

The original documents are located in Box 31, folder “Nixon - Papers Nixon Attorneys Correspondence (1)” of the Philip Buchen Files at the Gerald R. Ford Presidential Library.

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Nixon, et al. v. Sampson, et al.
C. A. 74-1518 and C. A. 74-1533

Copies of letters and memoranda to and from
Richard Nixon's attorneys which are in the files of
Philip W. Buchen, Counsel to the President



LAW OFFICES
MILLER, CASSIDY, LARROCA & LEWIN
1320 19TH STREET, N.W. - SUITE 500
WASHINGTON, D. C. 20036

AREA CODE 202
TELEPHONE 293-6400

HERBERT J. MILLER, JR.
JOHN JOSEPH CASSIDY
RAYMOND G. LARROCA
NATHAN LEWIN
MARTIN D. MINSKER
WILLIAM H. JEFFRESS, JR.
THOMAS D. ROWE, JR.
A. RAYMOND RANDOLPH, JR.
R. STAN MORTENSON

JOSEPH S. MCCARTHY
COURTNEY A. EVANS
OF COUNSEL

September 20, 1974

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

Dear Mr. Buchen:

This letter is in reference to a letter dated September 18, 1974, to J. Fred Buzhardt, Jr., Esquire, from Richard Ben-Veniste, Assistant Special Prosecutor, and a letter dated September 13, 1974, to yourself from Mr. Richard Ben-Veniste.

With reference to the letter of September 18, as the attorney for former President Richard Nixon I have no objection to your making available to Mr. Ben-Veniste the five dates specified from President Nixon's daily diary. I would object to an informal turning over of the tape recording of the conversation between President Nixon and John W. Dean, February 28, 1973. Since a copy of that tape has already been furnished to the Special Prosecutor it would seem that the proper way to proceed would be for a subpoena to be served on President Nixon to produce that tape at which time it could be produced pursuant to the procedures which have already been established pursuant to a prior subpoena issued by the Special Prosecutor.

With respect to the items requested in the September 13, 1974, letter, I have no objection to turning over and hereby designate Mr. Jerry Jones, Staff Secretary, White House, to obtain the documents in Item Nos. 1, 2, 3 if available, 5 and 6. Once they have been located and after I have examined them



Philip W. Buchen, Esquire
September 20, 1974
Page Two

I believe I will have no objection to their being turned over.

With respect to Item No. 4, reflecting the manifest of Air Force One, if there are security problems involved in making such information available then I would, of course, object to turning over that information.

With respect to Item No. 7 which will require a substantial amount of work, I designate Mrs. Gertrude T. Fry, Librarian, White House, to examine the documents and obtain the information there requested. Again upon my examination it is believed that there will be no objection to it being turned over.

With respect to Item No. 8 which is the blanket request for the President's daily diary from June 17, 1972 through December 31, 1973, I would, of course, object to such a blanket request but would be available to discuss any specific requests for diaries as to specific meetings or dates.

If you have any questions concerning the above, please do not hesitate to contact the undersigned.

Sincerely yours,


Herbert J. Miller, Jr.

HJM/psb



THE WHITE HOUSE

WASHINGTON

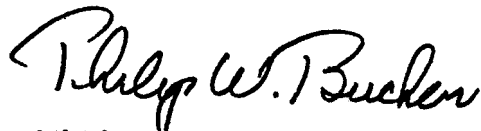
October 18, 1974

Dear Mr. Miller:

This is to notify you that I have been served with the attached trial Subpoena duces tecum captioned United States v. John N. Mitchell, et al., D. D.C., Criminal No. 74-110, which was issued upon application of the United States. Items 1 through 3 of the schedule to the Subpoena were previously requested of you by the Watergate Special Prosecution Force in a letter from Mr. Peter Kreindler dated October 1, 1974. Item 4 of the schedule was requested of this office in a letter to Mr. William Casselman from Mr. Kreindler dated October 8, 1974. I understand that the Prosecution Force has copies of all of the requested materials.

Response by me or any other defendants in Nixon v. Arthur F. Sampson, et al. to this subpoena is excepted from your Application for a Temporary Restraining Order because it involves a subpoena for materials for use in a criminal trial presently in progress. Please be advised that I am arranging to comply with this Subpoena.

Sincerely,



Philip W. Buchen
Counsel to the President

Herbert J. Miller, Esquire
Miller Cassidy Larroca & Lewin
1320 19th Street, N.W.
Suite 500
Washington, D.C. 20036



Enclosure

United States District Court
FOR THE
DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

JOHN N. MITCHELL, et al.

Philip W. Buchen, Esq.

To Counsel to the President
The White House
Washington, D. C.

Cr. No. 74-110

You are hereby commanded to appear in the United States District Court for the
District of Columbia at Constitution Avenue and John Marshall Place, N.W. in the city of
Washington on the 21st day of October 1974 at 4:30 o'clock P.M.
to testify in the case of United States v. John N. Mitchell, et al. and bring with you
See attached schedule.

This subpoena is issued upon application of the¹ United States.

October 17, 1974.

LEON JAWORSKI, Special Prosecutor
Attorney for United States
1425 K Street, N.W.
Address Washington, D. C. 20005

JAMES F. DAVEY

By Robert L. Lane
Clerk.
Deputy Clerk.

¹ Insert "United States," or "defendant" as the case may be.

RETURN

Received this subpoena at _____ on _____
and on _____ at _____
served it on the within named _____
by delivering a copy to h _____ and tendering to h _____
age allowed by law.² the fee for one day's attendance and the mile-

Dated: _____



WHITE HOUSE

DATE 10/19/74

TO: Phil Buchen

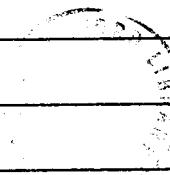
FROM: Bill Casselman

INFORMATION _____

ACTION _____

APPROPRIATE HANDLING _____

COMMENTS: _____

A circular stamp is located in the bottom right corner of the page. The text within the stamp is partially obscured but appears to include the words "RECEIVED" and "OCT 21 1974".

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R. STAN MORTENSON

JOSEPH S. MCCARTHY
COURTNEY A. EVANS
OF COUNSEL

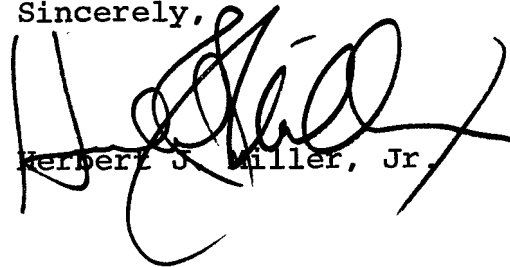
October 18, 1974

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

Dear Mr. Buchen:

As former President Nixon's attorney, I hereby request you to locate and make available to me for my use in connection with representation of the former President the "index of the materials made available by President Nixon to the House Judiciary Committee" and the "cross-referenced index of testimony before various investigatory bodies," both prepared by James St. Clair, the former attorney for President Nixon.

Sincerely,



Herbert J. Miller, Jr.

HJM/sb
cc: Mr. William Casselman



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A. RAYMOND RANDOLPH, JR.
R. STAN MORTENSON

JOSEPH S. MCCARTHY
COURTNEY A. EVANS
OF COUNSEL

October 18, 1974

Mr. William Casselman
Room 282
Old Executive Office Building
Washington, D. C.

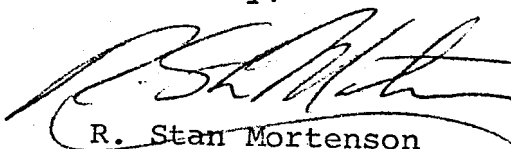
Dear Mr. Casselman:

This letter will serve to confirm our telephone conversation of last evening, October 17, 1974, in which we discussed the request Mr. Philip Buchen has received from attorneys for H. R. Haldeman to relax certain restrictions now applicable to Mr. Haldeman's review of his White House files stored in the Old Executive Office Building.

On behalf of the former President, we have authorized you to permit Mr. Haldeman to have his attorney present at the time he reviews his own files and to permit the attorney to assist in such reviews. Furthermore, Mr. Haldeman and his attorney may make notations regarding the materials they review and may take such notations with them when they have finished. Neither Mr. Haldeman, his attorney, nor any other person is authorized, however, to make copies of the materials they review nor to remove any of the materials from the place in which they are stored. We will entertain requests for reproduction of specific items.

We understand that the above agreement to relax certain restrictions on Mr. Haldeman's review of his own files will not change the requirement that security personnel be present at all times.

Sincerely,


R. Stan Mortenson



RSM/sb

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WASHINGTON, D. C. 20036

AREA CODE 202
TELEPHONE 293-6400

JOSEPH S. MCCARTHY
COURTNEY A. EVANS
OF COUNSEL

October 15, 1974

HERBERT J. MILLER, JR.
JOHN JOSEPH CASSIDY
RAYMOND G. LARROCA
NATHAN LEWIN
MARTIN D. MINSKER
WILLIAM H. JEFFRESS, JR.
THOMAS D. ROWE, JR.
A. RAYMOND RANDOLPH, JR.
R. STAN MORTENSON

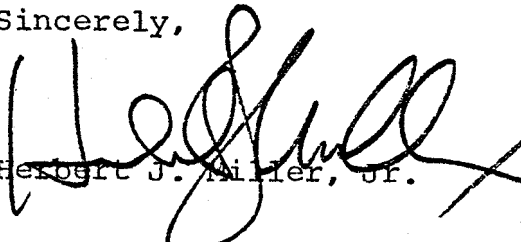
Philip W. Buchen, Esquire
Counsel to the President
The White House
Washington, D. C. 20500

Dear Mr. Buchen:

In accordance with the terms of the depository agreement of September 6, 1974, relating to specific presidential materials of the Nixon Administration, you have informed this office, as representatives of Mr. Nixon, that you are in receipt of a subpoena served by attorneys for John Ehrlichman demanding production of specified items which are part of former President Nixon's presidential materials. You have permitted Stan Mortenson of this office access to certain of these demanded materials for purposes of permitting us to determine whether to raise objection to the production thereof. You have further indicated to us by letter dated October 9, 1974, that, as representative of the present Administration, you have no objection to production of the subpoenaed material and intend to comply therewith.

This letter will serve as notice to you that the former President does object to the production of the materials as subpoenaed. Although the former President has no objection to production of some of the materials (specifically items 1, 2, 7 and 8) he does object to production of the others. Consequently, we intend to move to quash the subpoena with respect to those items and will at the time of filing raise the defenses we believe appropriate.

Sincerely,


Herbert J. Miller, Jr.



CC: Mr. Casselman

THE WHITE HOUSE

WASHINGTON

October 9, 1974

Miller, Cassidy, Larroca & Lewin
1320 19th Street, N. W.
Fifth Floor
Washington, D. C.

Attention: Mr. Herbert J. Miller, Jr.

Gentlemen:

You have already been furnished, as I am told, with a copy of a Subpoena duces tecum directed to me and captioned United States of America v. John N. Mitchell, et al., D. D.C., Criminal No. 74-110, which was issued upon application of defendant John D. Ehrlichman. I enclose an additional copy, reproduced from the original in my possession, to serve as notice of the subpoena to you and your client, the Honorable Richard M. Nixon, in accordance with paragraph 9B of the September 6, 1974, Agreement between your client and the Administrator, General Services Administration.

The Agreement contemplates that your client will respond to any such subpoena. So I trust that, if you intend to raise no timely objections in Court, you will work out timely and satisfactory arrangements for production of the documents, consistent with the present circumstances that the documents are still located here under appropriate safeguards. Since the Agreement specifies that you will determine whether to object to production of materials, and will inform the United States if you determine not to object so that it may inspect the materials for the limited purpose stated in the Agreement, I intend to take no action to quash the Subpoena duces tecum and will abide by any Court order as it may affect me.

Sincerely,



Philip W. Buchen
Counsel to the President



Enclosure

bcc: Larry Silberman
Irving Jaffe
Leon Jaworski
Bill Casselman

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TELEPHONE 293-8400

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COURTNEY A. EVANS
OF COUNSEL

HERBERT J. MILLER, JR.
JOHN JOSEPH CASSIDY
RAYMOND G. LARROCA
NATHAN LEWIN
MARTIN D. MINSKER
WILLIAM H. JEFFRESS, JR.
THOMAS D. ROWE, JR.
A. RAYMOND RANDOLPH, JR.
R. STAN MORTENSON

September 20, 1974

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

Dear Mr. Buchen:

This letter is in reference to a letter dated September 18, 1974, to J. Fred Buzhardt, Jr., Esquire, from Richard Ben-Veniste, Assistant Special Prosecutor, and a letter dated September 13, 1974, to yourself from Mr. Richard Ben-Veniste.

With reference to the letter of September 18, as the attorney for former President Richard Nixon I have no objection to your making available to Mr. Ben-Veniste the five dates specified from President Nixon's daily diary. I would object to an informal turning over of the tape recording of the conversation between President Nixon and John W. Dean, February 28, 1973. Since a copy of that tape has already been furnished to the Special Prosecutor it would seem that the proper way to proceed would be for a subpoena to be served on President Nixon to produce that tape at which time it could be produced pursuant to the procedures which have already been established pursuant to a prior subpoena issued by the Special Prosecutor.

With respect to the items requested in the September 13, 1974, letter, I have no objection to turning over and hereby designate Mr. Jerry Jones, Staff Secretary, White House, to obtain the documents in Item Nos. 1, 2, 3 if available, 5 and 6. Once they have been located and after I have examined them



Philip W. Buchen, Esquire
September 20, 1974
Page Two

I believe I will have no objection to their being turned over.

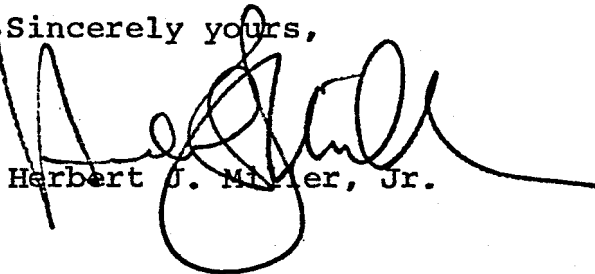
With respect to Item No. 4, reflecting the manifest of Air Force One, if there are security problems involved in making such information available then I would, of course, object to turning over that information.

With respect to Item No. 7 which will require a substantial amount of work, I designate Mrs. Gertrude T. Fry, Librarian, White House, to examine the documents and obtain the information there requested. Again upon my examination it is believed that there will be no objection to it being turned over.

With respect to Item No. 8 which is the blanket request for the President's daily diary from June 17, 1972 through December 31, 1973, I would, of course, object to such a blanket request but would be available to discuss any specific requests for diaries as to specific meetings or dates.

If you have any questions concerning the above, please do not hesitate to contact the undersigned.

Sincerely yours,



Herbert J. Miller, Jr.

HJM/psb



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JOSEPH S. MCCARTHY
COURTNEY A. EVANS
OF COUNSEL

September 13, 1974

HERBERT J. MILLER, JR.
JOHN JOSEPH CASSIDY
RAYMOND G. LARROCA
NATHAN LEWIN
MARTIN D. MINSKER
WILLIAM H. JEFFRESS, JR.
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R. STAN MORTENSON

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

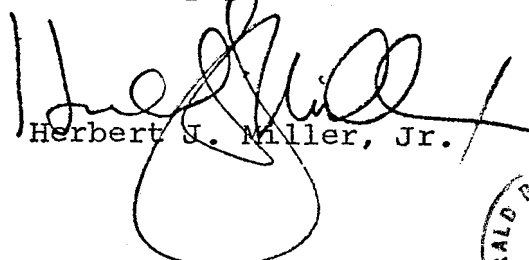
Dear Mr. Buchen:

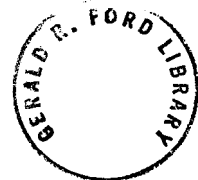
I am writing on behalf of my client, Richard M. Nixon, to inform you that pursuant to the depository agreement entered into by letter from Mr. Nixon to Mr. Arthur F. Sampson on September 6, 1974, and as owner of the Presidential materials referred to therein, Mr. Nixon exercises his right of sole access and control to the materials.

Accordingly, I am advising you on Mr. Nixon's behalf that no person may be admitted to any locked room or other secured area containing any of Mr. Nixon's Presidential materials without Mr. Nixon's express written authorization, nor may any person inspect, copy or otherwise exercise any authority over any Presidential materials without such authorization.

If any action is taken or permitted inconsistent with the depository agreement or this letter, Mr. Nixon will consider such action to be in breach of the depository agreement.

Sincerely yours,


Herbert J. Miller, Jr.



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R. STAN MORTENSON

JOSEPH S. MCCARTHY
COURTNEY A. EVANS
OF COUNSEL

September 13, 1974

Honorable Arthur F. Sampson
Administrator
General Services Administration
Washington, D. C.

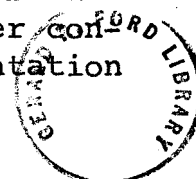
Dear Mr. Sampson:

This letter is in reference to the depository agreement entered into between my client, Richard M. Nixon, and you by letter dated September 6, 1974.

The depository agreement provides that upon acceptance of Mr. Nixon's offer of deposit, the Administrator will arrange the temporary deposit of Mr. Nixon's Presidential materials in a facility located within the State of California. The agreement further provides that the Administrator shall arrange and be responsible for the reasonable protection of the materials from loss, destruction and access by unauthorized persons.

It has been brought to my attention that some of the materials covered by the depository agreement have not as yet been placed in a secure area to which access can be gained only upon Mr. Nixon's written authorization. It is my further understanding that the Secret Service is currently responsible for protecting certain of Mr. Nixon's Presidential materials that have been stored in locked rooms or safes.

I hereby request on Mr. Nixon's behalf that you immediately arrange for all Presidential materials referred to in the depository agreement which have not as yet been stored in secured areas to be stored immediately under conditions whereby access can be gained only by implementation

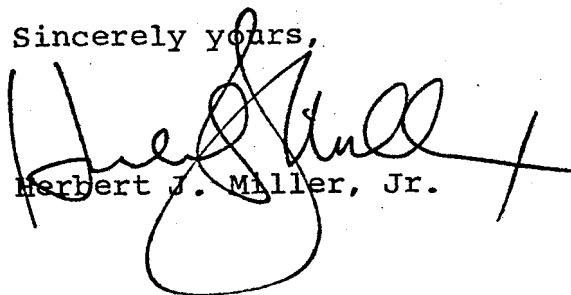


Honorable Arthur F. Sampson
September 13, 1974
Page Two

of the two key arrangement called for in the depository agreement. I further request that any Presidential materials which are not currently subject to subpoena or other court order be immediately transferred to California as provided for in the depository agreement.

Finally, I most urgently request that Presidential materials, including but not limited to tapes, personal notes and dictabelts, which Mr. Nixon must review in order to comply with pending judicial orders or processes, be immediately transferred to California in order to enable Mr. Nixon to comply with such orders or processes.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Herb Miller", with a large, stylized flourish at the end.

Herbert J. Miller, Jr.



August 30, 1974

To: Herbert J. Miller, Jr.

From: Phil Buchen

**Subject: Protection of Certain
White House Files**

**Enclosed are memoranda of May 3, 1973,
May 5, 1973, May 23, 1973, June 21, 1974,
and August 23, 1974.**

**There are intervening memoranda which
I have omitted, but which you are free
to come and see if you would like.**

Attachments

PWBuchen:ed



May 3, 1973

PROTECTION OF WHITE HOUSE FILES

The following procedure was adopted after consultation among the Department of Justice, the FBI and White House counsel:

1. All files of H. R. Haldeman, John D. Ehrlichman and John W. Dean, III, have been removed from their offices and placed in two secure locations in the Old EOB.
2. At each location where such files are now maintained an FBI agent is present at all times during working hours to supervise access. At all other times the locations are physically secure and no access is permitted.
3. The files may be examined in the secure locations, or reproduced, in the presence of an FBI agent. They may not, however, be removed from the secure locations.
4. If it becomes necessary to remove a particular file from its secure location for any reason, a satisfactory method for safeguarding the file will be agreed upon by the FBI and White House counsel on an ad hoc basis.



May 5, 1973

MEMORANDUM FOR JAMES J. ROWLEY
FROM: LEONARD GARMENT *LG*
SUBJECT: Protection of White House Files

This memorandum states the procedures to be followed with respect to protection of the files of H. R. Haldeman, John D. Ehrlichman and John W. Dean, III, by Secret Service guards.

1. The files of H. R. Haldeman are located in Room 522. The persons who have access to those files are listed on the attached memorandum (Tab A).
2. Additional files of H. R. Haldeman and files of John Dean and John Ehrlichman are located in Room 84. Access to those files may be given to the persons on the attached memorandum (Tab B).
3. Access to Room 522 or to the specified files in Room 84 by the persons listed on the attached memorandum should be checked with Bruce Kehrli. In addition, a log of requests shall be maintained for Room 522 and for the specified files in Room 84. It will include the date, time of entry, time of exit, whether any xeroxing was done and the name of the individual admitted.
4. Examination of files in Room 522, or the specified files in Room 84, shall be done in the presence of the guard. This will not however involve any identification or examination by the guard of the particular files examined.
5. A xerox machine is present in Room 522. However, a guard will have to accompany anyone who takes material from Room 84



for purposes of xeroxing. It is the responsibility of the guard to assure that all material taken for purposes of xeroxing be returned to Room 84.

6. With the exception of the temporary removal of material from Room 84 for xeroxing, no material is to be removed from either Room 522 or Room 84.

Attachments.



THE WHITE HOUSE

WASHINGTON

ROOM 522 ACCESS PROCEDURE

The following people are allowed access to room 522:

H. R. Haldeman
Larry Higby
Terry O'Donnell
Bruce Kehrli
John Ehrlichman
Tod Hullin

Jana Hruska

George Collins

*per Bruce Kehrli
5-7-73*

Before anyone is allowed access, however, the agent on duty should contact Bruce Kehrli for clearance.

All material currently stored in room 522 must remain there. No files are to be taken out of the room, however, if copies are needed a Xerox machine has been provided.



Attach 10

THE WHITE HOUSE

WASHINGTON

ROOM 84

The following applies to requests for the files of H. R. Haldeman, John Dean and John Ehrlichman only.

The following people are allowed access to the H. R. Haldeman files:

- H. R. Haldeman
- Larry Higby
- Terry O'Donnell
- Bruce Kehrli

The following people are allowed access to the John Dean files:

- John Dean
- Fred Fielding
- Bruce Kehrli
- Darlene Moulds
- Joe Adams

The following people are allowed access to the John Ehrlichman files:

- John Ehrlichman
- Tod Hullin
- Jana Hruska
- Bruce Kehrli

Before anyone looks into the files mentioned above, the request should be checked with Bruce Kehrli.

The agent on duty should keep a log of requests for these particular files only. No files shall be removed from the area, however, copies are to be made if needed and one agent should accompany the individual making the copies to make sure the file remains intact.

Bruce A. Kehrli

Bruce A. Kehrli
Special Assistant
to the President



THE WHITE HOUSE

WASHINGTON

23 May 1973

MEMORANDUM FOR: JAMES J. ROWLEY

FROM: J. FRED BUZHARDT *J.F.B.*

SUBJECT: Protection of and Access to Presidential
Papers (White House Files)

D.R. jcb

This memorandum supersedes all previous directions with respect to the protection of the files of John J. Caulfield, Dwight Chapin, Charles Colson, John W. Dean, III, John D. Ehrlichman, H. R. Haldeman, Egil Krogh, Jeb Stuart Magruder, Gordon Strachan and David Young which files are located in Room 522 and Room 84 of the Executive Office Building by Secret Service guards.

1. Until further notice, access to the subject files are to be granted only to the above named individuals and the access of each of these individuals is limited to his own files.
2. None of the persons granted access shall be permitted to make copies of the documents examined nor shall they be permitted to make notes from the documents.
3. Access to Room 522 or to the specified files in Room 84 by the persons listed on the attached memorandum should be checked with Bruce Kehrli. In addition, a log of requests shall be maintained for Room 522 and for the specified files in Room 84. It will include the date, time of entry, time of exit, and the name of the individual admitted.
4. Examination of files in Room 522, or the specified files in Room 84, shall be done in the presence of the guard. This will not however involve any identification or examination by the guard of the particular files examined.

cc: Gen. Haig
Mr. Kehrli



ION
June 21, 1974

MEMORANDUM FOR:

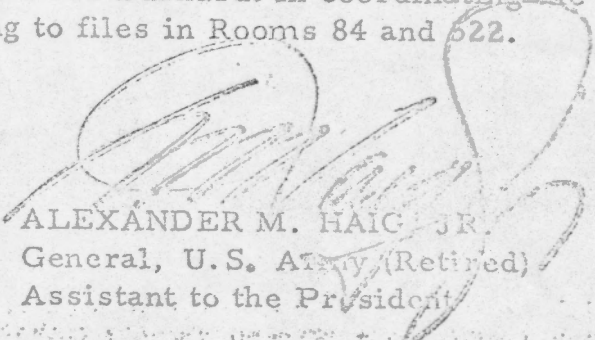
THE HONORABLE H. STUART KNIGHT
Director
United States Secret Service

SUBJECT:

Protection of White House Files

Effective this date, all requests for entry into Rooms 84 and 522 in OEOB, for purpose of reviewing files should be cleared through Mr. Geoffrey C. Shepard. Mr. Shepard will document each clearance by memorandum to Director Knight, where a standing authorization by memorandum does not already exist.

The procedures set forth in memorandums of J. Fred Buzhardt commencing May 23, 1973, are still in effect, except for Mr. Shepard replacing Mr. J. Fred Buzhardt in coordinating the approval of requests pertaining to files in Rooms 84 and 522.


ALEXANDER M. HAIG, JR.
General, U.S. Army (Retired)
Assistant to the President

RECORDS SECTION
JUN 23 1974
STUART KNIGHT LIBRARY

THE WHITE HOUSE

WASHINGTON

August 23, 1974

MEMORANDUM FOR: H. S. Knight
Director, United States Secret Service

SUBJECT: Protection of White House Files

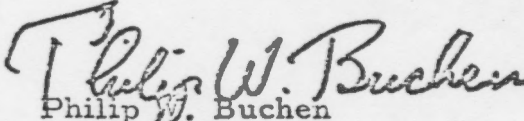
This memorandum will continue in effect the standing instructions issued to you by J. Fred Buzhardt in his memorandum dated May 23, 1973, and by General Alexander Haig in his memorandum dated June 21, 1974, regarding access to all of the files located in Room 522 and the files located in Room 84 of the Old Executive Office Building, which files are under the protection of the United States Secret Service, subject to the following clarifying amendments:

Strike all of the names listed in the first paragraph of the memorandum dated May 23, 1973, and insert in lieu thereof the names listed in Exhibit 1, attached hereto.

Strike the first sentence of numbered paragraph 3 of the memorandum dated May 23, 1973.

Strike the name of Geoffrey C. Shepard wherever it appears in the memorandum dated June 21, 1974, and insert in lieu thereof the name of William E. Casselman II.

This memorandum will remain in effect until amended or revoked by memorandum from the Counsel to the President to the Director of the United States Secret Service. The continued access to Room 522 and Room 84 under the terms of the May 23, 1973, and June 21, 1974, memorandum is being undertaken by me with the concurrence of Richard M. Nixon.


Philip W. Buchen
Counsel to the President

Enclosure

cc: General Alexander M. Haig, Jr.



EXHIBIT 1

Patrick J. Buchanan
John J. Caulfield
Dwight Chapin
Charles Colson
John W. Dean III
Frank DeMarco
John D. Erhlichman
H. R. Haldeman
Larry Higby
Tom Huston
E. Howard Hunt
Herb Kalmbach
Kenneth Khachigian
Egil Krogh
Fred LaRue
G. Gordon Liddy
Jeb Stewart Magruder
John M. Mitchell
Richard Moore
Robert G. Odle
Bart Porter
Robert Reisner
Maurice Stans
Hugh Sloan
Gordon Strachan
David Young



LAW OFFICES
MILLER, CASSIDY, LARROCA & LEWIN

1320 19TH STREET, N.W. - SUITE 500

WASHINGTON, D. C. 20036

AREA CODE 202

TELEPHONE 293-6400

JOSEPH S. MCCARTHY
COURTNEY A. EVANS
OF COUNSEL

October 15, 1974

HERBERT J. MILLER, JR.
JOHN JOSEPH CASSIDY
RAYMOND G. LARROCA
NATHAN LEWIN
MARTIN D. MINSKER
WILLIAM H. JEFFRESS, JR.
THOMAS D. ROWE, JR.
A. RAYMOND RANDOLPH, JR.
R. STAN MORTENSON

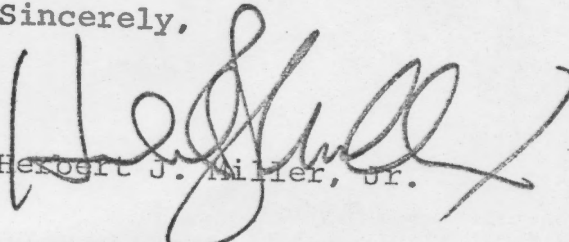
Philip W. Buchen, Esquire
Counsel to the President
The White House
Washington, D. C. 20500

Dear Mr. Buchen:

In accordance with the terms of the depository agreement of September 6, 1974, relating to specific presidential materials of the Nixon Administration, you have informed this office, as representatives of Mr. Nixon, that you are in receipt of a subpoena served by attorneys for John Ehrlichman demanding production of specified items which are part of former President Nixon's presidential materials. You have permitted Stan Mortenson of this office access to certain of these demanded materials for purposes of permitting us to determine whether to raise objection to the production thereof. You have further indicated to us by letter dated October 9, 1974, that, as representative of the present Administration, you have no objection to production of the subpoenaed material and intend to comply therewith.

This letter will serve as notice to you that the former President does object to the production of the materials as subpoenaed. Although the former President has no objection to production of some of the materials (specifically items 1, 2, 7 and 8) he does object to production of the others. Consequently, we intend to move to quash the subpoena with respect to those items and will at the time of filing raise the defenses we believe appropriate.

Sincerely,


Herbert J. Miller, Jr.



CC: Mr. Casselman

THE WHITE HOUSE

WASHINGTON

October 9, 1974

Miller, Cassidy, Larroca & Lewin
1320 19th Street, N. W.
Fifth Floor
Washington, D. C.

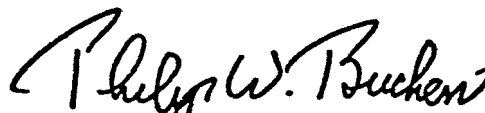
Attention: Mr. Herbert J. Miller, Jr.

Gentlemen:

You have already been furnished, as I am told, with a copy of a Subpoena duces tecum directed to me and captioned United States of America v. John N. Mitchell, et al., D. D.C., Criminal No. 74-110, which was issued upon application of defendant John D. Ehrlichman. I enclose an additional copy, reproduced from the original in my possession, to serve as notice of the subpoena to you and your client, the Honorable Richard M. Nixon, in accordance with paragraph 9B of the September 6, 1974, Agreement between your client and the Administrator, General Services Administration.

The Agreement contemplates that your client will respond to any such subpoena. So I trust that, if you intend to raise no timely objections in Court, you will work out timely and satisfactory arrangements for production of the documents, consistent with the present circumstances that the documents are still located here under appropriate safeguards. Since the Agreement specifies that you will determine whether to object to production of materials, and will inform the United States if you determine not to object so that it may inspect the materials for the limited purpose stated in the Agreement, I intend to take no action to quash the Subpoena duces tecum and will abide by any Court order as it may affect me.

Sincerely,



Philip W. Buchen
Counsel to the President

Enclosure

bcc: Larry Silberman
Irving Jaffe
Leon Jaworski
Bill Casselman



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WASHINGTON, D. C. 20036

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JOHN JOSEPH CASSIDY
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THOMAS D. ROWE, JR.
A. RAYMOND RANDOLPH, JR.
R. STAN MORTENSON

JOSEPH S. MCCARTHY
COURTNEY A. EVANS
OF COUNSEL

September 20, 1974

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

Dear Mr. Buchen:

This letter is in reference to a letter dated September 18, 1974, to J. Fred Buzhardt, Jr., Esquire, from Richard Ben-Veniste, Assistant Special Prosecutor, and a letter dated September 13, 1974, to yourself from Mr. Richard Ben-Veniste.

With reference to the letter of September 18, as the attorney for former President Richard Nixon I have no objection to your making available to Mr. Ben-Veniste the five dates specified from President Nixon's daily diary. I would object to an informal turning over of the tape recording of the conversation between President Nixon and John W. Dean, February 28, 1973. Since a copy of that tape has already been furnished to the Special Prosecutor it would seem that the proper way to proceed would be for a subpoena to be served on President Nixon to produce that tape at which time it could be produced pursuant to the procedures which have already been established pursuant to a prior subpoena issued by the Special Prosecutor.

With respect to the items requested in the September 13, 1974, letter, I have no objection to turning over and hereby designate Mr. Jerry Jones, Staff Secretary, White House, to obtain the documents in Item Nos. 1, 2, 3 if available, 5 and 6. Once they have been located and after I have examined them



Philip W. Buchen, Esquire
September 20, 1974
Page Two

I believe I will have no objection to their being turned over.

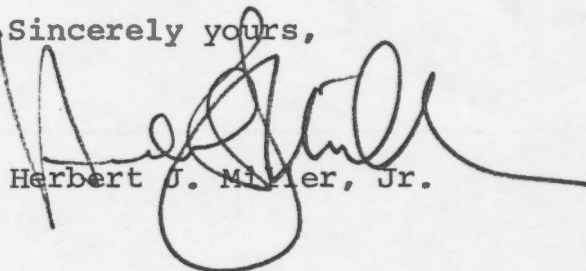
With respect to Item No. 4, reflecting the manifest of Air Force One, if there are security problems involved in making such information available then I would, of course, object to turning over that information.

With respect to Item No. 7 which will require a substantial amount of work, I designate Mrs. Gertrude T. Fry, Librarian, White House, to examine the documents and obtain the information there requested. Again upon my examination it is believed that there will be no objection to it being turned over.

With respect to Item No. 8 which is the blanket request for the President's daily diary from June 17, 1972 through December 31, 1973, I would, of course, object to such a blanket request but would be available to discuss any specific requests for diaries as to specific meetings or dates.

If you have any questions concerning the above, please do not hesitate to contact the undersigned.

Sincerely yours,



Herbert J. Miller, Jr.

HJM/psb



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THOMAS D. ROWE, JR.
A. RAYMOND RANDOLPH, JR.
R. STAN MORTENSON

September 13, 1974

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

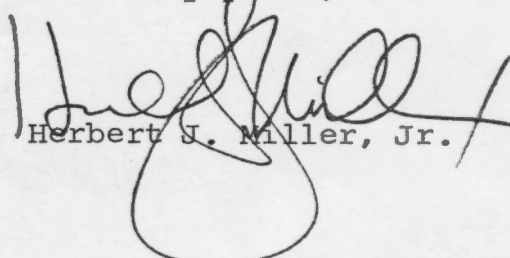
Dear Mr. Buchen:

I am writing on behalf of my client, Richard M. Nixon, to inform you that pursuant to the depository agreement entered into by letter from Mr. Nixon to Mr. Arthur F. Sampson on September 6, 1974, and as owner of the Presidential materials referred to therein, Mr. Nixon exercises his right of sole access and control to the materials.

Accordingly, I am advising you on Mr. Nixon's behalf that no person may be admitted to any locked room or other secured area containing any of Mr. Nixon's Presidential materials without Mr. Nixon's express written authorization, nor may any person inspect, copy or otherwise exercise any authority over any Presidential materials without such authorization.

If any action is taken or permitted inconsistent with the depository agreement or this letter, Mr. Nixon will consider such action to be in breach of the depository agreement.

Sincerely yours,


Herbert J. Miller, Jr.



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OF COUNSEL

September 13, 1974

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JOHN JOSEPH CASSIDY
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NATHAN LEWIN
MARTIN D. MINSKER
WILLIAM H. JEFFRESS, JR.
THOMAS D. ROWE, JR.
A. RAYMOND RANDOLPH, JR.
R. STAN MORTENSON

Honorable Arthur F. Sampson
Administrator
General Services Administration
Washington, D. C.

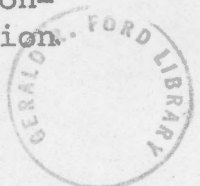
Dear Mr. Sampson:

This letter is in reference to the depository agreement entered into between my client, Richard M. Nixon, and you by letter dated September 6, 1974.

The depository agreement provides that upon acceptance of Mr. Nixon's offer of deposit, the Administrator will arrange the temporary deposit of Mr. Nixon's Presidential materials in a facility located within the State of California. The agreement further provides that the Administrator shall arrange and be responsible for the reasonable protection of the materials from loss, destruction and access by unauthorized persons.

It has been brought to my attention that some of the materials covered by the depository agreement have not as yet been placed in a secure area to which access can be gained only upon Mr. Nixon's written authorization. It is my further understanding that the Secret Service is currently responsible for protecting certain of Mr. Nixon's Presidential materials that have been stored in locked rooms or safes.

I hereby request on Mr. Nixon's behalf that you immediately arrange for all Presidential materials referred to in the depository agreement which have not as yet been stored in secured areas to be stored immediately under conditions whereby access can be gained only by implementation.

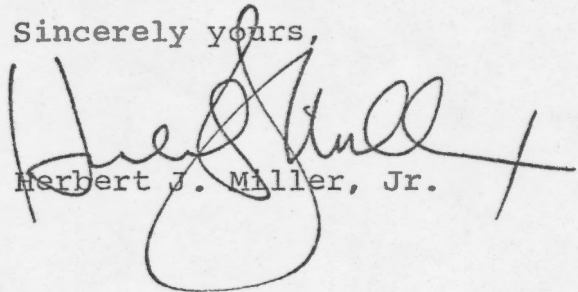


Honorable Arthur F. Sampson
September 13, 1974
Page Two

of the two key arrangement called for in the depository agreement. I further request that any Presidential materials which are not currently subject to subpoena or other court order be immediately transferred to California as provided for in the depository agreement.

Finally, I most urgently request that Presidential materials, including but not limited to tapes, personal notes and dictabelts, which Mr. Nixon must review in order to comply with pending judicial orders or processes, be immediately transferred to California in order to enable Mr. Nixon to comply with such orders or processes.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Herb Miller", with a large, stylized flourish underneath.

Herbert J. Miller, Jr.



August 30, 1974

To: Herbert J. Miller, Jr.

From: Phil Buchen

**Subject: Protection of Certain
White House Files**

**Enclosed are memoranda of May 3, 1973,
May 5, 1973, May 23, 1973, June 21, 1974,
and August 23, 1974.**

**There are intervening memoranda which
I have omitted, but which you are free
to come and see if you would like.**

Attachments

PWBuchen:ed

May 3, 1973

PROTECTION OF WHITE HOUSE FILES

The following procedure was adopted after consultation among the Department of Justice, the FBI and White House counsel:

1. All files of H. R. Haldeman, John D. Ehrlichman and John W. Dean, III, have been removed from their offices and placed in two secure locations in the Old EOB.
2. At each location where such files are now maintained an FBI agent is present at all times during working hours to supervise access. At all other times the locations are physically secure and no access is permitted.
3. The files may be examined in the secure locations, or reproduced, in the presence of an FBI agent. They may not, however, be removed from the secure locations.
4. If it becomes necessary to remove a particular file from its secure location for any reason, a satisfactory method for safeguarding the file will be agreed upon by the FBI and White House counsel on an ad hoc basis.



THE WHITE HOUSE
WASHINGTON

May 5, 1973

MEMORANDUM FOR JAMES J. ROWLEY
FROM: LEONARD GARMENT *lg*
SUBJECT: Protection of White House Files

This memorandum states the procedures to be followed with respect to protection of the files of H. R. Haldeman, John D. Ehrlichman and John W. Dean, III, by Secret Service guards.

1. The files of H. R. Haldeman are located in Room 522. The persons who have access to those files are listed on the attached memorandum (Tab A).
2. Additional files of H. R. Haldeman and files of John Dean and John Ehrlichman are located in Room 84. Access to those files may be given to the persons on the attached memorandum (Tab B).
3. Access to Room 522 or to the specified files in Room 84 by the persons listed on the attached memorandum should be checked with Bruce Kehrli. In addition, a log of requests shall be maintained for Room 522 and for the specified files in Room 84. It will include the date, time of entry, time of exit, whether any xeroxing was done and the name of the individual admitted.
4. Examination of files in Room 522, or the specified files in Room 84, shall be done in the presence of the guard. This will not however involve any identification or examination by the guard of the particular files examined.
5. A xerox machine is present in Room 522. However, a guard will have to accompany anyone who takes material from Room 84



for purposes of xeroxing. It is the responsibility of the guard to assure that all material taken for purposes of xeroxing be returned to Room 84.

6. With the exception of the temporary removal of material from Room 84 for xeroxing, no material is to be removed from either Room 522 or Room 84.

Attachments.



THE WHITE HOUSE
WASHINGTON

ROOM 522 ACCESS PROCEDURE

The following people are allowed access to room 522:

H. R. Haldeman
Larry Higby
Terry O'Donnell
Bruce Kehrli
John Ehrlichman
Tod Hullin
Jana Hruska

George Collins *per Bruce Kehrli*
5-7-73

Before anyone is allowed access, however, the agent on duty should contact Bruce Kehrli for clearance.

All material currently stored in room 522 must remain there. No files are to be taken out of the room, however, if copies are needed a Xerox machine has been provided.



Attach 6

THE WHITE HOUSE

WASHINGTON

ROOM 84

The following applies to requests for the files of H. R. Haldeman, John Dean and John Ehrlichman only.

The following people are allowed access to the H. R. Haldeman files:

H. R. Haldeman	Terry O'Donnell
Larry Higby	Bruce Kehrli

The following people are allowed access to the John Dean files:

John Dean	Darlene Moulds
Fred Fielding	Joe Adams
Bruce Kehrli	

The following people are allowed access to the John Ehrlichman files:

John Ehrlichman	Jana Hruska
Tod Hullin	Bruce Kehrli

Before anyone looks into the files mentioned above, the request should be checked with Bruce Kehrli.

The agent on duty should keep a log of requests for these particular files only. No files shall be removed from the area, however, copies are to be made if needed and one agent should accompany the individual making the copies to make sure the file remains intact.

Bruce A. Kehrli

Bruce A. Kehrli
Special Assistant
to the President



THE WHITE HOUSE

WASHINGTON

23 May 1973

MEMORANDUM FOR: JAMES J. ROWLEY

FROM: J. FRED BUZHARDT *J.F.B.*

SUBJECT: Protection of and Access to Presidential
Papers (White House Files)

A.R. JCB

This memorandum supersedes all previous directions with respect to the protection of the files of John J. Caulfield, Dwight Chapin, Charles Colson, John W. Dean, III, John D. Ehrlichman, H. R. Haldeman, Egil Krogh, Jeb Stuart Magruder, Gordon Strachan and David Young which files are located in Room 522 and Room 84 of the Executive Office Building by Secret Service guards.

1. Until further notice, access to the subject files are to be granted only to the above named individuals and the access of each of these individuals is limited to his own files.
2. None of the persons granted access shall be permitted to make copies of the documents examined nor shall they be permitted to make notes from the documents.
3. Access to Room 522 or to the specified files in Room 84 by the persons listed on the attached memorandum should be checked with Bruce Kehrli. In addition, a log of requests shall be maintained for Room 522 and for the specified files in Room 84. It will include the date, time of entry, time of exit, and the name of the individual admitted.
4. Examination of files in Room 522, or the specified files in Room 84, shall be done in the presence of the guard. This will not however involve any identification or examination by the guard of the particular files examined.

cc: Gen. Haig
Mr. Kehrli

ION
June 21, 1974

MEMORANDUM FOR:

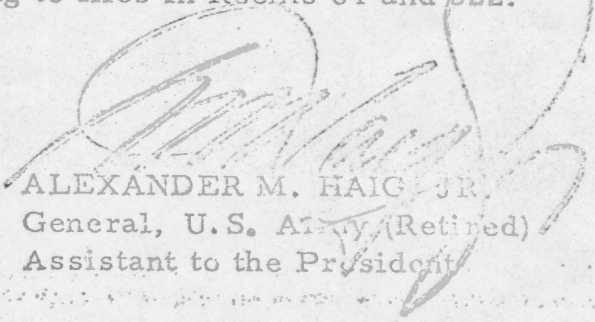
THE HONORABLE H. STUART KNIGHT
Director
United States Secret Service

SUBJECT:

Protection of White House Files

Effective this date, all requests for entry into Rooms 84 and 522 in OEOB, for purpose of reviewing files should be cleared through Mr. Geoffrey C. Shepard. Mr. Shepard will document each clearance by memorandum to Director Knight, where a standing authorization by memorandum does not already exist.

The procedures set forth in memorandums of J. Fred Buzhardt commencing May 23, 1973, are still in effect, except for Mr. Shepard replacing Mr. J. Fred Buzhardt in coordinating the approval of requests pertaining to files in Rooms 84 and 522.


ALEXANDER M. HAIG, JR.
General, U.S. Army (Retired)
Assistant to the President



THE WHITE HOUSE

WASHINGTON

August 23, 1974

MEMORANDUM FOR: H. S. Knight
Director, United States Secret Service

SUBJECT: Protection of White House Files


This memorandum will continue in effect the standing instructions issued to you by J. Fred Buzhardt in his memorandum dated May 23, 1973, and by General Alexander Haig in his memorandum dated June 21, 1974, regarding access to all of the files located in Room 522 and the files located in Room 84 of the Old Executive Office Building, which files are under the protection of the United States Secret Service, subject to the following clarifying amendments:

Strike all of the names listed in the first paragraph of the memorandum dated May 23, 1973, and insert in lieu thereof the names listed in Exhibit 1, attached hereto.

Strike the first sentence of numbered paragraph 3 of the memorandum dated May 23, 1973.

Strike the name of Geoffrey C. Shepard wherever it appears in the memorandum dated June 21, 1974, and insert in lieu thereof the name of William E. Casselman II.

This memorandum will remain in effect until amended or revoked by memorandum from the Counsel to the President to the Director of the United States Secret Service. The continued access to Room 522 and Room 84 under the terms of the May 23, 1973, and June 21, 1974, memorandum is being undertaken by me with the concurrence of Richard M. Nixon.


Philip W. Buchen
Counsel to the President

Enclosure

cc: General Alexander M. Haig, Jr.

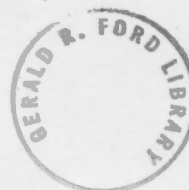


EXHIBIT 1

Patrick J. Buchanan
John J. Caulfield
Dwight Chapin
Charles Colson
John W. Dean III
Frank DeMarco
John D. Erhlichman
H. R. Haldeman
Larry Higby
Tom Huston
E. Howard Hunt
Herb Kalmbach
Kenneth Khachigian
Egil Krogh
Fred LaRue
G. Gordon Liddy
Jeb Stewart Magruder
John M. Mitchell
Richard Moore
Robert G. Odle
Bart Porter
Robert Reisner
Maurice Stans
Hugh Sloan
Gordon Strachan
David Young



GSA

THE WHITE HOUSE
WASHINGTON

October 23, 1974

Dear Mr. Trimmer:

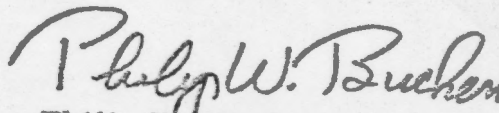
Attached is a request from Herbert J. Miller, Jr., attorney for Richard Nixon, pursuant to the Order of the United States District Court for the District of Columbia entered October 22, 1974, in Nixon v. Sampson, C.A. No. 74-1518 and C.A. No. 74-1533, seeking access to and copies of such Presidential materials of the Nixon Administration as he or his agent may request for the purpose of preparation of Mr. Nixon for potential testimony in the Watergate trial.

This is to request the assistance of employees of the General Services Administration to make available such documents within the White House complex as are currently under your custody and control, and to assist in locating the desired documents.

For the purpose of this search, I designate in the alternative William E. Casselman II, Barry N. Roth, or Jay T. French to serve as my agents.

Thank you for your assistance.

Sincerely,



Philip W. Buchen
Counsel to the President

Harold S. Trimmer, Jr., Esquire
General Counsel
General Services Administration
Washington, D. C. 20405



1320 19th St., N. W., Suite 500
Washington, D. C. 20036
October 23, 1974

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

Dear Mr. Buchen:

Pursuant to the order of the United States District Court for the District of Columbia entered October 22, 1974, in Nixon v. Sampson, C. A. No. 74-1518, I hereby request as former President Nixon's attorney that you provide to Thomas D. Rowe, Jr., an attorney of my firm, access to and copies of such Presidential materials of the Nixon Administration as he may request. The purpose of his requests will be the preparation of Mr. Nixon for potential testimony in the Watergate trial. Copies are requested because Mr. Nixon is physically unable to conduct the review in person. Use of copies shall be fully in compliance with the order. To the extent that this is a continuing request, I will advise you when Mr. Nixon is physically able to conduct the review in person and copies are no longer required.

Sincerely yours,

Herbert J. Miller, Jr.
Attorney for Mr. Nixon

by

Thomas D. Rowe, Jr.
Thomas D. Rowe, Jr.

cc: William Casselman



Some items in this folder were not digitized because it contains copyrighted materials. Please contact the Gerald R. Ford Presidential Library for access to these materials.

LAWYER FOR NIXON DROPS TAPES BID

Had Sought Original Data
to Prepare Ex-President
for Trial Appearance

By ANTHONY RIPLEY

Special to The New York Times

WASHINGTON, Oct. 30—

With former President Richard M. Nixon critically ill in California, his lawyer dropped today an urgent request for original White House tape recordings and documents.

The tapes and papers had been sought by Herbert J. Miller Jr. to prepare Mr. Nixon for an appearance at the Watergate cover-up trial under way before Judge John J. Sirica.

After four days of attempting to find needed materials among the 141 boxes of files and 950 reels of recording tape, Mr. Miller had asked another Federal District Court judge, Charles R. Richey, to transfer immediately all the tapes and papers to San Clemente, Calif., Mr. Nixon's home.

But he told Judge Richey today that "under no circumstances would I spend even 30 seconds with him trying to refresh his recollection of anything on watergate."

Overwhelming Job

He said that Mr. Nixon's appearance at the Watergate trial "is going to have to sit and wait an improvement in his health, God willing."

The originals had been sought by Mr. Miller because of what he termed an overwhelming job of having to copy them. Copying was approved by Judge Richey in an order issued Oct. 22.

That same order temporarily froze the tapes and documents at their present storage place in the Old Executive Office Building next to the White House.

Mr. Miller estimated that there were 2,500 sheets of paper in each of 38 boxes in one group of files, and that copying them would take 15 days for a person working 10 hours a day.

In addition, Mr. Miller said that 950 tape reels were involved. Copying only 10 per cent of these, he said, would take nearly 285 hours.

However, with the former President in critical condition, Mr. Miller told the court, the urgency in obtaining the documents had passed, and copies, rather than originals, would do.

Further, Mr. Miller said that he did not think that all the boxes and reels would be needed after all. He said that the matter could be worked out among the lawyers.

His statements seemed to be echoes of earlier compromises Mr. Nixon made on points that for a time seemed crucial.

Clause Abandoned

One of those was the apparent abandonment of the death clause in the Sept. 6 tapes agreement. The other was allowing the Watergate special prosecutor access to further tapes and documents needed in his investigations.

When the tapes agreement was signed Sept. 6, it gave Mr. Nixon control over the materials, provided for the destruction of the tapes if Mr. Nixon died and made no provision for the special prosecutor to gain access without Mr. Nixon's permission.

But on Oct. 21, at a hearing before Judge Richey, Mr. Miller



THE WHITE HOUSE

WASHINGTON

November 5, 1974

Dear Mr. Miller:

This letter advises you in greater detail on the intended use of certain materials for purposes of current government business as has been reported to me by officials at the White House under whose control these particular materials still remain separate from the Presidential materials of the Nixon Administration maintained under the custody and control of the defendants in the pending cases of Nixon et al. v. Sampson et al., C.A.No. 74-1518 and C.A.No. 74-1533. These reports to me have come as a result of the Memorandum for the White House Staff dated October 24, 1974, of which you have a copy. *and we would like to discuss it with you by my letter to you of November 5, 1974*

1. National Security Council materials: Due to the sensitive nature of these materials on national security matters, they are maintained in their original form under NSC control and safeguards, separate from similar materials acquired after August 9, 1974, but subject to access by authorized personnel of the Council only and for purposes of current government business only. To designate these files by index titles or to be more specific about particular files needed for this purpose is not possible, because the indices are themselves under security classifications.

2. White House Security Office materials: This office has duplicated documents from three hundred thirty (330) personnel files or related records which were made from originals in the former President's papers. The duplicated material is being used in connection with background investigations or updates of such investigations of Presidential appointees, White House employees and others, such as GSA personnel, and security card pass-holders,



that were pending on August 9, 1974, or that were commenced after that date but related to persons on whom data had been accumulated prior to August 9, 1974. All original materials have been returned to the former President's records and are either secured in Room 43, OEOB, which is protected by security devices, or within a vault located inside that room.

3. Office of Counselor to the President, Dean Burch:
Following are files retained temporarily in this office in original form and intended for use solely in connection with ongoing projects:

Regulatory - General

Civil Aeronautics Board (concerning Chairman Timm)
Corporation for Public Broadcasting (pending legislation and appointments)

Federal Energy (largely public prints of documents)

Consumer Product Safety (largely public prints of documents)

Legal Services (legislation and appointments)

Federal Property Council (Counselor Burch is a member)

Studebaker, J. H. (concerning Lear Corp. Development grant)

MIA/KIA

Judicial Appointments, Pending

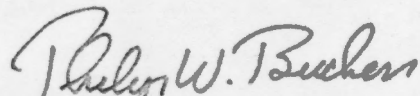
4. Office of Assistant to the President (for Congressional relations) William E. Timmons: Following are files retained temporarily in this office in original form and intended for use solely in connection with ongoing projects:

Freedom of Information legislation file

Passport Office - Oath of Allegiance file

Office Procedure's file

Sincerely yours,



Philip W. Buchen

Counsel to the President

Herbert J. Miller, Jr., Esquire
Miller, Cassidy, Larroca & Lewin
1320 19th Street, N. W.
Washington, D. C. 20036

cc: William Casselman
Larry Silberman
Tom Wolf
Jay French



Friday 11/15/74

7:40 Barry said to tell you they're all set. He's been given approval by Larocca to go up and look at the daily diaries tomorrow morning.

Also, Rule 36 FRCP provides that Sundays don't count in computing times for less than 7 days -- so Wednesday will be our compliance date.

He's got to call Irwin at home. But they're fine. All set.

Will have an authorization to get signed Saturday a. m. Larocca told Barry he'd be here at 9 a. m. ?????



THE WHITE HOUSE
WASHINGTON

November 16, 1974

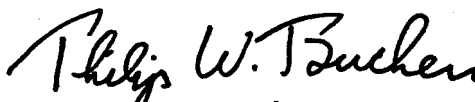
Dear Mr. Miller:

In response to your letter to William E. Casselman II dated November 1, 1974, and the inspection by Raymond G. Larroca, Esquire of a portion of these materials on November 14, 1974, this office has provided to Mr. Larroca certain of the materials designated by him and falling into the following categories:

- H Boxed Confidential files
- L Record books. Nixon outbox, log of materials received 6/13/73

Duplication of the remaining files requested by Mr. Larroca is continuing and will be available shortly.

Sincerely,


Philip W. Buchen
Counsel to the President

Herbert J. Miller, Jr., Esquire
Miller, Cassidy, Larroca & Lewin
1320 Nineteenth Street, N. W.
Suite 500
Washington, D. C. 20036

cc: Judge Charles R. Richey



THE WHITE HOUSE
WASHINGTON

November 19, 1974

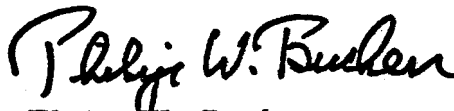
Dear Mr. Miller:

In response to your letter to Mr. William E. Casselman, II dated November 1, 1974, and the inspection of a portion of these materials on November 14, 1974 by Raymond G. Larroca, Esquire, this office has today provided to Mr. Larroca certain of the materials designated by him and falling within the following categories:

M 230 Hoopes - President Diary 1972
237 Hoopes - Briefings and President Diary

Duplication of the remaining files requested by Mr. Larroca is continuing and will be available shortly.

Sincerely,



Philip W. Buchen
Counsel to the President

Herbert J. Miller, Esquire
Miller, Cassidy, Larroca & Lewin
1320 Nineteenth Street, N. W. - Suite 500
Washington, D. C.

cc: Honorable Charles R. Richey



THE WHITE HOUSE

WASHINGTON

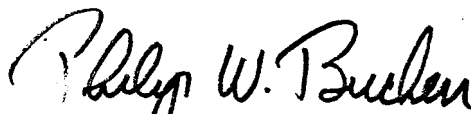
November 22, 1974

Dear Mr. Miller:

In response to your letter to Mr. William E. Casselman II dated November 1, 1974, and the inspection of a portion of these materials on November 14, 1974 by Raymond G. Larroca, Esquire, this office has today provided to Mr. Larroca the remainder of the materials designated by him and falling within the following categories:

M 230 Hoopes President Diary 1972
237 Hoopes - Briefings and President Diary

Sincerely,



Philip W. Buchen
Counsel to the President

Herbert J. Miller, Esquire
Miller, Cassidy, Larroca & Lewin
1320 Nineteenth Street, N.W. - Suite 500
Washington, D. C.

cc: Honorable Charles R. Richey



THE WHITE HOUSE

WASHINGTON

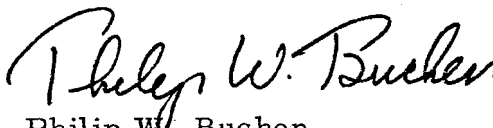
November 26, 1974

Dear Mr. Miller:

Enclosed is copy of request from Kenneth R. Cole, Jr., now a member of the White House Staff, to be afforded access to certain of the Nixon materials.

I would appreciate your promptly giving consent to such access.

Sincerely yours,



Philip W. Buchen
Counsel to the President

Herbert J. Miller, Esquire
Miller, Cassidy, Larroca & Lewin
1320 Nineteenth Street, N. W. - Suite 500
Washington, D. C.

cc: Judge Charles R. Richey



121B
142

THE WHITE HOUSE
WASHINGTON

November 25, 1974


Dear Phil:

The Special Prosecutor has asked me to provide information which I may have knowledge of with regard to the handling of Presidential papers, the establishment of the Nixon Library, and the tax deduction of Presidential papers which were donated as a charitable contribution. In order that I may refresh my recollection as to any knowledge that I may have had with regard to this subject, I would appreciate it if I could be granted access to the following:

- 1) My handwritten notes from January 1969 to March 1970.
- 2) My Chron files from January 1969 to March 1970.
- 3) Central Files' copies of my memorandums from January 1969 to March 1970.

I have read the Order of Honorable Charles R. Richey, U.S. District Judge, dated November 7, 1974 with regard to the procedure for requesting the above material and for the handling of it and obviously will abide by the requirements of such order.

Sincerely,


Kenneth R. Cole, Jr.
Assistant to the President
for Domestic Affairs

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



For Hon Colo:

The procedures
are proscribed on p. 2.

If you want any help
on framing the request
under paragraph 1,
please let me know.

T. W. B.



UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

RICHARD M. NIXON

Plaintiff

v.

ARTHUR F. SAMPSON, et al.,

Defendants

and

THE REPORTERS COMMITTEE FOR FREEDOM OF
THE PRESS, et al.,

Plaintiffs

v.

ARTHUR F. SAMPSON, et al.,

Defendants

and

LILLIAN HELLMAN, et al.,

Plaintiffs

v.

ARTHUR F. SAMPSON, et al.,

Defendants

FILED
NOV 7 1974

JAMES E. DAVEY, Clerk

ORDER



Upon consideration of the Motions for Modification of the Order of the Court of October 31, 1974, the Points and Authorities in support of and in opposition thereto, and it appearing to the Court that the provision in the Order of the Court of October 22, 1974 (page three, lines nine and ten), as amended by the Order of the Court of October 31, 1974, which provides that access "shall be afforded under current access procedures established by Defendants", is no longer viable due to the confusion on the part of the parties as to what these procedures entail, it is, by the Court, this 7th day of November, 1974, ORDERED, that the first full paragraph of page three of

the Supplemental Order of the Court of October 22, 1974,
as amended by the Order of the Court of October 31, 1974,
be, and the same is, hereby further amended to provide as
follows:

"FURTHER ORDERED, that any person either now
or previously a member of the White House Staff, or
any defendant in the Watergate criminal trial, now
pending before the Honorable Judge John J. Sirica,
or the Special Prosecutor, shall be afforded access,
solely for purposes relating to criminal investi-
gations or prosecutions, under the following
procedure:

1. a request for access shall be delivered
to Mr. Philip W. Buchen, or his designated
agent, who shall advise counsel for Mr.
Nixon and the Special Prosecutor, as well
as this Court, of the request; and
2. upon receiving the consent of counsel
for Mr. Nixon, said person shall be given
access, in the presence of an agent of
the Secret Service, to said materials which
comprise or comprised his or her files while
a member of the White House staff, with or
without his or her attorney present, and
shall be allowed to review and make notes
regarding said materials; and
3. any person having access under this
procedure who wishes to make photostatic
copies shall designate and itemize those
materials and serve notice of same upon
counsel for Mr. Nixon, Mr. Buchen, or his
designated agent, the Special Prosecutor, and
this Court; and
4. counsel for Mr. Nixon or Mr. Buchen, or
his designated agent, shall give or withhold
their consent, and if consent is withheld by
either or both, photostatic copies shall not
be made, and in such instances, the reasons
for withholding such consent shall be given
to the person requesting such copies and the
Court; and
5. when photostatic copies are provided; they
shall be returned promptly to the Defendants
when the purpose for which they have been made
has been served; and it is "

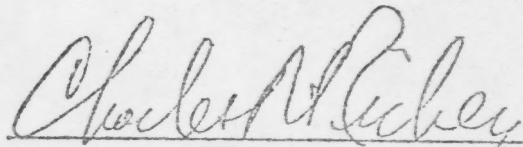
and it is

FURTHER ORDERED, that any person who has been given
access under the above procedure prior to this Order and has
made photostatic copies shall forthwith comply with provisions
4 and 5 of the above procedure, and upon the withholding of



consent to any item, said photostatic copy shall be immediately returned to Mr. Philip Buchen, or his designated agent; and it is

FURTHER ORDERED, that the Orders of the Court of October 22, 1974 and October 31, 1974 shall remain in full force and effect except as herein modified.



Charles R. Richey
United States District Judge

November 7, 1974



access

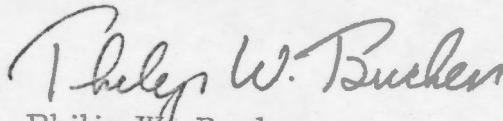
THE WHITE HOUSE
WASHINGTON
November 26, 1974

Dear Mr. Miller:

Enclosed is copy of request from Kenneth R. Cole, Jr., now a member of the White House Staff, to be afforded access to certain of the Nixon materials.

I would appreciate your promptly giving consent to such access.

Sincerely yours,



Philip W. Buchen
Counsel to the President

Herbert J. Miller, Esquire
Miller, Cassidy, Larroca & Lewin
1320 Nineteenth Street, N. W. - Suite 500
Washington, D. C.

cc: Judge Charles R. Richey



THE WHITE HOUSE

WASHINGTON

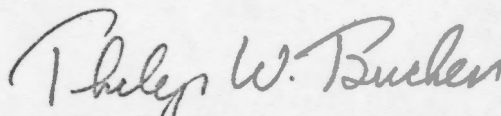
November 26, 1974

Dear Mr. Miller:

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I would appreciate your promptly giving consent to such access.

Sincerely yours,



Philip W. Buchen

Counsel to the President

Herbert J. Miller, Esquire
Miller, Cassidy, Larroca & Lewin
1320 Nineteenth Street, N. W. - Suite 500
Washington, D. C.

cc: Judge Charles R. Richey



12/1
11/2

THE WHITE HOUSE
WASHINGTON

November 25, 1974


Dear Phil:

The Special Prosecutor has asked me to provide information which I may have knowledge of with regard to the handling of Presidential papers, the establishment of the Nixon Library, and the tax deduction of Presidential papers which were donated as a charitable contribution. In order that I may refresh my recollection as to any knowledge that I may have had with regard to this subject, I would appreciate it if I could be granted access to the following:

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- 2) My Chron files from January 1969 to March 1970.
- 3) Central Files' copies of my memorandums from January 1969 to March 1970.

I have read the Order of Honorable Charles R. Richey, U.S. District Judge, dated November 7, 1974 with regard to the procedure for requesting the above material and for the handling of it and obviously will abide by the requirements of such order.

Sincerely,


Kenneth R. Cole, Jr.
Assistant to the President
for Domestic Affairs

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



UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

RICHARD M. NIXON

Plaintiff

v.

ARTHUR F. SAMPSON, et al.,

Defendants

and

THE REPORTERS COMMITTEE FOR FREEDOM OF
THE PRESS, et al.,

Plaintiffs

v.

ARTHUR F. SAMPSON, et al.,

Defendants

and

LILLIAN HELLMAN, et al.,

Plaintiffs

v.

ARTHUR F. SAMPSON, et al.,

Defendants

ORDER

Upon consideration of the Motions for Modification of the Order of the Court of October 31, 1974, the Points and Authorities in support of and in opposition thereto, and it appearing to the Court that the provision in the Order of the Court of October 22, 1974 (page three, lines nine and ten), as amended by the Order of the Court of October 31, 1974, which provides that access "shall be afforded under current access procedures established by Defendants", is no longer viable due to the confusion on the part of the parties as to what these procedures entail, it is, by the Court, this 7th day of November, 1974, ORDERED, that the first full paragraph of page three of

FILED
NOV 7 1974

JAMES E. DAVEY, Clerk



the Supplemental Order of the Court of October 22, 1974,
as amended by the Order of the Court of October 31, 1974,
be, and the same is, hereby further amended to provide as
follows:

"FURTHER ORDERED, that any person either now
or previously a member of the White House Staff, or
any defendant in the Watergate criminal trial, now
pending before the Honorable Judge John J. Sirica,
or the Special Prosecutor, shall be afforded access,
solely for purposes relating to criminal investi-
gations or prosecutions, under the following
procedure:

1. a request for access shall be delivered
to Mr. Philip W. Buchen, or his designated
agent, who shall advise counsel for Mr.
Nixon and the Special Prosecutor, as well
as this Court, of the request; and
2. upon receiving the consent of counsel
for Mr. Nixon, said person shall be given
access, in the presence of an agent of
the Secret Service, to said materials which
comprise or comprised his or her files while
a member of the White House staff; with or
without his or her attorney present, and
shall be allowed to review and make notes
regarding said materials; and
3. any person having access under this
procedure who wishes to make photostatic
copies shall designate and itemize those
materials and serve notice of same upon
counsel for Mr. Nixon, Mr. Buchen, or his
designated agent, the Special Prosecutor, and
this Court; and
4. counsel for Mr. Nixon or Mr. Buchen, or
his designated agent, shall give or withhold
their consent, and if consent is withheld by
either or both, photostatic copies shall not
be made, and in such instances, the reasons
for withholding such consent shall be given
to the person requesting such copies and the
Court; and
5. when photostatic copies are provided; they
shall be returned promptly to the Defendants
when the purpose for which they have been made
has been served; and it is "

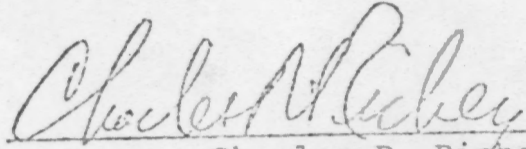
and it is

FURTHER ORDERED, that any person who has been given
access under the above procedure prior to this Order and has
made photostatic copies shall forthwith comply with provisions
4 and 5 of the above procedure, and upon the withholding of



consent to any item, said photostatic copy shall be immediately returned to Mr. Philip Buchan, or his designated agent; and it is

FURTHER ORDERED, that the Orders of the Court of October 22, 1974 and October 31, 1974 shall remain in full force and effect except as herein modified.



Charles R. Richey
United States District Judge

November 7, 1974



1704
146

RECEIVED MILLER, CASSIDY, LARROCA & LEWIN
1320 19TH STREET, N.W. - SUITE 500
WASHINGTON, D. C. 20036

AREA CODE 202
TELEPHONE 293-6400

Cyber

DEC 2 1 33 PM '74
DEPT. OF JUSTICE
MAIL UNIT

HERBERT J. MILLER, JR.
JOHN JOSEPH CASSIDY
RAYMOND G. LARROCA
NATHAN LEWIN
MARTIN D. MINSKER
WILLIAM H. JEFFRESS, JR.
THOMAS D. ROWS, JR.
A. RAYMOND RANDOLPH, JR.
R. STAN MORTENSON

JOSEPH S. MCCARTHY
COURTNEY A. EVANS
OF COUNSEL

November 29, 1974



William A. Dobrovir, Esq.
2005 L Street, N.W.
Washington, D. C. 20036

Re: Nixon v. Sampson

Dear Bill:

I received your letter with regard to sharing the expenses of the depositions. We have already been billed for a rather hefty sum for our copy of the deposition vastly exceeding one-sixth of the figure on the bill provided to you. It seems to me that each party's costs ought to be borne in the usual manner in civil cases, and we do not agree to the sharing formula set forth in your letter.

Sincerely yours,

William H. Jeffress, Jr.

William H. Jeffress, Jr.

WHJ:nka

cc: Leon Friedman, Esq.
Irwin Goldbloom, Esq.
Robert Herzstein, Esq.
Peter Kreindler, Esq.

145-171-133
RECEIVED
DEC 2 1974



RECEIVED MILLER, CASSIDY, LARROCA & LEWIN
1320 19TH STREET, N.W. - SUITE 500
WASHINGTON, D. C. 20036

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Nov 27 10 30 AM '74

AREA CODE 202
TELEPHONE 293-6400

Copy

HERBERT J. MILLER, JR.
JOHN JOSEPH CASSIDY
RAYMOND G. LARROCA
NATHAN LEWIN
MARTIN D. MINSKER
WILLIAM H. JEFFRESS, JR.
THOMAS D. ROWE, JR.
A. RAYMOND RANDOLPH, JR.
R. STAN MORTENSON

DEPT. OF JUSTICE
MAIL ROOM
OROM

JOSEPH S. M
COURTNEY A
OF COUR

November 22, 1974



Peter Kreindler, Esquire
Special Prosecution Force
1425 K Street, N.W.
Washington, D. C.

Dear Mr. Kreindler:

On October 31, I was informed by Mr. William Casselman, Counsel to President Ford, that Mr. John Dean was scheduled to have access to his White House files for several days beginning November 1. That same day Judge Charles R. Richey in Nixon v. Sampson, et al., C.A. No. 74-1518, issued an order permitting former White House staff members to request and obtain copies of materials within their files without the consent of former President Nixon or his counsel. We immediately moved for a modification of that order to permit copying of the materials only with our consent. I was assured that in the interim, between the time of our request for modification and the Court's action upon that request, the Secret Service, who has custody of Mr. Dean's White House files, would inform me of any request by Mr. Dean to copy his files although the Secret Service would not prohibit such copying.

Judge Richey has now ordered that copying may not be done without our consent and has ordered that any person having received photostatic copies prior to the November 7 order should forthwith comply with the provisions of the amended paragraphs 4 and 5.

145-171-133
DEPARTMENT OF JUSTICE
33 NOV 27 1974
R.A.O.
RECORDED

Peter Kreindler, Esquire

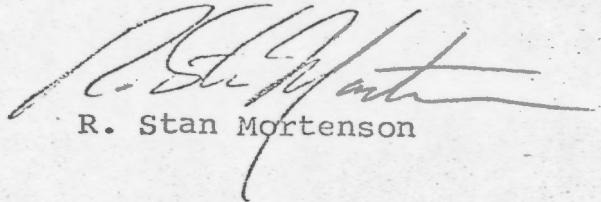
Page Two

November 22, 1974

In our meeting on Wednesday, November 20, I learned for the first time that Mr. Dean had in fact requested and received copies of materials from his White House files. I do not know whether anyone other than Mr. Dean obtained copies of file materials during the period in question. However, with respect to Mr. Dean, I hereby request that the copies of materials he received be returned to the Secret Service along with any additional copies of such materials which may have been made by him or anyone else.

I am directing this letter to you because of your representation that you will be able to communicate this request to Mr. Dean.

Sincerely,



R. Stan Mortenson

RSM/sb

cc: Judge Charles R. Richey
Jeffrey F. Axelrad, Esq.
Peter Kreindler, Esq.
Robert E. Herzstein, Esq.
William A. Dobrovir, Esq.
John H. F. Shattuck, Esq.
Thaddeus Holt, Esq.
Hon. Elizabeth Holtzman



UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

RICHARD M. NIXON,

Plaintiff,

v.

CIVIL ACTION NO. 74-1518

ARTHUR F. SAMPSON, et al.,

Defendants.

THE REPORTERS COMMITTEE FOR
FREEDOM OF THE PRESS, et al.,

Plaintiffs,

v.

CIVIL ACTION NO. 74-1533

ARTHUR F. SAMPSON, et al.,

Defendants.

LILLIAN HELLMAN, et al.,

Plaintiffs,

v.

CIVIL ACTION NO. 74-1551

ARTHUR F. SAMPSON, et al.,

Defendants.

DEFENDANTS' PROPOSED FINDINGS OF
FACT AND CONCLUSIONS OF LAW

This matter having come before the Court on Motions for Preliminary Injunction filed by plaintiff Nixon and plaintiffs Reporters Committee for Freedom of the Press, et al., the Joint Motion of the Special Prosecutor and Defendants for Modification of Temporary Restraining Order, and plaintiff Nixon's Application for Temporary Restraining Order, and upon consideration of the record before the Court and the argument



of counsel for the parties, the Court hereby makes Finding of Fact and Conclusions of Law as follows:

FINDINGS OF FACT

A. THE PARTIES

1. Plaintiff Richard M. Nixon was President of the United States from January 20, 1969, until his resignation on August 9, 1974.
2. Defendant Arthur F. Sampson is the Administrator of General Services.
3. Defendant Philip W. Buchen is Counsel to the President.
5. Intervenor Special Prosecutor is the head of the Office of Watergate Special Prosecution Force.
6. Plaintiffs, other than plaintiff Nixon, are persons who seek access to the "Presidential Materials of Richard M. Nixon" (hereafter, "the Materials").
7. Intervenor Anderson likewise seeks access to the Materials.
8. Any request for access to the Materials at issue made by any plaintiff or by Intervenor Anderson would be denied by defendant Sampson.
9. Plaintiffs, other than plaintiff Nixon, and Intervenor Anderson assert claims which, if sustained, would ultimately provide for access to certain portions of the Materials. Included among additional relief that they seek are claims relating to the location of the Materials. Taking into consideration all of their claims, plaintiffs, other than plaintiff Nixon, and Intervenor Anderson assert interests which are indistinguishable from the interests of any member of the public, except that they assert that they need the Materials



at issue for scholarly and reportorial purposes.

B. THE MATERIALS

10. The Materials consist of 42,000,000, more or less, documents and other materials, compiled during the Presidency of Richard M. Nixon.

11. The Materials were prepared either in the White House office by the President or Presidential staff members or were prepared elsewhere and directed to the President or his staff. The Materials do not include executive department or agency documents. In other words, where documents were prepared by an executive department or agency, all copies which remain with that department or agency are not included in the Materials. Where executive departments or agencies prepared documents, the department or agency records remain intact and are not included within the definition of Presidential Materials. Where Presidential documents were directed to executive departments or agencies, such documents are part of agency records and are not included among the Materials.

C. THE AGREEMENTS

12. After negotiations, on September 6, 1974, plaintiff Nixon, by letter, offered to place specified materials under joint custody with the General Services Administration and Mr. Nixon or his designee pursuant to the terms and conditions specified in said letter. Included in the terms and conditions were provisions preventing destruction of any of the Materials covered thereby for at least three years and placing said Materials in a depository in the State of California subject to security arrangements which would



necessitate the use of two keys to obtain access. Under the Agreement, one key will be held by Mr. Nixon and one key will be held by the Administrator of General Services.

13. The Administrator of General Services has accepted Mr. Nixon's offer as set forth in the aforesaid September 6, 1974, letter.

14. On November 9, 1974, defendants Buchen, Sampson, and Knight entered into an agreement with Special Prosecutor Ruth which, if implemented, would allow the Special Prosecutor and his designees immediate use of those portions of the Presidential Materials of the Nixon Administration which are relevant and important to the full and fair resolution of investigations being conducted by the Special Prosecutor's Office. This agreement is founded upon the determination of the President of the United States that the public interest and the due administration of justice require that the Special Prosecutor have prompt and effective use of said Materials. (A more detailed statement concerning the foregoing agreement sought to be implemented jointly by the defendants and the Special Prosecutor is being submitted in the form of proposed findings and conclusions by the Special Prosecutor.)

D. HISTORIC PRACTICE

15. Presidents have uniformly considered the Presidential Materials of their administrations to be their own personal property and have consistently acted to assert dominion and control over said Materials. For instance, deed of gift, testamentary provisions, and inter-vivos agreements entered into by or on behalf of Presidents Hoover,



Franklin D. Roosevelt, Truman, Eisenhower, Kennedy, and Johnson, or by their families or legal representatives, all purported to dispose of said materials. In each case, precise restrictions were imposed upon the recipients' use of said materials and upon access to said materials by members of the public. Also, various rights were retained by the former Presidents, their families or legal representatives.

16. The Materials which are the subject of the September 6, 1974, Agreement do not include any categories of materials not previously considered by prior Presidents to be the materials of their administrations subject to disposition as the respective President's property.

17. In instances where portions of prior Presidents' materials have been needed for use in the on-going business of government, the materials have been made available for such use.

CONCLUSIONS OF LAW

1. Plaintiffs in Civil Action Nos. 74-1533 and 74-1551 and Intervenor Anderson in Civil Action No. 74-1518 lack standing to challenge the September 6, 1974, Agreement or to litigate any questions as to ownership or title of the Materials at issue.

2. Any rights which plaintiffs in Civil Action Nos. 74-1533 and 74-1551 and Intervenor Anderson may seek to assert may be asserted regardless of whether the Materials are physically located in Washington, D. C., or in the State of California.

3. The plaintiffs and Intervenor Anderson will suffer no injury due to the denial of the preliminary injunctive relief sought.



4. The plaintiffs have not shown a likelihood of success on the merits of their claim.

5. Each President from George Washington to Lyndon B. Johnson has held title to the Presidential materials of his administration.

6. Actions taken by defendants, insofar as they are material to this proceeding, were lawful, reasonable, responsible, and consistent with the public interest.

7. Public interest considerations dictate that all injunctive relief sought by plaintiffs and Intervenor Anderson should be denied.

8. The relief sought by plaintiff Nixon in the nature of specific performance of the September 6, 1974, Agreement is barred by the doctrine of sovereign immunity. In implementing the terms and conditions of that Agreement, the defendants are entitled to exercise judgment and discretion, and the record before the Court fails to demonstrate that such exercise of judgment and discretion has been arbitrary or capricious.

9. The joint motion of the defendants and the Special Prosecutor seeking to implement the November 9, 1974, agreement between the Special Prosecutor and the defendants should be granted.

10. All other relief sought by any of the parties should be denied.

UNITED STATES DISTRICT JUDGE

Dated:



CERTIFICATE OF SERVICE

I hereby certify that I have caused to be served by hand this 6th day of December 1974 on the attorneys listed below a copy of the foregoing proposed Findings of Fact and Conclusions of Law:

William A. Dobrovir, Esquire
2005 L Street, N. W.
Washington, D. C. 20036

Robert E. Herzstein, Esquire
Arnold & Porter
1229 19th Street, N. W.
Washington, D. C. 20036

Herbert J. Miller, Esquire
Miller, Cassidy, Larroca & Lewin
1320 19th Street, N. W.
Washington, D. C. 20036

Melvin L. Wulf, Esquire
American Civil Liberties Union
410 First Street, S. E.
Washington, D. C. 20003

Peter M. Kreindler, Esquire
1425 K Street, N. W.
Washington, D. C. 20005

and a copy has been mailed, postage prepaid, to

Thaddeus Holt, Esquire
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