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UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION
WASHINGTON, D. C. 20405

ADMINISTRATOR

December 23, 1974

Mr. Philip Buchen
Council to the President
White House
Washington, D.C.

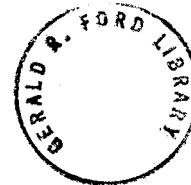
Dear Mr. Buchen:

I'm enclosing for your information, a draft copy of temporary regulations pursuant to the Presidential Recordings and Materials Preservation Act; providing for access to the Nixon Presidential materials for the Special Prosecutor, the former President, and federal agencies.

Sincerely,

Arthur F. Sampson
Administrator

Enclosure



TITLE 41 - PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

CHAPTER 105 - GENERAL SERVICES ADMINISTRATION

PART 105-63 - PRESERVATION AND PROTECTION
OF AND ACCESS TO THE PRESIDENTIAL
MATERIALS OF THE NIXON ADMINISTRATION

§105-63.000 - Scope of Part.

This part sets forth policies and procedures concerning the preservation and protection of and access to the tape recordings, papers, documents, memorandums, transcripts, and other objects and materials which constitute the Presidential materials of Richard M. Nixon, covering the period beginning January 20, 1969, and ending August 9, 1974.

SUBPART 105-63.1 - GENERAL PROVISIONS

§105-63.101 - Purpose.

This part 105-63 implements the provisions of Title I of the Presidential Recordings and Materials Preservation Act (Public Law 93- ; 88 Stat. ; 44 U.S.C. et seq.). It prescribes policies and procedures by which the General Services Administration will preserve, protect and provide access to the Presidential materials of the Nixon Administration.

§105-63.102 - Application.

This part 105-63 applies to all of the Presidential materials of the Nixon Administration in the custody of the Administrator



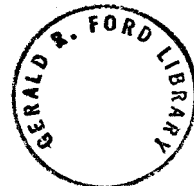
of General Services pursuant to the provisions of Title I of the Presidential Recordings and Materials Preservation Act, 44 U.S.C. et seq.

§105-63.103 - Legal Custody.

The Administrator of General Services has legal custody and control of all Presidential historical materials of the Nixon Administration held pursuant to the provisions of the Presidential Recordings and Materials Preservation Act, 44 U.S.C. et. seq.

§105-63.104 - Definitions.

[Reserved]



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SUBPART 105-63.2 - PRESERVATION AND
PROTECTION

§105-63.201 - Responsibility.

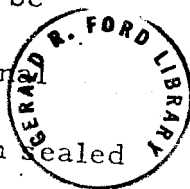
The Administrator of General Services or his designated agent is responsible for the preservation and protection of the materials. He may arrange with other Federal agencies for assistance in preserving and protecting the materials.

§105-63.202 - Security.

The Administrator or his designated agent will control access to all areas designated as security areas. Such control will include:

(a) Physical possession of all keys which control access to the security areas. A copy of each key will be deposited in locations designated by current fire and/or national security regulations with instructions that such keys may only be used in instances where the materials or their environs are subject to damage or loss. All such emergency use shall be reported to the Administrator or his designated agent as soon as possible.

(b) Exclusive knowledge of all lock combinations which control access to the security areas. Copies of the combinations are to be placed in such locations as required by current fire and/or national security regulations and with the GSA Securities Division (BIS) in sealed envelopes with instructions that the envelopes may be opened only in instances where the materials or their environs are subject to damage



or loss. All such emergency use shall be reported to the Administrator or his designated agent as soon as possible.

§105-63.203 - Security Areas.

All materials currently stored in areas secured by Executive Protection Service controlled alarm systems will continue to be stored in these or equally secure areas unless specifically exempted, in writing, from such security by the Administrator or his designated agent.

§105-63.204 - Work Areas.

The Administrator or his designated agent shall provide for appropriate locations within the Metropolitan Area of the District of Columbia as work areas to be used for the purpose of inventorying, indexing, reviewing, and/or copying materials in accordance with appropriate authorizations. When in use, security in such work areas will be equivalent to that in effect in the storage area from which the materials are removed, unless the administrator or his designated agent waives such equivalent security in writing.

§105-63.205 - Access Procedures.

(a) Each access authorized under this Part is to be preceded by the Administrator or his designated agent's receiving and/or preparing appropriate documentary authorization.

(b) Each access is to be thoroughly documented and such documentation shall include:



- (1) reasons for the access;
- (2) time of the access;
- (3) individuals involved in the access;
- (4) record of all activities during the access;
- (5) record of all materials removed, if any;
- (6) time of the completion of the access.

(c) Each access to the security areas will occur only in the presence of the Administrator or his designated agent. At least two persons shall be present at all times that the security areas are occupied.

(d) All security areas which currently require the presence of the Secret Service during access and such other security areas as are designated by the Administrator or his designated agent will continue to require the presence of one or more representatives of the Secret Service or such other Federal security agency as is designated by the Administrator or his designated agent.

(e) If any of the materials now located in security areas requiring the presence of Secret Service during access are moved to other locations, access to such new locations will also require the presence of security agents as provided in paragraph (d), supra, unless specifically exempted in writing by the Administrator or his designated agent.

(f) Whenever possible, a copy, which shall be certified upon request, and not the original of documentary material shall be provided to comply with a subpoena or other lawful process or request. Whenever the original of documentary material is removed, a certified copy of the material shall be inserted in the proper file until the return of the original.



§105-63.206 - Extraordinary Authority During Emergencies.

In the event of an emergency that threatens the physical preservation of the materials, or their environs, the Administrator or his designated agent may take such steps as may be necessary, including removal of the materials to temporary locations outside the Metropolitan Area of the District of Columbia, in order to preserve and protect the materials in accordance with the Act.



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SUBPART 105-63.3 - ACCESS TO MATERIALS BY
FORMER PRESIDENT NIXON, THE SPECIAL
PROSECUTOR, OTHER FEDERAL AGENCIES
AND FOR USE IN ANY JUDICIAL PROCEEDING

§105-63.301 - Access by Former President Nixon.

In accordance with the provisions of Subpart 105-63.2 of this Part, former President Richard M. Nixon or his designated agent shall at all times have access to the historical materials covered by the Act and in the custody and control of the Administrator of General Services.

§105.63.302 - Access by the Special Prosecutor.

The Special Prosecutor or his designated agent shall at all times have priority access to the materials relevant and important to ongoing criminal investigations and prosecutions within his jurisdiction. Access shall be in accordance with the agreement among the Special Prosecutor, the Counsel to the President, the Director of the Secret Service and the Administrator of General Services of November 9, 1974, infra, with the exceptions that all references to the Counsel to the President shall now refer to the Administrator of General Services and all references to the White House or the White House complex shall now refer to areas under the control of the Administrator of General Services at which the materials are stored and secured.

WHEREAS, Gerald R. Ford, President of the
United States, has determined and informed his
Counsel that the due administration of justice



and the public interest require that the Special Prosecutor have prompt and effective use of those Presidential materials of the Nixon Administration now located in the White House complex that are relevant and important to ongoing criminal investigations and prosecutions within the Special Prosecutor's jurisdiction; and

WHEREAS, this Agreement, if implemented, would accommodate the needs of the Special Prosecutor with respect to such materials;

NOW, THEREFORE, the undersigned have agreed as follows:

1. Upon letters from the Special Prosecutor to Counsel to the President specifying those materials that he has reason to believe are relevant to specified criminal investigations or prosecutions within the Special Prosecutor's jurisdiction and explaining why access to such materials is important to a full and fair resolution of those investigations and prosecutions, the Special Prosecutor or his designees shall be afforded access to the materials under the following procedures:

a. Documents

1. Where files are organized by subject matter, only those files may be examined which, because of their titles, may contain documents relevant to these specified investigations and prosecutions.

2. Where files are organized chronologically, only that portion of the file covering the time period relevant to the request may be examined.

3. Where no chronological or subject label is on a file, the file may be examined to determine whether the file contains relevant materials.

4. In order to assist in these searches, the Special Prosecutor may request



the assistance of members of the archival staff assigned to the House in making a list of file titles or of index.

b. Recordings: Only the tape recordings of conversations specified by letters according to the above procedures may be listened to.

2. The Special Prosecutor shall be allowed to make copies of only those tapes of conversations and documents he determines are relevant to criminal investigations or prosecutions within his jurisdiction. Subject to the Special Prosecutor receiving such copies, Counsel to the President may review the copies to determine whether they may not be disclosed for reasons of national security. The originals of all tapes and documents, copies of which are provided to the Special Prosecutor, shall be retained, if necessary for a criminal proceeding, and given to the Special Prosecutor in exchange for the copies.

3. Richard Nixon or his attorney or designated agent shall be given notice of, and may be present during searches pursuant to this Agreement. Also, Nixon or his attorney or designated agent, shall be given access to and/or copies of those tapes of conversation and documents for which he is allowed copies. The President also may designate individuals to be present during those searches.

4. No Confidential materials shall be removed to locations in Washington, DC other than the White House complex without the approval of the Special Prosecutor and portions of such materials shall not be removed to locations outside of the District of Columbia without indication from the Special Prosecutor that there is no further need for such portions, except by court order.

5. The provisions of this Agreement shall move jointly to modify, if necessary, the temporary



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restraining order as now outstanding in Civil Action No. 74-1518 and in consolidated cases in the United States District Court for the District of Columbia to permit implementation of this Agreement.

s/
Philip W. Buchen
Counsel to the President

s/
Arthur F. Sampson
Administrator of General Services

s/
H. Stuart Knight
Director, United States Secret
Service

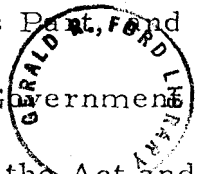
s/
Henry S. Ruth, Jr.
Special Prosecutor
Watergate Special Prosecution
Force

§105-63.303 - Access by Other Federal Agencies.

In accordance with the provisions of Subpart 105.63.2 of this Part, any Federal agency or department in the Executive branch shall at all times have access for lawful Government use to the historical materials covered by the Act and in the custody and control of the Administrator of General Services.

§105-63.304 - Access for Use in Judicial Proceedings.

In accordance with the provisions of Subpart 105-63.2 of this Part, and subject to any rights, defenses or privileges which the Federal Government or other person may invoke, the historical materials covered by the Act and in the custody and control of the Administrator of General Services will be



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made available for use in any judicial proceeding, and are subject to subpoena or other lawful process.

SUBPART 105-63.4 - ACCESS BY THE
PUBLIC

[Reserved]



January 16, 1975

Dear Mr. Sampson:

Your letter to Don Rumsfeld of January 14th has been referred to me.

In the future, you should refer such matters directly to Phil Buchen, Counsel to the President, who's responsible for handling these and related issues.

Sincerely,

Richard B. Cheney
Deputy Assistant to the President

Honorable Arthur F. Sampson
Administrator
General Services Administration
Washington, D. C. 20405

✓ bcc: Phil Buchen with incoming for follow-up





UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION
WASHINGTON, D. C. 20405

ADMINISTRATOR
January 14, 1975

*Dick
handle w/
Buckner*

Honorable Donald H. Rumsfeld
Assistant to the President
The White House
Washington, D. C. 20500

Dear Mr. Rumsfeld:

The January 14, 1975, Federal Register will contain regulations promulgated pursuant to the Presidential Recordings and Materials Preservation Act (Public Law 93-526; 88 Stat.). The regulations provide for access to the materials by the Former President; government agencies, including the Special Prosecutor; and for use in Judicial proceedings. In addition, the regulations provide for preservation and protection of the records as required by Section 103 of the Act.

Because of outstanding orders from Judge Richey of the United States District Court for the District of Columbia in the case of Nixon v. Sampson, and certain agreements of counsel in that case, the Act cannot be immediately implemented. The publication in the Federal Register invites comments on the regulations.

If and when the court takes action which will permit us to do so, we will implement the regulations immediately. In the meantime, work is proceeding to draft regulations providing for public access to the records. Those regulations will be submitted to Congress in accordance with the law.

I will keep you informed of our progress in these areas.

Sincerely,

Arthur F. Sampson



GSA

March 19, 1975

To: Mr. Casselman

From: Eva

Mr. Buchen asked if you would prepare an acknowledgment of the copy sent to the President for Mr. Buchen's signature.

Also one to acknowledge the copy to Mr. Buchen.

Thanks.



GSA

Wednesday 3/19/75

3:20 Bob Linder brought up the letter to the President from Sampson with his copy of the report to the Congress on the Presidential Recordings and Materials Preservation Act -- and thought you would want to acknowledge it for the President.

Mr. Linder said if you didn't want the report, he'd like to have it.

You have just received one also.

(I checked with Casselman's office to see if they received one, and they have not as yet.)





UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION
WASHINGTON, D. C. 20405

ADMINISTRATOR

March 19, 1975

The President
The White House
Washington, D. C. 20500

Dear Mr. President:

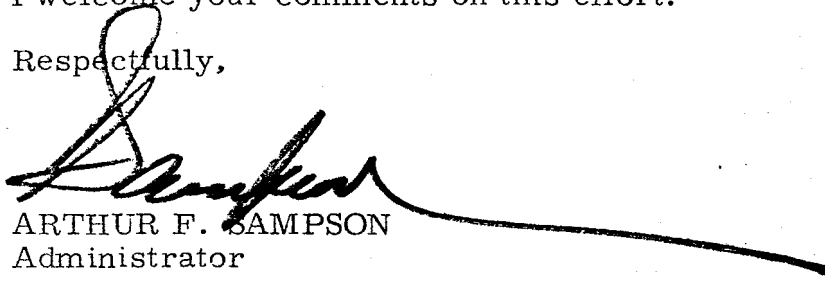
Enclosed is a copy of our report to the Congress on the Presidential Recordings and Materials Preservation Act, submitted to the Congress today.

The regulations contained in this report will become law unless the Congress acts to reject them within 90 legislative days. These procedures for the processing, restriction, and public release of Presidential materials could affect not only those of former President Nixon, but perhaps those of succeeding Presidents as well. They could, therefore, have a profound impact on the way in which the Presidency is documented and viewed by the American people.

We have tried to develop regulations which are fully responsive to the Act but which also protect classified information and individual rights.

I welcome your comments on this effort.

Respectfully,


ARTHUR F. SAMPSON
Administrator

Enclosure





UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION
WASHINGTON, D. C. 20405

ADMINISTRATOR

March 19, 1975

Honorable Philip W. Buchen
Counsellor to the President
The White House
Washington, D.C. 20500

Dear Mr. Buchen:

Enclosed is a copy of our report to the Congress on the Presidential Recordings and Materials Preservation Act, submitted to the Congress today.

The regulations contained in this report will become law unless the Congress acts to reject them within 90 legislative days. These procedures for the processing, restriction, and public release of Presidential materials could affect not only those of former President Nixon, but perhaps those of succeeding Presidents as well. They could, therefore, have a profound impact on the way in which the Presidency is documented and viewed by the American people.

We have tried to develop regulations which are fully responsive to the Act but which also protect classified information and individual rights.

I welcome your comments on this effort.

Sincerely,



ARTHUR F. SAMPSON
Administrator

Enclosure



UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION
WASHINGTON, DC 20405



Access
Original
sent to
Cassidy
1/7/75

January 6, 1975

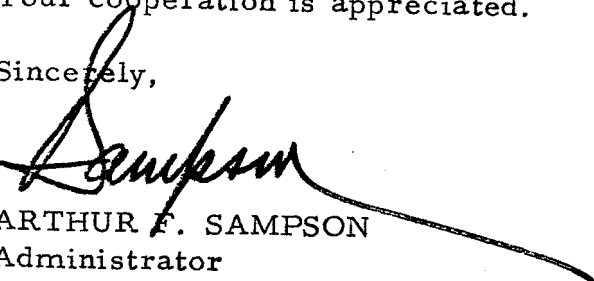
Honorable Philip W. Buchen
Counsel to the President
The White House
Washington, DC 20500

Dear Mr. Buchen:

Enclosed please find a copy of the latest version of our proposed temporary regulations pertaining to access to materials covered by the Presidential Recordings and Materials Preservation Act (P. L. 93-526). Please provide me with any written comments you care to make no later than 4:30 p.m. Tuesday, January 7, 1975.

Your cooperation is appreciated.

Sincerely,


ARTHUR F. SAMPSON
Administrator

Enclosure



Keep Freedom in Your Future With U.S. Savings Bonds

January 3, 1975

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TITLE 41 - PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

CHAPTER 105 - GENERAL SERVICES ADMINISTRATION

PART 105-63 - PRESERVATION AND PROTECTION
OF AND ACCESS TO THE PRESIDENTIAL
MATERIALS OF THE NIXON ADMINISTRATION

§105-63.000 Scope of part.

This Part sets forth policies and procedures concerning the preservation and protection of and access to the tape recordings, papers, documents, memorandums, transcripts, and other objects and materials which constitute the Presidential materials of Richard M. Nixon, covering the period beginning January 20, 1969, and ending August 9, 1974.

SUBPART 105-63.1 - GENERAL PROVISIONS

§105-63.101 Purpose.

This Part 105-63 implements the provisions of Title I of the Presidential Recordings and Materials Preservation Act (Public Law 93-526; 88 Stat.). It prescribes policies and procedures by which the General Services Administration will preserve, protect, and provide access to the Presidential materials of the Nixon Administration.

§105-63.102 Application.

This Part 105-63 applies to all of the Presidential materials of the Nixon Administration in the custody of the Administrator of General Services pursuant to the provisions of Title I of the Presidential Recordings and Materials Preservation Act (Public Law 93-526; 88 Stat.).



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§105-63.103 Legal custody.

The Administrator of General Services has legal custody and control of all Presidential historical materials of the Nixon Administration held pursuant to the provisions of the Presidential Recordings and Materials Preservation Act (Public Law 93-526; 88 Stat.).

§105-63.104 Definitions.

[Reserved]



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SUBPART 105-63.2 - PRESERVATION AND
PROTECTION

§ 105.63.201 Responsibility.

The Administrator of General Services or his designated agent is responsible for the preservation and protection of the Presidential materials. He may arrange with other Federal agencies for assistance in their preservation and protection.

§ 105-63.202 Security.

The Administrator of General Services or his designated agent will control access to all areas designated as security areas. That control will include:

(a) Physical possession of all keys that control access to the security areas (A copy of each key will be deposited in locations designated by current fire and/or national security regulations with instructions that these keys may be used only in instances in which the materials or their environs are subject to damage or loss. All such emergency use shall be reported to the Administrator of General Services or his designated agent as soon as possible.); and

(b) Exclusive knowledge of all lock combinations that control access to the security areas. Copies of the combinations will be placed in such locations as are required by current fire and/or national security regulations and with the GSA Security Division (BIS), Office of Administration, in sealed envelopes with instructions that the envelopes may be



opened only in instances in which the materials or their environs are subject to damage or loss. All such emergency use shall be reported to the Administrator of General Services or his designated agent as soon as possible.

§ 105-63.203 Security areas.

All materials currently stored in areas secured by Executive Protection Service controlled alarm systems shall continue to be stored in these or equally secure areas unless they are specifically exempted in writing from such security by the Administrator of General Services or his designated agent.

§ 105-63.204 Work areas.

The Administrator of General Services or his designated agent will provide appropriate locations within the Metropolitan Area of the District of Columbia as work areas to be used for the purpose of inventorying, indexing, reviewing, and/or copying materials in accordance with appropriate authorizations. When such work areas are in use, security shall be equivalent to that in effect in the storage area from which the materials are removed unless the Administrator of General Services or his designated agent waives such equivalent security in writing.

§ 105-63.205 Access procedures.

(a) The Administrator of General Services or his designated agent will receive and/or prepare appropriate documentary authorization before



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each access authorized under this Part 105-63.

(b) Each access is to be thoroughly documented, and each documentation shall include:



- (1) Reasons for the access;
- (2) Time of the access;
- (3) Individuals involved in the access;
- (4) Record of all activities during the access;
- (5) Record of all materials removed, if any; and
- (6) Time of the completion of the access.

(c) The Administrator of General Services or his designated agent shall provide former President Nixon or his designated attorney or agent prior notice of, and allow him to be present during, each authorized access.

(d) Each access to the security areas shall occur only in the presence of the Administrator of General Services or his designated agent. At least two persons shall be present at all times that the security areas are occupied.

(e) All security areas which currently require the presence of the U. S. Secret Service during access and such other security areas as are designated by the Administrator of General Services or his designated agent shall continue to require the presence of one or more representatives of the U. S. Secret Service or such other Federal security agency as is designated by the Administrator of General Services or his designated agent.

(f) If any of the materials now located in security areas requiring the presence of U. S. Secret Service during access are moved to other locations, access to such new locations shall also require the presence of security agents as provided in paragraph (d), above, unless their presence is specifically exempted in writing by the Administrator of General Services or his designated agent.



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(g) Whenever possible, a copy, which shall be certified upon request, instead of the original documentary material shall be provided to comply with a subpoena or other lawful process or request. Whenever the original documentary material is removed, a certified copy of the materials shall be inserted in the proper file until the return of the original.

\$105-63.206 Extraordinary authority during emergencies.

In the event of an emergency that threatens the physical preservation of the materials or their environs, the Administrator of General Services or his designated agent may take such steps as may be necessary, including removal of the materials to temporary locations outside the Metropolitan Area of the District of Columbia, to preserve and protect the materials.



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SUBPART 105-63.3 - ACCESS TO MATERIALS BY
FORMER PRESIDENT NIXON, FEDERAL AGENCIES,
AND FOR USE IN ANY JUDICIAL PROCEEDING

§105-63.301 Access by former President Nixon.

In accordance with the provisions of Subpart 105-63.2, former President Richard M. Nixon or his designated agent shall at all times have access to the historical materials in the custody and control of the Administrator of General Services.

§105-63.302 Access by Federal agencies.

§105-63.302-1 Access by the Special Prosecutor.

The Special Prosecutor or his designated agent shall at all times have priority access to the materials relevant and important to ongoing criminal investigations and prosecutions within his jurisdiction. The Administrator of General Services will implement this access only after the Counsel to the President has determined that the access is in accordance with the agreement of November 9, 1974, among the Special Prosecutor, the Counsel to the President, the Director of the Secret Service and the Administrator of General Services, included in this §105-63.302-1, and has transmitted the Special Prosecutor's request for access to the Administrator of General Services for his determination that the access is authorized under this Part. The agreement reads as follows:

WHEREAS, Gerald R. Ford, President of the United States, has determined and informed his Counsel that the due administration of justice



and the public interest require that the Special Prosecutor have prompt and effective use of those Presidential materials of the Nixon Administration now located in the White House complex that are relevant and important to ongoing criminal investigations and prosecutions within the Special Prosecutor's jurisdiction; and

WHEREAS, this Agreement, if implemented, would accommodate the needs of the Special Prosecutor with respect to such materials;

NOW, THEREFORE, the undersigned have agreed as follows:

1. Upon letters from the Special Prosecutor to Counsel to the President specifying those materials that he has reason to believe are relevant to specified criminal investigations or prosecutions within the Special Prosecutor's jurisdiction and explaining why access to such materials is important to a full and fair resolution of those investigations and prosecutions, the Special Prosecutor or his designees shall be afforded access to the materials under the following procedures:

a. Documents

1. Where files are organized by subject matter, only those files may be examined which, because of their titles, may contain documents relevant to these specified investigations and prosecutions.

2. Where files are organized chronologically, only that portion of the file covering the time period relevant to the request may be examined.

3. Where no chronological or subject label is on a file, the file may be examined to determine whether the file contains relevant materials.

4. In order to assist in these searches, the Special Prosecutor may request



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the assistance of members of the archival staff assigned to the White House in making a list of file titles or other index.

b. Tape Recordings: Only the tape recordings of conversations specified by letters according to the above procedures may be listened to.

2. The Special Prosecutor shall be allowed to make copies of only those tapes of conversations and documents that he determines are relevant to criminal investigations or prosecutions within his jurisdiction. Prior to the Special Prosecutor receiving such copies, Counsel to the President may review the copies to determine whether they may not be disclosed for reasons of national security. The originals of any tapes and documents, copies of which are provided to the Special Prosecutor, shall be retained and, if necessary for a criminal proceeding, will be given to the Special Prosecutor for such proceeding in exchange for the copies.

3. Richard M. Nixon or his attorney or designated agent shall be given notice of, and may be present during, searches pursuant to this Agreement. Also, Mr. Nixon or his attorney or designated agent, shall be afforded access to and/or copies of those tapes of conversation and documents for which the Special Prosecutor is allowed copies. The Counsel to the President also may designate individuals to be present during those searches.

4. No Presidential materials shall be removed to locations in Washington, DC other than the White House complex without the approval of the Special Prosecutor and no portions of such materials shall be removed to locations outside of the District of Columbia without an indication from the Special Prosecutor that he has no further need for such portions, except upon court order.

5. The parties to this Agreement shall move jointly to modify, if necessary, the temporary



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restraining order as now outstanding in Civil Action No. 74-1518 and in consolidated cases in the United States District Court for the District of Columbia to permit implementation of this Agreement.

s/
Philip W. Buchen
Counsel to the President

s/
Arthur F. Sampson
Administrator of General Services

s/
H. Stuart Knight
Director, United States Secret
Service

s/
Henry S. Ruth, Jr.
Special Prosecutor
Watergate Special Prosecution
Force

§ 105-63.302-2 Access by other Federal agencies.

In accordance with the provisions of Subpart 105-63.2, any Federal agency or department in the executive branch shall at all times have access for lawful Government use to the historical materials in the custody and control of the Administrator of General Services.

§ 105-63.303 Access for use in judicial proceedings.

In accordance with the provisions of Subpart 105-63.2, and subject to any rights, defenses, or privileges which the Federal Government or other person may invoke, the historical materials in the custody and



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control of the Administrator of General Services will be made available for use in any judicial proceeding, and are subject to subpoena or other lawful process.

SUBPART 105-63.4 - (Reserved)



THE WHITE HOUSE

WASHINGTON

January 11, 1975

Dear Mr. Sampson:

This is in response to your letter to Mr. Buchen of January 6, 1975, enclosing a copy of the temporary regulations proposed by the General Services Administration regarding access to materials covered by the Presidential Recordings and Materials Preservation Act (P.L. 94-526). In accordance with the views expressed orally to the GSA Office of General Counsel by Mr. Buchen and myself, we offer the following informal comments:

§ 105-63.00. This section refers to "Presidential materials of Richard M. Nixon." Succeeding sections variously refer to "Presidential materials of the Nixon Administration," "Presidential historical materials of the Nixon Administration," "Presidential materials," "materials," and "historical materials." We recommend that, wherever possible, a uniform reference be made to "historical materials," as defined in 44 USC 2101 and used in Section 101(b)(2) of the Act.

§ 105-63.103. To make it unequivocally clear that the Administrator of General Services has sole legal custody and control of the materials, we recommend that the word "exclusive" be inserted after the word "has" in line 1 of this section. Additional consideration might be given to the inclusion of language requiring other Federal officials to promptly notify the General Services Administration and/or the Department of Justice whenever a subpoena (or other request for access) is directed to such officials rather than to the Administrator.

§ 105-63.205. We suggest that this section be amended to require that all persons afforded access to security areas have appropriate security clearances consistent with and equivalent to the highest security classification given to the materials contained in those areas.

§ 105-63.302-1. We recommend that this section be recast to be clearly applicable only to access by the Special Prosecutor upon letter request to the Counsel to the President. This section should also state that it is not intended to preclude other access by the Special Prosecutor by subpoena or other lawful process.



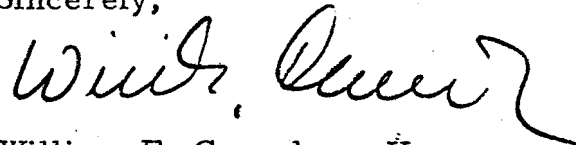
§ 105-63.302-2. This section should be made applicable to access by the White House, as well as access by a Federal agency or department in the executive branch. We propose that this be accomplished by defining "Federal agency" in § 63.104 to include the White House for purposes of these regulations.

§ 105-63.303. We recommend that this section be amended to provide adequate notice to the Counsel to the President of a request for the production of materials relating to national security or foreign relations. This will permit a review of such materials prior to their production for purposes of determining whether they should be withheld by the President under a claim of privilege.

Consideration should be given to the insertion of language permitting former White House staff members to be afforded access to materials comprising their files, subject to any rights, defenses, and privileges which may be invoked, for purposes connected with judicial proceedings. "Judicial proceedings" should be defined in § 63.104 to include criminal investigations.

We appreciate the opportunity to comment on these proposed temporary regulations.

Sincerely,



William E. Casselman II
Counsel to the President

Honorable Arthur F. Sampson
Administrator
General Services Administration
Washington, D.C. 20405

cc: Philip W. Buchen





UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION
WASHINGTON, D. C. 20405

ADMINISTRATOR

March 3, 1975

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

Dear Mr. Buchen:

Pursuant to Public Law 93-526, General Services Administration will submit to Congress, on March 19, proposed regulations covering public access of the Presidential recordings and documents of Richard M. Nixon. When they are submitted, I trust they will merit your full support.

With this in mind, I would welcome any comments or suggested modifications you may have on the enclosed draft regulations. In view of the time constraints, occasioned by printing and other requirements, I would appreciate receiving your comments and suggestions by this Friday, March 7. Members of my staff and I are prepared to meet with you or your staff during the week.

I deeply appreciate the assistance you and your staff have provided in preparing these regulations.

Sincerely,

Arthur F. Sampson
Administrator



TITLE 41 - PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

CHAPTER 105 - GENERAL SERVICES ADMINISTRATION

**PART 105-63 - PRESERVATION AND PROTECTION OF AND ACCESS
TO THE PRESIDENTIAL HISTORICAL MATERIALS OF THE
NIXON ADMINISTRATION**

Chapter 105 is amended by the addition of new Part 105-63,
as follows:

Sec.

105-63.000 Scope of part.

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- 105-63.102 Application.
- 105-63.103 Possession and custody.
- 105-63.103-1 Possession.
- 105-63.103-2 Legal custody.
- 105-63.104 Definitions.
- 105-63.105 Requests or demands for access.

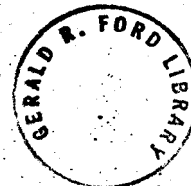
SUBPART 105-63.2 - PRESERVATION AND PROTECTION

- 105-63.201 Responsibility.
- 105-63.202 Security.
- 105-63.203 Security areas.
- 105-63.204 Work areas.
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**SUBPART 105-63.3 - ACCESS TO MATERIALS BY FORMER PRESIDENT
NIXON, FEDERAL AGENCIES, AND FOR USE IN ANY JUDICIAL
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- 105-63.402 Restrictions.
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- 105-63.402-3 Periodic review of restrictions.
- 105-63.402-4 Deletion of restricted portions.
- 105-63.402-5 Requests for declassification.
- 105-63.403 Reference room locations, hours and rules.
- 105-63.404 Reproduction of tape recordings of Presidential conversations.
- 105-63.405 Reproduction and authentication of other materials.
- 105-63.406 Amendment of regulations.

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\$105-63.000 Scope of part.

This part sets forth policies and procedures concerning the preservation and protection of and access to the tape recordings, papers, documents, memorandums, transcripts, and other objects and materials which constitute the Presidential historical materials of Richard M. Nixon, covering the period beginning January 20, 1969, and ending August 9, 1974.

SUBPART 105-63.1 - GENERAL PROVISIONS

\$105-63.101 Purpose.

This Part 105-63 implements the provisions of Title I of the Presidential Recordings and Materials Preservation Act (Public Law 93-526; 88 Stat. 1695). It prescribes policies and procedures by which the General Services Administration will preserve, protect, and provide access to the Presidential historical materials of the Nixon Administration.

\$105-63.102 Application.

This Part 105-63 applies to all of the Presidential historical materials of the Nixon Administration in the custody of the Administrator of General Services pursuant to the provisions of Title I of the Presidential Recordings and Materials Preservation Act (Public Law 93-526; 88 Stat. 1695).

\$105-63.103 Possession and custody.

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§105-63.103-1 Possession.

The Administrator of General Services shall receive, retain, or make reasonable effort to obtain, complete possession and control of Presidential historical materials of Richard M. Nixon, covering the period beginning January 20, 1969, and ending August 9, 1974. Reasonable effort shall include public notice and demand by mail upon identifiable individuals who may have Presidential historical materials in their personal possession.

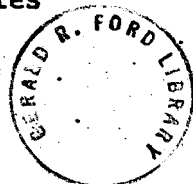
§105-63.103-2 Legal custody.

The Administrator of General Services has exclusive legal custody and control of all Presidential historical materials of the Nixon Administration held pursuant to the provisions of the Presidential Recordings and Materials Preservation Act (Public Law 93-526; 88 Stat. 1695).

§105-63.104 Definitions.

For the purposes of this Part 105-63, the following terms have the meaning ascribed to them in this §105-63.104.

(a) Presidential historical materials. The term "Presidential historical materials" (also referred to as "historical materials" and "materials") shall mean all papers, correspondence, documents, pamphlets, books, photographs, films, motion pictures, sound and video recordings, machine-readable media, plats, maps, models, pictures, works of art, and other objects or materials made or received by former President Richard M. Nixon or by members of his staff in connection with his constitutional and statutory duties



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and political activities as President and retained or appropriate for retention as evidence of or information about these duties and activities. Excluded from this definition are documentary materials of any type that are determined to be the official records of an agency of the Government; private or personal materials; stocks of publications, processed documents, and stationery; and extra copies of documents produced only for convenience of reference, when they are clearly so identified.

(b) Private or personal materials. The term "private or personal materials" shall mean those papers and other documentary or commemorative materials in any physical form relating to a person's family or other non-public activities which have no connection with his constitutional and statutory duties and political activities as President or as a member of the President's staff.

(c) Abuses of governmental power popularly identified under the generic term Watergate. The term "abuses of governmental power popularly identified under the generic term Watergate" (also referred to as "abuses of governmental power"), shall mean the following alleged acts, whether or not established by judicial, administrative or legislative proceedings, conducted, directed or approved by Richard M. Nixon, his staff, or persons associated with him in his Constitutional, statutory or political functions as President:



1. Covert and Illegal Surveillance and Intelligence:

- a. Wiretaps, break-ins, and mail inspection for domestic intelligence purposes, including, but not limited to, the effort known as "The Huston Plan";
- b. Institution or continuation of electronic surveillance and investigation in violation of the constitutional rights of citizens;
- c. Investigative actions by the White House unit known as "the plumbers" aimed at stopping "leaks" of information including, but not limited to, the burglary of the office of Dr. Lewis J. Fielding;
- d. Use of the Central Intelligence Agency and the Federal Bureau of Investigation for investigatory or intelligence purposes not within or contemplated by their legal authority; and
- e. Wiretaps of newsmen and Government officials outside of legally authorized investigative channels.

2. Misuse of Executive Agencies for Political Purposes:

- a. Preparation of "friends" and "enemies" lists and circulation to Federal agencies including, but not limited to, the Internal Revenue Service and Department of Justice, with specific instructions with respect to Federal agency treatment of persons on such lists;

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- b. Dispensing or denying the award of Federal grants, contracts and employment based on political considerations including, but not limited to, the so-called "responsiveness" campaign;
 - c. Gathering of derogatory information from executive agencies about political opponents of the President and release of such information to the media;
 - d. Report of confidential Justice Department and Federal Bureau of Investigation intelligence information to the President's re-election campaign staff;
 - e. Use of the Central Intelligence Agency to obstruct the Federal Bureau of Investigation's Watergate investigation;
 - f. Use of the Internal Revenue Service for harassment and intelligence gathering; and
 - g. Use of the Internal Revenue Service, the Federal Bureau of Investigation, the Department of Justice and the Secret Service to harass and intimidate members of the news media.

3. Misuse of Executive Power for Personal Purposes :

- a. Unnecessary or illegal expenditure of Federal funds on privately owned Presidential property at San Clemente, California, and Key Biscayne, Florida; and



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- b. Use of Federal personnel to assist in establishing a claim to unauthorized deductions for donation of personal papers on Presidential income tax returns.

4. Perpetration of the Watergate Break-in and Cover-up:

- a. Break-ins to the Democratic National Committee Headquarters at the Watergate in Washington, D.C. and related break-ins at other locations;
- b. Making of secret payments to participants in the Watergate break-ins;
- c. Encouraging prospective witnesses to remain silent or give false testimony by offering, or creating an expectation of, favored treatment and consideration;
- d. Efforts to obstruct law enforcement and legislative investigations of the Watergate break-ins; and
- e. Denials of any involvement by White House employees in the Watergate break-ins.

5. Illegal or Unethical Activities in Connection With Political Campaigns:

- a. Authorization and funding of a "dirty tricks" operation designed to disrupt the campaign of opposing or unfriendly candidates including, but not limited to, forgery of documents, character assassination, and physical disruptions of campaign activities by the planting of spies, hecklers, and pickets;



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- b. Attempts to discredit opposing Presidential candidates through demonstrations, unsigned literature, and vote siphoning;
- c. Use of campaign funds for clandestine payments to participants in the Watergate break-in;
- d. Solicitation and cover-up of illegal corporate campaign contributions, including, but not limited to, the so-called "Milk Fund";
- e. Offers of ambassadorships in exchange for campaign contributions;
- f. Submission of fraudulent or misleading campaign funding reports; and
- g. Other violations of the Federal Election Campaign Act of 1971.



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historical significance" shall mean having administrative, legal, research or other historical value as evidence of or information about the constitutional and statutory duties and political activities of the President, which an archivist has determined is of a quality sufficient to warrant the retention by the United States of materials so designated.

(e) Archivist. The term "archivist" shall mean an employee of the General Services Administration who, by education and experience, is specially trained in archival science.

(f) Agency. The term "agency" shall mean any executive department, military department, independent regulatory or nonregulatory agency, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the Government, including the Executive Office of the President. For purposes of §105-63.302 only, the term "agency" shall also include the White House Office.

(g) Administrator. The term "Administrator" shall mean the Administrator of General Services.

(h) Initial archival processing. The term "initial archival processing" shall mean the following generic acts performed by archivists with respect to the Presidential historical materials:



shelving boxes of documents in chronological, alphabetical, numerical or other sequence; surveying and developing a location register and cross-index of the boxes; arranging or rearranging materials; reboxing the documents and affixing labels; producing finding aids such as folder title lists, cross-indexes, and subject lists; reproducing and transcribing tape recordings; reviewing the materials to identify items that appear subject to restriction; identifying items in poor physical condition and assuring their preservation; and identifying materials requiring further processing.

§105-63.105 Requests or demands for access.

Except as provided in §105-63.302-1, below, each agency which receives a request or legal demand for access to Presidential historical materials of the Nixon Administration shall immediately forward the request or demand to the Administrator of General Services.

**SUBPART 105-63.2 - PRESERVATION
AND PROTECTION**

§105-63.201 Responsibility.

The Administrator of General Services or his designated agent is responsible for the preservation and protection of the Presidential historical materials. He may arrange with other Federal agencies, acting pursuant to appropriate Federal authority, for assistance in their preservation and protection.



\$105-63.202 Security.

The Administrator of General Services or his designated agent will control access to all areas designated as security areas.

That control will include:

(a) Physical possession of all keys that control access to the security areas. (A copy of each key will be deposited in locations designated by current fire and/or national security regulations with instructions that these keys may be used only in instances in which the Presidential historical materials or their environs are subject to damage or loss. All such emergency use shall be reported to the Administrator of General Services or his designated agent as soon as possible); and

(b) Exclusive knowledge of all lock combinations that control access to the security areas. Copies of the combinations will be placed in such locations as are required by current fire and/or national security regulations and with the GSA Security Division (BIS), Office of Administration, in sealed envelopes with instructions that the envelopes may be opened only in instances in which the Presidential historical materials or their environs are subject to damage or loss. All such emergency use shall be reported to the Administrator of General Services or his designated agent as soon as possible.

\$105-63.203 Security areas.

All Presidential historical materials currently stored in areas secured by Executive Protection Service controlled alarm systems shall

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continue to be stored in these or equally secure areas unless they are specifically exempted in writing from such security by the Administrator of General Services or his designated agent.

§105-63.204 Work areas.

The Administrator of General Services or his designated agent will provide appropriate locations within the Metropolitan Area of the District of Columbia as work areas to be used for the purpose of inventorying, indexing, reviewing, and/or copying Presidential historical materials in accordance with appropriate authorizations. When such work areas are in use, security shall be equivalent to that in effect in the storage area from which the Presidential historical materials are removed unless the Administrator of General Services or his designated agent waives such equivalent security in writing.

§105-63.205 Archival processing.

When authorized by the Administrator of General Services or his designated agent, archivists may enter the security and work areas for the purposes of performing necessary archival processes on the Presidential historical materials. Access for archival processing shall follow the procedures of paragraphs (a), (b), (c), (g), (h), and (i) of §105-63.206.

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§105-63.206 Access procedures.

(a) The Administrator of General Services or his designated agent will receive and/or prepare appropriate documentary authorization before each access authorized under this Part 105-63.

(b) The Administrator of General Services or his designated agent shall determine that each access is thoroughly documented.

Each documentation shall include:

1. Reasons for the access;
2. Time of the access;
3. Individuals involved in the access, including each individual's degree of security clearance;
4. Record of all activities during the access;
5. Record of all Presidential historical materials removed, if any; and
6. Time of the completion of the access.

(c) The Administrator of General Services or his designated agent will determine that each individual having access to the Presidential historical materials has a security clearance equivalent to the highest degree of national security classification that may be applicable to any of the materials examined.

(d) Prior to each access which may result in the examination of Presidential historical materials that relate to matters of national security, the Administrator of General Services or his designated agent shall notify the Counsel to the President who shall be given the opportunity to examine these materials and raise any objection, defenses, or privileges to prevent or limit the proposed access.



(e) The Administrator of General Services or his designated agent will provide former President Nixon or his designated attorney or agent prior notice of, and allow him to be present during, each authorized access.

(f) Each access to the security areas shall occur only in the presence of the Administrator of General Services or his designated agent. At least two persons shall be present at all times that the security areas are occupied.

(g) All security areas which currently require the presence of the U.S. Secret Service during access and such other security areas as are designated by the Administrator of General Services or his designated agent shall continue to require the presence of one or more representatives of the U.S. Secret Service or such other Federal security agency as is designated by the Administrator of General Services or his designated agent.

(h) If any of the materials now located in security areas requiring the presence of U.S. Secret Service during access are moved to other locations, access to such new locations shall also require the presence of security agents as provided in paragraph (g), above, unless their presence is specifically exempted in writing by the Administrator of General Services or his designated agent.

(i) Whenever possible, a copy, which shall be certified upon request, instead of the original documentary Presidential historical material shall be provided to comply with a subpoena or other lawful process or request. Whenever the original documentary material is removed, a certified copy of the material shall be inserted in the proper file until the return of the original.



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§105-63.207 Extraordinary authority during emergencies.

In the event of an emergency that threatens the physical preservation of the Presidential historical materials or their environs, the Administrator of General Services or his designated agent will take such steps as may be necessary, including removal of the materials to temporary locations outside the Metropolitan Area of the District of Columbia, to preserve and protect the materials.

§105-63.208 Destruction of materials.

No Presidential historical materials subject to these regulations shall be destroyed, except as hereafter may be provided by law.

**SUBPART 105-63.3 - ACCESS TO
MATERIALS BY FORMER PRESIDENT NIXON, FEDERAL
AGENCIES, AND FOR USE IN ANY JUDICIAL
PROCEEDING**

§105-63.301 Access by former President Nixon.

In accordance with the provisions of Subpart 105-63.2, former President Richard M. Nixon or his designated agent shall at all times have access to the Presidential historical materials in the custody and control of the Administrator of General Services.

§105-63.302 Access by Federal agencies.

In accordance with the provisions of Subpart 105-63.2, any Federal agency or department in the executive branch shall at all times have access for lawful Government use to the Presidential



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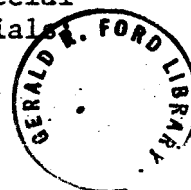
historical materials in the custody and control of the Administrator of General Services.

§105-63.302-1 Access by the Special Prosecutor.

Pursuant to Section 105-63.302, above, the Special Prosecutor or his designated agent shall at all times have priority access to the Presidential historical materials relevant and important to ongoing criminal investigations and prosecutions within his jurisdiction in accordance with the agreement of November 9, 1974, among the Special Prosecutor, the Counsel to the President, the Director of the Secret Service, and the Administrator of General Services. The Administrator of General Services shall provide access pursuant to this subsection after the Counsel to the President has determined that the access is in accordance with the agreement of November 9, 1974, and has transmitted the Special Prosecutor's request for access to the Administrator of General Services for his determination that the access is authorized under this part. The agreement reads as follows:

WHEREAS, Gerald R. Ford, President of the United States, has determined and informed his Counsel that the due administration of justice and the public interest require that the Special Prosecutor have prompt and effective use of those Presidential materials of the Nixon Administration now located in the White House complex that are relevant and important to ongoing criminal investigations and prosecutions within the Special Prosecutor's jurisdiction; and

WHEREAS, this Agreement, if implemented, would accommodate the needs of the Special Prosecutor with respect to such materials



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NOW, THEREFORE, the undersigned have agreed as follows:

1. Upon letters from the Special Prosecutor to Counsel to the President specifying those materials that he has reason to believe are relevant to specified criminal investigations or prosecutions within the Special Prosecutor's jurisdiction and explaining why access to such materials is important to a full and fair resolution of those investigations and prosecutions, the Special Prosecutor or his designees shall be afforded access to the materials under the following procedures:

a. Documents

1. Where files are organized by subject matter, only those files may be examined which, because of their titles, may contain documents relevant to these specified investigations and prosecutions.

2. Where files are organized chronologically, only that portion of the file covering the time period relevant to the request may be examined.

3. Where no chronological or subject label is on a file, the file may be examined to determine whether the file contains relevant materials.

4. In order to assist in these searches, the Special Prosecutor may request the assistance of members of the archival staff assigned to the White House in making a list of file titles or other index.

b. Tape Recordings: Only the tape recordings of conversations specified by letters according to the above procedures may be listened to.

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2. The Special Prosecutor shall be allowed to make copies of only those tapes of conversations and documents that he determines are relevant to criminal investigations or prosecutions within his jurisdiction. Prior to the Special Prosecutor receiving such copies, Counsel to the President may review the copies to determine whether they may not be disclosed for reasons of national security. The originals of any tapes and documents, copies of which are provided to the Special Prosecutor, shall be retained and, if necessary for a criminal proceeding, will be given to the Special Prosecutor for such proceeding in exchange for the copies.

3. Richard M. Nixon or his attorney or designated agent shall be given notice of, and may be present during, searches pursuant to this Agreement. Also, Mr. Nixon or his attorney or designated agent, shall be afforded access to and/or copies of those tapes of conversation and documents for which the Special Prosecutor is allowed copies. The Counsel to the President also may designate individuals to be present during these searches.

4. No Presidential materials shall be removed to locations in Washington, D.C., other than the White House complex without the approval of the Special Prosecutor and no portions of such materials shall be removed to locations outside of the District of Columbia without an indication from the Special Prosecutor that he has no further need for such portions, except upon court order.

5. The parties to this Agreement shall move jointly to modify, if necessary, the temporary restraining order as now outstanding in Civil Action No. 74-1518 and in consolidated cases in the United States District Court for the District of Columbia to permit implementation of this Agreement.

s/
Philip W. Buchen
Counsel to the President



UWVA
s/
Arthur F. Sampson
Administrator of General Services

s/
H. Stuart Knight
Director, United States
Secret Service

s/
Henry S. Ruth, Jr.
Special Prosecutor
Watergate Special Prosecution
Force

§105-63.303 Access for use in judicial proceedings.

In accordance with the provisions of Subpart 105-63.2, and subject to any rights, defenses, or privileges which the Federal Government or any person may invoke, the Presidential historical materials in the custody and control of the Administrator of General Services will be made available for use in any judicial proceeding, and are subject to subpoena or other lawful process. Requests by the Special Prosecutor for access to the Presidential historical materials, whether by court subpoena or other lawful process, including access pursuant to Section 105-63.302-1 shall at all times have priority over any other request for the materials.

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SUBPART 105-63.4 - ACCESS BY THE PUBLIC

§105-63.400 Scope of subpart.

This subpart sets forth policies and procedures concerning public access to the Presidential historical materials of Richard M. Nixon.

§105-63.401 Processing period.

(a) For 30 calendar days following the effective date of the regulations in this subpart or the vacation of court orders preventing their implementation, whichever is later (hereinafter, the "effective date"), the Administrator will refrain from archival processing of any of the Presidential historical materials in the Administrator's custody and control. During this 30-day period, the Administrator will limit activity involving the materials to authorized accesses under Subpart 105-63.3 of this part.

(b) At the end of the 30-day period described in paragraph (a) of this subsection, the Administrator will commence the initial archival processing of the materials. As soon thereafter as is possible, the Administrator will open for public access all of the materials in the Administrator's custody and control which are neither restricted pursuant to §105-63.402 nor subject to outstanding claims or petitions seeking such restriction. The Administrator will open for public access each integral file segment of the materials upon completion of initial archival

processing on that segment. Insofar as practicable, the Administrator will give priority in such initial archival processing to materials relating to abuses of governmental power as defined in §105-63.104(c).

§105-63.401-1 Rights and privileges; right to a fair trial.

(a) Within 90 calendar days from the effective day, any person claiming the need to protect an opportunity to assert a legal or constitutional right or privilege which would prevent or limit public access to any of the materials shall notify the Administrator in writing of the claimed right or privilege and the specific materials to which it relates. After consultation with appropriate Federal agencies, the Administrator will notify the claimant of his decision regarding public access to the pertinent materials. If that decision is adverse to the claim, the Administrator will refrain from providing public access to the pertinent materials for at least 15 calendar days from receipt by the claimant of notice of such adverse decision.

(b) Within 90 calendar days from the effective date, officers of any Federal, State, or local court and other persons who believe that public access to any of the materials may jeopardize an individual's right to a fair and impartial trial should petition the Administrator, setting forth the relevant circumstances that warrant withholding specified materials. After consultation with appropriate Federal agencies, the Administrator will notify the petitioner of his decision



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regarding public access to the pertinent materials. If that decision is adverse to the petition, the Administrator will refrain from providing public access to the pertinent materials for at least 15 calendar days from receipt by the petitioner of notice of such adverse decision.

(c) In his discretion, the Administrator may consider claims and petitions described in paragraphs (a) and (b) of this subsection, after the expiration of 90 calendar days from the effective date.

\$105-63.401-2 Segregation and review; senior archival panel.

(a) During the processing period described in \$105-63.401(b), the Administrator will assign archivists to segregate private and personal materials, as defined in \$105-63.104(b). The archivists shall have sole responsibility for the initial review and determination of personal and private materials.

(b) During the processing period described in \$105-63.401(b), the Administrator will assign archivists to segregate materials neither relating to abuses of governmental power, as defined in \$105-63.104(c), nor otherwise having general historical significance as defined in \$105-63.104(d). The archivists shall have sole responsibility for the initial review and determination of those materials which are not related to abuses of governmental power and do not otherwise have general historical significance.



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(c) If, during the processing period described in §105-63.401(b), the archivists should discover any materials which they determine reflect an apparent violation of law which has not been the subject of prior investigation, the archivists shall bring the material to the attention of the Administrator for referral to the Special Prosecutor or to the Department of Justice, or for such other action as the Administrator may deem appropriate.

(d) If the archivists are unable to make a determination required in paragraphs (a), (b), or (c) of this subsection, the archivists shall submit the pertinent materials or representative examples of them to a panel of senior archivists selected by the Archivist of the United States. The panel shall then have the sole responsibility for the determination required in paragraphs (a), (b), or (c) of this subsection.

(e) The panel of senior archivists shall render advice, upon request, to persons who believe they may have Presidential historical materials in their personal possession.

§105-63.401-3 Notice of determinations.

The Administrator will publish in the Federal Register notice of the archival determinations described in paragraphs (a) and (b) of §105-63.401-2. In order to protect the privacy of persons who are determined by the archivists to have a proprietary or commemorative interest in the segregated materials, the notice shall consist only of a generic description and listing of the materials that the Administrator proposes to transfer as provided in §105-63.401-5.

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§105-63.401-4 Appeals; Presidential Materials Review Board.

(a) Within 15 calendar days of publication of the notice prescribed in §105-63.401-3, any person may petition the Administrator on the grounds that an archival determination described in §105-63.401-2 is in error.

(b) Richard M. Nixon or his agents or heirs may petition the Administrator at any time on the grounds that an archival determination described in §105-63.401-2 is in error.

(c) Upon receipt of a petition described in paragraphs (a) or (b) of this subsection, the archivists shall submit the pertinent materials, or representative examples of them, to the Presidential Materials Review Board-("Board"). The Board shall consist of:

(1) The Archivist of the United States or his designee, who shall serve as Chairman;

(2) One member, either in public or private life, to be selected by the President of the Senate;

(3) One member, either in public or private life, to be selected by the Speaker of the House of Representatives;

(4) One member to be selected by Richard M. Nixon or his designated agent or by the executor of his estate or his designated agent; and

(5) One member, in private life and outstanding in the field of archival science, American history or political science, to be selected by the Administrator.



The Board shall meet at the call of the Chairman, and three members shall constitute a quorum. An attorney selected by the General Counsel of the General Services Administration shall serve as legal advisor to the Board. The Board may consult with officials of interested Federal agencies, in formulating its recommendation. The Board shall submit its written recommendation, together with dissenting and concurring opinions, of the proper categorization and disposition of the pertinent materials to the Administrator, who will make the final administrative determination. If the determination of the Administrator is different from that recommended by the Board, he will state his reasons in writing. The Administrator will refrain from implementing the final administrative determination for at least 15 calendar days from the petitioner's receipt of notice of that decision.

§105-63.401-5 Transfer of materials.

(a) No sooner than 15 calendar days from the publication of notice prescribed in §105-63.401-3, or in the event of an appeal described in §105-63.401-4, no sooner than 15 calendar days from the petitioner's receipt of notice of the final administrative determination, the Administrator will transfer sole custody and use of those materials determined, in whole, to be private or personal, or to be neither related to abuses of governmental power nor otherwise of general historical significance, to former President Nixon or his heirs or, when appropriate and after notifying Mr. Nixon or his designated



agent, to the former staff member having primary proprietary or commemorative interest in the materials.

(b) Materials determined to be neither related to abuses of governmental power nor otherwise of general historical significance, and transferred pursuant to paragraph (a) of this subsection, shall upon such transfer no longer be deemed Presidential historical materials as defined in §105-63.104(a).

(c) When it has been determined that only a segment or portion of a document, recording or other material is private or personal, or is neither related to abuses of governmental power nor otherwise of general historical significance, the Administrator shall retain custody of the whole recording, document, or other material, but shall restrict access of the identified segment or portion. Copies of such segments or portions will be transferred to former President Nixon or his heirs or, when appropriate and after notifying Mr. Nixon or his designated agent, to the former staff member having primary proprietary or commemorative interest in the materials.

§105-63.402 Restrictions.

§105-63.402-1 Materials related to abuses of governmental power.

(a) The Administrator shall restrict access to materials determined during the processing period to relate to abuses of governmental power, as defined in §105-63.104(c), when:

(1) The Administrator, in accordance with §105-63.401-1, is in the process of reviewing or has determined the validity of a claim by any person of the need to protect an opportunity to assert a legal or constitutional right or privilege.



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(2) The Administrator, in accordance with §105-63.401-1 is in the process of reviewing or has determined the validity of a petition by any person of the need to protect the right to a fair and impartial trial.

(3) The release of the materials would violate a Federal statute.

(4) The release of the materials would disclose or compromise national security classified information. However, the Administrator may waive this restriction when:

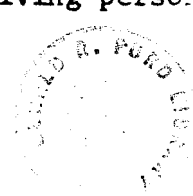
(i) The requester is engaged in a historical research project; and

(ii) The requester has a security clearance equivalent to the highest degree of national security classification that may be applicable to any of the materials examined; and

(iii) The Administrator had determined that the heads of agencies having subject matter interest in the material do not object to the granting of access to the materials; and

(iv) The requester has signed a statement, satisfactory to the Administrator and to the heads of agencies having subject matter interest in the material, which declares that the requester will not publish, disclose, or otherwise compromise the classified material examined and that the requester has been made aware of Federal criminal statutes which prohibit the compromise or disclosure of this information.

(b) The Administrator may restrict access to portions of material determined to relate to abuses of governmental power when the release of those portions would tend to embarrass, damage, or harass living persons.



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and the deletion of those portions will not distort, and is not essential to an understanding of, the substantive content of the materials.

\$105-63.402-2 Materials of general historical significance unrelated to "abuses of governmental power."

(a) The Administrator shall restrict access to materials determined during the processing period to be of general historical significance, but not related to abuses of governmental power, under one or more of the circumstances specified in §105-63.402-1(a).

(b) The Administrator may restrict access to materials of general historical significance but not related to abuses of governmental power when the release of these materials would:

(1) Disclose or compromise trade secrets and commercial or financial information obtained from a person as privileged or confidential; or

(2) Constitute a clearly unwarranted invasion of personal privacy; or

(3) Disclose or compromise investigatory materials compiled for law enforcement purposes; or

(4) Tend to embarrass, damage, or harass living persons.

\$105-63.402-3 Periodic review of restrictions.

The Administrator periodically will assign archivists to review materials placed under restriction by this §105-63.402 and to make available for public access those materials which, with the passage of time or other circumstances, no longer require restriction. If the archivists are unable to determine whether certain materials should

remain restricted, or upon the petition of any researcher who claims

in writing to the Administrator that the basis for the restriction is inapplicable, the archivists shall submit the pertinent materials or representative examples of them to the Presidential Materials Review Board described in §105-63.401-4. The Board shall review the restricted materials, consult with interested Federal agencies as necessary, and make a written recommendation to the Administrator, including dissenting and concurring opinions, as to the continued restriction of all or part of the pertinent materials. When the determination of the Administrator is different from that recommended by the Board, he will state his reasons in writing.

§105-63.402-4 Deletion of restricted portions.

The Administrator will provide a requester any reasonably segregable portions of otherwise restricted materials after the deletion of the portions which are restricted under this §105-63.402.

§105-63.402-5 Requests for declassification.

Challenges to the classification and requests for the declassification of national security classified materials shall be governed by the provisions of §105-61.104, as that may be amended from time to time.

§105-63.403 Reference room locations, hours and rules.

The Administrator shall, from time to time, separately prescribe the precise location or locations at which the materials shall be available for public reference, and the hours of operation and rules governing the conduct of researchers using such facilities. This information may be obtained by writing to: Nixon Presidential Materials, The National Archives, Washington, D.C. 20408.

§105-63.404 - Reproduction of tape recordings of Presidential conversations.

(a) To ensure the preservation of original tape recordings of conversations which were recorded or caused to be recorded by any officer or employee of the Federal Government and which (1) involve former President Richard M. Nixon or other individuals who, at the time of the conversation, were employed by the Federal Government; (2) were recorded in the White House or in the office of the President in the Executive Office Buildings located in Washington, District of Columbia; Camp David, Maryland; Key Biscayne, Florida; or San Clemente, California; and (3) were recorded during the period beginning January 20, 1969, and ending August 2, 1974, the Administrator will produce duplicate copies, with enhanced sound qualities, of such tape recordings in his custody for public and official reference use. The original tape recordings shall not be available for public access.

(b) Since the original tape recordings may contain information which is restricted in accordance with §105-63.402, the Administrator will review the tapes and delete restricted portions from copies for public and official reference use.

(c) No researcher may reproduce or have reproduced sound recordings of the reference copies.

§105-63.405 - Reproduction and authentication of other materials.

(a) The copying for researchers of materials other than tape recordings described in §105-63.404 normally will be done by personnel of the General Services Administration using government equipment. With the permission of the Administrator or his designated agent, a researcher may use his own copying equipment. Permission shall be based on the determination that such use will not harm the materials

or disrupt reference activities. Equipment shall be used under the supervision of GSA personnel.

(b) The Administrator and his designated agents may authenticate and attest copies or records when necessary for the purpose of the research.

(c) The fees for reproduction and authentication of materials under this section shall be those prescribed in the schedule set forth in Subpart 105-61.52, or pertinent successor regulation, as that schedule is amended from time to time.

§105-63.406 Amendment of regulations.

The Administrator may amend the regulations of this Subpart 105-63.4 only after the proposed amendments have been placed before the Congress for 90 legislative days.

THE WHITE HOUSE

WASHINGTON

May 14, 1975

MEMORANDUM FOR:

MAX FRIEDERSDORF

FROM:

BILL CASSELMAN *BC*

At yesterday's hearing by the Senate Government Operations Committee on the proposed GSA regulations regarding the release of the Nixon tapes and documents, it is reported that the Committee unanimously agreed to send a letter to the President urging immediate nomination of the public members of the Public Documents Commission (established by the Presidential Recordings and Materials Preservation Act). It is further reported that the Committee intends to write to the appropriate agency heads and urge them to make their "statutory" appointments to the Commission.

The purpose of the Commission is to recommend long-range policy on release of the records of federal officials. Reading between the lines, it would appear that the Committee is anxious to push onto the Commission some of the hard decisions regarding the treatment of the papers of future Presidents. In any event, it might be advisable for you or for one of your able staff members to inform the Committee that the President's appointments are in clearance. Unlike the Congressional appointments, however, the Presidential nominees require a complete FBI field investigation and a conflicts of interest review. This is expected to take several more weeks. Following the nominations of the public members, the statutory appointments will be made.

cc: Robin West

bcc: Phil Buchen

