

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Kreczko, Alan J. to Baker, James E. re: Latest Lake Draft (30 pages)	02/10/1997	P1/b(1), P5
002. email	John Sparks to Peter Bass, et al., re: Cong Obey letter re Andrade (1 page)	02/20/1997	P5 7139
003. email	Wendy Gray to Julia Moffett, re: Lake Q&A (6 pages)	02/21/1997	P5
004. email	Julia Moffett to Jodi Kessinger, re: Lake Q & A (6 pages)	02/21/1997	P5
005. email	James Baker to Jodi Kessinger, re: TL Qs and As (24 pages) <i>partial</i>	02/22/1997	b6/P5 7140
006. email	Jodi Kessinger to James Baker, re: TL Q&A's for friendlies (9 pages)	02/24/1997	P5 7141
007. email	James Dobbins to Brenda Kinser-Kidane, re: Draft Nuccio Q and A (4 pages)	02/25/1997	P5
008. email	James Baker to David Johnson, re: Final Nuccio Qs and As (4 pages)	02/25/1997	P5 7142
009. email	James Gibney to Jodi Kessinger, re: LAKE TESTIMONY (11 pages)	02/25/1997	P5

COLLECTION:

Clinton Presidential Records
 NSC Emails
 MSMail-Record (Sept 94-Sept 97) ([Intelligence Oversight Board...])
 OA/Box Number: 590000

FOLDER TITLE:

[02/10/1997-02/25/1997]

2006-0996-F
 eh491

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]

7139

M S M a i l

DATE-TIME 20 February 97 17:45
FROM Sparks, John E.
CLASSIFICATION UNCLASSIFIED
SUBJECT Cong Obey letter re Andrade [UNCLASSIFIED]

TO Bass, Peter E.
Biernacki, Eileen V.
Brown, Nancy E.
Cicio, Kristen K.
Dohse, Fred J.
Friedrich, M. K.
Hall, Wilma G.
Harmon, Joyce A.
Helweg, M. Diana
Joshi, M. Kay
Kale, Dora A.
Kerrick, Donald L.
Kessinger, Jodi
Millison, Cathy L.
Veit, Katherine M.

CARBON_COPY Baker, James E.
Hunerwadel, Joan S.
Kreczko, Alan J.
Sparks, John E.

TEXT_BODY

PLEASE PASS TO JS

Alan has asked me to send you the following response to your note on the Cong Obey package.

Your note indicates that the response needs more substance and should indicate that the NSC lacks the investigative capability or resources.

1) While the IG reports address the issue of Andrade's parole, they do not address Obey's concern as to why he was not kept apprised of the events surrounding the Parole.

2) We cannot really say that the NSC has no investigative capability because we could call upon the IOB to investigate. However, at a meeting w/ Nancy, she decided that we would not call upon the IOB because in her view, the matters had been thoroughly investigated by the agency IGs, all of whom released their reports short time ago.

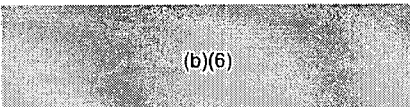
Alan's note: "Willing to discuss at your convenience."

7140

MS Mail

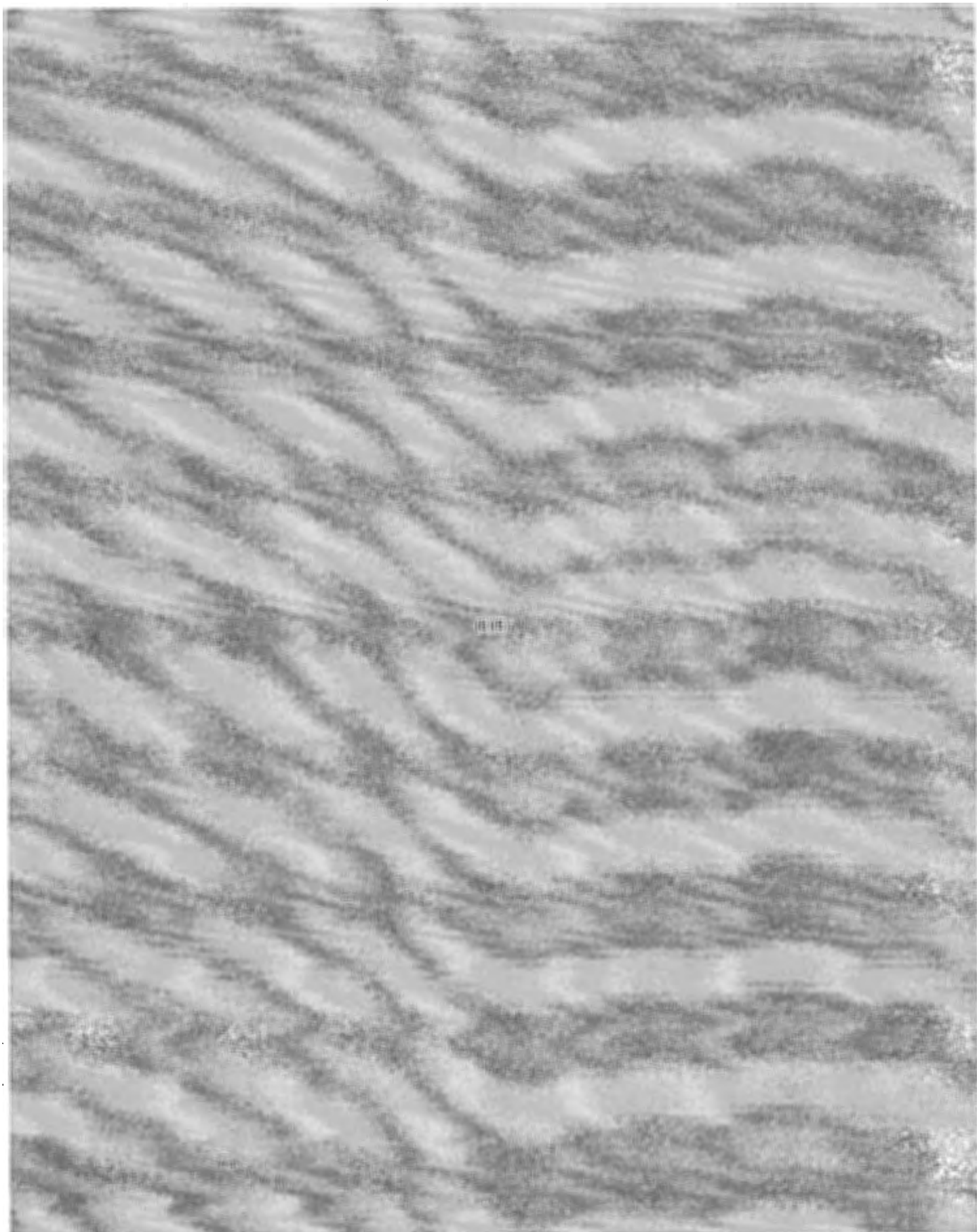
DATE-TIME 22 February 97 14:48
FROM Baker, James E.
CLASSIFICATION UNCLASSIFIED
SUBJECT TL Qs and As [UNCLASSIFIED]
TO Kessinger, Jodi
CARBON_COPY NO CC's on THIS MESSAGE
TEXT_BODY
Here is what I have so far. Thank you.
[[TLQABOOK.DOC : 3666 in TLQABOOK.DOC]]
**ATTACHMENT
FILE DATE** 22 February 97 14:38
**ATTACHMENT
FILE NAME** TLQABOOK.DOC
DRAFT g:tlqabook 2/21/97
DRAFT

Lake Question and Answer Book

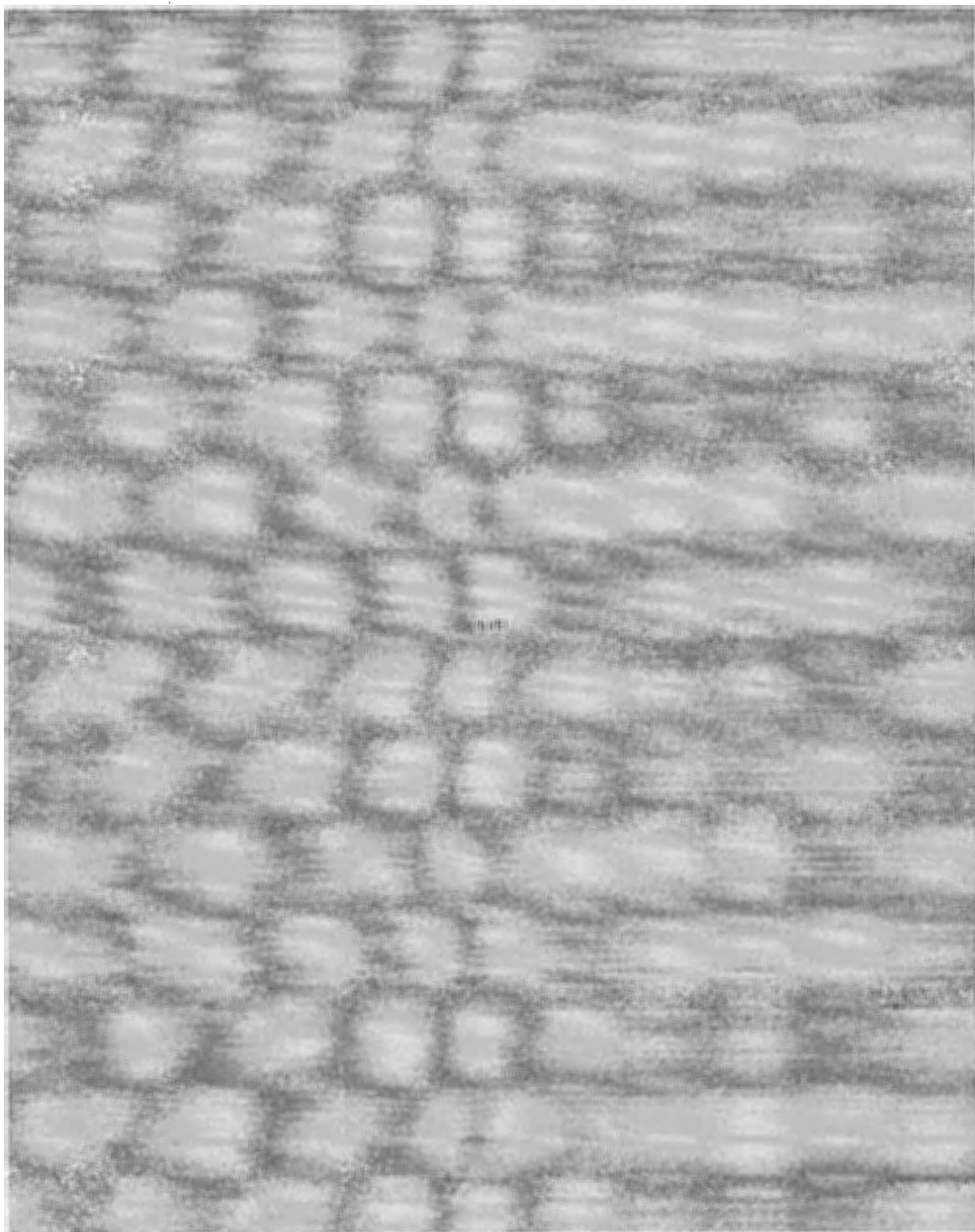

(b)(6)

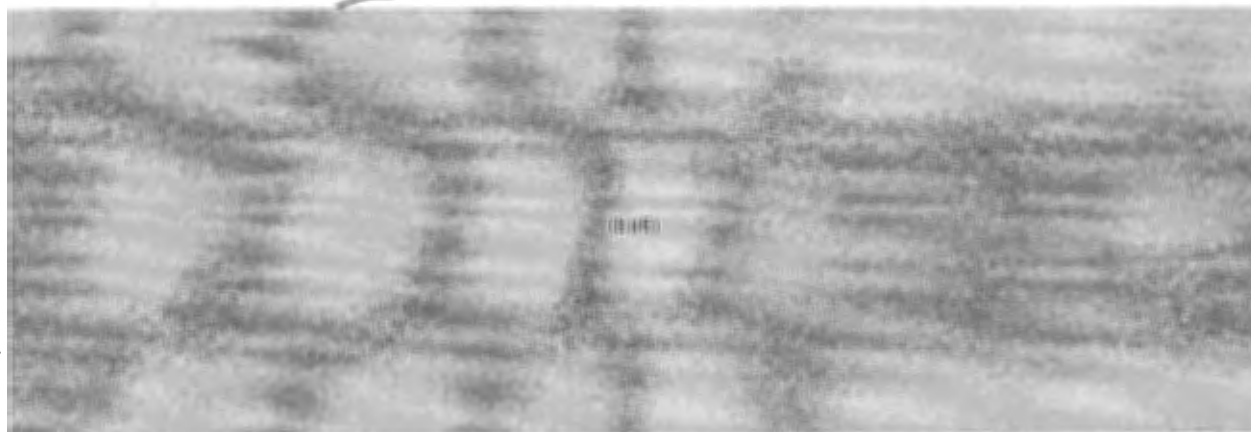
2. Arms Shipments to Bosnia
3. Nuccio
4. 48 Hours
5. NSC Committees
6. Commerce Department documents
7. Haiti and Intelligence reporting
8. Harbury Lawsuit/Guatemala





CLINTON LIBRARY PHOTOCOPY





ARMS SHIPMENTS TO BOSNIA

Q: Wasn't the decision to give a green light to Iran in Bosnia a colossal -- and illegal -- mistake? Doesn't it show that you are unfit to serve as DCI?

A: No. When asked in 1994 by the Croatian Government our position on third country arms shipments to Bosnia through Croatia, the Administration, weighing the need to keep the Bosnian State and Federation alive, the arms embargo in force, and with the presence of allied forces on the ground, instructed our Ambassador to respond he had no instructions on the issue. This was not a covert activity. It was not illegal. It was a secret diplomatic exchange.

I have indicated on a number of occasions, including in writing to this Committee, that in retrospect, it would have been better to have informed key Members of Congress on a discreet basis at the time the "no instructions" instruction was given to our Ambassador in Croatia. The close-hold manner in which this was handled within the Administration reflected our grave concern about the need to keep the allies together and the damage any leak would have on our allies, on their willingness to stay in Bosnia and on NATO more generally.

Subsequent events show the "no instructions" decision was the right thing: the Bosnians survived and began to counterattack, Iranian and radical Islamic influence has been dramatically reduced following Dayton, and cooperation on Bosnia has become a source of strength, not crisis, for the NATO Alliance. There is peace in Bosnia today -- our policy worked.

In addition, six months after the 1994 exchange, Congress passed legislation requiring us not to enforce the arms embargo, which had, in practical terms, the same result as the Administration's decision. And although the Congress was aware at the time Iran was involved in arms shipments to Bosnia, it did not exempt Iranian shipments from the law.

Q: Referral to Justice of Select Subcommittee Report on Bosnia:

In November, the Republican majority of the Select Subcommittee wrote to the Attorney General to request the appointment of an independent counsel to investigate various allegations arising during the course of the Subcommittee's investigation. Representative Lee Hamilton and the Democratic members of the Subcommittee strongly criticized this action at the time and subsequently, stating among other things:

We have looked at the facts. We have reviewed the evidence. It is our belief that no laws were broken, no wrongdoing occurred, no covert actions took place, no false statements given, no U.S. interests were harmed. When the results of this investigation are released, it will be obvious that this was not a criminal matter, it was a dispute about policy."

On February 7, 1997, Acting Assistant Attorney General for the Criminal Division, Mark Richard, responded on behalf of the Attorney General to Rep. Hyde stating among other things the following. Let me quote directly from the letter:

... the Department has determined that there is no basis for any criminal charges against Mr. Lake arising out of the allegations contained in your referral letter.

In spite of these apparent legal obstacles to any possible prosecution, we nevertheless carefully examined the truthfulness of Mr. Lake's unsworn statements to the subcommittee. . . and compared Mr. Lake's reported statements to the statements and testimony of other Subcommittee witnesses. We have found no direct, material contradictions between Mr. Lake's statements and the statements or

testimony of any other witness, nor any other evidence that Mr. Lake was untruthful to the Subcommittee or was part of a conspiracy to obstruct Congress.

We have found no basis for believing that Mr. Lake made any false statements to the IOB [Intelligence Oversight Board.]

We have concluded that Mr. Lake did not potentially violate those statutes [IEEPA or the UN Participation Act] because Mr. Lake's implementation of the "no instruction" instruction was authorized, and because there is no evidence that Mr. Lake willfully engaged in any dealings that actively promoted a violation of the transshipment prohibitions of the Executive Order.

In sum, we have found no evidence of potential criminal violations by Mr. Lake arising out of his role in the arms issue or as a result of the various statements about the matter that he has made to congressional committees and the IOB. Accordingly, the Department is formally declining prosecution of Mr. Lake based on the allegation in your letter.

Q: Didn't the Justice letter state that the problem with pursuing the allegations against you was that you refused to testify under oath?

While Justice did identify this as a potential legal obstacle, whether I briefed or testified before these committees, was not the basis on which Justice reached its decision. To quote directly from Mr. Richard's letter to Rep. Hyde:

In spite of these apparent legal obstacles to any possible prosecution, we nevertheless carefully examined the truthfulness of Mr. Lake's unsworn statements to the subcommittee. . . and compared Mr. Lake's reported statements to the statements and testimony of other Subcommittee witnesses. We have found no direct, material contradictions between Mr. Lake's statements and the statements or testimony of any other witness, nor any other evidence that Mr. Lake was untruthful to the Subcommittee or was part of a conspiracy to obstruct Congress.

On the more general point about White House adviser testifying before the Congress, based on the constitutional separation of powers it is long-standing practice that the President's senior advisers do not testify, and cannot be compelled to testify, before the Congress. While there have been some exceptions over the years to this general rule, the White House Counsel determined that a policy dispute such as this did not warrant an exception and so instructed me.

As you know firsthand, I did make myself available to brief the House and Senate committees looking into this matter.

NUCCIO

Q: Do you think that Director Deutch handled the matter of Rick Nuccio properly? Do you agree with the decision taken? Will you restore Mr. Nuccio's clearance if you are confirmed as Director?

A: As demonstrated by the process he followed in reaching his decision, Director Deutch clearly went to great lengths to see that the allegations against Mr. Nuccio were fully and fairly evaluated. In establishing this process, the Director took seriously both his responsibility for the protection of intelligence sources and methods and the particular circumstances of Mr. Nuccio's case.

On December 5, 1996, Mr. Nuccio was informed by Mr. Deutch that he could reapply for access to SCI not sooner than one year later (5 December 1997) and that such access would require demonstration that Mr. Nuccio appreciated the seriousness of the security violation and an understanding of the

responsibilities
not to disclosed sensitive information.

If confirmed, and should the matter come before me in the future, I will evaluate Mr. Nuccio's case fairly based on the facts presented to me at that time.

Q: Isn't Mr. Nuccio being punished for providing information to the Congress, information the Congress should have access to?

A. No. This is not an issue about whether Congress should have had the information in question. As Mr. Deutch's communications with Mr. Nuccio indicate, it was a question about the manner in which such information is shared with the Congress and the extent to which Mr. Nuccio understood the information he conveyed would subsequently be publicly disclosed.

Again, and to be clear, this was not a case about whether the appropriate committees of Congress should have had access to the information in question, but rather about how this information should have been conveyed and what use was made of it.

Q: What is Mr. Nuccio doing now?

A: That is a question for Mr. Nuccio.

Q: But isn't the White House helping him find a job somewhere in the Administration?

A: As Mr. Deutch recognized, Mr. Nuccio has served this Administration and his country with distinction. As a result, the Administration has encouraged Mr. Nuccio to continue his work with the government. Should there be an appropriate opening for Mr. Nuccio within the USG, consistent with his current security clearance, I would expect that the White

House
would support Mr. Nuccio, as would I. [MAY REQUIRE
MODIFICATION
DEPENDING ON NUCCIO'S PLANS ANNOUNCEMENTS]

48 HOURS

Q. The National Security Act requires prior notification to the Committees of covert actions. In extraordinary circumstances that notification may be given to a limited number of Congressional leaders -- the so-called Gang of Eight. The Act also provides that in instances where prior notification is not given "the President shall fully inform the Intelligence Committees in a timely fashion and shall provide a statement of the reasons for not giving timely notice."

Can we have your word that were the President to ever exercise this authority you will insist that the Committees be notified within 48 hours? Will you resign if the President does not do so?

A: The National Security Act requires that Presidential findings and MONs be reported to the Intelligence Committees as soon as possible after their approval and before initiation of the covert action authorized by the finding. The Act also provides that whenever prior notification is not given, the President shall fully inform the intelligence committees in a timely fashion and shall provide a statement of the reasons for not giving prior notice.

I am committed to providing the Committees notification of findings and MONs as soon as possible. There is also an understanding that a few days is a fair measure of what is timely notification. The statute, however, is not explicit on this point and as the Committees have recognized, this provision must be read in a manner consistent with whatever authority the Constitution may provide to the President to provide notice beyond a few days.

Therefore, it would not be appropriate for me to state categorically what advice I might give the President on this point or that I might resign if the President did not exercise his authority in a particular way. That necessarily would flow from any particular context or situation. I can assure you, however, that in advising the President on these matters I will take into account your strong views as well as my own commitment to provide the committees notification of findings as soon as possible. Moreover, you know that during the time I have served as National Security Adviser this President has not exercised this authority.

Background: This is something of a hypothetical question given that this Administration has not made use of this authority. It was, however, a point of considerable contention during consideration of the 1991 amendments to the National Security Act, with President Bush refusing throughout prolonged negotiations to accept a categorical time prescription within which Congress had to be notified. He provided a letter to the Committees making clear that he

anticipated
that notification of a finding after the fact would be
rare and that
notification would occur within a few days, but retained
his
constitutional authority in extreme situations to delay
notification
indefinitely. Efforts to pass a 48 hour provision have
failed.

DCI Turner has publicly offered a couple of examples of
covert
activities where notification should be delayed beyond 48
hours,
indeed was delayed, all involving activities by U.S.
personnel in
Iran prior to the attempt to rescue the American hostages
in Teheran.
However, it should be noted that these are examples of
activities
that were not notified rather than underlying finding
itself.

NSC COMMITTEES

Q: Last year's intelligence reform legislation called for
the
establishment of two NSC committees to examine
intelligence priorities
and to oversee transnational issues including
proliferation. Have
these committees been established? Did you support their
creation?
Why the delay?

A: The Consumers Committee and the Committee on Foreign
Intelligence were established prior to the enactment of
the FY 97
Intelligence Authorization Bill. They are supported by
an
Inter-Agency Working Group on Intelligence Priorities. I

support this process. I also concur with the view of the Congress, as highlighted in the FY 1997 Intelligence Authorization Act, that a vigorous effort against transnational threats is warranted; thus, under the direction of the President, I established early on NSC policy coordinating groups to address these issues of critical concern to U.S. security all of which report to the NSC Principals Committee. I am confident that my successor as National Security Adviser and the NSC staff will continue to review the work of the Principals Committee and its working groups on narcotics, global crime, and terrorism to ensure that the Principals Committee is performing the functions anticipated under the Act as well as those directed by the President.

Commerce Department Documents

Haiti and Intelligence Collection

☐ The human rights situation in Haiti today is dramatically improved from what it was before President Aristide's return. According to both local and international human rights organizations, Haiti suffered several thousand political murders during the three years of the de facto regime and countless additional beatings and other

abuses. In contrast, a 1995 report by the UN/OAS human rights observer mission in Haiti cited an estimated two dozen killings with possible political or retributive motivation in the post-September 1994 period.

□ The Administration has pursued a comprehensive effort to identify threats to democracy and stability in Haiti. As a result of these efforts, the US has been able to identify a number of individuals associated with political violence, have many of them removed from official positions, and have official investigations initiated into the incidents in which they have been implicated.

□ With strong Administration encouragement, Aristide established a Special Investigative Unit to investigate possible political killings. This unit provides an institutional mechanism to tackle the problem of official impunity.

□ Preval has appointed a new Director-General of Haitian Police untainted by charges of human rights abuses or corruption and a tough-minded Inspector General who has repeatedly implemented severe disciplinary measures on police officials involved in the abuse of authority.

□ The US sought to avert the tragic assassination of Madame Mireille Bertin in March 1995 and immediately after it launched a comprehensive effort to identify and bring the perpetrators to justice.

□ When the Multinational Force(MNF) received information of a plot to kill Madame Bertin, US forces arrested and interrogated the alleged conspirators. The MNF and Embassy asked Aristide and Justice Minister Exume to warn her of the threat, and we were subsequently assured that they had done

so.

☐ 10 days after the August 30 murder of opposition politicians Leroy and Florival, Lake and Talbott traveled to Haiti and secured Preval's agreement to launch a full investigation, separate those implicated from their official positions, and reorganize his Presidential security apparatus.

☐ Two weeks later, a team of 20 State Department Diplomatic Security officers and 12 DoD civilian security personnel went to Haiti to augment the State advisory team already there and assist President Preval with vetting, retraining and reorganizing his security force.

☐ Official involvement in politically motivated violence is not unique to Haiti. Indeed, it is endemic to societies in transition from authoritarian to democratic government.

☐ The U.S. experience in El Salvador, where we confronted a much more serious problem of official human rights abuse, provides an instructive point of reference.

☐ In December 1983, Vice-President Bush visited San Salvador personally to inform the government that aid would be cut off if the abuses did not stop. Five years later, amid an apparent resurgence of death squad activity, it was Vice-President Quayle who traveled to San Salvador to deliver the message that the U.S. government would not tolerate such abuses.

☐ The Administration cooperated fully with the committee's Haiti inquiry. We provided the Congress access to over 1,000

documents of the State and Defense Departments, the CIA and the NSC, and made officials available for briefings and interviews.

☐ The Administration withheld from the Congress only a small number (47) of core Presidential or WH documents, such as memoranda recording the conversations of the President with a foreign President. Even with these core documents, we offered to brief Chairman Gilman and Rep. Hamilton, with staff persons present, on the contents of each document. The HIRC majority chose to pursue a subpoena of the documents without first accepting the briefing. The President responded by asserting Executive Privilege, in order to protect his ability and that of future Presidents to receive candid advice and have candid conversations with foreign leaders in the formulation and execution of US foreign policy.

Administration Efforts to Deal with Political Violence in Haiti

Broad Context

☐ From its first days in 1993, the Clinton Administration has worked to end political violence and restore democracy in Haiti.

☐ Political violence was a horrifying, frequent occurrence during the de facto regime; according to local and international human rights groups, thousands of people were killed, tortured, beaten or imprisoned.

- ☐ When international political and economic pressure failed to dislodge the de facto regime, the President decided to intervene militarily as part of an international coalition.
- ☐ As part of the preparatory effort, the President ordered a broad-gauged plan to support the restoration of democracy by helping to create a new security/public safety structure, supporting a renewal of democratic political institutions and elections, and assisting with the establishment of the foundation for a viable economy.
- ☐ Two years later, while many challenges remain, real progress has been made toward these goals. Former President Aristide returned peacefully. He abolished the repressive Armed Forces and worked to establish Haiti's first professional and apolitical police force. Three national elections occurred and were judged generally free and fair by international monitors (although logistical problems marred the first legislative contest). A new parliament is in place, and a democratically elected president succeeded another for the first time in Haitian history. Efforts to stabilize the economy continue with widespread international economic support.

Aggressively Targeting Political Violence

- ☐ Throughout this period, the Administration has pursued a comprehensive effort to identify threats to democracy and stability in Haiti. While the primary threat to democracy immediately after the military intervention was deemed to be from supporters of the ousted coup regime, the Administration was alert to the possibility of continued official involvement in

political violence.

□ One important focus of the Administration's efforts was urging the Government of Haiti to investigate and remove individuals in the government reportedly implicated in political violence or corruption.

□ As a result of its efforts, the US was able to identify a number of individuals associated with political violence and corruption, and senior US officials effectively pressed the Government of Haiti to remove the personnel identified.

□ President Clinton, Vice President Gore and other senior members of the Administration, including Secretary of State Christopher, US Permanent Representative to the UN Albright, National Security Advisor Lake, Deputy Secretary of State Talbott and others raised these issues with senior levels of the Haitian Government.

□ By March 1996, most of those then identified as having been implicated in political violence were removed from official positions.

Building Law Enforcement Institutions

□ The US has also played a major role in helping the Haitian Government create and train a wholly new police force, for the first time in Haiti's history. Although it still has a long way to go and requires much additional training and equipment, the new force's deployment represents a major departure from past practices.

□ Initially, the Administration took the lead in organizing and overseeing an interim security force and in creating and training a new Haitian National Police mostly from raw

recruits. Both units were carefully screened by the US and UN to keep out known human rights abusers and criminals. Despite these efforts, some problems persist with the force.

□ By June 1996, 5200 new police were trained and deployed through the ICITAP program of the US Department of Justice.

UN civilian police advisers provide on-the-job training.

□ With strong Administration encouragement, President Aristide established, and President Preval has strengthened, a Special Investigative Unit, with US and UN police advisers, to investigate possible political killings. This unit, while not yet fully effective, provides an institutional mechanism to tackle the problem of official impunity.

□ Preval has also appointed, and the Haitian Senate has confirmed, a new Director-General of Haitian Police, Pierre Denize, who is untainted by charges of human rights abuses or corruption. Denize, in turn, has reappointed a tough-minded Inspector General, Eucher Joseph, who has repeatedly implemented severe disciplinary measures on police officials involved in the abuse of authority.

□ The Government has adopted a new set of standards for apolitical and merit-based recruitment of mid-level supervisors. Requirements include appearance before an examinations board that include US and UN police representatives, passing a battery of tests and successful completion of a supervisory course at the Police Academy, which emphasizes respect for the due process of law and support for human rights. At present, 54 mid-level supervisors have completed this training.

□ As is to be expected with a brand-new civilian police force in a country which has never had one before, the Haitian Police face many problems. The Police Inspector General has

been actively investigating reports of police misbehavior, such as a March 6 incident in a Port-au-Prince slum in which a shoot-out with gang members left a number of civilians dead. The Director General of the Police has given strong support to the Inspector General.

The Bertin Assassination

- ☐ The US tried to prevent the tragic assassination of Madame Mireille Bertin in March 1995 and immediately after it launched a comprehensive effort to identify and bring the perpetrators to justice.
- ☐ When the Multinational Force(MNF) received information of a plot to kill Madame Bertin, US forces arrested and interrogated the alleged conspirators. The MNF and Embassy asked Aristide and Justice Minister Exume to warn her of the threat, and we were subsequently assured that they had done so.
- ☐ Mrs. Bertin subsequently spoke twice with Justice Minister Exume. She acknowledged to others that she had been warned by Justice Minister Exume, but she told members of her family and a UN official that Exume had warned her to leave the country lest she be arrested.
- ☐ After Mrs. Bertin was assassinated, the Administration offered an FBI team to aid in the investigation and dispatched it within hours following a request by Aristide.
- ☐ Due to a proliferation of threat reports reaching US officials, the State Department sent instructions to the Embassy in Port-au-Prince to ensure that individuals be warned in the future when there is credible information of a specific threat of physical violence against them.

Responds to The Leroy and Florival Murders.

☐ Based on the circumstances in which opposition leaders Leroy and Florival were murdered on August 20 we felt strongly that there had to a rapid and credible investigation.

☐ APNSA Lake and Deputy Secretary Talbott traveled to Port-au-Prince on August 30 to meet with President Preval. The need to respond rapidly and effectively to charges of official involvement in the Leroy/Florival murders featured centrally in their discussions. Preval made clear his conviction there could be no room in his security force for those linked to crime, corruption or violation of human rights.

☐ President Preval agreed that in order for an investigation to be credible, individuals implicated in the murders of August 20 should be suspended.

☐ At the same time, Preval undertook a reorganization of his Presidential security force in order to bring it up to the same standards of professionalism that apply to the Haitian National Police.

☐ To help President Preval carry out the vetting, reorganization and retraining of his security unit, we dispatched a team of 20 State Department Diplomatic Security officers and 12 DoD civilian security personnel to augment the State Department's existing advisory unit.

☐ The training and reorganization mission of the augmented DS team is expected to last approximately 60 days.

Results

□ Political violence has been much reduced since the restoration of democracy. Despite the inadequacy of the legal system and the inexperience of its police, violence in Haiti remains far below levels experienced during de facto military rule and the Duvalier era.

□ According to both local and international human rights organizations, Haiti suffered several thousand political murders during the three years of the de facto regime and countless additional beatings and other abuses. In contrast, a 1995 report by the UN/OAS human rights observer mission in Haiti estimated that the total number of killings with possible political or retributive motivation stood at about 24 over the past two years.

A Familiar Task

□ Official involvement in politically motivated violence is not unique to Haiti. Indeed, it is endemic to societies in transition from authoritarian to democratic government. No country has had further to travel in this regard than Haiti, but it has made substantial progress.

□ The U.S. experience in El Salvador, where we confronted a much more serious problem of official human rights abuse, provides an instructive point of reference. There, as in Haiti, a fundamental objective of U.S. policy was strengthening democracy and supporting the rule of law. In El Salvador, the principles of democracy often ran up against the habits of violence and distrust bred by a long experience with dictatorship.

☐ It took repeated interventions by the most senior officials of the Reagan and Bush administrations to convince the Salvadoran government to put an end to officially-supported political violence.

☐ In December 1983, Vice President Bush visited San Salvador personally to inform the government that aid would be cut off if the abuses did not stop. In response, the Salvadoran government established a new investigative unit and quietly dismissed or transferred abroad the military officers whom we had identified as possibly linked to political violence.

☐ Five years later, amid an apparent resurgence of death squad activity, it was Vice President Quayle who traveled to San Salvador to deliver the message that the U.S. government would not tolerate such abuses.

We have profited from these experiences, and thanks to those lessons, have been able to come to grips with the problem of political violence in Haiti quickly and decisively

Q: What about the assertion of privilege over the Haiti documents?

A: To Be added.

Harbury Lawsuit and Guatemala

MS Mail

7141

DATE-TIME 24 February 97 16:01
FROM Kessinger, Jodi
CLASSIFICATION UNCLASSIFIED
SUBJECT TL Q&A's for friendlies [UNCLASSIFIED]
TO Baker, James E.
CARBON_COPY NO CC's on THIS MESSAGE
TEXT_BODY [[TLQAJUL.DOC : 4136 in TLQAJUL.DOC]]

Jamie -

Will you please review these Q & A's. They're the ones we'll use internally or with friendlies. Note that most of the language comes from our larger set of Q & A's.

**ATTACHMENT
FILE DATE** 24 February 97 15:48
**ATTACHMENT
FILE NAME** TLQAJUL.DOC
As of 2/3/97 5:30 P.M.

DRAFT LAKE CONFIRMATION Q & A
for internal use only

Q: What should we make of Senator Shelby's repeated delays of Lake's confirmation hearings? Are these delays a signal that the nomination is in trouble?

A: Urging the Senate to confirm Lake, the President said in a press conference on February 13, 1996:

"And I'd like to remind everybody involved in this that it was Tony Lake who came up with the strategy that we implemented to end the bloodiest war in Europe since World War II. He was a terrific success as the National Security Advisor to the President. He has worked in these fields for 30 years. He fully understands the intelligence operations. He is superbly qualified. If someone has some reason to oppose him, let them oppose him in a hearing and then in a vote on the floor. But in view of his service -- not to me, but to this country -- and the positive consequences of that service, whether it's Bosnia, Haiti, the agreements with Russia, you name it, he deserves --

his service to this country deserves a hearing and a vote on the floor of the Senate. And I hope he will get it."

Senator Shelby has raised numerous questions regarding Lake's nomination and has repeatedly delayed the hearings until they have been answered. Lake has now answered every question Shelby has put before him. The growing opinion is that any additional questions Senator Shelby has for Mr. Lake should be asked in the context of a confirmation hearing.

Q: As National Security Advisor, did Tony Lake take part in any activities involving DNC donors who may have attempted to misuse their White House access? What should we make of all the NSC documents that were released showing NSC staff under Lake involved in some way?

A: The National Security Council staff is asked to advise the President on foreign policy implications of meetings and other activities. As the records that Lake sent to Senator Shelby reflect, NSC staff provided good, solid counsel about foreign policy issues, not political advice.

Mr. Lake not meet with any of the 38 individuals and entities Senator Shelby asked him about (i.e., those involved in fundraising). In fact, it is well known that during his four years as the National Security Advisor, he sought to keep the NSC staff and its work out of domestic and partisan politics.

In short, the manner in which these incidents were handled shows that Lake had a staff that properly responded when asked about certain events and gave good counsel regarding foreign policy implications.

However, there was no system for appropriately reviewing access to the President, First Lady, the Vice President and Mrs. Gore. The Chief of Staff has now instituted a system to ensure such proper review will take place.

The documents sent to the Congress on February 13 underscore the proper role the NSC played and should help the committee to move to expeditious hearings on March 11.

Q: Wasn't the decision to give a green light to Iran in Bosnia a colossal -- and illegal -- mistake? Doesn't it show Lake is unfit for DCI?

A: No. When asked in 1994 by the Croatian Government our position on third country arms shipments to Bosnia through Croatia, the Administration, weighing the need to keep the Bosnian State and Federation alive, the arms

embargo in force, and with the presence of allied forces on the ground, instructed our Ambassador to respond he had no instructions on the issue. This was not a covert activity. It was not illegal. It was a secret diplomatic exchange.

I have indicated on a number of occasions, including in writing to this Committee, that in retrospect, it would have been better to have informed key Members of Congress on a discreet basis at the time the "no instructions" instruction was given to our Ambassador in Croatia. The close-hold manner in which this was handled within the Administration reflected our grave concern about the need to keep the allies together and the damage any leak would have on our allies, on their willingness to stay in Bosnia and on NATO more generally.

Subsequent events show the "no instructions" decision was the right thing: the Bosnians survived and began to counterattack, Iranian and radical Islamic influence has been dramatically reduced following Dayton, and cooperation on Bosnia has become a source of strength, not crisis, for the NATO Alliance. There is peace in Bosnia today -- our policy worked.

In addition, six months after the 1994 exchange, Congress passed legislation requiring us not to enforce the arms embargo, which had, in practical terms, the same result as the Administration's decision. And although the Congress was aware at the time Iran was involved in arms shipments to Bosnia, it did not exempt Iranian shipments from the law.

Q: Does the fact that Lake's conduct on the Bosnia arms issue was referred to the Justice Department for potential criminal wrongdoing incriminate Lake in any way?

A: In November, the Republican majority of the Select Subcommittee wrote to the Attorney General to request the appointment of an independent counsel to investigate various allegations arising during the course of the Subcommittee's investigation. Representative Lee Hamilton and the Democratic members of the Subcommittee strongly criticized this action at the time and subsequently, stating among other things:

We have looked at the facts. We have reviewed the evidence. It is our belief that no laws were broken, no wrongdoing occurred, no covert actions took place, no false statements given, no U.S. interests were harmed. When the results of this investigation are released, it will be obvious that this was not a criminal matter, it was a dispute about policy."

On February 7, 1997, Acting Assistant Attorney General for the Criminal Division, Mark Richard, responded on behalf of the Attorney General to Rep. Hyde stating among other things the following. Let me quote directly from the letter:

... the Department has determined that there is no basis for any criminal charges against Mr. Lake arising out of the allegations contained in your referral letter.

In spite of these apparent legal obstacles to any possible prosecution, we nevertheless carefully examined the truthfulness of Mr. Lake's unsworn statements to the subcommittee. . . and compared Mr. Lake's reported statements to the statements and testimony of other Subcommittee witnesses. We have found no direct, material contradictions between Mr. Lake's statements and the statements or testimony of any other witness, nor any other evidence that Mr. Lake was untruthful to the Subcommittee or was part of a conspiracy to obstruct Congress.

We have found no basis for believing that Mr. Lake made any false statements to the IOB [Intelligence Oversight Board.]

We have concluded that Mr. Lake did not potentially violate those statutes [IEEPA or the UN Participation Act] because Mr. Lake's implementation of the "no instruction" instruction was authorized, and because there is no evidence that Mr. Lake willfully engaged in any dealings that actively promoted a violation of the transshipment prohibitions of the Executive Order.

In sum, we have found no evidence of potential criminal violations by Mr. Lake arising out of his role in the arms issue or as a result of the

various statements about the matter that he has made to congressional committees and the IOB. Accordingly, the Department is formally declining prosecution of Mr. Lake based on the allegation in your letter.

Q: Doesn't Lake's role in the formulation of policy over the last four years impede his ability to give impartial intelligence and assessments?

A: No. Throughout his tenure as the National Security Advisor, Tony Lake has always insisted on unvarnished intelligence assessments. He has had to rely on this straight information himself as he advised the President and understands its value as a result. Lake considers it an act of loyalty to the President and the country to provide the objective facts.

In fact, Lake's experience as National Security Advisor gives him unique qualifications to do this job well. The knowledge he brings from the previous job enables him to anticipate problems that may be "around the corner" and to provide the President with the most useful and effective intelligence that Lake knows he needs.

Q: What is Lake's personal history and record on integrity?

A: Mr. Lake has repeatedly stood up for what he believes. He volunteered to go to Vietnam as a foreign service officer, served with courage and distinction there, returned to Washington for many years of service, including time as a White House aide and senior State Department official (Director of Policy Planning) before moving to Massachusetts to farm and teach international relations, encouraging his students to enter public service.

In 1970, he resigned from the White House staff on the day of the invasion of Cambodia, believing that it was wrong to escalate the war at that time. He felt it was inappropriate to serve defending a policy which he could not in good conscience defend.

In addition, Mr. Lake ran a widely respected voluntary organization, International Voluntary Services, that provided assistance to developing nations on a grass roots level.

For over thirty years, Mr. Lake has worked tirelessly in public service or in promoting core American values in which he believes. He is ideally suited to lead the intelligence community with determination and the highest standards of integrity.

For those who have followed his writings and policy work, Lake is a pragmatist, a realist and someone who understands bipartisanship. Over a decade ago, Lake wrote in Our Own Worst Enemy about recapturing a spirit of bipartisanship in foreign policy and for what he called "a centrist political force that can help the country stay on a steadier and publicly supportable policy course."

IF ASKED: He worked on the 1971-72 campaign of Edmund Muskie, not George McGovern; was not a member of the Institute of Policy Studies (IPS) or the affiliate Center for National Security Studies, nor did he work for the Church Committee--as some have alleged.

Q: Does Lake's lack of management experience present a problem?

A: It is because of Lake's experience at the NSC that he knows how to coordinate and manage the activities of different agencies, as the DCI must do, and as he has done for the President's foreign policy team. He is qualified and prepared to provide hands on, supportive, but very firm management and to work closely with Congress. He will pursue personnel reforms, vigorous counter-intelligence efforts, further improvements in fiscal accountability, and clearer data bases for making

tough
resource allocation decisions.

Q: Is it true that, under Lake's tenure as the National Security Advisor, CIA resources have been massively diverted from monitoring military threats to addressing environmental issues irrelevant to our national security.

Lake's intelligence priorities are consistent with those laid out by the President after Lake initiated an NSC review in 1995.

In addition to support for military operations involving U.S.

forces, priorities include political, economic and military

intelligence about countries hostile to the U.S. and intelligence about transnational issues -- weapons of mass

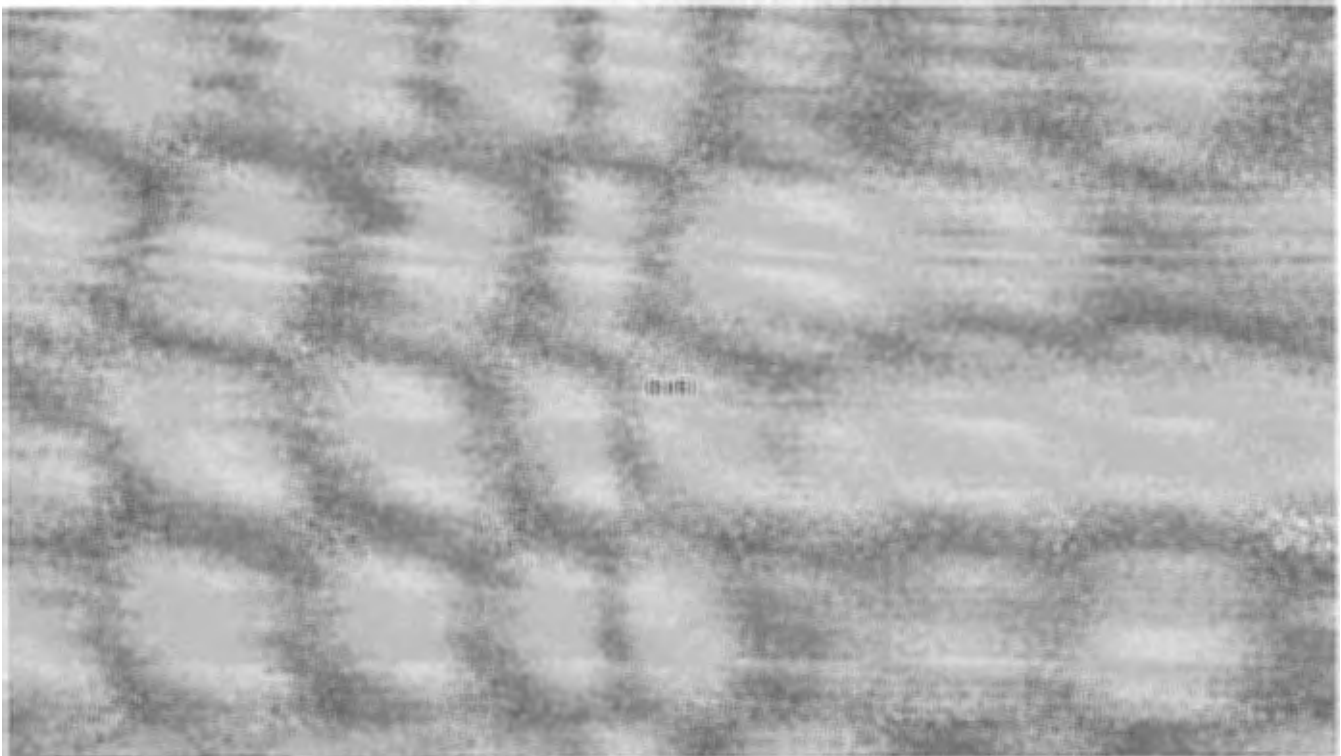
destruction, terrorism, organized crime, drug trafficking

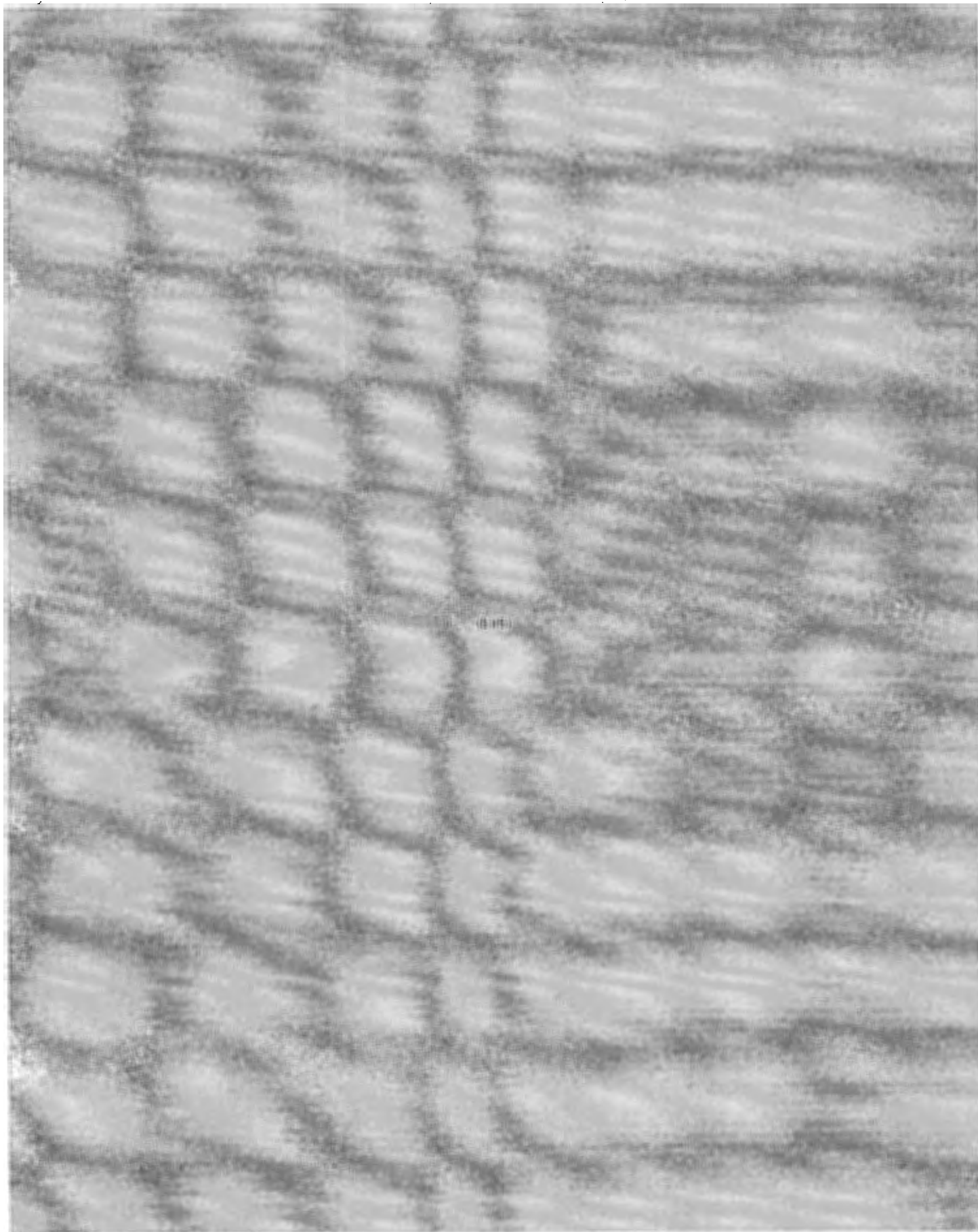
--
that affect national security. In fact, the agency's program on

the environment, initiated during the Bush administration, is a

modest but very useful element of our programs tracking population migration, environmental degradation and other natural

events that affect our interests and resources.





Q: What kind of a message does Lake's ambivalence over Alger Hiss' guilt (Meet the Press) send to the Agency that he would be expected to not only run, but inspire?

A: Lake believes that Hiss was guilty and has believed so for quite some time.

Second, in this time of great change, what is needed is vision, a strong agenda and sense of purpose, good management, a strong dedication to counter-intelligence, and a commitment to the community -- all of which Lake has demonstrated he has.

In his column in the Washington Times on February 19, 1997,

Allen Weinstein states, "After talking to Mr. Lake recently, however, I believe that he believes Hiss is guilty."

M S M a i l

7142

DATE-TIME 25 February 97 12:48
FROM Baker, James E.
CLASSIFICATION UNCLASSIFIED
SUBJECT Final Nuccio Qs and As [UNCLASSIFIED]
TO Johnson, David T.
CARBON_COPY Kessinger, Jodi
Rubin, Eric S.
Wozniak, Natalie S.

TEXT_BODY

David:

Here are Nuccio Qs and As cleared by Intell., Interamerican, and Leg. Sandy has not seen the Qs and As, but has cleared the general three point guidance.

No major changes from draft I gave you at staff meeting. I substituted SCI access for clearance in number of cases to clarify.

[[NUCCIOQA.DOC : 3100 in NUCCIOQA.DOC]]

ATTACHMENT
FILE DATE

25 February 97 12:42

ATTACHMENT
FILE NAME

NUCCIOQA.DOC

NUCCIO RESIGNATION

General Points:

-- Rick Nuccio served this Administration well.

-- After the CIA had made its determination regarding Rick's security clearance, the Administration discussed with Mr. Nuccio other possible positions in the government.

-- We wish Rick well in his new position with Sen. Toricelli.

Q: Did the CIA retaliate against Nuccio, as he asserts?

A: As demonstrated by the process he followed in reaching his decision, Director Deutch clearly went to great lengths to see that the allegations against Mr. Nuccio were fully and fairly evaluated. No final decision on Nuccio's access to SCI information was made until after the DCI reviewed the State IG's report, the decision of the DDCI and the report and recommendation of the Special Review Panel. In establishing this process, the Director took seriously both his responsibility for the protection of intelligence sources and methods and the particular circumstances of Mr. Nuccio's case.

Q: If Mr. Lake is confirmed as DCI, will he restore Mr. Nuccio's clearance?

On December 5, 1996, Mr. Nuccio was informed by Mr. Deutch that he could reapply for access to SCI not sooner than one year later (5 December 1997) and that such access would require demonstration that Mr. Nuccio appreciated the seriousness of the security violation and an understanding of the responsibilities not to disclosed sensitive information.

If confirmed, and should the matter come before Mr. Lake I am confident he will evaluate Mr. Nuccio's case fairly based on the facts presented at that time.

Q: Isn't Mr. Nuccio being punished for providing information to the Congress, information the Congress should have access to?

A. No. This is not an issue about whether Congress should have had the information in question. As Mr. Deutch's communications with Mr. Nuccio indicate, it was a question about the manner in which such information is shared with the Congress and the extent to which Mr. Nuccio understood the information he conveyed would subsequently be publicly disclosed.

Again, and to be clear, this was not a case about whether the appropriate committees of Congress should have had access to the information in question, but rather about how this information should have been conveyed and what use was made of it.

Q: Do you believe that Nuccio was dealt with fairly?

A: As demonstrated by the process he followed in reaching his decision, Director Deutch clearly went to great lengths to see that the allegations against Mr. Nuccio were fully and fairly evaluated. As you know, no final decision on Nuccio's SCI access was made until after the DCI reviewed the State IG's report, the decision of the DDCI and the report and recommendation of the

Special Review Panel.

Q: Did the CIA, as Nuccio asserts, effectively end his career?

A: The DCI's decision was understandably disappointing to Nuccio given his long history of government service. However, after one year Nuccio would have been free to reapply for his clearance. In the interim we had been discussing with him other possible positions in the government because we felt he still possessed potential for continued service.

Q: Do you have any comment about Nuccio's allegation that the CIA needs to be reigned in? Is the CIA operating consistent with the human rights policies that you have articulated?

A: The conduct of clandestine intelligence is a necessary component of our national security if we are too effectively fight narcotics, terrorism, proliferation and other threats. Clandestine collection does sometimes require dealing with unsavory individuals or groups. For these dealings to be worthwhile, however, the value of what U.S. intelligence hopes to gain from such relationships must be carefully balanced against the moral and policy costs of doing so.

We are satisfied that the intelligence issues Mr. Nuccio raises about Guatemala have been reviewed carefully and thoroughly as part of the President's Intelligence Oversight Board's unprecedented and extraordinary review involving U.S. intelligence and Guatemala. More broadly, the CIA has implemented procedures to monitor and evaluate its assets for possible human rights abuses. These procedures entail a conscious balancing of the advantages and disadvantages of certain assets.

Q: Was it ever brought to your attention that Nuccio offered to resign if his clearance could be restored or that he was willing to accept a domestic policy position as long as it was viewed as a promotion?

A: In the interim we had been discussing with him other possible positions in the government because we felt he still possessed high potential for continued service.

As Mr. Deutch recognized, Mr. Nuccio has served this Administration and his country with distinction. As a result, the Administration has encouraged Mr. Nuccio to continue his work

with the government.

Q: Did the President joke about how challenging it is to work on Cuban issues?

A: I am not familiar with Mr. Nuccio's reference. I can tell you that the President is very concerned about the situation in Cuba and more generally U.S. Cuba policy.

Q: Why didn't the President intercede on Mr. Nuccio's behalf with the CIA?

As I have said before, the allegations against Mr. Nuccio were fully and fairly evaluated. No final decision on Mr. Nuccio's access to SCI information was made until after the DCI reviewed the State IG's report, the decision of the DDCI and the report and recommendation of the Special Review Panel. This was a matter of process involving the adjudication of access to SCI information, not a matter of policy.

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	James Gibney to James Baker, et al., re: Lake Testimony Draft (12 pages)	02/27/1997	P5
002. email	James Baker to Julia Moffett, re: Q and A (9 pages) <i>partial</i>	02/28/1997 <i>b4</i>	P5 <i>7143</i>
003. email	Jodi Kessinger to John Feeley, re: [Q and A] (4 pages)	03/04/1997	P5
004. email	Katherine Veit to John Sparks, re: Cong Obey letter re Andrade (2 pages)	03/06/1997	P5 <i>7144</i>
005. email	Jodi Kessinger to Geoffrey Pyatt, re: Murderboards (2 pages)	03/07/1995	P5
006. email	James Gibney to Daniel Benjamin, et al., re: Lake Testimony (11 pages)	03/07/1997	P5
007. email	Jodi Kessinger to Nancy Brown, et al., re: interagency clearance (11 pages)	03/10/1997	P5
008. email	Baker, James E. to Kessinger, Jodi re: Questions 9 & 10 (3 pages)	03/10/1997	P1/b(1), P5
009. email	Rand Beers to James Gibney, re: Lake Testimony (12 pages)	03/10/1997	P5
010. email	Malley, Robert to Pyatt, Geoffrey R. re: Guatemala (5 pages)	03/13/1997	P1/b(1)
011. email	William Leary to James Baker, et al., re: Guatemala Documents (6 pages)	04/10/1997	P5

COLLECTION:

Clinton Presidential Records
 NSC Emails
 MSMail-Record (Sept 94-Sept 97) ([Intelligence Oversight Board...])
 OA/Box Number: 590000

FOLDER TITLE:

[02/27/1997-05/15/1997]

2006-0996-F
 ch492

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]

7143

MS Mail

DATE-TIME 28 February 97 18:26
FROM Baker, James E.
CLASSIFICATION UNCLASSIFIED
SUBJECT Q and A [UNCLASSIFIED]
TO Moffett, Julia
CARBON_COPY Baker, James E.
Hunerwadel, Joan S.
Kreczko, Alan J.
Sparks, John E.

TEXT_BODY
Some edits to Q and A.
[[TLJULIE.DOC : 4644 in TLJULIE.DOC]]

ATTACHMENT
FILE DATE 28 February 97 18:18

ATTACHMENT
FILE NAME TLJULIE.DOC
As of 2/3/97 5:30 P.M.

DRAFT LAKE CONFIRMATION Q & A
for internal use only

Q: What should we make of Senator Shelby's repeated delays of Lake's confirmation hearings? Are these delays a signal that the nomination is in trouble?

A: Urging the Senate to confirm Lake, the President said in a press conference on February 13, 1996:

"And I'd like to remind everybody involved in this that it was Tony Lake who came up with the strategy that we implemented to end the bloodiest war in Europe since World War II. He was a terrific success as the National Security Advisor to the President. He has worked in these fields for 30 years. He fully understands the intelligence operations. He is superbly qualified. If someone has some reason to oppose him, let them oppose him in a hearing and then in a vote on the floor. But in view of his service -- not to me, but to this country -- and the positive consequences of that service, whether it's Bosnia, Haiti, the agreements with Russia, you name it, he deserves -- his service to this country deserves a hearing and a vote on the floor of the Senate. And I hope he will get it."

Senator Shelby has raised numerous questions regarding Lake's nomination and has repeatedly delayed the hearings until they have been answered. The growing opinion is that any additional questions Senator Shelby has for Mr. Lake should be asked in the context of a confirmation hearing.

Q: As National Security Advisor, did Tony Lake take part in any activities involving DNC donors who may have attempted to misuse their White House access? What should we make of all the NSC documents that were released showing NSC staff under Lake involved in some way?

A: USE LANGUAGE FROM ANSWER TO QUESTION NUMBER 1 TO SSCI. SHOULD NOT INVENT NEW ANSWERS. As the records that Lake sent to Senator Shelby reflect, NSC staff provided good, solid counsel about foreign policy issues, not political advice.

Mr. Lake not meet with any of the 38 individuals and entities Senator Shelby asked him about (i.e., those involved in fundraising). In fact, it is well known that during his four years as the National Security Advisor, he sought to keep the NSC staff and its work out of domestic and partisan politics.

In short, the manner in which these incidents were handled shows that Lake had a staff that properly responded when asked about certain events and gave good counsel regarding foreign policy implications.

THIS SHOULD TRACK TEXT ALREADY PROVIDED. However, there was no system for appropriately reviewing access to the President, First Lady, the Vice President and Mrs. Gore. The Chief of Staff has now instituted a system to ensure such proper review will take place.

The documents sent to the Congress on February 13 underscore the proper role the NSC played and should help the committee to move to expeditious hearings on March 11.

Q: Wasn't the decision to give a green light to Iran in Bosnia a colossal -- and illegal -- mistake? Doesn't it show Lake is unfit for DCI?

A: No. When asked in 1994 by the Croatian Government our position on third country arms shipments to Bosnia through Croatia, the Administration, weighing the need to keep the Bosnian State and Federation alive, the arms embargo in force, and with the presence of allied forces on the ground, instructed our Ambassador to respond he

had no instructions on the issue. This was not a covert activity. It was not illegal. It was a secret diplomatic exchange.

I have indicated on a number of occasions, including in writing to this Committee, that in retrospect, it would have been better to have informed key Members of Congress on a discreet basis at the time the "no instructions" instruction was given to our Ambassador in Croatia. The close-hold manner in which this was handled within the Administration reflected our grave concern about the need to keep the allies together and the damage any leak would have on our allies, on their willingness to stay in Bosnia and on NATO more generally.

Subsequent events show the "no instructions" decision was the right thing: the Bosnians survived and began to counterattack, Iranian and radical Islamic influence has been dramatically reduced following Dayton, and cooperation on Bosnia has become a source of strength, not crisis, for the NATO Alliance. There is peace in Bosnia today -- our policy worked.

In addition, six months after the 1994 exchange, Congress passed legislation requiring us not to enforce the arms embargo, which had, in practical terms, the same result as the Administration's decision. And although the Congress was aware at the time Iran was involved in arms shipments to Bosnia, it did not exempt Iranian shipments from the law.

Q: Does the fact that Lake's conduct on the Bosnia arms issue was referred to the Justice Department for potential criminal wrongdoing incriminate Lake in any way?

A: In November, the Republican majority of the Select Subcommittee wrote to the Attorney General to request the appointment of an independent counsel to investigate various allegations arising during the course of the Subcommittee's investigation. Representative Lee Hamilton and the Democratic members of the Subcommittee strongly criticized this action at the time and subsequently, stating among other things:

We have looked at the facts. We have reviewed the

evidence. It is our belief that no laws were broken, no wrongdoing occurred, no covert actions took place, no false statements given, no U.S. interests were harmed. When the results of this investigation are released, it will be obvious that this was not a criminal matter, it was a dispute about policy."

On February 7, 1997, Acting Assistant Attorney General for the Criminal Division, Mark Richard, responded on behalf of the Attorney General to Rep. Hyde stating among other things the following. Let me quote directly from the letter:

... the Department has determined that there is no basis for any criminal charges against Mr. Lake arising out of the allegations contained in your referral letter.

In spite of these apparent legal obstacles to any possible prosecution, we nevertheless carefully examined the truthfulness of Mr. Lake's unsworn statements to the subcommittee. . . and compared Mr. Lake's reported statements to the statements and testimony of other Subcommittee witnesses. We have found no direct, material contradictions between Mr. Lake's statements and the statements or testimony of any other witness, nor any other evidence that Mr. Lake was untruthful to the Subcommittee or was part of a conspiracy to obstruct Congress.

We have found no basis for believing that Mr. Lake made any false statements to the IOB [Intelligence Oversight Board.]

We have concluded that Mr. Lake did not potentially violate those statutes [IEEPA or the UN Participation Act] because Mr. Lake's implementation of the "no instruction" instruction was authorized, and because there is no evidence that Mr. Lake willfully engaged in any dealings that actively promoted a violation of the transshipment prohibitions of the Executive Order.

In sum, we have found no evidence of potential criminal violations by Mr. Lake arising out of his role in the arms issue or as a result of the various statements about the matter that he has made to congressional committees and the IOB.

Accordingly, the Department is formally declining prosecution of Mr. Lake based on the allegation in your letter.

Q: Doesn't Lake's role in the formulation of policy over the last four years impede his ability to give impartial intelligence and assessments?

A: No. Throughout his tenure as the National Security Advisor, Tony Lake has always insisted on unvarnished intelligence assessments. He has had to rely on this straight information himself as he advised the President and understands its value as a result. Lake considers it an act of loyalty to the President and the country to provide the objective facts.

In fact, Lake's experience as National Security Advisor gives him unique qualifications to do this job well. The knowledge he brings from the previous job enables him to anticipate problems that may be "around the corner" and to provide the President with the most useful and effective intelligence that Lake knows he needs.

Q: What is Lake's personal history and record on integrity?

A: Mr. Lake has repeatedly stood up for what he believes. He volunteered to go to Vietnam as a foreign service officer, served with courage and distinction there, returned to Washington for many years of service, including time as a White House aide and senior State Department official (Director of Policy Planning) before moving to Massachusetts to farm and teach international relations, encouraging his students to enter public service.

In 1970, he resigned from the White House staff on the day of the invasion of Cambodia, believing that it was wrong to escalate the war at that time. He felt it was inappropriate to serve defending a policy which he could not in good conscience defend.

In addition, Mr. Lake ran a widely respected voluntary

organization, International Voluntary Services, that provided assistance to developing nations on a grass roots level.

For over thirty years, Mr. Lake has worked tirelessly in public service or in promoting core American values in which he believes. He is ideally suited to lead the intelligence community with determination and the highest standards of integrity.

For those who have followed his writings and policy work, Lake is a pragmatist, a realist and someone who understands bipartisanship. Over a decade ago, Lake wrote in *Our Own Worst Enemy* about recapturing a spirit of bipartisanship in foreign policy and for what he called "a centrist political force that can help the country stay on a steadier and publicly supportable policy course."

IF ASKED: He worked on the 1971-72 campaign of Edmund Muskie, not George McGovern; was not a member of the Institute of Policy Studies (IPS) or the affiliate Center for National Security Studies, nor did he work for the Church Committee--as some have alleged.

Q: Does Lake's lack of management experience present a problem?

A: It is because of Lake's experience at the NSC that he knows how to coordinate and manage the activities of different agencies, as the DCI must do, and as he has done for the President's foreign policy team. He is qualified and prepared to provide hands on, supportive, but very firm management and to work closely with Congress. He will pursue personnel reforms, vigorous counter-intelligence efforts, further improvements in fiscal accountability, and clearer data bases for making tough resource allocation decisions.

Q: Is it true that, under Lake's tenure as the National Security Advisor, CIA resources have been massively diverted from monitoring military threats to addressing environmental issues irrelevant to our national security.

Lake's intelligence priorities are consistent with those laid out by the President after Lake initiated an NSC review in 1995.

In addition to support for military operations involving U.S.

forces, priorities include political, economic and military

intelligence about countries hostile to the U.S. and intelligence about transnational issues -- weapons of mass

destruction, terrorism, organized crime, drug trafficking

-- that affect national security. In fact, the agency's program on

the environment, initiated during the Bush administration, is a

modest but very useful element of our programs tracking population migration, environmental degradation and other natural

events that affect our interests and resources.





Q: What kind of a message does Lake's ambivalence over Alger Hiss' guilt (Meet the Press) send to the Agency that he would be expected to not only run, but inspire?

A: Lake believes that Hiss was guilty and has believed so for quite some time.

Second, in this time of great change, what is needed is vision, a strong agenda and sense of purpose, good management, a strong dedication to counter-intelligence, and a commitment to the community -- all of which Lake has demonstrated he has.

In his column in the Washington Times on February 19, 1997, Allen Weinstein states, "After talking to Mr. Lake recently, however, I believe that he believes Hiss is guilty."

M S M a i l

7144

DATE-TIME 06 March 97 19:53
FROM Veit, Katherine M.
CLASSIFICATION UNCLASSIFIED
SUBJECT RE: Cong Obey letter re Andrade [UNCLASSIFIED]
TO Sparks, John E.
CARBON_COPY Baker, James E.
Bass, Peter E.
Bendick, Gordon L.
Brown, Nancy E.
Burrell, Christina L.
Cicio, Kristen K.
Danvers, William C.
Davis, William K.
Dohse, Fred J.
Friedrich, M. K.
Hall, Wilma G.
Harmon, Joyce A.
Helweg, M. Diana
Hilliard, Brenda I.
Hunerwadel, Joan S.
Joshi, M. Kay
Kale, Dora A.
Kerrick, Donald L.
Kessinger, Jodi
Kreczko, Alan J.
Millison, Cathy L.
Veit, Katherine M.

TEXT_BODY

Jim Steinberg says he "will clear if Danvers really thinks this is okay."

From: Sparks, John E.
To: @UP - APNSA Special Assistants
CC: /R, Record at A1; @LEGAL - Legal Advisor
Subject: FW: Cong Obey letter re Andrade [UNCLASSIFIED]
Date: Wednesday, March 05, 1997 03:30 PM

We are still holding this package (0612) pending answer from JS re e-mail below.

From: Sparks, John E.
To: @UP - APNSA Special Assistants; Steinberg, James
CC: /R, Record at A1; @LEGAL - Legal Advisor

Subject: Cong Obey letter re Andrade [UNCLASSIFIED]
Date: Thursday, February 20, 1997 05:45 PM

PLEASE PASS TO JS

Alan has asked me to send you the following response to your note on the Cong Obey package.

Your note indicates that the response needs more substance and should indicate that the NSC lacks the investigative capability or resources.

1) While the IG reports address the issue of Andrade's parole, they do not address Obey's concern as to why he was not kept apprised of the events surrounding the Parole.

2) We cannot really say that the NSC has no investigative capability because we could call upon the IOB to investigate. However, at a meeting w/ Nancy, she decided that we would not call upon the IOB because in her view, the matters had been thoroughly investigated by the agency IGs, all of whom released their reports short time ago.

Alan's note: " Willing to discuss at your convenience."

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Breeland, Jocelyn G. to Clark, Bronya & Dimel, Marsha L. re: Personnel (3 pages)	05/24/1995	P1/b(1)
002. email	Beers, Rand R. to Hammond re: [Meeting with Tony Harrington] (3 pages)	07/20/1995	P1/b(1)
003. email	Fetig, James L. to Bassett, Leslie A. re: AP Reporter (1 page)	07/25/1995	P1/b(1)
004. email	Miscik, Judith A. to Beers re: Update on Agenda for Weekly w/Lake (1 page)	08/15/1995	P1/b(1)
005. email	James Baker to Alan Kreczko, re: IOB (1 page)	09/16/1995	P5 714 S

COLLECTION:

Clinton Presidential Records
 NSC Emails
 MSMail-Non-Record (Sept 94-Sept 97) ([Intelligence Oversight Board...])
 OA/Box Number: 605000

FOLDER TITLE:

[05/07/1995-10/02/1995]

2006-0996-F

ch494

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]

7145

M S M a i l

DATE-TIME 16 September 95 14:30
FROM Baker, James E.
CLASSIFICATION UNCLASSIFIED
SUBJECT IOB [UNCLASSIFIED]
TO Kreczko, Alan J.
CARBON_COPY NO CC's on THIS MESSAGE
TEXT_BODY

Alan, I discussed the IOB reporting question with Teresa on Friday night. For the reasons we discussed (1) other agencies may independently report; (2) DEA already has a reporting obligation with the IOB and a silent report would be misleading; and (3) I believe this is just the sort of thing intended to be brought to the IOB's attention, I think this should be brought to their attention (orally or in writing, direct to Tony Harrington or to the Counsel). Teresa thinks it will help her address the issue if she has a copy of Adm. Crowe's letter to agencies regarding the IOB. I have no objection, particularly since the letter was already transmitted to Justice (both the AG and Scruggs). She will ask you for this early next week. I also asked her to advise us soon what Justice/DEA was going to do as we would need to consider the issue ourselves if we were not confident they would be making a report.

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Scott Busby to David Sherman, re: Clearance Request: Draft POTUS Letter (9 pages)	12/05/1997	P5 7146
002. email	James Baker to David Sherman, re: Clearance Requested: Human Rights/Family Notification (9 pages)	12/13/1997	P5 7147
003. email	David Sherman to Scott Busby, re: Draft POTUS Letter (8 pages)	12/16/1997	P5 7148

COLLECTION:

Clinton Presidential Records
 NSC Emails
 Exchange - Record (Sept 97 - Jan 01) ([Intelligence Oversight Board...])
 OA/Box Number: 620000

FOLDER TITLE:

[10/01/1997 - 02/06/1998]

2006-0996-F
 ke2563

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]

Exchange Mail

7146

DATE-TIME 12/5/97 1:47:40 PM
FROM Busby, Scott W.
CLASSIFICATION UNCLASSIFIED
SUBJECT FW: Clearance Request: Draft POTUS Letter [UNCLASSIFIED]
TO Sherman, David J.

CARBON_COPY
Leary, William H.
DeLaurentis, Jeffrey J.
Baker, James E.
Baker, James E.
DeRosa, Mary B.
Highsmith, Newell L.
Hunerwadel, Joan S.
Sparks, John E.
Busby, Scott W.
Hill, Roseanne M.
Letts, Kelly J.
Malley, Robert
Ragan, Richard F.
Rossi, Christopher R.
Schwartz, Eric P.

TEXT_BODY Dave -- I have edited the letter as already edited by Bill Leary.

First,
I moved the general points about the CIA's new guidelines up in the letter and the info on our collaboration with the HCC and our support for the new provisions in the Intel bill down. Important to begin the letter with the points that are most directly responsive to the general points raised by Roth. The points on the HCC and the Intel bill are secondary points, I think.

Second, I am concerned that our responses to Roth's four major points are a little too general and in some cases not responsive. We need to be more specific (if we can). Do we have any vehicles for ensuring that the Agency will comply with its own guidelines? To what extent are we able to scrutinize the agency's relationship with foreign intelligence services? How can we ensure that the Agency will turn over info on human rights abusers among its assets? We are also not at all responsive to Roth's points about the Nuccio. Can we not say something about whistleblowers

provisions and the like? To the extent we can, I think we should try to address each of the four major factors listed at the beginning of Roth's letter. Let me know if you don't think this is possible.

Because

Eric did have the original conversation with Roth about this, I would like also like to run a revised version by him once you've made above-suggested changes. Thanks. Scott

-----Original Message-----

From: Leary,
William H.

Sent: Thursday, December 04, 1997 12:32 PM

To: Sherman,

David J.; @DEMOCRACY - Dem/Human Affairs; @INTERAM -
Inter-American;

@RECORDS & ACCESS MGMT

Cc: @INTEL - Intelligence Programs; Baker,
James E.

Subject: RE: Clearance Request: Draft POTUS Letter
[UNCLASSIFIED]

Dave,

Many

of my attached edits reflect one general concern about the fairly strong hints -- as I read your drafts -- that the CIA is still not fully committed to the human rights policies of the Administration despite the changes of the past few years. If, in fact, the President needs to reinforce these policies with the Intelligence Community because of some shortcomings, I question whether a letter to Kenneth Roth is the best way to do that.

Also, I think Jamie Baker ought
to review this package.

-----Original Message-----

From: Sherman,
David J.

Sent: Wednesday, December 03, 1997 10:39 AM

To: @DEMOCRACY

- Dem/Human Affairs; @INTERAM - Inter-American; @RECORDS
& ACCESS

MGMT
Cc: @INTEL - Intelligence Programs
Subject: Clearance Request:
Draft POTUS Letter [UNCLASSIFIED]

Attn: Democracy/Interamerican/Records

Attached
for your review and clearance is a draft response to a letter to the President from Human Rights Watch Executive Director Kenneth Roth on CIA and various human rights/declassification issues. The draft also has been provided to CIA for comment. Please provide any suggestions/changes by noon, Friday, 12/5. Please let me know if you would like a copy of Roth's original letter; would be happy to provide. Thanks in advance for your assistance.

dave

<<
File: 1808srb.doc >> << File: 1808potus.doc >> << File: 1808ltr.doc
>>

TRANSLATED_ATTACHMENT roth1.doc

Date

ACTION

MEMORANDUM FOR SAMUEL BERGER

THROUGH: RAND BEERS

FROM: DAVID SHERMAN

SUBJECT: Response to Human Rights Watch Director Kenneth Roth
on CIA and Human
Rights Abuses

Kenneth Roth from Human Rights Watch has written to the President on lax oversight by CIA on human rights issues.

Pending clarification of CIA's procedures in this area, Eric Schwartz provided Mr. Roth with an interim response via phone. We are now in a position to provided a more formal answer. The attached written reply notes CIA's guidelines

CLINTON LIBRARY PHOTOCOPY

for handling allegations of human rights abuses, and emphasizes the President's expectation that the DCI will both enforce them vigorously and keep him informed on major cases.

[CIA has reviewed the proposed response and concurs.] This should be done.

Concurrence by: Eric Schwartz James Dobbins Bill Leary
Jamie Baker

RECOMMENDATION

That you sign the memorandum to the President at Tab I.

Attachment
Tab I Memorandum to the President
Tab A Reponse to Kenneth Roth
Tab B Incoming Correpondence
1

1808

TRANSLATED_ATTACHMENT roth2.doc

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: SAMUEL BERGER

SUBJECT: Correspondence from Human Rights Watch on CIA and Human Rights Abuses

Purpose

To respond to a letter from Human Rights Watch Executive Director Kenneth Roth.

Background

Mr. Roth has written asking you for additional measures to monitor CIA activities from the perspective of U.S. human rights policy. Specifically, he urges that you transfer monitoring of these activities out of the Agency itself and to other Administration entities, such as the White House or State Department.

An interim response to Mr. Roth was provided at staff level by phone while we reviewed CIA's policies in this area. Having done so, we are now in the position to provide you with an official reply.

Roth believes that, despite CIA's efforts to update its human rights guidelines, it is unable to police itself and must be subject to outside oversight. In support of this claim, he alleges that CIA has failed to declassify sufficient amounts of material pertaining to abuses in Central America for fear of tarnishing its reputation. He also believes that the Agency continues to maintain relationships with foreign intelligence services with questionable human rights records.

The Roth letter provides you with an opportunity to emphasize to the Intelligence Community Your response emphasizes that, although you realize the Intelligence Community it must deal with questionable individuals in order to obtain information needed to protect U.S. national security, you expect it to conduct its activities in a manner consistent with your objectives on human rights. The DCI has issued guidance to CIA officers requiring that they report to headquarters any allegations of human rights abuses by their sources or by foreign services with whom they have contact. This guidance mandates that serious abuses or crimes of violence be brought to the DCI's attention, and if necessary to that of other senior Administration officials.

Your response to Mr. Roth notes these requirements, and emphasizes

your
expectation that CIA will adhere to them fully and report to you and
senior
Administration officials any allegations of major human rights abuses
or crimes
of violence either by CIA assets or by foreign intelligence services
with which
it has a relationship. In order to underscore the importance you place
on this
responsibility, we will forward a copy of your letter to DCI Tenet and
to
Secretary Albright.

Finally, with regard to the questions Mr. Roth raises questions about
the status
of various declassification efforts, particularly on Guatemala and
Honduras, your
response updates him on recent progress in this regard.

RECOMMENDATION

That you sign the attached letter.

Attachment
Tab A Letter to Human Rights Watch
Tab B Incoming Correspondence

2

1808

cc: Vice President
Chief of Staff

TRANSLATED_ATTACHMENT roth3.doc

Dear Mr. Roth:

Thank you for your letter on the Central Intelligence Agency's use of informants alleged to have been involved in serious human rights abuses, as well as its relationships with foreign security services that may engage in similar activities.

My Administration remains committed to a vigorous defense of human rights as a core objective of America's foreign policy. We continue to pursue this goal on a variety of fronts, both through "quiet diplomacy" and in more public ways.

As noted in your letter, in 1996 the CIA issued updated guidelines with regard to human rights. These guidelines begin by noting that CIA "is firmly committed to respect internationally respected human rights standards and carefully scrutinize its operational activities in light of these standards." They also put in place reporting requirements for CIA officers who learn of allegations of human rights abuses, either by individual assets or by foreign services with whom official liaison relationships exist. Termination of contacts with specific agents or entire services is one of several possible outcomes.

I expect CIA to adhere to these guidelines rigorously. There will be instances, as you note, where we will have to work with some unsavory or morally suspect individuals in order to acquire information vital to our national security. However, such activities must not undercut our nation's commitment to the rule of law and to fundamental human rights. [How to do this? Can we offer any specifics?] While I will leave to the DCI [what is this? spell out the first time] the specifics of how to monitor the Intelligence Community's activities where they affect this commitment, I will require him to do so vigorously and expect him to keep me and senior officials of my Administration - especially the Secretary of State - fully informed on all cases involving allegations of major human rights abuses or crimes of violence. [How to do this? Is there a

formal
instruction to this effect? Could there be?]

Where American citizens are victims of human rights abuse such actions, we will must share the maximum possible amount of information with them and their families. We also will continue must push forward with our efforts to amplify complete the historical record through aggressive declassification. As an indication of the strength of my views on these issues, I am forwarding a copy of this letter to both DCI Tenet and Secretary Albright. In this regard, I welcome the opportunity to reiterate my strong support for the efforts of the Guatemala Historical Clarification Commission and its coordinator, Christian Tomuschat. The Administration is mounting an active effort to assist the Commission by releasing seeking to identify, review and release additional materials on human rights abuses in Guatemala, over and above the more than 7,000 documents containing information concerning American citizens previously made public. Since your letter, we The State Department, DoD, and CIA also have released a number series of documents in response to request from the Government of Honduras Humna Rights Ombudsman for information on human rights abuses in that country, and the CIA will be providing additional materials shortly.

I also welcome the inclusion by the Congress in the FY 1998 Intelligence Authorization Act of a provision seeking to maximize the amount of information, including declassified data from intelligence sources, to U.S. citizens who are victims of human rights abuses overseas, as well as to their families. The State Department, pursuant to a recommendation in the June 1996 Guatemala Report of the Intelligence Oversight Board, has drafted Administration currently is formalizing draft guidelines for this process, and will be promulgating them shortly.

Thank you again for sharing your views on this important issue.

Sincerely,

Kenneth Roth
Executive Director
Human Rights Watch
485 5th Avenue
New York, New York 10017

cc: Secretary Albright
Director of Central Intelligence Tenet

2

Exchange Mail

7447

DATE-TIME 12/13/97 10:14:57 AM
FROM Baker, James E.
CLASSIFICATION UNCLASSIFIED
SUBJECT FW: Clearance Requested: Human Rights/Family Notification
[UNCLASSIFIED]
TO Sherman, David J.

CARBON_COPY Beers, Rand R.
Leary, William H.
Busby, Scott W.
Schwartz, Eric P.
Bendick, Gordon L.
Burrell, Christina L.
Davis, William K.
Rudman, Mara E.
Baker, James E.
DeRosa, Mary B.
Highsmith, Newell L.
Hunerwadel, Joan S.
Sparks, John E.

TEXT_BODY A couple of comments in addition to the edits to your memoranda.

1. I recommend splitting the difference between "adequate" and "all relevant." As Scott points out, adequate is in the eye of the beholder and will be seen as Government as usual. Plus, would certainly not address a Harbury type scenario. "All relevant" is too much, creating too high an expectation of disclosure of classified information. "You said you would provide all relevant. . . " I would go with "all appropriate." "All" is broad while "appropriate" reminds of the reality of classification. It was also the formula used for the Guatemala review, which I believe was grudgingly accepted by all sides as appropriate.

2. Agree with Scott: "does not apply to law enforcement information" does not work. It states too little and too much. First, I believe it should be modified by "U.S." rather than legitimate, the latter term being too subjective in a contentious area. To the extent we can rely on objective factual thresholds like U.S. we should. I presume the issue here is preserving evidence, and not disclosing material within law enforcement

investigative
files, 6(e) and so on. Problem, intelligence information declassified
or not, often becomes law enforcement information.

Perhaps fix
is to limit policy to information held by IC (- LE elements) and
foreign policy agencies. And if there happens to be something held
for law enforcement purposes that is also held at State, then DOJ
can declare that it would not be appropriate to release as suggested
page 3, 3d full para. Recommend we bracket this sentence for now,
but insert U.S. in front.

3. Concur in Bill's and Scott's compromise
on 12958. It is important not to create new standards for
declassification.

4. Please note in edits: The hook for interagency coordination
is requirement in statute for Sec.State to work with the heads of
appropriate agencies.

5. January 9 is perhaps optimistic. Worth
a try.

Thank you for the opportunity to comment.

-----Original
Message-----

From: Sherman, David J.
Sent: Thursday, December
11, 1997 5:40 PM
To: @LEGAL - Legal Advisor; @LEGISLAT - Legislative
Affairs
Subject: FW: Clearance Requested: Human Rights/Family
Notification
[UNCLASSIFIED]

Jamie Baker/Gordy Bendick:

Last call for clearance.
Let me know by OOB tomorrow if you need more time; otherwise, I
will assume you clear without comment and will forward packet to
Gen. Kerrick with request that we send out to agencies for their
views. dave

-----Original Message-----

From: Sherman, David
J.
Sent: Tuesday, December 09, 1997 9:05 AM
To: @DEMOCRACY - Dem/Human

Affairs; @LEGAL - Legal Advisor; @RECORDS & ACCESS
MGMT; @LEGISLAT
- Legislative Affairs
Cc: @INTEL - Intelligence Programs
Subject: Clearance
Requested: Human Rights/Family Notification [UNCLASSIFIED]

Note:

Clearance Requested by COB Thursday, December 11.

For Bill Leary/Scott
Busby/Jamie Baker/Gordie Bendick:

You will recall that several weeks ago I asked you to provide preliminary views on a State Department proposal with regard to including intelligence-based information in briefings to U.S. citizen victims of human rights abuses abroad, as well as their families.

State has reworked the paper in response to comments by Bill and Scott. At Randy's instruction, I have prepared a memo for Don Kerrick requesting that the State proposal be forwarded to the intelligence and law enforcement agencies for comment. I will provide a hard copy of the revised State paper for your attachment to the following files. I would ask that you provide clearance by COB Thursday, December 11.

Note to Scott: I have had several conversations with State regarding to the sentence on page 1 stating that "This policy does not apply to law enforcement information" which you flagged as needing clarification. State intends these specific procedures to apply to intelligence information only. However, any information on foreign law enforcement activities that becomes available to the USG through intelligence channels would be considered intelligence information and subject to review and possible release under this policy. State would not say if it intends to develop separate guidelines for U.S. law enforcement information, or when it would do so; it noted, however, that this latter issue is extremely complex and would take considerable time to thrash through. Thus, it is probably best to proceed with the proposal on the table at this time.

Note to all: on the response to Ken Roth/Human Rights Watch (#1808), CIA has promised me comments today. I'll keep everyone posted.

Thanks in advance for your assistance.

TRANSLATED_ATTACHMENT 8263dlk.doc

ACTION

MEMORANDUM FOR GENERAL KERRICK

THROUGH: RAND BEERS

FROM: DAVID SHERMAN

SUBJECT: State Department Proposal on Providing U.S. Victims of Human Rights Abuse Abroad with Appropriate Intelligence-Based Briefings

In signing the FY 1998 Intelligence Authorization Bill, the President strongly endorsed a provision providing for the review and disclosure of appropriate U.S. Government information - classified and unclassified - to U.S. citizens who are victims of human rights abuse abroad, as well as to their families. Specifically, the Secretary of State is to identify and review such information and, consistent with the need to protect national security or any criminal investigations, to include it in briefings to U.S. citizens who are victims of abduction, torture, or serious mistreatment abroad, or - including instances of killing - to U.S.-citizen family members. The Secretary is to "work with the heads of appropriate departments and agencies" in implementing this section. As a result, the NSC staff has agreed to facilitate the process of interagency coordination. Depending on the ultimate product, we or the State

CLINTON LIBRARY PHOTOCOPY

Department will ultimately promulgate these guidelines.

State has drafted policy guidelines for handling intelligence-based information that meets these criteria. These guidelines, which have been reviewed by the Offices of General Counsel at State and CIA, establish a three-stage process: (1) initiating review; (2) declassification; and (3) notification and briefing.

The process is structured as follows: State will establish internal procedures for its regional and functional bureaus to alert the Bureau of Intelligence and Research (INR) to any information suggesting human rights abuses against Americans overseas. INR will monitor incoming intelligence reporting to the same end. Once such a case has been brought to INR's attention, it will ask Intelligence Community agencies to search available information and identify any relevant intelligence reporting. If any such reporting is located, INR will request declassification of same.

Upon conclusion of these search and declassification procedures, the State Department, in close consultation with the Intelligence Community and, where appropriate, law enforcement agencies will make a determination as to whether to include any declassified information in briefing victims and their families. INR will review all outstanding cases annually. Those instances where no new information has been received for one year or more will be placed in inactive status until additional details are received.

The draft procedures include a provision to ensure that any release of information is consistent with Privacy Act requirements. Possible briefings to Congress and the media are envisioned. In those instances where the victim of abuse is not a U.S. citizen, information may be released to U.S.-citizen family members.

There are a number of issues to resolve. Bill Leary has expressed concern that the State-proposed process will be triggered in the event that any information becomes available suggesting human rights abuse against a U.S. citizen abroad, regardless of whether it has been requested by that individual or a family member. While it should be left to State to determine how to manage its resources internally, other agencies may share Bill's concern with regard to the requirements this process will place on them. We will also need to resolve differences of view on how to define and handle "law enforcement information." The forthcoming interagency coordination process for State's proposal should surface and resolve any issues in this regard.

A memorandum is attached for Glyn Davies' signature that forwards State's proposal to agencies in the intelligence and law enforcement communities for comment. Our objective is to reach interagency consensus by mid-January.

Concurrence by: Jamie Baker Bill Leary Eric Schwartz

RECOMMENDATION

That you direct Glyn Davies to forward to attached memorandum to agency counterparts.

Approve _____ Disapprove _____

Attachment

Tab I Family Notification: Memorandum to Agency Counterparts

Tab A State Department Proposal

3

8263

TRANSLATED_ATTACHMENT 8263davies.doc

MEMORANDUM FOR

MR. WILLIAM J. BURNS
Executive Secretary
Department of State

MR. NEAL COMSTOCK
Executive Secretary
Department of the Treasury

COL. JAMES N. MATTIS
Executive Secretary
Department of Defense

MR. GERALD A. SCHROEDER
Acting Counsel for Intelligence Policy
Department of Justice

MR. JAMES N. SOLIT
Director, Executive Secretariat
Department of Energy

MR. JAMES E. STEINER
Executive Secretary
Central Intelligence Agency

MR. JOHN F. LEWIS
Assistant Director, National Security Division
Federal Bureau of Investigation

MR. JAMES R. TAYLOR
Executive Director
National Security Agency

MR. WARREN A. UTHE
Executive Secretary
Defense Intelligence Agency

MR. HOLM KAPPLER
Chief of Staff
U.S. Customs Service

MR. THOMAS A. CONSTANTINE
Administrator

Drug Enforcement Administration

SUBJECT: Proposed Policy on Family Notification

Attached for your review is a proposal from the Department of State on procedures for enhanced efforts to provide intelligence-based information in briefings to U.S. citizens --or to their family members -- who are victims in cases of killings, abductions, torture, or serious mistreatment abroad. These procedures also would apply to U.S. citizen family members of non-U.S. citizen victims.

Development of these procedures was one of the recommendations contained in the Intelligence Oversight Board's review of human rights abuses affecting U.S. citizens in Guatemala between 1984 and 1995. These procedures also respond to Section 307 of the FY 1998 Intelligence Authorization Act, which the President endorsed when signing this legislation into law on November 20, 1997. Section 307 directs the Secretary of State to ensure that the U.S. Government takes all appropriate action to identify and review such information, and - consistent with the need to protect sensitive sources and methods, as well as criminal investigations - provide it to victims and their families. Section 307 also directs the Secretary to "work with the heads of appropriate departments and agencies" to ensure this section is implemented consistent without jeopardizing national security or law enforcement.

Please provide any comments regarding these proposed procedures to David Sherman in the NSC's Intelligence Programs Directorate at (202) 456-9341 by January 9, 1998. Once interagency comments are addressed, a formal policy will be promulgated.

Glyn T. Davies
Executive Secretary

Attachment
Tab A State Department Proposal on Family Notification

2

8263

Exchange Mail

7148

DATE-TIME 12/16/97 8:44:05 AM
FROM Sherman, David J.
CLASSIFICATION UNCLASSIFIED
SUBJECT RE: Draft POTUS Letter [UNCLASSIFIED]
TO Busby, Scott W.

CARBON_COPY

TEXT_BODY

Thanks, and no problem about the timing. I was rather harried myself, which probably accounts for a few of the slips of the pen (keyboard?) in the latest draft. Thanks for catching them. I have taken all changes except one, and that is I would like to retain the word "rigorously" in para four (i.e. "I am confident that CIA will adhere to these guidelines rigorously").

On Nuccio, I have added the following statement to the end of para four (on oversight and notification). Jamie or Bill may tweak it to make it consistent with previous policy statements, but I think it captures the gist of where we are at.

I believe that current oversight and notification procedures are sufficient to permit Executive Branch employees who learn of such activities to bring them to the attention of the appropriate Administration and Congressional authorities in a manner consistent with my Constitutional obligation to promote our national security and protect information that has been properly classified.

Will be sending back out for formal clearance later today.

-----Original Message-----

From: Busby,
Scott W.
Sent: Monday, December 15, 1997 7:24 PM
To: Sherman,
David J.
Subject: FW: Draft POTUS Letter [UNCLASSIFIED]

Dave

-- My apologies for not getting back to you earlier as promised. A busy day. The letter basically looks good. You've addressed most of my concerns, especially by including the stuff about the checks on how to ensure that the CIA will comply with the guidelines.

A few small comments are attached.

RE: the Nuccio point. Rather than dodge it altogether, shouldn't we just come out and say we disagree?
I imagine that we have previously said stuff to the Hill about it. Can we just reiterate that position? I think it's better to respond to the point, even if in an unsatisfactory way to Roth, rather than dodge it altogether.

Scott

-----Original Message-----

From: Sherman,
David J.

Sent: Monday, December 15, 1997 5:45 PM

To: Busby, Scott
W.

Cc: Sherman, David J.

Subject: RE: Draft POTUS Letter [UNCLASSIFIED]

Scott:

Attached

is a redraft of the letter to Roth. I have tried to incorporate as many of the suggestions that you and Bill Leary made, as well as language offered by CIA. I am forwarding to you at this time not for formal clearance but to see whether I have satisfied your concerns or need to do more work. If I have offered enough to satisfy you, I will provide a revised packet for Eric's clearance later this week; otherwise let's discuss and determine what next steps should be. (Also, I have your original edit and would be happy to provide.)

<< File: 1808ltr-a.doc >>

With regard to some of your specific suggestions:

1. Leading with CIA oversight issues/guidelines was an excellent idea and I have incorporated into the new text. HCC/Guatemala declassification issues and the Intel bill now come later in the letter.

2. Re need for more specificity on oversight

process. I have added some language on the various oversight and review mechanisms that exist (Congressional committees, the President's

Intelligence Oversight Board, etc.). I am not sure we can offer many more specifics about CIA's internal guidelines, which are classified.

My own tack has been to note that CIA has made a commitment to respect

human rights; that it has put in place procedures to monitor the implementation of this commitment; that the President expects DCI Tenet to make sure these work and to notify him of any problems; and that there are several other monitoring mechanisms in place as well.

3. Re Mr. Roth's point about Mr. Nuccio, I have discussed this with Mary McCarthy and we do not believe there is anything to be gained by discussing this. The President has taken a strong position

that "whistleblower" provisions or activities, however well-motivated,

infringe on his classification authority/national security responsibility and that are other mechanisms for keeping Congress informed in situations

such as that involving Mr. Nuccio. Mr. Roth simply disagrees. I am not sure there is anything we can tell him about our position that he isn't already aware of.

In any event, let me know if the revised text meets enough of your concerns that I can send it through again for coordination. If not, I would be happy to discuss further.

dave

-----Original

Message-----

From: Busby, Scott W.

Sent: Friday, December 05,
1997 1:48 PM

To: Sherman, David J.

Cc: Leary, William H.; DeLaurentis,
Jeffrey J.; Baker, James E.; @LEGAL - Legal Advisor;
@DEMOCRACY -

Dem/Human Affairs

Subject: FW: Clearance Request: Draft POTUS Letter
[UNCLASSIFIED]

Dave -- I have edited the letter as already edited
by Bill Leary.

First, I moved the general points about the CIA's

new guidelines up in the letter and the info on our collaboration with the HCC and our support for the new provisions in the Intel bill down. Important to begin the letter with the points that are most directly responsive to the general points raised by Roth. The points on the HCC and the Intel bill are secondary points, I think.

Second,

I am concerned that our responses to Roth's four major points are a little too general and in some cases not responsive. We need to be more specific (if we can). Do we have any vehicles for ensuring that the Agency will comply with its own guidelines? To what extent are we able to scrutinize the agency's relationship with foreign intelligence services? How can we ensure that the Agency will turn over info on human rights abusers among its assets? We are also not at all responsive to Roth's points about the Nuccio. Can we not say something about whistleblowers provisions and the like? To the extent we can, I think we should try to address each of the four major factors listed at the beginning of Roth's letter. Let me know if you don't think this is possible.

Because Eric did have the original conversation with Roth about this, I would like also like to run a revised version by him once you've made above-suggested changes. Thanks. Scott

-----Original Message-----

From: Leary,
William H.

Sent: Thursday, December 04, 1997 12:32 PM

To: Sherman,

David J.; @DEMOCRACY - Dem/Human Affairs; @INTERAM -
Inter-American;

@RECORDS & ACCESS MGMT

Cc: @INTEL - Intelligence Programs; Baker,
James E.

Subject: RE: Clearance Request: Draft POTUS Letter
[UNCLASSIFIED]

Dave,

Many

of my attached edits reflect one general concern about the fairly strong hints -- as I read your drafts -- that the CIA is still not fully committed to the human rights policies of the Administration despite the changes of the past few years. If, in fact, the President needs to reinforce these policies with the Intelligence Community

because of some shortcomings, I question whether a letter to Kenneth Roth is the best way to do that.

Also, I think Jamie Baker ought to review this package.

<< File: roth1.doc >> << File: roth2.doc
>> << File: roth3.doc >>

-----Original Message-----

From: Sherman,
David J.

Sent: Wednesday, December 03, 1997 10:39 AM

To: @DEMOCRACY

- Dem/Human Affairs; @INTERAM - Inter-American; @RECORDS
& ACCESS

MGMT

Cc: @INTEL - Intelligence Programs

Subject: Clearance Request:

Draft POTUS Letter [UNCLASSIFIED]

Attn: Democracy/Interamerican/Records

Attached

for your review and clearance is a draft response to a letter to the President from Human Rights Watch Executive Director Kenneth Roth on CIA and various human rights/declassification issues. The draft also has been provided to CIA for comment. Please provide any suggestions/changes by noon, Friday, 12/5. Please let me know if you would like a copy of Roth's original letter; would be happy to provide. Thanks in advance for your assistance.

dave

<<

File: 1808srb.doc >> << File: 1808potus.doc >> << File: 1808ltr.doc
>>

TRANSLATED_ATTACHMENT 1808ltr-a.doc

Dear Mr. Roth:

CLINTON LIBRARY PHOTOCOPY

Thank you for your letter of March 5, 1997, urging additional steps to promote openness and accountability in intelligence relationships with foreign security services and sources of information. I am writing now to follow up on the oral response provided to you earlier by my staff.

My Administration shares your interest in ensuring that United States Government agencies not condone or be complicit in human rights violations. I can assure you that the Administration remains committed to a vigorous defense of human rights as a core objective of America's foreign policy. We continue to pursue this goal on a variety of fronts, both through "quiet diplomacy" and in more public ways.

Several of the specific points that you raise in your letter concern scrutiny and oversight of intelligence matters that involve questions of human rights. CIA's current guidelines for this area have been in place for nearly two years. They note CIA's firm commitment to respect internationally recognized human rights standards and, working from them, to scrutinize carefully its own operational activities. They also put in place reporting procedures for CIA officers who learn of allegations of human rights abuses, either by individual sources or by foreign services with whom an official relationship exists.

These guidelines - and, more importantly, established practice under them - are consistent with my Administration's human rights policy. I am confident that CIA will adhere to them rigorously, and that the oversight and review mechanisms now in place - including the Congressional intelligence committees, my own Intelligence Oversight Board, internal CIA entities, and the consultative processes embodied in CIA's own guidelines - will provide appropriate, ample, and

effective safeguards to ensure compliance. I also am confident that the Director of Central Intelligence will keep me and senior Administration officials, including the Secretary of State, fully informed on all cases involving allegations of major human rights abuses or crimes of violence. I believe that current oversight and notification procedures are sufficient to permit Executive Branch employees who learn of such activities to bring them to the attention of the appropriate Administration and Congressional authorities in a manner consistent with my Constitutional obligation to promote our national security and protect information that has been properly classified.

Your letter also addresses the Administration's efforts in the area of declassification. Let me update you on our recent progress. Specifically, in support of my strong commitment to the efforts of the Guatemala Historical Clarification Commission, we have mounted an active effort to release additional materials on human rights abuses in that country, over and above the more than 7,000 documents containing information concerning American citizens previously made public. An interagency task force has been formed to review the Commission's request to the U.S. Government and will be turning over responsive materials early in 1998.

Since your letter, the State Department, DoD, and CIA also have released a number of previously classified documents in response to a request from the Honduran Government's Human Rights Ombudsman, Dr. Leo Valladares, for information on human rights abuses in that country. The CIA will be providing additional materials shortly. We intend to continue such efforts to amplify the historical record, both for Central America and elsewhere, through an aggressive declassification program.

Finally, I also have welcomed the inclusion by the Congress in the FY 1998

Intelligence Authorization Act of a provision seeking to maximize the amount of information, including declassified data from intelligence sources, released to U.S. citizens who are victims of human rights abuses overseas, as well as to their families. The State Department, pursuant to a recommendation in the June 1996 Guatemala Report of the Intelligence Oversight Board, has drafted guidelines for this process, and will be promulgating them shortly.

I am grateful to you for bringing your concerns to my attention. As you note in your letter, we cannot expect intelligence sources always to be saints. Indeed, there will be instances where we will have to work with some unsavory or morally suspect individuals to acquire information vital to our national security. But we also must work to ensure that, in fulfilling its national security responsibilities, our government conducts itself in a manner that remains exemplary in terms of human rights. In this way, we will only enhance our commitment to ensuring that others abide by those internationally recognized norms which your organization has done so much to advance.

Sincerely,

Kenneth Roth
Executive Director
Human Rights Watch
485 5th Avenue
New York, New York 10017