

The original documents are located in Box 41, folder “Personnel - Special Prosecutor Clearances (1)” of the Philip Buchen Files at the Gerald R. Ford Presidential Library.

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"|7 PHILIP W. BUCHEN

"|7 PHILLIP E. AREEDA

"|7 WILLIAM E. CASSELMAN, II

"|7 KENNETH A. LAZARUS

"|7 DUDLEY H. CHAPMAN

"|7 JAY T. FRENCH



THE WHITE HOUSE

WASHINGTON

November 4, 1974

Dear Mr. Ruth:

Attached is a list containing the names of people who hold or who are being considered for appointment to public positions of trust and confidence. In appraising their suitability for office, it would be helpful to have the benefit of any adverse knowledge held by the Watergate Special Prosecution Force. We would, therefore, be grateful for such information and advice as you think it appropriate to provide.

In the event that any adverse knowledge is held with respect to Mr. Buchen or myself, please reply directly to Mr. Donald Rumsfeld, Assistant to the President.

Out of an excess of caution, let me say that making this inquiry does not imply that any adverse material is known or expected.

We appreciate your cooperation.

Sincerely,



Phillip E. Areeda
Counsel to the President

The Honorable Henry S. Ruth, Jr.
Special Prosecutor
Watergate Special Prosecution Force
Department of Justice
1425 K Street, N. W.
Washington, D. C. 20005



November 1, 1974

Dear Mr. Ruth:

Louis M. Thompson, Jr. is being considered for appointment to a public position of trust and confidence. In appraising his suitability for office, it would be helpful to have the benefit of any adverse knowledge held by the Watergate Special Prosecution Force. We would, therefore, be grateful for such information and advice as you think it appropriate to provide.

Out of an excess of caution, let me say that making this inquiry does not imply that any adverse material is known or expected.

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KAL:dlm



November 1, 1974

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OK per H. Ruth
letter rec'd 11/5/74 - to Lagomina



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KAL:dlm

Carl Feldbaum
called 11AM 11/4/74
"No adverse information
in their files!"
Jeh...
letter rec'd 11/5/74 to Lazarus



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KAL:dlm



4 Sept / 15 Sept

[Nov. 1974?]

Spec Prosec: No reason not to go forward
(Acc'd to Haig) Jaworski

Flanagan wants a WH sense to
contact Cotton and indicate that
nomination was cleared w Jaworski.

Flanagan
~~Haig~~ - Cotton (After checking w Haig)

He asked me (PF) about the charge re Forkas,
PF said that WH had checked w spec Pros. just before the
nomination went up
No reason not to get forward



Forkas Case

Papers not yet turned over embrowning but not illegal
PF disclosed grilling to spec Pres.

Early 69, ^{less woman} Mrs Forkas
to figure means
2 want her

Husband under inv.

Mid 71, PF recess

"2 she still a big support"

Kalmbach runs # ; PF: Try Forkas, 2 in told

" Oays PF said \$250,000 for Amb.

PF "No commitment"

K F: 2 want to pay that \$ for Costa Rica

PF Then to Rodger. All set.

Vexi to CR. = No Commitment

K save 2 Amb, for X+y b/c #. PF: No commitment

Hollander offer money back

moving Carrib amb to Europe

K testified that F said: give it back.

Many memo from Malheur → Hold: Flanagan want corp

PF used that 2 not be given to spec + that his 250,000 be returned

- Forkas
- De Roulet
- Symington
- Whitney



'72 Hald → PF: people were got to dept (incl. J. Edwards)

Mahk: Mahk & J. Edwards if dept

PF directed to talk to Stars (June 72)

Pres approved then; Stars then collected; more submitted after election
PF always knew it, time told her she would be back, oblig. to Wymen

Nov '72 Stars Cost, w/ PF penciled in it

Stars recd 35 post, PF agreed, disagreed, & mixed

Memo speaks of "Commitment to Sym" & said PF disagreed

Jones said H agreed with Anderson in commitment

Other list w/ Fldn. disagreement

Jan 3 | Memo: PF + Stars before commitment based on it & recs
to Humes

From PF (unagreed + mixed) & Mahk [Memo written by Anderson]
K said he made no new commitment

Spec Pr: Do you know of any other commitment

PF: Fully that K may have made commitment re
Hume, mine, Dawu, Crowe.



Didn't clarify sent ~~to~~, the did send all to JAW
Geehen

Herb Brannell, etc.

available to us if we want more fact.

Haven't talked to JAW.

At time of nomination: All known to (Hag) + Bayard
File on the 4 given to Spec Pros.

- Sorecraft
- (Kissinger)

PF impression that Hag is open to Pres.



PF - AH: only way to answer is use JW

AH - PF JW says you can use it
"no reason not to go forward"



ITT

Business

Matters are open

[Nov. 1974?]

Tom McBride

Confidential Background

M + Mrs F are not fully truthful about committee they
requested or received

Doubt that FL made Comm to F
Stans did; FL might have known

Waiting for Stans? a move with DOCCS.
May call Mrs F back

Believe Kalbach's version

"What about F"
"But that's different"

Clearly opposed Committee for unqualified
But "to be qualified"

Woman, Democrat

Many key witnesses not candid; Hopeful for

Impressions Chaps not likely to be brought, but there is

Senate for Rel Com Staff inquired (ITT & Stall open)

FL, people
there

Amico - probably - contacted by Rm President; unlikely to be



Bob Hallin

JE's

AA

long period

[Nov. 1974]

Inter-
~~won't~~

~~AA~~ chase of crime

still (the +6J)

"selective lack of resolution implausible"



[Nov. 1974?]

Tod Hullin was John Ehrlichman's Administrative Assistant during a period that was investigated by the Special Prosecutor's office. He was interviewed by the Special Prosecutor's office, both in their offices and before the Grand Jury.

The Special Prosecutor's office does not intend to charge him with any crime, but those who interviewed him found "his selective lack of recollection implausible."



Dear Mr. Ruth:

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We appreciate your cooperation.

Sincerely,

P.A. or P.B.

Language and
procedure cleared
with Ruth 10/31.
P.A.



MEMORANDUM

THE WHITE HOUSE

WASHINGTON

October 2, 1974

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR

THE HONORABLE PHILIP W. BUCHEN

Attention: George Williams, Associate Counsel

FROM: JANE DANNENHAUER *Jud*

SUBJECT: RICHARD CHENEY
BRENDA WILLIAMS

As discussed yesterday, Dave Hoopes suggested you ask for clearance such as, "...there is no action pending against these individuals.."

Thank you for your assistance.

ADMINISTRATIVELY CONFIDENTIAL



Dear Mr. Ruth:

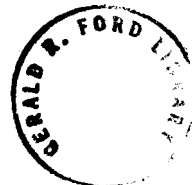
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P.A. or P.B.

Language and
procedure cleared
with Ruth 10/31.
P.A.



October 3, 1974

Dear Mr. Jaworski:

Re: Brenda Williams

We would appreciate your advising us at your earliest convenience whether or not the above-named individual is under consideration by the Watergate Special Prosecution Force for filing of charges.

Your cooperation is much appreciated.

Sincerely yours,

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

**The Honorable Leon Jaworski
Special Prosecutor
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October 3, 1974

Dear Mr. Jaworski:

Re: Richard Cheney

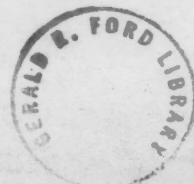
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Watergate Special Prosecution Force
United States Department of Justice
1425 K Street, N. W.
Washington, D. C. 20005**



10/16/74.

Cys

sent to

Donald
Bunsfeld

x

Jane
Lammhauer

October 1, 1974

Dear Mr. Jaworski:

Re: Richard Cheney

We would appreciate your advising us at your earliest convenience whether or not the above-named individual is under consideration by the Watergate Special Prosecution Force for filing of charges.

Your cooperation is much appreciated.

Sincerely yours,

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United States Department of Justice
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MEMORANDUM

THE WHITE HOUSE

WASHINGTON

October 2, 1974

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR

THE HONORABLE PHILIP W. BUCHEN

Attention: George Williams, Associate Counsel

FROM:

JANE DANNENHAUER *Jud*

SUBJECT:

RICHARD CHENEY
BRENDA WILLIAMS

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Thank you for your assistance.

ADMINISTRATIVELY CONFIDENTIAL



THE WHITE HOUSE
WASHINGTON

MEMORANDUM FOR PHIL BUCHEN

FROM:

DONALD RUMSFELD

by Phil Cheney

RE:

Clearance of Presidential Appointees with the
Special Prosecutor

I know from your October 3rd memo to Bill Walker that you and he have been working on an arrangement for obtaining information from the Special Prosecutor's Office in connection with presidential appointees. I believe we should seek the information not only for potential presidential appointees but for the presidential appointees presently on the staff.

The information we should seek is not merely the question of whether the person whose name we are checking is a potential defendant in some action to be undertaken by the Watergate Special Prosecution Force, but rather what is the opinion of the Special Prosecutor on the person's fitness for office.

Understandably, this is a difficult question to answer and it may be that the Special Prosecutor will decline to make an answer. However, based on your October 3rd memo I gather that he has indicated he can comply with our request. If that is the case, I think we should proceed quickly to have a check made on the present presidential appointees.

If you concur with my views, I would appreciate your working out the details for follow through with Bill Walker.

cc: Bill Walker



THE WHITE HOUSE

WASHINGTON

October 3, 1974

MEMORANDUM FOR: Bill Walker

FROM: Philip Buchen *P.W.B.*

SUBJECT: Clearance of Potential
Presidential Appointees
with the Special Prosecutor

Following my receipt of the enclosed memorandum from Ken Lazarus, I checked with the Special Prosecutor who assured me that he can follow a legal procedure for asking and obtaining information on Presidential appointees. The information provided would involve whether or not the person in question is or is not under consideration for filing of charges. The report is cautiously worded but only to avoid implication that future evidence received could not change the result. Requests can be made and answered in writing provided they allow a few days' time for reply. I suggest that in each case the Personnel Office request our office to send a letter substantially in the form attached.

We have already used this form to request clearances sought from me on October 2.

Attachments

cc: Don Rumsfeld



Dear Mr. Jaworski:

Re: _____

We would appreciate your advising us at your earliest convenience whether or not the above-named individual is under consideration by the Watergate Special Prosecution Force for filing of charges.

Your cooperation is much appreciated.

Sincerely yours,

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THE WHITE HOUSE
WASHINGTON

October 2, 1974

MEMORANDUM FOR:

PHIL BUCHEN

FROM:

KEN LAZARUS 

SUBJECT:

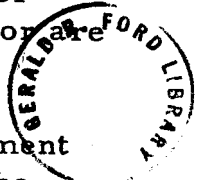
Role of Special Prosecutor in
Clearance of Potential
Presidential Appointees

With reference to your ongoing discussions with Leon Jaworski, attached are copies of the only two regulations which are even remotely relevant to the scope of his appropriate role in the clearance of potential Presidential appointees.

The first regulation (28 CFR 50.2) relates to the release of information by personnel of the Department of Justice with regard to criminal and civil proceedings. It is clearly designed to control the dissemination of information to the news media in an effort to meet fair trial/free press issues. Therefore, it is largely inapposite to the subject at hand. However, as a cautionary matter it would be wise to limit access to Jaworski's views regarding a potential nominee to only yourself and the President in accord with the general tenor of the regulation.

The second regulation (28 CFR 0.38) incorporates the charter of the Special Prosecutor and I find no provision in it that would preclude Jaworski's informal participation in the pre-nomination clearance process. Indeed, the first paragraph of the charter explicitly recognizes that the powers of the Special Prosecutor are delegated to him by the Attorney General.

To the extent the analogy is apt, I am advised by the Department of Justice that over the years Henry Petersen has followed the practice of being completely responsive to pre-nomination clearance inquiries even to the extent of expressing in a confidential and informal way certain visceral or intuitive judgments with respect to the fitness of a candidate.



Thus, there would appear to be no legal or ethical barrier to a full and frank discussion with Jaworski on the fitness of a candidate for Presidential appointment.

Attachments

cc: Phil Areeda
Bill Casselman



§ 0.31 Designating officials to perform the functions of the Director.

(a) In case of a vacancy in the Office of the Director of the Community Relations Service, the Deputy Director of the Service shall perform the functions and duties of the Director.

(b) The Director is authorized, in case of absence from his office or in case of his inability or disqualification to act, to designate the Deputy Director to act in his stead. In unusual circumstances, or in the absence of the Deputy Director, a person other than the Deputy Director may be so designated by the Director.

§ 0.32 Applicability of existing departmental regulations.

Departmental regulations which are generally applicable to units or personnel of the Department of Justice shall be applicable with respect to the Community Relations Service and to the Director and personnel thereof, except to the extent, if any, that such regulations may be inconsistent with the intent and purposes of section 1003(b) of the Civil Rights Act of 1964.

Subpart G—Office of the Pardon Attorney

CROSS REFERENCE: For regulations pertaining to the office of Pardon Attorney, see Part 1 of this chapter.

§ 0.35 Applications for clemency.

Subject to the general supervision of the Attorney General, and under the direction of the Deputy Attorney General, the Pardon Attorney shall have charge of the receipt, investigation, and disposition of applications to the President for pardon and other forms of Executive clemency, and shall perform any other duties assigned by the Attorney General or the Deputy Attorney General.

[Order No. 543-73, 38 FR 29584, Oct. 26, 1973]

§ 0.36 Recommendations.

The Pardon Attorney shall submit all all recommendations in clemency cases to the Attorney General through the Deputy Attorney General.

[Order No. 543-73, 38 FR 29584, Oct. 26, 1973]

Subpart G-1—Office of Watergate Special Prosecution Force

§ 0.37 General functions.

The Office of Watergate Special Prosecution Force shall be under the direction of a Director who shall be the Special Prosecutor appointed by the At-

torney General. The duties and responsibilities of the Special Prosecutor are set forth in the attached appendix below which is incorporated and made a part hereof.

[Order 551-73, 38 FR 30738, Nov. 7, 1973]

§ 0.38 Specific functions.

The Special Prosecutor is assigned and delegated the following specific functions with respect to matters specified in this subpart:

(a) Pursuant to 28 U.S.C. 515(a), to conduct any kind of legal proceeding, civil or criminal, including grand jury proceedings, which United States attorneys are authorized by law to conduct, and to designate attorneys to conduct such legal proceedings.

(b) To approve or disapprove the production or disclosure of information or files relating to matters within his cognizance in response to a subpoena, order, or other demand of a court or other authority. (See Part 16(B) of this chapter.)

(c) To apply for and to exercise the authority vested in the Attorney General under 18 U.S.C. 6005 relating to immunity of witnesses in Congressional proceedings.

APPENDIX—DUTIES AND RESPONSIBILITIES OF THE SPECIAL PROSECUTOR

The Special Prosecutor. There is appointed by the Attorney General, within the Department of Justice, a Special Prosecutor to whom the Attorney General shall delegate the authorities and provide the staff and other resources described below.

The Special Prosecutor shall have full authority for investigating and prosecuting offenses against the United States arising out of the unauthorized entry into Democratic National Committee Headquarters at the Watergate, all offenses arising out of the 1972 Presidential Election for which the Special Prosecutor deems it necessary and appropriate to assume responsibility, allegations involving the President, members of the White House staff, or Presidential appointees, and any other matters which he consents to have assigned to him by the Attorney General.

In particular, the Special Prosecutor shall have full authority with respect to the above matters for:

Conducting proceedings before grand juries and any other investigations he deems necessary;

Reviewing all documentary evidence available from any source, to which he shall have full access;

Determining whether or not to contest the assertion of "Executive Privilege" or any other testimonial privilege;

Determining whether or not application should be made to any Federal court for a grant of immunity to any witness, consistently with applicable statutory requirements, or for warrants, subpoenas, or other court orders;

Deciding whether or not to prosecute any individual, firm, corporation or group of individuals;

Initiating and conducting prosecutions, framing indictments, filing informations, and handling all aspects of any cases within his jurisdiction (whether initiated before or after his assumption of duties), including any appeals;

Coordinating and directing the activities of all Department of Justice personnel, including United States Attorneys;

Dealing with and appearing before Congressional committees having jurisdiction over any aspect of the above matters and determining what documents, information, and assistance shall be provided to such committees.

In exercising this authority, the Special Prosecutor will have the greatest degree of independence that is consistent with the Attorney General's statutory accountability for all matters falling within the jurisdiction of the Department of Justice. The Attorney General will not countermand or interfere with the Special Prosecutor's decisions or actions. The Special Prosecutor will determine whether and to what extent he will inform or consult with the Attorney General about the conduct of his duties and responsibilities. In accordance with assurances given by the President to the Attorney General that the President will not exercise his Constitutional powers to effect the discharge of the Special Prosecutor or to limit the independence that he is hereby given, (1) the Special Prosecutor will not be removed from his duties except for extraordinary improprieties on his part and without the President's first consulting the Majority and the Minority Leaders and Chairmen and ranking Minority Members of the Judiciary Committees of the Senate and House of Representatives and ascertaining that their consensus is in accord with his proposed action, and (2) the jurisdiction of the Special Prosecutor will not be limited without the President's first consulting with such Members of Congress and ascertaining that their consensus is in accord with his proposed action.

STAFF AND RESOURCE SUPPORT

1. *Selection of Staff.* The Special Prosecutor shall have full authority to organize, select, and hire his own staff of attorneys, investigators, and supporting personnel, on a full or part-time basis, in such numbers and with such qualifications as he may reasonably require. He may request the Assistant Attorneys General and other officers of the Department of Justice to assign such personnel and to provide such other assistance as he may reasonably require. All personnel in

the Department of Justice, including United States Attorneys, shall cooperate to the fullest extent possible with the Special Prosecutor.

2. *Budget.* The Special Prosecutor will be provided with such funds and facilities to carry out his responsibilities as he may reasonably require. He shall have the right to submit budget requests for funds, positions, and other assistance, and such requests shall receive the highest priority.

3. *Designation and responsibility.* The personnel acting as the staff and assistants of the Special Prosecutor shall be known as the Watergate Special Prosecution Force and shall be responsible only to the Special Prosecutor.

Continued responsibilities of Assistant Attorney General, Criminal Division. Except for the specific investigative and prosecutorial duties assigned to the Special Prosecutor, the Assistant Attorney General in charge of the Criminal Division will continue to exercise all of the duties currently assigned to him.

Applicable departmental policies. Except as otherwise herein specified or as mutually agreed between the Special Prosecutor and the Attorney General, the Watergate Special Prosecution Force will be subject to the administrative regulations and policies of the Department of Justice.

Public reports. The Special Prosecutor may from time to time make public such statements or reports as he deems appropriate and shall upon completion of his assignment submit a final report to the appropriate persons or entities of the Congress.

Duration of assignment. The Special Prosecutor will carry out these responsibilities, with the full support of the Department of Justice, until such time as, in his judgment, he has completed them or until a date mutually agreed upon between the Attorney General and himself.

[Order 551-73, 38 FR 30738, Nov. 7, 1973, as amended by Order 554-73, 38 FR 32805, Nov. 28, 1973]

Subpart H—Antitrust Division

§ 0.40 General functions.

Subject to the general supervision of the Attorney General, and under the direction of the Deputy Attorney General, the following-described matters are assigned to and shall be conducted, handled, or supervised by, the Assistant Attorney General in charge of the Antitrust Division:

(a) General enforcement, by criminal and civil proceedings, of the Federal antitrust laws and other laws relating to the protection of competition and the prohibition of restraints of trade and monopolization, including conduct of

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PRINCIPLES OF POLICY

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d to designation of judges as special

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ment policy. published as the policy of the Department of Justice to comment on an action in violation of the law or on condition of pardon or on condition of pardon persons who may be affected and who are not the action to state relevant allegations which proposed judg-

(b) Pursuant to this policy, each proposed consent judgment shall be filed in court or otherwise made available upon request to interested persons as early as feasible but at least 30 days prior to entry by the court. Prior to entry of the judgment, or some earlier specified date, the Department of Justice will receive and consider any written comments, views or relevant allegations relating to the proposed judgment, which the Department may, in its discretion, disclose to the other parties to the action. The Department of Justice shall reserve the right (1) to withdraw or withhold its consent to the proposed judgment if the comments, views or allegations submitted indicate that the proposed judgment is inappropriate, improper or inadequate and (2) to object to intervention by any party not named as a party by the Government.

(c) The Assistant Attorney General in charge of the Antitrust Division may establish procedures for implementing this policy. The Attorney General may permit an exception to this policy in a specific case where extraordinary circumstances require some shorter period than 30 days or some other procedure than that stated herein, and where it is clear that the public interest in the policy hereby established is not compromised. [26 F.R. 6026, July 6, 1961]

§ 50.2 Release of information by personnel of the Department of Justice relating to criminal and civil proceedings.

(a) *General.* (1) The availability to news media of information in criminal and civil cases is a matter which has become increasingly a subject of concern in the administration of justice. The purpose of this statement is to formulate specific guidelines for the release of such information by personnel of the Department of Justice.

(2) While the release of information for the purpose of influencing a trial is, of course, always improper, there are valid reasons for making available to the public information about the administration of the law. The task of striking a fair balance between the protection of individuals accused of crime or involved in civil proceedings with the Government and public understandings of the problems of controlling crime and administering government depends largely on the exercise of sound judgment

by those responsible for administering the law and by representatives of the press and other media.

(3) Inasmuch as the Department of Justice has generally fulfilled its responsibilities with awareness and understanding of the competing needs in this area, this statement, to a considerable extent, reflects and formalizes the standards to which representatives of the Department have adhered in the past. Nonetheless, it will be helpful in ensuring uniformity of practice to set forth the following guidelines for all personnel of the Department of Justice.

(4) Because of the difficulty and importance of the questions they raise, it is felt that some portions of the matters covered by this statement, such as the authorization to make available Federal conviction records and a description of items seized at the time of arrest, should be the subject of continuing review and consideration by the Department on the basis of experience and suggestions from those within and outside the Department.

(b) Guidelines to criminal actions.

(1) These guidelines shall apply to the release of information to news media from the time a person is the subject of a criminal investigation until any proceeding resulting from such an investigation has been terminated by trial or otherwise.

(2) At no time shall personnel of the Department of Justice furnish any statement or information for the purpose of influencing the outcome of a defendant's trial, nor shall personnel of the Department furnish any statement or information, which could reasonably be expected to be disseminated by means of public communication, if such a statement or information may reasonably be expected to influence the outcome of a pending or future trial.

(3) Personnel of the Department of Justice, subject to specific limitations imposed by law or court rule or order, may make public the following information:

(i) The defendant's name, age, residence, employment, marital status, and similar background information.

(ii) The substance or text of the charge, such as a complaint, indictment, or information.

(iii) The identity of the investigating and/or arresting agency and the length or scope of an investigation.

(iv) The circumstances immediately surrounding an arrest, including the

time and place of arrest, resistance, pursuit, possession and use of weapons, and a description of physical items seized at the time of arrest.

Disclosures should include only incontrovertible, factual matters, and should not include subjective observations. In addition, where background information or information relating to the circumstances of an arrest or investigation would be highly prejudicial or where the release thereof would serve no law enforcement function, such information should not be made public.

(4) Personnel of the Department shall not volunteer for publication any information concerning a defendant's prior criminal record, but information drawn from Federal conviction records may be made available in response to a specific request.

(5) Because of the particular danger of prejudice resulting from statements in the period approaching and during trial, they ought strenuously to be avoided during that period. Any such statement or release shall be made only on the infrequent occasion when circumstances absolutely demand a disclosure of information and shall include only information which is clearly not prejudicial.

(6) The release of certain types of information generally tends to create dangers of prejudice without serving a significant law enforcement function. Therefore, personnel of the Department should refrain from making available the following:

(i) Observations about a defendant's character.

(ii) Statements, admissions, confessions, or alibis attributable to a defendant, or the refusal or failure of the accused to make a statement.

(iii) Reference to investigative procedures such as fingerprints, polygraph examinations, ballistic tests, or laboratory tests, or to the refusal by the defendant to submit to such tests or examinations.

(iv) Statements concerning the identity, testimony, or credibility of prospective witnesses.

(v) Statements concerning evidence or argument in the case, whether or not it is anticipated that such evidence or argument will be used at trial.

(vi) Any opinion as to the accused's guilt, or the possibility of a plea of guilty to the offense charged, or the possibility of a plea to a lesser offense.

(7) Personnel of the Department of Justice should take no action to encourage or assist news media in photographing or televising a defendant or accused person being held or transported in Federal custody. Departmental representatives should not make available photographs of a defendant unless a law enforcement function is served thereby.

(8) This statement of policy is not intended to restrict the release of information concerning a defendant who is a fugitive from justice.

(9) Since the purpose of this statement is to set forth generally applicable guidelines, there will, of course, be situations in which it will limit the release of information which would not be prejudicial under the particular circumstances. If a representative of the Department believes that in the interest of the fair administration of justice and the law enforcement process information beyond these guidelines should be released, in a particular case, he shall request the permission of the Attorney General or the Deputy Attorney General to do so.

(c) *Guidelines to civil actions.* Personnel of the Department of Justice associated with a civil action shall not during its investigation or litigation make or participate in making an extrajudicial statement, other than a quotation from or reference to public records, which a reasonable person would expect to be disseminated by means of public communication if there is a reasonable likelihood that such dissemination will interfere with a fair trial and which relates to:

(1) Evidence regarding the occurrence or transaction involved.

(2) The character, credibility, or criminal records of a party, witness, or prospective witness.

(3) The performance or results of any examinations or tests or the refusal or failure of a party to submit to such.

(4) An opinion as to the merits of the claims or defenses of a party, except as required by law or administrative rule.

(5) Any other matter reasonably likely to interfere with a fair trial of the action.

[Order 470-71, 36 F.R. 21028, Nov. 3, 1971]

§ 50.3 Guidelines for the enforcement of Title VI, Civil Rights Act of 1964.

(a) Where the heads of agencies having responsibilities under Title VI of the Civil Rights Act of 1964 conclude there

is noncompliance under that title courses of action the objective show and full compliance assistance continue.

(b) Primary rests with the and agency administrative and relevant preserve in each and the duty to available sanctions designed to secure individual cases. They or refuse assistance the agency head representative.

(c) This statewide procedural sible department in exercising them and in selection situation, fully conforms of section 602 implementing thereunder.

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The ultimate the refusal to assistance and then being rendered. If be invoked, the the procedures. That section agency concerns compliance cannot means, (2) to of action consists the objectives of the particular afford the application hearing, and (4) cedural steps out ing notification ters of the Congress.

In some instances is legally permitted action on an pending initiation tion 602 procedure secure voluntary Normally, this co only with respect continuing assistance for programs of not available without due and ously approved a

THE WHITE HOUSE

WASHINGTON

October 3, 1974

MEMORANDUM FOR: Bill Walker

FROM: Philip Buchen *P.W.B.*

SUBJECT: Clearance of Potential
Presidential Appointees
with the Special Prosecutor

Following my receipt of the enclosed memorandum from Ken Lazarus, I checked with the Special Prosecutor who assured me that he can follow a legal procedure for asking and obtaining information on Presidential appointees. The information provided would involve whether or not the person in question is or is not under consideration for filing of charges. The report is cautiously worded but only to avoid implication that future evidence received could not change the result. Requests can be made and answered in writing provided they allow a few days' time for reply. I suggest that in each case the Personnel Office request our office to send a letter substantially in the form attached.

We have already used this form to request clearances sought from me on October 2.

Attachments

cc: Don Rumsfeld



Dear Mr. Jaworski:

Re: _____

We would appreciate your advising us at your earliest convenience whether or not the above-named individual is under consideration by the Watergate Special Prosecution Force for filing of charges.

Your cooperation is much appreciated.

Sincerely yours,

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

**The Honorable Leon Jaworski
Special Prosecutor
Watergate Special Prosecution Force
United States Department of Justice
1425 K Street, N. W.
Washington, D. C. 20005**



THE WHITE HOUSE

WASHINGTON

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

**The Honorable Leon Jaworski
Special Prosecutor
Watergate Special Prosecution Force
United States Department of Justice
1425 K Street, N. W.
Washington, D. C. 20005**



October 3, 1974

Dear Mr. Jaworski:

Re: Richard Cheney

We would appreciate your advising us at your earliest convenience whether or not the above-named individual is under consideration by the Watergate Special Prosecution Force for filing of charges.

Your cooperation is much appreciated.

Sincerely yours,

Philip W. Buchen
Counsel to the President

The Honorable Leon Jaworski
Special Prosecutor
Watergate Special Prosecution Force
United States Department of Justice
1425 K Street, N. W.
Washington, D. C. 20005



October 3, 1974

Dear Mr. Jaworski:

Re: Brenda Williams

We would appreciate your advising us at your earliest convenience whether or not the above-named individual is under consideration by the Watergate Special Prosecution Force for filing of charges.

Your cooperation is much appreciated.

Sincerely yours,

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

**The Honorable Leon Jaworski
Special Prosecutor
Watergate Special Prosecution Force
United States Department of Justice
1425 K Street, N. W.
Washington, D. C. 20005**



October 3, 1974

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Your cooperation is much appreciated.

Sincerely yours,

Philip W. Buchen
Counsel to the President

The Honorable Leon Jaworski
Special Prosecutor
Watergate Special Prosecution Force
United States Department of Justice
1425 K Street, N. W.
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United States Department of Justice
1425 K Street, N. W.
Washington, D. C. 20005



WATERGATE SPECIAL PROSECUTION FORCE
United States Department of Justice
1425 K Street, N.W.
Washington, D.C. 20005

October 8, 1974

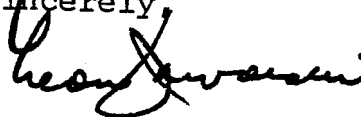
Philip W. Buchen, Esquire
Counsel to the President
The White House
Washington, D.C.

Dear Mr. Buchen:

This is in response to your inquiries of October 3, 1974, concerning Richard Cheney and Brenda Williams.

After checking with our various task forces, I can report that neither of the above-named individuals is under consideration by the Watergate Special Prosecution Force for filing of charges.

Sincerely,



LEON JAWORSKI
Special Prosecutor



THE WHITE HOUSE
WASHINGTON

MEMORANDUM FOR PHIL BUCHEN

FROM: DONALD RUMSFELD *by Phil Cheney*
RE: Clearance of Presidential Appointees with the
Special Prosecutor

I know from your October 3rd memo to Bill Walker that you and he have been working on an arrangement for obtaining information from the Special Prosecutor's Office in connection with presidential appointees. I believe we should seek the information not only for potential presidential appointees but for the presidential appointees presently on the staff.

The information we should seek is not merely the question of whether the person whose name we are checking is a potential defendant in some action to be undertaken by the Watergate Special Prosecution Force, but rather what is the opinion of the Special Prosecutor on the person's fitness for office.

Understandably, this is a difficult question to answer and it may be that the Special Prosecutor will decline to make an answer. However, based on your October 3rd memo I gather that he has indicated he can comply with our request. If that is the case, I think we should proceed quickly to have a check made on the present presidential appointees.

If you concur with my views, I would appreciate your working out the details for follow through with Bill Walker.

cc: Bill Walker



THE WHITE HOUSE

WASHINGTON

October 3, 1974

MEMORANDUM FOR: Bill Walker

FROM: Philip Buchen *P.W.B.*

SUBJECT: Clearance of Potential
Presidential Appointees
with the Special Prosecutor

Following my receipt of the enclosed memorandum from Ken Lazarus, I checked with the Special Prosecutor who assured me that he can follow a legal procedure for asking and obtaining information on Presidential appointees. The information provided would involve whether or not the person in question is or is not under consideration for filing of charges. The report is cautiously worded but only to avoid implication that future evidence received could not change the result. Requests can be made and answered in writing provided they allow a few days' time for reply. I suggest that in each case the Personnel Office request our office to send a letter substantially in the form attached.

We have already used this form to request clearances sought from me on October 2.

Attachments

cc: Don Rumsfeld



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Sincerely yours,

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Counsel to the President**

**The Honorable Leon Jaworski
Special Prosecutor
Watergate Special Prosecution Force
United States Department of Justice
1425 K Street, N. W.
Washington, D. C. 20005**




THE WHITE HOUSE
WASHINGTON

October 2, 1974

MEMORANDUM FOR:

PHIL BUCHEN

FROM:

KEN LAZARUS 

SUBJECT:

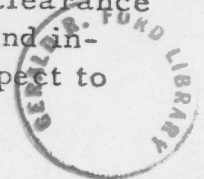
Role of Special Prosecutor in
Clearance of Potential
Presidential Appointees

With reference to your ongoing discussions with Leon Jaworski, attached are copies of the only two regulations which are even remotely relevant to the scope of his appropriate role in the clearance of potential Presidential appointees.

The first regulation (28 CFR 50.2) relates to the release of information by personnel of the Department of Justice with regard to criminal and civil proceedings. It is clearly designed to control the dissemination of information to the news media in an effort to meet fair trial/free press issues. Therefore, it is largely inapposite to the subject at hand. However, as a cautionary matter it would be wise to limit access to Jaworski's views regarding a potential nominee to only yourself and the President in accord with the general tenor of the regulation.

The second regulation (28 CFR 0.38) incorporates the charter of the Special Prosecutor and I find no provision in it that would preclude Jaworski's informal participation in the pre-nomination clearance process. Indeed, the first paragraph of the charter explicitly recognizes that the powers of the Special Prosecutor are delegated to him by the Attorney General.

To the extent the analogy is apt, I am advised by the Department of Justice that over the years Henry Petersen has followed the practice of being completely responsive to pre-nomination clearance inquiries even to the extent of expressing in a confidential and informal way certain visceral or intuitive judgments with respect to the fitness of a candidate.



Thus, there would appear to be no legal or ethical barrier to a full and frank discussion with Jaworski on the fitness of a candidate for Presidential appointment.

Attachments

cc: Phil Areeda
Bill Casselman



§ 0.31 Designating officials to perform the functions of the Director.

(a) In case of a vacancy in the Office of the Director of the Community Relations Service, the Deputy Director of the Service shall perform the functions and duties of the Director.

(b) The Director is authorized, in case of absence from his office or in case of his inability or disqualification to act, to designate the Deputy Director to act in his stead. In unusual circumstances, or in the absence of the Deputy Director, a person other than the Deputy Director may be so designated by the Director.

§ 0.32 Applicability of existing departmental regulations.

Departmental regulations which are generally applicable to units or personnel of the Department of Justice shall be applicable with respect to the Community Relations Service and to the Director and personnel thereof, except to the extent, if any, that such regulations may be inconsistent with the intent and purposes of section 1003(b) of the Civil Rights Act of 1964.

Subpart G—Office of the Pardon Attorney

CROSS REFERENCE: For regulations pertaining to the office of Pardon Attorney, see Part 1 of this chapter.

§ 0.35 Applications for clemency.

Subject to the general supervision of the Attorney General, and under the direction of the Deputy Attorney General, the Pardon Attorney shall have charge of the receipt, investigation, and disposition of applications to the President for pardon and other forms of Executive clemency, and shall perform any other duties assigned by the Attorney General or the Deputy Attorney General.

[Order No. 543-73, 38 FR 29584, Oct. 26, 1973]

§ 0.36 Recommendations.

The Pardon Attorney shall submit all all recommendations in clemency cases to the Attorney General through the Deputy Attorney General.

[Order No. 543-73, 38 FR 29584, Oct. 26, 1973]

Subpart G-1—Office of Watergate Special Prosecution Force

§ 0.37 General functions.

The Office of Watergate Special Prosecution Force shall be under the direction of a Director who shall be the Special Prosecutor appointed by the At-

torney General. The duties and responsibilities of the Special Prosecutor are set forth in the attached appendix below which is incorporated and made a part hereof.

[Order 551-73, 38 FR 30738, Nov. 7, 1973]

§ 0.38 Specific functions.

The Special Prosecutor is assigned and delegated the following specific functions with respect to matters specified in this subpart:

(a) Pursuant to 28 U.S.C. 515(a), to conduct any kind of legal proceeding, civil or criminal, including grand jury proceedings, which United States attorneys are authorized by law to conduct, and to designate attorneys to conduct such legal proceedings.

(b) To approve or disapprove the production or disclosure of information or files relating to matters within his cognizance in response to a subpoena, order, or other demand of a court or other authority. (See Part 16(B) of this chapter.)

(c) To apply for and to exercise the authority vested in the Attorney General under 18 U.S.C. 6005 relating to immunity of witnesses in Congressional proceedings.

APPENDIX—DUTIES AND RESPONSIBILITIES OF THE SPECIAL PROSECUTOR

The Special Prosecutor. There is appointed by the Attorney General, within the Department of Justice, a Special Prosecutor to whom the Attorney General shall delegate the authorities and provide the staff and other resources described below.

The Special Prosecutor shall have full authority for investigating and prosecuting offenses against the United States arising out of the unauthorized entry into Democratic National Committee Headquarters at the Watergate, all offenses arising out of the 1972 Presidential Election for which the Special Prosecutor deems it necessary and appropriate to assume responsibility, allegations involving the President, members of the White House staff, or Presidential appointees, and any other matters which he consents to have assigned to him by the Attorney General.

In particular, the Special Prosecutor shall have full authority with respect to the above matters for:

Conducting proceedings before grand juries and any other investigations he deems necessary;

Reviewing all documentary evidence available from any source, as to which he shall have full access;

Determining whether or not to contest the assertion of "Executive Privilege" or any other testimonial privilege;

Determining whether or not application should be made to any Federal court for a grant of immunity to any witness, consistently with applicable statutory requirements, or for warrants, subpoenas, or other court orders;

Deciding whether or not to prosecute any individual, firm, corporation or group of individuals;

Initiating and conducting prosecutions, framing indictments, filing informations, and handling all aspects of any cases within his jurisdiction (whether initiated before or after his assumption of duties), including any appeals;

Coordinating and directing the activities of all Department of Justice personnel, including United States Attorneys;

Dealing with and appearing before Congressional committees having jurisdiction over any aspect of the above matters and determining what documents, information, and assistance shall be provided to such committees.

In exercising this authority, the Special Prosecutor will have the greatest degree of independence that is consistent with the Attorney General's statutory accountability for all matters falling within the jurisdiction of the Department of Justice. The Attorney General will not countermand or interfere with the Special Prosecutor's decisions or actions. The Special Prosecutor will determine whether and to what extent he will inform or consult with the Attorney General about the conduct of his duties and responsibilities. In accordance with assurances given by the President to the Attorney General that the President will not exercise his Constitutional powers to effect the discharge of the Special Prosecutor or to limit the independence that he is hereby given, (1) the Special Prosecutor will not be removed from his duties except for extraordinary improprieties on his part and without the President's first consulting the Majority and the Minority Leaders and Chairmen and ranking Minority Members of the Judiciary Committees of the Senate and House of Representatives and ascertaining that their consensus is in accord with his proposed action, and (2) the jurisdiction of the Special Prosecutor will not be limited without the President's first consulting with such Members of Congress and ascertaining that their consensus is in accord with his proposed action.

STAFF AND RESOURCE SUPPORT

1. *Selection of Staff.* The Special Prosecutor shall have full authority to organize, select, and hire his own staff of attorneys, investigators, and supporting personnel, on a full or part-time basis, in such numbers and with such qualifications as he may reasonably require. He may request the Assistant Attorneys General and other officers of the Department of Justice to assign such personnel and to provide such other assistance as he may reasonably require. All personnel in

the Department of Justice, including United States Attorneys, shall cooperate to the fullest extent possible with the Special Prosecutor.

2. *Budget.* The Special Prosecutor will be provided with such funds and facilities to carry out his responsibilities as he may reasonably require. He shall have the right to submit budget requests for funds, positions, and other assistance, and such requests shall receive the highest priority.

3. *Designation and responsibility.* The personnel acting as the staff and assistants of the Special Prosecutor shall be known as the Watergate Special Prosecution Force and shall be responsible only to the Special Prosecutor.

Continued responsibilities of Assistant Attorney General, Criminal Division. Except for the specific investigative and prosecutorial duties assigned to the Special Prosecutor, the Assistant Attorney General in charge of the Criminal Division will continue to exercise all of the duties currently assigned to him.

Applicable departmental policies. Except as otherwise herein specified or as mutually agreed between the Special Prosecutor and the Attorney General, the Watergate Special Prosecution Force will be subject to the administrative regulations and policies of the Department of Justice.

Public reports. The Special Prosecutor may from time to time make public such statements or reports as he deems appropriate and shall upon completion of his assignment submit a final report to the appropriate persons or entities of the Congress.

Duration of assignment. The Special Prosecutor will carry out these responsibilities, with the full support of the Department of Justice, until such time as, in his judgment, he has completed them or until a date mutually agreed upon between the Attorney General and himself.

[Order 551-73, 38 FR 30738, Nov. 7, 1973, as amended by Order 554-73, 38 FR 32805, Nov. 28, 1973]

Subpart H—Antitrust Division

§ 0.40 General functions.

Subject to the general supervision of the Attorney General, and under the direction of the Deputy Attorney General, the following-described matters are assigned to and shall be conducted, handled, or supervised by, the Assistant Attorney General in charge of the Antitrust Division:

(a) General enforcement, by criminal and civil proceedings, of the Federal antitrust laws and other laws relating to the protection of competition and the prohibition of restraints of trade and monopolization, including conduct of

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Chapter I—Department of Justice

§ 50.2

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(b) Pursuant to this policy, each proposed consent judgment shall be filed in court or otherwise made available upon request to interested persons as early as feasible but at least 30 days prior to entry by the court. Prior to entry of the judgment, or some earlier specified date, the Department of Justice will receive and consider any written comments, views or relevant allegations relating to the proposed judgment, which the Department may, in its discretion, disclose to the other parties to the action. The Department of Justice shall reserve the right (1) to withdraw or withhold its consent to the proposed judgment if the comments, views or allegations submitted disclose facts or considerations which indicate that the proposed judgment is inappropriate, improper or inadequate and (2) to object to intervention by any party not named as a party by the Government.

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(b) *Guidelines to criminal actions.*

(1) These guidelines shall apply to the release of information to news media from the time a person is the subject of a criminal investigation until any proceeding resulting from such an investigation has been terminated by trial or otherwise.

(2) At no time shall personnel of the Department of Justice furnish any statement or information for the purpose of influencing the outcome of a defendant's trial, nor shall personnel of the Department furnish any statement or information, which could reasonably be expected to be disseminated by means of public communication, if such a statement or information may reasonably be expected to influence the outcome of a pending or future trial.

(3) Personnel of the Department of Justice, subject to specific limitations imposed by law or court rule or order, may make public the following information:

(i) The defendant's name, age, residence, employment, marital status, and similar background information.

(ii) The substance or text of the charge, such as a complaint, indictment, or information.

(iii) The identity of the investigating agency and/or arresting agency and the length and scope of an investigation.

(iv) The circumstances immediately surrounding an arrest, including the

time and place of arrest, resistance, pursuit, possession and use of weapons, and a description of physical items seized at the time of arrest.

Disclosures should include only incontrovertible, factual matters, and should not include subjective observations. In addition, where background information or information relating to the circumstances of an arrest or investigation would be highly prejudicial or where the release thereof would serve no law enforcement function, such information should not be made public.

(4) Personnel of the Department shall not volunteer for publication any information concerning a defendant's prior criminal record, but information drawn from Federal conviction records may be made available in response to a specific request.

(5) Because of the particular danger of prejudice resulting from statements in the period approaching and during trial, they ought strenuously to be avoided during that period. Any such statement or release shall be made only on the infrequent occasion when circumstances absolutely demand a disclosure of information and shall include only information which is clearly not prejudicial.

(6) The release of certain types of information generally tends to create dangers of prejudice without serving a significant law enforcement function. Therefore, personnel of the Department should refrain from making available the following:

(i) Observations about a defendant's character.

(ii) Statements, admissions, confessions, or alibis attributable to a defendant, or the refusal or failure of the accused to make a statement.

(iii) Reference to investigative procedures such as fingerprints, polygraph examinations, ballistic tests, or laboratory tests, or to the refusal by the defendant to submit to such tests or examinations.

(iv) Statements concerning the identity, testimony, or credibility of prospective witnesses.

(v) Statements concerning evidence or argument in the case, whether or not it is anticipated that such evidence or argument will be used at trial.

(vi) Any opinion as to the accused's guilt, or the possibility of a plea of guilty to the offense charged, or the possibility of a plea to a lesser offense.

(7) Personnel of the Department of Justice should take no action to encourage or assist news media in photographing or televising a defendant or accused person being held or transported in Federal custody. Departmental representatives should not make available photographs of a defendant unless a law enforcement function is served thereby.

(8) This statement of policy is not intended to restrict the release of information concerning a defendant who is a fugitive from justice.

(9) Since the purpose of this statement is to set forth generally applicable guidelines, there will, of course, be situations in which it will limit the release of information which would not be prejudicial under the particular circumstances. If a representative of the Department believes that in the interest of the fair administration of justice and the law enforcement process information beyond these guidelines should be released, in a particular case, he shall request the permission of the Attorney General or the Deputy Attorney General to do so.

(c) *Guidelines to civil actions.* Personnel of the Department of Justice associated with a civil action shall not during its investigation or litigation make or participate in making an extrajudicial statement, other than a quotation from or reference to public records, which a reasonable person would expect to be disseminated by means of public communication if there is a reasonable likelihood that such dissemination will interfere with a fair trial and which relates to:

(1) Evidence regarding the occurrence or transaction involved.

(2) The character, credibility, or criminal records of a party, witness, or prospective witness.

(3) The performance or results of any examinations or tests or the refusal or failure of a party to submit to such.

(4) An opinion as to the merits of the claims or defenses of a party, except as required by law or administrative rule.

(5) Any other matter reasonably likely to interfere with a fair trial of the action.

[Order 470-71, 36 F.R. 21028, Nov. 3, 1971]

§ 50.3 Guidelines for the enforcement of Title VI, Civil Rights Act of 1964.

(a) Where the heads of agencies having responsibilities under Title VI of the Civil Rights Act of 1964 conclude there

is noncompliance under that title, courses of action, the objective should be full compliance and full compliance assistance must continue.

(b) Primary responsibility and vigorous enforcement rests with the head and agency administering Federal financial assistance itself and relevant preserve in each and the duty to available sanctions designed to secure individual cases. They or refuse assistance the agency head representative.

(c) This state wide procedural sible department in exercising them and in selecting situation, fully conforms of section 602 implementing thereunder.

I. ALTERNATE

A. ULTIMATE

The ultimate is the refusal to assistance and the being rendered. If be invoked, the the procedures That section agency concerned compliance cannot means, (2) to of action consists the objectives of the particular afford the applicable hearing, and (4) cedural steps out ing notification of tees of the Congress

In some instances is legally permitted action on an pending initiation tion 602 procedure secure voluntary Normally, this can only with respect continuing assistance for programs of not available when ance is due and ously approved a



THE WHITE HOUSE

WASHINGTON

October 3, 1974

MEMORANDUM FOR: Bill Walker

FROM: Philip Buchen *P.W.B.*

SUBJECT: Clearance of Potential
Presidential Appointees
with the Special Prosecutor

Following my receipt of the enclosed memorandum from Ken Lazarus, I checked with the Special Prosecutor who assured me that he can follow a legal procedure for asking and obtaining information on Presidential appointees. The information provided would involve whether or not the person in question is or is not under consideration for filing of charges. The report is cautiously worded but only to avoid implication that future evidence received could not change the result. Requests can be made and answered in writing provided they allow a few days' time for reply. I suggest that in each case the Personnel Office request our office to send a letter substantially in the form attached.

We have already used this form to request clearances sought from me on October 2.

Attachments

cc: Don Rumsfeld

Dear Mr. Jaworski:

Re: _____

We would appreciate your advising us at your earliest convenience whether or not the above-named individual is under consideration by the Watergate Special Prosecution Force for filing of charges.

Your cooperation is much appreciated.

Sincerely yours,

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

**The Honorable Leon Jaworski
Special Prosecutor
Watergate Special Prosecution Force
United States Department of Justice
1425 K Street, N. W.
Washington, D. C. 20005**



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**Phillip W. Buchen
Counsel to the President**

**The Honorable Leon Jaworski
Special Prosecutor
Watergate Special Prosecution Force
United States Department of Justice
1425 K Street, N. W.
Washington, D. C. 20005**



WATERGATE SPECIAL PROSECUTION FORCE
United States Department of Justice
1425 K Street, N.W.
Washington, D.C. 20005

October 8, 1974

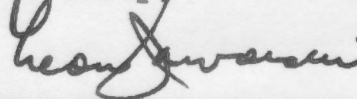
Philip W. Buchen, Esquire
Counsel to the President
The White House
Washington, D.C.

Dear Mr. Buchen:

This is in response to your inquiries of
October 3, 1974, concerning Richard Cheney and
Brenda Williams.

After checking with our various task forces,
I can report that neither of the above-named
individuals is under consideration by the
Watergate Special Prosecution Force for filing
of charges.

Sincerely,



LEON JAWORSKI
Special Prosecutor

