

The original documents are located in Box 58, folder “Protection - Responsibilities of the Secret Service and EPS (3)” of the Philip Buchen Files at the Gerald R. Ford Presidential Library.

Copyright Notice

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Gerald R. Ford donated to the United States of America his copyrights in all of his unpublished writings in National Archives collections. Works prepared by U.S. Government employees as part of their official duties are in the public domain. The copyrights to materials written by other individuals or organizations are presumed to remain with them. If you think any of the information displayed in the PDF is subject to a valid copyright claim, please contact the Gerald R. Ford Presidential Library.

ITEM WITHDRAWAL SHEET
WITHDRAWAL ID 01299

Collection/Series/Folder ID : 001900561
Reason for Withdrawal : DR, Donor restriction
Type of Material : MEM, Memo(s)
Creator's Name : Shirley
Receiver's Name : Philip Buchen
Description : re letter referred to Secret Serv
Creation Date : 07/14/1975
Date Withdrawn : 06/27/1988

ice

Wednesday 9/17/75

9:15 Jim Torrence called with a little more information.

Jack Ford apparently came out about noon from the Boundary Water Canoe Area -- at a different place than he indicated on his route (he varied the route from what he had on his permit). That's probably the reason they had trouble locating him.

He ate in Ely about 3 p.m. Checked out with the outfitter about 4 p.m. Apparently left Ely about 4:30 p.m. They assume he's on his way back.

Interesting note:

When he got his canoe and stuff from the outfitter, he gave his name as John G. Ford, Logan, Utah; when he checked out with the outfitter, he asked if he could pay with a check and the outfitter said "Sure." The check said John G. Ford, 1600 Pennsylvania Avenue, and the outfitter didn't realize until the ranger came back and checked with him to see if it was Jack Ford.



Tuesday 9/16/75

5:25 Jim Torrence asked me to give you this message:

(218) 727-6692

The President's son and his companion are out of the Boundary Water Canoe Area and they are presently in Bridgeman's Ice Cream Parlor in downtown Ely (it's the local ice cream and hamburger joint -- pretty famous in that part of Minnesota for a chain of ice cream stores).

They will keep their eyes on them and let you know when they leave Ely.

If you need to talk with him he can be reached at home at any time -- please don't hesitate to call.

(218) 724-0459

FTS number

(218) 727-6321



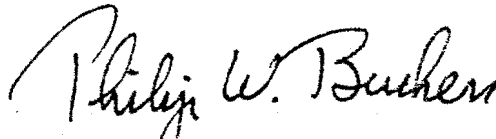
THE WHITE HOUSE
WASHINGTON

September 30, 1975

Dear Mr. Torrence:

Many thanks for your very helpful assistance during the second and third weeks of September. We are all relieved that the matter turned out so well, and it was reassuring to know that you and your colleagues were on the alert to act if needed.

Sincerely,



Philip W. Buchen
Counsel to the President

Mr. James Torrence
Forest Supervisor
Superior National Forest
Box 338
Duluth, Minnesota 551801



Wednesday 9/17/75

9:15 Jim Torrence called with a little more information.

Jack Ford apparently came out about noon from the Boundary Water Canoe Area -- at a different place than he indicated on his route (he varied the route from what he had on his permit). That's probably the reason they had trouble locating him.

He ate in Ely about 3 p.m. Checked out with the outfitter about 4 p.m. Apparently left Ely about 4:30 p.m. They assume he's on his way back.

Interesting note:

When he got his canoe and stuff from the outfitter, he gave his name as John G. Ford, Logan, Utah; when he checked out with the outfitter, he asked if he could pay with a check and the outfitter said "Sure." The check said John G. Ford, 1600 Pennsylvania Avenue, and the outfitter didn't realize until the ranger came back and checked with him to see if it was Jack Ford.



Protection

Tuesday 9/16/75

5:25 Jim Torrence asked me to give you this message:

(218) 727-6692

The President's son and his companion are out of the Boundary Water Canoe Area and they are presently in Bridgeman's Ice Cream Parlor in downtown Ely (it's the local ice cream and hamburger joint -- pretty famous in that part of Minnesota for a chain of ice cream stores).

They will keep their eyes on them and let you know when they leave Ely.

If you need to talk with him he can be reached at home at any time -- please don't hesitate to call.

(218) 724-0459

FTS number

(218) 727-6321



Protection

Monday 9/8/75

Mr. Buchen had to check out some information about
Jack Ford -- the following are some of the calls we made:

10:10	David Macdonald	(184) 2033
10:15	Secy. Simon	
10:20	Ernest Luzania (Deputy Special Agent in Charge) (Dick Kaiser away two weeks)	
10:45	Ernest Luzania	
10:50	David Macdonald	
11:15	Ernest Luzania	
11:16	Mrs. Ford	
11:55	Jerry Palmer or Steve Bloomer	(612) GR. 3-5444
11:56	Ernest Luzania	
12:10	Jack Ford	
12:45	David Macdonald	
1:50	Gary Everhardt -- in Grand Tetons (Director, NPS)	343-4621
	Deputy Dickinson	
2:15	Dickinson called back to say it isn't in his jurisdiction	
2:00	John McGuire (Chief of Forest Service)	(447-6661
2:10	Jim Torrence (Director, Office of Supt. of Superior National Park)	(218) 727-6692

2:20 Steve Bloomer

(612) GR 3-5444

2:35 Steve Bloomer

3:10 David Macdonald

4:55 Ernest Luzania

Tuesday 9/9

9:20 Pat Boggs (Secret Service)

5:00 Jim Torrence

5:30 David Macdonald

Wednesday 9/10

2:40 Ursomarso ??

Thursday 9/11

2:35 David Macdonald

Friday 9/12

3:20 Jim Torrence

Monday 9/15

12:15 David Macdonald

Tuesday 9/16

10:20 Jim Torrence



THE WHITE HOUSE
WASHINGTON

*Agat
pinner*

December 19, 1975

Dear Vol:

Sorry for the long delay in answering your letter of September 16, 1975, in which you reflected your concern for the safety of the President and security at the White House. I passed on your comments to the Secret Service, which makes the following points.

Your experience on entering the White House reflects the standard practice for clearing appointments with members of the White House staff. The officer confirms a guest's identity with the staff member or his or her secretary to establish that the individual has a valid appointment. After identity and validity are established, a pass admits a guest to a specific area, via a specific route, and officers along the route are telephonically notified, as you described. Large opened packages and briefcases are routinely examined, and unopened packages are X-rayed.

After discussing this matter and your proposal for electronic detection devices with the United States Secret Service, I understand that a similar proposal is currently under consideration.

Many thanks for your interest and concern. Also, I was happy to see David briefly this week and to learn he is thinking of going to law school. May you and all the family have a Merry Christmas and a Happy New Year.

Sincerely,



Philip W. Buchen
Counsel to the President

Mr. Volney F. Morin
1341 Cahuenga Boulevard
Los Angeles, California 90028



UNITED STATES ASSOCIATES

HARLEAN M. CARROLL
VOLNEY F. MORIN
VOLNEY F. MORIN, JR.
JAMES B. RIVES
SANDRA S. SAWYER

OF COUNSEL
HAROLD A. SHIRCLIFFE

VOLNEY F. MORIN, INC.

LAW CORPORATION

September 16, 1975

Morin Volney
INTERNATIONAL OFFICES
LONDON
MELBOURNE
MEXICO CITY
TOKYO

Mr. Philip W. Buchen
Chief Legal Aid to the President
The White House
Washington, D. C.

Re: White House Security

Dear Phil:

I thought you would want to know of my concern for you and the President.

As a military officer in two wars, and as a practicing attorney, I am perhaps a little more sensitive to security than most people.

On Wednesday, September 10, 1975, at 2:00 p.m. I presented myself to the Security Officers at the Pennsylvania Avenue entrance to the White House. I said I wanted to see Eva Daughtrey. The officer asked where she worked, and then telephoned. A voice at the other end (whom he couldn't have known) must have said it was all right to admit me. He took a cursory glance at my California Driver's License, and I was admitted.

I walked down the long driveway to the Marine who was standing on duty outside the entrance to your offices. He asked for and looked at nothing. I presented myself to the white-shirted Security Officer just inside the door to your offices. He did not ask for identification; he was busy on the telephone; he told me that he had told Mrs. Daughtrey that I was on my way. A secret service-looking type person stepped out of a closet, just inside the door, and took a look at me.

I waited in the reception room and, shortly, Mrs. Daughtrey brought me into your offices.

All this time I was carrying with me a large manila envelope which could have contained anything, including a letter bomb. There was no surveillance; there was no check; there was no security. There were many, many people wandering in and out of the White House.

Phil, unless there are electronic detection devices of a more sophisticated nature than any I have ever seen, I am of the mind

Mr. Philip W. Buchen
Re: White House Security

September 16, 1975
Page Two

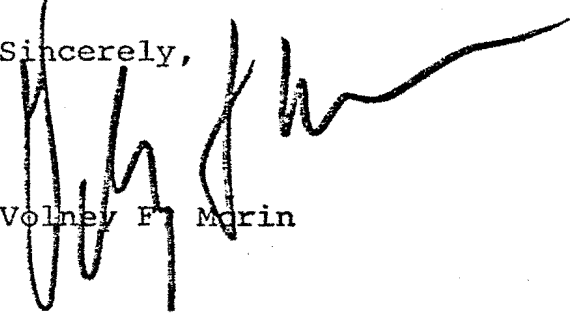
that there are no electronic surveillance devices at work.

I should think that, at the very least, White House Security would make every entering person pass through an electronic detection device, such as is now used at almost every airport in the world, and that all luggage and envelopes would be x-ray surveyed.

To put it directly, I think you are working in a very dangerous place and something ought to be done about it.

Kindest regards.

Sincerely,


Volney F. Morin

VFM:bem/mp



THE WHITE HOUSE

WASHINGTON

*Secret Service
Protection*

March 4, 1976

MEMORANDUM FOR:

JACK MARSH

FROM:

PHIL BUCHEN *P.*

SUBJECT:

Secret Service Protection
for Former Presidents and
Members of Their Families

The attached memorandum is provided in response to your request concerning Secret Service protection for former Presidents.

Dave Macdonald, Assistant Secretary of the Treasury, also points out that most of the agents' travel expenses were borne directly by the Chinese Government, and that the \$250,000 paid by the Government as reported in the press is not at all accurate.



THE WHITE HOUSE

WASHINGTON

March 4, 1976

MEMORANDUM

SUBJECT: Secret Service Protection for Former Presidents and Their Wives

By law, each former President and his wife, or widow unless she remarries, automatically receives protection by the Secret Service. The relevant statutory authorization for such protection is found at 18 U.S.C. 3056, which provides, in relevant part, that:

"(a) Subject to the direction of the Secretary of the Treasury, the United States Secret Service, Treasury Department, is authorized to protect the person of the President of the United States, ...; protect the person of a former President and his wife during his lifetime, the person of the widow of a former President until her death or remarriage, and minor children of a former President until they reach sixteen years of age, unless such protection is declined...."

The legislative history of this provision, enacted in 1965, indicates a Congressional concern for the safety of former Presidents. Senate Report No. 611, 89th Congress, stated the following in this regard:

"Because of the prominent position these individuals held in public life, they continue to be in the lime-light. They are sought out and subject to annoyance by the idly curious. They remain possible targets of the mentally deranged. They may also be the object of threats by persons with grievances supposedly caused by actions taken by a former President while in office. In these circumstances, the Treasury Department considers it desirable -- not to force Secret Service protection on these persons -- but to make it available to them unless they decline it. The proposed authority seems to the Committee entirely appropriate as a small gesture of gratitude for the service former Presidents have rendered to the Nation, some of whom have served at the sacrifice of their lives."



Under this statute, it is mandatory for the Secretary of the Treasury to provide Secret Service protection to a former President unless the former President declines it.

The President has no discretionary authority to either allow or disallow such protection. In addition, Section 2 of P.L. 90-331, enacted June 6, 1968, provides ". . . when requested by the Director of the United States Secret Service, federal Departments and agencies, unless such authority is revoked by the President, shall assist the Secret Service in the performance of its protection duties under section 3056 of title 18 of the United States Code"



THE WHITE HOUSE

WASHINGTON

February 28, 1976

MEMORANDUM FOR: PHIL BUCHEN

FROM: JACK MARSH 

I think it would be helpful if we could put together a one-page fact sheet in reference to the statutory background of Secret Service protection for former Presidents and members of their families.

We are getting a number of incoming inquiries from Members of Congress, on behalf of constituents, in reference to the Secret Service role and their cost.

It's essential to point out that this is a statutory requirement over which we have no control, which vests authority in the Secret Service not only to perform their duty, but also to in some instances levy on other departments and agencies of government to assist them in their requests.

I think it would be very helpful to excerpt the statute number and put the precise language of the law into the fact sheet.

Many thanks.

cc: Dick Cheney



a106

u w zvtezcryx

Adv For Leon 137

Base Closings Lead Take 2

BASE Base Closings Lead Take 2: closure...

Apart from the Navy actions, the Defense Supply Agency will consider whether to close or significantly reduce operations of its Defense Clothing Factory, which employs about 1,600 civilian workers in Philadelphia. The Pentagon indicated it may rely more on the commercial clothing industry.

In neighboring New Jersey, the Army plans to reduce workers at the Bayonne military ocean terminal and contract with private firms to handle cargo there.

The Defense Mapping Agency will look into the possibility of closing one or more of its topographic center field offices in Kansas City, Mo., Louisville, Ky., Providence, R.I., and San Antonio, Tex.

1130aE3 03-17

2107

*Ed: Is this
something we
should look into?*

A118

D. B.

WIVES 3-17

WASHINGTON (UPI) -- PRESIDENT FORD MAY SOON FIND HIMSELF PICKETED BY THE WIVES OF THE WHITE HOUSE POLICEMEN WHO ARE ASSIGNED TO PROTECT HIM.

SOME 300 MEMBERS OF THE EXECUTIVE PROTECTIVE SERVICE VOTED TUESDAY NIGHT TO DRAMATIZE THEIR GRIEVANCES BY HAVING THEIR WIVES PICKET THE WHITE HOUSE PEACEFULLY. THEY SET NO DATE FOR THE DEMONSTRATION.

AN AD HOC COMMITTEE REPRESENTING DISSIDENT MEMBERS HAS BEEN SEEKING TO NEGOTIATE WITH EPS OFFICIALS OVER MANY MONTHS A RESOLUTION OF SOME OF THEIR GRIEVANCES CONCERNING PROMOTIONS, PAY AND HOURS.

A SPOKESMAN SAID THERE WOULD BE NO DISRUPTION OF THE PRESIDENT'S SECURITY BY THOSE WHO MAN THE GATES AND MANY POSTS AT THE WHITE HOUSE DURING THE PROTEST.

THE SPOKESMAN SAID THAT THE POLICE ARE SEEKING A PAY INCREASE OF 15.2 PER CENT AND FEDERAL COMPATIBILITY WITH OTHER GOVERNMENT PAY SCALES.

HE SAID THAT BOTH WHITE HOUSE OFFICIALS AND TREASURY SECRETARY WILLIAM E. SIMON, WHO HAS OVERALL CHARGE OF THE PROTECTIVE SERVICE, ARE AWARE OF THE GRIEVANCES.

STARTING MAY 30, WHITE HOUSE POLICE WILL BE ROTATING ON THE MIDNIGHT SHIFT WHICH HAS BEEN A VOLUNTARY TRICK FOR 25 YEARS. THE SPOKESMAN SAID MEMBERS OF THE AD HOC COMMITTEE FEEL THIS IS A RETALIATORY MOVE BECAUSE OF THEIR PROTESTS.

UPI 03-17 11:20 AES



Secret Service

THE WHITE HOUSE

WASHINGTON

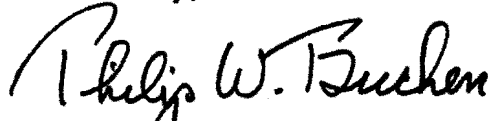
March 30, 1976

Dear Marguerite:

On the occasion of your retirement from the Secret Service after thirty years of loyal and devoted service, I want to express my appreciation and that of my associates in the Counsel's office. Your helpfulness and alert attention to detail have aided us immeasurably and made our daily tasks easier.

Our best wishes go with you for much happiness in the future.

Sincerely,



Philip W. Buchen
Counsel to the President

Miss Marguerite Sullivan
Internal Security Supervisor
Technical Security Division
United States Secret Service
Washington, D. C. 20223



MEMORANDUM

THE WHITE HOUSE

WASHINGTON

March 25, 1976

ADMINISTRATIVELY ~~CONFIDENTIAL~~

MEMORANDUM FOR

EVA A. DAUGHTREY

FROM:

JANE DANNENHAUER *[Signature]*

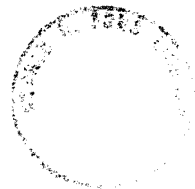
SUBJECT:

SUGGESTED RETIREMENT LETTER

Eva, attached is a draft of the suggested letter for Miss Sullivan,
as we discussed.

Many thanks for your assistance.

Enclosure



Monday 3/29/76

2:30 Jane Dannenhauer called one day last week to say that Marguerite Sullivan will be retiring after 30 years from the Secret Service. They are putting together a book of letters, etc., from friends and associates and wondered if you might wish to send a letter -- since we have worked so closely with Secret Service.

(attached is a suggested draft)

Jane would be happy to pick the letter up and deliver it to the Secret Service along with her letter -- if you'd like.

(Peggy Luskey)

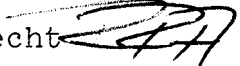




THE GENERAL COUNSEL OF THE TREASURY
WASHINGTON, D.C. 20220

September 1, 1976

MEMORANDUM TO: The Honorable Philip W. Buchen
Counsel to the President
The White House

FROM: Richard R. Albrecht 

In addition to Ed Schmults' memo written at the time questions were raised about protection for former Vice President Agnew, I found in our file a memo discussing the subject in general from the Office of Legal Counsel, and have attached a copy of that as well.

I would appreciate a call when you have had an opportunity to review these memos.

Attachments





THE GENERAL COUNSEL OF THE TREASURY
WASHINGTON, D.C. 20220

MAR 19 1974

MEMORANDUM FOR: Secretary Shultz
FROM: Edward C. Schmults *EC S*
SUBJECT: The Authority of the Secret Service^D to Provide Protection
in Circumstances Not Specified in 18 U.S.C. 3056(a)

Following your appearance before the Senate Appropriations Committee on February 27th, you asked me to prepare a memorandum on the authority of the Secret Service to provide protection in circumstances not specified in the basic protective statute, 18 U.S.C. 3056(a). This document is provided in response to that request.

In 1865 the Secret Service was established as a division of the Treasury Department to suppress counterfeiting, but before the turn of the century it was engaged, in an ad hoc, stop-gap way, in protecting the President. Although the Secret Service began full-time protection of the President in 1902, four years passed before specific legislative sanction and funds were provided for such protection. It was not until 1951 that the basic protective statute was enacted authorizing permanent protection for the President. This statute, 18 U.S.C. 3056(a), has been amended several times to enlarge the number of persons to be protected. Thus, the evolution of the Secret Service protective mission has been an on-going process. The history and nature of that mission make it imperative, in Treasury's view, that the protective statute not be regarded as preventing the Secret Service from protecting persons not specifically covered by the statute in circumstances where the risk of harm and the public interest justify protection.

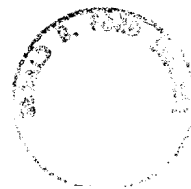


The basic statute now authorizes the Secret Service, subject to the direction of the Secretary of the Treasury, to protect the President and his immediate family; the President-elect; the Vice President or other officer next in succession to the President; the Vice President-elect; major Presidential and Vice Presidential candidates;^{1/} former Presidents and their wives; the widows of former Presidents until death or remarriage; minor children of former Presidents until they reach the age of sixteen; visiting heads of state and of foreign governments; and, at the direction of the President, other distinguished foreign visitors and official representatives of the United States performing special missions abroad.^{2/}

Consistent with the evolution of the Secret Service's protective mission, the Treasury Department has over the years taken the position that this statutory enumeration does not preclude the Secret Service from affording protection to individuals who do not fall within the specific categories set forth in 18 U.S.C. 3056(a) if there are circumstances present which make such protection reasonable as a matter of both law and public policy. Because of the nature of what is in issue, i.e., the protection of persons whose lives are considered to be in danger, we have not regarded Congress'

^{1/} The responsibility to protect Presidential and Vice Presidential candidates stems from P.L. 90-331 (1968). This authority is noted in a footnote to 18 U.S.C. 3056.

^{2/} The protective statute has been considerably broadened since 1951 when it only authorized protection of the President and his immediate family, the Vice President and the President-elect. Persons in several of the new categories of protectees added by the Congress had already been receiving protection at the direction of the President prior to the Congress' specific authorization.



enumeration of specific classes of persons to be protected as intended to preclude protection which is in the public interest when ordered by the President on a temporary basis or protection for which there is other authority, as discussed below.

* * * *

The Treasury Department has operated for many years under the general presumption that there is Presidential authority to order protective details in cases not expressly covered by the protective statute but which are in the public interest. This ability provides a necessary flexibility, particularly in emergency situations, to cover important situations not foreseen by the Congress and not dealt with in 18 U.S.C. 3056(a). In a present day environment where terrorism and kidnapping are being increasingly utilized in attempts to secure social and economic demands, this capability appears to be a necessity.

The Treasury, as an agency of the Executive branch of the government, is not in a position to express authoritative conclusions as to the basis for the President's inherent power to order Secret Service protection of a specific individual. That is a determination to be made in the first instance by Counsel to the President. But, in the absence of an authoritative expression to the contrary, the Treasury believes that in cases where the President determines that the risk of harm and the public interest justify Secret Service protection, his directive to furnish such protection is, as a matter of law, presumptively valid.

Inherent executive authority has been utilized on a number of past occasions by many Presidents to order protection in a variety of circumstances.^{3/} For example, during World War II protection was afforded to Queen Wilhelmina of the Netherlands, Prime Minister Winston Churchill and other official foreign visitors to the United States. President Truman and his successors sent Secret Service details to Latin America to provide protection for Secretaries of State. Governor Rockefeller was protected by the Secret Service on an official trip to Latin America during a time when extensive rioting was taking place. Former Vice President Humphrey received protection for six months in 1969 after leaving office. Although he was not a candidate for the Presidency, Senator Edward M. Kennedy was protected subsequent to the assassination attempt against Governor Wallace during the 1972 Campaign. Finally, we would point out that if the statute is read literally, protection for Vice President-designate Ford was not expressly authorized during the time period from his nomination by the President until his confirmation by the Congress, since he was neither a "candidate" for the Vice Presidency for whom protection was recommended by the advisory committee prescribed in P.L. 90-331, nor an official next in succession to the Presidency, nor a "Vice President-elect."

^{3/} With two exceptions, those situations where protection has been ordered by the President have involved the protection of individuals in circumstances akin to, but not within, the specific parameters set forth in 18 U.S.C. 3056(a). These exceptions concern the protection of foreign officials visiting the United States and protection of U.S. officials on missions abroad before the statute was amended in 1971 to specifically cover both types of situations.

The Congress has been informed of past instances where the Secret Service has provided protection for persons not within the specific categories listed in 18 U.S.C. 3056(a).^{4/} To our knowledge, no significant objections have

^{4/} In 1950 testimony before the Labor-Federal Security Appropriations Subcommittee of the House Appropriations Committee indicated that, although it was not at the time prescribed by the Secret Service's statute, the Vice President and certain foreign dignitaries were receiving Secret Service protection. (Hearings before the House Subcommittee on Labor-Federal Security Appropriations on the Second Supplemental Appropriations Bill for 1951, 81st Cong., 2nd Sess., p. 175 (1950).) Although Mr. Truman had a Secret Service detail as Vice President and Vice President Wallace was guarded on a few occasions, the statute was not amended to specifically authorize the Secret Service to protect the Vice President until 1951.

In September 1972 it was formally reported to the Treasury subcommittee of the House Appropriations Committee that Secret Service protection was being provided to Senator Edward Kennedy, although he was not a candidate in the 1972 Presidential Campaign, "by direction of the President, pursuant to the inherent powers of the President." (Hearings before the House Subcommittee on the Treasury, Postal Service, and General Government Appropriations on the Supplemental Appropriation Bill, 1973, 92nd Cong., 2nd Sess., p. 1058 (1972).) In March, 1971, it was reported to the same subcommittee that, "at the direction of the President," the Secret Service had during 1970, prior to enactment of legislation authorizing such, protected numerous visiting foreign dignitaries. (Hearings before the House Subcommittee on the Treasury, Postal Service, and General Government Appropriations on Appropriations for 1972, 92nd Cong., 1st Sess., pp. 222, 224 (1971).) The Senate Appropriations Subcommittee with responsibility for the Treasury Department was also apprised of both of these protective assignments. (Hearings before the Senate Subcommittee on the Treasury, U.S. Postal Service and General Government Appropriations on H.R. 9590, 93rd Cong., 1st Sess., p. 462 (1973); and, Hearings before the Senate Subcommittee on the Treasury, U.S. Postal Service and General Government Appropriations on H.R. 9271, 92nd Cong., 1st Sess., pp. 475-476 (1971).)

In 1969 the Senate Appropriations Subcommittee on Deficiencies and Supplementals heard testimony that the President, with no specific legislative authority, had ordered Secret Service protection for Governor Rockefeller during an official trip to Latin America. (Hearings before the Senate Subcommittee on Deficiencies and Supplemental Appropriations on H.R. 11400, 91st Cong., 1st Sess., p. 1125 (1968).)

ever been raised in connection with any protective mission other than that involving former Vice President Agnew in the recent past.^{5/} In pertinent situations lack of Congressional objection to a long-standing practice of the Executive has been interpreted as supporting the proposition that such practice is impliedly authorized. United States v. Midwest Oil Company, 236 U.S. 459 (1915).

Although no statute specifically authorizing such conduct was in existence, the Supreme Court recognized the authority of the President to assign a deputy Federal marshal to protect a U.S. Supreme Court Justice whose life had been threatened as part of the Executive's constitutional duty to "take care that the laws be faithfully executed", (U.S. Const. Art. II, §3) In re Neagle, 135 U.S. 1 (1890). We believe that such inherent Presidential authority to direct Federal officers to provide protection where it is in the public interest supports the view that the statute enumerating the general powers of the Secret Service was not intended to be exclusive.

^{5/} The issue of whether, and under what circumstances, the Secret Service has legal authority to provide protection beyond that specifically set forth in 18 U.S.C. 3056(a) has never been considered by any court of the United States. In fact, before the Comptroller General set forth his recent opinion with respect to former Vice President Agnew's protection, an opinion which limited itself only to the case of Mr. Agnew and expressed no other conclusions, no views, to Treasury's knowledge, had ever been expressed formally by any agency of the United States that Secret Service protection in circumstances other than those specifically set forth in 18 U.S.C. 3056(a) might be without authority of law.



Such an assignment of Executive branch personnel should, because of the necessity to implement protection in certain situations, be viewed as analogous to other unspecified Presidential powers, such as that to remove Executive officials upheld by the Supreme Court in Myers v. United States, 272 U.S. 52 (1926).

* * * *

There is a second type of situation, namely that in which Secret Service protection has been afforded without Presidential directive, generally on the authority of the Secretary of the Treasury, to individuals not within those categories specifically set forth in 18 U.S.C. 3056(a). In accordance with the comments made at the Senate Appropriations Committee hearing on February 27th, we are discussing in this section of the memorandum only the protection being accorded to the Secretary and the current Deputy Secretary of the Treasury, and the Secretary of State.

The deployment of security personnel is an executive function essential to the management of a department and the performance of its business. Thus, it is reasonable that, if considered necessary in view of demonstrable evidence of risk, the Secretary and the current Deputy Secretary of the Treasury be assigned an appropriate number of professionally trained Secret Service agents. Section 301 of 5 U.S.C. provides, in part, that "the head of an Executive department or military department may prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business. . . ." Reorganization Plan 26 of 1950 (5 U.S.C. App., p. 544) transferred all duties and functions of

employees of the Department of the Treasury, including those of the Secret Service, to the Secretary.^{6/} Accordingly, the Secretary is empowered by law to supervise and direct the activities of Secret Service officers. Such officers, like all other Treasury personnel, could be assigned to render him direct assistance to carry out any Treasury responsibilities. In the past, in response to a White House request, the Secretary has deployed Secret Service officers as sky marshals to protect commercial aircraft against hijacking.^{7/} The Secret Service has trained security personnel from other departments so that they could protect their own department heads.^{8/} The Secret Service also at times conducts investigations for Treasury bureaus which do not have their own investigative capabilities.^{9/} None of these functions are specifically set out in 18 U.S.C. 3056(a). Each activity has been discussed in appropriation hearings before Congress and none has been criticized as beyond the Service's authority as set forth in 18 U.S.C. 3056(a).

During World War II Secretary Morgenthau was supplied a Secret Service detail to insure his personal safety. Given the present national environment and evidence of specific risks, it seems reasonable to the Treasury

-
- ^{6/} See also section 5 of P.L. 91-651 (1971) in which Congress specifically made 18 U.S.C. 3056, as amended, subject to Reorganization Plan 26.
- ^{7/} Hearings before the House Subcommittee on Treasury, Post Office and General Appropriations on Appropriations for 1972, 92nd Cong., 1st Sess., pp. 223, 262-263 (1971).
- ^{8/} Hearings before the House Subcommittee on the Treasury, Postal Service, and General Government Appropriations on Appropriations for Fiscal Year 1974, 93rd Cong., 1st Sess., Part I, p. 392 (1973).
- ^{9/} Hearings before the House Subcommittee on Treasury - Post Office Departments Appropriations on Appropriations for 1958, 85th Cong., 1st Sess., pp. 533-534 (1957) (personnel investigations for the Bureau of Engraving and Printing, Bureau of the Mint, Bureau of Public Debt, etc.).

that the Secretary and the current Deputy Secretary of the Department also be assigned Secret Service agents who have been trained to provide personal protection.

Finally, in addition to authorizing Secret Service protection for the two senior officials in the Treasury Department, the Secretary of the Treasury has, in response to a request from Secretary of State Kissinger, directed the Secret Service to protect him. Such action is justified under the Economy Act of 1932, as amended, 31 U.S.C. 686. The Department of State is authorized under 22 U.S.C. 2666 to provide protective services for the Secretary of State, and funds have been appropriated for that purpose. Government agencies are authorized under 31 U.S.C. 686 to use available funds to procure services from other government agencies. Pursuant to this authority, the Department of State has determined that it is in the interest of the government to utilize the Secret Service to provide protection, on a partially reimbursable basis, for the Secretary of State.

* * * *

For the reasons stated above, the Treasury believes that the basic protective statute is not exclusive and that additional Secret Service protection may be directed in cases not specifically covered by the statute where the risk of harm and the public interest justify such protection. Recently this proposition has been questioned with respect to at least one protective detail not covered by the statute. It may be desirable to

consider again broadening the protective statute to cover additional situations where protection is warranted. If this view is accepted, further consideration will be given to this matter by the Treasury with a view to developing specific legislative proposals.

MEMORANDUM FOR THE DIRECTOR, U. S. SECRET SERVICE

Subject: Protection for the Adult Daughters of Former
President Nixon

In accordance with a request from the President, a copy of which is attached, you are hereby requested to provide a detail for the protection of Julie Eisenhower and Patricia Cox, the daughters of former President Richard Nixon, for a period of 30 days from August 9, 1974.

William E. Simon

Attachment

General Counsel:RRA1brecht:saw 8/12/74



MEMORANDUM FOR THE SECRETARY OF THE TREASURY

Subject: Protection for the Adult Daughters of
Former President Nixon

You are hereby requested to direct the United States Secret Service to provide a detail for the protection of Julie Eisenhower and Patricia Cox, the daughters of former President Richard Nixon, for a period of 30 days from August 9, 1974.



General Counsel:Albrecht:saw 8/12/74

Department of Justice
Washington, D.C. 20530

MAR 27 1972

MEMORANDUM FOR THE HONORABLE JOHN W. DEAN, III
Counsel to the President

Re: Legal Authority for the Protection
of Public Figures.

This is in response to your March 22, 1972, memorandum requesting information on the legal authority to assign federal security and law enforcement officials to protect "public figures." Your memorandum raises three questions:

1. Whether any express legal authority exists which permits the Secret Service to provide security for such persons as Dr. Kissinger who would not customarily receive protection, but due to special circumstances, are considered in need of it;
2. Whether any express legal authority exists which permits protection of certain Cabinet Secretaries by the security forces of their individual departments; and
3. Whether, in the absence of any express authority to engage in such activity, constitutional or other powers may permit the ordering of such protection.

In the discussion that follows we have assumed that the purpose of such protection is to provide continuous security of the person of these officials whether or not they are on government property or on official business. We also assume that this protection would be given in the absence of war, rebellion or other extraordinary disturbance in which the emergency powers of the President as Commander in Chief might be involved.

I.

Legal Authority of the Secret Service
To Protect Dr. Kissinger.

We have found no express authority for the Secret Service to provide routine personal protection for Dr. Kissinger or other similar officials.

The Secret Service receives its authority to protect certain persons from 18 U.S.C. § 3056 (1970). The principal persons entitled to such protection are the President, members of his family, the Vice-President, and certain foreign officials. Of note is a provision permitting the Secret Service, at the direction of the President, to protect the person of "official representatives of the United States performing special missions abroad." This is the only provision that might be applicable to Dr. Kissinger but it apparently would be applicable only in the limited circumstances described.

Also of note is 22 U.S.C. § 2666 (1970), which recognizes the authority of security officers of the Department of State to protect "official representatives . . . of the United States attending international conferences, or performing special missions." Since one executive department may request another to perform duties assigned to it (31 U.S.C. § 686 (1970)), there may be instances when the Secret Service could protect Dr. Kissinger in accordance with the cited provisions. Here again, however, the protection would be authorized only in very limited circumstances, making this provision of little value for routine protection of Dr. Kissinger.

We would also point out that Congress' specific enumeration in these provisions of certain classes of persons entitled to personal protection can be interpreted as impliedly prohibiting the protection of persons not listed.

II.

Protection of Cabinet Secretaries By their own Security Personnel.

We are aware of only one statutory provision that expressly recognizes the authority of security personnel of an executive department to protect the department head. Pursuant to 22 U.S.C. § 2666 (1970), the Secretary of State and other designated officials are expressly entitled to protection by State Department security officers.

The Federal Bureau of Investigation does not have express authority to protect the Attorney General. Although in the limited time available we have not examined all of the statutes governing other departments, we do not believe that they contain express provisions permitting the use of security personnel to protect the heads of those departments.

There is one statute of general applicability that may bear on this problem. It provides, in part, that "The head of an Executive department or military department may prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business" 5 U.S.C. § 301 (1970). We are not aware of any legislative intent that this provision was designed as authority for the assignment of security personnel to protect the department head, or that this statute has, in fact, been relied upon to support such authority in the past. One can make a reasonable argument, however, that the deployment of security personnel is an executive function bearing on the government of the department and the performance of its business. One difficulty with attributing such authority to this provision is, as noted above, that Congress in a separate statute expressly recognized authority for the protection of the Secretary of State. This is an indication that Congress did not believe that section 301 of title 5 already contained the requisite authority.*/

*/ We note that personal protection of department heads and other public officials may be granted incidentally in (f.n.cont'd p. 4)

III.

Other Arguments in Support of Personal Protection of Government Officials.

The absence of specific congressional authorization for the personal protection of Dr. Kissinger and Cabinet Secretaries other than the Secretary of State raises doubts about the existence of such authority. There are, however, three separate but related grounds on which reasonably defensible arguments can be made to support the grant of authority to provide special protection to these public officials.

A. Implied Congressional Authorization.

We have been told informally that some Cabinet Secretaries in the past have been given special protection by various federal security officers and we understand that the same may be true of some White House officials. If this is true, and a good factual case can be made to demonstrate it, the absence of congressional action to prohibit that protection even though it was aware of the practice can be construed as an implied authorization for it to continue.

There are executive practices that have developed through the years in the absence of congressional direction, and in at least one Supreme Court case such practices have been recognized as legally valid. In United States v. Midwest Oil Company, 236 U.S. 459 (1915), the Court held that the President, by mere repeated assertion of authority from an early date, had acquired the right to withdraw public lands from private acquisition even though Congress

(footnote cont'd)

public places or buildings where federal security officers have special jurisdiction. Thus, the Executive Protective Service, which has the police power to protect, inter alia, the Executive mansion and any building in which presidential offices are located, presumably could grant special protection to any persons in these buildings. See 3 U.S.C. § 202 (1970).

had previously opened them to occupation and could at any time have repudiated the President's actions. However, since it had not done so the Court held that Congress had impliedly authorized the President's actions by its own inaction. In reaching this decision, Justice Lamar stated:

[G]overnment is a practical affair intended for practical men. Both officers^d, law-makers and citizens naturally adjust themselves to any long-continued action of the Executive Department --on the presumption that unauthorized acts would not have been allowed to be so often repeated as to crystallize into a regular practice. That presumption is not reasoning in a circle but the basis of a wise and quieting rule that in determining the meaning of a statute or the existence of power, weight shall be given to the usage itself--even when the validity of the practice is the subject of investigation. 236 U.S. at 472-73.

This reasoning would appear applicable to the protection of public officials if a proper factual basis for the practice could be established.

B. Constitutional Authority under the Take Care Clause.

The President's constitutional duty to "take Care that the Laws be faithfully executed" (U.S. Const. art. II, § 3), can also be cited as a legal basis for the President's duty to require personal protection of public officials.

The principal case justifying reliance upon this clause is In re Neagle, 135 U.S. 1 (1890). Neagle was a deputy United States Marshal who was directed to provide personal protection to Supreme Court Justice Stephen J. Field, who had been threatened by one Terry. In the course of this assignment Neagle shot and killed Terry.

In subsequent legal proceedings arising out of this incident the Supreme Court had to decide whether in the absence of specific congressional authorization to assign United States Marshals to such duties, there was any legal basis for Neagle's appointment. The issue posed by the Court (per Justice Miller) was whether the word "Laws" in the Take Care Clause was limited to specific congressional enactments: "Is this duty [to take Care that the Laws be faithfully executed] limited to the enforcement of acts of Congress or of treaties of the United States according to their express terms, or does it include the rights, duties and obligations growing out of the Constitution itself, our international relations, and all the protection implied by the nature of the government under the Constitution?" 135 U.S. at 64.

In answering this question, the Court decided that the President's duties are broader under the Take Care Clause than merely the enforcement of specific congressional enactments and upheld his authority to assign protection to a Supreme Court Justice. Its opinion concluded that "We cannot doubt the power of the President to take measures for the protection of a judge of one of the courts of the United States, who, while in the discharge of the duties of his office, is threatened with a personal attack. . . ." 135 U.S. at 67.

Similar reasoning would permit assignment of officers to protect other officers particularly in the event of actual threats made against them. The following language in the opinion supports this proposition:

It has in modern times become apparent that the physical health of the community is more efficiently promoted by hygienic and preventive means, than by the skill which is applied to the cure of disease after it has become fully developed. So also the law, which is intended to prevent crime, in its general spread among the community, by regulations, police organization, and otherwise, which are adopted for the protection

of the lives and property of citizens, for the dispersion of mobs, for the arrest of thieves and assassins, for the watch which is kept over the community, as well as over this class of people, is more efficient than punishment of crimes after they have been committed.

If a person in the situation of Judge Field could have no other guarantee of his personal safety, while engaged in the conscientious discharge of a disagreeable duty, than the fact that if he was murdered his murderer would be subject to the laws of a State and by those laws could be punished, the security would be very insufficient. . . . We do not believe that the government of the United States is thus inefficient, or that its Constitution and laws have left the high officers of the government so defenceless and unprotected. 135 U.S. at 59.

We note that there is one argument militating against the use of Neagle as precedent, particularly regarding Secret Service protection for Dr. Kissinger. In Neagle there was no congressional action in the area of affording protection to government officers. In the case of the Secret Service, however, Congress has specifically designated those persons entitled to personal protection and the absence of express authority to protect officials like Dr. Kissinger may be construed as congressional action intended to withhold such authorization.

C. Executive Power

The first section of article II of the Constitution states that "The executive power shall be vested in a President of the United States of America..." Throughout our constitutional history there has been an argument whether the term "executive power" is an independent grant of power to the President or whether it is merely a shorthand term for the specifically enumerated powers that follow it.

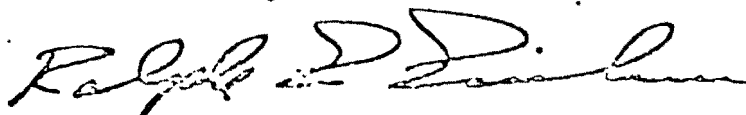
In Myers v. United States, 272 U.S. 52 (1926), the Court seems to have adopted the former interpretation. At issue there was whether the term "executive power" vested in the President the power to remove executive officials. Chief Justice Taft held that the President did possess this removal power:

The executive power was given in general terms, strengthened by specific terms where emphasis was regarded as appropriate, and was limited by direct expressions where limitation was needed, and the fact that no express limit was placed on the power of removal by the Executive was convincing evidence that none was intended. 272 U.S. at 118.

Although there is no direct authority for the President's use of the executive power clause to provide protection to public officials, it seems reasonable that, in the absence of a congressional prohibition of the practice, such an assignment of personnel is analogous to the exercise of the removal power discussed in the Myers decision.

In summary, we feel that although there is no express authority for providing protection to public officials such as Dr. Kissinger and Cabinet Secretaries other than the Secretary of State, reasonable arguments can be marshalled in support of the legal authority to do so, particularly if

threats have been made on the personal safety of the individual. There is no doubt that Congress could disapprove, by legislation, the use of federal officials to engage in such activities. The principal question is whether in specifically authorizing protection in some instances the Congress has impliedly denied the authority in other instances. In view of the arguments cited above to support the legal authority to provide such protection, we believe that it can reasonably be argued that Congress has not denied the President this authority.



Ralph E. Erickson
Assistant Attorney General
Office of Legal Counsel



THE WHITE HOUSE

WASHINGTON

September 1, 1976

MEMORANDUM FOR: PHIL BUCHEN

FROM: KEN LAZARUS

Attached are copies of the following:

- (1) 18 U.S.C. 3056, which sets forth the powers of the Secret Service;
- (2) a letter dated September 9, 1974, from the General Counsel of Treasury to OMB regarding implicit powers of the Secret Service; and
- (3) a memorandum prepared by Ed Schmults when he was at Treasury discussing situations during which Secret Service protection has been authorized but was not specifically provided by statute.

A cursory review of these materials would indicate that it would be consistent with prior practices to provide protection for the spouses of Presidential candidates without any express statutory authorization.



section 42 or 44, or who such employee or officer of the customs has probable cause to believe is knowingly and willfully violating section 43, in his presence or view, and may execute any warrant or other process issued by an officer or court of competent jurisdiction to enforce the provisions of said sections. (June 25, 1948, c. 645, § 1, 62 Stat. 817; Dec. 5, 1969, P. L. 91-135, § 7(b), 83 Stat. 281.)

Effective date.—Section 11 of Act Dec. 5, 1969, cited to text, provided that this section, as amended, shall be effective 180 days after Dec. 5, 1969.

3056. Secret Service powers.—(a) Subject to the direction of the Secretary of the Treasury, the United States Secret Service, Treasury Department, is authorized to protect the person of the President of the United States, the members of his immediate family, the President-elect, the Vice President or other officer next in the order of succession to the office of President, and the Vice President-elect; protect the person of a former President and his wife during his lifetime, the person of the widow of a former president until her death or remarriage, and minor children of a former President until they reach sixteen years of age, unless such protection is declined; protect the person of a visiting head of a foreign state or foreign government and, at the direction of the President, other distinguished foreign visitors to the United States and official representatives of the United States performing special missions abroad; detect and arrest any person committing any offense against the laws of the United States relating to coins, obligations, and securities of the United States and of foreign governments; detect and arrest any person violating any of the provisions of sections 508, 509, and 871 of this title and, insofar as the Federal Deposit Insurance Corporation, Federal land banks, joint-stock land banks and Federal land bank, associations are concerned, of sections 218, 221, 433, 493, 657, 709, 1006, 1007, 1011, 1013, 1014, 1907, and 1909 of this title; execute warrants issued under the authority of the United States; carry firearms; offer and pay rewards for services or information looking toward the apprehension of criminals; and perform such other functions and duties as are authorized by law. In the performance of their duties under this section, the Director, Deputy Director, Assistant Directors, Assistants to the Director, inspectors, and agents of the Secret Service are authorized to make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony. Moneys expended from Secret Service appropriations for the purchase of counterfeits and subsequently recovered shall be reim-

bursed to the appropriation current at the time of deposit.

(b) Whoever knowingly and willfully obstructs, resists, or interferes with an agent of the United States Secret Service engaged in the performance of the protective functions authorized by this section, by the Act of June 6, 1968 (82 Stat. 170), or by section 1752 of title 18, United States Code, shall be fined not more than \$300 or imprisoned not more than one year, or both. (June 25, 1948, c. 645, § 1, 62 Stat. 818; July 16, 1951, c. 226, § 4, 65 Stat. 122; Aug. 31, 1954, c. 1143, § 2, 68 Stat. 999; Oct. 10, 1962, P. L. 87-791, 76 Stat. 809; Oct. 15, 1962, P. L. 87-829, § 3, 76 Stat. 956; Sept. 15, 1965, P. L. 89-186, 79 Stat. 791; Sept. 29, 1965, P. L. 89-218, 79 Stat. 890; Oct. 21, 1968, P. L. 90-608, c. XI, § 1101, 82 Stat. 1198; Jan. 2, 1971, P. L. 91-644, Title V, § 19, 84 Stat. 1892; Jan. 5, 1971, P. L. 91-651, § 4, 84 Stat. 1941.)

Applicability of Reorganization Plan.—Act Jan. 5, 1971, P. L. 91-651, § 5, 84 Stat. 1941, provided that this section, as amended, "shall be subject to Reorganization Plan Numbered 26 of 1950 (64 Stat. 1280) [5 USCS § 903 note]."

Extension of protection for widow and children of former President.—Act Nov. 17, 1967, P. L. 90-145, 81 Stat. 466, provided: "The authority vested in the United States Secret Service by section 3056 of title 18 of the United States Code [this section] to protect the person of a widow and minor children of a former President is extended until March 1, 1969, with respect to persons receiving such protection on the date of enactment of this Act [Nov. 17, 1967]."

Secret Service protection for presidential candidates.—Act June 6, 1968, P. L. 90-331, §§ 1-3, 82 Stat. 170, provided:

Section 1. (a) the United States Secret Service, in addition to other duties now provided by law, is authorized to furnish protection to persons who are determined from time to time by the Secretary of the Treasury, after consultation with the advisory committee, as being major presidential or vice presidential candidates who should receive such protection (unless the candidate has declined such protection).

(b) The advisory committee referred to in subsection (a) shall consist of the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, the minority leader of the Senate and one additional member selected by the other members of the committee.

Sec. 2. Hereafter, when requested by the Director of the United States Secret Service, Federal Departments and agencies, unless such authority is revoked by the President, shall assist the Secret Service in the performance of its protective duties under section 3056 of title 18 of the United States Code [this section] and the first section of this joint resolution [this note].

Sec. 3. For necessary expenses of carrying out the provisions of this resolution [this note], there is hereby appropriated out of any money in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1968, the sum of \$400,000.

See CFR Tables at beginning of this supplement

NOTES TO DEC

Each and every officer of the not be aware of the circumstances probable cause for a warrantless at least one officer is apprised United States v Stratton (1972.)

Acts of federal agents in certain individuals to public agent of United States was in absent showing of valid security under provisions 18 USCS § protection of the person of the Goodman (1973, DC NC) 361 F

3057. Bankruptcy investig

NOTES TO DEC

Appellants had no standing i sibility of records admitted i ground that they were obtained unlawful search and seizure s tained by government agents Jury subpoena directed toward ceiver of company, the activit basis of this suit. United State CA8 Mo) 443 F2d 535.

3060. Preliminary exami as otherwise provided by the nary examination shall be t set by the judge or mag subsection (b) of this sec whether there is probable c an offense has been comm arrested person has commit

(b) The date for the prei shall be fixed by the judge initial appearance of the ar as provided by subsection (unless the arrested person nary examination, such ex held within a reasonable ti appearance, but in any even

(1) the tenth day follow initial appearance of the ar such officer if the arrested custody without any provis held in custody for failure tions of release imposed, custody only during specific or

(2) the twentieth day fo the initial appearance if th released from custody ur other than a condition des (1) of this subsection.

(c) With the consent of the date fixed by the judge preliminary examination m than that prescribed by su be continued one or mor subsequent to the date initia the absence of such consent date fixed for the prelimina date later than that present



JK 6-1

SEP 9 1974

Dear Mr. Edner:

This is in response to your letter of August 30, 1974, regarding the Secret Service protection currently being afforded Governor Rockefeller as Vice President-designate.

The powers of the Secret Service are specifically set forth in section 3056 of Title 18, United States Code. Those powers are subject to Reorganization Plan No. 26 of 1950 (64 Stat. 1280) which transferred to the Secretary of the Treasury all functions of all officers, employees, and agencies of the Treasury Department and authorized their performance as the Secretary may deem appropriate (P.L. 91-651; 84 Stat. 1941). Section 3056 authorizes the Secret Service to protect certain enumerated persons or classes of persons, including the President and members of his immediate family, the Vice President or other officers next in order of succession to the office of President, and the Vice President-elect. In addition, Public Law 90-331 (82 Stat. 170), set out as a note to 18 U.S.C. 3056, provides for the protection of "major presidential or vice presidential candidates who should receive such protection."

Section 3056 of title 18 thus provides specifically for the protection of an incumbent Vice President or other officer next in order of succession to the Presidency, the Vice President-elect, and major Vice Presidential candidates. Under a narrow reading of the statute, protection for a Vice President-designate pursuant to the 25th Amendment to the United States Constitution is not expressly authorized during the time period from his nomination by the President until his confirmation by the Congress, since he is not an official next in succession to the Presidency nor a "Vice President-elect." Neither is he a "candidate" for the Vice Presidency for whom protection has been recommended by the advisory committee prescribed in Public Law 90-331.

In our opinion, the protective statute should not be regarded as preventing the Secret Service from protecting persons not specifically described in the statute when the risk of harm and the public interest justify protection. Indeed, the Treasury Department has consistently taken the position that the statutory enumeration does not preclude the Secret Service from affording protection to individuals who do not fall within the specific categories set forth in section 3056 if there are circumstances present which make such protection reasonable as a matter of both law and public policy.



The fact that Congress has specifically designated certain individuals as being entitled to personal protection and has not granted express authority to protect the Vice President-designate should not be construed as congressional action intended to withhold such authorization. On the contrary, it can be argued that Congress has impliedly authorized protection in the present situation. Public Law 90-331, as noted above, authorizes the Secret Service to furnish protection to persons who are determined from time to time by the Secretary of the Treasury, after consultation with an advisory committee, to be major presidential or Vice presidential candidates.

We consider the status of Vice President-designate Rockefeller to be somewhere between that of a major Vice presidential candidate and the Vice President-elect. Since both are specifically entitled to Secret Service protection, it seems clear that a Vice President-designate should receive such protection.

Given the above background, and in the absence of an authoritative expression to the contrary, it is the Treasury position that we have not only the authority but the obligation to provide Secret Service protection for Governor Rockefeller.

Sincerely,

(Signed) Richard R. Albrecht

Richard R. Albrecht
General Counsel

The Honorable
Stanley Davis
General Counsel
Office of Management and Budget
Washington, D. C. 20503



ITEM WITHDRAWAL SHEET
WITHDRAWAL ID 01301

Collection/Series/Folder ID : 001900561
Reason for Withdrawal : DR,Donor restriction
Type of Material : NOT,Notes
Description : re telephone conversation concern
ing hospital patient
Creation Date : 12/17/1976
Date Withdrawn : 06/27/1988

THE WHITE HOUSE
WASHINGTON

December 29, 1976

*Noted
P.*

MEMORANDUM FOR THE PRESIDENT

FROM: Edward C. Schmults *EC*

SUBJECT: Protection of the Vice President and
Secretary of State

I offer the following comments regarding Jim Lynn's memorandum on extending Secret Service protection:

1. I agree with the purpose of this legislation to authorize Secret Service protection for the Vice President and the Secretary of State after they leave office. However, I recommend that only the Vice President be listed by title in the proposed bill. Only recently has a Secretary of State received protection from the Secret Service and it remains uncertain whether this practice will continue. The State Department has its own security force. In addition, future situations might require protection for a former Attorney General or Director of Central Intelligence. I would, therefore, have the bill authorize the President to direct Secret Service protection for a former Vice President and any other former government official, or their families, whose safety is in "significant danger" as a consequence of the discharge of the official's responsibilities while in office. This achieves the same result in the instant situation, while providing discretion that may be needed at a later date. The letter of transmittal to Congress could make clear that protection is contemplated for the outgoing Secretary of State.
2. You should be aware of the cost estimates. The Treasury Department estimates the cost of protection for the first year out of office (without foreign travel) to range between



\$1.48 and \$2.64 million for a former official and between \$2.16 and \$3.32 million for a former official with a wife and two children. The primary variables are the nature and number of threats and the level of protection required.

3. While I agree with the purpose of the legislation, I believe the Treasury cost estimates require one "political" observation -- critics will profess shock at the cost to the taxpayers and will assert (a) the Vice President can pay for his own protection and (b) the Secretary of State wishes to retain one of his official "perks." A generic bill would tend to mitigate this criticism.



THE WHITE HOUSE
WASHINGTON
January 11, 1977

*Protection
Secret Service*

MEMORANDUM FOR: Dick Cheney
Jack Marsh
Jim Cavanaugh
Brent Scowcroft

FROM: Phil Buchen *P.*

Attached is a proposed Joint Resolution that incorporates comments made at today's meeting with Congressional Leaders.

*cc: Max Friedersdorf
President
Susan Harter*



JOINT RESOLUTION

To authorize the United States Secret Service to continue to furnish protection to certain former Federal officials or members of their immediate families.

Resolved by the Senate and House of Representatives
of the United States of America in Congress assembled,
That the United States Secret Service, in addition to other duties now provided by law, is authorized to furnish protection to a person who as a Federal Government official or as a member of such official's immediate family has been receiving protection for a period immediately preceding January 20, 1977, if the President determines that such person may thereafter be in significant danger; provided, however, that protection of any such person shall continue only for such period as the President determines and shall not continue beyond July 20, 1977, unless otherwise permitted by law.



*Secret
Service
Protection*

Friday, January 14, 1977
5:10 p.m.

Max Friedersdorf called to advise that the Senate passed the legislation you talked about on Secret Service protection for the Vice President and Secretary of State by voice vote this afternoon.

