

Withdrawal/Redaction Sheet

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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.

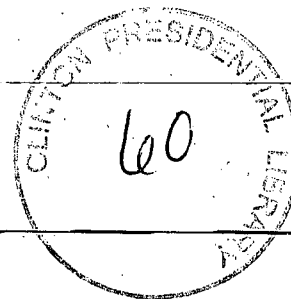
Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- 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]



U.S. Department of Justice

Office of Legal Counsel



Office of the Assistant Attorney General

Washington, D.C. 20530

November 22, 2000

**MEMORANDUM FOR BETH NOLAN
COUNSEL TO THE PRESIDENT**

From: Randolph D. Moss
Assistant Attorney General

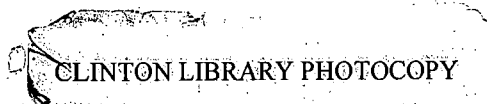
Re: Authority of the Administrator of the General Services Administration To Provide Transition Assistance to Transition Teams of Two Presidential Candidates Under the Presidential Transition Act of 1963

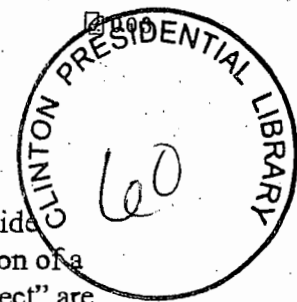
You have asked our opinion whether, under the Presidential Transition Act of 1963, as amended,¹ the Administrator of the General Services Administration ("Administrator") has the authority to provide transition assistance to more than one presidential candidate in circumstances in which it remains unclear after the election which of two candidates will become the President of the United States. With the limited exceptions set forth below in note 3, the Act authorizes the Administrator to expend the funds appropriated to implement the Act only for those services and facilities that are necessary to assist the transition of the "President-elect" and the "Vice-President-elect." See Presidential Transition Act, § 3(a). The terms "President-elect" and "Vice-President-elect" are defined under the Act to mean the individuals that the Administrator determines are "the apparent successful candidates for the office of President and Vice-President, respectively." *Id.* § 3(c). Since there cannot be more than one "President-elect" and one "Vice-President-elect" under the Act, the Presidential Transition Act does not authorize the Administrator to provide transition assistance to more than one transition team.²

¹ The Presidential Transition Act is set out in the notes to § 102 of title 3 of the United States Code. See 3 U.S.C. § 102 (1994). The Act has also recently been amended. For those amendments, see Presidential Transition Act of 2000, Pub. L. No. 106-293, 114 Stat. 1035 (2000).

² This memorandum addresses only the narrow question of the Administrator's authority to provide assistance under the Presidential Transition Act. It does not address whether the Administrator, or any other department or agency, may have separate authority to provide transition assistance to more than one transition team.

DRAFT—November 22, 2000 (6:30 p.m.)
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As summarized above, the assistance that the Administrator is authorized to provide under the Presidential Transition Act is expressly tied to the Administrator's determination of a "President-elect" and a "Vice-President-elect." "President-elect" and "Vice-President-elect" are defined terms under section 3(c) of the Act, which provides:

The terms "President-elect" and "Vice-President-elect" as used in this Act shall mean such persons as are the apparent successful candidates for the office of President and Vice President, respectively, as ascertained by the Administrator following the general elections held to determine the electors of President and Vice President in accordance with title 3, United States Code, sections 1 and 2.

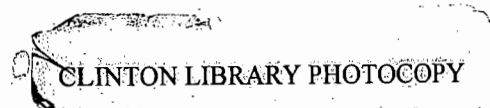
Id. § 3(c). As a matter of the statutory definition, as well as common usage, there can be only one "President-elect" and "Vice-President-elect" from any election.

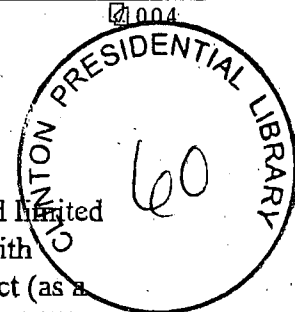
It is only to that "President-elect" and that "Vice-President-elect" that the Administrator is authorized by the Act to provide transition assistance. Section 3(a) of the Act, which sets out the services and facilities that the Administrator is authorized to provide, specifically states:

The Administrator of General Services . . . is authorized to provide, upon request, to each President-elect and each Vice-President-elect, for use in connection with his preparations for the assumption of official duties as President or Vice President necessary services and facilities, including [the assistance specifically identified in subparagraphs (a)(1) through (a)(10)].

Id. § 3(a). Accordingly, by its terms, the Act generally authorizes assistance only to the "President-elect" and the "Vice-President-elect." Consistent with this general structure, the subparagraphs within subsection 3(a), which list specific services and facilities that the Administrator is authorized to provide, also generally make explicit reference to the President-elect and the Vice-President-elect. For example, subparagraph 3(a)(2) authorizes the payment of compensation to the "members of the office staffs designated by the President-elect or Vice-President-elect." Without the existence of a President-elect or Vice-President-elect, there can be no staff who have been designated and to whom compensation may therefore be paid. *See id.* § 3(a)(2) (emphasis added); *see also id.* §§ 3(a)(1), (3)-(5), (7), 3(b), 3(d), 3(e).³ Similarly, the

³ The only exceptions to the general structure of section 3 limiting assistance to a "President-elect" are two provisions from the 2000 amendments that appear to envision the expenditure of funds prior to the determination of a "President-elect." *See* Pub. L. No. 106-293, § 3 (relevant provisions added as subparagraphs (9) and (10) of the Presidential Transition Act). These additional provisions, by their distinct language and functions, reinforce the general limitation that assistance may be provided only to a "President-elect." In particular, subparagraph (10) expressly provides that it applies to the "candidates." *See* Presidential Transition Act, § 3(a)(10) ("Notwithstanding subsection (b), consultation by the Administrator with any candidate for President or Vice President to develop a systems architecture plan for the computer and communications systems of the candidate to coordinate a transition to Federal systems, if the candidate is elected." (emphasis added)). Subparagraph (9) involves the development by the General Services Administration of a transition directory on the officers, organization, and statutory and





disclosure provisions set out in section 5 of the Act are also expressly premised on, and limited to, the President-elect and Vice-President-elect. Each subsection in section 5 begins with language along the lines of the following: "The President-elect and Vice-President-elect (as a condition for receiving services under section 3 and for funds provided under section 6(a)(1)) shall disclose to the Administrator" See *id.* § 5(a)(1) (emphasis added); see also §§ 5(b)(1), 5(c). We thus believe that both the specific terms and the general structure of the Act preclude the Administrator from relying upon this Act to provide assistance to more than one transition team.

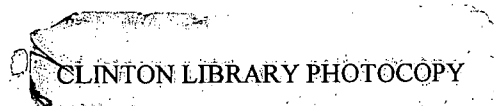
The most plausible contrary argument for providing assistance to multiple transition teams, notwithstanding the clear language and structure of the Act, would be that such assistance is necessary under present circumstances in order not to frustrate the intent of the Act to provide for an orderly and effective transition. In support of this argument, it is clear, both in the section of the Act stating Congress's purpose and similar expressions of purpose in the legislative history, that the Act was intended "to promote the orderly transfer of executive power." *Id.* § 2. In this regard, the Act states:

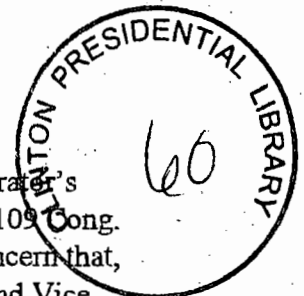
Any disruption occasioned by the transfer of the executive power could produce results detrimental to the safety and well-being of the United States and its people. Accordingly, it is the intent of the Congress that appropriate actions be authorized and taken to avoid or minimize any disruption.

Id. See also, e.g., H. Rep. 88-301, at 4 (1963) ("[T]he size and complexity of our Federal Government today, to say nothing of the difficult domestic and international problems that the President must face, make it a vital necessity that the machinery of transition be as smooth as possible and that sufficient resources are at hand to properly orient the new national leader in whatever manner is required. . . . Under present conditions, a new President, in one sense, begins working for the Government the morning after the election."); 109 Cong. Rec. 13,349 (1963) (statement of Rep. Joelson) ("In that interim time he is called upon probably to make more fateful decisions than he will have to make after he is, indeed, sworn into office. For that reason it is up to us to see that he has the tools and the implements.").

Whether or not this expression of intent would be sufficient to overcome the evidence from the express terms and structure of the Act that funds appropriated to implement the Act are not available in circumstances in which the Administrator could not ascertain who the apparent victorious candidate was, here Congress specifically considered that issue and made clear its intent that the Presidential Transition Act would not be available until an apparent President-elect emerged.

administrative authorities, functions, duties, responsibilities, and mission of each department and agency — expenditures that are preparatory to transition for whomever is determined to be the "President-elect" and that are not materially altered by multiple transition teams since the directory would remain the same.





During debate on the bill, concern was raised about the effect that an Administrator's determination of the "President-elect" could potentially have on a close election. See 109 Cong. Rec. 13,348-49 (1963). As part of that debate, Representative Gross expressed the concern that, in connection with the voting of the electoral college, "those designated as President and Vice President by the present Administrator of General Services would be given psychological and other advantages by designating them as President and Vice President." *Id.* at 13,348. In response, Representative Fascell, who was the sponsor of the bill and the House manager, stated as follows: "I do not think so, because if they were unable at the time to determine the successful candidates, *this act would not be operative. Therefore in a close contest, the Administrator would not make the decision.*" *Id.* (emphasis added). Representative Gross, however, remained concerned and continued to press the issue. In response to those further inquiries, Representative Fascell again responded: "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.*" *Id.* (emphasis added).

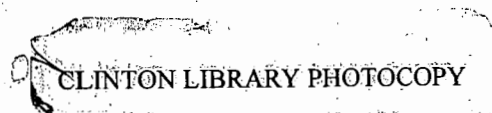
Representative Gross was not the only member concerned about the issue, which was raised again later in the debate by Representative Haley:

I notice that these funds can be used immediately after the general election in November. But how would this situation work, for instance, if the President or, at least, before the determination of the votes in the electoral college, suppose that some person was, say, three or four votes shy? How would this Administrator determine who was in a position to expend these funds?

Id. At 13,349. In response, Representative Fascell quoted the section of the bill defining "President-elect" and "Vice-President-elect" and stated:

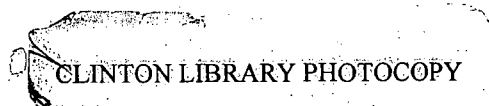
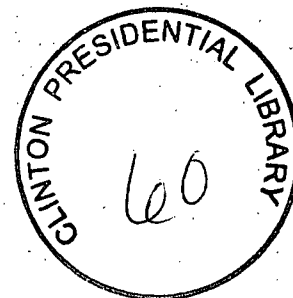
This act and the Administrator could in no way, in any way, affect the election of the successful candidate. The only decision the Administrator can make is who the successful candidate – the apparent successful candidate – for the purposes of this particular act in order to make the services provided by this act available to them. And, *if there is any doubt in his mind, and if he cannot and does not designate the apparently successful candidate, then the act is inoperative.* He cannot do anything. *There will be no services provided and no money expended.*

Id. (emphasis added). See also *id.* (statement of Rep. Fascell) ("In the whole history of the United States, there have been only three such close situations. It is an unlikely proposition, but if it were to happen, if the administrator had any question in his mind, he simply would not make the designation in order to make the services available as provided by the act. If as an intelligent human being and he has a doubt, he would not act until a decision has been made in the electoral college or in the Congress.").

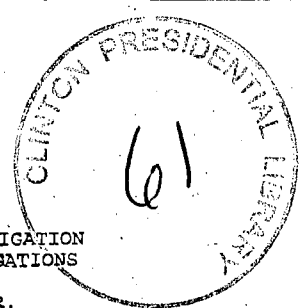


It is clear from the legislative history that Congress understood and intended that the Presidential Transition Act would simply be unavailable to fund transition services and facilities in circumstances in which the winner of the election is not apparent. This is consistent with the plain language and structure of the Act, which, with the two exceptions noted above in note 3, authorizes the Administrator to provide transition assistance only to the "President-elect" and the "Vice-President-elect." Accordingly, the Presidential Transition Act would not authorize the Administrator to expand the funds appropriated to implement the Act to provide transition assistance to multiple transition teams.

Please let us know if we may be of further assistance.



MEMORANDUM OF UNDERSTANDING



CONDUCT OF FEDERAL BUREAU OF INVESTIGATION
NAME CHECKS AND BACKGROUND INVESTIGATIONS
FOR PRESIDENTIAL CANDIDATE
VICE PRESIDENT ALBERT GORE, JR.
ELECTION 2000

In order to avoid or minimize disruptions that might be occasioned by the transfer of executive power, and to promote orderly transitions in the office of the President, the Federal Bureau of Investigation (FBI) will conduct file reviews ("name-checks") or background investigations (hereinafter both referred to as "investigations") at the request of Vice President Albert Gore, Jr. (or his designated representative). Such investigations may be requested for applicants, employees or any other persons engaged by contract or otherwise to perform services for Vice President Gore (hereinafter the individual on whom an investigation is conducted shall be referred to as the "candidate") in connection with his preparation for a transition to the office of President or, should he become President, in connection with providing him services in that capacity. These investigations shall only be conducted pursuant to the agreement between the Attorney General and Vice President Gore to ascertain facts and information relevant to the candidate's suitability for Federal government employment or retention in such employment in accordance with Executive Order 10450; suitability to otherwise provide appropriate services to Vice President Gore as a contractor, volunteer, etc.; trustworthiness for clearance for access to information classified under the provisions of Executive Order 12958 (or any successor Executive Orders) and its implementing directives; and/or trustworthiness for access to locales in close proximity to or frequented by Vice President Gore. The results of some of these investigations will permit adjudication of the candidate for clearance for access to Sensitive Compartmented Information, when necessary, in accordance with the standards set forth in Director of Central Intelligence (DCI) Directive 6/4, and any future successor directive. Should Vice President Gore become President, name checks may also be requested incident to staffing of proposed Presidential recognition awards.

Requests for FBI investigations shall be made in writing from Vice President Gore or his designated representative to the Director of the FBI. Requests for the conduct of background investigations (but not for name checks) shall include a completed Standard Form 86 (SF-86) questionnaire (Questionnaire for National Security Positions) and its accompanying Authority for Release of Information, supplemented as necessary and

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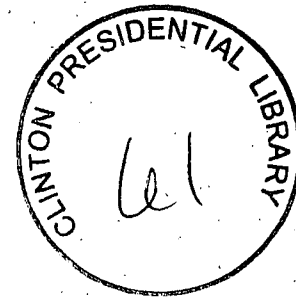
approved by the FBI, and a set of the candidate's fingerprints utilizing a standardized fingerprint card, to enable the FBI to check the candidate's fingerprints against FBI Criminal Justice Information Services (CJIS) Division records. To enable the FBI to comply with Section (e) (3) of the Federal Privacy Act of 1974, and in keeping with the spirit of this Act, requests for the conduct of background investigations (but not for name checks) shall be accompanied by a statement signed by the candidate acknowledging that he or she has consented to the investigation with the knowledge that facts or information gathered shall be retained consistent with applicable FBI Privacy Act records systems notices, Records Retention Plan, and Disposition Schedule.

In addition, the following supplemental procedures shall apply:

- All investigation requests must be accompanied by the written consent of the candidate. However, should Vice President Gore assume the office of President, the Department of Justice and the FBI may consider responding without the consent of the candidate where justified by extraordinary circumstances documented in a letter from the Counsel to the President or the Deputy Counsel to the President through the Deputy Attorney General to the FBI General Counsel, setting forth a written explanation why such consent cannot be obtained or should not be sought in the circumstances.

- All investigation requests must also contain the actual signature of the official acting for Vice President Gore in initiating the request. The requesting official should certify, subject to the criminal penalties for making a false statement, that the information is sought only for purposes related to transition preparations or, should Vice President Gore become President, official purposes, and should be on express notice that unauthorized disclosure of any information obtained may violate the Federal Privacy Act of 1974.

- In addition, all investigation requests must contain the actual signature of an official designated by Vice President Gore to review and approve all requests prior to their transmittal to the FBI. (Should Vice President Gore assume the office of President, the approving official will be the Counsel to the President or an attorney designated by the Counsel to the President.) Vice President Gore (or Counsel to the President) will provide the FBI via official



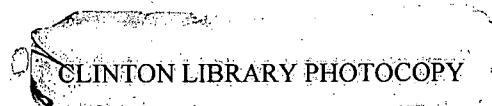
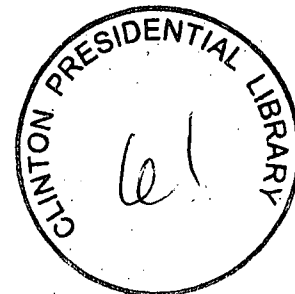
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correspondence with the title(s), name(s), and specimen signature(s) of the person(s) designated to exercise authority to approve requests, and will apprise the FBI by official correspondence of any changes in approval authority.

- Except as otherwise provided below, requests will be submitted using a form approved by the FBI on which all required actual signatures must be included (candidate, requesting official, and approving official). The reason for each request will be indicated with specificity (which may be accomplished by checking the appropriate boxes on the form.) The FBI will furnish a paper copy and an electronic copy of an approved form, and Vice President Gore's staff will use its own clerical resources to generate all necessary copies of the form. No material changes will be made to the form's content or format without the written concurrence of the FBI.

- In lieu of a candidate's actually signing the consent provision on the form provided to the FBI, substitute consents submitted by a candidate via fax, e-mail, electronic message, or the like will be acceptable. The requesting official should staple or otherwise affix the substitute consent to the copy of the request actually submitted to the FBI. In such cases, the actual signatures of the requesting official and the approving official will constitute sufficient authentication of the candidate's consent, the affixed substitute consent will be considered the "original," and follow-up submission to the FBI of a form actually signed by the candidate is neither necessary nor desired.

- The candidate's consent must be dated within 30 days of submission of the request to the FBI. However, it is not necessary to provide a new consent form when requesting follow-up inquiries which can reasonably be viewed as being within the ambit of a previously provided consent (e.g., when Vice President Gore asks the FBI to further develop matters raised in a report of background investigation to which the candidate consented.) Requests for supplemental inquiries submitted by the same administration within 6 months of the candidate's consent, within 30 days of the FBI's final report, or while a candidate's confirmation is still pending may be presumed to be within the ambit of the original consent.



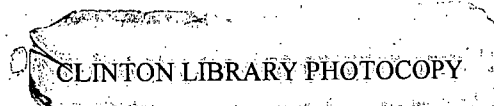
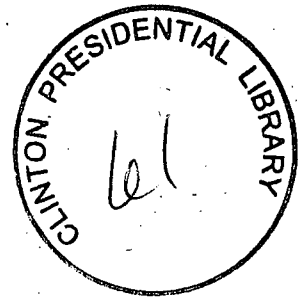
- Name-check requests need not include a signed consent where the checks are to be made against the names of organizations/institutions and not of individuals. However, such requests will still require the actual signatures of a requesting official (who will have approved and reviewed the requests and certified, subject to criminal penalties for making a false statement, that the information is sought only for official purposes) and of a designated approving official.

- The FBI's Executive Agencies Dissemination Subunit (EADS) (known colloquially as the "Name-Check Unit") will process name-check requests, i.e., those which only require a file search of existing FBI records accessible from FBI Headquarters, or which only request copies of existing FBI background investigation reports. The FBI's Special Inquiry and General Background Investigations Unit (SIGBIU) will process background-investigation requests, i.e., those which will require investigative taskings for the conduct of full-field background investigations, 5-year re-investigations, expanded name checks, limited updates, or limited inquiries (such as follow-up inquiries conducted to resolve particular issues/questions). Vice President Gore's staff should forward each request directly to the FBI unit with cognizance over the particular type of request. In turn, the cognizant FBI unit will forward responses directly back to the requesting official.

.If, during the period in which the FBI is conducting its investigation, Vice President Gore or his designated representative determines that the candidate is not to be employed or appointed or no longer needs a security clearance, the FBI will be notified within five (5) working days of the determination so that the investigation can be discontinued.

Subject to the Federal Privacy Act of 1974, persons interviewed during these investigations may be assured that, to the extent permitted by law, information identifying such persons will be kept confidential.

During the period in which the FBI is conducting its investigation and except as otherwise provided below, the FBI will inform Vice President Gore or his designated representative of any significant adverse information or any medical information bearing on the suitability or trustworthiness of the candidate which is developed through investigation. The FBI generally does not continue to actively monitor a candidate following completion of its final report, and Vice President Gore or his designated representative should submit a new request if updated information



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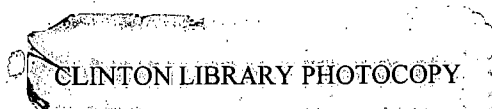
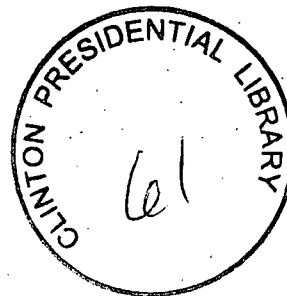
is desired later. However, prior to a candidate's assuming the position and/or being adjudicated for the clearance for which the investigation was conducted, if an FBI unit responsible for conducting an investigation under this agreement becomes aware of new information that raises questions about the suitability or trustworthiness of a candidate to perform services for Vice President Gore, the FBI will so apprise Vice President Gore or his designated representative.

Whenever the FBI's investigation reveals a pending Federal civil or criminal investigation involving the candidate, dissemination of any information relating to the pending investigation will be halted, the FBI General Counsel (or his/her designee) will consult with cognizant FBI Headquarters officials to determine what information could be disseminated without harm to the pending investigation, and the FBI General Counsel will then refer the matter to the Deputy Attorney General (or his/her designee) in order to determine what, if any, information relating to the pending matter should be communicated in the FBI's response to Vice President Gore's investigation request.

The FBI will furnish summary memoranda or investigative reports and/or supporting materials (hereinafter referred to as reports) containing the results of its investigations to Vice President Gore or his designated representative and retain records of the identities of the persons to whom such reports are furnished.

Vice President Gore or his designated representative will ensure that access to these reports is restricted to persons directly involved in ensuring the safety and security of Vice President Gore or making a determination as to a person's suitability for employment/appointment/recognition and/or trustworthiness for access to sensitive information (e.g., law enforcement matters, personal information about individuals, privileged commercial or financial information, etc.) or classified information. Vice President Gore or his designated representative may also afford access to these reports to the Secret Service or the Executive Office of the President Security Office, or both, upon determination that any such additional recipient has a legitimate need to have the information for the proper performance of official responsibilities and that any such disclosure is not otherwise precluded by applicable law.

Vice President Gore or his designated representative shall maintain records of the identities of persons receiving access to the reports and such records shall be furnished to the FBI upon request. No person having access to the reports will reproduce or disseminate the reports except in accordance with



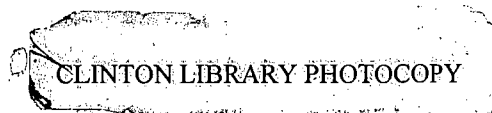
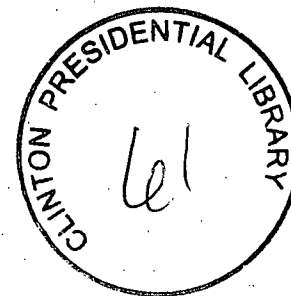
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procedures agreed to by Vice President Gore or his designated representative and the Director of the FBI or the Director's designated representative.

Vice President Gore or his designated representative will ensure that all reports received and any copies made of those reports will be retained until a President is inaugurated. At such time, if Vice President Gore is the President, these materials will become part of the Presidential papers, but if Vice President Gore is not the President, these materials will be returned immediately to the FBI. However, should it be determined or otherwise agreed prior to inauguration of a President that Vice President Gore has not been elected President, these materials will be returned immediately to the FBI upon such determination or agreement.

Under no circumstances shall Vice President Gore or the designated representative allow the candidate or any person outside of the appointment, employment, security clearance, confirmation, Presidential recognition, or Presidential protection process direct access to the reports, copies of the reports, or any information derived from the reports. If necessary to discuss the contents of the reports with the candidate, Vice President Gore or his designated representative will ensure that the confidentiality of the sources contained therein is protected. Any request by the candidate for access to the reports will be referred to the FBI for processing in accordance with both the Federal Privacy Act of 1974 and the Freedom of Information Act.

Information obtained during an investigation will be retained at FBI Headquarters and FBI field offices in accordance with FBI Privacy Act records systems notices, Records Retention Plan, and Disposition Schedule. As provided above, certain information relating to pending Federal civil or criminal matters will be disseminated on a need-to-know basis to other officials of the Department of Justice (DOJ). Prior to January 20, 2001, no further dissemination shall be made of information obtained during any investigation conducted for Vice President Gore pursuant to this agreement without the express approval of Vice President Gore or his designated representative, except as part of an investigation of a violation of law, or otherwise as permitted or required by Federal statute, FBI/DOJ regulation or policy, or Presidential directive or Executive order. Thereafter, no further dissemination shall be made of information obtained during any investigation conducted pursuant to this agreement, except as part of an investigation of a violation of law, or otherwise as permitted or required by Federal statute,



FBI/DOJ regulation or policy, or Presidential directive or Executive order.

When a tentative decision is made to employ a candidate who requires an appropriate clearance for access to sensitive or classified information, Vice President Gore or his designated representative may confer with the Director of the FBI or his designated representative to ascertain the appropriate agency or department to grant the necessary clearance to sensitive or classified information. Thereafter, Vice President Gore or his designated representative shall make available a copy of the reports to the appropriate authority granting clearance to sensitive or classified information.

No person employed by Vice President Gore shall be given access to any sensitive or classified information or material until appropriate procedures for granting clearance for access to sensitive or classified information and materials have been established and/or completed, and clearance granted. Vice President Gore will provide the appropriate authority with a list of persons cleared for access to sensitive or classified information, and Vice President Gore will advise the appropriate authority when an individual granted a clearance terminates employment with Vice President Gore or otherwise no longer requires access to classified material.

The procedures set forth in this MOU shall remain in effect should Vice President Gore assume the office of President and continue in effect for the duration of his administration. No changes in these procedures shall be made without the written concurrence of all principals to this MOU. However, the FBI General Counsel ("GC") may resolve issues involving interpretation of these procedures, including their applicability to situations not anticipated in their formulation. In so doing the FBI GC will give due consideration to applicable statutes and regulations, the policy considerations underlying these procedures, along with a "rule of reason." The FBI GC may delegate this authority to an FBI Deputy GC.

Attorney General

Dated: _____

Transition Staff

Dated: _____

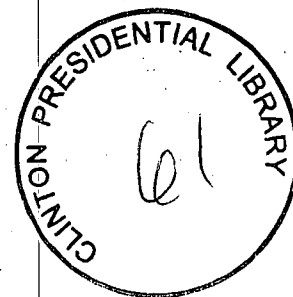
Vice President Albert Gore, Jr.

Dated: _____

Transition Staff

Dated: _____

TOTAL P.15

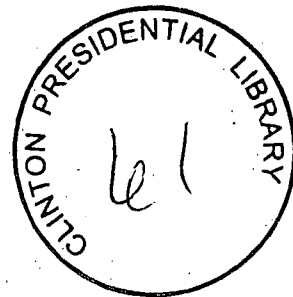


MEMORANDUM OF UNDERSTANDING

CONDUCT OF FEDERAL BUREAU OF INVESTIGATION
NAME CHECKS AND BACKGROUND INVESTIGATIONS
FOR PRESIDENTIAL CANDIDATE
GOVERNOR GEORGE W. BUSH
ELECTION 2000

In order to avoid or minimize disruptions that might be occasioned by the transfer of executive power, and to promote orderly transitions in the office of the President, the Federal Bureau of Investigation (FBI) will conduct file reviews ("name-checks") or background investigations (hereinafter both referred to as "investigations") at the request of Governor George W. Bush (or his designated representative). Such investigations may be requested for applicants, employees or any other persons engaged by contract or otherwise to perform services for Governor Bush (hereinafter the individual on whom an investigation is conducted shall be referred to as the "candidate") in connection with his preparation for a transition to the office of President or, should he become President, in connection with providing him services in that capacity. These investigations shall only be conducted pursuant to the agreement between the Attorney General and Governor Bush to ascertain facts and information relevant to the candidate's suitability for Federal government employment or retention in such employment in accordance with Executive Order 10450; suitability to otherwise provide appropriate services to Governor Bush as a contractor, volunteer, etc.; trustworthiness for clearance for access to information classified under the provisions of Executive Order 12958 (or any successor Executive Orders) and its implementing directives; and/or trustworthiness for access to locales in close proximity to or frequented by Governor Bush. The results of some of these investigations will permit adjudication of the candidate for clearance for access to Sensitive Compartmented Information, when necessary, in accordance with the standards set forth in Director of Central Intelligence (DCI) Directive 6/4, and any future successor directive. Should Governor Bush become President, name checks may also be requested incident to staffing of proposed Presidential recognition awards.

Requests for FBI investigations shall be made in writing from Governor Bush or his designated representative to the Director of the FBI. Requests for the conduct of background investigations (but not for name checks) shall include a completed Standard Form 86 (SF-86) questionnaire (Questionnaire for National Security Positions) and its accompanying Authority for Release of Information, supplemented as necessary and



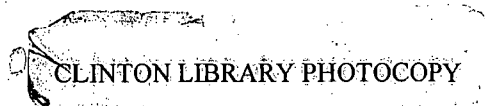
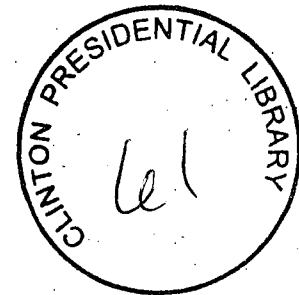
approved by the FBI, and a set of the candidate's fingerprints utilizing a standardized fingerprint card, to enable the FBI to check the candidate's fingerprints against FBI Criminal Justice Information Services (CJIS) Division records. To enable the FBI to comply with Section (e) (3) of the Federal Privacy Act of 1974, and in keeping with the spirit of this Act, requests for the conduct of background investigations (but not for name checks) shall be accompanied by a statement signed by the candidate acknowledging that he or she has consented to the investigation with the knowledge that facts or information gathered shall be retained consistent with applicable FBI Privacy Act records systems notices, Records Retention Plan, and Disposition Schedule.

In addition, the following supplemental procedures shall apply:

- All investigation requests must be accompanied by the written consent of the candidate. However, should Governor Bush assume the office of President, the Department of Justice and the FBI may consider responding without the consent of the candidate where justified by extraordinary circumstances documented in a letter from the Counsel to the President or the Deputy Counsel to the President through the Deputy Attorney General to the FBI General Counsel, setting forth a written explanation why such consent cannot be obtained or should not be sought in the circumstances.

- All investigation requests must also contain the actual signature of the official acting for Governor Bush in initiating the request. The requesting official should certify, subject to the criminal penalties for making a false statement, that the information is sought only for purposes related to transition preparations or, should Governor Bush become President, official purposes, and should be on express notice that unauthorized disclosure of any information obtained may violate the Federal Privacy Act of 1974.

- In addition, all investigation requests must contain the actual signature of an official designated by Governor Bush to review and approve all requests prior to their transmittal to the FBI. (Should Governor Bush assume the office of President, the approving official will be the Counsel to the President or an attorney designated by the Counsel to the President.) Governor Bush (or Counsel to the



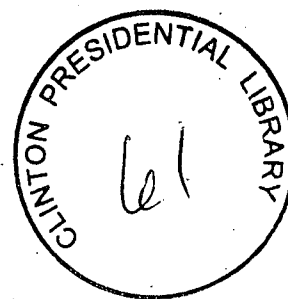
MOU - ELECTION 2000 - GOVERNOR BUSH
Page 3 of 7

President) will provide the FBI via official correspondence with the title(s), name(s), and specimen signature(s) of the person(s) designated to exercise authority to approve requests, and will apprise the FBI by official correspondence of any changes in approval authority.

- Except as otherwise provided below, requests will be submitted using a form approved by the FBI on which all required actual signatures must be included (candidate, requesting official, and approving official). The reason for each request will be indicated with specificity (which may be accomplished by checking the appropriate boxes on the form.) The FBI will furnish a paper copy and an electronic copy of an approved form, and Governor Bush's staff will use its own clerical resources to generate all necessary copies of the form. No material changes will be made to the form's content or format without the written concurrence of the FBI.

- In lieu of a candidate's actually signing the consent provision on the form provided to the FBI, substitute consents submitted by a candidate via fax, e-mail, electronic message, or the like will be acceptable. The requesting official should staple or otherwise affix the substitute consent to the copy of the request actually submitted to the FBI. In such cases, the actual signatures of the requesting official and the approving official will constitute sufficient authentication of the candidate's consent, the affixed substitute consent will be considered the "original," and follow-up submission to the FBI of a form actually signed by the candidate is neither necessary nor desired.

- The candidate's consent must be dated within 30 days of submission of the request to the FBI. However, it is not necessary to provide a new consent form when requesting follow-up inquiries which can reasonably be viewed as being within the ambit of a previously provided consent (e.g., when Governor Bush asks the FBI to further develop matters raised in a report of background investigation to which the candidate consented.) Requests for supplemental inquiries submitted by the same administration within 6 months of the candidate's consent, within 30 days of the FBI's final report, or while a candidate's confirmation is still pending may be presumed to be within the ambit of the original consent.



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Page 4 of 7

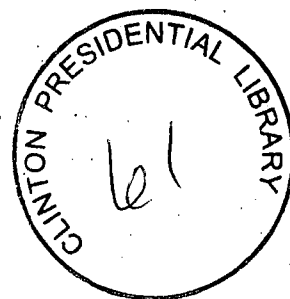
- Name-check requests need not include a signed consent where the checks are to be made against the names of organizations/institutions and not of individuals. However, such requests will still require the actual signatures of a requesting official (who will have approved and reviewed the requests and certified, subject to criminal penalties for making a false statement, that the information is sought only for official purposes) and of a designated approving official.

- The FBI's Executive Agencies Dissemination Subunit (EADS) (known colloquially as the "Name-Check Unit") will process name-check requests, i.e., those which only require a file search of existing FBI records accessible from FBI Headquarters, or which only request copies of existing FBI background investigation reports. The FBI's Special Inquiry and General Background Investigations Unit (SIGBIU) will process background-investigation requests, i.e., those which will require investigative taskings for the conduct of full-field background investigations, 5-year re-investigations, expanded name checks, limited updates, or limited inquiries (such as follow-up inquiries conducted to resolve particular issues/questions). Governor Bush's staff should forward each request directly to the FBI unit with cognizance over the particular type of request. In turn, the cognizant FBI unit will forward responses directly back to the requesting official.

If, during the period in which the FBI is conducting its investigation, Governor Bush or his designated representative determines that the candidate is not to be employed or appointed or no longer needs a security clearance, the FBI will be notified within five (5) working days of the determination so that the investigation can be discontinued.

Subject to the Federal Privacy Act of 1974, persons interviewed during these investigations may be assured that, to the extent permitted by law, information identifying such persons will be kept confidential.

During the period in which the FBI is conducting its investigation and except as otherwise provided below, the FBI will inform Governor Bush or his designated representative of any significant adverse information or any medical information bearing on the suitability or trustworthiness of the candidate which is developed through investigation. The FBI generally does not continue to actively monitor a candidate following completion of its final report, and Governor Bush or his designated representative should submit a new request if updated information



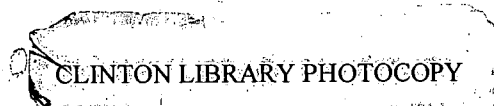
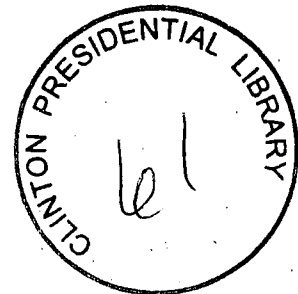
is desired later. However, prior to a candidate's assuming the position and/or being adjudicated for the clearance for which the investigation was conducted, if an FBI unit responsible for conducting an investigation under this agreement becomes aware of new information that raises questions about the suitability or trustworthiness of a candidate to perform services for Governor Bush, the FBI will so apprise Governor Bush or his designated representative.

Whenever the FBI's investigation reveals a pending Federal civil or criminal investigation involving the candidate, dissemination of any information relating to the pending investigation will be halted, the FBI General Counsel (or his/her designee) will consult with cognizant FBI Headquarters officials to determine what information could be disseminated without harm to the pending investigation, and the FBI General Counsel will then refer the matter to the Deputy Attorney General (or his/her designee) in order to determine what, if any, information relating to the pending matter should be communicated in the FBI's response to Governor Bush's investigation request.

The FBI will furnish summary memoranda or investigative reports and/or supporting materials (hereinafter referred to as reports) containing the results of its investigations to Governor Bush or his designated representative and retain records of the identities of the persons to whom such reports are furnished.

Governor Bush or his designated representative will ensure that access to these reports is restricted to persons directly involved in ensuring the safety and security of Governor Bush or making a determination as to a person's suitability for employment/appointment/recognition and/or trustworthiness for access to sensitive information (e.g., law enforcement matters, personal information about individuals, privileged commercial or financial information, etc.) or classified information. Governor Bush or his designated representative may also afford access to these reports to the Secret Service or the Executive Office of the President Security Office, or both, upon determination that any such additional recipient has a legitimate need to have the information for the proper performance of official responsibilities and that any such disclosure is not otherwise precluded by applicable law.

Governor Bush or his designated representative shall maintain records of the identities of persons receiving access to the reports and such records shall be furnished to the FBI upon request. No person having access to the reports will reproduce or disseminate the reports except in accordance with procedures

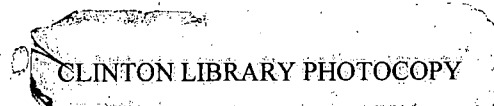
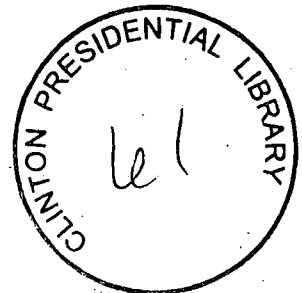


agreed to by Governor Bush or his designated representative and the Director of the FBI or the Director's designated representative.

Governor Bush or his designated representative will ensure that all reports received and any copies made of those reports will be retained until a President is inaugurated. At such time, if Governor Bush is the President, these materials will become part of the Presidential papers, but if Governor Bush is not the President, these materials will be returned immediately to the FBI. However, should it be determined or otherwise agreed prior to inauguration of a President that Governor Bush has not been elected President, these materials will be returned immediately to the FBI upon such determination or agreement.

Under no circumstances shall Governor Bush or the designated representative allow the candidate or any person outside of the appointment, employment, security clearance, confirmation, Presidential recognition, or Presidential protection process direct access to the reports, copies of the reports, or any information derived from the reports. If necessary to discuss the contents of the reports with the candidate, Governor Bush or his designated representative will ensure that the confidentiality of the sources contained therein is protected. Any request by the candidate for access to the reports will be referred to the FBI for processing in accordance with both the Federal Privacy Act of 1974 and the Freedom of Information Act.

Information obtained during an investigation will be retained at FBI Headquarters and FBI field offices in accordance with FBI Privacy Act records systems notices, Records Retention Plan, and Disposition Schedule. As provided above, certain information relating to pending Federal civil or criminal matters will be disseminated on a need-to-know basis to other officials of the Department of Justice (DOJ). Prior to January 20, 2001, no further dissemination shall be made of information obtained during any investigation conducted for Governor Bush pursuant to this agreement without the express approval of Governor Bush or his designated representative, except as part of an investigation of a violation of law, or otherwise as permitted or required by Federal statute, FBI/DOJ regulation or policy, or Presidential directive or Executive order. Thereafter, no further dissemination shall be made of information obtained during any investigation conducted pursuant to this agreement, except as part of an investigation of a violation of law, or otherwise as



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Page 7 of 7

permitted or required by Federal statute, FBI/DOJ regulation or policy, or Presidential directive or Executive order.

When a tentative decision is made to employ a candidate who requires an appropriate clearance for access to sensitive or classified information, Governor Bush or his designated representative may confer with the Director of the FBI or his designated representative to ascertain the appropriate agency or department to grant the necessary clearance to sensitive or classified information. Thereafter, Governor Bush or his designated representative shall make available a copy of the reports to the appropriate authority granting clearance to sensitive or classified information.

No person employed by Governor Bush shall be given access to any sensitive or classified information or material until appropriate procedures for granting clearance for access to sensitive or classified information and materials have been established and/or completed, and clearance granted. Governor Bush will provide the appropriate authority with a list of persons cleared for access to sensitive or classified information, and Governor Bush will advise the appropriate authority when an individual granted a clearance terminates employment with Governor Bush or otherwise no longer requires access to classified material.

The procedures set forth in this MOU shall remain in effect should Governor Bush assume the office of President and continue in effect for the duration of his administration. No changes in these procedures shall be made without the written concurrence of all principals to this MOU. However, the FBI General Counsel ("GC") may resolve issues involving interpretation of these procedures, including their applicability to situations not anticipated in their formulation. In so doing the FBI GC will give due consideration to applicable statutes and regulations, the policy considerations underlying these procedures, along with a "rule of reason." The FBI GC may delegate this authority to an FBI Deputy GC.

Attorney General

Dated: _____

Transition Staff

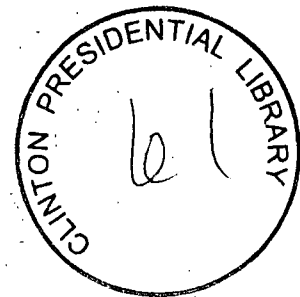
Dated: _____

Governor George W. Bush

Dated: _____

Transition Staff

Dated: _____



Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. memo	Memorandum of Understanding (7 pages)	ND	P5 62
002. memo	To: Beth Nolan From: Jeff Singdahlsen (5 pages)	11/22/00	P5 63

COLLECTION:

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

FOLDER TITLE:

Transition [2]

2006-0588-F

ds84

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]

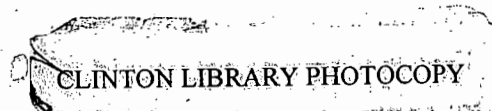


MEMORANDUM OF UNDERSTANDING

CONDUCT OF FEDERAL BUREAU OF INVESTIGATION
NAME CHECKS AND BACKGROUND INVESTIGATIONS
FOR PRESIDENTIAL CANDIDATE
VICE PRESIDENT ALBERT GORE, JR.
ELECTION 2000

In order to avoid or minimize disruptions that might be occasioned by the transfer of executive power, and to promote orderly transitions in the office of the President, the Federal Bureau of Investigation (FBI) will conduct file reviews ("name-checks") or background investigations (hereinafter both referred to as "investigations") at the request of Vice President Albert Gore, Jr. (or his designated representative). Such investigations may be requested for applicants, employees or any other persons engaged by contract or otherwise to perform services for Vice President Gore in connection with his preparation for a transition to the office of President or, should he become President, in connection with providing him services in that capacity. (Hereinafter the individual on whom an investigation is conducted shall be referred to as the "candidate.") These investigations shall only be conducted pursuant to the agreement between the Attorney General and Vice President Gore to ascertain facts and information relevant to the candidate's suitability for Federal government employment or retention in such employment in accordance with Executive Order 10450; suitability to otherwise provide appropriate services to Vice President Gore as a contractor, volunteer, etc.; trustworthiness for clearance for access to information classified under the provisions of Executive Order 12958 (or any successor Executive Orders) and its implementing directives; and/or trustworthiness for access to locales in close proximity to or frequented by Vice President Gore. The results of some of these investigations will permit adjudication of the candidate for clearance for access to Sensitive Compartmented Information, when necessary, in accordance with the standards set forth in Director of Central Intelligence (DCI) Directive 6/4, and any successor directive. Should Vice President Gore become President, name checks may also be requested incident to staffing of proposed Presidential recognition awards.

Requests for FBI investigations shall be made in writing from Vice President Gore or his designated representative to the Director of the FBI. Requests for the conduct of background investigations (but not for name checks) shall include a completed Standard Form 86 (SF-86) questionnaire (Questionnaire for National Security Positions) and its accompanying Authority for Release of Information, supplemented as necessary and





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Page 2 of 7

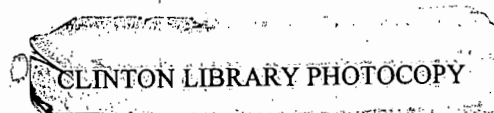
approved by the FBI, and a set of the candidate's fingerprints utilizing a standardized fingerprint card, to enable the FBI to check the candidate's fingerprints against FBI Criminal Justice Information Services (CJIS) Division records. To enable the FBI to comply with Section (e) (3) of the Federal Privacy Act of 1974, and in keeping with the spirit of this Act, requests for the conduct of background investigations (but not for name checks) shall be accompanied by a statement signed by the candidate acknowledging that he or she has consented to the investigation with the knowledge that facts or information gathered shall be retained consistent with applicable FBI Privacy Act records systems notices, Records Retention Plan, and Disposition Schedule.

In addition, the following supplemental procedures shall apply:

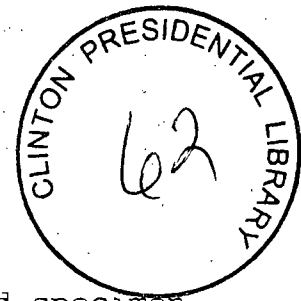
- All investigation requests must be accompanied by the written consent of the candidate. However, should Vice President Gore assume the office of President, the Department of Justice and the FBI may consider responding without the consent of the candidate where justified by extraordinary circumstances documented in a letter from the Counsel to the President or the Deputy Counsel to the President through the Deputy Attorney General to the FBI General Counsel, setting forth a written explanation why such consent cannot be obtained or should not be sought in the circumstances.

- All investigation requests must also contain the actual signature of the official acting for Vice President Gore in initiating the request. The requesting official should certify, subject to the criminal penalties for making a false statement, that the information is sought only for purposes related to transition preparations or, should Vice President Gore become President, official purposes, and should be on express notice that unauthorized disclosure of any information obtained may violate the Federal Privacy Act of 1974.

- In addition, all investigation requests must contain the actual signature of an official designated by Vice President Gore to review and approve all requests prior to their transmittal to the FBI. (Should Vice President Gore assume the office of President, the approving official will be the Counsel to the President or an attorney designated by the Counsel to the President.) Vice President Gore (or Counsel to the President) will provide the FBI via official



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Page 3 of 7



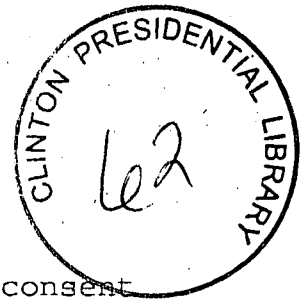
correspondence with the title(s), name(s), and specimen signature(s) of the person(s) designated to exercise authority to approve requests, and will apprise the FBI by official correspondence of any changes in approval authority.

- Except as otherwise provided below, requests will be submitted using a form approved by the FBI on which all required actual signatures must be included (candidate, requesting official, and approving official). The reason for each request will be indicated with specificity (which may be accomplished by checking the appropriate boxes on the form.) The FBI will furnish a paper copy and an electronic copy of an approved form, and Vice President Gore's staff will use its own clerical resources to generate all necessary copies of the form. No material changes will be made to the form's content or format without the written concurrence of the FBI.

- In lieu of a candidate's actually signing the consent provision on the form provided to the FBI, a fax of the consent form showing the candidate's signature will be acceptable. The requesting official should staple or otherwise affix the faxed consent to the copy of the request actually submitted to the FBI. In such cases, the actual signatures of the requesting official and the approving official will constitute sufficient authentication of the candidate's consent, the affixed faxed consent will be considered the "original," and follow-up submission to the FBI of the form actually signed by the candidate is neither necessary nor desired.

- The candidate's consent must be dated within 30 days of submission of the request to the FBI. However, it is not necessary to provide a new consent form when requesting follow-up inquiries which can reasonably be viewed as being within the ambit of a previously provided consent (e.g., when Vice President Gore asks the FBI to further develop matters raised in a report of background investigation to which the candidate consented). Requests for supplemental inquiries submitted by the same administration within 6 months of the candidate's consent, within 30 days of the FBI's final report, or while a candidate's confirmation is still pending may be presumed to be within the ambit of the original consent.

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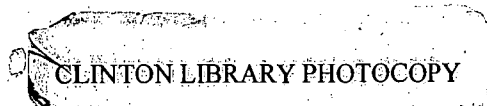
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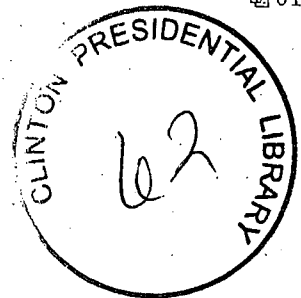
- The FBI's Executive Agencies Dissemination Subunit (EADSU) (known colloquially as the "Name-Check Unit") will process name-check requests, i.e., those which only require a file search of existing FBI records accessible from FBI Headquarters, or which only request copies of existing FBI background investigation reports. The FBI's Special Inquiry and General Background Investigations Unit (SIGBIU) will process background-investigation requests, i.e., those which will require investigative taskings for the conduct of full-field background investigations, 5-year re-investigations, expanded name checks, limited updates, or limited inquiries (such as follow-up inquiries conducted to resolve particular issues/questions). Vice President Gore's staff should forward each request directly to the FBI unit with cognizance over the particular type of request. In turn, the cognizant FBI unit will forward responses directly back to the requesting official.

If, during the period in which the FBI is conducting its investigation, Vice President Gore or his designated representative determines that the candidate is not to be employed or appointed or no longer needs a security clearance, the FBI will be notified within five (5) working days of the determination so that the investigation can be discontinued.

Subject to the Federal Privacy Act of 1974, persons interviewed during these investigations may be assured that, to the extent permitted by law, information identifying such persons will be kept confidential.

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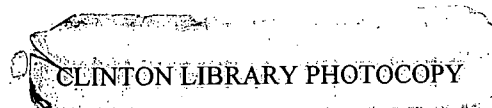
is desired later. However, prior to a candidate's assuming the position and/or being adjudicated for the clearance for which the investigation was conducted, if an FBI unit responsible for conducting an investigation under this agreement becomes aware of new information that raises questions about the suitability or trustworthiness of a candidate to perform services for Vice President Gore, the FBI will so apprise Vice President Gore or his designated representative.

Whenever the FBI's investigation reveals a pending Federal civil or criminal investigation involving the candidate, dissemination of any information relating to the pending investigation will be halted, the FBI General Counsel (or his/her designee) will consult with cognizant FBI Headquarters officials to determine what information could be disseminated without harm to the pending investigation, and the FBI General Counsel will then refer the matter to the Deputy Attorney General (or his/her designee) in order to determine what, if any, information relating to the pending matter should be communicated in the FBI's response to Vice President Gore's investigation request.

The FBI will furnish summary memoranda or investigative reports and/or supporting materials (hereinafter referred to as reports) containing the results of its investigations to Vice President Gore or his designated representative and retain records of the identities of the persons to whom such reports are furnished.

Vice President Gore or his designated representative will ensure that access to these reports is restricted to persons directly involved in ensuring the safety and security of Vice President Gore or making a determination as to a person's suitability for employment/appointment/recognition and/or trustworthiness for access to sensitive information (e.g., law enforcement matters, personal information about individuals, privileged commercial or financial information, etc.) or classified information. Vice President Gore or his designated representative may also afford access to these reports to the Secret Service or the Executive Office of the President Security Office, or both, upon determination that any such additional recipient has a legitimate need to have the information for the proper performance of official responsibilities and that any such disclosure is not otherwise precluded by applicable law.

Vice President Gore or his designated representative shall maintain records of the identities of persons receiving access to the reports and such records shall be furnished to the FBI upon request. No person having access to the reports will reproduce or disseminate the reports except in accordance with



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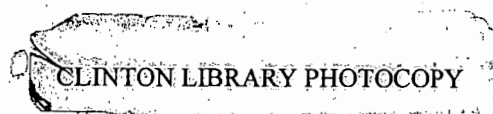


procedures agreed to by Vice President Gore or his designated representative and the Director of the FBI or the Director's designated representative.

Vice President Gore or his designated representative will ensure that all reports received and any copies made of those reports will be retained until a President is inaugurated. At such time, if Vice President Gore is the President, these materials will be maintained by appropriate executive branch officials in accordance with applicable legal requirements, but if Vice President Gore is not the President, these materials will be returned immediately to the FBI. However, should it be determined or otherwise agreed prior to inauguration of a President that Vice President Gore has not been elected President, these materials will be returned immediately to the FBI upon such determination or agreement.

Under no circumstances shall Vice President Gore or the designated representative allow the candidate or any person outside of the appointment, employment, security clearance, confirmation, Presidential recognition, or Presidential protection process direct access to the reports, copies of the reports, or any information derived from the reports. If necessary to discuss the contents of the reports with the candidate, Vice President Gore or his designated representative will ensure that the confidentiality of the sources contained therein is protected. Any request by the candidate for access to the reports will be referred to the FBI for processing in accordance with both the Federal Privacy Act of 1974 and the Freedom of Information Act.

Information obtained during an investigation will be retained at FBI Headquarters and FBI field offices in accordance with FBI Privacy Act records systems notices, Records Retention Plan, and Disposition Schedule. As provided above, certain information relating to pending Federal civil or criminal matters will be disseminated on a need-to-know basis to other officials of the Department of Justice (DOJ). Prior to January 20, 2001, no further dissemination shall be made of information obtained during any investigation conducted for Vice President Gore pursuant to this agreement without the express approval of Vice President Gore or his designated representative, except as part of an investigation of a violation of law, or otherwise as permitted or required by Federal statute, FBI/DOJ regulation or policy, or Presidential directive or Executive order. Thereafter, no further dissemination shall be made of information obtained during any investigation conducted pursuant to this agreement, except as part of an investigation of a violation of law, or otherwise as permitted or required by Federal statute,



MOU - ELECTION 2000 - VICE PRESIDENT GORE
Page 7 of 7



FBI/DOJ regulation or policy, or Presidential directive or Executive order.

When a tentative decision is made to employ a candidate who requires an appropriate clearance for access to sensitive or classified information, Vice President Gore or his designated representative may confer with the Director of the FBI or his designated representative to ascertain the appropriate agency or department to grant the necessary clearance to sensitive or classified information. Thereafter, Vice President Gore or his designated representative shall make available a copy of the report(s) to the appropriate authority granting clearance to sensitive or classified information.

No person employed by Vice President Gore shall be given access to any sensitive or classified information or material until appropriate procedures for granting clearance for access to sensitive or classified information and materials have been established and/or completed, and clearance granted. Vice President Gore will provide the appropriate authority with a list of persons cleared for access to sensitive or classified information, and Vice President Gore will advise the appropriate authority when an individual granted a clearance terminates employment with Vice President Gore or otherwise no longer requires access to classified material.

The procedures set forth in this MOU shall remain in effect should Vice President Gore assume the office of President and continue in effect for the duration of his administration. No changes in these procedures shall be made without the written concurrence of all principals to this MOU. However, the FBI General Counsel ("GC") may resolve issues involving interpretation of these procedures, including their applicability to situations not anticipated in their formulation. In so doing the FBI GC will give due consideration to applicable statutes and regulations, the policy considerations underlying these procedures, along with a "rule of reason." The FBI GC may delegate this authority to an FBI Deputy GC.



Attorney General

Dated: _____

Transition Staff

Dated: _____

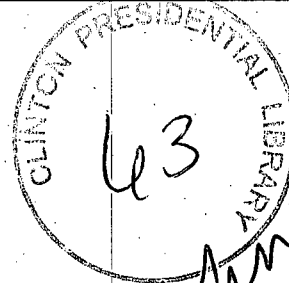
Vice President Albert Gore, Jr.

Dated: _____

Transition Staff

Dated: _____

CLINTON LIBRARY PHOTOCOPY



U.S. DEPARTMENT OF JUSTICE
OFFICE OF LEGAL COUNSEL
WASHINGTON, D.C. 20530

FACSIMILE TRANSMISSION SHEET

DATE: NOVEMBER 22, 2000

FROM: JEFF SINGDAHLSEN
ATTORNEY-ADVISER

OFFICE PHONE: 202-514-1858

TO: BETH NOLAN
COUNSEL TO THE PRESIDENT

OFFICE PHONE: 202-456-2632

FACSIMILE NUMBER: 202-456-6279

Number of Pages: 5 (plus cover sheet)

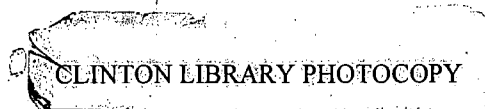
Beth, please find enclosed the draft memorandum that you and Randy discussed. Please let Randy or me know if you have any question, and have a wonderful Thanksgiving.

ANY QUESTIONS, PLEASE CONTACT OUR ADMINISTRATIVE OFFICE ON 514-2067
OFFICE OF LEGAL COUNSEL FACSIMILE MACHINE NUMBER - 514-0563

John -
This is the
unofficial
analysis of
whether
GSA can
provide transition
assistance to more
than one
transition
team.

Bottom
line:

NO, NO, NO



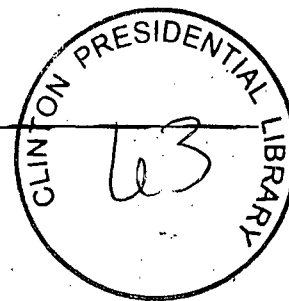


U.S. Department of Justice

Office of Legal Counsel

Office of the Assistant Attorney General

Washington, D.C. 20530



November 22, 2000

**MEMORANDUM FOR BETH NOLAN
COUNSEL TO THE PRESIDENT**

From: Randolph D. Moss
Assistant Attorney General

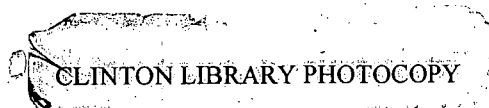
Re: Authority of the Administrator of the General Services Administration To Provide Transition Assistance to Transition Teams of Two Presidential Candidates Under the Presidential Transition Act of 1963

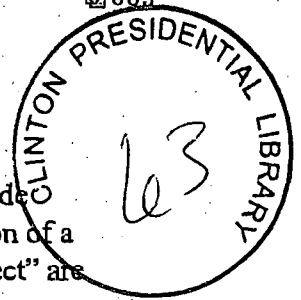
You have asked our opinion whether, under the Presidential Transition Act of 1963, as amended,¹ the Administrator of the General Services Administration ("Administrator") has the authority to provide transition assistance to more than one presidential candidate in circumstances in which it remains unclear after the election which of two candidates will become the President of the United States. With the limited exceptions set forth below in note 3, the Act authorizes the Administrator to expend the funds appropriated to implement the Act only for those services and facilities that are necessary to assist the transition of the "President-elect" and the "Vice-President-elect." See Presidential Transition Act, § 3(a). The terms "President-elect" and "Vice-President-elect" are defined under the Act to mean the individuals that the Administrator determines are "the apparent successful candidates for the office of President and Vice-President, respectively." *Id.* § 3(c). Since there cannot be more than one "President-elect" and one "Vice-President-elect" under the Act, the Presidential Transition Act does not authorize the Administrator to provide transition assistance to more than one transition team.²

¹ The Presidential Transition Act is set out in the notes to § 102 of title 3 of the United States Code. See 3 U.S.C. § 102 (1994). The Act has also recently been amended. For those amendments, see Presidential Transition Act of 2000, Pub. L. No. 106-293, 114 Stat. 1035 (2000).

² This memorandum addresses only the narrow question of the Administrator's authority to provide assistance under the Presidential Transition Act. It does not address whether the Administrator, or any other department or agency, may have separate authority to provide transition assistance to more than one transition team.

DRAFT—November 22, 2000 (6:30 p.m.)
H:\Docs\Pres.Trans.Act.003.wpd





As summarized above, the assistance that the Administrator is authorized to provide under the Presidential Transition Act is expressly tied to the Administrator's determination of a "President-elect" and a "Vice-President-elect." "President-elect" and "Vice-President-elect" are defined terms under section 3(c) of the Act, which provides:

The terms "President-elect" and "Vice-President-elect" as used in this Act shall mean such persons as are the apparent successful candidates for the office of President and Vice President, respectively, as ascertained by the Administrator following the general elections held to determine the electors of President and Vice President in accordance with title 3, United States Code, sections 1 and 2.

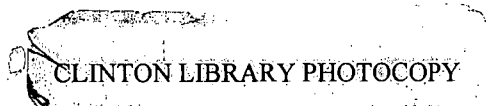
Id. § 3(c). As a matter of the statutory definition, as well as common usage, there can be only one "President-elect" and "Vice-President-elect" from any election.

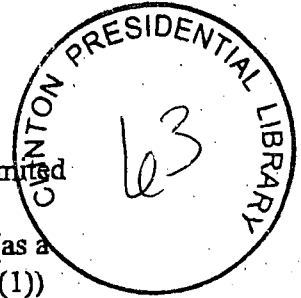
It is only to that "President-elect" and that "Vice-President-elect" that the Administrator is authorized by the Act to provide transition assistance. Section 3(a) of the Act, which sets out the services and facilities that the Administrator is authorized to provide, specifically states:

The Administrator of General Services . . . is authorized to provide, upon request, to each President-elect and each Vice-President-elect, for use in connection with his preparations for the assumption of official duties as President or Vice President necessary services and facilities, including [the assistance specifically identified in subparagraphs (a)(1) through (a)(10)].

Id. § 3(a). Accordingly, by its terms, the Act generally authorizes assistance only to the "President-elect" and the "Vice-President-elect." Consistent with this general structure, the subparagraphs within subsection 3(a), which list specific services and facilities that the Administrator is authorized to provide, also generally make explicit reference to the President-elect and the Vice-President-elect. For example, subparagraph 3(a)(2) authorizes the payment of compensation to the "members of the office staffs designated by the President-elect or Vice-President-elect." Without the existence of a President-elect or Vice-President-elect, there can be no staff who have been designated and to whom compensation may therefore be paid. *See id.* § 3(a)(2) (emphasis added); *see also id.* §§ 3(a)(1), (3)-(5), (7), 3(b), 3(d), 3(e).³ Similarly, the

³ The only exceptions to the general structure of section 3 limiting assistance to a "President-elect" are two provisions from the 2000 amendments that appear to envision the expenditure of funds prior to the determination of a "President-elect." *See* Pub. L. No. 106-293, § 3 (relevant provisions added as subparagraphs (9) and (10) of the Presidential Transition Act). These additional provisions, by their distinct language and functions, reinforce the general limitation that assistance may be provided only to a "President-elect." In particular, subparagraph (10) expressly provides that it applies to the "candidates." *See* Presidential Transition Act, § 3(a)(10) ("Notwithstanding subsection (b), consultation by the Administrator with *any candidate* for President or Vice President to develop a systems architecture plan for the computer and communications systems of the candidate to coordinate a transition to Federal systems, if the candidate is elected." (emphasis added)). Subparagraph (9) involves the development by the General Services Administration of a transition directory on the officers, organization, and statutory and





disclosure provisions set out in section 5 of the Act are also expressly premised on, and limited to, the President-elect and Vice-President-elect. Each subsection in section 5 begins with language along the lines of the following: "The President-elect and Vice-President-elect (as a condition for receiving services under section 3 and for funds provided under section 6(a)(1)) shall disclose to the Administrator" See *id.* § 5(a)(1) (emphasis added); see also §§ 5(b)(1), 5(c). We thus believe that both the specific terms and the general structure of the Act preclude the Administrator from relying upon this Act to provide assistance to more than one transition team.

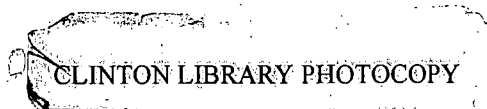
The most plausible contrary argument for providing assistance to multiple transition teams, notwithstanding the clear language and structure of the Act, would be that such assistance is necessary under present circumstances in order not to frustrate the intent of the Act to provide for an orderly and effective transition. In support of this argument, it is clear, both in the section of the Act stating Congress's purpose and similar expressions of purpose in the legislative history, that the Act was intended "to promote the orderly transfer of executive power." *Id.* § 2. In this regard, the Act states:

Any disruption occasioned by the transfer of the executive power could produce results detrimental to the safety and well-being of the United States and its people. Accordingly, it is the intent of the Congress that appropriate actions be authorized and taken to avoid or minimize any disruption.

Id. See also, e.g., H. Rep. 88-301, at 4 (1963) ("[T]he size and complexity of our Federal Government today, to say nothing of the difficult domestic and international problems that the President must face, make it a vital necessity that the machinery of transition be as smooth as possible and that sufficient resources are at hand to properly orient the new national leader in whatever manner is required. . . . Under present conditions, a new President, in one sense, begins working for the Government the morning after the election."); 109 Cong. Rec. 13,349 (1963) (statement of Rep. Joelson) ("In that interim time he is called upon probably to make more fateful decisions than he will have to make after he is, indeed, sworn into office. For that reason it is up to us to see that he has the tools and the implements.").

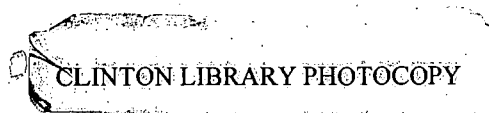
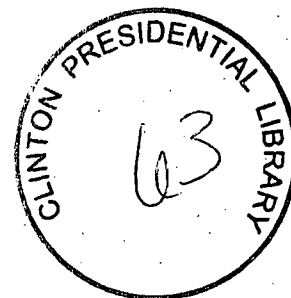
Whether or not this expression of intent would be sufficient to overcome the evidence from the express terms and structure of the Act that funds appropriated to implement the Act are not available in circumstances in which the Administrator could not ascertain who the apparent victorious candidate was, here Congress specifically considered that issue and made clear its intent that the Presidential Transition Act would not be available until an apparent President-elect emerged.

administrative authorities, functions, duties, responsibilities, and mission of each department and agency -- expenditures that are preparatory to transition for whomsoever is determined to be the "President-elect" and that are not materially altered by multiple transition teams since the directory would remain the same.



It is clear from the legislative history that Congress understood and intended that the Presidential Transition Act would simply be unavailable to fund transition services and facilities in circumstances in which the winner of the election is not apparent. This is consistent with the plain language and structure of the Act, which, with the two exceptions noted above in note 3, authorizes the Administrator to provide transition assistance only to the "President-elect" and the "Vice-President-elect." Accordingly, the Presidential Transition Act would not authorize the Administrator to expand the funds appropriated to implement the Act to provide transition assistance to multiple transition teams.

Please let us know if we may be of further assistance.



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 <i>le le</i>
~~002. report~~	~~Access to the White House Complex (1 page)~~	~~nd~~	~~b(7)(E)~~
003. draft	Statement (1 page)	n.d.	P5 <i>le 7</i>

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

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.

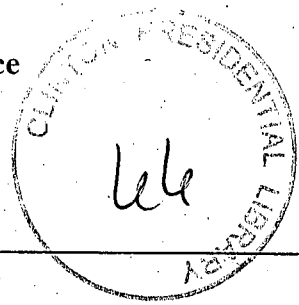
Freedom of Information Act - [5 U.S.C. 552(b)]

- 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]



U.S. Department of Justice

Office of Legal Counsel



Office of the Assistant Attorney General

Washington, D.C. 20530

November 28, 2000

**MEMORANDUM FOR BETH NOLAN
COUNSEL TO THE PRESIDENT**

From: Randolph D. Moss 
Assistant Attorney General

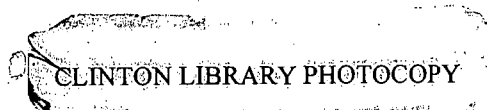
Re: Authority of the Administrator of the General Services Administration To Provide Transition Assistance to Transition Teams of Two Presidential Candidates Under the Presidential Transition Act of 1963

Cc: Stephanie Foster
General Counsel, General Services Administration

You have asked our opinion whether, under the Presidential Transition Act of 1963, as amended,¹ the Administrator of the General Services Administration ("Administrator") has the authority to provide transition assistance to more than one presidential candidate in circumstances in which it remains unclear after the election which of two candidates will become the President of the United States. With the limited exceptions set forth below in note 3, the Act authorizes the Administrator to expend the funds appropriated to implement the Act only for those services and facilities that are necessary to assist the transition of the "President-elect" and the "Vice-President-elect." See Presidential Transition Act, § 3(a). The terms "President-elect" and "Vice-President-elect" are defined under the Act to mean the individuals that the Administrator determines are "the apparent successful candidates for the office of President and Vice-President, respectively." *Id.* § 3(c). Since there cannot be more than one "President-elect" and one "Vice-President-elect" under the Act, the Presidential Transition Act does not authorize the Administrator to provide transition assistance to more than one transition team.²

¹ The Presidential Transition Act is set out in the notes to § 102 of title 3 of the United States Code. See 3 U.S.C. § 102 (1994). The Act has also recently been amended. For those amendments, see Presidential Transition Act of 2000, Pub. L. No. 106-293, 114 Stat. 1035 (2000).

² This memorandum addresses only the narrow question of the Administrator's authority to provide assistance under the Presidential Transition Act. It does not address whether the Administrator, or any other



As summarized above, the assistance that the Administrator is authorized to provide under the Presidential Transition Act is expressly tied to the Administrator's determination of a "President-elect" and a "Vice-President-elect." "President-elect" and "Vice-President-elect" are defined terms under section 3(c) of the Act, which provides:

The terms "President-elect" and "Vice-President-elect" as used in this Act shall mean such persons as are the apparent successful candidates for the office of President and Vice President, respectively, as ascertained by the Administrator following the general elections held to determine the electors of President and Vice President in accordance with title 3, United States Code, sections 1 and 2.

Id. § 3(c). As a matter of the statutory definition, as well as common usage, there can be only one "President-elect" and "Vice-President-elect" from any election.

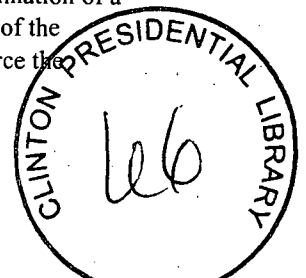
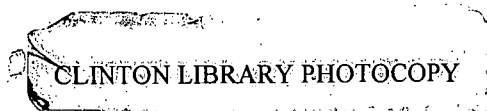
It is only to that "President-elect" and that "Vice-President-elect" that the Administrator is authorized by the Act to provide transition assistance. Section 3(a) of the Act, which sets out the services and facilities that the Administrator is authorized to provide, specifically states:

The Administrator of General Services . . . is authorized to provide, upon request, to each President-elect and each Vice-President-elect, for use in connection with his preparations for the assumption of official duties as President or Vice President necessary services and facilities, including [the assistance specifically identified in subparagraphs (a)(1) through (a)(10)].

Id. § 3(a). Accordingly, by its terms, the Act generally authorizes assistance only to the "President-elect" and the "Vice-President-elect." Consistent with this general structure, the subparagraphs within subsection 3(a), which list specific services and facilities that the Administrator is authorized to provide, also generally make explicit reference to the President-elect and the Vice-President-elect. For example, subparagraph 3(a)(2) authorizes the payment of compensation to the "members of the office staffs designated by the President-elect or Vice-President-elect." Without the existence of a President-elect or Vice-President-elect, there can be no staff who have been designated and to whom compensation may therefore be paid. *See id.* § 3(a)(2) (emphasis added); *see also id.* §§ 3(a)(1), (3)-(5), (7), 3(b), 3(d), 3(e).³ Similarly, the provisions in section 5 of the Act for the disclosure of financing

department or agency, may have separate authority to provide transition assistance to more than one transition team.

³ The only exceptions to the general structure of section 3 limiting assistance to a "President-elect" are two provisions from the 2000 amendments that appear to envision the expenditure of funds prior to the determination of a "President-elect." *See* Pub. L. No. 106-293, § 3 (relevant provisions added as subparagraphs (9) and (10) of the Presidential Transition Act). These additional provisions, by their distinct language and functions, reinforce the



and personnel information related to the transition are also expressly premised on, and limited to, the "President-elect" and the "Vice-President-elect." Each subsection in section 5 begins with language along the lines of the following: "The President-elect and Vice-President-elect (as a condition for receiving services under section 3 and for funds provided under section 6(a)(1)) shall disclose to the Administrator" See *id.* § 5(a)(1) (emphasis added); see also §§ 5(b)(1), 5(c). We thus believe that both the specific terms and the general structure of the Act preclude the Administrator from relying upon this Act to provide assistance to more than one transition team.

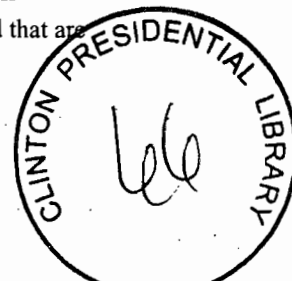
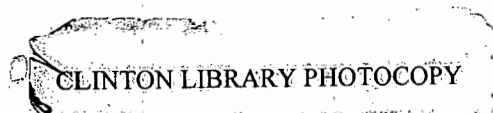
The most plausible contrary argument for providing assistance to multiple transition teams, notwithstanding the clear language and structure of the Act, would be that such assistance is necessary under present circumstances because of the shortened time period for the transition. In support of this argument, it is clear, both in the section of the Act stating Congress's purpose and similar expressions of purpose in the legislative history, that the Act was intended "to promote the orderly transfer of executive power." *Id.* § 2. In this regard, the Act states:

Any disruption occasioned by the transfer of the executive power could produce results detrimental to the safety and well-being of the United States and its people. Accordingly, it is the intent of the Congress that appropriate actions be authorized and taken to avoid or minimize any disruption.

Id. See also, e.g., H. Rep. 88-301, at 4 (1963) ("[T]he size and complexity of our Federal Government today, to say nothing of the difficult domestic and international problems that the President must face, make it a vital necessity that the machinery of transition be as smooth as possible and that sufficient resources are at hand to properly orient the new national leader in whatever manner is required. . . . Under present conditions, a new President, in one sense, begins working for the Government the morning after the election."); 109 Cong. Rec. 13,349 (1963) (statement of Rep. Joelson) ("In that interim time he is called upon probably to make more fateful decisions than he will have to make after he is, indeed, sworn into office. For that reason it is up to us to see that he has the tools and the implements.").

We doubt that this expression of intent would, in any event, be sufficient to overcome the evidence from the express terms and structure of the Act that funds appropriated to implement the Act

general limitation that assistance may be provided only to a "President-elect." In particular, subparagraph (10) expressly provides that it applies to the "candidates." See Presidential Transition Act, § 3(a)(10) ("Notwithstanding subsection (b), consultation by the Administrator with *any candidate* for President or Vice President to develop a systems architecture plan for the computer and communications systems of the candidate to coordinate a transition to Federal systems, if the candidate is elected." (emphasis added)). Subparagraph (9) involves the development by the General Services Administration of a transition directory on the officers, organization, and statutory and administrative authorities, functions, duties, responsibilities, and mission of each department and agency -- expenditures that are preparatory to transition for whomever is determined to be the "President-elect" and that are not materially altered by multiple transition teams since the directory would remain the same.



are not available in circumstances in which the Administrator cannot ascertain who the apparent victorious candidate is. The legislative history, moreover, makes clear that Congress did not intend the Presidential Transition Act to be available until an apparent President-elect emerged.

During debate on the bill, concern was raised about the effect that an Administrator's determination of the "President-elect" could potentially have on a close election. See 109 Cong. Rec. 13,348-49 (1963). As part of that debate, Representative Gross expressed the concern that, in connection with the voting of the electoral college, "those designated as President and Vice President by the present Administrator of General Services would be given psychological and other advantages by designating them as President and Vice President." *Id.* at 13,348. In response, Representative Fascell, who was the sponsor of the bill and the House manager, stated as follows: "I do not think so, because if they were unable at the time to determine the successful candidates, *this act would not be operative. Therefore in a close contest, the Administrator would not make the decision.*" *Id.* (emphasis added). Representative Gross, however, remained concerned and continued to press the issue. In response to those further inquiries, Representative Fascell again responded: "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.*" *Id.* (emphasis added).

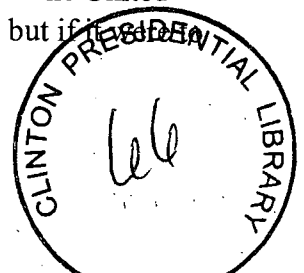
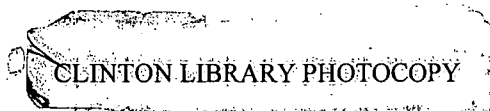
Representative Gross was not the only member concerned about the issue, which was raised again later in the debate by Representative Haley:

I notice that these funds can be used immediately after the general election in November. But how would this situation work, for instance, if the President or, at least, before the determination of the votes in the electoral college, suppose that some person was, say, three or four votes shy? How would this Administrator determine who was in a position to expend these funds?

Id. At 13,349. In response, Representative Fascell quoted the section of the bill defining "President-elect" and "Vice-President-elect" and stated:

This act and the Administrator could in no way, in any way, affect the election of the successful candidate. The only decision the Administrator can make is who the successful candidate – the apparent successful candidate – for the purposes of this particular act in order to make the services provided by this act available to them. And, *if there is any doubt in his mind, and if he cannot and does not designate the apparently successful candidate, then the act is inoperative.* He cannot do anything. *There will be no services provided and no money expended.*

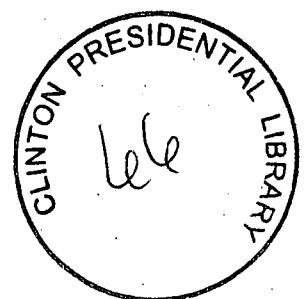
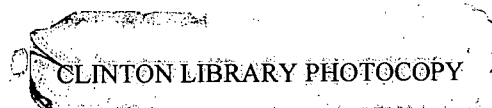
Id. (emphasis added). See also *id.* (statement of Rep. Fascell) ("In the whole history of the United States, there have been only three such close situations. It is an unlikely proposition, but if it should



happen, if the administrator had any question in his mind, he simply would not make the designation in order to make the services available as provided by the act. If as an intelligent human being and he has a doubt, he would not act until a decision has been made in the electoral college or in the Congress.”).

It is clear from the legislative history that Congress understood and intended that the Presidential Transition Act would simply be unavailable to fund transition services and facilities in circumstances in which the winner of the election is not apparent. This is consistent with the plain language and structure of the Act, which, with the two exceptions noted above in note 3, authorizes the Administrator to provide transition assistance only to the “President-elect” and the “Vice-President-elect.” Accordingly, the Presidential Transition Act would not authorize the Administrator to expend the funds appropriated to implement the Act to provide transition assistance to multiple transition teams.

Please let us know if we may be of further assistance.



Withdrawal/Redaction Sheet

Clinton Library

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

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]

Withdrawal/Redaction Sheet

Clinton Library

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]

2006-0588-F

ds87

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

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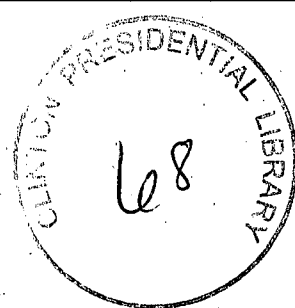
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- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
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THE WHITE HOUSE
WASHINGTON



October 12, 2000

MEMORANDUM FOR: ALL EXECUTIVE OFFICE OF THE PRESIDENT STAFF

FROM: BETH NOLAN *Beth Nolan*
COUNSEL TO THE PRESIDENT

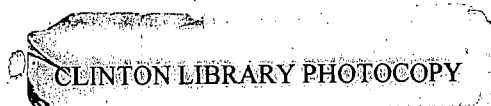
RE: REQUEST FOR DOCUMENTS

We have received a request to produce certain documents described below. Please conduct a thorough and complete search of all your records—**whether in hard copy, computer form or any other form**—for any documents referring or relating to

any and all requests for assistance made to any person or entity (including but not limited to any Department or Agency of the United States, such as the United States Department of Justice, the Federal Bureau of Investigation, or others) by or on behalf of any person in, or connected with, the White House or the Executive Office of the President, relating in any way to computers, hard drives, electronically stored data, including files, which were or were thought to be related to or connected with Vincent W. Foster, Jr., Deborah Gorham, or Betsy Pond, or to computer equipment bearing or assigned the following serial numbers: 23-1221596, 23-1067944, 23-1224237, 23-0372271, or 23-1286096.

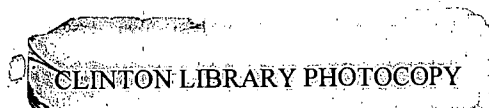
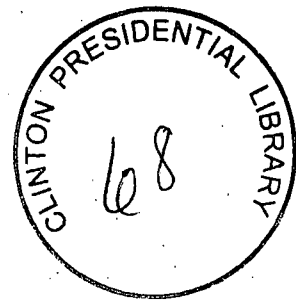
Your search should include, but not be limited to, a search for documents (such as calendar entries, telephone records or messages) reflecting any communications between (1) Abner Mikva, Miriam R. Nemetz, or any other person in or connected with the White House Counsel's Office and either (2) Jamie Gorelick or any other person in or connected with the Department of Justice, or (3) any person in or connected with the FBI, relating to an August 11, 1995 request for the FBI to provide technical assistance with respect to a hard drive believed to have been used by Deborah Gorham.

Each employee is responsible for searching his or her own files and records to ensure a comprehensive search. The office head or Assistant to the President must certify that his or her staff has done a complete and thorough search.



In addition, if you believe that files from your office that have been sent to the Office of Records Management may contain responsive information, please advise us so that we may ensure that all responsive documents have been located.

All materials must be provided to Associate Counsel to the President Greg Smith (OEOB 479) by noon on October 23, 2000. If you have any questions or anticipate difficulty meeting this deadline, please call Greg Smith at 456-6285.





PostMaster

09/01/2000 04:38:44 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: REQUEST FOR DOCUMENTS

MEMORANDUM FOR: WHITE HOUSE OFFICE STAFF
OFFICE OF THE VICE PRESIDENT STAFF
COUNCIL OF ECONOMIC ADVISORS STAFF
NATIONAL SECURITY COUNCIL STAFF
OFFICE OF POLICY DEVELOPMENT STAFF
OFFICE OF SCIENCE AND TECHNOLOGY POLICY STAFF
PRESIDENT'S FOREIGN INTELLIGENCE ADVISORY BOARD STAFF
UNITED STATES TRADE REPRESENTATIVE STAFF

FROM: BETH NOLAN
COUNSEL TO THE PRESIDENT

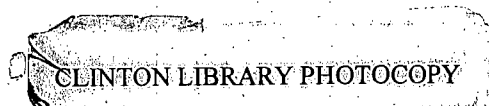
SUBJECT: REQUEST FOR DOCUMENTS

We have received a request for documents relating to ten export licenses granted to McDonnell Douglas and Douglas Aircraft on September 14, 1994 permitting them to export machinery used in the manufacturing of aerospace products for use by a People's Republic of China owned company called China National Aero-Technology Import and Export Corporation (CATIC). The request is also for documents relating to a 1992 contract between McDonnell Douglas and CATIC for the manufacture of commercial aircraft in China (the "trunkline contract") as well as for documents relating to the CATIC Machining Center in Beijing, China. This request is limited to documents generated in the time period from and including October 1992 through and including December 1995.

Accordingly, please conduct a thorough and complete search of all of your records -- whether in hard copy, computer form or any other form -- for materials that relate to or discuss:

1. Ten export licenses granted to McDonnell Douglas and Douglas Aircraft by the Department of Commerce on September 14, 1994 permitting them to export machinery from their plant in Columbus, Ohio to the People's Republic of China for use by CATIC. The applications for these export licenses were submitted to the Department of Commerce on May 25, 1994;
2. A 1992 contract between McDonnell Douglas and CATIC for the manufacture of commercial aircraft in Beijing (the "trunkline contract"); and
3. The CATIC Machining Center in Beijing.

Every employee is responsible for searching his or her own files and records to ensure a comprehensive search. Each office head or Assistant to the President must certify that his or her staff has done a complete and thorough search.

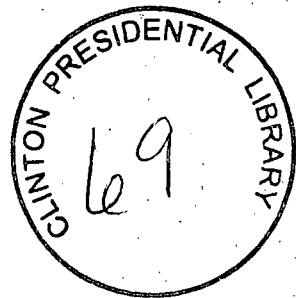


In addition, if you believe that files from your office that have been archived or sent to the Office of Records Management may contain responsive information, please advise us so that we may ensure that all responsive documents have been located.

All materials must be provided to Associate Counsel to the President Lisa Klem in EEOB Room 482 by 5:00 p.m. on Tuesday, September 12, 2000. If you have any questions, please contact Lisa Klem at 6-7804.

Message Sent To: _____

All WHO Users
All OVP Users
All CEA Users
All NSC Users
All OPD Users
All OSTP Users
All PFIAB Users
All USTR Users





PostMaster

10/13/2000 04:21:51 PM

Record Type: Record

To: All EOP Users, All USTR Users

cc:

Subject: REQUEST FOR DOCUMENTS

MEMORANDUM FOR ALL EXECUTIVE OFFICE OF THE PRESIDENT STAFF

FROM: BETH NOLAN
COUNSEL TO THE PRESIDENT

SUBJECT: REQUEST FOR DOCUMENTS

We have received a request to produce certain documents described below. Please conduct a thorough and complete search of all your records -- **whether in hard copy, computer form or any other form** -- for any documents referring or relating to

any and all requests for assistance made to any person or entity (including but not limited to any Department or Agency of the United States, such as the United States Department of Justice, the Federal Bureau of Investigation, or others) by or on behalf of any person in, or connected with, the White House or the Executive Office of the President, relating in any way to computers, hard drives, electronically stored data, including files, which were or were thought to be related to or connected with Vincent W. Foster, Jr., Deborah Gorham, or Betsy Pond, or to computer equipment bearing or assigned the following serial numbers: 23-1221596, 23-1067944, 23-1224237, 23-0372271, or 23-1286096.

Your search should include, but not be limited to, a search for documents (such as calendar entries, telephone records or messages) reflecting any communications between (1) Abner Mikva, Miriam R. Nemetz, or any other person in or connected with the White House Counsel's Office and either (2) Jamie Gorelick or any other person in or connected with the Department of Justice, or (3) any person in or connected with the FBI, relating to an August 11, 1995 request for the FBI to provide technical assistance with respect to a hard drive believed to have been used by Deborah Gorham.

Each employee is responsible for searching his or her own files and records to ensure a comprehensive search. The office head or Assistant to the President must certify that his or her staff has done a complete and thorough search.

In addition, if you believe that files from your office that have been sent to the Office of Records Management may contain responsive information, please advise us so that we may ensure that all responsive documents have been located.

All materials must be provided to Associate Counsel to the President Greg Smith EEOB 479) by noon on October 23, 2000. If you have any questions or anticipate difficulty meeting this deadline, please call Greg Smith at 456-6285.



THE WHITE HOUSE
WASHINGTON



October 26, 2000

MEMORANDUM FOR: ALL EXECUTIVE OFFICE OF THE PRESIDENT STAFF

FROM: BETH NOLAN *Beth N*
COUNSEL TO THE PRESIDENT

RE: CLARIFICATION OF COMPUTER DATABASE-RELATED
REQUEST FOR DOCUMENTS

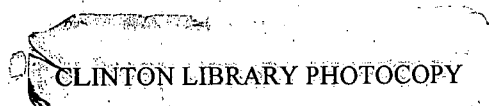
In response to my directive sent October 23, 2000, requesting that you search for and produce any documents that may constitute a "database or inventory" of computer hard drives or "F:" drives, or back-up or reallocation tapes thereof, various questions have arisen. Accordingly, please note the following clarifications:

1. Without limiting in any way your obligation to search, please note that it is likely that the records sought pursuant to this directive will only be possessed either by the Office of Administration and its IS&T Division, or by technical personnel within a given agency.
2. This directive does not seek the production of the contents of any computer drives or tapes. Nor does it seek the directories of these computer drives or tapes. Rather, it seeks only documents that constitute a database or inventory of the computer drives and tapes of departed EOP employees.

We hope that these clarifications assist you in responding to this directive.

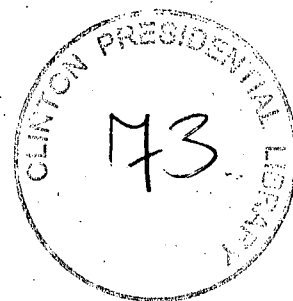
Please remember that each employee is responsible for searching his or her own files and records—whether in hard copy, computer form or any other form—to ensure a comprehensive search. In addition, if you believe that files from your office that have been sent to the Office of Records Management may contain responsive information, please advise us so that we may ensure that all responsive documents have been located. The office head or Assistant to the President must certify that his or her staff has done a complete and thorough search.

All materials must be provided to Associate Counsel to the President Greg Smith (OEOB 479) by noon on October 30, 2000. If you have any questions or anticipate difficulty meeting this deadline, please call Greg Smith at 456-6285.



BUSH/CHENEY PRESIDENTIAL TRANSITION
FOUNDATION, INC.

1616 Anderson Road
McLean, Virginia 22102



VIA FAX TO (202) 456-6279

December 8, 2000

The Honorable Beth Nolan
Counsel to the President
The White House
Washington, D.C. 20500

Dear Ms. Nolan:

Thank you for arranging for preparation and delivery to us of the proposed Memorandum of Understanding entitled "Conduct of Federal Bureau of Investigation Name Checks and Background Investigations for Presidential Candidate Governor George W. Bush Election 2000" (MOU)(copy attached). We ask your assistance with the Department of Justice in making two important changes to the proposed MOU, to ensure that the MOU is consistent with the constitutional responsibilities of the Presidency. With the exception of the final paragraph of the MOU, we believe the procedures proposed are consistent with: (1) applicable law, (2) the need for careful pre-appointment scrutiny of a prospective appointee, (3) the need for confidentiality, and (4) the need for prompt clearance of personnel.

I.

The first two sentences in the final paragraph of the MOU state:

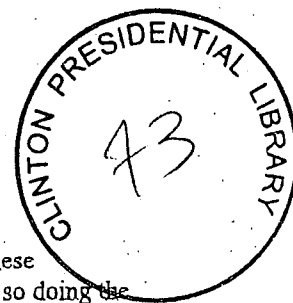
"The procedures set forth in this MOU shall remain in effect should Governor Bush assume the office of President and continue in effect for the duration of his administration. No changes in these procedures shall be made without the written concurrence of all principals to this MOU."

These sentences purport to bind George W. Bush in his future capacity as President, for the entire duration of his service as President, not to make any change in these FBI procedures unless the Attorney General agrees to the change. Although a President undoubtedly would, as a matter of sound practice, consult the Attorney General and the Counsel to the President before changing procedures for FBI clearance of Presidential appointees, the President should not bind himself (or appear to bind himself) to exercise any aspect of his constitutional powers only with a subordinate's approval. Please strike the two sentences and insert the following sentence in their place:

Alternative Language: "The procedures set forth in this MOU shall remain in effect until noon on January 20, 2001 and shall remain in effect thereafter unless otherwise directed by the President of the United States consistent with applicable law."



II.



The last three sentences of the final paragraph of the MOU state:

"However, the FBI General Counsel ('GC') may resolve issues involving interpretation of these procedures, including their applicability to situations not anticipated in their formulation. In so doing the FBI GC will give due consideration to applicable statutes and regulations, the policy considerations underlying these procedures, along with a 'rule of reason.' The FBI GC may delegate this authority to an FBI Deputy GC.

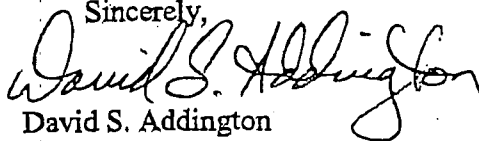
These sentences purport to vest in the FBI General Counsel, or in some cases an FBI Deputy General Counsel, authority to "resolve" issues involving interpretation of the procedures. The language could be misconstrued as meaning that, for as long as the procedures remain in effect, the FBI General Counsel has the final and binding word within the United States Government on interpreting and applying the procedures. Thus, when the FBI General Counsel takes a position on interpretation of the procedures, and the FBI Director, the Attorney General of the United States, the Counsel to the President and the President take a different position, the FBI General Counsel "resolves" the difference, which is plainly inappropriate. Once all parties to the MOU are part of the executive branch of the United State Government, any issues that arise should be resolved in accordance with standard practices within the executive branch. Please strike the three sentences and insert the following sentences in their place:

Alternative Language: "Prior to noon on January 20, 2001, the FBI General Counsel, subject to the authority of the Director of the FBI, the Attorney General and the President, may resolve issues involving interpretation of these procedures, including their applicability to situations not anticipated in their formulation. In so doing the FBI GC will give due consideration to applicable statutes and regulations, the policy considerations underlying these procedures, along with a 'rule of reason.' The FBI GC may delegate this authority to an FBI Deputy GC. After noon on January 20, 2001, issues involving interpretation of these procedures will be resolved in accordance with applicable laws, rules, regulations, directives and customary practices that may apply with regard to interpretation within the executive branch of documents internal to the executive branch."

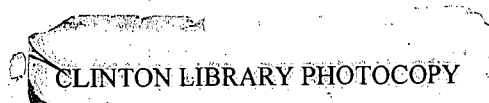
* * * * *

We appreciate very much the cooperation shown in working out arrangements for pre-appointment FBI investigations for Presidential personnel. If you have any questions, please contact Transition Clearance Counsel Fred F. Fielding at (202) 719-7320 or me at (703) 610-6307. I look forward to receiving the revised MOU from you as soon as it is ready for signature.

Sincerely,


David S. Addington
Counsel

Attachment as stated



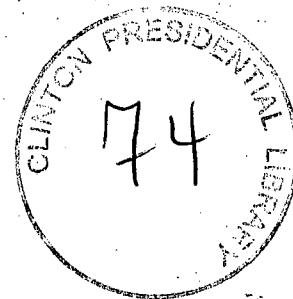
From: Michael A. Mason
FBI Designated Point of Contact
for Presidential Transition Matters
Contact number (202) 324-6088

To: Mr. David Addington

Fax #: (703) 519-9827

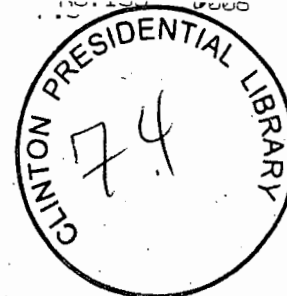
Subject: MEMORANDUM OF UNDERSTANDING

CONDUCT OF FEDERAL BUREAU OF INVESTIGATION
NAME CHECKS AND BACKGROUND INVESTIGATIONS
FOR PRESIDENTIAL CANDIDATE
GOVERNOR GEORGE W. BUSH
ELECTION 2000



CONDUCT OF FEDERAL BUREAU OF INVESTIGATION
NAME CHECKS AND BACKGROUND INVESTIGATIONS
FOR PRESIDENTIAL CANDIDATE
GOVERNOR GEORGE W. BUSH
ELECTION 2000

Requests for FBI investigations shall be made in writing from Governor Bush or his designated representative to the Director of the FBI. Requests for the conduct of background investigations (but not for name checks) shall include a completed Standard Form 86 (SF-86) questionnaire (Questionnaire for National Security Positions) and its accompanying Authority for Release of Information, supplemented as necessary and

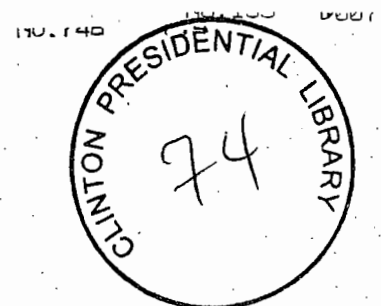


MOU - ELECTION 2000 - GOVERNOR BUSH
Page 2 of 7

approved by the FBI, and a set of the candidate's fingerprints utilizing a standardized fingerprint card, to enable the FBI to check the candidate's fingerprints against FBI Criminal Justice Information Services (CJIS) Division records. To enable the FBI to comply with Section (e) (3) of the Federal Privacy Act of 1974, and in keeping with the spirit of this Act, requests for the conduct of background investigations (but not for name checks) shall be accompanied by a statement signed by the candidate acknowledging that he or she has consented to the investigation with the knowledge that facts or information gathered shall be retained consistent with applicable FBI Privacy Act records systems notices, Records Retention Plan, and Disposition Schedule.

In addition, the following supplemental procedures shall apply:

- All investigation requests must be accompanied by the written consent of the candidate. However, should Governor Bush assume the office of President, the Department of Justice and the FBI may consider responding without the consent of the candidate where justified by extraordinary circumstances documented in a letter from the Counsel to the President or the Deputy Counsel to the President through the Deputy Attorney General to the FBI General Counsel, setting forth a written explanation why such consent cannot be obtained or should not be sought in the circumstances.
- All investigation requests must also contain the actual signature of the official acting for Governor Bush in initiating the request. The requesting official should certify, subject to the criminal penalties for making a false statement, that the information is sought only for purposes related to transition preparations or, should Governor Bush become President, official purposes, and should be on express notice that unauthorized disclosure of any information obtained may violate the Federal Privacy Act of 1974.
- In addition, all investigation requests must contain the actual signature of an official designated by Governor Bush to review and approve all requests prior to their transmittal to the FBI. (Should Governor Bush assume the office of President, the approving official will be the Counsel to the President or an attorney designated by the Counsel to the President.) Governor Bush (or Counsel to the



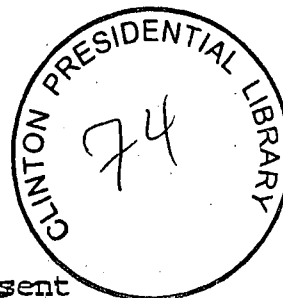
MOU - ELECTION 2000 - GOVERNOR BUSH
Page 3 of 7

President) will provide the FBI via official correspondence with the title(s), name(s), and specimen signature(s) of the person(s) designated to exercise authority to approve requests, and will apprise the FBI by official correspondence of any changes in approval authority.

- Except as otherwise provided below, requests will be submitted using a form approved by the FBI on which all required actual signatures must be included (candidate, requesting official, and approving official). The reason for each request will be indicated with specificity (which may be accomplished by checking the appropriate boxes on the form.) The FBI will furnish a paper copy and an electronic copy of an approved form, and Governor Bush's staff will use its own clerical resources to generate all necessary copies of the form. No material changes will be made to the form's content or format without the written concurrence of the FBI.

- In lieu of a candidate's actually signing the consent provision on the form provided to the FBI, a fax of the consent form showing the candidate's signature will be acceptable. The requesting official should staple or otherwise affix the faxed consent to the copy of the request actually submitted to the FBI. In such cases, the actual signatures of the requesting official and the approving official will constitute sufficient authentication of the candidate's consent, the affixed faxed consent will be considered the "original," and follow-up submission to the FBI of the form actually signed by the candidate is neither necessary nor desired.

- The candidate's consent must be dated within 30 days of submission of the request to the FBI. However, it is not necessary to provide a new consent form when requesting follow-up inquiries which can reasonably be viewed as being within the ambit of a previously provided consent (e.g., when Governor Bush asks the FBI to further develop matters raised in a report of background investigation to which the candidate consented). Requests for supplemental inquiries submitted by the same administration within 6 months of the candidate's consent, within 30 days of the FBI's final report, or while a candidate's confirmation is still pending may be presumed to be within the ambit of the original consent.



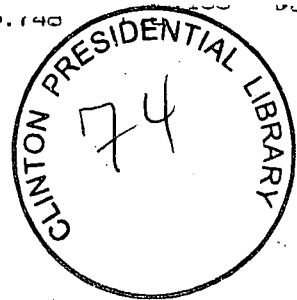
- Name-check requests need not include a signed consent where the checks are to be made against the names of organizations/institutions and not of individuals. However, such requests will still require the actual signatures of a requesting official (who will have approved and reviewed the requests and certified, subject to criminal penalties for making a false statement, that the information is sought only for official purposes) and of a designated approving official.

- The FBI's Executive Agencies Dissemination Subunit (EADSU) (known colloquially as the "Name-Check Unit") will process name-check requests, i.e., those which only require a file search of existing FBI records accessible from FBI Headquarters, or which only request copies of existing FBI background investigation reports. The FBI's Special Inquiry and General Background Investigations Unit (SIGBIU) will process background-investigation requests, i.e., those which will require investigative taskings for the conduct of full-field background investigations, 5-year re-investigations, expanded name checks, limited updates, or limited inquiries (such as follow-up inquiries conducted to resolve particular issues/questions). Governor Bush's staff should forward each request directly to the FBI unit with cognizance over the particular type of request. In turn, the cognizant FBI unit will forward responses directly back to the requesting official.

If, during the period in which the FBI is conducting its investigation, Governor Bush or his designated representative determines that the candidate is not to be employed or appointed or no longer needs a security clearance, the FBI will be notified within five (5) working days of the determination so that the investigation can be discontinued.

Subject to the Federal Privacy Act of 1974, persons interviewed during these investigations may be assured that, to the extent permitted by law, information identifying such persons will be kept confidential.

During the period in which the FBI is conducting its investigation and except as otherwise provided below, the FBI will inform Governor Bush or his designated representative of any significant adverse information or any medical information bearing on the suitability or trustworthiness of the candidate which is developed through investigation. The FBI generally does not continue to actively monitor a candidate following completion of its final report, and Governor Bush or his designated representative should submit a new request if updated information



MOU - ELECTION 2000 - GOVERNOR BUSH

Page 5 of 7

is desired later. However, prior to a candidate's assuming the position and/or being adjudicated for the clearance for which the investigation was conducted, if an FBI unit responsible for conducting an investigation under this agreement becomes aware of new information that raises questions about the suitability or trustworthiness of a candidate to perform services for Governor Bush, the FBI will so apprise Governor Bush or his designated representative.

Whenever the FBI's investigation reveals a pending Federal civil or criminal investigation involving the candidate, dissemination of any information relating to the pending investigation will be halted, the FBI General Counsel (or his/her designee) will consult with cognizant FBI Headquarters officials to determine what information could be disseminated without harm to the pending investigation, and the FBI General Counsel will then refer the matter to the Deputy Attorney General (or his/her designee) in order to determine what, if any, information relating to the pending matter should be communicated in the FBI's response to Governor Bush's investigation request.

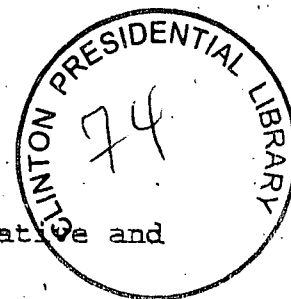
The FBI will furnish summary memoranda or investigative reports and/or supporting materials (hereinafter referred to as reports) containing the results of its investigations to Governor Bush or his designated representative and retain records of the identities of the persons to whom such reports are furnished.

Governor Bush or his designated representative will ensure that access to these reports is restricted to persons directly involved in ensuring the safety and security of Governor Bush or making a determination as to a person's suitability for employment/appointment/recognition and/or trustworthiness for access to sensitive information (e.g., law enforcement matters, personal information about individuals, privileged commercial or financial information, etc.) or classified information. Governor Bush or his designated representative may also afford access to these reports to the Secret Service or the Executive Office of the President Security Office, or both, upon determination that any such additional recipient has a legitimate need to have the information for the proper performance of official responsibilities and that any such disclosure is not otherwise precluded by applicable law.

Governor Bush or his designated representative shall maintain records of the identities of persons receiving access to the reports and such records shall be furnished to the FBI upon request. No person having access to the reports will reproduce or disseminate the reports except in accordance with procedures

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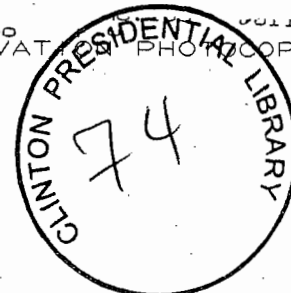


agreed to by Governor Bush or his designated representative and the Director of the FBI or the Director's designated representative.

Governor Bush or his designated representative will ensure that all reports received and any copies made of those reports will be retained until a President is inaugurated. At such time, if Governor Bush is the President, these materials will be maintained by appropriate executive branch officials in accordance with applicable legal requirements, but if Governor Bush is not the President, these materials will be returned immediately to the FBI. However, should it be determined or otherwise agreed prior to inauguration of a President that Governor Bush has not been elected President, these materials will be returned immediately to the FBI upon such determination or agreement.

Under no circumstances shall Governor Bush or the designated representative allow the candidate or any person outside of the appointment, employment, security clearance, confirmation, Presidential recognition, or Presidential protection process direct access to the reports, copies of the reports, or any information derived from the reports. If necessary to discuss the contents of the reports with the candidate, Governor Bush or his designated representative will ensure that the confidentiality of the sources contained therein is protected. Any request by the candidate for access to the reports will be referred to the FBI for processing in accordance with both the Federal Privacy Act of 1974 and the Freedom of Information Act.

Information obtained during an investigation will be retained at FBI Headquarters and FBI field offices in accordance with FBI Privacy Act records systems notices, Records Retention Plan, and Disposition Schedule. As provided above, certain information relating to pending Federal civil or criminal matters will be disseminated on a need-to-know basis to other officials of the Department of Justice (DOJ). Prior to January 20, 2001, no further dissemination shall be made of information obtained during any investigation conducted for Governor Bush pursuant to this agreement without the express approval of Governor Bush or his designated representative, except as part of an investigation of a violation of law, or otherwise as permitted or required by Federal statute, FBI/DOJ regulation or policy, or Presidential directive or Executive order. Thereafter, no further dissemination shall be made of information obtained during any investigation conducted pursuant to this agreement, except as part of an investigation of a violation of law, or otherwise as



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permitted or required by Federal statute, FBI/DOJ regulation or policy, or Presidential directive or Executive order.

When a tentative decision is made to employ a candidate who requires an appropriate clearance for access to sensitive or classified information, Governor Bush or his designated representative may confer with the Director of the FBI or his designated representative to ascertain the appropriate agency or department to grant the necessary clearance to sensitive or classified information. Thereafter, Governor Bush or his designated representative shall make available a copy of the report(s) to the appropriate authority granting clearance to sensitive or classified information.

No person employed by Governor Bush shall be given access to any sensitive or classified information or material until appropriate procedures for granting clearance for access to sensitive or classified information and materials have been established and/or completed, and clearance granted. Governor Bush will provide the appropriate authority with a list of persons cleared for access to sensitive or classified information, and Governor Bush will advise the appropriate authority when an individual granted a clearance terminates employment with Governor Bush or otherwise no longer requires access to classified material.

The procedures set forth in this MOU shall remain in effect should Governor Bush assume the office of President and continue in effect for the duration of his administration. No changes in these procedures shall be made without the written concurrence of all principals to this MOU. However, the FBI General Counsel ("GC") may resolve issues involving interpretation of these procedures, including their applicability to situations not anticipated in their formulation. In so doing the FBI GC will give due consideration to applicable statutes and regulations, the policy considerations underlying these procedures, along with a "rule of reason." The FBI GC may delegate this authority to an FBI Deputy GC.



Attorney General

Dated: December 5, 2000

Governor George W. Bush

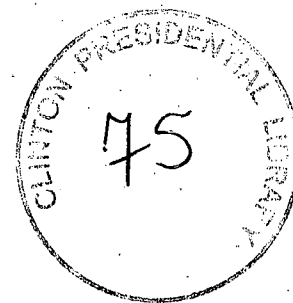
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Transition Staff

Dated: _____

Transition Staff

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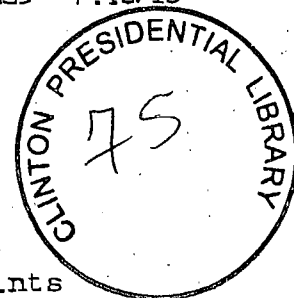


MEMORANDUM OF UNDERSTANDING

CONDUCT OF FEDERAL BUREAU OF INVESTIGATION
NAME CHECKS AND BACKGROUND INVESTIGATIONS
FOR PRESIDENTIAL CANDIDATE
VICE PRESIDENT ALBERT GORE, JR.
ELECTION 2000

In order to avoid or minimize disruptions that might be occasioned by the transfer of executive power, and to promote orderly transitions in the office of the President, the Federal Bureau of Investigation (FBI) will conduct file reviews ("name-checks") or background investigations (hereinafter both referred to as "investigations") at the request of Vice President Albert Gore, Jr. (or his designated representative). Such investigations may be requested for applicants, employees or any other persons engaged by contract or otherwise to perform services for Vice President Gore (hereinafter the individual on whom an investigation is conducted shall be referred to as the "candidate") in connection with his preparation for a transition to the office of President or, should he become President, in connection with providing him services in that capacity. These investigations shall only be conducted pursuant to the agreement between the Attorney General and Vice President Gore to ascertain facts and information relevant to the candidate's suitability for Federal government employment or retention in such employment in accordance with Executive Order 10450; suitability to otherwise provide appropriate services to Vice President Gore as a contractor, volunteer, etc.; trustworthiness for clearance for access to information classified under the provisions of Executive Order 12958 (or any successor Executive Orders) and its implementing directives; and/or trustworthiness for access to locales in close proximity to or frequented by Vice President Gore. The results of some of these investigations will permit adjudication of the candidate for clearance for access to Sensitive Compartmented Information, when necessary, in accordance with the standards set forth in Director of Central Intelligence (DCI) Directive 6/4, and any future successor directive. Should Vice President Gore become President, name checks may also be requested incident to staffing of proposed Presidential recognition awards.

Requests for FBI investigations shall be made in writing from Vice President Gore or his designated representative to the Director of the FBI. Requests for the conduct of background investigations (but not for name checks) shall include a completed Standard Form 86 (SF-86) questionnaire (Questionnaire for National Security Positions) and its accompanying Authority for Release of Information, supplemented as necessary and



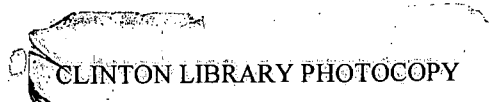
MOU - ELECTION 2000 - VICE PRESIDENT GORE

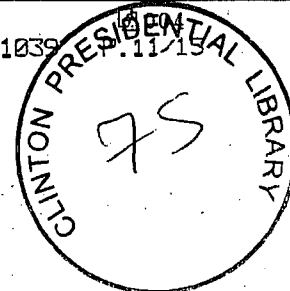
Page 2 of 7

approved by the FBI, and a set of the candidate's fingerprints utilizing a standardized fingerprint card, to enable the FBI to check the candidate's fingerprints against FBI Criminal Justice Information Services (CJIS) Division records. To enable the FBI to comply with Section (e) (3) of the Federal Privacy Act of 1974, and in keeping with the spirit of this Act, requests for the conduct of background investigations (but not for name checks) shall be accompanied by a statement signed by the candidate acknowledging that he or she has consented to the investigation with the knowledge that facts or information gathered shall be retained consistent with applicable FBI Privacy Act records systems notices, Records Retention Plan, and Disposition Schedule.

In addition, the following supplemental procedures shall apply:

- All investigation requests must be accompanied by the written consent of the candidate. However, should Vice President Gore assume the office of President, the Department of Justice and the FBI may consider responding without the consent of the candidate where justified by extraordinary circumstances documented in a letter from the Counsel to the President or the Deputy Counsel to the President through the Deputy Attorney General to the FBI General Counsel, setting forth a written explanation why such consent cannot be obtained or should not be sought in the circumstances.
- All investigation requests must also contain the actual signature of the official acting for Vice President Gore in initiating the request. The requesting official should certify, subject to the criminal penalties for making a false statement, that the information is sought only for purposes related to transition preparations or, should Vice President Gore become President, official purposes, and should be on express notice that unauthorized disclosure of any information obtained may violate the Federal Privacy Act of 1974.
- In addition, all investigation requests must contain the actual signature of an official designated by Vice President Gore to review and approve all requests prior to their transmittal to the FBI. (Should Vice President Gore assume the office of President, the approving official will be the Counsel to the President or an attorney designated by the Counsel to the President.) Vice President Gore (or Counsel to the President) will provide the FBI via official

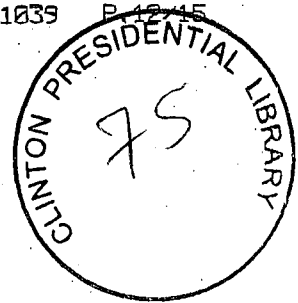




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correspondence with the title(s), name(s), and specimen signature(s) of the person(s) designated to exercise authority to approve requests, and will apprise the FBI by official correspondence of any changes in approval authority.

- Except as otherwise provided below, requests will be submitted using a form approved by the FBI on which all required actual signatures must be included (candidate, requesting official, and approving official). The reason for each request will be indicated with specificity (which may be accomplished by checking the appropriate boxes on the form.) The FBI will furnish a paper copy and an electronic copy of an approved form, and Vice President Gore's staff will use its own clerical resources to generate all necessary copies of the form. No material changes will be made to the form's content or format without the written concurrence of the FBI.
- In lieu of a candidate's actually signing the consent provision on the form provided to the FBI, substitute consents submitted by a candidate via fax, e-mail, electronic message, or the like will be acceptable. The requesting official should staple or otherwise affix the substitute consent to the copy of the request actually submitted to the FBI. In such cases, the actual signatures of the requesting official and the approving official will constitute sufficient authentication of the candidate's consent, the affixed substitute consent will be considered the "original," and follow-up submission to the FBI of a form actually signed by the candidate is neither necessary nor desired.
- The candidate's consent must be dated within 30 days of submission of the request to the FBI. However, it is not necessary to provide a new consent form when requesting follow-up inquiries which can reasonably be viewed as being within the ambit of a previously provided consent (e.g., when Vice President Gore asks the FBI to further develop matters raised in a report of background investigation to which the candidate consented.) Requests for supplemental inquiries submitted by the same administration within 6 months of the candidate's consent, within 30 days of the FBI's final report, or while a candidate's confirmation is still pending may be presumed to be within the ambit of the original consent.



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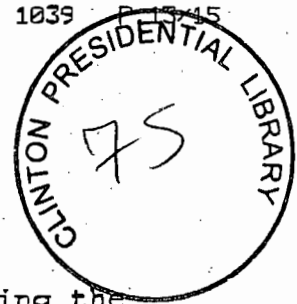
- Name-check requests need not include a signed consent where the checks are to be made against the names of organizations/institutions and not of individuals. However, such requests will still require the actual signatures of a requesting official (who will have approved and reviewed the requests and certified, subject to criminal penalties for making a false statement, that the information is sought only for official purposes) and of a designated approving official.

- The FBI's Executive Agencies Dissemination Subunit (EADS) (known colloquially as the "Name-Check Unit") will process name-check requests, i.e., those which only require a file search of existing FBI records accessible from FBI Headquarters, or which only request copies of existing FBI background investigation reports. The FBI's Special Inquiry and General Background Investigations Unit (SIGBIU) will process background-investigation requests, i.e., those which will require investigative taskings for the conduct of full-field background investigations, 5-year re-investigations, expanded name checks, limited updates, or limited inquiries (such as follow-up inquiries conducted to resolve particular issues/questions). Vice President Gore's staff should forward each request directly to the FBI unit with cognizance over the particular type of request. In turn, the cognizant FBI unit will forward responses directly back to the requesting official.

If, during the period in which the FBI is conducting its investigation, Vice President Gore or his designated representative determines that the candidate is not to be employed or appointed or no longer needs a security clearance, the FBI will be notified within five (5) working days of the determination so that the investigation can be discontinued.

Subject to the Federal Privacy Act of 1974, persons interviewed during these investigations may be assured that, to the extent permitted by law, information identifying such persons will be kept confidential.

During the period in which the FBI is conducting its investigation and except as otherwise provided below, the FBI will inform Vice President Gore or his designated representative of any significant adverse information or any medical information bearing on the suitability or trustworthiness of the candidate which is developed through investigation. The FBI generally does not continue to actively monitor a candidate following completion of its final report, and Vice President Gore or his designated representative should submit a new request if updated information



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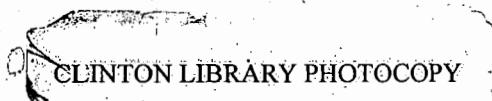
is desired later. However, prior to a candidate's assuming the position and/or being adjudicated for the clearance for which the investigation was conducted, if an FBI unit responsible for conducting an investigation under this agreement becomes aware of new information that raises questions about the suitability or trustworthiness of a candidate to perform services for Vice President Gore, the FBI will so apprise Vice President Gore or his designated representative.

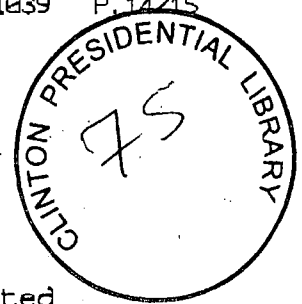
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The FBI will furnish summary memoranda or investigative reports and/or supporting materials (hereinafter referred to as reports) containing the results of its investigations to Vice President Gore or his designated representative and retain records of the identities of the persons to whom such reports are furnished.

Vice President Gore or his designated representative will ensure that access to these reports is restricted to persons directly involved in ensuring the safety and security of Vice President Gore or making a determination as to a person's suitability for employment/appointment/recognition and/or trustworthiness for access to sensitive information (e.g., law enforcement matters, personal information about individuals, privileged commercial or financial information, etc.) or classified information. Vice President Gore or his designated representative may also afford access to these reports to the Secret Service or the Executive Office of the President Security Office, or both, upon determination that any such additional recipient has a legitimate need to have the information for the proper performance of official responsibilities and that any such disclosure is not otherwise precluded by applicable law.

Vice President Gore or his designated representative shall maintain records of the identities of persons receiving access to the reports and such records shall be furnished to the FBI upon request. No person having access to the reports will reproduce or disseminate the reports except in accordance with





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procedures agreed to by Vice President Gore or his designated representative and the Director of the FBI or the Director's designated representative.

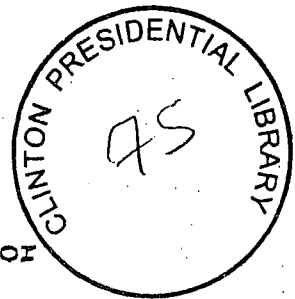
Vice President Gore or his designated representative will ensure that all reports received and any copies made of those reports will be retained until a President is inaugurated. At such time, if Vice President Gore is the President, these materials will become part of the Presidential papers, but if Vice President Gore is not the President, these materials will be returned immediately to the FBI. However, should it be determined or otherwise agreed prior to inauguration of a President that Vice President Gore has not been elected President, these materials will be returned immediately to the FBI upon such determination or agreement.

Under no circumstances shall Vice President Gore or the designated representative allow the candidate or any person outside of the appointment, employment, security clearance, confirmation, Presidential recognition, or Presidential protection process direct access to the reports, copies of the reports, or any information derived from the reports. If necessary to discuss the contents of the reports with the candidate, Vice President Gore or his designated representative will ensure that the confidentiality of the sources contained therein is protected. Any request by the candidate for access to the reports will be referred to the FBI for processing in accordance with both the Federal Privacy Act of 1974 and the Freedom of Information Act.

Information obtained during an investigation will be retained at FBI Headquarters and FBI field offices in accordance with FBI Privacy Act records systems notices, Records Retention Plan, and Disposition Schedule. As provided above, certain information relating to pending Federal civil or criminal matters will be disseminated on a need-to-know basis to other officials of the Department of Justice (DOJ). Prior to January 20, 2001, no further dissemination shall be made of information obtained during any investigation conducted for Vice President Gore pursuant to this agreement without the express approval of Vice President Gore or his designated representative, except as part of an investigation of a violation of law, or otherwise as permitted or required by Federal statute, FBI/DOJ regulation or policy, or Presidential directive or Executive order. Thereafter, no further dissemination shall be made of information obtained during any investigation conducted pursuant to this agreement, except as part of an investigation of a violation of law, or otherwise as permitted or required by Federal statute,

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FBI/DOJ regulation or policy, or Presidential directive or Executive order.

When a tentative decision is made to employ a candidate who requires an appropriate clearance for access to sensitive or classified information, Vice President Gore or his designated representative may confer with the Director of the FBI or his designated representative to ascertain the appropriate agency or department to grant the necessary clearance to sensitive or classified information. Thereafter, Vice President Gore or his designated representative shall make available a copy of the reports to the appropriate authority granting clearance to sensitive or classified information.

No person employed by Vice President Gore shall be given access to any sensitive or classified information or material until appropriate procedures for granting clearance for access to sensitive or classified information and materials have been established and/or completed, and clearance granted. Vice President Gore will provide the appropriate authority with a list of persons cleared for access to sensitive or classified information, and Vice President Gore will advise the appropriate authority when an individual granted a clearance terminates employment with Vice President Gore or otherwise no longer requires access to classified material.

The procedures set forth in this MOU shall remain in effect should Vice President Gore assume the office of President and continue in effect for the duration of his administration. No changes in these procedures shall be made without the written concurrence of all principals to this MOU. However, the FBI General Counsel ("GC") may resolve issues involving interpretation of these procedures, including their applicability to situations not anticipated in their formulation. In so doing the FBI GC will give due consideration to applicable statutes and regulations, the policy considerations underlying these procedures, along with a "rule of reason." The FBI GC may delegate this authority to an FBI Deputy GC.

Attorney General

Dated: _____

Vice President Albert Gore, Jr.

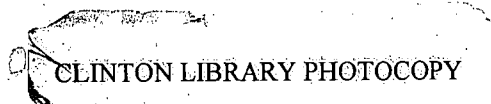
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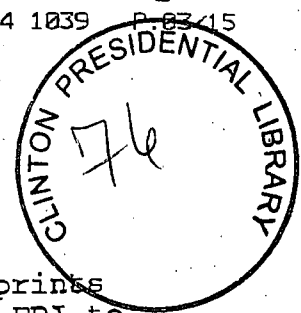


MEMORANDUM OF UNDERSTANDING

CONDUCT OF FEDERAL BUREAU OF INVESTIGATION
NAME CHECKS AND BACKGROUND INVESTIGATIONS
FOR PRESIDENTIAL CANDIDATE
GOVERNOR GEORGE W. BUSH
ELECTION 2000

In order to avoid or minimize disruptions that might be occasioned by the transfer of executive power, and to promote orderly transitions in the office of the President, the Federal Bureau of Investigation (FBI) will conduct file reviews ("name-checks") or background investigations (hereinafter both referred to as "investigations") at the request of Governor George W. Bush (or his designated representative). Such investigations may be requested for applicants, employees or any other persons engaged by contract or otherwise to perform services for Governor Bush (hereinafter the individual on whom an investigation is conducted shall be referred to as the "candidate") in connection with his preparation for a transition to the office of President or, should he become President, in connection with providing him services in that capacity. These investigations shall only be conducted pursuant to the agreement between the Attorney General and Governor Bush to ascertain facts and information relevant to the candidate's suitability for Federal government employment or retention in such employment in accordance with Executive Order 10450; suitability to otherwise provide appropriate services to Governor Bush as a contractor, volunteer, etc.; trustworthiness for clearance for access to information classified under the provisions of Executive Order 12958 (or any successor Executive Orders) and its implementing directives; and/or trustworthiness for access to locales in close proximity to or frequented by Governor Bush. The results of some of these investigations will permit adjudication of the candidate for clearance for access to Sensitive Compartmented Information, when necessary, in accordance with the standards set forth in Director of Central Intelligence (DCI) Directive 6/4, and any future successor directive. Should Governor Bush become President, name checks may also be requested incident to staffing of proposed Presidential recognition awards.

Requests for FBI investigations shall be made in writing from Governor Bush or his designated representative to the Director of the FBI. Requests for the conduct of background investigations (but not for name checks) shall include a completed Standard Form 86 (SF-86) questionnaire (Questionnaire for National Security Positions) and its accompanying Authority for Release of Information, supplemented as necessary and

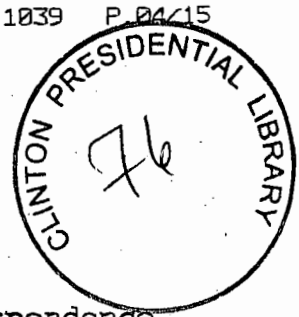


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approved by the FBI, and a set of the candidate's fingerprints utilizing a standardized fingerprint card, to enable the FBI to check the candidate's fingerprints against FBI Criminal Justice Information Services (CJIS) Division records. To enable the FBI to comply with Section (e)(3) of the Federal Privacy Act of 1974, and in keeping with the spirit of this Act, requests for the conduct of background investigations (but not for name checks) shall be accompanied by a statement signed by the candidate acknowledging that he or she has consented to the investigation with the knowledge that facts or information gathered shall be retained consistent with applicable FBI Privacy Act records systems notices, Records Retention Plan, and Disposition Schedule.

In addition, the following supplemental procedures shall apply:

- All investigation requests must be accompanied by the written consent of the candidate. However, should Governor Bush assume the office of President, the Department of Justice and the FBI may consider responding without the consent of the candidate where justified by extraordinary circumstances documented in a letter from the Counsel to the President or the Deputy Counsel to the President through the Deputy Attorney General to the FBI General Counsel, setting forth a written explanation why such consent cannot be obtained or should not be sought in the circumstances.
- All investigation requests must also contain the actual signature of the official acting for Governor Bush in initiating the request. The requesting official should certify, subject to the criminal penalties for making a false statement, that the information is sought only for purposes related to transition preparations or, should Governor Bush become President, official purposes, and should be on express notice that unauthorized disclosure of any information obtained may violate the Federal Privacy Act of 1974.
- In addition, all investigation requests must contain the actual signature of an official designated by Governor Bush to review and approve all requests prior to their transmittal to the FBI. (Should Governor Bush assume the office of President, the approving official will be the Counsel to the President or an attorney designated by the Counsel to the President.) Governor Bush (or Counsel to the



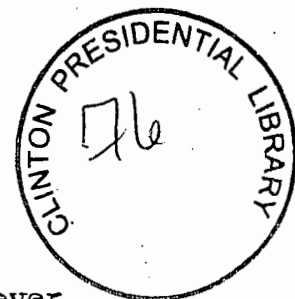
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President) will provide the FBI via official correspondence with the title(s), name(s), and specimen signature(s) of the person(s) designated to exercise authority to approve requests, and will apprise the FBI by official correspondence of any changes in approval authority.

- Except as otherwise provided below, requests will be submitted using a form approved by the FBI on which all required actual signatures must be included (candidate, requesting official, and approving official). The reason for each request will be indicated with specificity (which may be accomplished by checking the appropriate boxes on the form.) The FBI will furnish a paper copy and an electronic copy of an approved form, and Governor Bush's staff will use its own clerical resources to generate all necessary copies of the form. No material changes will be made to the form's content or format without the written concurrence of the FBI.

- In lieu of a candidate's actually signing the consent provision on the form provided to the FBI, substitute consents submitted by a candidate via fax, e-mail, electronic message, or the like will be acceptable. The requesting official should staple or otherwise affix the substitute consent to the copy of the request actually submitted to the FBI. In such cases, the actual signatures of the requesting official and the approving official will constitute sufficient authentication of the candidate's consent, the affixed substitute consent will be considered the "original," and follow-up submission to the FBI of a form actually signed by the candidate is neither necessary nor desired.

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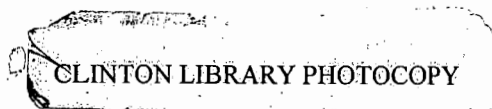
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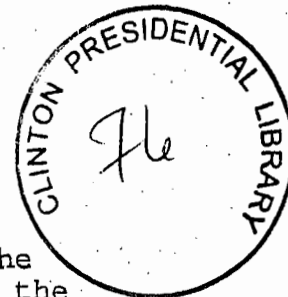
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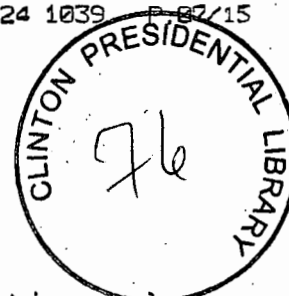
is desired later. However, prior to a candidate's assuming the position and/or being adjudicated for the clearance for which the investigation was conducted, if an FBI unit responsible for conducting an investigation under this agreement becomes aware of new information that raises questions about the suitability or trustworthiness of a candidate to perform services for Governor Bush, the FBI will so apprise Governor Bush or his designated representative.

Whenever the FBI's investigation reveals a pending Federal civil or criminal investigation involving the candidate, dissemination of any information relating to the pending investigation will be halted, the FBI General Counsel (or his/her designee) will consult with cognizant FBI Headquarters officials to determine what information could be disseminated without harm to the pending investigation, and the FBI General Counsel will then refer the matter to the Deputy Attorney General (or his/her designee) in order to determine what, if any, information relating to the pending matter should be communicated in the FBI's response to Governor Bush's investigation request.

The FBI will furnish summary memoranda or investigative reports and/or supporting materials (hereinafter referred to as reports) containing the results of its investigations to Governor Bush or his designated representative and retain records of the identities of the persons to whom such reports are furnished.

Governor Bush or his designated representative will ensure that access to these reports is restricted to persons directly involved in ensuring the safety and security of Governor Bush or making a determination as to a person's suitability for employment/appointment/recognition and/or trustworthiness for access to sensitive information (e.g., law enforcement matters, personal information about individuals, privileged commercial or financial information, etc.) or classified information. Governor Bush or his designated representative may also afford access to these reports to the Secret Service or the Executive Office of the President Security Office, or both, upon determination that any such additional recipient has a legitimate need to have the information for the proper performance of official responsibilities and that any such disclosure is not otherwise precluded by applicable law.

Governor Bush or his designated representative shall maintain records of the identities of persons receiving access to the reports and such records shall be furnished to the FBI upon request. No person having access to the reports will reproduce or disseminate the reports except in accordance with procedures



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agreed to by Governor Bush or his designated representative and the Director of the FBI or the Director's designated representative.

Governor Bush or his designated representative will ensure that all reports received and any copies made of those reports will be retained until a President is inaugurated. At such time, if Governor Bush is the President, these materials will become part of the Presidential papers, but if Governor Bush is not the President, these materials will be returned immediately to the FBI. However, should it be determined or otherwise agreed prior to inauguration of a President that Governor Bush has not been elected President, these materials will be returned immediately to the FBI upon such determination or agreement.

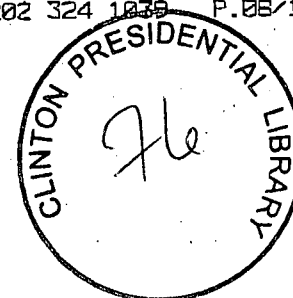
Under no circumstances shall Governor Bush or the designated representative allow the candidate or any person outside of the appointment, employment, security clearance, confirmation, Presidential recognition, or Presidential protection process direct access to the reports, copies of the reports, or any information derived from the reports. If necessary to discuss the contents of the reports with the candidate, Governor Bush or his designated representative will ensure that the confidentiality of the sources contained therein is protected. Any request by the candidate for access to the reports will be referred to the FBI for processing in accordance with both the Federal Privacy Act of 1974 and the Freedom of Information Act.

Information obtained during an investigation will be retained at FBI Headquarters and FBI field offices in accordance with FBI Privacy Act records systems notices, Records Retention Plan, and Disposition Schedule. As provided above, certain information relating to pending Federal civil or criminal matters will be disseminated on a need-to-know basis to other officials of the Department of Justice (DOJ). Prior to January 20, 2001, no further dissemination shall be made of information obtained during any investigation conducted for Governor Bush pursuant to this agreement without the express approval of Governor Bush or his designated representative, except as part of an investigation of a violation of law, or otherwise as permitted or required by Federal statute, FBI/DOJ regulation or policy, or Presidential directive or Executive order. Thereafter, no further dissemination shall be made of information obtained during any investigation conducted pursuant to this agreement, except as part of an investigation of a violation of law, or otherwise as

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permitted or required by Federal statute, FBI/DOJ regulation or policy, or Presidential directive or Executive order.

When a tentative decision is made to employ a candidate who requires an appropriate clearance for access to sensitive or classified information, Governor Bush or his designated representative may confer with the Director of the FBI or his designated representative to ascertain the appropriate agency or department to grant the necessary clearance to sensitive or classified information. Thereafter, Governor Bush or his designated representative shall make available a copy of the reports to the appropriate authority granting clearance to sensitive or classified information.

No person employed by Governor Bush shall be given access to any sensitive or classified information or material until appropriate procedures for granting clearance for access to sensitive or classified information and materials have been established and/or completed, and clearance granted. Governor Bush will provide the appropriate authority with a list of persons cleared for access to sensitive or classified information, and Governor Bush will advise the appropriate authority when an individual granted a clearance terminates employment with Governor Bush or otherwise no longer requires access to classified material.

The procedures set forth in this MOU shall remain in effect should Governor Bush assume the office of President and continue in effect for the duration of his administration. No changes in these procedures shall be made without the written concurrence of all principals to this MOU. However, the FBI General Counsel ("GC") may resolve issues involving interpretation of these procedures, including their applicability to situations not anticipated in their formulation. In so doing the FBI GC will give due consideration to applicable statutes and regulations, the policy considerations underlying these procedures, along with a "rule of reason." The FBI GC may delegate this authority to an FBI Deputy GC.

Attorney General

Dated: _____

Governor George W. Bush

Dated: _____

Transition Staff

Dated: _____

Transition Staff

Dated: _____

Steve R.

John P.

file?

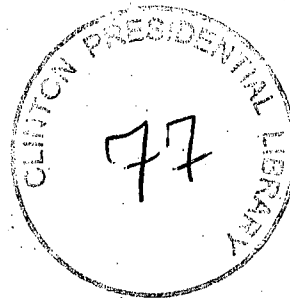
Transition

November 16, 2000

Note to: Beth Nolan

From: David Apol *DA*

Re: Options for repeal of Executive Order 12834



If we want to this repeal the pledge as part of the currently circulating draft executive order facilitating the Presidential Transition, we would add this paragraph:

Section 6. Executive Order 12834, "Ethics Commitments by Executive Branch Appointees," issued January 20, 1993 is hereby repealed, effective at noon January 20, 2001. Employees and former employees who were required to sign pledges pursuant to Executive Order 12834 will not be subject to the commitments of those pledges after January 20, 2001.

(Currently, the draft executive order has no standard "no rights" clause at the end. It could be added if required.)

If we wanted to do a stand-alone executive order it would look like this:

Executive Order _____ of (date)

By the authority vested in me as President for the United States by the Constitution and laws of the United States of America, including section 301 of title 3, United States Code, and sections 3301 and 7301 of title 5, United States Code, it is hereby ordered as follows:

Executive Order 12834, "Ethics Commitments by Executive Branch Appointees," issued January 20, 1993 is hereby repealed, effective at noon January 20, 2001. Employees and former employees who were required to sign pledges pursuant to Executive Order 12834 will not be subject to the commitments of those pledges after the effective date of this order.

Nothing in this order is intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

(I will verify the appropriateness of the "no rights" clause once we start circulating the draft.)