

SECRET

DRAFT

MEMORANDUM FOR: Deputy Director for Operations
 Deputy Director for Administration
 ATTN: Director of Security

FROM: []
 Office of General Counsel

SUBJECT: Department of Justice Document Rights -
 Tseherim Soobzokov

DECLASSIFIED AND RELEASED BY
 CENTRAL INTELLIGENCE AGENCY
 SOURCE METHODS EXEMPTION 3828
 NAZI WAR CRIMES DISCLOSURE ACT
 DATE 2007

1. The Office of Special Investigations, Criminal Division, Department of Justice has requested permission to use six documents in the possession of the Agency in the prosecution of denaturalization proceedings against one Tseherim Soobzokov. These documents, ~~supplied~~ ^{comprising documents} supplied by Soobzokov to DDO staff officers and polygraph reports prepared by the Office of Security, are solely within the possession of CIA. The circumstances ~~surrounding~~ ^{surrounding} the acquisition of this material involve still sensitive operations and the identity of personnel who are still under cover. This Office has been informed by the DDO that the identification of these individuals as CIA employees could ~~personally~~ ^{reasonably} be expected to cause widespread damage to other, unrelated operations. Additionally, the Office of Security has interposed an objection to the declassification and release of the polygraph material ~~on~~ ^{in general} ~~policy grounds~~, citing the potential chilling effect such a release might have on future sources; and the threat of disclosure of polygraph methodology. ~~if the Agency adopted a policy of releasing details of polygraph interviews.~~

Because of these concerns, and for the reasons given below, it is the opinion of this Office ^{ADVISES} that CIA not ~~permit the use~~ ^{tolerate} of any of the requested documents ^{for use} at trial ~~or discovery.~~

2. The Office of Special Investigations has requested that six Agency documents be made available for its use in the Soobzokov denaturalization case. Although OSI would like to have the documents made available on an unconditional basis, it has agreed to use the documents subject to any conditions we must impose in order to protect the Agency's interests. This would include using ~~redacted~~ ^{redacted} versions of the documents, using the documents only at discovery, or attempting

SECRET

DERIVATIVE CL BY 2/E
 DECL REVW ON 7 Feb 2000
 DERIVED FROM 29C.1

SECRET

DRAFT

to introduce the documents with something less than a full foundation. However, the sensitivity of the circumstances ^{surrounding} summoning the Agency's acquisition of these documents forecloses the possibility publicly admitting to the existence of these documents in our files, *much less using them at trial.*

DOCUMENT 1

3. OSI has requested permission to use a document contained in the DDO files dated December 30, 1942, which refers to Soobzokov as Chief of the Field Police. This document directly supports several counts in the Government's complaint against Soobzokov and is apparently the only documentary evidence that Soobzokov was a member of a German-controlled police force. The original of this document was presented to CIA staff officer [] by Soobzokov in late 1952, who copied it and returned the original to Soobzokov. The copy, with documentation ~~showing~~ ^{ESTABLISHING} the chain of custody from Soobzokov to the present custodian is in the DDO files.

4. The unique circumstances ^{surrounding} ~~summoning~~ ^{this} acquisition of this document preclude its use at trial. DDO files indicate that when Soobzokov turned the document over to [] in 1952, Soobzokov was not witting of []'s true employment. ^{ALTHOUGH HE KNEW [] IN THIS NAME}

[] However, ^{later} ~~later~~ file entries indicate that Soobzokov was probably made witting of []'s CIA employment and that Soobzokov was definitely made witting that []'s Deputy, [], who handled Soobzokov in []'s absence, was a CIA employee. Therefore, one must assume that Soobzokov is aware that CIA possesses the document. Accordingly any attempt to conceal the source of the document from Soobzokov would be futile. However, we cannot permit full public disclosure of the chain of custody of this document without surfacing [] as the original recipient; we cannot identify [] as the recipient without disclosing his Agency affiliation. We have been informed by the DDO that such disclosure could have the following effects:

SECRET

- 1) Admission of CIA presence [], under cover [], would have a serious impact on our relations with the local government, notwithstanding the fact that the incident occurred almost 30 years ago.

SECRET

DRAFT

2) It would imperil our ability to deny that the existence of such a presence in other cases;

3) An association of [] with CIA would imperil the projects with which he was associated ^{INTER} ~~inter~~ in his career. We have been informed ^{by the DDP} that [] maintained [] cover throughout his career and has retired under that cover. ^{WE HAVE ALSO BEEN INFORMED THAT,} Following his assignment in [], [] was assigned to a sensitive domestic installation, which to date has had no open relationship with CIA. Breaking []'s _____ cover could reasonably be expected to jeopardize the cover of this still extant ^{SENSITIVE OPERATION} ~~extant~~ ^{ASSET ON []}.

5. These circumstances place CIA in a ~~very~~ vulnerable position if the document is used at trial. If the document is proffered under a cloud of secrecy, Soobzokov may very well seize the opportunity to blackmail the Government, using the information he knows about [], [] and the [] operations; or in the alternative, Soobzokov may retaliate by actually disclosing the information he possesses. Accordingly, the only ^{AVAILABLE} ~~prudent~~ course of action would be to avoid using the document in any manner, thus avoiding the problem of disclosure on the part of the Government, and the threat of blackmail or retaliation on the part of Soobzokov.*

* Soobzokov does not seem presently disposed to attempt any blackmail or graymail against the Agency. Apparently, he believes that CIA will maintain the confidentiality of ^{his INFORMATION} ~~his information~~ ^{IN RETURN} ~~statements and submission of documents~~ and is willing to keep his knowledge of confidential information out of the public domain.

SECRET

SECRET

DRAFT

Document 2

6. This document, which refers to Soobzokov as a military commander, was delivered to [] at the same time as Document 1. The same reasons which preclude the use of that document apply to document 2.

Document 3

7. This document dated March 9, 1953 is a report of a polygraph interview conducted by the Office of Security overseas. The report documents statements made by Soobzokov that support the Government's contention that he was a member of the German SS. Because the interview was conducted overseas, and in conjunction with Soobzokov's use in operational activities, CIA cannot permit a full ~~open~~ foundation to be laid for this document. Also, because the full text of the document would reveal the identities of intelligence sources and reveal the methodology used in conducting the polygraph interview, we cannot permit the ^{INTRODUCTION} ~~use~~ of an unredacted version of the report. OSI has agreed in principle to use the material in redacted form and to attempt to introduce the document with a less than full foundation. Based on our earlier discussions with the Office of Security, it would appear possible to release the polygraph report in the following form and subject to the following conditions:

- a) that this document be used in redacted form only;
- b) that it be identified as a report made subsequent to an interview with a Security Officer;
- c) that no referable be made to the use of the polygraph, ^{OR} the location and circumstances ^{SURROUNDING} ~~summoning~~ the interview;
- d) and that the Government would interpose a claim of states secrets privilege for all information withheld and sought to be disclosed by the Defendant.

8. Had the DDO not interposed its concern over the disclosure of identifies of personnel who dealt with Soobzokov, this proposal

SECRET

might have merit. However, this partial opening of the door is not consistent with the position that the Agency must take with respect to the DDO material. If we must absolutely refuse to permit the use of material directly connected with [] and [], we must interpose the same objection to the use of material that is indirectly connected with them. Just as our attempts to conceal the source of documents 1 and 2 may trigger action on Soobzokov's part, the use of these statements may very well result in the same reaction. Accordingly, we must ^{REFUSE} ~~refuse~~ to permit ~~their~~ use in any manner of Document 3 at trial.

Document 4

9. This document dated 23 February 1956 is an interrogation report prepared by a third ^{DDO} staff officer, []

[], following an interview in the United States. At the time of the interview Soobzokov was not engaged in any activity for CIA. Although the file does not indicate whether [] met Soobzokov in the name or in alias, it appears likely that [] used some form of military cover. [] resigned from the Agency in 1962 and his present whereabouts are unknown. The only other individual who dealt with Soobzokov at this time ^{did} do so in alias and under military cover. Taken ^{above} ~~above~~, this document could be used at trial, albeit in redacted form, and without the full foundation normally required for admission of documents. The document would be used in sanitized form, identified as a report received in the course of an interview conducted within the United States. However, the name of the individual who wrote the document would not be identified, and authenticity would be based solely on the statements of the DDO custodian of records that the document was maintained in the normal course of Agency business.

Document 5

10. This document, dated October 1958 by Soobzokov, was prepared by Soobzokov in an attempt to clear up ~~years~~ ^{THE YEARS} discrepancies in his biography that had appeared through ~~the~~ ^{the} ~~At~~ the time he wrote this biography, Soobzokov had been dismissed as a contract employee. Soobzokov apparently knew he was dealing with CIA at the time, although he was contacted

SECRET

DRAFT

by one officer in alias, under military cover, and a second officer with uncertain status. This document contains personal information only and, taken on its own, it is releasable in full text in the Cyrillic original and English translation. ^{Proviso} However, the full circumstances summoning the of the document ~~could not~~ ^{would not} be used for foundation. The DDO has indicated that it would have no objection to statements to the effect that the biography was received from Soobzokov by CIA in the United States, and would attest that it had been maintained within DDO files since its receipt. However, the DDO is not prepared to permit the release of the name of the recipient or of the details summoning the receipt.

^{However,} 11. This document as the others cannot be treated in isolation, and poses the same potential for disclosure. If CIA releases this document, Soobzokov may be moved to disclose the identities of individuals and details of operations he was made privy to.

Document 6

12. This is the report of the final polygraph interview with Soobzokov in 1959. It, unlike the 1953 interview, was conducted within the United States, However, it also cannot be released in full text, and also contains information which could disclose polygraph methodology. Although in an isolated ^{ENVIRONMENT} this document could be released subject to the conditions discussed ^{in paragraph 7} above, our previously stated concern over the release of any CIA information applies and we advise against release.

13. In summary, the continued sensitivity of the identity of ^{two} ~~the~~ individuals, and the potential for blackmail or retaliatory disclosure dictates against the release of any CIA documents. This concern applies directly to documents 1 and 2 which are were received by the individual whose identity we must still protect. This concern applies with less emphasis to Document 3. The remaining documents, which could be released in part in isolated cases, also bear the seeds of danger and therefore should also be withheld.

SECRET