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**WHORM Subject File Code:** CO121  
(Countries: Panama, Republic of)  
**Case file Number(s):** 606000-610999  
**Box:** 150

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# WITHDRAWAL SHEET

## Ronald Reagan Library

**Collection Name** WHITE HOUSE OFFICE OF RECORDS MANAGEMENT  
(WHORM): SUBJECT FILE

**Withdrawer**

DLB 8/4/2010

**File Folder** CO121 (PANAMA) (606000-610999)

**FOIA**

S10-306

**Box Number** 150

SYSTEMATIC

912

ID	Doc Type	Document Description	No of Pages	Doc Date	Restrictions
95426	MEMO	ROBERT PASTORINO TO JOHN NEGROPONTE, RE: PLANS TO SHUT OUT PANAMA'S OAS AMBASSADOR	1	7/21/1988	B1
95427	MEMO	COLIN POWELL TO [THE PRESIDENT], RE: MEETING WITH PANAMANIAN PRESIDENT ERIC A. DELVALLE <b>R 9/15/2022 NSC/DEPT. OF STATE WAIVERS</b>	1	12/21/1988	B1
95428	PAPER	POINTS TO BE MADE FOR MEETING WITH PANAMANIAN PRESIDENT ERIC A. DELVALLE <b>R 9/15/2022 NSC/DEPT. OF STATE WAIVERS</b>	1	ND	B1
95429	TALKING POINTS	CARD FORMAT - MEETING WITH PRESIDENT DELVALLE <b>R 9/15/2022 NSC/DEPT. OF STATE WAIVERS</b>	1	ND	B1

The above documents were not referred for declassification review at time of processing

Freedom of Information Act - [5 U.S.C. 552(b)]

B-1 National security classified information [(b)(1) of the FOIA]

B-2 Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]

B-3 Release would violate a Federal statute [(b)(3) of the FOIA]

B-4 Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]

B-6 Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]

B-7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]

B-8 Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]

B-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

# WITHDRAWAL SHEET

Ronald Reagan Library

[606122]  
Co 121

*Collection Name*

WHITE HOUSE OFFICE OF RECORDS MANAGEMENT  
(WHORM): SUBJECT FILE

*Withdrawer*

DLB 8/4/2010

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95426	MEMO  ROBERT PASTORINO TO JOHN NEGROPONTE, RE: PLANS TO SHUT OUT PANAMA'S OAS AMBASSADOR	1	7/21/1988	B1

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C. Closed in accordance with restrictions contained in donor's deed of gift.

~~SECRET~~  
NSC/S PROFILE

RECORD ID: 8805353  
RECEIVED: 21 JUL 88 13

TO: NEGROPONTE

UNCLASSIFIED UPON REMOVAL  
OF CLASSIFIED ENCLOSURES

db  
7/30/14

FROM: PASTORINO

DOC DATE: 21 JUL 88  
SOURCE REF:

KEYWORDS: PANAMA

PERSONS: SOSA, JUAN

SUBJECT: PLANS TO SHUT OUT PANAMA OAS AMB

ACTION: OBE / STATUS ORIGINAL UNKNOWN      DUE DATE: 25 JUL 88      STATUS: C

STAFF OFFICER: BRINTNALL      LOGREF:

FILES: WH      NSCIF:      CODES:

D O C U M E N T   D I S T R I B U T I O N

FOR ACTION

FOR CONCURRENCE

FOR INFO  
NEGROPONTE

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DISPATCHED BY \_\_\_\_\_ DATE \_\_\_\_\_ BY HAND    W/ATTCH

OPENED BY: NSCDM      CLOSED BY: NSJWD      DOC    1 OF    1

~~SECRET~~

~~SECRET~~

RECORD ID: 8805353

ACTION DATA SUMMARY REPORT

<u>DOC</u>	<u>ACTION OFFICER</u>	<u>CAO</u>	<u>ASSIGNED</u>	<u>ACTION</u>	<u>REQUIRED</u>
001	NEGROPONTE	Z	88072114	FOR	INFORMATION
001		X	88111013	OBE /	STATUS ORIGINAL UNKNOWN

UNCLASSIFIED UPON REMOVAL  
OF CLASSIFIED ENCLOSURE(S)  
7/30/10  
do

~~SECRET~~

~~SECRET~~  
NSC/S PROFILE

RECORD ID: 8805353  
RECEIVED: 21 JUL 88 13

TO: NEGROPONTE

UNCLASSIFIED EXCEPT WHERE SHOWN  
OF CLASSIFIED ENCLOSURES  
alb 9/30/10

FROM: PASTORINO

DOC DATE: 21 JUL 88  
SOURCE REF:

KEYWORDS: PANAMA

PERSONS: SOSA, JUAN

SUBJECT: PLANS TO SHUT OUT PANAMA OAS AMB

ACTION: OBE / STATUS ORIGINAL UNKNOWN DUE DATE: 25 JUL 88 STATUS: C

STAFF OFFICER: BRINTNALL LOGREF:

FILES: WH NSCIF: CODES:

D O C U M E N T D I S T R I B U T I O N

FOR ACTION

FOR CONCURRENCE

FOR INFO  
NEGROPONTE

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DISPATCHED BY \_\_\_\_\_ DATE \_\_\_\_\_ BY HAND W/ATTCH

OPENED BY: NSCDM CLOSED BY: NSJWD DOC 1 OF 1

~~SECRET~~

95427

C.F.

2

~~CONFIDENTIAL~~

THE WHITE HOUSE

WASHINGTON

December 21, 1988

606727  
8763

CO121

PROOF-01

FL006-12

DECLASSIFIED  
Authority NSC/DOS Waivers  
BY A NARA DATE 9/15/2022



MEETING WITH PANAMANIAN PRESIDENT ERIC A. DELVALLE

DATE: December 22, 1988  
LOCATION: Oval Office  
TIME: 9:50 to 10:00 a.m.  
FROM: COLIN L. POWELL *CP*

I. PURPOSE

To demonstrate your continued support and assure President Delvalle that we are actively working for Noriega's removal from power.

II. BACKGROUND

President Delvalle remains in hiding in Panama and is depressed over the failure of Panamanian and U.S. efforts to remove Noriega. The lack of strong pressures on the regime from any quarter has led Delvalle to question his personal sacrifice. Delvalle is planning to resign, but not immediately.

Delvalle's resignation would complicate our sanctions and recognition policy. He is seeking a public demonstration of continued U.S. commitment to democracy in Panama and support for the Panamanian opposition. He wants your assurance of continued U.S. support for his strategy of negotiating with Noriega. Delvalle will have met with Secretary Shultz on December 21.

III. PARTICIPANTS

List at Tab B.

IV. PRESS PLAN

White House photographer only.

V. SEQUENCE OF EVENTS

A photo opportunity with the President and Vice President followed by a five-minute conversation.

Attachments

- Tab A Points to be Made
- Tab B List of Participants
- Tab C Biography

~~CONFIDENTIAL~~

Declassify on: OADR  
NSA 8808763

cc: Vice President  
Chief of Staff (2)

CONFIDENTIAL

DECLASSIFIED  
Authority NSC/State Waivers  
BY *dl* NARA DATE 9/15/2022

95428

8763

3

POINTS TO BE MADE FOR MEETING WITH PANAMANIAN  
PRESIDENT ERIC A. DELVALLE

- I urge you to stay the course, for the sake of all Panamanians. You have already shown impressive courage and patriotism. Withdrawal now would be a tragic loss of leadership in the fight to restore democracy to Panama.
- We remain committed to the goals of Noriega's departure from power and the reestablishment of genuine democracy in Panama. We will continue to work with you in applying pressure to reach a realistic and durable solution. I'm sure George agrees.

CONFIDENTIAL

Declassify on: OADR



CONFIDENTIAL

95429

4

POINTS TO BE MADE FOR MEETING WITH  
PANAMANIAN PRESIDENT ERIC A. DELVALLE

-- I urge you to stay the course, for the sake of all Panamanians. You have already shown impressive courage and patriotism. Withdrawal now would be a tragic loss of leadership in the fight to restore democracy to Panama.

DECLASSIFIED  
NSC/State Waiver's  
BY dl NARA DATE 5/15/2022

CONFIDENTIAL

2

-- We remain committed to the goals of Noriega's departure from power and the reestablishment of genuine democracy in Panama. We will continue to work with you in applying pressure to reach a realistic and durable solution. I'm sure George agrees.



DECLASSIFIED  
Exec AD, SA, 12/22/00, as required  
With Exempt Categories, Sept 11, 2003  
BY NAME db DATE 7/30/10

LIST OF PARTICIPANTS

U.S.

The President  
The Vice President  
Kenneth M. Duberstein  
Colin L. Powell  
M. B. Oglesby  
Marlin Fitzwater  
Cresensio Arcos, Acting Assistant Secretary of State, ARA  
Robert Pastorino, NSC

Panama

President Delvalle  
Juan Sosa, Panamanian Ambassador to the United States  
Jose Cardenas, Acting Leader of Delvalle's Party

ERIC ARTURO DELVALLE

Addressed as Mr. President, Eric Arturo Delvalle has been the President of the Republic of Panama since September 26, 1985, when Nicolas Ardito Barletta resigned under pressure from the military and party and cabinet leaders. Delvalle was illegally removed from office on February 25, 1988 but remains recognized by the U.S. as Panama's legitimate President.

Delvalle comes from a family that has long been prominent in business and politics. His father was the founder of the Republican Party, and his uncle was Vice President of Panama during 1964-1968. He has been President of the Republican Party since 1983. The party is a minor one, however, deriving most of its power from its membership in the ruling coalition.

Delvalle has close contacts with the business community and for many years has been the General Manager of the Delvalle family sugar mill, Azucarera Nacional. He is also a prominent member of Panama City's Jewish community. Delvalle, 51, had coronary and heart surgery about 13 years ago, but his health now seems good, and has not visibly affected his functioning as President.

Delvalle studied agriculture at Louisiana State University. He speaks fluent English. His wife, the former Mariela Diaz, 50, is the daughter of a former Liberal Party leader and a graduate of Immaculate College in Philadelphia. She too speaks English. The Delvalles have three children, all married.

*SP*

**WHITE HOUSE  
 CORRESPONDENCE TRACKING WORKSHEET**

- O - OUTGOING
- H - INTERNAL
- I - INCOMING  
 Date Correspondence Received (YY/MM/DD) 1/1

Name of Correspondent: David S. Addington

MI Mail Report User Codes: (A) \_\_\_\_\_ (B) \_\_\_\_\_ (C) \_\_\_\_\_

Subject: Congressman Lawrence Smith's hearing on Noriega and NSC

ROUTE TO:		ACTION	DISPOSITION		
Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response Code	Completion Date YY/MM/DD
<u>cu hall</u>		ORIGINATOR	<u>88109110</u>		<u>C 88109116</u>
		Referral Note:			
<u>cu cub</u>		<u>R/A</u>	<u>88109110</u>		<u>C 88109116</u>
		Referral Note:			
			<u>1/1</u>		<u>1/1</u>
		Referral Note:			
			<u>1/1</u>		<u>1/1</u>
		Referral Note:			
			<u>1/1</u>		<u>1/1</u>
		Referral Note:			

**ACTION CODES:**  
 A - Appropriate Action  
 C - Comment/Recommendation  
 D - Draft Response  
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 S - For Signature  
 X - Interim Reply

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 B - Non-Special Referral  
 C - Completed  
 S - Suspended

**FOR OUTGOING CORRESPONDENCE:**  
 Type of Response = Initials of Signer  
 Code = "A"  
 Completion Date = Date of Outgoing

Comments: Copies provided to Nick Rostow and Dean McGrath

Keep this worksheet attached to the original incoming letter.  
 Send all routing updates to Central Reference (Room 75, OEOB).  
 Always return completed correspondence record to Central Files.  
 Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

# RECORDS MANAGEMENT ONLY

## CLASSIFICATION SECTION

No. of Additional Correspondents: \_\_\_\_\_ Media: 0 Individual Codes: \_\_\_\_\_  
Prime Subject Code: CO 121 Secondary Subject Codes: HE 006-01  
\_\_\_\_\_  
\_\_\_\_\_

## PRESIDENTIAL REPLY

Code	Date	Comment	Form
C	_____	Time: _____	P- _____
DSP	_____	Time: _____	Media: _____

### SIGNATURE CODES:

**CPn - Presidential Correspondence**  
n - 0 - Unknown  
n - 1 - Ronald Wilson Reagan  
n - 2 - Ronald Reagan  
n - 3 - Ron  
n - 4 - Dutch  
n - 5 - Ron Reagan  
n - 6 - Ronald  
n - 7 - Ronnie

**CLn - First Lady's Correspondence**  
n - 0 - Unknown  
n - 1 - Nancy Reagan  
n - 2 - Nancy  
n - 3 - Mrs. Ronald Reagan

**CBn - Presidential & First Lady's Correspondence**  
n - 1 - Ronald Reagan - Nancy Reagan  
n - 2 - Ron - Nancy

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B - Box/package  
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D - Official document  
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H - Handcarried  
L - Letter  
M - Mailgram  
O - Memo  
P - Photo  
R - Report  
S - Sealed  
T - Telegram  
V - Telephone  
X - Miscellaneous  
Y - Study

THE WHITE HOUSE  
WASHINGTON

Date: September 16, 1988

**TO:** NICK ROSTOW  
DEAN McGRATH

**FROM:** ARTHUR B. CULVAHOUSE, JR.  
Counsel to the President

THE WHITE HOUSE  
WASHINGTON

6143.3CA

Date: 10 Sept 88

TO: ARTHUR B. CULWAHOUSE

FROM: DAVID S. ADDINGTON  
Office of Legislative Affairs

I suspect it is no accident  
that Larry Smith's hearing  
on Noriega & NSC is the  
day before the House  
considers Alexander's  
"Anti-Stonewalling" amendment

DANTE B. FASCELL, FLORIDA, CHAIRMAN

LFE H. HAMILTON, INDIANA  
\*GUS YATRON, PENNSYLVANIA  
STEPHEN J. SOLARZ, NEW YORK  
DON BONKER, WASHINGTON  
GERRY E. STUDDS, MASSACHUSETTS  
DAN MICA, FLORIDA  
HOWARD WOLPE, MICHIGAN  
GEO. W. CROCKETT, JR., MICHIGAN  
SAM GEJDENSON, CONNECTICUT  
MERVYN M. DYMALLY, CALIFORNIA  
TOM LANTOS, CALIFORNIA  
PETER H. KOSTMAYER, PENNSYLVANIA  
ROBERT G. TORRICELLI, NEW JERSEY  
LAWRENCE J. SMITH, FLORIDA  
HOWARD L. BERMAN, CALIFORNIA  
MEL LEVINE, CALIFORNIA  
EDWARD F. FEIGHAN, OHIO  
TED WEISS, NEW YORK  
GARY L. ACKERMAN, NEW YORK  
MORRIS K. UDALL, ARIZONA  
CHESTER G. ATKINS, MASSACHUSETTS  
JAMES McCLURE CLARKE, NORTH CAROLINA  
JAIME B. FUSTER, PUERTO RICO  
JAMES H. BILBRAY, NEVADA  
WAYNE OWENS, UTAH  
FOFO I.F. SUNIA, AMERICAN SAMOA

JOHN J. BRADY, JR.  
CHIEF OF STAFF

One Hundredth Congress

# Congress of the United States

Committee on Foreign Affairs

House of Representatives

Washington, DC 20515

WILLIAM S. BROOMFIELD, MICHIGAN  
BENJAMIN A. GILMAN, NEW YORK  
ROBERT J. LAGOMARSINO, CALIFORNIA  
JIM LEACH, IOWA  
TOBY ROTH, WISCONSIN  
OLYMPIA J. SNOWE, MAINE  
HENRY J. HYDE, ILLINOIS  
GERALD B.H. SOLOMON, NEW YORK  
DOUG BERUTER, NEBRASKA  
ROBERT K. DORNAN, CALIFORNIA  
CHRISTOPHER H. SMITH, NEW JERSEY  
CONNIE MACK, FLORIDA  
MICHAEL DeWINE, OHIO  
DAN BURTON, INDIANA  
JAN MEYERS, KANSAS  
JOHN MILLER, WASHINGTON  
DONALD E. "BUZ" LUKENS, OHIO  
BEN BLAZ, GUAM

STEVEN K. BERRY  
MINORITY CHIEF OF STAFF

September 7, 1988

The President  
The White House  
Washington, D.C. 20500

Dear Mr. President:

Chairman Fascell and I wrote to you on August 18, 1988, regarding the report required by section 2013 of the Antidrug Abuse Act of 1986. As you know, section 2013 requires you to report to the Congress every six months on, among other subjects, the identities of any senior officials of a major drug producing or transit country who engage in, encourage, or facilitate the production or distribution of illegal drugs. This provision was included in P.L. 99-570 as the result of bipartisan concern over the conduct of U.S. relations with officials who have been corrupted by narcotics trafficking, exemplified by the February 1988 indictment of the Commander of the Panamanian Defense Force, General Manuel Antonio Noriega.

We noted in our August 18 letter that the Administration has consistently failed to submit these reports in a timely fashion. The most recent report, due May 1, 1988, was not submitted until August 26, after considerable Congressional prodding. It is our understanding that while previous reports were held up by bureaucratic delays within and between various Departments, the most recent report was submitted to the National Security Council on April 25, 1988, for final clearance to you, where it remained until you cleared the report for Secretary Shultz to submit on or about August 19. Subsequently, White House staff recalled the cleared report from the State Department and did not resubmit it for transmittal until August 26.

It is our understanding that this series of delays resulted from the National Security Council staff's reluctance to characterize General Noriega of Panama as a senior government official involved in narcotics trafficking.

In our letter, we requested an explanation of this issue, as well as your cooperation in providing appropriate Executive branch officials for a hearing on this matter. The Committee's Task Force on International

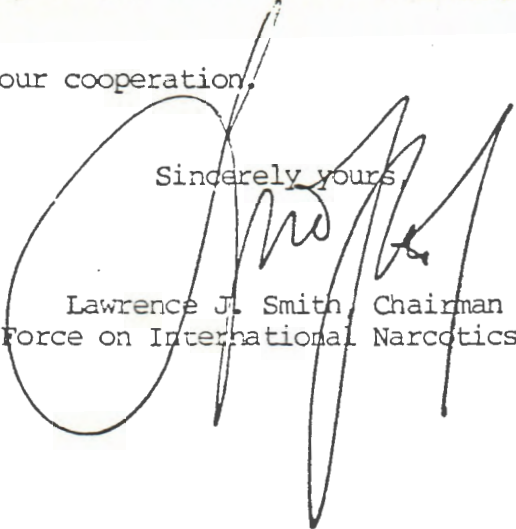


The President  
Page 2  
September 7, 1988

Narcotics Control has scheduled a hearing on the 2013 report on Wednesday, September 15 at 2:00 P.M. I would therefore request that you make available appropriate National Security Council staff officials as well as witnesses from the Department of State and the Drug Enforcement Administration.

Thank you for your cooperation.

Sincerely yours



Lawrence J. Smith, Chairman  
Task Force on International Narcotics Control

LJS:mcj

5



610183

ID #

CO121

# WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

O - OUTGOING

H - INTERNAL

I - INCOMING

Date Correspondence Received (YY/MM/DD)

88/08/26

Name of Correspondent:  Mr.  Mrs.  Miss  Ms. Ernest W. Bowerman

MI Mail Report

User Codes: (A) \_\_\_\_\_ (B) \_\_\_\_\_ (C) \_\_\_\_\_

Subject: Re: treatment of US Civilian and military personnel by Panamanian Defense Personnel.

### ROUTE TO:

### ACTION

### DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Completion Date YY/MM/DD
CoKell	ORIGINATOR	88/08/31		C 88/11/04
DOD	R	88/09/07	to be referred	C 88/09/06
DOS	R	88/09/08		A 88/11/02 undated

#### ACTION CODES:

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- Type of Response = Initials of Signer
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Comments: \_\_\_\_\_

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Prime Subject Code: CO 121 Secondary Subject Codes: ND 007 \_\_\_\_\_  
FG 013 \_\_\_\_\_

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 S - Sealed  
 T - Telegram  
 V - Telephone  
 X - Miscellaneous  
 Y - Study

UNCLASSIFIED

DEPARTMENT OF STATE  
EXECUTIVE SECRETARIAT

TRANSMITTAL FORM

S/S 8826484

Date November 3, 1988

FOR: Mr. Paul Schott Stevens  
Executive Secretary  
National Security Council  
The White House

REFERENCE:

To: President Ronald Reagan

From: Mr. Ernest W. Bowerman Jr.

Date: October 31, 1988

Subject: Regarding Treatment of U.S. Citizen and Military  
Personnel by PDF

WH Referral Dated: September 8, 1988

NSC ID# (if any): 610183

The attached item was sent directly to the  
Department of State.

ACTION TAKEN:

A draft reply is attached.

A draft reply will be forwarded.

A translation is attached.

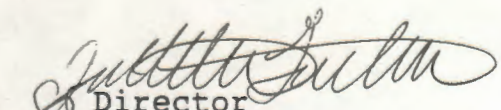
An information copy of a direct reply is attached.

We believe no response is necessary for the reason  
cited below.

The Department of State has no objection to the  
proposed travel.

Other (see remarks).

REMARKS:

  
Director  
Secretariat Staff

UNCLASSIFIED



United States Department of State

Washington, D.C. 20520

Dear Mr. Bowerman:

I have been asked to reply to your letter of August 23 to President Reagan in which you expressed interest in reports of mistreatment of U.S. personnel by members of the Panamanian Defense Forces (PDF).

Since February, there has been a campaign of harassment of U.S. Forces and dependents conducted by General Noriega. This campaign has taken the form of unjustified detentions, and, in some instances, physical abuse of U.S. Forces and dependents. There was one instance in which the spouse of an enlisted man alleged that she was raped by an individual believed to be either a Panamanian Defense Forces (PDF) member or a paramilitary operative under PDF control. We have been unable to confirm the identity of the alleged assailant in this case. In addition, there have been a number of instances of intrusions by military or paramilitary forces at certain U.S. facilities. The Department of State has not lodged protests concerning any of these incidents, because we do not recognize the regime headed by Noriega's hand-picked head of state, Manuel Solis Palma.

The Department views the campaign of harassment as calculated to intimidate the U.S. into changing its policies toward Panama and toward the illegitimate Solis Palma regime. We have let Noriega know that the campaign will not work. U.S. sanctions remain in effect, and we continue in our efforts to diplomatically isolate the Noriega-dominated Solis Palma regime.

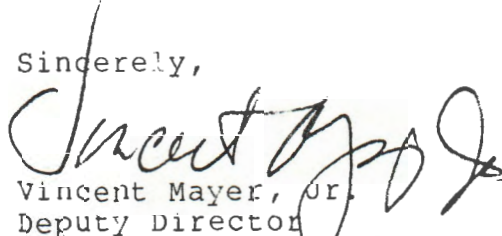
U.S. Forces and dependents in Panama are aware of the risks associated with service there, and are instructed to take appropriate security precautions. As an additional security measure, there is a program in effect whereby the U.S. Southern Command is reducing the number of U.S. Forces and dependents who reside in off base housing.

Concerning commissary privileges, limited shopping privileges at some military facilities were extended to U.S. citizen employees of the Panama Canal Commission (PCC) in March, by agreement between the U.S. Government and representatives of President Eric Arturo Delvalle. PCC personnel continue to have these privileges. U.S. military personnel assigned to Panama, of course, enjoy the usual range of military commissary and exchange privileges.

Mr. Ernest W. Bowerman, Jr.,  
511 Harold Lane,  
Baytown, Texas.

We continue to follow the situation in Panama closely, with particular concern for the large number of Americans who live and work there.

Sincerely,

A handwritten signature in cursive script, appearing to read "Vincent Mayer, Jr.", written in dark ink.

Vincent Mayer, Jr.  
Deputy Director  
Office of Panamanian Affairs

8826484

T H E   W H I T E   H O U S E   O F F I C E

REFERRAL

SEPTEMBER   8, 1988

TO: DEPARTMENT OF STATE

ACTION REQUESTED:

DIRECT REPLY, FURNISH INFO COPY

DESCRIPTION OF INCOMING:

ID:           610183

MEDIA:       LETTER, DATED AUGUST 23, 1988

TO:           PRESIDENT REAGAN

FROM:        MR. ERNEST W. BOWERMAN JR.  
              511 HAROLD LANE  
              BAYTOWN TX 77521

SUBJECT: REGARDINT TREATMENT OF U.S. CIVILIAN AND  
          MILITARY PERSONNEL BY PANAMANIAN DEFENSE  
          PERSONNEL

PROMPT ACTION IS ESSENTIAL -- IF REQUIRED ACTION HAS NOT BEEN  
TAKEN WITHIN 9 WORKING DAYS OF RECEIPT, PLEASE TELEPHONE THE  
UNDERSIGNED AT 456-7486.

RETURN CORRESPONDENCE, WORKSHEET AND COPY OF RESPONSE  
(OR DRAFT) TO:  
AGENCY LIAISON, ROOM 91, THE WHITE HOUSE, 20500

SALLY KELLEY  
DIRECTOR OF AGENCY LIAISON  
PRESIDENTIAL CORRESPONDENCE

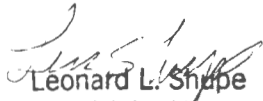


OFFICE OF THE SECRETARY OF DEFENSE

6 SEP 88

Memo For JONI STEVENS

TRANSFER TO STATE.

  
Leonard L. Shupe  
OSD White House  
Correspondence Section

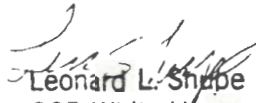
ATT  
IE 610183

OFFICE OF THE SECRETARY OF DEFENSE

6 SEP 88

Memo For JONI STEVENS

TRANSFER TO STATE.

  
Leonard L. Shupe  
OSD White House  
Correspondence Section

ATT  
IT 6.0183

T H E   W H I T E   H O U S E   O F F I C E

REFERRAL

88 SEP -6 PM 2:44

GSD  
WHITE HOUSE LIAISON

SEPTEMBER    7, 1988

TO: DEPARTMENT OF DEFENSE

ACTION REQUESTED:

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MEDIA:        LETTER, DATED AUGUST 23, 1988

TO:            PRESIDENT REAGAN

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               BAYTOWN TX 77521

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(OR DRAFT) TO:

AGENCY LIAISON, ROOM 91, THE WHITE HOUSE, 20500

SALLY KELLEY  
DIRECTOR OF AGENCY LIAISON  
PRESIDENTIAL CORRESPONDENCE

50  
DOD

no: HR-4256

61:183

August 23, 1988

511 Harold Lane  
Baytown, Texas 77521

Re: Panama Canal Zone

*Stalling*

The President  
The White House  
Washington, DC 20500

Dear Mr. President:

I'm writing to express my concern about the relationship between officials of the Republic of Panama and U.S. civilian and military personnel working and living in the Canal Zone.

Recent newspaper reports indicate that some of our folks have been mistreated by Panamanian Defense personnel. Despite the problems we may have with their government, I would like to think that our military forces have the authority and responsibility to take whatever steps are necessary to guarantee the safety of all U.S. personnel in the Canal Zone.

Until relations between our nations return to normal, or until U.S. personnel are removed from the Canal Zone, all U.S. personnel should be allowed access to military shops or commissaries in order to safely obtain needed goods and services. HR 4256, which passed on voice vote on March 30, addressed the issue. SCon Res 111 passed with voice vote in the Senate on March 31, but this falls short of becoming law.

I am urging you to do what you can to correct the situation before some senseless tragedy occurs. Regardless of the goals of the Treaty, the health and welfare of all U.S. citizens in the Canal Zone must be our primary concern!

Sincerely,

*Ernest W. Bowerman Jr.*  
Ernest W. Bowerman, Jr.

August 23, 1988  
211 Harold Lane  
Baltimore, Texas 77521  
Rep. Pat Schroeder, Canal Zone

The President  
The White House  
Washington, DC 20500

I'm writing to express my concern about the relationship between officials of the Republic of Panama and U.S. civilian and military personnel working and living in the Canal Zone.

Recent newspaper reports indicate that some of our folks have been harassed by Panamanian defense personnel. Despite the problems we may have with their government, I would like to think that our military forces have the authority and responsibility to take whatever steps are necessary to guarantee the safety of all U.S. personnel in the Canal Zone.

Until relations between our nations return to normal, or until U.S. personnel are removed from the Canal Zone, all U.S. personnel should be allowed access to military areas or communities in order to safely obtain needed goods and services. HR 4324, which passed on voice vote on March 30, addressed the issue. SCOT 804 111 passed with voice vote in the Senate on March 31, but this falls short of becoming law.

I am urging you to do what you can to correct the situation before some senseless tragedy occurs. Regardless of the goals of the Treaty, the health and welfare of all U.S. citizens in the Canal Zone must be our primary concern.

Sincerely,

  
Robert W. Rowland, Jr.

C0121

Bg

WHITE HOUSE  
CORRESPONDENCE TRACKING WORKSHEET

- O - OUTGOING
  - H - INTERNAL
  - I - INCOMING
- Date Correspondence Received (YY/MM/DD)   1  /  1  /

Name of Correspondent: Douglas Kmiec

MI Mail Report      User Codes: (A) \_\_\_\_\_ (B) \_\_\_\_\_ (C) \_\_\_\_\_

Subject: GAO/Norvega  
OLE opinion - GAO Investigation concerning  
Manuel Norvega

ROUTE TO:	ACTION	DISPOSITION
Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD
<u>Curran</u>	ORIGINATOR	<u>88108116</u>
	Referral Note:	<u>C 88108126</u>
<u>Cuculo</u>	<u>A</u>	<u>88108116</u>
	Referral Note:	<u>C 88108126</u>
		<u>Copies provided to Dean McGrath, Pat Bryan, Kathy Koch, Arnold Intrater</u>
<u>Cerkoll</u>	<u>A</u>	<u>8810826</u>
	Referral Note:	<u>C 88108129</u>
<u>Cuculo</u>	<u>I</u>	<u>880826</u>
	Referral Note:	<u>C 88108129</u>

ACTION CODES:

- A - Appropriate Action
- C - Comment/Recommendation
- D - Draft Response
- F - Furnish Fact Sheet to be used as Enclosure
- I - Info Copy Only/No Action Necessary
- R - Direct Reply w/Copy
- S - For Signature
- X - Interim Reply

DISPOSITION CODES:

- A - Answered
- B - Non-Special Referral
- C - Completed
- S - Suspended

FOR OUTGOING CORRESPONDENCE:

- Type of Response = Initials of Signer
- Code = "A"
- Completion Date = Date of Outgoing

Comments: Copies of Nick Pastow draft letter and August 11, 1988, Congressional Record excerpts attached  
See: 585598CU, 611755CU, & 611756CU

Keep this worksheet attached to the original incoming letter.  
Send all routing updates to Central Reference (Room 75, OEOB).  
Always return completed correspondence record to Central Files.  
Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

## RECORDS MANAGEMENT ONLY

### CLASSIFICATION SECTION

No. of Additional Correspondents: \_\_\_\_\_ Media: \_\_\_\_\_ Individual Codes: \_\_\_\_\_

Prime Subject Code: CO 121 Secondary Subject Codes: FG 045 HE 006-01  
FG 006-12  
EG 017

### PRESIDENTIAL REPLY

Code	Date	Comment	Form
C	_____	Time: _____	P- _____
DSP	_____	Time: _____	Media: _____

**SIGNATURE CODES:**

**CPn - Presidential Correspondence**

- n - 0 - Unknown
- n - 1 - Ronald Wilson Reagan
- n - 2 - Ronald Reagan
- n - 3 - Ron
- n - 4 - Dutch
- n - 5 - Ron Reagan
- n - 6 - Ronald
- n - 7 - Ronnie

**CLn - First Lady's Correspondence**

- n - 0 - Unknown
- n - 1 - Nancy Reagan
- n - 2 - Nancy
- n - 3 - Mrs. Ronald Reagan

**CBn - Presidential & First Lady's Correspondence**

- n - 1 - Ronald Reagan - Nancy Reagan
- n - 2 - Ron - Nancy

**MEDIA CODES:**

- B - Box/package
- C - Copy
- D - Official document
- G - Message
- H - Handcarried
- L - Letter
- M - Mailgram
- O - Memo
- P - Photo
- R - Report
- S - Sealed
- T - Telegram
- V - Telephone
- X - Miscellaneous
- Y - Study

CO 121

**WHITE HOUSE  
CORRESPONDENCE TRACKING WORKSHEET**

O - OUTGOING

H - INTERNAL

I - INCOMING

Date Correspondence Received (YY/MM/DD)   1  /  1  /  

Name of Correspondent: Douglas W. Kmiec

MI Mail Report

User Codes: (A) \_\_\_\_\_ (B) \_\_\_\_\_ (C) \_\_\_\_\_

Subject: OLC Opinion for Paul Schutt Stevens Re: GAO Investigation concerning Manuel Noriega

**ROUTE TO:**

**ACTION**

**DISPOSITION**

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Completion Date YY/MM/DD
<u>cu holl</u>	ORIGINATOR	<u>88108126</u>		<u>@ 88108129</u>
	Referral Note:			
<u>cu culv</u>	<u>I</u>	<u>88108126</u>		<u>@ 88108129</u>
	Referral Note:			
		<u>  1  /  1  /  </u>		<u>  1  /  1  /  </u>
	Referral Note:			
		<u>  1  /  1  /  </u>		<u>  1  /  1  /  </u>
	Referral Note:			
		<u>  1  /  1  /  </u>		<u>  1  /  1  /  </u>
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Comments: \_\_\_\_\_

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## RECORDS MANAGEMENT ONLY

### CLASSIFICATION SECTION

No. of Additional Correspondents: \_\_\_\_\_ Media: \_\_\_\_\_ Individual Codes: \_\_\_\_\_

Prime Subject Code: CO 121 Secondary Subject Codes: FB 045

\_\_\_\_\_

\_\_\_\_\_

### PRESIDENTIAL REPLY

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C	_____	Time: _____	P- _____
DSP	_____	Time: _____	Media: _____

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  - n - 6 - Ronald
  - n - 7 - Ronnie
  
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  - n - 2 - Nancy
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- O - Memo
- P - Photo
- R - Report
- S - Sealed
- T - Telegram
- V - Telephone
- X - Miscellaneous
- Y - Study

Info Louis <sup>of OLC memo</sup> to: —

Pat, Dean, Kathy, Arnie

Close hold — done 8/26/88

File all in my GPO/Nonie  
Inventory file.

CLOSE HOLD

THE WHITE HOUSE  
WASHINGTON

Date: 8/26/88

**TO:** DEAN MCGRATH  
PAT BRYAN  
KATHY KOCH  
ARNIE INTRATER

**FROM:** ARTHUR B. CULVAHOUSE, JR.  
Counsel to the President

FYI.

CLOSE HOLD



Office of the  
Assistant Attorney General

Washington, D.C. 20530

August 16, 1988

MEMORANDUM FOR PAUL SCHOTT STEVENS  
Executive Secretary, National Security Council

Re: GAO Investigation Concerning Manuel Noriega

INTRODUCTION AND SUMMARY

This memorandum is in response to your request for the opinion of this Office on whether, or to what extent, the Administration has a legal basis for declining to cooperate with the pending General Accounting Office (GAO) investigation concerning U.S. foreign policy decisions with respect to Manuel Noriega. In its June 23, 1988 letter to the National Security Council, GAO described the nature and purpose of the investigation: In order to evaluate whether "information about illegal activities by high-level officials of other nations may not be adequately considered in U.S. foreign policy decisions . . . , the General Accounting Office is undertaking an initial case study of how information about General Noriega was developed by various government agencies, and what role such information played in policy decisions regarding Panama." As stated in the National Security Council's response to GAO of July 13, 1988, representatives of GAO have made it clear that GAO's "three areas of interest [are] intelligence files, law enforcement files, and the deliberative process of the Executive branch, including internal communications and deliberations leading to Executive branch actions taken pursuant to the President's constitutional authority."

Specifically, you have asked this Office to advise you as to whether the GAO investigation is within GAO's statutory authority; whether there are statutory or constitutional grounds for denying GAO's request to the extent it is directed specifically at intelligence information, at law enforcement information, or at deliberative process information; and whether there are other grounds for denying GAO's request in whole or in part. As explained below, we conclude that on the present record the GAO investigation is beyond GAO's statutory investigative

authority.<sup>1</sup> Because of this conclusion it is unnecessary to address any constitutional basis for challenging GAO's authority to conduct the investigation. In addition, we are unable to evaluate the strength of any constitutional objection to providing particular information because specific information requests have not yet been made. As a matter of general guidance, however, we outline the constitutional principles which would be applied in evaluating whether particular information can be withheld.

## I. AUTHORITY TO CONDUCT THE INVESTIGATION

### A. GAO's Investigative Authority

#### 1. Statutory Limitations

GAO's investigative authority is set forth in subchapter II of chapter 7 of title 31 of the U.S. Code. Except for section 717(b), the various grants of authority in subchapter II are limited to auditing the finances of government agencies and are thus inadequate bases for the GAO Noriega investigation, which clearly goes well beyond a financial audit. See 31 U.S.C. 711-715. Accordingly, GAO must base this investigation on its authority in section 717(b) to "evaluate the results of a program or activity the Government carries out under existing law" (emphasis added). 2 Op. Office of Legal Counsel 415, 420 (1978) (where a GAO investigation goes beyond fiscal matters, GAO's authority must be based on section 204(b), the substantially identical predecessor version of section 717(b)).

We believe as a matter of statutory construction that the phrase "program or activity . . . under existing law" must refer only to activities carried out pursuant to statute, and not activities carried out pursuant to the Executive's discharge of its own constitutional responsibilities.<sup>2</sup> The juxtaposition of

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<sup>1</sup> Moreover, in addition to GAO's lack of statutory authority to pursue this investigation, we believe that the Intelligence Oversight Act, Pub. L. No. 96-450, sec. 407, 94 Stat. 1975, 1981 (1980), extinguishes whatever authority GAO might otherwise possess in gaining access to intelligence information.

<sup>2</sup> The views we express here concerning the limitations on GAO's investigative authority under section 717(b) are not novel. In 1978, the Office opined that GAO's authority under the similarly worded predecessor to 717(b) did not extend to the discharge of the President's constitutional, as opposed to statutory, responsibilities. 2 Op. Office of Legal Counsel 415, 420 (1978) ("[T]he appointment of officers of the United States by the President by and with the advice of the Senate does not  
(continued...)

"program or activity" with "existing law" strongly suggests an intent to refer to statutory responsibilities. Moreover, the use of the qualifier "existing" appears to suggest that the laws at issue are statutes that may lapse rather than constitutional authorities of the President which are of greater permanence. Finally, the legislative history of section 717(b) confirms that Congress' focus of concern was the oversight of its legislative programs: "It is intended that in performing [evaluations under section 717(b)], the Comptroller General shall review and analyze Government program results in a manner which will assist the Congress to determine whether those programs and activities are achieving the objectives of the law." S. Rep. No. 1215, 91st Cong., 2d Sess. 82 (1970). Nothing in the legislative history manifests any congressional intent to extend GAO's investigative authority beyond statutory programs into the Executive's discharge of its constitutional responsibilities. See S. Rep. No. 924, 93d Cong., 2d Sess. 72 (1974); S. Rep. No. 202, 91st Cong., 1st Sess. (1969); S. Rep. No. 1215, supra, at 18, 34, 81-84; 116 Cong. Rec. 24597 (1970).

2. GAO Has Not Justified its Investigation Under Section 717(b)

We conclude on the record before us that GAO has not established that it has authority under section 717(b) to pursue this investigation. The subject of the investigation according to GAO is foreign policymaking, a subject matter which is generally within the purview of the President's power under Article II of the Constitution. GAO has failed to assert any interest in evaluating the results of any specific statutory program or activity that may relate to foreign policy.

As this Office has consistently observed,<sup>3</sup> section one of Article II confers on the President plenary authority to represent the United States and to pursue its interests outside the borders of the country, subject only to limits specifically set forth in the Constitution itself and to such statutory limitations as the Constitution permits Congress to impose by exercising one of its enumerated powers. See generally United States v. Curtiss-Wright Export Corp., 299 U.S. 304 (1936). Specifically, the President's constitutional authority includes

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<sup>2</sup>(...continued)  
constitute a Government program or activity carried out under existing law . . . .").

<sup>3</sup> See, e.g., Memorandum for Judith H. Bello, General Counsel, Office of the United States Trade Representative, Re: The President's Authority to Terminate the International Express Mail Agreement With Argentina Without the Consent of the Postal Service (June 2, 1988).

the authority to negotiate with foreign nations, to articulate the foreign policy of the United States, to carry out diplomatic and intelligence missions, and to protect the lives of Americans abroad. Id.

Of course, pursuant to its own substantial authority under the Commerce Clause and its exclusive power of appropriation, Congress has enacted statutes that relate to the foreign policy of the United States. For instance, Congress has appropriated funds for foreign assistance and enacted statutes regulating arms sales to foreign governments. If GAO were to express a specific interest in materials relating to such statutes, there would be reasonable and legitimate questions as to which materials were within the scope of GAO's section 717(b) authority, and which were not.

The request before us, however, does not present these close questions. The GAO letter of June 23, 1988 makes it clear that foreign policymaking is the subject of the GAO investigation, and it provides no basis for concluding that GAO is interested in reviewing Executive foreign policymaking pursuant to statutory authority. The GAO letter states that the GAO investigation is premised on a concern that "information about illegal activities by high-level officials of other nations may not be adequately considered in U.S. foreign policy decisions" and that it is directed at learning "what role [information about General Noriega] played in policy decisions regarding Panama." The GAO letter thus demonstrates an interest in our "diplomatic" or "national security" foreign relations with Panama and General Noriega, and provides no basis for concluding that it relates to activities undertaken by the Executive under any specific statute.

We therefore conclude based on the nature of the GAO request that the subject of the GAO investigation is the Executive's discharge of its constitutional foreign policy responsibilities, not its statutory responsibilities. The subject is thus not "a program or activity the Government carries out under existing law," and it is beyond GAO's authority under 31 U.S.C. 717(b). Accordingly, unless this request is tailored to inquire specifically about a program or activity carried out under existing statutory law, we believe there is no obligation to grant GAO access to executive branch agencies for purposes of conducting this investigation.

#### B. Intelligence Oversight

In addition to the infirmity in GAO's statutory authority to pursue this investigation, we believe that GAO is specifically precluded by statute from access to intelligence information. In establishing by law the oversight relationship between the intelligence committees and the executive branch, Congress

indicated that such oversight would be the exclusive means for Congress to gain access to confidential intelligence information in the possession of the executive branch.<sup>4</sup>

This intelligence oversight system has been codified at 50 U.S.C. 413. That section sets forth requirements for the Director of Central Intelligence, the heads of all other federal agencies involved in intelligence activities, and the President to inform the Congress -- through the intelligence committees (and in some circumstances the Speaker and minority leader of the House of Representatives and the majority and minority leaders of the Senate) -- of intelligence activities.

The legislative history of section 413 makes it clear that both the legislative and executive branches believed they were establishing a comprehensive scheme for congressional oversight of intelligence activities that would constitute the exclusive means of congressional oversight. As President Carter stated when he signed the section into law, it

establishes, for the first time in statute, a comprehensive system for congressional oversight of intelligence activities . . . . The oversight legislation that was passed . . . codifies the current practice and relationship that has developed between this administration and the Senate and House intelligence committees over the past 3 years.<sup>5</sup>

Senator Huddleston, sponsor of the floor amendment containing the version of section 413 that was enacted into law, emphasized upon the amendment's introduction the comprehensive

---

<sup>4</sup> As a general matter, intelligence gathering is often viewed as a form of diplomatic activity that is within the President's Article II powers. As Professor Louis Henkin has noted, "[t]he gathering of information is a principal purpose of sending ambassadors and maintaining diplomatic relations, an exclusive Presidential power. It is only a small extension to conclude that gathering information by any means is part of the President's 'eyes and ears' function. There is, therefore, a strong case for presidential authority to obtain intelligence not only through our embassies but also through our agents representing the Executive . . . ." Letter from Louis Henkin to Representative Louis Stokes, March 31, 1987, reprinted in H.R. 1013, H.R. 1371, and Other Proposals Which Address the Issue of Affording Prior Notice of Covert Actions to Congress: Hearings Before the Subcommittee on Legislation of the House Permanent Select Committee on Intelligence, 100th Cong., 1st Sess. 221 (1987).

<sup>5</sup> 16 Weekly Comp. Pres. Doc. 2231 (Oct. 14, 1980).

and exclusive nature of the scheme being established: "[T]his amendment is identical to Senate bill 2284 which the Senate passed by a vote of 89 to 1 on June 3 of this year. It is a bill that establishes the congressional oversight procedures dealing with our intelligence agencies . . . ."<sup>6</sup> Senator Huddleston also agreed, in a floor colloquy with Senator Javits on S. 2284, with the following statement by Senator Javits:

I agree thoroughly with the need for simplifying [the practice of the oversight committees]. There are some seven committees here that could have had this wrestling match with the executive . . . I am satisfied . . . that the method we now have chosen . . . represents a fair, effective, and objective way in which to accomplish the results of simplifying the intelligence relations between the President and Congress . . . and limiting further the opportunities for misadventure, premature disclosure, and so forth . . . . What we are doing is simply legislating . . . a new arrangement or modus vivendi for the handling of information and consultations between Congress and the intelligence agencies . . . .<sup>7</sup>

The Senate report on S. 2284 also confirms the understanding that congressional oversight with respect to intelligence matters was to be limited to the intelligence committees. In the "general statement" that preceded the section-by-section analysis, the report noted:

Out of necessity, intelligence activities are conducted primarily in secret. Because of that necessary secrecy, they are not subject to public scrutiny and debate as is the case for most foreign policy and defense issues. Therefore, the Congress, through its intelligence oversight committees, has especially important duties in overseeing these vital activities by the intelligence agencies of the United States. [50 U.S.C. 413] is intended to authorize the process by which information concerning intelligence activities of

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<sup>6</sup> 126 Cong. Rec. 17692 (1980).

<sup>7</sup> 126 Cong. Rec. 17692-3 (1980). Senator Moynihan agreed with the position of Senators Huddleston and Javits that a major purpose of the Intelligence Oversight Act was to reduce the number of congressional committees that sought intelligence information: "[T]here is a rule of intelligence, which the Senator [Javits] knows well from his wartime experience, which is that you protect sensitive information by compartmentation. The more important that matter is the fewer persons you want to know about it . . . ." Id. at 17694.



the United States is to be shared by the two branches in order to enable them to fulfill their respective duties and obligations to govern intelligence activities within the constitutional framework. The Executive branch and the intelligence oversight committees have developed over the last four years a practical relationship based on comity and mutual understanding, without confrontation. The purpose of [§ 413] is to carry this working relationship forward into statute.<sup>8</sup>

Based on the evidence of intent on the part of both the legislative and executive branches that oversight by the intelligence committees would be the exclusive method of congressional oversight concerning intelligence information, we conclude that 50 U.S.C. 413 stands as statutory authority for the Administration to decline to provide GAO with access to any intelligence information sought in the Noriega investigation.

## II. EXECUTIVE PRIVILEGE

Should GAO, in response to an appropriate direction from Congress, subsequently undertake an investigation properly related to its statutory authority, it would then be necessary to review established principles concerning the maintenance of confidentiality with respect to certain executive branch information. Congressional investigations normally do not pose this problem to the degree suggested by the pending GAO investigation because they are properly tailored to address non-confidential subjects. Disturbingly, and in contrast, the type of information in which GAO expressed interest in its letter of June 23, 1988 suggests a desire to review confidential material generally not available outside the executive branch, such as intelligence, law enforcement, and deliberative process information.<sup>9</sup>

Since GAO has not yet made any specific requests, we cannot analyze the case for withholding any particular document or

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<sup>8</sup> S. Rep. No. 730, 96th Cong., 2d Sess 5 (1980) (emphasis added). More specifically, the Senate report stated that "[t]his amendment repeals the congressional reporting requirement of the Hughes-Ryan Amendment of 1974 . . . . The effect is to limit reporting to the two intelligence oversight committees, as compared with the seven committees that now receive such reports . . . ." Id. at 5.

<sup>9</sup> This subject is usually discussed in terms of "executive privilege," and we will use that convention here. The question, however, is not strictly speaking just one of executive privilege. The privilege itself need not be claimed formally vis-a-vis Congress except in response to a lawful subpoena.

information. What we do below is summarize briefly the general executive privilege principles that apply in the individual contexts of intelligence, law enforcement, and deliberative process information.

A. Protection of Intelligence Information

In the hierarchy of executive privilege, the "protection of national security" constitutes the strongest interest that can be asserted by the President and one to which the courts have traditionally shown the utmost deference. In United States v. Nixon, for instance, the Court contrasted President Nixon's claim of executive privilege based on the Executive's general interest in confidentiality with a claim based on the President's national security responsibilities:

[President Nixon] does not place his claim of privilege on the ground they are military or diplomatic secrets. As to these areas of Art. II duties the Courts have traditionally shown the utmost deference to Presidential responsibilities.

418 U.S. 683, 710 (1974).

B. Protection of Law Enforcement Information

With respect to open law enforcement files, it has been the policy of the executive branch throughout our Nation's history to protect these files from any breach of confidentiality, except in extraordinary circumstances. Attorney General Robert H. Jackson well articulated the basic position:

It is the position of this Department, restated now with the approval of and at the direction of the President, that all investigative reports are confidential documents of the executive department of the Government, to aid in the duty laid upon the President by the Constitution to "take care that the Laws be faithfully executed," and that congressional or public access to them would not be in the public interest.

Disclosure of the reports could not do otherwise than seriously prejudice law enforcement. Counsel for a defendant or prospective defendant, could have no greater help than to know how much or how little information that Government has, and what witnesses or sources of information it can rely upon. This is exactly what these reports are intended to contain.

40 Op. Att'y Gen. 45, 46 (1941).

There are, however, circumstances in which the Department of Justice may decide to disclose to Congress information about prosecutorial decisions. This is particularly true where an investigation has been closed without further prosecution. In such a situation concerns about real or perceived congressional interference with an investigation, and about the effects of undue pretrial publicity on a jury, would disappear. Still, extreme caution must be applied whenever the disclosure of such records is contemplated. Much of the information in a closed criminal enforcement file -- such as unpublished details of allegations against particular individuals and details that would reveal confidential sources and investigative techniques and methods -- would continue to merit protection.

### C. Protection of Deliberative Process Information

The Constitution gives the President the power to protect the confidentiality of deliberations within the executive branch. See Nixon v. Administrator of General Services, 433 U.S. 425, 446-455 (1977); United States v. Nixon, 418 U.S. at 708. This is independent of the President's power over foreign affairs or national security, or law enforcement; it is rooted instead in "the necessity for protection of the public interest in candid, objective, and even blunt or harsh opinions in Presidential decisionmaking." Id. at 708. The Supreme Court has held that, for this reason, communications among the President and his advisers enjoy "a presumptive privilege" against disclosure in court. Id.

The reasons for this privilege, the Court said in United States v. Nixon, are "plain." "Human experience teaches that those who expect public dissemination of their remarks may well temper candor with a concern for appearances and for their own interests to the detriment of the decisionmaking process." Id. at 705. Often, an advisor's remarks can be fully understood only in the context of a particular debate and of the positions others have taken. Advisors change their views, or make mistakes which others correct; this is indeed the purpose of internal debate. The result is that advisors are likely to be inhibited if they must anticipate that their remarks will be disclosed to others, not party to the debate, who may misunderstand the significance of a particular statement or discussion taken out of context. Some advisors may hesitate -- out of self-interest -- to make remarks that might later be used against their colleagues or superiors. As the Supreme Court has stated, "[a] President and those who assist him must be free to explore alternatives in the process of shaping policies and making decisions and to do so in a way many would be unwilling to express except privately." Id. at 708.

These reasons for the constitutional privilege have at least as much force when it is Congress, instead of a court, that is

seeking information.<sup>10</sup> The United States Court of Appeals for the District of Columbia Circuit has explicitly held that the privilege protects presidential communications against congressional inquiries.<sup>11</sup>

#### D. Accommodation with Congress

##### 1. Governing Principles

Because a claim of executive privilege is not absolute, the executive branch has a duty to seek to accommodate requests that are within Congress' legitimate oversight powers. See United States v. American Telephone & Telegraph Co., 567 F.2d 121, 127-130 (D.C. Cir. 1977) (suggesting that, even when a claim of executive privilege rests on national security grounds, the Executive does not enjoy clear and absolute discretion to deny legitimate congressional requests for information, but that each of the two branches must attempt to balance and accommodate the legitimate needs of the other).<sup>12</sup> This duty of accommodation

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<sup>10</sup> The Supreme Court has assumed that the constitutional privilege protects executive branch deliberations against Congress to some degree. See United States v. Nixon, 418 U.S. at 712 n.19. Moreover, in Nixon v. Administrator of General Services, 433 U.S. 425 (1977), the Court held that the constitutional privilege protects executive branch deliberations from disclosure to members of the same branch in a later administration; the Court rejected the specific claim of privilege in that case not because the privilege was inapplicable but because the intrusion was limited and the interests justifying the intrusion were strong and nearly unique. See id. at 446-455.

<sup>11</sup> During the Watergate investigation the court of appeals rejected a Senate committee's efforts to obtain tape recordings of conversations in President Nixon's offices. The court held that the tapes were constitutionally privileged and that the committee had not made a strong enough showing to overcome the privilege. Senate Select Committee on Presidential Campaign Activities v. Nixon, 498 F.2d 725 (D.C. Cir. 1974) (en banc). The court held that the committee was not entitled to the recordings unless it showed that "the subpoenaed evidence is demonstrably critical to the responsible fulfillment of the Committee's functions." Id. at 731 (emphasis added).

<sup>12</sup> It should be emphasized, however, that in United States v. AT&T the information Congress sought related to wiretaps on American citizens placing telephone calls from the United States. Although these wiretaps were justified on national security grounds and the President, in turn, could assert national security as a basis for withholding the information, Congress

(continued...)

means that the Executive should attempt to satisfy the requests of Congress as completely as it can without making harmful disclosures. See Memorandum for the Attorney General from John M. Harmon, Assistant Attorney General, Office of Legal Counsel, Re: The Constitutional Privilege for Executive Branch Deliberations: The Dispute with a House Subcommittee over Documents Concerning the Gasoline Conservation Fee (Jan. 18, 1981). In this spirit, the Executive has occasionally offered Congress summaries of documents prepared in such a manner as not to disclose, for example, deliberative aspects that might chill executive branch decisionmaking. See id. at 22-23.

The nature of the accommodation required in responding to a congressional request for information depends on the balance of interests between the Executive and Congress. In order for its interests to be given weight, Congress must articulate its need for the particular materials; it must "point[] to . . . specific legislative decisions that cannot responsibly be made without access to materials uniquely contained" in the presumptively privileged documents (or testimony) it has requested, and show that the material "is demonstrably critical to the responsible fulfillment of the Committee's functions." Senate Select Committee on Presidential Campaign Activities v. Nixon, 498 F.2d at 731, 733.<sup>13</sup>

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<sup>12</sup>(...continued)

clearly had a substantial interest in this subject matter, because the wiretaps implicated the individual rights of American citizens. Accordingly, we believe that a court may view the relative weights of executive and legislative interests differently when the information sought relates directly to the conduct of foreign relations rather than to the rights of American citizens.

<sup>13</sup> In Senate Select Committee, for example, the court held that the committee had not made a sufficient showing of need for copies of the presidential tape recordings, given that the President had already released transcripts of the recordings. The committee argued that it needed the tape recordings "in order to verify the accuracy of" the transcripts, to supply the deleted portions, and to gain an understanding that could be acquired only by hearing the inflection and tone of voice of the speakers. But the court answered that in order to legislate a committee of Congress seldom needs a "precise reconstruction of past events." 498 F.2d at 732. "The Committee has . . . shown no more than that the materials deleted from the transcripts may possibly have some arguable relevance to the subjects it has investigated and to the areas in which it may propose legislation. It points to no specific legislative decisions that cannot responsibly be made without access to materials uniquely contained in the tapes or  
(continued...)

## 2. Procedural Issues

Only rarely do congressional requests for information result in a subpoena of an executive branch official or in other congressional action. In most cases the informal process of negotiation and accommodation recognized by the courts, and mandated for this Administration by President Reagan,<sup>14</sup> is sufficient to resolve any dispute. On occasion, however, the process breaks down, and a subpoena is issued by a congressional committee or subcommittee.<sup>15</sup> At that point, it would be

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<sup>13</sup>(...continued)  
without resolution of the ambiguities that the transcripts may contain." Id. at 733. For this reason, the court stated, "the need demonstrated by the Select Committee . . . is too attenuated and too tangential to its functions" to override the President's constitutional privilege. Id.

<sup>14</sup> President Reagan's November 4, 1982 Memorandum for the Heads of Executive Departments and Agencies on "Procedures Governing Responses to Congressional Requests for Information" states that "[t]he policy of this Administration is to comply with Congressional requests for information to the fullest extent consistent with the constitutional and statutory obligations of the Executive Branch . . . [E]xecutive privilege will be asserted only in the most compelling circumstances, and only after careful review demonstrates that assertion of the privilege is necessary. Historically, good faith negotiations between Congress and the Executive Branch have minimized the need for invoking executive privilege, and this tradition of accommodation should continue as the primary means of resolving conflicts between the Branches."

<sup>15</sup> In the current context, such a subpoena could only be issued after GAO had reported to its congressional requester that it was unable to obtain the information from the executive branch. Before requesting that a congressional committee issue a subpoena, GAO might attempt to enforce its request for information pursuant to the judicial enforcement mechanism authorized under 31 U.S.C. 716. Such a course of action could be successfully resisted by the executive branch without a claim of executive privilege, however, because judicial enforcement is precluded whenever the Director of the Office of Management and Budget or the President certify that the information could be withheld under exemptions (b)(5) (information withholdable in litigation) or (b)(7) (law enforcement information) of the Freedom of Information Act (5 U.S.C. 552(b)(5), (b)(7)) and "disclosure reasonably could be expected to impair substantially the operations of the Government." 31 U.S.C. 716(d)(1)(C). Upon such a certification, GAO would presumably refer enforcement to the congressional committee.

necessary to consider asking the President to assert executive privilege. Under the terms of the President's Memorandum, executive privilege cannot be asserted vis-a-vis Congress without specific authorization by the President, based on recommendations made to him by the concerned department head, the Attorney General, and the Counsel to the President.

CONCLUSION

We believe that there are statutory grounds which preclude GAO's present request for access to executive branch agencies for the purposes of conducting the investigation described in its letter of June 23, 1988. Should GAO's request be reformulated in a manner which properly relates it to a congressional interest within the terms of 31 U.S.C. 717(b) and which comports with the statutory restrictions on access to intelligence information found in 50 U.S.C. 413, it will be appropriate at that time to consider the application of additional lawful authority to withhold particular national security, intelligence, law enforcement, or deliberative process information. This Office is available for consultation with respect to requests for particular documents or information.



Douglas W. Kmiec  
Acting Assistant Attorney General  
Office of Legal Counsel

# DRAFT

NATIONAL SECURITY COUNCIL  
WASHINGTON, D.C. 20506

re: Study #472165

Dear Ms. Kingsbury:

I am writing in further response to GAO's request concerning a study of the alleged drug activities of Manuel Noriega, and the role information about such activities played in decisions about U.S. foreign policy.

As you know, there has been considerable discussion between the GAO and the NSC staff on this study. As I informed you by letter dated July 13, 1988, we were considering the important statutory and constitutional issues raised by your request. We have completed that review and, for the reasons stated below, must decline GAO's request for documents and interviews.

As explained in the various letters and meetings on this subject, GAO's request seeks to determine what intelligence and law enforcement information on Manuel Noriega was available to the Executive branch and to examine how that information was disseminated and what role, if any, it played in foreign policy decisions. As formulated, the request is beyond GAO's statutory authority. It is not related to the evaluation of any statutorily created program or activity or the expenditure of funds. We believe, moreover, that there are statutory and constitutional impediments to providing information in each of the three categories GAO has requested: law enforcement, intelligence, and Executive branch deliberations. We therefore will not participate in the study, nor will we make available the information GAO has requested.

I am available to discuss this matter with you further if you so desire.

Sincerely,

Nicholas Rostow  
Special Assistant to the President  
and Legal Adviser

Ms. Nancy R. Kingsbury  
Associate Director  
National Security and  
International Affairs Division  
United States General Accounting Office  
Washington, D.C. 20548

# DRAFT



least we have broken the logjam to give Members an opportunity here to have their say.

We are seeing the results of the hard work and dedication of the task force members, led by the gentleman from California, Mr. JERRY LEWIS, the gentleman from Oklahoma, Mr. MICKEY EDWARDS, on our side, the gentleman from Florida, Mr. BILL McCOLLUM, two of the three are down on our convention on the platform currently.

Countless hours of dedicated work by Members and staff created this opportunity to pass quality legislation. While I cannot list the names of all these people, I think they know I mean them, when I express the gratitude of this side of the aisle for their hard work.

As I said, Mr. Speaker, I would have preferred an open rule, but I must add that the bipartisan spirit that has permeated this process is very much evident in the rule today. As a result of the cooperative spirit evidenced by our Speaker and majority leader and the Rules Committee, the content of the bill is not only comprehensive, but it is of high quality.

Surely we do not agree on everything in the bill, nor do we agree on all of the amendments, but we have enabled Members to address and debate these key issues when we resume in September.

So, Mr. Speaker, I want to again thank the Speaker and the majority leader and the distinguished chairman of the committee for his cooperation here, that when we do come back from our recess there will be probably three or more days involved in amending this comprehensive drug bill.

I urge the adoption of the rule, and thank the gentleman for yielding this time.

Mr. PEPPER. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the distinguished gentleman from Arkansas [Mr. ALEXANDER].

(Mr. ALEXANDER asked and was given permission to revise and extend his remarks, and to include extraneous material.)

Mr. ALEXANDER. Mr. Speaker, I rise in support of the rule and to explain my amendment made in order under the rule.

Mr. Speaker, I first conducted a forum on drug abuse 16 years ago in order to attack a dilemma that was just beginning to invade some areas of my home State of Arkansas. Today, with Arkansas as well as the rest of the country seemingly no closer to solving the problem of drug abuse than in 1972, the question arises as to why America has been unable to deal with the scourge of drug abuse.

As we debate the rule on the omnibus antidrug bill today, we should recognize that there is no one simple answer to this question, but a major obstacle in attacking drug use is the absence of a clearly defined, unmistakable policy. In the void left by the lack of a clear policy, confusion reigns

among the agencies that are charged with drug enforcement.

As a remedy to this situation, in September I plan to offer an anti-stonewalling amendment to the anti-drug bill, which would require the sharing of information among certain Federal agencies about illegal foreign drug activities. My amendment would require that any executive branch official having information about such activities would transmit it to the heads of agencies involved in formulating U.S. foreign policy or enforcing Federal drug laws. The antistonewalling amendment would also require that such information be shared, when requested, with committees of Congress and the General Accounting Office.

A classic example of the difficulties that arise from the national policy vacuum in drug abuse occurred on July 12 when John Lawn, the head of the Drug Enforcement Administration, testified to a congressional subcommittee that he had written letters praising the alleged drug interdiction efforts of Gen. Manuel Noriega and the Panama Defense Forces. The DEA Administrator testified that at the time the letters were written he had not known about the criminal investigation into General Noriega's involvement with illegal importation of foreign drugs into the United States, because he was "left out of the loop" by U.S. intelligence agencies and never given hard evidence tying Noriega to narcotics traffickers.

That criminal investigation eventually led to Noriega's indictment, and was conducted by the Miami U.S. attorney general's office, which is a part of the Department of Justice. We must prevent this kind of confusion among agencies charged with drug laws enforcement in which the left hand of the Justice Department clearly didn't know what the right hand was doing.

A second example concerns an ongoing investigation by the General Accounting Office, undertaken at my request, which would examine how information about drug trafficking by high-level Government officials of other countries affects U.S. foreign policy decisions, using as a case study information concerning the drug trafficking activities of General Noriega of Panama.

GAO indicated in an August 9 letter to me that "since May 11, 1988 we have been formally trying to gain access to personnel and records at the Departments of State, Justice, and Defense." In late May, GAO was informed that the National Security Council would handle this assignment for the administration, and the Departments of State, Justice, and Defense were instructed by the NSC to cease cooperation in the investigation until NSC issued guidelines for GAO access to information. Repeated GAO requests for information were refused by State, Justice, and Defense, with each

refusal being accompanied by a reference to the NSC stonewalling policy.

While it is perfectly justifiable to withhold certain types of information that would jeopardize law enforcement or intelligence activities, the GAO told me that "most of the information we need to examine should be considered to be releasable." GAO officials met with NSC officials and told them of "our previous experience on other successful assignments involving similarly sensitive information." There is no reason why the executive should not provide information on the basic objective of the GAO investigation, which is the organization and decision process for foreign policymaking when information is available on foreign officials' drug trafficking.

A series of questions remain unanswered about illegal drug trafficking in Central America. For example, in Arkansas serious questions continue to surface about allegations concerning Adler Berriman (Barry) Seal's gun running and drug smuggling. Seal, a DEA informant who was slain in Louisiana in 1986, was allegedly involved in an operation in which a plane loaded with guns to aid the Nicaraguan Contras flew from Mena, AR, down to Central America and then returned loaded with drugs. One of Seal's planes, a C-123K that had been serviced and parked at the Mena airport during much of 1984 and 1985, was shot down over Nicaragua in October 1986, while carrying supplies to the Contras, and an Arkansan, Wallace (Buzz) Sawyer, was killed in the crash. There have been local, State, and Federal investigations into the Mena operation, but many questions persist. A vital goal of the anti-stonewalling amendment is to ensure that all agencies are cooperating in giving and receiving the information they need to do their job.

One question that arises is whether Federal agencies were working at cross purposes during the period of Seal's activities as an informant. There is evidence that the CIA and the NSC both wanted to divulge Seal's involvement in a massive undercover drug investigation because of those agencies' interest in influencing the Contra aid debate that was taking place in Congress shortly before Seal's murder in February 1986; simultaneously, the DEA's primary interest was apparently the undercover effort to break up the Colombian drug cartel. A news leak by an unknown U.S. Government official resulted in articles alleging that the Sandinista government was involved in drug trafficking, and it blew the investigation. According to our distinguished colleague, Chairman BILL HUGHES of the House Judiciary Subcommittee on Crime, the political-ly motivated leak cost Seal his life.

While everyone respects the need to avoid disclosing information about the criminal investigation of Noriega, there are many other questions the

executive should be able to give the GAO, including:

First, what procedures are there for law enforcement agencies to communicate their intelligence needs to the intelligence community?

Second, how are law enforcement and/or foreign policymaking officials further up the chain of command provided intelligence information—what procedures are involved, what kind of information is provided?

Third, were any specific instructions or directives prepared requesting information on illegal drug-related activities in Panama or on Noriega's involvement in illegal activities?

Fourth, who received the raw information, what did they do with it, what studies, reports, or analyses were prepared on illegal activities in Panama or on Noriega?

Fifth, who were these reports sent to—especially, were any recipients in the law enforcement community or in foreign policymaking positions?

Sixth, how did the law enforcement recipients use the reports—did they do further analysis, did they use the intelligence as input to build or develop any criminal cases?

Seventh, how did the foreign policymaking recipients use the reports—did they discuss them, did they do further analyses, did they summarize for higher level recipients?

Mr. Speaker, there is no reason why the executive branch should withhold information on the primary focus of the GAO inquiry, which is the organization and decision process for foreign policymaking when information is available on foreign officials' drug trafficking. The antistonewalling amendment would focus only on information such as that involved in the GAO's investigation of Noriega and other officials, which legitimately can be provided; it would not require disclosure under three conditions:

First, when it would jeopardize a U.S. foreign intelligence or counterintelligence activity.

Second, when it would endanger a law enforcement investigation; and

Finally, when it may adversely affect U.S. defense or national security.

A decision not to share information could be made only by the head of an agency. If the President decided to withhold the information from a committee of Congress, he would have to provide the committee the reasons for such action. In the event that the information involved U.S. foreign intelligence or counterintelligence, the President would be required to promptly inform the chairman and ranking minority members of the House and Senate committees on intelligence.

Mr. Speaker, drug abuse is the most devastating plague confronting America today. In battling this evil, we cannot any longer tolerate the policy void in which agencies operate in ignorance of each other and occasionally

even pursue contradictory objectives. We must replace the current vacuum with a clearly defined, unmistakable policy in which all agencies cooperate fully with each other in sharing information about illegal drug trafficking.

I further submit various copies of various letters from the GAO, the Department of State, the Department of Justice, the Department of Defense, and the National Security Council which further explains the need for the antistonewalling amendment.

GENERAL ACCOUNTING OFFICE,  
NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,

Washington, DC, August 9, 1988.

HON. BILL ALEXANDER,

Subcommittee on Commerce, Justice, State,  
the Judiciary and Related Agencies,  
Committee on Appropriations, House of  
Representatives.

DEAR MR. ALEXANDER: In May 1988 you asked us to review how information about drug trafficking by high-level government officials of nations friendly to the United States affects U.S. foreign policy decisions. Because the information required to successfully undertake this assignment would potentially involve information related to intelligence gathering and on-going law enforcement investigations which is difficult to obtain, we suggested, and you agreed, that we would explore the issue using as a case study the information concerning the drug trafficking activities of General Noriega of Panama. The following is a summary of the experience we have had so far in satisfying your request.

Since May 11, 1988, we have been formally trying to gain access to personnel and records at the Departments of State, Justice, and Defense. We were successful in gaining access to the Department of Defense and in fact performed a limited amount of audit work at that agency. In late May, we were advised that the National Security Council (NSC) would serve as the administration's focal point on this assignment. Concurrently, we were advised that the Departments of Justice and State had been instructed not to meet with the GAO staff or provide any information to GAO on this assignment until NSC issued guidelines concerning GAO access to information. The Department of Defense notified us on July 12, 1988, that it also was instructed by the NSC to cease cooperation with GAO until such guidelines are available. We have by letter and telephone discussions continued to try to obtain information and schedule meetings with the Departments of State, Defense, and Justice but these efforts have been refused, with each agency citing the NSC's direction as the reason for refusal.

We have been working with the NSC to facilitate access to agency personnel and records. We met with them on June 6, 1988 and June 22, 1988, and discussed at some length our approach to the work, our views about our access to information, and our previous experience on other successful assignments involving similarly sensitive information. On June 23, 1988, at NSC's request, we delivered a detailed letter to them giving further detail on the kinds of information we would be seeking. Although that letter identified some information which ultimately may not be made available, the information related to the primary focus of our work, that is, the organization and decision process for foreign policymaking when information is available on foreign officials' drug trafficking, would not uniformly be expected to raise similar concerns. Our normal procedures in such situations are to consider

access questions on a case-by-case basis, following discussions with agency officials and examination of otherwise available records. NSC's actions to prohibit such preliminary discussions until after guidelines concerning access are established has foreclosed that approach.

On July 13, 1988, the NSC wrote in response to our June 23, 1988, letter that our request "seeks access to sensitive law enforcement and intelligence files covering a substantial period of time" and "raises important statutory and constitutional issues." The letter advised that the administration is analyzing those issues and would reply when its deliberations were completed. We have on several occasions, most recently yesterday, asked the NSC about the status of the operating guidelines. We continue to be told the issues are being analyzed and guidelines will be issued when the review is completed. NSC officials say they cannot provide a specific date when guidelines will be available.

We are not into the fifth month of our effort to address the issue you asked us to review, and it is difficult to predict how much further delay is likely. Although we have assembled some information available from public records, we have made essentially no progress on the audit itself. We believe it should be possible to reach agreement with the agencies involved, as we pursue our audit questions, that much of the information we need to examine should be considered to be releasable, and to discuss special arrangements for security of the information if such arrangements are warranted. In fact, we were successful in such an approach with the Department of Defense prior to July 12.

We will continue to keep you informed of the status of our efforts, and will discuss further steps which we believe may be appropriate, if any, after we have reviewed any guidelines issued by NSC.

Sincerely yours,

NANCY R. KINGSBURY,  
Associate Director.

GENERAL ACCOUNTING OFFICE,  
NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,

Washington, DC, August 3, 1988.

HON. BILL ALEXANDER,

House of Representatives.

DEAR MR. ALEXANDER: In May 1988, you asked us to review how information about drug trafficking by high-level government officials of nations friendly to the United States affects U.S. foreign policy decisions. Because the information required to successfully undertake this assignment would potentially involve information related to intelligence gathering and on-going law enforcement investigations which is difficult for the General Accounting Office to obtain under our access-to-records authorities, we suggested, and you agreed, that we would explore the issue using as a case study the information concerning the drug trafficking activities of General Noriega of Panama. As you requested at our meeting on August 2, 1988, we are providing a detailed summary on the experience we have had so far in attempting to obtain information on this assignment.

In summary, although we were able to perform a limited amount of audit work at the Department of Defense in June, the National Security Council (NSC) has directed the other Executive Branch agencies involved not to meet with GAO staff or provide any information to GAO on this assignment until NSC issues guidelines concerning GAO access to information on the assignment. The NSC has informed us that it con-

siders our request for information concerning General Noriega's drug trafficking and other activities as raising "important statutory and constitutional issues."

As of August 1, 1988, the representative of NSC who has been our contact said that he could not tell us when the guidelines would be forthcoming, but he said that he expected them to be issued within, perhaps, a couple of weeks (that is, not within days, and not after months). We have made several attempts, by letter and through telephone discussions, to obtain information and schedule meetings with the Departments of State, Justice, and Defense, but these efforts have been refused, with each agency citing the NSC's direction as the reason for their refusal. We have also contacted the Central Intelligence Agency, where our request for information was also declined.

A detailed chronology of our efforts to meet with NSC and agency officials, and to obtain information, is provided in Enclosure I. Copies of the letters we sent to NSC and to the agencies are provided in Enclosure II. The NSC has provided one written interim response to our letters (Enclosure III); of the agencies, only the Central Intelligence Agency has responded in writing (Enclosure IV).

We are currently awaiting the NSC guidelines. We will continue to keep you informed of the status of our efforts, and will discuss further steps which we believe may be appropriate, if any, after we have reviewed any guidelines issued by NSC.

Sincerely yours,

NANCE R. KINGSBURY,  
Associate Director.

#### ENCLOSURE I

#### CHRONOLOGICAL SUMMARY OF GAO CONTACTS WITH EXECUTIVE BRANCH AGENCIES AND OFFICIALS

May 11-16, 1988: We sent routine notification letters to the Departments of State, Justice, and Defense, and the National Security Council advising them of our review and identifying the subject and scope of our work. Letters were sent specifically within the Department of Justice to the Drug Enforcement Agency (DEA), the Executive Office for U.S. Attorneys, and Justice's Criminal Division.

May 23, 1988: We received our first response from the NSC. Mr. Nicolas Rostow, Special Assistant to the President and Legal Advisor, told us by telephone that he wanted to "think about it" before scheduling a meeting with us.

May 24, 1988: We sent a notification letter to the Central Intelligence Agency asking for a meeting to discuss the issues.

May 30-June 1, 1988: We began contacting personnel at State and Justice to arrange for initial meetings to discuss the scope and depth of our audit. Mr. Manuel Rodriguez, U.S. Attorneys Office liaison who was coordinating the Justice Department components, declined to set up a meeting stating that NSC was coordinating the Administration's response to our notification and he was going to wait until he heard from NSC before proceeding. Mr. Bob Harris, from the Department of State, advised us that State would not deal with us on this assignment until we had discussed our work with the NSC.

June 1: We conducted our initial meeting with the Department of Defense. We performed work at the Defense Intelligence Agency (DIA) and the military departments until July 12, 1988.

June 6, 1988: We had our first meeting with Mr. Dan Levin, Deputy Legal Advisor, NSC. Mr. Levin stated he understood the

purpose of our review, but wasn't sure we could have access to sensitive intelligence or law enforcement files. He promised to discuss access with the agencies involved and would get back to us quickly. We were officially notified that NSC would be our focal point on this assignment. We advised Mr. Levin that we preferred to deal with the agencies directly without having to clear everything with the NSC—our normal practice. Mr. Levin stated we are free to deal with each agency directly and that NSC would not be a bottleneck.

June 8-9, 1988: We again contacted the Departments of State and Justice to arrange for initial meetings. Despite Mr. Levin's statement that we could deal directly with the agencies, both Mr. Harris at State and Mr. Rodriguez at Justice advised us the NSC instructed them not to deal with us until NSC had developed operational guidelines on what to do and what not to do on this assignment.

June 13, 1988: Mr. John L. Helgeson, Director of Congressional Affairs, CIA, responded to our notification letter. He stated that all agency activities in Central America and information it gathers is under close and continuing scrutiny by the House and Senate Intelligence Committees. Furthermore, the CIA advised all policy-related questions should be directed to the appropriate components of the Executive Branch. It stated that therefore it could not be of help to us.

June 15-16, 1988: We began efforts to contact Mr. Levin, NSC, to determine when the NSC guidance would be issued and we could continue our review. Mr. Levin requested another meeting to learn more about the review.

June 16, 1988: We conducted an initial meeting with representatives of the Customs Service. Mr. Bill Rosenblatt, Assistant Commissioner for Enforcement, did not provide any information and said he wanted first for the U.S. Attorneys Office to establish ground rules as to how much of the information Customs has is covered by grand jury secrecy provisions and what information they can provide to us.

June 22, 1988: We held a second meeting with the NSC and White House staff personnel. Attending for the Executive Branch were Mr. Nicolas Rostow, Special Assistant to the President and Legal Advisor; Mr. Dan Levin, Deputy Legal Advisor, NSC; Mr. Jonathan Scharfman, Assistant Legal Advisor, NSC; Mr. Dan McGrath, Legal Counsel, White House Staff; Mr. Bob Harris, Department of State; and another official from the Department of Justice.

We reiterated our purpose, and our requirements in terms of access to personnel and documentation to the extent that we could. We explained that we needed to conduct initial meetings to more fully determine our documentation needs. We discussed the availability of documents used in the deliberative process, grand jury and other enforcement actions, foreign intelligence, and other types of documentation. Some were considered to fall under executive privilege and not available to GAO, according to the administration officials. We discussed in general terms our access experiences in other kinds of highly sensitive assignments and pointed out that special security arrangements could be agreed upon if circumstances warrant.

At the request of Mr. Levin, we agreed to submit in writing a more detailed explanation of the specific types of documents and information we wanted access to so they could more fully consider our request. They promised a prompt response. We asked for a response within one or two weeks. Mr. Levin

was not willing to commit to a specific time period.

June 23, 1988: GAO hand delivered the explanatory letter to the NSC. The document explained that in order to accomplish our objectives, we planned to

(1) obtain agency briefings that describe the general organizational structure and the operational procedures related to the agency's data collection, analysis, and dissemination systems;

(2) interview relevant agency personnel who are responsible for defining agency information needs with regard to General Noriega and Panama, implementing the information collection process, collecting and reporting raw data, and analyzing and disseminating data on Panama and General Noriega;

(3) review documents to include specific directives, instructions, or taskings to collect data on General Noriega or alleged illegal activities involving General Noriega, cables and reports from field offices regarding General Noriega's involvement in or toleration of illegal activities, analyses or summaries of field reporting on General Noriega, and geographic/subject-area studies discussing the role or suspected role of General Noriega in illegal activities; and

(4) examine the use of information about General Noriega in the foreign policy process by identifying the agencies, organizations, and individuals who play a role in deciding national security and foreign policy issues with regard to Panama and interview each and review documents to determine whether information about General Noriega reached them and how that information was used in making decisions.

June 27, 1988: We contacted Mr. Levin at NSC on the status of its response to our June 23 letter. He said they were preparing a response and it would be provided "promptly."

July 1, 1988: We called Mr. Levin again at NSC. He said they hoped to have a response soon. We inquired about who in the White House or the NSC is making the decisions and what the specific problems or objections are, and Mr. Levin declined to provide any information.

July 5, 1988: We again called Mr. Levin at NSC. He advised us that a letter was "in for signature," but he declined to predict when it would be signed. He also would not say what position the response would take or who it was with for signature. He said he would not "sit on" a signed response and that he would call us when it is signed.

July 7, 1988: We called Mr. Bob Harris, State Department, in another attempt to gain cooperation and were told State would not meet with us until it hears from NSC. We advised Mr. Harris that we planned to send a second letter to them specifically asking for an initial meeting and access to documents.

July 8, 1988: We called Mr. Paul Prise, DEA, asking to meet. He told us that NSC gave instructions not to meet with us until NSC gives the "go ahead." We advised a second letter was coming.

July 12, 1988: We sent a second letter, more detailed in what we requested in the way of cooperation to the Departments of State and Justice (DEA, Criminal Division and the U.S. Attorneys Office), and the NSC.

July 12, 1988: We attempted to continue our work at the Department of Defense. Up to this point, we had conducted a series of interviews with personnel involved in intelligence gathering and analysis in Latin America. We had identified and requested about 100 documents, files, reports, cables, etc., that we felt were relevant to our review. We

had some additional meetings scheduled with agency personnel. We were advised by Mr. Nacho Morales, Army Intelligence and Security Command, that NSC directed DOD to postpone any meetings with us on the assignment. Mr. Craig Campbell, a GAO liaison official with the DOD/IG, confirmed that DOD was told to withhold contacts with us. Mr. Martin Sheina, DIA, told us he could not provide documents we had requested until NSC provides guidance.

July 13, 1988: We sent a letter to the Department of Defense, similar to those sent to State and Justice on July 12, 1988, asking for a resumption of cooperation—i.e., to provide the requested documents and to continue meeting with us.

July 13, 1988: Mr. Don Schramak, Justice liaison, said that the Justice General Counsel staff had been working with NSC to develop a response, and indicated that it would be sent within a day or so.

July 18, 1988: We received a letter from Mr. Nicolas Rostow, NSC, dated July 13, 1988 which expressed his disappointment that we had not narrowed the scope of the information we wanted and stated that the administration is still considering our request.

August 1, 1988: We telephoned Mr. Levin at NSC asking for the status of the response. He said it was being reviewed at the Department of Justice and there was no definite date it would be issued. He hoped it would be issued by the week of August 8, 1988.

August 2, 1988: We advised Mr. Levin, NSC, that Senator Kerry's staff had informed us that Senator Kerry is prepared to hold a press conference about the lack of cooperation with GAO. I advised Mr. Levin that the Senator's staff had stated that if we did not have guidelines by 9 o'clock a.m., August 8, 1988, or at least a definite delivery date, Senator Kerry would hold a press conference.

GENERAL ACCOUNTING OFFICE,  
GENERAL GOVERNMENT DIVISION,  
Washington, DC, May 11, 1988.

Mr. PETER F. GRUDEN,  
Assistant Administrator, Planning and Inspection Division, Drug Enforcement Administration, Department of Justice.

DEAR MR. GRUDEN: The General Accounting Office, has been requested to undertake a study of Panamanian leader Gen. Manuel Noriega's alleged drug activities. The study, under code 472165, will examine (1) the broad parameters of U.S.-Panamanian relations over the past 20 years, (2) the type of information about Noriega developed by various intelligence and law enforcement agencies, (3) the extent to which this information reached foreign policy decision-makers, and (4) the role that such information played in decisions on U.S. foreign policy.

This work will be performed by Mr. Donald L. Patton, Group Director; Mr. James O. Benone, Evaluator-in-Charge; and Mr. Jon Chasson; of our Foreign Economic Assistance Group, National Security and International Affairs Division.

The work will be conducted in Washington at the Drug Enforcement Administration, the Department of State, the Department of Defense, the Department of the Treasury, and other federal agencies. We will advise you of any need to visit facilities outside the Washington area.

We appreciate your assistance in notifying the appropriate officials of the assignment. If you have any questions, please contact

Mr. Patton at 275-1898 or Mr. Benone at 275-7487.

Sincerely yours,

ARNOLD P. JONES,  
Senior Associate Director.

GENERAL ACCOUNTING OFFICE, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,  
Washington, DC, May 12, 1988.

HON. FRANK C. CARLUCCI,  
The Secretary of Defense.

Attention: DOD Office of the Inspector General, Deputy Assistant Inspector General for GAO Report Analysis.

DEAR MR. SECRETARY: The General Accounting Office, has been requested to undertake a study of Panamanian leader Gen. Manuel Noriega's alleged drug activities. The study, under code 472165, will examine (1) the broad parameters of U.S.-Panamanian relations over the past 20 years, (2) the type of information about Noriega developed by various intelligence and law enforcement agencies, (3) the extent to which this information reached foreign policy decision-makers, and (4) the role that such information played in decisions on U.S. foreign policy.

This work will be performed by Mr. Donald L. Patton, Group Director; Mr. James O. Benone, Evaluator-in-Charge; and Mr. Jon Chasson; of our Foreign Economic Assistance Group.

The work will be conducted in Washington at the Department of Defense, the Department of State, the Department of Justice, and other federal agencies. We will advise you of any need to visit Department facilities outside the Washington area.

We appreciate your assistance in notifying the appropriate officials of the assignment. If you have any questions, please contact Mr. Patton at 275-1898 or Mr. Benone at 275-7487.

Sincerely yours,

NANCY R. KINSBURY,  
Associate Director.

GENERAL ACCOUNTING OFFICE, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,  
Washington, DC, May 13, 1988.

Mr. PAUL SCOTT STEVENS,  
Executive Secretary, National Security Council, Old Executive Office Bldg., Washington, DC.

DEAR MR. STEVENS: The General Accounting Office, has been requested to undertake a study of Panamanian leader Gen. Manuel Noriega's alleged drug activities. The study, under code 472165, will examine (1) the broad parameters of U.S.-Panamanian relations over the past 20 years, (2) the type of information about Noriega developed by various intelligence and law-enforcement agencies, (3) the extent to which this information reached foreign policy decision-makers, and (4) the role that such information played in decisions on U.S. foreign policy.

This work will be performed by Mr. Donald L. Patton, Group Director; Mr. James O. Benone, Evaluator-in-Charge; and Mr. Jon Chasson; of our Foreign Economic Assistance Group.

The work will be conducted at the National Security Council, the Department of State, the Department of Defense, the Department of Justice, and other federal agencies.

We appreciate any assistance you can provide to our staff. If you have any questions,

please contact Mr. Patton at 275-1898 or Mr. Benone at 275-7487.

Sincerely yours,

JOSEPH E. KELLY,  
Associate Director.

GENERAL ACCOUNTING OFFICE, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,  
Washington, DC, May 13, 1988.

HON. GEORGE P. SHULTZ,  
The Secretary of State.

(Attention: GAO Liaison, Office of the Comptroller.)

DEAR MR. SECRETARY: The General Accounting Office, has been requested to undertake a study of Panamanian leader Gen. Manuel Noriega's alleged drug activities. The study, under code 472165, will examine (1) the broad parameters of U.S.-Panamanian relations over the past 20 years, (2) the type of information about Noriega developed by various intelligence and law-enforcement agencies, (3) the extent to which this information reached foreign policy decision-makers, and (4) the role that such information played in decisions on U.S. foreign policy.

This work will be performed by Mr. Donald L. Patton, Group Director; Mr. James O. Benone, Evaluator-in-Charge; and Mr. Jon Chasson; of our Foreign Economic Assistance Group.

The work will be conducted in Washington at the Department of State, the Department of Defense, the Department of Justice, and other federal agencies. We will advise you of any need to visit State Department facilities outside the Washington area.

We appreciate your assistance in notifying the appropriate officials of the assignment. If you have any questions, please contact Mr. Patton at 275-1898 or Mr. Benone at 275-7487.

Sincerely yours,

JOSEPH E. KELLY,  
Associate Director.

GENERAL ACCOUNTING OFFICE,  
GENERAL GOVERNMENT DIVISION,  
Washington, DC, May 16, 1988.

Mr. JOHN C. KEENEY,  
Assistant Attorney General, Criminal Division, Department of Justice, Washington, DC.

DEAR MR. KEENEY: The General Accounting Office, has been requested to undertake a study of Panamanian leader Gen. Manuel Noriega's alleged drug activities. The study, under code 472165, will examine (1) the broad parameters of U.S.-Panamanian relations over the past 20 years, (2) the type of information about Noriega developed by various intelligence and law-enforcement agencies, (3) the extent to which this information reached foreign policy decision-makers, and (4) the role that such information played in decisions on U.S. foreign policy.

This work will be performed by Mr. Donald L. Patton, Group Director; Mr. James O. Benone, Evaluator-in-Charge; and Mr. Jon Chasson; of our Foreign Economic Assistance Group, National Security and International Affairs Division.

We would like to meet with knowledgeable Criminal Division officials. We also plan to conduct work at other Department of Justice offices, the Department of Defense, the Department of State, and other federal agencies.

We appreciate your assistance in notifying the appropriate officials of the assignment. If you have any questions, please contact

Mr. Patton at 275-1898 or Mr. Benone at 275-7487.

Sincerely yours,

ARNOLD P. JONES,  
Senior Associate Director.

GENERAL ACCOUNTING OFFICE,  
GENERAL GOVERNMENT DIVISION,  
Washington, DC, May 16, 1988.

Mr. MANUEL RODRIGUEZ,  
Legal Counsel, Executive Office for U.S. Attorneys, Department of Justice.

DEAR MR. RODRIGUEZ: The General Accounting Office, has been requested to undertake a study of Panamanian leader Gen. Manuel Noriega's alleged drug activities. The study, under code 472165, will examine (1) the broad parameters of U.S.-Panamanian relations over the past 20 years, (2) the type of information about Noriega developed by various intelligence and law-enforcement agencies, (3) the extent to which this information reached foreign policy decisionmakers, and (4) the role that such information played in decisions on U.S. foreign policy.

This work will be performed by Mr. Donald L. Patton, Group Director; Mr. James O. Benone, Evaluator-in-Charge; and Mr. Jon Chasson; of our Foreign Economic Assistance Group, National Security and International Affairs Division.

We would like to meet with the U.S. Attorneys in both Miami and Tampa, Florida, who have brought indictments against Gen. Noriega to discuss the genesis of the indictments, identify other people that we should talk with, and obtain information about the cases. We also plan to conduct work at other Department of Justice offices, the Department of Defense, the Department of State, and other federal agencies.

We appreciate your assistance in notifying the appropriate officials of the assignment. If you have any questions, please contact Mr. Patton at 275-1898 or Mr. Benone at 275-7487.

Sincerely yours,

JOHN ANDERSON,  
ARNOLD P. JONES,  
Senior Associate Director.

GENERAL ACCOUNTING OFFICE, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,  
Washington, DC, May 24, 1988.

Hon. WILLIAM H. WEBSTER,  
Director, Central Intelligence Agency.

Attention: Director, Office of Legislative Liaison.

DEAR MR. WEBSTER: The General Accounting Office, has been requested to undertake a study of Panamanian leader Gen. Manuel Noriega's alleged drug activities. The study, under code 472165, will examine (1) selected aspects of U.S.-Panamanian relations over the past 20 years, (2) the type of information about Noriega developed by various intelligence and law-enforcement agencies, (3) the extent to which this information reached foreign policy decisionmakers, and (4) the role that such information played in decisions on U.S. foreign policy.

This work will be performed under the direction of Nancy R. Kingsbury, Associate Director by Mr. Donald L. Patton, Group Director; Mr. James O. Benone, Evaluator-in-Charge; and Mr. Jon Chasson; of our Foreign Economic Assistance Group.

The work will be conducted in Washington at the Department of State, the Department of Defense, the Department of Justice, and other federal agencies.

We would like to meet with Agency representatives to discuss these issues and obtain the Agency's perspective on them. We appreciate any assistance you can provide to

our staff in this regard. If you have any questions, please contact Mr. Patton or Mr. Benone at 275-5790.

Sincerely yours,

FRANK C. CONAHAN,  
Assistant Comptroller General.

GENERAL ACCOUNTING OFFICE, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,  
Washington, DC, June 23, 1988.

Mr. C. NICHOLAS ROSTOW,  
Special Assistant to the President and Legal Advisor, National Security Council.

DEAR MR. ROSTOW: As you are aware, Senator John Kerry, Chairman of the Subcommittee on Terrorism, Narcotics, and International Operations and Representative Bill Alexander, are concerned that information about illegal activities by high-level officials of other nations may not be adequately considered in U.S. foreign policy decisions. At their request, the General Accounting Office is undertaking an initial case study of how information about General Noriega was developed by various government agencies, and what role such information played in policy decisions regarding Panama.

To satisfy this request, we will:

(1) Obtain an agency overview. At each agency that develops relevant information on General Noriega or his possible involvement in illegal activities, we will receive a briefing that outlines the general organizational structure and the operational procedures related to the agency's data collection, analysis, and dissemination systems.

(2) Interview relevant personnel. Once we understand the basic organizational structure, we will then interview key personnel responsible for (1) defining agency information needs with regard to Noriega and Panama, (2) implementing the information collection process, (3) collecting and reporting raw data, and (4) analyzing and disseminating data on Panama and Noriega.

(3) Review documents. As we learn more about each agency's collection and reporting processes, we will request relevant documents. We anticipate that these will include: specific directives, instructions, or taskings to collect data on Noriega or alleged illegal activities involving Noriega, cables and reports from field offices regarding Noriega's involvement in or toleration of illegal activities, analyses or summaries of field reporting on Noriega, and geographic/subject-area studies discussing the role or suspected role of Noriega in illegal activities.

(4) Examine the use of information about Noriega in the foreign policy process. After completing a systematic review at each agency, we will attempt to determine how agency reporting on Noriega may have influenced foreign policy decisions on Panama. We will first identify the agencies, organizations, and individuals who play a role in deciding national security and foreign policy issues with regard to Panama. Through interviews and a review of relevant documents, we will determine whether information about Noriega reached them, and how that information was used in making decisions.

As part of our review, we will contact appropriate officials of the National Security Council who are now or were in the past involved in policy decisions regarding Panama. We intend to discuss their knowledge and utilization of information concerning General Noriega's illegal activities.

We understand that this review will involve potentially sensitive material that may require special controls and safeguards. We are willing to discuss this issue with you and take appropriate precautions.

Mr. Levin indicated that you would handle this request expeditiously, and I look forward to hearing from you early next week. If you have any additional questions about our review, please contact Mr. Patton at 275-1898 or Mr. Benone at 275-7487.

Sincerely yours,

NANCY R. KINGSBURY,  
Associate Director.

GENERAL ACCOUNTING OFFICE, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,  
Washington, DC, July 12, 1988.

Mr. LAWRENCE S. MCWHORTER,  
Director, Executive Office for U.S. Attorneys, Department of Justice, Washington, DC.

DEAR MR. MCWHORTER: As we informed your staff in our letter of May 16, 1988, the General Accounting Office is undertaking a case study of how information about General Noriega was developed by various government agencies, and what role such information played in policy decisions regarding Panama. As agreed with your staff, we initially postponed audit work at the Justice Department until we had met with National Security Council officials to more fully explain our review objectives and give them an opportunity to coordinate agency participation in our review. However, because the National Security Council has not acted, and because of the high level of congressional interest in this assignment, we must now implement our review independently at each agency.

We are therefore requesting that you provide us with the following:

1. Documents outlining the organizational components involved in, and the operational procedures related to the U.S. Attorney requests for and analysis of foreign intelligence data.

2. Documents relating to the investigations of alleged drug trafficking by General Noriega conducted by the U.S. Attorneys in Miami and Tampa.

3. Any memos, reports, analyses, studies, briefing papers, meeting records, or other documents generated by the office of the U.S. Attorneys which discuss allegations of illegal activities by General Noriega, and interagency communications on these matters.

We anticipate that as our review progresses, we will make additional requests for documentation.

To facilitate our review, we request that appropriate officials meet with us at an opening conference no later than July 20. At that time, we will establish a schedule for obtaining the needed documents.

With the input and cooperation of U.S. Attorney officials, I am confident that we can successfully complete our review in a timely manner.

If you have any additional questions about our review, please contact Mr. Donald L. Patton at 275-1898 or Mr. James O. Benone at 275-7487.

Sincerely yours,

NANCY R. KINGSBURY,  
Associate Director.

GENERAL ACCOUNTING OFFICE, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,  
Washington, DC, July 12, 1988.

Mr. EDWARD S. DENNIS,  
Assistant Attorney General, Criminal Division, Department of Justice, Washington, DC.

DEAR MR. DENNIS: As we informed your staff in our letter of May 16, 1988, the General Accounting Office is undertaking a case study of how information about General

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Noriega was developed by various government agencies, and what role such information played in policy decisions regarding Panama. We initially postponed audit work at the Justice Department and several other government agencies until we had met with National Security Council officials to more fully explain our review objectives and had given them an opportunity to coordinate agency participation in our review. However, because the National Security Council has not acted, and because of the high level congressional interest in this assignment, we must now implement our review independently at each agency.

We are therefore requesting that you provide us with the following:

1. Documents outlining the organizational components involved in, and the operational procedures related to, the Criminal Division's development of law enforcement information and its requests for and analysis of foreign intelligence data provided by the various collection agencies.
2. Any memos, reports, analyses, studies, briefing papers, meeting records, or other documents generated by the Division which discuss allegations of illegal activities by General Noriega or the possible impact of such activities on U.S. relations with Panama.

We anticipate that as our review progresses, we will make additional requests for documentation.

To facilitate our review, we request that appropriate officials meet with us at an opening conference no later than July 20. At that time, we will establish a schedule for obtaining the needed documents.

With the input and cooperation of Criminal Division officials, I am confident that we can successfully complete our review in a timely manner.

If you have any additional questions about our review, please contact Mr. Donald L. Patton at 275-1898 or Mr. James O. Benone at 275-7487.

Sincerely yours,  
NANCY R. KINGSBURY,  
Associate Director.

GENERAL ACCOUNTING OFFICE, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,  
Washington, DC, July 12, 1988.

Mr. JOHN C. LAWN,  
Drug Enforcement Administration,  
Washington, DC.

DEAR MR. LAWN: As we informed your staff in our letter of May 11, 1988, the General Accounting Office is undertaking a case study, under code 472165, of how information about General Noriega was developed by various government agencies, and what role such information played in policy decisions regarding Panama. At the request of your staff, we initially postponed audit work at the Drug Enforcement Administration until we had explained our review objectives to the National Security Council and had given them an opportunity to coordinate the executive agency participation in our review. However, because the National Security Council has not acted, and because of the high level of congressional interest in this assignment, we must now implement our review independently at each agency.

We are therefore requesting that DEA provide us with:

1. Documents outlining the organizational structure and the operational procedures related to DEA's development of law enforcement information and its foreign intelligence data collection analysis, and dissemination systems.
2. Documents which establish DEA's procedures for (a) defining foreign intelligence information needs with regard to General Noriega and (b) implementing the

information collection, process, (c) collecting and reporting raw data, and (d) analyzing and disseminating data on Panama and General Noriega.

3. Specific directives, instructions, or tasks to collect data on General Noriega or his alleged illegal activities, cables and reports from field offices regarding his involvement in or toleration of illegal activities, analyses or summaries of field reports on him, and geographic/subject-area studies discussing his role or suspected role in illegal activities.

To facilitate our review, we are requesting an opening conference with appropriate officials no later than July 20. At that time, we will more fully discuss the specific parameters of our audit work and establish a schedule for obtaining the needed documents.

With the input and cooperation of DEA officials, I am confident that we can successfully complete our review in a timely manner.

If you have any additional questions about our review, please contact Mr. Donald L. Patton at 275-1898 or Mr. James O. Benone at 275-7487.

Sincerely yours,  
NANCY R. KINGSBURY,  
Associate Director.

GENERAL ACCOUNTING OFFICE, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,  
Washington, DC, July 12, 1988.

Mr. PAUL SCHOTT STEVENS,  
Executive Secretary, National Security Council, Old Executive Office Building,  
Washington, DC.

DEAR MR. STEVENS: As we informed you in our letter of May 13, 1988, and Mr. Rostow in our letter of June 23, the General Accounting Office is undertaking a case study of how information about General Noriega was developed by various government agencies, and what role such information played in policy decisions regarding Panama. At the request of the National Security Council staff, we initially postponed audit work at the Council and several other government agencies until we had met with them to more fully explain our review objectives and had given them an opportunity to coordinate agency participation in our review. However, because we have not received a response to our letter of June 23, and because of the high level of congressional interest in this assignment, we must now implement our review independently at each agency.

We have sent requests to each agency, asking that appropriate officials meet with us to establish a timetable for collecting and reviewing relevant documents. We ask that the National Security Council provide us with:

1. Documents outlining the organizational structure and the operational procedures related to the National Security Council's requests for and analysis of foreign intelligence data provided by the various collection agencies.
2. Any memos, reports, analyses, studies, briefing papers, meeting records, or other documents generated by the National Security Council staff which discuss allegations of illegal activities by General Noriega and of the possible impact of such activities on U.S. relations with Panama.

We anticipate that as our review progresses, we will make additional requests for documentation.

To facilitate our review, we request that appropriate officials meet with us at an opening conference no later than July 20. At that time, we will establish a schedule for obtaining the needed documents.

With the input and information from the National Security Council that we can successfully complete our review in a timely manner.

If you have any additional questions about our review, please contact Mr. Donald L. Patton at 275-1898 or Mr. James O. Benone at 275-7487.

Sincerely yours,  
NANCY R. KINGSBURY,  
Associate Director.

GENERAL ACCOUNTING OFFICE, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,  
Washington, DC, July 12, 1988.

Hon. GEORGE P. SHAW,  
The Secretary of State,  
(Attention: GAO Comptroller.)

DEAR MR. SECRETARY: In our letter of July 12, 1988, regarding the Accounting Office study, under code 472165, about General Noriega, we discussed the role such information played in policy decisions regarding your staff, we explained our review objectives and had given them an opportunity to coordinate agency participation in our review. However, because we have not received a response to our letter of July 12, and because of the high level of congressional interest in this assignment, we must now implement our review independently at each agency.

We are therefore requesting that you provide us with:

1. Documents outlining the organizational structure and the operational procedures related to the Accounting Office's requests for and analysis of foreign intelligence data provided by the various collection agencies.
2. Documents which establish the Accounting Office's procedures for (a) defining foreign intelligence information needs with regard to General Noriega and (b) implementing the

information collection, process, (c) collecting and reporting raw data, and (d) analyzing and disseminating data on Panama and General Noriega.

3. Specific directives, instructions, or tasks to collect data on General Noriega or his alleged illegal activities, cables and reports from field offices regarding his involvement in or toleration of illegal activities, analyses or summaries of field reports on him, and geographic/subject-area studies discussing his role or suspected role in illegal activities.

To facilitate our review, we are requesting an opening conference with appropriate officials no later than July 20. At that time, we will more fully discuss the specific parameters of our audit work and establish a schedule for obtaining the needed documents.

With the input and cooperation of DEA officials, I am confident that we can successfully complete our review in a timely manner.

If you have any additional questions about our review, please contact Mr. Donald L. Patton at 275-1898 or Mr. James O. Benone at 275-7487.

Sincerely yours,  
NANCY R. KINGSBURY,  
Associate Director.

GENERAL ACCOUNTING OFFICE, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,  
Washington, DC, July 12, 1988.

Mr. PAUL SCHOTT STEVENS,  
Executive Secretary, National Security Council, Old Executive Office Building,  
Washington, DC.

DEAR MR. STEVENS: As we informed you in our letter of May 13, 1988, and Mr. Rostow in our letter of June 23, the General Accounting Office is undertaking a case study of how information about General Noriega was developed by various government agencies, and what role such information played in policy decisions regarding Panama. At the request of the National Security Council staff, we initially postponed audit work at the Council and several other government agencies until we had met with them to more fully explain our review objectives and had given them an opportunity to coordinate agency participation in our review. However, because we have not received a response to our letter of June 23, and because of the high level of congressional interest in this assignment, we must now implement our review independently at each agency.

We have sent requests to each agency, asking that appropriate officials meet with us to establish a timetable for collecting and reviewing relevant documents. We ask that the National Security Council provide us with:

1. Documents outlining the organizational structure and the operational procedures related to the National Security Council's requests for and analysis of foreign intelligence data provided by the various collection agencies.
2. Any memos, reports, analyses, studies, briefing papers, meeting records, or other documents generated by the National Security Council staff which discuss allegations of illegal activities by General Noriega and of the possible impact of such activities on U.S. relations with Panama.

We anticipate that as our review progresses, we will make additional requests for documentation.

GENERAL ACCOUNTING OFFICE, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,

Washington, DC, July 13, 1988.

Hon. FRANK C. CARLUCCI,  
The Secretary of Defense.

(Attention: DOD Office of the Inspector General, Deputy Assistant Inspector General for GAO Report Analysis).

DEAR MR. SECRETARY: As we informed you in our letter of May 12, 1988, the General Accounting Office is undertaking a case study, under code 472165, of how information about General Noriega was developed by various government agencies, and what role such information played in policy decisions regarding Panama. With the cooperation of Department of Defense officials, including those from the military services and other Defense agencies, we have already made substantial progress toward achieving our review objectives. However, we were advised on July 12, 1988, that these officials have been directed to postpone meeting with us and providing us with documents until the National Security Council provides guidance on the extent that the Department should participate in our review.

Since initiating this review, we have fully briefed the National Security Council staff on our review objectives and methodology and allowed them time to provide guidance to executive branch agencies. However, because the Council has not issued such guidance and because of the high level of congressional interest in this assignment, we have advised the Council that we must now implement our review independently at each agency.

We are therefore requesting that the Department resume cooperating with us on this assignment and provide us with documents we need to accomplish our review objectives. In addition to the documents that we already have requested, we need to obtain:

1. Cables and intelligence reports generated by, or in the possession of, the Department of Defense and its various components which discuss General Noriega and his alleged illegal activities.

2. Any other memos, reports, analyses, studies, briefing papers, meeting records, other documents, or recorded information generated by, or in the possession of, the Department or its components which discuss allegations of illegal activities by General Noriega and the possible impact of such activities on U.S. relations with Panama.

To facilitate our review, we would appreciate being advised in writing no later than July 20, 1988, of your intended action on this matter.

With the Department's renewed cooperation, I am confident that we can successfully complete our review in a timely manner.

If you have any additional questions about our review, please contact Mr. Donald L. Patton at 275-1898 or Mr. James O. Benone at 275-7487.

Sincerely yours,

NANCY R. KINGSBURY,  
Associate Director.

ENCLOSURE III

NATIONAL SECURITY COUNCIL,  
Washington, DC, July 13, 1988.

Ms. NANCY R. KINGSBURY,

Associate Director, National Security and International Affairs Division, General Accounting Office, Washington, DC.

DEAR Ms. KINGSBURY: I am writing in response to your request concerning a study of the alleged drug activities of Manuel Noriega, and the role information about such activities played in decisions about U.S. foreign policy (Study #472165).

As described in Mr. Kelly's May 13, 1988, letter to Paul Stevens and your June 23, 1988, letter to me, your request seeks access to sensitive law enforcement and intelligence files covering a substantial period of time. In our meeting, your staff confirmed that your three areas of interest were intelligence files, law enforcement files, and the deliberative process of the Executive branch, including internal communications and deliberations leading to Executive branch actions taken pursuant to the President's constitutional authority. I was disappointed that your letter did not contain any narrowing of the request. The request raises important statutory and constitutional issues. The Administration is analyzing them now, and when its deliberation is complete, I shall reply further to your letter of June 23, 1988.

Sincerely,

NICHOLAS ROSTOW,  
Special Assistant to the President  
and Legal Adviser.

ENCLOSURE IV

CENTRAL INTELLIGENCE AGENCY,  
Washington, DC, June 13, 1988.

Mr. FRANK C. CONAHAN,

Assistant Comptroller General, National Security and International Affairs Divisions, General Accounting Office, Washington, DC.

DEAR MR. CONAHAN: The Director has asked me to respond to your letter of 24 May 1988 that described the General Accounting Office's investigation of allegations made against General Noriega of Panama.

All Agency activities in central America, as well as information we receive concerning other U.S. Government activities in the region, are subject to close and continuing scrutiny by the House and Senate Intelligence Committees. Furthermore, any assessment of policy-related questions should be directed to the appropriate components of the Executive Branch, such as the Departments of State and Defense.

I am sorry that we cannot be more helpful in this case.

Sincerely,

JOHN L. HELGERSON,  
Director of Congressional Affairs.

DEPARTMENT OF STATE,

Washington, DC, August 2, 1988.

NANCY KINGSBURY,

Associate Director, General Accounting Office, National Security and International Affairs Division.

DEAR Ms. KINGSBURY: I am pleased to respond to your July 12 letter on the proposed case study your office is undertaking about how U.S. government agencies used information about General Noriega in its policy decisions regarding Panama.

As you are aware, the National Security Council staff and the Office of White House counsel have been working closely with your office on this investigation. All executive branch agencies have been instructed by the White House not to take any action on your request until various legal issues have been analyzed by the Administration. Accordingly, at the present time it will not be possible for the Department to meet with your staff or produce information until this examination is completed. For the time being, Nicholas Rostow, Legal Adviser to the National Security Council, is acting as the administration's point of contact on this matter.

Sincerely,

ROGER B. FELDMAN,  
Comptroller.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. DORNAN).

Mr. DORNAN of California. Mr. Speaker, I passed an amendment in the Crime Subcommittee and in the full Judiciary Committee that was bipartisan, and noncontroversial, about these clandestine drug labs, which are a particular problem in my beautiful State of California. Due to California's size and its ability to grow almost anything, the domestic growing of illegal crops has become a real problem. More ominous though are the hidden drug labs that sometimes are defended with booby traps, including high explosives. It is a tragic situation, recognized by all to the extent that everybody on the subcommittee and on the major committee said that my legislation on clandestine labs was fine and desperately needed.

Because of a jurisdictional dispute, and only because of that, my language was taken out of the final bill produced by the Rules Committee.

Last night, however, in the Rules Committee they agreed to allow me to offer my language again as an amendment, when we take this bill up again in September. I am still put at a disadvantage by these actions, however, as it will appear that I am trying to alter the original language of the bill. This is always an uphill battle.

I would just like to read a statement that I put out to the Rules Committee yesterday explaining my point of view.

□ 1115

This was hand delivered last night to Hon. CLAUDE PEPPER:

DEAR MR. CHAIRMAN: Only moments ago, I became aware that the Rules Committee will drop my language regarding Clandestine Drug Laboratories, in Subtitle B of title VI. This language was accepted by the majority staff of the Crime Subcommittee even before subcommittee markup occurred. This language then survived markup before the full Judiciary Committee without amendment. In short, Mr. Chairman, this provision to establish a Task Force on Clandestine Drug Laboratories has always enjoyed a significant bipartisan support in Congress and within the Drug Enforcement Agency.

Let me add that the DEA is anxious, very anxious to get this language in the legislation, since they are the major repository of the chemicals used in these drug labs:

I am disappointed, to say the least, that the Rules Committee would circumvent the committee process which I have followed so diligently.

I am grateful to the Rules Committee that this was corrected:

It is my understanding that the language will be allowed as an amendment to the drug bill during floor debate. I would certainly hope that I would at least be granted this opportunity.

Mr. Chairman, I certainly hope that you can see your way clear to either reinstating my language. . . .

And he did that. I would like to thank him for it. I look forward to offering it on the floor in September.

