The original documents are located in Box 15, folder "Election Result Challenges - Draft" of the Michael Raoul-Duval Papers at the Gerald R. Ford Presidential Library.

Copyright Notice

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Michael Raoul-Duval donated to the United States of America his copyrights in all of his unpublished writings in National Archives collections. Works prepared by U.S. Government employees as part of their official duties are in the public domain. The copyrights to materials written by other individuals or organizations are presumed to remain with them. If you think any of the information displayed in the PDF is subject to a valid copyright claim, please contact the Gerald R. Ford Presidential Library.

Key PEOPT on page ELECTION CHALLENge -Key Pearle GERALD 1. Tuesday night : Function Indundund Location White House Overall Coordination Dick chancey (Mike Duval and Foster Chancek) 11 Fact Gathering PFC Stu Spancar White House Bob Teetere white Home Legal Analysis & ED Schmalte Loason with Justice Dest. E Dick Chenery Jim Baleer Telephone Callo Hotel Jack Marsh white Home Harry Louise 1to tel Nalson Rockeller (Jeny Jones - Coordinate) Press Plan & statements white House Doug Barley &

of Document case for · Sand invactigation Special famel and teen (our people) conto. to each potential state involved. · Develope fact statements and legal briefs. · Prepare legal CTERA PL papers for formal challenge. c) Prepare Presidents' Announcement De write remarker to he used as oval Office Statement or to open proor Confinence. · Prenare "fact sheet " and backgrounds briefings. · Set up meeting with the President and Special Rand Members. . Develope annoncement plan.

2. Special Panel The following for are possibilitis The Special Panel: memberships con Reason Name William Rogers former A Horney General during the 1960 electron & former member of the Supreme Count Ton Clark former prosecutor The phone phone FORD LIBRAR P

3) Final Actuan Plan (Steps to be implemented during the 24 hours period while the special panel develope to recommandation.) DB Desective Action A) Build Public Support · Have Bailey, Deardourf. for chellenge Tester, Sumar ad Gergen premare a (E.g. 7 state-64.state press conference, our reaple contained to on talke shows, etc.) · Have Baker set up Ad Hoc organization (within Pro) to coordinate - work out relationships ... · Notify all state chainen sete (RNC to da)

JAB5 CHECK LIST Key PEOPLE Inbet C.RALD P. FORD

TAR A Dreft (MD) and the second second ELECTION CHALLENGE - CHECK LIST 11/1/76 the ocurance of which should 1. Key Indicators (dranged to trigger the the remaining items on this check List.) allate - - - -Renorts of electron frand in and voregulant es Reports that ballots are being withheld in very states ; and/or · Extremely close , results rationally with loss than 1 % mangias in one or more states. RALD 2. ACTION PLAN (Steps to be implemented while ballots are still being counted - 1.e., tuesday night.) OBJective Actual A) Make a pleminary factual finding. Singh at the Book to the particular incodent . Feed renots to this individual from: PFC, RNC, Juntice, etc.

Check list (cont.) P.2 dette factured summary 3) Make Proliminary decision Get legal opinion whether there is substantial to support evidence of a significant based on particular facts. challenge. · Get political judgement on overall significance · Cheney / Bascer make decision. c) If Preliminary Decision · Have credille is affirmative, implement sporcesmen from the Initial Action - but hold State involved issue a statement to the open optim on alt: mite Press which : challinge. - states facts. - quies accessment of scrivinness. PORO LARARY - asks RNC / Justice To investigate. . De vener usues a statement in support of state Release .

Chacklist (cont.) P.3 · Neccon says white Home aware \$ looking into matter . -D] Catelogue all pointell serious I challenges · Assign an over-all coardinator at the white Home and and follow the Initial Actor Plan provide stiff Rupport. in each case . . fremante prelimining E) Take steps to get Preliminary Presidented factured analysis of facts + legal decision whether to challenge electron issues. · Makes determination which challenges are most credible. · Determine that the resolution of these challenges will determine the election outcome.

Checklist (Cont.) P.4 · Mave selected calls for advice (senante list being prevared). -F) It the President masco a preliminary · Major press Conferences in states when we want to consider decision to challenge, a formal challenge. take steps to designed use in best people. to suspend the Nation's judgement on othe electrica results · Many Louise Sm. the Proso for at least 24 hrs. Conference in which she asks The Presiden in that behalf of the RNC to challenge The election. · Baker press conference supporting Mrs. Smith's recommendation; key national leaders with Baker. · Presidential statement to the White House Press Which makes three points: 1) there is a serious

15 and enlistantic reason to believe that the election result should be reversed ; but Ane 2) The President bas appointed a special panel to study the facts and in 24 hours he should challinge the electron, and 3) The American People shall a The electric results what for 24 hours.

DRAFT (MD) November 1, 1976

ELECTION CHALLENGES

PRELIMINARY NOTE: CHALLENGING THE ELECTION ON THE BASIS OF MIS-COUNT OR VOTER IRREGULARITIES IS A MAJOR DECISON WHICH COULD WELL BE INTERPRETED BY THE PRESS AS PRECIPITATING A CONSTITUTIONAL CRISIS. IT IS ESSENTIAL THAT SUCH A DECISION BE MADE IN AS DISCIPLINED MANNER AS POSSIBLE WITH THE PRESIDENT HAVING THE BEST INFORMATION AVAILABLE, BOTH IN TERMS OF FACTS (SUCH AS LEGAL CONSIDERATIONS AND ADVICE OF POLITICAL LEADERS THROUGHOUT THE COUNTRY) AND THE BEST POSSIBLE ASSESS-MENT OF THE REACTION OF THE COUNTRY TO SUCH A DECISION. ACCORDINGLY, THIS PAPER IS INTENDED TO PROVIDE A BRIEF "CHECKLIST" WHICH SHOULD BE FOLLOWED IN THE EVENT THAT SUCH DECISION SHOULD BE MADE.

 <u>Timing of Decision.</u> At the outset it must be kept clearly in mind that a decision to challenge the election results in one or more states must be made before there is a general public perception that one man or the other has won. This point is crucial. Once the press plays up the fact that there is a winner, it severely limits the options of the loser.

A decision to challenge the election results must not have wide-spread public opposition. At a bare minimum there must be press and public acquiescence that the challenge is well founded and serious. Hopefully, such a challenge would have at least majority public support in the interest of fairness. Accordingly, it is important that steps be taken very quickly to keep open the option of issuing the challenge. This would require us to take specific steps publicly which will have the effect of convincing the press (and through them the public) to withhold judgment on who has won the election pending the outcome of the challenge.

Accordingly, we should establish some key indicators which will trigger an immediate and disciplined assessment of whether or not we should consider an election challenge. If our key indicators tell us early during the process of county election results that a challenge is likely, then there should be a specific checklist of actions which follows automatically. The key indicators and checklist are attached at TAB A.

a

- 2. <u>Critical Elements of a Decision to Challenge.</u> The following are the critical elements which should be considered when deciding whether or not to issue an election challenge:
 - Substance of challenge: There must be a substantial reason to believe that the announced election results by a given election entity are wrong. This will be based either on election irregularities or incorrect counting. The particular facts must be quickly

documented in accordance with procedures already worked out by Ed Schmults and the PFC/RNC.

Relevance of proposed challenge: Obviously, we should not challenge a given election unit result unless it will make a difference in terms of who the next President will be. Thus, as election results come in there must be a process for identifying potential challenges, gathering requisite information, but withholding final judgment until a determination can be made whether or not a favorable resolution of the challenge(s) would make a difference in the ultimate outcome of the election. For example, a challenge that would have the effect of making the President a winner in terms of popular vote should not be made if there is no way to win the electoral college.

Public reaction: Before a decision is made to issue a challenge, no matter how substantively valid, there must be some assessment of the impact in the nation - first by virture of the challenge being made regardless of outcome, and second, assuming we win the challenge. If, for example, Carter is the clear winner in terms of the popular vote and has a narrow electoral vote majority, but a challenge could turn the electoral vote around (but not the popular vote) a strong argument could be made that such a challenge made on purely technical grounds would not be accepted by the public even if valid.

3. <u>Announcement and Building Public Support.</u> There must be a clear plan for implementing a decision to challenge the election. This will require appropriate prenotification to political/elected leaders and the press along with a very aggressive press plan to mobilize public support. This must be all undertaken simultaneously with the required mechanical legal steps to pursue the challenge.

TAB A DRAFT (MD) November 2, 1976

ELECTION CHALLENGE - CHECK LIST

1. Key Indicators

(The occurrence of which should trigger the remaining items on this check list.)

- Reports of election fraud in key states;
- Reports that ballots are being withheld in key states; and/or
- Extremely close electoral results nationally with less than 1% margin in one or more states.

2. Immediate Action Plan

OBJECTIVE

A. Make a preliminary factual finding.

- B. Make preliminary decision whether there is substantial evidence to support a significant challenge.
- C. If preliminary decision is affirmative, implement Initial Action Plan - but hold open option on ultimate challenge.

(Steps to be implemented while ballots are still being counted, i.e., <u>Tuesday night.</u>)

ACTION

- Assign someone at the White House to the particular incident.
- Feed reports to this individual from: PFC, RNC, Justice, etc.
- Get a legal opinion based on particular facts.
- Get political judgment on overall significance.
- Cheney/Baker make decision.
- Have credible spokesman from the State involved issue a statement to the press which:
 - states facts.
 - -- gives assessment of seriousness.
 - -- asks RNC/Justice to investigate.
- Greener issues a statement of support of state release.
- Nessen says White House aware and looking into matter.

OBJECTIVE

- D. Catalogue all serious potential challenges and follow the Initial Action Plan in each case.
- E. Take steps to get preliminary Presidential decision whether to challenge election.

F. If the President makes a preliminary decision to challenge, take steps designed to suspend the Nation's judgment on the election results for at least 24 hours.

ACTION

- Assign an overall coordinator at the White House and provide staff support.
- Prepare preliminary analysis of facts and legal issues.
- Make determination which challenges are most credible.
- Determine that the resolution of these challenges will determine the election outcome.
- Make selected calls for advice (separate list being prepared).
- Major press conferences in states where we want to consider a formal challenge. Use our best people.
- Mary Louise Smith press conference in which she
 - asks the President in behalf of the RNC to challenge the election.
- Baker press conference supporting Mrs. Smith's recommendation; key national leaders with Baker.

OBJECTIVE

ACTION

- Presidential statement to the White House
 Press which makes three points:
 - There is a serious and substantial reason to believe that the election results should be reversed;
 - 2. The President has appointed a Special Panel* to study the facts and make a recommendation in 24 hours on whether he should challenge the election; and,
 - The American people should suspend their judgment on the election results for 24 hours.

A DUBRARY

* NOTE:

See next TAB for possible Special Panel members.

B.

3. Final Action Plan

(Steps to be implemented during the 24 hour period while the Special Panel develops its recommendation.)

OBJECTIVE

A. Build public support for challenge.

- ACTION
- Have Bailey, Deardourff, Teeter, Spencer and Gergen prepare a plan (e.g., stateby-state press conferences, our people on talk shows, etc.)
- Have Baker set up ad hoc organization (within RNC) to coordinate -- work out relationships.
- Notify all state chairmen, etc. (RNC to do.)
- Send investigative teams (our people) to each state involved.
- Develop fact statements and legal briefs.
- Prepare legal papers for formal challenge.
- C. Prepare for President's announcement.

Document case for

Special Panel and

courts.

- Develop announcement plan.
- Write remarks to be used as Oval Office statement or to open Press Conference.
- Prepare "fact sheet" and background briefings.
- Set up meeting with the President and Special Panel members.



ELECTION CHALLENGE - KEY PEOPLE

1. Tuesday Night:

FUNCTION

INDIVIDUAL

Dick Cheney

(Mike Duval and Foster Channock)

LOCATION

PFC

White House

White House

White House

Overall Coordination

Stu Spencer Bob Teeter

Ed Schmults

Legal Analysis and Liaison with Justice Department

Telephone Calls

Fact Gathering

Press Plan and Statements Dick Cheney Jim Baker Hotel Jack Marsh White House Bob Dole Hotel Nelson Rockefeller (Jerry Jones - Coordinate)

Doug Bailey Mike Duval White House



Page 2 - Election Challenge - Key People

2. Special Panel:

The following are possibilities for membership on the Special Panel:

NAME

REASON

William Rogers

Former Attorney General during the 1960 election.

Tom Clark

Former member of the Supreme Court.

Miles Godwin

Former Governor; former FBI agent.

DRAFT (MD) November 1, 1976

ELECTION CHALLENGES

PRELIMINARY NOTE: CHALLENGING THE ELECTION ON THE BASIS OF MIS-COUNT OR VOTER IRREGULARITIES IS A MAJOR DECISON WHICH COULD WELL BE INTERPRETED BY THE PRESS AS PRECIPITATING A CONSTITUTIONAL CRISIS. IT IS ESSENTIAL THAT SUCH A DECISION BE MADE IN AS DISCIPLINED MANNER AS POSSIBLE WITH THE PRESIDENT HAVING THE BEST INFORMATION AVAILABLE, BOTH IN TERMS OF FACTS (SUCH AS LEGAL CONSIDERATIONS AND ADVICE OF POLITICAL LEADERS THROUGHOUT THE COUNTRY) AND THE BEST POSSIBLE ASSESS-MENT OF THE REACTION OF THE COUNTRY TO SUCH A DECISION. ACCORDINGLY, THIS PAPER IS INTENDED TO PROVIDE A BRIEF "CHECKLIST" WHICH SHOULD BE FOLLOWED IN THE EVENT THAT SUCH DECISION SHOULD BE MADE.

1. <u>Timing of Decision.</u> At the outset it must be kept clearly - in mind that a decision to challenge the election results in one or more states must be made before there is a general public perception that one man or the other has won. This point is crucial. Once the press plays up the fact that there is a winner, it severely limits the options of the loser.

A decision to challenge the election results must not have wide-spread public opposition. At a bare minimum there must be press and public acquiescence that the challenge is well founded and serious. Hopefully, such a challenge would have at least majority public support in the interest of fairness. Accordingly, it is important that steps be taken very quickly to keep open the option of issuing the challenge. This would require us to take specific steps publicly which will have the effect of convincing the press (and through them the public) to withhold judgment on who has won the election pending the outcome of the challenge.

Accordingly, we should establish some key indicators which will trigger an immediate and disciplined assessment of whether or not we should consider an election challenge. If our key indicators tell us early during the process of county election results that a challenge is likely, then there should be a specific checklist of actions which follows automatically. The key indicators and checklist are attached at TAB A.

- 2. Critical Elements of a Decision to Challenge. The following
 are the critical elements which should be considered when
 deciding whether or not to issue an election challenge:
 - Substance of challenge: There must be a substantial reason to believe that the announced election results by a given election entity are wrong. This will be based either on election irregularities or incorrect counting. The particular facts must be quickly

documented in accordance with procedures already worked out by Ed Schmults and the PFC/RNC.

Relevance of proposed challenge: Obviously, we should not challenge a given election unit result unless it will make a difference in terms of who the next President will be. Thus, as election results come in there must be a process for identifying potential challenges, gathering requisite information, but withholding final judgment until a determination can be made whether or not a favorable resolution of the challenge(s) would make a difference in the ultimate outcome of the election. For example, a challenge that would have the effect of making the President a winner in terms of popular vote should not be made if there is no way to win the electoral college.

Public reaction: Before a decision is made to issue a challenge, no matter how substantively valid, there must be some assessment of the impact in the nation - first by virture of the challenge being made regardless of outcome, and second, assuming we win the challenge. If, for example, Carter

st.

is the clear winner in terms of the popular vote and has a narrow electoral vote majority, but a challenge could turn the electoral vote around (but not the popular vote) a strong argument could be made that such a challenge made on purely technical grounds would not be accepted by the public even if valid.

3. <u>Announcement and Building Public Support.</u> There must be a clear plan for implementing a decision to challenge the election. This will require appropriate prenotification to political/elected leaders and the press along with a very aggressive press plan to mobilize public support. This must be all undertaken simultaneously with the required mechanical legal steps to pursue the challenge.



Page 4

TAB A DRAFT (MD) November 2, 1976

ELECTION CHALLENGE - CHECK LIST

1. Key Indicators

(The occurrence of which should trigger the remaining items on this check list.)

- Reports of election fraud in key states;
- Reports that ballots are being withheld in key states; and/or
- Extremely close electoral results nationally with less than 1% margin in one or more states.

2. Immediate Action Plan

OBJECTIVE

A. Make a preliminary factual finding.

- B. Make preliminary decision whether there is substantial evidence to support a significant challenge.
- C. If preliminary decision is affirmative, implement Initial Action Plan - but hold open option on ultimate challenge.

(Steps to be implemented while ballots are still being counted, i.e., <u>Tuesday night.</u>)

ACTION

- Assign someone at the White House to the particular incident.
- Feed reports to this individual from: PFC, RNC, Justice, etc.
- Get a legal opinion based on particular facts.
- Get political judgment on overall significance.
- Cheney/Baker make decision.
- Have credible spokesman from the State involved issue a statement to the press which:
 - -- states facts.
 - -- gives assessment of seriousness.
 - -- asks RNC/Justice to investigate.
- Greener issues a statement of support of state release.
- Nessen says White House aware and looking into matter.

OBJECTIVE

- D. Catalogue all serious potential challenges and follow the Initial Action Plan in each case.
- E. Take steps to get preliminary Presidential decision whether to challenge election.

F. If the President makes a preliminary decision to challenge, take steps designed to suspend the Nation's judgment on the election results for at least 24 hours.

ACTION

- Assign an overall coordinator at the White House and provide staff support.
- Prepare preliminary analysis of facts and legal issues.
- Make determination which challenges are most credible.
- Determine that the resolution of these challenges will determine the election outcome.
- Make selected calls for advice (separate list being prepared).
- Major press conferences in states where we want to consider a formal challenge. Use our best people.
- Mary Louise Smith press conference in which she asks the President in behalf of the RNC to challenge the election.
- Baker press conference supporting Mrs. Smith's recommendation; key national leaders with Baker.

OBJECTIVE

ACTION

- Presidential statement to the White House Press which makes three points:
 - There is a serious and substantial reason to believe that the election results should be reversed;
 - 2. The President has appointed a Special Panel* to study the facts and make a recommendation in 24 hours on whether he should challenge the election; and,
 - The American people should suspend their judgment on the election results for 24 hours.

* NOTE: See next TAB for possible Special Panel members.

3. Final Action Plan

(Steps to be implemented during the 24 hour period while the Special Panel develops its recommendation.)

OBJECTIVE

A. Build public support for challenge.

B. Document case for Special Panel and courts.

- ACTION
- Have Bailey, Deardourff, Teeter, Spencer and Gergen prepare a plan (e.g., stateby-state press conferences, our people on talk shows, etc.)
- Have Baker set up ad hoc organization (within RNC) to coordinate -- work out relationships.
- Notify all state chairmen, etc. (RNC to do.)
- Send investigative teams (our people) to each state involved.
- Develop fact statements and legal briefs.
- Prepare legal papers for formal challenge.
- C. Prepare for President's announcement.
- Develop announcement plan.
- Write remarks to be used as Oval Office statement or to open Press Conference.
- Prepare "fact sheet" and background briefings.
- Set up meeting with the President and Special Panel members.

ELECTION CHALLENGE - KEY PEOPLE

1. Tuesday Night:

FUNCTION

INDIVIDUAL

Dick Cheney

(Mike Duval

LOCATION

White House

Overall Coordination

and Foster Channock)

Fact Gathering

Stu Spencer Bob Teeter PFC White House

Ed Schmults

White House

Telephone Calls

Department

Legal Analysis and

Liaison with Justice

Dick Cheney Jim Baker Hotel Jack Marsh White House Bob Dole Hotel Nelson Rockefeller (Jerry Jones - Coordinate)

Press Plan and Statements Doug Bailey Mike Duval White House

Page 2 - Election Challenge - Key People

2. Special Panel:

The following are possibilities for membership on the Special Panel:

NAME

REASON

1 .

William Rogers

Former Attorney General during the 1960 election.

Tom Clark

Former member of the Supreme Court.

Miles Godwin

Former Governor; former FBI agent.