

B211

Defense Counsel - Redstone Arsenal  
Huntsville, Alabama

29 May 1957

SUBJECT: Request for Access to Classified Information

THRU: Lt. Col William G. Barry, JAGC, Trial Counsel  
Third United States Army, Ft. McPherson, Georgia

TO: Commanding General  
Third United States Army  
Ft. McPherson, Georgia  
ATTENTION: Army Staff Judge Advocate

1. Reference is made to the letter from the Office of the Commanding General, Headquarters, Third United States Army, AJAJA 201 John C. Nickerson, Jr. (O) 021170, Subject, "Release of Classified Information to Military and Individual Counsel in the Case of the United States v. Colonel John C. Nickerson, Jr. 021170)."

2. In accordance with the instructions contained in paragraph 2 of the letter referred to above, I request that the Defense Counsel, both Military and Civilian, and the accused, when accompanied by counsel, be given access to classified information in, but not limited to, the following categories:

(1) All information that the Army, Navy, Air Force, or the Central Intelligence Agency may have concerning what the Soviet Government knows about our state of development in the field of guided missiles.

(2) All the information that any of the enumerated departments or agencies may have concerning what the United States Government knows about the state of development of Russian guided missiles.

In addition, I request that the Defense be given access to the "book" referred to in the testimony of Major General John B. Medaris, taken by the Inspector General of the Third United States Army. It is necessary to have this information in order to properly defend Colonel Nickerson against the specifications alleging that he violated AR 380-5 by delivering or causing to be delivered to certain individuals, documents which contain secret defense information, as the term is defined

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in the regulation; as well as to defend him against an alleged violation of Title 18 U. S. Code Section 793. It must be understood that the interests of the Defense may make it necessary that the scope of inquiry by the Defense be broadened beyond the scope of the two categories outlined above for the reason that information contained in these areas may indicate other information which would be pertinent and relevant to the presentation of the Defense case.

3. Further, it is imperative that the limitation of information to that available which was available to Colonel Nickerson prior to January 1957 be lifted at once with regard to all categories of information. The Commanding General, Army Ballistics Missile Agency, should be specifically notified of the elimination of this restriction because witnesses have been being instructed not to discuss classified information generated after January 1, 1957. The determination of whether some items are actual defense information depends upon classified information generated since January 1, 1957.

The inability to question witnesses in the above areas has already hampered preparation of this case. It is, therefore, requested that the requisite broadening of the clearances be permitted at once to avoid any further damage to the interests of the accused.

CHARLES R. ZIMMER  
Lt Colonel JAGC  
Defense Counsel