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[NSC: Reagan-Bush Transition Background Materials - Volume II - January 1989] [1]

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Withdrawal/Redaction Sheet (George Bush Library)

Doc. No. / Type	Subject/Title	Date	Restriction	Classification
01. Paper	Re: Paul Stevens Meeting with Nelson Ledsky (1 pp.)	n.d.	(b)(1)	S
02. Paper	Re: NESA Directorate (1 pp.)	n.d.	(b)(1)	
03. Paper	Re: Paul Stevens Meeting with Jim Kelly (1 pp.)	n.d.	(b)(1)	S
04. Paper	Re: Paul Stevens Meeting with Hank Cohen (1 pp.)	n.d.	(b)(1)	S
05. Paper	Re: Paul Stevens Meeting with Bob Pastorino (2 pp.)	n.d.	(b)(1)	S
06. Paper	Re: Paul Stevens Meeting with Barry Kelly (1 pp.)	n.d.	(b)(1)	S
07. Paper	Re: Paul Stevens Meeting with Bob Linhard (1 pp.)	n.d.	(b)(1)	S

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Collection:

Record Group: Bush Presidential Records

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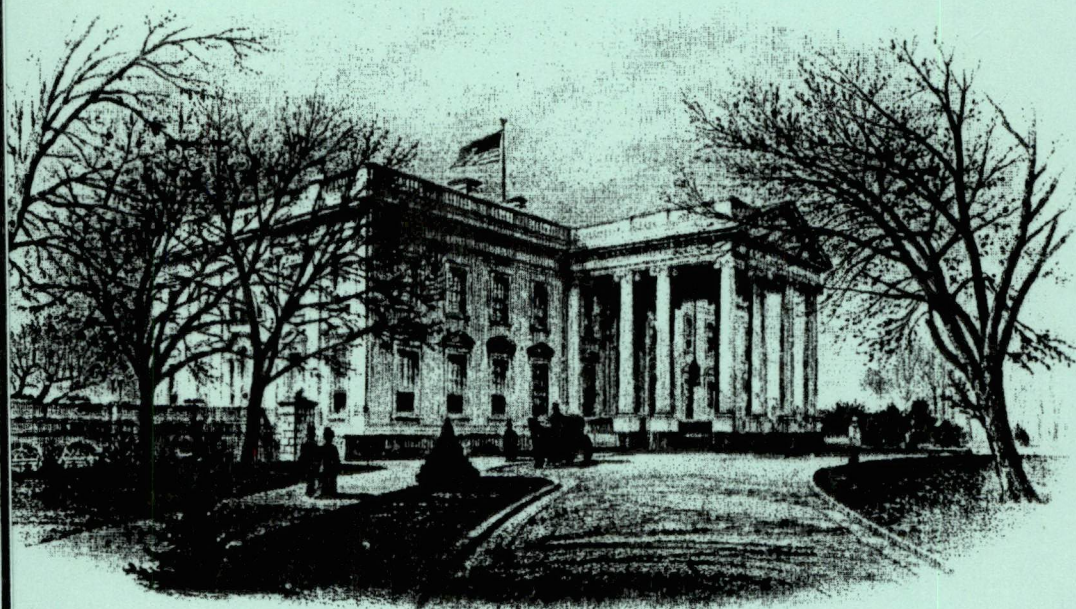
NSC/S

Transition Background Materials
Volume II

Jan., 1989

National Security Council

Reagan - Bush Transition Background Materials



VOLUME II

January, 1989

Prepared by: Secretariat

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

June 15, 1987

MEMORANDUM FOR PAUL STEVENS

FROM: JAMES F. COLLINS *File*
SUBJECT: Continuity of NSC Between Administrations

The following are some comments on ways to establish better continuity between Administrations:

1. For System IV documents, a system must be established to separate NSC System IV institutional files for those of offices or officers. We are already working this for Room 300 but the policy has to apply to the NSC across the board.

2. A system must be established to permit retention of system documents beyond the life of any administration. At the same time such a system must accommodate a departing President's interests in having a full set of documents for his Presidency.

3. Responsibility for NSC institutional files must be clearly fixed with the NSC Executive Secretary. That official would then be responsible for maintaining the NSC institutional archives.

4. Clear guidelines are needed to determine which documents will be maintained for the institutional archives.

5. The institutional archives should be kept intact in perpetuity in some form. Files to be retired should be kept together in some agreed storage facility.

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20501

June 11, 1987

MEMORANDUM FOR PETER RODMAN
ROBERT OAKLEY
BARRY KELLY
SVEN KRAEMER

FROM: PAUL SCHOTT STEVENS
SUBJECT: Continuity of Function of the NSC

In response to the Tower Board's report, the President has called for the development of specific measures to enhance the continuity of the functioning of the NSC from administration to administration. (Attached is the text of NSDD 266. I have highlighted the relevant portion--Section C, page 5, paragraph 2.) Proposals for this purpose are now being developed. I would appreciate any thoughts you, as long-time NSC hands and in Barry's case as keeper of System IV, may have in this regard.

Could I have your comments and suggestions by close of business, Monday, June 15? Thank you.

Attachment
NSDD 266

cc:
Grant Green

VOLUME 2

NSC SYSTEM / UNCLASSIFIED

- Tab 1 List of NSC members from 1947 to 1988
- Tab 2 National Security Act as amended, 1985
- Tab 3 McGeorge Bundy letter to Henry M. Jackson
- Tab 4 Excerpts on NSC from President Lyndon B. Johnson's memoirs
- Tab 5 Excerpts on NSC from Walter W. Rostow's memoirs
- Tab 6 Bromley K. Smith monograph entitled "Organizational History of the National Security Council during the Kennedy and Johnson Administrations"
- Tab 7 Excerpts on NSC from President Richard M. Nixon's memoirs
- Tab 8 Henry A. Kissinger letter to Henry M. Jackson (submitted to Senate Subcommittee on National Security and International Operations)
- Tab 9 Excerpt from President Nixon's February 9, 1972 Foreign Policy Report to the Congress
- Tab 10 President Nixon administration summary and charts of NSC organization
- Tab 11 Excerpts on NSC from President Gerald R. Ford's memoirs
- Tab 12 Brent Scowcroft letter to New Policy Appointees and list of NSC Directorates
- Tab 13 Excerpts on NSC from President James E. Carter's memoirs
- Tab 14 Excerpts on NSC from Zbigniew Brzezinski's memoirs
- Tab 15 President Carter administration summary and charts of NSC organization
- Tab 16 President Reagan administration summary, charts of NSC organization, NSDD 266 & 276, and Tower Board recommendations

THE WHITE HOUSE

WASHINGTON

March 31, 1987

IMPLEMENTATION OF THE RECOMMENDATIONS OF

THE PRESIDENT'S SPECIAL REVIEW BOARD

The President's Special Review Board submitted its Report on February 26, 1987. I addressed the Nation on March 4 and announced first, that I endorse the Board's recommendations; and second, that I intend to go beyond the Board's recommendations to put the National Security Council (NSC) process in even better order. This Directive spells out the specific steps I have approved to implement the letter and spirit of the Board's recommendations.

Many steps were taken even prior to the issuance of the Board's Report. The NSC staff was rebuilt and made subject to proper management discipline. A directive was issued on my instruction to prohibit the NSC staff itself from undertaking covert operations. A comprehensive legal and policy review of such operations, ordered by me, was already far advanced. Proper procedures for consultation with the Congress were reaffirmed and are being observed.

In light of the Board's Report, additional measures are required. This Directive sets forth the specific timetable according to which I expect all such measures to be completed. It is of utmost importance that the NSC -- including all members of, and advisors to, the NSC, the Assistant to the President for National Security Affairs, the NSC staff, and all other participants in the NSC process -- act decisively to accomplish my objectives fully.

I shall inform Congress of the nature and progress of these Executive branch efforts prior to the end of March; I also shall call upon Congress to heed the balance of the Board's recommendations, namely:

-- that no substantive change be made in the provisions of the National Security Act dealing with the structure and operation of the NSC system;

-- that the position of Assistant to the President for National Security Affairs not be made subject to Senate confirmation; and

-- that Congress replace the existing Intelligence Committees of the Senate and House of Representatives with a new joint committee with a restricted staff to oversee the intelligence community.

Full Text of
NSDD 266

Although taking part in the NSC system by virtue of official positions as heads of Executive departments or agencies or as senior officials within the Executive Office of the President, all NSC participants shall sit as advisors to the President in connection with the President's exercise of authority under the Constitution and laws of the United States. In their capacity as department and agency heads, NSC participants shall ensure the effective and expeditious execution and implementation of overall national security policies established by the President. Execution and implementation of such policies shall not be the responsibility of the Assistant to the President for National Security Affairs or of the NSC staff except as the President specifically directs.

B. The Assistant to the President for National Security Affairs

The Assistant to the President for National Security Affairs ("National Security Advisor") shall have primary responsibility for day-to-day management of the National Security Council process, and shall serve as principal advisor on the President's staff with respect to all national security affairs. The National Security Advisor shall have access and report directly to the President, and shall keep the President and the Chief of Staff to the President fully and currently informed on all matters of substance.

As manager of the NSC process, the National Security Advisor shall ensure the following: that matters submitted for consideration by the NSC cover the full range of issues on which review is required; that those issues are fully analyzed; that a full range of options is considered; that the prospects and risks of each are examined; that all relevant intelligence and other information is available to NSC participants; that legal matters are addressed; and that difficulties in implementation are confronted. The National Security Advisor shall monitor policy implementation to ensure that policies are executed in conformity with the intent of presidential decisions. He shall initiate periodic reassessments of policies and operations, in light of changed circumstances or United States interests. The National Security Advisor shall keep NSC participants currently informed of presidential decisions. He shall ensure that NSC consultations and presidential decisions are adequately recorded, and that appropriate and timely preparations are made with respect to meetings convened under NSC auspices.

As the President's principal staff advisor on national security affairs, the National Security Advisor shall present his own views and advice and, at the same time, faithfully represent the views of other NSC participants.

C. The National Security Council Staff

The functions and responsibilities of the Executive Secretary of the National Security Council shall be as provided by the National Security Act of 1947, as amended. The Executive Secretary heads the NSC staff and, in accordance with applicable laws and regulations, appoints and fixes the compensation of personnel required to perform such duties as may be prescribed by the President, the NSC, or the National Security Advisor. The Executive Secretary shall establish procedures within the NSC Executive Secretariat for maximum effective support of the NSC and the National Security Advisor in performance of responsibilities assigned by the President. With the guidance and under the instruction of the National Security Advisor, the Executive Secretary shall develop and implement appropriate policies with respect to the overall size of the NSC staff, the background and experience of its members, the duration of their service, and the organization of staff offices. The objectives shall be twofold: first, an NSC staff that is small, highly competent, broadly experienced in the making of national security policy, and properly balanced from among Executive departments and agencies and persons drawn from within and outside government; and second, an NSC staff organization that imposes clear, vertical lines of control and accountability.

The Executive Secretary, through the National Security Advisor, shall recommend for my consideration specific measures designed to enhance the continuity of the functioning of the NSC, including measures to ensure adequate institutional recordkeeping from administration to administration. Specific recommendations for these purposes shall be made not later than June 30, 1987.

The NSC staff, through the Executive Secretary, shall assist the National Security Advisor in each aspect of his roles both as manager of the NSC process and as my principal staff advisor on national security affairs.

The NSC staff shall include a Legal Advisor whose particular responsibility it will be to provide legal counsel to the National Security Advisor, the Executive Secretary, and the NSC staff with respect to the full range of their activities, and to assist the National Security Advisor in ensuring that legal considerations are fully addressed in the NSC process and in interagency deliberations. The NSC Legal Advisor shall be accorded access to all information and deliberations as may be required for these purposes, and shall advise the National Security Advisor and Executive Secretary as appropriate on all matters within his responsibility. He shall work cooperatively with the Counsel to the President, the Legal Adviser of the Department of State, and with senior counsel to all other NSC members, advisors, and participants.

D. The National Security Council and Interagency Process

1. National Security Council Meetings

The National Security Council shall meet regularly to consider matters directed by the President or recommended by the National Security Advisor or by the other NSC members. The National Security Advisor shall attend all NSC meetings and shall be responsible for the agenda and conduct of such meetings under my direction. The statutory members of the NSC, and the Director of Central Intelligence and Chairman of the Joint Chiefs of Staff as statutory advisors to the NSC, shall attend NSC meetings. In addition, the Attorney General, the Secretary of the Treasury, and the Chief of Staff to the President at my invitation shall attend NSC meetings. The special statutory advisors to the NSC, the Director of the Office of Management and Budget, and the heads of other Executive departments and agencies shall be invited to attend such NSC meetings as relate to matters vested under their authority.

The National Security Advisor shall provide NSC participants advance notice of all NSC meetings and agenda therefor. To the extent practicable, the National Security Advisor shall circulate decision documents in advance of such meetings. The Executive Secretary of the NSC and the NSC staff shall assist the National Security Advisor in connection with appropriate preparations for, and follow-up to, NSC meetings, as directed by the President. Such assistance shall include preparation of meeting minutes and the development and dissemination of decision documents and, as appropriate, study directives. All decision documents shall be submitted for the President's review and action by the National Security Advisor. The National Security Advisor shall transmit decision documents to the President through the Chief of Staff to the President. National Security Decision Directives, intelligence findings, and similar decision documents shall be coordinated, in advance of their submission to the President, by the NSC Legal Advisor with the Counsel to the President.

2. The Interagency Process

To assist the NSC at large and its individual members and advisors in fulfilling their responsibilities, I previously directed or authorized the establishment of senior interagency groups and regional and functional interagency groups. The purpose of such groups was to establish policy objectives, develop policy options, make appropriate recommendations, consider the implications of agency programs for foreign policy or overall national security policy, and undertake such other activities as may be assigned by the NSC.

The NSC, through the National Security Advisor, shall review the structure of senior interagency groups and regional and functional interagency groups established pursuant to, or under authority of, presidential directives or applicable memoranda, and shall recommend all such changes thereto as may be necessary.

or desirable to realize fully and promptly in practice the Special Review Board's recommended model for the NSC system, as well as all of the Board's other recommendations. These include establishment of an interagency process in which the National Security Advisor chairs the senior level committees of the NSC. The National Security Advisor shall present, for consideration by the NSC, a draft National Security Decision Directive for this purpose not later than April 30, 1987.

II. Covert Actions and Use of Non-Government Personnel

I have directed the National Security Council's Planning and Coordination Group (PCG) to review all covert action programs. This review is designed to ensure that such programs are commenced and pursued in accordance with law and are consistent with United States policy. The PCG shall complete this review on an expedited basis. It shall report its findings to the NSC on or before April 30, 1987. The NSC promptly shall review all such programs and seek my concurrence in their continuation as appropriate. The NSC, through the National Security Advisor, shall review current procedures for covert action policy approval and coordination and shall recommend such changes as may be necessary or desirable to ensure, among other things, the following:

- that proposed covert actions will be coordinated with NSC participants, including the Attorney General, and their respective recommendations communicated to the President;

- that all requirements of law concerning covert activities, including those requirements relating to presidential authorization and congressional notification, will be addressed in a timely manner and complied with fully;

- consistent with the foregoing, that covert activities will be subject to tightly restricted consideration, and measures to protect the security of all information concerning such activities will be enhanced;

- that the NSC staff itself will not undertake the conduct of covert activities; and

- that the use of private individuals and organizations as intermediaries to conduct covert activities will be appropriately limited and subject in every case to close observation and supervision by appropriate Executive departments and agencies.

This review shall take fully into account such changes as I have authorized by this Directive to the structure of the NSC. The National Security Advisor shall present, for consideration by the NSC, a revised National Security Decision Directive on procedures for covert action policy approval and coordination not later than April 30, 1987.

III. Intelligence Process

Maintaining the integrity and objectivity of the intelligence process is an important goal of the United States intelligence effort. It demands, as the President's Special Review Board has stated, careful differentiation between the respective roles of foreign intelligence, on the one hand, and policy advocacy, on the other. The Director of Central Intelligence shall provide such additional review of, guidance for, and direction to, the conduct of national foreign intelligence estimates as may be required to accomplish fully this objective. The Director of Central Intelligence shall review established procedures for the production of national foreign intelligence estimates and, not later than July 31, 1987, shall inform the NSC, through the National Security Advisor, of any modifications or additions thereto he may deem appropriate for this purpose.

IV. Reporting

The National Security Advisor shall keep me fully informed of progress on all aspects of the implementation of the recommendations of the President's Special Review Board.

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June 9, 1987

National Security Council Interagency Process

Introduction

In National Security Decision Directive (NSDD) 266, I directed that the recommendations of the President's Special Review Board, including the model for the National Security Council (NSC) system, be implemented in full. To that end, I chartered a review of the structure of senior interagency groups and regional and functional interagency groups established pursuant to, or under the authority of, presidential Directives or applicable memoranda. This review was designed to identify such changes in the interagency process as might be necessary or desirable to realize fully and promptly in practice the Special Review Board's recommendations, including the specific recommendation that the Assistant to the President for National Security Affairs (the "National Security Advisor") chair the senior committees of the NSC. The present Directive reflects changes in the interagency process I have authorized as a result of that review.

Interagency Groups

Interagency groups can provide an effective medium for the development of advice and policy for consideration by the President. They achieve their goal when they provide thorough and clear analyses of all policy choices, coordinate policy implementation, and review policy in light of experience.

NSDD 2, dated January 12, 1982, established the senior interagency structure. It created three functional senior interagency groups (SIGs) -- one on foreign policy, chaired by the Secretary of State; one on defense policy, chaired by the Secretary of Defense; and one on intelligence policy, chaired by the Director of Central Intelligence. Subsequent Directives and memoranda established some 22 additional SIGs and 55 interagency groups (IGs), including certain groups chaired by the National Security Advisor or members of the NSC staff. IGs

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under provisions of E.O. 12356 (F87-412)
by N. Menan, National Security Council

Full Text of
NSDD 276

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in turn typically have established working groups and task forces to assist in, and support, their work.

After five years' experience, a review of the interagency process was due, even without the impetus of the Special Review Board's report. This review revealed that many interagency groups, although formally established, have not met or ceased to meet when the circumstances that brought them into being changed; and that new interagency groups have come into being to deal with contingencies as they have arisen. As the Special Review Board noted, these groups have not, in every case, served the goal of effective policy deliberation.

To improve the interagency process at large, and to implement the Special Review Board's recommendations, I therefore am directing or authorizing the following:

1. National Security Council. As specified in NSDD 266, the NSC shall be the principal forum for consideration of national security issues requiring presidential decision. The functions of, and participants in, the NSC shall be as set forth in the National Security Act of 1947, as amended, and NSDD 266. The NSC shall meet at the direction of the President.

2. National Security Planning Group. The National Security Planning Group (NSPG) shall be a committee of the NSC. The President, the Vice President, the Secretary of State, the Secretary of Defense, the Attorney General, the Secretary of the Treasury, the National Security Advisor, the Chief of Staff to the President, the Director of Central Intelligence, the Chairman of the Joint Chiefs of Staff, and the Director of the Office of Management and Budget shall attend NSPG meetings. The NSPG shall meet, as circumstances warrant, to monitor and review the development and implementation of national security policy on behalf of the NSC. The responsibilities of the NSPG with regard to covert action shall be as provided in a separate presidential Directive revising NSDD 159.

The National Security Advisor or the Deputy Assistant to the President for National Security Affairs (the "Deputy National Security Advisor") shall be responsible for the attendance, agenda, and conduct of such meetings at my direction. The Directors of the United States Information Agency and the United States Arms Control and Disarmament Agency, the heads of other Executive departments and agencies, and other advisors to the President shall be invited by the National

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Security Advisor, acting at my direction, to attend NSPG meetings as matters on the agenda of such meetings shall dictate.

3. Senior Review Group. A Senior Review Group (SRG) shall be the Cabinet level interagency group for the consideration of national security issues. The SRG shall be comprised of the National Security Advisor, the Secretary of State, the Secretary of Defense, the Chief of Staff to the President, the Director of Central Intelligence, and the Chairman of the Joint Chiefs of Staff. The National Security Advisor shall invite the attendance of heads of such other Executive departments or agencies, and of such senior officials within the Executive Office of the President, as matters on the agenda of SRG meetings shall dictate. The National Security Advisor shall chair the SRG, which shall meet at his request or the request of its standing members, to review, coordinate, and monitor the implementation of national security policy on behalf of the NSC.

4. The Policy Review Group. The Policy Review Group (PRG) shall be the senior sub-Cabinet level interagency group. The PRG shall be comprised of the Deputy National Security Advisor, a representative of the Office of the Vice President, and an Under or Assistant Secretary or other senior official of equivalent rank of the Department of State, the Department of Defense, the Central Intelligence Agency, the Organization of the Joint Chiefs of Staff, the Office of Management and Budget, and, as matters on the agenda of the PRG dictate, of the Executive Office of the President and other interested Executive departments and agencies. The Deputy National Security Advisor shall chair the PRG, which shall meet regularly at his request or the request of its standing members. The PRG's primary responsibility shall be to review and make recommendations concerning national security policy developed through the day-to-day functioning of the interagency process, including such senior interagency groups and regional and functional interagency groups as may hereafter be formed or authorized to continue in existence as provided in paragraph 5 hereof. The PRG shall assume the functions described in NSDD 30 and previously exercised by the Crisis Pre-Planning Group and those described in NSDD 207 and previously exercised by the Terrorist Incident Working Group. The Planning and Coordination

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Group (PCG), as provided in a separate presidential Directive revising NSDD 159, shall continue to be the senior sub-Cabinet level interagency group responsible for covert action.

Matters considered and recommendations for follow-on action made by the PRG shall be referred to responsible Executive departments and agencies. Recommendations made by the PRG shall be submitted for consideration by the SRG, NSPG, or NSC, as appropriate.

5. Other Interagency Groups. Within their respective areas of authority as set forth in NSDD 266, the Secretary of State, the Secretary of Defense, the Director of Central Intelligence, the Director of the United States Arms Control and Disarmament Agency, and the Director of the United States Information Agency may approve the continuation of existing senior interagency groups and regional or functional interagency groups to the extent necessary or desirable to promote an effective NSC process; by June 30, 1987, the National Security Advisor shall be notified of those interagency groups they have determined shall continue to function.

The National Security Advisor is authorized to approve or direct the formal establishment of additional senior interagency groups to the extent required for an effective NSC process, and to approve the continuation of such existing senior interagency groups as may be chaired by members of the NSC staff.

NSDD 2 and other presidential Directives and applicable memoranda, to the extent inconsistent with this Directive or with NSDD 266, are rescinded.

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THE NSC'S MIDLIFE CRISIS

by Zbigniew Brzezinski

With the 1988 presidential campaign about to unfold in full force, all of the serious candidates for the White House will be asked at some point how they intend, if elected, to manage the conduct of U.S. foreign policy. In particular, what is the role of the National Security Council (NSC) and how should a president use it? Sensible answers to these questions have become even more urgent in light of the sensational disclosures of misdeeds allegedly committed by senior staff members of the NSC in the Iran-*contra* scandal. This most recent controversy coincides with the NSC's 40th anniversary. Thus its Iran-*contra* role in effect can be seen as the NSC's midlife crisis, with 40 years providing a long enough time both to assess the past and to offer some suggestions for the future.

The NSC was set up 2 years after the end of World War II. The timing was not an accident. By 1947 it was evident that America's engagement in the postwar world would be manifold. American decision makers were conscious that the direction of the war effort in World War II had been improvised and involved a number of ad hoc arrangements for decision making. Key military and political decisions often had been made on the basis of personal arrangements informally structured and responsive to specific circumstances.

The National Security Act of July 26, 1947, provided more formal machinery to deal with America's new involvement in global realities over a longer term. The words "national security" were relatively new in the bureaucratic lexicon and involved a recognition that diplomacy, defense, and intelligence were parts of a larger whole. Each reflected a separate aspect of America's relationship with the world that henceforth would be integrated into a broader framework subsumed under the overarching term. The

ZBIGNIEW BRZEZINSKI is a counselor at the Center for Strategic and International Studies. He was national security adviser from 1977 to 1981.

NSC's creation also reflected an awareness that only under the president's personal leadership could a broader perspective on global affairs be defined and coordinated as national policy. The locus of decision making had to be inside the White House because of the president's position as overall operating head of government as well as head of state.

To formulate policy designed to enhance national security, the act called on the president to draw on the collective advice of the NSC, composed—according to the amended 1947 statute—of himself, the vice president, the secretary of state, and the secretary of defense. Other officials might participate at his invitation, notably the director of central intelligence and the principal military chiefs. The president also appointed a small professional staff with a designated head to prepare the council's work. Soon the term "NSC" came to mean simultaneously—and often confusingly—both the deliberative body, which met occasionally at the president's behest, and the staff of the NSC, which came to be located permanently in the White House.

From the beginning, the NSC's relationship to the president and its dependence on his personal working style determined its evolution. Broadly speaking, two predominant patterns of presidential leadership in the area of national security affairs have emerged. Some presidents have involved themselves intimately in defining national strategy. In addition, these presidents tended to insist that they be involved in the day-to-day implementation of national policy. This can be called the presidential system of formulating national security policy.

Other presidents have reserved for themselves control of the commanding heights of decision making but have deliberately abstained from the day-to-day supervision of policy. These presidents have permitted a dominant secretary of state to assume the pre-eminent role in the overall strategic direction of foreign policy on the president's behalf. In contrast to the first approach this one involves a predominantly secretarial system of policymaking.

No conclusions can be drawn about which approach leads to a more effective foreign policy. Each approach has delivered successes and failures; therefore, in and of themselves, the pres-

White House, and I had certain ideas about the system, or lack of system under which it operated. With my training in problems involving organization it was inconceivable to me that the work of the White House could not be better systematized than had been the case in the years I observed it." He added elsewhere in his memoirs that "organization helps the responsible individual make the necessary decision, and helps assure that it is satisfactorily carried out."

In keeping with this predisposition, Eisenhower used the NSC not only for making decisions but also for planning policy. For example, shortly after assuming office he ordered a highly secret review of U.S. policy toward the Soviet Union named the Solarium exercise. Three teams developed alternative strategic concepts. The first essentially would serve as a reinforcement of the ongoing containment doctrine. The second required that the containment doctrine be globalized, drawing more sharply and comprehensively the dividing line between U.S. and Soviet areas of influence. The third team was given a mandate to develop a policy designed to roll back Soviet influence from the spheres that it occupied by 1952. Senior government officials staffed all three teams and reported in summer 1953. The president then personally chaired a series of NSC meetings, reviewing their proposals in detail and trying to translate them into a comprehensive national security strategy. Through a full discussion of several drafts there emerged in October 1953 a document called "NSC 162/2," which provided the doctrinal framework for Eisenhower's policies.

From the first team, "NSC 162/2" borrowed the concept of massive retaliation. From the second team, it adopted the notion of additional regional alliances, building on the experience of NATO; this recommendation prompted the creation of the Southeast Asia Treaty Organization and the Central Treaty Organization. The third team tried to amplify the doctrine of liberation, which to some extent already had been previewed in the 1952 presidential campaign.

Eisenhower emphasized that the NSC must be capable of both planning and implementing policy. To achieve the former he created within the NSC staff a body called the Planning Board. It met more often than the NSC itself, preparing

policy papers for the formal sessions and refining options for decisions. To supervise policy implementation, a parallel body, the interagency Operations Coordinating Board, also was created. In addition to holding weekly supervisory meetings, it was charged with preparing a comprehensive report to the NSC every 6 months. Eisenhower recognized that a great deal of policy execution was skewed by the bureaucracy, and he was determined to assert NSC control of the bureaucracy's performance. Both organs operated with formal agendas and generated a large paper trail.

Institutionalization reached its peak under Eisenhower, and in time the NSC process lost its cutting edge. At first it was creative and truly impressive by systematically defining both goals and strategy. It also provided a regular forum for formal review of policy options. But to use the words of Johnson's NSC staff chief, Walt Rostow, it increasingly became a paper mill, a process churning out an enormous number of memorandums and reports but putting less stress on policy innovation. Eisenhower apparently realized the problem, because for new policy ideas he began to reach outside the system to people he personally trusted. Individuals like Special Assistants to the President C. D. Jackson and Nelson Rockefeller compensated for the bureaucratic stultification.

The second phase in the NSC's evolution lasted from 1960 to 1980. This phase was characterized by a higher degree of personalization, which in time also became excessive. Kennedy's associates disliked the degree of NSC bureaucratization. They were determined that the system should become more flexible and in some ways more personal. The NSC process therefore was deinstitutionalized: The Operations Coordinating Board and the Planning Board were abolished peremptorily, the staff was cut dramatically, and a public figure was appointed to the post of special assistant for national security affairs.

The choice of McGeorge Bundy was symbolic of the change. A well-known Harvard University dean with personal experience in public policy, he was an individual not known to be either personally or intellectually reticent. Kennedy specifically instructed Bundy to play a public "educational" role and to enlighten the press about the president's policy. The special assistant

parallel and supervise the key geographic bureaus of the State Department, and organized into a large number of specialized committees that were chaired at the subcabinet level by the president's assistant for national security affairs. Nixon's own immersion in big decisions and his strong suspicions of the State Department's bureaucratic impulses helped elevate the national security adviser above the secretary of state, William Rogers, and make the NSC staff the center of strategic initiative.

Carter stated openly that foreign policy would be made by him and not by his secretary of state. In part this was in reaction to Kissinger's perceived domination as secretary of state over Ford's decision-making process. But in large measure it reflected Carter's genuine determination personally to guide decision making. Accordingly, Carter took the unprecedented step on his inauguration day of issuing a directive concentrating the policy process, especially for arms control and crisis management, within the White House. In these critical areas the national security adviser—my position during Carter's term—would chair cabinet-level NSC committee meetings. Moreover, in a step of greater symbolic significance inside the White House than elsewhere, he for the first time gave the national security adviser—the term continued to be used—cabinet status.

Carter also charged the national security adviser with the responsibility for developing 4-year strategic goals for the new administration. The president discussed the resulting document, which outlined his foreign-policy goals, with his key secretaries. But the NSC staff had thereby acquired the responsibility for policy innovation and begun to play the role that Nixon himself had fulfilled.

At the same time, the president made it known that he did not want his national security adviser to take the highly visible role played by Kissinger. He publicly and repeatedly emphasized the secretary of state's role as the president's principal spokesman and adviser. He wanted the secretary of state to be the lead player.

But he soon became disillusioned. In his memoirs, *Keeping Faith* (1982), Carter speaks of the relative absence in the State Department of "innovative ideas" and of "the inertia of the

Department." He also conveys disappointment over the fact that, in regard to "the education of the American public about foreign policy," the secretary of state "was not particularly inclined to assume this task on a sustained basis."

The consequence was paradoxical. The national security adviser, as a cabinet member, was fully expected to participate in policy deliberations, and, as the president's assistant, physically worked more closely with the president than did the secretary of state. But in the politicized Washington setting, and by much of the national media, he came to be viewed as a usurper of Secretary of State Cyrus Vance's legitimate prerogatives. This perception served to focus public attention on real or exaggerated policy conflicts between the secretary of state and the national security adviser. The secretary of state was seen as the victim of the sudden expansion of the national security adviser's role.

That problem intensified when Carter indicated that he wanted his assistant for national security affairs to make the case for the administration's foreign policy before the media. Even though the exercise of that role came in response to the president's specific instructions—"almost without exception . . . with my approval and in consonance with my established and known policy," as Carter recounted in his memoirs—each initiative the national security adviser took appeared to the public as yet another manifestation of a continuing but improper campaign of attrition against the secretary of state's position and as evidence of the national security adviser's bureaucratic self-aggrandizement. As in the Nixon administration, personalization became excessive and counterproductive politically.

The most recent phase in the NSC's evolution has involved its degradation. Even if initially justified in order to depersonalize somewhat the prominence that the NSC had acquired during the 1970s, President Ronald Reagan pushed the process much too far. The result was that the national security adviser was now neither seen nor heard. Worse, before too long, his presence inside the administration was not much felt.

Reagan's first national security adviser, Richard Allen, was banished to the basement of the White House, where the president's domestic counselor was bureaucratically interposed be-

was to provide policymakers with good institutional memory for any crisis. Also, after considerable internal bureaucratic squabbling, Vice President George Bush was designated the Reagan administration's crisis manager. This arrangement placed an individual unlikely to have a personal connection with policy matters pertinent to a future crisis in charge of handling such a crisis once it surfaced. Thus another source of bureaucratic confusion within the NSC was created.

By January 1987, when Frank Carlucci took charge of an NSC shaken by the Iran-*contra* revelations, the table of organization for NSC policy coordination had become a veritable nightmare. There had been 7 NSC committees under Nixon. Under Carter 2 committees had doubled in different functions: The Special Coordination Committee, chaired by the national security adviser, handled arms control, crisis management, and sensitive intelligence; the Policy Review Committee most often was chaired by the secretary of state. But under Reagan the number of NSC committees had proliferated to 25, 5 of which dealt with U.S.-Soviet affairs. In addition, 55 midlevel committees operated, and the NSC also took part in some 100 task forces and working groups on a variety of issues. The result was a loss of control and increasing absorption in bureaucratic minutiae, at the cost of providing strategic direction and imposing policy coordination.

A side aspect of this deformation was the end of the procedure for sustaining staff control from the top down that the Carter NSC had instituted in 1977. All staff members then were obligated to write detailed but concise reports of 1 to 2 pages summarizing their activities for each day. Staff members were expected to itemize all interagency contacts, any contacts with foreign diplomats or the press, and any other information that in their view the national security adviser should know. The reports were submitted to me at the close of business. That same evening I would read the book of 50-60 pages, and the next morning each staff member would receive my personal reactions. This procedure helped preclude unauthorized activity and maintain continuous and disciplined interaction between me and my staff

The President and the NSC

In the 1950s the NSC was excessively institutionalized. In the 1970s it was excessively personalized. In the 1980s it has been excessively degraded. There is no single remedy for these distortions. Answers are likely to differ from president to president, depending in large measure on his personal style and his preferred system of command. Nonetheless, every president needs a stronger NSC process than the one developed by the Reagan administration during its first 6 years. Most presidents may prefer a somewhat less dominant national security adviser than was the case in the 1970s; and almost all presidents will benefit from more orderly procedures than those of the last 25 years.

The February 1987 report of the President's Special Review Board, which investigated the Iran-*contra* affair, correctly concluded that the NSC's failures in recent years stemmed not from the failure of the NSC system but from the failure to use the system properly. Therefore, legislated remedies in general would unnecessarily intrude into the business of the chief executive. The need instead is for greater clarity about the proper relationship between the president and the NSC.

Some presidents may prefer to adopt the secretarial system, deliberately choosing a dominant and strategically minded secretary of state and publicly designating him his chief counselor. But even then the president would need some professional assistance in the White House. He would still want to use the NSC as a deliberative body within which conflicting interdepartmental interests and points of view could be aired and resolved.

In all probability, however, most administrations will select the presidential system. First, a majority of presidents find an advantage in being clearly identified as the active shaper of U.S. foreign policy. It is noteworthy that the strong and successful secretaries of state have not complained about the NSC process. Second, authority in security matters inevitably moves toward the White House because it is only there that a supradepartmental perspective on foreign affairs may emerge. Last, the awesome dangers of the nuclear age not only enhance the special responsibility of the president but also give his assistant for national security affairs a specific role in as-

within the White House, with information flowing directly into the NSC's Situation Room, and with the assistant located on the spot, any arrangement for crisis management that does not vest primary managerial responsibility with the assistant for national security affairs is very likely to be gravely flawed.

- Strategic planning likewise is the proper responsibility of the NSC staff. Neither the State Department nor the Defense Department is capable of undertaking such a task on a comprehensive basis, for each carries its own special diplomatic or military perspectives. Some form of strategic planning can be built into the NSC mechanism, perhaps by having senior officials from State, Defense, the Joint Chiefs of Staff, and the CIA participate in developing long-range foreign-policy plans under the guidance of the national security adviser. Such a process in effect would combine what initially was undertaken by the Eisenhower administration with what the NSC staff did unilaterally in the first 3 months of the Carter administration. This might involve resuscitating, to some degree, Eisenhower's NSC Planning Board.

- Policy strategy is closely linked to policy coordination. A strategically focused policy is one that coordinates the different branches of government and develops a broader approach—combining strategy and tactics—with regard to specific regional or functional objectives. Effective coordination also means integrating different viewpoints into a clear statement of options with their pros and cons, thereby facilitating the president's ultimate decision. Under either the presidential or the secretarial model, the coordinating function must be performed within the White House, including the development of the necessary paperwork, the staffing, and the agenda for formal, presidential-level deliberations.

- In recent years the NSC's implementing function has been slighted. Probably not since Eisenhower's time has any systematic reassessment been made of how to supervise the execution of policy. It appears that even the most assertive NSC heads have failed to give enough attention to policy implementation. Kissinger, while he served as Nixon's NSC chief, frequently complained that the State Department was skewing policy through evasive implementation. And I

openly admitted that I was unable to assert effective control over the Defense Department's programming. So it seems desirable to recreate within the NSC staff some organ like the Eisenhower-era Operations Coordinating Board to monitor policy implementation and to report back to the NSC. Without such a mechanism, decisions are likely to be contorted by uncoordinated or willfully negative bureaucratic actions.

The national security adviser can help the president effectively if his position is perceived to be the consequence of the president's will and not of the adviser's own ambition.

- Enumerating the functions properly located within the White House leads to some preliminary conclusions about the proper NSC staff size. There is no magic number, but it would appear that for successful strategic planning and policy coordination 30–40 senior staff members are probably adequate. However, to ensure effective supervision over policy implementation as well, the size of the staff should be somewhat larger. An optimal figure for the senior staff probably would be about 50 senior staff members, with the largest proportion assigned to ongoing policy coordination and smaller segments to support for strategic planning and the supervision of policy implementation. The president would be poorly served by any drastic staff reduction, for he would be excessively dependent on the bureaucracy of the State Department.

The character of the staff also should be considered. Under Reagan more military personnel have been recruited into the NSC. The president's varied needs suggest that the best staff composition would combine in roughly equal proportions representation from State Department Foreign Service officers, from experienced CIA intelligence analysts, from able and strategically oriented military personnel from the three armed services, and from academics focused on national security issues. The interaction among these groups would very likely generate innovation without slighting the importance of professional experience.

- Membership on the NSC staff by definition

UNCLASSIFIED
NSC/S PROFILE

RECORD ID: 8900173
RECEIVED: 13 JAN 89 09

TO: NSGVE

FROM: STEVENS

DOC DATE: 13 JAN 88
SOURCE REF:

KEYWORDS: TRANSITION

PERSONS: RODMAN
FORTIER

ROSTOW
LEDSKY

SUBJECT: EXECSEC MTGS W/ NSC SENIOR DIRECTORS RE CURRENT ISSUES FOR
TRANSITION OCT - NOV 88

ACTION: FOR RECORD PURPOSES

DUE DATE: 17 JAN 89

STATUS: C

STAFF OFFICER: NONE

LOGREF:

FILES: *NS Pa*

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
STEVENS
VAN ERON

COMMENTS: _____

DISPATCHED BY _____ DATE _____ BY HAND W/ATTCH

OPENED BY: NSEF

CLOSED BY: NSEF

DOC 1 OF 1

UNCLASSIFIED

UNCLASSIFIED
ACTION DATA SUMMARY REPORT

RECORD ID: 8900173

DOC ACTION OFFICER

CAO ASSIGNED ACTION REQUIRED

001

X 89011309 FOR RECORD PURPOSES

UNCLASSIFIED

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 - SOU (Who will give?)
 - Inaugural (?)
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- US Representation at Foreign Conferences Nov - Jan

Paul Stevens Meeting with Nick Rostow

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- Status of Iran Contra
- Potential Foreign Pol-related Indictments
- Litigation involving US or Presidential interests
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(i.e. War Powers)
- Ethics or FOIA issues of concern

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
01. Paper	Re: Paul Stevens Meeting with Nelson Ledsky (1 pp.)	n.d.	(b)(1)	S

Collection:

Record Group: Bush Presidential Records

Office: National Security Council

Series: H-Files

Subseries: Transition Files

WHORM Cat.:

File Location: [NSC: Reagan-Bush Transition Background Materials - Volume II - January 1989] [1]

Date Closed: 9/3/2019	OA/ID Number: 99016-004
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RESTRICTION CODES

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

- (b)(1) National security classified information
- (b)(2) Release would disclose internal personnel rules and practices of an agency
- (b)(3) Release would violate a Federal statute
- (b)(4) Release would disclose trade secrets or confidential or financial information
- (b)(6) Release would constitute a clearly unwarranted invasion of personal privacy
- (b)(7) Release would disclose information compiled for law enforcement purposes
- (b)(8) Release would disclose information concerning the regulation of financial institutions
- (b)(9) Release would disclose geological or geophysical information concerning wells

Deed of Gift Restrictions

- C(1) Closed by Executive Order 13526, governing access to national security information
- C(2) Closed by statute or by the agency which originated the information
- C(3) Closed in accordance with restrictions contained in donor's deed of gift [formerly listed as only C]
- PRM. Removed as a personal record misfile

Presidential Records Act - [44 U.S.C. 2204(a)]

- P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
02. Paper	Re: NESA Directorate (1 pp.)	n.d.	(b)(1)	

Collection:

Record Group: Bush Presidential Records

Office: National Security Council

Series: H-Files

Subseries: Transition Files

WHORM Cat.:

File Location: [NSC: Reagan-Bush Transition Background Materials - Volume II - January 1989] [1]

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Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
03. Paper	Re: Paul Stevens Meeting with Jim Kelly (1 pp.)	n.d.	(b)(1)	S

Collection:

Record Group: Bush Presidential Records

Office: National Security Council

Series: H-Files

Subseries: Transition Files

WHORM Cat.:

File Location: [NSC: Reagan-Bush Transition Background Materials - Volume II - January 1989] [1]

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Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
04. Paper	Re: Paul Stevens Meeting with Hank Cohen (1 pp.)	n.d.	(b)(1)	S

Collection:

Record Group: Bush Presidential Records

Office: National Security Council

Series: H-Files

Subseries: Transition Files

WHORM Cat.:

File Location: [NSC: Reagan-Bush Transition Background Materials - Volume II - January 1989] [1]

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05. Paper	Re: Paul Stevens Meeting with Bob Pastorino (2 pp.)	n.d.	(b)(1)	S

Collection:

Record Group: Bush Presidential Records
Office: National Security Council
Series: H-Files
Subseries: Transition Files
WHORM Cat.:
File Location: [NSC: Reagan-Bush Transition Background Materials - Volume II - January 1989] [1]

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Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
06. Paper	Re: Paul Stevens Meeting with Barry Kelly (1 pp.)	n.d.	(b)(1)	S

Collection:

Record Group: Bush Presidential Records

Office: National Security Council

Series: H-Files

Subseries: Transition Files

WHORM Cat.:

File Location: [NSC: Reagan-Bush Transition Background Materials - Volume II - January 1989] [1]

Date Closed: 9/3/2019	OA/ID Number: 99016-004
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Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
07. Paper	Re: Paul Stevens Meeting with Bob Linhard (1 pp.)	n.d.	(b)(1)	S

Collection:

Record Group: Bush Presidential Records

Office: National Security Council

Series: H-Files

Subseries: Transition Files

WHORM Cat.:

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- III. Cover Memoranda for the five Volumes of Transition Briefing Books. (See Job # _____ box ____)

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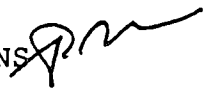
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NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20508

January 20, 1989

MEMORANDUM FOR MICHAEL DONLEY

FROM: PAUL SCHOTT STEVENS 
SUBJECT: Compliance with Temporary Restraining Order

On January 19, 1989, the United States District Court for the District of Columbia enjoined us "from destroying, erasing, recycling, or in any way altering what is commonly known as the PROFS computer tapes for the National Security Council and the Executive Office of the President or in any way deleting or destroying the information contained in the back-up files of the PROFS Computer System." (Tab A) Out of an excess of caution and to demonstrate maximum good faith, I ask that you take the following steps.

-- I hereby confirm George Van Eron's oral instructions to you at approximately 6:23 p.m. on January 19, 1989, to stop all deletions, if any in progress, from the WHSSS system.

-- I hereby direct that WHSSS continue making a full-system back-up tape of all existing NSC data from the main frame computer disk, as requested by Nicholas Rostow last night.

-- All existing back-up tapes as of the time of the court order (6:10 p.m., January 19, 1989) and all back-up tapes created subsequently pursuant to this directive must be preserved intact in a secure manner.

-- WHSSS should make a complete, contemporaneous record of all steps taken, including noting all participants in the process, in carrying out this action.

-- When the full-system back-up is complete such that all existing NSC data is preserved in a retrievable form, WHSSS shall prepare an affidavit for signature by someone having knowledge of the technical actions required and taken and who can certify that all existing NSC data has been preserved as required by the court order and by these instructions. The affidavit shall set forth all steps taken as well as the certification with respect to the preservation of all existing NSC data. As soon as the back-up tape has been created, the affidavit should be prepared and submitted to the Office of NSC Legal Adviser.

-- When all existing NSC data has been preserved in the manner set forth above, WHSSS should prepare the main frame computer disk for use by the Bush Administration.

Attachment
Tab A - Restraining Order

FILED

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JAN 19 1989

JAMES F. DAVEY, Clerk

R. SCOTT ARMSTRONG, et al.

Plaintiffs,

v.

PRESIDENT OF THE UNITED STATES
OF AMERICA, et al.

Defendants.

Civil Action No. 89-0142
(J. Charles Richey)

TEMPORARY RESTRAINING ORDER

Plaintiffs' Motion for Temporary Restraining Order was heard in open court on January 19, 1989. Upon consideration of said motion, the Complaint filed therewith, the Memorandum of Points and Authorities attached thereto, the Affidavit of plaintiff R. Scott Armstrong, and oral argument of counsel for the parties, the Court finds that plaintiffs have made a threshold showing that they are likely to suffer immediate and irreparable harm affecting a vital public interest unless a restraining order is entered against the defendants and they have also made a showing of probable success on the merits.

IT IS THEREFORE ORDERED by the Court that the defendants, the President, Vice-President, Executive Secretary of the National Security Council, and the agents, servants, employees, attorneys of the Council, and all persons in active concert of participation with them are hereby enjoined from destroying,

erasing, recycling, or in any way altering what is commonly known as the PROFS computer tapes for the National Security Council and the Executive Office of the President or in any way deleting or destroying the information contained in the back-up files of the PROFS Computer System.

Plaintiffs shall not be required to post security because defendants will not suffer costs or damage even if it is determined that they were wrongfully restrained pursuant to Civil Rule 65(c).

IT IS FURTHER ORDERED that this Order shall expire within ten (10) days after entry unless extended for good cause shown by the Court; and

IT IS FURTHER ORDERED that counsel shall appear before Judge Charles Richey no later than January 25, 1989 for further scheduling and plaintiffs shall file a Motion for Preliminary Injunction on January 24, 1989.

ISSUED at 6:10 o'clock p.m. on January 19, 1989.



Barrington D. Parker
United States District Judge

United States District Court
for the District of Columbia
A TRUE COPY

JAMES E. DAVEY, CLERK.

By 
Deputy Clerk

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20508

January 20, 1989

MEMORANDUM FOR PAUL SCHOTT STEVENS

FROM: NICHOLAS ROSTOWN *N*.

SUBJECT: Directive to WHSSS in Connection with TRO

As you are aware, the National Security Archive and other plaintiffs obtained a temporary restraining order enjoining us "from destroying, erasing, recycling, or in any way altering what is commonly known as the PROFS computer tapes for the National Security Council and the Executive Office of the President or in any way deleting or destroying the information contained in the back-up files of the PROFS Computer System." (Tab II)

WHSSS assures us that all existing NSC data on the system hard disk may be copied onto back-up tapes without destroying, altering, or otherwise losing data. It is the unanimous view of Assistant Attorney General Bolton, Deputy Counsel to the President Brady and myself that this copying should be undertaken out of an excess of caution and to demonstrate maximum good faith.

We therefore recommend that you sign the attached memorandum (Tab I) to Michael Donley directing WHSSS to preserve on back-up computer tapes all existing NSC data, to maintain a contemporaneous record of all actions taken in this regard, and to make an affidavit that all existing NSC data has been preserved in a usable form. Once these steps have been completed, and in reliance on WHSSS representation that all existing NSC data has been preserved, your memorandum authorizes WHSSS, as a final step, to prepare the system for use by the Bush Administration.

RECOMMENDATION

That you sign the memorandum attached at Tab I.

gjk
George Van Eron concurs.

Approve *PM*

Disapprove _____

Attachments

Tab I - Memorandum to Michael Donley
Tab II - Order and Pleadings

*Discussed w/ CLP
1/20/89 @ 7PM
-PM*

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

January 20, 1989

MEMORANDUM FOR PAUL SCHOTT STEVENS

FROM: NICHOLAS ROSTOWN *N*.

SUBJECT: Directive to WHSSS in Connection with TRO

As you are aware, the National Security Archive and other plaintiffs obtained a temporary restraining order enjoining us "from destroying, erasing, recycling, or in any way altering what is commonly known as the PROFS computer tapes for the National Security Council and the Executive Office of the President or in any way deleting or destroying the information contained in the back-up files of the PROFS Computer System." (Tab II)

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RECOMMENDATION

That you sign the memorandum attached at Tab I.

gje
George Van Eron concurs.

Approve *pm*

Disapprove _____

Attachments

Tab I - Memorandum to Michael Donley
Tab II - Order and Pleadings

*Discussed w/ CLP
1/20/89 @ 7PM
-pm*

FILED

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JAN 19 1989

JAMES F. DAVEY, Clerk

R. SCOTT ARMSTRONG, et al.

Plaintiffs,

v.

PRESIDENT OF THE UNITED STATES
OF AMERICA, et al.

Defendants.

Civil Action No. 89-0142
(J. Charles Richey)

TEMPORARY RESTRAINING ORDER

Plaintiffs' Motion for Temporary Restraining Order was heard in open court on January 19, 1989. Upon consideration of said motion, the Complaint filed therewith, the Memorandum of Points and Authorities attached thereto, the Affidavit of plaintiff R. Scott Armstrong, and oral argument of counsel for the parties, the Court finds that plaintiffs have made a threshold showing that they are likely to suffer immediate and irreparable harm affecting a vital public interest unless a restraining order is entered against the defendants and they have also made a showing of probable success on the merits.

IT IS THEREFORE ORDERED by the Court that the defendants, the President, Vice-President, Executive Secretary of the National Security Council, and the agents, servants, employees, attorneys of the Council, and all persons in active concert of participation with them are hereby enjoined from destroying,

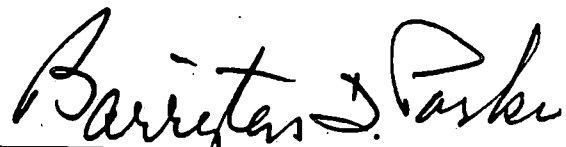
erasing, recycling, or in any way altering what is commonly known as the PROFS computer tapes for the National Security Council and the Executive Office of the President or in any way deleting or destroying the information contained in the back-up files of the PROFS Computer System.

Plaintiffs shall not be required to post security because defendants will not suffer costs or damage even if it is determined that they were wrongfully restrained pursuant to Civil Rule 65(c).

IT IS FURTHER ORDERED that this Order shall expire within ten (10) days after entry unless extended for good cause shown by the Court; and

IT IS FURTHER ORDERED that counsel shall appear before Judge Charles Richey no later than January 25, 1989 for further scheduling and plaintiffs shall file a Motion for Preliminary Injunction on January 24, 1989.

ISSUED at 6:10 o'clock p.m. on January 19, 1989.



Barrington D. Parker
United States District Judge

United States District Court
for the District of Columbia
A TRUE COPY

JAMES F. DAVEY, CLERK.

BY 
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SCOTT ARMSTRONG
2620 Quebec Street, NW
Washington, DC 20008,

SENATOR GAYLORD NELSON
3611 Calvend Lane
Kensington, MD 20895,

GARY M. STERN,
4000 Harrison Street, NW
Washington, D.C. 20015,

EDDIE BECKER
1844 Mintwood Place, NW
Washington, DC 20009,

NATIONAL SECURITY ARCHIVE
1755 Massachusetts Ave., N.W.
Suite 500
Washington, D.C. 20036,

CENTER FOR NATIONAL SECURITY STUDIES
122 Maryland Avenue, NE
Washington, DC 20002,

Plaintiffs,

v.

RONALD W. REAGAN, President
1600 Pennsylvania Ave., N.W.
Washington, D.C.,

GEORGE M. BUSH, Vice-President and
President Elect
Old Executive Office Building
Pennsylvania Ave. & 17th St., N.W.
Washington, D.C.,

THE NATIONAL SECURITY COUNCIL
Old Executive Office Building
Pennsylvania Ave. & 17th St., N.W.
Washington, D.C.,

DON WILSON, ARCHIVIST OF THE
UNITED STATES
7th & Pennsylvania Ave., N.W.
Room 111
Washington, D.C. 20408,
Defendants.

C.A. No.

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Nature of Action

1. This is an action under the Presidential Records Act, 44 U.S.C. § 2201, et. seq.; the Disposal of Records Act, 44 U.S.C. § 3301, et. seq.; and the Administrative Procedures Act, 5 U.S.C. § 551, et. seq. Plaintiffs seek: (1) a declaration that certain White House computer records stored in what is commonly known as the "PROFS" computer system are covered by the laws governing the National Archives and Records Administration 44 U.S.C. chapters 21-33; and (2) injunctive relief to prevent the President, the National Security Council, and their agents, servants, employees, attorneys, and all persons in active concert or participation with them from destroying these computer records without complying with the prescribed statutory procedures for destruction of Presidential and agency records and to order the President, the National Security Council and the Archivist to comply with the laws governing the National Archives and Records Administration.

Jurisdiction and Venue

2. This Court has subject matter jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and pursuant to 28 U.S.C. §§ 1331, 1346 and 28 U.S.C. § 2201(a). Venue lies in this district under 28 U.S.C. § 1391(b) and (e).

The Parties

3. Plaintiff Scott Armstrong is a journalist, author, and foreign policy researcher, and founder and executive director of

the non-profit research institute the National Security Archive.

4. Plaintiff Gaylord Nelson is a former United States Senator and was co-author with Senator Sam Ervin of the Presidential Records and Materials Preservation Act.

5. Plaintiff National Security Archive (hereinafter, the "Archive") is a nonprofit public interest scholarly research institute and library in Washington, D.C. It is organized and operated as a division of The Fund for Peace, Inc., a New York nonprofit corporation. The Archive makes extensive use of the Freedom of Information Act ("FOIA") to obtain government documents concerning national security issues for its own research purposes and to make such documents available to scholars, journalists and other interested persons.

6. Plaintiff Center for National Security Studies (hereinafter, the "Center") is a nonprofit public interest scholarly research institute in Washington, D.C. It is organized and operated as a division of the American Civil Liberties Union Foundation and The Fund for Peace, Inc., a New York nonprofit corporation. The Center makes extensive use of the FOIA to obtain government documents concerning national security issues for its own research purposes and to make such documents available to scholars, journalists and other interested persons as part of its program of public education.

7. Plaintiff Gary Stern is a research associate at the Center for National Security Studies and has written articles,

reports, and comments on national security issues for a variety of publications.

8. Plaintiff Eddie Becker is a professional researcher specializing in documentary reconstruction of historical events. Mr. Becker is employed by documentary filmmakers, scholars, and journalist, and is a consultant at the National Security Archive.

9. Defendant Ronald W. Reagan is the President of the United States and has ultimate control over all records and information in the Executive Office of the President and the National Security Council ("NSC").

10. Defendant George M. Bush is Vice-President and President-Elect of the United States and on January 20, 1989, will have ultimate control over all records and information in the Executive Office of the President and the National Security Council ("NSC").

11. Defendant National Security Council is an "agency" of the United States and makes use of the PROFS computer system.

12. Defendant Don Wilson is the Archivist of the United States and is responsible for preserving presidential records and agency records in accordance with the laws governing the National Archives and Records Administration (NARA).

The Computer Records in the PROFS System

13. The President, his staff, and the National Security Council use what is commonly known as the PROFS computer system (hereinafter "PROFS system") to create, store, and retrieve information in the course of performing their governmental

functions. The PROFS system combines various routine office functions including the ability to send electronic mail and documents to others on the system.

14. The PROFS system is a central computer system of the White House and the National Security Council. It contains substantive information that does not exist anywhere in a paper copy but only in electronic form.

15. The PROFS system contains information that constitutes presidential records, as defined in the Presidential Records Act, 44 U.S.C. § 2201, et. seq., and agency records, as defined in the Disposal of Records Act, 44 U.S.C. § 3301, et. seq., and the Freedom of Information Act, 5 U.S.C. § 552 et. seq..

16. Based on information and belief, President Reagan and the National Security Council intend to destroy the records stored on the PROFS system beginning on Thursday, January 19, 1989, in violation of these statutes and specifically without having complied with the procedures for obtaining a determination by the Archivist of the United States, that the computer records may properly be preserved.

COUNT 1

17. Plaintiffs incorporate by reference as if fully stated herein all the statements contained in paragraphs 1 through 16 above.

18. By their aforementioned acts, defendants have or intend to violate the Presidential Records Act, 44 U.S.C. § 2201, et seq.

COUNT 2

19. Plaintiffs incorporate by reference as if fully stated herein all the statements contained in paragraphs 1 through 16 above.

[20. Defendants have or intend to violate of the Disposal of Records Act, 44 U.S.C. § 3301, et seq.

COUNT 3

[21. Defendants are in violation of the Administrative Procedures Act, 5 U.S.C. § 553, et seq.

WHEREFORE, plaintiffs pray that this Court:

1. Declare that the electronic tapes and information stored in the PROFS computer system used in the White House and the National Security Council are records governed by the provisions of the laws governing the National Archives and Records Administration (NARA), 44 U.S.C. chapters 21-33.

2. Enjoin defendants Ronald Reagan, George M. Bush, and the National Security Council and their agents, servants, employees, attorneys, and all persons in active concert or participation with them from destroying, erasing, recycling, or in any way altering what is commonly known as the PROFS tapes that exist in the National Security Council and the Executive Office of the President and the contents therein without complying with the provisions of the laws governing the National Archives and Records Administration (NARA), 44 U.S.C. chapters 21-33 and specifically not until they receive an advance determination by

the Archivist of the United States, as to whether the computer records may properly be destroyed.

3. Order defendant Don Wilson to comply with the provisions of the laws governing the National Archives and Records Administration (NARA), 44 U.S.C. chapters 21-33, with regard to the electronic tapes and information contained in the PROFS computer system and specifically to follow the prescribed procedures regarding destruction of Presidential and agency records.

4. Award plaintiffs their costs and reasonable attorneys fees in this action; and

5. Grant such other and further relief as the Court may deem just and proper.

January 19, 1989

Kate Martin

Kate Martin
American Civil Liberties Union
Foundation
122 Maryland Avenue, NE
Washington, DC 20002
544-5388

Attorney for Plaintiffs

R. SCOTT ARMSTRONG,
et al.,
Plaintiffs,
v.
RONALD W. REAGAN,
et al.,
Defendants.

Plaintiffs R. Scott Armstrong, Eddie Becker, Gary M. Stern, National Security Archives, and Center for National Security Studies respectfully move this Court, pursuant to Federal Rule of Civil Procedure 65(b) to issue a Temporary Restraining Order against defendants President Ronald Reagan, Vice-President George Bush, and the National Security Council (NSC) and their agents, servants, employees, attorneys, and all persons in active concert or participation with them.

The relief requested by the motion is to enjoin the President and the NSC from destroying certain computer records commonly known as the PROFS system. The narrow issue raised by this motion is whether the President and the NSC can be temporarily enjoined from destroying government computer records in advance of a judicial determination as to whether destruction of the records is in violation of the law and whether they should be preserved in accordance with the laws governing the National

Archives and Records Administration (NARA), 44 U.S.C. chapters 21-33.

As grounds for the Motion, plaintiffs assert that a Temporary Restraining Order is necessary to prevent the President and the NSC from causing plaintiffs irreparable harm by unilaterally and permanently destroying government records and to safeguard plaintiffs' right of access to the information. In support of this Motion, plaintiffs rely upon the Verified Complaint filed herewith, the Memorandum of Points and Authorities attached hereto, the proposed Temporary Restraining Order, the Affidavit of plaintiff R. Scott Armstrong, and such other matters as the Court may consider upon a hearing of this Motion.

Respectfully submitted,


Kate Martin
American Civil Liberties Union
Foundation
122 Maryland Avenue, NE
Washington, DC 20002
544-5388

Attorney for Plaintiffs

January 19, 1989

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

R. SCOTT ARMSTRONG,
et al.,

Plaintiffs,

v.

RONALD W. REAGAN,
et al.,

Defendants.

C.A. No.

TEMPORARY RESTRAINING ORDER

*have made a
threshold showing
that they are likely
to suffer*

Plaintiffs' Motion for Temporary Restraining Order came on for hearing in open court on January 19, 1989. Upon consideration of said Motion, the Complaint filed therewith, the Memorandum of Points and Authorities attached thereto, the Affidavit of plaintiff R. Scott Armstrong, and oral argument of counsel for the parties, the Court finds that plaintiffs ~~will~~ suffer immediate and irreparable harm affecting a vital public interest unless a restraining order is entered against the defendants.

IT IS THEREFORE ORDERED by the Court that defendants, President Ronald Reagan, Vice-President George Bush, and the National Security Council and their agents, servants, employees, attorneys, and all persons in active concert or participation with them are hereby enjoined from destroying, erasing, recycling, or in any way altering what is commonly known as the PROFS computer tapes for the National Security Council and the

Executive Office of the President or in any way deleting or destroying the information contained in the back-up files of the PROFS Computer System.

Plaintiffs shall not be required to post security because defendants will not suffer costs or damages even if it is determined that they were wrongfully restrained pursuant to Civil Rule 65(c).

IT IS FURTHER ORDERED that this Order shall expire within ten (10) days after entry unless extended for good cause or by consent of the defendants; and

IT IS FURTHER ORDERED that plaintiffs shall be given until the _____ day of _____, 1989, to file a Motion for Preliminary Injunction and that said Motion will be heard on the _____ day of _____, 1989, at _____ o'clock _____.m.

ISSUED at _____ o'clock _____.m., January __, 1989.

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

R. SCOTT ARMSTRONG,
et al.,

Plaintiffs,

v.

RONALD W. REAGAN,
et al.,

Defendants.

C.A. No.

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER

Plaintiffs seek a temporary restraining order enjoining defendants Ronald Reagan, George Bush, and the National Security Council from destroying any electronic computer tapes or other materials that contain information concerning the functioning of the White House, contrary to the requirements of the Presidential Records Act, the Disposal of Records Act, and the Freedom of Information Act as administered by the Archivist of the United States and the National Archives and Records Administration. See American Friends Service Committee v. Webster, 485 F. Supp. 222 (D.D.C. 1980) aff'd 720 F.2d 29 (D.C. Cir. 1983).

Defendants apparently intend to destroy these electronic tapes, which are the only existing record of many important communications within the White House and specifically within the National Security Council at the close of the Reagan Administration on January 19, 1989. Doing so will destroy an invaluable historical and political record that is available

nowhere else and which Congress has on several occasion mandated be available to members of the public.

STATEMENT OF FACTS

The Executive Office of the President (the White House) and the National Security Council (NSC) utilize what is commonly known as the PROFS computer system ("PROFS system"). The PROFS systems allows users of the system to communicate via electronic mail, that is to send memoranda and other information to other users directly through the computer. It is used to create, maintain, and retrieve information pertaining to official government activities.^{1/}

This information is maintained on an electronic storage medium, most likely magnetic tapes. These tapes have recorded all correspondence and information that has been sent or created using the PROFS system. In many instances no hard or paper copy of the information exists, the electronic tapes are the only record of the information.

The PROFS system is used by White House and NSC officials to carry out government policy. It contains presidential and agency records and any particular electronic tape may contain both Presidential records and agency records of the NSC.

The information in the PROFS system, which exists only on an electronic medium and not in any paper record can be extremely important. For example, records contained in the PROFS system

^{1/} This Statement of Facts is based on the Affidavit of R. Scott Armstrong, Attachment B hereto.

were utilized extensively by the President's Special Review Board (the Tower Commission) and the Congressional Iran-Contra Committees investigating the Iran-Contra Affair. See Report of the President's Special Review Board, at III-1 (February 26, 1987); Report of the Congressional Committees Investigating the Iran-Contra Affair, 100th Cong., 1st Sess., S. Rep. No. 100-216, H. Rep. No. 100-433, at 689-90. Independent Counsel Lawrence Walsh continues to rely on records from the PROFS system in support of criminal investigation and prosecution of government officials involved in the Iran-Contra Affair.

On January 19, 1989, plaintiffs Armstrong, the National Security Archive, and the Center for National Security Studies filed a request under the Freedom of Information Act, 5 U.S.C. § 552, for records contained in the PROFS system.

Plaintiffs Armstrong, Becker, and National Security Archive have asked for assurances that defendants do not intend to destroy the records contained in the PROFS system as part of the changeover of Administrations on January 19, 1989. Defendants have refused to give them any such assurances. Although the White House has delivered some electronic computer tapes from other computer systems to the Archivist for preservation and safekeeping, it has not delivered any tapes from the PROFS system to the Archivist.

ARGUMENT

To obtain a temporary restraining order (TRO), a plaintiff must demonstrate (1) a substantial likelihood of success on the

merits; (2) irreparable harm; (3) that more harm will result to plaintiff if the TRO is denied than will result to defendant if it is granted; and (4) in appropriate cases, how the public interest will be affected. Virginia Petroleum Jobbers Ass'n. v. F.P.C., 104 U.S. App. D.C. 106, 110, 259 F.2d 921 (1958).

Plaintiff's application for a TRO satisfies each of the foregoing tests.

A. Plaintiffs are Likely to Succeed on the Merits.

Plaintiffs are guaranteed a right of access to these government records under at least three separate statutes: The Freedom of Information Act, 5 U.S.C. § 552, et. seq.; the Presidential Records Act, 44 U.S.C. 2201, et. seq.; and the Disposal of Records Act, 44 U.S.C. 3301, et. seq. If any of these statutes applies to the requested electronic recordings, then defendants may not destroy them. See, American Friends Service Committee v. Webster, supra. The statutes create a public right of access to "agency records," in the case of the FOIA and the Disposal of Records Act,^{2/} and to "Presidential records," in the case of the Presidential Records Act.^{3/}

^{2/} The Disposal of Records Act authorizes the Archivist of the United States to establish procedures for the disposal of only those documents "that do not appear to have sufficient administrative, legal, research, or other value to warrant their further preservation by the Government." 44 U.S.C. § 3303.

^{3/} "Upon the conclusion of the President's . . . last term, the Archivist of the United States shall assume responsibility for the custody, control, and preservation of, and access to, the Presidential Records of that President. The Archivist shall have an affirmative duty to make such records available to the public as rapidly and completely as possible consistent with the provisions of this Act." 44 U.S.C. § 2203(f)(1).

Defendants do not assert any general right to destroy Presidential or agency records at the close of an administration, which would thereby frustrate this public right of access. Rather defendants argue that these electronic computer records are not like other Presidential or agency records, are not covered by the statutes, and therefore may be destroyed. But there is no authority for their position that because information is stored electronically rather than in written form, it is not covered by the statutes.

The Presidential Records Act provides that the United States "shall . . . retain complete ownership, possession, and control of Presidential records." 44 U.S.C. § 2202. It provides specific procedures that must be followed by the President and the Archivist before disposing of records during the term of his office; the statute allows only records "that no longer have administrative, historical, informational, or evidentiary value" to be disposed of. 44 U.S.C. § 2203(c).

Upon the conclusion of the President's term of Office, the Act directs the Archivist of the United States to assume responsibility for the records. "The Archivist shall have an affirmative duty to make such records available to the public as rapidly and completely as possible consistent with the provisions of this Act." 44 U.S.C. § 2203(f)(2). Here, neither the President nor the Archivist have complied with the provisions of this act and, to the contrary, apparently intend to violate it by destroying the records.

But the Act applies to all "Presidential records," which "means documentary materials . . . created or received by the President, his immediate staff, or a unit or individual of the Executive Office of the President whose function is to advise and assist the President." The definition of "documentary material" covered by the Act explicitly covers materials such as the electronic tapes requested here: "The term 'documentary material' means all books . . . including but not limited to, audio, audio-visual, or other electronic or mechanical recordation." 44 U.S.C. § 2201(1) (emphasis added).

Similarly the Disposal of Records Act allows agency records to be destroyed only after the Archivist has made the required review and followed the required procedures for doing so. 44 U.S.C. §§ 3302-03 The Act applies to all "records," which

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

44 U.S.C. § 3301.

The agency's own interpretation confirms that such electronic tapes are governed by the provisions of the Act. See National Archives and Records Administration Bulletin, No. 89-2, November 14, 1988, Attachment B hereto.

The Freedom of Information Act provides: "[E]ach agency, upon any request for records which (A) reasonably describes such

records and (B) is made in accordance with published rules . . . shall make the records promptly available to any person." 5 U.S.C. 552(a)(3). While the statute does not define the term agency, the National Security Council is clearly an "agency" for purposes of FOIA requests. See, e.g., Kissinger v. Reporters Committee for Freedom of the Press, 445 U.S. 136, 156 (1980) ("National Security Council records [are] therefore subject to the [Freedom of Information] Act"); Halperin v. NSC, 452 F. Supp. 47 (D.D.C. 1978) aff'd without opinion, 612 F.2d 586 (D.C. Cir. 1980).

Thus, whether the electronic tapes belong to the Executive Office of the President or the National Security Council or both, they are in all events "Presidential" records or "agency" records. As such, they are subject to the requirements of the statutes and may not be summarily destroyed.

B. Plaintiffs Will Suffer Irreparable Injury Unless a Temporary Restraining Order is Granted.

If the electronic tapes are destroyed, plaintiffs will suffer irreparable harm. As far as plaintiffs can determine, these electronic tapes contain information that appears nowhere else. Thus if defendants destroy them, the information will be irretrievably lost to plaintiffs, as well as to history. There is no doubt that such injury will be irreparable harm.

C. The Equities Favor A Temporary Restraining Order.

Weighing of the equities favors injunctive relief in this case. As shown above, in the absence of an injunction, plaintiffs will suffer irreparable harm. An injunction will restore and preserve plaintiffs' rights without detriment to defendants. Defendants will suffer absolutely no detriment from entry of an order preventing destruction of the electronic tapes pending a judicial determination of the applicability of the Presidential Records Act, the Disposal of Records Act, and the Archivist's responsibilities in connection with the tapes.

D. A preliminary Injunction will Serve the Public Interest.

Public policy could not be clearer that Presidential records belong to the public and should be preserved for review by the public pursuant to the laws, rules, and policies that have been established. Thus the public as well as the specific plaintiffs herein have an interest in the requested information. As the Iran-Contra affair demonstrates, the requested electronic tapes may contain information of the greatest importance to the process of democratic policy-making. Technological innovations have enabled the government to operate more efficiently, they should not be used as a shield to allow it to operate in secret hidden from public accountability.

In this case, implementation of this fundamental public policy depends on judicial intervention.

Conclusion

The Court should grant a temporary restraining order

enjoining defendants from destroying any electronic or other records pertaining to the PROFS system without first complying with the requirements of the Presidential Records Act and the Disposal of Records Act including review and determination by the Archivist of the historical value of maintaining the specific items of information and notice, where required to Congress or in the Federal Register of the Archivist's intentions with regard to them.

Respectfully submitted,


Kate Martin
American Civil Liberties Union
Foundation
122 Maryland Avenue, NE
Washington, DC 20002
544-5388

Attorney for Plaintiffs

January 19, 1989

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

R. SCOTT ARMSTRONG,
et al.,

Plaintiffs,

v.

RONALD W. REAGAN,
et al.,

Defendants.

C.A. No.

AFFIDAVIT OF R. SCOTT ARMSTRONG

I, R. Scott Armstrong, declare:

1. I am a plaintiff in the above-captioned lawsuit and make this affidavit in support of plaintiffs' motion for a Temporary Restraining Order.
2. I am a journalist, book author, foreign policy researcher, founder and Executive Director of the National Security Archive, a non-profit research institute and library of government documentation. On behalf of the National Security Archive and the Center for National Security Studies, I have filed, on January 19, 1989, three Freedom of Information Act requests for specific materials currently held by the Executive Office of the President and the National Security Council. Copies of those requests are attached as exhibits 1-3 hereto.
3. In conjunction with my work at the National Security Archive and my research on national security and foreign policy issues and on the functioning of the White House and the National Security Council, I have developed an extensive knowledge on the

White House records system including the computer communications system commonly known as the PROFS computer system ("PROFS system").

4. The requested materials are contained in the PROFS system computer backup tapes and consequently the only existing master file of one of the central filing systems of the National Security Council and the Executive Office of the President.
5. The Executive Office of the President and the National Security Council utilize the PROFS system to create, maintain, and retrieve information pertaining to official government activities. This information is maintained on an electronic storage medium, most likely magnetic tapes. In many circumstances, the information exists only in the computer memory stored on the PROFS system and no hard or paper copy has been made, or if made, has been retained. These PROFS system tapes have recorded all correspondence and messages that have been created, saved, or transmitted through the PROFS system. The same tape may contain information that could be either Presidential records or agency records.
6. The PROFS system combines various routine office functions including a word processing program, personal calendar, automatic reminders, and the ability to send electronic notes, messages and documents to others on the system.
7. The PROFS system is used by White House and NSC officials to implement government policy, and as such contains both presidential and agency records. For example, records contained

in the PROFS system were utilized extensively by the President's Special Review Board (the Tower Commission) and the Congressional Iran-Contra Committees investigating the Iran-Contra Affair. See Report of the President's Special Review Board, at III-1 (February 26, 1987); Report of the Congressional Committees Investigating the Iran-Contra Affair, 100th Cong., 1st Sess., S. Rep. No. 100-216, H. Rep. No. 100-433, at 689-90. To the best of my information and knowledge, Independent Counsel Lawrence Walsh continues to rely on information from the PROFS system in support of criminal investigation and prosecution of government officials involved in the Iran-Contra Affair.

8. Beginning in 1985, the PROFS system was were used by the members of the National Security Council and their staff. In 1986, the PROFS network expanded to "satisfy the growing requirement in the White House for internal electronic mail and document transfer between the West Wing, Old Executive Office Building and the Cabinet agencies." Solicitation for Computer Operation/Facilities Management, Executive Office of the President, March 27, 1987, p. 50.

9. The system helps to avoid an avalanche of paperwork by handling much of the information electronically without paper copies. Key to document handling are the sophisticated search and retrieval functions. "Every document in PROFS is assigned a number so that it can be located using a variety of search techniques. Information such as who wrote the document the date, the subject, and to whom the document was sent can also be used

in the search. The advantage of letting PROFS do this for you is quite obvious. You don't have to go through all your filing cabinets looking for documents that may be filed under multiple subject headings or under a filing system you know nothing about. PROFS takes care of all that for you." IBM, "Introducing the Professional Office System," November 1985, p. 10-11.

10. The Iran-Contra Affair illustrated the importance of information stored in the PROFS system. Despite repeated attempts by NSC staff to shred the paper record and delete the computer record, the PROFS backup system on magnetic tape allowed investigators to reconstruct much of the Iran-Contra-related activity. A sampling of these PROFS notes is attached as Exhibit 4 hereto. The Iran-Contra PROFS records demonstrate that in effect, the capabilities of the PROFS system for transmitting, indexing, filing, and retrieving contemporaneous records created a new and powerful central filing system which recorded the daily business of the White House and National Security Council at the highest levels -- but only in electronic and not in paper form.

11. The Tower Commission stated that these PROFS messages "provide a first-hand, contemporaneous account of events." Report of the President's Special Review Board, February 26, 1987, p. III-1. As examples of the central role of the PROFS system in the NSC staff's decisionmaking process, copies of three PROFS messages declassified during the Iran-Contra investigations are attached.

12. Despite the clear historical significance of and public interest in the information captured by the PROFS system, I have been told by representatives of the National Archives and Records Administration (NARA) that those PROFS system tapes other than those used by the Iran-Contra Committees and the Independent Counsel have not been and will not be preserved as a "permanent record" of the Reagan Administration.

13. The head of the Office of Presidential Libraries of NARA, John Fawcett, told me on January 18, 1989, that the only PROFS messages that are retained as "presidential records" are those printed out by White House and NSC staff and maintained in paper form. According to Fawcett, NARA considers all PROFS system tapes other than those provided for the Iran-Contra Committees and the Independent Counsel not to be "Presidential records" or "agency records."

14. This practice has been implemented by specific guidelines issued to White House and NSC staff by the National Archives, despite current rulemaking-in-progress that indicates the Archives' intention to explore methods of retention and preservation of electronic records. Notice of Proposed Rulemaking, NARA, November 8, 1988.

15. Even if White House and NSC staff are diligent above and beyond the call of duty in printing out copies of any PROFS message they considered historically or administratively significant -- a practice which the Iran-Contra Affair demonstrates has not been the norm, and which, on knowledge and

belief, I believe is still not the norm -- the resulting paper file is by definition not a complete record of White House and National Security Council business, certainly when compared to the value of the complete backup file maintained electronically.

16. Additionally, according to Mr. Fawcett, the backup tapes, which represent the master file of PROFS messages, are not ordinarily preserved -- since they are not considered "presidential records" under the Archive's guidance or the White House and NSC practice -- and indeed may be re-used on the mainframe computer and thus overwritten by subsequent PROFS messages. Any overwritten sections of the magnetic tapes are then lost to subsequent retrieval, much as a recording on a cassette tape gets erased when something new is recorded over it. Many or even most of these magnetic tapes may already have been overwritten and thus destroyed.

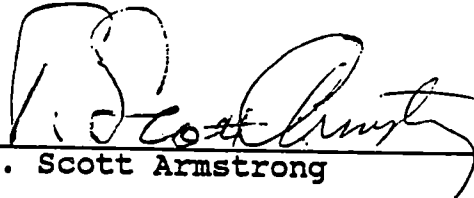
17. However, at least one set of magnetic tapes -- the one in use as of January 19, 1989, and those from the immediate prior period -- does exist and contains current PROFS messages which have not been overwritten. Since the mainframe computer presumably employs multiple magnetic tapes for storage, a number of additional magnetic tapes containing PROFS messages may also still exist in retrievable form.

18. According to Mr. Fawcett, January 19, 1989 represents the "breaking point" for the preservation of Reagan Administration records, and the beginning of a new system for preservation of the next administration's records. My counsel has asked for and

not received assurance that the PROFS tapes will not be destroyed. I have been informed by NARA counsel that the White House has delivered some computer tapes from other computer systems to the National Archives, but has not delivered any PROFS tapes. Therefore, I believe that January 19, 1989, may be the last opportunity to preserve the magnetic tapes which comprise the PROFS system's master backup file, and thus the only complete record of a vital central filing system in the White House and National Security Council.

19. In an attempt to preserve these records, I have made the aforementioned overlapping Freedom of Information Act requests to the Executive Office of the President, the National Security Council and the National Archives and Records Administration. In and of themselves, however, these FOIA requests may not guarantee the preservation of these vital records.

I declare under penalty of perjury that the foregoing statements are true and correct.


R. Scott Armstrong

DATE: January 19, 1989

THE NATIONAL SECURITY ARCHIVE

SUITE 500 1755 MASSACHUSETTS AVENUE, N.W. WASHINGTON, D.C. 20036 (202) 797-0882

IN ALL CORRESPONDENCE PLEASE REFER
TO ARCHIVE FILE NO. 890035NAR001

January 18, 1989

Ms. Trudy Peterson
Assistant Archivist of the United States
National Archives and Records Administration
Washington, DC 20408

RE: Freedom of Information Act Request

Dear Ms. Peterson,

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. Section 552, et seq. (as amended), I hereby request disclosure of the materials and documents described on the attachment to this letter for inspection and possible copying. I note for your information that we are making this FOIA request to preserve the materials in question which we understand might otherwise be improperly destroyed. In this vein, I have made possibly overlapping requests to the Executive Office of the President, the National Security Council and the National Archives and Records Administration. Once we have received assurances that the information will be properly preserved, we are willing to dramatically narrow the scope of the request for materials to be actually copied and provided.

If you regard any of these materials as non-records under the FOIA, I request that you retain copies of all such materials until we have had an opportunity to clarify your interpretation through litigation or congressional action. Similarly, if you regard any of these materials as exempt from the FOIA's disclosure requirements, I request that you nonetheless exercise your discretion to disclose them. In this connection I note that you are required under the FOIA to release any reasonably segregable nonexempt portions of documents containing information you regard as exempt. Section 552(b). To permit an intelligent, informed decision whether or not to file an administrative appeal of any denial decision, you are also requested to describe withheld records (or portions thereof) and explain the logical and factual basis for exemption claims. See Mead Data Central, Inc. v. Department of the Air Force, 566 F.2d 242, 251 (D.C. Cir., 1977).

This request is made on behalf of the National Security Archive, a nonprofit public interest research institute and library located in Washington, D.C. and the Center for National Security Studies, a nonprofit public interest research facility located in Washington, D.C. The Archive and the Center are both organized and operated as a division of The Fund for Peace, Inc., a nonprofit corporation that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, and has been acknowledged by the Internal Revenue Service since November 19, 1962 to be "organized and operated exclusively for educational purposes."

The fee waiver provisions under section 552(a)(4)(A) of the FOIA were recently amended by the Freedom of Information Reform Act. The Reform Act's fee provisions became effective on April 25, 1987 and rewrote section 552(a)(4)(A) to create categories of requesters entitled to fee waivers. Pub.L. 99-570, Sec. 1803,

1804. One category consists of "educational or noncommercial scientific institution[s] whose purpose is scholarly or scientific research" and another consists of representatives of the "news media." 5 U.S.C. 552 (a)(4)(A)(ii)(II). Requesters in these groups receive an automatic waiver of all search and review fees, irrespective of the nature or contents of the documents requested. They can be charged standard duplication costs (in excess of the first one hundred copied pages), but these charges may also be waived in certain circumstances.

On May 11, 1987 the Archive submitted a comprehensive memorandum to your agency providing documentation under penalty of perjury which establishes that the Archive is entitled to fee waivers under the categories of educational or noncommercial scientific institutions and representatives of the news media within the meaning of the Reform Act. To summarize, the Archive's purpose is to enrich public policy debate by making available records pertaining to important, mostly contemporary issues of major public concern in the areas of foreign, defense, intelligence, and international economic policy.

Documents obtained by the Archive, including the records requested in this letter, are carefully analyzed, indexed and organized into document sets in the Archive's collection. Document sets are available for inspection and copying by scholars, journalists, Members of Congress and Congressional staffs, present and former public officials, other public interest organizations, and the general public at the Archive's Washington office. In addition, information in the documents will be disseminated across the country through distribution of comprehensive document indices to university and other research libraries and through the Archive's publications.

As the executive director of the Archive, I regularly use records such as those sought in this request in research on foreign and national security matters. In addition, the Archive and the Center both make all records available to a broad range of scholars, journalists, public interest organizations, members and the staff of Congress, and members of the general public.

I therefore request that you waive all search and reproduction fees pursuant to section 552(a)(4)(A), as amended. If you determine that the Archive does not fall within one of the two categories of requesters described above, this request would also qualify for favored treatment under the "all other requesters" category because disclosure of the information in the requested documents is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the Archive within the meaning of the Reform Act. See 5 U.S.C. 552(a)(4)(A)(iii). Should you decline to waive all fees, however, we are prepared to pay you normal search fees (and reproduction fees, if I decide to copy the records produced). Our willingness to pay fees is subject to our rights to appeal and litigate the fee waiver question, and payment would be deferred until exhaustion of such rights. I further ask that if you decline to waive fees that you set forth your reasons for doing so in writing and that you obtain our authorization before incurring search costs in excess of \$100.

In order to expedite the release of the listed documents, I request that you disclose them as they become available to you, without waiting until all the

documents have been assembled. If you have any questions that I might be able to answer regarding the identity of the records, their location, or the scope of the request, please call me. I look forward to receiving your response within the statutory time period.

Yours very truly,

Scott Armstrong
Executive Director

01/18/1989

3668

Copies of all tapes, discs, and/or other storage formats for the PROFS System serving the Executive Office of the President and/or the National Security Council, and all information contained therein, as well as all records in whatever format derived from the PROFS System, from the date of the installation of said system to the end of the Reagan Administration. (The requester is prepared to narrow the scope of this request upon consultation.)

THE NATIONAL SECURITY ARCHIVE

SUITE 500 1755 MASSACHUSETTS AVENUE, N.W. WASHINGTON, D.C. 20036 (202) 797-0882

IN ALL CORRESPONDENCE PLEASE REFER
TO ARCHIVE FILE NO. 890034EOP001

January 18, 1989

Ms. Nell Doering
Chief, Records & Publications
Executive Office of the President
2200 New Executive Office Bldg.
Washington, DC 20503

RE: Freedom of Information Act Request

Dear Ms. Doering:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. Section 552, et seq. (as amended), I hereby request disclosure of the materials and documents described on the attachment to this letter for inspection and possible copying. I note for your information that we are making this FOIA request to preserve the materials in question which we understand might otherwise be improperly destroyed. In this vein, I have made possibly overlapping requests to the Executive Office of the President, the National Security Council and the National Archives and Records Administration. Once we have received assurances that the information will be properly preserved, we are willing to dramatically narrow the scope of the request for materials to be actually copied and provided.

If you regard any of these materials as non-records under the FOIA, I request that you retain copies of all such materials until we have had an opportunity to clarify your interpretation through litigation or congressional action. Similarly, if you regard any of these materials as exempt from the FOIA's disclosure requirements, I request that you nonetheless exercise your discretion to disclose them. In this connection I note that you are required under the FOIA to release any reasonably segregable nonexempt portions of documents containing information you regard as exempt. Section 552(b). To permit an intelligent, informed decision whether or not to file an administrative appeal of any denial decision, you are also requested to describe withheld records (or portions thereof) and explain the logical and factual basis for exemption claims. See Mead Data Central, Inc. v. Department of the Air Force, 566 F.2d 242, 251 (D.C. Cir., 1977).

This request is made on behalf of the National Security Archive, a nonprofit public interest research institute and library located in Washington, D.C. and the Center for National Security Studies, a nonprofit public interest research facility located in Washington, D.C. The Archive and the Center are both organized and operated as a division of The Fund for Peace, Inc., a nonprofit corporation that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, and has been acknowledged by the Internal Revenue Service since November 19, 1962 to be "organized and operated exclusively for educational purposes."

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to create categories of requesters entitled to fee waivers. Pub.L. 99-570, Sec. 1803, 1804. One category consists of "educational or noncommercial scientific institution[s] whose purpose is scholarly or scientific research" and another consists of representatives of the "news media." 5 U.S.C. 552 (a)(4)(A)(ii)(II). Requesters in these groups receive an automatic waiver of all search and review fees, irrespective of the nature or contents of the documents requested. They can be charged standard duplication costs (in excess of the first one hundred copied pages), but these charges may also be waived in certain circumstances.

On May 11, 1987 the Archive submitted a comprehensive memorandum to your agency providing documentation under penalty of perjury which establishes that the Archive is entitled to fee waivers under the categories of educational or noncommercial scientific institutions and representatives of the news media within the meaning of the Reform Act. To summarize, the Archive's purpose is to enrich public policy debate by making available records pertaining to important, mostly contemporary issues of major public concern in the areas of foreign, defense, intelligence, and international economic policy.

Documents obtained by the Archive, including the records requested in this letter, are carefully analyzed, indexed and organized into document sets in the Archive's collection. Document sets are available for inspection and copying by scholars, journalists, Members of Congress and Congressional staffs, present and former public officials, other public interest organizations, and the general public at the Archive's Washington office. In addition, information in the documents will be disseminated across the country through distribution of comprehensive document indices to university and other research libraries and through the Archive's publications.

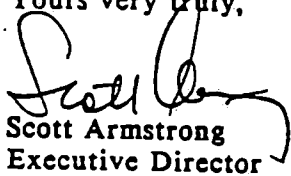
As the executive director of the Archive, I regularly use records such as those sought in this request in research on foreign and national security matters. In addition, the Archive and the Center both make all records available to a broad range of scholars, journalists, public interest organizations, members and the staff of Congress, and members of the general public.

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documents have been assembled. If you have any questions that I might be able to answer regarding the identity of the records, their location, or the scope of the request, please call me. I look forward to receiving your response within the statutory time period.

Yours very truly,

A handwritten signature in cursive script, appearing to read "Scott Armstrong", written over the typed name.

Scott Armstrong
Executive Director

890034EOP001
01/18/1989
3667

Copies of all tapes, discs, and/or other storage formats for the PROFS System serving the Executive Office of the President and/or the National Security Council, and all information contained therein, as well as all records in whatever format derived from the PROFS System, from the date of the installation of said system to the end of the Reagan administration. (The requester is prepared to narrow the scope of this request upon consultation.)

THE NATIONAL SECURITY ARCHIVE

SUITE 500 1755 MASSACHUSETTS AVENUE, N.W. WASHINGTON, D.C. 20036 (202) 797-0882

IN ALL CORRESPONDENCE PLEASE REFER
TO ARCHIVE FILE NO. 890033NSC001

January 18, 1989

Ms. Nancy V. Menan
Director, FOI Office
National Security Council
375 Old Executive Office Building
Washington, DC 20506

RE: Freedom of Information Act Request

Dear Ms. Reger,

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. Section 552, et seq. (as amended), I hereby request disclosure of the materials and documents described on the attachment to this letter for inspection and possible copying. I note for your information that we are making this FOIA request to preserve the materials in question which we understand might otherwise be improperly destroyed. In this vein, I have made possibly overlapping requests to the Executive Office of the President, the National Security Council and the National Archives and Records Administration. Once we have received assurances that the information will be properly preserved, we are willing to dramatically narrow the scope of the request for materials to be actually copied and provided.

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documents have been assembled. If you have any questions that I might be able to answer regarding the identity of the records, their location, or the scope of the request, please call me. I look forward to receiving your response within the statutory time period.

Yours very truly,

Scott Armstrong
Executive Director

890033NSC001

01/18/1989

3666

Copies of all tapes, discs, and/or other storage formats for the PROFS System serving the Executive Office of the President and/or the National Security Council, and all information contained therein, as well as all records in whatever format derived from the PROFS System, from the date of the installation of said system to the end of the Reagan administration. (The requester is prepared to narrow the scope of this request upon consultation.)

Exhibit 4

Report of the Congressional Committees Investigating the

Iran-Contra Affair

Appendix A: Volume 1
Source Documents

Daniel K. Inouye, *Chairman*,
Senate Select Committee
Lee H. Hamilton, *Chairman*,
House Select Committee

U.S. Senate Select Committee
On Secret Military Assistance to Iran
And the Nicaraguan Opposition

U.S. House of Representatives
Select Committee to Investigate
Covert Arms Transactions with Iran

November 13, 1987.—Committed to the Committee of the Whole House
on the State of the Union and ordered to be printed.

November 17, 1987.—Ordered to be printed.

Washington : 1988

From: NSKCM --CPUA
To: NSOLN --CPUA

Date and time

09/03/83 21:54:39

JOHN M. POINDEXTER

UNCLASSIFIED

N 3265

NOTE FROM: ROBERT MCFARLANE
SUBJECT: Reply to Hamilton on Ollie's Activities

I have sent you both separately a draft letter I have composed to answer Lee Hamilton's letter on Ollie's activities. One or two annotations are appropriate. The reference to "insert #1" refers to paragraph one of page two of your draft Ollie. "insert #2" refers to the second paragraph of page two. Please do not share either this note or the separate draft with anyone. I will prepare a smooth version of it for me Wednesday morning. Please bring me any edits you have. Ollie. don't send me any PROFS notes about it. Many thanks.

6-76

Declassified/Released on 1/20/88
under provisions of E.O. 12958
J. S. Regier, National Security Council

UNCLASSIFIED

4265

ERRA
Gund 24C

11/11/83
12/1/83
67

FILE: 8077

WHITE HOUSE COMMUNICATIONS SUBJECT

Chapter 12, Footnote 60

PAGE 000

UNCLASSIFIED

-- SECRET --

N 12122

NSD FROM: DIBCH --CPUS TO: NSOLB --CPUS
TO: NSOLB --CPUS

02/27/86 16:02:23

*** Reply to note of 02/27/86 00:50

-- SECRET --

NSD FROM: DONALD MCPHAILER

Subject: You are things?

Super Ollie, Well done--if the world only knew how many times you have kept a semblance of integrity and gumption to US policy, they would make you Secretary of State. But they can't know and would complain if they did--such is the state of democracy in the late 20th century. But the mission was terribly promising. As you know I do not hold Garbanifer in high regard and so am particularly glad to hear of apparent authority.

I have just gotten a note from John asking whether or not I could go some time next week and that the President is on board. I agreed. So better down and get some rest; let this word come to you in channels, but pack your bags to be ready to go in the next week or so. Incidentally, I have had periodic requests from Mike to assist in getting Vladimir Garbanifer to come to Washington.

I have refused. Surely if they have any real bona fides they too get a name in Tehran from the Polish embassy or somewhere else. I do not intend to tell Mike any of this new info. Recommend against your doing so.

Grave Sala.

You are things?

UNCLASSIFIED

405

12-60

1178

FILE: 0072

WHITE HOUSE COMMUNICATIONS AGENCY

Chapter 12, Footnote 60

UNCLASSIFIED

-- SECRET --

N 12122

NSG 00401 0300H --CP01
Tel 05010 --CP01

TEL 05010 --CP01

02/27/06 16102123

... reply to note of 02/27/06 00150

-- SECRET --

NOTE FROM: 000001 007001000

Subject: How are things?
Roger Ollie, well done--if the world only knew how many times you have kept a
man's word of integrity and gumption to US policy, they could make you
Secretary of State. But they can't know and would complain if they did--such
is the state of democracy in the late 20th century. But the mission was
terribly promising. As you know I do not hold Garbanist in high regard and so
am particularly glad to hear of
apparent authority.

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next week and that the President is on board. I agreed. So heater down and get
some rest; let this word come to you in channels, but pack your bags to be
ready to go in the next week or so. Incidentally, I have had periodic requests
from Mike to assist in getting Vladimir Garbanist to come to Washington
retained. Surely if they have any real bona fides they can get a name in Tehran
from the Soviet embassy or somewhere else. I do not intend to tell Mike any of
this new info. Recommend against your doing so.

Grave Sala.

You are this

05/4/87
12755
C-1000

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12-60

UNCLASSIFIED

405

UNCLASSIFIED

405

FILE: 0175

AD N

AF M750 COMMUNICATIONS AGENCY

UNCLASSIFIED

PAGE

NOTE FROM: OLIVER NORTH

Subject: How are things?

Just returned last night from city of

to Frankfurt. If nothing else the meeting serves to emphasize the need for direct contact with these people rather than continue the process by which we deal through intermediaries like Gorbanifahr. Because CIA is not providing a translator for the meeting, we need Albert Nelin, an INCLIF who runs the European operation for our Nicaraguan resistance support activity. Accompanied so that I will have someone along who will provide an "objective" account.

Throughout the session, Gorbanifahr intentionally distorted each of the translation and had to be corrected by our men on occasions so numerous that

Finally had Albert translate both ways. Assessment at city of agreement we reached as follows:

He has authority to make his own decisions on matters of great import. --We often not have to check back w/ Tehran on decisions taken. --The govt. of Iran is terrified of a new Soviet threat.

--They are seeking a rapprochement but are filled w/ fear & distrust. --All

hostages will be released during 1981 during the next meeting. --They want most

city urgently and have suggested Gushki in, all Bandar Abbas. --They are less

interested in Iran/Iraq war than we originally believed. --They want technical

advice more than arms or intelligence. --Tech advice and be an commercial &

military assistance - not all tactics --They committed to end anti-U.S.

terrorism. --They noted the problems of reaching these intermediaries & prefer

dir. contact /noted that this can limit US/col contact is more than 50%.

Important recognition risks to both sides -- noted need for secrecy.

Witnessed that there were some Sov. covers/threats that we were aware of

Wife all of this could be so much smoke, I believe that we may well be on the

verge of a major breakthrough - not only on the hostages/terrorism but on the

relationship as a whole. We need only to go to this meeting which has no

agenda other than to listen to each other to release the hostages and start

the process. Have briefed both JAP and Casey -- neither very enthusiastic

despite North summary along lines above. Believe that you will be

characterized to go early next yr - or maybe this weekend - but don't know how to

make this happen. Have not told JAP that this note is being sent. Help. The

call on success of earliest conversations. Warm, but fatigued regards, North

2 How are things?

NSC FROM: USCLG --CPWA TO: USACH --CPWA 02/27/86 20111251

To: USACH --CPWA

See reply to memo of 02/27/86 16102

NOTE FROM: OLIVER NORTH

Subject: Exchange

Trace the lineage of this meeting, not w/ Casey, JAP.

and all have now agreed to press on. Believe we are indeed blessed in the right

direction. Just finished lengthy session w/ JAP he indicated that he has

passed substance to you and has given no date that you are not avail.

Will endeavor to sched. city so that there do not conflict but noted to JAP

that it was their call as to date of city. Just rec'd msg in Secord via secure

device we are using. See again reaffirmed that once we have set a

date we shall have a very pleasant surprise. Dick & I believe that they may be

preparing to release one of the hostages early. Dick also indicated that the

counterpart at the city will be Safarjani. Dick crowd you run with God willing

Chapter 12
Footnote 61

1179

UNCLASSIFIED

403

12-61

FILE: MHTF

UNIT: 00 2 COMMUNICATIONS ACCT

UNCLASSIFIED

PAGE 001

Shelly will buy into this tomorrow when JAF brief him. With the grace of the good Lord and a little more hard work we will very soon have five SMCITS down and he on our way to a much more positive relationship than one which batters you for lives.

Value our friendship and confidence very highly and did not want to infer that you had revealed these exchanges. By asking that you not indicate more to JAF I was only inferring that I had not told him anything of it so as not to compromise myself at a point in time when he needs to be absolutely certain that this can work. He is, as only you can know, under tremendous pressure on this matter and very concerned that it go according to plan. My part in this was very compared to him. I only had to deal with our mission. He has to deal with

the cabinet. Many thanks for yr trust. Warm regards, North

Exchanges

NSG FROM: USOLR --CPWA

TO: USDCR --CPWA

02/27/86 20:22:22

Re: USDCR --CPWA

*** Reply to note of 02/27/86 16:02

-- SECRET --

NSG FROM: Oliver North

Subject: How are things?

Re reading things out of sequence due to fatigue. Many thanks for yr note. Have responded to most of this in my reply to exchanged - before I read this one. It concerns re Mike are shared here. WICO to the passing of info. He seems well but poses a significant problem. Mike says he has info that Mike has a financial relationship w/ Corba, Dipodi and perhaps Schinow. If true, this is not good. He also has that Corba tells Mike everything and that is an additional reason to get Corba out of the long range picture ASAP. We will still need to have him involved in the 100m transactions since he manages the financial end for the Iranian/Europe. He ought to sit quietly and think about how we handle Mike so that he does not start talking out of disgust/resentment (if that's a word). Have asked JAF for a decision w/ you and Dick Sargent as soon as possible after Dick returns tomorrow night in case there be in setting up an area delivery for the Mic resistance. A one of many talents of Sargent is. Best be off. He supposed to make a speech on aiding the Mic resistance to a group of supporters. Best regards. North

How are things?

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

UNCLASSIFIED

404

From: NS
To: NS
Re: Re
NOTE F
Subjec
No sue
I had
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reason
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to do-

lye

-USOLR

1181

From NSRCH --CPLA
To: NSOLN --CPLA

Chapter 12, Footnote 62
Date and time 02/27/86 21:37-48

*** Reply to note of 02/27/86 20:11

UNCLASSIFIED

1363
N 41077

NOTE FROM: ROBERT MCFARLANE
Subject: Exchanges

No sweat GI. I just sent a separate note about not sharing with John because I had forgotten to put it in the other note. And I fully understand the narrow path he is trying to walk between those who want to go balls out for the wrong reasons (Regan) and those who don't want to do it at all (GPS and Cap). So play

it any way you must. As for my commitments don't worry about them; set it up any way you wish that it works for them. I only mentioned it to John to ask that he try to give me a heads up soon so that I can cancel--which I am glad to do--with some grace.

12-62

UNCLASSIFIED

DECLASSIFIED on 22 June 1987
under provisions of E.O. 12958
by B. Smith, Information Security Council

1205

UNCLASSIFIED

AKW026704

OLW00P Box 25-5
ADG 4/2/87

UNCLASSIFIED

From: NSRCM --CPCA
 To: NSOLN --CPUA

Date and time 03/10/86 22:16:24

*** Reply to note of 03/10/86 21:10

N 41078

1364

~~SECRET~~

NOTE FROM: ROBERT MCFARLANE

Subject: How's It Going?

Roger Ollie. I guess I'm a little puzzled about the Iranian wiring diagram. From whom are we getting the word concerning a meeting in the Gulf? Is Gorba involved in that dialogue or is that info coming through the Israelis? It strikes me that it is probably OK to keep Gorba in the dark--to the extent that is possible to do so if there is another channel. Gorba is basically a self-serving mischief maker. Of course the trouble is that as far as we know, so is the entire lot of those we are dealing with. The Soviet threat is the strategic menace and I would guess that they would like to avoid having Russians in Iran. But it is going to take some time to get a feel for just who the players are on the contemporary scene in Teheran. So the sooner we get started the better.

I would be glad to meet to talk about the Marine Corps. I will be having lunch with Paul Nitze this Friday. How about right after that at about 2:00pm in your office?

Frankly, I would expect the heat from the Hill to become immense on you by summer. Consequently it strikes me as wise that you leave the White House. At the same time, there will be no one to do all (or even a small part of what) you have done. And if it isn't done, virtually all of the investment of the past five years will go down the drain.

How's this for a self-serving scenario: 1. North leaves the White House in May and takes 30 days leave. 2. July 1st North is assigned as a fellow at the CSIS and (lo and behold) is assigned to McFarlane's office 3. McFarlane/North continue to work the Iran account as well as to begin to build other clandestine capabilities so much in demand here and there. Just a knee jerk musing.

12-83

8 JUL 4 87
 RECEIVED
 U.S. E.O. 12958
 BY SP-6 [illegible] Security Council

(1969)

ARW026705

UNCLASSIFIED

OLN00F Box 34-6
 4/2/87
 209

17/181 [REDACTED] WITH HOUSE COMMUNICATIONS AGENCY

UNCLASSIFIED

Finally, on a new subject: I'd very much like to have a one-on-one w/ you in the next few days if at all possible. I have been advised by HQMC that they have cut orders for me to go to 2d MASHLY this summer. This is a situation (like so many others) fraught w/ opportunity and risk. I, quite frankly don't know what to do about the situation, but will have to take some kind of action in the next few weeks. I'd very much appreciate yr good counsel on the merits/liability of such an assignment and advice on how to proceed. Warm regards and many thanks to both you and Johnny for the beautiful flowers.

See's It Going?
MSG FROM: MSGCH --CPMA TO: MSGCH --CPMA 03/10/86 09:00:10
TO: MSGCH --CPMA

*** Reply to note of 03/10/86 00:150

NOTE FROM: ROBERT MCPHARLANE

Subject: See's It Going?

Re: Many thanks.

See's It Going?

MSG FROM: MSGCH --CPMA TO: MSGCH --CPMA 03/10/86 07:23:30
TO: MSGCH --CPMA

*** Reply to note of 03/10/86 22:10

NOTE FROM: OLIVER BORTH

Subject: See's It Going?

My gut response on yr scenario re Borth's personal situation is that I like it. There is a question as to how to make it all happen, but it'd be good to dimu. w/ you about Friday. Have blocked name on my sched. Looking forward to it. In re the George prob: He is aware of the risk etc and is basically carrying our water on the etc since he is still the only access we have to the Iranian political leadership. It'd be useful, I believe, for you to talk w/ George Cave, the Agency's Iran expert. He shares our concerns that we may be dealing only w/ those who have an interest in arms sales and their own personal financial gain and believes the "Sunni are coming" approach is about the only way to broaden the perspective. We'd do well to explore other contacts if they can be opened.

George is going to see what we have on this so that we can assess whether it'd be useful to make such an approach. He advises that if we were able to get to [REDACTED] or [REDACTED] w/ this message we might be able to make some headway. Still advice. If you'd like to meet w/ George, please let me know and I will arrange. Warm regards. Borth BT

See's It Going?
MSG FROM: MSGCH --CPMA TO: MSGCH --CPMA 03/10/86 22:10:20
TO: MSGCH --CPMA

*** Reply to note of 03/10/86 21:10

NOTE FROM: ROBERT MCPHARLANE

Subject: See's It Going?

Re: Oliver, I guess I'm a little puzzled about the Iranian string diagram.

UNCLASSIFIED

1193

Chapter 12
Footnote 34

12-84

1211

Chapter 12, Footnote 127

12-127

UNCLASSIFIED

From: NSJMP --CPUA
To: NSOLN --CPUA

Date and time 04/16/86 19:02.42

N 9212

*** Reply to note of 04/16/86 16:40

-- ~~SECRET~~ --

NOTE FROM: JOHN POINDENTER

Subject: PRIVATE BLANK CHECK

You may go ahead and go, but I want several points made clear to them. There are not to be any parts delivered until all the hostages are free in accordance with the plan that you laid out for me before. None of this half shipment before any are released crap. It is either all or nothing. Also you may tell them that the President is getting very annoyed at their continual stalling. He will not agree to any more changes in the plan. Either they agree finally on the arrangements that have been discussed or we are going to permanently cut off all contact. If they really want to save their asses from the Soviets, they should get on board. I am beginning to suspect that doesn't have much authority.

cc: NSPBT --CPUA PAUL THOMPSON

5/6/87
10:10:00 AM
10:10:00 AM

UNCLASSIFIED

426

12-159

NOTE FROM JOHN POINDRISTON
Subject: Iran
GOOD WORK. LET'S DISCUSS AT LUNCH.

Lead
MSG FROM: NSOLN --CPUA TO: NSJMP --CPUA
To: NSJMP --CPUA

05/06/86 08:07:46

*** Reply to note of 05/06/86 00:55

~~SECRET~~

Chapter 12
Textnote 163
Initially Declassified/Released on July 1987
Under provisions of E.O. 12356
by M. Reger, National Security Council

NOTE FROM: OLIVER NORTH

Subject: Iran

Done. I believe we have succeeded. Deposit being made tomorrow (today is a bank holiday in Switzerland). Release of hostages set for week of 19 May in sequence you have specified. Specific date to be determined by how quickly we can assemble requisite parts. Thank God - He answers prayers. V/R, North

Iran

MSG FROM: NSOLN --CPUA TO: NSJMP --CPUA
To: NSJMP --CPUA

05/06/86 08:02:59

*** Reply to note of 05/06/86 01:00

~~SECRET~~

NOTE FROM: OLIVER NORTH

Subject: CONTRA PROJECT

Yes, in general terms. He is supportive, as is Elliott. It is, to say the least, a high risk option - but it may be the only way we can ever get this thing to work. It is also important for you to know that [redacted] sent him [redacted] to see me with the following offer: The Israelis wd be willing to put 20-50 Spanish speaking military trainers/advisors into the DMZ if we want this to happen. They wd do this in concert with an Israeli plan to sell the A-19 fighter to Honduras as a replacement for the 28 yr old A-1H which [redacted]

(1457) 23+24
JMP 9/277(23)
24

1221

12-163

INFORMATION SYSTEMS UNIT
WHITE HOUSE COMMUNICATIONS AGENCY
BUILDING 94, WASHINGTON NAVY YARD, ANACOSTIA
WASHINGTON, D.C. 20374-0940

20 January 1989

MEMORANDUM FOR RECORD

SUBJECT: Temporary Restraining Order -- 19 January 1989

1. At approximately 1110 on 20 January 1989 CPT Bob Risney and MSG Kelly Williams met with Mr. Nicholas Rostow, Legal Adviser to the NSC, and represented to him that, to the best of their knowledge and belief, the sets of backup tapes that are in existence provide a full and complete capability for restoring all data on the NSC PROFS computer system existing as of approximately 1817, 19 January 1989, and subject to the Temporary Restraining Order entered at 1810 on 19 January 1989. Additionally, all sets of backup tapes in existence as of 19 January 1989 for the NSC PROFS system will be retained. All existing NSC data thus is preserved unaltered.
2. All such referenced tapes have been physically isolated and secured. No access will be permitted without Mr. Rostow's written permission.
3. Based on the representation set forth in paragraph 1 hereof, Mr. Rostow authorized WHCA to take all actions necessary to prepare the NSC PROFS computer system for the Bush Administration. These include purging user accounts on the NSC PROFS system and the continuation of archival processing.

Nicholas Rostow
Nicholas Rostow, NSC Legal Adviser

Kelly Williams
Kelly Williams, WHCA

Robert G. Risney
Robert G. Risney, WHCA

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

January 20, 1989

MEMORANDUM FOR KENNETH NICKEL

FROM: PAUL SCHOTT STEVENS 
SUBJECT: Compliance with Temporary Restraining Order

On January 19, 1989, the United States District Court for the District of Columbia enjoined us "from destroying, erasing, recycling, or in any way altering what is commonly known as the PROFS computer tapes for the National Security Council and the Executive Office of the President or in any way deleting or destroying the information contained in the back-up files of the PROFS Computer System." (Tab A) Based on conversations among Nicholas Rostow, Legal Adviser to the National Security Council, Major William Hilton (WHCA), Kelly Williams (WHCA), and David Anderson, Department of Justice, I understand that WHCA can preserve all existing NSC data in a retrievable form by a full system back-up and that WHCA has the capacity to restore this data. We shall rely on this representation in court.

To comply fully with all terms in the court order, I hereby confirm previously issued instructions and request that WHCA undertake the following actions:

-- I hereby confirm George Van Eron's oral instructions to Major Hilton at 6:23 p.m. on January 19, 1989, to stop all deletions, if any in progress, from the PROFS system.

-- I hereby direct that WHCA continue making a full-system back-up tape of all existing NSC data from the main frame computer disk, as requested by George Van Eron last night.

-- All existing back-up tapes and "dumps" as of the time of the court order (6:10 p.m., January 19, 1989) and all back-up tapes and dumps created subsequently pursuant to this directive must be preserved intact in a secure manner.

-- WHCA should make a complete, contemporaneous record of all steps taken, including noting all participants in the process, in carrying out this action.

-- When the full-system back-up is complete such that all existing NSC data is preserved in a retrievable form, WHCA shall prepare an affidavit for signature by someone having knowledge of the technical actions required and taken and who can certify that all existing NSC data has been preserved as required by the court order and by these instructions. The affidavit shall set forth all steps taken as well as the certification with respect to the preservation of all existing NSC data. As soon as the back-up tape has been created, the affidavit should be prepared and submitted to the Office of NSC Legal Adviser. •

-- When all existing NSC data has been preserved in the manner set forth above, WHCA should purge the main frame computer disk in order to prepare it for use by the Bush Administration.

Attachment

Tab A - Restraining Order

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

January 20, 1989

MEMORANDUM FOR PAUL SCHOTT STEVENS

FROM: NICHOLAS ROSTOW *N*

SUBJECT: Directive to WHCA in Connection with TRO

As you are aware, the National Security Archive and other plaintiffs obtained a temporary restraining order enjoining us "from destroying, erasing, recycling, or in any way altering what is commonly known as the PROFS computer tapes for the National Security Council and the Executive Office of the President or in any way deleting or destroying the information contained in the back-up files of the PROFS Computer System." (Tab II)

WHCA assures us that all existing NSC data on the system hard disk may be copied onto back-up tapes without destroying, altering, or otherwise losing data. It is the unanimous view of Assistant Attorney General Bolton, Deputy Counsel to the President Brady and myself that this copying will comply with all the terms of the court order.

We therefore recommend that you sign the attached memorandum (Tab I) to the White House Communications Agency directing it to preserve on back-up computer tapes all existing NSC data, to maintain a contemporaneous record of all actions taken in this regard, and to make an affidavit that all existing NSC data has been preserved in a usable form. Once these steps have been completed, and in reliance on WHCA's representation that all existing NSC data has been preserved, your memorandum authorizes WHCA, as a final step, to purge the hard disks and prepare them for use by the Bush Administration.

RECOMMENDATION

That you sign the memorandum attached at Tab I.

GE
George Van Eron concurs.

Approve *PN*

Disapprove _____

Attachments

Tab I - Memorandum to WHCA
Tab II - Order and Pleadings

*Discussed w/
CLP 1.20.89
@ 7PM
PN*

FILED

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JAN 19 1989

JAMES F. DAVEY, Clerk

R. SCOTT ARMSTRONG, et al.

Plaintiffs,

v.

PRESIDENT OF THE UNITED STATES
OF AMERICA, et al.

Defendants.

Civil Action No. 89-0142
(J. Charles Richey)

TEMPORARY RESTRAINING ORDER

Plaintiffs' Motion for Temporary Restraining Order was heard in open court on January 19, 1989. Upon consideration of said motion, the Complaint filed therewith, the Memorandum of Points and Authorities attached thereto, the Affidavit of plaintiff R. Scott Armstrong, and oral argument of counsel for the parties, the Court finds that plaintiffs have made a threshold showing that they are likely to suffer immediate and irreparable harm affecting a vital public interest unless a restraining order is entered against the defendants and they have also made a showing of probable success on the merits.

IT IS THEREFORE ORDERED by the Court that the defendants, the President, Vice-President, Executive Secretary of the National Security Council, and the agents, servants, employees, attorneys of the Council, and all persons in active concert of participation with them are hereby enjoined from destroying,

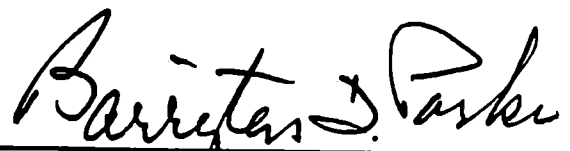
erasing, recycling, or in any way altering what is commonly known as the PROFS computer tapes for the National Security Council and the Executive Office of the President or in any way deleting or destroying the information contained in the back-up files of the PROFS Computer System.

Plaintiffs shall not be required to post security because defendants will not suffer costs or damage even if it is determined that they were wrongfully restrained pursuant to Civil Rule 65(c).

IT IS FURTHER ORDERED that this Order shall expire within ten (10) days after entry unless extended for good cause shown by the Court; and

IT IS FURTHER ORDERED that counsel shall appear before Judge Charles Richey no later than January 25, 1989 for further scheduling and plaintiffs shall file a Motion for Preliminary Injunction on January 24, 1989.

ISSUED at 6:10 o'clock p.m. on January 19, 1989.



Barrington D. Parker
United States District Judge

United States District Court
for the District of Columbia
A TRUE COPY

JAMES F. DAVEY, CLERK.

By 
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SCOTT ARMSTRONG
2620 Quebec Street, NW
Washington, DC 20008,

SENATOR GAYLORD NELSON
3611 Calvend Lane
Kensington, MD 20895,

GARY M. STERN,
4000 Harrison Street, NW
Washington, D.C. 20015,

EDDIE BECKER
1844 Mintwood Place, NW
Washington, DC 20009,

NATIONAL SECURITY ARCHIVE
1755 Massachusetts Ave., N.W.
Suite 500
Washington, D.C. 20036,

CENTER FOR NATIONAL SECURITY STUDIES
122 Maryland Avenue, NE
Washington, DC 20002,

Plaintiffs,

v.

RONALD W. REAGAN, President
1600 Pennsylvania Ave., N.W.
Washington, D.C.,

GEORGE M. BUSH, Vice-President and
President Elect
Old Executive Office Building
Pennsylvania Ave. & 17th St., N.W.
Washington, D.C.,

THE NATIONAL SECURITY COUNCIL
Old Executive Office Building
Pennsylvania Ave. & 17th St., N.W.
Washington, D.C.,

DON WILSON, ARCHIVIST OF THE
UNITED STATES
7th & Pennsylvania Ave., N.W.
Room 111
Washington, D.C. 20408,
Defendants.

C.A. No.

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Nature of Action

1. This is an action under the Presidential Records Act, 44 U.S.C. § 2201, et. seq.; the Disposal of Records Act, 44 U.S.C. § 3301, et. seq.; and the Administrative Procedures Act, 5 U.S.C. § 551, et. seq. Plaintiffs seek: (1) a declaration that certain White House computer records stored in what is commonly known as the "PROFS" computer system are covered by the laws governing the National Archives and Records Administration 44 U.S.C. chapters 21-33; and (2) injunctive relief to prevent the President, the National Security Council, and their agents, servants, employees, attorneys, and all persons in active concert or participation with them from destroying these computer records without complying with the prescribed statutory procedures for destruction of Presidential and agency records and to order the President, the National Security Council and the Archivist to comply with the laws governing the National Archives and Records Administration.

Jurisdiction and Venue

2. This Court has subject matter jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and pursuant to 28 U.S.C. §§ 1331, 1346 and 28 U.S.C. § 2201(a). Venue lies in this district under 28 U.S.C. § 1391(b) and (e).

The Parties

3. Plaintiff Scott Armstrong is a journalist, author, and foreign policy researcher, and founder and executive director of

the non-profit research institute the National Security Archive.

4. Plaintiff Gaylord Nelson is a former United States Senator and was co-author with Senator Sam Ervin of the Presidential Records and Materials Preservation Act.

5. Plaintiff National Security Archive (hereinafter, the "Archive") is a nonprofit public interest scholarly research institute and library in Washington, D.C. It is organized and operated as a division of The Fund for Peace, Inc., a New York nonprofit corporation. The Archive makes extensive use of the Freedom of Information Act ("FOIA") to obtain government documents concerning national security issues for its own research purposes and to make such documents available to scholars, journalists and other interested persons.

6. Plaintiff Center for National Security Studies (hereinafter, the "Center") is a nonprofit public interest scholarly research institute in Washington, D.C. It is organized and operated as a division of the American Civil Liberties Union Foundation and The Fund for Peace, Inc., a New York nonprofit corporation. The Center makes extensive use of the FOIA to obtain government documents concerning national security issues for its own research purposes and to make such documents available to scholars, journalists and other interested persons as part of its program of public education.

7. Plaintiff Gary Stern is a research associate at the Center for National Security Studies and has written articles,

reports, and comments on national security issues for a variety of publications.

8. Plaintiff Eddie Becker is a professional researcher specializing in documentary reconstruction of historical events. Mr. Becker is employed by documentary filmmakers, scholars, and journalist, and is a consultant at the National Security Archive.

9. Defendant Ronald W. Reagan is the President of the United States and has ultimate control over all records and information in the Executive Office of the President and the National Security Council ("NSC").

10. Defendant George M. Bush is Vice-President and President-Elect of the United States and on January 20, 1989, will have ultimate control over all records and information in the Executive Office of the President and the National Security Council ("NSC").

11. Defendant National Security Council is an "agency" of the United States and makes use of the PROFS computer system.

12. Defendant Don Wilson is the Archivist of the United States and is responsible for preserving presidential records and agency records in accordance with the laws governing the National Archives and Records Administration (NARA).

The Computer Records in the PROFS System

13. The President, his staff, and the National Security Council use what is commonly known as the PROFS computer system (hereinafter "PROFS system") to create, store, and retrieve information in the course of performing their governmental

functions. The PROFS system combines various routine office functions including the ability to send electronic mail and documents to others on the system.

14. The PROFS system is a central computer system of the White House and the National Security Council. It contains substantive information that does not exist anywhere in a paper copy but only in electronic form.

15. The PROFS system contains information that constitutes presidential records, as defined in the Presidential Records Act, 44 U.S.C. § 2201, et. seq., and agency records, as defined in the Disposal of Records Act, 44 U.S.C. § 3301, et. seq., and the Freedom of Information Act, 5 U.S.C. § 552 et. seq..

16. Based on information and belief, President Reagan and the National Security Council intend to destroy the records stored on the PROFS system beginning on Thursday, January 19, 1989, in violation of these statutes and specifically without having complied with the procedures for obtaining a determination by the Archivist of the United States, that the computer records may properly be preserved.

COUNT 1

17. Plaintiffs incorporate by reference as if fully stated herein all the statements contained in paragraphs 1 through 16 above.

18. By their aforementioned acts, defendants have or intend to violate the Presidential Records Act, 44 U.S.C. § 2201, et seq.

COUNT 2

19. Plaintiffs incorporate by reference as if fully stated herein all the statements contained in paragraphs 1 through 16 above.

[20. Defendants have or intend to violate of the Disposal of Records Act, 44 U.S.C. § 3301, et seq.

COUNT 3

[21. Defendants are in violation of the Administrative Procedures Act, 5 U.S.C. § 553, et seq.

WHEREFORE, plaintiffs pray that this Court:

1. Declare that the electronic tapes and information stored in the PROFS computer system used in the White House and the National Security Council are records governed by the provisions of the laws governing the National Archives and Records Administration (NARA), 44 U.S.C. chapters 21-33.

2. Enjoin defendants Ronald Reagan, George M. Bush, and the National Security Council and their agents, servants, employees, attorneys, and all persons in active concert or participation with them from destroying, erasing, recycling, or in any way altering what is commonly known as the PROFS tapes that exist in the National Security Council and the Executive Office of the President and the contents therein without complying with the provisions of the laws governing the National Archives and Records Administration (NARA), 44 U.S.C. chapters 21-33 and specifically not until they receive an advance determination by

the Archivist of the United States, as to whether the computer records may properly be destroyed.

3. Order defendant Don Wilson to comply with the provisions of the laws governing the National Archives and Records Administration (NARA), 44 U.S.C. chapters 21-33, with regard to the electronic tapes and information contained in the PROFS computer system and specifically to follow the prescribed procedures regarding destruction of Presidential and agency records.

4. Award plaintiffs their costs and reasonable attorneys fees in this action; and

5. Grant such other and further relief as the Court may deem just and proper.

January 19, 1989

Kate Martin

Kate Martin
American Civil Liberties Union
Foundation
122 Maryland Avenue, NE
Washington, DC 20002
544-5388

Attorney for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

R. SCOTT ARMSTRONG,
et al.,

Plaintiffs,

v.

RONALD W. REAGAN,
et al.,

Defendants.

C.A. No.

PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER

Plaintiffs R. Scott Armstrong, Eddie Becker, Gary M. Stern, National Security Archives, and Center for National Security Studies respectfully move this Court, pursuant to Federal Rule of Civil Procedure 65(b) to issue a Temporary Restraining Order against defendants President Ronald Reagan, Vice-President George Bush, and the National Security Council (NSC) and their agents, servants, employees, attorneys, and all persons in active concert or participation with them.

The relief requested by the motion is to enjoin the President and the NSC from destroying certain computer records commonly known as the PROFS system. The narrow issue raised by this motion is whether the President and the NSC can be temporarily enjoined from destroying government computer records in advance of a judicial determination as to whether destruction of the records is in violation of the law and whether they should be preserved in accordance with the laws governing the National

Archives and Records Administration (NARA), 44 U.S.C. chapters 21-33.

As grounds for the Motion, plaintiffs assert that a Temporary Restraining Order is necessary to prevent the President and the NSC from causing plaintiffs irreparable harm by unilaterally and permanently destroying government records and to safeguard plaintiffs' right of access to the information. In support of this Motion, plaintiffs rely upon the Verified Complaint filed herewith, the Memorandum of Points and Authorities attached hereto, the proposed Temporary Restraining Order, the Affidavit of plaintiff R. Scott Armstrong, and such other matters as the Court may consider upon a hearing of this Motion.

Respectfully submitted,


Kate Martin
American Civil Liberties Union
Foundation
122 Maryland Avenue, NE
Washington, DC 20002
544-5388

Attorney for Plaintiffs

January 19, 1989

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

R. SCOTT ARMSTRONG,
et al.,
Plaintiffs,

v.

RONALD W. REAGAN,
et al.,

Defendants.

C.A. No.

TEMPORARY RESTRAINING ORDER

*have made a
threshold showing
that they are likely
to suffer*

Plaintiffs' Motion for Temporary Restraining Order came on for hearing in open court on January 19, 1989. Upon consideration of said Motion, the Complaint filed therewith, the Memorandum of Points and Authorities attached thereto, the Affidavit of plaintiff R. Scott Armstrong, and oral argument of counsel for the parties, the Court finds that plaintiffs will suffer immediate and irreparable harm affecting a vital public interest unless a restraining order is entered against the defendants.

IT IS THEREFORE ORDERED by the Court that defendants, President Ronald Reagan, Vice-President George Bush, and the National Security Council and their agents, servants, employees, attorneys, and all persons in active concert or participation with them are hereby enjoined from destroying, erasing, recycling, or in any way altering what is commonly known as the PROFS computer tapes for the National Security Council and the

Executive Office of the President or in any way deleting or destroying the information contained in the back-up files of the PROFS Computer System.

Plaintiffs shall not be required to post security because defendants will not suffer costs or damages even if it is determined that they were wrongfully restrained pursuant to Civil Rule 65(c).

IT IS FURTHER ORDERED that this Order shall expire within ten (10) days after entry unless extended for good cause or by consent of the defendants; and

IT IS FURTHER ORDERED that plaintiffs shall be given until the _____ day of _____, 1989, to file a Motion for Preliminary Injunction and that said Motion will be heard on the _____ day of _____, 1989, at _____ o'clock _____.m.

ISSUED at _____ o'clock _____.m., January ___, 1989.

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

R. SCOTT ARMSTRONG,
et al.,

Plaintiffs,

v.

RONALD W. REAGAN,
et al.,

Defendants.

C.A. No.

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER

Plaintiffs seek a temporary restraining order enjoining defendants Ronald Reagan, George Bush, and the National Security Council from destroying any electronic computer tapes or other materials that contain information concerning the functioning of the White House, contrary to the requirements of the Presidential Records Act, the Disposal of Records Act, and the Freedom of Information Act as administered by the Archivist of the United States and the National Archives and Records Administration. See American Friends Service Committee v. Webster, 485 F. Supp. 222 (D.D.C. 1980) aff'd 720 F.2d 29 (D.C. Cir. 1983).

Defendants apparently intend to destroy these electronic tapes, which are the only existing record of many important communications within the White House and specifically within the National Security Council at the close of the Reagan Administration on January 19, 1989. Doing so will destroy an invaluable historical and political record that is available

nowhere else and which Congress has on several occasion mandated be available to members of the public.

STATEMENT OF FACTS

The Executive Office of the President (the White House) and the National Security Council (NSC) utilize what is commonly known as the PROFS computer system ("PROFS system"). The PROFS systems allows users of the system to communicate via electronic mail, that is to send memoranda and other information to other users directly through the computer. It is used to create, maintain, and retrieve information pertaining to official government activities.^{1/}

This information is maintained on an electronic storage medium, most likely magnetic tapes. These tapes have recorded all correspondence and information that has been sent or created using the PROFS system. In many instances no hard or paper copy of the information exists, the electronic tapes are the only record of the information.

The PROFS system is used by White House and NSC officials to carry out government policy. It contains presidential and agency records and any particular electronic tape may contain both Presidential records and agency records of the NSC.

The information in the PROFS system, which exists only on an electronic medium and not in any paper record can be extremely important. For example, records contained in the PROFS system

^{1/} This Statement of Facts is based on the Affidavit of R. Scott Armstrong, Attachment B hereto.

were utilized extensively by the President's Special Review Board (the Tower Commission) and the Congressional Iran-Contra Committees investigating the Iran-Contra Affair. See Report of the President's Special Review Board, at III-1 (February 26, 1987); Report of the Congressional Committees Investigating the Iran-Contra Affair, 100th Cong., 1st Sess., S. Rep. No. 100-216, H. Rep. No. 100-433, at 689-90. Independent Counsel Lawrence Walsh continues to rely on records from the PROFS system in support of criminal investigation and prosecution of government officials involved in the Iran-Contra Affair.

On January 19, 1989, plaintiffs Armstrong, the National Security Archive, and the Center for National Security Studies filed a request under the Freedom of Information Act, 5 U.S.C. § 552, for records contained in the PROFS system.

Plaintiffs Armstrong, Becker, and National Security Archive have asked for assurances that defendants do not intend to destroy the records contained in the PROFS system as part of the changeover of Administrations on January 19, 1989. Defendants have refused to give them any such assurances. Although the White House has delivered some electronic computer tapes from other computer systems to the Archivist for preservation and safekeeping, it has not delivered any tapes from the PROFS system to the Archivist.

ARGUMENT

To obtain a temporary restraining order (TRO), a plaintiff must demonstrate (1) a substantial likelihood of success on the

merits; (2) irreparable harm; (3) that more harm will result to plaintiff if the TRO is denied than will result to defendant if it is granted; and (4) in appropriate cases, how the public interest will be affected. Virginia Petroleum Jobbers Ass'n. v. F.P.C., 104 U.S. App. D.C. 106, 110, 259 F.2d 921 (1958).

Plaintiff's application for a TRO satisfies each of the foregoing tests.

A. Plaintiffs are Likely to Succeed on the Merits.

Plaintiffs are guaranteed a right of access to these government records under at least three separate statutes: The Freedom of Information Act, 5 U.S.C. § 552, et. seq.; the Presidential Records Act, 44 U.S.C. 2201, et. seq.; and the Disposal of Records Act, 44 U.S.C. 3301, et. seq. If any of these statutes applies to the requested electronic recordings, then defendants may not destroy them. See, American Friends Service Committee v. Webster, supra. The statutes create a public right of access to "agency records," in the case of the FOIA and the Disposal of Records Act,^{2/} and to "Presidential records," in the case of the Presidential Records Act.^{3/}

^{2/} The Disposal of Records Act authorizes the Archivist of the United States to establish procedures for the disposal of only those documents "that do not appear to have sufficient administrative, legal, research, or other value to warrant their further preservation by the Government." 44 U.S.C. § 3303.

^{3/} "Upon the conclusion of the President's . . . last term, the Archivist of the United States shall assume responsibility for the custody, control, and preservation of, and access to, the Presidential Records of that President. The Archivist shall have an affirmative duty to make such records available to the public as rapidly and completely as possible consistent with the provisions of this Act." 44 U.S.C. § 2203(f)(1).

Defendants do not assert any general right to destroy Presidential or agency records at the close of an administration, which would thereby frustrate this public right of access. Rather defendants argue that these electronic computer records are not like other Presidential or agency records, are not covered by the statutes, and therefore may be destroyed. But there is no authority for their position that because information is stored electronically rather than in written form, it is not covered by the statutes.

The Presidential Records Act provides that the United States "shall . . . retain complete ownership, possession, and control of Presidential records." 44 U.S.C. § 2202. It provides specific procedures that must be followed by the President and the Archivist before disposing of records during the term of his office; the statute allows only records "that no longer have administrative, historical, informational, or evidentiary value" to be disposed of. 44 U.S.C. § 2203(c).

Upon the conclusion of the President's term of Office, the Act directs the Archivist of the United States to assume responsibility for the records. "The Archivist shall have an affirmative duty to make such records available to the public as rapidly and completely as possible consistent with the provisions of this Act." 44 U.S.C. § 2203(f)(2). Here, neither the President nor the Archivist have complied with the provisions of this act and, to the contrary, apparently intend to violate it by destroying the records.

But the Act applies to all "Presidential records," which "means documentary materials . . . created or received by the President, his immediate staff, or a unit or individual of the Executive Office of the President whose function is to advise and assist the President." The definition of "documentary material" covered by the Act explicitly covers materials such as the electronic tapes requested here: "The term 'documentary material' means all books . . . including but not limited to, audio, audio-visual, or other electronic or mechanical recordation." 44 U.S.C. § 2201(1) (emphasis added).

Similarly the Disposal of Records Act allows agency records to be destroyed only after the Archivist has made the required review and followed the required procedures for doing so. 44 U.S.C. §§ 3302-03 The Act applies to all "records," which

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

44 U.S.C. § 3301.

The agency's own interpretation confirms that such electronic tapes are governed by the provisions of the Act. See National Archives and Records Administration Bulletin, No. 89-2, November 14, 1988, Attachment B hereto.

The Freedom of Information Act provides: "[E]ach agency, upon any request for records which (A) reasonably describes such

records and (B) is made in accordance with published rules . . . shall make the records promptly available to any person." 5 U.S.C. 552(a)(3). While the statute does not define the term agency, the National Security Council is clearly an "agency" for purposes of FOIA requests. See, e.g., Kissinger v. Reporters Committee for Freedom of the Press, 445 U.S. 136, 156 (1980) ("National Security Council records [are] therefore subject to the [Freedom of Information] Act"); Halperin v. NSC, 452 F. Supp. 47 (D.D.C. 1978) aff'd without opinion, 612 F.2d 586 (D.C. Cir. 1980).

Thus, whether the electronic tapes belong to the Executive Office of the President or the National Security Council or both, they are in all events "Presidential" records or "agency" records. As such, they are subject to the requirements of the statutes and may not be summarily destroyed.

B. Plaintiffs Will Suffer Irreparable Injury Unless a Temporary Restraining Order is Granted.

If the electronic tapes are destroyed, plaintiffs will suffer irreparable harm. As far as plaintiffs can determine, these electronic tapes contain information that appears nowhere else. Thus if defendants destroy them, the information will be irretrievably lost to plaintiffs, as well as to history. There is no doubt that such injury will be irreparable harm.

C. The Equities Favor A Temporary Restraining Order.

Weighing of the equities favors injunctive relief in this case. As shown above, in the absence of an injunction, plaintiffs will suffer irreparable harm. An injunction will restore and preserve plaintiffs' rights without detriment to defendants. Defendants will suffer absolutely no detriment from entry of an order preventing destruction of the electronic tapes pending a judicial determination of the applicability of the Presidential Records Act, the Disposal of Records Act, and the Archivist's responsibilities in connection with the tapes.

D. A preliminary Injunction will Serve the Public Interest.

Public policy could not be clearer that Presidential records belong to the public and should be preserved for review by the public pursuant to the laws, rules, and policies that have been established. Thus the public as well as the specific plaintiffs herein have an interest in the requested information. As the Iran-Contra affair demonstrates, the requested electronic tapes may contain information of the greatest importance to the process of democratic policy-making. Technological innovations have enabled the government to operate more efficiently, they should not be used as a shield to allow it to operate in secret hidden from public accountability.

In this case, implementation of this fundamental public policy depends on judicial intervention.

Conclusion

The Court should grant a temporary restraining order

enjoining defendants from destroying any electronic or other records pertaining to the PROFS system without first complying with the requirements of the Presidential Records Act and the Disposal of Records Act including review and determination by the Archivist of the historical value of maintaining the specific items of information and notice, where required to Congress or in the Federal Register of the Archivist's intentions with regard to them.

Respectfully submitted,


Kate Martin
American Civil Liberties Union
Foundation
122 Maryland Avenue, NE
Washington, DC 20002
544-5388

Attorney for Plaintiffs

January 19, 1989

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

R. SCOTT ARMSTRONG,
et al.,

Plaintiffs,

v.

RONALD W. REAGAN,
et al.,

Defendants.

C.A. No.

AFFIDAVIT OF R. SCOTT ARMSTRONG

I, R. Scott Armstrong, declare:

1. I am a plaintiff in the above-captioned lawsuit and make this affidavit in support of plaintiffs' motion for a Temporary Restraining Order.
2. I am a journalist, book author, foreign policy researcher, founder and Executive Director of the National Security Archive, a non-profit research institute and library of government documentation. On behalf of the National Security Archive and the Center for National Security Studies, I have filed, on January 19, 1989, three Freedom of Information Act requests for specific materials currently held by the Executive Office of the President and the National Security Council. Copies of those requests are attached as exhibits 1-3 hereto.
3. In conjunction with my work at the National Security Archive and my research on national security and foreign policy issues and on the functioning of the White House and the National Security Council, I have developed an extensive knowledge on the

White House records system including the computer communications system commonly known as the PROFS computer system ("PROFS system").

4. The requested materials are contained in the PROFS system computer backup tapes and consequently the only existing master file of one of the central filing systems of the National Security Council and the Executive Office of the President.

5. The Executive Office of the President and the National Security Council utilize the PROFS system to create, maintain, and retrieve information pertaining to official government activities. This information is maintained on an electronic storage medium, most likely magnetic tapes. In many circumstances, the information exists only in the computer memory stored on the PROFS system and no hard or paper copy has been made, or if made, has been retained. These PROFS system tapes have recorded all correspondence and messages that have been created, saved, or transmitted through the PROFS system. The same tape may contain information that could be either Presidential records or agency records.

6. The PROFS system combines various routine office functions including a word processing program, personal calendar, automatic reminders, and the ability to send electronic notes, messages and documents to others on the system.

7. The PROFS system is used by White House and NSC officials to implement government policy, and as such contains both presidential and agency records. For example, records contained

in the PROFS system were utilized extensively by the President's Special Review Board (the Tower Commission) and the Congressional Iran-Contra Committees investigating the Iran-Contra Affair. See Report of the President's Special Review Board, at III-1 (February 26, 1987); Report of the Congressional Committees Investigating the Iran-Contra Affair, 100th Cong., 1st Sess., S. Rep. No. 100-216, H. Rep. No. 100-433, at 689-90. To the best of my information and knowledge, Independent Counsel Lawrence Walsh continues to rely on information from the PROFS system in support of criminal investigation and prosecution of government officials involved in the Iran-Contra Affair.

8. Beginning in 1985, the PROFS system was were used by the members of the National Security Council and their staff. In 1986, the PROFS network expanded to "satisfy the growing requirement in the White House for internal electronic mail and document transfer between the West Wing, Old Executive Office Building and the Cabinet agencies." Solicitation for Computer Operation/Facilities Management, Executive Office of the President, March 27, 1987, p. 50.

9. The system helps to avoid an avalanche of paperwork by handling much of the information electronically without paper copies. Key to document handling are the sophisticated search and retrieval functions. "Every document in PROFS is assigned a number so that it can be located using a variety of search techniques. Information such as who wrote the document the date, the subject, and to whom the document was sent can also be used

in the search. The advantage of letting PROFS do this for you is quite obvious. You don't have to go through all your filing cabinets looking for documents that may be filed under multiple subject headings or under a filing system you know nothing about. PROFS takes care of all that for you." IBM, "Introducing the Professional Office System," November 1985, p. 10-11.

10. The Iran-Contra Affair illustrated the importance of information stored in the PROFS system. Despite repeated attempts by NSC staff to shred the paper record and delete the computer record, the PROFS backup system on magnetic tape allowed investigators to reconstruct much of the Iran-Contra-related activity. A sampling of these PROFS notes is attached as Exhibit 4 hereto. The Iran-Contra PROFS records demonstrate that in effect, the capabilities of the PROFS system for transmitting, indexing, filing, and retrieving contemporaneous records created a new and powerful central filing system which recorded the daily business of the White House and National Security Council at the highest levels -- but only in electronic and not in paper form.

11. The Tower Commission stated that these PROFS messages "provide a first-hand, contemporaneous account of events." Report of the President's Special Review Board, February 26, 1987, p. III-1. As examples of the central role of the PROFS system in the NSC staff's decisionmaking process, copies of three PROFS messages declassified during the Iran-Contra investigations are attached.

12. Despite the clear historical significance of and public interest in the information captured by the PROFS system, I have been told by representatives of the National Archives and Records Administration (NARA) that those PROFS system tapes other than those used by the Iran-Contra Committees and the Independent Counsel have not been and will not be preserved as a "permanent record" of the Reagan Administration.

13. The head of the Office of Presidential Libraries of NARA, John Fawcett, told me on January 18, 1989, that the only PROFS messages that are retained as "presidential records" are those printed out by White House and NSC staff and maintained in paper form. According to Fawcett, NARA considers all PROFS system tapes other than those provided for the Iran-Contra Committees and the Independent Counsel not to be "Presidential records" or "agency records."

14. This practice has been implemented by specific guidelines issued to White House and NSC staff by the National Archives, despite current rulemaking-in-progress that indicates the Archives' intention to explore methods of retention and preservation of electronic records. Notice of Proposed Rulemaking, NARA, November 8, 1988.

15. Even if White House and NSC staff are diligent above and beyond the call of duty in printing out copies of any PROFS message they considered historically or administratively significant -- a practice which the Iran-Contra Affair demonstrates has not been the norm, and which, on knowledge and

belief, I believe is still not the norm -- the resulting paper file is by definition not a complete record of White House and National Security Council business, certainly when compared to the value of the complete backup file maintained electronically.

16. Additionally, according to Mr. Fawcett, the backup tapes, which represent the master file of PROFS messages, are not ordinarily preserved -- since they are not considered "presidential records" under the Archive's guidance or the White House and NSC practice -- and indeed may be re-used on the mainframe computer and thus overwritten by subsequent PROFS messages. Any overwritten sections of the magnetic tapes are then lost to subsequent retrieval, much as a recording on a cassette tape gets erased when something new is recorded over it. Many or even most of these magnetic tapes may already have been overwritten and thus destroyed.

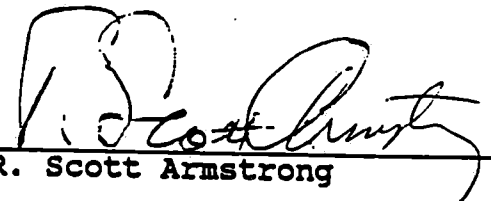
17. However, at least one set of magnetic tapes -- the one in use as of January 19, 1989, and those from the immediate prior period -- does exist and contains current PROFS messages which have not been overwritten. Since the mainframe computer presumably employs multiple magnetic tapes for storage, a number of additional magnetic tapes containing PROFS messages may also still exist in retrievable form.

18. According to Mr. Fawcett, January 19, 1989 represents the "breaking point" for the preservation of Reagan Administration records, and the beginning of a new system for preservation of the next administration's records. My counsel has asked for and

not received assurance that the PROFS tapes will not be destroyed. I have been informed by NARA counsel that the White House has delivered some computer tapes from other computer systems to the National Archives, but has not delivered any PROFS tapes. Therefore, I believe that January 19, 1989, may be the last opportunity to preserve the magnetic tapes which comprise the PROFS system's master backup file, and thus the only complete record of a vital central filing system in the White House and National Security Council.

19. In an attempt to preserve these records, I have made the aforementioned overlapping Freedom of Information Act requests to the Executive Office of the President, the National Security Council and the National Archives and Records Administration. In and of themselves, however, these FOIA requests may not guarantee the preservation of these vital records.

I declare under penalty of perjury that the foregoing statements are true and correct.


R. Scott Armstrong

DATE: January 19, 1989

THE NATIONAL SECURITY ARCHIVE

SUITE 500 1755 MASSACHUSETTS AVENUE, N.W. WASHINGTON, D.C. 20036 (202) 797-0882

IN ALL CORRESPONDENCE PLEASE REFER
TO ARCHIVE FILE NO. 890035NAR001

January 18, 1989

Ms. Trudy Peterson
Assistant Archivist of the United States
National Archives and Records Administration
Washington, DC 20408

RE: Freedom of Information Act Request

Dear Ms. Peterson,

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. Section 552, et seq. (as amended), I hereby request disclosure of the materials and documents described on the attachment to this letter for inspection and possible copying. I note for your information that we are making this FOIA request to preserve the materials in question which we understand might otherwise be improperly destroyed. In this vein, I have made possibly overlapping requests to the Executive Office of the President, the National Security Council and the National Archives and Records Administration. Once we have received assurances that the information will be properly preserved, we are willing to dramatically narrow the scope of the request for materials to be actually copied and provided.

If you regard any of these materials as non-records under the FOIA, I request that you retain copies of all such materials until we have had an opportunity to clarify your interpretation through litigation or congressional action. Similarly, if you regard any of these materials as exempt from the FOIA's disclosure requirements, I request that you nonetheless exercise your discretion to disclose them. In this connection I note that you are required under the FOIA to release any reasonably segregable nonexempt portions of documents containing information you regard as exempt. Section 552(b). To permit an intelligent, informed decision whether or not to file an administrative appeal of any denial decision, you are also requested to describe withheld records (or portions thereof) and explain the logical and factual basis for exemption claims. See Mead Data Central, Inc. v. Department of the Air Force, 566 F.2d 242, 251 (D.C. Cir., 1977).

This request is made on behalf of the National Security Archive, a nonprofit public interest research institute and library located in Washington, D.C. and the Center for National Security Studies, a nonprofit public interest research facility located in Washington, D.C. The Archive and the Center are both organized and operated as a division of The Fund for Peace, Inc., a nonprofit corporation that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, and has been acknowledged by the Internal Revenue Service since November 19, 1962 to be "organized and operated exclusively for educational purposes."

The fee waiver provisions under section 552(a)(4)(A) of the FOIA were recently amended by the Freedom of Information Reform Act. The Reform Act's fee provisions became effective on April 25, 1987 and rewrote section 552(a)(4)(A) to create categories of requesters entitled to fee waivers. Pub.L. 99-570, Sec. 1803,

1804. One category consists of "educational or noncommercial scientific institution[s] whose purpose is scholarly or scientific research" and another consists of representatives of the "news media." 5 U.S.C. 552 (a)(4)(A)(ii)(II). Requesters in these groups receive an automatic waiver of all search and review fees, irrespective of the nature or contents of the documents requested. They can be charged standard duplication costs (in excess of the first one hundred copied pages), but these charges may also be waived in certain circumstances.

On May 11, 1987 the Archive submitted a comprehensive memorandum to your agency providing documentation under penalty of perjury which establishes that the Archive is entitled to fee waivers under the categories of educational or noncommercial scientific institutions and representatives of the news media within the meaning of the Reform Act. To summarize, the Archive's purpose is to enrich public policy debate by making available records pertaining to important, mostly contemporary issues of major public concern in the areas of foreign, defense, intelligence, and international economic policy.

Documents obtained by the Archive, including the records requested in this letter, are carefully analyzed, indexed and organized into document sets in the Archive's collection. Document sets are available for inspection and copying by scholars, journalists, Members of Congress and Congressional staffs, present and former public officials, other public interest organizations, and the general public at the Archive's Washington office. In addition, information in the documents will be disseminated across the country through distribution of comprehensive document indices to university and other research libraries and through the Archive's publications.

As the executive director of the Archive, I regularly use records such as those sought in this request in research on foreign and national security matters. In addition, the Archive and the Center both make all records available to a broad range of scholars, journalists, public interest organizations, members and the staff of Congress, and members of the general public.

I therefore request that you waive all search and reproduction fees pursuant to section 552(a)(4)(A), as amended. If you determine that the Archive does not fall within one of the two categories of requesters described above, this request would also qualify for favored treatment under the "all other requesters" category because disclosure of the information in the requested documents is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the Archive within the meaning of the Reform Act. See 5 U.S.C. 552(a)(4)(A)(iii). Should you decline to waive all fees, however, we are prepared to pay you normal search fees (and reproduction fees, if I decide to copy the records produced). Our willingness to pay fees is subject to our rights to appeal and litigate the fee waiver question, and payment would be deferred until exhaustion of such rights. I further ask that if you decline to waive fees that you set forth your reasons for doing so in writing and that you obtain our authorization before incurring search costs in excess of \$100.

In order to expedite the release of the listed documents, I request that you disclose them as they become available to you, without waiting until all the

documents have been assembled. If you have any questions that I might be able to answer regarding the identity of the records, their location, or the scope of the request, please call me. I look forward to receiving your response within the statutory time period.

Yours very truly,

Scott Armstrong
Executive Director

000000000001

01/18/1989

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Copies of all tapes, discs, and/or other storage formats for the PROFS System serving the Executive Office of the President and/or the National Security Council, and all information contained therein, as well as all records in whatever format derived from the PROFS System, from the date of the installation of said system to the end of the Reagan Administration. (The requester is prepared to narrow the scope of this request upon consultation.)

THE NATIONAL SECURITY ARCHIVE

SUITE 500 1755 MASSACHUSETTS AVENUE, N.W. WASHINGTON, D.C. 20036 (202) 797-0882

IN ALL CORRESPONDENCE PLEASE REFER
TO ARCHIVE FILE NO. 890034EOP001

January 18, 1989

Ms. Nell Doering
Chief, Records & Publications
Executive Office of the President
2200 New Executive Office Bldg.
Washington, DC 20503

RE: Freedom of Information Act Request

Dear Ms. Doering:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. Section 552, et seq. (as amended), I hereby request disclosure of the materials and documents described on the attachment to this letter for inspection and possible copying. I note for your information that we are making this FOIA request to preserve the materials in question which we understand might otherwise be improperly destroyed. In this vein, I have made possibly overlapping requests to the Executive Office of the President, the National Security Council and the National Archives and Records Administration. Once we have received assurances that the information will be properly preserved, we are willing to dramatically narrow the scope of the request for materials to be actually copied and provided.

If you regard any of these materials as non-records under the FOIA, I request that you retain copies of all such materials until we have had an opportunity to clarify your interpretation through litigation or congressional action. Similarly, if you regard any of these materials as exempt from the FOIA's disclosure requirements, I request that you nonetheless exercise your discretion to disclose them. In this connection I note that you are required under the FOIA to release any reasonably segregable nonexempt portions of documents containing information you regard as exempt. Section 552(b). To permit an intelligent, informed decision whether or not to file an administrative appeal of any denial decision, you are also requested to describe withheld records (or portions thereof) and explain the logical and factual basis for exemption claims. See Mead Data Central, Inc. v. Department of the Air Force, 566 F.2d 242, 251 (D.C. Cir., 1977).

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to create categories of requesters entitled to fee waivers. Pub.L. 99-570, Sec. 1803, 1804. One category consists of "educational or noncommercial scientific institution[s] whose purpose is scholarly or scientific research" and another consists of representatives of the "news media." 5 U.S.C. 552 (a)(4)(A)(ii)(II). Requesters in these groups receive an automatic waiver of all search and review fees, irrespective of the nature or contents of the documents requested. They can be charged standard duplication costs (in excess of the first one hundred copied pages), but these charges may also be waived in certain circumstances.

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Documents obtained by the Archive, including the records requested in this letter, are carefully analyzed, indexed and organized into document sets in the Archive's collection. Document sets are available for inspection and copying by scholars, journalists, Members of Congress and Congressional staffs, present and former public officials, other public interest organizations, and the general public at the Archive's Washington office. In addition, information in the documents will be disseminated across the country through distribution of comprehensive document indices to university and other research libraries and through the Archive's publications.

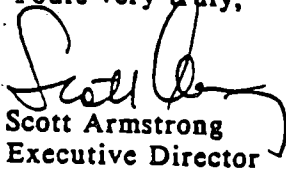
As the executive director of the Archive, I regularly use records such as those sought in this request in research on foreign and national security matters. In addition, the Archive and the Center both make all records available to a broad range of scholars, journalists, public interest organizations, members and the staff of Congress, and members of the general public.

I therefore request that you waive all search and reproduction fees pursuant to section 552(a)(4)(A), as amended. If you determine that the Archive does not fall within one of the two categories of requesters described above, this request would also qualify for favored treatment under the "all other requesters" category because disclosure of the information in the requested documents is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the Archive within the meaning of the Reform Act. See 5 U.S.C. 552(a)(4)(A)(iii). Should you decline to waive all fees, however, we are prepared to pay you normal search fees (and reproduction fees, if I decide to copy the records produced). Our willingness to pay fees is subject to our rights to appeal and litigate the fee waiver question, and payment would be deferred until exhaustion of such rights. I further ask that if you decline to waive fees that you set forth your reasons for doing so in writing and that you obtain our authorization before incurring search costs in excess of \$100.

In order to expedite the release of the listed documents, I request that you disclose them as they become available to you, without waiting until all the

documents have been assembled. If you have any questions that I might be able to answer regarding the identity of the records, their location, or the scope of the request, please call me. I look forward to receiving your response within the statutory time period.

Yours very truly,


Scott Armstrong
Executive Director

890034EOP001

01/19/1989

3667

Copies of all tapes, discs, and/or other storage formats for the PROFS System serving the Executive Office of the President and/or the National Security Council, and all information contained therein, as well as all records in whatever format derived from the PROFS System, from the date of the installation of said system to the end of the Reagan administration. (The requester is prepared to narrow the scope of this request upon consultation.)

THE NATIONAL SECURITY ARCHIVE

SUITE 500 1755 MASSACHUSETTS AVENUE, N.W. WASHINGTON, D.C. 20036 (202) 797-0882

IN ALL CORRESPONDENCE PLEASE REFER
TO ARCHIVE FILE NO. 890033NSC001

January 18, 1989

Ms. Nancy V. Menan
Director, FOI Office
National Security Council
375 Old Executive Office Building
Washington, DC 20506

RE: Freedom of Information Act Request

Dear Ms. Reger,

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. Section 552, et seq. (as amended), I hereby request disclosure of the materials and documents described on the attachment to this letter for inspection and possible copying. I note for your information that we are making this FOIA request to preserve the materials in question which we understand might otherwise be improperly destroyed. In this vein, I have made possibly overlapping requests to the Executive Office of the President, the National Security Council and the National Archives and Records Administration. Once we have received assurances that the information will be properly preserved, we are willing to dramatically narrow the scope of the request for materials to be actually copied and provided.

If you regard any of these materials as non-records under the FOIA, I request that you retain copies of all such materials until we have had an opportunity to clarify your interpretation through litigation or congressional action. Similarly, if you regard any of these materials as exempt from the FOIA's disclosure requirements, I request that you nonetheless exercise your discretion to disclose them. In this connection I note that you are required under the FOIA to release any reasonably segregable nonexempt portions of documents containing information you regard as exempt. Section 552(b). To permit an intelligent, informed decision whether or not to file an administrative appeal of any denial decision, you are also requested to describe withheld records (or portions thereof) and explain the logical and factual basis for exemption claims. See Mead Data Central, Inc. v. Department of the Air Force, 566 F.2d 242, 251 (D.C. Cir., 1977).

This request is made on behalf of the National Security Archive, a nonprofit public interest research institute and library located in Washington, D.C. and the Center for National Security Studies, a nonprofit public interest research facility located in Washington, D.C. The Archive and the Center are both organized and operated as a division of The Fund for Peace, Inc., a nonprofit corporation that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, and has been acknowledged by the Internal Revenue Service since November 19, 1962 to be "organized and operated exclusively for educational purposes."

The fee waiver provisions under section 552(a)(4)(A) of the FOIA were recently amended by the Freedom of Information Reform Act. The Reform Act's fee provisions became effective on April 25, 1987 and rewrote section 552(a)(4)(A)

to create categories of requesters entitled to fee waivers. Pub.L. 99-570, Sec. 1803, 1804. One category consists of "educational or noncommercial scientific institution[s] whose purpose is scholarly or scientific research" and another consists of representatives of the "news media." 5 U.S.C. 552 (a)(4)(A)(ii)(II). Requesters in these groups receive an automatic waiver of all search and review fees, irrespective of the nature or contents of the documents requested. They can be charged standard duplication costs (in excess of the first one hundred copied pages), but these charges may also be waived in certain circumstances.

On May 11, 1987 the Archive submitted a comprehensive memorandum to your agency providing documentation under penalty of perjury which establishes that the Archive is entitled to fee waivers under the categories of educational or noncommercial scientific institutions and representatives of the news media within the meaning of the Reform Act. To summarize, the Archive's purpose is to enrich public policy debate by making available records pertaining to important, mostly contemporary issues of major public concern in the areas of foreign, defense, intelligence, and international economic policy.

Documents obtained by the Archive, including the records requested in this letter, are carefully analyzed, indexed and organized into document sets in the Archive's collection. Document sets are available for inspection and copying by scholars, journalists, Members of Congress and Congressional staffs, present and former public officials, other public interest organizations, and the general public at the Archive's Washington office. In addition, information in the documents will be disseminated across the country through distribution of comprehensive document indices to university and other research libraries and through the Archive's publications.

As the executive director of the Archive, I regularly use records such as those sought in this request in research on foreign and national security matters. In addition, the Archive and the Center both make all records available to a broad range of scholars, journalists, public interest organizations, members and the staff of Congress, and members of the general public.

I therefore request that you waive all search and reproduction fees pursuant to section 552(a)(4)(A), as amended. If you determine that the Archive does not fall within one of the two categories of requesters described above, this request would also qualify for favored treatment under the "all other requesters" category because disclosure of the information in the requested documents is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the Archive within the meaning of the Reform Act. See 5 U.S.C. 552(a)(4)(A)(iii). Should you decline to waive all fees, however, we are prepared to pay you normal search fees (and reproduction fees, if I decide to copy the records produced). Our willingness to pay fees is subject to our rights to appeal and litigate the fee waiver question, and payment would be deferred until exhaustion of such rights. I further ask that if you decline to waive fees that you set forth your reasons for doing so in writing and that you obtain our authorization before incurring search costs in excess of \$100.

In order to expedite the release of the listed documents, I request that you disclose them as they become available to you, without waiting until all the

documents have been assembled. If you have any questions that I might be able to answer regarding the identity of the records, their location, or the scope of the request, please call me. I look forward to receiving your response within the statutory time period.

Yours very truly,

Scott Armstrong
Executive Director

890033NSC001

01/18/1989

3666

Copies of all tapes, discs, and/or other storage formats for the PROFS System serving the Executive Office of the President and/or the National Security Council, and all information contained therein, as well as all records in whatever format derived from the PROFS System, from the date of the installation of said system to the end of the Reagan administration. (The requester is prepared to narrow the scope of this request upon consultation.)

Exhibit 4

Report of the Congressional Committees Investigating the

Iran-Contra Affair

Appendix A: Volume 1
Source Documents

Daniel K. Inouye, *Chairman*,
Senate Select Committee
Lee H. Hamilton, *Chairman*,
House Select Committee

U.S. Senate Select Committee
On Secret Military Assistance to Iran
And the Nicaraguan Opposition

U.S. House of Representatives
Select Committee to Investigate
Covert Arms Transactions with Iran

November 13, 1987.—Committed to the Committee of the Whole House
on the State of the Union and ordered to be printed.

November 17, 1987.—Ordered to be printed.

Washington : 1988

From: NSACM --CPUA
To: NSOLN --CPUA

Date and time 09/03/83 21:54:09
JOHN M. POINDEXTER

Chapter 6 Footnote 76

UNCLASSIFIED

N 3265

NOTE FROM: ROBERT MCFARLANE
SUBJECT: Reply to Hamilton on Ollie's Activities

I have sent you both separately a draft letter I have composed to answer Lee Hamilton's letter on Ollie's activities. One or two annotations are appropriate. The reference to "insert #1" refers to paragraph one of page two of your draft letter. "insert #2" refers to the second paragraph of page two. Please do not share either this note or the separate draft with anyone. Will will prepare a smooth version of it for me Wednesday morning. Please bring me any edits you have. Ollie. don't send me any PROFS notes about it. Many thanks.

6-76

1500 x 4

222

For... Declassified/Released on 11/20/83
under provisions of E.O. 12345
J. S. Reger, National Security Council

UNCLASSIFIED

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ERUA
Gmail EUC

11/20/83
10/16/83
67

FILE: 0077

UNITED HOUSE COMMUNICATIONS AGENCY

Chapter 12, Footnote 69

N 12122

-- SECRET --

UNCLASSIFIED

026 70001 03000 --CP02 701 03010 --CP02

02/27/06 16102123

*** Reply to note of 02/27/06 00150

-- SECRET --

0076 70001 00000 UNCLASSIFIED

Subject: How are things?

Super Dillo, Well done--if the world only knew how many times you have kept a semblance of integrity and gumption to US policy, they could make you Secretary of State. But they can't know and would complain if they did--such is the state of democracy in the late 20th century. But the situation was terribly promising, as you know I do not hold Garboviller in high regard and as an particularly glad to have of apparent authority.

I have just gotten a note from John asking whether or not I could go some time next week and that the President is on board. I agreed. So better done and get some rest; let this word come to you in channel, but pack your bags to be ready to go in the next week or so. Incidentally, I have had periodic requests from Mike to assist in getting Vladimir Garboviller to come to Washington.

I have refused. Surely if they have any real bona fides they can get a name in Tehran from the Dulles embassy or somewhere else. I do not intend to tell Mike any of this nor info. Recommend against your doing so.

Grave note.

How are things?

UNCLASSIFIED

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1178

12-60

FILF: 0072

WHITE HOUSE COMMUNICATIONS AGENCY

Chapter 12, Footnote 60

UNCLASSIFIED

-- SECRET --

N 12122

[REDACTED]

02/27/06 161021Z

030 0000: 03000 --CP04 701 03000 --CP08
701 03000 --CP08

... reply to note of 02/27/06 00150

-- SECRET --

0070 0000: 000000 UNCLASSIFIED

Subject: How are things?
Roger Gille. Well done--if the world only knew how many times you have kept a semblance of integrity and gumption to US policy, they could make you Secretary of State. But they can't have and would complain if they did--such is the state of democracy in the late 20th century. But the situation was terribly promising. In you know I do not hold Eisenhower in high regard and so am particularly glad to hear of apparent authority.

I have just gotten a note from John asking whether or not I could go some time next week and that the President is on board. I agreed. So bunker down and get some rest; let this word come to you in channels, but pack your bags to be ready to go in the next week or so. Incidentally, I have had periodic requests from Mike to assist in getting Eleanor Eisenhower to come to Switzerland. I have refused. Surely if they have any real bona fides they can get a name in France from the State embassy or somewhere else. I do not intend to tell Mike any of this new info. Recommend against your doing so.

Grave Sala.
You are the boss?

[REDACTED]

Declassed on 5/6/87
Excluded from automatic
downgrading and
declassification

1178

12-60

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(405)

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FILE: 0479

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17 HOUSE COMMUNICATIONS AGENCY

UNCLASSIFIED

PAGE

NOTE FROM: OLIVER BOWEN

Subject: See also this report

Just returned last night from city.

the meeting serves to emphasize the need for direct contact with these people rather than continue the process by which we deal through intermediaries like Gorbunoff. Because CIL did not provide a translator for the session, we used Albert Malik, an LMCIF who runs the European operation for our Nicaraguan resistance support activity. Accompanied so that I did have someone along who could provide an "objective" account.

Throughout the session, Gorbunoff intentionally distorted much of the transmission and had to be corrected by our man on occasion on questions that finally had Albert translate both ways. Assessment at city & agreement we reached as follows:

--He often not have to check back w/ Venzon on decisions taken. --The part of Iran is terrified of a new Soviet threat. --They are seeking a rapprochement but are filled w/ fear & distrust. --All hostages will be released during next day during the next meeting. --They want most city urgently and have suggested Gusho in. All Bandar Abbas. --They are less interested in Iran/Iraq war than we originally believed. --They want technical advice more than arms or intelligence. --Tech advice should be on commercial & military assistance - not all tactics. --They committed to end anti-U.S. terrorism. --They noted the problems of working thru intermediaries & prefer dir. contact. --Noted that this was first US/Col contact in more than 5 yrs. --Important comparison risks to both sides - noted need for secrecy.

Noted that there were now 500, seven/three that we were unaware of. Half all of this could be so such much, I believe that we may well be on the verge of a major breakthrough - not only on the hostages/terrorism but on the relationship on a whole. We need only to go to this meeting which has no agenda other than to listen to each other to release the hostages and start the process. Have briefed both JAP and Casey -- neither very enthusiastic despite North summary along lines above. Believe that you will be chartered to go early next w/ - or maybe this weekend - but don't know how to take this happen. Have not told JAP that this note is being sent. Help. Pls call on records re earliest conversations. Warm, but fatigued regards, Keith

2 How are things?
 Note FROM: USCLM --CPUSA
 For: USCLM --CPUSA

02/27/06 10:01:30

See reply to note of 02/27/06 16:03

-- Secret --

NOTE FROM: OLIVER BOWEN

Subject: Exchange

Since the minutes of this meeting, met w/ Casey, JAP, and all have now agreed to press on. Believe we are indeed moving in the right direction. Just finished lengthy session w/ JAP he indicated that he has passed substance to you and has given us dates that you are not avail.

Will endeavor to sched. city so that there do not conflict but noted to JAP that it was their call as to date of city. Just rec'd msg in second via secure device we are using. You again confirmed that once we have set a date we shall have a very pleasant surprise. Dick & I believe that they may be preparing to release one of the hostages early. Dick also indicated that if counterpart at the city will be detained, Dick crowd you see slight God willing

Chapter 12
Footnote 61

1179

12-61

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UNCLASSIFIED

Shells will buy into this tomorrow when JAP brief him. With the grace of the good Lord and a little more hard work we will very soon have five SMRTS here and no one out way to a much more positive relationship than one which hinders you for lives.

I value our friendship and confidence very highly and did not mean to infer what you had revealed these exchanges. By asking that you not indicate ones to JAP I was only inferring that I had not told him anything of it so as not to compromise myself at a point in time when he needs to be absolutely certain that this can work. He is, as only you can know, under tremendous pressure on this matter and very concerned that it go according to plan. My part in this was very compared to his. I only had to deal with one session. He has to deal with the cabinet. Many thanks for yr trust. Warm regards, North

Exchanges
NSC FROM: USOLA --CPUS TO: NSMCH --CPUS
TO: NSMCH --CPUS

02/27/86 20:22:22

*** Reply to note of 02/27/86 16:02

-- SECRET --

NSC FROM: USOLA 0078
Subject: How are things?
Re reading things out of sequence due to fatigue. Many thanks for yr note. Have responded to most of this in my reply to exchanged - before I read this one. It concerns re Mike are shared here. Since re the passing of info, we seem well but poses a significant problem. Sir says he has info that Mike has a financial relationship w/ Corbo, Skirski and perhaps Schinowski. If true, this is not good. He also knew that Corbo told Mike everything and that is an additional reason to get Corbo out of the long range picture ASAP. We still still need to have him involved in the 1986 transactions since he manages the financial end for the Italianate Europe. We ought to get quietly and think about how we handle Mike so that he does not start talking out of disagreement (if that's a word). Have asked JAP for a session w/ you and Dick second as soon as possible after Dick returns tomorrow night to see where he is settling up on area delivery for the Mic resistance. A one of many talents of second in. Must be off. He happened to make a speech on aiding the Mic resistance to a group of supporters. Best regards, North

How are things?

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From NSRCM --CPLA
To: NSOLN --CPLA

Chapter 12, Footnote 62
Date and time 02/27/86 21:37-8

*** Reply to note of 02/27/86 20:11

UNCLASSIFIED N 41077

1363

NOTE FROM: ROBERT MCFARLANE

Subject: Exchanges

No sweat GI. I just sent a separate note about not sharing with John because I had forgotten to put it in the other note. And I fully understand the narrow path he is trying to walk between those who want to go balls out for the wrong reasons (Regan) and those who don't want to do it at all (GPS and Cap). So play

it any way you must. As for my commitments don't worry about them; set it up any way you wish that it works for them. I only mentioned it to John to ask that he try to give me a heads up soon so that I can cancel--which I am glad to do--with some grace.

12-62

UNCLASSIFIED

Declassified on 22 June 1987
under authority of E.O. 12357
by B. Smith, Defense Security Council

1205

UNCLASSIFIED

AKW026704

OLW00P Box 25-5
ADG 4/2/87

Chapter 12, Footnote 83

UNCLASSIFIED

From: NSRCH --CPCA
To: NSOLN --CPUA

Date and time 03/10/86 22:14:24

*** Reply to note of 03/10/86 21:10

N 41078

1364

~~SECRET~~

NOTE FROM: ROBERT MCFARLANE

Subject: How's It Going?

Roger Ollie. I guess I'm a little puzzled about the Iranian wiring diagram. From whom are we getting the word concerning a meeting in the Gulf? Is Gorba involved in that dialogue or is that info coming through the Israelis? It strikes me that it is probably OK to keep Gorba in the dark--to the extent that is possible to do so if there is another channel. Gorba is basically a self-serving mischief maker. Of course the trouble is that as far as we know, so is the entire lot of those we are dealing with. The Soviet threat is the strategic menace and I would guess that they would like to avoid having Russians in Iran. But it is going to take some time to get a feel for just who the players are on the contemporary scene in Teheran. So the sooner we get started the better.

I would be glad to meet to talk about the Marine Corps. I will be having lunch with Paul Nitze this Friday. How about right after that at about 2:00pm in your office?

Frankly, I would expect the heat from the Hill to become immense on you by summer. Consequently it strikes me as wise that you leave the White House. At the same time, there will be no one to do all (or even a small part of what) you have done. And if it isn't done, virtually all of the investment of the past five years will go down the drain.

How's this for a self-serving scenario: 1. North leaves the White House in May and takes 30 days leave. 2. July 1st North is assigned as a fellow at the CSIS and (lo and behold) is assigned to McFarlane's office 3. McFarlane/North continue to work the Iran account as well as to begin to build other clandestine capabilities so much in demand here and there. Just a knee jerk musing.

12-83

8 JUL 87
U.S. DEPT. OF STATE
INFORMATION SECURITY DIVISION

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OLW00F 80x34-6
ADP 4/2/87

1/10/86 [REDACTED] WHITE HOUSE COMMUNICATIONS AGENCY

UNCLASSIFIED

Finally, on a non subject of very much like to have a one-on-one w/ you in the next few days if at all possible. I have been advised by HONC that they have cut orders for me to go to 2d MASHIV this summer. This is a situation (like so many others) fraught w/ opportunity and risk. I, quite frankly don't know what to do about the situation, but will have to take some kind of action in the next few weeks. We very much appreciate yr good counsel on the merits/liabilities of such an assignment and advice on how to proceed. Warm regards and many thanks to both you and Joanny for the beautiful flowers.

See's It Going?
MSG FROM: DSCN --CPA TO: DSOL --CPA 03/10/86 09:00:10
TO: DSOL --CPA

*** Reply to note of 03/10/86 08:50

NOTE FROM: ROBERT MCPHAIL

Subject: See's It Going?

Robert: Many thanks.

See's It Going?

MSG FROM: DSCN --CPA TO: DSOL --CPA 03/10/86 07:23:30
TO: DSOL --CPA

*** Reply to note of 03/10/86 22:10

NOTE FROM: OLIVER DODD

Subject: See's It Going?

My gut response on yr scenario re North's personal situation is that I like it. There is a question as to how to make it all happen, but it wd be good to discuss w/ you about Friday. Have blocked some on my sched. Looking forward to it. In re the Dorba prob: He is aware of the dish atg and is basically carrying our water on the atg since he is still the only access we have to the Iranian political leadership. It wd be useful, I believe, for you to talk w/ George Cave, the Agency's Iran expert. He shares our concern that we may be dealing only w/ those who have an interest in arms sales and their own personal financial gain and believes the "Russians are coming" approach is about the only way to broaden the perspective. We wd do well to explore other contacts if they can be opened.

George is going to see what we have on this so that we can assess whether it wd be useful to make such an approach. He advises that if we were able to get to [REDACTED] or [REDACTED] w/ this message we might be able to make some headway. Will advise. If you wd like to meet w/ George, pls let me know and I will arrange. Warm regards. North BT

See's It Going?
MSG FROM: DSCN --CPA TO: DSOL --CPA 03/10/86 22:10:20
TO: DSOL --CPA

*** Reply to note of 03/10/86 21:10

NOTE FROM: ROBERT MCPHAIL

Subject: See's It Going?

Robert: I guess I'm a little puzzled about the Iranian wiring diagram.

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Chapter 12
Footnote 34

12-84

1193

1211

Chapter 12, Footnote 127

12-127

UNCLASSIFIED

From: NSJMP --CPUA
To: NSOLN --CPUA

Date and time 04/16/86 19:02.42

N 9212

*** Reply to note of 04/16/86 16:40

-- SECRET --

NOTE FROM: JOHN POINDENTER
Subject: PRIVATE BLANK CHECK

You may go ahead and go, but I want several points made clear to them. There are not to be any parts delivered until all the hostages are free in accordance with the plan that you laid out for me before. None of this half shipment before any are released crap. It is either all or nothing. Also you may tell them that the President is getting very annoyed at their continual stalling. He will not agree to any more changes in the plan. Either they agree finally on the arrangements that have been discussed or we are going to permanently cut off all contact. If they really want to save their asses from the Soviets, they should get on board. I am beginning to suspect that doesn't have much authority.

cc: NSPBT --CPUA PAUL THOMPSON

5/6/87
10:10:00 04 10 12.03
1-2 10:10:00 04 10 12.03

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426

12-159

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Chapter 12
Textnote 163

NOTE FROM JOHN POINDRISTEN
Subject: Iran
GOOD WORK. LPT'S DISCUSS AT LUNCH.

Iran
MSG FROM: NSOLN --CPUA TO: NSJNP --CPUA
To: NSJNP --CPUA

05/08/86 08:07:46

*** Reply to note of 05/06/86 00:55

Initially Declassified/Released on July 1987
Under provisions of E.O. 12356
by P. Reger, National Security Council

~~SECRET~~

NOTE FROM: OLIVER NORTH
Subject: Iran

Done. I believe we have succeeded. Deposit being made tomorrow (today is a bank holiday in Switzerland). Release of hostages set for week of 19 May in sequence you have specified. Specific date to be determined by how quickly we can assemble requisite parts. Thank God - No answers prayers. V/A, North

Iran
MSG FROM: NSOLN --CPUA TO: NSJNP --CPUA
To: NSJNP --CPUA

05/08/86 08:02:59

*** Reply to note of 05/06/86 01:00

~~SECRET~~

NOTE FROM: OLIVER NORTH
Subject: CONTRA PROJECT

Yes, in general terms. He is supportive, as is Elliott. It is, to say the least, a high risk option - but it may be the only way we can ever get this thing to work. It is also important for you to know that [redacted] sent him to see me with the following offer: The Israelis wd be willing to put 20-50 Spanish speaking military trainers/advisors into the ONV if we want this to happen. They wd do this in concert with an Israeli plan to sell the R-77 fighter to Honduras as a replacement for the 28 yr old A-1H which [redacted]

(1457) 23+24
JMP 9/27/85
24

1221

12-163