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COLBY, WILLIAM E.
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P/Intelligence Wty
(CK, S. Schaefer, Lynn, Bunker, 13 Oct 75
March, Rumsfeld)

S (Argued that Atty Gen should not oppose ~~the~~ surveillance)

P In a case of [redacted] you sign each one. For NSA, you would sign a good one that it is within a law

L Yes, but I think it should be periodically reviewed

S Question is whether Atty Gen should rule on surveillance [redacted] cases are issue of Atty Gen ruling on overseas surveillance

C The technology is advancing so fast that phone calls could be routed overseas for call bet. Wash + Rich.

L 2nd circuit has held that overhearing an Am. abroad is a violation.

R I would think Pres would want Atty Gen involved in public review so he would know what might come up in a paper.

S The articles in a paper today result from Presidentially directed press.

K What is in a paper today results from us denying exact guarantees of material ex a parte. The paper has just said we have broken Egyptian code - it has been blown. I think rather than just say a law is fixed we should try to educate - commit to a resolution of a world + am. national security needs.

L Once country, a commit are moving, but in a crossing direction. We maybe need a statute but we have to be careful about our practices as we prepare case

P I think trying to get a statute could be a disaster

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in today's environment. Maybe we should in a year or so, but now will just have to use guidelines.

K Does Ed want to appear only U.S.A. gov.

L I think we have to have some guidelines, perhaps as % of incidental US traffic overheard.

S I do. We can work out guidelines. I am worried about a Atty Gen being the biggest intel piece in these proposals.

P Let's have State, Dep, CIA draw up guidelines and then submit it w/ Atty Gen.

B Church is ready on assets report. They will let me review a document for security & sensitivity, but not on a merits or a case. We don't want to get you in position of rep. for a report. They won't let us edit it or approve it.

P I gave it a material on basis they would handle it as carefully as we have.

Sc. If they publish a report at all it is irresponsible.

K If these things get put out, senior officials will stop speaking frankly and foreign guests will wonder about their ability to work w/ us confidentially.

P I think this is a more highly sensitive area than any we have had.

C Any document which officially shows US involvement in assets is a F-P disaster.

P I never assumed they had a right to publish any of this.

L There is no legal way we can prevent it.

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P. I don't know what the letters of transmittal was, but I said they had to handle these certain documents as we had - and we released none.

M. Once they have a document, a speech & debate clause means that is no way we can prevent its release.

K. The main element in these investigations is the turning over of documents. During the Gaulty, etc, there was testimony, but it did not involve all documents involved.

(More discussion on this point)

P. The vote was wanted on certain data

B. We agreed that we could object to any report but that we would review ~~an~~ a document for ~~a~~ most damaging provisions. It was apparent that we would not get a vote in a vote not to publish a report.

M. The vote has reported us to pass over a suite of provisions. We agreed to do that except in context.

P. I think we should review it and then say it is not in such interest to release it at all.

S. We can send any letter we want following a review.

P. I think we should review w/a tough eye and then say the document shouldn't be released, but if they determined, then some areas are more damaging than others.

K. I think we have a proposed cert. issue which I think we have to face + establish some focus around the issue as a court has later to make their opinion.

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B All we are fighting is official information of material which is already widely known. This is not a good reason on which to go to court.

P I don't want to be any part of their publishing material like this. If they want to do that, it is their risk.

B That is position we have taken.

P We have to say very strongly we oppose a report, but that there are some more damaging than others.

M Let's get to the other issues.

C Church is receiving a lot of press publicity covered with a view to making them public - for dissemination. They also want to go into sensitive current ops. One of them is Cuba, and a possible threat to Korea; Congo, w/ threat to Thailand, Laos, Indonesia, etc.

Pete wants to get into Portugal & Angola. We think have tried off Portugal. We cannot help Pete & Doc Blue on Angola. I think we do but he has 2 questions - was a decision making really seriously done. The other is is the one does Angola meet a participation presented to with security.

P I think in a world context they should stay away from current ops.

K If any Centre have right to protection & Pres' participation, we are in another high level situation.

C The same problem is that of trans they have asked

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- for all records have relation of Personnel, Army
ITT & If we acknowledge relationship, we will
kill these employees & our ability to place agents & get
copy. We would prefer avoiding to write only areas
where there may be a question of impropriety.
- K. We will have a monumental job getting any company to
copy w/ us in a future.
- C. True, but if an allegation of impropriety, we can't say
we'll defend that.
- M. (True discussion of - Angolan issue)
H. Yes, you are right.
- K. There is one issue apparently pertaining to State-
promoting junior personnel to testify as to policy
manipulation. The danger is that junior would
use this to get at their seniors who committed them as
for some to harass them for decisions
they made. To do otherwise would weaken F.S.
This to me is a question of absolute principle. It is
like the South against people ^{who} depend themselves.
- H. Before we get into this on another, I think we should
go thru a Boycott letter & remove those parts which
do contain names & policy. The letter has a
strong special character & I think it is wrong to
decide ourselves. If it is going into litigation, I think
we should see if we cannot sanitize a document.
- K. The basic point of dissent was to prove a embassy
in Athens had a predilection for - fronts & thus didn't
have better to - disk officers.
- S. Seems to me you are saying there is a principle
involved - that is, a right of junior officers to get

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wright agree to release

P From lawyer point of view, what do you recommend

L Review of document to advise policy & sensitive matter & give a quote what is left, if there is some in a document. Then we in a strong position to defend a issue

K What is your position about junior officers testifying on opinions

L# That's tough - Don't know how you can hold it

R You have to depend that on political not legal ground.

P I think we have a defensible position if we send a court say & a junior officer say w/ a division of testimony.

M I agree w/ strong position ~~as~~ w/ respect to oversight courts. But this is a special case & circumstance

P I think we want a compensation where in a law & as/c public opinion will. We ought to find a case which will give us both of those. How we handle this case ^{ought} to fall w/ in those parameters. Our witnesses I think are on a report track & should stand. On a memo, I think we should take a better

K zero FSO's have written letters, as have 10 retired people like George Kennan, etc.

P Let's see if we can separate - fact from opinion

R Except from your initiative & dissent principle.

Many dissents are based on a ~~single~~ ~~assertion~~ ~~that~~ a ~~say~~ doesn't become a fact, (over)

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David: How about expanding the document by providing a summary first?

H: Might be.

K: That I would do only in context of saying there are all the contrary views expressed to me.

P: Let's look at all these options & see where we go.

K: If I am asked to do it, I'll do it, but I think this is a profound issue of foreign policy & a foreign threat. We are exceeding to a certain point & arguing only on fact.

P: But contrary is that if you get a hard case & lose it you have done ^{irreparable} ~~irreparable~~ damage.

K: That is true.

P: I think we can confront them & win if we have the right case.

R: I think we better offer a potential confrontation than a by and by case / stress events.

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