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THE WHITE HOUSE

WASHINGTON

January 13, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Arthur Goldberg Correspondence on Grenada

Former Supreme Court Justice Arthur Goldberg is associated with an organization known as the Historic Southern Tenant Farmers Union. That organization is supporting an effort to impeach the President over the alleged unconstitutionality of the rescue mission in Grenada. Goldberg has written the co-founder of the organization, H.L. Mitchell, protesting the organization's stance on Grenada and disassociating himself from it. Goldberg sent a copy of his letter to James A. Baker III, who has referred it to you for appropriate action.

In his letter to Mitchell Goldberg notes that he has expressed grave doubt over the constitutionality of the invasion, in light of the fact that only Congress may declare war. He goes on to state, however, that the invasion was a great success, permitting Grenada to resume an orderly path to democratic self-government. With respect to the law, he argues that a good faith exercise of Executive power that turns out to be a violation of the Constitution is not grounds for impeachment, citing Lincoln's suspension of habeas corpus during the Civil War and Truman's seizure of the steel mills. Both actions were struck down by the Supreme Court, but neither led to calls for impeachment. (In the case of Lincoln, Goldberg's logic is something less than pristine: Ex parte Milligan, 4 Wall. 2, 139 (1866), concluding that Lincoln's action violated the Constitution, was decided several months after Lincoln was assassinated, so it could hardly have been the basis of calls for his impeachment.) Goldberg concludes that even if the Grenadian action was unconstitutional, the President should not be impeached because he "acted in good faith and in the belief that this served our national interest."

In our reply we should thank Goldberg for defending the President but at the same time note that we do not share his doubts concerning the constitutionality of the invasion. Goldberg is correct that the Constitution vests the authority to declare war in the Congress, Article I, section 8. The President, however, also has inherent authority in the international area to defend American lives

and interests and, as Commander-in-Chief, to use military force in doing so. This has been recognized at least since the time President Jefferson sent the Marines to the shores of Tripoli. While there is no clear line separating what the President may do on his own and what requires a formal declaration of war, the Grenada mission seems to be clearly acceptable as an exercise of executive authority, particularly when it is recalled that neither the Korean nor Vietnamese conflicts were declared wars. A draft reply is attached, which notes our disagreement without extended analysis.

Attachment

THE WHITE HOUSE

WASHINGTON

February 21, 1984

Dear Mr. Justice:

Thank you for your letter of January 10 to James A. Baker III, which Mr. Baker has referred to me for consideration and reply. Along with that letter you enclosed a copy of a letter you wrote to Mr. H.L. Mitchell, co-founder of the Historic Southern Tenant Farmers Union. In that letter you disassociated yourself from the efforts of the Historic Southern Tenant Farmers Union to impeach the President over his recent actions with respect to Grenada.

We appreciate the supportive comments in your letter, and are grateful that you took the time and initiative responsibly to disassociate yourself from the misguided effort to impeach the President. The President's actions in Grenada not only protected American lives but also restored to the people of Grenada the opportunity for democracy. The mission was in every sense a rescue mission, rescuing not only the endangered American medical students but also the future of liberty in Grenada.

I must, however, respectfully note that I do not share your doubts concerning the constitutionality of the rescue mission. There are, of course, few clear guideposts in confronting what the Supreme Court has referred to as "the never-ending tension between the President exercising the Executive authority in a world that presents each day some new challenge with which he must deal and the Constitution under which we all live and which no one disputes embodies some sort of system of checks and balances." Dames & Moore v. Regan, 453 U.S. 654, 662 (1981). Indeed, in the opinion just cited, the Court was compelled to reiterate Justice Jackson's observation thirty years earlier, in the historic case in which you so prominently participated, concerning "the poverty of really useful and unambiguous authority applicable to concrete problems of Executive power as they actually present themselves." Id., at 660, quoting Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579, 634 (1952) (concurring opinion).

While the Constitution does confer on Congress the authority to declare war, it has also long been recognized that the President has certain inherent authority in international affairs to take action to protect American lives and defend American interests and, as Commander-in-Chief, to use the military when necessary in discharging these

responsibilities. There is no clear line demarking the authority of the President and the authority of Congress in this area, but it seems clear to me that the exercise of Executive authority in connection with Grenada falls comfortably on the legitimate side of the line.

We do appreciate having the benefit of your considered and informed views on this subject. Once again, thank you for your supportive comments. They mean a great deal to us.

With best wishes,

Sincerely,

Orig. signed by FFF

Fred F. Fielding
Counsel to the President

The Honorable Arthur J. Goldberg
2801 New Mexico Avenue, N.W.
Washington, D.C. 20007

FFF:JGR:aea 2/21/84
bcc: FFFielding/JGRoberts/Subj/Chron

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Sincerely,

Fred F. Fielding
Counsel to the President

The Honorable Arthur J. Goldberg
2801 New Mexico Avenue, N.W.
Washington, D.C. 20007

FFF:JGR:aea 2/21/84
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

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With best wishes,

Sincerely,

Fred F. Fielding
Counsel to the President

The Honorable Arthur J. Goldberg
2801 New Mexico Avenue, N.W.
Washington, D.C. 20007

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

F2001

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

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

Name of Correspondent: Arthur J. Goldberg

☐ MI Mail Report

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

Subject: Writes Mr. Baker refuting any claim made that he (Goldberg) is interested in impeaching the President because of his possible violation of the Constitution

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
CUHOLL	ORIGINATOR	84.01.12	WS		1 / 1
CUOT 18	Referral Note: D	84.01.12	WS	S	84.01.22
	Referral Note:	1 / 1			1 / 1
	Referral Note:	1 / 1			1 / 1
	Referral Note:	1 / 1			1 / 1
	Referral Note:	1 / 1			1 / 1

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.

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Always return completed correspondence record to Central Files.

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

Fielding

ARTHUR J. GOLDBERG

January 10, 1984

198343 *cu*

The Honorable James A. Baker, III
Chief of Staff
The White House
Washington, D. C.

Dear Mr. Baker:

I am enclosing correspondence which I
believe will be of interest to you.

Sincerely yours,

Arthur J. Goldberg
Arthur J. Goldberg

Arthur J. Goldberg
2801 New Mexico Ave. N.W.
Washington, D. C. 20007

Enclosures

ARTHUR J. GOLDBERG

January 10, 1984

Mr. H. L. Mitchell
Co-Founder, Historic
Southern Tenant Farmers Union
Box 2617
Montgomery, Alabama 36105

Dear Mitch:

This is in reply to your response of December 31, 1983 to me.

I must confess that I still do not follow your reasoning in support of the rather preposterous resolution to indict President Reagan. It is correct that in a recent speech, I said, to quote me accurately, that there is grave doubt whether the invasion of Grenada was constitutional in light of the fact that the Constitution specifically provides that only Congress can declare war. I further went on to say that, notwithstanding my doubts on this subject, I was gratified with the results of the invasion.

Grenada was in the hands of the thugs who assassinated Prime Minister Bishop and his colleagues. Grenada was, in fact, without a government. The invasion of Grenada has not enabled Grenada to resume an orderly path to democratic self government. Surely, all who believe in democracy must now support this development.

On the legal aspects of the situation, several Presidents, including our greatest, President Lincoln, have violated the Constitution and no one, to my knowledge, has proposed that, by reason of a violation, with honorable intent, a President should be impeached.

Let me further illustrate: President Lincoln suspended the writ of habeas corpus in Indiana during the Civil War, although the civil courts were functioning and competent to try persons accused of espionage and related crimes. The United States Supreme Court in the great case of ex parte Milligan held that this action by President Lincoln was unconstitutional. To my knowledge, no responsible person proposed that President Lincoln be indicted for this unconstitutional action, designed to protect the Union.

In more recent times, in a case in which I was importantly involved, President Truman seized the steel mills to head off a strike of steelworkers at the time of the Korean war. I argued the case for the Steelworkers in the Supreme Court in support of President Truman's action. The Court, by a vote of 8 to 1, declared President Truman's action unconstitutional in an opinion written by Justice Black, Youngstown v. Sawyer. Here, too, I am not aware of any proposal to indict President Truman for his unconstitutional action.

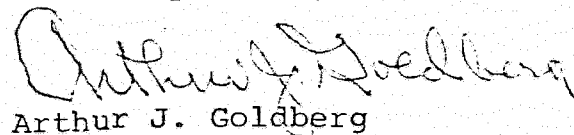
The cases of President Lincoln and President Truman are to be distinguished from the action of President Nixon in Watergate. President Lincoln and President Truman did not, as President Nixon did, act to obstruct justice. President Lincoln and President Truman acted in the good faith belief that they had the authority to do what they did and their motives were to protect the country.

There is no doubt in my mind, although I am a long time Democrat, that President Reagan in invading Grenada acted in good faith and in the belief that this served our national interest.

This being the case, I repeat that I regard any attempt to impeach President Reagan because of the invasion of Grenada, to be ludicrous and entirely unwarranted.

My dear Mitch, I contributed to the Historic Southern Tenant Farmers Union because of the role it played during the parlous times of the depression. My contribution was not given to promote extraneous causes. This being the case, I shall ask you to remove my name from the list of sponsors. However, you are welcome to obtain my modest contribution.

Sincerely yours,


Arthur J. Goldberg

FROM

H. L. Mitchell
Co-Founder, Historic
Southern Tenant Farmers Union

Box 2617, Montgomery, Ala. 36105

Tel. 205-265-4700

December 31, 1983

Mr. Arthur J. Goldberg
2801 New Mexico Avenue NW
Washington, D.C.

Dear Arthur:

I am sorry that my enclosures in my note of
December 19 distressed you.

I have had some correspondence with several members
of the House of Representatives, following my
sending copies of the letter signed by 17 members
of the Law Faculty at the University of North Carolina

me from
Some sent me a copy of an editorial/a paper
about the impeachment resolution in which you were
quoted as condemning the Grenada Invasion as
a violation of law.

I agree with you that it is not likely any action
will be taken by Congress on the resolution.

The ACLU has launched a campaign to have people
protest by letter to the President.

I suggested instead that a citizens commission of
Inquiry be sponsored by ACLU.

I am supporting Mondale for President. However I would
vote for anyone against Reagan.

Here is my latest-- New Year new bulletin and

New Book notice,

Best wishes for the New Year

Mitch

December 28, 1983

Mr. H. L. Mitchell
Co-Founder, Historic
Southern Tenant Farmers Union
Box 2617
Montgomery, Alabama 36105

Dear Mitch:

I was glad to join with others in nostalgic commemoration of the Southern Tenant Farmers Union. I am, however, very much puzzled by a reference in your letter of December 19 to a resolution to impeach President Reagan. I am, as you well know, a Democrat and will indeed support the Democratic candidate for President in 1984. I must say to you, in all candor, that I regard any resolution to impeach President Reagan as utter foolishness.

I should like to make it very clear that in sponsoring the Southern Tenant Farmers Union I want no part in any attempt to sponsor a resolution to impeach President Reagan.

Sincerely yours,

Arthur J. Goldberg

FROM

H. L. Mitchell
Co-Founder, Historic
Southern Tenant Farmers Union

Box 2617, Montgomery, Ala. 36105

Tel. 205-265-4700

December 19, 1983

The Honorable Arthur J. Goldberg
2801 New Mexico Ave. NW
Washington, DC 20007

Dear Arthur:

Attached are copies of letters received from members of Congress, and others who are very much interested, on the Resolution to Impeach the President.

Please note also, material from Dr. Joe Gallagher, now of Huntsville, Alabama, who received his basic medical education in Grenada. Dr. Gallagher is very much concerned, and wishes to do something constructive for his friends who were victims of the Reagan invasion.

Sincerely,



H. L. MITCHELL

Encls.

THE WHITE HOUSE

WASHINGTON

January 26, 1984

MEMORANDUM FOR RICHARD A. HAUSER

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Legal Bases for U.S. Action in Grenada

Thank you for referring to me the State Department guidance concerning the legal bases for the U.S. action in Grenada, and the Washington Times article by John Norton Moore on the same subject. I would point out that these items concern an issue quite distinct from that raised in Arthur Goldberg's letter to James A. Baker, III, to which I drafted a response for Mr. Fielding's signature. The State Department guidance and Moore article concern the legality of the action of the United States under international law. Goldberg's letter to Baker, and my draft response, considered the legality of the President's action under the U.S. Constitution in ordering the invasion without obtaining a declaration of war.

The issues are entirely separate. Unconstitutional acts can comply with international law, and Constitutional acts can violate international law. International law considers a country's acts and cares not whether the process setting those acts in motion complied with domestic legal requirements. Domestic constitutional law considers respective authorities for action and cares not whether the action complies with international legal norms. Goldberg's contention was that the President acted unconstitutionally when he ordered the invasion without explicit Congressional sanction. The fact that the invasion complied with international law is irrelevant to the question of whether the President was required by the Constitution to obtain a declaration of war before ordering it.

LDX MESSAGE RECEIPT

DEPARTMENT OF STATE

83 OCT 27 5:21

SITE
B

S/S #

330 27 P 6:34

LDX MESSAGE NO. 597 CLASSIFICATION UNCLASSIFIED No. Pages 43
 FROM: Davis R. Robinson L 632-9598 6425
 (Officer name) (Office symbol) (Extension) (Room number)

MESSAGE DESCRIPTION Legal Bases for U.S. Action in Grenada - Excerpts from
Acting Secretary Dam's testimony

LDX TO: (Agency)	DELIVER TO:	Extension	Room No.
<u>White House</u>	<u>Fred P. [redacted]</u>		
<u>NSC</u>	<u>Counsel to the President</u>		
	<u>Robert M. Kimmitt</u>	<u>+NSC/S</u>	
<u>DOD</u>	<u>Executive Secretary</u>		
	<u>William H. Taft</u>		
	<u>General Counsel</u>		

REMARKS:

S/S Officer:

BLACK

[Signature]



United States Department of State

The Legal Adviser

Washington, D.C. 20520

October 27, 1983

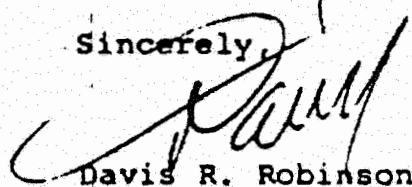
Mr. Fred F. Fielding
Counsel to the President
The White House

Dear Fred:

Attached is the latest version of guidance on the legal bases for U.S. action in Grenada. It consists of excerpts from the testimony of Deputy Secretary Dan before the Senate Foreign Relations Committee on October 27.

Please let me know if you have any questions.

Sincerely,



Davis R. Robinson

Attachment:

Latest Version of Guidance on U.S. Action in Grenada.

cc: Mr. Robert M. Kimmitt
Executive Secretary
National Security Council

Mr. Theodore B. Olson
Assistant Attorney General
Office of Legal Counsel

Mr. William H. Taft
General Counsel
Department of Defense

Information Concerning the Legal Bases
for U.S. Action in Grenada
As Extracted from
Acting Secretary Dan's Statement Before the
Senate Foreign Relations Committee on
October 27, 1983

"The collapse of governmental institutions in Grenada began the evening of October 12 with an attempt by Deputy Prime Minister Bernard Coard to force out Prime Minister Maurice Bishop.

. . . .

"On October 19, the power struggle exploded into violence. Troops opened fire on Bishop supporters who had freed him from house arrest and accompanied him to Ft. Rupert, the Army headquarters. Bishop, several cabinet ministers and union leaders were taken away, then brutally executed. Education Minister Jacqueline Creft was reportedly beaten to death. At least 18 deaths were confirmed. Many more were reported, including women and children.

"In the wake of these murders, the People's Revolutionary Army announced the dissolution of the government and the formation of a 16-member Revolutionary Military Council (RMC) of which Army Commander General Hudson Austin was the nominal head.

"I say nominal head, because it was never clear that Austin or any coherent group was in fact in charge. The RMC indicated no intention to function as a new government. RMC members indicated only that a new government would be announced in 10 days or two weeks. It cannot be said whether or when some governmental authority would have been instituted. Former Deputy Prime Minister Coard, who had resigned on October 12, was reported under army protection, whether for his own safety or as a kind of detention was not clear.

. . . .

"Against this background, the urgent appeal from the Organisation of Eastern Caribbean States (OECS) took on decisive weight. The OECS is a sub-regional body created in 1981 by the Treaty Establishing the Organization of Eastern Caribbean States. Among the purposes of the Treaty are the promotion of regional cooperation and collective security.

"The OECS determined that the collapse of government and disintegration of public order on Grenada posed a threat to the security and stability of the region. The OECS members decided to take necessary measures in response to this threat, in accordance with Article 8 of the OECS Treaty. They sought the assistance of friendly foreign states to participate in a collective security force. Barbados and Jamaica agreed with the OECS assessment of the gravity of the situation, offered to contribute forces to a collective action and joined in urging the United States to participate in the support of this regional measure.

"The Governor General of Grenada made a confidential direct appeal to the OECS to take action to restore order on the island. As the sole remaining authoritative representative of government on Grenada, his appeal for action carried exceptional moral and legal weight.

"The deteriorating events in Grenada since October 12, taken together, demonstrated the brutality of the Revolutionary Military Council and the ominous lack of cohesion within the Grenadan military. The Revolutionary Military Council had imposed a 24-hour curfew, warning that violators would be shot on sight, and closed the airport. U.S. citizens were not free to leave. Although the Military Council gave assurances that the airport would be opened on October 24 and foreigners allowed to depart, they then failed to fulfill that assurance. It became clear that delay would intensify both the risk of violence against Americans and a vacuum of authority that would imperil Grenada's neighbors.

"Collective action in response to the dangerous situation was consistent with the UN and OAS Charters. Both Charters expressly recognize the competence of regional security bodies in ensuring peace and stability. The OECS states are not parties to the Rio Treaty, and the OECS Treaty, which concerns itself in part with matters of collective security, is their regional security arrangement.

"Article 22 of the OAS Charter states that measures taken pursuant to collective security agreements do not violate the OAS Charter provisions prohibiting intervention and the use of force. Similarly, Article 52 of the UN Charter expressly permits regional arrangements for the maintenance of peace and security consistent with the purposes and principles of the United Nations. The actions and objectives of the collective security force, in the circumstances described by the President and the Secretary of State, are consistent with those purposes and principles.

"The OECS states, in taking lawful collective action, were free to call upon other concerned states, including the United States, for assistance in their effort to maintain the peace and security of the Caribbean. Assistance given in response to their request is itself lawful. Moreover, U.S. cooperation with the collective security force permitted the safe evacuation of endangered U.S. citizens. Such humanitarian action is justified by well-established principles of international law.

.....

"The President's orders to the U.S. military forces are to cooperate with the OECS in entering Grenada, to facilitate the departure of all U.S. and foreign nationals who wish to leave, and to help Grenada's neighbors work with the people of Grenada to restore order. U.S. support of the OECS military action will be for these purposes only.

.....

"We do not at this point know just what steps the provisional government will take. This is for the Grenadians themselves to determine.

"One thing is certain: all governments participating in this collective action will withdraw their forces just as soon as circumstances permit."

JOHN NORTON MOORE

The legal basis for Grenada

Americans rightly expect their nation to act lawfully in international affairs. Because issues of lawfulness are important, we should expect more than the Alice-in-Wonderland legal arguments heard at home and abroad instantly condemning the Grenada mission.

The reality is that the peace-keeping and protection mission requested by the Organization of Eastern Caribbean States is lawful and in full compliance with the charter of the United Nations and that of the Organization of American States. Indeed, by serving human rights, self-determination and international security, the mission serves the core purposes of those great charters.

The U.N. charter provides in Article 2 (4) that members shall not use force against the "territorial integrity or political independence" of other states. But Article 52 of the charter equally clearly permits regional peace-keeping actions consistent with the purposes of the United Nations.

Such actions to restore order and self-determination in a setting of breakdown of authority are not enforcement actions requiring Security Council approval and may be undertaken at the initiative of regional arrangements. Article 51 of the charter as clearly permits actions in defense. Such actions, which include humanitarian protection, may be undertaken individually or collectively.

The Grenada mission by the OECS countries and Barbados, Jamaica and the United States is a model regional peace-keeping action under Article 52. It was undertaken in a context of civil strife and breakdown of government following the brutal murder

see MOORE, page 2C

John Norton Moore is Walter L. Brown professor of law at the University of Virginia and former counselor on international law to the Department of State.

MOORE

From page 1C

of Maurice Bishop and three members of his Cabinet in an attempted coup. And it was in response to a request for assistance in restoring human rights and orderly processes of self-determination from the only constitutional authority on the island, Governor General Sir Paul Scoon. The legal basis for this peace-keeping mission is at least as strong as for the OAS — not just American — action in the second phase of the 1965 Dominican Republic case.

The Grenada mission is also a model of humanitarian protection under Article 51 of the charter. The context includes uncertainty as to whether any coherent group was in charge, cessation of government functions, a draconian shoot-on-sight, 24-hour curfew applied to civilians, closure of the airports, a community of threatened non-Grenadans, including 800-1,000 Americans, and at least 18 confirmed deaths.

Although not necessary for the legal case, it is relevant that, under Soviet and Cuban tutelage, Grenada had embarked on a military buildup exceeding the combined military strength of the six other members of the OECS and was assisting in the export of terrorism to other Caribbean nations. From the perspective of these virtually unarmed Caribbean democracies the buildup must have seemed as acute a threat as the 1962 attempted emplacement in Cuba of Soviet missiles was for the United States.

Moreover, it is still not clear whether the attempted coup was subtly or otherwise encouraged by the Soviets or Cubans in a covert application to Grenada of the Brezhnev doctrine after Bishop showed unease with increasing "socialist bloc" dependence. At the least, the attempted coup occurred in a setting where Cuban armed strength exceeded Grenadan, as was demonstrated in subsequent

fighting, and in a setting that was at minimum neo-colonial.

Although the Monroe Doctrine is not a principle of international law, it is also relevant to recall that a major underpinning of the doctrine is the importance of protecting self-determination in the Americas against threats to reimpose colonialism forcefully.

The Grenada mission, which was jointly undertaken by almost one-third of the OAS membership, is also consistent with the OAS charter. Reflecting the traditional Latin concern, Articles 18 and 20 of the

"Would continuation of murder and civil strife in Grenada better serve human rights?"

charter broadly prohibit intervention. Articles 22 and 28, however, make clear that regional peace-keeping or defensive actions in accordance with special regional treaties do not violate these non-intervention provisions. It is clear from the negotiating history of these articles that the later OECS treaty is a special regional treaty within Articles 22 and 28. In fact, as is the Inter-American defense treaty for other areas of Latin America, the OECS treaty is the only applicable regional security arrangement for Grenada and the Eastern Caribbean.

In contrast with the empty canvas of interest as to the legal basis for Cuban forces ordered to fight to the death to oppose a lawful regional peace-keeping and rescue mission, the OECS and the U.S. actions have met with a drumbeat of legal misperceptions.

Most frequently heard is the charge that the action violates the non-intervention articles of the OAS charter. As we have seen, this simply ignores the legal effect of

Articles 22 and 28. It also ignores Article 137 which reserves all rights under the U.N. charter. Also urged are a melange of arguments under the OECS treaty that non-members cannot participate, that the treaty applies only to external threats and that the action is impermissible because Grenada did not join in authorizing it.

Space precludes full response to these points, but they are as specious as the alleged violation of the OAS charter. In fact, even a careful reading of Article 3 (2)(q), Articles 4 and 6 in their entirety, and Article 16 (1) of the OECS treaty, taken in the context of the breakdown of government of Grenada and a request for military assistance from the governor general, should satisfy the fair-minded.

Moving from strictly legal analysis to assessment by reference to fundamental purposes of the U.N. and OAS systems, we should ask: Would continuation of murder and civil strife in Grenada better serve human rights? Would continuation of brutal repression by an unpopular faction and further tightening of Cuban neo-colonialism better serve self-determination? Would continuation of the huge military buildup in a peaceful region of the Caribbean better serve peace?

And even ardent practitioners of the pseudo "even hand" who are troubled by comparisons with the Brezhnev doctrine, should be able to discern the differences. Among other things, the Brezhnev doctrine is not premised on a request from an organization of independent states acting lawfully under Articles 51 and 52 of the U.N. charter. And as OECS coexistence with the Marxist Bishop regime shows, the OECS action, unlike the Brezhnev doctrine, is not for the purpose of imposing a particular form of government on the people of Grenada.

The world has yet to see free elections or an end to human rights abuses in any country where the Brezhnev doctrine has been applied. The Grenada mission seeks to serve rather than subvert these goals.

THE WHITE HOUSE

WASHINGTON

January 26, 1984

MEMORANDUM FOR RICHARD A. HAUSER

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Legal Bases for U.S. Action in Grenada

Thank you for referring to me the State Department guidance concerning the legal bases for the U.S. action in Grenada, and the Washington Times article by John Norton Moore on the same subject. I would point out that these items concern an issue quite distinct from that raised in Arthur Goldberg's letter to James A. Baker, III, to which I drafted a response for Mr. Fielding's signature. The State Department guidance and Moore article concern the legality of the action of the United States under international law. Goldberg's letter to Baker, and my draft response, considered the legality of the President's action under the U.S. Constitution in ordering the invasion without obtaining a declaration of war.

The issues are entirely separate. Unconstitutional acts can comply with international law, and Constitutional acts can violate international law. International law considers a country's acts and cares not whether the process setting those acts in motion complied with domestic legal requirements. Domestic constitutional law considers respective authorities for action and cares not whether the action complies with international legal norms. Goldberg's contention was that the President acted unconstitutionally when he ordered the invasion without explicit Congressional sanction. The fact that the invasion complied with international law is irrelevant to the question of whether the President was required by the Constitution to obtain a declaration of war before ordering it.

THE WHITE HOUSE

WASHINGTON

February 14, 1986

MEMORANDUM FOR BEN ELLIOTT
DEPUTY ASSISTANT TO THE PRESIDENT AND
DIRECTOR OF SPEECHWRITING

FROM: JOHN G. ROBERTS *JGR*
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Presidential Address: Queen's Park
St. George, Grenada

Counsel's Office has reviewed the above-referenced remarks. The Office of the General Counsel at USTR has advised that the language on page six, lines 7-14, must be changed. The President can, according to USTR, promise guaranteed levels of access for C.B.I. textiles, and separate higher levels for C.B.I. apparel that is the product of American-made materials. He cannot promise quota-free access for either category of C.B.I. products. You should discuss alternate language directly with Richard Parker of USTR at 395-6800.

The first full paragraph on page seven also raises concerns. It is my understanding that a decision has not been made on how to respond to the Farm Bill's requirement that the sugar quota be cut 25%. GATT may require that the C.B.I. countries be included in these cuts. These are pending proposals to compensate for the results of this cut in C.B.I. countries, but the language on page seven seems far more optimistic than is warranted by the facts. Gene McAllister of the Economic Policy Council is aware of the status of the issue and is reviewing the language.

cc: David L. Chew

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

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

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

Subject: Address Queen's Park, St. George,
Grenada**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>CUHOLL</u>	ORIGINATOR	<u>86.02.13</u>			<u>1 / 1</u>
<u>Mat 18</u>	Referral Note: <u>B</u>	<u>86.02.13</u>		<u>S</u>	<u>86.02.14</u>
	Referral Note:				<u>5pm</u>
		<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:				

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.

WHITE HOUSE STAFFING MEMORANDUMDATE: 2/13/86 ACTION/CONCURRENCE/COMMENT DUE BY: 5:00 P.M. 2/14/86SUBJECT: ADDRESS: QUEEN'S PARK
ST. GEORGE, GRENADA

(2/13/86 - 2:30 p.m. - draft)

	ACTION FYI			ACTION FYI	
VICE PRESIDENT	☐	☒	OGLESBY	☒	☐
REGAN	☐	☒	POINDEXTER	☒	☐
MILLER	☐	☐	RYAN	☒	☐
BUCHANAN	☒	☐	SPEAKES	☐	☒
CHAVEZ	☐	☐	SPRINKEL	☐	☐
CHEW	☐	☒	STEELMAN	☐	☐
DANIELS	☒	☐	SVAHN	☐	☐
FIELDING	☒	☐	THOMAS	☒	☐
HENKEL	☐	☐	TUTTLE	☐	☐
HICKS	☐	☐	ELLIOTT	☐	☒
KINGON	☒	☐	_____	☐	☐
LACY	☐	☐	_____	☐	☐

REMARKS: Please give your comments/edits directly to Ben Elliott,
with an info copy to my office by 5:00 p.m. tomorrow. Thanks.

RESPONSE:

(Rohrabacher/BE)
February 13, 1986
2:30 p.m.

PRESIDENTIAL ADDRESS: QUEEN'S PARK
ST. GEORGE, GRENADA
THURSDAY, FEBRUARY 20, 1986

Prime Minister Blaize, distinguished Prime Ministers, and my dear Grenadian friends, I bring you the goodwill and affection of the people of the United States. It is my honor to be on this platform with these prominent Caribbean leaders. We stand before you as friends who share a fundamental belief in democracy. Our commitment to humane and representative government is stronger than any tyrant's chains. I'm certain my colleagues approve when I say to you, we are grateful to God that, today, Grenada is again safely within the ranks of free and democratic nations.

There is a powerful new force alive in our hemisphere. Your Prime Minister and these other elected leaders are testimony that the spirit of democracy is assuming its rightful role as the great unifier of free people. Democracy is based on respect for the rights and dignity of every person, whatever his or her station in life. In the last century, a champion of Grenadian independence, William Galway Donovan, put it well when he wrote, "A naked freed man is a nobler object than a gorgeous slave."

All of us in this hemisphere are Americans -- from the North Slope of Alaska to the Tip of Tierra del Fuego -- and it is our birthright to live in freedom. It is our heritage. And in this quest, we stand together.

Just in the last 5 years, Brazil, Argentina, Guatemala, Honduras, Bolivia, Uruguay, El Salvador, and, yes, Grenada, have returned to democracy. Today, 26 of 33 independent countries,

countries with 90 percent of the hemisphere's population, are democratic or in transition to democracy. Hopefully, the people of Haiti, too, may soon be able to join us in the warm sunshine of liberty and justice.

As we rejoice in freedom, let us not forget that there are still those who will do everything in their power to impose Communist dictatorship on the rest of us. Castro's tyranny still weighs heavy on the shoulders of his people and threatens the peace and freedom of the hemisphere. Doing the bidding of his faraway masters, he has turned Cuba's fine young men into red cannon fodder, spending them by the thousands to fight and die in faraway lands. When one recalls the tons of military equipment he sent here, we can thank God it was stopped before young Grenadians, too, were sent off to fight and die for an alien ideology.

From the earliest days of my Presidency, I was aware of the growing trouble here in Grenada. We were worried about you and what appeared to be an attempt to turn your island into a staging area for subversion and aggression. Those in charge kept telling us they were not Communists -- that they had no intention of imposing a so-called dictatorship of the proletariat, no intention of stamping out the right to speak or to worship God. We were told that they were simply idealists charting a new and better course for the future. All of this was part of a Communist pattern of lies and deception that has been repeated so many times in so many places.

This time, however, we have proof -- in your experience and in captured documents -- of the grotesque lies that were being

foisted on us, lies some people were all too ready to believe. Today, we know, for example, that those who seized power were Communist all along. We know that they planned to undermine, slowly but surely, your freedoms and to destroy your churches. They planned to take away your land and turn it into collective farms. What's the difference between serving the master of a collective farm and serving any other master?

Their plan almost worked, but some of the people who had been in on the scheme balked when the heavy hand of repression was about to come down. His brutal execution was similar to the fratricidal bloodletting among Marxist-Leninists in Afghanistan, South Yemen and even among the El Salvadoran guerillas. They didn't even wait to get into power before they started killing each other. Sadly, here, just like elsewhere, many innocent people were also cut down.

The motto of your newspaper, The West Indian, is "The right alone is right. The wrong is always wrong." Well, what happened here proves again that communism is wrong. It is immoral and should not be tolerated by decent people.

I can still remember being awakened early in the morning and told that six members of the Organization of Eastern Caribbean States, joined by Jamaica and Barbados, had sent an urgent request that we join them in a military operation to restore order and democracy to your country. There were 800 students from the United States whose lives were in danger. And there were 90,000 of you -- Grenadians, friends, and neighbors -- who were living in fear of never again regaining your freedom.

Ladies and gentlemen, my dear friends, I will never be sorry that I made the decision to help you.

There is a story, perhaps a legend, that in 1933 a group of young boys were in a swimming race across your harbor. In the midst of the race, to the horror of the crowd that watched, a shark appeared and surfaced directly under one young swimmer. For a few terrorizing minutes, the boy was carried on the back of the shark until the shark hit a wharf, and the boy was knocked to safety and pulled out of the water by his friends and neighbors.

Dear people of Grenada, for a time it appeared that you were like that boy, riding on the back of a shark. Your friends held their breath, hoping and praying for you. It was our honor to help you get off the shark. We're just glad we got here before it was time for his supper.

Today, in Central America, we see a chain of events similar to what happened here. We hear the same lies, while the people of Nicaragua see their freedom, slowly but surely, eaten away. Freedom of speech and press have been gobbled up. The church is under savage attack. The Sandinista dictatorship has been armed to the teeth with Soviet military equipment. The country is being turned into a base for subversion and aggression. Fortunately, the people of Nicaragua organized themselves in time. Freedom fighters are now struggling against the dictatorship.

Edmund Burke, a British parliamentarian who championed the cause of American independence, once wrote, "When bad men combine, the good must associate, else they will fall one by one." These words still ring true. That is why we came to your

aid. That is why the United States must help those who are struggling for freedom in Nicaragua. In the cause of liberty, all free people are part of the same family, and we should stand together as brothers and sisters. I say to you, if enough good people come together, the day will come, and sooner rather than later, when in Nicaragua, just like in Grenada, the flag of freedom will unfurl and fly again. What we did in Grenada should not be necessary if we do the right thing in Nicaragua.

There are those, of course, who claim we must give up freedom in exchange for economic progress. Well, pardon me, but anyone trying to sell you that line is no better than a three-card trick man. One thing becoming more clear every day, is that freedom and progress go hand in hand. Throughout the Third World, people are rejecting Socialism because they see that it doesn't empower people, it impoverishes them. In Cuba, Castro has turned a once thriving economy into a basket case. Lately, he has taken to haranguing his people, blaming them for the failures of his dictatorship.

I think it is time we -- the United States and the Caribbean nations working together -- showed Castro and his gang how it's done. The foundation is already being laid. I had a conversation with Prime Minister Blaize a few months ago, and he asked if it were possible for the United States to extend more scholarships to Caribbean students. Prime Minister Blaize, I'm proud to announce today that the number of scholarships for Caribbean students will soon be tripled. Five million dollars will be provided to Caribbean students to further their education.

And when these young people finish their training, we want to make certain that a growing, healthy economy is ready for them when they graduate. Two years ago, we put in place the Caribbean Basin Initiative, aimed at spurring growth and investment in the Caribbean. Part of this was a one-way free trade on most items. The progress resulting from the C.B.I. has been slow, but steady. Prime Minister Seaga spoke to me about the possibility of expanding its provisions to permit apparel, assembled in the Caribbean from cloth manufactured and cut in the United States, to enter under the C.B.I. He told me this would be a giant step for job creation down here. I am proud to announce today that we're ready to make this step -- to open our market to these products without quota restrictions. It will go into effect as soon as the details can be worked out.

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And while we're discussing the economy, I'd like to point out that Puerto Rico is spearheading a plan to bring more investment to the Caribbean. Governor Colon's twin-plant concept should reap rewards for people throughout the region. A major corporation, Johnson and Johnson, is already planning to open a plant right here in Grenada as a result of the program.

I also would like to commend our Peace Corps volunteers and A.I.D. personnel for the terrific job they've been doing. Right here in Grenada, our dedicated Peace Corps volunteers have been doing everything from teaching high school biology classes to starting 4-H Clubs, from working in clinics to helping local officials learn the use of computers. American foreign A.I.D. experience and financial resources have been put to work on everything from repairing your roads and telephones, to finishing

up your new airport. Now, of course, it will be used to bring tourists, instead of bombers and spy planes. Tourists are much nicer and a lot more fun. And, when they get here, I see they'll be able to stay in a new Ramada and other top-quality accommodations.

The most important thing the United States Government can do, however, is simply not get in your way. We will do our best, for example, to see to it that any changes in the sugar allocations don't undercut the Caribbean sugar industry. In fact, I can pledge to you that, as President, I will fight any protectionist moves that would erode the trade benefits that you have received through C.B.I. Now is the time for the people of our countries to be moving forward into prosperity together.

The goodwill between our peoples can be seen in the many private sector initiatives started here since the liberation. Having been in the profession I was in, I'm excited that the Discovery Foundation is donating the equipment and helping you set up a new television station. Who knows, you might even get around to showing a few old movies that someone I know starred in.

There are many wonderful people-to-people projects down here. One of the most heartwarming is Project HOPE. This public-private partnership is providing Grenadians medical and dental care, as well as helping with sanitation and training programs. The vast majority of those serving are volunteers, professionals who work hard at their regular jobs and then, in their time off, donate their services to you -- truly out of the

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goodness of their heart. These and other volunteers in the Caribbean make all of us back home very proud.

Looking ahead, to a great degree, what you do yourselves will make the difference. The C.B.I. and most of our other programs are designed only to open the door of opportunity. If you are to go through that door, your own governments must tear down the domestic barriers to economic growth. If I might be presumptuous and make a few suggestions: lowering the trade restrictions between the nations of the Caribbean Basin would be a good start; more trade between you can only be an improvement; eliminating the bureaucratic red tape that discourages investors will help.

In the United States, we found out that reasonable tax rates are essential for strong private sector growth. High tax rates, which are the order of the day in too many Caribbean countries, discourage people from working hard and frightens investors away. If investors don't come, everyone is worse off.

High tax rates, over-regulation, and bureaucratic red tape kill enterprise and hope for the future. Alexander Bustamante, founder of the Jamaican Labor Party, knew this years ago. "The day we destroy private enterprise," he said, "we are going to destroy the same people we speak of as the 'suffering masses.' For without industries, we will never be able to decrease our unemployment materially."

Needless to say, what you do to reform your systems and to create the environment for jobs and progress is up to you. But remember, the people of the United States want you to succeed. We want you to prosper. We are on your side.

Personally, after talking to these leaders and meeting you today, I'm optimistic. There is no reason why businessmen should not flock to the Caribbean. If they do, they will find a bounty of opportunity for investment, they will find honest, hard-working people, and they will find democratic government. That has to be a formula for good times ahead.

The United States will continue working closely with you and your governments on many levels. In the areas of security and drug enforcement, it behooves us to cooperate to counter threats which would undermine the safety of our countries and the integrity of our governments. None of the challenges we face will be easy to meet, but side-by-side we will climb the mountain together.

As I look around today, I know that Queens Park has been the location for many a "jump up." And believe me, I will remember this one. But, this also was the location of a command post during the liberation 2-1/2 years ago. The people of the United States sent our strong young men, our courageous soldiers, sailors, Marines, and airmen, to protect 800 of our own and to save a neighbor in distress. Nineteen of our sons, the pride and joy of their mothers and fathers, died here. Many were wounded. Our brave lads risked all because they believed in those ideals we've spoken about today: justice, freedom, and opportunity. Let us pledge that their sacrifice was not made in vain. Let us recapture the joyous spirit of liberty that is truly the dream of all the Americas and spread it throughout this hemisphere. That is what our fallen heroes would have wanted. Thank you and God bless you all.

THE WHITE HOUSE

WASHINGTON

February 20, 1986

MEMORANDUM FOR BEN ELLIOTT
DEPUTY ASSISTANT TO THE PRESIDENT AND
DIRECTOR OF SPEECHWRITING

FROM: JOHN G. ROBERTS *JGR*
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Presidential Radio Talk: Grenada

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

cc: David L. Chew

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

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

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

Subject: Radio Talk: Grenada

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>Curt Holl</u>		ORIGINATOR	<u>86102120</u>			<u>1/1</u>
		Referral Note:				
<u>Curt 18</u>		<u>R</u>	<u>86102120</u>		<u>5</u>	<u>86102120</u>
		Referral Note:				<u>915pm</u>
			<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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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.

WHITE HOUSE STAFFING MEMORANDUMDATE: 2/20/86 ACTION/CONCURRENCE/COMMENT DUE BY: 2:15 p.m. TODAYSUBJECT: RADIO TALK: GRENADA

	ACTION FYI			ACTION FYI	
VICE PRESIDENT	☐	☒	OGLESBY	☒	☐
REGAN	☐	☒	POINDEXTER	☒	☐
MILLER	☐	☐	RYAN	☐	☐
BUCHANAN	☒	☐	SPEAKES	☐	☒
CHAVEZ	☒	☐	SPRINKEL	☐	☐
CHEW	☐	☒	STEELMAN	☐	☐
DANIELS	☒	☐	SVAHN	☒	☐
FIELDING	☒	☐	THOMAS	☒	☐
HENKEL	☐	☐	TUTTLE	☐	☐
HICKS	☐	☐	ELLIOTT	☐	☒
KINGON	☒	☐	_____	☐	☐
LACY	☐	☐	_____	☐	☐

REMARKS: Please give your comments/edits directly to Ben Elliott's office, with an info copy to my office by 2:15 p.m. today. Thanks.

RESPONSE: _____

(Rohrabacher/BE)
February 20, 1986
Noon

RECEIVED
FEB 22 1986
PRESIDENTIAL RADIO TALK: GRENADA
SATURDAY, FEBRUARY 22, 1986

My fellow Americans, 2 days ago, I visited with some wonderful neighbors of ours who live on the island of Grenada in the Caribbean. I wish every American could have seen the joy in their faces. I couldn't help remembering that just a short time ago they were living in fear of forever losing their freedom.

From the earliest days of my Presidency, I was aware that trouble was brewing in Grenada. Power was seized by a radical group with close ties to the Communist world. This new clique kept insisting that they had no intention of stamping out their people's fundamental rights, the right to speak or to worship God, no intention of imposing a so-called dictatorship of the proletariat. We were told that those holding power in Grenada were simply idealists charting a new and better course for the future.

All of this was part of a Communist pattern of deception that has been repeated so many times in so many places. This time, however, tons of captured documents proved these grotesque lies. Today, for example, we know that no one pushed Grenada into the arms of the Soviet Union and Cuba. From the very start, those who seized power in Grenada aligned themselves with the international Communist movement and moved quickly to undermine the freedom of the Grenadian people.

Their plan almost worked, but then some who were in on the scheme balked when the heavy hand of repression was about to come

down. The brutal killings that followed were similar to the fratricidal bloodletting among Marxist-Leninists in Afghanistan, South Yemen, and even among the Salvadoran guerillas. Sadly, in Grenada, just like elsewhere, many innocent people were also cut down.

I vividly remember that morning when I was awakened in the early hours and told that we'd received an urgent call for help from the Organization of Eastern Caribbean States. Along with Jamaica and Barbados, these neighboring democracies asked us to join them in restoring order and freedom to Grenada. There were 800 American students and about 200 other American citizens on the island. All were in peril.

So, on October 25th, American military units began Operation Urgent Fury. Within a short time, our citizens were safe, and the people of Grenada had been liberated from the grip of tyranny. Some of our young medical students kissed the ground when they got back home. Our soldiers, sailors, airmen, and marines were hailed as saviors by the local population in Grenada.

The Grenadian people saw their country being stolen from them by a small clique of Communists. A similar chain of events has been happening in Nicaragua. We hear the same old lies, while the Nicaraguan people see their freedom being stolen away. The Communists have suspended free speech and free press. Cardinal Obando y Bravo has charged systematic attacks against priests, bishops, the Cardinal, and His Holiness John Paul II.

Meanwhile, the dictatorship is being armed to the teeth with Soviet military equipment, and everyone from the Soviets, Cubans, East Germans to the P.L.O. and Qadhafi's Libyans are turning Nicaragua into a staging area for subversion and aggression against our neighbors.

All is not lost, however, because freedom fighters are now struggling against their dictatorship. The ranks are filled with compesenos, small farmers who own a few acres of land. Many of them fought against past dictatorships and want to live under democratic government.

Helping those fighting for their own freedom in Nicaragua is both morally right and vital to our national security. If the Communists consolidate their power, their campaign of violence throughout Central America will go into high gear bringing new dangers and sending hundreds of thousands of refugees streaming toward our 2,000-mile undefended southern border. We cannot and we must not permit that to happen.

We should learn the lesson of Grenada and prevent a Central American crisis before it erupts. Nineteen American servicemen lost their lives, and many more were wounded liberating Grenada. If we have the courage to do what is necessary now, helping those who are struggling to bring freedom to their country, no American serviceman need ever put his life in jeopardy. The people of Grenada know that doing nothing is the worst alternative. Let's make certain we all live up to our responsibility. Until next week, thanks for listening and God bless you.