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MAY 17, 1972

Office of the White House Press Secretary

THE WHITE HOUSE

NATIONAL SECURITY COUNCIL  
DIRECTIVE GOVERNING THE CLASSIFICATION,  
DOWNGRADING, DECLASSIFICATION AND SAFEGUARDING  
OF NATIONAL SECURITY INFORMATION

The President has directed that Executive Order 11652, "Classification and Declassification of National Security Information and Material," approved March 8, 1972 (37 F.R. 5209, March 10, 1972) be implemented in accordance with the following:

I - AUTHORITY TO CLASSIFY

A. Personal and Non-delegable. Classification authority may be exercised only by those officials who are designated by, or in writing pursuant to, Section 2 of Executive Order 11652 (hereinafter the "Order"). Such officials may classify information or material only at the level authorized or below. This authority vests only to the official designated under the Order, and may not be delegated.

B. Observance of Classification. Whenever information or material classified by an official designated under A above is incorporated in another document or other material by any person other than the classifier, the previously assigned security classification category shall be reflected thereon together with the identity of the classifier.

C. Identification of Classifier. The person at the highest level authorizing the classification must be identified on the face of the information or material classified, unless the identity of such person might disclose sensitive intelligence information. In the latter instance the Department shall establish some other record by which the classifier can readily be identified.

D. Record Requirement. Each Department listed in Section 2(A) of the Order shall maintain a listing by name of the officials who have been designated in writing to have Top Secret classification authority. Each Department listed in Section 2(A) and (B) of the Order shall also maintain separate listings by name of the persons designated in writing to have Secret authority and persons designated in writing to have Confidential authority. In cases where listing of the names of officials having classification authority might disclose sensitive intelligence information, the Department shall establish some other record by which such officials can readily be identified. The foregoing listings and records shall be compiled beginning July 1, 1972 and updated at least on a quarterly basis.

E. Resolution of Doubts. If the classifier has any substantial doubt as to which security classification category is appropriate, or as to whether the material should be classified at all, he should designate the most restrictive treatment.

An authorization for access shall be valid for the period required but no longer than two years from the date of issuance unless renewed under regulations of the originating Department.

*SET IV*

C. Access by Former Presidential Appointees. Persons who previously occupied policy making positions to which they were appointed by the President, other than those referred to in Section 11 of the Order, may be authorized access to classified information or material which they originated, reviewed, signed or received while in public office. Upon the request of any such former official, such information and material as he may identify shall be reviewed for declassification in accordance with the provisions of Section 5 of the Order.

D. Consent of Originating Department to Dissemination by Recipient. Except as otherwise provided by Section 102 of the National Security Act of 1947, 61 Stat. 495, 50 U.S.C. 403, classified information or material originating in one Department shall not be disseminated outside any other Department to which it has been made available without the consent of the originating Department.

E. Dissemination of Sensitive Intelligence Information. Information or material bearing the notation "WARNING NOTICE - SENSITIVE INTELLIGENCE SOURCES AND METHODS INVOLVED" shall not be disseminated in any manner outside authorized channels without the permission of the originating Department and an assessment by the senior intelligence official in the disseminating Department as to the potential risk to the national security and to the intelligence sources and methods involved.

F. Restraint on Special Access Requirements. The establishment of special rules limiting access to, distribution and protection of classified information and material under Section 9 of the Order requires the specific prior approval of the head of a Department or his designee.

G. Accountability Procedures. Each Department shall prescribe such accountability procedures as are necessary to control effectively the dissemination of classified information or material. Particularly stringent controls shall be placed on information and material classified Top Secret.

(1) Top Secret Control Officers. Top Secret Control Officers shall be designated, as required, to receive, maintain current accountability records of, and dispatch Top Secret material.

(2) Physical Inventory. A physical inventory of all Top Secret material shall be made at least annually. As an exception, repositories storing large volumes of classified material, shall develop inventory lists or other finding aids.

(3) Current Accountability. Top Secret and Secret information and material shall be subject to such controls including current accountability records as the head of the Department may prescribe.

more



OCT 10 1974

MEMORANDUM

THE WHITE HOUSE  
WASHINGTON

October 7, 1974

10/21/74  
No further action  
P.A.

MEMORANDUM FOR: DONALD RUMSFELD  
FROM: PHILIP W. BUCHEN *P.W.B.*  
SUBJECT: Attached memo regarding NSC reorganization

I have acknowledged receipt of this memo and invite your attention and response.

*Phil - I have -*

*No time to review it - Suggest Give to South Sec. for them to develop and coordinate a response -*

*2:50 PM.  
10/10/74.*

*Don -*

*D.*





THE WHITE HOUSE

WASHINGTON

October 8, 1974

Dear Mr. Newhall:

Thank you very much for your letter of September fifth to Governor Scranton enclosing a memo prepared by Mr. Stanley Sienkiewicz. As you have perhaps learned, the Governor is not at the White House on a permanent basis and in order that this memo may be given prompt attention, I am forwarding it to the appropriate office for immediate consideration.

Sincerely yours,

Philip W. Buchen  
Counsel to the President

Mr. David Newhall III  
Administrative Assistant to  
The Honorable Richard S. Schweiker  
United States Senate  
Washington, D. C. 20510



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## United States Senate

COMMITTEE ON  
LABOR AND PUBLIC WELFARE  
WASHINGTON, D.C. 20510

September 5, 1974

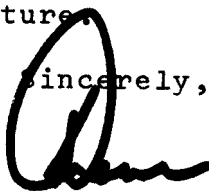
Honorable William Scranton  
The White House  
Washington, D.C.

Dear Governor Scranton:

Stanley Sienkiewicz, a former member of our staff and currently working on the Program Analysis and Evaluation staff in the office of the Assistant Secretary of Defense, had asked a couple of weeks ago if I might bring to your attention the enclosed memo he has authored regarding reorganization of the National Security Council.

Since your second coming to Washington he has again asked that I forward it for your review as you consider personnel structure.

Sincerely,



David Newhall III  
Administrative Assistant to  
Richard S. Schweiker, U.S.S.

DN: jlp



A MORE EFFECTIVE ALTERNATIVE TO THE PRESENT  
NATIONAL SECURITY COUNCIL STAFF ORGANIZATION

The National Security Council (NSC) Staff supports the Assistant to the President for National Security Affairs, and manages the interagency analysis of national security issues (e.g., SALT, MBFR) to be addressed by the Verification Panel, National Security Council, and the President.

The current organization creates serious problems (a) as a result of the supra-Cabinet status of the Assistant to the President for National Security Affairs, and (b) as a result of the fact that the current Assistant to the President, wears a second hat as Secretary of State.

A. The Problem

- The position of Assistant to the President for National Security Affairs has emerged, since the Kennedy Administration, as a Cabinet-level, if not supra Cabinet-level position in national security decision-making. This has steadily diminished the role, and access to the President, of the traditional, Cabinet-level, national security advisors, with the exception created by the current situation, in which Dr. Kissinger is both a Cabinet member and the Assistant to the President. As the Assistant to the President has become a more powerful actor in US foreign policy decision-making, he has both generated and been reenforced by a steady and substantial growth in the National Security Council Staff.

The growth in both power and stature of this office has also created significant friction with the Congress from time to time, since it is not an office whose occupant is accountable to the Congress, as Cabinet officers are.

- The two-hat arrangement, in which the current Secretary of State is also the Assistant to the President for National Security Affairs, creates further problems, since Dr. Kissinger is both the chief diplomat of the United States, and in effect the 'manager' of the national security system, (not to mention his role as head of a major Cabinet Department) conflicts among his duties and the many demands upon him inevitably arise.

-- Time-urgent national security issues for senior US Government review are frequently held up by demands upon the Secretary of State to fulfill urgent diplomatic duties [e.g., the Middle East and Cyprus]. The result is that instead of National Security Council or Verification Panel meetings attended by the Deputy Secretary of State (or even an Under Secretary) in Dr. Kissinger's absence, meetings are postponed until he is able to devote his time and attention to preparing for them or being personally present to chair them.





-- Interagency analyses are directed by the NSC staff toward the concerns of the Secretary of State and/or the State Department staff. This frequently precludes a balanced and comprehensive presentation of national security issues for consideration by the Verification Panel National Security Council, or the President. It also exacerbates bureaucratic resistance to the requests of the NSC staff, because they are viewed not as impartial managers of analysis on national security issues, but rather as representatives of a competing bureaucracy.

-- Finally, the support provided to Dr. Kissinger by the NSC staff is redundant with that provided to him by senior-level State Department staff and advisors.

#### B. A Possible Solution

Consideration should be given to reorganization of the NSC system along lines conducive to a broader (i.e., Cabinet-oriented) decision-making process:

- Abolish the Office of Assistant to the President for National Security Affairs. The Secretary of State could, of course, remain the first among equals in the Cabinet, the President's principal advisor on national security affairs [should the President so desire] and the Chairman of the Verification Panel. The necessary functions could be fulfilled by means of other arrangements.

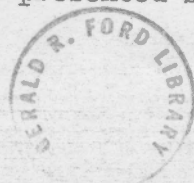
-- One alternative arrangement would have the President rely more on the several appropriate Cabinet Officers (and when necessary their appropriate subordinates for day-to-day advice and information on national security issues, putting him more closely in touch with the workings of the relevant Departments.

-- Another alternative could utilize one or more White House Counselors purely as advisors, with no authority to speak to operating Departments for the President.

-- A third alternative could utilize the reduced and downgraded NSC staff discussed below, for some immediate support.

- Substantially reduce the National Security Council Staff; to be headed by a staff director, clearly well below Cabinet status, and responsible to all of the senior officials involved in national security affairs, to perform the following functions:

-- To manage the interagency analysis of national security issues for the VP and NSC principals so that (a) the issues appropriate for VP, NSC and/or Presidential consideration are addressed, (b) the analysis is thorough and comprehensive, and (c) the ideas presented span the legitimate range of views in the government.



-- To prepare and disseminate agendas and interagency-prepared briefing materials to all the principals prior to NSC and VP meetings. The agendas should be responsive to the desires of the President and to desires of his Cabinet principals.

-- To present, or arrange to have presented a concise discussion of the issues at the beginning of meetings, in order that focused discussion and well-informed Presidential consideration be facilitated.

-- If desired, to provide some limited and immediate support to the President and his White House advisors, for which it might not be deemed necessary to call upon Cabinet Officers or their Agencies.

Reorganization along such lines would reemphasize the role of the Cabinet in national security decision-making, and if competently staffed, would eliminate serious bureaucratic obstacles to a consistently high-quality analytical effort in national security affairs. It should permit a major reduction in the size of the National Security Council Staff itself. And lastly, it would remove an important Congressional concern about senior, but inaccessible, White House officials managing the national security affairs of the United States.





NSC  
ready

October 7, 1974

MEMORANDUM FOR: DONALD RUMSFELD  
FROM: PHILIP W. BUCHEN  
SUBJECT: Attached memo regarding NSC reorganization

I have acknowledged receipt of this memo and invite your attention and response.





Memorandum for the Record

From: Barry N. Roth *BR*

November 13, 1974

At the request of Peter Kreindler, Watergate Special Prosecution Force, I arranged for Jeanne Davis, Staff Secretary of the National Security Council, to speak to Rich Davis and Ken Geller of the Prosecutor's office. Additionally, Jeffrey Axelrad, Department of Justice, and I were on the phone for the conversation.

Q. (Rich Davis) Can you explain which National Security Council papers Presidents have traditionally taken with them once they have left office, and which are the so-called "institutional files" that have remained behind?

A. (Jeanne Davis) The NSC has traditionally been supervised by an assistant to the President who served two roles. One role relates specifically to the NSC as an ongoing organization, the other role is that of an assistant to the President dealing with National Security matters. Basically, the distinction is one of whether the materials involved relate to the ongoing operations of the NSC, including NSC meetings, or whether they represent advice to the President which is separate from the NSC structure. For example, in connection with NSC meetings, originals of memos prepared for the President and records of those meetings stay with the NSC in Washington while copies are frequently sent to the Library. On the other hand, a memo from the assistant to the President for National Security Affairs would be considered a Presidential material unless it relates specifically to an NSC meeting.

Q. (Geller) What are the so-called "PAF" papers, and which are the so-called "institutional" papers?

A. (Jeanne Davis) PAF stands for Presidential Assistant Files and they are the latter category referred to above. The institutional files are namely those dealing with the NSC as an ongoing operational entity.



Shortly after this phone call concluded, I returned to my desk and was called by Ken Geller who stated he had neglected to clarify one particular point, namely, which files are the ones that have traditionally remained behind for one year before being sent to the Library. Indicating that I was not sure of the answer myself, I agreed to check into it without necessitating another phone call to Jeanne Davis with all parties. Jack Murphy of the NSC staff explained to me that in the case of both Kennedy and Johnson, an agreement was reached by the principals concerned to leave behind for one year Presidential materials stored by the NSC. After one year they were shipped to the Library. I explained this to Geller and he appeared satisfied and had no further questions.



MEMORANDUM

NATIONAL SECURITY COUNCIL

656

January 31, 1975

MEMORANDUM FOR: PHILIP BUCHEN  
FROM: Jeanne W. Davis *JWD*  
SUBJECT: Information on Personnel  
Detailed to NSC Staff

In response to your query of Dick Ober, I attach a table showing the numbers of people detailed to the NSC staff, both professional and administrative/clerical, from the various agencies as of January 31, 1975 and for the preceding three years.

Since the NSC is an interdepartmental body, the NSC staff has traditionally, as a matter of policy, been composed of a mix of NSC-payrolled and detailed employees. This has been done for several reasons:

- to avoid creating a separate, permanent, independent bureaucratic layer with vested interests of its own;
- to provide a degree of assurance to NSC members and other interested agencies concerning the staffing of their recommendations;
- to provide Washington assignment opportunities for career officers (e. g. Foreign Service and military officers) which would broaden their scope through service in an inter-departmental environment, thereby enhancing their value to their services;

(continued)





- to facilitate regular, informal communication between NSC staff members and the various departments;
- to provide a regular means of rotating officers in and out of the NSC staff so as to keep the staff generally aware of the operational realities of the development and implementation of national security policy and avoid its becoming isolated near the top of the policy pyramid.

We have regularly provided information on our detailees and the rationale for using them to the Senate and House Appropriations Committees during our annual budget hearings. The Congress has apparently accepted our reasoning and has regularly appropriated funds for us to reimburse the various agencies, in part, for the salaries of officers detailed to us.

Please let me know if you wish any further information.

Attachments



NATIONAL SECURITY COUNCIL

DETAILEES

June 30, 1972

Total: 57

	<u>Professionals</u>	<u>Clerical/Administrative</u>
AID	3	1
CIA	3	12
DEFENSE	9	3
DIA	0	2
NSA	2	1
STATE	15	3
TREASURY	0	1
USIA	2	0

June 30, 1973

Total: 52

	<u>Professionals</u>	<u>Clerical/Administrative</u>
AID	1	1
CIA	3	13
DEFENSE	9	3
DIA	0	2
NSA	2	1
OST	1	0
STATE	11	2
TREASURY	0	1
USIA	2	0



June 30, 1974

Total: 44

	<u>Professionals</u>	<u>Clerical/Administrative</u>
AID	0	1
CIA	3	14
DEFENSE	9	3
DEA	0	2
NSA	2	1
STATE	6	1
TREASURY	0	1
USIA	1	0

January 31, 1975

Total: 44

	<u>Professionals</u>	<u>Clerical/Administrative</u>
AID	1	0
CIA	5	12
DEFENSE	9	3
DIA	0	1
NSA	2	1
STATE	9	0
USIA	1	0





THE WHITE HOUSE

WASHINGTON

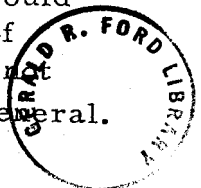
November 6, 1975

MEMORANDUM FOR: JACK MARSH  
FROM: PHIL BUCHEN *P.*  
SUBJECT: Assistant to the President for  
National Security Affairs

This is to advise that an appointment by the President of an Assistant for National Security Affairs is not subject to Senate advice and consent. Statutory foundation for the National Security Council is found in 50 U.S.C. Sec. 402. The Council is composed of the President, the Vice President, certain members of the Cabinet and other officials of the Federal intelligence community. The statute also provides that the Council shall have a staff to be headed by a civilian Executive Secretary who shall be appointed by the President and for the employment of such additional personnel, subject to the Civil Service Commission laws, as may be necessary to perform the duties of the Council.

Secretary Kissinger and his predecessors in the position of Assistant to the President for National Security Affairs did not serve in any position authorized by the organic act creating the National Security Council. Traditionally, this position has had its legal foundation in 3 U.S.C. 105 and 106 which authorize the appointments of a limited number of Executive Level II assistants on the immediate staff of the President. The National Security Adviser's traditional function as head of the staff of the National Security Council does not have a statutory footing. It is therefore clear that General Scowcroft's appointment is not subject to Senate advice and consent.

Attached is a copy of a recent memorandum which I provided to General Scowcroft which notes that his retirement at the grade of Lieutenant General, prior to any appointment as Assistant to the President for National Security Affairs, would require Presidential approval and the advise and consent of the Senate in accordance with 10 U.S.C. 8962. This does not apply to retirement at any rank below that of Lieutenant General.



Procedures required by Section 8962 were followed when General Haig resigned his position as Deputy Assistant to the President for National Security Affairs and became Chief of the White House Staff during the Nixon Administration. It might be that Chairman Stennis' inquiry relating to the necessity of Senate confirmation for General Scowcroft was based on his recollection of the Haig retirement.

Attachment

THE WHITE HOUSE

WASHINGTON

November 4, 1975

MEMORANDUM FOR: GENERAL SCOWCROFT

FROM: PHILIP BUCHEN

SUBJECT: Assumption of the Duties of  
Assistant to the President for  
National Security Affairs

This is to present my recommendation that, prior to your retirement from the Air Force, you should refrain from assuming the office or exercising the functions currently held by Secretary Kissinger in his capacity as Assistant to the President for National Security Affairs.

Legal Constraints

10 U.S.C. §973(b) derives from the Act of July 15, 1870, ch. 294 §18, 16 Stat. 319. As most recently amended and recodified, it reads:

\* \* \*

"(b) Except as otherwise provided by law, no officer on the active list of the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Coast Guard may hold a civil office by election or appointment, whether under the United States, a Territory or possession, or a State. The acceptance of such a civil office or the exercise of its functions by such an officer terminates his military appointment."

\* \* \*

10 U.S.C. §8911, in pertinent part, provides that the Secretary of the Air Force ". . . may, upon the officer's request, retire

a regular or reserve commissioned officer of the Air Force who has at least 20 years of service . . . ."

Thus, if the exercise of your new duties as the successor to Secretary Kissinger in his capacity as Assistant to the President would constitute a "civil office" within the meaning of 10 U.S.C. 973(b), your acceptance of such appointment or exercise of the functions of such office would have the effect of automatically terminating your military employment. Moreover, it would appear that such a termination would also have the effect of making you ineligible for military retirement benefits to which you would otherwise be entitled under 10 U.S.C. §8911.

#### Discussion

The term "civil office" as used in 10 U.S.C. 973(b) and predecessor statutes has not been statutorily defined. It is a term of variable meaning, the connotation of which changes with the context in which it is used. Morganthau v. Barrett, 108 F. 2d 481, 483 (D.C. Cir. 1939). The meaning to be given the term when used in a statute should be that which will effectuate the purposes of the statute being construed. See, e.g., Pardon v. Puerto Rico ex rel. Castro, 142 F. 2d 508, 510 (1st Cir. 1944).

From the debate on the floor of the Senate in 1870 regarding the antecedent of section 973(b), it appears that the primary concern of the Congress was the exercise of civil authority by military officers. CONG. GLOBE, 41st Cong., 2d Sess. 3393-3404 (1870). To this end, the Congress sought to prevent "the union of the civil and the military authority in the same hands," id. at 3401, in part because it was concerned that a military officer exercising such authority would be subject to the commands of his military superiors. The Congress did not intend to prevent civilian officials from seeking advice or administrative assistance from military officers. See, id. at 3403 (remarks of Sen. Trumbull).

The Comptroller General has consistently required that the following three criteria must be present to constitute such a "civil office":

\* \* \*

The specific position must be created by law, there must be certain definite duties imposed by law on the incumbent, and they must involve the exercise of some portion of the sovereign power [44 Comp. Gen. 830, 832 (1965)].

\* \* \*

An application of these criteria to the facts in the instant case leads to the following conclusions.

First, it appears that your position as Assistant to the President for National Security Affairs would be one "created by law". For at least the last 15-20 years, the position of national security adviser has been one on the immediate staff of the President under 3 U.S.C. §106. Additionally, your de facto function would involve management of the staff of the National Security Council, created by 50 U.S.C. §402.

Second, it also appears that the position would include "certain definite duties imposed by law on the incumbent", viz. " . . . such duties as the President may prescribe." (3 U.S.C. §106)

Third, and most importantly, the position likely would be held to "involve the exercise of some portion of the sovereign power." Given the concerns of the drafters of 10 U.S.C. §973(b) for civilian independence from military authority, this would seem to be the most important touchstone of the three under discussion.

3 U.S.C. §107 provides authority for the detail of military officers to the White House in order to provide advice on military matters or administrative assistance. This authority has traditionally been asserted as a basis for the detail of officers for service as White House military aides and for the detail of a Deputy Assistant to the President for National Security Affairs. In these instances, the theory is that such detailees are limited to providing administrative support or advice limited to military matters. On the other hand, the President's principal national security adviser has traditionally been responsible for eliminating or minimizing differences of opinion between the Departments of State and Defense and other





interested agencies, with a right of direct access to the President.

Recommendation

The Attorney General and the Acting General Counsel of the Department of Defense agree with my conclusion that, given the substantial risks involved, i. e. loss of your military retirement and other military privileges, you are best advised to resign your commission in the Air Force prior to the acceptance of an appointment as Assistant to the President for National Security Affairs or the assumption of any duties of that office.

In closing, I should also note that retirement at the grade of Lieutenant General would require Presidential approval and the advice and consent of the Senate [10 U.S.C. 8962]. This does not apply to retirement at any rank below that of Lieutenant General.

H  
W



THE WHITE HOUSE

WASHINGTON

November 5, 1975

MEMORANDUM FOR: PHIL BUCHEN

FROM: JACK MARSHALL

SUBJECT: Senator Stennis

I met with Senator Stennis this afternoon and he was of the impression that the National Security Council post, which involves Brent, was made a confirmable position by changing the law sometime within the last two years.

He asked me if I would check on this for him.

I would appreciate your looking into this.



THE WHITE HOUSE

WASHINGTON

November 14, 1975

MEMORANDUM FOR: JIM CONNOR

FROM: KEN LAZARUS *KL*

SUBJECT: Lynn's memo 11/12/75  
re S. 2350

I agree with Jim Lynn's recommendation that he send a letter opposing enactment of S. 2350.

This is to point out that there is an additional argument in opposition to the bill based upon 50 U.S.C. §402(a), copy attached. Subsection 7 of section (a) provides that the President may appoint, subject to the advise and consent of the Senate, Secretaries of Executive Departments as members of the National Security Council. Thus, in addition to the President's current authority to invite Secretaries and Under Secretaries to participate in the Council's deliberations, he is also authorized to confer membership on any of these individuals. This cuts against any necessity for additional legislation.

Attachment

cc: Phil Buchen ✓



for higher categories of classified security information, but ordinarily shall be stored in a container equipped with a reasonably secure locking device, or in any other storage facility of comparable security approved by the head of the agency.

b. **Inspections.** (1) It shall be the responsibility of the individual charged with the custody of classified security information to accomplish the necessary inspections within his area to insure that all procedural safeguards prescribed by these regulations are taken to protect such information at all times.

(2) In each agency individuals shall be designated to make inspections on a room or area basis to insure that all classified security information has been properly and safely stored.

c. **Safe combinations.** (1) Safe combinations shall be changed at least once a year; whenever a person knowing the combination is transferred from the office to which the safe is assigned; when a safe is first brought into an office; when the combination has been subjected to compromise; and at such other times as is deemed necessary.

(2) Knowledge of combinations shall be limited to the minimum necessary for operating purposes.

(3) Safe combinations shall be given a security classification equivalent to that of the most highly classified security information authorized by these regulations to be contained in the safe.

35. **Destruction of Classified Security Information—**a. **Types of material which may be destroyed—**(1) Record material may be destroyed only in accordance with the Act of July 7, 1943, c. 192, 57 Stat. 380, as amended [sections 366-380 of Title 44].

§ 402. National Security Council—(a) Establishment; presiding officer; functions; composition

There is established a council to be known as the National Security Council (hereinafter in this section referred to as the "Council").

The President of the United States shall preside over meetings of the Council: *Provided*, That in his absence he may designate a member of the Council to preside in his place.

The function of the Council shall be to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security so as to enable the military serv-

(2) Nonrecord material may be destroyed as soon as it has served its purpose.

b. **Methods of destruction.** Classified record material, the destruction of which has been authorized, and classified non-record material shall be destroyed by the following methods under procedures established by the head of the agency:

(1) "Top Secret," "Secret" and "Confidential" security documents shall be destroyed by burning; products and substances by an equally complete method of destruction; in each case in the presence of an appropriate official. The head of an agency may authorize destruction of documents other than by burning, provided the resulting destruction is equally complete.

(2) "Restricted" security information shall be destroyed by burning, shredding or reduction to pulp, or an equally complete method of destruction.

c. **Records of destruction.** Appropriate records of destruction of material classified "Top Secret" and "Secret" combined with the identification "Security Information," shall be maintained in accordance with procedures established by the head of the agency.

PART VII—INTERPRETATION OF REGULATIONS BY THE ATTORNEY GENERAL

36. The Attorney General, upon request of the head of a department or agency or his duly designated representative, shall personally or through authorized representatives of the Department of Justice render an interpretation of these regulations in connection with any problems arising out of their administration.

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I, § 101, 61



ices and the other departments and agencies of the Government to cooperate more effectively in matters involving the national security.

The Council shall be composed of—

- (1) the President;
- (2) the Vice President;
- (3) the Secretary of State;
- (4) the Secretary of Defense;
- (5) the Director for Mutual Security;
- (6) the Chairman of the National Security Resources Board; and
- (7) The Secretaries and Under Secretaries of other executive departments and of the military departments, the Chairman of the Munitions Board, and the Chairman of the Research and Development Board, when appointed by the President by and with the advice and consent of the Senate, to serve at his pleasure.

#### Additional functions

(b) In addition to performing such other functions as the President may direct, for the purpose of more effectively coordinating the policies and functions of the departments and agencies of the Government relating to the national security, it shall, subject to the direction of the President, be the duty of the Council—

(1) to assess and appraise the objectives, commitments, and risks of the United States in relation to our actual and potential military power, in the interest of national security, for the purpose of making recommendations to the President in connection therewith; and

(2) to consider policies on matters of common interest to the departments and agencies of the Government concerned with the national security, and to make recommendations to the President in connection therewith.

#### Executive secretary; appointment and compensation; staff employees

(c) The Council shall have a staff to be headed by a civilian executive secretary who shall be appointed by the President, and who shall receive compensation at the rate of \$10,000 a year. The executive secretary, subject to the direction of the Council, is authorized, subject to the civil-service laws and the Classification Act of 1949, to appoint and fix the compensation of such personnel as may be necessary to perform such duties as may be prescribed by the Council in connection with the performance of its functions.

#### Recommendations and reports

(d) The Council shall, from time to time, make such recommendations, and such other reports to the President as it deems appropriate or as the President may require. July 26, 1947, c. 343, Title 50, § 101, 61 Stat. 497; Aug. 10, 1949, c. 412, § 3, 63 Stat. 579; Oct.





## THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: November 13, 1975

Time:

FOR ACTION: Phil Buchen  
Max Friedersdorf  
Jack Marsh  
Brent Scowcroft

~~cc (for information):~~

Bill Seidman

Paul Theis

FROM THE STAFF SECRETARY

DUE: Date: Tuesday, November 18

Time: 10 A. M.

SUBJECT:

James T. Lynn's memo 11/12/75 re S. 2350  
"to include the Secretary of the Treasury  
as a member of the National Security Council"

## ACTION REQUESTED:

☐ For Necessary Action☒ For Your Recommendations☐ Prepare Agenda and Brief☐ Draft Reply☒ For Your Comments☐ Draft Remarks

REMARKS:

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James E. Connor  
For the President







EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

ACTION

NOV 12 1975

MEMORANDUM FOR: THE PRESIDENT  
FROM: JAMES T. LYNN  
SUBJECT: S. 2350, "to include the Secretary of the Treasury as a member of the National Security Council"

Legislative situation

S. 2350 would make the Secretary of the Treasury a statutory member of the National Security Council. It was introduced by Senator Symington on September 17. After the Armed Services Committee on September 26 heard a statement by Senator Symington supporting the bill, the Committee on October 2 in executive session voted 16-0 to report the bill favorably. The report was filed October 8. On October 9 the Senate passed the bill without debate. S. 2350 has been referred to the House Armed Services Committee.

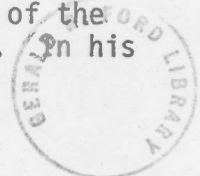
No executive branch agency presented testimony or reported on S. 2350 during the Senate consideration.

Discussion

The National Security Council is provided for in the National Security Act of 1947. There have been several changes in membership since 1947. One added the Vice President; all others reflected organizational changes in the National Security area (e.g., dropping the secretaries of the military departments). Present membership is the President, the Vice President, the Secretary of State, and the Secretary of Defense. In addition to the named officers, secretaries and under secretaries of other executive departments and of the military departments may serve as members at the pleasure of the President.

At no time has the Secretary of the Treasury been a statutory member of the Council. Secretaries of the Treasury, however, have been invited by all Presidents since 1947 to participate when matters of substantial interest to Treasury have been considered.

The Murphy Commission on the Organization of the Government for the Conduct of Foreign Policy recommended in its June 1975 report that the jurisdiction of the NSC "be enlarged to include major issues of international economic policymaking" and that the membership of the Council be expanded to include the Secretary of the Treasury. On his



statement before the Armed Services Committee Senator Symington presented a rationale for S. 2350 similar to that in the Murphy Commission report, but did not refer to the Commission's recommendation; nor did the Committee in its report.

NSC and OMB staff have received agency views on the Murphy Commission report from all agencies except the Department of State. Views from Treasury, Defense, Commerce, CIEP, and CEA focus on the issue of enlarging the jurisdiction of the NSC to encompass international economic policy. Defense believes that NSC should deal more with economic issues, but the other agencies argue for continuation of a strong Economic Policy Board as the forum for the consideration of those issues. None of these agencies objected to Treasury membership.

My view is that the present NSC composition affords the President the most desirable degree of flexibility in regard to the Council and should be continued. As long as most of the agenda items fall outside the sphere of interest of the Treasury Department, it would seem appropriate to continue the present arrangement, i.e., inviting the Secretary to participate when matters of substantial interest to the Treasury Department arise. Moreover, Treasury staff actively work, when appropriate, on various interagency groups preparing NSC policy proposals. Thus, it is unnecessary to change the law to assure appropriate Treasury Department participation.

If you agree, I will send a letter, along the lines of the attached, to Chairman Price of the House Armed Services Committee on behalf of the Administration expressing a preference for no change in the existing law. NSC staff concur in this approach.

You may also wish to indicate your position at a meeting of the Legislative Leaders and to Chairman Price personally.

Attachment

#### DECISION

Approve sending letter \_\_\_\_\_

Disapprove \_\_\_\_\_



Honorable Melvin Price  
Chairman, Committee on Armed Services  
House of Representatives  
2120 Rayburn House Office Building  
Washington, D. C. 20515

Dear Mr. Chairman:

On October 9, 1975, the Senate passed S. 2350, a bill "To amend the National Security Act of 1947, as amended, to include the Secretary of the Treasury as a member of the National Security Council," without receiving Executive Branch views on the bill. We understand that S. 2350 has now been referred to your Committee.

The Office of Management and Budget, on behalf of the Administration, opposes enactment of this legislation.

Under existing law, the National Security Council advises the President with respect to the integration of domestic, foreign and military policies relating to national security. The statutory membership of the Council consists of the President, Vice President, Secretary of State and Secretary of Defense. In addition, the President may invite secretaries and undersecretaries of other executive and military departments to participate in the Council's deliberations.

As you know, the National Security Council considers a broad range of matters which extend beyond the statutory responsibilities of the Secretary of the Treasury. In



fact, most issues that come before the Council on a regular basis do not have significant economic and monetary policy implications. As a statutory member of the Council, the Secretary would often be placed in the position of either having to advise the President on matters over which he has little or no authority or abstain from giving advice.

Moreover, enactment of S. 2350 is unnecessary to provide for appropriate participation of the Secretary of the Treasury in National Security Council matters. As permitted under the current law, the President invites the Secretary to attend those meetings of the Council at which economic and other issues of substantial interest to the Department of the Treasury are considered. Furthermore, the Secretary of the Treasury serves as Chairman of the Economic Policy Board and of the Council for International Economic Policy. The Secretary of State also serves on those bodies to assure the integration and coordination of domestic and international economic policy with foreign policy and national security objectives. The current arrangements provide the President with flexible and responsive advisory bodies to oversee economic and foreign affairs.

For these reasons, we urge the Committee not to consider this legislation favorably.

Sincerely yours,





November 24, 1975

NATIONAL SECURITY COUNCIL

NOTE FOR: PHILIP BUCHEN  
FROM: LES JANKA *les*

Senator Bentson has written the President requesting his endorsement of legislation to prohibit future Secretaries of State from also holding the position of Assistant for National Security Affairs. The letter was written after November 3 and therefore cannot be considered OBE.

The attached draft reply to be signed by Max Friedersdorf explains to the Senator that it would not be appropriate for the President to endorse such legislation as its enactment would infringe on the President's constitutional prerogatives of nomination and appointment. It also expresses the view that the impetus to the legislation is founded on Dr. Kissinger's former dual role -- a unique situation which is unlikely to recur in the future. Therefore the Legislation is unnecessary.

We are seeking OMB's concurrence in the draft reply. May we also show your concurrence?

Your comments can be given by phone to Cathie Bennett, ext. 3116.

*Eva: Call her to say "no objection" P.*



Dear Senator Bentsen:

The President has asked me to respond to your letter of November 5 in which you requested his endorsement of your Bill, S. 1667, to prohibit future Secretaries of State from serving as the President's National Security Advisor or any other position directing or controlling the National Security Council.

While the President appreciates the concerns you expressed in your letter, he does not believe it would be appropriate for him to endorse this legislation. Enactment of the legislation would represent an infringement on the President's constitutional powers of nomination and appointment and would place an undue constraint on this and future Presidents. The President has the statutory authority to appoint his Assistant for National Security Affairs to serve within the Executive Office of the President, and to nominate his choice for Secretary of State, subject, of course, to confirmation by the Senate. The discretion to choose the most capable individual to serve in both these positions must remain with the President. The Murphy Commission Report which you quoted in your letter recognized this factor when it stated:

"Having reviewed the responsibilities the Assistant for National Security Affairs must meet over the long term... we conclude that these responsibilities should normally in the future be performed by an individual with no other official responsibilities. The actual choice, of course, would rest with the President."





Furthermore, it seems the impetus in your bill as well as similar legislation in the House reflects congressional concern over the situation prior to November 2 when Henry Kissinger was serving as both Secretary of State and Assistant to the President for National Security Affairs. This, of course, is no longer the case and I think there is little doubt that Dr. Kissinger's dual role represented a unique situation which is unlikely to recur in the future. I think the President was making this very point in his comments, which you referred to, during the interview with Walter Cronkite. At the same time, you can appreciate that the possibility of a similar situation in the future does not justify enactment of legislation to limit the President's constitutional prerogatives of nomination and appointment which would inhibit the carrying out of his responsibility to choose the most capable individuals available to assist him in the formulation and the implementation of American foreign policy.

Sincerely,

Max L. Friedersdorf  
Assistant to the President



United States Senate

WASHINGTON, D.C. 20510

MF  
November 5, 1975

The Honorable Gerald Ford  
President of the United States  
The White House  
Washington, D.C. 20500

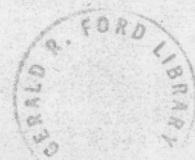
Dear Mr. President:

Many of my Colleagues in the Congress have long shared my concern over the concentration of the foreign policy decision-making process in this country in the hands of one person, one person who has worn two official hats and unofficially a third, that of roving ambassador. I have long felt it necessary to re-structure the foreign policy machinery in this country and I have introduced legislation to begin that job. My bill, S. 1667, would prohibit future Secretaries of State from serving as the President's National Security Advisor, Executive Secretary of the National Security Council or any other position directing or controlling the National Security Council.

I believe this is an important first step towards diversifying and strengthening the process by which the foreign policy of this country is formulated and implemented. In an increasingly complex and inter-dependent world, we need a structure that will expand the range of policy options being presented to the President rather than narrow them, a structure which will improve our ability to deal with crisis in the future, a structure which is more consistent with our democratic form of Government.

I believe that Secretary of State Kissinger is an able and brilliant man but I also believe that his serving as both Secretary of State and National Security Advisor to the President has dangerously centralized power in the hands of one man.

I am pleased that you share my belief that there should be more balance in our foreign policy decision-making process and I welcome your announcement





The Honorable Gerald Ford  
November 5, 1975  
Page 2

of the separation of the two positions. Therefore, I respectfully urge you to endorse my legislation enacting a statutory separation. I might take this opportunity to remind you of your interview on April 21 of this year with CBS commentator Walter Cronkite, when you stated that a good argument could be made that the two positions should be divided:

If you were to draw a chart, I think you might make a good argument that that job ought to be divided.

On the other hand, sometimes in government you get unique individuals who can very successfully handle a combination of jobs like Secretary Kissinger is doing today as head of the National Security Council and Secretary of State.

Now that you have in fact separated the two, I hope you will see fit to endorse my legislation so that never again in American history will this Nation face the concentration of foreign policy making power that it has faced in the last two years.

You may be interested to know that the distinguished Chairman and ranking minority member of the Senate Foreign Relations Committee have promised me to hold hearings on my legislation, which has also been endorsed by the President's Commission on the Organization of the Government for the Conduct of Foreign Policy, the blue-ribbon Murphy Commission. Let me quote from that Commission's study which, as you know, was published in June of this year:

It is eloquent testimony to the extraordinary abilities of the present Assistant to the President for National Security Affairs that he has met the requirements of that post while simultaneously serving as an active and effective Secretary of State. His holding of both positions has arisen from quite special circumstances, it is well established, and we make no recommendation concerning it. As we have stressed earlier, we seek not to address matters of topical interest, but the enduring and longer-term problems of Government organization.



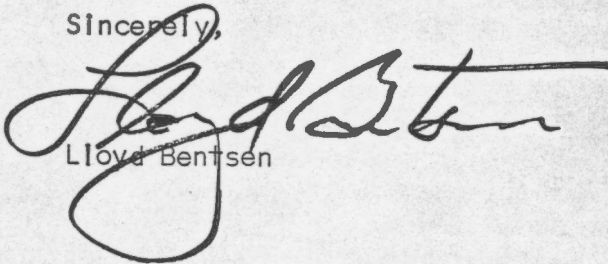
The Honorable Gerald Ford  
November 5, 1975  
Page 3

Having reviewed the responsibilities the Assistant for National Security Affairs must meet over the long term, we conclude that these responsibilities, involving essential personal assistance to the President, management of issues for Presidential decision, and the direction of the National Security Council staff, should normally in future be performed by an individual with no other official responsibilities. The actual choice would of course rest with the President.

The reasons for this are two. The first is simply that the responsibilities of that Assistant are heavy and important enough to require the undivided attention of even the ablest public servant. The second is that an Assistant to the President must be a facilitator of decision, a conduit to the President, a force for balance and even-handedness in the presentation and consideration of issues. These are staff functions. They are not easily made compatible with the responsibilities of a Cabinet officer, a line official who must necessarily act as the chief of a great department.

Mr. President, I urge your support for my legislation. The foreign policy of this country will be the stronger for it.

Sincerely,



Lloyd Bentsen



NSC

committees

- 7 -

#417-1/16

Q Does the President or the White House have one scintilla of evidence that anybody is paying on either side -- either the Cubans, the Soviets or the South Africans -- one bit of attention to the President's calls?

MR. CARLSON: I am not privy to the diplomatic correspondence and the communication that goes back and forth, Walt.

Q John, on the NSC committees, isn't it true Kissinger is chairman of two of those subcommittees as of now?

MR. CARLSON: I am told the final details have not been worked out, but it is quite possible he will retain the chairmanship of a couple of the committees.

Q But isn't he chairman of them right now?

MR. CARLSON: I would assume that as of right now Dr. Kissinger will be the chairman, the acting chairman, of those committees until a final decision is made, and I think very shortly.

Q Is it two or three?

MR. CARLSON: Two.

Q Can you tell us which two, John?

MR. CARLSON: The WSAG Committee and the Verification Panel are being chaired by Dr. Kissinger.

Q Why is he keeping those two posts?

MR. CARLSON: I think it is a determination that it is appropriate for Dr. Kissinger to keep the chairmanship of those two posts.

Q What is WSAG?

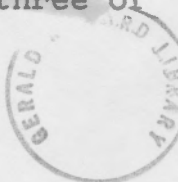
MR. CARLSON: The Washington Special Action Group.

Q John, to follow up again, how many committees is Scowcroft chairman of, as of now?

MR. CARLSON: That is not fresh in my memory. I talked to General Scowcroft this morning about this whole subject, to get a rough idea, anticipating some of your questions, and all the final details have not been worked out, but he will probably be chairman of at least three of the committees.

MORE

#417





Q Who was chairman of the Forty Committee?

MR. CARLSON: I believe Dr. Kissinger was.

Q Who is chairman now?

MR. CARLSON: It is expected that General Scowcroft will be the new chairman -- let me make sure we understand that normally, traditionally, the chairman of the Forty Committee is the Assistant to the President for national security matters.

Q But this change already took place a month and a half ago. What is the situation right now?

MR. CARLSON: They are in the process of reviewing the entire structure, and decisions will be made shortly.

Q Is there a chairman of the Forty Committee at the moment?

MR. CARLSON: General Scowcroft is the acting chairman, and this will all be finalized very shortly.

Q Does this mean the Secretary no longer sits on the Forty Committee?

MR. CARLSON: No, it does not.

Q I thought the Under Secretary represented the State Department on that.

MRS. VANDERHYE: Secretary Kissinger never did sit on it. He was the chairman of it before, but he was the head of the NSC. He was never a member.

Q He is off the Forty Committee now?

MRS. VANDERHYE: That is right.

Q What is the Verification Panel? What does that do?

MRS. VANDERHYE: It handles matters relating to SALT, usually, and to military verifications.

Q That covers five panels. You said there were six. Does somebody else have a chairmanship? There are three for Scowcroft, two for Kissinger, WSAG and verification.

MORE

#417



MR. CARLSON: The sixth committee is the Defense Program Review Committee, and that possibly will be chaired by Secretary Rumsfeld, but the whole apparatus has been reviewed because of the change in positions, and it will be finalized shortly.

Q John, if I am not mistaken, you said that the President feels that the solution to the African problems lies with the Africans. I was wondering what was the President's reaction when the OAU split 22 to 22, and would he favor OAU as kind of an expeditionary force to get rid of this Cuban and Soviet colonization effort in Angola? How about troops from the OAU?

MR. CARLSON: We had hoped the OAU summit would bring an end to the fighting.

Q Is that all? What about the idea of the OAU sending troops to get rid of these foreign intruders? Does the President favor this?

MR. CARLSON: The President believes the Africans should solve their own problems, and not have outside interference from foreign Governments.

Q Does he mean all the Africans, the OAU troops? Would he be in favor of that?

MR. CARLSON: I am not aware of his views on that.

MORE

#417



DEPUTY UNDER SECRETARY OF STATE  
FOR MANAGEMENT  
WASHINGTON

January 27, 1976

Memorandum for Mr. Buchen  
The White House

As you know, Secretary Kissinger since he came to Washington in 1969 and until the present has maintained certain papers which are best described as memoranda of telephone conversations. You have requested that I describe these materials more fully.

The earliest such memorandum is dated January 21, 1969. Similar memoranda have been made during all the years of Secretary Kissinger's public service since that time and down to the present time.

As a rough estimate, I calculate that there are 20 file drawers of this material. It has not been indexed or catalogued in any way, except that the papers are maintained in chronological order.

As you know, Secretary Kissinger became Secretary of State on September 22, 1973 and from that date until November 3, 1975 held the Secretary's office in tandem with the office of Assistant to the President for National Security Affairs.

During the period in which Dr. Kissinger held both jobs, telephone conversation memoranda were prepared sometimes in his White House office and sometimes at the Department of State.

I have examined a sample of the memoranda for this period and it is frequently difficult to establish which memoranda were prepared as a result of his being Assistant to the President and which were prepared as a result of his being Secretary of State. We will examine this question further and if there is any basis on which we may clarify the question of attribution I will communicate with you further. At intervals since September 22, 1973 those



memoranda prepared at the White House were sent over to this Department for filing with the Secretary's other files. All such memoranda have been kept at the State Department for convenience. The memoranda for the period prior to September 22, 1973 were brought to the Department within four weeks of Dr. Kissinger's swearing-in as Secretary.

With respect to subject matter, the memoranda cover a considerable range. However, the principal classifications which I would note are the following:

1. Memoranda of telephone conversations dealing with social engagements, both personal and official.
2. Memoranda of telephone conversations with diplomatic officials of foreign governments.
3. Memoranda of telephone conversations with officials of the United States Government.
4. Memoranda of telephone conversations with President Nixon and President Ford.
5. Memoranda of telephone conversations with representatives of news media.
6. Memoranda of telephone conversations with former personal or academic associates offering advice or requesting assistance from Dr. Kissinger with respect to issues both public, quasi-public, and personal.

You will appreciate that the above categories cannot under the circumstances be considered comprehensive; it would require enormous labor on my part to make a definitive catalog of the materials in question. This is more the job of a librarian than it is of anyone on Dr. Kissinger's staff.



Lawrence S. Eagleburger



THE WHITE HOUSE

WASHINGTON

March 5, 1976

MEMORANDUM FOR:

JIM CONNOR  
JACK MARSH  
BRENT SCOWCROFT

FROM:

PHIL BUCHEN *T.W.B.*

SUBJECT:

Brent Scowcroft's Memorandum  
of 3/3/76 re Function &  
Organization of NSC Sub-Groups

The National Security Council is established by law (50 U.S.C. Sec. 402). Presumably each of the sub-groups is subordinate to the Council and is intended to assist the Council in performing its specific statutory functions, namely:

1. ". . . to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security so as to enable the military services and the other departments and agencies of the Government to cooperate more effectively in matters involving the national security. (50 U.S.C. 402(a))
2. "to assess and appraise the objectives, commitments, and risks of the United States in relation to our actual and potential military power, in the interest of national security, for the purpose of making recommendations to the President in connection therewith; (50 U.S.C. 402(b)(1))
3. "to consider policies on matters of common interest to the departments and agencies of the Government concerned with the national security, and to make recommendations to the President in connection therewith. (50 U.S.C. 402(b)(2))





4. "to direct the Central Intelligence Agency in carrying out its functions." (50 U.S.C. 403(b))

and "such other functions as the President may direct" (50 U.S.C. 402(b)). Therefore, I think the appropriate instrument(s) for establishing the sub-groups should be one(s) which is adopted and issued by NSC rather than by the President acting alone.

Also, I recommend that whatever instrument(s) is so issued now should be complete in itself and should not depend on reference to prior memoranda, which in some instances include references to even earlier documents. In addition, I question whether the instrument(s) needs to be so drafted as to require a security classification.

Before having the NSC act to reconstitute any existing sub-group, I suggest that an evaluation be made of how well each particular sub-group has been functioning and whether it is still necessary or desirable. I believe the President wants at this time to eliminate unnecessary or overlapping entities, and it may be that one or more sub-groups should be eliminated or their functions consolidated or that additional sub-groups for other functions (such as those required by Sec. 3(a), (2) and (3) of E.O. 11905) would be desirable.

In regard to specific sub-groups, I have these comments:

NSC Senior Review Group: If the "charter" for this group is to be based on what now appears in NSDM 85, I would revise the provisions in the last paragraph on page 1, where the group is authorized to recommend submission of a paper directly to the President rather than through the NSC. I do not know to whom such a recommendation goes, but if the intent is to allow a sub-group of NSC to by-pass the parent council, I think it is not appropriate. Also, the top paragraph on page 2 depends on references to still earlier memoranda, and these are probably of no current value.



Verification Panel: The three earlier memoranda on which the continuation of this group is proposed to be based refer only to particular studies which had completion dates in 1970 and 1971 respectively, so I assume they are out-of-date, and if there are functions for this group still to perform they should be defined anew.

Defense Review Panel: If the reference to NSCM 26 means anything more than is stated on page 2 of the proposed new memo for the President to sign, it merely creates ambiguities.

Washington Special Actions Group. Reference is made to a 1969 memo which is very cryptic and for understanding requires knowing about an earlier group which functioned during the Korean crisis and about "Crisis Task Forces" which apparently are described in NSDM 8 and have to do with the Under Secretaries Committee as it functions under both NSDM 8 and part of NSDM 2. Also, it is not at all clear how WSAG relates to the NSC, because it appears that it makes policy decisions which are then directly implemented by "Crisis Task Forces." Again, this is the kind of situation which creates obscurity and ambiguities and should be corrected at this time.

Under Secretaries Committee: Reference is made to part of NSDM 2, which appears to give this Committee operational responsibilities and makes it something other than a sub-group of NSC. Also, it appears elsewhere that existing NSDM 8 gives additional authority to this Committee, and yet it is not referred to in this connection.

Interdepartmental Groups: Reference is made to another part of NSDM 2 for a description of the functions and membership of these groups, but the exact nature, scope, and membership of each of these six groups is not well delineated.

The NSC itself: The first part of NSDM 2 appears to deal with the functions and procedures of the Council, but it is less complete than the statute



which created the Council and does not track with the new E.O. 11905, Sec. 3(a). I suggest that NSDM 2, as well as other memoranda dealing with the structure, functions, and procedures of NSC and the sub-groups to be continued or reconstituted be withdrawn and be replaced by one new comprehensive memorandum which overcomes the defects and diffusiveness of the earlier memoranda and which fits all current needs in the best possible way.

At the same time, it seems desirable that Sec. 8(b) of E.O. 11905 be implemented in respect of all NSC directives.



*Kissinger  
Telecom*

THE WHITE HOUSE

WASHINGTON

March 26, 1976

MEMO FOR: Phil Buchen  
FROM: Dudley Chapman *pc*  
SUBJECT: Kissinger Phone Records

The only item of interest I find in the attached package is in the Eisenhower document, which I have clipped. That paragraph tends to support the theory that records of phone calls are not "agency records".



THE WHITE HOUSE

WASHINGTON

November 3, 1976

NSC

MEMORANDUM FOR:

JEANNE DAVIS

FROM:

PHILIP BUCHEN

T.W.B.

Barry Roth of my staff has met with Peter Rodman and Edward Roberts of the NSC staff who identified to him the personal papers of Secretary Kissinger which are stored in the Vault in Room 207 of the Executive Office Building. Because these papers antedate Secretary Kissinger's government service, which began in 1969, it is appropriate to remove these papers from the EOB.

Accordingly, I approve the request to move the six two-drawer file cabinets, twenty-three file boxes and four regular boxes of Secretary Kissinger's personal materials to the State Department.

cc: Robert Snow





THE WHITE HOUSE

WASHINGTON

November 3, 1976

MEMORANDUM FOR:

PHILIP BUCHEN

FROM:

BARRY ROTH *BR*

I met today with Peter Rodman and Edward Roberts of the NSC staff who showed me the personal papers of Secretary Kissinger which antedate his government service. These papers were removed from Harvard in early 1969 in order to assure their safety. They are contained in six two-drawer file cabinets, twenty-three file boxes and four small boxes. They are marked Henry A. Kissinger.

Ed Roberts was present when these materials arrived in the Executive Office Building (EOB) in 1969 and has been responsible for their movement and storage. Peter has been responsible for working with these papers, when necessary. They have assured me that none of the materials relate to Secretary Kissinger's government service in the Administrations of President Nixon and President Ford. Peter opened one of the cabinets to show me that it contained material that was dated prior to 1969.

Since these materials are neither government property nor are they covered by the Court Orders surrounding the Nixon papers, I see no reason not to allow their removal from the EOB at this time.

