

The original documents are located in Box 17, folder “Freedom of Information - Requests (2)” of the Philip Buchen Files at the Gerald R. Ford Presidential Library.

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4/21/75

On Saturday Barry had walked this memo to Mr. Buchen for signature and then had walked the signed memo to Jeanne Davis.

Barry said they have retained the original in Casselman's office.

The Top Secret attachments were returned to Jeanne Davis' secretary and Barry received a receipt for same.



~~TOP SECRET~~
ATTACHMENTS

THE WHITE HOUSE

WASHINGTON

April 19, 1975

UNCLASSIFIED UPON REMOVAL
OF CLASSIFIED ATTACHMENTS

File

MEMORANDUM FOR: JEANNE DAVIS

FROM: PHILIP W. BUCHEN *P.W.B.*

SUBJECT: FOIA Request for Minutes
of NSC Meetings

In your memorandum of April 11, 1975, you requested the advice of this office on whether the Freedom of Information Act (5 U.S.C. 552) mandates the disclosure of the minutes of certain meetings of the National Security Council held in the 1950's to discuss U.S. policy in the Middle East. In our opinion, there is a basis for withholding at least a portion of these documents.

The decision to classify or declassify is a substantive one based on explicit criteria contained in Executive Order 11652 (March 8, 1972), as amended. Section 4 of this Order provides that "Classification shall be solely on the basis of national security considerations." Although public disclosure in these circumstances may inhibit the free flow of advice to senior government officials, the Order gives no significance to this factor in determining whether classification or declassification is appropriate. In the FOIA, Congress has recognized this problem by exempting from mandatory disclosure "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency...." (5 U.S.C. 552(b)(5)).

The (b)(5) exemption is intended to encourage the free exchange of ideas during the policy-making process and accordingly "has been held to protect internal communications, consisting of advice, recommendations, opinions, and other material reflecting deliberative or policy-making processes, but not purely factual or investigatory reports. Factual information may be protected only if it is inextricably intertwined with policy-making processes. Thus, for example, the

~~TOP SECRET~~
ATTACHMENTS



exemption might include a factual report prepared in response to specific questions of an executive officer, because its disclosure would expose these deliberative processes to undue public scrutiny.^{1/} This is an exemption that will be interpreted quite narrowly by the courts and purely factual reports and scientific studies cannot be cloaked in secrecy by an exemption designed to protect only those internal working papers in which opinions are expressed and policies formulated and recommended. Furthermore, once an internal memorandum has been publicly cited by an agency as the basis for its action, it may lose its protected status.

It has been specifically held^{2/} that this exemption does allow the withholding of the minutes of meetings and similar reports reflecting the comments, opinions, judgments and recommendations of government officials. In making your decision with respect to the release of these materials, we recommend that you consider such additional factors as the age of the materials, whether the participants are presently involved in such matters in a way that would inhibit the continued free flow of advice between policy-making officials, and the account of this meeting provided by President Eisenhower. These are factors that would be considered by a court, and while the outcome of such a suit is not possible to predict with certainty, a court is likely to look differently with respect to the minutes of a meeting of recent date as opposed to those for meetings held more than twenty years ago.

Whether the meeting described in attachment B of your memorandum was or was not a meeting of the National Security Council is not likely to have any significance if an appeal is taken by the requester from an agency denial.

In conclusion, exemption (b)(1) is available to the extent these documents remain properly classified, while exemption (b)(5) is available with respect to the minutes, but not the appendix which we feel reflects only a listing of the actions that were taken rather than an interchange of opinions.

1/ Soucie v. David, 448F.2d. 1067 (D. C. Cir. 1971)

2/ Wellford v. Hardin, 330 F.Supp. 915 (D. Md. 1971)



THE WHITE HOUSE
WASHINGTON

April 18, 1975

MEMORANDUM FOR:

JEANNE DAVIS

FROM:

PHIL BUCHEN *P.W.B.*

By your memorandum of April 11, 1975, you have requested the views of this office regarding a request, under the Freedom of Information Act (5 U.S.C. 552), for all National Security Council Intelligence Directives (NSCID's).

There appear to be two principal exemptions upon which the National Security Council (NSC) may rely in refusing to disclose these records under the Freedom of Information Act (FOIA): (1) exemption (b)(1), which permits the withholding of records which have been given a security classification under an Executive Order, and (2) exemption (b)(3), which permits the withholding of records which have been exempted from disclosure by other statute. Also, there is a third method, exclusive of the FOIA, by which the NSC could refuse to disclose documents of a national security nature--a claim of national security privilege. Each of these alternatives is discussed more fully below.

Under Executive Order No. 11652 (March 8, 1972), as amended, certain procedures have been established by which national security information is classified and declassified. As cited above, the FOIA exempts classified materials from disclosure. The FOIA further permits a Federal Court to inspect the records in camera to determine if the classification is proper. Whether the classification is proper according to the guidelines established in E.O. 11652 is a subjective test which this office is not in a position to make in the absence of further information.

In addition, as cited above, the FOIA also provides an exemption from disclosure if another statute prohibits nondisclosure of certain specified records. You have provided four statutes in Tabs III-VI, which you believe might qualify for this exemption.



The statutory language in Tabs III and IV (18 U.S.C. §§ 794 and 798), making it a crime to gather or deliver defense information need not be considered because it contemplates circumstances that are not relevant here. With respect to the statutory prohibitions against disclosure of the functions and organization of the National Security Agency (NSA) and Central Intelligence Agency (CIA), which you have provided in Tabs V and VI, it appears that these provisions do prohibit disclosure of the NSCID's in their entirety, or at least certain relevant portions thereof. A determination with respect to this claim should be sought from the CIA and NSA. If the claim is justifiable, then these agencies should notify the NSC of their objections under the statutes. These notices would form the basis of NSC's claim for exemption.

Finally, the Government, in Federal court, may invoke privilege against disclosing national security information. However, the reasons for claiming this privilege have generally been put in statutory form as an exemption for classified documents under the FOIA. Therefore, if the NSCID's are so sensitive that this special privilege would apply, then the exemption under the FOIA would also apply. Under such circumstances it would be preferable to claim the FOIA exemption rather than the privilege.

The NSC must determine substantively whether the present classifications are justified under Executive Order No. 11652, as amended. Also NSC should invite the opinion of CIA and NSA with respect to the effect of the statutory prohibitions in Tabs V and VI. Based on these reviews, the NSC will be in a position to claim one or both exemptions, or none.



NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
Presidential Libraries Withdrawal Sheet

WITHDRAWAL ID 01400

REASON FOR WITHDRAWAL National security restriction
TYPE OF MATERIAL Memo(s)
CREATOR'S NAME Davis, Jeanne W.
RECEIVER'S NAME Buchen, Philip
DESCRIPTION Appeal under the Freedom of Information
Act for the declassification of all
NSCIDs issued since 1948., (Sanitized
version in file.)
CREATION DATE 04/11/1975
VOLUME 2 pages
COLLECTION/SERIES/FOLDER ID . 001900211
COLLECTION TITLE Philip W. Buchen Files
BOX NUMBER 17
FOLDER TITLE Freedom of Information - Requests
(1)-(3)
DATE WITHDRAWN 08/12/1988
WITHDRAWING ARCHIVIST LET

MEMORANDUM

NATIONAL SECURITY COUNCIL


~~TOP SECRET/XGDS~~
 (Unclassified when
 Separated from attachments)

URGENT
ACTION

April 11, 1975

UNCLASSIFIED UPON REMOVAL
 OF CLASSIFIED ATTACHMENTS

MEMORANDUM FOR: PHILIP BUCHEN

FROM: JEANNE W. DAVIS 

SUBJECT: Appeal Under the Freedom of Information Act
 for the Declassification of all NSCIDs Issued
 Since 1948

The draft memorandum at Tab I has been prepared for Secretary Kissinger's consideration in making the decision on the FOI appeal for the declassification of all National Security Council Intelligence Directives (NSCIDs) issued since 1948. I would appreciate your views on the options presented in the memorandum with special emphasis on the defensibility of each in court. Specifically, I need a legal opinion on the applicability of the following to the defense of continued classification:

- o Executive privilege,
- o Authority to protect intelligence sources and methods granted under E.O. 11654 (Tab II).
- o Authority to maintain the classification of documents in the interest of national security granted under E.O. 11654,
- o 18 U.S.C. 794 on gathering or delivering defense information to aid foreign governments (Tab III),
- o 18 U.S.C. 798 - a temporary extension of 794 (Tab IV),
- o 50 U.S.C. 403 g on the protection of the nature of the Central Intelligence Agency's functions (Tab V),
- o P.L. 86-37, Section 6 on reporting requirements of the National Security Agency (Tab VI).



TOP SECRET/XGDS

.....

I assume that you will also seek a Justice Department opinion on the defensibility issue. If you have a preference among the options based on your legal opinion, please indicate and explain.

Because the final decision on the appeal must be sent out by April 28, 1975 I would like to have your comments in writing as soon as possible and, in any event, no later than Tuesday, April 15, 1975.



4/18/75
1:53 pm

Eddie in

Jeanne Davis'

office

picked up

the attachments.



ITEM WITHDRAWAL SHEET
WITHDRAWAL ID 01223

Collection/Series/Folder ID : 001900211
Reason for Withdrawal : NS,National security restriction
Type of Material : MEM,Memo(s)
Creator's Name : Davis, Jeanne W.
Receiver's Name : Kissinger, Henry
Description : Appeal under the FOIA for the dec
lassification of all NSCIDs issued since 1948.
Creation Date : 04/1975?
Volume (pages) : 7
Date Withdrawn : 06/22/1988

NSC

May 7, 1975

To: Bill Casselman

From: Phil Buchen

Please review for me
and prepare proposed
comments.

5/6 Memo for Philip Buchen from Jeanne W. Davis/
Richard Ober - re appeal under the Freedom of
Information Act for the Declassification of a 19752 Presidential
Memorandum on the National Security Agency.

Needs reply by c.o.b., Thursday, May 8, 1975



THE WHITE HOUSE
WASHINGTON

For Bill Casselman
P.



THE WHITE HOUSE

WASHINGTON

May 30, 1975

MEMORANDUM FOR PHILIP BUCHEN

FROM: WILLIAM N. WALKER *Walker*
SUBJECT: Freedom of Information Request

Attached is a copy of a Freedom of Information request sent to the Community Services Administration (formerly OEO) seeking information concerning materials on White House personnel office referrals to the Agency starting with the beginning of the Nixon Administration. Presumably requests have also been sent to other agencies as well.

I do not know of any specific action that is required on this, but thought you should be informed.



Community Services Administration

WASHINGTON, D.C. 20506

May 28, 1975

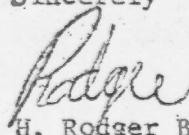
Mr. Bill Walker
Director - Rm 145
Presidential Personnel Office
Old Executive Office Building
Washington, D. C. 20500

Dear Bill:

You will find enclosed the Freedom of Information request that I alerted you to this morning. I will keep you informed as we proceed further on this matter.

I will appreciate your advice or notification of any concerns that you might have arising out of this request.

Sincerely



H. Rodger Betts
General Counsel

Walker

PH:

Date To:

5/28/75

FORD LIBRARY

May 23, 1975

Mr. Joseph D. Gebhardt
William A. Dobrowix
Andra N. Oakes
Joseph D. Gebhardt
2005 L Street, N.W.
Washington, D.C.

Dear Mr. Gebhardt:

This is in response to your Freedom of Information Act request on behalf of Robert M. Brandon and Public Citizen's Tax Reform Research Group.

Please be advised that we are exercising our right to take ten additional working days under 5 U.S.C. 552(a)(5)(B). The unusual circumstances justifying our decision are under 5 U.S.C. 552(a)(5)(B)(ii):

"The need to search for, collect and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request."

Thus we expect to provide you with our answer on or before June 5.

Sincerely,

William W. Sawyer
Acting Associate Director
Public Affairs

Public Affairs
John Myer
Robert Stone
*Mel Hurwitz
Glenn Johnson



OFFICE OF GENERAL COUNSEL
TRANSMITTAL SLIP

5-12 A

H. RODGER BETTS
General Counsel

ARTHUR J. REID, JR.
Deputy General Counsel

TO: PHILLIP DEVANY
 JOS. DINSMORE MURPHY, III

ALLEN S. GIBSON
 ROBERT R. STONE, JR.

MAY 12 5 53 PM '75
ES / JOSEPH D. GEBHARDT

20036 (202)785-8919
TEL

| | | |
|------------------------|-------------------|------------------------|
| DATE ASSIGNED: 5/13 | DATE DUE: 5/15 | CONTROL NO.: 5-12AB |
|------------------------|-------------------|------------------------|

COMMENTS

FOIA - copy sent to Meyer 5/13

MAY 13 5 02 PM '75
OFFICE OF
GENERAL COUNSEL

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regulations, we
and Public Citizen's
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attached schedule,
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the custody of the Office
ng days, as provided

Upon completion

ly,

D. Gebhardt

1. Gebhardt

| | |
|-------------------------------------|---------------------------------|
| FROM Gebhardt, Joseph D. | 00011 |
| DATE OF COMMUNICATION 5/5/75 | DATE ANSWER DUE May 21, 1975 |
| SUMMARY Received in A/ADM 5/7/75 | |

Req. records on behalf of Robert M. Brandon dated or prepared on or after January 20, 1969

| REFERRED TO | DATE | <input type="checkbox"/> REPLIED | <input type="checkbox"/> N.A.N. |
|----------------------|---------|----------------------------------|---------------------------------|
| 1. G. Johnson, A/PER | 5/7 | | |
| 2. General Counsel | 5/12/75 | | |
| 3. | | | |
| 4. | | | |

COMMUNICATIONS CONTROL



MAY 7 1975

PA 12-1 57
5-12 AE

WILLIAM A. DOBROVIR / ANDRA N. OAKES / JOSEPH D. GEBHARDT

MAY 12 5 53 PM '75

2005 L Street, N.W. Washington, D. C. 20036 (202) 785-8919

May 5, 1975

Public Affairs Office
Room 200
Community Services Administration
1200 19th Street, N.W.
Washington, D.C. 20506

MAY 13 5 03 PM '75
F.O.T.

Dear Sir or Madame:

Pursuant to the Freedom of Information Act, 5 U.S.C. §552, as amended, and the agency's FOIA regulations, we request on behalf of Robert M. Brandon and Public Citizen's Tax Reform Research Group access for the purpose of inspection, and of copying documents selected after inspection, to the agency records specified in the attached schedule, which records are presently in the custody of the Community Services Administration, formerly in the custody of the Office of Economic Opportunity.

We request a reply within 10 working days, as provided in 5 U.S.C §552 (a)(6), as amended.

Sincerely,

Joseph D. Gebhardt
Joseph D. Gebhardt

Attachment



MAY 9 1975

SCHEDULE

Definitions

The term "special personnel referral program" as used in this request means any special personnel referral unit, system or procedure, or person(s) within the agency operating same, during the period January 20, 1969 until the program's termination or until the present if the program is still in effect, (a) which accepted personnel referrals from partisan or nominally political sources, as described in paragraph 1.(a)-(d) below, or (b) whose duties and/or tasks encompassed or related to any of the following activities: insuring placement in career positions of officials and employees who had demonstrated political support for the President, the political party in power and/or the Administration; ranking potential career employees on the basis of political qualifications; making political affiliation checks on potential career employees; coordinating the agency's career placement or employment decisions with the White House, particularly with the White House Personnel Office; appointing persons to jobs or positions especially created for them; appointing individuals to "emergency" or 700-hour positions so that they might quickly move into permanent positions; making job appointments during "freeze" situations when appointments were generally prohibited; and/or selecting individuals for positions without giving consideration to other qualified candidates.



The terms "records" as used in this request means any and all written records, reports, manuals, directives, and any and all correspondence; logs; tapes and recordings of any kind; memoranda, including written memoranda of oral or telephonic communications and written memoranda recording meetings; documents; files; and other writings and photographs. Only records dated or prepared on or after January 20, 1969 are requested.

Records Requested

1. All written correspondence sent to the agency, including any officials or employees thereof who worked for or with the agency's special personnel referral program by:

(a) the Executive Office of the President, the White House Personnel Office, and their officials and employees;

(b) United States Senators and Representatives and their employees;

(c) any committee or organization (i) established for the purpose of promoting any election campaign, particularly including during the 1972 elections, the Committee to Re-Elect the President, the Republican National Committee, their affiliates and successor-committees; and (ii) established for the purpose of promoting or conducting the inauguration of the President in 1969 and 1973; and any officials or employees thereof;

(d) any Cabinet-level official, head of a federal agency or member of a federal regulatory commission



which are, or relate to, personnel referrals for any employment opportunity or position within the agency; and all written memoranda of oral or telephonic communications, and all written memoranda recording meetings, between officials and employees of the agency and the sources listed in subparagraphs (a)-(d) above respecting personnel referrals for any employment opportunity or position within the agency.

This request does not ask for any job applications, resumes or the names of any job applicants or persons recommended by the sources listed in subparagraphs (a)-(d) above to the agency; see 5 U.S.C. §552(b)(6). Moreover, you may delete from the records requested information which would identify any job applicants or persons recommended, as well as the names or any other identifiable description or title of any agency officials or employees named in such correspondence.

2. All agency records containing any reference to the establishment, organization and termination of the agency's special personnel referral program.

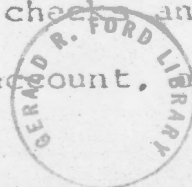
3. The "Federal Political Personnel Manual" or the "Federal Personnel Manual, authored by the White House Personnel Office and sent to the agency in late 1972 or early 1973 (a copy or draft of which is printed in the Executive Session Hearings, Senate Select Committee on Presidential Campaign Activities, book 19, pp. 8903-9050), which is now in the possession of the agency; records containing any reference to said Manual and



to any actions taken or to be taken by the agency to implement the Manual's directives or in response to the Manual; and all correspondence (a) between (i) the agency and any officials or employees thereof and (ii) the White House and any officials or employees thereof and (b) between (i) the agency and any officials or employees thereof and (ii) the Civil Service Commission and officials or employees thereof in reference to said Manual.

4. All correspondence between (i) the agency and any officials or employees thereof and (ii) the White House and any officials or employees thereof relating to personnel referrals or the special personnel referral program, and all written memoranda of oral or telephonic communications, and all written memoranda recording meetings, between agency officials and employees and White House officials and employees relating to personnel referrals and the special personnel referral program.

5. All agency records which pertain to, refer to, reflect, record or discuss in whole or in part the budget, costs and expenditures (a) of the special personnel referral program, particularly including all operating costs and expenditures on the program's personnel, office space, communications, equipment, files, office supplies, consultants' and recruiting fees and other overhead; and (b) of the permanent and/or temporary jobs or positions created for persons or job applicants referred by the sources in paragraph 1.(a)-(d). The records requested include all time sheets, expense vouchers, checks and other negotiable instruments, check stubs, books of account, audit reports



and other financial records and reports.

6. The agency's report to Civil Service Commission Chairman Robert Hampton responding to Mr. Hampton's memorandum to the agency on or about October 23, 1975 directing agency heads to inform Hampton by November 29, 1974 of the particular actions they have taken in response to President Ford's memorandum of September 20, 1974 insisting on a career civil service free from political considerations; and all agency records which refer to actions taken, or to be taken, by the agency in response to the foregoing memoranda sent by Chairman Hampton and President Ford.



GC: JCM/ER/ew/5/14/7
cc: Record/File/Caro

GC

~~Tax Reform Research Group FOIA Request Received May 7~~

~~Randolph Johnson, Director of Personnel~~

~~I recommend that to notify the requester that we are
taking an extension of 40 working days under 5 U.S.C.
552(a)(5)(B) and that the unusual circumstances
justifying our decision are under 5 U.S.C. 552(a)(5)
(B)(ii).~~

"The need to search for, collect and
appropriately examine a voluminous amount
of separate and distinct records which
are demanded in a single request."

Thus we expect to ~~provide you with our~~ answer on or
before June 5.

John C. Meyer
Office of General Counsel

DO memo to file
re bureaucratic
problem w personnel





OFFICE OF THE VICE PRESIDENT

WASHINGTON

June 23, 1975

(a)
John F. Banzhaf III, Esq.
Executive Director &
Glenn A. Goldberg, Esq.
General Counsel
Open America
2000 H Street, N.W.
Washington, D.C. 20006

Gentlemen:

This is in response to your letter to the Vice President of June 7, 1975, seeking certain materials under the Freedom of Information Act.

(t)
To the extent that the letter is addressed to the Vice President in his own capacity, either as an official of the legislative branch or as an adviser and assistant to the President, it does not constitute a proper request under the Act. In particular, I do not believe that you are correct in your assumption that the Vice President is an "agency" within the meaning of the Act. See, e.g., S. Rep. No. 93-1200, 93d Cong., 2d Sess. (1974), pp. 14-15.

Your letter, however, may have been addressed to the Vice President in his capacity as Chairman of the Commission on CIA Activities Within the United States. Having completed its assignment, the Commission is no longer in existence. Its records belong to the White House Office, to which I am forwarding your request for further response.

I may note for your information that the first item you requested has been made publicly available, and may be purchased from the U.S. Government Printing Office.

Sincerely,

Peter J. Wallison
Counsel to the Vice President

June 23, 1975

Gentlemen:

This is in response to your letters of June 7, 1975, addressed to the President and the Vice President, and your letter of June 9, 1975, addressed to the Commission on CIA Activities, requesting certain materials pursuant to "15 U.S.C. 552 (a) (3)." (The statutory reference to 15 U.S.C. 552 throughout your letter is evidently intended to refer to 5 U.S.C. 552, and our response so assumes.) The letters to the Commission and the Vice President, who was its Chairman, were referred to this office since the Commission has completed its assignment.

All of the records of the Commission belong to the White House Office, and are under the control of the President. You are incorrect in your belief that the President is subject to the Freedom of Information Act. See e.g., S. Rep. No. 93-1200, 93d Cong., 2d Sess. (1974), pp. 14-15. We also note that the materials referred to in the second item of your request constitute internal memoranda which would be exempt from disclosure in any event under subsection (b) (5) of the Act. Your assumption that such materials were designed to be released to the general public is not correct and would in any case not deprive drafts, prepared for consideration of the Commission, of their character as advice and recommendation entitled to confidential treatment. This is apart from any other exemptions such as subsection (b) (1), which may be applicable.



The material sought in item one of your request is available from the U.S. Government Printing Office at the price of \$2.85.

Sincerely,

/s/ James A. Wilderotter

James A. Wilderotter
Associate Counsel
to the President

6/23/75

postmarked 6/23/75

Messrs. John F. Banzhaf III
and Glenn A. Goldberg
Open America
2000 H Street, N.W.
Washington, D.C. 20006

JAW:fcg



June 23, 1975

Dear Mr. Lane:

This is in response to your letter to the President of June 8, 1975, requesting certain materials pursuant to the Freedom of Information Act, 5 U.S.C. 552. The President has already made available to the public the first item you request, consisting of the Report of the Commission on CIA Activities Within the United States submitted on June 6, 1975. This is available from the Government Printing Office at the price of \$2.85.

Since the President is not an "agency" within the meaning of 5 U.S.C. 552, your letter does not constitute a proper request under the Freedom of Information Act. Moreover, it would appear that the bulk of the materials you seek, other than the Report itself, would be subject to exemptions under the Act, including those contained in 5 U.S.C. 552 (b) (1), (3), (5) and (7). Moreover, as to material merely "examined by any of the members, lawyers, investigators, agents or employees" of the Commission, the request does not provide sufficient description of the records to comply with the Act.

Except for the Report of the Commission which has already been released, it would not be in the public interest to disclose any



Find out if this has
been answered. Then
dispose of this original
letter & copy of reply
as required.



attached:
file?
Freedom
Info!

more of the materials which you request, on a voluntary basis,
at the present time.

Sincerely,

/s/ James A. Wilderetter 6/23/75

James A. Wilderetter
Associate Counsel
to the President

postmarked 6/23/75

Mr. Mark Lane
Director
Citizens Commission of Inquiry
103 2nd Street, N.E.
Washington, D. C. 20002

JAW:fcy



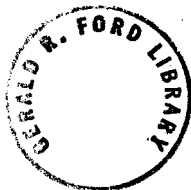
THE WHITE HOUSE
WASHINGTON

Mr. Buchen:

Copies were given to

Mr. Hills
Barry
Jim Wilderotter

(At Mr. Wilderotter's
suggestion, Barry sent
a copy to Nino Scalia.)



THE WHITE HOUSE
WASHINGTON

6.9.75

TO: Philip Buchen

For Your Information: _____

For Appropriate Handling: _____

RDL
Robert D. Linder



Called Situation Room, said hold until 6/9/75

J. M. R

1975 JUN 8 PM 6 25
HAND DELIVERED

~~RECEIVED BY SECURITY UNIT~~
THE WHITE HOUSE
WASHINGTON

Citizens Commission of Inquiry

103 2nd Street, N.E.
Washington, D.C. 20002
(202) 546-7500

June 8, 1975

*Being answered
By Jim W.*

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

Dear Sir:

RL
This is a request for information pursuant to the Freedom of Information Act (5 U.S.C. Sec. 552). As you know, in November, 1974, in the wake of the Watergate disclosures, Congress amended the Freedom of Information Act over your veto. The newly acted provisions, which became effective on February 19, 1975, generally require the Executive Branch to disclose information of importance to public debate on current national security issues. This important reform legislation was a response to the public revulsion over the misapplication of the doctrine of "national security" by your predecessor to hide from the American people the facts of criminal conduct by the Executive, his associates, and the federal police.

Under 5 U.S.C. Sec. 552, I hereby request that your office make available to me the 299-page report of the Commission on CIA Activities Within the United States (Rockefeller Commission) submitted to you by Vice-President Nelson A. Rockefeller on the 6th day of June, 1975.

I also request that your office make available to me all of the data regarding possible CIA complicity in the planning and execution of assassinations of foreign and domestic heads of state and other leaders which information was prepared in final form and then omitted from the report submitted to you on the 6th day of June, 1975, and referred to hereinabove.

I further request that your office make available to me copies of all of the material examined by the Rockefeller Commission, transcripts of all of the testimony taken by that Commission, and all other data, reports, files, photographs, films, interviews, transcripts, audio tapes, video tapes,



President Gerald R. Ford - June 8, 1975, p. 2

memoranda, computer printouts, drawings, diagrams, and all other information not specifically referred to hereinabove that was examined by any of the members, lawyers, investigators, agents or employees of the Rockefeller Commission, secured by said members, lawyers, investigators, agents or employees or in any other fashion produced, created or copied by any member, lawyer, investigator, agent or employee of the Rockefeller Commission.

As you know, the amended Act provides that if some parts of a file are exempt from release that "reasonably segregable" portions shall be provided. I therefore request that if you determine that any portion of a requested document is exempt you provide me immediately with copies of the remainder of the document. I, of course, specifically reserve my right to appeal any decision on your part which denies to me access to any document or to any portion of any document and an examination of a portion of a document may not be taken by you to be a waiver of my right to examine all portions of all of the requested documents.

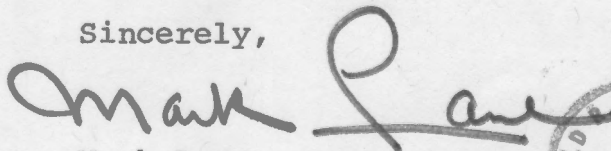
If you determine that some of the documents or any portion of any document is exempt from release I request that you specifically advise me as to which exemption you believe to be applicable and the specific reasons therefor regarding any material you refuse to make available.

I believe that since it is likely that all of the requested material may have been collected and maintained by you in one location there should be no fee charge.

If you determine that a fee might be involved since the Act permits you to reduce or waive the fees if that is "in the public interest because furnishing the information can be considered as primarily benefitting the public" and since it is apparent that this request is made in the public interest I request that you waive any such fee. I assure you that upon the receipt of the information requested herein, I shall make all of that data immediately available to the American people without charge by releasing all of it at once to all interested representatives of the news media. Should there be any questions about fees or in any other area, please telephone me at (202) 546-7500.

I expect to receive a reply to this request within ten working days as required by the amended Act.

Sincerely,



Mark Lane
Director



Citizens Commission of Inquiry

103 2nd Street, N.E.

Washington, D.C. 20002

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



GLOBE NEWSPAPERS

3847 PICKETT RD., FAIRFAX, VA. 22030

(703) 273-2010

July 24, 1975

Gatins
Joseph

Mr. Philip W. Buchen
Counsel to the President
The White House
Washington, D.C. 20500

Dear Mr. Buchen:

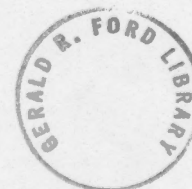
I am in receipt of a July 22, 1975 letter from Mr. J. Stanley Pottinger of the Justice Department which informs me that my previous request for information under the Freedom of Information Act has been forwarded to your office for reply.

To ensure your full knowledge of the situation, I enclose copies of the correspondence between myself and the Department.

Sincerely,

Joseph F.M. Gatins

Joseph F.M. Gatins



JUL 22 1975

Mr. Joseph F. M. Gatins
Globe Newspapers
3847 Picket Road
Fairfax, Virginia 22030

Dear Mr. Gatins:

By letter dated July 10, 1975, you requested that the Deputy Attorney General make available for your review information contained in the files of this Department relative to a surreptitious entry into a Fairfax, Virginia business.

The Department of Justice has been permitted by the Chief Executive to take temporary custody of material from the files of the Rockefeller Commission for the limited purpose of review to determine the nature and scope of the activity referred to in your request for the express purpose of determining what, if any, prosecutable violations of Federal criminal statutes have occurred. This material, however, is not considered a part of any Department system of files and is maintained on a loan basis from the White House solely for the above stated purposes.

It is believed therefore, that your request for material relative to information contained in the Report to the President would more properly be a subject for consideration by the Chief Executive. Accordingly, your request has been forwarded to Philip W. Buchen, Counsel to the President, for his consideration and reply directly to you.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division



July 10, 1975

Deputy Attorney General
U.S. Department of Justice
VIII: Freedom of Information Unit
Washington, D.C. 20530

Dear Sir:

I wish to compel disclosure under the Freedom of Information Act of certain documents now in the hands of the Department of Justice.

These documents, specifically, would be part of the raw materials used by Vice President Nelson A. Rockefeller's Commission on CIA Activities Within The United States to prepare its report of June 6, 1975.

Chapter 17, Section B (2) of that report entitled "Assistance Received from State and Local Police," contained on p. 238 of the report, reads as follows:

"Only one instance has been discovered where local police actively participated in a CIA operation. In 1971, three police officers from the Fairfax City Police Department accompanied Office of Security personnel while they surreptitiously entered a business establishment in Fairfax, at night, without a warrant, to photograph some papers. (This investigation is among those discussed in Chapter 13.)

Could the Department of Justice, under the Freedom of Information Act, forward me any and all transcripts of testimony, or sworn depositions by witnesses, or working notes by Commission members or staff which served as the basis for the above-cited statement.

Appendix VII, Section B, entitled "Other Assistance from State and Local Police," contained on p. 296 of the report, in part reads as follows:

"In connection with the surreptitious entry of a business establishment in Fairfax County, CIA officers were provided with a metal badge obtained from the Fairfax City Police Department for use as "flash" identification in the event that any one should question their activities. It never became necessary for the officers engaged in the operation to use the badge for identification."

Report Attorney General/22

July 10, 1975

Could the Department of Justice, under the Freedom of Information Act, forward me any and all transcripts of testimony, or sworn depositions by witnesses, or working notes of Commission members or staff which served as the basis for the second, above-cited statement.

Sincerely,

Joseph F.M. Gatins

Joseph F.M. Gatins



THE WHITE HOUSE
WASHINGTON

Phone
calls
11/546

Barry checking



Freedom of Information

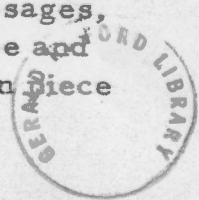
July 15, 1975

Mr. Philip Buchen
Counselor to the President
The White House
Washington, D. C. 20500

Dear Mr. Buchen:

I am writing you concerning a request for White House cooperation in a research project undertaken by myself and Ronald Brunner, a professor at the University of Michigan. In conversations with Robert Linder of the White House staff, we have been told that information we seek regarding the flow of telegrams from the public to the White House cannot be cleared for release by the White House. I am writing to request that this judgment be reconsidered in light of the modest nature of our demand and the spirit of the Freedom of Information Act and the White House's declared preference for openness.

First, I would request a note or memorandum to myself or to Mr. John Walker, (Western Union, 1405 G Street, N. W., Washington, D. C.) that indicates approval of the use of content-free statistics concerning the number of telegrams that flow to the White House. For our project we are currently collecting this information on telegram flows to Congress (Capitol Hill) and would like to do so for the White House as well. Our research is focused on aggregate behavior of the American public as reflected in such time series measures as Nielsen's rating of television audiences, New York Times circulation figures, and the telegram flows to the national government. It is possible for us to obtain such figures without any administrative cost to the White House through the cooperation of Western Union. Because of previous White House policy, however, they are reluctant to release such information without some approval. Since we are not seeking (nor do we think it would be proper) information on the content of messages, nor are we seeking commentary from Western Union or the White House as to the character of such messages, we think the statistic which is recorded at the White House and Western Union is a reasonably innocuous and non-partisan piece of information.



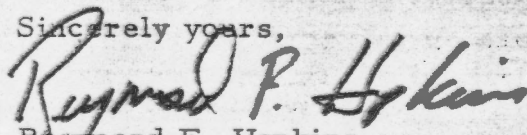
FELLOW OF THE WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS Smithsonian Institution Building Washington D.C. 20560

In essence, the aggregate flow of telegrams to the White House (which may be addressed to a number of different offices and agencies) is information, we believe, about public behavior and not Presidential actions. As scientific researchers and members of the public, we are interested in knowing how many citizens at different times of the year have concern sufficient to motivate them to send a telegram to the White House. Since our study is on moods and communication in American society, I think you can appreciate why such information is of particular interest.

It strikes me further that the spirit of the Freedom of Information Act, which might only cover telegrams to selected agencies of the Executive Office (which data would be comingled with the aggregate statistics), would justify approval of the use of the telegram statistic for our study. In addition, the posture of candor and openness of President Ford seems to be contradicted by the reluctance to approve the release by a public agency of this information.

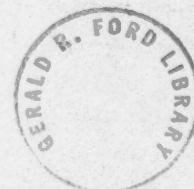
I hope this letter will lead to a reconsideration by the White House of our request in a memo either to myself or Mr. Walker indicating no White House objection to the release of the aggregate statistic on the total telegram flow to the White House.

Sincerely yours,



Raymond F. Hopkins

Fellow



*Freedom
Info*

24 JUL 1975

Mr. Philip W. Buchen
Counsel to the President
The White House
Washington, D. C.

Dear Mr. Buchen:

By letter dated June 30, 1975, the Criminal Division received a request for information contained in files of the Rockefeller Commission; copies of which had been forwarded to the Attorney General at the direction of the President for appropriate review to determine whether information contained therein disclosed prosecutable violations of Federal criminal statutes.

Inasmuch as these materials were made available to this Division on an interim basis and only for the limited purpose of our review pursuant to the instructions of the President, it would appear that any determination as to the releasability of the requested materials under the Freedom of Information Act, 5 U.S.C. 552, as amended, would more properly be a matter within the purview of the Chief Executive. Accordingly, the attached letter from David Kraslow, Chief, Washington Bureau, Cox Newspapers is being forwarded for such a determination and subsequent direct response to the requester.



It is the view of this Division that, in addition to the fact that the requested material is classified, any release of this material during the pendency of our review and investigation could result in a future deprivation of an impartial adjudication on the facts of the case and impair or even preclude the conduct of a fair trial, should such a course of action be found to be warranted.

Sincerely,

RICHARD L. THORNBURGH
Assistant Attorney General

Attachment



JAMES O. EASTLAND, MISS., CHAIRMAN

JOHN L. MC CLELLAN, ARK.
PHILIP A. HART, MICH.
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JAMES ABUREZK, S. DAK.

ROMAN L. HRUSKA, NEBR.
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STROM THURMOND, S.C.
CHARLES MC C. MATHIAS, JR., MD.
WILLIAM L. SCOTT, VA.

PETER M. STOCKETT
CHIEF COUNSEL AND STAFF DIRECTOR

United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, D.C. 20510

*Freedom
2
Information
copy
hang
copy.*

July 28, 1975

Philip W. Buchen, Esquire
Counsel to the President
The White House
Washington, D. C.

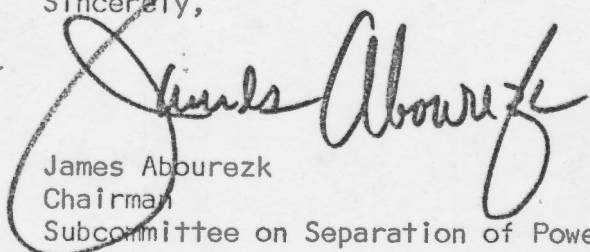
Dear Mr. Buchen:

Thank you for your letter of July 14, 1975, responding to the Subcommittee's request for certain conversations which occurred on November 30, 1972. Your response and the statements made by Mr. Miller in his letter lead me to conclude that further correspondence regarding this matter would be unproductive.

Thus, I propose that we have a meeting at which we can attempt to arrive at an understanding in this matter. I have, therefore, instructed my staff to make the necessary arrangements with Mr. Miller and your staff.

Thank you.

Sincerely,



James Abourezk
Chairman
Subcommittee on Separation of Powers

cc: Herbert J. Miller, Jr., Esq.



Tuesday 7/29/75

9:05 Mason Cargill and Tim Hardy have asked for
some files.

2352

They have to prepare an affidavit in a law suit that
has been filed against us seeking under the Freedom
of Information Act certain drafts of materials --
assassination materials (reports prepared by the
Rockefeller Commission).

Trying to track down by looking at incoming system
and files that may be in the safe. Whether he has any
drafts or copies of assassination reports from the
Rockefeller Commission.

Mr. Belin told them he had given or not given certain
things. Remembers Dave having shown them

Dates are important.

Barry, Bill Casselman, Jay French and Jim Wilderotter.

*Mr. Wilderotter went
through the material
and said there was
nothing we had that
he didn't.*

*Advised Cargill & he
said OK.*



Freedom of Information

THE WHITE HOUSE

WASHINGTON

August 5, 1975

MEMORANDUM FOR

Thomas P. Wolf
Acting Director
Office of Presidential Materials
General Services Administration

Referencing your letter to me of August 1, 1975, concerning the request of Mr. Leonard Garment for the return of materials which are either clearly personal or which predate January 20, 1969, I have no objection to your returning the requested materials to Mr. Garment, provided the other parties in Nixon v. Sampson, et al. do not object to this request. For your information, Mr. Garment joined the White House staff on June 16, 1969, as Special Consultant to the President. Thus, the personal chron file he describes in his letter would appear to fall outside the scope of the Court Order. I recommend that you raise this point with the Department of Justice.

I hereby waive my right to be present during the search for these materials.

P.W.B.

Philip W. Buchen
Counsel to the President

cc: Eleanor Connors



UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION
WASHINGTON, D.C. 20405



August 1, 1975

Philip W. Buchen
Counsel to the President
The White House
Washington, D.C. 20500

Dear Mr. Buchen:

We have received the attached request from Mr. Leonard Garment, a former member of the White House Staff, for materials which he indicates are personal and/or pre-date January 20, 1969. Such items are not subject to the court orders issued by Judge Richey on October 21 and 22, 1974, or covered by the Presidential Recordings and Materials Preservation Act (P.L. 93-526).

Consequently, subject to approval by you and Mr. Nixon's attorneys, we propose to inspect two sets of boxes labeled #5 and #6, currently in our custody, to determine whether these materials are in fact in our possession. If we do locate them and determine that they pre-date January 20, 1969, we propose to return them to Mr. Garment.

We plan to make this inspection at a time ten (10) days subsequent to the date shown on this letter which is convenient for both you and Mr. Nixon's attorneys or your agents, unless you waive your right to be present, in writing.

I would appreciate your prompt response to this request.

Sincerely yours,

A handwritten signature in cursive script that reads "Thomas P. Wolf".

Thomas P. Wolf
Acting Director
Office of Presidential Materials

Attachment



The following people are getting copies of this letter.

cc: Herbert F. Miller
Irwin Goldbloom
Robert Hertzstein
William Dobrovir
Henry S. Ruth, Jr., Esq.



375 PARK AVENUE
NEW YORK, N. Y. 10022

RECEIVED
GSA

JUL 31 3 45 PM '75

July 30, 1975

Mr. Thomas P. Wolf
Special Assistant to the Administrator
for Presidential Materials
General Services Administration
Room 487, Executive Office Building
Washington, D. C.

Dear Mr. Wolf:

I hereby request that the material listed below be released from the official custody under which it is now being held by the General Services Administration. This material was intermingled with my official files at the time I left the White House in December 1974, but is, in fact, personal rather than official in nature. In addition, most of this material predates my service in the White House, and accordingly should not be considered to fall in the category of "Presidential Papers" or "Nixon Administration Material." For the record, I served in the White House from June 1969 through December 31, 1974.

1. Litigation files - Hill v. Time (These are files on the litigation on the subject case handled by the firm of Mudge, Rose, Guthrie & Alexander of which I was a partner and all predate 1969).
2. Files on my personal residence at 20 Willow Place, Brooklyn Heights, New York (These are files which include material on the construction of the residence, papers on leasing arrangements, etc.)
3. File on my personal residence at Green Spring Road, Virginia. (This file contains material relating to the leasing to me of the property at Green Spring Road, Virginia, during my tenure in Washington and although dated 1969 and later, there is no material in the file relating to my official duties at the White House.)
4. January to May 1969 Chronological Files. (This file is my chronological record for this period and relates to personal and firm business; again it predates my date of appointment to the White House.)



375 PARK AVENUE
NEW YORK, N. Y. 10022

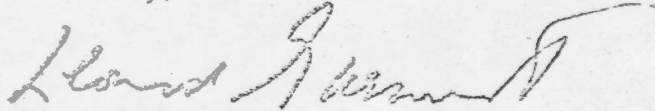
July 30, 1975

- 2 -

5. 1968 Campaign Files (These files contain miscellaneous material on the 1968 Presidential Campaign of Richard M. Nixon.)

I very much appreciate your assistance and cooperation in this matter. Please let me know if there is any further information you need to accommodate this request. You may contact me directly in New York or through Miss Eleanor Connors in Washington. Miss Connors can be reached at 456-6697.

Sincerely,



Leonard Garment

