

FOIA MARKER

This is not a textual record. This is used as an administrative marker by the Clinton Presidential Library Staff.

Folder Title:

[Memo for the White House Staff, July 2, 1993] [Loose]

Staff Office-Individual:

Counsel's Office

Original OA/ID Number:

CF 670

Row:

18

Section:

2

Shelf:

1

Position:

2

Stack:

v

THE WHITE HOUSE
WASHINGTON

OFFICE COPY

July 2, 1993

MEMORANDUM FOR WHITE HOUSE STAFF

FROM: BERNARD W. NUSSBAUM
COUNSEL TO THE PRESIDENT

CLIFFORD M. SLOAN
ASSOCIATE COUNSEL TO THE PRESIDENT

RE: Policy Regarding Investigations and Investigatory
Agencies

In prior memoranda of February 22, 1993 and March 9, 1993, we set forth policies governing communications between members of the White House staff and independent regulatory agencies, executive branch agencies, and their components. This memorandum is intended to supplement our prior memoranda and to explain White House policy regarding investigations and investigatory agencies.

(1) CONTACTS WITH INVESTIGATORY AGENCIES

White House contacts with investigatory agencies may arise in three circumstances: (1) contacts regarding the initiation of an investigation, (2) contacts regarding a pending investigation or case, and (3) contacts regarding administrative matters.

a. The FBI

White House staff may have knowledge of a possible violation of law or wrongful activities involving White House facilities or personnel. Such information should be communicated to the Counsel to the President. If Counsel determines that contact with the FBI is warranted, Counsel will initially contact the Attorney General, the Deputy Attorney General, or the Associate Attorney General. If continuing contact is required, Counsel and the senior Justice Department official with whom Counsel is dealing will design and monitor the continuing contact.

As stated in prior memoranda, with respect to pending investigations or cases, any written or oral communications should be directed to the Counsel to the President. If appropriate and necessary, Counsel will contact the Attorney General, the Deputy Attorney General, or the Associate Attorney

General. Here too, if continuing contact is required, Counsel and the senior Justice Department official with whom the Office is dealing will design and monitor that continuing contact.

Finally, with respect to contacts regarding administrative matters, White House personnel may have a need to communicate with Justice Department and FBI personnel on a variety of issues. These issues include policy, legislation, budgeting, and appointments. Members of the White House staff may deal with the appropriate persons in Justice and the FBI on such matters, just as with other Departments and agencies. The Counsel to the President has a need to communicate with FBI personnel about background investigations and clearances of government officials, and may communicate directly with appropriate FBI officials for that purpose.

b. IRS

It is never appropriate for White House personnel to initiate an investigation or audit by directly contacting the Internal Revenue Service. To the extent that White House officials believe that they have information regarding criminal tax violations by federal employees, that information should be communicated to the Counsel to the President. If appropriate and necessary, Counsel will communicate that information to the Attorney General.

As stated in prior memoranda, with respect to pending Treasury or IRS investigations or cases, a policy similar to the policy regarding the FBI is followed. White House personnel should refer any written or oral communications about a pending investigation or case to the Counsel to the President. If appropriate and necessary, Counsel will communicate with the Deputy Secretary of Treasury. If continuing contact is required on particular matters, it will be left to Counsel and the Deputy Secretary of Treasury to design and monitor that continuing contact.

Finally, with respect to contacts regarding administrative matters, White House personnel have a need to communicate with Treasury and IRS personnel on issues such as policy, legislation, budgeting, and appointments. White House personnel may deal with the appropriate persons in Treasury and IRS about such matters, just as with other Departments and agencies. The Counsel to the President also has a need to communicate with IRS personnel about routine "tax checks" of prospective government officials, and may communicate directly with appropriate IRS officials for that purpose.

(2) WHITE HOUSE PRESS OFFICE DISCLOSURE OF ONGOING INVESTIGATIONS

The White House Press Office generally should not disclose ongoing investigations. In extraordinary circumstances, it is possible that a disclosure would be determined to serve the public interest. Even in such extraordinary circumstances, Press Office disclosure should be made only with the approval of (1) the Counsel to the President and (2) the Chief of Staff or Deputy Chief of Staff. Such disclosure should be made, moreover, if possible, only after consultation between the Counsel to the President and senior officials of the investigative entity's Department.

(3) PRESS OFFICE CONTACT WITH FBI

The White House Press Office responds to inquiries and provides information. A routine administrative function of the Office is consultation with spokespersons for Departments and agencies regarding public statements and publicly available information. Nevertheless, it is essential to avoid any possible appearance of interference with the FBI. Accordingly, in the future, if the Press Office desires to communicate with FBI spokespersons concerning public statements about a pending case or investigation, the Press Office should contact the Counsel to the President. If the communication is appropriate, Counsel will notify the Attorney General, the Deputy Attorney General, or the Associate Attorney General before it takes place. If continuing contact is required, Counsel and the senior Justice Department official with whom Counsel is dealing will design and monitor the continuing contact.