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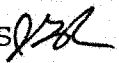
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THE WHITE HOUSE

WASHINGTON

April 19, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Draft DOJ Report on H.R. 5164,
a Bill to Provide FOIA Relief
to the CIA

OMB has asked for our views by April 23 on a proposed Justice report on H.R. 5164, a bill to provide Freedom of Information Act relief to the Central Intelligence Agency. Most CIA operational files are exempt from disclosure under FOIA. This bill would exempt such files from the search requirements of FOIA as well, except with respect to FOIA requests by citizens or resident aliens for information on themselves, FOIA requests for information on a special activity the existence of which is not exempt under FOIA, and FOIA requests for information concerning the subject of an investigation into impropriety or violation of law by the agency. The supporters of the bill, including the Administration, stress the enormous cost in handling FOIA requests involving sensitive files such as those at the CIA, and argue that if most FOIA searches of such files yield no non-exempt material, why not dispense with the search in the first place? The proposed Justice report simply recommends passage of H.R. 5164, and attaches previously cleared and delivered statements of the Administration position. I have no objections.

Attachment

THE WHITE HOUSE

WASHINGTON

April 19, 1984

MEMORANDUM FOR BRANDEN BLUM
LEGISLATIVE ATTORNEY
OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING *Orig. signed by FFF*
COUNSEL TO THE PRESIDENT

SUBJECT: Draft DOJ Report on H.R. 5164,
a Bill to Provide FOIA Relief
to the CIA

Counsel's Office has reviewed the above-referenced report, and finds no objection to it from a legal perspective.

FFF:JGR:aea 4/19/84
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 19, 1984

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FE010-01

JV

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMINGDate Correspondence
Received (YY/MM/DD) 1/1/1

Name of Correspondent: James C. Murr

☐ MI Mail Report

User Codes: (A) (B) (C)

Subject: Draft DOT report on H.R. 5164, a bill to provide FOIA relief to the CIA

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Completion Date YY/MM/DD
CW Holland	ORIGINATOR	84/104/17		1/1
CWAT18	Referral Note: D	84/104/18		584/104/23
	Referral Note:			
	Referral Note:			
	Referral Note:			
	Referral Note:			

ACTION CODES:

A - Appropriate Action
 C - Comment/Recommendation
 D - Draft Response
 F - Furnish Fact Sheet to be used as Enclosure

I - Info Copy Only/No Action Necessary
 R - Direct Reply w/Copy
 S - For Signature
 X - Interim Reply

DISPOSITION CODES:

A - Answered
 B - Non-Special Referral
 C - Completed
 S - Suspended

FOR OUTGOING CORRESPONDENCE:

Type of Response = Initials of Signer
 Code = "A"
 Completion Date = Date of Outgoing

Comments:

Keep this worksheet attached to the original incoming letter.
 Send all routing updates to Central Reference (Room 75, OEOB).
 Always return completed correspondence record to Central Files.
 Refer questions about the correspondence tracking system to Central Reference, ext. 2590.



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

SPECIAL

April 16, 1984

LEGISLATIVE REFERRAL MEMORANDUM

TO: LEGISLATIVE LIAISON OFFICER

222756 *lw*

Central Intelligence Agency
National Security Council
Department of Defense
Department of State

SUBJECT: Draft DOJ report on H.R. 5164, a bill to provide FOIA relief to the CIA

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

Please provide us with your views no later than
Monday, April 23, 1984. (NOTE: H.R. 5164 was circulated to agencies for comment on 4/13/84.)

Direct your questions to Branden Blum (395-3802), the legislative attorney in this office.

James C. Murr for
Assistant Director for
Legislative Reference

Enclosure

cc: C. Wirtz
K. Wilson

A. Donahue
R. Veeder

J. Barie
R. Howard

✓
F. Fielding



U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

Honorable Jack Brooks
Chairman
Committee on Government Operations
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is in response to your request for the views of the Department of Justice concerning H.R. 5164, a bill "[t]o amend the National Security Act of 1947 to regulate public disclosure of information held by the Central Intelligence Agency (CIA)." This Department recommends enactment of the legislation.

In general, the bill would amend the National Security Act by adding a new § 701 relating to disclosure of Central Intelligence Agency records to the public. Section 701(a) would exclude the operational files located in the CIA's Directorate of Operations, Directorate for Science and Technology, and Office of Security from the requirements of the FOIA to search its files and disclose any nonexempt records to any person making a request for them under the Act. Section 701(c) would limit the scope of that exclusion, so that the CIA would continue to respond to FOIA requests for operational files with respect to (1) requests by United States citizens or resident aliens for information on themselves, (2) any special activity the existence of which is not exempt under the FOIA, and (3) the subject of a pending investigation by certain authorities of possible impropriety or violation of law, Executive order, or Presidential directive in the conduct of an intelligence activity.

This Department supports H.R. 5164 because it would end the needless waste of intelligence and litigation resources which has proven to lack any offsetting public benefit. In this regard, we refer you to our earlier comments on S. 1324 and other related bills. (See enclosures)

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

Robert A. McConnell
Assistant Attorney General

Enclosures



U. S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

22 FEB 1984

The Honorable Jack Brooks
Chairman
Committee on Government Operations
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This letter is in response to your requests for the views of the Department of Justice on S. 1324 and H.R. 4431, virtually identical bills "To amend the National Security Act of 1947 to regulate public disclosure of information held by the Central Intelligence Agency." The Department of Justice generally supports enactment of legislation that would provide the CIA with relief from the burdensome review requirements of the Freedom of Information Act, but prefers an approach that would also ease the litigation burden on CIA, Justice, and the courts.

In general, the bills would amend the National Security Act by adding a new § 701 relating to disclosure of Central Intelligence Agency records to the public. Section 701(a) would exclude the operational files located in the CIA's Directorate of Operations, Directorate for Science and Technology, and Office of Security from the requirements of the Freedom of Information Act (FOIA) to search its files and disclose any nonexempt records to any person making a request for them under the Act. The proviso to Section 701(a) and Section 701(c) would limit the scope of that exclusion, so that the CIA would continue to respond to FOIA requests for operational files with respect to (1) requests by United States citizens or resident aliens for information on themselves, (2) any special activity the existence of which is not exempt under the FOIA, and (3) the subject of a pending investigation by certain authorities of possible impropriety or violation of law, Executive order, or Presidential directive in the conduct of an intelligence activity.

Although this legislation, by its terms, relates solely to information in the files of the CIA, it has significance

for the Department of Justice which, of course, represents the CIA in litigation under the Freedom of Information Act. The Department of Justice shares the CIA's judgment that this legislation would relieve significant burdens in responding to FOIA requests for information contained in the enumerated files. Although many agencies are burdened with FOIA requests, the compartmented nature of CIA files and the extreme sensitivity of the information contained in them pose particular difficulties in searching and processing requested material.

These difficulties are only compounded when litigation over the CIA's FOIA responses ensues. The Department can only assign to CIA cases those attorneys who have the necessary security clearances to deal with the information at issue. Working with the CIA, these attorneys must formulate the sort of public affidavit called for in Phillippi v. CIA, 546 F.2d 1009 (D.C. Cir. 1976), and Ray v. Turner, 587 F.2d 1187 (D.C. Cir. 1978), without at the same time disclosing the very information they are required to protect. Often, for the courts to appreciate the national security implications of the records at issue, extensive classified affidavits explaining their sensitivity must be filed. The courts, in turn, must struggle with the paradox of explaining the reasons for their decisions not to disclose particular information without disclosing the underlying facts.

This extensive expenditure of time and effort by senior intelligence personnel and by attorneys at the Department and the CIA, however, results in virtually no benefit to the public, and only drains the government's resources and unnecessarily increases the cost to the public of the FOIA. With respect to the records covered by S. 1324 and H.R. 4431, at the conclusion of this lengthy process, the courts have almost uniformly upheld the classification of the materials at issue.

This legislation would end the initial FOIA search burden on the CIA which has proven to lack any offsetting public benefit. Equally important, the legislation should significantly allay the perception of those who cooperate with the CIA that the confidentiality of the information furnished by them cannot be assured. In our judgment, however, this legislation does nothing to ease the litigation burden on the CIA, Justice, and the courts but may even serve to increase it. Litigants would be invited to challenge the regulations of the Director of Central Intelligence, his subordinates' compliance with them, and the filing practices of the CIA. Thus, while the legislation would ease the current litigation burden over the CIA's substantive FOIA responses, it would create a new field of litigation in which there are no

existing precedents to guide the attorneys or the courts. Therefore, the Department of Justice prefers a straightforward approach that would simply provide the CIA with relief from the unwarranted burden of searching and analyzing its most sensitive files but would more narrowly limit the permissible scope of judicial review of the Agency's determinations.

The Office of Management and Budget has advised this Department that enactment of this legislation would be in accord with the program of the President.

Sincerely,

(Signed) Robert A. McConnell

Robert A. McConnell
Assistant Attorney General
Office of Legislative Affairs



Department of Justice

STATEMENT OF

MARY C. LAWTON
COUNSEL FOR INTELLIGENCE POLICY

BEFORE

PERMANENT SELECT COMMITTEE ON INTELLIGENCE
U.S. HOUSE OF REPRESENTATIVES

ON

H.R. 3460 and H.R. 4431 - To amend the
National Security Act of 1947 to regulate
public disclosure of information held by
the Central Intelligence Agency.

February 8, 1984

Mr. Chairman and Members of the Subcommittee:

We welcome the opportunity to appear before the Subcommittee to support legislation granting significant relief to the Central Intelligence Agency from burdens currently imposed by the Freedom of Information Act. The Subcommittee has before it two proposals to achieve this end - H.R. 3460 and H.R. 4431. For reasons I will outline later, the Department of Justice prefers the approach taken in H.R. 3460.

This Committee is already aware of the enormous burden FOIA imposes on the CIA. The compartmented nature of its files and the sensitivity of the information contained in them pose particular difficulties in searching and processing requested materials. Moreover, the subtlety of intelligence information necessitates review by skilled intelligence analysts rather than FOIA specialists, thus diverting the intelligence analysts from their primary mission. The Committee may not be as familiar with the burden litigation over CIA files imposes on the Department of Justice. To begin with, the Department can assign to CIA FOIA cases only those attorneys who have the necessary clearances to deal with the information at issue. Working with the CIA, these attorneys must formulate the sort of public affidavit called for in Phillippi v. CIA, 546 F.2d 1009 (D.C. Cir. 1976) and Ray v. Turner, 587 F.2d 1187 (D.C. Cir. 1978), without at the same time

disclosing the very information they are requested to protect. Often, in order for the courts to appreciate the national security implication of requested records, extensive classified affidavits explaining their sensitivity must be filed. The courts, in turn, must struggle with the paradox of explaining the reasons for their decisions without disclosing the underlying facts. Yet this enormous expenditure in intelligence, legal and judicial time and energy invariably results in the classification being upheld and the requester denied the information.

If there were any public benefit served by FOIA requests of this type it would be appropriate for the Committee to weigh that benefit against security concerns. But there is no such benefit with regard to the operational files of the CIA. From the security standpoint a FOIA request diverts intelligence personnel from their mission, diminishes compartmentalization, ties up attorneys for CIA and Justice and clogs already crowded court dockets.

All that the public receives is the not inconsiderable bill.

Both H.R. 3460 and H.R. 4431 recognize that the time has come to eliminate this waste of resources. They focus on the most sensitive records of the CIA - those dealing with operations, intelligence sources and methods and the exchange of information with foreign liaison services. The bills provide FOIA relief only to files maintained in the Directorates of Operations and Science and Technology and the Office of Security. At the same time, they provide the possibility of FOIA access to files concerning special activities the existence of which are unclassified, matters which

have been investigated for possible violations of law and information concerning U.S. persons requested by those persons. Where the bills differ is in the means proposed to achieve the goal of FOIA relief. Under H.R. 3460 the Congress would describe the categories of files which should be exempt, and exempt them. The mechanism under H.R. 4431 is much more elaborate. The DCI would be required to issue regulations for the identification of exempt records within the statutory categories. Deputy Directors or Office Heads would then propose the designation of certain files within the category of records for which they have responsibility, and such designations would be reviewed at least every ten years. All designations and redesignations would require DCI approval. The courts would be authorized to review the regulations, the designations and even the placement of documents in the particular files.

Both bills would ease the initial FOIA search burden on the CIA. In our judgment, however, H.R. 4431 does nothing to ease the litigation burden on CIA, Justice and the courts but may even serve to increase it. Litigants would be invited to challenge the DCI's regulations and his subordinate's compliance with them and the filing practices of the CIA. This would create a new field of litigation in which there are no existing precedents to guide the attorneys or the courts. It takes little imagination to conclude that, at least from the Justice Department perspective, the cure offered by H.R. 4431 may well prove worse than the disease.

Accordingly, Mr. Chairman, we urge the Committee to adopt the straightforward approach of H.R. 3460 which provides the CIA with relief from the unwarranted burden of searching and analyzing files which, by their very nature, are protected from release.

We urge the Committee to question seriously whether the price of such relief should be additional burdens on the courts and the Department of Justice of the type inherent in H.R. 4431.

We have no other comments, Mr. Chairman, but will be happy to respond to any questions.



Department of Justice

STATEMENT OF

MARY C. LAWTON

Counsel for Intelligence Policy

Before

The Senate Select Committee on Intelligence

On

S. 1324 -- To amend the National Security Act
of 1947 to regulate public disclosure of information
held by the Central Intelligence Agency

June 28, 1983

Mr. Chairman and Members of the Committee:

We appreciate the opportunity to appear before the Committee in support of S. 1324. While the bill, by its terms, relates solely to information in the files of the Central Intelligence Agency, it has significance for the Department of Justice which, of course, represents the CIA in Freedom of Information Act litigation.

As the Committee is aware Freedom of Information Act requests to the CIA impose enormous burdens on the Agency and on the Department of Justice when litigation ensues. While many agencies are burdened with FOIA requests, the compartmented nature of CIA files and the sensitivity of the information contained in them pose particular difficulties in searching and processing requested materials. These difficulties are compounded in litigation. The Department of Justice can only assign to CIA cases those attorneys who have the necessary clearances to deal with the information at issue. Working with the CIA, these attorneys must formulate the sort of public affidavit called for in Phillippi v. CIA, 546 F.2d 1009 (D.C. Cir. 1976) and Ray v. Turner, 587 F.2d 1187 (D.C. Cir. 1978), without at the same time disclosing the very information they

are required to protect. Often, in order for the courts to appreciate the national security implications of requested records, extensive classified affidavits explaining their sensitivity must be filed. The courts, in turn, must struggle with the paradox of explaining the reasons for their decisions without disclosing the underlying facts. And all to what end? When the litigation is over the information remains classified just as it was before the request was filed.

If there were any public benefit served by FOIA requests of this type, consideration of this bill would require this Committee to weigh the benefit against security concerns. With respect to the records covered by S. 1324, however, we perceive no such benefit. The CIA must divert valuable intelligence personnel from their mission to identify and review the records. Processing must be scrutinized to minimize the risk of erroneous release which might jeopardize sources or diminish the value of the intelligence. Attorneys at the Agency and the Department spend countless hours preparing documents. Already heavy court dockets are further burdened by these cases. Yet in the end the public receives only the bill for this needless expense.

The findings set forth in S. 1324 essentially recognize that this process wastes intelligence community and litigative

resources without any offsetting public benefit. Equally important, S. 1324 recognizes the problem posed by the perception of those who cooperate with intelligence agencies that protection of information furnished cannot be ensured. Whether or not this perception is justified, it is real. Congressional recognition that the problem exists and that it warrants remedy should help to allay the concern.

I am sure that the Committee is aware that the Department of Justice sought in the last Congress and is seeking in this Congress generic relief from some of the undue burdens imposed by FOIA on the government as a whole. We are delighted that the Senate Judiciary Committee has agreed to report S. 774. The need for that legislation, however, in no way diminishes the need for legislation such as S. 1324.

This bill focuses on the specific protection of CIA sources and methods and addresses the particular problems of processing and reviewing compartmented files. It is, quite properly, an amendment to the National Security Act of 1947. As exemption (b) (3) of the Freedom of Information Act itself contemplates, it addresses the specific need for protection of an agency's files

in the organic act applicable to that agency. Only a proposal of this type could address with such specificity the files to be protected. Precisely because S. 1324 deals with the CIA alone, it can describe the exempt files in terms which address that Agency's particular filing system. It is entirely appropriate that it be considered by the Congress as separate and distinct from efforts to secure government-wide amendments to the Freedom of Information Act itself.

We have no further comments, Mr. Chairman, other than to reiterate our wholehearted support of S. 1324 and urge its speedy enactment.

THE WHITE HOUSE

WASHINGTON

April 27, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Letter to Diane Powers Requesting
Certain Photographs Under the Freedom
of Information Act

Diane Powers of the Photo Office has asked if the Photo Office is required to provide copies of White House photographs under the Freedom of Information Act (FOIA) to those whom she refers to as "photo hogs" -- collectors who file repeated requests for large numbers of photographs. Her inquiry was prompted by the latest of many letters from one such "photo hog," asking for six photographs under FOIA.

As an initial matter, we should take the position that the Photo Office is not subject to FOIA. As you know, we maintain that the White House Office is not, and the Photo Office is considered part of the White House Office. While I have no doubt that this is the position we should take, I must point out that it is not clear that it will withstand legal challenge. The basis for our frequent assertion that the White House Office is not subject to FOIA is Justice Rehnquist's opinion for the Court in Kissinger v. Reporters Committee for Freedom of the Press, 445 U.S. 136, 156 (1980). That opinion held that "the President's immediate personal staff or units in the Executive Office whose sole function is to advise and assist the President" are not included within the term 'agency' under the FOIA." Id., at 156, quoting from H.R. Conf. Rep. 93-1380. It is not clear whether the Photo Office would be considered "the President's immediate personal staff" or a unit "whose sole function is to advise and assist the President." A court confronted with the question could view the Photo Office as a discrete entity with functions that go beyond advising the President.

Assuming that the Photo Office is not subject to FOIA, I see no reason it should be required to satisfy the acquisitive demands of photo collectors. I have prepared a memorandum for Powers advising her that the Photo Office is not subject to FOIA, and that it need not respond to what it considers excessive demands from collectors.

Attachment

THE WHITE HOUSE

WASHINGTON

April 27, 1984

MEMORANDUM FOR DIANE POWERS
WHITE HOUSE PHOTO OFFICE

FROM: FRED F. FIELDING *Orig. signed by FFF*
COUNSEL TO THE PRESIDENT

SUBJECT: Excessive Demands of Photo Collectors
for White House Photographs

You have asked whether the Photo Office must respond to the excessive demands of private collectors for White House photographs under the Freedom of Information Act. The Photo Office, like the White House Office in general, is not subject to the provisions of the Freedom of Information Act. See Kissinger v. Reporters Committee for Freedom of the Press, 445 U.S. 136, 156 (1980). The provision of White House photographs to private individuals who request them for their collections is not legally required, and accordingly you need not respond to what you regard as excessive demands or abuses of the privilege. You are in the best position to determine if a particular individual is abusing the privilege. If you have specific questions in this area, please do not hesitate to contact us.

FFF:JGR:aea 4/27/84

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 27, 1984

MEMORANDUM FOR DIANE POWERS
WHITE HOUSE PHOTO OFFICE

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

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FFF:JGR:aea 4/27/84

cc: FFFielding/JGRoberts/Subj/Chron

ary 12, 1971, in which (1) Safire's name appeared; or (2) in which Kissinger discussed the subject of information "leaks" with General Alexander Haig, Attorney General John Mitchell, President Richard Nixon, J. Edgar Hoover, or any other official of the FBI.

The FOIA does render the "Executive Office of the President" an agency subject to the Act. 5 U. S. C. § 552 (e). The legislative history is unambiguous, however, in explaining that the "Executive Office" does not include the Office of the President. The Conference Report for the 1974 FOIA Amendments indicates that "the President's immediate personal staff or units in the Executive Office whose sole function is to advise and assist the President" are not included within the term "agency" under the FOIA. H. R. Conf. Rep. No. 93-1380, p. 15 (1974), reprinted in Source Book II, p. 232. Safire's request was limited to a period of time in which Kissinger was serving as Assistant to the President. Thus these telephone notes were not "agency records" when they were made.

The RCFP requesters have argued that since some of the telephone notes made while Kissinger was adviser to the President may have related to the National Security Council they may have been National Security Council records and therefore subject to the Act. See H. R. Rep. No. 93-876, p. 8 (1974), Source Book II, p. 128, indicating that the National Security Council is an executive agency to which the FOIA applies. We need not decide when records which, in the words of the RCFP requesters, merely "relate to" the affairs of an FOIA agency become records of that agency. To the extent Safire sought discussions concerning information leaks which threatened the internal secrecy of White House policy-making, he sought conversations in which Kissinger had acted in his capacity as a Presidential adviser, only.

Nor does his request for conversations in which his name appeared require a different conclusion. Safire never identi-

FE010-01

JV

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING☐ H - INTERNAL☒ I - INCOMINGDate Correspondence
Received (YY/MM/DD) 1 / 1JR-Name of Correspondent: Jules Greenberg☐ MI Mail Report

User Codes: (A) _____ (B) _____ (C) _____

Subject: Letter to Diane Powers requesting
certain photographs under the Freedom
of Information Act

ROUTE TO:

ACTION

DISPOSITION

Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Completion Date YY/MM/DD
<u>W Holland</u>		ORIGINATOR	<u>841023</u>		<u>1 / 1</u>
<u>WAT18</u>		Referral Note:	<u>D 84104102</u>		<u>584104112</u>
		Referral Note:	<u>1 / 1</u>		<u>1 / 1</u>
		Referral Note:	<u>1 / 1</u>		<u>1 / 1</u>
		Referral Note:	<u>1 / 1</u>		<u>1 / 1</u>
		Referral Note:	<u>1 / 1</u>		<u>1 / 1</u>

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FOR OUTGOING CORRESPONDENCE:

Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments: Mar 3087 Diane Powers note to
John Roberts

Keep this worksheet attached to the original incoming letter.

Send all routing updates to Central Reference (Room 75, OEOB).

Always return completed correspondence record to Central Files.

Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

3/27/84

Dear Miss Powers

I am writing you this letter because I want to get a hold of some White House photos for my collection

I wish to obtain the following
President Reagan with President Herzog of Israel (11-23-83 when visited)
President Reagan with P.M. Shamir of Israel (11-29, 30-83 when visited)
President Hameyeh of Lebanon with President Reagan (12-1-83 when visited)
President Reagan with President Mubarak of Egypt and King Hussein of Jordan (both were here late Feb-Early March 84)

President Reagan with P.M. Garrett Fitzgerald of Ireland March 15 or 16-84)

all of these photos were at white House

I will be most grateful to get these and I will treasure them

I also ask for them under the Freedom of Information Act



3.30.84

John -

220031

3/27/84

This man has received many, many photos from our office over the years. He is an avid photo collector and writes letters to several people in the complex for prints. We have tried to cut him off considering the size of his collection (at our expense) Is there some provision in the freedom of info. act that requires us to service these photo hogs? Let me know pl. Dione Powers
Photo/x6709

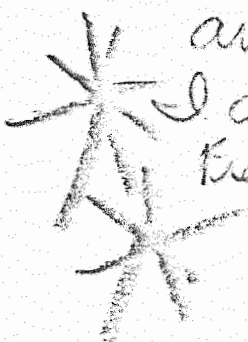
this letter
a hold of
photos for

I wish to obtain the following
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of Israel (11-23-83 when visited)
President Reagan with P.M. Shamir
of Israel (11-29,30-83 when visited)
President Gemayel of Lebanon with
President Reagan (12-1-83 when visited)
President Reagan with President Mubarak
of Egypt and King Hussein of Jordan
(both were here late Feb-Early March
84)
President Reagan with P.M. Garrett
Fitzgerald of Ireland March 15 or 16-84)

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House

I will be most grateful to get these
and I will treasure them

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Freedom of Information Act



THE WHITE HOUSE

WASHINGTON

May 2, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Draft CIA Report on H.R. 5164, a Bill
to Provide FOIA Relief to the CIA

OMB has asked for our views by May 7 on a draft CIA report on H.R. 5164, a bill to provide the CIA partial relief from the Freedom of Information Act. The Administration has supported this bill on several occasions; most recently, the Department of Justice submitted a detailed report reviewing the bill's provisions. You will recall that the bill generally exempts CIA operational files from the search requirements of FOIA, on the ground that the vast majority of the documents in the files are already exempt from the disclosure requirements. The instant CIA report simply reiterates Administration support for the bill. I have no objections.

Attachment

THE WHITE HOUSE

WASHINGTON

May 2, 1984

MEMORANDUM FOR BRANDEN BLUM
LEGISLATIVE ATTORNEY
OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING *File signed by FFF*
COUNSEL TO THE PRESIDENT

SUBJECT: Draft CIA Report on H.R. 5164, a Bill
to Provide FOIA Relief to the CIA

Counsel's Office has reviewed the above-referenced report,
and finds no objection to it from a legal perspective.

FFF:JGR:aea 5/2/84

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

May 2, 1984

MEMORANDUM FOR BRANDEN BLUM
LEGISLATIVE ATTORNEY
OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Draft CIA Report on H.R. 5164, a Bill
to Provide FOIA Relief to the CIA

Counsel's Office has reviewed the above-referenced report,
and finds no objection to it from a legal perspective.

FFF:JGR:aea 5/2/84

cc: FFFielding/JGRoberts/Subj/Chron

1901001

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

- ☐ O - OUTGOING
- ☐ H - INTERNAL
- ☐ I - INCOMING
Date Correspondence Received (YY/MM/DD) 1 / 1

John

Name of Correspondent: James C. Murr

☐ MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: Draft CIA report on H.R. 5164, a bill to provide FOIA relief to the CIA

ROUTE TO:		ACTION		DISPOSITION	
Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response Code	Completion Date YY/MM/DD
<u>W Holland</u>		ORIGINATOR	<u>DD 84104130</u>		<u>1 / 1</u>
<u>WAT 18</u>		Referral Note: <u>D</u>	<u>DD 84105101</u>	<u>S</u>	<u>84105104</u>
		Referral Note:	<u>1 / 1</u>		<u>1 / 1</u>
		Referral Note:	<u>1 / 1</u>		<u>1 / 1</u>
		Referral Note:	<u>1 / 1</u>		<u>1 / 1</u>
		Referral Note:	<u>1 / 1</u>		<u>1 / 1</u>

- ACTION CODES:**

 - A - Appropriate Action
 - C - Comment/Recommendation
 - D - Draft Response
 - F - Furnish Fact Sheet to be used as Enclosure
 - I - Info Copy Only/No Action Necessary
 - R - Direct Reply w/Copy
 - S - For Signature
 - X - Interim Reply

DISPOSITION CODES:

 - A - Answered
 - B - Non-Special Referral
 - C - Completed
 - S - Suspended
- FOR OUTGOING CORRESPONDENCE:**
 Type of Response = Initials of Signer
 Code = "A"
 Completion Date = Date of Outgoing

Comments: _____

Keep this worksheet attached to the original incoming letter.
 Send all routing updates to Central Reference (Room 75, OEOB).
 Always return completed correspondence record to Central Files.
 Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

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

SPECIAL

April 30, 1984

LEGISLATIVE REFERRAL MEMORANDUM

TO: LEGISLATIVE LIAISON OFFICER

224542 *u*

National Security Council
Department of Justice
Department of Defense
Department of State

SUBJECT: Draft CIA report on H.R. 5164, a bill to provide FOIA relief to the CIA.

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

Please provide us with your views no later than
COB May 7, 1984. (NOTE: DOJ draft report on H.R. 5164 was circulated for comment on 5/16/84.)

Direct your questions to Branden Blum (395-3802), the legislative attorney in this office.


James C. Murr for
Assistant Director for
Legislative Reference

Enclosure

cc: C. Wirtz
R. Veeder

A. Donahue
R. Howard

J. Barie

F. Fielding

K. Wilson



Washington, D.C. 20505

The Honorable Jack Brooks, Chairman
Committee on Government Operations
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am pleased to respond to your request for the views of the Central Intelligence Agency (CIA) on H.R. 5164. This legislation represents a determined bipartisan effort to craft legislation which will provide the CIA with needed, albeit partial, relief from the Freedom of Information Act (FOIA), while at the same time, accommodating the concerns of several public interest groups. The Central Intelligence Agency supports this legislation.

As you know, Mr. Chairman, the CIA has been seeking legislative relief from the Freedom of Information Act for several years. This is because after the 1974 amendments to the FOIA were enacted it became clear that the Agency was faced with unique problems in its efforts to comply with the Act. It has also become clear that the public's interest is not being served when requesters have to wait two to three years to receive a final response to their FOIA requests. Fortunately, this situation resulted in a recognition by all concerned that every effort should be made to seek a legislative solution which would serve the best interests of both the Agency and the public. H.R. 5164, the product of many hours of discussion and negotiation, accomplishes this purpose in a manner acceptable to the CIA.

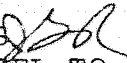
I look forward to working with you and the other Members of the Committee in securing passage of this Bill this session.

THE WHITE HOUSE

WASHINGTON

May 8, 1984

MEMORANDUM FOR BRANDEN BLUM
LEGISLATIVE ATTORNEY
OFFICE OF MANAGEMENT AND BUDGET

FROM: JOHN G. ROBERTS 
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Draft CIA Testimony on H.R. 5164, a
Bill to Provide FOIA Relief to the CIA

Counsel's Office has reviewed the above-referenced testimony, and finds no objection to it from a legal perspective.

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMINGDate Correspondence
Received (YY/MM/DD) 1/1/1Name of Correspondent: James C. Thur☐ MI Mail Report

User Codes: (A) _____ (B) _____ (C) _____

Subject: Draft CIA testimony on H.R. 5164, a bill
to provide FOIA relief to the CIA

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>Holland</u>	ORIGINATOR	<u>84105107</u>			<u>1/1/1</u>
<u>WAT 18</u>	Referral Note: <u>R</u>	<u>84105107</u>	<u>Reply to Brander Blum</u>	<u>S</u>	<u>84105108</u> <u>NOON</u>
	Referral Note:	<u>1/1/1</u>			<u>1/1/1</u>
	Referral Note:	<u>1/1/1</u>			<u>1/1/1</u>
	Referral Note:	<u>1/1/1</u>			<u>1/1/1</u>
	Referral Note:	<u>1/1/1</u>			<u>1/1/1</u>

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

May 7, 1984

LEGISLATIVE REFERRAL MEMORANDUM

SPECIAL

TO: LEGISLATIVE LIAISON OFFICER

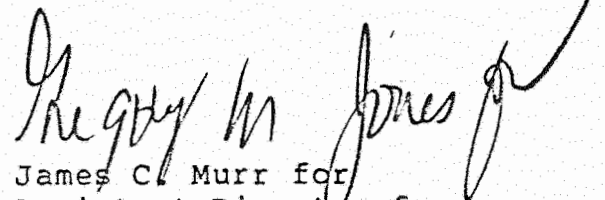
National Security Council
Department of Justice
Department of Defense
Department of State

SUBJECT: Draft CIA testimony on H.R. 5164, a bill to provide FOIA relief to the CIA

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

Please provide us with your views no later than
NOON Tuesday, May 8, 1984. (Note: A hearing is scheduled for May 10, 1984.)

Direct your questions to Branden Blum (395-3802), the legislative attorney in this office.


James C. Murr for
Assistant Director for
Legislative Reference

Enclosure

cc: C. Wirtz
R. Veeder

A. Donahue
R. Howard

J. Barie
F. Fielding ✓ F. Seidl

STATEMENT OF
CHARLES A. BRIGGS
EXECUTIVE DIRECTOR
CENTRAL INTELLIGENCE AGENCY
BEFORE THE
GOVERNMENT OPERATIONS SUBCOMMITTEE
ON GOVERNMENT INFORMATION, JUSTICE & AGRICULTURE

10 MAY 1984

Mr. Chairman, Members of the Subcommittee, it is a pleasure to appear before you this morning to discuss H.R. 5164, the "Central Intelligence Agency Information Act". We last appeared before you to discuss our concerns with the Freedom of Information Act (FOIA) in February 1980. Since that time, the Central Intelligence Agency (CIA) has persisted in its efforts to achieve needed relief from the unique problems posed to it by the FOIA. We believe that H.R. 5164 will provide the CIA with substantial relief from these problems without reducing the amount of meaningful information which can be released to the public.

As you know, Mr. Chairman, Deputy Director McMahon has presented our problems with the FOIA in great detail to both the Senate and House intelligence oversight committees during the course of the 98th Congress. With your permission, Mr. Chairman, I would like to submit for the record Deputy Director McMahon's explanation of these problems as contained in the statement he gave before the House Permanent Select Committee on Intelligence last February. I will then summarize these problems and briefly discuss H.R. 5164.

As an intelligence agency, our records systems must be responsive to both the functions of the CIA as well as to the security needs of the Agency. Therefore, rather than having one overall filing system with one central index, the CIA has

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numerous self-contained file systems. Compartmentation fulfills a vital security need and also allows each file system to reflect the needs of an individual Agency component. Our operational files are even more stringently compartmented because they directly reveal intelligence sources and methods. Another relevant security principle we operate under is that Agency personnel have access to specific files only on a "need to know" basis. When an FOIA request is received by the CIA these principles of compartmentation and limited access are broken down. An FOIA request on a generally described subject matter must be distributed to several different Agency components so that a search can be made of any file system which might contain responsive records. In many instances the results of these searches are prodigious. Thousands of pages of records are amassed for review each year. Thus, records otherwise residing in compartmented file systems are pulled together and numbers of Agency personnel are given access to information which they otherwise have no need to know.

Once responsive records are located, they must be carefully reviewed line by line, word by word, by highly skilled operational personnel who have the necessary training and experience to identify source-revealing and other sensitive information which could be used by our adversaries. The reviewing officer is fully aware of the requirement of the FOIA that each "reasonably segregable" item of unprotected

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information must be released and that he or she must be prepared to defend each determination to withhold an item of information because it is classified or otherwise exempted from released/ under the FOIA.

This review process is particularly burdensome when it involves our operational records. An FOIA requester who makes a request for information to the CIA which involves records in our Directorate of Operations can now anticipate waiting two to three years to receive a response. The backlog which stems from the time-consuming process of reviewing operational records cannot be solved for the CIA by simply hiring more reviewers. These individuals are not and cannot be simply clerical staff or even "FOIA professionals". In order to do their job, they must be capable of making difficult and vitally important operational judgments, and, consequently, most of them must come from the heart of the Agency's intelligence cadre. Moreover, before any item of information is released under the FOIA, the release must be checked with a desk officer with current knowledge of the operational activity involved. Hence, we must not only call intelligence officers on a full-time basis away from their primary duties, we must also continually divert the attention of the officers of our operating components. I am sure that you can understand the necessity for this practice since the risk of compromise is so great. Unfortunately, even with this practice we know that

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mistakes can be made and, therefore, the element of human error in the review and release of operational records is always present and always a concern.

After waiting two to three years, what does the FOIA requester receive when operational records are involved? The paper released is usually a composite of blacked out words, interspersed between disconnected phrases which have been approved for release. Thus, after operational records have been properly reviewed pursuant to the existing exemptions in the FOIA, the public derives little or no meaningful information from the fragmentary items or the occasional isolated paragraph which is ultimately released from operational files.

The fact that the FOIA provides the means for us to protect our operational information is generally lost on our human sources and friendly foreign intelligence services. In their view, the very process of searching operational files and reviewing the information contained in them poses a serious threat to the ability of the United States to protect either their identity or the information they entrust to us.

H.R. 5164 will, in our view Mr. Chairman, substantially alleviate the problems I have just outlined. Only operational files as defined by this bill would be removed from the FOIA search and review process. As I have just explained, the operational information contained in these files takes the

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longest to review and results in the release of little, if any, meaningful information to the public. The public, therefore, retains its access under the law to other Agency records. This includes all intelligence which is disseminated to our nation's policy-makers, as well as all matters of policy formulated at Agency executive levels. In addition, under H.R. 5164, the CIA would continue to search all its files, as it does today, in response to three types of requests, these being requests by United States citizens or permanent resident aliens for information concerning themselves, requests for information concerning a covert action the existence of which is no longer classified, and requests for information concerning the specific subject matter of an investigation for any impropriety or illegality in the conduct of an intelligence activity.

There are two other important provisions in H.R. 5164 which I would like to touch upon. First, is the requirement that no less than once every 10 years the Director of Central Intelligence shall review all the exemptions in force to determine whether any can be removed. This could allow operational files to become accessible to FOIA search and review when the sensitivity of the information they contain has diminished as a result of the passage of time or for other reasons. And H.R. 5164 sets forth the right of requesters to seek judicial review of an Agency decision to withhold information based on the provisions of this Act.

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As you know, Mr. Chairman, legislation very similar to this was passed unanimously by the Senate last November. H.R. 5164 comes to you after having been unanimously reported out of the House Permanent Select Committee on Intelligence. I believe the strong bipartisan support being shown for this legislation stems from the recognition that this is a carefully crafted piece of legislation which will benefit the public as well as the CIA. The public will benefit because FOIA requesters will be able to receive responses to their requests on a more timely basis without the loss of any meaningful information.

This concludes my testimony, Mr. Chairman. I have with me the Deputy Director of the Office of Legislative Liaison, Ernest Mayerfeld, and Larry Strawderman, Chief of the Information and Privacy Division. We will be pleased to answer any specific questions you or the other Members may have.

THE WHITE HOUSE

WASHINGTON

January 13, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: FOIA Request

A New York law firm has sent an FOIA request to the President, seeking documents pertaining to a Jobs Corps Program Center in the South Bronx. According to the request, the documents would be from the Carter years.

I recommend our usual response, that the White House Office is not subject to FOIA. I do not recommend any referral to the Carter people, since I think it is important for us to stay as completely out of the FOIA business as possible. If the requestors want to pursue the matter with the Carter archives people they are free to do so, but we should not become involved as a middle-man.

Attachment

THE WHITE HOUSE

WASHINGTON

January 13, 1984

Dear Mr. Unger:

This is written in response to your letter to the President of December 12, 1983. In that letter you requested, pursuant to the Freedom of Information Act, certain documents pertaining to the South Bronx Jobs Corps Center.

Please be advised that the White House Office, "whose sole function is to advise and assist the President," is not an agency subject to the Freedom of Information Act. Kissinger v. Reporters Committee for Freedom of the Press, 445 U.S. 136, 156 (1980). Accordingly, we are not in a position to respond to your Freedom of Information Act request, and must respectfully decline.

Sincerely,

Orig. signed by FFF

Fred F. Fielding
Counsel to the President

Melvin D. Unger, Esquire
Weg and Myers, P.C.
116 John Street
New York, NY 10038

FFF:JGR:aea 1/13/84
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

January 13, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: FOIA Request

*I've signed, but pls call
this to my attention
at our next staff
mtg. Thanks*

*1/15
DONE V/17*

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Sincerely,

Fred F. Fielding
Counsel to the President

Melvin D. Unger, Esquire
Weg and Myers, P.C.
116 John Street
New York, NY 10038

FFF:JGR:aea 1/13/84
bcc: FFFielding/JGRoberts/Subj/Chron

**WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET**

FEO10-01

☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMINGDate Correspondence
Received (YY/MM/DD) 1 / 1

Name of Correspondent: Melvin D. Unger

☐ MI Mail Report

User Codes: (A) _____ (B) _____ (C) _____

Subject: Freedom of Information Request
re: South Bronx Jobs Corps Center**ROUTE TO:****ACTION****DISPOSITION**

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
CW HOLL	ORIGINATOR	84, 01, 11			1 / 1
CWAT 18	D	84, 01, 11		S	84, 01, 21
		1 / 1			1 / 1
		1 / 1			1 / 1
		1 / 1			1 / 1
		1 / 1			1 / 1

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Weg and Myers, P.C.

ATTORNEY AT LAW

116 JOHN STREET, NEW YORK, N. Y. 10038

(212) 227-4210

December 12, 1983

198232a

*red
holding*
The White House
The President
1600 Pennsylvania Avenue
Washington, D.C.

RE: FREEDOM OF INFORMATION REQUEST
1771 Andrews Avenue, Bronx, New York
South Bronx Jobs Corps Center
Our File No. 81-114 (Church of Jesus Christ)

Gentlemen:

Pursuant to the Freedom of Information Act we herewith request that you furnish us with copies of the following documents at our expense.

These documents would have been made during the incumbency of President Jimmy Carter.

All documents, memoranda, letter, transcripts, minutes, copies and papers concerning, related or relevant to the institution of a Jobs Corps Program Center at the former Salvation Army Officer's Training School at 1771 Andrews Avenue, Bronx, New York and the negotiating, planning and contemplation thereof to and after the visit of the President to the South Bronx at or after which the program institution was announced including but not limited to communications and/or negotiations with, to and from and/or between the White House, the law firm of Cadwalader, Wechersham & Taft, Ronald Glascoff, Esq., the President of the United States, the City of New York, the Mayor of the City of New York, members of the Council of the City of New York, Herman Badillo, the President of Bronx County, Robert Abrams, the United States Department of Labor, the Governor of the State of New York, the Church of Jesus Christ; the Office of the Corporation Counsel of the City of New York and/or any other department agency and/or office of the City or State of New York.

We thank you for your courtesy and cooperation herein and
~~re~~ ~~action~~.

cc: Honorable Jimmy Carter
Clanis, Jr.

MDU:rd

Very truly yours,

WEG AND MYERS, P.C.

By

Melvin D. Unger
Melvin D. Unger