classification Review Division (CRD), Information Systems Staff, Directorate for Administration

[redacted] Chief, Branch for Directorate of Operations, (CRD)

[redacted] Chief Branch for Directorate of Administration, CRD

[redacted] Latin American Branch, CRD

[redacted] Southeast Asia Branch, CRD

Allen delayed the beginning of the meeting until [redacted] arrived. When [redacted] entered, he took the place at the head of the table, with Allen sitting to his right.

Allen then opened the meeting by explaining that CRD's philosophy diverged from the one set forth in the letter John Glennon sent to him concerning volume XII, dated August 29, 1979. Regarding the documents in dispute, he said CIA had begun with ~~with~~ a conservative approach, but would retreat whenever possible. The important thing was to strike the proper balance between HO's and CIA's interests. In that regard, he asked [redacted] to explain what CIA meant by "official disclosure," which was the criterion by which FR material was reviewed for declassification.

Department of State, A/GIS/IPS/SRP  
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With concurrence of: \_\_\_\_\_  
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In his remarks, [ ] revealed a theme which he consistently returned to in the course of the meeting: Legal exigencies imposed by the CIA's statutory authority severely limited the kinds of revelations that could be made in the FR series. He cited Section 6 of the 1949 CIA Act, which imposed on him the necessity to protect sources and methods. If he violated this act, he said, he would be liable in court. In this regard, he was guided by the term "authorized executive disclosure." If the CIA had not released information officially, and even if another agency had released the information, then CIA was bound by the 1949 act not to allow its publication in the Foreign Relations series. If [ ] did permit its publication, he would be liable in court.

Continuing, [ ] said that the memoirs of former CIA officials mentioned in Glennon's letter did not constitute "authorized executive disclosure" in the CIA's view. The memoirs were merely the reminiscences of private individuals who, because of a secrecy contract signed as a condition of employment, had to submit their manuscript to CIA for clearance before publication. The disclosure was theirs, not the CIA's. "Authorized executive disclosure" was the explicit release of information by the CIA itself. FOI cases, mandatory review under E.O. 12065, approved public statements by CIA representatives, in their official capacities, on intelligence sources and methods were examples. Evidence of prior "authorized executive disclosure" on a certain matter would justify the printing of relevant documentation in the Foreign Relations series. Publication of memoirs by retired CIA or other government officials does not. Since CIA is not aware of all the "authorized executive disclosures" that have taken place, they do appreciate having this kind of disclosure brought to their attention.

[ ] stated that CIA also has the residual legal right to protect intelligence sources and methods relating to the work of the Office of Strategic Services (OSS) in World War II. Because of the abundance of documentation and memoirs on OSS activities, CIA has developed the "reasonable man" approach to OSS material. This means that information can be divulged when it becomes clear to "reasonable man" that so much information on a given subject was already generally known that "disclosure" was not in fact taking place by CIA release of material.

[ ] went on to say that, as a result of the disclosures about the OSS era, CIA was now concentrating on protecting sources and methods for the period after the CIA was formed. He also said that the CIA was using the "reasonable man" approach even on the later material. In the course of the ensuing discussion, he reiterated repeatedly the term "reasonable man" approach in

describing CIA's declassification efforts.

Mabon asked whether Colby's memoirs constituted "authorized executive disclosure" since he himself had been DCI. [ ] replied that only statements by a "sitting" DCI fell into this category.

[ ] explained that insistence on "authorized executive disclosure" was necessitated by the "Ellsberg syndrome," the feeling that some people had that they could steal classified documents and claim First Amendment protection to have them published.

✓  
Glennon said he understood the meaning of authorized executive disclosure as described by [ ] but he thought it was largely legalistic hair-splitting. He stated that "officiality" is attached to Cline's, ~~Lansdale's~~, and Colby's memoirs because of their former positions and because they expressly indicate the books have been cleared with C.I.A. The general view is that these memoirs constitute "official disclosure." The same is true with memoirs of Secretaries of State and of Ambassadors, like Allison in Japan.

[ ] replied, sticking to the legal basis of his argument, that the CIA's position is that, with the President excepted, "their disclosure is not our disclosure."

Mabon said that such a position makes the Foreign Relations series less comprehensive and authoritative than these other publications.

[ ] agreed, but said it was not possible in a number of sensitive areas officially to reveal information.

Glennon pointed out that some things were so well-known they were not sensitive. PA/HO was concerned with broad policy, not with the nuts and bolts of operations, the documents in dispute reflected this concern with policy.

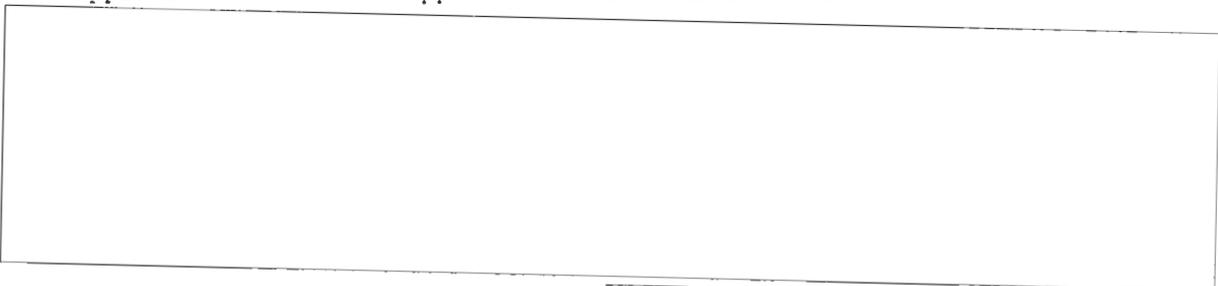
[ ] said that upon reconsideration CIA was prepared to withdraw certain objections. For example, it no longer objected to the identification of Allen Dulles or Frank Wisner, but it did object to identifying Lansdale. Their guiding principle was to protect CIA participation in certain activities. At this point, [ ] interpretation of the CIA charter seemed to go beyond a strict adherence to the "sources and methods" language in the 1949 act to include "locations and activities" of the CIA. He stated that, under the charter, any document that confirms the CIA's presence in another country is not legally subject to release by the CIA regardless of what other agencies or individuals do with it.

Allen supported [ ] by saying that any information that connotes CIA presence or operations in a foreign country cannot be revealed. He cited the 1949 CIA act as prohibiting disclosure of the location of CIA activities. Any reference to "CIA cables from country X," or "information received from the CIA representative in country X" would have to be deleted.

Glennon raised the issue of the appearance of "CAS" in the FR series. He pointed out that the 1948 volume on Latin America included CAS (controlled America; source) in the list of abbreviations. If CIA objected, however, to continued use of CAS, PA/HO was prepared to delete it and bracket in "a source" or something similar. Glennon asked what the basis was for CIA's objection to the use of "covert."

Allen replied there was no objection to "covert" per se, but only to where it connoted CIA activities in a specific country.

Landa said that C.I.A. activities and its presence in some countries, [ ] were much more widely known than many OSS operations from World War II. He asked why the "reasonable man" approach could not be applied in these cases as well.



Reverting to the use of "CAS," [ ] pointed out that many individuals had incorrectly used "CAS" to refer to CIA headquarters, and this error occasionally showed up in the documents. Moreover, he recalled that the 1948 Latin America volume had not tied CAS to the CIA, but had merely identified it as "Controlled American source." Hence, this was not a real disclosure. Besides, CIA was not bound to accept as precedent improper disclosures made by other agencies. He cited the recent release, apparently inadvertently, by the Department of State of the current acronym for CIA station to Philip Agee, whom he labeled a defector to the Russians and the Cubans.

Landa stated that CIA prohibitions on even revealing its presence in a given country made it impossible in many cases for the Foreign Relations series accurately and fairly to describe American policy.

[ ] said there had been one exception to this rule. That involved Indochina during the period 1963-1975 with respect to Americans missing-in-action. For legal reasons, it was necessary to acknowledge which agency had obtained information on their whereabouts. He said that this single exception opened the floodgates to requests for thousands of documents and placed a great burden on C.I.A.

Baehler asked how the "reasonable man" approach related to litigation.

[ ] said it was a fuzzy area, because one reasonable man's judgment often differs from another.

*yes*  
Glennon remarked that it seemed that the Foreign Relations series documentation was being reviewed according to guidelines stricter than those used in FOI cases and in clearing for publication memoirs of former CIA officials. He wondered whether this was true, and whether it might be due to the fact that PA/HO has no clout, that it cannot bring suit against the agency as a private individual can.

[ ] said that in the past, the Foreign Relations series was given a low priority because there was no statutory provision and no machinery in CIA for reviewing it. He said the CRD had recently assigned it number-one priority.

Glennon speculated on the possibility that it might be better to have CIA clear Foreign Relations in the same way it does the memoirs, i.e., with a "cold stare" that did not constitute "authorized executive disclosure"

Allen said that the burden of work and an inability by CRD and PA/HO to reach agreement might make this course desirable, but he shuddered at the thought of the kind of information that would thereby be revealed and the negative impact it would have on our foreign relations.

Landa pointed out that in any event desk officers in the Department of State, as well as agencies besides CIA, have to clear the documentation and the concerns are often similar to the C.I.A.'s.

Allen proposed that attention be focused on the 13 documents in dispute and on a CRD paper commenting further on those documents.

[ ] A document-by-document discussion ensued, with Allen and [ ] doing most of the talking for CRD and Glennon and Mabon for PA/HO. During the discussion, [ ] said that in the pre-1959 period it was difficult to locate CIA cable traffic,

since the microfilm of serial files of incoming and outgoing cables prior to that year had been destroyed. It was impossible to provide, for example, all traffic from a given post for a certain period. Specific telegrams, with some difficulty, might be found in a project folder if one knew beforehand the subject of the telegram.

[redacted] said they had serious objections to the document that specified [redacted]

He asked whether these objections were shared by other clearing officials in the government.

Glennon replied that the same kinds of objections were encountered throughout the clearance process and indicated that the Department had problems with those [redacted] documents.

[redacted] said the crucial test was the immediate impact of disclosure.

Allen provided the example of a 1951 document he had recently seen about the contingency [redacted]

[redacted] He said that this document would be dynamite if it were released today.

[redacted] said that many documents easily lend themselves to distortion by journalists and disreputable people.

Baehler said the advantage of the Foreign Relations series was that it placed documentation in its proper context and discouraged sensationalism and distortion. He said that for the FR series to remain silent on certain issues that are already public knowledge will seriously damage its credibility.

Glennon quoted a retired historian in PA/HO who had once described the compiling of the FR series as "transferring documents from one obscure place to another." Mabon emphasized that the FR volumes appeared very quietly.

Landa said that release of information may cause momentary embarrassment to some people, but we were not aware of any "identifiable damage to national security" caused by the publication of the FR series.

[redacted] said it was better not to run the risk. Once the damage was done, it would be too late.

Allen said that in cases of information provided by foreign governments, the presumption under the new executive order was that release would be damaging.

Discussion resumed on the specific documents. Mabon said that deletion of names from texts as proposed by CIA would distort meaning. [ ] replied that PA/HO would be allowed latitude in bracketing in substitute words for deleted names to preserve accuracy. He said they were not asking to "prostitute" the series.

Regarding this documentation, [ ] said it would be easier if PA/HO selected only the final approved paper, and not previous drafts as well. Including drafts makes unnecessary work for the reviewers.

[ ] said the ground rule as established by his superior, the Deputy Director for Operations, was that reference to CIA participation in a broad program was permissible, but the specifics of the program were not. [ ]

[ ] replied that such references were too specific and inadmissible. References to CIA involvement in American efforts to combat Communism worldwide would be all right.

Allen demurred. He said he had seen a number of such documents on Italy and France and, in his view, such general references fell within the Deputy Director's guidelines for material that can be released. In short, Allen stated and [ ] seemed to agree that general CIA activities in specific countries were subject to revelation, but that specific CIA activities in specific countries were not. The final impression was that this was a gray area, that the "reasonable man" approach

would prevail here, and that each instance would be decided on an ad hoc basis.

Glennon made clear that discussion of these documents did not represent PA/HO's acceptance of CRD's position. In fact, he stated there was still a long way to go to reach agreement. He inquired what steps would be followed if agreement were not reached.

[ ] answered that there was still some flexibility in CRD's position and that they were willing to continue discussion on these documents. If, after further discussion, agreement cannot be reached, CRD could transmit PA/HO's views to the Deputy Director for Operations for his final review. A decision by him which was still unacceptable to PA/HO could be appealed to the ISOO (Information Security Oversight Office).

[ ] concluded by saying the CRD objections on the [ ] compilation left the reader with an "honest" picture, that the U.S. was intensely interested in the elections and was in close touch with [ ] on the matter. Mabon demurred, noting that this is nothing new and that documents do exist that would reveal new information if CIA would let HO publish them.

As an aside, Allen raised an objection regarding another kind of document, one in which an ambassador offered a scathing indictment of a [ ]. The issue was not the scathing nature of criticism, but he wondered why that document was selected, why it was singled out for special treatment. He thought the U.S. government should not display its internal disagreements in public. But the primary objection he had to the document was that it revealed the CIA's presence in that country.

Mabon responded by saying that this document was not singled out for special treatment and that PA/HO does not select documents on the basis of their revelation of inter-agency bickering on minor issues. But where important differences on policy matters existed, PA/HO feels an obligation to provide documentation.

Glennon said that the documents on [ ] in 1952 supplemented similar documents already in print in FR, 1951, VI.

[ ] said there was perhaps some more flexibility in CIA's position on the question of CIA presence in a country than they had so far suggested. Where the presence was not identifiable

in a given edifice, [redacted] they might find references to the CIA acceptable.

[redacted] asked whether it was not possible to substitute for certain troublesome documents less sensitive sources that conveyed essentially the same information.

Glennon answered that this could be done in some cases from other documents, from memoirs or autobiographies, from documents released under FOI - but it was not always possible.

Landa asked [redacted] if he could give any specific examples where CIA presence in a country might be acknowledged so long as it did not place the CIA in a particular "edifice."

[redacted] said that the Dominican Republic in 1965 was one such case, because there was such a massive U.S. presence that it could reasonably be assumed the CIA was providing information back to Washington.

Allen said that warlike conditions, like [redacted] the Vietnam War, justify the CIA presence and therefore make it easier to admit that presence.

[redacted] said that problems arose where the opposition was less definable. The overriding concern was not to allow enemies of the United States to unravel intelligence operations. But CIA was also concerned about the embarrassment which disclosure of certain information might cause some governments. [redacted]

[redacted]

[redacted]

[redacted]

Glennon thanked the CIA representatives for their courtesy and for expressing their views so frankly, but he emphasized that PA/HO differed sharply from those views and that it seemed that we faced a long road before agreement might be reached.

Allen said that they were ready to discuss their position on SE Asian materials at HO's convenience. They would then proceed to the Latin American and European compilations, in that order.

yes

In retrospect, it appears that during the meeting [redacted] effectively cut the ground from under us on the issue of whether the FR series is a legitimate vehicle for initial executive disclosure for CIA materials by issuing his hard-line opening statement identifying the single criterion for declassification of FR documents as prior executive disclosure (as CIA defines it). In other words, we were precluded during the session from discussing the question of using the Foreign Relations series as one of several forms of CIA executive disclosure of new material on previously undisclosed subjects. Glennon alluded to the issue by asking that FR material be treated as fairly as mandatory review material, another form of executive disclosure which does not require prior official acknowledgement of CIA involvement in order for release of documents to take place. The CIA participants assiduously avoided discussing this apparent contradiction in the treatment of the "executive disclosure" question.

We were therefore confined to arguing on the relatively narrow grounds that material already publicly but unofficially released was proper subject matter for treatment in FR. We never addressed the larger issue of how to get the CIA to recognize that the FR series should be a prime vehicle for the initial disclosure of some of its secrets, just as is the release of documents under FOI. And the reason we never addressed the question is that [redacted] argued from the outset that the CIA charter legally prevented him from making such decisions, although he did intimate that decisions of this sort can come from the director of CIA, as in fact they have in the case of the CIA presence in Vietnam in the 60s and 70s and as they do repeatedly in FOI releases. The implication is that he -- [redacted] -- is bound legally by the charter but that his superiors -- or at least the DCI -- are authorized by the charter to make exceptions on an ad hoc basis. Whether it can be done only on an ad hoc basis is an open question, but it seems fair to ask whether HO and the State Department might consider approaching the DCI for an across-the-board decision on material destined to be published in FR, subject, of course, to the legal restrictions on revealing sources and methods. [redacted] never explicitly recommended that we do so, but the implication was left from some of the other things he said that this was an option we might pursue, however distasteful it might be to the CIA. Some of those other things he said included the reference to the fact that the DCI had already opened by executive disclosure knowledge of the CIA presence in Vietnam in the 60s and 70s (albeit only for legal reasons relating to MIAs); that in fact the CIA did want to take a "reasonable man" approach to declassifying material that was no longer sensitive; and by his admission that there was a wide grey area where reasonable people can disagree on what is still sensitive and what is not. If he had

seen the rule about prior authorized executive disclosure, which he enunciated at the very first, as absolutely fixed, there is no reason why he should have mentioned any of these things, which were in some cases entirely unsolicited.

A second impression left by [ ] was that the CIA was not about to venture into the area of judging the effect on U.S. foreign relations of the release of a document and to use that judgment as a criterion in reviewing a document. Allen and [ ] wondered what the effect of the release of certain kinds of information might be on our foreign relations, but [ ] stuck strictly to the legal authority argument, basing his position on the CIA charter.

A third impression, related to the second, was that the CIA's interpretation of its charter, which calls for protection of sources and methods, had been to broaden it to include the concealment of locations and activities of the CIA. It seemed that the legal argument used by [ ] was being stretched to the breaking point in this instance. The withholding of certain information about location and activities may be argued on foreign relations grounds -- which is the State Department's and not the CIA's bailiwick -- but probably not on legal grounds.

The final impression was that [ ] was very much in charge and that he in turn had gotten his marching orders from the Deputy Director for Operations.