[CONFIDENTIAL]

OGC 78-7740
21 November 1978

MEMORANDUM FOR THE RECORD

FROM : Richard L. Rininger
Assistant General Counsel

SUBJECT : Appearance of Mr. Tennent Bagley Before The HSCA

1. On 15 November, I spoke with Mr. Tennent (Pete) Bagley and his counsel, Philip Chabot, concerning Mr. Bagley's appearance before the House Select Committee on Assassinations on 16 November.

2. This Office first became aware that Mr. Bagley might make such an appearance on 13 November. On that date Mr. Ernest Mayerfeld was contacted by Mr. William Shaeffer of the Civil Division, DOJ. Mr. Shaeffer indicated that Mr. Bagley had written to DOJ requesting that DOJ hire private counsel to represent him in an appearance he planned to make before the Committee.

3. Since Mr. Mayerfeld was to be out of town for the next several days, he asked me to contact Shaeffer and handle the matter.

4. On 14 November I called Shaeffer, but actually dealt with Ms. Janice Spasato (633-3333). I informed her that the Agency had not been contacted by Bagley, nor had the Committee said anything to us about him, so it would seem that he might be volunteering an appearance. I told her it was my understanding that Mr. Bagley, who is retired, was living in Brussels.

5. Ms. Spasato told me that Mr. Bagley had returned to this country and was now residing in Vienna, Virginia. In his letter to DOJ (we have no copy) he apparently indicates that he has returned in order to set the record straight and was prepared to stay as long as necessary to accomplish that. Bagley wished to be represented by Duncan, Brown, Weinberg and Palmer, P.C. (the firm which has represented James Angleton).

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6. Ms. Spasato agreed with me that if Mr. Bagley was volunteering to appear, there was no basis for DOJ representation or sponsorship. Since the Agency was totally unaware of Mr. Bagley's actions, she said she would contact Bagley directly to learn his status. On 15 November she informed me that Bagley was indeed a volunteer and that DOJ had declined to represent him or pay for private representation.

7. On 15 November, at about 1230 hours, I received a call from Philip Chabot, Esq., of Duncan, Brown, Weinberg and Palmer, P.C., who indicated he was representing Mr. Bagley. Chabot is a cleared attorney - OS#659 094. Chabot indicated that Bagley was appearing before the Committee at 1000 hours on 16 November and was very anxious to obtain or review some Agency materials before he did so.

8. Chabot indicated that Bagley wanted the following:

a. The original memo (said to be in his handwriting) which set forth disposal options for Yuri Nosenko (mentioned in John Hart's public testimony at line 4218, and in Richard Helms' public testimony at line 4610).

b. The original (plus the excised portions) memo from DC/SB referring to the aims of the polygraph examination of Yuri Nosenko (Hart 2981/Helms 2068).

c. The original letter with attachments from DC/SB which speaks of "devastating consequences" (Hart 3877).

d. Bagley's complete personnel file, including:

(1) Reference to his transfer from Hqs in 1966/67.

(2) His fitness reports, including all comments, for the period 1962-1972.

(3) His promotion recommendations for the period 1962-1972.

(4) His medal and accompanying citations.

9. I told Chabot that I wasn't the one to make the decision in the matter, but I would take the appropriate steps here and contact him as soon as I could. I then relayed the substance of the call to John Morrison of this Office and S.D. Breckinridge, OLC.

10. Mr. Breckinridge took steps to locate the various items. I checked with Ray Reardon, OS/SAG, to learn what Mr. Bagley's clearance status was.

11. Breckinridge convened a meeting at 1630 to discuss the Agency's response. Others attending were David Smock, CCS; Michael Sednaoui, CI Staff; N. Shepanek, PCS/LOC; and myself. At about the time the meeting convened I called Chabot to tell him we had not forgotten him and that we were about to make our decision. He asked if they could have access to the data that evening if we decided to grant access. I also learned from Reardon at about this time that Bagley did not presently hold any clearances.

12. Coincidentally, most (but not all) of the files bearing upon Bagley's request were in the headquarters building and were assembled for the meeting. Most of the data is classified and some of the classified data incorporates the fact that Bagley was under cover and retired under cover. The paper setting out the options for Nosenko's disposal is one of the items which is not classified.

13. At this meeting the decision was made to grant no access on such a hurried basis. First, Bagley is not presently authorized access to any classified information (though the attorney is). And second, the Agency had not at that point had any contact with Bagley himself. Consequently, we had no idea what his wishes were relative to his cover status or what the Agency's reaction to that would be. (The cover file was not in the building and consequently not available for our review.) It should be emphasized that this was the short term response. It was recognized that there are steps available to Mr. Bagley if he takes them, by which he can seek to obtain the requested data.

14. I called Chabot to relay this decision at about 1745. Chabot was disappointed but cordial. He indicated that Mr. Bagley was with him at the moment and asked me to speak to Bagley directly.

15. I spoke with Bagley at some length, reiterating what I had told Chabot. I noted that Bagley presently held no clearances, that the Agency had not until that moment, to my knowledge, had any direct contact with him, and that his retirement status in itself raised some problems and questions. Bagley replied to the effect that it was silly to worry about cover any longer, since the press had been in contact with him very shortly after the close of John Hart's public testimony (even though Hart had not used Bagley's name in that testimony). I replied that, be that as it may, this Agency would not accept that alone as a basis for changing its position on the cover matter.

16. I indicated to Bagley that if he wished to change his status, he should write a letter to the Agency requesting such a change. I also indicated that he could make a request pursuant to the Freedom of Information and Privacy Acts, to obtain the data he is seeking. He took down details from me and gave indication that he would indeed send a letter concerning change of cover status, and an FOI/PA request. I also indicated to him that the paper concerning Nosenko disposal options was unclassified and had been made available to the Committee. I suggested he ask the Committee for access to the paper at the time of his appearance.

17. Mr. Bagley was quite cordial throughout our conversation and thanked me for the information I had given him.

18. After speaking with Bagley, I recontacted Phil Chabot and relayed to him the security ground rules for such an appearance. Chabot confirmed that Bagley's appearance on the 16th was to be in executive session. He was familiar with the security procedure, since he had been involved in James Angleton's appearance before the Committee. I did reiterate that Bagley was free to make a full and complete response in an executive session, including responses involving classified information, so long as the questions were relevant to the Committee's mandate. I also indicated that if there was any doubt as to relevance, he could ask to defer his response until he had an opportunity to consult with Agency officials on the matter.

Richard L. Rininger

21 Nov 78

cc: SA/DDCI/Smith
OLC/Breckinridge
CCS/Smock
OS/SAG/Reardon
OGC/Morrison
CI Staff/Sednaoui
PCS/LOC/Shepanek
PA/Petersen
OGC/Mayerfeld