

Ronald Reagan Presidential Library
Digital Library Collections

This is a PDF of a folder from our textual collections.

Collection: Shepherd, J Michael: Files
Folder Title: FOIA Kissinger Commission:
FOIA/Shepherd Chron (8 of 9)
Box: OA 13977

To see more digitized collections visit:

<https://www.reaganlibrary.gov/archives/digitized-textual-material>

To see all Ronald Reagan Presidential Library Inventories, visit:

<https://www.reaganlibrary.gov/archives/white-house-inventories>

Contact a reference archivist at: **reagan.library@nara.gov**

Citation Guidelines: <https://reaganlibrary.gov/archives/research-support/citation-guide>

National Archives Catalogue: <https://catalog.archives.gov/>

Last Updated: 07/12/2023

WITHDRAWAL SHEET

Ronald Reagan Library

Collection Name SHEPHERD, J MICHAEL: FILES

Withdrawer

AEM 4/30/2019

File Folder FOIA KISSINGER COMMISSION: FOIA/SHEPHERD
CHRON (8 OF 9)

FOIA

F15-0053/01

Box Number 13977

KEYS

7

DOC NO	Doc Type	Document Description	No of Pages	Doc Date	Restrictions
1	MEMO	FROM J. MICHAEL SHEPHERD [PARTIAL]	1	6/2/1986	B6 B7(C)
2	MEMO	FROM: PETER J. WALLISON TO: J. MICHAEL SHEPHERD, WITH ATTACHMENTS	16	5/29/1986	B6
3	MEMO	FROM: J. MICHAEL SHEPHERD SUBJECT: FOIA REQUEST OF RABBI DOV FISCH[PARTIAL]	1	5/21/1986	B6 B7(C)
4	MEMO	FROM: J. MICHAEL SHEPHERD SUBJECT: FOI/PA REQUEST OF MARK R. LEVIN [PARTIAL]	1	5/21/1986	B6 B7(C)
5	MEMO	FROM: PETER J. WALLISON	2	5/13/1986	B6 B7(C)
6	MEMO	FROM: JAY B. STEPHENS SUBJECT: FOIA REQUEST REGARDING ABE FORTAS [PARTIAL]	1	5/6/1986	B6 B7(C)

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.

THE WHITE HOUSE

WASHINGTON

June 18, 1986

MEMORANDUM FOR PETER J. WALLISON

FROM: J. MICHAEL SHEPHERD *JMS*

SUBJECT: ABM Treaty

I have just received the attached draft letter from Secretary Shultz to Chairman Goldwater. I have no objection to the letter and recommend that you clear it. I recommend, however, that the language in the third paragraph describing the role of the Arms Control Observers be changed to avoid conferring some quasi-official status on them. Accordingly, I suggested to Boris Feldman that the second sentence of the third paragraph be changed to read: "As you know, the Arms Control Observers have access to a variety of materials by virtue of their involvement in the negotiations in Geneva."

I believe that this office should be most concerned about the release of Presidential decision memoranda from the period of the treaty negotiations. I recommend that we defer to NSC on this issue. Paul Thompson informed me that they have no objection to its release.

Attachment

cc: C. Dean McGrath, Jr.

SITE

IB

S/S #

66 JUN 18 12:47

C

LDX MESSAGE NO. 008669 CLASSIFICATION Unclass. W/IN SITUATION ROOM No. Pages 2

FROM: Boris Feldman (Officer name) L (Office symbol) 7756 (Extension) 6419 (Room number)

MESSAGE DESCRIPTION Draft letter to Sen. Goldwater

<u>LDX TO: (Agency)</u>	<u>DELIVER TO:</u>	<u>Extension</u>	<u>Room No.</u>
<u>DD</u>	<u>Kent Stansberry</u>	<u>694-8620</u>	<u>2D520</u>
<u>NSC</u>	<u>Cdr Paul Thompson</u>	<u>456-2562</u>	<u>Situation Room</u>
<u>[REDACTED]</u>	<u>[REDACTED]</u>	<u>[REDACTED]</u>	<u>115</u>

REMARKS: URGENT - LDX to above agencies as soon as possible.

S/S Officer: Roman L Tracy

Dear Mr. Chairman:

I received your letter of June 16 yesterday afternoon and was pleased that you accepted our offer to have Ambassador Nitze and Judge Sofaer brief Committee Members on the negotiating record of the ABM Treaty. You also requested that we brief Committee Members who are also on the Arms Control Observer Group, and that we allow them to review personally particular documents relevant to the Administration's interpretation of the ABM Treaty. We would be happy to provide such a briefing.

The issue of access to the negotiating record, as you know, poses a much more difficult question. Since the time of President Washington, the Executive Branch has declined to provide the Congress with the records of treaty negotiations. This Administration adheres to that principle.

Nevertheless, your request to allow Senate Arms Control Observers to review the ABM Treaty documents is a constructive proposal that would not violate the basic principle of the confidentiality of negotiating records. As you know, the Arms Control Observers, by virtue of their involvement at the negotiations in Geneva, have access to a variety of materials necessary to enable them to fulfill their role in the talks. At the recommendation of Ambassador Nitze and Judge Sofaer, and with the support of the other agencies involved, we are willing to allow Committee Members who are also on the Arms Control Observer Group to review personally all of the following materials (requested by Senators Warner and Hart in their letters of January 14 to me, Secretary Weinberger, and Vice-Admiral Poindexter):

- all parts of the the negotiating record of the ABM Treaty for which access is requested;
- a 1972 memorandum by John Rhinelander analyzing the Treaty;
- Presidential decision memoranda during the course of the ABM Treaty negotiations regarding limits on "exotic technologies";
- Department of Defense directives relating to ABM Treaty compliance; and
- other documents which become relevant in the course of the briefing, including Judge Sofaer's memorandum on this issue.

We would be willing to allow such access provided that only the Senators themselves would see the documents and that the documents not be copied. I also feel strongly that our acceptance of this procedure could serve to resolve the matter of access to the ABM Treaty negotiating record finally and to the satisfaction of the Senators who have expressed an interest in the matter, including Senators Byrd, Hart, Nunn, and Warner. Providing access to the Members of the Observer Group would enable the Senate as a whole to check on the basis for the Administration's position on the meaning of the ABM Treaty. We intend to deny access to the negotiating record for non-Members of the Observer Group, and I would expect your Committee's support in opposing any such needless undermining of an important constitutional principle.

Like you, I very much hope to put this matter behind us promptly. I think that your proposal would do that, if accepted by other concerned Senators. Please accept my thanks for your efforts.

Sincerely,

George P. Shultz

Drafted: L:BFeldman; x7756
6/18/86; No. 2394L

Cleared: S/ARN:Amb. Nitze
L:ADSofer
WH:MShepard
DOJ/OLC:AGerson
DOD:KStansbury
ACDA:TGraham
PH:JBaves
NSC:PThompson
EUR:CThomas
E:LHoppe/EGiglio

THE WHITE HOUSE

WASHINGTON

June 18, 1986

MEMORANDUM FOR PETER J. WALLISON

FROM: J. MICHAEL SHEPHERD

SUBJECT: Senator Byrd's Request for ABM Treaty Record

As the attached memorandum from Dean McGrath indicates, Senator Byrd has requested access to the negotiating record for the Anti-Ballistic Missile (ABM) Treaty. This morning I received from Boris Feldman of the Legal Adviser's office at the State Department a copy of the attached letter from Senator Goldwater which proposes the following compromise: (a) The Armed Services Committee will be briefed by Paul Nitze and Judge Sofaer and (b) prior to the briefing, those members of the committee who are also members of the special Arms Control Observer Group would be permitted to review the negotiating record. This is a matter of urgency because the Committee is expected to mark up the Defense Department authorization bill this week. The Senate Democrat leadership has threatened to hold up funding for the Strategic Defense Initiative (SDI) until they are accorded this access.

The judgment of the Congressional affairs officials at the State Department is that the Democrat Senators feel strongly on this issue, particularly after the President's decision to cease voluntary adherence to SALT II, and will withhold SDI funding. State proposes the following agreement: (a) access to the treaty records to be granted only to members of the committee who are observers (no staff); (b) they will be allowed only to read the record, not to make copies or notes; and (c) this agreement will end the dispute.

There are several important reasons why the Administration should not grant unrestricted access to the negotiation record, all of which concern the President's ability to conduct foreign policy and protect the national security. Disclosure of the negotiating record may (a) skew future negotiations and records if the negotiators are writing for a new audience; (b) affect our ability to conclude treaties in the future if other countries fear disclosures of confidential negotiating positions; and (c) undermine current treaties and relations if treaty partners fear disclosure of their positions.

I have discussed the response, a letter from Secretary Shultz to Chairman Goldwater which State is now drafting, with Mr. Feldman. I am concerned that the letter not appear to be an ultimatum.

Rather, I believe that Secretary Shultz should respond that we are pleased to accept the offer and hope that the committee will join us in resolving the matter. I believe that the special status of the Arms Control Observers, who are given access to many similar materials, avoids the problem of establishing an inappropriate precedent -- provided the Senate does not create observer groups for all treaties.

Mr. Feldman informs me that Judge Sofaer will call you about the letter this afternoon.

Attachments

DEPARTMENT OF DEFENSE

06 JUN 18 A

SITE

IB

S/ #

C

86 JUN 18 A 9: 43

LDX MESSAGE NO. _____ CLASSIFICATION UNCLASSIFIED ^{WHEN IN SITUATION ROOM} No. Pages _____

FROM: Francis Felman (Officer name) - L (Office symbol) - 1756 (Extension) - 6419 (Room number)

MESSAGE DESCRIPTION: Letter from Senator Goldwater to Secretary

LDX TO: (Agency)	DELIVER TO:	Extension	Room No.
<u>Dept. of Defense</u>	<u>Kent Stansberry</u>	<u>694 1621</u>	<u>2D520</u>
<u>NSC</u>	<u>Cde. Paul Thomas</u>	<u>456 2561</u>	<u>1st Floor, Wk</u>
<u>White House (mail)</u>	XXXXXXXXXXXXXXXXXXXX	<u>456 2803</u>	175
<u>Dept. of Justice</u>	<u>Colbert Cooper</u>	<u>633 2041</u>	<u>5214</u>
_____	_____	_____	_____
_____	_____	_____	_____

MARKS: LDX to above agencies as soon as possible.

S/S OFFICER: Roma Louise Trac



THE WHITE HOUSE

WASHINGTON, D.C.

June 18, 1986

MEMORANDUM FOR PETER J. WALLISON

FROM: C. DEAN MCGRATH, JR. *WJW*

SUBJECT: Senator Byrd's Request for ABM Treaty Record

Senator Byrd has requested access to the negotiating record for the Anti-Ballistic Missile (ABM) Treaty to, in his words, fulfill the Senate's "Constitutional role in arms control matters." Senator Byrd threatens to withhold support for the Strategic Defense Initiative (SDI) if the Administration does not recognize "the Senate's proper role in evaluating national security matters" and does not cooperate in "arranging adequate access" to the requested information.

Rather than provide the requested information, the State Department has offered to brief the members of the Armed Services Subcommittee on Strategic and Theater Nuclear Forces on the negotiating history of the Treaty. State's goal is to accommodate the Senate's concerns without undermining the principle of confidentiality of treaty negotiations.

Given the sensitivity of protecting the negotiating record, I believe State's proposed response -- to brief the members of the Armed Services Subcommittee -- is an appropriate accommodation. I have prepared the attached memorandum to Abraham D. Sofaer to indicate that this office has no objection to the proposed response.

cc: Michael Shepherd ✓

Attachment

I spoke with Pam Turner (Legislative Affairs) concerning Senator Byrd's position on SDI. Ms. Turner advised that she would have to check into the matter. Therefore, this analysis does not include an assessment of the likelihood that Senator Byrd's position on SDI will be affected by State's proposed response.

John Warner, Jr. Chairman
John C. Stennis, Vice Chairman
William V. Roth, Jr. Ranking Member
James H. Brown, Jr. Member
John A. Chafee, Member
John D. Danforth, Member
John G. Tower, Member
John H. Warner, Member
John H. Stennis, Member
John H. Stennis, Member

Sam Nunn, Chairman
John C. Stennis, Vice Chairman
Carl Albert, Ranking Member
J. Bennett Johnston, Member
Carl Albert, Member
John C. Stennis, Member
John C. Stennis, Member
John C. Stennis, Member
John C. Stennis, Member
John C. Stennis, Member

United States Senate
COMMITTEE ON ARMED SERVICES
WASHINGTON, DC 20510

JW
JRH

June 16, 1986

URGENT

Honorable George Shultz
Secretary of State
Department of State
2201 C Street N.W.
Washington, D.C. 20520

Dear Mr. Secretary - *George*

In response to the April 11, 1986 letter from James W. Dyer to Senators Warner and Hart regarding access to the ABM Treaty negotiating record and other documents relevant to the Administration's recent decision about the ABM Treaty limitations on exotic technologies, I would propose that we accept the Administration's offer to have Ambassador Nitze and Judge Sofaer extensively brief interested Members on these materials.

Prior to such a meeting, however, I would request that Committee Members that are also on the Arms Control Observer Group be briefed and given an opportunity to personally review these documents. Such an arrangement should satisfy legitimate concerns of our Members, and in my judgment -- in view of the special status of the Arms Control Observer Group -- avoid the issue of Executive privilege.

The Committee on Armed Services will be continuing to mark-up the FY-1987 Defense Authorization bill on Tuesday, June 17. I would appreciate a timely response to this request so as to avoid an unnecessary debate on this subject when we address the recommendations of the Strategic Subcommittee on Wednesday.

With warm regards,

John Warner
Chairman

URGENT

June 5, 1986

MEMORANDUM FOR PETER J. WALLISON

FROM:

J. MICHAEL SHEPHERD *JMS*

SUBJECT:

Conflict of Interest Regulations: PFIAB

For your information, Gary Schmitt, Executive Director of the President's Foreign Intelligence Advisory Board (PFIAB), called to inform me that he met yesterday with John Lofton. Attached for your information are copies of my cover memorandum and the letter you sent to Mr. Lofton in response to his request to Fred Fielding for information about conflict of interest regulations pertaining to PFIAB members.

As we expected, Mr. Lofton was particularly concerned that PFIAB member Henry Kissinger might use information learned in his official duties to advise his clients. Gary told Mr. Lofton that all PFIAB members not only bring uniquely valuable expertise to the board, but also maintain the highest ethical standards. When Mr. Lofton pressed him saying that he could only be certain that there was no conflict after examining a member's list of clients, Gary told him that such lists are reviewed by this office, not PFIAB. His impression is that Mr. Lofton will make further inquiries to you.

I do not believe that Mr. Lofton would be able to obtain such a list under the Freedom of Information Act. The White House Office, as an entity whose "sole purpose is to advise and assist the President," is not an "agency" subject to the FOIA. Kissinger v. Reporters Committee for Freedom of the Press, 445 U.S. 136, 156 (1980). Further, Rushforth v. Council of Economic Advisers, 762 F.2d 1038 (D.C. Cir. 1985), holding that the CEA is not an agency subject to the FOIA, applies this standard to agencies within the Executive Office of the President. Executive Order 12537 makes clear that the sole purpose of PFIAB is to advise and assist the President. Finally, attached for your information is a copy of a September 10, 1985, memorandum by Andrew Richner, a summer clerk in this office, which concludes that the President's Intelligence Oversight Board is not an "agency" subject to the FOIA.

Attachments

THE WHITE HOUSE

WASHINGTON

1/13/86
UNCLASSIFIED
(With SECRET attachment)

June 2, 1986

MEMORANDUM FOR BRENDA S. REGER
SENIOR DIRECTOR, OFFICE OF INFORMATION
POLICY AND SECURITY REVIEW
NATIONAL SECURITY COUNCIL

FROM: J. MICHAEL SHEPHERD *JMS*
ASSISTANT COUNSEL

SUBJECT: Freedom of Information Request of Mark
Allen: FBI No. 211,326

The attached documents related to the Freedom of Information Act request of Mark A. Allen were forwarded to this office by the FBI for review. Because they appear to relate entirely to National Security Council activities and information, I believe they should be referred to your office for review.

This office has no continuing interest in this matter.

Thank you.

Attachments

THE WHITE HOUSE

WASHINGTON

June 2, 1986

b6 b7c

MEMORANDUM FOR



FROM: J. MICHAEL SHEPHERD *jms*
ASSISTANT COUNSEL

SUBJECT: Freedom of Information Act Request of Ms. Tracy Freedman

As I discussed today with Vicki McKay of your office, this office has reviewed the attached documents responsive to the Freedom of Information Act request of Ms. Tracy Freedman, and has no objection to their release.

Thank you for bringing this matter to our attention.

Attachments

PRESERVATION COPY

WITHDRAWAL SHEET

Ronald Reagan Library

Collection Name

SHEPHERD, J MICHAEL: FILES

Withdrawer

AE 4/30/2019
M

File Folder

FOIA KISSINGER COMMISSION: FOIA/SHEPHERD CHRON (8 OF 9]

FOIA

F15-0053/01
KEYS

Box Number

13977

7

<i>DOC</i>	<i>Document Type</i>	<i>No of</i>	<i>Doc Date</i>	<i>Restric-</i>
<i>NO</i>	<i>Document Description</i>	<i>pages</i>		<i>tions</i>

2	MEMO	16	5/29/1986	B6
---	------	----	-----------	----

FROM: PETER J. WALLISON TO: J. MICHAEL SHEPHERD, WITH ATTACHMENTS

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.

THE WHITE HOUSE

WASHINGTON

May 21, 1986

b6, b7c

MEMORANDUM FOR



FROM: J. MICHAEL SHEPHERD *JMS*
ASSISTANT COUNSEL

SUBJECT: FOIA Request of Rabbi Dov Fisch: No. 237, 047

As requested by your memorandum of May 12, 1986, this office has reviewed the attached documents for their suitability for release in response to the Freedom of Information Act request of Rabbi Dov Fisch. We have no objection to their release.

As you requested, the relevant documents are attached. Thank you for bringing this matter to our attention.

Attachments

THE WHITE HOUSE

WASHINGTON

May 21, 1986

b6
b7c

MEMORANDUM FOR



FROM:

J. MICHAEL SHEPHERD *JMS*
ASSISTANT COUNSEL

SUBJECT:

FOI/PA Request of Mark R. Levin: No. 268,935

As requested by your memorandum of May 13, 1986, this office has reviewed the attached document for its suitability for release in response to the request of Mark R. Levin. We have no objection to the release of the document, but suggest that the names of the White House employees who were interviewed during the background investigation be deleted to protect their privacy.

As you requested, we are returning the document to you with this memorandum. Thank you for bringing this matter to our attention.

Attachments

WITHDRAWAL SHEET

Ronald Reagan Library

Collection Name

SHEPHERD, J MICHAEL: FILES

Withdrawer

AE 4/30/2019

M

File Folder

FOIA KISSINGER COMMISSION: FOIA/SHEPHERD CHRON (8 OF 9]

FOIA

F15-0053/01

KEYS

Box Number

13977

7

<i>DOC</i>	<i>Document Type</i>	<i>No of</i>	<i>Doc Date</i>	<i>Restric-</i>
<i>NO</i>	<i>Document Description</i>	<i>pages</i>		<i>tions</i>
5	MEMO	2	5/13/1986	B6
	FROM: PETER J. WALLISON			B7(C)

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.

THE WHITE HOUSE
WASHINGTON

FOIA/Shepherd
Chron

May 8, 1986

MEMORANDUM FOR PETER J. WALLISON

FROM: J. MICHAEL SHEPHERD *JMS*

SUBJECT: Lofton Request for Conflict of Interest
Regulations Concerning PFIAB Members

John Lofton wrote the attached letter of February 22, 1986 to Fred Fielding, requesting a copy of the conflict of interest regulations regarding the members of the President's Foreign Intelligence Advisory Board (PFIAB). This matter was referred to me after Debbie Owen's departure. The attached Executive Order 12537 (October 28, 1985) is the most recent statement about PFIAB's membership and duties.

Gary Schmitt, Executive Director of PFIAB, informed me that the board has no other published, unique conflict of interest rules. As Presidential appointees, of course, the interests of the members are subject to review by this office before their appointment. Fred Fielding also wrote the attached memorandum of February 21, 1985 to the board to remind the members that they are Special Government Employees under 18 U.S.C. § 202 (a). Under 18 U.S.C. § 219, it is a felony for an individual to serve simultaneously as a Special Government Employee and as an agent required to register under the Foreign Agent's Registration Act.

Mr. Schmitt advised me that concerns are raised in the media periodically about members, particularly Henry Kissinger, who may benefit financially from the intelligence information to which they have access as members of the board. I know of no current special concern about any of the board members.

Attached for your review and signature is a brief letter to Mr. Lofton enclosing a copy of the executive order and advising him that the investments and activities of members of the board, as Special Government Employees, are reviewed for possible conflict of interest problems. Mr. Schmitt has reviewed the letter and has no objection to your sending it.

THE WHITE HOUSE

WASHINGTON

May 8, 1986

Dear Mr. Lofton:

Your letter of February 22, 1986 to former Counsel to the President Fred F. Fielding, which inquired about conflict of interest regulations applicable to members of the President's Foreign Intelligence Advisory Board, was recently referred to me. I have enclosed for your information a copy of Executive Order 12537, the most recent statement concerning the board's membership and responsibilities.

Like those of other Presidential appointees, the interests and activities of the members of the board are reviewed by this office for possible conflicts of interest at the time of appointment, in addition to other background investigations. Members of the board are subject to other statutory restrictions, moreover, as Special Government Employees as defined in Section 202 of title 18 of the United States Code.

Please feel free to contact this office if we may provide any additional information.

Sincerely,

ORIGINAL SIGNED BY PJW
Peter J. Wallison
Counsel to the President

Enclosure

Mr. John Lofton
The Washington Times
2600 New York Avenue, N.E.
Washington, D.C. 20002

PJW:JMS:pjr 5/8/86
cc: PJWallison
JMShepherd
Chron.

THE WHITE HOUSE

WASHINGTON

May 7, 1986

MEMORANDUM FOR GARY SCHMIDD
EXECUTIVE DIRECTOR
PRESIDENT'S FOREIGN INTELLIGENCE ADVISORY BOARD

FROM: J. MICHAEL SHEPHERD *JMS*
ASSISTANT COUNSEL TO THE PRESIDENT

SUBJECT: Attached Request

As we have discussed, attached is the letter from John Lofton to Fred Fielding regarding special conflict of interest regulations pertaining to members of the President's Foreign Intelligence Advisory Board.

Attachment

Dear Fred:

Are there conflict-of-interest regs re: members of Prez's Foreign Intell. Advisory Bd? IF so, can you send me a copy of them?

Thanks,
John Lofton
—

THE WHITE HOUSE

WASHINGTON

May 6, 1986

b6
b7c

MEMORANDUM FOR



FROM: JAY B. STEPHENS
DEPUTY COUNSEL TO THE PRESIDENT ORIGINAL SIGNED BY J.B.S.

SUBJECT: FOIA Request Regarding Abe Fortas

By a handwritten note to former Counsel to the President Fred F. Fielding, Debbie Beatty of your office requested that we review the guidance provided in the attached memorandum from Deborah Owen that the attached documents should not be released under the Freedom of Information Act. 5 U.S.C. 552.

After reviewing these documents and consulting with the Office of Information and Privacy at the Justice Department, we agree with Ms. Owen's analysis that the memorandum of May 21, 1965 to Mr. W. C. Sullivan relates to an internal personnel matter -- the instruction that references to Mr. Fortas' activities relating to the situation in the Dominican Republic be made under his code name -- and may be withheld under exemption (b)(2). The May 19, 1965 memorandum to Mr. Mohr reflects predecisional debate about United States support for potential members of the Dominican Republic government. Finally, we believe that the background check report, to the extent that it identifies the names and positions of former employees of the White House Office, should be withheld under exemptions (b)(6) and (b)(7)(c).

As you requested, the documents are returned to you with this memorandum.

Attachments

JBS:JMS:pjr 5/6/86
cc: JBStephens
JMShepherd
Chron.

THE WHITE HOUSE

4/16/2014
Unclassified
(with TOP SECRET
attachments)

April 30, 1986

MEMORANDUM FOR DIANNA G. HOLLAND

FROM: J. MICHAEL SHEPHERD *JMS*
SUBJECT: FOIA Request to the Secret Service

Jack Mills of the Executive Planning and Analysis Agency called me this morning for guidance regarding the attached Freedom of Information Act request directed to the Secret Service. By the attached, undated letter to Fred Fielding, the index of classified, responsive documents apparently was referred to this office for review because the relevant documents originated in the White House. A handwritten notation on the copy of the letter indicates that it was sent on March 17, 1986. Mr. Mills indicated that he had discussed this matter with Deborah Owen.

It appears from the materials that what is needed is a review of the documents to determine whether they are properly classified. I believe that this review should be performed by the office that originated the documents. Our involvement might be to review an affidavit from a White House Military Office official stating that the documents are properly classified.

I am sending the documents to you for staffing.

Attachments

THE WHITE HOUSE

April 30, 1986

MEMORANDUM FOR DIANNA G. HOLLAND

FROM: J. MICHAEL SHEPHERD *JMS*
SUBJECT: Attached FOIA Request

The attached FOIA request of Craig Becker was answered by Arnold Intrater's attached letter. I believe that this file can now be closed.

Attachments

THE WHITE HOUSE

Unclassified
(with TOP SECRET
attachments)

April 30, 1986

MEMORANDUM FOR DIANNA G. HOLLAND

FROM:

J. MICHAEL SHEPHERD *JMS*

SUBJECT:

FOIA Request to the Secret Service

Jack Mills of the Executive Planning and Analysis Agency called me this morning for guidance regarding the attached Freedom of Information Act request directed to the Secret Service. By the attached, undated letter to Fred Fielding, the index of classified, responsive documents apparently was referred to this office for review because the relevant documents originated in the White House. A handwritten notation on the copy of the letter indicates that it was sent on March 17, 1986. Mr. Mills indicated that he had discussed this matter with Deborah Owen.

It appears from the materials that what is needed is a review of the documents to determine whether they are properly classified. I believe that this review should be performed by the office that originated the documents. Our involvement might be to review an affidavit from a White House Military Office official stating that the documents are properly classified.

I am sending the documents to you for staffing.

Attachments

THE WHITE HOUSE

WASHINGTON

April 30, 1986

Dear Ms. Honegger:

Your letter of March 27, 1986, addressed to the "FOIA Office, The White House" was referred to this office for response.

Please be advised that the White House Office, as an entity whose "sole purpose is to advise and assist the President," is not an "agency" subject to the Freedom of Information Act. Kissinger v. Reporters Committee for Freedom of the Press, 445 U.S. 136, 156 (1980). As a courtesy, however, I am pleased to enclose a copy of the January 28, 1986 draft of the State of the Union speech.

Sincerely,



J. Michael Shepherd
Assistant Counsel

Enclosure

Ms. Barbara Honegger
101 Fourteenth Street
Pacific Grove, California 93950

THE WHITE HOUSE

WASHINGTON

April 28, 1986

MEMORANDUM FOR JOHN E. O'BRIEN
GENERAL COUNSEL
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

FROM: JAY B. STEPHENS
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: FOIA Request Regarding the Presidential
Commission on Space

Mr. James M. McCampbell wrote the attached letter of March 13, 1986 to the White House Office requesting information about non-voting members of the Presidential Commission on Space under the Freedom of Information Act. This office declined to comply with Mr. McCampbell's request on the ground that the White House Office is not an "agency" subject to the FOIA. Kissinger v. Reporters Committee for Freedom of the Press, 445 U.S. 136, 156 (1980).

I have attached Mr. McCampbell's letter for whatever direct response, if any, you deem appropriate. This office has no continuing interest in this matter.

Attachment

THE WHITE HOUSE

WASHINGTON

April 28, 1986

Dear Mr. McCampbell:

Your letter of March 4, 1986, addressed to the "Freedom of Information Office, the White House Office," on "non-voting members" of the Presidential Commission on Space, has been referred to this office for response.

Please be advised that the White House Office, as an entity whose "sole purpose is to advise and assist the President," is not an "agency" subject to the Freedom of Information Act. Kissinger v. Reporters Committee for Freedom of the Press, 445 U.S. 136, 156 (1980). Accordingly, we must respectfully decline to comply with your request.

As a courtesy, however, I have referred your letter to the National Aeronautics and Space Administration for whatever action, if any, it deems appropriate.

Sincerely,

Jay B. Stephens
Deputy Counsel to the President

Mr. James M. McCampbell
12 Bryce Court
Belmont, CA 94002

THE WHITE HOUSE

WASHINGTON

April 28, 1986

MEMORANDUM FOR ALLIE B. LATIMER
GENERAL COUNSEL
GENERAL SERVICES ADMINISTRATION

FROM: JAY B. STEPHENS
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: FOIA Request Regarding Government Auctions

Mr. Larry Daniel wrote the attached letter of March 4, 1986 to the White House requesting information about government auctions. This office declined to comply with Mr. Daniel's request on the grounds that the White House Office is not an "agency" subject to the Act. Kissinger v. Reporters Committee for Freedom of the Press, 445 U.S. 136, 156 (1980).

Attached for whatever direct response, if any, you deem appropriate is Mr. Daniel's letter. Thank you for your assistance. This office has no continuing interest in this matter.

Attachment

THE WHITE HOUSE

WASHINGTON

April 28, 1986

Dear Mr. Daniel:

Your letter of March 4, 1986, addressed to the "Public Information Officer, Freedom of Information Department, White House," requesting information regarding government auctions and surplus sales was referred recently to this office for response. I regret that you were incorrectly advised to submit your request to the White House.

Please be advised that the White House Office is not subject to the Freedom of Information Act. Kissinger v. Reporters Committee for Freedom of the Press, 445 U.S. 136, 156 (1980). Accordingly, we must respectfully decline to comply with your request.

As a courtesy, however, I have referred your letter to the General Services Administration. I trust that they will be able to provide the information you requested.

Sincerely,

Jay B. Stephens
Deputy Counsel to the President

Mr. Larry Daniel
500 Valley View Drive
New Albany, MS 38652

THE WHITE HOUSE

WASHINGTON

April 24, 1986

MEMORANDUM FOR PETER J. WALLISON

FROM: J. MICHAEL SHEPHERD *JMS*

SUBJECT: Responses to FOIA Requests

Your comments to my attached cover memoranda to letters declining to respond to requests made under the Freedom of Information Act ("Act" or "FOIA") ask why we do not respond that the White House is not subject to the Act but still furnish the requested information or refer the request to the appropriate agency for response. I share your concern that we should be as responsive as possible to requests from the public, and agree that we should make referrals in appropriate cases. Traditionally, however, presumably for reasons of workload, this office has not provided additional information in such cases.

It would not add too greatly to my workload to determine the appropriate agency and prepare a cover note and referral memorandum for your signature in addition to your response to the requester, but I think we should take care that the White House does not become a clearinghouse for FOIA requests. Many requesters, moreover, blanket the federal government with requests. In those cases, it is likely that the agency to which we refer the request would already be processing a similar request. Of course, such a referral also adds to the workload of the agency to which we refer the matter. Our usual point of contact is the agency General Counsel; he will have to refer the matter to the agency FOIA unit.

I recommend, however, that you decide not to invest the staff time involved in obtaining, reviewing, and releasing information. For example, complying with the relatively simple attached request of Mr. James M. McCampbell for the names, addresses, professional affiliations, and biographical sketches of non-voting members of the Presidential Commission on Space would involve research, coordination of responses with the individuals, determining whether to redact some of the information, and consideration of possible exemptions. I recommend that we not get into that business. Rather, we should restrict ourselves to referring requests to other agencies. I recommend that the referrals include an express statement that we have no continuing interest in the request and that we make clear that our referral does not create a legal obligation in the agency to respond to the request.

Accordingly, I have redrafted the letter to Mr. Daniel and prepared a memorandum for your signature referring his request to the General Services Administration. Similarly, I have redrafted the letter to Mr. McCampbell and prepared a referral memorandum to NASA.

Attachments

THE WHITE HOUSE
WASHINGTON

April 10, 1986

MEMORANDUM FOR PETER J. WALLISON

FROM: J. MICHAEL SHEPHERD *JMS*

SUBJECT: FOIA Request Regarding the Presidential Commission
on Space

Mr. James M. McCampbell wrote the attached letter of March 13, 1986 requesting information about non-voting members of the Presidential Commission on Space under the Freedom of Information Act ("FOIA").

Attached for your review and signature is a letter declining to comply with Mr. McCampbell's request on the ground that the White House Office is not an "agency" subject to the FOIA.

Attachment