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THE WHITE HOUSE

WASHINGTON

September 10, 1997

9-12-97

'97 SEP 10 PM4:30

ACTION

MEMORANDUM FOR THE PRESIDENT

THROUGH: THE EXECUTIVE CLERK

FROM: SAMUEL BERGER
JOHN HILLEY

SUBJECT: Proposed Protocol Amending the 1936 U.S.-Mexico Convention on Migratory Birds and Game Mammals

Purpose

To sign a protocol to the 1936 U.S.-Mexico Convention on Migratory Birds and Game Mammals.

Background

Madeleine has forwarded the Protocol Amending the 1936 Convention Between the United States and Mexico on Migratory Birds and Game mammals for your transmission to the Senate requesting its advice and consent to ratification (Tab C).

Attached for your signature is your transmittal message to the Senate (Tab A), which also forwards the State Department report on the Protocol (Tab B) and the consolidated text of the Protocol.

RECOMMENDATION

That you sign the Transmittal Message to the Senate (Tab A).

Attachments
Tab A Transmittal Message to the Senate
Tab B Secretary Albright's Memo to the President
Tab C The Original Protocol

cc: Vice President
Chief of Staff
Mr. McLarty

TO THE SENATE OF THE UNITED STATES:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Protocol between the Government of the United States of America and the Government of the United Mexican States Amending the Convention for the Protection of Migratory Birds and Game Mammals, signed at Mexico City on May 5, 1997 ("the Mexico Protocol"). I transmit also, for the information of the Senate, the Report of the Department of State with respect to the 1936 Convention.

In concert with a similar Protocol between the Governments of the United States and Canada, the Mexico Protocol represents a considerable achievement for the United States in conserving migratory birds and balancing the interests of conservationists, sports hunters, and indigenous people. The Protocol should further enhance the management of and protection of this important resource for the benefit of all users.

The Mexico Protocol is particularly important because it will permit the full implementation of the Protocol Amending the 1916 Convention for the Protection of Migratory Birds in Canada and the United States ("the Canada Protocol") that is pending before [illegible] The Canada Protocol is an important agreement that addresses the management of a spring/summer subsistence hunt of waterfowl in communities in Alaska and northern Canada. The Mexico Protocol conforms the Canadian and Mexican migratory bird conventions in a manner that will permit a legal and regulated spring/summer subsistence hunt in Canada and the United States.

I recommend that the Senate give early and favorable consideration to the Protocol and give its advice and consent to ratification.

THE WHITE HOUSE,

S/S 9715063

DEPARTMENT OF STATE
WASHINGTON

August 27, 1997

The President:

I have the honor to submit to you, with the view to its transmission to the Senate for advice and consent to ratification, the Protocol between the Government of the United States of America and the Government of the United Mexican States Amending the Convention for the Protection of Migratory Birds and Game Mammals, signed at Mexico City, May 5, 1997 ("the Mexico Protocol").

The Convention for the Protection of Migratory Birds and Game Mammals, signed at Mexico City on February 7, 1936, ("the 1936 Convention"), mandates "a close season for wild ducks from the tenth of March to the first of September."

The goals of the Mexico Protocol are to bring the 1936 Convention into conformity with practice, as indigenous people in Alaska have continued their traditional hunt of these birds in the spring and summer for subsistence and other related purposes

The President,

The White House.

despite the prohibition in the 1936 Convention, and to permit full application of the Protocol between the Government of the United States of America and the Government of Canada Amending the 1916 Convention Between the United Kingdom and the United States of America for the Protection of Migratory Birds in Canada and the United States, signed at Washington on December 14, 1995 ("the Canada Protocol"). Prompt ratification is of the essence to secure conservation efforts of the United States and Mexico.

A detailed analysis of the Mexico Protocol follows.

The Mexico Protocol

Article I of the Mexico Protocol amends Article II(D) of the 1936 Convention to permit, in the State of Alaska, the harvest of wild ducks and their eggs by indigenous inhabitants during the period from the tenth of March to the first of September for their own nutritional and other essential needs. This is necessary to provide domestic legal authority for this spring/summer hunt in Alaska, where the inhabitants are generally unable to participate in the customary autumn hunt, by which time in the year many of the game birds have departed from the state. In Alaska, the spring harvest of waterfowl and their eggs is a long-practiced important nutritional and cultural benefits to the indigenous populace.

Article II of the Mexico Protocol establishes that the Protocol will enter into force on the date the United States and Mexico exchange instruments of ratification and that the Protocol, which will be considered an integral part of the 1936 Convention, will continue in force for the duration of the Convention.

Domestic Implementation

An existing statute (16 U.S.C. 712) authorizes the Department of the Interior to promulgate regulations to implement migratory bird treaties with a number of countries, including Mexico. No additional statutory authority is required to implement the Mexico Protocol.

The term "indigenous inhabitants" in Article I of the Mexico Protocol refers primarily to Alaska Natives who are permanent residents of villages within designated areas of Alaska where subsistence hunting of migratory birds is customary and traditional. The term also includes non-Native permanent residents of these villages who have legitimate subsistence hunting needs. Subsistence harvest areas encompass the customary and traditional hunting areas of villages with a customary and traditional pattern of migratory bird harvest.

regulatory process, which would include the management bodies discussed below and employ the best available information on nutritional and cultural needs, customary and traditional use, and other pertinent factors.

Once regulations are established, most village areas within the Alaska Peninsula, Kodiak Archipelago, the Aleutian Islands, and areas north and west of the Alaska Range would qualify as subsistence harvest areas. Areas that would generally not qualify for a spring or summer harvest include the Anchorage, Matanuska-Susitna and Fairbanks North Star boroughs, the Kenai Peninsula roaded area and southeast Alaska. This list of exceptions does not mean that individual communities within areas that are generally excluded cannot meet the test for designation as subsistence harvest areas. For example, data indicate that there is customary and traditional use of gull eggs by indigenous inhabitants in some villages in southeast Alaska; these villages could be included for this limited purpose even though indigenous inhabitants in southeast Alaska generally would be excluded from the spring/summer harvest.

In recognition of their need to assist their immediate families in meeting their nutritional and of cultural knowledge, residents of excluded areas in Alaska may be invited to participate in the customary spring and summer migratory bird harvest within the designated subsistence harvest areas around the villages in which their immediate families have membership. Such participation would require permission of the village council and an appropriate permit issued through the management body implementing the Protocol. "Immediate family" includes children, parents, grandparents, and siblings.

Harvest levels of migratory birds in the United States may vary for all users, commensurate with the size of the migratory bird populations. Any restrictions in harvest levels of migratory birds necessary for conservation shall be shared equitably between users in Alaska and users in other states, taking into account nutritional needs. The Mexico Protocol is not intended to create a preference in favor of any group of users in the United States or to modify any preference that may exist.

Consistency with other Migratory Bird Conventions

The Mexico Protocol is needed in order for the United States to be able to implement the Canada Protocol. That Protocol, which similarly addresses the issue of the spring and summer hunt, is pending before the Canada Protocol as they apply to wild ducks cannot be implemented by the United States until the 1936 U.S.-Mexico Convention permits such a harvest of wild ducks. As a matter of U.S. domestic law, the Department of Interior may not implement a provision of one convention that allows a hunt prohibited by the provision of another, since U.S. courts have held that the statute implementing the various migratory bird conventions should be interpreted to require application of the most restrictive convention in the case of conflict. See Alaska Fish & Wildlife Fed'n & Outdoor Council, Inc. v. Dunkle, 829 F. 2d 933, 941 (9^{th} Cir. 1987), cert. den., 485 U.S. 988 (1988).

It will not be necessary to amend additional conventions in order to implement the Mexico Protocol or the Canada Protocol.

This Protocol represents a major step forward in the conservation and management of migratory birds on a sustainable basis. Properly implemented, it will improve the health of the North American migratory bird population and protect the interests of conservationists, sports hunters, indigenous people and all others who value this important resource.

Accordingly, I recommend that the Mexico Protocol be transmitted to the Senate for advice and consent to ratification.

Respectfully submitted,

Madeleine Albright

PROTOCOL

BETWEEN

THE GOVERNMENT OF THE UNITED STATES OF AMERICA

AND

THE GOVERNMENT OF THE UNITED MEXICAN STATES

AMENDING THE CONVENTION

FOR THE PROTECTION OF MIGRATORY BIRDS AND GAME MAMMALS

The Government of the United States of America and the Government of the United Mexican States, hereinafter the Parties,

REAFFIRMING their commitment to achieving the purposes and objectives of the Convention between the United States of America and the United Mexican States for the Protection of Migratory Birds and Game Mammals, signed at Mexico City February 7, 1936, as supplemented by the agreement effected by exchange of notes at Mexico March 10, 1972, hereinafter "the Convention",

ENCOURAGED by the desire to amend the convention to enable effective actions to be taken to improve the conservation of migratory birds;

COMMITTED to the long-term conservation of shared species of migratory birds for their nutritional, social, cultural, spiritual, ecological, economic, and aesthetic values through a more comprehensive international framework that involves working cooperatively to manage their populations;

ACKNOWLEDGING the desire of the United States to provide for the customary and traditional taking of certain species of migratory birds and their eggs for subsistence use by indigenous inhabitants of the State of Alaska in designated subsistence areas;

HAVE AGREED as follows:

ARTICLE I

Article II (D) of the Convention shall be replaced by the following:

D) The establishment of a closed season for wild ducks from the tenth of March to the first of September, except in the state of Alaska, United States of America, where wild ducks and their eggs may be harvested by the indigenous inhabitants thereof provided that seasons and other regulations implementing the non-wasteful taking of wild ducks and their eggs in such cases shall be consistent with the customary and traditional uses by such indigenous inhabitants for their own nutritional and other essential needs.

ARTICLE II

1. This Protocol shall enter into force on the date the Parties exchange instruments of ratification.
2. This Protocol shall continue in force for the duration of the Convention and shall be considered an integral part of the Convention.

TO THE SENATE OF THE UNITED STATES:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Protocol between the Government of the United States of America and the Government of the United Mexican States Amending the Convention for the Protection of Migratory Birds and Game Mammals, signed at Mexico City on May 5, 1997 ("the Mexico Protocol"). I transmit also, for the information of the Senate, the Report of the Department of State with respect to the ~~1936 Convention.~~ Mexico Protocol.

In concert with a similar Protocol between the Governments of the United States and Canada, the Mexico Protocol represents a considerable achievement for the United States in conserving migratory birds and balancing the interests of conservationists, sports hunters, and indigenous people. The Protocol should further enhance the management of and protection of this important resource for the benefit of all users.

The Mexico Protocol is particularly important because it will permit the full implementation of the Protocol Amending the 1916 Convention for the Protection of Migratory Birds in Canada and the United States ("the Canada Protocol") that is pending before the Senate at this time. The Canada Protocol is an

Clerk's edits 9-2-97

important agreement that addresses the management of a spring/summer subsistence hunt of waterfowl in communities in Alaska and northern Canada. The Mexico Protocol conforms the Canadian and Mexican migratory bird conventions in a manner that will permit a legal and regulated spring/summer subsistence hunt in Canada and the United States.

I recommend that the Senate give early and favorable consideration to the Protocol and give its advice and consent to ratification.

THE WHITE HOUSE,

233908

Estimate No.____________
105th Congress, 1st Session

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

'97 SEP 8 PM10:27

The President

The White House

9/17/97
Okay for signature per Sean Maloney
Sent to Clerks

Submitted for your consideration is an amendment to your FY 1998 appropriations request for the Department of the Treasury.

The $107 million requested herein is for funding an Internal Revenue Service (IRS) compliance effort for the Earned Income Tax Credit (EITC) in FY 1998. In April 1997, the IRS released a compliance study of EITC claims filed for the 1994 tax year that detailed the need for reforms to reduce EITC overclaims. Of an estimated $17.2 billion in EITC claims received by the IRS, $4.4 billion, or 25.8 percent, was overclaimed. IRS enforcement actions in 1994 reduced the amount overclaimed to an estimated $4.1 billion, or 23.5 percent. Had the tighter procedural tools in last year's welfare reform act been in place in 1994, overclaims would have been reduced further, to $3.6 billion, or 20.7 percent. The $107 million requested in this amendment would be used to reduce further the EITC overclaims while ensuring that EITC- eligible taxpayers receive the tax benefit. Treasury has projected that these resources will protect or generate additional revenue of $2.7 billion over the five-year life of the initiative.

The IRS plans to expand customer service efforts significantly with dedicated toll-free telephone assistance, to increase community based tax preparation assistance sites, and to develop a marketing and educational campaign. IRS will also expand compliance research efforts. Enhanced computer capabilities will allow IRS to identify and select questionable EITC claims prior to refund issuance. Funds also are included to reimburse State vital statistics offices, through the Social Security Administration, for expanded data associated with social security numbers. Finally, expanded examination and criminal investigation staff will focus on questionable or fraudulent EITC activity among both taxpayers and preparers.

The requested funds are authorized by section 5702 of the Balanced Budget Act of 1997. Section 10203 (a) of that Act provides for an upward adjustment to the discretionary spending limits to reflect this initiative.

9-17-97

I have carefully reviewed this proposal and am satisfied it is necessary at this time. Therefore, I join the Secretary of the Treasury in recommending that you approve this request by signing the enclosed letter to the Speaker of the House of Representatives.

Sincerely,

Franklin D. Raines
Director

Enclosures

FY 1998 Budget Amendment

Agency:	DEPARTMENT OF THE TREASURY
Bureau:	INTERNAL REVENUE SERVICE
Heading:	Earned Income Tax Credit Compliance Initiative
FY 1998 Budget Appendix Page:	877
Pending Request:	---
Proposed Amendment:	$107,105,000
Revised Request:	$107,105,000

(Insert the above heading and the appropriations language that follows immediately after the material under the heading "Information Technology Investments" :)

For funding essential earned income tax credit compliance and error reduction initiatives pursuant to section 5702 of the Balanced Budget Act of 1997 (P.L. 105-33), $107,105,000, of which not to exceed $10,000,000 may be used to reimburse the Social Security Administration for the costs of implementing Section 1090 of the Taxpayer Relief Act of 1997.

This amendment would provide $107 million and 974 full-time equivalents (FTEs) to implement error reduction initiatives for the Earned Income Tax Credit (EITC).

Of these funds, $45 million and 632 FTEs would implement customer service and tax processing initiatives. IRS would expand customer service efforts with dedicated EITC toll-free telephone assistance (72 FTEs), perform maintenance on its computer data files, and correct previously submitted invalid taxpayer identification numbers (10 FTEs). Tax forms and instructions would be revised to assist taxpayers in filing correct EITC claims (eight FTEs). IRS would develop a coordinated marketing and educational campaign specifically designed to reach EITC eligible communities. With respect to tax processing, IRS would fully implement the math-error program that recalculates the tax return and reduces refund overclaims (36 FTEs). IRS correspondence staff (456 FTEs) would send notices, prior to refund issuance, to EITC taxpayers with questionable returns. IRS has estimated that 50 FTEs would be needed for administrative support.

The amendment would provide $30 million and 342 full-time equivalents (FTEs) to implement expanded compliance and enforcement efforts. IRS would staff community-based tax preparation assistance sites located in areas with high numbers of EITC eligibles specifically for EITC recipients (20 FTEs). This includes significantly expanded compliance research work related to EITC claimant characteristics and patterns of non-compliance that will support overall efforts to improve education and outreach products, enhance abuse detection capabilities, and improve enforcement efforts (113 FTEs). IRS would use its criminal investigation "Questionable Refund Detection Teams" (173 FTEs) to screen for and identify questionable EITC claims, EITC-based refund schemes, and questionable EITC preparers. IRS would increase audit staff to conduct face-to-face due diligence reviews of return preparers for EITC compliance requirements, applying penalties for non-compliance (36 FTEs).

The amendment would provide $22 million for IRS to make computer programming changes for processing additional data to support the EITC initiative, including changes for processing additional transcribed data, updating the master file to track past EITC abuses, and performing compliance research studies. To support IRS's compliance efforts, $10 million would be used by the IRS to reimburse the Social Security Administration (SSA) for enhancements to SSA's social security number database. With these funds, SSA would begin to reimburse State vital statistics offices for costs associated with providing SSA additional data relating to current and future social security numbers.

THE WHITE HOUSE

WASHINGTON

Speaker of the

House of Representatives

Sir:

I ask Congress to consider the enclosed amendment to the FY 1998 appropriations request for the Department of the Treasury. This proposal would provide $107,105,000 for implementing legislation and expanding administrative actions to improve overall compliance with the Earned Income Tax Credit (EITC), as provided for in the "Taxpayer Relief Act of 1997." The $107 million for the Internal Revenue Service was anticipated in and authorized by the Balanced Budget Act of 1997.

The details of these actions are set forth in the enclosed letter from the Director of the Office of Management and Budget. I concur with his comments and observations.

Sincerely,

Enclosure

WHITE HOUSE STAFFING MEMORANDUM

DATE: 9-9-97 ACTION/CONCURRENCE/COMMENT DUE BY: 9-10-97

SUBJECT: Amendment to FY 1998 Appropriations Request for the Department of the Treasury

'97 SEP 9 PM4:00

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	McCURRY	☐	☑
BOWLES	☑	☐	McGINTY	☐	☐
McLARTY	☐	☐	NASH	☐	☐
PODESTA	☑	☐	RADD	☐	☐
MATHEWS	☑	☐	REED	☑	☐
RAINES	☐	☐	RUFF	☐	☐
BLUMENTHAL	☐	☐	SMITH	☐	☐
BERGER	☐	☐	SOSNIK	☑	☐
ECHAVESTE	☐	☐	SPERLING	☑	☐
EMANUEL	☑	☐	STREETT	☐	☐
GIBBONS	☐	☐	TARULLO	☐	☐
HILLEY	☑	☐	VERVEER	☐	☐
IBARRA	☐	☐	WALDMAN	☐	☐
KLAIN	☐	☐	YELLEN	☑	☐
LEWIS	☐	☐	BEGALA	☐	☐
LINDSEY	☑	☐	FOLEY	☑	☐
MARSHALL	☐	☐		☐	☐
				☐	☐

REMARKS: Please forward your comments to the Staff Secretary's Office. Thank you.

RESPONSE:

Looks fine —
mcF

Staff Secretary
Ext. 6-2702

THE WHITE HOUSE

WASHINGTON

September 14, 1997

MR. PRESIDENT:

While you were vacationing, Secretary Shalala sent you the attached memo concerning fraud by home health care agencies.

Summary. The memo has two-parts: (1) an explanation of recent reports of wide-spread fraud and abuse; and (2) a summary of HHS's anti-fraud efforts. Recent fraud stories arose from two late-July HHS OIG reports: one found that in a random sample of 250 home health claims from CA, TX, IL and NY, up to 40% were deficient on various grounds; the other report examined some 700 "problem" home health agencies in CA, TX, IL, NY and FL and detailed how the agencies abuse the current system. Both reports contained recommendations for improving the system, which Donna details in her memo. She also sets forth her Department's response to these issues, which basically entails implementing OIG's recommendations.

DPC Comment. We asked DPC to provide comment on Donna's memo. Chris Jennings says that following the OIG reports and outside revelations of continuing problems, Rahm and he strongly encouraged HHS to be more proactive with administrative and legislative initiatives. Tomorrow you will announce some of those initiatives with respect to home health care. Later this fall, Chris expects additional legislative initiatives to be forthcoming.

Sean Maloney

THE WHITE HOUSE

WASHINGTON

Shalala Memo
re Medicare

Date 8/29/97

To: CHRIS JENNINGS

From: The Staff Secretary

KNOW YOU'VE SEEN A COPY OF THE ATTACHED. THOUGHT YOU MIGHT WISH TO DO A SHORT COVER NOTE TO ACCOMPANY IT. WE SHOULD GET IT TO THE POTUS WHEN HE RETURNS. PLEASE ADVISE.

-SEAN

Jennings logged 9/10 - promised cover note same day

Sean-

Into pak

Short summary + then direct him to memo

Phil

Phil -

Chris Jennings + Rahm got copies.

Anne

231804

THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

'97 AUG 19 P12:14

AUG 19 1997

MEMORANDUM FOR THE PRESIDENT

I know you are concerned, as I am, about recent reports suggesting widespread fraud and abuse among home health agencies participating in the Medicare program. This memorandum provides information on those reports and outlines the steps we have taken and are taking to combat fraud and abuse in home health care. It also outlines further actions we are considering.

As you know, home health care, available to any homebound beneficiary who requires skilled care, is the fastest growing expense in the Medicare program. This rapid expansion began in 1989, when, as the result of a lawsuit, changes in Medicare regulations expanded eligibility and eliminated the cap on the number of visits. To some extent, the rapid growth in home health utilization and spending is also a natural result of the successful implementation of the inpatient hospital prospective payment system, which has dramatically reduced the length of hospital stays for Medicare beneficiaries. In 1996, more than 10 percent of Medicare beneficiaries received home services, at a total cost of $18 billion. The number of home health agencies has also grown exponentially, and about 9,000 home health agencies currently serve Medicare beneficiaries. The rate of growth in the number of home health providers has slowed significantly in the past year, however, as the screening process has improved.

The recent reports outlining widespread fraud among home health agencies are one indication of the Administration's success in targeting waste, fraud and abuse in Medicare. As you know, your Administration has focused unprecedented attention and new resources on this effort since 1993. The result is a series of investigations, indictments and convictions, as well as new management tools to help us better manage Medicare.

In particular, Operation Restore Trust (ORT) has been a ground-breaking project aimed at coordinating federal, state, local, and private resources and targeting them on areas most plagued by abuse. During its two-year, five-state demonstration phase, the project returned $23 for every $1 of project costs; identified more than $187.5 million in fines, recoveries, settlements, audit disallowances and civil monetary penalties owed to the Federal Government; and achieved 74 criminal convictions, 58 civil actions, and 218 provider exclusions. One thing ORT does is train state surveyors who review home health agencies to look for care being provided that is not covered by the Medicare program. ORT has now been expanded to 12 states.

Your decision to use trust fund monies to launch broader investigations by the HHS Inspector General, the FBI and the Department of Justice has allowed us to increase fraud convictions by 240 percent since 1993. These reviews and investigations have given new impetus to structural changes we have proposed in Medicare, many of which were approved in the Balanced Budget Act.

Background on HHS Office of the Inspector General Reports

There are two OIG reports on home health care, which were released concurrently on July 28. Both reports involved Operation Restore Trust (ORT) states: California, Texas, Illinois, New York, and Florida. As you will recall, we selected these states for the original ORT demonstration in 1995 because they represent a significant portion of Medicare beneficiaries and payments (about 35 percent of both). In fact, I specifically asked the OIG to focus its review on home health agencies in these states because we expected that home health was particularly subject to abuse.

The first OIG report focused on a random sample of 250 home health claims in four of the five ORT states (California, Texas, Illinois, and New York). It was designed to be a diagnostic tool that would gauge general patterns and the scope of the problem; it was not designed to be a complete audit of individual agencies with immediate follow-up actions. The OIG estimated that up to 40 percent of services billed either: (a) were not reasonable and medically necessary, (b) did not have valid physician orders, (c) lacked supporting documentation, or (d) did not involve beneficiaries who met the definition of "homebound"—a prerequisite for coverage. (It is worth noting that HCFA loses about half of the cases in which we challenge medical necessity.)

To correct these problems, the OIG recommended that the reimbursement system for the home health benefit be restructured. Specifically, the OIG recommended:

- instituting a prospective payment system so that agencies would no longer have an incentive to inflate volume and intensity of services;
- setting limitations on the number of reimbursable visits;
- requiring preauthorization of payment;
- requiring beneficiary copayments;

- emphasizing the definition of "homebound" in the Medicare guidelines and include additional guidance on certain standards;
- requiring intermediaries to notify beneficiaries of claims made on their behalf;
- requiring intermediaries to enhance medical review by augmenting it with physician and beneficiary interviews; and
- requiring physicians to examine patients before ordering home health services.

In the second report, the OIG reviewed files provided by HCFA and its intermediaries on close to seven hundred "problem providers" in the five ORT states. For purposes of the review, OIG defined "problem provider" as one that exhibited one or more specific characteristics, including reporting inappropriate costs, submitting claims for services that were not medically necessary or not rendered, failing to file cost reports or filing unauditable reports, or demonstrating significant certification deficiencies, or uncollected overpayments.

OIG analyzed the most common abuses identified in the "problem provider" files and made recommendations on steps that could be taken to address them. Specifically, the report concluded that limited resources hamper fiscal intermediaries' oversight efforts and recommended a number of legislative changes, including:

- eliminating periodic interim payments, a system whereby providers receive payments in advance of providing services;
- requiring surety bonds;
- requiring user fees to cover the cost of certification, comprehensive reviews and recertifications;
- creating a data bank of owners, principals, and related organizations;
- requiring Social Security and employer identification numbers as part of the application;
- enhancing certification requirements related to the relevant experience and financial status of home health agencies and their owners and principals; and
- eliminating home health agencies' ability to discharge Medicare debt through bankruptcy.

We note that many of the characteristics and practices identified by the OIG in these two reports are not inherently fraudulent. The "problem provider" report was never intended to be the basis of law enforcement actions against individual providers; rather, it was intended to provide insight into ways home health agencies are able to exploit the program and to provide suggestions to prevent abuse. The report did not contain sufficient evidence to take fraud sanction action against any of the 700 agencies.

HCFA's Response to Home Health Problems

For the past two years, we have been attacking fraud and abuse in home health, and in Medicare in general, with every available tool. In a real sense, the current attention is a result of our own success in this area—the recent indictments announced by the Department of Justice, and the OIG reports, would not have been possible were it not for the heightened focus and new resources this Administration has directed at Medicare fraud and abuse. Our successes also secured the additional resources we obtained in last year's Health Insurance Portability and Accountability Act (HIPAA).

Balanced Budget Act Provisions Implementing OIG Recommendations

In 1997 the Administration proposed, and the Balanced Budget Act you signed included, the most significant recommendations made by the OIG. The BBA includes a number of provisions that will help control growth through appropriate payment, including:

- authority to establish a prospective payment system for home health services, to be implemented October 1, 1999. Moving to PPS will be a tremendous tool for stemming the flow of home health care dollars. Instead of open-ended billing, HCFA will set in advance what it will pay for a unit of service, how many visits will be included in that unit, and what mix of services will be provided. In short, providing questionable services will no longer be profitable;

- authority to bar felons from ever participating in Medicare again;

- separation of home health services into two distinct benefits under Medicare Part A and Medicare Part B;

- defining limits on hours and days that home health care can be provided;

- elimination of periodic interim payments that were made in advance to agencies and not justified until the end of the year (part of moving to prospective payment system);

- billing by location of service rather than location of the agency's headquarters. This will stop agencies from getting higher urban reimbursement when, in fact, the service occurred in a lower-cost rural setting;

- establishment of guidelines for the frequency and duration of home health services. Payments would be denied for visits that exceed the established standard; and

- clarification of the definition of part-time or intermittent nursing care. This clarifies the scope of the Medicare benefit and will make it easier to identify inappropriate services.

In addition, several other key Administration proposals to fight fraud were enacted, including:

- new penalties for kickbacks. Providers who pay kickbacks to induce referrals would be subject to civil money penalties of $50,000 per violation;

- authority to require health care providers applying to participate in Medicare and Medicaid to provide their Social Security numbers and their employer ID numbers so that the agency can screen out those who have committed fraud in the past;

- a clear definition of skilled services so that home health agencies can no longer pad their bills with unnecessary services when a patient simply needs blood drawn; and

- authority to deny payment to agencies that bill for far more services than other agencies do in similar situations. The authority goes beyond just home health providers and can be applied to any Medicare provider.

In fact, the only significant OIG recommendations that were *not* part of the Balanced Budget Act were:

- requiring beneficiary copayments;

- imposing a more stringent definition of "homebound" (although a study of the definition is required);
- requiring user fees;

- eliminating home health agencies' ability to discharge Medicare debt through bankruptcy; and

- refusing to enter into a provider agreement with any home health agency that is not financially sound, owes money to the Federal Government, or has filed for bankruptcy.

You are well aware of the advantages and disadvantages of requiring beneficiary copayments. While this might well dampen utilization and reduce spending, we are concerned that the beneficiaries who use home health care—many of whom are poor, frail, and elderly—would bear the brunt of this approach. The Administration did propose a provision to impose a more stringent definition of "homebound," but groups representing disabled beneficiaries protested this as discriminatory and the Congress (including key Democrats in the House) was unwilling to move forward on it. With respect to user fees, the Administration proposed user fees to cover the cost of certifications of home health agencies in your FY 1998 budget, but the Congress has shown no interest in enacting them. I will be recommending that you re-propose user fees in your FY 1999 budget. We would also recommend that the proposal in the FY 1998 budget to eliminate the ability of home health agencies to discharge their Medicare debts through bankruptcy be submitted to Congress again in the FY 1999 budget. Finally, with respect to the OIG's last recommendation, we agree that we should refuse to enter into provider agreements with home health agencies whose owners and principals do not live up to certain financial standards, and we are examining appropriate ways to do this.

New Rules to Tighten Requirements

In addition, on March 5, 1997, we announced two new proposed rules resulting from a comprehensive three-year evaluation of Medicare's home health benefit. One rule would revise the "Conditions of Participation" that all home health agencies must meet in order to participate in the Medicare program. The rules we proposed would take several steps to protect beneficiaries and improve quality. These include:

- requiring that home health agencies conduct criminal background checks of home health aides as a condition of employment;

- expanding the current home health aide qualifications to include nurse aides who have completed appropriate nurse aide training or competency evaluation requirements;

- requiring home health agencies to discuss with patients the expected outcomes of care so that patients can be more involved in planning their own care; and

- requiring home health agencies to coordinate all care prescribed by physicians for their patients. Under current rules, several agencies can serve one patient without the coordination that is need to assure quality.

A second proposed regulation would require home health agencies to use a standardized system called OASIS —the Outcomes and Assessment Information Set— to monitor patients' conditions and satisfaction. Under OASIS, home health agencies must perform a standardized assessment of new patients within 48 hours to determine immediate care and support needs. Home health agencies are then required to update this initial assessment continuously until a patient is discharged to reflect changes in the patient's condition and to measure patient and family satisfaction. Agencies must also evaluate the results of OASIS assessments and apply this information to agency practices as part of their continuous quality improvement programs. This standardized measurement system helps both inspectors and agencies identify opportunities to improve performance and patient satisfaction. The regulations are in various stages of the clearance and comment process, and we are committed to implementing final rules at the earliest possible date.

Enforcement Actions Against "Problem Providers"

As previously noted, the "problem providers" reviewed by the OIG were identified by HCFA and its intermediaries. During the past two years, HCFA has taken action to deal with many of the providers that were identified as "problem providers" in the OIG review. Of these 698 home health agencies, HCFA has:

- terminated 67;
- referred an additional 75 providers to law enforcement; and
- collected overpayments from 437 entities.

In addition, one was convicted as an individual, and four others as members of a convicted national company.

Therefore, of the 698 providers implicated in the OIG report, HCFA has already dealt with a substantial number of them. HCFA continues to scrutinize carefully all of the remaining identified providers to determine appropriate action, but OIG reviews thus far have indicated that a substantial number of these agencies may not be doing anything fraudulent. The OIG confirmed that this is consistent with its expectations and that the "problem provider" report was never intended to be the basis of a law enforcement initiative against any of these providers.

Additional Actions Under Consideration

I have directed HCFA to present me with recommendations, in the next month, for additional actions we can take to combat home health fraud and abuse. Among possible actions, HCFA is considering promulgating additional requirements to promote financial stability, foster experienced and competent management, ensure a business history that is free of fraud, and ensure adequate review of patients by physicians certifying them for eligibility. HCFA is also intensifying its review of home health payments to providers and will suspend payments where there is reliable evidence of fraud and abuse. (We should note that suspension sometimes is not pursued because it would jeopardize other law enforcement activities.) Finally, HCFA is considering directing additional FY 1998 program integrity resources toward home health agency audits to ensure that we are finding the fraud and abuse quickly and dealing with it expeditiously.

Conclusion

The first round of the Administration's comprehensive strategy to fight waste, fraud and abuse in Medicare is already reaping dividends, but much more remains to be done. With new statutory authority under the Balanced Budget Act, coupled with new resources we are receiving under HIPAA, we are in a better position to target fraud in home health care and other areas. It is incumbent upon us to use these new authorities and resources aggressively to eliminate the types of problems identified in the OIG reports. As described above, we already have acted, or are in the process of acting against many of these problem agencies, but we need to accelerate our progress. While we are aggressively pursuing structural reforms to help us target fraud, we must continue to press for legislative changes that Congress has not yet agreed to. The ongoing evaluation of our efforts to date will help us further refine and target our resources for future requests. We will be recommending to you as part of our fiscal year 1999 budget submission the second round of anti-fraud proposals (Operation Restore Trust II). In combination, they represent the most comprehensive and rigorous effort in the history of the program.

Donna E. Shalala

234769

THE WHITE HOUSE

WASHINGTON

September 16, 1997

9-16-97

Mr. President:

The attached Berger/Ruff memo seeks your approval for a veto threat with respect to legislation that would protect federal employees who disclose classified information to Congress under certain circumstances. *There is nothing for you to sign.*

Background. The Senate Defense and Intelligence Authorization Acts currently contain provisions that would require you to inform federal employees and contractors that disclosure of classified information to Congress is permissible under certain circumstances.

Justice advises that the provisions are unconstitutional because they infringe on your exclusive authority concerning classified information. Defense and DCI concur. Sandy and Chuck believe the provisions would "undercut mechanisms within the executive branch to coordinate reports to Congress." They also point out that "there are other avenues, consistent with the Constitution, to address" these issues (*e.g.*, agency IG's, DOJ).

Chuck has prepared a letter *under his signature* (Tab A) that would announce this position to a number of government accountability groups that had written to you on this issue. Sandy and Chuck believe that the provisions will be dropped in conference if we make our position clear. Podesta supports this course of action.

___ approve Ruff letter   ___ disapprove Ruff letter

Sean Maloney

'97 SEP 15 PM4:32 234769

5446

THE WHITE HOUSE

WASHINGTON

September 15, 1997

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: SAMUEL BERGER
CHUCK RUFF

SUBJECT: Response to a Letter on Whistleblower Protections

Purpose

To respond to a letter regarding the Administration's position on legislation that would protect federal employee whistleblowers who provide classified information to Congress in certain instances.

Background

The Senate Intelligence Authorization Act and the Senate Defense Authorization Act contain provisions that would require you to inform federal employees and contractors that disclosure of certain categories of information to Congress, including classified information, "is not prohibited by law, Executive order, or regulation or otherwise contrary to public policy." These provisions apply to information employees reasonably believe evidences a violation of law, a false statement to Congress, or gross mismanagement or an abuse of authority.

With the concurrence of the Secretary of Defense, the DCI, and Justice Department, we have informed the committees that your senior advisors would recommend that you veto this legislation if it is presented to you with these provisions. The Justice Department has advised that these provisions are unconstitutional because the President has exclusive authority concerning the dissemination of classified information. This has been a traditional executive branch position; it is not new to this Administration. While the precise issue presented by this legislation has not been addressed by the Supreme Court, the courts have generally been strongly supportive of the President's exclusive authority to control state secrets.

cc: Vice President
Chief of Staff

Further, authorizing individual disclosures would undercut mechanisms within the executive branch to coordinate reports to Congress of very sensitive information. Individual employees will not necessarily know whether Congress has been briefed on a matter, in which forum, and the nature and extent of the briefings as well as the origin and sensitivity of the information in question.

Groups committed to government accountability counter that in limited cases, an employee communication to Congress of classified information may be needed to expose lying to Congress, or waste, fraud and abuse. However, there are other avenues, consistent with the Constitution, to address this hypothetical situation. Federal employees can go to their agency IG and the Justice Department if they believe agency officials are misleading Congress. (NOTE: Neither Rick Nuccio nor Rich Barlow, whose cases provide part of the impetus for these provisions, resorted to these options.) And, employees can alert Congress to matters they believe warrant review without disclosing classified or privileged information. Congress has sufficient authority, including the subpoena power, to then request and receive classified information from the executive branch without authorizing individual employees to provide that information. There has been no demonstration that these mechanisms have failed to work when initiated.

Conferees are likely to consider these provisions in September. The Republican leadership of the House Permanent Select Committee on Intelligence opposes these provisions. The views of the House National Security Committee are less pronounced. Whether these provisions survive conference will likely depend on whether the Hill takes seriously the Administration's veto threat; no committee appears willing to push these provisions at the cost of passing a bill you will not sign into law. Finally, while we have explored possible avenues of compromise, the branches fundamentally disagree on whether employees should be empowered to provide classified information to Congress outside authorized channels.

RECOMMENDATION

That you authorize Chuck to sign the attached letters.

Approve ____________________

Disapprove ________________

Attachments
Tab A Letters to Good Government Groups
Tab B Incoming Correspondence

Tab A

THE WHITE HOUSE

WASHINGTON

Dear Ms. Brian:

The President has asked me to respond to your letter concerning provisions contained in the Senate Intelligence Authorization Act and the Senate Defense Authorization Act that would require the President to inform federal employees and contractors that disclosure of certain categories of information to Congress, including classified information, "is not prohibited by law, Executive order, or regulation or otherwise contrary to public policy."

This Administration shares your commitment to open and accountable government. The President has instituted numerous reforms to increase public access to government information and limit the amount of classified information. The Administration is also committed to an open dialogue with the Congress. The President consults regularly with the Congress and expects his subordinates to do the same. However, the President cannot accept legislation that would require him to vest executive branch employees indiscriminately with authority in their sole discretion to furnish national security or other privileged information to a Member of Congress without receiving official authorization to do so. Such legislation would violate the Constitution by infringing on the President's exclusive authority concerning the protection of state secrets and the dissemination of classified information. This has been a traditional executive branch position; it is not new to this Administration.

You express concern about cases in which officials have broken the law or lied to Congress. Avenues exist to address such situations. Executive branch employees can report such wrongdoing to the Justice Department or their agency's inspector general. Moreover, employees may still advise Congress of matters they believe warrant review without disclosing classified or privileged information. Congress has authority, including the subpoena power, to seek classified information from the executive branch without authorizing individual

employees to provide that information. There has been no demonstration that these mechanisms have failed to work when initiated, and certainly none that would justify legislation of such an unprecedented nature.

Thank you for your letter and continued interest in government accountability, an interest you can be confident my Administration shares.

Sincerely,

Charles F. C. Ruff
Counsel to the President

Ms. Danielle Brian
Executive Director
Project on Government Oversight
1900 L Street, N.W., Suite 314
Washington, D.C. 20036

Tab B

5446

The G-3

PLEASE STAFF

July 30, 1997

8/4/97

President Bill Clinton
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear President Clinton,

As groups devoted to access to information, whistleblower protection and free speech, we are greatly disturbed by your veto threat of Senate 936 Section 1068, "Protection of Employees from Retaliation For Certain Disclosures of Classified Information," which would have strengthened the Whistleblower Protection Act. This modest provision would simply make explicit the already existing right — if not duty — of a federal employee to provide to the appropriate members of Congress classified information that would expose a crime, reveal lies to Congress or uncover fraud.

We are even more concerned that your justification for vetoing this provision is "the President's constitutional authority to protect national security and other privileged information." Certainly, the White House is aware that the Constitution is based on a system of checks and balances — and that such fundamental safeguards require the Congress to have access to honest, accurate information. Indeed, the very suggestion that the appropriate Congressional committees are not privy to such information is alarming.

This is not an academic point. We are all aware of the numerous times Congress has been provided misleading information from the Executive Branch -- in previous Administrations as well as your own. This law was in fact introduced in response to Executive Branch misrepresentations to Congress regarding Pakistan's nuclear capability as well as the CIA's involvement in Guatemalan assassination squads. Public policy based on misinformation makes a travesty of the democratic system.

Apologizing for past government wrongdoing, as in the case of the radiation experiments and the Tuskegee tests, while important, is easy after the fact. Far more important, however, would be the ability to stop such wrongdoing while it is taking place. This provision would take significant steps towards that end.

We are not promoting a general expansion of Congressional access to Executive information. We are concerned about cases where officials have broken the law or lied to Congress -- and only the appropriate committees are to be notified.

The only way to preserve our Constitutional government, contrary to your Statement of Administrative Policy, is to protect explicitly the need for Congress to be informed honestly and

AUG 4 15:11

accurately, as well as the right of a federal employee to provide such information without fear of retaliation.

In the interest of democracy, we urge you to withdraw your veto threat and allow this vital safeguard to become law, if approved by Congress.

Sincerely,

Danielle Brian
Executive Director
Project On Government Oversight
(202) 466-5539

Steve Aftergood
Director
Government Secrecy Project
(202) 675-1012

Richard Vuernick
Legal Director
Citizen Action
(202) 775-1580

Jeff Ruch
Executive Director
Public Employees for Environmental Responsibility
(202) 265-7337

Conrad Martin
Executive Director
Fund for Constitutional Government
(202) 546-3732

Tom Divine
Legal Director
Government Accountability Project
(202) 408-0034

Sam Smith
Editor
Progressive Review
(202) 232-5544

cc Sandy Berger, National Security Advisor
Senator Robert Torricelli
Senator Charles Grassley
Conferees to the Defense Authorization Bill

AFTER PRESIDENT APPROVES,
COULD WE HAVE THE
PACKAGE BACK BEFORE
ITS SENT TO MR. RUFF?
THANKS
WND

Document No.__________

WHITE HOUSE STAFFING MEMORANDUM

DATE: 9/16/97 ACTION/CONCURRENCE/COMMENT DUE BY: 9/16/97 1:00 pm

SUBJECT: VETO THREAT ON WHISTLEBLOWER PROTECTIONS

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	✓		McCURRY		✓
BOWLES	✓		McGINTY		
McLARTY			NASH		
PODESTA - OK attach	✓		RADD		
MATHEWS	✓		REED		
RAINES			RUFF		
BLUMENTHAL	✓		SMITH		
BERGER			SOSNIK	✓	
ECHAVESTE			SPERLING		
EMANUEL	✓		STREETT		
GIBBONS			TARULLO		
HILLEY	✓		VERVEER		
IBARRA			WALDMAN		
KLAIN			YELLEN		
LEWIS	✓		BEGALA	✓	
LINDSEY					
MARSHALL					

REMARKS:

Comments to Staff Sec.

RESPONSE:

Staff Secretary
Ext. 6-2702

'97 SEP 15 PM4:31
5446

THE WHITE HOUSE

WASHINGTON

September 15, 1997

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: SAMUEL BERGER
CHUCK RUFF

SUBJECT: Response to a Letter on Whistleblower Protections

Purpose

To respond to a letter regarding the Administration's position on legislation that would protect federal employee whistleblowers who provide classified information to Congress in certain instances.

Background

The Senate Intelligence Authorization Act and the Senate Defense Authorization Act contain provisions that would require you to inform federal employees and contractors that disclosure of certain categories of information to Congress, including classified information, "is not prohibited by law, Executive order, or regulation or otherwise contrary to public policy." These provisions apply to information employees reasonably believe evidences a violation of law, a false statement to Congress, or gross mismanagement or an abuse of authority.

With the concurrence of the Secretary of Defense, the DCI, and Justice Department, we have informed the committees that your senior advisors would recommend that you veto this legislation if it is presented to you with these provisions. The Justice Department has advised that these provisions are unconstitutional because the President has exclusive authority concerning the dissemination of classified information. This has been a traditional executive branch position; it is not new to this Administration. While the precise issue presented by this legislation has not been addressed by the Supreme Court, the courts have generally been strongly supportive of the President's exclusive authority to control state secrets.

cc: Vice President
Chief of Staff

Further, authorizing individual disclosures would undercut mechanisms within the executive branch to coordinate reports to Congress of very sensitive information. Individual employees will not necessarily know whether Congress has been briefed on a matter, in which forum, and the nature and extent of the briefings as well as the origin and sensitivity of the information in question.

Groups committed to government accountability counter that in limited cases, an employee communication to Congress of classified information may be needed to expose lying to Congress, or waste, fraud and abuse. However, there are other avenues, consistent with the Constitution, to address this hypothetical situation. Federal employees can go to their agency IG and the Justice Department if they believe agency officials are misleading Congress. (NOTE: Neither Rick Nuccio nor Rich Barlow, whose cases provide part of the impetus for these provisions, resorted to these options.) And, employees can alert Congress to matters they believe warrant review without disclosing classified or privileged information. Congress has sufficient authority, including the subpoena power, to then request and receive classified information from the executive branch without authorizing individual employees to provide that information. There has been no demonstration that these mechanisms have failed to work when initiated.

Conferees are likely to consider these provisions in September. The Republican leadership of the House Permanent Select Committee on Intelligence opposes these provisions. The views of the House National Security Committee are less pronounced. Whether these provisions survive conference will likely depend on whether the Hill takes seriously the Administration's veto threat; no committee appears willing to push these provisions at the cost of passing a bill you will not sign into law. Finally, while we have explored possible avenues of compromise, the branches fundamentally disagree on whether employees should be empowered to provide classified information to Congress outside authorized channels.

RECOMMENDATION

That you authorize Chuck to sign the attached letters.

Approve ____________________

Disapprove _________________

Attachments
Tab A Letters to Good Government Groups
Tab B Incoming Correspondence

THE WHITE HOUSE

WASHINGTON

Dear Ms. Brian:

The President has asked me to respond to your letter concerning provisions contained in the Senate Intelligence Authorization Act and the Senate Defense Authorization Act that would require the President to inform federal employees and contractors that disclosure of certain categories of information to Congress, including classified information, "is not prohibited by law, Executive order, or regulation or otherwise contrary to public policy."

This Administration shares your commitment to open and accountable government. The President has instituted numerous reforms to increase public access to government information and limit the amount of classified information. The Administration is also committed to an open dialogue with the Congress. The President consults regularly with the Congress and expects his subordinates to do the same. However, the President cannot accept legislation that would require him to vest executive branch employees indiscriminately with authority in their sole discretion to furnish national security or other privileged information to a Member of Congress without receiving official authorization to do so. Such legislation would violate the Constitution by infringing on the President's exclusive authority concerning the protection of state secrets and the dissemination of classified information. This has been a traditional executive branch position; it is not new to this Administration.

You express concern about cases in which officials have broken the law or lied to Congress. Avenues exist to address such situations. Executive branch employees can report such wrongdoing to the Justice Department or their agency's inspector general. Moreover, employees may still advise Congress of matters they believe warrant review without disclosing classified or privileged information. Congress has authority, including the subpoena power, to seek classified information from the executive branch without authorizing individual

employees to provide that information. There has been no demonstration that these mechanisms have failed to work when initiated, and certainly none that would justify legislation of such an unprecedented nature.

Thank you for your letter and continued interest in government accountability, an interest you can be confident my Administration shares.

Sincerely,

Charles F. C. Ruff
Counsel to the President

Ms. Danielle Brian
Executive Director
Project on Government Oversight
1900 L Street, N.W., Suite 314
Washington, D.C. 20036

54416

GOOD GOVERNMENT GROUPS

The G-3

PLEASE STAFF

July 30, 1997

8/4/97

President Bill Clinton
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear President Clinton,

As groups devoted to access to information, whistleblower protection and free speech, we are greatly disturbed by your veto threat of Senate 936 Section 1068, "Protection of Employees from Retaliation For Certain Disclosures of Classified Information," which would have strengthened the Whistleblower Protection Act. This modest provision would simply make explicit the already existing right — if not duty — of a federal employee to provide to the appropriate members of Congress classified information that would expose a crime, reveal lies to Congress or uncover fraud.

We are even more concerned that your justification for vetoing this provision is "the President's constitutional authority to protect national security and other privileged information." Certainly, the White House is aware that the Constitution is based on a system of checks and balances — and that such fundamental safeguards require the Congress to have access to honest, accurate information. Indeed, the very suggestion that the appropriate Congressional committees are not privy to such information is alarming.

This is not an academic point. We are all aware of the numerous times Congress has been provided misleading information from the Executive Branch -- in previous Administrations as well as your own. This law was in fact introduced in response to Executive Branch misrepresentations to Congress regarding Pakistan's nuclear capability as well as the CIA's involvement in Guatemalan assassination squads. Public policy based on misinformation makes a travesty of the democratic system.

Apologizing for past government wrongdoing, as in the case of the radiation experiments and the Tuskegee tests, while important, is easy after the fact. Far more important, however, would be the ability to stop such wrongdoing while it is taking place. This provision would take significant steps towards that end.

We are not promoting a general expansion of Congressional access to Executive information. We are concerned about cases where officials have broken the law or lied to Congress -- and only the appropriate committees are to be notified.

The only way to preserve our Constitutional government, contrary to your Statement of Administrative Policy, is to protect explicitly the need for Congress to be informed honestly and

AUG 4 15:11

accurately, as well as the right of a federal employee to provide such information without fear of retaliation.

In the interest of democracy, we urge you to withdraw your veto threat and allow this vital safeguard to become law, if approved by Congress.

Sincerely,

Danielle Brian
Executive Director
Project On Government Oversight
(202) 466-5539

Steve Aftergood
Director
Government Secrecy Project
(202) 675-1012

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Legal Director
Citizen Action
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Jeff Ruch
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Executive Director
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(202) 546-3732

Tom Divine
Legal Director
Government Accountability Project
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Sam Smith
Editor
Progressive Review
(202) 232-5544

cc Sandy Berger, National Security Advisor
Senator Robert Torricelli
Senator Charles Grassley
Conferees to the Defense Authorization Bill

Document No.________________

WHITE HOUSE STAFFING MEMORANDUM

DATE: 9/16/97 ACTION/CONCURRENCE/COMMENT DUE BY: 9/16/97 1:00 pm

SUBJECT: VETO THREAT ON WHISTLEBLOWER PROTECTIONS

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	McCURRY	☐	☑
BOWLES	☑	☐	McGINTY	☐	☐
McLARTY	☐	☐	NASH	☐	☐
PODESTA	☑	☐	RADD	☐	☐
MATHEWS	☑	☐	REED	☐	☐
RAINES	☐	☐	RUFF	☐	☐
BLUMENTHAL	☑	☐	SMITH	☐	☐
BERGER	☐	☐	SOSNIK	☑	☐
ECHAVESTE	☐	☐	SPERLING	☐	☐
EMANUEL	☑	☐	STREETT	☐	☐
GIBBONS	☐	☐	TARULLO	☐	☐
HILLEY	☑	☐	VERVEER	☐	☐
IBARRA	☐	☐	WALDMAN	☐	☐
KLAIN	☐	☐	YELLEN	☐	☐
LEWIS	☑	☐	BEGALA	☑	☐
LINDSEY	☐	☐		☐	☐
MARSHALL	☐	☐		☐	☐
				☐	☐

REMARKS:

Comments to Staff Sec.

RESPONSE:

Staff Secretary
Ext. 6-2702

'97 SEP 15 PM4:31
5446

THE WHITE HOUSE

WASHINGTON

September 15, 1997

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: SAMUEL BERGER
CHUCK RUFF

SUBJECT: Response to a Letter on Whistleblower Protections

Purpose

To respond to a letter regarding the Administration's position on legislation that would protect federal employee whistleblowers who provide classified information to Congress in certain instances.

Background

The Senate Intelligence Authorization Act and the Senate Defense Authorization Act contain provisions that would require you to inform federal employees and contractors that disclosure of certain categories of information to Congress, including classified information, "is not prohibited by law, Executive order, or regulation or otherwise contrary to public policy." These provisions apply to information employees reasonably believe evidences a violation of law, a false statement to Congress, or gross mismanagement or an abuse of authority.

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RECOMMENDATION

That you authorize Chuck to sign the attached letters.

Approve ____________________

Disapprove _________________

Attachments
Tab A Letters to Good Government Groups
Tab B Incoming Correspondence

THE WHITE HOUSE

WASHINGTON

Dear Ms. Brian:

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Charles F. C. Ruff
Counsel to the President

Ms. Danielle Brian
Executive Director
Project on Government Oversight
1900 L Street, N.W., Suite 314
Washington, D.C. 20036

5446

The G-3

PLEASE STAFF

July 30, 1997

8/4/97

President Bill Clinton
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

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AUG 4 15:11

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Danielle Brian
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(202) 265-7337

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Sam Smith
Editor
Progressive Review
(202) 232-5544

cc Sandy Berger, National Security Advisor
Senator Robert Torricelli
Senator Charles Grassley
Conferees to the Defense Authorization Bill

Document No.____________

WHITE HOUSE STAFFING MEMORANDUM

DATE: 9/16/97 ACTION/CONCURRENCE/COMMENT DUE BY: 9/16/97 1:00 pm

SUBJECT: Veto Threat on Whistleblower Protections

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	✓	☐	McCURRY	☐	✓
BOWLES	✓	☐	McGINTY	☐	☐
McLARTY	☐	☐	NASH	☐	☐
PODESTA	✓	☐	RADD	☐	☐
MATHEWS	✓	☐	REED	☐	☐
RAINES	☐	☐	RUFF	☐	☐
BLUMENTHAL	✓	☐	SMITH	☐	☐
BERGER	☐	☐	SOSNIK	✓	☐
ECHAVESTE	☐	☐	SPERLING	☐	☐
EMANUEL	✓	☐	STREETT	☐	☐
GIBBONS	☐	☐	TARULLO	☐	☐
HILLEY	✓	☐	VERVEER	☐	☐
IBARRA	☐	☐	WALDMAN	☐	☐
KLAIN	☐	☐	YELLEN	☐	☐
LEWIS	✓	☐	BEGALA	✓	☐
LINDSEY	☐	☐	____________	☐	☐
MARSHALL	☐	☐	____________	☐	☐
			____________	☐	☐

'97 SEP 16 PM 1:48

REMARKS:

Comments to Staff Sec.

RESPONSE:

OK JEP

Staff Secretary
Ext. 6-2702

THE WHITE HOUSE

WASHINGTON

September 15, 1997

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: SAMUEL BERGER
CHUCK RUFF

SUBJECT: Response to a Letter on Whistleblower Protections

Purpose

To respond to a letter regarding the Administration's position on legislation that would protect federal employee whistleblowers who provide classified information to Congress in certain instances.

Background

The Senate Intelligence Authorization Act and the Senate Defense Authorization Act contain provisions that would require you to inform federal employees and contractors that disclosure of certain categories of information to Congress, including classified information, "is not prohibited by law, Executive order, or regulation or otherwise contrary to public policy." These provisions apply to information employees reasonably believe evidences a violation of law, a false statement to Congress, or gross mismanagement or an abuse of authority.

With the concurrence of the Secretary of Defense, the DCI, and Justice Department, we have informed the committees that your senior advisors would recommend that you veto this legislation if it is presented to you with these provisions. The Justice Department has advised that these provisions are unconstitutional because the President has exclusive authority concerning the dissemination of classified information. This has been a traditional executive branch position; it is not new to this Administration. While the precise issue presented by this legislation has not been addressed by the Supreme Court, the courts have generally been strongly supportive of the President's exclusive authority to control state secrets.

cc: Vice President
Chief of Staff

Further, authorizing individual disclosures would undercut mechanisms within the executive branch to coordinate reports to Congress of very sensitive information. Individual employees will not necessarily know whether Congress has been briefed on a matter, in which forum, and the nature and extent of the briefings as well as the origin and sensitivity of the information in question.

Groups committed to government accountability counter that in limited cases, an employee communication to Congress of classified information may be needed to expose lying to Congress, or waste, fraud and abuse. However, there are other avenues, consistent with the Constitution, to address this hypothetical situation. Federal employees can go to their agency IG and the Justice Department if they believe agency officials are misleading Congress. (NOTE: Neither Rick Nuccio nor Rich Barlow, whose cases provide part of the impetus for these provisions, resorted to these options.) And, employees can alert Congress to matters they believe warrant review without disclosing classified or privileged information. Congress has sufficient authority, including the subpoena power, to then request and receive classified information from the executive branch without authorizing individual employees to provide that information. There has been no demonstration that these mechanisms have failed to work when initiated.

Conferees are likely to consider these provisions in September. The Republican leadership of the House Permanent Select Committee on Intelligence opposes these provisions. The views of the House National Security Committee are less pronounced. Whether these provisions survive conference will likely depend on whether the Hill takes seriously the Administration's veto threat; no committee appears willing to push these provisions at the cost of passing a bill you will not sign into law. Finally, while we have explored possible avenues of compromise, the branches fundamentally disagree on whether employees should be empowered to provide classified information to Congress outside authorized channels.

RECOMMENDATION

That you authorize Chuck to sign the attached letters.

Approve ____________________

Disapprove ________________

Attachments
Tab A Letters to Good Government Groups
Tab B Incoming Correspondence

THE WHITE HOUSE

WASHINGTON

Dear Ms. Brian:

The President has asked me to respond to your letter concerning provisions contained in the Senate Intelligence Authorization Act and the Senate Defense Authorization Act that would require the President to inform federal employees and contractors that disclosure of certain categories of information to Congress, including classified information, "is not prohibited by law, Executive order, or regulation or otherwise contrary to public policy."

This Administration shares your commitment to open and accountable government. The President has instituted numerous reforms to increase public access to government information and limit the amount of classified information. The Administration is also committed to an open dialogue with the Congress. The President consults regularly with the Congress and expects his subordinates to do the same. However, the President cannot accept legislation that would require him to vest executive branch employees indiscriminately with authority in their sole discretion to furnish national security or other privileged information to a Member of Congress without receiving official authorization to do so. Such legislation would violate the Constitution by infringing on the President's exclusive authority concerning the protection of state secrets and the dissemination of classified information. This has been a traditional executive branch position; it is not new to this Administration.

You express concern about cases in which officials have broken the law or lied to Congress. Avenues exist to address such situations. Executive branch employees can report such wrongdoing to the Justice Department or their agency's inspector general. Moreover, employees may still advise Congress of matters they believe warrant review without disclosing classified or privileged information. Congress has authority, including the subpoena power, to seek classified information from the executive branch without authorizing individual

employees to provide that information. There has been no demonstration that these mechanisms have failed to work when initiated, and certainly none that would justify legislation of such an unprecedented nature.

Thank you for your letter and continued interest in government accountability, an interest you can be confident my Administration shares.

Sincerely,

Charles F. C. Ruff
Counsel to the President

Ms. Danielle Brian
Executive Director
Project on Government Oversight
1900 L Street, N.W., Suite 314
Washington, D.C. 20036

5446

The G-3

PLEASE STAFF

July 30, 1997

8/4/97

President Bill Clinton
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear President Clinton,

As groups devoted to access to information, whistleblower protection and free speech, we are greatly disturbed by your veto threat of Senate 936 Section 1068, "Protection of Employees from Retaliation For Certain Disclosures of Classified Information," which would have strengthened the Whistleblower Protection Act. This modest provision would simply make explicit the already existing right — if not duty — of a federal employee to provide to the appropriate members of Congress classified information that would expose a crime, reveal lies to Congress or uncover fraud.

We are even more concerned that your justification for vetoing this provision is "the President's constitutional authority to protect national security and other privileged information." Certainly, the White House is aware that the Constitution is based on a system of checks and balances — and that such fundamental safeguards require the Congress to have access to honest, accurate information. Indeed, the very suggestion that the appropriate Congressional committees are not privy to such information is alarming.

This is not an academic point. We are all aware of the numerous times Congress has been provided misleading information from the Executive Branch -- in previous Administrations as well as your own. This law was in fact introduced in response to Executive Branch misrepresentations to Congress regarding Pakistan's nuclear capability as well as the CIA's involvement in Guatemalan assassination squads. Public policy based on misinformation makes a travesty of the democratic system.

Apologizing for past government wrongdoing, as in the case of the radiation experiments and the Tuskegee tests, while important, is easy after the fact. Far more important, however, would be the ability to stop such wrongdoing while it is taking place. This provision would take significant steps towards that end.

We are not promoting a general expansion of Congressional access to Executive information. We are concerned about cases where officials have broken the law or lied to Congress -- and only the appropriate committees are to be notified.

The only way to preserve our Constitutional government, contrary to your Statement of Administrative Policy, is to protect explicitly the need for Congress to be informed honestly and

AUG 4 15:11

accurately, as well as the right of a federal employee to provide such information without fear of retaliation.

In the interest of democracy, we urge you to withdraw your veto threat and allow this vital safeguard to become law, if approved by Congress.

Sincerely,

Danielle Brian
Executive Director
Project On Government Oversight
(202) 466-5539

Steve Aftergood
Director
Government Secrecy Project
(202) 675-1012

Richard Vuernick
Legal Director
Citizen Action
(202) 775-1580

Jeff Ruch
Executive Director
Public Employees for Environmental Responsibility
(202) 265-7337

Conrad Martin
Executive Director
Fund for Constitutional Government
(202) 546-3732

Tom Divine
Legal Director
Government Accountability Project
(202) 408-0034

Sam Smith
Editor
Progressive Review
(202) 232-5544

cc Sandy Berger, National Security Advisor
Senator Robert Torricelli
Senator Charles Grassley
Conferees to the Defense Authorization Bill

237489

'97 OCT 3 PM4:35

10-7-97

Althorp.
Northampton.
NN7 4HG.

16th September, 1997

Dear President,

Thank you very much for your letter of August 31st, written in the wake of my sister Diana's death, which Ambassador Crowe kindly delivered to me.

From conversations held with her just prior to her death, I know it was Diana's wish to set up a new life for herself in your great country. I believe she would have opted for the East Coast, although I was encouraging her to think of the warmer climes of California - particularly as she and her sons adored the sea.

Whatever, it is now just one of many unfulfilled dreams.

I do appreciate your having written.

Yours faithfully,

Charles Spencer.

235116

6012

THE WHITE HOUSE

WASHINGTON

September 17, 1997

9-22-97

'97 SEP 17 PM2:06

ACTION

MEMORANDUM FOR THE PRESIDENT

THROUGH: THE EXECUTIVE CLERK

FROM: SAMUEL BERGER
JOHN HILLEY

SUBJECT: Periodic Report to Congress on Iraq

Purpose

To fulfill Congressional reporting requirements.

Background

The Authorization for Use of Military Force Against Iraq Resolution was adopted in January 1991 to authorize the use of military force for the implementation of relevant U.N. Security Council resolutions. It requires that you submit to the Congress, at least once every 60 days, a "summary on the status of efforts to obtain compliance by Iraq with the resolutions adopted by the United Nations Security Council in response to Iraq's aggression." The last report was submitted on July 9, 1997. The report informs the Congress and establishes that the authorization granted in the Joint Resolution has not expired.

RECOMMENDATION

That you sign the Report to Congress at Tab A.

Attachment
Tab A Report to Congress

cc: Vice President
Chief of Staff

THE WHITE HOUSE

WASHINGTON

To the Congress of the United States:

Consistent with the Authorization for Use of Military Force Against Iraq Resolution (Public Law 102-1) and as part of my effort to keep the Congress fully informed, I am reporting on the status of efforts to obtain Iraq's compliance with the resolutions adopted by the United Nations Security Council (UNSC). This report covers the period from July 9 to the present.

Saddam Hussein remains a threat to his people and the region, and the United States remains determined to contain the threat posed by his regime. Secretary of State Albright stated on March 26 that the United States looks forward to the day when Iraq rejoins the family of nations as a responsible and law-abiding member but until then, containment must continue. Secretary Albright made clear that Saddam's departure would make a difference and that, should a change in Iraq's government occur, the United States would stand ready to enter rapidly into a dialogue with the successor regime.

In terms of military operations, the United States and its coalition partners continue to enforce the no-fly zones over northern Iraq under Operation Northern Watch and over southern Iraq through Operation Southern Watch. We have not detected any confirmed, intentional Iraqi violations of either no-fly zone during the period of this report. We have repeatedly made clear to the Government of Iraq and to all other relevant parties that the United States and its partners will continue to enforce both no-fly zones, and that we reserve the right to respond appropriately and decisively to any Iraqi provocations.

In addition to our air operations, we will continue to maintain a strong U.S. presence in the region in order to deter Iraq. United States force levels include land- and carrier-based aircraft, surface warships, a Marine amphibious task force, a Patriot missile battalion, and a mechanized battalion task force deployed in support of USCINCCENT operations. To enhance force protection throughout the region, additional military security personnel have been deployed for continuous rotation. USCINCCENT continues to monitor closely the security situation in the region to ensure adequate force protection is provided for all deployed forces.

United Nations Security Council Resolution (UNSCR) 949, adopted in October 1994, demands that Iraq not use its military or any other forces to threaten its neighbors or UN operations in Iraq and that it not redeploy troops or enhance its military capacity in southern Iraq. In view of Saddam's accumulating record of unreliability, it is prudent to retain a significant U.S. force presence in the region in order to maintain the capability to respond rapidly to possible Iraqi aggression or threats against its neighbors.

Since my last report, the Government of Iraq has continued to flout its obligations under UNSC resolutions. During the last 60 days, the Government of Iraq has continued to fail to fully disclose its programs for weapons of mass destruction (WMD). Without such full disclosure -- mandated by Security Council Resolutions 687, 707, and 715 -- the UN Special Commission (UNSCOM) and the International Atomic Energy Agency (IAEA) cannot effectively conduct the ongoing monitoring and verification mandated by relevant UNSC resolutions. UNSCOM and the IAEA continue to provide Iraq every opportunity for full disclosure. What Iraq will not disclose, UNSCOM and IAEA will try to discover, in an effort to fill in the huge gaps in Iraq's declarations.

Iraqi threats, lying and hiding during the past six years have not deterred UNSCOM and IAEA dedication to their mandates. While some nations have begun to display sanctions-fatigue, the United States remains committed to sanctions enforcement. We shall continue to oppose any suggestion that the sanctions regime should be modified or lifted before Iraq demonstrates its peaceful intentions by complying with its obligations under UNSC resolutions.

We anticipate the UNSCOM and IAEA six-month reports to the Security Council, due October 11, which will record their conclusions regarding whether the Government of Iraq has provided the "substantial compliance" called for in UNSCR 1115 of June 21, 1997 -- especially regarding immediate, unconditional and unrestricted access to facilities for inspection and to officials for interviews.

The United States is committed to providing first-class professional support to UNSCOM and the IAEA in the conduct of their highly technical work in Iraq, so that both organizations are staffed and equipped to conduct objective and accurate inspections in order to determine whether Iraq has, or has not, complied with its obligations in the field of WMD.

Implementation of UNSCR 1051 continues. It provides for a mechanism to monitor Iraq's effort to reacquire proscribed weapons capabilities by requiring that Iraq notify a joint unit of UNSCOM and the IAEA in advance of any imports of dual-use items. Similarly, UN members must provide timely notification of exports to Iraq of dual-use items.

Regarding northern Iraq, the United States continues to lead efforts to increase security and stability in the north and minimize opportunities for Baghdad or Tehran to threaten Iraqi citizens there. An important part of this effort has been to work toward resolving the differences between the two main Iraqi Kurd groups, the Kurdistan Democratic Party (KDP), led by Massoud Barzani, and the Patriotic Union of Kurdistan (PUK), led by Jalal Talabani. Talabani visited the United States in late July to meet with National Security Advisor Sandy Berger, Under Secretary of State Thomas Pickering and UN Ambassador Bill Richardson. At these sessions, he reaffirmed his interest in the "Ankara process" of ongoing reconciliation talks jointly sponsored by the United States, the United Kingdom and Turkey. Recently, the KDP's Barzani has also accepted our invitation to Washington.

As part of the Ankara process, the United States provides political, financial, and logistical support to the neutral, indigenous Peace Monitoring Force (PMF), comprised of Iraqi Turkomans and Assyrians. The PMF has demarcated and monitors the cease-fire line established between the two Kurdish groups on October 1996. United States support takes the form of services and commodities provided in accordance with a drawdown which I directed on December 11, 1996, and funds for other non-lethal assistance provided in accordance with a separate determination made by former Secretary of State Christopher on November 10, 1996.

The PMF also helps the Iraqi Kurds move forward on other confidence-building measures, including joint committee meetings to address a range of civilian services and humanitarian issues affecting all residents of the north. Local representatives of the two Kurdish groups, the three co-sponsors of the Ankara process and the PMF continue to meet at least biweekly in Ankara to discuss, inter alia, other confidence-building measures.

The PMF began full deployment in mid-April 1997 and its size is expected to double later this year to more than 400. The PMF continues to investigate and resolve reported cease-fire violations. Its work has become more difficult as elements of the terrorist Kurdistan Workers Party (PKK) have moved from the Turkish border toward the PUK-KDP cease-fire line. The KDP alleges that PKK elements have been operating across the cease-fire line to attack the KDP. The KDP also alleges that the PUK has joined in some of these attacks, a charge that the PUK denies. The United States, together with the United Kingdom and Turkey, continues to stress the importance of strict observance of the cease-fire.

Another important aspect of our commitment to the people of northern Iraq is in providing humanitarian relief for those in need. As part of this commitment, AID's Office of Foreign Disaster Assistance will direct an additional $4 million for relief projects to the region. These supplemental programs, announced July 31, will provide emergency health and nutritional support to 80,000 displaced women and children and improve water supplies and sanitation, particularly in the PUK-controlled province of Suleymaniyah.

The oil-for-food arrangement under UNSCR 986 was reauthorized by UNSCR 1111 on June 4, 1997, and went into effect on June 8, 1997. Under UNSCR 1111, Iraq is authorized to sell up to $1 billion worth of oil every 90 days, for a total of $2 billion during a 180-day period (with the possibility of UNSC renewal for subsequent 180-day periods). Resolution 1111, like its predecessor, requires that the proceeds of this limited oil sale, all of which must be deposited in a UN escrow account, will be used to purchase food, medicine, and other material and supplies for essential civilian needs for all Iraqi citizens and to fund vital UN activities regarding Iraq. Critical to the success of UNSCR 1111 is Iraq's willingness to follow through on its commitments under the resolution to allow the UN to monitor the distribution of humanitarian goods to the Iraqi people. Although UNSCR 1111 went into effect on June 8, Iraq unilaterally suspended oil sales until a new distribution plan was submitted and approved. The UN Secretary General approved a distribution plan on August 13 and oil sales have resumed.

Iraq continues to stall and obfuscate rather than work in good faith toward accounting for the hundreds of Kuwaitis and third-country nationals who disappeared at the hands of Iraqi authorities during the occupation. It has also failed to return all of the stolen Kuwaiti military equipment and the priceless Kuwaiti cultural and historical artifacts that were looted during the occupation.

The human rights situation throughout Iraq remains unchanged. Iraq's repression of its Shi'a population continues, with policies which are destroying the Marsh Arabs' way of life in southern Iraq and the ecology of the southern marshes. The UN, in its most recent reports on implementation of UNSCR 986, recognized that the Government of Iraq continues forcibly to deport Iraqi citizens from Kirkuk and other areas of northern Iraq still under the Iraqi government's control. The Government of Iraq shows no signs of complying with UNSCR 688, which demands that Iraq cease the repression of its own people. The effort by various Iraqi opposition groups and non-governmental organizations to document Iraqi war crimes and other violations of international humanitarian law, known as INDICT, continues.

The Multinational Interception Force (MIF) continues its important mission in the Arabian Gulf. The United States Navy provides the bulk of the forces involved in the maritime sanctions enforcement authorized under UNSCR 665, although we receive much-needed help from a number of close allies. In recent months, ships from the Netherlands, Canada, New Zealand and the United Kingdom have participated in MIF operations. We continue active pursuit of broad-based international participation in these operations.

Illegal smuggling of Iraqi gasoil from the Shatt Al Arab waterway continues to increase at an alarming rate. We now estimate that over 150,000 metric tons of gasoil each month is exported from Iraq in violation of UNSCR 661. The smugglers use the territorial waters of Iran with the complicity of the Iranian government which profits from charging protection fees for these vessels to avoid interception by the MIF in international waters. Cash raised from these illegal operations is used to purchase contraband goods which are then smuggled back into Iraq by the same route. We continue to brief the UN Sanctions Committee regarding these operations and have pressed the Committee to compel Iran to give a full accounting of its involvement. We have also worked closely with our MIF partners and Gulf Cooperation Council states to take measures to curb sanctions-breaking operations. A recent spill of illegal Iraqi gasoil caused the desalinization plant in Sharjah, United Arab Emirates (UAE), to suspend operation for two days, highlighting the environmental threat these activities pose to Gulf states. Recent announcements by the Government of the UAE that it intends to crack down on smugglers who operate UAE-flagged vessels has been backed up by strong actions against violators detained by the MIF.

The United Nations Compensation Commission (UNCC), established pursuant to UNSCR 687, continues to resolve claims against Iraq arising from Iraq's unlawful invasion and occupation of Kuwait. The UNCC has issued almost 1.1 million awards worth approximately $5.9 billion. Thirty percent of the proceeds from the oil sales permitted by UNSCR 986 have been allocated to the Compensation Fund to pay awards and to finance operations of the UNCC, and these proceeds will continue to be allocated to the Fund under UNSCR 1111. To the extent that money is available in the Compensation Fund, initial payments to each claimant are authorized for awards in the order in which the UNCC has approved them, in installments of $2,500.00.

Iraq remains a serious threat to regional peace and stability. I remain determined to see Iraq comply fully with all of its obligations under UN Security Council resolutions. My Administration will continue to oppose any relaxation of sanctions until Iraq demonstrates its peaceful intentions through such compliance.

I appreciate the support of the Congress for our efforts and shall continue to keep the Congress informed about this important issue.

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THE WHITE HOUSE

WASHINGTON

September 20, 1997

ACTION

'97 SEP 25 PM12:44

MEMORANDUM FOR THE PRESIDENT

FROM: SAMUEL BERGER

SUBJECT: Written Questions from Irish Journalists about Your 1995 Visit to Ireland

10-4-97

Purpose

To respond to questions from authors of a book on your 1995 trip to Ireland.

Background

Two Irish journalists, Trevor Birney and Julian O'Neill, have been commissioned by an Irish publisher to write a book about your trip to Ireland in November-December 1995. The book, titled When The President Calls, is expected to be the definitive account of your visit to Northern Ireland and the Republic. It is scheduled to be published at the end of the year, around the second anniversary of the trip.

As an alternative to an interview with you, Birney and O'Neill have asked that you provide answers to ten written questions they submitted. They are clearly seeking to get personal insights from you on some aspects of your visit. Providing answers will highlight your ongoing commitment to the Northern Ireland peace process as well as the historic nature of your visit to Northern Ireland.

RECOMMENDATION

That you approve the answers to the questions at Tab A.

Approve ______

Disapprove ______

Attachment
Tab A Answers to Written Questions on Your Trip to Ireland

cc: Vice President
Chief of Staff

Tab A

ANSWERS TO WRITTEN QUESTIONS
ON YOUR TRIP TO IRELAND

You and the First Lady refer to the Ireland visit as one of the most remarkable days in your lives. As you sat in your Europa Hotel suite, what was going through your mind and did the trip exceed expectations given it was so politically and logistically challenging?

Our day in Northern Ireland was indeed one of the most remarkable of our lives and a highlight of my Presidency. Today, almost two years later, I am still deeply moved by the warmth of the reception we were given and the palpable desire of the people we saw to come together in peace and reconciliation.

Though my expectations were high, my visit exceeded them in every respect. Even the weather cooperated. It was a great privilege to be the first U.S. President to visit Northern Ireland. I was there to show the desire of the United States to help and to support the peace process, not to impose a vision or a solution of our own. I'll never forget the faces of the people, young and old, of both traditions, who reached out to Hillary and me as we traveled through Belfast. I am grateful to all those who made it possible for us to stay in Belfast overnight and to do so much in such a short time. I was very proud to represent the American people and to be able to share our ideals and experiences with the people in Northern Ireland.

You were extremely interested in the Irish issue before going to Ireland but to what extent did the trip galvanize your determination to help in securing a lasting settlement and how has that manifested itself?

Yes, I was already committed to supporting the peace process, but my visit gave that commitment a more personal dimension. Having the chance to meet people in their communities, to hear their hopes, shake their hands and see their enthusiasm for peace first-hand certainly strengthened my conviction that there is widespread support for a lasting settlement of the conflict. Since my visit, in spite of the setbacks in the peace process, I remain convinced that the prize is within reach and that America's support can help bring it about.

Do you feel more Irish as a result of the trip and how disappointing was it not to get to Fermanagh, reputed home of your ancestors?

I share a pride in that heritage with millions of Americans, including one in four American presidents. As many Americans know it is very moving to visit the land of one's ancestors, to reflect on their difficult decision to emigrate, and to appreciate their impressive achievements in the United States. I would have liked to visit Fermanagh, and so many other places, but I enjoyed the chance to meet with some of my clanspeople during my visit.

You had already met Sinn Fein leader Gerry Adams in Washington and were due to have private talks with him at Queens University in Belfast. Why therefore was also meeting him on the IRA heartland of the Falls Road a risk worth taking, given the potential for damaging the trip in the eyes of Protestants?

The purpose of stopping in the Falls Road was to meet people from one of the Catholic neighborhoods most affected by the conflict, just as I stopped in the Protestant neighborhood of Shankill. Meeting Mr. Adams was an appropriate part of that visit. I saw several political leaders of both traditions more than once during that visit; we had a reception at Queens University as well as private meetings.

Did the emotional bond you developed with Catherine Hamill, the young girl who introduced you at the Mackie factory, have anything to do with the fact that you had both lost fathers you had never known, admittedly under very different circumstances?

I was very moved by the introduction that Catherine and David gave to my speech at the Mackie plant. In part I was moved by their personal histories, but more so by their words, their youth and their ability to touch the hearts of all of us who heard their wish for peace. I saw Catherine and her family several days later in Washington; she came to the opening of the Christmas "Pageant of Peace" at the White House, and David and his family came a few weeks later. Those children and the young people of Northern Ireland they represented are the best argument for the peace process that I know.

It is clear from the footage that you were aware of the jeers which greeted the Lord Mayor of Belfast's Christmas tree speech, which had a Biblical nature. But you remained focused. To what extent was that due to your own spiritual upbringing and were you surprised it was greeted with a degree of hostility?

What I remember most from the evening was standing before a sea of people - literally as far as I could see - who were there to support the cause of peace. It was an unforgettable evening - the music, the response from the crowds, the wonderful Christmas tree from Nashville, and children letters I had received. It was then that I realized how much the people want peace. It was an honor to stand with the Lord Mayor on an unforgettable day. As someone who has spoken often in public, you learn to rise above the difficulties and focus on what is important.

Derry became an American city for the day. How energized were you by the outpouring of genuine affection from the crowd and was it at this point you began to realize just how remarkable the contribution you were making to finding a lasting peace in Ireland was?

It was clear from the moment we arrived in Northern Ireland that we were receiving an extraordinary welcome from all the people in Northern Ireland. I saw it as an outpouring of friendship for my country as well as an expression of hope and determination to move beyond the mistrust and bitterness of Northern Ireland's past.

In Derry, I was honored to share a dais with John Hume, and I know that added to the warm greeting we received. Looking out at the crowd, with its sea of smiling faces and waving flags, I felt tremendous hope for peace and pride that the United States could make a contribution. I particularly enjoyed the chance, after my remarks, to meet some of the people in the crowd.

What do you feel the lasting benefits of the trip were for yourself and the people of Ireland, particularly given that the IRA ignored the central message of your speeches and returned to violence within three months?

I said in Northern Ireland, and I have said it many times since, that those who use violence must not be allowed to dictate the agenda for the rest of us. The courageous people who work for reconciliation and a lasting settlement are the ones who are shaping the future. The people of both communities who extended us such a warm welcome were expressing their commitment to a future built on dialogue and trust, not on violence and hatred. Their commitment to that goal is lasting, as is mine.

I welcome the restoration of the ceasefire. I have always believed that inclusive talks, on the basis of an unequivocal ceasefire, offer the best prospect for achieving a lasting settlement. The United States has loaned one of its great statesmen, Senator George Mitchell, to the talks process. I hope the parties and the British and Irish governments will move forward with substantive negotiations when the talks resume.

How much more relaxed were you on the Dublin leg of the trip given the success of the previous day and did anything rekindle the memories of when you visited the city as a student?

I would not say I was more relaxed in Dublin, though it is true that the political climate there was quite different from the climate in Northern Ireland. We certainly were given an enthusiastic, warm reception and thoroughly enjoyed our visit. It was quite a different experience than my previous visit, though the Guinness tasted the same.

Looking beyond your Presidency, do you think your affinity with the Irish and the Irish issue could see you return to the country or contribute in any way towards the process of reconciliation?

I hope so. For one thing, as I told the crowd in Dublin, I have yet to play golf at Ballybunion or any of the other fine courses in Ireland.

I deeply hope that the parties and governments will have reached a negotiated settlement during my Presidency. America's role has been helpful in supporting the peacemakers. I am confident we will continue to play that role. But, as with any situation in which people have been divided by a long-standing conflict, the process of building trust and ties between Northern Ireland's two communities is one of the most difficult. There are many parallels with the American experience; I certainly hope I would be able to play a part in the historic process of long-term reconciliation.

9/23/97

Send to NSC? (for information)

Yes ✓ ___________

No ___________

answered by NSC package 5708

Yes

'97 SEP 18 PM 1:49

JAMES M. LYONS
1200 17TH STREET, SUITE 3000
DENVER, COLORADO 80202
(303) 628-9546

FAX TRANSMITTAL SHEET

To:	Nancy Hernreich Office of the President	Fax No. 202 456-6703
From:	James M. Lyons	User No. 208
Re:	Ireland	Client No. 99999-999
Date:	September 16, 1997	

Nancy:

Please review the attached. These are two reputable authors who are favorably disposed to the President, his policies in Ireland, and the historical impact of his visit. They are up against a publishing deadline, and I would like to help them if at all possible. I know it may not be possible, but if the President could spend a few minutes answering their questions, I would be very grateful.

Best regards. Hope to see you soon.

WE ARE TRANSMITTING 3 PAGES (INCLUDING THIS COVER PAGE). IF TRANSMISSION IS NOT COMPLETE, PLEASE CALL (303) 623-9000, EXT. 321.

Birney/O'Neill
50 Glendower Street
BELFAST
BT6 8PD
Telephone: +44 1232 731607

July 30th, 1997

Birney/O'Neill book "When the President Calls"
To be published in Ireland and the U.K. Autumn 1997

Dear Jim

Thank-you very much for answering my telephone appeal for help! Since myself and Julian met with you in Washington on March 18th we have been striving to get the President involved with our project, which deals with his trip to Ireland in November/December 1995.

We have gone down many avenues to achieve this. The NSC at the White House through Mary-Ann Peeters has been aware of the book since its inception and has signed-off on the request for the President to supply answers to the questions listed below. Both Anthony Lake and Nancy Soderberg have given interviews, as have Senator George Mitchell, Susan Brophy, Kitty Higgins and Mark Gearan. I also met with Mike McCurry in London last May and he also committed himself to the project and said he would do his best to get the President to provide answers. He is also in possession of the questions. Over 200 interviews in total have been completed for the book.

The U-S Embassy in London, through Ambassador Crowe and its counterpart in Dublin through Jean Kennedy-Smith have both been co-operating at the highest level. Both Ambassadors have given interviews and their staff have worked alongside us. The Consul General in Belfast, Kathleen Stephens was very instrumental in getting the book off the ground and has been in contact with the White House concerning the questions. I believe she has advised the NSC that she sees this project as the most fitting way to mark the second anniversary of the President's visit - especially now we are again living under the bright skies of peace.

I would be forever indebted Jim if you could cut through a lot of the red tape and present these questions to the President for his consideration. We have until the last day of August to present the finished manuscript but if there was an indication that the President could provide answers at a later time we would obviously do all in our power to hold back production.

Yours faithfully

Trevor Birney.

Questions for President Clinton for Birney-O'Neill book
"When The President Calls"

1. You and the First Lady refer to the Ireland visit as one of the most remarkable days in your lives. As you sat in your Europa Hotel suite toasting the visit's success over a glass of Irish whiskey, what was going through your mind and did the trip exceed expectations given it was so politically and logistically challenging?

2. You were extremely interested in the Irish issue before going to Ireland but to what extent did the trip galvanise your determination to help in securing a lasting settlement and how has that manifested itself?

3. Do you feel any more Irish as a result of the trip and how disappointing was it not to get to Fermanagh, reputed home of your ancestors?

4. You had already met Sinn Fein leader Gerry Adams in Washington and were due to have private talks with him at Queens University in Belfast. Why therefore was also meeting him on the IRA heartland of the Falls Road a risk worth taking, given the potential for damaging the trip in the eyes of Protestants?

5. Did the emotional bond you developed with Catherine Hamill, the young girl who introduced you at the Mackie factory, have anything to do with the fact that you had both lost father's you had never known, admittedly under very different circumstances?

6. It is clear from the footage that you were aware of the jeers which greeted the Lord Mayor of Belfast's Christmas tree speech, which had a biblical nature. But you remained focused. To what extent was that due to your own spiritual upbringing and were you surprised that it was greeted with a degree of hostility?

7. Derry became an American city for the day. How energised were you by the outpouring of genuine affection from the crowd and was it at this point you began to realise just how remarkable the contribution you were making to finding a lasting peace in Ireland was?

8. What do you feel the lasting benefits of the rip were for yourself and the people of Ireland, particularly given that the IRA ignored the central message of your speeches and returned to violence within three months?

9. How much more relaxed were you on the Dublin leg of the trip given the success of the previous day and did anything rekindle the memories of when you visited the city as a student?

10. Looking beyond your Presidency, do you think your affinity with the Irish and the Irish issue could see you return to the country or contribute in any way towards the process of reconciliation?

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ANSWERS TO WRITTEN QUESTIONS
ON YOUR TRIP TO IRELAND

You and the First Lady refer to the Ireland visit as one of the most remarkable days in your lives. As you sat in your Europa Hotel suite, what was going through your mind and did the trip exceed expectations given it was so politically and logistically challenging?

Our day in Northern Ireland was indeed one of the most remarkable of our lives and a highlight of my Presidency. Today, almost two years later, I am still deeply moved by the warmth of the reception we were given and the palpable desire of the people we saw to come together in peace and reconciliation.

Though my expectations were high, my visit exceeded them in every respect. Even the weather cooperated. It was a great privilege to be the first U.S. President to visit Northern Ireland. I was there to show the desire of the United States to help and to support ~~their~~ peace process, not to impose a vision or a solution ~~on them~~ of our own. I'll never forget the faces of the people, young and old, of both traditions, who reached out to Hillary and me as we traveled through Belfast. I am grateful to all those who made it possible for us to stay in Belfast overnight and to do so much in such a short time. I was very proud to represent the American people and to be able to share our ideals and experiences with the people in Northern Ireland.

You were extremely interested in the Irish issue before going to Ireland but to what extent did the trip galvanize your determination to help in securing a lasting settlement and how has that manifested itself?

Yes, I was already committed to supporting the peace process, but my visit gave that commitment a more personal dimension. Having the chance to meet people in their communities, to hear their hopes, shake their hands and see their enthusiasm for peace first-hand certainly strengthened my conviction that there is widespread support for a lasting settlement of the conflict. Since my visit, in spite of the setbacks in the peace process, I remain convinced that the prize is within reach and that America's support can help bring it about.

236822

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RECOMMENDED TELEPHONE CALL

TO: Lt. Governor Betsy McCaughey Ross

DATE: ASAP

RECOMMENDED BY: Craig T. Smith

PURPOSE: Lt. Gov Ross has been contemplating a switch to the Democratic party. A call from You will ensure her switch.

BACKGROUND: Lt. Gov Ross was elected in 1994 as Governor Pataki's running mate. It was her first elected office. She has been involved in supporting public funding for pre-kindergarten for all children, bias crime legislation, HMO regulations, putting an end to drive through mastectomies and childbirths, and establishing an equitable process to get insurance companies to cover the cost of experimental treatment for their insureds. She has strong labor support in New York state.

She is planning on running for Governor so she may hit YOU up for a fundraiser. YOU should not make any commitments since YOU have other friends who might get in the race.

10-4-97

NOTE: The Vice President may attempt to call her today.

TELEPHONE NUMBERS: Before 11:00 P.M. (212) 772-9516
After 11:00 P.M. (212) 534-3047

DATE OF SUBMISSION: September 29, 1997

ACTION:______________________________

236500

'97 SEP 25 PM10:19
6404

THE WHITE HOUSE

WASHINGTON

September 25, 1997

ACTION

MEMORANDUM FOR THE PRESIDENT

THROUGH: THE EXECUTIVE CLERK

FROM: SAMUEL R. BERGER

SUBJECT: Presidential Determination on RCRA Exemption for the Operating Location at Groom Lake

9-26-97

Purpose

To continue to exempt the Air Force from public disclosure requirements concerning the inspection and inventory of hazardous waste at the Air Force "operating location near Groom Lake."

Background

You have twice issued an exemption under the Resource Conservation and Recovery Act (RCRA) protecting from disclosure classified information concerning an Air Force location near Groom Lake, Nevada. By statute, the exemption is effective for one year, unless renewed. As a result, the attached exemption should be **signed by September 27.** The exemption was necessitated by litigation over RCRA compliance at the facility. While ruling that the information in question was appropriately classified, the Federal district court ruled that under RCRA classified information could only be protected from public disclosure pursuant to a Presidential exemption.

That ruling remains under appeal. In the interim, Deputy Secretary of Defense Hamre and Secretary of the Air Force Widnall recommend that you renew the exemption to provide continued protection for national security information. EPA Administrator Browner and the Department of Justice's Environmental and Natural Resources Division concur in this recommendation as does Katie McGinty. As with last year's exemption, the attached document is worded to exempt the location only from disclosure requirements and not from applicable environmental standards.

Continuation of this exemption does not prejudge our review of the health and environmental record at the Air Force location. General Kerrick and Jamie Baker are scheduled to visit the

cc: Vice President
Chief of Staff

location in mid-October. As you know, Secretary Cohen is also taking an interest in the matter. We will report back to you, and to Bill, after General Kerrick's trip.

RECOMMENDATION

That you sign the exemption at Tab A.

Attachments
Tab A Presidential Determination
Tab B Incoming Correspondence from the Deputy Secretary of Defense

THE WHITE HOUSE

WASHINGTON

Presidential Determination
No. ______________________

MEMORANDUM FOR THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY
THE SECRETARY OF THE AIR FORCE

SUBJECT: Presidential Determination on Classified Information Concerning the Air Force's Operating Location Near Groom Lake, Nevada

I find that it is in the paramount interest of the United States to exempt the United States Air Force's operating location near Groom Lake, Nevada (the subject of litigation in Kasza v. Browner (D. Nev. CV-S-94-795-PMP) and Frost v. Perry (D. Nev. CV-S-94-714-PMP) from any applicable requirement for the disclosure to unauthorized persons of classified information concerning that operating location. Therefore, pursuant to 42 U.S.C. 6961(a), I hereby exempt the Air Force's operating location near Groom Lake, Nevada from any Federal, State, interstate or local provision respecting control and abatement of solid waste or hazardous waste disposal that would require the disclosure of classified information concerning that operating location to any unauthorized person. This exemption shall be effective for the full one-year statutory period.

Nothing herein is intended to: (a) imply that in the absence of such a Presidential exemption, the Resource Conservation and Recovery Act (RCRA) or any other provision of law permits or requires disclosure of classified information to unauthorized persons; or (b) limit the applicability or enforcement of any requirement of law applicable to the Air Force's operating location near Groom Lake, Nevada, except those provisions, if any, that would require the disclosure of classified information.

The Secretary of the Air Force is authorized and directed to publish this Determination in the Federal Register.

DEPUTY SECRETARY OF DEFENSE

1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

20 SEP 1997

MEMORANDUM FOR PRESIDENT CLINTON
THROUGH: MR. BERGER

SUBJECT: Classified Information Concerning the Air Force's Operating Location Near Groom Lake, Nevada

On September 28, 1996, you issued an exemption under the Resource Conservation and Recovery Act (RCRA) protecting from disclosure classified information concerning an Air Force operating location near Groom Lake, Nevada. By statute, the exemption is effective for one year, unless renewed. The exemption was necessitated by a Federal district court ruling that held that classified information could not be withheld from public disclosure under RCRA absent such an exemption. That ruling is now being appealed. In the meantime, and for reasons addressed in the attached memorandum from Secretary Widnall, I concur in her request and recommendation that you renew the exemption to provide continued protection for the full one-year statutory period while the matter is on appeal.

I note that EPA Administrator Browner and the Justice Department's Environment and Natural Resources Division concur in this recommendation.

John J. Hamre

Attachment:
SECAF Memo

SECRETARY OF THE AIR FORCE
WASHINGTON

SEP 19 1997

MEMORANDUM FOR THE DEPUTY SECRETARY OF DEFENSE

FROM: SECRETARY OF THE AIR FORCE, SHEILA E. WIDNALL
Prepared by: Mr. Slater, SAF/GC, 697-4406

SUBJECT: Renewal of Presidential Exemption for Classified Information Concerning the Air Force's Operating Location Near Groom Lake, Nevada - ACTION MEMORANDUM

PURPOSE: Protect classified information concerning the operating location near Groom Lake

DISCUSSION: I recommend and request that you seek from the President a renewal of the exemption he issued on September 28, 1996, protecting from public disclosure classified information concerning an Air Force operating location near Groom Lake in the Nellis Range Complex in Nevada. By statute, the exemption granted last year is effective for one year, unless renewed. The exemption was prompted by a judicial decision in a lawsuit against the Environmental Protection Agency, Kasza v. Browner, which is now on appeal to the U.S. Court of Appeals for the Ninth Circuit. In the meantime, continued protection through a renewed exemption is necessary.

As discussed in the memoranda requesting the exemption the last two years, the activities undertaken at the operating location near Groom Lake are crucial to national security. The nature of the activities requires that virtually all information about the location remain classified. To protect national security in the pending litigation, I have made a formal claim of the military and state secrets privilege, which the court has found procedurally and substantively proper.

In the ruling at issue, the court nonetheless held that classified information must be produced pursuant to the public disclosure provisions of Section 3007(b) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6927(b), unless an exemption is granted by the President pursuant to Section 6001(a) of RCRA, 42 U.S.C. § 6961(a). EPA, through briefs filed by the Justice Department, has contested that construction, arguing that RCRA is properly interpreted as not mandating disclosure of classified information, which is consistent with other statutes, the common law, and separation of powers considerations. That issue is now on appeal. To protect classified information concerning the operating location near Groom Lake while the issue is litigated, the President granted such an exemption on September 29, 1995, which he renewed on September 28, 1996. To ensure continued protection of the information during the appeal process, a further renewal is required now.

The text of the proposed exemption is the same as that granted last year. It exempts the Air Force's operating location near Groom Lake from any provision of hazardous waste law that might require disclosure of classified information concerning the operating location. It also makes clear that other environmental obligations are not diminished. We ask that the exemption be executed and made effective on (but in all events not later than) September 28, 1997, the one-year anniversary of the previous exemption.

COORDINATION: As was true last year, EPA Administrator Browner concurs in this request for exemption, as does the Department of Justice's Environment and Natural Resources Division, which is defending EPA in the pending litigation.

OSD/GC ________________

RECOMMENDATION: I recommend you send to the President the enclosed memorandum and proposed Presidential Determination.

Attachment:
A/S

DEPSECDEF DECISION:
__________Approved
__________Disapproved
__________Other

Presidential Determination
No. ______________

MEMORANDUM FOR THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY
THE SECRETARY OF THE AIR FORCE

SUBJECT: Presidential Determination on Classified Information Concerning the Air Force's Operating Location Near Groom Lake, Nevada

I find that it is in the paramount interest of the United States to exempt the United States Air Force's operating location near Groom Lake, Nevada (the subject of litigation in Kasza v. Browner (D. Nev. CV-S-94-795-PMP) and Frost v. Perry (D. Nev. CV-S-94-714-PMP)) from any applicable requirement for the disclosure to unauthorized persons of classified information concerning that operating location. Therefore, pursuant to 42 U.S.C. 6961(a), I hereby exempt the Air Force's operating location near Groom Lake, Nevada, from any Federal, State, interstate or local provision respecting control and abatement of solid waste or hazardous waste disposal that would require the disclosure of classified information concerning that operating location to any unauthorized person. This exemption shall be effective for the full one-year statutory period.

Nothing herein is intended to: (a) imply that in the absence of such a Presidential exemption, the Resource Conservation and Recovery Act (RCRA) or any other provision of law permits or requires disclosure of classified information to unauthorized persons; or (b) limit the applicability or enforcement of any requirement of law applicable to the Air Force's operating location near Groom Lake, Nevada, except those provisions, if any, that would require the disclosure of classified information.

The Secretary of the Air Force is authorized and directed to publish this determination in the Federal Register.

23650

9-29-97

THE WHITE HOUSE

WASHINGTON

September 29, 1997

E.O. on Fed Adv Comm
signed - to Clerk

MR. PRESIDENT:

Attached for your signature is a proposed Executive Order, the main purpose of which is to extend the life for two years of several long-standing Federal Advisory Committees. You have signed this EO every two years since you have been President. **OMB advises that you should sign this today in order to properly extend the life of the committees.**

Among other committees, the EO extends the Committee on the Preservation of the White House; the President's Committee on the Arts and Humanities; the President's Board of Advisors on Historically Black Colleges and Universities; the President's Committee of Advisors and Science on Technology; and the President's Council on Physical Fitness and Sports.

The EO also revokes several EOs of committees that have finished their work, such as the Committee on Human Radiation Experiments, the Commission on U.S.-Pacific Trade and Investment Policy; and the President's Advisory Board on Arms Proliferation Policy.

Finally, the EO adds seven members to the Advisory Committee on Public Interest Obligations of Digital Television Broadcasters (at the request of the VP's office) and clarifies an EO relating to the spouses of employees of the American Institute on Taiwan.

____ Approve ____ Disapprove ____ Discuss

Phil Caplan
Phil

Executive Order

- - - - - -

CONTINUANCE OF CERTAIN FEDERAL ADVISORY COMMITTEES
AND AMENDMENTS TO EXECUTIVE ORDER NOS. 13038 AND 13054

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), it is hereby ordered as follows:

Section 1. Each advisory committee listed below is continued until September 30, 1999.

(a) Committee for the Preservation of the White House; Executive Order No. 11145, as amended (Department of the Interior).

(b) Federal Advisory Council on Occupational Safety and Health; Executive Order No. 12196, as amended (Department of Labor).

(c) National Partnership Council; Executive Order No. 12871, as amended (Office of Personnel Management).

(d) President's Advisory Commission on Education Excellence for Hispanic Americans; Executive Order No. 12900 (Department of Education).

(e) President's Board of Advisors on Historically Black Colleges and Universities; Executive Order No. 12876 (Department of Education).

(f) President's Commission on White House Fellowships; Executive Order No. 11183, as amended (Office of Personnel Management).

(g) President's Committee of Advisors on Science and Technology; Executive Order No. 12882 (Office of Science and Technology Policy).

(h) President's Committee on the Arts and the Humanities; Executive Order No. 12367, as amended (National Endowment for the Arts).

(i) President's Committee on the International Labor Organization; Executive Order No. 12216 (Department of Labor).

(j) President's Committee on the National Medal of Science; Executive Order No. 11287, as amended (National Science Foundation).

(k) President's Committee on Mental Retardation, Executive Order No. 12994 (Department of Health and Human Services).

(l) President's Council on Physical Fitness and Sports; Executive Order No. 12345, as amended (Department of Health and Human Services).

(m) President's Export Council; Executive Order No. 12131, as amended (Department of Commerce).

(n) President's National Security Telecommunications Advisory Committee; Executive Order No. 12382, as amended (Department of Defense).

(o) Trade and Environment Policy Advisory Committee; Executive Order No. 12905 (Office of the United States Trade Representative).

Sec. 2. Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act that are applicable to the committees listed in section 1 of this order, except that of reporting annually to the Congress, shall be performed by the head of the department or agency designated after each committee, in accordance with the guidelines and procedures established by the Administrator of General Services.

Sec. 3. The following Executive orders, which established committees that have terminated and whose work is completed, are revoked:

(a) Executive Order No. 12891, establishing the Advisory Committee on Human Radiation Experiments;

(b) Executive Order No. 12964, as amended by Executive Order Nos. 12987 and 13032, establishing the Commission on United States-Pacific Trade and Investment Policy;

(c) Executive Order No. 12946, establishing the President's Advisory Board on Arms Proliferation Policy;

(d) Executive Order No. 12864, as amended by Executive Order Nos. 12890, 12921, and 12970, establishing the United States Advisory Council on the National Information Infrastructure; and

(e) Executive Order No. 13015, establishing the White House Commission on Aviation Safety and Security.

Sec. 4. Executive Order No. 12974 is superseded.

Sec. 5. In Executive Order No. 13038, the second sentence of section 1 is amended by deleting "15" and inserting "22" in lieu thereof.

Sec. 6. Executive Order No. 13054 is amended by revising section 1 to read as follows "A United States citizen who is a family member of a Federal civilian employee who has separated from Federal service to accept employment with the American Institute in Taiwan pursuant to section 11 of Public Law 96-8 (22 U.S.C. 3310(a)) may be appointed noncompetitively in a manner similar to noncompetitive appointments under Executive Order No. 12721 and implementing regulations of the Office of Personnel Management to a competitive service position in the Executive branch, provided such family member meets the qualifications and other requirements established by the Director of the Office of Personnel Management, including an appropriate period of satisfactory overseas employment with the American Institute in Taiwan."

Sec. 7. This order shall be effective September 30, 1997.

THE WHITE HOUSE,