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Counsel's Office, White House

Kavanaugh, Brett - Subject Files

Folder Title:

Testimony by Ridge: Testimony on White House Officials Governor Ridge
# Withdrawn/Redacted Material
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Counsel's Office, White House

**SERIES:**
Kavanaugh, Brett - Subject Files

**FOLDER TITLE:**
Testimony by Ridge: Testimony on White House Officials Governor Ridge

**FRC ID:**
9696

**RESTRICTION CODES**

- Presidential Records Act - [44 U.S.C. 2204(a)]
- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]
- PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(a).

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Series: Kavanaugh, Brett - Subject Files
Folder Title: Testimony by Ridge: Testimony on White House Officials Governor Ridge

Foia Ids and Segments:
- Foia Id: 9696
- Oa Num.: 2166
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Restriction Codes
- Presidential Records Act - [44 U.S.C. 2204(a)]
- Freedom of Information Act - [5 U.S.C. 552(b)]
- P1 National Security Classified Information [(a)(1) of the PRA]
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This Document was withdrawn on 6/10/2016 by PSC
Ridge Reluctant To Testify In Senate (WTimes)
Dave Boyer
The Washington Times, February 27, 2002

The White House is resisting calls by Senate Democrats for Homeland Security Director Tom Ridge to testify before the Appropriations Committee about anti-terrorism spending.

Mr. Ridge told Republicans and Democrats in separate private luncheons yesterday that he is reluctant to testify about appropriations because various Cabinet members control homeland security budgets, and he does not want to tread on their turf.

An administration official said the White House does not want to set a precedent of having members of President Bush's executive team called to testify before Congress.

"Condi Rice doesn't testify. Andy Card doesn't testify," the official said of the White House national security adviser and chief of staff.

But Appropriations Committee Chairman Robert C. Byrd, West Virginia Democrat, discussed with Mr. Ridge last month his desire to have him testify. Senate Majority Leader Tom Daschle yesterday said Mr. Ridge should appear before the panel.

"It needs to be resolved simply by his attendance," said Mr. Daschle, South Dakota Democrat. "There's no other way to resolve it."

Byrd spokesman Tom Gavin said Mr. Byrd has not decided whether to hold a hearing and has not formally requested Mr. Ridge to appear.

"Senator Byrd thinks Mr. Ridge can offer valuable insight," Mr. Gavin said.

The standoff is renewing the power struggle between the White House and congressional Democrats over homeland-security spending that erupted last fall.

Democrats wanted to add up to $20 billion in emergency spending for homeland security last year, but Mr. Bush promised to veto any spending above the $40 billion that lawmakers already had approved. Democrats failed twice to add the extra money, and some Republicans believe Democrats are now trying to call Mr. Ridge on the carpet over their defeat.

The administration official said Mr. Byrd wants to hear from Mr. Ridge "because he lost. He lost twice in a very public way."

Mr. Daschle brought up the Democrats' defeat in his explanation of why they need Mr. Ridge's testimony.

"We attempted to move the homeland security appropriations last year, and the administration opposed it," said Mr. Daschle. "There are many questions regarding the appropriations aspects of homeland security. Clearly it will involve a commitment in appropriations that I think will take some explanation. No one can do it better than Governor Ridge."

Mr. Ridge, the former governor of Pennsylvania, was tapped by Mr. Bush to head the new office of homeland security after the September 11 terrorist attacks. The White House has proposed nearly doubling spending on homeland security, to $38 billion, under several departments in its fiscal 2003 budget.

Some Republican senators, such as Ted Stevens of Alaska, ranking member on the Appropriations Committee, urged Mr. Ridge yesterday to reconsider. Mr.
Stevens told Mr. Ridge that he would be making "a mistake" by not appearing before the committee.

Sen. Larry E. Craig of Idaho, chairman of the Republican Policy Committee, said after discussing the issue with Mr. Ridge yesterday that the homeland security director does not want "to go in and talk details and budget."

"He wants the individual agencies that are responsible for those areas within a homeland-security policy to do that," Mr. Craig said. "He didn't want to step on the toes of a Spence Abraham [secretary of energy] or a secretary of commerce or the attorney general. There's too much internal turf out there. He's not going to come in and give [Attorney General] John Ashcroft's budget message."

Mr. Craig said he believes Mr. Ridge should testify before the committee "in a general sense" about homeland-security policy. If the committee limits questions to general policy, "My guess is he'll go," he said.
### Withdrawal Marker

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This Document was withdrawn on 6/10/2016 by PSC
Memorandum

Subject: Congressional Requests for Testimony of White House Officials
Date: April 29, 1994

To:        
From: Michael Small
Office of Legal Counsel

It has been long-standing White House policy to decline requests from Congress for the testimony of White House officials before congressional committees. This memorandum provides an historical overview of the application of that policy.¹

The memorandum covers congressional requests for testimony of then-current White House officials, as well as requests for testimony of former White House officials.² The officials in question are the President’s immediate advisers and others who work

¹ The basis of the policy is not discussed in this memorandum. It is, however, set forth in several previous OLC memoranda. See, e.g., Memorandum from William H. Rehnquist for John D. Ehrlichman, Assistant to the President for Domestic Affairs, Re: Power of Congressional Committee to Compel Appearance or Testimony of "White House Staff," Feb. 5, 1971; Memorandum from Ralph E. Erickson to John W. Dean, III, Counsel to the President, Re: Appearance of Presidential Assistant Peter M. Flanigan Before a Congressional Committee, March 15, 1972; Memorandum from Roger C. Cramton to John W. Dean, III, Counsel to the President, Re: Availability of Executive Privilege Where Congressional Committee Seeks Testimony of Former White House Official on Advice Given President on Official Matters, Dec. 21, 1972; Memorandum from John Harmon for Margaret McKenna, Deputy Counsel to the President, Re: Dual-purpose Presidential Advisers, Aug. 11, 1977; Memorandum from Theodore B. Olson to Fred Fielding, Counsel to the President, Re: Congressional Testimony by Presidential Assistants, April 14, 1981; Memorandum from Theodore B. Olson to Rudolph W. Giuliani, Associate Attorney General, Re: Congressional Demand for Deposition of Counsel to the President Fred F. Fielding, July 23, 1982; Memorandum from Theodore B. Olson to Edward C. Schmutz, Deputy Attorney General, July 29, 1982.

² When requests have been made for the testimony of White House officials who served in former Administrations, the then-current Administration apparently has had the responsibility for deciding how to respond to the requests.
closely with him or his immediate advisers. This encompasses officials who are in contact with the President on a regular or frequent basis, such as the White House Chief of Staff; the White House Counsel; the National Security Adviser; the Legal Adviser to the National Security Council; the President's Domestic Policy Adviser(s); the White House Communications Director; the President's Appointment Secretary; and other key administrative aides and deputies to the President. The memorandum does not cover congressional requests for the testimony of the Chairman of the Council of Economic Advisers or the Director of the Office of Management and Budget, both of whom routinely appear before Congress. It also does not cover congressional requests for the testimony of the Vice President or members of the Vice President's staff.

In addition, the memorandum only covers requests for testimony that Congress has made in its oversight or investigative capacity. Thus, the memorandum does not discuss requests for testimony of White House officials on legislative initiatives. Because it has not been the focus of our review, we have not researched the extent to which Congress has made such requests in the past, or how the White House has responded. We are aware, however, that First Lady Hillary Rodham Clinton testified before several Senate and House committees on the Clinton Administration's proposed health care legislation in September and October, 1993, and she apparently did so as a senior White House official.

The memorandum is divided into four parts. The first part is a background section. It discusses the sources that were used in preparing the memorandum, and the historical roots of congressional

3 We are aware of at least one request for the testimony of a Vice President and a member of the Vice President's staff: In November 1991, the Subcommittee on Health and Environment of the House Committee on Energy and Commerce invited Vice President Quayle to testify regarding the activities of the Council on Competitiveness, which the Vice President chaired. Mr. Quayle declined to testify. A member of his staff who served as Staff Director of the Council also declined an invitation to testify before the Subcommittee.

4 Because of her role in formulating the Administration's health care plan, Mrs. Clinton was held to be a senior White House official in a case that posed the question whether the Federal Advisory Committee Act applied to President Clinton's Health Care Task Force. See Ass'n of American Physicians and Surgeons v. Clinton, 997 F.2d 898 (D.C. Cir. 1993). The press accounts of Mrs. Clinton's testimony do not indicate whether she was invited to appear by the Committees, or whether the Administration contacted the Committees and stated that Mrs. Clinton would be made available to testify about the health care plan.
requests for the testimony of White House officials.

Part II of the memorandum sets forth instances in which White House officials have refused requests to testify before congressional committees. This part of the memorandum reveals that, in some of the instances in which White House officials refused to testify, the White House proposed alternative arrangements by which White House officials would be made available to meet informally with members of the requesting committee or committee staffers. As the memorandum indicates, we know of some instances in which such meetings did take place.

Part III of the memorandum sets forth those instances in which White House officials have testified. The fourth and final part provides a brief analysis of the circumstances surrounding the instances in which White House officials testified.

I. Background

A. Sources

The memorandum is based on a review of the following sources: (i) OLC memoranda contained in the OLC precedent bank; (ii) other materials, including White House documents, that are contained in OLC's executive privilege files; (iii) transcripts of hearings at which White House officials testified, and congressional reports on the matters about which the officials testified; (iv) accounts in books and newspapers; and (v) relevant portions of the public papers of Presidents Nixon, Carter, and Reagan.

The memorandum itself does not contain citations. However, there is a bibliography in the appendix to the memorandum. The bibliography sets forth the particular sources that were used in preparing the descriptions of each of the congressional requests for the testimony of White House officials that appear in the memorandum.

The memorandum does not purport to identify every instance in which Congress requested the testimony of a White House official. There may be other instances that are not set forth in the memorandum.

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5 There may be instances other than those mentioned in the memorandum in which the White House proposed alternative arrangements for informal meetings in lieu of testimony before a committee, and in which such meetings took place.
B. Historical Roots

The earliest instance of a congressional request for the testimony of a White House official that is documented in this memorandum -- a February 1944 request for the testimony of Jonathan Daniels, an aide to President Franklin Roosevelt -- may have been the first such request in our history. (The request for Daniels' testimony is discussed in Part III of the memorandum.) The Daniels matter is the earliest instance of a congressional request for the testimony of a White House official that is mentioned in an OLC document entitled, "Memorandum Reviewing Inquiries by the Legislative Branch During the Period 1948-53 Concerning the Decision-Making Process and Documents of the Executive Branch," which was apparently prepared in the late 1950s. Perhaps because the focus of that memorandum is on the period 1948-53, it does not discuss the 1944 Daniels episode in any detail; it briefly contrasts the Daniels episode with the 1948 congressional request for the testimony of Truman aide John Steelman. The request for Daniels' testimony is, however, the subject of a short, one paragraph 1948 OLC memorandum. No other request is mentioned in that memorandum.

In testifying on executive privilege in August 1971 before a subcommittee of the Senate Judiciary Committee, then-Assistant Attorney General for OLC William Rehnquist stated that prior to the 1940s, Congress normally obtained information from the executive branch through document requests, not through requests for live testimony of executive branch officials. The first request for live testimony that Rehnquist discussed is the 1948 Steelman incident. Rehnquist did not mention the 1944 request for the testimony of Daniels.7

6 A contemporaneous newspaper account of the request for Daniels' testimony suggests as much. We did not do a comprehensive check to verify whether the Daniels matter was the first request for the testimony of a White House official. I did, however, review the computerized (Congressional Information Service, Congressional MasterFile) list of witnesses who testified at the Senate hearings on the "Teapot Dome" scandal in 1923 and 1924. The list reveals that no White House officials testified, although the Chief White House telephone operator and a White House doorman did testify.

7 Rehnquist's focus was on requests for testimony of executive branch officials generally, which includes White House officials. Rehnquist suggested that Congress began to request live testimony of executive branch officials more routinely beginning in about 1940; however, he did not refer to any particular requests that were made in 1940. As indicated above, the earliest request that he discussed was the 1948 Steelman episode. I have seen no reference in the OLC precedent bank to a
Several months before his August 1971 testimony, however, Rehnquist had written on the subject of congressional requests for testimony of members of the White House Staff in a February 1971 memorandum to John Ehrlichman, President Nixon's Domestic Policy Adviser. The earliest instance of a congressional request for live testimony of a White House official that is discussed in Rehnquist's memorandum to Ehrlichman is the 1944 Daniels episode. (The 1948 Steelman episode is also discussed in Rehnquist's memorandum to Ehrlichman.) Moreover, the Daniels matter is the earliest congressional request for the testimony of White House officials that is mentioned in all subsequent OLC memoranda on the subject of such requests.

II. Refusals to Testify

Truman Administration

John Steelman. On March 6 and March 8, 1948, the Subcommittee on Executive Expenditures of the House Committee on Education and Labor issued subpoenas to John R. Steelman, an Assistant to President Truman. The subpoenas demanded that Steelman testify before the subcommittee regarding a labor strike by workers in government cafeterias in Washington, D.C. Subcommittee Chairman, Clare Hoffman, a Republican, had charged that the Truman Administration had interfered in the strike on behalf of the union representing the striking workers, and that the officers had failed to comply with the Taft-Hartley Act, which required the filing of certifications stating that the union was not headed by Communists.

Steelman returned both subpoenas with a letter to the subcommittee stating that President Truman had directed him not to testify, in light of his duties as Assistant to the President. A Minority (Democratic) report on the subcommittee's Taft-Hartley investigation stated that the purpose of the subpoenas was to obtain from Steelman the contents of communications between him and President Truman regarding the cafeteria strike, and that congressional committees were not entitled to inquire into private conferences between the President and his principal aides.  

1940 request for the testimony of a White House official. Thus, Rehnquist's reference to requests for live testimony beginning in about 1940 may have related to requests for testimony of executive branch officials, other than White House officials.

The request for Steelman's testimony and his refusal to testify was apparently a minor news story: the New York Times account appeared in a small box on page 18.
Sherman Adams/Dixon-Yates Contract. In July 1955, White House Chief of Staff Sherman Adams declined to testify before the Antitrust and Monopoly Subcommittee of the Senate Judiciary Committee in connection with an investigation of the "Dixon-Yates Contract" -- a contract between the Atomic Energy Commission and the Mississippi Valley Generating Company ("MVGC") for the construction of an electric power plant and for the sale of generated electric power to the United States government. The Eisenhower Administration supported the contract. Many congressional Democrats, by contrast, were hostile to the contract because it was seen as a Republican device to cripple the Tennessee Valley Authority.

The subcommittee, which was chaired by Senator Estes Kefauver of Tennessee, was particularly interested in allegations that Adams had pressured the Chairman of the Securities and Exchange Commission to delay a hearing before that body on the financing of the Dixon-Yates contract in order to prevent disclosure of certain information that might have an adverse effect on upcoming consideration by the House of Representatives regarding appropriations for the contract. The SEC Chairman testified before the subcommittee as to his conversations with Adams about postponing the SEC's hearing on Dixon-Yates; but the SEC Chairman refused (on the grounds of executive privilege) to state whether Adams had talked with him about the House appropriation hearings. Following the testimony of the SEC Chairman, the subcommittee invited Adams to appear. In a July 21 reply, Adams stated that because all of the facts as to which he might testify either had been our could be obtained through the testimony of other government officials, and because of his official and confidential relationship with President Eisenhower, he would decline the subcommittee's invitation. At a news conference on July 27, President Eisenhower defended Adams' refusal to testify.

Fortas Nomination. During its 1968 hearings on the nomination of Abe Fortas to be Chief Justice, the Senate Judiciary Committee requested that W. DeVier Pierson, Associate Special Counsel to the President, testify regarding allegations that, while an Associate Justice on the Supreme Court, Fortas had assisted the Johnson Administration in the drafting of legislation. In a letter to the Committee, Pierson stated that he would not testify, on the grounds that he was a member of President Johnson's immediate staff.

9 The contract was referred to as the Dixon-Yates contract because those were the names of the two principals of MVGC.
Nixon Administration

Henry Kissinger. At some point in 1971 (but apparently prior to August of that year), the Senate Foreign Relations Committee requested the appearance of Henry Kissinger, who, at that time, was National Security Adviser to President Nixon. Kissinger declined the request. Apparently, Kissinger did meet informally with members of the Committee.10

Watergate. The Watergate burglary took place on June 17, 1972. In August 1972, the Chairman of the House Banking and Currency Committee, Rep. Wright Patman, asked Committee staff to investigate links between the Watergate burglary and President Nixon’s reelection campaign. Republican members of the Committee, joined by some Democrats, refused to authorize a full-blown investigation with public hearings.11 Nevertheless, acting on his own authority, Rep. Patman invited White House Counsel John Dean (as well as former Attorney General John Mitchell and Finance Chairman for the Reelection Committee Maurice Stans) to appear before the Committee in October 1972. Dean declined, invoking executive privilege. Patman went ahead and staged a “hearing” anyway, with empty chairs for witnesses. On October 31 (shortly before Nixon won reelection), Patman released the report of the Committee staff, which linked officials of the Nixon campaign to the Watergate burglary.

On January 6, 1973, Senate Majority Leader Mike Mansfield called for a congressional investigation of Watergate by a Select Committee. Mansfield proposed that the Committee be chaired by Senator Sam Ervin. With Ervin as Chair, the Committee was formally established in early February. Meanwhile, the trial of the Watergate burglars began on January 10, 1973, with Judge John Sirica presiding. Five of the defendants pleaded guilty before the end of the trial. G. Gordon Liddy and James McCord were convicted on January 30 for their roles in the burglary.

In February, the Senate Judiciary Committee commenced hearings on President Nixon’s nomination of L. Patrick Gray to be the

10 A 1972 OLC memorandum indicates that Kissinger apparently had declined similar requests from other congressional committees. There is no indication in that memorandum (or other OLC memoranda that mention the requests for Kissinger’s testimony) as to the subject matter that the Senate Foreign Relations Committee and the other committees wanted Kissinger to address.

11 Subsequently, it was revealed that White House officials, particularly John Dean, the Counsel to the President, took an active role in efforts to hinder the investigation of the Patman Committee.
Director of the FBI. At that time, Gray was Acting Director of the FBI. Gray had been serving in that position since before the Watergate break-in. On March 1, 1973, Senator John Tunney, a member of the Judiciary Committee, suggested that he might ask the Committee to request the testimony of John Dean at the Gray confirmation hearings. Senator Tunney's statement followed revelations by Gray himself of his contacts with Dean regarding the FBI's investigation of Watergate. When asked about Senator Tunney's statement at a press conference on March 2, President Nixon said that he would object to any request for testimony of Dean or others on the White House staff.

At his March 2 press conference, President Nixon said that the White House would cooperate with Senator Ervin's Select Committee. However, Dean later revealed that in February-March 1973, the White House made every effort to restrain the Select Committee and make it as difficult as possible for the Committee to get information and witnesses, notwithstanding the public posture of cooperation. In particular, the President directed Dean and Domestic Policy Adviser John Ehrlichman to check the precedents for invoking executive privilege. In that vein, in a statement on executive privilege that was released on March 12, President Nixon said that current and former members of his White House staff would decline requests for formal appearances before congressional committees. On March 13, the Senate Judiciary Committee invited Dean to appear at the Gray confirmation hearings. The next day, Dean said that he would decline to appear at the hearings, but that he would agree to accept written interrogatories.

On March 20, 1973, James McCord sent a letter to Judge John Sirica, who had scheduled a sentencing hearing for March 23. McCord told Judge Sirica that campaign officials were involved in planning the burglary, that Administration officials were involved in the cover-up operation, and that pressure had been applied to maintain the Watergate burglars' silence. On March 23, Judge Sirica read McCord's letter in open court. The same day, McCord's attorney contacted the Ervin Committee and offered to provide information to the Committee. On March 26, the New York Times reported more details about McCord's linkage of the reelection campaign to the Watergate burglary. Particular focus was on the role of Jeb Magruder, Deputy Director of the Reelection Campaign and formerly the top Deputy to White House Chief of Staff H.R. Haldeman.

On April 1, Senator Ervin said that he would challenge President Nixon's claims of executive privilege in order to gain the testimony of key White House officials before the Watergate Select Committee. On April 10, Attorney General Richard Kleindienst told a group of Senators, including Senator Ervin, that presidential aides could not be compelled to testify before Congress.
Ultimately, the Nixon Administration relented. The testimony of Nixon White House officials before the Watergate Select Committee is discussed in Part III.

**Reagan Administration**

**Martin Anderson/Budget for Domestic Policy Unit.** Sometime between January 1981 and July 1981, a subcommittee of the House Appropriations Committee requested that Martin Anderson, the Domestic Policy Adviser to President Reagan, testify on funding for the office of the Domestic Policy Adviser. Anderson refused to testify before the subcommittee, citing separation of powers concerns. In response, the Appropriations Committee voted to deny all funds to Anderson’s office.¹²

**Fred Fielding/Donovan Inquiry.** In 1982-83, the Reagan Administration refused a Senate Labor and Human Resources Committee request to obtain the testimony of White House Counsel Fred Fielding with respect to matters surrounding the 1981 confirmation hearings of Labor Secretary Raymond Donovan. In a letter to the Committee, the Administration (per the Deputy Attorney General) stated that Presidents had historically resisted efforts to obtain sworn testimony from their closest and most immediate advisers on the White House staff, and that Congress had customarily honored the President’s wishes. The letter stated that Fielding would answer appropriate written inquiries from the Committee.

**Meese Confirmation Hearings.** In February 1984, President Reagan nominated Edwin Meese, then the Counselor to the President, to be Attorney General. One of the issues that the Senate Judiciary Committee explored during Meese’s testimony at his confirmation hearings in early March 1984 was the appointment to positions in the Reagan Administration of persons who previously had provided Meese with financial assistance. After Meese’s initial round of testimony, Democratic members (the Republicans were the majority party at the time) sought the testimony of several White House officials on the subject of the Administration’s hiring of alleged Meese benefactors. The White House officials whose testimony was sought were as follows: Chief of Staff James Baker; Deputy Chief of Staff Michael Deaver; White House Counsel Fred Fielding; and former White House Personnel Director E. Pendleton James.

¹² The only reference to the Anderson episode that I have identified appears in a July 10, 1981 story in the Washington Post. It is unclear whether Anderson testified in the end or whether the Appropriations Committee backed off and voted to fund Anderson’s office.
On March 16, White House spokesman Larry Speakes suggested that the officials would not testify, but that a final decision would be made if and when a formal request for their testimony was received. It is unclear whether the full Committee ever made such a request. In April 1984, an independent counsel (Jacob Stein) was appointed to investigate Meese's failure to include on a financial disclosure form a $15,000 interest-free loan that he had received from a person who was appointed to a post in the Reagan Administration. In an article on the appointment of an independent counsel, the New York Times mentioned in passing that White House Counsel Fielding had invoked executive privilege in March in refusing a request from a member of the Judiciary Committee that he testify at the Meese confirmation hearings.

**Bush Administration**

**POW/MIA.** In 1992, it appears that National Security Adviser Brent Scowcroft declined to testify before the Senate Select Committee on POW/MIA affairs regarding POW/MIA matters that arose while he was serving on the National Security Council Staff during the Nixon and Ford Administrations, but indicated that he was willing to meet informally. In addition, the White House refused to authorize former White House Chief of Staff Howard Baker and former National Security Adviser Frank Carlucci to testify before that Committee regarding POW/MIA conversations in which they may have participated with H. Ross Perot and others from outside the White House while serving in the Reagan Administration. The White House did, however, authorize Baker and Carlucci to meet informally with Committee staff to discuss such conversations.

**Iraqgate.** In 1992, the House Judiciary Committee and the House Banking Committee requested the appearance of White House Counsel Boyden Gray and NSC Legal Adviser Nicholas Rostow in connection with the Committees' inquiries into Bush Administration policies towards Iraq before the Persian Gulf War of 1990-91. The White House rejected the Committees' requests, stating that it was the long-standing practice of the White House to decline requests for testimony by members of the President's personal staff. The White House said that it would be willing to work out an alternative mechanism for making available Gray and Rostow to members of the Committees in informal discussions.

**III. Testimony by White House Officials**

**Franklin Roosevelt Administration**

**Jonathan Daniels.** On February 28, 1944, Jonathan Daniels, an Administrative Assistant to President Roosevelt, was subpoenaed to testify before a subcommittee of the Senate Agricultural Committee
regarding allegations that he had attempted to force the resignation of the head of the Rural Electrification Administration, Harry Slattery. Daniels appeared before the subcommittee, but stated that he would refuse to testify. Daniels told the subcommittee that given his confidential relationship with President Roosevelt, it was in the public interest that he refuse to testify. Daniels further stated that he would refuse to testify even if the subcommittee held a closed session. Daniels maintained this position, even though the subcommittee counsel explained that he could be held in contempt for refusing to testify.

On March 4, Daniels wrote to the subcommittee and stated that he would agree to testify on the Slattery matter. In his letter, Daniels said that he had conferred with President Roosevelt, and that the President had advised him to testify because his testimony posed no threat to the public interest. Daniels also stated that the President had told Daniels that he would be happy to meet with the subcommittee himself to discuss the Slattery matter.

The New York Times reported that Daniels’ decision to testify was based, in part, on a White House move to avoid further conflict with Congress, which had overridden a presidential veto of a tax bill by a wide margin the previous week.

On March 7, Daniels testified before the subcommittee. Daniels explained that he had sought Slattery’s resignation because, after an investigation undertaken at President Roosevelt’s request, he had concluded that internal strife at the Rural Electrification Administration could only be ended if Slattery stepped aside.13

Truman Administration

Donald Dawson. On May 10-11 1951, Donald Dawson, an Administrative Assistant to President Truman, appeared before a subcommittee of the Senate Committee on Interstate and Foreign Commerce that was investigating influence and favoritism in the lending operations of the Reconstruction Finance Corporation (“RFC”). The New York Times account of Dawson’s appearance stated that Dawson advised President Truman on “patronage” matters.

Dawson stated at the outset of his testimony that he was voluntarily appearing before the subcommittee. When asked by subcommittee members about earlier invitations to testify that had

13 In his own testimony before the subcommittee, Slattery said that Daniels asked him to resign over a particular decision that Slattery had made.
been ignored,14 Dawson stated that he wanted to appear, but that there was a question as to whether presidential advisers should testify before congressional committees. Dawson explained that when the subcommittee had sent its most recent invitation setting a specific date for his testified, he conferred with President Truman, who consented to his appearance.

Dawson testified that he had accepted free accommodations at a fashionable Miami Beach hotel that had received an RFC loan. He also testified that he had had social contacts with prospective borrowers, as well as with RFC directors who made the agency’s lending decisions. Dawson further testified that he frequently made appointments for loan applicants with agency personnel, and that he referred loan requests to the agency. However, Dawson denied that he had ever exercised influence or had any influence over the directors or lending operations of the RFC. He also said that he was unaware that the hotel at which he accepted free accommodations applied for and received an RFC loan.

In questioning Dawson, two members of the subcommittee, J. William Fulbright, the subcommittee Chairman, and Paul Douglas, expressed the view that, as patronage adviser to President Truman, Dawson plainly had a role in the appointment of RFC Directors. The two Senators further stated that given Dawson’s position, his acceptance of free accommodations at the Miami Beach hotel, his referrals of loan applications, and his social contacts with RFC directors, could not but help to create the impression that he had influence with respect to the RFC’s lending decisions.

Eisenhower Administration

Sherman Adams/Vicuna Coat. On June 16, 1958, the House Special Subcommittee on Legislative Oversight invited White House Chief of Staff Sherman Adams to appear to answer questions on his relationship with the New England industrialist Bernard Goldfine, and his contacts to the FTC and the SEC on behalf of Goldfine. Adams’ contacts to the FTC had drawn particular attention: newspapers reported that after Adams contacted the FTC, the agency rejected a staff recommendation that criminal charges be brought against Goldfine.

On June 16, Adams announced that he would agree to testify before the subcommittee, and that President Eisenhower approved of

14 The reference to these invitations is in the New York Times account. No such reference appears in the various OLC memoranda that discuss the Dawson episode.
his decision. The next day, Adams appeared before the subcommittee. Adams testified that he had known Goldfine for many years, and that he had a close personal relationship with Goldfine. Adams said that Goldfine had paid several hotel bills for him, and had given him a vicuna coat. Adams further testified that he had called the FTC and the SEC to inquire about cases involving Goldfine. Adams denied that he had made those calls to influence the agencies; rather, he said that he was only seeking information. However, Adams did admit that he made mistakes in judgment in contacting the agencies on behalf of Goldfine, given his position as Chief of Staff to President Eisenhower.

In addition to Adams' denials, the former Chairman of the FTC testified that Adams' calls on behalf of Goldfine had not influenced the agency's actions. Nevertheless, the controversy over Adams' relationship with Goldfine and his contacts to the FTC continued to rage over the summer of 1958. On September 22, 1958, Adams resigned as Eisenhower's Chief of Staff.

Nixon Administration

ITT Antitrust Suit/Kleindienst Confirmation Hearings. In February 1972, the Senate Judiciary Committee was considering the nomination of Richard Kleindienst to be Attorney General. On February 29, 1972, the columnist Jack Anderson published a memorandum attributed to ITT lobbyist Dita Beard that linked the settlement of a Justice Department antitrust suit against ITT in 1971 to a $200,000 pledge by the company to help bring the 1972 Republican National Convention to San Diego. At the time of the settlement of the ITT suit, Kleindienst was Deputy Attorney General, with supervisory authority over the suit. After Anderson published the memorandum, witnesses at the Kleindienst confirmation hearings told the Judiciary Committee that Peter Flanigan, an assistant to President Nixon, had served as a conduit in arranging a written financial analysis of the ITT suit for the Justice Department by an outside investment consultant whom

15 The New York Times account of Adams' decision to testify stated that Adams had previously turned down several invitations to appear before congressional committees, on the grounds of executive privilege. The Times account did not specify what the previous requests entailed. The only other request for Adams' testimony that I have identified came in connection with the Dixon-Yates contract; that episode is discussed in Part II of the memorandum.

16 At the time of the Kleindienst confirmation hearings, Flanigan was the head of the White House Council on International Economic Policy. A March 1972 Washington Post story on Flanigan described him as an influential aide to President Nixon.
Flanigan knew. The witnesses told the Committee that the consultant's analysis contributed to the Department's decision to settle the suit against ITT.

On March 7, 1972, Senator John Tunney, a member of the Judiciary Committee, stated that he would ask the Committee to request that Flanigan testify at the Kleindienst confirmation hearings about his role in the settlement of the ITT suit. Flanigan told reporters that he would decline to testify, on the grounds of executive privilege. In a March 15, 1972 memorandum to White House Counsel John Dean regarding the possible request for Flanigan's testimony, OLC concluded that it was entirely appropriate and consistent with past White House practice for Flanigan to decline to testify if he were invited to appear before the Judiciary Committee. In a letter to Senator James Eastland, Chairman of the Judiciary Committee, that was released on April 12, 1972, Dean wrote that Flanigan's refusal to testify was consistent with the doctrine of separation of powers and long-established historical precedent. In response, some Democrats on the Committee threatened to block Kleindienst's nomination unless Flanigan agreed to testify. 17

On April 14, Flanigan sent a letter to Senator Eastland stating that he would testify before the Senate Judiciary Committee, but that his testimony would be limited to his role in soliciting the financial analysis of the ITT suit and meetings that he attended with the President of ITT. The Washington Post reported that the White House's decision to permit Flanigan to testify was intended to save the Kleindienst nomination. On April 20, Flanigan appeared before the Judiciary Committee. Flanigan explained his role in securing the financial analysis and passing it along to the Assistant Attorney General for the Antitrust Division. He denied that he attempted to affect the outcome of the analysis, and denied any knowledge of the selection of the site for the 1972 Republican Convention. On April 24, Flanigan sent a follow-up letter to the Committee stating that, shortly before the settlement of the ITT suit, he had told Kleindienst that ITT director Felix Rohatyn had told Flanigan that the company would reject a particular Justice Department settlement proposal.

Watergate. On April 17, 1973, President Nixon announced an agreement between the White House and the Watergate Select Committee concerning the testimony of White House officials before

17 It is unclear whether the Committee ever formally invited Flanigan to testify. On April 12, the Committee rejected two motions: one to subpoena Flanigan to testify, and a second to invite Flanigan to testify in a closed session.
the Committee. The President stated that White House officials would appear voluntarily when requested to appear by the Committee, and that they would testify under oath. The President further stated that White House witnesses would appear in closed sessions in the first instance, if appropriate, and that he was expressly reserving the right of the witnesses to invoke executive privilege in the course of questioning.

On April 19-20, the press reported that Jeb Magruder had talked to federal prosecutors and linked John Dean and former Attorney General John Mitchell, among others, to a Watergate cover-up. Dean himself told federal prosecutors his story around that time as well. In late April, the press reported revelations about the role of the White House "plumbers" in the burglary of Daniel Ellsberg's office. It also reported that, in the summer of 1972, Acting FBI Director Gray had destroyed key Watergate-related documents that had been in the safe of Watergate conspirator E. Howard Hunt, and given to Gray by Dean and White House Domestic Policy Adviser John Ehrlichman. Gray resigned as Acting FBI Director, having already withdrawn his name for consideration as permanent Director.

On April 30, President Nixon announced the resignations of Haldeman, Ehrlichman, and Dean. On May 17, 1973, the Watergate Select Committee held its initial hearing. The first witness was Robert Odle, former director of President Nixon's 1972 reelection campaign. The first White House witness was Bruce Kehrlt, a Special Assistant to President Nixon, who had been the White House Staff Secretary from January 1972 until February 1973, and before that, an aide to Haldeman. Kehrlt testified as to the organizational structure of the White House. The first major witness, Watergate burglar James McCord, appeared before the Committee on May 18. Also on May 18, Acting Attorney General Elliot Richardson announced the appointment of Archibald Cox as Watergate Special Prosecutor. On May 22, former White House aide Jack Caulfield, who reported to both Dean and Ehrlichman, testified before the Select Committee and stated that Dean had directed him to offer executive clemency to McCord in exchange for McCord's silence.

In a statement released on May 22, President Nixon said that he would not claim executive privilege in connection with the investigations of Special Prosecutor Cox and the Watergate Select Committee. Throughout the spring and summer of 1973, and into the fall of that year, numerous former White House officials testified before the Select Committee. Those officials included: Dean; Haldeman; Ehrlichman; Magruder; Alexander Butterfield, a former
Deputy Assistant to the President who served under Haldeman; Robert Reisner, formerly an administrative assistant to Magruder; Fred LaRue, former Special Consultant to the President; Hugh Sloan, a former Staff Assistant to the President, who worked for Haldeman in connection with scheduling and appointments; Herbert Porter, a former aide to the White House Director of Communications (Herbert Klein); and Gordon Strachan, a former Staff Assistant to Haldeman. The Committee also heard from the following then-current White House officials: Patrick Buchanan, Special Consultant to President Nixon; and Richard Moore, Special Counsel to the President.

Carter Administration

Billy Carter. In an interview with the media on July 15, 1980, Billy Carter, President Carter’s brother, provided information about his contacts with the Libyan Government. Stories about those contacts previously had been reported. In the days that followed, the press reported about White House and Justice Department involvement with Billy Carter in connection with his Libyan contacts. On July 16, Ronald Reagan was nominated as the candidate of the Republican Party in the 1980 presidential election. At that time, Reagan was ahead of President Carter in the opinion polls.

On July 23, 1980, Senate leaders agreed that there should be a bipartisan Senate investigation into Billy Carter’s contacts with Libya. In response to the announcement of the Senate leaders’ agreement, White House Press Secretary Jody Powell said that the White House had nothing to hide and was eager to respond in a responsible way to whatever questions may arise from the press or members of Congress. Powell stopped short of saying that the White House would waive executive privilege and permit presidential aides to appear before congressional committees.

On July 24, the Senate approved the creation of a nine-member special panel to inquire into the Billy Carter affair specifically, and into the activities of individuals representing foreign nations generally. The panel was established as a Subcommittee of the Senate Judiciary Committee. Its members included seven members of the Judiciary Committee itself, and two members of the Senate.

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18 It was Butterfield who revealed in his testimony before the Committee the existence of a telephone conversation taping system in the White House.

19 Several of the officials (Magruder; Reisner; Porter; Sloan; and LaRue) had also worked for the Committee to Reelect President Nixon, and testified about their work for that entity.
Foreign Relations Committee. Senator Bayh was named Chairman of the Subcommittee, and Senator Thurmond Vice Chairman. The Senate directed the Subcommittee to issue a report by October 4, a full month before the presidential election.

In response to the creation of the Subcommittee, the White House issued a statement indicating that President Carter would instruct all members of the White House staff to cooperate fully with the subcommittee and to testify if the subcommittee determined that oral testimony was necessary. The statement also indicated that the President did not expect to assert executive privilege with respect to the matters under investigation.

The Subcommittee hearings began on August 4, 1980. That day, pursuant to an earlier request from the Subcommittee, President Carter submitted a report on the Billy Carter matter. President Carter also gave a news conference at which he pledged his cooperation with the Subcommittee.

The initial witnesses at the Subcommittee hearings were not White House officials. The first White House official to testify was Lloyd Cutler, Counsel to the President. Cutler appeared on September 10. In addition to Cutler, the following officials in the Carter White House testified before the subcommittee in September 1980: Zbignew Brezinski, the President’s National Security Adviser; Phillip Wise, the President’s Appointments Secretary; and William Quandt and Karl Richard Inderfurth, former members of the NSC Staff. Of particular note, Cutler and Brezinski testified about conversations with President Carter on the Billy Carter matter. Committee members and press accounts noted that the appearance of Brezinski marked the first time that a National Security Adviser had testified in public hearings before a congressional committee.

Reagan Administration

investigated the lobbying activities of former Deputy Chief of Staff Michael Deaver, who had left the White House in May 1985 to form a lobbying firm that represented foreign governments in connection with matters on which Deaver had worked while at the White House. On May 29, 1986, an independent counsel, Whitney North Seymour, was appointed to look into whether Deaver’s conduct violated conflict-of-interest laws. The Subcommittee continued its investigation, however.

As part of its inquiry, the Subcommittee requested the testimony of Fred Fielding, former Counsel to the President, regarding possible conflict-of-interest concerns arising out Fielding’s role in the preparation of a White House memorandum on the ethical implications of Deaver’s lobbying activities. The White House memorandum had been sent to the Office of Government Ethics under Fielding’s signature on February 28, 1986. The memorandum concluded that Deaver’s activities did not violate conflict-of-interest laws. At the time the memorandum was being prepared, Fielding was considering leaving the White House. On February 27, the day before he signed the memorandum, Fielding had met with the Vice-President of Deaver’s lobbying firm to discuss his possible employment with that firm. Sometime thereafter, Deaver contacted Fielding about joining the lobbying firm. On March 12, Fielding recused himself from further work on the White House’s probe of Deaver, and he eventually left the White House on March 31 to join a law firm.

Fielding agreed to testify before the Subcommittee. There is no indication that the White House objected. Appearing at a closed hearing on June 10, Fielding defended himself against charges that he should have recused himself from anything to do with the White House memorandum on Deaver’s activities, notwithstanding his contacts with Deaver’s firm about employment opportunities there. Fielding told the Subcommittee that his staff prepared the memorandum and he merely signed it. Apparently, Fielding also testified that he had never seriously considered joining Deaver’s firm, but that he had recused himself on March 12 out of an abundance of caution after Deaver had contacted him about working at the lobbying firm.22

Iran-Contra. In early November, the U.S. press reported that a Lebanese publication alleged that the United States had sold arms to Iran in an effort to gain the release of U.S. hostages in Lebanon. On November 10, White House Chief of Staff Donald Regan

22 Deaver testified before the Subcommittee at closed hearings in mid-May. Although Deaver had been a senior White House official, his testimony is not listed in this memorandum because it apparently only concerned his lobbying activities after leaving the White House -- not his conduct at the White House.
said that President Reagan might invoke executive privilege if Congress tried to investigate the Administration's contacts with Iran to free the hostages in Lebanon. White House officials said that the invocation of executive privilege was one of several possible actions that might be taken in the event of such an investigation.

On November 25, Attorney General Edwin Meese announced that Justice Department investigators looking into the arms sales to Iran had discovered documents indicating that proceeds from the sales had been diverted to the Nicaraguan Contras. That day, John Poindexter resigned as President Reagan's National Security Adviser, and Oliver North resigned from his position at the NSC.

On November 28, the White House announced that Poindexter and North had apparently destroyed sensitive documents the previous weekend regarding the sale of arms of Iran and the transfer of the proceeds to the Contras. The same day, the Senate Select Committee on Intelligence opened an investigation into the Iran-Contra affair, and announced that it would call numerous Administration witnesses to testify, including former officials of the National Security Council, John Poindexter, Robert McFarlane, and Oliver North. On November 29, an anonymous White House official was quoted in the Washington Post as saying that the question of whether former Poindexter should appear before the Senate Committee had not been addressed yet, and that the question implicated executive privilege concerns. The Post story went on to note, however, that the official indicated that given President Reagan's statements that he wanted to get all the facts out, he might waive executive privilege with respect to Poindexter. Also on November 29, White House spokesperson Dan Howard stated that the White House might not invoke executive privilege or resist congressional efforts to question former officials of the NSC, including Poindexter, McFarlane, and North, provided that suitable ground rules were established.

On December 5, President Reagan met with leaders of Congress, and said that he would consider the recommendations of Senator Dole and others for a special session of Congress. The President told the leaders that it was important to expedite and consolidate the number of congressional inquiries being planned. He stressed his commitment to cooperate with the Congress in the conduct of its investigation and to get all the facts so that the issue could be put to rest.

In mid-December, the White House announced that President Reagan would not assert executive privilege in connection with a Senate Select Intelligence Committee request for the testimony of White House Chief of Staff Donald Regan, who went on to appear before that Committee voluntarily.

On January 6, the Senate established the Select Committee on
Secret Military Assistance to Iran and the Nicaraguan Opposition.
The following day, the House established the Select Committee to
Investigate Covert Arms Transactions with Iran. The two Committees
began working independently. Eventually, the Committees agreed to
counter a joint investigation and hold joint hearings.

In the spring and summer of 1987, several former White House
officials testified (under subpoena) before the House and Senate
Committees. Those officials included former National Security
Advisers McFarlane and Poindexter; several former members of the
NSC staff, such as Oliver North; and former Counselor to the
President (and then- Attorney General) Meese. The officials
testified as to their conversations and contacts with President
Reagan regarding Iran-Contra. 23

On November 18, 1987, the House and Senate Committees released
their joint Report. The preface to the Report noted that President
Reagan had cooperated with the investigation, and had not asserted
executive privilege. 24

Bush Administration

McFarlane, former National Security Council Advisers to President
Reagan, testified in a closed session of the Senate Foreign
Relations Committee in connection with the Committee's
investigation of the "October Surprise" matter. The investigation
stemmed from allegations that in 1980, officials of the Reagan
Presidential Campaign, including then-Vice-Presidential candidate
George Bush, struck a deal with Iran to delay the release of
Americans being held hostage in that country until after the U.S.
presidential election. Although the investigation touched on
events that occurred after President Reagan took office in January
1981, the thrust of the investigation -- and similarly, the focus
of the testimony of Allen and McFarlane -- was on events that took
place during the presidential campaign of 1980.

I have not identified any documents or news accounts that
indicate whether the Bush Administration, as the Administration in

23 In addition, over a dozen other White House officials,
including former Chief of Staff James Baker and key officials on
the NSC staff and Vice-President Bush's staff, gave sworn testimony
in depositions that were conducted by members of the Committees'\nstaff.

24 The "Minority" (dissenting) report issued by eight GOP
members of the Committees faulted President Reagan for waiving
executive privilege.
office at the time of the October Surprise investigation, formally
assented to the requests for the testimony of the former Reagan
White House officials Allen and McFarlane.

IV. Circumstances Surrounding Testimony by White House Officials

Jonathan Daniels

Daniels initially refused to comply with a congressional
subpoena for testimony. After Congress threatened to seek a
contempt order against him, Daniels agreed to testify. Daniels
stated that President Roosevelt had authorized him to testify,
after concluding that the testimony would not compromise the public
interest. In addition, it appears that the White House may have
authorized the testimony to make peace with Congress, which had
recently overridden a Roosevelt veto of a tax bill.

Daniels’ initial refusal to testify and his subsequent
decision to testify were lead stories (but not the main stories) on
the front-page of the New York Times on February 29, 1944 and March
5, 1944.

Donald Dawson and Sherman Adams

Both Dawson and Adams testified in connection with alleged
personal transgressions: they had been charged with improperly
influencing independent agencies, in exchange for personal favors
and other gifts. Over the years in several memoranda, OLC has
explained the Dawson and Adams cases as examples of instances in
which White House officials testified about personal (as opposed to
official) matters in order to clear their names.

Dawson’s testimony was a lead story (but not the main story)
on the front-page of the New York Times on March 11 and 12, 1951.
The Adams “vicuna coat” affair was one of the major news stories of
1958. The announcement of his decision to testify and his
appearance before the Committee earned banner headlines on the
front-page of the New York Times on June 17 and June 18, 1958. The
controversy over his relationship with Bernard Goldfine remained in
the news throughout the summer of 1958, and in September of that
year, Adams resigned as Eisenhower’s Chief of Staff.

Peter Flanigan

After resisting requests to testify for over a month, Flanigan
agreed to appear at the Senate Judiciary Committee’s hearings on
the nomination of Richard Kleindienst to be Attorney General.
However, as a condition of his agreement to appear, Flanigan stated
that he would only testify as to his role in the settlement of the
ITT antitrust suit and his meetings with ITT officials. The White House’s decision to permit Flanigan to testify was probably motivated by a desire to save the Kleindienst nomination, which Democrats had threatened to block unless Flanigan testified.

Flanigan’s refusal to testify and his eventual agreement to appear before the Committee made the front-page of the Washington Post in April 1972, but neither event was a lead story.

Fielding/Deaver Conflict-of-Interest Hearings

Fred Fielding, who left his post as Counsel to President Reagan on March 31, 1986, testified before a closed session of a House subcommittee on June 10, 1986. Fielding’s testimony was apparently limited to his role in a February 1986 White House probe of the lobbying activities of former Deputy Chief of Staff Michael Deaver, and his contacts with Deaver’s lobbying firm about employment opportunities there. There is no indication that the White House objected to Fielding’s decision to testify. The apparent lack of White House objection may stem from the fact that Deaver’s affairs had become rather controversial, and an independent counsel had just been appointed (May 29) to look into the matter.

The request for Fielding’s testimony and his appearance before the subcommittee were not major news stories.

October Surprise

Former Reagan Administration National Security Advisers Richard Allen and Robert McFarlane testified in a closed session of the Senate Foreign Relations Committee in June-July 1992 about the “October Surprise” allegations. The thrust of the Allen and McFarlane testimony was on events that took place during the 1980 presidential campaign -- not events that took place after President Reagan took office in January 1981.

The October Surprise allegations were a recurring news story in 1991, and then into the spring and summer of 1992, during President Bush’s bid for reelection that year. Particular attention was paid to allegations that when he was a candidate for Vice-President in 1980, George Bush had met with Iranian officials as part of a deal to delay the release of the Americans being held hostage at that time in Iran.

Watergate, Billy Carter, and Iran-Contra

White House officials testified before congressional committees looking into the Watergate, Billy Carter, and Iran-Contra affairs, because each of the matters was perceived as a threat to the Nixon, Carter, and Reagan presidencies, respectively.
At first, however, officials of the Nixon White House refused to testify before congressional committees on Watergate-related matters. In particular, White House Counsel John Dean refused to testify before Rep. Patman's Banking Committee in the fall of 1972, and he refused to testify before the Senate Judiciary Committee in mid-March 1973 in connection with the nomination of L. Patrick Gray Nixon to be FBI Director in March 1973. President Nixon himself declared on March 2 and March 12 that White House officials would not testify, and Attorney General Kleindienst said as much on April 10. It was not until April 17, 1973 that President Nixon indicated that he would permit White House officials to appear before the Select Committee; but even then, he sought to have the official testify in closed session, and he reserved the right to assert executive privilege. After further developments in late April and May, President Nixon announced on May 22 that he would not assert executive privilege in connection with the Select Committee and Special Prosecutor investigations, clearing the way for the subsequent testimony before the Select Committee of Haldeman, Ehrlichman, Dean, and others.

By contrast, Presidents Carter and Reagan announced early-on in the Billy Carter and Iran-Contra affairs that White House officials would be made available for congressional testimony, and that executive privilege would not be invoked.

It is an understatement to say that Watergate and Iran-Contra were big news stories. For a time in the summer of 1980, so was the Billy Carter affair. On their merits, Watergate and Iran-Contra were clearly more serious than the Billy Carter affair. Nevertheless, at the time of the Senate hearings on Billy Carter, President Carter was facing an uphill fight for reelection. Ronald Reagan had just been nominated as the Republican candidate at the party's convention, and was far ahead of President Carter in the opinion polls. Furthermore, President Carter was heading towards his party's convention, still facing a challenge from Edward Kennedy. Indeed, there were rumblings among Democrats that Carter delegates to the Convention should be allowed to throw their votes to other candidates, and there was even talk of a "draft Ed Muskie movement."
APPENDIX: BIBLIOGRAPHY

This bibliography sets forth the sources that were used in preparing the foregoing memorandum. The sources that are part of the OLC precedent files are marked with an asterisk; except where indicated, the authors of those documents were, at the time the documents were written, the Assistant Attorney General for OLC.

The bibliography is organized by reference to presidential Administrations. This differs from the memorandum, which is organized according to the response (refusal or acceptance) of the White House to the congressional request for testimony of White House officials.
Roosevelt Administration

Jonathan Daniels

*Memorandum from William H. Rehnquist for John D. Ehrlichman, Assistant to the President for Domestic Affairs, Re: Power of Congressional Committee to Compel Appearance or Testimony of "White House Staff," Feb. 5, 1971 ("Rehnquist Memorandum").

*Memorandum from John Harmon for Margaret McKenna, Deputy Counsel to the President, Re: Dual-purpose Presidential Advisers, Aug. 11, 1977 ("Harmon Memorandum").

*Memorandum from Theodore B. Olson to Rudolph W. Giuliani, Associate Attorney General, Re: Congressional Demand for Deposition of Counsel to the President Fred F. Fielding, July 23, 1982 ("Olson Memorandum").

*Memorandum Reviewing Inquiries by the Legislative Branch During the Period 1948-53 Concerning the Decision-Making Process and Documents of the Executive Branch ("Memorandum on 1948-53 Inquiries").

New York Times, Feb. 29, 1944, at 1, 34.
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Truman Administration

John Steelman


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Sherman Adams/Dixon-Yates

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2 The date of this memorandum is uncertain. It was later published as a law review article under a different title. See R. Kramer & H. Marcuse, Executive Privilege: a Study of the Period 1953-1960, 29 Geo. Wash. L. Rev. 623 (1961).
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Meese Confirmation Hearings


Fred Fielding/Deaver Conflict-of-Interest Hearings

### Background Materials

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The Honorable Tom Ridge  
Assistant to the President for Homeland Security  
Executive Office of the President  
The White House  
Washington, DC 20502  

Dear Governor Ridge:  

In Securing the Homeland Strengthening the Nation, President Bush concludes that, "the threat of terrorism is an inescapable reality of life in the 21st Century. It is a permanent condition to which America and the entire world must adjust." We share the view that it is essential that Federal, state, and local governments must have a significant and sustained commitment to defend our homeland.  

The Senate Appropriations Committee will be holding a series of hearings to examine closely the Federal response here at home to the events of September 11, 2001. The President’s Budget for Fiscal Year 2003 includes requests for homeland defense funding in dozens of departments and agencies. In the Executive Order establishing the Office of Homeland Security, President Bush gives you the responsibility to certify that the funding levels contained in the Budget transmitted to the Congress are necessary and appropriate for the homeland security-related activities of the Executive Branch.  

Therefore, you are the single Executive Branch official with the responsibility to integrate the many complex functions of the various Federal agencies in the formulation and execution of homeland defense programs. Your views and insights on the policies necessary to meet these objectives are critical to the Committee and the nation. As Chairman and Ranking Member of the Committee, we request that you testify before the Committee on April 9th, April 10th, or April 11th, 2002. The subcommittees of this Committee will address the detailed funding requests for the individual agencies and departments.  

Thank you for your attention to this matter. We look forward to your early and positive response.  

Sincerely yours,  

Ted Stevens  
Ranking Member  

Robert C. Byrd  
Chairman  

RCB/TS:cek

United States Senate  
COMMITTEE ON APPROPRIATIONS  
WASHINGTON, DC 20510-6025  
March 4, 2002
June 16, 1992

Dear Mr. Chairman:

I am writing in response to your letter of June 11 to the President regarding your June 23 scheduled hearing. In that letter, you invited the Administration to send appropriate Administration officials to testify. We would propose to send Mr. Robert Mueller, Assistant Attorney General, Criminal Division, Department of Justice, and Mr. Laurence Urgenberg, Acting Deputy Assistant Attorney General, Criminal Division, Department of Justice. In addition, I would note that the Administration has previously testified in great detail regarding pre-Desert Storm Iraq policy, the administration of the relevant programs and related investigations. I attach a copy of this testimony and ask that it be made available to all Committee Members before the hearing.

Your letter also requested the appearance of Mr. Nicholas Rostov, Special Assistant to the President and Senior Director for Legal Affairs, National Security Council; and Mr. C. Boyden Gray, Counsel to the President. As I advised the Chairman of the Committee on Banking, Finance and Urban Affairs in response to a similar request, it is the longstanding practice of the Executive Branch to decline requests for testimony by members of the President's personal staff. For that reason, I must decline your request for personal testimony by Messrs. Gray and Rostov. In light of the unusual circumstances presented here, however, the Administration is prepared to work with you to develop an alternative, mutually acceptable mechanism for making available to Members of the Committee the White House officials whose testimony you have sought.

Finally, attached to your letter was a request for documents from the Department of Agriculture, the State Department, the Department of Justice, the White House, the Department of the Treasury/U.S. Customs Service, and the Department of Commerce. In order to expedite a response to that request, we have forwarded it to the listed Departments outside the White House, and have directed them to respond directly to the Committee. In light of the large number of documents requested, it is unlikely that they or the White House will be able to meet the June 18
response date, but we have requested that they respond as quickly as possible.

Sincerely,

Nicholas E. Calio
Assistant to the President for Legislative Affairs

Chairman Jack Brooks
Committee on the Judiciary
House of Representatives
2138 Rayburn House Office Building
Washington, D.C. 20515-6118

cc: The Honorable Hamilton Fish, Jr.

attachments
THE WHITE HOUSE
WASHINGTON

June 17, 1992

Dear A.B.:

Thank you for your letter. We do not object to Senator Baker and other similarly situated former advisors to the President meeting informally with Members and staff of the Senate Select Committee on POW/MIA Affairs to discuss conversations they may have had with Mr. H. Ross Perot and other non-Executive branch officials. We are not prepared, however, to make a general waiver of Executive privilege with respect to their conversations with the President, the Vice President or other Executive branch officials, including those outside the White House.

In addition, it is long-standing White House policy not to assent to formal testimony to Congressional committees by former White House officials about matters occurring during their White House service.

Finally, we are reserving the option to assert Executive privilege on a specific matter to protect the Presidency. However, as you know, such decisions are not made in the abstract without a specific matter in dispute.

I hope this clarifies our policy. If you have any questions, please call me.

Sincerely,

C. Boyden Gray
Counsel to the President

Mr. Arthur B. Culvahouse
O'Malley & Myers
555 13th Street, N.W.
Washington, D.C. 20004-1109
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**COLLECTION:**
Counsel’s Office, White House

**SERIES:**
Kavanaugh, Brett - Subject Files

**FOLDER TITLE:**
Testimony by Ridge: Testimony on White House Officials Governor Ridge

**FRC ID:**
9696

**OA Num.:**
2166

**NARA Num.:**
2077

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**RESTRICITION CODES**

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<th>Freedom of Information Act - [5 U.S.C. 552(b)]</th>
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This Document was withdrawn on 6/10/2016 by PSC
Response to Specific Examples in Senator Byrd’s Letter

- Senator Byrd’s letter cites examples of three Presidential advisors who testified during World War II. Those examples only support the conclusion that Presidential advisors do not ordinarily testify on policy matters.

- First, the fact that the letter cites examples from six decades ago is itself indicative of the fact that there is a deeply rooted tradition -- long relied on by Presidents of both parties and long accepted by Congress -- that Presidential advisors ordinarily do not testify on policy matters.

- Second, the three examples cited in the letter all appear to involve congressional investigations of personal or official wrongdoing, which is the one situation in which Presidential advisors often have testified in the past and which is distinct from testimony about policy matters.

- Donald Nelson apparently was one of the corporate executive "dollar a year" men whom Congress investigated as part of its inquiry into numerous allegations of financial corruption within the government’s war effort. In addition, Nelson held a position as head of the War Production Board that, under the executive order creating it, gave him a degree of formal authority over agencies that close Presidential advisors ordinarily do not possess.

- Donald Dawson was investigated for accepting cash and other favors for providing favorable treatment on loan applications.

- Jonathan Daniels was called to testify regarding allegations that he had improperly forced the head of the REA to resign over a particular decision.

- Even if there were some isolated examples of close Presidential advisors testifying on policy matters, that would not alter our fundamental point: For decades, Presidents of both parties and Congress have agreed that close Presidential advisors ordinarily do not testify on policy matters.
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The George W. Bush Library

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COLLECTION:
Counsel's Office, White House

SERIES:
Kavanaugh, Brett - Subject Files

FOLDER TITLE:
Testimony by Ridge: Testimony on White House Officials Governor Ridge

RESTRICTION CODES

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]
PRM: Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

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**NARA Num.:**
2077

**RESTRICTION CODES**

- **Presidential Records Act - [44 U.S.C. 2204(c)]**
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- **Records Not Subject to FOIA**

- **Court Sealed - The document is withheld under a court seal and is not subject to the Freedom of Information Act.**

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Memorandum

March 15, 2002

TO: Office of the Vice President
   Attention: Candi Wolff

FROM: Harold C. Relyea
       Specialist in American National Government
       Government and Finance Division

SUBJECT: Voluntary Congressional Testimony by a Presidential Advisor During World War II or the Truman and Eisenhower Administrations

This memorandum responds to your request, conveyed by the CRS Director, for information on instances of voluntary congressional testimony by a presidential advisor during World War II (1941-1945), the Truman Administration (1945-1953), or the Eisenhower Administration (1953-1961). The term "presidential advisor" has been interpreted to mean a civilian executive branch official, other than a member of the traditional Cabinet, who consulted with the President concerning that official's responsibilities and activities and, as a consequence of his or her relationship with the President in this regard, might have been prevented from appearing before a congressional committee or subcommittee under a claim of executive privilege.

Instances of voluntary congressional testimony by a presidential advisor during the specified war periods are as follow:

- Donald M. Nelson, chairman of the War Production Board,\(^1\) popularly known as the "arms czar," appeared before and cooperated with the Senate Special Committee to Investigate the National Defense Program ("Truman Committee") during World War II to report on and discuss war material production and related coordination matters.\(^2\)

---

\(^1\) Established by E.O. 9024 of Jan. 16, 1942, the War Production Board was technically located within the Office for Emergency Management, an agency within the Executive Office of the President, but operated independently as an arm of the President. The chairman of the board was presidentially appointed without Senate confirmation; eight other specified government officials were members of the board. The board was terminated by E.O. 9638 of Oct. 4, 1945.

Jonathan Daniels, Administrative Assistant to the President, White House Office, appeared before the Senate Committee on Agriculture and Forestry on February 28 and March 7 and 8, 1944, to discuss his involvement in the personnel policy of the Rural Electrification Administration.  

Wallace H. Graham, Physician to the President, White House Office, appeared before the Senate Committee on Appropriations on January 13, 1948, to discuss information to which he might have been privy with regard to the commodity market.

Harry H. Vaughn, Military Aide to the President, White House Office, appeared before the Senate Committee on Expenditures in Executive Departments (now Governmental Affairs) on August 30 and 31, 1949, to discuss his personal involvement in certain government procurement contracts.

Donald S. Dawson, Administrative Assistant to the President, White House Office, appeared before the Senate Committee on Banking and Currency on May 10 and 11, 1951, to discuss allegations he had attempted to “dominate” the Reconstruction Finance Corporation and influence appointments to that body.

Sherman Adams, Assistant to the President, White House Office, appeared before the House Committee on Interstate and Foreign Commerce Committee on June 17, 1958, to discuss his involvement with certain lobbyists.

I trust this information is responsive to your request. Please do not hesitate to call me at 707-8679 if I may be of additional assistance regarding this, or any other, matter.

2 (...continued)


March 15, 2002

The President
The White House
Washington, DC 20500

Dear Mr. President:

The Administration’s Budget Message to the Congress of February 4, 2002, stated, “In this war, our first priority must be the security of our homeland. My budget provides the resources to combat terrorism at home, to protect our people, and preserve our constitutional freedoms. Our new Office of Homeland Security will coordinate the efforts of the Federal government, the 50 states, the territories, the District of Columbia, and hundreds of local governments; all to produce a comprehensive and far-reaching plan for securing America against terrorist attack.”

The budget submitted to Congress proposes $38 billion for over eighty Federal departments and agencies and proposes to terminate and reorganize many Federal programs. Under the executive order establishing the Office of Homeland Security, Governor Tom Ridge has the responsibility to certify that the funding levels contained in the Budget transmitted to the Congress are necessary and appropriate for the homeland security-related activities of the Executive Branch.

For these reasons, we wrote to Governor Ridge asking him to testify before the Senate Appropriations Committee in support of the Administration’s budget. We believe that Governor Ridge is the single Executive Branch official with the responsibility to integrate the many complex functions of the various Federal agencies in the formulation and execution of homeland defense programs.

We were, therefore, disappointed to receive a letter dated March 13, 2002, from Nicholas Calio respectfully declining the invitation, stating that, “...members of the President’s staff do not ordinarily testify before congressional committees.” We hope that you would agree that the need to protect Americans from potential terrorist acts is by no means ordinary.

There are numerous instances of Presidential advisors voluntarily testifying before Congress. According to the Congressional Research Service, during World War Two, Presidential advisors Donald M. Nelson, Jonathan Daniels and Donald S. Dawson all appeared before various Senate Committees.

In your executive order, you have vested in Governor Ridge extraordinary duties and responsibilities—much broader in scope than the staff role of advising the President. If Governor Ridge does not testify on homeland defense, we would have no recourse but to invite witnesses from more than eighty Federal departments and agencies that participate in homeland defense programs.
Therefore, we renew our request for Governor Ridge to testify before the Committee in support of your budget proposals to improve the security of America's homeland. We have no interest in questioning Governor Ridge about his private advice to you. We believe it is essential that we, as the representatives of the American people, charged by the Constitution to consider and approve the expenditure of their money, can examine and be informed about the issues which pertain to their safety that we all must address if we are to wage an effective war against terrorism here at home.

We request the opportunity to meet with you, to explain our intentions directly, in order to perform our oversight functions, while respecting your views on the appropriate role and prerogatives of the Executive Branch. We look forward to working together in a cooperative spirit to produce legislation that will maintain the confidence of the American people that our homeland is safe and secure.

Sincerely yours,

Ted Stevens
Ranking Member

Robert C. Byrd
Chairman
EXECUTIVE ORDER 8247

AUTHORIZING INCREASES IN THE PERSONNEL OF THE FEDERAL BUREAU OF INVESTIGATION, DEPARTMENT OF JUSTICE

WHEREAS a proclamation issued by me on September 8, 1939, proclaimed that a national emergency exists in connection with and to the extent necessary for the proper observance, safeguarding, and enforcing of the neutrality of the United States and the strengthening of our national defense within the limits of peace-time authorizations; and

WHEREAS the Federal Bureau of Investigation, Department of Justice, will be charged with additional and important duties in connection with such national emergency, requiring an increase in its personnel:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and by Revised Statutes, section 3667, as amended (U.S.C., title 3, sec. 665), it is hereby ordered as follows:

1. The Attorney General shall increase the personnel of the Federal Bureau of Investigation, Department of Justice, in such number, not exceeding 150, as he shall find necessary for the proper performance of the additional duties imposed upon the Department of Justice in connection with the national emergency.

2. To the extent made necessary by this order the Department of Justice is hereby authorized to waive or modify the monthly or other apportionments of its appropriations for contingent expenses or other general purposes for the fiscal year ending June 30, 1940.

FRANKLIN D. ROOSEVELT
THE WHITE HOUSE,
September 8, 1939.

EXECUTIVE ORDER 8245

ESTABLISHING THE DIVISIONS OF THE EXECUTIVE OFFICE OF THE PRESIDENT AND DEFINING THEIR FUNCTIONS AND DUTIES

By virtue of the authority vested in me by the Constitution and Statutes, and in order to effectuate the purposes of the Reorganization Act of 1939, Public No. 13, Seventy-sixth Congress, approved April 3, 1939, and of Reorganization Plans Nos. I and II, submitted to the Congress by the President and made effective as of July 1, 1939 by Public Resolution No. 2, Seventy-sixth Congress, approved June 7, 1939, by organizing the Executive Office of the President with functions and duties so prescribed and responsibilities so fixed that the President will have adequate machinery for the administrative management of the Executive branch of the Government, it is hereby ordered as follows:

I

There shall be within the Executive Office of the President the following principal divisions, namely: (1) The White House Office, (2) the Bureau of the Budget, (3) the National Resources Planning Board, (4) the Liaison Office for Personnel Management, (5) the Office of Government Reports, and (6) in the event of a national emergency or threat of a national emergency such office for emergency management as the President shall determine.

II

The functions and duties of the divisions of the Executive Office of the President are hereby defined as follows:

1. The White House Office.—In general, to serve the President in an intimate capacity in the performance of the many detailed activities incident to his immediate office. To that end, the White House Office shall be composed of the following principal subdivisions, with particular functions and duties as indicated:

   (a) The Secretaries to the President.—To facilitate and maintain quick and easy communication with the Congress, the individual members of the Congress, the heads of executive departments and agencies, the press, the radio, and the general public.

   (b) The Executive Clerk.—To provide for the orderly handling of documents and correspondence within The White House Office, and to organize and supervise all clerical services and procedure relating thereto.

   (c) The Administrative Assistants to the President.—To assist the President in such matters as he may direct, and at the specific request of the President, to get information and to condense and summarize it for his use. These Ad-
Chapter II—Executive Orders

E. O. 8248

Administrative Assistants shall be personal aides to the President and shall have no authority over anyone in any department or agency, including the Executive Office of the President, other than the personnel assigned to their intermediate offices. In no event shall the Administrative Assistants be interposed between the President and the head of any department or agency, or between the President and any one of the divisions in the Executive Office of the President.

2. The Bureau of the Budget.—(a) To assist the President in the preparation of the Budget and the formulation of the fiscal program of the Government.
   (b) To supervise and control the administration of the Budget.
   (c) To conduct research in the development of improved plans of administrative management, and to advise the executive departments and agencies of the Government with respect to improved administrative organization and practice.
   (d) To aid the President to bring about more efficient and economical conduct of Government service.
   (e) To assist the President by clearing and coordinating departmental advice on proposed legislation and by making recommendations as to Presidential action on legislative enactments, in accordance with past practice.
   (f) To assist in the consideration and clearance and, where necessary, in the preparation of proposed Executive orders and proclamations, in accordance with the provisions of Executive Order No. 7286 of February 10, 1938.
   (g) To plan and promote the improvement, development, and coordination of Federal and other statistical services.
   (h) To keep the President informed of the progress of activities by agencies of the Government with respect to work proposed, work actually initiated, and work completed, together with the relative timing of work between the several agencies of the Government; all to the end that the work programs of the several agencies of the Executive branch of the Government may be coordinated and that the monies appropriated by the Congress may be expended in the most economical manner possible with the least possible overlapping and duplication of effort.

3. The National Resources Planning Board.—(a) To survey, collect data on, and analyze problems pertaining to national resources, both natural and human, and to recommend to the President and the Congress long-time plans and programs for the wise use and fullest development of such resources.
   (b) To consult with Federal, regional, state, local, and private agencies in developing orderly programs of public works and to list for the President and the Congress all proposed public works in the order of their relative importance with respect to (1) the greatest good to the greatest number of people, (2) the emergency necessities of the Nation, and (3) the social, economic, and cultural advancement of the people of the United States.
   (c) To inform the President of the general trend of economic conditions and to recommend measures leading to their improvement of stabilization.
   (d) To act as a clearing house and means of coordination for planning activities, linking together various levels and fields of planning.

4. The Liaison Office for Personnel Management.—In accordance with the statement of purpose made in the Message to Congress of April 25, 1939, accompanying Reorganization Plan No. I, one of the Administrative Assistants to the President, authorized in the Reorganization Act of 1939, shall be designated by the President as Liaison Officer for Personnel Management and shall be in charge of the Liaison Office for Personnel Management. The functions of this office shall be:
   (a) To assist the President in the better execution of the duties imposed upon him by the Provisions of the Constitution and the laws with respect to personnel management, especially the Civil Service Act of 1883, as amended, and the rules promulgated by the President under authority of that Act.
   (b) To assist the President in maintaining closer contact with all agencies dealing with personnel matters, so far as they affect or tend to determine the personnel management policies of the Executive branch of the Government.

5. The Office of Government Reports.—(a) To provide a central clearing house through which individual citizens, organizations of citizens, state or local governmental bodies, and, where
Title 3—The President

appropriate, agencies of the Federal Government, may transmit inquiries and complaints and receive advice and information.

(b) To assist the President in dealing with special problems requiring the clearance of information between the Federal Government and state and local governments and private institutions.

(c) To collect and distribute information concerning the purposes and activities of executive departments and agencies for the use of the Congress, administrative officials, and the public.

(d) To keep the President currently informed of the opinions, desires, and complaints of citizens and groups of citizens and of state and local governments with respect to the work of Federal agencies.

(e) To report to the President on the basis of the information it has obtained possible ways and means for reducing the cost of the operation of the Government.

III

The Bureau of the Budget, the National-Resources Planning Board, and the Liaison Office for Personnel Management shall constitute the three principal management arms of the Government for the (1) preparation and administration of the Budget and improvement of administrative management and organization, (2) planning for conservation and utilization of the resources of the Nation, and (3) coordination of the administration of personnel, none of which belongs in any department but which are necessary for the over-all management of the Executive branch of the Government, so that the President will be enabled the better to carry out his Constitutional duties of informing the Congress with respect to the state of the Union, of recommending appropriate and expedient measures, and by seeing that the laws are faithfully executed.

IV

To facilitate the orderly transaction of business within each of the five divisions herein defined and to clarify the relations of these divisions with each other and with the President, I direct that the Bureau of the Budget, the National Resources Planning Board, the Liaison Office for Personnel Manage-
now accommodated in the State, War and Navy Building, it then will be possible to bring into this building, close to The White House, all of the personnel of the Executive Office of the President except The White House Office.

This Order shall take effect on September 11th 1939.

FRANKLIN D ROOSEVELT
THE WHITE HOUSE, September 8, 1939.

EXECUTIVE ORDER 8249

Revising Regulations Governing the Enforcement of the Neutrality of the United States

WHEREAS, under the treaty of the United States and the law of nations it is the duty of the United States, in any war in which the United States is a neutral, not to permit the commission of unequal acts within the jurisdiction of the United States;

AND WHEREAS, a proclamation was issued by me on the 10th day of September declaring the neutrality of the United States of America in the war now existing between Germany, on the one hand, and Canada, on the other hand:

NOW, THEREFORE, in order to make more effective the enforcement of the provisions of said treaties, law of nations, and proclamation, I hereby prescribe that the provisions of my Executive Order No. 8213 of September 5, 1939, prescribing regulations governing the enforcement of the neutrality of the United States, apply equally in respect to Canada.

FRANKLIN D ROOSEVELT
THE WHITE HOUSE, September 10, 1939.

EXECUTIVE ORDER 8250

Revocation of Executive Order No. 2006 of July 30, 1914, Placing Certain Land Under the Jurisdiction of the Secretary of the Navy for Use as a Naval Radio Station within the Canal Zone

By virtue of the authority vested in me by section 5 of title 2 of the Canal Zone Code, approved June 19, 1934, and as President of the United States, Executive Order No. 2006 of July 30, 1914, placing certain land in the Canal Zone, at Barren, under the control of the Secretary of the Navy for use as a naval radio station, is hereby revoked, and such land returned to the control and jurisdiction of the Governor of The Panama Canal.

FRANKLIN D ROOSEVELT
THE WHITE HOUSE, September 11, 1939.

EXECUTIVE ORDER 8251

Revising Regulations Governing the Entrance of Foreign and Domestic Aircraft into the Canal Zone, and Navigation Therein

By virtue of and pursuant to the authority vested in me by section 14 of title 2 of the Canal Zone Code, as amended by the act of July 9, 1937, 50 Stat. 436 (U.S.C., title 48, sec. 1914 a) I hereby prescribe the following regulations governing the entrance of foreign and domestic aircraft into the Canal Zone, and navigation of such aircraft within the Canal Zone.

Sec. 1. Canal Zone set apart as military airspace reservation. The airspace above the Canal Zone, including the territorial waters within the three-mile marine boundary at each end of the Canal, is hereby set apart as and declared to be a military airspace reservation, to be known as the "Canal Zone Military Airspace Reservation."

Sec. 2. Unlawful navigation of aircraft in military airspace reservation. It shall be unlawful to navigate any foreign or domestic aircraft into, within, or through the Canal Zone Military Airspace Reservation otherwise than in conformity with this Executive order. Provided, however, that none of the provisions of this order shall apply to military, naval, or other public aircraft of the United States.

Sec. 3. Authorization for entrance of aircraft into Canal Zone Airspace Reservation, and navigation therein. Aircraft, foreign or domestic, shall be navigated into, within, or through the Canal Zone Military Airspace Reservation only under and in compliance with an authorization granted after the effective date of this order (a) by the Civil Aeronautics Authority in the case of civil aircraft, and
13. FOREIGN ECONOMIC ADMINISTRATION September 25, 1943 Exec. Order No. 9380, 9 FR 42, 1943 WL 4131 (Pres.)
14. FURTHER AMENDING EXECUTIVE ORDER NO. 8802 BY ESTABLISHING A NEW COMMITTEE ON FAIR EMPLOYMENT PRACTICE AND DEFINING ITS POWERS AND DUTIES May 27, 1943 Exec. Order No. 9346, 8 FR 7183, 1943 WL 4099 (Pres.)
15. PROVIDING FOR THE ESTABLISHMENT OF AN OFFICE OF WAR MOBILIZATION May 27, 1943 Exec. Order No. 9347, 8 FR 7207, 1943 WL 4100 (Pres.)
16. TRANSFERRING THE NUTRITION FUNCTIONS OF THE OFFICE OF DEFENSE HEALTH AND WELFARE SERVICES TO THE DEPARTMENT OF AGRICULTURE March 6, 1943 Exec. Order No. 9310, 8 FR 2913, 1943 WL 4065 (Pres.)
17. PROVIDING FOR THE MOST EFFECTIVE MOBILIZATION AND UTILIZATION OF THE NATIONAL MANPOWER AND TRANSFERRING THE SELECTIVE SERVICE SYSTEM TO THE WAR MANPOWER COMMISSION December 5, 1942 Exec. Order No. 9279, 7 FR 10177, 1942 WL 4245 (Pres.)
18. PROVIDING FOR THE STABILIZING OF THE NATIONAL ECONOMY October 3, 1942 Exec. Order No. 9250, 7 FR 7871, 1942 WL 4218 (Pres.)
19. TRANSFERRING CERTAIN EMPLOYMENT SERVICE AND TRAINING FUNCTIONS TO THE WAR MANPOWER COMMISSION September 17, 1942 Exec. Order No. 9247, 7 FR 7379, 1942 WL 4215 (Pres.)
20. AUTHORIZING THE DIVISION OF CENTRAL ADMINISTRATIVE SERVICES IN THE OFFICE FOR EMERGENCY MANAGEMENT EXECUTIVE OFFICE OF THE PRESIDENT, TO ACQUIRE AND DISPOSE OF PROPERTY August 1, 1942 Exec. Order No. 9211, 7 FR 6030, 1942 WL 4181 (Pres.)
22. CONSOLIDATING CERTAIN WAR INFORMATION FUNCTIONS INTO AN OFFICE OF WAR INFORMATION June 13, 1942 Exec. Order No. 9182, 7 FR 4468, 1942 WL 4157 (Pres.)

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31. ESTABLISHING AN OFFICE OF FACTS AND FIGURES IN THE OFFICE FOR EMERGENCY MANAGEMENT IN THE EXECUTIVE OFFICE OF THE PRESIDENT. October 24, 1941 Exec. Order No. 8922, 6 FR 5477, 1941 WL 4036 (Pres.)

32. ESTABLISHING THE OFFICE OF DEFENSE HEALTH AND WELFARE SERVICES IN THE EXECUTIVE OFFICE OF THE PRESIDENT AND DEFINING ITS FUNCTIONS AND DUTIES. September 3, 1941 Exec. Order No. 8890, 6 FR 4625, 1941 WL 4018 (Pres.)


34. AMENDMENT OF EXECUTIVE ORDER NO. 8757 OF MAY 20, 1941, ESTABLISHING THE OFFICE OF CIVILIAN DEFENSE. July 16, 1941 Exec. Order No. 8822, 6 FR 3529, 1941 WL 3962 (Pres.)


36. ENLARGING THE VOLUNTEER PARTICIPATION COMMITTEE OF THE OFFICE OF CIVILIAN DEFENSE. June 20, 1941 Exec. Order No. 8799, 6 FR 3049, 1941 WL 3943 (Pres.)


38. ESTABLISHING THE DIVISION OF DEFENSE AID REPORTS IN THE OFFICE FOR EMERGENCY MANAGEMENT OF THE EXECUTIVE OFFICE OF THE PRESIDENT. May 2, 1941 Exec. Order No. 8751, 6 FR 2301, 1941 WL 3905 (Pres.)


40. ESTABLISHMENT OF NATIONAL DEFENSE MEDIATION BOARD. March 19, 1941 Exec. Order No. 8716, 6 FR 1532, 1941 WL 3878 (Pres.)

41. COORDINATION OF NATIONAL DEFENSE HOUSING. January 11, 1941 Exec. Order No. 8632, 6 FR 295, 1941 WL 3804 (Pres.)

42. ESTABLISHING THE OFFICE OF PRODUCTION MANAGEMENT IN THE EXECUTIVE OFFICE OF THE PRESIDENT AND DEFINING ITS FUNCTIONS AND DUTIES. January 7, 1941 Exec. Order No. 8629, 6 FR 191, 1941 WL 3802 (Pres.)

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Chapter II—Executive Orders

E. O. 9024

The heads of such other agencies as may be designated, and such officers, employees, and agencies as each of them may designate, to perform and exercise, as to their respective agencies, all of the functions and powers vested in and granted to the Secretary of War, the Secretary of the Navy, and the Chairman of the United States Maritime Commission by such Executive Order.

Franklin D. Roosevelt

The White House,
January 14, 1942.

Executive Order 9024

Establishing the War Production Board in the Executive Office of the President and defining its functions and duties

By virtue of the authority vested in me by the Constitution and statutes of the United States, as President of the United States and Commander in Chief of the Army and Navy, and in order to define further the functions and duties of the Office for Emergency Management with respect to the state of war declared to exist by Joint Resolutions of the Congress, approved December 8, 1941, and December 11, 1941, respectively, and for the purpose of assuring the most effective prosecution of war procurement and production, it is hereby ordered as follows:

1. There is established within the Office for Emergency Management of the Executive Office of the President a War Production Board hereinafter referred to as the Board. The Board shall consist of a Chairman, to be appointed by the President, the Secretary of War, the Secretary of the Navy, the Federal Loan Administrator, the Director General and the Assistant Director General of the Office of Production Management, the Administrator of the Office of Price Administration, the Chairman of the Board of Economic Warfare, and the Special Assistant to the President supervising the defense aid program.

2. The Chairman of the War Production Board, with the advice and assistance of the members of the Board, shall:

a. Exercise general direction over the war procurement and production program.

b. Determine the policies, plans, procedures, and methods of the several Federal departments, establishments, and agencies in respect to war procurement and production, including purchasing, contracting, specifications, and construction; and including conversion, requisitioning, plant expansion, and the disposing thereof, and to issue such directives in respect thereto as he may deem necessary or appropriate.

c. Perform the functions and exercise the powers vested in the Supply Priorities and Allocations Board by Executive Order No. 8975 of August 26, 1941.

d. Supervise the Office of Production Management in the performance of its responsibilities and duties, and direct such changes in its organization as he may deem necessary.

e. Report from time to time to the President on the progress of war procurement and production; and perform such other duties as the President may direct.

3. Federal departments, establishments, and agencies shall comply with the policies, plans, methods, and procedures in respect to war procurement and production as determined by the Chairman; and shall furnish to the Chairman such information relating to war procurement and production as he may deem necessary for the performance of his duties.

4. The Army and Navy Munitions Board shall report to the President through the Chairman of the War Production Board.

5. The Chairman may exercise the powers, authority, and discretion conferred upon him by this Order through such officials or agencies and in such manner as he may determine; and his decisions shall be final.

6. The Chairman is further authorized within the limits of such funds as may be allocated or appropriated to the Board to employ necessary personnel and make provision for necessary supplies, facilities, and services.

7. The Supply Priorities and Allocations Board, established by the Executive Order of August 26, 1941, is hereby abolished, and its personnel, records, and property transferred to the Board. The Executive Orders No. 8829 of January 7, 1941, No. 8875 of August 28, 1941, No. 8911 of September 4, 1941, No. 8912 of November 19, 1941, No. 9001 of December 27, 1941, and No. 9023 of January 14, 1942, are hereby amended accordingly, and any provisions of these or
EXECUTIVE ORDER 9027
AMENDING SUBDIVISION XL OF SCHEDULE A OF THE CIVIL SERVICE RULES

By virtue of the authority vested in me by section 2 of the Civil Service Act (35 Stat. 404), Subdivision XL of Schedule A of the Civil Service Rules is hereby amended by adding thereto a third paragraph reading as follows:

3. One general counsel.

FRANKLIN D. ROOSEVELT
THE WHITE HOUSE,
January 16, 1942.

EXECUTIVE ORDER 9028
WITHDRAWAL OF PUBLIC LANDS FOR LOOKOUT STATION FOR USE IN COOPERATIVE FOREST PROTECTION

CALIFORNIA

By virtue of the authority vested in me by the act of June 25, 1910, c. 421, 36 Stat. 847, as amended by the act of August 24, 1912, c. 369, 37 Stat. 497, it is ordered as follows:

SECTION 1. This Executive Order No. 6910 of November 26, 1934, as amended, temporarily withdrawing all public lands in California and certain other States for classification and other purposes, is hereby revoked as to the following-described tract of public land in California:

MOUNT DIABLO MERIDIAN
T. 22 S., R. 9 E., SEC. 4, E3/4E1/4SE1/4SW1/4, W1/4E3/4SW1/4, 8 1/4, 10 acres.

SECTION 2. Subject to valid existing rights, the lands described in section 1 of this order are hereby temporarily withdrawn from settlement, location, sale, or entry, and reserved and set apart under the jurisdiction of the Department of the Interior for use as a lookout station site for Federal and State cooperative forest-protection work.

SECTION 3. The land herein reserved being within the area included in the unit plan agreement for the Williams Hill area, Monterey County, approved by the Secretary of the Interior on June 2, 1937, its reservation as a lookout station is subject to its use for the purpose of oil and gas development pursuant to the act of February 25, 1920, c. 85, 41 Stat.
EXECUTIVE ORDER

ESTABLISHING THE OFFICE OF HOMELAND SECURITY
AND THE HOMELAND SECURITY COUNCIL

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Establishment. I hereby establish within the Executive Office of the President an Office of Homeland Security (the "Office") to be headed by the Assistant to the President for Homeland Security.

Sec. 2. Mission. The mission of the Office shall be to develop and coordinate the implementation of a comprehensive national strategy to secure the United States from terrorist threats or attacks. The Office shall perform the functions necessary to carry out this mission, including the functions specified in section 3 of this order.

Sec. 3. Functions. The functions of the Office shall be to coordinate the executive branch’s efforts to detect, prepare for, prevent, protect against, respond to, and recover from terrorist attacks within the United States.
(a) **National Strategy.** The Office shall work with executive departments and agencies, State and local governments, and private entities to ensure the adequacy of the national strategy for detecting, preparing for, preventing, protecting against, responding to, and recovering from terrorist threats or attacks within the United States and shall periodically review and coordinate revisions to that strategy as necessary.

(b) **Detection.** The Office shall identify priorities and coordinate efforts for collection and analysis of information within the United States regarding threats of terrorism against the United States and activities of terrorists or terrorist groups within the United States. The Office also shall identify, in coordination with the Assistant to the President for National Security Affairs, priorities for collection of intelligence outside the United States regarding threats of terrorism within the United States.

(i) In performing these functions, the Office shall work with Federal, State, and local agencies, as appropriate, to:

(A) facilitate collection from State and local governments and private entities of information pertaining to terrorist threats or activities within the United States;

(B) coordinate and prioritize the requirements for foreign intelligence relating to terrorism within the United States of executive departments and agencies responsible for homeland security and provide these requirements and priorities to the Director of Central Intelligence and other agencies responsible for collection of foreign intelligence;

(C) coordinate efforts to ensure that all executive departments and agencies that have intelligence collection responsibilities have sufficient technological capabilities and resources to collect intelligence and data relating to terrorist activities or possible terrorist acts within the United States, working with the Assistant to the President for National Security Affairs, as appropriate;
(D) coordinate development of monitoring protocols and equipment for use in detecting the release of biological, chemical, and radiological hazards; and

(E) ensure that, to the extent permitted by law, all appropriate and necessary intelligence and law enforcement information relating to homeland security is disseminated to and exchanged among appropriate executive departments and agencies responsible for homeland security and, where appropriate for reasons of homeland security, promote exchange of such information with and among State and local governments and private entities.

(ii) Executive departments and agencies shall, to the extent permitted by law, make available to the Office all information relating to terrorist threats and activities within the United States.

(c) Preparedness. The Office of Homeland Security shall coordinate national efforts to prepare for and mitigate the consequences of terrorist threats or attacks within the United States. In performing this function, the Office shall work with Federal, State, and local agencies, and private entities, as appropriate, to:

(i) review and assess the adequacy of the portions of all Federal emergency response plans that pertain to terrorist threats or attacks within the United States;

(ii) coordinate domestic exercises and simulations designed to assess and practice systems that would be called upon to respond to a terrorist threat or attack within the United States and coordinate programs and activities for training Federal, State, and local employees who would be called upon to respond to such a threat or attack;

(iii) coordinate national efforts to ensure public health preparedness for a terrorist attack, including reviewing vaccination policies and reviewing the adequacy of and, if necessary, increasing vaccine and pharmaceutical stockpiles and hospital capacity;

(iv) coordinate Federal assistance to State and local authorities and nongovernmental organizations to prepare for and respond to terrorist threats or attacks within the United States;
(v) ensure that national preparedness programs and activities for terrorist threats or attacks are developed and are regularly evaluated under appropriate standards and that resources are allocated to improving and sustaining preparedness based on such evaluations; and

(vi) ensure the readiness and coordinated deployment of Federal response teams to respond to terrorist threats or attacks, working with the Assistant to the President for National Security Affairs, when appropriate.

(d) Prevention. The Office shall coordinate efforts to prevent terrorist attacks within the United States. In performing this function, the Office shall work with Federal, State, and local agencies, and private entities, as appropriate, to:

(i) facilitate the exchange of information among such agencies relating to immigration and visa matters and shipments of cargo; and, working with the Assistant to the President for National Security Affairs, ensure coordination among such agencies to prevent the entry of terrorists and terrorist materials and supplies into the United States and facilitate removal of such terrorists from the United States, when appropriate;

(ii) coordinate efforts to investigate terrorist threats and attacks within the United States; and

(iii) coordinate efforts to improve the security of United States borders, territorial waters, and airspace in order to prevent acts of terrorism within the United States, working with the Assistant to the President for National Security Affairs, when appropriate.

(e) Protection. The Office shall coordinate efforts to protect the United States and its critical infrastructure from the consequences of terrorist attacks. In performing this function, the Office shall work with Federal, State, and local agencies, and private entities, as appropriate, to:

(i) strengthen measures for protecting energy production, transmission, and distribution services and critical facilities; other utilities; telecommunications; facilities that produce, use, store, or dispose of nuclear material; and other critical infrastructure services and critical facilities within the United States from terrorist
attack;

(ii) coordinate efforts to protect critical public and privately owned information systems within the United States from terrorist attack;

(iii) develop criteria for reviewing whether appropriate security measures are in place at major public and privately owned facilities within the United States;

(iv) coordinate domestic efforts to ensure that special events determined by appropriate senior officials to have national significance are protected from terrorist attack;

(v) coordinate efforts to protect transportation systems within the United States, including railways, highways, shipping, ports and waterways, and airports and civilian aircraft, from terrorist attack;

(vi) coordinate efforts to protect United States livestock, agriculture, and systems for the provision of water and food for human use and consumption from terrorist attack; and

(vii) coordinate efforts to prevent unauthorized access to, development of, and unlawful importation into the United States of, chemical, biological, radiological, nuclear, explosive, or other related materials that have the potential to be used in terrorist attacks.

(f) Response and Recovery. The Office shall coordinate efforts to respond to and promote recovery from terrorist threats or attacks within the United States. In performing this function, the Office shall work with Federal, State, and local agencies, and private entities, as appropriate, to:

(i) coordinate efforts to ensure rapid restoration of transportation systems, energy production, transmission, and distribution systems; telecommunications; other utilities; and other critical infrastructure facilities after disruption by a terrorist threat or attack;

(ii) coordinate efforts to ensure rapid restoration of public and private critical information systems after
disruption by a terrorist threat or attack;

(iii) work with the National Economic Council to coordinate efforts to stabilize United States financial markets after a terrorist threat or attack and manage the immediate economic and financial consequences of the incident;

(iv) coordinate Federal plans and programs to provide medical, financial, and other assistance to victims of terrorist attacks and their families; and

(v) coordinate containment and removal of biological, chemical, radiological, explosive, or other hazardous materials in the event of a terrorist threat or attack involving such hazards and coordinate efforts to mitigate the effects of such an attack.

(g) Incident Management. The Assistant to the President for Homeland Security shall be the individual primarily responsible for coordinating the domestic response efforts of all departments and agencies in the event of an imminent terrorist threat and during and in the immediate aftermath of a terrorist attack within the United States and shall be the principal point of contact for and to the President with respect to coordination of such efforts. The Assistant to the President for Homeland Security shall coordinate with the Assistant to the President for National Security Affairs, as appropriate.

(h) Continuity of Government. The Assistant to the President for Homeland Security, in coordination with the Assistant to the President for National Security Affairs, shall review plans and preparations for ensuring the continuity of the Federal Government in the event of a terrorist attack that threatens the safety and security of the United States Government or its leadership.

more

(i) Public Affairs. The Office, subject to the direction of the White House Office of Communications, shall coordinate the strategy of the executive branch for communicating with the public in the event of a terrorist threat or attack within the United States. The Office also shall coordinate the development of programs for educating the public about the nature of terrorist threats and appropriate precautions and responses.

(j) Cooperation with State and Local Governments and Private Entities. The Office shall encourage and invite the
participation of State and local governments and private entities, as appropriate, in carrying out the Office's functions.

(k) Review of Legal Authorities and Development of Legislative Proposals. The Office shall coordinate a periodic review and assessment of the legal authorities available to executive departments and agencies to permit them to perform the functions described in this order. When the Office determines that such legal authorities are inadequate, the Office shall develop, in consultation with executive departments and agencies, proposals for presidential action and legislative proposals for submission to the Office of Management and Budget to enhance the ability of executive departments and agencies to perform those functions. The Office shall work with State and local governments in assessing the adequacy of their legal authorities to permit them to detect, prepare for, prevent, protect against, and recover from terrorist threats and attacks.

(l) Budget Review. The Assistant to the President for Homeland Security, in consultation with the Director of the Office of Management and Budget (the "Director") and the heads of executive departments and agencies, shall identify programs that contribute to the Administration's strategy for homeland security and, in the development of the President's annual budget submission, shall review and provide advice to the heads of departments and agencies for such programs. The Assistant to the President for Homeland Security shall provide advice to the Director on the level and use of funding in departments and agencies for homeland security-related activities and, prior to the Director's forwarding of the proposed annual budget submission to the President for transmittal to the Congress, shall certify to the Director the funding levels that the Assistant to the President for Homeland Security believes are necessary and appropriate for the homeland security-related activities of the executive branch.

Sec. 4. Administration.

(a) The Office of Homeland Security shall be directed by the Assistant to the President for Homeland Security.

(b) The Office of Administration within the Executive Office of the President shall provide the Office of Homeland Security with such personnel, funding, and administrative support, to the extent permitted by law and subject to the availability of appropriations, as directed by the Chief of Staff to carry out the provisions of this order.

(c) Heads of executive departments and agencies are authorized, to the extent permitted by law, to detail or assign
personnel of such departments and agencies to the Office of Homeland Security upon request of the Assistant to the President for Homeland Security, subject to the approval of the Chief of Staff.


(a) I hereby establish a Homeland Security Council (the "Council"), which shall be responsible for advising and assisting the President with respect to all aspects of homeland security. The Council shall serve as the mechanism for ensuring coordination of homeland security-related activities of executive departments and agencies and effective development and implementation of homeland security policies.

(b) The Council shall have as its members the President, the Vice President, the Secretary of the Treasury, the Secretary of Defense, the Attorney General, the Secretary of Health and Human Services, the Secretary of Transportation, the Director of the Federal Emergency Management Agency, the Director of the Federal Bureau of Investigation, the Director of Central Intelligence, the Assistant to the President for Homeland Security, and such other officers of the executive branch as the President may from time to time designate. The Chief of Staff, the Chief of Staff to the Vice President, the Assistant to the President for National Security Affairs, the Counsel to the President, and the Director of the Office of Management and Budget also are invited to attend any Council meeting. The Secretary of State, the Secretary of Agriculture, the Secretary of the Interior, the Secretary of Energy, the Secretary of Labor, the Secretary of Commerce, the Secretary of Veterans Affairs, the Administrator of the Environmental Protection Agency, the Assistant to the President for Economic Policy, and the Assistant to the President for Domestic Policy shall be invited to attend meetings pertaining to their responsibilities. The heads of other executive departments and agencies and other senior officials shall be invited to attend Council meetings when appropriate.

(c) The Council shall meet at the President’s direction. When the President is absent from a meeting of the Council, at the President’s direction the Vice President may preside. The Assistant to the President for Homeland Security shall be responsible, at the President’s direction, for determining the agenda, ensuring that necessary papers are prepared, and
recording Council actions and Presidential decisions.

Sec. 6. Original Classification Authority. I hereby delegate the authority to classify information originally as Top Secret, in accordance with Executive Order 12958 or any successor Executive Order, to the Assistant to the President for Homeland Security.

Sec. 7. Continuing Authorities. This order does not alter the existing authorities of United States Government departments and agencies. All executive departments and agencies are directed to assist the Council and the Assistant to the President for Homeland Security in carrying out the purposes of this order.

Sec. 8. General Provisions.

(a) This order does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies, or instrumentalities, its officers or employees, or any other person.

(b) References in this order to State and local governments shall be construed to include tribal governments and United States territories and other possessions.

(c) References to the "United States" shall be construed to include United States territories and possessions.

Sec. 9. Amendments to Executive Order 12656. Executive Order 12656 of November 18, 1988, as amended, is hereby further amended as follows:

(a) Section 101(a) is amended by adding at the end of the fourth sentence: "except that the Homeland Security Council shall be responsible for administering such policy with respect to terrorist threats and attacks within the United States."

(b) Section 104(a) is amended by adding at the end: "except that the Homeland Security Council is the principal forum for consideration of policy relating to terrorist threats and attacks within the United States."

(c) Section 104(b) is amended by inserting the words "and the Homeland Security Council" after the words "National Security Council."
(d) The first sentence of section 104(c) is amended by inserting the words "and the Homeland Security Council" after the words "National Security Council."

(e) The second sentence of section 104(c) is replaced with the following two sentences: "Pursuant to such procedures for the organization and management of the National Security Council and Homeland Security Council processes as the President may establish, the Director of the Federal Emergency Management Agency also shall assist in the implementation of and management of those processes as the President may establish. The Director of the Federal Emergency Management Agency also shall assist in the implementation of national security emergency preparedness policy by coordinating with the other Federal departments and agencies and with State and local governments, and by providing periodic reports to the National Security Council and the Homeland Security Council on implementation of national security emergency preparedness policy."

(f) Section 201(7) is amended by inserting the words "and the Homeland Security Council" after the words "National Security Council."

(g) Section 206 is amended by inserting the words "and the Homeland Security Council" after the words "National Security Council."

(h) Section 208 is amended by inserting the words "or the Homeland Security Council" after the words "National Security Council."

GEORGE W. BUSH

THE WHITE HOUSE,
October 8, 2001.
September 4, 2001

Mr. Michael Andricos
Special Assistant to the President and Senior Director for Legislative Affairs
National Security Council
The White House
Washington, DC 20504

Dear Mr. Andricos:

The Chairman and Ranking Member of the Subcommittee on Economic Development, Public Buildings, and Emergency Management, House Committee on Transportation and Infrastructure; the Chairman, Subcommittee on National Security, Veterans' Affairs, and International Relations, House Committee on Government Reform; and several members of the House Armed Services Committee have requested that the General Accounting Office review homeland security issues. We plan to answer the following questions. (1) What is the federal government’s definition of homeland security? (2) What are the threats to homeland security? (3) What are the roles and responsibilities of the various federal agencies in homeland security? (4) What organizational and program management changes are needed to better provide homeland security? (5) To what extent should federal organizations, resources, and efforts, to combat terrorism be included in homeland security programs?

We plan to begin our work at the Office of Secretary of Defense with visits to other Department activities as needed. We will provide appropriate notification as other activities are identified. We also plan to meet with officials at the Federal Emergency Management Agency, Department of Justice, and other federal agencies involved in homeland security.

The work will be performed under code 350089. Please contact either my Assistant Director, Brian Lepore, on (202) 512-4523, or Lorelei St. James, Senior Analyst-in-Charge, in our Atlanta Field Office, on (404) 679-1921 to discuss any questions concerning this assignment.

Sincerely yours,

Raymond J. Decker
Director
Defense Capabilities and Management
Voice mail from Laura St. James in General Accounting Office to Rachel Brand in General Counsel's Office.

Hi Rachel. This is Laura St. James in the General Accounting Office in Atlanta, GA. Sorry I missed your call. I understand from your message that Rebecca had passed on our request to have a meeting with the Office of Homeland Security to you. Basically in a nutshell we are looking at a very broad review of Homeland Security. We were actually asked to look at the issue back way before the 11th. Around August time frame. We are looking at broad management issues, one of which is the definition of Homeland Security, definition of the homeland, potential roles and responsibilities of federal agencies involved or who would be involved in protecting the homeland, looking at threats to the homeland and then organizational management and program management changes to better protect the homeland. So as you can see by our questions they are very broad, and since we started before the Office of Homeland Security was created, we did not intend to meet with that organization, but now we find that we definitely do need to get in and try to discuss some of these issues with your office. So we were working with Rebecca trying to set up a meeting. And I have not really talked to her directly. We have only been playing phone tag by leaving voice messages. So if you could call me back and we can chat about what else you might need and a possible meeting, that would be great. My number again is 404-679-1921. Thanks. Bye bye.
November 29, 2001

The Honorable Alberto R. Gonzales  
Assistant to the President and  
Counsel to the President  
2nd Floor, West Wing  
The White House  
Washington, DC  20500

Dear Mr. Gonzales:  

The General Accounting Office has been asked by Senator Joseph I. Lieberman, Chairman, and Senator Robert F. Bennett, Member, Committee on Governmental Affairs, to develop a comprehensive inventory of federal entities involved in critical infrastructure protection and information operations. The objectives of our work are to (1) identify federal, civilian, defense, and intelligence entities involved in efforts to protect our nation's critical infrastructures; (2) determine each entity's responsibilities, appropriated funds, source of authority, and organizational placement; and (3) document the organizations' relationships with each other and other relevant oversight and policy-making bodies.

Our work will begin immediately under job code 310141, and we anticipate holding an entrance conference in the near future with appropriate officials. The Executive Office organizations to be covered in our study will include, but not be limited to, Office of Science and Technology Policy, Office of the Assistant to the President for National Security Affairs, Office of the Assistant to the President for Economic Affairs, Office of the Assistant to the President for Homeland Security, and Office of the Special Advisor to the President for Cyberspace Security. In addition to the Executive Office, we expect to conduct work at a number of other agencies with critical infrastructure protection responsibilities. If you have any questions, please contact Robert Dacey, Director, Information Security Issues, at (202) 512-3317 or daceyr@gao.gov or Michael Gilmore, Senior Information Systems Analyst, at (202) 512-9374 or gilmorem@gao.gov.

Sincerely yours,

Victor S. Rezendes  
Managing Director  
Strategic Issues

cc: Mr. Johnnie Frazier, Inspector General  
Ms. Mary Mozingo, GAO Liaison Officer
To: Mr. Rachel Brand  
From: Susan Leigh Biggs  
Date: 11/29/07  
Re: Notification  
Pages: Fax Transmittal Sheet + 1  

Urgent:  
For Review:  
Please Comment:  
Please Reply:  
Please Recycle:  

Original being sent via regular mail. If you have questions, please call me on 202-512-7121.  

Thank you.
February 11, 2002

The Honorable Thomas Ridge
Director
Office of Homeland Security
Executive Office of the President
Washington, D.C. 20502

Dear Mr. Ridge:

This letter is to follow up on your telephone conversation today with Comptroller General David M. Walker, and to inform you that the U.S. General Accounting Office has initiated several assignments at the request of various Congressional Committee Chairman, Ranking Majority and Minority Members, and other Members, to assess the federal government’s progress in addressing homeland security issues since the September 11, 2001 terrorist attacks. For example, the Chairman of the Senate Governmental Affairs Committee has asked GAO to review our Nation’s approach to homeland security, and address three key areas: (1) federal leadership, organization and structure; (2) planning and performance measures; and (3) budget, priority setting and resources. As you know, GAO recommended the creation of an office similar to the Office of Homeland Security to be the focal point for overall leadership and management of national efforts to combat terrorism. While we understand that your office is relatively new and therefore still finalizing its organization, functions, and staffing, we would like to meet with you or your designated staff to determine the status of the office and discuss your future plans. Of particular interest to us is the steps that have been taken in these three areas related to recommendations contained in our report Combating Terrorism: Selected Challenges and Related Recommendations (GAO-01-822, September 20, 2001). The information we gather will also be relevant to a number of inquiries GAO has received from various Congressional committees, many of which are bipartisan requests. In this regard, some of our work will be performed in coordination with staff from the Senate Select Committee on Intelligence (SSCI).

In addition to doing work at your office, we are also conducting work at a number of Executive Branch agencies. Therefore, your office’s government-wide perspective on these issues is important to our review. Please have your staff contact me within the next week to arrange for a meeting. I may be reached on (202) 512-6787 or at yimr@gao.gov.

Thank you in advance for your assistance.

Sincerely yours,

Randall Yim
Managing Director
National Preparedness Team