

The original documents are located in Box 27, folder “National Security Council - Requests for Access to Records (2)” of the Philip Buchen Files at the Gerald R. Ford Presidential Library.

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*Exchange of
Presidential
letters*

Tuesday 12/2/75

9:40 Mike Duval brought in Marsh's response to your memo on the Concorde.

Said someone should call Barnum on this -- he'd be glad to do it if you'd like -- but figured you'd want to.



Monday 12/1/75

7:15 Barry asked if your conversation with Bill Hyland earlier today resolve the DOT testimony or is there something you want Barry to undertake?



**MEMORANDUM
OF CALL**

TO: _____

YOU WERE CALLED BY— YOU WERE VISITED BY—

OF (Organization) _____

PLEASE CALL → IS WAITING TO SEE YOU
 WILL CALL AGAIN WISHES AN APPOINTMENT
 RETURNED YOUR CALL

PHONE NO.
CODE/EXT. _____

MESSAGE

*Barry said
Someone should check w/
Seewright's ofc to see if they
have any comments re
Consolidated*



RECEIVED BY _____

DATE _____

TIME _____

STANDARD FORM 63
REVISED AUGUST 1967
GSA FPMR (41 CFR) 101-11.6

GPO : 1969-048-10-80341-1 232-889

63-108

THE WHITE HOUSE
WASHINGTON

Barry was
asking if
we had
heard back



Shaila in
~~My~~ Mylan Dis. Fic
L & Dot



THE WHITE HOUSE

WASHINGTON

November 29, 1975

MEMORANDUM FOR: JACK MARSH
BRENT SCOWCROFT

FROM: PHIL BUCHEN *T.W.B.*

SUBJECT: 1973 Correspondence Regarding
the Concorde

The Subcommittee on Aviation of the House Committee on Public Works and Transportation has verbally requested at a recent hearing that they be provided a copy of the letters sent by former President Nixon to former Prime Minister Heath and former President Pompidou in January 1973 concerning the Concorde supersonic transport. As you will recall, we have denied on several occasions requests from Congresswoman Bella Abzug for this same correspondence (copies attached at Tab A). Although not a member of the Subcommittee, Ms. Abzug is a member of the full Committee.

In brief recapitulation, we initially denied these requests on the belief that all copies were at the White House and were subject to the Court Orders limiting access to the Nixon papers. Jack Miller then refused permission for access to the Nixon papers for this purpose. However, we then learned that the text of the Nixon letter to Heath had been provided to the FAA in 1973. Our office advised that the document containing the text should remain at DOT, but we have since discovered that it was sent to Dave Elliott of the NSC. More recently, DOT turned up another copy in its files (Tab B).

John Barnum is scheduled to testify before the Subcommittee on Tuesday, and DOT has requested that we reconsider our position by Monday.

This matter has not been submitted to the President and Executive Privilege has not formally been claimed. Subject to your thoughts on this matter, I would favor having John Barnum provide to the Subcommittee the DOT copy of the document at Tab B. I believe we can distinguish this situation from one in which head-of-state correspondence has not been provided to an operating agency. Additionally, the document is not classified and the positions contained in former President Nixon's letter have been provided to Ms. Abzug, although without reference to their source.

For your information, Senator Humphrey and Congressman Wolff have previously requested that we disclose this correspondence.

I would appreciate having your views on this matter by Monday afternoon, December 1, 1975.

Attachments



THE WHITE HOUSE

WASHINGTON

September 25, 1975

*Abzug,
Bella
(Cong.)*

Dear Ms. Abzug:

In behalf of the President, this is in further response to your letter of August 29 requesting copies of correspondence exchanged between former President Nixon, former Prime Minister Heath and former President Pompidou concerning the Concorde supersonic air transport.

For the reasons discussed in my letter to you of August 23, I regret that we are unable to provide you with the materials you seek. Inasmuch as the expectation of representatives from other countries for confidentiality of diplomatic exchanges must be respected and can be ignored only at the risk of impairing good foreign relations, the President's constitutional responsibilities for the conduct of foreign relations are involved.

In that letter, I provided you with the position that was taken in 1973 by officials of the United States in discussions with British and French officials on regulation of the Concorde. Thus, the information material to the concerns reiterated in your letter has already been provided.

Should you have any further questions with respect to that position, I would be pleased to request officials familiar with this subject talk to you about it.

Sincerely,

Philip W. Buchen

Philip W. Buchen
Counsel to the President

The Honorable Bella Abzug
House of Representatives
Washington, D. C. 20515



Congress of the United States
House of Representatives
Washington, D.C. 20515

WASHINGTON, D.C. 20515
DISTRICT OFFICES:
252-7TH AVENUE
NEW YORK, N.Y. 10001
725 WEST 181ST STREET
NEW YORK, N.Y. 10033
720 COLUMBUS AVENUE
NEW YORK, N.Y. 10025

August 29, 1975

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

Dear Mr. President:

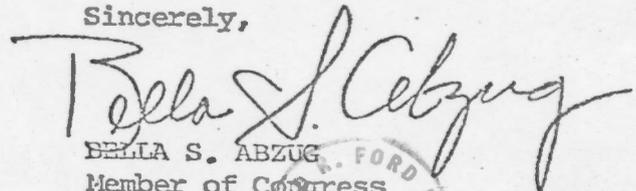
MA
I have received the response of your counsel, Mr. Philip Buchen, to my letter of August 20 requesting a copy of the letters between former President Nixon and former Prime Minister Heath, and former Premier Pompadou. Mr. Buchen's letter states that the copy of that correspondence provided to the Federal Aviation Agency is not subject to the order of the United States District Court in Nixon v. Sampson, et al. In his correspondence to me dated June 9, Mr. Buchen had stated that the letters were part of the material covered by that order, and therefore could not be released.

However, Mr. Buchen stated in his August 23 letter that The White House is still unable to respond affirmatively to my request since "the confidentiality of exchanges between heads of state" is a "cardinal principle of diplomatic intercourse."

I would submit that no such principle is embodied in our law, and that it should not be used as a method for keeping material from Congress which is necessary if we are to carry out our duties effectively. The recent release of previously confidential minutes of an inter-departmental meeting regarding the Concorde to the Environment Defense Fund, which contain evidence that executive departments have been considering waiving both environmental and mechanical requirements for the Concorde, makes it imperative that any information relating to agreements regarding the SST be made public.

I therefore ask that you comply with this request.

Sincerely,


BELLA S. ABZUG
Member of Congress

BSA:rm



THE WHITE HOUSE

WASHINGTON

August 23, 1975

Dear Mrs. Abzug:

This is in response to your letter of August 20, 1975, in which you requested copies of letters you understood former President Nixon wrote to then-Prime Minister Heath and then-President Pompidou in January 1973 concerning Administration support for the Concorde supersonic transport. I regret the delay in responding to you on this matter.

Mr. Herbert J. Miller, Jr., counsel for Mr. Nixon, has notified this office, in accordance 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, that he refuses to consent to your request.

At the time of my June 9 letter to you, it was our understanding that all copies of the letters in question were subject to the above-referenced Order. However, we have since been advised by the Federal Aviation Administration that a copy of this correspondence was provided to them. Although that copy of this correspondence is not within the scope of the Order, we are unable to respond affirmatively to your request for its production.

A cardinal principle of diplomatic intercourse is the confidentiality of exchanges between heads of state. The President believes that the effectiveness of American diplomacy depends in many ways on our reliability in preserving this essential principle for all such diplomatic communications with other countries.

However, we have sought information concerning the government's position in 1973 on the Concorde. I have been advised that the following points were made at that time by officials of the United States during consultations with the British and French regarding the regulation of the Concorde:

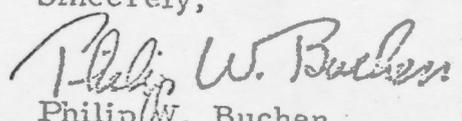


1. Regulation of the Concorde is an important issue, both from a domestic and international viewpoint.
2. Concorde would be treated fairly and judged on its merits.
3. A draft fleet noise rule [then being considered but never promulgated] would not apply to Concorde.
4. The U.S. would work with the British and French to ascertain whether an SST noise standard could be developed that would meet our domestic requirements without undercutting Concorde.
5. Many aspects of aircraft regulation are outside the jurisdiction of the Executive Branch, and even the extent of Federal authority in this area is limited.
6. The Administration is committed to free commerce and non-discriminatory regulations.
7. The Concorde would be treated equitably, but it does raise new environmental and societal questions.

I have again requested that the appropriate officials contact you with respect to the present views of the Administration on the treatment of the Concorde.

Your inquiry is appreciated.

Sincerely,



Philip W. Buchen
Counsel to the President

The Honorable Bella S. Abzug
House of Representatives
Washington, D.C. 20515



Congress of the United States

House of Representatives

Washington, D.C. 20515

August 20, 1975

DISTRICT OFFICE:
252-7TH AVENUE
NEW YORK, N.Y. 10021
725 WEST 101ST STREET
NEW YORK, N.Y. 10033
720 COLUMBUS AVENUE
NEW YORK, N.Y. 10023

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

Dear Mr. President:

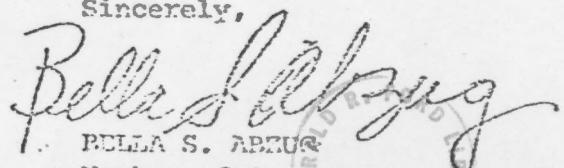
I am writing in reference to the letter sent to me by Mr. Phillip Buchen on June 9, 1975. In the letter, Mr. Buchen responded to my request of May 15, 1975 for copies of letters I understand President Nixon wrote to the British and French Prime Ministers, indicating Administration support for permitting the Concorde SST to operate into the United States.

Mr. Buchen stated in his letter that he would refer the matter to Mr. Herbert J. Miller, Counsel to Mr. Nixon, since he or Mr. Nixon would have to consent to any production or use of this material, as it is subject to the Order of the United States District Court for the District of Columbia, in Nixon v. Sampson, et al. In addition, Mr. Buchen assured me he would advise me of Mr. Miller's position and request that the appropriate administration official contact me directly concerning the present views of the Administration on the treatment of the Concorde.

I have not received any further correspondence on this matter either from the White House or from any other Administration officials. It is particularly important that this information be submitted to me at this time, since the Government Activities and Transportation Subcommittee of which I am the only New York City member, has initiated oversight hearings on the FAA certification of the Concorde SST for operation at JFK Airport in New York City and Dulles Airport near Washington, D.C. These hearings will be continued in September.

I therefore now restate my earlier request, and ask that you submit copies of Mr. Nixon's letters to me by August 31, 1975, to allow time to review them in preparation for the continuing Subcommittee hearings. I also request that you carry out your agreement to advise me of Mr. Miller's position and to have the appropriate officials inform me of the present views of the Administration on the Concorde.

Sincerely,


BELLA S. ABEZUG
Member of Congress

LE8

June 9, 1975

Dear Mrs. Abzug:

On behalf of the President, this is in response to your letter of May 15, 1975, in which you request copies of letters you believe were written by former President Nixon on January 19, 1973, to then-Prime Minister Heath and then-President Pompidou. You indicate that these letters deal with White House support for the Anglo-French Concorde supersonic transport.

The President has not addressed the question of the status to be given such correspondence insofar as his Administration is concerned. However, these letters, if they do exist, are part of the "Presidential materials of the Nixon Administration," presently in the custody of either the White House or the General Services Administration. These materials 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 the disclosure, transfer, or disposal of these materials, and effectively requires that President Nixon or his agent consent to any production or use of such materials for the limited purposes specified in the Order. Accordingly, we have referred your request to Mr. Herbert J. Miller, Jr., Counsel to Mr. Nixon, for his consideration.

We will advise you of the position taken by Mr. Miller. In addition, I have requested that the appropriate officials contact you directly concerning the present views of the Administration on the treatment of the Concorde.

Sincerely,

Phillip W. Buchen
Counsel to the President

The Honorable Bella S. Abzug
House of Representatives
Washington, D. C. 20515

bcc: Vern Loen
General Scowcroft
Mike Duval
Herbert J. Miller, Jr.

PWB:BNR:st



BELLA S. ABZUG
20TH DISTRICT, NEW YORK

COMMITTEES:
GOVERNMENT OPERATIONS
PUBLIC WORKS

Congress of the United States
House of Representatives
Washington, D.C. 20515

May 15, 1975

5-12
WASHINGTON OFFICE:
1506 LONGWORTH OFFICE BUILDING
WASHINGTON, D.C. 20515

DISTRICT OFFICES:
252-7TH AVENUE
NEW YORK, N.Y. 10001

723 WEST 181ST STREET
NEW YORK, N.Y. 10033

720 COLUMBUS AVENUE
NEW YORK, N.Y. 10025

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

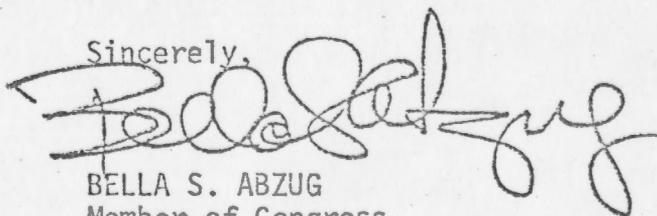
Dear Mr. President:

As a member of the House Public Works and Transportation Subcommittee, and a Representative from New York City, I have a vital interest in the decision regarding the introduction of the supersonic transport into regular service. I am opposed to permitting these aircraft into regular service, and hope that the decision by the FAA is based upon unbiased considerations.

It is my understanding, however, that on January 19, 1973, former President Nixon wrote to the British and French Prime Ministers indicating that he would do all he could to insure that the Anglo-French Concorde supersonic transport be treated "equitably in the United States." I am concerned that the Administration has therefore already made its decision on the SST, and that the results of the formal proceedings and tests which have been undertaken as part of the decision-making process will not be the determining factor in deciding the issue.

I therefore request that your office make available to me a copy of this letter. I also wish to know whether the position stated in the letter regarding the treatment of the Concorde continues to be that of the Administration.

Sincerely,



BELLA S. ABZUG
Member of Congress

BSA:csc





DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

0 *JM* 2 3

121

CGA 055

LIMITED OFFICIAL USE

DOT479

PAGE 01 STATE 013369

72
ORIGIN EB-11

INFO OCT-01 EUR-20 ADP-00 SS-14 NSC-10 L-03 H-02 CIAE-00
DODE-00 NSAE-00 NSCE-00 SSO-00 USIE-00 CAB-09 COME-00
INR-09 RSC-01 FAA-00 P-03 PRS-01 INRE-00 /084 R

DRAFTED BY EB/OA/AVP:CHUDLEY:DW
1/23/73 EXT. 29462
APPROVED BY S/S - MR. BARNES
EB/OA/AVP:MR. SILBERSTEIN
EB/TT - MR. MEADOWS
EUR/NE - MR. BECELIA (SUB)
DESIRED DISTRIBUTION
S,D,P,EB,EUR,S/S,S/S-S,WH

024463

O R 232054Z JAN 73
FM SECSTATE WASHDC
TO AMEMBASSY LONDON IMMEDIATE
INFO AMEMBASSY PARIS

LIMITED OFFICIAL USE STATE 013369

SUBJ: CIVAIR - CONCORDE: PRESIDENTS REPLY TO HEATH LETTER

1. FOR EMBASSY'S INFORMATION, FOLLOWING IS TEXT, AS RECEIVED FROM WHITE HOUSE, OF PRESIDENT NIXON'S REPLY OF JAN. 19, 1973 TO PRIME MINISTER HEATH'S LETTER OF DEC. 11, 1972 CONCERNING THE CONCORDE:

"DEAR MR. PRIME MINISTER:

I WELCOME YOUR RECENT LETTER CONCERNING THE PROBLEMS WHICH THE CONCORDE MAY FACE IN CONFORMING TO PROPOSED FEDERAL REGULATIONS ON EXCESSIVE AIRCRAFT NOISE. THIS IS, AS WE BOTH RECOGNIZE, AN ISSUE OF MAJOR IMPORTANCE WITH BOTH DOMESTIC AND INTERNATIONAL RAMIFICATIONS.

I CAN ASSURE YOU THAT MY ADMINISTRATION WILL MAKE EVERY

LIMITED OFFICIAL USE

HDQS
INFO
COPY
IA-1
N
IA-100
IA-130
GC-10
SE-1
IA-200
IA-4
FS-1
PA-1
GC-30
FS-50
AT-430
REGIO
INFO
COPY
EU-1
IFO-NY
PC-1F
SO-1F
SW-1
WE-1F
17ST-
ANS-1
APL-
IA Form 1770-1 (4-72)
AE 7-



DEPARTMENT OF TRANSPORTATION
COMMUNICATIONS ADMINISTRATION

0 1 2 3

HDQS
INFO
COPY

IA-1

IA-100

IA-130

GC-10

SE-1

IA-200

IA-4

PAFS-1

PA-1

GC-30

FS-50

AT-430

REGIO
INFO
COPY

EU-1

IFO-NY

PC-1F

SO-1F

SW-1

WE-1F

OFFICIAL USE

CONCORDE IS TREATED FAIRLY IN ALL
GOVERNMENTAL REGULATION, SO THAT
THIS COUNTRY ON ITS MERITS.
POLICY, THE FEDERAL AVIATION
ITS PROPOSED FLEET NOISE RULE IN
APPLICABLE TO THE CONCORDE.

*to include our
to include our*

AGENTS OF MY ADMINISTRATION TO
REPRESENTATIVES OF THE BRITISH AND
TO DETERMINE WHETHER A UNITED
NOISE STANDARD CAN BE DEVELOPED
REQUIREMENTS WITHOUT DAMAG-
CONCORDE.

THE MINISTER, THAT MANY ASPECTS OF
AVIATION ARE IN THIS COUNTRY OUT-
THE EXECUTIVE BRANCH OF OUR
MUST ALSO KNOW THAT THE FEDERAL
SCIENCE THESE ASPECTS, PARTICULAR-
LOCAL JURISDICTIONS, IS
MY ADMINISTRATION IS COM-
INTERFERENCE WITH FREE AND
DISCRIMINATORY FORMULATION AND
REGULATIONS. WE WILL ACT IN KEEP-
TO ASSURE EQUITABLE TREATMENT.
IN MIND THAT IT, LIKE ALL
UNPRECEDENTED PROBLEMS OF
COSTS.



MISSY WASHINGTON JAN. 22. COPIES
MISSY.

THE WHITE HOUSE

WASHINGTON

February 5, 1976

MEMORANDUM FOR: JEANNE DAVIS
FROM: PHILIP BUCHEN *P.*
SUBJECT: Request from Mr. Nixon for
 Access to NSC Presidential Files

In accordance with the attached letter from counsel for Mr. Nixon, will you please make arrangements directly with Mr. Mortenson (293-6400) for access by Ms. Acker to the files enumerated therein. If you foresee any problems in this regard, please call Barry Roth of my staff.



THE WHITE HOUSE

WASHINGTON

February 5, 1976

MEMORANDUM FOR: JEANNE DAVIS
FROM: PHILIP BUCHEN *P.*
SUBJECT: Request from Mr. Nixon for
 Access to NSC Presidential Files

In accordance with the attached letter from counsel for Mr. Nixon, will you please make arrangements directly with Mr. Mortenson (293-6400) for access by Ms. Acker to the files enumerated therein. If you foresee any problems in this regard, please call Barry Roth of my staff.



NSC

Monday 2/9/76

11:50

Rick Inderfurth said that Senator Church had written to Mr. Buchen on 1/22 requesting that the staff of the Cmte. be permitted to see the minutes of the National Security Council meeting of 11/6/70 -- and that they had no reply.

224-1733

((Mr. Buchen sent to Scowcroft a memo on 1/27 suggesting they locate the minutes and meet promptly to decide what our response should be.))) Checked with Wilderotter who said he talked with Methene last week and that Jeanne Davis was going to call Bill Miller to see if they could work out something informally. I called Inderfurth to let him know that our staff had contacted NSC and someone from their staff would be checking with the Committee. Advised Wilderotter that Mr. Inderfurth wanted to be sure that they knew that he was the point of contact at the Cmte. -- even though for protocol purposes they might wish to go through Bill Miller. So advised Wilderotter and he said that was part of the problem.



THE WHITE HOUSE

WASHINGTON

February 9, 1976

MEMORANDUM FOR: JEANNE DAVIS

FROM: PHILIP BUCHEN

P.W.B.

Attached is a copy of my letter to counsel for Mr. Nixon confirming his waiver of the ten-day waiting period for your access to certain Nixon Presidential files. Please contact Mr. Barry Roth of my staff should you have additional questions in this regard.



THE WHITE HOUSE

WASHINGTON

February 9, 1976

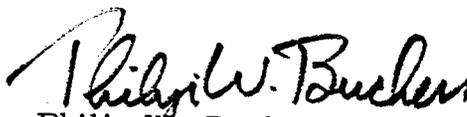
Dear Mr. Mortenson:

This is to confirm your conversation of February 6, 1976, with Mr. Barry Roth of my staff in which you waived the ten-day notice provision for access to certain "Presidential materials of the Nixon Administration."

As Mr. Roth indicated to you, the files were required by the National Security Council "for current business of the executive branch of the Federal government," in accordance with the Order of the United States District Court for the District of Columbia, entered January 7, 1976, in Nixon v. Administrator of General Services, et al., C.A. No. 74-1852. A copy of the NSC's request is enclosed.

Your cooperation in this regard is appreciated.

Sincerely,



Philip W. Buchen
Counsel to the President

Mr. R. Stan Mortenson
Miller, Cassidy, Larroca & Lewin
2555 - M Street, N.W. - Suite 500
Washington, D.C. 20037



MEMORANDUM

THE WHITE HOUSE
WASHINGTON

January 29, 1976

MEMORANDUM FOR: PHILIP BUCHEN 
FROM: BRENT SCOWCROFT
SUBJECT: Access to Nixon Presidential Files

In response to a query from your office, the request for access to the Nixon Presidential files contained in Jeanne Davis' January 28 memorandum is a one-time request for access to exchanges of correspondence between the Joint Chiefs of Staff and the NSC Staff on a specific strategic arms question.

Approve: P.W.B.
Philip W. Buchen
Counsel to the President



MEMORANDUM

NATIONAL SECURITY COUNCIL

January 28, 1976

MEMORANDUM FOR: PHILIP BUCHEN
FROM: Jeanne W. Davis *JWD*
SUBJECT: Access to Nixon Presidential
Materials in NSC Custody

Pursuant to your memorandum of January 12, 1976 concerning prior notification for access to the vault containing Nixon Presidential materials, we have an immediate requirement for current business purposes for access to information in these files concerning defense matters.

In the absence of the further guidance on specific procedures referred to in your memorandum, we would appreciate your concurrence, and that of the Nixon attorneys as quickly as possible.



THE WHITE HOUSE
WASHINGTON

March 12, 1976

NSC
(see Exec Privilege)

MEMORANDUM FOR: LES JANKA

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

SUBJECT: Case, Sparkman and
Montgomery letters

I have problems with the tone and style of the proposed letters. More importantly, if we ask the President to invoke executive privilege, we should strictly adhere to all the procedural requirements, including consultation with the Attorney General.

I understand there is a good possibility that this matter can be resolved informally by discussions with the Congressmen involved. If so, I would definitely prefer that course of action.



NSC

NATIONAL SECURITY COUNCIL

MEMO FOR: ✓ PHIL BUCHEN
 JACK MARSH
 MAX FRIEDERSDORF

FROM: LES JANKA *Les* 23116

SUBJECT: NSC Congressional Clearance
 Request # _____

Your concurrence is requested in the attached draft action package for the President along with any appropriate comments you may have. Please indicate your clearance by initialling in the space below.

If we have not heard from your office by Monday, March 22/noon, we will assume you have no objections and will accordingly show your concurrence in the final package for the President.

Cleared: *AWilder*

Date: *3/19/76*

Mr. Buchen,
This package has been revised to reflect your concerns about raising the executive privilege issue.

MEMORANDUM

NATIONAL SECURITY COUNCIL

990-X (redo)

ACTION

SECRET/SENSITIVE/EYES ONLY

March 19, 1976

MEMORANDUM FOR: BRENT SCOWCROFT

FROM: THOMAS J. BARNES
LES JANKA

SUBJECT: Congressional Request for Copies of the
Nixon-Pham Van Dong Exchange of Correspondence

Senators John Sparkman and Clifford Case have written to the President (Tab D) and Representative Montgomery has written to you (Tab E) on the same topic. They have requested that we provide their committees copies of President Nixon's February 1, 1973 letter to DRV Premier Pham Van Dong (Tab F) on U. S. aid to North Vietnam, as well as Dong's response (Tab H). Montgomery also requests the clarification of the "shopping list" (Tab G) which the North Vietnamese provided to his committee during their recent visit to Hanoi.

Our Response

Secretary Kissinger provided Montgomery and his Select MIA Committee with a summary of the Nixon letter and an explanation of the shopping list during their March 12 breakfast meeting (Tab C). While refusing to let them see the document, the Secretary confirmed that the Nixon message did contain a tentative estimate of our aid in the \$3 billion range, but added that the message acknowledged it was subject to revision and to Congressional approval. He also explained that the "shopping list" was merely a planning document and not an agreement. The Committee seemed satisfied with this answer and have said so to the press. Therefore, we do not believe any additional reply to Montgomery on this subject is necessary.

Sparkman previously wrote the President on April 10, 1975 (Tab I) asking him to provide texts of all understandings, undertakings, or similar statements which President Nixon, Dr. Kissinger or other U. S. officials made relative to the cease-fire agreement. In denying his request, the President's reply (Tab J) indicated that we had already provided "any documents which could be construed as containing or constituting a government to government undertaking."

SECRET/SENSITIVE/EYES ONLY

DECLASSIFIED
E.O. 12958, Sec. 3.5
NSC Memo, 11/24/98, State Dept. Guidelines
By W. H. M., NARA, Date 5/8/00

We do not believe that the President need reply personally to this letter. Rather you should answer for him. In replying, we recommend that you not provide either the Nixon or Dong message to the Sparkman committee. Since Secretary Kissinger conveyed the essence of the Nixon message to the Montgomery Committee, we recommend that you respond similarly to Sparkman and Case. Your replies (Tabs A and B) do not explicitly refuse to transmit the letter or claim it as privileged. Phil Buchen advised against this approach. Rather, they summarize the Nixon message as:

- Containing no pledge or promise of aid.
- Containing only a preliminary estimate of the amount of postwar reconstruction we might provide.
- Indicating that this estimate was subject to revision.
- Stipulating that we could provide no aid without adherence to our Constitutional processes. This stipulation meant that Congress would have to authorize and appropriate any reconstruction aid.
- Suggesting we establish a Joint Economic Commission to coordinate this reconstruction effort.

At Tab I is a memorandum from you to the President outlining the two committees' requests. The memorandum asks his permission for you to sign the letters to Sparkman and Case (Tabs A and B) providing them with the information we mentioned above but finessing the question of turning over the documents in the absence of a formal claim of executive privileged.

RECOMMENDATION:

That you sign the memorandum to the President at Tab I.

Ted Marrs, Jack Marsh, Max Friedersdorf and Phil Buchen concur.

NSC

March 19, 1976

Received letter from
Philip W. Buchen, Counsel to
the President, dated March 19,
1976, classified Secret.

To be returned to
Eva Daughtrey (Secretary to Philip Buchen)
2nd floor West Wing
White House

THE WHITE HOUSE

WASHINGTON

March 19, 1976

~~SECRET~~

Dear Mr. Thornburgh:

This is in response to your letter of February 27 requesting access to those references in a White House document entitled "Findings Pursuant to Section 662 of the Foreign Assistance Act of 1961, as Amended, Concerning Operations Abroad to Help Implement Foreign Policy and Protect National Security," which concern CIA's authority and mandate to participate in narcotics intelligence collection as a matter affecting the national security.

As Mr. Wilderotter has discussed with you, the document involved concerns a number of matters beyond the interest of the Criminal Division. After reviewing the entire document myself, I can advise that there is a reference which could be regarded as concerning CIA's authority and mandate to participate in narcotics intelligence collection as a matter affecting the national security. We will be pleased to give Departmental Attorney Dougald McMillan access to that part of the document, as you requested. I suggest that Mr. McMillan contact Mrs. Jeanne Davis, Executive Secretary of the National Security Council, to arrange a mutually convenient time.

Please let me know how we can be of further assistance.

Sincerely,

Philip W. Buchen

Philip W. Buchen
Counsel to the President



The Honorable Richard L. Thornburgh
Assistant Attorney General
Criminal Division
Department of Justice
Washington, D. C. 29530

CLASSIFIED BY Signer
EXEMPT FROM GENERAL DECLASSIFICATION
SCHEDULE OF EXECUTIVE ORDER 11652 EX-
EMPTION CATEGORY 1 TO THE O.G. or H.I.
AUTOMATICALLY DECLASSIFIED ON

(effective date of EO 11652)

DECLASSIFIED
AUTHORITY EA NLF-88-1-17-1-5 9/9/04
BY pen NSC guidelines
NLF, DATE 6/29/09

~~SECRET~~

THE WHITE HOUSE
WASHINGTON

April 10, 1976

*NSC
(copy sent
James Davis
4/12)*

Dear Mr. Shabecoff:

General Scowcroft has asked me to respond to your letter of March 26, 1976, in which you requested either a copy of the report prepared by former President Nixon on his recent talks with Chinese leaders or a copy of General Scowcroft's notes summarizing the report.

The two copies of the report furnished by Mr. Nixon to the President and the Secretary of State have been returned to Mr. Nixon at his request. Accordingly, there are no copies of the report in the White House. With regard to any notes made by General Scowcroft on the report, we take the position that, for a variety of reasons, it would be inappropriate to make such notes available to you at the present time.

Although the Freedom of Information Act Amendments of 1974 (5 U.S.C. 552, P.L. 93-502) extended the coverage of that Act, it is clear that the Act does not permit the public to access the records of ". . . the President's immediate personal staff or units in the Executive Office whose sole function is to advise and assist the President." (Conference Report, Freedom of Information Act Amendments, House Report No. 93-1380, 93d Cong. 2d Sess., at page 14). The records of the President and the Assistant to the President for National Security Affairs were not intended to be and are not covered by the Freedom of Information Act.

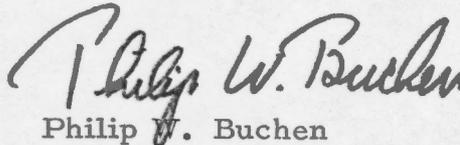
Furthermore, even if such notes were subject to the Freedom of Information Act, they would not be required to be disclosed. The Freedom of Information Act reaches only "agency records"



and not uncirculated, handwritten personal notes of government officials (Porter County Chapter of the Isaak Walton League of America, Inc., et al. v. United States Atomic Energy Commission, 380 F. Supp. 630 (1974)).

I regret that we are unable to comply with your request, but trust that you will understand the basis for our position.

Sincerely,



Philip W. Buchen
Counsel to the President

Mr. Philip Shabecoff
The New York Times
Washington Bureau
1920 - L Street, N.W.
Washington, D.C. 20036



NATIONAL SECURITY COUNCIL

April 7, 1976

MEMORANDUM FOR: PHILIP W. BUCHEN

FROM: Jeanne W. David *JWD*

SUBJECT: Reply to Request for Nixon
Report and/or Notes Thereon

I attach for your signature (Tab A) the proposed reply to Philip Shabecoff's request under FOIA for former President Nixon's report on China and/or Brent Scowcroft's notes thereon (Tab B). The proposed reply was revised by Ed Schmults and has been approved by Brent.

The reply is due on or before April 9 to meet the FOI 10-day requirement.

RECOMMENDATION:

That you sign the letter at Tab A.

*No. 1000-1000-1000
like a signed copy.*



March 26, 1976

Lt. General Brent Scowcroft
Director
National Security Council
The White House
1600 Pennsylvania Avenue
Washington, D.C.

Dear General Scowcroft:

This is a request under the Freedom of Information Act as amended (5 U.S.C. 552).

I write to request a copy of the report by Richard M. Nixon to President Ford and Secretary of State Henry A. Kissinger on his recent talks with Chinese leaders. If, as reported by Ron Nessen, the White House press secretary, the Administration retained no copy of Mr. Nixon's report, I respectfully request a copy of your notes summarizing the report.

Enclosed is a newspaper article detailing Mr. Nessen's statements about the report and your notes.

If you determine that some portion of the report or notes is "reasonably segregable" as provided by the amended Act, I would appreciate your providing me with the remainder.

If you determine that some or all of the report or notes is exempt from release, I would appreciate your advising me as to which exemption(s) you believe covers the material you are not releasing. I would reserve, of course, my right to appeal.

As provided for in the amended Act, I will expect to receive a reply within ten working days.

Sincerely,


Philip Shabecoff



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

THE NEW YORK TIMES, TUESDAY, MARCH 23, 1976

Ford Gets Nixon Report, Calls It Useful

By PHILIP SHABECOFF

Special to The New York Times

WASHINGTON, March 22—

President Ford received last week former President Nixon's report on his recent trip to China and found it "very inter-

*White House Press Office
Was Not Informed of Its
Arrival Last Week*

contain some "sensitive information" but added, "I think it would be unfair to say that the report didn't contain any new startling information."

Mr. Nessen was unable to explain why no copies of the

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



NATIONAL SECURITY COUNCIL

April 15, 1976

MEMORANDUM FOR: BRENT SCOWCROFT
THROUGH: WILLIAM G. HYLAND
FROM: Jeanne W. Dav 
SUBJECT: FOI Request of John Crewdson

John M. Crewdson of the New York Times has submitted an FOI request to the FBI for any information in their files concerning him. The FBI has located the two documents at Tab A which are of obvious interest to us, and has asked us to review them to determine if they require classification on national security grounds.

I can find no legitimate national security grounds on which to classify the documents. Because of the sensitivity of the whole subject, however, you may wish to review them before I reply to the FBI's request.

RECOMMENDATION:

That we inform the FBI that the two documents at Tab A do not warrant classification on national security grounds.

Approve _____

Disapprove; classify documents _____



UNITED STATES GOVERNMENT

Memorandum

TO : THE DIRECTOR

DATE: 8/6/73

FROM : *WJ* JACOBSON

SUBJECT: *Watergate - Alleged Love Affair NY Times*
NEWSPAPER ARTICLES BY JOHN M. CREWDSON
PERTAINING TO WIRETAP ON WILLIAM SAFIRE

- Assoc. Dir. _____
- Asst. Dir.:
- Admin. _____
- Comp. Syst. _____
- Files & Com. _____
- Gen. Inv. _____
- Ident. _____
- Inspection _____
- Intell. _____
- Laboratory _____
- Plan. & Eval. _____
- Spec. Inv. _____
- Training _____
- Legal Coun. _____
- Cong. Serv. _____
- Corr. & Crm. _____
- Research _____
- Press Off. _____
- Telephone Rm. _____
- Director Sec'y _____

DC

On 8/5/73, the Director received a telephone call from General Haig of the White House staff regarding articles appearing in the New York Times and the Washington Star News on 8/5/73. Copies of these articles are attached. The articles were written by New York Times reporter John M. Crewdson and pertain to the same matter, namely an alleged wiretap on William Safire, formerly a speech writer for President Nixon and presently a columnist for the New York Times. Pursuant to the instructions of Mr. Callahan, the articles have been reviewed.

Crewdson's articles state that "Federal officials" indicated that the wiretap on Safire was ordered by the Nixon administration, that "one official" said the wiretap was installed sometime between 5/69 and 2/71, and was one of 13 national security surveillances on administration officials authorized by President Nixon. The articles state that Dr. Henry Kissinger in a telephone interview on 8/4/73 stated that Safire was not among the names of individuals he had provided who were suspected as security leaks. The articles indicate that "one Federal law enforcement official" noted that logs of overhead conversations were sent routinely to Dr. Kissinger's office and it was "inconceivable" to him (the Federal official) that Dr. Kissinger could not have known of the wiretap on Safire.

Our files show that telephone coverage was instituted on the residence of William Safire on 8/4/69 pursuant to the authority of Attorney General Mitchell. The request for this coverage was received on 8/1/69 from then Colonel Haig, who advised that coverage "was being requested on the highest authority." Coverage of Safire was apparently requested based on information developed from our telephone coverage on Henry Brandon, correspondent for the London Sunday Times. In a conversation in late 7/69, Brandon alluded to having had Mr. and Mrs. Safire as dinner guests. Safire agreed to obtain an article in which Brandon had expressed an interest and to furnish Brandon some advance background information concerning a speech which President Nixon was to deliver on 8/8/69.

Enclosures

1 - Messrs. Callahan, Gebhardt, Herington, Miller

JJD:wmj

(7) 6 OCT 10 1974 CONTINUED - OVER OCT 10 1974

REC 107

102-116260-9



Memo for the Director
Re: Newspaper Articles

Coverage was continued on Safire for approximately a month and a half and no additional pertinent information was developed. Coverage on Safire was discontinued at the request of Dr. Kissinger as furnished to us by then Colonel Haig.

Data received from telephone coverage on Brandon in which Safire was mentioned was sent to Dr. Kissinger by letter dated 7/31/69. The same information was sent to President Nixon and Dr. Kissinger in a memorandum dated 8/1/69 which summarized pertinent information received from telephone coverage on four individuals including Brandon. On 11/6/69 a letter was sent to President Nixon and also to Dr. Kissinger as a result of information developed from telephone coverage on Brandon that Brandon and Safire had a dinner engagement. A letter was sent to President Nixon and Dr. Kissinger on 1/15/70 also setting forth data from telephone coverage on Brandon. This data showed that Safire had declined Brandon's dinner invitation. In the conversation Safire described a paper he had written describing the political philosophy of the Nixon Administration.

A Top Secret summary setting forth information regarding the 17 wiretaps conducted for the White House from 1969 to 1971 was furnished by us to the Attorney General on 6/25/73.

Data regarding these wiretaps is maintained in the Intelligence Division on a "need to know" basis only. The data must not be further disseminated without the specific approval of the Director or the Associate Director. The information is classified Top Secret and must be kept in a safe-type cabinet.

OBSERVATIONS:

Data set forth in Crewdson's articles indicates that someone knowledgeable regarding wiretaps is furnishing information to Crewdson. We have not yet heard from Jack Conmy of Mr. Ruckelshaus' staff, who is attempting to learn from Crewdson if he has copies of FBI documents in his possession and, if so, the identity of the source of these documents.

ACTION:

Our review of articles written by Crewdson since 1/1/73 is continuing and you will be kept advised.

Handwritten initials: *OTJ* and *ha*



7-16-73

EX-NIXON WRITER REPORTED TAPPED

Safire Is Said to Have Been
Among 13 Surveilled

By JOHN M. CREWDSON
Special to The New York Times

WASHINGTON, Aug. 4—The
Nixon Administration ordered
a telephone wiretap on William
F. Safire, one of the

- Assoc. Dir. _____
- Asst. Dir.: _____
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- Files & Com. _____
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- Laboratory _____
- Plan. & Eval. _____
- Spec. Inv. _____
- Training _____
- Legal Coun. _____
- Cong. Serv. _____
- Corr. & Crm. _____
- Research _____
- Press Off. _____
- Telephone Rm. _____
- Director Sec'y _____

- The Washington Post _____
- Times Herald _____
- The Evening Star (Washington) _____
- The Sunday Star (Washington) _____
- Daily News (New York) _____
- Sunday News (New York) _____
- New York Post _____
- The New York Times 71
- The Daily World _____
- The New Leader _____
- The Wall Street Journal _____
- The National Observer _____
- People's World _____

Date 8-5-73



1.2-1163-61-9

Asst. Dir.:
 Admin. _____
 Comp. Syst. _____
 Files & Com. _____
 Gen. Inv. _____
 Ident. _____

Safire: A Wiretap Target

By John M. Crewdson
 New York Times News Service

The Nixon administration ordered a telephone wiretap on William Safire, when he was one of the President's three speechwriters, as part

who were believed to be receiving classified national security information.

One federal law-enforcement official, noting that logs of the overheard conversations compiled by the

whose telephones were tapped, as well as "several of the other people who were known to be on the list."

SOURCES

dispatch by William Beecher, one of the four newsmen, published in the New York Time on May 9, 1969. The article reported for the first time that B-52 bombers were striking targets inside Cambodia. Beecher is now a deputy assistant secretary of Defense.

Most of the individuals whose conversations were overheard were found not to have violated national security, according to the sources, but at least three of the government officials were found to be "Blabbermouths" and were eventually eased out of their positions.

- The Washington Post _____
- Times Herald _____
- The Evening Star (Washington) A-4
- The Sunday Star (Washington) _____
- Daily News (New York) _____
- Sunday News (New York) _____
- New York Post _____
- The New York Times _____
- The Daily World _____
- The New Leader _____
- The Wall Street Journal _____
- The National Observer _____
- People's World _____

Date 8/5/73



62-111-2611-9
 ENCLOSURE

The Washington Post carried an article 10/10/73 by Bob Woodward and Carl Bernstein captioned "Military Aide Phone Was Tapped." This article, we think, is indicative of a current leak of information concerning a Bureau case.

The article reports that a low level military assistant to the National Security Council had his phone tapped in late 1971 in an investigation of news leaks. The article said that the tap was in connection with a 1971 probe of the leak of secret documents to syndicated columnist Jack Anderson about U. S. policy in the Indo-Pakistani war.

This article reveals publicly for the first time the existence of a wiretap which was originally known only by Mr. Hoover, Mr. Felt, Mr. Miller, and T. J. Smith. The Attorney General in December, 1971, called Mr. Felt and asked that we place a tap on a Navy yeoman who was assigned to the National Security Council staff and who was suspected of leaking secret documents to Jack Anderson. This yeoman had access to the documents and was personally acquainted with Anderson. Mr. Hoover approved the tap, although we did not follow the usual procedure of getting the Attorney General to give his written authorization. In other words, we have nothing in writing from the Attorney General showing he asked for or approved this tap.

Subsequently, several other taps were installed in the same manner on the same case. Part of the activity was in Oregon, the other in the Washington area.

The fact that such taps existed was incorporated in an informal memorandum dated 2/26/73 to apprise Mr. Gray of the taps following the story in the Time Magazine appearing on the same date. So far as we know only Mr. Felt and Mr. Gray saw this memorandum and we have not been able to locate the original.

During the investigation ordered by Mr. Ruckelshaus in May, 1973, to locate records of the 17 wiretaps, we furnished Inspection Division a copy of the 2/26/73 memorandum and this was incorporated

CONTINUED - OVER



into the summary report of the Inspection Division dated 5/12/73. Copies of this report went to Mr. Eardley, Mr. Felt, Mr. Miller, and Mr. Walters.

This summary also included copies of other pertinent memoranda relating to the 17 wiretaps as well as FD-302's of interviews which were also very revealing.

Additionally, as a factor, Mr. Eardley received a copy of T. J. Smith to Miller memorandum dated 5/13/73, which was a complete analysis of the 17 wiretaps.

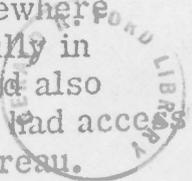
After Mr. Ruckelshaus went to the Department, taking Eardley and his staff with him, Eardley returned two folders containing tickler copies of various memoranda and other correspondence. In these folders were the 5/12/73 Inspection Division summary and the 5/13/73 T. J. Smith memorandum.

Subsequently, Mr. Ruckelshaus was required to furnish a deposition in connection with the Morton Halperin suit, and Gary Baise requested that the Bureau return Eardley's tickler folders so that Ruckelshaus could refresh his memory concerning the investigation by the Inspection Staff and our subsequent recovery of records relating to the 17 wiretaps.

So what we have now is that information relating to the wiretap described in the 10/10/73 Post article is in the 5/12/73 summary which is now presumably in possession of Ruckelshaus's staff. The knowledge of the wiretap referred to in the 10/10/73 article is confined to a very few people, and those in the Bureau who know of the wiretap know all of the facts. Yet significant parts of the article are garbled, indicating that someone with only limited knowledge has leaked the information.

Knowing how Eardley used to garble information when he was on Ruckelshaus's staff in the FBI, I feel that the 10/10/73 article could have originated from him. In any event the 5/12/73 summary has been available to people in Ruckelshaus's office and perhaps elsewhere in the Department and we should now consider these facts carefully in trying to establish the source or sources of the leaks. We should also ask Ruckelshaus where the Eardley folders are now and who has had access to them. We should also ask him to return the folders to the Bureau.

08 EM JS



Pages to D.P. (3) x (4) he followed in that order - then reports to addendum which is significant



UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

March 4, 1976

BY LIAISON

Mrs. Jeanne W. Davis
Staff Secretary
National Security Council
The White House
Washington, D. C.

Dear Mrs. Davis:

In communications dated October 31, 1975, and December 31, 1975, from me and in your letter to me dated January 27, 1976, we discussed whether certain documents should be classified on grounds of the effect on national security in accordance with Executive Order 11652.

Mr. John Mark Crewdson of "The New York Times" has requested information in the files of the FBI concerning him under provisions of the Freedom of Information Act.

Two documents which are being reviewed in connection with Mr. Crewdson's request would be of interest to the White House since they discuss wiretaps conducted by the FBI following leaks of information of concern to the White House. The documents are enclosed. One document would be appropriately reviewed for possible classification in its entirety; only that portion of the second document that contains the information requiring review has been included.

It is requested that the enclosed material be reviewed and that a determination be made as to classification. After review, it is suggested this material be returned to this Bureau.

Sincerely yours,

A handwritten signature in cursive script that reads "Clarence M. Kelley".

Clarence M. Kelley
Director

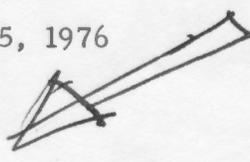
Enclosures (2)



NATIONAL SECURITY COUNCIL

April 15, 1976

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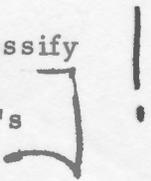
MEMORANDUM FOR: BRENT SCOWCROFT 

THROUGH: WILLIAM G. HYLAND

FROM: Jeanne W. Dav 

SUBJECT: FOI Request of John Crewdson

John M. Crewdson of the New York Times has submitted an FOI request to the FBI for any information in their files concerning him. The FBI has located the two documents at Tab A which are of obvious interest to us, and has asked us to review them to determine if they require classification on national security grounds.

I can find no legitimate national security grounds on which to classify the documents. Because of the sensitivity of the whole subject, however, you may wish to review them before I reply to the FBI's request. 

RECOMMENDATION:

That we inform the FBI that the two documents at Tab A do not warrant classification on national security grounds.

Approve _____

Disapprove; classify documents _____



A



UNITED STATES GOVERNMENT

Memorandum

JH
MM

TO : THE DIRECTOR

DATE: 8/6/73

FROM : *WJ* JACOBSON

Watergate - Alleged Leak to New York Times

SUBJECT: NEWSPAPER ARTICLES BY JOHN M. CREWDSON
PERTAINING TO WIRETAP ON WILLIAM SAFIRE

NY-DC

DC

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- Admin. _____
- Comp. Syst. _____
- Files & Com. _____
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- Ident. _____
- Inspection _____
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- Corr. & Crm. _____
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- Press Off. _____
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- Director Sec'y _____

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Crewdson's articles state that "Federal officials" indicated that the wiretap on Safire was ordered by the Nixon administration, that "one official" said the wiretap was installed sometime between 5/69 and 2/71, and was one of 13 national security surveillances on administration officials authorized by President Nixon. The articles state that Dr. Henry Kissinger in a telephone interview on 8/4/73 stated that Safire was not among the names of individuals he had provided who were suspected as security leaks. The articles indicate that "one Federal law enforcement official" noted that logs of overhead conversations were sent routinely to Dr. Kissinger's office and it was "inconceivable" to him (the Federal official) that Dr. Kissinger could not have known of the wiretap on Safire.

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Enclosures

1 - Messrs. Callahan, Gebhardt, Herington, Miller

JJD:wmj

(7)

REC 107

102-116260



Jacobson

6 OCT 11 1974 CONTINUED - OVER OCT 10 1974

Memo for the Director
Re: Newspaper Articles

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A Top Secret summary setting forth information regarding the 17 wiretaps conducted for the White House from 1969 to 1971 was furnished by us to the Attorney General on 6/25/73.

Data regarding these wiretaps is maintained in the Intelligence Division on a "need to know" basis only. The data must not be further disseminated without the specific approval of the Director or the Associate Director. The information is classified Top Secret and must be kept in a safe-type cabinet.

OBSERVATIONS:

Data set forth in Crewdson's articles indicates that someone knowledgeable regarding wiretaps is furnishing information to Crewdson. We have not yet heard from Jack Conmy of Mr. Ruckelshaus' staff, who is attempting to learn from Crewdson if he has copies of FBI documents in his possession and, if so, the identity of the source of these documents.

ACTION:

Our review of articles written by Crewdson since 1/1/73 is continuing and you will be kept advised.

KH

OTJ
/



EX-NIXON WRITER REPORTED TAPPED

Safire Is Said to Have Been Among 13 Surveilled

By **JOHN M. CREWDSON**
Special to The New York Times

WASHINGTON, Aug. 4—The Nixon Administration ordered a telephone wiretap on William Safire, when he was one of the President's three speechwriters, as part of a two-year effort to

- Assoc. Dir. _____
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- Sunday News (New York) _____
- New York Post _____
- The New York Times Aug 11 _____
- The Daily World _____
- The New Leader _____
- The Wall Street Journal _____
- The National Observer _____
- People's World _____

Date 8-5-73



102-1162-60-9 Ky

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Safire: A Wiretap Target

By John M. Crewdson
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One federal law-enforcement official, noting that logs of the overheard con-

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- The Daily World _____
- The New Leader _____
- The Wall Street Journal _____
- The National Observer _____
- People's World _____

Date 8/5/73



62-116261-9
ENCLOSURE

ADDENDUM: EDWARD S. MILLER, INTD TJS:bjr 10/12/73

The Washington Post carried an article 10/10/73 by Bob Woodward and Carl Bernstein captioned "Military Aide Phone Was Tapped." This article, we think, is indicative of a current leak of information concerning a Bureau case.

The article reports that a low level military assistant to the National Security Council had his phone tapped in late 1971 in an investigation of news leaks. The article said that the tap was in connection with a 1971 probe of the leak of secret documents to syndicated columnist Jack Anderson about U.S. policy in the Indo-Pakistani war.

This article reveals publicly for the first time the existence of a wiretap which was originally known only by Mr. Hoover, Mr. Felt, Mr. Miller, and T. J. Smith. The Attorney General in December, 1971, called Mr. Felt and asked that we place a tap on a Navy yeoman who was assigned to the National Security Council staff and who was suspected of leaking secret documents to Jack Anderson. This yeoman had access to the documents and was personally acquainted with Anderson. Mr. Hoover approved the tap, although we did not follow the usual procedure of getting the Attorney General to give his written authorization. In other words, we have nothing in writing from the Attorney General showing he asked for or approved this tap.

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CONTINUED - OVER

into the summary report of the Inspection Division dated 5/12/73. Copies of this report went to Mr. Eardley, Mr. Felt, Mr. Miller, and Mr. Walters.

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After Mr. Ruckelshaus went to the Department, taking Eardley and his staff with him, Eardley returned two folders containing tickler copies of various memoranda and other correspondence. In these folders were the 5/12/73 Inspection Division summary and the 5/13/73 T. J. Smith memorandum.

Subsequently, Mr. Ruckelshaus was required to furnish a deposition in connection with the Morton Halperin suit, and Gary Baise requested that the Bureau return Eardley's tickler folders so that Ruckelshaus could refresh his memory concerning the investigation by the Inspection Staff and our subsequent recovery of records relating to the 17 wiretaps.

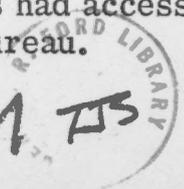
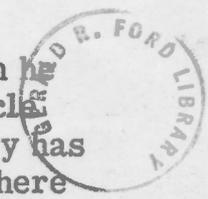
So what we have now is that information relating to the wiretap described in the 10/10/73 Post article is in the 5/12/73 summary which is now presumably in possession of Ruckelshaus's staff. The knowledge of the wiretap referred to in the 10/10/73 article is confined to a very few people, and those in the Bureau who know of the wiretap know all of the facts. Yet significant parts of the article are garbled, indicating that someone with only limited knowledge has leaked the information.

Knowing how Eardley used to garble information when he was on Ruckelshaus's staff in the FBI, I feel that the 10/10/73 article could have originated from him. In any event the 5/12/73 summary has been available to people in Ruckelshaus's office and perhaps elsewhere in the Department and we should now consider these facts carefully in trying to establish the source or sources of the leaks. We should also ask Ruckelshaus where the Eardley folders are now and who has had access to them. We should also ask him to return the folders to the Bureau.

Agree to ①, ②, ③ + ④ he followed in that order - I knew Japetto's addendum which is significant.

08

EM AS



THE WHITE HOUSE
WASHINGTON

780

May 14, 1976

MEMORANDUM FOR: JOHN MATHENY
JANE DANNENHAUER

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

SUBJECT: Access to and Disposition
of Certain Sensitive
Documents in the Wilderotter
files, Room 043

Attached is a proposal which I made to Jim Connor that has been approved by him. By this memo, I am authorizing the two of you to carry out the proposal as set forth. If you run into any problems or questions, please let me know.

Attachment



THE WHITE HOUSE

WASHINGTON

May 7, 1976

MEMORANDUM FOR:

JIM CONNOR

FROM:

PHIL BUCHEN *P.*

SUBJECT:

Access and Disposition of
Certain Sensitive Documents
in the Wilderotter Files,
Room 043

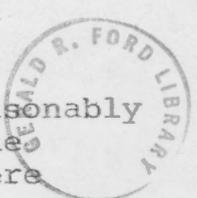
As you will recall, Jim Wilderotter while serving in the White House collected certain files of a very sensitive nature which are contained in safes now located in Room 043. These were moved from Jim's former office to Room 63 and then yesterday were moved out to the present location.

John Matheny in Brent Scowcroft's office has requested access to these files for two purposes:

1. The first is to ascertain what documents that were forwarded to this office for clearance from the NSC did in fact go forward to the Select Committee; and
2. To retrieve those that were not forwarded or did not subsequently become part of a Presidential decision paper.

I am informed that there is also a significant amount of documents from the various intelligence agencies which, like some of the NSC documents, were never forwarded to the Select Committee or consumed in a Presidential decision memorandum.

It is my view that this type of document could reasonably be returned to the originating agency. Most of the materials in question are highly classified and were referred to this office by the originator with the expectation that they would be returned upon completion

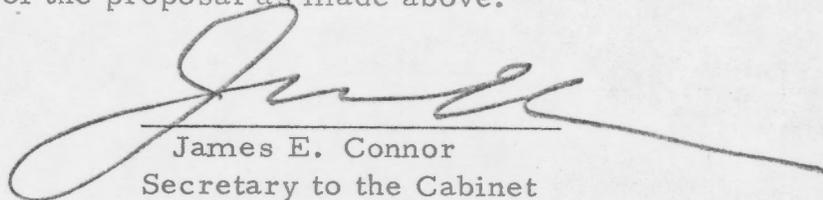


of the Senate investigations. Those that were then forwarded to the Select Committee should be so recorded to enable the originating agency to ascertain which of its documents are currently in the possession of the Committee, thus facilitating efforts to retrieve them. In this regard, it is my understanding that the Select Committee is due to close down before the end of May. It would therefore seem wise to complete this task as expeditiously as possible.

Accordingly, I have instructed Jane Dannenhauer of my staff to assist John Matheny in sorting through these materials with a view toward determining the final disposition of those that clearly fall in the above categories.

Because this proposal affects the disposition of papers which are presently files of the White House, I would appreciate your concurrence that the proposal does not affect the integrity of the Presidential materials. If you have any questions, please call me. Otherwise, I would like your approval of the proposal as made.

I approve of the proposal as made above.



James E. Connor
Secretary to the Cabinet
and Staff Secretary to the President

May 12, 1976



NSC

THE WHITE HOUSE

WASHINGTON

May 24, 1976

MEMORANDUM FOR: JEANNE DAVIS
 LES JANKA

FROM: PHIL BUCHEN *P.*

I suggest attaching to your memorandum of May 22 the one I have prepared after removing from your memorandum the last line on page 3.

Attachment

THE WHITE HOUSE

WASHINGTON

May 24, 1976

MEMORANDUM FOR: BRENT SCOWCROFT
FROM: PHIL BUCHEN
SUBJECT: Declassification and Release of
GAO Report on Mayaguez Incident

My comments on the memorandum to you from Jeanne Davis and Les Janka on this subject I have passed on to you verbally and this is just to make a record of our discussion.

I suggest that you first call Congressman Fascell to explain the following:

1. that because of your position as a close Presidential advisor you are obliged to follow the tradition of declining to appear for testimony before a Congressional Committee or a Subcommittee.
2. that your staff is working closely with GAO to agree upon such minor changes or deletions in the report as might be necessary to prepare it in declassified form.
3. that the reason for taking this precaution is that which is described in the fourth paragraph of Tab B to the memorandum.

Then, you could follow this conversation with a confirming letter.

NATIONAL SECURITY COUNCIL

UNCLASSIFIED with
SECRET ATTACHMENTS

May 22, 1976

MEMORANDUM FOR: PHILIP BUCHEN
FROM: JEANNE W. DAVIS *JWD*
SUBJECT: Declassification and
Release of GAO Report
on Mayaguez Incident

We would appreciate your clearance and/or
comment on the attached. We hope to send
the letter to Chairman Fascell and our proposed
revised summary to the GAO on Monday, May 24.

Attachment

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SECRET ATTACHMENTS

MEMORANDUM

NATIONAL SECURITY COUNCIL

2273
ACTION

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ATTACHMENTS

May 22, 1976

MEMORANDUM FOR: BRENT SCOWCROFT

FROM: JEANNE W. DAVIS
LES JANKA

SUBJECT: GAO Mayaguez Study

Dante B. Fascell, Chairman of the House Subcommittee on International Political and Military Affairs, has written identical letters to you, Larry Eagleburger and General Eaton asking that you meet with the Subcommittee in Executive session next Wednesday, May 26 to discuss the classification of GAO Mayaguez Report. The letter is at Tab H. (Congressman Winn called to warn you/this development on Thursday; Les Janka has spoken to him and expressed appreciation on your behalf).

Larry has indicated that he will not appear and does not care about the Report's classification. Nobody else at State wishes to appear before the Subcommittee.

Defense advises us that they plan to send up a representative but they haven't decided who it would be. Defense has advised the GAO in writing that they have no objection to the declassification of the entire report. They would take that position if they appeared before the Subcommittee.

We have also been advised that the subcommittee feels that we have not been responsive to the GAO and have not answered their letters. They intend to call up Comptroller General Staats before the full committee to discuss the classification issue and the "problems" he has encountered with the agencies (principally NSC) in preparing this and similar studies. We have in fact answered all the GAO letters and have provided them with large volumes of material. We have also permitted them to read the CIA post-mortems, but we have not given them free run of NSC files

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ATTACHMENTS

or the Sit Room log as they sought. State and Defense, on the contrary, have given them virtually everything they requested from those two agencies.

Jeanne Davis' letter of March 30 to J.K. Fasick (Tab D), which was reviewed and amended by you and Bill, explained why we felt the Report had to remain classified. Subsequently in response to a GAO request for the level of classification we advised them that the report should remain SECRET GDS (Tab E).

We were then advised by the GAO that they would keep the report classified and would submit it to the Fascell subcommittee as a classified document. In response to the suggestion contained in several of my letters to the GAO, they prepared an "unclassified" study and asked us to review it (Tab F). Tom Barnes' office has reviewed it and believes it contains several specific references to operational procedures which should be protected. A revised summary which deletes some of these specific references yet retains their criticisms, is at Tab C.

Next Steps

The most pressing question is how to respond to the subcommittee's "invitation" to you to appear this coming Wednesday. As we have indicated before, the NSC is in a lonely and isolated position given the State and Defense Department non-objection to declassification of the Report. Our position is becoming more and more untenable. A joint appearance before the subcommittee in opposition to Defense and State (if they appear) would expose us to ridicule and be unproductive, especially since the report repeatedly notes lack of GAO access to NSC minutes and agency inputs to the NSC process. I think we can safely decline to appear on constitutional/balance of power/precedent grounds although such a refusal would give the impression of a cover-up. We therefore believe that this refusal to appear should be linked to a conciliatory position and have prepared a letter along these lines to Chairman Fascell (Tab A). In addition to or instead of the letter you may prefer to telephone Congressman Fascell using the talking points provided at Tab B.

RECOMMENDATIONS:

- 1) That you sign the letter to Fascell at Tab A.

In this case a letter seems preferable to a phone call. However, in addition to the letter you may wish to telephone Fascell using the suggested text at Tab B.

_____ Phone call only.

_____ Letter only.

_____ Both phone call and letter.

_____ Other action desired.

- 2) That we approve the GAO's releasing an unclassified summary of its study but only if it is revised in accordance with our suggested changes (Tab C).

Approve _____

As amended _____

Disapprove _____

Mr. Buchen has reviewed and approved this memorandum.

THE WHITE HOUSE

WASHINGTON

Dear Congressman Fascell:

Thank you for your letter of May 20, 1976 inviting me to discuss with the Subcommittee issues relating to the declassification of the GAO Mayaguez report. While I respect the Subcommittee's desire to hold such a discussion, I hope you will understand why I cannot accept your invitation. There are occasions when I or NSC staff members would find it useful to testify before Congressional Committees and Subcommittees. We are, however, aware of the fact that neither I nor any of my predecessors has ever testified before Congressional Committees and Subcommittees. The same holds true regarding NSC Staff members except for budget hearings. Therefore as a substitute for a personal appearance I hope you will accept this letter and the following explanation of our position.

Let me first of all assure you that we tried to review the Report objectively and conscientiously. As a result of this review, we concluded that it contains specific information about our military operations and capabilities which, if released, could reasonably be expected to damage the national security of the United States. We believe the Report is properly classified SECRET (GDS) under the provisions of Executive Order 11652.

This GAO Report gives specific details about how the United States acted during a very recent crisis. The Report would be of great interest and value to a potential adversary as it would help them predict how we might act in a similar situation in the future. We would highly prize a similar detailed account of how another government operated during a crisis.

We have advised the GAO that we do not want to avoid their criticisms of the Executive Branch or block the public release of their recommendations and are working with them on the preparation of an unclassified summary which would contain both their criticisms and their recommendations. I hope that the Subcommittee will not take any action regarding the release of the entire Report until after it has had a chance to review the summary.

If after this review the Subcommittee still wishes to declassify the entire report we would appreciate the opportunity to delete or paraphrase those portions of it which are particularly sensitive and which concern the Presidential -decision-making process.

I would like also to assure you that we have tried to be as cooperative as possible with the GAO investigators. They have interviewed NSC staff members, and we have given them numerous documents and responded to all their representations. We will continue to cooperate with the GAO investigators and with your Subcommittee in every way possible.

Sincerely,

Brent Scowcroft

The Honorable Dante B. Fascell
House of Representatives
Washington, D. C. 20515

TALKING POINTS

--Although I appreciate your invitation to appear before the Subcommittee regarding the GAO Mayaguez report I won't be able to. I have sent you a letter explaining this but did also want to telephone you and explain to you personally how we feel about this report.

--I would like to assure you that we have reviewed this report objectively and honestly believe that it contains specific information about our military operations and our military capabilities which would damage the national security of the U. S. if it were released.

--I am not saying that every page is classified but do believe that the report can not practicably be segregated or sanitized and that in its totality it is properly classified SECRET (GDS).

--The report goes into specifics about how the U. S. acted in a very recent crisis. It would be of great interest and value to a potential adversary. It would help them predict how we might act in the next such crisis. We would find a similar detailed account of another government's operations during a crisis to be of great value.

--I would like to give you my personal assurances that we have no wish to avoid GAO criticisms of the Executive Branch or to block the public release of the GAO recommendations.

--We are currently in touch with GAO regarding an unclassified summary of the report which would contain both their criticisms and recommendations. I believe we can come to an agreement with them. I would hope that you would hold off on taking any action as to release of the report until you have had a chance to review this summary.

--However, if after this review you still wish to declassify the report we would agree, provided those portions we still feel to be particularly sensitive concerning the Presidential decision-making process could be deleted.

--I have also heard that the Subcommittee believes that the NSC has not been responsive to the GAO and has not answered all their

letters. This allegation troubles me, and I think we might be getting a "bum rap." GAO investigators have interviewed members of the NSC staff, and we have provided them with numerous documents. In addition they and members of the Subcommittee staff were loaned a copy of the CIA post mortem on the Mayaguez. Every single letter the GAO has written us has been answered. I think we have been responsive to the GAO, and we will continue to cooperate with them and with your Subcommittee.

ITEM WITHDRAWAL SHEET
WITHDRAWAL ID 01380

Collection/Series/Folder ID : 001900293
Reason for Withdrawal : NS,National security restriction
Type of Material : REP,Report(s)
Description : Comptroller General's report re t
he Mayaguez
Creation Date : 05/1976?
Volume (pages) : 4
Date Withdrawn : 07/13/1988

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

March 30, 1976

Dear Mr. Fasick:

In response to telephone inquiries from Mr. Watson of your staff we accept your assurances that the GAO did not use any CIA material in its report on the Mayaguez incident. We still believe, however, that the report contains information generated by several components of the Intelligence Community and included in various situation reports which were made available to the GAO investigators. It certainly includes "sources and methods", which, of course, are the responsibility of the Director of Central Intelligence. Therefore, we suggest that it would be useful and helpful for you to send it to the Director of Central Intelligence for review. We do not think this would be very time consuming and it would ensure that your report is as comprehensive as possible.

With regard to the classification, we still believe the report should remain classified. We see great disadvantage to the United States in advising the world, including our potential adversaries, of the manner in which the U. S. Government operates in time of crisis, particularly with the degree of specificity contained in this report. We would find a similar detailed account of another government's operations, for example, during the last Middle Eastern crisis, to be of inestimable value in terms of predicting how they might react in future crises. We believe you would be doing this country a grave disservice by declassifying and releasing your report.

Having said this, let me assure you that we have no wish to avoid your criticisms of the Executive Branch or block the public release of your recommendations. We believe a separate,

unclassified paper containing both your criticisms and recommendations would be relatively easy to prepare. The main narrative and detailed account of Executive Branch actions, however, should remain classified.

Sincerely,



Jeanne W. Davis
Staff Secretary

Mr. J.K. Fasick
Director, International Division
General Accounting Office
Washington, D. C. 20548

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

April 28, 1976

Dear Mr. Fasick

We have received telephone inquiries from your staff asking at what level the GAO Mayaguez study should be classified.

For reasons explained in my letter to you of March 30, 1976 we believe the study should be classified SECRET (GDS).

Sincerely,



Jeanne W. Davis
Staff Secretary

Mr. J. K. Fasick
Director, International Division
General Accounting Office
Washington, D.C. 20548

ITEM WITHDRAWAL SHEET
WITHDRAWAL ID 01381

Collection/Series/Folder ID : 001900293
Reason for Withdrawal : NS,National security restriction
Type of Material : REP,Report(s)
Description : Comptroller General's report on t
he Mayaguez
Creation Date : 05/1975?
Volume (pages) : 4
Date Withdrawn : 07/13/1988

DEPUTY UNDER SECRETARY OF STATE
FOR MANAGEMENT
WASHINGTON

March 5, 1976

UNCLASSIFIED WITH SECRET ATTACHMENT

Dear Mr. Staats:

I enclose herewith the Department of State's reply to the GAO report on the Mayaguez incident. I should note, however, that our reply, limited as it is to specific comments on specific statements from the report, cannot adequately express my personal view of how totally inadequate and misleading the report is. It is, by the most generous interpretation I can muster, an exercise in ex post facto diplomacy by amateurs. Its conclusions demonstrate a fundamental misunderstanding of the issues involved, and a total disregard of the atmosphere in which the decisions surrounding the Mayaguez incident were made.

The report's essential -- in fact, fatal -- weakness is its total failure to recognize first principles. The fact is that the United States Government was attempting to secure the release of an American ship and an American crew seized by Cambodia in blatant violation of international law. The report's conclusions largely ignore the fact that we were reacting to a Cambodian provocation, and that we had a responsibility to protect the lives of American citizens. It ignores the public statements of the Cambodian Deputy Prime Minister for Foreign Affairs, which indicate that the central authorities were aware of the United States' extreme concern for the welfare of the crew of the Mayaguez. Those statements, and the testimony of the captain of the Mayaguez, further indicate that the Cambodian authorities waited some 13 hours after having made the fundamental decision to release the crew to broadcast that message on their domestic radio, by which time our landing on Koh Tang was beginning. This crucial broadcast, which in fact referred only to the ship and not to the crew, was delayed until the last possible minute, and was designed to camouflage the actions of Cambodian local commanders behind a cloak of anti-American vitriol. When speed was essential, the Cambodians bumbled and delayed.

The Honorable Elmer B. Staats
Comptroller General of the
United States.

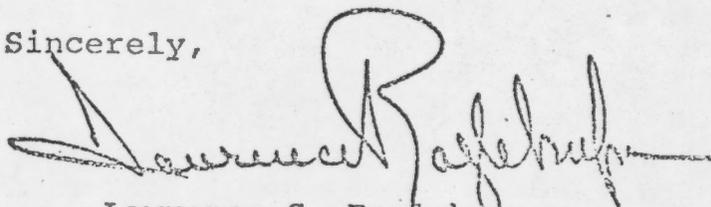
UNCLASSIFIED WITH SECRET ATTACHMENT

The report's attempts to second-guess the actions of officials acting under the constraints of time -- and without the advantage of the hindsight the GAO so happily enjoyed -- bring the entire purpose of the report into question. The report acknowledges but does not take into account in its conclusion the fact that we faced, at the time, the likelihood that the Cambodian authorities, whose hostility toward the US had been so clearly demonstrated, might remove the members of the crew to the mainland where their recovery would have been virtually impossible until and unless the Cambodians decided to release them -- after who knows how many months and how much agony and humiliation.

The drafters of this report had a special responsibility to attempt to understand the realities of the diplomatic environment at the time of the Mayaguez seizure. They did not meet this responsibility. Instead, they went out of their way to develop wholly fictional diplomatic scenarios which bore no resemblance to fact or reality, and then criticized the Administration for its "failure" to pursue their fantasies.

I regret the need to react so strongly, but it is time we -- all of us -- put a stop to this wholly senseless and highly destructive tendency constantly to find fault with everything our Government does. We often make mistakes, but in my opinion the GAO has failed -- despite its best efforts -- to find any substantial failures in the handling of the Mayaguez incident.

Sincerely,

A handwritten signature in dark ink, appearing to read "Lawrence S. Eagleburger". The signature is fluid and cursive, with a large, prominent initial "L" and "E".

Lawrence S. Eagleburger

THOMAS E. MORGAN, PA., CHAIRMAN

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Congress of the United States
Committee on International Relations

House of Representatives
Washington, D.C. 20515

MARIAN A. CZARNECKI
CHIEF OF STAFF

May 20, 1976

Lt. Gen. Brent Skowcroft, USAF (Ret)
Assistant to the President
National Security Council
Old Executive Office Building
Washington, D.C. 20506

Dear General Skowcroft:

The Subcommittee has received from the General Accounting Office a report entitled, "The Seizure of the Mayaguez-A Case Study of Crisis Management." The report was prepared in response to a request by this Subcommittee.

It had been the Subcommittee's hope and expectation that the GAO report would be furnished in a totally, or at least substantially unclassified form. The Executive branch, however, has not agreed to declassification.

Pursuant to a decision of the Subcommittee this morning, I have been asked to invite you and representatives of the Departments of State and Defense to discuss with the Subcommittee issues relating to the classification of the report. An executive session has tentatively been scheduled for 10:00 a.m., Wednesday, May 26, 1976 in Room 2200 Rayburn House Office Building for this purpose. Your attendance at the meeting would be appreciated.

Sincerely,

Dante B. Fascell
Dante B. Fascell
Chairman

Subcommittee on International
Political and Military Affairs

DBF:mfc

~~SECRET~~

D R A F T

THE SEIZURE OF THE MAYAGUEZ--
A CASE STUDY OF CRISIS MANAGEMENT

Department of State
Department of Defense
National Security Council

NOTICE -- THIS DRAFT RESTRICTED TO OFFICIAL USE

This document is a *draft* of a proposed report of the General Accounting Office. It is subject to revision and is being made available solely to those having responsibilities concerning the subjects discussed for their review and comment to the General Accounting Office.

Recipients of this draft must not show or release its contents for purposes other than official review and comment under any circumstances. At all times it must be safeguarded to prevent premature publication or similar improper disclosure of the information contained therein.

BY
THE COMPTROLLER GENERAL
OF THE UNITED STATES

ID-76-45

100

~~SECRET~~

D R A F T

NATIONAL SECURITY COUNCIL

Ken Quinn

Says this should
be classified

~~SECRET~~