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Folder Title: JGR/Penalty for
Killing/Kidnapping President & Staff
(18 U.S.C. 1751)

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THE WHITE HOUSE

WASHINGTON

January 13, 1986

MEMORANDUM FOR STEPHEN S. TROTT
ASSISTANT ATTORNEY GENERAL
CRIMINAL DIVISION
U.S. DEPARTMENT OF JUSTICE

FROM: FRED. F. FIELDING *Orig. signed by FFF*
COUNSEL TO THE PRESIDENT

SUBJECT: Individuals Covered Under
18 U.S.C. § 1751

By letter dated December 31, 1985, you requested a current list of the individuals covered by 18 U.S.C. § 1751. You also questioned the accuracy of the previous list, because it seemed to exceed the limit of 25 on persons who may be appointed under 3 U.S.C. § 105(a)(2)(A).

The previous list was inaccurate, but not because it contained more than 25 individuals appointed under 3 U.S.C. § 105(a)(2)(A). The previous list responded to the November 16, 1983 request from former Deputy Attorney General Schmults for "The employees appointed pursuant to 3 U.S.C. § 105(a)(2)(A), that is persons who are appointed by the President, employed in the Executive Office of the President, and paid 'at rates not to exceed the rate of basic pay then currently paid for level II of the Executive Schedule of section 5313 of title 5....'" We provided a list responsive to the definitional aspect of this request -- "persons who are appointed by the President, employed in the Executive Office of the President, and paid [at Level II]" -- but that category is in fact broader than those individuals "appointed pursuant to 3 U.S.C. § 105(a)(2)(A)." The Chairmen of the Council of Economic Advisers and the Council on Environmental Quality, the Directors of the Office of Management and Budget and the Office of Science and Technology Policy, and the United States Trade Representative are all "persons who are appointed by the President, employed in the Executive Office of the President, and paid [at Level II]" but they are not "appointed pursuant to 3 U.S.C. § 105(a)(2)(A)."

A correct list of those covered by 18 U.S.C. § 1751 is attached. It includes, in addition to the individuals appointed under 3 U.S.C. § 105(a)(2)(A), the President, the Vice President, and an assistant to the Vice President appointed under 3 U.S.C. § 106(a)(1)(A).

Attachment

FFF:JGR:aea 1/13/86
cc: FFFielding/JGRoberts/Subj/Chron

The President.....Ronald W. Reagan
The Vice President.....George Bush
Chief of Staff to the President.....Donald T. Regan
Assistant to the President
and Press Secretary.....James S. Brady
Assistant to the President
and Director of Communications.....Patrick J. Buchanan
Assistant to the President for Political
& Intergovernmental Affairs.....Mitchell E. Daniels, Jr.
Counsel to the President.....Fred F. Fielding
Assistant to the President.....William Henkel
Cabinet Secretary and
Assistant to the President.....Alfred H. Kingon
Assistant to the President
for Legislative Affairs.....M.B. Oglesby, Jr.
Assistant to the President
for National Security Affairs.....John M. Poindexter
Assistant to the President and
Principal Deputy Press Secretary.....Larry M. Speakes
Assistant to the President
for Policy Development.....John A. Svahn
Assistant to the President.....W. Dennis Thomas
Chief of Staff to the
Vice President.....Craig L. Fuller

THE WHITE HOUSE

WASHINGTON

January 13, 1986

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS 

SUBJECT:

Individuals Covered Under
18 U.S.C. § 1751

Assistant Attorney General Trott has asked for an updated list of those covered by 18 U.S.C. § 1751, the provision imposing Federal penalties for the killing or kidnapping of certain high-level Executive branch officials. In his letter Trott questions the accuracy of the previous list, noting that it seems to contain 26 Level II Presidential staff positions, when 3 U.S.C. § 105(a)(2)(A) provides for no more than 25 such positions.

The lists we have been providing Trott have been incorrect, but not for the reason Trott noted. Our lists contain all Level IIs in the Executive Office of the President. There can be more than 25 such positions. The 25 cap only applies to Presidential assistants appointed under 3 U.S.C. § 105(a)(2)(A), but there are some Level IIs in the EOP appointed under other provisions. For example, the Director of OMB is a Level II in the EOP, but he is appointed under 31 U.S.C. § 502(a), not 3 U.S.C. § 105(a)(2)(A).

Coverage under 18 U.S.C. § 1751 extends to those appointed under 3 U.S.C. § 105(a)(2)(A), not to all Level IIs in the EOP. Our lists, however, have been of those in the latter category, and accordingly have been over-inclusive. This error apparently arose from the framing of the original Justice request, which asked for "The employees appointed pursuant to 3 U.S.C. § 105(a)(2)(A), that is persons who are appointed by the President, employed in the Executive Office of the President, and paid 'at rates not to exceed the rate of basic pay then currently paid for level II of the Executive Schedule of section 5313 of title 5....'" Your office responded to the definitional language in this request -- "persons who are appointed by the President, employed in the Executive Office of the President, and paid [at Level II]" -- which, as noted, is a broader class than those persons appointed under 3 U.S.C. § 105(a)(2)(A).

A correct list, with a cover memorandum explaining the changes, is attached for your review and signature.

Attachments

FB005

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

O - OUTGOING

H - INTERNAL

I - INCOMING

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

Name of Correspondent: Stephen S. Dratt

MI Mail Report

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

Subject: Individuals Covered Under 18
U.S.C. 1751

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
Witolland	ORIGINATOR	86101106			1 1
WAT18	DC	86101107		CS	86101117

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: See ID 374907cw

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.



U.S. Department of Justice

Criminal Division

Office of the Assistant Attorney General

Washington, D.C. 20530

372379 *cu*

DEC 31 1985

Mr. Fred F. Fielding
Counsel to the President
The White House
Washington, D.C. 20500

Dear Mr. *Fred* Fielding:

Reference is made to your memorandum of June 7, 1985 to D. Lowell Jensen, Deputy Attorney General, which enclosed an updated list of individuals covered by 18 U.S.C. 1751, the Presidential and Presidential staff assassination, kidnaping, and assault statute. A copy of your memorandum and enclosure is enclosed for easy reference.

Because of various changes in the White House staff, it is requested that your office provide us an updated list.

As you know, 18 U.S.C. 1751 provides, among other things, coverage to persons appointed under 3 U.S.C. 105(a)(2)(A) to employment in the Executive Office of the President. Section 105(a)(2)(A) provides that the President may appoint and pay 25 employees. It appears that the list supplied to us with your June 7, 1985 memorandum contains 26 Presidential staff positions. If this understanding of the list is correct, it is requested that you provide us with information reconciling this coverage with the statutory requirement of no more than 25 employees.

Your cooperation in this matter is appreciated.

Sincerely,

STEPHEN S. TROTT
Assistant Attorney General
Criminal Division

By:

[Signature]
VICTORIA TOENSING
Deputy Assistant
Attorney General

Enclosures



U.S. Department of Justice

Criminal Division

Office of the Assistant Attorney General

Washington, D.C. 20530

DEC 31 1985

Mr. Fred F. Fielding
Counsel to the President
The White House
Washington, D.C. 20500

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Your cooperation in this matter is appreciated.

Sincerely,

STEPHEN S. TROTT
Assistant Attorney General
Criminal Division

By:

VICTORIA TOENSING
Deputy Assistant
Attorney General

Enclosures