

et: South Africa Fiche No.: SA00253 1965/03/22
Confidential Memorandum 12 page(s)
National Conference on the South African Crisis and American Action," 4:30, 23
arch

et: South Africa Fiche No.: SA00256 1965/03/23
Confidential Memorandum of Conversation 2 page(s)
Resolutions of "National Conference on South African Crisis and American Action"
MemCon between McGeorge Bundy and the National Conference Delegation]

et: South Africa Fiche No.: SA00255 1965/03/23
Confidential Memorandum 5 page(s)
Latest Developments in "National Conference on the South African Crisis and
American Action"

et: South Africa Fiche No.: Unpublished 1965/03/25
Non-Classified Memorandum 16 page(s)
[Transmittal of Two Attached Samples of Commerce Department Publications
Designed to Inform the American Business Community of Trade and Commercial
Prospects in South Africa]

et: Nuclear History Fiche No.: Unpublished 1965/04/28
Memorandum 2 page(s)
President Johnson's Position on Disarmament [Attachment Not Included]

et: South Africa Fiche No.: SA00274 1965/06/16
Secret Memorandum 2 page(s)
Memorandum for the President [Chief Issues Which Will Determine U.S.-African
Influence and Image over the Next Years, Namely Those Relating to the Southern
Third of Africa]

et: South Africa Fiche No.: SA00277 1965/07/09
Secret Memorandum 1 page(s)
U.S. Tracking Stations in South Africa [Regarding the Transfer of NASA's
Tracking Stations to Alternate Sites]

et: Nuclear History Fiche No.: Unpublished 1965/07/21
Secret Memorandum 1 page(s)
Evening Reading for Thursday Meeting With Principals on Our Disarmament Position

et: South Africa Fiche No.: SA00280 1965/07/29
Secret Memorandum 1 page(s)
[Transfer of Three Senior Members of U.S. Embassy Staff in Pretoria]

et: **Military Use of Space** Fiche No.: MS00549 1965/09/16
Classification Unknown Memorandum 1 page(s)
Public Statements on MOL and Military Use of Space

et: **Nuclear History** Fiche No.: Unpublished 1965/11/06
Top Secret Memorandum 5 page(s)
Draft Presidential Memoranda on the DOD FY-1967 Budget

et: **Nuclear History** Fiche No.: Unpublished 1965/11/09
Top Secret Memorandum 3 page(s)
Today's Meeting with Secretary McNamara on the DOD Fiscal Year 1967 Budget

et: **South Africa** Fiche No.: SA00309 1966/07/14
Top Secret Memorandum 2 page(s)
Summary Notes of 561st NSC Meeting July 14, 1966; 12:10 P.M. [International
Court of Justice Rule against South Africa on Namibia]

et: **Nuclear History** Fiche No.: Unpublished 1966/08/04
Secret Memorandum 2 page(s)
Development of Alternate Underground Nuclear Weapons Test Sites

et: **Nuclear History** Fiche No.: Unpublished 1966/08/30
Secret Memorandum 10 page(s)
Alternative Approaches to the Non-Proliferation Problem

et: **Nuclear Non-Proliferation** Fiche No.: NP01193 1966/09/13
Confidential Memorandum 1 page(s)
[Advice on Glenn Seaborg's Trip to Israel]

et: **Nuclear History** Fiche No.: Unpublished 1966/11/09
Secret Memorandum 2 page(s)
Defense Budget

et: **Nuclear History** Fiche No.: Unpublished 1966/12/13
Secret Minutes 2 page(s)
Summary Notes of 566th NSC Meeting December 13, 1966 [Nuclear Planning Group
Will Tie Germany With the U.S. and U.K. and "End Talk" of the MLF]

et: **Nuclear Non-Proliferation** Fiche No.: Unpublished 1967/01/04
Secret Memorandum 6 page(s)
BM Deployment

et: Nuclear History Fiche No.: Unpublished 1967/01/04
Secret Memorandum 6 page(s)
ABM Deployment [Argues Against a "Light" ABM Deployment]

et: Fiche No.: Unpublished 1967/01/25
Secret Briefing Paper 10 page(s)
National Security Council Meeting No. 567 [Re: Southern Rhodesia]

et: Nuclear History Fiche No.: Unpublished 1967/03/01
Secret Memorandum 19 page(s)
The Soviet on ABMs [INR and FBIS Reports on Soviet Thinking on ABMs attached]

et: South Africa Fiche No.: SA00343 1967/07/13
Secret Briefing Memorandum 10 page(s)
Summary Notes of 572nd NSC Meeting, July 13, 1967, 12:10 P.M.--African Problems
Regarding African Problems, Including South Africa]

et: Philippines Fiche No.: PH00191 1968/03/22
Secret Memorandum 1 page(s)
Philippine Training of Subversive Teams for Use against Malaysia (Sabah)

et: Nuclear History Fiche No.: Unpublished 1968/06/14
Top Secret Memorandum 1 page(s)
[Renewal of Canadian Overflight Agreement]

et: Nuclear History Fiche No.: Unpublished 1968/08/00
Chronology page(s)
Chronology for Missile Talks

et: Iran Revolution Fiche No.: IR00720 1969/07/12
Secret National Security Study Memorandum 1 page(s)
Policy toward the Persian Gulf

et: National Security Decision Documents Fiche No.: Unpublished 1969/11/12
Secret National Security Decision Memorandum 3 page(s)
Preliminary Strategic Arms Limitation Talks

et: Soviet Flashpoints Fiche No.: Unpublished 1970/01/26
Secret Background Paper 17 page(s)
Background Paper on Europe for NSC Meeting, January 28[, 1970] [Cover Sheet
Signed by Henry Kissinger; Background Paper "reflects the discussion at the
January 23 Review Group Meeting"]

et: National Security Decision Documents Fiche No.: Unpublished 1970/06/05
ecret National Security Decision Memorandum 3 page(s)
anama Canal

et: Nuclear Non-Proliferation Fiche No.: NP01284 1970/07/29
on-Classified Letter 9 page(s)
[Transmission of an Article by Glenn Seaborg Entitled "The Nuclear Future"]

et: Persian Gulf Fiche No.: Unpublished 1970/11/07
ecret National Security Decision Memorandum 92 2 page(s)
S. Policy Toward the Persian Gulf

et: National Security Decision Documents Fiche No.: Unpublished 1970/11/07
ecret National Security Decision Memorandum NDSM 92 2 page(s)
S. Policy toward the Persian Gulf

et: Chemical and Biological Warfare Fiche No.: Unpublished 1971/01/07
on-Classified National Security Study Memorandum 112 2 page(s)
S. Post-Vietnam Policy on Use of Riot Control Agents and Herbicides in War

et: Philippines Fiche No.: Unpublished 1971/10/20
onfidential Memorandum 211 1 page(s)
residential Appointment for Mrs. Marcos and Possible Tea with Mrs. Nixon (S/S
115628)

et: Nuclear Non-Proliferation Fiche No.: NP01310 1972/03/24
onfidential Memorandum 1 page(s)
[Roadblocks Have Been Encountered in Discussing Whether Nuclear Technology
ould Be Sold Abroad]

et: Persian Gulf Fiche No.: Unpublished 1972/04/26
lassification Unknown Memorandum 1 page(s)
etter to the President from Iran Free Press

et: Philippines Fiche No.: PH00500 1972/06/28
ecret National Security Study Memorandum 2 page(s)
S. Policy toward the Philippines [National Security Study Memorandum Number
55]

et: Iran Revolution Fiche No.: IR00783 1972/07/25
ecret Memorandum 0 page(s)
esponding to Preceding Memorandum and Prescribing Courses of Action to Be Taken
o Shah's Requests

et: Philippines Fiche No.: Unpublished 1972/09/12

Secret Memorandum 1 page(s)

NSM 155 [Requesting Preparation of an Annex to NSSM 155 in light of the Quasha decision]

et: Military Use of Space Fiche No.: MS00555 1972/09/12

Confidential Memorandum 1 page(s)

Revised Second Page [Revision to Second Page of NSDM 187 regarding International Space Cooperation]

et: Philippines Fiche No.: Unpublished 1972/11/01

Secret Memorandum 1 page(s)

Responses to NSSM 155, U.S. Policy Toward the Philippines

et: Philippines Fiche No.: PH00588 1972/11/28

Secret Memorandum 16 page(s)

RG Meeting on U.S. Policy toward the Philippines [Including Talking Points for H. Kissinger]

et: Iran Revolution Fiche No.: IR00802 1973/01/18

Unclassified Memorandum 0 page(s)

American Oil Company Request for You to Intervene on Their Behalf with the Shah

et: Philippines Fiche No.: Unpublished 1973/03/07

Unclassified Memorandum 239 1 page(s)

[Cover Memorandum for Letter to President Marcos from President Nixon]

et: Nuclear Non-Proliferation Fiche No.: NP01329 1973/03/31

Unclassified Memorandum 5 page(s)

Press Release on IAEA-EC Safeguards Agreement [Tabs Attached]

et: Nuclear Non-Proliferation Fiche No.: NP01339 1973/08/01

Memorandum 6 page(s)

. 1993 [No Objection to Amending the Euratom Cooperation Act of 1958; Attachments Included]

et: Soviet Flashpoints Fiche No.: Unpublished 1974/04/23

Unclassified Action Memorandum page(s)

Schedule Proposal for Arthur Burns [Proposal for Arthur Burns, Chairman of the Board of Governors of the Federal Reserve System, to meet with the Clift, A. Denis]

et: Afghanistan Fiche No.: Unpublished 1974/12/12
imited Official Use Memorandum 1 page(s)
d al-Fitr Messages--S/S 7419276 [Textual Changes in Messages to Several
ountries on Occasion of Id al-Fitr]

et: Frontline States Fiche No.: Unpublished 1975/05/05
ecret Memorandum 1 page(s)
roposed NSSM on US Policy Toward Angola.

et: Frontline States Fiche No.: Unpublished 1975/05/26
ecret Memorandum 2 page(s)
nited States Policy Toward Angola

et: Frontline States Fiche No.: Unpublished 1975/06/16
ecret Memorandum 1 page(s)
SSM-224: United States Policy Toward Angola

et: Philippines Fiche No.: PH00809 1975/08/08
onfidential Memorandum 1 page(s)
etter to You from Anna Chennault [Alejandro Melchor's Proposal for Conversion
f the Bases--Correspondence from Anna Chennault Is Forwarded to National
ecurity Adviser Brent Scowcroft]

et: Philippines Fiche No.: PH00813 1975/08/22
on-Classified Briefing Paper 7 page(s)
eeting with Senator Mike Mansfield on His Recent Round-the-World Trip [Meeting
etween President Gerald Ford and Senator Michael J. Mansfield--Cover Memo and
riefing Paper Attached]

et: South Africa Fiche No.: Unpublished 1975/12/10
Letter 2 page(s)
[United States Policy with respect to EximBank Credit Support for Exports to
outh Africa]

et: South Africa Fiche No.: Unpublished 1975/12/10
on-Classified Letter 1 page(s)
[United States Policy with Respect to ExImBank Support for Exports to South
frica]

et: Philippines Fiche No.: PH00839 1975/12/13
on-Classified Memorandum 1 page(s)
olf Balls for Presidents Suharto and Marcos

et: **Frontline States** Fiche No.: **Unpublished** 1975/12/13
Secret Memorandum 2 page(s)
United States Policy Toward Angola

et: **Angola** Fiche No.: **Unpublished** 1976/01/14
Memorandum 5 page(s)
Comments on Angola by FSD Marc Baas - Grand Rapids Press January 6, 1976
entitled: "Former Local Man Favors Money and Arms for Angola"

et: **South Africa** Fiche No.: **Unpublished** 1976/01/16
Secret Memorandum 2 page(s)
United States Policy on Export-Import Bank Loans for South Africa

et: **Afghanistan** Fiche No.: **AF00208** 1976/02/12
Confidential Memorandum 2 page(s)
Visit of Mohammad Aziz Naim of Afghanistan--Proposed Meeting with the President

et: **Philippines** Fiche No.: **Unpublished** 1976/03/22
Non-Classified Memorandum 1 page(s)
Letter to Philippine President Marcos [Letter from President Ford to President
Marcos: National Security Adviser Brent Scowcroft Urges Signing of Proposed
Letter to President Marcos]

et: **Philippines** Fiche No.: **Unpublished** 1976/04/15
Non-Classified Memorandum 1 page(s)
Presidential Letter to Philippine President Marcos [Letter from President Ford
to President Marcos: Signing of Proposed Letter Is Urged]

et: **Angola** Fiche No.: **Unpublished** 1976/05/25
Memorandum 1 page(s)

et: **Afghanistan** Fiche No.: **AF00216** 1976/05/25
Confidential Letter 1 page(s)
Approved Presidential Meeting with Mohammad Aziz Naim of Afghanistan--Need for
Date and Time (June 28-30)

et: **Angola** Fiche No.: **Unpublished** 1976/05/25
Memorandum 1 page(s)
[Prime Minister Palme Tells Kissinger that Castro Has Informed him of Cuban
troops being Withdrawn from Angola]

et: **Afghanistan** Fiche No.: **AF00217** 1976/06/01
Confidential Memorandum 1 page(s)
Date for Presidential Meeting with Mohammad Aziz Naim of Afghanistan

et: **Afghanistan** Fiche No.: **AF00218** 1976/06/03
Confidential Memorandum 1 page(s)
Presidential Meeting with Mohammad Naim of Afghanistan

et: **Philippines** Fiche No.: **PH00879** 1976/08/11
Memorandum 1 page(s)
Letter to President Ford from Former President of the Philippines

et: **Frontline States** Fiche No.: **Unpublished** 1976/10/04
Secret Memorandum 5 page(s)
Vice President's Meeting in UK -- Updated Guidance on South African
Negotiations, the Pound, and US-UK Civil Aviation

et: **Philippines** Fiche No.: **PH00936** 1977/01/18
Non-Classified Memorandum 1 page(s)
Submission to the Senate of the U.S.-Philippine Convention on Income Taxes

et: **National Security Decision Documents** Fiche No.: **Unpublished** 1977/03/17
Secret Presidential Review Memorandum PRM 21 29 page(s)
The Horn of Africa

et: **Low-Intensity Conflict** Fiche No.: **Unpublished** 1977/03/24
Secret Minutes 10 page(s)
Latin America [Should the U.S. Move Away From the Special Relationship?]

et: **Iran Revolution** Fiche No.: **IR03581** 1977/03/29
Memorandum page(s)

et: **Persian Gulf** Fiche No.: **Unpublished** 1977/03/29
Confidential Memorandum 9 page(s)
[Memorandum on President's Decisions on Arms Transfers and President's Policy
on Notification of Congress; Preceded by JCS Cover Note JCS 2315/626, Dated
April 8]

et: **Philippines** Fiche No.: **PH00959** 1977/04/19
Secret Memorandum 30 page(s)
RM/NSC-14--Philippine Base Negotiations: Annex B and Agenda for PRC Meeting

et: **National Security Decision Documents** Fiche No.: **Unpublished** 1977/04/19
Secret Memorandum PRM 14 Related 33 page(s)
RM-14--Philippine Base Negotiations, Annex B and Agenda for PRC Meeting

et: National Security Decision Documents Fiche No.: Unpublished 1977/06/06
op Secret Memorandum PRM 10 Related 5 page(s)
RM-10 Force Posture Study

et: Persian Gulf Fiche No.: Unpublished 1977/06/16
lassification Unknown Memorandum 1 page(s)
anian Request for F-18L Aircraft

et: Iran Revolution Fiche No.: IR03582 1977/06/20
Memorandum page(s)

et: Philippines Fiche No.: PH01000 1977/08/15
onfidential Report 36 page(s)
residential Review Memorandum/NSC 28: Human Rights [Cover Memoranda and
istribution Memo Attached]

et: National Security Decision Documents Fiche No.: Unpublished 1977/08/23
onfidential Memorandum PRM 31 Related 1 page(s)
emo for the Addressees of PRM 31

et: Philippines Fiche No.: PH01011 1977/08/29
ecret Memorandum 1 page(s)
hilippine Base Negotiations [U.S. Force Reductions at Clark Air Force Base and
ubic Bay Naval Base: Concurrence on Basing Options Requested]

et: Persian Gulf Fiche No.: Unpublished 1977/09/27
lassification Unknown Memorandum 8 page(s)
orrespondence Referral--Mr. Yahya Aramjani [Cover Memorandum with September 26
ote to William Quandt, September 23 Tarnoff Memorandum to Brzezinski and Draft
f Letter to Aramjani Attached]

et: Iran Revolution Fiche No.: IR03583 1977/10/20
Memorandum page(s)

et: Persian Gulf Fiche No.: Unpublished 1977/10/20
onfidential Memorandum 2 page(s)
rms Sales [Memorandum Mentions President Carter's Reliance on Secretary Vance
o Hold Down Arms Sales Recommendations; October 26 Transmittal Memorandum JCS
315/644 from Brzezinski to the Joint Chiefs of Staff, Attached]

et: South Africa Fiche No.: Unpublished 1977/10/30
Statement 2 page(s)
Our Major Concern...Is that the Developing Racial Conflict...Does not
become...an Ideological Conflict" [Replies by the Assistant to the President for
ational Security Affairs (Brzezinski) on CBS's "Face the Nation," October 30,
977 (Excerpts)]

et: Iran Revolution Fiche No.: IR01248 1977/11/28
Secret Memorandum 1 page(s)
U.S. Arms Transfer Policy Implementation: Iran

et: National Security Decision Documents Fiche No.: Unpublished 1978/02/15
Secret Memorandum PRM 21 Related 2 page(s)
Military Assistance to the Horn

et: Philippines Fiche No.: PH01170 1978/02/22
Secret Memorandum 10 page(s)
RC Meeting on Philippine Bases, February 28, 3:00 p.m.

et: Philippines Fiche No.: Unpublished 1978/02/22
Secret Memorandum 4 page(s)
RC Meeting on Philippine Bases, February 28, 3:00 p.m. [Eight Pages Excised]

et: Philippines Fiche No.: Unpublished 1978/02/28
Secret Report 3 page(s)
RC Meeting - Philippine Base Negotiations 3:00 P.m., Tuesday, February 28, 1978

et: Angola Fiche No.: Unpublished 1978/03/02
Action Memorandum 17 page(s)
Horn of Africa [Near Verbatim Transcript Follows]

et: Chemical and Biological Warfare Fiche No.: Unpublished 1978/06/16
Secret Presidential Review Memorandum 37 2 page(s)
Chemical Weapons

et: Philippines Fiche No.: Unpublished 1978/06/20
Secret Memorandum 1 page(s)
EMCONS from the Vice President's Pacific Visit [NODIS Memcons Mentioned Not Included]

et: Iran Revolution Fiche No.: IR03584 1978/06/27
Memorandum page(s)

et: Persian Gulf Fiche No.: Unpublished 1978/06/27
Secret Memorandum 41 page(s)
Y 1979 Conventional Arms Sales to Iran [Transmittal Memorandum with Agenda for June 29 PRC Meeting and Department of State Discussion Paper Attached; Excised]

et: Afghanistan Fiche No.: AF00292 1978/06/28
Memorandum 1 page(s)
Letter to Former Ambassador Neumann

et: Persian Gulf Fiche No.: Unpublished 1978/12/04
Classification Unknown Action Memorandum 6 page(s)
Letter on Political Intelligence [Cover Memorandum and Action Memorandum with
November 29 Letter, December 5 Letter of Reply, and Routing Sheet Attached;
Annotated]

et: Persian Gulf Fiche No.: IR02610 1979/05/29
Secret Memorandum 3 page(s)
Meeting with Morteza Bazargan, May 25, 1979; 2:30-3:30 p.m., DEOB [May 29 Cover
Letter Forwarding Memorandum of May 25 Meeting Attached]

et: Iran Revolution Fiche No.: IR03482 1979/11/13
Confidential Memorandum 3 page(s)
A. Brzezinski's Trip to London, Bonn, and Madrid

et: Persian Gulf Fiche No.: Unpublished 1979/12/03
Unclassified Memorandum 2 page(s)
Role of U.S. TV in Teheran [Memorandum with Cover Sheet; Annotated Comments]

et: Afghanistan Fiche No.: AF00739 1979/12/28
Memorandum 1 page(s)
[VOA Coverage of Afghanistan Coup and Iran]

et: Persian Gulf Fiche No.: Unpublished 1980/01/02
Secret Memorandum 1 page(s)
CC Checklist [Excised; Annotated]

et: Persian Gulf Fiche No.: Unpublished 1980/01/02
Secret Information Memorandum 4 page(s)
SC on Afghanistan [Circulated Outside the System; Excised]

et: Persian Gulf Fiche No.: Unpublished 1980/01/02
Top Secret Minutes 4 page(s)
Iran, Christopher Mission to Afghanistan, SALT and Brown Trip to China [Excised
Extract of NSC Meeting Minutes]

et: El Salvador Fiche No.: ES00399 1980/01/28
Secret Memorandum 3 page(s)
Special Coordination Committee Meeting on U.S. Policy to El Salvador and Central
America

Subject: El Salvador Fiche No.: ES00407 1980/01/31
Classification: Secret Memorandum 3 page(s)
Topic: U.S. Policy to El Salvador and Central America

Subject: Persian Gulf Fiche No.: AF00872 1980/02/12
Classification: Unknown Memorandum 10 page(s)
Topic: U.S. Response to Afghanistan [Includes Copy of President's State of the Union Address, 1/23/80]

Subject: Low-Intensity Conflict Fiche No.: ES00440 1980/02/14
Classification: Secret Memorandum 10 page(s)
Topic: Papers for SCC Meeting

Subject: Low-Intensity Conflict Fiche No.: ES00450 1980/02/20
Classification: Secret Memorandum 3 page(s)
Topic: SCC Meeting on El Salvador and Honduras, February 15, 1980 [Summary of Conclusions of Meeting]

Subject: Afghanistan Fiche No.: AF00891 1980/02/29
Classification: Secret Memorandum 1 page(s)
Topic: [Christine Dodson Notifies the Department of State of the President's Intention to Suspend Afghanistan's Designation as a Beneficiary Developing Country]

Subject: Afghanistan Fiche No.: Unpublished 1980/05/20
Classification: Confidential Memorandum 1 page(s)
Topic: Agenda for SCC Meeting

Subject: Afghanistan Fiche No.: Unpublished 1980/05/21
Classification: Secret Memorandum 1 page(s)
Topic: Revised Agenda for SCC Meeting

Subject: Afghanistan Fiche No.: AF00955 1980/05/28
Classification: Confidential Memorandum 1 page(s)
Topic: SCC Meeting--Security Framework

Subject: Afghanistan Fiche No.: Unpublished 1980/05/29
Classification: Confidential Memorandum 1 page(s)
Topic: Security Framework

Subject: Afghanistan Fiche No.: AF00969 1980/06/11
Classification: Secret Memorandum 1 page(s)
Topic: CA Booklet on Afghanistan

et: Afghanistan Fiche No.: AF01035 1980/08/26
ecret Memorandum 4 page(s)
iscussion Paper for SCC-Security Framework [Cover Sheet Attached]

et: Afghanistan Fiche No.: AF01049 1980/09/17
ecret Memorandum 2 page(s)
ini-SCC on Afghanistan Refugees--Food

et: Soviet Flashpoints Fiche No.: Unpublished 1980/09/25
ecret Memorandum 11 page(s)
enda and Discussion Paper for PRC on Poland [Discussion of Aims and Methods of
olicy towards Poland, Including Contingency Plans]

et: Persian Gulf Fiche No.: Unpublished 1980/11/07
ecret Memorandum 3 page(s)
oint Memo to the President on Actions Needed between Now and January 20
Brzezinski Memo Itemizes Actions for Middle East and More; Excised]

et: El Salvador Fiche No.: ES00881 1980/11/28
ecret Memorandum 1 page(s)
.S. Policy to El Salvador (C)

et: El Salvador Fiche No.: ES00900 1980/12/03
nclassified Memorandum of Conversation 3 page(s)
[Discussions Between the President and Jose Napoleon Duarte of El Salvador]

et: El Salvador Fiche No.: ES00958 1980/12/10
ecret Memorandum #6 2 page(s)
enda for SCC Meeting

et: El Salvador Fiche No.: ES00972 1980/12/11
onfidential Memorandum #359 4 page(s)
ackground Paper for SCC Meeting

et: El Salvador Fiche No.: ES01026 1980/12/19
onfidential Memorandum 1 page(s)
residential Mission to El Salvador [Publication of Rogers/Bowdler Report]

et: El Salvador Fiche No.: ES01264 1981/01/26
ecret Internal Paper 26 page(s)
nter-Agency Paper on U.S. Policy in El Salvador

et: El Salvador Fiche No.: ES01265 1981/01/26
Unclassified Memorandum 2 page(s)
SC/IG-ARA Meeting on El Salvador, January 24 [Includes 43-Person Distribution
list]

et: Afghanistan Fiche No.: Unpublished 1981/04/30
Confidential Cable 4 page(s)
Excised] Current Situation in Afghanistan

et: El Salvador Fiche No.: ES01762 1981/05/27
Memorandum 1 page(s)
Letter from Brother of Nun Killed in El Salvador

et: Intelligence Policy Fiche No.: IP00666 1982/01/29
Confidential National Security Decision Directive 22 1 page(s)
Designation of Intelligence Officials Authorized to Request FBI Collection of
Foreign Intelligence

et: Afghanistan Fiche No.: AF01454 1983/04/18
Unclassified Memorandum 4 page(s)
SDD-77 on Public Diplomacy [Full Text Attached]

et: El Salvador Fiche No.: ES03980 1983/05/05
Statement 11 page(s)
Remarks of William P. Clark before Citizens for the Republic, Los Angeles,
California

et: Nicaragua Fiche No.: NI01749 1983/07/01
Unclassified Memorandum 1 page(s)
Public Diplomacy (Central America)

et: Nicaragua Fiche No.: NI01762 1983/07/12
Confidential Memorandum 3 page(s)
Asking for Central America Public Diplomacy

et: Nicaragua Fiche No.: NI01813 1983/09/09
Secret Memorandum 5 page(s)
Covert Action Proposal concerning Central America

et: Philippines Fiche No.: Unpublished 1983/09/16
Unclassified Miscellaneous Document Type 1 page(s)
[Transmittal Form for Letter from Senator Robert C. Byrd to President Reagan]

et: Nicaragua 2 Fiche No.: Unpublished 1983/09/19
Secret Memorandum 8 page(s)
Presidential Finding on Nicaragua

et: Philippines Fiche No.: Unpublished 1983/10/14
Non-Classified Memorandum 1 page(s)
Letter to President Re: Philippines

et: Philippines Fiche No.: Unpublished 1983/10/14
Non-Classified Draft 1 page(s)
[National Security Council's Modified Draft Reply to Letter from American
Catholic Church Official]

et: Nicaragua Fiche No.: NI01880; IC00228 1983/11/07
Top Secret Memorandum 1 page(s)
Support for the Nicaraguan Democratic Opposition [Initialed by President
Reagan--Copy to Be Sent to Vice President George Bush]

et: Unknown Fiche No.: Unpublished 1983/11/23
Non-Classified Memorandum 1 page(s)
BC [International Broadcasting Committee] Meeting

et: Iran-Contra 2 Fiche No.: Unpublished 1983/12/22
Internal Paper 1 page(s)
Anti-Sandinista Actions [Attachment to North-Menges Memo of December 22, 1983 -
Included in Total]

et: Philippines Fiche No.: PH02682 1983/12/23
Confidential Memorandum 1 page(s)
Presidential Travel

et: Iran-Contra 2 Fiche No.: Unpublished 1984/01/06
Talking Points 0 page(s)
[Talking Points for January 6, 1984 NSPG Meeting]

et: Persian Gulf Fiche No.: Unpublished 1984/05/26
Secret Cover Memorandum 5 page(s)
Revised Talking Points--Stinger and Tankers [Cover Sheet with Talking Points
Attached; Excised; Annotated]

et: Low-Intensity Conflict Fiche No.: Unpublished 1984/10/09
Top Secret Memorandum 13 page(s)
Draft National Security Decision Directive (NSDD) on Arms Interdiction in
Central America (TS) [Attachments: draft NSDD on Arms Interdiction in Central
America; National Security Planning Group meeting minutes]

et: **Military Use of Space** Fiche No.: MS00576 1985/01/24
Unclassified Memorandum of Understanding 1 page(s)
Memorandum of Understanding for Policy Oversight of Space Issues

et: **Nicaragua** Fiche No.: NI02354 1985/01/31
Top Secret Action Memorandum 26 page(s)
Central America Strategy for the Second Term [Attachments Include: Robert C. McFarlane Memorandum to Ronald W. Reagan; "Options Paper for Funding the Nicaraguan Resistance"; and Casper W. Weinberger Memorandum to Robert McFarlane]

et: **Intelligence Policy** Fiche No.: IP00649 1985/05/01
Top Secret Action Memorandum 2 page(s)
Memorandum of Notification for Increase in Authorized Funding Levels for Central America Covert Action

et: **Nicaragua** Fiche No.: NI02479 1985/05/18
Unclassified Memorandum 42 page(s)
Nicaragua Sanctions: Sandinista Responsibility for Their Economic Failures
Attachments Include Reports Prepared by the State Department]

et: **Angola** Fiche No.: SA01821 1985/05/21
Confidential Memorandum N 40096 2 page(s)
Freedom Fighters International [Regarding a Coalition of Anti-Communist Resistance Groups Meeting in Jamba, Angola from June 5-10, 1985]

et: **Military Use of Space** Fiche No.: MS00581 1985/06/01
Classification Unknown Fact Sheet 11 page(s)
Fact Sheet on the Strategic Defense Initiative

et: **Iraqgate** Fiche No.: Unpublished 1985/06/11
Top Secret Memorandum 8 page(s)
U.S. Policy toward Iran ["U.S. Policy Toward Iran," 6/11/85 and Draft NSDD, U.S. Policy Toward Iran Attached]

et: **Nicaragua 2** Fiche No.: Unpublished 1985/09/05
Classification Unknown Letter 3 page(s)
[Assurance of National Security Council Compliance with the Letter and Spirit of the Boland Amendment]

et: **Philippines** Fiche No.: Unpublished 1986/02/13
Unclassified Memorandum 1 page(s)
Official U.S. Observer Delegation Follow-Up Mission

et: Afghanistan Fiche No.: Unpublished 1986/05/07
ecret Memorandum 2 page(s)
agenda for the SCC on a Security Framework for the Persian Gulf--XI

et: Afghanistan Fiche No.: AF01712 1986/05/26
ecret Memorandum of Conversation 8 page(s)
S.-Iran Dialogue

et: Afghanistan Fiche No.: AF01968 1987/04/21
Memorandum 1 page(s)
ublic Diplomacy Working Groups

et: Drug Policy Fiche No.: Unpublished 1988/10/12
on-Classified Policy Paper 5 page(s)
olicy Review Group Paper on the U.S. Counternarcotics Initiative in Peru

et: Chemical and Biological Warfare Fiche No.: Unpublished 1989/03/08
ecret Memorandum 1 page(s)
hemical Weapons Initiative

et: Intelligence Policy Fiche No.: Unpublished 1989/04/17
nclassified Fact Sheet 3 page(s)
ational Security Council Organization [Summary of National Security Directive 1
Bush's Reorganization of the NSC]

et: Low-Intensity Conflict Fiche No.: Unpublished 1989/04/17
nclassified Summary 4 page(s)
ational Security Council Organization [Summary of NSD 1--Includes List of New
olicy Coordinating Committees from NSD 10]

et: Chemical and Biological Warfare Fiche No.: Unpublished 1989/06/14
ecret Memorandum 2 page(s)
epartment of Defense Concept Plan for Accelerated Withdrawal of Chemical
eapons Stocks from Europe [Tab Not Attached]

et: National Security Decision Documents Fiche No.: Unpublished 1989/10/05
NA Policy Paper 2 page(s)
ational Security Sealift Policy

et: Iraqgate Fiche No.: Unpublished 1989/11/07
lassification Unknown Memorandum 1 page(s)

et: Iraqgate Fiche No.: Unpublished 1990/04/12
Unclassified Memorandum 7 page(s)
SC/Deputies Committee Meeting on Iraq [Attached to Cover Memorandum, 4/11/90;
Agenda; Discussion Paper for Iraq PCC Attached]

et: Iraqgate Fiche No.: Unpublished 1990/05/17
Secret Action Memorandum 3 page(s)
SC/Deputies Committee Meeting on Iraq [NSC/Deputies Committee Review of PCC
Paper on Iraq, 5/18/90 Attached; Annotated]

et: Iraqgate Fiche No.: Unpublished 1990/05/18
Secret Memorandum 2 page(s)
SC/Deputies Committee Review of PCC Paper on Iraq

et: Iraqgate Fiche No.: Unpublished 1990/05/18
Unclassified Facsimile 2 page(s)
[Annotated Draft Press Release, 5/18/90 Attached]

et: Iraqgate Fiche No.: Unpublished 1990/05/24
Secret Memorandum 4 page(s)
SC/Deputies Committee Meeting on Iraq [Agenda for 5/29/90 NSC/Deputies
Committee Meeting, Possible NSC Meeting on CCC/Iraq Next Week, and Talking
Points for May 29 Oral Briefing for NSC Meeting Attached]

et: Iraqgate Fiche No.: Unpublished 1991/04/08
Classification Unknown Memorandum 2 page(s)
Meeting on Congressional Requests for Information and Documents [Annotated]

et: Iraqgate Fiche No.: Unpublished 1991/05/03
Classification Unknown Memorandum 4 page(s)
Meeting on Congressional Requests for Information and Documents [Annotated; Fax
Transmittal Cover Sheet to Raul, Letter from Sam Gejdenson to Robert Mosbacher,
5/19/91 Attached]

et: Iraqgate Fiche No.: Unpublished 1991/05/31
Classification Unknown Memorandum 2 page(s)
Response to Requests from Congressman Gejdenson and Others

et: Iraqgate Fiche No.: Unpublished 1991/05/31
Classification Unknown Facsimile 4 page(s)
[Annotated; Draft Response to Requests from Congressman Gejdenson and Others,
5/31/91; Memorandum from Thomas H. Stillman, 6/6 Attached]

et: Iraqgate Fiche No.: Unpublished 1991/06/17
on-Classified Letter 1 page(s)

et: Iraqgate Fiche No.: Unpublished 1991/06/18
lassification Unknown Memorandum 3 page(s)
etter to Congressman Gejdenson [Draft Letter to Sam Gejdenson Attached]

et: National Security Decision Documents Fiche No.: Unpublished 1993/01/20
NA Presidential Decision Directive PDD 2 4 page(s)
rganization of the National Security Council

et: National Security Decision Documents Fiche No.: Unpublished 1993/04/26
NA Presidential Review Directive 2 page(s)
ational Security Information

et: National Security Decision Documents Fiche No.: Unpublished 1993/08/31
NA Report PRD 29 Related 154 page(s)
[Information Security Oversight Office Task Force draft of Presidential Review
irective 29 concerning national security information.]

et: National Security Decision Documents Fiche No.: Unpublished 77/1///6
ecret Memorandum PRM 1 Related 85 page(s)
residential Review Memorandum: Panama

et: Afghanistan Fiche No.: Unpublished /19/0
ecret 4 page(s)

et: Afghanistan Fiche No.: Unpublished /19/0
ecret 3 page(s)

et: Intelligence Policy Fiche No.: Unpublished 1956/00/00
op Secret Routing Sheets 1 page(s)
op Secret Control Form [Blank Form with Eighteen Spaces for Signature, Office,
nd Date]

et: Soviet Flashpoints Fiche No.: Unpublished 1956/00/00
op Secret Statement 7 page(s)
nited States Policy Toward the Soviet Satellites in Eastern Europe [Draft
atement of Policy]

et: Intelligence Policy Fiche No.: Unpublished 1956/01/00
op Secret Report 25 page(s)
eport on Intelligence Activities in the Federal Government Prepared for the
ommission on Organization of the Executive Branch of the Government by the Task
orce on Intelligence Activities [National Security Council Analysis of Comments

et: Intelligence Policy Fiche No.: Unpublished 1956/01/00
op Secret Report 5 page(s)
eport on Intelligence Activities in the Federal Government Prepared for the
ommission on Organization of the Executive Branch of the Government by the Task
orce on Intelligence Activities [National Security Council Analysis of Comments
om Agencies and Departments Affected by Appendix I, Part I, of the Hoover
ommission Report - The National Security Agency]

et: Intelligence Policy Fiche No.: Unpublished 1956/01/00
op Secret Report 4 page(s)
eport on Intelligence Activities in the Federal Government Prepared for the
ommission on Organization of the Executive Branch of the Government by the Task
orce on Intelligence Activities [National Security Council Analysis of Comments
om Agencies and Departments Affected by Appendix I, Part II, of the Hoover
ommission Report - Communications and Electronics in Support of Intelligence
activities]

et: Intelligence Policy Fiche No.: Unpublished 1956/01/00
op Secret Report 3 page(s)
eport on Intelligence Activities in the Federal Government Prepared for the
ommission on Organization of the Executive Branch of the Government by the Task
orce on Intelligence Activities [National Security Council Analysis of Comments
om Agencies and Departments Affected by Appendix II of the Hoover Commission
eport - The Clandestine Services of the Central Intelligence Agency]

et: Soviet Flashpoints Fiche No.: Unpublished 1956/03/00
ecret Minutes 1 page(s)
oviet Satellites Progress Report

et: Soviet Flashpoints Fiche No.: Unpublished 1956/05/17
nclassified Miscellaneous Document Type 4 page(s)
ertinent Excerpts from Recent Statements by the President and the Secretary of
tate on the Anti-Stalinism Campaign [Annex A to "Report of DCB Special Working
roup on Stalinism"; Contained in P Paper 77]

et: Soviet Flashpoints Fiche No.: Unpublished 1956/06/00
op Secret Report 72 page(s)
SC Staff Study on United States Policy toward the Soviet Satellites in Eastern
urope [Draft of NSA2 R 62596; Heavily Excised]

et: Soviet Flashpoints Fiche No.: Unpublished 1956/07/18
op Secret Record of Actions 3 page(s)
ecord of Actions by the National Security Council at its Two Hundred and
inetieth Meeting held on July 12, 1956 (approved by the President on July 18,
956) [Concerns U.S. Policy Toward the Soviet Satellites; NSC 5608 and Annex;
SC Action No 1530-b; NSC 5505/1; Missing Page 3]

et: Persian Gulf Fiche No.: Unpublished 1957/00/00
op Secret Report 8 page(s)
eport by the Board Assistants on U.S. Adherence to the Baghdad Pact [Draft
eport by Planning Board Assistants to be Presented to the NSC]

et: Nuclear Non-Proliferation Fiche No.: NP00341 1957/10/00
ecret Policy Paper 1 page(s)
[Development of French Nuclear Weapons]

et: Persian Gulf Fiche No.: Unpublished 1958/02/00
op Secret Report 13 page(s)
ssues Arising Out of the Situation in the Near East [Report with Annex on
aghdad Pact, Annex on Oil Policy and an Excised Annex Attached]

et: Nuclear History Fiche No.: Unpublished 1958/08/07
ecret Report page(s)
ritical Weapons Developments to be Lost or Seriously Compromised if the U.S.
eases Testing

et: Persian Gulf Fiche No.: Unpublished 1959/00/00
ecret Report 11 page(s)
actors Affecting U.S. Policy Toward the Near East [Report with Department of
tate Annex on Arab Nationalism Attached]

et: Nuclear History Fiche No.: Unpublished 1959/00/00
op Secret Report 1 page(s)
egatonage Involved in Previous Net Evaluation Studies

et: Nuclear History Fiche No.: Unpublished 1959/10/15
op Secret Memorandum of Conversation 2 page(s)
iscussion at the 421st Meeting (Special) of the National Security Council,
hursday, October 15, 1959 [Request for History of Long-Range Guided Missiles
ystems]

et: Nuclear Non-Proliferation Fiche No.: NP00598 1959/10/29
ecret Memorandum 2 page(s)
.S. Policy on France: Cooperation with France in the Nuclear Field

et: Nuclear Non-Proliferation Fiche No.: NP00687 1960/10/15
onfidential Report 23 page(s)
ogress Report by the Atomic Energy Commission and the Department of State on
he State of Implementation of NSC 5725/1--Peaceful Uses of Atomic Energy [July
, 1959 through October 15, 1960]

et: **Chemical and Biological Warfare** Fiche No.: Unpublished 1960/12/15
onfidential Record of Actions 1 page(s)
rotection Against BW and CW Attack

et: **Military Use of Space** Fiche No.: MS00568 1962/08/06
lassification Unknown Fact Sheet 2 page(s)
pace Assistance and Cooperation Policy

et: **National Security Decision Documents** Fiche No.: Unpublished 1962/10/00
VA List 1 page(s)
ttendance at National Security Council Executive Committee Meetings

et: **Nuclear History** Fiche No.: Unpublished 1967/10/00
ecret Report page(s)
oviets Invite US Scientists to Arms Control Meeting [Report on Soviet Agreement
o Meet with American Academicians; CIA Preliminary Evaluation and Cover Memo
ttached]

et: **Nuclear History** Fiche No.: Unpublished 1968/06/00
Chronology 6 page(s)
rms Control Messages Exchanged Between President Johnson and Chairman, USSR

et: **Nuclear History** Fiche No.: Unpublished 1969/01/28
ecret Summary 10 page(s)
ssues Paper on the Non-Proliferation Treaty [Summary Attached]

et: **Philippines** Fiche No.: PH00855 1976/04/13
onfidential Briefing Paper 3 page(s)
eeting with Carlos P. Romulo, Foreign Secretary of the Republic of the
hilippines

et: **National Security Decision Documents** Fiche No.: Unpublished 1977/06/00
op Secret Report PRM 10 Related 144 page(s)
ilitary Strategy and Force Posture Review [PRM Study, Final Report]

et: **Philippines** Fiche No.: Unpublished 1978/02/28
on-Classified Letter 1 page(s)
ance Letter on Philippine Bases Compensation

et: **Persian Gulf** Fiche No.: Unpublished 1979/12/00
ecret Position Paper 2 page(s)
ossible Soviet Reactions to U.S. Responses to Afghanistan Crisis [Annotated]

et: **Afghanistan** Fiche No.: **Unpublished** 1980/00/00

2 page(s)

Security Framework for Southwest Asia

et: **Persian Gulf** Fiche No.: **Unpublished** 1980/01/02

Confidential List 1 page(s)

[Meeting Participants at Special Coordinating Committee Meeting on Iran, 12/80]

et: **Nicaragua** Fiche No.: **NI01478** 1982/04/00

Classification Unknown Report 1 page(s)

U.S. Policy in Central America and Cuba through F.Y. '84, Summary Paper

et: **Military Use of Space** Fiche No.: **MS00573** 1983/05/16

Unclassified Report 2 page(s)

Implementing Guidelines for Commercialization of Expendable Launch Vehicles from U.S. Government National Ranges

et: **Philippines** Fiche No.: **Unpublished** 1983/10/14

Non-Classified Letter 1 page(s)

[Regarding Your Letter on Human Rights Abuses and the Aquino Murder in the Philippines]

et: **Philippines** Fiche No.: **Unpublished** 1983/10/14

Non-Classified Letter 1 page(s)

[Regarding Your Letter on Human Rights Abuses and the Aquino Murder in the Philippines]

et: **Iran-Contra 2** Fiche No.: **Unpublished** 1984/01/06

Strategy Paper 0 page(s)

Strategy Paper [Review of Central America Strategy]

et: **Nicaragua 2** Fiche No.: **Unpublished** 1985/09/03

Letter 6 page(s)

[Letter to Congressman Lee Hamilton]

et: **Afghanistan** Fiche No.: **AF01698** 1986/04/04

Top Secret Memorandum 5 page(s)

Release of American Hostages in Beirut [Memo Suggests That Some Weapons Being Sold to Iran Be Diverted to Afghan Rebels]

et: **Afghanistan** Fiche No.: **Unpublished** 1986/05/07

Secret Memorandum 1 page(s)

Agenda for the SCC on a Security Framework for the Persian Gulf--XI

et: **Military Use of Space** Fiche No.: **MS00586** 1986/12/27
Classification Unknown Fact Sheet 2 page(s)
ited States Space Launch Strategy

et: **National Security Decision Documents** Fiche No.: **Unpublished** 1989/00/00
IA Memorandum 1 page(s)
classified Summary of the National Security Sealift Policy

et: **Iraqgate** Fiche No.: **Unpublished** 1991/04/08
Classification Unknown List 1 page(s)
List of Phone Numbers of the "Rostow Gang"]

et: **National Security Decision Documents** Fiche No.: **Unpublished** 1992/05/00
IA 5 page(s)
pace-Based Global Change Observation

Agenda

1. Update: Litigation
 - Oct. 2? status conf. w/Judge Richey
 - Need to have settlement meeting before then
 - Probably week of Oct. 4
 - Status quo on backup tapes till then
 - Inventories of tapes turned over on 10/4
 - 10/4: Plaintiffs turn over objections to NARA guidance
2. NARA Guidance Update (Recordkeeping)
 - Other EOP components' guidance
 - Check for consistency across agencies, esp. with regard to read receipts
3. Settlement Issues raised by Plaintiffs
 - a. Recordkeeping practices
 - 1) Segregating Pres/federal--Time Frame, cost
 - 2) Move to electronic storage--cost estimates, time frame (Thomasson/Weaver/Overton)
 - b. Presidential/federal guidelines
 - 1) NSC status (Podesta/Wolin)
 - 2) two hat position for settlement strategy?
 - c. Preservation of Reagan, Bush, Clinton tapes
 - 1) Legal Position--Retroactive Obligations
 - a. do we need to involve Reagan/Bush reps in settlement discs?
 - 2) Time frame, cost--NARA (Nisbet)
 - d. FOIA processing
 - 1) Legal Position--Scope
 - 2) Scope, time frame, costNeed to take position before next status conf.

10/13 → wait issue *

10/18 → record keeping guidance *

→

ATTORNEY WORK PRODUCT
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Proposed Agenda

A. Prospective Recordkeeping Guidance & New Systems

1. Do we wish to proffer a settlement proposal akin to 8/12 draft which proposes task force and interim guidance en route to long-term modifications to existing systems?
2. How much information do we wish to share with plaintiffs on our proposals for future modifications to present systems?
3. Action item: setting up 'meeting of experts' assembled by all parties, to discuss technical capabilities of present systems. Choice: before or after Oct. 18 for giving plaintiffs' proposed EOP draft guidance

B. Retroactive Obligations With Respect to Preserved Backup Tapes

1. What are our minimum legal obligations under existing orders (in terms of duty to segregate federal record material off of tapes)? What constraints, if any, on our freedom of action are placed by the prior agreements with Presidents Reagan and Bush? What constitutes a reasonable appraisal process by NARA and by EOP entities?
2. As a policy matter, what would defendants be willing to do beyond their minimum obligations with respect to
 - (a) Reagan and Bush era tapes in custody of NARA?
 - (b) Clinton era tapes in custody of EOP?
3. As a starting position, should we propose to plaintiffs something akin to proposal in 8/12 settlement draft, for preservation of small number of tapes out of universe?

C. FOIA Position in Litigation

1. What legal arguments remain open to defendants after FRA decisions in case? What would be bedrock position in court (especially on "reasonableness" of original request) if negotiations break down?
2. As a starting position, should we propose to plaintiffs

that the parties enter into negotiations over narrowing current scope of amended FOIA request along lines of 8/12 settlement draft (attachment B)?

3. How do we perceive eventual FOIA side of case playing out in terms of defendants' ultimate obligations? Should we fashion a creative "sampling" procedure for testing redactions/withholdings (prior to further obligations to produce Vaughn indices)? How does existing processing of Weinberger materials, plus future obligations with respect to OIC/Walsh materials, affect future estimates?
- D. Resolution of Pending Contempt Issue: Scope of NARA's Obligations
- E. Timing Issues, how to structure any upcoming negotiations (who represents defendants, etc.), getting back to pls. on their letter to Dave Anderson

THE WHITE HOUSE

WASHINGTON

Privileged and ~~Confidential~~
Attorney-Client/Work Product

September 13, 1993

MEMORANDUM FOR MARK LEVY
JOHN ROGOVIN
ROBERT KOPP
DAVID ANDERSON

FROM: STEPHEN NEUWIRTH
Associate Counsel to the President

SUBJECT: Armstrong v. EOP

At my request, the staff of the Office of Administration has prepared a brief memorandum outlining proposed changes to the electronic mail system in the EOP.

A copy of the memorandum is attached for your review. We will not be sending this memo, or any revision, to NARA until we have had an opportunity to discuss its contents with you.

WITH ONE DISSENT
Don't worry - Bernice
will be willing
to say its Presidential.

~~DETERMINED TO BE AN ADMINISTRATIVE~~

MARKING INITIALS: AB DATE: 5/24/18

MARKING INITIALS: M DATE: 1/30/14
2018-2662-5~~Privileged and Confidential~~
Attorney-Client/Work Product

The Office of Administration of the Executive Office of the President is developing a systematic method to capture and preserve those records created through the use of electronic mail. The purpose of this activity is to facilitate scheduling of Federal and the historical records of the Clinton Administration. The objectives are to:

- Separate Presidential records from Federal records;
- Store the records in a common standard data format to ease retrieval;
- Furnish tools for management and maintenance of the records and for supervision purposes;
- Provide a means to retrieve information from the records, as required and with appropriate safeguards.

To accomplish these objectives, an initial phase and design document have already been created. To date, approximately 100 of the estimated 800 hours of work required for completion have been expended on this project.

Programming modifications will be made to the existing OASIS All-In-One electronic mail function to sort records. First, when a message is created it will be sorted through an automatic default into either a Presidential or Federal record status category based on the organizational identification of the creator or recipient. The assumption is that the messages are records unless otherwise designated. Second, some creators of a message will be able to change its designation as either Presidential or Federal depending on their official roles. Third, all creators will have an option to opt out of the default record status at the time that a message is created. In every case, each electronic mail message, including its transmittal information (i.e. date, time, recipients, sender, and subject) will be automatically stored together. Finally, the message and any associated automatic read receipts will then be stored on a dedicated Records server and copies sent to the addressees.

The Records server will hold the official electronic mail records. The data saved in this configuration will be stored in standard ASCII format. This storage method makes it possible to use commercially available search and retrieval software to find information in this data set. To accommodate large amounts of text data, we are investigating the use of optical storage media. Versions of the message kept on the live All-In-One system will be considered non-record copies.

At the present time, programming is being performed and tested in the All-In-One environment to accomplish the initial sort of the materials. Additionally, identification of the appropriate server hardware and information management software for use on the Records server is proceeding. We expect to have the first phase in test mode in mid-October.

In the second stage, the design for full records management activities will be completed. Additional software tools to aid records management staff in better supervision and maintenance of the records will be added to the system. We expect to have identified these software tools and associated hardware within the next two weeks. This application will provide a means to further categorize and identify materials beyond the initial separation, described above, into record and non-record categories. This tool also provides a means to analyze content to ensure that proper designations are being made. One goal is to have a process by which a sample of messages that are designated as non-record material can be periodically reviewed as a means of monitoring compliance with record preservation regulations.

We are not in a position to say when stage two will be completed. As soon as we are further along on the design for this segment, we will be able to give a better estimate of the time required to complete it.

BAR-N

PUBLIC CITIZEN LITIGATION GROUP
SUITE 700
2000 P STREET N.W.
WASHINGTON, D.C. 20036
(202) 833-3000

September 23, 1993

By Telecopier

David Anderson
Department of Justice
Civil Division
Washington, D.C. 20530

Re: Armstrong, et al. v. EOP, et al.
(Settlement Discussions)

Dear Mr. Anderson:

In response to your request, I am writing to set forth in writing some of the matters that plaintiffs have raised orally in inquiring whether it is useful for the parties to discuss settlement of the issues that remain in this action following the Court of Appeals' decision last month.

In my letter of March 6, 1992 (attached), we set forth the three principal areas that plaintiffs believe that a settlement should address. The discussion in that letter continues to reflect our views. Some obvious changes in the comments in that letter are necessary because of the events in the eighteen months since it was written (e.g., there are now Bush and Clinton Administration backup tapes in addition to the Reagan Administration tapes, and the Court of Appeals decision has focused the legal framework in which the parties must operate). Nonetheless, the three central issues that we believe a settlement would have to address are still the same.

First, the preserved tapes of the Reagan, Bush and Clinton administrations must be treated as Federal record material (as opposed to nonrecord material), and processed and appraised in accordance with the Federal Records Act. The plan for processing these materials must include provisions for processing plaintiffs' FOIA request for materials from the Reagan tapes in a timely fashion. Second, there must be new guidelines for distinguishing between Federal and Presidential materials. To settle this issue the parties would have to arrive at mutually acceptable new, objective, and easily administrable guidelines for describing which materials are Federal records and which are Presidential records. Such guidelines would not dictate that particular percentages of records be classified in a particular manner, although plaintiffs do believe that proper substantive guidelines would result in more materials being classified as Federal Records than the current guidelines. Finally, the settlement should include an agreement on incorporating recordkeeping practices into the agencies' electronic

David Anderson
September 23, 1993
Page 2

communications systems. The March 6, 1992 letter elaborates on each of these issues.

In the past defendants have expressed concern that court orders may be interpreted to require that the agencies create special mechanisms for recording information on when electronic communications are received, who received the information, etc., even in circumstances where this information is not currently, and would not ordinarily be, recorded in electronic or paper format. Plaintiffs have never taken such a position, and believe that defendants' claims have misconstrued our position and the courts' mandate. For example, where an e-mail users request an "acknowledgment" (PROFS) or "read receipt" (All-in-One) with information on when the addressee received a communication, the agency must treat the resulting electronic documents as "records." On the other hand, plaintiffs have not contended that acknowledgments or receipts must be created for every e-mail communication so that the staff is required to generate electronic records that otherwise would not exist. Similarly, we know that the defendant agencies' systems have created, and the agencies have used, accounting records that contain information on the time and duration of time that a user is "logged-on" to the computer systems, see, e.g. Jolly Dep. 143-145, 150-51, 166; Wright Dep. 50-53, 123-129, and plaintiffs maintain that such accounting records are "records" under the FRA and the FOIA. In contrast, there has also been testimony that some of the computers have optional functions that can be used to record additional information on the time and duration of e-mail transactions, but this information is not being recorded because the agencies have not activated these optional functions (except for testing purposes). See Houston Dep. at 159-65. Plaintiffs do not contend that the FRA imposes a duty to operate these functions to record information that otherwise would not be recorded.

The technological feasibility of incorporating recordkeeping into electronic communications systems is demonstrated by the existence of a number of models for managing electronic records. In the past we have pointed to the models developed by the Navy Laboratories and the Air Force Communications Command as examples. See JA 539-54, 573-77. We believe that other entities, within and outside the federal government, have also demonstrated the feasibility of integrating menus, templates, or other labeling systems into electronic communications systems so that electronic communications are identified and filed in a way that makes it possible to categorize records according to their subject matter, nature, and/or archival value, and to apply records disposition procedures to the electronic format. The menu system implemented by the NSC in May, 1992 (shortly after our March 6, 1992 letter suggesting use of such menus) demonstrates the technical feasibility of such records management, but falls short because of

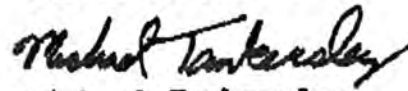
David Anderson
September 23, 1993
Page 3

other, non-technical problems. As we have indicated in our prior submissions, a proper electronic records management system must (i) be based on proper standards for distinguishing between Federal record/Presidential record/nonrecord material; (ii) treat the electronic format as "record" material, rather than as an "extra copy" of a paper print-out; (iii) include provisions for supervision of electronic recordkeeping practices; and (iv) cover all the types of electronic records on the system (as opposed to covering notes, but not calendars or documents, as the NSC system does). Our objection to the menu system implemented by the NSC is not based on technical deficiencies, but on the fact that it fails to correct these problems. See, e.g., Joint Notice of Supplemental Filing ¶¶ 4, 5 (filed Nov. 9, 1992).

Plaintiffs believe it would be useful for representatives of the defendants with technical expertise to meet informally with representatives of the plaintiffs to discuss the alternatives for incorporating recordkeeping practices into agency electronic communications systems. In addition, if there are specific types of computer functions that defendants believe create implementation problems, we are amenable to an exchange of technical information to try to reach an agreement on the proper treatment of such functions without further litigation.

More generally, we wish to repeat the invitation in the March 6, 1992 letter. It is even more true now than it was in March, 1992, that the litigation has progressed sufficiently that the parties should consider a meeting to explore settlement of the entire litigation. Moreover, to date, we have not received any suggestions or proposals regarding settlement from defendants, but if defendants have their own agenda of concerns or issues to add to the issues we have identified, we would be happy to consider any framework for discussions that defendants propose. Please let us hear from you as soon as possible.

Sincerely yours,


Michael Tankersley

Attachment
cc: Elizabeth Pugh
Jason Baron

03 SEP 24 P12:51

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
7TH AND PENNSYLVANIA AVE., NW
WASHINGTON, DC 20408

TELEFACSIMILE TRANSMISSION
COVER SHEET

FROM:

NAME: MIRIAM NISBET

OFFICE: Office of the Acting Archivist

TELEPHONE NUMBER:

202/208-4499

TELEFAX NUMBER:

202/501-5244

TO:

NAME: JOHN PODESTA

LOCATION: Assistant to the President

TELEPHONE NUMBER:

456-2702

TELEFAX NUMBER:

456-2215

SPECIAL INSTRUCTIONS OR MESSAGE:

This is today's draft of NARA's guidance; it incorporates changes suggested by NSC and OA. We'd welcome your comments and suggestions.

DATE: September 24, 1993

1 OF 12 PAGES

09/24/93 11:12 ☎501 5244
09/24/93 12:06 ☎202 501 7452

NARA/ARCHIVIST
OF RECORDS ADM +++ NARA/ARCHIVIST

002
002/013

MANAGING FEDERAL RECORDS ON ELECTRONIC MAIL SYSTEMS IN THE EXECUTIVE OFFICE OF THE PRESIDENT

**GUIDANCE ISSUED BY
THE NATIONAL ARCHIVES AND
RECORDS ADMINISTRATION
September 1993**

DRAFT - September 24, 1993

MANAGING FEDERAL RECORDS ON ELECTRONIC MAIL SYSTEMS IN THE EXECUTIVE OFFICE OF THE PRESIDENT

Introduction

Electronic mail (e-mail) systems are increasingly used as a means of communication within and among offices in the Executive Office of the President (EOP). Because it is used in place of telephone conversations or face-to-face meetings, e-mail can significantly increase the efficiency of conducting Government business. At the same time, e-mail may provide substantive documentation of Government transactions, and in these circumstances an e-mail message will constitute a "record" under the Federal Records Act. Since e-mail users have control over the messages they send and receive, EOP components are responsible for training employees on how to determine which e-mail messages are records.

The National Archives and Records Administration (NARA) is required to issue records management guidance to all Federal agencies (44 U.S.C. 2904 and 2905). This document provides guidance for EOP program managers, information and records managers, and other users of e-mail in the EOP on the proper means of identifying, maintaining, and disposing of Federal records that are created or received on an e-mail system. Because it may not be technologically feasible for all EOP components to manage e-mail records in the same way, this guidance also recognizes the need for flexibility in the development of records management policies and practices. Also, under special circumstances, EOP components may need to vary from certain provisions of this guidance for reasons of efficiency or adequacy of documentation. In such circumstances, the EOP component(s) may, in consultation with NARA, modify their records management practices to meet their recordkeeping requirements.

Definitions

The following definitions for terms used in this guidance are included for clarity and convenience. Most of these definitions are included in existing NARA guidance or regulations. Definitions that are new are so indicated.

- 1. Electronic Record. Numeric, graphics, text, and any other information, which may be recorded on any medium capable of being read by a computer and which satisfies the definition of a Federal record in 44 U.S.C. 3301. This includes, but is not limited to, magnetic media, such as tapes and disks, and optical disks. [36 CFR 1234.1]
- 2. Federal Records. [A]ll books, papers, maps, photographs, *machine readable materials*, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States under Federal

DRAFT - September 24, 1993

law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them. (Emphasis added.)

[4 U.S.C. 3301]

- ★ Temporary Record. Any record which has been determined by the Archivist of the United States to have insufficient value (on the basis of current standards) to warrant its preservation by the National Archives and Records Administration. This determination may take the form of:
 - (a) A series of records designated as disposable in an agency records disposition schedule approved by NARA (Standard Form 115, Request for Records Disposition Authority); or
 - (b) A series of records designated as disposable in a General Records Schedule.[36 CFR 1220.14]
- ★ Permanent Record. Any Federal record that has been determined by NARA to have sufficient value to warrant its preservation in the National Archives. [36 CFR 1220.14]
- ★ Nonrecord Material. Informational materials that do not meet the statutory definition of records (44 U.S.C. 3301), i.e., they either do not relate to Government business or are not "appropriate for preservation," or that have been excluded from coverage by the definition. Excluded materials are extra copies of documents kept only for reference, stocks of publications and processed documents, and library or museum materials intended solely for reference or exhibit. [36 CFR 1220.14]
- ★ Records Schedule. A document describing and providing instructions for the disposition of Federal records. It consists of one of the following:
 - (a) An SF 115, Request for Records Disposition Authority, that has been approved by NARA to authorize the disposition of Federal records;
 - (b) A General Records Schedule (GRS) issued by NARA; or
 - (c) A printed agency manual or directive containing the records descriptions and disposition instructions approved by NARA on one or more SF 115s or issued by NARA in the GRS.[36 CFR 1220.14]
- ★ General Records Schedules. Schedules authorizing the disposal, after the lapse of specified periods of time, of records of a specified form or character common

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to several or all agencies if such records will not, at the end of the periods specified, have sufficient administrative, legal, research, or other value to warrant their further preservation by the United States Government.
[44 U.S.C. 3303a(d)]

- ★ Recordkeeping System. Records in any media organized and maintained by an agency under a formal scheme for retrieval purposes and to meet the agency's recordkeeping requirements.
[New]
- ★ Transmission and Receipt Data.
 - (a) Transmission Data. Information in e-mail systems regarding the identities of sender and addressee(s), and the date and time messages were sent.
 - (b) Receipt Data. Information in e-mail systems regarding date and time of receipt of a message, and acknowledgement of receipt and/or access by addressee(s).
[New]
- ★ System Backups. Copies on off-line storage media of software and data stored on direct access storage devices in a computer system to provide a means of recreating a system and its data in the event of unintentional loss of data or software.
[New]
- ★ Security Backups. Copies of records in any media that are created to provide a means of ensuring retention and access in the event the original records are deleted or corrupted on the recordkeeping system.
[New]

Records Management Responsibilities

Under the Federal Records Act, Federal agencies are responsible for creating and maintaining appropriate records, and for scheduling their disposition (44 U.S.C. Chapters 31 and 33). The responsibility applies to records in all media, including records created electronically on computers or by other means. As more and more Government business is being conducted electronically, agencies must recognize that records will, in many instances, be created or received on e-mail systems.

Agencies are legally obligated to ensure creation and maintenance, for an appropriate period, of "records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency" (44 USC 3101).

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In order to fulfill this mandate, EOP components should incorporate provisions relating to e-mail into their recordkeeping requirements.

The disposition of records is also addressed in the statute (44 U.S.C. Chapter 33). Further guidance on scheduling the disposition of records is in the section entitled DISPOSITION OF EMAIL MESSAGES below.

What Are Federal Records?

As quoted in the DEFINITIONS section above, the Federal Records Act includes a definition of Federal records. Several aspects of that definition deserve further explanation. The phrase "regardless of physical form or characteristics" means that the records may be paper, film, disc, or any other physical type or form; and that the method used to record information may be manual, mechanical, photographic, electronic, or any combination of these or other technologies. In other words, the medium used to create the document does not determine record status.

Under the statutory definition, Federal records are documentary materials that meet two tests: (1) they are *made or received* by agency personnel as part of their official duties in a Federal agency, and (2) they are *preserved or appropriate for preservation*. Documentary materials become records if the agency decides they should be filed, stored, or otherwise systematically maintained because of the evidence of agency activities or information they contain (36 CFR 1222.12).

Documentary materials, whether in paper or electronic form, are Federal records when they meet both tests. EOP components should use these general criteria to develop specific guidelines on how to determine which documents created or received on e-mail systems should be considered Federal records.

The activities of some EOP components are heavily policy-oriented and support the President in carrying out his functions. To a greater extent than in many other Government agencies, drafts, notes, calendars, background materials or working papers in those EOP components will document policy development, significant decisions, major activities or other matters basic to an understanding of the EOP component and its governmental role, and therefore should be considered Federal records. EOP components should apply the same criteria to their e-mail messages that they apply to their paper records when they make determinations of record status (see 36 CFR 1222.34). For further information on making these distinctions, see *Personal Papers of Executive Branch Officials: A Management Guide*, published by NARA in 1992.

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Record Status of E-Mail Messages

Documents produced by using an e-mail system are Federal records when they meet the criteria specified in the statutory definition. As indicated above, Federal records are documentary materials that meet both of the tests of the statute, i.e., they are made or received in the course of conducting agency business, and they are retained because they document the agency's essential transactions or contain information of value to the agency. Since e-mail systems are often used to transmit insubstantial information that is not required for adequate and proper documentation of agency activities, not all messages on an e-mail system are likely to fit the statutory definition of records.

In the EOP e-mail systems some messages will be nonrecord, some will be temporary records, and some may be permanent records. It is critical that all e-mail users understand the concept of Federal records and that agencies distinguish Federal records from nonrecord materials. It is also important for users to know that there is a difference between records that only have to be kept for a brief period of time and those that have long-term value to the Government.

The first determination must be whether a message is a record or not. If a message is determined to be a record, the second step for the appropriate agency officials or records management personnel is to determine if it is a temporary or permanent record according to a records schedule approved by NARA (see the section in this guidance on DISPOSITION OF E-MAIL RECORDS).

Nonrecord Materials

Agencies are not obliged to retain documents that fail to meet the criteria for Federal records, regardless of the medium on which they were recorded. Such documents are considered nonrecord. Nonrecord materials either do not relate to Government business or contain Government related information that does not warrant retention because it is duplicative or so insubstantial as to not warrant retention. Nonrecord materials are not needed to fulfill the EOP component's responsibility to document adequately and properly its organization, functions, programs, and major transactions. E-mail messages, therefore, that are nonrecord are not subject to the statutory provisions governing the disposition of Federal records and need not be retained.

Transmission and Receipt Data

In addition to the message itself, most EOP e-mail systems include features that make certain transmission and receipt data available to users. These data may include the identity of sender, the identity of addressee(s) (including any recipients of copies), date and time sent, date

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and time of receipt, and acknowledgement of receipt and/or access by addressee(s). Not all systems provide all of these features, and different systems record and display all or part of this information in different ways. In some systems transmission and receipt data are part of the message, and in others users may need to take additional steps to access the data.

Transmission Data

Messages that are records, regardless of the media on which they are created, require some transmission data to be intelligible. Most e-mail systems in the EOP automatically capture on the message the identity of the sender and the addressee(s) and the date the message was sent. This is sufficient transmission data for the e-mail record to be complete and understandable. When the necessary transmission data is not part of the message itself, EOP components must ensure that the record messages and necessary transmission data, such as distribution lists, are both maintained in designated recordkeeping systems, either electronically or in hard copy, for the same retention period (see section entitled MAINTENANCE OF FEDERAL RECORDS CREATED BY AN E-MAIL SYSTEM below).

In determining what information in e-mail systems is necessary for adequate documentation, EOP components should provide guidance, just as they do for paper records. For example, in some e-mail systems users are assigned identification names or codes. For systems that use such shorthand names or codes, a record linking the codes with the names of users should be retained to facilitate identification of the sender and addressee(s) of messages. Depending on system capability, this list may be maintained electronically or in hard copy, and like a telephone directory, may be maintained as a separate record from the e-mail message. Like a telephone book, the user list or directory will be updated frequently. Each version of the lists or directories linking names of e-mail users and system codes is a record and must be kept.

Receipt Data

Some e-mail systems also provide the message originators with the ability to request acknowledgements or receipts noting that messages reached the mailbox or in-box of each addressee. In most cases these would not be necessary for adequate and proper documentation of agency activities, just as return receipts are rarely necessary for letters sent by regular mail. As EOP components may consider such receipts for certain types of record messages to be necessary, they should issue guidance for e-mail users concerning when to request receipts or acknowledgements for recordkeeping purposes. When appropriate under agency guidelines, therefore, users should request receipts or acknowledgements and follow agency procedures for maintenance in official recordkeeping systems, either electronic or paper. Any receipt generated for recordkeeping purposes should be accessible along with the related message and kept for the same period of time.

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Other Data

Many e-mail systems have a variety of additional features that may be used to generate Federal records. Indexes, lists, or logs of messages that are part of electronic communications systems may or may not be Federal records, depending on the nature of the information they contain and their potential uses. EOP components should separately assess the Federal record status of all features on these systems in accordance with existing records schedules or ones to be developed.

External Communications Systems

NARA recognizes that there are electronic communications systems external to the government, such as Internet, that are being accessed by employees of some government agencies, including the EOP components. These communications systems have established protocols for their use. This guidance is not intended to suggest a change in those protocols, to discourage use of these communications, or to impose significant burdens on users of these communications. At the same time, the EOP components need to ensure that Federal records being created on these systems are being preserved and that reasonable steps are being taken to capture whatever transmission data is available under the protocols used for these systems.

Maintenance of Federal Records Created by an E-mail System

Agencies must manage all Federal records, including those created using an e-mail system. Because e-mail systems can be used to create and record such a wide variety of record and nonrecord messages, EOP components must implement mechanisms and procedures to ensure that all Federal records are identified, their status as temporary or permanent records is clearly indicated, and that they are kept in official agency recordkeeping systems. E-mail messages that are Federal records may be retained in electronic format or printed and maintained in hard copy files until expiration of their authorized retention periods. There is no statutory requirement that records be maintained in a particular medium, and EOP components have the option of deciding which method of recordkeeping best matches their capabilities and meets their needs. Regardless of the medium used to maintain e-mail records, the entire record including transmission and receipt data necessary for adequacy of documentation must be maintained for the scheduled retention period. In addition, EOP components should ensure that records are maintained in a way that allows for retrieval and use for agency purposes. Permanent records should be maintained in a system that not only allows agency use, but permits efficient transfer to the National Archives.

Maintenance on the E-Mail System

E-mail systems are generally designed for convenient and efficient internal agency communications and not as a system for the storage of agency records. In order to maintain

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instantaneous communications capability without increasing hardware capacity, these systems tend to limit the number of messages that can accumulate on the system. Consequently, most systems are designed to maintain messages for a short period of time, and may have automatic "delete" features. Because e-mail systems usually do not anticipate maintaining messages for retention periods generally approved for records, record messages should be copied or moved to an official recordkeeping system for maintenance and disposition, and only nonrecord messages and very short-term messages that are temporary Federal records should be retained solely on the e-mail system.

Maintenance in an Electronic Recordkeeping System

Some agencies may have sufficient resources and technological capability to maintain e-mail records in an electronic storage format other than on the on-line e-mail system. This affords certain advantages. The electronic version may be more easily searched and manipulated and is more easily accessible to multiple staff members at the same time than records in hard copy. The electronic media may provide a more efficient method to store records.

Agencies that decide to maintain the record messages in electronic form should move or copy all but the most short-term messages to an electronic system that is a designated recordkeeping system. The electronic recordkeeping system should be designed to allow segregation of permanent and temporary records and should be adequate to maintain projected volumes of records for their authorized retention periods, including appropriate retention periods for various types of temporary records, as well as permanent records. If a component decides to maintain e-mail records off-line, it must store them on a reliable medium under appropriate conditions, and with adequate documentation to allow the records to be retrieved and read.

Tapes generated for system backups are merely mirrors of storage disks with data and documents scattered throughout as they are on the disks themselves, and are meant to provide only a means of recreating a system and its data in the event of an emergency. EOP components, therefore, should not rely on system backups as their official recordkeeping system because their format and design do not allow ease of access or retrievability. In addition, system backups are not acceptable as a means to transfer permanent records to NARA. (For more information on transferring permanent electronic records to NARA, see 36 CFR 1228.188.) EOP components must establish a suitable record storage method, as specified in this guidance, to protect e-mail records appropriately.

Maintenance in Hard Copy

Rather than maintain records electronically, an EOP component may decide that hard copy retention best meets its operational needs. In this case the component should instruct e-mail users to print messages that are Federal records. When messages are printed for recordkeeping purposes, they should be maintained according to the same procedures used for other

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paper records. Advantages of this approach are the ease of segregation of permanent and temporary messages for separate filing in appropriate records series, and the opportunity it provides to file e-mail messages with related documents created by other means. For example, e-mail messages could be incorporated into case files that contain all other relevant documentation of the transaction. EOP components may decide to maintain e-mail on paper until a satisfactory electronic recordkeeping system is developed.

Disposition of E-Mail Records

Materials that are Federal records under the law may not be destroyed without the approval of the National Archives and Records Administration (44 USC 3303a). NARA authorizes records disposition through two mechanisms: the General Records Schedules developed by NARA to schedule records common to most or all Federal agencies, and approval of schedules developed by agencies for records unique to the agency. To request approval, agencies submit to NARA records schedules that describe and propose the disposition (retention period) of each series of records they create or acquire. The authorization process employed by NARA involves records appraisal, i.e., determination of the future research or other value of the records. Most Federal records are appraised as temporary and authorized for disposal at the expiration of the retention period specified in the disposition schedule. A small proportion of Federal records are appraised as permanent because they provide significant evidential information about the agency's programs and accomplishments or because they contain information of continuing value for historical or other research. These permanent records are scheduled for transfer to the National Archives after they have served the needs of the creating agency.

E-mail records will have varying retention periods, based on their content, use, purpose, and level of the creating staff member. NARA will appraise the records after they have been placed in an official recordkeeping system and will determine how long they must be retained by the EOP. The appraisal will be done whether the records are being maintained electronically or in hard copy. When e-mail records have been transferred to an official paper recordkeeping system, the documents that remain on the e-mail system may be deleted in accordance with General Records Schedule 23, item 2. If e-mail records have not been printed on paper and appropriately maintained, or if they have been copied to an electronic recordkeeping system, they may not be deleted from the on-line e-mail system until a schedule has been approved by NARA authorizing their disposal.

Integrity of E-Mail Records

Agencies should take adequate measures to protect records in e-mail systems. Protective measures should ensure that Federal records are not altered or deleted except in accordance with authorized records schedules. Agencies should regularly back up messages stored on-line to off-

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line media in order to guard against system failures or inadvertent erasures. Normally, Federal records should not be maintained exclusively on backups.

Training Employees

Because Federal records may be created using an e-mail system, each agency using e-mail must ensure that all employees are familiar with the legal requirements for creation, maintenance, and disposition of Federal records. EOP components must provide training and guidance to employees using e-mail so that messages are accurately categorized.

NARA will provide guidance and assistance to agencies in preparing training for staff members.

Monitoring Implementation of Recordkeeping Guidance for the E-Mail System

EOP components have the responsibility for reviewing the implementation of guidance concerning records to ensure that e-mail users are accurately identifying record messages and following guidance concerning preservation of transmission and receipt data and instructions on maintenance of e-mail records. Monitoring consists of conducting periodic staff interviews and internal records management evaluations (36 CFR 1220.54) of the e-mail and electronic or paper recordkeeping systems to ensure that proper determinations of record status are being made, that receipts are requested when appropriate, that record messages are being properly maintained, that permanent and temporary messages are being kept separately, and that temporary records are disposed of according to approved schedules and nonrecord messages are deleted.

Summary of Guidance

In summary, regardless of the medium in which the records are maintained for EOP components to satisfy statutory and regulatory requirements for records creation, maintenance, and disposition pertaining to e-mail, the components must ensure that:

- Users properly identify messages that are Federal records.
- Record messages are copied or moved to an official recordkeeping system.
- The identities of message originators and all addressees, and the date sent, are retained with the message or in a way that can be associated with the message either in electronic or paper form.

- Receipts or acknowledgements are maintained when they are considered necessary for adequate documentation of the transaction, and when the system has this feature.
- Messages are only deleted in accordance with a schedule approved by NARA after the record messages have been copied to an electronic or paper record-keeping system or they are no longer required by the agency.
- Nonrecord messages are deleted.
- Access is provided to messages and to associated transmission data and any receipt data determined to be needed for adequate documentation.

EOP components can ensure that the above measures are implemented if they:

- Provide guidance and training to all staff concerning determination of record status of e-mail messages.
- Establish policies and procedures concerning maintenance and disposition of e-mail messages that are records, including ensuring that messages are maintained in a system that continues their availability until the expiration of the approved retention period or transfer to the National Archives.
- Advise message originators to request a receipt or acknowledgement for Federal records when receipt information is necessary for complete and accurate documentation of agency activities, when the system has this feature.
- Monitor staff compliance with the guidance and instructions for identifying and maintaining e-mail records.

E-mail systems provide unprecedented communications convenience for the EOP components. However, the EOP components should take precautions to ensure that there is no diminution of the records of an agency resulting from the use of e-mail. E-mail systems in many EOP components have become important tools for the transmission of substantive information; they now are used to create Federal records. Consequently, EOP components must take special care that employees understand their responsibilities when using e-mail to ensure the adequate creation, maintenance, and proper disposition of Federal records.

① systems review

ALL in out

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② GUIDANCE

③ LITIGATION UPDATE

④ Defer
NSC

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
7TH AND PENNSYLVANIA AVE., NW
WASHINGTON, DC 20408

TELEFACSIMILE TRANSMISSION
COVER SHEET

FROM:

NAME: MIRIAM NISBET

OFFICE: Office of the Acting Archivist

TELEPHONE NUMBER:

202/208-4499

TELEFAX NUMBER:

202/501-5244

① Does it
go far enough
inarchiving record
material

TO:

NAME: STEVE NEUWIRTH

LOCATION: White House Counsel's Office

TELEPHONE NUMBER:

456-7903

TELEFAX NUMBER:

456-1647

② No endorsement
of electronic
info +
record keeping
systems

Rego

SPECIAL INSTRUCTIONS OR MESSAGE:

This is today's draft of NARA's guidance; it incorporates changes suggested by
NSC and OA. We'd welcome your comments and suggestions.

DATE: September 24, 1993

09/24/93 11:22 ☎501 5244
09/24/93 12:06 ☎202 501 7452

NARA/ARCHIVIST
OF RECORDS ADM →→→ NARA/ARCHIVIST

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0002/043

MANAGING FEDERAL RECORDS ON ELECTRONIC MAIL SYSTEMS IN THE EXECUTIVE OFFICE OF THE PRESIDENT

**GUIDANCE ISSUED BY
THE NATIONAL ARCHIVES AND
RECORDS ADMINISTRATION
September 1993**

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MANAGING FEDERAL RECORDS ON ELECTRONIC MAIL SYSTEMS IN THE EXECUTIVE OFFICE OF THE PRESIDENT

Introduction

Electronic mail (e-mail) systems are increasingly used as a means of communication within and among offices in the Executive Office of the President (EOP). Because it is used in place of telephone conversations or face-to-face meetings, e-mail can significantly increase the efficiency of conducting Government business. At the same time, e-mail may provide substantive documentation of Government transactions, and in these circumstances an e-mail message will constitute a "record" under the Federal Records Act. Since e-mail users have control over the messages they send and receive, EOP components are responsible for training employees on how to determine which e-mail messages are records.

The National Archives and Records Administration (NARA) is required to issue records management guidance to all Federal agencies (44 U.S.C. 2904 and 2905). This document provides guidance for EOP program managers, information and records managers, and other users of e-mail in the EOP on the proper means of identifying, maintaining, and disposing of Federal records that are created or received on an e-mail system. Because it may not be technologically feasible for all EOP components to manage e-mail records in the same way, this guidance also recognizes the need for flexibility in the development of records management policies and practices. Also, under special circumstances, EOP components may need to vary from certain provisions of this guidance for reasons of efficiency or adequacy of documentation. In such circumstances, the EOP component(s) may, in consultation with NARA, modify their records management practices to meet their recordkeeping requirements.

Definitions

The following definitions for terms used in this guidance are included for clarity and convenience. Most of these definitions are included in existing NARA guidance or regulations. Definitions that are new are so indicated.

- 1. Electronic Record. Numeric, graphics, text, and any other information, which may be recorded on any medium capable of being read by a computer and which satisfies the definition of a Federal record in 44 U.S.C. 3301. This includes, but is not limited to, magnetic media, such as tapes and disks, and optical disks. [36 CFR 1234.1]
- 12. Federal Records. [A]ll books, papers, maps, photographs, *machine readable materials*, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States under Federal

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law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them. (Emphasis added.)
[4 U.S.C. 3301]

- ★ Temporary Record. Any record which has been determined by the Archivist of the United States to have insufficient value (on the basis of current standards) to warrant its preservation by the National Archives and Records Administration. This determination may take the form of:
 - (a) A series of records designated as disposable in an agency records disposition schedule approved by NARA (Standard Form 115, Request for Records Disposition Authority); or
 - (b) A series of records designated as disposable in a General Records Schedule.[36 CFR 1220.14]
- ★ Permanent Record. Any Federal record that has been determined by NARA to have sufficient value to warrant its preservation in the National Archives.
[36 CFR 1220.14]
- ★ Nonrecord Material. Informational materials that do not meet the statutory definition of records (44 U.S.C. 3301), i.e., they either do not relate to Government business or are not "appropriate for preservation," or that have been excluded from coverage by the definition. Excluded materials are extra copies of documents kept only for reference, stocks of publications and processed documents, and library or museum materials intended solely for reference or exhibit.
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- ★ Recordkeeping System. Records in any media organized and maintained by an agency under a formal scheme for retrieval purposes and to meet the agency's recordkeeping requirements.
[New]
- ★ Transmission and Receipt Data.
 - (a) Transmission Data. Information in e-mail systems regarding the identities of sender and addressee(s), and the date and time messages were sent.
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- ★ System Backups. Copies on off-line storage media of software and data stored on direct access storage devices in a computer system to provide a means of recreating a system and its data in the event of unintentional loss of data or software.
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Under the statutory definition, Federal records are documentary materials that meet two tests: (1) they are *made or received* by agency personnel as part of their official duties in a Federal agency, and (2) they are *preserved or appropriate for preservation*. Documentary materials become records if the agency decides they should be filed, stored, or otherwise systematically maintained because of the evidence of agency activities or information they contain (36 CFR 1222.12).

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The first determination must be whether a message is a record or not. If a message is determined to be a record, the second step for the appropriate agency officials or records management personnel is to determine if it is a temporary or permanent record according to a records schedule approved by NARA (see the section in this guidance on DISPOSITION OF E-MAIL RECORDS).

Nonrigid Materials

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Transmission Data

Messages that are records, regardless of the media on which they are created, require some transmission data to be intelligible. Most e-mail systems in the EOP automatically capture on the message the identity of the sender and the addressee(s) and the date the message was sent. This is sufficient transmission data for the e-mail record to be complete and understandable. When the necessary transmission data is not part of the message itself, EOP components must ensure that the record messages and necessary transmission data, such as distribution lists, are both maintained in designated recordkeeping systems, either electronically or in hard copy, for the same retention period (see section entitled MAINTENANCE OF FEDERAL RECORDS CREATED BY AN E-MAIL SYSTEM below).

In determining what information in e-mail systems is necessary for adequate documentation, EOP components should provide guidance, just as they do for paper records. For example, in some e-mail systems users are assigned identification names or codes. For systems that use such shorthand names or codes, a record linking the codes with the names of users should be retained to facilitate identification of the sender and addressee(s) of messages. Depending on system capability, this list may be maintained electronically or in hard copy, and like a telephone directory, may be maintained as a separate record from the e-mail message. Like a telephone book, the user list or directory will be updated frequently. Each version of the lists or directories linking names of e-mail users and system codes is a record and must be kept.

Receipt Data

Some e-mail systems also provide the message originators with the ability to request acknowledgements or receipts noting that messages reached the mailbox or in-box of each addressee. In most cases these would not be necessary for adequate and proper documentation of agency activities, just as return receipts are rarely necessary for letters sent by regular mail. As EOP components may consider such receipts for certain types of record messages to be necessary, they should issue guidance for e-mail users concerning when to request receipts or acknowledgements for recordkeeping purposes. When appropriate under agency guidelines, therefore, users should request receipts or acknowledgements and follow agency procedures for maintenance in official recordkeeping systems, either electronic or paper. Any receipt generated for recordkeeping purposes should be accessible along with the related message and kept for the same period of time.

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Other Data

Many e-mail systems have a variety of additional features that may be used to generate Federal records. Indexes, lists, or logs of messages that are part of electronic communications systems may or may not be Federal records, depending on the nature of the information they contain and their potential uses. EOP components should separately assess the Federal record status of all features on these systems in accordance with existing records schedules or ones to be developed.

External Communications Systems

NARA recognizes that there are electronic communications systems external to the government, such as Internet, that are being accessed by employees of some government agencies, including the EOP components. These communications systems have established protocols for their use. This guidance is not intended to suggest a change in those protocols, to discourage use of these communications, or to impose significant burdens on users of these communications. At the same time, the EOP components need to ensure that Federal records being created on these systems are being preserved and that reasonable steps are being taken to capture whatever transmission data is available under the protocols used for these systems.

Maintenance of Federal Records Created by an E-mail System

Agencies must manage all Federal records, including those created using an e-mail system. Because e-mail systems can be used to create and record such a wide variety of record and nonrecord messages, EOP components must implement mechanisms and procedures to ensure that all Federal records are identified, their status as temporary or permanent records is clearly indicated, and that they are kept in official agency recordkeeping systems. E-mail messages that are Federal records may be retained in electronic format or printed and maintained in hard copy files until expiration of their authorized retention periods. There is no statutory requirement that records be maintained in a particular medium, and EOP components have the option of deciding which method of recordkeeping best matches their capabilities and meets their needs. Regardless of the medium used to maintain e-mail records, the entire record including transmission and receipt data necessary for adequacy of documentation must be maintained for the scheduled retention period. In addition, EOP components should ensure that records are maintained in a way that allows for retrieval and use for agency purposes. Permanent records should be maintained in a system that not only allows agency use, but permits efficient transfer to the National Archives.

Maintenance on the E-Mail System

E-mail systems are generally designed for convenient and efficient internal agency communications and not as a system for the storage of agency records. In order to maintain

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instantaneous communications capability without increasing hardware capacity, these systems tend to limit the number of messages that can accumulate on the system. Consequently, most systems are designed to maintain messages for a short period of time, and may have automatic "delete" features. Because e-mail systems usually do not anticipate maintaining messages for retention periods generally approved for records, record messages should be copied or moved to an official recordkeeping system for maintenance and disposition, and only nonrecord messages and very short-term messages that are temporary Federal records should be retained solely on the e-mail system.

Maintenance in an Electronic Recordkeeping System

Some agencies may have sufficient resources and technological capability to maintain e-mail records in an electronic storage format other than on the on-line e-mail system. This affords certain advantages. The electronic version may be more easily searched and manipulated and is more easily accessible to multiple staff members at the same time than records in hard copy. The electronic media may provide a more efficient method to store records.

Agencies that decide to maintain the record messages in electronic form should move or copy all but the most short-term messages to an electronic system that is a designated recordkeeping system. The electronic recordkeeping system should be designed to allow segregation of permanent and temporary records and should be adequate to maintain projected volumes of records for their authorized retention periods, including appropriate retention periods for various types of temporary records, as well as permanent records. If a component decides to maintain e-mail records off-line, it must store them on a reliable medium under appropriate conditions, and with adequate documentation to allow the records to be retrieved and read.

Tapes generated for system backups are merely mirrors of storage disks with data and documents scattered throughout as they are on the disks themselves, and are meant to provide only a means of recreating a system and its data in the event of an emergency. EOP components, therefore, should not rely on system backups as their official recordkeeping system because their format and design do not allow ease of access or retrievability. In addition, system backups are not acceptable as a means to transfer permanent records to NARA. (For more information on transferring permanent electronic records to NARA, see 36 CFR 1228.188.) EOP components must establish a suitable record storage method, as specified in this guidance, to protect e-mail records appropriately.

Maintenance in Hard Copy

Rather than maintain records electronically, an EOP component may decide that hard copy retention best meets its operational needs. In this case the component should instruct e-mail users to print messages that are Federal records. When messages are printed for recordkeeping purposes, they should be maintained according to the same procedures used for other

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paper records. Advantages of this approach are the ease of segregation of permanent and temporary messages for separate filing in appropriate records series, and the opportunity it provides to file e-mail messages with related documents created by other means. For example, e-mail messages could be incorporated into case files that contain all other relevant documentation of the transaction. EOP components may decide to maintain e-mail on paper until a satisfactory electronic recordkeeping system is developed.

Disposition of E-Mail Records

Materials that are Federal records under the law may not be destroyed without the approval of the National Archives and Records Administration (44 USC 3303a). NARA authorizes records disposition through two mechanisms: the General Records Schedules developed by NARA to schedule records common to most or all Federal agencies, and approval of schedules developed by agencies for records unique to the agency. To request approval, agencies submit to NARA records schedules that describe and propose the disposition (retention period) of each series of records they create or acquire. The authorization process employed by NARA involves records appraisal, i.e., determination of the future research or other value of the records. Most Federal records are appraised as temporary and authorized for disposal at the expiration of the retention period specified in the disposition schedule. A small proportion of Federal records are appraised as permanent because they provide significant evidential information about the agency's programs and accomplishments or because they contain information of continuing value for historical or other research. These permanent records are scheduled for transfer to the National Archives after they have served the needs of the creating agency.

E-mail records will have varying retention periods, based on their content, use, purpose, and level of the creating staff member. NARA will appraise the records after they have been placed in an official recordkeeping system and will determine how long they must be retained by the EOP. The appraisal will be done whether the records are being maintained electronically or in hard copy. When e-mail records have been transferred to an official paper recordkeeping system, the documents that remain on the e-mail system may be deleted in accordance with General Records Schedule 23, item 2. If e-mail records have not been printed on paper and appropriately maintained, or if they have been copied to an electronic recordkeeping system, they may not be deleted from the on-line e-mail system until a schedule has been approved by NARA authorizing their disposal.

Integrity of E-Mail Records

Agencies should take adequate measures to protect records in e-mail systems. Protective measures should ensure that Federal records are not altered or deleted except in accordance with authorized records schedules. Agencies should regularly back up messages stored on-line to off-

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line media in order to guard against system failures or inadvertent erasures. Normally, Federal records should not be maintained exclusively on backups.

Training Employees

Because Federal records may be created using an e-mail system, each agency using e-mail must ensure that all employees are familiar with the legal requirements for creation, maintenance, and disposition of Federal records. EOP components must provide training and guidance to employees using e-mail so that messages are accurately categorized.

NARA will provide guidance and assistance to agencies in preparing training for staff members.

Monitoring Implementation of Recordkeeping Guidance for the E-Mail System

EOP components have the responsibility for reviewing the implementation of guidance concerning records to ensure that e-mail users are accurately identifying record messages and following guidance concerning preservation of transmission and receipt data and instructions on maintenance of e-mail records. Monitoring consists of conducting periodic staff interviews and internal records management evaluations (36 CFR 1220.54) of the e-mail and electronic or paper recordkeeping systems to ensure that proper determinations of record status are being made, that receipts are requested when appropriate, that record messages are being properly maintained, that permanent and temporary messages are being kept separately, and that temporary records are disposed of according to approved schedules and nonrecord messages are deleted.

Summary of Guidance

In summary, regardless of the medium in which the records are maintained for EOP components to satisfy statutory and regulatory requirements for records creation, maintenance, and disposition pertaining to e-mail, the components must ensure that:

- Users properly identify messages that are Federal records.
- Record messages are copied or moved to an official recordkeeping system.
- The identities of message originators and all addressees, and the date sent, are retained with the message or in a way that can be associated with the message either in electronic or paper form.

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- Receipts or acknowledgements are maintained when they are considered necessary for adequate documentation of the transaction, and when the system has this feature.
- Messages are only deleted in accordance with a schedule approved by NARA after the record messages have been copied to an electronic or paper record-keeping system or they are no longer required by the agency.
- Nonrecord messages are deleted.
- Access is provided to messages and to associated transmission data and any receipt data determined to be needed for adequate documentation.

EOP components can ensure that the above measures are implemented if they:

- Provide guidance and training to all staff concerning determination of record status of e-mail messages.
- Establish policies and procedures concerning maintenance and disposition of e-mail messages that are records, including ensuring that messages are maintained in a system that continues their availability until the expiration of the approved retention period or transfer to the National Archives.
- Advise message originators to request a receipt or acknowledgement for Federal records when receipt information is necessary for complete and accurate documentation of agency activities, when the system has this feature.
- Monitor staff compliance with the guidance and instructions for identifying and maintaining e-mail records.

E-mail systems provide unprecedented communications convenience for the EOP components. However, the EOP components should take precautions to ensure that there is no diminution of the records of an agency resulting from the use of e-mail. E-mail systems in many EOP components have become important tools for the transmission of substantive information; they now are used to create Federal records. Consequently, EOP components must take special care that employees understand their responsibilities when using e-mail to ensure the adequate creation, maintenance, and proper disposition of Federal records.

* 100%



read receipts

* internet

To: Marianne Smith

National Archives



Date : September 21, 1993

Reply to :
Attn of : NSX

Subject : Restoration of Files in Armstrong v. EOP et al.

To : Miriam Nisbet

John - This is the memo you requested - and it is not complete - it is difficult to understand why has not discussed Philadelphia possibility or known resources. Miriam is trying to wrap up this.

Washington, DC 20408

On behalf of the White House, you have requested estimates for the costs of processing the e-mail files in the Armstrong v. EOP case. I take this processing to include (1) restoration of application files from the backup tapes and (2) additional processing required to retrieve e-mail messages and related data and output them in a form that can be read by a person. Costs were estimated for this processing. Note that these estimates do not cover any review to identify Federal or Presidential records, or for restrictions. Rather the processing covered by these estimates is prerequisite to such review.

In the abstract, there are three options for performing the restoration: (a) NARA, (b) the originating agencies, (c) contract. The third option was analyzed in two scenarios: one assuming an existing contract under which the contractor has access to appropriate systems, the second assuming that a newly awarded contract would require acquisition of systems.

A caveat is in order. The Center for Electronic Records does not have any basis in experience for estimating these costs. The Center has never operated a system comparable to any of those required for this processing, nor have we ever performed any processing resembling that required to restore, locate, extract and output user files, such as those in the PROFS and All-in-One systems. WHCA has provided most of the data that is the basis of these estimates in the form of costs for their current IBM and DEC systems and declarations by knowledgeable WHCA staff, principally Sgt. M. Jolly. Nonetheless, I take full responsibility for these estimates and ask that they be taken for what they are: rough estimates.

The estimates, tabulated in Table 1, attached, range from a low of approximately \$1,000,000 for processing by the agencies of origin or under existing contract, to a high of approximately \$8,000,000 for processing under new contracts. The remaining 9 tables which are attached, provide the basis for the figures in Table 1.

Each option has pros and cons.

(a) NARA

Pros:

NARA is a neutral organization vis-a-vis the contents of the files. We have no interest in whether the files provide evidence of culpability or innocence or whether the files contain anything that anyone might wish to hide. Our interest is in the integral preservation of the records,

Cons:

NARA has no experience in performing such restoration; no equipment capable of executing the processes required; and no specific knowledge of the hardware or software used to create the backups and necessary for restoration of files.

NARA's start-up time before we could begin to perform restoration in a production mode would probably be the longest of the three options. It is unlikely that NARA could start actual restoration before May, 1994.

Assignment of this task to NARA would require drastic cutbacks, if not suspension, of work on the accessioning, preservation and access to the permanently valuable electronic records of the Federal Government.

(b) Originating Agencies (NCS, WNCA, EOP/OA)

Pros:

The originating agencies have the equipment, experience and knowledge required to perform the restoration.

Startup time would probably be the shortest.

Cons:

For any sizeable volume of restoration work, the workload could have severe and even crippling impact on the agency's ability to support current operations.

(c) Contract

Pros:

Doing the work under contract would eliminate the conflict with current operations in all agencies.

If the agency has a contract in place that could be modified to include the restoration, startup time could be relatively short.

Candidate contracts would include any contract for operational support and any contract for a disaster recovery site.

Under any existing contract, the contractor should have access to and familiarity with the system.

Cons:

If an agency does not have access to an existing contract, the startup time to production could be longer than 6 months.

This is probably the most expensive alternative in terms of cash outlays over the short term.

Any new contractor would have to pay the same costs for the necessary hardware and software as NARA.

A handwritten signature in cursive script, reading "Kenneth Thibodeau".

KENNETH THIBODEAU
Director
Center for Electronic Records

Table 1
SUMMARY OF COST ESTIMATES
RESTORATION AND OUTPUT OF COMPUTER FILES

Sep 21, 1993

Cost Factor	Option			
	NARA	Agency	Existing Contract	New Contract
A. All Items Transferred to NARA in January 1993				
(1) Output to Paper				
System	3,471,745	1,235,866	1,235,866	3,471,745
Personnel	985,920	486,720	1,404,000	2,844,000
OverHead	891,533	344,517	527,973	1,263,149
Total:	5,349,198	2,067,103	3,167,839	7,578,894
(2) Output to Magnetic Tape				
System	2,893,851	473,502	473,502	2,893,851
Personnel	858,000	405,600	1,170,000	2,475,000
OverHead	750,370	175,820	328,700	1,073,770
Total:	4,502,222	1,054,923	1,972,203	6,442,622
B. Selected Items Transferred to NARA in January 1993				
(1) Output to Paper				
System	3,087,443	1,441,367	1,441,367	3,087,443
Personnel	657,280	324,480	324,480	1,896,000
OverHead	748,945	353,169	353,169	996,689
Total:	4,493,667	2,119,017	2,119,017	5,980,131
(2) Output to Magnetic Tape				
System	2,753,122	534,942	534,942	2,753,122
Personnel	486,720	216,320	216,320	1,404,000
OverHead	647,968	150,252	150,252	831,424
Total:	3,887,811	901,514	901,514	4,988,547
C. SUMMARY				
Minimum Cost	3,887,811	901,514	901,514	4,988,547
Maximum Cost	5,349,198	2,067,103	3,167,839	7,578,894

Table 2

Cost Estimates: Full System

RESTORATION AND OUTPUT OF COMPUTER FILES on ALL ITEMS

Transferred to NARA

Sep 20, 1993

2.A: Configured for Output to Paper

COST FACTOR	IBM ES 9000	SYSTEM		TOTAL
		VAX 8600	VAX 6xx0	
Hardware & Software	1,319,000	472,000	640,000	2,906,000
Actual	1,794,000	400,000		
Minimal	1,319,000			
Installation & Site Prep	38,232	13,681	12,606	60,838
Actual	52,000	10,000		
Minimal	38,232			
Maintenance	180,307	126,600	198,000	504,907
Actual per annum	74,400			
Minimal per annum	60,102			
Subtotal:	1,537,539	612,281	850,606	3,471,745

2.B: Configured for Output to Magnetic Tape

COST FACTOR	IBM ES 9000	SYSTEM		TOTAL
		VAX 8600	VAX 6xx0	
Hardware & Software	1,175,000	400,000	438,500	2,488,500
Actual	1,650,000	400,000		
Minimal	1,175,000			
Installation & Site Prep	34,058	12,606	12,606	56,664
Actual	52,000	10,000		
Minimal	34,058			
Maintenance	146,187	64,000	100,000	310,187
Actual per annum	54,000			
Minimal per annum	48,729			
Subtotal:	1,355,245	476,606	551,106	2,855,351

List of Notes:

E9: SYSTEM

SYSTEMS

At least three system configurations are deemed necessary to process the it transferred to NARA: one IMB system and two DEC VAX systems. It is assumed the IBM system could be reconfigured to process the 32 cartridges of EOP/OA PROFS files from the Reagan administration.

A10: COST FACTOR

Cost Factor:

Costs for systems acquisition, installation and maintenance were estimated on data received from WHCA on both IBM and VAX systems operated by the agen Costs for the second VAX system, necessary for processing tapes from the EO are assumed to be the same as those of the WHCA VAX.

E16: $E12 * C17 / C13$

Installation & Site Preparation:
VAX systems

Actual costs are known only for installation. Site preparation estimate wa produced by multiplying the cost of the VAX system by the ratio of (install + site preparation) to the system cost of the ES 9000.

Table 3

Cost Estimates: Full System

RESTORATION AND OUTPUT OF COMPUTER FILES on SELECTED ITEMS

Transferred to NARA

Sep 20, 1993

3.A: Configured for Output to Paper

COST FACTOR	IBM ES 9000	SYSTEM VAX 8600	VAX 6xx0	TOTAL
Hardware & Software	1,319,000	424,000	472,000	2,690,000
Actual	1,794,000	400,000		
Minimal	1,319,000			
Installation & Site Prep	38,232	12,290	12,606	60,838
Actual	52,000	10,000		
Minimal	38,232			
Maintenance	120,205	84,400	132,000	336,605
Actual per annum	74,400			
Minimal per annum	60,102			
Subtotal:	1,477,437	520,690	616,606	3,087,443

3.B: Configured for Output to Magnetic Tape

COST FACTOR	IBM ES 9000	SYSTEM VAX 8600	VAX 6xx0	TOTAL
Hardware & Software	1,175,000	400,000	438,500	2,488,500
Actual	1,650,000	400,000		
Minimal	1,175,000			
Installation & Site Prep	34,058	12,606	12,606	56,664
Actual	52,000	10,000		
Minimal	34,058			
Maintenance	97,458	32,000	40,000	169,458
Actual per annum	54,000			
Minimal per annum	48,729			
Subtotal:	1,306,516	444,606	491,106	2,714,622

Table 4
Costs Estimates for Incremental System
RESTORATION AND OUTPUT OF COMPUTER FILES for All Items
Transferred to NARA Sep 21, 1993

Cost Factor	SYSTEM			TOTAL
	ES 9000	VAX 8600	VAX 6xx0	
A. Configured for Output to Paper				
Hardware & Software				
DASD	57,998	57,998	57,998	
Tapes Drive	14,000	14,000	14,000	
Cartridge Drive	38,563	38,563	38,563	
Line Printer	165,620	94,640	260,260	
Dumb terminal	388	388	388	
Acquisition Subtotal:	276,569	205,589	371,209	853,366
Installation	8,020	5,962	10,765	24,748
Maintenance				
DASD	2,986	2,986	2,986	
Tapes Drive	3,476	3,476	3,476	
Cartridge Drive	7,925	7,925	7,925	
Line Printer	24,095	13,769	37,864	
Dumb terminal	120	120	120	
Maintenance Subtotal:	115,809	84,829	157,115	357,753
TOTAL:	400,398	296,380	539,089	1,235,866
B. Configured for Output to Magnetic Tape				
Hardware & Software				
DASD	57,998	57,998	57,998	
Tapes Drive	14,000	14,000	14,000	
Cartridge Drive	38,563	38,563	38,563	
Line Printer	23,660	23,660	23,660	
Dumb terminal	388	388	388	
Acquisition Subtotal:	134,609	134,609	134,609	403,826
Installation	8,020	3,904	3,904	15,828
Maintenance				
DASD	2,986	2,986	2,986	
Tapes Drive	3,476	3,476	3,476	
Cartridge Drive	7,925	7,925	7,925	
Line Printer	3,442	3,442	3,442	
Dumb terminal	120	120	120	
Maintenance Subtotal:	17,950	17,950	17,950	53,849
TOTAL:	160,579	156,462	156,462	473,502

Table 5
Costs Estimates for Incremental System
RESTORATION AND OUTPUT OF COMPUTER FILES for Selected Items
Transferred to NARA Sep 21, 1993

Cost Factor	SYSTEM			TOTAL
	ES 9000	VAX 8600	VAX 6xx0	
A. Configured for Output to Paper				
Hardware & Software				
DASD	57,998	57,998	57,998	
Tapes Drive	14,000	14,000	14,000	
Cartridge Drive	38,563	38,563	38,563	
Line Printer	165,620	47,320	94,640	
Dumb terminal	388	388	388	
Acquisition Subtotal:	276,569	158,269	205,589	640,426
Installation	8,020	4,590	5,962	18,572
Maintenance				
DASD	2,986	2,986	2,986	
Tapes Drive	3,476	3,476	3,476	
Cartridge Drive	7,925	7,925	7,925	
Line Printer	168,668	27,538	151,457	
Dumb terminal	120	120	120	
Maintenance Subtotal:	366,351	84,090	331,929	782,370
TOTAL:	650,940	246,949	543,479	1,441,367
B. Configured for Output to Magnetic Tape				
Hardware & Software				
DASD	57,998	57,998	57,998	
Tapes Drive	14,000	14,000	14,000	
Cartridge Drive	38,563	38,563	77,126	
Line Printer	23,660	23,660	23,660	
Dumb terminal	388	388	388	
Acquisition Subtotal:	134,609	134,609	173,172	442,389
Installation	3,904	3,904	5,022	12,829
Maintenance				
DASD	2,986	2,986	2,986	
Tapes Drive	3,476	3,476	3,476	
Cartridge Drive	7,925	7,925	15,851	
Line Printer	3,442	3,442	3,442	
Dumb terminal	120	120	120	
Maintenance Subtotal:	35,899	17,950	25,875	79,724
TOTAL:	174,412	156,462	204,068	534,942

Table 6
Cost Estimates: PERSONNEL
RESTORATION AND OUTPUT OF COMPUTER FILES

Sep 21, 1993

Government Operation	SYSTEM			
	ES 9000	VAX 8600	VAX 6xx0	TOTAL
Full System				
Annual Costs	158,080	85,280	85,280	
All Items Transferred to NARA				
Output to Paper	474,240	255,840	255,840	985,920
Output to Magnetic Tape	474,240	170,560	213,200	858,000
Selected Items Transferred to NARA				
Output to Paper	316,160	170,560	170,560	657,280
Output to Magnetic Tape	316,160	85,280	85,280	486,720
Incremental System				
Annual Costs	54,080	54,080	54,080	
All Items Transferred to NARA				
Output to Paper	162,240	162,240	162,240	486,720
Output to Magnetic Tape	162,240	108,160	135,200	405,600
Selected Items Transferred to NARA				
Output to Paper	108,160	108,160	108,160	324,480
Output to Magnetic Tape	108,160	54,080	54,080	216,320
Contractor Operation				
Full System				
Annual Costs	456,000	246,000	246,000	
All Items Transferred to NARA				
Output to Paper	1,368,000	738,000	738,000	2,844,000
Output to Magnetic Tape	1,368,000	492,000	615,000	2,475,000
Selected Items Transferred to NARA				
Output to Paper	912,000	492,000	492,000	1,896,000
Output to Magnetic Tape	912,000	246,000	246,000	1,404,000
34				
Incremental System				
Annual Costs	156,000	156,000	156,000	
All Items Transferred to NARA				
Output to Paper	468,000	468,000	468,000	1,404,000
Output to Magnetic Tape	468,000	312,000	390,000	1,170,000
Selected Items Transferred to NARA				
Output to Paper	108,160	108,160	108,160	324,480
Output to Magnetic Tape	108,160	54,080	54,080	216,320

Table 7
Cost Estimates: PERSONNEL
ANNUAL OPERATIONS

Sep 21, 1993

A. FULL SYSTEM OPERATION

	Government	Contractor	SYSTEM		
			IBM ES 9000	VAX 8600	VAX 6xx0
Personnel Required	Hourly	Rate	Number Required		
Computer Programmer	20	58	1	0	0
Systems Programmer	26	75	1	1	1
Computer Operator	15	43	2	1	1
Government			Annual Costs		
Computer Programmer			41,600	0	0
Systems Programmer			54,080	54,080	54,080
Computer Operator			62,400	31,200	31,200
		Total:	158,080	85,280	85,280
Contractor			Annual Costs		
Computer Programmer			120,000	0	0
Systems Programmer			156,000	156,000	156,000
Computer Operator			180,000	90,000	90,000
		Total:	456,000	246,000	246,000

B. INCREMENTAL SYSTEM OPERATION

	Government	Contractor	SYSTEM		
			IBM ES 9000	VAX 8600	VAX 6xx0
Personnel Required	Hourly	Rate	Number Required		
Systems Programmer	26	75	1	1	1
			Annual Costs		
Government			54,080	54,080	54,080
Contractor			156,000	156,000	156,000

Table 8
SYSTEM PROCESSING TIMES
Restore, Locate, Extract and Output User Files in
Items Transferred from EOP & NSC to NARA

MEDIUM	100 MB Per Item	HOURS					
		All Items	Selected Items	All		Selected	
				Output to Paper	Output to Tape	Output to Paper	Output to Tape
cassette, 4 mm	20.00	18	18	6,613	900	6,613	900
hard drive	0.65	161	161	1,922	262	1,922	262
System 1							
3480 cartridge	1.20	1,607	1,155	35,425	4,821	25,461	3,465
6250 CPI reel	1.00	359	258	6,595	898	4,739	645
		System Total:		42,020	5,719	30,200	4,110
System 2							
6250 CPI reel	1.00	702	71	12,896	1,755	1,304	178
cassette, 8 mm	10.00	65	24	11,941	1,625	4,409	600
		System Total:		24,836	3,380	5,713	778
System 3							
cassette, 8 mm	10.00	33	2	6,062	825	367	50
3480 cartridge	1.20	2,924	485	64,457	8,772	10,691	1,455
		System Total:		70,519	9,597	11,059	1,505

	Work Days			
cassettes 4 mm	827	113	827	113
hard drive	240	33	240	33
System 1	5,252	715	3,775	514
System 2	3,105	423	714	97
System 3	8,815	1,200	1,382	188

	Years			
cassettes 4 mm	3	0	3	0
hard drive	1	0	1	0
System 1	20	3	15	2
System 2	12	2	3	0
System 3	34	5	5	1

Table 9
UNIT PROCESSING TIMES
RESTORE, LOCATE, EXTRACT and OUTPUT

MEDIUM	100 MB per Volume	Hours to				Total PROCESSING HOURS Per Unit	
		Restore	Locate/ Extract	Output to Paper	Output to Tape	With Output to Paper	With Output to Tape
100 Megabytes	1.00	0.33	2.00	16.04	0.17	18.37	2.50
hard drive	0.65	0.0	1.3	10.4	0.1	11.73	1.41
6250 cpi reel	1.00	0.3	2.0	16.0	0.2	18.37	2.50
3480 cartridge	1.20	0.4	2.4	19.3	0.2	22.05	3.00
8 mm	10	3.3	20.0	160.4	1.7	183.72	24.97
4 mm	20	6.6	40.0	320.8	3.3	367.43	49.93

List of Notes:

C14: "Volume

Unit volume expresses the amount of data that can be stored on a unit volume of the medium divided by the storage capacity of a reel of tape at 6250 CPI.

F14: "Extract

Access includes locating relevant logical files on disk and extracting them for output.

E16: 0.33

Per unit restoration time based on the sixth Declaration of M. Jolly, estimate at 20 min/tape or 0.33 hr. Estimate includes locating, mounting, and restoration to disk.

F16: 2

Hours to access user files on one unit volume is estimated on the basis of the longest retrieval process described in the 6th declaration of M. Jolly; i.e., the location and extraction of documents and document indexes. It is assumed that other access, to e-mail and calendars would proceed in parallel with document access.

G16: $100000000 \times 0.77 / (4000 \times 20 \times 60)$

Print speed estimated using a high speed (20 p. per minute) printer, and accepting WHCA's finding, reported in M. Jolly's 1st declaration, that the volume of print of user data is 0.77 of the maximum storage capacity of the media. The remaining storage capacity is assumed to be used by control codes.

$(100,000,000 \text{ MB} \times 0.77 \text{ user data}) / (3000 \text{ char per page} \times 20 \text{ pp. per min} \times 60 \text{ min. per hr}) =$

C18: .65

Hard drive at 50 megabytes per unit.

C21: 10

8 mm cassette at 1 megabyte per unit.

C22: 20

4 mm cassette at 2 megabytes per cassette.

Table 10
 SYSTEM PROCESSING REQUIREMENTS
 Items Transferred from EOP & NSC to NARA

MEDIUM	AGENCY	Era	Items All	Selected
cassettes 4 mm	WHSR	Bush	18	18
hard drives	NSC & OVP	Bush	161	161
System 1				
3480 cartridge	WHCA	Bush	1,575	1,123
3480 cartridge	OA	Reagan	32	32
6250 CPI reel	WHCA	Reagan	359	258
	System subtotal		1,966	1,413
System 2				
3480 cartridge	OA	Bush	2,924	485
6250 CPI reel	WHSS	Reagan	89	65
6250 CPI reel	WHCA	Reagan	451	4
6250 CPI reel	WHCA	Bush	162	2
cassettes 8 mm	WHSS	Bush	65	24
	System subtotal		3,691	580
System 3				
3 cassettes 8 mm	WHCA	Bush	33	2
TOTAL			5,869	2,174
Other				
	WHCA copies		129	
	Tower Commission		6	
GRAND TOTAL			6,004	

List of Notes:

C33: WHCA copies

WHCA copies:

129 cartridges containing copies of 188 reels of Reagan PROFS computer backups.

C34: Tower Commission

Tower Commission:

Presidential records including 3 reels shipped to NARA in NSC-WHCA PROFS backups from Reagan era, and 3 disc packs from NSC.

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September 24, 1993

OFFICE OF ADMINISTRATION DIRECTIVE

SUBJECT: The OASIS ALL-IN-1 Electronic Communication System and
Federal Records Procedures

Introduction

1. **Purpose.** To establish records management objectives and responsibilities for the creation, maintenance, use, and disposition of Federal records on the OASIS ALL-IN-1 system.
2. **Personnel Concerned.** All OASIS ALL-IN-1 users with federal records responsibilities.
3. **Directive or Bulletin Cancelled.** None; paragraph 7.b of LISD Directive .04-0, "Records Management Program," is replaced by this Directive.
4. **Authority.** 44 U.S.C. Chapters 21, 29, 31, and 33; 36 CFR Parts 1220, 1222, 1228, and 1234; and 1993 NARA Guidance, on Managing Federal Records on Electronic Mail Systems in the Executive Office of the President.
5. **Originator.** Information Management Division
6. **Review.** Annually, whenever substantive modifications to ALL-IN-1 are contemplated, or before any new electronic communications systems are accessed by EOP agency users.

[Director of the Office of Administration signature and date]

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OVERVIEW

1. Purpose.

To establish policy, responsibilities, guidelines, requirements, and procedures for the preservation of Federal records created and transmitted on the OASIS ALL-IN-1 system within the federal agencies of the Executive Office of the President.

This directive supersedes previous records management instructions on Federal records on electronic communications (e-mail) systems, in accordance with recent court opinions and orders, and with current National Archives and Records Administration guidance formulated specifically for the EOP in light of these orders and opinions.

2. Definitions.

Basic records management terms are defined in OA Directive LISD.04-0 (44 U.S.C. 3301). The definitions listed below are specific to the purpose of this directive.

- a. **Electronic Communication System/Electronic Messaging System.** As used in this directive, this term refers to the electronic mail (e-mail) application available to users of OASIS ALL-IN-1. This application allows users to send electronic mail or messages to another individual or individuals. It also provides for electronic conferencing, whereby a group of individuals interact through the e-mail function for such purposes as coordinating development of policies, drafting of documents, or project planning. E-mail does not encompass file transfer utilities (software that transmits files between users but does not retain transmission data). Nor does it cover data systems that are used primarily to collect and process data which have been organized into data files or databases on either networked personal computers or mainframe computers.
- b. **Electronic Records.** This term includes numeric, graphics, and text information, which may be recorded on any medium capable of being read by a computer and which satisfies the definition of a Federal record in 44 U.S.C. 3301. This includes, but is not limited to, magnetic media, such as tapes and disks, and optical disks.
- c. **Electronic Records System.** This term means any information system that produces, manipulates, or stores Federal records by using a computer.
- d. **Federal Records.** As defined in the law (44 U.S.C. 3301), Federal records are:

[A]ll books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them.

The phrase "regardless of physical form or characteristics" means that the records may be paper, film, disk, or any other physical type or form; and that the method used to record information may be manual, mechanical, photographic, electronic, or any combination of these or other technologies.

Under this definition, Federal records are documentary materials that meet two tests. They are *made or received* by agency personnel as part of their official duties in a Federal agency, and they are *appropriate for preservation* because they document the agency's essential activities or contain information of value to the agency. Documentary materials, whether in paper or electronic form, are Federal records when they meet both tests.

- e. **Temporary Record.** Any record which has been determined by the archivist of the United States to have insufficient value (on basis of current standards) to warrant its preservation by the National Archives and Records Administration. This determination may take the form of:
 - (1) A series of records designated as disposable in an agency records disposition schedule approved by NARA (Standard Form 115, Request for Records Disposition Authority); or
 - (2) A series of records designated as disposable in a General Records Schedule. (36 CFR 1220.14)
- f. **Permanent Record.** Any Federal record that has been determined by NARA to have sufficient value to warrant its preservation in the National Archives. (36 CFR 1220.14)
- g. **Nonrecord Material.** U.S. Government-owned documentary materials, other than Presidential records, that do not meet the statutory definition of Federal records (44 U.S.C. 3301), or that have been excluded from coverage by the definition. Excluded materials are:

- (1) Extra copies of documents preserved only for convenience of reference.
 - (2) Stocks of publications and of processed documents. However, each agency must create and maintain records sets of processed documents and publications, including annual and special reports, directives, special studies, brochures, pamphlets, books, handbooks, manuals, and posters.
 - (3) Library and museum materials made or acquired and preserved solely for reference or exhibition purposes.
- h. **Records Schedule.** A document describing and providing instructions for the disposition of Federal records. Its consists of one of the following:
- (1) An SF 115, Request for Records Disposition Authority, that has been approved by NARA to authorize the disposition of Federal records;
 - (2) A General Records Schedule (GRS) issued by NARA; or
 - (3) A printed agency manual or directive containing the records descriptions and disposition instructions approved by NARA on one or more SF 115s or issued by NARA in the GRS. (36 CFR 1220.14)
- i. **General Records Schedules.** Schedules authorizing the disposal, after the lapse of specified periods of time, of records of a specified form or character common to several or all agencies if such records will not, at the end of the periods specified, have sufficient administrative, legal, research, or other value to warrant their further preservation by the United States Government. (44 U.S.C. 3303a(d))
- j. **Recordkeeping System.** Records in any media organized and maintained by an agency under a formal scheme for retrieval purposes and to meet the agency's recordkeeping requirements.
- k. **Transmission and Receipt Data.**
- (1) **Transmission Data.** Information in e-mail systems regarding the identities of sender and addressee(s), date and time messages were sent.
 - (2) **Receipt Data.** Information in e-mail systems regarding date and time of receipt of a message,

and acknowledgement of receipt and/or access by addressee(s).

1. **System Backups.** Copies on off-line media of software or data stored on direct access storage devices in a computer system to provide a means of recreating a system and its data in the event of unintentional loss of data or software.
- m. **Records Liaison.** Individual designated to oversee records management procedures for the agency.

THE ELECTRONIC MESSAGING (E-MAIL) SYSTEM

3. Policy.

The official medium for maintaining Federal records created on OASIS ALL-IN-ONE in EOP agencies is hardcopy (paper). The OASIS ALL-IN-1 System at the present will not be used to store Federal records. The Electronic Messaging (EM) function on the All-IN-1 is not designed to replace agencies' existing paper files. Consequently, e-mail users of the ALL-IN-1 system must follow the procedures specified below.

The Office of Administration is developing an electronic recordkeeping system for storage, retrieval and disposition of electronic messages that are determined to be Federal records. However, until certain programming, policy, and procedural matters are resolved, all users should follow the steps listed above to ensure that all e-mail documents that meet the definition of Federal records are printed according to these instructions and incorporated into official paper files.

4. Identifying E-Mail Documents That Are Federal Records.

- o E-mail messages (and attachments) are documentary materials that meet two tests. They are *made or received* by agency personnel as part of their official duties in a Federal agency, and they are *appropriate for preservation* because they document the agency's essential activities or contain information of value to the agency.
- o E-mail *received* by agency personnel are Federal records when they are collected or accepted in the course of official business. The materials may have been sent by other agency units, other Federal agencies, private citizens, contractors, or others.

- o When determining whether e-mail messages are Federal records, keep in mind that multiple copies of documents may all be records if they are used for different purposes in the conduct of official business or filed in different files. In other words, more than one office may take action or otherwise use copies of a document. The copy would be a record in each of those offices.
- o Certain informal documents may be Federal records. E-mail messages that document policy development, significant decisions, major activities, or other matters basic to an understanding of the agency and its role in Government operations, should be considered Federal records. Such records should be maintained in official files if they were circulated for review or clearance, and if they have been modified substantively.

5. Preserving E-Mail Documents That Are Federal Records.

When the user determines that an incoming or outgoing e-mail message or FAX transmitted by the EOP ALL-IN-1 system meets the criteria for Federal records, the user will:

- o Print the message and all attachments. The printed message shows the identity of the sender and the addressee(s), and the date and time the message was sent. The identity of remote addressees that are not otherwise evident (outside of OASIS) should be identified by annotating the message or attaching a list of addressees.
- o If the sender requested a "read receipt," he/she will either print the receipt and attach it to the printed message or annotate the printed message with the date and time each recipient accessed the message. Read receipts should be requested when necessary to verify that the message was accessed by the recipient.
- o Print the successful FAX confirmation message and attach it to the official file copy of the document that was sent. Annotate the confirmation message with the names of recipients.
- o Forward the printed message or file copy of the document that was FAXED to the appropriate individual for inclusion in the EOP agency's system of official files.

These actions must be taken even if the user chooses to copy or move messages for inclusion in personal paper or electronic files.

The folders feature in the e-mail system may only be used for the storage of personal materials (or copies of Federal records). Personal e-mail messages should be kept separate from copies of agency e-mail records.

6. Nonrecord e-mail messages. Messages created on the e-mail system may contain transitory or nonsubstantive information that is not needed to provide a full account of agency policies, procedures, functions, and major activities. Among these transitory nonrecord messages are requests that an individual be paged and requests submitted to the U.S. Secret Service WAVES system for clearance of visitors. All nonrecord messages may be deleted by the users when no longer needed.

OASIS ALL-IN-1 FEATURES

7. Calendars.

The ALL-IN-1 System offers a calendar option to users as part of the Desk Management function. The calendar function allows users to schedule meetings with other users including recurring meetings as well as to maintain their own official record of meetings, events, and other activities. Calendars may be displayed and printed by the day, week, or month. This function also provides users with the capability of maintaining a task or "to do" list.

Calendars and task lists created using this system may be Federal records if they meet the criteria explained in paragraphs 2d and 4 of this directive.

- o Calendars that are used only as personal schedules may not be records, even if some of the entries listed are events or meetings that relate to officials duties. If the calendar was created solely for the personal convenience of the official (and is not shared with anyone beyond one's secretary or assistant) and his or her important meetings or scheduled activities are recorded elsewhere, the ALL-IN-1 calendar may be considered nonrecord, and may be updated, changed or deleted at the individual's discretion.
- o ALL-IN-1 calendars that are maintained by high-level officials, as designated by the heads of EOP agencies, are Federal records if they contain the only record of official activities. At the beginning of each month, the previous month's calendar of high level officials determined to be Federal records will be printed and

sent to the agency records liaison for inclusion in the official filing system.

- o NARA has authorized disposal of all other individual and shared calendars determined by the creating agency to be Federal records according to the following conditions:
 - If the calendars contain substantive information relating to official activities, the substance of which has not been incorporated into official files, they must be kept for two years.
 - If the calendars document routine activities or any substantive information in them is also included in organized files, the user may change or delete information when it is no longer needed.

8. Personnel Directories. The user directory provides a short-cut for entering the recipient's name on the "TO" line of the message. In addition, users have access to an EOP Directory that contains names of individuals, their organization affiliation, room number, and telephone numbers. There is also a separate feature that allows users to create their own personal address/telephone lists for ready reference and not for circulation. These directories are nonrecord.

9. Desk Management provides access to a calculator and displays the current time at locations throughout the world (World-Wide Time). This information is nonrecord reference material.

10. Telephone messaging is available to users through either the electronic messaging or Desk Management menus. Just as with paper telephone message slips, users should ensure that they produce official records documenting the substance of important telephone messages or conversations for inclusion in agency files. The messages themselves are ordinarily not Federal Records.

11. Information Management displays commercial and other non-agency informational materials such as the news and weather. This information is nonrecord reference material.

12. The Bulletin Board broadcasts special announcements to OASIS users, such as a schedule of classroom training, blood donation drives, and health insurance open seasons. The Suggestion Box allows users to recommend changes that would better meet user needs. NARA has authorized users to delete these announcements, schedules, and suggestions when obsolete or no longer needed.

13. Users who employ the interactive training routines available on the system do not produce Federal records.

14. The User Set-Up functions of the OASIS-ALL-1 system which include changes in passwords, work locations, work hours, and calendar and date formats, as well as the log-in/log-out data and lock keyboard data, are records that NARA has authorized users to update or delete as needed.

15. System backup tapes will be recycled under GRS 20, item 8. Any Federal records that remain on the OASIS ALL-IN-1 system, after the records and appropriate transmission data have been printed for filing in official recordkeeping systems, are subject to the disposition instructions in GRS 23, item 2.

RESPONSIBILITIES

16. The head of each EOP agency will:

- o Designate those high-level officials whose OASIS ALL-IN-1 calendars may be Federal records if they contain the only records of the individual's official activities. Direct those designated high-level officials to ensure that their OASIS ALL-IN-1 calendars are printed at the end of each month and sent to the records liaison for inclusion in the agency's official file system.
- o Direct the (ir division directors or equivalent) head of each agency component to instruct all users of the OASIS ALL-IN-1 system with Federal records responsibilities to:
 - Follow procedures in paragraph 5 of this directive when the e-mail message or FAX has been determined to be a Federal record.
 - Instruct staff that it is not acceptable to transfer Federal records to their personal ALL-IN-1 folders until after they have printed out and filed the record copy along with its associated read receipt, if any.
 - Ensure that staff are properly preserving all incoming and outgoing e-mail messages, as well as any read receipts requested.
 - Request a representative segment of agency staff to print out samples of messages from their OASIS-ALL-IN-1 files for review to determine if proper designations of record and nonrecord status have been made. This review should occur within the first 60 days of this directive and annually thereafter.

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- Notify their office records liaison when employees need further training to fulfill their Federal records responsibilities.
- Conduct departure interviews with employees to assess whether they have properly printed out all Federal records for inclusion in official files.

17. The Information Management component of OA will:

- o Backup the OASIS ALL-IN-1 System as necessary. Recycle such back-up tapes according to authorized disposition schedules.
- o Consult with agency records officers whenever substantive modifications to the electronic communications system are contemplated.
- o Provide guidance and training to educate OASIS ALL-IN-1 users on records management procedures.

EOP Draft Guidance

Faces Feinick
Cair/Frankel

As of Date: 9/24/93

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Addendum: Issues Raised By NARA & EOP Draft Recordkeeping Products

Drafts reviewed: NARA draft 9/24/93
NSC draft memo 9/23/93
OA draft directive 9/24/93
OSTP draft memo 9/24/93
OMB draft supplement to manual 9/24/93
USTR draft memo 9/24/93

1. What should be the standard for requiring acknowledgement of receipts (i.e., "read receipts")? Cf. the OMB draft, incorporating a broad standard for documentation set out in NARA regulations (at 36 C.F.R. 1222.38), with narrower examples provided in guidance drafted by OSTP, NSC, et al.
2. How should agencies provide for "periodic review" by records management staff of individuals' decisions in designating e-mail as record or nonrecord material? What form of "monitoring" of individual accounts is necessary and/or desirable? NSC's draft guidance contemplates annual 10% sample of e-mail looked at by records management officers and follow-up report. OA draft directive does contemplate sampling, without parameters being defined; other drafts leave issue to be resolved.
3. What special actions need to be taken to reconcile Internet and other external system protocols to specifications of Armstrong II?
4. Should there be consistency across specific categories of information contained on various EOP "e-mail" systems, both in terms of preservation and ultimate disposition under existing NARA guidance? Examples include: treatment of 'electronic calendar functions,' record status of logs and indexes which appear on various screen, accounting data (log-on, log-off times), etc. Need to consult with NARA on whether special disposition schedules apart from GRS schedules will be required.
5. Should there be consistency in treatment of backup tape 'recycling'? What further disposition schedules, if any, are required to begin recycling?
6. In the case of OSTP, what are appropriate boundaries for creation of "presidential" vs. "federal" records? (to be coordinated with decision on NSC status).

ATTORNEY-CLIENT COMMUNICATION
ATTORNEY WORK PRODUCT
PRIVILEGED AND ~~CONFIDENTIAL~~

DETERMINED TO BE AN ADMINISTRATIVE

MARKING INITIALS: PB DATE: 5/24/98

NSC

DRAFT

~~August 26, 1993~~ACTION

MEMORANDUM FOR NSC STAFF

FROM: WILLIAM H. ITOH

SUBJECT: Electronic Communications Systems (Electronic Mail)

All National Security Council employees have ongoing responsibilities to create, maintain, and preserve records of their activities pursuant to the Federal Records Act (44 U.S.C., Chapters 29, 31, and 33) or the Presidential Records Act (44 U.S.C., sections 2201-2207). This memorandum provides guidance for fulfilling these obligations as they apply to records created on electronic communications systems.

The National Archives has defined electronic communications systems as electronic mail systems, electronic conferences, and comparable systems with similar e-mail capabilities. Within the NSC, this definition (and the guidance in this memorandum) applies to the e-mail and calendar functions of the VAX All-in-One and CC:Mail systems as well as the calendar function of the PROFS (OfficeVision) system.

The staff of the NSC create records electronically, including by the use of electronic communications systems. The NSC preserves electronic mail documents that are records by filing them electronically and transferring them to magnetic tape in a software-independent format for long term preservation. The NSC also preserves essential transmission data for these records electronically, including the full name of the sender and each addressee, plus the date and exact time of transmission, which are recorded with the text of each message. "Read receipts" that identify when a message is "opened" by each addressee also are preserved whenever requested.

Successful implementation of this policy requires each NSC employee to do three things: (1) determine the record/nonrecord status of any e-mail document at the time of creation and (2) request read receipts whenever it is important to confirm the receipt of a message by a certain time, and (3) for the time being, ensure that read receipts are preserved by printing them, attaching them to the originating message, and sending them to Records Management for filing. All other tasks associated with the proper maintenance and disposition of e-mail records will be performed by the staff of Records Management and WHSSS or WHCA.

DETERMINING RECORD STATUS

Electronic mail documents in the NSC (like all other documentary materials) fall into one of two categories: records or nonrecord materials (which includes personal materials). The only records management judgment that NSC staff must make when using e-mail is to determine whether a message is record or nonrecord in nature. Traditionally, the NSC also has distinguished federal from Presidential records and filed them separately. The legitimacy of that distinction is now in litigation. Until that question is resolved, we will retain copies of all record messages in a way that permits appropriate designation and filing of them at a later time by the staff of Records Management.

Federal or Presidential Records.

The Federal Records Act defines federal records as:

All books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States under federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them. (44 U.S.C. 3301)

Under this definition, federal records are documentary materials that satisfy two tests. First, the materials must have been created or received by agency personnel in connection with their official duties. Second, they must be appropriate for preservation as evidence of the agency's activities or because they contain information of value. Federal records may be in any physical form, including paper, film, and disk. The method used to record information may be manual, mechanical, photographic, electronic, or any combination of these or other technologies.

The Presidential Records Act defines Presidential records as:

documentary materials, or any reasonably segregable portion thereof, created or received by the President, his immediate staff, or a unit or individual in the Executive Office of the President whose function is to advise and assist the President, in the course of conducting activities which relate to or have an effect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of the President. (44 U.S.C. 2201(2))

Under this definition, Presidential records are documentary materials that meet three tests. First, the materials must have been created or received by the President, his immediate staff, or a unit or individuals in the EOP whose function it is to advise and assist the President. Second, the materials must

relate to or have an effect upon the carrying out of the President's constitutional, statutory, or other official or ceremonial duties. Third, they must not be federal records, which are specifically excluded from coverage by the Presidential Records Act.

Nonrecord or Personal Materials.

At the same time, certain types of documentary materials created within the NSC are considered "nonrecord" because they are not "appropriate for preservation" as defined in the Federal Records Act or because they are excluded from the coverage of the Presidential Records Act. For this reason, some electronic messages do not need to be filed and preserved because they are so insubstantial that they do not warrant retention, or because they are duplicative, or because they are exclusively personal in nature. Examples of electronic mail documents that are nonrecord or personal materials are those related to the following:

- Staff leave plans (which are officially documented elsewhere)
- Reminders about meetings and appointments
- Routine office procedures, such as requests to clerical staff to order supplies
- Telephone messages (unless the message contains substantive information)
- Social or ceremonial functions during office hours
- Preliminary drafts of official, logged records sent to a secretary for final preparation (unless the draft reflects policy development)
- Exclusively personal matters, such as private political or professional activities

Monitoring Record Status Designations

To assist the NSC staff in making proper record status determinations, the staff of Records Management will periodically examine a sample of all electronic mail messages, including those designated as nonrecords. The purpose of the examination is to identify any problems in interpreting the official guidance for distinguishing between record and nonrecord materials. The first of these sample inspections will take place within the next month. The staff of Records Management will report their findings to me and recommend any needed changes in current guidance or procedures.

No copies of electronic mail documents (either electronic or paper) may be removed from the NSC unless they are determined to be exclusively personal materials. If a departing staff member wishes to retain such documents, the staff of the Information Management and Disclosure Office must review the documents before authorizing their removal.

PRESERVING ELECTRONIC MAIL MESSAGES

To facilitate the preservation of e-mail messages that are records, you are asked to indicate whether the message is Record (R) or Nonrecord (N) each time you create a message. You should make that determination by following the guidelines in this memorandum for identifying federal records, Presidential records, nonrecord materials, and personal materials (a personal message should be labeled nonrecord (N)). When in doubt, designate a message as a record.

If you designate a message as a record, a copy automatically will be routed to Records Management for incorporation into the appropriate records system. All messages in individual e-mail accounts will be purged from the All-in-One and CC:Mail systems after one month, with the exception of extra copies placed in your "personal folder" because they need to be retained more than one month for personal convenience.

Transmission Data

All electronic mail messages contain certain "transmission data" regarding the sender, addressee(s), transmission, and receipt of a document. Whenever you designate a message as a record, it is necessary to capture and preserve all available transmission data and associate it with the appropriate message. All e-mail messages routed to Records Management as records will be filed electronically with the following transmission data included: the full name of the sender and all recipients and the date and time of transmission.

Additionally, you must request a read receipt for record messages whenever such information is necessary for adequate and proper documentation of NSC activities. You should request read receipts whenever it is necessary to confirm that the addressee(s) has read a message by a certain time, such as when you assign tasks with a deadline or need concurrence by a definite time. WHSSS is reprogramming All-in-1 to capture such read receipts electronically. However, until further notice, all users should continue to follow the instructions in Will Itoh's 5/27/93 memorandum for printing out read receipts whenever requested, attaching them to the originating message, and forwarding such materials to Records Management for filing.

PRESERVING CALENDARS

Calendars created on the NSC's e-mail systems (except those of the APNSA, DAPNSA, Staff Secretary, Executive Secretary, and Deputy Executive Secretary) are either personal materials or temporary records. In either case, they do not need to be printed and filed, and they should be deleted from your e-mail environment when no longer needed. In no case should the e-mail calendar function be used to record substantive unique information about the official activities of the NSC.

Calendars are personal materials when they are shared only with a secretary. They are temporary records when they are shared more widely with other members of the NSC staff. In accordance with the provisions of General Records Schedule 23, Item 5a, the e-mail calendars that are determined to be temporary federal records should be deleted when no longer needed. The electronic calendars of the APNSA, the DAPNSA, the Staff Director, the Executive Secretary and the Deputy Executive Secretary, which are created on PROFS, must be printed out monthly and forwarded to Records Management for preservation.

* * *

This memorandum supersedes all previous guidance on electronic mail issued prior to January 6, 1993, as well as the instructions on Electronic Federal Records on page 6 of the May 8, 1993 memo on "Federal Records." I cannot emphasize too strongly the importance of staff compliance with this guidance in order to ensure that the NSC fulfills its legal obligations regarding the creation and preservation of federal and/or Presidential records. If you have any questions about this guidance, please contact the Records Management Staff (7356) or the Office of the Legal Adviser (3854).

~~August 20, 1993~~**ACTION**

MEMORANDUM FOR DAVID HERRINGTON

FROM: WILLIAM H. ITOH

SUBJECT: Electronic Mail Modifications

By September 27, 1993, you should begin to implement all procedures necessary to preserve all records on the NSC's electronic mail systems (ALL-in-1 and CC:Mail) electronically. Since all record e-mail messages for the Clinton Administration have been retained online, I assume that these procedures can be implemented within a few days, with one exception. I understand that capturing read receipts electronically in association with the originating message may require up to one month of additional reprogramming.

All e-mail users will continue to designate messages as records (R) or nonrecords (N), and all messages designated as records will continue to be routed electronically to Records Management. All such record messages will be retained permanently. To preserve the record messages electronically, we need to accomplish the following for All-in-1 and CC:Mail:

1. Enable Records Management staff to designate the records messages as either federal or Presidential.

2. Retain EASY access to the sorted federal or Presidential messages, in Records Management only, until the end of an administration. This access may be achieved by retaining the data online, or on easily useable optical disks, whichever is more practicable for you.

3. At the end of an administration transfer the sorted record messages to separate magnetic tapes for federal or Presidential messages and make one duplicate set of the tapes. These magnetic tapes must contain all transmission data associated with the messages as described below in No. 4, and they must conform to the requirements of NARA regulations at 36 CFR 1228.188 (copy attached at Tab I). One set of the tapes will be retained for the NSC's administrative use and one set will be stored and maintained for transfer to NARA according to the provisions of an approved records schedule.

4. Each record message must include the full name of the sender and all addresses, plus the date and exact time of transmission. Additionally, for All-in-1, we must preserve data that identifies when each message is called up on the computer by each addressee. This read receipt data must be preserved in a

way that easily associates the receipt information with the appropriate originating message. CC:Mail users will continue to print read receipts when requested as instructed in Will Itoh's print 5/27/93 memorandum, since that system cannot be reconfigured to associate such data with the originating message electronically.

5. Since we are preserving transmittal data in association with each record message for All-in-1, including the full name of the sender and all addressees, the date and time of transmission, and read receipt data whenever requested, it is not necessary to preserve user directories, distribution lists, or logs of messages on the magnetic tapes. These may be deleted when no longer needed for administering the All-in-1 system. Since CC:Mail does not print all addressee names on a distribution list, for that system you also must preserve all distribution lists so that the full name of all addressees for all record messages will be available.

6. All e-mail messages that are not routed to Records Management should be deleted after one month, with the exception of any messages filed in an individual user's "Personal" folder. These latter messages, which are nonrecord copies maintained solely for personal convenience, should be deleted whenever the staffer departs the NSC.

7. For the calendar function, you should delete all data whenever the staffer departs the NSC.

8. User Set-Up Functions, which include changes in passwords, work locations, work hours, lock keyboard data, calendar and date formats, and log-in/log-out data, should be deleted when no longer needed for system administration.

Records Management has drafted a records schedule for submission to the National Archives that would, for all federal records, authorize the deletion of (1) data in individual e-mail accounts after one month or, in the case of data retained in personal folders, when the staffer departs the NSC; and (2) user directories, distribution lists (for All-in-1 only), and logs of messages. However, until we have a final determination about which NSC records are federal, you must continue the current practice of preserving backup tapes of the entire system.

If you have any questions, please contact Neal Wolin in the Legal Adviser's office at 3854.

Attachments

Tab I NARA Regulations

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~~September 15, 1993~~ACTION

MEMORANDUM FOR WILLIAM H. LEARY

FROM: WILLIAM H. ITOH
SUBJECT: Monitoring Electronic Mail

In order to identify and correct any problems in the NSC staff's identification of e-mail records, you should institute the following plan for monitoring a sample of electronic mail.

1. The staff of Records Management should examine a sample once annually. The first examination should be completed within one month following the issuance of written guidance to all staff.
2. The initial sample should consist of three consecutive days' mail in the accounts of 15 NSC staff (about 10% of the total staff), to be selected by the Director of Records Management. The size of the subsequent samples should be determined by the Director of Records Management.
3. The selected staff should be notified prior to beginning the inspection that you will examine a sample of their previously created e-mail stored on the backup tapes.
4. WHSSS should print out the designated messages to facilitate the review by Records Management.
5. Records Management should tabulate the total number of messages examined in each account, the number of incorrect record designations, and the reasons for the incorrect designations. Records Management should prepare a report for the Executive Secretary summarizing and analyzing the findings and recommending any needed modifications in the guidance to staff. That report should be submitted to me within six weeks after issuance of written guidance to all staff.

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1. Electronic Mail, 1993--. Brief messages created and exchanged by the NSC staff electronically. The content of the messages ranges from the routine and personal to substantive exchanges about policy matters. The NSC e-mail systems require the user to designate messages that are records before sending a message. All messages designated as records are automatically routed to the Office of Records Management with related transmittal data for incorporation into the appropriate file and long-term preservation.

a. Substantive Messages. Messages, and related transmittal data, including full name of sender and all addressees, date and time transmitted, and read receipt data, providing substantive information about agency activities such as the development of policy papers, interagency meetings, internal administrative matters, and legal cases.

Disposition. Permanent. Retain in an accessible electronic format until the end of an administration, then copy to tape. Transfer tapes to the National Archives 20 years after the end of the administration that created them.

b. Processing Files. Extra copies of all data on the e-mail system, including substantive and nonrecord messages; user directories, distribution lists (except for CC:Mail), and logs of messages; calendar data that is authorized for disposal under GRS 23, Item 5b.; and user set-up functions authorized for disposal under GRS 20, Item 1c.

Disposition. Destroy when no longer needed.

DA

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September 24, 1993

OFFICE OF ADMINISTRATION DIRECTIVE

SUBJECT: The OASIS ALL-IN-1 Electronic Communication System and Federal Records Procedures

Introduction

1. **Purpose.** To establish records management objectives and responsibilities for the creation, maintenance, use, and disposition of Federal records on the OASIS ALL-IN-1 system.
2. **Personnel Concerned.** All OASIS ALL-IN-1 users with federal records responsibilities.
3. **Directive or Bulletin Cancelled.** None; paragraph 7.b of LIRS Directive .04-0, "Records Management Program," is replaced by this Directive.
4. **Authority.** 44 U.S.C. Chapters 21, 29, 31, and 33; 36 CFR Parts 1220, 1222, 1228, and 1234; and 1993 NARA Guidance, on Managing Federal Records on Electronic Mail Systems in the Executive Office of the President.
5. **Originator.** Information Management Division
6. **Review.** Annually, whenever substantive modifications to ALL-IN-1 are contemplated, or before any new electronic communications systems are accessed by EOP agency users.

[Director of the Office of Administration signature and date]

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OVERVIEW

1. Purpose.

To establish policy, responsibilities, guidelines, requirements, and procedures for the preservation of Federal records created and transmitted on the OASIS ALL-IN-1 system within the federal agencies of the Executive Office of the President.

This directive supersedes previous records management instructions on Federal records on electronic communications (e-mail) systems, in accordance with recent court opinions and orders, and with current National Archives and Records Administration guidance formulated specifically for the EOP in light of these orders and opinions.

2. Definitions.

Basic records management terms are defined in OA Directive LISD.04-0 (44 U.S.C. 3301). The definitions listed below are specific to the purpose of this directive.

- a. **Electronic Communication System/Electronic Messaging System.** As used in this directive, this term refers to the electronic mail (e-mail) application available to users of OASIS ALL-IN-1. This application allows users to send electronic mail or messages to another individual or individuals. It also provides for electronic conferencing, whereby a group of individuals interact through the e-mail function for such purposes as coordinating development of policies, drafting of documents, or project planning. E-mail does not encompass file transfer utilities (software that transmits files between users but does not retain transmission data). Nor does it cover data systems that are used primarily to collect and process data which have been organized into data files or databases on either networked personal computers or mainframe computers.
- b. **Electronic Records.** This term includes numeric, graphics, and text information, which may be recorded on any medium capable of being read by a computer and which satisfies the definition of a Federal record in 44 U.S.C. 3301. This includes, but is not limited to, magnetic media, such as tapes and disks, and optical disks.
- c. **Electronic Records System.** This term means any information system that produces, manipulates, or stores Federal records by using a computer.
- d. **Federal Records.** As defined in the law (44 U.S.C. 3301), Federal records are:

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[A]ll books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them.

The phrase "regardless of physical form or characteristics" means that the records may be paper, film, disk, or any other physical type or form; and that the method used to record information may be manual, mechanical, photographic, electronic, or any combination of these or other technologies.

Under this definition, Federal records are documentary materials that meet two tests. They are made or received by agency personnel as part of their official duties in a Federal agency, and they are appropriate for preservation because they document the agency's essential activities or contain information of value to the agency. Documentary materials, whether in paper or electronic form, are Federal records when they meet both tests.

- e. **Temporary Record.** Any record which has been determined by the archivist of the United States to have insufficient value (on basis of current standards) to warrant its preservation by the National Archives and Records Administration. This determination may take the form of:
 - (1) A series of records designated as disposable in an agency records disposition schedule approved by NARA (Standard Form 115, Request for Records Disposition Authority); or
 - (2) A series of records designated as disposable in a General Records Schedule. (36 CFR 1220.14)
- f. **Permanent Record.** Any Federal record that has been determined by NARA to have sufficient value to warrant its preservation in the National Archives. (36 CFR 1220.14)
- g. **Nonrecord Material.** U.S. Government-owned documentary materials, other than Presidential records, that do not meet the statutory definition of Federal records (44 U.S.C. 3301), or that have been excluded from coverage by the definition. Excluded materials are:

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- (1) Extra copies of documents preserved only for convenience of reference.
 - (2) Stocks of publications and of processed documents. However, each agency must create and maintain records sets of processed documents and publications, including annual and special reports, directives, special studies, brochures, pamphlets, books, handbooks, manuals, and posters.
 - (3) Library and museum materials made or acquired and preserved solely for reference or exhibition purposes.
- h. Records Schedule.** A document describing and providing instructions for the disposition of Federal records. Its consists of one of the following:
- (1) An SF 115, Request for Records Disposition Authority, that has been approved by NARA to authorize the disposition of Federal records;
 - (2) A General Records Schedule (GRS) issued by NARA; or
 - (3) A printed agency manual or directive containing the records descriptions and disposition instructions approved by NARA on one or more SF 115s or issued by NARA in the GRS. (36 CFR 1220.14)
- i. General Records Schedules.** Schedules authorizing the disposal, after the lapse of specified periods of time, of records of a specified form or character common to several or all agencies if such records will not, at the end of the periods specified, have sufficient administrative, legal, research, or other value to warrant their further preservation by the United States Government. (44 U.S.C. 3303a(d))
- j. Recordkeeping System.** Records in any media organized and maintained by an agency under a formal scheme for retrieval purposes and to meet the agency's recordkeeping requirements.
- k. Transmission and Receipt Data.**
- (1) **Transmission Data.** Information in e-mail systems regarding the identities of sender and addressee(s), date and time messages were sent.
 - (2) **Receipt Data.** Information in e-mail systems regarding date and time of receipt of a message,

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- o When determining whether e-mail messages are Federal records, keep in mind that multiple copies of documents may all be records if they are used for different purposes in the conduct of official business or filed in different files. In other words, more than one office may take action or otherwise use copies of a document. The copy would be a record in each of those offices.
- o Certain informal documents may be Federal records. E-mail messages that document policy development, significant decisions, major activities, or other matters basic to an understanding of the agency and its role in Government operations, should be considered Federal records. Such records should be maintained in official files if they were circulated for review or clearance, and if they have been modified substantively.

5. Preserving E-Mail Documents That Are Federal Records.

When the user determines that an incoming or outgoing e-mail message or FAX transmitted by the EOP ALL-IN-1 system meets the criteria for Federal records, the user will:

- o Print the message and all attachments. The printed message shows the identity of the sender and the addressee(s), and the date and time the message was sent. The identity of remote addressees that are not otherwise evident (outside of OASIS) should be identified by annotating the message or attaching a list of addressees.
- o If the sender requested a "read receipt," he/she will either print the receipt and attach it to the printed message or annotate the printed message with the date and time each recipient accessed the message. Read receipts should be requested when necessary to verify that the message was accessed by the recipient.
- o Print the successful FAX confirmation message and attach it to the official file copy of the document that was sent. Annotate the confirmation message with the names of recipients.
- o Forward the printed message or file copy of the document that was FAXED to the appropriate individual for inclusion in the EOP agency's system of official files.

These actions must be taken even if the user chooses to copy or move messages for inclusion in personal paper or electronic files.

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The folders feature in the e-mail system may only be used for the storage of personal materials (or copies of Federal records). Personal e-mail messages should be kept separate from copies of agency e-mail records.

6. Nonrecord e-mail messages. Messages created on the e-mail system may contain transitory or nonsubstantive information that is not needed to provide a full account of agency policies, procedures, functions, and major activities. Among these transitory nonrecord messages are requests that an individual be paged and requests submitted to the U.S. Secret Service WAVES system for clearance of visitors. All nonrecord messages may be deleted by the users when no longer needed.

OASIS ALL-IN-1 FEATURES

7. Calendars.

The ALL-IN-1 System offers a calendar option to users as part of the Desk Management function. The calendar function allows users to schedule meetings with other users including recurring meetings as well as to maintain their own official record of meetings, events, and other activities. Calendars may be displayed and printed by the day, week, or month. This function also provides users with the capability of maintaining a task or "to do" list.

Calendars and task lists created using this system may be Federal records if they meet the criteria explained in paragraphs 2d and 4 of this directive.

- o Calendars that are used only as personal schedules may not be records, even if some of the entries listed are events or meetings that relate to officials duties. If the calendar was created solely for the personal convenience of the official (and is not shared with anyone beyond one's secretary or assistant) and his or her important meetings or scheduled activities are recorded elsewhere, the ALL-IN-1 calendar may be considered nonrecord, and may be updated, changed or deleted at the individual's discretion.
- o ALL-IN-1 calendars that are maintained by high-level officials, as designated by the heads of EOP agencies, are Federal records if they contain the only record of official activities. At the beginning of each month, the previous month's calendar of high level officials determined to be Federal records will be printed and

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and acknowledgement of receipt and/or access by addressee(s).

1. **System Backups.** Copies on off-line media of software or data stored on direct access storage devices in a computer system to provide a means of recreating a system and its data in the event of unintentional loss of data or software.
2. **Records Liaison.** Individual designated to oversee records management procedures for the agency.

THE ELECTRONIC MESSAGING (E-MAIL) SYSTEM

3. Policy.

The official medium for maintaining Federal records created on OASIS ALL-IN-ONE in EOP agencies is hardcopy (paper). The OASIS ALL-IN-1 System at the present will not be used to store Federal records. The Electronic Messaging (EM) function on the All-IN-1 is not designed to replace agencies' existing paper files. Consequently, e-mail users of the ALL-IN-1 system must follow the procedures specified below.

The Office of Administration is developing an electronic recordkeeping system for storage, retrieval and disposition of electronic messages that are determined to be Federal records. However, until certain programming, policy, and procedural matters are resolved, all users should follow the steps listed above to ensure that all e-mail documents that meet the definition of Federal records are printed according to these instructions and incorporated into official paper files.

4. Identifying E-Mail Documents That Are Federal Records.

- o E-mail messages (and attachments) are documentary materials that meet two tests. They are made or received by agency personnel as part of their official duties in a Federal agency, and they are appropriate for preservation because they document the agency's essential activities or contain information of value to the agency.
- o E-mail received by agency personnel are Federal records when they are collected or accepted in the course of official business. The materials may have been sent by other agency units, other Federal agencies, private citizens, contractors, or others.

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sent to the agency records liaison for inclusion in the official filing system.

- o NARA has authorized disposal of all other individual and shared calendars determined by the creating agency to be Federal records according to the following conditions:
 - If the calendars contain substantive information relating to official activities, the substance of which has not been incorporated into official files, they must be kept for two years.
 - If the calendars document routine activities or any substantive information in them is also included in organized files, the user may change or delete information when it is no longer needed.

8. **Personnel Directories.** The user directory provides a short-cut for entering the recipient's name on the "TO" line of the message. In addition, users have access to an EOP Directory that contains names of individuals, their organization affiliation, room number, and telephone numbers. There is also a separate feature that allows users to create their own personal address/telephone lists for ready reference and not for circulation. These directories are nonrecord.

9. **Desk Management** provides access to a calculator and displays the current time at locations throughout the world (World-Wide Time). This information is nonrecord reference material.

10. **Telephone messaging** is available to users through either the electronic messaging or Desk Management menus. Just as with paper telephone message slips, users should ensure that they produce official records documenting the substance of important telephone messages or conversations for inclusion in agency files. The messages themselves are ordinarily not Federal Records.

11. **Information Management** displays commercial and other non-agency informational materials such as the news and weather. This information is nonrecord reference material.

12. **The Bulletin Board** broadcasts special announcements to OASIS users, such as a schedule of classroom training, blood donation drives, and health insurance open seasons. The Suggestion Box allows users to recommend changes that would better meet user needs. NARA has authorized users to delete these announcements, schedules, and suggestions when obsolete or no longer needed.

13. **Users who employ the interactive training routines** available on the system do not produce Federal records.

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14. The User Set-Up functions of the OASIS-ALL-1 system which include changes in passwords, work locations, work hours, and calendar and date formats, as well as the log-in/log-out data and lock keyboard data, are records that NARA has authorized users to update or delete as needed.

15. System backup tapes will be recycled under GRS 20, item 8. Any Federal records that remain on the OASIS ALL-IN-1 system, after the records and appropriate transmission data have been printed for filing in official recordkeeping systems, are subject to the disposition instructions in GRS 23, item 2.

RESPONSIBILITIES

16. The head of each EOP agency will:

- o Designate those high-level officials whose OASIS ALL-IN-1 calendars may be Federal records if they contain the only records of the individual's official activities. Direct those designated high-level officials to ensure that their OASIS ALL-IN-1 calendars are printed at the end of each month and sent to the records liaison for inclusion in the agency's official file system.
- o Direct the (if division directors or equivalent) head of each agency component to instruct all users of the OASIS ALL-IN-1 system with Federal records responsibilities to:
 - Follow procedures in paragraph 5 of this directive when the e-mail message or FAX has been determined to be a Federal record.
 - Instruct staff that it is not acceptable to transfer Federal records to their personal ALL-IN-1 folders until after they have printed out and filed the record copy along with its associated read receipt, if any.
 - Ensure that staff are properly preserving all incoming and outgoing e-mail messages, as well as any read receipts requested.
 - Request a representative segment of agency staff to print out samples of messages from their OASIS-ALL-IN-1 files for review to determine if proper designations of record and nonrecord status have been made. This review should occur within the first 60 days of this directive and annually thereafter.

been made. This review should occur within the first 60 days of this directive and annually thereafter.

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- Notify their office records liaison when employees need further training to fulfill their Federal records responsibilities.
- Conduct departure interviews with employees to assess whether they have properly printed out all Federal records for inclusion in official files.

17. The Information Management component of OA will:

- o Backup the OASIS ALL-IN-1 System as necessary. Recycle such back-up tapes according to authorized disposition schedules.
- o Consult with agency records officers whenever substantive modifications to the electronic communications system are contemplated.
- o Provide guidance and training to educate OASIS ALL-IN-1 users on records management procedures.

OSTP

DRAFT: 9/23/93

MEMORANDUM

To: All Staff
From: John H. Gibbons
Subject: OSTP's Records Management Program

Our status as employees of the United States Government obligates us to maintain records that: 1) protect the legal rights of the Government and those affected by its actions; and 2) preserve a historical record of the actions of this agency. Content (i.e., documentation of the organization, functions, policies, decision, procedures and essential transactions of OSTP), not form (i.e., hard copy v. computer file), determines whether something is a Federal record.

In May 1993, the White House issued guidance on management of Federal and Presidential records that shall serve as OSTP's general guidance. In addition, OSTP has a records management manual (dated August 1992) that provides instruction on creation and maintenance of filing systems. Please see OSTP's records management officials if you have questions about any of these documents (attached); the May 1993 guidance will take precedence in the case of conflicting guidance. Please note, however, that this memo supersedes all previously issued guidance with regard to e-mail and online calendars.

- 2 -

As we integrate e-mail and online calendars into our workplace, we must take care to preserve the Federal records transmitted through these systems. Please adhere to the following procedures when using e-mail or online calendars:

CC:Mail

Before transmitting a message on CC:Mail, determine whether it is a record (see attachments for definitions; note that in addition to the text, CC:Mail messages contain "transmission data" —e.g., name of sender, names of recipients, date and time of transmission — that is considered part of a record. If a CC:Mail message constitutes record material, either:

1. Include the Records Mailbox as a recipient "addressee" or "cc"). Messages in this mailbox will be reviewed and managed by OSTP's records management officials, who will assume responsibility for segregating Federal and Presidential records, for determining the temporary or permanent status of records, and for conducting all searches for records transmitted to this mailbox; or
2. Print a hardcopy of the record and enter it into OSTP's existing records management system for hardcopy.

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Once the message has been transmitted to the Records Mailbox or printed to hardcopy, you may determine whether to store or delete it from your own mailbox.

The "Return Receipt" feature of our CC:Mail software can be used to great advantage, particularly as we substitute e-mail messages for telephone or face-to-face communication. When it is important to the functions of OSTP to ensure receipt of a CC:Mail message (e.g., when you assign certain tasks with deadlines; when you give technical direction to a contractor), select the "Return Receipt" option. When the receipt is returned, forward the receipt to the Records Mailbox (where it will be associated with the original message by a records management official) or print the receipt and attach it to the hardcopy of the message text that was filed in the hardcopy system.

If you create distribution lists to transmit CC:Mail, print a hardcopy of each list when created or updated and send it to OSTP's records management official. The records management official will use these hardcopy lists to supplement information preserved in messages sent to the Records Mailbox. Staff may also request copies of the lists to supplement information preserved in messages printed to hardcopy and filed in the records management system.

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Note that this guidance applies only to use of CC:Mail on OSTP's LAN. Records created or transmitted on the OASIS e-mail system cannot be forwarded directly to OSTP's Records Mailbox. Therefore, you must either: 1) print any message you receive or send that is a record, and associated transmission data, to hardcopy, at which point it should be entered into your Division's records stream for hardcopy; or 2) print any message you receive or send that is a record, and all associated transmission data, to a Wordperfect file, which should then be forwarded to the Records Mailbox. OSTP OASIS users should adhere to the guidance issued by the Office of Administration for that system.

OSTP Internet users should continue to follow the interim guidance issued for that system on June 11, 1993, until further notice.

Online Calendars

Online calendars maintained by or for the convenience of an individual employee of OSTP and not widely accessible to other staff are considered personal records. On the other hand, online calendars maintained by or for the Director or the Associate Directors of OSTP and widely accessible to individuals within OSTP are agency records. These calendars should be

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printed on a monthly basis and forwarded to the individual in charge of the Director's or the Division's Official File Station (see OSTP's records management official if you are uncertain of this individual's identity). A list of the individuals with authority to make changes to a calendar during the month immediately preceding the printout should be attached to the printout. It will be assumed that all OSTP staff had "read" access to the Director's or an Associate Director's online calendar; if that assumption is incorrect, a list of individuals with "read" access should also be included with the printout.

Any questions about records management in general or this guidance in particular should be directed to OSTP's records management officials (Barbara Ferguson and Vicki Spears) or to OSTP's General Counsel (Holly Gwin). These individuals will work with me, with the National Archives and Records Administration, and with the Office of Administration to ensure we have a records management program compliant with the law and as "user-friendly" as possible. They will be in touch with OSTP staff -- individually and collectively -- throughout the year to inform you of training opportunities, to identify any problems encountered in complying with OSTP's records management guidance, and to solicit your suggestions for improvements in the records management program. I also expect each OSTP employee and fellow to attend all training sessions offered by the records management staff of the Office of Administration or the National Archives and Records Administration.

DRAFT: 9/23/93

MEMORANDUM

To: Barbara Ferguson
Vicki Spears

cc: Holly Gwin
David Hodge

From: John H. Gibbons

Subject: Management of records created or received in OSTP's CC:Mail system

As OSTP's records management officials, you know OSTP has introduced a new element in its records keeping system -- online storage of e-mail records. Under guidance issued today, OSTP staff have the option of sending e-mail records to a mailbox that will be centrally managed by you for the entire agency. The mailbox has been established, and now you will need to develop procedures for: 1) segregating Federal from Presidential records; 2) determining the temporary or permanent status of e-mail records; 3) proper disposition of temporary records; 4) proper transmittal of permanent records to the National Archives and Records Administration (NARA); 5) conducting searches for e-mail records in response to staff or Freedom of Information Act requests; 6) associating distribution ("group") lists provided to you by system users with e-mail records stored in the system; and 7) monitoring staff compliance with the guidance.

I would like for you to develop a preliminary draft of these procedures by October 22, 1993. You will need to consult with NARA, particularly with regard to disposition schedules for temporary records, and with the EOP's Office of Administration as well as

other OSTP staff. Until the procedures are in place, do not delete any messages from the Records Mailbox.

In addition to developing these procedures, I would like for you to begin a review of OSTP's records management guidance and systems to: 1) ensure staff are adequately informed of their recordkeeping responsibilities; and 2) determine the feasibility of moving toward more online preservation of records. Clearly the procedures for managing e-mail take top priority, but I would like your attention to these other tasks as well over the next few months.

I appreciate your efforts in helping to develop the guidance for records management of e-mail and online calendars. I have confidence in your ability to develop records management procedures that will make our first efforts in electronic recordkeeping a positive experience for the OSTP staff.

DRAFT: 9/23/93

MEMORANDUM

To: All Staff

From: John H. Gibbons

Subject: Creation and Maintenance of Presidential Records

As you know, I hold two commissions in the White House: one as Director, OSTP; the other as Assistant to the President for Science and Technology. Though these responsibilities often overlap, at times I act strictly in my capacity as Assistant to the President. You may occasionally be tasked to assist me in that capacity.

Any documentary materials you receive or create in fulfilling such a task should not be filed in OSTP's record keeping system. The materials should be provided to my Confidential Assistant, who will segregate any records in the Presidential Records system maintained for my use as Assistant to the President.

Any records filed in OSTP's record keeping system will be considered agency records, regardless of the context in which they originated.

OMB

DRAFT

Revised draft [9/22 4:05 pm]

Section 540-5.b. of the OMB Manual is amended to read as follows:

"b. Electronic mail may be used to convey "official records" information.

- (1) Whenever an employee creates or receives an electronic message, the employee shall determine whether the electronic message constitutes a "federal record" (as defined in Section 540-2.a) under the Documentation Standards set forth in Section 540-3. If the employee determines that a created or received electronic message is a "federal record", then the employee shall print such created or received electronic message (and all attachments thereto) onto paper. On both the sender's and recipient's copies, the printed message shows the full name of the sender, full names of all recipients (including names on established distribution lists), and the date and time the message was sent (this information is often referred to as "transmission data").
- (2) Whenever an employee creates an electronic message that the employee has determined constitutes a federal record (as required by b(1)), the employee shall also determine whether to ask for a "read receipt" (which shows when the message has been accessed by each recipient) for the electronic message. The employee shall request a "read receipt" whenever a record of when an electronic message has been accessed is necessary to:
 - (A) Document the persons, places, things, or matters dealt with by OMB.
 - (B) Facilitate action by OMB officials and their successors in office.
 - (C) Make possible a proper scrutiny by the Congress or other duly authorized agencies of the Federal government.
 - (D) Protect the financial, legal, and other rights of the Government and of persons directly affected by the Government's actions.
 - (E) Document the formulation and execution of basic policies and decisions and the taking of necessary actions, including all significant decisions and commitments reached orally (person to person, by telecommunications, or in conference).
 - (F) Document important board, committee, or staff meetings.

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Whenever an employee who creates an electronic message requests a "read receipt", the employee shall print onto paper the "read receipt" that is received from each recipient. The employee shall staple together (or otherwise associate, as by paper clip) the paper copy of each "read receipt" with the paper copy of the message (and any attachments thereto) printed out pursuant to b(1).

- (3) The paper copies of the electronic message (and any attachments thereto) and any associated "read receipts", which are printed out pursuant to b(1) and b(2), shall be handled and disposed of appropriately, using the same procedures and standards that apply generally to the handling and disposition of federal records in paper format. These procedures and standards are set forth in Section 540.

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OMB MANUAL

*Communication, Publications, and Records
Records Creation, Preservation, and Disposition*

SECTION 540: RECORDS CREATION, PRESERVATION, AND DISPOSITION

540-1. General.

This section provides for the creation, preservation, and disposition of OMB records in accordance with the Federal Records Act, as amended, (44 U.S.C. 2904-2909 and 3101-3107), the Records Disposal Act (44 U.S.C. 3301-3303, 3308-3314), the Paperwork Reduction Act, as amended, (44 U.S.C. 3502 and §101 Note) the National Archives and Records Administration (NARA) Records Management Regulations (36 C.F.R. Parts 1220-1238), and the General Services Administration (GSA) Records Management Regulations (41 C.F.R. Parts 201-22, and 201-45).

Related program responsibilities and authorities are identified to facilitate the efficient and effective management of records essential to the performance of OMB responsibilities and functions.

540-2. Definitions.

a. *Federal Records.* The term "Federal records" ("records" herein) refers to all books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by OMB under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by OMB or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of the data in them. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks or publications and processed documents, are not included.

b. *Documentary materials* is a collective term for records, nonrecord materials, and personal papers that refers to all media containing recorded information, regardless of the nature of the media or the method(s) or circumstance(s) of recording.

c. *Regardless of physical form or characteristics* means that the medium may be paper, film, disk, or other physical type or form; and that the method of recording may be manual, mechanical, photographic, electronic, or any other combination of these or other technologies.

d. *Made* means the act of creating and recording information by agency personnel in the course of their official duties, regardless of the method(s) or the medium involved. The act of recording is generally identifiable by the circulation of the information to others or by placing it in files accessible to others.

e. *Received* means the acceptance or collection of documentary materials by agency personnel in the course of their official duties regardless of origin (for example, other units of their agency, private citizens, public officials, other agencies, contractors, Government grantees) and regardless of how transmitted (in person or by messenger, mail, electronic means, or by any other method). In this context, the term does not refer to misdirected materials. It may or may not refer to loaned or seized materials depending on the conditions under which such materials came into agency custody or were used by the agency. Advice of the General Counsel's Office should be sought regarding the "record" status of loaned or seized materials.

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f. *Preserved* means the filing, storing, or other method of systematically maintaining documentary materials by the agency. This term covers filed or otherwise systematically maintained documentary materials, and also those temporarily removed from existing filing systems.

g. *Appropriate for preservation* means documentary materials made or received which in the judgment of the agency should be filed, stored, or otherwise systematically maintained by an agency because of the evidence of agency activities or information they contain, even though the materials may not be covered by its current filing or maintenance procedures.

h. *Files*. The term file means an arrangement of records, as defined in (a). The term is used to denote papers, photographs, photographic copies, maps, machine-readable information, or other recorded information regardless of physical form or characteristics, accumulated or maintained in filing equipment, boxes, or machine-readable media, or on shelves, and occupying office or storage space. Stocks of publications and blank forms are excluded.

i. *Records equipment and supplies*. This term means file cabinets, shelf files, mail handling equipment, visible files, mechanized files, file guides, folders jackets, wallets, microforms, magnetic tape, magnetic disks, and all similar items used in the creation and maintenance of records and in mail handling. It does not include automatic data processing equipment or telecommunications equipment.

j. *Presidential records* means documentary materials, or any reasonably segregated portion thereof, created or received by the President, his immediate staff, a unit of, or an individual in the Executive Office of the President whose function is to advise and assist the President in the course of conducting activities which relate to or have an effect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of the President.

540-3. Documentation Standards.

a. *General*. To ensure that complete and accurate records are made and retained within OMB, it is essential that employees distinguish between records and nonrecord materials by applying the appropriate definition of records to OMB materials. Assuming that all materials created or received by OMB are records presents few problems. The prescribed recordkeeping requirements cover all media and all OMB activities at every level and location within the agency.

b. *Record Status*. OMB documentary materials are always considered records when they meet both of the following conditions:

- (1) they are made or received by OMB under Federal law or in connection with the transaction of OMB's business, and
- (2) they are preserved or are appropriate for preservation as evidence of OMB's organization and activities or because of the value of the information they contain.

c. *Working files and similar materials*. Working files, such as preliminary drafts and rough notes, and other similar materials shall be maintained for purposes of adequate and proper documentation if:

- (1) they were circulated or made available to employees other than the creator, for official purposes, such as approval, comment, action, recommendation, follow-up, or to communicate with agency staff about agency business; and

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- (2) they contain unique information, such as substantive annotations or comments included therein, that adds to the proper understanding of the agency's formulation and execution of basic policies, decisions, actions, or responsibilities.
- d. *Nonrecord materials.* Nonrecord materials are Government-owned documentary materials that do not meet the conditions of record status, or that are specifically excluded from the status of records by statute. They include:
- (1) library and museum materials (but only if such materials are made or acquired and preserved solely for reference or exhibition purposes);
 - (2) extra copies of documents (but only if the sole reason such copies are preserved is for convenience of reference); and
 - (3) stocks of publications and processed documents.
- e. *Personal papers.* Personal papers are documentary materials, or any reasonably segregated portion thereof, of a private or nonpublic character that do not relate to or have any effect upon the conduct of agency business. Personal papers are excluded from the definition of Federal records and are not owned by the Government. Examples of personal papers include:
- (1) materials accumulated by an OMB official before joining Government service that are not used subsequently in the transaction of Government business;
 - (2) materials relating solely to an individual's private affairs, such as outside business pursuits, professional affiliations, or private political associations; and
 - (3) diaries, journals, personal correspondence, or other personal notes that are not prepared or received in the course of transacting Government business.
- f. *Documentation in directives.* OMB's programs and procedures should be adequately documented in appropriate directives. A record copy of each such directive (including the superseded) is maintained as a part of the official files.

540-4. Categories of Documentary Materials to be Covered by Recordkeeping Requirements.

OMB staff shall follow prescribed recordkeeping requirements regarding the creation and maintenance of records in all cases where the transaction of OMB business has or will be undertaken. All such recordkeeping shall be sufficient to:

- a. Document the persons, places, things, or matters dealt with by OMB.
- b. Facilitate action by OMB officials and their successors in office.
- c. Make possible a proper scrutiny by the Congress or other duly authorized agencies of the Federal government.
- d. Protect the financial, legal, and other rights of the Government and of persons directly affected by the Government's actions.

Approved: August 1992

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*Communication, Publications, and Records
Records Creation, Preservation, and Disposition*

e. Document the formulation and execution of basic policies and decisions and the taking of necessary actions, including all significant decisions and commitments reached orally (person to person, by telecommunications, or in conference).

f. Document important board, committee, or staff meetings.

540-5. OMB Records Creation and Maintenance Responsibilities.

a. *Policy.* All OMB records, regardless of media, shall, as appropriate:

(1) contain adequate and proper documentation regarding the organization, functions, policies, decisions, procedures, and essential transactions of OMB;

(2) be sufficient to protect the legal and financial rights of the Government and of persons directly affected by OMB's activities;

(3) be easily retrievable and usable; and

(4) be protected from unauthorized access and disclosure, loss, removal, or theft.

b. *Electronic mail* should not be used to convey "official records" information. Should one create or receive an electronic message that contains such information, the message should either be incorporated into a memorandum, or reduced to paper, whereupon the material meets the prescribed recordkeeping requirements. The electronic mail function is not designed to replace the existing system of document production and retention.

c. *Federal Records Responsibilities.* Each division/office head within OMB will:

(1) establish and maintain an official file station for his/her division office;

(2) assign staff within his/her division/office to be accountable for:

(a) the maintenance of the official file station;

(b) the maintenance of an accurate and up-to-date files' inventory;

(c) liaison with OMB's Administration Office and OA's Records Management Office on records management related issues.

(3) provide OMB's Administration Office and OA's Records Management Office with:

(a) the name or staff assigned the responsibility for the maintenance of each official file station; and

(b) the name of the staff member who will act as the division's/office's liaison on records management issues.

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Records Creation, Preservation, and Disposition*

All OMB employees (including staff within OFFM, OFPP, and OIRA) will:

(4) comply with the NARA Standards for Recordkeeping. Specifically, staff shall:

- (a) maintain Federal records separate from nonrecord materials;
- (b) maintain Federal records separate from personal papers;
- (c) be aware of and comply with the categories of documentary materials (see §40-4);
- (d) as appropriate, adhere to the recordkeeping requirements of other Federal agencies; and
- (e) as appropriate, adhere to the recordkeeping requirements prescribed for Government contractors.

(5) comply with the NARA and GSA Standards for Electronic Records regarding the:

- (a) creation and use of data files;
- (b) creation and use of text documents;
- (c) judicial use of electronic records;
- (d) security of electronic records;
- (e) selection and maintenance of electronic records storage media; and
- (f) retention of electronic records.

(6) create and preserve Federal records containing documentation of OMB's organization, functions, policies, decisions, procedures, and transactions in accordance with the provisions of this section;

(7) protect Federal records from unauthorized access and disclosure, loss, removal, or theft;

(8) cooperate with, and as appropriate assist, the OA Records Management Office in maintaining an efficient and accessible records management program; and

(9) as necessary, contact the OA Records Management Office for guidance and advice on standards and procedures for classifying, indexing, and filing records.

The Assistant Director for Administration has primary responsibility for:

(10) overseeing OMB's records management program; and

(11) administering and processing OMB Freedom of Information Act (FOIA) requests including those from historical researchers for classified material.

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Records Creation, Preservation, and Disposition*

The EOP Office of Administration's Records Management Office shall, at the behest of OMB:

- (12) be responsible for the management of both classified and unclassified records;
- (13) provide training and assist in the coordination of OMB's files' management and records disposition activities;
- (14) assist in the development of standards and procedures to guide OMB employees in the creation, maintenance and disposition of official records;
- (15) provide research and obtain OMB archived records at the National Records Center; and
- (16) act as liaison for OMB with the General Services Administration and the National Archives and Records Administration.

The EOP Security Officer shall:

- (17) assist the appropriate division/office head with the security of his/her division's/office's classified records.

540-6. Files Management.

Files must be organized to allow rapid retrieval, to ensure the completeness of records, to facilitate the selection and retention of records of archival value, and to promptly accomplish the disposition of noncurrent records. Standards and procedures for the maintenance of office files can be found in the *Federal Records Creation, Maintenance, and Disposition Manual*.

540-7. Records Disposition.

a. *Presidential and Federal Records.* Disposition of OMB Presidential and Federal records, regardless of media, will be in compliance with:

- (1) NARA General Records Schedules (GRS); and
- (2) the OMB, NARA-approved, Comprehensive Records Control Schedule.

b. *Responsibilities.* OMB division/office heads will:

- (1) comply with the procedures and guidelines on records disposition outlined in the *Federal Records Creation, Maintenance, and Disposition Manual*;
- (2) transfer Presidential and Federal records, regardless of media, of continuing value to the OA Records Management Office in accordance with the OMB, NARA-approved, Comprehensive Records Control Schedule; and
- (3) transfer temporary records to the OA Records Management Office for transfer to the Washington National Records Center for temporary retention and destruction in accordance with NARA GRS.

OMB MANUAL

*Communication, Publications, and Records
Records Creation, Preservation, and Disposition*

540-8 Retrieval of OMB Records.

- a. *Presidential and Federal Records.* Retrieval of OMB Presidential and Federal records from the Washington National Records Center and NARA will be handled by the OA Records Management Office or by individuals designated by the OA Records Management Office.
- b. *Responsibilities.* OMB employees will:
 - (1) comply with the guidelines and procedures for records retrieval outlined in the *Records Management Program Manual*; and
 - (2) maintain all retired file lists for efficient reference and retrieval of retired records.

540-9. Safeguards and Penalties.

Safeguards and penalties against the removal, loss, destruction, alienation, or mutilation of OMB records are as follows:

- a. The records in the custody of OMB are not to be removed, destroyed, alienated, or mutilated, except in accordance with the OMB Comprehensive Records Control Schedule, the NARA GRS, and the Federal Records Act.
- b. The maximum criminal penalty for the willful and unlawful concealment, removal, mutilation, obliteration, falsification, or destruction of records is a \$2,000 fine, or three years imprisonment, or both; and forfeiture of office and disqualification from holding any office under the United States (18 U.S.C. 2071).
- c. The actual, impending, or threatened unlawful removal, defacing, alteration, or destruction of records in the custody of OMB should be reported immediately to the Assistant Director for Administration.
- d. Nonrecord materials, including extra copies of agency records kept only for convenience of reference, may be removed from OMB facilities only with the approval of the Director of OMB (or his designee).

540-10. Government Ownership.

All records received, created, compiled, or maintained by officers or employees of the Federal government for the government's use remain the property of the United States. No Federal officer or employee has, by virtue of his/her position, any personal or property right to any government record even though he or she may have developed, assisted in the development of, or in any way compiled the material(s).

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OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON
20506

MEMORANDUM: ALL STAFF

FROM: MICHAEL KANTOR

SUBJECT: USTR'S RECORDS MANAGEMENT PROGRAM

Our status as employees of the United States Government obligates us to maintain records that: 1) protect the legal rights of the Government and those affected by its actions; and 2) preserve a historical record of the actions of this agency. Content (i.e., documentation of the organization, functions, policies, decision, procedures and essential transactions of USTR), not form (i.e., hard copy v. computer file), determines whether something is a Federal record. Please note, that this memo supersedes any earlier guidance with regard to e-mail and online calendars.

In May 1993, the White House issued guidance on management of Federal and Presidential records that shall serve as USTR's general guidance. In addition, USTR has a records management manual (dated June 1993) that provides instruction on retention of e-mail federal records. Please see USTR's records management officials if you have questions about any of these documents (attached). Please note, however, that this memo supersedes all previously issued guidance with regard to e-mail and online calendars.

As we integrate e-mail and online calendars into our workplace, we must take care to preserve the Federal records transmitted through these systems. Please adhere to the following procedures when using e-mail or online calendars:

WP OFFICE MAIL

Before transmitting a message on WP Office Mail, determine whether it is a record (see attachments for definitions); note that, in addition to the text, WP Office Mail messages contain "transmission data" -- e.g., name of sender, names of recipients, date and time of transmission -- that is considered part of a record. If a WP Office Mail message constitutes record material print a hardcopy of the record, associated transmission information, and file it into USTR's existing hardcopy records management system. Once the message has been printed to hardcopy, you may determine whether to store or delete it from your own mailbox.

ONLINE CALENDARS

Online calendars maintained by or for the convenience of an individual employee of USTR and not widely accessible to other staff are considered personal records. On the other hand, online calendars maintained by or for USTR or DUSTRs and widely accessible to individuals within USTR are agency records. These calendars should be printed on a monthly basis and forwarded to the individual in charge of the senior officials' file station. A list of the individuals with authority to make changes to a calendar during the month immediately preceding the printout should be attached to the printout. It will be assumed that all USTR staff have "read" access to the USTR and DUSTR online

calendars.

Any questions about records management in general or this guidance in particular should be directed to USTR's records management official (Cathy Hofgren) or to USTR's General Council Laurie Sherman). These individuals will work with me, with the National Archives and Records Administration, and with the Office of Administration to ensure we have a records management program compliant with the law and as "user-friendly" as possible. They will be in touch with USTR staff-- individually and collectively-- throughout the year to inform you of training opportunities, to identify any problems encountered in complying with USTR's records management guidance, and to solicit your suggestions for improvements in the records management program. I also expect each USTR employee to attend all training sessions offered by the records management staff of the Office of Administration or the National Archives and Records Administration.

DRAFT

OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON
20506

MEMORANDUM: ALL STAFF
FROM: MICHAEL KANTOR
SUBJECT: USTR'S RECORDS MANAGEMENT PROGRAM

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NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

December 3, 1993

file
DRAFT Armstrong

ACTION

MEMORANDUM FOR ANTHONY LAKE

FROM: ALAN KRECZKO/NEAL WOLIN

SUBJECT: Next Steps in Armstrong Settlement Discussions

This memorandum seeks your further guidance on a number of issues in the Armstrong case regarding the status of NSC records.

Background

A number of weeks ago we proposed to plaintiffs the scheme for treating NSC records you approved in response to our October 22 memorandum (attached at Tab I) on this subject. That proposal would preserve as presidential communications between staff and you and Sandy, and between either of you and the President. Among the records it agreed to treat as federal are those distributed outside the White House (e.g., PDDs and agendas and summaries of conclusions of PC/DC meetings).

On intra-staff communications it "split-the-baby". We offered to treat as federal intra-staff communication relating to generally less sensitive categories of NSC documents (e.g., OMB referrals, litigation, ethics), even though the intra-staff documents themselves do not leave the NSC. We proposed to treat as presidential those intra-staff communications relating to documents at the heart of the NSC's work (e.g., relating to memoranda to the President, you or Sandy; DCs/PCs and PDDs).

Plaintiffs have now made two alternative proposals (letter attached at Tab II). The first, which we believe is completely unacceptable, would treat records circulated exclusively among a designated group of senior NSC staff (you, Sandy, the Senior Directors) as presidential, and all other NSC records as federal. The second alternative (the "counterproposal"), about which we have had further discussions with plaintiffs would treat as presidential records to or from the President, you or Sandy as long as they are created by, or directed to, no more than three NSC staff members (whoever they may be). The counterproposal would also treat as presidential communications among the three or fewer NSC staff members specifically discussing records to or from the President, you or Sandy that they created or received. Under the plaintiff's counterproposal all other records of the NSC would be treated as federal.

Discussion

While we believe that plaintiff's counterproposal has some promise, we also believe it has serious flaws. We have raised a number of concerns with plaintiffs about their counterproposal. Although plaintiffs have expressed their willingness to be flexible on some of these issues, on others it is unclear how far they might move from their current position if at all. In order to move forward with settlement discussions, we need your guidance on the issues explained below.

The Principal of Verticality. As noted, plaintiff's counterproposal concedes as presidential records to or from the President, you or Sandy, created by or directed to three or fewer NSC staff. Plaintiffs have clarified that Nancy, Will, Kristie, and secretarial staff do not count for purposes of determining the number of NSC staff who have created a record or to whom one has been directed. They have also expressed at least some willingness to include as presidential memoranda from you or the President to a larger number of NSC staff (and responses to these memoranda) asking, for example, for comments on presidential speech drafts.

We strongly believe that all communication between NSC staff and the President, you or Sandy, should be treated as presidential records, regardless of the number of NSC staff involved. All such communications "advise and assist" the President, you and Sandy (you and Sandy, as staff of the White House office, have the same records status as the President), and we see no principled basis on which to treat memoranda to you created by two NSC staff as presidential and those created by four NSC staff as federal. You and Sandy have promoted greater intra-staff collaboration. As a result, PDDs, for example, frequently go to the legal, congressional, and public affairs offices in addition to the primary regional or functional offices involved. We would not want decisions on intra-NSC staff consultations to be constrained by the fact that exceeding some artificial number would change the status of a memorandum from presidential to federal.

Intra-staff Communications. Plaintiffs' counterproposal treats as presidential communications between three or fewer NSC staff specifically discussing a draft of a presidential record to you or the President (the same three who participated in the drafting of the record as discussed in the previous section). Plaintiffs are concerned that communications between NSC staff unrelated to advising and assisting you or the President not be treated as presidential.

Here, too, for similar reasons, we would not agree to any limit on the number of staff involved in the preparation of a document going to you or the President as a criterion for determining whether the memoranda or e-mail between those staff are treated as presidential or federal records.

We do believe, however, that for settlement purposes we should offer to treat as presidential only those intra-staff records specifically discussing a communication to or from the President, you, Sandy or any other Assistant or Deputy Assistant to the President (or even referring to such a communication on its face). These intra-staff communications are most closely linked to advising and assisting the President and constitute a substantial majority of sensitive communications between staff. While requiring a specific reference to a communication to you or Sandy in the e-mail may seem overly rigid, as a practical matter we need a "bright-line" test if we are going to treat some of our records as presidential and others as federal.

This approach would extend our offer to include as federal records intra-staff communications relating to IWGs and other policy matters not specifically discussing a communication to or from the President, you, Sandy or any other Assistant or Deputy Assistant to the President. By requiring a tight link between NSC staff communications and communications going up (or having come down) the line we accommodate plaintiffs' concern that records unrelated to advising and assisting the President not be treated as presidential.

NSC Staff Communication with Other White House Staff. We believe it is important that sensitive communications between NSC staff and other White House staff be treated as presidential. Although the volume of such record material is fairly small, we feel strongly about this issue both because, as a matter of principle, we see no basis for distinguishing you and Sandy from other White House staff and because, as a practical matter, NSC staff have substantial contact with other White House staff, often on sensitive matters. (Alan/Neal with Bernie Nussbaum, Jeremy with Howard Paster, Don Steinberg with Dee Dee Myers, Fauver and Kyle's offices with the NEC, Eileen Claussen with OEP, Jane Wales with Jack Gibbons, etc.)

Although plaintiffs have expressed a willingness to treat communications between us and Bernie Nussbaum as presidential, they have thus far taken the "non-negotiable" position that all other communications between the NSC and the White House are federal. John Podesta believes that we should try to get plaintiffs to agree that communications in the most frequent channels between the NSC and the White House (Alan/Neal-Nussbaum, Jeremy-Paster, Steinberg-WH Communications) would be treated as presidential, and that we should not worry about the rest. We believe we should hold our ground with respect to all White House staff. We do not want treatment of records to become a factor, no matter how slight, in whether other units of the White House provide information to NSC staff.

NSC Staff Access to Presidential Records. Plaintiffs' counterproposal contemplates a system in which records that are presidential when created lose their presidential record status if and when at a later date they are shared with other NSC staff who did not participate in their creation. As a practical

matter, of course, this would require limitations imposed on record access. We believe that such an approach would have substantial adverse consequences on the efficiency and effectiveness of the NSC by creating obstacles to NSC staff having the benefit of previous NSC staff work. We frankly see no good reason why a record conceded to be presidential at its creation should suddenly become federal by virtue of another staff member having gained access to it while working on an analogous problem. Plaintiffs are willing to carve out an exception to their general rule for legal documents so that all staff could have access to those documents without changing their records status. We think that this access principle should be applied generally.

Indexes to Presidential Records. Plaintiffs have also demanded that the NSC produce an index of its presidential records and that the index itself be treated as a federal record. They view this as a check on the NSC's ability to mislabel records as presidential. We think this is a strange idea but one on which, if Podesta agrees, we might be able to buy positive movement in some of the areas listed above. Our concerns are substantially alleviated by the fact that most sensitive entries in such an index would be classified or classifiable and consequently protected under FOIA.

Status of NSC Presidential Records at the end of the Administration. The plaintiffs have also expressed willingness to relax their demands on the other issues if we would agree, at the end of the Administration, to copy and designate as federal records a complete set of Clinton NSC presidential records. We oppose this idea. While this idea would allow for greater policy continuity between NSCs by assuring that not only decision documents but the memoranda and other records that underlie them are available to successive staffs, it would put a copy of this Administration's records in the hands of the next Administration to release under FOIA (or otherwise) as they choose. Although many sensitive records are already designated federal (and therefore subject to FOIA), and rarely released, the risk of embarrassment or use of NSC documents for political ends cannot be ruled out.

* * *

Of course, how far to go in these settlement talks, and, more specifically the approach we should take with respect to the issues outlined above depends upon an assessment of several additional factors:

- **The litigation risk if we do not settle.** Two sections of DOJ have given us assessments independently. The Office of Legal Counsel (OLC) believes we have a 70-30 chance of prevailing on the proposition that the NSC is solely presidential. Even if we lost, and the NSC were found solely federal, they believe it extremely unlikely you and Sandy would be found to be part of the "federal" NSC. The

Civil Division is more cautious. They put our chances at roughly 60-40, and, in the event of a loss, at roughly 80-20 that the decision would not federalize you and Sandy. Both projections are premised on a willingness to take the case to the Supreme Court if necessary. While the uncertainties are great we are inclined toward the 70-30 prediction; John Podesta puts our chances at less than 50-50.

- **The media criticism of the President if we assert we are totally presidential.** John sees this as a significant downside, believing the press will excoriate the President for reversing 40 years of practice and asserting more secrecy than Nixon or Reagan. Alan thinks this is exaggerated. He thinks we can mitigate the negative publicity by making clear that as a matter of policy we will continue to treat a large part of our documents as federal, and by explaining that we are asserting we are solely presidential because the case law would require us to choose the presidential or the federal hat. Reagan and Bush, whose documents are implicated in this litigation, are likely to take the same position. Neal falls in between John and Alan in assessing the media risk.
- **Benefits of settlement.** We need to understand that the benefits of settlement with plaintiffs are transient. The settlement cannot preclude other individuals from seeking to establish that the NSC is federal. Moreover, until this issue is resolved in the court, we cannot be certain of the sustainability of any of the recordkeeping lines we draw.

Concurrences by: Nancy Menan

RECOMMENDATION

1. That you approve our insisting on the principle of "verticality" -- that is that all communications between NSC staff and the President, you or Sandy be treated as presidential.

Approve _____ Disapprove _____

2. A. That you approve our insisting on treating as presidential all intra-staff records specifically discussing communications to or from the President, you, Sandy or any other Assistant or Deputy Assistant to the President.

Approve _____ Disapprove _____

- B. That you approve our offering to treat as federal all other intra-NSC staff communications.

Approve _____ Disapprove _____

3. That you approve our insisting on treating as presidential communications between NSC staff and all staff of the White House office.

Approve _____ Disapprove _____

4. That you approve our insisting on an approach that would allow NSC staff access to presidential records without changing the status of those records.

Approve _____ Disapprove _____

5. That you approve our exploring the possibility of creating indexes of NSC presidential records, which will themselves be federal records, in exchange for concessions on other records issues.

Approve _____ Disapprove _____

6. That you approve our rejecting any plan to copy and designate NSC presidential records as federal at the end of the Administration.

Approve _____ Disapprove _____

Attachments

Tab I Memorandum to Anthony Lake dated October 22, 1993
Tab II Letter from Plaintiffs Containing Counterproposal



The National Security Archive

Documenting U.S. Foreign Policy

A Project of the Fund for Peace

January 29, 1993

13 JAN 30 AM 11:44

TO: John Podesta
Office of the President

FROM: Sheryl Walter *SW*

RE: Eleventh hour Bush/Archivist agreement
re White House electronic mail

Attached, for your information, is a copy of a filing made yesterday by the Justice Department in the Archive's suit to preserve the White House electronic mail tapes, in which Justice notifies the court and the plaintiffs about certain agreements made pertaining to the tapes, including the transfer of all of the tapes to the National Archives.

The filing includes copies of agreements by the Independent Counsel related to the investigation of the passport file searches last fall, which we reported on today in the Washington Post. It also includes two agreements apparently executed on the morning of January 20 by George Bush and the Archivist of the United States, Don Wilson, which purport to give Bush substantial continuing control over these materials. One of the agreements, also entered into by William Sittman on behalf of the National Security Council, and Phillip Larsen, on behalf of the Executive Office of the President, includes the following provisions:

a. The agreement refers only to broadly defined categories of federal and presidential "information" but does not refer to "records" at all, and reserves the right to dispute that any of these materials are federal records (Part VI, Paras. 1 and 2; Part V, Para. 2).

b. It broadly grants Bush "exclusive legal control of all Presidential information, and all derivative information in whatever form, contained on the materials." (Part I, Para. 5).

c. Any actions by the National Archives to determine whether material on the tapes is "federal" or "presidential" are subject to Bush's prior review. (Part II, Para. 4a).

d. The "parties" (including Bush), "shall agree upon procedures to provide NSC and OA access to agency information contained on the materials for the purpose of conducting ongoing agency business [but] [s]uch procedures need not include transfer of any material back to OA or NSC." (Part II, Para. 7).

We are in the process of reviewing these materials in detail to determine their potential effect. If you have any questions or need additional information, please give me a call at (202) 797-0882.

*file
Armstrong*

*John -
You may
know about this
already. If not,
it's worth
looking into.
I sent*

*a
copy
to
Bernard
Nussbaum
as
well.
Cheers -
SW*

*(Who's working
on these
issues?
Need any
volunteers?)*