

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	To John Hamre, Major General Donald Kerrick, Don Gips, and Tom Marsh from Janet Reno. Subject: PCCIP Draft Report. (5 pages)	10/06/1997	P5
002. memo	To Major General Donald Kerrick from Philip Bobbitt. Subject: PCCIP-Steering Committee Meeting. Record ID: 9706793. (6 pages)	10/07/1997	P5, b(6)
003. memo	To Samuel Berger from Philip Bobbitt and Rand Beers. Subject: Strategy for Dealing with...Record ID: 9706663 (5 pages)	10/06/1997	P5
004. memo	To Janet Reno from Robert Litt. Subject: President's Commission on Critical Infrastructure Protection (PCCIP). (6 pages)	05/18/1997	P5

COLLECTION:

Clinton Presidential Records
National Security Council
Intelligence Programs (Charlotte Knepper)
O/A/Box Number: 2653

FOLDER TITLE:

CALEA & Critical Infrastructure: Critical II

Van Zbinden
2008-1217-F
vz1173

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]

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20504

6793

October 7, 1997

INFORMATION

MEMORANDUM FOR GENERAL DONALD KERRICK

THROUGH: RAND BERRS
FROM: PHILIP BOBBITT
SUBJECT: PCCIP-Steering Committee Meeting

Tuesday October 7, 1997 you will attend a meeting of the Steering Committee for the President's Commission on Critical Infrastructure Protection. Other participants will be Commission Chairman Tom Marsh, Attorney General Janet Reno, Deputy Secretary of Defense John Hamre, and Don Gips.

Purpose of Meeting

The meeting (agenda at Tab A) will be devoted to three topics:

- EO 13010 revisions, (Tab B);
- the Transition Office (including approval of a Director);
- the Commission's draft report and recommendations.

Suggested Core Objectives/Points

You have two primary objectives:

- to re-define the mission of the Transition Office; and
- to avoid any definitive comment on the Commission's recommendations.

You may wish to make these points:

- Executive Order: Sandy Berger has signed off on the EO revisions and they are at OMB to be sent out for agency comment. OMB is aware of the urgency of this matter.
- Transition Office: The Transition Office must focus on pulling together urgently a package of interim infrastructure

protection measures. There will be no implementation of the Report until the final phase of its evaluation has occurred and the President has determined what steps to take.

- Interagency Review. The Steering Committee should agree that the Coordinating Committee will be expanded to an IWG. In the next week the Steering Committee will ask for agency representatives on the IWG; the NSC will follow up with taskers asking the agencies to identify which persons will attend IWG meetings.
- Comments on the Report. There has not been time to thoughtfully digest the Report, much less criticize its conclusions. You should not be drawn into making comments that will appear in the Final Report next week as having been accommodated.

Discussion (in order of the Agenda):

1. Structuring the USG Response to the Report (in response to AG Reno's Opening Remarks)

The "Next Steps" Memorandum, giving milestone dates, and describing the Three Phase Process is appended as Attachment C. This is broadly consistent with the AG's Timeline, though somewhat tighter (by about 4 weeks).

The process described in our Memorandum is in agreement with the AG's proposals that the Steering and Advisory Committees should ultimately resolve the alternatives that are thrashed out by the Transition Office and the IWG.

- You may want to walk the SC through the NSC timeline
- You should propose that the SC formally accept the Report by its delivery to the SC members next week

2. The Transition Office

The AG called for nominations to fill the Transition Director's office, but there have been none made other than that of (b)(6) proposed by Chairman Marsh. (b)(6)

(b)(6) and is so highly recommended by Marsh he should be promptly selected.

[002]

- You should propose the selection of (b)(6) as Director of the Transition Office

The functioning of the Office itself, however, is not to be quickly dealt with. On the contrary, the mission of the Transition Office must undergo considerable change from that envisioned in the Executive Order revisions if it is to function in the Three Phase Process now planned.

The revised Executive Order stated that the Transition Office will "coordinate and implement the Report of the Commission, to include consultation with the public, and the public and private sectors... as directed by the Steering Committee." In fact, the Steering Committee must make it clear to the Transition Office that the TO has no mandate to carry out the Commission's Report, because this Report and its recommendations have not been approved by the SC, nor the Principals Committee, but mainly because they have not been decided upon by the President.

The mission of the Transition Office will not be an easy one. First, it must be able to fairly and thoroughly research alternatives to the very proposals it has put forward as a Commission. Second, it must urgently undertake two tasks--the setting up of a crisis center and the compilation of Yellow Pages--that the IPTF was unable to accomplish in the entire life of the Commission. Third, the TO will have a public or implementing role only after the President's decisions. Therefore, in the meantime, public statements by TO members must not be incompatible with giving the President a full range of options from which to decide. It would not be right to attempt to box in the President to the recommendations of the Report, yet the members of the Transition Office will be well placed to do so.

- You should emphasize that the mission of the TO has been radically re-defined and will now be in a supporting rather than an implementing role

3. The Report

You will be under enormous pressure to approve the Report or at least offer up what you see as the most serious shortcomings of the Report so these can be dealt with. We have had the "working draft" less than a week. It is utterly unrealistic to ask that you confine yourself to raising so-called "heartburn" issues

which can then be accommodated in another single week before the Report is published and without another SC meeting.

The Report, as it stands, reflects a vast research effort. It is rich with many insights and important facts. But the "Working Draft" on which you are asked to comment has been hurriedly assembled. Often the same sentence or paragraph is repeated verbatim, in one case on the same page. Notes to the Reader such as "THESE NEED REVISITING" or "THIS NEEDS WORK" AND "MAY NEED CHANGE SUBJECT TO RESEARCH" or "TO BE APPENDED TO A LATER DRAFT" all reflect the fact that even its authors know it would be premature to treat the Report as complete.

The budget figures are offered without analytical support and are contradicted by assessments in the Report by Bellcore, NSA and the IDA.

Finally, it is not clear what the recommendations of the Commission are. For example, the sectoral recommendations for Energy and Banking & Finance are repeated, word for word, in the Recommendations Section; but the sectoral recommendations for Telecommunications, Transportation and Vital Human Services are not the same as those in the Recommendations Section. We are never told when something less than the entire Commission is "recommending" a particular proposal.

You will be asked to direct the Commission to make whatever changes the SC wishes in the Commission's Final Report. It would be wiser to simply let the Commission brief the Report to see if any large questions stand out, and not have the SC drawn into comments on a Report that it has not yet digested (and is to some extent indigestible at this stage.)

- You should stress that it would be irresponsible to give a verdict on such a complex report with so little time to review and no time for agency reactions;
- You may wish to echo the Commission's words: "the Commission's work focuses more on identifying alternatives... than on specific solutions to discrete problems" and therefor avoid specifics yourself.

Attachments

Tab A Proposed Agenda for Steering Committee Meeting
 Tab B Revised Executive Order 13010
 Tab C Strategy for Dealing wit the Recommendations of the PCCIP

Meeting of the Steering Committee
of the
President's Commission on Critical Infrastructure Protection
Room 5111, Department of Justice
Tuesday, October 7, 1997
2:00 - 4:00 PM

ATTENDEES

Honorable Janet Reno, Attorney General of the United States
Honorable John Hamre, Deputy Secretary of Defense
Major General Don Kerrick, Deputy Assistant to the President for National Security Affairs
Mr. Don Gips, Chief Domestic Policy Advisor to the Vice President
Mr. Tom Marsh, Chairman, President's Commission on Critical Infrastructure Protection

PROPOSED AGENDA

ITEM

RESPONSIBLE

Opening Remarks	Ms. Reno
Amendment to E.O. 13010	MG Kerrick
Transition Office	Mr. Marsh
Commission Recommendations	Mr. Marsh

EXECUTIVE ORDER

- - - - -

FURTHER AMENDMENT TO EXECUTIVE ORDER 13010, AS AMENDED
THE PRESIDENT'S COMMISSION ON
CRITICAL INFRASTRUCTURE PROTECTION

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to provide for the coordination of the recommendations of the President's Commission on Critical Infrastructure Protection and the implementation of such recommendations as may be approved, it is hereby ordered that Executive Order 13010, as amended, is further amended as follows:

Section 1. Section 5(a), as amended, shall be further amended by deleting "15" and inserting "20" in lieu thereof. Section 5(b) shall be amended by inserting "or Co-Chairs" after "Chair".

Sec. 2. Section 6(f), as amended, shall be further amended by deleting "the Principals Committee, the Steering Committee, and the Advisory Committee" and by inserting a second sentence, which shall read: "The Principals Committee, the Steering Committee, and the Advisory Committee shall terminate on January 15, 1999 unless extended by the President prior to that date." Section 6, as amended, shall be further amended by inserting the following:

"(g) The person who served as Chair of the Commission may continue to be a member of the Steering Committee after termination of the Commission."

Sec. 3. A new Section 7 shall be inserted, which reads:

"Sec. 7. National Infrastructure Protection Transition Office. (a) Effective October 14, 1997, the National Infrastructure Protection Transition Office ("Transition Office") is established. The Transition Office shall terminate upon the establishment of a permanent government infrastructure office by the President. The Transition Office shall be headed by a Director ("Director") appointed by the Steering Committee. The Transition Office shall be organized and staffed as determined by the Director, in consultation with the Steering

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20504

6663 REDO

October 6, 1997

ACTION

MEMORANDUM FOR SAMUEL R. BERGER

THROUGH: GENERAL DONALD KERRICK

FROM: PHILIP BOBBITT/RAND BEERS *mmc for*

SUBJECT: Strategy for Dealing with the Recommendations of
the President's Commission on Critical
Infrastructure Protection (PCCIP)

SUSPENSE

This memorandum seeks your approval of a three-phased strategy for dealing with the PCCIP Report which will be presented to the Steering Committee on October 15, 1997. Phase I of this Strategy focuses on receipt of the Report and the immediate aftermath; Phase II includes an internal Administration review, consultations with the private sector and with Congress, and preparation of recommendations and a workable Protection Plan for presidential decision; Phase III will feature announcement of the President's decisions, implementation of the Protection Plan, and the issuance of a PDD.

Included in each phase are sub-strategies for dealing with Congress and for public affairs.

We suggest that we meet with you to discuss this game plan prior to your departure for South America.

Details

This paper outlines our strategy for receiving the Report without being wedded to the Commission's recommendations. The strategy then allows for a thorough analytic review resulting in a coherent Plan that will yield a series of Presidential decisions. To move these decisions forward to the President, we will use the structure of the NSC policy process: a staff (the Transition Office, which will replace the Commission staff), an NSC-chaired IWG, a Deputies Committee (the Steering Committee,) and a Principals Committee. A private sector Advisory Committee also will operate throughout the process.

Phase I. Initial Response to the Report (Oct 15-21, 1997). The Commission's Report is a draft blueprint that will lead to the

second and third stages of this process. Our initial response, therefore, will allow us to get out front and define the problem and its relation to U.S. national security interests. The milestones for this phase are:

- **October 15:** The Report (classified Secret) will be submitted by the Commission to the Steering Committee without ceremony. (The President will be in South America.)
- **Before October 21:** The Transition Office will prepare an unclassified version of the Report which will be given to one reporter who will be briefed by Kerrick or Beers. (The objective is to get one clear story out on the background of the project and where we go from here.)
- **Next, but also before October 21:** The unclassified Report will be released to the public at which time Chairman Marsh, Kerrick and/or Beers will be available to jointly brief/background the press as necessary. The release of the report is to be accompanied by a statement that lays out the Administration's process for dealing with the recommendations in the Report.
- **October 21:** Senate Judiciary and SSCI hearings are scheduled to begin. The hearings will have open and closed sessions; Marsh and Commissioners will appear before Judiciary but not Intelligence. (Date is still tentative.)

Phase II. Internal Review Process (October 15 -February 1, 1997.) The Steering Committee (Reno, Hamre, Gips, Marsh, and Kerrick) will direct the internal government review of the Report, augmented as necessary by other agencies. When the Report is received the Steering and Advisory Committees will review the recommendations and make an initial determination which of those should be accepted, modified, or supplemented with additional options. After this initial review, the Transition Office and the IWG will be directed to develop alternative recommendations for consideration. The milestones for Phase II are:

- **By November 13:** Completion of the deliberations of the IWG and presentation of alternative recommendations to the Steering and Advisory Committees.
- **By December 13:** Completion of deliberations by the Steering and Advisory Committees; recommendations forward to the Principals Committee with accompanying report from the

Advisory Committee.

- By January 13, 1998: Principals Committee reviews the recommendations and the Commission Report and makes final recommendations to the President.
- By February 1, 1998: Final decision document prepared for the President by the NSC Staff, working with other EOP offices.

NSC/Intel will chair the IWG, act as the liaison between the Steering and Advisory Committees, and serve as the conduit for tasking the Transition Office in support of both committees.

Public Affairs during Phase II. After the release of the Press Statement during Phase I, we will continue our consciousness-raising programs. IWG members will provide speakers in response to public inquiries from interest groups around the country. In addition, the Advisory Committee members, especially Nunn and Gorelick, will be encouraged to speak out publicly as well as meeting privately with private sector representatives to solicit ideas and cooperation.

Congressional Efforts During Phase II. Senators Kyl and Feinstein are keenly interested in this subject and are driving the October-November Judiciary hearings. They have requested General Marsh to testify before their Subcommittee and plan to invite Nunn and Gorelick. The open portion would spotlight the PCCIP report in its unclassified form, and the closed portion would focus on the vulnerabilities and threats uncovered in the report. We anticipate Kyl/Feinstein will examine potential solutions to these vulnerabilities.

Marsh and other Commission members should be allowed to testify at this hearing and begin the open, frank dialogue with the Hill that we expect to continue in 1998. The PCCIP has begun to communicate with us on their strategy for their testimony, and we are working with them on statements.

The SSCI hearing will focus more narrowly on the communications sections of our national infrastructure, ask for testimony on two contractor studies and possibly hear from the IC. They will not have PCCIP witnesses.

We will continue our strategy of engagement with the Hill on this issue into January and February. We are currently sounding out Members of both the House and Senate concerning interest in

the PCCIP report, as well as willingness to assist us in tackling the legislative issues that will be stimulated by the report. Lugar has already expressed an interest.

Phase III. Presidential Decisions (February 1-March 31, 1998.)

At the point that the President announces his decisions, the public affairs and outreach strategy will shift into high gear. We will have a program to sell and explain.

Congressional Efforts in Phase III. After the President approves the final recommendations, we should begin an aggressive round of briefings by an interagency team. Additional hearings will undoubtedly be scheduled; we anticipate, at a minimum, hearings before the Senate Armed Services and House National Security Committees, both Intelligence Committees, both Commerce Committees, both Judiciary Committees, both Banking Committees, and various Appropriations Subcommittees.

Overall Congressional Strategy. We recommend a congressional strategy that encompasses two major themes: engagement with the Hill (to begin as soon as the unclassified report is released;) and a tie-in for Critical Infrastructure to an existing program or programs. For example, tying Critical Infrastructure to the Nunn-Lugar-Domenici Programs would allow us to pursue our Critical Infrastructure objectives within an already existing program, an interagency infrastructure and established funding mechanisms through the agencies to OMB. Such a tie-in also gives us a ready-made support structure to advocacy on the Hill. Senator Lugar has already concurred that this seems a natural extension to his program, and would become an advocate. We also enjoy the advantage of having another co-sponsor of the program, former Senator Nunn, as a Co-Chair of the Advisory Committee.

Other Interim Actions. The Steering Committee should also task the Transition Office to pull together urgently a package of interim measures that address the problem of infrastructure protection during the deliberative and decision phases. These measures include (1) a clearinghouse for information, including that related to critical infrastructure emergencies (at FBI), and (2) the creation of a stand-by crisis management group to deal with any emergencies (the CSG). Legal authority to do this has been cleared by the Legal Adviser.

We are also examining the idea of issuing a new PDD which would provide broad policy guidance, set up some interim structures, and task additional work. We will send you a separate memo on this with a draft.

We will provide you with a separate summary of the Report as it now stands later this week. We will also have a memorandum to the President summing up the Final Report by October 15.

Concurrences by: *mrc for*
Philip J. Crowley, Gordon Bendick,
David Leavy, Mary DeRosa/NA

RECOMMENDATION

That you approve the three-phased strategy plan for dealing with the FCCIP Report and schedule a meeting to discuss the plan before the South America departure.

Approve _____ Disapprove _____

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	David W. Beier to Thomas A. Kalil at 08:32:06.00. Subject: Re: CALEA. (1 page)	07/31/1998	P5
002. email	David W. Beier to Thomas A. Kalil at 06:53:27.00. Subject: CALEA. (1 page)	10/08/1998	P5
003. email	Thomas A. Kalil to David W. Beier at 21:30:48.00. Subject: Re: CALEA. (1 page)	10/08/1998	P5
004. email	David W. Beier to Thomas A. Kalil at 12:54:02.00. Subject: Re: CALEA. (1 page)	10/09/1998	P5
005. email	Thomas A. Kalil to David Beier at 13:56:34.00. Subject: Re: CALEA. (1 page)	10/09/1998	P5

COLLECTION:

Clinton Presidential Records
Automated Records Management System [Email]
OPD ([CALEA])
OA/Box Number:

FOLDER TITLE:

[07/28/1998 - 10/09/1998]

Adam Bergfeld
2008-1217-F
ab946

RESTRICTION CODES

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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: David W. Beier (CN=David W. Beier/O=OVP [UNKNOWN])

CREATION DATE/TIME:31-JUL-1998 08:32:06.00

SUBJECT: Re: CALEA

TO: Thomas A. Kalil (CN=Thomas A. Kalil/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Lisa M. Brown (CN=Lisa M. Brown/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

CC: Audrey Choi (CN=Audrey Choi/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

TEXT:

This has been a counsel to counsel exercise, Lisa Brown has been in contact with John Swartz in the Associates office. You should feel free to have her make the arrangements.

Thoughts:

- * Create a small group: (Justice, Commerce, WH Counsel (Rob Weiner), OVP (Audrey Choi, Lisa Brown).

- * Create a self imposed deadline. Audrey should be able to find out when such a filing will be relevant with the FCC.

- * Ask Commerce (NTIA and Reinsch ---- who according to Andy knows this issue via Encryption) and Justice to agree on an agenda before you first meet. Ask Justice to put together the first draft agenda. Commerce will then reach out to the industry to get suggestions etc.

- * Try to put off the table those issues beyond the FCC jurisdiction ---- such as changes to the underlying surveillance law, including proposed FBI changes to the legal standards with respect to access to "location" information.

- * Meet separately with the teleco folks (Tom Wheeler at CTIA) and the privacy types (Jerry Berman and Jim Dempsey are the most knowledgeable and reasonable, and I would not try to go too far beyond them other than in the first encounter).

- * Focus the interagency process on ways in which the Administration can simultaneously address the legitimate law enforcement needs and concerns and to understand and react to the industry issues. Most of the conflict seems to be about money and timing.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: David W. Beier (CN=David W. Beier/O=OVP [UNKNOWN])

CREATION DATE/TIME: 8-OCT-1998 06:53:27.00

SUBJECT: CALEA

TO: Thomas A. Kalil (CN=Thomas A. Kalil/OU=OPD/O=EOB @ EOB [OPD])
READ:UNKNOWN

TEXT:

I thought you should know that the FCC is likely to have its meeting on CALEA on Oct. 22d. Could you please let the Department of Justice know that, in light of their evident lack of interest in briefing us, on this issue in a timely manner, that we will await the decision of the FCC. On second thought may be you should not tell them anything. Thoughts?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Thomas A. Kalil (CN-Thomas A. Kalil/OU-OPD/O=BOP [OPD])

CREATION DATE/TIME: 8-OCT-1998 21:30:48.00

SUBJECT: Re: CALEA

TO: David W. Beier (CN-David W. Beier/O-OVP @ OVP [UNKNOWN])
READ:UNKNOWN

TEXT:

I'll check with Justice -- but the sense I got was that they were willing to take their chances.

I think that working with law enforcement on wireless issues is a cleaner "hit" for the VP -- and one where they have specifically asked for his help.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: David W. Beier (CN=David W. Beier/O=OVP [UNKNOWN])

CREATION DATE/TIME: 9-OCT-1998 12:54:02.00

SUBJECT: Re: CALEA

TO: Thomas A. Kalil (CN=Thomas A. Kalil/OU=OPD/O=EOB @ EOP [OPD])
READ:UNKNOWN

TEXT:

1. Do you have details on this CIA plot?

2. What about this student loan thing. As I understand it, we are proposing it as an off set to help solve the budget deal. Only a handful of folks in OMB knew about it, so this leak probably came from Educ or HHS. We shouldnot acknowledge our plan. Couldyou help get the details from the appropriate person in B. Chow's shop? thanks