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THE WHITE HOUSE

WASHINGTON

September 2, 1978

ADMINISTRATIVELY CONFIDENTIAL - NOT FOR CIRCULATION

MEMORANDUM FOR THE PRESIDENT

FROM: STU EIZENSTAT

SUBJECT: Dresser Decision

You will soon be reconsidering your decision on the Dresser export license. While I have not been directly involved in this matter, I am concerned about the decision and would like you to know my position.

On the merits, the Dresser matter is a very close call. On the one hand, I think we need to take actions which retaliate for the Scharansky and Ginzburg convictions; our oil and gas technology is something clearly needed and coveted by the Soviet Union; part of the technology involved cannot be obtained from other countries; the Dresser sale has recently been one of the most publicized United States-Soviet Union commerce agreements.

On the other hand, we have already taken some retaliatory action by withholding the computer to Tass; the welding equipment that is the focus of this issue is worth less than $1 million out of the $144 million factory to be built by Dresser, and is thus a relatively insignificant item to use as a retaliatory symbol (the license for the factory is not questioned by any of your advisers); the Defense Department has not determined that our national security would be injured by the sale of the welding machine; and we have not yet made an Administration determination that minimizing Soviet oil and gas production is in fact in our national interests.

Since the merits are balanced, I can understand why some of your advisers, and some Members of Congress, may have been disappointed by what appeared to be your initial decision. There are clearly some strong points to be made in favor of denying the export license, or at least postponing a final decision until Senator Jackson's subcommittee has completed

hearings (particularly in light of his central role in our energy bill). However, you have already made a decision in this matter, there are equally strong points supporting that decision, and the decision has been well publicized. Since that is the case, I strongly recommend, for the following reasons, that you not reverse your initial decision:

-- One of the major charges raised against the Administration during the first 18 months has been that we change positions on major issues. Recently, I think that charge has died down somewhat, and we now have flexibility to compromise on issues without having to fear so greatly that any compromise will be seen as a flip-flop. I think that a reversal of this well-publicized decision would revive the flip-flop charge and would thereby harm the Administration greatly by enabling our critics to point to a recent instance of perceived indecision and vacilation.

-- A reversal at this point, when no new facts have been developed, essentially tells the country that you either made a mistake two weeks ago or that all of your advisers' views had not been known at the time of the initial decision. In either situation, I think the Administration is harmed. It will be an invitation to reverse decisions after they are made. Alternatively, it will appear to be an admission that the process for making the important Dresser decision was faulty.

-- There are numerous other opportunities to retaliate for Scharansky and Ginzburg by denying high-level technology to the Soviet Union. The Commerce Department has dozens of export licenses to the Soviet Union presented to it every month. Some of these other licenses could be denied, achieving our original purposes without raising the problems that I have just mentioned above.

I think it has been a disservice to you to have this issue raised again so visibly. I think holding to what is perceived as the original decision is the best way to minimize damage.

If you do maintain your initial decision, I think that there are several things which should be done immediately following the decision:

-- You should personally inform Senator Jackson prior to the announcement of your final decision, and we should attempt to do as much as possible in the way of explaining the final decision to him. Senator Jackson could be told that other actions are available and may be taken soon in response to the Soviet trials. We particularly cannot offend him so shortly before the critical natural gas vote in the Senate.

-- You should ask your foreign policy advisers for a series of export-related (or other) actions which might be announced in the next several weeks or months to counter the charge that we are blinking at Soviet human rights violations. This should be done on an expedited basis so that critics of the initial Dresser decision can be quieted relatively soon after your final decision is announced.

-- Jody and Jerry need to develop a press strategy to explain why the decision was reopened and why the initial decision is being maintained.

-- Members of Congress who will be supportive of your final decision should be contacted in advance of the announcement by Frank Moore, Cy Vance or Juanita Kreps, and should be informed that a positive statement by them would be greatly appreciated. We should not allow only the critics of the final decision to dominate the news about that decision.

-- Finally, some better mechanism must be developed to handle export license decisions. My impression, from speaking to some of those involved in this decision, is that the process is very ad hoc and not well designed to meet your needs. I suggest that you ask Zbig to review the decisionmaking process at once and to present to you ways which will ensure an improved decisionmaking process in the future.

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THE WHITE HOUSE
WASHINGTON

9-2-78

Jody:

a) Expedite Dresser statement

b) Advise on WH involvement in GSA investigations -

✓

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THE WHITE HOUSE
WASHINGTON

9-2-78

Hamilton -

Move on Tom

Bryant -

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THE WHITE HOUSE

WASHINGTON

September 2, 1978

Mr. President:

Bob Lipshutz called from Atlanta requesting a few minutes with you on Monday before you leave for Camp David.

Shall I schedule him after Ed Sanders?

Phil

ok -
(He needs no appointment)
J

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nsc meeting, 9/2/78

THE WHITE HOUSE
WASHINGTON

JCs

Now uneasy balance

SU believe they will have advantage in early '80s

SALT II - few constraints

SU continue present plans

US oppor for new 2500 → 2250 conversions (5520 buildup, Bison bombers → tankers, etc)

Backfire ~ B52

Administration Divided on Spy Arrests

By John M. Goshko
Washington Post Staff Writer

The State Department and Justice Department are locked in a sharp, behind-the-scenes dispute about whether the Carter administration's moves against Soviet spies in the United States are fueling the deterioration of U.S.-Soviet relations.

At issue is a problem that has plagued U.S. governments since the height of the Cold War—the clash between the pursuit of better relations with the Soviet Union on the international scene and the need to safeguard national security.

In recent weeks, the conflict has been exacerbated by what high-ranking State Department officials contend is an increasingly hard-line approach in Attorney General Griffin B. Bell's Justice Department toward espionage cases.

State officials say that some recent actions by the Justice Department are regarded in intelligence circles as a changing of the "unwritten rules" by which the superpowers traditionally have played the spy game.

In addition, the State officials charge that the FBI, which is under Bell's control, has been trying, with the help of sympathizers in Congress, to pull off what one State source calls a "power grab." Its aim, State officials say, is to give the FBI the dominant voice in deciding whether foreign nationals suspected of espionage activity should be denied visas to enter the United States.

On the other side, Justice and FBI officials deny that there has been a major shift in policy toward Soviet espionage cases. They do concede, though, that their responsibility for safeguarding national security and enforcing the law frequently runs counter to what one calls "the convenience of the State Department."

In diplomatic and intelligence circles, this gap between the attitudes of State and Justice is regarded as one of the major underlying causes of the recent sharp increase in tensions between the Carter administration and the Kremlin.

Its effects were made vividly clear by the events that began unfolding in June when the FBI, amid a blaze of front-page publicity, arrested two Soviet citizens employed by the United Nations and charged them with trying to buy secret U.S. naval warfare documents.

The decision to prosecute the two on espionage charges was preceded by a lively debate within the administration that pitted State and the Central Intelligence Agency against Justice and the FBI. The debate ultimately had to be resolved by President Carter.

The State Department, backed by the CIA, argued that the two Russians should have been quietly expelled rather than arrested and prosecuted. Department sources say Carter was warned that prosecution would be interpreted by the Soviets as a breach of the "unwritten rules" that the two countries normally apply to each other's apprehended agents and would invite a dramatic and inflammatory Soviet retaliation.

"As recently as two years ago, when [then-Secretary of State] Henry Kissinger was calling the shots on foreign policy, that would have been the paramount consideration," says one State official. "It would have been handled quietly in a way designed not to disturb the larger framework of our pursuit of detente with the Soviets."

However, in making a decision, Carter sided not with State but with Bell, who reportedly went to the president to argue that the case involved a clear violation of law that could not be overlooked. Bell also is known to have argued that the so-called "rules" didn't apply since the two Russians did not have diplomatic status or immunity.

The retaliation feared by State came in July when Soviet police, in an act that sent U.S.-Soviet relations plunging to their lowest ebb in years, dragged an American businessman, Francis J. Crawford, from his car on a Moscow street and charged him with currency violations.

Crawford's arrest forced Washington into a frenzy of high-level negotiation with the Soviets that finally resulted in Crawford and the two Russians being released temporarily in the custody of their ambassadors.

"What was accomplished by arresting the Russians?" asks the State Department official. "All it did was trigger an incident that unnecessarily tied up much of the U.S. government, including the president and the secretary of state, in a wasteful and enervating effort to try and undo the damage."

"In addition," he notes, "the American business community in Moscow has been paralyzed with fear and uncertainty that could seriously set back the development of U.S.-Soviet trade; suspicions and animosities have been heightened on both sides, and, in an atmosphere like that, the chances for reaching accommodations on matters affecting world peace aren't enhanced."

He points out, by way of illustration, that the two Soviets are scheduled to go on trial Sept. 12 before a federal court in New Jersey. On Sept. 19—a time when the trial is likely to be in full swing and attracting a heavy share of press attention—Secretary of State Cyrus R. Vance and Soviet Foreign Minister Andrei Gromyko will be meeting across the Hudson River in New York to continue their search for a strategic arms limitation talks (SALT) agreement.

"The fallout from the trial will be swirling all around them," the official predicts. "How can you make progress in a situation like that?"

Some State and CIA officials express hope that the incident might have been a learning experience that will cause Carter and Bell to take a "less simplistic view" toward espionage cases in the future. However, the Justice Department gives no outward sign that it's had any second thoughts on the matter.

Instead, one Justice official who is privy to Bell's thinking, says: "We never thought there was much room for argument on this one. In this administration, when someone's caught in a serious violation of law, he's going to be prosecuted—no matter who he is or where he comes from. That's how Bell feels, and he believes the president feels the same way."

The cleavage between the two departments is also likely to affect efforts to resolve another aspect of the controversy—that involving U.S. visa policy and charges that the State Department's permissiveness has allowed too many spies from the Soviet Union and its communist bloc allies to infiltrate the United States.

In recent weeks, these charges have triggered a number of moves by conservatives in Congress to restrict and inhibit State's visa-granting powers by giving more weight to the FBI's contention that potential security risks should be kept out.

The House, for example, has passed legislation that would make the House and Senate Intelligence committees custodians of a list supplied by the attorney general and containing the names of all aliens admitted to the country over the objections of the FBI. Legislation for a similar but much less detailed list also has been adopted by the Senate.

Last month, the Senate adopted an amendment offered by Minority Leader Howard H. Baker Jr. (R-Tenn.) to the military assistance bill that would have repealed earlier legislation relaxing restrictions on visas. However, the Baker amendment later was dropped by a House-Senate conference committee.

Then, on July 28, the Senate Appropriations Committee, in a report to the full Senate, included language that one Justice Department official describes as "a kick in the groin for the State Department."

In its section on funds for the Immigration and Naturalization Service, another agency under Justice Department control, the committee said it had "determined that far too many Soviet bloc intelligence personnel have been admitted entry into the United States."

"Therefore," the report continued, "the committee directs that the Immigration and Naturalization Service under the guidance, control and supervision of the attorney general deny entry and enforce expulsion of hostile intelligence service personnel irrespective of visas issued by, or policies of, the Department of State."

These various moves to give federal law enforcement agencies the dominant say over visa policy are viewed by the State Department as an even greater threat to its ability to deal with the Soviets than the conflict over espionage prosecutions. The department's ability to grant visas to visitors coming from the Soviet bloc as delegation members, journalists, students, businessmen or tourists is an important element in its everyday dealings with Moscow and its allies.

In cases where a visa is issued to someone who might be considered a security risk, State is supposed to consult with the FBI to see if the bureau objects to person's entry. If State and the FBI then are unable to agree, the matter is referred to INS for a final decision, and, during recent years, State has prevailed in the overwhelming number of disputed cases.

For that reason, some State Department officials say they believe the FBI has played a behind-the-scenes lobbying and orchestrating role in the recent congressional attempts to rein in State's visa-granting powers.

"The FBI has lost hundreds of disputed cases, and they say we never listen to their recommendations on keeping someone out," says one department official. "Now we have pretty good indications that they've been working on friendly congressmen to get the rules changed to give them the upper hand."

"The problem," he charges, "is that the bureau wants to keep out everyone who ever walked down a street where there was a communist in the vicinity. More than 90 percent of the objections they make are based on the flimsiest evidence—on memberships or associations that were ended years ago or on unprovable second- or third-hand allegations made by unreliable sources."

"To follow such a policy would be totally counterproductive to our foreign policy goals," the State official argues. "It invites retaliation against Americans traveling to communist countries, and it gives the Soviets propaganda to counter our human rights policy. Every time Congress takes a regressive step on visas, the Soviets can respond by asking, 'Who are you to criticize us for our alleged restrictions on freedom to travel?'"

On the other side, FBI and Justice Department officials deny they're engaged in a campaign to tilt visa policy toward national security considerations. They admit, though, that FBI Director William H. Webster has been "totally candid" when asked for the bureau's opinion by various committees of Congress.

They say Congress has put pressure on the FBI to step up its combating of foreign intelligence and that, in turn, has severely taxed the bureau's resources because of the need to keep some kind of check on the hundreds of alleged potential security risks the State Department has allowed in the country.

"Webster went to Congress not long ago and asked for 125 new agents to keep up with the job," an FBI official points out. "They hit the ceiling and asked him, 'Why do you need more men? Why don't you keep them out in the first place so you don't have to watch them?'"

Lawyers from State and Justice recently have been trying to search out a common ground that will permit more harmonious resolution of the visa dispute. However, the effort is still in an early stage. As one of the participants says:

"We've agreed that we have to reach an agreement. But there's still a very big gulf to be bridged; and, at this point, it's hard to say if we can find a modus vivendi acceptable to both sides."

State Department officials claim Attorney General Bell is taking a hard-line approach toward espionage cases. This, they say, is regarded as changing the "unwritten rules" by which the spy game is played, a situation which exacerbates the conflict between better Soviet relations and national security.



GRIFFIN B. BELL

Hill Unit Eyes Bell Role in Probe of FBI

By Charles R. ...

...ger begin soon.

...the report says. FBI Director William H. Webster is still considering disci... [illegible] 68 FBI agents

...rather than the office of profes... responsibility, investigate...

THE WHITE HOUSE
WASHINGTON

9/2/78

To Cy Vance

Do you know the source of this story? There is a continuing series of State Dept criticisms of me, WH staff, NSC, Cabinet members. I realize it is partially uncontrollable but if there are spokesmen in your dept who cannot support me & my policies, they should resign.

J. C.

THE WHITE HOUSE
WASHINGTON

HT hd

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Personal
Ham
for comment
J

THE WHITE HOUSE

WASHINGTON

September 2, 1978

ADMINISTRATIVELY CONFIDENTIAL -- PERSONAL
NOT FOR CIRCULATION

MEMORANDUM FOR THE PRESIDENT

FROM: STU EIZENSTAT

SUBJECT: White House Staff

I think the recent changes you have made in the White House staff have been necessary and will prove to be of enormous benefit to all of us.

Even with those changes, however, I feel that the White House staff needs more seasoned Washington experience -- from individuals who have served in Congress, in the Cabinet, or on a White House staff. You, and all of us, will be much better served than we collectively can do now.

In developing policy, in lobbying Congress, in educating the public, and in motivating the interest groups and our constituents, there is a role to play for someone who has extensive Washington experience and knows the players in Washington and around the board rooms of America. Such a person could be added to the staff, without portfolio, but with license to assist others on the staff and to troubleshoot for you and your senior advisers. People who would be ideal for such an assignment might be: Harry McPherson, who has served as Counsel to President Johnson; Lloyd Hackler, who also worked with President Johnson; or Paul Rogers, who is retiring this year from Congress. Bob Strauss could easily do this if he was here with no other responsibilities.

I recommend that you authorize Hamilton to review the possibility of bringing on the type of person I have described.

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8 9/2/78

MR. PRESIDENT,

I SUGGEST THAT YOU HAVE THIS ANNOUNCEMENT MADE BY BEL HERE ON TUES. OR WED. THERE IS NO NEED FOR A PRESIDENTIAL STATEMENT TO BE ISSUED OVER YOUR NAME. THAT WOULD SEEM TO MAKE IT INTO A BIG DEAL WITH THE PRESS. IT ISN'T NOW. THEY EXPECT YOU TO MAINTAIN YOUR POSITION AND FOR JACKSON TO STOMP AROUND SOME. THEY ARE LARGELY INDIFFERENT.

IF HAVE ATTACHED SUGGESTED PRESS GUIDANCE FOR YOUR APPROVAL. THE OPENING GRAPH CAN EASILY BE CHANGED TO FIRST PERSON IF YOU WISH.

JODY

9/2/78

Before he left for Idaho, the President asked for a thorough review of the Dresser export license decision. That review has been completed. The President's advisors were divided in their recommendations. After careful consideration, the President has determined that it is in the national interest for the export license to remain in force.

Q: Why did he ask for a review?

A: He was concerned that the initial decision making process may not have been thorough enough.

Q: Did the review bring to light new information?

A: Yes. Some new information was brought to light on both sides of the question.

Q: Will any changes be made to insure that the process works better in the future?

A: The presidential expression of concern and directive that this decision be reviewed will no doubt contribute to that end. Beyond that, there are no plans for any significant changes.

Q: What about reports that the SCC voted 3-2 against the position the President has taken?

A: As I said, the President's advisors were divided. This is not unusual. In such cases, the President must assess all the arguments and make a decision from the perspective of the Oval Office -- which only he can do. He has done that, and you know his decision.

Q: Which advisors recommended which option?

A: As you know, we do not generally comment on the private advice given to the President by his advisors.