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NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
Presidential Libraries Withdrawal Sheet

WITHDRAWAL ID 01518

REASON FOR WITHDRAWAL Donor restriction

TYPE OF MATERIAL Memo(s)

CREATOR'S NAME Buchen, Philip

RECEIVER'S NAME Schmults, Ed and Lazarus, Ken

DESCRIPTION Dr. Albert Hall nomination to be
Assistant Secretary of the Air Force
for Research and Development.

CREATION DATE 03/19/1976

COLLECTION/SERIES/FOLDER ID . 001900424

COLLECTION TITLE Philip W. Buchen Files

BOX NUMBER 38

FOLDER TITLE Personnel - Conflict of Interest, G-Z

DATE WITHDRAWN 08/26/1988

WITHDRAWING ARCHIVIST LET

THE WHITE HOUSE
WASHINGTON

February 25, 1976

*Hampton
Robert
Chairman*

MEMORANDUM FOR: PHIL BUCHEN
FROM: DUDLEY CHAPMAN *DC*
SUBJECT: Hampton Transcript

This transcript is entirely consistent with his memorandum to you and raises no new issues. Most of the discussion was taken up with the general problem of government regulations governing conflict of interest.

*Return to
Dudley for
inclusion in
the Hampton file.
P.*



THE WHITE HOUSE
WASHINGTON

For Dudley to
review & give
me his comments.

T.





CHAIRMAN

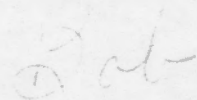
UNITED STATES CIVIL SERVICE COMMISSION
WASHINGTON, D. C. 20415

February 9, 1976

MEMO FOR HONORABLE PHILIP W. BUCHEN
Counsel to the President
The White House

Enclosed is a copy of the transcript of the hearing before
the Joint Committee on Defense Production, which you
had asked me to send to you.

This copy includes the changes and corrections, as it
was returned to the Committee.


Robert E. Hampton
Chairman



United States Senate

Transcript of Proceedings

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS
UNITED STATES SENATE AND HOUSE OF REPRESENTATIVES
JOINT COMMITTEE ON DEFENSE PRODUCTION

Hearing on

DOD-INDUSTRY RELATIONS: STANDARDS OF CONDUCT
AND CONFLICT OF INTEREST

WASHINGTON, D.C.
MONDAY, FEBRUARY 2 1976

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NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
Presidential Libraries Withdrawal Sheet

WITHDRAWAL ID 01519

REASON FOR WITHDRAWAL Donor restriction
TYPE OF MATERIAL Memo(s)
CREATOR'S NAME Hampton, Robert
RECEIVER'S NAME Buchen, Philip
DESCRIPTION Conflict of interest issues.
CREATION DATE 02/20/1976

COLLECTION/SERIES/FOLDER ID . 001900424
COLLECTION TITLE Philip W. Buchen Files
BOX NUMBER 38
FOLDER TITLE Personnel - Conflict of Interest, G-Z

DATE WITHDRAWN 08/26/1988
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THE WHITE HOUSE
WASHINGTON

July 14, 1976

MEMORANDUM FOR: DOUGLAS BENNETT

FROM: PHILIP BUCHEN *P.*

SUBJECT: Dr. William J. Hargis

The above individual is Chairman of the National Advisory Committee on Oceans and Atmosphere. Attached is a news article from the Washington Post which indicates that this individual has been indicted by grand jury in Virginia.

Please give consideration to the possibility of calling in Chairman Hargis and asking him to step aside pending the outcome of the criminal process.

Attachment



*Indict
Hargis?
Wm J.*

THE WHITE HOUSE

WASHINGTON

July 9, 1976

MEMO FOR: PHIL BUCHEN
FROM: KEN LAZARUS
SUBJECT: Attachment

I do not recall facing such a "policy question" before. It seems clear to me, however, that upon indictment any Presidential appointee can appropriately be asked to step aside pending the outcome of the criminal process.

You will note that the indictment in this case was requested by a state grand jury.



THE WHITE HOUSE

WASHINGTON

July 7, 1976

MEMORANDUM TO: PHIL BUCHEN

FROM: RUSS ROURKE *Rourke*

Phil, Jack suggested I call the attached article to your attention.

As you may know, Bill Hargis is Chairman of the National Advisory Committee on Oceans and Atmosphere. His indictment raises a policy question to which we have addressed ourselves in the past, i.e., should Presidential appointees be asked to step aside pending the determination of local actions such as that indicated in Hargis' case.

Please keep us advised.



Wash. Post
Wed., 7/7/76

Va. Institute Chief, Biologist Indicted

By Paul G. Edwards
Washington Post Staff Writer

The director of the Virginia Institute of Marine Science and one of the leading scientists at the institute were indicted yesterday on charges of embezzlement and larceny in connection with their work.

Gloucester County Commonwealth's Attorney Harry A. Morris said a county

L. Du Puy, chief marine biologist at the institute.

Morris said one indictment against Hargis alleges that in February of this year he tried to instruct a data-processing employee at the institute to alter his personal and sick-leave records dating back to 1971.

The alterations would have resulted in a net increase of 130 days of annual leave for the period and 37 days of

Hargis alleges that he illegally disposed of a diesel engine owned by the state.

Each indictment alleges that more than \$100 was involved in each transaction, but they do not state whether Hargis was actually paid for the leave he allegedly sought or exactly how much the diesel engine was worth.

Morris said the indictment against Du Puy alleges that he stole \$578.09 by using state funds to

Hargis immediately denied the charges against him in a telephone interview. Du Puy in a separate interview, said the charge against him is "ridiculous," but declined to elaborate until he talked to his lawyer.

Morris said the indictments are the result of a state police investigation lasting several months. He said the investigation is con-

governor authorized the state police investigation on the basis of a complaint from a source that the office could not name. Godwin could suspend Hargis and Du Puy pending their trials. He will return to Richmond from the National Governors' Conference today, the spokesman said, and will be informed of the indictments then.

"The charges are not

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
Presidential Libraries Withdrawal Sheet

WITHDRAWAL ID 01520

REASON FOR WITHDRAWAL Donor restriction
TYPE OF MATERIAL Memo(s)
CREATOR'S NAME Buchen, Philip
RECEIVER'S NAME Lazarus, Ken
DESCRIPTION Hawke, Jack. With attachments.
CREATION DATE 07/28/1976

COLLECTION/SERIES/FOLDER ID . 001900424
COLLECTION TITLE Philip W. Buchen Files
BOX NUMBER 38
FOLDER TITLE Personnel - Conflict of Interest, G-Z

DATE WITHDRAWN 08/26/1988
WITHDRAWING ARCHIVIST LET

October 4, 1974

*Holt, Personnel
Conflict &
Interest
(see GSA)*

Dear Miss Holt:

This is in reply to your letter to President Ford dated September 24, 1974, in which you asked him for assistance relating to your father's dismissal from the General Services Administration.

The President asked this office to consider the matter.

When we made inquiries, we found that the issue in this removal case of work performance was under further review by a three-person panel, and we delayed writing you until this procedure had been completed. It seemed only appropriate that we should allow the adopted procedures to take their course.

Today we are advised that as a result, the removal decision has been rescinded and that your father is being given opportunity to remain in his position or to seek reassignment.

Under these circumstances, I am sure you will feel most gratified.

Sincerely yours,

Philip W. Buchen
Counsel to the President

Miss Victoria Holt
P.O. Box 3134
University Park
Las Cruces, New Mexico 88001

PWB:em



THE WHITE HOUSE
WASHINGTON

June 25, 1976

*Johnson,
Spence
Confer*

MEMORANDUM FOR:

JIM CANNON

FROM:

PHIL BUCHEN *P.*

After reviewing the memo sent by Spence Johnson through you, I see no problem relative to Spence Johnson's continued position on your staff. I also commend him for the manner in which he is proceeding.



THE WHITE HOUSE

WASHINGTON

June 23, 1976

MEMORANDUM FOR: PHIL BUCHEN
THROUGH: JIM CANNON *Jim Cannon*
FROM: SPENCE JOHNSON
SUBJECT: Grand Jury Appearance on Friday,
June 25, 1976 (Fraud Section,
United States Attorney's Office,
Washington, D.C.)

This memorandum is to advise you that I have been requested to appear voluntarily as a government witness before a Grand Jury convened in the District of Columbia to investigate possible violations of Federal Law by my former employer, retired Congressman James F. Hastings (R-N.Y.).

I have been advised by both the Assistant United States Attorney in charge of the case (John Kattelly, Esquire) and an FBI agent from the Washington Field Office (Joseph Judge), that the investigation in no way centers upon me or is in any way related to my former professional activities while I was Legislative Assistant and Administrative Assistant, respectively, to former Congressman Hastings (May 1971 through January 1976).

In light of the representations which have been made directly to me and in view of my desire to be totally candid and cooperative both with the FBI and United States Attorney's Office, I have agreed to answer all questions and supply all relevant information of which I have personal knowledge to both the FBI and the United States Attorney's Office. Further, I am prepared to testify upon the request of the Assistant United States Attorney before a Grand Jury convened for the purposes of investigating these allegations.

In light of my present governmental responsibilities, and upon the advice which I have received from my immediate superior, to be totally cooperative in a proper investigation, I believe I have a duty to respond fully and com-

pletely to these governmental inquiries.

I have also been advised and have retained private counsel for the purpose of giving me assistance in this matter. I am not an attorney, and, as such, am unfamiliar as to the processes and procedures of federal criminal law. My attorney, Paul L. Perito, Esquire, of the firm of Perito, Duerk and Carlson, P.C. of Washington, D.C., is a former Assistant United States Attorney (S.D.N.Y.), and a former Chief Counsel and Staff Director of the Congressional Crime Committee. After discussing this matter fully with him, he has advised me to totally cooperate and that my cooperation in no way exposes me to any potential criminal liability nor should such cooperation adversely effect my relationship with my present employer, or in any way bring disrepute upon my professional reputation or upon the office which I now hold.

If further information is needed, I would be happy to supply it directly to you or to any member of your staff who has been authorized by you to receive such information.



THE WHITE HOUSE
WASHINGTON

File

March 4, 1976

Ken took care of this
by phone. There apparently
was just a minor problem.

No further action is
required.



Kieffer,
Dr. Jarold Conflict

DEPARTMENT OF STATE
AGENCY FOR INTERNATIONAL DEVELOPMENT
WASHINGTON, D.C. 20523

0. M. 2
6. 6. 1976

February 24, 1976

MEMORANDUM FOR HONORABLE PHILIP W. BUCHEN
The White House

SUBJECT: Request by Congressman Fraser of Minnesota
for Information Regarding the Resignation
of Dr. Jarold Kieffer

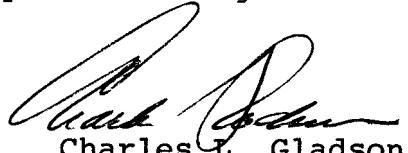
Dr. Jarold Kieffer served, until April 1, 1975, as Assistant Administrator of AID for Population and Humanitarian Assistance under a Presidential appointment pursuant to section 624 of the Foreign Assistance Act of 1961, as amended. Dr. Kieffer's resignation was submitted to the President upon request.

On December 23, 1975, Congressman Donald Fraser of Minnesota wrote to Deputy Administrator John E. Murphy requesting AID's version of the circumstances surrounding Dr. Kieffer's departure. I have attached a copy of the Fraser letter at Tab A.

In reviewing the request for AID's explanation of the circumstances surrounding the resignation of Dr. Kieffer, I have provided advice to the Deputy Administrator regarding implications of the Privacy Act and the Freedom of Information Act growing out of the request. I also advised the Deputy Administrator that Dr. Kieffer served at the pleasure of the President and for that reason a report to the Congressman disclosing the Administration's reasons for requesting the resignation of a Presidential appointee may be at variance with White House policy and may risk the creation of a practice which may be contrary to the wishes of the President in these matters. I have attached a copy of my memorandum at Tab B.



Under the circumstances outlined above, Mr. Murphy has requested that I seek your guidance before proceeding with a response to Congressman Fraser.



Charles L. Gladson
General Counsel

Attachments



A



DONALD M. FRASER
5TH DISTRICT, MINNESOTA

1111 HOUSE OFFICE BUILDING
202-225-4735

DISTRICT OFFICE
180 FEDERAL COURTS BUILDING
MINNEAPOLIS, MN 55401
612-725-2081

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

INTERNATIONAL RELATIONS
COMMITTEE

SUBCOMMITTEES:

CHAIRMAN, INTERNATIONAL ORGANIZATIONS

INTERNATIONAL TRADE AND COMMERCE

DISTRICT OF COLUMBIA
COMMITTEE

December 23, 1975

Mr. John E. Murphy
Deputy Administrator
Agency for International Development
320 21st Street N.W.
Washington, D.C. 20523

Dear Mr. Murphy:

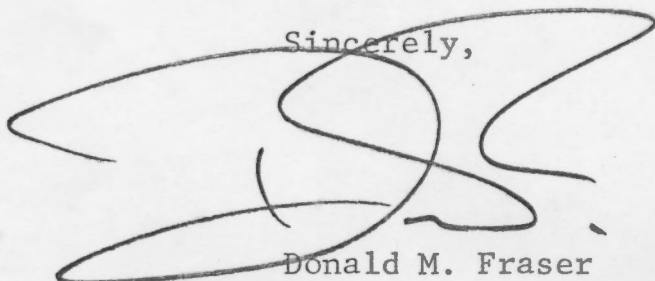
I appreciate your taking time to meet with me December 18 on Dr. Kieffer's resignation. I regret the confusion concerning the appointment.

I'm still not clear concerning the Agency's version of the circumstances surrounding Dr. Kieffer's departure from A.I.D. I remain convinced that the best way to clear the air is to get the Agency's views on the record. I recognize the confidential nature of the information I am asking you to provide.

It is my understanding that Dr. Kieffer also is anxious to have the Agency's views. The sooner I get them, the better I will feel about this.

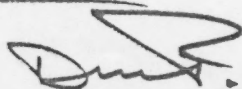
With best wishes.

Sincerely,



Donald M. Fraser

We checked again
with Dr. Kieffer



DEC 29 4 09 PM '75
EXECUTIVE SECRETARIAT



B



DEPARTMENT OF STATE
AGENCY FOR INTERNATIONAL DEVELOPMENT
WASHINGTON, D.C. 20523

February 9, 1976

EYES ONLY

MEMORANDUM FOR: Mr. William L. Parks
Special Assistant to
The Deputy Administrator

FROM : GC, Charles L. Gladson

SUBJECT: Request by Congressman Fraser for Information
Regarding the Resignation of Dr. Kieffer

I have reviewed the application of the Freedom of Information Act, as amended, and the Privacy Act of 1974 to the situation posed in your February 3, 1976 note and enclosures.

From the nature of Congressman Fraser's requests and the draft reply (#2) I assume the information asked for involves information and documents under the Privacy Act as well as documents of the Agency that come within the purview of the FOIA.

1) It is my assumption that some of the information may exist in Record System AID-12 - "Executive Assignments Records" under the Privacy Act (40 Fed. Reg. 45776, Oct. 2, 1975). This system is reported as "confidential", is located in the Office of the Deputy Administrator and relates to "applicants for employment and present AID employees." The AID Notice concerning the retention and disposal of this system of records states:

"Applicant's file kept for one year and then reviewed for status. Employee's file kept until employee retires, transfers, or resigns. Files destroyed by shredding or burning."

In respect of furnishing Congressman Fraser information that is personal information pertaining to Dr. Kieffer, it is my view that a reply such as is drafted could not be

EYES ONLY

furnished without the consent of Dr. Kieffer. I am mindful that such consent is likely to be obtained and furnished to AID, but until it is I do not find that AID is authorized to provide Mr. Fraser the information he has asked for, namely the reasons for the requested resignation of Dr. Kieffer.

Under the Privacy Act, disclosure to the Congress could be made without consent of the individual to whom the record pertains (subsection (b)(9)). The authorization of the statute reads:

"To either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee."

The OMB guidelines note: "This language does not authorize the disclosure of a record to members of Congress acting in their individual capacities without the consent of the individual." (Sec. 32.172(9)).

It is further noted that "disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual", and "furthermore, when the Congressional inquiry indicates that the request is being made on the basis of a written request from the individual to whom the record pertains, consent can be inferred even if the constituent letter is not provided to the Agency." (OMB Guidelines Sec. 32.172(9)).

The letter from Mr. Fraser does not indicate that he has written consent from Dr. Kieffer to obtain information involving Dr. Kieffer's personal privacy, and hence does not come within the OMB guidelines.

If the information sought constitutes documentary information under the Freedom of Information Act, insofar as it constitutes personal ... and similar files, "the disclosure of which would constitute unwarranted invasion of personal privacy", the information could not be disclosed by virtue of the sixth exemption (b-6). Hence, in the absence of consent by Dr. Kieffer, AID could not furnish information that is personal, the disclosure of which would constitute unwarranted invasion of personal



privacy. The fact that the request is from a Congressman does not appear to require any different treatment under the FOI Act then is required under the Privacy Act.

Sec. 552(c) of the FOIA states: "... This section is not authority to withhold information from Congress."

The House Report on the 1966 Act which enacted the Sec. 552(c) language stated:

"Members of the Congress have all of the rights of access guaranteed to 'any person' by S. 1160 and the Congress has additional rights of access to all Government information which it deems necessary to carry out its functions" (Hearings - p. 23).

The Senate Report on the same provision said:

"Further, it is made clear that because this section only refers to the public's right to know, it cannot, therefore, be backhandedly construed as authorizing the withholding of information from the Congress, the collective representative of the public."

Thus, in the FOI Act, "Congress" and "Members of Congress" are distinguished in a manner similar to that in the Privacy Act and the OMB guidelines. In the collective representative of the public sense Congress is entitled to information where an over-riding public purpose is established. But the Members of Congress have the rights of access guaranteed to any person which in the case of the personal record disclosure of which would constitute invasion of personal privacy warrants denial by the Agency under Exemption (b-6) unless consented to by the individual concerned.

For these reasons I conclude a reply such as contemplated could not be furnished to Mr. Fraser without the prior express consent of Dr. Kieffer.

2) The prior authorization of the President to furnish a reply to Congressman Fraser along the lines suggested would appear necessary. Dr. Kieffer served under a Presidential appointment, with the advice and consent of the Senate, pursuant to Section 624 of the Foreign Assistance Act of 1961, as amended. In this



capacity he served at the pleasure of the President. Equally, his resignation was mandatory at the request of the President and the President is under no constraint to inform Congress or anyone else concerning his reasons for removal or requesting a resignation. Responding to Congressman Fraser's request for an explanation or report as to the reasons for Dr. Kieffer's resignation may be at variance with Presidential policies and create a trend or practice which may be contrary to the wishes of the President.

In the circumstances it would not appear appropriate for the Agency to furnish a response to Congressman Fraser or develop a practice of providing explanations to Congress without prior submission to and clearance by the White House.

3) Should the President authorize furnishing an explanation to Mr. Fraser and should Dr. Kieffer consent to the information and records pertaining to his privacy being furnished to Mr. Fraser, it would seem advisable to bring to Mr. Fraser's attention that he may be under restraints similar to those confronting AID in disclosing the record to persons other than Dr. Kieffer, since the provision of consent in the Privacy Act is on the authorization and on behalf of the person to whom the record pertains. The authorization for purposes of disclosing personal information under the FOI Act would not appear to provide any wider latitude since it is not a release to the "public" but a furnishing of personal information to a representative of the individual concerned. It would appear to require additional express authority from Dr. Kieffer to Congressman Fraser to permit the wider dissemination of the information. This, of course, is not a matter of concern to AID, and is intended only to gratuitously invite Mr. Fraser's attention to additional possible responsibilities in seeking this information.



NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
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REASON FOR WITHDRAWAL Donor restriction

TYPE OF MATERIAL Memo(s)

CREATOR'S NAME Buchen, Philip

RECEIVER'S NAME Bennett, Doug

DESCRIPTION Mitchell P. Kobelinski and the Small
Business Administration.

CREATION DATE 01/13/1976

COLLECTION/SERIES/FOLDER ID . 001900424

COLLECTION TITLE Philip W. Buchen Files

BOX NUMBER 38

FOLDER TITLE Personnel - Conflict of Interest, G-Z

DATE WITHDRAWN 08/26/1988

WITHDRAWING ARCHIVIST LET