

file p. 4
and TABS I & J *
re statements
to Rankin
about N's
bona fides &
Oswald case

* Tabs I & J
attached.

Warren Commission

CIA HISTORICAL REVIEW PROGRAM
RELEASE AS SANITIZED
1999

NOTE: Pg. 6 excerpt (pertaining to Warren Commission/Oswald) is taken from a 7 November 1966 memorandum written by David Murphy to the General Counsel, Subject: Yuriy Ivanovich NOSENKO, routed through Chief, CI Staff (w/carbon copy to DDP).

The original document, and its attachments (Tabs A thru N) is located in file entitled "General Counsel -- SB Discussions on Legal Aspects of Case."

only
A Xerox copy/of the covering memo is contained in the Pertinent Documents (to the Study "The Monster Plot") file drawer.

7 November 1966

MEMORANDUM FOR: General Counsel

SUBJECT : Yuriy Ivanovich NOSENKO

Summary

1. The Director has requested that there be conducted immediately an exhaustive examination regarding the possibility of damaging publicity and embarrassment to the Agency should it become public knowledge that we have held Subject incommunicado for over two years. This memorandum seeks an advisory opinion from the General Counsel on the Agency's legal basis for its handling of Subject to date, on the position that could best be assumed if the Agency were called upon to defend its handling of Subject, and on legal aspects of Subject's eventual disposal.

Background

2. Subject voluntarily established contact with CIA representatives in Geneva in 1962. He identified himself as a staff officer of the KGB's Internal Security Directorate and offered to sell counterintelligence information. This offer was accepted and he was recruited as an agent in place and debriefed on counterintelligence matters during five meetings in Geneva. He then returned to the USSR. He came to Geneva again in January 1964 as the security officer for the Soviet disarmament delegation. After a number of meetings with his CIA handlers he defected on 4 February 1964 and was secretly taken to Frankfurt, Germany, crossing the Swiss-German border on the night of 4/5 February with alias U.S. Army identity documents. In Geneva and again upon arrival in Frankfurt, Subject wrote out an asylum request, requesting political asylum from the U.S. Government (see Tab A).

3. Because serious doubts about Subject's bona fides had arisen on the basis of the information he had provided both in 1962 and in the meetings in Geneva in 1964, it was originally planned to do a detailed bona fides debriefing and assessment in Germany before making any

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decision about moving Subject to the United States. However, unprecedented action by the Soviet Government in respect to the defection of one of its citizens forced a change of plans. On 9 February, unidentified Soviet sources in Geneva leaked the news to the press that Subject, described as an "expert attached to the Soviet Delegation to the Disarmament Conference" had disappeared, and that it was presumed that he had defected. Because of mounting pressure from the press, which included much speculation that Subject was a high level scientist or disarmament expert, it was decided that the State Department would make a brief announcement acknowledging Subject's request for asylum in the U.S. and identifying him as a member of the KGB. This was done on 10 February (see Tab B). On 11 February, the Soviet Government delivered a note to the American Embassy in Moscow asking how Subject left Switzerland and requesting an immediate interview with him and his release. On 12 February, Soviet Ambassador to the Disarmament Conference TSARAPKIN held a press conference in Geneva in which he accused the Swiss Government of failure to cooperate in locating Subject. Although the Swiss categorically rejected these charges, the American Ambassador to Switzerland recommended that Swiss authorities be allowed to interview Subject to convince themselves that Subject had left Switzerland of his own free will.

4. On 12 February, on the instructions of the Director, Subject was brought to the United States. He travelled by commercial air, again using alias U.S. Army identification, and was admitted to the country at New York City (in true name) on parole under the provisions of Section 212 (d) (5) of the Immigration and Nationality Act (see Tab C).

5. On 13 February, representatives of the Swiss and Soviet Embassies in Washington advised the State Department that they desired interviews with Subject. On 14 February, in Moscow, Soviet Foreign Minister GROMYKO called in Ambassador KOHLER and protested "impermissible activities" on the part of the U.S. in Subject's case. Soviet press spokesmen took an even harder line to Western correspondents, and accused the U.S. of kidnapping Subject. On the afternoon of 14 February, at two separate interviews, Subject spoke first to Swiss Embassy and then to Soviet Embassy representatives (see Tab D). At these interviews, which were also attended by State Department and INS

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officials. Subject confirmed that he left Switzerland of his own free will to seek asylum in the U.S. In addition, Subject replied to questions of the Soviet Embassy representative to the effect that he was renouncing his Soviet citizenship. On the evening of 14 February, the U.S. State Department made a brief formal reply to the Soviet protest, then issued a brief statement to the press noting that the interviews had been held and that Subject had confirmed his desire to remain in this country.

6. From the time of his arrival to 4 April 1964, Subject was housed in an Agency safehouse in the Washington area. During this period, regular systematic debriefing was commenced, and Subject was made available to representatives of the FBI for debriefing on matters affecting their responsibilities. Although allowed out for evening and week-end excursions, Subject was at all times accompanied by O/S personnel. In addition, Subject took a two-week vacation to Hawaii, again accompanied by case officers and security guards. Evidence continued to mount that Subject was a KGB plant, and at the same time it became obvious that it would be impossible to proceed further to resolve the many suspicious points and contradictions that had arisen without changing the conditions in which Subject was being held. Subject was growing increasingly uncooperative, especially when sensitive areas were touched upon, and constantly pressed for the legalization of his status in the U.S. and the issuance of an alien registration card. At the same time, Subject's heavy drinking and other unruly personal habits were causing increasing difficulties to the security personnel charged with keeping him under control and out of trouble at all times, and it was clear that it was only a matter of time before he created a public scandal. More important, he was in a position to communicate with the KGB since physical control could not be absolute.

7. On 4 April 1964 Subject voluntarily underwent a polygraph examination. The results of this examination indicated deception on a number of critical points indicating that he was sent out by the KGB to perform one or more missions which also involved his penetration of the Agency and its operations. It was decided, therefore, that the physical circumstances of Subject's stay in this country would have to be drastically changed if the Agency were to carry out its counterintelligence responsibilities and adhere to the terms of the parole agreement. As a result, Subject was moved to quarters where his movements

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could be more easily controlled, and his outing privileges were suspended, pending resolution of bona fides. He has remained in this status to the present time.

8. It is worth noting that had we not taken the above action but accepted Subject at face value, it is quite possible that we would have proceeded with a series of operational actions on the basis of Subject's information. The results of some of these actions could have been very embarrassing to the U.S. Government politically and damaging to U.S. national security. For example, Subject's chief operational proposal at the time, one that he was most insistent we should proceed with immediately, involved the sexual compromise of Vladimir Pavlovich SUSLOV, the most senior Soviet official in the United Nations Secretariat, holding the position of Undersecretary in Charge of Political and Security Council Affairs.

Bona Fides

9. Since April 1964, hundreds of hours have been devoted to interrogations of Subject (in which he has willingly cooperated) and a great deal of time has been spent on exhaustive collateral investigations. We conclude that it has been established beyond reasonable doubt that Subject is a KGB agent who established contact with CIA and subsequently defected on KGB instructions, and that he came to the United States on a deception mission. The implications of this mission have a grave and direct bearing on U.S. national security. Although our findings are supported by the results of two polygraph examinations (a second one has just been administered), we must note that the nature of the evidence is inadmissible in a court of law. In any case, it is clear that Subject has not been in a position to perform any overt act of transgression of U.S. espionage laws since 4 April 1964 when he was placed in a restricted area and deprived of any conceivable means of communication with the KGB.

10. Subject does not admit that he defected on KGB orders or that he came to the U.S. on a KGB mission. He has admitted, however, that he made numerous lies about his personal history and about the details of his KGB service to U.S. officials, both before and after arriving in the United States. (A translation of a handwritten statement by Subject about these lies is attached as Tab E.)

Coordination with Other U.S. Government Agencies

11. USIB Members. In accordance with the DDCI's ruling relating to a defector who has been a member of

a hostile intelligence service. Subject's status and handling was discussed at an executive session of USIB and decided on an ad hoc basis. NOSENKO defected on 4 February, and the Secretary of State, the Attorney General, the Special Assistant to the President on National Security Affairs, McGeorge Bundy, General Carroll, Director of the Defense Intelligence Agency and the FBI were all notified immediately. On 5 February, General Carter reported the defection to an executive session of USIB and followed this up with formal statements to USIB members on 11 and 19 February (see Tab F), which stated that Subject's bona fides had not yet been established. It was agreed that no DS number would be issued to Subject, and that he would be handled on a special basis by this Agency. In fact, normal USIB interest in Subject as a defector dropped off drastically as it became quickly apparent that he had no positive intelligence interest of value to any part of the community.

12. The President was informed of the full extent of our suspicions about Subject's bona fides by the then Director, Mr. McCone, on 11 February 1964. Mr. Patrick Coyne, Executive Secretary of the PFIAB, was given a similar briefing by Mr. Helms on 19 February 1964.

13. Generals Carroll and Fitch of DIA were also subsequently informed of the problems about Subject's bona fides (see Tab G).

14. The Secretary of State, Ambassador Thompson, and other senior officials in the Department of State were informed of our reservations about Subject's bona fides and our fears that he might be a dispatched KGB agent. In discussions about the possibility of Subject's eventual deportation, the Secretary of State expressed serious concern about the adverse reaction that such a move might have on other potential defectors (see Tab H).

15. The Director of Security, State Department, was informed of the bona fides problem at an early date. We have worked closely with this Office since then on the problem of evaluating the significance of Subject's information as it affects the security interests of the State Department.

16. The problem of Subject's bona fides took on particular significance and urgency in respect to the

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work of the Warren Commission. According to Subject's story, he had been in the KGB line of responsibility for Lee Harvey Oswald while Oswald was in the Soviet Union, and after the assassination of President Kennedy, Subject participated in an investigation of Oswald's activities in the USSR. In the course of his official duties, he alleges that he had read Oswald's dossier. Subject was therefore in a position to vouch for the fact that the KGB had never had any interest in Oswald, considered him to be "abnormal" and were delighted to get rid of him. (For good measure, Subject threw in a story about Oswald's being a poor shot.) As Mr. Rankin, the Chief Counsel of the Warren Commission commented, if Subject's story could be accepted at face value the Commission could easily terminate its work sooner than it had expected. Rankin was informed therefore that there were aspects of Subject's information that caused us grave concern and that we were not able to say that his information on Oswald should be accepted uncritically (see Tab I).

17. Because so much of Subject's information affected U.S. internal security matters for which the FBI bears primary responsibility, and because of the possibility that Subject was a KGB plant has a direct bearing on the validity of certain FBI operations, the FBI has been kept fully informed on our views about Subject's bona fides and our progress in interrogating and investigating him from the moment of his defection to the present time. Thus, C/CI informed the FBI liaison officer about our reservations on Subject's bona fides as early as 5 February 1964; the Director of the FBI and his deputy for Internal Security, William Sullivan, have been kept completely up to date ever since, and we have coordinated all major aspects of our handling of Subject with them. After a long meeting with Sullivan and other FBI representatives to review Subject's case on 1 April 1964, the FBI interposed no objections to our proposal to restrict Subject's movements and commence hostile interrogation (see Tab J). Subsequently, the FBI has formally agreed with our findings on Subject, at least to the extent that "On considering carefully the results of your interrogations of Yuri NOSENKO and your analysis of his statements and activities, it does appear he is not what he purports to be. While this Bureau is not in a position to draw any conclusion in this case, we do recognize it is possible that NOSENKO could be a Soviet plant or agent provocateur." (See Tab K.)

18. The then Acting Attorney General Mr. Nicholas Katzenbach (and several members of his staff) were apprised of our reservations about Subject on 2 April 1964 and an opinion was sought from him both as to interpretation of the exclusion and parole agreement, and as to how we should proceed in the event that it proved necessary to deport Subject from this country. Pertinent memoranda are attached as Tab L.

Queries from Congressmen, the Press, and the Public

19. There have been several queries from congressmen about Subject's status and whereabouts, and from the press about the possibility of interviewing Subject. The general formula that was worked out to answer such requests, adapted as necessary to fit the specific request, runs as follows:

"Yuriy Nosenko requested asylum in the United States in February 1964. His request was granted. The information Mr. Nosenko is providing is regularly made available to appropriate agencies of the Government. However, publicizing this information and its source could only increase the possibility of Soviet reprisal against Mr. Nosenko and others who may seek asylum in the Free World."

Several specific examples are attached as Tab M.

Efforts to Keep the KGB from Learning of Our Awareness of Subject's True Status

20. From the time we learned that Subject had been sent to this country on a KGB mission it was obvious that if we were to have the time to analyze and resolve this case, and to plan and execute appropriate countermeasures, it was essential that we attempt to keep the KGB from learning of our awareness of Subject's true status. Consequently, detailed knowledge of the depth and scope of our suspicions about Subject, and the implications thereof, has been restricted to a very few people in the Agency and the intelligence community. Nonetheless, as can be seen from paragraphs 11 to 18 above, we did advise key policy echelons and principals in the intelligence community, even though this carried the inevitable risk of leakage. As you can see from Tab H, we have not disclosed our suspicions about Subject in our responses to press and congressmen. Even in our formal correspondence to the PFIAB, for example, the most we have said is that "Subject's bona fides has not been established" (see Tab F).

Soviet Inspired Inquiries

21. In 1966 there have been several indications that the Soviets are making a serious effort to find out what has happened to Subject and to force him to the surface. The most blatant and unusual of these is the approach by a Soviet journalist, Yuriy KOROLEV (a known KGB agent), to the French magazine Paris Match with an offer to provide photographs and materials for an exclusive story of Subject and his family. According to KOROLEV, Subject's wife is considering an approach to an international juridical organization in an effort to obtain compensation from Subject for damages caused by his abandonment of her and her children. In responding to this approach through an official [redacted] we have quoted a statement, purporting to be from Subject himself, to the effect that Subject considers this approach to represent blatant and cruel manipulation of his family by the KGB and that he will not lend himself to the scheme by agreeing to an interview or in any other way.

Subject's Status

22. To recapitulate, Subject entered the United States on 12 February 1964 on parole to the Agency under the provisions of Section 212 (d) (5) of the Immigration and Nationality Act. As we understand it, parole responsibility is delegated to the Agency by the Attorney General and the DCI on 10 February 1953, which states:

"After parole of such aliens, the Central Intelligence Agency will assume responsibility for care, supervision and control of a kind and degree it believes consistent with the internal security needs of the United States during continuance of their parole status."

In accordance with our understanding of this agreement, and because we have reason to believe that Subject is a conscious and willing agent of a hostile intelligence service, we have seen to it that Subject was under our direct observation and control at all times from the moment of his arrival in the United States. From 12 February to 4 April 1964 it was possible to keep Subject at a location where he could enjoy a certain amount of movement and of contact with the outside world. Since 4 April 1964, for reasons explained in paragraph 6 of this memorandum,

it has been necessary to keep him incommunicado at a location which is known to no one outside of the Agency (and to very few within it). Authorization for Subject to remain in this country under the Special Agreement Procedures has been periodically extended by the Immigration and Naturalization Service. The current extension is good until 17 February 1967 (see Tab N).

23. Although his freedom of movement has been severely restricted, Subject has not been maltreated and he has not made any formal complaint about his treatment. On the contrary, we have several written statements from him in the past year in which he states that our handling of him was justified and even beneficial (see Tab E).

Disposal

24. From the time that Subject was brought to this country we have thought about the possibility of his eventual deportation as a contingency measure. You will recall talks on this in which you participated in the spring of 1964; at that time we thought that it might be possible to mitigate the political and propaganda drawbacks of a forced deportation by announcing that Subject has confessed his true KGB role. With the passage of time, however, and in view of our much firmer conclusions about Subject's real role and mission and our clearer understanding of what this implies, it is apparent that great practical problems stand in the way of his deportation to either the USSR or a third country.

a. USSR: Subject has categorically stated on numerous occasions that he will never contemplate return to the USSR, and although we suspect that he might secretly welcome such a move, we would expect him to act out his part to the end with loud protests that he was being shipped to his death, etc. When the possibility of expulsion was discussed with Department of State officials in 1964, both the Secretary of State and Ambassador Thompson expressed their concern for the adverse effect this might have on other potential defectors. Forcible repatriation of political refugees is against long established U.S. policy, and would be certain to arouse violent reaction from ethnic minority groups in the United States and the congressmen representing them. Under these circumstances (and we can be sure that the KGB will do whatever they can to promote the furor), an

alleged "confession" by Subject would come under very close scrutiny, and might backfire very badly. Another point that has to be considered is the possibility that the Soviets, again playing their part, might refuse to accept Subject on the grounds that he has renounced his Soviet citizenship. The only location considered so far for turnover to the Soviets has been Berlin, which was used for the exchange of Abel-Powers and Lonsdale-Wynne, and for the transfer of several Soviet defectors who requested return. Subject does not appear to fit either category. On the other hand, if Subject were to agree to turnback, there is a real question as to whether the Soviets would accept him in Berlin as they did the others in the past. Their current practice is to handle repatriation of Soviet citizens through the Soviet Embassy in Bonn. Finally, if Subject were accepted by the Soviets on the basis of forced repatriation, the Soviets might carry through the charade, try Subject as a traitor, and give wide publicity to statements by him about his "maltreatment by CIA," etc.

b. Third Country: Although we believe it likely that Subject would accede to deportation to a third country, there is certainly no country in the free world on which we could conceivably try to unload Subject without first informing them of his true status. Even if we considered this a desirable objective (and we do not), it seems certain that the Department of State would veto such a piece of inter-governmental duplicity on the basis of the political risks involved. By the same token, it appears very unlikely that any country would agree to accept this dangerous and troublesome Soviet agent if they knew what they were getting. Finally, even if we were somehow able to induce another country to take Subject off our hands, it is obvious that at best we would have succeeded in exchanging a short term, latent problem for actual and persistent ones. Once legalized in the West, with his movements uncontrolled and with free communication with his KGB superiors, Subject would have tremendous opportunities for creating adverse publicity to the Agency and creating other serious trouble without ever contravening the laws of the country in which he resided. We cannot even exclude the possibility that

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Subject might be able to convince a liaison security or intelligence service that he is genuine; in such a case, the possibilities of trouble and embarrassment are almost limitless.

25. Regardless of where Subject is deported to, several factors must be considered. Would it be necessary to serve Subject with a formal warrant of deportation? If so, would he have the right to demand and receive counsel?

Alternative Course of Action

26. Given sufficient time we believe that we could persuade Subject to confess. Although there have been certain recent signs of erosion in his ability to stick to his story, and perhaps even in his will to resist, we cannot estimate how long a period of time might be required, but we do not believe that he is prepared to hold out forever. Once Subject confessed, we estimate that we would require approximately a year in which to debrief him, because it would be primarily from minute examination of the details of how and when he was trained and briefed by the KGB that we would expect to obtain a better reading on the true nature and extent of KGB penetration of U.S. intelligence agencies and activities. During that period we would still wish to maintain the present circumstances of handling Subject, and would continue to respond to outside inquiries to the effect that Subject fears for his life, doesn't wish to be interviewed, etc. Upon conclusion of this debriefing period--and depending on our estimate of the sincerity and completeness of Subject's confession--we would then be prepared to provide Subject a new identity and an opportunity to settle in the U.S. or elsewhere.

27. Finally as can be seen from the summary in paragraphs 10-17 above, and from the material attached in the tabs, we have coordinated every significant aspect of Subject's handling with the other U.S. Government agencies who have a direct stake in one or another aspect of Subject's case. Specifically, we would not contemplate proceeding with any specific plan to dispose of Subject without coordinating this with the Department of State, the Department of Justice and the FBI.

28. We would like the General Counsel's comments with particular respect to any gaps he may detect in any aspects of the Agency's legal position on Subject's case,

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suggestions for improving this position, and, specifically, his views on whether the authority for parole granted to the Director in 1955 has been validated or updated by succeeding Administrations or by legislation. We suggest that the General Counsel's review specifically include identification of possible legal actions which the wife or anyone else could initiate in federal or state courts, probable legal and publicity consequences of any such action, and determination of legal defenses and ways of handling publicity. In reviewing this case and preparing an opinion it is requested that the case not be discussed with anyone outside the Agency.

/s/ David E. Murphy

David E. Murphy
Chief, SB Division

Attachments

Tab A thru N

**TOP SECRET
EYES ONLY**