

Withdrawal/Redaction Sheet

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION COPY
001. email	James Baker to Regina Genton and George Tenton re Roles and Mission (1 page)	06/22/1995	P5
002. email	Regina Genton to James Baker and George Tenet re: Roles and Mission (2 pages)	06/22/1995	P5
003. email	Rand Beers to Peter Bass et al. re: Invitation (1 page)	09/20/1995	P1/b(1)
004. email	Katherine Veit to Rand Beers et al. re: Invitation (1 page)	09/20/1995	P1/b(1)
005. email	Wilma Hall to Rand Beers re: Invitation (1 page)	09/25/1995	P1/b(1)
006. email	Judith Miscik to Ardenia Hawkins re: Killian Award (4 pages)	10/03/1995	P1/b(1)
007. email	Judith Miscik to Ardenia Hawkins re: Let's try it this way (2 pages)	10/03/1995	P1/b(1)
008. email	Cathy Millison to Daniel Benjamin re: Killian (4 pages)	10/05/1995	P1/b(1)
009. email	James Baker to Jane Baker et al. re: Revised IOB Report Memo (10 pages)	04/18/1996	P5 6091

COLLECTION:

Clinton Presidential Records
NSC Emails
MSMail-Record (Sept 94-Sept 97) ([Warren Rudman and PFIAB..])
OA/Box Number: 590000

FOLDER TITLE:

[02/02/1995-04/18/1996]

Bevin Maloney
2006-1000-F
bm155

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]
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- 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]

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6091

MSMail

COPY

DATE-TIME 18 April 96 14:41
FROM Baker, James E.
CLASSIFICATION UNCLASSIFIED
SUBJECT Revised IOB Report Memo [UNCLASSIFIED]

TO Baker, Jane E.
Friedrich, M. K.
Hilliard, Brenda I.
Joshi, M. Kay
Kessinger, Jodi
Millison, Cathy L.

CARBON_COPY NO CC's on THIS MESSAGE

TEXT_BODY

Nancy:

Here is the revised IOB report memo. I will work directly with Jack on shortening executive privilege section and will clear with Tony Harrington.

Thank you.

[[BOSDOC.DOC : 3630 in BOSDOC.DOC]]

**ATTACHMENT
FILE DATE** 18 April 96 14:39

**ATTACHMENT
FILE NAME** BOSDOC.DOC
DRAFT
cc: Vice President
Chief of Staff

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: JACK QUINN

SUBJECT: Executive Privilege and the IOB Report

Purpose

To identify considerations in determining whether to accede, at this

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time, to Congressional demands that we turn over the IOB's report on shipments of Iranian arms to Bosnia, or whether, to seek alternative ways to meet Congress's informational needs consistent with the Executive Branch's interest in confidentiality in these circumstances.

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Background

In dealing with Specter's claim that the IOB and Administration are "stone-walling" the SSCI's investigation, it is important to keep in mind that we have provided Specter the substance of the report and have already taken substantial steps to accommodate the legislative interest in learning what the Administration did and did not do. Tony Harrington has talked with Members and offered to brief the intelligence committees as soon as we were aware of the story; PFIAB member Warren Rudman has read the report and briefed Dole and others on it; and, we are actively responding to document requests. In addition, various officials, such as Peter Tarnoff, have briefed and will testify on the Hill.

While the press picked-up Specter's "stonewall" theme, the signals are mixed on whether Specter has the support of his Committee on this issue. Rudman, who has gone on record stating that "no covert action has occurred," recommends that we not release the report. Other members, such as Bob Kerrey, have privately supported this view, so long as we are only using the IOB report to uphold our view that no covert action occurred -- not as a defense of the policy. To date, however, he has publicly remained neutral. In addition, Dole's marching orders to his committee chairmen yesterday, while stating that the IOB and White House had not cooperated, did not pick-up Specter's specific theme of access to the report. Dole has asked the Foreign Relations Committee to look at Administration policy and the SSCI to look at whether Administration officials engaged in covert action.

Tony Harrington has worked hard to be available to provide the

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information in the report to interested members. On Tuesday, he briefed the Senate Select Committee on Intelligence on the IOB's review. At this briefing, and in separate sessions to the congressional leadership, Tony fully discussed the IOB's review of whether U.S. officials went beyond a policy of "no instructions" and became actively involved in arms shipments to Bosnia through Croatia. He basically went line-by-line through his report, describing the specific events that caused concern in the first instance, as well as events of which the Board became aware. He provided the Board's opinion on the manner in which the policy was constructed and implemented and how that might have created an appearance of ambiguity. He made clear, of course, that the officials involved did not, in our view, cross the line into covert action.

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What Tony did not do was convey to the Members of Congress the words, tone and manner in which these opinions were conveyed to you, in the Board's six-page report, or orally to the Secretary of State, the DCI, Tony Lake and the White House Counsel. With the exception of the principal players, Tony also declined to name persons interviewed by the Board, including for example the name of a junior officer whose statements in the report undercut those of a senior policymaker. On my instruction, Tony Harrington informed Specter, as he had previously done in writing, that he declined to turn over to the Committee the IOB's report because it is a confidential communication to the President and provision of the report would hamper the effectiveness of the Board as one of the mechanisms by which you oversee intelligence activities.

a. Executive Privilege

The doctrine of executive privilege is an essential adjunct of the constitutional separation of powers. It protects confidential Executive Branch communications and your ability to receive candid advice and accurate information from your senior advisers. It also protects from disclosure your private conversations with other

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world
leaders. And, at times, it is also properly invoked in judicial proceedings.

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All Presidents have considered executive privilege important to protect. Thus, even in the context of the politically charged Army-McCarthy hearings, President Eisenhower barred employees from disclosing confidential communications. (He is reported to have said that anyone who testified to Congress about advice given to him "would not have a job.")

However, the doctrine of executive privilege is not absolute (except as to state secrets). Rather, it requires that the Executive Branch's interest in confidentiality be balanced against Congress' legitimate need for information for legislative purposes. It is not uncommon for this office to object to disclosure of sensitive communications to the Congress.

Indeed, it has happened several times in the six months since I became your Counsel. But, in almost all instances, after interposing such an objection, we are able to reach an accommodation which respects the interests of both Congress and the Executive Branch.

The terms of that accommodation generally turn upon various factors including: whether the communication at issue is directly to or from the President, as opposed to, for example, a communication among his advisers in a Cabinet Department; the nature of Congress' needs; and competing political considerations. In the process of reaching an accommodation with Congress, we sometimes resolve the issue by briefing Members on the contents of a document; in other cases, we may succeed in providing alternative, less sensitive documents; and, in yet other cases, we may agree to let them review but not keep a document.

The IOB report presents a case of core executive privilege -- an internal White House communication from senior White House advisers

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to you. In the past, we have successfully justified withholding such IOB materials from the Congress on these grounds (as set forth in the attached letter from Judge Mikva to Senator Specter in October, 1995 concerning an interim Guatemala report).

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Put another way, you need to be sure that your senior advisers always give you their best advice, not the advice they think will look best to a congressional committee. Sharing such communications with Congress inevitably will affect the candor of the advice you receive -- as I know Tony Lake observed in arguing forcefully that Cabinet officials should not disclose to Congress what position they recommended to you on Mexico certification. The same principle applies to IOB reports. And, if the reliability of IOB reports is diminished because they are subject to disclosure to the Congress, then eventually you will find the IOB a less useful tool than it has been. That result is not in the public interest.

b. The IOB Report and the Broader Context

The advantage of giving up the IOB report is straightforward and immediate. It should eliminate any allegation of a cover-up, although Senator Specter has also requested other materials used by the Board in its deliberations. It should also help end the debate over whether there was any illegal activity, as Tony Harrington's briefings on the Hill already have begun to do. It will not, however, put a complete end to the inquiry into the issue of legality, nor will it end congressional inquiries into the policy decision.

The disadvantage of turning over the report is the deleterious impact disclosure will have on Presidential prerogatives. Admittedly, this is a long-term consideration that is difficult to quantify, but it is not an academic point. Please bear carefully in mind that if Congress sees that we are unwilling to invoke the privilege in appropriate cases that involve providing advice to you -- as in this

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case -- then it surely will be encouraged to accelerate its requests for all manner of materials that should be protected.

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At another level, the damage may be more immediate. We are currently facing several congressional requests that cover documents at the core of executive privilege -- your communications with Yeltsin over Russian chicken imports; NSC deliberations on Haiti human rights violations; the advice you received from Bob Rubin on the debt ceiling. How this report is handled also will directly affect the disposition of the IOB's pending Guatemala report. Again, our ability to achieve accommodations with Congress on these requests by providing information in a way that also protects core Presidential communications will certainly be affected by how we handle this request.

I do not seek to exaggerate the consequences of disclosing the IOB report. Nor do I suggest we can never compromise in significant measure on these issues. We went very far, for example, in responding to congressional requests for Mexico peso documents -- including allowing Members to read memos to you from senior advisers.

I do want, however, to emphasize that, to the extent we treat exceptional cases such as Mexico peso (where Congress actually passed, and you signed, a law requiring the documents) as our standard, we will seriously erode the privilege.

Options

1. Hold firm on not providing the document over, but be willing, if helpful to provide a summary in relative short order.

Pros:

-- Protects your internal deliberative process. Helps draw line at time when Congress is seeking to encroach further into your internal deliberations on Mexico, Haiti, and Russian poultry.

-- Preserves efficacy of executive branch oversight mechanism. While prior IOB's have been largely dormant, your IOB has proven an important mechanism to review matters of intelligence concern that require interagency coordination or do not warrant

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Justice or Congressional investigations.

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-- A line must be drawn. If the IOB's review is provided, we anticipate the Congress will ask for interview notes and internal work product. The report offers a clear line of demarcation.

-- Providing a summary is supported by precedent. A summary was the basis of accommodation regarding IOB's interim Guatemala report, which the SSCI accepted.

-- Is a serious effort at accommodation, particularly given fact that no request has yet been made for a summary.

-- Allows Members a basis on which to cross-check their own review in an area replete with hearsay, innuendo and rumor.

Cons:

-- Might fuel continued allegations that the Administration is "stone-walling" Congress and covering something up.

-- Congress has already been briefed fully on the contents of the report; a summary is not likely to satisfy if Specter is determined to use the "stonewall" line for political effect.

-- Might raise questions of what we left out of the summary.

2. Provide a redacted version of the report to the Committees.

Pro:

-- Lessens "stone-walling" argument.

-- Might help convince Specter and Kerrey that IOB review was thorough and frank and supports White House conclusion that no actions constituting U.S. covert action occurred.

Con:

-- Will make it harder to draw, and hold, the line on your deliberative process in other settings, e.g., requests for documents relating to Bob Rubin's advice on Mexico, your conversations with Boris Yeltsin on poultry. In this setting, Congress will likely push on to next hurdle -- e.g., testimony from senior advisers within the White House.

-- Could chill the IOB oversight mechanism. IOB may be less inclined to speak candidly in their reports and specify the basis on which they reach conclusions. Senior advisers may be

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less inclined to refer issues of concern to the Board.

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-- Establishes precedent for giving Congress access to IOB reports. (Moves IOB in direction of becoming a "White House IG," rather than Presidential advisory body.)

-- Not likely to satisfy the Congress in any event. Your interest in confidentiality will be greatly compromised and the investigation will continue anyway.

-- Allows Specter and others to continue to allege "cover-up." (Redacted document would offer a visual prop.)

3. Allow only Specter and Kerrey to read the IOB report.

Pros:

-- Removes "stonewalling" argument.

-- Might help convince Specter and Kerrey that IOB review was thorough and frank and supports White House conclusion that no actions constituting U.S. covert action occurred.

Cons:

-- Highly unlikely access could be limited to Specter and Kerrey. At minimum, would open door to House intelligence committee, congressional leadership, and likely others (such as Helms, since Dole has asked the SFRC to review policy).

-- Gives Specter more sway over the characterization of the report.

-- Will make it harder to draw, and hold, the line on your deliberative process in other settings, e.g., requests for documents relating to Bob Rubin's advice on Mexico, your conversations with Boris Yeltsin on poultry. In this setting, Congress will likely push on to next hurdle -- e.g., testimony from senior advisers within the White House.

-- Could chill the IOB oversight mechanism. IOB may be less inclined to speak candidly in their reports and specify the basis on which they reach conclusions. Senior advisers may be less inclined to refer issues of concern to the Board.

-- Establishes precedent for giving Congress access to IOB reports. (Moves IOB in direction of becoming a "White House IG," rather than Presidential advisory body.)

-- Not likely to satisfy the Congress in any event. Your

COPY

interest in confidentiality will be greatly compromised and the investigation will continue anyway.

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4. Turn the report over to SSCI and, if requested, the HPSCI.

Pro:

-- Removes "stone-walling" argument.

-- Might help convince Specter and Kerrey that IOB review was thorough and frank and supports White House conclusion that no actions constituting U.S. covert action occurred.

Con:

-- Will make it harder to draw, and hold, the line on your deliberative process in other settings. In this setting, Congress will likely push on to next hurdle -- e.g., testimony from senior advisers within the White House.

-- Could chill the IOB oversight mechanism. IOB may be less inclined to speak candidly in their reports and specify the basis on which they reach conclusions. Senior advisers may be less inclined to refer issues of concern to the Board.

-- Establishes precedent for giving Congress access to IOB reports. (Moves IOB in direction of becoming a "White House IG," rather than Presidential advisory body.)

-- Not likely to satisfy the Congress in any event. They will conduct their own investigation anyway and your interest in confidentiality will be greatly compromised.

RECOMMENDATION

That you approve option #1 on the understanding that we will continue to cooperate with Congressional efforts to access and understand the underlying facts.

Approve _____

Disapprove _____

Attachments

Tab I The IOB's Report

Tab II Tony Harrington's Letter to Specter, April 15, 1996

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Tab II White House Counsel letter to Specter, October 26, 1995

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Withdrawal/Redaction Sheet

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION CODE	
001. email	James Baker to Jane Baker et al. re: Revised IOB memo (11 pages)	04/19/1996	P5	6092
002. email	Steven Naplan to Julia Moffett re: porposed invitees (2 pages)	10/09/1996	P5	almost
003. email	Lori Murray to Tara Sonenshine re: List (2 pages)	03/19/1997	P6/b(6)	Dup of 609.1

COLLECTION:

Clinton Presidential Records

NSC Emails

MSMail-Record (Sept 94-Sept 97) ([Warren Rudman and PFIAB..])

OA/Box Number: 590000.

FOLDER TITLE:

[04/16/1996-03/10/1997

Bevin Maloney

2006-1000-F

bm228

RESTRICTION CODES

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

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

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
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- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

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.

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DATE-TIME 19 April 96 12:27
FROM Baker, James E.
CLASSIFICATION UNCLASSIFIED
SUBJECT Revised IOB Memo [UNCLASSIFIED]
TO Baker, Jane E.
Friedrich, M. K.
Hilliard, Brenda I.
Joshi, M. Kay
Millison, Cathy L.
CARBON_COPY Kessinger, Jodi

TEXT_BODY

Jodi:

Here is revision of memo with changes to reflect views expressed by Leon, Tony and Bruce. These appear on page 6 (addition of option 2(b) with pro/con) and in the recommendation section at end of paper. Note: Having a brief problem with the formatting with quotation marks, will fix before we go final.)

Please let me know as soon as Nancy has reviewed and I will then clear in final with Jack Quinn. Thank you.

[[BOSDOC.DOC : 3148 in BOSDOC.DOC]]

**ATTACHMENT
FILE DATE**

19 April 96 12:16

**ATTACHMENT
FILE NAME**

BOSDOC.DOC

cc: Vice President
Chief of Staff

cc: Vice President
Chief of Staff

COPY

cc: Vice President
Chief of Staff

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ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: JACK QUINN

SUBJECT: Executive Privilege and the IOB Report

Purpose

To identify considerations in determining whether (1) to accede, at this time, to Congressional demands that we turn over the IOB's report on shipments of Iranian arms to Bosnia, or (2) instead, to seek alternative ways to meet Congress's informational needs consistent with the Executive Branch's interest in confidentiality in these circumstances.

Background

In responding to Senator Specter's claim that the IOB and Administration are "stonewalling" the Senate Intelligence Committee's investigation, it is important to keep in mind that we have provided the substance of the report orally to Specter. Tony Harrington has briefed the SSCI and talked with members of the Committee individually. (In fact, he offered to brief the intelligence committees as soon as we were aware of the story on March 28.)

PFIAB

member Warren Rudman has read the report and briefed Senator Dole and

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others on it. Additionally, we are now actively responding to document requests. And, various officials, such as Peter Tarnoff, either have briefed or will soon testify on the Hill.

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Former Senator Rudman, who has gone on record stating that "no covert action has occurred," recommends that we not release the report. And, it is not at all clear that Specter has the support of his committee on seeking disclosure of the report. Some members, such as ranking Democrat Bob Kerrey, have privately supported Rudman's view, at least so long as we are only using the IOB report to uphold our position that no covert action occurred -- not to defend our policy. In addition, Dole's marching orders to his committee chairmen yesterday, while stating that the IOB and White House had not cooperated, did not pick up Specter's specific theme of seeking access to the report. (Dole has, however, asked the Foreign Relations Committee to look at Administration policy and the SSCI to look at whether Administration officials engaged in covert action.)

In his hill briefings, Tony Harrington discussed fully the IOB's review of whether U.S. officials went beyond a policy of "no instructions" and became actively involved in arms shipments to Bosnia. He went line-by-line through his report, describing the specific events that caused concern in the first instance, as well as other events of which the Board became aware. He stated the Board's view that our policy as implemented created a sense of ambiguity, but he also made clear that, in his view and that of the White House Counsel, the officials involved did not cross the line into covert action.

What Tony did not do was share with the Members of Congress the words, tone and manner in which these opinions were conveyed to you in the Board's six-page report (or orally to the Secretary of State, the DCI, Anthony Lake and the White House Counsel). And, with the exception of the principal players, Tony declined to identify persons

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interviewed by the Board, including, for example, a junior officer

whose statements in the report contradicted those of a superior.

On

my instruction, Harrington informed Specter, as he had previously done in writing, that he declines to turn over to the Committee

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IOB's report because it is a confidential communication to the President and provision of the report would hamper the effectiveness

of the Board as one of the mechanisms by which you oversee intelligence activities.

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a. Executive Privilege

The doctrine of executive privilege is an essential adjunct of the

constitutional separation of powers. It protects confidential Executive Branch communications and your ability to receive candid

advice and accurate information from your senior advisers. It also

protects from disclosure your private conversations with other world

leaders. It can be invoked before Congress or in judicial proceedings.

All Presidents have considered executive privilege important to protect. Thus, even in the context of the politically charged Army-McCarthy hearings, President Eisenhower barred employees from

disclosing confidential communications. (He is reported to have said

that anyone who testified to Congress about advice given to him "would not have a job" any longer.)

However, the doctrine of executive privilege is not absolute (except

as to state secrets). Rather, it requires that the Executive Branch's interest in confidentiality be balanced against Congress'

legitimate need for information for legislative purposes.

It is not uncommon for this office to object to disclosure of sensitive communications to the Congress. Indeed, it has happened

several times in the six months since I became your Counsel.

But, in

almost all instances, after interposing such an objection, we are able to reach an accommodation which respects the interests of

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both
Congress and the Executive Branch.

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The IOB report presents a case of core executive privilege -- an internal White House communication from senior White House advisers to you. In the past, we have successfully justified withholding such IOB materials from the Congress on these grounds (as set forth in the attached letter from Judge Mikva to Senator Specter in October, 1995 concerning an interim Guatemala report):

[Just] "as Congress relies on the confidential input of its staff, the President relies on the IOB to advise him of intelligence oversight issues of which he should be aware and to address any questions he or his senior advisers might ask. The President needs the most candid views, advice and recommendations that the Board can give him. This candor might be jeopardized if Board members had to worry that their views would be evaluated by other parties. In other words, it is fundamental to the operation of the Board that its communications to the President be held in confidence and that those who report to the Board understand this to be the case."

Put another way, you need to be sure that your senior advisers always give you their best advice, not the advice they think will look best to a congressional committee. And, if the candor of IOB reports is diminished, then eventually you will find the IOB a less useful tool than it has been. That result is not in the public interest.

b. The IOB Report and the Broader Context

The advantage of giving up the IOB report is straightforward and immediate. It would address the allegation of a cover-up. It should also help end the debate over whether there was any illegal activity. It will not, however, put a complete end to the inquiry into the issue of legality, nor will it end congressional inquiries into the policy decision.

The disadvantage of turning over the report is the deleterious impact disclosure will have on Presidential prerogatives. Admittedly, this is a long-term consideration that is difficult to quantify,

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if
Congress sees that we are unwilling to invoke the privilege in
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At another level, the damage may be more immediate. We are
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I do not seek to exaggerate the consequences of disclosing the
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report. Nor do I suggest we can never compromise in significant
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including allowing Members to read memos to you from senior
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I do want, however, to emphasize that, to the extent we treat
exceptional cases such as Mexico peso (where Congress actually
passed, and you signed, a law requiring the documents) as our
standard, we will seriously erode the privilege.

Options

1. Hold firm on not providing the document, but be willing to
provide a summary in relatively short order if that becomes
helpful.

Pros:

-- Protects your internal deliberative process. Helps draw line
at time when Congress is seeking to encroach further into your

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internal deliberations on such other matters as Mexico, Haiti, and Russian poultry.

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-- Preserves efficacy of Executive Branch oversight mechanism
While prior IOB's have been largely dormant, your IOB has proven an important mechanism to review matters of concern.

-- Providing a summary is supported by precedent. A summary was the basis of accommodation regarding IOB's interim Guatemala report, which the SSCI accepted.

-- Is a serious effort at accommodation, particularly given the fact that no request has yet been made for a summary.

-- Allows Members a basis on which to cross-check their own review in an area replete with hearsay, innuendo and rumor.

-- A line must be drawn. If the IOB's review is provided, we anticipate the Congress will ask for interview notes and internal work product. The report offers a clear line of demarcation.

Cons:

-- Might fuel continued allegations that the Administration is "stonewalling" Congress and covering something up.

-- Congress has already been briefed fully on the contents of the report; a summary is not likely to satisfy if Specter is determined to use the "stonewall" line for political effect.

-- Might raise questions of what we left out of the summary.

2(a) Provide a redacted version of the report to the Committees.

Pro:

-- Lessens "stonewalling" argument.

-- Might help convince Specter and Kerrey that IOB review was thorough and frank and supports White House conclusion that no actions constituting U.S. covert action occurred.

Con:

-- Will make it harder to draw, and hold, the line on your deliberative process in other settings, e.g., requests for documents relating to Bob Rubin's advice on Mexico, your conversations with Boris Yeltsin on poultry. In this setting, Congress will likely push on to next hurdle -- e.g., testimony

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from senior advisers within the White House.

-- Could chill the IOB oversight mechanism. IOB may be less inclined to speak candidly in their reports and specify the basis on which they reach conclusions. Senior advisers may be less inclined to refer issues of concern to the Board.

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-- Establishes precedent for giving Congress access to IOB reports. (Moves IOB in direction of becoming a "White House IG," rather than Presidential advisory body.)

-- Not likely to satisfy the Congress in any event. Your interest in confidentiality will be greatly compromised and the investigation will continue anyway.

-- Allows Specter and others to continue to allege "cover-up." (Redacted document would offer a visual prop.)

2(b) Allow Chairman and Vice Chairman of SSCI (and if necessary their House counterparts) to read a redacted copy of the Report

Pro:

-- Lessens "stonewalling" argument.

-- Might help convince Specter and Kerrey that IOB review was thorough and frank and supports White House conclusion that no actions constituting U.S. covert action occurred.

-- Presents less harmful precedent for other IOB reports than providing a copy or redacted copy to the Congress would.

Con:

-- Congress would still have access to the report making it harder to draw and hold the line on your deliberative process in other settings, e.g., requests for documents relating to Bob Rubin's advice on Mexico, your conversations with Boris Yeltsin on poultry. In this setting, Congress will likely push on to next hurdle -- e.g., testimony from senior advisers within the White House.

-- Could chill the IOB oversight mechanism. IOB may be less inclined to speak candidly in their reports and specify the basis on which they reach conclusions. Senior advisers may be less inclined to refer issues of concern to the Board.

-- Establishes precedent for giving Congress access to IOB reports. (Moves IOB in direction of becoming a "White House IG," rather than Presidential advisory body.)

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-- Not likely to satisfy the Congress in any event. The investigation will likely continue anyway and your interest in confidentiality will be greatly compromised.

-- Allows Specter and others to continue to allege "cover-up." (Redacted document would offer a visual prop.)

3. Allow only Specter and Kerrey to read the IOB report.

Pros:

-- Removes "stonewalling" argument.

-- Might help convince Specter and Kerrey that IOB review was thorough and frank and supports White House conclusion that no actions constituting U.S. covert action occurred.

Cons:

-- Highly unlikely access could be limited to Specter and Kerrey. At minimum, would open door to House intelligence committee, congressional leadership, and others (such as Helms, since Dole has asked the SFRC to review policy).

-- Gives Specter more influence over the characterization of the report.

-- Will make it harder to draw and hold the line on your deliberative process in other settings, e.g., requests for documents relating to Bob Rubin's advice on Mexico, your conversations with Boris Yeltsin on poultry. In this setting, Congress will likely push on to next hurdle -- e.g., testimony from senior advisers within the White House.

-- Could chill the IOB oversight mechanism. IOB may be less inclined to speak candidly in their reports and specify the basis on which they reach conclusions. Senior advisers may be less inclined to refer issues of concern to the Board.

-- Establishes precedent for giving Congress access to IOB reports. (Moves IOB in direction of becoming a "White House IG," rather than Presidential advisory body.)

-- Not likely to satisfy the Congress in any event. The investigation will continue anyway while your interest in confidentiality will be greatly compromised.

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4. Turn the report over to SSCI and, if requested, the HPSCI.

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Pro:

-- Removes "stonewalling" argument.

-- Might help convince Specter and Kerrey that IOB review was thorough and frank and supports White House conclusion that no actions constituting U.S. covert action occurred.

Con:

-- Will make it harder to draw, and hold, the line on your deliberative process in other settings. In this setting, Congress will likely push on to next hurdle -- e.g., testimony from senior advisers within the White House.

-- Could chill the IOB oversight mechanism. IOB may be less inclined to speak candidly in their reports and specify the basis on which they reach conclusions. Senior advisers may be less inclined to refer issues of concern to the Board.

-- Establishes precedent for giving Congress access to IOB reports. (Moves IOB in direction of becoming a "White House IG," rather than Presidential advisory body.)

-- Not likely to satisfy the Congress in any event. They will conduct their own investigation anyway and your interest in confidentiality will be greatly compromised.

RECOMMENDATION

That you approve option #1 on the understanding that we will continue to cooperate with Congressional efforts to access and understand the underlying facts.

Approve _____

Disapprove _____

That we fall-back to option #2(b) if we have to. (Leon Panetta, Tony Lake and Bruce Lindsey support Option #1 with a fall-back position of showing the intelligence committee leadership a redacted copy of the report).

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Approve _____

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Disapprove _____

Attachments

Tab I The IOB's Report

Tab II Tony Harrington's Letter to Specter, April 15, 1996

Tab III White House Counsel letter to Specter, October 26, 1995

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