

The original documents are located in Box 19, folder “Vice President” of the Richard B. Cheney Files at the Gerald R. Ford Presidential Library.

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THE WHITE HOUSE
WASHINGTON

June 21, 1976

Bushen?
Barney

MEMORANDUM FOR:

RON NESSEN

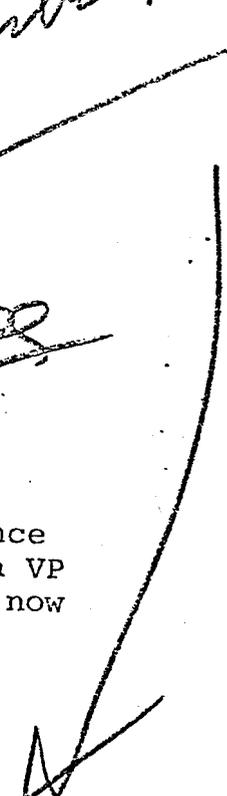
FROM:

DAVE GERGEN *DR*

SUBJECT:

FBI Check on
VP Nominee

Jimmy Carter's people say he will announce this week his procedures for selecting a VP nominee. Do we have a definite reading now on the legality of FBI checks?



cc: Dick Cheney

Dick Cheney



THE WHITE HOUSE

WASHINGTON

June 30, 1976

P. has seen ✓

MEMORANDUM FOR:

DICK CHENEY ✓
JACK MARSH

FROM:

PHIL BUCHEN *P.*

SUBJECT:

Authority for FBI to Investigate
Potential VP Nominees

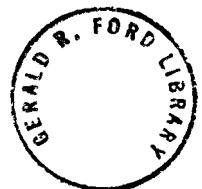
The Department of Justice is of the opinion that present law does not permit the FBI to investigate prospective Vice Presidential nominees. Justice is unable to find any statute which would authorize the FBI to undertake such investigations. Although the President has inherent authority to direct investigations in the absence of a specific statute when the investigations relate to the exercise of his constitutional or statutory functions, Justice is unable to identify any function which would clearly support such a directive for this purpose. Moreover, Justice notes that a statute to provide for such investigations may be unconstitutional because it establishes consent by the nominee as a new qualification for Vice Presidential candidates.

At best, it is questionable whether present law would permit such an investigation even with the subject's consent. In the absence of new legislation, the only basis for proceeding in this manner would be after consultation by the Attorney General with the leadership of the House and Senate Judiciary Committees. The Attorney General does not favor the concept of a Federal police force investigating potential political candidates and the Deputy Attorney General recently explained to Governor Carter's staff that the FBI did not have the authority to investigate Vice Presidential candidates. (No objection to this opinion was raised by Governor Carter's staff. Despite a correction by the New York Times, the news media continues to report that the Attorney General offered the FBI for the investigations.)



Senator Brock has introduced legislation, S. 3552, to provide for investigations for this purpose "of the same nature, extent, and scope as an investigation conducted by the Federal Bureau of Investigation in connection with the granting of the Top Secret security clearance to any individual employed by the United States." The bill does not require the consent of the prospective Vice Presidential nominee in order to conduct an investigation and would allow any candidate with written statements of support from more than 10 percent of the delegates to the Convention to request the Attorney General to investigate not more than 10 individuals for this purpose. The bill appears to prohibit the use of any evidence obtained during an investigation for any other purpose, including in criminal proceedings and provides that only the Presidential nominee or his designate could inspect the investigations after obtaining consent of the subject. Following the nomination of the Vice Presidential candidate, the investigations and all copies thereof would be destroyed. I recommend that the appropriate Justice officials meet privately with Senator Brock to discuss the practical problems raised by such legislation and Justice's reluctance to investigate potential political candidates.

With reference to the President's consideration of Vice Presidential candidates, we can review existing FBI background investigations on individuals who have been considered for Presidential appointment. As you are aware, we do not conduct such investigations with respect to members of Congress, but with consent do conduct investigations on Governors and other state officials. While such investigations are far less detailed than the one on Congressman Ford, they may be useful. Additionally, the questions we ask Presidential appointees (attached) concerning their financial interests and background provide us with basic information that should be reviewed prior to final selection and announcement of the President's running mate.



INVESTIGATION OF PROSPECTIVE
VICE PRESIDENTIAL NOMINEES

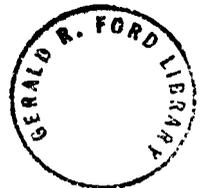
Question

Mr. President, you recently stated that you would make available facilities of the FBI at the request of the Democratic Presidential nominee to investigate a prospective Vice Presidential nominee prior to the decision. Is this your present position?

Answer

The idea of such an investigation was recently raised by a reporter at which time I stated that I saw no objection to an investigation, to the extent permitted by law, as long as it was requested in writing by the Presidential nominee with the written concurrence of the Vice Presidential nominee. On the basis of my experience during my Vice Presidential confirmation process, I am not personally troubled by the thought of such an investigation. However, the Department of Justice has recently concluded that present law does not permit the FBI to undertake such investigations even with the consent of the subject and Governor Carter has so been informed by the Department of Justice.

I believe this is a matter that deserves further study. There are numerous practical problems that must be considered, such as the length of time to complete investigations of this magnitude, as well as policy considerations concerning individual privacy and investigations by the Government of potential political candidates. We must not get into a situation where the Federal Government screens who are to be our political candidates. I do not believe that such a study could be completed in time for this year's Conventions.



THE WHITE HOUSE

WASHINGTON

MEMORANDUM FOR:

FROM: PHILIP W. BUCHEN
COUNSEL TO THE PRESIDENT

SUBJECT: PERSONAL DATA STATEMENT

As part of the clearance procedures relating to your proposed appointment, it is requested that you answer the following questions and supply the following information to us on a confidential basis. Please note that federal law and regulations governing conflicts of interest require the disclosure of the information requested in questions 1-5, inclusive, as it pertains to you, your spouse and any relatives living in your immediate household. In addition, you are requested to supply any information you deem to be relevant with regard to your spouse or such relatives when responding to any of the other questions.

In order that we might complete all necessary reviews as soon as possible, it is requested that you supply this information at your earliest convenience.

If you have any questions or if this office can be of assistance, please do not hesitate to contact me.

1. The names of all corporations, firms, or other business enterprises, partnerships, nonprofit organizations, and educational or other institutions with which you are now connected as an officer, owner, director, trustee, partner, advisor, or consultant. Those organizational affiliations which you wish to continue during the term of your appointment should be noted with an asterisk. (Please note that in the case of an attorney's client listing, it is only necessary to provide the names of major clients and those which might present a potential conflict or appearance of conflict with your proposed appointment.)



2. The names of all corporations, partnerships or other institutions in which you have any financial interests through the ownership of stock, stock options, bonds, or other arrangements, including trusts. Any interests you wish to retain during your period of government service should be noted with an asterisk.

3. The names of any creditors (other than those to whom you may be indebted by reason of a mortgage on property used as a personal residence or to whom you may be indebted for current and ordinary living expenses), setting forth the amount of such debt, and any additional information deemed relevant to explain the transaction.

4. All your interests in real property, other than a personal residence, setting forth the nature of your interest, the type of property, and the address.

5. The names of all corporations, firms, or other business enterprises, partnerships, nonprofit organizations, and educational or other institutions, with which you have any continuing financial interests through present employment or by reason of a pension or retirement plan, stock bonus, profit-sharing, or other arrangement as a result of any current or prior employment or business or professional association. Also, supply such details as are necessary for a thorough understanding of such continuing financial interests. Particular attention should be devoted to any severance agreements which may be contemplated.

6. Any employee fringe benefits you are now receiving and would desire to retain during your government service.

7. The details of any contractual or informal arrangement you may have with any business enterprise in regard to future employment.

8. Have you ever been arrested, charged or held by federal, state, or other law enforcement authorities for violation of any federal, state, county or municipal law, regulation or ordinance? If so, please give full details (do not include traffic violations for which a fine of \$25 or less was imposed)



9. Are you currently under federal, state, or local investigation for a possible violation of a criminal statute? If so, please give full details.

10. Has a tax lien or other collection procedure ever been instituted against you by federal, state or local authorities? If so, please give full details.

11. Have you ever been disciplined or cited for a breach of ethics or unprofessional conduct by, or been the subject of a complaint to, any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please give full details.

12. Have you ever been involved in civil litigation, or administrative or legislative proceedings of any kind, either as plaintiff, defendant, respondent, witness or party in interest, which may be sufficiently controversial or so intimately related to the area of work for which you are being considered, that your involvement may be appropriate for consideration by the committee of the Senate to which your nomination will be submitted. If so, please give full details.

13. Have you ever run for political office, served on a political committee, or been identified in a public way with a particular political organization, candidate or issue? If so, please describe.

14. Have you ever been publicly identified, in person or by organizational membership, with a particularly controversial ^{*/} national or local issue? If so, please describe.

15. Have you ever submitted oral or written views to any government authority (executive or legislative) or the news media, on any particularly controversial ^{*/} issue other than in an official governmental capacity? If so, please describe.

16. Have you ever written any particularly controversial ^{*/} books or articles? If so, please list them, giving the citations, titles and dates.

* Reference to "particularly controversial" is intended to focus on issues that could be used, even unfairly, against you.



17. Have you ever had any association with any person or group or business venture which could be used, even unfairly, to impune or attack your character and qualification for this position?

18. Do you know anyone who might take any steps, overtly or covertly, to make your confirmation by the Senate more difficult or seek to attack your appointment?

19. Please provide any other information which you regard as pertinent or which could be the possible source of embarrassment to you, or to the President, if publicly known.

