

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

May 27, 1975

Dear Mr. Klaus:

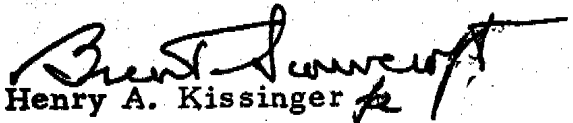
I have your letter of April 1, 1975, appealing the denial of your request for the release of NSC 10 and NSC 10/2.

We have carefully examined these documents in light of your request, and have determined that they are exempt from disclosure under 5 U. S. C. 552 (b)(1). These documents are classified and exempt from the General Declassification Schedule pursuant to the provisions of Sections 5 (B)(2) and (3) of Executive Order 11652, (March 8, 1972), as amended.

After consulting with another agency having an interest in the subject matter of these documents, we have also determined that the documents are exempt from compulsory disclosure under 5 U. S. C. 552 (b)(3). In this connection, we refer you to 50 U. S. C. 403 (d)(3) and 50 U. S. C. 403g. In addition, NSC 10 is also exempt under 5 U. S. C. 552 (b)(5).

As you know, you have the right to seek judicial review of this denial of your request under the provisions of 5 U. S. C. 552.(a)(4).

Best regards,


Henry A. Kissinger

Mr. David Klaus
Center for National Security Studies
122 Maryland Avenue, N. E.
Washington, D. C. 20002

NSS/NSC Review Completed.

MEMORANDUM

NATIONAL SECURITY COUNCIL

~~TOP SECRET~~ XGDS

May 22, 1975

FREEDOM OF INFORMATION ACT APPEAL

MEMORANDUM FOR: SECRETARY KISSINGER
 THROUGH: GENERAL SCOWCROFT
 FROM: Jeanne W. Davis *JWD*
 SUBJECT: Request for Documents
 Concerning Covert Operations

On March 18, 1975 we received a Freedom of Information Act (FOIA) request from Mr. David Klaus (Tab A), an Associate at the Center for National Security Studies (Mort Halperin's organization), for the declassification and release of NSC 10 and NSC 10/2, two 1948 documents assigning responsibility for planning, authorizing and monitoring covert operations.

We denied this request under Sections (b)(1) and (b)(3) of the amended FOIA in my letter of March 27, 1975 (Tab B). As expected, the denial has been appealed with an indication that a lawsuit will be initiated to compel disclosure if the appeal is denied (Tab C). A final determination was due Mr. Klaus no later than May 16, under the time requirements of the FOIA. However, he has not yet paid the reproduction fees for a document sent him previously, nor has he requested a waiver of the fee. Accordingly, we have informed him by letter that, according to our regulations, we have stopped the clock on this request until he pays for the previous work. He has telephoned to say he is forwarding a check, so we must be prepared to act on this item as soon as his check is received.

(It has now been received)

NSC 10 and NSC 10/2 (Tabs D and E) are 1948 documents which detail the genesis of a coordinated effort in covert operations. They view the position of world leadership assumed by the United States and the "vicious covert activities of the USSR" as factors which necessitated an organized system of covert activities. In paragraph six of Annex A to NSC 10 (Tab D) "covert operations" is defined to include "preventive direct action, including sabotage, subversion against hostile states, and support of indigenous anti-communist elements in threatened countries of the free world."

~~TOP SECRET~~ XGDS

Paragraph 5 of NSC 10/2 (Tab E) adds "economic warfare" to the definition.

NSC 10 was a draft prepared by the NSC staff for consideration. It was not adopted but was returned to the staff for revision. The revision (NSC10/1) was considered and further revised, and became NSC 10/2 which was subsequently approved.

NSC 10/2 assigns responsibility for covert operations to the CIA and creates a new "Office of Special Projects" in the CIA to plan and conduct these operations. At the same time, the DCI is assigned responsibility for ensuring that, through consultation with designated representatives of the Secretaries of State and Defense, covert operations are consistent with foreign and military policies and overt activities, and the U.S. agencies, including diplomatic and military representatives overseas, are informed of those operations which affect them.

In adopting NSC 10/2, the NSC stated explicitly that it was acting under the authority of Section 102 (d)(5) of the National Security Act, which made it the duty of the CIA to "perform such other functions and duties related to the national security as the National Security Council may from time to time direct."

OPTIONS

Based on the NSC Staff review of these documents and the views solicited from the CIA, there appear to be three options in handling this appeal:

Option 1: Declassify and release NSC 10 and NSC 10/2, thus granting the request.

- Pro -- The documents are 27 years old and are no longer in effect.
- The information they contain is primarily organizational and administrative in nature.
- We could avoid a time-consuming and costly lawsuit.
- Con -- Current covert operations policies and procedures follow the patterns established in these papers, and official acknowledgment of methods of covert operations would be detrimental to our national security. CIA believes that its effectiveness would be severely limited if this information is disclosed in that it would reduce the willingness of foreign individuals, organizations and governments to cooperate with the US in the conduct of these activities.

- The fact that the DCI is required to keep an ambassador informed of covert operations being conducted in his area could prompt attacks on our diplomatic personnel as being spies and covert operators, thereby increasing the chance of their being targets for kidnapping and terrorism. It could undercut their denial of involvement in every untoward event which takes place in their country and would destroy the ambassador's standard position of "plausible denial."
- Resulting political and propaganda exploitation could embarrass the United States and adversely affect our national security. The reference in NSC 10 to "improvised covert operations" in the Italian elections could be attacked and exploited in connection with current Italian elections.
- Release of these documents would generate requests, many of which we would have to deny, for documents cited in them. NSC 10, for example, refers to SANACC 395 on utilization of USSR refugees, 396 on evacuation (kidnapping) of key personnel, 398 on demolition of oil facilities and 304 and 304/14 on psychological warfare.

Option 2: Declassify and release a sanitized version of NSC 10 and NSC 10/2. (A proposed sanitization is at Tab F).

- Pro -- The most sensitive portions of the documents, especially the sections which define covert operations, could be removed and the remaining text would be essentially concerned with organizational and administrative arrangements.
- This would satisfy the requirement of the FOIA for release of "reasonably segregable portions" of a document, portions of which must remain classified.
- Con -- The content of these documents constitutes an interdependent body of information and disclosure of any portion of the documents could adversely affect our national security. The information which would be disclosed could be exploited for political and propaganda purposes.
- A partial release is no guarantee that our denial of the excised passages will not be challenged in court.

Option 3: Deny the appeal and release neither NSC 10 nor NSC 10/2.

- Pro -- In the interest of national security we would be protecting the sensitive information contained in these documents. NSC 10/2 is the charter under which the CIA conducts covert operations for the US government and which, as supplemented by later NSC documents, remains valid today.
- Under the statute, 50 U.S.C. 403g, the DCI is "responsible for protection of intelligence sources and methods from unauthorized disclosure". Moreover, the CIA is exempt from the provisions of any laws "which require the publication or disclosure of the organization [and] functions" of the Agency. To release these documents might be a violation of the DCI's statutory responsibility.
- Con -- We can expect that a court challenge will be initiated and complete denial will be difficult to sustain.

STAFF VIEWS

Rob Roy Ratliff recommends Option 3. He believes (Tab G) release of these documents will "fuel public attacks against the foreign policy decision-making machinery as well as our intelligence community." He believes release of this material would hinder our ability to conduct covert operations and would be detrimental to our national interests.

Colonel Granger believes that there are no substantive grounds for refusing to declassify and release these documents and that denial could lead to an unfavorable court decision and precedent. Based on their age, the fact that their content deals with matters of administration and organization, and the belief that their release would not impact on any currently active programs, he prefers Option 1: grant the appeal and release the documents. He does not oppose, however, withholding these items if the case for denial is based on their "nature," i. e. that they are concerned with "intelligence sources and methods."

CIA supports (Tab H) the initial NSC Staff decision to deny declassification of NSC 10 and NSC 10/2. In their opinion the documents are properly classified and exempt from release under the provisions of Executive Order 11652 governing classification and declassification. In addition, they contend that by statute the DCI has a responsibility to protect this information and that CIA is by law exempt from compulsory disclosure of this type of information. The CIA believes that disclosure of these documents would severely limit its effectiveness in supporting U.S. foreign policy and, accordingly, recommends that we deny the appeal, Option 3.


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In view of the recent decision to deny declassification and release of the NSCIDs and based on Rob Roy's concern for the possible impact of release of these documents on 40 Committee programs, I too support Option 3. Until we have a ruling from the Court as to how we should interpret "intelligence sources and methods," it would seem that denial on the grounds we have chosen is not inconsistent with other determinations which have been made.

Bill Casselman has concurred in this memorandum for the Counsel's office. (Tab I) If the decision is to deny the documents, in whole or in part, it will be necessary to consult with the Department of Justice before the final denial is issued.

RECOMMENDATIONS:

That you indicate your preference among these Options for handling the request for NSC 10 and NSC 10/2.

- _____ Option 1: Grant the request and release the documents.
(Granger recommends)
- _____ Option 2: Declassify and release a sanitized version
of the documents. (Tab F)
-  Option 3: Deny the appeal and withhold both documents.
(Ratliff, Davis and CIA recommend)

Concurrence: Col. Granger
Rob Roy Ratliff

Attachments

TOP SECRET XGDS

Center for National Security Studies

122 Maryland Avenue, N.E.

Washington, D.C. 20002

(202) 544-5380

National Security Council
Attn: Staff Secretary
Old Executive Office Building
Washington, D.C. 20506

March 18, 1975

Dear Ms. Davis;

This is a request under the Freedom of Information Act as amended (5 U.S.C. 552).

I write to request a copy of National Security Action 10 and National Security Action 10/2. I am given to believe that National Security Action 10/2 was dated June 18, 1948. National Security Action 10 is dated between December 9, 1947 and the date for National Security Action 10/2, June 18, 1948. My request includes any and all appendices, annexes, or other materials attached to either of the above mentioned two documents.

As you know, the amended Act provides that if some parts of a file are exempt from release that "reasonably segregable" portions shall be provided. I therefore request that, if you determine that some portions of the requested Documents are exempt, you provide me immediately with a copy of the remainder of the Documents. I, of course, reserve my right to appeal any such deletions.

If you determine that some or all of the documents is exempt from release, I would appreciate your advising me as to which exemption(s) you believe covers the material which you are not releasing.

I am prepared to pay reasonable costs for locating the requested materials and reproducing it.

As you know, the amended Act permits you to reduce or waive the fees if that "is in the public interest because furnishing the information can be considered as primarily benefiting the public." Since I am requesting the documents as the basis for an article for publication, I believe that this request plainly fits that category and ask you to waive any fees.

As provided for in the amended Act, I will expect to receive a reply within 10 working days.

Sincerely yours,



David Klaus, Associate

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

March 27, 1975

Dear Mr. Klaus:

I am writing in response to your letter of March 18, 1975 in which you request a copy of NSC Action 10 and NSC Action 10/2.

There is no NSC Action 10/2 and we have assumed that the focus of your request is actually NSC 10 dated May 12, 1948 and NSC 10/2 dated June 18, 1948. The NSC Staff has carefully reviewed these documents and has determined that for the present both must remain classified in their entirety and that they are exempt from declassification under Sections (b)(1) and (b)(3) of the amended Freedom of Information Act.

You are aware that you have a right to appeal this decision to Mr. Kissinger, in his role as Assistant to the President for National Security Affairs. Such an appeal should be addressed to me as Staff Secretary of the National Security Council.

Sincerely,



Jeanne W. Davis
Staff Secretary

Mr. David Klaus
Center for National Security Studies
122 Maryland Avenue, N. E.
Washington, D. C. 20002

2034
Tab C

Center for National Security Studies
122 Maryland Avenue, N.E.
Washington, D.C. 20002
(202) 544-5380

Ms Jeanne W. Davis
Staff Secretary
National Security Council
Washington, D.C. 20506

April 1, 1975

Dear Ms Davis:

This is an appeal pursuant to subsection (a)(5) of the Freedom of Information Act (5 U.S.C. 552).

On March 28, 1975, I received a letter from you representing the NSC denying my request for information and indicating that an appeal should be directed to you. This letter constitutes that appeal. I am enclosing a copy of my exchange of correspondence with the NSC so that you can see exactly what files I have requested and the insubstantial grounds on which my request has been rejected.

I trust that upon examination of my request you will conclude that the information I have requested is not properly covered by exemptions (b)(1) and (b)(3) of the amended Act and will make the information promptly available.

As provided for in the Act, I will expect to receive a reply within 20 working days.

If you are unable to order release of the requested information, I intend to initiate a lawsuit to compel its disclosure.

Yours sincerely,



David Klaus, Associate

TOP SECRET

NSC 10

ETS - HK 14786

COPY NO. 22

**A REPORT
TO THE
NATIONAL SECURITY COUNCIL**

by

THE EXECUTIVE SECRETARY

on

DIRECTOR OF SPECIAL STUDIES

May 12, 1948

WASHINGTON

TOP SECRET

WARNING

THIS DOCUMENT CONTAINS INFORMATION AFFECTING THE NATIONAL DEFENSE OF THE UNITED STATES WITHIN THE MEANING OF THE ESPIONAGE ACT, 50 U.S.C., 31 AND 32, AS AMENDED. ITS TRANSMISSION OR THE REVELATION OF ITS CONTENTS IN ANY MANNER TO AN UNAUTHORIZED PERSON IS PROHIBITED BY LAW.

May 12, 1948

NOTE BY THE EXECUTIVE SECRETARY

to the

NATIONAL SECURITY COUNCIL

on

DIRECTOR OF SPECIAL STUDIES

Reference: SANACC 304/14

The enclosed report on the above subject has been prepared by the National Security Council Staff, with the advice and assistance of representatives of the Departments of State, the Army, the Navy and the Air Force, and of the National Security Resources Board and the Central Intelligence Agency.

The enclosed report is accordingly submitted for consideration by the National Security Council at an early meeting.

It is suggested that special security precautions be taken in the handling of this report.

SIDNEY W. SOUERS
Executive Secretary

Distribution:

The Secretary of State
The Secretary of Defense
The Secretary of the Army
The Secretary of the Navy
The Secretary of the Air Force
The Chairman, National Security
Resources Board

D R A F T

REPORT BY THE NATIONAL SECURITY COUNCIL

on

DIRECTOR OF SPECIAL STUDIES

THE PROBLEM

1. To consider measures for the furtherance of covert operations in the interest of our national security.

ANALYSIS

2. The means employed by a nation in pursuit of its national objectives may be both overt and covert. They range in time of peace from such overt actions as political alliances, economic measures (as ERP), and "white" informational activities, to such covert operations as unacknowledged support of "friendly" foreign elements, "black" propaganda and encouragement of underground resistance in hostile states.

3. Having assumed greater international responsibilities than ever before in our history and having been engaged in a "cold war" by the full might of the Kremlin, the United States cannot afford to leave unmobilized or unemployed its resources for covert operations. The United States cannot afford in the future, in perhaps more serious political crises, to rely upon improvised covert operations as was done at the time of the Italian elections.

4. In NSC 4-A provision was made for the conduct of certain covert psychological (propaganda) operations. The State-Army-Navy-Air Force Coordinating Committee has considered such matters as utilization of refugees from the USSR in the United States national

interest (SANACC 395), plans for evacuation of key foreign personnel (SANACC 396), demolition of oil facilities (SANACC 398), and psychological warfare (SANACC 304). In connection with psychological warfare, the views of the Joint Chiefs of Staff, concurred in by the State-Army-Navy-Air Force Coordinating Committee, have been referred to the National Security Council for consideration. It is the opinion of the Joint Chiefs of Staff that from the military point of view "there should be established, as soon as practicable, under the National Security Council, a Psychological Warfare Organization, but with its peacetime scope and activities limited to that of a working nucleus for planning and coordination" (SANACC 304/14). The Policy Planning Staff of the Department of State has also recommended that covert operations be immediately instituted under unified direction.

5. In the light of the above considerations, there is a need for an organization which is designed to strengthen and extend current covert operations in the interest of our national security and to provide for plans and preparations for the conduct, in time of war, of covert operations and of the overt phases of psychological warfare. The establishment of such an organization will require the revision of NSC 4-A.

CONCLUSIONS

6. The proposed National Security Council Directive in Annex A should be approved, and if approved, the proposed revision of NSC 4-A in Annex B should be approved.

ANNEX APROPOSED NSC DIRECTIVE

1. There is hereby established under the National Security Council the position of Director of Special Studies. The Director shall be nominated by the Secretary of State and appointed by the National Security Council.

2. The Director should have initially a staff of four members assigned from the Department of State, one service member each from the Army, Navy, and Air Force, and one member from the Central Intelligence Agency. The Secretary of Defense may assign a member if he so desires. The staff members will act both as assistants to the Director, in the performance of his duties, and as liaison between him and their respective agencies.

3. It shall be the duty of the Director, under the direction of the National Security Council:

a. To be responsible for the preparation by his own staff or by other agencies, as appropriate, of plans for all covert operations. It is intended that each operating agency will develop the details of that part of a plan covering its own operations.

b. To review all such plans and, if he approves them, to arrange for their execution by appropriate agencies.

c. To review the execution of such operations to insure that they are being conducted in accordance with approved plans provided that nothing contained herein shall require the disclosure of secret intelligence sources and methods.

d. To develop an over-all program for the conduct of covert operations and overt phases of psychological warfare in time of war or when directed by the President, to include organization, training, equipment and logistic support, and to arrange for initiation of such training and preparations in time of peace as necessary for the prompt initiation of such a program.

4. The Director is charged with:

a. Giving timely notification of intended plans and operations to each government agency represented on his staff through the respective staff members and to other government agencies which may be affected. Problems arising in connection with the formulation of plans for or the conduct of operations shall be resolved directly between the Director and the agency or agencies involved.

b. Insuring that such covert activities are consistent with US foreign policies and overt activities and that plans for war-time covert operations and psychological operations are consistent with and complement Joint Chiefs of Staff approved plans for military operations.

5. The ends envisaged in this paper will require unvouchered funds other than those already appropriated.

6. As used in this directive "covert operations" are understood to be all activities (excluding armed conflict by recognized military forces, espionage and counter-espionage) which are conducted or sponsored by this government against hostile foreign

states or groups or in support of friendly foreign states or groups but which are so planned and executed that any US Government responsibility for them is not evident to unauthorized persons and if uncovered the US Government can plausibly disclaim any responsibility for them. Specifically, such operations shall include any covert activities related to propaganda; preventive direct action, including sabotage, anti-sabotage, demolition and evacuation measures; subversion against hostile states, including assistance to underground resistance movements, guerrillas and refugee liberation groups; and support of indigenous anti-communist elements in threatened countries of the free world.

7. "Overt psychological warfare" referred to herein shall be construed to mean information programs designed to facilitate the development of an informed and intelligent understanding at home and abroad of the status and progress of any war effort in which the United States may be engaged and of the war policies, activities and aims of the Government.

ANNEX B
DRAFT

REVIVISION OF NSC 4-A

1. The National Security Council, taking cognizance of the vicious psychological efforts and covert operations of the USSR, its satellite countries and Communist groups to discredit and defeat the aims and activities of the United States and other Western powers, has determined that, in the interests of world peace and US national security, the overt foreign activities of the US Government must be supplemented by covert operations.

2. The similarity of operational methods involved in covert operations and covert intelligence activities makes the Central Intelligence Agency an appropriate agency to conduct such operations. Therefore, under the authority of Section 102 (d)(5) of the National Security Act of 1947, the National Security Council:

a. Directs the Director of Central Intelligence to continue, within the limit of available funds, such covert propaganda operations as may be arranged with and approved by the Director of Special Studies in accordance with the latter's directive from the National Security Council.

b. Authorizes the Director of Central Intelligence to conduct such other covert operations as may be arranged by the Director of Special Studies in accordance with the latter's directive from the National Security Council.

3. The Director of Central Intelligence is charged with ensuring that appropriate agencies of the US Government, both at

home and abroad (including diplomatic and military representatives in each area), are kept informed of such operations which will directly affect them.

4. Nothing contained herein shall be construed to require the Central Intelligence Agency to disclose operational details concerning its secret intelligence techniques, sources or contacts.

TOP SECRET
~~SECURITY INFORMATION~~

NSC 10/2

ETS-4K1478 ←

COPY NO. 9
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destroyed by fire)

A REPORT
TO THE
NATIONAL SECURITY COUNCIL

by
THE EXECUTIVE SECRETARY
on
OFFICE OF SPECIAL PROJECTS

June 18, 1948

WASHINGTON

TOP SECRET

WARNING

THIS DOCUMENT CONTAINS INFORMATION AFFECTING THE NATIONAL DEFENSE OF THE UNITED STATES WITHIN THE MEANING OF THE ESPIONAGE LAWS, INTELLIGENCE SECURITY AND INFORMATION ACT, AS AMENDED BY ITS TRANSMISSION OR THE REVELATION OF ITS CONTENTS IN ANY MANNER TO AN UNAUTHORIZED PERSON IS PROHIBITED BY LAW.

THIS DOCUMENT CONTAINS INFORMATION AFFECTING THE NATIONAL DEFENSE OF THE UNITED STATES WITHIN THE MEANING OF THE ESPIONAGE ACT, 50 U.S.C., 31 AND 32, AS AMENDED. ITS TRANSMISSION OR THE REVELATION OF ITS CONTENTS IN ANY MANNER TO AN UNAUTHORIZED PERSON IS PROHIBITED BY LAW.

June 18, 1948

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by fire)

NOTE BY THE EXECUTIVE SECRETARY

to the

NATIONAL SECURITY COUNCIL

on

OFFICE OF SPECIAL PROJECTS

Reference: NSC 10/1

At its 13th Meeting the National Security Council approved the Directive in NSC 10/1 subject to deletion of paragraph 3-d and amendments to paragraphs 3-a and e and 4.

The revised Directive, as approved, is circulated herewith to the Council for information and to the Director of Central Intelligence for appropriate action.

Special security precautions are being taken in the handling of this report. For this reason it is suggested that each member of the Council may wish to return his copy for filing in the office of the Executive Secretary, where it will be held available upon request.

SIDNEY W. SOUFIS
Executive Secretary

Distribution:

- The Secretary of State
- The Secretary of Defense
- The Secretary of the Army
- The Secretary of the Navy
- The Secretary of the Air Force
- The Chairman, National Security Resources Board

NATIONAL SECURITY COUNCIL DIRECTIVE

on

OFFICE OF SPECIAL PROJECTS

1. The National Security Council, taking cognizance of the vicious covert activities of the USSR, its satellite countries and Communist groups to discredit and defeat the aims and activities of the United States and other Western powers, has determined that, in the interests of world peace and US national security, the overt foreign activities of the US Government must be supplemented by covert operations.

2. The Central Intelligence Agency is charged by the National Security Council with conducting espionage and counter-espionage operations abroad. It therefore seems desirable, for operational reasons, not to create a new agency for covert operations, but in time of peace to place the responsibility for them within the structure of the Central Intelligence Agency and correlate them with espionage and counter-espionage operations under the over-all control of the Director of Central Intelligence.

3. Therefore, under the authority of Section 102(d)(5) of the National Security Act of 1947, the National Security Council hereby directs that in time of peace:

a. A new office of Special Projects shall be created within the Central Intelligence Agency to plan and conduct covert operations; and in coordination with the Joint Chiefs of Staff to plan and prepare for the conduct of such operations in wartime.

b. A highly qualified person, nominated by the Secretary of State, acceptable to the Director of Central Intelligence and approved by the National Security Council, shall be appointed as Chief of the Office of Special Projects.

c. The Chief of the Office of Special Projects shall report directly to the Director of Central Intelligence. For purposes of security and of flexibility of operations, and to the maximum degree consistent with efficiency, the Office of Special Projects shall operate independently of other components of Central Intelligence Agency.

NSC 10/2

- 1 -

TOP SECRET

d. The Director of Central Intelligence shall be responsible for:

(1) Ensuring, through designated representatives of the Secretary of State and of the Secretary of Defense, that covert operations are planned and conducted in a manner consistent with US foreign and military policies and with overt activities. In disagreements arising between the Director of Central Intelligence and the representative of the Secretary of State or the Secretary of Defense over such plans, the matter shall be referred to the National Security Council for decision.

(2) Ensuring that plans for wartime covert operations are also drawn up with the assistance of a representative of the Joint Chiefs of Staff and are accepted by the latter as being consistent with and complementary to approved plans for wartime military operations.

(3) Informing, through appropriate channels, agencies of the US Government, both at home and abroad (including diplomatic and military representatives in each area), of such operations as will affect them.

e. Covert operations pertaining to economic warfare will be conducted by the Office of Special Projects under the guidance of the departments and agencies responsible for the planning of economic warfare.

f. Supplemental funds for the conduct of the proposed operations for fiscal year 1949 shall be immediately requested. Thereafter operational funds for these purposes shall be included in normal Central Intelligence Agency Budget requests.

4. In time of war, or when the President directs, all plans for covert operations shall be coordinated with the Joint Chiefs of Staff. In active theaters of war where American forces are engaged, covert operations will be conducted under the direct command of the American Theater Commander and orders therefor will be transmitted through the Joint Chiefs of Staff unless otherwise directed by the President.

5. As used in this directive, "covert operations" are understood to be all activities (except as noted herein) which are conducted or prepared by this Government against hostile foreign states or groups or in support of friendly foreign states or groups but which are so planned and executed that any US Government responsibility for them is not evident to unauthorized persons and that if uncovered the US Government can

plausibly disclaim any responsibility for them. Specifically, such operations shall include any covert activities related to: propaganda, economic warfare; preventive direct action, including sabotage, anti-sabotage, demolition and evacuation measures; subversion against hostile states, including assistance to underground resistance movements, guerrillas and refugee liberations groups, and support of indigenous anti-communist elements in threatened countries of the free world. Such operations shall not include armed conflict by recognized military forces, espionage, counter-espionage, and cover and deception for military operations.

6. This Directive supersedes the directive contained in NSC 4-A, which is hereby cancelled.

TOP SECRET

NSC 10

COPY NO. 22

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DELETIONS MARKED IN YELLOW

A REPORT
TO THE
NATIONAL SECURITY COUNCIL

by

THE EXECUTIVE SECRETARY

on

DIRECTOR OF SPECIAL STUDIES

May 12, 1948

WASHINGTON

TOP SECRET

WARNING

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May 12, 1948

NOTE BY THE EXECUTIVE SECRETARY

to the

NATIONAL SECURITY COUNCIL

on

DIRECTOR OF SPECIAL STUDIES

Reference: SANACC 304/14

The enclosed report on the above subject has been prepared by the National Security Council Staff, with the advice and assistance of representatives of the Departments of State, the Army, the Navy and the Air Force, and of the National Security Resources Board and the Central Intelligence Agency.

The enclosed report is accordingly submitted for consideration by the National Security Council at an early meeting.

It is suggested that special security precautions be taken in the handling of this report.

SIDNEY W. SOUERS
Executive Secretary

Distribution:

The Secretary of State
The Secretary of Defense
The Secretary of the Army
The Secretary of the Navy
The Secretary of the Air Force
The Chairman, National Security
Resources Board

D R A F T

REPORT BY THE NATIONAL SECURITY COUNCIL

on

DIRECTOR OF SPECIAL STUDIESTHE PROBLEM

1. To consider measures for the furtherance of covert operations in the interest of our national security.

ANALYSIS

2. The means employed by a nation in pursuit of its national objectives may be both overt and covert. They range in time of peace from such overt actions as political alliances, economic measures (as ERP), and "white" informational activities, to [such] covert operations [as unacknowledged support of "friendly" foreign elements, "black" propaganda and encouragement of underground resistance in hostile states].

3. Having assumed greater international responsibilities than ever before in our history and having been engaged in a "cold war" by the full might of the Kremlin, the United States cannot afford to leave unmobilized or unemployed its resources for covert operations. The United States cannot afford in the future, in perhaps more serious political crises, to rely upon improvised covert operations as was done at the time of the Italian elections.

4. In NSC 4-A provision was made for the conduct of certain covert psychological (propaganda) operations. The State-Army-Navy-Air Force Coordinating Committee has considered such matters [as utilization of refugees from the USSR in the United States national]

[interest (SANACC 395), plans for evacuation of key foreign personnel (SANACC 396), demolition of oil facilities (SANACC 398), and psychological warfare (SANACC 304)]. In connection with psychological warfare, the views of the Joint Chiefs of Staff, concurred in by the State-Army-Navy-Air Force Coordinating Committee, have been referred to the National Security Council for consideration. It is the opinion of the Joint Chiefs of Staff that from the military point of view "there should be established, as soon as practicable, under the National Security Council, a Psychological Warfare Organization, but with its peacetime scope and activities limited to that of a working nucleus for planning and coordination" (SANACC 304/14)]. The Policy Planning Staff of the Department of State has also recommended that covert operations be immediately instituted under unified direction.

5. In the light of the above considerations, there is a need for an organization which is designed to strengthen and extend current covert operations in the interest of our national security and to provide for plans and preparations for the conduct, in time of war, of covert operations and of the overt phases of psychological warfare. The establishment of such an organization will require the revision of NSC 4-A.

CONCLUSIONS

6. The proposed National Security Council Directive in Annex A should be approved, and if approved, the proposed revision of NSC 4-A in Annex B should be approved.

ANNEX APROPOSED NSC DIRECTIVE

1. There is hereby established under the National Security Council the position of Director of Special Studies. The Director shall be nominated by the Secretary of State and appointed by the National Security Council.

2. The Director should have initially a staff of four members assigned from the Department of State, one service member each from the Army, Navy, and Air Force, and one member from the Central Intelligence Agency. The Secretary of Defense may assign a member if he so desires. The staff members will act both as assistants to the Director, in the performance of his duties, and as liaison between him and their respective agencies.

3. It shall be the duty of the Director, under the direction of the National Security Council:

a. To be responsible for the preparation by his own staff or by other agencies, as appropriate, of plans for all covert operations. It is intended that each operating agency will develop the details of that part of a plan covering its own operations.

b. To review all such plans and, if he approves them, to arrange for their execution by appropriate agencies.

c. To review the execution of such operations to insure that they are being conducted in accordance with approved plans provided that nothing contained herein shall require the disclosure of secret intelligence sources and methods.

d. To develop an over-all program for the conduct of covert operations and overt phases of psychological warfare in time of war or when directed by the President, to include organization, training, equipment and logistic support, and to arrange for initiation of such training and preparations in time of peace as necessary for the prompt initiation of such a program.

4. The Director is charged with:

a. Giving timely notification of intended plans and operations to each government agency represented on his staff through the respective staff members and to other government agencies which may be affected. Problems arising in connection with the formulation of plans for or the conduct of operations shall be resolved directly between the Director and the agency or agencies involved.

b. Insuring that such covert activities are consistent with US foreign policies and overt activities and that plans for war-time covert operations and psychological operations are consistent with and complement Joint Chiefs of Staff approved plans for military operations.

5. The ends envisaged in this paper will require unvouchered funds other than those already appropriated.

[6. As used in this directive "covert operations" are understood to be all activities (excluding armed conflict by recognized military forces, espionage and counter-espionage) which are conducted or sponsored by this government against hostile foreign]

[states or groups or in support of friendly foreign states or groups but which are so planned and executed that any US Government responsibility for them is not evident to unauthorized persons and if uncovered the US Government can plausibly disclaim any responsibility for them. Specifically, such operations shall include any covert activities related to propaganda; preventive direct action, including sabotage, anti-sabotage, demolition and evacuation measures; subversion against hostile states, including assistance to underground resistance movements, guerrillas and refugee liberation groups; and support of indigenous anti-communist elements in threatened countries of the free world.]

7. "Overt psychological warfare" referred to herein shall be construed to mean information programs designed to facilitate the development of an informed and intelligent understanding at home and abroad of the status and progress of any war effort in which the United States may be engaged and of the war policies, activities and aims of the Government.

ANNEX B
DRAFT

REVIVISION OF NSC 4-A

1. The National Security Council, taking cognizance of the vicious psychological efforts and covert operations of the USSR, its satellite countries and Communist groups to discredit and defeat the aims and activities of the United States and other Western powers, has determined that, in the interests of world peace and US national security, the overt foreign activities of the US Government must be supplemented by covert operations.

2. The similarity of operational methods involved in covert operations and covert intelligence activities makes the Central Intelligence Agency an appropriate agency to conduct such operations. Therefore, under the authority of Section 102 (d)(5) of the National Security Act of 1947, the National Security Council:

a. Directs the Director of Central Intelligence to continue, within the limit of available funds, [such] covert [propaganda] operations as may be arranged with and approved by the Director of Special Studies in accordance with the latter's directive from the National Security Council.

b. Authorizes the Director of Central Intelligence to conduct such other covert operations as may be arranged by the Director of Special Studies in accordance with the latter's directive from the National Security Council.

3. The Director of Central Intelligence is charged with ensuring that appropriate agencies of the US Government, both at

home and abroad (including diplomatic and military representatives in each area), are kept informed of such operations which will directly affect them.

4. Nothing contained herein shall be construed to require the Central Intelligence Agency to disclose operational details concerning its secret intelligence techniques, sources or contacts.

~~TOP SECRET~~
~~SECURITY INFORMATION~~

NSC 10/2

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(Original Copy No. 9
destroyed by fire)

DELETIONS MARKED IN YELLOW

A REPORT
TO THE
NATIONAL SECURITY COUNCIL

by

THE EXECUTIVE SECRETARY

on

OFFICE OF SPECIAL PROJECTS

June 18, 1948

WASHINGTON

TOP SECRET

WARNING

THIS DOCUMENT CONTAINS INFORMATION AFFECTING THE NATIONAL DEFENSE OF THE UNITED STATES WITHIN THE MEANING OF THE ESPIONAGE LAWS, TITLE 18, U.S.C. SECTIONS 793 AND 794, AS AMENDED. ITS TRANSMISSION OR THE REVELATION OF ITS CONTENTS IN ANY MANNER TO AN UNAUTHORIZED PERSON IS PROHIBITED BY LAW.

THIS DOCUMENT CONTAINS INFORMATION AFFECTING THE NATIONAL DEFENSE OF THE UNITED STATES WITHIN THE MEANING OF THE ESPIONAGE ACT, 50 U.S.C., 31 AND 32, AS AMENDED. ITS TRANSMISSION OR THE REVELATION OF ITS CONTENTS IN ANY MANNER TO AN UNAUTHORIZED PERSON IS PROHIBITED BY LAW.

June 18, 1948

Copy No. 9 of 10 copies
(Original Copy No. 9 destroyed
by fire)

NOTE BY THE EXECUTIVE SECRETARY

to the

NATIONAL SECURITY COUNCIL

on

OFFICE OF SPECIAL PROJECTS

Reference: NSC 10/1

At its 13th Meeting the National Security Council approved the Directive in NSC 10/1 subject to deletion of paragraph 3-d and amendments to paragraphs 3-a and e and 4.

The revised Directive, as approved, is circulated herewith to the Council for information and to the Director of Central Intelligence for appropriate action.

Special security precautions are being taken in the handling of this report. For this reason it is suggested that each member of the Council may wish to return his copy for filing in the office of the Executive Secretary, where it will be held available upon request.

SIDNEY W. SOUERS
Executive Secretary

Distribution:

The Secretary of State
The Secretary of Defense
The Secretary of the Army
The Secretary of the Navy
The Secretary of the Air Force
The Chairman, National Security
Resources Board

NATIONAL SECURITY COUNCIL DIRECTIVE

on

OFFICE OF SPECIAL PROJECTS

1. The National Security Council, taking cognizance of the vicious covert activities of the USSR, its satellite countries and Communist groups to discredit and defeat the aims and activities of the United States and other Western powers, has determined that, in the interests of world peace and US national security, the overt foreign activities of the US Government must be supplemented by covert operations.

2. The Central Intelligence Agency is charged by the National Security Council with conducting espionage and counter-espionage operations abroad. It therefore seems desirable, for operational reasons, not to create a new agency for covert operations, but in time of peace to place the responsibility for them within the structure of the Central Intelligence Agency and correlate them with espionage and counter-espionage operations under the over-all control of the Director of Central Intelligence.

3. Therefore, under the authority of Section 102(d)(5) of the National Security Act of 1947, the National Security Council hereby directs that in time of peace:

a. A new office of Special Projects shall be created within the Central Intelligence Agency to plan and conduct covert operations; and in coordination with the Joint Chiefs of Staff to plan and prepare for the conduct of such operations in wartime.

b. A highly qualified person, nominated by the Secretary of State, acceptable to the Director of Central Intelligence and approved by the National Security Council, shall be appointed as Chief of the Office of Special Projects.

c. The Chief of the Office of Special Projects shall report directly to the Director of Central Intelligence. For purposes of security and of flexibility of operations, and to the maximum degree consistent with efficiency, the Office of Special Projects shall operate independently of other components of Central Intelligence Agency.

NSC 10/2

- 1 -

TOP SECRET

d. The Director of Central Intelligence shall be responsible for:

(1) Ensuring, through designated representatives of the Secretary of State and of the Secretary of Defense, that covert operations are planned and conducted in a manner consistent with US foreign and military policies and with overt activities. In disagreements arising between the Director of Central Intelligence and the representative of the Secretary of State or the Secretary of Defense over such plans, the matter shall be referred to the National Security Council for decision.

(2) Ensuring that plans for wartime covert operations are also drawn up with the assistance of a representative of the Joint Chiefs of Staff and are accepted by the latter as being consistent with and complementary to approved plans for wartime military operations.

(3) Informing, through appropriate channels, agencies of the US Government, both at home and abroad (including diplomatic and military representatives in each area), of such operations as will affect them.

e. Covert operations pertaining to economic [warfare] will be conducted by the Office of Special Projects under the guidance of the departments and agencies responsible for the planning of economic [warfare].

f. Supplemental funds for the conduct of the proposed operations for fiscal year 1949 shall be immediately requested. Thereafter operational funds for these purposes shall be included in normal Central Intelligence Agency Budget requests.

4. In time of war, or when the President directs, all plans for covert operations shall be coordinated with the Joint Chiefs of Staff. In active theaters of war where American forces are engaged, covert operations will be conducted under the direct command of the American Theater Commander and orders therefor will be transmitted through the Joint Chiefs of Staff unless otherwise directed by the President.

5. As used in this directive, "covert operations" are understood to be all activities (except as noted herein) which are conducted or prepared by this Government against hostile foreign states or groups or in support of friendly foreign states or groups but which are so planned and executed that any US Government responsibility for them is not evident to unauthorized persons and that if uncovered the US Government can

[plausibly disclaim any responsibility for them. Specifically, such operations shall include any covert activities related to: propaganda, economic warfare; preventive direct action, including sabotage, anti-sabotage, demolition and evacuation measures; subversion against hostile states, including assistance to underground resistance movements, guerrillas and refugee liberations groups, and support of indigenous anti-communist elements in threatened countries of the free world. Such operations shall not include armed conflict by recognized military forces, espionage, counter-espionage, and cover and deception for military operations.]

6. This Directive supersedes the directive contained in NSC 4-A, which is hereby cancelled.

NATIONAL SECURITY COUNCIL

PREPARED BY ROB ROY RATLIFF

ETS - HK 147893

TOP SECRETANALYSIS OF NSC 10 AND 10/2

NSC 10 -- a 1948 proposal by the NSC Staff to name a "Director of Special Studies" under the NSC to be responsible for planning, authorizing and monitoring the execution of covert operations.

- Covert operations were deemed necessary because of our greater international responsibilities and the fact that the "Kremlin" was employing its "full might" in a "cold war" against us; we could no longer rely on "improvised covert operations as was done at the time of the Italian elections."
- Paragraph 6 of Annex A defines "covert operations" to include "preventive direct action, including sabotage," "subversion against hostile states" and "support of indigenous anti-communist elements in threatened countries of the free world."
- Annex B is a revision of NSC 4-A which authorized the CIA to conduct covert psychological operations. It cites the "vicious psychological efforts and covert operations of the USSR" in declaring that our overt efforts "must be supplemented by covert operations." It directs the DCI to continue covert propaganda operations and to conduct other covert operations subject to approval by the proposed "Director of Special Studies."
- Mentioned are NSC 4-A and State-Army-Navy-Air Force Coordination Committee documents 395 on utilization of USSR refugees, 396 on evacuation of key foreign personnel, 398 on demolition of oil facilities, 304 and 304/14 on psychological warfare.

NSC 10/2 -- a 1948 refinement of NSC 10 (and 10/1) which assigns responsibility for covert operations to the CIA and creates a new "Office of Special Projects" in CIA to plan and conduct these operations.

- Covert operations are necessary because of "vicious covert activities of the USSR" and its satellites against us.
- The DCI must ensure through designated representatives of the Secretaries of State and Defense that covert operations are consistent with our foreign and military policies and overt activities; and must inform U. S. agencies at home and abroad, "including diplomatic and military representatives in each area," of those operations which affect them.

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-2-

- Paragraph 5 defines "covert operations" substantially the same as in NSC 10; it adds "economic warfare" to the definition.
- NSC 4-A is rescinded.

Would declassification of these documents affect national security?

Declassification could certainly fuel public attacks against the foreign policy-decision-making machinery as well as our intelligence community. For example:

- References to "vicious" USSR efforts against us in a "cold war" as the reason for engaging in covert operations might be exploited to adversely affect our current relations with the USSR.
- Since the "cold war" is over, critics could challenge the continuation of covert operations.
- Official admission that we "improvised covert operations" in Italian elections could be attacked and prompt demands for specific information. It could be exploited in connection with current Italian events.
- "Preventive direct action" as one of our authorized covert operations actions could be interpreted as the "official stamp of approval" for assassinations. Sabotage and subversion would be officially acknowledged as part of our national policy. Our support of threatened indigenous anti-communist elements could give new life to the "Chile debate" and generate a new wave of authoritative speculation about what we are doing in Portugal, Italy, etc.
- Requests for documents cited in the released material would be generated. The study on "demolition of oil facilities," for example, could generate adverse publicity linked with the current oil crisis and our "official sanction" of such action--("Since it has been official U.S. policy since 1948 to destroy oil facilities, now we know who started that fire or who placed that bomb. "). The report on "utilization of USSR refugees" could be linked with our efforts to encourage USSR policy to allow Jews to emigrate, and generate charges that our interest is in exploiting these "refugees" for political, psychological and intelligence purposes. The same arguments could be used in exploiting our handling of Vietnam refugees, as could the document on evacuation of key foreign personnel--("Since 1948 it has been official U.S. policy to exploit refugees, to 'kidnap' key foreign personnel. ")

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-3-

- The fact that the DCI is required to keep an ambassador informed of what covert actions are being conducted in his area would prompt attacks on our diplomatic personnel as being spies and covert operators; undercut their protestations of innocence and denials of involvement in every untoward event that takes place in their country; and increase the chances of their being targets of kidnapping and terrorism. The ambassador's standard position of "plausible denial" would be destroyed.
- Economic warfare as an acknowledged official covert tool would open the U.S. for blame for every adverse economic event in the world.

Classified information disclosing a system, plan, project or specific foreign relations, the continuing protection of which is essential to the national security, may be exempt from declassification under E.O. 11652. Based upon the points raised above, arguments could be made that declassification of these documents would disclose a system and plan, and reveal elements of our foreign policy which could adversely affect our national security.

Are these documents exempt from declassification because of statutory protection?

- The DCI (50 U.S.C. 403g) is "responsible for protecting intelligence sources and methods from unauthorized disclosures."
- NSC 10 and 10/2 discuss methods of intelligence operations, especially the paragraphs which define covert operations. Exemption on these grounds is acknowledged in E.O. 11652.
- CIA (50 U.S.C. 403g) is exempt from provisions of law "which require the publication or disclosure of the organization, functions, names, official titles, salaries, or number of personnel employed by the Agency."

These documents contain information about the organization and functions of the Agency.

Arguments can be made that law prohibits the release of at least a portion of these documents because such release would reveal information on methods, organization and functions of the CIA.

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OPTIONS:

There are three major options:

1. Release NSC 10 and 10/2.

Pro -- They are 27 years old and no longer in effect. Whatever they may have represented, they have been superseded. They describe policy and procedures for a "cold war" era while we are now in the age of "detente."

Con -- Political and propaganda exploitation could embarrass the U.S. and adversely affect our national security. Laws protecting intelligence methods and CIA organization and functions might be violated. Current policy and procedures follow patterns established by these documents.

2. Release portions of NSC 10 and 10/2.

Pro -- Protect the most sensitive portions of the document (especially paragraph 6 of Annex A of NSC 10, and paragraph 5 of NSC 10/2 which define covert operations).

Con -- Can be challenged in courts. Would reveal some information which could be exploited for political and propaganda purposes.

3. Deny declassification of NSC 10 and 10/2.

Pro -- Protect sensitive material and observe statutes prohibiting disclosure of intelligence methods or of CIA organization and functions.

Con -- Can be challenged in the courts. Probably be difficult to sustain complete denial.

CONCLUSION:

Option 2 appears to be the most feasible if denial of declassification of portions of these documents can be sustained on a legal basis by the arguments that national security would be affected and/or statutes prohibit disclosure of intelligence methods or CIA organization and functions.

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Add-on # 2034

CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

17 APR 1975

Mrs. Jeanne W. Davis
Staff Secretary
National Security Council
Washington, D.C. 20506

Dear Mrs. Davis:

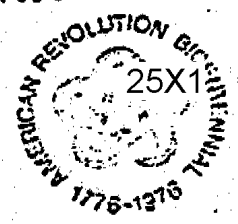
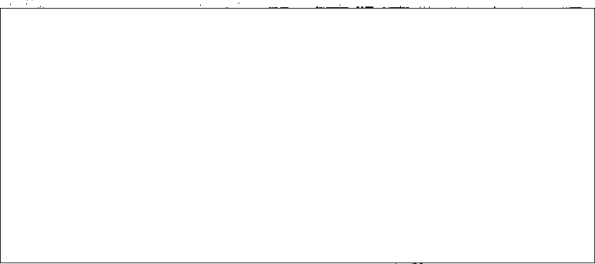
This letter reviews the classification of NSC 10 and 10/2, per your request of 10 April, indicating that the NSC has denied declassification of these documents under (b) (1&3) of the amended FOIA, which denial is now the subject of appeal.

The CIA has in accordance with your request reviewed the classification of these documents and concurs in the decision that the protection of the national security of the United States requires that they remain classified TOP SECRET.

The recommendations of NSC 10, of 12 May 1948, as implemented by NSC 10/2, of 18 June 1948, constitute the basic documents that authorize the utilization of covert action as a means to support U.S. foreign policy. These documents also directed the establishment of a component in the U.S. Government to carry out this policy and provided for a means to coordinate covert action with other aspects of U.S. foreign policy. In adopting these directives the NSC stated explicitly that it was acting under the authority of Section 102 (d) (5) of the National Security Act, which made it the duty of the Central Intelligence Agency to "perform such other functions and duties related to the national security as the National Security Council may from time to time direct."

NSC 10/2 thus became the charter under which covert action has been conducted by the Central Intelligence Agency for the U.S. Government. Although supplemented by later NSC documents, NSC 10/2 remains valid today. From the date of its issue, NSC 10/2 has always been regarded as highly sensitive and has been handled with special security precautions.

Disclosure of these documents in the NSC 10 series would severely limit the effectiveness of the CIA in supporting U.S. foreign policy; would reduce the willingness of foreign individuals, organizations and governments to cooperate with the United States in the conduct of covert



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actions; would facilitate the employment of covert action against the United States; and would adversely affect relations between the United States and friendly foreign governments.

The CIA therefore concludes that the denial of declassification by the NSC was justified under the FOIA, subsection (b)(1) in the interest of national defense and foreign policy, as provided for by Executive Order 11652, Secs. 5B(2&3).

Denial is further justified by FOIA, subsection (b)(3), which exempts information protected from disclosure by statute. Under the National Security Act of 1947, Section 102 (d)(3), the Director of Central Intelligence is "responsible for the protection of intelligence sources and methods from unauthorized disclosure." Implementation of this responsibility was enhanced by the Central Intelligence Agency Act of 1949, Section 6 of which exempted the Director of Central Intelligence from the provisions of any law "which require the publication or disclosure of the organization [and] functions" of the Agency.

Moreover, the content of NSC 10 and 10/2 constitutes an inter-dependent body of information. It is impossible to disclose a part of either or both without subjecting the national security of the United States to the adverse effects which require the exemption of both documents from declassification.

25X1

Sincerely,



25X1

Freedom of Information Coordinator

THE WHITE HOUSE

WASHINGTON

May 21, 1975

MEMORANDUM FOR: JEANNE DAVIS
FROM: BILL CASSELMAN *YB*
SUBJECT: Release of NSC 10 and NSC 10/2

We concur in the attached proposed memorandum for Secretary Kissinger, regarding Mr. Klaus' appeal under the Freedom of Information Act (5 U.S.C. 552) for the release of the above-cited documents. Of course, in the event the Secretary decides to withhold these documents, in whole or in part, it will be necessary to consult with the Freedom of Information Act Committee of the Department of Justice prior to the issuance of a final denial.

While your original denial was made on the basis of exemptions (b)(1) and (b)(3) of the Act, you also may wish to consider the use of exemption (b)(5). This is the "inter-agency or intra-agency memorandum" exemption, and is not generally utilized to protect internal governmental directives. However, since NSC 10 is a draft document, prepared by the NSC staff for consideration and never adopted, it would appear to evidence the "administrative policy-making decision process" within NSC. As such, it could be withheld under (b)(5). This is an issue which should be raised with the Freedom of Information Act Committee in the event a denial is indicated by the Secretary.


Enclosure

MEMORANDUM

NATIONAL SECURITY COUNCIL

ACTION

2034
3474

MEMORANDUM FOR: GENERAL SCOWCROFT
FROM: Jeanne W. Davis 
SUBJECT: Denial of Klaus Request for NSC 10 and 10/2

Pursuant to the Secretary's decision to deny David Klaus' appeal for declassification and release of NSC 10 and 10/2, we have prepared the official denial letter for your signature "for" HAK (Tab A). We have been holding an identical appeal from a Gary A. Allen awaiting a decision on the Klaus case. An identical letter to Allen is at Tab B.

The letters have been approved by Bill Casselman and by the Department of Justice.

RECOMMENDATION:

That you sign the letters at Tabs A and B "for" HAK.

MEMORANDUM

NATIONAL SECURITY COUNCIL

TOP SECRET ATTACHMENTS

May 19, 1975

MEMORANDUM FOR: BILL CASSELMAN
FROM: Jeanne W. Davis *JW*
SUBJECT: Release of NSC 10 and NSC 10/2

We have prepared the attached memorandum for Secretary Kissinger's consideration in responding to an FOI appeal for the release of NSC 10 and NSC 10/2, two 1948 documents concerning covert operations.

This material is being submitted for your review and comment. It has not been examined by the Department of Justice and their views will be required before we prepare our final response.

Because our response will be due in a day or two we would appreciate your earliest consideration of this matter. Our response was due on May 16, but we were able to obtain additional time through one of the provisions of our regulations which allowed us to suspend our review of this appeal until the requestor settles a financial obligation with the NSC pending from an earlier FOI request. If we receive his remittance tomorrow, as I suspect we will, our response on this appeal will be due on Thursday, May 22.

**NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506**

May 13, 1975

Dear Mr. Klaus:

I am writing with regard to your request and subsequent appeal for the release of NSC 10 and NSC 10/2.

In response to your February 26, 1975 request for a copy of NSC 4 the NSC staff declassified this document and sent it to you asking that you remit \$2.25 as payment for its reproduction. We later were informed and confirmed with you that the correct charge should have been \$1.50 and understood that you would respond with a request to waive the fee or with payment.

The documents were mailed and payment requested on March 17, and we have not yet received your remittance or other response.

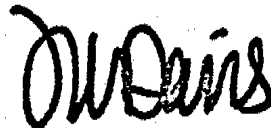
As you know, the NSC procedures for handling Freedom of Information requests, as published on February 19, 1975 in Vol. 40, No. 34 of the Federal Register, state in §2101.21 (b) that "Processing of a request for records will not be undertaken until a requestor has paid in full for search and duplication charges for any previous document request under the Act."

The NSC Staff received your request for NSC 10 and NSC 10/2 on March 21 and began its review of these documents believing that you would respond to the March 17 request for payment of reproduction charges for your previous request. In fact, we completed our examination of these documents and replied to you on March 27. When on April 3 we received your appeal of our March 27 denial of the request for NSC 10 and 10/2 we began to process the request with a belief that your remittance for

copying NSC 4 would be forthcoming.

We are now approaching the end of the period allowed for reviewing your appeal, extended ten days under the provision of the law, and have not yet received any correspondence from you concerning the copy of NSC 4 we sent to you almost two months ago. Accordingly, we have suspended the review of your appeal for NSC 10 and NSC 10/2 pending resolution of your financial obligation to the NSC Staff.

Sincerely,



Jeanne W. Davis
Staff Secretary

Mr. David Klaus
Center for National Security Studies
122 Maryland Avenue, N. E.
Washington, D. C. 20002

RECEIVED BY

FOR
AUGUST
1975

2034

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20508

April 30, 1975

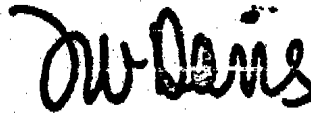
Dear Mr. Klaus:

I am writing with regard to your appeal to Mr. Kissinger of the NSC Staff denial of your request for NSC 10 and NSC 10/2.

We have had to consult with another agency concerning your appeal and it has become necessary to extend the time allowed for the response, in accordance with the provisions of 5 U.S.C. 522 (a)(6)(B).

We expect to respond to your appeal no later than May 15, 1975.

Sincerely,



Jeanne W. Davis
Staff Secretary

Mr. David Klaus
Center for National Security Studies
122 Maryland Avenue, N. E.
Washington, D. C. 20002

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506


2034

FREEDOM OF INFORMATION REQUEST

TOP SECRET
ATTACHMENTS

April 10, 1975

MEMORANDUM FOR:


Freedom of Information Coordinator
Central Intelligence Agency


25X1
25X1

SUBJECT: Release of NSC 10 and NSC 10/2

The NSC Staff has received an appeal of its decision to deny declassification and release of NSC 10 and NSC 10/2 in which we cited sections (b) (1) and (b) (3) of the amended Freedom of Information Act as grounds for exempting the documents.

As you know, the Director of Central Intelligence has a statutory responsibility to protect intelligence sources and methods and the Agency itself has a statutory exemption from having to publish or disclose CIA organization and functions. Because these documents directly relate to CIA activities and responsibilities of the DCI, we request that they be reviewed by the CIA.

This matter will be forwarded to Secretary Kissinger once the Agency views are received so we must have your response by close of business Tuesday, April 15.


Jeanne W. Davis
Staff Secretary

Attachments: NSC 10 and NSC 10/2

TOP SECRET
ATTACHMENTS

NATIONAL SECURITY COUNCIL

April 10, 1975

JWD:

SIGNATURE: 

In response to your questions concerning this appeal:

- The exemptions we used under the FOIA for this item were (b)(1) and (b)(3). (b)(1) means that the document is specifically covered by an E.O. 11652 exemption category, and (b)(3) means that the document is exempted from disclosure by statute.

The Executive Order exemption categories we cite are 5 (B)(1) through 5 (B)(4).

- Right now there is no need to ask for a time extension. The appeal review period does not expire until May 2.

~~XX~~

Steve



NATIONAL SECURITY COUNCIL

April 9

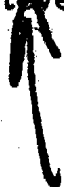
JWD:

Please REVIEW enclosed draft.

Granger and Ratliff recommend that we obtain a formal CIA view on this matter. Your memo asks for CIA comments.

Staff memos are on the left.

stave



SK check the section for the phrase Do we want to ask for more comments?


NATIONAL SECURITY COUNCIL

2034

TOP SECRET

8 April 1975

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MEMORANDUM FOR: JEANNE W. DAVIS
FROM: ROB ROY RATLIFF 
SUBJECT: Klaus Appeal of Denial of FOI Request
for NSC 10 and 10/2

I recommend:

- CIA be asked for its formal opinion.

These documents have a direct bearing on CIA. The Director of Central Intelligence (DCI) is "responsible for protecting intelligence sources and methods from unauthorized disclosures." The Agency is also exempt from provisions of the law "which require the publication or disclosure of the organization, functions, names, official titles, salaries, or number of personnel employed by the Agency." (See 50 U. S. C. 403g.) In my memorandum of 20 March re NSC case no. 1410, I reported the Agency's informal view that NSC 10/2 should be exempt from declassification. The DCI may believe that release of this document would violate his statutory responsibility for protecting intelligence sources and methods; he may also feel it would violate the statutory exemption from disclosure of CIA organization and functions.

- We limit consideration to the actual NSC 10 and 10/2.

Inclusion of the "Note" from the NSC Executive Secretary, cover sheets, and related material would go beyond the specific request and provide additional material which, in turn, would likely generate additional requests. Also, I believe we should not volunteer additional information describing related documents.

I have attached an analysis of NSC 10 and 10/2 and related issues and options which you may find useful in facilitating Dr. Kissinger's decision.

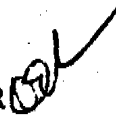
Attachment

TOP SECRET

MEMORANDUM**NATIONAL SECURITY COUNCIL****FOIA DECLASS APPEAL**

April 7, 1975

MEMORANDUM FOR: JEANNE W. DAVIS

FROM: CLINTON E. GRANGER 

SUBJECT: Appeal of David Klaus of NSC Staff Denial
of Request for NSC 10 and NSC 10/2

I have reviewed once again the subject documents and continue to believe that there are no substantive grounds for refusing to declassify and release them. This judgment is based on their age, the fact that the information contained in them is primarily organizational and administrative in nature, and the belief that their release would not impact on any currently active programs.

As in the case of other similar documents (e.g., the 1952 Presidential memo establishing NSA) it may be that a refusal to release NSC 10 and 10/2 could be based on their nature, i.e., that they are concerned with "intelligence sources and methods". A decision to defend their withholding to a court on that basis would have to be based on consultations with the Director of Central Intelligence and legal counsel. Any decision on these documents would also have to be consistent with the final decision on the release of the NSCIDs requested by Morton Halperin. Barring a defense on those grounds, I recommend their declassification and release.

MEMORANDUM

2034

NATIONAL SECURITY COUNCIL

April 3, 1975

MEMORANDUM FOR: ~~Mr. Batiff~~ ✓
~~Mr. Ober~~ ✓
Col. Granger ←

FROM: Jeanne W. Davis *JWD*


SUBJECT: Appeal of Denial of FOI
Request for NSC 10 and 10/2

As expected, we have received the attached appeal of our denial of the Klaus (Center for National Security Studies) FOI request for NSC 10 and 10/2.

May I please have your views no later than noon on Saturday, April 5.

NATIONAL SECURITY COUNCIL

March 26, 1975

JWD: 

REVIEW AND SIGNATURE.

Ober defers to Ratliff and Ratliff
recommends against declassification.
This is how we handled ~~the~~ a similar
request from Mr. Norman Sandler.



Steve

MEMORANDUM

NATIONAL SECURITY COUNCIL

1743

25 March 1975

MEMORANDUM FOR: JEANNE W. DAVIS
FROM: ROB ROY RATLIFF 
SUBJECT: Declassification Request on NSC 10
REFERENCE: Your memo of 21 March 1975 on
"Declassification of NSC 10 and 10/2"

I have reviewed NSC 10 and my comments of a few days ago on NSC 10/2 (your case number 1410) pertain as well to NSC 10.

If we take the broad interpretation of the statutory responsibility of the Director of Central Intelligence to protect intelligence "sources and methods" (as the DCI evidently does), then it is not appropriate to declassify NSC 10 since it contains some of the same language that is contained in NSC 10/2.

I would recommend that this request be disapproved.

MEMORANDUM

NATIONAL SECURITY COUNCIL

1743

TOP SECRET
ATTACHMENT

March 21, 1975

MEMORANDUM FOR:

MR. RATLIFF

FROM:

Jeanne W. Davis *JWD*

SUBJECT:

Declassification of NSC 10 and
10/2

The NSC Staff has been asked to review NSC 10 and 10/2 for declassification and release. In response to a different request you provided me with a memorandum yesterday presenting your views on the declassification of NSC 10/2. I will assume that the recommendation contained in that memorandum has not changed and therefore I am asking that you examine only NSC 10.

May I please have your thoughts on the declassification of this item by next Wednesday, March 26.

cc: Mr. Dargis
Mr. Ober

TOP SECRET ATTACHMENT

75-02034

NATIONAL SECURITY COUNCIL

May 19, 1975

MEMORANDUM FOR: JEANNE W. DAVIS
FROM: CLINTON E. GRANGER
SUBJECT: Declassification of NSC 10 and 10/2

I concur in your draft memo to Secretary Kissinger outlining options for responding to Mr. Klaus' FOIA appeal for the subject documents.

*Please note text change
drafted in at page 7.*

cl. gr.

Col. Granger believes that there are no substantive grounds for refusing to declassify and release these documents, and that denial could lead to an unfavorable Court decision and precedent.

RECEIVED

NOI Ltr of DEN to notification of

regarding status of one's draft copy of memo I contain in your draft of Executive Order 13526
AIOY (and)
specify for the subject documents.

[Faint handwritten notes and scribbles]