

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. report	GSA Presidential Transition Support Team - Security (3 pages)	nd	b(2), b(7)(E)
002a. report	Presidential Transition Act Funding (1 page)	nd	P5 59
002b. draft	To: Beth Nolan From: Randolph D. Moss (5 pages)	11/22/00	P5 60
003a. draft	Memorandum of Understanding (14 pages)	12/1/00	P5 61

COLLECTION:

Clinton Presidential Records
Chief of Staff
John Podesta (Subject File)
OA/Box Number: 24861

FOLDER TITLE:

Transition [1]

2006-0588-F

ds83

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
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- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

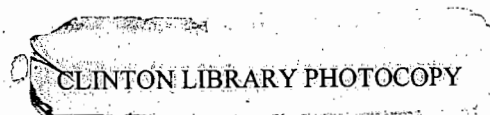
Presidential Transition Act Funding



- The Administrator of GSA has authority under the Presidential Transition Act to release funds and space to the "President-elect" and "Vice-President elect." The Administrator is charged under the law with determining "the apparent successful candidates" for those offices in order to release the funds.
- The GSA Administrator has determined that so long as both sides continue their court challenges, the outcome of the Presidential election remains unclear and there is no "apparent" President-elect to whom to release the funds.
- The Justice Department's Office of Legal Counsel has advised us that the structure and legislative history of the Presidential Transition Act of 1963 make clear that funds are unavailable in circumstances in which the winner of the election is not apparent (in the determination of the GSA Administrator). Thus, OLC advises that GSA does not have authority to provide Transition Act assistance to more than one transition team.

(Note: OLC has provided the advice but the written opinion is not finalized.)

- The legislative history of the Presidential Transition Act shows that the sponsors clearly contemplated the possibility of uncertainty, and expected that in such situations, transition funds would not be released until resolution. The House Manager, Representative Fascell, made this clear: "There is nothing in the act that requires the Administrator to make a decision which in his own judgment he could not make. If he could not determine the apparent successful candidate, he would not authorize the expenditure of funds to anyone; and he should not."



Withdrawal/Redaction Sheet

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. memo	To: Designated Agency Ethics Officials From: Frank Q. Nebeker Re: Representational Activities of Transition Workers (2 pages)	11/30/88	P5 64
001b. letter	To: Judge Frank Q. Nebeker From: Douglas W. Kmiec Re: Transition Ethics (4 pages)	11/18/88	P5 65

COLLECTION:

Clinton Presidential Records
Counsel's Office
Beth Nolan; Emily Karcher (Subject File)
OA/Box Number: 24960

FOLDER TITLE:

[Transition] [1]

2006-0588-F

ds85

RESTRICTION CODES

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United States
Office of Government Ethics

P.O. Box 14108
Washington, D.C. 20044

November 30, 1988



MEMORANDUM

TO: Designated Agency Ethics Officials

FROM: Frank Q. Nebeker
Director

SUBJECT: Representational Activities of Transition Workers

At a recent meeting of the Director's Advisory Committee, I was asked whether 18 U.S.C. § 207 places any limitations upon a former employee's service as a member of the Presidential Transition team. In particular, a designated agency ethics official posed the situation of a former senior employee who, within one year after having resigned his position with an agency, becomes a member of the Presidential Transition team assigned to work on transition matters involving his former agency. The ethics official pointed out that the individual's contacts with his former agency could violate the one-year no-contact ban of 18 U.S.C. § 207(c).

Although the Presidential Transition Act of 1983, as amended, gives recognition to the fact that the Transition is a legitimate function of government and authorizes the use of appropriated funds for that purpose, the Office of Legal Counsel has taken the position that the actions of Transition team members "cannot be precisely said to be on behalf of the United States." Insofar as a former senior employee's work on the Transition team may involve contact with his former agency within the one-year period following separation, the Office of Legal Counsel concludes:

1. The contact would not be unlawful if funds appropriated for the Transition are the sole source of compensation the former senior employee receives for Transition service;
2. The contact would not be unlawful if the former senior employee is a true volunteer who is self-supporting and receives no compensation for or during the period of Transition service; and
3. The contact would violate section 207(c) if, for or during the period of Transition service, the former senior employee receives compensation from an outside source such as a company or law firm.

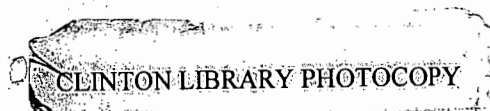


The same rationale would appear to be applicable in determining whether a former employee's contact on behalf of the Transition team violated 18 U.S.C. §§ 207(a) or 207(b). The Office of Legal Counsel has cautioned that the above conclusions regarding the application of 18 U.S.C. § 207 are to be narrowly applied to the unique considerations presented by the Presidential Transition.

Because agency contacts by some Transition team members could raise questions under the post-employment statute, the Transition team has advised this Office that it intends to screen agency assignments to assure that former employees who are subject to post-employment restrictions will not undertake functions that are likely to result in contacts that would violate section 207. Please note that similar precautions are not necessary and are not being taken with regard to the assignments of current federal employees who are detailed to the Transition team. Consistent with its prior holding in 4 O.L.C. 498 (1980), it is the view of the Office of Legal Counsel that agency contacts made by current employees who are detailed to the Transition team would not violate 18 U.S.C. §§ 203 and 205.

For your information, I am enclosing a copy of the Standards of Conduct adopted by the Transition team for Transition workers, together with copies of the two disclosure forms Transition workers will be required to file. The Presidential Transition Act, as amended in 1988, requires public disclosure of the employment and funding information contained in the shorter form. The more detailed information contained in the personal data form will be made available to agency ethics officials, as necessary and appropriate, at the time individual team members are assigned to their agencies.

Enclosures: 3





Office of Legal Counsel



Office of the
Assistant Attorney General

Washington, D.C. 20530

NOV 18 1988

Judge Frank Q. Nebeker
Director, Office of Government Ethics
1625 K Street, Suite 400
Washington, D.C. 20006

Dear Judge Nebeker:

This responds to your oral request of November 17, 1988 for our views on whether the one year bar prohibiting certain former government employees from contacting their former agency, contained in 18 U.S.C. 207(c), applies to former government employees who are working for the President-elect's transition team. Presidential Transition Act (Act), 3 U.S.C. 102 note, as amended by Pub. L. No. 100-398, 102 Stat. 985 (1988).

As you indicated, this is a novel and difficult question given the sui generis nature of a presidential transition. It is readily apparent that presidential transitions serve an important public function. Congress has endorsed their significance, stating, when it set forth the purposes of the Act:

The national interest requires that such transitions in the office of the President be accomplished so as to assure continuity in the faithful execution of the laws and in the conduct of the affairs of the Federal Government, both domestic and foreign.

Id., sec. 2. We have no doubt that promoting the "orderly transfer of the executive power," id., is one of the most important public objectives in a democratic society.

It does not follow from this that the restrictions of 18 U.S.C. 207(c) do not apply at all to the transition. The conflict of interest laws also advance extremely important goals, including promoting public confidence in the integrity of the federal government and ensuring that corruption -- and opportunities for corruption -- are minimized. Thus, in evaluating the applicability of section 207(c), we believe that it is best to examine the actual status of a transition staff member in conjunction with the evils that the ethics laws were intended to combat.

At one end of the spectrum is the federal employee who is detailed by his agency to assist the transition team. He is clearly a federal employee, covered by all applicable portions of 18 U.S.C. 201-209, and obviously his status raises no question

under section 207(c). The Act specifically refers to such employees and emphasizes that their status vis-a-vis the United States does not change while they are working with the transition team. Id., sec. 3(2). Based upon this statutory recognition, we also agree with you that the prohibitions in section 203 and 205 do not apply to such detailed employees by virtue of the "official duties" exception to those provisions.

At the other end of the spectrum is an individual who recently occupied a high, policy making position in the executive branch and who is now employed by a company or law firm in the private sector. If such an individual, while still receiving his private sector salary, works for the transition team, he typifies the potential for abuse that we believe that section 207(c) was intended to guard against. He is not compensated by the federal government,¹ may not make decisions or participate in matters on behalf of the United States,² and his loyalties are not undivided.³ Because the central purpose of section 207(c) was to preclude for one year a limited class of high-level government employees from contacting their former agencies unless the contact was clearly on behalf of the United States, we believe such individuals who receive compensation from the private sector for, or during, their work for the transition team are not exempt from the fairly absolute "no contact" rule, merely by virtue of their association with the transition. We therefore believe that such individuals are, notwithstanding their employment by the transition team, covered by 18 U.S.C. 207(c), and barred from contacting their former department or agency for the statutory period.

It is less clear that section 207(c) should apply to those former high government officials who have been separated from their agencies less than one year who are either volunteers for the transition team and are supporting themselves from their own resources or who have severed their ties with private sector employment and are being compensated solely from funds appropriated under the Act. It is much more likely that those

¹ The Act also makes clear that such staff members are not federal employees except for limited provisions not relevant here. Id., sec. 3(2).

² We understand that the proposed Standards of Conduct for a transition worker make it clear that he cannot and should not attempt to interfere with the decision making functions of the agencies.

³ A clear example would be a former Department of Defense officer who is now working for a defense contractor or a former Department of Justice official who is now representing companies whose interests would be affected by decisions of the Department.

former officials who are supporting themselves and are acting solely in the interests of the President-elect⁴ will not face the divided loyalties at which section 207(c) was aimed.

The same argument is true with respect to those whose salaries are paid out of appropriated funds: Congress has decided that it is in the interest of the United States (even if the actions of the transition team cannot be precisely said to be on behalf of the United States) that these individuals be paid with federal funds because they are advancing a federal interest. Our hesitation to apply section 207(c) to transition team members compensated with appropriated funds is bolstered by the fact that the Act was recently amended to provide significant amounts of funding for some transition staff members.⁵ In return for the funding, the President-elect must undertake certain steps to minimize the potential for conflicts of interest with respect to all transition personnel. Act, sec. 5(b), as amended. As the House Report on the recent bill notes:

Once again, the unique circumstances of a Presidential transition require balancing the ability of a new President to conduct transition activities as completely and effectively as possible, and in a manner he desires, with the necessity of maintaining public confidence.

H.R. Rep. No. 100-532, 100th Cong., 2d Sess. 6-7 (1988), reprinted at 1988 U.S. Code Cong. & Admin. News 1376. Thus, Congress, notwithstanding the fact that these compensated staff members are not generally treated as federal employees, has made it clear that they occupy a unique position and one that is worthy of federal funding.

Second, with respect to both self-supporting and transition team members compensated solely with public funds, we are influenced by the fact that the Criminal Division has informally advised us that they would not prosecute such individuals under section 207(c) so long as their contacts with their former federal departments or agencies was only for transition purposes. If those who are charged with the direct enforcement of the objectives that section 207(c) was intended to achieve do not believe that those who are self-supporting volunteers or who are

⁴ This would seem to apply with special force to a former government official who had no private sector affiliation since leaving government, such as former government employees participating in the political campaign which led to the election of the President-elect.

⁵ Presidential Transitions Effectiveness Act, Pub. L. No. 100-398, 102 Stat. 985 (1988).

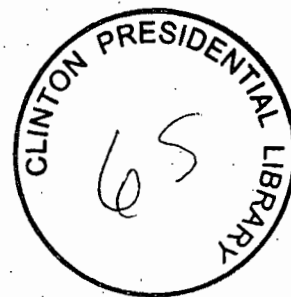
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DOUGLAS W. Kmiec
202 300 6324
compensated solely out of appropriated funds fall outside the scope of section 207(c), we do not feel compelled to disagree.

We would note, in concluding, that former government employees within the scope of section 207(c), regardless of their funding source for the transition, may utilize the exception in 18 U.S.C. 207(i) which permits former employees otherwise barred by section 207(c) from contacting their former agencies for one year to make or provide a statement to those agencies based on the employees' prior special knowledge, provided that no compensation is received. Thus, any former employee could assist the transition by supplying to the transition or his former department or agency for the transition an analysis based on his prior experience with and knowledge of his former department or agency, even if the considerations above preclude that individual's current contact with his former department or agency. Finally, it is of course apparent that section 207(c) does not prevent any covered former employee from contacting departments or agencies other than the one by which he was formerly employed.

Please let me know if we can be of further assistance.


Douglas W. Kmiec
Assistant Attorney General
Office of Legal Counsel

cc: Harry H. Flickinger
John C. Keeney



Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION	
001. memo	To: Beth Nolan From: Randolph D. Moss (5 pages)	11/28/00	P5	66
002. report	Access to the White House Complex (1 page)	nd	b(7)(E)	
003. draft	Statement (1 page)	n.d.	P5	67

COLLECTION:

Clinton Presidential Records
Counsel's Office
Beth Nolan; Emily Karcher (Subject File)
OA/Box Number: 24960

FOLDER TITLE:

[Transition] [2]

2006-0588-F

ds86

RESTRICTION CODES

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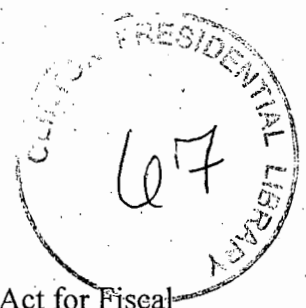
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STATEMENT BY THE PRESIDENT



Today, I have signed into law H.R. 4392, the "Intelligence Authorization Act for Fiscal Year 2001." The Act authorizes appropriations for intelligence and intelligence related activities of the United States during fiscal year 2001. This legislation contains numerous provisions that will contribute to the effectiveness, efficiency and security of essential U.S. intelligence activities.

This Act also establishes a new felony offense for the unauthorized disclosure of classified information. Specifically, the Act prohibits a person with authorized access to classified information from disclosing classified information to someone he or she knows is not authorized to receive it. This applies only to information that is properly classified under the applicable Executive Order, meaning that a proper determination was made that its unauthorized disclosure of that information reasonably could be expected to result in damage to the national security. In that connection, it is important to note that the Executive Order also specifically prohibits classifying information in order to conceal violations of law, inefficiency, or administrative error or to prevent embarrassment to the government.

Unauthorized disclosures of classified information can be extremely harmful to the national security interests of the United States. Unauthorized disclosures can hinder my ability to make decisions affecting our nation's security and put at risk scarce and irreplaceable intelligence sources and methods indispensable for acquiring the information necessary in order to make those decisions in the most best possible way. Although I believe it would probably be preferable to address this problem through strict application of personnel security practices, including administrative sanctions where appropriate, this law may provide an even stronger deterrent. I am concerned to ensure, however, that this new provision not be applied in a manner that could chill legitimate, Constitutionally protected activity or transform questions of judgment into criminal referrals. For these reasons, I believe it is extraordinarily important that the Justice Department use its prosecutorial discretion wisely when apparently unauthorized disclosures are referred to it for possible prosecution under this new provision.

DRAFT

COPY



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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION	
001. Memo	To: All Executive Office of the President Staff From: Beth Nolan RE: Request for Documents (2 pages)	10/12/00	P5	68
002. email	To: All WHO Users et al. From: Beth Nolan RE: Request for documents (2 pages)	09/01/01	P5	69
003. email	TO: All EOP Users, All USTR Users From: Beth Nolan RE: Request for Documents (1 page)	10/13/00	P5	70
004. memo	To: All Executive Office of the President Staff From: Beth Nolan RE: Request for Documents Clarification (1 page)	10/26/00	P5	71
005. memo	To: Beth Nolan From: Randolph D. Moss RE: GSA Transition (5 pages)	11/28/00	P5	72 Dup of 66
006a. letter	To: Beth Nolan From: David S. Addington RE: MOU (2 pages)	12/8/00	P5	73
006b. fax	To: David Addington From: Michael Mason RE: MOU (8 pages)	12/7/00	P5	74
007a. draft	Memorandum of Understanding - Gore (7 pages)	nd	P5	75
007b. draft	Memorandum of Understanding - Bush (7 pages)	nd	P5	76

COLLECTION:

Clinton Presidential Records
Counsel's Office
Beth Nolan; Emily Karcher (Subject File)
OA/Box Number: 24960

FOLDER TITLE:

[Transition] [6]

2006-0588-F

ds87

RESTRICTION CODES

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Freedom of Information Act - [5 U.S.C. 552(b)]

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION	
008. note	To: Beth Nolan From: David Apol Re: Executive Order 12834 (1 page)	11/16/2000	P5	77
009a. draft	To: John Carlin From: Ann E. Bushmiller RE: Electronic Records (4 pages)	01/15/01	P5	78
009b. draft	Memorandum of Understanding (4 pages)	01/14/01	P5	79
009c. draft	To: John Carlin From: Ann E. Bushmiller Re: Electronic Records (4 pages)	01/15/01	P5	80

COLLECTION:

Clinton Presidential Records
Counsel's Office
Beth Nolan; Emily Karcher (Subject File)
OA/Box Number: 24960

FOLDER TITLE:

[Transition] [6]

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DRAFT – 1/15/01

January 15, 2001

John W. Carlin
Archivist of the United States
National Archives and Records Administration
700 Pennsylvania Avenue, N.W.
Washington, D.C. 20408



Dear Mr. Carlin:

In accordance with the requirements of the Presidential Records Act, 44 U.S.C. 2203(c)(1), and based on consultation with NARA staff, I propose to dispose of the electronic Presidential records listed below. Disposal of electronic copies of these records would obviate the necessity of NARA maintaining copies of various software applications and constructing databases in order to retrieve the data. Paper copies will be preserved in cases where NARA staff have indicate that the databases have historical value.

I propose to dispose of databases in the categories listed below. Attached to this letter are more lengthy descriptions of the systems for which no transfer is proposed.

(1) Duplicate hard copy or upgraded system containing the data scheduled for transfer to NARA

OA-0010; OA00011; OA-0012 – C-Track, D-Track and SECLOG

These three systems were part of the retired STAIRS system. The data in and functions of the systems were migrated to Introspect, which will be transferred to NARA.

OA-0013 – Agency Casework and Contact System

This system was part of the old QUORUM system. The information and functions of this system were migrated to Intranet QUORUM, which will be transferred to NARA.

OA-0031 – Resumix

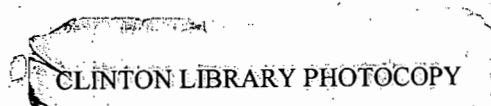
This system tracks resumes of potential candidates to fill position vacancies. A more complete collection of this information is being transferred to NARA by Presidential Personnel.

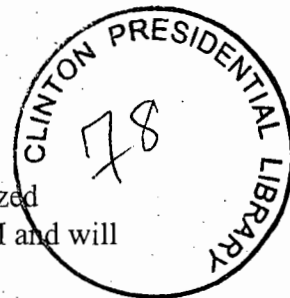
OA-0100 – Tour tracking of Public/Group tours requested by members of Congress

A hard copy of this information for the past year is sent to NARA every year. The Visitor's Office will make sure this information is complete through January 20, 2001.

OA-0112 – WHO Honorary Requests

This system tracks requests for the President to serve as an honorary chairman of an event. It was a part of the old QUORUM system and was migrated to Intranet QUORUM, which will be transferred to NARA.





OA-0184 – WHISDM QUORUM Digitized Signature

This is not a system, but a macro for scanning and creating digitized signatures (digitized autopen). The signatures produced by this macro function are contained in QUORUM and will be transferred to NARA.

OA-0200 – Name List Services

This was a legacy system used to generate address labels and lists of names. The two active lists within the system were extracted and placed in a new Y2K compliant database. The data in the lists was placed on a CD and given to NARA.

OA-215 – WHO QUORUM Scheduling in Advance

This was the scheduling component of the retired STAIRS system. The data in and functions of the systems were migrated to Introspect, which will be transferred to NARA.

OA-0353 – WHO Candidate Survey

A Lotus Notes application designed to track information about candidates for nomination. This system was not used, so there is nothing to transfer. The kind of information this system was designed to track was instead placed in an Excel database, which is being transferred to NARA.

(2) Information in system is not a presidential record, and/ or lacks long-term administrative, historical, information or evidentiary value.

OA-0054 – White House Travel Office Electronic Banking

This is a stand-alone workstation with dial-up access to Riggs Bank for the convenience of members of the press.

OA-0114 – EOP Holiday Card List

This system tracks staff requests to have holiday cards sent to friends and family.

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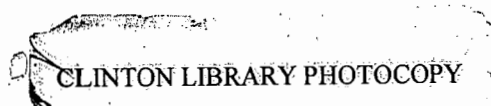
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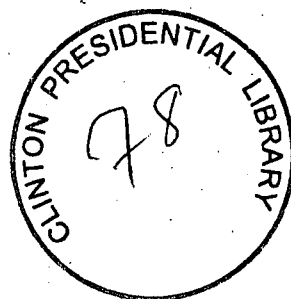


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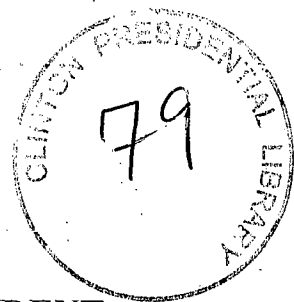
Sincerely,

Ann E. Bushmiller
Associate Counsel to the President

attachment



DRAFT - 01/14/01



MEMORANDUM OF UNDERSTANDING

**AMONG PRESIDENT WILLIAM CLINTON, VICE PRESIDENT
ALBERT GORE AND THE NATIONAL ARCHIVES AND RECORDS
ADMINISTRATION**

**REGARDING THE REVIEW PROCESS APPLICABLE TO REQUESTS
FOR ACCESS TO PRESIDENTIAL RECORDS AND THE DETERMINATION
OF PRIVILEGE, RESPONSIVENESS AND OTHER CLAIMS IN
PRESIDENTIAL RECORDS**

DATED JANUARY __, 2001

I. Purpose

This Memorandum of Understanding ("MOU") among President William Clinton, Vice President Albert Gore and the National Archives and Records Administration ("NARA") sets forth the procedures that NARA, President Clinton and Vice President Gore expect to be followed when NARA proposes to provide access to President Clinton's presidential records and Vice President Gore's vice presidential records after they have left office.

Pursuant to the Presidential Records Act ("PRA"), 44 U.S.C. chapter 22, NARA will assume custody and control of President Clinton's presidential records and Vice President Gore's vice presidential records on January 20, 2001. At that point, NARA has the responsibility to respond to document requests or subpoenas that were pending at the transition (including those for which documents will be provided from the Executive Office of the President's ("EOP's") tape restoration project ("TRP")) and all access requests that are made thereafter. There are two mechanisms for requesting access to a former Administration's presidential and vice presidential records after an Administration has left office. Any person can make a request for these records under 44 U.S.C. 2204, generally after a five year processing period. In addition, certain parties are authorized to make a 'special access' request under 44 U.S.C. 2205 at any time after the President and Vice President have left office. These options are discussed in greater detail below. It is expressly understood by the parties that the procedures described herein will be followed with regard to each of these kinds of access requests after the end of the Clinton-Gore Administration, unless there is a change in the relevant laws or regulations, or the parties jointly agree to modify these procedures.



II. Requests for Access

A. 44 U.S.C. 2204

Pursuant to this section, any person has a right to request access to presidential and vice presidential records five years after the administration has left office.¹ The President and Vice President may restrict access by invoking the exemptions listed at 44 U.S.C. 2204(a) against the disclosure of certain presidential and vice presidential records for a period not to exceed 12 years following their administration. President Clinton and Vice President Gore have indicated that they intend to have those exemptions apply to their records by letters dated _____. [Need copies.] In addition, the exemptions against disclosure in the Freedom of Information Act ("FOIA") apply to the disclosure of presidential and vice presidential records, with the exception that the exemption against the disclosure of internal deliberative documents contained in 5 U.S.C. 552(b)(5) does not apply.

As the parties gain experience with responding to access requests under 44 U.S.C. 2204, NARA and the Representatives will in good faith discuss the ways in which the restrictions are being applied, whether certain restrictions might be lifted, and whether there are categories of requests as to which the Representatives may routinely review a summary of the records proposed to be disclosed rather than the records themselves.

B. 44 U.S.C. 2205

Special access requests may be made in three ways: (1) by subpoena from a court of competent jurisdiction; (2) by subpoena or document request from either the House or Senate, or a committee with jurisdiction over the subject matter, where the record sought is "needed for the conduct of its business and . . . is not otherwise available;" or (3) by a successor President, where the record sought is "needed for the conduct of current business of his office and . . . is not otherwise available." 44 U.S.C. 2205(2).

Under 44 U.S.C. 2205, the implementing regulations in 36 C.F.R. 1270.44 and Executive Order 12667, the former President, Vice President (or any other person) may invoke any "rights, defenses, or privileges" he has against the disclosure of particular presidential or vice presidential records to any requesting party. The defenses to a party requesting records specifically under Section 2205 do not include the FOIA or PRA restrictions applicable to routine requests for access under Section 2204, however.

III. Procedures to be Followed in Response to Requests for Access

In response to an access request for Clinton or Gore records received under 44 U.S.C. 2204 or 2205, NARA will use its best efforts to provide a copy of the access request, subpoena or

¹ In fact, requests for access may be made within the 5 year processing period, but they are responded to at the discretion of NARA and the former President and Vice President. NARA will consult with the Representatives regarding the appropriate response to any access request made within the five year period. [Ever granted?] The procedures discussed herein will apply to any requests responded to favorably by the Archivist and President Clinton, Vice President Gore or their personal Representatives.

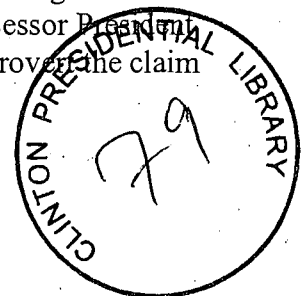
document request to President Clinton, Vice President Gore or their Representatives within ____ days of its receipt of such request or subpoena. The Representatives shall raise with NARA concerns regarding the validity and the breadth of the request or subpoena. The Archivist will give due regard to the concerns raised and will, where he deems appropriate, negotiate with the issuer regarding potential limitations on the request. To the extent that the Representatives have knowledge that can assist NARA in locating records, they will make good faith efforts to assist NARA personnel in locating relevant records by providing advice on responsibilities of staff and other requested information, and by reviewing, if appropriate, indices of Clinton-Gore Administration records in an effort to focus NARA's search efforts.

In the course of the review process, NARA shall consult with the Representatives regarding whether particular categories of records will be treated as responsive to an access request. NARA will attempt to accommodate reasonable interpretations of the PRA, but it retains the right to make the final determination that a questioned record will be treated as responsive to an access request.

Both with regard to access requests received after January 20, 2001, and those pending at the time of transition (including requests for which production will be made from the EOP's TRP database), NARA will give notice of its intent to produce Clinton presidential and Gore vice presidential records at least 30 days prior to the proposed disclosure of the records to President Clinton, Vice President Gore or their Representatives, and the successor Administration. NARA will use its best efforts to give President Clinton, Vice President Gore or their Representatives access to their records ____ days before it provides access to the successor Administration. If the records proposed to be disclosed are voluminous, NARA will provide the Representatives with access to the records at a place to be mutually agreed upon. Where possible, NARA shall allow the Representatives to review records on a rolling basis as its responsiveness determinations are made, so the Representatives may begin reviewing records before NARA has completed its entire review of relevant files. For good cause, President Clinton's or Vice President Gore's Representatives shall be entitled to a reasonable extension of the notice and/or the disclosure dates in order to complete any necessary review.

Following its review of the records and consultation with the Representatives, NARA will identify those specific records the disclosure of which the Archivist believes may raise a substantial question of Executive privilege. President Clinton, Vice President Gore and the successor President will generally have 30 days from NARA's notification of a proposed disclosure in which to make a determination whether there are additional rights, defenses or privileges applicable to the records proposed to be produced which would preclude their production.

If President Clinton or Vice President Gore raises a claim of privilege or raises any other right or defense to disclosure with regard to any of the records, the Archivist will consult with the sitting Attorney General through the Assistant Attorney General for the Office of Legal Counsel, the Counsel to the President and other Federal agencies as he deems appropriate regarding whether to honor the claim. The Archivist will abide by the instructions given by the successor President on this question if there is a controversy. If the successor President does not controvert the claim



made by President Clinton or Vice President Gore, or if the successor President joins the claim, the Archivist will honor the request to withhold the records.

Should NARA decide not to honor the claim of privilege or other right or defense to disclosure, President Clinton or Vice President Gore normally will have 30 days from receipt of notification of the adverse decision to seek a court order enjoining production of the records. If President Clinton or Vice President Gore files suit for a court order seeking to enjoin disclosure, NARA will not disclose the disputed records pending resolution of the suit, including any appeals by any party from an adverse decision.

On Behalf of the
National Archives and Records Administration

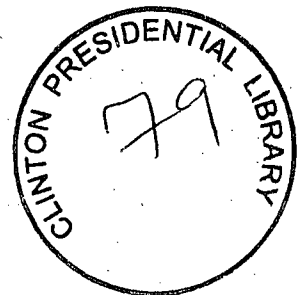
Date

On Behalf of President Clinton

Date

On Behalf of Vice President Gore

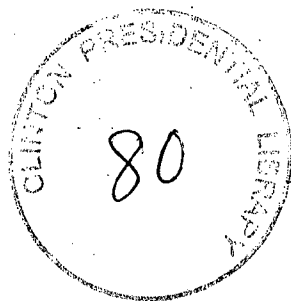
Date



*Bein
for your review,*
DRAFT - 1/15/01

January 15, 2001

John W. Carlin
Archivist of the United States
National Archives and Records Administration
700 Pennsylvania Avenue, N.W.
Washington, D.C. 20408



Dear Mr. Carlin:

In accordance with the requirements of the Presidential Records Act, 44 U.S.C. 2203(c)(1), and based on consultation with NARA staff, I propose to dispose of the electronic Presidential records listed below. Disposal of electronic copies of these records would obviate the necessity of NARA maintaining copies of various software applications and constructing databases in order to retrieve the data. Paper copies will be preserved in cases where NARA staff have indicate that the databases have historical value.

I propose to dispose of databases in the categories listed below. Attached to this letter are more lengthy descriptions of the systems for which no transfer is proposed.

(1) Duplicate hard copy or upgraded system containing the data scheduled for transfer to NARA

OA-0010; OA00011; OA-0012 – C-Track, D-Track and SECLOG

These three systems were part of the retired STAIRS system. The data in and functions of the systems were migrated to Introspect, which will be transferred to NARA.

OA-0013 – Agency Casework and Contact System

This system was part of the old QUORUM system. The information and functions of this system were migrated to Intranet QUORUM, which will be transferred to NARA.

OA-0031 – Resumix

This system tracks resumes of potential candidates to fill position vacancies. A more complete collection of this information is being transferred to NARA by Presidential Personnel.

OA-0100 – Tour tracking of Public/Group tours requested by members of Congress

A hard copy of this information for the past year is sent to NARA every year. The Visitor's Office will make sure this information is complete through January 20, 2001.

OA-0112 – WHO Honorary Requests

This system tracks requests for the President to serve as an honorary chairman of an event. It was a part of the old QUORUM system and was migrated to Intranet QUORUM, which will be transferred to NARA.

OA-0184 – WHISDM QUORUM Digitized Signature

This is not a system, but a macro for scanning and creating digitized signatures (digitized autopen). The signatures produced by this macro function are contained in QUORUM and will be transferred to NARA.

OA-0200 – Name List Services

This was a legacy system used to generate address labels and lists of names. The two active lists within the system were extracted and placed in a new Y2K compliant database. The data in the lists was placed on a CD and given to NARA.

OA-215 – WHO QUORUM Scheduling in Advance

This was the scheduling component of the retired STAIRS system. The data in and functions of the systems were migrated to Introspect, which will be transferred to NARA.

OA-0353 – WHO Candidate Survey

A Lotus Notes application designed to track information about candidates for nomination. This system was not used, so there is nothing to transfer. The kind of information this system was designed to track was instead placed in an Excel database, which is being transferred to NARA.

(2) Information in system is not a presidential record, and/ or lacks long-term administrative, historical, information or evidentiary value.

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This is a stand-alone workstation with dial-up access to Riggs Bank for the convenience of members of the press.

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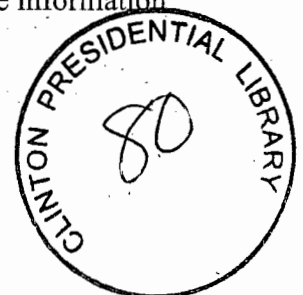
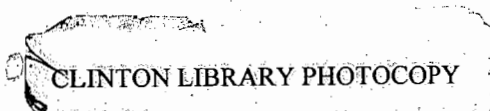
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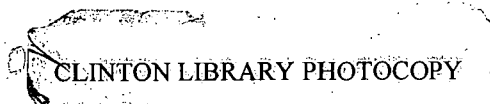
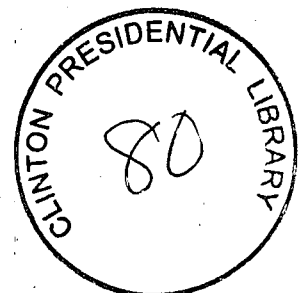
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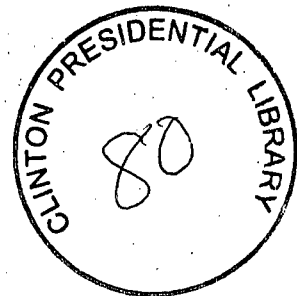


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Associate Counsel to the President

attachment



Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. draft	To: Gary Stern From: Ann Bushmiller RE: Access to Gifts (2 pages)	01/15/01	P5 81
002a. memo	To: Mark F. Lindsay From: Joseph J. Simmons IV Re: Military Support for the President-Elect and Former President (3 pages)	1/09/01	P6/b(6)
002b. memo	To: Captain Michael Miller From: Colonel Richard J. Tubb re: White House Medical Unit Policy Proposal (7 pages)	1/04/01	P6/b(6)

COLLECTION:

Clinton Presidential Records
Counsel's Office
Beth Nolan; Emily Karcher (Subject File)
OA/Box Number: 24960

FOLDER TITLE:

[Transition] [7]

2006-0588-F

ds103

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

*bet. For your review. Transition
This is acceptable to gifts + NARA.*

DRAFT - 1/15/01

MEMORANDUM

TO: Gary Stern
General Counsel, NARA

CC: Nancy K. Smith
Director, Presidential Materials Staff, NARA
Lori Krause
Director, White House Gifts Unit

FROM: Ann Bushmiller
Associate Counsel to the President

RE: Access by Former President and First Lady to Gifts Received During the Administration

DATE: January 15, 2001

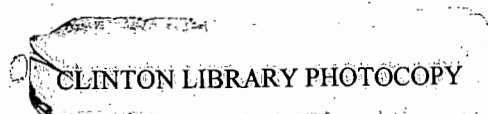


This memorandum sets forth guidelines regarding the ability of President Clinton and the First Lady to access gifts given to them during the Administration after January 20, 2001.

Access to Gifts

The Clintons wish to borrow some of the gifts given to them during the Administration for display in President and Senator Clinton's official offices and their residences after January 2001, although they would not own them. Tradition and precedent indicate that NARA personnel and the Clintons may arrive at a mutually agreeable understanding in accordance with professional curatorial standards whereby the Clintons are permitted to borrow certain gifts from NARA for use in their offices and residences following the end of the Administration. As a general matter, the Clintons do not expect to recall gifts originally accepted on behalf of the government and redesignate them as personal property after the Administration is completed.

Relevant laws. The Archivist possesses a certain amount of discretion with regard to the appropriate treatment of Presidential gifts intended for or deposited with NARA. For example, the Archivist is authorized to negotiate terms regarding the donation of gifts to a Presidential depository, including the acceptance of restrictions the donors may place on the availability and use of the gifts. The Archivist even has the discretion to dispose of a gift when he determines that the gift has "no permanent value or historical interest or to be surplus" to the needs of the Archives. 44 U.S.C. 2112(c). This kind of statutory discretion possessed by the Archivist should be ample support for the practice of lending certain artifacts to President and Senator Clinton after the end of his Administration.

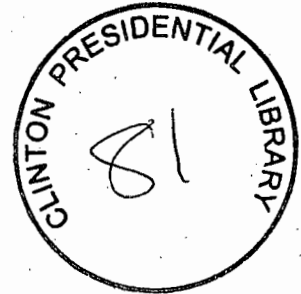


DRAFT - 1/15/01

Understanding

NARA and President and Senator Clinton understand that NARA has loaned to prior Presidents, upon their request, certain gifts given to them during the course of their Administrations following the end of those Administrations. Both NARA and the Clintons expect this practice will continue following the end of the Clinton Administration. Thus, from time to time, President and Senator Clinton expect to request to borrow items from among those originally given to them during President Clinton's Administration. Some items may be loaned for an extended period of time. President and Senator Clinton and NARA understand that NARA is simply lending such items to the Clintons (excepting those that the Clintons may choose to purchase from the U.S. Government at a later date). The loaned items will continue to belong to NARA. A loaned item may be recalled by NARA, subject to giving the Clintons reasonable notice of NARA's intent to take the item back for use by NARA.

This memorandum has been reviewed and concurred in by the Office of the General Counsel of NARA and the Director of NARA's Presidential Materials Staff.



bcc: Bruce Lindsey