

THE WHITE HOUSE
WASHINGTON

May 14, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: RAHM EMANUEL
BRUCE REED
ELENA KAGAN

SUBJECT: UNIONIZATION OF SECRET SERVICE UNIFORMED DIVISION

You will meet tomorrow with Gil Gallegos and other officers of the Fraternal Order of Police (FOP). They may ask you, as they have before, whether you will amend an Executive Order to allow employees of the Secret Service Uniformed Division to unionize and engage in collective bargaining. This memo provides you with the arguments on each side of the issue, so you can decide how to respond to inquiries.

Before his departure, Jack Quinn conducted an extensive review of this issue and recommended changing the Executive Order in the way the Uniformed Division employees requested. The Department of Treasury is strongly opposed to this approach. We believe a sensible compromise proposal is available, but Treasury has rejected this compromise and we do not know how the Uniformed Division employees would greet it.

Background

Federal law gives the President authority to issue an order prohibiting the employees of any federal unit that "has as a primary function, intelligence, counterintelligence, investigative or national security work" from organizing and collective bargaining. Using this authority, President Carter issued Executive Order 12171, which precluded the Secret Service Uniformed Division from engaging in these activities. The E.O. also covered many other units in the Departments of Treasury, Defense, Justice, Transportation and Energy.

In March and May 1995, members of Congress (Reps. Trafficant, Frank, Conyers, and Torres) wrote to you requesting that you exempt the Secret Service Uniformed Division from the E.O., allowing employees of this division to unionize. The White House referred the letters to the Department of Treasury, which advised the Congressmen and two interested unions that national security concerns required the ban to remain in effect. In September 1995, Judge Mikva affirmed this determination, citing a policy of deference to the Treasury Department on matters relating to the security of the President and Vice President.

Last year, Jack Quinn received a letter from the Secret Service Uniformed Division Labor Committee of the FOP asking for reconsideration of this issue. The letter stated that "national

security concerns...are being used as a convenient way to deny the members of the Uniformed Division fundamental labor rights." Quinn initiated discussions with Treasury Department officials and Uniformed Division employees.

In a September 1996 FOP questionnaire for presidential candidates, you referred to the controversy and stated: "To make a decision on this issue in as thoughtful and expeditious a manner as possible, I have asked my counsel . . . to look into the competing arguments, and present a recommendation to me."

At a later meeting with the Executive Board of the FOP, you were careful not to commit yourself, but did express sympathy for the position of the Uniformed Division employees. The Wall Street Journal quoted you as saying at that meeting that "it would be the height of hypocrisy for me not to support [the right to unionize] for federal officers." Members of the FOP left the meeting generally encouraged.

Quinn recommended before he left that the Administration grant the Uniformed Division employees' request. Secretary Rubin, however, vehemently opposed this recommendation, and the matter did not come to you for decision.

As consideration of the issue has proceeded, Gallegos and employees of the Uniformed Division have accused Uniformed Division management of retaliating against union supporters. One incident resulted in a lawsuit brought by the officers alleging various constitutional violations. In addition, Gallegos has come under increasing pressure from his membership to move forward on this issue.

Department of Treasury Arguments

The Department of Treasury offers three reasons for opposing unionization. First, Treasury claims that the obligation to bargain will compromise security by decreasing management's authority over such matters as the deployment and scheduling of officers and the selection of equipment. Treasury cites the decision to close off Pennsylvania Avenue to traffic as an example. That decision affected many employees' schedules and work assignments. Without a union, the Division could take this action unilaterally; with a union, the Division might first have had to bargain about the proposed change, thereby losing flexibility and causing delay.

Second, Treasury argues that unionization will compromise security by forcing the disclosure of information during collective bargaining. Treasury notes that information about security procedures and techniques-- about postings, manpower allocations, equipment, and so forth-- is now provided on a "need to know" basis. If the Division were obligated to engage in collective bargaining, Treasury argues, it would have to provide such information to union members and officials and possibly to arbitrators.

Third, Treasury argues that exempting the Uniformed Division from the E.O. will place

the government on a slippery slope toward exempting other covered employees or eventually eliminating the E.O. Treasury is particularly concerned that if the Uniformed Division^{employees 3} are free to unionize, then the special agents of the Secret Service, who directly protect you, the Vice President, and your families, will request identical treatment.

Uniformed Division Employees' Arguments

The argument in favor of allowing employees of the Uniformed Division to organize starts from a simple premise: this Administration is committed to safeguarding the rights of employees to organize and engage in collective bargaining. This commitment should be upheld unless there is a strong countervailing interest.

In considering whether such an interest exists, you should note that there is no danger that unionization will lead to work stoppages of essential employees. A federal statute makes it an unfair labor practice for a union to strike at any federal agency. This statute would apply to Uniformed Division personnel just as it does to other federal employees.

Although Treasury is right that the obligation to bargain will limit its unfettered authority over workplace decisions, it is not nearly so clear that this obligation will compromise security interests. With respect to a number of issues, such as benefits, the obligation to bargain will have little or no effect on security. With respect to more sensitive issues, bargaining often will not be required. Agencies can take certain actions involving hiring, assignments and the like -- actions implicating "management rights" -- without engaging in collective bargaining. If this authority is insufficient, Treasury can negotiate contract provisions giving it additional powers. And if even this is not enough, we can reserve still greater powers to Treasury through adoption of the compromise proposal discussed below.

Similarly, Treasury's concern about the disclosure of sensitive information seems overstated. The officers in the Uniformed Division already have most of this information -- or at least could obtain it if they all pooled their knowledge. Moreover, the Treasury Department could condition providing such data in collective bargaining on an agreement by the union to confidentiality requirements.

Finally, Treasury's "slippery slope" argument is subject to question. If exempting another unit from the E.O. would pose a greater danger to security than exempting the Uniformed Division, then the Administration should be able to justify continued coverage of that unit. For this reason, all four other agencies with covered employees declined to support Treasury's argument, stating that their employees could be distinguished from Uniformed Division personnel.

Compromise Proposal

An alternative course is to amend the E.O. to allow Uniformed Division employees to

unionize, but to give them fewer collective bargaining rights than other unionized federal employees have. This approach should not be difficult to accomplish. When you came into office, you signed an executive order requiring the agencies to bargain over certain subjects that they previously did not have to bargain over. In modifying the E.O. to allow unionization of Uniformed Division employees, you could make clear that the old rules apply to these employees. These rules would give the Treasury Department greater authority to act unilaterally -- without any consultation with the employees' union -- than federal agencies now have. It would go some way toward accommodating both the employees' desire for unionization and the agency's concerns about security.



DEPARTMENT OF THE TREASURY
WASHINGTON

Ek/JOSE

October 2, 1997

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MEMORANDUM FOR

ERSKINE BOWLES
CHIEF OF STAFF TO THE PRESIDENT

THROUGH:

ROBERT E. RUBIN *R E R*
SECRETARY OF THE TREASURY

FROM:

EDWARD S. KNIGHT *ESK*
GENERAL COUNSEL

LEWIS MERLETTI *LM*
DIRECTOR, UNITED STATES SECRET SERVICE

SUBJECT:

Unionization of the Secret Service Uniformed Division

As you requested at our recent meeting on this subject, this memorandum outlines the reasons why we continue to believe that it would be potentially harmful to the national security interests of the United States and unworkable for the Uniformed Division of the Secret Service to be unionized.

1. The Uniformed Division Performs a Critical National Security Mission

The Secret Service performs a critical national security function in fulfilling its statutory mandate to protect the President, the Vice President, the White House Complex, visiting foreign heads of state and foreign diplomatic missions in the District of Columbia area. The work of the Uniformed Division is fully integrated into all of these protective responsibilities of the Secret Service. Each of the many overlapping and interlocking elements on which the Secret Service relies, including the officers of the Uniformed Division, play essential roles in ensuring the national security of the United States. Indeed, the Uniformed Division performs national security functions that differentiate it from all other federal or state uniformed police entities.

a. Protection of the President and Vice President

The safety and security of the President and Vice President are fundamental matters of national security. As the Commander-in-Chief and the officer charged by the Constitution with executing the foreign and domestic policy of the United States, the President is responsible for the national security of the country. The Secret Service, including its Uniformed Division, is responsible for ensuring that the President, Vice President, and their staff have the secure environment that is essential to carrying out these constitutionally prescribed functions.

One of the most constant and serious threats to this security is terrorism. Presidential Decision Directive-39 (PDD-39) states that “[i]t is the policy of the United States to deter, defeat and respond vigorously to all terrorist attacks on our territory and against our citizens, or facilities....” This policy further states that “[t]he United States regards all such terrorism as a potential threat to national security....” To reduce the United States’ vulnerability to terrorism, this policy directs the Secretary of the Treasury to protect the President and other officials against terrorist attack. PDD-39 ties the security of the President directly to the national security, regardless of whether it is a time of war, national emergency or peace.

The Uniformed Division plays a crucial and indispensable role in the protection of the President and Vice President against foreign or domestic threats of terrorism. Among other things, the Uniformed Division:

- Secures the protective perimeter and interior of the White House Complex; operates specialized units, such as the Counter Sniper unit, Emergency Response Team, K-9, and magnetometer unit; provides motorcade assistance.
- Participates in highly classified plans designed to ensure the continuity of government and integrity of the White House Complex; assists in the clearing of the routes required for relocation of the President and staff in case of emergency.
- Assists in establishing a secure perimeter for the President when away from the White House.

b. Protection of the White House Complex, National Security Apparatus, Vice President’s Residence, Foreign Heads of State and Foreign Diplomatic Missions

The Uniformed Division also plays a critical national security role in the physical protection of the White House Complex, the Vice Presidential residence, the national security apparatus within the White House Complex, and foreign missions located within the District of Columbia area. The Uniformed Division:

- Oversees appointments and visitors to the White House Complex; monitors staff movements in and out of the Complex; provides physical presence and secures the perimeter of the White House Complex; occupies security check points inside the White House, within the White House Complex and other restricted areas and along Pennsylvania Avenue.

- Monitors classified security systems and techniques, which if divulged could result in physical or electronic penetration, destruction, or damage to the White House Complex; assists in conducting audio countermeasures at the White House Complex; monitors and responds to alarms, including radiological alarms, at the White House Complex; handles bombs and bomb threats at the White House Complex.
- Responds through its White House and Foreign Missions Branches on an immediate basis to emergency situations and exceptional circumstances at the White House Complex (e.g., the closing of Pennsylvania Avenue without advance public notice, when approximately 80 Foreign Missions Branch officers were deployed to the White House Complex and the plane crash on September 12, 1994, when officers from the White House Branch were the first to respond and the Foreign Missions Branch officers secured the area around the White House Complex).
- Staffs the most sophisticated command, control and communications center at the White House Complex. This Joint Operations Center serves as the conduit between all the various components of the Secret Service's security program within the White House Complex, including the Presidential and the Vice Presidential Protective Divisions.
- Assists through its Foreign Missions Branch in protecting visiting foreign heads of state; provides advance and trail cars for motorcades within the District of Columbia; provides physical security for the Vice President's Residence and foreign diplomatic missions in the District of Columbia area; responds to any potential threat against, or incursion into, a foreign mission; travels with magnetometer details in, and outside of, the District of Columbia and receives appropriate classified briefings with regard to these details.
- Assists in the design plans and detailed specifications regarding the layout of the White House Complex including detailed maps, structural plans, facility and electrical diagrams, security staffing, security procedures, and protective equipment and systems.

c. Protection of National Security Information

Members of the Uniformed Division have access to highly classified documents and intelligence and are responsible for securing such information. All Uniformed Division officers hold a Top Secret security clearance. Uniformed Division officers:

- Review Top Secret blueprints and documents for White House construction projects; are responsible for securing the Cabinet Room, the Situation Room and the Oval Office; have knowledge of highly classified areas within the White House Complex; receive other highly classified intelligence information, including sensitive compartmented information from such entities as the CIA, FBI and NSA.

- Handle sensitive information provided by foreign and international organizations, including information on terrorist groups.
 - At the White House, are responsible for securing classified material, which has not been properly secured by White House staff members, and for disposing of classified trash.
2. **The National Security Mission of the Uniformed Division is Inconsistent with Federal Labor Relations Law**

Under the Federal Service Labor Management statute ("the statute"), 5 U.S.C. §7101, et seq., and interpretations of that statute by the Federal Labor Relations Authority ("the Authority"), the functions of the Uniformed Division are incompatible with collective bargaining.

5 U.S.C. §7103 authorizes the President to exclude from the coverage of the statute any agency or subdivision of an agency which has as a primary function national security work and to which the provisions of the Federal labor law statute cannot be applied in a manner consistent with national security considerations. Pursuant to this section, President Jimmy Carter, by Executive Order 12171, excluded a number of organizations involved in national security, including the Secret Service Uniformed Division. WHAT OTHERS?

In addition to this provision, which permits the President to exclude organizations unilaterally, the statute precludes the Authority from certifying a bargaining unit that contains employees who are "engaged in intelligence, counterintelligence, investigative, or security work which directly affects national security" Section 7112(b)(6) (emphasis added). In interpreting this section of the statute, the Authority has defined the terms "national security" and "security work." In Department of Energy, Oak Ridge Operations, Oak Ridge Tennessee, 4 F.L.R.A. 744, 755-56 (1980), the Authority defined "national security" as:

those sensitive activities of the government that are directly related to the protection and preservation of the military, economic, and productive strength of the United States, including the security of the Government in domestic and foreign affairs, against and from espionage, sabotage, subversion, foreign aggression, and any other illegal acts which adversely affect the national defense.

Moreover, in U.S. Department of Justice and American Federation of State, County and Municipal Employees Local 3719, AFL-CIO, 52 F.L.R.A. No. 111 (March 14, 1997), the Authority found that:

an employee is engaged in "security work" within the meaning of section 7112 (b)(6) if the required tasks, duties, functions, or activities of the employee's position include: (1) the design, analysis, or monitoring of security systems or procedures; or (2) the regular use of, or access to, classified information.

The language of section 7112(b)(6) clearly applies to each member of the Uniformed Division. The work of the Uniformed Division, as discussed above, is directly related to protecting the President, the Vice President and visiting foreign heads of state from espionage, sabotage, subversion and acts of terrorism, and, as such, squarely meets the definition of "national security." Moreover, since Uniformed Division members monitor and implement security systems at the White House and other highly secured facilities, and have regular access to, and use of, classified material, it is clear that they perform security work within the meaning of the statute.

It is inappropriate to compare the functions of the Uniformed Division with the Capitol Police and the Naval Observatory Police or other local, state or federal police organizations. Unlike the routine functions performed by other uniformed police entities, the duties and functions performed by members of the Uniformed Division, herein described, clearly establish that the Uniformed Division is inextricably linked to our national security. Most importantly, no other uniformed police entity is directly responsible for the personal protection of the President and his family, nor are we aware of any other uniformed police entity in which all the members hold Top Secret security clearances and routinely have access to highly classified information.

TOP
SECRET
CLEARANCE

In summary, the Uniformed Division was, pursuant to section 7103, properly excluded by the President in Executive Order 12171, and, in any event, is precluded from inclusion in a bargaining unit by the plain meaning of section 7112(b)(6). No changes that have occurred in the Uniformed Division's mission or operations would justify the revocation of President Carter's exclusion; to the contrary, the national security aspects of the mission have expanded, among other reasons, because of the increased threat of terrorism.

3. The Federal Sector Labor Relations Program Would be Inconsistent with the Uniformed Division's National Security Mission

Even if there were no statutory prohibition against certifying a bargaining unit with a national security mission, such as the Uniformed Division, compliance with the statutory obligations that would be imposed on the Uniformed Division would confront it repeatedly with the need to take steps that are inconsistent with its national security mission.

a. The Obligation to Bargain and to Disclose to the Union Information Necessary for It to Bargain is Inconsistent with the Uniformed Division's National Security Mission

An agency covered by the statute is required to bargain with the union about "conditions of employment," to the extent consistent with Federal law, government-wide regulations and agency regulation. Section 7103(a)(14). See section 7117(a). These "conditions of employment" are defined in the statute as "personnel policies, practices, and matters, whether established by rule, regulations, or otherwise, affecting working conditions." Section 7103(a)(14). Section 7106 of the statute permits an agency to refuse to bargain about proposals that "affect" management rights such as the rights to determine its budget and the personnel by which agency operations shall be

conducted, and to conduct agency operations in emergencies. However, because the Authority's negotiability case law has established that proposals are negotiable unless they *directly interfere with*, rather than simply *affect*, the exercise of these management rights, an agency is often obligated to bargain about proposals addressing these rights. ✓

In preparing for negotiations, a union may request, and an agency must provide, information regarding employee working conditions necessary for the union to perform its labor relations responsibilities. In support of its bargaining obligations, the agency is required to furnish to the union, "to the extent not prohibited by law ... data ... which is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining." 5 U.S.C. 7114(b)(4)(B).

[Assignments, reassignments and scheduling are among the "management rights" that an agency regularly is required to negotiate in the Federal sector. *The Uniformed Division's work requires it to respond to unannounced changes in the President's and other protectees' schedules, the unexpected arrival of a foreign dignitary and unanticipated modifications in assignments at a moment's notice in order to ensure adequate staffing at national security-sensitive positions. The variety of bargainable subjects would significantly restrict the Uniformed Division's ability to manage and direct its workforce in a sufficiently flexible manner to accomplish its national security mission.* For example, negotiable restrictions on management rights to reassign and reschedule employees, as well as the requirement to notify the union of such changes, would have imposed considerable costs on the Uniformed Division's immediate response to the decision to close Pennsylvania Avenue.

Moreover, the breadth of the agency's bargaining obligation would compel the release of a significant amount of information regarding the performance of the Uniformed Division's national security mission, i.e., what the officers see, and when and where they perform their duties. Specifically, bargaining about assignments, details and schedules, for example, would require the release of sensitive information regarding the location of posts, the existence of protective equipment, protective techniques and manpower allocations at the White House Complex. Bargaining about training for new surveillance techniques would require the release of information about those techniques, some of which is classified. The Secret Service cannot provide this information without jeopardizing its national security mission.

Finally, a particular union's commitments to operate under self-imposed restrictions on the scope of bargaining or the information that it will require in order to bargain provide the agency with no assurance that it will not be obligated to engage in broader bargaining and disclosure. Once a union with the required support of the eligible members of a proposed bargaining unit petitions the Federal Labor Relations Authority for a certification of a bargaining unit, notices of the upcoming election must be posted in the workplace advising employees of the filing of a petition and placing rival unions on notice of the proposed election. Any intervening union which can show the required level of interest by bargaining unit members is placed on the ballot and it, rather than the union which petitioned the Authority, may win that election. Thus, a union that

has made commitments about acceptable limits on the Uniformed Division's bargaining obligations may not be the union ultimately selected to represent Uniformed Division employees.

b. The Federal Sector Labor Relations Program's Dispute Resolution Procedures Place Decisions Regarding Matters with National Security Implications in the Hands of Third Parties

When a union and an agency fail to reach agreement on a proposed provision of a collective bargaining agreement, the statute provides for resolution of the impasse by authorizing either party to invoke the assistance of third parties, including the Federal Mediation and Conciliation Service (FMCS), the Federal Services Impasses Panel ("the Panel"), and private arbitrators. FMCS provides mediation services to get the parties to resolve their impasse voluntarily. The Panel, however, is empowered to take any action to resolve the impasse, including issuing a *binding decision* or directing the parties to *binding arbitration with a private arbitrator* that imposes particular contract provisions upon the parties.

Third parties also may become involved in resolving disputes that arise in the course of administering a collective bargaining agreement. Section 7121 of the statute provides that collective bargaining agreements will include a negotiated grievance procedure to provide resolution of disputes addressing matters arising under the contract as well as virtually any matter affecting employment, unless specifically excluded by law or contract. If matters are not resolved internally, the parties generally proceed to binding arbitration with limited review by the Authority and no judicial review.

However, the Authority and other third parties may not, and, in the case of private arbitrators, will not, have the security clearances required to review information related to the disputes. Moreover, it is unlikely that the individuals who impose the decisions, particularly private arbitrators, have the knowledge, sensitivity and expertise necessary to ensure that their decisions on these issues do not jeopardize national security.

OPTIONS

I. Modify the Executive Order to allow collective bargaining within the Uniformed Division of the Secret Service.

- Agency discomfort
- May open other security exemptions

- *Consistent with President's message
- *Constituency would be satisfied

① Negotiate
Union + Polutoes
② Deal w/ respect
issues, both
separately + through
collective bargaining

Note: If Executive Order were modified there would have to be an election before an exclusive representative would be certified. The election would be among the following choices: FOP, Local 17 and "No Union."

II. Modify the Executive Order to allow some portion of the Uniformed Division of the Secret Service collective bargaining.

- Would have to be crystal clear why some, not others
- Constituency would be somewhat satisfied
- May open other security exemptions

- *May improve Agency comfort

(A) - Capitol Police Model
(B) - not same
protections
as other
Fed. agencies

III. Do not modify the Executive Order but formalize some or all of the following:

- consultations with the Director regarding program, policies and procedures;
- formalized grievance procedure with an enforcement mechanism short of arbitration;
- formally recognize union's right to representation of its members.

- Constituency may not be satisfied
- May open up challenge to security exemption

- *Agency comfortable
- *Avoid union election

IV. Say no to collective bargaining

- Constituency will not be satisfied
- Arguments against collective bargaining are not strong

- *Will not open the security exemption

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THE WHITE HOUSE
WASHINGTON

From the Office of:

The Domestic Policy Council

**Elena Kagan
Deputy Assistant to the President
for Domestic Policy**

TO: Jose Cerda

FAX: 67028

PHONE: _____

PAGES: 5

MESSAGE: _____

Please call (202) 456-5584 if there are any problems with the transmission.

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May 14, 1997

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BRUCE REED
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Jose Cerda III

07/22/97 04:52:06 PM

Record Type: Non-Record

To: Carole A. Parmelee/WHO/EOP

cc: Elena Kagan/OPD/EOP, Michelle Crisci/WHO/EOP, Sylvia M. Mathews/WHO/EOP, John Podesta/WHO/EOP

Subject: Mtg. w/the Chief of Staff this week

Carol:

Pursuant to our conversation today, John and Sylvia asked that I follow-up to help get a meeting on the Chief of Staff's schedule as soon as possible. The meeting would be with Gil Gallegos, President of the 250,000 National Fraternal Order of Police (FOP), and the topic of the discussion would be collective bargaining rights for the Uniformed Division of the Secret Service. The FOP's national convention is scheduled for the first week in August, and they have wanted to meet w/the Administration to discuss this issue before then. Jim Pasco of the FOP's DC office can coordinate with Mr. Gallegos on this meeting (547-8189), or I'd be happy to help contact folks if you like.

If you have any questions, please do not hesitate to call me (6-5568). Thank you.

Jose'

Carole -
On Code
this was scheduled
for this past Tuesday
but Jose & Elena pulled it
back.

7/29/97
Carole

Has this been
put on EB's schedule
yet?
M
Gnat

7/29/97
Jose
What
does this
stand.
M
Gnat

11/24/2009 12:16 PM



Elena Kagan
08/24/97 12:16:16 PM

Record Type: Record

To: John Podesta/WHO/EOP, Sylvia M. Mathews/WHO/EOP, Michelle Crisci/WHO/EOP, Maria Echaveste/WHO/EOP

cc: Bruce N. Reed/OPD/EOP, Jose Cerda III/OPD/EOP, Christa Robinson/OPD/EOP

Subject: secret service unionization

The last time we spoke about this issue, we planned for Erskine to host a meeting with Gil Gallegos. The problem now is that Gallegos is furious with us and won't do this meeting. He just won reelection by a very small margin after a campaign in which he took a lot of grief for his relationship with us. I recommend getting a decision on this issue now, without a meeting. We can have a decision memo for Erskine or anyone else this week. Agreed?



John Podesta
08/26/97 08:13:00 AM

Record Type: Record

To: Elena Kagan/OPD/EOP

cc: See the distribution list at the bottom of this message

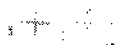
Subject: Re: secret service unionization

I think this is the right way to proceed, but would like Erskine's view.

Message Copied To:

Sylvia M. Mathews/WHO/EOP
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11/13/97 11:49:33 AM



Christa Robinson
08/13/97 11:49:33 AM

Record Type: Record

To: Elena Kagan/OPD/EOP, Michelle Crisci/WHO/EOP, Jose Cerda III/OPD/EOP, Leanne A. Shimabukuro/OPD/EOP

cc:

Subject: Gil Gallegos

Gil has requested a private meeting with the President when he is in D.C. on Sept. 10, 11, or 12. He would like to meet with him re: collective bargaining. Personally, I think this is a good idea, and I just want to confirm that it's ok to submit a scheduling request for this. FYI: Gil will not meet with Erskine.



GRAND LODGE FRATERNAL ORDER OF POLICE®

5900 JEFFERSON NE, SUITE F, ALBUQUERQUE, NEW MEXICO 87109
PHONE 505-344-1349 • FAX 505-343-0052

GILBERT G. GALLEGOS
NATIONAL PRESIDENT

10 October 1997

The Honorable William Jefferson Clinton
President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. President:

I am writing to you on behalf of the over 270,000 members of the Fraternal Order of Police to express our growing frustration concerning the lack of commitment on the part of your Administration to take action on tough police labor issues. You met with law enforcement officers yesterday and used that occasion, not to address the major problems faced by these officers as employees or crime fighters, but instead focused on a popular issue--gun locks for firearms.

The Fraternal Order of Police has long been a supporter of your efforts to promote firearm locking devices as one option to make firearms in the home safe from accidental discharge or misuse. Most people support real efforts to make firearms safer and we, along with the rest of Americans, truly appreciate your efforts to combat accidental deaths resulting from the common-sense failure to store firearms properly. However, to have used your opportunity yesterday to stake out a noncontroversial position on an issue in which there is broad agreement does not demonstrate true leadership.

We also appreciate your strong support for the expansion of a college scholarship program named in honor of slain Deputy U.S. Marshal William Degan, which provides college scholarship monies to the children of slain Federal law enforcement officers. The Fraternal Order of Police proposed to you in February 1997 that the program be expanded to include the children of local and state public safety officers killed in the line of duty. Throughout your terms as President, the law enforcement community has been able to depend on your compassion and understanding, but now we need your leadership on issues which may not be as popular as gun locks or scholarships, though they are indeed as critical to the men and women in law enforcement.

Our organization, the largest of law enforcement professionals in the nation, endorsed your candidacy and has worked hand-in-hand with your Administration for five years, and in that time we have accomplished much together. Police officers are proud to stand behind you at press

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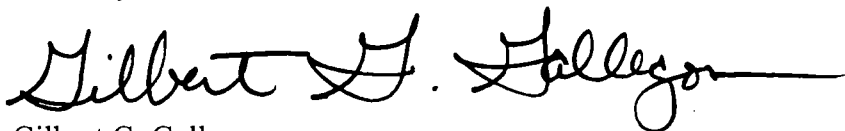
conference after press conference in support of new law enforcement initiatives, public safety announcements or bill signing ceremonies. But, Mr. President, I will trade all of those photo opportunities for Administration action on the police pay, benefits, working conditions, and due process issues which you promised our Executive Board on September 9, 1996.

When you met with our Executive Board you stated that it would be the "height of hypocrisy" if you did not support collective bargaining for Federal officers. To date, there has been no action on the part of your Administration to make good on your promise. Several weeks ago, Executive Director Jim Pasco and I met with Chief of Staff, Erskine Bowles, about your commitment to us to rescind Executive Order 12171, which was issued by President Carter. The Order prohibits collective bargaining by most Federal law enforcement officers. I have yet to get the decision Mr. Bowles promised on this critical issue.

You recently delivered an inspirational speech to the AFL-CIO where you again, unequivocally, cited your commitment to collective bargaining. Mr. President, with all due respect, deliberately excluding the dedicated men and women in Federal law enforcement from collective bargaining sounds more like "selective bargaining" to me. You can, with a stroke of a pen, deliver on your promise to the Fraternal Order of Police. Instead, our membership and I have been getting the White House run-around.

Mr. President, I implore you to demonstrate the leadership and courage of which I know you are capable and address *our* issues--not those identified by your advisors as having a positive effect on your poll numbers. If you will only do so, I know that our men and women in blue will continue to stand proudly behind you.

Sincerely,

A handwritten signature in black ink, reading "Gilbert G. Gallegos". The signature is fluid and cursive, with a long horizontal line extending from the end of the name.

Gilbert G. Gallegos
National President

ZWERDLING, PAUL, LEIBIG, KAHN, THOMPSON & WOLLY, P.C.

4012 WILLIAMSBURG COURT

FAIRFAX, VIRGINIA 22032

ROBERT E. PAUL*#+
MICHAEL T. LEIBIG*+
WENDY L. KAHN*#
WILLIAM W. THOMPSON, II*#+
MICHAEL S. WOLLY*+
DANIEL G. ORFIELD*#+

(703) 934-2675

FAX: (703) 934-2678

ABRAHAM L. ZWERDLING (1914-1987)

WASHINGTON OFFICE
1025 CONNECTICUT AVENUE, N.W., SUITE 712
WASHINGTON, D.C. 20036-5405
(202) 857-5000
FAX: (202) 223-8417

AARON M. NISENSEN*#+
CARLA MARKIM SIEGEL*#+

*DC #MD +VA #NY

1421 PRINCE STREET, SUITE 330
ALEXANDRIA, VIRGINIA 22314
(703) 548-4572
FAX: (703) 683-9048

March 29, 1999

The Honorable William Jefferson Clinton
President of the United States
The White House
Washington, D.C. 20500

99 APR 8 PM 2:48

Re: Georgetown Class of '68 & The Uniformed Division
of Secret Service

Dear Bill:

After nearly six years of your Presidency of which I am so proud, I finally feel compelled to write to you to let you know how proud I have been of you as a member of the Class of 1968. You may not remember the time at Georgetown when a group of us left the campus for Selma and the voter education drive which ended in the March to Montgomery, but I remember at the time worry about how few students on the main campus and in the Foreign Service School from the south (I was from Kentucky), supported what we were doing. I was told specifically that Clinton from Arkansas was a strong supporter. That struck me then, as it does now.

I meant to write to you sooner, during the pressure of the Lewinski affair. However, my work made that difficult. In addition to my teaching at the Georgetown Law Center, I am general counsel to the International Union of Police Associations and the Uniformed Division Officers Association of the Secret Service. In that role, I represent approximately twenty members of the Uniformed Division who, over their strong objections, became witnesses in Mr. Starr's investigation. The experience was uncomfortable for them. After more than twenty-five years representing working people and twenty years representing working law enforcement officers, including more than fifteen years as general counsel to the Uniformed Division Officers, it was my experience that the Independent Counsel's Office treated these committed law enforcement officers with outstanding records with less respect, less professionalism, and less common courtesy than any attorney, prosecutor, legal

or judicial officer has ever treated any client I've represented, including officers charged with serious misconduct. It upset them, as it upset me, in no little part because you were the target of the process.

I wanted to let you know that I admire the way you have handled this last difficult year. I wish I was writing for that purpose alone. However, I am writing because I am pressed to write for another reason.

Unfortunately, the working officers of the Uniformed Division work under a labor management relations system which severely limits their rights. They are not covered by the system available throughout the federal government to nearly all other working people including the majority of law enforcement officers. For example, we have represented the Pentagon Police Officers who have full federal meet and confer collective bargaining rights, and work under a contract which controls their working conditions. No such system is applicable to the Uniformed Division. As I am sure you recall, during your first term and working at the behest of the International Union of Police Associations, you considered amending the Executive Order which denies the officers of the Uniformed Division basic union and collective bargaining rights. That effort failed. The Order still needs revision. However, it initially resulted in some optimism that working within the Department of Treasury there would be an effort to establish a labor management meeting system in which some level of joint labor management "meet and confer" activity would take place. Some effort in that direction was instituted by the Director and the Chief of the Uniformed Division. However, by mid-1998 that effort sputtered and died.

Meanwhile, the Uniformed Division and the entire Secret Service was drawn by Mr. Starr into the investigation of the Presidency -- an experience as intense as any in the history of the Secret Service. That uncomfortable experience was particularly stressful to the Uniformed Division, which as the result of the working arrangement between the Justice Department and the Office of the Independent Counsel, bore the brunt of the investigation with only very limited exposure of the non-Uniformed portion of the Service. Unfortunately, that experience has combined with the increasing pressure for the security services of the Secret Service as we go into the next round of Presidential elections. This puts a great deal of stress on the Uniformed Division and the officers within it.

Rumors abound and reliable information is difficult to come by. Planning and decision making directly impacting on the working officers of the Uniformed Division is not shared with them. Study groups and task forces on the future of the Division meet and make recommendations without the participation and input from the Uniformed Division Officers Association. Structural and administrative changes are made without input or discussion. For example, posts are reassigned or redesignated and officers removed from permanent

posts only to be returned to those same posts on a temporary basis. Access to out of town assignments and voluntary overtime is denied officers on the basis of the proper use of leave. This occurs in situations where the leave is clearly within the protection of the Family Medical Leave Act. However, since FMLA issues on the federal level must be presented through the available grievance procedure and since, by operation of the Executive Order mentioned above, the Uniformed Division has no effective grievance procedure in which an officer may be represented by counsel, there is no avenue for appeal of violations of the officer's family leave rights. There are many other examples of these problems.

Beyond this, while the word is circulated that a task force or focus group met and made recommendations concerning a reorganization of the Service and the replacement of command officers within the Uniformed Division by non-uniformed agents, the related process moves forward secretly and without the participation of representatives of the working officers involved. The Uniformed Division Officers Association has asked for briefings on the situation and for copies of the recommendations and related reports, in order to contribute comments on them. These requests are turned aside or denied. Requests for information are ignored. When some time ago the President of the Uniformed Division shared with me some of the provisions of the Manual which controls personnel rules within the Service (provisions which are in not at all sensitive), he was reprimanded for releasing sensitive information outside the service. This was in a context in which the provisions provided to me were held securely and used only in the context of ongoing FLSA litigation in the United States Court of Claims. There is much more that could be said. There is no question that contrary to efforts to improve management labor relations cooperation eighteen to twenty-four months ago, the situation is deteriorating rapidly. Many of my clients perceive this deterioration as arising directly from the pressures placed on the Service by the investigation of the OIC. It no doubt is intensified by the increasing demand on the resources of the Service.

There are very few avenues available to the Uniformed Division Officers Association to improve these situations. No realistic labor management system exists; Congressional interference or appeals are not very attractive; no effective grievance procedure exists; those with the authority to share information or include the working officers in the process do not seem predisposed to do so. I write because I know in my heart that this is not a system of employer/employee relations which reflects either your values or your commitment to labor. I implore you to do whatever you can to move to improve the situation. Sam Cabral, the President of the International Union of Police Associations, Steve Smith, President of the Uniformed Division Officers Association, a committee of all of those involved, and I are willing to meet with anyone any time to see if something that might be done.



Again, keep up the good work. I am proud of you.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael T. Leibig", written over the word "Sincerely,".

Michael T. Leibig

MTL/blf

LAW OFFICES
ZWERDLING, PAUL, LEIBIG, KAHN, THOMPSON & WOLLY, P.C.
4012 WILLIAMSBURG COURT
FAIRFAX, VIRGINIA 22032



03/29/99 NO. VA. P&DC 220 22-26 DCR #2

The Honorable William Jefferson Clinton
President of the United States
The White House
Washington, D.C. 20500





FAX COVER SHEET

KAREN A. TRAMONTANO
ASSISTANT TO THE PRESIDENT AND
COUNSELOR TO THE CHIEF OF STAFF

THE WHITE HOUSE
GROUND FLOOR, WEST WING
WASHINGTON, DC 20500

PHONE: 202/456-1987 • FAX: 202/456-2030

DATE: 7/7/99

PLEASE DELIVER TO: Brian Nagel

FAX NUMBER: (202) 435-5246

SENT BY: Karen Tramontano ☒ Carolyn Wu

NUMBER OF PAGES: 6
(including cover sheet)

Re: tomorrow's 11 AM mtg w/ Karen.

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The Washington Times

DATE: 6/17/98

PAGE: A4

Clinton reneges on push for Secret Service union

ASSOCIATED PRESS

President Clinton reluctantly has decided not to support efforts by the Secret Service's uniformed division to unionize, the president's spokesman said yesterday.

"I think the president regrets that, but that's the situation," White House Press Secretary Michael McCurry said.

In announcing its intention to hold a protest rally outside the White House today, the Fraternal Order of Police said Mr. Clinton had promised in September 1996 to help the Secret Service uniformed division win collective-bargaining rights.

"Despite meetings and promises, the administration has done nothing to address the concerns of federal officers and done nothing to deliver on the president's promise," said Gilbert G. Gallegos, national president of the FOP.

The uniformed Secret Service officers guard the White House inside and out from fixed posts; the plainclothes agents are the ones who shield the president.

Tim Richardson, a spokesman for the FOP, said in an interview

that Mr. Clinton had told a meeting of his organization's executive board in September 1996 that it would be hypocritical of him not to support collective bargaining.

Mr. McCurry said presidential aides had reviewed the union matter and concluded that the Secret Service should not be granted an exception to a 1979 presidential executive order which said that, for national security reasons, the right to unionize did not apply to the Secret Service.

He disputed a suggestion that Mr. Clinton's earlier promise to support unionization was a mistake. When asked why Mr. Clinton had made the promise before the matter was reviewed, Mr. McCurry replied, "I think that's a very good question."

He said he could not answer it.

Many federal government agencies are denied collective bargaining rights based on national security. They include the Customs Service's Office of Investigations, the Treasury's Office of Intelligence Support and many agencies and offices of the Defense Department.