

FOIA MARKER

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

Folder Title: Chron File - March 1994 #1 [2]				
Staff Office-Individual: Defense Policy-Bell, Robert				
Original OA/ID Number: 263				
Row: 31	Section: 3	Shelf: 4	Position: 1	Stack: V

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. memo	For the President from Anthony Lake. Subject: Extension of the Moratorium on U.S. Nuclear Testing. Record ID: 9401315. (2 pages)	02/22/1994	P1/b(1)
001b. letter	To Congress from the President. Subject: [Submission of Annual Nuclear Testing Report.] (6 pages)	02/22/1994	P1/b(1)
002a. briefing paper	ABM/TMD Demarcation Instructions for SCC-47, Executive Summary. (6 pages)	03/05/1994	P1/b(1)
002b. briefing paper	ABM/TMD Demarcation Instructions for SCC-47. (14 pages)	03/05/1994	P1/b(1)
003a. memo	For Executive Secretary, National Security Council. Subject: Significant Military Exercise - DOGU AKDENIZ 94. (1 page)	03/03/1994	P1/b(1)
003b. cable	re: Part I Significant Military Exercise Brief. [Dogu Akdeniz 94] (1 page)	01/14/1994	P1/b(1)
004. memo	Legislative Referral Memorandum LRM #D-551. (1 page)	02/02/1994	P3/b(3)
005a. memo	Duplicate of vz4541_004a. Record ID: 9310047. (1 page)	03/04/1994	P1/b(1)
005b. memo	Duplicate of vz4541_004b. (2 pages)	03/04/1994	P1/b(1)
005c. memo	Duplicate of vz4532_003b. Record ID: 9310074. (2 pages)	02/14/1994	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 263

FOLDER TITLE:

Chron File - March 1994 #1 [2]

2016-0152-F

vz4545

RESTRICTION CODES

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

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

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
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C. Closed in accordance with restrictions contained in donor's deed of gift.
PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).
RR. Document will be reviewed upon request.

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

March 3, 1994

ACTION

MEMORANDUM FOR ANTHONY LAKE

THROUGH: / ROBERT BELL *RB*

FROM: KEITH HAHN *KH*

SUBJECT: Letter to the President from Senators Thurmond and Coats RE Homosexuals in the Military

At Tab B Senators Thurmond and Coats have written the President to express their concern over the Administration's decision not to appeal the D.C. Circuit's opinion in Steffan v. Aspin and their reservations about the Defense Department's regulations implementing the new policy on homosexual conduct in the military.

The response to the senators at Tab A provides DoD-approved language on future intentions with regard to Steffan v. Aspin and recently released guidance to military commanders for implementing new directives on homosexuals in the military.

Concurrences by: Jeremy Rosner and Alan Kretzko *OK*

RECOMMENDATION

That you forward Tab I to the President.

Attachments

Tab I Memorandum for the President
Tab A Letters to Senator Thurmond and Senator Coats
Tab B Incoming Correspondence

THE WHITE HOUSE
WASHINGTON

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: ANTHONY LAKE
SUSAN BROPHY

SUBJECT: Letter from Senator Thurmond and Senator Coats RE
Homosexuals in the Military

Purpose

To respond to a letter from Senators Thurmond and Coats in which they express their concern over the Administration's decision not to appeal the D.C. Circuit's opinion in Steffan v. Aspin and their reservations about the Defense Department's regulations implementing the new policy on homosexual conduct in the military.

Background

Since this letter was written, the Department of Justice, on behalf of Defense, has filed a petition for rehearing of the D.C. Circuit's decision in Steffan. On January 7, the full D.C. Circuit decided to rehear the case. More recently, Defense has issued Directives which define the term "sexual orientation" and "Guidelines for Fact-Finding Inquiries into Homosexual Conduct" which do not unduly constrain military commanders. These actions, explained in greater detail at Tab A, have alleviated most of the concerns of Senators Thurmond and Coats.

RECOMMENDATION

That you sign the letters at Tab A.

Attachments

Tab A Letters to Senator Thurmond and Senator Coats
Tab B Incoming Correspondence

cc: Vice President
Chief of Staff

THE WHITE HOUSE

WASHINGTON

Dear Senator Thurmond:

Thank you for your letter of January 6, 1994 regarding the decision in Steffan v. Aspin and the Defense Department's regulations implementing the new policy on homosexual conduct in the Armed Forces.

In the time since you wrote, the Department of Justice, on behalf of the Department of Defense, filed a petition for rehearing of the D.C. Circuit's decision in Steffan. The petition asked the court to reconsider the requirement that Mr. Steffan be commissioned as an officer because that requirement exceeded the court's authority since.

The petition also expressed DoD's disagreement with the ruling that the old policy on military service by homosexuals was unconstitutional. Among other problems, the ruling was based on an erroneous interpretation of the old policy and failed to accord traditional deference to the judgement of the Armed Forces on military matters. Nevertheless, on January, the full D.C. Circuit decided to rehear the entire case. DoD intends to defend the old policy before the full court.

Regarding DoD's implementing regulations on the new policy, I believe that they are fully consistent with the Defense Authorization Act. In order to provide more guidance to commanders and other personnel in the field, the regulations necessarily contain more detail than the Act. Secretary Perry can address in greater detail the two specific concerns you raised about the regulations.

I believe the steps we have taken and the revised regulations faithfully implement the Defense Authorization Act and are workable in the field. Thank you again for bringing your concerns to my attention.

Sincerely,

The Honorable Strom Thurmond
United States Senate
Washington, D.C. 20510

THE WHITE HOUSE

WASHINGTON

Dear Senator Coats:

Thank you for your letter of January 6, 1994 regarding the decision in Steffan v. Aspin and the Defense Department's regulations implementing the new policy on homosexual conduct in the Armed Forces.

In the time since you wrote, the Department of Justice, on behalf of the Department of Defense, filed a petition for rehearing of the D.C. Circuit's decision in Steffan. The petition asked the court to reconsider the requirement that Mr. Steffan be commissioned as an officer because that requirement exceeded the court's authority since.

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I believe the steps we have taken and the revised regulations faithfully implement the Defense Authorization Act and are workable in the field. Thank you again for bringing your concerns to my attention.

Sincerely,

The Honorable Dan Coats
United States Senate
Washington, D.C. 20510

0269

SAM NUNN, GEORGIA, CHAIRMAN

J. J. EXON, SKA	STROM THURM	SOUTH CAROLINA
CARL LEVIN, MICHIGAN	JOHN W. WARNER, VIRGINIA	
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CHARLES S. ROBB, VIRGINIA	LAUCH FAIRCLOTH, NORTH CAROLINA	
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RICHARD L. REYNARD, STAFF DIRECTOR FOR THE MINORITY

United States Senate

COMMITTEE ON ARMED SERVICES
WASHINGTON, DC 20510-6050

94 JAN 7 P2:11

January 6, 1994

The President
The White House
Washington, DC 20500

Dear Mr. President:

Last year the issue of homosexuality in the armed forces was the subject of considerable controversy. During last year's congressional session, we worked closely with the Administration on a bipartisan basis to develop a statutory policy regarding homosexuality in the armed forces.

We are concerned, however, that two recent developments could undermine the bipartisan consensus that was achieved last year, and lead to a renewed debate on homosexuality in the armed forces. First, we are dismayed that the Administration decided to not appeal the merits of the D.C. Circuit's opinion in Steffan v. Aspin. The decision represents an unwarranted intrusion by the judiciary into military matters, and it is inconceivable to us that the Administration would allow such a decision to go unchallenged. Moreover, because the Steffan case is so poorly crafted (e.g., it did not even discuss the leading cases from other circuits upholding the DoD policy), it provided an excellent vehicle for obtaining an early decision sustaining the policy, either by the D.C. Circuit en banc or by the Supreme Court. By leaving the underlying opinion undisturbed, the Administration sends the wrong message to other courts -- and to the men and women in the armed forces who are counting on the Administration to uphold the policy.

Second, we have serious reservations about the regulations implementing the new law, which were issued by the Department of Defense on December 22, 1993. For example, the regulations repeatedly use a term -- "sexual orientation" -- which is not in the statute, and which is not clearly defined in the regulations.

As a result, there is a significant risk that commanders in the field, as well as courts, will have difficulty applying the law in the manner intended by Congress. The law establishes specific grounds for separation (homosexual acts, statements, and marriages) and very limited grounds for retention (e.g., the burden on the servicemember to overcome the rebuttable presumption). The regulations should give primary emphasis to these statutory provisions, and ensure that any related guidance does not undercut the clarity of these provisions.

President Clinton
Page Two

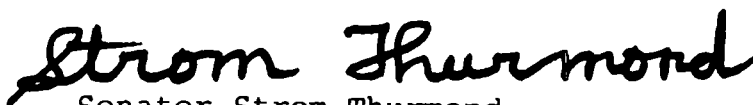
Another concern involves the guidance on investigations. This guidance appears to place many limits on commanders that are not applicable to other disciplinary matters. Moreover, the regulations fail to make it clear that there is no limitation on the ability to investigate matters that are the subject of separation -- homosexual acts, statements, and marriages.

Because the new regulations do not take effect until February 5, 1994, there is ample opportunity to address these and other concerns. Such clarification is particularly important in terms of the implementing regulations that will be issued by the military departments.

We are fully prepared to ensure that these matters are the subject of detailed examination in oversight hearings. We are also prepared to pursue further amendments if the Department does not make the necessary changes in the regulations. We are hopeful, however, that further review of the rules by the Department of Defense will result in the changes needed to fully implement the law in accordance with Congressional intent.

We appreciate your consideration of our views.

Respectfully,



Senator Strom Thurmond
Ranking Minority



Senator Dan Coats
Ranking Minority
Subcommittee on
Military Readiness
and Defense
Infrastructure

ST/as
cf: Secretary of Defense

~~SECRET~~

~~SECRET~~

1315

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20508

February 22, 1994

rec'd 3/3

ACTION

MEMORANDUM FOR ANTHONY LAKE

THROUGH: ROBERT G. BELL *RGB*
FROM: STEVEN P. ANDREASEN *SAA*
SUBJECT: Report to Congress on Nuclear Testing

Section 507 of the Energy and Water Development Appropriations Act, 1993 (Public Law 102-377), requires the President to submit a report on nuclear weapons testing by March 1 for the period October 1, 1994 through September 30, 1995.

The attached letter from the President to Congress (Tab A) fulfills the requirements of Section 507.

Concurrence: Jeremy Rosner Alan Kreczko *AK*

(P)

RECOMMENDATION

That you sign the memorandum to the President at Tab I, asking him to sign the letters at Tab A pursuant to Section 507.

Attachments

Tab I Memorandum to the President
Tab A Letters to Members of Congress

DECLASSIFIED
E.O. 13526
White House Guidelines, September 11, 2006
By *VZ* NARA, Date *10/3/2016*
2016-0192 - F

~~SECRET~~

Declassify on: OADR

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Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. memo	For the President from Anthony Lake. Subject: Extension of the Moratorium on U.S. Nuclear Testing. Record ID: 9401315. (2 pages)	02/22/1994	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 263

FOLDER TITLE:

Chron File - March 1994 #1 [2]

2016-0152-F
vz4545

RESTRICTION CODES

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

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

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PRM. Personal record misfile defined in accordance with 44 U.S.C.
2201(3).

RR. Document will be reviewed upon request.

Withdrawal/Redaction Marker

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001b. letter	To Congress from the President. Subject: [Submission of Annual Nuclear Testing Report.] (6 pages)	02/22/1994	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 263

FOLDER TITLE:

Chron File - March 1994 #1 [2]

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RR. Document will be reviewed upon request.

3/3/74

To: West Wing Desk
Secretariate

From: Steve Anderson

After the President signs the letters,
we will need to send a cable to London
(and other posts) informing them of
the President's decision - before the
letters are delivered to the Hill.

Please let me know when the President
has signed, so I can release the cables;
and please don't deliver the letters to
the Congress until I (or Bob Bell)
give the green light.

Thanks.

National Security Council
The White House

rec'd 3/4
7:15AM

PROOFED BY: _____ LOG # 1315
URGENT NOT PROOFED: WA SYSTEM PRS NSC INT
BYPASSED WW DESK: _____ DOCLOG WA AVO _____

	SEQUENCE TO	HAS SEEN	DISPOSITION
Reed	1	JWR	
Kenney			
Itoh			
Soderberg	2	M	
hbr Berger	3		
Lake			
Situation Room			
West Wing Desk	4		
NSC Secretariat	5		
Andreassen	6		FFA

A = Action I = Information D = Dispatch R = Retain N = No Further Action

cc: VP McLarty Other _____

Should be seen by: _____
(Date/Time)

COMMENTS:

Per Andreassen - Wolin
Conversation

cc: KK

3 APR 91 7:25

DISPATCH INSTRUCTIONS:

★ SEE ATTACHED NOTE
FROM STEVE ANDREASSEN

E-4 Sec's Office has desked.

~~SECRET~~

~~SECRET~~

SPA Ctm
Chen
20286

NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20508

March 4, 1994

ACTION

MEMORANDUM FOR SAMUEL BERGER

THROUGH: ROBERT G. BELL *SRB for*
FROM: STEVEN P. ANDREASEN *SPA*
SUBJECT: Agenda and Paper for DC Meeting on ABM/TMD
Demarcation Instructions for SCC-47

The Deputies Committee will meet next Wednesday, March 9, from 4:00 - 5:30 in the Situation Room to consider the Decision Paper on "ABM/TMD Demarcation Instructions for SCC-47." SCC-47 begins March 21; in order to allow time for a Principals Committee Meeting, decisions by the President and advance communication of our position to our negotiating partners, we need to hold the DC as early as possible.

We have prepared a notice of meeting memorandum from Will Itoh to participating agencies, along with an agenda and the Decision Paper.

RECOMMENDATION

That you authorize Will Itoh to sign the notice of meeting memorandum (Tab I) forwarding the agenda and Decision Paper to participating agencies.

Approve_____ Disapprove_____

Attachments

Tab I Memorandum to Agencies
Tab A Agenda
Tab B Decision Paper

~~SECRET~~

Declassify on: OADR

DECLASSIFIED
E.O. 13526

White House Guidelines, September 11, 2006

By *RL* NARA, Date *10/3/2016*

2016-0152 4

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~~SECRET~~

20286

NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20508

MEMORANDUM FOR

MR. LEON FUERTH
Assistant to the Vice President
for National Security Affairs

MR. MARC GROSSMAN
Executive Secretary
Department of State

COLONEL ROBERT P. MCALEER
Executive Secretary
Department of Defense

MS. ANN LAVIN
Director, Executive Secretariat
Department of Energy

DR. GORDON ADAMS
Associate Director for National
Security & International Affairs
Office of Management and Budget

AMB. RICK INDERFURTH
Office of the Representative
of the United States to
the United Nations

MR. JOHN A. LAUDER
Executive Secretary
Central Intelligence Agency

COLONEL T. R. PATRICK
Secretary
Joint Chiefs of Staff

JANE WALES
Associate Director for
National Security &
International Affairs
Office of Science and
Technology Policy

MS. BARBARA STARR
Executive Secretary
Arms Control and Disarmament
Agency

SUBJECT: ABM/TMD Demarcation Instructions for SCC-47 (S)

The Deputies Committee will meet Wednesday, March 9, 1994, from 4:00 to 5:30 in the Situation Room to discuss ABM/TMD Demarcation Instructions for SCC-47, beginning March 21 in Geneva. The agenda and decision paper on this issue are attached. (S)

William H. Itoh
Executive Secretary

Attachment
Agenda
Decision Paper

~~SECRET~~

Declassify on: OADR

DECLASSIFIED

E.O. 13526

White House Guidelines, September 11, 2006

By W NARA, Date 10/3/06

2016-0451-f

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DEPUTIES COMMITTEE MEETING
DATE: March 9, 1994
LOCATION: The Situation Room
TIME: 4:00 - 5:30

ABM/TMD DEMARCATION INSTRUCTIONS FOR SCC-47

Agenda

- I. Introduction.....NSC
- II. Discussion.....All participants
- III. Summary.....NSC

~~SECRET~~

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E.O. 13526
White House Guidelines, September 11, 2006
By VL NARA, Date 10/3/2016
2016-052-F

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002a. briefing paper	ABM/TMD Demarcation Instructions for SCC-47, Executive Summary. (6 pages)	03/05/1994	P1/b(1)

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~~CONFIDENTIAL~~

1633

~~CONFIDENTIAL~~

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

March 4, 1994

ACTION

MEMORANDUM FOR WILLIAM H. ITOH

THROUGH:

ROBERT BELL *RB*

FROM:

KEITH HAHN *KH*

SUBJECT: Significant Military Exercise DOGU AKDENIZ 94

Attached at Tab I is a proposed memorandum to the Executive Secretary, Department of Defense, concurring in military exercise DOGU AKDENIZ 94. At Tab II Defense recommends approval and State concurs.

DOGU AKDENIZ 94 is a Turkish hosted multinational exercise involving NATO allies. It exercises anti-submarine, anti-surface and anti-air warfare, coordinated air defense operations, electronic warfare and command, control and communications operations. It is scheduled to take place in the Mediterranean and Aegean Seas March 17-25.

The critical cancellation date is March 10, 1994.

Concurrence by:

Dan Fried *DF*

RECOMMENDATION

That you sign the memorandum at Tab I concurring in the exercise.

Attachments

Tab I Memorandum for Signature
Tab II Incoming Correspondence

~~CONFIDENTIAL~~

DECLASSIFIED

E.O. 13526

White House Guidelines, September 11, 2006

By *12* NARA, Date *10/3/2016*

2016-0152-F

~~CONFIDENTIAL~~

NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20506

MEMORANDUM FOR COL. ROBERT P. MCALEER
Executive Secretary
Department of Defense

SUBJECT: Significant Military Exercise DOGU AKDENIZ 94

The National Security Council staff concurs in military exercise
DOGU AKDENIZ 94.

William H. Itoh
Executive Secretary

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
003a. memo	For Executive Secretary, National Security Council. Subject: Significant Military Exercise - DOGU AKDENIZ 94. (1 page)	03/03/1994	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 263

FOLDER TITLE:

Chron File - March 1994 #1 [2]

2016-0152-F
vz4545

RESTRICTION CODES

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

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

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

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

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

- b(1) National security classified information [(b)(1) of the FOIA]
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- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Withdrawal/Redaction Marker

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
003b. cable	re: Part I Significant Military Exercise Brief. [Dogu Akdeniz 94] (1 page)	01/14/1994	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 263

FOLDER TITLE:

Chron File - March 1994 #1 [2]

2016-0152-F
vz4545

RESTRICTION CODES

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NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20508

March 4, 1994

ACTION

MEMORANDUM FOR WILLIAM H. ITOH

THROUGH: ROBERT BELL *RB*

FROM: PETER FEAVER *PF*

SUBJECT: Defense Proposed Report RE: HR 946, Posthumous
Award of the Medal of Honor to John Peter Manzi

Tab II is a proposed DoD report indicating their opposition to HR 946, a bill to waive the time limitations associated with a decision to award the Medal of Honor.

John Peter Manzi served in Vietnam and was killed in action on September 7, 1967. HR 946, if passed, would permit the President to award Sergeant Rivers the Medal of Honor, notwithstanding the time limitations in section 3744 of title 10, U.S. Code.

The Department of Defense is opposed on principle to lifting the time limitations associated with the Medal of Honor. By law, a recipient must be nominated within two years of the act justifying the award. This restriction is designed to insure that the award will be granted while the facts concerning the valorous act are fresh in the minds of witnesses. The DoD has enforced this restriction consistently, without regard to the race of the candidate or the circumstances surrounding the nomination. The Department argues that without the time restriction there is no fair or accurate way to decide which brave soldiers should receive special recognition.

Concurrence by: Jeremy Rosner *JR*

RECOMMENDATION

That you sign and forward the memorandum at Tab I concurring in the proposed report.

Attachments

Tab I Memorandum for Signature
Tab II Incoming Correspondence

NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20508

MEMORANDUM FOR RONALD K. PETERSON

FROM: WILLIAM H. ITOH

SUBJECT: Defense Proposed Report RE: HR 946, Posthumous
Award of the Medal of Honor to John Peter Manzi

The National Security Council staff concurs in the proposed report.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503

1799

March 7, 1994

LEGISLATIVE REFERRAL MEMORANDUM

LRM #I-2182

TO: Legislative Liaison Officer -

✓ NSC - William H. Itoh - (202)395-3723 - 249

FROM: RONALD K. PETERSON (for)
Assistant Director for Legislative Reference

OMB CONTACT: MIKE GOAD (395-7301)
Secretary's line (for simple responses): 395-6194

SUBJECT: Defense Proposed Report RE: HR 946,
Posthumous Award of the Medal of Honor to
John Peter Manzi

DEADLINE: MONDAY, March 14, 1994

OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please advise us if this item will affect direct spending or receipts for purposes of the the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

CC:

J. Fish
K. MacIntyre
J. Palmieri
P. Griffin
B. Martin

The Honorable Ronald V. Dellums
Chairman, Committee on Armed Services
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This responds to your request to the Secretary of Defense for the views of the Department of Defense on H.R. 946, 103rd Congress, a bill "Authorizing the President to award posthumously the Medal of Honor or other appropriate military decoration to John Peter Manzi, killed in action on September 7, 1967, in the Republic of Vietnam."

The Department of the Navy, on behalf of the Department of Defense, opposes H.R. 946.

The purpose of the bill is to authorize the President to posthumously award the Medal of Honor or other appropriate military decoration to Lieutenant Manzi, notwithstanding the requirements of sections 6248 and 6250 of title 10, United States Code. Section 6248 requires the submission of an official recommendation for a Medal of Honor or certain other awards within three years and that the award be made within five years of the act to be recognized. Section 6250 similarly requires that an award be presented within five years of the act or service justifying the award.

The records shows that when Lieutenant Manzi was killed in action on September 7, 1967 in the Republic of Vietnam, he was a platoon commander and was engaged in a battalion size operation. In this regard, it is reasonable to believe that his superiors were on the scene and would have been aware of any heroic actions warranting consideration of a personal award. In the performance of duties as a platoon commander, one is expected to take appropriate actions to insure not only the safety and well being of his troops but their readiness for and actions in combat.

For awards and decorations to retain their proper meaning and value, restrictive regulations which govern their issue are essential. These constraints recognize that a reasonable time should be allowed for commanders to review the actions of their subordinates and, where appropriate, submit award recommendations. The on-scene commanders are knowledgeable, often were engaged in the same action, and can obtain eyewitness statements which would be accurate, thorough and timely. The passage of many years makes it extremely difficult to accomplish those actions and legislation waiving the time limits for Lieutenant Manzi would single him out for preferential treatment over other persons whose accomplishments and service were adjudicated in accordance with the statutory requirements.

We regret our response could not be more favorable. This in no way detracts from Lieutenant Manzi's service in the Marine Corps and loss of life for his country.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Sincerely,

Copy to:
The Honorable Floyd D. Spence
Ranking Minority Member

NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20506

March 4, 1994

ACTION

MEMORANDUM FOR WILLIAM H. ITOH

THROUGH:

ROBERT BELL *RBB*

FROM:

KEITH HAHN *KH*

SUBJECT:

Defense Draft Bill Department of Defense
Authorization Act for Fiscal Year 1995 - General
Provisions (103-036)

In a break from past practice, OMB has forwarded the DoD Omnibus Bill in its entirety for interagency clearance. Last year, they broke out individual sections for review. The Omnibus Bill at Tab II contains several proposals -- many that are new, but several that we reviewed last year. Some of the recycled proposals were cleared by the interagency but no action was taken on them by Congress. A larger group of proposals were filed by DoD with OMB but not forwarded to Congress either because they were deemed inconsistent with Administration goals, there was insufficient supporting information or they were opposed by other agencies.

The response to OMB at Tab I breaks out these proposals into categories, recommending that those already cleared be forwarded to Congress, those that were filed with OMB without action be returned to DoD for amplification as necessary and subsequently individually reviewed by the interagency and, finally, that all new proposals be approved **except** section 104 - Repeal of Requirement for Specific Authorization for Deployment of Strategic Defense Initiative System.

Concurrence by:

In draft
Jeremy RosnerRECOMMENDATION

That you sign the memorandum at Tab I indicating our concurrence or nonconcurrence in the various sections of the omnibus bill.

Attachments

Tab I Memorandum for Signature
Tab II Incoming Correspondence

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

MEMORANDUM FOR RONALD K. PETERSON

FROM: WILLIAM H. ITOH

SUBJECT: Defense Draft Bill Department of Defense
Authorization Act for Fiscal Year 1995 - General
Provisions (DoD 103-036)

The National Security Council staff has reviewed the subject bill and recommends the following:

- All sections that were cleared last year and forwarded to Congress should be resubmitted as written. This includes Sections 101, 203, 204, 313, 511 and 712.
- Sections that were filed without action last year should be returned to DoD for amplification as necessary and subsequently **individually** reviewed by the interagency. This includes Sections 202, 215, 314, 322, 323, 331, 532, 605, 607, 609, 613, 622, 623, 627, 628 and 711.
- All remaining sections should be approved as written **except** Section 104 - Repeal of Requirement for Specific Authorization for Deployment of Strategic Defense Initiative System. The NSC staff opposes the repeal of this requirement. Although DoD correctly notes that the "Nitze criteria" codified in the provision DoD wants to repeal (the "Proxmire Amendment") was developed by Congress as a check on any SDI system intended to defend against a massive nuclear attack (as opposed to a limited or accidental/unauthorized strike), a proposal to repeal the provision now could fuel suspicions in some quarters on the Hill that the Administration's ABM/TMD demarcation proposal is intended to open the door to nation-wide missile defenses that might somehow be effective even against large-scale attacks.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
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004. memo	Legislative Referral Memorandum LRM #D-551. (1 page)	02/02/1994	P3/b(3)
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COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 263

FOLDER TITLE:

Chron File - March 1994 #1 [2]

2016-0152-F
vz4545

RESTRICTION CODES

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

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

P1 National Security Classified Information [(a)(1) of the PRA]
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P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
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b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

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

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

0877

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503



February 2, 1994

LEGISLATIVE REFERRAL MEMORANDUM

LRM #D-551
DRAFT #458

TO: Legislative Liaison Officer -

ACDA - Barbara Starr - (202)647-8478 - 234
CIA - [redacted] (b)(3) [004]
COMMERCE - Michael A. Levitt - (202)482-3086 - 324
EDUCATION - John Kristy - (202)401-2670 - 207
ENERGY - Bob Rabben - (202)586-6718 - 209
FEMA - John P. Carey - (202)646-4105 - 327
GSA - William R. Ratchford - (202)501-0563 - 237
HHS - Frances White - (202)690-7760 - 328
HUD - Edward J. Murphy, Jr. - (202)708-1793 - 215
INTERIOR - Danny Consenstein - (202)208-6706 - 329
JUSTICE - Sheila F. Anthony - (202)514-2141 - 217
LABOR - Robert A. Shapiro - (202)219-8201 - 330
NASA - Jeff Lawrence - (202)358-1948 - 219
ONDCP - Ray Brownfield - (202)395-6739 - 257
NEC - Sonyia Matthews - (202)456-6722 - 429
NSC - William H. Itoh - (202)395-3723 - 249
NSF - Lawrence Rudolph - (703)306-1060 - 248
OGE - Jane Ley - (202)523-5377 - 261
OSTP - Chris Clary - (202)456-7116 - 288
SBA - Christine Swedin - (202)205-6702 - 315
STATE - Julia C. Norton - (202)647-4463 - 225
TRANSPORTATION - Tom Herlihy - (202)366-4687 - 226
TREASURY - Richard S. Carro - (202)622-1146 - 228
USPS - Stanley F. Mires - (202)268-2958 - 211
VA - Robert Coy - (202)535-8113 - 229

FROM: RONALD K. PETERSON (for) *Ronald K. Peterson*
Assistant Director for Legislative Reference

OMB CONTACT: MIKE GOAD (395-7301)
Secretary's line (for simple responses): 395-6194

SUBJECT: DEFENSE Draft Bill Department of Defense
Authorization Act for Fiscal Year
1995-General Provisions (DOD 103-036)

DEADLINE: 10:00 A.M., MONDAY, February 28, 1994

COMMENTS: This draft bill contains general provisions that the Department of Defense may incorporate into its annual authorization request. We ask that you review and comment on only those provisions that affect your agency's programs. We also ask that you advise this office if the bill's provisions affect other agencies that are not listed on the distribution. If you do not respond by the deadline, we will assume that your agency has no comment on the draft bill.

OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please advise us if this item will affect direct spending or receipts for purposes of the the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

CC:

D. Gessaman
J. Schuhart (2)
R. Dotson (8)
J. Fish (7)
A. Donahue (4)
D. Taft (2)
K. MacIntyre
J. Foresgren (4)
A. Rooney
J. Jukes (5)
E. Rea
R. Bent
B. Sasser
R. Adkins
R. Civiak
C. Dennis
D. Childs
B. Rideout (3)
B. White
R. Turman
P. Weiss
B. Dorotinsky
B. Clendenin
H. Meyers

RESPONSE TO LEGISLATIVE REFERRAL MEMORANDUM

If your response to this request for views is **simple** (e.g., concur/no comment) we prefer that you respond by **faxing** us this response sheet. If the response is **simple** and you prefer to call, please **call the branch-wide line** shown below (NOT the analyst's line) to leave a message with a secretary.

You may **also respond** by (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); (2) sending us a memo or letter; or (3) if you are an OASIS user in the Executive Office of the President, sending an E-mail message. Please **include** the LRM number shown above, and the **subject** shown below.

TO: MIKE GOAD
 Office of Management and Budget
 Fax Number: (202) 395-5691
 Analyst/Attorney's Direct Number: (202) 395-7301
 Branch-Wide Line (to reach secretary): (202) 395-6194

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

SUBJECT: DEFENSE Draft Bill Department of Defense
 Authorization Act for Fiscal Year
 1995-General Provisions (DOD 103-036)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur
 _____ No objection
 _____ No comment
 _____ See proposed edits on pages _____
 _____ Other: _____
 _____ FAX RETURN of _____ pages, attached to this
 response sheet

A BILL

To authorize certain military activities of the Department of Defense, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Defense Legislative Program for the Second Session of the 103d Congress".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—OPERATION AND MAINTENANCE

Sec. 101. Live-fire survivability testing of F-22 Aircraft.
Sec. 102. Civil Reserve Air Fleet.
Sec. 103. Amendment to the Strategic and Critical Materials Stock Piling Act.
Sec. 104. Repeal of requirement for specific authorization for deployment of Strategic Defense Initiative system.
Sec. 105. Ballistic Missile Defense mission.
Sec. 106. Repeal of requirement for the Secretary of Defense to provide advance review and approval of proposed developmental tests of limited defense system program projects and to provide independent monitoring of the tests.
Sec. 107. Expansion of the methods of test and evaluation used to demonstrate theater missile defense interceptor performance prior to the interceptor program proceeding into low-rate initial production acquisition phase.
Sec. 108. Disaster relief.
Sec. 109. Amendment to the emergency and extraordinary expense authority for the Inspector General of the Department of Defense.

TITLE II—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

Sec. 201. Authority of Secretary of Military Department to approve officers serving on certain successive selection boards.
Sec. 202. Technical changes to sections codified by the Warrant Officer Management Act.
Sec. 203. Authority for facilitated promotions when all officers on a confirmation list are not confirmed at one time.
Sec. 204. Retirement or enlistment of certain limited duty officers of the Navy and Marine Corps.
Sec. 205. Authority for temporary promotions of certain navy lieutenants.

Subtitle B—Reserve Component Matters

Withdrawal/Redaction Marker

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
005a. memo	Duplicate of vz4541_004a. Record ID: 9310047. (1 page)	03/04/1994	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 263

FOLDER TITLE:

Chron File - March 1994 #1 [2]

2016-0152-F

vz4545

RESTRICTION CODES

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Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
005b. memo	Duplicate of vz4541_004b. (2 pages)	03/04/1994	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 263

FOLDER TITLE:

Chron File - March 1994 #1 [2]

2016-0152-F

vz4545

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

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Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
005c. memo	Duplicate of vz4532_003b. Record ID: 9310074. (2 pages)	02/14/1994	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 263

FOLDER TITLE:

Chron File - March 1994 #1 [2]

2016-0152-F
vz4545

RESTRICTION CODES

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NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20508

March 4, 1994

ACTION

MEMORANDUM FOR WILLIAM H. ITOH

THROUGH:

ROBERT BELL *RAB*

FROM:

PETER FEAVER *PF*

SUBJECT:

Defense Proposed Report RE: HR 1681, Posthumous
Award of the Medal of Honor to Ruben Rivers

Tab II is a proposed DoD report indicating their opposition to HR 1681, a bill to waive the time limitations associated with a decision to award the Medal of Honor.

Ruben Rivers served during World War II with the 761st Tank Battalion, the first unit composed of African-American soldiers to see action in World War II. Sergeant Rivers was killed in action on November 19, 1944, after displaying great courage and gallantry in action. HR 685, if passed, would permit the President to award Sergeant Rivers the Medal of Honor, notwithstanding the time limitations in section 3744 of title 10, U.S. Code.

The Department of Defense is opposed on principle to lifting the time limitations associated with the Medal of Honor. By law, a recipient must be nominated within two years of the act justifying the award. This restriction is designed to insure that the award will be granted while the facts concerning the valorous act are fresh in the minds of witnesses. The DoD has enforced this restriction consistently, without regard to the race of the candidate or the circumstances surrounding the nomination. The Department argues that without the time restriction there is no fair or accurate way to decide which brave soldiers should receive special recognition.

Concurrence by:

Jeremy Rosner *JR*RECOMMENDATION

That you sign and forward the memorandum at Tab I concurring in the proposed report.

Attachments

Tab I Memorandum for Signature
Tab II Incoming Correspondence

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

MEMORANDUM FOR RONALD K. PETERSON

FROM: WILLIAM H. ITOH

SUBJECT: Defense Proposed Report RE: HR 1681, Posthumous
Award of the Medal of Honor to Ruben Rivers

The National Security Council staff concurs in the proposed report.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503

1545
SPECIAL

February 25, 1994

LEGISLATIVE REFERRAL MEMORANDUM

LRM #I-2115

TO: Legislative Liaison Officer -

✓ NSC - William H. Itoh - (202)395-3723 - 249

FROM: RONALD K. PETERSON (for) *Ronald K. Peterson*
Assistant Director for Legislative Reference

OMB CONTACT: MIKE GOAD (395-7301)
Secretary's line (for simple responses): 395-6194

SUBJECT: Defense Proposed Report RE: HR 1681,
Posthumous Award of the Medal of Honor to
Ruben Rivers

DEADLINE: MONDAY, March 7, 1994

OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please advise us if this item will affect direct spending or receipts for purposes of the the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

CC:

J. Fish
K. MacIntyre
J. Palmieri
P. Griffen

_____ Concur

_____ No objection

_____ No comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this
_____ response sheet



DEPARTMENT OF THE ARMY

WASHINGTON, D.C. 20310



Honorable Ronald V. Dellums
Chairman, Committee on Armed Services
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is in response to your request for the views of the Department of Defense on H.R. 1681, 103d Congress, a bill "to waive the time limitations applicable to awarding the Medal of Honor posthumously to Ruben Rivers."

The purpose of H.R. 1681 is to waive the time limitations in section 3744 of title 10, United States Code, concerning the award of the Medal of Honor, as they apply to former Staff Sergeant Ruben Rivers who served in the United States Army during World War II. The bill would permit the President to award the Medal of Honor to former Sergeant Rivers notwithstanding the time limitations in section 3744.

The Department of the Army on behalf of the Department of Defense is opposed to the bill.

Former Staff Sergeant Ruben Rivers served during World War II with the 761st Tank Battalion, a unit composed of African-American soldiers that was supporting the 2d Battalion, 101st Regiment, 26th Infantry Division. The 761st Tank Battalion was the first all-black unit to see action in World War II, and was met by General Patton on October 10, 1944 upon landing in France.

Sergeant Rivers was killed in action on November 19, 1944 in an engagement near the town of Bougaltroff, France, and a careful review of this action was conducted. The battle was indeed a very sharp action in which United States armed forces suffered heavy casualties, particularly among the infantry units. Sergeant Rivers was one of many soldiers who tragically fell on the field of battle. There were several heroic deeds during the battle, but there were no awards of the Medal of Honor. There was also no confirmation in the reports of the 761st Tank Battalion, the 26th Infantry Division or the XII Corps that Sergeant Rivers had been formally recommended for award of the Medal of Honor. Finally, the fact that Sergeant Rivers was not awarded the Medal of Honor was consistent with the experience of other units in other engagements.

-2-

Although former Sergeant Rivers displayed great courage by his gallantry in action, the Department of the Army has consistently found it necessary to refrain from supporting the many requests received each year for exemption from the time limitations applicable to the award of the Medal of Honor. The Act of July 8, 1918, from which section 3744 is derived, established stringent provisions for the award of the Medal of Honor. Section 3744 requires that a statement describing the distinguished service and recommending official recognition be made within two years of the act justifying the award, that the medal be awarded within three years after the act, and that Department of the Army records verify that the soldier is entitled to the award. After each of our major wars, Congress passed legislation to extend the time period. For World War II, award recommendations had to be submitted into military channels by May 1951 and approved by May 1952. These time limits applied equally to the more than 11 million Army veterans who served in World War II. In the case of former Sergeant Rivers, there is no evidence in Department of the Army records that indicate he was recommended for an award of the Medal of Honor, either before or after the statutory time limits. There is no evidence that Sergeant Rivers could not have been recommended for the Medal of Honor or a lesser decoration had his superior officers chosen to do so.

The statutory time constraints in section 3744 are intended to limit the presentation of this nation's highest military award to a period within which all facts concerning a valorous act, fresh in the minds of witnesses, are available. The Department of the Army believes that these time limitations are wise, fair, and necessary to protect the integrity, honor, and prestige of the award. Because there is no method whereby the Department can decide with accuracy which requests for exemption from time limitations should receive favorable consideration and which should not, the only alternative has been to treat all cases equally under the law without exception.

In the past, the Department of the Army has received correspondence from members of Congress and others, requesting that special consideration be given to awarding the Medal of Honor to former Sergeant Rivers for his heroic actions because racial prejudice may have been a factor in his not being recommended for the award. Racial prejudice existed during World Wars I and II. During those wars, only one African-American soldier received the Medal of Honor. At this time singling out former Sergeant Rivers would provide preferential

-3-

treatment to him over thousands of other African-American soldiers who served so bravely in combat, such as the more than 80 African-American soldiers who were awarded high French decorations for their extraordinary heroism in World War I, or those awarded the Distinguished Service Cross, the Army's second highest award for valor in combat. At this late date, how can we fairly and accurately decide which of these brave soldiers would receive special recognition?

For the foregoing reasons, the Department of the Army recommends that the bill not be favorably considered.

The enactment of this bill would cause no apparent increase in the budgetary requirements of the Department of Defense.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Sincerely,

NATIONAL SECURITY COUNCIL

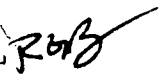
WASHINGTON, D.C. 20506

March 4, 1994

ACTION

MEMORANDUM FOR WILLIAM H. ITOH

THROUGH:

ROBERT BELL 

FROM:

PETER FEAVER 

SUBJECT:

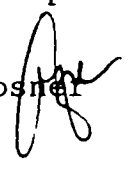
Defense Proposed Report RE: HR 685, Relief of
Henry Johnson

Tab II is a proposed DoD report indicating their opposition to HR 685, a bill to waive the time limitations associated with a decision to award the Medal of Honor.

Henry Johnson served during World War I in a unit composed of African-American soldiers from New York. According to the scanty records available, Sergeant Johnson was awarded the Croix de Guerre, a mid-level French decoration for combat valor. HR 685, if passed, would permit the President to award Sergeant Johnson the Medal of Honor, notwithstanding the time limitations in section 3744 of title 10, U.S. Code.

The Department of Defense is opposed on principle to lifting the time limitations associated with the Medal of Honor. By law, a recipient must be nominated within two years of the act justifying the award. This restriction is designed to insure that the award will be granted while the facts concerning the valorous act are fresh in the minds of witnesses. The DoD has enforced this restriction consistently, without regard to the race of the candidate or the circumstances surrounding the nomination. The Department argues that without the time restriction there is no fair or accurate way to decide which brave soldiers should receive special recognition.

Concurrence by:

Jeremy Rosner RECOMMENDATION

That you sign and forward the memorandum at Tab I concurring in the proposed report.

Attachments

Tab I Memorandum for Signature
Tab II Incoming Correspondence

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20508

MEMORANDUM FOR RONALD K. PETERSON

FROM: WILLIAM H. ITOH

SUBJECT: Defense Proposed Report RE: HR 685, Relief of
Henry Johnson

The National Security Council staff concurs in the proposed report.

EXECUTIVE OFFIC OF TH PR BIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503

1544

SPECIAL

February 25, 1994

LEGISLATIVE REFERRAL MEMORANDUM

LRM #I-2117

TO: Legislative Liaison Officer -

✓ NSC - William H. Itoh - (202)395-3723 - 249

FROM: RONALD K. PETERSON (for) *Ronald K. Peterson*
Assistant Director for Legislative Reference

OMB CONTACT: MIKE GOAD (395-7301)
Secretary's line (for simple responses): 395-6194

SUBJECT: Defense Proposed Report RE: HR 685, Relief of
Henry Johnson

DEADLINE: MONDAY, March 7, 1994

OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please advise us if this item will affect direct spending or receipts for purposes of the the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

CC:

J. Fish
K. MacIntyre
J. Palmieri
P. Griffen

RESPONSE TO LEGISLATIVE REFERRAL MEMORANDUM



DEPARTMENT OF THE ARMY

WASHINGTON, D.C. 20310



Honorable Ronald V. Dellums
Chairman, Committee on Armed Services
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is in response to your request for the views of the Department of Defense on H.R. 685, 103d Congress, a bill "For the relief of Henry Johnson."

The purpose of H.R. 685 is to waive the time limitations in section 3744 of title 10, United States Code, concerning the award of the Medal of Honor, as they apply to former Sergeant Henry Johnson who served in the United States Army during World War I. The bill would permit the President to award the Medal of Honor to former Sergeant Johnson notwithstanding the time limitations in section 3744.

The Department of the Army on behalf of the Department of the Defense is opposed to the bill.

Former Sergeant Henry Johnson served during World War I with the 369th Infantry Regiment, a unit composed of African-American soldiers from New York that was attached to a French division. The Department of the Army has been able to locate very few personnel records for him. Such records were not carefully maintained during World War I and any available records may have been destroyed in a fire at the National Personnel Records Center in July of 1973. Limited records at the Center which identify soldiers that have received foreign military awards reveal that former Sergeant Johnson received a French decoration for valor, the Croix de Guerre.

In this connection, it should be noted that this decoration is a mid-level award and not France's highest award for combat valor. The order announcing the award indicates that in May of 1918, while serving on night sentry duty, he and another soldier were attacked by approximately twelve German soldiers. Former Sergeant Johnson repelled the attack by rifle fire and hand-to-hand combat with a knife. Although wounded by gunshot and a grenade, he rescued his fellow soldier who had been wounded and captured by the enemy.

-2-

Although former Sergeant Johnson displayed great courage by his gallantry in action, the Department of the Army has consistently found it necessary to refrain from supporting the many requests received each year for exemption from the time limitations applicable to the award of the Medal of Honor. The Act of July 8, 1918, from which section 3744 is derived, established stringent provisions for the award of the Medal of Honor. Section 3744 requires that a statement describing the distinguished service and recommending official recognition be made within two years of the act justifying the award, that the medal be awarded within three years after the act, and that Department of the Army records verify that the soldier is entitled to the award. In the case of former Sergeant Johnson, there is no evidence in Department of the Army records that indicates he was recommended for an award of the Medal of Honor, either before or after the statutory time limits. There is no evidence that Sergeant Johnson could not have been recommended for the Medal of Honor or a lesser decoration had his superior officers chosen to do so.

The statutory time constraints in section 3744 are intended to limit the presentation of this nation's highest military award to a period within which all facts concerning a valorous act, fresh in the minds of witnesses, are available. The Department of the Army believes that these time limitations are wise, fair, and necessary to protect the integrity, honor, and prestige of the award. Because there is no method whereby the Department can decide with accuracy which requests for exemption from time limitations should receive favorable consideration and which should not, the only alternative has been to treat all cases equally under the law without exception.

In the past, the Department of the Army has received correspondence from members of Congress and others, requesting that special consideration be given to awarding the Medal of Honor to former Sergeant Johnson for his heroic act because racial prejudice may have been a factor in his not being recommended for the award. Racial prejudice existed during World Wars I and II. During those wars, only one African-American soldier received the Medal of Honor. At this time singling out former Sergeant Johnson would provide preferential treatment to him over thousands of other African-American soldiers who served so bravely in combat, particularly the more than 80 African-American soldiers who were awarded high French decorations and the Distinguished Service Cross, the Army's second highest award for valor in combat, for their extraordinary heroism in World War I. At this late date, how can we fairly and accurately decide which of these brave soldiers would receive special recognition?

-3-

For the foregoing reasons, the Department of the Army recommends that the bill not be favorably considered.

The enactment of this bill would cause no apparent increase in the budgetary requirements of the Department of Defense.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Sincerely,