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MEMORANDUM FOR THE RECORD

SUBJECT: Yuriy Ivanovich NOSENKO

In early or mid-1967, the Agency General Counsel was provided a summary of the Nosenko case. The memorandum sought an advisory opinion from the General Counsel on the Agency's legal basis for its handling of Nosenko through that date and on the legal aspects on the eventual disposition of Nosenko. Shortly subsequent to this memorandum to the General Counsel, Nosenko took up residence in October 1967 in an apartment in the Washington area and was reminded that should he wish, he could travel freely anywhere at anytime. He gradually created a new life for himself in the United States and has indicated on several occasions that he holds no ill feeling about his handling by the Agency at anytime.

Background

Nosenko 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, Nosenko wrote out an asylum request, requesting political asylum from the U.S. Government.

Because serious doubts about Nosenko'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 decision about moving Nosenko 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 Nosenko, 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 Nosenko was a high level scientist or disarmament expert, it was decided that the State Department would make a brief announcement acknowledging Nosenko's request for asylum in the U.S. and identifying him as a member of the KGB. This was done on 10 February. On 11 February, the Soviet Government delivered a note to the American Embassy in Moscow asking how Nosenko 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 Nosenko. Although the Swiss categorically rejected these charges, the American Ambassador to Switzerland recommended that Swiss authorities be allowed to interview Nosenko to convince themselves that Nosenko had left Switzerland of his own free will.

On 12 February 1964, on the instructions of the Director, Nosenko 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.

On 13 February, representatives of the Swiss and Soviet Embassies in Washington advised the State Department that they desired interviews with Nosenko. On 14 February, in Moscow, Soviet Foreign Minister GROMYKO called in Ambassador KOHLER and protested "impermissable activities" on the part of the U.S. in Nosenko's case. Soviet press spokesmen took an even harder line to Western correspondents, and accused the U.S. of kidnapping Nosenko. On the afternoon of 14 September, at two separate interviews, he spoke first to Swiss Embassy and then to Soviet Embassy representatives. At these interviews, which were also attended by State Department and INS officials, Nosenko confirmed that he left Switzerland of his own free will to seek asylum in the U.S. In addition, he 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 Nosenko had confirmed his desire to remain in this country.

From the time of his arrival to 4 April 1964, Nosenko was housed in the Washington area. During this period, regular systematic debriefing was commenced, and Nosenko was

made available to representatives of the FBI for debriefing on matters affecting their responsibilities. Although allowed out for evening and week-end excursions, Nosenko was at all times accompanied by O/S personnel. In addition, he took a two-week vacation to Hawaii, again accompanied by case officers and security guards. Evidence continued to mount that he 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 he was being held. Nosenko 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, Nosenko'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 in accordance with Agency local responsibility. It was clear that it was only a matter of time before he created a public scandal. More importantly, he was in a position to communicate with the KGB since physical control could not be absolute.

On 4 April 1964, Nosenko voluntarily underwent a polygraph examination. The results of this examination indicated deception

on a number of critical points indicating that he was sent 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 Nosenko'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, he was moved to quarters where his movements could be more easily controlled, and his outing privileges were suspended pending resolution of bona fides.

It is worth noting that had we not taken the above action but accepted Nosenko at face value, it is quite possible that we would have proceeded with a series of operational actions on the basis of his 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, his chief operational proposal at the time, and one that he was most insistent that we should proceed with immediately, involved the compromise of a very senior Soviet official.

Bona Fides

Beginning in April 1964, hundreds of hours were devoted to interrogations of Nosenko (in which he willingly cooperated) and a great deal of time was spent on exhaustive collateral

investigations. We concluded that it had been established beyond reasonable doubt that Nosenko was a KGB agent who established contact with CIA, subsequently defected on KGB instructions, and that he came to the United States on a deception mission. The implications of this mission had a grave and direct bearing on U.S. national security. Although our findings were supported by the results of two polygraph examinations, the nature of the evidence was inadmissable in a court of law. In any case, it is clear that Nosenko had 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.

Nosenko did 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.

Coordination with Other U.S. Government Agencies

USIB Members. In accordance with the DDCI's ruling relating to a defector who has been a member of a hostile intelligence service, Nosenko's status and handling was discussed at an executive session of USIB and decided on an

ad hoc basis. Nosenko defected on 4 February 1964, 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 1964, 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 1964, which stated that Nosenko's bona fides had not yet been established. It was agreed that no DS number would be issued to Nosenko, and that he would be handled on a special basis by this Agency. In fact, normal USIB interest in Nosenko 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.

The President was informed of the full extent of our suspicions about Nosenko'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.

Generals Carroll and Fitch of DIA were also subsequently informed of the problems about Nosenko's bona fides.

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

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 Nosenko's information as it affects the security interests of the State Department.

Because so much of Nosenko's information affected U.S. internal security matters for which the FBI bears primary responsibility, and because the possibility that Nosenko was a KGB plant had a direct bearing on the validity of certain FBI operations, the FBI was kept fully informed on our views about Nosenko's bona fides and our progress in interrogating and investigating him from the moment of his defection. The FBI liaison officer was told of our reservations on Nosenko's bona fides as early as 5 February 1964. The Director of the FBI and his deputy for Internal Security, William Sullivan, were kept completely up to date, and we coordinated all major

aspects of our handling Nosenko with them. After a long meeting with Sullivan and other FBI representatives to review Nosenko's case on 1 April 1964, the FBI interposed no objections to our proposal to restrict Nosenko's movements and commence hostile interrogation. Subsequently, the FBI formally agreed with our findings on Nosenko, at least to the extent that "On considering carefully the results of your interrogations of Yuriy 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."

The then Acting Attorney General Mr. Nicholas Katzenbach (and several members of his staff) were apprised of our reservations about Nosenko 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 Nosenko from this country.

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

From the time we learned that Nosenko 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 Nosenko's true status. Consequently, detailed knowledge of the depth and scope of our suspicions about Nosenko, and the implications thereof, was restricted to a very few people in the Agency and the intelligence community. Nonetheless, we did advise key policy echelons and principals in the intelligence community, even though this carried the inevitable risk of leakage.

Soviet Inspired Inquiries

In 1966 there were several indications that the Soviets were making a serious effort to find out what happened to Nosenko and to force him to the surface. The most blatant and unusual of these was 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 Nosenko and his family. According to Korolev, Nosenko's wife was considering an approach to an international juridicial organization in an effort to obtain compensation from Nosenko for damages caused by his abandonment of her and her children. In responding to this approach we quoted a statement, purporting to be from Nosenko himself,

to the effect that Nosenko 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.

Nosenko's Status

To recapitulate, Nosenko 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. Parole responsibility is delegated to the Agency by the Attorney General under the terms of an agreement executed by the Attorney General and the DCI on 10 February 1955, which states:

> "After parole of such aliens, the Central Intelligence Agency will assume responsibility for care, supervison 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 had reason to believe that Nosenko was a conscious and willing agent of a hostile intelligence service, we ensured that he 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 Nosenko at a location where he could enjoy a certain amount of movement and of contact with the outside world. After 4 April 1964, for reasons explained above, it was 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 Nosenko to remain in this country under the Special Agreement Procedures was periodically extended by the Immigration and Naturalization Service.

Although his freedom of movement had been severely restricted, Nosenko was not maltreated and he made no complaint about his treatment. On the contrary, we had several written statements from him in which he stated that our handling of him was justified and even beneficial.

Disposal

From the time that Nosenko was brought to this country we thought about the possibility of his eventual deportation as a contingency measure. In early 1964, we thought that it might be possible to mitigate the political and propaganda drawbacks of a forced deportation by announcing that Nosenko has confessed his true KGB role. With the passage of time, however, and in view of our much firmer conclusions about his real role and mission and our clearer understanding of what

this implied, it was apparent that great practical problems stood in the way of his deportation to either the USSR or a third country.

USSR: Nosenko 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. Under these circumstances an alleged "confession" by Nosenko would have come under very close scrutiny, and might have backfired very badly. Another point that had to be considered was the possibility that the Soviets, again playing their part, might have refused to accept Nosenko on the grounds that he has renounced his Soviet citizenship.

Third Country: Although we believed it likely that Nosenko would accede to deportation to a third country,

there is certainly no country in the free world on which we could conceivably have unloaded Nosenko without first informing them of his true status. Even if we considered this a desirable objective, it seemed certain that the Department of State would veto such a piece of intergovernmental duplicity on the basis of the political risks involved.