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19 JUN 1978

LLM

Scott
I would like to make this available to HPSCI - your feelings?
OK

Possible Downstream Problems With HSCA

1. To date the problems with HSCA have not been major, but some of the difficulties to date may assume increased importance in the remaining period of the investigation. This memorandum undertakes to consider some of them.

2. HSCA Requests and CIA Response. HSCA appears to be following a leave-no-stone-turned approach to the investigation. Just about every name or reference of the files reviewed becomes the subject of a request. Frequently the names are incomplete and identifying material so limited that research becomes tremendously time-consuming. If HSCA has additional information it has appeared on occasion reluctant to provide it, possibly because it will reveal the direction of the investigation. Two things characterize the present status of HSCA and CIA responses. There are a number of requests that have not yet been answered, and the larger portion of material made available for review has not yet been reviewed by HSCA investigators. CIA recently has made arrangements to improve its responses to requests, but the basic problem will remain. We feel HSCA is falling behind and that it will be critical of the Agency for its own failures in this respect.

3. Access. The FBI reportedly has provided no direct access to its files for HSCA investigators. CIA is providing direct access to its files with very limited sanitization. The result is the investigators have had access to a lot of sources-and-methods material. The criticism that HSCA investigators can make is not in our restrictions, but the effectiveness of our responses. As noted above, steps have been taken to remedy this.

4. Access to Agents. In contrast to very full access to Agency files and documents the line has been drawn on access to agents. One agent was interviewed over CIA objections, following the failure to notify CIA of the intention to interview him as provided for in the working agreements. In one other case of which we are aware we have objected to an agent being interviewed and, in the absence of CIA assistance, he was not contacted nor interviewed. This is the subject of a formal protest by the HSCA chairman. The DDCI has offered a method, alternative to direct access to the agent, for obtaining the answers desired.

5. Defectors. As a result of the dramatic presentations in the Epstein Book Legend the HSCA has focussed on this issue. Staff members have stated recently that they consider this to be one of the two most

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important issues that they have, so far as the Agency and the Kennedy assassination are concerned. After considerable exchange we have been advised that the staff no longer is interested in the question of Nosenko's bona fides, per se. The interest is now focussed on what Nosenko knew about Lee Harvey Oswald; questioning on this point apparently is intended to be detailed and intensive. If Nosenko's bona fides are not an issue the need to address the sensitive aspects of his knowledge, and the operational use made of it, may not become a security problem. That information, however, is revealed in varying degrees in some of the material reviewed by the HSCA. While we may have some reservations about how the Nosenko problem is handled by the HSCA, and personally how he is handled, the earlier concerns of security consideration currently are somewhat reduced.

6. Mexico City. The HSCA staffers have stated that CIA coverage in Mexico City is one of the two important issues on which they currently are focussing. The subject matter is classically one of intelligence sources and methods. Additionally, it involves the relationships of the Agency with [instruments of a foreign government in a way that would be politically embarrassing to that government were it to become known. Liaison relationships are part of the story, as are illegal joint ²⁴ operations and undeclared unilateral operations]. Publicity could be lastingly harmful to Agency operations in this important post.

7. Final Report. The Committee is faced with the problem of credibility. It functions under the generally reserved atmosphere in Congress towards CIA which creates pressure to write a tough report that shows the independence of the investigators. While a report of Agency coverage in Mexico can be written using euphemisms for how the coverage existed, the pressures will be to spell it out in detail. We foresee some difficulties when the time comes for CIA's review of the report for security considerations.

8. Performance of the Agency. The HSCA charter includes performance of the intelligence agencies. Part of the vulnerability of the Agency to criticism today is that different perceptions have evolved than existed at the time of the Warren Commission investigation. The Agency's performance during the Warren Commission inquiry has already been criticized in the Church Committee report (by Senator Schweiker) in a badly drafted critique. While the Schweiker draft is flawed, the Agency is subject to criticism in some respects, and an internal CIA study so stating has been reviewed by HSCA investigators. We do not know to what extent there will be criticism of the Mexico City Station although critical observations have been elicited from Agency employees about management there during the Warren Commission investigation. HSCA staffers have indicated that they will be critical of the CIA handling of Nosenko (despite their own readiness to give

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him a hard time when the question is no longer real). They are aware that the Rockefeller Commission has already reported on this but will probably indulge themselves in a reprise.

9. Style. A number of the HSCA investigators have experience as criminal prosecutors. They are accustomed to dealing with criminals that they intend to convict. In the present instance the testimony that they take is not tested by the usual cross examination; as we do not know some of the lines they have taken, we do not know what research to conduct that may balance the perspectives they may be developing. Some of those who have testified have gained the opinion that HSCA investigators are trying to prove theories, sometime critical of the Agency, as distinguished from gathering all the facts in a balanced picture. Because of the HSCA approach our views on this are for the large part visceral, but are sufficiently firm to give us some concern for the kinds of conclusions that we eventually will encounter and not have time to check out.

10. Security. Due note should be taken at this time that the HSCA, in its reorganized form under Mr. Blakey, has an unusual record for security. We are aware of no leaks. Nevertheless, we are anticipating difficulties ~~at the time of the final report~~. Beyond that, we are concerned that when Mr. Blakey's discipline is gone some of his staff members--whom he has described as strongly anti-CIA--may feel free to give their own version of things. This of course remains for the future.

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MEMORANDUM FOR: Lyle Miller

*SDB
Chrono*

Lyle,

The M/R (written at your suggestions, somewhat in haste) is a bit impressionistic and for the DCI. It could be quite embarrassing if it were to become known to HSCA people.

I note that para 8 refers to an internal study that I believe HPSCI hasn't seen as yet, which may cause you some other problems. As may the flat statement that HSCA gets direct access to files, which HPSCI does not.

I yield to your judgment in these matters, but my instinct is not to provide it.

*OK
But how about
preparing you a
Tim/Miller?*

SDB

Date *20 June '78*

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