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NATIONAL SECURITY AGENCY
FORT GEORGE G. MEADE, MARYLAND 20755

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Serial: N1143
5 October 1982

MEMORANDUM FOR THE DIRECTOR OF CENTRAL INTELLIGENCE

SUBJECT: The Puzzle Palace

I am forwarding for your information a copy of an NSA presentation on 23 September to the Senate Select Committee on Intelligence on the subject of the recently released book The Puzzle Palace. A similar presentation was made to the House Permanent Select Committee on Intelligence.

LINCOLN D. FAURER
Lieutenant General, USAF
Director, NSA/Chief, CSS

Encl:
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BRIEFING

TO BE PRESENTED BY



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Director of Policy, National Security Agency

to the

Senate Select Committee on Intelligence

Concerning

"The Puzzle Palace"

23 September 1982

(Please see footnote on bottom of page 1
added to text on 29 September 1982.)

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INTRODUCTION

(FOUO) Mr. Chairman, Members of the Committee, I am pleased to be here today to discuss James Bamford's recently released book about NSA - entitled "The Puzzle Palace." I intend in my presentation to respond to the questions raised in the Committee's letter of 20 September. In my position as Director of Policy for NSA, I've spent a fair amount of time over the past 2 1/2 years worrying about this book. On the one hand, as initial denial officer under the Freedom of Information Act, I have been overseeing the release to Mr. Bamford under the Act of a large quantity of NSA materials, including a long string of NSA Newsletters and a quantity of unclassified articles written for various NSA technical journals. On the other hand, I have been involved in a fairly intensive - but unsuccessful effort - to prevent the publication by Bamford of information that was known to be classified; and more recently, I've been concerned with the compilation of an assessment of damage believed to have been caused by the book.

(C) With this brief introduction, I'd like to spend the remainder of my time describing the book itself, our assessment of the damage caused by it, and some legal measures that are being explored in conjunction with the Justice Department.

(C) Let me begin by saying that Bamford's book does not - with one major exception which I will describe later - contain specific, identifiable items which are clearly classified and which might constitute a definite and unambiguous basis for pursuing legal sanctions against the author.* At the same time, it is possible to say that the book as a whole is quite damaging to the U.S. intelligence effort in a variety of ways which I will comment upon in more detail in a few minutes.

* NOTE: As of 29 September 1982, further information has become available in the continuing NSA review of the book which may cause us to modify this statement to reflect that there are additional places in the text where classified materials appear.

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SECRETTHE BOOK ITSELF

(FOUO) The dust-cover states that The Puzzle Palace is the first book ever written on the National Security Agency and claims that the author traces NSA's origins, details its inner workings and explores its far flung operations. To quote from the dust-cover, Bamford ". . . describes the city of fifty thousand people and nearly twenty buildings that is the Fort Meade headquarters of the NSA - where there are close to a dozen underground acres of computers, where a significant part of the worlds communications are monitored, and where reports from a number of supersophisticated satellite eavesdropping systems are analyzed. He also gives a detailed account of NSA's complex network of listening posts - both in the United States and throughout much of the rest of the world." Reference is also made to certain communications as examples of NSA targets to include a Soviet general picking up his car telephone to call headquarters, a New York businessman wiring his branch in London, and the British Admiralty desiring to know the plans and movements of Argentina's fleet in the South Atlantic.

(FOUO) This mixture of fact and fiction is carried on throughout the text of the book in a way which can't help but leave the unwitting reader with the impression that the NSA and its technical capabilities are able to monitor at will the communications of individuals - including U.S. citizens -- on a world-wide basis.

(FOUO) In fact, in a theme which is prevalent throughout the text, Bamford observes in Chapter 1 that: ". . . the very same capabilities that provide the United States with its greatest intelligence resource also provide the nation with one of its

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greatest potential dangers." In another quote from the concluding pages of the book, Bamford makes the following statement: "Like an ever-widening sinkhole, NSA's surveillance technology will continue to expand, quietly pulling in more and more communications and gradually eliminating more and more privacy." I submit that this is not a very reassuring picture if you are a reader in middle America whose only exposure to NSA is through the pages of Jim Bamford's "Puzzle Palace."

(FOUO) In a similar vein, Bamford appears to be preoccupied both in the text of his book and on a variety of current radio talk shows with an implied lack of control and oversight over the activities of NSA. He is clearly concerned with NSA's lack of a formal, statutory charter and he also asserts that the Foreign Intelligence Surveillance Act (FISA) has enough loopholes and exceptions to render it nearly useless (p. 378). This approach is not calculated to reassure citizens with respect to the activities of the NSA and the mechanisms which have been established within the Executive, Judicial and Congressional Branches to monitor and oversee these activities.

(FOUO) What did Bamford write about? - The book contains references to most of the publicized, significant events pertaining to NSA that have occurred during its 30-year history to include: the Martin and Mitchell defections; the attack on the U.S.S. Liberty; the seizure of the U.S.S. Pueblo; black bag jobs; the watch lists (MINARET); and the arrangements with the cable companies (SHAMROCK).

(C) Where did Bamford get his information? - There is no question that Bamford's research was extensive, wide-ranging and, in some cases surprisingly successful. (As an example, he was able

to find and to get declassified and released to him by the National Archives a manuscript sealed by the U.S. Government forty-six years earlier after seizure from a New York publisher by Thomas Dewey, then an assistant U.S. Attorney in New York City. The manuscript, prepared under the guidance of early code-breaker Herbert Yardley, dealt with the Japanese role in the arms limitations conference of 1921-22 based on a large quantity of intercepted Japanese messages decoded in Yardley's Black Chamber and provided to the U.S. negotiators in the conference).

FOIA IMPLICATIONS

(FOUO) Bamford made extensive use of the Freedom of Information Act, conducted research in private libraries, compiled much material from previously published articles and Congressional reports and was able to lend some authenticity to some of his observations through interviews with a variety of individuals familiar with NSA operations including several senior former employees or assignees of the Agency. The book is extensively foot-noted and, in many cases, material which on first glance appears to be highly classified is seen to be derived from a New York Times article or a Congressional report.

(FOUO) NSA first became aware of Bamford's intentions to write a book in March 1978 when we received the first of 11 FOIA requests. Our relations with him since that initial contact, though proper, have been conducted at arm's length. We have responded to his FOIA requests; we refused requests for interviews with senior personnel; and we responded positively to requests that we felt to be of the sort which any citizen should receive, for example access to our recruiting offices both here and in Boston and discussions with our recruiting personnel.

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(S) There is one incident involving the FOIA that deserves particular attention here. This incident concerns the disclosure of classified information in a document that was improperly redacted by the Department of Justice and provided to Bamford in 1979 in response to an FOIA request. The classified information disclosed concerned not only NSA but also CIA and the FBI, although the most sensitive information pertained to a certain NSA operation (MINARET)

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(S) In April of 1981, Bamford sent a copy of one of the sensitive pages from this DOJ document to a British liaison officer stationed at NSA, with a letter asking some pointed questions which indicated that Bamford clearly understood the significance of what he had. This incident led to a decision made jointly by NSA and Justice to have Justice approach Bamford to discuss the improperly redacted materials and the possibility of their return. A preliminary meeting with Bamford in July of 1981 went quite well, though a subsequent meeting the following month did not. In September of 1981, Justice notified Bamford by letter that he was currently in possession of classified information that requires protection against unauthorized disclosure. The letter also advised Bamford that it was his duty and obligation as a U.S. citizen to return the information to the Department of Justice.

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Bamford, through his ACLU lawyer, refused to do so with the result that the material of concern to both the U.S. and British Governments has been published not only in The Puzzle Palace but also in a number of newspapers both here and in the U.K.

(S) The Senior U.K. Liaison Officer to NSA has expressed to us his Government's displeasure and disappointment with our inability to devise any effective legal method to address this unauthorized disclosure which must be considered to reflect adversely on our general ability to protect classified information provided to the United States by a foreign government.

(S) We are in current dialogue with the DOJ on this subject and both NSA and Justice have tentatively concluded that a criminal prosecution for publication of the classified information does not appear to be feasible for reasons both of substance (in that the proof of criminal intent necessary for a conviction is thought to be very difficult - a view that we do not necessarily share) and for procedural reasons (i.e., inability to control publicity, which is quite naturally of great concern to us).

(C) In a related development, we have recently learned that Bamford has served in a fully cleared status with the Naval Security Group during the mid-1960's. This fact is of special interest because it could provide the basis for a Snapp-type civil proceeding, a possibility which we are continuing to explore in detail in conjunction with Justice. Our thinking in this regard has to do with the fact that Bamford, as a former member of the

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Naval Security Group, probably had access to classified SIGINT information and thus should be held to some obligations with respect to his usage of classified information, however obtained. The Navy has provided NSA some information germane to a possible civil action and further investigation is continuing.

RESPONSES TO COMMITTEE QUESTIONS

(FOUO) Your 20 September letter requested that we provide a review of the methods Bamford used to acquire the information which he has revealed in the book and options for limiting the availability of these methods in the future. You also requested a review of NSA's procedures for limiting publication of potentially damaging information of the sort contained in the book.

(FOUO) Bamford's sources of information and methods of acquiring that information are quite easily described. So far as we are able to determine, he used sources easily available to any serious researcher, to include unclassified or declassified records in the National Archives and public libraries. Congressional reports were used extensively as was the Freedom of Information Act. Finally, Bamford was able to arrange interviews with a number of individuals who had some knowledge of NSA's activities. Some of these were former employees or assignees of the Agency.

(U) In considering this case as a whole, we believe that the first and most obvious problem relates to the substantial risks to intelligence agencies caused by the Freedom of Information Act. Secondly, we would note the ineffectiveness of formal legal

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proceedings to minimize the consequences of or punish unauthorized disclosures.

(FOUO) In regard to the FOIA, we believe that the procedures used by NSA in processing and releasing to Bamford of volumes of unclassified materials were performed in accordance with the language and spirit of that act. With one major exception, we envision little or no change in what we believe to be these careful and deliberate NSA review procedures. The one major lesson we learned relates to how we publish our internal, unclassified Newsletter. Based on our experience with Bamford, this document now receives a careful review before publication to ensure that it contains no sensitive - albeit unclassified - personnel or other organizational data.

(FOUO) Although all information released to Bamford under the FOIA was carefully reviewed and no classified information was released by NSA, it is clear that Bamford was able to use the NSA- released information in interviews and in his other researches in order to develop a picture of the Agency that, as a whole, has to be considered damaging and that would not otherwise have been possible.

(U) In our view, this suggests, as has been proposed to the Congress before, that intelligence agencies and intelligence-related information should be generally exempted from the scope of the FOIA: the reason, to reiterate, is not that Agency releases will not be properly reviewed and classified information extracted but that almost any information obtained from an

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intelligence agency can be put together with other information so as to provide information revealing of the intelligence Agency's functions.

(S) The other area of the law most clearly implicated by The Puzzle Palace is the lack of utility in our statutes protecting classified information. Notwithstanding DOJ's skepticism that a good criminal case exists against Mr. Bamford, on balance it is clear that Mr. Bamford violated 18 U.S.C. §798(a)(3) by publishing the excerpt from the DOJ report revealing GCHQ SIGINT activities: he was warned that he had classified information and from our counsel's contacts with him and his lawyer it is clear he knew what the classified information was. Despite this, his publication will almost inevitably go unpunished, because any criminal proceedings against Bamford would, through its public character, simply publicize even more the classified information which we would desire to protect through the prosecution. The self-defeating nature of legal action with respect to unauthorized disclosures is not news, of course, but in this situation, where the individual had been warned yet chose to proceed and publish, the Government's inability to take effective legal action both frustrates those conscientious employees who know of it and creates well-justified doubts on the part of our allies concerning our ability to control access to classified information.

(C) It would, of course, be desirable to learn from this experience and to be able to propose to the committee some statutory change which would permit the more effective protection of

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classified information. Practically, however, we recognize that legislation in this area is most unlikely, and that many of the problems encountered in using law to protect classified information simply reflect the realities of life in a free and open society. Yet, it is fair to emphasize to the committee that unauthorized disclosures of intelligence information in general, of which Mr. Bamford's case is simply a recent and rather special example, do endanger our national security and do adversely impact NSA's ability to perform its tasks. In this regard, the committee might wish to consider whether special, closed hearings at which the deficiencies in legal methods of protecting classified information could be explored in detail and candor might be a productive enterprise.

ASSESSMENT OF DAMAGE

(S) Finally, in terms of assessing damage, the book contains a wealth of detail on NSA's physical layout, some analytic techniques, our own communications nets, pinches, wiretaps, break-ins, intercept sites, reconnaissance planes, SIGINT and photo satellites, success or intercept against several target countries or entities, and relations with friendly foreign SIGINT services. It is difficult to make a persuasive case that any of these particular items will in and of itself, likely have a harmful effect on us either because of the lack of specificity or the datedness of the material. On the other hand, the cumulative effect of compiling such information into a single document could easily stimulate a current target of NSA to upgrade its communications

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security efforts in order to deny us further access. Fiction has the potential of hurting almost as much as fact when the two are intermingled as they are in this book. In this context the book, in our opinion, must be regarded as damaging to the U.S. intelligence effort.

(FOUO) It is also our view that the book gives undesirable and unwarranted adverse publicity to the NSA organization and to the operations and personnel of the United States SIGINT system. It is a fact that current employees do not appreciate being so identified; and also, information in the book based on interviews with former NSA personnel is almost certain to spark further media approaches to other retired individuals, making it more difficult to maintain the customary discipline.

(S) One unfortunate by-product of the book that has occurred already is the attention that has been drawn to various NSA intercept facilities both in the U.S. and abroad. [redacted]

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[redacted]

We are certain to see more of this in the

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weeks to come. [redacted]

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[redacted]

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(FOUO) In summary, the book is not going unnoticed. In fact, it was listed by the Washington Post last Sunday as being ninth in sales among non-fiction books in the Washington area. We understand that it has gone into its third printing. With reviews such as Philip Taubman's in the Sunday Times Book Review this week, it is likely that The Puzzle Palace will be around for sometime. Taubman concludes his review with the following observation. He says:

"By revealing the scope and opening up the operations of the NSA without giving away its most sensitive secrets, Mr. Bamford has performed an important public service in this impressive book."

(C) Disagreeing with Mr. Taubman's conclusion, we believe the book as a whole to be quite damaging indeed and it is difficult for us to perceive how it serves the public well in any respect. It certainly does not contribute to the health of the U.S. intelligence community in general or of the United States Signals Intelligence System in particular.

(C) Responding to the final Committee question which asked for our assessment of how publication of this volume will effect future intelligence collection operations of the National Security Agency, I would state that it is not now possible to respond to this query in specific, quantifiable terms. As time goes on, it maybe possible

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to make such judgments but for now I would just reiterate my earlier comment that the cumulative effect of such a book, in our opinion, must be regarded as damaging to the U.S. intelligence effort.

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