

The original documents are located in Box 17, folder “Freedom of Information - Requests (3)” of the Philip Buchen Files at the Gerald R. Ford Presidential Library.

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THE WHITE HOUSE
WASHINGTON

August 8, 1975

*Freedom
of
Info.*

Dear Mr. Mason:

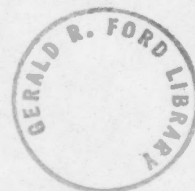
The \$5.00 you sent to Mr. Donald Rumsfeld in your letter of April 18, 1975, to cover the costs of your Freedom of Information Act request was inadvertently filed rather than returned to you. I am, therefore, returning your \$5.00 with this letter.

Sincerely,

Philip W. Buchen
Philip W. Buchen
Counsel to the President

Mr. Irvin H. Mason
1578-22-B Moorings Drive
Reston, Virginia 22090

Enclosure



CERTIFIED MAIL RETURN RECEIPT REQUESTED

18 April 1975

Donald Rumsfeld
Chief of Staff
The White House
Washington, D. C.

Re: Canal Zone Watergate
Request for file under Freedom
of Information Act

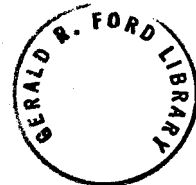
Dear Mr. Rumsfeld:

Since the Counsel to the President has failed to respond to my requests dated 20 February 1975, and follow-up mailgrams dated 8 March and 11 March 1975 for disclosure of files under the amendment to the Freedom of Information Act, enclosed please find \$5. (Five dollars) to cover the cost of search and reproduction of the file.

Very truly yours,


IRVIN H. MASON

1578-22-B Moorings Drive
Reston, Virginia 22090
437-4906



10:05 a.m.

Thursday, August 14

FOIA

I advised Sadie Carter (Bill Nichols' secretary) that Mr. Buchen agrees that "Exemption from Freedom of Information Act" should be withheld per Mr. Buchen's note attached.

shirley

8/13

Dudley and I agree that this
should be withheld.

Barry

*I agree and ask
that Bill Dr.
Be so addressed*



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

August 13, 1975

MEMORANDUM FOR: PHILIP W. BUCHEN
FROM: WILLIAM F. *Nichols*
SUBJECT: Exemption from Freedom of Information Act

As you know, the Conference Report on the recent amendments to the Freedom of Information Act explains that "agency" is "...not to be interpreted as including the President's immediate personal staff or units in the Executive Office whose sole function is to advise and assist the President." A recent FOIA request has raised the question whether we should voluntarily release material protected by this exemption from the definition of agency.

Common Cause is seeking to obtain all documents held by OMB which relate to the issue, presently pending before the President, of assistance to the tanker industry. One of these documents is a memorandum from Bill Seidman to the President (attached). Initially, we were inclined to release the initial two paragraphs of the memo containing factual matter; the release would be on a strictly voluntary basis since the document is clearly that of the President's immediate personal staff and thus is not covered by the FOIA. On reconsideration, we have decided to withhold the entire document. We have adopted a policy that all documents in OMB custody which are produced by the President's immediate personal White House and high level EXOP staff (e.g., OMB Director and Deputy Director) and directed to him be withheld unless, after notifying you of an FOIA request, we are specifically directed to do otherwise by your office. Such a policy offers the advantages of ease of administration and avoidance of inadvertent disclosure.

Most immediately, we seek your concurrence in our recommendation that the attached document be withheld in its entirety. Due to the short statutory deadline for responding to this FOIA appeal, I would appreciate your views by noon, Friday, August 15.

Attachment



3/25 ?

THE WHITE HOUSE
WASHINGTON

ACTION

MEMORANDUM FOR: THE PRESIDENT
FROM: L. WILLIAM SEIDMAN
SUBJECT: U.S. Tanker Industry Problems

Due to decreased oil movements and rapid growth in tanker capacity, both the worldwide and U.S. tanker industries are in a depressed condition. As indicated in a meeting with the President on March 7, both labor and management representatives from the ship construction and ship operations industry believe that government action to assist the industry is necessary. These representatives proposed that the Administration require oil importers to use American vessels first. The industry representatives further recommended that an exemption from oil import fees be allowed to importers using U.S.-built, U.S.-flag tankers.

The Economic Policy Board has examined the problems facing the U.S. tanker industry, and has considered several options for responding to the problem. These options, and the positions of the interested agencies, are discussed below.

General Considerations Regarding The Options

Options 1(a), 2 and 3, are intended to be implemented by executive order. There must be a sound legal basis for such implementation. Although other legal authorities have been mentioned, it is the President's authority under Section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862) that is most frequently referred to as a possible statutory basis for Executive action on options 1-3. A number of agencies have indicated that they doubt that Section 232 is an adequate authority for imposing a "Use American Vessels First" policy or a partial import fee exemption. Accordingly, any final decision on any of these three options should be based on a legal determination by the Justice Department.



Prior to a final decision, it should be definitely established that implementation of any of the options involving action would be acceptable to the tanker industry and the maritime unions as a substitute for enactment of oil cargo preference legislation. Assurances should be obtained from these interests that further efforts to pursue cargo preference legislation will not be undertaken.

Option 1(a): Require Use of American Vessels First, By Executive Order

This option, which is similar to oil cargo preference enacted by the Congress in late 1974, would require oil importers, as a condition in granting an import license, to use U.S.-flag vessels, provided such vessels are available at fair and reasonable rates. These fair and reasonable rates would cover the cost, including cost of capital, of ships built in the United States and registered under the U.S.-flag.

The limited cargo preference provided under this option may be less undesirable than the cargo preference bill passed by the 93rd Congress, and reintroduced this year, for the following reasons:

- . It would apply only to existing ships under 25 years of age and to ships already under contract for construction as of its effective date. Thus it would not entail the legislation's disadvantages of providing support for the oldest, most inefficient ships, and of encouraging the construction of unneeded tankers, with concomitant inflationary pressures on the shipyards and potential conflict with Navy shipbuilding programs.
- . It may be possible to make the preference temporary, for two years or so, although it may be very difficult to terminate the preference once it is initiated.

This option, however, has several of the same problems as the vetoed oil cargo preference legislation:

- . It would increase the cost of oil to consumers by a total of over \$300 million a year.
- . It would undoubtedly result in protests by certain foreign nations as contrary to the principle of free trade, and in violation of treaties of commerce. The Commerce Department believes that the objections may be counteracted somewhat by the recent actual and defacto cargo preference actions by some foreign countries, including the OPEC nations.



- It would reduce or remove incentives to the tanker industry to improve their productivity, because of a lack of effective competition.

Option 1(b): Agree to Accept Legislation Requiring Use of American Vessels First

This option would be the same as option 1(a), except that it would avoid problems of using existing authorities, and give Congress the initiative. It may be very difficult to constrain such legislation to limit it only to certain existing tankers.

Option 2: Temporary Partial Exemption From Oil Import License Fees

Partial exemptions from oil import license fees would be granted to importers who use U.S.-flag tankers constructed in the United States. The amount of fee exemption would be equal to the difference between the fair and reasonable charter rates for U.S.-flag tankers, constructed in the United States, and world rates. The fee exemption amounts would be adjusted periodically to reflect changes in U.S. costs and in world rates. When world rates reached levels that were reasonably compensatory, the fee exemption would expire.

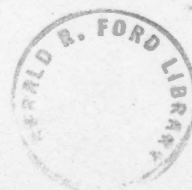
It is not certain that importers would use U.S. tankers under this option, but the fee exemption should make the cost of U.S. flag tankers at least equal to foreign flag tankers. If the fee exemption results in the use of U.S. tankers, it would cost about \$300 million a year in lost revenues.

This option would not increase the cost of oil to consumers, but it would have many of the other undesirable features of oil cargo preference. It would subsidize inefficient ships, and it would likely provoke strong objections from foreign nations.

FEA opposes exemption from the import fee for the benefit of any industry. It feels that an exemption in this case would establish an undesirable precedent. If the import fee were raised to \$2.00 a barrel, however, partial exemptions from the incremental dollar for the tanker industry, may not be objectionable.

Option 3: Use American Vessels First, With A Temporary Partial Remission of Oil Import License Fees

This option was presented by the industry to the President on March 7. Oil importers would be required, as a condition in granting an import license, to use U.S.-flag vessels prior to using foreign vessels,



provided U.S. vessels are available at fair and reasonable rates. These fair and reasonable rates would cover the cost, including the cost of capital, of ships built in the United States and registered under the U.S.-flag. The industry further recommended an exemption from import fees to importers using U.S. built U.S.-flag tankers.

Although not included in the industry proposal, it is recommended that this option only be considered as applying to existing tankers under 25 years of age and those contracted for construction as of the effective date. Fee exemptions should be limited to amounts equal to the added cost of U.S. tankers. The measure should be reviewed after two years and lifted whenever world rates return to compensatory levels.

This option would cost about \$300 million a year in lost revenues, but it may result in only a small increase in cost of oil imports. It otherwise has the same undesirable features of option 1 and 2.

Option 4(a): Rate Subsidy For U.S.-Flag Tankers in Foreign Trade

This option would provide federal subsidy payments to operators of U.S.-flag tankers employed in U.S. foreign commerce equal to the difference between competitive world charter rates and "fair and reasonable" U.S.-flag costs.

It should bring U.S. tankers that would otherwise remain in layup into operation even though charter rates for foreign-flag tankers continued to be significantly below their operating costs. It would be explicitly limited to tankers currently existing or on order and would not apply when world rates were sufficiently high to allow reasonable profits for U.S.-flag tankers.

This option would require legislation. It would cost about \$300 million a year in direct appropriations. It would provide a subsidy to all U.S. flag ships employed in U.S. foreign commerce, even though the majority of those ships would continue to operate without a subsidy.

Option 4(b): Rate Subsidy For Selected U.S.-Flag Tankers in Foreign Trade

This option would be the same as 4(a) except the subsidy would be legislatively limited to only selected ships, e.g., no subsidy would be provided to tankers owned or operated by major oil companies.

It may be possible to focus the subsidy on the independent operators, which are the ones impacted by the current problems, although there may be difficult problems in discriminating against certain ship owners. This option could cost substantially less than option 4(a), depending on how selectively it were applied.



Option 5: Increase Government Preference Agricultural Cargoes

Increasing the share of U.S.-flag participation in carrying P.L. 480 cargoes to 75 percent from the current 50 percent might provide an additional 10 voyages for U.S. tankers by June 30, 1975. This would provide employment for some 400 merchant seamen. The added U.S. cost would be \$5.4 million for these tanker shipments and \$4.7 million for other cargoes. This total cost of \$10.1 million would be borne principally by USDA and AID.

It may be difficult or impossible to implement this in FY 1975 because written agreements with foreign countries would require renegotiation in some cases. It is expected that there would be complaints by recipient countries which use their national flag ships to carry P.L. 480 cargoes.

Option 6: Take No Action

Failure to take effective action by the Administration may provoke labor troubles and upset the favorable labor-management relations that have been fostered during the past several years. A strike by seagoing labor, which might be supported by longshore labor, could have a serious impact on U.S. economy. The labor reaction to inaction by the Administration might also be directed against Soviet maritime activity and could result in a major set-back in U.S./U.S.S.R. commercial relations.

No action also may increase the chances of Congressional action on oil cargo preference legislation.

At this time, it is not clear that the problem in the industry warrants the cost of the options discussed above. Also, it is not clear that any of the options for action would avoid the potential union and Congressional actions.

Agency Positions

Commerce - Option 3.

Defense - Option 3.

Labor - Option 1(a) or 1(b), if the Administration could get enough in return in terms of commitments from unions and industry; otherwise, option 6.

State - Option 6, but should consider other options such as increased unemployment benefits for unemployed seamen.



- Agriculture - Opposes option 5.
- CEA - Option 6; CEA believes that the available facts do not support any action.
- OMB - Option 6; if action is determined to be necessary, recommend option 4(b) to focus assistance on the independent operators.
- Treasury - Opposes options 1, 2 and 3; favors option 4, if action is necessary.
- CIEP - Option 4(b); opposes options 1, 2 and 3.
- AID - Opposes option 5.

Decision

- _____ Option 1(a): Require use of American vessels first, by executive order.
- _____ Option 1(b): Agree to accept legislation requiring use of American vessels first.
- _____ Option 2: Temporary partial exemption from oil import license fees.
- _____ Option 3: Use American vessels first, with a partial remission of oil import license fees.
- _____ Option 4(a): Rate subsidy for all U.S.-flag tankers.
- _____ Option 4(b): Rate subsidy for selected U.S. flag tankers.
- _____ Option 5: Increase government preference agricultural cargoes.
- _____ Option 6: Take no action.



THE WHITE HOUSE
WASHINGTON

August 30, 1975

*Freedom of
Information*

MEMORANDUM FOR: JAMES WILDEROTTER

FROM:

PHIL BUCHEN

P.W.B.

Attached is correspondence from Hurwitz & Abramson, who represents private persons involved in the 1971 Fairfax "Break-In". I would appreciate your checking into this matter and preparing a proper response for my signature.

Attachments



LAW OFFICES
HURWITZ & ABRAMSON
1826 JEFFERSON PLACE, N.W.
WASHINGTON, D. C. 20036

ELY HURWITZ
RONALD E. ABRAMSON

TELEPHONE
202-785-1588

August 25, 1975

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

Dear Mr. Buchen:

This office represents Ms. Deborah Fitzgerald and Mr. Orlando Nunez with regard to the 1971 "Fairfax Break-In" conducted by the Central Intelligence Agency and the Fairfax City Police Department.

Enclosed please find copies of:

1. My request to the Department of Justice pursuant to the Freedom of Information Act for copies of the records relating to my clients,
2. The response from the Department of Justice denying the request on the grounds that the documents are under the sole control of the President.

The Department's letter clearly places the decision on the Office of the President. I have attempted to manage the problem of obtaining these records without displays of emotionalism or publicity. However, the tactics of the C.I.A. (overclassification), the Rockefeller Commission (no response) and the Justice Department (delay...then pass) have demonstrated a clear unwillingness to cooperate.

The continuing delay may well result in permanent damage to my clients in terms of public defamation and professional endeavors. In addition, this delay in releasing pertinent information may foreclose my client from prosecuting in that the statute of limitations may run out.



Philip W. Buchen, Esq.

August 25, 1975

- 2 -

On behalf of my clients, I formally request the immediate release of the records in the physical possession of the Justice Department.

Your attention to this request will be appreciated.

Sincerely yours,

HURWITZ & ABRAMSON

Ely Hurwitz
Ely Hurwitz

EH:ce
Enclosures



THE WHITE HOUSE

WASHINGTON

September 3, 1975

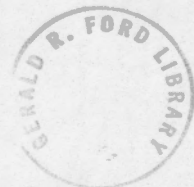
*Freedom
of
Information*

Dear Mr. Guinn:

This is in response to your letter of August 25, 1975, in which you request on the basis of the Freedom of Information Act, 5 U.S.C. 552, "access to (or copy of) any papers, tapes, or documents which issued orders to one or more of the U.S. Government covert agencies to destroy the undersigned in a seemingly subtle method on December 7, 1970 (Pearl Harbor Day)."

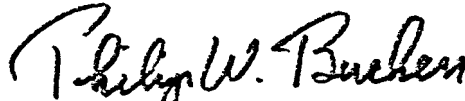
The materials which you seek, if any do exist and are in the custody of the White House, would appear to be "Presidential materials of the Nixon Administration" which are subject to the Order of the United States District Court for the District of Columbia, entered October 21, 1974, as amended, in Nixon v. Sampson, et al., Civil Action No. 74-1518. This Order enjoins any search, disclosure, transfer or disposal of these materials except for certain limited purposes not present in your request. Therefore, we are unable to examine these materials in order to respond to your request. For your information, one issue in this litigation is the availability of the papers of a former President under the Freedom of Information Act.

In addition, the White House is not an agency for the purpose of that Act, and is, therefore, not subject to its mandatory



disclosure provisions. However, we have checked the current White House files and we are unable to locate any documents encompassed within your request.

Sincerely,



Philip W. Buchen
Counsel to the President

Mr. Robert E. Guinn
Apartment No. 808
1701 - 16th Street, N.W.
Washington, D.C. 20009



Robert E. Guinn
Apartment No. 808
1701 - 16th Street, N. W.
Washington, D. C. 20009

August 25, 1975

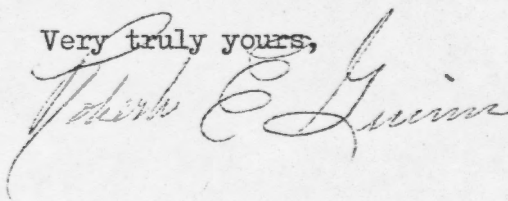
Records Department
The White House
1600 Pennsylvania Ave., N. W.
Washington, D. C. 20006

Gentlemen:

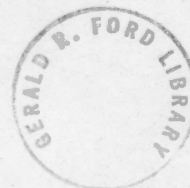
Pursuant to the Freedom of Information Act 5, U.S.C. 552, I hereby request access to (or a copy of) any papers, tapes, or documents which issued orders to one or more of the U. S. Government covert agencies to destroy the undersigned in a seemingly subtle method on December 7, 1970 (Pearl Harbor Day).

Thank you for your prompt attention to this matter.

Very truly yours,



cc: Hon. Frank Church
United States Senate
Room 245
Russell Senate Office Building
Washington, D. C. 20510



THE WHITE HOUSE
WASHINGTON

*Freedom of
Information*

September 9, 1975

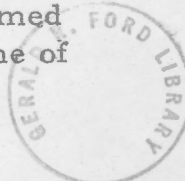
Dear Ms. Cheshire:

This is in response to your request under the Freedom of Information Act, 5 U.S.C. 552, to examine and copy "The Gift Register which was compiled by the White House Gift Unite during the years of Richard M. Nixon's presidency."

For your information, the gift register was placed in storage with other Presidential materials of the Nixon Administration in compliance with the Order of the United States District Court for the District of Columbia, entered October 21, 1974, as amended, in Nixon v. Sampson, et al., C.A. No. 74-1518, pending a determination in that litigation of the status to be afforded to those materials. I am unable to explain the statements to the contrary to which you refer in your letter.

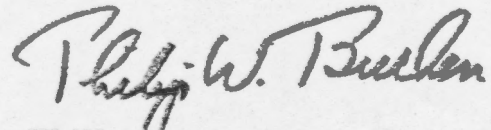
My office has been advised by counsel for plaintiff Nixon that Mr. Nixon is not able to determine his position with respect to the requested register without further examination of the facts surrounding the preparation of the register. In view of the plaintiff's position, as well as the above-referenced Order which was issued for the purpose of maintaining the status quo with respect to the Nixon historical materials, I am required to treat the item you seek in accordance with this Order. As you are aware, this Order enjoins any disclosure, transfer, disposal or search of the Nixon Presidential materials except under certain limited circumstances not presented by your Freedom of Information Act request. In addition, the White House is not an agency for the purpose of the Freedom of Information Act and is, therefore, not subject to its mandatory disclosure provisions. Accordingly, for the reasons referred to above, your request is denied.

Your letter also states that the gift registers for Presidents Kennedy and Johnson remain at the White House for use by incoming Presidents. As a member of my staff explained to you, this is not the case. Last May, my office was informed that a gift register for President Johnson, along with some of



the "gift cards" of Presidents Kennedy and Johnson had recently been found in the Gift Unit. As neither the Gift Unit nor the Office of the Chief of Protocol at the Department of State indicated they had any use for these items, and the papers of those Administrations are now in government custody and ownership, they were forwarded to the National Archives for deposit in the respective Presidential libraries. I trust this information clarifies this point for you.

Sincerely,



Philip W. Buchen
Counsel to the President

Ms. Maxine Cheshire
The Washington Post
1150 - 15th Street, N. W.
Washington, D. C. 20071

bcc: Herbert J. Miller, Jr.
w/ incoming
Irwin Goldbloom
w/ incoming



*Freedom of
Information*

Thursday 8/28/75

6:20 Barry has talked with Mortenson about the attached letter from Maxine Cheshire.



The Washington Post

1150 15TH STREET, N. W.

WASHINGTON, D. C. 20071

(202) 223-6000

August 28, 1975

Mr. Philip W. Buchen
Counsel To The President
The White House
1600 Pennsylvania Avenue
Washington, D.C.

Dear Mr. Buchen:

Pursuant to the Freedom of Information Act, 5 USC Section 552, I hereby request for the purposes of examining and copying the following:

The Gift Register which was compiled by the White House Gift Unite during the years of Richard M. Nixon's presidency.

I have been assured by your staff repeatedly that the Gift Register is now in storage in the EOB. It was, I was further assured, accidentally placed there during the time that your office was collecting any possible presidential materials that might be construed to fall under Judge Ritchie's temporary restraining order.

The Gift Register, as I believe your staff has now determined to its satisfaction, was not compiled as part of former President Nixon's records. It was compiled, as it had been in previous administrations, as part of the White House's permanent records, needed for ongoing continuity. The Gifts Registers for both the late President Lyndon B. Johnson and the late President John F. Kennedy are not now in their presidential libraries. Both are still at the White House, for use by incoming presidents.

Furthermore, I call to your attention the deposition which Mr. Nixon gave at San Clemente on July 25, 1975. On page 124, Mr. Nixon's attorney, R. Stan Mortenson, agrees that the Gift Register, "obviously is not included in the presidential materials claimed by this lawsuit".



Therefore, since Mr. Nixon's attorney agrees that the Gift Register is not part of the presidential materials, I would like to see it at once. I would appreciate an answer within the 10-day period dictated by law.

Sincerely yours,

Maxine Cheshire

Maxine Cheshire

MC:djm



THE WHITE HOUSE
WASHINGTON

September 10, 1975

*Freedom
of Info.*

MEMORANDUM FOR: JEANNE DAVIS
FROM: PHILIP BUCHEN *P.W.B.*
SUBJECT: FOIA Appeal by Mr. William Beecher

In response to your memorandum of August 28, 1975, concerning Mr. William Beecher's FOIA appeal for documents concerning himself, we have conferred with the Office of Legal Counsel at the Department of Justice. Your withholding of the internal memorandum (at Tab F) containing the recommendations of an NSC staff member is proper under 5 U.S.C. 552(b)(5). With respect to NSSM3 placed in Mr. Beecher's file by DOD, we agree with you that it does not appear to be relevant. However, you should indicate in your response that a classified document which neither directly or indirectly refers to him was forwarded to the NSC by DOD, and because it is not relevant, you have not reviewed it for FOIA purposes.

With respect to the memorandum at Tab D, there is no basis to claim that this document sent to you by DOD falls under the court order in Nixon v. Sampson, et al. However, we do believe that there is a basis for withholding this document apart from the matter of its classification. This memorandum represents communications between the President and his close personal advisers, and as such, is not subject to the FOIA (see House Report No. 93-1380, 93d Congress, 2d Session, p. 15). Moreover, the nature of the document is such that we believe it is exempt from disclosure in accordance with 5 U.S.C. 552(b)(5). On the basis of its internal nature, we recommend that this type of document generally not be released.

If you have any additional questions in this regard, please do not hesitate to contact me.




SECRET ATTACHMENTS

August 28, 1975

FREEDOM OF INFORMATION ACT APPEAL

MEMORANDUM FOR: PHILIP W. BUCHEN

FROM: Jeanne W. Davis 

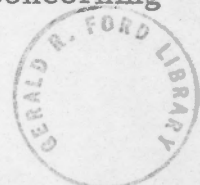
SUBJECT: Mr. William Beecher Request
for Information on Himself

In early July the NSC received a request from Mr. William Beecher (Tab A) for information in NSC files concerning him. In response to this request we reviewed the NSC files and also the papers from President Nixon's files in the second floor vault for any NSC papers which might refer to Beecher.

Because Beecher was involved in the public disclosure of the U.S. position at the SALT negotiations, which resulted in an extensive investigation within the Executive Branch, we knew that we had files relating to him and the newspaper articles he had written. Until we had located and examined the documents, however, we didn't know whether the documents were NSC papers or papers from the White House Office of the Assistant to the President for National Security Affairs. After we reviewed the materials we had collected and were able to determine that almost all of them were White House documents, we addressed our review of Mr. Beecher's FOIA request to the documents properly a part of the NSC files.

While Mr. Beecher's request of July 1 was under consideration, we received from the Department of Defense a referral (Tab B) containing NSC/WH documents they had retrieved from their files in response to an FOIA request Beecher had directed to them. Defense asked that we review the documents and respond directly to Beecher.

One of the documents retrieved in Beecher's file by Defense is National Security Study Memorandum (NSSM) 3 (Tab C) concerning

SECRET ATTACHMENTSUNCLASSIFIED UPON REMOVAL
OF CLASSIFIED ATTACHMENTS

U. S. Military Posture and in no way refers to Beecher, by name or otherwise. The second document is a Secret/Eyes Only November 1969 memorandum from Mr. Kissinger to the Secretaries of State and Defense (Tab D) conveying the President's order of an embargo on discussions of U.S. troop withdrawals. Clearly, it is a document which emanated from the White House, is not contained in NSC files, and should be categorized as being among the Nixon materials subject to the order of the Court.

In my letter of August 1, 1975 to Mr. Beecher (Tab E) I indicated that we had located in NSC files and reviewed two documents which referred to a meeting he had with an NSC Staff member one of which we released to him. The other document (Tab F) is a memorandum from the NSC Staff member to Mr. Kissinger recommending further action on Mr. Beecher's request for information on strategic planning. This document contains nothing more than the personal advice of one of our staff members and we informed Mr. Beecher that it was being withheld under 5 U.S.C. 552 (b)(5). At that time I also informed Mr. Beecher that we had identified other materials which refer to him but that these records are part of President Nixon's papers and are not subject to review in response to a request under the FOIA.

Mr. Beecher has now appealed (Tab G) the NSC Staff decision to withhold one of the NSC documents we reviewed in response to his request and Secretary Kissinger must respond to this appeal by September 10.

Before we forward this appeal, along with the NSC Staff recommendations, to Mr. Kissinger for review we would like your guidance on three points relating to this request:

1. Although there is no substantive objection to the release of the memorandum (Tab F) containing the recommendations of an NSC Staff member, we are reluctant to set a precedent of releasing such internal communications and thus would like to know if this document has properly been and should continue to be withheld under 5 U.S.C. 552 (b)(5).
2. NSSM 3 (Tab C) in no way refers to Mr. Beecher although it was referred by Defense as one of the documents they have in their file on Beecher. Because Defense believes it pertains to Beecher, does the NSC Staff have to review the NSSM for release and so inform Beecher, or may we declare that it does not fall under his request since it does not refer to him?



3. Under the FOIA, must we review a document referred from another agency when the same document would have been excluded from our own review, specifically in the case of the memorandum at Tab D which is a record from the Nixon Administration?

We would appreciate your thoughts on these matters and your recommendations on how we should handle the Beecher appeal.



THE WHITE HOUSE
WASHINGTON

September 26, 1975

*Freedom
Info*

Dear Ms. Coffin:

This is in response to your letter of September 15, 1975, in which you request on the basis of the Freedom of Information Act, 5 U.S.C. § 552, ". . . copies of all letters to the President or any member of his staff endorsing, supporting, or otherwise advocating or opposing particular candidates for the chairmanship of the Consumer Product Safety Commission."

To the extent your request includes materials from the previous Administration, such materials, if any do exist, would be "Presidential materials of the Nixon Administration" which are subject to the Order of the United States District Court for the District of Columbia, entered October 21, 1974, as amended, in Nixon v. Sampson, et al., C.A. No. 74-1518. This Order enjoins any search, disclosure, transfer or disposal of these materials except for certain limited purposes not present in your request. Therefore, we are unable to examine these materials in order to respond to your request. For your information, one issue in this litigation is the availability of the papers and other materials of a former President under the Freedom of Information Act.

With respect to the papers of this Administration, the White House is not an agency for the purpose of the Freedom of Information Act and, therefore, is not subject to its mandatory disclosure provisions. While we have no objection to the disclosure of such recommendations by the persons who make them, there is a reasonable expectation that such recommendations were to be treated confidentially by the recipient. To the extent such recommendations constitute internal Executive branch communications, they are exempt from disclosure under 5 U.S.C. § 552(b)(5). Finally, to




September 26, 1975
Page Two

reveal the names of persons who are or have been under consideration for positions to which they ultimately are not appointed, exposes these persons to an unwarranted invasion of personal privacy within the meaning of 5 U.S.C. § 552(b)(6).

Accordingly, for the reasons stated above, we are unable to respond affirmatively to your request.

Sincerely,


Philip W. Buchen
Counsel to the President

Ms. Sharon Coffin
Executive Editor
Product Safety Letter
National Press Building
Washington, D.C. 20004



P S L PRODUCT SAFETY
LETTER

NATIONAL PRESS BUILDING • WASHINGTON, D.C. 20004 • (202) EX 23
DAVID SMITH

September 15, 1975

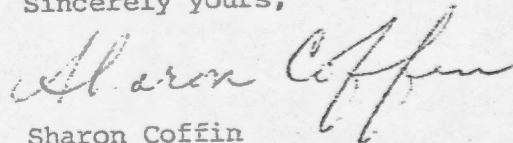
Mr. Philip Buchen
Counsel to the President
The White House
Washington, D.C. 20500

Dear Mr. Buchen:

Under the Freedom of Information Act, *Product Safety Letter* hereby requests copies of all letters to the President or any member of his staff endorsing, supporting, or otherwise advocating or opposing particular candidates for the chairmanship of the Consumer Product Safety Commission. Letters or telegrams from persons inside or outside the government are included in this request, along with memos of telephone conversations concerning support or opposition to a candidate. A few parties, including the Chairman of the Board of Sears Roebuck, already have made public their endorsement of a particular candidate.

In evaluating this request, if you are inclined to claim that such information is protected by exemptions in the Freedom of Information Act, we would respectfully hope that you would consider not claiming such an exemption, in light of President Ford's pledge that his is an open Administration.

Sincerely yours,



Sharon Coffin
Executive Editor

Receipt of this letter is hereby acknowledged:

Received by (please print)

Date



THE WHITE HOUSE
WASHINGTON

October 31, 1975

*Halperin
Morton H.*

Dear Ed:

Enclosed is a copy of a letter sent to the President by the American Civil Liberties Union, Americans for Democratic Action, the Center for National Security Studies, the Committee for Public Justice, Common Cause, the Institute for Policy Studies, the United Automobile Workers and the Project on National Security and Civil Liberties; together with my acknowledgment of this date to Morton Halperin.

In view of the difficult legal questions it raises, I believe it appropriate that a suggested response to the letter be prepared by the Department of Justice. Jim Wilderotter has informed me that several of these issues have previously been presented to the Department. For example, during the House Judiciary Subcommittee hearings on the "COINTELPRO" matter, I understand that Congressman Drinan asked the Justice Department to explain why the individuals and organizations affected by "COINTELPRO" operations could not be notified.

I would appreciate a suggested response as soon as possible.

Thank you.

Sincerely yours,

/P/

Philip W. Buchen
Counsel to the President

The Honorable Edward Levi
Attorney General
Washington, D. C. 20530

Enclosures



THE WHITE HOUSE

WASHINGTON

October 31, 1975

Dear Mr. Halperin:

This is to acknowledge your letter to me of October 28, 1975, transmitting your letter to the President on behalf of the American Civil Liberties Union, Americans for Democratic Action, the Center for National Security Studies, the Committee for Public Justice, Common Cause, the Institute for Policy Studies, the United Automobile Workers and the Project on National Security and Civil Liberties.

Inasmuch as your letter raises several important legal and policy questions, we should like to study it before responding on its merits. Please be assured that a reply will be forthcoming as soon as possible.

Sincerely yours,

Wal
Philip W. Buchen
Counsel to the President

Mr. Morton H. Halperin
122 Maryland Avenue, N.E.
Washington, D.C. 20002



Tuesday 10/28/75

4 1 - Wilderott
1 - Nessen
1 - Campfield
1 - Marsh

2:20 Morton Halperin's office called to say he had talked with Mr. Hills this morning.

544-5380

At his suggestion, they are sending a letter over to you this afternoon.

Attached



MORTON H. HALPERIN
122 MARYLAND AVENUE, N. E.
WASHINGTON, D. C. 20002
(202) 544-5380

October 28, 1975

Mr. Philip W. Buchen
Counsel to the President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. Buchen:

Enclosed is the letter per my conversation with
Roderick Hills this morning.

We will be releasing it to the press on Thursday
morning. Please do not hesitate to call me if you
have any questions.

Sincerely yours,

Morton H. Halperin

Morton H. Halperin

MHH/fmo

10/30

*copies sent:
Wiederott
Rumfeld
Marsh
Nemec*



121 Constitution Avenue, N.E.
Washington, D.C. 20002

The Honorable Gerald R. Ford
President of the United States
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. President:

We write on behalf of the American Civil Liberties Union, Americans for Democratic Action, the Center for National Security Studies, the Committee for Public Justice, Common Cause, the Institute for Policy Studies, and the United Automobile Workers to ask that you notify those individuals who have been the subject of surveillance in programs which are now admitted to be unconstitutional, illegal, or, at the least, violations of the charters of the intelligence organizations, that they have been the subject of such surveillance. We urge that these individuals and organizations be informed of the right to request access to any files which may exist under the Freedom of Information Act and the Privacy Law, and that they be advised that the possible violation of their constitutional rights might entitle them to civil remedies in the federal court system.

The programs which we have in mind include the following:

1. CIA/FBI Mail Opening - This program was carried on for 20 years with the conscious knowledge that it was illegal. According to testimony before the Senate Select Committee on Intelligence, the New York program alone involved the opening of some 215,820 individual letters. Watch lists were apparently supplied by the CHAOS operation, the FBI, and perhaps by other intelligence units. The opening of mail was not confined to those on the lists. We believe that every individual and group on the watch lists should be notified as should everyone whose mail was actually opened.



2. NSA Monitoring of International Communications.

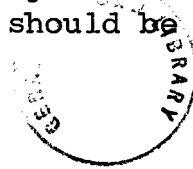
According to the Rockefeller Commission Report, CHAOS requested another Agency--clearly NSA--to monitor the international communications of individuals on a watch list. CIA later concluded that there were questions about the legality of its holding these files of some 11,000 pages and returned them to NSA. Recent press reports suggest that NSA monitors international communications of Americans for other agencies and as part of its own programs. We believe that every person on the watch lists and every American whose international communications were monitored should be notified.

3. CHAOS. The Rockefeller Commission Report suggests that substantial parts if not all of CHAOS were violations of the CIA charter. Some of the operations also raise questions about violations of the law and the constitution. We believe that all individuals who were the subject of personality files and all organizations on whom files were opened should be notified. This would be 7,500 individuals and 1,000 organizations.

4. COINTELPRO. All individuals and organizations subject to COINTELPRO operations by the FBI should be notified.

5. Burglaries. Both the FBI and the CIA have conducted illegal burglaries in violation of the Fourth Amendment. According to the Senate Select Committee on Intelligence, the FBI conducted some 238 entries in connection with the investigation of 14 "domestic security targets" in just one such program. The Rockefeller Commission Report states that the CIA conducted at least 12 unauthorized entries.

6. Warrantless Surveillance. The Supreme Court has held that warrantless surveillance in domestic security cases is unconstitutional where the object of the surveillance is not a foreign power or its agent. The D.C. Court of Appeals has held that such surveillance is a violation of the Fourth Amendment even when the President invokes his powers as Commander in Chief and foreign relations are involved. The FBI has in the past conducted a large number of electronic surveillances which have now been held to be illegal. We believe that everyone who was the subject of these surveillances or who was overheard on them should be notified.



7. IRS Special Services Staff. In violation of its charter the Special Services Branch of the IRS established files on some 8,500 Americans because of their political beliefs. Each one of them should be notified.

We recognize that you will be proposing legislation to the Congress to prevent such abuses in the future and that two special Congressional Committees are investigating some of these matters. We are aware also that the Justice Department is considering whether it should press criminal charges against any individuals involved in some of these programs. None of these activities are however a substitute for permitting individuals whose rights may have been violated to take whatever steps they might wish to take to protect and vindicate their rights to privacy.

No individual should have to guess as to whether he or she was the object of illegal, unconstitutional or improper activity by the intelligence community. We believe that these persons can and should be notified without affecting the constitutional rights of those who may be charged with illegal conduct and without interfering with the on-going investigations. This can be done simply by informing the individual that he or she is on the list without expressing any view as to the propriety of the listing or of the list. The individual should then be informed of the right of access to the files under the FOIA and the Privacy Law. We urge you to direct all agencies to respond to such requests expeditiously by assigning the additional personnel necessary, to waive all fees, and to construe all authority to withhold information as narrowly as possible.

While we write to urge you to notify the individuals involved we wish also to bring to your attention our strong objection to releasing any names publicly without the permission of the individuals involved. We believe that such action is an invasion of constitutional rights to privacy and simply compounds the injury already done. We would welcome an assurance from you that the Executive Branch will not make names public without the permission



of the individual concerned.

Sincerely yours,

Aryeh Neier

Aryeh Neier
Executive Director
American Civil Liberties
Union

Leon S Shull

Leon Shull
National Director
Americans for Democratic Action

Robert Borosage

Robert Borosage
Director
Center for National
Security Studies

Ray Calamaro

Ray Calamaro
Executive Director
Committee for Public Justice

David Cohen

David Cohen
President
Common Cause

Richard J. Barnett, Marcus Raskin

Richard J. Barnett, Marcus Raskin
Co-Directors
Institute for Policy Studies

Stephen I. Schlossberg

Stephen I. Schlossberg
General Counsel
United Automobile Workers

Morton H. Halperin

Morton H. Halperin
Director
Project on National Security
and Civil Liberties



*Freedom
of
Information*

THE WHITE HOUSE

WASHINGTON

November 4, 1976

Dear Messrs. Meeropol:

In behalf of the President, I would like to respond to your recent letter requesting a meeting with him during his visit to Springfield on November 7.

The matters which you would like to discuss with the President are presently the subject of litigation in Federal court. When disputed issues are before the courts for judicial decision, it is the general policy for the President not to meet and discuss such issues with those involved in the litigation. Therefore, it is not possible to ~~consider~~ your request.

act favorably on

Thank you for your inquiry.

Sincerely,

William W. Nicholson

William W. Nicholson

Director

Scheduling Office

Mr. Robert Meeropol
Mr. Michael Meeropol
Department of Economics
Western N. England College
1215 Wilbraham Road
Springfield, Massachusetts 01119



Jim W:

Please check with
Justice & prepare draft
reply for me to sign.

P.

Jeff Abelrad

11/4

THE WHITE HOUSE
WASHINGTON

① Matter is in litigation;
inappropriate for
him to take their
visitation.

② DOJ is releasing
virtually all the
materials. Ts
becoming less
happy, because
Rosenbergs were
guilty.



THE WHITE HOUSE
WASHINGTON

October 31, 1975

MEMORANDUM FOR: PHIL BUCHEN
FROM: WILLIAM W. NICHOLSON *WWN*
SUBJECT: Robert and Michael Meeropol

As you will note from the attached letter, Robert and Michael Meeropol, who are the children of the late Ethel and Julius Rosenberg, have requested a meeting with the President when he is in Springfield, Massachusetts, on November 7th.

I would appreciate your advice and recommendation as how to handle this request, and if you feel that a letter should be sent from this office, I would appreciate receiving a draft response which could be used.

Thank you very much.

Robert Meeropol
Michael Meeropol
Department of Economics
Western N. England College
1215 Wilbraham Rd.
Springfield, Mass. 01119

SCHEDULED

DATE RECEIVED

OCT 31 1975

MESSAGE

SPEAKERS BUREAU

OTHER

APPOINTMENT OFFICE

President Gerald Ford
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20004

Dear Mr. President:

This letter is to formally request a meeting with you when you are in our home town, Springfield, Massachusetts, November 7th, 1975. We are the children of Ethel and Julius Rosenberg who were convicted of conspiracy to commit espionage and executed on June 19th, 1953.

We have asked that all the secret files relating to our parent's case be released to us under the Freedom of Information Act. Your Justice Department has insisted that it control which files are made public and which are to remain hidden from Americans even after twentytwo years. We request this meeting so that we can personally present our case to you in the interest of all Americans who are entitled to know the entire truth in this matter.

Thank you for your consideration.

Sincerely yours,

Robert Meeropol

Robert Meeropol

Michael Meeropol

Michael Meeropol



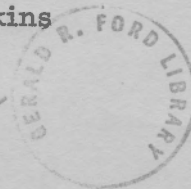
*Freedom of
Information*

Wednesday 11/5/75

10:35 Professor Raymond Hopkins called re his request of July 15, 1975 for statistics of the White House on the daily flow of telegrams to the White House, some of which would be covered by the Freedom of Information Act.

(617) 495-2242

Checked with Barry; he seems to remember he did a draft for Linder; will check and call Professor Hopkins and let us know also.



Barry
checked Linder
11/7/75 Called Barry — will probably meet with him

TOP SECRET
ATTACHMENTS

THE WHITE HOUSE

WASHINGTON

November 10, 1975

*Freedom
of
Information
(see
NSC)*

MEMORANDUM FOR: JEANNE DAVIS

FROM: PHILIP W. BUCHEN

P.W.B.

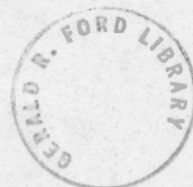
By your memorandum dated November 5 you asked me to review and clear with the Justice Department Freedom of Information Committee the NSC's alternative responses to Jonathan Bennett's request for release of NSC 29.

The age of this document and the fact that its recommendations were never adopted by the NSC tends to make untenable continued classification as a Top Secret document. However, if the NSC staff believes that the name of one particular country which appears repeatedly in the document ought to remain classified for foreign policy reasons, then it is suggested that these references be given the lowest level of classification, confidential. All other parts of NSC 29 should be declassified and released to Mr. Bennett. Such action is consistent with the Freedom of Information Act, as amended, which requires the segregation and release of portions of documents that are not exempt from disclosure.

This response has been cleared with Robert Saloschin, Chairman of the Freedom of Information Committee at the Department of Justice.

UNCLASSIFIED UPON REMOVAL
OF CLASSIFIED ATTACHMENTS

TOP SECRET
ATTACHMENTS



THE WHITE HOUSE
WASHINGTON

November 21, 1975

Dear General Allen:

I enclose a copy of a letter to the President from Leonard Woodcock, President of the UAW, in which he makes certain requests for information which may be held by NSA. I would appreciate your processing this request through your normal procedures relating to the Freedom of Information and Privacy Acts.

Sincerely,

Philip W. Buchen

Philip W. Buchen
Counsel to the President

Lieutenant General Lew Allen
Director
National Security Agency
Fort George G. Meade, Maryland 20755

Enclosure





8000 EAST JEFFERSON AVE.
DETROIT, MICHIGAN 48214
PHONE (313) 926-5000

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA-

LEONARD WOODCOCK, PRESIDENT

EMIL MAZEY, SECRETARY-TREASURER

VICE-PRESIDENTS

PAT GREATHOUSE • KEN BANNON • DOUGLAS A. FRASER • DENNIS McDERMOTT • IRVING BLUESTONE • ODESSA KOMER • MARC STEPF

October 22, 1975

The President
The White House
Washington, D.C.

Dear Mr. President:

It came as somewhat of a surprise to find from the testimony of Mr. Angleton, formerly of the CIA, that Victor Reuther, former head of the UAW International Affairs Department, was, I assume in that capacity, on a "watch list" and suffered the indignity and invasion of privacy caused by the CIA secretly and illegally opening and photographing his mail.

In the circumstances, I am constrained to act on behalf of the UAW, its officers and staff. I am enclosing with this letter, copies of letters sent to Attorney General Levi, Director Colby and Director Kelley.

I would appreciate it if your office would request of the National Security Agency to notify me if I or the UAW has been the subject of surveillance by that organization and to make available to me any files indexed in my name or the name of the UAW. Similarly, I would ask that any officers or staff of the UAW who have been under surveillance of NSA be personally and privately informed by the Agency.

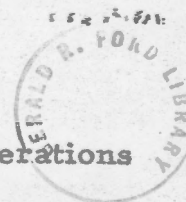
I hope you will assist in this matter.

Very truly yours,

Leonard Woodcock
President

LW:lsm
opeiu42

cc: Members: Senate Select Committee on Intelligence Operations
House Select Intelligence Committee



THE WHITE HOUSE

WASHINGTON

November 21, 1975

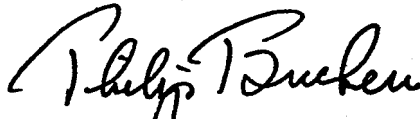
Dear Mr. Woodcock:

Thank you for your letter to the President. He has asked that I reply for him.

I have determined that your requests to the FBI and CIA are being handled through the normal procedures for requests under the Freedom of Information and Privacy Acts. You should receive replies from these agencies in the near future.

I have referred your request for information regarding the National Security Agency to the Director of that Agency, since we in the White House do not have sufficient information to formulate a response.

Sincerely,



Philip W. Buchen
Counsel to the President

Mr. Leonard Woodcock
President
International Union
United Automobile, Aerospace and
Agricultural Implement Workers of America
8000 East Jefferson Avenue
Detroit, Michigan 48214



FOI
(see
NSC)

THE WHITE HOUSE
WASHINGTON

April 29, 1976

MEMORANDUM FOR: BRENT SCOWCROFT
FROM: PHIL BUCHEN *P.W.B.*
SUBJECT: FOI Request of
John Crewdson

After examining the material, I believe you should approve the recommendation as suggested in Jeanne Davis' memorandum of April 15.

cc: Jeanne Davis



DEMOCRATIC

NATIONAL COMMITTEE 1625 Massachusetts Ave., N.W. Washington, D.C. 20036 (202) 797-5900

May 13, 1976

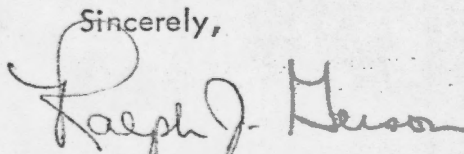
Philip W. Buchen, Esq.
Counsel to The President
The White House
Washington, D. C.

Dear Mr. Buchen:

As the enclosed letter to Benton L. Becker indicates, we wish to retract our request of December 18, 1975 to the Executive Office of The President.

We are most grateful for your cooperation in this matter.

Sincerely,



Ralph J. Gerson
Counsel



DEMOCRATIC

NATIONAL COMMITTEE 1625 Massachusetts Ave., N.W. Washington, D.C. 20036 (202) 797-5900

May 13, 1976

Benton L. Becker, Esq.
485 L'Enfant Plaza, S. W.
Washington, D. C.

Dear Benton:

Pursuant to the Freedom of Information Act, 5 U.S.C. Section 552, we requested access on December 18, 1975, to certain materials relating to the travel expenses of President Gerald Ford. Since the records of many of these payments were kept at the Republican National Committee, our request was forwarded to you.

We greatly appreciate your cooperation in responding to our request. As you know, we have concluded that our disagreement with the interpretation of the Federal Election Commission in their Advisory Opinion 1975-72 necessitated the filing of a complaint, a copy of which you have already received.

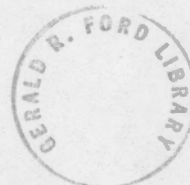
Having referred the matter to the Federal Election Commission, we hereby retract our request of December 18, 1975 to the Executive Office of The President.

Sincerely,

/s/ Ralph J. Gerson

Ralph J. Gerson
Counsel

cc: Philip W. Buchen, Esq.
Counsel to The President



file FOIA

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
722 JACKSON PLACE, N. W.
WASHINGTON, D. C. 20006

December 9, 1976

Mr. Leon Friedman
Professor of Law
Hofstra University School of Law
Hempstead, New York 11550

Dear Professor Friedman:

This is in response to your request pursuant to the Freedom on Information Act (5 U.S.C. 552), dated November 8, 1976 on behalf of the Committee for Public Justice, as it pertains to access of all the files and records of the Council on Environmental Quality from August 9, 1974 to the present.

Although we never received your request directly, we have just received a copy of your letter from Mr. Buchen, Counsel to the President, who has requested us to respond directly to you.

Section (a)(3) of the Freedom of Information Act requires that a request for records reasonably describe the records sought.* Your request fails to meet this standard. Furthermore, the exemptions of Sections 552(b)(1-9) of the Act would be applicable in many cases. Since your request is indiscriminate and does not sufficiently describe the records sought, it is defective and would also be an unduly burdensome undertaking. For the above reasons, we are unable to respond favorably to your request.

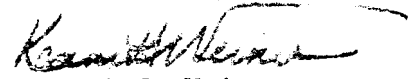
* As the Attorney General's Memorandum on the 1974 FOIA Amendments advises agencies (at 24): "The requirement is thus not intended to impose upon agencies an obligation to undertake to identify for someone who requests records the particular materials he wants where a reasonable description is not afforded. The burden of identification is with the member of the public who requests a record, and it seems clear that Congress did not intend to authorize 'fishing expeditions'."



Furthermore, the records and files of this office are not part of the Presidential Papers. They are, however, subject to and protected by the Federal Records Act (44 U.S.C. 3303a) and the regulations promulgated thereunder by the General Services Administration.

If you prefer to regard this as a denial of your request, you may appeal within 30 days to the General Counsel of this office who serves as the FOIA Appeals Officer for the Council on Environmental Quality.

Very truly yours,



Kenneth S. Weiner
Freedom of Information Act Officer

cc: Philip W. Buchen, Esq.



PHIL BUCHEN - FYI

(NSC LOG NO. FOI 76-125)



NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

December 9, 1976

Dear Professor Friedman:

This is in response to your request of November 8, 1976 under the Freedom of Information Act (5 U. S. C. 552) insofar as it pertains to the institutional files of the National Security Council from August 9, 1974 to the present.

Section (a) (3) of that Act requires that a request for records reasonably describe the records sought. Your request for these NSC records compiled during the Ford Administration would require an extensive search of hundreds of files which, to a significant degree, are comingled with NSC records of previous Administrations. In addition to this chronological separation of NSC files, a separate determination as to the applicability of the exemptions of Sections 552 (b) (1-9) of the Act, which in many cases are relevant to these documents, would have to be made for each individual document as well. In that your request is indiscriminate and fails to sufficiently describe the records sought, we believe that your request is legally defective and that it would be an unduly burdensome undertaking.

The institutional records and files of the National Security Council are treated in accordance with the Federal Records Act (44 U. S. C. 3303a) and the regulations promulgated thereunder by the General Services Administration. The disposition or retention of such files and records will be governed by appropriate legal authority.

In the event you wish to recast your FOIA request in accordance with relevant case law interpreting the applicability of the Freedom of Information Act, it will be given appropriate consideration. If you prefer to regard this response as a denial of your request,



you may appeal this determination to the Assistant to the President for National Security Affairs. Such an appeal should be addressed to me as the Staff Secretary of the National Security Council.

Sincerely,



Jeanne W. Davis
Staff Secretary

Professor Leon Friedman
Professor of Law
Hofstra University
Hempstead, New York 11550

