

27 June 1944

Memorandum for Mr. Friedman.

- ✓ I believe that the proposed legislation should include a clause to prohibit the disclosure of any information on the use of secret inks as well as the use of microscopic, microphotographic, and photographic methods for secret writing both by ourselves and by other countries.

McGraw
D Branch

ARMY SERVICE FORCES
SIGNAL SECURITY AGENCY
WASHINGTON 25 D C

SPSIS-1A1

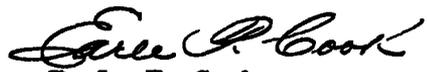
28 June 1944

MEMORANDUM For Mr. William F. Friedman

Subject: Recommendations for Changing Existing Laws

✓ 1. The attached paper throughout uses the phrase "or any foreign government". This phrase, which is clarified in paragraph 2 of the Memorandum, is questioned as to suitability and meaning. It is recommended that this phrase be deleted throughout and that an additional paragraph, employing the general phrase "cryptographic and cryptanalytic successes and endeavors", be inserted.

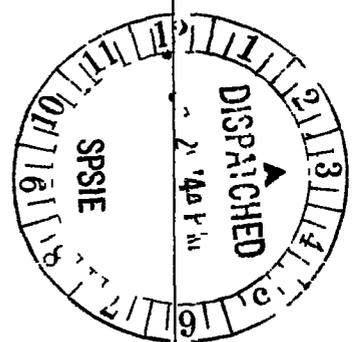
2. This recommendation is based on the fact that as written we are concerned with the protection of the foreign cryptographic and cryptanalytic systems in time of peace. Such information coming to us from United States citizens may be most valuable. It is believed that the intent was to suppress any discussion or revelations of our successes and endeavors.


Earle F. Cook
Lt. Colonel, Signal Corps

2 Incls.
Incl 1. (2) Buck Slips
Incl 2. Memo, re above subject

ROUTING AND WORK SHEET

SUBJECT Proposed Legislation

Number each action	To—	Memorandum	Name, Division or Branch, and Date
1	Admn. Officer, Attn: Lt. Tompkins	<p>1. With the exception of the following modifications, this Branch concurs in the attached, Proposed Legislation.</p> <p>✓ a. The definition of the term cryptographic should be clearly stated to include cryptophonic devices (telephone privacy and cifax (facsimile privacy)).</p> <p>✓ b. Line 4 of the attached draft should be expanded to include the phrase "or have or have had knowledge of."</p> <p>✓ c. The law should embrace all persons subject to the laws of the U.S., and not be limited to U.S. employees or those in the armed forces.</p> <p>✓ d. The phrase "armed forces" would be preferable to the phrase "military forces".</p> <p>✓ e. Disclosure of information relating to the locations, strength, equipments, methods, organization, and missions of War Department Fixed Radio Intercept Stations should also fall under the provisions of this law.</p> <p>1 incl: Incl 1 - Draft dtd 13 June 44</p>	<p>Howard E. Nestler Howard E. Nestler Major, Signal Co. Acting Chief, SPB 29 June 1944</p> <p>WFD - 381</p> 

~~SECRET~~
ROUTING AND WORK SHEET

SUBJECT Security Control Legislation

Number each action	To—	Memorandum	Name, Division or Branch, and Date
1.	Mr. Friedman ✓	<p>1. I am heartily in favor of your proposed legislation, but although I make no claim to being a lawyer, it strikes me from reading Article 3 of the United States Constitution that any such legislation would fall under the general article on treason, and would be claimed to be unconstitutional, as treason is so clearly defined, and in time of peace, when this legislation would be effective, the United States would theoretically have no enemies. Hence, it seems to me that if my contention, which is nothing more or less than a supposition, be correct, the law would have very little effect.</p> <p>2. Further, I also think, from my experience in civilian life, that it would be extremely difficult to convict anybody under this legislation by a jury composed of civilians.</p> <p>3. It seems to me, therefore, that about the only way this could be accomplished would be that any military connected with this work be perpetually held in the Reserve Corps, so that they would be subject to military jurisdiction, and that if possible, a similar arrangement be made with all civilian personnel, so that they would be perpetually under the military jurisdiction as well.</p> <p>4. I frankly do not believe any other method will secure the results desired.</p>	<p style="text-align: right;"><i>J. H. Friert</i> J. H. Friert Major, SPSIR Ext. 391 27 June 44</p>

ROUTING AND WORK SHEET

(PAR 40 62 O R)

SUBJECT POST WAR SECURITY OF CRYPTOLOGIC ACTIVITIES

Number each action	To—	Memorandum	Name, Division or Branch, and Date
1.	Director, Communications Research Att.: Mr. Friedman	<p>1. "F" Branch suggests that the requirements which the inclosed information intends to cover by legislation does not include the following situations:</p> <p>a. The wording seems only to have the legislation apply to individuals who are directly employed by the Government. This does not cover contractors and their agents.</p> <p>b. The wording also gives the impression that if information which is intended to be kept classified is disclosed in any way to unauthorized persons, prosecution of the person making such disclosure depends entirely upon his being employed by the U. S. Government at the precise moment that said person originally obtained the information.</p> <p>2. Suggest that situations where individuals not employed by the Government disclose information detrimental to the country's welfare also be included.</p> <p>3. Suggest that the matter be studied and written from the viewpoint that it is to be enforced by Federal law and not U. S. Army law.</p> <p>1 Incl.: Original suggested legislation.</p>	 Leo Rosen Major, SPSIF 27 June 1944 Ext. 284

D R A F T

13 June 1944

1. Whoever, by virtue of his employment by the United States or by virtue of his service in the military forces of the United States, ^{or otherwise} shall obtain or shall have custody of or access to, or shall have had custody of or access to, (1) any ^{official} code or cipher ^{prepared for or used by} of the United States [or any foreign] government, or (2) any information concerning the preparation and use of any ^{official} code or cipher by the United States [or any foreign] government, or (3) any information concerning the preparation or use of any ^{secret or invisible inks or other forms of invisible or microscopic writing used by} cryptographic or cryptanalytical system of the United States [or any foreign] government, or (4) any information concerning the construction, use, maintenance or repair of any device, apparatus or appliance used or prepared for use by the United States [or any foreign] government for cryptographic or cryptanalytical purposes, or (5) any material prepared or which purports to have been prepared by the use of any ^{official} code or cipher or by the use of any ^{official} cryptographic or cryptanalytical system, or by any device, apparatus, or appliance used or maintained for use for cryptographic or cryptanalytical purposes by the United States [or by any foreign] government, or (6) any information concerning the cryptographic or cryptanalytical activities of the United States [or any foreign] government, shall wilfully and without authorization by competent authority deliver or exhibit any such material, or publish, disclose to another for publication, or otherwise divulge any information concerning any such matters to another shall be guilty of an offense against the United States and shall upon conviction

or (7) any information which has been derived ^{by cryptanalytic agencies of the USG} from the cryptanalysis of messages transmitted by any foreign government,

thereof be fined not more than _____ or imprisoned for not more than _____ or both.

2. The term "foreign government" as used herein shall be taken to include any faction or party, or military or naval force, within a foreign country, whether recognized or unrecognized by the United States.

3. *Definition of cryptographic and cryptanalytic*

ROUTING AND WORK SHEET

SUBJECT ----- Proposed Legislation for Security Control

Number each action	To—	Memorandum	Name, Division or Branch, and Date
1.	Director of Communications Research	<p>1. Proposed legislation for betterment of Security Control of employees charged with cryptographic and cryptanalytic activities has been reviewed by C Branch.</p> <p>2. C Branch concurs in the general idea and has no comment or suggestion.</p> <p>1 Incl. Draft dated 13 June 1944</p>	<p><i>RH</i></p> <p>Russell H. Hort Major, SPSIC 29 June 1944 Ext. 241</p>