

The original documents are located in Box 57, folder “Protection - Presidential Candidates (2)” of the Philip Buchen Files at the Gerald R. Ford Presidential Library.

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THE WHITE HOUSE
WASHINGTON

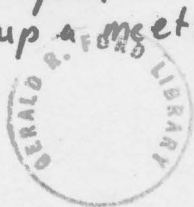
Date 7/7

TO: Phil Buchen

FROM: Barry Roth

Dave MacDonald is seeking a meeting with Don Rumsfeld to discuss Rumsfeld's comments for the White House on the proposed guidelines to protect Presidential & Vice Presidential candidates. Dave would like someone from the office present and I indicated that this would probably be you. Dave is trying to set up a meeting early this week.

cc: Jay French.



June 25, 1975

By
file

Dear Bill:

Thank you for the submission of the proposed guidelines for the protection of major Presidential candidates. The following are comments furnished by members of OMB and the Office of the President's Counsel:

The guidelines for Nominees of Political Parties (section II, A) are very limiting and appear arbitrary by automatically qualifying Republican and Democratic nominees, while any other political party qualifies only if the party received at least 10% of the Presidential vote in the last election. This would generally exclude minor party nominees, unless the Advisory Committee made an exception to the guidelines on a case-by-case basis. (See attachment for the number of votes received by selected minor parties in past elections.)

Imposing rigorous qualifications for minor parties and one for the Democratic and Republican parties in inviting charges of discrimination against minor parties. A single guideline, applied to all parties, would lessen criticism, and if the guideline were reasonable, lessen pressure upon the Advisory Committee to grant exceptions. The latter point is very important because a large number of exceptions would make the guidelines useless for planning purposes.

An appropriate single guideline should parallel congressional requirements for eligible nominees. Congressional requirements are provided in the Presidential Election Campaign Fund Act (26 USC 9001-9013). The Act's major requirement for payments to nominees appears reasonable to adopt as a qualifying guideline for Secret Service protection. This requirement, which is similar to Treasury's proposed guideline II, A, 2, is for a political party, in the preceding election, to have received 5% or more of the total Presidential vote.



These suggestions might be incorporated into the guidelines by deleting Treasury's proposed provisions for nominee protection (II, A, 1 and 2) and substituting the following:

The candidates of a political party for President and Vice President shall be deemed major candidates when the candidate of that party for the Office of the President, in the preceding Presidential election, received 5% or more of the total number of popular votes received by all candidates for the Office of the President of the United States.

The guidelines would still exclude all minor parties in the 1976 election. However, it appears less arbitrary by applying to all political parties and by paralleling the congressional requirements of the Presidential Election Campaign Fund.

- The guidelines for Candidates in Primary Elections parallel the congressional requirements included in the Campaign Reform Act of 1974. That Act authorized Federal matching payments to candidates as soon as \$100,000 in qualified contributions were received. The proposed guidelines would impose a more rigorous requirement of \$400,000 in qualified contributions for Secret Service protection. Why should the protective guidelines be more rigorous than those Congress has established? If Congress is willing to authorize payments of Federal funds to a candidate under one requirement, it is reasonable to adopt the same requirement for spending Federal funds for protection of that candidate.
- While Part IV gives the Secretary the flexibility to protect any candidate not coming within the other provisions, it might be revised to place more emphasis on the role of the Advisory Committee in such cases in order to protect the Administration from charges that they are playing politics with the protection of candidates. Such charges are conceivably possible from small parties such as the AIP which did receive Secret Service protection for their candidates in 1972.

One final comment concerns the cost data mentioned in the Treasury memoranda. From the Treasury viewpoint, the only additional costs are the increased travel, per diem and overtime associated with candidate protection. The actual incremental costs of candidate protection should also include the



additional agents, support personnel and equipment that have been added since 1969 to perform this function. This would raise the annual costs into the 10-20 million range.

I would appreciate your reaction to these objections.

Sincerely,

Donald Rumsfeld
Assistant to the President

The Honorable William E. Simon
Secretary of the Treasury
Washington, D.C. 20220

DR:FLM:mem





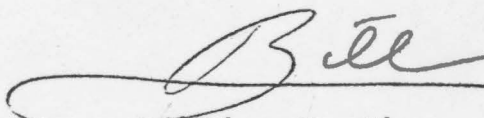
THE SECRETARY OF THE TREASURY
WASHINGTON 20220

MAY 15 1975

Dear Don:

In response to your letter of March 10 relating to the proposed guidelines for the protection of major candidates, I am enclosing revised Guidelines for Secret Service Protection of Major Candidates, together with comments thereon prepared by my staff.

Sincerely,



William E. Simon

The Honorable
Donald Rumsfeld
Assistant to the President
The White House
Washington, D. C. 20500

Enclosures





DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

May 20, 1975

MEMORANDUM FOR: The Honorable Philip W. Buchen
Counsel to the President

FROM: David R. Macdonald *DRM*
Assistant Secretary (Enforcement,
Operations, and Tariff Affairs)

SUBJECT: Revised Presidential Candidate
Protection Guidelines

As a result of a suggestion from Donald Rumsfeld, we have revised our Presidential candidate protection guidelines to base them upon the Campaign Reform Act of 1974, rather than upon the results of national preference polls. It was thought that this touchstone would be less subject to partisan misuse. I enclose a copy of the revised guidelines, therefore, as well as a memorandum of explanation.

We have now received inquiries concerning protection from Senators Fred Harris and Henry Jackson. It does appear that the pressure is beginning to build for the formation of the Advisory Committee and the consideration of protective guidelines.

Attachments



SUGGESTED ADVISORY COMMITTEE GUIDELINES FOR
ASSIGNMENT OF SECRET SERVICE PROTECTION TO
PRESIDENTIAL CANDIDATES PURSUANT TO P.L. 90-331

I. Introduction

P.L. 90-331 places upon the Secretary of the Treasury (the "Secretary") responsibility for determining from time to time, after consultation with an Advisory Committee (the "Committee"), those persons who qualify as a major Presidential and Vice Presidential Candidate ("Major Candidate") and thus should be furnished with Secret Service protection, unless declined. The Committee consists of the Majority Leader of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, the Minority Leader of the House of Representatives and one additional member to be selected by the members of such Committee. These guidelines will assist the Committee and the Secretary in determining who are the "major presidential or vice presidential candidates who should receive...protection..."

II. Guidelines Relating to Persons Who Are Major Candidates

A. Nominees of the Democratic, Republican and Other Parties

1. The nominees for President and Vice President of the Democratic and Republican National Conventions shall be deemed to be Major Candidates.
2. The candidates for President and Vice President

of any other party shall be deemed to be Major Candidates when the candidate of that party, in the preceding Presidential election, received 10 percent of the average number of popular votes received by the candidates for President of the major parties in the preceding Presidential election.

B. Candidates in Primary Elections

Prior to the National Conventions of the candidate's party, a candidate seeking the nomination of any party for President or Vice President shall be deemed to be a Major Candidate when:

- (a) the candidate has publicly announced his or her candidacy;
- (b) the candidate is seriously interested in, and actively campaigning on a national basis for, the office for which his or her candidacy has been announced;
- (c) the candidate has qualified for matching payments under Sections 9031 through 9042 of Title 26, U.S. Code, in an amount of at least \$400,000, for the Presidential or Vice Presidential campaign for which nomination is sought.



III. Commencement and Duration of Protection of Major Candidates

- A. Commencement of Protection. No protection shall be furnished pursuant to P.L. 90-331 earlier than March 1 of the Presidential election year. After such date, protection shall be commenced forthwith upon a determination by the Secretary that a person is a Major Candidate.
- B. Duration of Protection. When a determination by the Secretary is made that protection is to be furnished a Major Candidate, protection shall not be withdrawn so long as the candidate remains seriously interested in, and is actively campaigning on a national basis for, the office which the person's candidacy has been announced, unless the candidate specifically declines protection.

IV. General

Nothing contained in these guidelines shall preclude a determination by the Secretary, after consultation with the Committee, that a person is a Major Candidate although the guidelines set forth herein are not satisfied.



NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
Presidential Libraries Withdrawal Sheet

WITHDRAWAL ID 01568

REASON FOR WITHDRAWAL National security restriction

TYPE OF MATERIAL Memo(s)

CREATOR'S NAME Macdonald, David

RECEIVER'S NAME Simon, William

DESCRIPTION Proposed guidelines for protection of
major candidates.

CREATION DATE 05/13/1975

VOLUME 3 pages

COLLECTION/SERIES/FOLDER ID . 001900558

COLLECTION TITLE Philip W. Buchen Files

BOX NUMBER 57

FOLDER TITLE Protection - Presidential Candidates
(1)-(2)

DATE WITHDRAWN 09/07/1988

WITHDRAWING ARCHIVIST LET

May 22, 1975

JL 6-1

MEMORANDUM FOR: LYNN MAY

FROM: BARRY ROTH

SUBJECT: Treasury Guidelines for
Secret Service Protection of
Presidential Candidates

I have reviewed Treasury's proposed guidelines and offer the following thoughts:

- (1) The \$400,000 requirement to qualify as a major candidate in primary elections does seem slightly high since matching federal funds can be provided after a candidate has raised as little as \$100,000. However, I do not feel particularly strongly on this point.
- (2) Part III, with respect to the duration of protection for major candidates, is unclear. Does a major candidate in the primary election who, after losing in the national convention, continues to campaign on a third party ticket for that office, cease to be a major candidate or does Part III mean that he would automatically continue to be entitled to protection?
- (3) While Part IV gives the Secretary the flexibility to protect any candidate not coming within the other provisions, it might be revised to place more emphasis on the role of the Advisory Committee in such cases in order to protect the Administration from charges that they are playing politics with the protection of candidates. Such charges are conceivably possible from small parties such as the AIP which I recall did receive Secret Service protection for their candidates in 1972.

cc: Bill Casselman



Protection
Pres + VP Cand.

Wednesday 7/9/75

Meeting
7/14/75
2 p.m.

10:50 Meeting has been scheduled with David Macdonald, Dick Cheney, Barry Roth and you to discuss protection for Presidential and Vice Presidential candidates.

Will be in your office at 2 p.m. on Monday 7/14.



Friday 9/5/75

6:40 David Macdonald called to say Secretary Simon recommends protection for the Democratic candidates; they had planned to do it later, but they feel it should be done right away. Senator Mansfield strongly recommends it. Macdonald said it has to be done tonight.

343-0418



THE WHITE HOUSE

WASHINGTON

September 16, 1975

Dear Leon:

Many thanks for your thoughtful letter of September 9. I do share your concerns, but I find that the President himself is less concerned than the people around him.

The other evening we had the pleasure of attending a dinner in honor of Bob and JoAnne Herring.

Please let me know when you plan to be in Washington again.

Sincerely,



Philip W. Buchen
Counsel to the President

Mr. Leon Jaworski
Fulbright & Jaworski
Bank of the Southwest Building
Houston, Texas 77002

*Prop
for action*



October 13, 1975

To: Dawn

From: 'Eva

Secret Service protection
for Presidential candidate --
Richard Swallow --





To Mr. Buchen

SEP 28 1975

The White House
Washington

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WHITE HOUSE
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ICS IPMTZZ CSP

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PMS PRESIDENT GERALD FORD

WHITE HOUSE DC

THIS IS OFFICIAL THAT I WILL ENTER THE NEW HAMPSHIRE PRIMARY AS A
REPUBLICAN CANDIDATE FOR THE PURPOSE OF SEEKING THE REPUBLICAN
NOMINATION FOR THE PRESIDENT OF THE UNITED STATES. I AM ALSO AFTER
YOU AT THIS FOR SECRET SERVICE COVERAGE. I HOPE TO HEAR FROM YOU IN
WRITING AS SOON AS POSSIBLE AS I WILL START MY TOUR THIS WEEK IN THE
STATE OF NEW HAMPSHIRE. SINCERELY

RICHARD A SWALLOW / STONEY HILL RD CHATHAM MA 02633 SEPTEMBER
27 1975 830AM

NNNN

FORM 0805 PRINTED BY THE STANDARD REGISTER COMPANY, U.S.A.

OCT 23 1975

*Copy sent
Barry*

Dear Mr. Swallow:

Confirming the advice given to you by Philip W. Buchen, Counsel to the President, at the recommendation of the Treasury Department, the Advisory Committee has adopted Guidelines which I enclose for your perusal.

These Guidelines, as explained in the attached letters to the Federal Election Commission, provide that, in order for a candidate to be considered a "major candidate" for the Office of President of the United States, the candidate must meet some of the requirements for matching funds under the Federal Election Campaign Act, as amended. These requirements involve primarily the amount of funds raised by the candidate and his campaign committee.

At such time as the Federal Election Commission advises us that you have met the fund raising requirements, and if you also comply with the other requirements of the Guidelines, you would be offered protection.

Sincerely,

/s/David R. Macdonald

David R. Macdonald
Assistant Secretary
(Enforcement, Operations,
and Tariff Affairs)

Mr. Richard A. Swallow
Stoney Hill Road
Chatham, Massachusetts

Enclosures

bcc: P.W. Buchen



OCT 3 1975

Dear Chairman Curtis:

This is in further reference to my letter to you dated September 29, 1975, requesting your assistance concerning a recent advisory committee recommendation.

As you know, on September 23, 1975, the advisory committee recommended that Secret Service protection be offered immediately to all Presidential candidates who "appear to qualify" to receive matching Federal campaign funds. I advised you in my letter of September 29 that, regardless of the statutory requirements for qualification, we define the term "appear to qualify" for advisory committee purposes only as follows: Those persons who are candidates (as defined in 2 U.S.C. 431(b)) under the Federal Election Campaign Act of 1971 (P.L. 92-225) and the Federal Election Campaign Act Amendments of 1974 (P.L. 93-443) for the Office of President or Vice President of the United States and who (individually or through an authorized committee) have reported receiving after January 1, 1975, total receipts equal to or greater than \$100,000. In response to my request, you supplied a list of six candidates who met the above definition. These candidates have been offered Secret Service protection.

In a further attempt to refine our criteria, we have decided to add the following sentence to the above definition: In determining a candidate's total receipts, any amount of aggregate contributions in excess of \$250 given by any person on or after January 1, 1975, shall be disregarded. We believe that this additional statement will bring our criteria more in line with the



- 2 -

statutory requirements for receiving matching Federal campaign funds, and will result in a list of candidates who will more closely approximate those who will ultimately qualify for such funds. Nevertheless, we continue to recognize that our criteria for according protection in no way is indicative of the statutory criteria governing the Commission for determining which candidates are entitled to matching payments.

We greatly appreciate your continued assistance in this matter.

Sincerely yours,

/s/David R. Macdonald

David R. Macdonald
Assistant Secretary
(Enforcement, Operations,
and Tariff Affairs)

The Honorable
Thomas B. Curtis, Chairman
Federal Election Commission
1325 K Street, N.W.
Washington, D. C. 20463

OS:GC:JKelleher/DMacdonald:mln
10/3/75



THE WHITE HOUSE
WASHINGTON

October 16, 1975

*Protect.
Secret Service*

Dear Mr. Swallow:

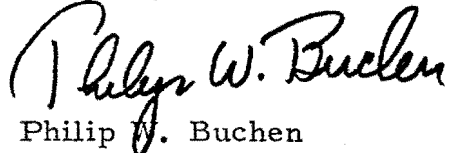
This is in response to your telegram of September 27, 1975, requesting Secret Service protection as an announced candidate in the New Hampshire Primary election for the purpose of seeking the Republican nomination for President of the United States.

The Act of June 6, 1968 (82 Stat. 211, P.L. 90-331) authorizes the United States Secret Service ". . . to furnish protection to persons who are determined from time to time by the Secretary of the Treasury, after consultation with the advisory committee, as being major presidential or vice presidential candidates who should receive such protection (unless the candidate has declined such protection)." The referenced advisory committee consists of the Speaker of the House, the minority leader of the House of Representatives, the majority and minority leaders of the Senate and one additional member selected by the other members of the committee. In order to determine which candidates are "major candidates" entitled to protection, the advisory committee has adopted the standard used in the Federal Election Campaign Act Amendments for candidates who are eligible for matching Federal funds, i. e., \$100,000 in contributions must have first been raised in amounts of \$250 or less.



Accordingly, I have referred your request for protection to the Secretary of the Treasury for appropriate consideration and response directly to you.

Sincerely,

A handwritten signature in dark ink, reading "Philip W. Buchen". The signature is fluid and cursive, with the first name "Philip" being more prominent and the last name "Buchen" following in a similar style.

Philip W. Buchen
Counsel to the President

Mr. Richard A. Swallow
Stoney Hill Road
Chatham, Massachusetts

THE WHITE HOUSE
WASHINGTON

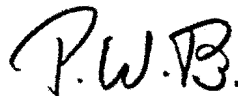
October 16, 1975

MEMORANDUM FOR

DAVID R. MAC DONALD
ASSISTANT SECRETARY
OF THE TREASURY

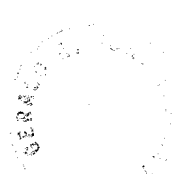
The attached telegram from Mr. Richard A. Swallow of Chatham, Massachusetts, requesting Secret Service protection as a candidate for the Republican Presidential nomination has been acknowledged and is forwarded to you for appropriate handling and response directly to him.

Thank you for your assistance.



Philip W. Buchen
Counsel to the President

Attachments



To Mr. Rec.

GA

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ICS IPMTZZ CSP

075 SEP 27 AM 9 51

6179451363 TDMT CHATHAM MA 84 09-27 0737A EST

PMS PRESIDENT GERALD FORD

WHITE HOUSE DC

THIS IS OFFICIAL THAT I WILL ENTER THE NEW HAMPSHIRE PRIMARY AS A
REPUBLICAN CANDIDATE FOR THE PURPOSE OF SEEKING THE REPUBLICAN
NOMINATION FOR THE PRESIDENT OF THE UNITED STATES. I AM ALSO AFTER
YOU AT THIS FOR-SECRET-SERVICE COVERAGE. I HOPE TO HEAR FROM YOU IN
WRITING AS SOON AS POSSIBLE AS I WILL START MY TOUR THIS WEEK IN THE
STATE OF NEW HAMPSHIRE. SINCERELY

RICHARD A SWALLOW / STONEY HILL RD CHATHAM MA 02633 SEPTEMBER
27 1975 830AM

NNNN

09/25 SEP 29 AM 8 50

RECEIVED
MAIL ROOM



THE WHITE HOUSE
WASHINGTON

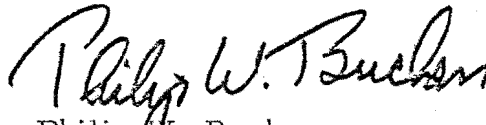
November 6, 1975

Dear Mr. Knaus:

This letter is in response to your correspondence of September 24 to Larry Eastland concerning the possibility of a Law Enforcement Assistance Administration (LEAA) grant to Kansas City to assist in security coverage of the 1976 Republican National Convention.

Your inquiry has been referred to the Administrator of LEAA for further response.

Sincerely,


Philip W. Buchen
Counsel to the President

Mr. John V. Knaus
Executive Director
Missouri Council on Criminal Justice-Region 1
Room 1007 Argyle Building
306 E. 12th
Kansas City, Missouri 64106



THE WHITE HOUSE

WASHINGTON

November 6, 1975

MEMORANDUM FOR

RICHARD W. VELDE
ADMINISTRATOR
LEAA

Attached for your appropriate handling is a letter from John V. Knaus of the Missouri Council on Criminal Justice concerning an LEAA grant to Kansas City to aid in security coverage for the 1976 Republican National Convention.

Also attached for your information is a copy of my acknowledgement.

P.W.B.

Philip W. Buchen
Counsel to the President



THE WHITE HOUSE

WASHINGTON

October 27, 1975

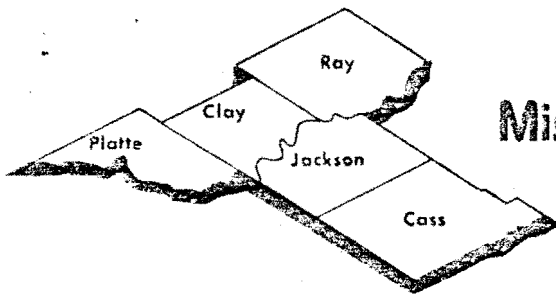
MEMORANDUM FOR: PHILIP BUCHEN

FROM: RED CAVANEY 

Attached please find a letter to Larry Eastland of my staff concerning possible Federal assistance for security provisions for the RNC Convention in Kansas City in 1976. If you can provide any further information to John Knaus, I would appreciate your corresponding directly with him.

cc: Jerry Jones





Missouri Council on Criminal Justice-Region 1

ROOM 1607 ARBYLE BUILDING
306 E. 12TH, KANSAS CITY, MISSOURI 64106
PHONE (816) 221-6711

September 24, 1975

Mr. Larry Eastland
White House Office
1600 Pennsylvania Avenue, N. W.
Washington, D. C. 20500

Dear Mr. Eastland:

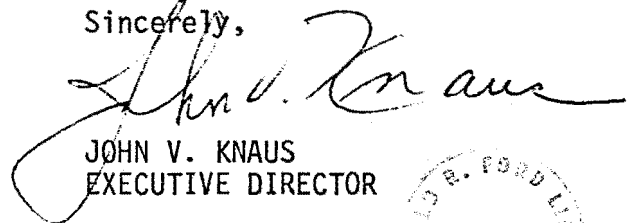
I am writing to you at the request of Mayor Charles B. Wheeler concerning a matter which he recently discussed with you, the question of funding for police security at the Republican National Convention in Kansas City next year.

As you may know, funds were made available through the Law Enforcement Assistance Administration to assist the City of Miami during the last round of national conventions, and a small grant was awarded to Kansas City to aid in security coverage of the Mid-term Democratic convention held here in 1974. A request for clarification of LEAA policies governing the possible allocation of funds for this purpose during 1976 was submitted to Mr. Marvin Ruud, LEAA Regional Administrator in Kansas City, Kansas. Mr. Ruud responded that, under the present circumstances, LEAA funds will not be available during 1976 for the purpose of assisting law enforcement activities at political conventions.

It is my understanding that LEAA has considered requesting from Congress a supplement to their FY 1976 budget to enable them to respond affirmatively to such requests as this; however, I have no information that a final decision has been made about the propriety of such a request.

Any help you can provide us in obtaining sufficient funds to provide security for the Republican National Convention will be greatly appreciated. If I can be of further assistance, do not hesitate to call on me.

Sincerely,


JOHN V. KNAUS
EXECUTIVE DIRECTOR

JVK:PD:rp
CC: Mayor Charles B. Wheeler
Mr. Jay Sondhi
Mr. Marvin Ruud
Chief Joseph McNamara

HAPPY BIRTHDAY AMERICA! AMERICAN REVOLUTION BICENTENNIAL 1776-1976



UNITED STATES DEPARTMENT OF JUSTICE
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION
KANSAS CITY REGIONAL OFFICE



PHONES:
ADMINISTRATION - 816/374-4501
OPERATIONS - 374-4504
TECHNICAL ASSISTANCE - 374-4508

435 STATE AVENUE
KANSAS CITY, KS 66101

September 4, 1975

Mr. Jay Sondhi
Executive Director
Missouri Council on Criminal Justice
P. O. Box 1041
Jefferson City, Missouri 65101

Dear Mr. Sondhi:

This is in response to your letter of August 27, 1975, concerning the prospects for LEAA funds to support law enforcement activities in connection with the 1976 national political conventions. Under present circumstances, it is not anticipated that LEAA funds will be available for this purpose. The appropriation legislation pending before Congress provides for a substantial reduction in FY 1976 LEAA funds below FY 1975. Moreover, national political convention law enforcement activities do not come within LEAA FY 1976 discretionary fund priorities. Consideration is now being given to a FY 1976 supplemental budget request for this purpose but no final decision has been made. Until that decision is made and approval secured from the Office of Management and Budget and the Congress, I regret the necessity of this negative response.

Please feel free to call me if you should have any further questions.

Sincerely,

/s/ MARVIN F. RUUD

MARVIN F. RUUD
Regional Administrator

cc: Mr. Mike Garrett, Dir. of Public Safety
Lieut. Col. Bryce Thompson, KCMOPD



POLICE DEPARTMENT

KANSAS CITY, MISSOURI 64106



JOSEPH D. McNAMARA
Chief of Police

August 18, 1975

Mr. Marvin F. Rudd
L.E.A.A. Region VII
436 State Avenue
Kansas City, Kansas

Dear Mr. Rudd:

The City of Kansas City is actively engaged in bidding for the Republican National Convention to be held during the month of August 1976.

In the past, L.E.A.A. had provided funds for police activity regarding security of both the Democratic and National Conventions. It is requested that information be furnished regarding the position of L.E.A.A. in providing financial support for police operations in the 1976 National Conventions.

Your reply setting forth the L.E.A.A. policy will be appreciated. Feel free to contact me regarding any questions on this matter.

Sincerely,

A handwritten signature in cursive script that reads "Bryce Thompson".

Bryce Thompson

Lieut. Colonel Bryce Thompson
Assistant Chief of Police

BT:vh

cc: CO
Comm. Davis
Comm. Werner
Comm. Bivins
Comm. Gibson

THE WHITE HOUSE
WASHINGTON

September 2, 1976

ADMINISTRATIVELY ~~CONFIDENTIAL~~

MEMORANDUM FOR:

PHIL BUCHEN

FROM:

JIM CONNOR *JEB*

SUBJECT:

Secret Service Protection for
Wives of Major Presidential and
Vice Presidential Nominees

The President reviewed your memorandum of September 1 on the above subject and approved your recommendation that you authorize in his behalf Secret Service protection for Mrs. Carter, Mrs. Mondale and, if requested, Mrs. Dole pending action by Congress on the proposed legislation mentioned in your memorandum

The letter to implement this decision is attached for your signature.

When signed, please return to this office and we will handle delivery thru Bob Linder's office.

cc: Dick Cheney
Bob Linder

THE WHITE HOUSE

WASHINGTON

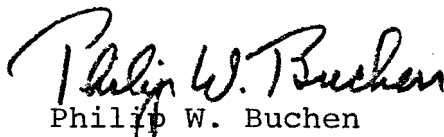
September 2, 1976

MEMORANDUM FOR

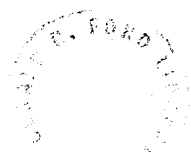
THE HONORABLE WILLIAM E. SIMON
SECRETARY OF THE TREASURY

SUBJECT: Secret Service Protection for
 Mrs. Carter and Mrs. Mondale

I am informed that Democratic Presidential nominee Jimmy Carter has requested Secret Service protection for Mrs. Carter and for Mrs. Mondale during the Presidential campaign. I understand you have sent proposed legislation to the Congress which would specifically authorize protection for the spouses of major Presidential and Vice Presidential nominees. On the authority of the President, you are requested and authorized to provide protection for Mrs. Carter, Mrs. Mondale, and, if requested, for Mrs. Dole during such period as may be reasonably required for Congress to act on the proposed legislation.



Philip W. Buchen
Counsel to the President



THE WHITE HOUSE
WASHINGTON

ACTION

September 1, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: PHILIP W. BUCHEN *P.*

SUBJECT: Secret Service Protection for Wives of
Major Presidential and Vice Presidential
Nominees

BACKGROUND

Governor Carter has sought from the Secretary of the Treasury to have Secret Service protection provided for Mrs. Carter and Mrs. Mondale upon their beginning to campaign on Monday, September 6, 1976.

This request was considered by the Advisory Committee established in 1968 in respect of protection to be furnished for the candidates themselves. This Advisory Committee consists of the House and Senate leadership and Mel Laird as an appointee of the leadership. Although the Advisory Committee realized that the statutory authority for protecting major Presidential and Vice Presidential candidates does not specifically extend to their respective spouses, the Committee nevertheless unanimously recommended protection for the spouses of such candidates.

Similarly, the Secretary of the Treasury recommends such protection, but only on an interim basis until the Congress amends the statute so as to include spouses of protected candidates among the specifically authorized protectees. A proposal for such legislation has been submitted to the Congress by the Treasury Department, and Treasury anticipates it will be enacted shortly after the Congress returns following its Labor Day recess, although not in time to begin protection on September 6.

YOUR AUTHORITY

In the past, protection has been afforded to persons other than those specifically designated under the enabling statute of the Secret Service. This protection is based on the presumption that you, as President, have the authority to order protection in cases which are not expressly covered by the statute but which are in the public interest.

The grounds for this authority on your part are stated in the attached memorandum from Edward Schmults when he was General Counsel of Treasury to Secretary Shultz, a copy of which was sent to me on September 26, 1974 (see TAB A).

RECOMMENDATION

My recommendation is that you authorize me in your behalf to authorize Secret Service protection for Mrs. Carter, Mrs. Mondale and, if requested, Mrs. Dole pending action by Congress on the proposed legislation mentioned above.

A form of the document I would sign is attached at TAB B.

APPROVE _____

DISAPPROVE _____





THE UNDER SECRETARY OF THE TREASURY
WASHINGTON, D.C. 20220

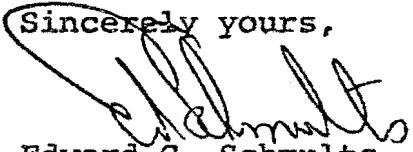
September 16, 1974

Dear Phil:

In view of the fact that we will be discussing the matter of Secret Service protection on future occasions, I thought that it would be appropriate to send you a copy of a memorandum which I prepared as General Counsel of this Department. The memorandum discusses situations during which protection has been authorized where it was not specifically authorized under the protective statute, 18 U.S.C. 3056(a).

With kind regards,

Sincerely yours,


Edward C. Schmults

The Honorable
Philip Buchen
Counsel to the President
The White House
Washington, D. C.

Enclosure





THE GENERAL COUNSEL OF THE TREASURY
WASHINGTON, D.C. 20220

MAR 19 1974

MEMORANDUM FOR: Secretary Shultz

FROM:

Edward C. Schmultz *EC*

SUBJECT:

The Authority of the Secret Service to Provide Protection
in Circumstances Not Specified in 18 U.S.C. 3056(a)

Following your appearance before the Senate Appropriations Committee on February 27th, you asked me to prepare a memorandum on the authority of the Secret Service to provide protection in circumstances not specified in the basic protective statute, 18 U.S.C. 3056(a). This document is provided in response to that request.

In 1865 the Secret Service was established as a division of the Treasury Department to suppress counterfeiting, but before the turn of the century it was engaged, in an ad hoc, stop-gap way, in protecting the President. Although the Secret Service began full-time protection of the President in 1902, four years passed before specific legislative sanction and funds were provided for such protection. It was not until 1951 that the basic protective statute was enacted authorizing permanent protection for the President. This statute, 18 U.S.C. 3056(a), has been amended several times to enlarge the number of persons to be protected. Thus, the evolution of the Secret Service protective mission has been an on-going process. The history and nature of that mission make it imperative, in Treasury's view, that the protective statute not be regarded as preventing the Secret Service from protecting persons not specifically covered by the statute in circumstances where the risk of harm and the public interest justify protection.



The basic statute now authorizes the Secret Service, subject to the direction of the Secretary of the Treasury, to protect the President and his immediate family; the President-elect; the Vice President or other officer next in succession to the President; the Vice President-elect; major Presidential and Vice Presidential candidates;^{1/} former Presidents and their wives; the widows of former Presidents until death or remarriage; minor children of former Presidents until they reach the age of sixteen; visiting heads of state and of foreign governments; and, at the direction of the President, other distinguished foreign visitors and official representatives of the United States performing special missions abroad.^{2/}

Consistent with the evolution of the Secret Service's protective mission, the Treasury Department has over the years taken the position that this statutory enumeration does not preclude the Secret Service from affording protection to individuals who do not fall within the specific categories set forth in 18 U.S.C. 3056(a) if there are circumstances present which make such protection reasonable as a matter of both law and public policy. Because of the nature of what is in issue, i.e., the protection of persons whose lives are considered to be in danger, we have not regarded Congress'

^{1/} The responsibility to protect Presidential and Vice Presidential candidates stems from P.L. 90-331 (1968). This authority is noted in a footnote to 18 U.S.C. 3056.

^{2/} The protective statute has been considerably broadened since 1951 when it only authorized protection of the President and his immediate family, the Vice President and the President-elect. Persons in several of the new categories of protectees added by the Congress had already been receiving protection at the direction of the President prior to the Congress' specific authorization.



enumeration of specific classes of persons to be protected as intended to preclude protection which is in the public interest when ordered by the President on a temporary basis or protection for which there is other authority, as discussed below.

* * * *

The Treasury Department has operated for many years under the general presumption that there is Presidential authority to order protective details in cases not expressly covered by the protective statute but which are in the public interest. This ability provides a necessary flexibility, particularly in emergency situations, to cover important situations not foreseen by the Congress and not dealt with in 18 U.S.C. 3056(a). In a present day environment where terrorism and kidnapping are being increasingly utilized in attempts to secure social and economic demands, this capability appears to be a necessity.

The Treasury, as an agency of the Executive branch of the government, is not in a position to express authoritative conclusions as to the basis for the President's inherent power to order Secret Service protection of a specific individual. That is a determination to be made in the first instance by Counsel to the President. But, in the absence of an authoritative expression to the contrary, the Treasury believes that in cases where the President determines that the risk of harm and the public interest justify Secret Service protection, his directive to furnish such protection is, as a matter of law, presumptively valid.



Inherent executive authority has been utilized on a number of past occasions by many Presidents to order protection in a variety of circumstances.³ For example, during World War II protection was afforded to Queen Wilhelmina of the Netherlands, Prime Minister Winston Churchill and other official foreign visitors to the United States. President Truman and his successors sent Secret Service details to Latin America to provide protection for Secretaries of State. Governor Rockefeller was protected by the Secret Service on an official trip to Latin America during a time when extensive rioting was taking place. Former Vice President Humphrey received protection for six months in 1969 after leaving office. Although he was not a candidate for the Presidency, Senator Edward M. Kennedy was protected subsequent to the assassination attempt against Governor Wallace during the 1972 Campaign. Finally, we would point out that if the statute is read literally, protection for Vice President-designate Ford was not expressly authorized during the time period from his nomination by the President until his confirmation by the Congress, since he was neither a "candidate" for the Vice Presidency for whom protection was recommended by the advisory committee prescribed in P.L. 90-331, nor an official next in succession to the Presidency, nor a "Vice President-elect."

3/ With two exceptions, those situations where protection has been ordered by the President have involved the protection of individuals in circumstances akin to, but not within, the specific parameters set forth in 18 U.S.C. 3056(a). These exceptions concern the protection of foreign officials visiting the United States and protection of U.S. officials on missions abroad before the statute was amended in 1971 to specifically cover both types of situations.



The Congress has been informed of past instances where the Secret Service has provided protection for persons not within the specific categories listed in 18 U.S.C. 3056(a).^{4/} To our knowledge, no significant objections have

4/ In 1950 testimony before the Labor-Federal Security Appropriations Subcommittee of the House Appropriations Committee indicated that, although it was not at the time prescribed by the Secret Service's statute, the Vice President and certain foreign dignitaries were receiving Secret Service protection. (Hearings before the House Subcommittee on Labor-Federal Security Appropriations on the Second Supplemental Appropriations Bill for 1951, 81st Cong., 2nd Sess., p. 175 (1950).) Although Mr. Truman had a Secret Service detail as Vice President and Vice President Wallace was guarded on a few occasions, the statute was not amended to specifically authorize the Secret Service to protect the Vice President until 1951.

In September 1972 it was formally reported to the Treasury subcommittee of the House Appropriations Committee that Secret Service protection was being provided to Senator Edward Kennedy, although he was not a candidate in the 1972 Presidential Campaign, "by direction of the President, pursuant to the inherent powers of the President." (Hearings before the House Subcommittee on the Treasury, Postal Service, and General Government Appropriations on the Supplemental Appropriation Bill, 1973, 92nd Cong., 2nd Sess., p. 1058 (1972).) In March, 1971, it was reported to the same subcommittee that, "at the direction of the President," the Secret Service had during 1970, prior to enactment of legislation authorizing such, protected numerous visiting foreign dignitaries. (Hearings before the House Subcommittee on the Treasury, Postal Service, and General Government Appropriations on Appropriations for 1972, 92nd Cong., 1st Sess., pp. 222, 224 (1971).) The Senate Appropriations Subcommittee with responsibility for the Treasury Department was also apprised of both of these protective assignments. (Hearings before the Senate Subcommittee on the Treasury, U.S. Postal Service and General Government Appropriations on H.R. 9590, 93rd Cong., 1st Sess., p. 462 (1973); and, Hearings before the Senate Subcommittee on the Treasury, U.S. Postal Service and General Government Appropriations on H.R. 9271, 92nd Cong., 1st Sess., pp. 475-476 (1971).)

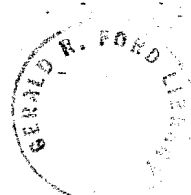
In 1969 the Senate Appropriations Subcommittee on Deficiencies and Supplementals heard testimony that the President, with no specific legislative authority, had ordered Secret Service protection for Governor Rockefeller during an official trip to Latin America. (Hearings before the Senate Subcommittee on Deficiencies and Supplemental Appropriations on H.R. 11400, 91st Cong., 1st Sess., p. 1125 (1968).)



ever been raised in connection with any protective mission other than that involving former Vice President Agnew in the recent past.^{5/} In pertinent situations lack of Congressional objection to a long-standing practice of the Executive has been interpreted as supporting the proposition that such practice is impliedly authorized. United States v. Midwest Oil Company, 236 U.S. 459 (1915).

Although no statute specifically authorizing such conduct was in existence, the Supreme Court recognized the authority of the President to assign a deputy Federal marshal to protect a U.S. Supreme Court Justice whose life had been threatened as part of the Executive's constitutional duty to "take care that the laws be faithfully executed", (U.S. Const. Art. II, §3) In re Neagle, 135 U.S. 1 (1890). We believe that such inherent Presidential authority to direct Federal officers to provide protection where it is in the public interest supports the view that the statute enumerating the general powers of the Secret Service was not intended to be exclusive.

^{5/} The issue of whether, and under what circumstances, the Secret Service has legal authority to provide protection beyond that specifically set forth in 18 U.S.C. 3056(a) has never been considered by any court of the United States. In fact, before the Comptroller General set forth his recent opinion with respect to former Vice President Agnew's protection, an opinion which limited itself only to the case of Mr. Agnew and expressed no other conclusions, no views, to Treasury's knowledge, had ever been expressed formally by any agency of the United States that Secret Service protection in circumstances other than those specifically set forth in 18 U.S.C. 3056(a) might be without authority of law.



Such an assignment of Executive branch personnel should, because of the necessity to implement protection in certain situations, be viewed as analogous to other unspecified Presidential powers, such as that to remove Executive officials upheld by the Supreme Court in Myers v. United States, 272 U.S. 52 (1926).

* * * *

There is a second type of situation, namely that in which Secret Service protection has been afforded without Presidential directive, generally on the authority of the Secretary of the Treasury, to individuals not within those categories specifically set forth in 18 U.S.C. 3056(a). In accordance with the comments made at the Senate Appropriations Committee hearing on February 27th, we are discussing in this section of the memorandum only the protection being accorded to the Secretary and the current Deputy Secretary of the Treasury, and the Secretary of State.

The deployment of security personnel is an executive function essential to the management of a department and the performance of its business. Thus, it is reasonable that, if considered necessary in view of demonstrable evidence of risk, the Secretary and the current Deputy Secretary of the Treasury be assigned an appropriate number of professionally trained Secret Service agents. Section 301 of 5 U.S.C. provides, in part, that "the head of an Executive department or military department may prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business. . . ." Reorganization Plan 26 of 1950 (5 U.S.C. App., p. 544) transferred all duties and functions of

employees of the Department of the Treasury, including those of the Secret Service, to the Secretary.^{6/} Accordingly, the Secretary is empowered by law to supervise and direct the activities of Secret Service officers. Such officers, like all other Treasury personnel, could be assigned to render him direct assistance to carry out any Treasury responsibilities. In the past, in response to a White House request, the Secretary has deployed Secret Service officers as sky marshals to protect commercial aircraft against hijacking.^{7/} The Secret Service has trained security personnel from other departments so that they could protect their own department heads.^{8/} The Secret Service also at times conducts investigations for Treasury bureaus which do not have their own investigative capabilities.^{9/} None of these functions are specifically set out in 18 U.S.C. 3056(a). Each activity has been discussed in appropriation hearings before Congress and none has been criticized as beyond the Service's authority as set forth in 18 U.S.C. 3056(a).

During World War II Secretary Morgenthau was supplied a Secret Service detail to insure his personal safety. Given the present national environment and evidence of specific risks, it seems reasonable to the Treasury

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- ^{6/} See also section 5 of P.L. 91-651 (1971) in which Congress specifically made 18 U.S.C. 3056, as amended, subject to Reorganization Plan 26.
- ^{7/} Hearings before the House Subcommittee on Treasury, Post Office and General Appropriations on Appropriations for 1972, 92nd Cong., 1st Sess., pp. 223, 262-263 (1971).
- ^{8/} Hearings before the House Subcommittee on the Treasury, Postal Service, and General Government Appropriations on Appropriations for Fiscal Year 1974, 93rd Cong., 1st Sess., Part I, p. 392 (1973).
- ^{9/} Hearings before the House Subcommittee on Treasury - Post Office Departments Appropriations on Appropriations for 1958, 85th Cong., 1st Sess., pp. 533-534 (1957) (personnel investigations for the Bureau of Engraving and Printing, Bureau of the Mint, Bureau of Public Debt, etc.).



that the Secretary and the current Deputy Secretary of the Department also be assigned Secret Service agents who have been trained to provide personal protection.

Finally, in addition to authorizing Secret Service protection for the two senior officials in the Treasury Department, the Secretary of the Treasury has, in response to a request from Secretary of State Kissinger, directed the Secret Service to protect him. Such action is justified under the Economy Act of 1932, as amended, 31 U.S.C. 686. The Department of State is authorized under 22 U.S.C. 2666 to provide protective services for the Secretary of State, and funds have been appropriated for that purpose. Government agencies are authorized under 31 U.S.C. 686 to use available funds to procure services from other government agencies. Pursuant to this authority, the Department of State has determined that it is in the interest of the government to utilize the Secret Service to provide protection, on a partially reimbursable basis, for the Secretary of State.

* * * *

For the reasons stated above, the Treasury believes that the basic protective statute is not exclusive and that additional Secret Service protection may be directed in cases not specifically covered by the statute where the risk of harm and the public interest justify such protection. Recently this proposition has been questioned with respect to at least one protective detail not covered by the statute. It may be desirable to

consider again broadening the protective statute to cover additional situations where protection is warranted. If this view is accepted, further consideration will be given to this matter by the Treasury with a view to developing specific legislative proposals.



THE WHITE HOUSE

WASHINGTON

MEMORANDUM FOR

THE HONORABLE WILLIAM E. SIMON
SECRETARY OF THE TREASURY

SUBJECT: Secret Service Protection for
 Mrs. Carter and Mrs. Mondale

I am informed that Democratic Presidential nominee Jimmy Carter has requested Secret Service protection for Mrs. Carter and for Mrs. Mondale during the Presidential campaign. I understand you have sent proposed legislation to the Congress which would specifically authorize protection for the spouses of major Presidential and Vice Presidential nominees. On the authority of the President, you are requested and authorized to provide protection for Mrs. Carter, Mrs. Mondale, and, if requested, for Mrs. Dole during such period as may be reasonably required for Congress to act on the proposed legislation.

Philip W. Buchen
Counsel to the President



Ed Schmults

to: _____

Department
of the Treasury

Assistant Secretary
(Enforcement,
Operations, and
Tariff Affairs)

room: _____ date: _____

For your approval, per our
discussion, this memo could
be signed by any senior
officer at the White House.

Dave



David R. Macdonald

room 3442
ext. 2033

THE WHITE HOUSE

WASHINGTON

MEMORANDUM TO THE HONORABLE WILLIAM E. SIMON
SECRETARY OF THE TREASURY

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