

5/28/75 - Mtg. - Bushen, A.G. Levi, Cherry

Issues:

Confirm Sec Def's statement concerning Levi's view of NYT's article on US subs operating in Soviet waters.

A.G.'s position - any problem given family connection?

What does the law say - is there a violation?

Alternatives -

- 1.) FBI investigation of NYT, Herch +/or possible govt. sources.
- 2.) Grand Jury - seek immediate indictments of NYT + Herch
- 3.) Search Warrant - to go after Herch papers in his apt.
- 4.) Discuss informally w/ N.Y.T.
- 5.) Do nothing

Timing - how does all this relate to Pres. schedule - when will we tip our hand to targets of investigation - when will our actions become public knowledge



Questions:

How strong is case given current information? Are there potential weak points?

- 1.) constitutionality of the law
- 2.) legitimacy of the classification
- 3.) degree of violation
- 4.) what would we have to prove to make the case stick.
- 5.) Do we need any additional information.



Political Considerations

How do we avoid the "pentagon papers syndrome?"

What will the public reaction be?

What will the Hill reaction be?

Will we get hit with violating the 1st amendment to the constitution?

How do we counter expected criticism
Does it present any opportunities -

Options

1) Do nothing - ignore the Hersh story and hope it doesn't happen again.

2) Do quietly to the NYT - tell them we could prosecute, but would prefer a simple commitment from them that they would cease & desist.

3) Start FBI investigation - with or w/o public announcement. As targets include NYT, Sy Hersh, potential govt sources, Marchetti, et al.

4) Seek search warrant to go after Hersh and remaining materials.

5) Seek criminal indictments of one or more parties based on information now in hand.

6) Seek contempt citation against ex-CIA employees for violating court orders on release of classified info.



Channels for handling - Councils for
will be the key plug in pt. for W.H. -
for the Justice Dept.; NSC for the
DOD, NSA, CIA, etc.

Crime message - recodification
of criminal statutes - should this
issue be addressed?

Broader ramifications - can we take
advantage of it to bolster our position
on the Church committee investigation?
To point out the need for limits on
the scope of the investigations?

Should we take special steps to
porture ourselves ~~politically?~~
publicly?

Did anyone on the Hill have access
to this information?

