

The original documents are located in Box 57, folder “Protection - Responsibilities of the Secret Service and EPS (1)” of the Philip Buchen Files at the Gerald R. Ford Presidential Library.

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THE WHITE HOUSE
WASHINGTON

Jay:

Re item on p. 11.

Is GAO right on
the legal point?

P

Eva,
it's forwarded
to Jay.



doubt, to apply for its benefits. Nothing will be lost by extending the deadline, and much can be gained by doing so. The program was created to bind up the lingering wounds of the Vietnam war. Let's apply a full bandage, not a mere Band-Aid.

Midwest News

Seth Kantor, Detroit News, Washington: A detail of Secret Service agents, acting under orders from Treasury Secretary William Simon, has been providing Simon and his family personal bodyguard protection at a cost of more than \$500,000 a year. But a report by the General Accounting Office says Simon is not authorized by law to have the special unit. Treasury officials also have told the GAO that \$5,400 is being spent to establish special facilities for the Secret Service at Simon's home. Spokesmen for Simon and the Secret Service refused to say what those facilities are or how many agents are being used to serve Simon personally.

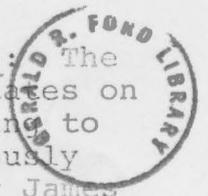


FOREIGN AFFAIRS - DEFENSE

Western Papers

Houston Chronicle, "Either Way, It Is Embarrassing." Once again, for the umpteenth time, this country has been caught showing disregard for our Latin American neighbors. It is downright embarrassing. In its determination to show muscle, Congress included in the trade act passed at the last session a provision which made members of the Organization of Petroleum Exporting Countries ineligible for normal trade concessions. The target of course was the Arab nations, but overlooked was the fact that during their oil boycott, countries such as Venezuela and Ecuador continued to supply us petroleum. We have some fence-mending to do, and best we get about it.

Edgar Prina, Military Writer, Copley News Service: The Soviet Union spent 50 per cent more than the United States on naval ship construction in the 1964-74 decade, according to new Central Intelligence Agency estimates. The previously secret CIA figures were disclosed by Defense Secretary James R. Schlesinger who indicated that according to the latest CIA projections, the Soviets are "outspending the United States on defense by 20 per cent."



THE WHITE HOUSE

WASHINGTON

August 19, 1974

MEMORANDUM FOR: Phil Buchen

FROM: Bill Casselman *B.C.*

SUBJECT: Role of the Office of Counsel to the President
re Protective Responsibilities of the United
States Secret Service and the Executive
Protective Service

The more frequently recurring protective responsibilities of the United States Secret Service (USSS) and the Executive Protective Service (EPS) are performed by these agencies without the necessity of a Presidential directive. However, in certain instances, protective functions are to be performed at the direction of the President. In the past, this responsibility has devolved upon the Office of Counsel to the President for handling, in close coordination with the Department of State and the Department of the Treasury.

The basic authority of the USSS is contained in 18 U.S.C. 3056, which states in pertinent part:

(a) Subject to the direction of the Secretary of the Treasury, the United States Secret Service, Treasury Department, is authorized to protect the person of the President of the United States, . . . , protect the person of a visiting head of a foreign state or foreign government and, at the direction of the President, other distinguished foreign visitors to the United States and official representatives of the United States performing special missions abroad (emphasis added)

The Executive Protective Service, the successor organization of the White House Police Force, also reports to the Secretary of the Treasury, and



performs such duties as the Director of the Secret Service, without the necessity of a Presidential directive, shall prescribe at various locations. These locations include the Executive Mansion and grounds, any building in which Presidential offices are located, and "foreign diplomatic missions located in the metropolitan area of the District of Columbia" (3 U.S.C. 202). This section also provides that EPS shall perform such protective duties at "foreign diplomatic missions located in such other areas in the United States, its territories and possessions, as the President, on a case-by-case basis, may direct."

To date, the only EPS contingent located outside of the District of Columbia metropolitan area is in New York City, due to the number of diplomatic missions present in conjunction with the United Nations. EPS presently possesses the only authority to provide such protection at diplomatic missions. Local police will generally not provide protection in the corridors of high rise buildings, thus making the EPS the only available source of protection for many missions.

The present practice with respect to requests for protective services that require a Presidential directive has been for the Office of Protocol of the Department of State to make an oral request of the Counsel to the President and to follow with a written confirmation. The Counsel's office then confers with the Protective Forces Division of the USSS as to the particular need for security for either that person or location. If the Secret Service then feels that the request is justified, the Counsel's office will send a written request to the appropriate office in the Department of the Treasury.

It can be expected that these requests will continue to remain a rather sensitive problem in the future. The prestige factor of being entitled to protection, as well as the accompanying limousines and the elimination of waiting in lines, will likely result in some requests that cannot be justified. In terms of long range planning, some thought might be given to relieving the relatively small USSS and EPS organizations of this responsibility, and instead placing it in an already existing security function elsewhere, such as that of the Department of State or the Federal Protective Service of the General Services Administration. This will, however, require new statutory authority. In view of the current congressional criticism of the already large number of federal security forces, a new organization should not be created.



Secret Service

Monday 8/26/74

Plans to call back at 12:30

11:15 Dr. Leo Savage, Executive Director, U.S. Counsel for World Affairs, has called to say on August 16 he wrote a letter to the President re a possible subpoena with respect to his case of fraud which comes up in the U.S. Superior Court in Washington tomorrow. In the letter he pointed out that he didn't understand how the Secret Service was involved.

The Secret Service was directed to promote the concept that the title of Mr. Teenage America was a fraud -- after Vice President Ford had extended best wishes to Mr. Campbell. (five days before an arrest at the Statler Hilton for unpaid board bill on Monday -- evicted on Saturday).

During the arrest, the Secret Service returned to speak to Mr. Campbell and wanted to know if he had used the letter from the Vice President to get into the hotel? ~~complimentary accommodations at the~~ Dr. Leo Savage said there should have been no involvement of Secret Service -- had no basis in law except as a fishing expedition. Is asking if there is any way we could clear this up without the issuance of a subpoena.





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

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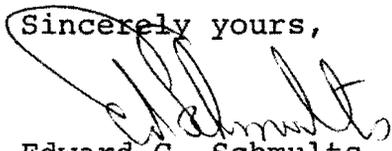
September 16, 1974

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 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,

(Signed) Ed ~~_____~~ Schmults
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. Schmults *ECS*
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.



10/10/74

To: Mr. Buchen

From: Jay

Concerning the attached memo, I direct your attention to paragraph 1 dealing with Presidential appointment records. Inquiries about these appointments are referred to Mrs. Fry. We are not told of the standard she applies in releasing this information.





DEPARTMENT OF THE TREASURY
UNITED STATES SECRET SERVICE

WASHINGTON, D.C. 20223

OFFICE OF THE DIRECTOR

October 7, 1974

TO : Honorable Philip W. Buchen
Counsel to the President
The White House

FROM : Mr. Clinton J. Hill
Assistant Director
Protective Forces

SUBJECT : White House Appointments

We would like to update our files relative to White House appointment inquiries received by the Executive Protective Service from White House Staff members.

During the Nixon Administration the following policy was implemented with the White House Legal Counsel for handling these inquiries.

Any inquiries received by the Executive Protective Service Officers regarding previously cleared appointments to the White House Complex were referred to the Chief's Office, Executive Protective Service. These inquiries were then handled in the following manner:

1. Inquiries made by White House Staff offices requesting information concerning appointments involving other (second party) White House Offices were referred to the White House Legal Counsel for approval. If approved by the Legal Counsel, the Office of the Chief would furnish the information requested, if available.

Presidential appointment records accumulated daily by the Executive Protective Service are turned over at the end of each month to Mrs. Gertrude Brown Fry, Special Files Unit, Old Executive Office Building. Inquiries concerning these appointments are referred to Mrs. Fry.



2. Information requested by Staff members concerning appointments to their (first party) individual office was furnished by the Office of the Chief, if available.

Your concurrence and/or comments on this matter is requested in order to update our files and to insure efficient handling of this situation.



Clinton J. Hill





ASSISTANT SECRETARY

THE DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

Borfilung

October 11, 1974

MEMORANDUM FOR: The Honorable Donald Rumsfeld
Assistant to the President

The Honorable Philip W. Buchen
Counsel to the President

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

SUBJECT: Incident Aboard Kissinger Aircraft

As Secretary Kissinger's plane was taxiing to the runway in Cairo today enroute to Damascus, a Uzi machine gun encased for storage discharged one round, which ricocheted and struck Special Agent Bothe, of the Kissinger protective detail, on the arm and forehead. The wounds were superficial. As of now, the reason for the discharge is not known. The Uzi must have been cocked with a round in the chamber, which is, of course, contrary to standard procedure. The identity of the person who packed the Uzi is not now known.

You will be advised as soon as additional information is available.





ASSISTANT SECRETARY

THE DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

October 11, 1974

MEMORANDUM FOR: The Honorable Donald Rumsfeld
Assistant to the President

The Honorable Philip W. Buchen
Counsel to the President

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

SUBJECT: Investigatory Report -- Kissinger
Aircraft Incident

At Secretary Simon's request and following up on my prior memo, attached is the first investigatory report of the weapon incident in connection with Secretary Kissinger's aircraft. Apparently Special Agent Bothe had loaded the weapon and taped the grip safety, which is the final method of preventing accidental discharge.

Investigation has commenced, but cannot be completed prior to Secretary Kissinger's return on October 16.

Attachment



ITEM WITHDRAWAL SHEET
WITHDRAWAL ID 01234

Collection/Series/Folder ID : 001900560
Reason for Withdrawal : NS,National security restriction
Type of Material : CAB,Cable(s)
Creator's Name : Secret Service Damascus
Receiver's Name : Secret Service Headquarters
Description : Investigation of Weapon Incident.
Creation Date : 10/11/1974
Volume (pages) : 2
Date Withdrawn : 06/23/1988

Protection of
Kennedy
Children



Department
of the Treasury

to, Philip Buchen

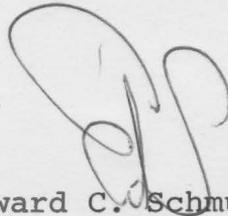
Under Secretary

room, _____ date, 10/17

*2cc - show
Mr. B. for info
and file
J.*

Phil:

Attached is a copy of the letter which we sent in reply to the letters that have been received concerning the Secret Service protection of the Kennedy children.



Edward C. Schmults

Attachment

*Please file.
P.*



Edward C. Schmults
room 3430
ext. 5363



THE UNDER SECRETARY OF THE TREASURY

WASHINGTON, D.C. 20220

OCT 17 1974

Dear Mr. McGregor:

Philip W. Buchen has asked me to acknowledge and thank you for your letter of September 27, regarding Secret Service protection that was provided recently for a seven-day period for certain of the children of the late Senator Robert Kennedy in the Boston area. A child of Mrs. Patricia Kennedy Lawford who is a roommate of one of the Kennedy children was also protected for a short time during that period.

Protection was requested because of a kidnap threat against the children. After a review by the Secret Service and Treasury of the facts and consultation by Treasury with the White House, Secretary Simon ordered protection.

Although the protection extended was not specifically authorized by the protective statute, Section 3056(a) of Title 18 of the U.S. Code, the statute itself is not regarded as exclusive. There exists Executive authority to provide temporary Secret Service protection in certain emergency situations where such action is reasonable and in the public interest. We at Treasury regarded the factual circumstances of this case as falling within these criteria.

I appreciate your concerns about providing the Secret Service protection in question. While we feel that the action which was taken was warranted, we understand how you can differ with the judgment that was made.

Sincerely,

Edward C. Schmults

Mr. Rodney McGregor
310 Arballo Drive
San Francisco, California 94132



Thursday 9/26/74

11:50 Attached are the copies sent over by Mr. Schmults' office -- as requested. (Temporary Secret Service protection for Kennedy children)





THE SECRETARY OF THE TREASURY
WASHINGTON

SEP 24 1974

Dear Mr. Buchen:

This is to confirm the telephone conversation of September 13 between yourself and Under Secretary Schmults with regard to the kidnap threat against the Kennedy children in the Boston area. Protection was requested by Mrs. Ethel Kennedy.

The Secret Service has advised me on the afternoon of September 20 that the threat had been aborted. Protection was accordingly terminated, after notification to Mrs. Kennedy, on that date.

The Secret Service has requested for their files memoranda of approval from you to the Secretary of the Treasury and from me to Director Knight. Attached is a memorandum for your signature indicating such approval.

With kind regards,

Sincerely yours,

(Signed) Bill Simon

William E. Simon

The Honorable
Philip W. Buchen
Counsel to the President
The White House
Washington, D.C. 20500



MEMORANDUM FOR: William E. Simon
Secretary of the Treasury

FROM: Philip W. Buchen
Counsel to the President

SUBJECT: Temporary Secret Service Protection
of Seven (7) Kennedy Children

This is to confirm that the Secret Service protection of the following Kennedy children was authorized on September 13, 1974, on a temporary basis pending resolution of a threat received to kidnap one of the Kennedy children in the Boston area:

Joseph Kennedy
David Kennedy
Robert Kennedy
Michael Kennedy

Kerry Kennedy
Courtney Kennedy
Christopher Lawford

I understand that the protection was terminated on September 20, 1974, following receipt of advice that the threat had been aborted.



MEMORANDUM

THE WHITE HOUSE
WASHINGTON

September 25, 1974

MEMORANDUM TO PHIL BUCHEN

FROM: JOHN W. HUSHEN

SUBJECT: Secret Service Protection of Ethel Kennedy's Children

Joe Spear of the Jack Anderson column is aware of the fact that Secret Service was used to protect Ethel Kennedy's children following the kidnap threat. He says he has talked to Bill Simon, Treasury, who said that he passed the question on to you as to the authority to order the protection.

Spear's questions are:

1. Who made the decision?
2. Was the President actually aware of the decision?
3. What were the considerations for using the Secret Service, which appears to be a violation of the law?

The Anderson column regarding this matter will be sent out about noon tomorrow (Thursday), so if we are going to have any response, I have to get back before then. (Phone: 483-1442)





THE SECRETARY OF THE TREASURY
WASHINGTON 20220

SEP 24 1974

Dear Mr. Buchen:

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With kind regards,

Sincerely yours,



William E. Simon

The Honorable
Philip W. Buchen
Counsel to the President
The White House
Washington, D.C. 20500



THE WHITE HOUSE

WASHINGTON

MEMORANDUM FOR: William E. Simon
Secretary of the Treasury

FROM: Philip W. Buchen
Counsel to the President

SUBJECT: Temporary Secret Service Protection
of Seven (7) Kennedy Children

This is to confirm that the Secret Service protection of the following Kennedy children was authorized on September 13, 1974, on a temporary basis pending resolution of a threat received to kidnap one of the Kennedy children in the Boston area:

Joseph Kennedy
David Kennedy
Robert Kennedy
Michael Kennedy

Kerry Kennedy
Courtney Kennedy
Christopher Lawford

I understand that the protection was terminated on September 20, 1974, following receipt of advice that the threat had been aborted.





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

September 16, 1974

MEMORANDUM FOR: HONORABLE PHILIP W. BUCHEN
COUNSEL TO THE PRESIDENT

FROM: Edward C. Schmults 
Under Secretary

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

SUBJECT: Status Report regarding Protection
of Ethel Kennedy's Children

As a result of our discussions last week, the Secret Service determined that some protection should be accorded on an emergency basis to six of the children of Robert Kennedy. We are now in the process of ascertaining and providing for alternative security arrangements for Mrs. Kennedy, in order that the Secret Service agents protecting the children may be withdrawn.





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

September 16, 1974

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THE WHITE HOUSE
WASHINGTON

October 24, 1974

*10/25/74
original came
over without
draft ltr -
canned
brought copy
over*

MEMORANDUM FOR: PHIL BUCHEN
JACK MARSH

FROM: BILL CASSELMAN *BC*

Marty Hoffman has requested OMB approval of the attached letter to Congressman Jack Brooks commenting on H.R. 11499, as recently reported by House Judiciary Subcommittee No. 2 (Donohue). This bill deals with expenditures for Secret Service protection on other than government property. As modified, neither Stan Ebner, Lynn May (Domestic Council) nor I have an objection to the letter.

You should be aware that by sending this letter, the Administration will be continuing a major policy dispute between DOD and Treasury over a relatively minor issue - reimbursement by Secret Service for security expenditures of other agencies made upon request of the Secret Service. Both agencies will likely try to get a policy decision rendered at the highest possible level. Even so, DOD should have an opportunity to express their views to the Committee.

Secret Service, with White House/OMB approval, recently testified that the issue of reimbursement was under study within the Executive Office of the President. It is necessary therefore that we eventually go beyond allowing DOD to send this letter stating their views and develop an Administration position with respect to reimbursement. This is an issue where the Administration can take the initiative. OMB should be requested to identify the budget figures involved



in this issue in order that the policy can eventually be determined. Whatever the final decision is to be, it can be implemented in the budget to be submitted to Congress in January.

Secret Service's strongest argument is that if their budget were to reflect all such security expenditures that they would be more subject to political pressures for budget cuts. This is obviously not a position that could be represented to the Congress. On the other hand, DOD's position is based on the accepted management principle derived from the Economy Act. When, as now, economic considerations dictate against potentially wasteful arrangements, exceptions to the general rule should be made only in particularly compelling circumstances. While their budget might substantially increase as a result of the DOD approach, the ability of the Secret Service to provide effective security protection would not be impaired.

DOD is particularly anxious for some word on the status of their letter.

cc: Stan Ebner
Mr. Areeda
Mr. Lazarus
Lynn May



Both of these
already in file

gem



October 29, 1974

EPS

**FOR: H. Stuart Knight
Director, Secret Service**

FROM: Philip W. Buchen

SUBJECT: White House Security Fund

I have received a copy of a memorandum from Chief Drescher, Executive Protective Service, to Clinton Hill, Assistant Director Protective Forces, dated October 3, 1974, in which it is requested that necessary steps be taken to dissolve the White House Security Fund. I am also in receipt of a memorandum from Mr. Hill to me, as Counsel, dated October 21, 1974, pointing out that under Section IX of the By-Laws of the White House Security Fund, the Counsel to the President must agree to the dissolution of this Fund.

As a member of the committee, referred to in Section IX of the By-Laws of the White House Security Fund, this is to inform you that I agree and concur in the decision to dissolve the Fund and transfer any remaining moneys, after the payment of any debts, to Heroes Incorporated.

PWB:JF:em



October 29, 1974

FOR: H. Stuart Knight
Director, Secret Service

FROM: Philip W. Buchen

SUBJECT: White House Security Fund

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PWB:JF:em



MEMORANDUM
OF CALL

TO:

Ev

YOU WERE CALLED BY— YOU WERE VISITED BY—

OF (Organization)

Miss Lusky

Secret Serv

PLEASE CALL →

PHONE NO.
CODE/EXT.

2376

WILL CALL AGAIN

IS WAITING TO SEE YOU

RETURNED YOUR CALL

WISHES AN APPOINTMENT

MESSAGE



RECEIVED BY

DATE

TIME

11/1

0940

STANDARD FORM 63

REVISED AUGUST 1967

GSA FPMR (41 CFR) 101-11.6

GPO : 1969-O-48-16-80341-1 332-889

63-108

916 - [unclear]

part

of [unclear]

A [unclear]



Fact

Jan 21
209

Jan 22
209

Jan 23
209



THE WHITE HOUSE
WASHINGTON

Eva - returned
to Mr Snow

Do you have
a copy - then
you don't
want this
Em



DEPARTMENT OF THE TREASURY CLASSIFIED DOCUMENT ACCOUNTABILITY RECORD	One copy of this form must remain affixed to document(s) transmitted herewith.		DATE OF DISPATCH
	DATE RECEIVED	SUSPENSE DATE	Oct. 29, 1974 LOG NO.

SECTION A — GENERAL

TO: Philip W. Buchen Counsel to the President	FROM: Robert R. Snow Special Agent in Charge Technical Security Division Rm. 23, Old Exec. Ofc. Bldg.
---	---

CONTROL OR FILE NO.	CLASSIFICATION	DATE OF DOCUMENT	DESCRIPTION (Identify Items such as Report, Letter, Memo, Etc. Unclassified Subject or Short Title, Copy Number and Number of Attachments)	ORIGINATOR	NO. OF COPIES
SS-160-74-279 (cy 2 of 5)	Secret	10/29/74	Position Paper: Escort of USSS personnel by military while working at Camp David	Dir., USSS	1

SECTION B — INTERNAL ROUTING

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3.				
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5.				

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MATERIAL DESCRIBED HEREIN HAS BEEN (Check appropriate block):
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PRINTED NAME OF WITNESSING OFFICIAL	SIGNATURE	DATE

SECTION E — TRACER ACTION

SIGNED COPY OF RECEIPT FOR MATERIAL DESCRIBED ABOVE HAS NOT BEEN RECEIVED.
PLEASE ACCOMPLISH APPROPRIATE SPACE IN SECTION F AND RETURN.

SECTION F — RECEIPT ACTION

DOCUMENT(S) HAVE NOT BEEN RECEIVED RECEIPT OF DOCUMENT(S) ACKNOWLEDGED

Jay T French for PWB (Typed or printed name) [Signature] 11/4/74 (Date)

REMARKS:

THE WHITE HOUSE
WASHINGTON

11/7

TO: PHIL BUCHEN

FROM: GEOFF SHEPARD

FYI XXX

COMMENT _____



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

Buchen
F41

NOV 4 1974

MEMORANDUM FOR DWIGHT INK
General Services Administration

Subject: Protection of the New Executive Office Building

This is to confirm the decision that responsibility for protecting the New Executive Office Building (NEOB) will be transferred from the U.S. Secret Service to the General Services Administration for a period of 30 days. In order to release Executive Protective Service personnel for interim requirements in New York City in connection with activity at the United Nations in the month of November, the General Services Administration will begin guarding the NEOB at 8:00 a.m. Wednesday, November 6, 1974, and will maintain the same level of protection as previously provided by the Secret Service.

Mrs. Velma Baldwin, Assistant to the Director for Administration will be the OMB contact for working out the details of this interim transfer of protection responsibility.

(signed) Wally

Walter D. Scott
Associate Director for
Economics and Government



cc:
EGG-GSA Files
GSA chron
Director's Copy
Mr. Scott
Mr. Bray (2)
Mr. O'Reill
Mr. Shepard/
Ms. Velma Baldwin
Mr. Buchen
return, Mr. Ambrust

EGG:EAmbrust:sb

11/1/74

*Secret
Service*

Tuesday 11/12/74

7:50 One day recently, I had a call from Lee Garrick of the (612) 222-5011 St. Paul Dispatch saying that last Saturday a man came into their newsroom and left some information. Mentioned a Charles A. Lindberg Memorial Research Center to be dedicated in St. Paul. Groundbreaking to be done by Governor Wendell Anderson and the President ---- said he was Byron Eugene Young, of Buck Unlimited Ltd. c/o Philip Buchen.

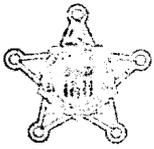
I called Rustand's office and found nothing there concerning a possible invitation.

Suggested to Mr. Garrick he might contact Governor Anderson's office; he already had.

Later the same day a Sgt. Opheim of the St. Paul Police (612) 291-1111 called to say that a manyhas been contacting their colleges Ext. 330 re a foundation of sorts -- I gave him the name of the above person and he said that was the one. Told him we had a previous call. I told him I would contact the Secret Service and have them call him.

I gave Secret Service the numbers.





DEPARTMENT OF THE TREASURY
UNITED STATES SECRET SERVICE

OFFICE OF THE DIRECTOR

WASHINGTON, D.C. 20223

620.11

November 14, 1974

MEMORANDUM FOR : Philip Buchen
Counsel to the President

FROM : David H. Martin *DHM*
Legal Counsel

SUBJECT : Rental of the President's House in Alexandria

Bill Casselman called me this morning regarding the above captioned subject and requested a clarification of the Secret Service position regarding the future use of the command post located there. Apparently, the President has indicated that he may utilize this house as his residence in the future. Based on that information, the Secret Service feels that the command post should not be physically altered into a garage, but should remain as is for future utilization. As I understand it, the toilet facility, the walls and the rug would remain; the stove and refrigerator would be reclaimed by the General Services Administration.

Another minor matter that has arisen and which I discussed with Bill, is painting the walls and cleaning the rugs in the command post as requested by the realtor handling the leasing of the residence. We do not feel that these matters fall within the authority or responsibility of the Secret Service. Further, in view of recent Congressional interest in Secret Service expenditures of this nature and also the requirement of Congressional appropriation committees for the Secret Service to account for protective expenditures on a quarterly basis, we feel that the Secret Service should not assume these expenses.

If I can be of further assistance, please call me at 964-8208, or Code 184, extension 8208.



MEMORANDUM

THE WHITE HOUSE
WASHINGTON

November 21, 1974

By full on "Secret Service"

FOR: Philip W. Buchen

FROM: Jay T. French

SUBJECT: Confidentiality of United States Secret Service Materials

The Freedom of Information Act, Section 552 of title 5, provides ample grounds to refuse to disclose information concerning measures taken by the Secret Service to protect the President pursuant to Section 3056 of title 18. In particular, of the nine exemptions from disclosure in the law, four would seem appropriate to claim in this instance. They are set forth below:

- 1) matters specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy;
- 2) matters related solely to the internal personnel rules and practices of an agency;
- 3) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency; or
- 4) investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency.

In checking with Secret Service, I learned that some materials are classified "confidential." The first exemption could be claimed to withhold these materials classified under Executive Order No. 11652, March 8, 1972, as amended by Executive Order No. 11714, April 24, 1973.



The second exemption relating solely to the internal personnel rules and practices of any agency, is "meant to relate to those matters which are for the guidance of agency personnel only, including internal rules and practices which cannot be disclosed to the public without substantial prejudice to the effective performance of a significant agency function." Attorney General's memorandum on the Public Information section of the Administrative Procedure Act, United States Department of Justice, June 1967. A great many Secret Service materials would seem to be protected from disclosure by this clause.

The third exemption referring to certain memorandums or letters generally applies to findings and recommendations prepared by a subordinate in order to inform and advise a superior. This exemption should be helpful, as well as the fourth exemption dealing with investigatory files. As part of its protection duty, the Secret Service does perform investigations. The results of these investigations would not have to be disclosed.

Executive privilege could also be advanced as a reason for refusing to disclose. Under Section 3056 of title 18, the Secret Service is directed to protect foreign Heads of State and government. Our national security is directly effected by the success with which we carry out each such mission. Disclosure of protective measures used to protect the President of the United States would certainly jeopardize the similar protection provided to these Heads of State and government. However, executive privilege must be specifically invoked by the government, and there is authority that it is only a valid defense when expressly invoked. *Soucie v. David*, 1971, 448 F 2d 1067, 145 U. S. App. D. C. 144.

This memorandum is intentionally brief. I will be pleased to expand it in whole or in part.



THE WHITE HOUSE
WASHINGTON

Thought you would
be interested in
the six (6) reasons
for refusing to
disclose in the
Forcade Case



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

THOMAS FORCADE
and ROBERT SHERRILL,

Plaintiffs,

v.

H. STUART KNIGHT, et al.,

Defendants.

Civil Action No. 1258-73

MEMORANDUM OF POINTS AND AUTHORITIES IN
SUPPORT OF DEFENDANTS' MOTION FOR A
STAY OF DISCOVERY PENDING DISPOSITION
OF DEFENDANTS' PENDING MOTION TO DISMISS
OR FOR JUDGMENT ON THE PLEADINGS, OR,
IN THE ALTERNATIVE, FOR SUMMARY
JUDGMENT AND PLAINTIFFS' PENDING
MOTION FOR SUMMARY JUDGMENT

Statement

Plaintiffs were summarily denied White House press passes on the ground that they constitute a potential threat to the physical safety of the President. Following an unsuccessful attempt, administratively, under the Freedom of Information Act, 5 U.S.C. §552, to obtain all records, orders and opinions stating the reasons for the denials of the press passes, plaintiffs filed this action seeking an order of this Court restraining the defendants from continuing to refuse to grant the plaintiffs accreditation as journalists to attend White House press conferences and briefings.

After the defendants answered the Complaint, the plaintiffs commenced discovery serving numerous interrogatories on the defendants and requesting the production of numerous documents. The defendants answered in part and objected in part to the interrogatories and produced certain of the documents and objected to the production of others.

Plaintiffs thereafter moved for summary judgment, or, in the alternative, for an order compelling discovery. The defendants



have moved for dismissal of the action or for judgment on the pleadings, or, in the alternative, for summary judgment; and have separately moved for a stay of all pending discovery pending the Court's ruling on plaintiffs' motion for summary judgment and defendants' alternative motion to dismiss or for judgment on the pleadings or for summary judgment.



Discussion

This action presents the legal issue of whether the defendants may summarily deny White House press accreditation without a hearing and without advice as to the specific grounds for exclusion to journalists who are determined after a Secret Service investigation to constitute a potential threat to the physical safety of the President and/or members of his immediate family.

The defendants' denial action was made ex parte. There has, of course, been no confrontation or cross-examination of witnesses. There was no "case adjudication" within the meaning of 5 U.S.C. §552(a)(2)(A).

There are no published guidance criteria for the application of defendants' standard of denying press accreditation to anyone deemed to constitute a potential threat to the physical safety of the President. Here, in accordance with its established practice, the Secret Service, on a case-by-case basis, made its determination, based on its experience and expertise in protective matters, as to whether plaintiffs as applicants for a press pass might be a threat to the physical security of the President or his immediate family.

To ascertain the factual basis for the defendants' denial action and to ascertain, empirically, the factors considered by the defendants in denying White House press accreditation, plaintiffs addressed numerous interrogatories to the defendants and requested that they produce numerous documents.

The defendants' objections to plaintiffs' requested discovery, which are incorporated herein by reference, fall into the following major categories:

1. Plaintiffs are not entitled to adjudicate the denial to them of White House press accreditation and they lack standing to request information concerning denial actions, either as to themselves or others.

2. The investigative files and related reports and records of the Protective Intelligence Division of the United States Secret



Service and the Federal Bureau of Investigation are privileged from discovery in the public interest in that disclosure would reveal sources of information and investigative techniques and procedures thereby seriously impairing and jeopardizing statutory Secret Service and Bureau functions and the ability of such agencies to conduct future investigations.

3. To the extent plaintiffs seek the production of intra-agency and inter-agency memoranda, such records are privileged from disclosure in the public interest to ensure the full and frank exchange of advice and recommendations necessary to the performance of agency functions.

4. To the extent plaintiffs seek the production of records other than those pertaining to the denial of White House press accreditations to plaintiffs, the records sought are not relevant to the subject matter involved in the pending action and are, therefore, not subject to discovery under Rule 26(b) of the Federal Rules of Civil Procedure.

5. To the extent plaintiffs seek the production of records other than those pertaining to the denial of White House press accreditations to plaintiffs, such records are privileged from disclosure in the public interest to prevent prejudice to the rights of third parties.

6. The records sought are not readily available. Neither the White House Press Office nor the Secret Service maintains a separate record of applications for accreditation which have been denied and the reasons thereof. To locate such records would require a review of the files maintained in the White House central files and the files maintained by the Secret Service Office of Protective Intelligence. To produce the documents requested would be unduly oppressive, expensive, and burdensome,



and an unwarranted interference and disruption of the normal functions of the White House Press Office and Secret Service. In the public interest, production should not be required in the absence of an express showing by the plaintiffs of the necessity for the expenditure of public funds for such records search. In this connection the Secret Service estimates that it would require the expenditure of approximately \$100,000 in man-hours to compile the remaining information sought by the plaintiffs.

The defendants have suggested that the Court defer plaintiffs' Rule 37 motion until the principal issue presented in plaintiffs' motion for summary judgment and defendants' alternative motion to dismiss or for judgment on the pleadings or for summary judgment is resolved.

If the defendants may summarily deny White House press accreditation without the issuance of charges or other procedures normally attendant to adversary agency adjudications, which, in our view, they may, then none of the outstanding discovery which is the subject of plaintiffs' Rule 37 motion is germane to this action. And if plaintiffs are entitled to judicial review of the denial action, the factual bases for denial actions are set forth in the in camera exhibit filed herewith in support of defendants' motion for summary judgment, and further discovery in the matter is unnecessary to judicial review of the agency action for sufficiency of the evidence.

Thus the defendants' motion for a stay in no way prejudices the plaintiffs, while at the same time it excuses the defendants from possibly unnecessary discovery. It has long been recognized



that where, as here, one or more principal issues may be determinative of the case, the Court may exercise its discretion to delay discovery until the critical question has been decided. See, Sinclair Refining v. Jenkins Petroleum Process Co., 289 U.S. 689, 693-694 (1933); see also, Wright, Federal Courts (2nd Ed. 1970), §83. Courts have regularly exercised this discretion in a variety of circumstances to delay discovery pending resolution of the dispositive issue in the litigation, see, e.g., Polaroid Corp. v. Commerce International Co., 20 F.R.D. 394, 395 (S.D. N.Y. 1957), and upon the posture of the present case -- where a determination by the Court holding the defendants' summary denial action to be non-reviewable would warrant dismissal of the action; or where, alternatively, a determination by the Court that there is a sufficient and rational factual basis for the denial action would warrant summary judgment for the defendants without more -- such a stay is imminently proper.

Thus, for the foregoing reasons, the defendants' motion for a stay of all present and future discovery in the present action pending this Court's resolution of the plaintiffs' motion for summary judgment and the defendants' alternative motion to dismiss or for judgment on the pleadings or for summary judgment should be granted.

Respectfully submitted,

HENRY E. PETERSEN
Assistant Attorney General


EDWARD S. CHRISTENBURY
Attorney, Department of Justice


BENJAMIN C. FLANNAGAN
Attorney, Department of Justice
Washington, D.C. 20530
Telephone: 202/739-3032

Attorneys for Defendants



CERTIFICATE OF SERVICE

I certify that on this date I served a copy of the foregoing

MEMORANDUM OF POINTS AND AUTHORITIES IN
SUPPORT OF DEFENDANTS' MOTION FOR A
STAY OF DISCOVERY PENDING DISPOSITION
OF DEFENDANTS' PENDING MOTION TO DISMISS
OR FOR JUDGMENT ON THE PLEADINGS, OR,
IN THE ALTERNATIVE, FOR SUMMARY
JUDGMENT AND PLAINTIFFS' PENDING
MOTION FOR SUMMARY JUDGMENT

upon all plaintiffs by mailing copies thereof to the following
counsel of record.

JOHN H. F. SHATTUCK, ESQUIRE
MELVIN L. WULF, ESQUIRE
JOEL M. GORA, ESQUIRE
American Civil Liberties Union
Foundation
22 East 40th Street
New York, New York 10016

MS. HOPE EASTMAN
American Civil Liberties Union
Washington Office
410 First Street, S.E.
Washington, D.C. 20003

June 21, 1974

Benjamin C. Flannagan

BENJAMIN C. FLANNAGAN
Attorney, Department of Justice
Washington, D.C. 20530
Telephone: 202/739-3032



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

THOMAS FORCADE
and ROBERT SHERRILL,

Plaintiffs,

v.

H. STUART KNIGHT, et al.,

Defendants.

Civil Action No. 1258-73

ORDER

Upon consideration of defendants' motion for a stay of discovery pending disposition by the Court of defendants' pending motion to dismiss or for judgment on the pleadings, or, in the alternative, for summary judgment and plaintiffs' pending motion for summary judgment, and it appearing to the Court that such motion should be granted and discovery stayed pending resolution of the issues presented in the respective motions to avoid the time and expense involved in any inquiry into matters which may prove to be unnecessary, it is, therefore, by the Court this _____ day of June, 1974:

ORDERED that defendants' motion for a stay of discovery pending disposition by the Court of defendants' pending motion to dismiss or for judgment on the pleadings, or, in the alternative, for summary judgment and plaintiffs' pending motion for summary judgment be, and the same hereby is, granted; and it is

FURTHER ORDERED that the time within which the defendants may respond to plaintiffs' motion under Rule 37, F.R.Civ.P., for an order compelling discovery be, and the same hereby is, enlarged for the duration of this stay and thereafter to a date to be fixed by order of the Court, should the action not be resolved upon the hearing on the respective motions of the parties aforesaid.

United States District Judge



CERTIFICATE OF SERVICE

I certify that on this date I served a copy of the foregoing

proposed ORDER

upon all plaintiffs by mailing copies thereof to the following
counsel of record.

JOHN H. F. SHATTUCK, ESQUIRE
MELVIN L. WULF, ESQUIRE
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American Civil Liberties Union
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June 21, 1974

Benjamin C. Flannagan

BENJAMIN C. FLANNAGAN
Attorney, Department of Justice
Washington, D.C. 20530
Telephone: 202/739-3032





DEPARTMENT OF THE TREASURY

UNITED STATES SECRET SERVICE

WASHINGTON, D.C. 20223

November 26, 1974

DIRECTOR

MEMORANDUM

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

Subject : Federal Office Building #7

On Wednesday, November 6, 1974, the Executive Protective Service (EPS) terminated coverage of Federal Office Building #7, and transferred this responsibility to the Federal Protective Service (GSA) for a period of 30 days. This action was necessitated by increased manpower demands in the Washington Metropolitan Area and additional EPS coverage for United Nations Missions in New York City.

Evaluating our present programs in light of monetary and manpower constraints with respect to the EPS, we have determined that we are not in compliance with Title 3, Chapter 3, Section 202, U. S. Code, with respect to Federal Office Building #7. Specifically, the EPS mandate intends only those buildings in which Presidential offices are located to be afforded EPS protection. Providing minimum security for Federal Office Building #7 requires 25 EPS Officers at a cost of \$345,633 annually. We do not feel that Federal Office Building #7 meets the criteria set forth in the U. S. Code. Attached for your consideration is the opinion of Legal Counsel on this subject.

In order to utilize existing EPS manpower in meeting its defined responsibilities in connection with the protection of Foreign Diplomatic Missions, it is recommended that EPS not return to duty at Federal Office Building #7, and that Treasury pursue the permanent transfer of this responsibility to the Federal Protective Service (GSA).


H. S. Knight
Director



cc: Mr. Philip Buchen - White House Legal Counsel
Mr. Geoffrey C. Shepard - Domestic Counsel
Mr. David Bray - OMB



UNITED STATES GOVERNMENT

Memorandum

U.S. Secret Service *af Q wgl*

TO : AD - Protective Forces

DATE: November 14, 1974

FROM : Legal Counsel *D/M*

601.0

SUBJECT: Title 3, U.S. Code, section 202, Executive Protective Service

On October 23, 1974, your Office requested a legal interpretation of subparagraph (2) and subparagraph (3) of section 202 of title 3, U. S. Code.

Subparagraph (2) of this section states "subject to the supervision of the Secretary of the Treasury, the Executive Protective Service shall perform such duties as the Director, United States Secret Service, may prescribe in connection with the protection of the following: (2) any building in which Presidential offices are located;". The legislative history of Public Law 91-217 reveals no discussion regarding subparagraph (2). It is our opinion, however, that the Congressional intent of this section was to include only those offices in the "White House complex," the White House and the Old Executive Office Building; and places such as Camp David or a private residence where the President might frequent on a regular basis and where his offices might be located. We feel buildings such as the New EOB where the President does not have an office nor ever does regular business were not intended to be included within section 2; even though such offices are called "Presidential offices". As you know, there are other locations, including 1800 G Street, that have offices designated as Presidential offices. It would be stretching the literal wording and common sense interpretation of subparagraph (2) to incorporate within the meaning of section (2) all offices known as "Presidential offices" not within the White House complex.

Subparagraph (3) of Title III, section 202 reads as follows: "subject to the supervision of the Secretary of the Treasury, the Executive Protective Service shall perform such duties as the Director, United States Secret Service, may prescribe in connection with the protection of the following: (3) the President and members of his immediate family;".



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan



The question presented was whether the EPS may be utilized for protective functions not strictly related to the White House. The wording of Title 3, section 202 (3) gives the Director some latitude and flexibility in determining what duties the EPS shall perform. We feel, therefore, that the EPS could legally be utilized to perform a variety of protective functions connected with the protection of the President and his family that appropriately should be performed by a uniformed officer.

