

7-19-74 NYT

Memos Showing Concern Over Leaks

Special to The New York Times

WASHINGTON, July 18—Following are the texts of four internal White House memorandums released on behalf of the President today to reflect the concern in top levels of government over persistent leaks of sensitive information to the news media.

Charles Colson Memorandum, July 3, 1971

MEMORANDUM FOR: RAY PRICE
FROM: CHARLES COLSON

The President this morning gave me the following points which he would like to have drafted into a statement which he may want to use in Kansas City. In any event, if he decides not to use it, it is a thesis that he would like to see developed as a major Administration statement.

The points went as follows:

1. A former Government official or officials in clear violation of the Espionage Act delivered stolen, top secret papers to the press. (The statement about "in clear violation of the Espionage Act" should be double checked—will have to be modified to the correct legal phraseology.)

2. This Administration sought to enjoin the publication of those documents. There was no reason we should do this—certainly from a political standpoint in view of the fact that these were records involving prior Administrations.

3. But there were higher issues involved than any political consideration. I took an oath to enforce the law of this land. The law clearly says that no one—editor or President, for that matter—can put himself above the law. The law in this instance imposed a very clear obligation upon this Government.

4. The Court has now ruled that the newspapers do have the right to print these documents. I will not question that decision (the characterization of what the Court did rule should be made quite clear because they did not hold that under no circumstance could the Government seek and make stick an injunction).

5. The real question, however, is: Should a newspaper in the great tradition of our free press exercise that right in an unrestricted way.

Delay in Return of POW's Cited

6. The President would then like to cite the exchange with Bickel pointing out that counsel for The Times believes that even if there were a risk that the publication could contribute to a delay in the return of POW's "that is a risk that the First Amendment signifies that this society is willing to take." (We must be very careful to be sure that Bickel's response is fully in context. You will note that he says that it would be unlikely to be the only cause of delay, it might be one of many causes and that under those circumstances the risk should be taken.) He does acknowledge, however, that the principle of the First Amendment undercuts the risk of delaying the return of POW's. As President, I do not share that view. That may be the standard of one newspaper, it can never be my standard. That can never be the standard of the President of the United States.

7. I am negotiating on many fronts for peace. Many of these negotiations could not succeed unless they were conducted in secret and vital information is protected. I will keep my oath to enforce the law; moreover my primary obligation is the protection of American lives and the return of POW's. If secret negotiations are necessary to this end then I will do everything in my power to protect the security of those negotiations.

8. I can well understand that newspapers must seek stories and scoops both to inform the public and obviously because they are in a very competitive commercial enterprise. They must seek to inform the public and increase their circulation but if I have a choice between the life of one American and a newspaper's understandable desire to obtain information, I will put one man's life above this. No story, even if it would sell a million more newspapers, is worth the life of one American.

9. As far as the record of this Administration is concerned, I have nothing to hide. I deeply believe in the people's right to know but my first obligation is to the future and to keeping the peace for the future.

10. President Eisenhower once told me the story of his relationships with the press during the very trying days of World War II. Newsmen were often given secret invasion plans in advance

but no reported ever broke security. I believe that the American press understands the very deep responsibility which they have and which they have exercised many times before.

11. The President then added a couple of additional points which probably belong back in the text somewhere: I understand the obligation of editors to seek the truth, particularly when it might appear that the classified information has been protected largely for political purposes.

He then also added: The newspapers may have a legal right to publish top secret documents but the real question is: Should the newspapers exercise this right?

Charles Colson Memorandum, July 16, 1971

MEMORANDUM
FOR: JOHN EHRLICHMAN
FROM: CHARLES COLSON
SUBJECT: Rand Corp/F.B.I./
Ellsberg

Frank Stanton, who was on the board of the Rand Corporation, told me yesterday that at a recent executive committee meeting it was disclosed that the F.B.I. had made an extensive investigation at Rand in April of 1970. The investigation centered about an alleged leak of documents by Ellsberg. I am sure this is the incident you told me about over the phone.

According to the report given to the Rand executive committee, the F.B.I. had a solid case but did nothing with it. Stanton suggested that it should be a matter of great concern to us especially if there is any truth to Rand's assertion that there was a solid case and the F.B.I. elected not to act.

In view of the fact that Rand obviously used this as a way of protecting themselves and shifting responsibility back on us. I would think that the file should be very carefully examined and we should be certain of precisely what happened internally that caused the case to be turned off.

Egil Krogh and David Young Memorandum, Aug. 3, 1971

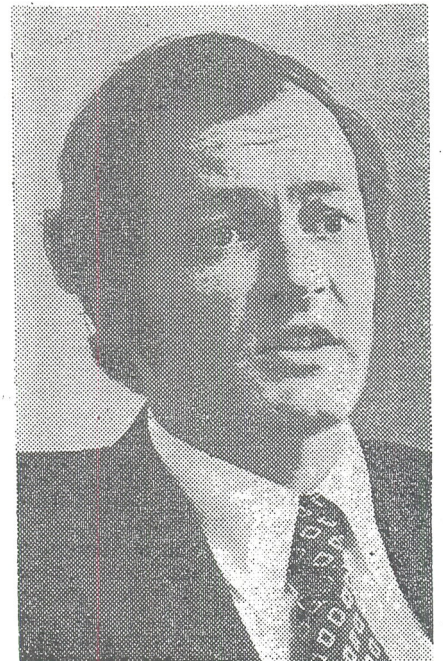
MEMORANDUM FOR: JOHN
EHRLICHMAN
FROM: BUD KROGH
AND DAVID R.
YOUNG
SUBJECT: The Attached
Article in Today's New York Times and
Director Helms' Call of this Morning
indicating that this Leak of Information

from a Clandestine Source and it Puts the Source's Life in Danger. As you know, we conducted extensive interviews at State and Defense in the Beacher/SALT leak, but with unsatisfactory results.

We understand that C.I.A. feels it could have gotten to the source of the SALT leak if we had told them to go all out for one month to identify the soft spot. We feel that now we have an opportunity to give C.I.A. the mission of tracking down the source of this leak. Our reasons are:

(1) C.I.A. possesses implicit authorization to investigate breaches of its own internal security of which the attached represents a major incident.

In our judgment, we should authorize C.I.A. to nail down the source of this



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Egil Krogh Jr.

leak dealing with the other departments through us.

(2) The F.B.I. has been out of the clandestine business for five years and we are most reliably informed it would take an unacceptable amount of time for the bureau to gear up for such an operation.

If the F.B.I. lacks capability to undertake the mission and as Hoover is most sensitive about C.I.A. encroachment on the domestic preserve, this decision, if taken, should not be made known to Hoover or Mardian, or anyone at State or Defense.

RECOMMENDATION:

That you advise Helms immediately following the NSC [National Security Council] meeting that we would like him to begin this operation to identify the source of this leak immediately, and that you will so inform the President.

Egil Krogh and David Young Memorandum, July 30, 1971

MEMORANDUM FOR: JOHN D.
EHRLICHMAN
FROM: EGIL KROGH
JR. AND
DAVID R.
YOUNG
SUBJECT: STATUS OF
ELLSBERG ET
AL. INQUIRY
AS OF JULY
30, 1971.

The following is an initial report on what we have found out, what we set up in order to monitor and give direc-

tion to the bureaucracy and what actions we have taken.

Operations Under Way

(1) We have had meetings with the Departments of Defense, State, Justice and the C.I.A., to determine what each is doing in the wake of the Pentagon papers case. In addition to the general classification and declassification study being carried out by the Rehnquist Committee, each department has set up a committee to review its clearance procedures and each is in the process of preparing damage assessments.

(2) We have established a liaison relationship with Justice and Defense in order for us to be fed the information which they are developing in their various investigations. We will also be able to initiate the investigation of leads through this channel.

Special Projects Enumerated

(3) The specific projects which have been undertaken by the departments are as follows:

(A) Defense is conducting:

(i) A detailed analysis of the preparation of the study and the track of its distribution;

(ii) An analysis of the published material to determine what parts of the study have been published and what proportion has come from other classified sources;

(iii) An investigation of all individuals still in the military or defense related positions who participated in the study;

(iv) An investigation of the security arrangements at RAND and is inventorying all its documents.

(B) Justice:

(i) The Criminal Prosecution Section of the Internal Security Division is pursuing U.S. v. Ellsberg;

(ii) The F.B.I. is investigating all individuals in connection with U.S. v. Ellsberg;

(iii) The Internal Security Division is doing an analysis and evaluation of all information gathered on Ellsberg and associated individuals.

(4) An over-all study of the classification and declassification system under NSSM 113 is being done by the Rehnquist Interdepartmental Committee. (A preliminary report by them for a new system of classification is attached.)

Actions Taken

(1) The F.B.I. has been asked to expand its investigation to cover all non-Defense related individuals connected with the preparation of the study and to follow up any other leads falling out of the investigations in the U.S. v. Ellsberg case itself.

(2) We have instructed the C.I.A. to do a thorough psychological study on Ellsberg.

(3) We have asked Mr. Smyser for an opinion (for Henry A. Kissinger) on the relationship of timing between October South Vietnam election and the political exploitation of the Democrats' involvement in the 1963 coup against Diem. (Initial oral reaction is that it would be disastrous for us to put anything out before the South Vietnam election.)