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Union Calendar No. 593

106th Congress, 2d Session – – – – – – – – – – – – – House Report 106–1023

THE FAILURE TO PRODUCE WHITE HOUSE E-MAILS: THREATS, OBSTRUCTION, AND UNANSWERED QUESTIONS

EIGHTH REPORT

BY THE

COMMITTEE ON GOVERNMENT REFORM

together with

MINORITY AND ADDITIONAL VIEWS

Volume 2 of 2

Available via the World Wide Web: http://www.gpo.gov/congress/house
http://www.house.gov/reform

DECEMBER 4, 2000.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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67–962 WASHINGTON : 2000

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LETTER OF TRANSMITTAL

HOUSE OF REPRESENTATIVES,
Washington, DC, December 4, 2000.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: By direction of the Committee on Government Reform, I submit herewith the committee's eighth report to the 106th Congress.

DAN BURTON,
Chairman.

CONTENTS

	Page
Table of names	VIII
Key dates	X
Findings	XV
I. Why the committee investigated the White House failure to manage e-mail records	1
A. White House document production: a pattern of delay and omission	3
B. The significance of e-mail records to this committee's investigations	9
II. The e-mail problems explained: a brief summary	12
A. The Mail2 problem	14
B. The D-User problem	17
C. The Office of the Vice President problems	18
III. The White House concealed the e-mail problems	20
A. Mark Lindsay and Laura Callahan threatened contract employees	20
B. The Office of Administration repeatedly informed the White House about the e-mail problem	41
C. The White House Counsel failed to address the e-mail problem	48
D. Additional problems hampered efforts to repair the e-mail system	62
E. Office of Administration management failed to act	70
IV. The White House has misled Congress and the public about the e-mail problem	88
A. The White House response	88
B. The White House's attempts to impede the investigation	96
C. The White House's gamesmanship with the production of the missing e-mails	105
V. Concerns regarding the joint e-mail investigation undertaken by Department of Justice and the Office of Independent Counsel	112
A. The Attorney General's refusal to appoint a special counsel	116
B. Tony Barry's false statements to the *Alexander* court underscore the Justice Department's conflict of interest	117
C. The Department of Justice's failure to interview material witnesses in a timely fashion	124
D. The Department of Justice's failure to devote adequate resources to the e-mail investigation	128
Exhibits	130

APPENDICES

Appendix 1.—Committee correspondence	874
Appendix 2.—Document subpoenas issued to the White House	1119
Appendix 3.—Subpoenas to testify issued to the White House	1283

VIEWS

Minority Views of Hon. Henry A. Waxman, Hon. Tom Lantos, Hon. Major R. Owens, Hon. Edolphus Towns, Hon. Paul E. Kanjorski, Hon. Patsy T. Mink, Hon. Carolyn B. Maloney, Hon. Eleanor Holmes Norton, Hon. Chaka Fattah, Hon. Elijah E. Cummings, Hon. Dennis J. Kucinich, Hon. Rod R. Blagojevich, Hon. Danny K. Davis, Hon. Jim Turner, Hon. Harold E. Ford, Jr., and Hon. Janice D. Schakowsky	1285
I. Executive summary	1285

Page

Minority Views of Hon. Henry A. Waxman, Hon. Tom Lantos, Hon. Major R. Owens, Hon. Edolphus Towns, Hon. Paul E. Kanjorski, Hon. Patsy T. Mink, Hon. Carolyn B. Maloney, Hon. Eleanor Holmes Norton, Hon. Chaka Fattah, Hon. Elijah E. Cummings, Hon. Dennis J. Kucinich, Hon. Rod R. Blagojevich, Hon. Danny K. Davis, Hon. Jim Turner, Hon. Harold E. Ford, Jr., and Hon. Janice D. Schakowsky—Continued
A. Background 1286
B. Allegations 1287
C. The majority's version of Events 1293
II. Background 1294
A. The Automated Records Management System 1295
B. The Mail2 problem 1297
C. Other e-mail problems 1302
D. Committe knowledge of the e-mail matter 1304
III. Allegations regarding the Mail2 problem 1305
A. Allegation that e-mails relevant to investigations have not been produced 1305
B. Allegation that Northrop Grumman employees were threatened with jail if they discussed the Mail2 problem 1306
C. Allegation that Northrop Grumman employees were told not to tell others about the Mail2 problem 1310
1. The OA instructions not to discuss 1310
2. The OA instructions regarding Northrop Grumman management 1313
D. Allegation that the White House concealed information about the Mail2 problem from Congress and various independent counsels 1314
E. Allegation that Earl Silbert told the White House about the alleged threats and problems with subpoena compliance 1316
F. Allegation that the White House failed to disclose a computer disk containing non-produced Monica Lewinsky e-mails 1319
G. Allegation that an OA employee filed a false and misleading affidavit about the Mail2 problem 1320
H. Allegation that an OA employee attempted to hide information about the Mail2 problem from Congress 1321
I. Allegation that Cheryl Mills was responsible for the failure to disclose the Mail2 problem 1322
J. Allegation that the Justice Department has failed to investigate, or to appoint a special counsel to investigate, the e-mail matter .. 1323
K. Other allegations 1325
1. Allegation that the White House has delayed reconstruction of the e-mails 1325
2. Allegation that the White House has impeded the committee's investigation 1326
3. Allegation that OA briefing materials are evidence of a conspiracy to hide the Mail2 problem from Congress 1327
4. Allegation that Sidney Blumenthal tried to prevent his e-mails from being archived 1327
IV. Allegations concerning the Office of the Vice President 1328
A. Allegation that the OVP deliberately attempted to circumvent subpoena compliance 1328
B. Allegation that the reconstructed OVP e-mails contain significant information 1330
C. Allegation that Vice President Gore sought to hide e-mails from investigators 1331
D. Allegation that the Vice President was aware of records management problems in the OVP 1332
V. The costs of the investigation and the reconstruction effort 1333
Exhibits 1336

Additional views of Hon. Dan Burton 1460

I. Further evidence that Northrop Grumman employees were threatened into secrecy about the e-mail problem 1460
A. Robert Haas told Joseph Vasta about the threats 1460
B. Northrop Grumman Director of Contracts Joseph Lucente's letter to the contractor was prompted by the allegations of threats 1461

Page

Additional views of Hon. Dan Burton—Continued
C. Earl Silbert's law firm has additional documents related to his contacts with the White House and representation of Northrop Grumman 1462
D. Telephone message slip confirmed contact between Earl Silbert and Special Counsel to the President Lanny Breuer in December 1998 1464
E. Earl Silbert was not Northrop Grumman's natural choice for outside counsel on a contracts matter 1464
F. Lanny Breuer's recollection of the contact with Earl Silbert 1465
G. Lucente confirmed the extraordinary nature of OA Director Ada Posey's "special task order" request 1465
II. Northrop Grumman's recent failure to cooperate with the investigation 1466
A. Northrop Grumman's specious assertions of privilege 1466
B. Northrop Grumman's refusal to waive attorney-client privilege ... 1471
C. Northrop Grumman's failure to provide documents in a timely manner 1473
III. Further evidence of the insufficiency of the test search and the unraveling of the "disconnect" defense 1474
A. The attorney who performed the comparison changed her story ... 1474
B. Mark Lindsay failed to act after learning of the comparison results 1476
IV. The Justice Department's questionable handling of the e-mail matter 1477
A. Examples of advocacy in *Alexander* v. *FBI* that undermine confidence in the purported criminal investigation 1477
B. The Attorney General's failure to allocate adequate resources to the e-mail investigation 1480
V. The critics of the investigation have utterly failed to address the facts on their merits 1481
A. Response to the minority staff rebuttal 1481
B. Judge Todd Campbell's comments on the report 1487
C. Cheryl Mills' opening statement at the committee's March 4, 2000 hearing 1488
Exhibits 1491

APPENDICES

Appendix 1.—Committee correspondence since September 27, 2000 1567
Appendix 2.—Detailed chronologies 1635
Appendix 3.—Office of the Vice President documents 1653

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DECEMBER 4, 2000.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BURTON, from the Committee on Government Reform submitted the following

EIGHTH REPORT

On October 5, 2000, the Committee on Government Reform approved and adopted a report entitled, "The Failure to Produce White House E-Mails: Threats, Obstruction, and Unanswered Questions." The chairman was directed to transmit a copy to the Speaker of the House.

APPENDIX I

COMMITTEE CORRESPONDENCE

, INDIANA
MAN
A. GILMAN, NEW YORK
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NA ROS-LEHTINEN, FLORIDA
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ONE HUNDRED SIXTH CONGRESS

Congress of the United States

House of Representatives

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WASHINGTON, DC 20515–6143

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MINORITY (202) 225–5051
TTY (202) 225–6852

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RANKING MINORITY MEMBER

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ROBERT E. WISE, JR., WEST VIRGINIA
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BERNARD SANDERS, VERMONT,
INDEPENDENT

February 16, 2000

Kent Kresa
Chief Executive Officer
Northrup Grumman Corporation
1840 Century Park East
Los Angeles, CA 90067-2199

Dear Mr. Kresa:

Thank you for your courtesy in promptly returning my telephone call earlier today. As I discussed, the Committee is committed to ensuring that the White House has complied with Congressional subpoenas requiring records. Recent media reports indicate that there might be records that have not been produced to this Committee. Consequently, we would like your assistance in facilitating interviews with the following individuals:

1. Betty Lambuth
2. John Spriggs
3. Yiman Salim
4. Sandy Golas
5. Robert Haas
6. Steve Hawkins

Should your company be in possession of any documents pertaining to the White House e-mail system, please ensure that such documents are not destroyed. If you have any questions, please contact either me or my Chief Counsel James C. Wilson at (202) 225-5074.

Again, thank you for your cooperation in this matter.

Sincerely,

Dan Burton

Dan Burton
Chairman

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CHAIRMAN
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JANICE D. SCHAKOWSKY, ILLINOIS

BERNARD SANDERS, VERMONT,
INDEPENDENT

February 16, 2000

Beth Nolan, Esq.
Counsel to the President
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500

Dear Ms. Nolan:

I write regarding the recent media reports that certain e-mail systems were not searched for materials responsive to subpoenas issued to the White House. The relevant time period discussed in the reports is between August 1996 and November 1998. As you are aware, the Committee on Government Reform issued subpoenas to the White House which called for records within this time period.

The Committee wants to ensure that all responsive records were produced by the White House. Consequently, I request that you certify that the Committee has indeed received all e-mails responsive to our outstanding subpoenas. In addition, I request that you facilitate interviews with former White House employee Laura Crabtree and current White House employees Mark Lindsay and Daniel Barry.

Please respond to this inquiry by Thursday, February 17, 2000. If you have any questions, please contact Chief Counsel James C. Wilson at (202) 225-5074.

Sincerely,

Dan Burton

Dan Burton
Chairman

THE WHITE HOUSE
WASHINGTON

February 17, 2000

BY FACSIMILE AND U.S. MAIL

The Honorable Dan Burton
Chairman, Committee on Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515-6143

Dear Chairman Burton:

This responds to your request of yesterday that I certify that the Committee has received all e-mails responsive to your outstanding subpoenas, and that we facilitate interviews with three former and current White House employees.

The White House has made good faith efforts to comply with its subpoena requests, including those from the Committee, and we always are willing to address any questions the Committee may have regarding our document productions. To ensure that I am able to answer your inquiry, we are now reviewing the searches that were conducted. Once we complete this review, I will respond to your request for a certification.

We will be happy to work with you regarding your request to interview current and former White House employees. Dimitri Nionakis, Associate Counsel to the President, will contact your staff early next week. In the meantime, Mr. Nionakis can be reached at 456-5814, if there are any questions.

Sincerely,

Beth Nolan
Counsel to the President

cc: The Honorable Henry Waxman

** TOTAL PAGE.02 **

NORTHROP GRUMMAN

Northrop Grumman Corporation
Washington Office
1000 Wilson Boulevard, Suite 2300
Arlington, Virginia 22209-2278
Telephone 703-875-8400

February 18, 2000

James C. Wilson, Esq.
Chief Counsel
Committee on Government Reform
2157 Rayburn House Office
Washington, DC 20515-6145

Dear Mr. Wilson:

I am writing in response to your request to Mr. Molleur for the telephone numbers of certain Northrop Grumman employees and subcontractors. I am advised that Ms. Golas, Ms. Salim, Mr. Haas and Mr. Spriggs have engaged John M. Bray, Esq. to represent them. It is my understanding that Mr. Bray will be in contact with you directly. His telephone number is (202) 626-5618.

We have not been able to locate Ms. Lambuth and Mr. Hawkins. I will provide their telephone numbers to you once they are located.

In the meantime, should you have any questions, please do not hesitate to call me at (703) 875-8330.

Very truly yours,

H. Lowell Brown
Assistant General Counsel

Recycled paper

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BERNARD SANDERS, VERMONT,
INDEPENDENT

March 8, 2000

The Honorable Janet Reno
Attorney General
U.S. Department of Justice
Tenth and Constitution Avenue, N.W.
Washington, DC 20530

Dear General Reno:

I am concerned that the Department of Justice has made no effort to obtain an entire category of documents that has potential bearing on the Campaign Finance investigation. Yesterday, the Committee learned that hundreds of thousands of e-mails sent to White House employees from outside the White House complex have never been reviewed to determine whether they are responsive to document requests and subpoenas. These e-mails were received during the critical 1996-1998 time frame. As of yesterday, the Justice Department had made no effort to contact individuals who manage White House e-mails, and there is no indication that you have ever pushed the White House for a review of this information, despite the fact that this matter has been reported in the press.

The appearance created by this failure is that you have no intention of pursuing a vigorous investigation of the White House.

In his memorandum recommending the appointment of an Independent Counsel, Charles LaBella wrote: "The contortions that the Department has gone through to avoid investigating these allegations are apparent." He also wrote: "If these allegations involved anyone other than [redacted name], an appropriate investigation would have commenced months ago without hesitation." Recently we learned that you deemed it irrelevant to question the President about James Riady's offer of one million dollars or about any other facet of the foreign fundraising scandal. We also discovered that your prosecutors failed to ask the Vice President about the Hsi Lai Temple event. Earlier, we learned that a search warrant for Charlie Trie's home was quashed just before it could be served. Now we find that you apparently aren't even hiding behind the pretense that the White House should produce information relevant to the campaign finance investigation.

I request that you inform this Committee of the steps you are going to take to address the White House's failure to provide the Justice Department with critical information.

Sincerely,

Dan Burton
Chairman

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HAROLD E. FORD, JR., TENNESSEE
JANICE D. SCHAKOWSKY, ILLINOIS

BERNARD SANDERS, VERMONT,
INDEPENDENT

March 8, 2000

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

Dear Ms. Nolan:

Yesterday, Committee attorneys interviewed a number of individuals who work on the White House e-mail system. What they told us was, to say the least, profoundly disturbing. As you are well aware, hundreds of thousands of e-mails sent to White House employees from outside the White House complex between September 1996 and November 20, 1998, have not been reviewed to determine whether they are responsive to Committee requests and subpoenas. Presumably, you have been aware of this fact for your entire tenure at the White House.

I have many concerns. First, there is an appearance that White House lawyers have made a conscious decision to do nothing to solve the problem posed by so many documents being improperly managed. Over the past three years, the Committee has issued a number of subpoenas to the White House. These have required production of relevant e-mails. After yesterday's interviews, I am aware of no effort on your part to effect a solution. I can only conclude that you are personally content with what is, in effect, a purposeful effort to keep documents from Congress, the Department of Justice, and various Independent Counsels. While it may serve a variety of political interests to do nothing, it does not serve the American people.

The President's response to questions about this issue last week was revealing. He said: "If the American people knew how much of their money we'd have to spend complying with requests for e-mails, they might be quite amazed, but we certainly have done our best to do that." This approach misleads on one front, and ignores an important reality on another. First, it is now apparent that the White House has made no effort to search the database of e-mails coming to most core White House employees from outside the White House for more than a two-year period. Thus, it is absurd to argue that "we've done our best." In fact, when it comes to this category of documents, you have done

nothing. Second, there is a law that requires Presidential records to be sent to the National Archives. It is unclear to me how you intend to comply with this law.

While I am under no illusion that it might be time consuming and expensive to reconstruct the e-mail records in question, I also am not prepared to accept the notion that the President and the White House do not have an obligation to obey the law. Indeed, if Attorney General Reno had made any real effort to conduct a thorough and vigorous investigation into the illegal fundraising matter, she would be first in line demanding compliance with document requests and the President would not be permitted the luxury of railing at Congress and the various Independent Counsel offices.

In March 1997, after two months of fruitless attempts to get the White House to respond to document requests about illegal campaign fundraising, I issued a subpoena. On June 27, 1997, after nearly having to hold the then-White House Counsel in contempt of Congress, I received a letter from your predecessor that all relevant documents had been produced. I am aware of no effort on the part of anyone at the White House once this matter was discovered to inform the Committee that incoming e-mails during a critical time period were never searched. I am also aware of no effort to conduct a retroactive search to ensure that critical information was not overlooked.

Last Fall, I issued two additional subpoenas to the White House. One pertained to the Waco tragedy, and the other requested information about the FALN/Macheteros clemency decision. Again, I am aware of no effort to conduct a search of the incoming e-mails for relevant information. I am also fully aware that no effort was made to inform the Committee that the White House did not even intend to address an entire category of information. These subpoenas remain in effect, and compliance is not optional.

I request that you meet with me as soon as possible to explain fully what you have done to address the problems presented by the e-mail debacle. Tomorrow I will send subpoenas for documents pertaining to this matter, and I request that you ensure that all relevant documents are preserved.

Sincerely,

Dan Burton

Dan Burton
Chairman

THE WHITE HOUSE
WASHINGTON

March 9, 2000

VIA FACSIMILE AND U.S. MAIL

The Honorable Dan Burton, Chairman
Committee on Government Reform
2157 Rayburn House Office Building
Washington, D.C. 20515-6143

Dear Chairman Burton:

I am writing in response to the letter you sent to me yesterday regarding your inquiry into the White House e-mail system and requesting that I meet with you to explain what steps the White House has taken to address this matter.

Please let me assure you that we have been reviewing this matter in response to your initial inquiry on February 16, 2000. As you know, we also have been working with your staff to facilitate interviews of current and former Executive Office of the President staff.

We are completing our initial review and are preparing a written description of the measures the White House has taken to address this matter. I will send you this written description when it is completed next week. Once you have had an opportunity to review the letter, I will call your office to determine when I can meet with you to answer any questions.

Sincerely,

Beth Nolan
Counsel to the President

cc: The Honorable Henry Waxman

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Congress of the United States

House of Representatives

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BERNARD SANDERS, VERMONT,
INDEPENDENT

March 10, 2000

The Honorable Janet Reno
Attorney General
United States Department of Justice
Washington, D.C. 20530

Re: The Freeh and La Bella Memoranda

Dear General Reno:

The Justice Department has apparently disclosed to the *Los Angeles Times* the memorandum by Charles La Bella regarding the appointment of an Independent Counsel for the campaign fundraising investigation. As you know, I subpoenaed this memorandum, as well as the similar memorandum by FBI Director Louis Freeh, in July 1998. You refused to comply with my subpoena, and the Committee voted to hold you in contempt. However, you have still refused to provide the memorandum to the Committee, despite that contempt vote and several requests since that time. While you failed to comply with a lawful Congressional subpoena, either you or someone in the Justice Department has seen fit to provide the La Bella memorandum to the media. The leak of the La Bella memorandum speaks volumes about your mismanagement of the Justice Department, your mishandling of the campaign fundraising investigation, and your disregard for Congressional oversight of the Justice Department. I am sending with this letter a subpoena for the Freeh and La Bella memoranda, and I expect that the Department will now comply with the subpoena.

The Committee initially subpoenaed the Freeh memorandum in December 1997, and then it subpoenaed both the Freeh and La Bella memoranda in July 1998. You refused to comply with the subpoenas, claiming that disclosure of the memoranda to the Committee would harm the Justice Department's campaign fundraising investigation, as well as the internal deliberation process at the Justice Department. In a letter dated July 28, 1998, you stated:

> The disclosure of these memoranda could provide a "road map" of the Department's investigation. The documents, or information that they contain, could come into the possession of the targets of the investigation through inadvertence or deliberate act on the part of someone having

> access to them. The investigation could be seriously prejudiced by the revelation of the direction of the investigation, information about the evidence that the prosecutors have obtained, and assessments of the strengths and weaknesses of various aspects of the investigation. Indeed, disclosure of information such as is contained in this report could significantly impede the Task Force's criminal investigation, and could conceivably preclude prosecution of some individuals.

In another letter dated August 4, 1998, you stated that:

> [S]uch documents lay out the thinking, theories and strategies of our prosecutors and investigators, and the strengths and weaknesses of our cases. They talk about leads that need further investigation, and places where we've reached dead ends. Criminals, targets and defense lawyers alike can all agree on one thing – they would love to have a prosecutor's plans.

Leaving aside the fact that your senior staff have leaked a list of the status of every campaign fundraising case and other information that has had a negative impact on your cases, providing the La Bella memo to the press is an extraordinary turn of events.

In the same August 4 letter quoted above, you also claimed that disclosure of the memos would create a "chilling effect" on Department employees' ability to render advice to you:

> If future Attorneys General know that the innermost thinking behind their toughest law enforcement decisions will become fodder for partisan debate, then we risk creating a Justice Department and an FBI that tacks to political winds instead of following the facts and the law wherever they lead. If future law enforcement professionals cannot provide advice that is candid and confidential, we will have a government of "yes" men who advocate what is popular instead of what is right.

You used these arguments against the Committee forcefully and repeatedly during the contempt debate. I was told countless times that compliance with my subpoenas would harm your investigation. I was told that all of the Members of the Committee could not even review the memos in private, because they might leak the contents of the memos. But, the Justice Department's current release of the La Bella memo leads me to reach one of four possible conclusions:

- The arguments that you made in July 1998 were false and misleading.
- The arguments that you made in July 1998 were true, but you no longer are concerned about protecting the Department's investigation, or the frank and candid advice of your subordinates.

- All of the investigations discussed in the La Bella memo are closed, and the memo can be released publicly, but rather than comply with the Committee's lawful subpoena, you decided to release the memo to the press.

- You still believe that disclosure of the memo would cause significant harm to the campaign fundraising investigation, but you do not have enough control over your senior political advisers to prevent them from leaking the memo to the press.

The release of the La Bella memo shows that something is seriously wrong at the Justice Department; whether it is incompetence, politicization, or a serious disregard for the rule of law has yet to be determined. Since the Department has released the La Bella memo to the press, I expect that you will now comply with this Committee's subpoena for the Freeh and La Bella memos, and provide them to the Committee by Tuesday, March 14. I also expect that the memos will be redacted only to remove information covered by Rule 6(e).

It is clear, based on the brief portions of the La Bella memo that I have reviewed or that have been reported by the *Los Angeles Times*, why you did not want to release the memo to the Committee. First, the La Bella memo condemned you for misleading the American people by providing an erroneous explanation of when an Independent Counsel could be appointed. It also claimed that you had erected a higher legal threshold for investigating White House officials and others covered by the Independent Counsel Act than other individuals. Mr. La Bella concluded that the "contortions that the Department has gone through to avoid investigating these allegations are apparent." As an example of these contortions, Mr. La Bella referred to one senior official, whose name was redacted from the report: "[i]f these allegations involved anyone other than [redacted], an appropriate investigation would have commenced months ago without hesitation."

As described by Mr. La Bella in his memo, the Task Force's investigation was created to fail. Since he wrote his memo, this Committee has discovered countless examples of how that investigation has failed. While many of these cases will be detailed in a report that this Committee will issue later this year, I can briefly recount some of them here:

- Your investigators failed to ask President Clinton a single question about James Riady, Charlie Trie, John Huang, or any other aspect of his involvement in raising foreign money for the 1996 election. As a close friend of Riady, Trie, and Huang, if Bill Clinton were an ordinary citizen, rather than President of the United States, he would have been questioned extensively by the FBI, and likely called before the grand jury. Instead, your Task Force gave him a free pass.

- Your investigators failed to ask Vice President Gore a single question about his relationship with Maria Hsia, or his role in the infamous Buddhist Temple fundraiser. Likewise, if Al Gore were not Vice President, and were some other

private citizen with a ten-year fundraising relationship with Maria Hsia, your investigators would have questioned him extensively.

- You have failed to pursue documents held by the White House and other agencies. For example, it has been widely reported in the press that the White House has failed to produce to Congress or several Independent Counsels thousands of e-mails covered by subpoenas. While there are almost certainly Justice Department subpoenas outstanding for those e-mails, as of March 8, the Justice Department had not contacted any of the Northrop Grumman employees responsible for the White House e-mail system. In contrast, when you were confronted with embarrassing new information in the Waco tragedy, you immediately dispatched United States Marshals to seize evidence from the FBI. When you learned of significant new evidence being held by the White House in the campaign fundraising matter, you did nothing. While this disparate treatment could simply be attributed to incompetence, the La Bella memo suggests that there might be more serious reasons for the Department's failure. You seem to be proceeding on the premise of what you don't know won't hurt your political colleagues and your political party.

- The La Bella memo apparently points out that the First Lady has potential criminal involvement in the campaign fundraising scandal, based on her failure to warn the DNC about the illegal campaign fundraising activities of Charlie Trie. In April 1996, Mrs. Clinton was warned that Trie was raising huge amounts of money for the Presidential Legal Expense Trust. By May 1996, her closest advisers were told that the money raised by Trie was foreign money, and had been given through straw donors. However, Mrs. Clinton did nothing to warn the DNC about Trie's illegal fundraising. In the time period between April and November 1996, while Mrs. Clinton sat on this information, Trie raised hundreds of thousands of dollars worth of illegal contributions for the DNC. Your task force has apparently failed to follow up on these serious allegations.

The La Bella memo's conclusions about your handling of the campaign fundraising investigation are alarming. Moreover, Mr. La Bella's predictions about the failure of the investigation have come true. Many low-level figures, like John Huang and Charlie Trie, have pled guilty, and gotten light sentences without giving up any serious evidence. In the process, they have maintained implausible stories that exculpate them and their superiors. For example, John Huang sat before this Committee and testified that the Buddhist Temple event with the Vice President was not a fundraiser, even though it raised funds, and even though individuals who contributed to attend were seated at the front. I fail to understand how you can hear testimony like that, and then tell a sentencing judge that Mr. Huang is cooperating with your investigation. Similarly, Charlie Trie appeared before this Committee and claimed that the money given to him by Ng Lap Seng to contribute to the DNC was actually Trie's own money, even though he did not pay taxes on it, or list it on his financial disclosure forms. Yet again, Mr. Trie received credit for cooperating with the Justice Department. Failure to obtain true cooperation

from these witnesses has meant that the Department has not been able to pursue White House and DNC officials who may have had a role in the fundraising scandal. The La Bella memo raises a serious question as to whether this failure is intentional.

By ignoring the advice given to you by Director Freeh and Mr. La Bella, you crippled the campaign fundraising investigation. By withholding the memos from this Committee, you tried to keep the Committee from learning how you had mishandled the investigation. At this point, it is unlikely the harm can be undone, and that a real campaign fundraising investigation will ever be conducted by the Department. However, the Congress has a right to know what has happened, and therefore, I expect that you will immediately comply with the Committee's subpoena.

Sincerely,

Dan Burton
Chairman

cc: The Honorable Henry A. Waxman, Ranking Minority Member

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BERNARD SANDERS, VERMONT,
INDEPENDENT

March 14, 2000

VIA FACSIMILE AT (202) 354-3382 AND U.S. MAIL

U.S. District Judge Royce C. Lamberth
333 Constitution Avenue, NE
Washington, D.C. 20001

Dear Judge Lamberth:

The Committee has recently conducted a number of interviews regarding the failure of the White House to search e-mail records for information responsive to Committee subpoenas. What I have learned is troubling, and I have serious concerns that the stored e-mails will be tampered with or destroyed before they can be properly reviewed.

With this in mind, I request that you take steps to secure the integrity of all White House e-mails that have not yet been reviewed. Furthermore, I request that you take all steps available to you to guarantee that these government records are preserved, as required by the Presidential Records Act.

Sincerely,

Dan Burton
Chairman

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BERNARD SANDERS, VERMONT,
INDEPENDENT

March 17, 2000

Mr. Daniel "Tony" Barry
C/o John Hardin Young, Esq.
Executive Office of the President
Office of Administration
New Executive Office Building Room 5001
Washington, DC 20503

Dear Mr. Barry:

Pursuant to Rules X and XI of the Rules of the House of Representatives, the Committee on Government Reform is holding a hearing entitled "Missing White House E-Mails: Mismanagement of Subpoenaed Records." The hearing is scheduled for Thursday, March 23, 2000, in room 2154 of the Rayburn House Office Building at 10:00 a.m.

I am requesting that you testify before the Committee regarding your knowledge of this matter. To this end, you will receive a Committee subpoena requiring your presence at this hearing.

If you wish to make an opening statement, it is requested that you provide 100 copies of your written testimony to the Committee no later than 24 hours prior to the time of the hearing. Also, to facilitate printing of the hearing record, please provide a computer disk containing your testimony. At the hearing we ask that you summarize your testimony in five minutes to allow maximum time for discussion and questions. Also, Rule 12 of the Committee on Government Reform requires that witnesses, "when appearing in a non-governmental capacity, provide a curriculum vitae and a listing of any Federal Government grants and contracts received in the previous fiscal year."

Under the Congressional Accountability Act, the House of Representatives must be in compliance with the Americans with Disabilities Act (ADA). Persons requiring special accommodations should contact Lisa Smith Arafune at 202/225-5074 at least four business days prior to the hearing.

Please contact the Committee's Chief Counsel, James C. Wilson, at 202/225-5074 if you have any questions or need additional information about the hearing. We appreciate your willingness to appear and look forward to your testimony.

Sincerely,

Dan Burton
Chairman

cc: The Honorable Henry Waxman, Ranking Minority Member

THE WHITE HOUSE
WASHINGTON

March 17, 2000

BY FACSIMILE AND U.S. MAIL

The Honorable Dan Burton
Chairman, Committee on Government Reform
U.S. House of Representatives
2157 Raybum House Office Building
Washington, D.C. 20515-6143

Dear Chairman Burton:

Pursuant to my March 10, 2000 letter to you, I am writing to provide you with a response to your request for information concerning e-mail records related to the Committee's subpoenas in the campaign finance, FALN, and Waco matters.

As you are aware, recent press reports have described certain configuration errors associated with the management system used for e-mail records within the White House and the Executive Office of the President (collectively "EOP"). Since I became aware of the nature of this matter, my staff and I have been working diligently to understand its scope and effect. Over the past several weeks, my staff has addressed with your staff the Committee's request for information about the general nature of these computer errors and the Committee's request for interviews of current and former EOP staff. I now want to provide you with more details about this issue and its effect, if any, on the Committee's subpoena requests. Of course, we are continuing to review this matter and may need to amplify or modify our findings as we gather more information.

I. Automated Records Management System

A. Searches for E-mail Records

Before explaining the nature of the configuration errors affecting certain incoming e-mail records being captured by the Automated Records Management System (ARMS), I want to describe briefly how the Office of Administration's (OA) computer records management system for the EOP is designed to work for e-mail records. Whenever an e-mail is sent to or from a user within the EOP, that e-mail is sent directly to a server, where the recipient can read it. The e-mail does not technically reside on the individual user's personal computer (PC), but on the server. As long as the user retains the e-mail on her PC, it remains on the server. Accordingly, as you know, while individuals are instructed to search their own PCs in response to a subpoena request, a redundant search of the server is not conducted. Conversely, by deleting an e-mail, the

user deletes it from the server as well as the PC. Because many individual users delete e-mail daily (and indeed users must delete some e-mails because the server does not have the capacity to hold all e-mails), the server is not a complete and accurate repository of e-mails sent to and from the EOP.

ARMS is a management system that was installed following the Armstrong case. It is designed to capture e-mail records sent from or to EOP user accounts that it manages ("ARMS-managed accounts"). ARMS is the first keyword searchable e-mail records archive maintained by the EOP.

E-mails generated by ARMS-managed accounts are automatically recorded by ARMS as they are sent by the user. In addition, several times a minute, generally, ARMS scans the server and captures unrecorded e-mails residing on the server at the moment of scanning. To avoid repeatedly scanning an e-mail that continues to reside on the server over a period of time, once ARMS records an e-mail, it is coded so that ARMS will not needlessly scan it again.

As then-Counsel to the President Charles Ruff explained in his September 11, 1997 letter to you, we notified your staff in the Spring of 1997 that ARMS was put in place in July 1994 and has managed e-mail records for most EOP offices since that time. (10/21/97 Letter from White House Counsel Charles Ruff to The Honorable Dan Burton). Mr. Ruff further explained that ARMS also manages reconstructed e-mail records for the period January 1993 through July 1994. (*Id.*). The e-mails were loaded into ARMS by Information Systems and Technology (IS&T) personnel within OA beginning in July 1994 -- a process that was completed some time in mid-1999. Until reconstruction was completed, only limited e-mail records were searchable for the pre-July 1994 period. (*Id.*).

In response to a subpoena request, the individuals within the relevant EOP offices are instructed to search for responsive materials in any form. The head of each EOP office is instructed to certify that the individuals within the office have conducted a search of their files and the office's files, and have provided any potentially responsive materials to the White House Counsel's Office. As a complement to these individual searches, a computerized search of ARMS is performed at our direction by IS&T personnel. (*See* 9/11/97 letter from White House Counsel Charles Ruff to The Honorable Dan Burton). IS&T staff work with White House Counsel's Office staff to identify keyword terms to use in searching ARMS for responsive materials. As we have previously explained to your staff, because we use search terms, we cannot guarantee that every responsive e-mail is located. Nevertheless, we usually err on the side of using broad search terms, which sometimes yield large amounts of nonresponsive materials.

These computerized searches are extremely time-consuming and costly. For example, a search can take several days to complete, depending upon the number of offices and time period covered. Once a search is complete, it can take up to several days to print the search results. In addition, our staff must manually review the printed search results for responsiveness. Indeed,

on many occasions our staff has waded through thousands of pages of nonresponsive materials to locate the few responsive ones.

The only other electronic records of the server consist of tapes made periodically when the server is "backed up." Backup tapes are not created or saved for archival purposes, are not a part of ARMS, and are not searchable, absent reconstruction and transfer to ARMS, using general keyword terms. For these reasons, the EOP does not search backup tapes when responding to subpoena requests. These tapes are created solely for recovery in the event of a system "crash" to allow IS&T personnel to recover certain files. They are created generally daily, and take a "snapshot" of whatever exists on the server at the current time. For example, if an e-mail were sent to an EOP user and then deleted between backups, it would not be captured on a backup tape. At times when there has been a shortage of backup tapes, they have been reused. Backup tapes are thus an inaccurate and incomplete compilation of what is on the system and serve as a last resort only in cases of a catastrophic system failure. As noted below, I am also informed that reconstruction of files from backup tapes is a costly and time-consuming endeavor.

B. Configuration Errors Affecting ARMS

ARMS, like all computer records management systems, is susceptible to problems, software programming errors, and "glitches" that are not easily detectable. Even when they are discovered, however, the nature, scope, and cause of the problems, as well as their effect on the system and users, may be difficult to ascertain.

Although we have always understood that ARMS is designed to record all e-mails sent through the EOP e-mail network (currently the Lotus Notes system), two separate configuration errors have occurred which prevented certain incoming e-mails sent to ARMS-managed accounts from being recorded in ARMS for a period of time. The first error occurred in August 1996, when IS&T was performing routine maintenance to improve the system's performance. As part of the process, individual user accounts within the White House Office (WHO), and some accounts within OA and the Office of Policy Development (OPD), were moved to a new server, called "Mail2." During this process, some of these users were apparently mistakenly coded by computer technicians as being on "MAIL2," using all upper case letters, instead of "Mail2." The ARMS scanning process is case sensitive when identifying servers and did not recognize "MAIL2." Because ARMS did not recognize "MAIL2," the ARMS scanning process did not capture incoming e-mails (*i.e.*, e-mails sent from non-managed ARMS accounts to ARMS-managed accounts) for these affected ARMS-managed accounts.

In January 1998, Daniel Barry, IS&T Records Projects Computer Specialist, was performing a keyword search of ARMS in response to a subpoena request and noticed a possible anomaly within ARMS. Mr. Barry found that on a particular day there were outgoing e-mails from an EOP user who seemed to be exchanging e-mails with an outside user, but there were no corresponding incoming e-mails. Thus, it appeared to him that some incoming e-mails might be missing from ARMS. Mr. Barry, with the assistance of John Spriggs, the IS&T e-mail contract

administrator and an employee of outside contractor Northrop Grumman (N-G), examined the log of the FIREWALL system, through which e-mail created outside the EOP passes and is screened to ensure that messages do not include viruses. They determined that on the day in question, the EOP user had actually sent the outside user seven e-mails, while the outside user had sent the EOP user six incoming e-mails. At the time, Mr. Barry was unsure whether this was an isolated incident for this particular user on this particular day or whether it was a broader undetected systemic error. Indeed, minor glitches or "hiccups" are common to IS&T systems, as they are to all computer systems, and small pieces of data are often not easily retrievable as a result. Mr. Barry notified his superiors and documented his finding.

The full extent of the error causing the anomaly Mr. Barry noted was not discovered until June 1998, when on-site N-G employees discovered on the server certain incoming e-mail messages that were coded as "unrecorded" on the server, signifying that the ARMS scanning process was not picking up these messages. The contractor notified IS&T personnel. A group of employees was assembled to investigate and repair the problem.

By the fall of 1998, N-G technical personnel working with IS&T staff discovered that the problem was due to miscoding "Mail2" as "MAIL2." They further determined that the miscoding affected 526 ARMS-managed accounts from the following EOP offices:

1. WHO (464 accounts)
2. Office of Policy Development (58 accounts)
3. OA (4 accounts)

As a result, certain incoming e-mail that these 526 users had received since August 1996 had not been recorded by ARMS. As noted previously, the problem did not cover any e-mails generated by ARMS-managed accounts. Moreover, it would not have prevented a recording of the incoming e-mail if the affected EOP user forwarded it or replied to it "with history" (*i.e.*, sending back the original e-mail). Additionally, incoming e-mail messages maintained on individual users' PCs would also remain on the user's server space, and therefore would be subject to individual EOP user searches, as long as the individual recipient did not delete them.

By November 1998, the N-G and IS&T personnel had corrected the problem prospectively so that all future incoming e-mail to the 526 affected users would be stored in ARMS. Thus, this configuration error affected these ARMS-managed accounts for the period August 1996 through November 1998. IS&T personnel also created backup tapes of the server to preserve the unrecorded e-mail existing on it as of November 20, 1998. By backing up the entire server, IS&T also necessarily captured word processing documents, rolodex files, and recorded e-mail records that also existed on the server at that time. After the prospective correction, ARMS resumed managing incoming e-mails and the creation of backup tapes of the server continued.

As noted above, backup tapes are not in a readable or searchable format because they are not created for archival purposes. Thus, they cannot easily be reconstructed and placed on

ARMS. Consequently, OA requested that N-G provide an estimate for studying the time and cost involved in restoring these e-mails to a readable format. In October 1998, N-G estimated that a feasibility study alone would cost about $600,000. OA informs us that, concurrent with the preliminary assessment of the costs to study the problem, OA was faced with the massive task of Y2K compliance of its entire system, including its mail systems. This task consumed IS&T resources throughout the remainder of 1998 and 1999.

A second configuration error was discovered in April 1999, when N-G technical personnel were testing the process in which ARMS interacts with the Lotus Notes system. When user accounts are created, they are assigned to a particular "view." Each view represents a section of the alphabet (*e.g.*, ABC), and users are assigned to a view by the first letter of their first name (*e.g.*, Mary Jones would be in the view that contains the letter "M"). The ARMS "viewer" scans the server on a "view" by "view" basis.

During this testing process, the N-G computer specialists discovered that, in correcting the "MAIL2" programming error, another configuration error involving the ARMS "viewer" had been made. The letter "D" was inadvertently omitted from a view, and the letter "J" was included twice. As a result, incoming e-mail to ARMS-managed accounts with the first names beginning with the letter "D" had not been recorded by ARMS since November 1998. It appears that this error remained undetected until April 1999 because the additional "J" led technical personnel to believe that the views contained all 26 letters of the alphabet. In fact, that was not the case.

The effect of the "Letter D" error on the system was similar to the "MAIL2" error: Incoming e-mail sent to ARMS-managed accounts whose users' first names begin with the letter "D" were not stored in ARMS. E-mails generated by ARMS-managed accounts were not affected by the problem. Approximately 200 ARMS-managed accounts from the following offices within the EOP were affected:

1. White House Office (42 accounts)
2. Office of Policy Development (8 accounts)
3. Office of Management and Budget (54 accounts)
4. Council of Economic Advisers (1 account)
5. Council on Environmental Quality (4 accounts)
6. National Security Council (21 accounts)
7. Office of Administration (32 accounts)
8. Office of National Drug Control Policy (20 accounts)
9. Office of Science and Technology Policy (6 accounts)
10. White House Climate Change Task Force (3 accounts)

As with the "MAIL2" error, e-mail maintained on these affected users' PCs remained on the server until deleted by the user, but were not captured in ARMS.

By May 1999, the N-G employees corrected this problem prospectively. Thus, the "Letter D" configuration error affected these ARMS-managed accounts from November 1998 to May 1999. As with the "MAIL2" error, a backup tape of the server was created on June 1, 1999 to preserve any unrecorded e-mail that existed on it at that time.

In the course of gathering these preliminary facts concerning these configuration errors, we were informed this week that e-mails on the server of the Office of the Vice President (OVP) have not been fully managed by ARMS. We are still in the process of determining the scope and time period involved. The OVP does maintain back-up tapes of its server.

Of course, numerous e-mails to and from OVP users have been produced to the Committee over the years, which is consistent with OVP staff having searched their PCs for e-mail residing on the servers or in their hard-copy files, and with the large number of OVP e-mails that were captured by searches of ARMS during unaffected periods. We are doing our best to determine how searches for e-mails responsive to the Committee's requests were affected by these facts. We will promptly provide the Committee with this information when we complete our review.

II. Effect of Configuration Errors on the Committee's Subpoena Requests

Recent reports have cited various global effects of these configuration errors and speculated about the contents of the affected incoming e-mails. Below are our preliminary findings with regard to the "MAIL2" and "Letter D" errors. As noted above, we will provide further information as soon as possible about the OVP accounts. Please note, also, that, given the technical issues involved, we may need to modify or amend these findings as our review proceeds.

A. Global Effects

1. These two configuration errors did not affect documents or e-mails created by ARMS-managed accounts. We understand that these two configuration errors did not affect e-mails from ARMS-managed accounts that were sent within or outside the EOP. The only e-mails affected by either configuration error described above were incoming e-mails. Moreover, if an affected user received an incoming e-mail and forwarded it or replied to it with history (sending back the original incoming e-mail) then ARMS would have recorded the incoming e-mail.

2. We do not know how many e-mails were affected. OA and IS&T personnel understand that no one has estimated the number of e-mails that were unrecorded. If such an estimate was made, it was not provided to the EOP. Currently, I am informed that there is no way to make this calculation unless the backup tapes are reconstructed.

3. We do not know if any responsive information is contained in the unrecorded e-mails. News reports state that the e-mails contain information relevant to various subpoenas. Again, we have not been informed that anyone had the opportunity to review the contents of

these e-mails. Moreover, IS&T personnel currently cannot identify what kind of information is on the backup tapes because they have not been reconstructed. Without such restoration, we cannot know the contents of the unrecorded e-mails.

4. Affected incoming e-mail left on the server should have been captured by individual user searches. As you know, EOP staff are instructed to search their files, including computer records, for responsive information. Thus any incoming e-mails still on an individual's server space at the time a search was conducted should have been captured by individual user searches.

5. The "MAIL2" and "Letter D" anomalies were technical errors. As explained above, these configuration errors were the sole result of human mistakes and entirely unintentional.

B. Effect on the Committee's Subpoenas

Per your request, we have tried to determine what effect these errors had on the Committee's subpoenas related to campaign finance, FALN, and Waco matters. Please note that our preliminary findings are based upon our understanding of the Committee's subpoena requests, any agreed modifications to those requests, and the kind of e-mail search we performed to locate responsive material.

1. Campaign finance related subpoena requests. As your staff is aware, since the Committee's first subpoena in early 1997, our staffs negotiated a global December 31, 1996 cutoff date for all campaign finance related requests. Thus, incoming e-mails to the 526 affected ARMS-managed accounts for a five month period (August 1996 through December 1996) that were not forwarded or replied to with history would likely not have been captured by ARMS. E-mails remaining on an individual user's PC should have been captured.

2. FALN related subpoena requests. The search in response to the Committee's first subpoena covered the period January 20, 1993 through August 1999. The search in response to the Committee's second subpoena covered the period January 20, 1993 through November 10, 1999. Thus, these searches would have encompassed both time periods affected by the two configuration errors.

3. Waco related subpoena requests. On September 1, 1999, the Committee served a subpoena seeking materials related to the use of incendiary devices at the Branch Davidian compound. As you know, the relevant time period surrounding the Waco matter precedes August 1996, when the first configuration error occurred. Thus, we do not believe that these two errors would have affected a search of ARMS for e-mails responsive to this subpoena. Moreover, as our staff explained to your staff, we had recently conducted a broad search for Waco-related materials in response to a Court Order in the *Andrade v. Chojnacki* matter. Our staffs reached an accommodation whereby, in lieu of conducting another search that would likely encompass the same materials, we would produce to the Committee unsealed materials that were

produced to the *Andrade* Court. On January 28, 2000, we provided you with a copy of these materials.

III. Current Efforts to Explore Possible Reconstruction of Affected E-mail

We are working diligently to determine whether it is possible to reconstruct the backup tapes so we can load the unrecorded e-mails on to ARMS and perform keyword searches. We currently have obtained the following estimate.

There are at least 3400 backup tapes of the server relating to e-mail. As stated above, they are an incomplete and inaccurate collection of EOP computer records. The preliminary cost estimate we have received to reconstruct these tapes so that the information they contain could be placed on ARMS and searched using keywords is between $1.8 million and $3.0 million. This process is estimated to take approximately one to two years.

The process may be performed in "batches"; *i.e.*, several backup tapes at a time. If reconstruction were possible, we would likely begin the process with the November 20, 1998 and June 1, 1999 backup tapes (approximately 15 tapes total). This process would entail extracting the unrecorded e-mails from the backup tapes and putting them on a server. Then, computer technicians would need to develop a program that would "de-duplicate" the unrecorded e-mails so that ARMS would not record identical e-mails (as stated above, ARMS is designed not to scan identical e-mail messages). This estimate does not, however, include possible restoration of the OVP backup tapes, as well as the time and funds needed to perform other steps in the process, such as awarding a competitive contract, searching ARMS, printing the search results, manually reviewing them, and producing responsive materials.

We are, of course, continuing to review this matter. As I learn more relevant information, we will keep your office informed. If you have any questions, please call me. In any event, I will call you next week.

Sincerely,

Beth Nolan
Counsel to the President

cc: The Honorable Henry Waxman

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BERNARD SANDERS, VERMONT,
INDEPENDENT

March 19, 2000

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

Dear Ms. Nolan:

Thank you for the letter transmitted late on the evening of Friday, March 17, 2000. I appreciate this initial response.

Your staff has committed to producing documents about the White House e-mail problem to the Committee on Tuesday, March 21, 2000, and, while I would have preferred less delay, I look forward to receiving the documents at the promised time. Your staff has been clear on this point, and I do not expect additional requests for extensions.

As you are aware, the Committee will hold a hearing on the subject of the White House e-mail problem on Thursday, March 23, 2000. Your letter raises a number of questions. In order to answer these questions I will issue a subpoena for your attendance. Please have your staff confirm with my staff that you will accept service by facsimile.

In the matter of the White House e-mail problem, both you and I should have the same goal. We need to understand the parameters of the problem; we need to understand what, if any, affirmative steps to correct the problem were taken; and we need to understand whether any delay in correcting the problem will result in increased expense and delay. I am also interested in the steps taken by White House Counsel to inform all interested parties of the problem as soon as it was discovered. The following issues are of particular concern:

- You state in your letter that "e-mails on the server of the Office of the Vice President (OVP) have not been fully managed by ARMS." I am interested in a full explanation of this problem and I would also like to know when the Department of Justice, Congress and the Offices of Independent Counsel were notified of the problem.

- You explain that the preliminary cost to rectify the problem and include the relevant data in the ARMS system is $1.8 to $3.0 million dollars. I have been told by

individuals associated with the ARMS system that the cost has been increased by delay. Further, you note that "it may take approximately one to two years" to rectify the problem. If this is true, given the discovery of the problem on June 12, 1998, we should either have put this issue behind us already, or have a mere three months left to wait. I am concerned that the approach taken by the White House Counsel's office appears to have favored the "later rather than sooner, less rather than more" approach, thereby increasing the cost that must ultimately be paid to comply with the dictates of the *Armstrong* decision, and thereby also frustrating a number of legitimate investigations by the Justice Department, Independent Counsels, and Congress.

- You are somewhat unclear in your letter as to when you learned of these problems. I am curious as to when you were informed and what steps you took to pass the information along to the Justice Department, the Independent Counsels, and Congress. I am also interested in what you did to solve the problem.

- You state most clearly in your letter that: "[b]ackup tapes . . . are not searchable, absent reconstruction and transfer to ARMS." It appears that one search was performed in 1998. The search did not require a transfer to ARMS, and material responsive to an Independent Counsel document request was discovered. While I do not intend to underestimate the potential complexity of the problem, I am concerned that one of the purposes of your letter was to present a simplistic and self-serving explanation of this problem for media consumption. Thus I am surprised that you failed to provide this information in your letter.

- You indicate that an individual – who we intend to have testify at our hearing – identified a problem with e-mail management in January or February of 1998. You also indicate that it was not until June of 1998 that the problem was next noticed. I am interested in the steps taken by the White House Counsel's office to investigate this problem during the intervening four to five months. The ultimate problem would have been less costly to fix, and the universe of information would be much smaller, if there had been less delay. Therefore, I expect you will explain how the White House Counsel's office dealt with the problem from its initial discovery.

- You state that Mr. Ruff provided a timely notification that some pre-1994 e-mails were unavailable for document review. When did the White House provide a similar notification for the "Mail2" and "d" user problems to the Justice Department, the Independent Counsels, and Congress?

- Your indication that no-one has estimated the number of e-mails that have not been reviewed is inconsistent with information that has been provided to the Committee. We are interested in your response to this area of concern, particularly given the presumption that the White House Counsel's office would ask for an approximation of the size of the problem in anticipation of making plans to solve the problem.

- You also dismiss concerns regarding Waco-related e-mails by explaining that the Waco tragedy took place before the time period implicated by the problem. Again,

this simplistic approach is troubling. In 1997 there were allegations regarding gunfire that created a degree of consternation. It is not unreasonable to suspect that individuals might have provided commentary on these allegations during the period that e-mails were not being properly managed. Similarly, the fact that other issues occurred at a particular time does not impact whether White House employees have created information responsive to document requests.

- You also explain that e-mails may have been reviewed by manual searches conducted by individual computer users. You omit to explain, however, how searches could be conducted by people who have left the White House. It is my understanding that there was considerable turnover within the White House. Again, we will be benefitted greatly by your ability to provide in-depth explanations to what appear to be the incomplete and simplistic explanations provided in your letter.

Again, thank you for your letter. While I would prefer to receive correspondence from the White House earlier than 7:30 p.m. on a Friday night, I have read the relevant parts of Lanny Davis's book describing media strategy, and I have a fair understanding of the timing. I look forward to your appearance at the Committee's hearing on Thursday, March 23, 2000.

Sincerely,

Dan Burton

cc: Independent Counsel Robert Ray
Independent Counsel Ralph Lancaster
Independent Counsel Donald Smaltz
Independent Counsel David Barrett
Independent Counsel Carol Elder Bruce
Attorney General Janet Reno
Judge Royce Lamberth

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INDEPENDENT

March 21, 2000

The Honorable Janet Reno
Attorney General
United States Department of Justice
Washington, D.C. 20530

Re: Justice Department's Failure to Investigate White House E-Mails

Dear General Reno:

On March 8, 2000, I wrote to you about the Justice Department's apparent failure to make any effort to obtain a large category of documents potentially relevant to the campaign fundraising investigation. In that letter, I pointed out that the Justice Department had not contacted any of the contractors responsible for the White House e-mail system, and had apparently not pushed the White House to produce this information to the Justice Department.

~~However, as the Committee has investigated this matter, I have learned that not~~ only has the Justice Department failed to push for any of this information, it is actually playing a key role in keeping the information from coming to light. Currently, the Justice Department is representing the Executive Office of the President ("EOP") in civil suits brought in the "Filegate" case. In recent pleadings, plaintiffs have alleged suppression of evidence and threatening of witnesses concerning mismanaged White House e-mail records that may touch on Filegate matters affecting their case. Rather than responding to the Plaintiffs' allegations with concern, or even withdrawing from the case, the Justice Department lawyers have responded like seasoned defense counsel: they disparaged the plaintiffs' claims; they said that this was old news; and they claimed that it would be impossible to produce the e-mails. In its March 6, 2000, memorandum to the court, the Justice Department first characterized the plaintiffs' allegations as "offensive." Then, it stated that the "technical failure [to produce the e-mails] is a long-standing matter of public record that has been confirmed by the White House itself." Finally, the Justice Department stated that the "EOP has advised both plaintiffs and this Court on innumerable occasions that it has not produced any backed-up or archived e-mail in response to plaintiffs' many discovery requests. Time and again, EOP has forthrightly objected that it is unduly burdensome to perform broad-based searches of archived and backed-up e-mail, especially e-mail stored in a non-word searchable format."

While the Justice Department's zeal in defending its client, the White House, is understandable, it is also troubling. The Justice Department is supposed to be conducting a thorough criminal investigation of allegations of illegal fundraising in the 1996 elections, including allegations about White House involvement in the scandal. Just last week, you stated that "the investigation continues, and we will continue to pursue every lead." Yet, the Justice Department's filing in the Filegate case makes it clear that you are not making any effort to follow this lead. In fact, the Justice Department is disparaging these claims, and is assisting the White House in its efforts to keep these records from being produced to the Justice Department or any other investigative body. These facts lead me to ask a number of questions:

- When did the Justice Department learn of the problem with the White House e-mail system?
- When was the Campaign Financing Task Force informed of the problem with the White House e-mail system?
- Is it the opinion of the Campaign Financing Task Force that allegations that White House e-mails were not produced to the Task Force are "offensive," as the Justice Department suggested in its recent legal brief?
- Is it the Campaign Financing Task Force's position that "it is unduly burdensome to perform broad-based searches of archived and backed-up e-mail, especially e-mail stored in non-word searchable format," as suggested in the Justice Department's brief?

When FBI Director Freeh and Charles La Bella concluded that you were not able to conduct the campaign fundraising investigation, they were obviously right. This conclusion was reinforced when it was learned that your prosecutors had failed to question either the President or the Vice President about any aspect of the foreign money scandal during five separate interviews. It is inconceivable that the Justice Department can on one hand help the White House avoid production of the missing e-mails, and on the other hand, aggressively pursue the e-mails in the campaign fundraising investigation.

Sincerely,

Dan Burton
Chairman

cc: The Honorable Henry A. Waxman, Ranking Minority Member

THE WHITE HOUSE
WASHINGTON

March 21, 2000

BY HAND

James Wilson, Chief Counsel
Committee on Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Wilson:

I enclose the Executive Office of the President's (EOP) initial production of materials in response to the Committee's March 9, 2000 subpoena. The documents bear control numbers E 0001-3396.

As I explained to you during our telephone conversation on March 10, 2000, in an effort to accommodate the Committee's request for these materials, we have expedited the EOP's search. As we further discussed on March 15 and yesterday, the EOP will continue producing documents to the Committee on a rolling basis as we complete our search. We anticipate producing more materials by close of business Monday, March 27, 2000.

In further response to the Committee's question about the number of affected e-mails, we want to inform you that on Friday, March 17, 2000, N-G counsel provided the EOP's Office of Administration (OA) with a document created by one of its employees. This document appears to reflect that on June 18, 1998, an N-G employee reviewed the affected ARMS-managed accounts on the server at that time. I have been informed that OA and IS&T personnel were previously unaware that this document existed or that anyone had estimated the number of unrecorded e-mails. Although we cannot attest to the accuracy of this document, it appears that it lists, among other things, for each affected account existing on or about June 18, 1998: (1) the date of its creation, (2) the total number of e-mails existing on the server, and (3) the total number of e-mails existing on the server that were not captured by ARMS. This document is included in today's production and bears control numbers E 0009-81.

If you have any questions, please call me at 202-456-5814.

Sincerely,

Dimitri J. Nionakis
Associate Counsel to the President

Enclosures

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March 22, 2000

VIA COURIER

James C. Wilson, Esquire
Chief Counsel
Committee on Government Reform
U.S. House of Representatives
2157 Rayburn H.O.B.
Washington, DC 20515-6143

Dear Jim:

Enclosed are two witness statements to be included in the record of tomorrow's Committee hearing: statements of Yiman Salim and Robert Haas. They would both like to read all or part of these statements at the outset of their testimony.

I have also included a disk containing these statements.

We will be at the Committee hearing room a few minutes before 10:00 tomorrow morning.

Sincerely,

John M. Bray

JMB/meo
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THE WHITE HOUSE
WASHINGTON

March 22, 2000

The Honorable Dan Burton
Chairman, Committee on Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515-6143

Dear Chairman Burton:

Enclosed please find 100 copies of my written opening statement and a computer disk containing the statement for inclusion in the record of this proceeding.

Thank you for your attention to this matter.

Sincerely,

Bradley J. Kiley for
Mark F. Lindsay

Mark F. Lindsay
Assistant to the President for
Management and Administration

cc: The Honorable Henry Waxman (w/ enclosures)
James C. Wilson, Chief Counsel

JOHNNIE L. COCHRAN, JR.*
RALPH L. LOTKIN
*ALSO MEMBER OF
THE CALIFORNIA BAR

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March 24, 2000

The Honorable Dan Burton, Chairman
The Honorable Henry A. Waxman, Ranking Minority Member
House Committee on Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Burton and Ranking Member Waxman:

Please accept this communication on behalf of my client, Mrs. Laura Callahan, in connection with yesterday's hearing regarding White House email.

Attached is a signed and sworn affidavit by Mrs. Callahan which clarifies one minor aspect of her testimony, based upon our collective recollection of the proceeding without, of course, benefit of a transcript. We submit this document to you in an effort to be both as prompt and as accurate as possible.

Respectfully,

Ralph L. Lotkin
Counsel for Laura L. Callahan

Attachment

DAN BURTON, INDIANA,
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ONE HUNDRED SIXTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM

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JANICE D. SCHAKOWSKY, ILLINOIS

BERNARD SANDERS, VERMONT,
INDEPENDENT

March 27, 2000

The Honorable Janet Reno
Attorney General
U.S. Department of Justice
Tenth and Constitution Avenue, N.W.
Washington, DC 20530

Dear General Reno:

The Campaign Financing Task Force has announced an investigation of possible obstruction of justice involving documents not produced to this Committee, various Independent Counsels, and the Justice Department. In a Declaration to the United States District Court for the District of Columbia, filed on March 22, 2000, Robert J. Conrad, Jr., the Chief of the Justice Department Campaign Financing Task Force, stated that: "continued inquiry into this matter by the Civil Division . . . would interfere with and potentially compromise the Task Force's investigation of the pending allegations." Thus, the Task Force, which is supervised by you, has declared that the Civil Division, which is supervised by you, might "interfere with and potentially compromise" a major investigation. First, you rejected an Independent Counsel in favor of running your own investigation of the President, Vice President, and your political party. Now you have decided to use the same Campaign Financing Task Force, supervised by yourself, to investigate yourself and the Justice Department lawyers who helped keep the e-mails from being produced to Congress, Independent Counsels, and your own Campaign Financing Task Force.

Under normal circumstances, I would welcome a Justice Department investigation of possible criminal conduct. However, because you and your staff are in charge, the proposed investigation is fatally flawed. When Director Louis Freeh and then-Task Force Chief Charles La Bella recommended an Independent Counsel in 1998, the words they used effectively predicted the current e-mail scandal. They believed that an

investigation led by the Attorney General would not be able to take steps necessary to secure evidence, vigorously investigate Democrat political leaders and their party, and promote confidence in the rule of law. Now, two years later, the e-mail scandal has proven their point. This part of the campaign finance scandal, however, points directly at the Justice Department – for what the Justice Department did do (represent the White House in keeping the e-mails from investigators) and for what the Justice Department did not do (force production of the e-mails for its own investigation).

There is growing consensus that you were, and are, unable to supervise investigations involving the President, the Vice President, and your political party. For this reason, I call on you to appoint a Special Counsel to investigate the obstruction of justice charges against the White House. The individual chosen should be completely independent, should have no current ties to the Justice Department, and should be seen by the American people to be fair and impartial. With all due respect to Mr. Conrad, he is under your supervision, and he will be subject to the same constraints that have made your foreign money investigation a tragic misadventure. Simply put, you cannot be in charge of investigating yourself and the Civil Division, which is now headed by your former Chief of Staff.

I will address the following points in turn: (1) the perception that you are not able to do your job; (2) allegations that you are predisposed to provide unfair advantages to your political colleagues in matters involving the campaign finance scandal; and (3) the apparent conflict of interest within the Justice Department in the e-mail obstruction of justice matter.

I. The Perception that You Are Not Able to Do Your Job

I will refrain from using this letter as a vehicle for restating my views of your conduct in the campaign financing investigation. They are well known. Rather, I ask that you consider what the media is telling the citizens of this country. I realize that you believe that you should be free from the pressure of the media, and I share your view that an Attorney General should not be driven solely by the dictates of public opinion. Nevertheless, the perception that you have created is devastating to the cause of justice, harmful to the institution you preside over, and damaging to the thousands of good men and women who serve this country in the Justice Department and the Federal Bureau of Investigation. The following selection of assessments speak to your fitness to preside over the e-mail investigation and should give you a taste of what will be said if you elect to run this investigation:

> The general election campaign has gotten off to an unusually fast start, and it has done so under a cloud of suspicion created by **Attorney General Janet Reno's incompetent and politically biased response to the campaign finance abuses of the 1996 campaign.**[1]

[1] *Campaign Finance Battles*, THE NEW YORK TIMES, March 14, 2000, at A22.

The [release of the La Bella memorandum and other] documents are **further evidence of Ms. Reno's politicized handling of the campaign fund-raising issue and of her dedication to protecting Democratic Party interests from start to finish.**[2]

[O]ccasional glimpses the public has had of the Justice Department investigation have **inspired less than total confidence.**[3]

She [Attorney General Reno] **has sought to protect the White House at every turn**, especially after meeting with the President on her reappointment at the outset of his second term. She has named special counsels for trivial cases against Cabinet members, but refused them on serious charges against the President and Vice President despite the La Bella and Freeh recommendations.[4]

Today few doubt any longer that **Ms. Reno is an adjunct to the Clinton-Gore political operation.** . . . The Justice task force's investigation into the ties between China and the 1996 Clinton campaign contributions has been a catalog of lapses.[5]

The **inability of Attorney General Janet Reno and her politicized Justice Department to investigate the Clinton Administration** shows that the country needs to polish the independent counsel mechanism, not junk it.[6]

[I]n **an unforgivable dereliction of duty**, Attorney General Janet Reno failed to pursue the clear violation of the letter and spirit of the campaign laws.[7]

If Ms. Reno decides in the end to appoint an independent counsel, the [Government Reform] committee's contempt vote will be rendered meaningless. If, on the other hand, she refuses, she risks the unthinkable. At that point, **it would be better for her to resign than to continue to ignore a Congress that finds her unbelievable.**[8]

She comes not to expose political corruption, but to bury it.[9]

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[2] *The Justice Department Memos*, THE NEW YORK TIMES, March 11, 2000, at A14.
[3] *Dan Burton's Question*, THE WASHINGTON POST, December 19, 1999, at B6.
[4] *Reno's Most Wanted*, THE WALL STREET JOURNAL, September 7, 1999, at A24.
[5] *Watching the Watchdog*, THE WALL STREET JOURNAL, July 1, 1999, at A22.
[6] *More Bad Advice From Ken Starr*, THE NEW YORK TIMES, April 15, 1999, at A30.
[7] *A New Year for Campaign Reform*, THE NEW YORK TIMES, December 27, 1998, at §4, p.8.
[8] *Reno's Dilemma; Appoint an Independent Counsel or Resign*, THE DALLAS MORNING NEWS, August 7, 1998, at 36A.
[9] *Law School for Janet Reno*, THE NEW YORK TIMES, July 19, 1998, at §4, p.14.

> Every decision she has made and comment she has offered has minimized the offenses and excused the conduct of the White House and the Democratic Party. The person who is supposed to be the nation's chief prosecutor, ever alert for signs of infraction, **sounds instead like a technicality-hunting defense lawyer.**[10]
>
> **"Even if it looks like a duck," a Justice Department source said recently, explaining the task force approach, "we can't make it quack."**[11]

These are harsh, yet consistent, assessments of your role in the campaign finance investigation. In many respects, they are your legacy. It is important, however, that the institution you run not be further injured. Doubtless, at your next news conference you will tell us that you 'call them as you see them' and that you don't do 'what ifs.' But this is a serious matter, and it calls for a real investigation, not platitudes. You were in charge when the Justice Department's Civil Division began to help the White House craft its efforts to hide these e-mails. You were in charge when your lawyers went to bat for the White House instead of against it. The e-mail investigation is, in part, of you, and it would be absurd for you to cling to the fiction that you can investigate yourself.

Thus, I call upon you to appoint a Special Counsel.

II. The Perception that You Are Predisposed to Provide Unfair Advantages to Your Political Colleagues in Matters Involving the Campaign Finance Scandal

Charles La Bella, the former head of your campaign financing task force made the following observations to you:

> [The] Task Force has commenced criminal investigations of non-covered persons based only on a wisp of information.[12]
>
> If these allegations involved anyone other than [redacted], an appropriate investigation would have commenced months ago without hesitation.[13]
>
> The contortions that the Department has gone through to avoid investigating these allegations are apparent.[14]
>
> [There is] no acceptable explanation as to why one is the subject of a full criminal inquiry and the other is and remains in investigative limbo.[15]

---

[10] *Meltdown at Justice,* THE NEW YORK TIMES, December 7, 1997, at §4, p.16.
[11] Susan Schmidt and Roberto Suro, *Troubled from the Start; Basic Conflict Impeded Justice Probe of Fund-Raising,* THE WASHINGTON POST, October 3, 1997, at A1.
[12] Charles La Bella, THE LA BELLA MEMORANDUM (unreleased).
[13] Charles La Bella, THE LA BELLA MEMORANDUM (unreleased).
[14] Charles La Bella, THE LA BELLA MEMORANDUM (unreleased).

> The Department's treatment of the Common Cause allegations has been marked by gamesmanship rather than an evenhanded analysis of the issues. That is to say, since a decision to investigate would inevitably lead to a triggering of the ICA [Independent Counsel Act], those who are hostile to the triggering of the Act had to find a theory upon which we could avoid conducting an investigation.[16]

> The Task Force never conducted an inquiry or investigation of the entire campaign finance landscape in order to determine if there exists specific information from a credible source that a covered person . . . has violated a federal criminal law.[17]

These observations go to a central theme: you have presided over an investigation that has given an unfair advantage to the President, the Vice President, high government officials, and members of the Democrat Party. How else can one explain the following:

- The Justice Department failed to ask the President a single question about foreign money or James Riady's promise of one million dollars.

- The Justice Department failed to ask the Vice President a single question about the Buddhist temple fund-raiser. Furthermore, one week before the 1996 election, the Justice Department pulled prosecutors off the Buddhist Temple fund-raiser case.

- The Justice Department failed to investigate, or delayed an investigation of, the subject of the above-mentioned quote ("if these allegations involved anyone other than [redacted], an appropriate investigation would have commenced months ago without hesitation"). My suspicion, from the context of the quote, is that the individual referred to is Harold Ickes, but the fact that you delayed the investigation is perhaps more important than the identity of the individual.

- The Justice Department failed to pursue evidence, ranging from search warrants related to Charlie Trie's documents to the White House e-mails that are the subject of the current controversy. Recently this Committee subpoenaed the actual document requests made to the White House by the Justice Department. I am concerned that we will soon learn that there are many other areas that the Justice Department neglected to pursue.

- When the Justice Department failed to recommend a fine for Charlie Trie, the judge in the case had to take it upon himself to reject the Department's recommendation and stiffen the penalty.

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[15] Charles La Bella, THE LA BELLA MEMORANDUM (unreleased).
[16] Charles La Bella, THE LA BELLA MEMORANDUM (unreleased).
[17] Charles La Bella, THE LA BELLA MEMORANDUM (unreleased).

These examples do not stand alone. There are many more.

One other matter cannot be ignored when discussing the predisposition to go easy on your political colleagues and the Democrat Party. When Mr. La Bella wrote his memorandum recommending the appointment of an Independent Counsel, he pointed out that you consistently used an erroneous interpretation of the Independent Counsel statute. He said: "[t]he reference to specific and credible evidence is just wrong."[18] He was referring to your many pronouncements that appointment of an Independent Counsel required specific and credible evidence, as opposed to the language of the statute, which actually required specific information from a credible source. La Bella pointed out that "the threshold has been raised from consideration of the specificity of the information and credibility of the source to a determination that there is specific and credible evidence of a federal violation. Evidence suggests something which furnishes proof, information need not be as directed. While the distinction may appear to be subtle, it is significant." Again, your misapplication of the statute is important when we consider Mr. Conrad's request to have you take charge of the e-mail investigation.

In the e-mail investigation, it would be inappropriate to allow lax enforcement or manipulation of the law in order to benefit political colleagues and a political party.

Thus, I call upon you to appoint a Special Counsel.

III. The Conflict of Interest Within the Justice Department in the E-mail Obstruction of Justice Matter

After all that has happened since you took control of the campaign finance investigation, I believe that you are not able to investigate the possibility of White House obstruction of justice. In fact, there are serious and legitimate concerns that your own lawyers may be part of possible obstruction of justice.

On Friday, March 24, 2000, I received an affidavit from Laura Callahan. She had testified at a hearing before my Committee on March 23, 2000, and, in an effort to correct her testimony from the previous day, she submitted an affidavit. In the affidavit, she stated "I wish to clarify that I did discuss email issues with Department of Justice attorneys in connection with currently pending civil litigation." Her contacts with the Justice Department took place in 1998 and resulted in the submission of an affidavit to the United States District Court for the District of Columbia in 1998.

One of the lawyers who assisted in the preparation of the 1998 affidavit was James Gilligan, who recently denigrated the existence and importance of the e-mails in a filing in District Court in the civil case *Cara Leslie Alexander v. Federal Bureau of Investigation*, No.96-2123/97-1288 (RCL).[19] Furthermore, Justice Department lawyers

[18] Charles La Bella, THE LA BELLA MEMORANDUM (unreleased).

[19] The Department of Justice stated in a recent filing with the District Court: "As a threshold matter, defendant observes that plaintiffs' latest rhetorical outburst concerning e-mail can only be described as yet

assisted Daniel A. Barry in his submission of an affidavit to the same District Court on July 9, 1999. At that time, the problem was widely known within the White House, and Mr. Barry was clearly frustrated by his supervisors' failure to move towards a solution to the Mail2 e-mail problem. Notwithstanding his knowledge of the problem, Mr. Barry failed to refer to the matter in his affidavit.

Although we do not know what Mr. Gilligan knew regarding the extent of the problem, it seems unlikely that he was oblivious to the fact that there was a universe of information that had never been reviewed for responsiveness to subpoenas and document requests. In his zealous representation of your client, the White House, he contributed to the failure to produce information to your own Campaign Finance Task Force, to my Committee, and to various Independent Counsels. Although I risk stating the obvious, I do not see how you could represent both sides in the same case. It is well-nigh impossible to tell your client to produce information when you are counseling the same client how to avoid producing the same information. Indeed, Justice Department lawyer James Gilligan made representations in open court on March 24, 2000, that the Justice Department was "on the horns of a dilemma" and that the Department was faced with either impeding the criminal investigation, or failing to defend vigorously their client, the White House.

From my perspective, I do not see how you can tolerate the representation that the e-mails are not consequential, as indeed has been made by Mr. Gilligan. I can only imagine how you would react if, in a tax fraud case (or a criminal assault case, or a civil rights case, or a voting rights case, or any other type of legitimate federal investigation and prosecution), the individual under investigation took the position that production of a large quantity of documents freed him from complying with specific requests. This, in effect, is the position of the White House in the current controversy. The "I have complied with some of your request so please go away" theory of investigation may be the standard you have set for your campaign finance inquiries, but it is not acceptable to the Committee of which I am Chairman.

In the case of the White House electing not to inform this Committee that it was not going to undertake a search for documents responsive to subpoenas, an obstruction of justice investigation will ultimately have nothing to do with the content of the e-mails. The issue is relatively simple: either White House lawyers made a good faith attempt to do what they were required to do by law, or they did not. It is my belief that your Justice Department cannot be relied upon to get to the bottom of this matter because of the conflict within the Justice Department and because of your own demonstrated lack of enthusiasm when it comes to investigating the White House, the President, the Vice President, and your political party.

---

another 'distraction from the issues in this lawsuit.' The technical failure to which plaintiffs allude is a long-standing matter of public record that has been confirmed by the White House itself." Executive Order of the President's Memorandum in Opposition to Plaintiffs' Requests to Restrict Disclosure of the First and Second Supplements to Plaintiffs' Motion for Evidentiary Hearing, and in Support of Cross Motion for Expedited Consideration dated March 6, 2000 (quoting Memorandum and Order dated April 21, 1999). It is worth noting, for the record, that this Committee was not informed by the White House of the "technical failure."

For the reasons cited above, I request that you appoint a Special Counsel to determine whether either or both the White House and the Department of Justice conspired to obstruct justice by either failing to search for information responsive to this Committee's subpoenas, or by failing to represent that the White House had not searched for information responsive to this Committee's subpoenas. I also request that this Special Counsel investigate whether untruthful certifications were made to the Committee regarding productions of subpoenaed documents.

Sincerely,

Dan Burton

Dan Burton
Chairman

cc: United States District Judge Royce C. Lamberth
Louis Freeh, Director of the Federal Bureau of Investigation
Independent Counsel Robert Ray
Independent Counsel Ralph Lancaster
Independent Counsel Donald Smaltz
Independent Counsel David Barrett
Independent Counsel Carol Elder Bruce
Independent Counsel Curtis Von Kann
Senator John Danforth
Honorable Henry A. Waxman, Ranking Minority Member, Committee on Government Reform
Members, Committee on Government Reform

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BERNARD SANDERS, VERMONT,
INDEPENDENT

March 29, 2000

The Honorable Royce C. Lamberth
United States District Court for the District of Columbia
333 Constitution Avenue, NW
Washington, D.C. 20001

RE: Affidavit Filed by Daniel A. Barry

Dear Judge Lamberth:

The White House and Department of Justice attorneys representing the White House failed to inform the Committee on Government Reform that a large universe of documents had never been searched to determine responsiveness to Committee subpoenas. Although the Counsel to the President and various White House spokesmen have sought to downplay this problem, I have commenced an investigation to determine whether the White House and the Justice Department have either broken laws, or behaved in a manner contrary to the interests of justice. I have also called on the Attorney General to appoint a Special Counsel to investigate this matter.

In the course of the Committee's investigation, it has come to my attention that false representations may have been made to your court in the *Alexander* case. Specifically, Mr. Daniel Barry stated in an affidavit dated July 9, 1999: "Since July 14, 1994, e-mail within the EOP system administered by the Office of Administration has been archived in the EOP Automated Records Management System (ARMS)." This statement is false and intentionally deceptive. Mr. Barry was aware as early as July of 1998 that a large universe of e-mails had not been archived in the ARMS system. Consequently, tomorrow I will submit a criminal referral regarding this false statement, signed by him and "made under penalty of perjury," to the Justice Department.

I bring this to your attention because the affidavit was filed in your court. In addition, my staff has been told that it was prepared by Department of Justice lawyers who appear regularly in your court. I am concerned that the lawyers who assisted Mr. Barry in the preparation of his affidavit, and who counseled him at the time the affidavit was signed, were aware that the information was misleading. I am also concerned that lawyers in the White House Counsel's office were also involved in this deception. In

short, it may well be that Justice Department and White House attorneys were involved in a conspiracy to commit a fraud upon your court.

Recent representations that the Justice Department has commenced an investigation of possible obstruction of justice are deeply troubling to me. This is the same Justice Department, under the same supervision, that has been involved in the alleged improper conduct. This is the same Justice Department that took no steps to determine whether reports about the e-mail problem were true. Attorney General Reno's subordinates failed to pursue this matter until Committee staff began to ask witnesses whether they had ever been contacted by Justice Department investigators. While your Honor may ultimately decide to investigate allegations of criminal contempt or perjury, I respectfully wish to remind you that this Committee has a strong interest in the underlying substance of matters that are now before you.

Recent efforts by the Attorney General to control this investigation appear to be nothing more than a ploy to retain control over matters that will ultimately focus on how the Justice Department helped the White House in its efforts to refrain from producing documents to Congress and various Independent Counsels. Furthermore, the Campaign Financing Task Force has a vested interest in not being thorough or vigorous in this investigation, as has been the case for over two years. It would be a significant embarrassment to the Justice Department if the public learned that some of Attorney General Reno's lawyers were working to keep information from other Justice Department lawyers. It would also be a significant embarrassment if those who were denied information had been less than vigorous in pursuing documents from the White House.

I offer my concerns that the Justice Department Campaign Financing Task Force should not be permitted to take actions that would serve to delay or cover up the matters now before your court and under investigation by this Committee. I also share my concern that the Campaign Financing Task Force is unable to investigate its supervisors and colleagues at the Department of Justice.

Two years ago, Task Force Chief Charles La Bella and Federal Bureau of Investigation Director Louis Freeh explained in meticulous detail that the Justice Department was giving unfair advantage to high level political appointees. I respectfully request that you not permit the Task Force to take any actions that contribute to this unacceptable pattern of conduct.

Sincerely,

Dan Burton
Chairman

cc: The Honorable Henry A. Waxman, Ranking Minority Member
Louis Freeh, Director of the Federal Bureau of Investigation

Independent Counsel Robert Ray
Independent Counsel Ralph Lancaster
Independent Counsel Donald Smaltz
Independent Counsel David Barrett
Independent Counsel Carol Elder Bruce
Independent Counsel Curtis Von Kann
Senator John Danforth

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BERNARD SANDERS, VERMONT,
INDEPENDENT

March 30, 2000

The Honorable Janet Reno
Attorney General
United States Department of Justice
Washington, D.C. 20530

Re: Criminal Referral of Daniel A. Barry

Dear General Reno:

I am writing to refer to you information about possible violations of law that have been uncovered in the course of the Committee's investigation of the White House e-mail system. The Committee has learned that Daniel A. Barry, the Deputy Data Center Manager/Electronic Records Manager in the Executive Office of the President may have made false statements under oath in civil litigation relating to the White House's handling of confidential FBI files. I urge you to give these charges the serious examination they deserve. As I will explain below, the only way that this referral can receive serious attention is if it is referred to a special counsel.

At all relevant times during the civil litigation, *Alexander v. FBI*, Mr. Barry was represented by attorneys in the Justice Department's Civil Division. Justice Department lawyers oversaw the preparation of Mr. Barry's affidavit which now appears to be perjurious. Justice Department lawyers filed that affidavit in court. Accordingly, any examination of the issues raised by this referral will include an investigation of the role of Justice Department attorneys in offering false testimony in the *Alexander* lawsuit. As I have explained in two earlier letters, I do not believe that the Justice Department can carry out a credible investigation of the White House e-mail system. Accordingly, I have called on you to appoint a special counsel to investigate the allegations against the White House. To date, you have ignored my call. However, now that there is evidence that the Justice Department itself may have been involved in preparing and presenting false testimony relating to the White House e-mail system, I cannot see that you have any choice but to appoint a special counsel.

A. Daniel Barry's Role in the E-Mail Matter

As the Deputy Data Center Manager/Electronic Records Manager in the Executive Office of the President, Mr. Barry is responsible for managing the Automated Records Management System ("ARMS"), and in fact, was one of the primary designers of the ARMS system. As the ARMS manager, Barry receives requests and processes search requests from the White House Counsel's office in response to subpoenas and document requests.

Barry first became aware of an anomaly in the ARMS system in January 1998, when he was conducting a search of the ARMS system for e-mails relating to Monica Lewinsky. While conducting this search, Barry noticed that the records retrieved by ARMS appeared to be missing an intermediate message between Monica Lewinsky and an EOP computer user. While ARMS had no record of this e-mail, Barry and a colleague were able to find the e-mail with a manual search of the server. Barry informed his superiors of this anomaly, but did not necessarily attribute it to a systemic problem with ARMS.

In late May and early June of 1998, Northrop Grumman contract employees at the White House discovered that there was a widespread problem with the ARMS system. Barry informed the Committee that he was made aware of the problem in July 1998, and began work on it soon thereafter. From July 1998 through 1999, Barry was involved in attempting to repair the ARMS system so that it would contain a complete and accurate archive of White House e-mails.

B. Barry's False Affidavit in the Filegate Lawsuit

Barry gave a deposition and filed a number of affidavits in *Alexander v. FBI*, a civil lawsuit regarding unauthorized access to FBI files. Barry offered testimony regarding the White House computer system generally, and the White House e-mail system specifically. On July 9, 1999, Barry filed an affidavit about the White House e-mail system in the *Alexander* case. (Attachment 1.) The purpose of Barry's affidavit was to explain how the White House would conduct the plaintiffs' request to search for e-mail relating to the case. Barry also explained how much that search would cost, and how much time it would take.

Paragraph 4 of Mr. Barry's affidavit states:

> Since July 14, 1994, e-mail within the EOP system administered by the Office of Administration has been archived in the EOP Automated Records Management System (ARMS). With this current system, this e-mail is susceptible to being word-searched for a single character string (e.g. "FBI" or "FBI files") or a multiple character string ("and" and "or" searches) found on any one line of text.

Through testimony provided in interviews and hearings, documents, and representations made to the Committee by White House Counsel, we have learned that Paragraph 4 is utterly false. Furthermore, we have learned that Mr. Barry knew his statement was false when he made it.

1. Barry's Statement is False

As indicated above, in May or June of 1998, Northrop Grumman contract employees working for the EOP identified a significant problem with the EOP e-mail system. Incoming e-mail to a particular server named "Mail2" was not being collected and archived for future searches in ARMS. The Northrop Grumman employees were tasked with identifying the scope of the problem, and quickly learned that 246,000 e-mails on Mail2 as of June 18, 1998, had not been collected and archived in ARMS. This number represented approximately one out of every five e-mails on the server as of that date. This information was quickly communicated up the White House chain of command. By the following day, June 19, 1998, the President's Deputy Chief of Staff, John Podesta, and Counsel to the President, Charles Ruff, had both been briefed on the nature and scope of the problem. An initial repair was finished in November 1998, so that e-mails from November 1998 forward were captured by ARMS. However, between August 1996 and November 1998, e-mails coming into the Mail2 server from outside the White House were not captured by ARMS. This problem has been confirmed in sworn testimony by Northrop Grumman and White House employees.

Mr. Barry's affidavit contains the statement that "[s]ince July 14, 1994, e-mail within the EOP system administered by the Office of Administration has been archived in the EOP Automated Records Management System (ARMS)." By the accounts of every witness that this Committee has interviewed, including Mr. Barry, and the White House itself, this statement is false. The Mail2 error prevented a significant number of e-mails from being archived in the ARMS system between August 1996 and November 1998.[1]

2. Barry Knew the Statement was False

The Committee has also received extensive evidence that Mr. Barry knew that the statement in his affidavit was false when he made it. In July 1999, when Mr. Barry filed his affidavit, he had known about the e-mail problem for a year. As the manager of the ARMS system, Barry was notified that there was a problem with ARMS in July 1998. At

[1] Barry may attempt to claim that his affidavit refers only to e-mail between users in the Executive Office of the President. Due to the technical nature of the Mail2 error, such e-mail would be captured on the ARMS system. However, such a narrow reading of the Barry affidavit is contradicted both by common sense, and the facts of the *Alexander* case. Barry's statement clearly refers to e-mails held within the EOP e-mail system, not e-mails between EOP users. This reading is supported by the context of the affidavit, in which Barry discusses the plaintiffs' request for a search of the e-mails of 30 different EOP staff. The plaintiffs' search request was not limited to e-mails between EOP users. Rather, it requested all e-mail on the relevant subject matter, regardless of the source. Furthermore, if the language in the affidavit was chosen intentionally to mislead, it raises significant questions about the state of mind of the attorneys involved in the drafting process.

the Committee's hearing on March 23, 2000, Barry testified he was informed of the problem in July 1998, and that after that point, he attended technical meetings in the summer of 1998 and discussed in great detail the nature and scope of the problem.

There is also extensive documentary evidence that Mr. Barry was aware of the ARMS problem beginning in the summer of 1998. Barry drafted many e-mails and reports about his work on the Mail2 problem, indicating that he was aware that there were a number of e-mails that were not archived in the ARMS system:

- On July 24, 1998, he wrote, "I continue to be involved in discussions regarding the Mail2 problem, but there has been no movement thus far on correcting the problems or getting the data over to ARMS." (Attachment 2.)

- On August 13, 1998, he wrote, "I am very concerned about several aspects of this problem. As far as I can tell, there is no movement underway to fix the problem and recover the lost records from the backup tapes. When I talk to Sandy Golas and John Spriggs or Bob Haas, they tell me that there is no movement on this project from their side and the last activity was the meeting that we had with Betty before she left on 7/28." In the same e-mail he wrote, "I feel the records must be recreated, and any searches need to be re-performed if the requestors feel it is necessary. This seems like a daunting proposition, but I do not see any other alternative. (Attachment 3.)

Therefore, when Mr. Barry submitted his affidavit in the Alexander case on July 9, 1999, he had been aware of the Mail2 problem for a year. He had been working on the problem, and had specific and detailed knowledge of the fact that there was a large number of e-mails that were not being archived within ARMS. Therefore, when Barry stated in his affidavit that "[s]ince July 14, 1994, e-mail within the EOP system administered by the Office of Administration has been archived in the EOP Automated Records Management System (ARMS)," he was aware that the statement was false and misleading.

C. Role of the Justice Department and the White House Counsel's Office

Mr. Barry was represented by the Justice Department and White House Counsel's office during the course of the *Alexander* case. It is my understanding that lawyers from the Justice Department and the White House Counsel's Office drafted Mr. Barry's affidavit. At the time, the Justice Department and the White House Counsel were apparently aware of the White House e-mail problems. Yet, they prepared an affidavit that was false, allowed Barry to sign that affidavit, and then filed it in federal court. The conduct of the lawyers from the Justice Department and White House raises a real question as to whether those individuals were involved in a criminal conspiracy to obstruct justice and commit perjury. Any perjury investigation of Mr. Barry should therefore include a thorough examination of possible perjury and obstruction of justice charges against the Justice Department and White House lawyers involved in preparing

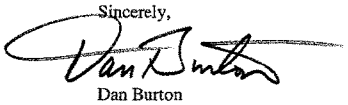
Mr. Barry's affidavit. Clearly, the Justice Department has a conflict of interest if it attempts to investigate these charges. Therefore, I will repeat my call for you to appoint a special counsel to investigate these charges against Mr. Barry, as well as the entire e-mail problem.

Conclusion

You have received repeated criticism for your handling of the campaign finance investigation. For more than three years, you have insisted that you can carry out a thorough and competent investigation of your direct superior and your own political party. However, the facts have shown otherwise, as the campaign fundraising investigation is widely regarded as a massive failure. The allegations of obstruction of justice relating to the White House e-mail problem present yet another clear case for the appointment of a special counsel.

In this case, your obligation to appoint a special counsel is obvious. As I pointed out earlier this week, Justice Department lawyers representing the White House have been attempting to prevent the discovery of these e-mails for almost two years. Now, these allegations against Mr. Barry raise the possibility that lawyers from the Justice Department and White House Counsel's Office conspired to present false testimony to a federal court. The Justice Department cannot investigate these allegations against itself. To attempt to do so would cripple the investigation, and continue to erode the little remaining trust that the Congress and the public have in you and the Department of Justice.

Sincerely,



Dan Burton
Chairman

cc: The Honorable Royce C. Lamberth, United States District Judge
Independent Counsel Robert Ray
Independent Counsel Ralph Lancaster
Independent Counsel Donald Smaltz
Independent Counsel David Barrett
Independent Counsel Carol Elder Bruce
Independent Counsel Curtis Von Kann
Senator John Danforth
The Honorable Henry A. Waxman, Ranking Minority Member

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BERNARD SANDERS, VERMONT,
INDEPENDENT

April 3, 2000

The Honorable Janet Reno
Attorney General
United States Department of Justice
Washington, D.C. 20530

Re: Request for Interviews

Dear General Reno:

As you know, the Committee on Government Reform has been investigating the failure of the White House to produce e-mails responsive to its subpoenas. In connection with this investigation, the Committee has been examining the role of Justice Department attorneys in protecting these e-mails from disclosure. Accordingly, I am requesting that the Justice Department provide the following Department personnel to the Committee for interviews: James Gilligan; Elizabeth Shapiro; Julia Fayngold Covey; Allison Giles; and Ann Weisman.

Please have your staff contact the Committee's Chief Counsel, James C. Wilson, to arrange times and dates for the requested interviews.

Sincerely,

Dan Burton
Chairman

cc: The Honorable Henry A. Waxman, Ranking Minority Member

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INDEPENDENT

April 3, 2000

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

Re: Request for Interviews

Dear Ms. Nolan:

As you know, the Committee on Government Reform has been investigating the failure of the White House to produce e-mails responsive to its subpoenas. There are a number of White House personnel that have information relevant to the Committee's investigation. I am writing to request your cooperation in arranging interviews of the following White House staff: John Podesta; Michelle Peterson; and Sally Paxton.

We would like to be able to conclude all of these interviews as soon as possible, so please have your staff contact the Committee's Chief Counsel, James C. Wilson, to schedule the interviews.

Sincerely,

Dan Burton
Chairman

cc: The Honorable Henry A. Waxman, Ranking Minority Member

THE WHITE HOUSE
WASHINGTON

April 3, 2000

BY HAND

James Wilson, Chief Counsel
Committee on Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515-6143

Dear Mr. Wilson:

I enclose materials that we have located in response to the Committee's March 9, 2000 subpoena. These documents bear control numbers E 3473-815. Consistent with our previous productions to the Committee, we are not including publicly available or duplicative materials.

As we have discussed, we are continuing to search for responsive materials and will produce them on a rolling basis. We anticipate making another production by close of business Friday, April 7, 2000.

If you have any questions, please call me at 202-456-5814.

Sincerely,

Dimitri J. Nionakis
Associate Counsel to the President

Enclosures

cc: Minority Counsel, Committee on Government Reform

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INDEPENDENT

April 5, 2000

Michael J. Lyle
Director
Office of Administration
Old Executive Office Building
725 Seventeenth Street, N.W.
Washington, D.C. 20503

Re: Request for Interviews

Dear Mr. Lyle:

As you know, the Committee on Government Reform has been investigating the failure of the White House to produce e-mails responsive to its subpoenas. There are a number of Office of Administration personnel that have information relevant to the Committee's investigation. I am writing to request your cooperation in arranging interviews of the following current and former Office of Administration personnel: Ada Posey; John H. Young; Catherine Anderson; Virginia Apuzzo; Paulette Cichon; and Kathy Gallant. As you personally have information relevant to the Committee's investigation, it would also be appreciated if you could make yourself available for an interview.

We would like to be able to conclude all of these interviews as soon as possible, so please have your staff contact the Committee's Chief Counsel, James C. Wilson, to schedule the interviews.

Sincerely,

Dan Burton
Chairman

cc: The Honorable Henry A. Waxman, Ranking Minority Member

THE WHITE HOUSE
WASHINGTON

April 7, 2000

BY HAND

James Wilson, Chief Counsel
Committee on Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515-6143

Dear Mr. Wilson:

I enclose materials that we have located in response to the Committee's March 9, 2000 subpoena. These documents bear control numbers E 3816-4083. Consistent with our previous productions to the Committee, we are not including publicly available or duplicative materials.

As we have discussed, we are continuing to search for responsive materials and will produce them on a rolling basis. We anticipate making another production on or about Wednesday of next week.

If you have any questions, please call me at 202-456-5814.

Sincerely,

Dimitri ~~K Nionakis~~
Associate Counsel to the President

Enclosures

cc: Minority Counsel, Committee on Government Reform

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INDEPENDENT

April 10, 2000

Charles F.C. Ruff, Esq.
Covington & Burling
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Re: Transcript of Interview

Dear Mr. Ruff:

Thank you for consenting to be interviewed by the Committee on Government Reform on April 6, 2000. Enclosed is a transcript of that interview. As we agreed at that time, you will have two days to review the transcript before it is used publicly. Please return the transcript to the Committee offices, with any changes that you desire, when you have completed your review. Thank you for your cooperation.

Sincerely,

James C. Wilson
Chief Counsel

cc: Ken Ballen, Minority Chief Investigative Counsel

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INDEPENDENT

April 11, 2000

Michael J. Lyle
Director
Office of Administration
Old Executive Office Building
725 Seventeenth Street, N.W.
Washington, D.C. 20503

Re: Testimony of Karl Heissner

Dear Mr. Lyle:

Pursuant to Rules X and XI of the Rules of the House of Representatives, the Committee on Government Reform is holding a hearing entitled "White House E-Mails: Mismanagement of Subpoenaed Records – Day Three." The hearing is scheduled for April 13, 2000, in room 2154 of the Rayburn House Office Building at 10:00 a.m.

I am requesting that Karl Heissner testify before the Committee regarding his knowledge of this matter. Pursuant to Committee practice, Mr. Heissner will receive a Committee subpoena requiring his attendance at the hearing. It is my understanding that the Committee's Chief Counsel, James C. Wilson, has exchanged telephone messages with you to discuss the details of Mr. Heissner's testimony.

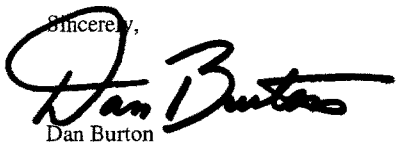
If Mr. Heissner wishes to make an opening statement, it is requested that he provide 100 copies of his written testimony to the Committee no later than 24 hours prior to the time of the hearing. Also, to facilitate printing of the hearing record, Mr. Heissner should also provide a computer disk containing a copy of his written testimony. At the hearing, we request the witness to summarize his testimony in five minutes to allow maximum time for discussion and questions. Also, Rule 12 of the Committee on Government Reform requires that witnesses "when appearing in a non-governmental capacity, provide a curriculum vitae and a listing of any Federal Government grants and contracts received in the previous fiscal year."

Under the Congressional Accountability Act, the House of Representatives must be in compliance with the Americans with Disabilities Act. Persons requiring special

accommodations should contact Lisa Smith Arafune at (202) 225-5074 at least four business days prior to the hearing.

Please contact the Committee's Chief Counsel, James C. Wilson, at (202) 225-5074 if you have any questions or need additional information about the hearing. We appreciate Mr. Heissner's willingness to appear, and look forward to his testimony.

Sincerely,



Dan Burton
Chairman

cc: The Honorable Henry A. Waxman, Ranking Minority Member

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Congress of the United States

House of Representatives

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BERNARD SANDERS, VERMONT,
INDEPENDENT

April 12, 2000

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

Re: Request for Interviews

Dear Ms. Nolan:

I am writing to follow up on the Chairman's request of April 3, 2000, that the White House Counsel's Office make several White House staff available for Committee interviews. We have not yet received any response to the Chairman's request. The Chairman's letter requested your assistance in arranging interviews with John Podesta; Michelle Peterson, and Sally Paxton. Given the fact that Ms. Paxton no longer works for the Counsel's Office, we will take the liberty of contacting her directly. However, we would still appreciate your assistance in facilitating interviews with Mr. Podesta and Ms. Peterson.

As the Chairman indicated in his earlier letter, we would like to be able to conclude these interviews as soon as possible. It is my hope that you will be able to schedule both interviews for the week of April 17, 2000. To that end, please have your staff contact me, or the Committee's Deputy Counsel, David Kass, at (202) 225-5074.

Sincerely,

James C. Wilson
Chief Counsel

cc: Ken Ballen, Esq., Minority Chief Investigative Counsel

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BERNARD SANDERS, VERMONT,
INDEPENDENT

April 12, 2000

Michael J. Lyle
Director
Office of Administration
Executive Office of the President
Washington, D.C. 20503

RE: Request for Interviews

Dear Mr. Lyle:

Thank you for your letter of April 12, 2000. I write to follow up on your letter and our telephone conversation of earlier today.

In your letter, you confirm that the Office of Administration ("OA") "received an April 11, 2000, request seeking the testimony of Mr. Karl Heissner[.]" It is important to note, however, that you were notified of the Committee's interest in having Mr. Heissner testify on April 10, 2000. It is my sincere hope that Mr. Heissner was notified of the request on that same date.

In your letter you also state that you understand that the Committee has "requested interviews with John H. Young, Catherine Anderson, and [yourself]." You are also aware that I made a verbal request for the Committee to speak with Adam F. Greenstone. Thus, I am somewhat concerned that you left his name off the list presented in your letter of April 12, 2000. As with yourself and the other two individuals, I would appreciate the assistance of your office in facilitating all of these interviews.

On a final note, the Committee made a verbal request for assistance in locating Ada Posey, Kathy Gallant, and Virginia Apuzzo. As I mentioned during our telephone conversation, I would greatly appreciate your providing the current information regarding the location of these individuals.

Sincerely,

James C. Wilson
Chief Counsel

cc: Kenneth Ballen, Esq.

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

April 12, 2000

The Honorable Dan Burton
Chairman
Committee on Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This responds to your letters of March 8, March 21, March 27, and March 30, 2000, to Attorney General Reno on the White House email retrieval matters.

On March 23, in connection with a court filing, the Department disclosed that it was conducting a criminal investigation into whether the Executive Office of the President fully complied with subpoenas issued by the Campaign Finance Task Force (the Task Force), and whether persons were threatened with retaliation in order to prevent the existence of the affected emails from becoming known to the Task Force. In addition to this investigation, the Office of Independent Counsel, now headed by Robert Ray, is investigating the email retrieval issues, in coordination with the Task Force. At this stage, we are not in a position to comment about any particular actions that may be undertaken in the course of this investigation. The questions raised in your March 21 letter, regarding who at the Department may have known what and when about the various email retrieval issues, will be a part of this ongoing criminal investigation.

The Department will follow the facts and the law wherever they may lead, and take whatever actions are appropriate based upon the result of this investigation. Also, your letter of March 30, which raises several questions regarding a 1999 declaration filed in the Alexander case by Daniel A. Barry, has been forwarded to the Task Force for its review and consideration in connection with its investigation.

Next, let me address the assertion, contained in several of your recent letters, that the Department operates under a conflict of interest where the Task Force conducts a criminal investigation into the email issues while the Civil Division continues to represent the FBI and the Executive Office of the President in the Alexander litigation. The Department often represents the interests of a governmental entity in civil litigation where an issue presented in that civil case touches upon a pending criminal investigation. If an aspect of an ongoing civil case threatens to duplicate or interfere with the conduct of an ongoing criminal investigation, the Department often seeks to stay that part of the civil case that might duplicate or interfere with the progress of

the criminal investigation. That is precisely the relief the Department sought in the Alexander case, in which the Department asserted that the lawyers in the Civil Division, who had been looking into the email issue, should not proceed with that investigation because it could duplicate or compromise the investigation by the Task Force and the Office of Independent Counsel.

Finally, your letters of March 27 and March 30 raise the question of whether a Special Counsel should be appointed to investigate the email issues and/or the Barry declaration. As noted above, the Office of Independent Counsel already is investigating the email issues in coordination with the Task Force.

The Department is carefully reviewing whether a second outside counsel should be appointed to investigate this matter. We will let you know the conclusion of that review promptly.

Please do not hesitate to contact this me if you would like additional assistance regarding this or any other matter.

Sincerely,

Robert Raben
Assistant Attorney General

cc: The Honorable Henry Waxman
Ranking Minority Member

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

April 12, 2000

The Honorable Dan Burton
Chairman
Committee on Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This responds to your letter of April 3, 2000, to the Attorney General, in which the Committee seeks interviews with five Department of Justice attorneys, all of whom currently work on the Alexander case. Regrettably, we cannot agree to provide the attorneys identified in your letter for Committee interviews.

First, as we understand it, the Committee seeks to question these lawyers about their tactical and strategic deliberations, their mental impressions and privileged communications with their clients in an ongoing matter, the Alexander case now pending before Judge Lamberth. It would materially undermine the Department's ability to represent the United States and client agencies if Department lawyers were subjected to questioning on sensitive and privileged matters regarding a pending case.

Second, the Committee's proposed inquiry relates directly to an ongoing criminal investigation of the White House email matter, currently underway by the Department of Justice and the Office of Independent Counsel, working in coordination. In the Alexander case, as you know, we recently asked Judge Lamberth to defer an investigation of the White House email issue because of the pendency and primacy of the ongoing criminal investigation into that issue. The same principles that justified the Department's stay request in Alexander also apply to the Committee's request, particularly since the Department attorneys you seek to interview likely will be interviewed by the prosecutors.

Third, the Committee's request also runs counter to the longstanding Department policy that line attorneys and agents not be required to answer questions from Congress about the conduct of Department litigation and investigations. We need to ensure that our line attorneys and agents can exercise the independent judgment that is essential not only to the integrity of law enforcement and effective litigation but also to public confidence in those decisions. These

concerns are heightened when Congress seeks to question Department attorneys or agents about the actions they took and the litigation decisions they made in an ongoing case. As we understand it, that is precisely what the Committee seeks to do with the attorneys identified in your letter.

For these reasons, we cannot make these Department lawyers available to the Committee for interviews. We would appreciate your understanding of our concerns and we are prepared to discuss them further with you if that would be helpful.

Sincerely,

Robert Raben
Assistant Attorney General

cc: The Honorable Henry Waxman
Ranking Minority Member

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BERNARD SANDERS, VERMONT,
INDEPENDENT

April 12, 2000

Michael J. Lyle
Director
Office of Administration
Executive Office of the President
Washington, D.C. 20503

RE: Request for Interviews

Dear Mr. Lyle:

Thank you for your letter of April 12, 2000. I write to follow up on your letter and our telephone conversation of earlier today.

In your letter, you confirm that the Office of Administration ("OA") "received an April 11, 2000, request seeking the testimony of Mr. Karl Heissner[.]" It is important to note, however, that you were notified of the Committee's interest in having Mr. Heissner testify on April 10, 2000. It is my sincere hope that Mr. Heissner was notified of the request on that same date.

In your letter you also state that you understand that the Committee has "requested interviews with John H. Young, Catherine Anderson, and [yourself]." You are also aware that I made a verbal request for the Committee to speak with Adam F. Greenstone. Thus, I am somewhat concerned that you left his name off the list presented in your letter of April 12, 2000. As with yourself and the other two individuals, I would appreciate the assistance of your office in facilitating all of these interviews.

On a final note, the Committee made a verbal request for assistance in locating Ada Posey, Kathy Gallant, and Virginia Apuzzo. As I mentioned during our telephone conversation, I would greatly appreciate your providing the current information regarding the location of these individuals.

Sincerely,

James C. Wilson
Chief Counsel

cc: Kenneth Ballen, Esq.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF ADMINISTRATION
WASHINGTON, D.C. 20503

April 12, 2000

James C. Wilson, Esq.
Chief Counsel
Committee on Government Reform
2157 Rayburn House Office Building
Washington, D.C. 20515-6143

Re: Request for Interviews

Dear Mr. Wilson:

This letter follows on our telephone conversations regarding the Committee on Government Reform's (the Committee) request to interview various current and former White House and Office of Administration (OA) personnel. This letter also confirms that we have received an April 11, 2000 request seeking the testimony of Karl Heissner of OA before the Committee on April 13, 2000, which we have provided to Mr. Heissner. As I related in yesterday's telephone conversation, Mr. Heissner has informed us that he has decided to retain counsel. Pursuant to our conversation of today, you will not be requesting Mr. Heissner to appear tomorrow. We further understand that you will work with Mr. Heissner's counsel on this matter.

As we discussed, we will work with you to arrange interviews for current OA employees for sometime next week or the week after. I understand that at this time, you have requested interviews with John H. Young, Catherine Anderson, and myself. Other individuals you have listed in your letter of April 5, 2000, Ada Posey, Paulette Cichon, Kathy Gallant, and Virginia Apuzzo, are former employees. Ms. Posey, Ms. Cichon and Ms. Gallant are former employees of OA, while Ms. Apuzzo is a former employee of the White House Office. Accordingly, you should contact these individuals directly.

If you have any questions or comments, please contact me directly at 395-7235 regarding this matter.

Sincerely,

Michael J. Lyle
Director

cc: Ken Ballen, Esq.

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BERNARD SANDERS, VERMONT,
INDEPENDENT

April 13, 2000

Karl Heissner
c/o Michael J. Lyle, Director
Office of Administration
Old Executive Office Building
725 Seventeenth Street, N.W.
Washington, D.C. 20503

Dear Mr. Heissner:

Michael J. Lyle, the Director of the Office of Administration, has informed me that you are currently searching for private counsel to represent you in connection with the Committee's investigation. At Mr. Lyle's request, we have postponed your appearance before the Committee to accommodate your search for counsel.

However, it is our expectation that you will appear before the Committee in the near future to testify regarding your knowledge of the White House e-mail matter. In addition, I would appreciate it if you could make yourself available to the Committee for an interview before your public testimony. Accordingly, please have your counsel contact me as soon as possible to make these arrangements.

Sincerely,

James C. Wilson
Chief Counsel

cc: Ken Ballen, Esq., Minority Chief Investigative Counsel

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April 13, 2000

BY MESSENGER

James C. Wilson, Esquire
Chief Counsel
Committee on Government Reform
2157 Rayburn House Office Bldg.
Washington, D.C. 20515-6143

Re: Transcript of Interview

Dear Mr. Wilson:

Enclosed is the transcript of my interview. I have made corrections where I believe that the reporter misunderstood or mistranscribed what I said, as well as punctuation and other corrections that are intended to make some rambling answers more comprehensible.

If you have any questions about these corrections, do not hesitate to call me.

I would appreciate your informing me in advance if the Committee intends to make any portion of this transcript public.

Thank you for your courtesy.

Sincerely,

Charles Ruff

Charles F.C. Ruff

Enclosure

THE WHITE HOUSE
WASHINGTON

April 14, 2000

BY HAND

Kevin Binger, Staff Director
Committee on Government Reform
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Binger:

Per our discussion on March 30, 2000, I enclose 100 copies and a computer disk containing White House Counsel Beth Nolan's Summary of Statement before the Committee on Government Reform. On March 30, Ms. Nolan read this summary as her opening statement before the Committee.

If you have any questions, please call me at 202-456-5814. I appreciate your assistance.

Sincerely,

Dimitri J. Nionakis
Associate Counsel to the President

Enclosures

cc: Phil Schiliro, Staff Director to The Honorable Henry Waxman (w/ 10 copies)

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF ADMINISTRATION
WASHINGTON, D.C. 20503

April 14, 2000

James C. Wilson
Chief Counsel
Committee on Government Reform
2157 Rayburn House Office Building
Washington, D.C. 20515

RE: Letter of April 12 & 13, 2000

Dear Mr. Wilson:

Thank you for your April 12 and April 13, 2000 correspondence.

I wish to clarify again issues you have raised in your letters. With respect to your April 13, 2000 letter to Mr. Heissner, you state that you have postponed Mr. Heissner's appearance before the Committee, at my request, to accommodate his search for counsel. Rather than at my request, the postponement was a decision made by the Committee in response to information I provided about Mr. Heissner's expeditious efforts to obtain counsel. You further state in your April 12, 2000 letter, your "hope that Mr. Heissner was notified of the [Committee's] request" on the date the Office of Administration (OA) was notified, which was April 10, 2000. Mr. Heissner, was in fact, notified on that date.

Please be advised that we will work with you to schedule interviews with OA's current employees including Adam Greenstone. Additionally, we will provide information to assist you in contacting former White House and OA employees previously identified.

Please call me directly at 395-7235 if you have any questions or comments regarding this matter.

Sincerely,

Michael J. Lyle
Director

cc: Ken Ballen

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BERNARD SANDERS, VERMONT,
INDEPENDENT

April 18, 2000

Cheryl D. Mills
Senior Vice President of Corporate Policy
and Programming
Oxygen Media
75 9th Avenue
New York, NY 10011

Dear Ms. Mills:

The Committee on Government Reform is conducting an investigation under Rules X and XI of the Rules of the House of Representatives regarding the response of the White House to document subpoenas issued by the Committee. Specifically, the Committee is investigating the failure of the White House to search for e-mail messages that were potentially responsive to Committee subpoenas.

I called your office last week, and on April 17, 2000, to ask you to voluntarily give an interview to Committee staff regarding the White House Counsel's office search for, and production of, responsive e-mail messages to the Committee. I have not yet received any response to my telephone calls.

As I indicated in my telephone messages, we would like to interview you as soon as possible, so that the Committee can determine who to call as witnesses at upcoming hearings. Please contact me at (202) 225-5074 to schedule a time for an interview. Thank you for your cooperation.

Very truly yours,

David A. Kass
Deputy Counsel & Parliamentarian

Congress of the United States

Washington, DC 20515

April 19, 2000

Tung Q. Duong
Enterprise Computing Solutions, Inc.
3711 Prado Place
Fairfax, Virginia 22031

Dear Mr. Duong:

The Committee on Government Reform and the Committee on Resources have issued a number of document subpoenas to the Executive Office of the President ("EOP") over the past several years. Recently, it has come to light that the EOP has failed to search a number of e-mail messages in response to the Committees' subpoenas. The EOP has announced that it has retained ECS to reconstruct the missing e-mails so that they can be searched for responsive materials.

We would like to interview you and the director of the e-mail reconstruction project about ECS's efforts to reconstruct the missing e-mail messages, so that the Committees can have a better understanding of the technical aspects of the reconstruction process. We would like to conduct this interview as soon as possible. Please contact the Chief Counsel of the Government Reform Committee, James C. Wilson, at (202) 225-5074 to schedule a time for the interview. Thank you for your cooperation.

Sincerely,

Dan Burton
Chairman
Committee on Government Reform

Don Young
Chairman
Committee on Resources

cc: The Honorable Henry A. Waxman, Ranking Minority Member, Committee on Government Reform
The Honorable George Miller, Ranking Minority Member, Committee on Resources

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Congress of the United States

House of Representatives

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Majority (202) 225–5074
Minority (202) 225–5051
TTY (202) 225–6852

April 20, 2000

Michael J. Lyle
Director
Office of Administration
Old Executive Office Building
725 Seventeenth Street, N.W.
Washington, D.C. 20503

Re: Request for Interviews

Dear Mr. Lyle:

As you know, the Committee on Government Reform has been investigating the failure of the White House to produce e-mails responsive to its subpoenas. We have had correspondence with you requesting your assistance in arranging interviews of office of Administration personnel. It is our understanding that you are currently working to arrange interviews of the following individuals: yourself; John H. Young; Catherine Anderson; and Adam Greenstone. Furthermore, it is my understanding that you are attempting to locate the addresses and telephone numbers of the following OA personnel: Virginia Apuzzo; Kathy Gallant; and Ada Posey.

Finally, I request that you also arrange interviews of the following former OA personnel: Jim Wright; Joseph Kouba; Nellie Doering; Dale Helms; Christa Moyle; and Christina Vanfossan.

We would like to be able to conclude all of these interviews as soon as possible, so please have your staff contact the Committee's Chief Counsel, James C. Wilson, to schedule the interviews.

Sincerely,

Dan Burton
Chairman

cc: The Honorable Henry A. Waxman, Ranking Minority Member

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF ADMINISTRATION
WASHINGTON, D.C. 20503

April 20, 2000

James Wilson, Chief Investigative Counsel
Committee on Government Reform
2157 Rayburn House Office Building
Washington, DC 20515

Dear Mr. Wilson:

This letter follows on our telephone conversations with respect to arranging interviews with a number of current and former White House and Office of Administration personnel. In response to the Committee's request and pursuant to our conversations, please be advised that I am available for an interview on Thursday, April 27, 2000, during the afternoon hours.

With regard to John H. Young, please be advised that Mr. Young is currently on medical leave from the Office of Administration. Please note the following information regarding the remainder of the current and former White House and Office of Administration staff members who you wish to interview:

Ms. Catherine Anderson -- Please Contact Through Counsel
Charles A. DeMonaco, Attorney at Law
Dickie, McCamey & Chilcote, P.C.
Two PPG Place
Pittsburgh, PA 15222-5402
Telephone: 412-392-5523
Fax: 412-392-5367

Ms. Kathy Gallant
CACI Company
1100 North Glebe Road
Arlington, Virginia 22201
(W) 703-802-8495

Mr. Adam Greenstone - Please Contact Through Counsel
Henry F. Schuelke, III
Attorney at Law
Janis, Schuelke & Wechsler
1728 Massachusetts Avenue, N.W.
Washington, DC 20036
Telephone: 202-861-0600
Fax: 202-223-7230

Ms. Ada Posey
U.S. Department of Energy
Office of Management and Administration
Room 4A-253
1000 Independence Avenue, S.W.
Washington, DC 20585
(W) 202-586-8010

With respect to Virginia Apuzzo, we are working to provide you with an appropriate address. We understand that all interviews will be conducted by you and the Minority Chief Investigator, Ken Ballen.

I look forward to hearing from you regarding this matter.

Sincerely,

Michael J. Lyle
Director

cc: Ken Ballen, Esq.

ZWERLING & KEMLER, P.C.
ATTORNEYS AND COUNSELORS AT LAW

108 NORTH ALFRED STREET
ALEXANDRIA, VIRGINIA 22314

TELEPHONE (703) 684-8000
FACSIMILE (703) 684-9700

E-MAIL
ZK@ZWERLINGKEMLER.COM

OF COUNSEL
RABINOWITZ, BOUDIN, STANDARD,
KRINSKY & LIEBERMAN, P.C.
740 BROADWAY AT ASTOR PLACE
NEW YORK, N.Y. 10003-9518
(212) 254-1111

DISTRICT OF COLUMBIA OFFICE

1615 NEW HAMPSHIRE AVENUE, N.W.
SECOND FLOOR
WASHINGTON, D.C. 20009
(202) 234-8000

April 20, 2000

James C. Wilson
Chief Counsel
Committee on Government reform
2157 Rayburn House Office Building
Washington, DC 20515-6143

Re: Testimony of Karl Heissner

Dear Mr. Wilson:

This letter is a follow up to our April 17, 2000, telephone conversation. I am representing Mr. Heissner in the matter of the Committee's subpoena. I am not yet in a position to agree to a meeting between Mr. Heissner and yourself. I am in the process of reviewing with my client the numerous documents that have been provided to the committee. Since you have not identified the documents about which you intend to inquire, our review is taking longer than I had hoped. After we complete our review, I will contact you by telephone and advise you of our decision regarding a pre-testimony interview.

I wish to remind you that I will be starting a week long jury trial in the Circuit Court for the City of Alexandria on May 8, 2000. I would appreciate it if the Committee Chairman would schedule Mr. Heissner's appearance either the beginning of the first week of May or towards the end of third week of May. If the Committee requires him to testify during the week of May 8th, Mr. Heissner will need to obtain new counsel. I hope the Committee Chairman will see the injustice that would cause and can accommodate us.

Sincerely,

John Kenneth Zwerling

cc: Kenneth Ballen, Esquire

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BERNARD SANDERS, VERMONT,
INDEPENDENT

April 24, 2000

Barry Toiv
Burson-Marsteller
1801 K Street, N.W., Suite 1000-L
Washington, D.C. 20006

Dear Mr. Toiv:

I am writing to confirm the telephone message that you left with me earlier today. In that message, you stated that you were aware of the Committee's request to interview you, and that you were in the process of retaining an attorney to represent you. You also stated that once you had consulted with an attorney, you did not foresee any difficulty in submitting to a voluntary interview with the Committee.

I appreciate your response to my earlier call, and your willingness to give an interview to the Committee. As I indicated in our previous telephone conversation, the Committee plans on holding additional hearings on the White House e-mail matter beginning next week. I hope that we can schedule your interview before the hearings begin.

Thank you for your cooperation. If you have any questions, feel free to contact me at (202) 225-5074.

Very truly yours,

David A. Kass
Deputy Counsel & Parliamentarian

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INDEPENDENT

April 24, 2000

Cheryl D. Mills
Senior Vice President of Corporate Policy
and Programming
Oxygen Media
75 9th Avenue
New York, NY 10011

Dear Ms. Mills:

The Committee on Government Reform has been investigating the failure of the White House to search for and produce records responsive to subpoenas issued by the Committee. As you know, the Committee on Government Reform has requested to interview you in connection with an ongoing investigation. As Deputy Counsel to the President, you apparently played a significant role in coordinating the White House's response to Congressional subpoenas.

My staff has been requesting an interview with you since April 13, 2000. My staff has left three telephone messages with your office, and sent the attached letter. The Committee has not yet received any response to these requests. As you know, the Committee has been conducting hearings into this matter, and would like to interview you to determine whether your attendance at a future hearing will be necessary.

I am hopeful that you will come forward voluntarily to be interviewed about your activities in the White House. Please contact the Committee's Chief Counsel, James C. Wilson, or Deputy Counsel, David Kass, at (202) 225-5074 to schedule a time for an interview.

Sincerely,

Dan Burton
Chairman

Attachment

April 25, 2000

VIA FACSIMILE AND REGULAR MAIL
David Kass
Deputy Counsel
Committee on Government Reform
257 Rayburn House Office Building
Washington, D.C. 20515-6143

Dear Mr. Kass:

I am writing in response to your April 18, 2000, letter regarding the Committee on Government Reform's inquiry into the White House electronic mail system. You have requested that I participate in an interview so that the Committee may determine whom it wishes to call as witnesses at any potential future hearing.

Because of my current duties and travel schedule, I am not available to participate in an interview. Should the Committee's on-going review lead it to conclude that my attendance at a hearing is necessary, please contact my assistant, Rebecca Shulman at (212) 651-5005, regarding dates as I am frequently out of the office traveling.

Sincerely,

Cheryl Mills

CC: The Honorable Dan Burton
The Honorable Henry Waxman
Ken Ballen, Esq.

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INDEPENDENT

April 25, 2000

Cheryl D. Mills
Senior Vice President of Corporate Policy and Programming
Oxygen Media
75 9th Avenue
New York, NY 10011

Dear Ms. Mills:

Thank you for your letter of earlier today. I am disappointed that you will not come forward voluntarily to be interviewed by the Committee regarding your activities in the White House Counsel's Office. Tomorrow, I will issue a subpoena for you to testify before the Committee on Government Reform on May 4, 2000. You will be asked to testify regarding your knowledge of the White House's response to subpoenas for records, including electronic mail messages. The hearing will take place at 10:00 a.m. in room 2154 of the Rayburn House Office Building.

If you wish to make an opening statement, it is requested that you provide 100 copies of your written testimony to the Committee no later than 24 hours prior to the time of the hearing. Also, to facilitate printing of the hearing record, you should also provide a computer disk containing a copy of your written testimony. At the hearing, we request you to summarize your testimony in five minutes to allow maximum time for discussion and questions. Also, Rule 12 of the Committee on Government Reform requires that witnesses "when appearing in a non-governmental capacity, provide a curriculum vitae and a listing of any Federal Government grants and contracts received in the previous fiscal year."

Under the Congressional Accountability Act, the House of Representatives must be in compliance with the Americans with Disabilities Act. Persons requiring special accommodations should contact Lisa Smith Arafune at (202) 225-5074 at least four business days prior to the hearing.

Please contact the Committee's Chief Counsel, James C. Wilson, at (202) 225-5074 if you have any questions or need additional information about the hearing. We look forward to your testimony.

Sincerely,

Dan Burton
Chairman

cc: The Honorable Henry Waxman, Ranking Minority Member

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INDEPENDENT

April 26, 2000

The Honorable Robert Raben
Assistant Attorney General for Legislative Affairs
United States Department of Justice
Washington, D.C. 20530

Dear Mr. Raben:

I am writing to invite you to testify at a hearing of the Committee on Government Reform on May 3, 2000. The hearing is entitled "White House E-Mails: Mismanagement of Subpoenaed Records – Day Three." Pursuant to Committee practice, I will issue a subpoena for your attendance at the hearing. The hearing will take place at 10:00 a.m. in room 2154 of the Rayburn House Office Building.

Given the fact that the last time you appeared before the Committee, you were not prepared to answer a number of very basic questions about this matter, I am providing you with a list of subjects that may come up at the hearing. Please be prepared to discuss these subjects with the members of the Committee:

- The legal basis for, and propriety of, the joint investigation of the White House e-mail matter being conducted by the Office of Independent Counsel and the Campaign Financing Task Force.
- When any personnel in the Justice Department first became aware of the fact that the White House ARMS system was not properly archiving e-mail messages.
- The identity of Justice Department personnel who assisted Daniel A. Barry in preparing his July 9, 1999, affidavit in *Alexander v. FBI*.
- The refusal of the Justice Department to provide Justice Department Civil Division attorneys to the Committee for interviews.
- Why the President and Vice President were interviewed by the Campaign Financing Task Force after significant prosecutions had already been brought.
- Whether all questions asked of the President and Vice President relate to ongoing investigations.

- The Justice Department's justification for refusing to provide copies of the Clinton and Gore interview summaries to the Committee, including the status and nature of any ongoing investigations relating to those interviews.

- The basis for the Justice Department's recent assertion that "no limits were imposed on the subject matter of the Campaign Financing Task Force's interviews of the President and Vice President."

- The Justice Department's justification for refusing to provide declination memoranda in response to Committee subpoenas.

- The status of the Justice Department's decision whether to appoint a special counsel to investigate the White House e-mail matter.

- At a July 15, 1999, meeting between Committee staff and Justice Department personnel regarding the perjury referral of Cheryl Mills, John Keeney was asked about a passage in the book *Shadow* by Bob Woodward. The passage indicated that White House Counsel Jack Quinn was assured by Justice Department personnel that he would never be prosecuted if he were held in contempt by the House of Representatives. Mr. Keeney's response was that the "claim is so ridiculous that it is not worth investigating." I would like to ask you about Mr. Woodward's claim, and Mr. Keeney's response.

If you wish to make an opening statement, it is requested that you provide 100 copies of your written testimony to the Committee no later than 24 hours prior to the time of the hearing. Also, to facilitate printing of the hearing record, you should also provide a computer disk containing a copy of your written testimony. At the hearing, we ask that you summarize your testimony in five minutes to allow maximum time for discussion and questions. Under the Congressional Accountability Act, the House of Representatives must be in compliance with the Americans with Disabilities Act. Persons requiring special accommodations should contact Lisa Smith Arafune at (202) 225-5074 at least four business days prior to the hearing.

Please contact the Committee's Chief Counsel, James C. Wilson, at (202) 225-5074 if you have any questions or need additional information about the hearing. We look forward to your testimony.

Sincerely,

Dan Burton

Dan Burton
Chairman

cc: Henry A. Waxman, Ranking Minority Member

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BERNARD SANDERS, VERMONT,
INDEPENDENT

April 26, 2000

Cheryl D. Mills
Senior Vice President of Corporate Policy
and Programming
Oxygen Media
75 9th Avenue
New York, NY 10011

Dear Ms. Mills:

The Committee has received your letter of today, in which you stated that you learned "informally" that you were being called as a witness at a Committee hearing on May 4, 2000, and in which you decline to appear at that hearing, due to a previously scheduled engagement. I was surprised to read that you learned of your scheduled testimony "informally" today, as I sent you formal notice of your scheduled appearance yesterday in the attached letter that was faxed to your office.

The Committee will not be able to indulge your schedule, and it will be necessary to proceed with your testimony on May 4, 2000. As I indicated in my letter to you yesterday, a subpoena requiring you to testify on May 4 will be served upon you.

As you know, Committee staff have been attempting to contact you for two weeks. Committee staff left telephone messages with your office on April 13, April 17, and April 20, requesting you to call back and schedule a time for an informal interview. You declined to return any of those telephone calls. In addition, Committee staff wrote to you on April 18, and I wrote to you on April 24, requesting an informal interview. Only on April 25, did you write back to state that your were too busy to give the Committee an interview. Your refusal to come in for an interview has resulted in your being called as a witness at a public hearing. While I am sympathetic to your busy schedule, your consistent failure to respond to any of the Committee's requests has left the Committee with no choice but to proceed with your testimony on May 4.

Sincerely,

Dan Burton
Chairman

Attachment

APR 27 2000 11:13 FR OXYGEN MEDIA [redacted] P.02/02

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April 26, 2000

VIA FACSIMILE AND REGULAR MAIL
David Kass
Deputy Counsel
Committee on Government Reform
257 Rayburn House Office Building
Washington, D.C. 20515-6143

Dear Mr. Kass:

I have learned informally this morning that the Committee on Government Reform is considering holding a hearing on May 4th, 2000 with a panel that might include Mark Lindsay, Charles Ruff and myself. This is to advise you that I have long-standing commitments scheduled for May 4th, including a speech that I am giving in New York City that was scheduled more than a month ago. Accordingly, if the Committee intends to proceed with a hearing panel that includes me, I would not be available on that date.

Please contact my assistant, Rebecca Schulman at 212-651-5005, regarding future hearing dates should the Committee require my presence. Thank you for your attention to this matter.

Sincerely,

Cheryl Mills

cc: Ken Ballen, Esq.

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INDEPENDENT

April 26, 2000

Mr. Karl Heissner
c/o John Kenneth Zwerling, Esq.
Zwerling & Kemler, P.C.
108 North Alfred Street
Alexandria, VA 22314

Dear Mr. Heissner:

Pursuant to Rules X and XI of the Rules of the House of Representatives, the Committee on Government Reform is holding a hearing entitled "White House E-Mails: Mismanagement of Subpoenaed Records – Day Three." The hearing is scheduled for Wednesday, May 3, 2000, in room 2154 of the Rayburn House Office Building at 10:00 a.m.

I am requesting that you testify before the Committee regarding your knowledge of this matter. To this end, you will receive a Committee subpoena requiring your presence at this hearing.

If you wish to make an opening statement, it is requested that you provide 100 copies of your written testimony to the Committee no later than 24 hours prior to the time of the hearing. Also, to facilitate printing of the hearing record, please provide a computer disk containing your testimony. At the hearing we ask that you summarize your testimony in five minutes to allow maximum time for discussion and questions. Also, Rule 12 of the Committee on Government Reform requires that witnesses, "when appearing in a non-governmental capacity, provide a curriculum vitae and a listing of any Federal Government grants and contracts received in the previous fiscal year."

Under the Congressional Accountability Act, the House of Representatives must be in compliance with the Americans with Disabilities Act (ADA). Persons requiring special accommodations should contact Lisa Smith Arafune at 202/225-5074 at least four business days prior to the hearing.

Please contact the Committee's Chief Counsel, James C. Wilson, at 202/225-5074 if you have any questions or need additional information about the hearing. We appreciate your willingness to appear and look forward to your testimony.

Sincerely,

Dan Burton
Chairman

cc: The Honorable Henry Waxman, Ranking Minority Member

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INDEPENDENT

April 26, 2000

Dimitri Nionakis
Associate Counsel to the President
The White House
Washington, DC 20500

Dear Mr. Nionakis:

The Committee issued a subpoena to the White House for records relating to the failure of the Automatic Records Management System ("ARMS") to collect certain e-mail messages from Executive Office of the President ("EOP") mail servers. Among the e-mail messages produced pursuant to that subpoena are many in which the attachments are represented numerically in hexadecimal code. At this time, the Committee requests that you provide a readable version of all e-mail attachments. In prioritizing your response, however, we are most interested in first receiving copies of the attachments either referred to, or contained in, the following specific documents:

1. E 3989 – E 4000
2. E 4034 – E 4046
3. E 3827 – E 3835

Thank you for your cooperation in this matter.

Sincerely,

James C. Wilson
Chief Counsel

cc: The Honorable Henry A. Waxman
Ranking Minority Member

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF ADMINISTRATION
WASHINGTON, D.C. 20503

April 26, 2000

James Wilson, Esq.
Chief Investigative Counsel
Committee on Government Reform
2157 Rayburn House Office Building
Washington, DC 20515

Dear Mr. Wilson:

This letter follows receipt of Mr. Burton's April 20, 2000 correspondence in relation to the Committee on Government Reform's desire to conduct interviews of various individuals who are current or former employees of the Office of Administration (OA) or White House. By letter dated April 20, 2000, Michael J. Lyle has already furnished addresses and telephone numbers for Catherine Anderson, Kathy Gallant, Adam Greenstone and Ada Posey. We additionally furnish the following address and telephone number for Virginia Apuzzo: 551 DeWitt Mill Road, Kingston, New York 12401, (914) 339-7963. Ms. Appuzzo is no longer employed within the White House, and you may contact her directly.

The Committee has also indicated its desire to interview the following current employees of OA: Jim Wright, Nellie Doering, Dale Helms and Christa Moyle. We have communicated your request to these individuals and will contact you shortly in connection with their interviews after they have had an opportunity to make individual decisions relative to legal representation.

Finally, the Committee has requested the interviews of Joseph Kouba and Christina VanFossan, who are former employees of OA. Ms. VanFossan has elected to engage private counsel, and you may contact her through her attorney John Holtzclaw, (703) 931-8943. We will follow-up shortly in relation to contacting Mr. Kouba.

Sincerely,

Michael K. Bartosz
Senior Counsel

cc: Ken Ballen, Esq.

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INDEPENDENT

April 27, 2000

Cheryl D. Mills
Senior Vice President of Corporate Policy
and Programming
Oxygen Media
75 9th Avenue
New York, NY 10011

Dear Ms. Mills:

It is my understanding that a United States Marshal unsuccessfully attempted to serve you today with a subpoena to attend a hearing of the Committee on May 4, 2000. Your secretary informed the Marshal that you were out of the office, and would return on May 1, 2000. It is my understanding that your secretary further informed the Marshal that you will be in the office on Monday, May 1, 2000, and will accept service of the subpoena at that time.

In light of your recent refusal to cooperate with the Committee, I hope that the representations given to the Marshals' Service are accurate, and that you will accept service of a subpoena to testify.

Sincerely,

Dan Burton

Dan Burton
Chairman

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Washington, DC 20515–6015

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TELEPHONE
(202) 225-2771

April 27, 2000

Mr. Mark Lindsay
Assistant to the President for
Management and Administration
725 17th Street, NW
Room 5001
Washington, DC 20503

Dear Mr. Lindsay:

The Committee has received and reviewed your letter of March 20, 2000 seeking approval to use $1,700,000 in funds previously appropriated to the Armstrong Resolution Account for the reconstruction of e-mails that, for a variety of reasons, have not been records managed by the Automated Records Management System (ARMS). The Committee has a number of concerns regarding this proposed request.

The Committee understands that the e-mails proposed for reconstruction are those e-mails that were not records managed during the approximate period of August 1996 to November of 1998. The Committee further understands that these files are available through back up tapes and, as such, the Executive Office of the President (EOP) has been in compliance with the requirements of the Armstrong Resolution. The Committee further understands that this "glitch" was due to a technical configuration error caused by contractors. The human nature of this error causes the Committee extreme concern.

Beginning in 1995, this Committee insisted that EOP have in place a solid information technology (IT) investment plan and systems architecture. The Committee further insisted that the investment plan include a well-defined management structure to oversee the development of the EOP information technology upgrades. Despite

assurances by the White House that these requirements would be met, the White House failed to develop and deliver them. During fiscal year 1997, the Committee withheld $966,700 in IT funds pending the submission of these documents; the documents were ultimately delivered in September 1997.

During testimony before the Committee on March 23, 2000, the Director of the Office of Administration indicated that, at least in part, the computer glitch was caused and exacerbated by the fiscal year 1997 "fenced" appropriations. The Committee is disappointed to learn that the White House is attempting to use the appropriations process as an excuse for poor internal oversight and management of EOP operations.

In reviewing the chronology of events regarding the e-mail glitch, it is clear that the technical error caused by the contractor occurred at least three months prior to any funds being fenced. The Committee not only questions why it took two years to discover this problem but, more importantly, why it wasn't discovered when the ARMS was installed in October of 1996. The Committee is concerned that, during installation of ARMS, appropriate procedures were not followed to independently validate and verify (IV&V) the operations of that system, including a test to ensure that all records were being properly captured. The Committee believes that IV&V should have been specified as a concrete deliverable as part of the ARMS project. Finally, the Committee is extremely concerned that it took nearly two years for the White House to notify the Committee of this critical problem and the potential implications for additional moneys to both solve the problem and reconstruct the e-mails.

In regards to the fenced appropriations exacerbating the computer glitch, the Committee notes that it released $756,000 of the fenced appropriations in April of 1997, seven months into the fiscal year, specifically for the purpose of critical maintenance requirements and security upgrades. The Committee requests that the EOP submit an accounting of the final expenditure of these funds, including the dates and purposes for which they were obligated. This report should be submitted no later than June 1, 2000.

The Committee believes that, had the White House followed standard business practices related to the development of an information systems modernization effort, including the installation of a solid management structure, the e-mail glitch may not have occurred; furthermore, it would have certainly been discovered sooner with proper oversight, management, and IV&V.

Finally, the Committee is pleased to learn that the Armstrong Resolution Account continues to have an unobligated balance of $1.7 million. Given the upcoming Presidential transition, the Committee believes these funds would best be left in reserve in order to accommodate any unanticipated transition glitches. It is critical that all historical records be properly managed during the upcoming transition. The Committee denies the proposed use of the Armstrong Resolution Account for e-mail reconstruction.

As requested by the Committee, the EOP has provided additional information regarding e-mail reconstruction, including tasks to be accomplished and the cost of each task. In reviewing this information, it is clear that there a number of unknown variables that may or may not change both the scope of the work as well as the total estimated costs. The Committee is extremely concerned that the total project cost has escalated to an estimated $8-$10 million.

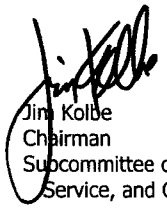
The Committee has also received information from the White House regarding previously appropriated funds for Y2K conversion efforts and understands that current unobligated balances within this account are $4.8 million. The Committee believes that the most critical tasks associated with tape reconstruction, such as tape restoration and IV&V, can be accomplished within these balances. The Committee directs that costs associated with these tasks be absorbed from these unobligated balances. The Committee further directs the EOP to continue its review of all EOP appropriations account balances for additional offsets, should they be required, and encourages the White House to submit any necessary reprogramming or transfer requests in a timely manner.

The Committee directs the Office of Administration to provide monthly status reports on the reconstruction effort, beginning on June 1, 2000. These reports should include, at minimum, obligations to date by project and/or task, total e-mails reconstructed, and comprehensive descriptions of any project overruns and/or unanticipated needs.

The Committee takes this opportunity to restate its insistence that the White House maintain a mature management and technical structure in regards to information technology modernization; had these structures been in place in 1995, the Committee believes this particular e-mail complication may well have been avoided.

If I can be of further assistance in this matter, please do not hesitate to contact the Subcommittee staff at 202-225-5834.

Sincerely,



Jim Kolbe
Chairman
Subcommittee on Treasury, Postal
Service, and General Government

THE WHITE HOUSE

WASHINGTON

April 28, 2000

BY HAND

James Wilson, Chief Counsel
Committee on Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515-6143

Dear Mr. Wilson:

I am responding to your voice message from Tuesday afternoon in which you inquired about the status of the Executive Office of the President's document production in response to the Committee's March 9, 2000 subpoena.

Enclosed please find responsive materials bearing document control numbers E 4237-441. Also enclosed please find a draft log of documents subject to privilege. The documents produced and identified today comprise the remainder of the responsive materials that the EOP has located to date. If we become aware of additional responsive materials, however, we will produce them promptly.

In your voice mail message, you also stated that it was the Committee's position that a copy of the hard copies of e-mail messages related to Monica Lewinsky that were the result of a June 1998 search and the ZIP disk containing such e-mails were covered by the March 9 subpoena. An objective reading of that subpoena does not support such an expansive interpretation.

The general language of the subpoena calls for all documents relating to the "Mail2" programming error. The Lewinsky related e-mails, while gathered after the "Mail2" error was discovered, are unrelated to that error. They were gathered in response to a subpoena request from the Office of Independent Counsel Starr, and therefore pertain to a distinct matter by a different investigative body. As such, they are not relevant to the Committee's inquiry. Indeed, during a recent telephone conversation that we had, you represented that the Committee had no intention of inquiring into the Executive Office of the President's compliance with subpoenas from other investigative bodies. These materials fall squarely within that category, and thus we do not understand the Committee's need for these documents.

Finally, with respect to the Committee's request for documents related to Ellicott Machine Corporation, as I explained to David Kass a couple of weeks ago, we are currently addressing numerous requests for materials from different investigative bodies. These many requests have

overextended our resources. Consequently, I told Mr. Kass that we needed to complete the production of the March 9 subpoena before turning to the March 16 subpoena, which contains this request. We anticipate producing documents in response to the Ellicott Machine request on a rolling basis starting the week of May 8.

If you have any questions, please call me at 202-456-5814.

Sincerely,

Dimitri J. Nionakis
Associate Counsel to the President

cc: Beth Nolan, Counsel to the President
Minority Counsel, Committee on Government Reform

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May 1, 2000

VIA FACSIMILE AND REGULAR MAIL
The Honorable Dan Burton
Chairman
Committee on Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

As I indicated to Mr. Kass on your staff last week, I am unavailable to appear on May 4, 2000. I am participating in a day-long conference, as well as speaking at an engagement in New York City, commitments that arose more than a month ago.

I am available to participate in a hearing panel on Friday, May 5th, as well as May 9th or May 11th.

Sincerely,

Cheryl Mills

CC: The Honorable Henry Waxman
Ken Ballen, esq.
David Kass

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BERNARD SANDERS, VERMONT,
INDEPENDENT

May 1, 2000

Cheryl D. Mills
Senior Vice President of Corporate Policy
and Programming
Oxygen Media
75 9th Avenue
New York, NY 10011

Dear Ms. Mills:

As you know, this morning, you were served with a subpoena by the United States Marshals' Service to attend the Committee's May 4 hearing on the White House e-mail matter. I have received your letter of this afternoon, in which you stated that you are attending a conference on May 4, and will not be able to attend the Committee's hearing.

I am sympathetic to your scheduling problems, but they are clearly of your own making. Committee staff attempted to contact you by telephone on April 13, April 17, and April 20, but you failed to respond. Committee staff wrote to you on April 18 and I wrote on April 24, and you finally wrote back on April 25, only to say that you were too busy to give an interview to the Committee. After I informed you on April 25 that you would be called as a witness, you wrote back to say that you would not attend the hearing. Only after you were subpoenaed today, did you offer the Committee any alternate dates when you actually would be available to testify.

Your consistent disregard for this Committee and its investigation has allowed us no choice but to schedule and prepare for a hearing without your cooperation. If you had attempted to cooperate with the Committee, it is more than likely that we could have scheduled a hearing date that fit within your schedule. However, at this point, there are important subcommittee hearings scheduled for each alternate date that you offered in your May 1 letter. In addition, the Committee has already taken a number of steps to prepare for the May 4 hearing, including scheduling Charles Ruff and Mark Lindsay to attend. Accordingly, I am not inclined to reschedule the May 4 hearing, and cause tremendous inconvenience to three subcommittees, a number of witnesses scheduled to attend those subcommittee hearings, and the Members of this Committee, all to accommodate your schedule. I cannot see any reason to make this kind of accommodation, when for almost two weeks, you did not even return our telephone calls. I expect that you will honor the Committee's subpoena, and testify before the Committee on May 4, 2000.

Sincerely,

Dan Burton
Chairman

cc: Members, Committee on Government Reform

RALPH L. LOTKIN
ATTORNEY AT LAW

Capitol Hill West Building
201 Massachusetts Avenue, N.E.
Suite C-1
Washington, D.C. 20002
Phone (202) 547-9225
Fax (202) 547-9228

May 1, 2000

The Honorable Dan Burton, Chairman
Committee on Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

This letter responds to the April 26, 2000 communication from Ms. Arafune of your staff requesting the review of the testimony of my client, Mrs. Laura L. Callahan, given before the Committee on March 23, 2000. A cursory review of the material received indicates that only a portion of the transcript of the proceedings at which Ms. Callahan testified was sent to this office. Specifically, we were provided only with pages 193-195, 205-217, 220-234, 251-254, 258, 263-264, 268-271, 276, 281-282- 288-296, 300-306, 315-316, 328, 344, 348, and 351-352. Obviously, we do not know what was contained in the missing pages or for how many pages after page 352 the transcript of Ms. Callahan's appearance continued.

Inasmuch as the apparent gaps in the transcript materials may, in fact, contain additional statements by my client not reflected in the portions provided by Ms. Arafune, I respectfully ask for a review of the full transcript in order that all such statements be provided or, in the alternative, a written assurance from your Committee that in not one of the pages which were not provided to me are there any statements or remarks made by Mrs. Callahan. (My office notes of the hearing reflect additional statements by Mrs. Callahan not in the pages sent to me.)

Because time is of the essence (edits were requested by no later than May 11, 2000) a prompt response to this letter – either by supplying missing pages or the confirmation referred to above – is necessary before the Certification/edits can be executed by Mrs. Callahan.

Next, I would note that we were not given a copy of the submission for the record – accomplishments and awards – provided to the Committee at the hearing by Mrs. Callahan to assure that it was indeed received and included in the record as intended and

accepted by you as is noted at transcript page 208, line 4901. Thus, confirmation of this additional matter is requested.

Finally, and also relevant to the issue of her testimony is the letter and statement provided to the Committee by Mrs. Callahan on March 24, 2000, regarding contacts with Department of Justice attorneys, copy enclosed. I would expect such addendum would be included in the record of the hearing. Confirmation that appropriate steps will be taken to include this clarification in the record is also requested.

Thank you in advance for your prompt consideration of the above.

Respectfully,

Ralph L. Lotkin
Counsel for Laura L. Callahan

Enclosure

cc: Honorable Henry A. Waxman
Ranking Democratic Member

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BERNARD SANDERS, VERMONT,
INDEPENDENT

May 1, 2000

Dimitri Nionakis
Associate Counsel to the President
The White House
Washington, D.C. 20500

Dear Mr. Nionakis:

Thank you for your letter of April 28, 2000. I write to address issues raised in that letter, and to express my concerns that the White House is obstructing the investigation being conducted by the Committee on Government Reform.

I note with a great degree of skepticism that you have withheld documents, but have not claimed a specific privilege. As in previous years, when the White House Counsel's Office has attempted to stall for time by claiming invalid privileges, you have identified documents that are "subject to privilege." This meaningless legal mumbo-jumbo is obviously a transparent ploy to provoke wasteful and time-consuming squabbles over documents. I am certain that you disagree with my characterization, so I will take this opportunity to request that you testify before the Committee on Thursday, May 4, 2000. I specifically ask that you determine, by the time of your appearance before the Committee, whether the President has decided to assert executive privilege, and whether the White House Counsel's Office has decided to claim any other privilege. If you elect not to claim privileges, then I expect that the Committee will receive all documents responsive to our subpoena by the time of your testimony.

I am also concerned that the one-page privilege log submitted to the Committee appears to be incomplete. For some reason, the description of item seven is not even a complete sentence, and it is unclear whether there are additional pages. Although I recognize you are calling the log a "draft," I request something that enables the Committee to assess the claims being advanced by the President and the White House Counsel's office.

On another -- and equally important -- matter, you have refused to produce to the Committee the e-mails that were retrieved as part of a test to determine whether the Mail2 problem had any real world ramifications. Although it is absolutely true that we are not investigating the subject matter of these e-mails, they are of great significance to our investigation, and they are certainly covered by the Committee subpoena. The e-

mails are important because numerous witnesses have told us that after the e-mail problem was discovered, a test was conducted. The results of this test were interpreted by the White House Counsel's Office to stand for the proposition that the White House Counsel did not need to do anything further, where the Mail2 problem was concerned, to comply with Congressional document requests. Obviously, whether the test was thorough enough for the White House to have reached the conclusion that it did in fact reach is of paramount importance to the investigation. Unless the White House was simply trying to arrive at a predetermined conclusion, I should think that you would be more than happy to share the search terms of the test, and the results of the test, with the Committee.

To date, the Committee has heard conflicting testimony on the results of the test. Indeed, no one has been able to recall with specificity what the actual terms of the test were. The Committee cannot rely on the word of White House lawyers, who themselves are under investigation by the Justice Department, to determine whether a good faith effort was made to determine whether the White House had an ongoing problem that either had to be fixed or, at a minimum, disclosed to Congress.

I am astounded that you now take the official position that the e-mails that were retrieved after the discovery of the Mail2 problem were "unrelated to that error." Given that you have a dramatically different view of the facts than every other person we have talked to, we look forward to being able to ask you additional questions on this matter. If it is indeed true that the e-mails obtained by Robert Haas after the discovery of the Mail2 problem were "unrelated to that error," then it also must follow that the White House conducted no test whatsoever to ascertain whether it had a document production problem. It is of great significance to the Committee to determine whether what you have said in your letter is what you actually meant to say.

Tomorrow I will issue a subpoena for you to testify at a hearing before the Committee on Government Reform on Thursday, May 4, 2000. If you wish to make an opening statement, it is requested that you provide 100 copies of your written testimony to the Committee no later than 24 hours prior to the time of the hearing. Also, to facilitate printing of the hearing record, you should also provide a computer disk containing a copy of your written testimony. At the hearing, we request you to summarize your testimony in five minutes to allow maximum time for discussion and questions.

Under the Congressional Accountability Act, the House of Representatives must be in compliance with the Americans with Disabilities Act. Persons requiring special accommodations should contact Lisa Smith Arafune at (202) 225-5074 at least four business days prior to the hearing.

I look forward to your attendance at that hearing, and I trust you will be able to discuss the matters that are raised in this letter.

Sincerely,

Dan Burton

Dan Burton

cc: Hon. Henry A. Waxman, Ranking Minority Member
Independent Counsel Robert Ray
Independent Counsel Ralph Lancaster
Independent Counsel Donald Smaltz
Independent Counsel David Barrett
Independent Counsel Carol Elder Bruce
Attorney General Janet Reno
Judge Royce Lamberth

RALPH L. LOTKIN
ATTORNEY AT LAW

Capitol Hill West Building
201 Massachusetts Avenue, N.E.
Suite C-1
Washington, D.C. 20002
Phone (202) 547-9225
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May 1, 2000

The Honorable Dan Burton, Chairman
Committee on Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

Under separate cover by letter of even date, I have sent to your Committee my request that the full transcript of the appearance of my client, Laura L. Callahan, be provided to me or a written assurance that none of the materials which were not provided for review contain any statement by Mrs. Callahan.

In this connection, there clearly appears to have been an unintended, but obvious, oversight in providing materials for review. As reflected in the record of Mrs. Callahan's appearance there was an explicit assurance of the Chairman that Mrs. Callahan would be provided with a full transcript of the proceedings of all of the testimony which occurred during the appearance by members of Panel I (which also took place on March 23, 2000). In this connection, I invite your attention to page 252 of the transcript sent to this office at lines 5989-5992. At such location, the Chairman clearly stated Mrs. Callahan would receive a copy of the transcript of the testimony in question.

As was recognized by you, such a transcript of necessary and appropriate in order that Mrs. Callahan not inadvertently misstate her understanding of prior statements of other witnesses. Thus, the expression of intended fairness in providing a transcript was (and is) appreciated and consistent with the edit and certification process now pending.

Given the short period during which transcript review is to occur (by May 11, 2000 according to Committee staff) I would appreciate receipt of the additional materials as soon as possible.

Receipt of such additional materials as well as any missing pages from Mrs. Callahan's testimony (addressed under separate cover) is critical in order for her to provide the certification requested.

Thank you in advance for your prompt cooperation.

Respectfully,

Ralph L. Lotkin
Counsel for Laura L. Callahan

cc: Honorable Henry A. Waxman
Ranking Democratic Member

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BERNARD SANDERS, VERMONT,
INDEPENDENT

May 1, 2000

Dimitri Nionakis
Associate Counsel to the President
The White House
Washington, D.C. 20500

Re: Document Production

Dear Mr. Nionakis:

You failed to include page B4391 in your document production of April 28, 2000. Please produce the page as soon as possible.

Sincerely,

James C. Wilson
Chief Counsel

cc: Kenneth Ballen, Esq., Minority Chief Investigative Counsel

May-01-00 11:22 From-OA DIR & GEN COUNSEL [redacted] T-154 P.01/01 F-174

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF ADMINISTRATION
WASHINGTON, D.C. 20503

May 1, 2000

James Wilson, Esq.
Chief Investigative Counsel
Committee on Government Reform
2157 Rayburn House Office Building
Washington, DC 20515

Dear Mr. Wilson:

I write at this time to advise you that Office of Administration employee, Christa Moyle, has elected to retain private counsel in relation to the Committee on Government Reform's request that she appear for an interview. Ms. Moyle may be contacted through her counsel, Marc Elias of Perkins Coie, (202) 434-1625.

Please call me directly at (202) 395-1274 should you wish to discuss this matter.

Sincerely,

Michael K. Bartosz
Senior Counsel

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TELEPHONE:
(202) 225-2771

May 2, 2000

The Honorable Dan Burton
Chairman
Committee on Government Reform
2157 Rayburn HOB
Washington, DC 20515-6143

Dear Mr. Chairman:

As required by law, on March 20, 2000, the White House submitted a request to the House Appropriations Committee seeking approval to use $1,700,000 in funds previously appropriated to the Armstrong Resolution Account for the reconstruction of certain e-mails not previously managed by the Automated Records Management System. For your information, I am enclosing a copy of our response to that request.

If I can be of further assistance in regards to the funding of this on-going effort, please do not hesitate to contact my Subcommittee staff or me at 202-225-5834.

Sincerely,

Jim Kolbe
Chairman
Subcommittee on Treasury, Postal
Service, and General Government

THE WHITE HOUSE
WASHINGTON

May 2, 2000

VIA FACSIMILE

James C. Wilson
Chief Counsel
House Committee on Government Reform
2157 Rayburn House Office Building
Washington, D.C. 20515-6143

Dear Mr. Wilson:

I have received your letter of this afternoon. If the Committee has questions about how this office has responded to various Committee subpoenas, those questions should be addressed to me and not to members of the Counsel Office's staff.

Sincerely,

Beth Nolan
Counsel to the President

cc: The Honorable Dan Burton
The Honorable Henry Waxman

THE WHITE HOUSE

WASHINGTON

May 2, 2000

BY FACSIMILE AND HAND

The Honorable Dan Burton
Chairman
House Committee on Government Reform
2157 Rayburn House Office Building
Washington, D.C. 20515-6143

Dear Chairman Burton:

This responds to your letter of yesterday afternoon to Dimitri Nionakis, Associate Counsel to the President. I have tried reaching you last evening and again today, and have also tried reaching Jim Wilson of your staff. I understand that you have been out of town and will be available later today. I am sending this letter to try to resolve two matters as quickly as possible.

First, I want to be absolutely clear that the White House is cooperating fully with your Committee's investigation. Last week, Jim Wilson of your staff raised for the first time (in a voice mail to Mr. Nionakis) that the Committee believed that the e-mails that were gathered by Mr. Haas were called for by the Committee's subpoena. After we considered Mr. Wilson's views, Mr. Nionakis informed Mr. Wilson that we disagree. We were guided in this determination by your own public statements that you intended to issue a separate subpoena for those documents. While you have not issued such a subpoena, I recognize that you could do so. To facilitate the Committee's work, I am not insisting on such a request, but am providing those documents to you today. They bear control numbers Z046672 - 7504. We will provide a copy of the ZIP disk tomorrow.

You have raised an additional question about seven documents that the EOP has identified as possibly subject to privilege. The accommodation process, in which possible privileges are identified and the two branches then work out a satisfactory means of production that is respectful of both branch's constitutional interests, has a long history of usefulness in resolving interbranch conflicts without a formal

The Honorable Dan Burton
May 2, 2000
Page 2

assertion of executive privilege. The practice has been endorsed and indeed encouraged by the federal courts and, as you know, has been useful to our mutual staffs on a number of occasions. I understand from your letter to Mr. Nionakis, however, that you are unwilling to engage in that process here. I deeply regret that that is the case. Nonetheless, while adhering to the view that the process is an important one, we are making these seven documents available today to your Committee. They bear document numbers E4442 - 64. I want to be clear that we retain our right to call for the accommodation process with respect to other documents or other requests, and that we are not waiving the right to assert executive privilege or attorney-client privilege with respect to future requests.

It is my understanding that you will no longer need the testimony you indicated you would call for, since we no longer have a disagreement with respect to these documents.

We are sending by messenger the original copy of this letter with a copy of the documents we are producing today. Also, per Mr. Wilson's request, we are providing a copy of document E4391. I hope that we can continue to work together to address the Committee's interests.

Sincerely,

Beth Nolan

Beth Nolan
Counsel to the President

Enclosures

cc: The Honorable Henry Waxman

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BERNARD SANDERS, VERMONT,
INDEPENDENT

May 2, 2000

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

Dear Ms. Nolan:

Thank you for the letter of May 2, 2000. Furthermore, thank you for producing documents today. Although we are surprised by the position you took regarding those documents, we do appreciate receiving them this afternoon.

The Committee would like Mr. Nionakis to testify. Consequently, a subpoena for his presence will be issued. As in the past, we will work with your staff to facilitate a mutually acceptable method of service.

We are requesting Mr. Nionakis to testify because the last two letters from the White House to this Committee raise significant questions that should be addressed in a public hearing. Furthermore, we have questions pertaining to other representations made by Mr. Nionakis regarding compliance with Committee subpoenas.

Sincerely,

James C. Wilson
Chief Counsel

cc: Independent Counsel Robert Ray
Independent Counsel Ralph Lancaster
Independent Counsel Donald Smaltz
Independent Counsel David Barrett
Independent Counsel Carol Elder Bruce
Attorney General Janet Reno
Judge Royce Lamberth

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BERNARD SANDERS, VERMONT,
INDEPENDENT

May 3, 2000

Beth Nolan, Esq.
Counsel to the President
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500

Dear Ms. Nolan:

It appears that your staff has decided not to cooperate with this Committee regarding service of a subpoena for Mr. Nionakis' testimony. Consequently, we have requested that the United States Marshals' Service facilitate the service of Mr. Nionakis' subpoena.

Sincerely,

James C. Wilson
Chief Counsel

THE WHITE HOUSE
WASHINGTON

May 3, 2000

BY FACSIMILE AND MAIL

The Honorable Dan Burton
Chairman
Committee on Government Reform
2157 Rayburn House Office Building
Washington, D.C. 20515-6143

Dear Mr. Chairman:

Two days ago, on Monday, May 1, you sent a letter to Dimitri Nionakis, Associate Counsel to the President, objecting to two determinations made by this Office regarding your subpoena of March 9, 2000. You indicated that you intended to call Mr. Nionakis to testify to explain those decisions.

After reviewing your letter, I telephoned you on both Monday and Tuesday and, when I was unable to reach you, I called your Chief Counsel, Jim Wilson, also with no success. Although I could have insisted on our rights on this matter, I instead decided to provide the material you sought. I did this to accommodate the Committee and in the hope that we could avoid expending government resources on a protracted dispute.

You now have the materials that you sought. Nonetheless, our effort at conciliation has been met with no similar effort on your Committee's part. Your Chief Counsel has stated that the Committee now seeks Mr. Nionakis's testimony to explain the decisions about producing the materials provided yesterday, and to address other compliance issues.

You seek to invade the internal deliberations of the Office of the Counsel to the President by compelled testimony, without making any effort to address your concerns in a manner that is less intrusive. If, whenever your staff disagrees with one of

our decisions, our lawyers are compelled to testify about internal deliberations regarding those decisions, our lawyers cannot do the jobs assigned them. Disagreements about these issues have historically been addressed - and resolved - through conversations between our staffs and, if necessary, conversations between the Chairman and the Counsel. As then-Assistant Attorney General William P. Barr wrote in 1989:

> The process of accommodation requires that each branch explain to the other why it believes its needs to be legitimate. Without such an explanation, it may be difficult or impossible to assess the needs of one branch and relate them to those of the other. At the same time, requiring such an explanation imposes no great burden on either branch. If either branch has a reason for needing to obtain or withhold information, it should be able to express it.

Memorandum Opinion for the General Counsel's Consultative Group from William P. Barr, Assistant Attorney General, Office of Legal Counsel, 13 Op. OLC 153, 159 (1989).

As I stated in my letter to your counsel Mr. Wilson yesterday, if the Committee has issues that it cannot satisfactorily resolve with discussions between our staffs - including your desire to obtain Mr. Nionakis's testimony - the questions should be directed to me. I request the opportunity to speak with you about these matters at a mutually convenient time, so that we can explain our interests to each other and seek a mutually acceptable solution.

I continue to hope that we can work amicably.

Sincerely,

Beth Nolan
Counsel to the President

cc: The Honorable Henry Waxman

THE WHITE HOUSE
WASHINGTON

May 3, 2000

BY HAND

James C. Wilson
Chief Counsel
House Committee on Government Reform
2157 Rayburn House Office Building
Washington, D.C. 20515-6143

Dear Mr. Wilson:

Per your request, I enclose a copy of the ZIP disk containing the Lewinsky related e-mails that we delivered to you yesterday.

Sincerely,

Beth Nolan
Counsel to the President

cc: Ken Ballen, Minority Counsel

THE WHITE HOUSE
WASHINGTON

May 4, 2000

BY FACSIMILE AND HAND

James Wilson
Chief Counsel
House Committee on Government Reform
2157 Rayburn House Office Building
Washington, D.C. 20515-6143

Dear Mr. Wilson:

I enclose for production a copy of Karl Heissner's e-mail message dated February 5, 1999, which you inquired about yesterday. It bears document control numbers E 4465-68. The Office of Administration provided the White House Counsel's Office with this document yesterday afternoon.

Sincerely,

Beth Nolan
Counsel to the President

Enclosure

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF ADMINISTRATION
WASHINGTON, D.C. 20503

May 5, 2000

James Wilson, Esq.
Chief Investigative Counsel
Committee on Government Reform
2157 Rayburn House Office Building
Washington, DC 20515

Dear Mr. Wilson:

I write to advise you that additional Office of Administration current and former employees have retained private counsel in connection with the Committee on Government Reform's request that they provide interviews. Former employee, Joseph Kouba, may be contacted through his counsel Anthony Malara, (703) 684-4722. Current employee, James Wright, may be contacted through his counsel Peter Ginsberg, (202) 293-1410. Finally, current employee, Nellie Doering, may be contacted through her counsel John Zwerling, (703) 684-8000.

Please call me directly at (202) 395-1274 should you wish to discuss this matter.

Sincerely,

Michael K. Bartosz
Senior Counsel

cc: Ken Ballen

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BERNARD SANDERS, VERMONT,
INDEPENDENT

May 8, 2000

John M. Bray
King & Spalding
1730 Pennsylvania Avenue, N.W.
Washington, D.C. 20006-4706

Dear Mr. Bray:

I am writing to ask for your assistance in obtaining a precise description of statements and actions at a meeting described by your client, Steve Hawkins. Much of what Mr. Hawkins told Committee staff was repeated in his hearing testimony. However, one important matter was not discussed. An affidavit or statement from Mr. Hawkins would help remove uncertainty about the details of his statements to Committee staff and would obviate any need to recall him for additional sworn testimony.

In an interview on March 7, 2000, Mr. Hawkins told Committee on Government Reform attorneys about his knowledge of alleged threats made by Mark Lindsay and Laura Crabtree Callahan to Northrop Grumman contract employees. According to our notes, Mr. Hawkins stated that he had a meeting in the summer of 1998 with Mark Lindsay and Laura Callahan at which he discussed alleged threats to his subordinates. We request that you have Mr. Hawkins provide a complete description of this meeting, and any other meetings he may have had with either Mr. Lindsay or Ms. Callahan during which threats to Northrop Grumman employees were discussed.

Please do not hesitate to call if you have any questions.

Sincerely,

James C. Wilson
Chief Counsel

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BERNARD SANDERS, VERMONT,
INDEPENDENT

May 8, 2000

Ralph L. Lotkin
Cochran & Lotkin
Capitol Hill West Building
201 Massachusetts Avenue, NE
Suite C-1
Washington, DC 20002

Dear Mr. Lotkin:

I am writing to respond to your letters of May 1, 2000. The Committee is happy to provide you the opportunity to review the transcript of the March 23, 2000 hearing. We ask, however, that you review the transcript in our office and that you take no notes. We will also be happy to give you an additional two weeks beyond the original May 11, 2000, deadline for alterations to the transcript.

Ms. Callahan's affidavit of March 24, 2000 and her list of accomplishments and awards will also be included in the record. Please contact Lisa Smith Arafune at your earliest convenience so we can arrange the review of the transcript.

Sincerely,

James C. Wilson
Chief Counsel

cc: The Honorable Henry A. Waxman, Ranking Minority Member

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF ADMINISTRATION
WASHINGTON, D.C. 20503

May 8, 2000

James Wilson, Esq.
Chief Investigative Counsel
Committee on Government Reform
2157 Rayburn House Office Building
Washington, DC 20515

Dear Mr. Wilson:

I write to advise you that current Office of Administration employee, Dale Helms, has elected to retain private counsel in connection with the Committee on Government Reform's request that he appear for an interview. Mr. Helms may be contacted through his counsel, Michael R. Roblyer, (301) 261-8135.

Please contact me directly at 395-1274 should you wish to discuss the above.

Sincerely,

Michael K. Bartosz

cc: Ken Ballen

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BERNARD SANDERS, VERMONT,
INDEPENDENT

May 16, 2000

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

Dear Ms. Nolan:

It has come to the attention of the Committee that there may be documents relating to non-records managed e-mails from the Office of the Vice President (OVP) that have not been produced in response to the Committee's March 9, 2000, subpoena. It is our understanding that there may be several Office of Administration (OA) memoranda, including one written to the Vice President himself, relating to non-records managed e-mails.

The Committee's subpoena calls for "all records relating to the discovery, diagnosis, planned, implemented, or partially implemented solutions to problems associated with the Automatic Records Management System ('ARMS') process and the failure to collect e-mail messages (also known as 'Project X' or 'Mail2 reconstruction project') from the Executive Office of the President ('EOP') mail servers[.]" Because OVP is a part of EOP, any memoranda or other records relating to the failure to records manage properly OVP e-mails are responsive to the Committee's subpoena. While all responsive records must be produced, we are most concerned about memoranda from February or March of 1999.

From the start of this investigation, your office has acknowledged that the e-mail problem in the OVP is a central part of the Committee's investigation. I would appreciate it if you could determine if all responsive records relating to the OVP's e-mail problem have been produced to the Committee.

Sincerely,

James C. Wilson
Chief Counsel

cc: Ken Ballen, Minority Chief Investigative Counsel

THE WHITE HOUSE
WASHINGTON

May 18, 2000

BY FACSMILE

James C. Wilson
Chief Counsel
Committee on Government Reform
United States House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Jim:

This responds to your letter to Beth Nolan dated May 16, 2000 in which you request that we determine whether all documents relating to the non-records-management of OVP e-mail have been produced to the Committee.

The Committee's March 9 subpoena was for documents relating to problems associated with the ARMS system and the failure to collect e-mail as a result of the Mail2 problem. Because, carly-on, there was some suggestion that the Letter D problem may have grown out the Mail2 problem, those documents were produced as well. However, because the OVP issue is distinct from the Mail2 and Letter D problems, I cannot say that our directive to White House staff, which tracked the language of your subpoena, required the production of the broad category of OVP-related documents you have asked about. It is worth remembering that issues concerning the OVP system were unknown to the Committee and the Counsel's Office when the Committee's subpoena was drafted (those issues were voluntarily disclosed to the Committee in Beth Nolan's March 17, 2000 letter to Chairman Burton).

To ensure that the Committee receives all of this information, we will send a new directive to White House staff specifically requesting the production of documents relating to the non-records-management of OVP e-mail. We will also attempt to determine, as quickly as possible, whether any memoranda from the February-March 1999 time frame referenced in your letter exist. As always, we will make documents available to the Committee on a rolling basis.

If you have questions about any of these matters, please feel free to contact me at (202) 456-5073.

Sincerely,

Steven F. Reich
Senior Associate Counsel to the President

cc: Ken Ballen, Esq.
Minority Chief Investigative Counsel

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

May 19, 2000

The Honorable Dan Burton
Chairman
Committee on Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This responds to the Committee's outstanding questions from the Committee's hearing on May 3rd regarding White House e-mail issues. I request that this response be entered into the hearing record.

Many Independent Counsels have worked closely with the Department of Justice on various matters. The Act contemplated and encouraged consultation with the Department about the Departmental policies and practices. Where factual matters overlap, the Department and an OIC have frequently worked closely together to avoid duplicating or impeding the work of each other. See United States v. Wilson, 26 F.2d 142 (D.C. Cir. 1994) (joint prosecution by OIC and a U.S. Attorney's Office authorized by Independent Counsel Act).

In this particular instance, the OIC explicitly authorized the Department to continue investigation of the White House e-mail matter pursuant to the provisions of the Ethics in Government Act. See 28 U.S.C. 597(a). The current investigations by the OIC and the Campaign Financing Task Force are being conducted "cooperatively" but not "jointly." There are built-in protections for both the OIC and the Department relating to the investigation. For example, although there have been joint interviews where it was in the mutual interests of the Office of the Independent Counsel and the Task Force, each office makes its own investigative and prosecutorial judgments. Additionally, by agreement, neither agency can take any investigative action that would impair the ability of the other to fulfill its investigative mandate. This would include, for example, immunizing a witness or otherwise entering into an arrangement with a witness to secure his/her cooperation.

You asked several questions bearing on whether the Department has provided assistance to the White House in connection with the Committee's hearings on the email matter. Specifically, you asked whether the White House consulted the Office of Legal Counsel (OLC) regarding claims of privilege with respect to documents the White House initially withheld but then produced to the Committee on May 2nd. I am informed that the answer to that question is "no." The White House did not request, and OLC did not provide, any assistance with respect to the White House's response to the Committee's request for those documents. The White House

did request other assistance from OLC prior to one hearing. In response, OLC provided the White House with pre-existing documents and general information about historical precedents and policies that guide the executive branch when it responds to congressional oversight. OLC did not provide advice regarding the application of the precedents and policies to specific facts or circumstances or how to respond to particular requests for documents or testimony. Lastly, the Department did not authorize Jason Baron or any other Civil Division attorney to assist the White House in connection with these hearings.

With respect to Congressman Barr's question regarding the benefit to the Department of discussions with counsel for the President and the Vice-President concerning their witnesses' upcoming interviews, pre-interview communications about the general areas of anticipated questioning occur often during white-collar criminal investigations to ensure that the witness is focused and prepared. Analogous to your letter to me in advance of my recent testimony before your Committee (in which you identified various subject matters you wanted to explore during the hearing), the Department's communication to a witness in advance of an interview can enable the questioning to proceed more efficiently and productively. I am informed, however, that there was no "deal" with either the President or Vice President that prohibited questions on a topic that had not been previously identified.

I hope that this information is helpful. Please do not hesitate to contact me if you would like additional assistance regarding this or any other matter.

Sincerely,

Robert Raben/MSB

Robert Raben
Assistant Attorney General

cc: The Honorable Henry Waxman
Ranking Minority Member

KING & SPALDING

1730 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006-4706
TELEPHONE: 202/737-0500
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DIRECT DIAL:
202/626-5592

EMAIL:
ahart@kslaw.com

May 19, 2000

James Wilson, Esquire
Congress of the United States
House of Representatives
Committee on Government Reform
2157 Rayburn House Office Building
Washington, D.C. 10515-6143

Re: Declaration of Steve Hawkins

Dear Mr. Wilson:

Enclosed please find Steve Hawkins' responsive declaration to your May 8, 2000 letter. Please call me at 202/626-5592, if I can be of further assistance.

Sincerely,

Ann M. Hart

Enclosure

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BERNARD SANDERS, VERMONT,
INDEPENDENT

May 22, 2000

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

Dear Ms. Nolan:

This letter responds to the request of your office for a prioritization of dates to attempt reconstruction of e-mail that has not been previously managed by the ARMS system.

I request that the reconstruction efforts commence in a chronological order beginning on January 1, 1996, and concluding at the present. At the completion of this phase, I request that reconstruction of tapes made earlier than 1996 be undertaken. For the days in 1996 which preceded the occurrence of the "Mail2" problem, I request that back up tapes from the Office of the Vice President ("OVP") be reconstructed in chronological order. For the days which follow the occurrence of the "Mail2" problem, I request the back up tapes from the Executive Office of the President ("EOP") and the OVP be reconstructed simultaneously.

I do not have any specific dates to propose; rather, I believe that the Committee's interests would best be served by the entire task being completed as quickly as possible without regard to specific dates.

Although I do not propose that specific dates be isolated, I do request that the White House provide a complete list of the search terms that will be used in order to determine if there are responsive documents in the universe of improperly managed e-mails.

Thank you for your attention to this matter. If you have any questions, please contact my Chief Counsel, James Wilson.

Sincerely,

Dan Burton
Chairman

cc: The Honorable Henry A. Waxman

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JANICE D. SCHAKOWSKY, ILLINOIS

BERNARD SANDERS, VERMONT,
INDEPENDENT

May 25, 2000

The Honorable David Walker
Comptroller General
U.S. General Accounting Office
441 G St., N.W.
Washington, DC 20548

Dear Mr. Walker:

For the past several months this Committee has been examining the facts surrounding missing White House e-mails. It has been widely reported that because of technical malfunctions, the White House's computer system failed to preserve hundreds of thousands of e-mails for a two-and-a-half-year period between August 1996 until November 1998. Additionally, subsequent problems with the e-mail system caused more records to not be properly preserved.

I am concerned that, in addition to hindering this Committee's ongoing examinations, failure to address this problem promptly has resulted in a substantial cost increase in repairing the system and recovering the lost e-mails. Accordingly, I am requesting that GAO:

- Develop a chronology of the e-mail malfunction. Included in that chronology should be a description of White House actions in discovering and repairing the malfunction and a description of actions taken to recover e-mail messages not properly preserved. The chronology should also identify those officials and contractors who were responsible for maintaining the system and for taking action to correct the malfunction. Finally, the chronology should show if government officials – including Congress, Justice Department, and independent counsels – were properly notified when the e-mail malfunction was discovered.

- To the extent possible, determine the cost difference between the current estimated expense to repair the system and recover lost messages and an

estimate if the system were repaired when the malfunction was originally discovered.

If you or your staff have any questions regarding this request, please contact Kimberly A. Reed, Committee Counsel.

Sincerely,

Dan Burton
Chairman

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House of Representatives

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BERNARD SANDERS, VERMONT,
INDEPENDENT

June 1, 2000

Karl A. Racine, Esq.
Associate Counsel to the President
The White House
Washington, D.C. 20500

Re: Subpoenaed Documents

Dear Mr. Racine:

I am writing regarding the status of certain records subpoenaed by the Committee on Government Reform on March 16, 2000. Item six of that subpoena required you to produce "[a]ll document requests and subpoenas provided to or served upon the Executive Office of the President by the Justice Department, the Campaign Financing Task Force, or the Federal Bureau of Investigation, from September 1, 1996, to the present."

In the two and a half months since the subpoena was served upon the White House, I have had several conversations with Dimitri Nionakis, in which Mr. Nionakis indicated that the White House was working on compiling responsive documents. Although Mr. Nionakis indicated that there might be some concerns with this specific request, I have not been informed as to whether the White House will refrain from producing these documents. Therefore, I am hopeful that the Committee will receive these documents in the immediate future. Please contact me at (202) 225-5074 if you have any questions.

Sincerely,

James C. Wilson
Chief Counsel

THE WHITE HOUSE
WASHINGTON

June 7, 2000

HAND-DELIVERED

James C. Wilson, Esq.
Chief Counsel
Committee on Government Reform
United States House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Jim:

This letter follows-up on our recent correspondence, as well as on Beth Nolan's testimony and written statements to the Committee, regarding the electronic records management of e-mail of the Office of the Vice President (OVP). It also generally updates you on electronic records management issues involving that office. Following your recent inquiry whether documents on this subject were produced in response to the Committee's March 9, 2000 subpoena, we sent a directive to all Executive Office of the President (EOP) staff requiring the production of "documents relating to the computerized records-management of Office of the Vice President (OVP) e-mail," including but not limited to "documents relating to the management of OVP e-mail by the Automated Records Management System (ARMS)," for the period January 20, 1993 through March 9, 2000 (the date of the Committee's subpoena).[1] Enclosed is a first installment of those documents bearing control numbers E 4503-E 5801.[2] We will produce additional responsive materials as they are gathered and reviewed. Please note that our directive did not reach materials solely concerning the hard-copy (i.e., non-electronic) records management of documents, nor documents relating only generally to the ARMS system. You should also be aware that, because of demands placed on us by this Committee and other investigative bodies, we have not yet been able to undertake a full ARMS search in response to this directive, but I am told that the search has been placed in the queue.

[1] As noted in my May 18, 2000 letter to you, because the OVP issue is distinct from the Mail2 and Letter D errors, our original search directive to EOP staff, which tracked the language of your subpoena, did not require the production of this broad category of OVP-related documents.

[2] A few additional documents relating to the Mail2 and Letter D errors also are enclosed. Those documents bear control numbers E 4469-E 4502.

You will recall that issues relating to the non-records management of OVP e-mail were immediately and voluntarily disclosed to the Committee in Beth Nolan's March 17, 2000 letter to Chairman Burton, and that that information was supplemented in her March 23 and March 30 written statements, as well as her March 30 appearance before the Committee. Since then, we have been gathering facts concerning these issues, and I would like to update you on what we have learned. Before doing so, I think it important to reiterate a couple of points. First, while we are doing our best to get a handle on these matters, we are lawyers with laypersons' understandings of what are sometimes complex technical issues. Second, although the new information we learn assists us to better understand the issues, it can also alter previous assumptions, determinations and conclusions. We fully expect that as we progress, we are likely to uncover information that supplements or amends the information provided below. We will continue to do our best to notify the Committee of significant changes.

1. Current Status of Records Management of OVP E-Mail

a. OVP e-mail accounts on the EOP computer system

Although, as we explain below, the OVP had its own tape backup system, current OVP staff until recently believed that OVP e-mail also was being managed by ARMS.[3] Their belief was supported by the similar belief of the White House Counsel's Office and the fact that ARMS searches directed by the White House Counsel's Office had produced OVP e-mail. Some OVP e-mail was in ARMS because: (1) during most periods, an e-mail from a White House staff member to an OVP staff member would have been captured by ARMS; (2) beginning in early 1997, new OVP staff members were given e-mail accounts by the Information Systems & Technology Division of the Office of Administration (IS&T) that automatically copied all e-mail sent (but not received) by that staff member to ARMS; and (3) when e-mail from the 1993-94 period was reconstructed following the Armstrong decision, some OVP e-mail from that period was reconstructed and placed into ARMS.[4] Finally, OVP staff were responsible for searching

[3] The only exception was for so-called "bulk e-mail" received from the general public on the whitehouse.gov website, for which technological impediments to ARMS-management seemed to exist. This issue is discussed more fully in section 1.c. of this letter.

[4] As best we can determine, purely internal OVP e-mail would not have been part of the reconstruction because the OVP had set up its own computer network separate from the White House system. The OVP system used backup tapes to capture documents, including e-mail, on the separate OVP server. It appears that the backup tapes were maintained both as an electronic record of those documents for purposes of the Presidential Records Act, and in case of a catastrophic system failure. Because the OVP creates presidential -- and not federal -- records, the Armstrong ruling regarding archiving of federal records did not apply to it. Indeed, the Armstrong court explicitly stated that it was not addressing, and did not have the authority to address, the management and disposition of presidential records. Armstrong v. Bush, 924 F.2d 282, 290 (D.C. Cir. 1991). Thus, OVP was not required to maintain a searchable database of its e-mail and was not required to be a part of ARMS.

their own computers and hard copy files when requests for information were received, and Congressional committees had received and highlighted a number of OVP e-mails apparently found in that manner.

As Ms. Nolan made clear in her testimony before the Committee, when we learned that our prior understanding was incorrect, we instructed IS&T to address the problem as quickly as possible. Except for OVP staff whose computer accounts are on the Senate e-mail system (a topic discussed immediately below), we are advised that all OVP e-mail accounts are now fully managed by ARMS. Full ARMS-management of e-mail sent by OVP staff on the White House system was accomplished by March 27, 2000. Because complex technical issues were involved in ARMS-scanning incoming e-mail, all OVP e-mail accounts on the White House system had to be moved to an entirely new server to make ARMS-scanning possible. This was finally accomplished on May 8, 2000. We also believe that, when the ARMS-scan was implemented, a copy of all old e-mail still on the OVP server was sent to ARMS. We have asked our outside contractor for independent verification of that fact.

b. OVP e-mail accounts on the Senate computer system

Because the Vice President serves under the Constitution as both the President of the Senate and the Vice President in the Executive Branch, historically he has had staff on the Senate payroll as well as the OVP payroll. Some of the Senate staffers have accounts on the Senate e-mail system which, as you no doubt are aware, does not have a system similar to ARMS or, in fact, archive e-mail at all. IS&T currently is working on developing the technical ability to ARMS-manage OVP staff accounts that are on the Senate system. In the meantime, such staffers have been instructed to retain copies of their e-mail in either hard copy or electronic form.

c. ARMS-management of "bulk e-mail" received from the general public on the whitehouse.gov website

For some time, members of the general public have been able to send e-mail messages to the Vice President via the whitehouse.gov website. When a message is received at that web address, an automatic reply is generated informing the sender that his or her e-mail has been received. The e-mail coming into this site -- which is voluminous -- is then forwarded in bulk to the Vice President's Correspondence Office in the Dirksen Senate Office Building, where it is reviewed for appropriate written responses accomplished through standardized letters that are retained along with the incoming e-mail. The EOP and the National Archives have been engaged in discussions over whether, and to what extent, this bulk e-mail must be retained. Indeed, with respect to bulk mail received from the general public in hard copy form, the EOP many years ago entered into an agreement with the National Archives that allows for the disposal of all but a representative sample of such documents. In any event, until this issue is resolved

with the National Archives, IS&T has devised a technological solution that allows retention of all this bulk e-mail.

2. OVP Backup Tapes

As noted earlier, it appears that the OVP created a tape backup system for documents on its server (including e-mail) as an electronic record of the documents for purposes of the Presidential Records Act, and to guard against the possibility of a catastrophic system failure. These are the backup tapes that will be reconstructed by our outside contractors. We will not know the exact dates covered by the tapes until they are reviewed and reconstructed, but some periods may not be covered.

In particular, your May 16, 2000 letter regarding non-records managed e-mail has led us to discover that a technical configuration error apparently prevented e-mail on the OVP server from being backed-up from the end of March 1998 through early April 1999. Our present understanding is that in March 1998 an outside contractor was responsible for migrating the OVP server to a new operating system known as Windows NT 4.0. In that process, the contractor apparently added what technical personnel call a new "partition" -- in this case what we are told is an "E:" drive -- to the OVP server so that OVP would have IS&T's standard server configuration. The E: drive contained all of the OVP's e-mail files. Unfortunately, we are advised that technical personnel neglected to add the new E: drive to the server backup schedule, and while backups of the OVP server continued as before, they no longer captured e-mail that had been transferred to the new E: drive. This oversight was not discovered by IS&T until after April 2, 1999, as explained in the enclosed memorandum for Virginia Apuzzo from Dorothy Cleal dated May 13, 1999 (control numbers E 5201-03). We are told that IS&T subsequently corrected the OVP server backup schedule so that the E: drive was properly backed up.

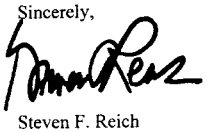
To date, we have not located any Office of Administration memoranda to the Vice President regarding the non-records management of e-mail, which your May 16 letter suggested may exist. We have found the memorandum from Ms. Cleal noted above, and a related e-mail from Ms. Cleal to Mark Lindsay (control number E 5200).

3. Accommodation of the Committee's Interest in Receiving Relevant Documents

As you will see, we have produced to the Committee some documents that reflect either communications to the Vice President or other deliberative or attorney-client communications among the staff of the White House and/or the Vice President's Office. We have taken this step in the interest of working cooperatively with the Committee and accommodating its request for information relating to the OVP issue. As you know, it is the policy of the White House "to

comply with Congressional requests for information to the fullest extent consistent with the constitutional and statutory obligations of the Executive Branch." Memorandum from President Reagan for the Heads of Executive Departments and Agencies Regarding Procedures Governing Responses to Congressional Requests for Information at 1 (Nov. 4, 1982). See also United States v. American Tel. & Tel. Co., 567 F.2d 121, 127 (D.C. Cir. 1977) ("each branch should take cognizance of an implicit constitutional mandate to seek optimal accommodation through a realistic evaluation of the needs of the conflicting branches in the particular fact situation. This aspect of our constitutional scheme avoids the mischief of polarization of disputes"). Our willingness in this instance to provide these documents in the spirit of accommodation should not be construed as a waiver of any applicable privilege now or in the future.

Sincerely,



Steven F. Reich
Senior Associate Counsel to the President

Enclosures
cc: Campaign Financing Task Force (w/ encs.)
Office of Independent Counsel Robert Ray (w/ encs.)
Office of Independent Counsel Carol Bruce (w/o encs.)
Office of Independent Counsel Ralph Lancaster (w/o encs.)
House Government Reform Committee, Minority Staff (w/ encs.)

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(202) 234-9000

June 8, 2000

Pablo E. Carrillo, Esquire
Committee on Government Reform
2157 Rayburn House Office Building
Washington, DC 20515-6143

Re: Nell Doering

Dear Mr. Carrillo:

Enclosed please find a copy of the memo and attachment (the weekly report for July 24, 1998) that you requested. I believe this document relates to your exhibit 119.

Sincerely,

John Kenneth Zwerling

cc: Paul Weinberg

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BERNARD SANDERS, VERMONT,
INDEPENDENT

June 8, 2000

Charles W. Burson
Chief of Staff and Counselor to the Vice President
Eisenhower Executive Office Building
Washington, D.C. 20501

Re: Interviews of Office of Vice President Personnel

Dear Mr. Burson:

The Committee on Government Reform has been conducting an investigation of the failure of the Executive Office of the President to search for electronic mail records potentially responsive to subpoenas issued by the congressional committees and other entities. In the course of that investigation, the Committee has learned that a number of e-mail records in the Office of the Vice President have not been records-managed, and accordingly, have not been searched in response to subpoenas.

The Committee would like to interview the following current or former OVP personnel to learn more about the OVP's management of e-mail records:

1. Michael Gill;
2. Jonathan Gill;
3. Moe Vela; and
4. Howard "Chip" Sparks.

In addition, the Committee would like to interview you, given the fact that you were the Vice President's Counsel for much of the time period under examination.

I appreciate your cooperation in the scheduling of these interviews. Please have your staff contact the Committee's Chief Counsel, James C. Wilson, or Deputy Counsel, David A. Kass, to schedule the interviews.

Sincerely,

Dan Burton
Chairman

cc: The Honorable Henry A. Waxman, Ranking Minority Member

THE WHITE HOUSE
WASHINGTON

June 14, 2000

BY HAND

James Wilson, Chief Counsel
Committee on Government Reform
United States House of Representatives
2157 Rayburn House Office Building
Washington, DC 20515

Re: March 16, 2000 (Campaign Finance Task Force Requests)

Dear Jim:

Pursuant to the attached letter from you dated June 1, 2000 as well as our telephone conversations of last week, enclosed please find documents (E SUP 0151-0251) responsive to the above-referenced matter. As you will see, these materials consist of grand jury subpoenas served on the White House by the Campaign Finance Task Force. We are currently reviewing correspondence between the Campaign Finance Task Force and the White House in order to identify additional written requests. We will provide you with these materials upon completion of the review process.

Should you have any questions regarding this matter, please call me at (202) 456-6285.

Sincerely,

Karl A. Racine
Associate Counsel to the President

Enclosures

cc: Ken Ballen, Minority Chief Investigation Counsel

THE WHITE HOUSE
WASHINGTON

June 16, 2000

HAND-DELIVERED

James C. Wilson, Esq.
Chief Counsel
Committee on Government Reform
United States House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Jim:

Enclosed please find additional responsive documents regarding the OVP. The documents bear control numbers E 5802-E 6281.

If you have any questions about these matters, please feel free to call me.

Sincerely,

Steven F. Reich
Senior Associate Counsel to the President

Enclosures
cc: Campaign Financing Task Force (w/ encs.)
Office of Independent Counsel Robert Ray (w/ encs.)
House Government Reform Committee, Minority Staff (w/ encs.)

THE WHITE HOUSE
WASHINGTON

June 23, 2000

HAND-DELIVERED

James C. Wilson, Esq.
Chief Counsel
Committee on Government Reform
United States House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Jim:

Enclosed please find additional responsive documents relating to the Committee's e-mail investigation. The documents bear control numbers E 6282-E 6530.

If you have any questions about these matters, please feel free to call me.

Sincerely,

Steven F. Reich
Senior Associate Counsel to the President

Enclosures
cc: Campaign Financing Task Force (w/ encs.)
Office of Independent Counsel Robert Ray (w/ encs.)
House Government Reform Committee, Minority Staff (w/ encs.)

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BERNARD SANDERS, VERMONT,
INDEPENDENT

June 23, 2000

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

Dear Ms. Nolan:

In reviewing the documents from the Lewinsky test search, we have discovered that there are three pages missing from the production. They are the pages with Bates numbers Z 2046938, Z 2047084, and Z 2047085.

Thank you for providing these three documents to the Committee. If you have any questions, please call me at (202) 225-5074.

Sincerely,

Jim Wilson/MSB

Jim Wilson
Chief Counsel

cc: Ken Ballen, Minority Chief Investigative Counsel

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BERNARD SANDERS, VERMONT,
INDEPENDENT

June 28, 2000

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

Dear Ms. Nolan:

It has come to the attention of the Committee that Joe Vasta, the Northrop Grumman Program Manager who took over for Steve Hawkins, took notes at an August 28, 1998, meeting in which he was given the details of the Mail2 problem. Allegedly, after the meeting was finished, John Spriggs asked Mr. Vasta to surrender his notes as per the orders of Office of Administration management.

We understand that these notes might contain a reference to Mail2 and/or the failure to manage records in the ARMS system. Thus, such notes are contemplated by the Committee's March 9, 2000, subpoena that requires all records relating to "problems associated with the Automatic Records Management System ("ARMS") process and the failure to collect e-mail messages[.]" Please provide copies of these notes to the Committee by Friday, June 30, 2000.

Thank you for your immediate attention to this matter. If you have any questions, please call me at (202) 225-5074.

Sincerely,

James C. Wilson
Chief Counsel

cc: Ken Ballen, Minority Chief Investigative Counsel

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ONE HUNDRED SIXTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM
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BERNARD SANDERS, VERMONT,
INDEPENDENT

June 28, 2000

The Honorable Janet Reno
Attorney General
United States Department of Justice
Washington, D.C. 20530

Dear General Reno:

Given your obdurate refusal to follow the advice of FBI Director Louis Freeh, Task Force Special Agent in Charge James DeSarno, and Campaign Financing Task Force heads Charles La Bella and Robert Conrad, your decision to refrain from appointing a special counsel to investigate allegations of intimidation and obstruction of justice in the White House e-mail matter was not unexpected. Unfortunately, however, your decision opens the Justice Department to additional criticism and further scrutiny.

I suggested a special counsel for reasons similar to my request for an independent counsel in the Campaign Finance matter. In short, given the historical performance of your Justice Department in investigations involving the White House, I had serious concerns that the e-mail investigation would not be as thorough and independent as this matter requires. In the three months since I called for a special counsel (letter attached), your subordinates have not acted to dispel my concerns. Let me give you an example. Whenever we interview witnesses, we ask whether they have been interviewed by the Department of Justice or the Office of Independent Counsel. The following is a list of witnesses who had not been interviewed by the Justice Department and the date that the Committee learned they had not been interviewed:

Sally Paxton	June 22, 2000
Michelle Peterson	June 8, 2000
John Podesta	May 30, 2000
Virginia Apuzzo	May 24, 2000
Joe Vasta	June 26, 2000
Jim DeWire	June 15, 2000
Dorothy Cleal	May 15, 2000
Nell Doering	May 26, 2000
Adam Greenstone	May 22, 2000

Joseph Kouba	May 12, 2000
Christina VanFossan	May 31, 2000

Quite obviously, it is possible that they have now been interviewed. Nevertheless, it strikes me as somewhat odd that you would allow three or four months to pass before interviewing critically important individuals such as Sally Paxton, Michelle Peterson, John Podesta, Virginia Apuzzo, Joe Vasta, and Jim DeWire. Doubtless there are others not on this list, and I have chosen to omit from the list individuals interviewed by the Committee in March and April of this year (even though most of those individuals had not been interviewed either).

As you are aware, I have been critical that the Justice Department neglected to ask the President questions about foreign money in 1996, 1997, 1998, or 1999. I quite simply do not understand how you would tolerate such an investigation. I have also been critical that the Justice Department elected to refrain from asking the Vice President about the Hsi Lai Temple event for almost four years. It now appears that there is a similar reluctance to move forward vigorously with the e-mail investigation. Having been a prosecutor, you are well aware of the importance of moving swiftly to obtain testimony and documents. Although you frequently say that you will follow the evidence wherever it leads, there is frequently nothing to follow because you have not asked questions or requested documents. There is no clearer reason to appoint a special counsel to examine campaign finance matters than the fact that the Justice Department appears to be giving preferential treatment to the White House. Indeed, the only other explanation for failing to obtain documents from the White House on this matter is incompetence, and that hardly seems like a strong argument to avoid appointing a special counsel.

In the e-mail investigation, as in the Hsi Lai Temple matter or the President's close proximity to illegal foreign money, there appears to be no real effort to move expeditiously. Under normal circumstances, I would defer to the strategies of your career lawyers and I would have no reason to observe when you are talking to various potential witnesses. As we have seen in the campaign finance investigation, however, these are not normal circumstances. Indeed, there is a clear contrast between the speed of your actions when there is a need for damage control and the speed of your actions when a politically embarrassing situation arises. Consider the following:

- When it was reported last week that Robert Conrad had requested a special counsel to investigate possible instances of perjury by the Vice President, the Justice Department was complicit in the Vice President's release of a transcript of his most recent interview, and all documents referenced in that interview. This contrasts to your response when this Committee subpoenaed the same information on April 25, 2000. You told us that "disclosure of matters involving an open investigation would hurt that investigation and seriously interfere with the efforts of career prosecutors and career FBI agents to enforce federal law." One can only speculate as to what changed between this high-minded rationale for denying the Congressional request and the Vice President's desperate need for help in effecting his damage control strategy. Simply put, the question is why would you fail to comply with a

Congressional subpoena for documents that you have handled in such a way that a witness can share them with others under investigation or release to the public?

- When there was a public disclosure regarding Robert Conrad's purported request for a special counsel, it was immediately announced that Task Force attorneys would be polygraphed. The same was not required of Lee Radek, Eric Holder, or Richard Scruggs during previous leak investigations. (Indeed, in the case of your friend Mr. Scruggs, your Department found that he leaked sensitive information in order to make you look good in a book, but did little to discipline him.)

- When it was advantageous to investigate me on the basis of uncorroborated information provided by a former Democratic National Committee official, you compelled people to go before a grand jury within one week. This contrasts dramatically with the almost four years it took to ask the Vice President questions about the Hsi Lai Temple fundraiser.

- When a FLIR tape shedding light on the Waco tragedy emerged, you dispatched U.S. Marshals to seize the tape from the FBI headquarters the same day.

- When you found an embarrassing tidbit of information in the FBI interview of a former member of Congress, you had no qualms about moving to release the information expeditiously. In fact, your subordinates even gave the information to John Huang so he could criticize Congress in a public hearing.

There are many such examples. Each, in its own way, stands for the proposition that the Justice Department is a place where justice takes a back seat to politics. Indeed, if you contrast these actions with the nearly four-year delay in asking the Vice President about the Hsi Lai Temple event, it is easy to understand why I am so concerned.

Apart from your reluctance to interview witnesses, there is also another aspect of your investigation that is very troubling. On June 23, 2000, the Committee received documents relating to the failure of the Vice President's office to manage e-mail records. The documents received are extremely important, and I note that the Justice Department was also provided copies of the documents we received on June 23, 2000. This leads me to believe that your lawyers failed to act independently to compel production of the Vice President's documents. Indeed, when we learned of the existence of these documents, the Justice Department had not even spoken with the witness who informed us of the new information.

I can only speculate as to when you would have gotten around to asking the relevant questions. If the Hsi Lai Temple investigation is any guide, your lawyers would have gotten around to compelling answers to the question of where the documents were in approximately January of 2004. That date may seem fanciful, yet it is as far from the discovery that there were documents discussing the Vice President's e-mail problems as the Vice President's questioning was from the first reports of the Hsi Lai Temple fundraiser.

I am struck by the apparent failure of the Justice Department to follow up on this matter. It was clear, however, that the White House only produced the documents because the Committee discovered their existence and asked for them specifically. Apparently, a valid Congressional subpoena was not good enough – asking for categories of documents yielded nothing, even though White House lawyers knew that they had information that should be turned over to Congress. It certainly appears that your lawyers would not have obtained the documents produced on June 23, 2000, but for the efforts of this Committee. That is far from acceptable. It leads to the more-than-reasonable conclusion that you are moving slowly on matters that involve the Vice President.

Another related matter of some importance is the revelation in the recently produced documents that "The OVP memorandum regarding the Vice President's computer problems has been cleared with Cheryl Mills' office." Given the paucity of interviews conducted by your subordinates, you may not be aware that Cheryl Mills is a central figure in the e-mail investigation. White House Counsel Charles Ruff explained the initial e-mail problem to her in 1998 when he first learned of it. She was in charge of determining the extent of the problem and whether there were any ramifications for document production. As we now know, Ms. Mills -- by incompetence or design -- may have prevented a number of investigative bodies, including Congress, the Justice Department, and Independent Counsels, from receiving subpoenaed documents. Indeed, any conclusion on any matter under investigation is suspect until the White House finishes its costly e-mail reconstruction project and produces documents relevant to earlier document requests. Having conducted interviews of Ms. Mills' subordinates, it is clear that Ms. Mills is the central figure in terms of the White House Counsel's Office failure to solve the e-mail problems or its failure to notify interested parties that documents were not being produced.

Perhaps Ms. Mills really was the only person in the White House at the time who was unable to understand the problem. Perhaps she is only guilty of incompetence. However, Cheryl Mills does not have a good record when it comes to the production of documents to investigative bodies. In 1995, a gym bag full of sensitive documents relating to Waco and Vincent Foster were stolen from Ms. Mills' car. In 1996, Ms. Mills argued that it might be racist to return the illegal contributions Charlie Trie had funnelled from a Buddhist cult to the President's legal defense fund. In 1997, Ms. Mills failed to produce a central piece of evidence pertaining to the investigation of the White House database. A recently published book also has disclosed that Ms. Mills argued that President Clinton should invoke Executive Privilege over the sessions in which he coached Betty Currie about upcoming testimony. Given Ms. Mills' track record regarding disclosure of information, she should obviously be a major focus of the Department's attention.

What troubles me the most with your investigation is that the Justice Department has already investigated Ms. Mills for failure to produce documents in a different case -- the White House Database case -- and it has given her a free pass. Now it is apparent that

you are dragging your feet on another investigation that involves Ms. Mills. It would seem to me that the emerging pattern and practice of failure to produce documents that seems to be tied closely to Ms. Mills would at least merit an aggressive investigation. Of course, Ms. Mills' conduct had far-reaching effects on the campaign finance investigation, as well as other investigations.

In addition to the investigative laxity regarding Ms. Mills, I am also concerned by new information produced to the Committee on June 23, 2000, that indicates that the Justice Department was told about the Vice President's e-mail problems in early 1999. In a draft May 3, 1999, memorandum to Virginia Apuzzo, Assistant to the President, the Associate Director of the Information Systems and Technology section of the White House Office of Administration states: "Department of Justice was notified by the Office of Administration, General Counsel about the loss of the Vice President's E-mail files." As I have pointed out before, the Justice Department has a serious conflict. Not only are you investigating your own political party's candidate for the presidency, you are investigating your own lawyers. Many questions naturally follow this new revelation. For example:

- Did your subordinates notify the Task Force?
- Did your subordinates have an ethical responsibility to notify Congress?
- Did your subordinates notify the Independent Counsels?
- Should your subordinates have relied on attorney-client privilege as a rationale for not informing the Campaign Financing Task Force, Congress, or independent counsels about the failure to search e-mail records at the White House, is the crime-fraud exception to the attorney-client privilege implicated?
- Did your own subordinates work to keep this matter from public prominence, which in turn would have had a negative impact on civil litigation?
- Now that you know about this matter, do you feel personally comfortable in conducting this investigation, given the centrality of this issue to your own political party's candidate for the presidency?
- Given the reality that any practical decisions made regarding how to proceed with this investigation will necessarily involve a trade-off between moving forward vigorously now to preserve evidence and testimony, and leaving the matter until after the presidential election, should you be in charge of making that decision?

These are important questions, and your approach to answering them will be of great consequence to the success – or continued failure – of the e-mail investigation.

In short, the failure to move swiftly on the e-mail matter, and the failure to follow significant factual developments, can only be seen as an extension of failures in the campaign finance investigation. If you don't ask questions, and if you don't subpoena documents, you don't get answers to questions. Even if you have excuses for why the Justice Department prosecutors did not interview witnesses in a timely fashion, you cannot successfully explain away the appearance that something is wrong. Furthermore, it should be a personal embarrassment for you to have to rely on such flimsy excuses. Just as with the failure to ask the Vice President about the Hsi Lai Temple event until

April of 2000, it is not reassuring to see the same pattern of inattention to detail in the e-mail case.

Now that you have elected not to appoint a special counsel to investigate the e-mail matter, it is my fervent hope that you will at least request your subordinates to move with more dispatch. I have frequently heard you say that you will go wherever evidence takes you. The surest way to guarantee inactivity, however, is to refrain from collecting evidence. While I am aware that your lawyers have talked to some individuals, they have been far from diligent. Indeed, just two days ago, a witness with significant probative information informed the Committee that he had not been interviewed by the Justice Department. Therefore, I request, in the strongest terms possible, that you order your staff to commence a serious investigation of possible obstruction of justice and intimidation.

Sincerely,

Dan Burton
Chairman

cc: The Honorable Henry A. Waxman
United States District Judge Royce C. Lamberth
Louis Freeh, Director of the Federal Bureau of Investigation
Independent Counsel Robert Ray
Independent Counsel Ralph Lancaster
Independent Counsel Donald Smaltz
Independent Counsel David Barrett
Independent Counsel Carol Elder Bruce
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ONE HUNDRED SIXTH CONGRESS

Congress of the United States

House of Representatives

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BERNARD SANDERS, VERMONT,
INDEPENDENT

June 28, 2000

Mr. John M. Bray
King & Spalding
1730 Pennsylvania Avenue, NW
Washington, DC 20006-4706

Dear Mr. Bray:

Thank you for making your client, Joe Vasta, available for yesterday's interview. I am writing to follow-up on documents referenced by Mr. Vasta during the interview.

First, please provide the notes taken by Mr. Vasta during his August 28, 1998, meeting that included John Spriggs. Second, please provide the memorandum written by Mr. Vasta that summarized both the August 28, 1998, meeting and his September 3, 1998, meeting that included Steve Hawkins. Third, please provide a copy of the minutes from the November 16, 1998, meeting referenced in Exhibit 103 (attached). Finally, please provide any and all documents related to the Office of Administration (OA) performance evaluations of Northrop Grumman (NG) for 1998 to present, including but not limited to, performance evaluations, award fee determinations, COTR evaluations, and/or related correspondence between OA and NG.

Thank you for your continuing assistance. If you have any questions, please call me at (202) 225-5074.

Sincerely,

James C. Wilson
Chief Counsel

Attachment (2 pages)

THE WHITE HOUSE
WASHINGTON

June 29, 2000

VIA FACSIMILE

James C. Wilson
Chief Counsel
Committee on Government Reform
U.S. House of Representatives
2157 Rayburn House Office Bldg.
Washington, DC 20515

Dear Mr. Wilson:

Beth Nolan has asked me to respond to your letter of June 28, 2000, concerning notes that your letter indicates John Spriggs, a Northrop Grumman employee, received from Joseph Vasta, a Northrop Grumman Program Manager.

We are still in the process of making inquiries regarding these notes. We will respond to you more fully next week.

Please feel free to contact me at (202) 456-7594 if I may be of assistance.

Sincerely,

Edward R. McNicholas
Associate Counsel to the President

cc: Ken Ballen, Minority Chief Investigative Counsel

THE WHITE HOUSE
WASHINGTON

June 29, 2000

James C. Wilson
Chief Counsel
Committee on Government Reform
U.S. House of Representatives
2157 Rayburn House Office Bldg.
Washington, DC 20515

Ken Ballen
Minority Chief Investigative Counsel
Committee on Government Reform
U.S. House of Representatives
511 Ford House Office Bldg.
Washington, DC 20575

Dear Gentlemen:

As part of our efforts to provide your Committee with information about our e-mail restoration efforts, enclosed please find a pleading recently filed in the Alexander v. FBI matter. This pleading includes the declarations of Chief Warrant Officer Five Terrence J. Misich, Project Manager for the Tape Restoration Project, and Mr. Gregory A. Ekberg, Vistronix, Inc., Project Manager.

Please let me know I may be of further assistance to you.

Sincerely,

Edward R. McNicholas
Associate Counsel to the President

THE WHITE HOUSE
WASHINGTON

July 3, 2000

HAND-DELIVERED

James C. Wilson, Esq.
Chief Counsel
Committee on Government Reform
United States House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Jim:

Enclosed please find additional responsive documents relating to the Committee's e-mail investigation. The documents bear control numbers E 6531 – E 7632.

If you have any questions about these matters, please feel free to call me.

Sincerely,

Steven F. Reich
Senior Associate Counsel to the President

Enclosures
cc: Campaign Financing Task Force (w/ encs.)
Office of Independent Counsel Robert Ray (w/ encs.)
House Government Reform Committee, Minority Staff (w/ encs.)

THE WHITE HOUSE
WASHINGTON

July 6, 2000

James C. Wilson
Chief Counsel
Committee on Government Reform
U.S. House of Representatives
2157 Rayburn House Office Bldg.
Washington, DC 20515

Dear Mr. Wilson:

This letter further responds to your letter of June 28, 2000, concerning notes that you indicate were taken at an August 28, 1998, meeting by Joseph Vasta, a Northrop Grumman Program Manager.

A prior directive to all EOP staff in March of this year required them to search for and provide:

> All records relating to the discovery, diagnosis, planned, implemented, or partially implemented solutions to problems associated with the Automatic Records Management System (ARMS) process and the failure to collect e-mail messages (also known as "Project X" or "Mail2 reconstruction project") from Executive Office of the President ("EOP") mail servers . . . .

Based on this search directive and recent inquiries, we have not been able to determine that the EOP ever had possession of any such notes. As a result, you may wish to contact counsel for Northrop Grumman about this matter.

Sincerely,

E/R McN

Edward R. McNicholas
Associate Counsel to the President

cc: Ken Ballen, Minority Chief Investigative Counsel

07/06/00 09:22

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BERNARD SANDERS, VERMONT,
INDEPENDENT

July 12, 2000

The Honorable Janet Reno
Attorney General
United States Department of Justice
Washington, D.C. 20530

The Honorable Beth Nolan, Esq.
Counsel to the President
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500

RE: Appointment of a Special Master to Supervise Production of E-Mails Under Subpoena

Dear Madam Attorney General and Counsel to the President Nolan:

I write to suggest that you support the appointment of a Special Master to supervise production of e-mail communications currently under subpoena.

As you are aware, the White House not only failed to produce information contained in e-mail communications, it also failed to notify all interested parties that there was a universe of documents that was not even being searched for responsiveness to subpoenas from Congress, Independent Counsels, and the *Alexander* plaintiffs. As you are also aware, the Department of Justice is currently on both sides of the same case – it is appearing in court to represent the White House, and it is conducting a criminal investigation of intimidation and obstruction of justice in the e-mail matter. At the very minimum, this presents a significant conflict of interest.

Of greater importance, however, is the fact that the White House has made representations in federal district court and before Congress that do not appear to be accurate. The Committee is concerned by the inability of the White House to adhere to its representation that copying of the first batch of backup tapes was to begin in June of 2000. This representation was provided to a federal district court judge on June 2, 2000, and it was provided to this Committee by the Counsel to the President at a March 30,

2000, hearing. Although the White House has failed to apprise Congress of the status of the e-mail reconstruction project -- notwithstanding a realistic expectation, based on assurances by the White House, that some documents would have been produced by now -- it appears that there is a significant delay in the reconstruction process. Of particular concern to this Committee is that, just as the White House failed to notify the Committee in 1998 of its inability to search for documents responsive to subpoenas, the White House has also failed to communicate to Congress the present status of the e-mail reconstruction project. There can be little doubt that, as the Administration's days grow shorter, the White House's enthusiasm for completing this project will also wane. Accordingly, this Committee has no confidence that the White House will satisfy its obligations to produce information in a timely fashion. Furthermore, there is little confidence that even if the reconstruction is completed in the near future, there will be good faith compliance with the various outstanding document requests.

For these reasons, I request that you support the appointment of a Special Master to oversee production of documents to Congress, Independent Counsels, and the *Alexander* plaintiffs.

Sincerely,



Dan Burton
Chairman

cc: The Honorable Henry A. Waxman
The Honorable Royce C. Lamberth

THE WHITE HOUSE
WASHINGTON

July 14, 2000

BY HAND

James Wilson, Chief Counsel
Committee on Government Reform
2157 Rayburn House Office Building
Washington, DC 20515-6143

Dear Mr. Wilson:

I enclose an initial production of documents responsive to the Committee's subpoena for e-mail records related to the burial waivers for Ambassador Larry Lawrence and Surgeon General C. Everett Koop. The records bear control numbers E 7633-50.

Pursuant to our discussions, we conducted a keyword search of e-mail records in the ARMS system from the White House Office (WHO) and the Office of Vice President (OVP) for the time period January 1993 through June 1, 2000.[1] Consistent with our prior productions, we have not included in our production duplicative or publicly available materials, such as news articles, news analyses, press briefings, hearing transcripts, and press releases, unless the "Re:" or "Subject:" lines, or an attached e-mail, contains non-public information.

To date, we have completed our review of the OVP e-mail records and are in the process of completing our review of WHO e-mail records. With the exception of duplicative and publicly available materials, our production today comprises the responsive materials we have located thus far. We anticipate completing our review and making a final production by Wednesday of next week.

If you have any questions, please call me at 202-456-5814.

Sincerely,

Dimitri L. Nionakis
Associate Counsel to the President

Enclosures
Cc: Beth Nolan, Counsel to the President (w/o enclosures)
Ken Ballen, Chief Minority Investigative Counsel

[1] The search was limited to the ARMS system, and therefore encompassed only those records available on ARMS.

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United States General Accounting Office
Washington, DC 20548

Accounting and Information
Management Division

July 17, 2000

The Honorable Dan Burton
Chairman, Committee on Government Reform
House of Representatives

Subject: Review of Missing White House Emails

Dear Mr. Chairman:

Concerning your letter of May 25, 2000, to the Comptroller General requesting a GAO study of the facts surrounding missing White House emails, we have met with your staff to gain a further understanding of your needs.

Due to issues concerning the availability of key data, we need to proceed with a separate design phase. The purpose of this statement of intent is to set forth the study objectives and provide you with a completion date for the design phase. First, will develop a chronology of the email malfunction to include

- a description of White House actions taken in discovering and repairing the malfunction, and recovering the missing emails;
- identification of officials and contractors responsible for maintaining the system and correcting the malfunction, and
- whether government officials were properly notified when the malfunction was discovered.

Second, we will compare the current cost to repair the system and recover lost messages with an estimate of what the cost would have been if repair and recovery efforts had been initiated at the time the malfunction was first discovered.

The design phase will be completed by August 25, 2000. We will remain in contact with your staff, and at the end of the design phase, we will provide you with a projected completion date for the total study. If you should have questions, you may contact me or Linda Koontz, Associate Director, on (202)512-6240.

Sincerely yours,

Linda D Koontz
for Jack L. Brock
Director, Governmentwide and Defense
Information Systems Issues

THE WHITE HOUSE
WASHINGTON

July 19, 2000

HAND-DELIVERED

James C. Wilson, Esq.
Chief Counsel
Committee on Government Reform
United States House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Jim:

Enclosed please find additional responsive documents relating to the OVP e-mail issue. The documents bear control numbers E 7651 – E 7975.

If you have any questions about these matters, please feel free to call me.

Sincerely,

Steven F. Reich
Senior Associate Counsel to the President

Enclosures
cc: House Government Reform Committee, Minority Staff (w/ encs.)

THE WHITE HOUSE
WASHINGTON

July 26, 2000

By Hand Delivery

The Honorable Dan Burton
Chairman, Committee on Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Burton:

I write as a follow-up to my public testimony and written statements to the Committee of March 23, 2000, March 30, 2000 and May 4, 2000, and to update you regarding electronic records management issues at the Executive Office of the President. We have learned of a computer software error that affected the National Security Council (NSC) classified computer system from June 1997 until August 1999. As a result of this error, a small percentage of e-mails on a random basis were not recorded by the NSC's classified Electronic Records Management Database (ERMS).

Enclosed with this letter is a memorandum from NSC Executive Secretary Robert A. Bradtke which provides a more detailed explanation of this issue. We are in the process of determining which document searches conducted by the NSC may have been affected by the error. In the meantime, please feel free to have your staff contact Associate Counsel to the President Lisa Klem at (202) 456-7804 with any questions.

Sincerely,

Beth Nolan
Counsel to the President

Enclosure

cc: The Honorable Henry A. Waxman
Ranking Minority Member

/00 FRI 16:42 FAX [redacted] 4742

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20504
July 21, 2000

INFORMATION

MEMORANDUM FOR BETH NOLAN

FROM: ROBERT A. BRADTKE

SUBJECT: NSC E-Mail

I have learned that because of a software problem, a very small number of e-mails from the time period June 1997 through August 1999 may not have been included in the classified database searched by the National Security Council (NSC) staff in response to document requests from your office. I was informed of this matter on June 30, 2000, and have tried since then to gather as much information as I can about the nature of the problem.

I am advised that the NSC Systems staff estimates that approximately 60 e-mails per month over the 27-month period between June 1997 and August 1999 -- or roughly 1600 e-mails in all -- were not properly preserved and may not have been included in searches. During that same period, approximately 1,100,000 e-mails were preserved in the system. Therefore, we estimate that the software error affected only approximately 0.15 percent of NSC e-mails. The actual number is likely to be much lower, since many of the e-mails would have been preserved when they elicited a response or were forwarded to another recipient.

The NSC electronic mail system is a closed, classified system administered by the NSC Systems and Technical Planning office. Its users are NSC staff and a few other individuals within the White House complex, including the Vice President's national security staff, who work with the NSC on national security matters. The system stores e-mail notes as files in a records management database. NSC Records Management personnel conduct keyword searches of this records management database to respond to document requests.

The error was caused by a flaw in the exchange of e-mails between two software programs. When an e-mail is sent on the NSC system, it is converted to a file by the Exporter program.

A second program, the Electronic Records Management System or ERMS, retrieves the files for storage in the records management database. On some occasions, before this error was discovered, the ERMS program attempted to read a file before the Exporter program had finished converting it, and would read the file as empty and delete it. The error occurred on a totally random basis. We know the problem began no earlier than June 1997 because that is when the current NSC e-mail system (which includes the Exporter and ERMS software) was installed. Once the error was discovered, in August 1999, the Systems office immediately corrected it on a going forward basis. As part of the fix, the Systems office implemented a logging mechanism, which flags any reoccurrence of the problem so that it can be corrected. This logging mechanism has insured that the e-mails are no longer deleted, and has allowed us to estimate how many e-mails were not included in the records management database.

The NSC has backup tapes for the 27 months when this error remained undetected. So that our records can be as complete as possible, the NSC has begun the process of restoring those tapes. Restoration of the backup tapes is a time-consuming process, and we cannot be certain at this point that complete restoration will be possible. Our best estimate at this time is that this process will require three to five months.

DAN BURTON, INDIANA,
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ONE HUNDRED SIXTH CONGRESS

Congress of the United States

House of Representatives

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BERNARD SANDERS, VERMONT,
INDEPENDENT

July 26, 2000

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

Dear Ms. Nolan:

Two weeks ago, I wrote to you urging that you support the appointment by Judge Lamberth of a special master to supervise the production of documents from unrecorded e-mails from the White House ARMS system. I made this request because, at that time, none of the tapes containing the e-mails had been copied, much less restored. I hoped that my request might prompt you -- or the Attorney General -- to take action at this late date to solve the numerous problems of delay associated with the e-mail scandal. However, based on the testimony of Gregory Ekberg at a July 14, 2000, evidentiary hearing in the *Alexander v. FBI* law suit, it is now obvious to me that the White House has failed to expedite the production of subpoenaed documents to the Committee. I also must conclude that you have not made good faith efforts to live up to your assurances to keep this Committee informed of relevant information concerning e-mail restoration, or to begin copying the tapes in a timely manner.

As you are aware, Mr. Ekberg, Project Manager for Vistronix, Inc., was hired by the White House independently to verify and validate the e-mail reconstruction effort. On Friday, July 14, 2000, under direct questioning from Judge Lamberth, Mr. Ekberg testified that no one at the White House had ever told him of the Judge's order to produce the e-mail more expeditiously than the original White House plan of 170 days. Mr. Ekberg further testified that the White House had set the goal of "the end of the year" to finish the copying phase alone. Obviously, such a timetable pushes the production of all potentially responsive e-mail well into 2001, after the Clinton Administration has ceased to exist. This is unacceptable. By setting such "goals," the White House has clearly demonstrated its utter disregard for both the legislative and judicial branches of the federal government.[1] The White House reconstruction schedule, in my opinion, is a slap in the face of both Congress and the U.S. District Court.

[1] Such disregard is also evidenced from the testimony of July 17, 2000, which suggests that the White House might have known of the inadequacy of even the 170-day timetable you offered in testimony to this Committee on May 4, 2000. We will be exploring this issue over the next few weeks.

The new delays in copying and reconstruction caused by inadequate hardware and software may be very frustrating to you. But the explanations given in court by Mr. Ekberg and others for the delay are less understandable in the context of this administration and this scandal. These new delays are not surprising and seem very convenient -- especially given that the copying process began on the very day of the evidentiary hearing called by Judge Lamberth. It is telling that the copying of the tapes began only after the Judge called the White House's rationale for not having copied a single tape "preposterous."

Whether or not the new delays are legitimate, at the very least, you should have kept this Committee apprised of the situation as you assured us you would. We should not have had to learn of the new problems in copying and reconstruction through testimony in U.S. District Court. I will be watching the upcoming obstruction of justice hearing ordered by Judge Lamberth with great interest. I sincerely hope that we do not have to learn more important details of the e-mail scandal that were not divulged to the Committee when they should have been.

Although it has become commonplace, it is still disturbing to witness the contempt for the legal process shown by this administration. The pattern of deception and obfuscation will seemingly only end when this administration ends.

Sincerely,

Dan Burton

Dan Burton
Chairman

cc: Ranking Minority Member Henry Waxman
Attorney General Janet Reno
Independent Counsel Robert Ray
Campaign Financing Task Force Supervising Attorney Robert Conrad
Judge Royce C. Lamberth

THE WHITE HOUSE
WASHINGTON

July 31, 2000

HAND-DELIVERED

James C. Wilson, Esq.
Chief Counsel
Committee on Government Reform
United States House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Jim:

Enclosed please find additional responsive documents relating to the Committee's e-mail investigation. The documents bear control numbers E 8021 – E 8148.

If you have any questions about these matters, please feel free to call me.

Sincerely,

Steven F. Reich
Senior Associate Counsel to the President

Enclosures
cc: Campaign Financing Task Force (w/ encs.)
Office of Independent Counsel Robert Ray (w/ encs.)
House Government Reform Committee, Minority Staff (w/ encs.)

THE WHITE HOUSE
WASHINGTON

August 7, 2000

VIA FACSIMILE
VIA U.S. MAIL

The Honorable Dan Burton
Chairman, Committee on Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Burton:

This responds to your letter to me dated July 26, 2000.

I first want to address your contention that the White House has failed to update the Committee with relevant information about the e-mail restoration project. I initially apprised the Committee of the details of the Mail2 and Letter D errors in my March 17, 2000 letter to you. That same letter also informed you that, in the course of gathering facts concerning the Mail2 and Letter D errors, we had learned that e-mail on the server of the Office of the Vice President (OVP) had not been fully ARMS-managed. Shortly thereafter, on March 23, 2000, I submitted a written statement in anticipation of my appearance before the Committee that expanded on those matters and provided the Committee with updated information. However, the Committee chose to postpone my testimony for a week. When I appeared a week later, I provided the Committee with yet more information learned in the week since the submission of my written statement. And, during my second appearance before the Committee on May 4, 2000, I again testified and provided the Committee with information about issues related to these subjects.

Since my last appearance, we have provided the Committee with three updates regarding the EOP tape restoration project and records management issues. The first, on June 7, 2000, provided a detailed look at issues regarding the OVP e-mail system, including a discussion of the electronic records management practices followed by that office. The second, on June 29, 2000, forwarded a copy of an EOP brief responding to discovery requests by the plaintiffs in the Alexander litigation. Appended to the brief were the declarations of Chief Warrant Officer Five Terrence J. Misich, Project Manager for the EOP e-mail restoration project, and Gregory A. Ekberg, Project Manager for the independent validation and verification (IV&V) being

conducted by Vistronix, Inc. The letter covering those documents made clear that they had been forwarded "[a]s part of our efforts to provide your Committee with information about our e-mail restoration efforts."

The EOP brief and the Ekberg Declaration, upon which the brief heavily relied, set forth details about the status of the EOP tape restoration project and the role of Vistronix, Inc. in providing independent validation and verification of the processes being employed by the EOP. Both of these documents clearly explained that no reliable end-date for the project was available as of that time, June 2, 2000, due to unresolved technical issues and the possibility of equipment failures. (See EOP's Response to Plaintiff's Supplemental Brief Regarding Non-Records Managed E-mail and Other Computer Documents ["EOP brief"] at pages 3, 15; Ekberg Declaration at ¶ 12.) In that regard, the opening statement of the EOP brief specifically referenced the fact that "the restoration project [was] still in too early an evolutionary stage for the IV&V team (or anyone else) to meaningfully estimate a project completion time" (EOP brief at page 3.)

Similarly, Mr. Ekberg in his declaration stated that it was "not [then] possible to provide a meaningful estimate of the time to project completion" and that "[t]here remain a number of as yet unresolved technical issues with the project, and other unknowns, such as the extent to which equipment breakdowns will occur, that can impact the time to completion." (Ekberg Declaration at ¶ 12.) Mr. Ekberg further stated that, "once a number of significant unresolved project planning and other technical issues have been more fully addressed, the IV&V team will be in a position to provide an estimate of a date by which data will start to become available, on a rolling basis, for searching." (Id. at ¶ 13.) Although Mr. Ekberg reported that the then-current goal was "to complete testing and have the production capability ready to begin copying the first identified batch of tapes by mid-to-late June 2000" he also indicated that "a number of technical issues could require that this date be revised." (Id. at ¶ 20.) Finally, Mr. Ekberg also explained that depending on the forensic requirements of investigative authorities, "the data extraction process could become more technically complex and time-consuming, making it difficult to predict how quickly the process will proceed." (Id. at ¶ 23.) The EOP brief and Mr. Ekberg's declaration made amply clear that any estimated dates relating to tape copying or data searching were tentative at best.

In light of this information, I am hard-pressed to understand your claims that we have failed to make good faith efforts to keep the Committee apprised of relevant information about e-mail restoration. Moreover, your suggestion that "the White House might have known of the inadequacy of even the 170-day timetable" set forth in my testimony before the Committee is puzzling. As an initial matter, you have incorrectly stated the date on which I gave testimony about the 170-day timetable: it was on March 30, 2000 -- two months prior to the submission of the Ekberg Declaration in the Alexander litigation -- and not on May 4, 2000, as your letter

states. At the time I gave testimony on that subject, the raw nature of the proffered timetable was clearly communicated to the Committee. I testified in relevant part as follows:

> . . . I want to emphasize that my testimony today is based on my current understanding of the information that we have gathered in the course of our initial review. As our review progresses to completion, **we will likely uncover information that alters or amends these preliminary conclusions.**
>
> * * *
>
> . . . The contractor's **preliminary estimate – and I want to emphasize preliminary because these estimates are subject to amendment as the process proceeds and the contractor learns new information – the preliminary estimate** suggests that the requisite equipment and other resources for the project will be in place, tested, and ready to go in approximately 70 days. We anticipate conducting the restoration in batches so that we can have a rolling production. The contractor estimates that this part will be completed in about 170 days from the beginning of the project. In other words, **if . . . these initial estimates hold up**, we could have the back-up tapes searched within 6 months.

(Transcript of 3/30/00 at pages 25-26) (emphasis added). My March 30, 2000 testimony was very clear that the EOP contractor's 170-day estimate was based on preliminary information and was likely subject to change. As noted above, that a change in circumstances had occurred was made clear in the EOP brief and Ekberg Declaration which were provided for the very purpose of updating the Committee about the e-mail restoration efforts.[1]

A third update was given to the Committee in my recent letter dated July 26, 2000, which set forth information relating to the National Security Counsel (NSC) classified e-mail system. Enclosed with my letter was a NSC memorandum describing the issue in detail. This information was again forwarded as part of our effort to keep the Committee informed of relevant developments.

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[1] By way of further update, I am advised that, as of the writing of the instant letter, the EOP has now copied 85 backup tapes, 57 of which have been verified as being byte by byte copies. Permission to copy using the RAIDirector duplication system was obtained from the Office of Independent Counsel Robert Ray and the Federal Bureau of Investigation on July 13, 2000. Copying began that same day and, since July 19, 2000, has been accomplished on a 24 hour-a-day, 5 day-per-week schedule.

In light of this record, I trust you will agree that we have in good faith advised the Committee of significant developments in the e-mail restoration project. I can only assume that the overheated rhetoric of your letter was predicated on your misunderstanding of this extensive record.

In sum, the EOP e-mail restoration project has proven to be time-consuming and complex. The EOP has endeavored to ensure that the project proceeds expeditiously. Yet, unanticipated requirements and technical issues have caused original timetables to shift. We have aimed to ensure that the Committee is kept abreast of key developments.

Sincerely,

Beth Nolan
Counsel to the President

cc: The Honorable Henry A. Waxman
Ranking Minority Member

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Congress of the United States

House of Representatives

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BERNARD SANDERS, VERMONT,
INDEPENDENT

August 17, 2000

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

Dear Ms. Nolan:

In my July 26, 2000, letter, I pointed out that the White House has failed to keep the Committee informed of the status of the e-mail restoration project. On August 7, 2000, you responded and took issue with my letter. Unfortunately, I believe we are communicating at cross-purposes. Therefore, let me be very clear as to why I was so concerned. The Committee on Government Reform issued subpoenas to the White House for information about a number of significant matters. For example:

- In 1997, we requested information pertaining to the campaign finance scandal.
- In 1997, we first requested information relating to Secretary of the Interior Bruce Babbitt's decision to reject a gaming permit in Hudson, Wisconsin.
- In 1999, we first requested information pertaining to the President's decision to pardon FALN terrorists.

Undeniably, Congress cannot complete its oversight responsibilities regarding those matters until you produce all information requested by the subpoenas issued by this Committee. Therefore, this Committee has a keen interest in the ongoing status of your e-mail restoration project.

As you recall, there was considerable speculation earlier this year that the White House had dealt with the document production problem discovered in 1998 in such a way that the White House would be unable to produce documents prior to the November 2000 election. I am aware that you reject allegations that the White House acted in a purposeful manner. Nevertheless, this is the practical result of your stewardship -- and your predecessor's stewardship -- of White House document production to Congress, courts and independent counsels. Decisions were made by White House officials that

have resulted in an inexcusable delay in the production of documents called for by Congressional, Justice Department, and independent counsel subpoenas.

This fact heightens my concern that you have acted in such a way to keep information about the e-mail reconstruction timetable a closely guarded secret. While it is true that you were cautious in your representations to this Committee about when the project would be completed, it is also true that you were clear in your belief that this administration would satisfy its document production obligations. This no longer appears to be true. As a result, I feel compelled to do two things: (1) respond in depth to your letter of August 7, 2000; and (2) ask for a comprehensive explanation of how production of the e-mails will proceed, in light of the new timetable that places production into the next administration.

In response to your August 7, 2000, letter, I begin by citing your predecessor. As Charles Ruff testified to this Committee on May 4, 2000: "This Committee has every obligation to inquire into the circumstances surrounding those events in order to determine, first, whether indeed there was any impropriety -- and I am firmly of the belief that there was none; second, to determine whether there's a systematic problem that needs to be corrected; and third, whether the White House is responding appropriately to the committee's concerns. I view all of those as entirely legitimate inquiries, and we're doing our best to try to respond to them."

I wrote the July 26, 2000, letter to you to express my frustration with the third area of legitimate inquiry outlined by your predecessor. And from your own statements to this Committee, I believed you would make good faith efforts to keep us informed of material changes to the e-mail reconstruction schedule. However, by your own admission, the White House has taken only one action to inform the Committee of the drastic delays in the restoration project—providing the Committee on June 29, 2000, with a pleading in the *Alexander* case.[1] Nonetheless, that pleading wholly failed to notify this Committee that your preliminary 170-day estimate was drastically off the mark.

As a threshold matter, I note that the pleading was filed on June 6, 2000, and is dated June 2, 2000. Apparently, it took you nearly a month to forward a copy of that pleading to this Committee. Second, the pleading itself was filed only in response to Judge Lamberth's order, dated, April 27, 2000, requiring the parties to brief him on material not capable of being word-searched on ARMS. In other words, as a contradictory motion, it did not represent an independent or voluntary effort by you to keep this Committee informed of the current status of the restoration project. Rather, it was intended to be, and was drafted as, an advocacy piece. Third, the references in the brief and declarations (which together form a document forty-one pages long)

[1] I have not taken issue with your updating the Committee on newly discovered records management anomalies subsequent to reports regarding the Mail2 problem. Accordingly, your disclosure of the OVP and NSC e-mail problems is not relevant to the concern I articulated in my July 26, 2000 letter. I must also note that the June 7, 2000, letter from your office that described the details of the OVP e-mail problem (including the more than one year of permanently deleted OVP e-mail) was sent to the Committee only after we sent a letter to you on May 16, 2000, requesting "all responsive records relating to the OVP's e-mail problem."

insufficiently notified the court, and the Committee, of a material change in representations you made to this Committee on March 30, 2000, regarding the copying timetable. The brief and the attached declarations were submitted "[t]o explain the EOP's efforts to make [the] batches of e-mail available for searching in the shortest possible time."[2] Those documents in no way indicated that your preliminary 170-day estimate was no longer operative.[3]

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[2] *See Alexander v. Federal Bureau if Investigation*, EOP's Response to Plaintiffs' Supplemental Brief Regarding Non-Records Managed E-Mail and Other Computer Documents, at p. 2-3. *See also Alexander v. Federal Bureau of Investigation*, Transcript of Emergency Evidentiary Hearing, July 17, 2000, at 128.

[3] As you likely know, this was an issue of particular concern to Judge Lamberth. During an evidentiary hearing on July 17, 2000, Judge Lamberth raised that concern with James Gilligan, of the Department of Justice.

THE COURT: And when [Ms. Nolan's] estimate changed, she never advised either Congress or this Court.

MR. GILLIGAN: Well, we advised the Court through Mr. Ekberg's declaration, Your Honor.

THE COURT: That all bets were off and you couldn't give any estimate.

MR. GILLIGAN: Well, we—

THE COURT: That's what he said.

MR. GILLIGAN: At that point—at that point, yes, because we were—

THE COURT: And Mr. Misich wouldn't estimate anything in his affidavit.

MR. GILLIGAN: At that point we had the RAIDirector. We were still looking at IM drive. I believe, although I'd have to check the record, people were looking into finding a substitute for IM drive—

THE COURT: So as of June 2nd, I should have understood that all bets were off, 170 days was out the window, and there's no time frame ever to be figured out till I had a hearing and started figuring it out?

MR. GILLIGAN: Well, Your Honor, we tried to communicate through Mr. Ekberg's declaration that at that moment … nobody could tell this Court, in all good faith, when the emails were going to be ready in a searchable database ….

THE COURT: But you didn't say anything about the 170 days was out the window and you knew it couldn't be met. That was left out.

MR. GILLIGAN: Your Honor, it was not our intention to omit that. We stated—we thought very—

THE COURT: You did omit it.

MR. GILLIGAN: We thought we stated very clearly in Mr. Ekberg's declaration that it was not possible at that time to estimate the completion of the copying process.

THE COURT: But it was possible at that time to tell me that all of your prior estimates were based on faulty information; that LINUX wouldn't work. You didn't tell me that, did you, on June 2nd.

MR. GILLIGAN: Your Honor, we did not attempt, in the time available to us, to go into excruciating levels of technical detail.

THE COURT: I'm sure you didn't.

MR GILLIGAN: But it was not a conscious omission, Your Honor—

THE COURT: How can you say that? … You decided to leave it out of what you told me.

MR. GILLIGAN: We decided, Your Honor, to describe the process that we were undergoing in general terms and to give the Court our best estimate of what we could do in order to make searchable emails available.

THE COURT: And not to admit that your prior estimate had turned out to be totally invalid because all of the information that it was based on was invalid. But you weren't going to admit that until it was drug out of you at this hearing?

MR. GILLIGAN: Your Honor, we thought we had admitted that in Mr. Ekberg's declaration. If we were—if we were inarticulate in describing the situation in Mr. Ekberg's declaration, we apologize to the Court. *See Alexander v. Federal Bureau of Investigation*, Transcript of Emergency Evidentiary Hearing, July 17, 2000, at 126, l.6 – 128, l.23.

Mr. Gilligan's conduct in this hearing, and in the entire *Alexander* case (for example, drafting and submitting Daniel A. Barry's apparently perjurious affidavit), continues to raise serious concerns about the Justice Department's handling of this matter. Indeed, the Justice Department's continued representation of

The documents you provided to the Committee also wholly failed to convey other information relevant to the restoration project. Contrary to your assertion that "[you] have aimed to ensure that the Committee is kept abreast of key developments," we learned the following information only by having attended Judge Lamberth's emergency evidentiary hearings in the *Alexander* case in July 2000:

- The original copying system apparently broke down during stress-testing, which required that EOP identify and propose another copying system. Therefore, additional time in copying the tapes was consumed by an examination by investigative bodies of the new system for "law enforcement compliance."

- In the interim, EOP neglected to copy even a *single* tape. As you know, Judge Lamberth regarded EOP's explanation for not having done so—even in the context of the system failure—as "preposterous."

- Although EOP began copying backup tapes on the first day of the hearings, it could not verify (and, to our knowledge, still has not verified) that any of the tapes were copied successfully.

- EOP intends to begin restoration of the OVP backup tapes first—not the approximately 3,400 tapes from the Mail2 server. As you will recall, on May 22, 2000, the Committee expressly requested that the OVP and Mail2 backup tapes be restored from January 1, 1996, through the present before processing of backup tapes made earlier than January 1, 1996.

- Chief Warrant Officer Terry Misich, Project Manager for the restoration project, will be leaving (or, by now, has left) the project. From your failure to bring this to my attention, I infer that Mr. Misich's departure will result in absolutely no delay in the restoration project.

Apparently, I failed to convey my concern sufficiently in my letter of July 26, 2000, so I will reiterate it here. This Committee expects to be informed of material changes in Congressional testimony in a timely, clear and forthright manner. Not doing so reflects a chronic failure to appreciate the Committee's legitimate exercise of its oversight jurisdiction.

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the White House in this matter creates an appearance that the Justice Department is complicit in the White House's failure to comply fully with subpoenas for information that is potentially injurious to political appointees and the Democratic Party. As I have maintained previously, the Department's conflict of interest requires the appointment of a special counsel to conduct the criminal investigation.

Given the foregoing, your assertion that you are "hard-pressed to understand" my concern is ridiculous and insulting. The fundamental reasons for Judge Lamberth to order the emergency evidentiary hearing on the issue of restoration of the e-mails also form the basis for this Committee's concern regarding the restoration project. It should hardly come as a surprise to you that I am concerned to learn from the newspapers and from court hearings that the White House may not fully comply with this Committee's subpoenas prior to this year's election.

Your response of August 7, 2000, has done nothing to alleviate that concern. In my letter of July 12, 2000, I urged you (and the Attorney General) to support the appointment of a special master to supervise the production of e-mails currently under subpoena. And, in my letter of July 26, 2000, I noted that, at the emergency evidentiary hearing in the *Alexander* case, Gregory Ekberg, Project Manager for the independent validation and verification ("IV&V") being conducted by Vistronix, Inc., testified that no one at the White House ever told him about Judge Lamberth's order to produce the e-mail more expediently than the original White House proposal of 170 days. In that same letter, I noted that Mr. Ekberg also testified that the White House had set as its goal completion of the copying phase alone by "the end of the year." However, in your response letter of August 7, 2000, you failed to address any of those outstanding issues. From your failure to refute Mr. Ekberg's testimony, I can only infer that the testimony is true and accurate and that you have no legitimate explanation for those additional delays.

As you know, I have long been concerned with the White House's response to this Committee's subpoenas. Your August 7, 2000, letter demonstrates that you are still more concerned with posturing and political advocacy than with ensuring that Congress is fully informed regarding the status of outstanding document requests. With this in mind, I request a thorough explanation of how the reconstruction and production of responsive e-mail will proceed under your new timetable, considering that fact that much of this activity may be taking place long after you and your staff have left the White House. Thank you for the opportunity to reiterate my concern.

Sincerely,

Dan Burton

Dan Burton
Chairman

cc: The Honorable Henry Waxman, Ranking Minority Member
The Honorable Judge Royce C. Lamberth (with attachments)

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BERNARD SANDERS, VERMONT,
INDEPENDENT

August 17, 2000

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

Dear Ms. Nolan,

We have received Mr. McNicholas' letter of July 6, 2000 and appreciate that, based on your March search directive and recent inquiries, you have been unable to determine whether the EOP ever possessed Joseph Vasta's August 28, 1998, handwritten notes that we requested.

In the course of our on-going investigation into the mismanagement of the White House's e-mail, the existence of additional records have come to the Committee's attention. Although many of these documents might not explicitly refer to the Mail2 problem, "Project X" or the reconstruction project *per se*, all of these records should be responsive to the Committee's subpoena of March 9, 2000. Accordingly, the Committee requests your assistance in producing these documents with ten (10) days of receipt of this letter. The documents are as follows:

1. A memorandum and/or e-mail from Kate Anderson, Assistant General Counsel to the Office of Administration, dated sometime between May through August 1998 in which she advocated Jim Wright's removal as the contracting officer's technical representative ("COTR") because he was "too close" to Steve Hawkins.

2. A memorandum and/or e-mail from Kate Anderson, dated sometime between May through October 1998, in which she suggested that no one at Office of Administration ("OA") meet with anyone at Northrop Grumman ("NG") about the facilities contract between the EOP and NG or about the e-mail problem unless someone from OA Counsel's Office or "Contracts" was present. We understand "someone from ... Contracts" to mean a "contracts specialist" or someone from the Administration Procurement Branch or Dale Helms.

3. A memorandum and/or e-mail from Joseph Vasta, former Deputy Program Manager at Northrop Grumman, dated sometime in September 1998, that summarized both his August 28, 1998 and September 3, 1998 meetings with the Northrop Grumman employees, including, Betty Lambuth, Robert Haas, John Spriggs, Sandra Golas, Yiman Salim and/or Steve Hawkins.

4. A page that was originally attached as a cover to Robert Haas' audit (Bates E 0009-81). That page has been described as being handwritten and as having set forth a description and/or tally of the information contained in the audit.

5. The Northrop Grumman base services contract with EOP, including, but not limited to, pricing, the statement of work, and any other agreements pertinent to the work performed.

6. The base contract with ECS for the current e-mail reconstruction project, including, but not limited to, pricing, the statement of work, and any other agreements pertinent to the work performed.

7. OA's evaluation of NG's performance on the EOP facilities contract for evaluation periods covering 1997-2000 and any attachments.

Thank you for your assistance in producing the documents we have requested timely. Please contact Committee Counsel, Pablo E. Carrillo, if you have any questions about this request.

Sincerely,

James C. Wilson
Chief Counsel

cc: Kenneth Ballen, Esq., Minority Chief Investigative Counsel

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BERNARD SANDERS, VERMONT,
INDEPENDENT

August 28, 2000

John M. Bray
King & Spalding
1730 Pennsylvania Avenue, N.W.
Washington, D.C. 20006-4706

Dear Mr. Bray:

Pursuant to the ongoing investigation into the White House e-mail matter, the Committee requests that you provide any of the following documents which may be in personal possession of any of the Northrop Grumman employees you represent.

- Please produce all records produced to the court in *Alexander v. FBI.*
- Please produce all records relating to the failure to records manage, archive, or back-up Office of the Vice President e-mail.
- Please produce all records relating to the discovery of, diagnosis of, or solutions (planned, implemented, or partially implemented) to problems associated with the Automated Records Management System and the failure to collect e-mail messages (also known as "Project X" or "Mail2 reconstruction project") from Executive Office of the President mail servers.

If you have any questions about this request, please call me.

Sincerely,

James C. Wilson
Chief Counsel

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BERNARD SANDERS, VERMONT,
INDEPENDENT

August 28, 2000

Robert Ray, Esq.
Office of Independent Counsel
1001 Pennsylvania Avenue, NW
Suite 490 North
Washington, D.C. 20004

Dear Mr. Ray:

Please provide the Committee with copies of all correspondence between your office and either Daniel A. Barry or Mr. Barry's attorneys. A response to this request would be appreciated by or on August 30, 2000.

Sincerely,

James C. Wilson
Chief Counsel

cc: Kenneth Ballen, Esq.

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INDEPENDENT

August 28, 2000

Robert J. Conrad, Esq.
Campaign Finance Task Force
Department of Justice
5432 Bond Building
1400 New York Avenue, N.W.
Washington, D.C. 20530

Dear Mr. Conrad:

Please provide the Committee with copies of all correspondence between your office and either Daniel A. Barry or Mr. Barry's attorneys. A response to this request would be appreciated by or on August 30, 2000.

Sincerely,

James C. Wilson
Chief Counsel

cc: Kenneth Ballen, Esq.

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INDEPENDENT

August 29, 2000

Joseph Costello, Esq.
Vice President and Deputy General Counsel
Northrop Grumman Corporation
1840 Century Park East
Los Angeles, CA 90067

Dear Mr. Costello:

Pursuant to the Committee's ongoing investigation into the White House e-mail matter and the Committee's previous subpoena to Northrop Grumman, please produce the following records.

- All records that have been provided to the court in *Alexander v. FBI*. This includes all materials bates numbered above NGL 00608. Of special concern is NGL 00795, a handwritten document referencing an instruction to avoid making any notes regarding the Mail2 problem. If documents are produced pursuant to *Alexander* in the future, please provide them to the Committee.

- All records related to the failure of the Office of the Vice President to back-up e-mail, records manage e-mail, or archive e-mail (by any method, including but not limited to the Automated Records Management System).

- All performance evaluations of Northrop Grumman on the facilities contract prepared by Executive Office of the President personnel from 1997 to the present.

If you have any questions on this matter, please contact me at (202) 225-5074.

Sincerely,

James C. Wilson
Chief Counsel

cc: Kenneth Ballen, Esq.

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RICHARD J. OPARIL

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PHONE (202) 861-6257

August 30, 2000

By Hand

James C. Wilson, Esq.
Chief Counsel
Committee on Government Reform
House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Re: *White House E-Mail/Northrop Grumman*

Dear Mr. Wilson:

We are counsel for Northrop Grumman Corporation in this matter. In response to your August 29, 2000 letter to Mr. Costello, attached are documents produced by the company in the *Alexander* action. Please note that this material does not duplicate that which was previously provided to the Committee.

With respect to item two, we believe that we previously searched for responsive documents. We will attempt to confirm that by next week.

The company will also search for performance evaluations and will attempt provide the Committee with any material found by next week.

Please call me if you have any questions.

Very truly yours,

Richard J. Oparil

Enclosures

cc: James Costello, Esq. (by fax, w/o encl.)

THE WHITE HOUSE
WASHINGTON

August 31, 2000

BY FACSIMILE

James Wilson, Esq.
Majority Chief Counsel
Committee on Government Reform
2157 Rayburn
Washington, D. C. 20515

Dear Mr. Wilson:

Attached is a memorandum dated today from Alberto Feraren of Northrop Grumman to Daniel Barry of the EOP regarding a recently-discovered anomaly with the ARMS system. We will provide additional information when it becomes available.[1]

If you have any questions, please feel free to contact me at (202) 456-5073.

Sincerely,

Lisa J. Klem
Associate Counsel to the President

Attachment
cc: Ken Ballen, Esq.

NORTHROP GRUMMAN

EOPNG-00-0297

To: Daniel Barry
COTR

From: Alberto Feraren
Acting Program Manager

Date: August 31, 2000

Subject: Invalid Messages on VAX/ARMS Cluster

A problem was discovered on the Lotus Notes/ARMS Multi-Host interface invalidating messages uploaded to the EOP VAX/ARMS cluster since May 4, 2000. The problem was discovered at 6:30AM August 29, 2000. Approximately 56,546 messages (2%) of the total message population have mismatched headers and body formats. Because the messages created by the mismatch cannot be distinguished from messages properly processed by the ARMS system, the population of messages in the EOP ARMS system processed since May 4, 2000 is invalid. Integration and migration of the Lotus Notes/ARMS Multi-Host interface from a test environment to production caused an incompatibility between the Lotus Notes/ARMS Multi-Host interface design code and the VAX/ARMS cluster. The Lotus Notes/ARMS Multi-Host interface was implemented on May 4, 2000.

The problem was discovered by Ms. Sandra Golas (Logicon) when performing routine system administration on the VAX ARMS cluster at 6:30AM, August 29, 2000. When checking for errors in the logs from one of the programs, Ms. Golas observed an entry stating "Illegal file name". Further investigation of the log entry revealed the cause to be duplicate file names in a tree of directories. Ms. Golas notified Mr. John Spriggs, the email integrator and Ms. Yiman Salim, the Lotus Notes ARMS interface developer, of the duplication. All three engineers (Golas, Spriggs, and Salim) proceeded to further investigate and trace the cause of the duplication.

The initial investigation to the cause of the problem was traced to the integration and migration of the Lotus Notes/ARMS Multi-Host interface from a test environment into a production environment. The EOP Lotus Notes/ARMS Multi-Host interface was tested, verified and validated in April, 2000 using a specific configuration designed to allow two NT hosts to process Lotus Notes formatted messages into one Network File System (NFS) mounted directory on the VAX/VMS ARMS cluster. The directory structure of the VAX/VMS cluster was configured with a multiple directory structure operating in a round-robin fashion. It is this difference between the directory structure of the VAX/VMS cluster in a production environment and a test environment that caused the problem with the Lotus Notes/ARMS Multi-Host interface.

A more detailed description of the problem, remedial action and any further findings will be provided to the government in a subsequent memo.

THE WHITE HOUSE
WASHINGTON

August 31, 2000

James C. Wilson, Esq.
Chief Counsel
Committee on Government Reform
United States House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Jim:

Enclosed please find an additional responsive document relating to the OVP e-mail issue. The document bears control numbers E 8689–E 8693.

If you have any questions, please feel free to call me.

Sincerely,

Steven F. Reich
Senior Associate Counsel to the President

Enclosure
cc: Campaign Financing Task Force (w/ enc.)
Office of Independent Counsel Robert Ray (w/ enc.)
House Government Reform Committee, Minority Staff (w/ enc.)

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BERNARD SANDERS, VERMONT,
INDEPENDENT

September 1, 2000

Steven F. Reich, Esq.
Senior Associate Counsel to the President
The White House
Washington, D.C. 20500

Dear Mr. Reich:

I am writing in response to your letter of August 31, 2000, in which you stated that you were not able to locate any records responsive to the Committee's subpoena of July 28, 2000. Given the fact that the Vice President referred to the subpoenaed record on his television appearance, I am surprised that the White House has not located any document responsive to the Committee's request. Please inform the Committee whether such a record ever existed, and if so, why it no longer exists. Please respond by Thursday, September 7, 2000.

Sincerely,

James C. Wilson
Chief Counsel

GAO
Accountability * Integrity * Reliability

United States General Accounting Office
Washington, DC 20548

Office of Congressional Relations

September 1, 2000

The Honorable Dan Burton
Chairman, Committee on Government Reform
House of Representatives

Dear Mr. Chairman:

We have received your letter dated August 22, 2000, requesting that the General Accounting Office's review of the White House e-mail system assess whether provisions for backup, retention, and storage for the Office of the Vice President's e-mail server are in accordance with applicable laws, regulations, and accepted industry practices.

We have forwarded your letter to our Accounting and Information Management Division. Mr. Joel C. Willemssen or Ms. Linda D. Koontz or their staff from that Office will contact Mr. Pablo E. Carrillo, Esq., to discuss this matter further.

Sincerely yours,

Jerry C. Skelly
Legislative Advisor

cc: The Honorable Henry A. Waxman
Ranking Minority Member

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BERNARD SANDERS, VERMONT,
INDEPENDENT

September 5, 2000

Joseph Costello, Esq.
Vice President and Deputy General Counsel
Northrop Grumman Corporation
1840 Century Park East
Los Angeles, CA 90067

Dear Mr. Costello:

Thank you for your extremely prompt response to the Committee request for documents. I appreciate your having provided this information on the same day that you received our request.

Please identify the author of document NGL 00795.

Sincerely,

James C. Wilson
Chief Counsel

cc: Kenneth Ballen, Esq.

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BERNARD SANDERS, VERMONT,
INDEPENDENT

September 7, 2000

The Honorable Janet Reno
Attorney General
United States Department of Justice
Washington, D.C. 20530

Dear General Reno:

I wrote to you on June 28, 2000, to express my concern over the slow pace of the Campaign Financing Task Force's criminal investigation of the White House e-mail matter. In my letter, I included a list of significant witnesses who had not yet been interviewed at that time. Now, over two months later, the Committee has learned that there has been very little progress made in the investigation. The following list gives the names of witnesses and the date the Committee learned that they had yet to be interviewed by the Justice Department:

John Podesta	September 5, 2000
Dorothy Cleal	September 1, 2000
Adam Greenstone	August 31, 2000
Joe Kouba	August 31, 2000
Joe Vasta	August 30, 2000
Jim DeWire	August 30, 2000
Christina VanFossan	August 30, 2000
Michelle Peterson	August 28, 2000
Mark Lindsay	August 23, 2000

Comparing this list to the list we provided in June, we are aware of only two people -- Nell Doering and Virginia Apuzzo -- who have been interviewed by the Justice Department. And of these two witnesses, Ms. Apuzzo was interviewed only last week on August 30, 2000. Furthermore, the actual number of witnesses who have not been interviewed is probably much greater, in that the above list is not a total list, and it omits individuals who refused to volunteer whether or not they had been contacted for an interview.

It has now been nearly six months since the Justice Department announced it was launching a criminal investigation in the e-mail matter. I am astonished that the Justice Department has not interviewed Mark Lindsay or Michelle Peterson -- perhaps two of the

most important witnesses at the center of this controversy. As you may recall, Ms. Peterson was the Associate Counsel to the President who conducted the comparison test that the White House Counsel's Office claims provided the assurance that there was no problem with searches for e-mails under subpoena. Mark Lindsay, as you are aware, just two weeks ago testified in federal court that an affidavit on the e-mail matter prepared by Justice Department lawyers was false.

The failure to interview these significant witnesses is even more troubling given the recent announcement by the Justice Department that Daniel A. "Tony" Barry had been given a letter assuring him that he is not a target in the e-mail investigation. After Mr. Barry was officially determined not to be a target of the investigation, Mark Lindsay testified to Judge Lamberth that paragraph four of the July 9, 1999, affidavit Mr. Barry submitted to the court in the *Alexander v. FBI* case was not true. As you know, the Committee submitted to you a criminal referral on Mr. Barry based on paragraph four of his July 9, 1999, affidavit. The admission by a high-ranking official in the White House that Mr. Barry's affidavit is not true should be of great concern to you. Apparently the "no target" letter sent by your Justice Department gave the White House comfort finally to admit what was obvious to me, Judge Lamberth and others. To wit, a White House employee, aided and counseled by Justice Department lawyers, submitted a false affidavit to a federal court that concealed the failure of the White House to search for all e-mails responsive to subpoenas.

Mr. Lindsay's testimony comes hard on the heels of Independent Counsel reports that Anthony Marceca and Secretary of the Interior Bruce Babbitt lied to Congress. From my perspective, a major problem with sending Mr. Barry a "no target" letter is that his affidavit was prepared by Justice Department lawyers more sophisticated in the law than he. In essence, Justice Department lawyers are giving other Justice Department lawyers -- who should bear some culpability for the affidavit they helped draft -- a clean bill of health. This takes the conflict of interest inherent in the Department's investigation of the e-mail scandal to a new, unprecedented level. Another significant problem is that you have decided what to do with the Barry criminal referral before you have reviewed relevant evidence.

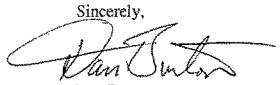
Recently, Senator Danforth wrote the following:

> "Lawyers in private practice often volunteer as little information as possible. But playing it close to the line is not acceptable for people representing the United States government. Government lawyers have responsibilities beyond winning the cases at hand. They are not justified in seeking victory at all costs. A government lawyer should never hide evidence or shade the truth, and must always err on the side of disclosure.
>
> Government lawyers carry on their shoulders reponsibility for not only the prosecution of specific cases, but also for public confidence in our system of government -- the 'consent of the

> governed' enshrined in the Declaration of Independence. Indeed, this responsibility rests heavily on the shoulders of all government officials."

You would be well advised to follow this advice and question your own lawyers as to who their real client was when they prepared a false affidavit for Mr. Barry to sign.

Sincerely,



Dan Burton
Chairman

cc: Ranking Minority Member Henry Waxman
Independent Counsel Robert Ray
Judge Royce C. Lamberth

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

SEP 7 2000

The Honorable Dan Burton
Chairman
Committee on Government Reform
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your letter of July 12, 2000 to the Attorney General regarding the appointment of a Special Master in the *Alexander* litigation to oversee the reconstruction and production of non-records managed e-mail.

The Department has taken the position in the *Alexander* case that the court should not appoint a Special Master or other outside oversight of the reconstruction process, but should instead allow the Executive Office of the President (EOP) to restore and search a sampling of tapes using a streamlined methodology designed to maximize tape copying speed. Consistent with that position, the *Alexander* court recently issued an order in which it directed the EOP to restore and search e-mail from a select number of back-up tapes, in accordance with the search parameters outlined in earlier orders of the court. *Alexander v. FBI*, Civil No. 96-2123, (D.D.C. July 31, 2000). The Court has stated its intention to reserve judgment on the issue of a Special Master until it sees the results of that search, and a separate search to be conducted on data extracted from back-up tapes currently in the custody of law enforcement.

I hope that this information is helpful. Please do not hesitate to contact me regarding this or any matter.

Sincerely,

Robert Raben
Assistant Attorney General

cc: The Honorable Henry Waxman
Ranking Minority Member

THE WHITE HOUSE
WASHINGTON

September 12, 2000

James C. Wilson
Chief Counsel
Committee on Government Reform
U.S. House of Representatives
2157 Rayburn House Office Bldg.
Washington, DC 20515

Dear Mr. Wilson:

In order to complete our response to your letter of August 17, 2000, we wish to inform the Committee that we have been not been able to locate the items referenced in requests 2, 3 or 4 despite diligent efforts. We believe that these items are not within the custody or control of the Executive Office of the President. With respect to item number 3, however, we have ascertained from personal counsel for Mr. Vasta that the Committee has already been provided with this document.

Please feel free to contact me at (202) 456-7594 if I may be of assistance.

Sincerely,

Edward R. McNicholas
Associate Counsel to the President

cc: Paul Weinberger
Jack Bray

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SHELDON KRANTZ

sheldon.krantz@piperrudnick.com
PHONE (202) 861-3865
FAX (202) 223-2085

September 14, 2000

HAND DELIVERY

James C. Wilson, Esq.
Chief Counsel
Committee on Government Reform
House of Representatives
2157 Rayburn Office Building
Washington, D.C. 20515

Re: Response to September 7, 2000
Subpoena to Earl J. Silbert, Esq.

Dear Mr. Wilson:

This letter and enclosures are being submitted in response to the House Committee on Government Reform's Subpoena Duces Tecum issued to Earl J. Silbert, Esq. I represent Mr. Silbert in conjunction with all matters relating to the subpoena and any correspondence and future inquiries should be directed to me.

The subpoena makes two requests: 1) all billing records reflecting work performed by Mr. Silbert on behalf of the Northrop Grumman Corporation, or any individual employed by the Northrop Grumman Corporation, between May 1998 and January 1999; and 2) any records relating to communications between Mr. Silbert and Charles F.C. Ruff between May 1998 and January 1999. We assume for the purposes of this response that the request for communications between Mr. Silbert and Mr. Ruff are those relating to Mr. Silbert's representation of the Northrop Grumman Corporation or any individual employed by Northrop Grumman.

1. Billing Records Relating to Mr. Silbert's Representation of Northrop Grumman Corporation Between May 1998 and January 1999.

Certain aspects of a billing record, more specifically, information on such records that describes the nature of work being performed, is protected by the attorney-client privilege. What we are willing to provide in response to the subpoena is the non-privileged information contained on the billing records along with a privilege log that briefly describes the items which are protected by the privileged. We have thus redacted the descriptions of the tasks being performed and have attached a privilege log relating to this information.

You will note in reviewing the attached billing records that all of the services rendered by Mr. Silbert were performed during a limited time period, September, October, and December 1998; that the total fees were $1,796.25; and that the total time Mr. Silbert devoted to the representation was 4.75 hours. As will also be seen in the privilege logs, 4.0 hours of this time was devoted to conversations with **Northrop** Grumman counsel, and another .25 was spent in document review. The remaining .50 relates to two conversations with White House counsel, each for .25. It should be noted that .25 is Mr. Silbert's minimum billing time period and could cover a brief time sequence. It is therefore possible, therefore, that each of these conversations was for a far shorter time period.

2. Records of Communications Between Mr. Silbert and Mr. Ruff Relating to Mr. Silbert's Representation of Northrop Grumman During the Time Period in Question.

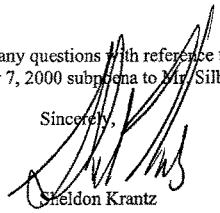
With reference to your second records request, communications with Mr. Ruff, there are no records reflecting that any communications occurred between Mr. Silbert and Mr. Ruff relating to the **Northrop** Grumman matter during the time period when Mr. Silbert was representing **Northrop** Grumman.

PIPER MARBURY RUDNICK & WOLFE LLP

ATTORNEY-CLIENT PRIVILEGED
ATTORNEY WORK PRODUCT

Please let me know if you have any questions with reference to this production in response to the Committee's September 7, 2000 subpoena to Mr. Silbert.

Sincerely,



Sheldon Krantz

/sk
Enclosures

PIPER MARBURY RUDNICK & WOLFE LLP

ATTORNEY-CLIENT PRIVILEGED
ATTORNEY WORK PRODUCT

PRIVILEGE LOG FOR PRIVILEGED COMMUNICATIONS
CONTAINED ON MR. SILBERT'S BILLING RECORDS
RELATING TO HIS REPRESENTATION OF NORTHROP GRUMMAN
DURING SEPTEMBER, OCTOBER AND DECEMBER 1998

	November 19, 1998 Invoice	
09/15/98	teleconference with Northrop Grumman counsel	.25
09/22/98	teleconference with Northrop Grumman counsel	.50
09/28/98	teleconference with White House counsel	.25
10/09/98	teleconference with Northrop Grumman counsel	.25
	January 27, 1999 Invoice	
12/15/98	teleconference with Northrop Grumman counsel	.50
12/30/98	teleconference with White House counsel	.25
	March 31, 1999 Invoice	
09/11/98	teleconferences with Northrop Grumman counsel and Northrop employee	1.25
09/11/98	teleconference with Northrop Grumman employees	.75
09/12/98	document review	.25
09/12/98	teleconference with Northrop Grumman counsel	.50

MANATT
PHELPS
PHILLIPS
ATTORNEYS AT LAW

Stephen M. Ryan
Pamela J. Marple

September 14, 2000

VIA HAND DELIVERY

The Honorable Dan Burton
House of Representatives
Committee on Government Reform
2157 Rayburn House Office Building
Washington, D.C. 20515-6143

Dear Chairman Burton:

Please find enclosed documents responsive to the September 7, 2000 subpoena addressed to Daniel A. Barry.

Sincerely,

Stephen M. Ryan
Pamela J. Marple

cc: The Honorable Henry A. Waxman

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BERNARD SANDERS, VERMONT,
INDEPENDENT

September 18, 2000

The Honorable Janet Reno
Attorney General
United States Department of Justice
Washington, D.C. 20530

Re: Campaign Financing Task Force

Dear General Reno:

I am writing to inquire regarding staffing levels on the Justice Department's investigation of the White House's failure to produce e-mails in response to subpoenas issued by the Justice Department, offices of independent counsel, and Congress. Please provide the following information:

- The number of attorneys who have worked on the investigation since its inception.
- The largest number of attorneys working on the investigation at any one time.
- The number of attorneys currently working on the investigation.

Please provide a response by September 21, 2000.

Sincerely,

Dan Burton

Dan Burton
Chairman

cc: The Honorable Henry A. Waxman, Ranking Minority Member

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SHELDON KRANTZ

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September 19, 2000

VIA FACSIMILE

James C. Wilson
Chief Counsel
House of Representatives
Committee on Government Reform
2157 Rayburn Office Building
Washington, D.C. 20515

Re: Earl J. Silbert Subpoena

Dear Mr. Wilson:

We are in receipt of your letter of September 15 relating to the above-entitled matter. We have been advised by Northrop Grumman that it has informed the Committee that it will not waive the attorney-client or attorney work product privileges. Whether or not we agree on the scope of the attorney-client and attorney work product privileges, you acknowledged during our telephone conversation last week that you were sensitive to concerns about interviewing an attorney about the nature of his or her representation of a client.

Without waiving any privilege, please be advised that we have not redacted any information nor have we withheld any documents on the basis of privilege that would identify any person at the White House with whom Mr. Silbert spoke, if there was any such conversation, or the subject matter of those conversations. As I told you last week, this is not a situation in which an interview of Mr. Silbert is warranted. We are convinced that such an interview would add nothing to the written record. If we can agree on a manner and means for preserving the attorney-client and related privileges against any waiver claims, I am willing to explore both with Northrop Grumman and Mr. Silbert a process for proffering information to you which should confirm my view. With

PIPER MARBURY RUDNICK & WOLFE LLP

the benefit of such a proffer, I believe you will conclude that there is no need for an attorney interview.

If you are open to such a proffer arrangement under such terms, I will explore this approach with both Northrop Grumman and Mr. Silbert.

Sincerely,

Sheldon Krantz

/sk

WASH1:672640:1:9/19/00

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BERNARD SANDERS, VERMONT,
INDEPENDENT

September 19, 2000

Lisa J. Klem
Associate Counsel to the President
The White House
Washington, D.C.

Dear Ms. Klem:

In your letter of September 18, 2000, you state: "[a]s you are aware, we are currently engaged in a consultation process with the CIA regarding its response to the Committee's July 28, 2000, subpoena and August 21, 2000, letter." This representation is not true. I am aware, from discussions with CIA General Counsel Robert McNamara and Deputy General Counsel Tom Benjamin, that the CIA has placed the matter exclusively in the hands of the White House. The CIA has not provided any indication that there is any "consultation" in progress. Indeed, the clear communications from Mr. McNamara and Mr. Benjamin are that the White House Counsel's Office and the Justice Department's Office of Legal Counsel are contemplating claims of executive privilege, and that the CIA is waiting for you to provide an answer to them. At that point, perhaps, "consultation" will recommence. Unless two high level CIA officials have misrepresented the current situation, however, it is wrong to mischaracterize the current status of my knowledge of this issue. Furthermore, I think it is misleading to suggest that the lengthy delay in providing a response to a subpoena returnable 45 days ago is attributable to "consultation." Rather, it is obviously a stalling tactic.

The response to the July 28, 2000, subpoena has languished at the White House for almost two months. Similarly, the response to a very simple question about whether the original of the December 15, 1995, White House Communications Agency coffee tape has been reviewed by Justice Department prosecutors has languished for over six weeks. There appears to be a pattern here of obstructing Congressional oversight. If White House Counsel Nolan is unable to obtain answers to these relatively simple questions within a period of months, and the real reason for the delay is incompetence, something is clearly very wrong. If, however, the real reason is properly attributable to a decision to run out the clock and keep information from Congress, then I ask that you reverse your current course and provide the requested information as soon as possible.

Please be advised that the Committee will hold a hearing on Tuesday, September 26, 2000, and these matters will be taken up directly with either White Counsel Nolan, or with other representatives from her office.

Sincerely,

James C. Wilson
Chief Counsel

THE WHITE HOUSE
WASHINGTON

September 19, 2000

James Wilson, Esq.
Chief Counsel
Committee on Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Wilson:

This is to respond to your inquiry as to whether the original videotape of the December 15, 1995 coffee in the Roosevelt Room of the White House was ever reviewed by or produced to the Department of Justice. Although we have not located any records dispositive of this issue, we believe that the original videotape was provided to the Campaign Financing Task Force for a short period of time. It is possible that the Justice Department could provide additional information about this matter.

If you have further questions, please do not hesitate to call. I may be reached at (202) 456-7804.

Sincerely,

Lisa J. Klem
Associate Counsel to the President

cc: Paul Weinberger, Esq.

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RICHARD J. OPARIL

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PHONE (202) 861-6257

September 20, 2000

By Hand

James C. Wilson, Esq.
Chief Counsel
Committee on Government Reform
House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Re: *White House E-Mail/Northrop Grumman*

Dear Mr. Wilson:

In response to your September 5, 2000 letter to Joseph Costello of Northrop Grumman Corporation, we have been unable to identify the handwriting on document NGL000795.

As a follow-up to your August 29, 2000 letter, records related to the Office of the Vice President were previously searched for and produced to the extent that they exist and could be located. Copies of the requested performance evaluations that the company could locate are enclosed (Bates Nos. NGL01268-392).

In response to your telephone inquiry, we have been unable to locate any handwritten notes of Joseph Vasta pertaining to the August 28, 1998 meeting.

Please call me if you have any questions.

Very truly yours,

Richard J. Oparil

cc: Joseph Costello, Esq.

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House of Representatives

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BERNARD SANDERS, VERMONT,
INDEPENDENT

September 20, 2000

Lisa J. Klem
Associate Counsel to the President
The White House
Washington, D.C.

Dear Ms. Klem:

Thank you for you letter of September 19, 2000. I enjoyed our spirited discussion of the definition of the word "a." Nevertheless, I am trying to determine with greater specificity when the videotape of the December 15, 1995, coffee was provided to the Justice Department. Please provide the Committee with the date that the videotape was transferred from the White House Communications Agency to the Justice Department, and please provide the date that the tape was returned by the Justice Department to the White House Communications Agency. If this request proves to be difficult, I would accept notification as to the month and the year that the tape was provided to the Justice Department. A verbal response by the close of business on Wednesday, September 20, 2000, would suffice.

Sincerely,

James C. Wilson
Chief Counsel

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BERNARD SANDERS, VERMONT,
INDEPENDENT

September 21, 2000

Alan Gershel
Deputy Assistant Attorney General
Criminal Division
United States Department of Justice
Tenth and Constitution Avenue, NW
Washington, DC 20530

Dear Mr. Gershel:

Pursuant to Rules X and XI of the Rules of the House of Representatives, the Committee on Government Reform is holding a hearing entitled "Contacts Between Northrop Grumman Corporation and the White House Regarding Missing White House E-Mails" at 2:00 p.m., on Tuesday, September 26, 2000, in Room 2154 of the Rayburn House Office Building.

The Committee will be requesting your testimony regarding the Justice Department's investigation of the e-mail matter. As outlined in my letter to the Attorney General of September 18, 2000, the Committee is seeking information regarding the staffing levels in the Department's investigation of the e-mail matter. Members of the Committee may also have questions regarding the following matters:

- The status of the Department's investigation of Charles Duncan, which was started as a result of a perjury referral made by the Committee.
- The Justice Department's role in preventing the DNC and State Department from responding to document subpoenas issued by the Committee.
- Whether the Department has ever obtained the original videotape of the December 15, 1995, White House coffee.

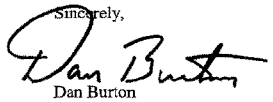
If you wish to make an opening statement, it is requested that you provide 100 copies of your written testimony to the Committee no later than 24 hours prior to the time of the hearing. Also, to facilitate printing of the hearing record, please provide a computer disk containing your

testimony. At the hearing we ask that you summarize your testimony in five minutes to allow maximum time for discussion and questions.

Under the Congressional Accountability Act, the House of Representatives must be in compliance with the Americans with Disabilities Act (ADA). Persons requiring special accommodations should contact Bob Briggs at 202/225-5074 at least four business days prior to the hearing.

Please contact the Committee's Chief Counsel, James C. Wilson, at 202/225-5074 if you have any questions or need additional information about the hearing. We appreciate your willingness to appear and look forward to your testimony.

Sincerely,



Dan Burton
Chairman

cc: The Honorable Henry Waxman, Ranking Minority Member

THE WHITE HOUSE
WASHINGTON

September 21, 2000

By Facsimile Transmission and Regular Mail

James C. Wilson, Esq.
Chief Counsel
Committee on Government Reform
U.S. House of Representatives
2157 Rayburn House Building
Washington, D.C. 20515

Dear Mr. Wilson:

At the conclusion of the briefing we provided you last Thursday about the status of the EOP e-mail restoration project, Jason Foster asked me to check whether this Office had responded to your letter of June 23, 2000 to Beth Nolan. That letter requested copies of three documents apparently missing from a previous production. It appears that this Office has not previously responded to the June 23, 2000 letter. Accordingly, I enclose copies of the requested documents, numbered Z 046938, Z 047084-85. The other control numbers on the documents are those of the Office of Independent Counsel.

If you have any questions, I may be reached at (202) 456-7804.

Sincerely,

Lisa J. Klem
Associate Counsel to the President

Encls.

cc: Paul Weinberger, Esq.
(w/encls.)

THE WHITE HOUSE
WASHINGTON

September 22, 2000

HAND-DELIVERED

James C. Wilson, Esq.
Chief Counsel
Committee on Government Reform
U.S. House of Representatives
2157 Rayburn House Office Bldg.
Washington, DC 20515

Dear Mr. Wilson:

As you know, since earlier this summer the FBI, under the direction of the Office of Independent Counsel Ray and the Department of Justice Campaign Financing Task Force, has been assisting the EOP to restore e-mail contained on certain EOP and OVP computer backup tapes. Enclosed with this letter are e-mails that have been restored as part of that process which are responsive to various Committee requests to the White House and have not previously been produced to the Committee. Some of the documents have been redacted on grounds of non-responsiveness and to protect confidentiality, all in accordance with our prior understandings with the Committee. Finally, for reasons of continuity, and to avoid confusion, we have replaced the control numbers applied by the OIC/DOJ during the restoration process with the "E" series of control numbers that the EOP has used in its prior productions to the Committee. The enclosed documents bear control numbers E 8694-E 8863.

You will no doubt recognize that a substantial number of these documents, or the information contained in them, previously have been produced to the Committee in slightly different formats.

Please feel free to contact me if you have any further questions.

Sincerely,

Steven F. Reich
Senior Associate Counsel to the President

Enclosures
cc: Paul Weinberger, Esq.,
Minority Staff

NORTHROP GRUMMAN CORPORATION
1840 Century Park East
Los Angeles, California 90067
(310) 201-3147

CORPORATE LAW DEPARTMENT - LITIGATION SECTION
FACSIMILE COVER SHEET

DATE: September 22, 2000

TO:	**COMPANY:**	**PHONE #**	**FAX #**
Dan Burton	House of Representatives	(202) 225-5074	(202) 225-3974

FROM:

Kent Kresa

TOTAL # OF PAGES (INCLUDING COVER): 3

RE

MESSAGE:

If you do not receive all of the pages, please call [redacted]
Facsimile No. [redacted]

This fax is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you are not the intended recipient, any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original fax to us at the above address by the US Postal Service. Thank you.

NORTHROP GRUMMAN

Chairman of the Board
President and
Chief Executive Officer

September 22, 2000

The Honorable Dan Burton
Chairman
Committee on Government Reform
House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515-6143

Dear Mr. Chairman:

I am writing in response to your September 21, 2000 letter regarding my appearance before the Committee on Government Reform on September 26, in Washington D.C. I also understand that the Committee attempted to serve a subpoena at my office yesterday for my appearance at the hearing. I am out of the office until September 26, and my schedule does not permit me to travel to Washington, D.C. for a hearing next Tuesday. The short notice and press of business would make such a trip extremely burdensome and impracticable. I would recommend your staff work through my office to schedule an alternate time for my appearance. I must stress though, that for the reasons discussed below, and previously communicated to your Committee staff, I believe that my testimony will not assist the committee in its investigation.

Simply stated, I have nothing to add to the record already before the Committee. I have no personal knowledge of the subject matters addressed in your September 21, letter. All of the information that I have on these subjects was provided to me by counsel for the Company in the context of rendering legal advice regarding the Company's rights and obligations with respect to responding to various inquiries from the Committee. Those communications are clearly protected by the attorney-client privilege, and I do not understand your letter to suggest otherwise.

As to the Company's assertion of the privilege, my lawyers have already advised the Committee that the Company will not waive the attorney-client privilege with respect to Mr. Silbert's retention or his efforts on the Company's behalf. The Company will not risk an argument by other interested parties that such a disclosure resulted in a blanket waiver of the privilege. This is a real concern because the Company has already been subjected to multiple requests from several different parties for information on the White House e-mail project, the subject matter of Mr. Silbert's retention. We believe that who he contacted and for what purpose, and what information that he chose to report back to the Company are protected by the attorney-client privilege, and we simply will not waive that privilege. Calling me before the Committee will not change my position on this principled issue.

NORTHROP GRUMMAN

I am advised that in the past Northrop Grumman Corporation has provided complete and prompt responses to the Committee's requests for information. I am also advised that the Committee's staff has acknowledged those efforts in writing and has consistently informed my people that the Company is not a target or subject of the Committee's investigation. I am also advised that the Committee now has written confirmation that the files of our lawyers do not contain the information that the Committee seeks, and that our counsel has no independent recollection of the events in question. Given this written history, it is perplexing that the Committee would seek to have me appear at a hearing knowing I will not waive the attorney client-privilege for the Company and that I have no personal knowledge that would be relevant to the inquiry. I respectfully suggest that the Committee staff continue to work through the Company's counsel to gather whatever non-privileged information is left to be discovered.

Kent Kresa
Chairman, President and
Chief Executive Officer

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BERNARD SANDERS, VERMONT,
INDEPENDENT

September 22, 2000

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

Dear Ms. Nolan:

I am writing to respond to the letter of September 21, 2000, which was sent to Committee staff by Robert M. McNamara of the Central Intelligence Agency. In his letter, Mr. McNamara stated that CIA has now located five documents which are potentially responsive to the Committee's subpoena. He further explained that two of the documents were prepared as part of the President's daily intelligence briefing. Without invoking any privileges or citing any legal authority, Mr. McNamara stated that "these documents cannot be provided to the Committee." Mr. McNamara then stated that the other three documents can be provided to Committee staff under proper circumstances.

I direct my correspondence to you, because a week ago, Mr. McNamara indicated that all substantive issues regarding the CIA's response to this subpoena were being handled by the White House Counsel's Office. Given that representation, I am perplexed that he, not the White House, sent the response of September 21, 2000. Nevertheless, I will assume that the White House is still directing the response to the Committee's subpoena.

I am concerned by several aspects of Mr. McNamara's response. First, he has failed to identify the specific records called for in the Committee's subpoena. Second, he has failed to invoke any privilege or legal basis for failing to provide certain documents to the Committee. Third, he has failed to answer a basic question the Committee has been asking for over one month.

The language of the Committee's subpoena called for a specific report, the existence of which was acknowledged and the contents of which were very generally described by Vice President Gore during his July 16, 2000, appearance on Meet the Press. I fail to understand how the General Counsel of the CIA can claim that "neither the Committee's subpoena, the transcript of the Vice President's 16 July 2000 Meet the Press interview, nor the 23 November 1998 New York Times article identified or described a particular report prepared by CIA." It would seem fairly simple to ask the Vice President which report he was referring to when he stated "I would dispute the statement that

whoever sent that over there expected the White House to be impressed with it. You talk to the people who were in charge of that division and what they'll tell you was that they absolutely agreed that it was a very sloppy piece of work." If the Vice President could identify the report that he was referring to, it could then be produced to the Committee. I had hoped that the White House would have taken this simple step at some point during the eight weeks it has been processing the Committee's subpoena.

Because the White House has failed to check with the Vice President to see what document he was referring to, the CIA has been placed in a position where it has gathered five documents in response to the Committee's subpoena, including two of great sensitivity. It may be that the Committee has no interest in seeing the two documents that were part of the President's intelligence briefing. However, because of the failures of the White House, we have not been told which document the Vice President was referring to in his press appearance. Therefore, the Committee should be afforded the opportunity to review all of the records that have been provided by the CIA, unless some legally valid privilege is claimed. Mr. McNamara failed to claim any such privilege. Of course, I am open to your legitimate concerns regarding the sensitivity of the documents, and would entertain a valid legal claim of privilege in response to the Committee's subpoena.

My final, and greatest, concern is that the White House and CIA have failed to answer a simple question that was first posed to the CIA on August 21, 2000, and the White House on September 1, 2000. On those occasions, the Committee asked whether any copy of the requested report with a handwritten annotation existed at any time in the past. The CIA General Counsel has declined to answer this question, claiming that the question was under consideration by the White House and the Justice Department Office of Legal Counsel. I described this situation clearly in my letter to you of September 15, 2000. In that letter, I told you that I was concerned that the White House would consider claiming executive privilege over the mere fact of whether or not a certain document ever existed. I asked for an explanation of the White House's position. To date, I have received none.

As I explained in my last letter, the White House delay in responding to this subpoena has been unacceptable. The subpoena called for one document, which had already been identified publicly by the Vice President. Now, almost two months later, the Committee has still not received any documents. The following list of the telephone calls and letters that the Committee has undertaken just to get to this point illustrates my concern:

July 28, 2000:	Committee subpoenas White House and CIA.
August 2, 2000:	Senior Associate White House Counsel Reich writes to acknowledge receipt of the subpoena, but states that the White House will not meet the subpoena's August 4, 2000, deadline.
August 8, 2000:	Letter from Committee on Government Reform to the White House to express dissatisfaction with the White House's slow response to the subpoena.

August 8, 2000:	Senior Associate White House Counsel Reich writes to provide further information describing the White House's slow response.
August 17, 2000:	Senior Associate White House Counsel Reich, before leaving on vacation, writes to state that the White House has not completed its search.
August 18, 2000:	CIA General Counsel McNamara writes to state that the CIA has not located any responsive records with handwritten annotations.
August 21, 2000:	Committee staff writes to CIA General Counsel to explain that the CIA's search in response to the subpoena was too narrow, and that the Committee was not seeking only records with handwritten annotations. Committee staff also asks the CIA to indicate whether a copy of the document with annotations ever existed.
August 31, 2000:	Senior Associate White House Counsel Reich writes to state that no records responsive to the Committee's subpoena have been located.
September 1, 2000:	Committee staff writes to the White House to inquire whether records responsive to the Committee's subpoena ever existed.
September 1, 2000:	CIA General Counsel writes to state that the CIA has conducted a broader document search, but is unable to provide any records to the Committee, because issues of privilege have been raised that require consultation with the White House.
September 5, 2000:	Committee staff speak with CIA Deputy General Counsel regarding the response to the subpoena. Committee staff asks if the CIA had determined whether there was a document with handwritten annotations. CIA counsel refuses to answer.
September 12, 2000:	Committee staff calls CIA, is told that all relevant personnel had left for the day.
September 14, 2000:	CIA General Counsel calls back, speaks with Committee staff. Committee staff is told that the issue of this subpoena has been sent to the White House and the Justice Department Office of Legal Counsel for determination.
September 14, 2000:	Committee staff calls Joseph Guerra at the Justice Department Office of Legal Counsel. Guerra is not in the office, Committee staff leaves a message. (No return call ever received.)
September 15, 2000:	Letter from Committee to the White House regarding the failure of the White House to respond to the Committee's subpoena.

September 18, 2000: Letter from Associate White House Counsel Lisa Klem to Committee staff, acknowledging the receipt of the letter of September 15, 2000. Klem claims that the White House is engaged in "consultation" with the CIA.

September 19, 2000: Committee staff writes to the White House to question the delay in producing the documents.

September 19, 2000: Committee staff calls CIA General Counsel. Neither the General Counsel nor the Deputy General Counsel are in the office.

September 21, 2000: CIA General Counsel writes to Committee staff to state that the CIA has located five potentially responsive documents, two of which the Committee cannot have.

I am aware that earlier today you expressed concern that my Chief Counsel failed to call you before the subpoena was served. I am not sympathetic to your concerns. The chronology indicates that eighteen separate steps have been taken and the Committee still has not seen the document it is interested in, nor has it ever received confirmation whether a handwritten annotation ever existed. Your frustration, expressed almost contemporaneously with the Friday afternoon dump of e-mails about the Hsi Lai Temple fundraiser and the Presidential and Vice Presidential coffee fundraisers, seems misplaced. Indeed, there would have been no need for a hearing if your staff had answered simple questions in a timely manner.

In addition to the subjects described in my letter of yesterday, I plan to ask you questions about the White House's release of the subpoenaed e-mails this afternoon. I know that my Chief Counsel asked you when these e-mails were first provided to the Justice Department, and you refused to answer him. It would have been extremely easy for you to provide an answer to this very simple question. It appears that the White House is doing everything that it can to avoid answering the Committee's questions. You have received a subpoena requiring your attendance at the Committee's September 26, 2000, hearing. I am hopeful that you will see fit to respond to my requests in a public setting.

Sincerely,

Dan Burton
Chairman

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BERNARD SANDERS, VERMONT,
INDEPENDENT

September 22, 2000

Sheldon Krantz, Esq.
Piper Marbury Rudnick & Wolfe LLP
1200 Nineteenth Street, N.W.
Washington, D.C. 20036-2430

Dear Mr. Krantz:

I am writing in response to your letter of September 19, 2000, and our telephone discussion of yesterday. I hope that we can reach an agreement whereby the Committee obtains the information that it needs from your client, Earl Silbert, without the need to hold a formal hearing.

As you know, I believe that Mr. Silbert's billing records are significant to the Committee's investigation of the e-mail matter. Mr. Silbert contacted the White House at two key times during the development of the e-mail problem. First, in September 1998, after Northrop Grumman employees discovered the problem, and were threatened into keeping it secret by White House staff, they sought counseling from their Northrop Grumman supervisors. Shortly thereafter, Northrop Grumman hired Mr. Silbert, and he contacted the White House. In December 1998, Insight Magazine published a short article about the e-mail problem. Shortly after the publication of that article, Mr. Silbert again contacted the White House. The fact that a highly respected Washington attorney made direct overtures to the White House about any aspect of the e-mail problem is a matter of great interest to the Committee.

I request that Mr. Silbert give an interview to Committee staff prior to Tuesday's hearing, to assist the Committee in determining the value of Mr. Silbert's testimony. Mr. Silbert should answer questions posed to him about the following subjects:

- The identity of the individuals at the White House with whom Mr. Silbert spoke.

- The subject matter of the discussions between Mr. Silbert and the White House.
- The duration of the contacts between Mr. Silbert and the White House.
- Whether Mr. Silbert is aware of other contacts between his firm or Northrop Grumman and the White House on this matter.
- The identity of individuals at Northrop Grumman with whom Mr. Silbert spoke about this matter.
- Additional information regarding the document reviewed by Mr. Silbert, including its author and its recipient.

As I have indicated in earlier communications with you, Congress need not recognize the attorney-client privilege. However, even if the Committee did recognize the privilege, it would not be applicable to Mr. Silbert's contacts with the White House. Therefore, in the event it is necessary to call Mr. Silbert before the Committee, the Chairman intends to instruct him to answer questions regarding his contacts with the White House. The Chairman will not view Mr. Silbert's interview with Committee staff as having waived your claim of attorney-client privilege. Rather, he intends simply to point out that the privilege does not apply to the communications in question, and direct Mr. Silbert to answer the relevant questions.

As the Committee's hearing is scheduled for Tuesday, I am hopeful that an interview of Mr. Silbert can take place as soon as possible.

Sincerely,

James C. Wilson
Chief Counsel

cc: Joseph Costello, Esq.
Vice President and Deputy General Counsel
Northrup Grumman Corporation

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INDEPENDENT

September 25, 2000

Alan Gershel
Deputy Assistant Attorney General
Criminal Division
United States Department of Justice
Tenth and Constitution Avenue, NW
Washington, DC 20530

Dear Mr. Gershel:

I am writing to provide you with further guidance regarding the Committee's hearing on September 26, 2000. As explained in my letter of September 21, the Committee has a number of questions for you regarding the Justice Department's handling of the e-mail investigation. The production of a number of reconstructed e-mails by the White House on the afternoon of September 22, 2000, has raised a number of related issues that may arise at tomorrow's hearing.

Members of the Committee may seek your testimony about the following issues, which have been raised by the White House's recent document production:

- The date by which the e-mails produced to the Committee on September 22 had been reconstructed by the Federal Bureau of Investigation.
- When the e-mails produced to the Committee on September 22 were first provided to the White House by the Justice Department.
- Whether the Justice Department requested the White House not to release publicly copies of the reconstructed e-mails.
- Whether more e-mails have been reconstructed in addition to the ones received by the Committee on September 22, 2000.
- Whether the Attorney General had access to all of the reconstructed e-mails produced to the Committee on September 22, 2000, prior to her August 2000 decision not to appoint a special counsel for Vice President Gore.

Please contact the Committee's Chief Counsel, James C. Wilson, at (202) 225-5074 if you have any questions or need additional information about the hearing.

Sincerely,

Dan Burton
Chairman

cc: The Honorable Henry Waxman, Ranking Minority Member

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BERNARD SANDERS, VERMONT
INDEPENDENT

September 25, 2000

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

Dear Ms. Nolan:

The White House has not provided this Committee answers to relatively simple questions. Generally speaking, it takes weeks or months to obtain answers to questions that could be answered easily in days. This is not the "mutual accommodation" that should exist. For example, it took an inordinate amount of time for the Committee to find out that the last time the Justice Department had the original videotape of the December 15, 1995, White House coffee was in October of 1997. Similarly, the Committee still has not been given a straight answer to a relatively simple question about a document describing corrupt practices by Viktor Chernomyrdin. Furthermore, your promise to keep the Committee fully informed of developments in the White House e-mail reconstruction efforts was not honored. Nevertheless, your letter of September 23, 2000, provides a point of departure for deliberations regarding the hearing scheduled for September 26, 2000.

The questions posed in this letter are an earnest effort to achieve a compromise. They are questions that can be answered relatively easily, and the Committee will make a good faith effort to consider your answers prior to the scheduled hearing. If you provide satisfactory written answers to the following questions, there will be no need to have you testify. The areas of interest to the Committee have been arranged into specific categories, and the questions are provided under these categories.

E-Mail Produced by the White House Counsel's Office on Friday, Sepember 22, 2000

1. Were all of the e-mails produced to the Committee on September 22, 2000, produced to the White House at the same time? If so, when? If they were not produced at the same time, please answer the following:

   (a) When did the White House receive the first copy of any of the e-mails that were produced to the Committee on Friday, September 22, 2000?

(b) When did the White House receive the last copy of any of the e-mails that were produced to the White House on September 22, 2000?

2. Do you know of any reason why the Attorney General would not have had access by August 23, 2000, to all of the e-mails produced to this Committee on September 22, 2000?

3. E-Mail E 8813 has the following communication between three members of the Office of the Vice President: "the DNC is requesting the VP host four coffees to spread throughout the months of May and June. I was misinformed that these could happen in the White House; turns out they need to be at NavObs."

   (a) Do you know who "misinformed" Kimberley H. Tilley that the coffees could take place in the White House? If the answer is yes, please tell the Committee who that person was. If you do not, please make an effort to find out who that person was.
   (b) Why did Ms. Tilley come to the belief that the coffees could not be held in the White House?
   (c) Why did the coffees "need to be at NavObs?"

4. Has Araceli Ruano been interviewed by the Department of Justice at any time in the last four years? (A yes or no answer will suffice.)

5. Has Karen Skelton been interviewed by the Department of Justice at any time in the last four years? (A yes or no answer will suffice.)

Transition Plan for the E-Mail Recovery and Production

1. Do you think you and your staff will be able to complete production of responsive e-mail to this Committee before a new Administration moves into the White House?

2. What steps have been taken by you and your office to provide for recovery and review of e-mails after a new Administration moves into the White House?

3. What plan do you currently have in place to review e-mails and to provide responsive e-mails to Congress after a new Administration moves into the White House?

4. Have you rejected the suggestion that a special master should be appointed to take charge of reviewing e-mail and producing responsive e-mail to Congress?

5. If you have rejected this suggestion, why?

The "Eskew Request" E-Mail

1. One of the e-mails recently produced to the Committee (E 8701) is addressed to the Vice President. Options are laid out, and one is: "Give Carter [Eskew] your special e-mail address that Michael Gill had set-up earlier[.]" Did this happen?

2. Was the Vice President's "special e-mail" account maintained on the OVP server? Was that account ARMS-managed?

3. This e-mail suggests that "the only way not to have your e-mails backed up on government computers would be to get a Clinton/Gore computer in your office and set it up for private e-mails." Were any such computers set up in any Executive Office of the President office?

4. If such computers were maintained in the EOP, were they searched by the White House in response to Committee subpoenas?

The Chernomyrdin Document Subpoena

During a telephone conversation with my Chief Counsel, you expressed concern that the Committee's subpoena for a CIA document discussing corrupt practices by Viktor Chernomyrdin was inappropriate. The Committee is interested in the document subpoenaed for two reasons: (1) in FY 1998 (the last year for which figures are available) Congress appropriated $26.7 billion for intelligence spending and it is a matter of importance whether the information obtained by the CIA is of any consequence to the Executive; and (2) if a document did exist, and it was destroyed, and the White House Counsel's Office was aware that it was destroyed and took pains to conceal the destruction from Congress, it is relevant to whether the Committee can have confidence that other documents have not been destroyed.

1. The CIA has gathered five documents potentially responsive to the Committee's subpoena of July 28, 2000. On Meet the Press, the Vice President referred to a specific report regarding Russian Prime Minister Viktor Chernomyrdin. At that time, he denied that he made any annotations on the report. Has the White House Counsel's office ever asked the Vice President which report he was referring to during his Meet the Press appearance? If not, why not?

2. The Committee has asked whether there ever existed a version of the report referred to by the Vice President with a handwritten notation. Has any White House employee or any CIA employee ever indicated that such an annotated document ever existed?

3. Was there ever a document prepared by the CIA that discusses Chernomyrdin's involvement in corrupt endeavors and that contained such an annotation?

4. Has every employee who has been interviewed about this matter denied that there ever was a handwritten notation on any copy of the document referred to by Vice President Gore in his Meet the Press interview?

5. The CIA is refusing to allow the Committee access to two of the five potentially responsive records it has located. Is the White House claiming privilege over these two documents?

If you have any questions about any of the above queries, please do not hesitate to call my Chief Counsel.

Sincerely,

Dan Burton
Chairman

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BERNARD SANDERS, VERMONT,
INDEPENDENT

September 26, 2000

The Honorable Dan Burton
Chairman
Committee on Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Burton:

The Committee has devoted considerable resources to investigating e-mail problems in the White House. The Committee has held four days of hearings on the topic -- today will be the fifth -- at which it received testimony from 16 people (three of whom each testified twice). Committee staff have interviewed 35 people in connection with the e-mail investigation, and the Committee has requested and received 9,224 pages of documents.

Given the time and energy that have been expended on this investigation, I am bewildered by the factual inaccuracies and omissions contained in your memorandum of September 21 concerning today's hearing. While I would not normally respond to a hearing memo, I feel that it is important to set the record straight in this matter.

In your memo, you state that "a number of Northrop Grumman employees say that they were threatened to keep the problem secret" and "several employees even recall that one of them was specifically told there was a 'jail cell with his name on it' if he disclosed the e-mail problem." What you fail to mention is that other, equally credible Northrop Grumman employees, who were present at the same meeting, have no recollection of being threatened.

For example, your statement fails to mention the testimony of one of the employees, Yiman Salim, who emphatically denied ever feeling threatened.[1] Nor do you mention that both Ms. Salim and her colleague, John Spriggs, testified that they did not hear any mention of jail at the meeting.[2]

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[1]House Committee on Government Reform, *Hearing on Missing White House E-Mails: Mismanagement of Subpoenaed Records*, 21 (Mar. 23, 2000) (stenographic record) (hereinafter "March 23 hearing").

[2]March 23 hearing at 21, 47.

It is true that one employee, Robert Haas, did recall the jail threat clearly.[3] Mr. Haas testified that he asked then-OA employee Laura Callahan "[i]n a somewhat flippant way" what would happen if Mr. Haas told his wife about the e-mail matter, and Ms. Callahan "responded that there would be a jail cell with my name on it."[4] The other employee who testified that she recalled a mention of jail, Sandra Golas, had only a vague recollection and could not even recall who said it.[5]

The only other person who recalled threats of jail, Betty Lambuth, testified that those threats occurred in different contexts, and her testimony has been thoroughly discredited.[6]

Your memo also states that as a result of these purported threats, "the contract employees were placed in a position where they could not take any decisive action to remedy the e-mail problem." This assertion, however, is inconsistent with the testimony before the Committee. Mr. Spriggs, for example, testified:

the reality was we needed to figure out what the problem was and how were we going to

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[3]March 23 hearing at 32.

[4]March 23 hearing at 32.

[5]March 23 hearing at 45.

[6]Ms. Lambuth testified that during a meeting with then-OA General Counsel Mark Lindsay and then-OA employee Paulette Cichon, Mr. Lindsay told Ms. Lambuth that if she and other Northrop Grumman workers told anyone about the Mail2 problem, "we would all lose our jobs, we would be arrested, and we would be put in jail." March 23 hearing at 25. However, at the following hearing, I introduced into the record a signed statement by Ms. Cichon denying that Mr. Lindsay threatened Ms. Lambuth or anyone else in her presence. Statement of Paulette Cichon (March 29, 2000). Ms. Cichon confirmed the accuracy of her statement in a subsequent interview with Committee staff.

Ms. Lambuth also alleged that "[a] contractor for Northrop-Grumman whom I supervised, and who examined this group of e-mail, told me the e-mail contained information relating to Filegate, concerning the Monica Lewinsky scandal, the sale of Clinton Commerce Department trade mission seats in exchange for campaign contributions, and Vice President Al Gore's involvement in campaign fundraising controversies." Statement of Betty Lambuth (March 23, 2000). She identified the contractor as Mr. Haas. March 23 hearing at 59. Mr. Haas, however, denied that he knew or had told Ms. Lambuth anything about what was in the "missing" e-mails. March 23 hearing at 89.

> deal with getting these [e-mails] in the records management system. . . . There was no, from my point of view, any kind of question that we were not going to proceed forward with this and resolve this question. We were trying to get all of the information so that whomever -- OA counsel or White House Counsel -- would have sufficient information to be able to judge the import of the information they had. As far as I knew personally ... I had no knowledge of anyone trying to stop us from doing any of that.[7]

In addition, your discussion of the "potential significance of Silbert's contacts" is misleading. Earl Silbert is a Washington lawyer who was hired by Northrop Grumman. In the course of his representation of Northrop Grumman, he briefly contacted the White House Counsel's office on two occasions. The Committee has received no information about the substance of those contacts, however. As a result, your assertion that "Silbert's contacts may dramatically undermine White House claims" is simply inflammatory speculation.

Finally, your memorandum also makes misleading statements about the role of Cheryl Mills, then-White House Deputy Counsel, in the e-mail matter. For example, you state "Mills conducted a test, the forms and terms of which are unknown," to determine the extent of the e-mail problem. But, although Ms. Mills has been a frequent target of this Committee, there is no evidence to contradict Ms. Mills's testimony that she "didn't develop a search."[8] Ms. Mills testified that she was informed of the test search by Mr. Ruff.[9]

You are entitled to your personal theories to explain events, but it is a disservice to the members of the Committee to substitute your personal views for the facts. We may draw different conclusions from the facts, but the inaccuracies and omissions in your September 21 memo result in a summary that creates facts to fit your conclusions.

Sincerely,

Henry A. Waxman
Ranking Minority Member

cc: Members of the Committee on Government Reform

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[7]March 23 hearing at 91-92.

[8]House Committee on Government Reform, *Hearing on Missing White House E-Mails: Mismanagement of Subpoenaed Records*, 35 (May 4, 2000) (stenographic record).

[9]*Id.*, at 33-34.

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INDEPENDENT

September 26, 2000

The Honorable Henry A. Waxman
Ranking Minority Member
Committee on Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Henry:

I have received your letter dated September 26, 2000, and I noticed a number of factual inaccuracies and misstatements. We will be circulating our final report regarding the White House's e-mail problems next week. We will welcome your views on the matter at that time.

Sincerely,

Dan Burton
Chairman

cc: Members of the Committee on Government Reform

THE WHITE HOUSE
WASHINGTON

September 26, 2000

BY FACSIMILE

The Honorable Dan Burton
Chairman
Committee on Government Reform
United States House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Burton:

I write in response to your letter of September 25, 2000. I first want to express my appreciation for your willingness to engage in an accommodation on the matters that have been the subject of correspondence between us over the past few days. The EOP has responded in good faith to the Committee's prior requests for information. In fact, we have worked very hard to respond to the many requests that we have received from the Committee. To the extent the Committee believes that we have not done so, I believe that miscommunications, rather than actual disagreements, primarily are to blame. Once again, I reaffirm our willingness to work with the Committee to resolve any concerns it may have.

As my staff promised, we respond below to the questions posed in the letter you sent to me yesterday. Responses are provided to the questions under the headings "E-Mail Produced by the White House Counsel's Office on Friday, September 22, 2000," "Transition Plan for the E-Mail Recovery and Production," and "The 'Eskew Request' E-Mail." As our staffs agreed, we will provide answers no later than the close of business on October 2, 2000 to the questions under the heading "The Chernomyrdin Document Subpoena." Given the extremely short time that we have had to prepare these responses, we reserve the right to amend or supplement the information provided below.

QUESTIONS AND ANSWERS

E-Mail Produced by the White House Counsel's Office on Friday, September 22, 2000

1. **Were all of the e-mails produced to the Committee on September 22, 2000, produced to the White House at the same time? If so, when? If they were not produced at the same time, please answer the following:**

   (a) **When did the White House receive the first copy of any of the e-mails that were produced to the Committee on Friday, September 22, 2000?**

   (b) **When did the White House receive the last copy of any of the e-mails that were produced to the White House on September 22, 2000?**

   Response to Questions 1(a) and (b): The e-mail that was produced to the Committee was reconstructed by the Department of Justice Campaign Financing Task Force and the Office of Independent Counsel Robert Ray. In June of this year, the EOP provided those bodies with a number of backup tapes pursuant to an agreement authorized by Judge Lamberth as part of the Alexander litigation. The FBI took the tapes and conducted the technical work necessary to extract e-mail from them. That process took a period of months -- far longer than the investigative bodies seemed to have anticipated.

   On or about August 16, 2000, the actual review of e-mail began at the offices of the Department of Justice. Pursuant to the authorized agreement, the review is conducted electronically on a computer screen, with a team of FBI Agents and lawyers from the DOJ and OIC involved and EOP lawyers present. The e-mail is opened one message at a time and reviewed. The FBI agents, using criteria provided to them jointly by the DOJ and OIC (but which are unknown to the EOP), determine whether or not to print the e-mail based on their responsiveness to outstanding DOJ or OIC requests. If the e-mail is printed, it is control numbered and provided to the EOP, and thereafter to DOJ's and OIC's investigative teams, as appropriate. The first e-mail was printed on or about August 16.

   As we understand it, early in the reconstruction process the FBI realized that the OVP tapes contained an interlocking series of data, and they therefore needed to unlock a series of OVP tapes at one time. Thus, the review of OVP tapes is progressing in groups or series of tapes. The last e-mail contained in our recent production to the Committee was printed on or about September 7, 2000, but review of that series of tapes continued until September 18, 2000, with no new e-mail being printed. We took the e-mail from

the series of tapes that were reviewed and compared it to the previous requests received from the Committee. We produced responsive materials four days after the conclusion of the DOJ/OIC review. (We assume that Question 1(b) refers to e-mail produced to the Committee, not the White House).

2. **Do you know of any reason why the Attorney General would not have had access by August 23, 2000, to all of the e-mails produced to this Committee on September 22, 2000?**

As noted above, e-mail was reviewed throughout the period August 16-September 18. We believe, therefore, that some, but not all, of the e-mail would have been available by August 23.

3. **E-mail E 8813 has the following communication between three members of the Office of the Vice President: "the DNC is requesting the VP host four coffees to spread throughout the months of May and June. I was misinformed that these could happen in the White House; turns out they need to be at NavObs."**

   (a) **Do you know who "misinformed" Kimberley H. Tilley that the coffees could take place in the White House? If the answer is yes, please tell the Committee who that person was. If you do not, please make an effort to find out who that person was.**

   (b) **Why did Ms. Tilley come to the belief that the coffees could not be held in the White House?**

Response to Questions 3(a) and (b): We do not know the answer to these questions, and Ms. Tilley is represented by counsel with respect to these matters. Her counsel's name is Daniel Grove of the Washington, D.C. law firm of Winston & Strawn.

   (c) **Why did the coffees "need to be at NavObs?"**

We are not aware of any reason that the coffees needed to be at NavObs.

4. **Has Araceli Ruano been interviewed by the Department of Justice at any time in the last four years? (A yes or no answer will suffice.)**

Not to the best of our knowledge.

5. Has Karen Skelton been interviewed by the Department of Justice at any time in the last four years? (A yes or no answer will suffice.)

Not to the best of our knowledge.

Transition Plan for the E-Mail Recovery and Production

1. Do you think you and your staff will be able to complete production of responsive e-mail to this Committee before a new Administration moves into the White House?

We currently estimate that, by mid-November 2000, a database will be in place that is capable of accepting and searching data from the backup tapes for the Mail 2, Letter D and OVP anomalies. That database will allow for immediate broad searches of the data contained in it. We expect to begin loading data into the database as soon as it is available, but the loading of data from the Mail 2, Letter D and OVP backup tapes is not projected to be completed until mid-February 2001, assuming a 24 hour-a-day, 7 day-per-week work schedule (EOP is currently reviewing a contract proposal to move to such a schedule). Searches of that database need not await the loading of all data, but can begin as soon as the database is ready, subject to the limitation that only the data in the system at the time of the search can be reviewed. That is, we can make rolling productions.

Our briefing team explained to Committee staff on September 14, 2000, however, that as we await the development of that database, the EOP has designed a method to begin immediate targeted searches of backup tapes according to the priorities set by interested investigative bodies. This process enables us to conduct targeted searches now rather than wait until the database discussed above is ready. Using this process, we can perform three different types of targeted searches right away. First, with about three weeks of computer staff time, our system can produce for EOP lawyers' review a search using 100 tapes, 70 e-mail accounts and 70 search terms. With about two weeks of computer staff time, our system can produce for our lawyers' review a search using 50 tapes, 35 e-mail accounts, and 35 search terms. And within a few days, our system can produce for our lawyers' review a search of a single tape -- using all e-mail accounts -- using a single search term. On September 14, we invited the Committee staff to provide priorities regarding these searches, and we await the Committee's indication of its investigative preferences.

2. **What steps have been taken by you and your Office to provide for recovery and review of e-mails after a new Administration moves into the White House?**

3. **What plan do you currently have in place to review e-mails and to provide responsive e-mails to Congress after a new Administration moves into the White House?**

Response to Questions 2 and 3: The transition issues raised by the e-mail restoration project are novel and complex. The House and Senate Appropriations Committees have approved funding for the contract governing the project through the fiscal year ending September 30, 2001. We have implemented the staffing, equipment, and space requirements that will be necessary to finish the task, and we continually reevaluate our technical approach in an effort to realize efficiencies wherever they can be achieved. In addition, we have opened discussions with the National Archives on this issue. A previously scheduled meeting with National Archives officials about this matter is expected to occur next week, and we will provide a status update to the Committee within the next two weeks.

4. **Have you rejected the suggestion that a special master should be appointed to take charge of reviewing e-mail and producing responsive e-mail to Congress?**

5. **If you have rejected this suggestion, why?**

Response to Questions 4 and 5: We do not believe that a special master is necessary or appropriate. The EOP is far along in this project and our technical staff is operating efficiently. A special master would have to start from scratch and re-invent a technical system roughly similar to what we have already done. Not only would time be wasted reinventing a system that we have already put in place, but also significant and unnecessary costs and delay would be incurred recreating that system. Our experience with this project is that technical personnel unfamiliar with its intricacies often believe that its technical challenges easily can be overcome. However, we have found that those overly optimistic predictions fade as technical personnel become more familiar with the actual task. In this regard, it is worth noting that Judge Lamberth, as part of the Alexander restoration, originally assigned the FBI the task of conducting searches of EOP tapes that the FBI was in the process of restoring. Subsequently, Judge Lamberth took that task away from the FBI and reassigned it to the EOP when the FBI was unable to reconstruct the tapes in a timely manner. EOP's technical staff is now thoroughly versed in this project and has accumulated special expertise in this area. We strongly

believe that the appointment of a special master would slow down -- not speed up -- the tape restoration work. Finally, as noted above, the EOP has already opened discussions with the National Archives regarding the effect of the transition to a new Administration on the reconstruction project.

The "Eskew Request" E-Mail

1. **One of the e-mails recently produced to the Committee (E 8701) is addressed to the Vice President. Options are laid out, and one is: "Give Carter [Eskew] your special e-mail address that Michael Gill had set-up earlier [.]" Did this happen?**

   Not to the best of our knowledge.

2. **Was the Vice President's "special e-mail" account maintained on the OVP server? Was that account ARMS-managed?**

   The Vice President has only one e-mail account, and that account is maintained on the OVP server. For security reasons, the Vice President's e-mail address does not appear on e-mails sent to outside users or that outside users send to him. But, e-mail he sends and receives is managed under his true account name. As indicated in the e-mail, OVP staff believed that its e-mail was being ARMS-managed, but as we have previously reported to the Committee, that belief turned out to be largely incorrect.

3. **This e-mail suggests that "the only way not to have your e-mails backed up on government computers would be to get a Clinton/Gore computer in your office and set it up for private e-mails." Were any such computers set up in any Executive Office of the President office?**

   Yes. Under federal law, equipment in the White House that is dedicated for political purposes must be paid for by the appropriate political committee, not with official funds. This was done. As best we can determine, the Vice President did not have a Clinton/Gore '96 computer or Clinton/Gore '96 e-mail account in the White House.

4. **If such computers were maintained in the EOP, were they searched by the White House in response to Committee subpoenas?**

Any search directive issued by the Counsel's Office in response to a subpoena would have instructed staff to search for responsive materials without limiting the scope of the search to official computers. Moreover, as best we can determine, the first campaign finance-related request was not received by the EOP until December 1996. Equipment such as the Clinton/Gore '96 computers typically are removed soon after an election.

Sincerely,

Beth Nolan
Counsel to the President

cc: The Honorable Henry Waxman
Ranking Minority Member

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INDEPENDENT

September 26, 2000

The Honorable Royce Lamberth
United States District Judge
United States District Court for the District of Columbia
333 Constitution Avenue, N.W.
Washington, D.C. 20001

Re: Earl Silbert's Involvement in the E-Mail Matter

Dear Judge Lamberth:

As part of its ongoing investigation of the White House's failure to search all e-mail messages in response to Committee subpoenas, the Committee on Government Reform recently examined the role of Earl Silbert in the e-mail matter. The Committee has learned significant information that is relevant to your decisionmaking in the *Alexander* case currently before the Court. The information relating to Silbert provides further evidence that the White House knew of the e-mail problems, but decided not to inform Congress, independent counsels, or your Court. In addition, the information recently received by the Committee indicates that counsel for Northrop Grumman may have misled the Court.

As you know from evidence presented before the Court, Northrop Grumman Corporation hired Earl Silbert as an outside counsel in September 1998. It appears that Northrop Grumman hired Silbert after several Northrop Grumman employees came to the company saying that they had discovered a problem with the White House e-mail, and had been threatened into keeping the problem a secret. Silbert had a teleconference with Northrop Grumman counsel and a Northrop Grumman employee on September 11,

1998.[1] He then had telephone calls with Northrop Grumman counsel on September 12, September 15, and September 22.

After this series of contacts with Northrop Grumman counsel, on September 28, Silbert contacted the White House Counsel's Office. This was discovered when the Committee subpoenaed Silbert's billing records. When interviewed by the Committee, Silbert stated that he did not have any independent recollection of the September 28, 1998, call to the White House. He could not recall the identity of the White House staffer with whom he spoke, or the subject matter of his discussions with White House staff.[2] However, it is clear from the billing records that Silbert's contacts with the White House did relate to his representation of Northrop Grumman in the e-mail matter. The timing of Silbert's call strongly suggests that it was made as a result of Northrop Grumman management being informed about the White House e-mail problem, and the fact that White House staff were threatening Northrop Grumman personnel.

After the September 28, 1998, call to the White House, Silbert had contacts with Northrop Grumman counsel on October 9, 1998, and December 15, 1998. After those contacts, on December 30, 1998, Silbert made another call to the White House Counsel's Office. Yet again, when interviewed by Committee staff, Silbert could not recall the identity of the White House lawyer with whom he spoke, or the subject matter of the telephone call. The timing of this telephone call suggests that it may have been related to the publication of news regarding the e-mail problem in Insight Magazine. The Insight story was first circulated on December 4, 1998, and documents indicate that the article came to the attention of Northrop Grumman personnel by December 9, 1998.

The significance of Silbert's contacts with the White House is obvious. Charles Ruff and Cheryl Mills have claimed that they failed to understand fully the e-mail problem, and that this lack of understanding resulted in their failure to properly address the problem in 1998. Leaving aside the substantial difficulties in believing the claims by Ruff or Mills, their claims hinge upon the assumption that they were told about the problem only once, by Mark Lindsay, in June 1998. However, if the White House Counsel's Office was told about the e-mail problem by Earl Silbert in September 1998, and again in December 1998, the White House claims of a "disconnect" become much more difficult to believe. If Silbert told the White House about the e-mail problem at the same time that he told them about the threats suffered by Northrop Grumman employees, it becomes impossible to believe that the White House engaged in anything short of obstruction of justice.[3]

---

[1] Silbert has declined to identify the Northrop Grumman employee with whom he spoke, citing the attorney work product doctrine. However, the testimony of Robert Haas before the Court on August 14, 2000, strongly suggests that Haas spoke with Silbert. In that testimony, Haas stated that he spoke with outside counsel, referred to as the "graybeard." Haas told the outside counsel about the threats he had encountered, as well as his concerns regarding the legal ramifications of the e-mail problem.

[2] The testimony of Mark Lindsay before the Court on August 23, 2000, suggests that Silbert may have called Lanny Breuer, the White House Special Counsel in charge of investigative matters. Silbert confirmed to the Committee that he knows Breuer, and has had contact with him in the past.

[3] Charles Ruff, Mark Lindsay, and Cheryl Mills have all stated that they never heard any allegation that the Northrop Grumman employees had been threatened until press accounts surfaced in February 2000.

The revelations in the Silbert billing records also cast new light on several representations made by Northrop Grumman counsel to the Court in the *Alexander* case. On June 16, 2000, Larry Klayman, counsel for the plaintiffs, was discussing Silbert's contacts with the White House, and certain representations were made by Richard Oparil, counsel for Northrop Grumman, which created the impression that there had not been any contact between Earl Silbert and the White House with respect to the e-mail matter:

> Mr. Klayman: Well, he said – let me answer. He said there are no written documents. But there should have been oral communications at a minimum over this issue. So we want to be able to get the actual telephone records showing the calls.
>
> Mr. Oparil: Your Honor, let me also speak to that.
>
> Mr. Klayman: Or, and let me just finish. Or, for instance, if there are calls coming back, telephone pad records, you know, call sheets, or anything like that. I got a call from Charles Ruff or whatever.
>
> Mr. Oparil: My – I spoke with Mr. Silbert about this, and he has no recollection of speaking to Mr. Ruff or anybody else in the White House counsel's office, again, about these alleged threats. So we don't believe that there were any oral communications.
>
> ***
>
> Mr. Klayman: Right. And one last point if I may. What Mr. Oparil just said, unless he misspoke, was that there was no communication with White House counsel. But there may have been communication with others in the White House.
>
> The Court: By your firm?
>
> Mr. Oparil: By our firm, nothing.

It is difficult to believe that in searching Piper Marbury's documents for evidence of telephone communications between Silbert and the White House, that Oparil did not review Silbert's billing records. The firm's billing records provide the most obvious source of corroboration of telephone calls, and are presumably easily searched. Indeed, Oparil told the Court that he had "looked through literally every single piece of paper in Piper Marbury's files." Accordingly, one must conclude that he was aware of Silbert's billing records, and intentionally misled the Court in stating that there had not been any contacts between Silbert and the White House regarding the e-mail matter.

I know that you have had concerns about the failure of certain witnesses and counsel in the *Alexander* case to be honest and forthright with the Court. I have had

similar concerns throughout the Committee's e-mail investigation. I hope that the Court will take these issues into account in deciding how to manage the reconstruction of e-mails by the White House.

Sincerely,



Dan Burton
Chairman

cc: The Honorable Henry Waxman, Ranking Minority Member
The Honorable Louis Freeh
The Honorable Janet Reno
Independent Counsel Robert Ray
Independent Counsel Ralph Lancaster
Independent Counsel Donald Smaltz
Independent Counsel David Barrett
Independent Counsel Carol Elder Bruce
Independent Counsel Curtis Von Kann
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September 27, 2000

By Hand

Hon. Royce C. Lamberth
United States District Judge
United States District Court
for the District of Columbia
333 Constitution Avenue, N.W.
Washington, DC 20001

Re: *Alexander v. Federal Bureau of Investigation*
Civil Action No. 96-2123 (RCL)

Dear Judge Lamberth:

Together with Earl J. Silbert, I represent Northrop Grumman Corporation, a non-party witness subpoenaed on August 2, 2000 to produce documents to the plaintiffs. In a letter addressed to you dated September 26, 2000, Congressman Dan Burton alleges that I "intentionally misled the Court in stating that there had not been any contacts between Silbert and the White House regarding the e-mail matter." For the record, that allegation is absolutely not true.

While we do not have the transcript of the August 16 hearing, I recall representing that I had reviewed the Northrop Grumman file pertaining to the e-mail matter and did not find any written document reflecting communications with the White House Counsel's Office in 1998. I also reported that Mr. Silbert had no recollection of speaking to Charles Ruff or anyone else in the Counsel's Office pertaining to Northrop Grumman in 1998. Those representations were and are true.

The billing records for the Northrop Grumman matter were not part of the client file that I reviewed. Billing records are maintained by the firm's accounting department and I did not review those records prior to the August 16th hearing.

Your Honor will recall that I undertook to determine whether any telephone messages existed reflecting communications between Mr. Silbert and the Counsel's Office in

1998 pertaining to Northrop Grumman. On September 13, I reported to you and counsel of record on the results of that search. I provided, for in camera review, one telephone message slip and two billing entries. Congressman Burton's letter fails to mention my September 13th letter and that we voluntarily provided the Court with the message slip and the billing entries.

Thank you for your attention.

Very truly yours,

Richard J. Oparil

cc: Hon. Dan Burton (by hand)
Hon. Henry Waxman (by hand)
Larry Klayman, Esq. (by fax)
Elizabeth Shapiro, Esq. (by fax)

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BERNARD SANDERS, VERMONT,
INDEPENDENT

September 28, 2000

Lynn Utrecht
Oldaker, Ryan, Phillips & Utrecht
818 Connecticut Avenue, N.W.
Suite 1100
Washington, D.C. 20006

Dear Ms. Utrecht:

The Committee on Government Reform is conducting an investigation into the failure to discover and produce e-mails from the Executive Office of the President (EOP). Last week, the White House made an initial production of e-mails recovered from the Office of the Vice President. One e-mail message indicated that Clinton/Gore '96 may have provided computers for use in the EOP. When the White House was asked about this practice, it indicated that any Clinton/Gore '96 computers in the EOP would have been returned after the election. In light of these developments, I have several questions for you, as counsel for Clinton/Gore '96:

1. Were any Clinton/Gore '96 computers used in the Executive Office of the President during the 1996 election cycle? If so, please state the time frame such computers were in the EOP, identify the location of the Clinton/Gore '96 computers in the EOP and, if possible, the individuals who used the computers in the EOP.

2. Were the Clinton/Gore '96 computers in the EOP ever searched by Clinton/Gore '96 in response to any subpoena or document request issued by this Committee? If not, have all records or files contained in such computers been maintained since being returned to Clinton/Gore '96?

3. Were all records and files created or received by Clinton/Gore '96 computers in the EOP saved or archived?

Please provide the information to the Committee by Monday, October 2, 2000. If

you have any questions, please contact the Committee's Deputy Counsel, David A. Kass, at (202) 225-5074. Thank you for your prompt attention to this matter.

Sincerely,

Dan Burton
Chairman

cc: The Honorable Henry Waxman

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BERNARD SANDERS, VERMONT,
INDEPENDENT

September 28, 2000

Judah Best, Esq.
Debevoise & Plimpton
555 13th Street, N.W.
Washington, D.C. 20004

Dear Mr. Best:

The Committee on Government Reform is conducting an investigation into the failure to discover and produce e-mails from the Executive Office of the President (EOP). Last week, the White House made an initial production of e-mails recovered from the Office of the Vice President. One e-mail message indicated that Clinton/Gore '96 may have provided computers for use in the EOP.

I would like to inquire whether the EOP utilized any computers from the DNC during the 1996 election cycle. If so, please provide the following information :

1. Please state the time frame such computers were in the EOP, identify the location of the DNC computers in the EOP and, if possible, the individuals who used the computers in the EOP.

2. Were the DNC computers in the EOP ever searched by the DNC in response to any subpoena or document request issued by this Committee? If not, have all records or files contained in such computers been maintained since being returned to the DNC?

3. Were all records and files created or received by the DNC computers in the EOP saved or archived?

In addition, Committee staff has asked whether any DNC photographers were present at the December 15, 1995, White House Coffee. I would appreciate a response to that question as well.

Please provide the information to the Committee by Monday, October 2, 2000. If

you have any questions, please contact the Committee's Deputy Counsel, David A. Kass, at (202) 225-5074. Thank you for your prompt attention to this matter.

Sincerely,

Dan Burton
Chairman

cc: The Honorable Henry Waxman

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF ADMINISTRATION
WASHINGTON, D.C. 20503

September 29, 2000

Mr. James C. Wilson, Esquire
Chief Investigative Counsel
Committee on Government Reform
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Wilson:

I am writing to follow-up on our September 14, 2000 briefing in connection with EOP's ongoing Tape Restoration Project (TRP). During that briefing, your staff inquired regarding the funding for the project, and I promised to provide information in that regard. Please be advised that the House and Senate Appropriations Committees have approved $13.2 million in total funding for the TRP effort. These funds include $8.4 million in supplemental funding appropriated in June 2000 and $4.8 million in existing funding which remained in a Capital Investment Plan account originally earmarked for EOP's Y2K efforts. In approving the supplemental funding, our appropriators required that we submit a report from our independent validation and verification contractor assessing the initial and projected project costs. Our contractor, Vistronix, Inc., submitted this assessment of costs as of July 28, 2000 and projected that the TRP will require $11.7 million in funding. As of September 29, 2000, EOP will have committed/obligated or expended approximately $6.9 million of the $13.2 in available funding.

Your staff also inquired regarding the reference to "additional requirements ranging from $5 to $30 million" in a May 25, 2000 letter from the Subcommittee on Treasury, Postal and General Government to Mr. Lindsay in relation to the TRP. The high end of this range anticipated the potential for forensic requirements from law enforcement agencies which would have required the services of an outside contractor at enormous expense. EOP ultimately reached an agreement with the Office of the Independent Counsel and the Campaign Financing Task Force on a tape restoration process which is expected to require funding within the existing appropriation level. This agreement was communicated to EOP's appropriators before the supplemental funding was approved by Congress.

As promised, I also forward with this letter a copy of our Tape Restoration Project Media Inventory (Binders 1 through 4) which identifies the 7,177 pieces of media contained in the inventory as of September 22, 2000. Please be reminded that we can provide sub-inventories, determined by date or other field, should that assist in your review of the inventory.

I will be happy to discuss the above with you.

Sincerely yours,

Michael K. Bartosz
General Counsel

cc: Paul Weinberger, Minority Chief Investigative Counsel

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MINORITY (202) 225–5051
TTY (202) 225–6852

HENRY A. WAXMAN, CALIFORNIA,
RANKING MINORITY MEMBER
TOM LANTOS, CALIFORNIA
ROBERT E. WISE, JR., WEST VIRGINIA
MAJOR R. OWENS, NEW YORK
EDOLPHUS TOWNS, NEW YORK
PAUL E. KANJORSKI, PENNSYLVANIA
PATSY T. MINK, HAWAII
CAROLYN B. MALONEY, NEW YORK
ELEANOR HOLMES NORTON,
DISTRICT OF COLUMBIA
CHAKA FATTAH, PENNSYLVANIA
ELIJAH E. CUMMINGS, MARYLAND
DENNIS J. KUCINICH, OHIO
ROD R. BLAGOJEVICH, ILLINOIS
DANNY K. DAVIS, ILLINOIS
JOHN F. TIERNEY, MASSACHUSETTS
JIM TURNER, TEXAS
THOMAS H. ALLEN, MAINE
HAROLD E. FORD, JR., TENNESSEE
JANICE D. SCHAKOWSKY, ILLINOIS

BERNARD SANDERS, VERMONT,
INDEPENDENT

September 29, 2000

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

Dear Ms. Nolan:

During your March 30, 2000, testimony before the Committee, Congressman Mica asked whether you had officially notified all the entities that had subpoenaed documents from the White House of the fact that e-mail archiving problems have rendered previous searches for responsive materials incomplete. Your response indicated that you had communicated with a number of Independent Counsels and Congressional Committees in order to gather information about every document request that came to the White House during the affected period. Congressman Mica then asked you to provide for the record copies of those communications.

To date, the Committee has not received any response to this request. Please provide by Friday, October 6, 2000, all records of communications relating to the various EOP e-mail archiving problems between your office and any entity (excluding this Committee) that subpoenaed documents from the White House.

Sincerely,

Dan Burton
Chairman

cc: The Honorable Henry Waxman, Ranking Minority Member

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF ADMINISTRATION
WASHINGTON, D.C. 20503

September 29, 2000

Mr. James C. Wilson, Esquire
Chief Investigative Counsel
Committee on Government Reform
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Wilson:

I am writing to follow-up on our September 14, 2000 briefing in connection with EOP's ongoing Tape Restoration Project (TRP). During that briefing, your staff inquired regarding the funding for the project, and I promised to provide information in that regard. Please be advised that the House and Senate Appropriations Committees have approved $13.2 million in total funding for the TRP effort. These funds include $8.4 million in supplemental funding appropriated in June 2000 and $4.8 million in existing funding which remained in a Capital Investment Plan account originally earmarked for EOP's Y2K efforts. In approving the supplemental funding, our appropriators required that we submit a report from our independent validation and verification contractor assessing the initial and projected project costs. Our contractor, Vistronix, Inc., submitted this assessment of costs as of July 28, 2000 and projected that the TRP will require $11.7 million in funding. As of September 29, 2000, EOP will have committed/obligated or expended approximately $6.9 million of the $13.2 in available funding.

Your staff also inquired regarding the reference to "additional requirements ranging from $5 to $30 million" in a May 25, 2000 letter from the Subcommittee on Treasury, Postal and General Government to Mr. Lindsay in relation to the TRP. The high end of this range anticipated the potential for forensic requirements from law enforcement agencies which would have required the services of an outside contractor at enormous expense. EOP ultimately reached an agreement with the Office of the Independent Counsel and the Campaign Financing Task Force on a tape restoration process which is expected to require funding within the existing appropriation level. This agreement was communicated to EOP's appropriators before the supplemental funding was approved by Congress.

As promised, I also forward with this letter a copy of our Tape Restoration Project Media Inventory (Binders 1 through 4) which identifies the 7,177 pieces of media contained in the inventory as of September 22, 2000. Please be reminded that we can provide sub-inventories, determined by date or other field, should that assist in your review of the inventory.

I will be happy to discuss the above with you.

Sincerely yours,

Michael K. Bartosz
General Counsel

cc: Paul Weinberger, Minority Chief Investigative Counsel

APPENDIX II

DOCUMENT SUBPOENAS ISSUED TO THE WHITE HOUSE OR WHITE HOUSE OFFICIALS

DOCUMENT SUBPOENAS ISSUED TO THE WHITE HOUSE OR WHITE HOUSE OFFICIALS

Since January of 1997, the Committee on Government Reform has issued 31 document subpoenas to the White House or White House officials.

	DATE	DUE	ISSUED TO	REASON
1.	3/4/97	3/13/97	Executive Office of the President	Campaign Finance (Documents)
2.	3/4/97	3/24/97	Executive Office of the President	Campaign Finance (Documents)
3.	4/8/97	4/25/97	Thomas F. McLarty	Campaign Finance (Documents)
4.	4/8/97	4/25/97	Marsha Scott	Campaign Finance (Documents)
5.	4/8/97	4/25/97	George Stephanopoulos	Campaign Finance (Documents)
6.	4/8/97	4/25/97	Bruce R. Lindsey	Campaign Finance (Documents)
7.	4/8/97	4/25/97	Erskine Bowles	Campaign Finance (Documents)
8.	4/23/97	4/28/97	Executive Office of the President	Campaign Finance (Documents)
9.	4/23/97	4/28/97	Executive Office of the President	Campaign Finance (Documents)
10.	4/24/97	4/30/97	Executive Office of the President	Campaign Finance (Documents)
11.	4/24/97	4/30/97	Executive Office of the President	Campaign Finance (Documents)
12.	4/29/97	5/2/97	Executive Office of the President	Campaign Finance (Documents)
13.	4/29/97	5/2/97	Executive Office of the President	Campaign Finance (Documents)
14.	8/14/97	8/22/97	Margaret Williams	Campaign Finance (Documents)
15.	8/21/97	9/4/97	Executive Office of the President	Campaign Finance (Documents)
16.	12/16/97	1/7/98	Custodian of Records, Counsel to the President	White House Data Base (Documents/Deposition)[1]
17.	12/16/97	1/12/98	Custodian of Records, Counsel to the President	White House Data Base (Documents/Deposition)[2]
18.	12/16/97	1/15/98	Custodian of Records, Counsel to the President	White House Data Base (Documents/Deposition)[3]
19.	1/15/98	1/20/98	Charles F.C. Ruff, Counsel to the President	White House Data Base (Documents/Deposition)[4]

[1] With the deposition subpoena, the recipient could obviate the need for appearance by producing all records called for in the subpoena attachment and certifying under oath the following: (1) the records produced were collected following a comprehensive search and represent all relevant records called for by the subpoena; and (2) that no other records exist.
[2] *Id.*
[3] *Id.*
[4] *Id.*

20.	1/28/98	2/13/98	Executive Office of the President	FBI Files (Documents)
21.	9/1/99	9/17/99	Executive Office of the President	Waco (Documents)
22.	9/1/99	9/15/99	Executive Office of the President	FALN (Documents)[5]
23.	11/10/99	11/17/99	Executive Office of the President	FALN (Documents)
24.	3/09/00	3/16/00	Executive Office of the President	White House E-mail Problems (Documents)
25.	3/16/00	3/30/00	Executive Office of the President	White House E-mail Problems (Documents)
26.	6/1/00	6/30/00	Executive Office of the President	White House E-mail Problems (Documents)
27.	7/7/00	7/10/00	Executive Office of the President	Campaign Finance (Documents)
28.	7/20/00	7/24/00	William Jefferson Clinton	Campaign Finance (Documents)
29.	7/28/00	8/4/00	Executive Office of the President	Possible corruption of Viktor Chernomyrdin (Documents)
30.	8/3/00	8/17/00	Executive Office of the President	Campaign Finance (Documents)
31.	09/07/00	09/14/00	Daniel A. Barry	White House E-mail Problems (Documents)

[5] The White House claimed executive privilege and refused to produce documents the Committee on Government Reform.

Subpena Duces Tecum

By Authority of the House of Representatives of the Congress of the United States of America

To Executive Office of the President SERVE: Charles F.C. Ruff, Counsel to the President, The White House, 1600 Pennsylvania Avenue, N.W., Washington, D.C. 20500

You are hereby commanded to produce the things identified on the attached schedule before the full Committee on Government Reform and Oversight of the House of Representatives of the United States, of which the Hon. Dan Burton is chairman, by producing such things in Room 2157 of the Rayburn House Office Building, in the city of Washington, on Thursday March 13, 1997, at the hour of 5:00 p.m.

To Judy McCoy or U.S. Marshals Service

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 4th day of March, 19 97

Dan Burton
Chairman.

Attest:

Robin H Carle
Clerk.

Subpena for.....

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before the Committee on the.....

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Served.....

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.....House of Representatives

GPO: 1991 42-417 (m)

SCHEDULE A

Subpoena Duces Tecum
Committee on Government Reform and Oversight
U.S. House of Representatives

Executive Office of the President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Serve: Charles F.C. Ruff
Counsel to the President

Pursuant to its authority under Rules X and XI of the House of Representatives, the Committee on Government Reform and Oversight is conducting an investigation into foreign contributions to the Democratic National Committee, other alleged campaign fund-raising abuses, questionable contributions made to the Presidential Legal Expense Trust and/or the legal defense funds of administration officials, political activities of agency officials, misuse of agency resources, and any related matters arising out of these areas.

As part of its investigation, the Committee hereby subpoenas certain records. Please provide logs which indicate each record's Bates number, author, description, and source file. If you have any questions, please contact the Committee's Chief Counsel, John P. Rowley III, at (202) 225-5074.

Definitions and Instructions

(1) For the purposes of this subpoena, the word "record" or "records" shall include, but shall not be limited to, any and all originals and identical copies of any item whether written, typed, printed, recorded, redacted or unredacted, transcribed, punched, taped, filmed, graphically portrayed, video or audio taped, however produced or reproduced, and includes, but is not limited to, any writing, reproduction, transcription, photograph, or video or audio recording, produced or stored in any fashion, including any and all activity reports, agendas, analyses, announcements, appointment books, briefing materials, bulletins, cables, calendars, card files, computer disks, cover sheets or routing cover sheets, drawings, computer entries, computer printouts, computer tapes, external and internal correspondence, diagrams, diaries, documents, electronic mail (e-mail), facsimiles, journal entries, letters, manuals, memoranda, messages, minutes, notes, notices, opinions, statements or charts of organization, plans, press releases, recordings, reports, Rolodexes, statements of procedure and policy, studies, summaries, talking points, tapes, telephone bills, telephone logs, telephone message slips, records or evidence of incoming and outgoing telephone calls, telegrams, telexes, transcripts, or any other machine readable material of any sort whether prepared by current or former employees, agents,

consultants or by any non-employee without limitation. "Record" or "records" shall also include all other records, documents, data and information of a like and similar nature not listed above.

(2) For purposes of this subpoena, the terms "refer" or "relate" and "concerning" as to any given subject means anything that constitutes, contains, embodies, identifies, mentions, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.

(3) This subpoena calls for the production of records, documents and compilations of data and information that are currently in your possession, care, custody or control, including, but not limited to, all records which you have in your physical possession as well as any records to which you have access, any records which were formerly in your possession, or which you have put in storage or anyone has put in storage on your behalf. Unless a time period is specifically identified, the subpoena includes all documents to the present.

(4) The conjunctions "or" and "and" are to be read interchangeably in the manner that gives this subpoena the broadest reading.

(5) No records, documents, data or information called for by this subpoena shall be destroyed, modified, redacted, removed or otherwise made inaccessible to the Committee.

(6) If you have knowledge that any subpoenaed record, document, data or information has been destroyed, discarded or lost, including, but not limited to, identify the subpoenaed records, documents data or information and provide an explanation of the destruction, discarding, loss, deposit or disposal.

(7) When invoking a privilege as to any responsive record, document, data or information as a ground for withholding such record, document, data or information, list each record, document, compilation of data or information by data, type, addressee, author (and if different, the preparer and signatory), general subject matter, and indicated or known circulation. Also, indicate the privilege asserted with respect to each record, document, compilation of data or information in sufficient detail to ascertain the validity of the claim of privilege.

(8) This subpoena is continuing in nature. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date shall be provided immediately upon location or discovery subsequent thereto.

(9) For purposes of this request "White House" refers to any and all employees, representatives, officers, contractors, volunteers, interns, agents and/or consultants, whether paid or unpaid, of the Executive Office of the President, including but not limited to White House Counsel; the First Lady and her office; the President; the Vice-President; the Office of National Security Affairs; the National Security Counsel; and/or the executive branch assigned to, or working at the White House, regardless of designation describing their service at the White

House.

(10) For purposes of this request "Democratic National Committee" refers to any and all employees, representatives, officers, directors, contractors, volunteers, interns, agents and/or consultants, whether paid or unpaid, of the Democratic National Committee.

(11) For purposes of this request, the "Justice Department" refers to all employees, representatives, officers, directors, contractors, volunteers, interns, agents and/or consultants, whether paid or unpaid, of the U.S. Department of Justice.

(12) For purposes of this request, the "FBI" refers to all employees, representatives, officers, directors, contractors, volunteers, interns, agents and/or consultants, whether paid or unpaid, of the Federal Bureau of Investigation.

(13) For purposes of this request, the "CIA" refers to all employees, representatives, officers, directors, contractors, volunteers, interns, agents and/or consultants, whether paid or unpaid, of the Central Intelligence Agency.

(14) For purposes of this request, the "NSA" refers to all employees, representatives, officers, directors, contractors, volunteers, interns, agents and/or consultants, whether paid or unpaid, of the National Security Agency.

Subpoenaed Items

Please provide the Committee with the following:

1. All records relating to any suggestion, discussion, communication or proposal by or among White House personnel, including all persons within the term "White House" as specified in Definition (9) above, that a request be made by the White House to the Justice Department, during the period from December 1, 1996 through the present date, for information concerning Justice Department and/or FBI investigation of campaign fund-raising activities, including possible Chinese government involvement, during the 1996 Presidential campaign.

2. All records, including but not limited to, notes, memoranda, appointment books, schedules, calendars and daytimers, reflecting or relating to meetings, telephone calls, or other contacts in which the below-listed individuals participated or attended, during the period from December 1, 1996 through the present date, concerning Justice Department and/or FBI investigation of campaign fund-raising activities, including possible Chinese government involvement, during the 1996 Presidential campaign:

(a) The President;

(b) The Vice President;

(c) Erskine Bowles, White House Chief of Staff;

(d) Leon Panetta, (former) White House Chief of Staff;

(e) Anthony Lake, National Security Advisor

(f) Samuel (Sandy) Berger, Deputy National Security Advisor;

(g) Charles F.C. Ruff, Counsel to the President; and

(h) Staff or other representatives of the Offices listed in (a) - (g) immediately above.

3. All records relating to contacts between the White House and any person, during the period from December 1, 1996 through the present date, concerning information about possible Chinese government involvement in the 1996 Presidential campaign.

4. All records relating to contacts between the White House and the Justice Department, during the period from December 1, 1996 through the present date, concerning Justice Department and/or FBI investigation of campaign fund-raising activities, including possible Chinese government involvement, during the 1996 Presidential campaign.

5. All records relating to any request by the White House to the Justice Department, during the period from December 1, 1996 through the present date, for information concerning Justice Department and/or FBI investigation of campaign fund-raising activities, including possible Chinese government involvement, during the 1996 Presidential campaign.

6. All records relating to any response by the Justice Department to the White House, during the period from December 1, 1996 through the present date, to any request by the White House for information concerning Justice Department and/or FBI investigation of campaign fund-raising activities, including possible Chinese government involvement, during the 1996 Presidential campaign.

7. All records relating to contacts between the White House and the State Department, during the period from December 1, 1996 through the present date, concerning Justice Department and/or FBI investigation of campaign fund-raising activities, including possible Chinese government involvement, during the 1996 Presidential campaign.

8. All records relating to contacts between the White House and the CIA, during the period from December 1, 1996 through the present date, concerning possible Chinese government involvement in campaign fund-raising related activities during the 1996 Presidential campaign.

9. All records relating to contacts between the White House and the NSA, during the

period from December 1, 1996 through the present date, concerning possible Chinese government involvement in campaign fund-raising related activities during the 1996 Presidential campaign.

10. All contacts, during the period October 1, 1996 through the present date, between White House personnel, including all persons within the term "White House" as specified in Definition (9) above, and the following:

(a) John Huang;

(b) Webster Hubbell;

(c) Yah Lin "Charlie" Trie;

(d) Mark Middleton;

(e) Pauline Kanchanalak;

(f) Johnny Chung (a/k/a "Johnny Chien Chen Chung"); and

(g) Any attorney or other person purporting to represent the individuals listed in (a) - (f) immediately above.

Subpena Duces Tecum

By Authority of the House of Representatives of the Congress of the United States of America

To Executive Office of the President SERVE: Charles F.C. Ruff, Counsel to the President, The White House, 1600 Pennsylvania Avenue, N.W., Washington, D.C. 20500

You are hereby commanded to produce the things identified on the attached schedule before the full Committee on Government Reform and Oversight of the House of Representatives of the United States, of which the Hon. Dan Burton is chairman, by producing such things in Room 2157 of the Rayburn House Office Building, in the city of Washington, on Monday March 24, 1997, at the hour of 5:00 p.m.

To Judy McCoy or U.S. Marshals Service

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 4th day of March, 19 97

Dan Burton
Chairman.

Attest:

Robin H. Carle
Clerk.

Subpena for.....

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before the Committee on the.....

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Served.....

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.....House of Representatives

GPO: 1991 42-417 (m)

SCHEDULE A

Subpoena Duces Tecum
Committee on Government Reform and Oversight
United States House of Representatives

TO:
Executive Office of the President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

SERVE: Charles F.C. Ruff
Counsel to the President

Pursuant to its authority under Rules X and XI of the House of Representatives, the Committee on Government Reform and Oversight is conducting an investigation into foreign contributions to the Democratic National Committee, other alleged campaign fundraising abuses, questionable contributions made to the Presidential Legal Expense Trust and/or the legal defense funds of administration officials, political activities of agency officials, misuse of agency resources, and any related matters arising out of these areas.

As part of its investigation, the Committee hereby subpoenas the following records. Please provide production logs which indicate each record's Bates number, author, description, and source file. Where information is available in computer disk form, please indicate and provide the information by computer disk rather than paper copy. If you have any questions, please contact Chief Investigative Counsel Barbara Comstock at (202) 225-5074.

Definitions and Instructions

(1) For the purposes of this subpoena, the word "record" or "records" shall include, but shall not be limited to, any and all originals and identical copies of any item whether written, typed, printed, recorded, transcribed, punched, taped, filmed, graphically portrayed, video or audio taped, however produced or reproduced, and includes, but is not limited to, any writing, reproduction, transcription, photograph, or video or audio recording, produced or stored in any fashion, including and all activity reports, agendas, analyses, announcements, appointment books, briefing materials, bulletins, cables, calendars, card files, computer disks, cover sheets or routing cover sheets, drawings, computer entries, computer printouts, computer tapes, external and internal correspondence, diagrams, diaries, documents, electronic mail (e-mail), facsimiles,

journal entries, letters, manuals, memoranda, messages, minutes, notes, notices, opinions, statements or charts of organization, plans, press releases, recordings, reports, Rolodexes, statements of procedure and policy, studies, summaries, talking points, tapes, telephone bills, telephone logs, telephone message slips, records or evidence of incoming and outgoing telephone calls, telegrams, telexes, transcripts, or any other machine readable material of any sort whether prepared by current or former employees, agents, consultants or by any non-employee without limitation. "Record" or "records" shall also include all other records, documents, data and information of a like a similar nature not listed above.

(2) For purposes of this subpoena, the terms "refer" or "relate" and "concerning" as to any given subject means anything that constitutes, contains, embodies, identifies, mentions, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.

(3) For purposes of this subpoena "White House" refers to any and all employeoes, representatives, officers, contractors, volunteers, interns, agents and/or consultants, whether paid or unpaid, of the Executive Office of the President; the President; the Vice-President and his office; the First Lady and her office; Office of National Security Affairs; the National Security Council; and/or the executive branch assigned to, or working at the White House, regardless of designation describing their service at the White House.

(4) This subpoena calls for the production of records, documents and compilations of data and information that are currently in your possession, care, custody or control, including, but not limited to, all records which you have in your physical possession as well as any records to which you have access, any records which were formerly in your possession, or which you have put in storage or anyone has put in storage on your behalf. Unless a time period is specifically identified, the request includes all documents to the present.

(5) The conjunctions "or" and "and" are to be read interchangeably in the manner that gives this request the broadest reading.

(6) No records, documents, data or information called for by this request shall be destroyed, modified, redacted, removed or otherwise made inaccessible to the Committee.

(7) If you have knowledge that any subpoenaed record, document, data or information has been destroyed, discarded or lost, identify the requested records, documents, data or information and provide an explanation of the destruction, discarding, loss, deposit or disposal.

(8) When invoking a privilege as to any responsive record, document, data or information as a ground for withholding such record, document, data or information, list each record, document, compilation of data or information by data, type, addressee, author (and if different, the preparer and signatory), general subject matter and indicated or known circulation. Also, indicate the privilege asserted with respect to each record, document, compilation of data or

information in sufficient detail to ascertain the validity of the claim of privilege.

(9) This subpoena is continuing in nature. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date shall be provided immediately upon location or discovery subsequent thereto.

(10) This subpoena includes all Staff Secretary records including all records the President has seen and/or commented on or responded to.

Requested Items

1. All records relating to John Huang and all records relating to Jane Huang.

2. All records relating to Mochtar Riady, James Riady, Stephen Riady, Andrew Riady, Lydia Surywati, Aileen Riady, the Lippo Group, and any affiliate of the Lippo Group.

3. All records relating to Yah Lin Charles Trie a.k.a. Charlie Trie and any family member of Mr. Trie, including but not limited to, Wang Mei Trie.

4. All records relating to P. Kanchanalak, Pauline (or Pornpimol) Kanchanalak, and/or Pauline (or Pornpimol) Parichattkul; Chupong Kanchanalak (aka Jeb Kanchanalak) and/or Daungnet Kronenberg.

5. All records relating to C. Joseph Giroir, Arkansas International Development Corporation, Giroir & Gregory and/or any business connected with C. Joseph Giroir, Jr.

6. All records relating to Johnny Chien Chuen Chung (aka Johnny Chung), Automated Intelligence Systems; and/or any business connected with Johnny Chung.

7. All records relating to John Hoon Kyung Lee (aka John H.K. Lee, Lee Kyung Hoon or Kyung Hoon Lee).

8. All records relating to George Psaltis.

9. All records relating to Mark Middleton, CommerceCorp. International, and/or any business connected with Mark Middleton for the period February 1, 1995 to the present.

10 All records relating to any of the following individuals: Soraya and/or Arief

Wiriadinata; Paul Berry; Jorge Bolanos, Craig Hall, Jerome Berlin, Hashim Ning; Yogesh Gandhi; Hogen Fukunaga; Yoshia Tanaka; Hsing Yun (aka Shing Yun); Tzu Jung (aka Su-Jen Wu); Hsiao Pi-Hsia; Chu Lin Hsiu (aka Hsiu Chu Lin); Ken Hsiu; Jou Shen (aka Jou Sheng); Man Ya Shih; Siuw Moi Lian; Mi Ryu Ahn; Gary Hseueh, Charles DeQueljoe; Keshi Zhan; Xiping Wang; Yue F. Chu; Farhad Azima; Leo Chan; Ming Chen; Any Hsi-I Chiang; Chin-kaun Chiang; Juan Kuo Chiang; Hong Jen Chiao; Marina Chiu; Richard Mays, Richard J. Soon Choi (aka Unchung Choi); Wei Fen Chou; Dario Crosetto; Juan Gallicchio; Ming Yao Hao; Chiu-lan Ho; Comete H. Hong; Pi Hsia Hsiao; Bor Yun Jen; Bih-Yueh Jeng; Stanley P. Jobe; Joseph R. Landon; David Lee; Richard Tienken, Qing Li; Michele Lima; Chong Lo; James Lu; Benito Michaud; Sang Minh Nguyen; Hsu Pi-chu Nien; Seow Fong Ooi; Gilberto Pagan; Paul Audio; Ai Hua Qi; Max Salas; Jou Sheng; Shiwen W. The; Min Hsiang Ten; Ying Chiu Tien; Chi R. Wang: Kun-cheng Yeh; Bun Yeung; Kimmy L. Young; Master Shing Yun; Keshi Zhan; Master Suma Ching Hai, Eugene Wu, Mark Grobmyer, Paul Berry; Jorge Cabrera; Dhanin Chearavanont; Sumet Jiaravanot; Sarasin Virpol, Mark Jimenez, Ernest Green; Howard Glicken; Alan Leventhal; Grigory Louchansky; Vivian Manarrud; Mike Mitoma; Joseph O'Brien; Fred Siegel; Ng Lap Seng; Roger Tamraz; Melinda Yee, Eric Wynn.

11. All records relating to any of the following entities: The Lippo Group, Lippobank, Cheong Am America; K & L International; K & L International Partners, Inc.; Psaltis Corporation; Hip Hing Holdings, Ltd.; Automated Intelligent Systems, Inc.; Bang Chang Group; Bang Chang International; San Kin Yip International Trading Company, CommerceCorp. International; Hsi Lai Temple; Commerce International, Inc.; Commerce International of Arkansas, Inc.; Mid-South International Trade Association; U.S.-Thailand Business Council, Daihatsu International Trading Company; Asian Pacific International Inc.; America-Asia Trade Center, Inc.; American Eco Corp.; ACPC Inc.; American International Bank; Aviation Leasing Group; Cherry Communications; Chy Corp.; Empire Sanitary Landfill; Interactive Wireless; Jss Consultants; Japan Green Stamp America; Kassaouf Real Estate; Promay Plastic; Richfield Window Coverings; Royal Industries; Supercom; T & W Arts & Crafts (USA); Taiwan Machinery Trade Center; Tayu (Texas) Inc.; United Global Trading; Victor CNC Systems; Victor Industrial Supply; Victor International; Wireless Advantage; Yama Ren Trade Entertainment; C.K. Victory Investments; Prince Motors, Co.; Global, USA, Inc.

12. All records related to Executive Order Number 12987.

13. All records related to the Presidential Legal Expense Trust.

14. All records relating to Hongye Zheng, China Council for the Promotion of

International Trade (CCPIT), Yan Sanzhong, China Petro-Chemical Corp., Jichun Huang, China International Trust and Investment Corp., Renzhong Wang, Shanghai AJ Shareholding Corp., James J. Sun, Urumqi Talhe Industry Co, Jianiong Yu, Wang Jun, Poly Technologies, Poly Group and/or CITIC.

15. All records relating to Occidental Petroleum.

16. All records relating to White House Political Coffees, including but not limited to, all attendees to the coffees, all invitees to the coffees, all briefing memos for the coffees, all records relating to expenses of the coffees, all records reflecting donors attending the coffees, donations connected with the coffees, "installment" payments from donors, and all notes taken at the coffees, including but not limited to, notes taken by Harold Ickes, Marsha Scott, Alexis Herman, Doug Sosnick, Erskine Bowles, Scott Pastrick, Marvin Rosen, Richard Sullivan, and/or the President.

17. All records of Air Force I and Air Force II passenger manifests for the period January 20, 1993 to the present and all records of reimbursements for Air Force I and/or Air Force II expenses for non-staff passengers.

18. All records relating to official delegation trips abroad.

19. All records relating to William Ginsberg, Chief of Staff to Secretary Ron Brown, including but not limited to his Commerce Department diaries.

20. All records of attendees at the White House movies.

21. All Usher's records of who was in the White House residence for the period January 20, 1993 to the present.

22. All records relating to use of the Presidential box at the Kennedy Center for the period January 20, 1993 to the present.

23. All records of attendees at radio address spots for the period January 20, 1993 to the present.

24. All records of who has White House mess privileges for the period January 20, 1993 to the present.

25. All records of guests at Camp David for the period January 20, 1993 to the present.

26. All records of Ann Stock, Carolyn Huber and/or any social secretary at the White

House regarding scheduling of any of the following White House events for the period January 20, 1993 to the present: ceremonies, residence visits, overnight stays at the White House, Kennedy Center Tickets, Camp David visits, private dinners, guests at White House movie showings, and official delegation trips abroad.

27. All records relating to the Democratic National Committee for the period January 20, 1993 to the present.

28. All records relating to volunteers at the White House paid by the DNC and/or any other outside entity.

29. All records relating to Webster Hubbell.

30. All records relating to the First Lady's visit to Guam in September 1995.

31. All records related to United States policy with Guam, regarding the Jones Act, the Guam Commonwealth Act, and issues relating to immigration, labor and taxes and similar issues relating to the Commonwealth of Northern Mariana Islands since 1993, including all records relating to contacts between the Interior Department and the White House ; all records relating to contacts between the White House and the DNC concerning Guam; all records related to contributions received from Guam and the Commonwealth of Northern Marian Islands; and all records relating to contacts between the White House and Governor Carl Gutierrez of Guam.

32. All records relating to any meetings held in the White House complex (including the White House residence) attended by any employee or volunteer of the DNC, including, but not limited to, all meetings generally known as "Wednesday Money Meetings."

33. All records relating to Truman Arnold.

34. All records relating to the investigation of Secretary Ron Brown by an Independent Counsel, including but not limited to, all records relating to Nora Lum, Gene Lum, Nickie Lum, Maxine Lum Mauricio, Trisha Lum, and/or Dynamic Energy Resources, Inc.

35. All records relating to the American Institute in Taiwan and/or James Wood.

36. All records relating to the Clinton Birthplace Foundation and/or the Hope Foundation.

37. All records relating to the Asian Pacific Advisory Council ("APAC"); the Asian Pacific American Leadership Council ("APALC"); and/or the Asian Pacific American Working Group ("APAWG").

38. All cellular phone records, phone credit card records and any charges billed to the Democratic National Committee.

39. All legal opinions relating to the use of volunteers at the White House.

40. All legal opinions relating to fundraising.

41. All records relating to the President and/or Vice President and fundraising.

42. All records relating to any expenses connected with White House Political Coffees, White House overnight guests, Air Force I and Air Force II trips taken by non-staff, and Camp David guests.

43. All phone records from Air Force I and Air Force II for the period September 1995 through November 5, 1996.

44. All lexus-nexus account numbers for the period January 20, 1993 to the present.

45. All lexus-nexus searches done on any DNC donors for the period January 20, 1993 to the present.

Subpena Duces Tecum

By Authority of the House of Representatives of the Congress of the United States of America

To Thomas F. McLarty SERVE: William H. Taylor, III, Esq.

You are hereby commanded to produce the things identified on the attached schedule before the full Committee on Government Reform and Oversight of the House of Representatives of the United States, of which the Hon. Dan Burton is chairman, by producing such things in Room 2157 of the Rayburn House Office Building, in the city of Washington, on Friday April 25, 1997, at the hour of 5:00 p.m.

To Judy McCoy or U.S. Marshals Service

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 8th day of April, 19 97

Dan Burton
Chairman.

Attest: Robin H. Carle
Clerk.

Subpena for Thomas F. McLarty

SERVE: William H. Taylor, III, Esq., Zuckerman, Spaeder, Goldstein, Taylor & Kolker, 1201 Connecticut Avenue, NW, Washington, DC 20036-2638

before the Committee on the

Served

House of Representatives

GPO: 1991 42-417 (m)

SCHEDULE A

Subpoena Duces Tecum
Committee on Government Reform and Oversight
United States House of Representatives

Thomas F. McLarty
Serve: William H. Taylor, III, Esq.
Zuckerman, Spaeder, Goldstein, Taylor & Kolker
1201 Connecticut Avenue, N.W.
Washington, DC 20036-2638

The Committee hereby subpoenas certain records. Please provide logs which indicate each record's Bates number, author, description, and source file. If you have any questions, please contact the Committee's Chief Counsel, John P. Rowley, III, or Chief Investigative Counsel Barbara Comstock at (202) 225-5074.

Definitions and Instructions

1. For purposes of this subpoena, the word "record" or "records" shall include, but shall not be limited to, any and all originals and identical copies of any item whether written, typed, printed, recorded, redacted or unredacted, transcribed, punched, taped, filmed, graphically portrayed, video or audio taped, however produced or reproduced, and includes, but is not limited to, any writing, reproduction, transcription, photograph, or video or audio recording, produced or stored in any fashion, including any and all activity reports, agendas, analyses, announcements, appointment books, briefing materials, bulletins, cables, calendars, card files, computer disks, cover sheets or routing cover sheets, drawings, computer entries, computer printouts, computer tapes, contracts, external and internal correspondence, diagrams, diaries, documents, electronic mail (e-mail), facsimiles, journal entries, letters, manuals, memoranda, messages, minutes, notes, notices, opinions, statements or charts of organization, plans, press releases, recordings, reports, Rolodexes, statements of procedure and policy, studies, summaries, talking points, tapes, telephone bills, telephone logs, telephone message slips, records or evidence of incoming and outgoing telephone calls, telegrams, telexes, transcripts, or any other machine readable material of any sort whether prepared by current or former employees, agents, consultants or by any non-employee without limitation. "Record" or "records" shall also include all other records, documents, data and information of a like and similar nature not listed above.

2. For purposes of this subpoena, the terms "refer" or "relate" and "concerning" as to any given subject means anything that constitutes, contains, embodies, identifies, mentions, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.

3. This subpoena calls for the production of records, documents and compilations of data and information that are currently in your possession, care, custody or control, including, but not limited to, all records which you have in your physical possession as well as any records to which

you have access, any records which were formerly in your possession, or which you have put in storage or anyone has put in storage on your behalf. Unless a time period is specifically identified, the subpoena includes all documents to the present.

4. The conjunctions "or" and "and" are to be read interchangeably in the manner that gives this subpoena the broadest reading.

5. No records, documents, data or information called for by this subpoena shall be destroyed, modified, redacted, removed or otherwise made inaccessible to the Committee.

6. If you have knowledge that any subpoenaed record, document, data or information has been destroyed, discarded or lost, identify the subpoenaed records, documents data or information and provide an explanation of the destruction, discarding, loss, deposit or disposal.

7. When invoking a privilege as to any responsive record, document, data or information as a ground for withholding such record, document, data or information, list each record, document, compilation of data or information by date, type, addressee, author (and if different, the preparer and signatory), general subject matter, and indicated or known circulation. Also, indicate the privilege asserted with respect to each record, document, compilation of data or information in sufficient detail to ascertain the validity of the claim of privilege.

8. This subpoena is continuing in nature. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date shall be provided immediately upon location or discovery subsequent thereto.

9. Please provide a printed and, where possible, an electronic version of records. Electronic information may be stored on 3½ inch diskettes in ASCII format.

10. For purposes of this subpoena "White House" refers to any and all employees, representatives, officers, contractors, volunteers, interns, agents and/or consultants, whether paid or unpaid, of the Executive Office of the President; the President; the Vice-President and his office; the First Lady and her office; the Office of National Security Affairs; the National Security Council; and/or the executive branch assigned to, or working at the White House, regardless of designation describing their service at the White House.

11. For purposes of this request "employment" refers to any manner of employment including but not limited to service as a representative, officer, director, contractor, volunteer, agent and/or consultant, whether paid or unpaid.

Subpoenaed Items

Please provide the Committee with the following:

1. All records relating to Webster Hubbell for the period January 20, 1993 to the present, including, but not limited to, all records of contacts and/or communications relating to Webster Hubbell with the following individuals and/or entities:

   a. Michael Berman;
   b. Erskine Bowles;
   c. Mickey Kantor;
   d. James Lyons;
   e. John Tisdale;
   f. Susan Thomases;
   g. Vernon Weaver;
   h. Rose Law Firm;
   i. American Income Life Insurance Company;
   j. Truman Arnold;
   k. Truman Arnold Companies;
   l. Consumer Support and Education Fund;
   m. HarperCollins;
   n. MacAndrews & Forbes Holdings, Inc.;
   o. Mid-America Dairymen, Inc.;
   p. Pacific-Telesis;
   q. Ronald O. Perelman;
   r. John Phillips;
   s. Bernard Rapoport;
   t. Sun America, Inc.;
   u. Time-Warner;
   v. Total Petroleum;
   w. Sprint; and/or
   x. John Emerson.

2. All records relating to the Lippo Group, Lippo Bank, Hip Hing Holdings, Ltd., Bank of Trade Securities Corp., Lippo Motors of Hollywood OL Inc., Lippo Asia (U.S.A.), Inc., Lippo Finance Inc., Lippo America Inc., Yoshua Company N.V., Calbot Holdings Inc., Toy Center Holdings of California Inc., Lippo Holding America Inc., Bertolex America, Inc. and/or GNB Acquisition Corp.

3. All records relating to Mochtar Riady, James Riady, Lydia Surywati, Aileen Riady, Andrew Riady, Stephen Riady, Anton Riady, Minny Riady and/or Nita Riady.

4. All records relating to John Huang.

5. All records relating to Mark Middleton for the period January 1, 1995 to the present.

Subpena Duces Tecum

By Authority of the House of Representatives of the Congress of the United States of America

To Marsha Scott SERVE: Stuart F. Pierson, Esq.

You are hereby commanded to produce the things identified on the attached schedule before the full Committee on Government Reform and Oversight of the House of Representatives of the United States, of which the Hon. Dan Burton is chairman, by producing such things in Room 2157 of the Rayburn House Office Building, in the city of Washington, on Friday April 25, 1997, at the hour of 5:00 p.m.

To Judy McCoy or U.S. Marshals Service

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 8th day of April, 19 97

Dan Burton
Chairman.

Attest: Robin H. Carle
Clerk.

Subpena for Marsha Scott

SERVE: Stuart F. Pierson, Esq., Levine

Pierson Sullivan & Koch, L.L.P., Suite 700

1155 Connecticut Avenue, NW, Washington, DC 20036

before the Committee on the

Served

House of Representatives

GPO: 1991 42-417 (m)

SCHEDULE A

Subpoena Duces Tecum
Committee on Government Reform and Oversight
United States House of Representatives

Marsha Scott
Serve: Stuart F. Pierson, Esq.
Levine Pierson Sullivan & Koch, L.L.P
Suite 700
1155 Connecticut Avenue, N.W.
Washington, DC 20036

The Committee hereby subpoenas certain records. Please provide logs which indicate each record's Bates number, author, description, and source file. If you have any questions, please contact the Committee's Chief Counsel, John P. Rowley, III, or Chief Investigative Counsel Barbara Comstock at (202) 225-5074.

Definitions and Instructions

1. For the purposes of this subpoena, the word "record" or "records" shall include, but shall not be limited to, any and all originals and identical copies of any item whether written, typed, printed, recorded, redacted or unredacted, transcribed, punched, taped, filmed, graphically portrayed, video or audio taped, however produced or reproduced, and includes, but is not limited to, any writing, reproduction, transcription, photograph, or video or audio recording, produced or stored in any fashion, including any and all activity reports, agendas, analyses, announcements, appointment books, briefing materials, bulletins, cables, calendars, card files, computer disks, cover sheets or routing cover sheets, drawings, computer entries, computer printouts, computer tapes, contracts, external and internal correspondence, diagrams, diaries, documents, electronic mail (e-mail), facsimiles, journal entries, letters, manuals, memoranda, messages, minutes, notes, notices, opinions, statements or charts of organization, plans, press releases, recordings, reports, Rolodexes, statements of procedure and policy, studies, summaries, talking points, tapes, telephone bills, telephone logs, telephone message slips, records or evidence of incoming and outgoing telephone calls, telegrams, telexes, transcripts, or any other machine readable material of any sort whether prepared by current or former employees, agents, consultants or by any non-employee without limitation. "Record" or "records" shall also include all other records, documents, data and information of a like and similar nature not listed above.

2. For purposes of this subpoena, the terms "refer" or "relate" and "concerning" as to any given subject means anything that constitutes, contains, embodies, identifies, mentions, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.

3. This subpoena calls for the production of records, documents and compilations of data

and information that are currently in your possession, care, custody or control, including, but not limited to, all records which you have in your physical possession as well as any records to which you have access, any records which were formerly in your possession, or which you have put in storage or anyone has put in storage on your behalf. Unless a time period is specifically identified, the subpoena includes all documents to the present.

4. The conjunctions "or" and "and" are to be read interchangeably in the manner that gives this subpoena the broadest reading.

5. No records, documents, data or information called for by this subpoena shall be destroyed, modified, redacted, removed or otherwise made inaccessible to the Committee.

6. If you have knowledge that any subpoenaed record, document, data or information has been destroyed, discarded or lost, identify the subpoenaed records, documents data or information and provide an explanation of the destruction, discarding, loss, deposit or disposal.

7. When invoking a privilege as to any responsive record, document, data or information as a ground for withholding such record, document, data or information, list each record, document, compilation of data or information by date, type, addressee, author (and if different, the preparer and signatory), general subject matter, and indicated or known circulation. Also, indicate the privilege asserted with respect to each record, document, compilation of data or information in sufficient detail to ascertain the validity of the claim of privilege.

8. This subpoena is continuing in nature. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date shall be provided immediately upon location or discovery subsequent thereto.

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11. For purposes of this request "employment" refers to any manner of employment including but not limited to service as a representative, officer, director, contractor, volunteer, agent and/or consultant, whether paid or unpaid.

Subpoenaed Items

Please provide the Committee with the following:

1. All records relating to Webster Hubbell for the period February 1, 1994 to the present, including, but not limited to, all calendars, phone messages, and/or phone slips reflecting contacts and/or communications relating to Webster Hubbell.

2. All telephone billing records for telephone numbers, lines and/or facilities, including, but not limited to cellular, credit card and calling card numbers, subscribed to by and/or billed to you for the period April 1, 1994 to the present.

Subpena Duces Tecum

By Authority of the House of Representatives of the Congress of the United States of America

To George Stephanopoulos SERVE: Stanley Brand, Esq.

You are hereby commanded to produce the things identified on the attached schedule before the full Committee on Government Reform and Oversight of the House of Representatives of the United States, of which the Hon. Dan Burton is chairman, by producing such things in Room 2157 of the Rayburn House Office Building, in the city of Washington, on Friday April 25, 1997, at the hour of 5:00 p.m.

To Judy McCoy or U.S. Marshals Service

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 8th day of April, 19 97.

Dan Burton
Chairman.

Attest:

Robin H Carle
Clerk.

Subpena for Mr. George Stephanopoulos

SERVE: Stanley Brand, Esq., Brand, Lowell & Ryan

923 15th Street, NW

Washington, DC 20005

before the Committee on the.....

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Served.....

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.....House of Representatives

GPO: 1991 42-417 (m)

SCHEDULE A

Subpoena Duces Tecum
Committee on Government Reform and Oversight
United States House of Representatives

Mr. George Stephanopoulos
Serve: Stanley Brand, Esq.
Brand, Lowell & Ryan
923 15th Street, N.W.
Washington, DC 20005

The Committee hereby subpoenas certain records. Please provide logs which indicate each record's Bates number, author, description, and source file. If you have any questions, please contact the Committee's Chief Counsel, John P. Rowley, III, or Chief Investigative Counsel Barbara Comstock at (202) 225-5074.

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limited to, all records which you have in your physical possession as well as any records to which you have access, any records which were formerly in your possession, or which you have put in storage or anyone has put in storage on your behalf. Unless a time period is specifically identified, the subpoena includes all documents to the present.

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9. Please provide a printed and, where possible, an electronic version of records. Electronic information may be stored on 3½ inch diskettes in ASCII format.

Subpoenaed Items

Please provide the Committee with the following:

1. All records for the period January 1, 1993 to the present, relating to Johnny Chung (a.k.a. Johnny Chien Chuen Chung) and/or Automated Intelligence Systems, Inc.

2. All records for the period January, 1993, through the present, relating to any meeting attended by yourself and Johnny Chung (a.k.a. Johnny Chien Chuen Chung) and/or Automated Intelligence Systems, Inc., including but not limited to, a meeting in Los Angeles on or about November 1995.

3. All records for the period January 1, 1993 to the present, relating to any individual or entity, including persons and/or companies based in the People's Republic of China, introduced to you by and/or on behalf of Johnny Chung (a.k.a. Johnny Chien Chuen Chung) and/or any representative of Automated Intelligence Systems, Inc.

Subpena Duces Tecum

By Authority of the House of Representatives of the Congress of the United States of America

To Bruce R. Lindsey, Deputy Counsel to the President

You are hereby commanded to produce the things identified on the attached schedule before the full Committee on Government Reform and Oversight of the House of Representatives of the United States, of which the Hon. Dan Burton is chairman, by producing such things in Room 2157 of the Rayburn House Office Building, in the city of Washington, on Friday April 25, 1997, at the hour of 5:00 p.m.

To Judy McCoy or U.S. Marshals Service

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 8th day of April, 19 97

Dan Burton
Chairman.

Attest:

Robin H Carle
Clerk.

Subpena for Bruce R. Lindsey

Deputy Counsel to the President

The White House

Washington, DC 20500

before the Committee on the

Served

House of Representatives

GPO: 1991 42-417 (m)

SCHEDULE A

Subpoena Duces Tecum
Committee on Government Reform and Oversight
United States House of Representatives

Bruce R. Lindsey
Deputy Counsel to the President
The White House
Washington, DC 20500

The Committee hereby subpoenas certain records. Please provide logs which indicate each record's Bates number, author, description, and source file. If you have any questions, please contact the Committee's Chief Counsel, John P. Rowley, III, or Chief Investigative Counsel Barbara Comstock at (202) 225-5074.

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Subpoenaed Items

Please provide the Committee with the following:

1. All records relating to Webster Hubbell for the period January 20, 1993 to the present, including, but not limited to, all records of contacts and/or communications relating to Webster Hubbell with the following individuals and/or entities:

   a. Michael Berman;
   b. Erskine Bowles;
   c. Mickey Kantor;
   d. James Lyons;
   e. John Tisdale;
   f. Susan Thomases;
   g. Vernon Weaver;
   h. Rose Law Firm;
   i. American Income Life Insurance Company;
   j. Truman Arnold;
   k. Truman Arnold Companies;
   l. Consumer Support and Education Fund;
   m. HarperCollins;
   n. MacAndrews & Forbes Holdings, Inc.;
   o. Mid-America Dairymen, Inc.;
   p. Pacific-Telesis;
   q. Ronald O. Perelman;
   r. John Phillips;
   s. Bernard Rapoport;
   t. Sun America, Inc.;
   u. Time-Warner;
   v. Total Petroleum;
   w. Sprint;
   x. John Emerson; and/or
   y. Thomas F. "Mack" McLarty.

2. All records relating to the Lippo Group, Lippo Bank, Hip Hing Holdings, Ltd., Bank of Trade Securities Corp., Lippo Motors of Hollywood OL Inc., Lippo Asia (U.S.A.), Inc., Lippo Finance Inc., Lippo America Inc., Yoshua Company N.V., Calbot Holdings Inc., Toy Center Holdings of California Inc., Lippo Holding America Inc., Bertolex America, Inc. and/or GNB Acquisition Corp.

3. All records relating to Mochtar Riady, James Riady, Lydia Surywati, Aileen Riady, Andrew Riady, Stephen Riady, Anton Riady, Minny Riady and/or Nita Riady.

4. All records relating to John Huang.

Subpena Duces Tecum

By Authority of the House of Representatives of the Congress of the United States of America

To Erskine Bowles SERVE: Earl J. Silbert, Esq.

You are hereby commanded to produce the things identified on the attached schedule before the full Committee on Government Reform and Oversight of the House of Representatives of the United States, of which the Hon. Dan Burton is chairman, by producing such things in Room 2157 of the Rayburn House Office Building, in the city of Washington, on Friday April 25, 1997, at the hour of 5:00 p.m.

To Judy McCoy or U.S. Marshals Service

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 8th day of April, 19 97

Dan Burton

Chairman.

Attest:

Robin H. Carle

Clerk.

Subpena for Erskine Bowles

SERVE: Earl J. Silbert, Esq., Schwalb, Donnenfeld, Bray & Silbert, Suite 300, 1025 Jefferson Street, NW, Washington, DC 20007

before the Committee on the

Served

House of Representatives

GPO: 1991 42-417 (m)

SCHEDULE A

Subpoena Duces Tecum
Committee on Government Reform and Oversight
United States House of Representatives

Erskine Bowles
Serve: Earl J. Silbert, Esq.
Schwalb, Donnenfeld, Bray & Silbert
Suite 300
1025 Jefferson Street, N.W.
Washington, D.C. 20007

The Committee hereby subpoenas certain records. Please provide logs which indicate each record's Bates number, author, description, and source file. If you have any questions, please contact the Committee's Chief Counsel, John P. Rowley, III, or Chief Investigative Counsel Barbara Comstock at (202) 225-5074.

Definitions and Instructions

1. For the purposes of this subpoena, the word "record" or "records" shall include, but shall not be limited to, any and all originals and identical copies of any item whether written, typed, printed, recorded, redacted or unredacted, transcribed, punched, taped, filmed, graphically portrayed, video or audio taped, however produced or reproduced, and includes, but is not limited to, any writing, reproduction, transcription, photograph, or video or audio recording, produced or stored in any fashion, including any and all activity reports, agendas, analyses, announcements, appointment books, briefing materials, bulletins, cables, calendars, card files, computer disks, cover sheets or routing cover sheets, drawings, computer entries, computer printouts, computer tapes, contracts, external and internal correspondence, diagrams, diaries, documents, electronic mail (e-mail), facsimiles, journal entries, letters, manuals, memoranda, messages, minutes, notes, notices, opinions, statements or charts of organization, plans, press releases, recordings, reports, Rolodexes, statements of procedure and policy, studies, summaries, talking points, tapes, telephone bills, telephone logs, telephone message slips, records or evidence of incoming and outgoing telephone calls, telegrams, telexes, transcripts, or any other machine readable material of any sort whether prepared by current or former employees, agents, consultants or by any non-employee without limitation. "Record" or "records" shall also include all other records, documents, data and information of a like and similar nature not listed above.

2. For purposes of this subpoena, the terms "refer" or "relate" and "concerning" as to any given subject means anything that constitutes, contains, embodies, identifies, mentions, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.

3. This subpoena calls for the production of records, documents and compilations of data

and information that are currently in your possession, care, custody or control, including, but not limited to, all records which you have in your physical possession as well as any records to which you have access, any records which were formerly in your possession, or which you have put in storage or anyone has put in storage on your behalf. Unless a time period is specifically identified, the subpoena includes all documents to the present.

4. The conjunctions "or" and "and" are to be read interchangeably in the manner that gives this subpoena the broadest reading.

5. No records, documents, data or information called for by this subpoena shall be destroyed, modified, redacted, removed or otherwise made inaccessible to the Committee.

6. If you have knowledge that any subpoenaed record, document, data or information has been destroyed, discarded or lost, identify the subpoenaed records, documents data or information and provide an explanation of the destruction, discarding, loss, deposit or disposal.

7. When invoking a privilege as to any responsive record, document, data or information as a ground for withholding such record, document, data or information, list each record, document, compilation of data or information by date, type, addressee, author (and if different, the preparer and signatory), general subject matter, and indicated or known circulation. Also, indicate the privilege asserted with respect to each record, document, compilation of data or information in sufficient detail to ascertain the validity of the claim of privilege.

8. This subpoena is continuing in nature. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date shall be provided immediately upon location or discovery subsequent thereto.

9. Please provide a printed and, where possible, an electronic version of records. Electronic information may be stored on 3½ inch diskettes in ASCII format.

10. For purposes of this subpoena "White House" refers to any and all employees, representatives, officers, contractors, volunteers, interns, agents and/or consultants, whether paid or unpaid, of the Executive Office of the President; the President; the Vice-President and his office; the First Lady and her office; the Office of National Security Affairs; the National Security Council; and/or the executive branch assigned to, or working at the White House, regardless of designation describing their service at the White House.

11. For purposes of this request "employment" refers to any manner of employment including but not limited to service as a representative, officer, director, contractor, volunteer, agent and/or consultant, whether paid or unpaid.

Subpoenaed Items

Please provide the Committee with the following:

1. All records relating to Webster Hubbell for the period January 20, 1993 to the present, including, but not limited to, all records of contacts and/or communications relating to Webster Hubbell with the following individuals and/or entities:

   a. Michael Berman;
   b. Mary Leslie;
   c. Mickey Kantor;
   d. James Lyons;
   e. John Tisdale;
   f. Susan Thomases;
   g. Vernon Weaver;
   h. Rose Law Firm;
   i. American Income Life Insurance Company;
   j. Truman Arnold;
   k. Truman Arnold Companies;
   l. Consumer Support and Education Fund;
   m. HarperCollins;
   n. MacAndrews & Forbes Holdings, Inc.;
   o. Mid-America Dairymen, Inc.;
   p. Pacific-Telesis;
   q. Ronald O. Perelman;
   r. John Phillips;
   s. Bernard Rapoport;
   t. Sun America, Inc.;
   u. Time-Warner;
   v. Total Petroleum;
   w. Sprint;
   x. John Emerson; and/or
   y. Thomas F. "Mack" McLarty.

2. All records relating to the Lippo Group, Lippo Bank, Hip Hing Holdings, Ltd., Bank of Trade Securities Corp., Lippo Motors of Hollywood OL Inc., Lippo Asia (U.S.A.), Inc., Lippo Finance Inc., Lippo America Inc., Yoshua Company N.V., Calbot Holdings Inc., Toy Center Holdings of California Inc., Lippo Holding America Inc., Bertolex America, Inc. and/or GNB Acquisition Corp.

3. All records relating to Mochtar Riady, James Riady, Lydia Surywati, Aileen Riady, Andrew Riady, Stephen Riady, Anton Riady, Minny Riady and/or Nita Riady.

4. All records relating to John Huang.

Subpena Duces Tecum

By Authority of the House of Representatives of the Congress of the United States of America

To Executive Office of the President SERVE: Charles F.C. Ruff, Counsel to the President

You are hereby commanded to produce the things identified on the attached schedule before the full Committee on Government Reform and Oversight of the House of Representatives of the United States, of which the Hon. Dan Burton is chairman, by producing such things in Room 2157 of the Rayburn House Office Building, in the city of Washington, on Monday April 28, 1997, at the hour of 12:00 noon

To Judy McCoy or U.S. Marshals Service

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 23rd day of April, 19 97

Dan Burton
Chairman.

Attest:

Robin H. Carle
Clerk.

Subpena for..Executive Office of the President

....The White House.....

.....1600 Pennsylvania Avenue, N.W.....

....Washington, DC 20500.....

before the Committee on the.....

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Served.....

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.....House of Representatives

GPO: 1991 42-417 (ap)

SCHEDULE A

Subpoena Duces Tecum
Committee on Government Reform and Oversight
United States House of Representatives

TO:
Executive Office of the President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

SERVE: Charles F.C. Ruff
Counsel to the President

The Committee hereby subpoenas certain records. Please provide logs which indicate each record's Bates number, author, description, and source file. If you have any questions, please contact the Committee's Chief Counsel, John P. Rowley III, or Chief Investigative Counsel Barbara Comstock at (202) 225-5074.

Definitions and Instructions

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records concerning the preparation of other records.

3. This subpoena calls for the production of records, documents and compilations of data and information that are currently in your possession, care, custody or control, including, but not limited to, all records which you have in your physical possession as well as any records to which you have access, any records which were formerly in your possession, or which you have put in storage or anyone has put in storage on your behalf. Unless a time period is specifically identified, the subpoena includes all documents to the present.

4. The conjunctions "or" and "and" are to be read interchangeably in the manner that gives this subpoena the broadest reading.

5. No records, documents, data or information called for by this subpoena shall be destroyed, modified, redacted, removed or otherwise made inaccessible to the Committee.

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8. This subpoena is continuing in nature. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date shall be provided immediately upon location or discovery subsequent thereto.

9. This subpoena includes all Staff Secretary records, including those records the President has seen, commented on and/or responded to.

10. Please provide a printed and, where possible, an electronic version of records. Electronic information may be stored on 3½ inch diskettes in ASCII format. In addition, please provide the Committee's Minority Investigative Staff with a duplicate set of documents contemporaneous with production of documents to the Committee.

Subpoenaed Items

Please provide the Committee with the following:

All records relating to John Huang and/or Jane Huang.

Subpena Duces Tecum

By Authority of the House of Representatives of the Congress of the United States of America

To Executive Office of the President SERVE: Charles F.C. Ruff, Counsel to the President

You are hereby commanded to produce the things identified on the attached schedule before the full Committee on Government Reform and Oversight of the House of Representatives of the United States, of which the Hon. Dan Burton is chairman, by producing such things in Room 2157 of the Rayburn House Office Building, in the city of Washington, on Monday April 28, 1997, at the hour of 12:00 noon

To Judy McCoy or U.S. Marshals Service

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 23rd day of April, 19 97

Dan Burton
Chairman.

Attest:

Robin H. Carle
Clerk.

Subpena for Executive Office of the President

The White House

1600 Pennsylvania Avenue, N.W.

Washington, DC 20500

before the Committee on the

Served

House of Representatives

GPO: 1991 42-417 (m)

SCHEDULE A

Subpoena Duces Tecum
Committee on Government Reform and Oversight
United States House of Representatives

TO:
Executive Office of the President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

SERVE: Charles F.C. Ruff
Counsel to the President

The Committee hereby subpoenas certain records. Please provide logs which indicate each record's Bates number, author, description, and source file. If you have any questions, please contact the Committee's Chief Counsel, John P. Rowley III, or Chief Investigative Counsel Barbara Comstock at (202) 225-5074.

Definitions and Instructions

1. For the purposes of this subpoena, the word "record" or "records" shall include, but shall not be limited to, any and all originals and identical copies of any item whether written, typed, printed, recorded, redacted or unredacted, transcribed, punched, taped, filmed, graphically portrayed, video or audio taped, however produced or reproduced, and includes, but is not limited to, any writing, reproduction, transcription, photograph, or video or audio recording, produced or stored in any fashion, including any and all activity reports, agendas, analyses, announcements, appointment books, briefing materials, bulletins, cables, calendars, card files, computer disks, cover sheets or routing cover sheets, drawings, computer entries, computer printouts, computer tapes, contracts, external and internal correspondence, diagrams, diaries, documents, electronic mail (e-mail), facsimiles, journal entries, letters, manuals, memoranda, messages, minutes, notes, notices, opinions, statements or charts of organization, plans, press releases, recordings, reports, Rolodexes, statements of procedure and policy, studies, summaries, talking points, tapes, telephone bills, telephone logs, telephone message slips, records or evidence of incoming and outgoing telephone calls, telegrams, telexes, transcripts, or any other machine readable material of any sort whether prepared by current or former employees, agents, consultants or by any non-employee without limitation. "Record" or "records" shall also include all other records, documents, data and information of a like and similar nature not listed above.

2. For purposes of this subpoena, the terms "refer" or "relate" and "concerning" as to any given subject means anything that constitutes, contains, embodies, identifies, mentions, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to

records concerning the preparation of other records.

3. This subpoena calls for the production of records, documents and compilations of data and information that are currently in your possession, care, custody or control, including, but not limited to, all records which you have in your physical possession as well as any records to which you have access, any records which were formerly in your possession, or which you have put in storage or anyone has put in storage on your behalf. Unless a time period is specifically identified, the subpoena includes all documents to the present.

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5. No records, documents, data or information called for by this subpoena shall be destroyed, modified, redacted, removed or otherwise made inaccessible to the Committee.

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7. When invoking a privilege as to any responsive record, document, data or information as a ground for withholding such record, document, data or information, list each record, document, compilation of data or information by date, type, addressee, author (and if different, the preparer and signatory), general subject matter, and indicated or known circulation. Also, indicate the privilege asserted with respect to each record, document, compilation of data or information in sufficient detail to ascertain the validity of the claim of privilege.

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10. Please provide a printed and, where possible, an electronic version of records. Electronic information may be stored on 3½ inch diskettes in ASCII format. In addition, please provide the Committee's Minority Investigative Staff with a duplicate set of documents contemporaneous with production of documents to the Committee.

Subpoenaed Items

Please provide the Committee with the following:

All records relating to Mochtar Riady, James Riady, Stephen Riady, Andrew Riady, Lydia Surywati, Aileen Riady, the Lippo Group, and any affiliate of the Lippo Group.

Subpena Duces Tecum

By Authority of the House of Representatives of the Congress of the United States of America

To Executive Office of the President SERVE: Charles F.C. Ruff, Counsel to the President

You are hereby commanded to produce the things identified on the attached schedule before the full Committee on Government Reform and Oversight of the House of Representatives of the United States, of which the Hon. Dan Burton is chairman, by producing such things in Room 2157 of the Rayburn House Office Building, in the city of Washington, on Wednesday April 30, 1997, at the hour of 12:00 noon

To Judy McCoy or U.S. Marshals Service

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 24th day of April, 19 97.

Dan Burton
Chairman.

Attest: Robin H. Carle
Clerk.

Subpena for Executive Office of the President

The White House

1600 Pennsylvania Avenue, N.W.

Washington, DC 20500

before the Committee on the

Served

House of Representatives

GPO: 1991 42-417 (m)

SCHEDULE A

Subpoena Duces Tecum
Committee on Government Reform and Oversight
United States House of Representatives

TO:
Executive Office of the President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

SERVE: Charles F.C. Ruff
Counsel to the President

The Committee hereby subpoenas certain records. Please provide logs which indicate each record's Bates number, author, description, and source file. If you have any questions, please contact the Committee's Chief Counsel, John P. Rowley III, or Chief Investigative Counsel Barbara Comstock at (202) 225-5074.

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records concerning the preparation of other records.

3. This subpoena calls for the production of records, documents and compilations of data and information that are currently in your possession, care, custody or control, including, but not limited to, all records which you have in your physical possession as well as any records to which you have access, any records which were formerly in your possession, or which you have put in storage or anyone has put in storage on your behalf. Unless a time period is specifically identified, the subpoena includes all documents to the present.

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7. When invoking a privilege as to any responsive record, document, data or information as a ground for withholding such record, document, data or information, list each record, document, compilation of data or information by date, type, addressee, author (and if different, the preparer and signatory), general subject matter, and indicated or known circulation. Also, indicate the privilege asserted with respect to each record, document, compilation of data or information in sufficient detail to ascertain the validity of the claim of privilege.

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9. This subpoena includes all Staff Secretary records, including those records the President has seen, commented on and/or responded to.

10. Please provide a printed and, where possible, an electronic version of records. Electronic information may be stored on 3½ inch diskettes in ASCII format. In addition, please provide the Committee's Minority Investigative Staff with a duplicate set of documents contemporaneous with production of documents to the Committee.

Subpoenaed Items

Please provide the Committee with the following:

All records relating to Yah Lin Charles Trie a/k/a "Charlie Trie" and any other family member of Yah Lin Charles Trie including, but not limited to, Wang Mei Trie.

Subpena Duces Tecum

By Authority of the House of Representatives of the Congress of the United States of America

To Executive Office of the President SERVE: Charles F.C. Ruff, Counsel to the President

You are hereby commanded to produce the things identified on the attached schedule before the full Committee on Government Reform and Oversight of the House of Representatives of the United States, of which the Hon. Dan Burton is chairman, by producing such things in Room 2157 of the Rayburn House Office Building, in the city of Washington, on Wednesday April 30, 1997, at the hour of 12:00 noon

To Judy McCoy or U.S. Marshals Service

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 24th day of April, 19 97.

Dan Burton
Chairman.

Attest: Robin H. Carle
Clerk.

Subpena for Executive Office of the President

The White House

1600 Pennsylvania Avenue, N.W.

Washington, DC 20500

before the Committee on the

Served

House of Representatives

GPO: 1991 42-417 (m)

SCHEDULE A

Subpoena Duces Tecum
Committee on Government Reform and Oversight
United States House of Representatives

TO:
Executive Office of the President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

SERVE: Charles F.C. Ruff
Counsel to the President

The Committee hereby subpoenas certain records. Please provide logs which indicate each record's Bates number, author, description, and source file. If you have any questions, please contact the Committee's Chief Counsel, John P. Rowley III, or Chief Investigative Counsel Barbara Comstock at (202) 225-5074.

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records concerning the preparation of other records.

3. This subpoena calls for the production of records, documents and compilations of data and information that are currently in your possession, care, custody or control, including, but not limited to, all records which you have in your physical possession as well as any records to which you have access, any records which were formerly in your possession, or which you have put in storage or anyone has put in storage on your behalf. Unless a time period is specifically identified, the subpoena includes all documents to the present.

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Subpoenaed Items

Please provide the Committee with the following:

All records relating to P. Kanchanalak, Pauline Kanchanalak, and/or Pornpimol Kanchanalak; Pauline Parichattkul and/or Pornpimol Parichattkul; Chupong Kanchanalak a/k/a "Jeb Kanchanalak"; and/or Duangnet Kronenberg.

Subpena Duces Tecum

By Authority of the House of Representatives of the Congress of the United States of America

To Executive Office of the President SERVE: Charles F.C. Ruff, Counsel to the President

You are hereby commanded to produce the things identified on the attached schedule before the full Committee on Government Reform and Oversight of the House of Representatives of the United States, of which the Hon. Dan Burton is chairman, by producing such things in Room 2157 of the Rayburn House Office Building, in the city of Washington, on Friday May 2, 1997, at the hour of 12:00 noon

To Judy McCoy or U.S. Marshals Service

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 29th day of April, 19 97

Dan Burton
Chairman.

Attest:

Robin H Carle
Clerk.

Subpena for. Executive Office of the President

The White House

1600 Pennsylvania Avenue, N.W.

Washington, DC 20500

before the Committee on the.....

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Served.....

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.....House of Representatives

GPO: 1991 42-417 (m)

SCHEDULE A

Subpoena Duces Tecum
Committee on Government Reform and Oversight
United States House of Representatives

TO:
Executive Office of the President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

SERVE: Charles F.C. Ruff
Counsel to the President

The Committee hereby subpoenas certain records. Please provide logs which indicate each record's Bates number, author, description, and source file. If you have any questions, please contact the Committee's Chief Counsel, John P. Rowley III, or Chief Investigative Counsel Barbara Comstock at (202) 225-5074.

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4. The conjunctions "or" and "and" are to be read interchangeably in the manner that gives this subpoena the broadest reading.

5. No records, documents, data or information called for by this subpoena shall be destroyed, modified, redacted, removed or otherwise made inaccessible to the Committee.

6. If you have knowledge that any subpoenaed record, document, data or information has been destroyed, discarded or lost, identify the subpoenaed records, documents data or information and provide an explanation of the destruction, discarding, loss, deposit or disposal.

7. When invoking a privilege as to any responsive record, document, data or information as a ground for withholding such record, document, data or information, list each record, document, compilation of data or information by date, type, addressee, author (and if different, the preparer and signatory), general subject matter, and indicated or known circulation. Also, indicate the privilege asserted with respect to each record, document, compilation of data or information in sufficient detail to ascertain the validity of the claim of privilege.

8. This subpoena is continuing in nature. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date shall be provided immediately upon location or discovery subsequent thereto.

9. This subpoena includes all Staff Secretary records, including those records the President has seen, commented on and/or responded to.

10. Please provide a printed and, where possible, an electronic version of records. Electronic information may be stored on 3½ inch diskettes in ASCII format. In addition, please provide the Committee's Minority Investigative Staff with a duplicate set of documents contemporaneous with production of documents to the Committee.

Subpoenaed Items

Please provide the Committee with the following:

All records, for the period from January 1, 1994 to the present, relating to Webster Hubbell, except records reflecting Webster Hubbell's performance of official duties while an employee of the Department of Justice.

Subpena Duces Tecum

By Authority of the House of Representatives of the Congress of the United States of America

To Executive Office of the President SERVE: Charles F.C. Ruff, Counsel to the President

You are hereby commanded to produce the things identified on the attached schedule before the full Committee on Government Reform and Oversight of the House of Representatives of the United States, of which the Hon. Dan Burton is chairman, by producing such things in Room 2157 of the Rayburn House Office Building, in the city of Washington, on Friday May 2, 1997, at the hour of 12:00 noon

To Judy McCoy or U.S. Marshals Service

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 29th day of April, 19 97

Dan Burton
Chairman.

Attest:

Robin H. Carle
Clerk.

Subpena for Executive Office of the President

The White House

1600 Pennsylvania Avenue, N.W.

Washington, DC 20500

before the Committee on the

Served

House of Representatives

GPO: 1991 42-417 (m)

SCHEDULE A

Subpoena Duces Tecum
Committee on Government Reform and Oversight
United States House of Representatives

TO:
Executive Office of the President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

SERVE: Charles F.C. Ruff
Counsel to the President

The Committee hereby subpoenas certain records. Please provide logs which indicate each record's Bates number, author, description, and source file. If you have any questions, please contact the Committee's Chief Counsel, John P. Rowley III, or Chief Investigative Counsel Barbara Comstock at (202) 225-5074.

Definitions and Instructions

1. For the purposes of this subpoena, the word "record" or "records" shall include, but shall not be limited to, any and all originals and identical copies of any item whether written, typed, printed, recorded, redacted or unredacted, transcribed, punched, taped, filmed, graphically portrayed, video or audio taped, however produced or reproduced, and includes, but is not limited to, any writing, reproduction, transcription, photograph, or video or audio recording, produced or stored in any fashion, including any and all activity reports, agendas, analyses, announcements, appointment books, briefing materials, bulletins, cables, calendars, card files, computer disks, cover sheets or routing cover sheets, drawings, computer entries, computer printouts, computer tapes, contracts, external and internal correspondence, diagrams, diaries, documents, electronic mail (e-mail), facsimiles, journal entries, letters, manuals, memoranda, messages, minutes, notes, notices, opinions, statements or charts of organization, plans, press releases, recordings, reports, Rolodexes, statements of procedure and policy, studies, summaries, talking points, tapes, telephone bills, telephone logs, telephone message slips, records or evidence of incoming and outgoing telephone calls, telegrams, telexes, transcripts, or any other machine readable material of any sort whether prepared by current or former employees, agents, consultants or by any non-employee without limitation. "Record" or "records" shall also include all other records, documents, data and information of a like and similar nature not listed above.

2. For purposes of this subpoena, the terms "refer" or "relate" and "concerning" as to any given subject means anything that constitutes, contains, embodies, identifies, mentions, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to

records concerning the preparation of other records.

3. This subpoena calls for the production of records, documents and compilations of data and information that are currently in your possession, care, custody or control, including, but not limited to, all records which you have in your physical possession as well as any records to which you have access, any records which were formerly in your possession, or which you have put in storage or anyone has put in storage on your behalf. Unless a time period is specifically identified, the subpoena includes all documents to the present.

4. The conjunctions "or" and "and" are to be read interchangeably in the manner that gives this subpoena the broadest reading.

5. No records, documents, data or information called for by this subpoena shall be destroyed, modified, redacted, removed or otherwise made inaccessible to the Committee.

6. If you have knowledge that any subpoenaed record, document, data or information has been destroyed, discarded or lost, identify the subpoenaed records, documents data or information and provide an explanation of the destruction, discarding, loss, deposit or disposal.

7. When invoking a privilege as to any responsive record, document, data or information as a ground for withholding such record, document, data or information, list each record, document, compilation of data or information by date, type, addressee, author (and if different, the preparer and signatory), general subject matter, and indicated or known circulation. Also, indicate the privilege asserted with respect to each record, document, compilation of data or information in sufficient detail to ascertain the validity of the claim of privilege.

8. This subpoena is continuing in nature. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date shall be provided immediately upon location or discovery subsequent thereto.

9. This subpoena includes all Staff Secretary records, including those records the President has seen, commented on and/or responded to.

10. Please provide a printed and, where possible, an electronic version of records. Electronic information may be stored on 3½ inch diskettes in ASCII format. In addition, please provide the Committee's Minority Investigative Staff with a duplicate set of documents contemporaneous with production of documents to the Committee.

Subpoenaed Items

Please provide the Committee with the following:

All records, for the period from February 17, 1995 to the present, relating to Mark Middleton, CommerceCorp International, and/or any business connected with Mark Middleton.

Subpena Duces Tecum

By Authority of the House of Representatives of the Congress of the United States of America

To Margaret Williams SERVE: Jack Dodds, Esq.

You are hereby commanded to produce the things identified on the attached schedule before the full Committee on Government Reform and Oversight of the House of Representatives of the United States, of which the Hon. Dan Burton is chairman, by producing such things in Room 2157 of the Rayburn House Office Building, in the city of Washington, on Friday, August 22, 1997 at the hour of 12:00 noon

To Judy McCoy or U.S. Marshals Service

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 14th day of August, 1997.

Dan Burton
Chairman.

Attest: Robin H. Carle
Clerk.

Subpena for..Margaret A. Williams.....

c/o Jack Dodds, Esq.
Morgan, Lewis & Bockius
2000 One Logan Square
Philadelphia, Pennsylvania 19103

before the Committee on the.....

Government Reform and Oversight

Served.....

.....House of Representatives

GPO: 1991 42-417 (m)

SCHEDULE A

Subpoena Duces Tecum
Committee on Government Reform and Oversight
United States House of Representatives

Margaret Williams
Serve: Jack Dodds, Esq.
Morgan, Lewis & Bockius
2000 One Logan Square
Philadelphia, Pennsylvania, 19103

The Committee hereby subpoenas certain records. Please provide logs which indicate each record's Bates number, author, description, and source file. If you have any questions, please contact the Committee's Chief Investigative Counsel Barbara Comstock at (202) 225-5074.

Definitions and Instructions

1. For the purposes of this subpoena, the word "record" or "records" shall include, but shall not be limited to, any and all originals and identical copies of any item whether written, typed, printed, recorded, redacted or unredacted, transcribed, punched, taped, filmed, graphically portrayed, video or audio taped, however produced or reproduced, and includes, but is not limited to, any writing, reproduction, transcription, photograph, or video or audio recording, produced or stored in any fashion, including any and all activity reports, agendas, analyses, announcements, appointment books, briefing materials, bulletins, cables, calendars, card files, computer disks, cover sheets or routing cover sheets, drawings, computer entries, computer printouts, computer tapes, contracts, external and internal correspondence, diagrams, diaries, documents, electronic mail (e-mail), facsimiles, journal entries, letters, manuals, memoranda, messages, minutes, notes, notices, opinions, statements or charts of organization, plans, press releases, recordings, reports, Rolodexes, statements of procedure and policy, studies, summaries, talking points, tapes, telephone bills, telephone logs, telephone message slips, records or evidence of incoming and outgoing telephone calls, telegrams, telexes, transcripts, or any other machine readable material of any sort whether prepared by current or former employees, agents, consultants or by any non-employee without limitation. "Record" or "records" shall also include all other records, documents, data and information of a like and similar nature not listed above.

2. For purposes of this subpoena, the terms "refer" or "relate" and "concerning" as to any given subject means anything that constitutes, contains, embodies, identifies, mentions, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.

3. This subpoena calls for the production of records, documents and compilations of data and information that are currently in your possession, care, custody or control, including, but not

limited to, all records which you have in your physical possession as well as any records to which you have access, any records which were formerly in your possession, or which you have put in storage or anyone has put in storage on your behalf. Unless a time period is specifically identified, the subpoena includes all documents to the present.

4. The conjunctions "or" and "and" are to be read interchangeably in the manner that gives this subpoena the broadest reading.

5. No records, documents, data or information called for by this subpoena shall be destroyed, modified, redacted, removed or otherwise made inaccessible to the Committee.

6. If you have knowledge that any subpoenaed record, document, data or information has been destroyed, discarded or lost, identify the subpoenaed records, documents data or information and provide an explanation of the destruction, discarding, loss, deposit or disposal.

7. When invoking a privilege or any other reason as a ground for withholding any responsive record, document, data or information as a ground for withholding such record, document, data or information, list each record, document, compilation of data or information by date, type, addressee, author (and if different, the preparer and signatory), general subject matter, and indicated or known circulation. Also, indicate the privilege or reason asserted with respect to each record, document, compilation of data or information in sufficient detail to ascertain the validity of the claim of privilege or other reason.

8. This subpoena is continuing in nature. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date shall be provided immediately upon location or discovery subsequent thereto.

9. Please provide a printed and, where possible, an electronic version of records. Electronic information may be stored on 3½ inch diskettes in ASCII format. In addition, please provide the Committee's Minority staff with an identical copy of all records provided.

10. For the purposes of this subpoena "Back To Business Committee" shall refer to any and all employees, representatives, officers, directors, contractors, volunteers, interns, agents and/or consultants, whether paid or unpaid, of the Back to Business Committee.

Subpoenaed Items

Please provide the Committee with the following:

1. All records relating to the Back to Business Committee including, but not limited to, all contacts or communications with the following individuals:

a. Lynn Cutler;
b. Ann Lewis;
c. Ambassador James R. Sasser.

2. All records relating to Johnny Chung (a.k.a. Johnny Chien Chuen Chung).

3. All records relating to Automated Intelligence Systems, Inc.

Subpena Duces Tecum

By Authority of the House of Representatives of the Congress of the United States of America

To Executive Office of the President SERVE: Charles F.C. Ruff, Counsel to the President

You are hereby commanded to produce the things identified on the attached schedule before the full Committee on Government Reform and Oversight of the House of Representatives of the United States, of which the Hon. Dan Burton is chairman, by producing such things in Room 2157 of the Rayburn House Office Building, in the city of Washington, on Thursday, September 4, 1997, at the hour of 12:00 noon

To Judy McCoy or U.S. Marshals Service

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 21st day of August, 19 97

Dan Burton

Chairman.

Attest: Robin H Carle

Clerk.

Subpena for Executive Office of the President

The White House

1600 Pennsylvania Avenue, NW

Washington, DC 20500

before the Committee on the

Served

House of Representatives

SCHEDULE A

Subpoena Duces Tecum
Committee on Government Reform and Oversight
United States House of Representatives

The Executive Office of the President
Serve: Charles Ruff
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

The Committee hereby subpoenas certain records. Please provide logs which indicate each record's Bates number, author, description, and source file. If you have any questions, please contact the Committee's Chief Investigative Counsel Barbara Comstock at (202) 225-5074.

Definitions and Instructions

1. For the purposes of this subpoena, the word "record" or "records" shall include, but shall not be limited to, any and all originals and identical copies of any item whether written, typed, printed, recorded, redacted or unredacted, transcribed, punched, taped, filmed, graphically portrayed, video or audio taped, however produced or reproduced, and includes, but is not limited to, any writing, reproduction, transcription, photograph, or video or audio recording, produced or stored in any fashion, including any and all activity reports, agendas, analyses, announcements, appointment books, briefing materials, bulletins, cables, calendars, card files, computer disks, cover sheets or routing cover sheets, drawings, computer entries, computer printouts, computer tapes, contracts, external and internal correspondence, diagrams, diaries, documents, electronic mail (e-mail), facsimiles, journal entries, letters, manuals, memoranda, messages, minutes, notes, notices, opinions, statements or charts of organization, plans, press releases, recordings, reports, Rolodexes, statements of procedure and policy, studies, summaries, talking points, tapes, telephone bills, telephone logs, telephone message slips, records or evidence of incoming and outgoing telephone calls, telegrams, telexes, transcripts, or any other machine readable material of any sort whether prepared by current or former employees, agents, consultants or by any non-employee without limitation. "Record" or "records" shall also include all other records, documents, data and information of a like and similar nature not listed above.

2. For purposes of this subpoena, the terms "refer" or "relate" and "concerning" as to any given subject means anything that constitutes, contains, embodies, identifies, mentions, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.

3. This subpoena calls for the production of records, documents and compilations of data and information that are currently in your possession, care, custody or control, including, but not

limited to, all records which you have in your physical possession as well as any records to which you have access, any records which were formerly in your possession, or which you have put in storage or anyone has put in storage on your behalf. Unless a time period is specifically identified, the subpoena includes all documents to the present.

4. The conjunctions "or" and "and" are to be read interchangeably in the manner that gives this subpoena the broadest reading.

5. No records, documents, data or information called for by this subpoena shall be destroyed, modified, redacted, removed or otherwise made inaccessible to the Committee.

6. If you have knowledge that any subpoenaed record, document, data or information has been destroyed, discarded or lost, identify the subpoenaed records, documents data or information and provide an explanation of the destruction, discarding, loss, deposit or disposal.

7. When invoking a privilege or any other reason as a ground for withholding any responsive record, document, data or information as a ground for withholding such record, document, data or information, list each record, document, compilation of data or information by date, type, addressee, author (and if different, the preparer and signatory), general subject matter, and indicated or known circulation. Also, indicate the privilege or reason asserted with respect to each record, document, compilation of data or information in sufficient detail to ascertain the validity of the claim of privilege or other reason.

8. This subpoena is continuing in nature. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date shall be provided immediately upon location or discovery subsequent thereto.

9. Please provide a printed and, where possible, an electronic version of records. Electronic information may be stored on 3½ inch diskettes in ASCII format. In addition, please provide the Committee's Minority staff with an identical copy of all records provided.

10. For the purposes of this subpoena "St. Croix Meadows Greyhound Racing Park" refers to any and all employees, representatives, officers, contractors, volunteers, interns, agents and/or consultants, whether paid or unpaid, of the St. Croix Meadows Greyhound Racing Park, and any representatives, officers, contractors, volunteers, interns, agents and/or consultants, whether paid or unpaid, working on any proposal involving St. Croix Meadows Greyhound Racing Park, located at 2200 Carmichael Road, Hudson, Wisconsin, also known as the Hudson Dog Track.

11. For the purposes of this subpoena "Cheyenne & Arapaho" Indian tribes refers to any and all employees, representatives, officers, contractors, volunteers, interns, agents and/or consultants, whether paid or unpaid, of the Cheyenne & Arapaho Indian tribes of Oklahoma.

Subpoenaed Items

Please provide the Committee with the following:

1. All records relating to the St. Croix Meadows Greyhound Racing Park.

2. All records relating to the Cheyenne & Arapaho Indian Tribes, including, but not limited to, all contacts and communications between members of the Cheyenne and Arapaho Indian tribes and the following individuals:

a. Mike Copperthite;
b. Richard Grellner;
c. Archie Hoffman;
d. Nathan Landow;
e. Ken Lavine;
f. Peter Knight;
g. Jason McIntosh;
h. Charles Surveyor;
i. Todd Tyler;
j. Joseph Trapasso;
k. Mike Turpen.

Subpena (Deposition)

By Authority of the House of Representatives of the Congress of the United States of America

To Custodian of Records
Counsel to the President SERVE: Charles F.C. Ruff

You are hereby commanded to be and appear before the full Committee on Government Reform and Oversight of the House of Representatives of the United States, of which the Hon. Dan Burton is chairman, in Room 2203 of the Rayburn Building, in the city of Washington, on Wednesday, January 7, 1998 at the hour of 10:00 a.m., then and there to produce the things identified on the attached schedule and to testify on deposition touching matters of inquiry committed to said Committee; and you are not to depart without leave of said Committee.

To Judy McCoy or the US Marshals Service

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 16th day of December, 19 97

Dan Burton
Chairman.

Attest: Robin H Carle
Clerk.

Subpena for Charles F.C. Ruff

Counsel to the President

1600 Pennsylvania Ave. N.W.

Washington, D.C. 20500

before the Committee on the

Served By: Tom Bossert

N.W. Gate W.H.

12/17/97

Time:

House of Representatives

U.S. GOVERNMENT PRINTING OFFICE : 1987 O - 69-766

SCHEDULE A

Subpoena Duces Tecum
To appear and to produce records
Committee on Government Reform and Oversight
United States House of Representatives

TO:
Charles F.C. Ruff
Counsel to the President
Executive Office of the President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Serve: Charles F.C. Ruff
Counsel to the President

The Committee hereby subpoenas the appearance of the custodian of records at a deposition and the production of certain records. You may obviate the need for such an appearance at the scheduled deposition by producing all records called for herein and by complying with the certification instructions set forth in paragraph 12, below, prior to the date and time for such appearance set forth in the Subpoena. Please provide logs which indicate each record's Bates number, author, description, and source file. Further, in your response please identify which records respond to which specific numbered request. If you have any questions, and to arrange for the delivery of all records in lieu of personal appearance, please contact Senior Counsel of the Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs, Keith Ausbrook, at (202) 225-4407.

Definitions and Instructions

1. For the purposes of this subpoena, the word "record" or "records" shall include, but shall not be limited to, any and all originals and identical copies of any item whether written, typed, printed, recorded, redacted or unredacted, transcribed, punched, taped, filmed, graphically portrayed, video or audio taped, however produced or reproduced, and includes, but is not limited to, any writing, reproduction, transcription, photograph, or video or audio recording, produced or stored in any fashion, including any and all activity reports, agendas, analyses, announcements, appointment books, briefing materials, bulletins, cables, calendars, card files, computer disks, cover sheets or routing cover sheets, drawings, computer entries, computer printouts, computer tapes, contracts, external and internal correspondence, diagrams, diaries, documents, electronic mail (e-mail), facsimiles, journal entries, letters, manuals, memoranda, messages, minutes, notes, notices, opinions, statements or charts of organization, plans, press releases, recordings, reports, Rolodexes, statements of procedure and policy, studies, summaries, talking points, tapes, telephone bills, telephone logs, telephone message slips, records or

evidence of incoming and outgoing telephone calls, telegrams, telexes, transcripts, or any other machine readable material of any sort whether prepared by current or former employees, agents, consultants or by any non-employee without limitation. "Record" or "records" shall also include all other records, documents, data and information of a like and similar nature not listed above.

2. For purposes of this subpoena, the terms "refer" or "relate" and "concerning" as to any given subject means anything that constitutes, contains, embodies, identifies, mentions, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.

3. This subpoena calls for the production of records, documents and compilations of data and information that are currently in your possession, care, custody or control, including, but not limited to, all records which you have in your physical possession as well as any records to which you have access, any records which were formerly in your possession, or which you have put in storage or anyone has put in storage on your behalf. Unless a time period is specifically identified, the subpoena includes all documents to the present.

4. The conjunctions "or" and "and" are to be read interchangeably in the manner that gives this subpoena the broadest reading.

5. No records, documents, data or information called for by this subpoena shall be destroyed, modified, redacted, removed or otherwise made inaccessible to the Committee.

6. If you have knowledge that any subpoenaed record, document, data or information has been destroyed, discarded or lost, identify the subpoenaed records, documents data or information and provide an explanation of the destruction, discarding, loss, deposit or disposal.

7. When invoking a privilege or any other reason as a ground for withholding any responsive record, document, data or information as a ground for withholding such record, document, data or information, list each record, document, compilation of data or information by date, type, addressee, author (and if different, the preparer and signatory), general subject matter, and indicated or known circulation. Also, indicate the privilege or reason asserted with respect to each record, document, compilation of data or information in sufficient detail to ascertain the validity of the claim of privilege or other reason.

8. This subpoena is continuing in nature. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date shall be provided immediately upon location or discovery subsequent thereto.

9. For the purposes of this request, the term "White House" includes but is not limited to the White House and any office or agency thereof, the Executive Office of the President and any office or agency thereof, and any and all employees, representatives, officers, contractors, volunteers, interns, agents, and or consultants, of, to, or at the White House, whether paid or unpaid, including but not limited to individuals working in the White House Office, individuals working in the White House Counsel's Office, the First Lady and individuals working in her office, the President, the Vice President, individuals working in the Office of Administration, individuals working in the Office of the National Security Affairs or the National Security Council, and individuals assigned to or working at the White House, regardless of the designation describing their service at the White House.

10. Please provide a printed and, where possible, an electronic version of records. Electronic information may be stored on 3½ inch diskettes in ASCII format. In addition, please provide the Committee's Minority staff with an identical copy of all records provided.

11. This subpoena covers all Staff Secretary records including all records which the President has seen, on which the President has commented, or to which the President has responded.

12. Please certify under oath to the Committee the following: (1) the records produced were collected following a comprehensive search and represent all relevant records called for by this subpoena; and (2) that no other records exist. Such certification will obviate the need for the custodian of records to appear in person to attest to the same.

Subpoenaed Items

Please provide the Committee with the following:

1. All records reflecting any contact connected with or related to the involvement by any person employed by, working at, or connected with, the White House or Executive Office of the President, including, but not limited to Hillary Rodham Clinton, with respect to any database, contemplated, discussed, planned, or implemented anywhere outside of any governmental agency or entity, including, but not limited to, the Democratic National Committee, from January 20, 1993 to the present, including, but not limited to any and all outside databases referenced in the June 28, 1994 Memorandum from Marsha Scott to Harold Ickes, Bruce Lindsey and the First Lady previously produced to the Subcommittee (M 32438 - M 32439).

Subpena (Deposition)

By Authority of the House of Representatives of the Congress of the United States of America

To Custodian of Records
Counsel to the President SERVE: Charles F.C. Ruff

You are hereby commanded to be and appear before the full Committee on Government Reform and Oversight of the House of Representatives of the United States, of which the Hon. Dan Burton is chairman, in Room 2203 of the Rayburn Building, in the city of Washington, on Monday, January 12, 1998 at the hour of 10:00 a.m., then and there to produce the things identified on the attached schedule and to testify on deposition touching matters of inquiry committed to said Committee; and you are not to depart without leave of said Committee.

To Judy McCoy or the U.S. Marshals Service

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 16th day of December, 19 97.

Dan Burton
Chairman.

Attest: Robin H Carle
Clerk.

SCHEDULE A

Subpoena Duces Tecum
To appear and to produce records
Committee on Government Reform and Oversight
United States House of Representatives

TO:
Charles F.C. Ruff
Counsel to the President
Executive Office of the President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Serve: Charles F.C. Ruff
Counsel to the President

The Committee hereby subpoenas the appearance of the custodian of records at a deposition and the production of certain records. You may obviate the need for such an appearance at the scheduled deposition by producing all records called for herein and by complying with the certification instructions set forth in paragraph 12, below, prior to the date and time for such appearance set forth in the Subpoena. Please provide logs which indicate each record's Bates number, author, description, and source file. Further, in your response please identify which records respond to which specific numbered request. If you have any questions, and to arrange for the delivery of all records in lieu of personal appearance, please contact Senior Counsel of the Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs, Keith Ausbrook, at (202) 225-4407.

Definitions and Instructions

1. For the purposes of this subpoena, the word "record" or "records" shall include, but shall not be limited to, any and all originals and identical copies of any item whether written, typed, printed, recorded, redacted or unredacted, transcribed, punched, taped, filmed, graphically portrayed, video or audio taped, however produced or reproduced, and includes, but is not limited to, any writing, reproduction, transcription, photograph, or video or audio recording, produced or stored in any fashion, including any and all activity reports, agendas, analyses, announcements, appointment books, briefing materials, bulletins, cables, calendars, card files, computer disks, cover sheets or routing cover sheets, drawings, computer entries, computer printouts, computer tapes, contracts, external and internal correspondence, diagrams, diaries, documents, electronic mail (e-mail), facsimiles, journal entries, letters, manuals, memoranda, messages, minutes, notes, notices, opinions, statements or charts of organization, plans, press releases, recordings, reports, Rolodexes, statements of procedure and policy, studies, summaries, talking points, tapes, telephone bills, telephone logs, telephone message slips, records or

evidence of incoming and outgoing telephone calls, telegrams, telexes, transcripts, or any other machine readable material of any sort whether prepared by current or former employees, agents, consultants or by any non-employee without limitation. "Record" or "records" shall also include all other records, documents, data and information of a like and similar nature not listed above.

2. For purposes of this subpoena, the terms "refer" or "relate" and "concerning" as to any given subject means anything that constitutes, contains, embodies, identifies, mentions, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.

3. This subpoena calls for the production of records, documents and compilations of data and information that are currently in your possession, care, custody or control, including, but not limited to, all records which you have in your physical possession as well as any records to which you have access, any records which were formerly in your possession, or which you have put in storage or anyone has put in storage on your behalf. Unless a time period is specifically identified, the subpoena includes all documents to the present.

4. The conjunctions "or" and "and" are to be read interchangeably in the manner that gives this subpoena the broadest reading.

5. No records, documents, data or information called for by this subpoena shall be destroyed, modified, redacted, removed or otherwise made inaccessible to the Committee.

6. If you have knowledge that any subpoenaed record, document, data or information has been destroyed, discarded or lost, identify the subpoenaed records, documents data or information and provide an explanation of the destruction, discarding, loss, deposit or disposal.

7. When invoking a privilege or any other reason as a ground for withholding any responsive record, document, data or information as a ground for withholding such record, document, data or information, list each record, document, compilation of data or information by date, type, addressee, author (and if different, the preparer and signatory), general subject matter, and indicated or known circulation. Also, indicate the privilege or reason asserted with respect to each record, document, compilation of data or information in sufficient detail to ascertain the validity of the claim of privilege or other reason.

8. This subpoena is continuing in nature. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date shall be provided immediately upon location or discovery subsequent thereto.

9. For the purposes of this request, the term "White House" includes but is not limited to the White House and any office or agency thereof, the Executive Office of the President and any office or agency thereof, and any and all employees, representatives, officers, contractors, volunteers, interns, agents, and or consultants, of, to, or at the White House, whether paid or unpaid, including but not limited to individuals working in the White House Office, individuals working in the White House Counsel's Office, the First Lady and individuals working in her office, the President, the Vice President, individuals working in the Office of Administration, individuals working in the Office of the National Security Affairs or the National Security Council, and individuals assigned to or working at the White House, regardless of the designation describing their service at the White House.

10. Please provide a printed and, where possible, an electronic version of records. Electronic information may be stored on 3½ inch diskettes in ASCII format. In addition, please provide the Committee's Minority staff with an identical copy of all records provided.

11. This subpoena covers all Staff Secretary records including all records which the President has seen, on which the President has commented, or to which the President has responded.

12. Please certify under oath to the Committee the following: (1) the records produced were collected following a comprehensive search and represent all relevant records called for by this subpoena; and (2) that no other records exist. Such certification will obviate the need for the custodian of records to appear in person to attest to the same.

Subpoenaed Items

Please provide the Committee with the following:

1. All records reflecting persons present at any time in the White House Counsel's Office or offices, or at any other location where a review of records identified or gathered in response to the August 2, 1996, and the September 10, 1996 requests by the Subcommittee, including, but not limited to those persons who participated in any fashion with respect to the collection, review, or handling of documents in the Office of the White House Counsel or any other location where such documents were collected, reviewed, or handled on the weekend in September 1996 as testified to by Cheryl Mills on November 6, and 7, 1997 before the House Committee on Government Reform and Oversight. Such records shall include, but shall not be limited to, all sign-in/sign-out records, electronic card-swipe, entry/exit records, and computer log-in records, and telephone call records.

2. All records **not** previously produced to the Subcommittee which were identified, by anyone in the White House in response to the August 7, 1996 directive of Jack Quinn (M 32475 - M 32476) **including those determined by anyone in the White House Counsel's office to be "non-responsive" to the request.**

3. All records **not** previously produced to the Subcommittee which were identified by anyone in the White House in response to the September 12, 1996 directive of Jack Quinn (M 32477 - M 32478 request of the Subcommittee, **including those determined by anyone in the White House Counsel's office to be "non-responsive" to the request.**

4. All records which contain information concerning, or which in any way reference, the discussion, planning, implementation, or carrying out of any plan, process, procedure, or steps, contemplated or utilized, with respect to the identification, collection, or gathering of records within the White House, including the identification, transfer, or delivery of such records to the White House Counsel's office with respect to the request from the Subcommittee of August 2, 1996.

5. All records which contain information concerning, or which in any way reference, the discussion, planning, implementation, or carrying out of any plan, process, procedure, or steps contemplated or utilized with respect to the identification, collection, or gathering of records within the White House, including the identification, transfer, or delivery of such records to the White House Counsel's office with respect to the request from the Subcommittee of September 10, 1996.

6. All records which contain information concerning, or which in any way reference any discussion, proposal, position, suggestion, or decision with respect to whether or not any record is, was, or may have been, responsive to the August 2, 1996 request from the Subcommittee.

7. All records which contain information concerning, or which in any way reference any discussion, proposal, position, suggestion, or decision with respect to whether or not any record is, was, or may have been, responsive to the September 10, 1996 request from the Subcommittee.

8. All records which contain information concerning, or which in any way reference any discussion, proposal, position, suggestion, or decision with respect to whether or not any record should be produced to the Subcommittee in response to the August 2, 1996 request from the Subcommittee.

9. All records which contain information concerning, or which in any way reference any discussion, proposal, position, suggestion, or decision with respect to whether or not any record should be produced to the Subcommittee in response to the September 10, 1996 request from the Subcommittee.

10. All records **not** previously produced to the Subcommittee which were "discovered in mid-February in the files of Mr. Ickes stored in the Office of Records Management" as that description is used in the March 6, 1997 letter from Charles Ruff to the Subcommittee.

11. All records **not** previously produced to the Subcommittee which "were downloaded and printed from a restored computer drive from Marsha Scott's office" as that term is used in the May 13, 1997 letter from Lanny Breuer to the Subcommittee.

12. All records **not** previously produced to the Subcommittee which "were located in a search of boxes in the Office of Records Management, the files of which were not labeled as relating to WhoDB" as that term is used in the May 13, 1997 letter from Lanny Breuer to the Subcommittee.

13. All records **not** previously produced to the Subcommittee which were "found in September 1996 during the initial search for documents responsive to the August 2, 1996 request" as that term is used in the October 28, 1997 letter from Charles Ruff to the Subcommittee.

14. All records reflecting, referencing, or discussing, the policy, procedure, method, or practice to be used or which was used, by the White House, including the White House Counsel's Office with respect to responding to requests from Congressional Committees (including Subcommittees) for records and information, including but not limited to any policy, procedure, method, or practice to be used, or which was used, with respect to the consideration and/or determination with respect to whether or not a record or piece of information is responsive to such request, and with respect to whether or not a record or piece of information will be produced in response to such request. These records are to include, but not be limited to: the policy under Jack Quinn as White House Counsel; the policy under Charles Ruff as White House Counsel; the change in policy; and the implementation of that changed policy.

15. All records reflecting, referencing, or discussing any policy, procedure, method, or practice to be used or which was used, by the White House, including the White House Counsel's Office with respect to knowing, tracking, recording, or identifying the source of any record identified, transferred or delivered to the White House Counsel's Office, or any other office within the White House, in response to a requests of Congressional Committees (including Subcommittees).

16. All records reflecting, or referencing in any manner the discussion, plan, proposal, suggestion, or decision, with respect the events leading up to the decision, and with respect to the decision in 1996 not to produce M 033298 to the Subcommittee.

17. All records reflecting, or referencing in any manner the discussion, plan, proposal, suggestion, or decision, with respect the events leading up to the decision, and with respect to the decision on October 28, 1997 to produce M 033298 to the Subcommittee.

18. All records reflecting, or referencing in any manner the discussion, plan, proposal, suggestion, or decision, with respect the events leading up to the decision, and with respect to the decision in 1996 not to produce M 32433 - M 32434 to the Subcommittee.

19. All records reflecting, or referencing in any manner the discussion, plan, proposal, suggestion, or decision, with respect the events leading up to the decision, and with respect to the decision on October 28, 1997 to produce M 32433 - M 32434 to the Subcommittee.

20. All records reflecting, or referencing in any manner the discussion, plan, proposal, suggestion, or decision, with respect the events leading up to the decision, and with respect to the decision in 1996 not to produce M 32447 to the Subcommittee.

21. All records reflecting, or referencing in any manner the discussion, plan, proposal, suggestion, or decision, with respect the events leading up to the decision, and with respect to the decision on October 28, 1997 to produce M 32447 to the Subcommittee.

22. All records reflecting, or referencing in any manner the discussion, plan, proposal, suggestion, or decision, with respect the events leading up to the decision, and with respect to the decision on in 1996 not to produce M 33040 -M 33044 to the Subcommittee.

23. All records reflecting, or referencing in any manner the discussion, plan, proposal, suggestion, or decision, with respect the events leading up to the decision, and with respect to the decision on October 28, 1997 to produce M 33040 -M 33044 to the Subcommittee.

24. All records reflecting, or referencing in any manner the discussion, plan, proposal, suggestion, or decision, with respect the events leading up to the decision, and with respect to the decision in 1996 not to produce M 33050 - M 33052 to the Subcommittee.

25. All records reflecting, or referencing in any manner the discussion, plan, proposal, suggestion, or decision, with respect the events leading up to the decision, and with respect to the decision on October 28, 1997 to produce M 33050 - M 33052 to the Subcommittee.

26. All records reflecting, or referencing in any manner the discussion, plan, proposal, suggestion, or decision, with respect the events leading up to the decision, and with respect to the decision in 1996 not to produce M 33050 - M 33052 to the Subcommittee

27. All records reflecting, or referencing in any manner the discussion, plan, proposal, suggestion, or decision, with respect the events leading up to the decision, and with respect to the decision on October 28, 1997 to produce M 33050 - M 33052 to the Subcommittee.

28. All records reflecting, or referencing the delivery to and receipt by the White House Counsel's office to include the dates and times of delivery or receipt with respect to each document represented by Bates Stamp numbers M 33292 - M 33302, including, but not limited to all records from the Records Management Office reflecting transfer of documents or boxes of documents, including but not limited to "Yusuf Khapra's boxes stored in Records Management" as reflected in the November 20, 1997 letter to the Subcommittee from Charles F.C. Ruff.

29. All records reflecting, or referencing the delivery of any records in response to the August 2, 1996 request from the Subcommittee including all cover memo's, transmittal slips, buck-slips or notations identifying the records conveyed to the White House Counsel's office from each responding office or person within the White House.

30. All records reflecting, or referencing the return of any records from the White House Counsel's office to the originating office or person, which had been delivered or received in response to the August 2, 1996 request from the Subcommittee.

31. All records reflecting, or referencing the delivery of any records in response to the September 10, 1996 request from the Subcommittee including all cover memo's, transmittal slips, buck-slips or notations identifying the records conveyed to the White House Counsel's office from each responding office or person within the White House.

32. All records reflecting, or referencing the return of any records from the White House Counsel's office to the originating office or person, which had been delivered or received in response to the September 10, 1996 request from the Subcommittee.

33. All records reflecting, or referencing the conveyance from any person or office within the White House to the White House Counsel's office that they (it) searched all records within their (its) care, custody, and control and found no records responsive to the August 2, 1996 request from the Subcommittee.

34. All records reflecting, or referencing the conveyance from any person or office within the White House to the White House Counsel's office that they (it) searched all records within their (its) care, custody, and control and found no records responsive to the September 10, 1996 request from the Subcommittee.

35. All records reflecting or referencing the source of documents M 033292 - M 033302 which were contained in the files of the White House Counsel's office.

36. All records reflecting access, review or copying of records, to include the identification of what records were accessed, reviewed or copied, in or from the Records Management Office by anyone on behalf of the White House Counsel's office from August 2, 1996 until September 20, 1996.

Subpena (Deposition)

By Authority of the House of Representatives of the Congress of the United States of America

To Custodian of Records
Counsel to the President SERVE: Charles F.C. Ruff

You are hereby commanded to be and appear before the full Committee on Government Reform and Oversight of the House of Representatives of the United States, of which the Hon. Dan Burton is chairman, in Room 2203 of the Rayburn Building, in the city of Washington, on Thursday, January 15, 1998 the hour of 10:00 a.m., then and there to produce the things identified on the attached schedule and to testify on deposition touching matters of inquiry committed to said Committee; and you are not to depart without leave of said Committee.

To Judy McCoy or the U.S. Marshals Service

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 16th day of December, 19 97

Dan Burton
Chairman.

Attest: Robin H Carle
Clerk.

Subpena for Charles F.C. Ruff

Counsel to the President

1600 Pennsylvania Ave., N.W.

Washington, D.C. 20500

before the Committee on the

By
Served Tom Bossert

N.W. Gate W.H.

12/17/97

Time:

House of Representatives

U.S. GOVERNMENT PRINTING OFFICE : 1987 O - 69-766

SCHEDULE A

Subpoena Duces Tecum
To appear and to produce records
Committee on Government Reform and Oversight
United States House of Representatives

TO:
Charles F.C. Ruff
Counsel to the President
Executive Office of the President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Serve: Charles F.C. Ruff
Counsel to the President

The Committee hereby subpoenas the appearance of the custodian of records at a deposition and the production of certain records. You may obviate the need for such an appearance at the scheduled deposition by producing all records called for herein and by complying with the certification instructions set forth in paragraph 12, below, prior to the date and time for such appearance set forth in the Subpoena. Please provide logs which indicate each record's Bates number, author, description, and source file. Further, in your response please identify which records respond to which specific numbered request. If you have any questions, and to arrange for the delivery of all records in lieu of your personal appearance, please contact Senior Counsel of the Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs, Keith Ausbrook, at (202) 225-4407.

Definitions and Instructions

1. For the purposes of this subpoena, the word "record" or "records" shall include, but shall not be limited to, any and all originals and identical copies of any item whether written, typed, printed, recorded, redacted or unredacted, transcribed, punched, taped, filmed, graphically portrayed, video or audio taped, however produced or reproduced, and includes, but is not limited to, any writing, reproduction, transcription, photograph, or video or audio recording, produced or stored in any fashion, including any and all activity reports, agendas, analyses, announcements, appointment books, briefing materials, bulletins, cables, calendars, card files, computer disks, cover sheets or routing cover sheets, drawings, computer entries, computer printouts, computer tapes, contracts, external and internal correspondence, diagrams, diaries, documents, electronic mail (e-mail), facsimiles, journal entries, letters, manuals, memoranda, messages, minutes, notes, notices, opinions, statements or charts of organization, plans, press releases, recordings, reports, Rolodexes, statements of procedure and policy, studies, summaries, talking points, tapes, telephone bills, telephone logs, telephone message slips, records or

evidence of incoming and outgoing telephone calls, telegrams, telexes, transcripts, or any other machine readable material of any sort whether prepared by current or former employees, agents, consultants or by any non-employee without limitation. "Record" or "records" shall also include all other records, documents, data and information of a like and similar nature not listed above.

2. For purposes of this subpoena, the terms "refer" or "relate" and "concerning" as to any given subject means anything that constitutes, contains, embodies, identifies, mentions, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.

3. This subpoena calls for the production of records, documents and compilations of data and information that are currently in your possession, care, custody or control, including, but not limited to, all records which you have in your physical possession as well as any records to which you have access, any records which were formerly in your possession, or which you have put in storage or anyone has put in storage on your behalf. Unless a time period is specifically identified, the subpoena includes all documents to the present.

4. The conjunctions "or" and "and" are to be read interchangeably in the manner that gives this subpoena the broadest reading.

5. No records, documents, data or information called for by this subpoena shall be destroyed, modified, redacted, removed or otherwise made inaccessible to the Committee.

6. If you have knowledge that any subpoenaed record, document, data or information has been destroyed, discarded or lost, identify the subpoenaed records, documents data or information and provide an explanation of the destruction, discarding, loss, deposit or disposal.

7. When invoking a privilege or any other reason as a ground for withholding any responsive record, document, data or information as a ground for withholding such record, document, data or information, list each record, document, compilation of data or information by date, type, addressee, author (and if different, the preparer and signatory), general subject matter, and indicated or known circulation. Also, indicate the privilege or reason asserted with respect to each record, document, compilation of data or information in sufficient detail to ascertain the validity of the claim of privilege or other reason.

8. This subpoena is continuing in nature. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date shall be provided immediately upon location or discovery subsequent thereto.

9. For the purposes of this request, the term "White House" includes but is not limited to the White House and any office or agency thereof, the Executive Office of the President and any office or agency thereof, and any and all employees, representatives, officers, contractors, volunteers, interns, agents, and or consultants, of, to, or at the White House, whether paid or unpaid, including but not limited to individuals working in the White House Office, individuals working in the White House Counsel's Office, the First Lady and individuals working in her office, the President, the Vice President, individuals working in the Office of Administration, individuals working in the Office of the National Security Affairs or the National Security Council, and individuals assigned to or working at the White House, regardless of the designation describing their service at the White House.

10. Please provide a printed and, where possible, an electronic version of records. Electronic information may be stored on 3½ inch diskettes in ASCII format. In addition, please provide the Committee's Minority staff with an identical copy of all records provided.

11. This subpoena covers all Staff Secretary records including all records which the President has seen, on which the President has commented, or to which the President has responded.

12. Please certify under oath to the Committee the following: (1) the records produced were collected following a comprehensive search and represent all relevant records called for by this subpoena; and (2) that no other records exist. Such certification will obviate the need for the custodian of records to appear in person to attest to the same.

Subpoenaed Items

Please provide the Committee with the following:

1. A copy of M 033309 which clearly copies **all** handwritten notations.

2 a) Any and all contracts, and, or "use agreements" in whatever form, drafted, negotiated, or entered into between the White House or Executive Office of the President and any vendor, the Democratic National Committee, the Clinton-Gore Campaign, the Clinton-Gore reelect committee, or other entities with respect to the planning, implementation or production of the 1993, 1994, 1995, and 1996 "Holiday Card Project."

b) All records with respect to the efforts made by the White House Counsel's office, and any other office or person within the White House to request or direct a search within the White House in response to the Subcommittee's request of October 9,

1997 for any and all contracts, and, or "use agreements" in whatever form, drafted, negotiated or entered into between the White House or Executive Office of the President and any vendor, the Democratic National Committee, the Clinton-Gore Campaign, the Clinton-Gore reelect committee, or other entities with respect to the planning, implementation or production of the 1993, 1994, 1995, and 1996 "Holiday Card Project."

c) All records with respect to the responses from any office or person within the White House in response to any such efforts, request, or directive.

3. All records which reflect any use restrictions imposed by the White House on the Democratic National Committee, or the Clinton-Gore reelection campaign, with respect to any information provided by the White House to either entity, including but not limited to information from the White House Database (WhoDB), and including, but not limited to, the "use restrictions we impose on the DNC" as that term was used in Cheryl Mills' August 14, 1995 memorandum, page 3 (M24915- M24917).

4 a) The May 24, 1994 memorandum prepared by Kevin O'Keefe concerning prioritization by state of early supporters which was referred to in the July 5, 1994 memorandum from Marsha Scott (M 33045 - M 33046).

b) All records with respect to the efforts made by the White House Counsel's office, and any other office or person within the White House to request or direct a search in response to the Subcommittee's October 9, 1997 request for the May 24, 1994 memorandum prepared by Kevin O'Keefe concerning prioritization by State of early supporters which was referred to in the July 5, 1994 memorandum from Marsha Scott (M 33045 - M 33046).

c) All records with respect to the responses from any office or person within the White House in response to any such efforts, request, or directive.

5 a) The non-disclosure statement prepared for, and/or sent to W.P. Malone, Inc. Or Percy Malone with respect to People Base. This non-disclosure statement is referred to in the handwritten notes (M 26138 - M 21275).

b) All records with respect to the efforts made by the White House Counsel's office, and any other office of person within the White House to request or direct a search in response to the Subcommittees October 9, 1997 request for the non-disclosure statement prepared for, and/or sent to W.P. Malone, Inc. or Percy Malone with respect to PeopleBase which was referred to in the handwritten notes (M 26138 and M 21275).

c) All records with respect to the responses from any office or person within the White House in response to any such efforts, request, or directive.

6 a) All records related to PeopleBase database system, or data contained therein, including but not limited to, a copy of any and all contracts or agreements, in whatever form, drafted, prepared, negotiated, or entered into, between 1) the White House or Executive Office of the President and W.P. Malone, Inc. or Percy Malone and 2) Any Clinton for President campaign committee or Bill Clinton and W.P. Malone, Inc., or Percy Malone, with respect to the planning, implementation, maintenance, consolidation, cleaning, use, or transfer of PeopleBase database system or data contained therein, and any and all invoices, or payments, for work billed, performed, or to be performed, pursuant to any such contract or agreement. Such records shall include, but shall not be limited to the contract and invoice which are referenced in the January 31, 1994 Memorandum from David Watkins (M 32469 - M 32470), as well as the "agreement" which was entered into between the Clinton for President Committee and Percy Malone and Malone, Inc. "for approximately $650,000 for consolidation and cleaning of [the "campaign list"] as reflected on page 3 (M 033296) of the December 3, 1993 Memorandum for Mack McLarty from David Watkins (M 033294 - M 033297), as well as the "initial bid . . . in excess of $1,000,000" as well as all subsequent bids and negotiations referenced therein.

b) All records with respect to the efforts made by the White House Counsel's office, and any other office or person within the White House to request or direct a search in response to the Subcommittees October 9, 1997 request for all documents, records and material related to PeopleBase database system, or data contained therein, including but not limited to, a copy of any and all contracts or agreements, in whatever form, drafted, prepared, negotiated, or entered into, between 1) the White House or Executive Office of the President and W.P. Malone, Inc. or Percy Malone and 2) Any Clinton for President campaign committee, or Bill Clinton, and W.P. Malone, Inc., or Percy Malone, with respect to the planning, implementation, maintenance, consolidation, cleaning, use, or transfer of PeopleBase database system or data contained therein, and any and all invoices, or payments, for work billed, performed, or to be performed, pursuant to any such contract or agreement, including, but not limited to the contract and invoice which are referenced in the January 31, 1994 Memorandum from David Watkins (M 32469 - M 32470).

c) All records with respect to the responses from any office or person within the White House in response to any such efforts, request, or directive.

7. All notebooks referred to in November 19, 1997 letter from Charles Ruff to the Subcommittee, page 4, "Question 11... Response" in their entirety.

8. All three-ring binders referred to in the November 19, 1997 letter from Charles Ruff to the Subcommittee, page 4, "Question 11... Response" in their entirety.

9. All "spiral notebooks" in the files of Eric Vaden in the Office of Records Management referred to in November 19, 1997 letter from Charles Ruff to the Subcommittee, page 6, "Question 17... Response" in their entirety.

10. The January 11, 1994 memorandum from Marsha Scott referenced in the January 17, 1994 Memorandum from Cheryl Mills to Marsha Scott (M 26966).

11 a) Page one of the telefaxed document M 033310 - M 033316, previously provided to the Subcommittee which reflects pages 2-8 of a telefaxed document.

b) The cover or transmittal page of M 03310 - M 03316, previously provided to the Subcommittee in the event that page one (called for in 12(a) above) is not itself the cover or transmittal page.

12. The Memorandum from Marsha Scott to Roy Neel referenced on page two (M 033295) of the December 3, 1993 Memorandum for Mack McLarty from David Watkins (M 033294 - M 033297).

13. The memorandum or other document or record referred to as "Kevin's draft" which is referred to in the February 23, 1994 memorandum from Marsha Scott to Bruce Lindsey (M 033292).

14. All records relating to guidelines for payment for the use of the residences of the President or the Vice President for nonofficial purposes, including but not limited to guidelines referenced in (1) the July 12, 1993, Memorandum for All White House Staff from Bernard Nussbaum and Cheryl Mills (previously produced to the Subcommittee as document M033320 - M033330) at pp. 8-9 (M033328- 29); the October 12, 1993, Memorandum for Executive Office of the President Staff from Abner Mikva and Cheryl Mills (previously produced to the Subcommittee as document M033343 - 55) at p. 9 (M033351); and (3) the April 6, 1994, Memorandum for White House Staff from Lloyd Cutler and Cheryl Mills (previously produced to the Subcommittee as document M033331 - 42) at p. 8 (M033338).

15. All records relating to W.P. Malone, Inc. of William Percy Malone.

16. The entire document of which EOP 036286, previously produced to the Committee on Government Reform and Oversight, was a part.

Subpena (Deposition)

By Authority of the House of Representatives of the Congress of the United States of America

To Charles F.C. Ruff, Counsel to the President

You are hereby commanded to be and appear before the full Committee on Government Reform and Oversight of the House of Representatives of the United States, of which the Hon. Dan Burton is chairman, in Room 2203 of the Rayburn Building, in the city of Washington, on January 20, 1998, at the hour of 1:00 p.m., then and there to produce the things identified on the attached schedule and to testify on deposition touching matters of inquiry committed to said Committee; and you are not to depart without leave of said Committee.

To Judy McCoy or the U.S. Marshals Service

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 15 day of January, 19 98.

Dan Burton
Chairman.

Attest:

Robin H. Carle
by [illegible] Trandahl *Clerk.*

Subpena for Charle F.C. Ruff Counsel to the President

Executive Office of the President The White House

1600 Pennsylvania Avenue, N.W.

Washington, D.C. 20500

before the Committee on the .....

.....

.....

Served by J. Keith Ausbrook

on Brian Smith who was authorized

to accept service at 6:10 p.m.

on January 15, 1988, 17th & G Street

entrance of the White House

1600 Pennsylvania Avenue NW

Washington, DC 20500

J. Keith Ausbrook

.....House of Representatives

U.S. GOVERNMENT PRINTING OFFICE : 1987 O - 69-766

SCHEDULE A

Subpoena Duces Tecum
To appear and to produce records
Committee on Government Reform and Oversight
United States House of Representatives

TO:
Charles F.C. Ruff
Counsel to the President
Executive Office of the President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Serve: Charles F.C. Ruff
Counsel to the President

The Committee hereby subpoenas your appearance at a deposition and the production of certain records. You may obviate the need for your appearance at the scheduled deposition by producing all records called for herein and by complying with the certification instructions set forth in paragraph 12, below, prior to the date and time for your appearance set forth in the Subpoena. Please provide logs which indicate each record's Bates number, author, description, and source file. If you have any questions, and to arrange for the delivery of all records in lieu of your personal appearance, please contact Senior Counsel of the Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs, Keith Ausbrook, at (202) 225-4407.

Definitions and Instructions

1. For the purposes of this subpoena, the word "record" or "records" shall include, but shall not be limited to, any and all originals and identical copies of any item whether written, typed, printed, recorded, redacted or unredacted, transcribed, punched, taped, filmed, graphically portrayed, video or audio taped, however produced or reproduced, and includes, but is not limited to, any writing, reproduction, transcription, photograph, or video or audio recording, produced or stored in any fashion, including any and all activity reports, agendas, analyses, announcements, appointment books, briefing materials, bulletins, cables, calendars, card files, computer disks, cover sheets or routing cover sheets, drawings, computer entries, computer printouts, computer tapes, contracts, external and internal correspondence, diagrams, diaries, documents, electronic mail (e-mail), facsimiles, journal entries, letters, manuals, memoranda, messages, minutes, notes, notices, opinions, statements or charts of organization, plans, press releases, recordings, reports, Rolodexes, statements of procedure and policy, studies, summaries, talking points, tapes, telephone bills, telephone logs, telephone message slips, records or

evidence of incoming and outgoing telephone calls, telegrams, telexes, transcripts, or any other machine readable material of any sort whether prepared by current or former employees, agents, consultants or by any non-employee without limitation. "Record" or "records" shall also include all other records, documents, data and information of a like and similar nature not listed above.

2. For purposes of this subpoena, the terms "refer" or "relate" and "concerning" as to any given subject means anything that constitutes, contains, embodies, identifies, mentions, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.

3. This subpoena calls for the production of records, documents and compilations of data and information that are currently in your possession, care, custody or control, including, but not limited to, all records which you have in your physical possession as well as any records to which you have access, any records which were formerly in your possession, or which you have put in storage or anyone has put in storage on your behalf. Unless a time period is specifically identified, the subpoena includes all documents to the present.

4. The conjunctions "or" and "and" are to be read interchangeably in the manner that gives this subpoena the broadest reading.

5. No records, documents, data or information called for by this subpoena shall be destroyed, modified, redacted, removed or otherwise made inaccessible to the Committee.

6. If you have knowledge that any subpoenaed record, document, data or information has been destroyed, discarded or lost, identify the subpoenaed records, documents data or information and provide an explanation of the destruction, discarding, loss, deposit or disposal.

7. When invoking a privilege or any other reason as a ground for withholding any responsive record, document, data or information as a ground for withholding such record, document, data or information, list each record, document, compilation of data or information by date, type, addressee, author (and if different, the preparer and signatory), general subject matter, and indicated or known circulation. Also, indicate the privilege or reason asserted with respect to each record, document, compilation of data or information in sufficient detail to ascertain the validity of the claim of privilege or other reason.

8. This subpoena is continuing in nature. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date shall be provided immediately upon location or discovery subsequent thereto.

9. For the purposes of this request, the term "White House" includes but is not limited to the White House and any office or agency thereof, the Executive Office of the President and any office or agency thereof, and any and all employees, representatives, officers, contractors, volunteers, interns, agents, and or consultants, of, to, or at the White House, whether paid or unpaid, including but not limited to individuals working in the White House Office, individuals working in the White House Counsel's Office, the First Lady and individuals working in her office, the President, the Vice President, individuals working in the Office of Administration, individuals working in the Office of the National Security Affairs or the National Security Council, and individuals assigned to or working at the White House, regardless of the designation describing their service at the White House.

10. Please provide a printed and, where possible, an electronic version of records. Electronic information may be stored on 3½ inch diskettes in ASCII format. In addition, please provide the Committee's Minority staff with an identical copy of all records provided.

11. This subpoena covers all Staff Secretary records including all records which the President has seen, on which the President has commented, or to which the President has responded.

12. Please certify under oath to the Committee the following: (1) the records produced were collected following a comprehensive search and represent all relevant records called for by this subpoena; and (2) that no other records exist. Such certification will obviate the need for you to appear in person to attest to the same.

Subpoenaed Items

Please provide the Committee with the following:

All documents, records, and materials reflecting any contact connected with or related to the involvement by any person employed by, working at, or connected with, the White House or Executive Office of the President, including, but not limited to Hillary Rodham Clinton, with respect to any database, contemplated, discussed, planned, or implemented anywhere outside of any governmental agency or entity, including, but not limited to, the Democratic National Committee, from January 20, 1993 to the present, including, but not limited to any and all outside databases referenced in the June 28, 1994 Memorandum from Marsha Scott to Harold Ickes, Bruce Lindsey and the First Lady previously produced to the Subcommittee (M 32438 - M 32439).

Subpena Duces Tecum

By Authority of the House of Representatives of the Congress of the United States of America

To The Executive Office of the President SERVE: Charles Ruff

You are hereby commanded to produce the things identified on the attached schedule before the full Committee on Government Reform and Oversight of the House of Representatives of the United States, of which the Hon. Dan Burton is chairman, by producing such things in Room 2157 of the Rayburn Building, in the city of Washington, on February 13, 1998, at the hour of 5:00 p.m.

To Judy McCoy or U.S. Marshals Service

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 28 day of January, 19 98.

Dan Burton
Chairman.

Attest:

Robin H. Carle
Clerk.

Subpena for..The Executive Office of the President

SERVE:..Charles Ruff,...The White House

1600 Pennsylvania Avenue, N.W.....

Washington, D.C.....20500.....

before the Committee on the.....

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Served.....

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.....House of Representatives

SCHEDULE A

Subpoena Duces Tecum
Committee on Government Reform and Oversight
United States House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

The Executive Office of the President
Serve: Charles Ruff
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C., 20500

The Committee hereby subpoenas certain records. If you have any questions, please contact Senior Investigative Counsel Uttam Dhillon at (202) 225-5074.

Definitions and Instructions

1. For the purposes of this subpoena, the word "record" or "records" shall include, but shall not be limited to, any and all originals and identical copies of any item whether written, typed, printed, recorded, redacted or unredacted, transcribed, punched, taped, filmed, graphically portrayed, video or audio recordings in any form including, but not limited to, magnetic and digital recordings, however produced or reproduced, and includes, but is not limited to, any writing, reproduction, transcription, photograph, or video or audio recording, produced or stored in any fashion, including any and all activity reports, agendas, analyses, announcements, appointment books, briefing materials, bulletins, cables, calendars, card files, computer disks, cover sheets or routing cover sheets, drawings, computer entries, computer printouts, computer tapes, contracts, external and internal correspondence, diagrams, diaries, documents, electronic mail (e-mail), Internet communications, facsimiles, journal entries, letters, manuals, memoranda, messages, minutes, notes, notices, opinions, statements or charts of organization, plans, press releases, recordings, reports, Rolodexes, statements of procedure and policy, studies, summaries, talking points, tapes, telephone bills, telephone logs, telephone message slips, records or evidence of incoming and outgoing telephone calls, telegrams, telexes, transcripts, or any other machine readable material of any sort whether prepared by current or former employees, agents, consultants or by any non-employee without limitation. "Record" or "records" shall also include all other records, documents, data and information of a like and similar nature not listed above.

2. For purposes of this subpoena, the terms "refer" or "relate" and "concerning" as to any given subject means anything that constitutes, contains, embodies, identifies, mentions, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.

3. This subpoena calls for the production of records, documents and compilations of data and information that are currently in your possession, care, custody or control, including, but not limited to, all records that you have in your physical possession as well as any records to which you have access, any records that were formerly in your possession, or that you have put in storage or anyone has put in storage on your behalf. Unless a time period is specifically identified, the subpoena includes all documents to the present.

4. The conjunctions "or" and "and" are to be read interchangeably in the manner that gives this subpoena the broadest reading.

5. No records, documents, data or information called for by this subpoena shall be destroyed, modified, redacted, removed or otherwise made inaccessible to the Committee.

6. If you have knowledge that any subpoenaed record, document, data or information has been destroyed, discarded or lost, then identify the subpoenaed records, documents, compilation of data or information and provide an explanation of the destruction, discarding, loss, deposit or disposal.

7. When invoking a privilege or any other reason as a ground for withholding any responsive record, document, compilation of data or information, list each record, document, compilation of data or information by date, type, addressee, author (and if different, the preparer and signatory), general subject matter, and indicated or known circulation. Also, indicate the privilege or reason asserted with respect to each record, document, compilation of data or information in sufficient detail to ascertain the validity of the claim of privilege or other reason.

8. This subpoena is continuing in nature. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date shall be provided immediately upon location or discovery subsequent thereto.

9. Please provide a printed and, where possible, an electronic version of records. Electronic information may be stored on 3 ½ inch diskettes in ASCII format. In addition, please provide the Committee's Minority staff with an identical copy of all records provided.

Subpoenaed Items

1. All records created during or as a result of meetings and/or telephone conversations involving any attorney or other member of the Office of Counsel to the President and Hillary Rodham Clinton (regardless of whether any other person was present or involved) pertaining to the improper acquisition of FBI files including, but not limited to, any such records relating to the following:

   A. The hiring of Craig Livingstone;

   B. The hiring of Anthony Marceca;

   C. The resignation of Craig Livingstone;

   D. The resignation of Anthony Marceca;

   E. Any request by Craig Livingstone, Anthony Marceca, the Counsel to the President and/or any person for files from the FBI;

   F. The storage of FBI files within the White House, the Executive Office Building; the New Executive Office Building, or at any place under the control of any employee of the Executive Office of the President;

   G. The review of FBI files by any person within the Executive Office of the President;

   H. The contents of FBI files;

   I. The transfer of FBI files to, from or within the White House;

   J. The discovery of FBI files within the White House;

   K. The production of documents responsive to any request or subpoena from January 1, 1994 to the present.

2. All memoranda from August 1, 1993 to February 28, 1994, inclusive, addressed as follows:

   TO: FBI, LIAISON
   FROM: BERNARD W. NUSSBAUM
   SUBJECT FBI Investigations

Subpena Duces Tecum

By Authority of the House of Representatives of the Congress of the United States of America

To Executive Office of the President SERVE: Cheryl Mills
The White House; Washington, D.C. 20500

You are hereby commanded to produce the things identified on the attached schedule before the Full Committee on Government Reform of the House of Representatives of the United States, of which the Hon. Dan Burton is chairman, by producing such things in Room 2157 of the Rayburn House Office Building, in the city of Washington, on September 17, 1999, at the hour of 5:00 P.M.

To Kim Reed or the U.S. Marshals

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 1st day of September, 1999

Dan Burton
Chairman.

Attest:

Jeff Trandahl
by Kerasimos C. Vans
Asst to the Clerk
Clerk.

Subpena for Executive Office of the President

SERVE: Cheryl Mills

The White House

Washington, D.C. 20500

before the Committee on the Government Reform

Served

House of Representatives

SCHEDULE A

Subpoena Duces Tecum
Government Reform Committee
United States House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Executive Office of the President
Serve: Cheryl Mills
The White House
Washington, D.C. 20500

Pursuant to its authority under Rules X and XI of the House of Representatives, the Committee on Government Reform hereby subpoenas certain records. Please provide logs which indicate each record's Bates number, author, description, and source file. If you have any questions, please contact Senior Investigative Counsel Marc Chretien at (202) 225-5074.

Definitions and Instructions

(1) For the purposes of this subpoena, the word "record" or "records" shall include, but shall not be limited to, any and all originals and identical copies of any item whether written, typed, printed, recorded, redacted or unredacted, transcribed, punched, taped, filmed, graphically portrayed, video or audio taped, however produced or reproduced, and includes, but is not limited to, any writing, reproduction, transcription, photograph, or video or audio recording, produced or stored in any fashion, including any and all activity reports, agendas, analyses, announcements, appointment books, briefing materials, bulletins, cables, calendars, card files, computer disks, cover sheets or routing cover sheets, drawings, computer entries, computer printouts, computer tapes, external and internal correspondence, diagrams, diaries, documents, electronic mail (e-mail), facsimiles, journal entries, letters, manuals, memoranda, messages, minutes, notes, notices, opinions, statements or charts of organization, plans, press releases, recordings, reports, Rolodexes, statements of procedure and policy, studies, summaries, talking points, tapes, telephone bills, telephone logs, telephone message slips, records or evidence of incoming and outgoing telephone calls, telegrams, telexes, transcripts, or any other machine readable material of any sort whether prepared by current or former employees, agents, consultants or by any non-employee without limitation. "Record" or "records" shall also include all other records,

documents, data and information of a like and similar nature not listed above.

(2) For purposes of this subpoena, the terms "refer" or "relate" and "concerning" as to any given subject means anything that constitutes, contains, embodies, identifies, mentions, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.

(3) This subpoena calls for the production of records, documents and compilations of data and information that are currently in your possession, care, custody or control, including, but not limited to, all records which you have in your physical possession as well as any records to which you have access, any records which were formerly in your possession, or which you have put in storage or anyone has put in storage on your behalf. Unless a time period is specifically identified, the request includes all documents to the present.

(4) The conjunctions "or" and "and" are to be read interchangeably in the manner that gives this subpoena the broadest reading.

(5) No records, documents, data or information called for by this subpoena shall be destroyed, modified, redacted, removed or otherwise made inaccessible to the Committee.

(6) If you have knowledge that any subpoenaed record, document, data or information has been destroyed, discarded or lost, identify the subpoenaed records, documents data or information and provide an explanation of the destruction, discarding, loss, deposit or disposal.

(7) When invoking a privilege as to any responsive record, document, data or information as a ground for withholding such record, document, data or information, list each record, document, compilation of data or information by data, type, addressee, author (and if different, the preparer and signatory), general subject matter, and indicated or known circulation. Also, indicate the privilege asserted with respect to each record, document, compilation of data or information in sufficient detail to ascertain the validity of the claim of privilege.

(8) This subpoena is continuing in nature. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date shall be provided immediately upon location or discovery subsequent thereto.

Subpoenaed Items

Please produce to the Committee the following records:

1. All records relating to any munitions or explosive devices actually expended within one mile of the Branch Davidian compound in Waco, Texas.

2. All records relating to the use of "military style" tear gas canisters, including M-651 rounds, at the siege at the Branch Davidian compound in Waco, Texas.

3. All records relating to any military involvement, whether advisory or operational, at the siege at the Branch Davidian compound in Waco, Texas.

4. All records relating to any contacts between the White House and the Department of Justice, Department of Defense or the FBI concerning the siege at the Branch Davidian compound in Waco, Texas.

Subpena Duces Tecum

By Authority of the House of Representatives of the Congress of the United States of America

To Executive Office of the President Serve: Cheryl D. Mills

You are hereby commanded to produce the things identified on the attached schedule before the Full Committee on Government Reform of the House of Representatives of the United States, of which the Hon. Dan Burton is chairman, by producing such things in Room 2157 of the Rayburn Building, in the city of Washington, on September 15, 1999, at the hour of 5:00 pm

To Kimberly Reed or US Marshals' Service to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 1st day of September, 19.99

Dan Burton
Chairman.

Attest:

Jeff Trandahl
by Aleasimos C. Yans *Clerk.*
Asst. to the Clerk

Subpena for Executive Office of the President

Serve: Cheryl D. Mills, Acting White House Counsel

1600 Pennsylvania Avenue, N.W.

Washington, D.C. 20500

before the Committee on the

Government Reform

Served by: Michael Canty

Served upon: Benjamin Adams by hand

September 1, 1999

at: 3:00

House of Representatives

SCHEDULE A

Subpoena Duces Tecum
Committee on Government Reform
United States House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Executive Office of the President
Serve: Cheryl D. Mills
Acting White House Counsel
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

The Committee hereby subpoenas certain records. Please provide logs that indicate each record's Bates number, author, description, and source file. If you have any questions, please contact Senior Counsel Kristi Remington at (202) 225-5074.

Definitions and Instructions

1. For the purposes of this subpoena, the word "record" or "records" shall include, but shall not be limited to, any and all originals and identical copies of any item whether written, typed, printed, recorded, redacted or unredacted, transcribed, punched, taped, filmed, graphically portrayed, video or audio taped, however produced or reproduced, and includes, but is not limited to, any writing, reproduction, transcription, photograph, or video or audio recording, produced or stored in any fashion, including any and all activity reports, agendas, analyses, announcements, appointment books, briefing materials, bulletins, cables, calendars, card files, computer disks, cover sheets or routing cover sheets, drawings, computer entries, computer printouts, computer tapes, contracts, external and internal correspondence, diagrams, diaries, documents, electronic mail (e-mail), facsimiles, journal entries, letters, manuals, memoranda, messages, minutes, notes, notices, opinions, statements or charts of organization, plans, press releases, recordings, reports, Rolodexes, statements of procedure and policy, studies, summaries, talking points, tapes, telephone bills, telephone logs, telephone message slips, records or evidence of incoming and outgoing telephone calls, telegrams, telexes, transcripts, or any other machine readable material of any sort whether prepared by current or former employees, agents, consultants or by any non-employee without limitation. "Record" or "records" shall also include all other records, documents, data and information of a like and similar nature not listed above.

2. For purposes of this subpoena, the terms "refer" or "relate" and "concerning" as to any given subject means anything that constitutes, contains, embodies, identifies, mentions, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.

3. This subpoena calls for the production of records, documents and compilations of data and information that are currently in your possession, care, custody or control, including, but not limited to, all records which you have in your physical possession as well as any records to which you have access, any records which were formerly in your possession, or which you have put in storage or anyone has put in storage on your behalf. Unless a time period is specifically identified, the subpoena includes all documents to the present.

4. The conjunctions "or" and "and" are to be read interchangeably in the manner that gives this subpoena the broadest reading.

5. No records, documents, data or information called for by this subpoena shall be destroyed, modified, redacted, removed or otherwise made inaccessible to the Committee.

6. If you have knowledge that any subpoenaed record, document, data or information has been destroyed, discarded or lost, identify the subpoenaed records, documents data or information and provide an explanation of the destruction, discarding, loss, deposit or disposal.

7. When invoking a privilege as to any responsive record, document, data or information as a ground for withholding such record, document, data or information, list each record, document, compilation of data or information by date, type, addressee, author (and if different, the preparer and signatory), general subject matter, and indicated or known circulation. Also, indicate the privilege asserted with respect to each record, document, compilation of data or information in sufficient detail to ascertain the validity of the claim of privilege.

8. This subpoena is continuing in nature. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date shall be provided immediately upon location or discovery subsequent thereto.

9. Please provide a printed and, where possible, an electronic version of records. Electronic information may be stored on 3½ inch diskettes in ASCII format. In addition, please provide the Committee's Minority staff with an identical copy of all records provided.

10. For purposes of this subpoena, the Department of Justice shall include the Office of the Pardon Attorney and the Bureau of Prisons.

11. For purposes of this subpoena "White House" refers to any and all employees, representatives, officers, contractors, volunteers, interns, agents and/or consultants, whether paid or unpaid, of the Executive Office of the President; the President; the Vice-President and his office; the First Lady and her office; the Office of National Security Affairs; the National Security Council; and any individual in the executive branch assigned to, or working at the White House, regardless of designation describing their service at the White House.

Subpoenaed Items

Please provide the Committee with the following:

1. All records relating to the August 11, 1999, Executive Grant of Clemency or remittance of fines for the following individuals:
   a. Elizam Escobar
   b. Ricardo Jimenez
   c. Adolfo Matos
   d. Dylcia Noemi Pagan
   e. Alicia Rodriguez
   f. Ida Luz Rodriguez
   g. Luis Rosa
   h. Carmen Valentin
   i. Alberto Rodriguez
   j. Alejandrina Torres
   k. Edwin Cortes
   l. Oscar Lopez-Rivera
   m. Juan Enrique Segarra-Palmer
   n. Antonio Camacho-Negron
   o. Roberto Maldonado-Rivera
   p. Norman Ramirez-Talavera

2. All records provided by the Justice Department to the White House relating to the individuals named in 1a – 1p, including, but not limited to, any recommendations or reports on clemency.

Subpena Duces Tecum

By Authority of the House of Representatives of the Congress of the United States of America

To Executive Office of the President Serve: Beth Nolan

You are hereby commanded to produce the things identified on the attached schedule before the Full Committee on Government Reform of the House of Representatives of the United States, of which the Hon. Dan Burton is chairman, by producing such things in Room 2157 of the Rayburn Building, in the city of Washington, on November17th, at the hour of 5:00PM

To Maria Pia Tamburri or the U.S. Marshal Service to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 10th day of November, 1999.

Dan Burton
Chairman.

Attest:

Jeff Trandahl
Clerk.

Subpena for..Executive.Office.of.the.President

..Serve:.Beth.Nolan.....

..1600.Pennsylvania Avenue, NW.....

..Washington, DC 20500.....

before the Committee on the.....

Government Reform.....

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Served on Ben Adams &
at White House
by Maria Tamburri
11/10/94 Time: 3pm
BMA

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.....House of Representatives

SCHEDULE A

Subpoena Duces Tecum
Committee on Government Reform
United States House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Executive Office of the President
Serve: Beth Nolan
Counsel to the President
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

The Committee hereby subpoenas certain records. Please provide logs that indicate each record's Bates number, author, description, and source file. If you have any questions, please contact Senior Counsel Kristi Remington at (202) 225-5074.

Definitions and Instructions

1. For the purposes of this subpoena, the word "record" or "records" shall include, but shall not be limited to, any and all originals and identical copies of any item whether written, typed, printed, recorded, redacted or unredacted, transcribed, punched, taped, filmed, graphically portrayed, video or audio taped, however produced or reproduced, and includes, but is not limited to, any writing, reproduction, transcription, photograph, or video or audio recording, produced or stored in any fashion, including any and all activity reports, agendas, analyses, announcements, appointment books, briefing materials, bulletins, cables, calendars, card files, computer disks, cover sheets or routing cover sheets, drawings, computer entries, computer printouts, computer tapes, contracts, external and internal correspondence, diagrams, diaries, documents, electronic mail (e-mail), facsimiles, journal entries, letters, manuals, memoranda, messages, minutes, notes, notices, opinions, statements or charts of organization, plans, press releases, recordings, reports, Rolodexes, statements of procedure and policy, studies, summaries, talking points, tapes, telephone bills, telephone logs, telephone message slips, records or evidence of incoming and outgoing telephone calls, telegrams, telexes, transcripts, or any other machine readable material of any sort whether prepared by current or former employees, agents, consultants or by any non-employee without limitation. "Record" or "records" shall also include all other records, documents, data and information of a like and similar nature not listed above.

2. For purposes of this subpoena, the terms "refer" or "relate" and "concerning" as to any given subject means anything that constitutes, contains, embodies, identifies, mentions, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.

3. This subpoena calls for the production of records, documents and compilations of data and information that are currently in your possession, care, custody or control, including, but not limited to, all records which you have in your physical possession as well as any records to which you have access, any records which were formerly in your possession, or which you have put in storage or anyone has put in storage on your behalf. Unless a time period is specifically identified, the subpoena includes all documents to the present.

4. The conjunctions "or" and "and" are to be read interchangeably in the manner that gives this subpoena the broadest reading.

5. No records, documents, data or information called for by this subpoena shall be destroyed, modified, redacted, removed or otherwise made inaccessible to the Committee.

6. If you have knowledge that any subpoenaed record, document, data or information has been destroyed, discarded or lost, identify the subpoenaed records, documents data or information and provide an explanation of the destruction, discarding, loss, deposit or disposal.

7. When invoking a privilege as to any responsive record, document, data or information as a ground for withholding such record, document, data or information, list each record, document, compilation of data or information by date, type, addressee, author (and if different, the preparer and signatory), general subject matter, and indicated or known circulation. Also, indicate the privilege asserted with respect to each record, document, compilation of data or information in sufficient detail to ascertain the validity of the claim of privilege.

8. This subpoena is continuing in nature. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date shall be provided immediately upon location or discovery subsequent thereto.

9. Please provide a printed and, where possible, an electronic version of records. Electronic information may be stored on 3½ inch diskettes in ASCII format. In addition, please provide the Committee's Minority staff with an identical copy of all records provided.

Subpoenaed Items

Please provide the Committee with the following:

1. All records relating to any investigations or surveillance regarding the relationship between Fuerzas Armadas Liberacion Nacional Puertoriquena ("FALN") and Cuba, including, but not limited to, the Cuban Government, Cuban agents, Cuban diplomats, General Intelligence Directorate ("DGI"), Cuban intelligence services, or the Cuban military.

2. All records relating to any investigations or surveillance regarding the relationship between the Popular Boricua (EPB-Macheteros) and Cuba, including, but not limited to, the Cuban Government, Cuban agents, Cuban diplomats, General Intelligence Directorate ("DGI"), other Cuban intelligence services, or the Cuban military.

Subpena Duces Tecum

By Authority of the House of Representatives of the Congress of the United States of America

To ....Executive Office of the President Serve: Beth Nolan, Esq.....

You are hereby commanded to produce the things identified on the attached schedule before the .....Full..... Committee on .....Government Reform..... of the House of Representatives of the United States, of which the Hon. Dan Burton..... ..... is chairman, by producing such things in Room ...2157..... of the .....Rayburn..... Building ....., in the city of Washington, on .....March 16th,2000, at the hour of .....5:00PM.....

To ....Maria Pia Tamburri.....

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this .....9th..... day of .....March....., ~~19~~ 2000

.....
Chairman.

Attest:

.....
Clerk.

Subpena for..Executive Office of the President

Serve:...Beth Nolan, Esq.

The White House

Washington, DC 20500

before the Committee on the.....

Full Committee

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Served To: Maura Pally

By: Maria Pa Tamburri

Date: 3/9/00 Time: 6:38PM

by facsimile

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.....House of Representatives

SCHEDULE A

Subpoena Duces Tecum
Government Reform Committee
United States House of Representatives
2157 Rayburn HOB
Washington, DC 20515

Executive Office of the President
Serve: Beth Nolan, Esq.
The White House
Washington, DC 20500

The Committee hereby subpoenas certain records. Please provide logs which indicate each record's Bates number, author, description, and source file. If you have any questions, please contact Chief Counsel James C. Wilson at (202) 225-5074.

Definitions and Instructions

(1) For the purposes of this subpoena, the word "record" or "records" shall include, but shall not be limited to, any and all originals and identical copies of any item whether written, typed, printed, recorded, redacted or unredacted, transcribed, punched, taped, filmed, graphically portrayed, video or audio taped, however produced or reproduced, and includes, but is not limited to, any writing, reproduction, transcription, photograph, or video or audio recording, produced or stored in any fashion, including any and all activity reports, agendas, analyses, announcements, appointment books, briefing materials, bulletins, cables, calendars, card files, computer disks, cover sheets or routing cover sheets, drawings, computer entries, computer printouts, computer tapes, external and internal correspondence, diagrams, diaries, documents, electronic mail (e-mail), facsimiles, journal entries, letters, manuals, memoranda, messages, minutes, notes, notices, opinions, statements or charts of organization, plans, press releases, recordings, reports, Rolodexes, statements of procedure and policy, studies, summaries, talking points, tapes, telephone bills, telephone logs, telephone message slips, records or evidence of incoming and outgoing telephone calls, telegrams, telexes, transcripts, or any other machine readable material of any sort whether prepared by current or former employees, agents, consultants or by any non-employee without limitation. "Record" or "records" shall also include all other records, documents, data and information of a like and similar nature not listed above.

(2) For purposes of this subpoena, the terms "refer" or "relate" and "concerning" as to any given subject means anything that constitutes, contains, embodies, identifies, mentions, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.

(3) This subpoena calls for the production of records, documents and compilations of data and information that are currently in your possession, care, custody or control, including, but not limited to, all records which you have in your physical possession as well as any records to which you have access, any records which were formerly in your possession, or which you have put in storage or anyone has put in storage on your behalf. Unless a time period is specifically identified, the request includes all documents to the present.

(4) The conjunctions "or" and "and" are to be read interchangeably in the manner that gives this subpoena the broadest reading.

(5) No records, documents, data or information called for by this subpoena shall be destroyed, modified, redacted, removed or otherwise made inaccessible to the Committee.

(6) If you have knowledge that any subpoenaed record, document, data or information has been destroyed, discarded or lost, identify the subpoenaed records, documents data or information and provide an explanation of the destruction, discarding, loss, deposit or disposal.

(7) When invoking a privilege as to any responsive record, document, data or information as a ground for withholding such record, document, data or information, list each record, document, compilation of data or information by data, type, addressee, author (and if different, the preparer and signatory), general subject matter, and indicated or known circulation. Also, indicate the privilege asserted with respect to each record, document, compilation of data or information in sufficient detail to ascertain the validity of the claim of privilege.

(8) This subpoena is continuing in nature. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date shall be provided immediately upon location or discovery subsequent thereto.

Subpoenaed Items

Please provide all records relating to the discovery, diagnosis, planned, implemented, or partially implemented solutions to problems associated with the Automatic Records Management System ("ARMS") process and the failure to collect e-mail messages (also known as "Project X" or "Mail2 reconstruction project") from Executive Office of the President ("EOP") mail servers, including but not limited to:

1. E-mails dated approximately January or February 1998, between Daniel "Tony" Barry and John Spriggs regarding an e-mail from Monica Lewinsky to Ashley Raines missing from ARMS;

2. Incident reports drafted approximately January or February 1998, by Tony Barry related to the Lewinsky e-mail being missing from ARMS;

3. E-mails dated on or about June 12, 1998, between Yiman Salim and/or Robert Haas and/or Betty Lambuth regarding the discovery of a problem with ARMS;

4. Summaries or briefings or progress reports about efforts to remedy the ARMS problem;

5. Lists of users effected by ARMS failure to collect incoming e-mails including but not limited to Yiman Salim's list of Mail2 users who had active accounts on November 20, 1998 and a list of user accounts created by Robert Haas;

6. November 20, 1998, and June 1, 1999, back-up tapes of EOP mail servers;

7. All notes or memoranda regarding meetings in or about the middle of June, 1998, between Steve Hawkins and Mark Lindsay and Laura Crabtree;

8. A letter from Northrop Grumman legal counsel to employee Dale Helms regarding unauthorized work performed by contract employees for EOP;

9. All analyses produced by Robert Haas regarding the scope of problems with ARMS and EOP mail servers;

10. An Internal Work Order ("IWO") prepared by John Spriggs relating to the ARMS problem and possible solutions and/or partial solutions; and

11. E-mails between Tony Barry and John Spriggs regarding EOP rejection of the IWO.

12. E-mails sent to all EOP Lotus Notes users dated on or after January 1, 1998, requesting that users delete e-mails.

13. Weekly reports or memoranda or notes dated after January 1, 1998, by Daniel "Tony" Barry regarding problems with e-mails not being recorded in ARMS.

Subpoena Duces Tecum

By Authority of the House of Representatives of the Congress of the United States of America

To Executive Office of the President, Beth Nolan, Esq.

You are hereby commanded to produce the things identified on the attached schedule before the Full Committee on Government Reform of the House of Representatives of the United States, of which the Hon. Dan Burton is chairman, by producing such things in Room 2157 of the Rayburn Building, in the city of Washington, on March 30, 2000, at the hour of 5:00 PM

To Maria Tamburri

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 16 day of March, 2000

Dan Burton
Chairman.

Attest:

Kevin Landon
Clerk.

Subpoena for Executive Office of the President, Beth Nolan, Esq.

before the Committee on the Government Reform

Served on 3-15-00 to Kirsten Pflomm by Michael Canty at 4:40

House of Representatives

GPO 1995 51-015 (mar)

SCHEDULE A

Subpoena Duces Tecum
Government Reform Committee
United States House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Executive Office of the President
Serve: Beth Nolan, Esq.
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

The Committee hereby subpoenas certain records. Please provide logs which indicate each record's Bates number, author, description, and source file. If you have any questions, please contact Chief Counsel James C. Wilson at (202) 225-5074.

Definitions and Instructions

(1) For the purposes of this subpoena, the word "record" or "records" shall include, but shall not be limited to, any and all originals and identical copies of any item whether written, typed, printed, recorded, redacted or unredacted, transcribed, punched, taped, filmed, graphically portrayed, video or audio taped, however produced or reproduced, and includes, but is not limited to, any writing, reproduction, transcription, photograph, or video or audio recording, produced or stored in any fashion, including any and all activity reports, agendas, analyses, announcements, appointment books, briefing materials, bulletins, cables, calendars, card files, computer disks, cover sheets or routing cover sheets, drawings, computer entries, computer printouts, computer tapes, external and internal correspondence, diagrams, diaries, documents, electronic mail (e-mail), facsimiles, journal entries, letters, manuals, memoranda, messages, minutes, notes, notices, opinions, statements or charts of organization, plans, press releases, recordings, reports, Rolodexes, statements of procedure and policy, studies, summaries, talking points, tapes, telephone bills, telephone logs, telephone message slips, records or evidence of incoming and outgoing telephone calls, telegrams, telexes, transcripts, or any other machine readable material of any sort whether prepared by current or former employees, agents, consultants or by any non-employee without limitation. "Record" or "records" shall also include all other records, documents, data and information of a like and similar nature not listed above.

(2) For purposes of this subpoena, the terms "refer" or "relate" and "concerning" as to any given subject means anything that constitutes, contains, embodies, identifies, mentions, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.

(3) This subpoena calls for the production of records, documents and compilations of data and information that are currently in your possession, care, custody or control, including, but not limited to, all records which you have in your physical possession as well as any records to which you have access, any records which were formerly in your possession, or which you have put in storage or anyone has put in storage on your behalf. Unless a time period is specifically identified, the request includes all documents to the present.

(4) The conjunctions "or" and "and" are to be read interchangeably in the manner that gives this subpoena the broadest reading.

(5) No records, documents, data or information called for by this subpoena shall be destroyed, modified, redacted, removed or otherwise made inaccessible to the Committee.

(6) If you have knowledge that any subpoenaed record, document, data or information has been destroyed, discarded or lost, identify the subpoenaed records, documents data or information and provide an explanation of the destruction, discarding, loss, deposit or disposal.

(7) When invoking a privilege as to any responsive record, document, data or information as a ground for withholding such record, document, data or information, list each record, document, compilation of data or information by data, type, addressee, author (and if different, the preparer and signatory), general subject matter, and indicated or known circulation. Also, indicate the privilege asserted with respect to each record, document, compilation of data or information in sufficient detail to ascertain the validity of the claim of privilege.

(8) This subpoena is continuing in nature. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date shall be provided immediately upon location or discovery subsequent thereto.

Subpoenaed Items

Please provide the Committee with the following records:

1. All e-mail messages relating to the following individuals and entities:

   a. Johnny Chung;
   b. Yogesh Gandhi;
   c. C. Joseph Giroir;
   d. Ernest G. Green;
   e. Maria Hsia;
   f. Hsing Yun;
   g. John Huang;
   h. Mark Jimenez;
   i. Pauline Kanchanalak (a.k.a. Pornpimol Kanchanalak);
   j. Jude Kearney;

k. John K.H. Lee;
l. David Mercer;
m. Ng Lap Seng (a.k.a. "Mr. Wu");
n. Yuan Pei "Antonio" Pan;
o. James Riady;
p. Mochtar Riady;
q. Ted Sioeng;
r. Richard Sullivan;
s. Suma Ching Hai;
t. Roger Tamraz;
u. Yah Lin "Charlie" Trie;
v. Wang Jun;
w. Tony Winata (a.k.a. Tommy Winata);
x. Arief Wiriadinata;
y. Soraya Wiriadinata;
z. Keshi Zhan;
aa. Automated Intelligent Systems, Inc.;
bb. Cheong Am America;
cc. Commerce Corp. International;
dd. Charoen Pokphand Group (a.k.a. CP Group);
ee. Daihatsu International Trading Corp.;
ff. Democratic National Committee;
gg. Future Tech International;
hh. Hip Hing Holdings;
ii. Hsi Lai Temple;
jj. International Buddhist Progress Society;
kk. Lippo Bank;
ll. Lippo Group; and
mm. San Kin Yip International Trading Corp.

2. All e-mail messages from March 1, 1995, to the present, regarding Mark Middleton.

3. All e-mail messages from April 1, 1994, to the present, regarding Webster Hubbell.

4. All e-mail messages relating to the St. Croix Meadows Greyhound Racing Park, including, but not limited to all e-mails about this issue from the following individuals:

a. Thomas Collier;
b. John Duffy; and
c. Heather Sibbison.

5. All e-mail messages relating to claims by the Cheyenne and Arapaho Tribes to lands in Fort Reno, Oklahoma, including, but not limited to all e-mails about this issue from the following individuals:

a. Michael Copperthite;
b. Nathan Landow; and
c. Cody Shearer.

6. All document requests and subpoenas provided to or served upon the Executive Office of the President by the Justice Department, the Campaign Financing Task Force, or the Federal Bureau of Investigation, from September 1, 1996, to the present.

7. All records relating to the Ellicott Machine Corporation, including, but not limited to:

a. Correspondence between the Vice President and representatives of the Indonesian government about Ellicott Machine Corporation; and

b. Correspondence between the Executive Office of the President and the Democratic National Committee regarding Ellicott Machine Corporation.

Subpena Duces Tecum

By Authority of the House of Representatives of the Congress of the United States of America

To Executive Office of the President, Beth Nolan Serve: Beth Nolan

You are hereby commanded to produce the things identified on the attached schedule before the Full Committee on Government Reform of the House of Representatives of the United States, of which the Hon. Dan Burton is chairman, by producing such things in Room 2157 of the Rayburn Building, in the city of Washington, on June 30th, 2000, at the hour of 5:00PM

To Maria Pia Tamburri

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 1st day of June, 2000

Dan Burton
Chairman.

Attest:

Jeff Trandahl
by Kirkland C. Vang *Clerk.*

Subpena for..Executive Office of the President, Beth Nolan

Serve: Beth Nolan

The White House

Washington, DC 20500

before the Committee on the.....

Government Reform

.....

Served..Ben Adams

6/2/00 @ 2:15pm

Maria Pia Tamburri

via facsimile and first class mail

.....

.....

.....House of Representatives

SCHEDULE A

Subpoena Duces Tecum
Government Reform Committee
United States House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Executive Office of the President
Serve: Beth Nolan, Esq.
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

The Committee hereby subpoenas certain records. Please provide logs which indicate each record's Bates number, author, description, and source file. If you have any questions, please contact Chief Counsel James C. Wilson at (202) 225-5074.

Definitions and Instructions

(1) For the purposes of this subpoena, the word "record" or "records" shall include, but shall not be limited to, any and all originals and identical copies of any item whether written, typed, printed, recorded, redacted or unredacted, transcribed, punched, taped, filmed, graphically portrayed, video or audio taped, however produced or reproduced, and includes, but is not limited to, any writing, reproduction, transcription, photograph, or video or audio recording, produced or stored in any fashion, including any and all activity reports, agendas, analyses, announcements, appointment books, briefing materials, bulletins, cables, calendars, card files, computer disks, cover sheets or routing cover sheets, drawings, computer entries, computer printouts, computer tapes, external and internal correspondence, diagrams, diaries, documents, electronic mail (e-mail), facsimiles, journal entries, letters, manuals, memoranda, messages, minutes, notes, notices, opinions, statements or charts of organization, plans, press releases, recordings, reports, Rolodexes, statements of procedure and policy, studies, summaries, talking points, tapes, telephone bills, telephone logs, telephone message slips, records or evidence of incoming and outgoing telephone calls, telegrams, telexes, transcripts, or any other machine readable material of any sort whether prepared by current or former employees, agents, consultants or by any non-employee without limitation. "Record" or "records" shall also include all other records, documents, data and information of a like and similar nature not listed above.

(2) For purposes of this subpoena, the terms "refer" or "relate" and "concerning" as to any given subject means anything that constitutes, contains, embodies, identifies, mentions, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.

(3) This subpoena calls for the production of records, documents and compilations of data and information that are currently in your possession, care, custody or control, including, but not limited to, all records which you have in your physical possession as well as any records to which you have access, any records which were formerly in your possession, or which you have put in storage or anyone has put in storage on your behalf. Unless a time period is specifically identified, the request includes all documents to the present.

(4) The conjunctions "or" and "and" are to be read interchangeably in the manner that gives this subpoena the broadest reading.

(5) No records, documents, data or information called for by this subpoena shall be destroyed, modified, redacted, removed or otherwise made inaccessible to the Committee.

(6) If you have knowledge that any subpoenaed record, document, data or information has been destroyed, discarded or lost, identify the subpoenaed records, documents data or information and provide an explanation of the destruction, discarding, loss, deposit or disposal.

(7) When invoking a privilege as to any responsive record, document, data or information as a ground for withholding such record, document, data or information, list each record, document, compilation of data or information by data, type, addressee, author (and if different, the preparer and signatory), general subject matter, and indicated or known circulation. Also, indicate the privilege asserted with respect to each record, document, compilation of data or information in sufficient detail to ascertain the validity of the claim of privilege.

(8) This subpoena is continuing in nature. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date shall be provided immediately upon location or discovery subsequent thereto.

Subpoenaed Items

Please provide the Committee with the following records:

1. All e-mail messages relating to a waiver allowing the burial of Ambassador M. Larry Lawrence at the Arlington National Cemetery; and

2. All e-mail messages relating to a waiver allowing the burial of C. Everett Koop at the Arlington National Cemetery.

Subpoena Duces Tecum

By Authority of the House of Representatives of the Congress of the United States of America

To Executive Office of the President Serve: Beth Nolan, Esq.

You are hereby commanded to produce the things identified on the attached schedule before the Full Committee on Government Reform of the House of Representatives of the United States, of which the Hon. Dan Burton is chairman, by producing such things in Room 2157 of the Rayburn Building , in the city of Washington, on July 10th, 2000, at the hour of 10:00am

To Maria Pia Tamburri or the US Marshal

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 7th day of July, 2000

Dan Burton
Chairman.

Attest:

Jeff Trandahl
Acting Clerk.

Subpoena for Executive Office of the President

Serve: Beth Nolan, Esq.

The White House

1600 Pennsylvania Avenue, NW
Washington, DC 20500
before the Committee on the

Government Reform

Served by: [illegible]

To: [illegible]

7/7/00 @ 1:10PM

House of Representatives

GPO: 1998 51-015 (mac)

SCHEDULE A

Subpoena Duces Tecum
Government Reform Committee
United States House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Executive Office of the President
Serve: Beth Nolan, Esq.
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

The Committee hereby subpoenas certain records. Please provide logs which indicate each record's Bates number, author, description, and source file. If you have any questions, please contact Chief Counsel James C. Wilson at (202) 225-5074.

Definitions and Instructions

(1) For the purposes of this subpoena, the word "record" or "records" shall include, but shall not be limited to, any and all originals and identical copies of any item whether written, typed, printed, recorded, redacted or unredacted, transcribed, punched, taped, filmed, graphically portrayed, video or audio taped, however produced or reproduced, and includes, but is not limited to, any writing, reproduction, transcription, photograph, or video or audio recording, produced or stored in any fashion, including any and all activity reports, agendas, analyses, announcements, appointment books, briefing materials, bulletins, cables, calendars, card files, computer disks, cover sheets or routing cover sheets, drawings, computer entries, computer printouts, computer tapes, external and internal correspondence, diagrams, diaries, documents, electronic mail (e-mail), facsimiles, journal entries, letters, manuals, memoranda, messages, minutes, notes, notices, opinions, statements or charts of organization, plans, press releases, recordings, reports, Rolodexes, statements of procedure and policy, studies, summaries, talking points, tapes, telephone bills, telephone logs, telephone message slips, records or evidence of incoming and outgoing telephone calls, telegrams, telexes, transcripts, or any other machine readable material of any sort whether prepared by current or former employees, agents, consultants or by any non-employee without limitation. "Record" or "records" shall also include all other records, documents, data and information of a like and similar nature not listed above.

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(3) This subpoena calls for the production of records, documents and compilations of data and information that are currently in your possession, care, custody or control, including, but not limited to, all records which you have in your physical possession as well as any records to which you have access, any records which were formerly in your possession, or which you have put in storage or anyone has put in storage on your behalf. Unless a time period is specifically identified, the request includes all documents to the present.

(4) The conjunctions "or" and "and" are to be read interchangeably in the manner that gives this subpoena the broadest reading.

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(6) If you have knowledge that any subpoenaed record, document, data or information has been destroyed, discarded or lost, identify the subpoenaed records, documents data or information and provide an explanation of the destruction, discarding, loss, deposit or disposal.

(7) When invoking a privilege as to any responsive record, document, data or information as a ground for withholding such record, document, data or information, list each record, document, compilation of data or information by data, type, addressee, author (and if different, the preparer and signatory), general subject matter, and indicated or known circulation. Also, indicate the privilege asserted with respect to each record, document, compilation of data or information in sufficient detail to ascertain the validity of the claim of privilege.

(8) This subpoena is continuing in nature. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date shall be provided immediately upon location or discovery subsequent thereto.

Subpoenaed Items

Please provide the Committee with all original videotapes for the December 15, 1995, Presidential coffee.

Subpoena Duces Tecum

By Authority of the House of Representatives of the Congress of the United States of America

To William Jefferson Clinton Serve: David Kendall, Esq.

You are hereby commanded to produce the things identified on the attached schedule before the Full Committee on Government Reform of the House of Representatives of the United States, of which the Hon. Dan Burton is chairman, by producing such things in Room 2157 of the Rayburn Building , in the city of Washington, on July 24th, 2000, at the hour of 5:00PM

To Maria Pia Tamburri or the US Marshal Service

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 20th day of July XXX 2000

Dan Burton

Chairman.

Attest:

Clerk.

Subpoena for... William Jefferson Clinton Serve: David Kendall, Esq.

William & Connolly, LLP

725 12th Street, NW

Washington, DC 20005

before the Committee on the .....

Government Reform

.....

Served by Maria Pica Tamburri

To David Kendall for William Jefferson Clinton

via facsimile & 1st Class mail

7/20/00 @ 4:00pm

.....

.....

..... House of Representatives

GPO: 1998 51-015 (mac)

SCHEDULE A

Subpoena Duces Tecum
Government Reform Committee
United States House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

William Jefferson Clinton
Serve: David Kendall, Esq.
William & Connolly, L.L.P.
725 12th Street, N.W.
Washington, D.C. 20005

The Committee hereby subpoenas certain records. Please provide logs which indicate each record's Bates number, author, description, and source file. If you have any questions, please contact Chief Counsel James C. Wilson at (202) 225-5074.

Definitions and Instructions

(1) For the purposes of this subpoena, the word "record" or "records" shall include, but shall not be limited to, any and all originals and identical copies of any item whether written, typed, printed, recorded, redacted or unredacted, transcribed, punched, taped, filmed, graphically portrayed, video or audio taped, however produced or reproduced, and includes, but is not limited to, any writing, reproduction, transcription, photograph, or video or audio recording, produced or stored in any fashion, including any and all activity reports, agendas, analyses, announcements, appointment books, briefing materials, bulletins, cables, calendars, card files, computer disks, cover sheets or routing cover sheets, drawings, computer entries, computer printouts, computer tapes, external and internal correspondence, diagrams, diaries, documents, electronic mail (e-mail), facsimiles, journal entries, letters, manuals, memoranda, messages, minutes, notes, notices, opinions, statements or charts of organization, plans, press releases, recordings, reports, Rolodexes, statements of procedure and policy, studies, summaries, talking points, tapes, telephone bills, telephone logs, telephone message slips, records or evidence of incoming and outgoing telephone calls, telegrams, telexes, transcripts, or any other machine readable material of any sort whether prepared by current or former employees, agents, consultants or by any non-employee without limitation. "Record" or "records" shall also include all other records, documents, data and information of a like and similar nature not listed above.

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(3) This subpoena calls for the production of records, documents and compilations of data and information that are currently in your possession, care, custody or control, including, but not limited to, all records which you have in your physical possession as well as any records to which you have access, any records which were formerly in your possession, or which you have put in storage or anyone has put in storage on your behalf. Unless a time period is specifically identified, the request includes all documents to the present.

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(6) If you have knowledge that any subpoenaed record, document, data or information has been destroyed, discarded or lost, identify the subpoenaed records, documents data or information and provide an explanation of the destruction, discarding, loss, deposit or disposal.

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(8) This subpoena is continuing in nature. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date shall be provided immediately upon location or discovery subsequent thereto.

Subpoenaed Items

Please provide the Committee with all transcripts of any interviews of you conducted by the Department of Justice Campaign Financing Task Force during April 2000.

Subpoena Duces Tecum

By Authority of the House of Representatives of the Congress of the United States of America

To Executive Office of the President Serve: Beth Nolan Esq.

You are hereby commanded to produce the things identified on the attached schedule before the Full Committee on Government Reform of the House of Representatives of the United States, of which the Hon. Dan Burton is chairman, by producing such things in Room 2157 of the Rayburn Building , in the city of Washington, on August 4th, 2000, at the hour of 5:00PM .

To Maria Pia Tamburri

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 28th day of ~~April~~ July XXX 2000

Dan Burton
Chairman.

Attest:

Jeff Trandahl
Clerk.

Subpoena for Executive Office of the President

Serve: Beth Nolan

The White House

Washington, DC 20500

before the Committee on the

Government Reform

Served by: Mana P. Tamburri

To: Privilege Petersen

7/28/00 @ 3:40pm

House of Representatives

GPO: 1998 51-015 (mac)

SCHEDULE A

Subpoena Duces Tecum
Government Reform Committee
United States House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Executive Office of the President
Serve: Beth Nolan, Esq.
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

The Committee hereby subpoenas certain records. Please provide logs which indicate each record's Bates number, author, description, and source file. If you have any questions, please contact Chief Counsel James C. Wilson at (202) 225-5074.

Definitions and Instructions

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(2) For purposes of this subpoena, the terms "refer" or "relate" and "concerning" as to any given subject means anything that constitutes, contains, embodies, identifies, mentions, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.

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(7) When invoking a privilege as to any responsive record, document, data or information as a ground for withholding such record, document, data or information, list each record, document, compilation of data or information by data, type, addressee, author (and if different, the preparer and signatory), general subject matter, and indicated or known circulation. Also, indicate the privilege asserted with respect to each record, document, compilation of data or information in sufficient detail to ascertain the validity of the claim of privilege.

(8) This subpoena is continuing in nature. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date shall be provided immediately upon location or discovery subsequent thereto.

(9) All handwritten notations made on records are to be left on the document in their original form, and not redacted, replaced, or altered in any way.

Subpoenaed Items

Please provide the Committee with the record on possible corruption by Viktor Chernomyrdin referred to by Vice President Gore in the following statement on Meet The Press, July 16, 2000: "Also, I would dispute the statement that whoever sent that over there expected the White House to be impressed with it. You talk to the people who were in charge of that division and what they'll tell you was that they absolutely agreed that it was a very sloppy piece of work." Please provide all copies of this record with handwritten notations by Vice President Gore, Leon Fuerth, or any other individual, as well as all copies of any handwritten notations by any such individuals accompanying such record.

Subpoena Duces Tecum

By Authority of the House of Representatives of the Congress of the United States of America

To Executive Office of the President Serve: Beth Nolan, Esq.

You are hereby commanded to produce the things identified on the attached schedule before the Full Committee on Government Reform of the House of Representatives of the United States, of which the Hon. Dan Burton is chairman, by producing such things in Room 2157 of the Rayburn Building, in the city of Washington, on August 17, 2000, at the hour of 5:00 p.m.

To Maria Tamburri

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 3rd day of August, ~~19~~ 2000

Dan Burton
Chairman.

Attest:

Jeff Trandahl
Clerk.
by Martha C. Morrison
Deputy Clerk

Subpoena for Executive Office of the President

Serve: Beth Nolan, Esq.

The White House

Washington, D.C. 20500

before the Committee on the

Government Reform

Served by hand on Ben Adams on 8/3/00 at 5:02 pm

House of Representatives

GPO: 1998 51-015 (mac)

SCHEDULE A

Subpoena Duces Tecum
Government Reform Committee
United States House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Executive Office of the President
Serve: Beth Nolan, Esq.
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

The Committee hereby subpoenas certain records. Please provide logs which indicate each record's Bates number, author, description, and source file. If you have any questions, please contact Chief Counsel James C. Wilson at (202) 225-5074.

Definitions and Instructions

(1) For the purposes of this subpoena, the word "record" or "records" shall include, but shall not be limited to, any and all originals and identical copies of any item whether written, typed, printed, recorded, redacted or unredacted, transcribed, punched, taped, filmed, graphically portrayed, video or audio taped, however produced or reproduced, and includes, but is not limited to, any writing, reproduction, transcription, photograph, or video or audio recording, produced or stored in any fashion, including any and all activity reports, agendas, analyses, announcements, appointment books, briefing materials, bulletins, cables, calendars, card files, computer disks, cover sheets or routing cover sheets, drawings, computer entries, computer printouts, computer tapes, external and internal correspondence, diagrams, diaries, documents, electronic mail (e-mail), facsimiles, journal entries, letters, manuals, memoranda, messages, minutes, notes, notices, opinions, statements or charts of organization, plans, press releases, recordings, reports, Rolodexes, statements of procedure and policy, studies, summaries, talking points, tapes, telephone bills, telephone logs, telephone message slips, records or evidence of incoming and outgoing telephone calls, telegrams, telexes, transcripts, or any other machine readable material of any sort whether prepared by current or former employees, agents, consultants or by any non-employee without limitation. "Record" or "records" shall also include all other records, documents, data and information of a like and similar nature not listed above.

(2) For purposes of this subpoena, the terms "refer" or "relate" and "concerning" as to any given subject means anything that constitutes, contains, embodies, identifies, mentions, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.

(3) This subpoena calls for the production of records, documents and compilations of data and information that are currently in your possession, care, custody or control, including, but not limited to, all records which you have in your physical possession as well as any records to which you have access, any records which were formerly in your possession, or which you have put in storage or anyone has put in storage on your behalf. Unless a time period is specifically identified, the request includes all documents to the present.

(4) The conjunctions "or" and "and" are to be read interchangeably in the manner that gives this subpoena the broadest reading.

(5) No records, documents, data or information called for by this subpoena shall be destroyed, modified, redacted, removed or otherwise made inaccessible to the Committee.

(6) If you have knowledge that any subpoenaed record, document, data or information has been destroyed, discarded or lost, identify the subpoenaed records, documents data or information and provide an explanation of the destruction, discarding, loss, deposit or disposal.

(7) When invoking a privilege as to any responsive record, document, data or information as a ground for withholding such record, document, data or information, list each record, document, compilation of data or information by data, type, addressee, author (and if different, the preparer and signatory), general subject matter, and indicated or known circulation. Also, indicate the privilege asserted with respect to each record, document, compilation of data or information in sufficient detail to ascertain the validity of the claim of privilege.

(8) This subpoena is continuing in nature. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date shall be provided immediately upon location or discovery subsequent thereto.

(9) All handwritten notations made on records are to be left on the document in their original form, and not redacted, replaced, or altered in any way.

Subpoenaed Items

Please provide the Committee with all photographs and photographic negatives of the December 15, 1995, White House coffee.

Subpoena Duces Tecum

By Authority of the House of Representatives of the Congress of the United States of America

To Daniel A. Barry Serve: Stephen M. Ryan

You are hereby commanded to produce the things identified on the attached schedule before the Full Committee on Government Reform of the House of Representatives of the United States, of which the Hon. Dan Burton is chairman, by producing such things in Room 2157 of the Rayburn Building , in the city of Washington, on September 14th, 2000, at the hour of 5:00PM

To Maria Pia Tamburri or the US Marshal Service

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 7th day of September XXX 2000

Dan Burton

Chairman.

Attest:

Jeff Trandahl

Clerk.

Subpoena for Daniel A. Barry Serve: Stephen M. Ryan

Manatt, Phelps & Phillips

1501 M Street, NW Suite 700

Washington, DC 20005

before the Committee on the

Government Reform

Served By Maria Pia Tonsbum
To: Stephen M. Ryan for Daniel A. Barry
via facsimile and first class mail
@ 4:05 pm on Sept. 7th, 2000

House of Representatives

GPO: 1998 51-015 (mac)

SCHEDULE A

Subpoena Duces Tecum
Committee on Government Reform
United States House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Daniel A. Barry
Serve: Stephen M. Ryan
Manatt, Phelps & Phillips
1501 M Street, N.W., Suite 700
Washington, D.C. 20005

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6. If you have knowledge that any subpoenaed record, document, data or information has been destroyed, discarded or lost, identify the subpoenaed records, documents data or information and provide an explanation of the destruction, discarding, loss, deposit or disposal.

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8. This subpoena is continuing in nature. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date shall be provided immediately upon location or discovery subsequent thereto.

9. Please provide a printed and, where possible, an electronic version of records. Electronic information may be stored on 3½ inch diskettes in ASCII format. In addition, please provide the Committee's Minority staff with an identical copy of all records provided.

Subpoenaed Items

Please provide the Committee with all correspondence between either Daniel A. Barry or counsel for Daniel A. Barry and the Justice Department Campaign Financing Task Force or the Office of Independent Counsel between January 2000 and the present.

APPENDIX III

SUBPOENAS FOR TESTIMONY BEFORE THE COMMITTEE ON GOVERNMENT REFORM ISSUED TO WHITE HOUSE OFFICIALS

SUBPOENAS TO TESTIFY ISSUED TO WHITE HOUSE OFFICIALS

Since January of 1997, the Committee on Government Reform has issued 9 subpoenas for testimony before the Committee to White House officials.

	DATE	DUE	ISSUED TO	REASON
1.	2/18/98	2/25/98	Charles Duncan	Campaign Finance (Testimony)
2.	4/1/98	2/26/98	Marsha Scott	White House Data Base (Testimony)
3.	9/14/99	9/16/99	Beth Nolan	FALN (Testimony)[1]
4.	3/17/00	3/23/00	Daniel "Tony" Barry	White House E-mail Problems (Testimony)
5.	3/17/00	3/23/00	Mark Lindsay	White House E-mail Problems (Testimony)
6.	3/17/00	3/23/00	Beth Nolan	White House E-mail Problems (Testimony)
7.	4/26/00	5/3/00	Karl Heissner	White House E-mail Problems (Testimony)
8.	5/1/00	5/3/00	Michael Lyle	White House E-mail Problems (Testimony)
9.	4/26/00	5/4/00	Mark Lindsay	White House E-mail Problems (Testimony)

[1] The White House claimed executive privilege and refused to testify before the Committee on Government Reform.

MINORITY VIEWS OF HON. HENRY A. WAXMAN, HON. TOM LANTOS, HON. MAJOR R. OWENS, HON. EDOLPHUS TOWNS, HON. PAUL E. KANJORSKI, HON. PATSY T. MINK, HON. CAROLYN B. MALONEY, HON. ELEANOR HOLMES NORTON, HON. CHAKA FATTAH, HON. ELIJAH E. CUMMINGS, HON. DENNIS J. KUCINICH, HON. ROD R. BLAGOJEVICH, HON. DANNY K. DAVIS, HON. JIM TURNER, HON. HAROLD E. FORD, JR., AND HON. JANICE D. SCHAKOWSKY

I. EXECUTIVE SUMMARY

This committee has a long history of making unsubstantiated allegations. Many of these allegations are summarized in a report recently released by the ranking minority member, Representative Henry A. Waxman.[1] The majority has alleged that Deputy White House Counsel Vince Foster was murdered as part of a coverup of the Whitewater land deal, that the White House intentionally maintained an "enemies list" of sensitive FBI files, that the IRS targeted the President's enemies for tax audits, that the White House may have been involved in "selling or giving information to the Chinese in exchange for political contributions," and that the White House "altered" videotapes of White House coffees to conceal wrongdoing, among numerous other unfounded allegations.

One theme in the majority's allegations is that the wrongdoing by the Clinton administration exceeds the wrongdoing exposed in the Watergate scandal. As early as 1997, Representative Burton described his campaign fundraising investigation as follows: "I think this thing could end up being much bigger than Watergate ever was."[2]

The majority's report on e-mails again asserts that the majority has uncovered a scandal bigger than Watergate:

> The implications of these revelations are profound. When the Nixon White House was forced to admit that there was an eighteen-and-a-half minute gap on a recorded tape, there was a firestorm of criticism. The "gap" created by hundreds of thousands of missing e-mails, and by a Vice Presidential staff decision to manage records so they could not be searched, is of no less consequence. If senior White House personnel were aware of these problems, and if they failed to take effective measures to recover the withheld information—or inform those with outstanding document requests—then *the e-mail matter can fairly be called the most significant obstruction of Congressional investigations*

[1] Minority Staff Report of the House Committee on Government Reform, "Unsubstantiated Allegations of Wrongdoing Involving the Clinton Administration" (October 2000) (attached as exhibit 1).

[2] "The NewsHour with Jim Lehrer," PBS (Feb. 25, 1997).

> *in U.S. history. While the White House's obstruction in Watergate related only to the Watergate break-in, the potential obstruction of justice by the Clinton White House reaches much further.* The e-mail problem effects [sic] almost every investigation of the Administration, from campaign finance to Monica Lewinsky.[3]

As these views will demonstrate, the committee's e-mail investigation has followed the same pattern as its previous "scandal" investigations. Many sensational allegations have been made, but none have been proven.

A. BACKGROUND

In July 1994, the White House created a central electronic database, called the Automated Records Management System (ARMS), to archive official Presidential and Federal records, including e-mails. ARMS was created to comply with the court decision *Armstrong* v. *Executive Office of the President,*[4] which interpreted the Federal Records Act as requiring the preservation of e-mail messages by parts of the Executive Office of the President.[5] In June 1998, contractors working for Northrop Grumman discovered a technical problem affecting a White House e-mail server (named "Mail2") which prevented incoming e-mail to accounts on that server from being archived in ARMS. The problem, which dated back to August 1996, was fixed prospectively in November 1998.

The number of e-mails affected by the Mail2 problem is relatively small compared to the total number of e-mails properly recorded in ARMS. The Mail2 problem affected only incoming e-mail sent to 526 accounts on the Mail2 server; the problem did not affect any e-mails sent *from* those 526 accounts. Furthermore, any incoming e-mails that were replied to or forwarded by the recipient (or that were copied to a nonaffected user) were archived in ARMS.[6]

The Mail2 problem may have had some limited impact on White House document production. Because the White House conducted searches of ARMS to respond to information requests, some of the narrow subset of e-mails affected by the Mail2 problem may not have been supplied to independent counsels and congressional committees investigating the White House. Some of the e-mails affected by the Mail2 problem, however, were likely to have been captured by other search means and given to the investigators.[7]

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[3] House Committee on Government Reform, "The Failure to Produce White House E-Mails: Threats, Obstruction and Unanswered Questions," 106th Cong., viii (2000) (emphasis added) (hereinafter "majority report").

[4] 1 F.3d 1274 (D.C. Cir. 1993).

[5] Testimony of Beth Nolan, House Committee on Government Reform, hearing on "Missing White House E-Mails: Mismanagement of Subpoenaed Records (continued)," 85 (Mar. 30, 2000) (stenographic record) (stating that "ARMS was set up in order for the executive office of the President to comply with the Federal Records Act") (hereinafter "March 30 hearing"). The Executive Office of the President (EOP) consists of a group of 11 Federal agencies immediately serving the President. These agencies include the White House Office, where many of the President's closest advisors are located; the Office of Management and Budget; the National Security Council; and the Office of Administration. The White House Office is legally exempt from the Federal Records Act, but was nonetheless included in ARMS.

[6] Statement of Counsel to the President Beth Nolan (Mar. 23, 2000); testimony of Daniel A. "Tony" Barry, House Committee on Government Reform, hearing on "Missing White House E-Mails: Mismanagement of Subpoenaed Records," 78–79 (Mar. 23, 2000) (stenographic record) (hereinafter "Mar. 23 hearing").

[7] When the White House counsel's office responds to subpoenas, in addition to searching ARMS it "instructs individuals within the relevant EOP offices to search for responsive mate-

In the course of responding to committee inquiries regarding the Mail2 problem, the White House also discovered information about other e-mail problems, including a problem that prevented incoming e-mail sent between approximately November 1998 and April 1999 to users whose account names began with the letter "d" from being archived; a problem that caused a small, random assortment of e-mails from June 1997 to August 1999 not to be archived on the National Security Council's classified computer system; and a problem that prevented e-mails on the server of the Office of the Vice President (OVP) from being fully managed by ARMS.

The White House is in the process of reconstructing the e-mails that were not initially searched due to these computer glitches. As of September 29, 2000, the White House had committed or spent approximately $6.9 million on this project, and had expended 39,157 hours of work (34,822 hours by contract employees, 3,795 hours by employees of the Executive Office of the President, and 540 hours by security personnel). Overall, the cost of the project has been estimated at $11.7 million.[8]

B. ALLEGATIONS

The e-mail problems in the White House are highly technical. They do not involve any conscious effort to withhold subpoenaed materials from the committee. Nevertheless, during the course of the committee's investigation, they have spawned a series of inflammatory accusations. The principal allegations and the actual facts uncovered during the investigation are described below:

- *Allegation: The missing White House e-mails contain "information relating to Filegate, concerning the Monica Lewinsky scandal, the sale of Clinton Commerce Department trade mission seats in exchange for campaign contributions, and Vice President Al Gore's involvement in campaign fundraising controversies."*[9] *If the contents of these e-mails become known, "there would be different outcomes to these scandals, as the e-mails were incriminating and could cause people to go to jail."*[10]

The Facts: The only witness to view the contents of any of the "missing" e-mails was a Northrop Grumman employee, Robert Haas, who had the responsibility of searching for missing e-mails relating to Monica Lewinsky. Mr. Haas found a few Lewinsky-related e-mails that turned out to have been previously provided to Independent Counsel Kenneth Starr.[11] He testified under oath: "I

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rials. This directive explicitly states that each individual should search computer records as well as hard copies." Statement of Counsel to the President Beth Nolan (Mar. 23, 2000) (attached as exhibit 2). Thus, any responsive e-mails that were saved by the sender or recipient should have been produced, regardless of whether or not they were recorded in ARMS. In addition, e-mails that were not retrieved by the White House may have been provided to investigators by other sources that sent e-mails to the White House. These potential sources include Federal agencies and the Democratic National Committee.

[8] Letter from Michael K. Bartosz, general counsel to the Office of Administration, to James C. Wilson, chief counsel (Sept. 29, 2000) (attached as exhibit 3).

[9] Declaration of Betty Lambuth, *Alexander* v. *FBI,* No. 96–2123 (Feb. 24, 2000). *See also* third declaration of Sheryl Hall, *Alexander* v. *FBI,* No. 96–2123 (Feb. 19, 2000).

[10] Third declaration of Sheryl Hall, *Alexander* v. *FBI,* No. 96–2123 (Feb. 19, 2000).

[11] A member of the Office of White House Counsel, Michelle Peterson, compared the e-mails retrieved by Mr. Haas with previously produced e-mails and determined that they were duplicative. Interview of Michelle Peterson by majority and minority staff, House Committee on Government Reform (June 8, 2000). Ms. Peterson recently filed a declaration indicating that she

Continued

never . . . intimated in any way, shape, or form that I knew any content of any e-mails other than the two Monica Lewinsky documents" and "[a]t no time did I look at any other documents in any other mail files." [12]

- *Allegation: Recently retrieved e-mails produced by the White House "are highly relevant to the committee's investigation of campaign finance matters;" the information in these e-mails is "important for evaluating whether the Vice President committed perjury" and "shows that it is impossible to come to a final conclusion about underlying campaign finance matters without a complete review of all the previously withheld information."* [13]

The Facts: So far, between 180,000 and 200,000 e-mails have been reconstructed and reviewed, and any responsive e-mails have been produced to the Office of Independent Counsel Robert Ray or the Justice Department's campaign finance task force. Only 56 of the e-mails produced to the Independent Counsel or the task force were responsive to this committee's subpoenas, and several of those had already been produced in similar form (e.g., with a different recipient or sender). None of these 56 e-mails provided significant new evidence.

The majority cites as significant new information one e-mail between two Vice Presidential staffers that refers to "FR coffees" at the White House, which the majority asserts is evidence that the coffees were used for fundraising purposes.[14] It is not clear whether the term "FR" refers to "fundraising" or "finance-related." Even if the term "FR" is construed to refer to fundraising, however, the e-mail does not add new evidence. Other internal communications in the Vice President's office have described these coffees as "fundraising" events.[15] Even the Vice President has repeatedly said that attendees at White House coffees would likely be solicited for contributions later on.[16]

Another e-mail relied upon by the majority is an e-mail from a scheduler that refers to a fundraising event in Los Angeles and

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may have overlooked two nonsubstantive differences between the Haas e-mails and previously produced e-mails. Ms. Peterson stated that the Office of Independent Counsel Robert Ray showed her an e-mail allegedly retrieved by Mr. Haas which was substantively identical to an e-mail that had previously been produced "but had a different time and a different spelling of the e-mail addressee." Third declaration of Michelle Peterson at ¶ 7, *Alexander* v. *FBI*, No. 96–2123 (Sept. 27, 2000). Ms. Peterson also was shown an e-mail allegedly retrieved by Mr. Haas which was identical to an already-produced e-mail but which contained a "cc" list that the earlier e-mail lacked. *Id.* at ¶ 8. Ms. Peterson reaffirmed that she believed at the time that all of the e-mails retrieved by Mr. Haas had been produced, but allowed that she may have overlooked the two technical differences discussed above (although she could not confirm this fact herself, as she did not have access to any of the sets of e-mails produced or retrieved by the White House). *Id.* at ¶ 9.

[12] Testimony of Robert Haas, March 23 hearing at 89, 61.

[13] Majority report at viii–x.

[14] E-mail from Karen Skelton to Ellen L. Ochs (Apr. 23, 1996) (E 8862) (discussed in majority report at x).

[15] *See, e.g.,* Senate Committee on Governmental Affairs, "Investigation of Illegal or Improper Activities in Connection with 1996 Federal Election Campaigns," 105th Cong., 2d sess., vol. 1, 196 (March 1998) (stating that "[a] number of White House and DNC documents underline the importance of the coffees as fundraising events" and citing to documents).

[16] The Vice President told investigators that the coffees "allowed the President to spend time with influential people who wanted to talk about policy, who would at some later time possibly be asked to financially support the DNC." He further stated that "[i]t was contemplated at the time when they were set up that some or many of those who participated in those sessions would later on be likely to contribute." Interview of Vice President Gore with Robert J. Conrad, Jr., Head of the Department of Justice Campaign Financing Task Force (Apr. 18, 2000).

lists an event at the Hsi Lai Buddhist Temple.[17] This e-mail is a draft schedule and it is incomplete and inaccurate in several places.[18] It adds little to what is already known about the Hsi Lai Temple event. Internal communications in which the Vice President's staff apparently used the term "fundraiser" to describe the Hsi Lai Temple event were produced and investigated long ago.[19] Three years ago, the Senate Governmental Affairs Committee talked with the Vice President's scheduling staff about such internal communications and thoroughly explored whether staff viewed the event as a fundraiser and how the Vice President was briefed about the event.[20] The newly reconstructed e-mails contain no e-mail either to or from the Vice President regarding the Temple event.

- *Allegation: "As a result of the White House cover-up, information was kept from this committee."*[21] *There was "in effect, a purposeful effort to keep documents from Congress, the Department of Justice, and various Independent Counsels."*[22]

The Facts: The evidence shows that at the time the Mail2 problem was first discovered, the Office of Administration (OA) employees responsible for managing the e-mail system did not want any public discussion of the problem until the scope of the problem was identified and senior White House officials could be informed. This was an appropriate response given that the problem was discovered around June 1998, when the White House was the subject of intense media scrutiny generated by Independent Counsel Ken Starr's investigation of the Monica Lewinsky affair.

There is no evidence, however, that the White House deliberately kept any e-mails from Federal or congressional investigators. In fact, in 1997 the White House provided approximately 7,700 pages of e-mails to this committee on campaign finance matters alone,[23] many of which the majority has cited in its investigation.[24]

The OA employees who were first informed of the e-mail problem promptly brought the problem to the attention of the White House

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[17] E-mail from Jackie A. Dycke to R. Martinez (Apr. 9, 1996) (E 8747–54) (discussed in majority report at x).

[18] For example, the document indicates that the Vice President will attend a DNC reception at the Hsi Lai Temple both in Los Angeles and San Jose. *Id.*

[19] *E.g.,* document labeled "Current Schedule for April 29" (EOP 056497) (referring to a "DNC luncheon in LA/Hacienda Heights") (attached as exhibit 4); e-mail from Jackie A. Dycke to R. Martinez (Apr. 10, 1996) (EOP 053292) (noting that "the VP is going to San Jose and LA for DNC fundraising events on April 29") (attached as exhibit 5).

[20] Senate Committee on Governmental Affairs, "Investigation of Illegal or Improper Activities in Connection with 1996 Federal Election Campaigns," 105th Cong., 2d sess., vol. 2, 1793–94, vol. 4, 4818–31 (March 1998). The Vice President's staff testified that they were sloppy in their use of the term "fundraiser." *Id.* at 4822–26.

[21] Statement of Representative Dan Burton, House Committee on Government Reform, hearing on "Contacts Between Northrop Grumman Corporation and the White House Regarding Missing White House E-Mails," 8 (Sept. 26, 2000) (hereinafter "Sept. 26 hearing").

[22] Letter from Representative Dan Burton to Counsel to the President Beth Nolan (Mar. 8, 2000).

[23] Statement of Counsel to the President Beth Nolan (Mar. 23, 2000).

[24] For example, the White House produced an e-mail to this committee from the National Security Council describing Democratic fundraiser Johnny Chung as a "hustler" and expressing concern over Mr. Chung's efforts to bring Chinese businessmen into the White House. That e-mail was referred to repeatedly during the committee's two hearings on Mr. Chung, and received extensive coverage in the press. *See, e.g,* "An Investigative Report: What Clinton Knew—How a Push for New Fund-Raising Led to Foreign Access, Bad Money and Questionable Ties," Los Angeles Times (Dec. 21, 1997); "Democratic Donor Chung Invokes 5th Amendment; House Members Informally Interview Businessman," Washington Post (Nov. 15, 1997); "Donors Allege Laundered Contributions to Clinton-Gore Campaign," Associated Press (Nov. 11, 1997).

Deputy Chief of Staff and the Office of White House Counsel.[25] The counsel's office then directed that a "test" be performed to determine whether the e-mail problem had affected the production of documents to Independent Counsel Starr.[26] This test turned up no new documents, leading the counsel's office to believe that the e-mail problem did not affect document production.[27] Although it now appears that this belief was mistaken, there is no evidence that White House counsel acted in bad faith.

After White House counsel became aware of the significance of the e-mails problems in 2000, the White House began the process of restoring backup tapes of the affected e-mails.[28] On September 14, 2000, White House counsel informed committee staff that the reconstruction effort had reached the stage where the White House could search and produce batches of e-mails on an expedited basis and offered to conduct searches specified by the committee.[29] The White House repeated the offer on October 4.[30] To date, the majority has failed to take the White House up on its offer.

- *Allegation: "[E]vidence suggests that contracted staffers were personally threatened with repercussions and even jail should they mention the very existence of the server problem to anyone, even their bosses. This occurred while these e-mails were under subpoenae. This is inexcusable. This is criminal. If this is not obstruction of justice, I don't know what is."*[31]

The Facts: The evidence regarding alleged jail threats is inconclusive and contradictory. In total, eight individuals were present at meetings when the alleged threats were made. Of these eight individuals, two deny making any jail threats;[32] three have no recollection of any jail threats;[33] one recalls a jail threat being made in response to a "flippant" question;[34] and one recalls the word "jail" being mentioned but cannot remember who said it.[35] Moreover, the individuals who allegedly made the jail threats, Mark Lindsay and Laura Callahan, were not even White House employees; both worked in the Office of Administration, which provides support services to the White House, and Mrs. Callahan is a career civil

[25] Testimony of Mark Lindsay, March 23 hearing at 246.
[26] Statement of Counsel to the President Beth Nolan (Mar. 23, 2000); testimony of Robert Haas, March 23 hearing at 60, 80–81; testimony of Mark Lindsay, March 23 hearing at 247.
[27] Statement of Counsel to the President Beth Nolan (Mar. 23, 2000).
[28] *Id.*; testimony of Counsel to the President Beth Nolan, March 30 hearing at 25–26. According to Ms. Nolan, steps in the reconstruction process included selecting and contracting with a private entity with the appropriate technical expertise and resources, putting in place and testing the requisite equipment, and engaging a separate private contractor for independent validation and verification. Testimony of Counsel to the President Beth Nolan, March 30 hearing at 25–26.
[29] *See* letter from Counsel to the President Beth Nolan to Representative Dan Burton (Sept. 26, 2000) (attached as exhibit 6). According to the White House, with about 3 weeks of computer staff time, it would be able to conduct targeted searches using 100 backup tapes, 70 e-mail accounts, and 70 search terms. *Id.*
[30] Letter from Associate Counsel to the President Lisa Klem to Chief Counsel James C. Wilson (Oct. 4, 2000) (attached as exhibit 7).
[31] Statement of Representative Helen Chenoweth-Hage, March 23 hearing.
[32] Testimony of Laura Callahan, March 23 hearing at 216, 226–27; testimony of Mark Lindsay, March 23 hearing at 199.
[33] Testimony of Yiman Salim, March 23 hearing at 21; testimony of John Spriggs, March 23 hearing at 47; statement of Paulette Cichon (Mar. 29, 2000) (attached as exhibit 8).
[34] Testimony of Robert Haas, March 23 hearing at 32.
[35] Testimony of Sandra Golas, March 23 hearing at 45.

servant.[36] There is no evidence that White House officials had any knowledge of—or participated in—any threats.

- *Allegation: Earl Silbert, a "high-priced Washington fixer," was hired by Northrop Grumman and told "about possible law breaking and threats to his client's employees."*[37] *Evidence of contacts between Mr. Silbert and the White House "may dramatically undermine White House claims of a 'disconnect' that prevented them from understanding the e-mail problem."*[38]

The Facts: This allegation is wholly speculative. Mr. Silbert's two brief phone calls with White House counsel may have involved nothing more than contractual disputes then being discussed by Northrop Grumman and the White House.[39] There is no evidence that Mr. Silbert was aware of or communicated information about threats or subpoena compliance. These issues were peripheral, if not irrelevant, to the contractual matter at stake.

- *Allegation: The Vice President's office "took affirmative steps to keep from storing its e-mail records in the only system that would permit full and accurate subpoena compliance."*[40] *A counsel to the Vice President "personally decided that the Vice President would not store his records in a way that would permit compliance with document requests" and there "can be little doubt that the Vice President's advisors knew that their actions would permit his office to operate in a manner that would make it less susceptible to oversight."*[41]

The Facts: In 1994, the Office of the Vice President opted not to archive its e-mails electronically via ARMS. There is no evidence whatsoever that this decision was seen, or could have been seen, as affecting subpoena compliance. At the time, ARMS was intended to be strictly a way of archiving electronic records for posterity, not a tool for subpoena compliance. The Office of the Vice President, which was under no legal or ethical obligation to archive its e-mail electronically, opted not to use ARMS because of apparent technical concerns about connecting the OVP computer system to ARMS.[42] Instead of using ARMS, the office preserved its records by instructing personnel to print out and save work-related e-mails, and by regularly backing up the system and saving the backup tapes.[43]

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[36] Testimony of Laura Callahan, March 23 hearing at 206.

[37] Statement of Representative Dan Burton (Sept. 26, 2000).

[38] Memorandum from Representative Dan Burton to members of the Government Reform Committee (Sept. 21, 2000).

[39] There was a difference of opinion between Northrop Grumman and the White House over whether work on the e-mail problem was within the scope of the company's contract. Testimony of Mark Lindsay, March 23 hearing at 261–63. *See also* letter from Joseph F. Lucente, director, contracts and subcontracts, Northrop Grumman, to Dale Helms, Executive Office of the President (Sept. 14, 1998) (NGL 00503) (stating that "the level of effort required to remedy the [e-mail] dysfunction will substantially exceed the scope of work contemplated under the referenced contract") (attached as exhibit 9).

[40] Majority report at viii.

[41] *Id.* at xviii.

[42] Interview of Michael Gill by majority and minority staff, House Committee on Government Reform (July 24, 2000). According to Mr. Gill, who handled information technology matters in the OVP, in order for the OVP to connect to ARMS, it would have had to take a giant technological step backwards by converting its windows-based e-mail system to a character-based system which Mr. Gill considered to be less user-friendly. *Id.*

[43] Interview of Michael Gill by majority and minority staff, House Committee on Government Reform (July 24, 2000); interview of Hon. Todd Campbell by majority and minority staff, House Committee on Government Reform (Aug. 18, 2000).

- *Allegation: "[A] White House employee, aided and counseled by Justice Department lawyers, submitted a false affidavit to a Federal court that concealed the failure of the White House to search for all e-mails responsive to subpoenas."*[44] *The affidavit contains an assertion about ARMS that is "utterly false."*[45]

The Facts: The affidavit was filed in 1999 by a career civil servant, Daniel A. "Tony" Barry, as part of the government's efforts to convince a judge hearing a civil lawsuit that ARMS searches were not necessary for discovery purposes. In the course of describing the cost and difficulty of conducting e-mail searches, the affidavit states: "Since July 14, 1994, e-mail within the EOP system administered by the Office of Administration has been archived in the EOP Automated Records Management System (ARMS)."[46] Read in context, the affidavit was simply and accurately attempting to describe the basic function of ARMS—namely, that it archives e-mail and that it has been in effect since July 14, 1994.

- *Allegation: An e-mail written by a mid-level OA employee "concludes by saying, 'Let sleeping dogs lie.' I think translated that means let's keep a lid on this, and don't let Congress and the independent counsels know about it."*[47] *This e-mail "would be considered evidence of obstruction of justice."*[48]

The Facts: The employee who wrote the e-mail in question is Karl Heissner, a 25-year career civil servant. He testified that his e-mail memo addressed two separate and unrelated issues.[49] One part of the e-mail is entitled "Mail2 Reconstruction," and it provides a summary of the Mail2 problem, its discovery, and subsequent efforts to fix it. The other part of the e-mail, entitled, "Information Requests," discusses the number of information requests received by the White House. Mr. Heissner testified that his reference to letting "sleeping dogs lie" referred to the declining number of information requests received by the White House, and that it had nothing to do with the Mail2 problem.[50]

- *Allegation: "The White House has in its possession a previously undisclosed computer disk with e-mails by former intern Monica Lewinsky" that were sought "by a Federal grand jury and three congressional committees, but never turned over."*[51]

The Facts: The computer disk was a copy of a file belonging to a computer contractor. It did not contain any previously undisclosed e-mail. The Lewinsky-related e-mail on the disk had been examined and determined to be duplicative of material that had already been produced.[52]

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[44] Letter from Representative Dan Burton to Attorney General Janet Reno (Sept. 7, 2000).
[45] Letter from Representative Dan Burton to Attorney General Janet Reno (Mar. 30, 2000).
[46] Declaration of Daniel A. Barry, *Alexander* v. *FBI,* No. 96–2123 (July 9, 1999), ¶ 4.
[47] Statement of Representative Dan Burton, House Committee on Government Reform, hearing on "Missing White House E-Mails: Mismanagement of Subpoenaed Records—Day Three," 13 (May 3, 2000) (stenographic record) (hereinafter "May 3 hearing").
[48] Statement of Representative Bob Barr, May 3 hearing at 35.
[49] Testimony of Karl Heissner, May 3 hearing at 49–50.
[50] *Id.* at 50–51.
[51] "White House Has Disk With Lewinsky E-Mail," Washington Times (Mar. 29, 2000).
[52] Testimony of Beth Nolan, March 30 hearing at 26; *see also supra* note 11.

- *Allegation: The Justice Department "took no steps to determine whether reports about the e-mail problem were true."*[53] *"The only answer is to appoint a Special Counsel to do the job."*[54]

The Facts: The e-mail matter is already being investigated by Independent Counsel Robert Ray, who is working in coordination with the Justice Department.[55] The independent counsel's investigation is focused on examining e-mail glitches as they relate to the production of documents to his office, which means that all of the issues explored by the committee—including allegations of threats and a cover-up—are relevant to his inquiry. There is no evidence that the Department has hindered Mr. Ray's investigation. Nor is there any evidence that the Department's investigation is less complete than that of Mr. Ray or that the Department has failed to consult with Mr. Ray before making any investigative decisions.

C. THE MAJORITY'S VERSION OF EVENTS

The majority has woven a tale of massive coverup and subterfuge conducted to prevent investigators from learning about White House e-mail glitches. Under the majority's theory, numerous individuals, from computer specialists, to administrators, to White House lawyers, to individuals outside the White House, have either been dishonest with the committee about the e-mails matter or have purposely attempted to impede the work of investigators.

The individuals implicated by the majority include:

- Charles F.C. Ruff, currently a member of the law firm Covington & Burling. Mr. Ruff's public service spans three decades. He has served as Counsel to the President; Corporation Counsel, District of Columbia; U.S. Attorney, District of Columbia; Special Prosecutor, Watergate Special Prosecution Force; Principal Associate Deputy Attorney General; Acting Deputy Attorney General; and Deputy Inspector General, Department of Health, Education and Welfare;
- Beth Nolan, currently Counsel to the President. Ms. Nolan previously served as Deputy Assistant Attorney General in the Office of Legal Counsel at the Department of Justice, and as an Attorney-Advisor in the Office of Legal Counsel. She also was a law professor at George Washington University from 1985–1997, where she taught courses in constitutional law, legal ethics, government ethics, and government lawyering;
- Todd Campbell, a Federal judge in Tennessee since 1996. Judge Campbell's public service includes 2 years as legal counsel for Vice President Gore;
- Earl J. Silbert, currently a member of the law firm Piper Marbury Rudnick & Wolfe. Mr. Silbert has a long history of public service, including work as Assistant U.S. Attorney at the Department of Justice, and Principal Assistant U.S. Attorney and then U.S. Attorney for the District of Columbia;

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[53] Letter from Representative Dan Burton to Judge Royce C. Lamberth (Mar. 29, 2000).
[54] Statement of Representative Dan Burton, March 30 hearing at 14.
[55] Testimony of Alan Gershel, Sept. 26 hearing at 35, 48.

- Mark Lindsay, currently Assistant to the President for Management and Administration. Mark Lindsay's public service includes serving as Deputy Assistant to the President for Management and Administration, Director of the Office of Administration, General Counsel for the Office of Administration, and senior counsel to Representative Louis Stokes;
- Cheryl Mills, currently senior vice president for corporate policy and public programming at Oxygen Media. Ms. Mills's public service includes nearly 7 years in the Office of White House Counsel, first as Associate Counsel and later as Deputy Counsel;
- Laura Callahan, currently special assistant for information technology at the Department of Labor. Mrs. Callahan is a career Federal civil servant whose service dates back to 1984, and she is also a registered Republican;
- Karl Heissner, currently a computer specialist at the Office of Administration. Mr. Heissner is a career Federal civil servant who served as a computer specialist during the Ford, Carter, Reagan, Bush, and Clinton administrations; and
- Daniel A. "Tony" Barry, currently Deputy Data Center Manager/Electronic Records Manager at the Office of Administration. Mr. Barry has worked as a computer specialist in the Office of Administration in both the Bush and Clinton administrations.

As support for their allegations involving these individuals, the majority relies heavily on speculation, presents evidence selectively, cites authority which does not support the proposition stated, disregards sworn testimony of White House officials and career civil servants, and interprets gaps in the evidence as opposed to objectively analyzing the evidence before the committee. The majority's theories are based on the premise that all of the individuals implicated cast their integrity aside to conceal a subset of e-mails whose content was entirely unknown to them. This premise is wholly implausible and amounts to a smear on the reputations of many distinguished individuals.

In sum, the majority's comparison of the e-mails matter to Watergate is ludicrous. The committee has received no information that any White House official or Office of Administration employee intentionally created the e-mail problems, made any attempt to impede investigation of the problems, or had any knowledge of the content of e-mails that may not have been captured.

II. BACKGROUND

The committee has devoted considerable resources to investigating the e-mail matter. The committee has held 5 days of hearings on this topic—on March 23, March 30, May 3, May 4, and September 26—at which it received testimony from 17 people (3 of whom each testified twice).[56] Committee staff also privately interviewed 36 people in connection with the e-mail investigation, and

[56] Those three people are Mark Lindsay, Beth Nolan, and Robert Raben.

the committee has requested and received 10,676 pages of documents.

The following discussion summarizes what the committee learned about the origin and nature of the White House e-mail problems during the investigation.

A. THE AUTOMATED RECORDS MANAGEMENT SYSTEM

Beginning in 1950, Congress has passed several statutes regulating the process by which Federal agencies and the White House create, manage, and maintain official records. These recordkeeping laws distinguish between Federal and Presidential records.

The Federal Records Act[57] (FRA) covers:

> documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them.[58]

Under the FRA, agency heads are required to "establish and maintain an active, continuing program for the economical and efficient management of the records of the agency."[59] In addition, the Archivist of the United States is required to "establish standards for the selective retention of records of continuing value, and assist Federal agencies in applying the standards to records in their custody."[60]

Presidential records are regulated under the Presidential Records Act (PRA).[61] They are defined as:

> documentary materials, or any reasonably segregable portion thereof, created or received by the President, his immediate staff, or a unit or individual of the Executive Office of the President whose function is to advise and assist the President, in the course of conducting activities which relate to or have an effect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of the President.[62]

While Federal records are regulated by a "strict document management regime . . . the PRA 'accords the President virtually complete control over his records during his term of office.'"[63] The PRA stipulates that, once the President leaves office, responsibility for the custody and control over that President's official records is assigned to the Archivist of the United States,[64] but even then the President may still designate a period of up to 12 years during which access to his Presidential records is restricted.[65]

In January 1989, in the waning days of the Reagan administration, several researchers and nonprofit organizations filed a lawsuit

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[57] This report follows the convention of collectively referring to the statutory regime governing Federal records as the "Federal Records Act."
[58] 44 U.S.C. § 3301.
[59] 44 U.S.C. § 3102.
[60] 44 U.S.C. § 2905.
[61] Public Law No. 95–591, 92 Stat. 2523 (1978).
[62] 44 U.S.C. § 2201.
[63] *Armstrong* v. *Executive Office of the President,* 1 F.3d at 1290–91 (citation omitted).
[64] 44 U.S.C. § 2203(f)(1).
[65] 44 U.S.C. § 2204(a).

seeking to prevent the destruction of electronic data stored on the computer systems of the Executive Office of the President (EOP) and the National Security Council (NSC). The suit sought a declaration that such data were Federal and Presidential records and thus subject to the statutory provisions cited above. On August 13, 1993, the D.C. Circuit Court of Appeals issued a decision in the case, *Armstrong* v. *Executive Office of the President,* which affirmed that the FRA applies to electronic mail (e-mail) and that existing EOP guidelines for managing e-mail—which required employees to print and save hard copies of e-mails—were not in compliance with FRA requirements.[66]

Following the *Armstrong* decision, the White House authorized the creation of a database known as the Automated Records Management System (ARMS) to manage electronic records.[67] While the *Armstrong* decision applied only to Federal records, the White House opted to use ARMS to manage both Federal and Presidential records generated within the EOP. All internally generated e-mails—meaning e-mails sent from ARMS-managed accounts within the EOP—would be automatically copied and sent to ARMS at the time they were sent.[68] In addition, software was written that would regularly scan user accounts on the EOP's computer servers for incoming e-mail, which would then be copied and archived in ARMS.[69]

ARMS went into operation in July 1994.[70] In order to comply with *Armstrong,* the White House also launched a reconstruction effort to ensure that e-mails dating from before July 1994 back to the beginning of the Clinton administration were entered into the new system. That reconstruction effort was completed in 1999.[71]

Responsibility for the pre-1994 reconstruction effort, and for general maintenance of ARMS, lay with the Office of Administration (OA), which provides administrative support services, including data processing and records maintenance, to all units within the EOP. OA is headed by a Presidentially appointed director and has approximately 180 staff, the vast majority of whom are career civil servants. In order to assist OA with its responsibilities, the EOP has contracted with private companies. Prior to 1997, the EOP had a contract with PRC Inc., a wholly owned subsidiary of Litton PRC, to provide information technology (IT) services. Upon the contract's expiration in late 1997, a new contract was signed with Northrop Grumman, and Northrop Grumman's contract and subcontract employees continue to provide onsite assistance to OA personnel.

While ARMS was originally designed to comply with the *Armstrong* decision, the White House later opted to use ARMS's word-search capabilities to assist it in responding to subpoenas and other information requests. Upon receipt of a request for documents, the White House Counsel's office will instruct individuals within the relevant EOP offices to search for responsive materials,

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[66] The decision explained that "important information present in the e-mail system, such as who sent a document, who received it, and when that person received it, will not always appear on the computer screen and so will not be preserved on the paper print-out." 1 F.3d at 1284.

[67] Letter from Counsel to the President Beth Nolan to Representative Dan Burton (Mar. 17, 2000) (attached as exhibit 10).

[68] *Id.*

[69] *Id.*

[70] *Id.*

[71] *Id.*

including computer records.[72] In addition, the White House will instruct OA personnel to do a computerized search of ARMS.[73] While it is not clear when the White House first used ARMS to respond to information requests, a letter sent by then-Counsel to the President Charles F.C. Ruff to Representative Burton in September 1997 indicates that the White House informed this committee in the spring of 1997 that White House e-mails were stored in a central archive which was capable of being searched (albeit by a costly and time-consuming procedure).[74]

B. THE MAIL2 PROBLEM

Daniel A. "Tony" Barry, an OA computer specialist who is responsible for the overall system administration of ARMS, was performing an ARMS search in January 1998 for documents relating to Monica Lewinsky when he found what appeared to be a gap in the e-mail correspondence between Ms. Lewinsky and Ashley Raines. As Mr. Barry explained to the Committee, "I discovered what looked like conversational e-mail between two people and I only saw one side of the conversation."[75] Mr. Barry enlisted the help of a Northrop Grumman contract employee named John Spriggs but the two men were unable to figure out the cause of the problem. Mr. Barry then filed a report with his superior, Jim Wright, describing the incident. In this report, Mr. Barry noted that he could not determine if the incident reflected a systemic problem or a one-time problem.[76] This was apparently not the first time that problems with ARMS had been discovered; testimony from several government employees indicated that e-mail-related problems were not uncommon.[77]

It was several more months before OA and Northrop Grumman personnel were able to identify the cause of the problem noted by Mr. Barry. Around June 1998, two systems administrators at the EOP under contract to Northrop Grumman—Yiman Salim and Robert Haas—discovered a problem which was preventing some in-

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[72] *Id.*

[73] *Id.*

[74] Letter from then-Counsel to the President Charles F.C. Ruff to Representative Dan Burton (Sept. 11, 1997) (attached as exhibit 11).

[75] Testimony of Daniel A. Barry, March 23 hearing at 103.

[76] Undated, type-written notes (E 2496). While this document contains no indication on its face as to its author or recipient, OA Counsel John H. Young identified it as Mr. Barry's anomaly report for the committee. Testimony of John H. Young, March 23 hearing at 190. The majority report states that Mr. Barry hand-delivered the report to Mr. Wright, contrary to his "general practice" of e-mailing weekly reports. Majority report at 16. The majority also states that Mr. Barry did not refer to the names of the account users in his incident report, contrary to his "general practice." Majority report at 16–17. These assertions about Mr. Barry's "general practice" are not substantiated, however. Moreover, their significance is questionable, even if they were accurate.

[77] Mr. Barry testified that "there have been problems in the past with the [Lotus] Notes [e-mail network]-ARMS interface." Testimony of Daniel A. Barry, March 23 hearing at 110. OA employee Laura Callahan told the committee that "[w]e've had numerous problems with the e-mail system. It was very poorly designed and very poorly constructed by a contractor prior to Northrop Grumman. So, as a result, anomalies were fairly common." Testimony of Laura Callahan, March 23 hearing at 212–13. Assistant to the President for Management and Administration Mark Lindsay testified that "I had potential problems with computer systems and with e-mail issues frequently. We had an antiquated system that we are working very diligently to make improvements on." Testimony of Mark Lindsay, House Committee on Government Reform, hearing on "Missing White House E-Mails: Mismanagement of Subpoenaed Records—Day Four," 108 (May 4, 2000) (stenographic record) (hereinafter "May 4 hearing").

coming e-mails from being properly processed by ARMS.[78] According to Ms. Salim, "[i]t was a very technical typographical-type error committed by a prior contractor before Northrop Grumman." [79] Mr. Haas and Ms. Salim immediately notified their direct supervisor, Betty Lambuth, about the problem, which they continued to investigate.

In the days that followed, it was determined that the problem was specific only to one computer server, created in August 1996, and that it affected only e-mails sent from outside the EOP. Ms. Salim explained that the problem began:

> when the contractors prior to Northrop Grumman built a new e-mail server called "Mail2." When the contractors [sic] personnel named the Mail2 server, they used an upper-case "M" and lower-case letters for the rest of the name. Following its creation, however, the individual name accounts on the Mail2 server were assigned the name "MAIL2" using all capital letters.
>
> When the case-sensitive ARMS scanner process ran on the Mail2 server to perform its comparison of the names, the comparison failed, since the names did not appear in the exact same case; therefore, none of those accounts from Mail2 were scanned. . . . [A]s a result, inbound e-mails were not records managed.
>
> Outbound e-mails were automatically records managed without the need for such scanning. That is why outbound White House e-mails were not affected by this error.[80]

As Ms. Salim and the others working on the Mail2 problem learned, the problem affected a relatively small subset of EOP e-mails.[81] The problem only affected incoming e-mails sent to 526 individuals with accounts on the Mail2 server, 464 of whom worked in the White House.[82] The total number of affected users, 526, represents less than one-third of the number of employees in the entire EOP.[83] Furthermore, e-mails that were copied to non-affected

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[78] There is some disagreement about when exactly this occurred. Mr. Haas and Ms. Salim are in general agreement on the date. He testified that it was June 12. Testimony of Robert Haas at March 23 hearing. Ms. Salim testified that it was a "few days" prior to June 15. Testimony of Yiman Salim, March 23 hearing at 20. According to Northrop Grumman employee Betty Lambuth, however, the problem was discovered in May 1998, while Counsel to the President Beth Nolan suggested that it was discovered in May or June. Testimony of Betty Lambuth at March 23 hearing; statement of Counsel to the President Beth Nolan (Mar. 23, 2000).

[79] Testimony of Yiman Salim, March 23 hearing at 19.

[80] *Id.* at 20.

[81] Mr. Barry, OA's ARMS expert, testified that the number of documents being archived in ARMS did not appear to increase after the Mail2 problem was fixed in November 1998, thus suggesting that the problem was not as serious he had thought. According to Mr. Barry, "[W]hen I went back and looked at the growth numbers between November 1998 and December 1998, which would be the significant ones in this case, I saw nothing other than what I would normally expect in the growth between one month and the other, given the trend line that we have in place." Testimony of Daniel A. Barry, March 23 hearing at 105.

[82] Letter from Counsel to the President Beth Nolan to Representative Dan Burton (Mar. 17, 2000). Of the remaining Mail2 accounts, 58 belonged to employees of the Office of Policy Development—which is also located in the EOP—and 4 belonged to OA employees.

[83] Currently, there are approximately 1,650 EOP employees. Since this number does not include detailees, and does not account for turnover, the proportion of EOP e-mail accounts affected by the Mail2 problem can be expected to be even lower than one-third. Some of the affected accounts apparently dated back to the creation of the Mail2 server in August 1996; in other cases, as new EOP employees were hired they may have been assigned to the Mail2 server and, depending on whether or not the name of the server was written in the correct case, their incoming e-mails may or may not have been sent to ARMS.

employees would have been archived in ARMS,[84] as would e-mails which the recipient responded to "with history" or forwarded.[85]

Furthermore, even if an e-mail was not archived by ARMS at all, it nevertheless could have been produced to investigators by the White House. Ms. Nolan informed the committee that when the White House counsel's office responds to subpoenas, in addition to searching ARMS it "instructs individuals within the relevant EOP offices to search for responsive materials. This directive explicitly states that each individual should search computer records as well as hard copies." [86] Thus, any responsive e-mails that were saved by the sender or recipient should have been produced, regardless of whether or not they were recorded in ARMS.[87]

At the time of the discovery of the Mail2 problem, there was widespread discussion in the press about the ongoing Monica Lewinsky investigation being conducted by Independent Counsel Kenneth Starr.[88] Laura Crabtree Callahan, a career civil servant in OA, and Mark Lindsay, then OA's General Counsel, discussed the Mail2 problem and agreed that this was a sensitive issue, given the "other events going on" reported in "newspapers and the media." [89] Within days of the discovery of the Mail2 problem, a meeting was held in the office of Mrs. Callahan. Ms. Lambuth, Mr. Spriggs, Mr. Haas, Ms. Salim, and Sandra Golas—all of whom were Northrop Grumman contract or subcontract employees—attended.[90] Although accounts of this meeting conflict in some of their particulars, the testimony of those present at the meeting is in general agreement on two points. The first point is that Mr. Lindsay spoke with those present by speaker-phone and instructed them to avoid discussing the e-mail problem with anyone else as it was a sensitive matter.[91] The second point is that, after Mr.

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[84] Mr. Barry's testimony confirmed this fact:

> Mr. WAXMAN. What we're talking about were e-mails from outside of the [EOP] system to somebody in the system . . . [If] one of those e-mails were sent to somebody inside, and there was a carbon copy or copy directed to somebody else, then that would have been picked up, as well, in the ARMS system, wouldn't it?
>
> Mr. BARRY. That's correct.

March 23 hearing at 78.

[85] If "an affected user received an incoming e-mail and forwarded it or replied to it with history (sending back the original incoming e-mail) then ARMS should have recorded the incoming e-mail." Statement of Counsel to the President Beth Nolan (Mar. 23, 2000). Mr. Barry confirmed that the text of a message would be in ARMS "[i]f the user had done a reply with history." Testimony of Daniel A. Barry, March 23 hearing at 79.

[86] Statement of Counsel to the President Beth Nolan (Mar. 23, 2000). The majority asserts that reliance on manual searches is "woefully inadequate" and states that Mr. Ruff was "at a complete loss" when asked how he conducted searches of his own e-mail. Majority report at 105. In fact, Mr. Ruff explained that "I rarely used my E-mail for any substantive business. Indeed, I'm not sure that I ever did." Transcript of Interview of Charles F.C. Ruff, House Committee on Government Reform, 6 (Apr. 6, 2000).

[87] In addition, e-mails that were not retrieved by the White House may have been provided to investigators by other sources that sent e-mails to the White House and that were subpoenaed for documents including e-mails. These potential sources include Federal agencies and the Democratic National Committee.

[88] *See, e.g.,* "Starr Hints He May File Impeachment Report," New York Times (June 3, 1998); "Political Clock Ticking on Interim Starr Report," Washington Post (June 6, 1998).

[89] Testimony of Laura Callahan, March 23 hearing at 216.

[90] Testimony of Yiman Salim, March 23 hearing at 20; testimony of Robert Haas, March 23 hearing at 31.

[91] According to Mr. Haas (who referred to Mrs. Callahan by her maiden name of "Crabtree"), "Mr. Lindsay told us that the discovery of the Mail2 problem was to be treated as top secret and that only Ms. Crabtree, Ada Posey, and Mr. Lindsay, himself, could authorize the group to talk to anyone else." Testimony of Robert Haas, March 23 hearing at 31–32. Ms. Golas testi-

Continued

Lindsay had spoken, Mrs. Callahan then reiterated to the contractors that they should not talk about the e-mail problem.[92]

After this meeting, the contractors continued investigating the technical issues at stake. Mr. Haas was charged with determining how many e-mails had not been records-managed (i.e., had not been archived into ARMS) because of the Mail2 problem. He spent several weeks examining the mail files of Mail2 users and determining how many of the e-mails in each file had not been records-managed. Because Mr. Haas was only able to examine e-mails that still remained on the server (i.e., that had not been deleted by their recipient), he was not able to identify how many e-mails had been affected by the Mail2 problem since its inception in August 1996. Nor was Mr. Haas able to determine whether the non-records-managed e-mails he located had been archived into ARMS "through a secondary process." [93] Nonetheless, the results of Mr. Haas's survey did provide a rough sense of the magnitude of the problem. As recorded in a 75-page document that Northrop Grumman provided to the committee, Mr. Haas's survey extended to 501 accounts and found that 246,053 e-mails out of a total of 1,353,641 e-mails (18 percent) had not been sent directly to ARMS.[94]

Meanwhile, OA quickly notified the White House about the Mail2 problem. A two-page memo dated June 19, 1998, was sent from Virginia Apuzzo, then the Assistant to the President for Management and Administration, to then-Deputy Chief of Staff John Podesta outlining the problem. The memo noted that an "important function" of the ARMS system was the "identification and retrieval of documents in response to information requests." [95] Mark Lindsay then separately briefed Mr. Podesta and then-White House Counsel Charles Ruff about the Mail2 problem.[96] Former White House Deputy Counsel Cheryl Mills may also have attended the briefing of Mr. Ruff.[97]

As the Northrop Grumman contractors continued to investigate the e-mail problem, tensions arose between them and Steven Hawkins, Northrop Grumman's program manager. These tensions con-

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fied that she remembered Mr. Lindsay "talking to us and telling us that it was very important that we didn't take the information out of the room, that we shouldn't discuss it with anyone." Testimony of Sandra Golas, March 23 hearing at 45. Mr. Lindsay, however, while he did not contest this point, told the committee that he did not recall having addressed the group by speaker-phone. Testimony of Mark Lindsay, March 23 hearing at 217.

[92] Testimony of Yiman Salim, March 23 hearing at 20–21, 46; testimony of Robert Haas, March 23 hearing at 32; testimony of John Spriggs, March 23 hearing at 47–48.

[93] Testimony of Robert Haas, March 23 hearing at 83.

[94] The document compiled by Mr. Haas (NGL 00291–365) also indicates that an additional nine e-mail accounts had been deleted, and thus did not contain any e-mails.

[95] Memorandum from Virginia M. Apuzzo to John D. Podesta (June 19, 1998) (E 3234–36, E 3373–76).

[96] *See* testimony of Mark Lindsay, March 23 hearing at 246. The majority questions Mr. Podesta's "complete failure to follow-up *at all* on how the problem was handled." Majority report at 49, note 282. In fact, it appears that Mr. Podesta acted responsibly by making sure that Mr. Ruff was briefed immediately about the problem. Interview of John Podesta by majority and minority staff, House Committee on Government Reform (May 30, 2000) (stating that he either instructed Mr. Lindsay to brief Mr. Ruff or was told by Mr. Lindsay that Mr. Lindsay was going to brief Mr. Ruff); testimony of Mark Lindsay, March 30 hearing at 246 (stating that "Mr. Podesta's response was just to ask if I had had any conversation with Mr. Ruff").

[97] Mr. Ruff's calendar for June 19, 1998 (E 3445) contains a 4:30 p.m. entry for "Lindsay, Mills." It is not clear if this entry refers to Mr. Lindsay's Mail2 briefing, nor is it clear that Ms. Mills actually attended the meeting. Ms. Mills testified that her best recollection was that she did not attend the meeting. Testimony of Cheryl Mills, May 4 hearing at 32. Mr. Lindsay did not recall Ms. Mills being present at the meeting, while Mr. Ruff did not recall whether or not she was present. Testimony of Mark Lindsay, May 4 hearing at 29; testimony of Charles Ruff, May 4 hearing at 42, 121.

tributed to Ms. Lambuth's being removed from the Northrop Grumman contract around the end of July.

Several Northrop Grumman contract employees contacted and met with company executives and lawyers around early September 1998. Subsequent to these meetings, Northrop Grumman executives determined that fixing the Mail2 problem was outside of the scope of their contract with the EOP. Northrop Grumman communicated its determination to the EOP in a letter dated September 14, 1998, which stated:

> the level of effort required to remedy the dysfunction will substantially exceed the scope of the work contemplated under the referenced contract. As a consequence we are not proceeding with our efforts to remedy the dysfunction until we have received further contractual direction.[98]

After the Northrop Grumman letter, employees of OA and Northrop Grumman discussed how to fix the Mail2 problem and reconstruct the "missing" e-mails. Mr. Haas's study had suggested that there were many non-archived e-mails still on the Mail2 server. The problem lay in retrieving e-mails that had been deleted from the server without being archived into ARMS. The solution to this problem lay in the fact that the EOP regularly backs up its servers and generally maintains its backup tapes. It soon became apparent, however, that actually cataloguing and accessing these backup tapes—which are essentially snapshots of what was on the entire computer system at a given point in time—would be a difficult and time-consuming process at best.[99] There was also the problem of entering the recovered e-mails into the ARMS system in such a way that they could be accessed and searched in the future.

Northrop Grumman employees prepared a detailed proposal for a work order authorizing contract work by Northrop Grumman to retrieve the non-archived e-mails from the backup tapes. The proposal did not provide a solution to the Mail2 server problem but rather a detailed plan for how to come up with a solution to the problem. The proposal, which was completed and provided to the EOP in October 1998, estimated that the process of reconstructing the "missing" e-mails would take 6 to 9 months, at a cost of around $602,000.[100]

The EOP apparently rejected the draft work order for cost reasons. A decision was then made to "stop the bleeding," and on November 22, 1998, the Mail2 problem was fixed prospectively.[101] From that date forward, the Mail2 error ceased to prevent e-mails from being processed by ARMS. The problem remained, however, of reconstructing non-archived e-mails from before November 22, dating back to the origins of the Mail2 problem in August 1996. Having "stopped the bleeding," OA deferred action on this recon-

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[98] Letter from Joseph F. Lucente to Dale Helms (Sept. 14, 1998) (NGL 00503).

[99] Interview of John Spriggs by majority and minority staff, House Committee on Government Reform (Mar. 7, 2000).

[100] E-mail from Tracey A. Breeding to Joseph A. Vasta (Dec. 2, 1998) (NGL 00609–11).

[101] Testimony of Yiman Salim, March 23 hearing at 21.

struction project in 1999 as it focused on addressing Y2K concerns.[102]

It was only in 2000, with the Y2K concerns over and the end of the administration approaching, that the EOP focused again on the Mail2 reconstruction project. Ms. Nolan testified that she was first informed of the Mail2 problem during a January 18, 2000, briefing by OA on post-Presidency records management issues.[103] At the briefing, Ms. Nolan was informed that the White House had previously made sure that these technical problems did not affect the White House's responses to information requests.[104]

C. OTHER E-MAIL PROBLEMS

In April 1999, Northrop Grumman personnel discovered an additional ARMS problem. This problem prevented incoming mail to persons whose account names began with the letter "d" from being recorded by ARMS. Approximately 200 accounts within the EOP were affected, including 54 accounts in OMB, 42 accounts in the White House Office, 32 accounts in OA, and 21 accounts in the NSC. The so-called "letter 'd'" problem had apparently been caused accidentally by Northrop Grumman employees in the fall of 1998.[105] This problem was fixed prospectively around May or June 1999. Mr. Lindsay testified that he informed the Office of White House Counsel about the letter "d" problem,[106] but Mr. Ruff had no recollection of being informed of the letter "d" problem and Ms. Mills testified that she did not learn about the problem.[107]

Since the Mail2 problem was publicly revealed in February 2000, the White House has also discovered and disclosed several additional problems relating to the archiving of e-mails. Ms. Nolan informed the committee on March 17, 2000, that e-mails on the server of the Office of the Vice President (OVP) have not been fully managed by ARMS.[108] As explained by Ms. Nolan—and as confirmed by the committee's own investigation—the OVP apparently opted not to be connected to ARMS when the latter went into effect in 1994. Instead, it appears that the OVP maintained its own computer system, serviced by a contractor rather than by OA.[109]

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[102] Testimony of Mr. Lindsay, March 23 hearing at 202 ("Because of that requirement to address the Y2K glitch . . . the reconstruction of the e-mail was a matter which had to be placed in the context of maintaining the total e-mail situation. What we did after we were able to address the Y2K problem, a[t] the end of February 29th of 2000, is we were able to then continue the efforts"). *See also* testimony of OA Director Michael Lyle, May 3 hearing at 55–58.

[103] Statement of Counsel to the President Beth Nolan (Mar. 23, 2000). The committee received briefing papers for the meeting which suggest that the Mail2 and letter "d" issues were discussed in the context of records management issues relating to *Armstrong* (E 3412–17). Michael Lyle, OA's Director, who also attended the briefing, confirmed that the purpose of the meeting was to prepare for another meeting, with the National Archives and Records Administration, regarding the Presidential transition. Testimony of Michael Lyle, May 3 hearing at 59.

[104] According to OA Director Michael Lyle, Ms. Nolan inquired at the meeting about whether the problems had affected subpoena compliance. Testimony of Michael Lyle, May 3 hearing at 103–04. Mr. Lyle said that he assured her that "the question that she was asking had been dealt with prior by Mr. Lindsay and Mr. Ruff." *Id.* at 104. Mr. Lyle then checked with Mr. Lindsay, who confirmed that he had indeed handled the issue with Mr. Ruff. *Id.*

[105] According to Ms. Nolan, this problem occurred when the Mail2 problem was fixed in November 1998. Letter from Counsel to the President Beth Nolan to Representative Dan Burton (Mar. 17, 2000).

[106] Testimony of Mark Lindsay, May 4 hearing at 177. Mr. Lindsay could not recall whom he spoke to in the counsel's office. *Id.* at 178.

[107] Testimony of Charles Ruff and Cheryl Mills, May 4 hearing at 184.

[108] Letter from Counsel to the President Beth Nolan to Representative Dan Burton (Mar. 17, 2000).

[109] Statement of Counsel to the President Beth Nolan (Mar. 23, 2000). OA took over responsibility for the OVP's computer system in approximately March 1997.

Because the OVP server was not linked to ARMS, incoming and outgoing e-mails to or from OVP e-mail accounts created before March 1997 were not sent directly to ARMS (although, for the reasons explained above with respect to the Mail2 problem, some of those e-mails may nonetheless have been sent to ARMS by other means). Outgoing e-mail from OVP accounts created after March 1997 was apparently records-managed, but incoming e-mail to those OVP accounts was not sent to ARMS.[110] The White House informed the committee on June 7, 2000, that all OVP accounts in the White House were now records-managed.[111]

Although OVP e-mail accounts were not records-managed by ARMS, OVP personnel were instructed to print out and save e-mails, and the OVP system was regularly backed up and the backup tapes saved.[112] However, a technical configuration error apparently prevented e-mail on the OVP server from being backed up from the end of March 1998 through early April 1999.[113] The error apparently resulted in 3 days' worth of Vice President Gore's e-mail being deleted.[114]

In addition, on July 26, 2000, Ms. Nolan informed the committee of a computer software problem that affected the National Security Council classified computer system from June 1997 until August 1999. According to Ms. Nolan, "[a]s a result of this error, a small percentage of e-mails on a random basis were not recorded by the NSC's classified Electronic Records Management Database (ERMS)." [115]

The Office of White House Counsel also informed the committee on August 31, 2000, of a recently discovered problem which caused a small percentage of e-mail messages processed since May 4, 2000, to be improperly archived in ARMS.[116] The problem apparently caused some e-mails to be archived with mismatched headers and messages; because there is no way of distinguishing yet between properly and improperly archived e-mails, all e-mails sent between April 15, 2000, and August 30, 2000, are potentially unreliable.[117]

Finally, on September 29, 2000, White House counsel informed the committee that it had learned of a new anomaly which "causes

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[110] *Id.*

[111] Letter from Senior Associate Counsel to the President Steven F. Reich to Chief Counsel James C. Wilson (June 7, 2000). The letter noted that OA was developing a way to records-manage OVP accounts on the Senate e-mail system. *Id.*

[112] Interview of Hon. Todd Campbell by majority and minority staff, House Committee on Government Reform (Aug. 18, 2000).

[113] Letter from Senior Associate Counsel to the President Steven F. Reich to Chief Counsel James C. Wilson (June 7, 2000).

[114] Memorandum from Dorothy E. Cleal, Associate Director for Information Systems and Technology, Office of Administration, to Virginia Apuzzo, Assistant to the President for Management and Administration (May 13, 2000) (E 5201–03, E 6956–58).

[115] Letter from Counsel to the President Beth Nolan to Representative Dan Burton (July 26, 2000). According to a memorandum attached to the letter, the software error affected approximately 0.15 percent of NSC e-mails sent during the relevant timeframe. Memorandum from Robert A. Bradtke to Counsel to the President Beth Nolan (July 21, 2000).

[116] Letter from Associate Counsel to the President Lisa J. Klem to Representative Dan Burton (Aug. 31, 2000) attaching memorandum from Alberto Feraren to Daniel Barry (Aug. 31, 2000) (EOPNG–00–0297).

[117] *Id.*; memorandum from Alberto Feraren to Conrad Ribeiro and Robert Helms (Sept. 1, 2000) (EOPNG–00–0299). While the problem only affects e-mails processed since May 4, there was a 2-week backlog of e-mails in the Lotus Notes/ARMS interface queue at the time. Memorandum from Alberto Feraren to Conrad Ribeiro and Robert Helms (Sept. 1, 2000) (EOPNG–00–0299).

problems with at least certain electronic pager records."[118] According to White House counsel, the problem is still under investigation but "pager confirmation documents bearing the phrase 'unable to convert' are the most likely documents to be affected."[119]

D. COMMITTEE KNOWLEDGE OF THE E-MAIL MATTER

The record is unclear regarding when the committee was first aware of the Mail2 problem. There is evidence that the committee received information about the e-mail problem in 1998 but failed to act on that information. In courtroom testimony in an evidentiary hearing concerning the White House e-mail problems, Sheryl Hall, a former OA employee, stated under oath that she personally informed one of the committee's majority staff attorneys investigating the White House database about the White House e-mail problem in November 1998—over 15 months before the committee's e-mail investigation began.[120] According to a press report, the majority staff attorney in question, who is currently working for Independent Counsel Robert Ray, admitted that he talked to Ms. Hall "a couple of times" and that he "might have met with her once," but does not recall her telling him about the e-mail problem.[121]

The majority could also have learned about the problems through the news media in 1998. In December 1998, Insight magazine published a short article about contractors in the White House investigating "problems with a server in a West Wing computer system" and discovering a "blockage caused by about 100,000 e-mails."[122] The article referred to efforts to investigate the e-mail problem as "Project X."[123]

The majority apparently overlooked these early indications of e-mail problems. The committee's investigation did not begin until the Washington Times reported on February 15, 2000, that Sheryl Hall had accused the White House of "hid[ing] thousands of e-mails containing information on Filegate, Chinagate, campaign finance abuses and Monica Lewinsky, all of which were under subpoena."[124] Judicial Watch had previously filed a lawsuit on Ms. Hall's behalf in which Ms. Hall alleged that White House employees and the First Lady retaliated against her after she accused the administration of using a White House database for political purposes. The day after the Washington Times article appeared, Rep-

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[118] Letter from Associate Counsel to the President Gregory S. Smith to Chief Counsel James C. Wilson (Sept. 29, 2000).

[119] *Id.*

[120] Transcript of Evidentiary Hearing at 124, 149, 186–88, *Alexander* v. *FBI,* No. 96–2123 (July 31, 2000). According to a news article, Ms. Hall said that she told the staff attorney that the computer problem had caused over 100,000 e-mails to be missing. "Congress Told of Project X in 1998," WorldNetDaily (Aug. 1, 2000) (on line at http://www.worldnetdaily.com/bluesky—sperry—news/20000801—xnspy—congress—t.shtml) (attached as exhibit 12).

[121] "Congress Told of Project X in 1998," WorldNetDaily (Aug. 1, 2000) (on line at http://www.worldnetdaily.com/bluesky—sperry—news/20000801—xnspy—congress—t.shtml).

[122] "Computer Glitch Leads to Trove of 'Lost' E-Mails at White House," Insight, 6 (Dec. 28, 1998).

[123] *Id.* The nickname "Project X" was apparently coined by Mr. Haas as a joking reference to the "X-Files" TV show, and was used informally to refer to the Mail2 project. Interview of Robert Haas by majority and minority staff, House Committee on Government Reform (Mar. 7, 2000); *see* interview with Yiman Salim by majority and minority staff, House Committee on Government Reform (Mar. 7, 2000).

[124] "White House Accused of Cover-Up," Washington Times (Feb. 15, 2000). Ms. Hall repeated her allegations in a declaration that she filed on Feb. 19, 2000. Third declaration of Sheryl Hall, *Alexander* v. *FBI,* No. 96–2123 (Feb. 19, 2000).

resentative Burton issued a letter to Ms. Nolan citing "recent media reports that certain e-mail systems were not searched for materials responsive to subpoenas," thus marking the beginning of the committee's investigation.[125]

III. Allegations Regarding the Mail2 Problem

The majority has made numerous exaggerated allegations about the Mail2 issue, including allegations of a "cover-up," "obstruction of justice," and a "criminal conspiracy." Representative Burton has charged that "[t]he big deal is how the White House reacted to" the Mail2 problem and "it looks like they chose to cover it up."[126] He even compared the missing e-mails to the 18½-minute gap in President Nixon's audiotapes, stating that "[w]e had a President run out of office because of the missing tapes, 18½ minutes. Here we have hundreds of thousands of e-mails, and the White House has stonewalled the Justice Department, the Congress, several independent counsels."[127] Representative Christopher Shays stated, "the White House obstructed justice, and we're just trying to see who did it."[128] Representative Chenoweth-Hage has accused the White House of engaging in "an ongoing criminal conspiracy."[129]

As discussed below, however, the evidence simply does not support these allegations.

A. Allegation That E-Mails Relevant to Investigations Have Not Been Produced

There have been numerous allegations that the missing e-mails contain "smoking guns" that would change the outcome of Clinton administration scandals. The source of many of these allegations appears to be two persons formerly affiliated with OA, Sheryl Hall and Betty Lambuth. Ms. Hall, a former OA employee, filed a declaration asserting that:

> A contractor for Northrop-Grumman assigned to the Clinton White House who examined this group of 100,000 e-mails told me the documents contained information relating to Filegate, concerning the Monica Lewinsky scandal, the sale of Clinton Commerce Department trade mission seats in exchange for campaign contributions, and Vice President Al Gore's involvement in campaign fundraising controversies. . . . I was also told by this contractor that if the contents of the e-mails became known, then there would be different outcomes to these scandals, as the e-mails were incriminating and could cause people to go to jail.[130]

Ms. Lambuth has made similar accusations:

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[125] Letter from Representative Dan Burton to Counsel to the President Beth Nolan (Feb. 16, 2000).
[126] Statement of Representative Dan Burton, March 23 hearing at 4–5.
[127] Statement of Representative Dan Burton, May 3 at 15–16. *See also* statement of Representative Dan Burton, Sept. 26 hearing at 24; majority report at viii.
[128] Statement of Representative Christopher Shays, May 3 hearing at 137.
[129] Statement of Representative Chenoweth-Hage at March 23 hearing.
[130] Third declaration of Sheryl Hall, *Alexander* v. *FBI,* No. 96–2123 (Feb. 19, 2000).

> [a] contractor for Northrop-Grumman whom I supervised, and who examined this group of e-mail, told me the e-mail contained information relating to Filegate, concerning the Monica Lewinsky scandal, the sale of Clinton Commerce Department trade mission seats in exchange for campaign contributions, and Vice President Al Gore's involvement in campaign fundraising controversies.[131]

These allegations have been widely reported. According to the Washington Times, a "former White House computer manager has said that more than 100,000 White House e-mails containing information on Filegate, 'Chinagate,' campaign finance abuses and Monica Lewinsky were missing, all of which were under subpoena by a federal grand jury and three congressional committees." [132] Similarly, CNN reported that contractors testified that they were told "not to discuss an ongoing e-mail server problem that resulted in hundreds of unrecorded messages that may have pertained to investigations such as the Monica Lewinsky matter." [133]

Ms. Lambuth and Ms. Hall both claimed that the person who told them about incriminating material in the e-mails was Robert Haas.[134] Mr. Haas, however, specifically denied that he knew or had said anything about what was in the "missing" e-mails. Mr. Haas testified that "I never . . . intimated in any way, shape, or form that I knew any content of any e-mails" other than two Monica Lewinsky-related e-mails that he looked at in an attempt to understand the Mail2 problem, and "[a]t no time did I look at any other documents in any other mail files." [135]

Moreover, the committee's investigation has revealed that it is not presently possible to determine the content of the e-mails that were not archived or produced because of the Mail2 problem (or any of the other technical problems discussed above). The White House is currently reconstructing, or retrieving, those e-mails from backup tapes, and until that process is complete, speculation about information in the "missing" e-mails is just that—speculation. Representative Burton apparently conceded this point when he remarked at the first e-mail hearing that, "At this point, I don't think anyone has any idea what is in these e-mails." [136]

B. ALLEGATION THAT NORTHROP GRUMMAN EMPLOYEES WERE THREATENED WITH JAIL IF THEY DISCUSSED THE MAIL2 PROBLEM

Several members of the committee have alleged that Northrop Grumman contractors were threatened with jail if they disclosed the Mail2 problem, and that these threats constituted an attempt to obstruct justice. Representative Bob Barr said with respect to the allegations of threats, "My concern is . . . with regard to ob-

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[131] Declaration of Betty Lambuth, *Alexander* v. *FBI,* No. 96–2123 (Feb. 24, 2000). Ms. Lambuth repeated this claim in her testimony before the committee. Testimony of Betty Lambuth at March 23 hearing.

[132] "Hillary, White House Officials Cleared by Counsel on FBI Files," Washington Times (Mar. 17, 2000).

[133] "Former White House Employees Say They Were Told to Keep Quiet on E-Mail Glitch," CNN.com (Mar. 23, 2000).

[134] Testimony of Betty Lambuth, March 23 hearing at 58, 88; testimony of Sheryl Hall, Transcript of Evidentiary Hearing at 24–26, *Alexander* v. *FBI,* No. 96–2123 (July 13, 2000).

[135] Testimony of Robert Haas, March 23 hearing at 89, 61.

[136] Statement of Representative Dan Burton, March 23 hearing at 12.

struction of justice, which includes intimidation of witnesses."[137] Representative Chenoweth-Hage stated:

> evidence suggests that contracted staffers were personally threatened with repercussions and even jail should they mention the very existence of the server problem to anyone, even their bosses. This occurred while these emails were under subpoenae. This is inexcusable. This is criminal. If this is not obstruction of justice, I don't know what is.[138]

In fact, witnesses provided conflicting testimony about whether or not these alleged threats were made. In total, eight individuals were present at meetings when the alleged threats were made. Of these eight individuals, two deny making any jail threats;[139] three have no recollection of any jail threats;[140] one recalls a jail threat being made in response to a "flippant" question;[141] and one recalls the word "jail" being mentioned but cannot remember who said it.[142] Moreover, the individuals who allegedly made the jail threats were not even White House employees; both worked in the Office of Administration, which provides support services to the White House, and one was a career civil servant. There is no evidence that White House officials had any knowledge of—or participated in—any threats.

With one exception, discussed below, the allegations of jail threats focus on a single remark allegedly made by Laura Crabtree Callahan, who served as the Branch Chief for Desktop Systems in OA's Information Systems and Technology Division (IS&T), in a meeting with six Northrop Grumman contract or subcontract employees that was held shortly after the discovery of the Mail2 problem. The committee heard testimony from Mrs. Callahan, as well as from the Northrop Grumman employees who attended the meeting (Betty Lambuth, John Spriggs, Robert Haas, Yiman Salim, and Sandra Golas).

Ms. Salim said of the meeting with Mrs. Callahan, "I do not remember hearing the word 'jail,' and I never felt threatened."[143] Mr. Spriggs also said that he "did not hear the word 'jail,'"[144] although he did concede that he felt threatened "in narrow context."[145] Mr.

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[137] Statement of Representative Bob Barr, March 23 hearing at 123. Representative Barr also referred to "the obstruction that we went into last week with regard to witnesses testifying under oath that they were intimidated into not disclosing evidence that they had about this particular problem." Statement of Representative Bob Barr, March 30 hearing at 108.

[138] Statement of Representative Chenoweth-Hage at March 23 hearing.

[139] Testimony of Laura Callahan, March 23 hearing at 216, 226–27; testimony of Mark Lindsay, March 23 hearing at 199.

[140] Testimony of Yiman Salim, March 23 hearing at 21; testimony of John Spriggs, March 23 hearing at 47; statement of Paulette Cichon (Mar. 29, 2000).

[141] Testimony of Robert Haas, March 23 hearing at 32.

[142] Testimony of Sandra Golas, March 23 hearing at 45.

[143] Testimony of Yiman Salim, March 23 hearing at 21.

[144] Testimony of John Spriggs, March 23 hearing at 47.

[145] Mr. Spriggs engaged in the following exchange with Representative Barr:

> Mr. SPRIGGS. When I was called into that office and Ms. Crabtree and Mr. Lindsay were giving me instructions, I perceived that those instructions were reasonable instructions.
>
> Mr. BARR. OK. That's not what I'm asking you, Mr. Spriggs.
>
> Mr. SPRIGGS. Were they threatening—I know, sir. I'm trying to get at your question. Were they threatening to me?
>
> Mr. BARR. Get at it quickly.

Continued

Haas, however, testified that he asked Mrs. Callahan "[i]n a somewhat flippant way" what would happen if he told his wife or then-Assistant to the President for Management and Administration Virginia Apuzzo about the Mail2 problem, to which she "responded that there would be a jail cell with my name on it." [146] Mr. Haas testified that despite the flippancy of his question, he took the response seriously.[147]

Ms. Golas, who also attended the meeting, testified that she recalls a mention of jail in the meeting, but doesn't recall who said it.[148] Ms. Golas further testified that when, shortly after the meeting, her supervisor Steve Hawkins accused her of being insubordinate by not telling him about the Mail2 problem, she replied, "If it's a choice of being insubordinate or going to jail, I guess I'll have to be insubordinate." [149]

Mrs. Callahan denied Mr. Haas's allegation:

> I do not ever remember, nor would I have ever said anything about a jail cell. And, quite frankly, I think Mr. Haas characterized himself with his flippant comments. I would suggest that he may be either having [a] bad recollection or may have an overactive imagination with regards to the threat being made to him.[150]

Other than Mr. Haas's and Ms. Golas's testimony about Mrs. Callahan's alleged reference to a jail cell, the only other testimony alleging that threats were made comes from Betty Lambuth. Ms. Lambuth accused Mrs. Callahan of threatening her with jail if she talked about the e-mail problem.[151] Afterwards, according to Ms. Lambuth's testimony, she asked for and received a meeting with then-OA General Counsel Mark Lindsay and Paulette Cichon, then the Deputy Director for Information Management at OA, at which Mr. Lindsay told Ms. Lambuth that if she and other Northrop Grumman workers told anyone about the Mail2 problem, "we would all lose our jobs, we would be arrested, and we would be put in jail." [152]

Ms. Cichon, however, signed a written statement stating that Mr. Lindsay did not threaten Ms. Lambuth or anyone else in her presence.[153] Ms. Cichon confirmed the accuracy of her statement in a subsequent interview with committee staff.[154] Mr. Lindsay also

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Mr. SPRIGGS. Were they threatening to me? Yes, they were threatening to me, in——

Mr. BARR. That's my only question.

Mr. SPRIGGS [continuing]. In narrow context.

March 23 hearing at 100.

While Mr. Spriggs was not asked to explain these comments, it appears that he was referring to the instructions made by Ms. Crabtree and Mr. Lindsay that the contractors not discuss the Mail2 issue. That issue is considered below.

[146] Testimony of Robert Haas, March 23 hearing at 32.

[147] *Id.* at 32, 90. Confirmation of this point was provided by Mr. Hawkins, who testified that he met with Mr. Haas, Mr. Spriggs, and Ms. Golas shortly thereafter and Mr. Haas said that he had been threatened. Testimony of Steven Hawkins, March 23 hearing at 55.

[148] Testimony of Sandra Golas, March 23 hearing at 45.

[149] *Id.* at 45. *See also* testimony of Sandra Golas, March 23 hearing at 142.

[150] Testimony of Laura Callahan, March 23 hearing at 226–-27.

[151] Testimony of Betty Lambuth, March 23 hearing at 24.

[152] *Id.* at 25.

[153] Statement of Paulette Cichon (Mar. 29, 2000).

[154] Interview of Paulette Cichon by majority and minority staff, House Committee on Government Reform (Apr. 14, 2000). The majority asserts that "Cichon has reason to be supportive of Lindsay and Callahan because she may in part be accountable for the failure to take effective

denied making any threats.[155] Furthermore, Ms. Lambuth's testimony may be viewed with a degree of skepticism, given that the committee also received evidence—discussed above—directly contradicting her allegation about the content of the "missing" e-mails.

In addition, Ms. Lambuth's testimony about the threats is confused and inconsistent. Ms. Lambuth initially testified that Mrs. Callahan "relayed those messages on to my staff, which had been relayed to her by Mr. Lindsay."[156] However, asked by Mr. Burton "what went on in that meeting, what went on in the conversations between you and Ms. Crabtree and Mr. Lindsay," Ms. Lambuth replied, "I had more than one conversation that my staff was in, so some of this is going to mold in together."[157] Ms. Lambuth then repeated her two allegations about Mr. Lindsay and Mrs. Callahan threatening her separately, but made no mention of the contractors being personally threatened by Mrs. Callahan.[158] Nor do Ms. Lambuth's detailed opening statement or her affidavit mention the contractors being threatened.[159] In fact, in both her opening statement and her declaration Ms. Lambuth states, "*I* conveyed Lindsay's threats to my staff."[160]

In her courtroom testimony, Ms. Lambuth alleged that Mr. Lindsay—not Mrs. Callahan—threatened the contractors with jail and loss of job when he addressed the group by speaker-phone.[161] None of the others present have corroborated this allegation. Ms. Lambuth also testified that Mr. Haas informed her that Mrs. Callahan had threatened him with a "jail cell with his name on it"—indicating that she was not present for the exchange.[162]

In sum, then, the evidence is inconclusive. Mr. Haas has a clear memory of Mrs. Callahan threatening him with jail in response to his "flippant" question. Ms. Golas recalls someone mentioning the word "jail" but does not know who. Neither Ms. Salim nor Mr. Spriggs recall the jail threat, however, and Mrs. Callahan emphatically denies the allegation. Ms. Lambuth recalls being threatened with jail by Mr. Lindsay and Mrs. Callahan separately, but apparently could not recall whether a threat was made in the meeting described by the other contractors. Her statements are also filled with internal inconsistencies. Ms. Cichon—who attended the meeting at which Mr. Lindsay allegedly threatened Ms. Lambuth—does not believe that threats were made in her presence.

Moreover, no one has alleged that anyone in the White House (as distinct from OA) made any threats. There is simply no evidence that any White House officials had any knowledge of—or participated in—any threats.

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steps to cure the problem or notify Congress." Majority report at 38. However, the majority fails to substantiate this allegation.

[155] Testimony of Mark Lindsay, March 23 hearing at 199.

[156] Testimony of Betty Lambuth, March 23 hearing at 24.

[157] *Id.* at 50.

[158] *Id.* at 50–51.

[159] Statement of Betty Lambuth at March 23 hearing; declaration of Betty Lambuth, *Alexander* v. *FBI,* No. 96–2123 (Feb. 24, 2000).

[160] *Id.* (emphasis added).

[161] Transcript of Evidentiary Hearing at 28–29, *Alexander* v. *FBI,* No. 96–2123 (Aug. 1, 2000).

[162] *Id.* at 34–35.

C. ALLEGATION THAT NORTHROP GRUMMAN EMPLOYEES WERE TOLD NOT TO TELL OTHERS ABOUT THE MAIL2 PROBLEM

The evidence clearly indicates that Northrop Grumman employees were instructed not to tell others about the Mail2 problem when it was first discovered. The majority has claimed that this is evidence of a White House cover-up. Representative Barr stated:

> we do have evidence that you all indicated to persons not to share information, not to disclose information, to withhold information. . . . The fact of the matter is that it does appear that steps were taken to limit very severely information surrounding a very serious glitch in the White House computer system that related specifically [to] the matters well known to be under investigation by at least three different bodies—namely, the Office of Independent Counsel, this committee, and the Judiciary Committee.[163]

However, the evidence suggests that the instructions not to discuss the matter were an appropriate attempt to prevent disclosure of the e-mail problem pending further investigation and did not constitute a "cover-up."

1. The OA Instructions Not to Discuss

The testimony of Mr. Haas, Ms. Golas, Mr. Spriggs, Ms. Salim, and Ms. Lambuth is in general agreement that they were told by Mr. Lindsay and Mrs. Callahan to treat the Mail2 matter as sensitive and not to discuss it. The contractors evidently took these instructions seriously; several of them testified that they subsequently took steps, such as holding meetings outside the office, to keep the e-mail problem confidential.[164] Mr. Lindsay and Mrs. Callahan also agreed that they were concerned about the e-mail matter being widely discussed. Mrs. Callahan testified that she discussed the e-mail problem with Mr. Lindsay shortly after its discovery, and they agreed that this was a sensitive issue, given the "other events going on" reported in "newspapers and the media." [165]

Mrs. Callahan testified that she "instructed the contract employees at the meeting that this was an extremely sensitive situation." [166] According to her testimony, she and Mr. Lindsay:

> concurred that this was a situation that we needed to be careful of because it was sensitive. And, as such, Mr. Lindsay participated in the team conference call meeting in which all of the members of the team were present and Mr. Lindsay was there via conference call, and re-articulated the standard operating procedure. And in absolutely

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[163] Statement of Representative Bob Barr, March 23 hearing at 277–79.

[164] According to Ms. Lambuth, "We did meet privately. We did go to the park. We did sometimes go across the street to Starbuck's [sic] and speak in generalities." Testimony of Betty Lambuth, March 23 hearing at 26. Mr. Spriggs explained that "if we're going to talk about this stuff and keep it under wraps, then we have to be careful as to where we are." Testimony of John Spriggs, March 23 hearing at 52. According to Mr. Vasta's notes, the contractors were further instructed not to take any notes about the Mail2 matter. Document entitled, "Summary of Project X Discussions" (Sept. 9, 1998).

[165] Testimony of Laura Callahan, March 23 hearing at 216.

[166] *Id.* at 253.

> no way did I ever make any personal threats to any individuals during that time frame.[167]

Mrs. Callahan explained:

> what I mean by that, as far as the "standard procedures," and what they were advised at the meeting was the fact that the normal procedures are, if you are receiving any inquiries from folks such as the press, to please refer them to the Office of Public Affairs, and if anyone else had any particular questions or had a need to know, to please refer them to either myself or Mr. Lindsay.[168]

There was nothing inappropriate about Mrs. Callahan's and Mr. Lindsay's instructions not to discuss the matter. At the time of the discovery of the Mail2 problem, Independent Counsel Starr was conducting a widely publicized investigation into matters concerning Ms. Lewinsky. Given the circumstances—a potential document production issue arising in the midst of a high-profile and widely reported-on investigation—it is not difficult to understand why Mr. Lindsay and Mrs. Callahan may have wanted to avoid widespread discussions about the matter pending further investigation.

Moreover, several of the contractors explained that they did not find these requests for confidentiality to be unreasonable or suspicious. Ms. Salim testified that she believed that it "was a reasonable request for them to ask us to keep a lid on this until they could manage the situation." [169] Mr. Spriggs testified, "When I was called into that office and Ms. Crabtree and Mr. Lindsay were giving me instructions, I perceived that those instructions were reasonable instructions." [170]

The majority's allegation that Mr. Lindsay and Mrs. Callahan's instructions constituted a "cover-up" are apparently based on the assumption that those instructions were supposed to prevent further investigation into or the eventual disclosure of the Mail2 problem. Ms. Salim, however, testified that she did not understand Mr. Lindsay and Mrs. Callahan's instructions to mean that the problem would be kept permanently under wraps:

> My understanding was that this issue would remain with this small group only temporarily until the Office of Administration had a chance to manage the situation.[171]

Mr. Spriggs's testimony reaffirmed that far from being impeded in their attempts to investigate the Mail2 problem, the contractors were encouraged to complete their work. According to Mr. Spriggs:

> the reality was we needed to figure out what the problem was and how were we going to deal with getting these in the records management system. . . . There was no, from my point of view, any kind of question that we were not going to proceed forward with this and resolve this question. We were trying to get all of the information so that

[167] *Id.* at 216.
[168] *Id.* at 215.
[169] Testimony of Yiman Salim, March 23 hearing at 91.
[170] Testimony of John Spriggs, March 23 hearing at 100.
[171] Testimony of Yiman Salim, March 23 hearing at 21.

> whomever—OA counsel or White House Counsel—would have sufficient information to be able to judge the import of the information that they had. As far as I knew personally—and my colleagues can speak to what they knew—I had no knowledge of anyone trying to stop us from doing any of that or trying to keep any information away from [Kenneth] Starr or anyone else at that point.[172]

Even Ms. Lambuth believed that the request for confidentiality was reasonable:

> Mr. WAXMAN. I'd like to ask whether you think this was an unreasonable request? Anybody think it was an unreasonable request?
>
> Ms. LAMBUTH. I think in the beginning that's the way we all felt.[173]

Ms. Lambuth did testify that the delay in fixing the Mail2 problem caused her to change her mind:

> I think in the beginning we all felt that they just wanted to get their act together, basically, how they were going to let the public know about this. But as time went on and we couldn't get any decisions of how they wanted us to handle it, what the next step was going to be, etc., it became very obvious to us, and we had some discussions on this that they did not want this to come forth.[174]

Mr. Hawkins concurred with Ms. Lambuth, citing his dealings with Mr. Lindsay as justifying his own belief "that they did try to cover up the fact that they had a computer glitch." [175]

Neither Ms. Lambuth nor Mr. Hawkins played a significant role in the e-mail project, however. Ms. Lambuth, by her own account, "was only on this [e-mail] project for a short period of time." [176] She left the White House in July 1998,[177] 1 month after the discovery of the Mail2 problem. Mr. Hawkins told committee staffers that he left Northrop Grumman on October 9, 1998, and by his own account he played little if any role in the e-mail project prior to his departure.[178] Mr. Spriggs, who played a significant role in the e-mail project, had a more judicious assessment. Asked if he agreed with Ms. Lambuth's conclusion, he testified that "from my point of view, we didn't know enough about what was going on to say that the White House had stopped anything." [179]

The committee has received documentary evidence which further suggests that the contractors did not think that the requests were improper. According to notes taken by Northrop Grumman employee Joe Vasta about a meeting he had with the contractors on August 28, 1998, Mr. Vasta "questioned the team to determine

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[172] Testimony of John Spriggs, March 23 hearing at 91–92.
[173] March 23 hearing at 90–91. When pressed on this point later in the hearing, Ms. Lambuth reaffirmed that "I didn't feel that it was unusual, knowing the circumstances of all the subpoenas." Testimony of Betty Lambuth, March 23 hearing at 175.
[174] Testimony of Betty Lambuth, March 23 hearing at 93.
[175] Testimony of Steven Hawkins, March 23 hearing at 93.
[176] Testimony of Betty Lambuth, March 23 hearing at 132.
[177] Testimony of Betty Lambuth at March 23 hearing.
[178] Interview of Steven Hawkins by majority and minority staff, House Committee on Government Reform (Mar. 7, 2000).
[179] Testimony of John Spriggs, March 23 hearing at 96.

whether they felt they were being asked to do anything that was illegal or unethical. They replied in the negative."[180] A few days later, Mr. Hawkins also met with the contractors, who "reiterated they believed they were not doing anything illegal."[181]

2. The OA Instructions Regarding Northrop Grumman Management

While Mr. Lindsay and Mrs. Callahan's requests for confidentiality do not appear to have been, on their face, unreasonable, Mr. Haas, Mr. Spriggs, and Ms. Lambuth further testified that they were specifically told not to tell their supervisor, Steve Hawkins, about the e-mail matter.[182] Although Mr. Lindsay and Mrs. Callahan denied this allegation,[183] Mrs. Callahan stated that she wanted information about the Mail2 matter limited to "[t]hose in the room" at the Mail2 meeting, which would by implication exclude the absent Mr. Hawkins.[184] Certainly, the weight of the evidence suggests that the contract employees felt that they were not allowed to discuss their work with their supervisor, and this put them in a difficult and unfair position.

The testimony regarding Mr. Hawkins's involvement is inconclusive. Mr. Hawkins indicated that he believed there was an effort to limit his understanding of the Mail2 problem.[185] On the other hand, Mr. Lindsay testified that it "didn't matter" to him "whether or not Hawkins was involved with" the Mail2 investigation;[186] indeed, Mr. Lindsay said that he himself briefed Mr. Hawkins about the Mail2 problem.[187]

After the March 23 hearing at which both Mr. Hawkins and Mr. Lindsay testified, the committee received information that casts their testimony in a different light. The new evidence indicates that Northrop Grumman management above Mr. Hawkins's level was informed about the e-mail problem.

James DeWire, currently a program manager with Logicon, a wholly owned subsidiary of Northrop Grumman, managed Northrop Grumman's EOP contract for approximately the last 7 months of 1998. Mr. DeWire told committee staff that he received a phone call from Mr. Hawkins in early or mid-June 1998, in which Mr. Hawkins said that employees had told him that they had been given instructions not to tell him what they were working on.[188] Shortly after this phone call—possibly within minutes of his hanging up—Mr. DeWire received another phone call, this one from then-OA Director Ada Posey.[189] According to Mr. DeWire, Ms. Posey explained that she had a very sensitive task which she wanted to be handled in a limited environment, with the Northrop

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[180] Document entitled, "Summary of Project X Discussions" (Sept. 9, 1998).

[181] *Id.* According to Mr. Vasta's notes, the contractors were "uncomfortable because the project leader giving them direction was a non-Northrop Grumman employee" and were "concerned that decisions could be made concerning the project that were not in the best interests of Northrop Grumman." *Id.*

[182] Testimony of Robert Haas, March 23 hearing at 32; testimony of John Spriggs, March 23 hearing at 48–49; testimony of Betty Lambuth, March 23 hearing at 50.

[183] Testimony of Mark Lindsay, March 23 hearing at 245; testimony of Laura Callahan, March 23 hearing at 254.

[184] Testimony of Laura Callahan, March 23 hearing at 254.

[185] *See* testimony of Steven Hawkins, March 23 hearing at 93.

[186] Testimony of Mark Lindsay, March 23 hearing at 256.

[187] *Id.* at 245.

[188] Interview of James DeWire by majority and minority staff, House Committee on Government Reform (June 15, 2000).

[189] *Id.*

Grumman employees reporting directly to a government employee without the intervening involvement of Northrop Grumman management.[190]

Mr. DeWire said that after Ms. Posey assured him that the work was both within the scope of the contract and not illegal, he agreed to her request.[191] Mr. DeWire said that he immediately informed Mr. Hawkins of the arrangement and instructed him not to try to find out the nature of the work being done by the contract employees.[192]

According to Mr. DeWire, then, within a short period of the discovery of the Mail2 problem, he was informed of, and he approved of, a scheme whereby the contract employees reported directly to EOP personnel as they investigated the Mail2 problem. Mr. DeWire's statements indicate that the actions of OA management toward Northrop Grumman management and contract personnel were appropriate and above-board.

D. ALLEGATION THAT THE WHITE HOUSE CONCEALED INFORMATION ABOUT THE MAIL2 PROBLEM FROM CONGRESS AND VARIOUS INDEPENDENT COUNSELS

Representative Burton has alleged that the White House intentionally failed to notify investigators about the Mail2 problem, and its potential impact on past and future subpoena compliance. Representative Burton stated that there is "in effect, a purposeful effort to keep documents from Congress, the Department of Justice, and various Independent Counsels."[193] Representative Burton also said that the White House "knew about [the e-mail problem] in 1998, and they kept it under wraps from the Congress."[194]

Representative Burton's allegations are contradicted by the testimony of White House and OA lawyers that they did not notify Congress or any independent counsels of subpoena compliance problems because they did not believe that any such problems existed. Former White House Counsel Charles F.C. Ruff, former White House Deputy Counsel Cheryl Mills, and former OA General Counsel Mark Lindsay all testified that they did not cover up, or have any knowledge of others covering up, the e-mail problem.[195] Mr. Ruff testified emphatically that "[n]ever, not once, did anyone on my staff seek to conceal, delay production of or otherwise cover up any document production whether it be electronic or paper."[196]

White House counsel explained that their failure to inform investigators about the Mail2 problem resulted from their own (mistaken) belief that the problem had not affected document production. After the Mail2 problem was discovered, Mr. Haas was directed to perform a test search for non-records-managed e-mails relating to Monica Lewinsky. According to Ms. Nolan, the White House Counsel's office compared the results of Mr. Haas's search:

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[190] *Id.*
[191] *Id.*
[192] *Id.*
[193] Letter from Representative Dan Burton to Counsel to the President Beth Nolan (Mar. 8, 2000).
[194] Statement of Representative Dan Burton, May 3 hearing at 65.
[195] Testimony of Mark Lindsay, Cheryl Mills, and Charles Ruff, May 4 hearing at 54–57.
[196] Testimony of Charles Ruff, May 4 hearing at 57.

> against previously produced documents and determined that they were duplicative. The Counsel's Office believed that all necessary steps to make a complete search had been taken. They did not know that there was any remaining problem—prospective or retrospective.
>
> Thus, as Mr. Ruff understood the technical problem at the time, he did not think that the error had an effect on previous searches or that it might affect future searches of e-mail records. As a result, Mr. Ruff had no reason to believe there was any need to notify investigative bodies of this error.[197]

Mr. Ruff confirmed that "at the point where the word came back to me that the Lewinsky e-mails had in fact been collected and it turned out they were duplicative of what we had already found, I believed that the problem did not, in fact, retrospectively affect our compliance."[198]

Similarly, Mr. Lindsay testified that, after the test search was performed, "the word that I got back was that 'Hey, these are duplicates. It probably isn't that big of a problem because this information has already been produced.'"[199] Thus, Mr. Lindsay concluded:

> there may not have been a legal problem in terms of whether or not documents were produced or whether or not that was completed, but I still had a problem, and that was I still had a technical staff that reported to me that there was a glitch. Even if that test came back in a positive way, I may not have had a production problem, but I had a technical problem with my e-mail system and my ARMS system and how they worked together. If that—that was the issue that I needed to resolve.[200]

Mr. Burton has dismissed Mr. Ruff's explanation, saying, "The President's counsel never understood the full extent of the problem? I seriously doubt that explanation. This issue isn't very complicated."[201] But the committee's investigation has demonstrated the extremely technical and complicated nature of the e-mail problems at the White House. It took the Northrop Grumman team of computer experts many months to investigate and fix the Mail2 problem. Even a technically adept observer could be excused for failing to grasp the intricacies of ARMS, and Mr. Ruff, by his own admission, "didn't understand the scope or the details of the technology involved."[202] Indeed, as discussed above in part II.D, there is evidence that the committee's own staff may have been informed of the Mail2 problem in 1998 and failed to understand its significance.

The alternative is to suppose that White House counsel embarked on a systematic conspiracy to avoid telling investigators

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[197] Statement of Counsel to the President Beth Nolan (Mar. 23, 2000).
[198] Testimony of Charles Ruff, May 4 hearing at 50.
[199] Testimony of Mark Lindsay, March 23 hearing at 248.
[200] *Id.* at 259.
[201] Statement of Representative Dan Burton, March 30 hearing at 9.
[202] Transcript of interview of Charles F.C. Ruff, House Committee on Government Reform, 27 (Apr. 6, 2000).

about a technical problem affecting document production, all in an effort to avoid producing documents whose content they did not—could not—have known.[203] There is no evidence to support this far-fetched supposition.

E. ALLEGATION THAT EARL SILBERT TOLD THE WHITE HOUSE ABOUT THE ALLEGED THREATS AND PROBLEMS WITH SUBPOENA COMPLIANCE

The majority apparently believes that they have found the "smoking gun" which demonstrates that the White House was aware of (1) the alleged threats against Northrop Grumman contractors, and (2) the possibility that the Mail2 problem had affected information requests from investigative bodies. That "smoking gun" involves contacts in 1998 between White House counsel and an attorney representing Northrop Grumman, Earl Silbert. Representative Burton has described Mr. Silbert as "a high-priced Washington fixer"[204] and charged that "Silbert's contacts may dramatically undermine White House claims of a 'disconnect' that prevented them from understanding the e-mail problem."[205] Representative Burton further asserted that "Silbert's two separate contacts with the White House cast even more doubt on the White House claim that they weren't actively covering up the problem."[206]

Representative Burton's allegations about Mr. Silbert are wholly speculative and overlook the most obvious explanation for Mr. Silbert's contacts with White House counsel—namely, that Mr. Silbert was hired to assist Northrop Grumman in its attempt to resolve the question of whether work on the Mail2 project was within the scope of the company's contract with the EOP. Mr. Silbert's billing records indicate that he was hired to give "advice to Logicon re: Executive Office of the President Contract" or simply "Contract Advice."[207] Furthermore, it is clear that Northrop Grumman executives believed that work on the e-mail project was outside the scope of the EOP contract and that they communicated their belief to the EOP.[208] Given the time and expense involved in fixing the problem retrospectively, their concern on this point is understandable.

The committee has obtained no evidence that Mr. Silbert was even aware of allegations concerning threats or subpoena compliance—issues that were peripheral, if not irrelevant, to the contrac-

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[203] The majority also alleges that it is "difficult to understand why [White House Counsel Beth] Nolan did not understand that the e-mail problems had ongoing subpoena compliance consequences" when she was told of the problems at a Jan. 18, 2000, briefing on records management issues, and accuses Ms. Nolan of failing to exercise "minimal due diligence." Majority report at 51–52. In fact, OA Director Michael Lyle, who attended the meeting, testified that Ms. Nolan inquired about whether the e-mail problems had affected subpoena compliance. Testimony of Michael Lyle, May 3 hearing at 103–04. Mr. Lyle told Ms. Nolan that this question "had been dealt with prior by Mr. Lindsay and Mr. Ruff." *Id.* at 104. Mr. Lyle further testified that he checked with Mr. Lindsay, who assured him that he had indeed handled the matter with Mr. Ruff. *Id.*

[204] Statement of Representative Dan Burton at Sept. 26 hearing.

[205] Memorandum from Representative Dan Burton to members of the Committee on Government Reform (Sept. 21, 2000).

[206] Statement of Representative Dan Burton at Sept. 26 hearing.

[207] Billing records of Earl J. Silbert (Nov. 19, 1998, Jan. 27, 1999, Mar. 31, 1999). Logicon is a wholly owned Northrop Grumman subsidiary.

[208] *See* letter from Joseph F. Lucente to Dale Helms (Sept. 14, 1998) (NGL 00503). Mr. Lindsay testified before the committee about the difference of opinion between Northrop Grumman and the White House over whether work on the e-mail problem was within the scope of the company's contract. Testimony of Mark Lindsay, March 23 hearing at 261–63.

tual matter at stake.[209] Mr. Silbert's billing records contain an entry of 1.25 hours on September 11, 1998, for a "teleconference with Northrop Grumman counsel and a company employee." Mr. Silbert claimed that the identity of the employee was protected by the work product privilege, but said that he did not recall the substance of this conversation.[210]

Nor is there any evidence that Mr. Silbert communicated information about the alleged threats or subpoena compliance issues to the White House. A privilege log accompanying his billing records indicates that on September 28, 1998, and December 30, 1998, Mr. Silbert billed Northrop Grumman for a "teleconference with White House counsel."[211] Each of the teleconferences lasted 0.25 hours each; since this is apparently the smallest increment of time for which Mr. Silbert's firm bills its clients, the calls may have been considerably less than 15 minutes long. Mr. Silbert informed committee staff that he has no recollection of whom he spoke to or the subject matter of the brief discussions.[212]

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[209] Subsequent to the committee vote on the majority's e-mail report, the majority issued a document that purports to address the draft minority views that were circulated before the committee vote. "Inaccuracies, Misrepresentations, and Omissions in the Democrats' E-Mail Report Rebuttal," House Committee on Government Reform (undated). In this "rebuttal," the majority states that the committee has learned that Mr. Silbert took notes of his conversations with Northrop Grumman counsel and a Northrop Grumman employee. Noting that these documents have not been available to the committee, the majority asserts:

> Until Mr. Silbert either explains the substance of the meeting or produces the notes, it is simply premature for the Minority to claim that "[t]here is no evidence" related to Mr. Silbert's communications concerning threats or subpoena compliance.

Id. at 4.

In essence, the majority is asserting that notes that the majority has never seen—and does not know the content of—constitute "evidence" of White House wrongdoing.

As additional support for its critique, the majority asserts that Mr. Haas "testified that he recounted the threats to an outside counsel described to him as a 'gray beard,'" and that Mr. Silbert's billing records suggest that he was the "grey beard" to whom Mr. Haas spoke. *Id.* This statement mischaracterizes the evidence before the committee. As discussed *infra* at note 210, even assuming that Mr. Silbert was the "grey beard" in question, the committee simply does not know what Mr. Haas told him.

[210] There is evidence to indicate that the employee in question was Mr. Haas. Mr. Haas provided courtroom testimony in a lawsuit relating to the White House's handling of confidential FBI files about a meeting he attended with Northrop Grumman executives in September 1998. Mr. Haas said that during the meeting there "was a phone conversation from the Northrop Grumman lawyer's office. He called a person he referred to as a Grey Beard. And I recanted [sic] my story to him." Transcript of Evidentiary Hearing at 56–57, *Alexander* v. *FBI,* No. 96–2123 (Aug. 14, 2000). Mr. Haas did not further identify the "grey beard," nor did he provide any information about what he relayed to the "grey beard."

Representative Burton has alleged that "Haas told the outside counsel about the threats he had encountered, as well as his concerns about the legal ramifications of the e-mail problem." Letter from Representative Dan Burton to Judge Royce Lamberth, note 1 (Sept. 26, 2000). A careful reading of Mr. Haas's testimony makes clear, however, that Mr. Haas was describing what he said at the meeting with Northrop Grumman counsel and that he did not describe or characterize his statements to the "grey beard." Transcript of Evidentiary Hearing at 56–61, *Alexander* v. *FBI,* No. 96–2123 (Aug. 14, 2000). Thus, even if Mr. Haas's testimony is accurate, and even if Mr. Silbert was the "grey beard" in question, the committee does not know exactly what Mr. Haas told Mr. Silbert.

[211] Mr. Silbert redacted information in the billing records about the nature of the work he performed for Northrop Grumman, claiming attorney-client and attorney work product privileges.

[212] Representative Burton questioned Mr. Silbert's veracity on this point, stating that Mr. Silbert:

> told our staff that he didn't remember who he called or what he discussed. We've had an epidemic of memory loss in this town. Significant things, an absolute epidemic. I can't believe it. Must be something in the water. He didn't remember who called him or what he discussed or who he had called at the White House or what he had discussed. Imagine that. He hears a story about possible law breaking and threats to his client's employees and he doesn't even remember who he talked to at the White House.

Statement of Representative Dan Burton, Sept. 26 hearing at 13–14.

Continued

Testimony provided by Mark Lindsay in the *Alexander* case reinforces the likelihood that Mr. Silbert's contacts with White House counsel were limited to contractual matters and did not concern threats or subpoena compliance. Mr. Lindsay testified that he heard mention of Mr. Silbert's name in the context of Northrop Grumman:

> there was a concern about the scope of the contract and I believe that someone in the counsel's office knew this person [Mr. Silbert] and they raised a concern, and he called me to say is this something we should be worried about? I didn't talk to the Northrop Grumman person. This is someone in the White House counsel's office, and I said, no, I don't think so.[213]

Mr. Lindsay testified that "it was a very, very general reference about scope of work," and that he was not aware of Mr. Silbert raising with the White House counsel's office the alleged threats against the Northrop Grumman employees.[214]

Furthermore, Mr. Silbert explained that the entry in his billing records for 0.25 hours for "document review" on September 12, 1998, related to a letter that was sent by Northrop Grumman's Joseph Lucente to Dale Helms of OA. That letter makes clear that Northrop Grumman had determined that work on the e-mail dysfunction would "substantially exceed the scope of work contemplated under the" EOP contract.[215] The letter makes no mention of threats or issues regarding compliance with information requests. Nor is there any reason to think that those matters would have been relevant to Mr. Silbert if, as the evidence indicates, his role was simply to mediate or advise with respect to a straight-forward contractual discussion.[216]

Representative Burton has also suggested that Mr. Silbert had reason to be less than forthcoming about the e-mail problem in his discussions with the White House. Noting that Mr. Silbert has represented Indonesian businessman James Riady (who has been accused of orchestrating conduit contributions to President Clinton in the 1992 election), Peter Knight (a former aide to Vice President Gore investigated for his involvement in the Portals matter), and former White House Chief of Staff Erskine Bowles, Representative Burton stated that Mr. Silbert's clients "have many reasons to be

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Mr. Burton, however, overlooks a more mundane explanation—namely, that Mr. Silbert does not recall his contacts because they were (1) brief, (2) related to a matter that he worked on 2 years ago for less than 5 hours, and (3) solely related to contractual matters and not to allegations "about possible law breaking and threats to his client's employees."

[213] Transcript of Evidentiary Hearing at 139, *Alexander* v. *FBI,* No. 96–2123 (Aug. 23, 2000). Mr. Lindsay said that he thought the person in the counsel's office who contacted him was Lanny Breuer. *Id.*

[214] *Id.* at 140–41.

[215] Letter from Joseph F. Lucente to Dale Helms (Sept. 14, 1998) (NGL 00503).

[216] The majority has alleged that "Lucente told the Committee that '[t]he threats were the inspiration for sending the letter,'" citing an interview of Joseph Lucente by majority and minority staff on May 1, 2000. "Inaccuracies, Misrepresentations, and Omissions in the Democrats' E-Mail Report Rebuttal," House Committee on Government Reform, 4 (undated). However, in a subsequent interview, Mr. Lucente told committee staffers that the threats were not "the" inspiration but "an" inspiration for the letter, and that the letter makes no mention of threats, veiled or otherwise. Interview of Joseph Lucente by majority and minority staff, House Committee on Government Reform (Oct. 17, 2000). More importantly, Mr. Lucente did not say—and there is no evidence to suggest—that he talked to Mr. Silbert about the alleged threats.

worried about what will come out when all the White House e-mails are reconstructed."[217]

The insinuation that Mr. Silbert shaded the truth in his dealings with the White House is wholly unsubstantiated. Mr. Silbert is a well-respected attorney with a distinguished career in public service, including 5 years as the U.S. Attorney for the District of Columbia. The allegation also directly contradicts Representative Burton's assertion that Mr. Silbert may have told the White House about the Mail2 problem. It is impossible to reconcile Mr. Burton's speculation that Mr. Silbert fully briefed White House counsel about the Mail2 problem with his speculation that Mr. Silbert obscured the truth about the Mail2 problem in an effort to protect other clients.

Mr. Burton also launched an entirely gratuitous attack upon the integrity of one of Mr. Silbert's law partners, Richard Oparil. Mr. Burton wrote to Judge Lamberth on September 26, 2000, to say that Mr. Oparil, who represents Northrop Grumman in the *Alexander* case, "intentionally misled the Court in stating that there had not been any contacts between Silbert and the White House regarding the e-mail matter."[218] Mr. Burton cited statements by Mr. Oparil indicating that after speaking to Mr. Silbert and after looking through the firm's files, "we don't believe that there were any oral communications" between Mr. Silbert and White House counsel.[219] Mr. Burton wrote that, since "[t]he firm's billing records provide the most obvious source of corroboration of telephone calls and are presumably easily searched," Mr. Oparil must have "intentionally misled the Court."[220]

As Mr. Oparil explained, however, "[t]he billing records for the Northrop Grumman matter were *not* part of the client file that I reviewed."[221] Furthermore, Mr. Oparil wrote Judge Lamberth on September 13—almost 2 weeks before Mr. Burton made his allegation—to tell him that he had located the two entries on Mr. Silbert's billing records regarding phone calls with White House counsel.[222] In other words, Mr. Burton publicly accused Mr. Oparil of covering up a matter that he had already voluntarily disclosed.

F. ALLEGATION THAT THE WHITE HOUSE FAILED TO DISCLOSE A COMPUTER DISK CONTAINING NON-PRODUCED MONICA LEWINSKY E-MAILS

An article in the Washington Times alleged that the White House had in its possession "a previously undisclosed computer disk with e-mails by former intern Monica Lewinsky" that were among e-mail messages sought "by a federal grand jury and three congressional committees, but never turned over."[223]

This allegation was shown to be wholly without merit. White House Counsel Beth Nolan informed the committee that the com-

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[217] Statement of Representative Dan Burton at Sept. 26 hearing. *See* majority report at 64, note 362.

[218] Letter from Representative Dan Burton to Judge Royce Lamberth (Sept. 26, 2000).

[219] Transcript of Evidentiary Hearing at 229, *Alexander* v. *FBI*, No. 96–2123 (Aug. 16, 2000).

[220] Letter from Representative Dan Burton to Judge Royce Lamberth (Sept. 26, 2000).

[221] Letter from Richard J. Oparil to Judge Royce C. Lamberth (Sept. 27, 2000) (attached as exhibit 13).

[222] Letter from Richard J. Oparil to Judge Royce C. Lamberth (Sept. 13, 2000) (attached as exhibit 14).

[223] "White House Has Disk With Lewinsky E-Mail," Washington Times (Mar. 29, 2000).

puter disk containing Monica Lewinsky's e-mails was a copy of a file belonging to Mr. Haas and that the Lewinsky-related e-mail on the disk had already been produced.[224] The contents of this disk were provided to the committee. The committee has obtained no evidence that contradicts Ms. Nolan's explanation.

G. ALLEGATION THAT AN OA EMPLOYEE FILED A FALSE AND MISLEADING AFFIDAVIT ABOUT THE MAIL2 PROBLEM

Mr. Burton also alleged that "a White House employee, aided and counseled by Justice Department lawyers, submitted a false affidavit to a federal court that concealed the failure of the White House to search for all e-mails responsive to subpoenas."[225] Mr. Burton even made a criminal referral to the Attorney General, in which he accused the employee, Daniel A. "Tony" Barry, of knowingly making false statements under oath, adding that "there is evidence that the Justice Department itself may have been involved in preparing and presenting false testimony."[226]

The affidavit in question was filed by Mr. Barry, OA's ARMS expert, on July 9, 1999, in the *Alexander* case involving FBI files. The affidavit states in relevant part, "Since July 14, 1994, e-mail within the EOP system administered by the Office of Administration has been archived in the EOP Automated Records Management System (ARMS)."[227] According to Mr. Burton, this statement is "utterly false."[228]

This allegation ignores the context of the Barry affidavit. The affidavit was filed as part of the government's efforts to convince the judge hearing the lawsuit that ARMS searches were not necessary for discovery purposes. Accordingly, the affidavit describes in some detail the cost and time involved in conducting a search of ARMS. Given this context, it appears that Mr. Barry was simply and accurately attempting to explain some basic facts about ARMS—namely, that it archives e-mail and that it has been in effect since July 14, 1994.[229]

The flimsiness of Mr. Burton's allegation is underscored by the fact that Mr. Barry received letters from both the Justice Depart-

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[224] Testimony of Beth Nolan, March 30 hearing at 26–27.

[225] Letter from Representative Dan Burton to Attorney General Janet Reno (Sept. 7, 2000).

[226] Letter from Representative Dan Burton to Attorney General Janet Reno (Mar. 30, 2000). Earlier, Representative Burton had accused the Justice Department's civil division of "help[ing] the White House craft its efforts to hide these e-mails." Letter from Representative Dan Burton to Attorney General Janet Reno (Mar. 27, 2000).

[227] Declaration of Daniel A. Barry, *Alexander* v. *FBI,* No. 96–2123 (July 9, 1999), ¶ 4.

[228] Letter from Representative Dan Burton to Attorney General Janet Reno (Mar. 30, 2000).

[229] The majority also states that Mr. Barry should have corrected similarly general statements that he made about ARMS during a June 11, 1998, deposition and criticizes Sally Paxton, a member of the Office of White House Counsel who assisted Mr. Barry, for a "cavalier attitude towards the deposition process." Majority report at 131–33. The charge involving Ms. Paxton is doubly unfair. For one thing, since Ms. Paxton was apparently not aware of any ongoing ARMS problems, it is difficult to see how she can be blamed for failing to clarify Mr. Barry's statements. For another, the majority mischaracterizes Ms. Paxton's comments in an interview about the deposition with committee staff on June 22, 2000. Ms. Paxton did *not* say that "she told Barry not to change the substance of depositions because it could open him up to being re-deposed." Majority report at 133. Rather, Ms. Paxton told staff that she did not recall telling Mr. Barry anything, and that she was not sure that she had standard instructions for a deponent about problems he might have with a deposition transcript. Interview of Sally Paxton by majority and minority staff, House Committee on Government Reform (June 22, 2000). She further said that making substantive changes would open the person up to being re-deposed but that she was not sure that she would generally mention this detail to deponents. *Id. See* letter from Steven M. McNabb to Representative Dan Burton (Oct. 18, 2000) (correcting "certain false and misleading statements about my client, Sally Paxton" in the majority's report) (attached as exhibit 15).

ment and the Office of Independent Counsel stating that he is not a target of their respective e-mail investigations.[230]

The majority report also states that "[b]y counseling Barry through the process of preparing and submitting the false affidavit to the court, Justice Department and White House lawyers were complicit in the fraud perpetrated upon Judge Royce Lamberth's court."[231] This allegation overlooks the incontrovertible fact that there is no evidence that any White House or Justice Department lawyers involved in preparing and submitting the affidavit were aware of any ARMS-related problems.

H. ALLEGATION THAT AN OA EMPLOYEE ATTEMPTED TO HIDE INFORMATION ABOUT THE MAIL2 PROBLEM FROM CONGRESS

Representative Burton has accused Karl Heissner, the branch chief for Systems Integration and Development in OA's IS&T division, of seeking to keep the Mail2 problem a secret from investigators. Mr. Burton cited as evidence an e-mail written by Mr. Heissner, which he interpreted as follows: "he concludes by saying, 'Let sleeping dogs lie.' I think translated that means let's keep a lid on this and don't let Congress or the independent counsels know about it."[232] Mr. Barr suggested that, if he were a prosecutor, Mr. Heissner's e-mail "would be considered evidence of obstruction of justice."[233]

Mr. Heissner, a 25-year career civil servant, testified that his e-mail memo addressed two separate and unrelated issues.[234] The first part of the e-mail is entitled, "Information Requests" and states, in relevant part:

> While I'll be glad to write up something related to the "Information Requests" channeled to us via White House Counsel in response to various requests from Congress and litigants against the Government, we may not want to call undue attention to the issue by bringing the issue to the attention of Congress because [l]ast year's hours consumed by SID staff amounts to only a little over 500, [t]his year's hours consumed so far amounts to only 65, and [t]he level of requests appears to be declining.
>
> (Let sleeping dogs lie . . .)[235]

The second part of the e-mail is entitled "Mail2 Reconstruction." It provides a summary of the Mail2 problem, its discovery, and subsequent efforts to fix it.

Mr. Heissner testified that his suggestion to let "sleeping dogs lie" was simply expressing a desire not to bring up the fact that the number of information requests received by the White House was declining.[236] According to Mr. Heissner, since the number of information requests was declining, "we don't need to go to Con-

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[230] Letter from Deputy Assistant Attorney General Alan Gershel, to Steve Ryan, Esq. (Aug. 1, 2000) (attached as exhibit 16); letter from Independent Counsel Robert W. Ray to Stephen M. Ryan, Esq., and Pamela J. Marple, Esq. (Aug. 2, 2000) (attached as exhibit 17).
[231] Majority report at 135.
[232] Statement of Representative Dan Burton, May 3 hearing at 13.
[233] Statement of Representative Bob Barr, May 3 hearing at 35.
[234] Testimony of Karl Heissner, May 3 hearing at 49–50.
[235] E-mail from Karl H. Heissner to Dorothy E. Cleal (Feb. 5, 1999) (E 3865–74).
[236] Testimony of Karl Heissner, May 3 hearing at 51.

gress to ask for funding to pay for the costs for performing these information requests."[237] Mr. Heissner stated that he was not trying to prevent Congress from finding out about the Mail2 problem.[238]

The majority appears to recognize that the allegations about Mr. Heissner are without merit because there is no mention of Mr. Burton's or Mr. Barr's allegations in the majority report. Unfortunately, the majority makes no attempt to clear the record or to clear Mr. Heissner's name in the majority report.

I. ALLEGATION THAT CHERYL MILLS WAS RESPONSIBLE FOR THE FAILURE TO DISCLOSE THE MAIL2 PROBLEM

Mr. Burton has made a number of misleading and inaccurate allegations about the role of then-Deputy Counsel to the President Cheryl Mills in the e-mail matter. For example, Mr. Burton alleged that "Cheryl Mills is a central figure in the e-mail investigation,"[239] and that Ms. Mills:

> was in charge of determining the extent of the problem and whether there were any ramifications for document production. As we now know, Ms. Mills—by incompetence or design—may have prevented a number of investigative bodies, including Congress, the Justice Department, and Independent Counsels, from receiving subpoenaed documents. . . . [I]t is clear that Ms. Mills is the central figure in terms of the White House Counsel's Office['s] failure to solve the e-mail problems or its failure to notify interested parties that documents were not being produced.[240]

In fact, Ms. Mills's testimony before the committee indicated that her involvement in the e-mail matter was limited to a discussion with Mr. Ruff about the problem, after which she forwarded a batch of e-mails to White House Associate Counsel Michelle Peterson, who determined that they had already been produced. According to Ms. Mills's testimony:

> Mr. Ruff indicated that there had been a problem with certain e-mails that might not have been captured, that OA was gathering them, that they were going to forward them to our office. We were going to then need to make a determination whether or not those e-mails had or had not been produced and if they had not been produced that we needed to produce them immediately. . . . The e-mails—the material came from OA over to our office; and I forwarded them to Shelly Peterson, an associate counsel in our office, who reviewed the materials to determine whether or not they were duplicative.[241]

Ms. Mills's testimony contradicts Mr. Burton's assertion that she was "in charge of determining the extent of the problem and

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[237] *Id.* at 34.
[238] *Id.* at 50.
[239] Letter from Representative Dan Burton to Attorney General Reno (June 28, 2000). *See also* majority report at 114 ("Cheryl Mills has been a central figure in the investigation into the White House's e-mail problems and subsequent failure to produce subpoenaed documents").
[240] Letter from Representative Dan Burton to Attorney General Reno (June 28, 2000).
[241] Testimony of Cheryl Mills, May 4 hearing at 33–34.

whether there were any ramifications for document production." According to her testimony, her role was limited to determining whether or not certain e-mails relating to Monica Lewinsky had or had not been produced.[242] There is no evidence to suggest that Ms. Mills's testimony on this point was inaccurate.

Representative Burton has also implied that Ms. Mills was informed about broad e-mail problems affecting the office of the Vice President. Representative Burton wrote to the Attorney General that a matter of "some importance" was a document indicating that "[t]he OVP memorandum regarding the Vice President's computer problems has been cleared with Cheryl Mills' office."[243] This statement seems to suggest that the memorandum in question contained information about deficiencies in the records management practices of the Office of the Vice President.

In fact, however, the memorandum in question discussed a technical failure that caused the Vice President to be "unable to send or receive E-mail for approximately seven hours" on April 2, 1999.[244] According to this memorandum, as a result of this technical failure, "[a]ll documents which had not been saved to a disk—in this case three days of E-mail—were irretrievably lost."[245] The memorandum does not discuss broader issues about records management of the Vice President's e-mail. It is therefore difficult to understand how Ms. Mills's alleged knowledge of the contents of the memorandum is in any way inculpatory.

This is not the first time the committee has targeted Cheryl Mills. In September 1998, Representative David McIntosh requested that the Department of Justice investigate whether Ms. Mills committed perjury and obstructed justice because, in essence, she did not agree with him about the relevance of two sets of documents to a committee request.[246] As the Department of Justice found, this attempt to transform a simple document request into a potential criminal offense lacked any merit.[247] The allegations in this instance appear equally unwarranted.

J. ALLEGATION THAT THE JUSTICE DEPARTMENT HAS FAILED TO INVESTIGATE, OR TO APPOINT A SPECIAL COUNSEL TO INVESTIGATE, THE E-MAIL MATTER

Mr. Burton has repeatedly condemned the Justice Department's investigation of the e-mail matter. Mr. Burton has accused the Department of "investigative laxity"[248] and has charged that the Justice Department "took no steps to determine whether reports about the e-mail problem were true,"[249] further stating that "I get the impression that the Justice Department really isn't all that inter-

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[242] *Id.* at 34.

[243] Letter from Representative Dan Burton to Attorney General Reno (June 28, 2000).

[244] Memorandum from Dorothy E. Cleal, Associate Director for Information Systems and Technology, Office of Administration, to Virginia Apuzzo, Assistant to the President for Management and Administration (May 13, 2000) (E 5201–03, E 6956–58).

[245] *Id.*

[246] Letter from Representative David McIntosh to Attorney General Janet Reno (Sept. 17, 1998).

[247] Letter from Ms. Faith Burton to Representative David McIntosh (May 6, 1999) (attached as exhibit 18).

[248] Letter from Representative Dan Burton to Attorney General Janet Reno (June 28, 2000).

[249] Letter from Representative Dan Burton to Judge Royce C. Lamberth (Mar. 29, 2000).

ested" in the e-mails.[250] Because of these perceived deficiencies, Mr. Burton has called for the appointment of a special counsel to investigate the e-mail matter.[251]

While it would be premature to judge the thoroughness of the Department's e-mail investigation, Mr. Burton's request for a special counsel makes no sense, as the e-mail matter is *already* the subject of an investigation by Independent Counsel Robert Ray. Deputy Assistant Attorney General Alan Gershel testified that "with respect to the White House e-mail matter the [Department's] task force and the office of the independent counsel are working together in a coordinated investigation." [252]

Mr. Burton has alleged that Independent Counsel Ray's investigation "is limited" and "[a] lot of the things that we're talking about in the e-mail investigation Mr. Ray does not have any jurisdiction over." [253] In fact, Mr. Gershel confirmed that the independent counsel's investigation necessarily involves the same basic factual matters as the committee's e-mail investigation.[254] While the independent counsel may be focused on examining the e-mail matter as it relates to the production of documents to his office, all of the issues explored by the committee—including allegations of threats and a cover-up—are relevant to this inquiry. Mr. Burton's allegation is simply without basis.

The majority report also makes the assertion that "[i]t appears that for at least part of its e-mail investigation, the Justice Department had only one part-time lawyer assigned to its e-mail investigation." [255] The majority report offers no evidence to support this allegation. Instead, the report states the Mr. Gershel's refusal to rebut the charge "suggests that it is likely true." [256] In fact, Mr. Gershel made clear that his refusal to discuss staffing levels was based on the Department's longstanding policy of not disclosing staffing levels for ongoing investigations.[257]

Finally, the majority report accuses the Justice Department of having a conflict of interest because of the role of the Department's civil division in defending the White House in the *Alexander* case.[258] However, Assistant Attorney General Robert Raben explained to the committee:

> The Department often represents the interests of a governmental entity in civil litigation where an issue presented in that civil case touches upon a pending criminal investigation. If an aspect of an ongoing civil case threatens to duplicate or interfere with the conduct of an ongoing criminal investigation, the Department often seeks to stay that part of the civil case that might duplicate or interfere with the progress of the criminal investigation. That is precisely the relief the Department sought in the *Alexander* case, in

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[250] Statement of Representative Dan Burton, March 23 hearing at 12.
[251] Letter from Representative Dan Burton to Attorney General Janet Reno (Mar. 27, 2000); letter from Representative Dan Burton to Attorney General Janet Reno (Mar. 30, 2000).
[252] Testimony of Alan Gershel, Sept. 26 hearing at 35.
[253] Statement of Representative Dan Burton, Sept. 26 hearing at 69.
[254] Testimony of Alan Gershel, Sept. 26 hearing at 105–06. Mr. Gershel also affirmed that the Department had not impeded or limited the scope of Mr. Ray's e-mail investigation. *Id.* at 48.
[255] Majority report at 141.
[256] *Id.* at 143.
[257] Testimony of Alan Gershel, Sept. 26 hearing at 34–35.
[258] Majority report at 129.

which the Department asserted that the lawyers in the Civil Division, who had been looking into the email issue, should not proceed with that investigation because it could duplicate or compromise the investigation by the Task Force and the Office of Independent Counsel.[259]

K. OTHER ALLEGATIONS

1. Allegation That the White House Has Delayed Reconstruction of the E-mails

Mr. Burton has stated that "it is now obvious to me that the White House has failed to expedite the production of subpoenaed documents to the Committee," adding that "the White House has clearly demonstrated its utter disregard for both the legislative and judicial branches" and that delays in the reconstruction process "are not surprising and seem very convenient."[260] Mr. Burton has further called for the appointment of a special master to supervise production of e-mails.[261]

Ms. Nolan has responded in writing to Mr. Burton's allegations in some detail, noting correctly that she warned during her testimony before the committee that the schedule for the e-mail reconstruction project was subject to possible delays.[262] Ms. Nolan also testified that "[a]s our review progresses to completion, we will likely uncover information that alters or amends these preliminary conclusions" and referred to the "contractor's preliminary estimate," adding that "I want to emphasize preliminary because these estimates are subject to amendment as the process proceeds and the contractor learns new information."[263]

The majority has not yet responded to an offer made by the White House on September 14, 2000, to search, reconstruct, and produce batches of e-mails on an expedited basis.[264] The White House notified committee staff that with about 3 weeks of computer staff time, it would be able to conduct targeted searches using 100 backup tapes, 70 e-mail accounts, and 70 search

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[259] Letter from Assistant Attorney General Robert Raben to Representative Dan Burton (Apr. 12, 2000) (attached as exhibit 19). The majority asserts that "[t]he Department of Justice has received no such stay." Majority report at 129. This assertion is misleading, as the judge hearing the *Alexander* case delayed holding hearings on the e-mail matter for several months until receiving assurances that "the criminal investigation has reached a stage where further inquiry . . . can recommence without threatening the integrity of the criminal investigation or other law enforcement interests." Order of Judge Royce Lamberth, *Alexander* v. *FBI,* No. 96–2123 (July 20, 2000). The judge further noted that he had "proceeded cautiously" since the task force began its investigation "to ensure that these proceedings do not interfere with the criminal investigation." *Id.* The *Alexander* plaintiffs filed a motion requesting an evidentiary hearing on e-mail matters on Feb. 19, 2000; the court did not commence the hearing until July 31. *Id.*

[260] Letter from Representative Dan Burton to Counsel to the President Beth Nolan (July 26, 2000).

[261] Letter from Representative Dan Burton to Counsel to the President Beth Nolan and Attorney General Janet Reno (July 12, 2000).

[262] Letter from Counsel to the President Beth Nolan to Representative Dan Burton (Aug. 7, 2000) (attached as exhibit 20). Ms. Nolan also pointed out that, in addition to testifying twice before the committee, she has provided the committee with several updates on the reconstruction project and records management issues. *Id.*

[263] Testimony of Beth Nolan, March 30 hearing at 25.

[264] *See* letter from Counsel to the President Beth Nolan to Representative Dan Burton (Sept. 26, 2000).

terms.[265] The White House repeated the offer on October 4.[266] To date, however, the majority has failed to take the White House up on its offer. This might suggest that the majority is more interested in speculating about the "missing" e-mails—and accusing the White House of delay—than in actually reviewing the e-mails.

2. Allegation That the White House Has Impeded the Committee's Investigation

The majority asserts that "the White House Counsel's Office has used a number of questionable tactics that appear to have no purpose other than to impede the investigation."[267] However, the majority cites scant evidence to support this assertion. For example, the majority states:

> the original White House production in the e-mail matter was sent in the evening, two days before the Committee's first scheduled hearing of March 23, 2000. This forced an expedited review of 3,396 pages of documents in less than 36 hours. By placing the Committee in this difficult position, the White House made the hearing process less efficient.[268]

In fact, the majority has only itself to blame for its "difficult position." The problem encountered by the majority was caused by the fact that the majority scheduled a hearing before the committee had received key documentation.

The majority also accuses the White House of employing a "delaying tactic" by asserting privilege over certain documents.[269] This accusation concerns an April 28, 2000, letter from White House counsel to the majority in which the White House counsel enclosed a "draft log" describing several documents "subject to privilege."[270] The majority concedes, however, that 1 day after receiving a written objection from Mr. Burton, the White House decided not to pursue privilege discussions and agreed to provide the documents to the committee.[271] Given that this whole process took all of 2 business days, it is unclear how much advantage this alleged "delay" could have given the White House.[272]

Another trivial accusation is the majority's complaint that White House counsel did not initially produce copies of the Lewinsky-related e-mails located by Mr. Haas. In fact, after receiving a letter

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[265] *Id.* The White House further noted that with about 2 weeks of computer staff time, it would be able to conduct targeted searches using 50 backup tapes, 35 e-mail accounts, and 35 search terms. *Id.*

[266] Letter from Associate Counsel to the President Lisa Klem to Chief Counsel James C. Wilson (Oct. 4, 2000).

[267] Majority report at 107.

[268] *Id.* at 107.

[269] *Id.* at 110.

[270] Letter from Associate Counsel to the President Dimitri J. Nionakis to Chief Counsel James Wilson (Apr. 28, 2000). White House counsel testified that the log was provided as an invitation to discuss seven documents that White House counsel believed concerned areas relating to "the internal deliberations of the executive branch," and that "that is exactly the kind of thing that calls for a discussion between the committee and the relevant executive agency." Testimony of Beth Nolan, May 4 hearing at 228–29.

[271] Majority report at 111.

[272] According to the majority, "the White House so quickly abandoned its privilege claims because the claims were without merit and could only have been intended to drag out the investigation." *Id.* at 111. The majority overlooks the more plausible assumption that the White House dropped its claim in order to accommodate the committee, and to avoid providing the majority with another pretext to complain of "delaying tactics."

from Mr. Burton, the White House provided these documents. Once again, the majority construes a minor disagreement over document production as evidence of dilatory tactics—even when the White House immediately acceded to the majority's demands.[273]

The majority also makes another spurious allegation:

> Because of the Committee's persistence regarding responsive OVP documents, the White House eventually made a startling admission about the OVP server. On June 7, 2000, Steven Reich sent a letter accompanying a large production of documents related to the OVP e-mail problems. He wrote, "your May 16, 2000, letter regarding non-records managed e-mail has led us to discover that a technical configuration error apparently prevented e-mail on the OVP server from being backed-up from the end of March 1998 through early April 1999." *In other words, if the Committee had not followed-up on the OVP problems . . . the White House most likely would never have disclosed the existence of another serious flaw in its records management process.*[274]

This allegation distorts the role of White House counsel. As Mr. Reich's letter clearly stated, White House counsel only discovered the backup problem with the OVP server in the course of responding to the committee's request. The implication that White House counsel were aware of the problem all along, and only disclosed it when they were forced to do so, is wholly unsubstantiated.

3. Allegation That OA Briefing Materials Are Evidence of a Conspiracy to Hide the Mail2 Problem from Congress

A reference to the Mail2 problem was removed from draft materials prepared to brief Mr. Lindsay prior to his testimony before congressional appropriators. The majority has suggested this deletion reflected a deliberate attempt to prevent Congress from finding out about the problem.[275] In fact, the deletion had an innocent explanation. OA Director Michael Lyle explained that the briefing materials were internal documents prepared for Mr. Lindsay's testimony regarding appropriation matters, and that the reference to Mail2 was removed because "funds were not being sought for the e-Mail2 reconstruction project in this appropriation."[276]

4. Allegation That Sidney Blumenthal Tried to Prevent His E-mails From Being Archived

A May 3 Washington Times article stated that a White House memo shows that "White House aide Sidney Blumenthal, who figured prominently in the Monica Lewinsky investigation, asked last

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[273] The majority states that White House counsel claimed that the Lewinsky e-mails "were unrelated to the Mail2 error and therefore were not relevant to the Committee's inquiry." *Id.* at 111. In fact, Ms. Nolan testified that she took the view that the Lewinsky e-mails were not covered by the committee's pre-existing subpoena. Testimony of Beth Nolan, May 4 hearing at 253. Ms. Nolan further pointed out her view was evidently shared by Representative Burton, who had told Ms. Nolan during her previous appearance before the committee that he intended to issue a separate subpoena for the zip disk containing the Lewinsky e-mails. *Id.*; *see* statement of Representative Dan Burton, March 30 hearing at 82 (stating that "I think we'll issue a subpoena for both the original zip disk and the one that was remade off of [Mr. Haas's] hard drive").

[274] Majority report at 110 (emphasis added).

[275] *Id.* at 89.

[276] Testimony of Michael Lyle, May 3 hearing at 130–33.

year to have his personal e-mail messages removed from the White House's automated-records management system—meaning they couldn't be retrieved."[277]

However, according to testimony by OA's director, Michael Lyle, the memo regarding the Blumenthal e-mail concerned a single e-mail to Mr. Blumenthal that had duplicated itself to the point where it crashed Mr. Blumenthal's computer.[278] Mr. Lyle said the Office of Administration decided to delete the duplicates, while keeping the original.[279] There is no evidence to contradict Mr. Lyle's testimony or to suggest that there was an attempt to prevent Mr. Blumenthal's e-mails from being records-managed.

IV. Allegations Concerning the Office of the Vice President

A. Allegation That the OVP Deliberately Attempted to Circumvent Subpoena Compliance

The majority report alleges that "the Vice President's Office took affirmative steps to keep from storing its e-mail records in the only system that would permit full and accurate subpoena compliance."[280] According to the majority, a counsel to the Vice President "personally decided that the Vice President would not store his records in a way that would permit compliance with document requests" and there "can be little doubt that the Vice President's advisors knew that their actions would permit his office to operate in a manner that would make it less susceptible to oversight."[281]

This allegation is wholly without merit. The committee's investigation revealed that in 1994, the Office of the Vice President opted not to archive its e-mails electronically via ARMS.[282] Instead, in order to preserve Vice Presidential records in compliance with the Presidential Records Act, and consistent with previous practice, OVP personnel were instructed to print out and save work-related e-mails. In addition, the OVP system was regularly backed up and the backup tapes were saved.[283]

There is no evidence whatsoever that this decision was intended, or could have been intended, to hamper subpoena compliance. At the time, ARMS was intended solely as a means of archiving electronic records for posterity in compliance with the Federal Records Act—not as a tool for subpoena compliance.[284] There is no evidence that anyone had even considered the possibility of using ARMS to search for responsive documents. Indeed, former Counsel to the Vice President Todd Campbell, now a Federal judge, informed the committee that the OVP received only a few subpoenas during his

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[277] "Blumenthal Wanted His E-mail Erased from White House," Washington Times (May 3, 2000).

[278] Testimony of Michael Lyle, May 3 hearing at 81.

[279] *Id.* at 82.

[280] Majority report at viii.

[281] *Id.* at xviii.

[282] Instead, the OVP maintained its own computer system, serviced by a contractor rather than by OA. Statement of Counsel to the President Beth Nolan (Mar. 23, 2000).

[283] Former Counsel to the Vice President Todd Campbell described this system as a "belts and suspenders" records management policy, with the backup tapes in place in the event of any technical or other problem arising. Interview of Hon. Todd Campbell by majority and minority staff, House Committee on Government Reform (Aug. 18, 2000).

[284] Testimony of Beth Nolan, March 30 hearing at 85 (stating that "ARMS was set up in order for the executive office of the President to comply with the Federal Records Act").

tenure there, which lasted through the 1994 election.[285] Judge Campbell also indicated that he made the decision not to use ARMS to archive Vice Presidential records; that his decision was not intended to prevent OVP e-mails from being saved on a searchable database; and that he had no memory of ARMS even being a searchable database.[286]

Judge Campbell explained that he made his decision after consulting with Michael Gill, who handled information technology matters in the OVP from 1993 through the fall of 1996, and Kimiki Gibson, then the Associate Counsel to the Vice President.[287] Judge Campbell believed that his decision was legal and appropriate, and there is no evidence that would indicate his belief was mistaken. As explained above, ARMS was created in order to comply with the *Armstrong* decision, which held that existing EOP guidelines for managing e-mail were not in compliance with FRA recordkeeping requirements. Since records created by the OVP are governed by the PRA, not the FRA, the OVP was under no requirement to rely on ARMS for its records management.[288] Moreover, the OVP's decision to rely on saving paper copies of e-mails instead of using ARMS to archive e-mails was fully in keeping with both the letter and the spirit of *Armstrong*.[289]

The majority asserts that it is "difficult to understand why the OVP chose not to use the White House's ARMS system."[290] In fact, Judge Campbell told the committee that the OVP had technical concerns about connecting to ARMS.[291] According to Mr. Gill, in order for the OVP to connect to ARMS, it would have had to take a giant technological step backwards by converting its e-mail system from the Windows-based "Lotus cc:Mail" to the character-based "All-in-One," which Mr. Gill considered to be less user-friendly.[292]

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[285] Interview of Hon. Todd Campbell by majority and minority staff, House Committee on Government Reform (Aug. 18, 2000).

[286] *Id.* The majority notes that Judge Campbell told staff that he did not direct that the backup tapes be searched in response to subpoenas but claims that "[h]e could not offer any explanation as to why not." Majority report at 76. In fact, Judge Campbell stated in his interview that the subpoenas received when he was at the White House were so remote from matters handled by the OVP that there was no need to take this step. Interview of Hon. Todd Campbell by majority and minority staff, House Committee on Government Reform (Aug. 18, 2000).

[287] Interview of Hon. Todd Campbell by majority and minority staff, House Committee on Government Reform (Aug. 18, 2000).

[288] The *Armstrong* decision explicitly applied only to Federal records, and the court made it clear that the President has great discretion in implementing the PRA. The PRA "accords the President virtually complete control over his records during his term of office." 1 F.3d at 1291 (citation omitted). The *Armstrong* decision also made clear that judicial review of the PRA is limited: "the courts may review guidelines outlining what is, and what is not, a 'presidential record' to ensure that materials that are not subject to the PRA are not treated as presidential records" but "the PRA impliedly precludes judicial review of the President's decisions concerning the creation, management, and disposal of presidential records during his term of office." 1 F.3d at 1294 (citation omitted).

[289] The *Armstrong* decision did *not* hold that printing and saving paper copies of e-mails was inherently incompatible with records management responsibilities. Rather, the *Armstrong* decision noted that "important information present in the e-mail system, such as who sent a document, who received it, and when that person received it, will not always appear on the computer screen and so will not be preserved on the paper print-out." 1 F.3d at 1284. *Armstrong* did not hold that the only acceptable way to manage electronic records was via an electronic archiving system, but rather that retaining "amputated paper print-outs"—lacking data contained in the original e-mail—was not sufficient for purposes of the FRA. 1 F.3d at 1285. Since the OVP's paper print-outs apparently contained full data about the sender and recipients, the OVP's records management regime was in compliance with the spirit of *Armstrong*.

[290] Majority report at 76.

[291] Interview of Hon. Todd Campbell by majority and minority staff, House Committee on Government Reform (Aug. 18, 2000).

[292] Interview of Michael Gill by majority and minority staff, House Committee on Government Reform (July 24, 2000).

The majority further asserts that the "decision by the Vice President's office to have his [sic] e-mails managed separately from the rest of the White House meant that the Vice President's office could not effectively comply with subpoenas."[293] This assertion is simply wrong. The notion that the White House, or any other entity, cannot "effectively comply with subpoenas" unless it has a word-searchable electronic archive that preserves its e-mails has no basis in law. If the majority's assertion were true, there would be few, if any, corporations, citizens, or governmental entities capable of complying with subpoenas "effectively."[294] As any lawyer with rudimentary litigation experience can attest, compliance with subpoenas requires a reasonable, good faith effort to locate responsive documents—no more and no less.[295]

B. ALLEGATION THAT THE RECONSTRUCTED OVP E-MAILS CONTAIN SIGNIFICANT INFORMATION

To date, between 180,000 and 200,000 e-mails have been reconstructed and reviewed, and any responsive e-mails have been produced to the Office of Independent Counsel Robert Ray or the Justice Department's campaign finance task force. Only 56 of the e-mails produced to the independent counsel or the task force were responsive to this committee's subpoenas, and several of those had already been produced in similar form (e.g., with a different recipient or sender). The majority has alleged that the e-mails contain damaging new information. According to the majority report, the e-mails produced by the White House "are highly relevant to the Committee's investigation of campaign finance matters," and the information in these e-mails is "important for evaluating whether the Vice President committed perjury" and "shows that it is impossible to come to a final conclusion about underlying campaign finance matters without a complete review of all the previously withheld information."[296]

In fact, none of the 56 reconstructed e-mails provided to the committee contains significant new evidence.

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[293] Majority report at xvii.

[294] *See, e.g.,* statement of Counsel to the President Beth Nolan (Mar. 23, 2000) ("archiving e-mail records is a relatively novel concept. I am told that the ARMS system had to be custom built because at that time no appropriate system was commercially available. As far as we are aware, no other government entity—including Congress—maintains a similar on-line archival system"). *See also* "With White House E-Mail, It's Click Now, Repent Later," Christian Science Monitor (Apr. 7, 2000) (noting that "[i]ronically, the office of Rep. Dan Burton (R) of Indiana, who last week grilled White House counsel about the missing e-mails, stores its electronic messages for a mere week, then overrides them with new work") (attached as exhibit 21). The majority's assertion that "the difficulty in searching backup tapes was one of the fundamental reasons for the creation of ARMS" is equally specious. Majority report at 20. The only evidence the majority cites in support of this proposition is a statement by Mr. Haas, a Northrop Grumman contract engineer who evidently took no part in the legal and policy discussions that led to ARMS's creation. Mr. Haas's assertion is inconsistent with the interviews conducted and documents received by the committee, which uniformly indicate that the sole impetus for the creation of ARMS was the *Armstrong* decision. *See, e.g.,* testimony of Beth Nolan, March 30 hearing at 85 (stating that "ARMS was set up in order for the executive office of the President to comply with the Federal Records Act"); interview of Daniel A. Barry by majority and minority staff, House Committee on Government Reform (Mar. 9, 2000).

[295] *See, e.g., U.S.* v. *Ryan,* 402 U.S. 530, 534 (1971) (subpoena duces tecum "placed respondent under a duty to make in good faith all reasonable efforts to comply with it"); *Food Lion* v. *United Food and Commercial Workers International Union,* 103 F.3d 1007, 1017 (D.C. Cir. 1997) (noting that "[s]everal courts have held that a party charged with contempt may assert a defense of good faith substantial compliance").

[296] Majority report at viii, x.

The majority cites as significant new information one e-mail between two Vice Presidential staffers that refers to "FR coffees" at the White House, which the majority asserts is evidence that the coffees were used for fundraising purposes.[297] It is not clear, however, whether the term "FR" refers to "fundraising" or "finance-related." Moreover, even if the term "FR" is construed to refer to fundraising, the e-mail does not add new evidence. Other internal communications in the Vice President's Office have described these coffees as "fundraising" events.[298] Indeed, the Vice President has repeatedly said that he knew attendees at White House coffees would likely be solicited for contributions later on.[299]

Another e-mail relied upon by the majority is an e-mail from a scheduler that refers to a fundraising event in Los Angeles and lists an event at the Hsi Lai Buddhist Temple.[300] But this e-mail is a draft schedule and it is incomplete and inaccurate in several places.[301] It adds little to what is already known about the Hsi Lai Temple event. Internal communications in which the Vice President's staff apparently used the term "fundraiser" to describe the Hsi Lai Temple event were produced and investigated long ago.[302] Three years ago, the Senate Governmental Affairs Committee talked with the Vice President's scheduling staff about such internal communications, and thoroughly explored whether staff viewed the event as a fundraiser and how the Vice President was briefed about the event.[303] The newly reconstructed e-mails received by the committee contain no e-mails either to or from the Vice President regarding the Temple event.

C. ALLEGATION THAT VICE PRESIDENT GORE SOUGHT TO HIDE E-MAILS FROM INVESTIGATORS

Mr. Burton recently alleged:

> the Vice President wanted the backup tapes on many of his e-mails not kept. He didn't want there to be backup tapes because they said the only way—in one of the

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[297] E-mail from Karen Skelton to Ellen L. Ochs (Apr. 23, 1996) (E 8862) (discussed in majority report at x).

[298] *See, e.g.,* Senate Committee on Governmental Affairs, "Investigation of Illegal or Improper Activities in Connection with 1996 Federal Election Campaigns," 105th Cong., 2d sess., vol. 1, 196 (March 1998) (stating that "[a] number of White House and DNC documents underline the importance of the coffees as fundraising events").

[299] The Vice President told investigators that the coffees "allowed the President to spend time with influential people who wanted to talk about policy, who would at some later time possibly be asked to financially support the DNC." He further stated that "[i]t was contemplated at the time when they were set up that some or many of those who participated in those sessions would later on be likely to contribute." Interview of Vice President Gore with Robert J. Conrad, Jr., Head of the Department of Justice Campaign Financing Task Force (Apr. 18, 2000).

[300] E-mail from Jackie A. Dycke to R. Martinez (Apr. 9, 1996) (E 8747–54) (discussed in majority report at x).

[301] For example, the document indicates that the Vice President will attend a DNC Reception at the Hsi Lai Temple both in Los Angeles and San Jose. *Id.*

[302] E.g., document labeled "Current Schedule for April 29" (EOP 056497) (referring to a "DNC luncheon in LA/Hacienda Heights"); e-mail from Jackie A. Dycke to R. Martinez (Apr. 10, 1996) (EOP 053292) (noting that "the VP is going to San Jose and LA for DNC fundraising events on April 29").

[303] Senate Committee on Governmental Affairs, "Investigation of Illegal or Improper Activities in Connection with 1996 Federal Election Campaigns," 105th Cong., 2d sess., vol. 2, 1793–94, vol. 4, 4818–31 (March 1998). Staff testified that they were sloppy in their use of the term "fundraiser." But the key scheduler responsible for the Hsi Lai Temple event in the Vice President's Office testified that she viewed the event as a community outreach event, not a fundraiser, and the staff person who briefed the Vice President on the event testified that he informed the Vice President that the event was a community outreach event. *Id.* at 4822–26.

> memos, they says [sic] the only way that we can keep from having backup tapes is to use the Clinton-Gore email system. And so there was a deliberate attempt to try to keep these e-mails from being backed up on the tapes.[304]

This allegation is wholly without merit. Mr. Burton appears to be referring to an e-mail sent to the Vice President which stated that "[a]ll internet e-mails are recorded on the White House computers. According to Michael, the only way not to have your e-mails backed up on government computers would be to get a Clinton/Gore computer in your office and set it up for private e-mails."[305] The White House has informed the committee that, as best it can determine, the Vice President did not have a Clinton/Gore '96 computer or e-mail account in the White House.[306] Nor is there anything inappropriate about the suggestion that "private e-mails" should not be archived. Since the PRA requires only that official Vice Presidential records be saved, it would be legal and appropriate not to archive private, personal, or campaign e-mails.

D. ALLEGATION THAT THE VICE PRESIDENT WAS AWARE OF RECORDS MANAGEMENT PROBLEMS IN THE OVP

The Vice President has informed investigators that he did not know about the failure of the White House e-mail system to store or archive e-mail messages from 1998 to 1999.[307] According to the majority, "The Vice President's claim to be ignorant of his Office's records management problems is not credible."[308]

The only support that the majority can cite for this assertion, however, is the fact that the Vice President "is extremely computer savvy and highly involved in issues related to information systems both generally and within his office."[309] Such speculation is flimsy and provides no reasonable basis for questioning the Vice President's credibility.

There is also no evidence to suggest that the Vice President was aware of the decision not to use ARMS. To the contrary, Judge Campbell told committee staff that he did not inform the Vice President in 1994 about his decision not to connect to ARMS and that he would be surprised if anyone else did.[310] Furthermore, the Vice President's Chief of Staff, Charles Burson, told the committee that he thought, on the basis of meetings he had had with White House counsel, that OVP e-mails were being electronically archived on the same system as the rest of the White House.[311]

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[304] "The Edge with Paula Zahn," Fox News (Sept. 27, 2000).

[305] E-mail from Joel Velasco to Vice President Gore (Feb. 22, 1998) (E 8701).

[306] Ms. Nolan informed the committee that such computers were set up in the EOP as "[u]nder federal law, equipment in the White House that is dedicated for political purposes must be paid for by the appropriate political committee, not with official funds." Letter from Counsel to the President Beth Nolan to Representative Dan Burton (Sept. 26, 2000). However, Ms. Nolan stated that "[a]s best we can determine, the Vice President did not have a Clinton/Gore '96 computer or Clinton/Gore '96 e-mail account in the White House." *Id.*

[307] Interview of Vice President Gore with Robert J. Conrad, Jr., Head of the Department of Justice Campaign Financing Task Force (Apr. 18, 2000). *See also* "The Edge with Paula Zahn," Fox News (June 14, 2000).

[308] Majority report at 73.

[309] *Id.*

[310] Interview of Hon. Todd Campbell by majority and minority staff, House Committee on Government Reform (Aug. 18, 2000).

[311] Interview of Charles Burson by majority and minority staff, House Committee on Government Reform (Aug. 3, 2000). Mr. Burson joined the OVP as counsel in February 1997, long after the decision about connecting to ARMS had been made.

In fact, the committee has documentary evidence that Vice President Gore was told that his e-mails were being automatically archived. The committee received a copy of an e-mail to Vice President Gore, discussed above, which stated that "[a]ll internet e-mails are recorded on the White House computers. According to Michael, the only way not to have your e-mails backed up on government computers would be to get a Clinton/Gore computer in your office and set it up for private e-mails."[312]

While technical personnel in OA were apparently aware that the OVP was not connected to ARMS, it does not appear that they communicated this information to anyone in the White House. To the contrary, White House counsel repeatedly received written communications indicating that OVP e-mails were being archived on ARMS. The committee received dozens of e-mails between Tony Barry, OA's ARMS expert, and persons in the White House counsel's office which indicate that Mr. Barry told White House counsel that he was searching ARMS for OVP records.[313] Although Mr. Barry was presumably aware that OVP e-mails were not being systematically captured, he apparently placed OVP e-mails which arrived in ARMS through various secondary means into a "bucket," which he would search in response to requests to look for OVP records.[314]

V. The Costs of the Investigation and the Reconstruction Effort

As of September 29, 2000, the White House has committed, obligated, or expended approximately $6.9 million on reconstructing the "missing" e-mails.[315] 39,157 hours of work have been spent on this mammoth project—34,822 hours by contract employees, 3,795 hours by employees of the Executive Office of the President, and 540 hours by security personnel. Overall, the cost of the project has been estimated at $11.7 million.[316]

The committee has also expended considerable taxpayer dollars on its own investigation. The committee's investigation has included 5 days of hearings and 36 interviews of witnesses, many of them Federal Government employees. It also required the production of over 10,000 pages of documents, the majority of which were produced by the White House.

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[312] E-mail from Joel Velasco to Vice President Gore (Feb. 22, 1998) (E 8701).

[313] Mr. Barry explained to the committee that after he receives requests to perform an ARMS search, he responds by e-mail to confirm the details of the search (i.e., the search definition, an estimate of the cost and time that the search will take, and the search schedule). Interview of Daniel A. Barry by majority and minority staff, House Committee on Government Reform (Mar. 9, 2000). Many of these e-mails from Mr. Barry to members of the Office of White House Counsel were produced to the committee and refer explicitly to Mr. Barry conducting searches of OVP records. *See, e.g.,* e-mail from Daniel A. Barry to Michael Imbroscio (Sept. 2, 1997) (E 7845); e-mail from Daniel A. Barry to Karl Racine (July 27, 1998) (E 7830); e-mail from Daniel A. Barry to Steven Reich (Mar. 6, 2000) (E 7822). These three e-mails are attached as exhibit 22.

[314] *See* e-mail from Daniel A. Barry to Sandra Golas (July 28, 1998) (describing the processing of e-mails into ARMS and referring to distinct "buckets" for records from such EOP agencies as "WHO" (the White House Office), "VPO" (the Vice President's Office), "OPD" (the Office of Policy Development), and "CEA" (Council of Economic Advisors)) (E 7301) (attached as exhibit 23).

[315] Letter from Michael K. Bartosz, general counsel to the Office of Administration, to James C. Wilson, chief counsel (Sept. 29, 2000).

[316] *Id.*

In dollar terms, then, the majority's allegations are costing the taxpayers of this country millions of dollars.

For many, however, dollars alone fail to capture the true cost of the e-mail investigation. The investigation is part of a series of scandal investigations by this committee that unfairly smeared reputations of many dedicated public servants and drove others to leave government service. The impact of these investigations was eloquently expressed by Cheryl Mills in her testimony before the committee on May 4, 2000:

> Mr. Chairman, I left because I was tired of playing a role in dramas like today, when so many issues that mattered to me . . . were not being addressed. You have held four days of hearings, and spent countless more dollars on depositions and document productions, but yet you have not chosen to use your oversight authority to hold one day's worth of hearings about: a man who was shot dead by an undercover New York police officer while he was getting into a cab, after *refusing* to buy drugs from that officer; any of the 67 cases and counting that have been overturned because officers in Los Angeles Police Department planted guns and drugs to frame people, shot an unarmed man, and quite possibly shot another man, with no criminal record, 10 times—killing him; why African American youths charged with drug offenses are 48 times more likely than white youths to be sentenced to prison.
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> * * * * *
>
> Nothing you discover here today, will feed one person, give shelter to someone who is homeless, educate one child, provide health care for one family, or offer justice to one African American or Hispanic juvenile. You could do so much to transform our country—but instead you are compelled to use your great authority and resources to address . . . e-mails.[317]

HON. HENRY A. WAXMAN.
HON. TOM LANTOS.
HON. MAJOR R. OWENS.
HON. EDOLPHUS TOWNS.
HON. PAUL E. KANJORSKI.
HON. PATSY T. MINK.
HON. CAROLYN B. MALONEY.
HON. ELEANOR HOLMES NORTON.
HON. CHAKA FATTAH.
HON. ELIJAH E. CUMMINGS.
HON. DENNIS J. KUCINICH.
HON. ROD R. BLAGOJEVICH.
HON. DANNY K. DAVIS.
HON. JIM TURNER.
HON. HAROLD E. FORD, JR.
HON. JANICE D. SCHAKOWSKY.

[317] Testimony of Cheryl Mills, May 4 hearing (attached as exhibit 24).

[The exhibits referred to follow:]

EXHIBIT 1

UNSUBSTANTIATED ALLEGATIONS OF WRONGDOING INVOLVING THE CLINTON ADMINISTRATION

Prepared for Rep. Henry A. Waxman

Minority Staff Report
Committee on Government Reform
U.S. House of Representatives

October 2000

Over the past eight years, Chairman Dan Burton of the House Government Reform Committee and other Republican leaders have repeatedly made sensational allegations of wrongdoing by the Clinton Administration. In pursuing such allegations, Chairman Burton alone has issued over 900 subpoenas; obtained over 2 million pages of documents; and interviewed, deposed, or called to testify over 350 witnesses. The estimated cost to the taxpayer of investigating these allegations has exceeded $23 million.[1]

Chairman Burton or other Republicans have charged that Deputy White House Counsel Vince Foster was murdered as part of a coverup of the Whitewater land deal; that the White House intentionally maintained an "enemies list" of sensitive FBI files; that the IRS targeted the President's enemies for tax audits; that the White House may have been involved in "selling or giving information to the Chinese in exchange for political contributions"; that the White House "altered" videotapes of White House coffees to conceal wrongdoing; that the Clinton Administration sold burial plots in Arlington National Cemetery; that prison tape recordings showed that former Associate Attorney General Webster Hubbell was paid off for his silence; that the Attorney General intentionally misled Congress about Waco; and that problems with the White House e-mail archiving system are "the most significant obstruction of Congressional investigations in U.S. history" and "reach much further" than Watergate.

This report is not intended to suggest that President Clinton or his Administration have always acted properly. There have obviously been instances of mistakes and misconduct that deserve investigation. But frequently the Republican approach -- regardless of the facts -- has been "accuse first, investigate later." Further investigation then often shows the allegations to be unsubstantiated. In fact, FBI interviews showed that one widely publicized Republican allegation was based on nothing more than gossip at a congressional reception.

This approach has done great harm to reputations. The unsubstantiated accusations have frequently received widespread attention. For example, Chairman Burton's allegation regarding White House videotape alteration received widespread media coverage. It was reported by numerous television news programs, including *CBS Morning News,*[2] *CBS This Morning,*[3] *NBC News At Sunrise,*[4] NBC's *Today*,[5] *ABC World News Sunday*,[6] *CNN Early Prime*,[7] *CNN Morning News*,[8] CNN's *Headline News*,[9] CNN's *Early Edition*,[10] Fox's *Morning News*,[11] and *Fox News Now/Fox In Depth*.[12] In addition, newspapers across the country, including the *Washington Post*,[13] the *Las Vegas Review-Journal*,[14] the *Houston Chronicle*,[15] the *Commercial Appeal*,[16] and the *Sun-Sentinel,*[17] published stories focusing on the allegation. Two months later, when Senator Fred Thompson announced that there was no evidence that the videotapes had been doctored, there was minimal press coverage of his statement.[18]

The discussion below examines the facts – and lack thereof – underlying over 25 of the most highly publicized allegations.

Allegation: During 1994 and 1995, Chairman Burton suggested numerous times on the House floor that Deputy White House Counsel Vince Foster had been murdered and that

his murder was related to the investigation into President and Hillary Clinton's involvement in the Whitewater land deal.[19]

The Facts: Chairman Burton's allegations have been repeatedly repudiated.

On August 10, 1993, the United States Park Police announced the following conclusions of its investigation: "Our investigation has found no evidence of foul play. The information gathered from associates, relatives and friends provide us with enough evidence to conclude that . . . Mr. Foster was anxious about his work and he was distressed to the degree that he took his own life."[20] On June 30, 1994, Independent Counsel Robert Fiske issued his report stating that "[t]he overwhelming weight of the evidence compels the conclusion . . . that Vincent Foster committed suicide."[21]

More recently, on October 10, 1997, Independent Counsel Ken Starr concluded: "The available evidence points clearly to suicide as the manner of death."[22]

Allegation: In 1995 and 1996, Republicans alleged that the White House fired the employees of the White House travel office so that White House travel business would be given to Harry Thomason, a political supporter of President Clinton. The Chairman of the House Committee on Government Reform and Oversight, William F. Clinger, said he saw the First Lady's "fingerprints" on efforts to cover up and lie about the travel office firings.[23] Discussing the travel office matter, Rep. Dan Burton said, "The First Lady, according to the notes we have, has lied."[24]

The Facts: In June 2000, the Office of the Independent Counsel issued a press release announcing that its investigation into the Travel Office matter had concluded. Independent Counsel Robert Ray stated:

> This Office has now concluded its investigation into allegations relating to . . . Mrs. Clinton's statements and testimony concerning the Travel Office firings and has fully discharged [her] from criminal liability for matters within this Office's jurisdiction in the Travel Office matter.[25]

Allegation: In June 1996, Chairman Burton alleged that the White House had improperly obtained FBI files of prominent Republicans and that these files "were going to be used for dirty political tricks in the future."[26] Committee Republicans also released a report suggesting that the files were being used by the Clinton Administration to compile a "hit list" or an "enemies list."[27]

The Facts: These allegations have been thoroughly investigated by the Office of the Independent Counsel and repudiated. The Independent Counsel had been charged with examining whether Anthony Marceca, a former White House detailee who had requested the FBI background files at issue, senior White House officials, or Mrs. Clinton had engaged in illegal conduct relating to these files.

According to the report issued by Independent Counsel Ray in March 2000, "neither Anthony Marceca nor any senior White House official, or First Lady Hillary Rodham Clinton, engaged in criminal conduct to obtain through fraudulent means derogatory information about former White House staff." The Independent Counsel also concluded that "Mr. Marceca's alleged criminal conduct did not reflect a conspiracy within the White House," and stated Mr. Marceca was truthful when he testified that "[n]o senior White House official, or Mrs. Clinton, was involved in requesting FBI background reports for improper partisan advantage."[28]

Allegation: Beginning in 1996, Chairman Burton and other Republican leaders suggested that there was a conspiracy between the Chinese government and the Clinton Administration to violate federal campaign finance laws and improperly influence the outcome of the 1996 presidential election. In a February 1997 interview on national television, Chairman Burton stated:

> **If the White House or anybody connected with the White House was selling or giving information to the Chinese in exchange for political contributions, then we have to look into it because that's a felony, and you're selling this country's security – economic security or whatever to a communist power.[29]**

Further, on the House floor in June 1997, Chairman Burton alleged a "massive" Chinese conspiracy:

> **We are investigating a possible massive scheme . . . of funneling millions of dollars of foreign money into the U.S. electoral system. We are investigating allegations that the Chinese government at the highest levels decided to infiltrate our political system.[30]**

The Facts: The House Government Reform Committee to date has spent four years and over $8 million investigating these allegations. No evidence provided to the Committee substantiates the claim that the Administration was "selling or giving information to the Chinese in exchange for political contributions."

The FBI obtained some evidence that China had a plan to try to influence congressional elections.[31] However, no evidence was provided to the Committee that the Chinese government carried out a "massive scheme" to influence the election of President Clinton.

Allegation: In June 1997, Rep. Gerald Solomon, the Chairman of the House Rules Committee, claimed that he had "evidence" from a government source that John Huang, the former Commerce Department official and Democratic National Committee fundraiser, had "committed economic espionage and breached our national security." This allegation was reported on national television and in many newspapers across the country.[32]

The Facts: In August 1997, and again in February 1998, Rep. Solomon was interviewed by the FBI to determine the basis of Rep. Solomon's allegations. During the first interview, Rep.

Solomon told the FBI that he was told by a Senate staffer at a Capitol Hill reception that the staffer "received confirmation that 'a Department of Commerce employee had passed classified information to a foreign government.'" According to the FBI notes on the Solomon interview, the Senate staffer did not say that the employee was John Huang, nor did he say that information went to China. Rep. Solomon did not know who the staffer was.[33]

In his second interview with the FBI, Rep. Solomon recalled that what the staffer said to him was: "Congressman you might like to know that you were right there was someone at Commerce giving out information." Again in this interview, Rep. Solomon told the FBI that he did not know the name of the staffer who made this comment.[34]

Allegation: In August 1997, several Republican leaders called for an independent counsel to investigate allegations by Democratic donor Johnny Chung that former Energy Secretary Hazel O'Leary had, in effect, "shaken down" Mr. Chung by requiring him to make a donation to the charity Africare as a precondition to a meeting with her. On national television, Republican National Committee Chairman Jim Nicholson stated, "[W]e need independent investigation made of people like Hazel O'Leary."[35] Rep. Gerald Solomon, the Chairman of the House Rules Committee, criticized the Attorney General for being "intransigent" in refusing to appoint an independent counsel.[36]

The Facts: A Department of Justice investigation found "no evidence that Mrs. O'Leary had anything to do with the solicitation of the charitable donation."[37] In fact, it turned out that Secretary O'Leary's first contact with Mr. Chung occurred after Mr. Chung had made his contribution, making the allegation factually impossible.[38]

Allegation: In September 1997, Chairman Burton suggested on national television that the Clinton Administration was engaging in an "abuse of power" by using the Internal Revenue Service (IRS) to retaliate against the President's political enemies.[39] *The Washington Times* also quoted the Chairman as stating: "One case might be a coincidence. Two cases might be a coincidence. But what are the chances of this entire litany of people -- all of whom have an adversarial relationship with the President -- being audited?"[40]

The Facts: The Chairman's remarks related to allegations that the IRS was auditing conservative groups and individuals for political purposes. According to these allegations, several non-profit tax-exempt organizations that supported positions different from those of the Clinton Administration were being audited while other organizations favored by the Administration were not.[41]

The Joint Committee on Taxation conducted a three-year bipartisan investigation of these allegations. In March 2000, the Committee reported that it had found no evidence of politically motivated IRS audits.[42] Specifically, the bipartisan report found there was "no credible evidence that tax-exempt organizations were selected for examination, or that the IRS altered the manner in which examinations of tax-exempt organizations were conducted, based on the views espoused by the organizations or individuals related to the organization." Further, the report

found "no credible evidence of intervention by Clinton Administration officials (including Treasury Department and White House officials) in the selection of (or the failure to select) tax-exempt organizations for examination."[43]

Allegation: In October 1997, Chairman Burton held a hearing which he claimed would produce evidence of "blatantly illegal activity by a senior national party official."[44] The star witness at that hearing, David Wang, alleged that then-DNC official John Huang had solicited a conduit contribution from him in person in Los Angeles on August 16, 1996.[45]

The Facts: It was Charlie Trie and his associate Antonio Pan, not John Huang, who solicited Mr. Wang. Unlike Mr. Huang, Mr. Trie and Mr. Pan were never "senior officials" at the DNC. Credit card records, affidavits, and other evidence conclusively demonstrated that Mr. Huang had been in New York, not Los Angeles, on the day in question.[46] Mr. Huang later testified before the Committee and denied Mr. Wang's allegations.[47] On March 1, 2000, Democratic fundraiser Charlie Trie appeared before the Committee and acknowledged that it had been he and Mr. Pan, not Mr. Huang, who had solicited the conduit contribution.[48]

Allegation: At an October 1997 hearing before the House Committee on Government Reform and Oversight, Chairman Burton publicly released a proffer from Democratic fundraisers Gene and Nora Lum. Chairman Burton stated that the proffer indicated that "the solicitation and utilization of foreign money and conduit payments did not begin after the Republicans won control of the Congress in 1994. Rather, it appears that the seeds of today's scandals may have been planted as early as 1991."[49] Specifically, the proffer suggested that President Clinton endorsed the candidacy of a foreign leader in exchange for campaign contributions.[50] This allegation was reported in the *Washington Post* in an article entitled "Story of a Foreign Donor's Deal With '92 Clinton Camp Outlined," and in other national media.[51]

The Facts: To investigate this allegation and other allegations concerning the Lums, Chairman Burton issued nearly 200 information requests that resulted in the receipt of over 40,000 pages of documents, 50 audiotapes, a videotape, and numerous depositions. After this extensive investigation, however, the Chairman was never able to produce any evidence to support the dramatic allegation in the proffer.

The proffer presented by Chairman Burton states that, during the 1992 campaign, the Lums arranged a meeting with a Clinton/Gore official for an individual who had proposed to arrange a "large donation in exchange for a letter signed by the Clinton campaign endorsing the candidacy of a man who is now the leader of an Asian nation." The proffer states that the official "later provided a favorable letter over the name of Clinton," that a "Clinton/Gore official signed then Governor Clinton's name to the letter," and that the individual who made the request for the letter then made a $50,000 contribution that reportedly came from "a foreign person then residing in the United States."[52]

In its investigation, the only letter the Committee obtained that concerned then-Governor Clinton's position on an election in Asia is an October 28, 1992, letter on Clinton/Gore letterhead that pertains to the presidential election in Korea. This document specifically states that then-Governor Clinton does not believe it is appropriate for U.S. public officials to endorse the candidacies in foreign elections. The letter states:

> Thank you for bringing to my attention the impact in Korea that my statement of September 17th has caused. I would appreciate your help in clarifying the situation in Korea through proper channels. My statement was a courtesy reply in response to an invitation to me to attend an event in honor of Chairman Kim Dae-Jung, and to extend to him my greetings. It was not meant to endorse or assist his candidacy in the upcoming presidential election in Korea. I do not believe that any United States government official should endorse a presidential candidate in another country.[53]

Allegation: On October 19, 1997, Chairman Burton appeared on national television and suggested that the White House had deliberately altered videotapes of presidential fund-raising events. On CBS's *Face the Nation*, he said "We think ma--maybe some of those tapes may have been cut off intentionally, they've been--been, you know, altered in some way." He also said that he might hire lip-readers to examine the tapes to figure out what was being said on the tapes.[54]

The Facts: Investigations by the House Government Reform and Oversight Committee and the Senate Governmental Affairs Committee produced no evidence of any tampering with the tapes. Shortly after Chairman Burton made his allegation regarding tape alteration, the Senate Governmental Affairs Committee hired a technical expert, Paul Ginsburg, to analyze the videotapes to determine whether they had been doctored. Mr. Ginsburg concluded that there was no evidence of tampering.[55] In addition, Colonel Joseph Simmons, commander of the White House Communications Agency (WHCA), Colonel Alan Sullivan, head of the White House Military Office which oversees WHCA, and Steven Smith, chief of operations of WHCA, all testified under oath before the House Government Reform and Oversight Committee in October 1997 that they were unaware of any alteration of the videotapes.[56]

Allegation: In November 1997, Republican leaders drew on unsubstantiated reports by conservative radio talk shows and publications to accuse the Clinton Administration of selling burial plots in Arlington National Cemetery for campaign contributions.[57] Republican Party Chairman Jim Nicholson accused the Administration of a "despicable political scheme," and several Republican leaders, including Chairman Burton, called for investigations.[58] Representative Gerald Solomon stated, "[t]his latest outrage is one more slap in the face of every American who ever wore the uniform of their country, who seem to be special objects of contempt in this administration."[59]

The Facts: The Army has established restrictive eligibility requirements for burial at Arlington. Individuals who are eligible for Arlington National Cemetery burial sites include service members who died while on active duty, honorably discharged members of the armed forces who

have been awarded certain high military distinctions, and surviving spouses of individuals already buried at Arlington, among others. The Secretary of the Army may grant waivers of these requirements.[60]

In January 1998, the General Accounting Office (GAO) concluded an independent investigation of the allegations that waivers were granted in exchange for political contributions. As part of this investigation, GAO analyzed the laws and regulations concerning burials at Arlington, conducted in-depth review of Department of Army case files regarding approved and denied waivers, and had discussions with officials responsible for waiver decisions.[61]

GAO's report stated: "[W]e found no evidence in the records we reviewed to support recent media reports that political contributions have played a role in waiver decisions." Further, GAO stated: "Where the records show some involvement or interest in a particular case on the part of the President, executive branch officials, or Members of Congress or their staffs, the documents indicate only such factors as a desire to help a constituent or a conviction that the merits of the person being considered warranted a waiver."[62]

Allegation: In January 1998, Chairman Burton held four days of hearings into whether campaign contributions influenced the actions of Secretary of the Interior Bruce Babbitt or other Department of the Interior officials with respect to a decision to deny an Indian gambling application in Hudson, Wisconsin. During those hearings, Chairman Burton alleged that the decision was a "political payoff" and that it "stinks" and "smells."[63]

The Facts: On August 22, 2000, Independent Counsel Carol Elder Bruce released the report of her investigation into the Hudson casino decision. She found that the allegations of political payoff were unsubstantiated, concluding:

> A full review of the evidence . . . indicates that neither Babbitt nor any government official at Interior or the White House entered into any sort of specific and corrupt agreement to influence the outcome of the Hudson casino application in return for campaign contributions to the DNC.[64]

Allegation: In April 1998, Chairman Burton suggested that President Clinton had created a national monument in Utah in order to benefit the Lippo Group, an Indonesian conglomerate with coal interests in Indonesia.[65] James Riady, an executive of the Lippo Group, was a contributor to the DNC. In June 1998, in a statement on the House floor, Chairman Burton reiterated his allegation: "[T]he President made the Utah Monument a national park. What is the significance of that? The largest clean-burning coal facility in the United States, billions and billions of dollars of clean-burning coal are in the Utah Monument. It could have been mined environmentally safely according to U.S. engineers. Who would benefit from turning that into a national park so you cannot mine there? The Riady group, the Lippo Group, and Indonesia has the largest clean-burning coal facility, mining facility, in southeast Asia. They were one of the largest contributors. Their hands

are all over, all over these contributions coming in from Communist China, from Macao and from Indonesia. Could there be a connection here?"[66]

The Facts: In September 1996, President Clinton set aside as a national monument 1.7 million acres of coal-rich land in Utah under a 1906 law that allows the president to designate national monuments without congressional approval.[67] After two years of investigation, the Committee produced no evidence that there is any connection between the designation of this land as a monument and Riady group or any other contributions.[68]

Allegation: In April 1998, Chairman Burton released transcripts of selected portions of Webster Hubbell's prison telephone conversations. According to these transcripts, if Mr. Hubbell had filed a lawsuit against his former law firm, it would have "opened up" the First Lady to allegations, and for this reason Mr. Hubbell had decided to "roll over" to protect the First Lady. These transcripts included a quote of Mrs. Hubbell saying, "And that you are opening Hillary up to all of this," and Mr. Hubbell responding, "I will not raise those allegations that might open it up to Hillary" and "So, I need to roll over one more time." These quotes were taken from a two-hour March 25, 1996, conversation between the Hubbells.[69]

The Facts: Webster Hubbell was Assistant Attorney General until March 1994. Prior to that, he was a partner with Hillary Clinton at the Rose Law Firm in Little Rock, Arkansas. In December 1994, Mr. Hubbell pled guilty to tax evasion and mail fraud and went to prison for 16 months.

During his imprisonment, Mr. Hubbell's phone calls to his friends, family, and lawyers were routinely taped by prison authorities. Such taping is standard in federal prisons. These tapes were turned over to the Government Reform and Oversight Committee. Although the tapes are supposed to be protected by the Privacy Act, Chairman Burton released a document in April 1998 entitled the "Hubbell Master Tape Log," which contained what were purported to be excerpts from these tapes. However, it was subsequently revealed that many of these excerpts were in fact inaccurate or omitted exculpatory statements made by Mr. Hubbell that directly contradicted the allegations.[70]

For example, while the "Hubbell Master Tape Log" quoted the above portions of the March 25, 1996, conversation between Mr. and Mrs. Hubbell, it omitted a later portion of the same conversation that appears to exonerate the First Lady. The later portion of that conversation follows, with the portions that Chairman Burton omitted from the "Hubbell Master Tape Log" underlined:

> Mr. Hubbell: Now, Suzy, I say this with love for my friend Bill Kennedy, and I do love him, he's been a good friend, he's one of the most vulnerable people in my counterclaim. Ok?
>
> Mrs. Hubbell: I know.

Mr. Hubbell: Ok, Hillary's not, Hillary isn't, the only thing is people say why didn't she know what was going on. And I wish she never paid any attention to what was going on in the firm. That's the gospel truth. She just had no idea what was going on. She didn't participate in any of this.

Mrs. Hubbell: They wouldn't have let her if she tried.

Mr. Hubbell: Of course not.

The "Hubbell Master Tape Log" released by the Chairman also included an underlined passage in which Mr. Hubbell allegedly said: "The Riady is just not easy to do business with me while I'm here." In fact, the actual tape states: "The reality is it's just not easy to do business with me while I'm here."

Allegation: In April 1998, Chairman Burton sought immunity from the Committee for four witnesses: Nancy Lee, Irene Wu, Larry Wong, and Kent La. He and other Republicans leaders, including Speaker Newt Gingrich, alleged that these witnesses had important information about illegal contributions from the Chinese government during the 1996 elections.[71]

Speaker Gingrich alleged that the four witnesses would provide information on "a threat to the fabric of our political system."[72] Rep. John Boehner alleged that the witnesses had "direct knowledge about how the Chinese government made illegal campaign contributions" and stated that the decision regarding granting immunity "is about determining whether American lives have been put at risk."[73] Committee Republican Rep. Shadegg stated that one of the witnesses, Larry Wong, "is believed to have relevant information regarding the conduit for contributions made by the Lums and others in the 1992 fund-raising by John Huang and James Riady."[74]

The Facts: In June 1998, the Committee provided these witnesses with immunity. After they were immunized, their testimony revealed that none had any knowledge whatsoever about alleged Chinese efforts to influence American elections. For example, Mr. Wong's primary responsibilities in working for Democratic donor Nora Lum were to register voters and serve as a volunteer cook.[75] Following is the total testimony he provided regarding James Riady:

Majority Counsel: Did Nora ever discuss meeting James Riady?
Mr. Wong: James who?
* * *
Majority Counsel: James Riady.
Mr. Wong: No.[76]

Allegation: In May 1998, Rep. Curt Weldon suggested on the House floor that the President could have committed treason. Rep. Weldon's remarks involved allegations that the political contributions of the Chief Executive Officer of Loral Corporation, Bernard

Schwartz, had influenced the President's decision to authorize the transfer of certain technology to China. Rep. Weldon described this issue as a "scandal that is unfolding that I think will dwarf every scandal that we have seen talked about on this floor in the past 6 years," and said, "this scandal involves potential treason."[77] The *National Journal* reported this allegation in an article that referred to Rep. Weldon as "a respected senior member of the National Security Committee."[78]

The Facts: The Department of Justice examined the allegations relating to whether campaign contributions influenced export control decisions and found them to be unfounded.[79] In August 1998, Lee Radek, chief of the Department's public integrity section, wrote that "there is not a scintilla of evidence – or information – that the President was corruptly influenced by Bernard Schwartz."[80] Charles La Bella, then head of the Department's campaign finance task force, agreed with Mr. Radek's assessment that "this was a matter which likely did not merit any investigation."[81]

A House select committee investigated allegations relating to United States technology transfers to China, and whether campaign contributions influenced export control decisions. In May 1999, the Committee findings were made public. The Committee's bipartisan findings also did not substantiate Rep. Weldon's suggestions of treason by the President.[82]

Allegation: In September 1998, Rep. David McIntosh sent a criminal referral to the Department of Justice alleging that White House Deputy Counsel Cheryl Mills provided false testimony to Congress and obstructed justice.[83] He told the *Washington Post* that there was "very strong evidence" that Ms. Mills lied to Congress.[84]

The Facts: Rep. McIntosh's claims were based on a run-of-the-mill document dispute. Ms. Mills believed that two documents out of over 27,000 pages of documents produced to the Government Reform and Oversight Committee were not responsive to a request from Rep. McIntosh, while Rep. McIntosh believed the two documents were responsive. Instead of viewing this disagreement as a difference in judgment, Rep. McIntosh charged that Ms. Mills was obstructing justice and that she lied to the Committee.[85] The Justice Department investigated Rep. McIntosh's allegations and found them to be without merit.[86]

Allegation: In October 1998, Rep. David McIntosh alleged that the President, First Lady, and senior Administration officials were involved in "theft of government property" for political purposes. To support this claim, Rep. McIntosh claimed that the President's 1993 and 1994 holiday card lists had been knowingly delivered to others outside of the government, and that, with respect to the holiday card project, evidence suggested a "criminal conspiracy to circumvent the prohibition on transferring data to the DNC."[87]

The Facts: The White House database, known as "WhoDB," is a computerized rolodex used to track contacts of citizens with the White House and to create a holiday card list. In putting together the holiday card list, the Clinton Administration followed the procedures established by previous administrations. A number of entities, including the White House and the Democratic

National Committee, created lists of card recipients, and the White House hired an outside contractor to merge the lists, and produce and mail the cards. As with past Administrations, the production and mailing costs of the holiday card project were paid for by the President's political party to avoid any appearance that taxpayer funds were being used to pay for greetings to political supporters.

The evidence showed that the contractor charged with eliminating duplicate names from the 1993 holiday card list failed to remove the list from its computer. This computer was subsequently moved -- for unrelated reasons – to the 1996 Clinton/Gore campaign. The Committee uncovered no evidence that this list was ever used for campaign purposes. In fact, computer records showed that the Clinton/Gore campaign never accessed it, and it appears that the campaign was not aware that the computer contained this list.

With respect to the 1994 holiday card list, a DNC employee learned that the contractor charged with eliminating duplicate names from the list did not properly "de-dupe" the list. Therefore, she worked with her parents and several volunteers over a weekend to properly perform this task. The evidence indicates that neither the 1994 nor the 1993 holiday card list was used for any other purpose than sending out the holiday cards.[88]

Allegation: In March 1999, Chairman Burton sent a criminal referral to Department of Justice alleging that Charles Duncan, Associate Director of the Office of Presidential Personnel at the White House, made false statements to the Committee regarding the appointment of Yah Lin "Charlie" Trie to the Bingaman Commission.[89]

The Facts: Chairman Burton alleged that Mr. Duncan made false statements in his answers to Committee interrogatories in April 1998.[90] These answers included statements by Mr. Duncan that, to the best of his recollection, no one expressed opposition to him regarding the appointment of Mr. Trie to a trade commission known as the "Bingaman Commission."[91] The main basis for the Chairman's allegation was that Mr. Duncan's responses were "irreconcilable" with statements purportedly made by another witness, Steven Clemons.[92]

Investigation revealed that Mr. Clemons's statements were apparently misrepresented by Mr. Burton's staff. Mr. Clemons was interviewed by two junior majority attorneys without representation of counsel. Immediately after the majority released the majority staff's interview notes of the Clemons interview in February 1998, Mr. Clemons issued a public statement noting that he had never seen the notes, he had not been given the opportunity to review them for accuracy, and that "the notes have significant inaccuracies and misrepresentations . . . about the important matters which were discussed."[93] The Department of Justice closed its investigation of Mr. Duncan without bringing any charges.[94]

Allegation: In June 1999, Chairman Burton issued a press release accusing Defense Department officials of attempting to tamper with the computer of a Committee witness, Dr. Peter Leitner, of the Defense Threat Reduction Agency (DTRA), while he was testifying before the House Committee on Government Reform. The Chairman alleged, "While Dr.

Leitner was telling my committee about the retaliation he suffered for bringing his concerns to his superiors and Congress, his supervisor was trying to secretly access his computer. This smacks of mob tactics." He further commented, "George Orwell couldn't have dreamed this up."[95]

The Facts: Both the Committee and the Air Force Office of Special Investigations subsequently conducted investigations regarding the allegation of computer tampering. The Committee interviewed 11 DTRA employees, obtained relevant documents, and learned that the allegation was untrue. Instead, the incident was nothing more than a routine effort to obtain files in the witness's computer that were necessary to complete an already overdue project.

When Dr. Leitner was on leave to testify before the Committee on June 24, 1999, his superior, Colonel Raymond A. Willson, had reassigned a task of Dr. Leitner's to another DTRA employee. This reassignment -- responding to a letter from Senator Phil Gramm -- occurred because DTRA's internal due date for the project was passed and Dr. Leitner's draft response was not accurate. As part of reassigning the task, Col. Willson asked the office's technical division to transfer relevant files from Dr. Leitner's computer. The transfer never occurred, however, because the employee to whom the task was reassigned did not need Dr. Leitner's files to complete the task. Dr. Leitner's computer was not touched.[96]

On July 12, 1999, the Committee also learned that the Air Force Office of Special Investigations had completed its investigation and found that Col. Willson had done nothing improper.

Allegation: In July 1999 testimony before the House Rules Committee, Chairman Burton stated that the House Committee on Government Reform had received information indicating that the Attorney General "personally" changed a policy related to release of information by the Department of Justice so that an attorney she knew "could help her client."[97]

The Facts: One year after Chairman Burton testified before the Rules Committee, the House Government Reform Committee took testimony from the relevant witnesses at a July 27, 2000, hearing.

Chairman Burton's allegations concerned efforts by a Miami attorney, Rebekah Poston, to obtain information for her client, who had been sued in a Japanese court for libel by a Japanese citizen named Nobuo Abe. The alleged statements at the heart of this lawsuit related to whether Mr. Abe had been arrested or detained in Seattle in 1963. Mr. Abe maintained that he had never been detained and that statements to the contrary made by Ms. Poston's client were defamatory.[98] In order to support her client's interests in this lawsuit, Ms. Poston filed Freedom of Information Act (FOIA) requests with several components of the Department of Justice in November 1994 seeking records that established that her client's statement were true and that Mr. Abe had, in fact, been arrested or detained.

In response to Ms. Poston's FOIA requests, the INS, Bureau of Prisons, and Executive Office of the United States Attorneys informed Ms. Poston that no records on Mr. Abe existed.[99] The Department of Justice, however, initially informed Ms. Poston that it was its policy not to confirm or deny whether the Justice Department maintains such files on an individual unless the individual authorizes such a confirmation or denial.[100] After Ms. Poston appealed this decision and threatened litigation on the matter, the Justice Department reversed its decision and confirmed to her that no records on Mr. Abe existed. This decision to confirm the lack of records was legal and it was damaging to Ms. Poston's client. The Justice Department official who directed this decision testified that he believed it was appropriate because it precluded potential litigation and did not deprive anyone of privacy rights because no release of records was involved.[101]

Although the Chairman suggested that the Attorney General "personally" changed Department policy to allow release of information, the records produced to the Committee show that the Attorney General recused herself from the decision.[102] John Hogan, who was Attorney General Reno's chief of staff at the time of Ms. Poston's FOIA request, testified before the House Government Reform Committee that the Attorney General "had no role in this decision whatsoever, initially or at any stage."[103]

Allegation: In August and September 1999, Chairman Burton alleged that Attorney General Reno had intentionally withheld evidence from Congress on the use of "military rounds" of tear gas, which may have some potential to ignite a fire, during the siege of the Branch Davidian compound in Waco, TX. Specifically, on a national radio news broadcast in August 1999, he stated that Attorney General Reno "should be summarily removed, either because she's incompetent, number one, or, number two, she's blocking for the President and covering things up, which is what I believe."[104]

Further, on September 10, 1999, Chairman Burton wrote the Attorney General regarding a 49-page FBI lab report that on page 49 references the use of military tear gas at Waco. He stated that the Department had failed to produce that page to the Committee on Government Reform during the Committee's Waco investigation in 1995, and asserted that this failure "raises more questions about whether this Committee was intentionally misled during the original Waco investigation."[105] In a subsequent television interview, Chairman Burton stated, "with the 49th page of this report not given to Congress when we were having oversight investigations into the tragedy at Waco and that was the very definitive piece of paper that could have given us some information, it sure looks like they were withholding information."[106]

The Facts: Evidence regarding the use of "military rounds" of tear gas was in Chairman Burton's own files at the time he alleged that the Department of Justice had withheld this information. Within days after Chairman Burton's allegations, the minority staff found several documents provided by the Department of Justice to Congress in 1995 that explicitly describe the use of military tear gas rounds at Waco on April 19, 1993.[107]

Further, contrary to Chairman Burton's allegations, the Department of Justice in fact had

produced to the Committee copies of the FBI lab report that did include the 49th page. Former Senator John Danforth, whom the Attorney General appointed as a special counsel to conduct an independent investigation of Waco-related allegations, recently issued a report that commented as follows on document production to congressional committees:

> [W]hile one copy of the report did not contain the 49th page, the Committees were provided with at least two copies of the lab report in 1995 which did contain the 49th page. The Office of Special Counsel easily located these complete copies of the lab report at the Committees' offices when it reviewed the Committees' copy of the 1995 Department of Justice production. The Department of Justice document production to the Committees also included several other documents that referred to the use of the military tear gas rounds, including the criminal team's witness summary chart and interview notes. The Special Counsel has concluded that the missing page on one copy of the lab report provided to the Committees is attributable to an innocent photocopying error and the Office of Special Counsel will not pursue the matter further.[108]

Allegation: In November 1999, Chairman Burton appeared on television and claimed that FBI notes of interviews with John Huang show that the President was a knowing participant in an illegal foreign campaign contribution scheme. According to the Chairman, "Huang says that James Riady told the President he would raise a million dollars from foreign sources for his campaign," that "$700,000 was then raised by the Riady group in Indonesia," and that "that money was reimbursed by the Riadys through intermediaries in the United States. All that was illegal campaign contributions." He further stated: "[T]his $700,000 that came in – the President knew that James Riady was doing it. He knew it was foreign money coming in from the Lippo Group in Jakarta, Indonesia, and he didn't decline it. He accepted it, used it in his campaign, and got elected."[109]

The Facts: The FBI interview notes do not support the Chairman's allegation. The FBI notes of interviews with Mr. Huang do indicate that Mr. Riady, who was a legal resident at the time, told President Clinton that he would like to raise one million dollars.[110] The notes do not indicate, however, that Mr. Riady discussed the source of the contributions he intended to raise, and Mr. Huang told the FBI that he personally never discussed individual contributions or the sources of such contributions with the President.[111]

In December 1999, John Huang appeared before the Committee. He testified that he had no knowledge regarding whether President Clinton knew of foreign money coming from the Lippo group to his campaign, and that he did not believe that the President knew about it. He further stated that he had no knowledge that Mr. Riady indicated to the President the source of the money he intended to raise.[112] In addition, Mr. Huang testified that, as far as he knew, President Clinton had not participated in or had any knowledge of efforts to raise illegal foreign campaign contributions.[113]

Allegation: In December 1999, Chairman Burton alleged that the White House prevented White House Communications Agency (WHCA) personnel from filming the President

meeting with James Riady, a figure from the campaign finance investigation, at an Asia-Pacific Economic Cooperation (APEC) summit meeting in New Zealand in September 1999. During a December 15, 1999, hearing entitled "The Role of John Huang and the Riady Family in Political Fundraising," Chairman Burton showed the two tapes made by the WHCA personnel, and then showed a video filmed by a press camera. Of the third tape, the Chairman said:

> **That shows a little different picture. The White House tapes don't show it, but President Clinton really did pay some special attention to Mr. Riady. This White House is so consumed with covering things up that their taxpayer-funded photographer wouldn't even allow a tape to be made of the President shaking Mr. Riady's hand. No one minded the President meeting Mr. Riady. They just didn't want anyone to know how warmly he was greeted because of the problems surrounding Mr. Riady.**[114]

The Facts: President Clinton shook James Riady's hand in a rope line in New Zealand in September 1999. One of the WHCA cameras filming the President from the side stopped filming as the President greeted Mr. Riady. The other camera, filming the President head-on, panned away from the President as he moved down the rope line and did not return to him until he moved past Mr. Riady. The third camera, the camera Chairman Burton claimed was operated by a member of the press, captured the whole exchange between the President and Mr. Riady. This exchange lasted approximately 10 seconds and consisted of a handshake and a brief, inaudible conversation.

Committee staff interviewed Jon Baker, the person who operated the camera filming the President from the side, and Quinton Gipson, the person who operated the camera filming the President head-on. Mr. Baker told staff that no one instructed him not to film the President and Mr. Riady and he did not know who Mr. Riady was. Similarly, Mr. Gipson said he did not know who James Riady was and that he did not get any guidance about taping the event from anyone.

WHCA policy is to film any remarks the President gives, but not necessarily to film every move the President makes. WHCA camera operators do not take direction from the White House about how to cover events. Mr. Baker told Committee staff that he stopped filming when he did because he had to pack up his equipment and rush to join the motorcade and it was a coincidence that neither he nor the other cameraman captured the full exchange between the President and Mr. Riady.

Allegation: In July 2000, Chairman Burton said a videotape of a December 15, 1995, coffee at the White House indicates that Vice President Gore suggested that DNC issue advertisements be played for Democratic donor James Riady, who has been the subject of campaign finance probes. According to the Chairman, Vice President Gore "apparently

states: 'We oughta, we oughta, we oughta show Mr. Riady the tapes, some of the ad tapes.'"[115]

The Facts: Chairman Burton played the videotape at a July 20, 2000, hearing of the Government Reform Committee. However, it was not possible to determine what was said on the tape. Further, it was impossible to determine to whom the Vice President was speaking because he was not on camera during the alleged comment. A *Reuters* reporter describing the playing of the videotape at the hearing wrote, "Gore's muffled words were not clear."[116]

When Chairman Burton played the tape on Fox Television's program *Hannity and Colmes*, the person whose job it is to transcribe the show transcribed the tape excerpt as follows:

> We ought to -- we ought to show that to (unintelligible) here, let (unintelligible) tapes, some of the ad tapes (unintelligible).[117]

Allegation: In October 2000, the House Government Reform Committee majority released a report claiming that the Committee's investigation of White House e-mail problems had uncovered a scandal that exceeds Watergate. The majority report asserted:

> **The implications of these revelations are profound. When the Nixon White House was forced to admit that there was an eighteen-and-a-half minute gap on a recorded tape, there was a firestorm of criticism. The "gap" created by hundreds of thousands of missing e-mails, and by a Vice Presidential staff decision to manage records so they could not be searched, is of no less consequence. If senior White House personnel were aware of these problems, and if they failed to take effective measures to recover the withheld information – or inform those with outstanding document requests – then *the e-mail matter can fairly be called the most significant obstruction of Congressional investigations in U.S. history. While the White House's obstruction in Watergate related only to the Watergate break-in, the potential obstruction of justice by the Clinton White House reaches much further.*[118]**

The Facts: Several problems relating to the e-mail archiving system at the White House over the past few years prevented a subset of White House e-mails from being archived. These problems may have had some impact on White House document production, because the White House conducted searches of archived e-mails to respond to information requests from investigators. The Committee received no information that any White House official intentionally created the e-mail problems, made any attempt to impede investigation of the problems, or had any knowledge of the content of e-mails that may not have been captured.[119]

Citations

1. The minority staff of the Government Reform Committee estimates that the costs of the congressional campaign finance investigations alone have exceeded $23 million. This figure includes $8.7 million that a 1998 General Accounting Office report found federal agencies reported spending on responding to congressional inquiries on campaign finance matters; over $8 million that the House Government Reform Committee has spent on its campaign finance investigation; $3.5 million that the Senate Governmental Affairs Committee spent on its campaign finance investigation; $1.2 million authorized for the House Committee on Education and the Workforce's investigation of allegations of campaign finance abuses concerning the Teamsters; and $2.5 million authorized for a select committee that investigated allegations that the Clinton Administration gave missile technology to China in exchange for campaign contributions. *See GAO Survey of Executive Branch Cost to Respond to Congressional Campaign Finance Inquiries* (June 23, 1998); House Committee on Government Reform and Oversight, *Interim Report: Investigation of Political Fundraising Improprieties and Possible Violations of Law, Additional and Minority Views,* 105th Cong, 3968-69 (1998) (H. Rept. 105-829). When the costs of investigating allegations in addition to the campaign finance allegations are included, the total costs likely significantly exceed $23 million. Many of these additional investigations involved substantial congressional resources as well as executive branch resources to respond to inquiries. For example, to investigate allegations concerning the government's actions at Waco, Texas, the House Government Reform Committee has conducted at least 82 interviews, and has received over 750,000 pages of documents from the Justice Department and the Defense Department in response to Committee requests.

2. CBS, *CBS Morning News* (Oct. 20, 1997).

3. CBS, *CBS This Morning* (Oct. 20, 1997).

4. NBC, *NBC News At Sunrise* (Oct. 20, 1997).

5. NBC, *Today* (Oct. 20, 1997).

6. ABC, *ABC World News Sunday* (Oct. 19, 1997).

7. CNN, *CNN Early Prime* (Oct. 19, 1997).

8. CNN, *CNN Morning News* (Oct. 20, 1997).

9. CNN, *Headline News* (Oct. 20, 1997).

10. CNN, *Early Edition* (Oct. 20, 1997).

11. Fox, *Fox Morning News* (Oct. 20, 1997).

12. Fox, *Fox News Now/Fox In Depth* (Oct. 20, 1997).

13. *Tapes May Have Been Altered, Rep. Burton Says; Clinton Aide Decries Chairman's 'Innuendo'* (Oct. 20, 1997).

14. *GOP Suggests Tapes Altered* (Oct. 20, 1997).

15. *GOP Suspects White House Altered Fund-raising Tapes* (Oct. 20, 1997).

16. *Panel May Use Lip Readers to Check Fund-raising Tapes* (Oct. 20, 1997).

17. *Tape-Tampering Denied* (Oct. 21, 1997).

18. Senator Thompson announced these findings on NBC's *Meet the Press* (Dec. 7, 1997). Only a handful of media outlets reported this announcement, and these reports focused on other campaign finance issues and mentioned the Thompson announcement only at the very end of the accounts. *E.g., Reno and Freeh to Testify, Morning Edition*, National Public Radio (Dec. 9, 1997) (reporting on the upcoming House Government Reform and Oversight Committee hearing on the independent counsel decision and noting Senator Thompson's announcement at the very end). Beyond coverage of Senator Thompson's announcement, one article reported that Paul Ginsburg, a technical expert hired by the Senate Governmental Affairs Committee, had found no signs of doctoring. *See Expert: Coffee Tapes Are Clean*, Newsday (Nov. 8, 1997), and the "Real Deal" segment at the end of *Face the Nation* on November 2, 1997, followed up on Rep. Burton's allegation to report that Mr. Ginsburg was going to report that there was no doctoring.

19. *See, e.g.,* Congressional Record, H5632 (July 13, 1994).

20. Office of Independent Counsel, *Report on the Death of Vincent W. Foster, Jr. (In Re: Madison Guaranty Savings & Loan Association)*, 5 (Oct. 10, 1997) (citing Federal News Service (Aug. 10, 1993)).

21. *Id.* at 7 (citing *Report of the Independent Counsel Robert B. Fiske, Jr., In Re: Vincent W. Foster, Jr.*, at 58).

22. *Id.* at 111.

23. *Former Clinton Aide Faces Questions on Memo; Document Suggests that First Lady Was Behind Firings in Travel Office*, Milwaukee Journal Sentinel (Jan. 6, 1996).

24. House Committee on Government Reform and Oversight, *Hearing, White House Travel Office – Day Three*, 104th Cong., 111 (Jan. 24, 1996).

25. Press Release, Office of the Independent Counsel (June 22, 2000).

26. Congressional Record, H6633 (June 20, 1996).

27. House Committee on Government Reform and Oversight, *Investigation of the White House and Department of Justice on Security of FBI Background Investigation Files*, 104th Cong., 16 (1996) (H. Rept. 104-862).

28. Office of Independent Counsel, *Report of the Independent Counsel (In Re: Madison Guaranty Savings and Loan Association) In Re: Anthony Marceca*, 7-8 (March 16, 2000).

29. CNN, *Late Edition with Frank Sesno* (Feb. 16, 1997).

30. Congressional Record, H4097 (June 20, 1997).

31. *See Senate Panel Is Briefed on China Probe Figure; Officials Say Evidence May Link L.A. Businessman to Election Plan*, Washington Post (Sept. 12, 1997).

32. *E.g.,* CBS Evening News (June 11, 1997); *Huang Leaked Secrets, GOP Lawmaker Says,* Los Angeles Times (June 13, 1997); *Republican Lawmaker Alleges Huang Passed Secrets; Communications with Lippo Group Questioned,* Baltimore Sun (June 13, 1997); *Congressman Says Evidence Confirms Huang Passed Secrets – The House Rules Chairman Says Information Was Given to the Lippo Group,* Fort Worth Star-Telegram (June 13, 1997); *Huang Gave Classified Data to Lippo, Lawmaker Claims,* Austin American-Statesman (June 13, 1997); *Huang Accused of 'Economic Espionage,'* Cincinnati Enquirer (June 13, 1997); *Legislator Alleges Fund-raiser Gave Classified Data to Overseas Company*, Las Vegas Review-Journal (June 13, 1997); *Dem Donor 'Breached Security' Lawmaker Accuses Ex-Clinton Appointee,* Arizona Republic (June 13, 1997); *Congressman Alleges Huang Passed Secret Data to Firm; White House, FBI Decline to Comment on Solomon's Remarks,* Milwaukee Journal Sentinel (June 13, 1997).

33. Gerald Solomon Interview FD-302 at 1 (Aug. 28, 1997).

34. Gerald Solomon Interview FD-302 at 1 (Feb. 11, 1998).

35. CNN, *Inside Politics* (Aug. 27, 1997).

36. *GOP Lawmaker Seeks Counsel to Probe O'Leary-Chung Tie,* Buffalo News (Aug. 22, 1997).

37. Notification to the Court Pursuant to 28 U.S.C. §592 (b) of Results of Preliminary Investigation (Dec. 2, 1997).

38. *Id.* The House Government Reform and Oversight Committee also discovered that fact. The Committee deposed several individuals, including Secretary O'Leary, to investigate the allegation by Mr. Chung regarding Secretary O'Leary. The Committee scheduled a hearing on the matter, but, upon discovering the allegation was false, canceled the hearing.

39. NBC's *Meet the Press* (Sept. 14, 1997).

40. *White House Denies Role in Audit of Jones; IRS Has History of Targeting 'Enemies,'* Washington Times (Sept. 16, 1997).

41. *E.g., Whistleblowers' Letter, Newspapers Alert Agency,* Washington Times (Sept. 29, 1997); *Conservatives Suspect IRS Audit Is Price of Opposing Clinton Policies,* Washington Times (Apr.

21, 1997); *Politics and the IRS,* Wall Street Journal (Jan. 9, 1997).

42. Staff of the Joint Committee on Taxation, *Report of Investigation of Allegations Relating to Internal Revenue Service Handling of Tax-Exempt Organization Matters* (March 2000).

43. *Id.* at 7.

44. House Committee on Government Reform and Oversight, *Hearings on Conduit Payments to the Democratic National Committee*, 105th Cong., 7 (Oct. 9, 1997) (H. Rept. 105-51).

45. *Id.* at 257, 271.

46. Minority Staff Report, House Committee on Government Reform and Oversight, *Evidence that John Huang Was in New York City on August 15, 16, 17, and 18* (Oct. 9, 1997).

47. House Committee on Government Reform, *Hearing on the Role of John Huang and the Riady Family in Political Fundraising*, 108 (Dec. 15, 1999) (stenographic record).

48. House Committee on Government Reform, *Hearing on the Role of Yah Lin "Charlie" Trie in Illegal Political Fundraising*, 250-52 (March 1, 2000) (stenographic record).

49. House Committee on Government Reform and Oversight, *Hearings on Campaign Finance Improprieties and Possible Violations of Law*, 105th Cong., 11-12 (Oct. 8, 1997) (H. Rept. 105-50).

50. Proffer of Nora and Gene Lum to the Committee on Government Reform and Oversight (Aug. 22, 1997).

51. *E.g.*, *Story of a Foreign Donor's Deal With '92 Clinton Camp Outlined*, Washington Post (Oct. 9, 1997); *House Panel to Hear of '92 Clinton Donation Problem Probe*, Los Angeles Times (Oct. 9, 1997).

52. Proffer of Nora and Gene Lum, *supra* note 50, at Part B.1-3.

53. Deposition of Richard C. Bertsch, House Committee on Government Reform and Oversight, ex. 12 (March 30, 1998). The letter was addressed to Richard Choi Bertsch, who worked for an organization called the Asian Pacific Advisory Council-VOTE ("APAC") which conducted get-out-the-vote and fund-raising activities in the Asian-American community in California in 1992. *Id.* at 10-13, 20-22.

54. CBS's *Face the Nation* (Oct. 19, 1997).

55. Senate Committee on Governmental Affairs, *Investigation of Illegal or Improper Activities in Connection with 1996 Federal Election Campaigns,* 105th Cong., v. 6, 9345-46 (1998) (S. Rept. No. 167); *Meet the Press* (Dec. 7, 1997) (interview with Senator Thompson).

56. Deposition of Joseph Simmons, House Committee on Government Reform and Oversight, 149 (Oct. 18, 1997); Deposition of Alan P. Sullivan, House Committee on Government Reform and Oversight, 37 (Oct. 17, 1997); Deposition of Steven Smith, House Committee on Government Reform and Oversight, 99 (Oct. 18, 1997).

57. The conservative publication *Insight* magazine reported that "dozens of big-time political donors or friends of the Clintons" had gained waivers of the eligibility rules regarding burials at Arlington National Cemetery. Without naming its sources, the article stated that a "national cemetery official" and other sources are "outraged that the Clinton White House has applied pressure to gain waivers for fat-cat donors." *Is There Nothing Sacred?*, Insight Magazine (dated Dec. 8, 1997, but reportedly released in advance of that date).

58. *White House Denies Burial Politics*, Atlanta Constitution (Nov. 21, 1997); *Burton to Probe Plots-for-Politics Allegations*, Indianapolis Star News (Nov. 21, 1997).

59. Press Release, Rep. Gerald Solomon (Nov. 20, 1997).

60. General Accounting Office, *Arlington National Cemetery: Authority, Process, and Criteria for Burial Waivers*, 2-3, appendix 1 (Jan. 28, 1998) (GAO/T-HEHS-98-81).

61. *Id.* at 1.

62. *Id.* at 9.

63. House Committee on Government Reform and Oversight, *Hearings on the Department of the Interior's Denial of the Wisconsin Chippewa's Casino Application*, 105th Cong., v.1, 106, 340 (Jan. 28, 1998).

64. Office of Independent Counsel, *Final Report of Independent Counsel In Re: Bruce Edward Babbitt,* 430, 441 (Aug. 22, 2000).

65. *Burton's Pursuit of President*, Indianapolis Star (Apr. 16, 1998).

66. Congressional Record, H4545 (June 11, 1998).

67. *Subpoena Widens Finance Probe; Request for White House Papers Covers 25 Categories, Copy Shows,* Washington Post (Aug. 15, 1997).

68. House Committee on Government Reform and Oversight, *Investigation of Political Fundraising Improprieties and Possible Violations of Law,* 105th Cong, 3978 (1998) (H. Rept. 105-829).

69. Letter from Rep. Henry Waxman to Chairman Dan Burton (May 3, 1998).

70. *Bridling G.O.P. Leader Says Tapes Speak for Themselves*, New York Times (May 5, 1998); *Burton Defends Hubbell Transcript Actions*, Washington Post (May 5, 1998).

71. *Opening Statement by Chairman Burton*, House Committee on Government Reform and Oversight, Business Meeting, 6-13 (Apr. 23, 1998); Congressional Record, H2338 (Apr. 28, 1998); Congressional Record, H2444 (Apr. 29, 1998).

72. Congressional Record, H2336 (Apr. 28, 1998).

73. Congressional Record, H3453 (May 19, 1998).

74. House Committee on Government Reform and Oversight, Business Meeting, 87 (Apr. 23, 1998) (stenographic record).

75. Deposition of Larry Wong, House Committee on Government Reform and Oversight, 13-14, 19, 26-27, 43, 52, 57 (July 27, 1998).

76. *Id.* at 85.

77. Congressional Record, H3239 (May 13, 1998).

78. *GOP Breaking China Over Clinton's Deals,* National Journal (May 23, 1998).

79. *See Internal Justice Memo Excuses Loral*, Los Angeles Times (May 23, 2000).

80. Memorandum from Lee Radek to James Robinson, Assistant Attorney General, Criminal Division (Aug. 5, 1998).

81. The Addendum to Interim Report for Janet Reno and Louis Freeh Prepared by Charles La Bella and James DeSarno (Aug. 12, 1998).

82. House Select Committee on U.S. National Security and Military/Commercial Concerns with the People's Republic of China, 105th Cong., 2nd Sess. (Committed to the Committee of the Whole House, Jan. 3, 1999; Declassified in Part, May 25, 1999) (H. Rept. 105-851).

83. Letter from Rep. David McIntosh to Attorney General Janet Reno (Sept. 17, 1998).

84. *Database Criminal Probe Sought,* Washington Post (Sept. 9, 1998).

85. Letter from Rep. David McIntosh to Attorney General Janet Reno (Sept. 17, 1998); House Committee on Government Reform and Oversight, *Investigation of the Conversion of the $1.7 Million Centralized White House Computer System, Known as the White House Database, and Related Matters*, 105th Cong., 574-581 (Oct. 30, 1998) (H. Rept. 105-828).

86. Letter from M. Faith Burton, Special Counsel to the Assistant Attorney General, to Rep. David McIntosh (May 6, 1999).

87. House Committee on Government Reform and Oversight, *Investigation of the Conversion of the $1.7 Million Centralized White House Computer System, Known as the White House Database, and Related Matters*, 105th Cong., 1-6, 33-44 (Oct. 30, 1998) (H. Rept. 105-828).

88. *Id.*, Minority Views, 564-68.

89. Letter from Chairman Dan Burton to Attorney General Janet Reno (March 22, 1999).

90. *Id.*

91. Charles Duncan's Responses to Interrogatories (Apr. 20, 1998).

92. Letter from Chairman Dan Burton to Attorney General Janet Reno, *supra* note 89.

93. Statement of Steven C. Clemons (Feb. 25, 1998); Letter from Rep. Henry A. Waxman to Attorney General Janet Reno (Apr. 13, 1999).

94. Statement of Alan Gershel, Deputy Assistant Attorney General, Department of Justice, House Committee on Government Reform, *Hearing on Contacts between Northrop Grumman Corporation and the White House Regarding Missing White House E-Mails* (Sept. 26, 2000).

95. Press Release, Chairman Burton, *Burton Angered by Harassment of Witness* (June 29, 1999).

96. Letter from Rep. Henry Waxman to Chairman Dan Burton (July 15, 1999).

97. Testimony of Chairman Dan Burton, House Rules Committee (July 15, 1999) (available at www.house.gov/reform/oversight/99_07_15db-rules.htm).

98. *See* Letter from Russell J. Bruemmer, Wilmer, Cutler & Pickering, to Richard L. Huff, Co-Director, Office of Information and Privacy, Department of Justice (March 31, 1995).

99. Letter from Wallace H. Cheney, Assistant Director/General Counsel, Federal Bureau of Prisons, to Joseph M. Gabriel, Law Offices of Langberg, Leslie and Gabriel (March 2, 1995); Letter from Bonnie L. Gay, Attorney-in-Charge, FOIA/PA Unit, Executive Office of United States Attorneys, Department of Justice, to Joseph M. Gabriel (Dec. 15, 1994); *See* Letter from Magda S. Ortiz, FOIA/PA Reviewing Officer, Immigration and Naturalization Service, to Rebekah Poston (Dec. 6, 1994) (explaining that a potentially responsive record was illegible and requesting additional information); Letter from Russell J. Bruemmer, Wilmer, Cutler & Pickering, to Richard L. Huff, Co-Director, Office of Information and Privacy, Department of Justice (March 31, 1995) (explaining that the INS searched for, but ultimately could not find, a record responsive to the FOIA request).

100. Testimony of Richard Huff and Rebekah Poston, House Government Reform Committee, *Felonies and Favors: A Friend of the Attorney General Gathers Information from the Justice Department*, 129-31 (July 27, 2000) (stenographic record).

101. Testimony of John Schmidt and John Hogan, House Committee on Government Reform, *Felonies and Favors: A Friend of the Attorney General Gathers Information from the Justice Department*, 120-23, 128, 140-41 (July 27, 2000) (stenographic record).

102. Memorandum from Attorney General Janet Reno to Staff of the Attorney General (Apr. 28, 1995).

103. House Committee on Government Reform, *Felonies and Favors: A Friend of the Attorney General Gathers Information from the Justice Department,* 154 (July 27, 2000) (stenographic record).

104. *Morning Edition*, National Public Radio (Aug. 31, 1999).

105. Letter from Chairman Burton to Attorney General Janet Reno (Sept. 10, 1999).

106. Fox News, *Fox News Sunday* (Sept. 12, 1999).

107. Letter from Rep. Henry Waxman to John Danforth, Special Counsel (Sept. 13, 1999); FBI FD-302 of FBI Agent (June 9, 1993) (reporting that a pilot heard "a high volume of [Hostage Rescue Team] traffic and Sniper [Tactical Operations Command] instructions regarding . . . the insertion of gas by ground units," including "one conversation, relative to utilization of some sort of military round to be used on a concrete bunker"); FBI H.R.T. Interview Schedule (Nov. 9, 1993) (summarizing an interview with an FBI agent and stating that "smoke on film came from attempt to penetrate bunker w/1 military and 2 ferret rounds" and further describing the military round as "Military was . . . bubblehead w /green base"); Handwritten notes (April 19, 1993) (making repeated references to military rounds fired on April 19, 1993, such as "smoke from bunker came when these guys tried to shoot gas into the bunker (military gas round)").

108. John C. Danforth, Special Counsel, *Interim Report to the Deputy Attorney General Concerning the 1993 Confrontation at the Mt. Carmel Complex, Waco, Texas*, 54 (July 21, 2000).

109. MSNBC, *Watch It! With Laura Ingraham* (Nov. 2, 1999).

110. John Huang Interview FD-302 at 19 (Jan. 19 - Feb. 10, 1999).

111. John Huang Interview FD-302 at 129 (Feb. 23 - March 26, 1999).

112. House Committee on Government Reform, *Hearings on the Role of John Huang and the Riady Family in Political Fundraising*, 104 (Dec. 15, 1999) (stenographic record).

113. *Id.* at 95.

114. House Committee on Government Reform, *Hearings on the Role of John Huang and the Riady Family in Political Fundraising,* 15-16 (Dec. 15, 1999) (stenographic record).

115. Letter from Chairman Dan Burton to Attorney General Janet Reno, 2 (July 18, 2000).

116. *Justice Department Won't Discuss Gore Video*, Reuters (July 21, 2000).

117. Fox, *Hannity and Colmes* (July 19, 2000).

118. House Committee on Government Reform, *The Failure to Produce White House E-Mails: Threats, Obstruction and Unanswered Questions*, 106th Cong., viii (Oct. 2000) (emphasis added).

119. *Minority Views on the E-mail Investigation, Executive Summary* (Oct. 5, 2000).

EXHIBIT 2

STATEMENT OF BETH NOLAN
COUNSEL TO THE PRESIDENT

Before the
House Committee on Government Reform
March 23, 2000

I. Introduction

Mr. Chairman, Congressman Waxman, and members of the Committee. My name is Beth Nolan. I am Counsel to the President of the United States. I have held this position since September 1999. I appear today to address the e-mail system used by the Executive Office of the President.

As you know, this matter involves complex technical issues. Of course, my staff and I are lawyers with laypersons' understanding of the technical complexities of electronic messaging and archiving. Accordingly, we have devoted a large part of the past several weeks trying to understand these issues and gathering information to help us understand the matter and how to address it. In the relatively short time that we have spent examining this matter, I have come to appreciate the challenges that these computer errors present. We have been learning additional information about these matters almost every day. Although the new information assists us in better understanding the problem, it can also alter previous assumptions, determinations, and conclusions. Therefore, although we have learned more about this matter over the past several weeks, we are still reviewing issues, exploring certain remedies, and probing some outstanding questions. For these reasons, I want to emphasize that my testimony today is based upon my current understanding of the information that we have gathered in the course of our initial review. Indeed, I have learned additional information since my letter to the Chairman less than a week ago. Where this statement differs from last week's letter, it reflects changes in my understanding of this matter. As our review progresses to completion, we may likely uncover information that alters or amends these preliminary findings. The Committee will be notified of significant changes.

From the outset, I want to convey two important determinations we have made from our initial review. First, we have found no evidence that anyone in the Executive Office of the President (EOP) attempted to withhold or hide responsive e-mail records — from this Committee or any other investigative body. We have produced or identified to the Committee all responsive materials located. Indeed — to use just one investigation as an example — I understand that the EOP searched for and produced to this Committee alone approximately 7700 pages of e-mail records related to campaign finance matters. Second, to my knowledge, no one in the Counsel's Office — or the White House Office for that matter — was advised of allegations of threats surrounding this matter.

I now want to provide a brief overview of my statement today. I will begin by describing the EOP computer system. Second, I will explain our current understanding of the technical configuration errors that we have discovered with the e-mail archiving system used for the EOP. Third, I will describe how the White House Counsel's Office learned about these errors and what we have done to notify investigative bodies. Finally, I will address the steps we are currently taking to address the issues arising from these technical configuration errors.

II. Computer System for EOP E-mail Records

Before explaining the nature of the configuration errors affecting certain incoming e-mail records being captured by the Automated Records Management System (ARMS), I want to describe briefly how the Office of Administration's (OA) computer records management system for the EOP is designed to work for e-mail records. Whenever an e-mail is sent from a user within the EOP, that e-mail is read and stored on a server. The e-mail does not technically reside on the individual user's personal computer (PC), but on the server. As long as the user retains the e-mail on her PC, it remains on the server. Conversely, by deleting an e-mail, the user deletes it from the server as well as the PC. Because many individual users delete e-mail daily (and indeed users must delete some e-mails because the server does not have the capacity to hold all e-mails), the server is not a complete and accurate repository of e-mails sent to and from the EOP.

ARMS is a management system that was installed following the Armstrong case. It is designed to capture e-mail records sent from or to EOP user accounts that it manages. I'll refer to these accounts as "ARMS-managed accounts." ARMS is the first keyword searchable e-mail records archive maintained by the EOP. Please note, however, that archiving e-mail records is a relatively novel concept. I am told that the ARMS system had to be custom built because at that time no appropriate system was commercially available. As far as we are aware, no other government entity — including Congress — maintains a similar on-line archival system.

E-mails generated by ARMS-managed accounts are automatically recorded by ARMS as the user sends them. In addition, several times a minute, generally, ARMS scans the server and captures unrecorded e-mails residing on the server at the moment of scanning. To avoid repeatedly scanning an e-mail that continues to reside on the server over a period of time, once ARMS records an e-mail, it is coded so that ARMS will not needlessly scan it again.

As the Committee is aware, ARMS was put in place in July 1994 and has managed e-mail records for most EOP offices since that time. Charles Ruff, then Counsel to the President, explained to the Committee in an October 1997 letter that ARMS was also managing reconstructed e-mail records for the period January 1993 through July 1994 as they were reconstructed, a process that was then ongoing. Reconstruction of these records was completed in 1999.

Searches of ARMS records supplement the searches performed by individual users in response to subpoena requests. When responding to subpoena requests, the Counsel's Office

instructs individuals within the relevant EOP offices to search for responsive materials. This directive explicitly states that each individual should search computer records as well as hard copies. The head of each EOP office is also directed to certify that the individuals within the office have conducted a search of their files and the office's files, and have provided any potentially responsive materials to the White House Counsel's Office. In addition to these individual searches, Information System and Technology (IS&T) personnel, at the Counsel's Office direction, perform a computerized search of ARMS. IS&T staff work with White House Counsel's Office staff to identify keyword terms to use in searching ARMS records. As we have previously explained to your staff, because we use search terms, we cannot guarantee that every responsive e-mail is located. Nevertheless, we usually err on the side of using broad search terms, which sometimes yield large amounts of nonresponsive materials.

These computerized searches are extremely time-consuming and costly. A search can take several days to complete, depending upon the number of offices and time period covered. Once a search is complete, it can take up to several days to print the search results. In addition, the Counsel's Office must manually review the printed search results for responsiveness. Indeed, on many occasions our staff has waded through thousands of pages of nonresponsive materials to locate the few responsive ones.

The only other electronic records of the server consist of tapes made periodically when the server is "backed up." The practice of backing up the server was not begun to facilitate searches but rather to permit IS&T personnel to recover certain files in the event of a system "crash." They are created periodically (generally daily, I am advised) and take a "snapshot" of whatever exists on the server at the current time. For example, if an e-mail were sent by an EOP user and then deleted between backups, it would not be captured on a backup tape but it should be captured by ARMS. Backup tapes are thus an inaccurate and incomplete compilation of what is on the system and serve as a last resort in cases of a system failure. At times when there has been a shortage of backup tapes, I am told that they have been reused. The backup tapes are not a part of ARMS, and are not easily searchable. For these reasons, the EOP does not search backup tapes when responding to subpoena requests.

III. Configuration Errors Affecting ARMS

Mr. Chairman, I now want to focus on two configuration errors that have affected ARMS management of e-mail records.

ARMS, like all computer records management systems, is susceptible to problems, software programming errors, and "glitches" that are not easily detectable. Even when they are discovered, however, the nature, scope, and cause of the problems, as well as their effect on the system and users, may be difficult to ascertain.

Although ARMS was intended to record all e-mails sent through the EOP e-mail network (currently the Lotus Notes system), two separate configuration errors have occurred which prevented certain incoming e-mails sent to ARMS-managed accounts from being recorded in ARMS for a period of time. In addition, as I will discuss later, in the course of examining this

problem I learned that e-mail records from the Office of the Vice President have not been fully managed by ARMS.

A. "MAIL2" Error

The first error, referred to as the "MAIL2" error, apparently occurred in August 1996, when IS&T and its outside contractor, PRC Litton, were performing routine maintenance to improve the system's performance. As part of the process, individual user accounts within the White House Office (WHO), and some accounts within OA and the Office of Policy Development (OPD), were moved to a new server, called "Mail2." During this process, "Mail2" accounts were apparently mistakenly coded by computer technicians as "MAIL2," using all upper case letters, instead of "Mail2." The ARMS scanning process is case sensitive when identifying servers and did not recognize "MAIL2." Because ARMS did not recognize "MAIL2," the ARMS scanning process did not capture incoming e-mails (*i.e.*, e-mails sent from non-ARMS managed accounts to ARMS-managed accounts) for these affected accounts.

In January 1998, Daniel Barry, IS&T Records Projects Computer Specialist, was performing a keyword search of ARMS in response to a subpoena request and noticed a possible anomaly within ARMS. Mr. Barry found that on a particular day there were outgoing e-mails from an EOP user who seemed to be exchanging e-mails with an outside person, but there were no corresponding incoming e-mails. Thus, it appeared to him that some incoming e-mails might be missing from ARMS. Mr. Barry, with the assistance of John Spriggs, the IS&T e-mail contract administrator and an employee of outside contractor Northrop Grumman (N-G), examined the log of the FIREWALL system, through which e-mail created outside the EOP passes and is screened to ensure that messages do not include viruses. They determined that on the day in question, the EOP user had actually sent the outside person seven e-mails, while the outside person had sent the EOP user six incoming e-mails. I am informed that, at that time, Mr. Barry was unsure whether this was an isolated incident for this particular user on this particular day or whether it was a broader undetected systemic error. Indeed, minor glitches or "hiccups" are common to IS&T systems, as they are to all computer systems, and small pieces of data are often not easily retrievable as a result. Mr. Barry nonetheless notified his superiors and documented his finding.

The full scope of the error causing the anomaly Mr. Barry noted was not understood until May or June 1998, when on-site N-G employees discovered on the server certain incoming e-mail messages that were coded as "unrecorded," signifying that the ARMS scanning process was not picking up these messages. The contractor notified IS&T personnel, who gathered a group of employees to investigate and repair the problem.

N-G technical personnel working with IS&T staff discovered that the problem was due to miscoding "Mail2" as "MAIL2." I have been advised by OA that the miscoding affected approximately 526 ARMS-managed accounts from the following EOP offices:

1. WHO (464 accounts)
2. Office of Policy Development (58 accounts)
3. OA (4 accounts)

As a result, certain incoming e-mail that these users had received since August 1996 had not been recorded by ARMS. As noted previously, the problem did not cover any e-mails generated by ARMS-managed accounts. Moreover, it would not have prevented a recording of the incoming e-mail if the affected EOP user forwarded it or replied to it "with history" (*i.e.*, sending back the original e-mail). Additionally, incoming e-mail messages maintained on an individual user's PCs would also remain on the user's server space, and therefore would be subject to individual EOP user searches, as long as the individual recipient remained at the EOP and had not deleted the messages.

By November 1998, the N-G and IS&T personnel had corrected the problem prospectively so that all future incoming e-mail to the affected users would be stored in ARMS. Thus, this configuration error affected these ARMS-managed accounts for the period August 1996 through November 1998. Although the "MAIL2" error occurred in August 1996, some of these accounts were created well after that date. Thus, for example, a "Mail2" account that was created in June 1997 apparently would have been affected from that date forward. IS&T personnel also created backup tapes of the server to preserve the unrecorded e-mail existing on it as of November 20, 1998. By backing up the entire server, IS&T also necessarily captured word processing documents, rolodex files, and recorded e-mail records that also existed on the server at that time. After the prospective correction, ARMS resumed managing incoming e-mails and the creation of backup tapes of the server continued.

OA then requested that N-G provide an estimate for studying the time and cost involved in restoring these e-mails to ARMS. In October 1998, N-G estimated that a feasibility study alone would cost about $600,000. OA informs us that, concurrent with the preliminary assessment of the costs to study the problem, OA was faced with the massive task of Y2K compliance of its entire system, including its mail systems. This task consumed IS&T resources throughout the remainder of 1998 and 1999.

B. "Letter D" Error

A second configuration error, referred to as the "Letter D" error, was discovered in April 1999, when N-G technical personnel were testing the process in which ARMS interacts with the Lotus Notes system. When user accounts are created, they are assigned to a particular "view." Each view represents a section of the alphabet (*e.g.*, ABC), and users are assigned to a view by the first letter of their first name (*e.g.*, Mary Jones would be in the view that contains the letter "M"). The ARMS "viewer" scans the server on a "view" by "view" basis.

During this testing process, the N-G computer specialists discovered that an error involving the ARMS views had been made. The letter "D" was inadvertently omitted from a view, and the letter "J" was included twice. As a result, incoming e-mail to ARMS-managed accounts with the first names beginning with the letter "D" had not been recorded by ARMS since November 1998. It appears that this error remained undetected until April 1999 because

the additional "J" led technical personnel to believe that the views contained all 26 letters of the alphabet. In fact, that was not the case.

The effect of the "Letter D" error on the system was similar to the "MAIL2" error: Incoming e-mail sent to ARMS-managed accounts whose users' first names begin with the letter "D" were not stored in ARMS. E-mails generated by ARMS-managed accounts were not affected by the problem. OA advises that approximately 200 ARMS-managed accounts from the following 10 offices within the EOP were affected:

1. White House Office (42 accounts)
2. Office of Policy Development (8 accounts)
3. Office of Management and Budget (54 accounts)
4. Council of Economic Advisers (1 account)
5. Council on Environmental Quality (4 accounts)
6. National Security Council (21 accounts)
7. Office of Administration (32 accounts)
8. Office of National Drug Control Policy (20 accounts)
9. Office of Science and Technology Policy (6 accounts)
10. White House Climate Change Task Force (3 accounts)

As with the "MAIL2" error, e-mail maintained on these affected users' PCs remained on the server until deleted by the user, but were not captured in ARMS.

By May 1999, the N-G employees corrected this problem prospectively. Thus, the "Letter D" configuration error affected these ARMS-managed accounts from November 1998 to May 1999. As with the "MAIL2" error, a backup tape of the server was created on June 1, 1999 to preserve any unrecorded e-mail that existed on it at that time.

Recent reports have cited various global effects of these configuration errors and speculated about the contents of the affected incoming e-mails. Below are our preliminary findings with regard to the "MAIL2" and "Letter D" errors. Please note, also, that, given the technical issues involved, we may need to modify or amend these findings as our review proceeds.

1. These two configuration errors did not affect documents or e-mails created by ARMS-managed accounts. We understand that these two configuration errors did not affect e-mails from ARMS-managed accounts that were sent within or outside the EOP. These e-mails are automatically captured with a "bcc" to ARMS when sent. The only e-mails affected by either configuration error described above were incoming e-mails, which ARMS would have to scan to record. If, however, an affected user received an incoming e-mail and forwarded it or replied to it with history (sending back the original incoming e-mail) then ARMS should have recorded the incoming e-mail.

2. Absent a search of backup tapes, we cannot currently estimate how many e-mails were affected. Late Friday, March 17, 2000, N-G counsel provided OA with a document that appears to reflect that on June 18, 1998, an N-G employee reviewed the affected ARMS-

with it no longer work for the OVP, or even for the outside contractor. This has made the task of gathering facts more difficult.

What we do know is that the OVP set up a server using commercially available software, which it used for the rest of 1993 and part of 1994. We are trying to determine whether OVP e-mails from that period were part of the 1993 and 1994 reconstruction of records to ARMS.

Sometime in 1994, most OVP e-mail users were switched to Lotus Notes, which is currently used. Although these accounts were switched to Lotus Notes, they were apparently not managed by ARMS. We are still trying to understand the details of these technical issues and the degree, if any, to which OVP e-mail on Lotus Notes may have been captured by ARMS. It currently appears that much, if not all, of it was not captured.

As with many other businesses and government agencies, when new employees begin work at the White House, they are given e-mail accounts. Starting sometime in early 1997, new OVP e-mail accounts were created in a way that allowed e-mail — except for e-mail coming into the OVP from outside the White House — to be captured by ARMS. Old OVP e-mail accounts, namely, those created prior to early 1997, apparently continued not to have e-mail captured by ARMS. As we understand it, the technical people believed there were problems associated with attempting to re-enter the old e-mail accounts as new ones, such as the difficulty of transferring files and e-mail from the old accounts to new ones in a way that did not cause a disruption in service.

Today, we believe that there are 28 current OVP e-mail user accounts that were created before 1997 and are therefore not managed by ARMS. The Vice President's e-mail account is — not surprisingly — among those created before 1997. We have found no indication that those people producing documents were aware of this problem. Indeed, I am told that OVP Counsel personnel believed that all OVP e-mail was being managed by ARMS, and that the White House Counsel's Office shared this belief. Quite plainly, this understanding was not correct.

When we became aware of these facts, we asked IS&T to take steps necessary to ensure that all OVP e-mail is captured by ARMS from this point forward. We have made it clear that this should be done as quickly as possible. IS&T is in the process of making this happen.

Earlier I alluded to another fact concerning the OVP's e-mail system, which is that e-mail coming into the OVP server from outside the White House apparently has not been captured by ARMS. We are in the process of determining the period for which this problem existed. Again, we have asked IS&T to take steps necessary to ensure that all incoming OVP e-mail is captured by ARMS from this point forward, and again, they are in the process of making this happen. We do not yet know how this problem occurred.

This week, officials from the OVP, White House Counsel's Office, Office of Administration, and IS&T met with a representative of the contractor who helped set up the OVP system. We are working with the company to piece together the manner in which the OVP computer system was put together, and how that system interacted with the EOP system, including ARMS. We have also reached out to former employees of the OVP who we believed

might be able to assist us with these issues, and the contractor has itself reached out to some of its former employees who are knowledgeable about the OVP system.

The OVP system, like the EOP system, is periodically backed up to tape, and our best information is that approximately 550 backup tapes of the OVP server are now in the custody of the EOP Security Office. We are in the process of obtaining an estimate of the time and cost involved in reconstructing these tapes.

V. Counsel's Office Awareness of the Configuration Errors

Mr. Chairman, in your most recent letter to me, you asked when the Counsel's Office, and specifically when I, learned of these technical configuration errors, and what was done to notify various investigative bodies. In sum, while the Counsel's Office knew in June 1998 that a configuration error had existed, it believed that the problem was fixed and did not, until recently, understand the scope and possible effect on e-mail records searches of this error.

Although, as stated above, IS&T and N-G personnel became aware of a possible anomaly affecting ARMS in January 1998, the discovery that ARMS was not capturing some incoming e-mail records did not occur until about May or June 1998. In June 1998 OA notified the Counsel to the President, as well as the Deputy Chief of Staff, of the "Mail 2" error. Thus, the Counsel's Office was unaware of this problem prior to June 1998.

When then-Counsel to the President Charles Ruff was told by OA in 1998 that there were e-mails that may not have been captured in a previous search because of a technical glitch, he understood that OA would be collecting those e-mails so that any responsive e-mails that had not been produced could be produced. E-mails were provided to the Counsel's Office, which compared them against previously produced documents and determined that they were duplicative. The Counsel's Office believed that all necessary steps to make a complete search had been taken. They did not know that there was any remaining problem — prospective or retrospective.

Thus, as Mr. Ruff understood the technical problem at the time, he did not think that the error had an effect on previous searches or that it might affect future searches of e-mail records. As a result, Mr. Ruff had no reason to believe there was any need to notify investigative bodies of this error.

I was first informed of the two configuration errors affecting the ARMS system during a January 18, 2000 briefing OA gave me on some records management issues, as part of a pre-briefing for a meeting on numerous Post-Presidency Transition issues. At the time of the briefing, I was provided with general information about the "MAIL2" and "Letter D" matters as a possible Presidential Records Act issue. I understood from the briefing that these configuration errors were highly technical and had a historical impact on our archival system. I certainly did not understand that they had ongoing consequences — in particular, effects on document requests.

In any event, within several weeks I learned of the allegations involving this matter and I initiated a review. I want to assure the Committee that we have moved aggressively to understand the nature and scope of these issues, and to put solutions in place.

VI. Steps Taken to Address this Matter

With respect to informing various investigative bodies, we have initially focused on discussing this issue with entities that are currently conducting investigations. Soon after I became aware of these matters, I discussed with Independent Counsel Ray's office what I knew of the matter, and informed him that we were reviewing the matter and would provide his Office with a written explanation of what we had learned. We provided that explanation last Wednesday, March 15. Last week my staff also discussed this matter with Independent Counsel Lancaster.

Of course, the Justice Department's Civil Division became aware of these allegations because the Department has been representing us in the case in which they arose. In addition, on March 10, we received an inquiry from the Department of Justice Campaign Financing Task Force. We provided the Task Force with a written explanation this past Monday, March 20. Last week, we also informed the IC's Office and the Justice Department of the preliminary information we had just received regarding the OVP e-mail.

Finally, since this Committee's initial inquiry on February 6, 2000, we have made every effort to provide it with as much information as possible. We have facilitated the interviews of current and former EOP staff. This Tuesday, we made an initial production of approximately 3400 pages of documents, including e-mail records.

Concurrent with informing and responding to inquiries from investigative bodies, we have also taken immediate steps to address the possible effects of these errors. As you know, both the "Mail 2" and "Letter D" problems were corrected prospectively in November 1998 and May 1999 respectively. Over the past several weeks, we have been exploring ways to restore the backup tapes of previously unrecorded e-mail records, including those from the OVP, to a readily searchable format. We are ready to begin the restoration process and have already taken measures to achieve this objective. OA is making every effort to find the most expedient, cost-effective method that will permit us not only to search the e-mail records for any responsive information, but also to transfer them back to ARMS for archival purposes.

I have been personally involved with obtaining additional technical expertise to assist us with this project and ensure that we are able to search the backup tapes more quickly than originally anticipated. I understand that OA is exploring a possible restoration method that is considerably cheaper and less time consuming than the estimate OA received in 1998, which I had conveyed to you last week. Sometime next week, I anticipate that OA will have a more definite sense as to whether this is possible. As soon as we make this determination, we will notify you.

On a related point, you inquired in the letter you faxed to me on Sunday how it was that we conducted a search in 1998 if backup tapes were not keyword searchable. I understand that

the search for e-mail records in June 1998 was of e-mail records that existed on the server at that time, not of backup tapes.

Of course, as you can imagine, our ability to respond to the Committee's most recent subpoena seeking e-mail records is contingent upon our ability to restore these records to a keyword searchable format. Once we determine how quickly we can begin searching records, my staff will coordinate with your staff a schedule for producing any responsive materials on a rolling basis.

Finally, there have been several press reports recently that several N-G contractors have said they were threatened with incarceration or termination if they discussed these configuration errors. As I stated earlier, we had not previously been informed of any such allegations. Nonetheless, I have instructed the Associate Director of the Office of Administration's Security Division, Charles Easley, to conduct a complete and thorough review of these allegations. Mr. Easley's duties include conducting and approving background checks of prospective EOP employees and reviewing possible EOP security violations. Mr. Easley has begun his review. Once he has completed his review and informed me of his findings, I will take appropriate additional steps to resolve this matter.

VII. Closing

Mr. Chairman, in closing, I want to emphasize the following points:

- The computer glitches are the result of unintentional human error associated with an extraordinary electronic records archiving system.

- No one attempted to hide responsive information from this Committee or any other investigative body. The EOP has produced or identified to this Committee all responsive information that it located, including over 7700 pages of e-mail records in the campaign finance investigation alone.

- Until recently, the Counsel's Office was not aware of the scope and nature of these errors. In June 1998, the Counsel's Office thought the error was isolated to one search and had subsequently been fixed. The Counsel's Office had no reason to believe that this error had any effect on its searches. Had it thought otherwise, it would have addressed the problem.

- The backup tapes of e-mail records are secure. As I mentioned earlier, we are quickly moving toward a solution that will enable us to search these records.

Mr. Chairman, thank you for the opportunity to address the Committee.

EXHIBIT 3

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF ADMINISTRATION
WASHINGTON, D.C. 20503

September 29, 2000

Mr. James C. Wilson, Esquire
Chief Investigative Counsel
Committee on Government Reform
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Wilson:

I am writing to follow-up on our September 14, 2000 briefing in connection with EOP's ongoing Tape Restoration Project (TRP). During that briefing, your staff inquired regarding the funding for the project, and I promised to provide information in that regard. Please be advised that the House and Senate Appropriations Committees have approved $13.2 million in total funding for the TRP effort. These funds include $8.4 million in supplemental funding appropriated in June 2000 and $4.8 million in existing funding which remained in a Capital Investment Plan account originally earmarked for EOP's Y2K efforts. In approving the supplemental funding, our appropriators required that we submit a report from our independent validation and verification contractor assessing the initial and projected project costs. Our contractor, Vistronix, Inc., submitted this assessment of costs as of July 28, 2000 and projected that the TRP will require $11.7 million in funding. As of September 29, 2000, EOP will have committed/obligated or expended approximately $6.9 million of the $13.2 in available funding.

Your staff also inquired regarding the reference to "additional requirements ranging from $5 to $30 million" in a May 25, 2000 letter from the Subcommittee on Treasury, Postal and General Government to Mr. Lindsay in relation to the TRP. The high end of this range anticipated the potential for forensic requirements from law enforcement agencies which would have required the services of an outside contractor at enormous expense. EOP ultimately reached an agreement with the Office of the Independent Counsel and the Campaign Financing Task Force on a tape restoration process which is expected to require funding within the existing appropriation level. This agreement was communicated to EOP's appropriators before the supplemental funding was approved by Congress.

As promised, I also forward with this letter a copy of our Tape Restoration Project Media Inventory (Binders 1 through 4) which identifies the 7,177 pieces of media contained in the inventory as of September 22, 2000. Please be reminded that we can provide sub-inventories, determined by date or other field, should that assist in your review of the inventory.

I will be happy to discuss the above with you.

Sincerely yours,

Michael K. Bartosz
General Counsel

cc: Paul Weinberger, Minority Chief Investigative Counsel

EXHIBIT 4

CURRENT SCHEDULE FOR APRIL 29:

Los Angeles
-DNC Luncheon in LA/Hacienda Heights: 1000-5000 head /150-200 people
-Need Something Public
-OTR at Atlas Bar and Grill (Per VP)

San Jose
-Reception in San Jose 150-200 guests/ticket price working out
-Need Something Public

SUGGESTIONS

Electronic Messaging Association Annual Conference in Anaheim
(Submitted by Fowler)

California Small Business Association Legislative Roundtable in Sacramento
(Per JE: not pushing Sacramento but is a good market for usa nd small business is an important constituency)

National Cable Television Association's Convention and International Exposition in LA
(Per GS: should be part of our victory lap on the telecom bill and NCTA was VERY helpful)
(Per LV: defer to greg, good forum for tv/violence, spectrum on kids tv)

Fresno: Public Event to target swing voters
(From Re Elect)Past California Trips

PAST CALIFORNIA TRIPS 1995-1996

27 April 1995

San Francisco, CA
-PCSD
-DNC Silicon Valley Lumch

9-10 May 1995

Los Angeles/Beverly Hills, CA
-Constitutional Rights Foundation Event
-DNC Breakfast
-Industry Meeting (Family Conference Prep)
-Community Empowerement Event

EOP 056497

14 July 1995

Los Angeles, CA
-Southwest Voter Leadership Education Project Dinner
-Crime Event: Meeting/Roll Call/Tour Police Station

9 August 1995

Los Angeles/Santa Monica, CA
-Clean Water Act Discussion,

San Diego, CA
-NTEU Convention

21 September 1995

San Francisco, CA
The Vice President participated in an Educational Technology event at The Exploratorium. The Vice President and President attended a Clinton/Gore Luncheon in the afternoon.
Los Angeles, CA
The Vice President attended a Clinton/Gore Dinner with the President at the Century Plaza Hotel and a Saxophone Club Fundraiser at the House of Blues.

13 October 1995

San Francisco, CA
The Vice President addressed the Commonwealth Business Club Council. The VP attended the California Democratic Party Reception. The VP attended the Garrett Family Trust Dinner.

12 November 1995

San Jose, CA
The Vice President attended several DCCC events.

19 January 1996

San Jose, CA
The Vice President attended an Education/Technology Classroom Event at Arundel Elementary School.

8-9 March 1996

Los Angeles, CA
International Women's Day Reception
Private Meetings: Political-Klain
Immigration Meeting/borders-Kamarck
Meeting with Torres and Torres
Press Time with LA Times and Contra Costa Times
Hispanic PAC Reception and Dinner

Oakland, CA
Concord, CA
Joint event : Net Day

EXHIBIT 5

[redacted]

To: MARTINEZ_R @ [redacted], Kimberly H Tilley/[redacted], Julia M. Payne/[redacted], Karen Skelton/[redacted], Ellen L. Ochs/[redacted], Wendy Hartman/[redacted], Caren L. Solomon/[redacted], Dennis W. Alpert/[redacted], David R Thomas/[redacted], Kim J. Hopkins/[redacted]

cc:

Subject: Preliminary California Meeting

As you know, the VP is going to San Jose and LA for DNC fundraising events on April 29. There are several ideas floating out there for the VP to do public events, extra stops, etc. We are going to have a meeting at 2:15 pm TOMORROW (Thursday) **in Kim Tilley's office (Rm 285)** to discuss everything that is out there for this California trip. Thanks! Jackie, 51750

EXHIBIT 6

THE WHITE HOUSE
WASHINGTON

September 26, 2000

BY FACSIMILE

The Honorable Dan Burton
Chairman
Committee on Government Reform
United States House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Burton:

I write in response to your letter of September 25, 2000. I first want to express my appreciation for your willingness to engage in an accommodation on the matters that have been the subject of correspondence between us over the past few days. The EOP has responded in good faith to the Committee's prior requests for information. In fact, we have worked very hard to respond to the many requests that we have received from the Committee. To the extent the Committee believes that we have not done so, I believe that miscommunications, rather than actual disagreements, primarily are to blame. Once again, I reaffirm our willingness to work with the Committee to resolve any concerns it may have.

As my staff promised, we respond below to the questions posed in the letter you sent to me yesterday. Responses are provided to the questions under the headings "E-Mail Produced by the White House Counsel's Office on Friday, September 22, 2000," "Transition Plan for the E-Mail Recovery and Production," and "The 'Eskew Request' E-Mail." As our staffs agreed, we will provide answers no later than the close of business on October 2, 2000 to the questions under the heading "The Chernomyrdin Document Subpoena." Given the extremely short time that we have had to prepare these responses, we reserve the right to amend or supplement the information provided below.

QUESTIONS AND ANSWERS

E-Mail Produced by the White House Counsel's Office on Friday, September 22, 2000

1. **Were all of the e-mails produced to the Committee on September 22, 2000, produced to the White House at the same time? If so, when? If they were not produced at the same time, please answer the following:**

   (a) **When did the White House receive the first copy of any of the e-mails that were produced to the Committee on Friday, September 22, 2000?**

   (b) **When did the White House receive the last copy of any of the e-mails that were produced to the White House on September 22, 2000?**

   Response to Questions 1(a) and (b): The e-mail that was produced to the Committee was reconstructed by the Department of Justice Campaign Financing Task Force and the Office of Independent Counsel Robert Ray. In June of this year, the EOP provided those bodies with a number of backup tapes pursuant to an agreement authorized by Judge Lamberth as part of the Alexander litigation. The FBI took the tapes and conducted the technical work necessary to extract e-mail from them. That process took a period of months -- far longer than the investigative bodies seemed to have anticipated.

   On or about August 16, 2000, the actual review of e-mail began at the offices of the Department of Justice. Pursuant to the authorized agreement, the review is conducted electronically on a computer screen, with a team of FBI Agents and lawyers from the DOJ and OIC involved and EOP lawyers present. The e-mail is opened one message at a time and reviewed. The FBI agents, using criteria provided to them jointly by the DOJ and OIC (but which are unknown to the EOP), determine whether or not to print the e-mail based on their responsiveness to outstanding DOJ or OIC requests. If the e-mail is printed, it is control numbered and provided to the EOP, and thereafter to DOJ's and OIC's investigative teams, as appropriate. The first e-mail was printed on or about August 16.

   As we understand it, early in the reconstruction process the FBI realized that the OVP tapes contained an interlocking series of data, and they therefore needed to unlock a series of OVP tapes at one time. Thus, the review of OVP tapes is progressing in groups or series of tapes. The last e-mail contained in our recent production to the Committee was printed on or about September 7, 2000, but review of that series of tapes continued until September 18, 2000, with no new e-mail being printed. We took the e-mail from

the series of tapes that were reviewed and compared it to the previous requests received from the Committee. We produced responsive materials four days after the conclusion of the DOJ/OIC review. (We assume that Question 1(b) refers to e-mail produced to the Committee, not the White House).

2. **Do you know of any reason why the Attorney General would not have had access by August 23, 2000, to all of the e-mails produced to this Committee on September 22, 2000?**

As noted above, e-mail was reviewed throughout the period August 16-September 18. We believe, therefore, that some, but not all, of the e-mail would have been available by August 23.

3. **E-mail E 8813 has the following communication between three members of the Office of the Vice President: "the DNC is requesting the VP host four coffees to spread throughout the months of May and June. I was misinformed that these could happen in the White House; turns out they need to be at NavObs."**

(a) Do you know who "misinformed" Kimberley H. Tilley that the coffees could take place in the White House? If the answer is yes, please tell the Committee who that person was. If you do not, please make an effort to find out who that person was.

(b) Why did Ms. Tilley come to the belief that the coffees could not be held in the White House?

Response to Questions 3(a) and (b): We do not know the answer to these questions, and Ms. Tilley is represented by counsel with respect to these matters. Her counsel's name is Daniel Grove of the Washington, D.C. law firm of Winston & Strawn.

(c) Why did the coffees "need to be at NavObs?"

We are not aware of any reason that the coffees needed to be at NavObs.

4. **Has Araceli Ruano been interviewed by the Department of Justice at any time in the last four years? (A yes or no answer will suffice.)**

Not to the best of our knowledge.

5. **Has Karen Skelton been interviewed by the Department of Justice at any time in the last four years? (A yes or no answer will suffice.)**

Not to the best of our knowledge.

Transition Plan for the E-Mail Recovery and Production

1. **Do you think you and your staff will be able to complete production of responsive e-mail to this Committee before a new Administration moves into the White House?**

We currently estimate that, by mid-November 2000, a database will be in place that is capable of accepting and searching data from the backup tapes for the Mail 2, Letter D and OVP anomalies. That database will allow for immediate broad searches of the data contained in it. We expect to begin loading data into the database as soon as it is available, but the loading of data from the Mail 2, Letter D and OVP backup tapes is not projected to be completed until mid-February 2001, assuming a 24 hour-a-day, 7 day-per-week work schedule (EOP is currently reviewing a contract proposal to move to such a schedule). Searches of that database need not await the loading of all data, but can begin as soon as the database is ready, subject to the limitation that only the data in the system at the time of the search can be reviewed. That is, we can make rolling productions.

Our briefing team explained to Committee staff on September 14, 2000, however, that as we await the development of that database, the EOP has designed a method to begin immediate targeted searches of backup tapes according to the priorities set by interested investigative bodies. This process enables us to conduct targeted searches now rather than wait until the database discussed above is ready. Using this process, we can perform three different types of targeted searches right away. First, with about three weeks of computer staff time, our system can produce for EOP lawyers' review a search using 100 tapes, 70 e-mail accounts and 70 search terms. With about two weeks of computer staff time, our system can produce for our lawyers' review a search using 50 tapes, 35 e-mail accounts, and 35 search terms. And within a few days, our system can produce for our lawyers' review a search of a single tape -- using all e-mail accounts -- using a single search term. On September 14, we invited the Committee staff to provide priorities regarding these searches, and we await the Committee's indication of its investigative preferences.

2. **What steps have been taken by you and your Office to provide for recovery and review of e-mails after a new Administration moves into the White House?**

3. **What plan do you currently have in place to review e-mails and to provide responsive e-mails to Congress after a new Administration moves into the White House?**

Response to Questions 2 and 3: The transition issues raised by the e-mail restoration project are novel and complex. The House and Senate Appropriations Committees have approved funding for the contract governing the project through the fiscal year ending September 30, 2001. We have implemented the staffing, equipment, and space requirements that will be necessary to finish the task, and we continually reevaluate our technical approach in an effort to realize efficiencies wherever they can be achieved. In addition, we have opened discussions with the National Archives on this issue. A previously scheduled meeting with National Archives officials about this matter is expected to occur next week, and we will provide a status update to the Committee within the next two weeks.

4. **Have you rejected the suggestion that a special master should be appointed to take charge of reviewing e-mail and producing responsive e-mail to Congress?**

5. **If you have rejected this suggestion, why?**

Response to Questions 4 and 5: We do not believe that a special master is necessary or appropriate. The EOP is far along in this project and our technical staff is operating efficiently. A special master would have to start from scratch and re-invent a technical system roughly similar to what we have already done. Not only would time be wasted reinventing a system that we have already put in place, but also significant and unnecessary costs and delay would be incurred recreating that system. Our experience with this project is that technical personnel unfamiliar with its intricacies often believe that its technical challenges easily can be overcome. However, we have found that those overly optimistic predictions fade as technical personnel become more familiar with the actual task. In this regard, it is worth noting that Judge Lamberth, as part of the Alexander restoration, originally assigned the FBI the task of conducting searches of EOP tapes that the FBI was in the process of restoring. Subsequently, Judge Lamberth took that task away from the FBI and reassigned it to the EOP when the FBI was unable to reconstruct the tapes in a timely manner. EOP's technical staff is now thoroughly versed in this project and has accumulated special expertise in this area. We strongly

believe that the appointment of a special master would slow down -- not speed up -- the tape restoration work. Finally, as noted above, the EOP has already opened discussions with the National Archives regarding the effect of the transition to a new Administration on the reconstruction project.

The "Eskew Request" E-Mail

1. **One of the e-mails recently produced to the Committee (E 8701) is addressed to the Vice President. Options are laid out, and one is: "Give Carter [Eskew] your special e-mail address that Michael Gill had set-up earlier [.]" Did this happen?**

   Not to the best of our knowledge.

2. **Was the Vice President's "special e-mail" account maintained on the OVP server? Was that account ARMS-managed?**

   The Vice President has only one e-mail account, and that account is maintained on the OVP server. For security reasons, the Vice President's e-mail address does not appear on e-mails sent to outside users or that outside users send to him. But, e-mail he sends and receives is managed under his true account name. As indicated in the e-mail, OVP staff believed that its e-mail was being ARMS-managed, but as we have previously reported to the Committee, that belief turned out to be largely incorrect.

3. **This e-mail suggests that "the only way not to have your e-mails backed up on government computers would be to get a Clinton/Gore computer in your office and set it up for private e-mails." Were any such computers set up in any Executive Office of the President office?**

   Yes. Under federal law, equipment in the White House that is dedicated for political purposes must be paid for by the appropriate political committee, not with official funds. This was done. As best we can determine, the Vice President did not have a Clinton/Gore '96 computer or Clinton/Gore '96 e-mail account in the White House.

4. If such computers were maintained in the EOP, were they searched by the White House in response to Committee subpoenas?

Any search directive issued by the Counsel's Office in response to a subpoena would have instructed staff to search for responsive materials without limiting the scope of the search to official computers. Moreover, as best we can determine, the first campaign finance-related request was not received by the EOP until December 1996. Equipment such as the Clinton/Gore '96 computers typically are removed soon after an election.

Sincerely,

Beth Nolan
Counsel to the President

cc: The Honorable Henry Waxman
Ranking Minority Member

EXHIBIT 7

THE WHITE HOUSE

WASHINGTON

October 4, 2000

By Facsimile and Regular Mail

James Wilson, Esq.
Chief Counsel
Committee on Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Wilson:

On September 14, 2000, we briefed Committee staff on the status of the EOP e-mail restoration project. We indicated that we are now able to conduct targeted searches of non-ARMS-managed e-mail on backup tapes according to the priorities of investigative bodies, and we invited the Committee to provide us with input regarding its investigative preferences. This letter is to reiterate that invitation.

As we advised, using a targeted search process we can conduct three different types of searches. Our technical staff can search 100 tapes for 70 e-mail accounts and 70 search terms in about three weeks. They can search 50 tapes for 35 e-mail accounts and 35 search terms in about two weeks. Finally, they can search all e-mail accounts on a single tape using a single search term within a few days. Once the work on the technical side is complete, the results would be available for lawyers' review and production, if appropriate, to the Committee.

As of today, over 1700 of the approximately 3400 backup tapes relevant to the Mail2, Letter D and OVP anomalies have been copied. Please keep in mind, however, that our offer to conduct targeted searches is not limited to the already-copied tapes and that a request to conduct a targeted search of other backup tapes can be accommodated.

The Committee's input is essential to resolve a number of important issues relating to these targeted searches. For example, we would need the Committee to identify which user accounts to search, which subpoenas should take priority, and which dates are of most significance. The Committee is clearly in the best position to answer these questions. With this information, we would work to both accommodate your interests and coordinate them with other search requests. On the other hand, we recognize that the Committee may prefer to await the point at which we will have a broader search capacity.

Thank you for your consideration of this matter. Please do not hesitate to call if I can be of assistance.

Sincerely,

Lisa J. Klem
Associate Counsel to the President

cc: Paul Weinberger, Esq.

EXHIBIT 8

TRANSCRIPTION OF MARCH 29, 2000, HANDWRITTEN STATEMENT OF PAULETTE CICHON

1. I, Paulette Cichon, was employed at the Executive Office of the President, Office of Administration, from approximately Oct, 1997 to Sept, 1998.

2. My position was Deputy Director, Information Management, at the Office of Administration, reporting to Ada Posey.

3. On or about late May or June in 1998, I had a meeting with Mark Lindsay where I was informed by Mark of a situation where e-mails were not being properly stored in the ARMS system. He asked me to meet with Betty Lambuth to understand technically the scope of the problem.

4. Shortly thereafter, probably within a day, I met with Betty to understand the situation Mark + I had discussed. During that meeting, Betty was apprehensive or uncomfortable about discussing the situation with me. She asked me if we could bring Mark into the meeting to determine if it was permissable for her to talk me. I asked Mark to join the meeting, and explained the difficulty. He joined us, and said it was appropriate for Betty to continue the discussion and fully inform me of the situation. Mark stayed for a short period of time, and Betty + I concluded the meeting. Betty + I discussed the technical nature of the e-mail situation such that I could understand what needed to be done.

5. At no time during this meeting did I perceive Mark threatening Betty or myself. At no time was a threat of jail mentioned or any other threat. If any threat were made I would have certainly remembered it and would have taken the appropriate action in response. I did not take part in any other meetings or conversations at which Mark or anyone else made any threats.

6. I was aware from Mark Lindsay of the sensitive nature of the situation. I felt this was a reasonable concern because we did not have all the required facts and did not as yet fully understand the scope of the problem. By informing me of the situation, Mark understood I would have to involve the entire IT organization in determining a solution.

7. After the meeting, I assigned the task to my IT deputy to understand the scope and nature of this problem. From the time that the project was assigned, it was diligently being worked. At the time of my departure in September, the issue was not resolved due to funding and contractual problems.

8. I make this statement freely and based on my best recollection at this time.

Paulette Cichon
March 29, 2000
Witnessed by John R. Tolle

(1)

(1) I, Paulette Aiken, was employed at the Executive Office of the President, Office of Administration, from approximately Oct, 1997 to Sept, 1998.

(2) My position was Deputy Director, Information Management, at the Office of Administration, reporting to Sheryl Cassity.

(3) On or about Late May or June in 1998, I had a meeting with Mark Lindsey where I was informed by Mark of a situation where e-mails were not being properly stored in the ARMS ~~system~~ system. He asked me to meet with Betty Lambuth to understand ~~the~~ technically the scope of the problem.

(4) Shortly thereafter, probably within a day, I met with Betty to understand the situation Mark + I had discussed. During that meeting, Betty was ~~very apprehensive~~ apprehensive or uncomfortable about discussing the situation with me. She asked if we could bring Mark into the meeting to determine if it was permissable for her to talk to me. I asked Mark to join the meeting, and explained the difficulty. He joined us, and said it was appropriate for Betty to continue the discussion and fully inform me

(2)

of the situation. Mark stayed for a short period of time, and Betty + I concluded the meeting. We discussed the technical nature of the e mail situation such that I could understand what needed to be done.

Betty + I

(5) At no time during this meeting did I perceive Mark threatening Betty or myself. At no time was a threat of jail mentioned or any other threat. ~~If any threat were made~~ If one threat were made I would have certainly remembered it and ~~have taken~~ would have taken the appropriate action in response. I did not take part in any other meetings or conversations at which Mark or anyone else made any threats.

(6) I was aware from Mark Lindsey of the sensitive nature of the situation, ~~and after my meeting with Betty~~ I felt this was a reasonable concern because we did not have all the required facts and did not as yet fully understand the scope of the ~~issue~~ problem. By informing ~~me~~ of the situation, Mark understood I would have to involve the entire IT organization in determining a solution.

(3)

(7) After the meeting, I assigned the task to my IT deputy to understand the scope and nature of this problem. From the time that the project was assigned, it was diligently [illegible] worked At the time of my departure, the issue was not resolved due to funding and contractual problems.

(8) I make this statement freely and based on my best recollection at this time

Paulette Cichon
PAULETTE CICHON
March 29, ~~1999~~ 2000

witnessed by John R. Tolk
John R. Tolk

EXHIBIT 9

NORTHROP GRUMMAN

Data Systems and Services Division
Northrop Grumman Corporation
2411 Dulles Corner Park, Suite 800
Herndon, Virginia 20171-3430

September 14, 1998

In reply refer to:
JFL-98-481

Executive Office of the President
Administration Procurement Branch
ATTN: Dale Helms
NEOB, Room 5001
725 17th Street, N.W.
Washington, D.C. 20503

SUBJECT: Executive Office of the President
Contract No. DTOS59-96-D-00418

Dear Mr. Helms:

I have recently been informed that in late May of this year, a dysfunction in the EOP e-mail system was detected by an employee of Northrop Grumman Corporation (the "Company"). The dysfunction involves the archiving of e-mail communications from the EOP e-mail system. In essence, it appears the e-mail system cannot reliably retrieve messages stored in the system. This dysfunction appears to have had its origin in the conversion of the EOP e-mail system to CC Mail in October 1996.

I am further informed that Company employees brought this dysfunction to the attention of Laura Crabtree, EOP Branch Manager for Desktop Services, at the time of discovery in late May or early June 1998. Ms. Crabtree directed the Company employees to evaluate the problem and undertake remedial action, without Northrop Grumman management involvement. Since that time, Company employees have studied the nature and extent of the dysfunction and have undertaken with some incomplete remedial efforts.

Based on our review, the level of effort required to remedy the dysfunction will substantially exceed the scope of work contemplated under the referenced contract. As a consequence we are not proceeding with our efforts to remedy the dysfunction until we have received further contractual direction.

Very truly yours,

Joseph F. Lucente
Director, Contracts and Subcontracts

NGL 00503

EXHIBIT 10

THE WHITE HOUSE
WASHINGTON

March 17, 2000

BY FACSIMILE AND U.S. MAIL

The Honorable Dan Burton
Chairman, Committee on Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515-6143

Dear Chairman Burton:

Pursuant to my March 10, 2000 letter to you, I am writing to provide you with a response to your request for information concerning e-mail records related to the Committee's subpoenas in the campaign finance, FALN, and Waco matters.

As you are aware, recent press reports have described certain configuration errors associated with the management system used for e-mail records within the White House and the Executive Office of the President (collectively "EOP"). Since I became aware of the nature of this matter, my staff and I have been working diligently to understand its scope and effect. Over the past several weeks, my staff has addressed with your staff the Committee's request for information about the general nature of these computer errors and the Committee's request for interviews of current and former EOP staff. I now want to provide you with more details about this issue and its effect, if any, on the Committee's subpoena requests. Of course, we are continuing to review this matter and may need to amplify or modify our findings as we gather more information.

I. Automated Records Management System

A. Searches for E-mail Records

Before explaining the nature of the configuration errors affecting certain incoming e-mail records being captured by the Automated Records Management System (ARMS), I want to describe briefly how the Office of Administration's (OA) computer records management system for the EOP is designed to work for e-mail records. Whenever an e-mail is sent to or from a user within the EOP, that e-mail is sent directly to a server, where the recipient can read it. The e-mail does not technically reside on the individual user's personal computer (PC), but on the server. As long as the user retains the e-mail on her PC, it remains on the server. Accordingly, as you know, while individuals are instructed to search their own PCs in response to a subpoena request, a redundant search of the server is not conducted. Conversely, by deleting an e-mail, the

user deletes it from the server as well as the PC. Because many individual users delete e-mail daily (and indeed users must delete some e-mails because the server does not have the capacity to hold all e-mails), the server is not a complete and accurate repository of e-mails sent to and from the EOP.

ARMS is a management system that was installed following the Armstrong case. It is designed to capture e-mail records sent from or to EOP user accounts that it manages ("ARMS-managed accounts"). ARMS is the first keyword searchable e-mail records archive maintained by the EOP.

E-mails generated by ARMS-managed accounts are automatically recorded by ARMS as they are sent by the user. In addition, several times a minute, generally, ARMS scans the server and captures unrecorded e-mails residing on the server at the moment of scanning. To avoid repeatedly scanning an e-mail that continues to reside on the server over a period of time, once ARMS records an e-mail, it is coded so that ARMS will not needlessly scan it again.

As then-Counsel to the President Charles Ruff explained in his September 11, 1997 letter to you, we notified your staff in the Spring of 1997 that ARMS was put in place in July 1994 and has managed e-mail records for most EOP offices since that time. (10/21/97 Letter from White House Counsel Charles Ruff to The Honorable Dan Burton). Mr. Ruff further explained that ARMS also manages reconstructed e-mail records for the period January 1993 through July 1994. (*Id.*). The e-mails were loaded into ARMS by Information Systems and Technology (IS&T) personnel within OA beginning in July 1994 -- a process that was completed some time in mid-1999. Until reconstruction was completed, only limited e-mail records were searchable for the pre-July 1994 period. (*Id.*).

In response to a subpoena request, the individuals within the relevant EOP offices are instructed to search for responsive materials in any form. The head of each EOP office is instructed to certify that the individuals within the office have conducted a search of their files and the office's files, and have provided any potentially responsive materials to the White House Counsel's Office. As a complement to these individual searches, a computerized search of ARMS is performed at our direction by IS&T personnel. (*See* 9/11/97 letter from White House Counsel Charles Ruff to The Honorable Dan Burton). IS&T staff work with White House Counsel's Office staff to identify keyword terms to use in searching ARMS for responsive materials. As we have previously explained to your staff, because we use search terms, we cannot guarantee that every responsive e-mail is located. Nevertheless, we usually err on the side of using broad search terms, which sometimes yield large amounts of nonresponsive materials.

These computerized searches are extremely time-consuming and costly. For example, a search can take several days to complete, depending upon the number of offices and time period covered. Once a search is complete, it can take up to several days to print the search results. In addition, our staff must manually review the printed search results for responsiveness. Indeed,

on many occasions our staff has waded through thousands of pages of nonresponsive materials to locate the few responsive ones.

The only other electronic records of the server consist of tapes made periodically when the server is "backed up." Backup tapes are not created or saved for archival purposes, are not a part of ARMS, and are not searchable, absent reconstruction and transfer to ARMS, using general keyword terms. For these reasons, the EOP does not search backup tapes when responding to subpoena requests. These tapes are created solely for recovery in the event of a system "crash" to allow IS&T personnel to recover certain files. They are created generally daily, and take a "snapshot" of whatever exists on the server at the current time. For example, if an e-mail were sent to an EOP user and then deleted between backups, it would not be captured on a backup tape. At times when there has been a shortage of backup tapes, they have been reused. Backup tapes are thus an inaccurate and incomplete compilation of what is on the system and serve as a last resort only in cases of a catastrophic system failure. As noted below, I am also informed that reconstruction of files from backup tapes is a costly and time-consuming endeavor.

B. Configuration Errors Affecting ARMS

ARMS, like all computer records management systems, is susceptible to problems, software programming errors, and "glitches" that are not easily detectable. Even when they are discovered, however, the nature, scope, and cause of the problems, as well as their effect on the system and users, may be difficult to ascertain.

Although we have always understood that ARMS is designed to record all e-mails sent through the EOP e-mail network (currently the Lotus Notes system), two separate configuration errors have occurred which prevented certain incoming e-mails sent to ARMS-managed accounts from being recorded in ARMS for a period of time. The first error occurred in August 1996, when IS&T was performing routine maintenance to improve the system's performance. As part of the process, individual user accounts within the White House Office (WHO), and some accounts within OA and the Office of Policy Development (OPD), were moved to a new server, called "Mail2." During this process, some of these users were apparently mistakenly coded by computer technicians as being on "MAIL2," using all upper case letters, instead of "Mail2." The ARMS scanning process is case sensitive when identifying servers and did not recognize "MAIL2." Because ARMS did not recognize "MAIL2," the ARMS scanning process did not capture incoming e-mails (*i.e.*, e-mails sent from non-managed ARMS accounts to ARMS-managed accounts) for these affected ARMS-managed accounts.

In January 1998, Daniel Barry, IS&T Records Projects Computer Specialist, was performing a keyword search of ARMS in response to a subpoena request and noticed a possible anomaly within ARMS. Mr. Barry found that on a particular day there were outgoing e-mails from an EOP user who seemed to be exchanging e-mails with an outside user, but there were no corresponding incoming e-mails. Thus, it appeared to him that some incoming e-mails might be missing from ARMS. Mr. Barry, with the assistance of John Spriggs, the IS&T e-mail contract

administrator and an employee of outside contractor Northrop Grumman (N-G), examined the log of the FIREWALL system, through which e-mail created outside the EOP passes and is screened to ensure that messages do not include viruses. They determined that on the day in question, the EOP user had actually sent the outside user seven e-mails, while the outside user had sent the EOP user six incoming e-mails. At the time, Mr. Barry was unsure whether this was an isolated incident for this particular user on this particular day or whether it was a broader undetected systemic error. Indeed, minor glitches or "hiccups" are common to IS&T systems, as they are to all computer systems, and small pieces of data are often not easily retrievable as a result. Mr. Barry notified his superiors and documented his finding.

The full extent of the error causing the anomaly Mr. Barry noted was not discovered until June 1998, when on-site N-G employees discovered on the server certain incoming e-mail messages that were coded as "unrecorded" on the server, signifying that the ARMS scanning process was not picking up these messages. The contractor notified IS&T personnel. A group of employees was assembled to investigate and repair the problem.

By the fall of 1998, N-G technical personnel working with IS&T staff discovered that the problem was due to miscoding "Mail2" as "MAIL2." They further determined that the miscoding affected 526 ARMS-managed accounts from the following EOP offices:

1. WHO (464 accounts)
2. Office of Policy Development (58 accounts)
3. OA (4 accounts)

As a result, certain incoming e-mail that these 526 users had received since August 1996 had not been recorded by ARMS. As noted previously, the problem did not cover any e-mails generated by ARMS-managed accounts. Moreover, it would not have prevented a recording of the incoming e-mail if the affected EOP user forwarded it or replied to it "with history" (*i.e.*, sending back the original e-mail). Additionally, incoming e-mail messages maintained on individual users' PCs would also remain on the user's server space, and therefore would be subject to individual EOP user searches, as long as the individual recipient did not delete them.

By November 1998, the N-G and IS&T personnel had corrected the problem prospectively so that all future incoming e-mail to the 526 affected users would be stored in ARMS. Thus, this configuration error affected these ARMS-managed accounts for the period August 1996 through November 1998. IS&T personnel also created backup tapes of the server to preserve the unrecorded e-mail existing on it as of November 20, 1998. By backing up the entire server, IS&T also necessarily captured word processing documents, rolodex files, and recorded e-mail records that also existed on the server at that time. After the prospective correction, ARMS resumed managing incoming e-mails and the creation of backup tapes of the server continued.

As noted above, backup tapes are not in a readable or searchable format because they are not created for archival purposes. Thus, they cannot easily be reconstructed and placed on

ARMS. Consequently, OA requested that N-G provide an estimate for studying the time and cost involved in restoring these e-mails to a readable format. In October 1998, N-G estimated that a feasibility study alone would cost about $600,000. OA informs us that, concurrent with the preliminary assessment of the costs to study the problem, OA was faced with the massive task of Y2K compliance of its entire system, including its mail systems. This task consumed IS&T resources throughout the remainder of 1998 and 1999.

A second configuration error was discovered in April 1999, when N-G technical personnel were testing the process in which ARMS interacts with the Lotus Notes system. When user accounts are created, they are assigned to a particular "view." Each view represents a section of the alphabet (*e.g.*, ABC), and users are assigned to a view by the first letter of their first name (*e.g.*, Mary Jones would be in the view that contains the letter "M"). The ARMS "viewer" scans the server on a "view" by "view" basis.

During this testing process, the N-G computer specialists discovered that, in correcting the "MAIL2" programming error, another configuration error involving the ARMS "viewer" had been made. The letter "D" was inadvertently omitted from a view, and the letter "J" was included twice. As a result, incoming e-mail to ARMS-managed accounts with the first names beginning with the letter "D" had not been recorded by ARMS since November 1998. It appears that this error remained undetected until April 1999 because the additional "J" led technical personnel to believe that the views contained all 26 letters of the alphabet. In fact, that was not the case.

The effect of the "Letter D" error on the system was similar to the "MAIL2" error: Incoming e-mail sent to ARMS-managed accounts whose users' first names begin with the letter "D" were not stored in ARMS. E-mails generated by ARMS-managed accounts were not affected by the problem. Approximately 200 ARMS-managed accounts from the following offices within the EOP were affected:

1. White House Office (42 accounts)
2. Office of Policy Development (8 accounts)
3. Office of Management and Budget (54 accounts)
4. Council of Economic Advisers (1 account)
5. Council on Environmental Quality (4 accounts)
6. National Security Council (21 accounts)
7. Office of Administration (32 accounts)
8. Office of National Drug Control Policy (20 accounts)
9. Office of Science and Technology Policy (6 accounts)
10. White House Climate Change Task Force (3 accounts)

As with the "MAIL2" error, e-mail maintained on these affected users' PCs remained on the server until deleted by the user, but were not captured in ARMS.

By May 1999, the N-G employees corrected this problem prospectively. Thus, the "Letter D" configuration error affected these ARMS-managed accounts from November 1998 to May 1999. As with the "MAIL2" error, a backup tape of the server was created on June 1, 1999 to preserve any unrecorded e-mail that existed on it at that time.

In the course of gathering these preliminary facts concerning these configuration errors, we were informed this week that e-mails on the server of the Office of the Vice President (OVP) have not been fully managed by ARMS. We are still in the process of determining the scope and time period involved. The OVP does maintain back-up tapes of its server.

Of course, numerous e-mails to and from OVP users have been produced to the Committee over the years, which is consistent with OVP staff having searched their PCs for e-mail residing on the servers or in their hard-copy files, and with the large number of OVP e-mails that were captured by searches of ARMS during unaffected periods. We are doing our best to determine how searches for e-mails responsive to the Committee's requests were affected by these facts. We will promptly provide the Committee with this information when we complete our review.

II. Effect of Configuration Errors on the Committee's Subpoena Requests

Recent reports have cited various global effects of these configuration errors and speculated about the contents of the affected incoming e-mails. Below are our preliminary findings with regard to the "MAIL2" and "Letter D" errors. As noted above, we will provide further information as soon as possible about the OVP accounts. Please note, also, that, given the technical issues involved, we may need to modify or amend these findings as our review proceeds.

A. Global Effects

1. These two configuration errors did not affect documents or e-mails created by ARMS-managed accounts. We understand that these two configuration errors did not affect e-mails from ARMS-managed accounts that were sent within or outside the EOP. The only e-mails affected by either configuration error described above were incoming e-mails. Moreover, if an affected user received an incoming e-mail and forwarded it or replied to it with history (sending back the original incoming e-mail) then ARMS would have recorded the incoming e-mail.

2. We do not know how many e-mails were affected. OA and IS&T personnel understand that no one has estimated the number of e-mails that were unrecorded. If such an estimate was made, it was not provided to the EOP. Currently, I am informed that there is no way to make this calculation unless the backup tapes are reconstructed.

3. We do not know if any responsive information is contained in the unrecorded e-mails. News reports state that the e-mails contain information relevant to various subpoenas. Again, we have not been informed that anyone had the opportunity to review the contents of

these e-mails. Moreover, IS&T personnel currently cannot identify what kind of information is on the backup tapes because they have not been reconstructed. Without such restoration, we cannot know the contents of the unrecorded e-mails.

4. Affected incoming e-mail left on the server should have been captured by individual user searches. As you know, EOP staff are instructed to search their files, including computer records, for responsive information. Thus any incoming e-mails still on an individual's server space at the time a search was conducted should have been captured by individual user searches.

5. The "MAIL2" and "Letter D" anomalies were technical errors. As explained above, these configuration errors were the sole result of human mistakes and entirely unintentional.

B. Effect on the Committee's Subpoenas

Per your request, we have tried to determine what effect these errors had on the Committee's subpoenas related to campaign finance, FALN, and Waco matters. Please note that our preliminary findings are based upon our understanding of the Committee's subpoena requests, any agreed modifications to those requests, and the kind of e-mail search we performed to locate responsive material.

1. Campaign finance related subpoena requests. As your staff is aware, since the Committee's first subpoena in early 1997, our staffs negotiated a global December 31, 1996 cutoff date for all campaign finance related requests. Thus, incoming e-mails to the 526 affected ARMS-managed accounts for a five month period (August 1996 through December 1996) that were not forwarded or replied to with history would likely not have been captured by ARMS. E-mails remaining on an individual user's PC should have been captured.

2. FALN related subpoena requests. The search in response to the Committee's first subpoena covered the period January 20, 1993 through August 1999. The search in response to the Committee's second subpoena covered the period January 20, 1993 through November 10, 1999. Thus, these searches would have encompassed both time periods affected by the two configuration errors.

3. Waco related subpoena requests. On September 1, 1999, the Committee served a subpoena seeking materials related to the use of incendiary devices at the Branch Davidian compound. As you know, the relevant time period surrounding the Waco matter precedes August 1996, when the first configuration error occurred. Thus, we do not believe that these two errors would have affected a search of ARMS for e-mails responsive to this subpoena. Moreover, as our staff explained to your staff, we had recently conducted a broad search for Waco-related materials in response to a Court Order in the *Andrade v. Chojnacki* matter. Our staffs reached an accommodation whereby, in lieu of conducting another search that would likely encompass the same materials, we would produce to the Committee unsealed materials that were

produced to the *Andrade* Court. On January 28, 2000, we provided you with a copy of these materials.

III. Current Efforts to Explore Possible Reconstruction of Affected E-mail

We are working diligently to determine whether it is possible to reconstruct the backup tapes so we can load the unrecorded e-mails on to ARMS and perform keyword searches. We currently have obtained the following estimate.

There are at least 3400 backup tapes of the server relating to e-mail. As stated above, they are an incomplete and inaccurate collection of EOP computer records. The preliminary cost estimate we have received to reconstruct these tapes so that the information they contain could be placed on ARMS and searched using keywords is between $1.8 million and $3.0 million. This process is estimated to take approximately one to two years.

The process may be performed in "batches"; *i.e.*, several backup tapes at a time. If reconstruction were possible, we would likely begin the process with the November 20, 1998 and June 1, 1999 backup tapes (approximately 15 tapes total). This process would entail extracting the unrecorded e-mails from the backup tapes and putting them on a server. Then, computer technicians would need to develop a program that would "de-duplicate" the unrecorded e-mails so that ARMS would not record identical e-mails (as stated above, ARMS is designed not to scan identical e-mail messages). This estimate does not, however, include possible restoration of the OVP backup tapes, as well as the time and funds needed to perform other steps in the process, such as awarding a competitive contract, searching ARMS, printing the search results, manually reviewing them, and producing responsive materials.

We are, of course, continuing to review this matter. As I learn more relevant information, we will keep your office informed. If you have any questions, please call me. In any event, I will call you next week.

Sincerely,

Beth Nolan
Counsel to the President

cc: The Honorable Henry Waxman

EXHIBIT 11

THE WHITE HOUSE
WASHINGTON

September 11, 1997

BY HAND

The Honorable Dan Burton
Chairman
Government Reform and Oversight Committee
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

As promised, I want to respond in detail to your September 2, 1997 letter regarding our recent production of documents to the Committee. I appreciate your inquiry and want to address your questions fully and explain the efforts this Office has undertaken to respond to the Committee's requests for information.

Since receiving the Committee's initial subpoenas, we have attempted in good faith to search all records that may contain responsive documents. To this end, I sent out a directive to all relevant White House personnel to search their records thoroughly for responsive materials. My June 27, 1997, certification was the culmination of our efforts to provide all materials responsive to the Committee's first seven subpoenas within a three-week period. As of that date, we had produced all responsive materials that we had been able to locate.

Although the production completed in June represented the result of an intensive, good-faith search for all materials responsive to the Committee's subpoenas, as I informed you at the time, I wanted to be doubly sure that all responsive documents had been located and directed my staff to take certain additional steps to that end. As a result, my staff has revisited various offices, including the Office of Records Management, to search for responsive documents, and we have instructed White House staff promptly to inform this Office if they discover any responsive documents that had been overlooked. I also directed my staff to inform me immediately of any such occurrences and to produce any newly located documents as soon as possible.

The August Production

The following is a description of the circumstances surrounding the production of the materials about which you inquired:

1. Documents Relating to Fundraising Events

The bulk of our supplemental production during August consisted of briefing memos concerning fundraising events, as well as annotated schedules from the Presidential Diarist. Briefing memos are typically prepared for official and political events that are attended by the principals. By June, we had produced all responsive briefing memos provided in response to our directive, but to ensure that our production was complete, my staff reviewed again the briefing books for dates on which we knew that fundraising events had occurred but for which no briefing memos had been collected. When briefing memos were located, they were promptly produced.

As to the annotated schedules, by June 27 we had provided the Committee with all of the responsive schedules we had received from the Diarist in response to my directive. As part of our ongoing compliance effort, my staff conducted an additional review of the schedules to determine whether any others contained responsive annotations. All schedules located through this process were likewise promptly produced.

2. Electronic Messages

The search for e-mail messages has been the most difficult element of the production process. This Office's directives instructed White House personnel to search their files and computers for any responsive e-mail messages, and as we gathered these materials, we produced them to the Committee. As we explained to your staff this spring, however, messages not saved on an individual's computer or messages created during the earlier years of the Administration are stored in a central archive, and a computer search of that archive is extremely time-consuming and costly. For example, it can take two to three days to perform a search of a month of archived e-mail messages of the White House Office alone, not including the other agencies of the Executive Office of the President. After a search is complete, even more time is required to print the e-mails and then manually search them for responsiveness.

Accordingly, faced with similar document requests from several investigating entities, we have attempted to coordinate our e-mail searches so that they could be performed only once, encompassing as many document requests as possible. We directed the White House Information Systems and Technology Division to combine several different requests and search the archived e-mails using general terms. We have been receiving hard copies of the e-mails that

were located as a result of this search and will continue to review and produce any additional responsive materials on an ongoing basis.

3. Phone Logs

As you note in your letter, we have produced responsive phone message slips of the First Lady's Office, including Margaret Williams and other personnel. These and other phone messages were located in the Office of Records Management, which contains approximately 140 boxes of phone logs of various White House personnel. Like the archived e-mails, a search of these materials is labor intensive and time-consuming. For example, it takes an individual approximately four to six hours to review a single box of phone logs.

When my staff met with Committee staff last May, they described these archived phone logs and indicated that they would, realistically, be unable to complete this search before the June 13 production deadline. Your staff indicated that they appreciated this situation. Since then, my staff has searched the phone logs of individuals identified as likely to contain responsive materials. I have attached a list of the boxes held in Office of Records Management that contain phone logs. A check mark beside an individual's box indicates that this box has been searched. If your staff believes that there remains on that list an individual whose phone logs should be searched, please have them contact us, and we will, of course, conduct that search.

4. Documents Relating To The Vice President

The "call sheets" relating to the Vice President to which you refer are DNC documents that only recently have come into the possession of the White House and, we understand, have not otherwise been provided to the Committee. We produced them promptly upon receiving them and will continue the practice of producing similar documents received from third parties as part of our ongoing commitment to cooperate with the Committee's inquiry.

5. Documents Relating To Mack McLarty And Yah Lin Trie

Your letter next refers to our production of materials related to Mack McLarty and Yah Lin Trie. With respect to the McLarty-related materials, some were inadvertently omitted from our initial production. When we realized that they had not been produced, we produced them within one week. The other documents belonged to a State Department employee who brought them with him when he recently joined the White House staff, and, thus, they were not in our possession at the time of our original search.

The Trie-related materials consist of three pages of non-substantive administrative routing documents and one other document that was recently located in Oval Office Operations. When they were discovered, we promptly produced them to the Committee.

Current Production

Except for the completion of the e-mail review described above, and any additional phone log searches the Committee wishes us to undertake, we do not anticipate any further production in response to the Committee's first seven subpoenas. We are, of course, conducting searches with respect to the Committee's more recent requests (for example, we expect to produce later this week materials responsive to the Committee's August 21, 1997 subpoena) and, if, in the course of those searches, we locate any additional documents that are responsive to the earlier subpoenas, we will produce them promptly.

In addition, as you know, we have received numerous requests and subpoenas for documents from other investigative bodies. In the event that the materials gathered in response to those requests are related to the Committee's requests, even if not technically responsive, we will produce them as part of our ongoing cooperation with the Committee. For example, we recently received a request from another investigative body related to U.S. policy concerning Guam. The search for those documents generated materials that were not within the scope of the Committee's request as agreed on by our staffs, but we will be producing those documents to the Committee in the near future.

Mr. Chairman, during our conversations I have repeatedly expressed the seriousness with which I and my staff take our obligation to respond to the subpoenas we have received. We have endeavored to execute the President's mandate to cooperate fully with the Committee's investigation. Nonetheless, as we have discussed and as is reflected in the description of our compliance efforts in this letter, we will inevitably discover responsive documents in the course of other searches. I can assure you that we will produce any such documents promptly, and I reiterate my previous representation to you that, under no circumstances, will this Office ever manipulate our compliance efforts or our production schedule for any tactical advantage. Moreover, if the Committee has some special interest in particular documents or information, because it is preparing to interview a witness or for any other reason, we will endeavor to adapt our searches and production to the Committee's needs.

Thank you again for giving me the opportunity to address your concerns about this matter. If you have any further questions, please do not hesitate to contact me.

Sincerely,

Charles F.C. Ruff
Counsel to the President

cc: The Honorable Henry A. Waxman

EXHIBIT 12

WorldNetDaily

| PAGE 1 | PAGE 2 | COMMENTARY | SEARCH | CONTACT WND |


"The Triumph of Design and the Demise of Darwin"

TUESDAY
AUGUST 1
2000



WORLDNETDAILY EXCLUSIVE

ALL THE PRESIDENT'S SCANDALS

Congress told of Project X in 1998

Ex-White House official says she briefed House panel lawyer

By Paul Sperry
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WASHINGTON -- Hearings into missing White House e-mail took a surprise turn yesterday when a former White House computer manager said she told Congress about gaps in e-mail records almost two years ago.

The federal court testimony undercuts GOP lawmakers' claims that the White House never told them the subpoenaed e-mails were missing until this year.

Sheryl Hall, a former branch chief in the White House's computer division, said she secretly briefed a House investigator in November 1998 about the records gap, known internally as "Project X."

She says the Republican staff lawyer, who went on to work for the independent counsel, didn't follow up on her complaint.

Haas, while 'pacing' in her office, told her and White House computer specialist Sharon Mitchell that he 'feared for his life' and wanted to show a friend what he'd found while searching the trove of missing e-mail, Hall said.

The lawyer, Keith Ausbrook, told WorldNetDaily he doesn't recall talking about Project X with Hall.

Hall was the leadoff witness in a new round of hearings into charges the White House has been blocking the production of evidence relevant to several investigations.

She also suggested a White House computer contractor misled Congress when he testified he kept no secret files of e-mails tied to various scandals.

He said he'd stumbled onto e-mails tied to Chinagate, Filegate and other White House scandals, Hall recounted.

Hall said Northrop Grumman e-mail expert Robert Haas told her and another witness in a late June 1998 meeting in her office that he stored the files on a zip disk. He told Congress another story, she says, to save his White House job.

Haas, while "pacing" in her office, told her and White House computer specialist Sharon Mitchell that he "feared for his life" and wanted to show a friend what he'd found while searching the trove of missing e-mail, Hall said.

He said he'd stumbled onto e-mails tied to Chinagate, Filegate and other White House scandals, Hall recounted.

Haas said the "results (of investigations) would be different and other people would go to jail" if investigators had the e-mails, she said.

Though he has denied being afraid for his life, Haas has accused two White House officials of threatening him with jail if he didn't keep Project X secret.

Hall's talk with Ausbrook also raises the question of what and when the independent counsel's office knew about Project X.

Ausbrook joined the independent counsel's staff in February 1999 -- just over two months after Hall says she told him the White House didn't search all its e-mail records in response to subpoenas.

Both Congress and Independent Counsel Kenneth Starr had issued subpoenas for White House e-mails.

Starr's successor, Robert Ray, just this April launched a criminal probe to see if the White House tried to cover up the e-mail records gap.

"If she had told me about it, I would have done something about it," Ausbrook said.

Hall provided more details after the hearing.

She said she met with Ausbrook at his House Rayburn Building office around 6 p.m. on Nov. 30, 1998 -- about five months after a huge gap in mostly West Wing e-mail was discovered by Haas and other contractors.

"I told him there was a computer mistake and over 100,000 e-mails were missing," she said. "And all these (subpoena) searches have been invalid lately."

She also recalled describing the problem as "Project X."

Hall said she tipped Congress off because she didn't

Haas said the 'results (of investigations) would be different and other people would go to jail' if investigators had the e-mails, she said.

know where else to turn.

Ausbrook had interviewed Hall in 1996 as part of a House Government Reform Committee panel's probe into charges the White House used a taxpayer-paid computer database called "WHODB" to solicit political donors.

In hearings this year, House Government Reform Committee Chairman Dan Burton has blasted White House officials for failing to inform Congress about the hole in e-mail records.

Asked if he'd had any contact with Hall in 1998, Ausbrook says he talked to her a "couple of times" and "might have met with her once."

But he remembers discussing only WHODB-related issues and nothing about Project X.

"I have no recollection of that," he said.

After filling him in, Hall says Ausbrook told her he'd "think about it."

"I expected him to follow up and pursue it," she said. "I was surprised he didn't do something like issue a new subpoena" for the missing e-mails.

Ausbrook says that's exactly what he would have done -- if he'd known about it.

"Even if Sheryl Hall did tell us," he added, "it still wasn't the White House telling us."

That's an issue a federal grand jury is weighing.

White House witnesses have already been questioned. And Ray has issued grand-jury subpoenas to the National Archives for documents related to White House records-keeping practices.

WorldNetDaily has learned that Ray has assigned several prosecutors and FBI agents to the case.

So far they've taken depositions from Hall and another whistleblower, former Northrop Grumman contractor Betty Lambuth. She says White House officials threatened her and others with jail if they talked about Project X.

> ***I expected him to follow up and pursue it. I was surprised he didn't do something like issue a new subpoena...***
>
> *-- Sheryl Hall, former branch chief in the White House's computer division*

Investigators for Burton's committee have deposed another whistleblower, former White House computer division director Kathleen Gallant.

They interviewed her at her Virginia offices more than a month ago. A staffer said she dropped some "bombshells."

But Burton, who sent two scouts to yesterday's court hearing, hasn't called Gallant to testify in public hearings. His panel has been stretched thin since losing press secretary Mark Corallo to the Bush campaign.

Gallant, however, will take the stand tomorrow as one of many witnesses government watchdog Judicial Watch plans to call to convince U.S. District Judge Royce Lamberth to take the e-mail search project away from the White House.

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'They lied to the judge'

White House now uncertain when e-mail ready

Another tech 'error' scrubs Gore e-mail

Hillary must turn over e-mail

Despite claims, Hillary e-mailed via staff

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Paul Sperry is Washington bureau chief for WorldNetDaily.

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EXHIBIT 13

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RICHARD OPARIL

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September 27, 2000

By Hand

Hon. Henry A. Waxman
Ranking Minority Member
Committee on Government Reform
House of Representatives
2157 Rayburn Office Building
Washington, D.C. 20515-6143

Re: September 26, 2000 E-Mail Hearing

Dear Congressman Waxman:

At yesterday's hearing, I understanding that Chairman Burton released a letter to Judge Lamberth pertaining to representations that I made to the Court in the case filed by Judicial Watch, *Alexander v. FBI.*

The allegations in Chairman Burton's letter are absolutely untrue, as outlined in the attached September 27, 2000 letter to Judge Lamberth. I would appreciate your including my response to those allegations in the record of the hearing.

Please call me if you have any questions. Thank you for your assistance on this matter.

Very truly yours,

Richard J. Oparil

/ro
Enclosure

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RICHARD J. OPARIL

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September 27, 2000

By Hand

Hon. Royce C. Lamberth
United States District Judge
United States District Court
for the District of Columbia
333 Constitution Avenue, N.W.
Washington, DC 20001

Re: *Alexander v. Federal Bureau of Investigation*
Civil Action No. 96-2123 (RCL)

Dear Judge Lamberth:

Together with Earl J. Silbert, I represent Northrop Grumman Corporation, a non-party witness subpoenaed on August 2, 2000 to produce documents to the plaintiffs. In a letter addressed to you dated September 26, 2000, Congressman Dan Burton alleges that I "intentionally misled the Court in stating that there had not been any contacts between Silbert and the White House regarding the e-mail matter." For the record, that allegation is absolutely not true.

While we do not have the transcript of the August 16 hearing, I recall representing that I had reviewed the Northrop Grumman file pertaining to the e-mail matter and did not find any written document reflecting communications with the White House Counsel's Office in 1998. I also reported that Mr. Silbert had no recollection of speaking to Charles Ruff or anyone else in the Counsel's Office pertaining to Northrop Grumman in 1998. Those representations were and are true.

The billing records for the Northrop Grumman matter were not part of the client file that I reviewed. Billing records are maintained by the firm's accounting department and I did not review those records prior to the August 16th hearing.

Your Honor will recall that I undertook to determine whether any telephone messages existed reflecting communications between Mr. Silbert and the Counsel's Office in

PIPER MARBURY RUDNICK & WOLFE LLP

1998 pertaining to Northrop Grumman. On September 13, I reported to you and counsel of record on the results of that search. I provided, for in camera review, one telephone message slip and two billing entries. Congressman Burton's letter fails to mention my September 13th letter and that we voluntarily provided the Court with the message slip and the billing entries.

Thank you for your attention.

Very truly yours,

Richard J. Oparil

cc: Hon. Dan Burton (by hand)
Hon. Henry Waxman (by hand)
Larry Klayman, Esq. (by fax)
Elizabeth Shapiro, Esq. (by fax)

EXHIBIT 14

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September 13, 2000

By Hand

Hon. Royce C. Lamberth
United States District Judge
United States District Court
for the District of Columbia
333 Constitution Avenue, N.W.
Washington, DC 20001

Re: *Alexander v. Federal Bureau of Investigation*
Civil Action No. 96-2123 (RCL)

Dear Judge Lamberth:

We represent Northrop Grumman Corporation, a non-party witness subpoenaed on August 2, 2000 to produce documents to the plaintiffs. When I appeared before you on August 16, I represented that we would search for any telephone message slips that existed and could be located reflecting communications between Earl J. Silbert, Esq. and the White House Counsel's Office in 1998 pertaining to Northrop Grumman.

We have conducted the search and have been able to locate the attached telephone message after September 11, 1998, when Mr. Silbert began representing Northrop Grumman in connection with this matter. We have also located two entries on the billing statement for Northrop Grumman. We are providing the message and redacted entries to you *in camera* and respectfully request that they not be produced to the parties.

The billing statement entries should be deemed protected from disclosure under the attorney-client privilege. Portions of billing statements that reflect the specific nature of services provided, litigation strategy, or client communications are not discoverable. *See, e.g., Clark v. American Commerce Nat'l Bank*, 974 F.2d 127, 129-30 (9th Cir. 1992); *Quinn v. Ingham*, 185 F.R.D. 296, 299 (D. Colo. 1997); *Garvey v. Nat'l Grange Mut. Ins. Co.*, 167 F.R.D. 391, 396 (E.D. Pa. 1996); *Weeks v. Samsung Heavy Indus., Ltd.*, 1996 U.S. Dist. Lexis 7397 (N.D. Ill. May 30, 1996). The two billing entries at issue provided to the Court reflect specific services

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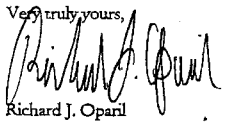
performed for Northrop Grumman. Moreover, the billing statement was prepared for and was communicated to the client. These entries should not be disclosed to plaintiffs.

Thank you for your attention.

Very truly yours,



Richard J. Oparil

Enclosures
cc: Larry Klayman, Esq. (w/o encl.)
Elizabeth Shapiro, Esq. (w/o encl.)

EXHIBIT 15

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VIA HAND DELIVERY

October 18, 2000

The Honorable Dan Burton
Chair, Committee on Government Reform
United States House of Representatives
2185 Rayburn House Office Building
Washington, DC 20515-1406

Dear Chairman Burton:

I am writing to correct certain false and misleading statements about my client, Sally Paxton, made in the Committee on Government Reform's report regarding e-mail issues at the White House. As you are aware, Ms. Paxton voluntarily agreed to provide an interview to the Committee. Although the interview was not transcribed, the Committee's report misleadingly purports to quote Ms. Paxton and, in many respects, mischaracterizes her interview.

For example, the report misstates the substance of the information Ms. Paxton provided about Mr. Barry's deposition. Ms. Paxton did not state that she "in general" told Mr. Barry not to change the substance of his deposition testimony. *Id.* 133. Rather, Ms. Paxton informed the Committee that she did not recall any conversations that she may have had with Mr. Barry about reviewing his deposition transcript. As Mr. Barry informed the Committee, he worked with Department of Justice lawyers to ensure that any errors in the deposition transcript were identified.

Likewise, there is no basis for the suggestion that Ms. Paxton "likely learned" that e-mail issues "might have materially affected elements of Barry's deposition." *Id.* n.750. Ms. Paxton never had any reason to believe anything in Mr. Barry's deposition was inaccurate, incomplete, or untrue.

In short, Ms. Paxton did not have a "cavalier attitude towards the deposition process." *Id.* Rather, the Committee's report displays a cavalier attitude toward accurately describing Ms. Paxton's professional obligations and the substance of the information that she provided to the Committee.

Very truly yours,

Stephen M. McNabb

SMM/kv

cc: The Honorable Henry A. Waxman

610291.1

EXHIBIT 16

U.S. Department of Justice

Criminal Division

Deputy Assistant Attorney General *Washington, DC 20530-0001*

August 1, 2000

Steve Ryan, Esq.
1501 M Street, N.W.
Suite 700
Washington, DC 20005

Re: Daniel Barrie

Dear Mr. Ryan:

As you are aware, the Department of Justice's Campaign Financing Task Force ("the Task Force") is presently conducting an investigation into allegations that an affidavit signed by your client, Daniel Barrie, and submitted to the Court in connection with the civil case of Alexander v. Federal Bureau of Investigation, et. al., may have contained false information. The Task Force has interviewed your client about this matter. Please be advised that your client is not currently a target of that investigation.

I am providing this information to you in anticipation of your client's continued complete and truthful cooperation in this investigation.

Sincerely,

Alan Gershel
Deputy Assistant Attorney General

EXHIBIT 17

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

August 2, 2000

Stephen M. Ryan, Esq.
Pamela J. Marple, Esq.
Manatt, Phelps & Phillips, LLP
1501 M Street, N.W., Suite 700
Washington, D.C. 20005

Re: Daniel A. Barry

Dear Counsel:

As you are aware, the Office of Independent Counsel conducted a joint interview of your client with members of the Department of Justice's Campaign Finance Task Force on a variety of topics including the allegation that your client had filed a false affidavit in connection with the civil litigation, Alexander v. Federal Bureau of Investigation, et al. Please be advised that this Office does not consider your client a target of any criminal investigation within our jurisdiction at this time.

I am providing this information to you in anticipation of your client's continued complete and truthful cooperation with this Office.

Sincerely,

Robert W. Ray
Independent Counsel

EXHIBIT 18

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

MAY 6 1999

The Honorable David M. McIntosh
Chairman, Subcommittee on
National Economic Growth, Natural
Resources, and Regulatory Affairs
Committee on Government Reform
and Oversight
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

The Department has completed its review of your referral of criminal allegations involving Deputy Counsel to the President Cheryl Mills. After careful consideration and review of the material submitted with your letter of September 17, 1998, we have determined that further investigation is not warranted and have declined prosecution.

Thank you again for your interest in this matter.

Sincerely,

M. Faith Burton

M. Faith Burton
Special Counsel to the
Assistant Attorney General

cc: The Honorable Dan Burton
The Honorable Henry Waxman
The Honorable John F. Tierney

EXHIBIT 19

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

April 12, 2000

The Honorable Dan Burton
Chairman
Committee on Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This responds to your letters of March 8, March 21, March 27, and March 30, 2000, to Attorney General Reno on the White House email retrieval matters.

On March 23, in connection with a court filing, the Department disclosed that it was conducting a criminal investigation into whether the Executive Office of the President fully complied with subpoenas issued by the Campaign Finance Task Force (the Task Force), and whether persons were threatened with retaliation in order to prevent the existence of the affected emails from becoming known to the Task Force. In addition to this investigation, the Office of Independent Counsel, now headed by Robert Ray, is investigating the email retrieval issues, in coordination with the Task Force. At this stage, we are not in a position to comment about any particular actions that may be undertaken in the course of this investigation. The questions raised in your March 21 letter, regarding who at the Department may have known what and when about the various email retrieval issues, will be a part of this ongoing criminal investigation.

The Department will follow the facts and the law wherever they may lead, and take whatever actions are appropriate based upon the result of this investigation. Also, your letter of March 30, which raises several questions regarding a 1999 declaration filed in the Alexander case by Daniel A. Barry, has been forwarded to the Task Force for its review and consideration in connection with its investigation.

Next, let me address the assertion, contained in several of your recent letters, that the Department operates under a conflict of interest where the Task Force conducts a criminal investigation into the email issues while the Civil Division continues to represent the FBI and the Executive Office of the President in the Alexander litigation. The Department often represents the interests of a governmental entity in civil litigation where an issue presented in that civil case touches upon a pending criminal investigation. If an aspect of an ongoing civil case threatens to duplicate or interfere with the conduct of an ongoing criminal investigation, the Department often seeks to stay that part of the civil case that might duplicate or interfere with the progress of

the criminal investigation. That is precisely the relief the Department sought in the Alexander case, in which the Department asserted that the lawyers in the Civil Division, who had been looking into the email issue, should not proceed with that investigation because it could duplicate or compromise the investigation by the Task Force and the Office of Independent Counsel.

Finally, your letters of March 27 and March 30 raise the question of whether a Special Counsel should be appointed to investigate the email issues and/or the Barry declaration. As noted above, the Office of Independent Counsel already is investigating the email issues in coordination with the Task Force.

The Department is carefully reviewing whether a second outside counsel should be appointed to investigate this matter. We will let you know the conclusion of that review promptly.

Please do not hesitate to contact this me if you would like additional assistance regarding this or any other matter.

Sincerely,

Robert Raben
Assistant Attorney General

cc: The Honorable Henry Waxman
Ranking Minority Member

EXHIBIT 20

THE WHITE HOUSE
WASHINGTON

August 7, 2000

VIA FACSIMILE
VIA U.S. MAIL

The Honorable Dan Burton
Chairman, Committee on Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Burton:

This responds to your letter to me dated July 26, 2000.

I first want to address your contention that the White House has failed to update the Committee with relevant information about the e-mail restoration project. I initially apprised the Committee of the details of the Mail2 and Letter D errors in my March 17, 2000 letter to you. That same letter also informed you that, in the course of gathering facts concerning the Mail2 and Letter D errors, we had learned that e-mail on the server of the Office of the Vice President (OVP) had not been fully ARMS-managed. Shortly thereafter, on March 23, 2000, I submitted a written statement in anticipation of my appearance before the Committee that expanded on those matters and provided the Committee with updated information. However, the Committee chose to postpone my testimony for a week. When I appeared a week later, I provided the Committee with yet more information learned in the week since the submission of my written statement. And, during my second appearance before the Committee on May 4, 2000, I again testified and provided the Committee with information about issues related to these subjects.

Since my last appearance, we have provided the Committee with three updates regarding the EOP tape restoration project and records management issues. The first, on June 7, 2000, provided a detailed look at issues regarding the OVP e-mail system, including a discussion of the electronic records management practices followed by that office. The second, on June 29, 2000, forwarded a copy of an EOP brief responding to discovery requests by the plaintiffs in the Alexander litigation. Appended to the brief were the declarations of Chief Warrant Officer Five Terrence J. Misich, Project Manager for the EOP e-mail restoration project, and Gregory A. Ekberg, Project Manager for the independent validation and verification (IV&V) being

conducted by Vistronix, Inc. The letter covering those documents made clear that they had been forwarded "[a]s part of our efforts to provide your Committee with information about our e-mail restoration efforts."

The EOP brief and the Ekberg Declaration, upon which the brief heavily relied, set forth details about the status of the EOP tape restoration project and the role of Vistronix, Inc. in providing independent validation and verification of the processes being employed by the EOP. Both of these documents clearly explained that no reliable end-date for the project was available as of that time, June 2, 2000, due to unresolved technical issues and the possibility of equipment failures. (See EOP's Response to Plaintiff's Supplemental Brief Regarding Non-Records Managed E-mail and Other Computer Documents ["EOP brief"] at pages 3, 15; Ekberg Declaration at ¶ 12.) In that regard, the opening statement of the EOP brief specifically referenced the fact that "the restoration project [was] still in too early an evolutionary stage for the IV&V team (or anyone else) to meaningfully estimate a project completion time" (EOP brief at page 3.)

Similarly, Mr. Ekberg in his declaration stated that it was "not [then] possible to provide a meaningful estimate of the time to project completion" and that "[t]here remain a number of as yet unresolved technical issues with the project, and other unknowns, such as the extent to which equipment breakdowns will occur, that can impact the time to completion." (Ekberg Declaration at ¶ 12.) Mr. Ekberg further stated that, "once a number of significant unresolved project planning and other technical issues have been more fully addressed, the IV&V team will be in a position to provide an estimate of a date by which data will start to become available, on a rolling basis, for searching." (Id. at ¶ 13.) Although Mr. Ekberg reported that the then-current goal was "to complete testing and have the production capability ready to begin copying the first identified batch of tapes by mid-to-late June 2000" he also indicated that "a number of technical issues could require that this date be revised." (Id. at ¶ 20.) Finally, Mr. Ekberg also explained that depending on the forensic requirements of investigative authorities, "the data extraction process could become more technically complex and time-consuming, making it difficult to predict how quickly the process will proceed." (Id. at ¶ 23.) The EOP brief and Mr. Ekberg's declaration made amply clear that any estimated dates relating to tape copying or data searching were tentative at best.

In light of this information, I am hard-pressed to understand your claims that we have failed to make good faith efforts to keep the Committee apprised of relevant information about e-mail restoration. Moreover, your suggestion that "the White House might have known of the inadequacy of even the 170-day timetable" set forth in my testimony before the Committee is puzzling. As an initial matter, you have incorrectly stated the date on which I gave testimony about the 170-day timetable: it was on March 30, 2000 -- two months prior to the submission of the Ekberg Declaration in the Alexander litigation -- and not on May 4, 2000, as your letter

states. At the time I gave testimony on that subject, the raw nature of the proffered timetable was clearly communicated to the Committee. I testified in relevant part as follows:

> . . . I want to emphasize that my testimony today is based on my current understanding of the information that we have gathered in the course of our initial review. As our review progresses to completion, **we will likely uncover information that alters or amends these preliminary conclusions.**
>
> * * *
>
> . . . The contractor's **preliminary estimate – and I want to emphasize preliminary because these estimates are subject to amendment as the process proceeds and the contractor learns new information – the preliminary estimate** suggests that the requisite equipment and other resources for the project will be in place, tested, and ready to go in approximately 70 days. We anticipate conducting the restoration in batches so that we can have a rolling production. The contractor estimates that this part will be completed in about 170 days from the beginning of the project. In other words, **if . . . these initial estimates hold up,** we could have the back-up tapes searched within 6 months.

(Transcript of 3/30/00 at pages 25-26) (emphasis added). My March 30, 2000 testimony was very clear that the EOP contractor's 170-day estimate was based on preliminary information and was likely subject to change. As noted above, that a change in circumstances had occurred was made clear in the EOP brief and Ekberg Declaration which were provided for the very purpose of updating the Committee about the e-mail restoration efforts.[1]

A third update was given to the Committee in my recent letter dated July 26, 2000, which set forth information relating to the National Security Counsel (NSC) classified e-mail system. Enclosed with my letter was a NSC memorandum describing the issue in detail. This information was again forwarded as part of our effort to keep the Committee informed of relevant developments.

---

[1] By way of further update, I am advised that, as of the writing of the instant letter, the EOP has now copied 85 backup tapes, 57 of which have been verified as being byte by byte copies. Permission to copy using the RAIDirector duplication system was obtained from the Office of Independent Counsel Robert Ray and the Federal Bureau of Investigation on July 13, 2000. Copying began that same day and, since July 19, 2000, has been accomplished on a 24 hour-a-day, 5 day-per-week schedule.

In light of this record, I trust you will agree that we have in good faith advised the Committee of significant developments in the e-mail restoration project. I can only assume that the overheated rhetoric of your letter was predicated on your misunderstanding of this extensive record.

In sum, the EOP e-mail restoration project has proven to be time-consuming and complex. The EOP has endeavored to ensure that the project proceeds expeditiously. Yet, unanticipated requirements and technical issues have caused original timetables to shift. We have aimed to ensure that the Committee is kept abreast of key developments.

Sincerely,

Beth Nolan
Counsel to the President

cc: The Honorable Henry A. Waxman
Ranking Minority Member

EXHIBIT 21

Monitor Site Map Go

FRIDAY, APRIL 7, 2000
Headlines

e-mail this story to a friend

USA

With White House e-mail, it's click now, repent later

Francine Kiefer
Staff writer of The Christian Science Monitor

WASHINGTON

In 1993, in one of the more famous examples of flame e-mails, Linda Tripp sent out a blistering message, calling senior members of her White House office "the three stooges."

It's hard to imagine that happening in today's White House, where "no trail, no trouble" is the unspoken mantra. Such caution prevails that one staffer used erasable magic markers during a strategy session, rather than risk a subpeona.

White House staff chose their words carefully long before the advent of e-mail. And the Watergate tapes proved that conversations don't have to be written to be dangerous. But the point-and-click missives have added a new dimension to White House communication - one with implications ranging from front-page embarrassments to, perhaps, Al Gore's political future.

As Congress and the Justice Department investigate the White House for a potential cover-up of perhaps 250,000 missing e-mails, many of which could have escaped subpoena dragnets, the probes reveal a unique, cautious culture of messaging at 1600 Pennsylvania Avenue.

People outside the wrought-iron gates of the presidential compound might view e-mail as a private, informal way to talk. But the knowledge that everything they write could be scrutinized by both the media and investigators, has inspired an attitude of apprehension about e-mailing, especially among the president's legal advisers.

"E-mails and anything else written was not only discouraged, people were living in fear that the wrong e-mail would lead to a prosecution, or at least several hundred thousands dollars of legal fees," says former counsel Lanny Davis.

In fact, whenever a White House staffer clicks "send," a message reminds them that a copy of their missive is being sent to records management.

When it comes to saving e-mails, the White House is held to a higher standard than the private sector, and even Congress.

Companies that have a policy of saving e-mails usually do so only for three to six months, according to records-management consultants. Many companies consider them the same as phone calls, and don't archive them unless they are equal in weight to a written communication.

But the White House is different. It saves its records for posterity. After President Clinton vacates his office next January, at least 30 million stored e-mails will be deposited with the National Archives, an unfathomable mountain of data ranging from "how about lunch?" to speech drafts, to perhaps more juicy communications.



CYBERSNAFU: Until a month ago, the vice president's e-mail account wasn't being captured by electronic archives. Above, Al Gore e-mails Bill Bradley Dec. 8.
DENNIS COOK/AP

In the federal government, "retention of records tends to be driven by ... the need to inform a free society and the need to retain information of historical consequence. For most businesses, neither of those issues are on the radar screen," says Patrick Cunningham of Hewitt Associates, a management consulting firm in Lincolnshire, Ill. "Do we need to see Monica Lewinsky's e-mail messages to various Executive Office persona? Certainly, because they are material to an historical event - the impeachment of the president...."

On Capitol Hill, e-mail archiving is at the discretion of the lawmaker. Ironically, the office of Rep. Dan Burton (R) of Indiana, who last week grilled White House counsel about the missing e-mails, stores its electronic messages for a mere week, then overrides them with new work.

The White House, on the other hand, installed an e-mail archiving system in July 1994, after a court ruled that electronic records must be preserved in the same way as federal records. It was such a novel concept at the time that it had to be custom-built.

Another former administration official says he used to hold back on sending something electronically because e-mails can be so easily copied.

He cited an example of a White House directive electronically leaked to the media in 1998. It said certain words related to the first lady's pet millennium project were off limits to speechwriters, causing an employee to jokingly wonder if staffers could even say "21st century" in conversation.

But he rejects the assumption that history is being lost in this antidocumenting atmosphere. According to the former official, a great deal still gets zapped around - including budget-related items, speech drafts, and the president's schedule.

And because e-mails, even in the White House, so often mimic phone calls, they add a new dimension to White House archival history. "They're a treasure trove."

But they're also a challenge for the White House tech team. For example, until last month, about a third of the e-mail accounts in the vice president's office weren't being captured by the archiving system, White House counsel Beth Nolan testified.

That includes the account of the technologically savvy vice president. Unlike the president and first lady, who don't even have personal e-mail accounts, Mr. Gore is a frequent user. In the past, he's

been under investigation for campaign-finance abuse, and potentially new, damaging material could surface as White House contractors attempt to restore his e-mails to an electronically searchable format.

"If, as people expect, the retrieval process is finished sometime in mid- or late-summer, than the content of those e-mails could potentially be a very significant issue during the fall election," says Viet Dinh, a law professor at Georgetown University and a former attorney with the Senate Whitewater Committee.

According to counsel Nolan, e-mails coming into the White House went missing from August 1996 through August 1998. The cause was capital letters. During computer maintenance, more than 500 e-mail accounts were sent to MAIL2 (instead of Mail2), making it impossible for the archiving system to recognize e-mails sent to those accounts. In another archiving snafu, e-mails sent to staffers whose first name started with 'D' went astray.

The counsel's office points out that some of the "missing" e-mails did make it to investigators because they showed up on searches of individual computers or were saved in internally forwarded messages. And they are now spending at least $3 million for contractors to restore all the missing e-mails from backup tapes.

But as so often is the case, the crime, if there is one, lurks not in the mistake itself, but in its possible coverup. Two White House computer contractors say they were threatened by administration supervisors in June 1998 with losing their jobs and going to jail if they discussed the recently discovered errors with even their spouses.

Other contractors at the meeting do not recall the threats of jail, and officials say they never issued such threats.

Meanwhile, Representative Burton said last week that he would hold more hearings on why the computer glitches, which were discovered during the height of the Lewinsky matter, weren't immediately reported to investigators. "There's something here that's not washing," Burton said.

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For further information:

- White House E-Mail National Security Archive

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EXHIBIT 22

DANIEL A. BARRY
09/02/97 02:22:53 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Search status.

Mike;

My understanding is that there are 12 boxes of paper in the EOP DC remaining to be delivered to complete the Grand Jury search.

All of the search jobs for the "Huge search" on the pre Dec 1995 records are complete except for 1994 Sep,Oct,Nov,Dec OVP and These are all running and expected to be complete by the end of the week.

OVP has completed on the POST Dec 1995 records.

I am running 2 months per week. June and July of 1996 are running this week

I will run and concurrently with the 2 months per week.

The estimated time of completion at the current pace is Oct 13 1997. I will starting printing the results starting next week.

Let me know if you have any questions about the above status.

Later... Tony

NON-RESPONSIVE MATERIAL
REDACTED

Message Sent To:

Michael X. Imbroscio/[redacted]
Karen A. Popp/[redacted]
Mark F. Lindsay/[redacted]
Charles D. Benjamin/[redacted]
DOERING_N@[redacted]

DANIEL A.
BARRY
07/27/98 02:36:40 PM

Record Type: Record

To: Karl A. Racine/[redacted]
cc: Catherine S. Anderson/[redacted], James B. Wright/[redacted], Kathleen K. Gallant/[redacted], Nellie W. Doering/[redacted]
Subject: Search estimate

Karl;

I just got your interoffice mail this afternoon and here is the definition/estimate. Please reply back with your go-ahead on the search:

Search definition:

Search a VPO and on line electronic records from Jan 1993 through June 1998 for the following phrases:

97
95
96
97.

Search Estimate:

Setup 2 hours		$ 80
Runtime:	1993 5	
	1994 10	
	1995 30	
	1996 50	
	1997 70	
	1998 70	
VPO 1993	1	
VPO 1994	1	
VPO 1995	2	
VPO 1996	2	
VPO 1997	3	NON-RESPONSIVE MATERIAL
VPO 1998	3	***REDACTED***
1993	1	
1994	1	
1995	2	
1996	2	
1997	3	
1998	3	

TOTAL CPU time = 260hours = $156,000

Print time = 4 hours $ 140

E 7830

DANIEL A.
BARRY
03/06/2000 12:30:33 PM

Record Type: Record

To: Steven Reich/[redacted]

cc: James B. Wright/[redacted], John H. Young/[redacted], Leanna F. Terrell/[redacted]
Subject: Search Definition, estimate and schedule

Steve;

Per our phone /E-mail conversations, Here is a search definition, estimate and schedule for the search we had discussed:

Search Definition:

Search all OVP, , AND records created between Jan 20 1993 through Mar 31 1993 (3 months) for the phrase

Search Estimate:

Search Setup/monitoring 2 hours @40 $ 80
Search Runtime:

OVP (3X 0.5) = 1.5

TOTAL		$5,850
Print time	1 hour @ 40	40
Miscellaneous		50
TOTAL Search cost		$6,020

Search Schedule:

I currently have a search running which will not be completed until the end of this week. I will be at training on Mon and Tue 3/13 - 3/14 and will start your search on Wed 3/15. The search will only take a couple of hours to run. I should have results by the end of next week.

Please confirm by return E-mail that I have all the parameters correct.

Later... Tony

NON-RESPONSIVE MATERIAL
REDACTED

EXHIBIT 23

DANIEL A.
BARRY
07/28/98 02:35 PM

Record Type: Record

To: Sandra L. Golas/[redacted]
cc: See the distribution list at the bottom of this message

Subject: The ARMS1 problem

Sandy;

In an effort to "right the wrong" caused by the processing of NOTES messages through ARMS1 to ARMS... I moved 1177 records from various buckets to DUA53:[ARMS1_FILES].

Each of these records will have to be processed as follows:

1. Change each addresees/creator agency designation from "[DEFAULT] to whatever it should be i.e [OA] or [OMB] etc. This should be available in the address book. remember that ONDCP is DON and OSTP is STP and WHCCTF is CEQ and OVP is VPO...

2. Based on the agencies above post a copy of the message into the appropriate bucket of buckets.

3. If the record is to be posted into WHO VPO OPD CEA or NPR buckets then its filename must be changed in that bucket to P_ instead of F_ in all other buckets.
Also the "RECORD TYPE" designator on the very first line of the file should be changed to "PRESIDENTIAL" instead of FEDERAL.

I think that is it.

Later... Tony

Message Copied To:

Robert W. Haas/[redacted]
Kathleen K. Gallant/[redacted]
James B. Wright/[redacted]
Nellie W. Doering/[redacted]
Betty G. Lambuth/[redacted]
Stephen O. Hawkins/[redacted]
John E. Spriggs/[redacted]
Laura Crabtree/[redacted]

EXHIBIT 24

Opening Statement by Cheryl Mills
Committee on Government Reform
U.S. House of Representatives
May 4, 2000

Mr. Chairman, Representative Waxman, Members of the Committee on Government Reform:

My name is Cheryl Mills. For almost seven years, I served in the White House Counsel's Office under President Clinton. During my tenure, I served first as Associate Counsel and later as Deputy Counsel. When I arrived on January 20, 1993, I was 27 years old; I was 34 when I left last October.

I came into government because I believed that the opportunity to serve this country was a valuable one. I believed that giving of my time, my energy, and even my soul, to try to make a difference was important. I believed that the gift of one's labor and one's love for this country was one of the purer things I, like other young people, had to give.

When I left, it had become hard for me to believe anymore. I left increasingly cynical about Congress' commitment to improving the lives of Americans. I left deeply troubled by the culture of partisanship in Washington that with each passing day was threatening the very essence of what is good, and what is right, and what is joyful about public service. When I left, it was no longer obvious to me that serving in government, with a Congress committed to oversight by investigation, was worth the high toll it exacted.

And the greatness of that injustice, is not in its harm to me. I am but one person. Rather, it is the damage that it does to the ideals of all the young people who decide never to serve. The young people who decide that no one should have to love their country enough, to have their integrity, their service and their commitment to doing the best they can, impugned by some who sit in this body. The young people who decide that their desire to serve their country and a President, is not outweighed by the risks to their reputation, their livelihood and their family. The young people who decide that too many who toil in this body have forgotten that their exalted positions are but loaned to them by the young – on the understanding that they will seek what is best for our country, not what is least.

I left because I knew that only distance and time would allow me to see again the many Members who serve honorably in Congress every day. Members who choose to work hard for their constituents on the issues that will enrich their lives. Men and women who get up each morning not thinking about how they can bring someone down, but about how they can lift us all up.

Mr. Chairman, I left because I was tired of playing a role in dramas like today, when so many issues that mattered to me that were not being addressed. You have held four days of hearings, and spent countless more dollars on depositions and document productions, but yet you have not chosen to use your oversight authority to hold one day's worth of hearings about:

> a man who was shot dead by an undercover New York police officer while he was getting into a cab, after *refusing* to buy drugs from that officer;
>
> any of the 67 cases and counting that have been overturned because officers in Los Angeles Police Department planted guns and drugs to frame people, shot an unarmed man, and quite possibly shot another man, with no criminal record, 10 times -- killing him;
>
> why African American youths charged with drug offenses are 48 times more likely than white youths to be sentenced to prison.

Not to mention all the other ways in which you could spend your time making the lives of the individuals you serve better, as opposed to tearing down the staff of a President with whose vision and policies you disagree. You could choose from a myriad of issues – health care, prescription drug benefits, family medical leave, education reform, social security, judicial reform. Nothing you discover here today, will feed one person, give shelter to someone who is homeless, educate one child, provide health care for one family, or offer justice to one African American or Hispanic juvenile. You could do so much to transform our country – but instead you are compelled to use your great authority and resources to address . . . e-mails.

The energy your staff will spend poring over hearing transcripts to create a perjury referral for you to send to the Justice Department could be spent poring over the latest statistics in the Justice Department's report on the unequal treatment African American and Hispanic juveniles receive before the law. And the resources that the Justice Department will expend reviewing your allegations – causing those public servants and their families considerable pain -- could instead be spent investigating why America's justice system unfortunately is still not blind.

I know I say all this at some personal peril, as my words here today will no doubt make me an even greater target of your ire. But when I got your letter last week about attending this hearing -- despite having advised you of my long scheduled commitments – a letter in which you simply dismissed my prior engagements, stating that you would not "indulge my schedule," I got tired and mad all over again.

And if I had not had the chance to attend a dinner that night in honor of the Robert F. Kennedy Memorial Foundation, I probably would still be mad. Because, I would not have had the chance to have my faith renewed by the example of what other men with your power have chosen to do throughout history to enhance the lives of others. I would

not have been reminded of how Robert Kennedy's work on behalf of issues like race, and justice, and poverty, embodied the true spirit of his greatest words:

> It is from numberless diverse acts of courage and belief that human history is shaped. Each time a man stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope; and crossing each other from a million different centers of energy and daring, those ripples build a current, which can sweep down the mightiest walls of oppression and resistance.

Had I not gone to that dinner, I would not have been reminded that the smallness of any person, can never overshadow the greatness of those whose acts are bigger than life. I would not have been reminded that today, too, will pass. And, that we who love our government are strong enough, and not too weary. We can outlast a culture of investigation and intimidation and idleness on behalf of issues that can truly improve the lives of Americans.

Mr. Chairman, I believe in your humanity, and in that of those who serve on your staff. That each of you has good and bad days; make good and bad judgments, render good and bad decisions. Won't you believe in the humanity of others with whom you disagree? Won't you believe that as with your mistakes, they too can make mistakes that are not conspiratorial? That they too can make a bad judgment, without that judgment being pernicious? That they too can do their best each day and expect more than a biased shake or a perjury referral from this Committee? That they too can be human, without this body using its awesome power to exploit their humanity for political gain? Can Tony Barry, a man who has served his government since 1992, expect that?

I give my last quotation to Robert Kennedy because to me, it is particularly fitting today. He said:

> The Constitution protects wisdom and ignorance, compassion and selfishness alike. But that dissent which consists simply of sporadic and dramatic acts sustained by neither continuing labor or research—that dissent which seeks to demolish while lacking both the desire and direction for rebuilding, that dissent which, contemptuously or out of laziness, casts aside the practical weapons and instruments of change and progress—that kind of dissent is merely self-indulgence. It is satisfying, perhaps, only to those who make it.

I decided that smallness in government cannot win. And that it will not be the weapon to defeat my ideals. That it is not powerful enough to alter my belief in the good that so many Members who serve in this body do.

I decided, that in the final analysis, I am not too tired to stand up for all of those who believe, even through the drama, that public service is worth the price.

###

ADDITIONAL VIEWS OF HON. DAN BURTON

The committee's investigation into the failure to produce both White House Office and Office of the Vice President (OVP) e-mails is ongoing and active. Since the draft of this report was submitted on October 2, 2000, for Members' consideration, events have continued to unfold and new evidence has continued to come to light. In the last 2½ weeks, committee members interviewed Attorney General Janet Reno regarding a number of subjects, including her Department's investigation into the e-mail matter. Committee staff also re-interviewed Northrop Grumman employees Robert Haas and Joseph Lucente, and attempted to interview former White House lawyer Lanny Breuer. The White House has produced additional relevant documents following the committee's vote on the report, and several developments arose from parallel proceedings in the civil FBI files case, *Alexander* v. *FBI*.

I. FURTHER EVIDENCE THAT NORTHROP GRUMMAN EMPLOYEES WERE THREATENED INTO SECRECY ABOUT THE E-MAIL PROBLEM

As explained in the report, White House employees threatened the Northrop Grumman employees who discovered the e-mail problem. The motivation for the White House officials to threaten the contract employees into secrecy likely grew out of the fear that the e-mail problem would become public during the height of a criminal grand jury investigation of the President. Revelations that document searches conducted by the White House had been significantly incomplete would likely have rekindled virtually every one of the countless administration scandals of the previous 6 years. Thus, it was in the interest of the White House, first, to keep the e-mail archiving problems hidden and, second, to avoid reconstructing the e-mails from backup tapes for as long as possible. The efforts to achieve the first objective assisted in accomplishing the second because the secrecy constraints imposed by Mark Lindsay and Laura Callahan prevented the problem from being fixed.

A. ROBERT HAAS TOLD JOSEPH VASTA ABOUT THE THREATS

Further evidence of the threats against Northrop Grumman employees was developed recently when committee staff re-interviewed Robert Haas on October 11, 2000. Haas explained that the reason he, Sandra Golas, and John Spriggs asked to meet with Deputy Program Manager Joseph Vasta in late August 1998 was that the e-mail reconstruction had not yet begun, and they felt that they could not get the problem solved with the secrecy restraints under which they had been placed.[1] He said they needed to "break this rule down because it is ridiculous. Without removing the rule,

[1] Interview with Robert Haas, Lotus Notes administrator, Northrop Grumman, in Washington, DC (Oct. 11, 2000).

we could not get it fixed."[2] Haas' contact with Vasta led to the meeting between the Northrop Grumman employees and Northrop Grumman counsel in September 1998. After this meeting, Haas felt free to tell Vasta everything about the e-mail problem, including the threats that were directed at him by White House staff.[3]

Haas corroborated Spriggs' account of the meeting with Vasta. Haas stated that the group was trying to make him understand that there was a serious problem, but was hesitant to share the details of the problem with him.[4] Like Spriggs, Haas said that the goal of the meeting with Vasta was to get the "higher-ups" at Northrop Grumman involved.[5] Haas also recalled that Spriggs took Vasta's handwritten notes of the meeting away from Vasta. When asked why the notes were confiscated, Haas said that the group's standard practice at meetings discussing the Mail2 problem was to make copies of the notes necessary to conduct the meeting and then to tear them up and place them in a "burn bag."[6] Haas' recollection is also consistent with what Spriggs said.[7] Haas added that he maintained a Mail2 burn bag separate from the standard burn bags used at the Executive Office of the President (EOP) for documents with individual's names or other private information.[8] According to Haas, their practices with regard to Mail2 notes were pursuant to the instructions from Laura Callahan and Mark Lindsay not to keep notes related to the e-mail archiving problem.[9] This also corroborates Betty Lambuth's testimony with regard to keeping notes.[10]

B. NORTHROP GRUMMAN DIRECTOR OF CONTRACTS JOSEPH LUCENTE'S LETTER TO THE CONTRACTOR WAS PROMPTED BY THE ALLEGATIONS OF THREATS

As explained in the report, Northrop Grumman's director of contracts, Joseph Lucente, sent a letter to the Contracting Officer on the White House facilities contract, Dale Helms, on September 14, 1998.[11] The letter explained that Northrop Grumman management was aware of the e-mail archiving problem and that the dysfunction prevented the retrieval of messages stored in the system.[12] The letter also said that Northrop Grumman was aware that Laura Callahan had "directed the Company employees to evaluate the problem and undertake remedial action, without Northrop Grumman management involvement."[13] In his first interview, Lucente was asked about the ambiguity in that statement.[14] Read one way, the statement could mean that Callahan directed the Northrop

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[2] *Id.*
[3] *Id.*
[4] *Id.*
[5] *Id.*
[6] *Id.*
[7] *See* "The Failure to Produce White House E-mails: Threats, Obstruction, and Unanswered Questions," House Committee on Government Reform, at sec. III.A.4.f. (hereinafter, "e-mail report").
[8] Interview with Robert Haas, Lotus Notes administrator, Northrop Grumman, in Washington, DC (Oct. 11, 2000).
[9] *Id.*
[10] *See* e-mail report at sec. III.A.2.
[11] Northrop Grumman document production NGL 00503 (exhibit 64).
[12] *See id.*
[13] *Id.*
[14] Interview with Joseph Lucente, director of contracts and subcontracts, Northrop Grumman, in Washington, DC (May 1, 2000).

Grumman employees and did so while merely neglecting to involve their managers. Read another way, it could mean that she had specifically instructed the employees to do their work in such a way as to conceal it from their managers. In response, Lucente indicated that he understood at the time that Callahan had specifically directed the employees not to tell their superiors about the problem.[15] He further indicated that he thought it was fundamentally unfair for the government to place his company's employees in that position.[16] When asked if allegations of threats were an inspiration for sending his letter, Lucente replied affirmatively.[17] In his second interview, conducted on October 17, 2000, Lucente was asked to explain in what way the letter had been inspired by allegations of threats.[18] However, Lucente was prohibited from providing any further explanation by his counsel, who claimed that such information was privileged.[19] Lucente did confirm, however, that the allegations of threats were, in fact, an inspiration for the letter.[20]

C. EARL SILBERT'S LAW FIRM HAS ADDITIONAL DOCUMENTS RELATED TO HIS CONTACTS WITH THE WHITE HOUSE AND REPRESENTATION OF NORTHROP GRUMMAN

The report outlines how former Watergate prosecutor Earl Silbert was hired by Northrop Grumman as outside counsel on the contract dispute arising out of the e-mail matter and how Haas testified that during a September 11, 1998, conference call he told someone referred to as a "gray beard"[21] about being threatened.[22] The report also explains that Silbert's billing records indicate that he had a teleconference with a Northrop Grumman employee on September 11, 1998, and then on two other occasions had teleconferences with someone in the White House Counsel's Office.[23] Silbert's contacts with Northrop Grumman employees and the White House raise the likelihood that White House lawyers were informed about the e-mail problem and the threats against Northrop Grumman employees by Earl Silbert.

This already compelling circumstantial evidence has been bolstered further by revelations in Federal court that Silbert's law firm, Piper Marbury Rudnick & Wolfe, is in possession of even more documentary evidence regarding Silbert's work on the matter. On October 3, 2000, Piper Marbury provided a privilege log in the *Alexander* case listing 18 documents relating to Silbert's work on the e-mail matter, many of which it withheld under claims of attorney-client and work-product privileges.[24] Among the documents described in the log are undated, handwritten notes by Earl Silbert,

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[15] *Id.* Given that Lucente has never spoken to Haas without counsel present, this knowledge presumably comes from communications he witnessed during meetings between Haas, his colleagues, and corporate counsel. *See id.* (Oct. 17, 2000).
[16] *Id.* (May 1, 2000).
[17] *Id.*
[18] *Id.* (Oct. 17, 2000).
[19] *Id.*
[20] *Id.*
[21] During his second interview with the committee, Joseph Lucente also stated that Northrop Grumman counsel had referred to a "gray beard's" involvement in the matter. Interview with Joseph Lucente, director of contracts and subcontracts, Northrop Grumman, in Washington, DC (Oct. 17, 2000).
[22] *See* e-mail report at sec. III.A.4.g.
[23] *Id.*
[24] Response of Non-Party Witness Piper Marbury Rudnick & Wolfe LLP to Subpoena at exhibit A, *Alexander* v. *FBI* (D.D.C. Oct. 3, 2000) (CA 96–2123) (exhibit AV–1).

four drafts of Joseph Lucente's letter to Dale Helms, a fax coversheet with a copy of the Drudge report from December 5, 1998, and two fax coversheets with handwritten notes of Earl Silbert and copies of the Insight article "Computer Glitch Leads to Trove of Lost E-mails at White House."[25] The volume of documents in Silbert's possession confirms that Silbert did perform substantive work on Northrop Grumman's behalf in the e-mail matter. Unfortunately, Northrop Grumman has aggressively asserted privileges, preventing the public from learning what Silbert told the White House.

Judge Lamberth has indicated that these or other documents yet to be released may lend even further credibility to allegations of threats. During a status conference in *Alexander* v. *FBI* on Friday, October 13, 2000, Justice Department lawyer Thomas Millet was cautioned by Judge Lamberth in the following exchange:

> Millet: In fact, this whole threat issue has been blown out of proportion. Remember what Mr. [Haas] said——
>
> The Court: Before you go too far there, you have to recognize I have some documents in camera on that subject; I ordered full briefing on it. But you better not get too far out on a limb about what you think happened.[26]

Of particular interest among the documents being withheld by Northrop Grumman are the earlier drafts of Joseph Lucente's September 14, 1998, letter to Dale Helms. In his first interview, Lucente explained that he knew of at least two earlier drafts of his letter, both of which were longer than the final version.[27] In his second interview with committee staff, Lucente said that he had destroyed all copies of the earlier drafts as per an instruction to do so by corporate counsel.[28] However, Lucente did not know until told by staff at the interview that his letter had been reviewed and edited by Earl Silbert.[29] Therefore, he was unaware that corporate counsel for Northrop Grumman had provided a draft to Silbert, that Silbert had suggested changes, or that Silbert's firm, Piper Marbury, had retained copies of the earlier drafts.[30] Given that Lucente has admitted that the allegations of threats were the inspiration for the letter, it is imperative that the drafts be reviewed to determine whether they describe more specifically the threats made by White House staff. If the discussion of threats was deleted, it would raise the critical question of who deleted the information and why.

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[25] *Id.*

[26] Transcript of Evidentiary Hearing, *Alexander* v. *FBI* at 19 (D.D.C. Oct. 13, 2000) (CA 96–2123).

[27] Interview with Joseph Lucente, director of contracts and subcontracts, Northrop Grumman, in Washington, DC (May 1, 2000).

[28] *Id.* (Oct. 17, 2000).

[29] Transcript of Evidentiary Hearing, *Alexander* v. *FBI* at 91 (D.D.C. Oct. 3, 2000) (CA 96–2123); interview with Joseph Lucente, director of contracts and subcontracts, Northrop Grumman, in Washington, DC (Oct. 17, 2000).

[30] *Id.*

D. A TELEPHONE MESSAGE SLIP CONFIRMED CONTACT BETWEEN EARL SILBERT AND SPECIAL COUNSEL TO THE PRESIDENT LANNY BREUER IN DECEMBER 1998

The report details testimony from Mark Lindsay in Federal court regarding a conversation he had with Special Counsel to the President Lanny Breuer about Earl Silbert's involvement in the e-mail matter. Lindsay vaguely recalled being contacted by Breuer to discuss a conversation Breuer had with Silbert regarding the contract dispute arising from the e-mail archiving problem.[31] While it was unclear from Lindsay's testimony what the substance of Silbert's conversation with Breuer entailed and exactly when it occurred, a new document has surfaced since filing the report which clarifies at least one of those issues. The document is a telephone message slip from Silbert's client file and indicates a call from Lanny Breuer on December 30, at 11:27 a.m.[32] Silbert's billing records already indicated that he called the White House Counsel's Office on December 30, 1998.[33] This message slip indicates that Lanny Breuer was the individual at the White House with whom Silbert spoke. Thus, it corroborates Silbert's billing records as well as Lindsay's testimony that Breuer relayed to him a conversation with Silbert.

Only after several meritless assertions of privilege in an attempt to avoid the interview entirely did Silbert reluctantly agree to be questioned by the committee on his contacts with the White House.[34] As explained in the report, Silbert claimed to recall neither the identity of the person at the White House with whom he spoke nor anything whatsoever about the substance of the conversation—except of course that it was properly billable to Northrop Grumman.[35]

E. EARL SILBERT WAS NOT NORTHROP GRUMMAN'S NATURAL CHOICE FOR OUTSIDE COUNSEL ON A CONTRACTS MATTER

Some have attempted to minimize the significance of Earl Silbert's involvement in the matter, attempting to portray it as the ordinary involvement of a lawyer in a dispute between the White House and Northrop Grumman regarding the scope of the contract between the two parties. However, the committee has learned that Silbert's involvement was highly unusual. Joseph Lucente informed committee staff that Northrop Grumman usually turned to an attorney named Neil O'Donnell with disputes regarding the scope of its contracts.[36] Lucente had never worked with Silbert before.[37] Furthermore, Lucente said he had never heard of Earl Silbert working on scope of contract issues for Northrop Grumman in the past.[38] Thus, it is far more likely that Northrop Grumman in-house counsel would have consulted Silbert about whether they had an

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[31] *See* e-mail report at sec. III.C.3.

[32] Letter from Richard J. Oparil, partner, Piper Marbury Rudnick & Wolfe, to Larry Klayman, chairman and general counsel, Judicial Watch (Oct. 4, 2000) (message slip attached) (exhibit AV–2).

[33] *See* e-mail report at sec. III.A.4.g.

[34] *Id.*

[35] *Id.*

[36] Interview with Joseph Lucente, director of contracts and subcontracts, Northrop Grumman, in Washington, DC (Oct. 17, 2000).

[37] *Id.*

[38] *Id.*

obligation to disclose the "jail cell" comment than about the finer points of government contracting. It is also likely that they would have consulted with Silbert about whether they had an obligation to disclose the existence of the e-mail problem itself and the fact that ongoing document searches were incomplete.

F. LANNY BREUER'S RECOLLECTION OF THE CONTACT WITH EARL SILBERT

Since it became fairly well-established that Lanny Breuer was the White House lawyer with whom Silbert spoke at least on one occasion in December 1998, the committee attempted to interview him to determine whether he had any recollection of the conversation. Through his counsel, he was scheduled to be interviewed on October 6, 2000, the day after the committee voted on the report. He later canceled this interview and rescheduled for Monday, October 16, 2000, just before the deadline for these additional views. On the day of the interview, however, he again canceled and sought to reschedule the interview after his testimony in the FBI files litigation and the deadline for filing these additional views.[39]

On October 19, 2000, Breuer testified in the *Alexander* case that he might have had telephone conversations with Earl Silbert in 1998, but could not remember any specifics.[40] Breuer said there could have been occasions for Silbert to have called him at the White House.[41] Breuer also recalled that Silbert was counsel for James Riady and Erskine Bowles, and he and Silbert were professional friends.[42] Also, Breuer rather implausibly suggested that perhaps Silbert might have contacted him because Silbert might not have known who else to contact at the White House.[43] According to Breuer, he possibly could have passed Silbert along to Mark Lindsay if a contract item came up in a telephone call.[44] And, Breuer suggested that maybe he and Silbert might have even talked about unrelated matters.[45] Breuer made it clear that he does not remember having specific telephone conversations with Silbert regarding the issues of e-mail problems, contracts, or threats in 1998.[46] He stated that if Silbert would have have raised the issue of threats, Breuer would have reported it to Charles Ruff.[47] He also stated that he took "very, very" few notes while working at the White House.[48]

G. LUCENTE CONFIRMED THE EXTRAORDINARY NATURE OF OA DIRECTOR ADA POSEY'S "SPECIAL TASK ORDER" REQUEST

As detailed in the report, Northrop Grumman Program Director Jim DeWire told committee staff that shortly after learning from

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[39] *See* letter from Mark H. Lynch, partner, Covington & Burling, to David A. Kass, deputy counsel & parliamentarian, Committee on Government Reform (Oct. 16, 2000). *See also* letter from David A. Kass, deputy counsel & parliamentarian, Committee on Government Reform, to Mark H. Lynch, partner, Covington & Burling (Oct. 16, 2000).

[40] Evidentiary Hearing, *Alexander* v. *FBI* (D.D.C. Oct. 19, 2000) (CA 96–2123).

[41] *Id.*

[42] *Id.*

[43] *Id.*

[44] *Id.*

[45] *Id.*

[46] *Id.*

[47] *Id.*

[48] *Id.*

Program Manager Steve Hawkins that his employees were working on some sort of secret project, DeWire received a call from the Director of the Office of Administration, Ada Posey.[49] Posey then proceeded to seek permission from DeWire to have government personnel direct the private contractors on a special project without disclosing the nature or subject matter of the project.[50] DeWire agreed, requiring only that Posey orally assure him that the project was legal and within the scope of the contract.[51] DeWire described this as a "special task order."[52]

When asked if he was aware of the "special task order," Lucente said he was not.[53] He further said that it would not have been the normal way to operate.[54] Even though she was the Director of the Office of Administration (OA), Ada Posey was not the authorized agent for the government on the contract. The authorized agent was the contracting officer, Dale Helms. Lucente said that if DeWire had asked his advice on the matter he would have recommended consultation with in-house counsel, the chief operating officer, or the president of the company rather than merely accepting Posey's assurances and failing to ensure that the contracting officer was at least informed.[55] Finally, asked if he would have advised DeWire against approving Posey's request, Lucente said he would. Lucente was the director of contracts and subcontracts for about 12 years and thus his perspective on this issue is valuable. It appears that both Posey's request and DeWire's acquiescence to it may have been improper. The net effect of both was to allow the e-mail problem to remain secret from Northrop Grumman managers throughout the summer of 1998, delaying the ultimate reconstruction and production of relevant subpoenaed e-mail records.

II. Northrop Grumman's Recent Failure to Cooperate with the Investigation

A. Northrop Grumman's specious assertions of privilege

As part of the committee's investigation into possible obstruction of justice regarding the White House's e-mail problems, the committee has been investigating Northrop Grumman's retention of Earl Silbert and his efforts on the company's behalf. As the report notes, Silbert was a former Watergate prosecutor who Northrop Grumman hired as outside counsel specifically to deal with the White House on the e-mail matter. As the report also noted, the significance of Silbert's contacts with the White House is compelling. Such contacts might severely undermine the White House's current claims that it did not contemporaneously appreciate its e-mail problem.

In the report, the committee describes evidence suggesting that on September 11, 1998, Robert Haas met with Northrop Grumman counsel, during which time Haas recounted to Northrop Grumman

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[49] *See* e-mail report at sec. III.D.1.
[50] *Id.*
[51] *Id.*
[52] *Id.*
[53] Interview with Joseph Lucente, director of contracts and subcontracts, Northrop Grumman, in Washington, DC (Oct. 17, 2000).
[54] *Id.*
[55] *Id.*

counsel and Silbert that he had been threatened by White House staff.[56] The committee's report also describes how, during Silbert's interview with committee staff, Silbert wholly failed to recall with whom he spoke at the White House or the subject matter of his communications with the White House Counsel's Office, which took place after Haas apparently spoke to him. And, when his recollection was not failing him, Silbert refused to answer questions posed by committee staff on the basis of attorney-client privilege and the work-product doctrine. Silbert did essentially the same when he testified in the recent evidentiary hearings in *Alexander* v. *FBI.*

In those proceedings, Silbert recalled that he was retained by Northrop Grumman in September 1998, to represent it "on a matter involving government contracts between Northrop Grumman as the contractor and the Executive Office of the President as the customer." [57] Silbert also recalled that the matter for which Northrop Grumman retained him regarded a "scope of contract" issue and "some instruction given to employees of Grumman." [58] He even recalled having heard that instructions were given to the employees not to discuss matters regarding non-archived e-mail outside the group.[59] However, Silbert maintained that his communications with the White House Counsel's Office were privileged.[60] Under either the attorney-client privilege or work-product doctrine, Silbert's claims are facially without merit.

Recently, on October 11, 2000, committee staff interviewed Robert Haas. At that interview, committee staff attempted to probe facts surrounding his conversations with Earl Silbert. During that interview, Haas recalled having met with Northrop Grumman in-house counsel in Herndon, VA.[61] Also, Haas recalled that, in addition to in-house counsel, Spriggs, Golas, several contract specialists and possibly Jim DeWire, Northrop Grumman's program manager, attended the meeting.[62]

However, when committee staff attempted to question Haas about his discussions with Silbert, Haas' counsel, John M. Bray, of King & Spalding, instructed Haas not to tell committee staff who attended the meeting via speakerphone, citing attorney-client privi-

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[56] *See* e-mail report at sec. III.A.4.g.

[57] Transcript of Evidentiary Hearing at 37, *Alexander* v. *FBI* (D.D.C. Oct. 3, 2000) (CA 96–2123).

[58] *Id.* at 41.

[59] *Id.* at 89. Interestingly, when Silbert was asked whether he was told that the reason Haas could not discuss the problem was because he would go to jail, Silbert left the door open. He stated,

> I think in a sense I've tried to answer that question. I have no recollection of that, and the predicate for your question means to me you may have misconstrued my answer. I did not say—I was not, in answering your question, saying this was what the employee told me. What I was answering or trying to answer was *my understanding of an issue that Northrop Grumman's management was confronting and how to deal with it. Id.* at 90 (emphasis added).

[60] *Id.* at 57.

[61] Interview with Robert Haas, Lotus Notes administrator, in Washington, DC (Oct. 11, 2000). In other words, Haas misspoke when he testified in *Alexander* v. *FBI,* the FBI files civil suit, in which he identified the location as "Reston."

[62] *Id.* Haas clarified that when he testified in *Alexander* regarding whether he repeated his story to the "gray beard," the word "recanted" in the transcript should read "recounted." *See also* Transcript of Evidentiary Hearing at 56–57, 60, *Alexander* v. *FBI* (D.D.C. Aug. 14, 2000) (CA 96–2123) (original testimony reading "recanted").

lege.[63] Even after committee staff reminded counsel that the mere fact of someone's participation in a communication or even his identity are not "communications" subject to privilege, counsel instructed Haas not to answer.[64] Later in the interview, counsel directed Haas not to answer questions intended only to refresh his recollection as to his prior testimony in *Alexander*.[65] It is troubling that counsel would claim privilege over issues previously discussed in a public proceeding.[66]

In the committee's October 17, 2000, interview with Joseph Lucente, Lucente's counsel, Ann M. Hart, also from King & Spalding, continued interposing expansive objections that prevented the committee from obtaining needed information. For example, she repeatedly invoked attorney-client privilege over numerous non-privileged matters, including (1) non-communications, (2) mere facts underlying the purportedly privileged communications, and (3) facts needed to establish the existence of a privilege.[67] With regard to the latter, counsel saw fit to ignore even the threshold requirement in privilege law that only communications between an attorney and his client are privileged.[68] She stated that, in her view, even discussions between two non-lawyers regarding the need for getting legal advice was confidential under the attorney-client privilege. In fact, at the interview, counsel maintained that "we are putting the umbrella [of privilege] over the whole legal advice issue."[69] Such a position either reflects a surprising misunderstanding of basic privilege law or an unacceptable failure to cooperate with the Constitutional prerogative of this committee to exercise its investigative oversight function.

Examples of those questions to which counsel instructed her client not to answer on the basis of privilege included the following:

- Did either Jim DeWire or Joe Cunningham (Northrop Grumman managers who are not lawyers) indicate to you in conversations without counsel present why Haas and the others were seeking advice from counsel?

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[63] Interview with Robert Haas, Lotus Notes administrator, in Washington, DC (Oct. 11, 2000). Although Haas and the other Northrop Grumman witnesses are being represented by King & Spalding, the cost of their representation is being paid by Northrop Grumman.

[64] *Id.*

[65] *Id.*

[66] *See* Transcript of Evidentiary Hearing, *Alexander* v. *FBI* (D.D.C. Aug. 14, 2000) (CA 96–2123) (Hass' original testimony).

[67] It is beyond dispute that the attorney-client privilege protects only *communications between a client and the attorney. See Upjohn Co.* v. *US* 449 U.S. 383 (1981). *See also id.* at 395 ("The privilege only protects disclosure of communications; it does not protect disclosure of underlying facts by those who communicated with the attorney . . . ."). To claim attorney-client privilege, the claimant must provide sufficient information to demonstrate that each element of the doctrine or privilege is satisfied, including the date of communication; the names of the author(s), if it's a document; the recipient and/or all persons given copies of the communication, if it's a document; the identity of those party to the communication, if it's oral; and a description of the subject matter of the document with information sufficient to demonstrate the existence of the privilege. *See, e.g.,* 24 Charles Alan Wright, Kenneth W. Graham, Jr., "Federal Practice and Procedure" §5507 (2000 pocket part) (RR 503) (citations omitted). Some courts have required the claimant to state further whether the primary purpose of the communication withheld on the basis of privilege was to seek or provide legal advice or services; whether the communication was transmitted in confidence; a statement that the privilege has not been subsequently waived; and, if documents, the Bates numbers of the withheld records. *See, e.g., US* v. *Exxon Corp.,* 87 F.R.D. 624, 637 (D.D.C. 1980); *Vaughn* v. *Rosen,* 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 877 (1974).

[68] *See, e.g., Alexander* v. *FBI,* 186 F.R.D. 21, 27 (D.D.C. 1998) (holding that information is protected by attorney-client privilege only if it relates to a fact conveyed between client and lawyer).

[69] Interview with Joseph Lucente, director of contracts, Northrop Grumman, in Washington, DC (Oct. 17, 2000).

- Did either DeWire or Cunningham indicate that Northrop Grumman employees were seeking legal advice for themselves?
- To what extent did threats inspire sending your September 14, 1998, letter? [70]
- How did Haas go up the chain-of-command in obtaining the advice of in-house counsel?
- If threats were indeed an inspiration of the letter, why did the letter not actually include reference to threats?
- Did earlier drafts of the letter mention threats?
- To what extent did your concerns about the secrecy instruction give rise to sending the letter?
- Did you believe that Haas, Spriggs, and Golas were seeking legal advice?
- Did they say or do anything to indicate that rather than seek legal advice, they were merely seeking to disclose information so that counsel could provide legal advice to the corporation?
- Did legal counsel explain to them that they represented the corporation's interests and not the employee's interests?
- Did legal counsel explain to them that they were interviewing them only in order to obtain information for use in providing legal advice to the corporation and not to provide legal advice to them as individuals?
- Did legal counsel instruct them that they were to keep the communication during the meeting confidential?
- Did legal counsel instruct them specifically about with whom they could share the details of the meeting?

As suggested above, even if counsels' claims of privilege regarding Haas' communications are valid—and they plainly are not—the privilege might have nonetheless been waived through disclosures by Northrop Grumman employees. Generally, attorney-client privilege is waived if the client discloses the protected communication to a third party.[71] Even though a client might not have intended to waive the privilege, once the confidential information is disclosed to a third party, there is no further need to conceal the information to protect the attorney-client relationship; so, the privilege is waived.[72]

As described in section III of the report, Haas was the Northrop Grumman contractor to whom Laura Callahan directed her comment that, if he revealed the Mail2 problem to anyone, "there would be a jail cell with your name on it." Joseph Vasta, Northrop Grumman's former deputy project manager on the facilities contract, stated that when the contractors, including Haas, met with

[70] To this question, Lucente's attorney cited in-house counsel's participation in drafting the letter as a basis for disallowing *any* questioning as to why the letter was written. She stated, "Joe didn't write the letter in a vacuum." Interview with Joseph Lucente, director of contracts, Northrop Grumman, in Washington, DC (Oct. 17, 2000).

[71] Thomas R. Mulroy Jr. & W. Joseph Thesing Jr., "Confidential Concerns in Internal Corporate Investigations," 25 Tort & Ins. L.J. 48, 53 (1989).

[72] Ross G. Greenberg, Jordan Klingsberg & Deidre Mulligan, "Attorney-Client Privilege," 30 Am. Crim. L. Rev. 1011 (1993) (citing generally Michael E. Prangle, "The Inadvertent Waiver of Privilege," 28 Tort & Ins. L.J. 637 (1991)).

him in August 28, 1998, Jim Webster (Betty Lambuth's replacement) had been meeting with OA staff without the contractors.[73] So, he noted that the contractors were concerned that Webster's having done so "might get *them* in trouble."[74] Vasta further noted that "to enable the employees to meet with an attorney to freely discuss *their* concerns, Jim DeWire [the program director] scheduled a meeting among the team and Ralph Pope [from in-house counsel's office] on September 9, 1998."[75] Also, Joseph Lucente confirmed that he understood that, when Haas came in to see in-house counsel, Haas was in fact seeking legal advice.[76] So, the evidence suggests that when Haas and the other contractors met with in-house counsel, they were seeking legal advice *for themselves.*

Central to the question as to who may waive an attorney-client privilege is the issue of who actually bears the privilege. If Haas or the other employees who sought the meeting with in-house counsel bear the privilege, it is theirs to waive. However, if the corporation bears the privilege, the analysis becomes more complex. Certainly, a corporation's directors and officers can waive the privilege. However, a corporation might seek, as Northrop Grumman apparently does here, to have the privilege expanded to capture communications involving employees outside the "control group." In such a case, a reviewing court might well not allow Northrop Grumman to enjoy the benefits of an expanded attorney-client privilege without likewise accepting the consequences that the privilege could be waived by a lower-level employee like Haas—someone outside the "control group."[77] In order to evaluate the claim, however, the committee needs to have its questions regarding the merits of Northrop Grumman's privilege claim answered.[78]

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[73] Interview with Joseph Vasta, former program manager, Northrop Grumman, in Washington, DC (June 28, 2000). *See also* Joseph Vasta document production (exhibit 155) (documenting Aug. 28, 1998, and Sept. 3, 1998, meetings with contractors).

[74] Interview with Joseph Vasta, former program manager, Northrop Grumman, in Washington, DC (June 28, 2000) (emphasis added).

[75] Joseph Vasta document production (exhibit 155) (emphasis added).

[76] Interview with Joseph Lucente, director of contracts, Northrop Grumman, in Washington, DC (Oct. 17, 2000). Counsel for the Northrop Grumman employees have consistently maintained that Haas and the other contractors do not bear the privilege. Presumably, they are arguing that when they met with in-house counsel, they were seeking legal advice *for the corporation.* However, such a position is subject to question. Indeed, the contractors were low-level employees, who were in no position to seek legal advice for the company. And, even if they did—such that they could be deemed within Northrop Grumman's "control group"—they (as members of the company's control group) would have had the authority to waive the privilege on the company's behalf.

[77] There appears to be some authority on point. *See, e.g., Jonathan Corp.* v. *Prime Computer, Inc.* 114 F.R.D. 693 (E.D.Va. 1987) ("Prime seeks protection through the attorney-client privilege on a legal communication made to individuals outside of Prime's 'control group.' Then, Prime claims that while it is entitled to the benefits of the privilege on this communication, it is not responsible for any waiver of the privilege on the communication by one of these individuals outside the 'control group.' In other words, [Prime claims] the privilege can be created for the benefit of legal communications with employees at all levels but cannot be waived or destroyed by these employees. This proposition is inconsistent with a joint reading and the holdings [of the Supreme Court] in *Weintraub* and *Upjohn Co.*").

[78] "The precedents of the Senate and House of Representatives, which are founded on Congress' inherent constitutional prerogative to investigate, establish that the acceptance of a claim of attorney-client or work product privilege rests in the sound discretion of a congressional committee regardless of whether a court would uphold the claim in the context of litigation." *See* Morton Rosenberg, "CRS Report for Congress: Investigative Oversight—An Introduction to the Law, Practice and Procedure of Congressional Inquiry" 43 (1995). However, a committee may consider and evaluate the strength of a claimant's assertion in light of the potential unavailability of the privilege to the claimant if it were raised in a judicial forum. *Id.* at 44. *See also Exxon Corp.*, 87 F.R.D. at 637 ("This court has recognized the necessity of asserting the attorney-client privilege in a manner specific enough to allow the court to adjudicate the merits of its invocation. [citation omitted] A mere assertion of privilege [without more] is insufficient.") (citing *SEC* v. *Dresser Industries, Inc.*, 453 F.Supp. 573, 576 (D.D.C. 1978)). As stated above,

Under any analysis, Haas might very well have waived the privilege. For example, in Haas' most recent interview, Haas told committee staff of a conversation he had with Northrop Grumman Deputy Program Manager Joseph Vasta following his meeting with corporate counsel in September 1998.[79] The discussion took place informally "by the coffee pot."[80] Haas said he told Vasta about the threats because he expected that Vasta would have been briefed about the threats and that he "no longer had to worry about going to jail."[81] Asked specifically if he told Vasta about his discussions with Northrop Grumman counsel, Haas replied, "yes."[82] Vasta did not attend that meeting and is not an attorney. Furthermore, the committee has found no evidence that Haas was authorized by the managers at the meeting to disclose to Vasta the details of his purportedly privileged communications with counsel.

B. NORTHROP GRUMMAN'S REFUSAL TO WAIVE ATTORNEY-CLIENT PRIVILEGE

As indicated above, Northrop Grumman's assertions of privilege are disturbing. Its baseless assertions of privilege have been made despite the fact that counsel had been informed that Congress need not recognize the attorney-client privilege. Northrop Grumman's refusal simply to waive the privilege is equally disturbing. Early in the committee's investigation of Earl Silbert's efforts on Northrop Grumman's behalf, Northrop Grumman indicated that it did not intend to waive attorney-client privilege. On September 21, 2000, the committee informed Northrop Grumman chairman, president, and CEO, Kent Kresa, of its intent to issue a subpoena for his appearance before the committee to explain the company's decision to assert the privilege. Kresa responded on the next day simply saying that "[w]e believe that who [Silbert] contacted and for what purpose, and what information that he chose to report back to the [c]ompany are protected by the attorney-client privilege, and we simply will not waive that privilege."[83]

However, to date, the committee has interviewed or taken testimony from several Northrop Grumman witnesses who recounted being subjected to threats and intimidation to work on the Mail2 project in secret and without direction from their Northrop Grumman managers. Those facts are already out in the open. When they—including Haas—originally gave the committee their accounts, none of them asserted any privileges, and Northrop Grumman cooperated with the committee. But now, for whatever reason, they have begun claiming privileges. Northrop Grumman's change of attitude is disappointing, and has prevented the committee from gathering necessary facts.

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courts have required privilege claimants to state, among other things, whether the primary purpose of the communication withheld on the basis of privilege was to seek or provide legal advice or services. *See, e.g., US* v. *Exxon Corp.*, 87 F.R.D. 624, 637 (D.D.C. 1980).

[79] *See* interview with Robert Haas, Lotus Notes administrator, Northrop Grumman, in Washington, DC (Oct. 11, 2000).

[80] *Id.*

[81] *Id.*

[82] *Id.*

[83] Letter from Kent Kresa, chairman, president and chief executive officer, Northrop Grumman, to the Honorable Dan Burton, chairman, Committee on Government Reform (Sept. 22, 2000).

Northrop Grumman's lack of cooperation was also evident in the questioning of Earl Silbert in the *Alexander* case: when asked about various documents which he claimed were privileged, Silbert conceded that he had not looked at them since he originally generated them in September 1998.

> Q. All right. Given your involvement in this controversy, how is it that you never bothered to look at [those documents]?
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> A. [T]he reason I did not look at the notes is that I was concerned that if I did look at the notes and, in fact, they—that if I did look at the notes, then there would be a basis for you to claim a waiver of the attorney/client privilege, and I believe there is case law in the District of Columbia, a 1980 decision by a District Court Judge, to that effect. I tried to be very careful, again, to comply with the rules of professional conduct and the instructions of my client.
>
> Q. You're saying that simply by looking at your notes, which you claim an attorney/client privilege and work product——
>
> A. Yes.
>
> Q. ——that just by looking at them you would waive your privileges?
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> A. There was, in my view, a risk that that would happen, and I believe there is some case law to support that.[84]

The lengths to which Silbert went in order to preserve the privilege were in response to an instruction from Northrop Grumman General Counsel W. Burks Terry to "observe the privilege, honor the privilege."[85] Needless to say, this is quite troubling. As Judge Lamberth noted,

> General Counsel of Northrop Grumman called Mr. Silbert and told him to claim the attorney-client privilege to the maximum extent possible; that was the instruction he had when he came down here. And he didn't review one note that might be attorney-client privilege, so he wouldn't accidentally tell anything that he really knew, that his memory could be refreshed from.[86]

Silbert's rather tortured justification for not having looked at even a single document for which he claims privilege, prior to the submission of the privilege log by Northrop Grumman counsel, is—at the very least—indicative of the lengths to which Northrop Grumman is willing to go to assert the privilege. At the most, it reflects an intent by Silbert to keep relevant information from a judicial tribunal.

After Silbert testified in *Alexander*, Judge Lamberth suggested to the Justice Department, which is representing the White House,

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[84] Transcript of Evidentiary Hearings at 50, *Alexander* v. *FBI* (D.D.C. Oct. 3, 2000) (CA 96–2123).
[85] *Id.* at 55–56.
[86] *Id.* at 21.

that the White House ask Northrop Grumman simply to waive the privilege.

> It would be important for the White House to say to Northrop Grumman, "Why don't you waive your attorney-client privilege?" I mean, Northrop Grumman feels under some compulsion to claim this attorney-client privilege on these important matters. I don't understand why your client couldn't suggest to Northrop Grumman [that] they waive it and allow the facts to be produced, rather than hiding behind the privilege.[87]

He continued, "[the] White House can sit back and let Northrop Grumman do that and make no comment, if that's the posture that the White House wants to be in, but I suggest it would be in everybody's interest for the facts to come out."[88] The Judge observed, "It's very curious that Northrop Grumman feels so compelled to go to such great lengths to tell Mr. Silbert to come down and invoke [the privilege] the way he invoked it. It's just a little odd to me."[89] "But I just find it very odd that Northrop Grumman wants to prevent the facts from coming out."[90]

It appears that the Justice Department and the White House are, in fact, content with permitting Northrop Grumman to claim privilege over these matters, preventing the public from learning what really happened. It also appears that Northrop Grumman is intent on covering up actions taken by White House staff to threaten and intimidate Northrop Grumman employees. It is surprising that Northrop Grumman does not have greater concern for either the welfare of its employees, or the public's interest in a matter of national significance.

C. NORTHROP GRUMMAN'S FAILURE TO PROVIDE DOCUMENTS IN A TIMELY MANNER

At the outset of the committee's investigation, a generalized document subpoena was sent to Northrop Grumman Corp. Pursuant to this March 9, 2000, subpoena, Northrop Grumman produced to the committee 608 pages of documents numbered NGL 00001 through NGL 00608 on March 20, 2000.[91] Through 4 days of committee hearings held between the end of March and the beginning of May and throughout the summer of 2000, the committee received no further document productions from Northrop Grumman. Then, on August 14, 2000, committee staff learned—only through monitoring the related evidentiary hearings being held in the *Alexander* litigation—that Northrop Grumman had produced in that proceeding documents bearing apparently the same numbering scheme but higher than NGL 00608. One document mentioned in particular, NGL 00795, was a page of handwritten notes reading in part, "Instructed never to commit to paper. Each person on Mail2 registered from a list." Northrop Grumman failed to produce

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[87] *Id.* at 20.
[88] *Id.*
[89] *Id.*
[90] *Id.* at 22.
[91] Letter from H. Lowell Brown, assistant general counsel, Northrop Grumman, to James C. Wilson, chief counsel, Committee on Government Reform (Mar. 20, 2000).

this clearly responsive document to the committee for more than 5 months.

On August 29, 2000, committee counsel wrote to the vice president and assistant general counsel of Northrop Grumman and requested that the document be produced as required by the March 9, 2000, subpoena. The letter also requested, "All records that have been provided to the court in *Alexander* v. *FBI*. This includes all materials bates numbered above NGL 00608. . . . If documents are produced pursuant to *Alexander* in the future, please provide them to the Committee."[92] The following day, August 30, 2000, Richard Oparil responded in detail to the letter and provided 658 additional pages of responsive documents. However, since that date, he has ignored the committee's unambiguous, continuing request to provide all documents produced pursuant to *Alexander* in the future. For example, to this date Oparil has not produced to the committee a copy of the Lanny Breuer message slip numbered NGL 01393, which indicates contact with Earl Silbert. Presuming that the intervening numbered documents, NGL 01268 through NGL 01392, were also produced to the *Alexander* court, then Oparil has also failed to provide the committee with another 126 pages of requested documents. Additionally, on the day of Earl Silbert's testimony before Judge Lamberth, Oparil produced a privilege log and documents numbered up to NGL 01405. Ordinarily, any one of these shortcomings would be dismissed as inattention to detail or a simple oversight. However, taken together and in combination with the specious claims of privilege discussed above, the group of lawyers associated with Northrop Grumman appears to be doing everything possible to prevent the American people from learning the complete truth about the White House e-mail archiving problem. The question is "why?"

III. Further Evidence of the Insufficiency of the Test Search and the Unraveling of the "Disconnect" Defense

A. The Attorney Who Performed the Comparison Changed Her Story

As discussed in section III.C of the report, Associate White House Counsel Michelle Peterson was tasked with comparing a stack of e-mails to documents that had already been produced to the independent counsel in the Lewinsky investigation. The purpose of the comparison was to determine if there was a problem with prior document productions. Peterson, Cheryl Mills, and other witnesses told the committee that the results of the comparison test were identical and that the White House Counsel's Office therefore concluded that there was no problem with prior searches or productions. However, Peterson's story recently began to unravel. On September 28, 2000, Peterson submitted an affidavit to the *Alexander* court indicating that Peterson's earlier testimony to the court, and by implication, her statements to this committee, were inaccurate. Peterson testified that during the course of her testimony to the grand jury convened by the Independent Counsel's Office to inves-

[92] Letter from James C. Wilson, chief counsel, Committee on Government Reform, to H. Lowell Brown, assistant general counsel, Northrop Grumman (Aug. 29, 2000).

tigate the e-mail matter, it appeared from the documents shown to her that she "may have been mistaken with respect to one or possibly two e-mails." [93] After the committee voted on the report, new evidence regarding her testimony came to light that further undermined Peterson's claim that the two stacks were identical.

It now appears that even Peterson's affidavit that was submitted to correct her earlier misstatements understated the extent of her error, in that she had not described the missing 69-page index. In an October 5, 2000, letter written to Peterson's attorney and courtesy copied to Judge Lamberth, the deputy independent counsel explained that Peterson did not fully correct her misstatements:

> While I appreciate Ms. Peterson disclosing to the Court by way of her declaration the existence of the index and the fact that it was not produced to this Office, I believe that her attempt to suggest that the index was not required to have been produced to this Office, at least in June 1998, is both inaccurate and misleading. Her declaration (paragraph 10) states that the index "appeared to be a document that was created after the date of the subpoena," presumably because the index which she reviewed had not been *printed* onto paper until June of 1998 in conjunction with the test run. By that reasoning neither the index, *nor any of the e-mails,* were required to be produced, inasmuch as they were not printed onto paper (or "created" to use her term) until after the date of the subpoena. The fact is that the index, like the e-mails, was required to have been produced to this Office because it existed in electronic form *prior* to the issue date of the subpoena.[94]

Not only did Peterson inaccurately tell this committee that the two stacks were identical, she also testified to the same in Federal court. As the Independent Counsel's Office pointed out in its letter, Peterson's testimony before Judge Lamberth on August 28, 2000, included statements such as "[e]verything that was in the stack that Ms. Mills gave me was also contained in the stack that we had already produced to Independent Counsel Starr;" [95] and "[t]he fact that all of these documents had been produced meant that I didn't have to write a letter or make a call explaining there were additional documents that hadn't been produced." [96] Those statements were clearly false. It is telling that the Office of Independent Counsel found Peterson's testimony so troubling that they felt obliged to inform the court of all of the information Peterson left out of her affidavit.

Given the foregoing, the assertions by White House officials that they could reasonably rely on the test search to conclude that there was no problem with e-mail productions become much less tenable. Indeed, the entire theory of the "disconnect" rests on the White House's reliance on the increasingly faulty comparison test. As

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[93] Third declaration of Michelle Peterson at ¶6, *Alexander* v. *FBI* (D.D.C. Sept. 27, 2000) (CA 96–2123).

[94] Letter from Jay Apperson, deputy independent counsel, Office of the Independent Counsel, to the Honorable Royce C. Lamberth, U.S. District Judge, District of Columbia 5 (Oct. 5, 2000) (referring to attachment 3, pages 1–2) (exhibit AV–3) (emphasis in original).

[95] *Id.*

[96] *Id.*

Michelle Peterson's claim that the e-mail stacks were identical continues to unravel, the White House's already flimsy "disconnect" defense becomes even less plausible.

B. MARK LINDSAY FAILED TO ACT AFTER LEARNING OF THE COMPARISON RESULTS

The validity of the "disconnect" defense is further eroded by testimony from Mark Lindsay. Prior to his August 23, 2000, testimony in the *Alexander* case, Lindsay told the committee that, in briefing his superiors of the e-mail problem, he needed to "try to collect the information as soberly and deliberately as we could and then present that information."[97] He further stated that once he delivered the memo outlining the e-mail problem to his superiors, he "could put a bit of a sigh of relief, because, frankly, we had conveyed it, and then it was up to them to provide the—particularly the legal folks—to provide the legal analysis based on the information, the evidence, and the materials that they had which I didn't have access to at that particular time."[98] However, as his testimony in *Alexander* that follows shows, the memo that went to Podesta and Ruff was not the end of Lindsay's communications with the White House Counsel's Office concerning the ARMS system.

> Q. And the search confirmed that, in fact, there were e-mails that had not been archived that were responsive to subpoenas of the Independent Counsel in the Lewinsky matter?
>
> A. That was not my understanding. Quite the opposite. My—I think that it is accurate to say that I was concerned about what the nature of this result was going to be. When it went to them, the information that I got back was that the information was 100 percent duplicates of information that had already been provided.
>
> Q. Who did you talk to who said it was duplicates?
>
> A. I don't remember specifically who it was. But there were numerous people I talked to in the counsel's office.
>
> Q. But you say you don't remember specifically. Who generically was it?
>
> A. It may have been Mr. Ruff. It may have been Lanny Breuer. It may have been Shelly Peterson. I don't know which one, but someone in the counsel's office who is in a position who knew something about this matter said to me, it wasn't anything.[99]

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[97] "Missing White House E-mails, Mismanagement of Subpoenaed Records," hearings before the Committee on Government Reform, 106th Cong. 237 (Mar. 23, 2000) (testimony of Mark Lindsay, Assistant to the President for Management and Administration, the White House).

[98] *Id.* at 238.

[99] Transcript of Evidentiary Hearing at 145, *Alexander* v. *FBI* (D.D.C. Aug. 25, 2000) (CA 96–2123). It should be noted that Lindsay told the committee at the Mar. 23, 2000, hearing that he heard word back that the test showed duplicates, but he did not say that he received this information from someone in the White House Counsel's Office. "Missing White House E-mails, Mismanagement of Subpoenaed Records," hearings before the Committee on Government Reform, 106th Cong. 259 (Mar. 23, 2000) (testimony of Mark Lindsay, Assistant to the President for Management and Administration, the White House).

This testimony greatly undermines the "disconnect" defense. As described in sections III.C.5 and III.E.1 of the report, Lindsay was told repeatedly by Kathleen Gallant and others on his staff that there was a problem with the ARMS system. Gallant also told the committee that she forwarded e-mails from Tony Barry to Lindsay when he was OA Counsel. Although Gallant did not recall which e-mails she specifically forwarded to Lindsay, one of Barry's e-mails in that time period read, "I feel that the records must be recreated and any searches need to be reperformed if the requestors feel it is necessary[.] . . . This seems like a daunting proposition, but I do not see any other alternative." [100] And as Gallant wrote in response to this e-mail, "I also agree with Tony about the new searches that will have to be done. We need direction from OA Counsel on that front." [101]

In essence, it is virtually impossible that Lindsay did not know that there was an ongoing problem with e-mail searches. The difficulties his staff were facing in curing the e-mail problem were communicated to him by Gallant at weekly meetings. When he heard from someone at the White House Counsel's Office that there was a match between the two stacks, he must have known that either the White House Counsel's Office was mistaken, or that his staff were mistaken. It is simply illogical that Lindsay would allow the staff at OA to continue to struggle through the "fixing the bleeding" phase of the ARMS project if he was confident that the White House Counsel's Office had determined that there was not a problem with e-mail searches. In sum, Lindsay should have informed the White House Counsel's Office that they were mistaken. That he apparently did not is further evidence that Lindsay may have been involved in obstruction of justice.

IV. The Justice Department's Questionable Handling of the E-mail Matter

A. Examples of advocacy in *Alexander* v. *FBI* that undermine confidence in the purported criminal investigation

As discussed in detail in section V of the report, the Justice Department has an inherent conflict of interest in its investigation of the White House e-mail problem. The Justice Department is on both sides of the same case. The Department's criminal investigation of the e-mail matter—if conducted properly—would entail Justice Department lawyers investigating the actions of the Justice Department lawyers who are currently defending the White House in the *Alexander* v. *FBI* case. As a threshold matter, a proper criminal investigation would have to look into the role of Justice Department lawyers, including James Gilligan, Allison Giles, and others, in the submission of Daniel Barry's false affidavits and his false deposition testimony to the court in *Alexander*. It is problematic that the Justice Department has already sent Barry a letter indicating that he is not a target of the e-mail investigation.

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[100] White House document production E 0999 (exhibit 52).

[101] White House document production E 1002 (exhibit 40). This response to Barry's e-mail demonstrates that Gallant most likely communicated to Lindsay the need to re-perform the searches when she pulled him aside at the weekly meetings.

At a September 26, 2000, hearing, the committee attempted to gather facts necessary to understand the nature of the Justice Department's criminal investigation. Committee members sought for basic facts from Alan Gershel, deputy assistant attorney general. Gershel refused to answer almost all of the committee's questions, including how many attorneys were working on the criminal investigation.[102] The refusal of Justice Department officials to disclose even the most basic facts leads to the conclusion that it will be difficult, if not impossible, to determine whether the Justice Department has properly investigated the role of its own attorneys in the *Alexander* case. However, as is discussed in section V of the report, the evidence strongly suggests that the Department is not conducting a vigorous investigation and has therefore most likely not adequately probed the role of its own attorneys in covering for possible obstruction of justice by the White House.

In that context, the aggressive advocacy of the White House position by Justice Department attorneys is particularly troubling. Following the "no target" letter being sent to Barry, Justice Department attorneys made several arguments to the court in the *Alexander* case that appeared to be nothing more than a recitation of White House spin. In attempting to have the court end its inquiry into possible obstruction of justice, Justice Department attorney Thomas Millet heavily relied on the "disconnect" defense put forth by the White House. Millet even invoked Mark Lindsay—the very person at the center of the alleged obstruction of justice—as the authority for the defense. Several examples follow:

> Millet: [I] think the underlying question that the Court had, again, is why weren't you told sooner. *I think Mr. Lindsay gave you your answer on Wednesday.* The answer was frankly——
>
> Court: That he passed the buck. He said it's White House Counsel's problem, not his.
>
> Millet: In part.
>
> Court: That's all he did was pass the buck.
>
> Millet: In part, but I think he also was very candid with Your Honor in saying that at the time he and the other higherups who are responsible for making these decisions either didn't understand or didn't appreciate what he called the people who were doing the real work doing these searches actually knew, and that they did perform a test. It wasn't a perfect test, but it was a test. And when he finished it, they thought they had the problem solved that it wasn't really a problem. *There was clearly a disconnect between the people doing the work and the people making the decision.* I think that's the answer to the Court's question that if we want to go forward with more witnesses and more evidence——

[102] *See* "Contacts Between Northrop Grumman Corporation and the White House Regarding Missing White House E-mails," hearings before the Committee on Government Reform, 106th Cong. 40 (Sept. 26, 2000).

Court: It never dawned on any of them to tell any lawyer in the Justice Department about this test or any of that other information? See it's really a notion that is not akin to the Court's own experience in how real life works. They do a little test like that to see whether this works and they never tell any of the lawyers working on case?

Millet: Your Honor, if we go forward with more evidence and we're required to put the Justice Department attorneys on the stand and have them testify, which frankly to me is a very big step that the Court should not undertake lightly and I don't [sic] the Court should undertake on the basis of this record, *you're going to hear that inquiries were made and the answer that you heard from Mr. Lindsay was the answer that came back to the Justice Department.* I can represent that to the Court. *I have interviewed my colleagues. That is the answer. We can go through that processes, but it is the same answer that you heard from Mr. Lindsay on Wednesday*[.] [103]

* * * * *

Millet: [S]ometimes lawyers and technical people don't always understand each other, don't always use the same language, don't always use the same words to mean the same things. I think, again, on Wednesday *Mr. Lindsay put his finger on the problem as being that kind of disconnect between the lawyers and the technical people* just perhaps not understanding each other and not appreciating what they were being told as being the real core of what happened here[.] [104]

* * * * *

Millet: You have your answer. I think Mr. Lindsay gave you your answer. I can't express it any better than he did. There was a breakdown between technical people and the higherups. The higherups thought the problem was addressed. As Mr. Lindsay said, they didn't know or understand what the people who were doing the real work knew, and that was the——

Court: To decide the question though of whether it was negligent, reckless, or deliberate, would I not need to know—have more evidence about what the testing was or how that conclusion was reached?

Millet: I don't think so, Your Honor. *I think you've heard in the record—for that matter you can look—for that point, you can look at the congressional testimony, particularly Mr. Ruff's.* You can see—as the people who actually pulled the documents did appear before you, they told you what

[103] Transcript of Evidentiary Hearing at 10–11, *Alexander* v. *FBI* (D.D.C. Aug. 25, 2000) (CA 96–2123) (emphasis added).
[104] *Id.* at 15 (emphasis added).

> they did, what they did with the documents, and what happened with them. *I think between—between what Mr. Lindsay said, I think it would be appropriate to look at the congressional testimony. Between what's in there, you'll see that that's the answer.*[105]

Another Justice Department lawyer, Elizabeth Shapiro, came to the personal defense of White House lawyers Michelle Peterson and Sally Paxton in a representation to Judge Lamberth:

> I want to say one last thing and may be somewhat out of turn. When the Court spoke about White House Counsel who worked on this case, I just wanted to make it clear that we are not—this is not the apt's [sic] case. I don't know the experience of that case, but I can speak to the experience in this case. *That's Ms. Paxton and Peterson have acted in every way as diligently any [sic] agency counsel I have ever encountered. They have worked long and hard and produced thousands and thousands of documents and engaged in long periods of discovery I have with extreme diligence. I would want to say that on their behalf.*[106]

This kind of overzealous advocacy by the Justice Department on behalf of the White House indicates why the Justice Department cannot be counted upon to conduct a thorough investigation of this matter. It is difficult to believe that the Justice Department would conduct a serious criminal investigation of a White House lawyer such as Peterson while, at the same time, a Justice Department lawyer provides such a glowing character reference for her in court.

B. THE ATTORNEY GENERAL'S FAILURE TO ALLOCATE ADEQUATE RESOURCES TO THE E-MAIL INVESTIGATION

The advocacy and overreaching of Justice Department attorneys is especially troubling in light of the apparent lack of a serious investigation of the e-mail scandal on the part of the Justice Department's Campaign Financing Task Force. The Justice Department seems willing to devote more attorneys and resources to the defense of the White House than to the investigation of it. Deputy Assistant Attorney General Alan Gershel's refusal to disclose even a ballpark estimate of the number of attorneys working on the criminal investigation does nothing to allay those concerns.

Perhaps even more revealing are recent statements made by Attorney General Reno during an interview with committee staff. The Attorney General was asked to give an estimate of the number of attorneys working on the e-mail investigation because of the concern in hearing that only one part-time attorney was on the case.[107] The Attorney General failed to provide an estimate.[108] The following exchange then took place between committee counsel and the Attorney General:

> Counsel: If there were for a period of weeks no attorneys—and we know there are FBI agents but if there were no

[105] *Id.* at 29 (emphasis added).
[106] *Id.* at 99 (emphasis added).
[107] Transcript of interview with the Honorable Janet Reno, Attorney General, Department of Justice, in Washington, DC, at 9 (Oct. 5, 2000).
[108] *Id.*

> Department of Justice attorneys devoted full-time to this matter, would you answer that to be a sufficient number of attorneys devoted to this matter?
>
> Reno: If there were sufficient attorneys devoted to the matter, I would consider it to be sufficient.
>
> Counsel: But would zero be sufficient?
>
> Reno: Your question was whether there would be sufficient people if there was not a full-time attorney devoted to it. How I devote attorneys I think should be an executive function and I think based on everything that I have been advised—as to which I have been advised, there are sufficient.
>
> Counsel: Okay. And we are not going to go too much further but I did want to get back to my original question, which is if there were zero attorneys, would that be in your view in this situation sufficient?
>
> Reno: If there were zero attorneys what?
>
> Counsel: Devoted to full-time staffing of the——
>
> Reno: Yes, it could be possible that if you had different attorneys devoted to [it] less than full-time.[109]

From this exchange, the Attorney General apparently conceded that in her opinion having no full-time Justice Department attorneys working on the e-mail investigation could be sufficient. While the Attorney General refused to actually confirm that there are no full-time attorneys working on the e-mail investigation, such a conclusion is consistent with information obtained by the committee. This underscores the inherent conflict of interest of the Justice Department in the e-mail matter. The problems with Justice Department attorneys investigating their colleagues are exacerbated when the time and resources devoted to the investigation are apparently far less than those devoted to the defense of the White House.

V. The Critics of the Investigation Have Utterly Failed to Address the Facts on Their Merits

A number of criticisms have been made of the committee's investigations. Some of these criticisms are simply inaccurate. Others have taken the form of baseless attacks against the committee. All of the criticisms, however, clearly demonstrate that the White House, and its allies in Congress want to keep the public from knowing what happened.

A. RESPONSE TO THE MINORITY STAFF REBUTTAL

Following the release of the committee's report, the minority circulated a "rebuttal" to the news media. Unfortunately, the minority rebuttal is riddled with errors and misleading statements.

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[109] *Id.* at 9–10.

The Spin: "The number of e-mails affected by the Mail2 problem is relatively small compared to the total number of e-mails properly recorded in ARMS." [110]

The Truth:

- The precise number of e-mails affected is not the point. To prevent the production of even one subpoenaed document through threats and intimidation is serious misconduct. The point is that the White House knew that a number of messages were not searched. It knew that the number of unsearched messages was significant. Yet it failed to either search the messages or inform Congress that it could not.
- The number of records properly recorded in ARMS in 1994 was 1.7 million. In 1997 it was 4.1 million. By the end of 2000, it is estimated that it will record 30 million.[111] Even a small percentage of such large numbers would be significant. For example, the Mail2 problem alone affected all of 1997, when 4.1 million records were recorded in ARMS. If only a "relatively small" number of those records—say 10 percent—were affected by the Mail2 error, that would mean 410,000 records were not searched. That would represent only 1 year during only one of the several archiving errors. In fact, the audit prepared by Robert Haas on June 18, 1998, shows that, as of that date, 246,083 e-mails were not recorded in ARMS.[112]

The Spin: "These e-mail problems are highly technical. All of them were inadvertent." [113]

The Truth:

- The net effect of the problems is not technical or difficult to comprehend. A large universe of documents was not searched.[114] The White House was clearly told as much, but failed to inform those who had subpoenaed documents from them.[115]
- The OVP decision to manage e-mail solely by backup tapes and avoid archiving in ARMS was not inadvertent. It was intentional.[116]

The Spin: "Mr. Haas found a few Lewinsky-related e-mails that turned out to have already been previously provided to Independent Counsel Kenneth Starr." [117]

The Truth:

- Haas found more than "a few" Lewinsky-related e-mails. In fact, the White House produced to the committee 832 pages of e-mails found by Haas and used by the White House Counsel's Of-

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[110] Rebuttal prepared by minority staff.
[111] "The Budget of the Executive Office of the President," hearings before the Treasury, Postal, and the Executive Branch Subcommittee of the Committee on Appropriations, 105th Cong. (Mar. 12, 1998) (testimony of Ada Posey, Director, Office of Administration).
[112] E-mail report at sec. III.B.1, IV.A.2.
[113] Rebuttal prepared by minority staff.
[114] E-mail report at sec. II.
[115] *Id.* at sec. III.C.1.
[116] *Id.* at sec. II.C, III.D.3.c.
[117] Rebuttal prepared by minority staff.

fice to argue that the e-mail did not affect document production.[118]

- Michelle Peterson, the lawyer who compared Haas' e-mails to those already produced to the independent counsel, filed a September 27, 2000, affidavit in the FBI files litigation stating that, during her grand jury testimony, she was shown documents which indicate that she may have been mistaken in concluding that the two stacks of e-mail she reviewed were identical.[119]
- The e-mail provided to the Counsel's Office in order to perform the comparison included a 69-page index, which itself was withheld from the independent counsel even after Peterson's comparison.[120] Peterson's "mistake" was far from merely overlooking a one or two pages, and the two stacks of e-mail were far from identical.
- White House Counsel Charles F.C. Ruff conceded that his belief that using the Lewinsky production as a tool to determine whether there was a problem with the White House's subpoena compliance ability was erroneous.[121] And in fact, it was.

The Spin: "The evidence regarding alleged jail threats is inconclusive and contradictory. In total, eight individuals were present at meetings when the alleged threats were made. Of those eight witnesses, two deny making any jail threats; three have no recollection of any jail threat; one recalls a jail threat being made in response to a 'flippant' question; and one recalls the word 'jail' being mentioned but cannot remember who said it." [122]

The Truth:

- Other than Laura Callahan—the person accused of making the threat—there were five people present at the meeting at which Robert Haas claims he was threatened. Of those five, three recall the jail threat (Robert Haas, Betty Lambuth, and Sandra Golas). And a fourth, John Spriggs, believed he was threatened, though he did not specifically recall the word jail: "Were they threatening to me? Yes, they were threatening to me, in—in a narrow context." [123]
- Robert Haas contemporaneously repeated his allegation to multiple witnesses, including Northrop Grumman employees Steve Hawkins, Joe Vasta, and Joseph Lucente.[124] He also told IS&T

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[118] Letter from Beth Nolan, Counsel to the President, the White House, to the Honorable Dan Burton, chairman, Committee on Government Reform (May 2, 2000). *See also* e-mail report at sec. IV.B.3.

[119] *Id.*

[120] *See* letter from Jay Apperson, deputy independent counsel, Office of the Independent Counsel, to the Honorable Royce C. Lamberth, U.S. District Judge, District of Columbia 5 (Oct. 5, 2000) (referring to attachment 3, pages 1–2) (exhibit AV–3). Attachment 3 to Apperson's letter to Judge Lamberth is letter from Apperson to Mark Lynch, counsel for Michelle Peterson, in which Apperson describes Peterson's affidavit as "both inaccurate and misleading" in its suggestion that the index was not required to have been produced to the independent counsel in June 1998. *Id.*

[121] *Id.* at sec. III.C.2. *See also id.* at n.347–348 and accompanying text.

[122] Rebuttal prepared by minority staff.

[123] "Missing White House E-mails, Mismanagement of Subpoenaed Records," hearings before the Committee on Government Reform, 106th Cong. 100 (Mar. 23, 2000) (testimony of John Spriggs, senior engineer, Northrop Grumman). *See also* e-mail report at sec. III.A.5.

[124] *Id.* at sec. III.A.4.a, III.A.4.e–g.

Director Kathleen Gallant, as well as his wife and several members of his family.[125]

- Those who did not recall hearing the jail threat did not question the credibility of those who did. In fact, neither did Ranking Minority Member Henry Waxman. As he stated at the March 23, 2000, hearing: "Mr. Haas, who seemed credible to me, clearly believed he had been threatened with jail by Ms. Callahan."[126]
- Golas took the threat so seriously that she risked her job in trying to comply with the warnings not to tell anyone.[127] Also, the other contractors took the threats so seriously that they felt the need to hold their meetings out of the office at a local park and at a Starbucks.[128]

The Spin: "[T]he individuals who allegedly made the jail threats were not even White House employees: both worked in the Office of Administration (OA), which provides support services to the White House, and one was a career civil servant. There is no evidence that White House officials had any knowledge of—or participated in—any threats."[129]

The Truth:

- OA is an entity within the Executive Office of the President. While the OA is not within the physical building of the White House, it is disingenuous and misleading to argue that Mark Lindsay and Laura Callahan were not White House employees. OA employees are responsible to the White House, and they ultimately answer to the Assistant to the President for Management and Administration. Moreover, Mark Lindsay was elevated to the high position of Assistant to the President—working in the White House—after the e-mail problems occurred but before they became public. Also, Mark Lindsay was a political appointee in OA at the time he allegedly threatened Northrop Grumman contractors. It should also be noted that Laura Callahan continues to work for the Clinton administration at the Department of Labor.
- It is also illogical to assume that the very persons who allegedly threatened contractors would inform their White House superiors of such heavy-handed and possibly illegal tactics, unless their superiors were complicit in the misconduct.

The Spin: "There is no evidence that Mr. [Earl] Silbert was aware of, or communicated information about, threats or subpoena compliance—issues that were peripheral, if not irrelevant, to the contractual matter at stake."[130]

The Truth:

- The committee questioned Earl Silbert—former Watergate prosecutor and friend of then-White House Counsel Charles F.C. Ruff—about his contacts in late 1998 with Northrop Grumman

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[125] *Id.*
[126] *Id.* at sec. III.A.5.
[127] *Id.* at sec. III.A.4.b.
[128] *Id.* at sec. III.A.4.d.
[129] Rebuttal prepared by minority staff.
[130] *Id.*

(NG) and the White House Counsel's Office. When asked specifically about the discussion of threats with White House counsel, Silbert claimed he had no recollection of such discussions and at the same time asserted attorney-client privilege.[131] On October 3, 2000, the committee also learned through his testimony in Federal court that Silbert took notes of his conversations with NG counsel and a NG employee.[132] These notes have not yet been reviewed by the committee. Until Mr. Silbert either explains the substance of the meeting or produces the notes, it is simply premature for the minority to claim that "[t]here is no evidence" related to Mr. Silbert's communications concerning threats or subpoena compliance. This claim by the minority also appears to be premature when considering the testimony of Robert Haas on August 14, 2000, in the FBI files case. Haas testified that he recounted the threats to an outside counsel described to him as a "gray beard."[133] This evidence, coupled with Silbert's billing records, strongly suggests that Earl Silbert is the "gray beard" with whom Haas spoke.

- The claim that threats were peripheral or irrelevant to the contractual matter at stake completely ignores the testimony of the persons involved in the meetings between NG employees, NG Director of Contracts Joseph Lucente, and NG counsel Ralph Pope in September 1998. In that meeting, NG employees discussed threats with Lucente and Pope.[134] Lucente in turn drafted a letter that went to the White House on September 14, 1998, stating that NG would not move forward on the contract.[135] It was recently learned in court that Silbert had direct involvement in the review and editing of this letter.[136] Lucente told the committee that the threats were an inspiration for sending the letter.[137]

The Spin: "In the course of responding to committee inquiries regarding the Mail2 problem, the White House also discovered other e-mail problems including . . . a problem that prevented e-mail in the Office of the Vice President from being backed up from the end of March 1998 through early April 1999."[138]

The Truth:

This is merely one of the many problems in the Office of the Vice President (OVP). The minority failed to mention the others:

- The OVP decided in 1994 not to connect its e-mail system to ARMS, thereby ensuring that its e-mail would not be archived.[139] But the White House Counsel's Office claims not to

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[131] E-mail report at sec. III.A.4.g.
[132] Transcript of Evidentiary Hearing at 47, *Alexander* v. *FBI* (D.D.C. Oct. 3, 2000) (CA 96–2123).
[133] E-mail report at sec. III.A.4.g.
[134] *Id.*
[135] *Id.* at sec. III.E.1.b.ii.
[136] Transcript of Evidentiary Hearing at 91, *Alexander* v. *FBI* (D.D.C. Oct. 3, 2000) (CA 96–2123). When informed of this testimony, Lucente was surprised to learn that his letter had been reviewed by Silbert and that Silbert had provided corporate counsel with edits. Interview with Joseph Lucente, director of contracts and subcontracts, Northrop Grumman (Oct. 17, 2000).
[137] *Id.*
[138] Rebuttal prepared by minority staff.
[139] E-mail report at sec. II.C, III.D.3.c.

have been aware of this decision.[140] ARMS searches that were represented as including OVP records in fact did not, and no one searched the OVP backup tapes in response to subpoenas.[141]

- In April 1999, when responsibility for the OVP server was transferred to IS&T, backup tapes were ordered to be recycled on a rotating 3-week basis. This occurred at a time when the OVP was still not participating in ARMS. In the words of Senior Engineer John Spriggs, "Every three weeks they overwrite the existing tapes. And so if the OVP is doing records management with tape backups, then they have a problem."[142]

The Spin: "So far, between 130,000 and 150,000 e-mails have been reconstructed and reviewed. Of those, only 55 were responsive to this committee's subpoenas, and many of those had already been produced in similar form. None of these 55 e-mails provided significant new evidence."[143]

The Truth:

- The first batch of responsive e-mails produced to the committee on September 22, 2000, include a document regarding political advisor Carter Eskew sent directly to Vice President Gore stating "*Reminder:* All internet e-mails are recorded on the White House computers. According to Michael, the only way not to have your e-mails backed up on government computers would be to get a Clinton/Gore computer in your office and set it up for private e-mails. QUESTION: How would you like to proceed on this?"[144] This e-mail goes to the Vice President's knowledge of the archiving of his e-mail messages that this committee is investigating.
- The September 22, 2000, production also includes an e-mail from the person "desking the VP's trip to CA on 4/29," stating that the Vice President was committed to do a fundraising event in Los Angeles on April 29, 1996. The e-mail was drafted on April 9, 1996, and the only event in Los Angeles as of that date was a luncheon at the Hsi Lai Temple. This information is significant because as of April 9, 1996, the Hsi Lai Temple event was considered a fundraiser, and there is no mention of an event at another venue—a direct contradiction of representations that a separate fundraising event had been scheduled and then canceled at the last minute.[145]

Finally, it is troubling that the minority has attacked the credibility of the majority by citing an allegation from a newspaper article as if it were from the committee. The Democrats' rebuttal endeavors to correct a statement from the March 29, 2000, edition of the Washington Times concerning a computer disk containing Lewinsky-related e-mail.[146] While it is comforting to know that the

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[140] *Id.* at sec. II.C.
[141] *Id.* at sec. III.D.3.c.
[142] *Id.* at sec. II.C.
[143] Rebuttal prepared by minority staff.
[144] E-mail report at 74.
[145] *Id.* at sec. III.D.3.b.
[146] Rebuttal prepared by minority staff.

minority is chasing down inaccuracies in the newspapers, such charges have little to do with the committee's work.

B. JUDGE TODD CAMPBELL'S COMMENTS ON THE REPORT

In an article published in the Tennessean on October 19, 2000, Federal Judge and former Counsel to the Vice President Todd Campbell was quoted as calling Chairman Burton "a zealot who has no regard to the reputation of others. And he has no credibility." It is surprising to see such language from a sitting Federal judge. Even more surprising is that Judge Campbell's intemperate remarks were made in response to purely factual assertions in the committee's report of which he was the source. These facts suggest that Judge Campbell's ire is more likely the result of his relationship with Vice President Gore and the Presidential election season than it is of any unfair statement in the committee's report.

Judge Campbell's name is mentioned in the report as the decisionmaker in the Office of the Vice President (OVP) on the issue of whether the OVP would participate in a system-wide White House e-mail archiving system. Committee staff interviewed him by telephone on August 18, 2000. Judge Campbell was cordial and candid, which was appreciated. However, he has mischaracterized the substance of the report as well as Chairman Burton's motives. He was also quoted as saying:

> The Office of the Vice President was in full compliance with the Presidential Records Act in two ways: One, we had backup tapes of all the e-mail, and two, the staff was instructed to keep hard copies of all documents that were responsive to the Presidential Records Act. In 1994, it was not even clear that you had to have backup tapes.[147]

The report does not claim that the OVP failed to comply with the Presidential Records Act. In fact, the Presidential Records Act (PRA) is not even mentioned in either of the two sections dealing with the OVP. Rather, the committee's concern is that the Vice President's e-mail was managed in such a way as to avoid subpoena compliance.

Judge Campbell also said that the report was released "for partisan purposes to influence the outcome of the presidential elections."[148] This is perhaps the Judge's most absurd statement. The portion of the report devoted to the Vice President's Office e-mail problems comprises only about 6 percent of the total report and the conclusions are qualified as being preliminary. It is disappointing that a sitting judge would not be more concerned that an office at the Executive Office of the President had failed to comply with a number of subpoenas because of a decision he had made. That decision, and the resulting failure of the OVP to comply with the committee's subpoenas, is the committee's concern—and it should be Judge Campbell's as well.

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[147] Rob Johnson, "Former Gore Legal Counsel Dragged into E-mail Inquiry," the Tennessean, Oct. 19, 2000.

[148] *Id.*

C. CHERYL MILLS' OPENING STATEMENT AT THE COMMITTEE'S MARCH 4, 2000 HEARING

In her opening statement before the committee on March 4, 2000, former Deputy Counsel to the President Cheryl Mills demonstrated utter contempt for the committee's legitimate oversight authority by smugly dismissing its core function as, essentially, a waste of her time.

The Weekly Standard described her statement as follows:

> At last week's House Government Reform Committee hearing on the suppression of subpoenaed White House e-mails, Mills took the stand and immediately rebuked the committee's members, while current and former Clinton aides in attendance nodded their heads in vigorous assent. "Nothing you discover here today," the allegedly impressive lady intoned, "will feed one person, give shelter to someone who is homeless, educate one child, provide health care for one family, or offer justice to one African-American or Hispanic juvenile."
>
> In other words: Favored Democratic social policies are the test of all government work. A man has committed murder. Should he be sent to prison? Will sending him to prison "feed one child?" The answer being no, the murderer must go free.[149]

It is telling that Mills' view was contradicted later that day by her more seasoned and respected former boss, former Counsel to the President Charles F.C. Ruff:

> Mr. HUTCHINSON. How would you have failed if in your defense of the President you had requested certain documents from the Congress or from other body and then you had come to find out that they were never produced?
>
> Mr. RUFF. [I] think the point you make is an absolutely solid and important one. This committee has *every obligation* to inquire into the circumstances surrounding those events in order to determine, first, whether indeed there was any impropriety—and I am firmly of the belief that there was none; second, to determine whether there's a systemic problem that needs to be corrected; and, third, whether the White House is responding appropriately to the committee's concerns. I view all of those as entirely legitimate inquiries, and we're doing our best to try to respond to them.[150]

While Mills dismissed the investigation as wholly illegitimate, Ruff described it as "entirely legitimate."[151] Moreover, he said the committee had not merely a legitimate interest; it had "every obligation" to inquire. This contrast with Mills' position could not be more stark.

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[149] "Mills on the Hill," the Weekly Standard, May 15, 2000, at 2.
[150] "Missing White House E-mails, Mismanagement of Subpoenaed Records," hearings before the Committee on Government Reform, 106th Cong. 115–116 (May 4, 2000) (emphasis added).
[151] *Id.*

Mills' failure to divert attention from the issue at hand was illustrated by the reaction of Congressman Christopher Shays:

> Mr. SHAYS. [W]hen I read your statement, Ms. Mills, before you even delivered it, I became so incensed by the focus on you and not about getting at this issue that I've written out a statement, and I've written out the statement so I don't say more than I need to say. So, Ms. Mills, you're not the only one disillusioned by this process. I have been pushed from disappointment to anger to outrage by the pervasive ethical and moral minimalism of this White House. Among the important issues you omitted from your list is respect for law and the affirmative obligation of sworn officers of the court to disclose material facts to properly constituted authorities. As much as you might not like it, this committee is such a properly constituted authority. While undoubtedly deeply felt, your statement conveyed to me a profound lack of respect for this constitutional process, and I'll say unlike the profound respect that I thought you showed to the Senate. It's not enough for those in the White House you defend to say no evidence has been found that anyone intentionally sought to hide the e-mail system problems. That's far too low a bar to set for yourselves, to convince yourselves prematurely the problem was minimal, to hide behind the expense and difficulty of the reconstruction project, to delay any disclosure of a problem until forced by negative publicity. All bespeak an ethical opportunism that allows by omission, if not by commission, the obstruction of justice.
>
> * * * * *
>
> Now, I also remember some people at the White House. I remember Billy Dale and John Drellinger . . . They were in the White House and they got fired, and then to defend their being fired the FBI and the IRS had to take a good look at them.
>
> And I was looking at an old article, and this may have been said in jest, Mr. Ruff, I know it was said in jest, but it has an eerie feeling of strength to it. You were interviewed by Bob Woodward[.] I'll read what Mr. Woodward says[:] . . . If called to testify some day at such an inquiry . . . Ruff says he knows just what he would do, "I'd say, gee, I just don't remember what happened back then and they won't be able to indict me for perjury and that maybe that's the principal thing I've learned in 4 years, I just intend to rely on that failure of memory." I know you said it in jest, but the words you used to respond to questions: "I don't recall," "I don't remember," "I understood this is an issue" and so on and "[I] don't remember if I was at a meeting." The meeting: Mr. Lindsay, on June 19th, how many people were at that meeting when you spoke to Mr. Ruff?

Mr. LINDSAY. I don't recall, sir.[152]

In essence, that is the story of this investigation.

[The exhibits referred to follow:]

[152] "Missing White House E-mails, Mismanagement of Subpoenaed Records," hearings before the Committee on Government Reform, 106th Cong. 80–82 (May 4, 2000).

ADDITIONAL VIEWS
EXHIBITS

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CARA ALEXANDER, *et al.*,

Plaintiffs,

vs.

FEDERAL BUREAU OF INVESTIGATION, *et al.*,

Defendants.

Civil Action No. 96-2123 (RCL)

RESPONSE OF NON-PARTY WITNESS PIPER MARBURY RUDNICK & WOLFE LLP TO SUBPOENA

Non-party witness Piper Marbury Rudnick & Wolfe LLP ("PMRW") objects to the subpoena served by plaintiffs for the following reasons:

1. PMRW objects to the subpoena as not providing a reasonable time for compliance.

2. PMRW, as the law firm representing non-party Northrop Grumman Corporation ("Northrop Grumman"), objects to plaintiffs' document demands, definitions, instructions and requests as improper and unduly burdensome to the extent that they improperly seek the disclosure of information protected by the attorney-client privilege, or attorney work-product doctrine. Such responses as may hereafter be given do not include any information protected by such privileges or doctrines. PMRW asserts this privilege objection on behalf of Northrop Grumman and pursuant to its instructions. A privilege log is attached hereto as Exhibit A.

3. PMRW objects to plaintiffs' document demands, definitions, instructions and requests to the extent that they are overly broad and seek discovery of information that is

EXHIBIT
AV-1

neither relevant to the subject matter of this litigation, nor is reasonably calculated to lead to discovery of relevant or admissible evidence.

4. PMRW objects to plaintiffs' Instruction No. 8, document demands, definitions, instructions and requests to the extent that they are overly broad and seek discovery of information that is neither relevant to the subject matter of this litigation, nor is reasonably calculated to lead to discovery of relevant or admissible evidence. Plaintiffs' motion to call Silbert as a witness was grounded on his alleged 1998 contacts with the White House pertaining to Northrop Grumman. Motion at 4-5. PMRW therefore objects to producing any documents not pertaining to the work performed in 1998, and PMRW's production is limited to that representation.

For the information of the Court, in December 1998, Silbert completed his representation of Northrop Grumman on the government contract matter. Approximately one year later, Northrop Grumman re-engaged Silbert to represent the company in responding to inquiries by Congress, the Executive Branch, and, most recently, this very case. Documents from this ongoing representation are outside the scope of plaintiffs' motion to this Court and are not being produced.

5. PMRW objects to plaintiffs' document demands, definitions, instructions and requests as improper and unduly burdensome to the extent that they purport to impose obligations broader than those set forth in the Federal Rules of Civil Procedure.

As to the specific numbered requests for categories of documents, PMRW hereby responds:

1. See General Objections. PMRW further objects to this request on the grounds that it is vague, ambiguous, overly broad, seeks discovery of information that is neither relevant to the subject matter of this litigation nor is reasonably calculated to lead to discovery of relevant or admissible evidence, and seeks discovery of information protected from disclosure by the attorney-client privilege and/or work product doctrine. Subject to the foregoing objections, PMRW will produce responsive non-privileged documents related to the 1998 engagement to the extent that they exist and can be located.

2. See General Objections. PMRW further objects to this request on the grounds that it is vague, ambiguous, overly broad, seeks discovery of information that is neither relevant to the subject matter of this litigation nor is reasonably calculated to lead to discovery of relevant or admissible evidence, and seeks discovery of information protected from disclosure by the attorney-client privilege and/or work product doctrine. Subject to the foregoing objections, there are no responsive non-privileged documents that exist or could be located.

Richard J. Oparil (D.C. Bar No. 409723)
PIPER MARBURY RUDNICK & WOLFE LLP
1200 Nineteenth Street, N.W.
Washington, DC 20036
(202) 861-3900

Counsel for Non-Party Witness
Piper Marbury Rudnick & Wolfe LLP

CERTIFICATE OF SERVICE

I hereby certify that, on October 3, 2000, the foregoing was served by hand on the following:

Larry Klayman, Esq.
Judicial Watch, Inc.
501 School Street, SW
Suite 725
Washington, DC 20024

Elizabeth Shapiro, Esq.
Trial Attorney
Federal Programs Branch
Civil Division
Department of Justice
901 E Street, N.W., Room 988
Washington, DC 20530

David E. Kendall, Esq.
Williams & Connolly
725 12th Street, N.W.
Washington, D.C. 20005

Richard J. Oparil

#834422

PRIVILEGE LOG OF PIPER MARBURY RUDNICK & WOLFE, LLP

Tab	Date	Recipient	Author	Description	Reason
1	Undated	--	Earl Silbert	Handwritten notes regarding new case	Attorney-Client Privilege Work Product
2	Undated	--	Earl Silbert	Internal Piper & Marbury New Client form	Attorney-Client Privilege Work Product
3	9/25/98	Ralph K. Pope	Earl Silbert	Piper & Marbury engagement letter signed by client	Attorney-Client Privilege Work Product
4	9/25/98	Ralph K. Pope	Earl Silbert	Piper & Marbury engagement letter not signed by client	Attorney-Client Privilege Work Product
5	12/9/98	Earl Silbert	Ralph K. Pope	Fax cover sheet and Logicon engagement letter signed by Earl J. Silbert and Northrop Grumman, with Legal Services Requirements attached	Attorney-Client Privilege Work Product
6	9/10/98	Earl Silbert	H. Lowell Brown	Fax cover sheets and draft letter to Dale Helms from Joseph F. Lucente regarding government contract	Attorney-Client Privilege Work Product
7	9/11/98	Earl Silbert	Gayl Ziegler*	Fax cover sheets and draft letter to Dale Helms from Joseph F. Lucente government contract	Attorney-Client Privilege Work Product
8	9/11/98	Earl Silbert	Ralph K. Pope	Fax cover sheet and draft letter to Dale Helms from Joseph F. Lucente government contract	Attorney-Client Privilege Work Product
9	9/11/98	Earl Silbert	Ralph K. Pope	Fax cover sheet and draft letter to Dale Helms from Joseph F. Lucente regarding government contract	Attorney-Client Privilege Work Product
10	Undated	--	Earl Silbert	Handwritten notes on conversation with Lowell Brown	Attorney-Client Privilege Work Product
11	9/11/98	--	Earl Silbert	Handwritten notes of interview with Northrop Grumman employee	Attorney-Client Privilege Work Product
12	12/15/98	Lowell Brown Earl Silbert W.B. Terry Eric Howell	Ralph K. Pope	Fax cover sheet and a copy of 12/5/98 Drudge Report (article produced)	Attorney-Client Privilege Work Product

* Earl Silbert's secretary.

10/05/00 11:41 FAX

PRIVILEGE LOG OF PIPER MARBURY RUDNICK & WOLFE, LLP

13	12/15/98	Lowell Brown Earl Silbert W.B. Terry Eric Howell	Ralph K. Pope	Fax cover sheet with handwritten notes of Earl Silbert and copy of Insight on the News Online article "Computer Glitch Leads to Trove of 'Lost' E-mails at White House" (article produced)	Attorney-Client Privilege Work Product
14	12/15/98	Lowell Brown Earl Silbert W.B. Terry Eric Howell	Ralph K. Pope	Fax cover sheet with handwritten notes of Earl Silbert and copy of Insight on the News Online article "Computer Glitch Leads to Trove of 'Lost' E-mails at White House" (article produced)	Attorney-Client Privilege Work Product
15	12/30/98	Earl Silbert		Telephone message slip	Work Product
16	11/19/98	Piper Marbury Rudnick & Wolfe LLP	Northrop Grumman, Corp.	Descriptions of legal services performed by Earl Silbert in 1998 on Northrop Grumman bills: 9/15/98 teleconference with L. Brown 9/22/98 teleconference with R. Pope 9/28/98 teleconference with White House counsel 10/9/98 teleconference with R. Pope	Attorney-Client Privilege Work Product
17	1/27/99	Piper Marbury Rudnick & Wolfe LLP	Northrop Grumman, Corp.	Descriptions of legal services performed by Earl Silbert in 1998 on Northrop Grumman bills: 12/15/98 teleconference with L. Brown 12/30/98 teleconference with White House counsel	Attorney-Client Privilege Work Product
18	3/31/99	Piper Marbury Rudnick & Wolfe LLP	Northrop Grumman, Corp.	Descriptions of legal services performed by Earl Silbert in 1998 on Northrop Grumman bills: 9/11/98 teleconference with Ralph Pope; teleconference with Northrop Grumman employee 9/11/98 teleconference with R. Perry and Burke 9/12/98 Review and revise draft letter 9/12/98 teleconference with R. Pope	Attorney-Client Privilege Work Product

EXHIBIT A

NORTHROP GRUMMAN

Data Systems and Services Division
Northrop Grumman Corporation
2411 Dulles Corner Park, Suite 800
Herndon, Virginia 20171-3430

September 14, 1998

In reply refer to:
JFL-98-481

Executive Office of the President
Administration Procurement Branch
ATTN: Dale Helms
NEOB, Room 5001
725 17th Street, N.W.
Washington, D.C. 20503

SUBJECT: Executive Office of the President
Contract No. DTOS59-96-D-00418

Dear Mr. Helms:

I have recently been informed that in late May of this year, a dysfunction in the EOP e-mail system was detected by an employee of Northrop Grumman Corporation (the "Company"). The dysfunction involves the archiving of e-mail communications from the EOP e-mail system. In essence, it appears the e-mail system cannot reliably retrieve messages stored in the system. This dysfunction appears to have had its origin in the conversion of the EOP e-mail system to CC Mail in October 1996.

I am further informed that Company employees brought this dysfunction to the attention of Laura Crabtree, EOP Branch Manager for Desktop Services, at the time of discovery in late May or early June 1998. Ms. Crabtree directed the Company employees to evaluate the problem and undertake remedial action, without Northrop Grumman management involvement. Since that time, Company employees have studied the nature and extent of the dysfunction and have undertaken with some incomplete remedial efforts.

Based on our review, the level of effort required to remedy the dysfunction will substantially exceed the scope of work contemplated under the referenced contract. As a consequence we are not proceeding with our efforts to remedy the dysfunction until we have received further contractual direction.

Very truly yours,

Joseph F. Lucente
Director, Contracts and Subcontracts

NGL 01393

10/05/00 11:42 FAX [redacted] 009

PIPER MARBURY RUDNICK & WOLFE LLP*

1200 Nineteenth Street NW
Washington, DC 20036-2412
www.piperrudnick.com

PHONE (202) 861-3900
FAX (202) 223-2085

FED ID #52-0616490

PRIVILEGED AND CONFIDENTIAL

Logicon, Inc.
A Northrop Grumman Company
Attn: Ralph K. Pope, Div. Cnsl.
2411 Dulles Corner Park, #800
Herndon, VA 20171

November 19, 1998
Invoice #498281

For professional services rendered through October 31, 1998

Advice to Logicon re: Executive Office
of the President Contract
(EOP Contract)
Case #98232

		Hours
09/15/98	E. Silbert	.25
09/22/98	E. Silbert	.50
09/28/98	E. Silbert	.25
10/09/98	E. Silbert	.25

REDACTED

Total Hours 1.25

Total Fees $468.75

Total Amount Due $468.75

* Legal services in Illinois are provided by Piper Marbury Rudnick & Wolfe, an Illinois general partnership.

10/05/00 11:42 FAX [redacted] 010

PIPER MARBURY RUDNICK & WOLFE LLP*

1200 Nineteenth Street NW
Washington, DC 20036-2412
www.piperrudnick.com

PHONE (202) 861-3900
FAX (202) 223-2085

FED ID #52-0816490

* * * REMITTANCE PAGE * * *

Logicon, Inc.
A Northrop Grumman Company
Attn: Ralph K. Pope, Div. Cnsl.
2411 Dulles Corner Park, #800
Herndon, VA 20171

November 19, 1998
Invoice # 498281

Contract Advice- (EOP Contract)
Case #98232
028620-000001

Total Fees	$468.75
Total Amount Due	$468.75

NET DUE UPON RECEIPT

PLEASE REMIT TO: PIPER MARBURY RUDNICK & WOLFE LLP
P.O. BOX 75190
BALTIMORE, MD 21275

* Legal services in Illinois are provided by Piper Marbury Rudnick & Wolfe, an Illinois general partnership.

10/05/00 11:42 FAX [redacted] 011

PIPER MARBURY RUDNICK & WOLFE LLP*

1200 Nineteenth Street NW
Washington, DC 20036-2412
www.piperrudnick.com

PHONE (202) 861-3900
FAX (202) 223-2085

FED ID #52-0616490

PRIVILEGED AND CONFIDENTIAL

Logicon, Inc.
A Northrop Grumman Company
Attn: Ralph K. Pope, Div. Cnsl.
2411 Dulles Corner Park, #800
Herndon, VA 20171

January 27, 1999
Invoice #506919

For professional services rendered through December 31, 1998

Advice to Logicon re: Executive Office of the President Contract

			Hours
12/15/98	E. Silbert	REDACTED	.50
12/30/98	E. Silbert		.25

Total Hours .75

Total Fees $296.25

T I M E K E E P E R S U M M A R Y

TIMEKEEPER	TITLE	HOURS	RATE	FEES
E. Silbert	Partner	.75	395.00	296.25
TOTALS		.75		296.25

Disbursements and Other Charges:

Duplicating	.40	
Total Disbursements and Other Charges		$.40
Total Current Charges		$296.65
Total Amount Due This Invoice		$296.65

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NGL 01396

10/05/00 11:43 FAX [redacted] 012

PIPER MARBURY RUDNICK & WOLFE LLP*

1200 Nineteenth Street NW
Washington, DC 20036-2412
www.piperrudnick.com

PHONE (202) 861-3900
FAX (202) 223-2085

FED ID #52-0816439

* * * REMITTANCE PAGE * * *

Logicon, Inc.
A Northrop Grumman Company
Attn: Ralph K. Pope, Div. Cnsl.
2411 Dulles Corner Park, #800
Herndon, VA 20171

January 27, 1999
Invoice # 506919

Contract Advice
28620-000001

Total Fees	$296.25
Total Disbursements and Other Charges	$.40
Total Amount Due This Invoice	$296.65

Unpaid Invoice Summary:

Invoice Date	Invoice Number	Invoice Amount	Payments	Balance
11/19/98	498281	$468.75	$.00	$468.75

Unpaid From Prior Invoices	$468.75
Total Account Balance	$765.40

NET DUE UPON RECEIPT

PLEASE REMIT TO: PIPER & MARBURY L.L.P.
P.O. BOX 75190
BALTIMORE, MD 21275

* Legal services in Illinois are provided by Piper Marbury Rudnick & Wolfe an Illinois general partnership.

10/05/00 11:43 FAX [redacted] 013

PIPER MARBURY RUDNICK & WOLFE LLP*

1200 Nineteenth Street NW
Washington, DC 20036-2412
www.piperrudnick.com

PHONE (202) 861-3900
FAX (202) 223-2085

FED ID #52-0879680

PRIVILEGED AND CONFIDENTIAL

Logicon, Inc.
A Northrop Grumman Company
Attn: Ralph K. Pope, Div. Cnsl.
2411 Dulles Corner Park, #800
Herndon, VA 20171

March 31, 1999
Invoice #515621

For professional services rendered through February 28, 1999

Advice to Logicon re: Executive Office
of the President Contract
(EOP Contract)
Case #98232

			Hours
09/11/98	E. Silbert		1.25
09/11/98	E. Silbert	REDACTED	.75
09/12/98	E. Silbert		.25
09/12/98	E. Silbert		.50

Total Hours 2.75

Total Fees $1,031.25

TIMEKEEPER SUMMARY

TIMEKEEPER	TITLE	HOURS	RATE	FEES
E. Silbert	Partner	2.75	375.00	1,031.25
TOTALS		2.75		1,031.25

* Legal services in Illinois are provided by Piper Marbury Rudnick & Wolfe, an Illinois general partnership.

10/05/00 11:43 FAX [redacted] 014

PIPER MARBURY RUDNICK & WOLFE LLP*

1200 Nineteenth Street NW
Washington, DC 20036-2412
www.piperrudnick.com

PHONE (202) 861-3900
FAX (202) 223-2085

FED ID #52-0816490

Logicon, Inc.
28620-000001
Invoice #515621

Disbursements and Other Charges:

Duplicating	.60	
Total Disbursements and Other Charges		$.60
Total Current Charges		$1,031.85
Total Amount Due This Invoice		$1,031.85

* Legal services in Illinois are provided by Piper Marbury Rudnick & Wolfe, an Illinois general partnership.

10/05/00 11:43 FAX [redacted] 015

PIPER MARBURY RUDNICK & WOLFE LLP*

1200 Nineteenth Street NW
Washington, DC 20036-2412
www.piperrudnick.com

PHONE (202) 861-3900
FAX (202) 223-2085

FED ID #52-0616490

* * * R E M I T T A N C E P A G E * * *

Logicon, Inc.
A Northrop Grumman Company
Attn: Ralph K. Popa, Div. Cnsl.
2411 Dulles Corner Park, #800
Herndon, VA 20171

March 31, 1999
Invoice # 515521

Contract Advice-(EOP Contract)
Case #98232
28620-000001

Total Fees	$1,031.25
Total Disbursements and Other Charges	$.60
Total Amount Due This Invoice	$1,031.85

Unpaid Invoice Summary:

Invoice Date	Invoice Number	Invoice Amount	Payments/ Adjustments	Balance
01/27/99	506919	$296.65	$.00	$296.65

Unpaid From Prior Invoices	$296.65
Total Account Balance	$1,328.50

NET DUE UPON RECEIPT

PLEASE REMIT TO: PIPER & MARBURY L.L.P.
P.O. BOX 75190
BALTIMORE, MD 21275

* Legal services in Illinois are provided by Piper Marbury Rudnick & Wolfe, an Illinois general partnership.



DRUDGE REPORT
DECEMBER 05, 1998 14:09:22 UTC

COMPUTER GLITCH LEADS TO TROVE OF 'LOST' E-MAILS AT WHITE HOUSE

Last summer, problems with a server in a West Wing computer system caused a blockage of up to 100,000 e-mails -- e-mails that may now be resubpoenaed in the ongoing House impeachment inquiry.

INSIGHT magazine is set to report an exclusive on the 'lost' e-mails on Monday, according to publishing sources.

The White House is busily and secretly undertaking a complicated e-mail reconstruction effort.

White House spokesman Barry Toiv confirms to INSIGHT the discovery and secret review of the lost White House e-mails. Many of the e-mails are said to involve the Lewinsky matter...

Developing...

x x x x x

DAN RATHER: HILLARY SHOULD BE NOMINEE FOR PRESIDENT IN 2000!

DECEMBER 04, 1998 15:59:08 UTC -- On Thursday night, CBS news anchor Dan Rather told hot cameras at CNN's LARRY KING LIVE that he believes First Lady Hillary Clinton is a hot choice for President of the United States in 2000!

"I would not be astonished to see Hillary Clinton be the Democratic nominee in 2000," Rather told King.

"Listen, I agree that Al Gore is the odds-on favorite. But, you know, you and I know, having covered politics for a lifetime, overnight's a long time in politics, a week is forever... You know, you add it all up, and you can make a case that Hillary Clinton might, might -- mark the word -- be the strongest candidate for the Democrats."

Rather went on to recommend that Hillary Rodham Clinton should be awarded TIME magazine's "Person of the Year."

[The DRUDGE REPORT revealed earlier this week that TIME magazine editors have put the Clintons in the running with Fed Chair Alan Greenspan for the prize.]

10/05/00 11:44 FAX [redacted] 017
DEC. -15' 98 (TUE) 12:31 OSSO HQ TEL:7037134476 P. 002

Insight
Published in Washington, D.C. Vol. 14, No. 46 – December 28, 1998
www.insightmag.com

Links Home Special Offer

Looking for Information in All the Wrong Place

By Paul M. Rodriguez

Federal prosecutors and congressional investigators are used to the White House playing fast and loose with subpoenas requiring aides to hand over detailed information. All too often what they get from the White House in response to subpoenas is not what they requested or what they wanted. And they have to resubpoena and then wait sometimes weeks and months to see if the administration will be any more forthcoming. Generally, it isn't, many complain.

For example, the White House has been subpoenaed time and again by several congressional panels and federal prosecutors for telephone records that would shed light on who called whom, who initiated the phone conversation and, equally important, when key calls were made. In response to such requests, the White House claims it doesn't have such information and the records it does possess and supplies consist of sketchy logs, kept by secretaries, of calls made by their bosses or incoming calls as catalogued in handwritten notes by White House operators.

"They say their systems do not keep phone-call details," a federal law-enforcement officials tells news alert! "We don't have those records from them," adds a congressional investigator. The only decent billing records investigators have seen are for cellular telephones maintained by individual aides.

Why not get the billing records for White House phones from the telephone companies themselves? Because the phone companies generally trash them after 30 to 90 days unless requested by a client to retain them. And, of course, the White House has not asked for such service.

Naturally, therefore, it came as a complete surprise when federal law-enforcement and congressional investigators were asked by news alert! if they were aware that, in fact, such records do exist and stretch right back to 1993. "You've got to be kidding me!" exclaimed one federal prober. "Are you serious?" queried another.

The records, which are extensive, are stored in the Old Executive Office Building.

Computer Glitch Leads to Trove of 'Lost' E-Mails at White House

New technology can be a real killer when you'd rather keep information under wraps. Paper documents always can be shredded. Just ask Oliver North and Fawn Hall. But computers have a pesky habit of retaining information even after that handy delete button has been pressed. For example, e-mails.

Take Project X. Yes, those White House folks just love their sci-fi monikers. "It's top secret and there's going to be hell to pay if anyone finds out about it," a White House insider tells news alert! "They're real nervous about this getting out," a consultant says of the e-mail project, partly because hundreds involve Monica Lewinsky.

So what is Project X and why is the White House sweating about it being revealed? Federal law-enforcement and congressional investigators for months now -- in some cases years -- have sought to get their hands on White House e-mail traffic. Of course, the subpoenas have flown, but often to little satisfaction. As with the White House telephone records, so with e-mails.

Project X grew out of a routine computer-repair job in the early summer, say White House insiders. There were problems with a server in a West Wing computer system, and engineers from a contractor discovered a blockage caused by about 100,000 e-mails, many of which may come under subpoenas issued by Capitol Hill panels and independent counsel Ken Starr. Now the White House is busily and secretly undertaking a complicated e-mail-reconstruction effort, hoping to avoid raising the ire of any panel that discovers the existence of this hoard of electronic messages involving the oftimes-private chitchat.

So why hasn't the White House come clean and informed various panels and Starr of the discovery? Insiders say there's a lively debate going on involving a fair amount of legal hair-splitting. Some folks in the West Wing believe that unless resubpoenaed, the White House doesn't have a duty to tell anyone about the irritating new batch of e-mails discovered. Others aren't so sure.

White House spokesman Barry Toiv confirms to news alert! the discovery and secret review. But he claims the e-mails -- those of Lewinsky and her pals, for example -- appear to duplicate some already turned over to requesters like Starr. Skeptical probers now may want a peek, too.

Click here to go back to the top of this article.

HOME | SPECIAL OFFER | LETTERS | LINKS
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10/05/00 11:44 FAX [redacted] 018
DEC-15'98(TUE) 13:41 DSSD HQ TEL:7037134476 P.002

Insight
Published in Washington, D.C. Vol. 14, No. 48 -- December 28, 1998
www.insightmag.com

Cover Story
Special Offer

Looking for Information in All the Wrong Place

By Paul M. Rodriguez

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Take Project X. Yes, those White House folks just love their sci-fi monikers. "It's top secret and there's going to be hell to pay if anyone finds out about it," a White House insider tells news alert! "They're real nervous about this getting out," a consultant says of the e-mail project, partly because hundreds involve Monica Lewinsky.

So what is Project X and why is the White House sweating about it being revealed? Federal law-enforcement and congressional investigators for months now -- in some cases years -- have sought to get their hands on White House e-mail traffic. Of course, the subpoenas have flown, but often to little satisfaction. As with the White House telephone records, so with e-mails.

Project X grew out of a routine computer-repair job in the early summer, say White House insiders. There were problems with a server in a West Wing computer system, and engineers from a contractor discovered a blockage caused by about 100,000 e-mails, many of which may come under subpoenas issued by Capitol Hill panels and independent counsel Ken Starr. Now the White House is busily and secretly undertaking a complicated e-mail-reconstruction effort, hoping to avoid raising the ire of any panel that discovers the existence of this hoard of electronic messages involving the ofttimes-private chitchat.

So why hasn't the White House come clean and informed various panels and Starr of the discovery? Insiders say there's a lively debate going on involving a fair amount of legal hair-splitting. Some folks in the West Wing believe that unless resubpoenaed, the White House doesn't have a duty to tell anyone about the irritating new batch of e-mails discovered. Others aren't so sure.

White House spokesman Barry Toiv confirms to news alert! the discovery and secret review. But he claims the e-mails -- those of Lewinsky and her pals, for example --appear to duplicate some already turned over to requesters like Starr. Skeptical probers now may want a peek, too.

Click here to go back to the top of this article.

HOME | SPECIAL OFFER | LETTERS | LINKS
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RICHARD J. OPARIL

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PHONE (202) 861-6257

October 4, 2000

By Fax

Larry Klayman, Esq.
Judicial Watch, Inc.
501 School Street, S.W.
Suite 725
Washington, D.C. 20024

Re: Alexander v. FBI, Civil Action No. 96-2123(RCL)

Dear Mr. Klayman:

In compliance with the Court's ruling that the document was not privileged or work product, enclosed is a copy of the telephone message slip (Bates No. NGL01393). Nothing in this production should be deemed a waiver of the attorney-client privilege or the work product doctrine.

Very truly yours,

Richard J. Oparil

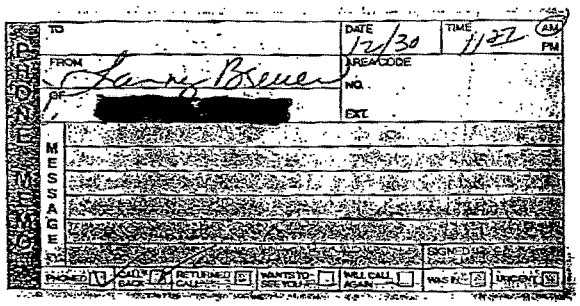
RJO/apr

cc: Elizabeth Shapiro, Esq. (by fax)
David Kendall, Esq. (by fax)

EXHIBIT
AV-2

OCT 12 2000 18:30 FR PIPER MARBURY RUD 5 TO 1034654286208#1435 P.02/03

10/16/00 12:26 [redacted] LAMBERTH 003



NGL 01393

OCT 12 2000 18:31 FR PIPER MARBURY RUD 5 TO 10346#2852@#1#35 P.03/03

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

RECEIVED
OCT 5 - 2000
CHAMBERS OF
JUDGE LAMBERTH

UNDER SEAL

October 5, 2000

BY HAND DELIVERY

The Honorable Royce C. Lamberth
United States District Judge
for the District of Columbia
E. Barrett Prettyman
United States Courthouse
333 Constitution Avenue, N.W.
Washington, D.C. 20001

Re: Testimony of Michelle Peterson in
Alexander v. FBI, Civil Action No. 96-2123, 97-1288

Dear Judge Lamberth:

As the Court is aware, this Office has been conducting a criminal investigation into possible non-compliance with subpoenas issued as part of this Office's ongoing investigations, including those within our jurisdictional mandates concerning Madison Guaranty Savings & Loan Association and what is commonly referred to as the Lewinsky matter, among others. The investigation has included questions as to whether decisions were made by persons within the Executive Office of the President, including persons in the Office of the Counsel to the President, not to search records (and not to produce responsive records) within their possession in response to lawfully issued subpoenas, issued both from the District of Columbia and the Eastern District of Virginia.

The ongoing litigation in *Alexander* over which you have presided, has included the testimony of former members of the White House Counsel's Office concerning record search and production practices within that office, including their practice with respect to searches and productions in connection with this Office's investigations. On August 28, 2000, Michelle Peterson, former Associate Counsel to the President provided testimony suggesting that the policy and practice of the White House Counsel's Office during her tenure there was to disclose to investigative entities when responsive records were discovered after the time in which they should have been produced and to explain to the investigators why such records had not previously been found and produced. The transcript of her testimony (page 264) reflects that Ms. Peterson testified:

EXHIBIT
AV-3

> . . . with respect to both Congress and the Independent Counsel. it was unfortunately not that uncommon that documents would turn up after we had made a production, and we would have to produce them **and explain why they hadn't been found before.**
>
> . . . I recall it happening on more than one occasion with respect to Independent Counsel Office.

(Exhibit A to Attachment 1) (emphasis added).

The transcript (page 265) then reflects the following question and Ms. Peterson's answer:

> Q. Is it your policy nevertheless **to make those disclosures** whenever it occurred that there were incomplete responses made?
>
> A. It was certainly my practice and it was certainly the policy and practice of Mr. Ruff who headed the office as soon as anything was found that had not been produced, we were required to immediately produce it.

(Exhibit A to Attachment 1) (emphasis added).

This Office is aware that this testimony is contrary to the practice of that office during the time period in which Ms. Peterson was Associate Counsel, and perhaps more important, that Ms. Peterson should reasonably be aware of this fact in that she personally participated in such contrary practice. This Office has an obligation to assure that inaccurate testimony is corrected, and assure that counsel fulfill their professional obligation to assure such correction.

On September 25, 2000, I wrote to Ms. Peterson, through counsel, and asked that she correct her testimony and provide this Court with the pertinent records which I attached as exhibits to my letter. I copied both the White House Counsel's Office and the Department of Justice. (Attachment 1). The records which I requested she provide this Court are as follows:

1) Subpoena V006 issued from the Eastern District of Virginia on January 20, 1998. (Exhibit B to Attachment 1).

2) Subpoena D1089 issued from the District of Columbia on March 17, 1998. (Exhibit C to Attachment 1).

3) April 8, 1998 letter from Ms. Peterson to the Office of the Independent Counsel, (Exhibit D to Attachment 1).

4) Production log entitled "Documents Produced to the Office of the Independent Counsel on April 8, 1998." (Exhibit E to Attachment 1).

5) "The Hilley memo" -- October 16, 1996 memo from John Hilley to Evelyn Lieberman concerning having removed Monica Lewinsky. (Exhibit F to Attachment 1).[1]

6) May 22, 1998 letter from Deputy Independent Counsel Solomon L. Wisenberg to Associate Counsel to the President Michelle Peterson. (Exhibit G to Attachment 1).

7) May 29, 1998 letter from Special Counsel to the President Lanny A. Breuer to Deputy Independent Counsel Robert Bittman.(Exhibit H to Attachment 1).

As I informed Ms. Peterson's counsel, these documents reflect that the practice of the White House Counsel's Office while Ms. Peterson was there was at variance with her testimony. They reveal that Ms. Peterson was personally involved in the failure to disclose to this Office the belated discovery of an important document (the "Hilley memo")(Exhibit F to Attachment 1) which was responsive to subpoena V006 **issued from the Eastern District of Virginia**[2]. In that instance, Ms. Peterson made no effort to disclose its belated discovery, much less "explain why [it] hadn't been found before." Rather, she delayed production of the document for over a week following its discovery, and thereafter placed it among 970 pages of documents which she produced to this Office **in response to an unrelated subpoena (D1089) issued from the District of Columbia**[3]. She affirmatively, and inaccurately, asserted that this document was responsive to that District of Columbia subpoena (D1089) when it was in fact clearly **not** responsive to that subpoena. See, April 8, 2000 letter from Ms. Peterson to this Office (Exhibit D to Attachment 1).

---

[1] This memo is from John Hilley, Assistant to the President and Director of Legislative Affairs. Ms. Lewinsky worked for Hilley in the Office of Legislative Affairs at the White House before being transferred to the Pentagon. The memo was an important piece of evidence in the investigation and was specifically cited in this Office's referral to the House of Representatives. *See*, Communication from the Office of the Independent Counsel, Kenneth W. Starr, Transmitting a Referral to the United States House of Representatives Filed in Conformity with the Requirements of Title 28, United States Code, Section 595(c), September 11, 1998, at 43, fn 296 and Appendices to the Referral, at 2828 (Exhibit I to Attachment 1).

[2] This subpoena to the White House was issued on January 20, 1998 from the grand jury sitting in the Eastern District of Virginia. It compelled the production of "all documents and things referring or relating to Monica Lewinsky."

[3] This subpoena to the White House was issued on March 17, 1998 from the grand jury sitting in the District of Columbia. It compelled the production of all records referring or relating to Kathleen Willey, Nathan Landow, Jack Palladino and Julie Steele.

It is significant to note that the two subpoenas were issued and worked on by **different prosecutors** within this Office, and that Ms. Peterson reasonably understood this. Ms Peterson addressed all productions and correspondence concerning the District of Columbia subpoena (D1089) to Julie Corcoran of this Office. She addressed all productions and correspondence concerning the Virginia subpoena to Robert Bittman and Darrell Joseph.

Only when this Office discovered the inclusion of the document in the unrelated production weeks later, did the White House Counsel's Office disclose its belated discovery and production. On May 22, 1998, this Office wrote to Ms. Peterson and sought an explanation for the document's belated discovery, the failure to bring its discovery to our attention, its inclusion in a subsequent unrelated production, and her representation that it was responsive to an unrelated subpoena. See, May 22, 1998 letter from Solomon L. Wisenberg, Deputy Independent Counsel to Michelle Peterson, Associate Counsel to the President (Exhibit G to Attachment 1).

In response, Ms. Peterson's superior, Lanny Breuer, Special Counsel to the President, wrote to this Office suggesting that it was **not** his office's practice to disclose belated discoveries, and that it **was** the office's practice to covertly transmit later discovered documents in subsequent and unrelated productions. He stated:

> When we discover a previously-undiscovered document that is responsive to a prior subpoena we produce the document to you, **and often in conjunction with a production related to a subpoena that we subsequently received.** Although we provide you with a production log, **we do not invariably and explicitly identify a recently discovered document to you in our cover letter.**

May 29, 1998 letter from Lanny A. Breuer, Special Counsel to the President, to Robert Bittman, Deputy Independent Counsel, page 2. (emphasis added) (Exhibit H to Attachment 1).

On September 29, 2000, Mr. Lynch responded to my request for correction and disclosure to this Court. He informed me that Ms. Peterson had declined to correct her testimony or to provide the material to this Court, stating "we do not see any need to burden Judge Lamberth" with the matter. (Attachment 2). I have heard nothing from the Department of Justice or the White House counsel's office with respect to this matter.

On October 5, 2000, I responded to Mr. Lynch to correct erroneous statements. (Attachment 3). Significantly, I informed him that Mr. Breuer's recollection that Mssrs. Bittman and Wisenberg expressed the view that they were satisfied with Mr. Breuer's explanation, agreed that Ms. Peterson had acted in good faith, and regarded the issues as resolved, is erroneous.

In my October 5, 2000 letter, I also addressed an additional concern with respect to another aspect of Ms. Peterson's August 28, 2000 testimony, as well as her third declaration recently filed in this Court. I informed Mr. Lynch that Ms. Peterson's suggestion that the index of e-mails which she received in June of 1998 was not required to have been produced to this Office was inaccurate and misleading for the reasons set forth therein. See, Attachment 3, pages 1-2 "Failure to produce the e-mail index."

Accordingly, in fulfillment of its obligation, this Office herewith transmits the attached materials to the Court for appropriate action.

Sincerely,

Jay Apperson
Deputy Independent Counsel

Attachments

c: Mark H. Lynch, Esquire
Beth Nolan, Esquire
James J. Gilligan, Esquire

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

September 25, 2000

BY HAND DELIVERY

Mark H. Lynch, Esquire
Covington & Burling
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Re: Michelle Peterson testimony in *Alexander v. FBI*

Dear Mr. Lynch:

We have previously spoken concerning the need for Ms. Peterson to correct her August 28, 2000 testimony in *Alexander v. FBI* with respect to the comparison of Lewinsky related records which she made while Associate Counsel to the President in 1998. I appreciate your informing me of her intention to do so in that regard. Having now had an opportunity to read the entire transcript of her August 28, 2000 testimony and to reflect upon it, I feel an obligation to write to you with respect to another portion of her testimony which, in my judgment, is more serious, and also requires correction.

The transcript (page 264) reflects that during cross-examination by Mr. Koslowe, of the Department of Justice, Ms. Peterson testified:

> [W]ith respect to both Congress and the Independent Counsel, it was unfortunately not that uncommon that documents would turn up after we had made a production, and we would have to produce them **and explain why they hadn't been found before.**
>
> . . . I recall it happening on more than one occasion with respect to [the] Independent Counsel Office.

(Exhibit A)(emphasis added).

Attachment 1

The transcript (page 265) then reflects the following question by Mr. Koslowe and Ms. Peterson's answer:

> Q. Is it your policy nevertheless **to make those disclosures** whenever it occurred that there were incomplete responses made?
>
> A. It was certainly my practice and it was certainly the policy and practice of Mr. Ruff who headed the office as soon as anything was found that had not been produced, we were required to immediately produce it.

(Exhibit A)(emphasis added).

In fact, as Ms. Peterson had reason to know, the practice of the White House Counsel's office while she served there was contrary to her testimony. Ms. Peterson was personally involved in the failure to disclose to this Office the belated discovery of a document (the "Hilley Memo") responsive to subpoena V006, issued from the **Eastern District of Virginia**. (Exhibit B). In that instance, Ms. Peterson made no effort to disclose its belated discovery, much less "explain why [it] hadn't been found before." Rather, she delayed production of the document for over a week following its discovery, and thereafter placed it among 970 pages of documents which she produced to this Office **in response to another subpoena (D1089) issued from the District of Columbia.** (Exhibit C). She affirmatively, and inaccurately, asserted that it was being produced as responsive to that other subpoena (D1089). See April 8, 2000 letter from Ms. Peterson to Julie Corcoran of this Office (Exhibit D), accompanying production log entitled "Documents Produced to the Office of the Independent Counsel on April 8, 1998" (Exhibit E), and the "Hilley Memo" (O 004647) transmitted therewith (Exhibit F).[1]

Only when this Office discovered the inclusion of the document in the unrelated production and confronted Ms. Peterson, did the White House Counsel's Office disclose its belated discovery and production. On May 22, 1998, this Office wrote to Ms. Peterson and

---

[1] This memorandum is from John Hilley, Assistant to the President and Director of Legislative Affairs. Ms. Lewinsky worked for Mr. Hilley in the Office of Legislative Affairs at the White House before being transferred to the Pentagon. The memo was an important piece of evidence in the investigation and was specifically cited in this Office's referral to the House of Representatives. See Communication from the Office of the Independent Counsel, Kenneth W. Starr, Transmitting a Referral to the United States House of Representatives Filed in Conformity with the Requirements of Title 28, United States Code, Section 595(c), September 11, 1998, at 43 n. 296 and Appendices to the Referral, at 2828 (Exhibit I).

sought an explanation for the document's belated discovery, the failure to bring its discovery to our attention, its inclusion in a subsequent unrelated production, and her representation that it was responsive to an unrelated subpoena. See May 22, 1998 letter from Solomon L. Wisenberg, Deputy Independent Counsel to Michelle Peterson, Associate Counsel to the President (Exhibit G).

In response, Ms. Peterson's superior, Lanny Breuer, Special Counsel to the President, wrote to this Office suggesting that it was **not** his office's practice to disclose belated discoveries, and that it **was** the office's practice to covertly transmit later discovered documents in subsequent and unrelated productions. He stated:

> When we discover a previously-undiscovered document that is responsive to a prior subpoena we produce the document to you, **and often in conjunction with a production related to a subpoena that we subsequently received**. Although we provide you with a production log, **we do not invariably and explicitly identify a recently discovered document to you in our cover letter**.

May 29, 1998 letter from Lanny A. Breuer, Special Counsel to the President, to Robert Bittman, Deputy Independent Counsel, page 2. (Exhibit H).

In light of this record, I urge an immediate correction of Ms. Peterson's testimony and a full disclosure to Judge Lamberth to include providing him with a copy of all of the attached exhibits. I have copied Ms. Nolan who will be able to authorize Ms. Peterson to provide the material to the Court. I am confident she will conclude that it is appropriate.

Ms. Peterson's prompt attention to this, as well as the previous matter, is appropriate. Please advise me immediately of her actions with respect to each. Please call me if you have any questions. Thank you for your assistance in this regard.

Sincerely,

Jay Apperson
Deputy Independent Counsel

Exhibits attached
c: Beth Nolan, Counsel to the President
James J. Gilligan, Esquire, United States Department of Justice

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

CARA LESLIE ALEXANDER, et al.,

Government,

v.

FEDERAL BUREAU OF INVESTIGATION, et al.,

Defendants.

CA No. 96-2123
97-1288

Washington, D.C.
August 28, 2000
11:33 a.m.

TRANSCRIPT OF EVIDENTIARY HEARING
BEFORE THE HONORABLE ROYCE C. LAMBERTH
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government:

LARRY ELLIOT KLAYMAN, ESQ.
JASON ALDRICH, ESQ.
JOHN MARTIN, ESQ.
Judicial Watch, Inc.
501 School Street, S.W.
Washington, D.C. 20024
(202) 646-5172

For the Defendants
EOP and FBI:

JAMES J. GILLIGAN, ESQ.
ELIZABETH SHAPIRO, ESQ.
ANNE L. WEISMANN, ESQ.
ALLISON GILES, ESQ.
JULIA FAYNGOLD-COVEY, ESQ.
U.S. Justice Department
Civil Division
Federal Programs Branch
901 E Street, N.W.
Washington, D.C.

Exhibit A

APPEARANCES CONTINUED:

For Mrs. Clinton:

GREGORY M. GILCHRIST, ESQ.
Williams & Connolly, LLP
725 Twelfth Street, N.W.
Washington, D.C. 20005
(202) 434-5174
(Not admitted in D.C.)

Court Reporter:

MONICA G. MAZZEO
JUDY BROWN
Miller Reporting Company, Inc.
735 - 8th Street, N.W.
Washington, D.C. 20003
(202) 546-6666

INDEX

WITNESSES FOR THE PLAINTIFFS:	Direct	Cross	Redirect	Recross
Charles Ruff	5	127	131	--
Michelle Peterson	137	264	266	--

EXHIBITS

PLAINTIFFS' EXHIBITS	MARKED	RECEIVED
Nos. 24-3397 - 3400	--	28
No. 9-54	--	32
No. 78	41	--
No. 79	44	--
No. 9-48	--	52 & 54
No. 80	150	--
No. 81	152	--
No. 82	154	--
No. 83	241	--
No. 30-051631	--	249
No. 39-51822	--	226
No. 39-51833	--	226

the objection.

(End of discussion at the bench.)

MR. KLAYMAN: No further questions, Your Honor.

CROSS-EXAMINATION

BY MR. KOSLOWE:

Q Ms. Peterson, were there ever occasions when on behalf of the White House you had to inform Congress that document production requests had not been fulfilled completely or were incomplete?

A Yes.

Q On what occasions did you have to do that?

A I don't remember specifically, but with respect to both Congress and the Independent Counsel, it was unfortunately not that uncommon that documents would turn up after we had made a production, and we would have to produce them and explain why they hadn't been found before.

I'm sure that it happened in the context of the campaign finance investigation, and I recall it happening on more than one occasion with respect to Independent Counsel Office.

Q Did you yourself have to make explanations?

A Certainly with respect to Independent Counsel Office. I did--I think I did it at least once with respect to the Hill as well, at least would have drafted the letter that went up to the Hill explaining what happened.

Q Is that a pleasant task?

A Absolutely not.

Q Is it your policy nevertheless to make those disclosures whenever it occurred that there were incomplete responses made?

A It was certainly my practice and it was certainly the policy and practice of Mr. Ruff who headed the office as soon as anything was found that had not been produced, we were required to immediately produce it.

Q Had you been aware in this case that there were a MAIL2 problem, would you have followed that same course of action in the Alexander case?

A Yes.

Q Did you conceal any information from this Court in the Alexander case?

A Absolutely not.

Q Did you direct anybody else to conceal information from this Court in the Alexander case?

A Absolutely not.

Q Did anyone ask you to conceal information from this Court in this case?

A No.

MR. KOSLOWE: Nothing further, Your Honor.

REDIRECT EXAMINATION

BY MR. KLAYMAN:

United States District Court

EASTERN DISTRICT OF VIRGINIA

The White House

SUBPOENA TO TESTIFY BEFORE GRAND JURY

SUBPOENA FOR:

☐ PERSON ☒ DOCUMENT(S) OR OBJECT(S)

YOU ARE COMMANDED to appear and testify before the Grand Jury of the United States District Court e place, date, and time specified below.

.CE	COURTROOM
UNITED STATES DISTRICT COURT 401 Courthouse Square Alexandria, Virginia 22314	GRAND JURY ROOM DATE AND TIME January 27, 1998 9:30 A.M.

YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):*

See attached rider.

*If not, see additional information on reverse

This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf the court.

CLERK	DATE
NORMAN E. MEYER, JR., CLERK OF THE COURT	January 20, 1998
By) Deputy Clerk	(V006)

As subpoena is issued on application the United States of America	NAME, ADDRESS and PHONE NUMBER OF ASSISTANT U.S. ATTORNEY
OFFICE OF THE INDEPENDENT COUNSEL KENNETH W. STARR	Kenneth W. Starr by DOB Office of the Independent Counsel 1001 Pennsylvania Ave. NW, Suite 490-N Washington, D.C. 20004 (202) 514-8688

Exhibit 13

(Rev. 12/89) Subpoena to Testify Before Grand Jury

RETURN OF SERVICE

RECEIVED BY SERVER	DATE	PLACE
SERVED	DATE 1/21/98	PLACE Via facsimile
SERVED ON (PRINT NAME)	Lanny Breuer	
SERVED BY (PRINT NAME) Robert J. Bittman	TITLE Deputy Independent Counsel	

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____ _____
Date Signature of Server

_____
Address of Server

ADDITIONAL INFORMATION

As to who may serve a subpoena and the manner of its service see Rule 17(d), Federal Rules of Criminal Procedure, or Rule 45(c), Federal Rules of Civil Procedure.

"Fees and mileage need not be tendered to the witness upon service of a subpoena issued on behalf of the United States or an officer or agency thereof (Rule 45(c), Federal Rules of Civil Procedure. Rule 17(d), Federal Rules of Criminal Procedure) or on behalf of certain indigent parties and certain witnesses (see, e.g., 28 USC 1825, Rule 17(b) Federal Rules of Criminal Procedure)."

Subpoena # V006

To: The White House

SUBPOENA RIDER

A. Produce all documents and things referring or relating to Monica Lewinsky. These documents and things should include, but not be limited to, the following:

1. any and all records, including but not limited to WAVES records, of visits to the White House;

2. any and all any and all things, including gifts, presents, cards, letters, notes, or other correspondence, to or from Monica Lewinsky, whether directly or directly;

3. any and all photographs, videotapes, audiotapes, voice messages or other recordings;

4. any and all documents and things containing the handwriting, signature, or other mark of Monica Lewinsky;

5. any and all e-mail;

6. Any and all communications between any member of the White House and Ambassador Bill Richardson or his Office.

B. Produce any and all lists of guards and gate attendants at the White House since January 1, 1995.

C. Produce a list of guards or gate attendants since January 1, 1995 who have been reassigned, relocated, dismissed, terminated, or disciplined.

D. Produce the "BOX" or other record indicating the location of President Clinton for each and every period Monica Lewinsky was in the White House.

E. Produce any and all documents referring or relating to McAndrews & Forbes or Revlon, Inc. and their employees, agents, or representatives, including, but not limited to, Vernon Jordan, Ron Perelman, Howard Gittes, and Barry Schwartz.

F. Produce any and all personnel and employment records for Monica Lewinsky and Linda Tripp.

- : -

G. Produce any and all lists of White House interns since January 1, 1994.

H. Produce any and all lists of persons who have had access to the Executive Office of the White House since January 1, 1995.

Personal appearance is not required if the requested documents are delivered on or before the return date to Special Agent Patrick Fallon of the Federal Bureau of Investigation (telephone 202-514-8688), Suite 490-North, 1001 Pennsylvania Avenue, N.W., Washington, DC 20004, for submission to the Grand Jury. If you choose to deliver documents in lieu of a personal appearance, you must (i) state in a cover letter whether such production contains all responsive documents and (ii) attach a copy of this subpoena to the cover letter.

Definitions and Instructions

1. Definitions

a. The term "document" or "documents" as used in this subpoena means all records of any nature whatsoever within your possession, custody or control or the possession, custody or control of any agent, employee, representative (including, without limitation, attorneys, investment advisors, investment bankers, bankers and accountants), or other person acting or purporting to act for or on your behalf or in concert with you, including, but not limited to, draft, pending or executed contracts and/or agreements, sample documents, insurance policies, financial guarantee bonds, letters of credit, communications, correspondence, calendars, daytimers, datebooks, telegrams, facsimiles, telexs, telefaxes, electronic mail, memoranda, records, reports, books, files (computer or paper), summaries or records of personal conversations, meetings or interviews, logs, summaries or records of telephone conversations and/or telefax communications, diaries, forecasts, statistical statements, financial statements (draft or finished), work papers, drafts, copies, bills, records of payments for bills, retainer records, attorney time sheets, telephone bills and records, telefax bills and records, tax returns and return information, employee time sheets, graphs, charts, accounts, analytical records, minutes or records of meetings or conferences, consultants' reports and/or records, appraisals, records, reports or summaries of negotiations, brochures, pamphlets, circulars, maps, plats, trade letters, depositions, statements, interrogatories and answers thereto, pleadings, docket sheets, discovery materials, audit letters, audit reports,

materials underlying audits, document productions, transcripts, exhibits, settlement materials, judgments, press releases, notes, marginal notations, invoices, documents regarding collateral or security pledged, settlement statements, checks disbursed or received at settlement, inspection reports, title policies, financial statements and/or federal tax returns submitted by any person in support of any loan application, items related the repayment, if any, of any interest or principal on the loan, items relating to any default on the loan, commission records, evidence of liens, documents relating to filings under the Uniform Commercial Code and/or its equivalent, foreclosure and mortgage documentation, cashiers checks, bank drafts, money orders, bank and brokerage account statements, debit and credit memoranda, wire transfer documentation, opening account cards, signature cards, loan applications, any employment and bank account deposit verification documents, loan histories, loan files, records of loan repayment or any and all efforts to secure repayment, including foreclosure or records of lawsuits, credit references, board resolutions, minutes of meetings of boards of directors, opinion letters, purchases and sales agreements, real estate contracts, brokerage agreements, escrow agreements, loan agreements, offer and acceptance contracts, or any other contracts or agreements, deeds or other evidence of title, escrow accounts and any other escrow documentation, savings account transcripts, savings account deposit slips, savings account withdrawal slips, checks deposited in savings accounts, checking account statements, canceled checks drawn on checking accounts, deposit slips and checks deposited into checking accounts, credit card accounts, debit and credit documentation, safe deposit records, currency transaction reports (IRS Forms 4789), photographs, brochures, lists, journals, advertising, computer tapes and cards, audio and video tapes, computerized records stored in the form of magnetic or electronic coding on computer media or on media capable of being read by computer or with the aid of computer related equipment, including but not limited to floppy disks or diskettes, disks, diskettes, disk packs, fixed hard drives, removable hard disk cartridges, mainframe computers, Bernoulli boxes, optical disks, WORM disks, magneto/optical disks, floptical disks, magnetic tape, tapes, laser disks, video cassettes, CD-ROMs and any other media capable of storing magnetic coding, microfilm, microfiche and other storage devices, voicemail recordings and all other written, printed or recorded or photographic matter or sound reproductions, however produced or reproduced.

The term "document" or "documents" also includes any earlier, preliminary, preparatory or tentative version of all or part of a document, whether or not such draft was superseded by a later draft and whether or not the terms of the draft are the same as or different from the terms of the final document.

b. The term "communication" or "communications" is used herein in its broadest sense to encompass any transmission or exchange of information, ideas, facts, data, proposals, or any other matter, whether between individuals or between or among the members of a group, whether face-to-face, by telephone or by means of electronic or other medium.

c. "Possession, custody or control" means in your physical possession and/or if you have the right to secure or compile the production of the document or a copy from another person or entity having physical possession, including, but not limited to, your counsel.

d. The term "referring or relating" to any given subject means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject including, but not limited to, documents concerning the preparation of other documents.

e. The term "you" means yourself and any of your companies, partnerships and business entities with which you have been affiliated and any employees, partners, associates or members of any firm with which you have been affiliated in the course of your work for any of the persons or entities named in this rider, and any such firms and the affiliates of those firms.

2. Instructions

a. The originals of all documents and communications must be produced, as well as copies within your possession, custody, or control.

b. If any original document cannot be produced in full, produce such document to the extent possible and indicate specifically the reason for your inability to produce the remainder.

c. Documents shall be produced as they are kept in the usual course of business, as organized in the files.

d. File folders, labels, and indices identifying documents called for shall be produced intact with such documents. Documents attached to each other should not be separated.

e. In reading this rider, the plural shall include the singular and the singular shall include the plural.

f. The words "and" and "or" shall be construed

conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. The use of the word "including" shall be construed without limitation.

g. In the event that any document, or portion thereof, called for by this subpoena is withheld on the basis of any claim of privilege or similar claim, that document shall be identified in writing as follows: (a) author; (b) the position or title of the author; (c) addressee; (d) the position or title of the addressee; (e) any indicated or blind copies; (f) date; (g) a description of the subject matter of the document; (h) number of pages; (i) attachments or appendices; (j) all persons to whom the document, its contents, or any portion thereof, has been disclosed, distributed, shown, or explained; and (k) present custodian. Each basis you contend justifies the withholding of the document shall also be specified. With respect to those documents or records as to which you may claim privilege, or attorneys' work product, set forth as to each such document the basis for such claim, including the purpose and circumstances surrounding the creation of the document, the identity of each person who has been privy to such communication reflected in the document, the identity of any person or entity instructing the subpoena recipient or the attorney of the subpoena recipient to withhold production of the document, and whether you will submit the document to the Court for an in camera determination as to the validity of the claim. If the existence of a joint defense agreement or any agreement as to common interest is relevant to the assertion of any claim of privilege or similar claim, please provide a copy of that agreement; if any such agreement is not in writing, please set forth the date of the creation of the agreement, the identities of all parties to the agreement and the specific individuals who entered into the agreement on behalf of those parties, and the objects, purposes, and scope of the agreement.

h. In the event that any document called for by this subpoena has been lost, destroyed, deleted, altered, or otherwise disposed of, that document shall be identified in writing as follows: (a) author; (b) the position or title of the author; (c) addressee; (d) the position or title of the addressee; (e) indicated or blind copies; (f) date; (g) a brief description of the subject matter of the document; (h) number of pages; (i) attachments or appendices; (j) all persons to whom the document, its contents, or any portion thereof, had been disclosed, distributed, shown or explained; (k) the date of the loss, destruction, deletion, alteration, or disposal and the circumstances thereof; and (l) the reasons, if any, for the loss, destruction, deletion, alteration, or disposal and the person or persons responsible.

i. If any information or data is withheld because

such information or data is stored electronically, it is to be identified by the subject matter of the information or data and the place or places where such information is maintained.

O 293 (Rev. 8/91) Subpoena to Testify Before Grand Jury

United States District Court

FOR THE DISTRICT OF COLUMBIA

The White House

SUBPOENA TO TESTIFY BEFORE GRAND JURY

SUBPOENA FOR:
☐ PERSON ☒ DOCUMENT(S) OR OBJECT(S)

YOU ARE HEREBY COMMANDED to appear and testify before the Grand Jury of the United States District Court at the place, date, and time specified below.

PLACE	COURTROOM
United States District Court for the District of Columbia Third & Constitution Avenue, NW Washington, D.C.	Grand Jury, Third Floor
	DATE AND TIME March 26, 1998/9:15 a.m

YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):*

See Attached.

☐ *Please see additional information on reverse.*

This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.

U.S. MAGISTRATE OR CLERK OF COURT	DATE
Nancy M. Mayer-Whittington, Clerk (BY) DEPUTY CLERK: Margaret A. Napier	March 17, 1998 (D1089)

This subpoena is issued upon application of the United States of America.

NAME, ADDRESS AND PHONE NUMBER OF ASSISTANT U.S. ATTORNEY

Julie A. Corcoran, Associate Independent Counse
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W., Suite 490-North
Washington, D.C. 20004
(202) 514-8685

SERVER	3/18/98	Washington, DC
RVED	DATE 3/18/98	PLA Washington, DC

D ON (PRINT NAME)

The White House c/o Michelle Peterson

D BY (PRINT NAME)	TITLE
Linda Flippin	AA

STATEMENT OF SERVICE FEES

	SERVICES	TOTAL

DECLARATION OF SERVER[2]

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on 3/18/98 (Date) (Signature of Server)

WDC (Address of Server)

TIONAL INFORMATION

by Fax & Mail

As to who may serve a subpoena and the manner of its service see Rule 17(d), Federal Rules of Criminal Procedure, or Rule 45(c), Federal Rules of Civil Procedure.

"If the subpoena is issued on behalf of the United States or an officer or agency thereof [Rule 45(c), Federal Rules of Civil Procedure; Rule 17(d), Federal Rules of Criminal Procedure] or on behalf of certain indigent parties and criminal defendants who are unable to pay costs [28 USC 1825, Rule 17(b) Federal Rules of Criminal Procedure]".

Subpoena #D1089

To: The White House

SUBPOENA RIDER

A. Produce any and all documents and things referring or relating to the following persons. These documents should include, but not be limited to, WAVES records, E-Pass records, correspondence, telephone logs, messages, gifts and contributions:

Kathleen Willey
Nathan Landow
Jack Palladino
Julie Steele

B. Produce any and all WAVES records related to Kelly Crawford documenting entry into the White House for the period of January 1, 1995 to the present date.

C. For the period of October 1993 to the present produce any and all photographs and video tapes of the Presidential study, dining area, hallway leading to the same and the pantry.

Personal appearance is not required if the requested documents are delivered on or before the return date to Special Agent Patrick Fallon of the Federal Bureau of Investigation (telephone 202-514-8688), Suite 490-North, 1001 Pennsylvania Avenue, N.W., Washington, DC 20004, for submission to the Grand Jury. If you choose to deliver documents in lieu of a personal appearance, you must (I) state in a cover letter whether such production contains all responsive documents, and (ii) attach a copy of this subpoena to the cover letter.

Definitions and Instructions

1. Definitions

a. The term "document" or "documents" as used in this subpoena means all records of any nature whatsoever within your possession, custody or control or the possession, custody or control of any agent, employee, representative (including,

without limitation, attorneys, investment advisors, investment bankers, bankers and accountants), or other person acting or purporting to act for or on your behalf or in concert with you, including, but not limited to, draft, pending or executed contracts and/or agreements, sample documents, insurance policies, financial guarantee bonds, letters of credit, communications, correspondence, calendars, daytimers, datebooks, telegrams, facsimiles, telexs, telefaxes, electronic mail, memoranda, records, reports, books, files (computer or paper), summaries or records of personal conversations, meetings or interviews, logs, summaries or records of telephone conversations and/or telefax communications, diaries, forecasts, statistical statements, financial statements (draft or finished), work papers, drafts, copies, bills, records of payments for bills, retainer records, attorney time sheets, telephone bills and records, telefax bills and records, tax returns and return information, employee time sheets, graphs, charts, accounts, analytical records, minutes or records of meetings or conferences, consultants' reports and/or records, appraisals, records, reports or summaries of negotiations, brochures, pamphlets, circulars, maps, plats, trade letters, depositions, statements, interrogatories and answers thereto, pleadings, docket sheets, discovery materials, audit letters, audit reports, materials underlying audits, document productions, transcripts, exhibits, settlement materials, judgments, press releases, notes, marginal notations, invoices, documents regarding collateral or security pledged, settlement statements, checks disbursed or received at settlement, inspection reports, title policies, financial statements and/or federal tax returns submitted by any person in support of any loan application, items related the repayment, if any, of any interest or principal on the loan, items relating to any default on the loan, commission records, evidence of liens, documents relating to filings under the Uniform Commercial Code and/or its equivalent, foreclosure and mortgage documentation, cashiers checks, bank drafts, money orders, bank and brokerage account statements, debit and credit memoranda, wire transfer documentation, opening account cards, signature cards, loan applications, any employment and bank account deposit verification documents, loan histories, loan files, records of loan repayment or any and all efforts to secure repayment, including foreclosure or records of lawsuits, credit references, board resolutions, minutes of meetings of boards of directors, opinion letters, purchases and sales agreements, real estate contracts, brokerage agreements, escrow agreements, loan agreements, offer and acceptance contracts, or any other contracts or agreements, deeds or other evidence of title, escrow accounts and any other escrow documentation, savings account transcripts, savings account deposit slips, savings account

withdrawal slips, checks deposited in savings account checking account statements, canceled checks drawn on checking accounts, deposit slips and checks deposited into checking accounts, credit card accounts, debit and credit documentation, safe deposit records, currency transaction reports (IRS Forms 4789), photographs, brochures, lists, journals, advertising, computer tapes and cards, audio and video tapes, computerized records stored in the form of magnetic or electronic coding on computer media or on media capable of being read by computer or with the aid of computer related equipment, including but not limited to floppy disks or diskettes, disks, diskettes, disk packs, fixed hard drives, removable hard disk cartridges, mainframe computers, Bernoulli boxes, optical disks, WORM disks, magneto/optical disks, floptical disks, magnetic tape, tapes, laser disks, video cassettes, CD-ROMs and any other media capable of storing magnetic coding, microfilm, microfiche and other storage devices, voicemail recordings and all other written, printed or recorded or photographic matter or sound reproductions, however produced or reproduced.

The term "document" or "documents" also includes any earlier, preliminary, preparatory or tentative version of all or part of a document, whether or not such draft was superseded by a later draft and whether or not the terms of the draft are the same as or different from the terms of the final document.

b. The term "communication" or "communications" is used herein in its broadest sense to encompass any transmission or exchange of information, ideas, facts, data, proposals, or any other matter, whether between individuals or between or among the members of a group, whether face-to-face, by telephone or by means of electronic or other medium.

c. "Possession, custody or control" means in your physical possession and/or if you have the right to secure or compile the production of the document or a copy from another person or entity having physical possession, including, but not limited to, your counsel.

d. The term "referring or relating" to any given subject means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject including, but not limited to, documents concerning the preparation of other documents.

e. The term "you" means yourself and any of your companies, partnerships and business entities with which you have

been affiliated and any employees, partners, associate or members of any firm with which you have been affiliated in the course of your work for any of the persons or entities named in this rider, and any such firms and the affiliates of those firms.

2. Instructions

a. The originals of all documents and communications must be produced, as well as copies within your possession, custody, or control.

b. If any original document cannot be produced in full, produce such document to the extent possible and indicate specifically the reason for your inability to produce the remainder.

c. Documents shall be produced as they are kept in the usual course of business, as organized in the files.

d. File folders, labels, and indices identifying documents called for shall be produced intact with such documents. Documents attached to each other should not be separated.

e. In reading this rider, the plural shall include the singular and the singular shall include the plural.

f. The words "and" and "or" shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. The use of the word "including" shall be construed without limitation.

g. In the event that any document, or portion thereof, called for by this subpoena is withheld on the basis of any claim of privilege or similar claim, that document shall be identified in writing as follows: (a) author; (b) the position or title of the author; (c) addressee; (d) the position or title of the addressee; (e) any indicated or blind copies; (f) date; (g) a description of the subject matter of the document; (h) number of pages; (i) attachments or appendices; (j) all persons to whom the document, its contents, or any portion thereof, has been disclosed, distributed, shown, or explained; and (k) present custodian. Each basis you contend justifies the withholding of the document shall also be specified. With respect to those documents or records as to which you may claim privilege, or attorneys' work product, set forth as to each such document the basis for such claim, including the purpose and circumstances surrounding the creation of the document, the identity of each

person who has been privy to such communication reflected in the document, the identity of any person or entity instructing the subpoena recipient or the attorney of the subpoena recipient to withhold production of the document, and whether you will submit the document to the Court for an in camera determination as to the validity of the claim. If the existence of a joint defense agreement or any agreement as to common interest is relevant to the assertion of any claim of privilege or similar claim, please provide a copy of that agreement; if any such agreement is not in writing, please set forth the date of the creation of the agreement, the identities of all parties to the agreement and the specific individuals who entered into the agreement on behalf of those parties, and the objects, purposes, and scope of the agreement.

h. In the event that any document called for by this subpoena has been lost, destroyed, deleted, altered, or otherwise disposed of, that document shall be identified in writing as follows: (a) author; (b) the position or title of the author; (c) addressee; (d) the position or title of the addressee; (e) indicated or blind copies; (f) date; (g) a brief description of the subject matter of the document; (h) number of pages; (I) attachments or appendices; (j) all persons to whom the document, its contents, or any portion thereof, had been disclosed, distributed, shown or explained; (k) the date of the loss, destruction, deletion, alteration, or disposal and the circumstances thereof; and (l) the reasons, if any, for the loss, destruction, deletion, alteration, or disposal and the person or persons responsible.

i. If any information or data is withheld because such information or data is stored electronically, it is to be identified by the subject matter of the information or data and the place or places where such information is maintained.

THE WHITE HOUSE
WASHINGTON

April 8, 1998

Via Federal Express

Julie Corcoran, Esq.
Office of the Independent Counsel
Suite 490 North
1001 Pennsylvania Ave. N.W.
Washington, D.C. 20004

Dear Julie:

I am enclosing the second group of documents responsive to your Subpoena #D1089 (Bates Nos. 004006 – 004977). This production includes all of the responsive e-mails, with exceptions similar to those outlined in my letter to Bob Bittman of January 27, 1998 (e.g., publicly available materials, items of general interest distributed to all staff members, transcripts of press briefings, and payroll records).

With respect to your item "C", as I have indicated, your request is overbroad and burdensome. I understand that your request for all photographs and videos of the study, private dining room and pantry and hallways between, is to allow you to understand the geographical layout of the area. Thus, to ssatisfy your request, we have videotaped and I am sending you a tape that includes all of those areas. It is my understanding that there have been no substantial changes in the layout. If you have any questions about this, let me know. Otherwise, I believe that this should meet your needs.

I trust that your office will treat the enclosed information as confidential and entitled to all protection accorded by law, including Federal Rule of Criminal Procedure 6(e), to documents subpoenaed by a federal grand jury. If you have any questions, I can be reached at (202) 456-7804.

Sincerely,

Michelle Peterson
Associate Counsel to the President

Enclosures

1089-DC-00000328

Exhibit D

Documents Produced to the Office of the Independent Counsel on April 8, 1998

CONTROL NUMBERS	SOURCE
O 004006 - O 004644	Information Systems & Technology
O 004645	Communications Office
O 004646	Office of Public Liasion
O 004647 - O 004777	Office of Records Management
O 004678 - O 004977	Social Office
IC Tape G	White House Communications Agency

OCT 17 1996

October 16, 1996

Dear Evelyn,

Thanks for the meeting yesterday. I wanted to follow up on a few points as you put your memo together.

o I've enclosed our staff division of responsibilities that we use throughout the year. I don't distribute it because I want White House and agency staff to funnel their issues and requests through our West Wing operation. That way I can keep track, exercise quality control, and make the judgements about the use of our staff resources.

o I've also enclosed a brief memo on our correspondence operation. It was in bad shape when I came in. We got rid of Monica and Jossie not only because of "extracurricular activities" but because they couldn't do the job. We also had problems with NSC and White House correspondence that have been corrected. I believe the operation is in quite good shape now.

Thank you for being so good to me this year. I greatly appreciate your help and counsel. I will take the steps you suggested and then follow up with both you and Leon.

John

file personnel depts

COPY from ORM

OA 8499

1089-DC-00000970

0 004647

Exhibit F

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, DC 20004
(202) 514-8688
Fax (202) 514-8802

May 22, 1998

Ms. Michelle Peterson, Esq.
Associate White House Counsel
Office of the White House Counsel
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Re: Subpoena Non-Compliance

Dear Ms. Peterson:

I am writing regarding the October 16, 1996, memo from John Hilley to Evelyn Lieberman. This memo (bearing White House Bates No. O 004647) was hidden in your April 8, 1998, production to the Office of the Independent Counsel (OIC). Your April 8 cover letter falsely states that "I am enclosing the second group of documents responsive to your Subpoena #D1089." In fact, your production included the Hilley memo which was plainly not responsive to Subpoena #D1089, but rather to Subpoena #V006, which had a January 27, 1998, return date. Your cover letter did nothing to alert our office to the existence of the Hilley memo. Thus, the Hilley memo, a plainly relevant document, was produced to the OIC and the Grand Jury two and one half months late under misleading circumstances. Please answer the following questions by Tuesday, May 26, 1998, at 2:00 p.m.

1. When was the Hilley memo found?

2. Who found the Hilley memo?

3. Exactly where was the Hilley memo found?

4. If the Hilley memo was found prior to February 6, 1998, the date you professed to be in substantial compliance with Subpoena #V006, why was it not provided on that date?

Exhibit G

5. If the memo was found after February 6, 1998, but before April 8, 199[illegible]hy was it not immediately brought to our attention with an explanation for the tardy production?

6. Were there any discussions regarding the Hilley memo with potential witnesses or anyone else outside the White House Counsel's Office?

7. If the answer to question number 6 is yes, what is the justification for holding such discussions regarding a subpoenaed document while concomitantly hiding the very same document from the OIC?

8. Regardless of when this document was discovered, what is your justification for burying it within the Willey production?

9. What discussions were had within the White House Counsel's Office regarding the timing of production of the Hilley memo?

Let me remind you that this is a criminal investigation. In twelve years of prosecution at the federal level I have never had an attorney engage in the kind of conduct that somebody in the White House Counsel's Office engaged in here. I trust you will report this incident to Mr. Ruff.

Sincerely,

Solomon L. Wisenberg
by

Solomon L. Wisenberg
Deputy Independent Counsel

TELECO[illegible] COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: May 22, 1998

TO: Michelle Peterson, Esq., Associate Counsel to the President

Company Name: Office of the White House Counsel

Fax Number: [redacted] Telephone Number: [redacted]

FROM: Solomon L. Wisenberg, Deputy Independent Counsel

Number of Pages: 3 (including this cover sheet)

Message:

CONFIDENTIALITY NOTE

This facsimile is intended only for the person or entity to which it is addressed and may contain information that is privileged, confidential, or otherwise protected from disclosure. Dissemination, distribution, or copying of this facsimile or the information herein by anyone other than the intended recipient, or an employee or agent responsible for delivering the message to the intended recipient, is prohibited. If you have received this facsimile in error, please notify us immediately by telephone and return the facsimile by mail.

TRANSMISSION OK

TX/RX NO	3352
CONNECTION TEL	[redacted]
SUBADDRESS	
CONNECTION ID	[redacted]
ST. TIME	05/22 17:05
USAGE T	00'51
PGS.	3
RESULT	OK

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL
1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: May 22, 1998

TO: Michelle Peterson, Esq., Associate Counsel to the President

Company Name: Office of the White House Counsel

Fax Number: [redacted] Telephone Number: [redacted]

FROM: Solomon L. Wisenberg, Deputy Independent Counsel

Number of Pages: 3 (including this cover sheet)

Message.

T WHITE HOUSE
WASHINGTON

May 29, 1998

By Facsimile and First Class Mail

Robert Bittman
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear Bob:

I am writing regarding Sol Wisenberg's letter to Shelli Peterson of May 22, 1998. Although I have found a number of his recent letters to be somewhat shrill and insulting, this one broke new ground. I will attempt to avoid writing a "propaganda piece," to use Mr. Wisenberg's dismissive mischaracterization of our letters to your office that set out our record of document production. But I do wish to get various facts out. You have served approximately sixteen subpoenas on the White House -- not to mention those to White House staff -- in this latest phase of your investigation. Whether you agree with our judgment or not that some of these subpoenas have been overly broad and burdensome, there can be no genuine debate but that we have endeavored to produce documents to you quickly and to be responsive to your inquiries.

On various occasions your office has been unaware of what documents you have received and when you have received them. Consequently, one member of your team will request the status of our production when another member has already received the production. Despite the confusion on your end, Ms. Peterson has provided your office with information whenever requested. A fair observer would recognize -- as I had thought your office had long ago concluded -- that Ms. Peterson has been willing to work with you and answer many of your questions and informal requests for information. She has even sat down with members of your office to walk them through documents and to explain how they could find information that is purportedly needed for your investigation. In particular, Ms. Peterson has met with agents and attorneys from your Office to review redactions and to explain documents that were not self-explanatory (something I might add that she was not in anyway obligated to do). Similarly, she has provided information requested by your Office without need for subpoena. Indeed, you may want to speak with Chris McKinney, for whom Ms. Peterson tracked down information about numerous telephone numbers without requiring a subpoena, or speak with your agents or other colleagues for whom she has facilitated dozens of interviews without a subpoena, and when requested and possible, has arranged to accept service of subpoenas on behalf of White House employees. It is against this background that I personally find Mr. Wisenberg's recent letter so utterly baseless and astonishing; and, his rush to judgment inexcusable.

Exhibit H

As you are well aware, hundreds of thousands, if not millions, of stored documents are maintained by the Office of Records Management ("ORM"), an office run by extremely competent and hard working career civil servants. Many of the documents that we have produced to your office over the last several years have come from searches emanating from that office. Nonetheless, it is impossible to identify every responsive document in ORM.

Because of the vagaries of filing, the general name descriptions of files and the sheer volume of paper, to name but a few obvious reasons, responsive documents are at times not located. It is evident that prior to your investigation, for instance, the name Monica Lewinsky was not particularly noteworthy and would not have been used by White House employees to identify a particular file.

The Hilley memo, which is the subject of Mr. Wisenberg's diatribe, was discovered and produced as a direct result -- and not in spite -- of Ms. Peterson's approach to document production. Having established a rapport with the career public servants who work in ORM and having previously requested that they remain mindful of documents that are responsive to your subpoenas, an ORM employee found the document (bearing bates no. 004647) while conducting a search unrelated to your investigation. The document was found on March 30, 1998, in a file once belonging to Evelyn Lieberman labeled "Legislative Affairs." The document was given to Ms. Peterson later that week and she produced that document to your office in the next production -- well before John Hilley testified before the grand jury and more than six weeks before we received Mr. Wisenberg's accusatory letter and subpoena to Ms. Peterson.

Thus, Mr. Wisenberg's claim that the memo "was hidden in [our] April 8, 1998, production" is reckless and inaccurate. Indeed, we sent a production log with our production and this very document is the first document of those sourced to the Office of Records Management. Surely, a professional prosecutor such as Mr. Wisenberg can find such a document in a relatively small production. Be that as it may, I assure you that neither Ms. Peterson nor anyone else connected with the production had any intent to hide this document.

It has been our open practice for some time to produce documents to you and to attempt to identify the subpoena(s) to which they are responsive. We have followed this practice to assist you in keeping track of our many productions to your numerous subpoenas. When we discover a previously-undiscovered document that is responsive to a prior subpoena we produce the document to you, and often in conjunction with a production related to a subpoena that we subsequently received. Although we provide you with a production log, we do not invariably and explicitly identify a recently discovered document to you in our cover letter. Perhaps Mr. Wisenberg would prefer that we did, but such a preference is no excuse for accusing an attorney of improper conduct. Mr. Wisenberg claims that in his "twelve years of prosecution at the federal level [he] ha[s] never had an attorney engage" in such conduct. I do not know Mr.

Wisenberg's experience over the past twelve years of prosecution on the federal level. But I have practiced for a longer period and in comparable settings. Our performance in this instance was consistent with the highest ethical norms, and I am proud of our work performed here. I do not think his incendiary comments are professional or even appropriate.

I am happy to discuss this incident or anything else with you and Mr. Wisenberg. I only hope that Mr. Wisenberg can refrain from name calling or threats in the future.

Sincerely yours,

Lanny A. Breuer
Special Counsel to the President

105th Congress, 2d Session - - - - - - - - - - - - House Document 105–310

REFERRAL FROM INDEPENDENT COUNSEL KENNETH W. STARR IN CONFORMITY WITH THE REQUIREMENTS OF TITLE 28, UNITED STATES CODE, SECTION 595(c)

COMMUNICATION

FROM

KENNETH W. STARR, INDEPENDENT COUNSEL

TRANSMITTING

A REFERRAL TO THE UNITED STATES HOUSE OF REPRESENTATIVES FILED IN CONFORMITY WITH THE REQUIREMENTS OF TITLE 28, UNITED STATES CODE, SECTION 595(c)



SEPTEMBER 11, 1998.—Referred to the Committee on the Judiciary pursuant to H. Res. 525 and ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE
50-800 WASHINGTON : 1998

For sale by the U.S. Government Printing Office
Superintendent of Documents, Mail Stop: SSOP, Washington, DC 20402-9328
ISBN 0-16-057480-3

Exhibit 1

Oval Office.[285] He glanced through the window into the Oval Office and saw the President and Ms. Lewinsky go through the door leading toward the private study.[286]

Deeming her frequent visits to the Oval Office area a "nuisance," one Secret Service Officer complained to Evelyn Lieberman, the Deputy Chief of Staff for Operations.[287] Ms. Lieberman was already aware of Ms. Lewinsky. In December 1995, according to Ms. Lewinsky, Ms. Lieberman chided her for being in the West Wing and told her that interns are not permitted around the Oval Office. Ms. Lewinsky (who had begun her Office of Legislative Affairs job) told Ms. Lieberman that she was not an intern anymore. After expressing surprise that Ms. Lewinsky had been hired, Ms. Lieberman said she must have Ms. Lewinsky confused with someone else.[288] Ms. Lieberman confirmed that she reprimanded Ms. Lewinsky, whom she considered "what we used to call a 'clutch' * * * always someplace she shouldn't be."[289]

In Ms. Lewinsky's view, some White House staff members seemed to think that she was to blame for the President's evident interest in her:

> [P]eople were wary of his weaknesses, maybe, and * * * they didn't want to look at him and think that he could be responsible for anything, so it had to all be my fault * * * I was stalking him or I was making advances towards him.[290]

B. DECISION TO TRANSFER MS. LEWINSKY

Ms. Lieberman testified that, because Ms. Lewinsky was so persistent in her efforts to be near the President, "I decided to get rid of her."[291] First she consulted Chief of Staff Panetta. According to Mr. Panetta, Ms. Lieberman told him about a woman on the staff who was "spending too much time around the West Wing." Because of "the appearance that it was creating," Ms. Lieberman proposed to move her out of the White House. Mr. Panetta—who testified that he valued Ms. Lieberman's role as "a tough disciplinarian" and "trusted her judgment"—replied, "Fine."[292]

Although Ms. Lieberman said she could not recall having heard any rumors linking the President and Ms. Lewinsky, she acknowledged that "the President was vulnerable to these kind of rumors * * * yes, yes, that was one of the reasons" for moving Ms.

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[285] Ferguson 7/17/98 GJ at 29, 31.

[286] Ferguson 7/17/98 GJ at 29. In addition, Officer Lewis Fox and Agent Nelson Garabito testified about admitting Ms. Lewinsky to the Oval Office on one occasion each, as recounted above. Fox 2/17/98 GJ at 32–37; Garabito 7/30/98 GJ at 16–32. Officer Fox also saw Ms. Lewinsky exit the Oval Office on another occasion, but he did not know how long she had been inside. Fox 2/17/98 GJ at 43–46. Officer Gary Byrne also testified about having seen Ms. Lewinsky in the Oval Office with the President, though some details of his account varied in different tellings. Byrne 7/30/98 GJ at 7–32; Byrne 7/17/98 GJ at 4–10.

[287] Byrne 3/13/96 Depo. at 27–28, 46–47, 51–55; Byrne 6/25/98 Depo. at 31.

[288] Lewinsky 8/20/98 GJ at 10–11; Lewinsky 7/31/98 Int. at 6.

[289] Lieberman 1/30/98 GJ at 36–37. Ms. Lieberman testified that she continued to disapprove of Ms. Lewinsky. When she saw Ms. Lewinsky back in the White House after she no longer worked there, Ms. Lieberman asked Ms. Currie, "What is she doing here?" She also may have said to Ms. Currie, who told Ms. Lewinsky that she could watch a Presidential helicopter departure, "What are you—nuts?" or otherwise "expressed my displeasure." Lieberman 1/30/98 GJ at 50–52.

[290] Lewinsky 8/20/98 GJ at 8.

[291] Lieberman 1/30/98 GJ at 41.

[292] Panetta 1/28/98 GJ at 139–42.

Lewinsky out of the White House.[293] Later, in September 1997, Marcia Lewis (Ms. Lewinsky's mother) complained about her daughter's dismissal to Ms. Lieberman, whom she met at a Voice of America ceremony. Ms. Lieberman, according to Ms. Lewis, responded by "saying something about Monica being cursed because she's beautiful." Ms. Lewis gathered from the remark that Ms. Lieberman, as part of her effort to protect the President, "would want to have pretty women moved out."[294]

Most people understood that the principal reason for Ms. Lewinsky's transfer was her habit of hanging around the Oval Office and the West Wing.[295] In a memo in October 1996, John Hilley, Assistant to the President and Director of Legislative Affairs, reported that Ms. Lewinsky had been "got[ten] rid of" in part "because of 'extracurricular activities'" (a phrase, he maintained in the grand jury, that meant only that Ms. Lewinsky was often absent from her work station).[296]

White House officials arranged for Ms. Lewinsky to get another job in the Administration.[297] "Our direction is to make sure she has a job in an Agency," Patsy Thomasson wrote in an email message on April 9, 1996.[298] Ms. Thomasson's office (Presidential Personnel) sent Ms. Lewinsky's resume to Charles Duncan, Special Assistant to the Secretary of Defense and White House Liaison, and asked him to find a Pentagon opening for her.[299] Mr. Duncan was told that, though Ms. Lewinsky had performed her duties capably, she was being dismissed for hanging around the Oval Office too much.[300] According to Mr. Duncan—who had received as many as 40 job referrals per day from the White House—the White House had never given such an explanation for a transfer.[301]

C. [illegible]NSKY'S NOTIFICATION OF HER TRANSFER

On Friday, April 5, 1996, Timothy Keating, Staff Director for Legislative Affairs, informed Ms. Lewinsky that she would have to leave her White House job.[302] According to Mr. Keating, he told her that she was not being fired, merely "being given a different opportunity." In fact, she could tell people it was a promotion if she

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[293] Lieberman 1/30/98 GJ at 45. *See also* Panetta 1/28/98 GJ at 143 (describing precautions taken "to protect the President's office and protect his integrity," including preventing President from meeting alone with female acquaintances in circumstances that "could be misinterpreted").

[294] Lewis 2/11/98 GJ at 37–40. *See also* T3 at 15; Lewinsky 7/31/96 int. at 7. Ms. Lieberman testified that the conversation occurred in September 1997. Lieberman 1/30/98 GJ at 66. In her recollection, the exchange began with Ms. Lewis coming up to her and saying, "You ruined [Ms. Lewinsky's] life on the basis of something that she never did." According to Ms. Lieberman, she made no response, and Ms. Lewis walked away. Later Ms. Lewis returned and said that she understood what Ms. Lieberman had done and why. Lieberman 1/30/98 GJ at 64–66.

[295] Abramson 2/20/98 int. at 3; Bond 2/25/98 int. at 2–3; Currie 5/6/98 GJ at 40–41; Ganong 2/12/98 int. at 2; Keating 2/25/98 GJ at 73; Panetta 1/28/98 GJ at 139–42.

[296] 1089–DC–00000970 (memo from Mr. Hilley to Ms. Lieberman); Hilley 5/19/98 GJ at 34–35, 47–50. Mr. Hilley testified that "extracurricular activities"—which applied to Ms. Lewinsky and one of her colleagues who was also transferred—did not refer to anything sexual in nature. Hilley 5/19/98 GJ at 49–50. *See also* Byrne 6/25/98 Depo. at 22–25, 27–28, 38, 43, 54–55; Currie 5/14/98 GJ at 19–35; Fox 2/17/98 GJ at 46–48; Mass 5/7/98 GJ at 34–42.

[297] Duncan 2/18/98 GJ at 24.

[298] V006–DC–00001347.

[299] Duncan 2/18/98 GJ at 13–14.

[300] Duncan 2/18/98 GJ at 23, 41.

[301] Duncan 2/18/98 GJ at 8, 23–24

[302] Lewinsky 8/6/98 GJ at 61. The President was traveling to Oklahoma City on that day. V006–DC–00000694 (President's schedule); 968–DC–00000841 (same).

105th Congress, 2d Session - - - - - - - - - - - - House Document 105–311

PART 2

APPENDICES TO THE REFERRAL TO THE UNITED STATES HOUSE OF REPRESENTATIVES PURSUANT TO TITLE 28, UNITED STATES CODE, SECTION 595(c) SUBMITTED BY THE OFFICE OF THE INDEPENDENT COUNSEL, SEPTEMBER 9, 1998

COMMUNICATION

FROM

THE OFFICE OF THE INDEPENDENT COUNSEL, KENNETH W. STARR

TRANSMITTING

APPENDICES TO THE REFERRAL TO THE UNITED STATES HOUSE OF REPRESENTATIVES PURSUANT TO TITLE 28, UNITED STATES CODE, SECTION 595(c) SUBMITTED BY THE OFFICE OF THE INDEPENDENT COUNSEL, SEPTEMBER 9, 1998



SEPTEMBER 18, 1998.—Referred to the Committee on the Judiciary pursuant to H. Res. 525 and ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE
50-893 WASHINGTON : 1998

2828

OCT 17 1996

October 16, 1996

Dear Evelyn,

Thanks for the meeting yesterday. I wanted to follow up on a few points as you put your memo together.

o I've enclosed our staff division of responsibilities that we use throughout the year. I don't distribute it because I want White House and agency staff to funnel their issues and requests through our West Wing operation. That way I can keep track, exercise quality control, and make the judgements about the use of our staff resources.

o I've also enclosed a brief memo on our correspondence operation. It was in bad shape when I came in. We got rid of Monica and Jossie not only because of "extracurricular activities" but because they couldn't do the job. We also had problems with NSC and White House correspondence that have been corrected. I believe the operation is in quite good shape now.

Thank you for being so good to me this year. I greatly appreciate your help and counsel. I will take the steps you suggested and then follow up with both you and Leon.

John

file personnel depts

COPY from ORM
OA 8999

1089-DC-00000970

0 004647

COVINGTON & BURLING

1201 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004-2401
TEL 202.662.6000
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WASHINGTON, DC
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SAN FRANCISCO

MARK H. LYNCH
TEL 202.662.5544
FAX 202.778.5544
MLYNCH@COV.COM

September 29, 2000

BY HAND

Jay Apperson, Esquire
Deputy Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Re: Michelle Peterson

Dear Mr. Apperson:

Thank you for your letter of September 25, 2000.

Enclosed is a copy of the declaration of Ms. Peterson that was filed yesterday. I want the record to be clear that when you told me that you believed Ms. Peterson should inform Judge Lamberth about the alleged differences between the Lewinsky emails produced to the OIC in early 1998 and the comparison set Ms. Peterson reviewed in June 1998, I told you that we had already decided to do so. I also told you that your call to me was fortuitous because I was planning to call you to inquire whether you had any objection on Rule 6(e) grounds to Ms. Peterson describing her appearance before the grand jury. You stated that you had no such objection.

Your letter of September 25 asserts that the belated production of the "Hilley memo" demonstrates that Ms. Peterson's testimony before Judge Lamberth with respect to the document production policies of the White House Counsel's Office was not accurate. We disagree with this assertion.

The letter of May 29, 1998 from Lanny A. Breuer, Special Counsel to the President, to Robert Bittman, Deputy Independent Counsel, provides an account of the Hilley memo episode, on which Ms. Peterson stands. Your characterization of Mr. Breuer's letter as "suggesting that it was not his office's practice to disclose belated discovery, and that it was the office's practice to covertly transmit later discovered documents in subsequent and unrelated productions" is unfounded.

Attachment 2

In addition, Mr. Breuer recalls that following his letter to Mr. Bittman, he and Mr. Bittman and Mr. Wisenberg had discussions about the production of the Hilley memo. At that time Mr. Bittman and Mr. Wisenberg expressed the view that they were satisfied with Mr. Breuer's explanation, they agreed that Ms. Peterson had acted in good faith, and they regarded this issue to be resolved.

Your letter also urges that we provide your letter and the attachments thereto to Judge Lamberth. Because we do not believe that the story of the production of the Hilley memo demonstrates any inaccuracy in Ms. Peterson's testimony in the Alexander case, we do not see any need to burden Judge Lamberth with accounts of an old dispute between the White House Counsel's Office and the OIC that was satisfactorily resolved at the time by the participants in the dispute. If, notwithstanding the foregoing, you feel obliged to furnish your letter and the attached exhibits to the Court, please include this response as well.

Please feel free to call me if you would like to discuss this matter.

Sincerely,

Mark H. Lynch

Enclosure

cc: Beth Nolan, Esq. (w/enclosure)
James J. Gilligan, Esq. (w/enclosure)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CARA ALEXANDER, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Nos. 96-2123
	)	97-1288
FEDERAL BUREAU OF	)	(RCL)
INVESTIGATION, et al.,	)	
	)	
Defendants.	)	
	)	

NOTICE OF FILING

Michelle Peterson files herewith a declaration that brings to the Court's attention certain information that was pointed out to her by the Office of Independent Counsel following her testimony in the above-captioned matter on August 28, 2000. Ms. Peterson does not believe that this information effects the substance of her testimony, but in the interest of full and complete disclosure she wants to provide it to the Court.

Respectfully submitted,

Mark H. Lynch
D.C. Bar No. 193110
Covington & Burling
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
(202) 662-6000

Counsel for Ms. Peterson

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CARA ALEXANDER, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Nos. 96-2123
	)	97-1288
FEDERAL BUREAU OF	)	(RCL)
INVESTIGATION, et al.,	)	
	)	
Defendants.	)	
	)	

THIRD DECLARATION OF MICHELLE PETERSON

I, Michelle Peterson, declare as follows:

1. I am currently employed as an Assistant Federal Public Defender in the Office of the Federal Public Defender for the District of Columbia. I have held this position since May, 2000.

2. Previously, I was employed by the White House Counsel's Office as an Associate Counsel to the President of the United States. I held that position from February 1997 through the middle of May, 2000, although I was on maternity leave from February 2000 until shortly before my departure.

3. I have previously provided declarations to this Court in the Alexander case on July 2, 1999 and April 12, 2000.

4. I appeared before this Court on August 28, 2000, in the Alexander case. Subsequent to my appearance before this Court, I appeared before the Grand Jury convened by Independent Counsel Robert Ray in Alexandria, Virginia, on September 5, 2000 and again on September 12, 2000. One of the topics was the comparison of emails recovered in June of

1998 with the emails produced to the Office of Independent Counsel (OIC) in or about January or February 1998.

5. During my apperance on September 5, 2000, I was shown what was purported by the OIC to be the emails produced by the White House Counsel's Office in or about January or February 1998 in response to a request for all documents relating to Monica Lewinsky. I was also shown a set of documents produced more recently by the White House Counsel's Office to the OIC that was purported to be the emails that I had compared with the original emails produced.

6. I had previously testified before this Court on August 28, 2000, that when I compared the emails that were given to me in June 1998, I believed them to be duplicative of emails that I had previously produced to the Office of the Independent Counsel. I stand by that testimony as an accurate statement of my belief in June 1998 and continuing up to my appearace before the Grand Jury on September 5, 2000. However, during the course of my testimony to the Grand Jury, it appeared from the documents shown to me that I may have been mistaken with respect to one or possibly two emails.

7. First, a prosecutor from the OIC showed me one email that had been included in the stack of emails that I received in June 1998 that was a substantive duplicate of another email within that same stack, but had a different time and a different spelling of the email addressee. My best recollection is that the time was about 20 minutes different and that part of the email address was improperly capitalized. The substance of the email was exactly the same. According to the prosecutor, only one version of this email was produced in the original production to the OIC.

8. Second, I was shown a one-page email that I had produced to the OIC in or about January or February 1998. I was then shown an exact duplicate of that email that was

contained within the June 1998 emails, but which also had what was purported to be a second page that contained a "cc" list for the email. I was informed that the purported "cc" list was not included in our earlier production. I have no way of verifying whether what was now represented to be the second page of that email was in fact the second page of the email in the emails I was given, nor do I have any way of verifying whether that second page was produced to the OIC in the original production. With respect to the content of the emails, one was an invitation to a going away part for Tracy Bobowick. I do not recall the substance of the other email, but my recollection is that it was of the same sort.

9. I stand by my testimony that I believed all of the emails that I was asked to review in June 1998 were duplicative of those that I had produced in or about January or February 1998. However, in light of what was shown to me on September 5, 2000, I cannot say with certainty whether or not I may have made a mistake in the original production to the OIC or in my June 1998 comparison because I do not have access to the documents I produced in January or February, 1998, nor do I have access to a copy of the documents I compared those documents to in June 1998.

10. In addition to the emails, the OIC showed me a copy of what appeared to be a listing or index of the June 1998 emails. I confirmed that this document, which was not an email, to my knowledge was not produced to the OIC as part of the original production. It appeared to be a document that was created after the date of the subpoena and in connection with the compilation of the June 1998 comparison set.

11. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed this 27th day of September, 2000.

Michelle Peterson

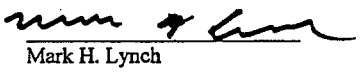
CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Notice of Filing and Third Declaration of Michelle Peterson were served on this 28th day of September, 2000, by first class mail, postage prepaid, to the following:

Larry Klayman, Esq.
Judicial Watch, Inc.
501 School Street, S.W.
Suite 725
Washington, D.C. 20024

David E. Kendall, Esq.
Williams & Connolly
725 12th Street, N.W.
Washington, D.C. 20005

Neil Koslowe, Esq.
U.S. Department of Justice
Federal Programs Branch
P.O. Box 883
Washington, D.C. 20044



Mark H. Lynch

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

October 5, 2000

BY HAND DELIVERY

Mark H. Lynch, Esquire
Covington & Burling
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2401

Re: Michelle Peterson

Dear Mr. Lynch:

I am in receipt of your letter of September 29, 2000. I too wish the record to be clear. When we spoke on September 13, 2000, you informed me that you were planning to file a declaration addressing the discrepancies in the two e-mails. I stated my belief that Ms. Peterson ought to further address the 69 pages of additional materials which included the index of all e-mails in the June 1998 test run.

Failure to produce the e-mail index

While I appreciate Ms. Peterson disclosing to the Court by way of her declaration the existence of the index and the fact that it was not produced to this Office, I believe that her attempt to suggest that the index was not required to have been produced to this Office, at least in June 1998, is both inaccurate and misleading. Her declaration (paragraph 10) states that the index "appeared to be a document that was created after the date of the subpoena," presumably because the index which she reviewed had not been **printed** onto paper until June of 1998 in conjunction with the test run. By that reasoning neither the index, **nor any of the e-mails**, were required to be produced, inasmuch as they were not **printed** onto paper (or "created" to use her term) until after the date of the subpoena. The fact is that the index, like the e-mails, was required to have been produced to this Office because it existed in electronic form **prior** to the issue date of the subpoena.

The Subpoena (V006) issued on January 20, 1998, a copy of which I provided to you on September 25, 2000, clearly requires the production of "any and all documents and things referring or relating to Monica Lewinsky." Documents are expressly defined therein to include:

> computerized records stored in the form of magnetic or electronic coding on computer media or on media capable of being read by computer or with the aid of computer related equipment. . .

See Subpoena Rider, Definitions, paragraph "a" at page 3.

The subpoena further, and perhaps most significantly, expressly requires that "**indices** identifying documents called for **shall be produced** intact with such documents." See Subpoena Rider, Instructions, paragraph "d" at page 4. (emphasis added).

There can be no question that upon her personal receipt of this printed index in June 1998, Ms Peterson was required to have produced it to this Office. She was not a low-level records clerk, but an Associate Counsel to the President of the United States, fully familiar with the subpoena's requirements. Moreover, had the index been produced to this Office, it would have allowed us to know then that an e-mail identified thereon had not been produced and permitted us to seek its production.[1]

Thus, Ms. Peterson's testimony on August 28, 2000 and her recent declaration, are all the more troubling. On August 28, 2000 she testified:

> I sat at my desk and I compared them like this and made sure that **everything that was in the stack that Ms. Mills had given me** was in the stack that we had produced to the Independent Counsel.

Transcript at 201 (emphasis added).

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[1] Of course, the index should have reasonably permitted Ms. Peterson to have quickly determined for herself that an e-mail which was listed on the index had not previously been produced to this Office.

In response to a direct question from Judge Lamberth, Ms. Peterson then testified:

> What was important **was were there any documents that hadn't been produced**. Because if there were, we had to get them produced right away with an explanation.

Transcript at 202 (emphasis added).

She continued: "**Everything** that was in the stack that Ms. Mills gave me was also contained in the stack that we had already produced to Independent Counsel Starr." id at 202-203; "The fact that **all of these documents had been produced** meant that I didn't have to write a letter or make a call explaining there were additional documents that hadn't been produced." id at 203; "I [told Cheryl Mills] **everything** that was in the stack has already been produced." id at 209 - 210; "Luckily **everything** that was in the stack had already been produced. . ." id at 210 (emphasis added).

Failure to correct her testimony concerning White House practice

I am profoundly disappointed that Ms. Peterson has seen fit to decline to correct her testimony regarding White House Counsel's practice of disclosing to investigators when responsive records are later discovered. I shall make the appropriate disclosures to the Court. However, in addition, I wish to address a number of issues which you raise in your letter of September 29, 2000.

You state that my characterization of Mr. Breuer's May 29, 1998 letter is "unfounded," but offer nothing to suggest why that is so. Mr. Breuer's letter (from which I quoted) will speak for itself. You state that I asked that you provide a copy of my letter of September 25, 2000 to Judge Lamberth. I did not. I asked that all exhibits to that letter be provided to the Court.

You state that Mr. Breuer recalls that "Mr. Bittman and Mr. Wisenberg expressed the view that they were satisfied with Mr. Breuer's explanation, they agreed that Ms. Peterson had acted in good faith, and that they regarded the issue to be resolved." First, Mr. Breuer's recollection is in error. Neither gentleman expressed any such view, or agreed that Ms. Peterson had acted in good faith. Moreover, it is difficult to understand what that has to do with my letter which sought a correction of testimony with respect to the practice of the Counsel's Office concerning later discovered documents. Ms. Peterson's testimony concerning that practice is at odds with Mr. Breuer's description of that practice, whether or not either practice is unethical.

In my letter of September 25, 2000, I pointedly avoided any suggestion of unethical conduct on the part of Ms. Peterson or anyone else in the Counsel's office with respect to the production of the Hilley memorandum. Indeed, in quoting Mr. Breuer's May 29, 1998 letter, I made no reference to his statement that the White House Counsel's Office "performance in this instance was consistent with the highest ethical norms" as remarkable as that statement is in light of facts which clearly reflect otherwise. Rather, I sought to address the issue at hand, and had hoped that Ms. Peterson would do so as well. I regret that she has chosen not to.

I nevertheless thank you for your assistance in this matter.

Sincerely,

Jay Apperson
Deputy Independent Counsel

c: The Honorable Royce C. Lamberth
Beth Nolan, Counsel to the President
James J. Gilligan, Esquire, United States Department of Justice

ADDITIONAL VIEWS
APPENDIX I

COMMITTEE CORRESPONDENCE
SINCE SEPTEMBER 27, 2000

DAN BURTON, INDIANA,
CHAIRMAN
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CONSTANCE A. MORELLA, MARYLAND
CHRISTOPHER SHAYS, CONNECTICUT
ILEANA ROS-LEHTINEN, FLORIDA
JOHN M. McHUGH, NEW YORK
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ASA HUTCHINSON, ARKANSAS
LEE TERRY, NEBRASKA
JUDY BIGGERT, ILLINOIS
GREG WALDEN, OREGON
DOUG OSE, CALIFORNIA
PAUL RYAN, WISCONSIN
HELEN CHENOWETH-HAGE, IDAHO
DAVID VITTER, LOUISIANA

ONE HUNDRED SIXTH CONGRESS

Congress of the United States
House of Representatives
COMMITTEE ON GOVERNMENT REFORM
2157 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6143

MAJORITY (202) 225–5074
MINORITY (202) 225–5051
TTY (202) 225–6852

HENRY A. WAXMAN, CALIFORNIA,
RANKING MINORITY MEMBER
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MAJOR R. OWENS, NEW YORK
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DANNY K. DAVIS, ILLINOIS
JOHN F. TIERNEY, MASSACHUSETTS
JIM TURNER, TEXAS
THOMAS H. ALLEN, MAINE
HAROLD E. FORD, Jr., TENNESSEE
JANICE D. SCHAKOWSKY, ILLINOIS

BERNARD SANDERS, VERMONT,
INDEPENDENT

September 29, 2000

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

Dear Ms. Nolan:

During your March 30, 2000, testimony before the Committee, Congressman Mica asked whether you had officially notified all the entities that had subpoenaed documents from the White House of the fact that e-mail archiving problems have rendered previous searches for responsive materials incomplete. Your response indicated that you had communicated with a number of Independent Counsels and Congressional Committees in order to gather information about every document request that came to the White House during the affected period. Congressman Mica then asked you to provide for the record copies of those communications.

To date, the Committee has not received any response to this request. Please provide by Friday, October 6, 2000, all records of communications relating to the various EOP e-mail archiving problems between your office and any entity (excluding this Committee) that subpoenaed documents from the White House.

Sincerely,

Dan Burton

Dan Burton
Chairman

cc: The Honorable Henry Waxman, Ranking Minority Member

THE WHITE HOUSE
WASHINGTON

September 29, 2000

James C. Wilson, Esq.
Chief Counsel
Committee on Government Reform
United States House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Wilson:

I write to update you regarding electronic records management issues at the Executive Office of the President. Our office has recently learned of a new anomaly in our Automated Records Management System ("ARMS"). This new anomaly causes problems with at least certain electronic pager records. With such records, the pager headers apparently are attached to unrelated text. At present, the dates of the affected records and the full scope of the anomaly have not been confirmed. As I understand it, however, pager confirmation documents bearing the phrase "unable to convert" are the most likely documents to be affected. I cannot yet say that the universe of affected documents is limited to these documents, nor can I yet say whether this anomaly has caused other documents to fail to be captured by ARMS. What I can tell you is that it is currently believed that this anomaly affects only the EOP's All-in-One system, rather than its successor Lotus Notes system. We will endeavor to provide you with a clearer description of this new ARMS anomaly once our office receives further clarification and documentation.

Best regards.

Sincerely,

Gregory S. Smith
Associate Counsel to the President

cc: Paul Weinberger, Esq.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF ADMINISTRATION
WASHINGTON, D.C. 20503

September 29, 2000

Mr. James C. Wilson, Esquire
Chief Investigative Counsel
Committee on Government Reform
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Wilson:

I am writing to follow-up on our September 14, 2000 briefing in connection with EOP's ongoing Tape Restoration Project (TRP). During that briefing, your staff inquired regarding the funding for the project, and I promised to provide information in that regard. Please be advised that the House and Senate Appropriations Committees have approved $13.2 million in total funding for the TRP effort. These funds include $8.4 million in supplemental funding appropriated in June 2000 and $4.8 million in existing funding which remained in a Capital Investment Plan account originally earmarked for EOP's Y2K efforts. In approving the supplemental funding, our appropriators required that we submit a report from our independent validation and verification contractor assessing the initial and projected project costs. Our contractor, Vistronix, Inc., submitted this assessment of costs as of July 28, 2000 and projected that the TRP will require $11.7 million in funding. As of September 29, 2000, EOP will have committed/obligated or expended approximately $6.9 million of the $13.2 in available funding.

Your staff also inquired regarding the reference to "additional requirements ranging from $5 to $30 million" in a May 25, 2000 letter from the Subcommittee on Treasury, Postal and General Government to Mr. Lindsay in relation to the TRP. The high end of this range anticipated the potential for forensic requirements from law enforcement agencies which would have required the services of an outside contractor at enormous expense. EOP ultimately reached an agreement with the Office of the Independent Counsel and the Campaign Financing Task Force on a tape restoration process which is expected to require funding within the existing appropriation level. This agreement was communicated to EOP's appropriators before the supplemental funding was approved by Congress.

As promised, I also forward with this letter a copy of our Tape Restoration Project Media Inventory (Binders 1 through 4) which identifies the 7,177 pieces of media contained in the inventory as of September 22, 2000. Please be reminded that we can provide sub-inventories, determined by date or other field, should that assist in your review of the inventory.

I will be happy to discuss the above with you.

Sincerely yours,

Michael K. Bartosz
General Counsel

cc: Paul Weinberger, Minority Chief Investigative Counsel

DAN BURTON, INDIANA,
CHAIRMAN

BENJAMIN A. GILMAN, NEW YORK
CONSTANCE A. MORELLA, MARYLAND
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Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM

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WASHINGTON, DC 20515–6143

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BERNARD SANDERS, VERMONT,
INDEPENDENT

October 1, 2000

The Honorable Janet Reno
Attorney General
United States Department of Justice
Washington, D.C. 20530

Re: Committee Hearing or Interview on October 5, 2000

Dear General Reno:

As you know, I have requested your appearance at a hearing of the Government Reform Committee on October 5, 2000. Subsequently, our respective staffs have discussed the possibility of a transcribed two hour and fifteen minute interview, to be conducted on October 5, 2000. At present, it appears that your agreement to be interviewed will obviate the need for a Committee hearing.

Your staff has asked that I provide you with a list of topics that I expect to be covered at the hearing or interview. I expect that questioning will focus on several major subjects: (1) the Campaign Financing Task Force's e-mail investigation; (2) the Task Force's campaign fundraising investigation; (3) the Robert Bratt matter; (4) the Waco tragedy; and (5) Joseph Gersten. In the hope of working towards a mutually beneficial interview, the following is an outline of the specific issues I expect to be raised. Should there be a departure from this list, I will endeavor to provide you with advance notice in writing.

Justice Department E-Mail Investigation

- The Committee has requested the Justice Department to provide the number of Justice Department attorneys, not including Office of Independent Counsel personnel, who have worked on the e-mail investigation. Specifically, we would like to know the number of Justice Department attorneys that are currently working on the investigation, and the number that were working on the investigation as of two weeks ago. At a hearing last week, Deputy Assistant Attorney General Alan Gershel refused to answer questions about this matter, claiming that it was "longstanding Justice Department policy" not to answer questions about staffing levels on particular investigations. However, Mr. Gershel was unable to cite any precedent for his refusal to answer this question. I expect that you will answer questions regarding the staffing

levels, excluding Office of Independent Counsel personnel, of the e-mail investigation.

Mr. Gershel also noted that staffing levels "may suggest an importance or lack of importance with respect to the investigation based simply on how many people are assigned to it." This, of course, is very true when the investigation is clandestine. When it is a matter of national prominence, this is not the case. At present, there is reason to believe that the Justice Department investigation is understaffed, and that the one attorney with institutional knowledge in the case has left the Department. The only message this sends is that dilatory and aggressive obstruction will pay dividends. Please explain why it would harm the investigation for the Department to provide staffing information on this matter to the Committee.

- The Committee also asked Mr. Gershel a number of questions regarding the e-mail reconstruction process. He was asked if the Justice Department and Office of Independent Counsel have searched the e-mail backup tapes for any matters beyond the campaign fundraising and Monica Lewinsky matters. Mr. Gershel refused to answer this question, claiming that it would negatively impact the Justice Department's investigation. Mr. Gershel's claim is without foundation. The Committee is attempting to determine whether the backup tapes reconstructed by the Federal Bureau of Investigation were searched for messages relating to the Committee's investigations, which are not part of the Task Force's investigation – for example, the Hudson Casino decision, or the FALN clemency matter. If the Justice Department is not investigating those matters, it should be a simple matter to admit that you have not searched the backup tapes for messages relating to those matters.

- The Committee would also like to know whether you had available to you all of the e-mails which were released by the White House on September 22, 2000, when you made your August 23, 2000, decision not to appoint a Special Counsel for Vice President Gore.

- The Committee would also like to know whether Karen Skelton, who served as Director of Political Affairs for Vice President Gore, has ever been interviewed by the Department of Justice. If she has been interviewed, the Committee would like to know when she was interviewed.

Justice Department Campaign Fundraising Investigation

- On August 24, 2000, the Committee subpoenaed the memorandum by Robert Conrad calling on you to appoint a special counsel to investigate Vice President Gore. To date, you have refused to provide that memo. Your staff has not even provided a clear rationale for your failure to produce that memo. I would like to receive a copy of the memo, and the other documents responsive to the Committee's August 24, 2000, subpoena prior to the hearing or interview. If such documents are produced,

the Committee will likely have questions about the documents. In the event that they are not produced, we will have questions regarding your failure to produce them.

- In the Committee's July 20, 2000, hearing, Members of the Committee pointed out that the videotape of the December 15, 1995, White House coffee appeared to contain the following statement by the Vice President: "we oughta, we oughta, we oughta show Mr. Riady the tapes, some of the ad tapes." Justice Department personnel at that hearing refused to comment on the tape, and refused to even state that they wanted to obtain the original videotape of the event. On September 25, 2000, the Justice Department finally stated that they would ask the Committee for the videotape. Department staff still have not actually requested the videotape. The Committee will question you about these matters.

- On June 6, 2000, the Committee held a hearing that examined allegations made by FBI Deputy Director William Esposito against Public Integrity Section Chief Lee Radek. The Committee may question you about Mr. Esposito's allegations.

- On June 26, 2000, the Committee subpoenaed from the Justice Department all e-mail messages from and to a number of specified Department staff regarding your decisionmaking process for the appointment of an independent counsel to investigate the campaign fundraising scandal. To date, Committee staff has been offered only a small subset of e-mails to review. In addition, Committee staff has asked for a small number of e-mail messages to be provided to the Committee, and has not received those messages. The Committee may have questions about this matter.

Waco

- As you know, the Committee has been conducting an investigation of the 1993 tragedy at the Branch Davidian compound outside of Waco, Texas. We have interviewed a number of Department staff during this investigation. We would like to question you about your decisionmaking both before and after the Waco tragedy.

Robert Bratt

- The Committee has subpoenaed the declination memo relating to Robert Bratt and Joseph Lake. On September 20, 2000, Committee staff asked your staff to provide a copy of that declination memo to the Committee. We have not yet received a copy of the memo, and we expect to as soon as possible.

- The Committee has questions for you regarding the Department's handling of the issues outlined in the recent report of the Justice Department Office of Inspector General relating to Mr. Bratt and Mr. Lake.

Joseph Gersten Matter

The FBI has provided information to Australian legal authorities about Joseph Gersten. While the Committee takes no position on the merits of any past investigations of Mr. Gersten, the following issues are of interest to the Committee:

- The criteria used by the Department of Justice when it comes to providing information about U.S. citizens to foreign governments. Does the Department of Justice or the Federal Bureau of Investigation routinely provide investigative information that did not result in an indictment?

- Information provided to the Committee by the Justice Department has been redacted. Was the information provided to Australian authorities redacted in the same way?

- Whether, in 1992, you were aware of allegations that Mr. Gersten had committed a homicide in 1992.

- Whether you are aware today of allegations that Mr. Gersten committed a homicide in 1992.

- Whether you are aware that subsequent allegations against Mr. Gersten were made by any of the same individuals involved with the homicide allegation.

- Whether you are aware of any suggestions that the homicide allegation should be kept from Mr. Gersten or his attorneys.

The Committee would welcome written answers to any of the above questions in advance of the hearing or interview. It would, however, reserve the right to follow-up and request clarification in the event that you do answer any of the above questions in writing.

If you have any questions about these matters, please have your staff contact the Committee's Chief Counsel, James C. Wilson, at (202) 225-5074.

Sincerely,

Dan Burton

Dan Burton
Chairman

cc: The Honorable Henry A. Waxman, Ranking Minority Member

THE WHITE HOUSE

WASHINGTON

October 4, 2000

By Facsimile and Regular Mail

James Wilson, Esq.
Chief Counsel
Committee on Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Wilson:

On September 14, 2000, we briefed Committee staff on the status of the EOP e-mail restoration project. We indicated that we are now able to conduct targeted searches of non-ARMS-managed e-mail on backup tapes according to the priorities of investigative bodies, and we invited the Committee to provide us with input regarding its investigative preferences. This letter is to reiterate that invitation.

As we advised, using a targeted search process we can conduct three different types of searches. Our technical staff can search 100 tapes for 70 e-mail accounts and 70 search terms in about three weeks. They can search 50 tapes for 35 e-mail accounts and 35 search terms in about two weeks. Finally, they can search all e-mail accounts on a single tape using a single search term within a few days. Once the work on the technical side is complete, the results would be available for lawyers' review and production, if appropriate, to the Committee.

As of today, over 1700 of the approximately 3400 backup tapes relevant to the Mail2, Letter D and OVP anomalies have been copied. Please keep in mind, however, that our offer to conduct targeted searches is not limited to the already-copied tapes and that a request to conduct a targeted search of other backup tapes can be accommodated.

The Committee's input is essential to resolve a number of important issues relating to these targeted searches. For example, we would need the Committee to identify which user accounts to search, which subpoenas should take priority, and which dates are of most significance. The Committee is clearly in the best position to answer these questions. With this information, we would work to both accommodate your interests and coordinate them with other search requests. On the other hand, we recognize that the Committee may prefer to await the point at which we will have a broader search capacity.

Thank you for your consideration of this matter. Please do not hesitate to call if I can be of assistance.

Sincerely,

Lisa J. Klem
Associate Counsel to the President

cc: Paul Weinberger, Esq.

DAN BURTON, INDIANA,
CHAIRMAN
BENJAMIN A. GILMAN, NEW YORK
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House of Representatives
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BERNARD SANDERS, VERMONT,
INDEPENDENT

October 4, 2000

The Honorable Janet Reno
Attorney General
United States Department of Justice
Washington, D.C. 20530

Robert J. Conrad, Esq.
Campaign Finance Task Force
Department of Justice
5432 Bond Building
1400 New York Avenue, N.W.
Washington, D.C. 20530

Dear Madam Attorney General Reno and Supervising Attorney Conrad:

Pursuant to the Committee's ongoing investigation into the failure to search and produce White House e-mail, Michelle Peterson was interviewed on June 8, 2000. During that interview, she told Committee staff that in the summer of 1998, Cheryl Mills asked her to determine whether a collection of documents had been previously produced to the Office of Independent Counsel. Peterson said that she received the documents and compared them with others that she knew had already been produced. Peterson told Committee staff that she "put the documents in two stacks, side-by-side, in chronological order" and "determined that they were duplicative."

Please answer the following questions:

- Do you have any knowledge of whether Ms. Peterson or her attorney were ever instructed to inform this Committee of any information contrary to or related to these statements?
- If so, who provided this instruction?
- If so, when did they provide this instruction?

Please respond in writing no later than Monday, October 9, 2000. Thank you for your prompt attention to this matter. If you have any questions, please call me at (202) 225-5074.

Sincerely,

James C. Wilson
Chief Counsel

DAN BURTON, INDIANA,
CHAIRMAN

BENJAMIN A. GILMAN, NEW YORK,
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HAROLD E. FORD, JR., TENNESSEE
JANICE D. SCHAKOWSKY, ILLINOIS

BERNARD SANDERS, VERMONT,
INDEPENDENT

October 4, 2000

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

Dear Ms. Nolan:

Pursuant to the Committee's ongoing investigation into the failure to search and produce White House e-mail, Michelle Peterson was interviewed on June 8, 2000. During that interview, she told Committee staff that in the summer of 1998, Cheryl Mills asked her to determine whether a collection of documents had been previously produced to the Office of Independent Counsel. Peterson said that she received the documents and compared them with others that she knew had already been produced. Peterson told Committee staff that she "put the documents in two stacks, side-by-side, in chronological order" and "determined that they were duplicative."

Please answer the following questions:

- Do you have any knowledge of whether Ms. Peterson or her attorney were ever instructed to inform this Committee of any information contrary to or related to these statements?
- If so, who provided this instruction?
- If so, when did they provide this instruction?

Please respond in writing no later than Monday, October 9, 2000. Thank you for your prompt attention to this matter. If you have any questions, please call me at (202) 225-5074.

Sincerely,

James C. Wilson
Chief Counsel

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MARK H. LYNCH
TEL 202.662.5544
FAX 202.778.5544
MLYNCH@COV.COM

October 4, 2000

BY HAND

Mr. James C. Wilson
Chief Counsel
House of Representatives
Committee on Government Reform
2157 Rayburn House Office Building
Washington, D.C. 20515-6143

Dear Mr. Wilson:

Enclosed are the notice of filing and the third declaration of Michelle Peterson that we filed in the Alexander case last week. I deeply apologize for not sending you a copy at the time these papers were filed. I had fully intended to do so, and it was only through inadvertence I neglected to send you a copy.

I assume that furnishing these papers and explaining why you did not get them sooner answers the questions raised in your letter of today's date. If I am mistaken in that assumption, please let me know. If you wish to discuss this matter, please feel free to call me.

Again, I apologize for my oversight.

Sincerely,

Mark H. Lynch

Enclosure

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

2001 SEP 26 P 3:26

NANCY M. MAYER-WHITTINGTON CLERK

CARA ALEXANDER, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Nos. 96-2123
	)	97-1288
FEDERAL BUREAU OF	)	(RCL)
INVESTIGATION, et al.,	)	
	)	
Defendants.	)	
	)	

NOTICE OF FILING

Michelle Peterson files herewith a declaration that brings to the Court's attention certain information that was pointed out to her by the Office of Independent Counsel following her testimony in the above-captioned matter on August 28, 2000. Ms. Peterson does not believe that this information effects the substance of her testimony, but in the interest of full and complete disclosure she wants to provide it to the Court.

Respectfully submitted,

Mark H. Lynch
D.C. Bar No. 193110
Covington & Burling
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
(202) 662-6000

Counsel for Ms. Peterson

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CARA ALEXANDER, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Nos. 96-2123
	)	97-1288
FEDERAL BUREAU OF	)	(RCL)
INVESTIGATION, et al.,	)	
	)	
Defendants.	)	
	)	

THIRD DECLARATION OF MICHELLE PETERSON

I, Michelle Peterson, declare as follows:

1. I am currently employed as an Assistant Federal Public Defender in the Office of the Federal Public Defender for the District of Columbia. I have held this position since May, 2000.

2. Previously, I was employed by the White House Counsel's Office as an Associate Counsel to the President of the United States. I held that position from February 1997 through the middle of May, 2000, although I was on maternity leave from February 2000 until shortly before my departure.

3. I have previously provided declarations to this Court in the Alexander case on July 2, 1999 and April 12, 2000.

4. I appeared before this Court on August 28, 2000, in the Alexander case. Subsequent to my appearance before this Court, I appeared before the Grand Jury convened by Independent Counsel Robert Ray in Alexandria, Virginia, on September 5, 2000 and again on September 12, 2000. One of the topics was the comparison of emails recovered in June of

1998 with the emails produced to the Office of Independent Counsel (OIC) in or about January or February 1998.

5. During my apperance on September 5, 2000, I was shown what was purported by the OIC to be the emails produced by the White House Counsel's Office in or about January or February 1998 in response to a request for all documents relating to Monica Lewinsky. I was also shown a set of documents produced more recently by the White House Counsel's Office to the OIC that was purported to be the emails that I had compared with the original emails produced.

6. I had previously testified before this Court on August 28, 2000, that when I compared the emails that were given to me in June 1998, I believed them to be duplicative of emails that I had previously produced to the Office of the Independent Counsel. I stand by that testimony as an accurate statement of my belief in June 1998 and continuing up to my appearace before the Grand Jury on September 5, 2000. However, during the course of my testimony to the Grand Jury, it appeared from the documents shown to me that I may have been mistaken with respect to one or possibly two emails.

7. First, a prosecutor from the OIC showed me one email that had been included in the stack of emails that I received in June 1998 that was a substantive duplicate of another email within that same stack, but had a different time and a different spelling of the email addressee. My best recollection is that the time was about 20 minutes different and that part of the email address was improperly capitalized. The substance of the email was exactly the same. According to the prosecutor, only one version of this email was produced in the original production to the OIC.

8. Second, I was shown a one-page email that I had produced to the OIC in or about January or February 1998. I was then shown an exact duplicate of that email that was

contained within the June 1998 emails, but which also had what was purported to be a second page that contained a "cc" list for the email. I was informed that the purported "cc" list was not included in our earlier production. I have no way of verifying whether what was now represented to be the second page of that email was in fact the second page of the email in the emails I was given, nor do I have any way of verifying whether that second page was produced to the OIC in the original production. With respect to the content of the emails, one was an invitation to a going away part for Tracy Bobowick. I do not recall the substance of the other email, but my recollection is that it was of the same sort.

9. I stand by my testimony that I believed all of the emails that I was asked to review in June 1998 were duplicative of those that I had produced in or about January or February 1998. However, in light of what was shown to me on September 5, 2000, I cannot say with certainty whether or not I may have made a mistake in the original production to the OIC or in my June 1998 comparison because I do not have access to the documents I produced in January or February, 1998, nor do I have access to a copy of the documents I compared those documents to in June 1998.

10. In addition to the emails, the OIC showed me a copy of what appeared to be a listing or index of the June 1998 emails. I confirmed that this document, which was not an email, to my knowledge was not produced to the OIC as part of the original production. It appeared to be a document that was created after the date of the subpoena and in connection with the compilation of the June 1998 comparison set.

11. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed this 27th day of September, 2000.

Michelle Peterson

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Notice of Filing and Third Declaration of Michelle Peterson were served on this 28th day of September, 2000, by first class mail, postage prepaid, to the following:

Larry Klayman, Esq.
Judicial Watch, Inc.
501 School Street, S.W.
Suite 725
Washington, D.C. 20024

David E. Kendall, Esq.
Williams & Connolly
725 12th Street, N.W.
Washington, D.C. 20005

Neil Koslowe, Esq.
U.S. Department of Justice
Federal Programs Branch
P.O. Box 883
Washington, D.C. 20044



Mark H. Lynch

DAN BURTON, INDIANA,
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JANICE D. SCHAKOWSKY, ILLINOIS

BERNARD SANDERS, VERMONT,
INDEPENDENT

October 4, 2000

Mr. Mark H. Lynch
Covington & Burling
1201 Pennsylvania Avenue, N.W.
Washington, DC 20004-2401

Dear Mr. Lynch:

Pursuant to the Committee's ongoing investigation into the failure to search and produce White House e-mail, your client, Michelle Peterson, was interviewed on June 8, 2000. During that interview, she told Committee staff that in the summer of 1998, Cheryl Mills asked her to determine whether a collection of documents had been previously produced to the Office of Independent Counsel. Peterson said that she received the documents and compared them with others that she knew had already been produced. Peterson told Committee staff that she "put the documents in two stacks, side-by-side, in chronological order" and "determined that they were duplicative."

Please answer the following questions:

- Have you ever been instructed to inform this Committee of any information contrary to these statements? If so, who so instructed you and when?
- Have you ever been requested to provide any information to this Committee about Ms. Peterson's involvement in the e-mail matter? If so, who so requested and when?

Please respond in writing no later than Monday, October 9, 2000. Thank you for your prompt attention to this matter. If you have any questions, please call me at (202) 225-5074.

Sincerely,

James C. Wilson
Chief Counsel

THE WHITE HOUSE
WASHINGTON

October 5, 2000

HAND-DELIVERED

James C. Wilson
Chief Counsel
Committee on Government Reform
U.S. House of Representatives
2157 Rayburn House Office Bldg.
Washington, DC 20515

Dear Mr. Wilson:

Enclosed with this letter please find an additional e-mail that has been restored by the FBI under the direction of Office of Independent Counsel Ray and the Department of Justice Campaign Financing Task Force. This document was restored from a set of EOP backup tapes that were processed after those tapes related to our September 22, 2000, production to the Committee. As with much of the prior e-mail, this document contains information that has already been made available to this Committee. Consistent with our past practice, we have replaced the control numbers applied by the OIC/DOJ during the restoration process with the "E" series of control numbers that the EOP has used in its prior productions to the Committee. The enclosed document bears control numbers E 8864 – E 8883.

Please feel free to contact me at (202) 456-7594 if I may be of further assistance.

Sincerely,

E/ R M Mi

Edward R. McNicholas
Associate Counsel to the President

Enclosures

cc: Paul Weinberger, Minority Counsel



OASISMGR@A1 on 08/19/97 07:00:00 AM

To: Cheryl C. Anderson@[redacted], G. Attie@[redacted]OP, Cinnamon V. Balmuth@[redacted], Jason Berman@[redacted]
Matthew J. Bianco@[redacted], Charles A. Blanchard@[redacted]p, Sidney Blumenthal@[redacted], A. Heather E.
Coyne@[redacted], Jennifer N. Devlin@[redacted]p, Ron L. Durham@[redacted], Silvia J. Esparza@[redacted], Leonid Fayer@[redacted]
Sky Gallegos@[redacted], Ariadne Goerke@[redacted], Norma L. Gonzalez@[redacted], Ricardo M. Gonzales@[redacted]
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JOHNSON_KO@[redacted], JUTTON_P@[redacted]
LAPHAM_N@[redacted], RAMPEN_R@[redacted]Y,
SPONBERG_B@[redacted]WY
cc: Daniel A. Barry@[redacted]OERING_N@[redacted]LNGTWY, MILLER_DF@[redacted]

Subject: DIRECTIVE ON RECORDS MANAGEMENT OF ELECTRONIC COMMUNICATION

This message is being sent to you to ensure that all new electronic mail account holders are familiar with the records management policies and procedures for electronic communications. If you have any questions about the directive please contact the Office of Administration, Records Management Office at extension 5-6471.

July 14, 1994

MEMORANDUM FOR OASIS ALL-IN-1 USERS WITH FEDERAL RECORD RESPONSIBILITIES

FROM: PATSY L. THOMASSON
DIRECTOR
OFFICE OF ADMINISTRATION

SUBJECT: DIRECTIVE ON RECORDS MANAGEMENT OF ELECTRONIC COMMUNICATIONS

The attached directive is a very important document that describes what each OASIS ALL-IN-1 user must do to ensure that records of our business processes are made. This directive applies to all EOP agencies with Federal records responsibilities that use OA's electronic communication system. Officials of subscriber agencies have concurred in the contents of this directive.

This directive is being distributed in several ways. First, each OASIS subscriber with Federal records responsibilities will receive an electronic version. New users will receive a copy

when their account is activated. A permanent copy of the latest directive will be stored on the Bulletin Board of OASIS for easy reference for all users. Also, a supply of paper copies will be distributed to administrative contacts within the next two weeks for reference copies in the administrative offices. Finally, additional copies may be obtained from the Office of General Counsel by calling extension 52273.

If you should have questions about the material contained within this directive, you should first contact your agency records liaison staff. If questions still remain, please contact the OA Records Management Office at extension 56471.

Attachment

cc: J. Cressman, OA
G. Weaver, OA
S. Aitken, OMB
E. Blaug, CEQ
C. Cerf, OA
H. Gwin, OSTP
E. Jurith, ONDCP
M. Krislov, WH

OFFICE OF ADMINISTRATION DIRECTIVE IST.01-0

SUBJECT: The OASIS ALL-IN-1 Electronic Communication System and Federal Records Procedures

Introduction

1. Purpose. To establish records management objectives and responsibilities for the creation, maintenance, use, and disposition of Federal records on the OASIS ALL-IN-1 system.

2. Personnel Concerned. All OASIS ALL-IN-1 users with Federal records responsibilities.

3. Directive or Bulletin Cancelled. None; paragraph 7.b of Directive LISD.04-0, "Records Management Program," is replaced by this Directive.

4. Authority. 44 U.S.C. Chapters 21, 29, 31, and 33; 36 CFR Parts 1220, 1222, 1228, and 1234.

5. Originator. Information Management Division

6. Review. Annually; whenever substantive modifications to the OASIS ALL-IN-1 system are contemplated; before any new electronic mail systems are implemented by EOP agency users;

and any new electronic records management systems are implemented.

The following directive is hereby issued.

Patsy L. Thomasson Date
Director of the Office of Administration

TABLE OF CONTENTS

OVERVIEW 1
1. Purpose..... 1
2. Definitions..... 1

THE ELECTRONIC MESSAGING (E-MAIL) SYSTEM..... 5
3. Policy..... 5
4. Identifying E-Mail Communications That Are Federal Records 5
Examples of e-mail communications that are Federal records 6
Examples of nonrecord messages on e-mail.. 8

OASIS ALL-IN-1 FEATURES..... 9
5. E-mail Messages..... 9
6. Calendars..... 11
7. Personnel Directories..... 12
8. Desk Management..... 12
9. Telephone Messaging, Paging and WAVES Appointments 12
10. Information Management 12
11. The Bulletin Board..... 13
The Suggestion Box..... 13
12. Interactive Training..... 13
13. User Set-Up Functions..... 13
14. System Backup Tapes 13

MONITORING RECORDS DISPOSITION..... 13

RESPONSIBILITIES 14

APPENDIX 1 - TEMPORARY RECORDS ON ELECTRONIC COMMUNICATIONS SYSTEMS

OVERVIEW

1. Purpose.

To establish policy, responsibilities, guidelines, requirements, and procedures for the preservation of Federal records created

and transmitted on the OASIS ALL-IN-1 system among the agencies of the Executive Office of the President.

This directive supersedes previous records management instructions on Federal records on electronic mail (e-mail) systems.

2. Definitions.

Basic records management terms are defined in OA Directive LRS.04-0 (44 U.S.C. 3301). The definitions listed below are specific to the purpose of this directive.

a. Electronic Mail. A document created or received on an e-mail system including brief notes, more formal or substantive narrative documents, and any attachments, such as word processing documents, which may be transmitted with the message. (NARA definition)

b. Electronic Records. This term includes numeric, graphic, and text information, which may be recorded on any medium capable of being read by a computer and which satisfies the definition of a Federal record in 44 U.S.C. 3301. This includes, but is not limited to, magnetic media, such as tapes and disks, and optical disks. (36 CFR 1234.1)

c. Recordkeeping System. A system for collecting, organizing, and storing records in order to facilitate their preservation, retrieval, use, and disposition and to fulfill recordkeeping requirements. (NARA definition)

d. Electronic Mail System. As used in this directive, the application available on OASIS ALL-IN-1 that is used to create, receive and transmit messages and other documents or create calendars that can be used by multiple staff members. Excluded from this definition are file transfer utilities (software that transmits files between users but does not retain any transmission data), data systems used to collect and process data that have been organized into data files or data bases on either personal computers or mainframe computers, and word processing documents not transmitted on an e-mail system.

e. Federal Records. As defined in the law (44 U.S.C. 3301), Federal records are:

[A]ll books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States under Federal law or in connection with the trans-

action of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them.

The phrase "regardless of physical form or characteristics" means that the records may be paper, film, disk, or any other physical type or form; and that the method used to record information may be manual, mechanical, photographic, electronic, or any combination of these or other technologies.

Documentary materials are Federal records when they meet both of the following conditions:

(1) They are made or received by an agency of the United States Government under Federal law or in connection with the transaction of agency business; and

(2) They are preserved or are appropriate for preservation as evidence of agency organization and activities or because of the value of the information they contain. (36 CFR 1222.34)

In this context, the term "preserved" means the record is deliberately filed, stored, or otherwise systematically maintained for future use, including being stored in electronic files, folders, or logs.

The phrase "appropriate for preservation" means documentary materials made or received which in the judgment of the agency should be filed, stored, or otherwise systematically maintained by the agency because of the evidence of agency activities or information they contain, even though the materials may not by covered by its current filing or maintenance procedures. (36 CFR 1222.12)

f. Temporary Record. Any record which has been determined by the Archivist of the United States to have insufficient value (on basis of current standards) to warrant its preservation in the National Archives of the United States. This determination may take the form of:

(1) A series of records designated as disposable in an agency records disposition schedule approved by NARA (Standard Form 115, Request for Records Disposition Authority); or

(2) A series of records designated as disposable in a General Records Schedule. (36 CFR 1220.14)

Appendix 1 of this document contains a list of typical temporary Federal records.

g. Permanent Record. Any Federal record that has been determined by NARA to have sufficient value to warrant its preservation in the National Archives. (36 CFR 1220.14)

h. Nonrecord Material. U.S. Government-owned documentary materials, other than Presidential records, that do not meet the statutory definition of Federal records (44 U.S.C. 3301), or that have been excluded from coverage by the definition. Excluded materials are:

(1) Extra copies of documents preserved only for convenience of reference.

(2) Stocks of publications and of processed documents. However, each agency must create and maintain records sets of processed documents and publications, including annual and special reports, directives, special studies, brochures, pamphlets, books, handbooks, manuals, and posters.

(3) Library and museum materials made or acquired and preserved solely for reference or exhibition purposes.

i. Records Management. The planning, controlling, directing, organizing, training, promoting, and other managerial activities involved with respect to records creation, records maintenance and use, and records disposition in order to achieve adequate and proper documentation of the policies and transactions of the Federal Government and effective and economical management of agency operation. (36 CFR 1220.14)

j. Records Schedule. A document describing and providing instructions for the disposition of Federal records. It consists of one of the following:

(1) An SF 115, Request for Records Disposition Authority, that has been approved by NARA to authorize the disposition of Federal records;

(2) A General Records Schedule (GRS) issued by NARA; or

(3) A printed agency manual or directive containing the records descriptions and disposition instructions approved by NARA on one or more SF-115s or issued by NARA in the GRS. (36 CFR

1220.14)

k. General Records Schedules. Schedules authorizing the disposal, after the lapse of specified periods of time, of records of a specified form or character common to several or all agencies if such records will not, at the end of the periods specified, have sufficient administrative, legal, research, or other value to warrant their further preservation by the United States Government. (44 U.S.C. 3303a(d))

l. Transmission and Receipt Data.

(1) Transmission Data. Information in e-mail systems regarding the identities of sender and addressee(s), date and time messages were sent.

(2) Receipt Data. Information in e-mail systems regarding date and time of receipt of a message, and/or acknowledgement of receipt or access by addressee(s).

m. System Backups. Copies on off-line media of software and data stored on direct access storage devices in a computer system to provide a means of recreating a system and its data in the event of unintentional loss of data or software.

n. Records Liaison. Individual designated to oversee records management procedures for the agency.

o. High-level officials. Heads of independent agencies; their deputies and assistants; the heads of program offices and staff offices; staff assistants to those aforementioned officials, such as special assistants, confidential assistants, and administrative assistants; and career Federal employees, political appointees, and officers of the Armed Forces serving in equivalent or comparable positions. (GRS 23, item 5.a., as applied to positions within the EOP)

THE ELECTRONIC MESSAGING (E-MAIL) SYSTEM

3. Policy.

The Office of Administration is developing a records management system which will support electronic storage, retrieval and disposition of OASIS ALL-IN-1 electronic messages that are determined to be Federal records. In addition it will segregate Presidential materials from Federal records. This system is currently being implemented in stages, the first of which is allowing a user to determine record status (i.e., record or nonrecord) of an e-mail message. Paragraph 5 below shows how

this is being implemented. From time to time, new stages of the recordkeeping system will be implemented at which time appropriate guidance will be provided to users.

In the interim, users should know that other materials created within OASIS ALL-IN-1 and/or sent to other ALL-IN-1 users will be automatically tagged as record material in both sending and receiving components. This means that users do not need to print materials from OASIS only unless either of the following conditions applies: the materials are Federal record calendars of high-level officials (see Paragraph 16 below); or it is required for other documentary purposes.

4. Identifying E-Mail Communications That Are Federal Records.

The features of OASIS ALL-IN-1 are discussed below. This discussion includes a description of the feature, user records management responsibilities and the proposed disposition of record material.

Users may create Federal records by using the following OASIS ALL-IN-1 features:

- o E-mail messages (internal as well as external communications through FAX, X.400 and Internet), with or without word processing documents, spreadsheets or other attachments
- o Executive word processing
- o Calendar entries (meetings or appointments)
- o Task entries
- o Phone messages
- o WAVES Appointments
- o Pager Requests

The OASIS ALL-IN-1 e-mail application automatically saves all communications created by users in Presidential components (e.g., White House, Office of Policy Development and the Office of the Vice President). Materials created in Presidential components that are sent to Federal component(s) will be tagged and stored as Federal records when received by the Federal component(s).

In general, the above materials are Federal records when they meet two conditions. They are made or received by an agency of the United States Government under Federal law or in connection with the transaction of agency business; and they are preserved or are appropriate for preservation as evidence of agency organization and activities or because of the value of the information they contain. (36 CFR 1222.34; see also definition of Federal record)

When determining whether e-mail material is a record, keep in mind that multiple copies of messages or messages incorporated into other electronic messages may all be records if they are used for different purposes in the conduct of official business or filed in different files. More than one office may take action or otherwise use copies of a message. The copy would be a record in each of those offices, and would be subject to NARA-approved disposition schedules.

Examples of e-mail communications that are Federal records on the e-mail system are:

- Messages and any attachments containing information developed in preparing position papers, reports and studies;
- Messages and any attachments reflecting official actions taken in the course of conducting agency business;
- Messages and any attachments conveying information on programs, policies, decisions, and essential transactions;
- Messages and any attachments concerning statements of policy or the rationale for official decisions or actions;
- Messages and any attachments documenting oral exchanges, such as meetings or telephone conversations, during which policy was discussed or formulated or other agency activities were planned, discussed, or transacted;
- Messages and any attachments documenting the use of leave, agency procurement activities, personnel actions, or official agency financial actions.

Users should also be aware that preliminary drafts of final documents, rough notes and similar materials, as well as updates to drafts, notes or similar materials, must be maintained for purposes of adequate and proper documentation if

(1) they contain unique information, such as annotations or comments, that helps explain the formulation and execution of basic policies, decisions, actions or responsibilities; and

(2) they were circulated or made available to employees other than the creator for the purpose of approval, comment, action or to keep staff informed about agency business.

The above guidance about determining the record status of drafts transmitted via e-mail also applies to word processing documents shared on a network. Because drafts of such shared documents may be records, their record status must be reevaluated as changes are made. Substantive updates to such drafts that constitute records must be preserved by printing and filing with the final paper copy while minor changes do not need to be preserved. Such substantive updates should identify the author, recipient(s), and date of the draft, as well as similar data documenting substantive updates.

Users should also be aware that documents created in any word processing application that are transmitted through OASIS ALL-IN-1 may also be records. When an attached document is transmitted to any user, it is automatically captured by the electronic recordkeeping system and tagged as record or nonrecord according to the users' determination.
Nonrecord e-mail communications. Messages created on the e-mail system may contain information that either fails to meet the general conditions of record status or is covered by one of the three exemptions in the statutory definition of records.

Examples of nonrecord messages on e-mail typically include:

- Reminders of meeting and appointments that contain no information of value about such events;
- Telephone messages (unless the message contains information of value);
- Duplicate copies of records retained elsewhere in electronic format, if the copies are saved only for personal convenience of reference;
- Preliminary drafts of correspondence, reports or studies that were not circulated to any other individual;
- Preliminary drafts, work sheets and informal notes that contain the same information as in the final document provided that they do not contain substantive annotations or comments that add to a proper understanding the agency's formulation and execution of basic policies, decisions, actions or responsibilities. 36 CFR 1222.34]
- Personal notes that relate solely to an individual's personal and private affairs or are used exclusively for that individual's convenience;
- Invitations to unofficial social functions.

If users choose to retain nonrecord business material and personal material in the OASIS ALL-IN-1 system, they should not

be commingled; that is, they must be filed in separate OASIS folders. Refer to the OASIS Reference Manual, refile document (rfd) command, for more information on how to transfer documents to separate folders.

For additional guidance on personal papers employees should refer to the NARA Guide on Personal Papers of Executive Branch Officials.

OASIS ALL-IN-1 FEATURES

5. E-mail Messages

Within the OASIS ALL-IN-1 system, E-mail messages are communications between a sender and some number of recipients, generally containing textual material and optionally containing attachments of word processing documents, spreadsheets or the like. They are created under the EM function within OASIS ALL-IN-1.

Preserving e-mail messages electronically

The actual e-mail screen includes an entry to tag the message and appears like the screen below:

```
-------------------------------------------------------------------|
Message Header

   Enter the name of one or more addressees:
TO:
TO:
TO:
TO:
TO:
TO:
Enter the names of people to receive copies:
CC:
CC:
CC:
CC:
CC:
CC:
Record:  Y [Y/N]
Subject:

Priority: FIRST_CLASS   Delivery Receipt:  NO   Read Receipt:
NO

Enter information and press ENTER, to GOLD-M for menu
-------------------------------------------------------------
```

In the Record field above, it will be necessary for the entry to be either Y or N before the user can continue with creating a message. If creating record material, the user may leave the entry as Y, the default value this field takes on when the screen first appears. If the message will be nonrecord, the user should enter N as the correct value in this field. Before preparing the message itself, the user may tab back to the field and change its value if necessary. Once a message is created, but before it is sent, the user may also modify this field through the use of the modify header (mh) command. See the OASIS Reference Manual or OASIS Quick Reference Guide for specifics of this command.

A similar process will occur when the user creates a response to a message. After issuing the send command, the question, "Is the document you are sending a Record? [Y/N]" will appear. As above, only one of the two responses will be accepted.

In either case, the message is kept electronically for later monitoring by the component's records liaison or records management staff. Thus, there is no requirement to print the message and any word processing attachments if it was designated as a record and prepared in either WordPerfect or the OASIS internal word processing application.

By way of a reminder, users may also request a read or a delivery receipt for the message by entering "YES" in the corresponding field(s) on the screen. Read receipts should be requested when it is necessary to confirm that an addressee has read a message by a certain time, such as when you assign tasks with a deadline or need concurrence by a definite time.

A special note: Users need to be aware of recordkeeping requirements for attachments that are not viewable within OASIS (e.g., spreadsheets, graphics, binary data, and the like); these attachments may be records and should be managed as part of the application under which they are viewed or processed.

If the user wishes to save messages for personal reference, the material contained in electronic personal folders is no longer treated as Federal records for future agency use. However, users are reminded that the contents of the folders (paper or electronic) may not be taken when terminating employment, unless approval is obtained according to agency procedures. Once approval is obtained, the materials will be reviewed by the records liaison to ensure that incorrectly designated nonrecord material is properly designated and filed and only approved materials are removed.

Indices to folders, such as the inbox and outbox, are dynamically changing lists and will be scheduled for disposition with NARA. Users do not need to take steps to save any index.

Users should be aware that drafts may be records on shared word

processing systems as well as in e-mail. Record status should be evaluated in accordance with the definitions of records and preserved as follows:

- Print the document. If not included with the document, annotate it or attach a separate sheet that includes information on the author name, recipients, and date of creation or other such information documenting substantive updates.

- Forward the document to the appropriate individual for inclusion in the agency's system of official files.

6. Calendars

The ALL-IN-1 system offers a calendar option to users as part of the Desk Management function. The calendar function allows users to schedule meetings with other users, as well as to maintain their own record of meetings, events, and other appointments. Calendars may be displayed and printed by the day, week, or month. This function also provides users with the capability of maintaining a task or "to do" list. The following guidance on calendars applies only to the calendar option of the desk management function of the ALL-IN-1 system:

Calendars and task lists created using this system may be Federal records if they meet the criteria explained in paragraphs 2e and 4 of this directive.

Calendars and task lists that contain only personal business are personal records and thus are not Federal records. Personal calendars do not need to be scheduled and may be updated, changed or deleted at the discretion of the individual user.

Calendars and task lists that contain information about government business are Federal records when they are circulated to or shared with others or are placed in files that allow others in the EOP to access and view the calendars in connection with official business.

Calendars may be shared with others for ease of communication. This is accomplished on the OASIS ALL-IN-1 system by using the Change Access Management command (cam) on the Time Management menu; refer to the OASIS Reference Manual for further details.

Shared calendar entries (including meeting and appointment notices and task list entries) are subject to sampling and monitoring.

Federal record calendars shall be managed in the following ways:

Calendars, entries in calendars and associated data regarding authorized access may not be deleted or destroyed unless the calendar information has previously been saved by Systems Management staff or printed and filed as a record.

Additionally:

a. Preserving Federal record calendar entries electronically

Calendar entries are saved electronically when the calendar is shared with any other user. They will be disposed of after two years in accordance with GRS 23, item 5a.

b. Preserving Federal record calendars of high-level officials

Calendars and task lists relating to the schedule of high-level officials will be preserved by printing and filing according to the instructions in paragraph 16.a below. These calendars are saved permanently.

7. Personnel Directories. The user directory provides a short-cut for entering the recipient's name on the "TO" line of the message. In addition, users have access to an EOP Directory that contains names of individuals, their organization affiliation, room number, and telephone numbers. These directories will be subject to NARA-approved disposition schedules. There is also a separate feature that allows users to create their own personal address/telephone lists for ready reference and not for circulation. These personal directories are nonrecord.

8. Desk Management provides access to a calculator and displays the current time at locations throughout the world (World-Wide Time). This information is nonrecord reference material.

9. Telephone messaging, paging and WAVES appointments are available to users through the Desk Management menu. Telephone messages that contain substantive information on agency activities must be documented and incorporated into the agency's official files and, thereafter, can be deleted when they are no longer needed. Telephone messages that do not document agency activities or contain information of value need not be preserved. Paging requests and appointment requests are temporary and can be deleted when no longer needed.

10. Information Management displays commercial and other non-agency informational materials such as the news and weather. This information is nonrecord reference material.

11. The Bulletin Board broadcasts special announcements to OASIS users, such as a schedule of classroom training, blood donation

drives, and health insurance open seasons. The Suggestion Box allows users to recommend changes that would better meet user needs. The Information Management Division of OA is responsible for preserving or disposing of materials placed on the Bulletin Board and the Suggestion Box in accordance with NARA-approved disposition schedules.

12. The interactive training routines available on the system are not Federal records.

13. The User Set-Up functions of the OASIS ALL-IN-1 system which include changes in passwords, work locations, work hours, and calendar and date formats, as well as the log-in/log-out data and lock keyboard data, may be deleted under GRS 20, item 1(c).

14. System backup tapes can only be recycled with specific authorization from NARA. Any Federal records that remain on the OASIS ALL-IN-1 system, after the records and appropriate transmission data have been stored in official recordkeeping systems, are subject to NARA-approved disposition schedules.

MONITORING RECORDS DISPOSITION

15. The purpose of monitoring is to identify systemic problems with record classification by users of the OASIS ALL-IN-1 system. Based on the review of samples, the monitor will assess the extent to which problems exist and may recommend modifications to remedial training courses or the issuance of notices to users that reinforce record classification principles such as those stated in this directive. Remedial steps would also include supplemental guidance and training which would be targeted to specific offices as necessary based on review of the samples.

For those OASIS features that are functioning under the electronic recordkeeping system, agencies will have the capability to electronically sample and review the records for conformance to this guidance; OA will assist agencies in using this feature. Other features may not be operating in an electronic mode and will require the agency to perform monitoring of paper samples until that feature's records are retained in electronic form.

New employees will receive records training as part of initial training required by the agency in order to use the OASIS system. In addition, employees will be notified during training that some of their electronic communications will be sampled for review on a periodic basis by records management personnel.
Monitoring records in the electronic repository

Monitoring will occur on at least a monthly basis or more often if capacity on the online system will not accommodate a month's materials. The electronic repository of designated materials for the EOP component will be randomly sampled in a manner to ensure

a high likelihood that a sample from every user is obtained for examination.

The monitor, usually the records liaison within the EOP component agency, will correct incorrectly designated materials in the sample and redeposit the corrected record into the repository. At this point in the process, the samples will not identify sender and recipient(s) names. However, this information will be available to the monitor if a nonrecord designation was corrected and the monitor must determine if specific users are consistently deficient in designating record status.

The monitor will maintain statistics on the number of entries changed during the examination and note patterns of errors with the objective of developing specific recommendations for training. The monitor will prepare an annual report to the agency head (or a designated agency official). The report will indicate the sample population count and how the sample was derived from the electronic repository, the number of entries incorrectly designated and corrections made. In addition, it shall include any recommendations for process improvements and suggested training refinements. The first report shall be submitted within three months after this directive is incorporated into other component's guidance.

The records liaison for each agency is also responsible for including in this report a statement regarding the printing and filing of the calendars of high-level officials. Reports shall be submitted to the agency head (or a designated agency official).

RESPONSIBILITIES

16. Each EOP agency will:

a. Designate those agency personnel who are high-level officials for the purpose of recordkeeping obligations for OASIS calendars. Direct those designated high-level officials to ensure that OASIS ALL-IN-1 calendars relating to their activities are printed at the end of each month if they are Federal records as described in paragraph 6 above. The calendar should be annotated with the list of individuals who had access to the calendar and sent to the agency records liaison for inclusion in the agency's official file system.

b. Ensure that each agency employee receives training in Federal record responsibilities.

c. Direct the head of each agency component (division directors or equivalent) to instruct all users of the OASIS ALL-IN-1 system with Federal records responsibilities to:

(1) Follow procedures of this directive to determine when the e-mail message or FAX is a Federal record.

(2) Be aware that all other electronic communications are automatically stored as record material until the record prompt can be integrated into ALL-IN-1 features.

(3) Devise a plan to monitor the records as described in paragraph 15.

(4) Notify their office records liaison when employees need further training to fulfill their Federal records responsibilities.

(5) Conduct pre-departure interviews and review of electronic files with employees to assess whether they have properly preserved all Federal records for inclusion in official files.

17. The Information Management Division of OA will:

a. Back up the OASIS ALL-IN-1 system as necessary. Recycle such back-up tapes according to authorized disposition schedules.

b. Consult with agency records officers whenever substantive modifications to the electronic communications system are contemplated.

c. Provide guidance and training to educate OASIS ALL-IN-1 users on records management procedures.

d. Manage materials placed on the OASIS Bulletin Board and the Suggestion Box in accordance with NARA-approved disposition schedules.

APPENDIX 1

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF ADMINISTRATION
INFORMATION SYSTEMS AND TECHNOLOGY DIVISION
OFFICE OF RECORDS MANAGEMENT

TEMPORARY RECORDS ON ELECTRONIC COMMUNICATION SYSTEMS

Administrative Records: Messages and any attachments documenting

agency administrative activities both internal and external. The agency program material may include documentation about the following administrative subjects:

1. Personnel: Official Personnel Folders (OPF), Service Record Cards, personnel correspondence, offers of employment, certificate of eligibles, Employee Record Cards, position classification, position descriptions, interview records, Performance Rating Review Board cases, temporary individual employee records in OPF, position identification strips, employee, departmental, and incentive awards, notifications of personnel actions, employment applications, operations statistical reports, operating correspondence and forms, supervisors' personnel files and duplicate OPF documentation, individual non-occupational health, Health Unit Employee Medical Folder (EMF), statistical summaries, employee performance, Financial Disclosure Reports, Equal Employment Opportunity, personnel counseling, Standards of Conduct, Labor Management Relations, training, administrative grievance, disciplinary and adverse action, personal injury, merit promotion, examining and certification, occupational injury and illness, denied health benefits claims, Federal Workplace drug testing program, donated leave, wage survey, and retirement assistance, security clearances.

2. Payrolling and Pay Administration: Time and attendance source and input, leave, taxes, Combined Federal Campaign and other allotment authorizations, Thrift Savings Plan, Direct Deposit Sign-up, levy and garnishment, payroll change and payroll correspondence, and retirement.

OTHER TEMPORARY RECORDS

Records Common to Most Offices Within Agencies: These records include administrative subject files; facilitative records such as suspense files, tracking and control records, calendars, and indexes; and transitory documents; as well as certain types of records created in electronic form and stand-alone or networked micro- and mini-computers.

1. Office Administrative Files: Records accumulated by

individual offices that relate to the internal administration or housekeeping activities of the office rather than the functions for which the office exists. In general, these records relate to the office organization, staffing, procedures, and communications; the expenditure of funds, including budget records; day-to-day administration of office personnel including training and travel; supplies and office services and equipment requests and receipts; and the use of office space and utilities. They may also include copies of internal activity and workload reports (including work progress, statistical, and narrative reports prepared in the office and forwarded to higher levels) and other materials that do not serve as unique documentation of the programs of the office.

PERMANENT AGENCY RECORDS: Organizational charts, functional statements, and related records that document the essential organization, staffing, and procedures of the office.

2. Word Processing files. Documents such as letters, messages, memoranda, reports, handbooks, directives, and manuals recorded on electronic media such as hard disks or floppy diskettes.

3. Administrative Databases: Databases that support administrative or housekeeping functions, containing information derived from hard copy records.

4. Electronic Spreadsheets: Spreadsheets that are recorded on electronic media such as hard disks or floppy diskettes.

5. Schedules of Daily Activities: Calendars, appointments, schedules, logs, diaries, and other records documenting meetings, appointments, telephone calls, trips, visits, and other activities by Federal employees while serving in an official capacity, created and maintained in hard copy or electronic form, EXCLUDING materials determined to be personal.

6. Suspense Files: Documents arranged in chronological order as a reminder that an action is required on a given date or that a reply to action is expected and, if not received, should be traced on a given date.

OTHER TEMPORARY RECORDS (CONTINUED)

7. Transitory Files: Documents of short-term interest which have no documentary or evidential value and normally not be kept more than 90 days. Examples of transitory correspondence are: Routine requests for information or publications and copies of replies which require no administrative action, no policy decision, and no special compilation or research for reply; originating office copies

of letters of transmittal that do not add any information to that contained in the transmitted material, and receiving office copy if filed separately from transmitted material; quasi-official notices including memoranda and other records that do not serve as notices of holidays or charity and welfare fund appeals, bond campaigns, and similar records.

8. Tracking and Control Records: Longs, registers, and other records in hard copy of electronic form used to control or document the status of correspondence, reports, or other records.

9. Finding Aids (or Indexes): Indexes, lists, registers, and other finding aids in hard copy or electronic form used only to provide access to records, EXCLUDING records containing abstracts or other information that can be used as an information source apart from the related records.

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

October 5, 2000

Honorable Dan Burton
Chairman
Committee on Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is to supplement the record of the Committee's hearing on September 26, 2000 regarding the White House e-mail matter. During Deputy Assistant Attorney General Alan Gershel's testimony, you and other members of the Committee asked about the staffing levels on the Department's investigation, which is being handled by the Campaign Financing Task Force. Mr. Gershel respectfully declined to answer because of the Department's longstanding policy of not disclosing staffing levels for particular pending criminal investigations. Mr. Gershel offered, however, to provide the Committee with information about the basis for the Department's policy and to the extent possible to supply additional information.

The Department's policy of not disclosing staffing levels in particular pending criminal investigations is grounded in our concern about Congress either praising or criticizing the level of resources being devoted to a particular pending criminal investigation. It would place the Congress in a position of appearing to exert pressure or attempting to influence the nature and scope of the investigation. Such a practice would not only be inconsistent with the constitutionally based principle of separation of powers, it could also significantly damage law enforcement efforts and shake public and judicial confidence in the fairness of the criminal justice system by creating a perception that investigative and prosecutorial decisions were being improperly influenced by political considerations rather than the merits of the case.

This is not to suggest that law enforcement officials should be immune from congressional oversight or accountability to the American people. However, we have significant concerns about the conduct of oversight regarding the Department's assignment of resources to particular investigations while they are pending because of the potential impact on law enforcement and the administration of justice. As indicated in my letter to you dated September 25, 2000, the danger of congressional intrusion into pending matters is not just a theoretical

problem. Recent court proceedings in the Maria Hsia case are an example of the practical consequences of the Department making even very limited and seemingly innocuous statements to Congress about pending criminal matters.

For these reasons, the Department believes that it would be inappropriate and potentially damaging to pending cases to provide specific staffing information about the e-mail investigation. The Department is aware of the Committee's concern that the White House e-mail matter be adequately staffed. As Mr. Gershel stated in his testimony, both he and Robert Conrad, the Chief of the Task Force, closely monitor the Task Force's resource needs, as does the FBI, and they have not hesitated to raise resource issues directly with the Attorney General where there has been a need that they could not address on their own. Overall, there are currently approximately 12 prosecutors working on Task Force matters along with approximately 14 FBI agents and 10 analysts and other support personnel. Additional investigative and prosecutorial resources are available within the FBI and the Criminal Division to address special needs that may arise. All of these resources are potentially available to work on aspects of the White House e-mail matter. As you know, prosecutors and agents working in the Office of the Independent Counsel are also working on this matter.

During Mr. Gershel's testimony, members of the Committee expressed concern that one of the prosecutors working on the e-mail matter had recently left the Department. Personnel turnover is common in a lengthy and complex criminal investigation. During the almost four years since the Task Force was formed, dozens of new agents and prosecutors have been successfully integrated into the Task Force's work, frequently assuming the responsibilities of former personnel who left the Task Force. Drawing on that experience, the Task Force's supervisors within the Criminal Division and the FBI will continue to do their best to smooth unavoidable transitions so as to minimize any disruptions to ongoing investigations.

Finally, Mr. Gershel asked that I clarify one aspect of his testimony. Mr. Gershel indicated that the Department has never told the DNC not to comply with the Committee's subpoena and that although he did not personally have contact with the DNC on this issue, it was his understanding that the DNC was told to comply fully with the subpoena. Mr. Gershel has since learned that this understanding was mistaken. The DNC was told that the Department had no objection and took no position with respect to the DNC's compliance with the Committee's subpoena.

The DNC is not part of the Executive Branch. It would be inappropriate for the Department to direct compliance or otherwise advise the DNC concerning its rights and obligations relating to a congressional subpoena. Enclosed is a copy of a letter we have sent to counsel for the DNC, at your request, that clearly sets forth the Department's position.

I hope that this information is helpful. Please do not hesitate to contact me if we can be of further assistance to the Committee on this or any other matter.

Sincerely,

Robert Raben
Assistant Attorney General

cc: The Honorable Henry Waxman
Ranking Minority Member

THE WHITE HOUSE

WASHINGTON

October 6, 2000

James C. Wilson, Esq.
Chief Counsel
Committee on Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20015

Dear Mr. Wilson:

This letter is to respond to the Chairman's letter of September 29, 2000 to Beth Nolan, seeking "all records of communications relating to the various EOP e-mail archiving problems between [this] [O]ffice and any entity (excluding [the] Committee) that subpoenaed documents from the White House."

It is the view of this Office that individual communications between this Office and investigative bodies are deserving of respect and deference by the Committee. Nevertheless, we recognize that at the March 30, 2000 hearing, Congressman Mica indicated an interest in reviewing our communications with other investigative bodies so that the Committee "could see who has been noticed" with respect to the issues discussed at the hearing. (Transcript of Hearing, 3/30/2000.) According to the Chairman's letter, the current request is based on Congressman Mica's earlier statements.

In an effort to accommodate the Committee's interest, set forth below are the dates of letters, some written in response to inquiries, from this Office to congressional committees, independent counsels, the Department of Justice and the General Accounting Office. While the list below is not inclusive of every communication touching upon e-mail issues, the referenced letters included information about one or more EOP e-mail anomalies and/or OVP e-mail issues.

March 15, 2000	Office of Independent Counsel Robert Ray
March 20, 2000	DOJ Campaign Financing Task Force
April 7, 2000	House Committee on Resources
April 28, 2000	Office of Independent Counsel Ralph Lancaster
May 19, 2000	Office of Independent Counsel Carol Elder Bruce
May 24, 2000	Senate Judiciary Committee
June 7, 2000	Office of Independent Counsel Robert Ray and DOJ Campaign Financing Task Force
June 7, 2000	Office of Independent Counsel Carol Elder Bruce
June 7, 2000	Office of Independent Counsel Ralph Lancaster

June 8, 2000	Senate Judiciary Committee
July 26, 2000	Senate Judiciary Committee
July 26, 2000	Office of Independent Counsel Ralph Lancaster
July 26, 2000	Office of Independent Counsel Carol Elder Bruce
July 26, 2000	Office of Independent Counsel Robert Ray
July 26, 2000	DOJ Campaign Finance Task Force
August 31, 2000	Office of Independent Counsel Robert Ray
August 31, 2000	Department of Justice
Sept. 1, 2000	Senate Judiciary Committee
Sept. 14, 2000	Office of Independent Counsel Robert Ray
Sept. 14, 2000	Department of Justice
Sept. 21, 2000	Subcommittee on Forests and Forest Health, House Committee on Resources
Sept. 25, 2000	General Accounting Office
Sept. 25, 2000	Senate Judiciary Committee
Sept. 29, 2000	Subcommittee on Forests and Forest Health, House Committee on Resources
Sept. 29, 2000	Senate Judiciary Committee
Sept. 29, 2000	Office of the Independent Counsel Carol Elder Bruce
Sept. 29, 2000	Office of the Independent Counsel Robert Ray
Sept. 29, 2000	DOJ Campaign Finance Task Force
Sept. 29, 2000	Office of the Independent Counsel Ralph Lancaster
October 3, 2000	General Accounting Office

We hope this information is helpful. If you have any questions, please feel free to call.

Sincerely,

Lisa J. Klem
Associate Counsel to the President

cc: Paul Weinberger, Esq.

THE WHITE HOUSE

WASHINGTON

October 10, 2000

By Facsimile and Regular Mail

James C. Wilson
Chief Counsel
Committee on Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Wilson:

This letter is to respond to your letter of October 4, 2000 to Beth Nolan. We understand that Mark H. Lynch, Esq., counsel to Michelle Peterson, has forwarded to the Committee a copy of the notice of filing and the third declaration of Ms. Peterson, which were filed recently in connection with the Alexander litigation.

We trust that Mr. Lynch's letter of October 4, 2000, including his explanation of why the Committee did not receive the documents earlier, resolves the issues raised by your letter of October 4, 2000.

Please feel free to call if you have any questions.

Sincerely,

Lisa J. Klem
Associate Counsel to the President

cc: Paul Weinberger, Esq.
Minority Counsel

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House of Representatives

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JANICE D. SCHAKOWSKY, ILLINOIS

BERNARD SANDERS, VERMONT,
INDEPENDENT

October 11, 2000

Lisa J. Klem
Associate Counsel to the President
The White House
Washington, D.C. 20500

Dear Ms. Klem:

In your letter of yesterday regarding my October 4, 2000, letter to Beth Nolan, you wrote, "We trust that Mr. [Mark H.] Lynch's letter of October 4, 2000, including his explanation of why the Committee did not receive the documents earlier, resolves the issues raised by your letter[.]"

While I welcome your attention and rapid response to my correspondence with third parties, the Committee would still appreciate answers to the questions posed in the original letter:

- Do you have any knowledge of whether Ms. Peterson or her attorney were ever instructed to inform this Committee of any information contrary to or related to her statements to Committee staff?
- If so, who provided this instruction?
- If so, when did they provide this instruction?

If you have any questions please call me at (202) 225-5074.

Sincerely,

James C. Wilson
Chief Counsel

THE WHITE HOUSE
WASHINGTON

October 11, 2000

James C. Wilson, Esq.
Chief Counsel
Committee on Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20015

Dear Mr. Wilson:

Enclosed please find redacted copies of three calendar entries of John Podesta, which are Bates-stamped E 8884 – E 8886. These calendar entries were recently provided to the Plaintiffs in Alexander v. FBI in connection with a specific document request and with ongoing proceedings in that matter. Although we do not believe that the calendar entries are responsive to the Committee's subpoena, we are providing them as a courtesy.

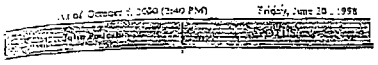
Sincerely,

Kathryn H. Ruemmler

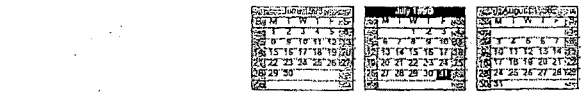
Kathryn H. Ruemmler
Associate Counsel to the President

Enclosures

cc: Paul Weinberger, Esq.
Minority Staff



3:20p Glenn



31 Friday

3:00 PM - 3:30 PM Mark Lindsey/Record Mgmt Brief

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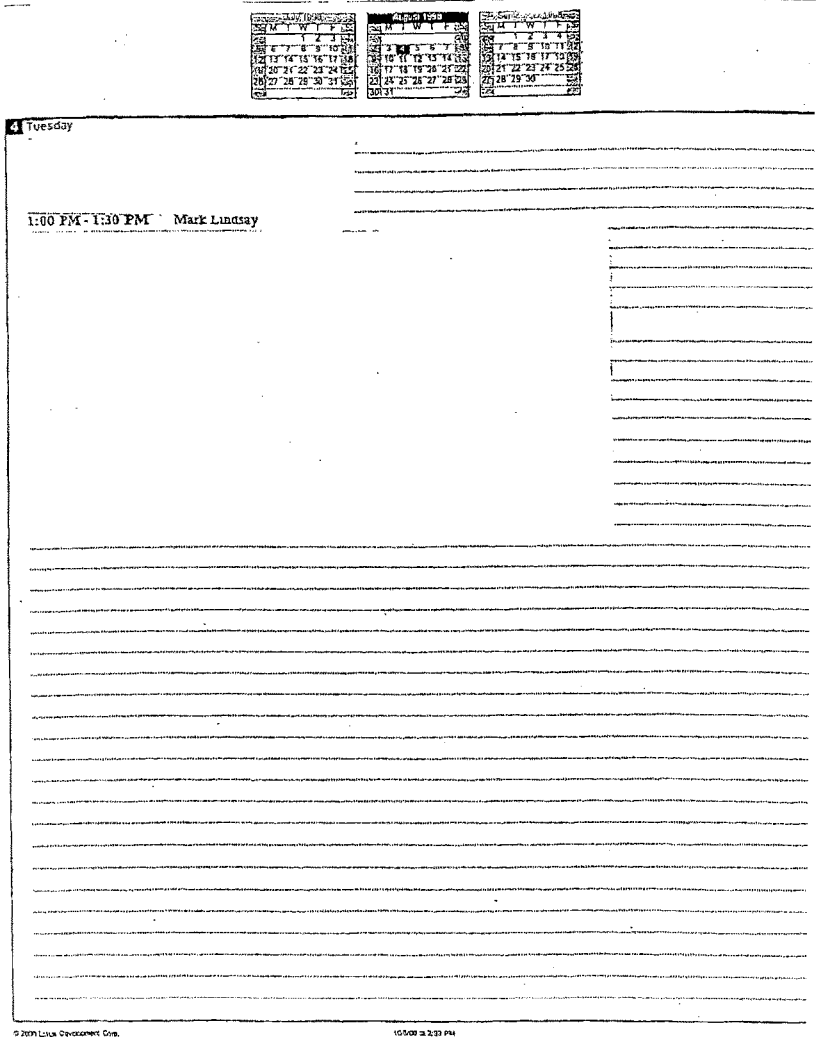
10/9/00 at 2:52 PM



4 Tuesday

1:00 PM - 1:30 PM Mark Lindsay

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THE WHITE HOUSE

WASHINGTON

October 11, 2000

By Facsimile and Regular Mail

James C. Wilson, Esq.
Chief Counsel
Committee on Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Wilson:

I write to follow up on Beth Nolan's letter to the Chairman of September 26, 2000 and to update the Committee on transition issues relating to EOP's e-mail restoration project.

We currently anticipate that by the time of the transition, the loading of data from the Mail 2, Letter D and OVP backup tapes into the word-searchable database currently being developed will be well underway. As was noted in Ms. Nolan's letter, the loading of this data is projected to be completed in mid-February 2001. Thus, at the time of the transition, some e-mail may only be located on yet-to-be-restored backup tapes.[1]

On January 20, 2001, we anticipate that the National Archives will assume legal custody of all presidential records, including those in electronic form.[2] Because this is the first transition since the development of the Automated Records Management System (ARMS), this Office and the Office of Administration are currently involved in discussions with the National Archives regarding legal and technical issues related to the transfer of the data in the ARMS system. In addition, issues relating to the transfer of the word-searchable database, the backup tapes and other electronic media are also being explored. In these discussions, we are working to develop and implement a system under which the reconstruction project can be completed and the word-searchable database can be made available for searches following the transition. Although the House and Senate Appropriations Committees have approved funding for the contract governing the reconstruction project through September 30, 2001, we must take into account in our discussions that we cannot make commitments for any future administration regarding this matter.

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[1] The reconstruction project has been focused on recovering e-mail affected by the Mail 2 and Letter D anomalies and non-records-managed OVP e-mail. E-mail affected by more recently discovered anomalies may also be located on backup tapes that will require restoration or, with respect to some e-mail affected by the "multi-host" anomaly (referenced in our letters of August 31, 2000 and September 21, 2000), on the ARMS III server.

[2] Whether the National Archives would assume legal custody of vice presidential records is an issue that may be affected by the upcoming presidential election.

We will update the Committee on these issues as matters progress.

Sincerely,

Lisa J. Klem
Associate Counsel to the President

cc: Paul Weinberger, Esq.

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BERNARD SANDERS, VERMONT
INDEPENDENT

October 12, 2000

Mark H. Lynch, Esq.
Covington & Burling
1201 Pennsylvania Avenue, N.W.
Washington, DC 20004-2401

Dear Mr. Lynch:

Thank you for your letter of October 4, 2000. However, your assumption that the third declaration of Michelle Peterson, which you enclosed, answered the questions raised in my original letter is mistaken. The Committee would still like the answers to the questions first posed October 4, 2000:

- Were you ever instructed to inform this Committee of any information contrary to Ms. Peterson's statements to Committee staff? If so, who so instructed you and when?
- Were either you or Ms. Peterson requested to provide any information to this Committee about Ms. Peterson's involvement in the e-mail matter? If so, who so requested and when?

Thank you for your prompt attention to this matter. If you have any questions, please call me at (202) 225-5074.

Sincerely,

James C. Wilson
Chief Counsel

COVINGTON & BURLING

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MARK H. LYNCH
TEL 202.662.5544
FAX 202.778.5544
MLYNCH@COV.COM

October 16, 2000

BY FAX

Mr. David Kass
Committee on Government Reform
2157 Rayburn House Office Building
House of Representatives
Washington, D.C. 20515-6143

Dear Mr. Kass:

This is to confirm the substance of our conversation earlier today. As you know, on October 13, 2000, Judge Lamberth ruled that he would permit the plaintiffs in the Alexander case to call Lanny Breuer as a witness. In view of this development and the likelihood that plaintiffs' counsel will cover the same topics that are of interest to the Committee, I suggested that it would be more efficient to postpone the interview of Mr. Breuer that was scheduled for 2:00 p.m. this afternoon until after he appears in the Alexander case. This course will enable you to have the benefit of a transcript of Mr. Breuer's testimony before you interview him, and it should save time for everyone.

We are not suggesting that Mr. Breuer's court testimony should take the place of an interview but only that, in the interests of efficiency and conserving everyone's time, the interview should follow the testimony. Accordingly, I want to assure you that Mr. Breuer will be available for an interview to provide you with an opportunity for any reasonable follow-up questions you may have after he testifies. I understand that you would have preferred to conduct the interview today, but I thank you for your understanding of our position.

Sincerely,

Mark H. Lynch

10/16/00 16:00 FAX COVINGTON & BURLING 002

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JANICE D. SCHAKOWSKY, ILLINOIS

BERNARD SANDERS, VERMONT,
INDEPENDENT

October 16, 2000

Mark H. Lynch
Covington & Burling
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Dear Mr. Lynch:

Thank you for your letter of earlier today. I wanted to confirm, in writing, the position of the Committee with respect to the interview of Mr. Breuer. As I expressed in our telephone conversation of earlier today, we would prefer if Mr. Breuer had made himself available for an interview today. As I explained, Committee Members must file additional views for the recently-approved e-mail report by Thursday, and we had hoped to interview Mr. Breuer prior to filing those views.

I appreciate the fact that you are making Mr. Breuer available to the Committee after his testimony in the *Alexander* case. Given the fact that the Committee is investigating White House e-mail issues that are not directly at issue in the *Alexander* case, and unlikely to be the subject of questioning, it is likely that we will need to speak to Mr. Breuer. Given the fact that Mr. Breuer has canceled two scheduled interviews with the Committee, I hope that we will be able to interview him in a timely fashion after his testimony before Judge Lamberth.

Very truly yours,

David A. Kass
Deputy Counsel & Parliamentarian

KING & SPALDING

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ahart@kslaw.com

October 17, 2000

James Wilson, Esquire
Congress of the United States
House of Representatives
Committee on Government Reform
2157 Rayburn House Office Building
Washington, D.C. 20515

Paul Weinberger, Esquire
Congress of the United States
House of Representatives
Committee on Government Reform
511 Ford House Office Building
Washington, D.C. 20515

Re: Documents in Response to the Letter From James Wilson Dated August 28, 2000

Dear Mr. Wilson and Mr. Weinberger:

Enclosed please find documents in response to the letter from James Wilson dated August 28, 2000. Please call me at 202/626-5592, if I can be of further assistance.

Sincerely,

Ann M. Hart

Enclosures

191 PEACHTREE STREET
ATLANTA, GA 30303-1763
TELEPHONE: 404/572-4600
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1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-4003
TELEPHONE: 212/556-2100
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1100 LOUISIANA STREET, SUITE 3300
HOUSTON, TX 77002-5219
TELEPHONE: 713/751-3200
FACSIMILE: 713/751-3290

THE WHITE HOUSE
WASHINGTON

October 17, 2000

By Facsimile and Regular Mail

James C. Wilson
Chief Counsel
Committee on Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Wilson:

In response to your letter of October 11, 2000, please be advised that this Office does not know whether Michelle Peterson or her attorney "were ever instructed to inform [the] Committee of any information contrary to or related to her statements to Committee staff." Moreover, this Office would not presume to "instruct" an individual represented by counsel along the lines suggested by your letter.

Please feel free to call if you have any questions. I may be reached at (202) 456-7804.

Sincerely,

Lisa J. Klem
Associate Counsel to the President

cc: Paul Weinberger, Esq.

THE WHITE HOUSE
WASHINGTON

October 18, 2000

By Facsimile and Regular Mail

James C. Wilson
Chief Counsel
Committee on Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Wilson:

Enclosed please find additional documents relating to the computerized records-management of OVP e-mail, marked with control numbers E 8887 - E 8894. These documents were located during the course of the Office of Administration's review of boxes of documents of a former employee, which had been segregated for archival purposes.

Please note that versions of documents E 8891-93 and E 8893-94 without handwritten notations have been previously produced (as E 6398-99 and E 6400-01). In addition, a nearly identical version of E 8890 has been previously produced (as E 6396).

If you have any questions, please do not hesitate to call.

Sincerely,

Lisa J. Klem
Associate Counsel to the President

Enclosures

cc: Paul Weinberger, Esq.
(w/encls.)

Howard M. Sparks
04/26/99 05:56:04 PM

Record Type: Record

To: Dorothy E. Cleal[redacted]

cc:
Subject: Network Problems for OVP (4/26/99)

Dottie,

OVP Problem Analysis:

A detailed analysis of today's OVP problems resulted in identification of WINS on Backup Domain Controller-109 (BDC-109) as the source.

It was determined that BDC-109 did not have an entry identifying the name OVP2, and as such was unable to resolve that name to the address of 165.119.120.207 which is the IP address of the OVP2 server.

In order to understand what this means it's important to understand how and what a WINS is. A WINS server (Windows Internet Name Service) server provides name resolution to workstations.

During start-up a workstation asks for an IP address from a DHCP server (process). This workstation then contacts its WINS server, (DHCP also tells it the address for the WINS) and provides its Host name information, which the WINS server stores in a database, along with the workstations IP address. WINS' primary function is to provide an address for devices registered with it, when a requesting system asks for it by name (netbios is the protocol).

In the case of the workstations attempting to located the OVP2 server, the server's address and netbios name were not registered within the WINS running on BDC-109. Hence, the log-in process failed to acquire that server because it was unable to locate it.

Each of the affected workstations were still logged onto the network, though there were little assets on the network they would have been able to use....

In this example, OVP2 would have registered, during start-up with BDC-OEOB1, and not the BDC-109 WINS which was being used by the VP clients. However, the information about the OVP2 server, as with all Windows NT devices should have been available on BDC-109 because WINS information is replicated to all WINS servers.... Here however, this appears to have not happened properly....

To ensure that this problem will not repeat itself for the VP and his immediate staff (Paul Cusack; Wendy New; Patty McHugh), Mac Baine has configured each workstation to point directly to BDC-OEOB1 as their WINS server. These are the only VP staff working in the White House, and who's workstations are residing on Subnet 109 (BDC-109).

Future Concerns:

When rendering an opinion of potential problems for the VP and his immediate staff, I pulled together staff

with direct involvement in Network Communication, Server Configuration, and Workstation Operation. We looked at how the network operates, its configuration and how that relates to NT, both at the server and the workstation.

What we have found is the byproduct of years of neglect which sets the stage for significant, unpredictable, unreliable operation. Subnet 109 is a good example of how things have gone wrong, and even though advances have been made, there still lurks potential for trouble... In addition, it is highly speculated that the problem of disappearing folders and tool bars, are directly related to these significant issues as well.

Ethernet networks, such as are deployed here at the EOP are generally concidered healthy below 15% utilization, manageable from 15% to 25%, and unstable from 25% to 33%.... Above 33% average utilization ethernet segments begin to suffer from a process in which they tend to feed off of themselves such that utilization increases at an unpredictable rate of change, and with this increased utilization, less and less true data is passed.

Many areas around the EOP are being subjected to normal traffic levels in the 25% to 33% range, with some even higher. NT 4 subjected borderline networks to just enough increase in traffic as necessary to push them over the limit. As such, we are now seeing a marked increase in problems which go away after a reboot of a workstation (i.e... tool bar).

In addition, we have found that replication of data between BDC's (WINS servers) has become unreliable, and normal configurations such as setting up NT to run policies from a network Log-in server, are also unreliable.

To address these issues the Network Infrastructure Branch requested $1.35 Million in CIP funds to implement upgrades to the EOP's infrastructure. These funds have been primarily earmarked for the OEOB where the cabling infrastructure impedes data distribution available through modern switched networking components. We are currently looking at approximately $400K worth of cable upgrades which should take place this fiscal year (GSA is working with us on a quote). In addition, approximately $500K is slated to purchase the equipment that will connect together the new cabling and provide support, such as subnet 109, which had two new ethernet switches installed to support the VP and his immediate staff. This is just one area in which we saw an impending need, even prior to the commencement of the NT rollout.

Also, the Network Infrastructure Branch is in the process of reducing the number of BDC's that were installed during the NT 3.51 rollout. Microsoft instructs us that we should be running 2 BDC's and 1 PDC. The advantages of this configuration are manageability, maintainability, reduced cost of ownership, and a significant reduction in network traffic currently being generated by the 30+ BDC's installed today. This change in configuration has already been accomplished in OMB, is scheduled to occur in the OEOB the weekend of May 1st, and will conclude with the rest of the NEOB (the primary domain controller) EOP-Prime after the completion of Novell to NT sometime later in May.

Not all problems are as simple as those above however... During the installation of NT 3.51 the engineers compensated for problems they encountered with communications by mandating configuration changes to the main backbone routers. These changes transformed the EOP's routed network into a bridged configuration. This means that traffic generated in one area of the network travels across the routers to areas of the network to which it was not intended to go. Normally, a properly configured network would only pass traffic to other subnets if the traffic was addressed to a device there.. The most significant form of traffic reaching all areas of the network is called broadcast traffic. Broadcast traffic is primarily devices announcing to other devices that they are on the network. This is a very significant issue.

The Network Infrastructure Branch is in the process of analyzing the traffic patterns of the EOP network. This information is necessary for the proper configuration of these devices. Improperly configured,

systems who need to talk together may be prohibited from doing so causing system failures. If configured to loosely, as is the case today, traffic levels around the network are elevated causing intermittent failures. In addition, uninhibited communication patterns are seen by many as a security risk. At the conclusion of the analysis, NI staff will begin to reconfigure the main backbone routers for optimal system operation.

Finally, $150K of CIP funding has been requested and made available for implementation of Software for monitoring, proactively, network health. This new system will notify support staff to, or automatically, respond when conditions exist which fall outside of normal operating parameters. This implementation will begin during May, and will continue as new features are identified, and implemented.

Respectfully,

Chip

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF ADMINISTRATION
Washington, D.C. 20503

20 April 1999

To: Chip Sparks
James Wright
Sharon Mitchell
Karl Heissner

Please review the attached information and prepare responses to the questions that have been raised. I&T needs to provide official feedback to the VP's office next week.

Christa will be coordinating a meeting by early next week with Mon/Tuesday to discuss our formal response. Please be prepared Dottie

Dottie

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF ADMINISTRATION
WASHINGTON, D.C. 20503

April 15, 1999

MEMORANDUM FOR MARK F. LINDSAY
ACTING DIRECTOR
OFFICE OF ADMINISTRATION

THROUGH: MICHAEL J. LYLE
GENERAL COUNSEL
OFFICE OF ADMINISTRATION

FROM: DOROTHY E. CLEAL Dottie Cleal
ASSOCIATE DIRECTOR
INFORMATION SYSTEMS & TECHNOLOGY

SUBJECT: Synopsis of Vice President's Computer Problem on April 2, 1999

I have reviewed Northrup Grumman's evaluation of the Vice President's computer incident which occurred on April 2, 1999, and I concur with the facts and proposed corrective actions as submitted. Key to this issue is that three days of the Vice President's mail has been irretrievably lost. I do not know the legal ramifications due to this problem.

I have also identified additional IS&T management issues which I believe could use closer scrutiny. I am currently reviewing these items with my staff and will submit my findings once I have completed a thorough internal review. The items that I am looking into includes:

- What action, if any, can be taken to prevent the irretrievable loss of files? → integration issue – That all configurations are configured to a specified standard
- What process was used in transferring the OVP servers to IS&T? The servers were transferred as is, from the OVP location to EOP. A review of the configuration was not done. This was done because of environmental concerns (HEAT)
- What Standard ~~Operational~~ Procedures for ~~server~~ configuration upgrades is in place currently? What ones need to be implemented/revised? By whom? Network Infrastructure Branch should establish all standards and reviews – Configuration
- The need for an internal policy regarding designation of responsibility letters for government staff personnel associated with specific equipment. → The organization structure as developed to a significant degree defines the Branch responsibilities.

E 8891

- Current level of government involvement, guidance and oversight in Northrup Grumman activities including server upgrades, etc. — The network [illegible] and provide guidance and [illegible] to NG on [illegible] matters [illegible] network infrastructure and server engineering.
- What other quality assurance procedures need/should be implemented? — There should be Walk Thru Bayne each upgrade. Design / configuration
- Ensure that a back up computer for the Vice President is always ready in the event of emergencies/problems. → Office can purchase one - Lock-Tap.
  Implement procedures to ensure that upgrades are installed as they occur. Identify if there are any other instances where this support may be needed. [illegible] installation [illegible] How Best to keep [illegible] not perform [illegible] ?
- Clarify requirements/policy/funding for Mack Bayne's (NG) selection as Vice President Gore's IT support technician. Ensure that a qualified back up is clearly identified and trained. →

It is clear that this error was caused as a result of human error and a lack good oversight or well-defined procedures or contingencies. I have personally discussed this matter with Messrs. Gregg Donley and Bill Carty (Northrup Grumman) and have received their assurances that Northrup Grumman will aggressively address matters under their purview. This matter will be closely reviewed by the proposed Northrup Grumman Tiger Team. I am told that Mr. Donley will discuss the Tiger Team concept and Northrup Grumman's proposed actions regarding overall contract performance improvements directly with you on Tuesday, April 20th.

Attachment

NORTHROP GRUMMAN

EOPNG-98-0145

To: Ms. Dottie Cleal
Associate Director, IS&T

From: Robert E. Whiteman
Acting Program Manager

Date: April 14, 1999

Subject: VP Notes Problem

Issue:

On Friday, April 2, at about 10:15 a.m. Ms. Sharon Mitchell reported to Mr. Bob Haas that the Vice President was having problems with his Lotus Notes mail. Bob began investigation and discovered that the index file for the Vice President was truncated. This is a problem well known to Lotus and is very widely documented. There is no way to repair truncated files in Lotus Notes.

Background:

Once the problem was identified, Northrop Grumman immediately responded and discovered that the Vice President's laptop was located at the West Wing of the White House. IS&T retrieved the laptop before noon and delivered it to the computer lab for diagnostic evaluation. The Vice President's laptop is locked down with software and hardware security measures. Due to the size of the index file, the only feasible method of recovery is to connect to the network. Connection to the network is achieved through the use of a PCMCIA network interface card (NIC). However, the PCMCIA NIC did not work and when staff personnel tried to load new PCMCIA card software drivers it was discovered that the floppy disk drive also did not work. At about 3:00 p.m. Northrop Grumman contacted outside associates and borrowed an external floppy drive which was subsequently delivered to the lab at 3:18 p.m. At this time, Northrop Grumman got the NIC to operate in the laptop and connected it to the network. The index file was uploaded at 3:52 p.m. and it was completed by 4:20 p.m.

Key Issues:

- The Vice President's files are managed differently from the rest of EOP.
- Staff personnel responded upon immediate notification of the problem.
- The primary IT support technician assigned to the Vice President's office was out sick (due to an automobile accident). This created some discomfort for the Vice President's staff.
- A qualified backup technician was assigned to assist. He was familiar with the Vice President's staff/office and had performed work for the Vice President in the past. He also was in contact via telephone with the primary IT support technician.

Extent of the Problem: how caused

how faulty

In the process of our investigation of the problem, it was determined that:

- Due to a truncated file, The Vice President was unable to send or receive e-mail.
- The Vice Presidents laptop (from the West Wing) had a faulty external floppy disk drive and there were no spare parts or a back up laptop available.
- When the OVP server was migrated to NT 4.0 it was configured with the IS & T standard of three partitions. One each for the system, application and data files. Upon attempting to restore the Vice Presidents data it was discovered that the tape system reflected a previous OVP convention of two partitions; one for system files, the other for both application and data files. Due to this, no data files have been backed up to tape since the OVP server migration. – Since the Book copy data from the data Partition.
- Three days of the Vice Presidents e-mail has been irretrievably lost as a result of this problem.

Corrective Action:

At 4:25 p.m. Bob Haas was notified that the index file was uploaded to the network and he began the process of replacing it into the Vice President's account. This was accomplished at 4:48 p.m. At 5:00 p.m. the Vice President was able to open mail files successfully.

Preventative Measures:

1. Senior headquarters was notified of this problem and is tracking this issue through to completion.
2. All Northrop Grumman Network and Operations personnel have been appraised of the situation and corrective procedures have been discussed. – Government. Reviews.
3. The OVP server has been included in the server backup procedure.
4. A directive will be implemented in which Northrop Grumman will change the backup procedure to ensure that a selected number of files will be restored from each full backup taken to ensure that, not only are the files backed up, but also they are recoverable. – done
5. The server upgrade checklist will be updated to check to ensure that all files are properly included in the server backup process.
6. Northrop Grumman will request that an additional 250-MB of memory will be added to the OVP server to reduce the resource constraint on processing. – Is this part of the Problem?
7. IS & T will order spare laptop computers for the President and Vice President. Northrop Grumman will load the appropriate software as soon as they arrive. These spares will be dedicated for the two principals. – Must be Locked/Secured for Spare use Only.

Secured

– How do we maintain an acceptable configuration. Since VP office loads software onto his PC @ for various reasons.

ADDITIONAL VIEWS
APPENDIX II

DETAILED CHRONOLOGIES

DETAILED CHRONOLOGIES

A. White House Chronology

Notes: "*" refers to correspondence included in Appendix I.
"**" indicates information gathered from interviews, hearings, or news accounts.

DATE	SUMMARY	Exhibit Number(s)
9/??/96	A computer contractor mislabels a White House e-mail server "Mail2" instead of "MAIL2" causing incoming e-mail not to be recorded.	**
3/4/97	Barry e-mail to McGinnis, Blackwood, Myers, Benjamin, Doering, and [Callahan] requesting McGinnis write a paragraph on restoration efforts for his draft "memo for the record" re: 10,000+ lost e-mails.	17
10/21/97	Ruff, WH Counsel, letter to Dick Bennett, Government Reform and Oversight Committee, certifying that "[an ARMS search of White House e-mail] will yield any responsive e-mail either sent to or from any individual in [the White House]."	54
12/2/97	Attorney General Reno declines to appoint an independent counsel to investigate telephone fundraising by President Clinton or Vice President Gore.	**
1/21/98	Lewinsky scandal breaks.	**
1/30/98	Barry incident report describing e-mail anomaly with Lewinsky (INTERNETUSER1) and Raines (EOPUSER1) e-mail (with handwritten notes at bottom).	49
3/4/98	Barry declaration in *Alexander v. FBI* civil suit. Paragraph 11 includes reference to archiving of White House e-mail similar to that in paragraph 4 of Barry's later July 9, 1999, declaration.	188
3/12/98	Ada Posey, then-Director of OA, testifies before Congressman Kolbe's Treasury, Postal Service, and General Government Appropriations Subcommittee. She states that the fencing of funds forced them to "cannibalize equipment that we used for development projects in preparation for our Y2K assessment . . ." She further states that this "had an impact on the morale of my staff." Cong. Kolbe responds, "We have not been doing this to demoralize your staff, to cause a hardship. We have fenced this in order to try to direct the White House to get this modernization program on track. . . . We released that money to you almost, I believe, 11 months ago. So you have had the funds from the previous year released to you." Posey responds, "It is very difficult to tell people who are working extraordinarily hard, 10 to 14 hours a day, who are career staff like Laura [Callahan] here, that I cannot get the monies to help them do their job, their tools, because there are things we have to do first."	**
5/16/98	NG meeting discussing e-mails that could bypass records management and be deleted.	10
5/16/98	Author(?) meeting notes from Tues. May 16 (but this date does not fall on Tues.) discussing e-mail problem and possible solutions. Attendees: Lambuth, Spriggs, Golas, Haas, and Salim.	65
6/1/98	Apuzzo e-mail to EOP Staff (including OA, WHO) suggesting deleting e-mail messages or saving them to individual computers to save disk space.	16
6/8/98	Barry e-mail to Wright and Gallant indicating his deposition in *Alexander* is on Thursday. Gilligan (DOJ) and Paxton (WH Counsel) requested Tues. and Wed. as dates to prepare Barry.	18
6/11/98	Barry is deposed in the *Alexander* case.	**
6/12/98	Haas e-mail to Lambuth and Salim identifying discovery of e-mail problem where e-mail documents could bypass records management.	12
6/15/98	Meeting between Lambuth and Callahan discussing Mail2 problem (Mark Lindsay involved via speakerphone). Lambuth later testifies that Callahan threatened her with termination, arrest, and jail if she disclosed the problem to anyone. Callahan later testifies that she did not threaten but only informed Lambuth of the standard operating procedures. Bob Haas, who was also at the meeting, also later testifies that Callahan threatened jail. Sandra Golas also later testifies that she remembers the threat of jail. Bob Spriggs and Yiman Salim later testify that they remember warnings not to disclose, but do not remember threats of jail. Spriggs later recalls being threatened generally.	**
6/15/98	Lambuth later testifies that she had a follow-up meeting with Mark Lindsay, after the initial meeting with Callahan, in which he repeated the threat of jail if she or anyone else disclosed the e-mail problem.	**
6/18/98	Draft document (author unknown) faxed from OA General Counsel to OA Director describing computer anomaly, including cause, background, and scope. Includes handwritten notes: "This list does not include 'regular' internal e-mail. MFL" This is most likely Mark Lindsay's initials.	50
6/18/98	NG document listing affected e-mail users: 501 EOP addresses, 471 have mismanaged e-mails. Total unreviewed e-mails on 6/18 = 246,083 (tabulation by Committee staff).	62
6/19/98	Apuzzo memo to Podesta advising of anomaly in Mail2 server. Various copies include handwritten notes: Apuzzo to Ruff: "sent this memo to John this afternoon" Podesta to Apuzzo: "Please ask Mark to brief me."	1–5
6/19/98	Apuzzo/Podesta memo with notations from Adam Greenstone and sent to Brooks Scoville indicating that the memo was prepared by Laura [Callahan] on 6/19/98.	131
6/19/98	Apuzzo/Podesta memo instead addressed to Mark Lindsay from Paulette Cichon.	136

6/19/98	Charles Ruff calendar entry indicating 4:30 p.m. meeting with Lindsay and Mills.	48
6/20/98	Podesta calendar entry for meeting with "Ginny" (3:00 p.m.)	See A.V. Appendix I
7/10/98	Barry e-mail to Wright indicating he reviewed *Alexander* deposition transcript. Made changes and faxed to Feingold [sic] at DOJ.	114
7/21/98	Gallant e-mail to Hawkins and Wright regarding the Lambuth transition. "If Jim Webster is the person, then we need to introduce him to Laura and Sheryl and get the transitions underway."	39
7/23/98	Anderson e-mail to Posey; cc: Lindsay, Bryan, and Cichon. "Ada: Based upon our recent meetings with NG related to the Y2K assessment, it is imperative that we immediately appoint a new COTR to handle the NG contract (non-Y2K related work). Given some of NG's statements/warnings and the fact that they appeared to know our every move, I am very concerned that the current COTR and NG's PM are not operating at arm's length. When a contractor briefs you that 'they (meaning us!) don't want to make a big legal thing about this but they need to make sure they have a report with NG and JM's names on it,' there is clearly a problem. . . . Now that we know there is a problem, we need to act. Although the current COTR has served us well over the years, it is time for a change. My recommendation is that we redress this immediately." (12:17:47)	168
7/23/98	Doering e-mail to Wright attaching Doering and Miller's report (in unreadable hex format).	119
7/24/98	Barry e-mail to Wright indicating no movement on Mail2 problem, but plan for fixing it has been submitted. (12:18:31)	119
7/24/98	Barry e-mail to Wright, Hawkins, Gallant, and [Callahan] discussing e-mail problems: "small changes . . . cause huge repercussions . . . happened yesterday and we got burned . . . have to get our hands around the management of NOTES/ARMS . . . soon." (12:55:04)	21
7/24/98	Wright e-mail to Gallant forwarding 7/23/98 Doering and Miller report and 7/24/98 Barry e-mail re: movement on Mail2. (17:05:25)	119
7/29/98	(Author unknown) meeting notes regarding Mail2 problem. 6/12/98 – discovered problem that e-mail documents could bypass record management. 5/16? – discovered Mail2 databases not processing correctly.	11
7/30/98	Barry e-mail to Wright discussing weekly reconstruction meeting. No movement on Mail2, but submitted plan for fixing problem.	22
7/31/98	Podesta calendar entry for meeting with "Mark Lindsay/Record Mgmt Brief" (3:00 p.m. – 3:30 p.m.)	See A.V. Appendix I
8/4/98	Podesta calendar entry for meeting with "Mark Lindsay" (1:00 p.m. – 1:30 p.m.)	See A.V. Appendix I
8/13/98	Barry e-mail to Wright following up on Tues. Mail2 discussions – no movement to fix problem. Golas, Spriggs, and Haas say no movement on their side (their last activity meeting was before Lambuth left on 7/98). Have only had contact with Wright, Gallant, Lambuth, Golas, Haas, and Spriggs on the project – no other government person. Barry unclear of his role – frustrated. Recommends "the records be recreated and any searches need to be reperformed." Mentions his "concerns and frustration level." (07:21:01)	52
8/13/98	Gallant e-mail to Wright and Barry stating Webster is replacing Lambuth (he had meeting with Cichon, Golas, Spriggs, and Haas). Agrees with Barry – need for new searches – "need direction from OA counsel on that front." (11:49:03)	40
8/13/98	Wright e-mail to Webster and Barry forwarding 8/13 Gallant e-mail asking when the three of them can meet on this.	53
8/13/98	Wright e-mail to Barry, Gallant, and Records Management replying to Barry's previous e-mail. Wright indicates there is movement to get situation back on track. Cichon briefed "Welsh" that he can now proceed. Set up meeting with "Welsh" for direction. (07:37:13) (Note: "Welsh" is actually Jim Webster).	52
8/17/98	President Clinton testifies for the grand jury and tells the nation that he had an "inappropriate relationship" with Monica Lewinsky.	**
8/28/98	Hawkins memo to Patton, Anderson, Barry, Cichon, Crabtree [now Callahan], Doran, Fuller, Gallant, Hall, Heissner, McKay, Pannell, Posey, Roscoe, Sparks, Walford, and Wright re: weekly report (8/20-8/26). "Holiday Card Application" continues to be developed by Lotus Notes team. On 8/24, demonstrated this application to EOP management.	80
9/1/98	Barry e-mail to Webster and Wright requesting meeting to discuss plan for proceeding with Mail2 problem. Barry spoke with Gallant in the morning about problem. (03:15:24)	25
9/1/98	Webster e-mail to Spriggs, Golas, Haas, Salim wanting meeting with Barry on their "favorite issue" after they reach agreement with NG to complete task. (03:20:14)	120
9/1/98	Golas e-mail to Vasta inquiring if he talked to Mark Lindsay yet (forwards 9/1/98 Webster and Barry e-mails). (15:36:43)	120
9/9/98 (Wed.)	Lucente (NG) meets with Golas, Hass, and Spriggs. They tell him about threats, express concern about document searches, and say they have been prohibited from speaking to superiors. He feels they have been treated unfairly.	**
9/10/98	Barry e-mail to Gallant and Wright indicating he is "growing increasingly concerned" about lack of movement on Mail2 and that the root problem has not been fixed for 4 months. (07:58:36)	113
9/10/98	Wright e-mail to Barry responding to his 9/10 e-mail – saying they should talk the next morning. (02:02:01)	113
9/11/98	House of Representatives releases the Report of Independent Counsel Starr to the public.	**
9/11/98	Earl Silbert has a teleconference with Northrop Grumman counsel and Northrop Grumman employee. (1.25 hrs.)	202
9/11/98	Earl Silbert has a teleconference with Northrop Grumman [counsel]. (.75 hrs.)	202
9/12/98	Earl Silbert reviews document. (.25 hrs.)	202
9/12/98	Earl Silbert has teleconference with Northrop Grumman counsel. (.50 hrs.)	202

9/14/98	Lucente (NG) letter to Helms notifying him of dysfunction in e-mail detected in late May. Callahan was notified of problem and froze NG management out of remedial action. Tells Helms that "As a consequence we are not proceeding with our efforts to remedy the dysfunction until we have received further contractual direction."	64
9/15/98	Earl Silbert has teleconference with Northrop Grumman counsel. (.25 hrs.)	202
9/15/98	Barry e-mail to Webster, Gallant, and Wright asking if Webster canceled meeting addressing "righting the wrong" phase of the project. (E 4015)	120
9/22/98	Earl Silbert has teleconference with Northrop Grumman counsel. (.25 hrs.)	202
9/25/98	Barry e-mail to Gallant and Wright indicating there has still been no movement on Mail2 problem, even though sent "concerned memo" 2 weeks ago – needs to know role for his "own sanity." (08:59:14)	109
9/25/98	Gallant e-mail to Barry and Wright responding to 9/25 Barry e-mail. Gallant had meeting yesterday with Vasta, Logicon Project Manager, Spriggs, and Webster on Mail2. Notes team came up with strategy and that "Contracts is aware of the whole mess . . . Please – no jumping out the window -- it's not necessary!!" (15:19:39)	109
9/25/98	Wright e-mail to Barry responding to 9/25 Barry e-mail – NG will not proceed without direct specifications. (16:36:51)	110
9/28/98	Earl Silbert has teleconference with "White House counsel." (.25 hrs.)	202
10/9/98 (Fri.)	Earl Silbert has teleconference with Northrop Grumman counsel. (.25 hrs.)	202
10/10/98 (Sat.)	Laura Callahan leaves the EOP. (approximate date given by Callahan in her testimony before the Committee)	**
10/13/98	Barry e-mail to Vanfossan, Kouba and Hochuli listing 4 projects he can see happening in near future but not budgeted for -- #3: Project X – estimated cost $250,000.	115
11/12/98	Barry e-mail to Vasta, Spriggs, Patton, Wright, Roscoe, Helms indicating they need to discuss Mail2. Can't proceed with task as described in IWO. Want to discuss. (07:01:52)	76
11/12/98	Barry e-mail to Patton, Helms, Roscoe and Wright stating NG needs technical guidance on response to Mail2 IWO. (7:46:16)	30
11/13/98	Barry e-mail to Wright and Moyle stating that the Government needs to get a response on the Mail2 IWO for the contractor.	31
11/16/98	Barry e-mail to Hall, Spriggs, Vasta, and Wright requesting discussion on course of action for moving Mail2 forward. (08:06:35)	121
11/16/98	Barry e-mail to Heissner forwarding 11/16 Barry e-mail requesting discussion on Mail2. (13:13:21)	121
11/16/98	Vasta e-mail to Spriggs forwarding 11/12 Barry e-mail requesting meeting to discuss Mail2. Vasta asks Spriggs if he is available Thurs. or Fri. to meet with Barry. (07:17 am)	76
11/20/98	Barry e-mail to Moyle and Wright indicating staff failing to follow project procedures. Had meeting with Heissner, NG, and Hall – Mail2 project responsibility to Heissner. (07:02:09)	103
11/20/98	Moyle e-mail to Schott [now Cleal] forwarding 11/20 Barry e-mail. (16:20:30)	104
11/23/98	The "bleeding" is stopped on Mail2.	**
11/24/98	Attorney General Reno declines to appoint an independent counsel to investigate Vice President Gore's solicitations from the White House.	**
12/2/98	Breeding e-mail to Vasta indicating ROM for Mail2 reconstruction is $602,492. (08:23:32)	72
12/2/98	Breeding e-mail to David G. Peterson forwarding 12/2 Breeding e-mail to Vasta indicating ROM for Mail2 reconstruction is $602,492. (08:26:22)	72
12/2/98	Barry e-mail to Heissner indicating receipt of NG cost to do Mail2 - $602,492, but price does not include restoration. (13:22:53)	122
12/2/98	Vasta memo to Patton re: weekly COTR meeting (11/20/98) indicating NG expressed concern of some Government representatives approaching NG employees to do tasks. Government agreed to make requests through NG management. (handwritten note on NGL 00270 in original)	70
12/4/98	Publication date of initial *Insight* article on "Computer Glitch Leads to Trove of 'Lost' E-mails at White House." Barry Toiv confirms the problem but claims that e-mails were duplicative.	**
12/7/98	Attorney General Reno declines to appoint an independent counsel to investigate President Clinton's role in 1996 fundraising activities.	**
12/11/98	Vasta memo to Patton, Barry, Helms, Roscoe, Breeding, and David G. Peterson re: weekly COTR meeting (12/9/98). At the weekly COTR meeting on 12/9/98, Northrop Grumman notified the "Government" about *Insight* magazine article. NG agreed to Government request to do one tape evaluation.	63
12/12/98	House Judiciary Committee approves articles of impeachment against President Clinton.	**
12/15/98	Earl Silbert has a teleconference with Northrop Grumman counsel. (.50 hrs.)	202
12/18/98	Vasta memo to Patton, Barry, Helms, Roscoe, Breeding and David G. Peterson re: weekly COTR meeting (12/16/98). No change in Mail2 status. IWO/ROM given to Government at 12/2 COTR meeting. Government agreed that at least one tape evaluation should be performed to validate reconstruction process.	73
12/19/98	The House of Representatives impeaches President Clinton.	**

12/22/98	Shay pager text message to Holt and Raines alerting them Mail2 problems are under investigation. (10:59:21)	90
12/22/98	Shay pager text message to Sharma, Smith, Shay, Morris, Dawson, Chasez, [Cleal], Van Horn, Ribeiro, Reese, Hall, Vasta, Wright, Whiteman, EOPDC Operations, Mitchell, Lindsay, Heissner, Drenning, Crumling, Cavazos, and Bartholomew alerting them Mail2 problems are under investigation by a network group. (11:00:03)	91
12/22/98	Vanfossan e-mail to Ehrlich, Kalnins, Jones, Winslow, Washington, and Budget – OMB indicating preparation of Armstrong analysis – OA given resources to comply with lawsuit/Mail2 reconstruction. (14:26:13)	112
12/23/98	Vasta memo to Patton, Barry, Helms, and David Peterson re: weekly COTR meeting (12/23/98). Mail2 ROM outstanding – no feedback. NG identified 788 tapes for reconstruction. Handwritten note on memo: "Delivered 12/29/98 1530 hrs."	67
12/24/98	Barry e-mail to Kouba and [Cleal] listing three tiers of Armstrong projects not in progress or funded. Mail2 is in third tier (project that could be done, but not vital). Cost of Mail2: 1999 = $650k / 2000 = $1million.	32
12/30/98	Earl Silbert has a teleconference with "White House counsel." (.25 hrs.)	202
1/8/99	[Cleal] e-mail to Moyle, Barry, Wright, and Heissner stating "Project X" should only be called by its real name. (09:49:21)	107
1/8/99	Moyle e-mail to [Cleal] asking for the real name of "Project X." (09:51:55)	107
1/8/99	Heissner e-mail to [Cleal] indicating real name of "Project X" is "Notes/ARMS Interface Failure." (12:40:26)	108
1/8/99	Barry e-mail to Wright and Moyle. Weekly summary includes Sid Blumenthal e-mails removed from ARMS issue. Also includes Armstrong briefing given to Kate Anderson and OA General Counsel – moving Project X forward.	129
1/14/99	Barry e-mail to Kouba requesting "Project X" designation be removed from ARMS financial sheet.	33
1/22/99	Vasta memo to Patton, Barry, Helms, and Roscoe re: weekly COTR meeting (1/20/99) indicating NG "still awaiting Government response to documentation previously submitted."	69
1/26/99	Barry e-mail to Cleal inquiring if Mail2 reconstruction should be added to the list for the EOP Executive hearing preparation.	85
1/29/99	Attorney General Reno declines to appoint an independent counsel to investigate Harold Ickes' role in 1996 fundraising activities.	**
2/1/99	Cleal e-mail to Barry, Wright, Doering, Anderson, and Lyle requesting meeting set up discussing overview of intentions/ramifications "before we delete anything." (7:55:24)	34
2/1/99	Barry e-mail to Moyle and Wright indicating need to schedule meeting with Dottie on deletion of ARMS records. (10:19:39)	34
2/1/99	Cleal e-mail to Wright, Mitchell, Fuller, Misich, Barry, Heissner, Sigman, McKay, and Sparks scheduling 4 p.m. meeting to review issues for Appropriations Hearing – Need help from Tony Barry – Mail2. (12:52:36)	128
2/1/99	Barry e-mail to Cleal and Wright stating Barry's name should be removed and replaced with Heissner's on Appropriations hearing paper – "it's in his hands." (13:21:16)	105
2/2/99	Vasta memo to Patton, Barry, Helms, and Roscoe re: weekly COTR meeting (1/27/99). Government asked about NG methodology re: tape inventory and tracking. Government said its effort to automate tape inventory/tracking functions were not going to happen. Government asked NG to revisit 10/97 issue, when NG awarded EOP contract, and provide tape inventory from that point.	75
2/5/99	Heissner e-mail to ? (not listed) indicating "let sleeping dogs lie." He's glad to write response for Congress/litigant info. request for Mail2 – but does "not want to call undue attention to the issue." (09:06:44)	81
2/5/99	Heissner e-mail Cleal forwarding his "let sleeping dogs lie" e-mail. (09:08:46)	82
2/8/99	Barry e-mail to Whiteman, Bartholomew, Spriggs, Golas, Doering, and Wright indicating Notes/ARMS interface fails to include BCC addresses. Needs to be investigated and fixed.	35
2/9/99	Whiteman e-mail to Salim forwarding 2/8 Barry e-mail on Notes/ARMS problem.	36
2/12/99	The Senate acquits President Clinton on the Impeachment charges.	**
2/19/99	Vasta memo to Patton, Barry, Helms, and Roscoe re: weekly COTR meeting (2/17/98) indicating no change in Mail2 reconstruction.	68
2/23/99	Cleal e-mail to Moyle forwarding Heissner's "let sleeping dogs lie" e-mail.	83
2/24/99	Barry e-mail to Greenstone, Wright, Fuller, Misich, Sigman, Cleal, Moyle indicating, contrary to red bullet in draft hearing paper, no work has been done on Mail2 reconstruction. Suggests discussing with Heissner. (07:18:19)	92
2/24/99	Barry e-mail to Sigman indicating no work has been done on Mail2 reconstruction – contrary to red bullet in draft hearing paper. Suggests discussing with Heissner. (07:22:58)	93
2/24/99	Moyle e-mail to Heissner asking what Barry is talking about in 2/24 Barry e-mail. (10:32:04)	92
2/24/99	Heissner e-mail to Moyle giving "more nearly accurate version" for paper that they are "awaiting funding and management decision to proceed" (vs. "reconstruction has begun"). (12:00:05)	94
2/24/99	Moyle e-mail to Greenstone forwarding 2/24 Heissner e-mail of "more nearly accurate version." (13:04:54)	94
2/24/99	Moyle e-mail to Greenstone forwarding 2/24 Barry e-mail that, contrary to draft hearing paper, no work done on Mail2. (13:04:08)	97
2/24/99	Barry e-mail to Adam Greenstone. Bullet on Mail2 Reconstruction includes redline of statement "Reconstruction has begun through periodic backup tapes." And "Karl" written in the margins next to the edit.	135

2/24/99	Draft of appropriations hearing preparation document with changes given by "Kate," including an accurate, descriptive bullet point on "Mail 2 Reconstruction." This bullet is manually crossed out.	134
2/24/99	Draft of appropriations hearing preparation document with changes given by "Dottie."	133
Undated	Final version of 2/24/99 appropriations hearing preparation document with changes incorporated and without Mail2 bullet (no date given)	132
3/2/99	Mark Lindsay testifies before Congressman Kolbe's Appropriations Subcommittee. He does not inform the Subcommittee of the Mail2 problem.	**
3/3/99	VanHorn e-mail to Heissner indicating there may be reconstruction with "Project X" at some point. (11:55:38)	106
3/3/99	Heissner e-mail to VanHorn indicating "Project X" is called "Mail2 Records Reconstruction Project" and there will be no problem if he restores data on the server being removed. (13:26:34)	106
3/12/99	Doering e-mail to Cleal, Barry, Wright, and Heissner indicating she reviewed Barry's proposal – added consideration of reconstruction. Heissner plans on having meeting next week on Server 2 (re: cost, difficulty).	43
3/16/99	Cleal e-mail to Sigman, Wright, and Doering requesting solution for cost of tapes for mail backups. (02:36:20)	116
3/17/99	Heissner e-mail to Doering, Barry, and Bartholomew requesting meeting for next day at 11 a.m. on Mail2 recovery. (07:44:04)	123
3/17/99	Doering e-mail to Cleal,Wright, and Sigman responding to 3/16 Cleal e-mail - problem because NG required IWO and tapes are piling up. "As long as backup tapes keep piling up – it's costing money. It will cost money to do nothing." "Action: Punt!! Smile!!" (02:51:36)	116
3/17/99	Cleal e-mail to Patton, Heissner, Doering, Wright, and Sigman responding to 3/17 Doering e-mail. Wants to know if NG should be doing something under the base contract re: restoration. (03:11:47)	116
3/18/99	Patton e-mail to Cleal, Heissner, Doering, Wright, and Sigman indicating NG inherited the problem and should be doing something under the base contract. Heissner having meeting on restoration today. (11:11:45)	116
3/18/99	Barry e-mail to Patton, Heissner, and Doering indicating Mail2 bleeding may still be occurring (Millennium acct.) – NG should investigate and report back. (12:43:31)	37
3/18/99	Heissner e-mail to Patton, Cleal, Doering, Wright, and Sigman responding to 3/18 Patton e-mail. Operations is not under Heissner's purview. (13:04:26)	116
3/18/99	Kouba e-mail to Anderson, Cleal, Heissner, Barry, Vanfossan, Doering, Lyle (re: Armstrong talking points (used to brief Apuzzo)) General Counsel determined Armstrong funding can be used for Mail2 and first steps on this project underway. (13:12:15)	98
3/18/99	Kouba e-mail to Anderson, Lyle, Barry, Doering, Heissner, Vanfossan, and Cleal; re:Armstrong 3/19 talking points. "No determination on the use of Armstrong funds for ARMS/NARA tape conversion will be made until the issue of the $500K NARA transfer is settled." (01:12:31)	95
3/18/99	Anderson e-mail to Kouba making changes to 3/18 Kouba e-mail Armstrong talking points – deleted last bullet until confirmed with Lyle. (01:46:19)	95
3/18/99	Kouba e-mail to Doering, Cleal, Heissner, Barry, and Vanfossan forwarding 3/18 Anderson changes and indicating "Mail2 reconstruction is back on hold until additional confirmation is received." (13:57:55)	95
3/19/99	Heissner e-mail to Doering, Barry, Bartholomew, and Cleal indicating Heissner and Barry met yesterday to discuss Mail2. Earlier recommendations still valid: Heissner-obtain management direction and develop strategy. "Action had been pending awaiting direction to proceed and the identification of a source of funding from OA Counsel. Joe Kuba [sic] today indicated that OA Counsel had approved using Armstrong Funds for this work. . . . Note: According to yesterday's memorandum from Kate Anderson this project is currently on HOLD awaiting approval from OA Counsel." (07:38:46)	124
3/19/99	Lyle e-mail to Kouba asking Kouba to "correct" OA budget materials by removing bullet relating to Mail2 reconstruction. (16:11:57)	84
3/22/99	Cleal e-mail to Vanfossan requesting that they should confer on the 3/18 Kouba e-mail (Mail2 is on hold) or push Mike to get resolution.	96
4/1/99	Ritter e-mail to Salim, Haas, Spriggs, Golas, and Vasta stating Ritter is tasked with Mail2 report . . . "surprise, it's a Government requirement."	117
4/2/99	Salim e-mail to Ritter and Records Management responding to 4/1 Ritter mail. Answers Ritter's questions on status. Says NG became aware of problem on 6/12/98 (Salim, Haas, Lambuth) and "because of confidentiality constraints imposed upon us by the government (at the time – Laura [Callahan]), NG's high level management did not become aware of the problem until a few months later." (01:49:29)	55
4/7/99	Heissner e-mail to Vasta and forwarded to Barry and Doering asking for the status of the "search/determination of currently still unrecordsmanaged e-mail."	138
4/8/99	Heissner e-mail to Whiteman, Spriggs, Docring, Barry, Bartholomew, and Fox requesting meeting for tomorrow (Friday) at 2:00 to discuss email. Requests confirmation. (12:25)	77
4/9/99	Miller e-mail to Whiteman and Salim describing (a "write up") of the new ARMS issue – letter "D." Can be resolved like Mail2. (02:07:39)	125
4/9/99	Whiteman e-mail to Heissner, Bartholomew, Barry, Ritter, Salim, and Cleal forwarding 4/9 Miller e-mail and requesting immediate NG meeting. (2:51)	125
4/9/99	Heissner e-mail to Cleal forwarding 4/9 Heissner e-mail and indicating Barry, Heissner, Whiteman, and NG tech. people met and will develop plan by Monday. NG and Government also met earlier in day to develop solutions to other unrecordsmanaged e-mail. Bottom line: Problem somewhat under control. (03:39:18)	125

4/9/99	Salim e-mail to Heissner, Barry, Whiteman, Ritter, Spriggs, and Miller attaching meeting minutes on new ARMS issue ("D" problem). Same method to resolved Mail2 will be used to correct this problem. (5:05)	78
4/9/99	Cleal e-mail to Lyle and Lindsay forwarding 4/9 Heissner e-mail and indicating additional e-mails not recordsmanaged and will provide update Mon. after meeting. Will set up meeting with OGC to discuss. "This Is Amazing!!!!" (17:42:23)	125
4/9/99	Meeting Memo (author unknown) regarding records management of Mail2 accounts (Clinton, Millennium, Guestbook). Task: to develop and execute procedures to conserve Mail2 by April 18.	44
4/??/99	Lindsay goes to White House Counsel's office to explain the D-user problem. Later testifies that he cannot recall with whom he met.	**
4/12/99	Lyle e-mail to Anderson forwarding 4/9 Cleal e-mail and stating "it looks like we are off to a good start this week . . . stop by so that we can discuss."	125
4/13/99	Barry e-mail to Doering inquiring about information on what legal owes them re: guidance on how/if to proceed with Mail2 problem.	126
4/20/99	Ritter e-mail to Vasta reporting on records management problem: 6/12/98-Lambuth notified, who told [Callahan], Posey, and Lindsay. Age of problem: April 1996 – Dan Gunia was to add information to records management. Dominick Carhart (PRC) designed program to aid in migration of users, but program was flawed. 11/20/98 Mail2 server rebuilt to stop continuing problem. (09:33:57)	71
4/20/99	Kouba e-mail to Cleal, Heissner, Barry, Doering, Vanfossan, and Anderson listing Armstrong talking points for Thursday Apuzzo meeting. Re: Mail2 – "need to make legal determination that reconstruction is required by the court case and that this is a legitimate use of Armstrong funds" and "no current action being taking on this." (02:56:37)	99
4/20/99	Cleal e-mail to Lyle requesting confirmation of accuracy of 4/20 Kouba proposed talking points (need to make legal determination if reconstruction is legitimate use of funds). (15:02:02)	100
4/20/99	Heissner e-mail to Kouba listing changes to Armstrong talking points – OA Counsel must determine if reconstruction "of the relatively small percentage" of e-mails is required by case and if legitimate use of Armstrong funds. (15:51:01)	101
4/21/99	Heissner e-mail to Cleal and Sigman noting his 4/20 recommended changes were not incorporated.	102
4/21/99	Kate Anderson e-mail to Kouba asking "Did Mike bring you the edits?"	146
5/21/99	Spriggs e-mail to Ritter attaching 9/23/98 "Statement of Work" to fully re-instate Mail2/EOP into EOP records management system. (9:06:49)	38
5/21/99	Ritter e-mail to Leister forwarding 4/2/99 Spriggs e-mail – indicating this is from Sept. 1998 and still no action or response from the government. (02:55:27)	38
5/21/99	Leister e-mail to Cleal stating "I assume you are asking about the Mail2 problem which took place last fall. The answer is yes; the backup tapes are in the DC [sic]." (14:56:15)	118
5/28/99	Handwritten note from D. Cleal to K. Anderson. Attached as cover page to memo to Lyle requesting approval to begin recycling backup tapes in the EOP data center, states, "I would like any feedback you may have before I forward to Mike Lyle for his review/signature." May corroborate Gallant's belief that recycling of backup tapes might have occurred where they were not properly inventoried or labeled. Accordingly, destruction of Mail2 backup tapes may have resulted.	203
6/10/99	Heissner e-mail to Wright, Doering, Barry, Fox, Ritter and Bartholomew. "Can we meet tomorrow, Friday, at 10 a.m. in my office for no more than 30 minutes to go over the Mail2 server solution from a technical standpoint with the purpose of confirming for Dottie Cleal that the solution and procedures currently in production will ensure that all records which should be managed are indeed managed?"	150
7/9/99	Barry declaration in *Alexander v. FBI* suit describing "ARMS" in paragraph 4. This is given more than year after "Mail2" problem discovered, but does not discuss problem here.	192
8/27/99	Doering e-mail to Wright stating "FYI" and forwarding 4/20 Kouba proposed talking points (need to make legal determination reconstruction is legitimate use of funds).	127
8/30/99	Wright e-mail to Barry forwarding 8/27 Doering e-mail with 4/20 Kouba proposed talking points attached.	127
9/1/99	NG/Government status meeting notes (? author of notes, but attendees: Liester, Barry, Hughes, Ritter, Bartholomew, Sparks, Crossman, Cavanzos, Miller, Wright, Haymes, Chapman). Barry commented meeting held with Golas today (attendees: Golas, Barry, Cavazos, Wright) re: tape situation.	74
10/26/99	Barry e-mail to Anderson, Bartholomew and Heissner. "Kate; I am trying to find out the status (From your perspective) on the 'MAIL2' issue and the related 'D problem.' . . . NG put together an IWO for recovering the data (&600k +). I am now trying to find out if this needs to be accomplished. Any help would be appreciated."	164
10/27/99	Anderson e-mail response to Barry. "I will check with Mark Lindsay and Mike Lyle."	164
11/8/99	Anderson e-mail (further response) to Barry. "Please forward me a copy of NG's IWO. Thanks, Kate"	200
12/2/99	Ritter e-mail to Sparks, Reese, Leister, and Barry listing "to do" items: installing 100 palm pilots for WHO, etc. . . . as well as Mail2 problem.	111
1/18/00	Lyle, Young, Anderson briefing charts (Power Point) for Nolan on Mail2.	51
1/21/00	Notes of unknown origin (reflect presence of Tony Barry). Includes note on IWO of $600,000 and $2 million. Discusses briefing "Mike" and includes the option to "wait 'until directed' and seek supplemental appropriations."	130
1/28/00	Nionakis, Assoc. WH Counsel, letter to Hollis, Committee on Government Reform, indicating scope of search for Waco documents "encompassed all items or documents in any way relevant," but WH did not produce e-mail documents.	60
2/1/00	Heissner e-mail to Erna G. Beverly re: The Weekly. "Spent several hours reviewing e-mail associated with the Mail2 Problem."	152

2/15/00	First article on the e-mail scandal mentioning threats appears in *The Washington Times*.	**
2/16/00	Committee on Government Reform sends first letter to The White House concerning the e-mail matter.	*
2/??/00 ??	Timeline for ARMS – 40 different development tasks (re: problem discovery and fixing) – start dates range from 6/11/98-2/9/00. Resource names include Salim, Barry, Whiteman, Haas, Miller, Golas, and Spriggs.	46
3/7/00	White House talking points on e-mails (draft versions) stating items including: no search executed because of lack funds and "back in 1998, OA asked NG for estimate just to study the problem. NG said it would cost $600,000. At that time, OA did not have the funds to do it."	7–9
3/8/00	Committee on Government Reform sends second letter to The White House concerning the e-mail matter	*
3/9/00	Nionakis, Assoc. WH Counsel, letter of transmission/document production to Wilson, Committee on Government Reform, of first e-mail items. Mentions 6/18/98 NG document re: affected e-mail users that were recently produced to OA.	61
3/13/00	Salim memo attaching list of active EOP mail accounts as of 6/1/99 (the date mail restoration agents were run on all servers to fix the letter D problem).	14
3/13/00	Salim memo attaching list of active mail accounts as of 11/22/98 (date restoration agents were run on Mail2 server).	15
3/15/00	The White House awards ECS (contractor) and SRA (subcontractor) the "narrow tape conversion project" to fix the Mail2 and D-user problems by reconstructing the tapes.	**
3/17/00	Nolan letter to Burton explaining discovery of new problem "this week that e-mails on the server of the Office of the Vice President have not been fully managed by ARMS."	57
3/20/00	Mark Lindsay of OA sends letter to Congressman Kolbe requesting $1.7 million from the *Armstrong* account to remedy the e-mail problem.	**
3/23/00	Michael Lyle appears before Congressman Kolbe's Appropriations Subcommittee. Lyle does not mention the Mail2 problem in his opening statement. In question from Cong. Hoyer, Lyle states that "fenced" funding caused the EOP computer systems to erode and therefore made the Y2K effort more difficult. The Y2K effort in turn rendered OA "unable to do any efforts in terms of any reconstruction of any back-up tapes that contained e-mails that Mr. Burton's committee is focusing on." Lyle also characterizes the fenced funding as a "contributing factor" in the e-mail problem. Cong. Kolbe called this assertion "disingenuous." Cong. Kolbe criticizes the timeliness of Mark Lindsay's March 20, 2000 request for $1.7 million from the *Armstrong* account to remedy the problem.	**
3/23/00	Day One of Committee on Government Reform e-mail hearing. Witnesses on the first panel include Betty Lambuth, John Spriggs, Yiman Salim, Robert Haas, Sandra Golas, Steve Hawkins, and Daniel "Tony" Barry. Witnesses on the second panel include Mark Lindsay and Laura Callahan.	**
3/23/00	The Department of Justice Campaign Financing Task Force announces that it has launched a criminal probe of the e-mail scandal.	**
3/23/00	Paulette Cichon sends "witness statement" to minority staff of Government Reform Committee. Denies hearing Lindsay threaten jail at meeting with Lambuth.	**
3/24/00	Callahan affidavit clarifying answer given at 3/23/00 Committee on Government Reform hearing. She did discuss email issues with DOJ attorneys Shapiro and Gilligan re: civil suit. Gillian involved in preparation of declaration to the Court.	59
3/29/00	White House awards contract for e-mail reconstruction to ECS.	**
3/30/00	Day Two of Committee on Government Reform e-mail hearing. Witnesses include Beth Nolan and Robert Raben.	**
3/30/00	Committee on Government Reform sends criminal referral on Barry to the Justice Department.	*
4/??/00	Nolan Power Point briefing with notes – possibly from Jack Young – including mention of seeking additional $2 million in Armstrong funds.	137
4/12/00	Justice Department refuses to make line attorneys who assisted Barry with his affidavit available for interview.	*
4/27/00	Congressman Kolbe rejects Mark Lindsay's request that $1.7 million from the *Armstrong* account be used to fix the e-mail problem. Kolbe's letter states that the computer glitch occurred three months before any funds were fenced. His letter also states that the EOP/OA failed to "independently validate and verify" the operations of the ARMS system. Kolbe also states that, "the Committee is extremely concerned that it took nearly two years for the White House to notify the Committee of this critical problem and the potential implications for additional moneys to both solve the problem and reconstruct the e-mails." The letter directs OA to reconstruct and restore the e-mails from the $4.8 million in unobligated balances from Y2K appropriations. Finally, the letter directs OA to provide monthly status reports of the reconstruction effort, beginning on June 1, 2000.	145
5/3/00	Day Three of Committee on Government Reform e-mail hearing. Witnesses on first panel include Karl Heissner and Michael Lyle. Witness on second panel is Robert Raben.	**
5/4/00	Day Four of Committee on Government Reform e-mail hearing. Witnesses on first panel include Charles Ruff, Cheryl Mills, and Mark Lindsay. Witnesses on second panel include Beth Nolan and Dimitri Nionakis.	**
5/25/00	Letter from Cong. Kolbe to Lindsay expressing concern over potential additional requirements for reconstruction between $5 and $30 million.	171
6/7/00	Letter from Steven Reich at White House Counsel's Office to James C. Wilson at Committee on Government Reform stating that "[Y]our May 16, 2000 letter regarding non-records managed e-mail has led us to discover that a technical error apparently prevented e-mail on the OVP server from being backed-up from the end of March 1998 through early April 1999."	*

8/1/00	Deputy Assistant Attorney General Alan Gershel of the Department of Justice Campaign Financing Task Force sends Tony Barry a letter informing him he is "not currently a target" of the e-mail investigation. The letter misspells his last name as "Barrie."	185
9/22/00	White House produces first batch of reconstructed e-mails responsive to the Committee's previous subpoenas. Documents include e-mails concerning the Vice President's fundraising activities. Also included is an e-mail reminding the Vice President that e-mail is backed up on the White House computers and stating "the only way not to have your e-mails backed up on government computers would be to get a Clinton/Gore computer in your office and set it up for private e-mails."	193 – 198

B. Office of the Vice President Chronology

Note: "*" refers to correspondence included in Appendix I.
"**" indicates information gathered from interviews, hearings, or news accounts.
Documents referenced by Bates numbers (e.g. "E 7229") in this table can be found in A.V. Appendix III.

DATE	SUMMARY	Exhibit or Bates Number(s)
3/3/93	E-mail from DeVere Patton to S. Mitchell. Subject: Backup Tape for OVP. "Sharon, Help! OVP needs back-up tapes for a mainstream 150Q tapedrive. Would you happen to have any in your desk?"	E 7229
5/5/93	Memorandum "for all Executive Office of the President Staff" from John Podesta and Stephen Neuwirth. Re: Presidential Records. "[R]ecords of the Office of the Vice President are Vice Presidential records and are treated under the Presidential Records Act in the same manner as Presidential records. The records of the Office of the Vice President are not federal records. . . . The Presidential Records Act defines 'documentary materials' as . . . electronic or mechanical recordations." See E 8105.	E 8104–13
6/11/93	E-mail from M. Gill to J. Podesta, J. Eller, J. Gill, G. Weaver, C. Mills, T. Campbell. "I am very concerned about the Armstrong case and the pending decisions by Judge Richey. The impact on electronic mail [e-mail], not just in the White House but for the country, could be enormous, costly, and could very well provide enough disincentive to make e-mail too 'expensive' to use. I don't want to seem superfluous but this could very well be the most important technology case since Judge Green and the breakup of AT&T. Currently e-mail is treated the same as a FAX or a piece of mail. With the troubling exception that e-mail messages are stored electronically versus file cabinets and archives. In the past telephone conversations have been treated differently than paper, photos and other means of communication. None of us would feel very comfortable if every phone conversation we had was recorded and stored. But the distinction is blurred in the world of FAX machines, voice mail and eventually video images. Where are the lines to be drawn, how are the distinctions to be made, and who is going to make the decisions. The point of this message is not to draw conclusions, the point is to convey that this case could have a far reaching impact and I wanted to share my concern."	176
6/13/93	E-mail from J. Podesta to M. Gill; cc: J. Eller, J. Gill, G. Weaver, C. Mills, T. Campbell. Re: Armstrong case. "The case presents several difficult problems, not the least of which is that we are stuck defending record management principles by referencing a factual record filled with decisions made by the Bush and Reagan Administrations. I think when you actually get down to making policy decisions about how to manage, store and preserve electronic federal records, outside the context of the case, we can design a system which is user friendly, user useful and fully complies with the PRA and FRA. We obviously need to get on with the upgrade of our system. Steve Neuwirth is managing the case for the Counsel's office. We have fairly frequent meetings with DOJ and Archives on the case. I'll make sure you're invited to these meetings, if you're interested.	177
6/15/93 12:24	E-mail from J. Podesta to J. Gill. cc: M. Gill, J. Eller, G. Weaver, C. Mills, T. Campbell. "I want to be clear about one point – the Armstrong case deals with federal records, not Presidential records (I forget myself sometimes. Having said that, I think your technological solution to storing these Presidential records seems promising. We should discuss with A.O."	178
6/15/93 13:07	E-mail from J. Gill to J. Podesta; cc: M. Gill, J. Eller, G. Weaver, C. Mills, and T. Campbell. "John, I second Michael Gill's concerns that what ever [sic] we do, we must NOT create obstacles and barriers -- dis-incentives [sic] -- to maximizing the use of e-mail. It should be as private as a FAX, telephone call or a first class letter. It should not impose penalties on the users. Quite to the contrary, Government [sic] will run better if we use electronic communications to the max. How can we create real INCENTIVES and rewards for using e-mail? If we fail to protect the concept of e-mail, then we will drive people to 'black' communications via bathroom conferences, had passed notes etc. Which is worse? I think we face an educational challenge here. Regards, Jock."	179
6/15/93 15:50	E-mail from M. Gill to J. Gill; cc: J. Podesta, J. Eller, G. Weaver. "I'm confused. If the Armstrong case does not deal with Presidential records why were our hard drives removed? It seems likely that if they can get our hard drives and back up tapes from our File Servers it becomes a Presidential records issue. As far as the records retention, I am very concerned we don't establish a "Big Brother" type policy regarding e-mail. We should apply the same standard we use regarding phone calls, faxes, or U.S. Mail for outside communications and apply the same standard for inside communications as we do interoffice mail. I want to be clear about one point -- the Armstrong case deals with federal records, not Presidential records (I forget myself sometimes). Having said that, I think your technological solution to storing these Presidential records seems promising. We should discuss with A.O."	181
6/15/93 17:17	E-mail from J. Podesta to J. Gill; cc: M. Gill, J. Eller, G. Weaver, C. Mills, and T. Campbell. "Give me a break. What do you mean "we need to protect the concept of e-mail." Who is trying to destroy the concept of e-mail? What we need is fewer flames and more work an how to design a user friendly system that appropriately manages and preserves Presidential and federal records without a lot of hassle to the user. Your ideas with regard to that task are welcome."	180
6/15/93 17:32	E-mail from J. Podesta to M. Gill; cc: J. Gill, J. Eller, G. Weaver. Subject: Armstrong case. "Our hard drives were seized by DiGenova in the passport office independent counsel case, not Armstrong. Phone calls aren't records unless recorded or notes are taken. I agree that we should deal with e-mail the same way we do faxes or other communications. That's what our record guidance does."	E 8127
6/15/93 18:04	E-mail from J. Gill to J. Podesta; cc: M. Gill, J. Eller, G. Weaver, C. Mills, and T. Campbell. "John, Jeez, you really got my attention. Eller asked what in hell I'd sent you. My intent was not to flame, nor accuse anyone of anything. My intent was to support the notion of not allowing a judge who might not be technologically sophisticated to impose rulings on us that would have adverse impact on our drive towards electronic communications. I was trying to express my concern that we not let a judical [sic] ruling inadvertently set policy that might not be good policy."	E 5306

6/15/93 18:47	E-mail from M. Gill to J. Podesta. "It was my understanding that the judge wanted to be able to sort through our records like he sorts through his WordPerfect documents. If you included all e-mail, as many seem want to do [sic], it smells suspiciously like Big Brother and that was what raised my concerns."	E 5310
6/21/93	E-mail from M. Gill to G. Weaver. Includes bullet that reads: "1) Lotus Notes secret project for the OEOP – I don't know if you have talked to Paul Tisdale yet but I need to give my users some relief. John Podesta seemed to clear up any Armstrong case doubts about what we are doing so I feel good about it. Can we talk timing?"	E 5301
7/12/93	E-mail from M. Gill to G. Weaver. "Hugo Beck from Lotus gave me a call with some really good info about cc-mail. He asked me about Armstrong and I pleaded the 5th but I thought you (or your staff) should talk to him about cc-mail security features they did for the NSC, hidden security features in cc-mail, and other stuff like how to automatically choose to send it to records management, etc."	E 5299
7/20/93	Memo from K. Gibson and N. Katyal to T. Campbell; Re: OVP Document Retention Procedures. "OVP must create and implement back-up systems to preserve such material. OVP may want to consider creating an e-mail and document system where boxes could be checked for personal correspondence. OVP may have a strong policy reason for maintaining paper copies instead of computer records since facts within computer records are much easier to access by keyword searches."	E 5390–92
8/12/93	E-mail from Sheryl Hall to B. Overton; cc: J. Macdonald, Jr. and M. Blackwood Subject: Vice President Records. Client Services will be moving the OVP NPR (National Program Review) staff from the 5th floor OEOB to new offices. Some of the equipment is coming back to storage due to users leaving. Are we responsible for performing the backups of the records on this equipment for NPR or does that fall under Vice President? The move is occurring this afternoon and any guidance you can provide today would be appreciated."	E 8091
8/12/93	E-mail from Bruce Overton to Sheryl Hall. cc: J. Macdonald, Jr. and M. Blackwood. It is your call whether IRMD should be doing the support services. However, the NPR's records are regarded as being under the aegis of the OVP. Todd Campbell (OVP) should be contacted to request what kind of back up and treatment he wants given the electronic data on the hard drives and then those materials should be turned over to whomever he designates. Please make memos to the file so that it is clear what was directed to be done and who became the custodian of the electronic materials. Thanks."	E 8092
10/26/93	Memorandum from B. Overton, OA General Counsel to John W. Cressman, Assistant Director. Subject: Provision of Requested Materials to the Justice Department in Armstrong v. Executive Office of the President. Includes line: "[T]he electronic records management system being designed by OA is to provide an electronic medium to manage messages created or captured using the OASIS ALL–IN–1 system that constitute Federal or Presidential records. . . . The electronic records management system will address a number of functional requirements including: . . . Searchability of Records – the records will be stored in a fashion to permit retrieval by text search software. Ideally a commercial, off-the-shelf package can accomplish this function and will be fully integrated into the system. Thus a request by date, name, search string, keywords or phrases may be prepared and executed. The output media (paper or electronic) will be determined by the volume of data produced in response to the request." (See E 8024)	E 8021–40
11/8/93	E-mail from M. Gill to G. Weaver. ". . . I have decided to pursue buying my own domain. This domain would reside in here in the OVP and be called @ovp.whitehouse.gov. It would have to be approved to be a subdomain of whitehouse.gov. This will solve the backup and separation of records problems with being @whitehouse.gov or eop. To avoid archival confusion we may want to change the name of our mailbox back to OVP from EOP_OVP. The Presidential Records Act specifies that our records and Presidential records are to be kept separate."	E 5298
1/18/94	E-mail from J. Gill to G. Weaver, J. Eller, J. Macdonald, K. Hopper, E. Gibble, J. Sarmiento and L. Mortman. "It appears that the weekly database on H:\data has been corrupted. Does anyone have a backup? Are we backing up the server every night? If not waht [sic] plans are there to institute this very traditional DP practise [sic]? To have all our data at risk because we are not doing backups seems very peculiar. How many of our other novell lans are not backed every night? I know that the OVP network is backedup every day."	E 7242
1/27/94	AAC Associates Time Tracking System time sheet. Employee: Blaine Lee; Authorized by: Steve Fletcher; End-user: Michael Gill; Description: Backup Scripts for Server. Comments: Talked with Bill Gray about how to bakup [sic] the OVP server user [sic] a script that will alow [sic] them to save information to tape and not lose even one day.	E 5325
2/17/94	E-mail from T. Good to M. Hudson. "Vice Presidential records . . . well now, you do have an interesting situation with this. I would suggest that, if possible, it be maintained as a separate subsystem with access available to only the VP staff. Likewise, the Presidential material should be shielded from the VP staff. Neither staff should have access to the other's material. At the end of the Administration, it should be possible to download both sets of data so that each gets what belongs to each. By the way, can anybody with access to Quorum access any record and modify it? delete it? add to it? Is there any audit trail of who has done something like this to a record? It isn't really any of my business, but I would be concerned about that if I were the manager of the system. I wonder who is? . . ."	E 7206
3/2/94	E-mail from J. Gill to G. Weaver and J. Macdonald. " I am concerned that our server is still not getting a daily back-up. I am told it is because there are both MAC and DOS files on the server. Yet when I check with my industry sources I am told this is rather standard and poses no problems."	E 7207
3/9/94	Memo from T. Campbell to M. Gill. "Please write me a detailed memo on what OVP is doing to archive computer records, both documents and Electronic Mail. I need this memo as soon as possible."	E 5651
3/16/94	Memo from M. Gill to T. Campbell. "This is in response to your memo dated 3/9/94. After my return from vacation, on 3/15/94 I checked to make sure that the OVP system was still being backed up. Unfortunately, I discovered that the tape machine had failed and that the last backup was on 2/22/94. Before my vacation I indicated to Martin Dunsby with AAC associates that there might be a problem and that this needed to be checked. The file server and tape backup unit is new and was installed on 2/10/94. We have now corrected the problems and the tape backup unit was fully operational on 3/19/94. The following describes the current OVP backup and archival policy. Full backups will be done every Saturday morning at 5:00 am. Everyday other that Saturday, an incremental backup will be done at 5:00 am. Incremental is defined as any modified or new files at the time of the backup. All backup tapes are then archived in the Staff Secretaries Vault for save [sic] keeping."	E 6321

3/18/94	AAC Associates Time Tracking System time sheet. Employee: Bill Gray; Authorized by: Michael Gill; Comments: Created backup scripts for the office of the vice president. Also, demonstrated how to do a restore from tape.	E 5326
4/11/94	E-mail from M. (Beth) Blackwood to M. Gill and T. Campbell; Re: Meeting to discuss records management actions. "Gwenn would like to schedule a meeting to discuss the possibility of bringing up the recordkeeping system for WH/OVP in the near future (possibly May 2). The purpose of this meeting is to discuss when and how this could be done to satisfy our legal commitments. We'd propose to schedule this meeting at 3:30 pm in Gwenn's office on Wednesday, April 13." Also contains handwritten note "Kumiki - Please attend. Thanks! Todd"	E 5327
4/11/94	E-mail from M. (Beth) Blackwood to G. Weaver, M. Gill, M. Krislov, T. Good, K. Gibson, J. Wright, and N. Doering. Invitation to 4/13/94 meeting "to discuss the steps necessary to bring WH and OVP online to the automated records management system in accordance with recent court documents. We would like to tentatively establish May 2 as the implementation date for the WH and OVP, but we need to have agreement on several matters before we can proceed."	E 5297
4/15/94	Draft of memo from K. Gibson to the Vice President. Subject: E-mail. "At the recent Regulatory Review meeting, you expressed some concern about the e-mail policies that are being instituted across the Federal government. . . . We believe that we should explicitly adopt the White House policy because it is reasonable and to depart from may draw (public) criticism. . . . The White House Counsel's Office believes that a court would similarly conclude that certain e-mail generated by the President's Office and the Vice President's Office would be 'documentary material' under the Presidential Records act and should be treated as such. We agree with this analysis and conclusion."	E 5385–86
4/25/94	E-mail from T. Barry to L. Planet and R. Spangler. Subject: OVP / VPO confusion ??? " Is the Class 'Vise [sic] President's Office' know [sic] as VPO or OVP. At some point GILL_M had a class of OVP but now it looks like its VPO. This is critical for ARMS and must be consistant [sic] ???"	E 7244
4/27/94	Draft of memorandum from K. Gibson to the Vice President. Subject: E-mail. Includes handwritten notes "JQ: Please review & revise, (As you know, VP is very concerned about e-mail.) Thanks! Kumiki. KG -- let's meet to discuss this issue -- Thanks, Jack [Quinn]"	201
4/27/94	Memorandum (probably final) from K. Gibson to the Vice President. Subject: E-mail.	159
5/17/94	Memorandum from K. Gibson to M. Krislov; Re: E-mail: Suggested Monitoring Procedures. "In order to ensure generally that designations of record and non-record messages by the system users are consistent with our policies and procedures and to identify areas of additional training and guidance, each agency should adhere to the following monitoring procedures: A. Each agency should designate one indivudual to serve as the Designated Agency Monitor. . ."	E 5513
5/26/94	E-mail from T. Barry to J. Wright. "Put WHO OPD and VPO on line with ARMS."	E 6532
6/3/94	E-mail from T. Barry to J. Wright. "Demoed ARMS to VPO and WHO records management staff."	E 6531
7/21/94	E-mail from N. Doering to T. Good and M. Gill; cc: G. Weaver, M. Blackwood, K. Gibson, M. Krislov and J. Baron. "As of July 14, 1994, we were "live" for official e-mail monitoring. Since you have agreed to monitor, you may want to model your approach to monitoring like we have done for Federal monitors. Please see the attached for format. Please start monitoring on July 25, 1994."	E 6491
9/15/94	E-mail from J. Fox to M. Jardine; cc: J. Carlsen. "2. How often are the backups performed? [nightly] Automated backups, NOT archived, single tape re-used repeatedly. Backup integrity not verified. 3. Why does OVP get email backups on floppy disks? [Crocker: this one for you to answer :)] SDC: It's not that OVP gets "backups"; they get their mail delivered via floppies because there's no other path. Very sad."	E 7250–53
9/20/94	E-mail from M. Gill to Jack Martin; Re: October Meeting. "What I am about to share with you is confidential and is supplied to you for the purposes of discussion and should not be shared outside your organization." "How do I determine if the strategic direction of Notes in government is appropriate for the executive branch and how do I communicate my strategic concerns which [include] Mail/Records Management compliance (both FOIA and Presidential Records Act)."	E 6289
10/31/94 7:21:00	E-mail from D. Barry to N. Doering; Re: Pres and OVP Monitoring Plan . "On OASIS/ARMS, any account that is part of OVP IS creating PRESIDENTIAL records. IS THIS CORRECT???"	E 6292
10/31/94 9:26:00	E-mail from M. Gill to D. Barry; Re: Pres and OVP Monitoring Plan. In response to above e-mail, states that "[m]y standard line on this is: Records created or received by the Office of the Vice president are Vice presidential records. They are cited in the Presidential Records Act as such. The PRA stipulates that they should be treated in the same fashion as, but maintained separately from, Presidential records." However, it is undisputed that Gill to manage OVP e-mail in the manner done by EOP.	E 6318
12/16/94	Todd Campbell leaves the OVP.	**
6/15/95	E-mail from M. Gill forwarded by J. Quinn to K. Gibson, D. Strauss and others. "Our Lotus Notes conversion project is almost complete. We need your help to complete the project. Please print out all the cc:Mail messages that you want to keep and then delete all your cc:Mail messages by Monday June 19th. That way when Chris our consultant makes his way around to you the cc:Mail will be all set for Notes conversion . . . "	E 6309
6/27/95	E-mail from Albert Gore to M. Gerich? -- reacting to news that OVP cannot engage in interactive internet dialogue under the Armstrong case. "Sounds like a crazy result. This looks like a problem than [sic] is far bigger than the Acquisition Reform Net. I'm curious about how OMB managed its interaction in the recent open meeting within the bounds of the Anderson Act. As I read this, the Anderson Act precludes EOP participation in net-based discussions with parties outside the EOP complex. This will both isolate the EOP in an exploding electronic environment, and limit its ability to shape and encourage interaction on subjects like acquisition and budget reform."	205

6/28/95	E-mail from N. Cunningham to F. Reeder; cc: J. Macdonald. "This seems worth bringing to your attention because among the series of e-mails is one from the Vice President expressing dismay at the restrictions that Armstrong places on Internet access. As you can see from the e-mail that he is responding to . . . it appears that OA is being made to be the bad guy . . . We need to straighten out this misimpression right away, especially given the VP's personal concern. Perhaps we could arrange a meeting with the VP's staff to explain why we have to be concerned about capturing external e-mail, and to offer to work with the VP and NPR to provide them access they seek through means that properly complies with records requirements."	205
12/1/95	E-mail from M. Gill to all staff. Subject: Announcing a new way to send internet from Notes. [Text redacted] see E 8756	194
12/4/95	E-mail from M. Gill to all staff. Subject: Yet an even EASIER way of sending Internet mail! [Text redacted] see E 8757	194
2/22/96	E-mail from Joel Velasco to Vice President Gore. Subject: Carter Eskew Request. "Carter wants to be able to e-mail you from his office. We have some options: 1. Give Carter your special e-mail address that Michael Gill had set-up earlier; 2. Give Carter my e-mail (or Heather/Liz) and we would forward all e-mail from Carter to you. You would have to do the same to send him e-mail; Reminder: All internet e-mails are recorded on the White House computers. According to Michael, the only way not to have your e-mails backed up on government computers would be to get a Clinton/Gore computer in your office and set it up for private e-mails. QUESTION: How would you like to proceed on this?	193
6/19/96	E-mail from M. Gill to All Staff; cc: R. Blankenship, A. Elkins, J. George, I. Qazi, J. Wright.; Re: Too much E-mail. "OVP continues to have a problem with running out of disk space. IS&T has identified that we have too much e-mail and we need to delete all un-needed messages. Please take a moment to delete any drafts, sent or received e-mail in your box and help out the OVP."	E 5775
9/9/96	Oasis All-in-1 Monitoring Information In Reply to GAO Questions September 9, 1996. "Statistics 10/1/95 through 9/9/96 CEQ, OA, OMB, ONDCP, OSTP, WHO (OVP has not monitored)."	E 6486–87
12/??/96	Michael Gill leaves the OVP.	**
1/28/97	OVP e-mail mentioning Callahan. Callahan was at a meeting on 1/28/97 that included Ted Meyer, Katie Stock, Shawn O'Connor, Chip Sparks, Paul Meyer, and Ron Horowitz. The e-mail states "The impromptu meeting was to facilitate an immediate solution for the 'Domain Controller not found' issue and the unreliable OVP Novell servers. The OVP_2 Novell Server that provides data and application directories for OVP users also went down. The two problems are mutually exclusive issues."	E 6010–11
2/25/97	E-mail from M. Vela to All Staff. "Some of our colleagues are unable to send and possibly receive E-mail this morning. In order to enable them to do such, I am asking each of you to go into your E-mail and delete all old mail that you no longer need and make sure that you also empty your trash immediately thereafter. This should buy us the time we need to more permanently fix the problem."	E 5772
2/25/97	E-mail from K. Gibson to M. Vela; cc: All Staff. "Please be careful NOT to delete e-mails that are the subject of any current document requests. Thanks. ksg."	E 5772
3/17/97	OVP e-mail including bullet on L. [Callahan]. Contains a bullet with Callahan's name. Under the bullet are the statements "Meetings will be held with OVP on tape retention and Quorem problems," and "Unlike most other organizations, OVP does not like Advanced Profiling."	E 6002
3/21/97	E-mail from P. Myers to C. Vanfossan, J. Hochuli, C. Benjamin, A. Posey. Draft of answers to "Committee Questions" apparently from Congressman Kolbe. In response to a question on failed systems affected by fenced funds, there is a response that states "On March 21, 1997, the disk space on the OVP file server filled up again. As a result, the Vice President and his staff could not access their email. IS&T was forced to initiate a special backup of the file server during prime time across the network, worsening the EOP network traffic load problem, in order to capture official records onto tape. The OVP staff was then forced to manually delete the on-line versions of the records in order to free up disk space so email could flow again. The time email services were down was 4 hours. The request to purchase additional hard drives has been on hold due to the fenced appropriations." *See* E 6555.	E 6547–58
3/24/97	OVP e-mail including bullet on L. [Callahan]. Contains a bullet that states "OVP -- Lack of disk space has been causing a problem with email delivery. There is now 770K of free space (enough to last until 2PM 3/24) -- Laura is looking into more permanent solutions."	E 6005–09
3/24/97	E-mail from L. [Callahan] to P. Myers and C. Benjamin; Subject: OVP File Server Situation - Update. "We completed a second full set of backups for their file server friday [sic] night. OVP users are being instructed to delete any nonessential email that is over 90 days old (this was 'okayed' by their legal office Friday) in order to free up disk space."	E 6564
1/30/98	Weekly Status Report from J. Wright to S. Hawkins. "In support of the OVP and IS&T, Northrop Grumman supplied biographies on four Northrop Grumman employees from the PC Desktop Department. The request for biographies came from Laura [Callahan] to help choose a primary and secondary technician to provide technical support to the Vice President and the OVP staff members. All four of the Northrop Grumman employees were interviewed personally by the Vice President, Al Gore. The employee interviews were well received by the OVP office, as reported by Laura [Callahan]." see E 7419	186
6/19/98	E-mail from D. Gunia to J. Wright; cc: D. Pannell. This weekly status report has two bullets under "Issues" that relate to the OVP. The first one is "OVP Migration follow-up. Still need to work with NSG and find out when they are going to do some cleanup work on the OVP Login Scripts and drive maps and shares." The second one is "OVP NewsEdge ID's/Lic Issues -- Working with Moe Vela, Sue Powell, Paul Dagenais and Bill VanHorn on ID and License Issues for the NewsEdge systems. Have copy of PO that tracks we only have 40 NewEdge LAN Users LIC. OA = 32 and OVP = 8. However the NewsEdge server shows 61 ID's. Need to work on House Keeping and ID's methode [sic] to control access to sysem [sic]." This document was previously produced as E 4026 - 4031.	E 5864–66

9/4/98	E-mail from T. Barry to J. Wright. In his weekly report, under "ARMS activity," Barry writes in a bullet "I had a discussion with Jim Webster regarding OVP e-mail and records management. I informed him that we had a OVP records bucket that we only were getting mail from OVP that crossed into another bucket. However, it turns out that ARMS may be getting internal OVP mail because the mail template of certain OVP users contains the records management icons. He wants to put WAVES up for all OVP users and also have all their records managed through ARMS. I referred him to Kathy Gallant for a decision on that." This document was previously produced as E 2016.	E 5872–73
9/23/98	E-mail from K. Gallant to M. Vela; cc: R. Haas, J. Webster, and A. Tarica. Subject: Email Group Problem. "They fixed it again!! We are doing some development work in getting the OVP Lotus Notes mail record managed properly and apparently in testing a scenario, something went "live". The guys rushed to clear it out and hopefully have corrected the problem. I'm going to a meeting, if heaven forbid this happens again, PING Robert or Alan, please immediately [sic]."	E 6560
10/9/98	E-mail from S. Hawkins to J. Vasta and D. Chapman. Subject: Completed Self Evaluation. "The Office of the Vice President (OVP) has experienced a significant improvements [sic] in the quality of service they received from IS&T and NG, and are very satisfied customer [sic]. . . . Mr. Gore calls upon our technical staff while on business trips for updated software or to troubleshoot a problem he might be having with one of his laptops or his new palmtop machine. NG performance in this area has been reported by the OVP office as Outstanding." *See* E 6696.	E 6688–6715
10/14/98	E-mail from M. Vela to All Staff. "I was just informed that it is necessary for each of us to delete any unnecessary e-mails that we have saved in our Lotus Notes accounts. The server is near capacity and to avert a problem we must comply with this deletion request. PLEASE only delete opened e-mail messages."	E 5365
10/19/98	E-mail from R. Haas to J. Vasta. Re: OVP1 mail server is Operational. "Please send me a copy of the procedures and I will try to follow them; because I don't know what you are talking about a template!"	E 5771
12/4/98	E-mail from M. Vela to All Staff. "We need some help from all! The Lotus Notes is within 5% of maximum capacity and it will shut down at that time.....to avoid this problem, I need each of you to delete any unnecessary Lotus Notes mail ASAP. Thank you for your cooperation!"	E 5783
12/10/98	E-mail from C. Moyle to S. Hall, J. Wright, K. Heissner, H. Sparks, T. Barry, T. Misich attaching weekly report from D. [Cleal] to M. Lyle. Bullet #8 reads: "OVP Mail Server: The OVP mail server issue is still being worked but the problem has been temporarily remedied by having OVP staff personnel remove discarded e-mail information. New disc drives are on order and will be installed upon receipt. This problem is no longer critical and no additional problems regarding this issue are anticipated. IS&T will continue to monitor the situation and install disk drives upon receipt. Close coordination with OVP is ongoing."	E 6373-75
1/12/99	E-mail from L. Scott to J. Fox; cc: C. Adams and R. Whiteman. "I spoke with Chris about this. He tells me there are about 3 months on the VP's mail stored on the whitehouse.gov server. RC Cavazos has backup tapes in the data center with earlier mail. Getting the mail from whitehouse.gov would not be a problem. However, you'd need to speak with RC about getting the mail from the backup tapes. This would not be an insignificant effort, and it might requre [sic] an IWO if a request is submitted to recover all of the VP's e-mail back to 1993." Response from Fox to Scott and cc'd to Adams, Whiteman, and Lisa M. Brown at OVP on the same day states "Lisa: The VP mail is recoverable but this will be a significant effort which will require addition [sic] funding to support. If you decide to recover the VP e-mail, please let me know and we will have to develop a project plan and estimated costs before proceeding." Brown then responds to Fox saying, "I will get back to you after we address the 'bulk mail' issue. Can you just make sure that nothing is deleted in the meantime? thanks!" Finally, on 1/15/99, Fox responds to Brown saying "No Problem!"	E 6246-48
1/13/99	E-mail from M. Vela to All Staff; cc: S. Mitchell at EOP. "We are in another Lotus Notes crisis.....you must delete any unnecessary e-mail and/or databases in Lotus Notes IMMEDIATELY. We are going to run out of disk space in the next hour or so and we will go down if we don't comply with this request. PLEASE do what you can to alleviate this problem. Thanks!"	E 5784
2/5/99	E-mail from P. Lindahl to R. Johnson and P. Lynch; Subject: Raw Weekly. "Vice President Albert Gore has requested that his Palm Pilot be able to Synch his Lotus Notes E-mail to his Palm Pilot Handheld Have tested OVP mail user (Test_Palm) after upgrade of mail server to higher version. In box now synchs with palm. We have determined a problem with internet e-mail address fields on template for OVP address book. Marvin Miller is attempting to make changes so that the 'lookup' of mail addresses for OVP are updated properly on the Palm Pilot. Also need to have Moe Vela order an i/o card for Vice President Gore's PC to support an additional serial port for the Palm cradle as well as order an additional cradle and Palm Modem for Phase II of this project. Vice President Albert Gore will be able to remotely access his e-mail." *See* E 6620	E 6616–27
3/1/99	E-mail from D. Cleal to A. Greenstone. "My staff provided the following info to me: White House Internet Email. Met with the users and the technical staff to review requirements and review the test results. The OA GC is still waiting for WH and OVP guidance with regard to proper records disposition for these systems. Met with OA General Counsel and Records Management to address the WHO and OVP records disposition memo - we have still not received it. This memo was due to OA/GC by January 25th, 1999. Without this memo the next generation of the White House Internet E-mail will not be able to go into production as planned. This date has been pushed out twice now due to the failure of WH and OVP Gcs to provide the appropriate guidance (in writing). We have engineered a temporary solution that Adam is comfortable with, this should enable us to meet the March 15, 1999 installation schedule. Who do I need to address this with. If we can not get White House Counsel to respond I will need to escalate this to Mike Lyle and Mark. Please let me know the status. Thanks. Dottie."	E 6614-15
4/2/99	E-mail from P. Cusack to OVP staff and blind carbon copied to Vice President Gore. Subject: Emails sent to the VP 3/30-4/2. "If you sent an email to the Vice President between 12am on Tuesday, March 30th through 2pm Friday, April 2, would you please resend it to him via email with a notation that you are forwarding one from this period. Please use discretion in discussion this network/Lotus Notes problem."	207

4/4/99	E-mail from J. Vasta to W. VanHorn, E. Bixler and R. Haas. Subject: VP E-mail Error on April 2, 1999. "I would like to get together with you early on Monday. I have to provide the government with more details on the problem we experienced on Friday. If there is anyone else that needs to attend, please let me know. I need to understand: - What caused the problem; - Why we couldn't restore from a backup tape. The e$ share on OVP_1 Lotus Notes server was not being backed up. The e$ share on OVP_1 contains OVP mail files. – Why we didn't backup the e-mail of the OVP server Our mail servers are setup with three partitions; . . . The old OVP_1 server's C: and D: drives were being backed up on our regularly scheduled backup. In January of this year we upgraded system (OS) and hardware of the OVP_1 server. A "swing server" was used for this process. The team installed additional drive space, NT 4.0 and Y2K patches. The new server was put into service on January 16, 1999. In keeping with the standard conventions in place, the new server was configured with three partitions. The backup schedule was never adjusted to reflect the additional partition. Backups continued normally, without error because a C: and D: drive existed on the new server, and only a C: and D: were in the list of drives to be backed up on the OVP_1 server. On Friday, April 2, we received a trouble call stating that an OVP mail file needed to be restored. We then discovered the E: drive of the OVP_1 server had not been added to the backups since the upgrade in January."	E 7270–71
4/7/99	E-mail from J. Wright to self and cc: Christa Moyle. Subject: email memo from NG. "Provided to Dottie as a discussion document. Dottie I have read the E-mail memo from NG. Following is a summary what [sic] I know. Though I was not involved with the situation on Friday, I made aware [sic] of it on Monday. . . . The memo certainly reveals that NG did not have a complete check-list process when building and configuring servers. Their check list process assumed that the server inherited from the VP office was configured in a similar manner as all the other servers being supported by NG and OA/IS&T. To say the least, a bad assumption when they did the upgrade."	E 6589
4/8/99	Weekly Activity Report, from D. Cleal to M. Lindsay (E 6407-09) "VPOTUS e-mail – On Friday, April 2nd, IS&T was notified that the Vice President was experiencing problems with his PC. The problem occurred as a result of a file becoming truncated. This problem resulted [in] temporary problems with the Vice President's computer and the permanent loss of several days of Email [sic]. The problem appears to be due to a contractor error that was made during a recent server upgrade. The contractor is scheduled to submit a full report to IS&T which will provide a thorough analysis of the details surrounding this situation."	E 6407–09
4/14/99	Memorandum from R. Whiteman to D. Cleal; re: VP Notes Problem. Details the problem with the VP's laptop. "On Friday, April 2, at about 10:15 a.m. Ms. Sharon Mitchell reported to Mr. Bob Haas that the Vice President was having problems with his Lotus Notes mail. Bob began investigation and discovered that the index file for the Vice President was truncated. . . . There is no way to repair truncated files in Lotus Notes. . . .Extent of the Problem: . . . When the OVP server was migrated to NT 4.0 it was configured with the IS&T standard of three partitions. One each for the system, application and data files. Upon attempting to restore the Vice Presidents data it was discovered that the tape system reflected a previous OVP convention of two partitions; one for system files, the other for both application and data files. Due to this, no data files have been backed up to tape since the OVP server migration. Corrective Action: At 4:25 p.m. Bob Haas was notified that the index file was uploaded to the network and he began the process of replacing it into the Vice President's account. This was accomplished at 4:48 p.m. At 5:00 p.m. the Vice President was able to open mail files successfully."	175
4/15/99	Memorandum from D. Cleal to M. Lindsay through M. Lyle; Re: Synopsis of Vice President's Computer Problem on April 2, 1999. Status report on 4/2/99 OVP server problem and attaches Northrop Grumman statement of facts and proposal for corrective action. Also describes IS&T management issues requiring closer scrutiny. Proposes to submit final findings after completing internal review.	174
4/16/99	E-mail from N. Doering to D. Cleal; cc: D. Barry; Re: Records Issues for GC. "Perhaps we could have a meeting [on] [g]uidance on OVP electronic records—is this OA's responsibility? It seems that this question comes up occasionally."	E 6485
4/20/99	Handwritten note from D. Cleal to C. Sparks, J. Wright, S. Mitchell and K. Heissner. "Please review the attached information and prepare responses to the questions that have been raised. IS&T needs to provide official feedback to the VP's office next week. Christa will be coordinating a meeting by early next week Mon/Tuesday to discuss our formal response. Please be prepared."	E 6396
4/20/99	E-mail from D. Cleal to M. Lindsay and M. Lyle; Re: OVP Computer Problem. "I just spoke with Paul Cusack from the VPs office and he indicated that the VP is interested in receiving a final response from IS&T on what caused the truncation problem and what is being done to prevent recurrence of this situation. As you are aware I provided you with a preliminary memo with NGs response and included my management assessment on what IS&T needs to do. I will complete this process by getting my staffs response and confirmation that we have completed certain actions. . . . Simultaneously I will have a memo prepared for the VPs office. It will be routed through OA OGC and you before submitting. Paul Cusack agreed that this time line was sufficient. Dottie"	E 5200
4/27/99	E-mail from D. Cleal to M. Lindsay; cc: S. Parsons; Re: Associate Director Report – IS&T. "I am preparing a memorandum for the Office of the Vice President regarding IT problems that have occurred over the past several weeks. I have been told by Paul Cusack that the Vice President is interested in how IS&T is dealing with the recent problems and how we have resolved the issues. The report is expected Thursday, April 29, 1999."	E 6393
4/28/99 10:16:08	E-mail from K. Heissner to R. Whiteman; Re: OVP Mail Server; entitled, "HEADS UP!" "Currently ongoing work related to the resolution of unrecordsmanaged [sic] e-mail on all EOP mail servers has caused issues related to the OVP Mail Server to surface which need to be addressed. [ ] Spriggs expressed some concerns ... related to the OVP Mail Server and its inability to perform records management processing as the server seems to be barely able to handle its current mail processing load." "The responsibility for the OVP servers [sic] hardware and operating software falls into Chip Sparks' area. Please coordinate a meeting with him."	E 6377
4/28/99 2:17:31	E-mail from R. Whiteman to K. Heissner; Re: OVP Mail Server Problem. In response to above e-mail, states that "I am forwarding this to Mr. Ritter for action."	E 6382–83

4/28/99	E-mail from R. Whiteman to S. Bussey, A. Tarica, J. Stiver, M. Miller, R. Haas, and Y. Salim. Subject: LN Self Eval. " The Lotus Notes team provided direct support to the Office of the Vice President (OVP) during this evaluation period [10/98 to present]. The Lotus Notes team began addressing the issue of the non-EOP standard OVP mail template in November 1999. The team designed and tested a custom OVP mail template to resolve the problem of OVP users inheriting the standard EOP template when OVP accounts are created. The rollout the OVP template was subsequently delayed by the Government until OVP records management issues and template distribution issues are resolved."	E 7265–68
4/29/99	E-mail from K. Heissner to H. Sparks; Re: OVP Mail Server. Responds to Sparks' opinion that supporting email system is within his sphere of responsibility. Also states, "The OVP server is in serious trouble and we need to clearly identify the problems and offer reasonable solutions to Dottie. Records management, an application, is one of our concerns."	E 6381
4/29/99	E-mail from K. Heissner to D. Cleal; Re: OVP Mail Server Problems. "File Truncation Problem. The cause of this problem is insufficient server memory and is likely to persist until a new OVP mail server at a cost of $10,000-12,000 is placed into operation. The current server is at the maximum memory. It is also older and slower technology; it cannot be expected to last another year or two without causing serious performance problems. Needless to say, the planning for the implementation of a new server depends on the availability of adequate funding. Don't know where that stands. Probably was not included in our capital budget. OVP Server Environment. The OVP Mail server operates in its own non-secure domain. To properly function in the EOP environment it needs to be integrated into the EOP infrastructure. One barrier to its integration is the fact that it does not meet EOP security requirements. It allows dial-in access without adequate security protection (No SecurID). The OVP has not participated in the EOP infrastructure including such features as secure access and virus protection. Records Management. When the servers were turned over to IS&T no records management had been practiced by OVP. The current machine does not have sufficient computing power to add RM functionality now, even if that were possible. To activate records management now will require a major level of effort of system redesign, hardware upgrades, and OA mail system modifications."	E 6380
4/30/99	E-mail from K. Heissner to H. Sparks; Re: Replacement of the OVP Server. "[ ] [Hass] explained that [the server's failure] was traced to low memory." "[ ] VanHorn gave me a $10,000-12,000 estimate for a new machine with more memory, more disk space, and greater speed."	E 6378
4/30/99	E-mail from D. Cleal to M. Lindsay; cc: S. Parsons, C. Ehrlich; Re: Associate Director Report – IS&T. "Feedback to Paul Cusack (OVP) on Vice President Gore's Computer Problems: I spoke with Paul yesterday and indicated that in my review I am finding a number of details that require additional time to evaluate. Accordingly, I would not be able to provide the necessary information to his office for approximately another week. This memorandum will not be forwarded until properly routed, reviewed and cleared with you and Virginia Apuzzo. I am finding out some very interesting issues that I am in the process of fixing."	E 6392
5/3/99	E-mail from H. Sparks to D. Cleal attaching a draft of memo from Cleal to V. Apuzzo through M. Lindsay; Re: Office of Vice president Computer Problems. Draft of memo from Cleal for Apuzzo regarding computer problems at OVP. Includes bullet that states "Department of Justice was notified by the Office of Administration, General Counsel about the loss of the Vice President's E-mail files." In Apuzzo's interview with the Committee, she stated that she could not recall whether there was ever a records management problem with the Vice President's e-mail system.	E 6447-51
5/4/99	E-mail from D. Cleal to M. Lindsay; Re: Associate Director Report – IS&T. "My memorandum to the OVP regarding the computer problems that occurred on April 2nd and April 26th is almost complete and is expected to be finalized in the next day or two. It will be routed through OGC, you and Virginia before a copy is provided to the OVP."	E 6391
5/4/99	E-mail from H. Sparks to D. Cleal; Re: OVP Problems (Updated Section in Blue). Proposed revision to Cleal memorandum to OVP on Office of Vice President Computer Problems.	E 6447
5/5/99	E-mail from H. Sparks to D. Cleal; cc: T. Misich; Re: Comments. Comments on Cleal OVP memorandum. "[T]he translation is actually not a truthful statement … My only concern with that is, If [sic] Vice President Gore seeks confirmation through outside sources, the statements might not wash out well … Authentication did occur!" "My problem is, if Mr. Gore requests additional details ,,,, [sic] we'll have to make things up to fit the statements made."	E 6454–55
5/5/99	Memorandum from D. Cleal to V. Apuzzo through M. Lindsay; Re: Office of Vice president Computer Problems. Draft of memo from Cleal for Apuzzo regarding computer problems at OVP. Includes bullet that states "Department of Justice was notified by the Office of Administration, General Counsel about the loss of the Vice President's E-mail files."	173
5/7/99	E-mail from C. Sigman to D. Cleal; cc: K. Heissner; H. Sparks, S. Powell, T. Misich and D. Baker. Subject: OVP Upgrade and Server. "Here's what is happening with the OVP server: Sue is placing a credit card order for a $740 upgrade to the existing OVP server. Sue will arrange to have them delivered directly to the NEOB. This request came from Chip Sparks. Funding from the CIP account for server infrastructure. Karl has given me the information for a $18,284 replacement OVP server. He says that everyone concurs that this is correct configuration but that you were never able to hold the brief meeting you hoped to hold. Karl says that Dottie will give me the go-ahead to process the requisition to purchase it. Funding from the CIP account for server infrastructure. For the record, assuming these purchases, we've now spent $189,263 of the $308,000 CIP allocation for server infrastructure."	E 7001
5/7/99	Memorandum from D. Cleal to V. Apuzzo through M. Lindsay; Re: Office of Vice president Computer Problems. Draft of memo from Cleal for Apuzzo regarding computer problems at OVP. Does not include bullet stating DOJ was notified by the OAGC.	172
5/7/99	E-mail from D. Cleal to M. Lindsay; cc: M. Lyle, S. Parsons and C. Ehrlich; Re: Associate Director Report – IS&T. "Memorandum to OVP on the Computer Problem: Has been delivered to you for your review and discussion with Virginia. I did call Moe Vela and E-mailed [sic] Paul Cusack on the status that this could not be provided to them today. I have not heard back from either one (Moe is out today)."	E 6390

5/11/99	E-mail from M. Ritter to A. Leister. Subject: OVP & other concerns. "The OVP mail server (OVP1 is back to it's original configuration of 96MB Ram. The server proved unstable with the new memory and we are back where we started. I will inform you if any changes are to be made. With respect to the notes tapes: In April of 1998 a problem with the ARMS/Notes interface was discovered and we began maintaining all the backup tapes from the mail servers: Prior to this, server backup tapes had been recycled for economic reasons. There had been NO CHANGE in this since April '98. We made a plan in which we run system agents which will identify anyone who is not being records managed. Upon completion of this task, we will determine a method to insure that the admin. input team use proper syntax when entering new data. After ALL incorrectly unmanaged users are put into the 'managed state' by the data entry folks, we will re-run the agents to insure it was done correctly and we haven't missed anyone. At that time, (?DATE?) we know that the system is working properly, and we begin to recycle NEW tapes. We cannot recycle tapes from 4/98 to (?DATE?). This would destroy the only record of e-mail for many users in that time period. It is probably a violation of a court order."	E 7287
5/11/99	E-mail from D. Cleal to M. Lindsay; cc: M. Lyle, S. Parsons, C. Ehrlich; Re: Associate Director Report – IS&T. Discusses OVP Server Memory Upgrade. Likely referring to Cleal memo to VPOTUS, also notes, "Yhe [sic] OVP memorandum regarding the Vice President's computer problems has been cleared with Cheryl Mills' office. It now needs to go to the OVP General Counsel. Mike Lyle is successfully working this issue."	182
5/13/99	Memorandum from D. Cleal to V. Apuzzo through M. Lindsay; Re: Office of Vice President Computer Problems. Appears to be the final memo from Cleal to Apuzzo regarding computer problems at OVP. Does not include bullet stating DOJ was notified by the OAGC.	E 5201–03
5/13/99	Memorandum from D. Cleal to V. Apuzzo through M. Lindsay; Re: Office of Vice President Computer Problems. Includes Signature of Mark Lindsay and a check by Apuzzo's name. Appears to be the final memo from Cleal to Apuzzo regarding computer problems at OVP. Does not include bullet stating DOJ was notified by the OAGC.	204
6/7/99	E-mail from K. Heissner to R. Hughes; cc: H. Sparks and M. Ritter; Re: New OVP Server. "Chip: Now that the machine is in, would you pick up on the installation? I had filled in to coordinate this work some time ago when quick response was needed and the OVP mail server and the Mail2 records management problem needed to be dealt with, but I don't want to intrude into your area and would appreciate your taking it from here. Eric Ritter is keenly aware of the absolute necessity to give this work priority and to have the new server in production before the end of June, as promised. I'll be glad to give whatever assistance may be necessary."	E 5788–89
8/11/99	E-mail from R. Hughes to A. Greenstone; Subject: Records Management. "We do not have a reliable back up of all VP bulk mail. We just auto forwarded to the Senate."	E 6859
9/17/99	E-mail from A. Feraren to R. Sullivan; Subject: Old SGI Vetting Server in OVP Mail Room. "All vetted name and event files formerly stored in the old SGI vetting server (vpsgi.eop.gov) located in the OVP mail room have been migrated to the current OVP vetting server, ovpvet.eop.gov. Backup tapes have been made of the old vetting server for archives. It is safe to delete all files residing in the old vetting server (vpsgi.eop.gov) located in the OVP mail room."	E 6829–30
1/19/00	E-mail from D. Barry to C. Anderson and A. Greenstone. Subject: OVP and records management. "IS&T is in the process of clustering the OVP mail server and I am wondering if there has been a change in OA's stance regarding OVP records management. We (IS&T) are still operating under the guidance that was developed back in the Mike Gill era which is that OVP is doing their own E-mail records management and that we are not to be involved. This means that we should not care that some OVP users have the RM E-mail template and some do not. Also the RM scan process does not run on the OVP mail server. I would like your take on this."	E 6866
3/6/00	E-mail from A. Feraren to M. Miller; cc: J. Spriggs and T. Barry. "Last week John Spriggs brought to my attention that he was observing email from OVP Lotus Notes users with Bcc's to the EOP ARMS system. John explained to me that OA/IS&T has an agreement with the OVP that they (OVP) would be responsible for their own automated records management. Should this be the case, then the problem of OVP Lotus Notes users hitting the EOP ARMS system may have implications of accountability. Since there are multiple stake holders in this situation, I'll need your assistance in getting some information to present in our morning meetings." The e-mail goes on to ask for the details of when, how, and how many OVP users were Bcc'd to ARMS. Feraren says this information will be used to ask IS&T how to proceed in fixing the problem. At the end, Feraren signs his name "Bing."	E 5849
3/8/00	E-mail from M. Miller to A. Feraren. "The Lotus Notes and Mail Integration teams have raised concerns about OVP Records management. Currently some OVP records are sent to EOP ARMS system but some are not. Should we stop collecting records for OVP or start collecting all records from OVP."	E 6789–90
3/9/00	E-mail from A. Feraren to T. Misich. Subject: OVP Mail Server/ARMS Situation. "Terry, Here's the essence of the OVP mail server and ARMS situation. A number of OVP user-originated electronic mail is being sent to the EOP automated records management system (ARMS). This situation occurs because the current OVP mail accounts creation process, now being handled by EOP/IS&T, creates the mail account using the EOP mail template as opposed to the original OVP mail template. As a result, OVP users who have inherited EOP's Notes mail design template have encoded in their mail a blind copy (Bcc) to the EOP ARMS system. It is not clear who is supposed to perform the automated records management of the OVP mail server electronic mail records. Additionally, because of this OA/OVP ARMS issue, the process that scans EOP mail servers for inbound email from the Internet (ARMSCAN) is not installed nor operating on the OVP_1 mail server. A result of this issue [sic] gaps exist in the backing up of data files on the OVP mail server."	E 6349
3/10/00	E-mail from A. Feraren to T. Misich. Subject: OVP Mail Server/ARMS Situation. "FYI: From what I've been told OA/IS&T never agreed to ARMS manage OVP's email."	E 6831–32
6/7/00	Letter from Steven Reich at White House Counsel's Office to James C. Wilson at Committee on Government Reform stating that "[Y]our May 16, 2000 letter regarding non-records managed e-mail has led us to discover that a technical error apparently prevented e-mail on the OVP server from being backed-up from the end of March 1998 through early April 1999."	*

9/22/00	White House produces first batch of reconstructed e-mails responsive to the Committee's previous subpoenas. Documents include e-mails concerning the Vice President's fundraising activities. Also included is an e-mail reminding the Vice President that e-mail is backed up on the White House computers and stating "the only way not to have your e-mails backed up on government computers would be to get a Clinton/Gore computer in your office and set it up for private e-mails."	193 – 198
Undated	*Author unknown.* "Issues - History: OVP's Lotus Notes environment is a legacy system. OA/IS&T inherited the management of their OVP_1 server after they had lost there [sic] previous administrative staff. The Office of the Vice President was either considered immune or understood themselves to be immune from records management in the same sense that EOP performs. Their approach to an record keeping consisted of tape backups of their mail data that got stored in a vault. . . . External Mail: Mail received into Lotus Notes from the outside world is not being records managed at all. This is because the process that handles this portion of Records Management in EOP is not running on the OVP_1 server."	E 7320
Undated	*Author unknown.* EOP Project Profile. Title: OVP Mail Template. Benefit: Enable the maintenance of OVP mail files. "1/28/99 The Notes Team is awaiting OVP policy regarding records management before deployment. - John G. Stiver. 11/9/98 OVP Template created and ready for activation. - Alan R. Tarica."	E 7319
Undated	*Author unknown.* Handwritten notes, with "1. Aspen Lodge" at top of page. "OVP Server wasn't records managed[.] Storm upgrade for Y2K[.] back ups of server Additionally out of this we discovered not records management. Issue[.] How[?] Turnover not Received server[.] Insufficient [illegible]. Integrated into the EOP server environment. Not integrated properly back up files. Ergo lost files."	E 6520
Undated	*Author unknown.* "Vice Presidents Email", Word formatted. "A change was made to the ARMS processing code to recognize OVP email addresses so the mail records could be stored in a VPO file and not in a UNKNOWN file, affecting the Notes interface to ARMS. The arms-scan interface process was never implemented on the OVP server because it was clearly understood that OVP was doing their own records management and ARMS was not being used to manage OVP records." It unclear when this change was made. Any searches for OVP e-mail before that date would not have found records marked as "unknown."	E 6376
Undated	*Author unknown.* "cc:Mail MTA Administrators Guide"; handwritten note, "Received From John Spriggs" Fact summary of "OVP ARMS problem and its scope in the least technical terms possible" and timeline of "events relating to the OVP Lotus Notes server administration, backups, and records management records." "Michael Gill was the original Lotus Notes administrator who decided to manage OVP electronic mail records using backup tapes. The OVP_1/OVP server was backed up nightly/weekly using an XYZ Tape Backup System until March 28, 1998 when [OA-EOP] moved the OVP servers into Room 07 of the [OEOB]." "[OVP] was either considered immune or understood themselves to be immune from [automated] records management [as performed by] EOP." "The responsibility of the tape backup process may have been assigned to J. Flynn during the tenure of [Mike] Whessler's administration of the OVP_1/OVP server." Describes, *inter alia*, "?Van Horn?: OA Started Backup Exec of C: and D: Drives on OVP _1 (not E:)" as occurring on 3/30/98; "OVP E: Partition Identified as not being Backed Up" as occurring on 4/2/99; "Feraren: Raises OVP Arms Problem at IS&T Branch Chiefs Meeting" as occurring on 3/6/00; "Misich: Requests summary of OVP Problem for OA Lawyers" as occurring on 3/6/00, and "Feraren: Emailed summary of OVP problem to Misich" as occurring on 3/9/00.	162

ADDITIONAL VIEWS
APPENDIX III

OFFICE OF THE VICE PRESIDENT DOCUMENTS

Dorothy E. Cleal
04/20/99 12:24:50 PM

Record Type: Record

To: Mark F. Lindsay/OA/EOP@EOP, Michael J. Lyle/[redacted]

cc:
Subject: OVP Computer Problem

I just spoke with Paul Cusack from the VPs office and he indicated that the VP is interested in receiving a final response from IS&T on what caused the truncation problem and what is being done to prevent recurrence of this situation. As you are aware I provided you with a preliminary memo with NGs response and included my management assessment on what IS&T needs to do. I will complete this process by getting my staffs response and confirmation that we have completed certain actions. Within the next week I will finalize this information and draft you a final input on what has been done. Simultaneously I will have a memo prepared for the VPs office. It will be routed through OA OGC and you before submitting. Paul Cusack agreed that this time line was sufficient. Dottie

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF ADMINISTRATION
WASHINGTON, D.C. 20503

May 13, 1999

MEMORANDUM FOR VIRGINIA M. APUZZO
ASSISTANT TO THE PRESIDENT FOR
MANAGEMENT AND ADMINISTRATION

THROUGH: MARK F. LINDSAY
DIRECTOR
OFFICE OF ADMINISTRATION

FROM: DOROTHY E. CLEAL
ASSOCIATE DIRECTOR
INFORMATION SYSTEMS AND TECHNOLOGY

SUBJECT: Office of the Vice President Computer Problems

INTRODUCTION

Over the past several weeks, the Office of the Vice President (OVP), has experienced various computer problems including difficulties with the Lotus Notes application and the network. I initiated an IS&T review to: 1) determine the cause(s) of the Vice President's Lotus Notes problem which resulted in the irretrievable loss of three days of E-mail (03/31/99 to 04/02/99); 2) determine the cause(s) of certain network related problems; 3) identify any known or potential computer system vulnerabilities that might affect the Vice President's office in the near term; and 4) identify appropriate corrective measures.

DISCUSSION

1. **Lotus Notes Problem - April 2, 1999.**

What happened: On April 2, 1999 the Vice President was unable to send or receive E-mail for approximately seven hours. In the process of correcting the problem, the technical support staff discovered that three days of the Vice President's E-mail was irretrievably lost.

Why this happened: The OVP Mail and Applications Server had insufficient memory, disk space, and power. In fact, the Server is near the end of its useful life cycle as a primary server. Consequently, the server became overloaded and its operation system automatically cleared its memory to prevent total lockup. All documents which had not been saved to a disk -- in this case three days of E-mail -- were irretrievably lost in the process.

Normally, E-mail that is lost may be retrieved from backup tapes. However, when Northrop Grumman migrated the OVP server to NT4.0, it was configured using the standard IS&T configuration rather than the OVP's configuration. In addition, the backup schedule was not properly adjusted to the EOP backup standards. Consequently, no data files had been backed up to the tape since the OVP server migration. Virtually all of the Vice President's E-mail was ultimately recovered except for the three days of E-mail previously referenced.

Actions Taken:

- Initiated an immediate and comprehensive analysis to determine all relevant and contributing factors to this problem.
- Determined that the OVP server must be replaced. The cost estimate to accomplish this is approximately $18,000 and funding has been identified under the FY99 server upgrade plan. The new server is expected to be installed by June 1999.
- Scheduled a memory upgrade for the current OVP server as an interim measure pending the purchase and implementation of a new, more modern and powerful server in the June time frame.
- Corrected and tested the OVP server backup schedule to ensure proper operation and backup to all server partitions.
- Reconfigured the OVP server to EOP configuration standards.
- Initiated a thorough internal review of specific IS&T management procedures including a clarification of the responsibilities of government personnel assigned to maintain/operate OVP systems and equipment.
- Initiated a thorough external review of specific Northrop Grumman management procedures including requiring clarification of the responsibilities of contractor personnel assigned to maintain/operate OVP systems and equipment.
- Directed Northrop Grumman to conduct a thorough review of assigned personnel to determine whether they possess the necessary technical skills. IS&T is conducting a similar review of its personnel.

2. **Network related problems - April 26, 1999:**

What happened: The computer file that controls and assigns user privileges on the OVP network was corrupted. As a result, user access to the network was restricted. This problem resulted in disrupted service to OVP for about seven hours while the problem was being identified and analyzed.

Why this happened: The exact cause of this problem is unknown. The age and power of the OVP server may have been a contributing factor. Furthermore, the sheer volume of traffic on the subnet network (subnet 109) to which the OVP server is connected, may have contributed to this problem.

Actions Taken:

- Tasked Northrop Grumman to reconfigure the current OVP client network configurations to relieve the overburdened system.
- Scheduled the removal of the subnet 109 server to coincide with the NT4.0 conversion project for users of subnet 109. Ultimately, this action will minimize the burden on the system by rerouting traffic to a more powerful system.
- Tasked Northrop Grumman to design, schedule and implement the installation of two Ethernet switches for subnet 109 (specifically alleviating impact on OVP customers).

A complete assessment of the OVP's the computer/system is ongoing. Once completed, a full determination will be made on what further action may be necessary.

RECORD TYPE: FEDERAL (RECONSTRUCTED EMAIL)

CREATOR: Mary D. Blackwood (BLACKWOOD_M) (OA)

CREATION DATE/TIME:11-APR-1994 12:48:00.00

SUBJECT: Event -> 13-Apr-1994 03:30pm BLACKWOOD_M

TO: Gwendolyn N. Weaver (WEAVER_G) [redacted]
READ: UNKNOWN

TO: Michael A. Gill (GILL_M) [redacted]
READ: UNKNOWN

TO: Marvin Krislov (KRISLOV_M) [redacted]
READ: UNKNOWN

TO: Terry W. Good (GOOD_T) [redacted]
READ: UNKNOWN

TO: Kumiki S. Gibson (KUMIKI S. GIBSON[redacted]
READ: UNKNOWN

TO: James B. Wright (WRIGHT_J) [redacted]
READ: UNKNOWN

TO: Nellie W. Doering (DOERING_N) [redacted]
READ: UNKNOWN

TEXT:
You are invited to the following meeting:
  Scheduled by : BLACKWOOD_M
  Purpose   : discuss records management implementation
  On   : 13-Apr-1994
  From   : 03:30pm   To : 04:30pm
  At   : 4208

----------THe purpose of this meeting is to discuss the steps necessary to bring WH and OVP online to the automated records management system in accordance with recent court documents. We would like to tentatively establish May 2 as the implementation date for WH and OVP, but we need to have agreement on several matters before we can proceed.

RECORD TYPE: FEDERAL (RECONSTRUCTED EMAIL)

CREATOR: Michael A. Gill (MICHAEL A. GILL[redacted] (DEFAULT)

CREATION DATE/TIME:08-NOV-1993 15:55:00.00

SUBJECT: Re: F.Y.I.

TO: WEAVER_G (WEAVER_G[redacted]
READ: UNKNOWN

TEXT:
Message Creation Date was at 8-NOV-1993 15:50:00

Thanks, I'm glad you called. While thinking about my particular problem with Internet, I have decided to pursue buying my own domain. This domain would reside in here in the OVP and be called @ovp.whitehouse.gov. It would have to be approved to be a subdomain of whitehouse.gov. This will solve the backup and separation of records problems with being @whitehouse.gov or eop.

To avoid archival confusion we may want to change the name of our mailbox back to OVP from EOP_OVP. The Presidential Records Act specifies that our records and Presidential records are to be kept separate. I'm sure that Jerry and his Kids did not have this in mind when they asked me to change it.

Do we have a meeting today? I hope you had a nice weekend.

RECORD TYPE: FEDERAL (RECONSTRUCTED EMAIL)

CREATOR: Michael A. Gill (MICHAEL A. GILL[redacted]) (DEFAULT)

CREATION DATE/TIME:12-JUL-1993 22:05:00.00

SUBJECT: I hate typing your whole address everytime

TO: weaver_g (WEAVER_G[redacted](OA)
READ: UNKNOWN

TEXT:
Message Creation Date was at 12-JUL-1993 17:41:00

Your still not in the directory.

anyway, Hugo Beck from Lotus gave me a call with some really good info about cc-mail. He asked me about Armstrong and I pleaded the 5th but I thought you (or your staff) should talk to him about cc-mail security features they did for the NSC, hidden security features in cc-mail, and other stuff like how to automatically choose to send it to records management, etc.

I ask him to give you a call, hope you don't mind the "favor"

one more thing, As a concerned parent I think we should check on Katie McGinty's shop. I think the Office of Environmental Policy has been orphaned. I will be happy to add them to our LAN if you can get them the memory upgrades - that is if they are not going on Oasis anytime soon. Thanks for everything. I know I have dumped a lot of stuff in your lap. Let me know if it gets to be too much. Regards. -M.

RECORD TYPE: FEDERAL (RECONSTRUCTED EMAIL)

CREATOR: Michael A. Gill (MICHAEL A. GILL[redacted]DEFAULT)

CREATION DATE/TIME:21-JUN-1993 20:50:00.00

SUBJECT: Notes and All-in-one accounts

TO: WEAVER_G (WEAVER_G[redacted] (OA)
READ: UNKNOWN

TEXT:
Message Creation Date was at 21-JUN-1993 20:27:00

Hi,

I haven't talked to you in a couple of days, are you hanging in there? Your name is not in my directory so I have to dig up old messages that I have from you.

a couple of things for our next conversation but first...

Where are you? can I come see your palacial office?

Okay here is the list:

1) Lotus Notes secret project for the OEOB - I don't know if you have talked to Paul Tisdale yet but I need to give my users some relief. John Podesta seemed to clear up any Armstrong case doubts about what we are doing so I feel good about it. Can we talk timing?

2) If the notes thing can't be something we can do I am going to ask Carlsen for All-in-one accounts for the folks here. At one time the quoted me a $140.00 per head cost and then they talked about giving it to the OVP for free just to have us on board.

What do you think, I know that you have a ton of stuff in the mix but if we can pull this together Paul and I can do the heavy lifting, We can show everyone that working together we can put a big thick chalk mark in the win column!!!

FYI this is the longest day of the year and it had to be on a MONDAY! see ya, Regards. -M.

RECORD TYPE: FEDERAL (RECONSTRUCTED EMAIL)

CREATOR: Jonathan P. Gill (GILL_J@A1@CD) (WHO)

CREATION DATE/TIME:15-JUN-1993 18:04:00.00

SUBJECT: RE: Armstrong case

TO: John Podesta (PODESTA_J@A1@CD) (WHO)
READ: UNKNOWN

CC: Jonathan P. Gill (GILL_J@A1@CD) (WHO)
READ: UNKNOWN

CC: John Podesta (PODESTA_J@A1@CD) (WHO)
READ: UNKNOWN

CC: Jonathan P. Gill (GILL_J@A1@CD) (WHO)
READ: UNKNOWN

CC: John Podesta (PODESTA_J AT A1 AT CD) (DEFAULT)
READ: UNKNOWN

CC: Michael A. Gill (MICHAEL A. GILL@EOP_OVP@CCGATE@EOPMRX) (DEFAULT)
READ: UNKNOWN

CC: ELLER_J (ELLER_J@A1@CD) (WHO)
READ: UNKNOWN

CC: PODESTA_J (PODESTA_J@A1@CD) (WHO)
READ: UNKNOWN

CC: GILL_J (GILL_J@A1@CD) (WHO)
READ: UNKNOWN

CC: weaver_g (WEAVER_G@a1@cd) (OA)
READ: UNKNOWN

CC: MILLS_C (MILLS_C@A1@CD) (WHO)
READ: UNKNOWN

CC: Todd J. Campbell (TODD J. CAMPBELL@EOP_OVP@CCGATE@EOPMRX) (DEFAULT)
READ: UNKNOWN

TEXT:
John,
Jeez, you really got my attention. Eller asked what in hell I'd sent you.
My intent was not to flame, nor accuse anyone of anything.
My intent was to support the notion of not allowing a judge who might not be technologically sophisticated to impose rulings on us that would have adverse impact on our drive towards electronic communications. I was trying to express my concern that we not let a judical ruling inadvertently set policy that might not be good policy.
That's all.
Other than my optical storage suggestions, please let me know how else I may contribute.

E 5306

Jock

RECORD TYPE: FEDERAL (RECONSTRUCTED EMAIL)

CREATOR: Michael A. Gill (MICHAEL A. GILL[redacted]) (DEFAULT)

CREATION DATE/TIME:15-JUN-1993 18:47:00.00

SUBJECT: Re[4]: Armstrong case

TO: PODESTA_J (PODESTA_J[redacted] (WHO)
READ: UNKNOWN

TEXT:
Message Creation Date was at 15-JUN-1993 18:10:00

Great thanks for the clarification,

I originally sent you and the others an e-mail expressing my concerns. Those concerns arose from trying to understand why we were having trouble getting Internet and our difficulty in establishing outside gateways. Aside from the obvious security concerns the Armstrong case was given as "the" reason. The general response has been "we can't do anything until we have results from the Armstrong case."

As a result I started reading the newstories about Armstrong and Judge Richey and asking questions. It was my understanding that the judge wanted to be able to sort through our records like he sorts through his WordPerfect documents. If you included all e-mail, as many seem want to do, it smells suspiciously like Big Brother and that was what raised my concerns.

I agree that we should not "fan the flames" and that we should work toward a user friendly solution. I recommend that, as with paper, if someone is creating a record they need to send a copy of that record to the records manager. Like a paper copy, putting someone on a distribution list for receipt. The closer we can mimick the paper system the better. -M.

Our hard drives were seized by DiGenova in the passport office independent counsel case, not Armstrong. Phone calls aren't records unless recorded or notes are taken. I agree that we should deal with e-mail the same way we do faxes or other communications. That's what our record guidance does.

AAC Associates Time Tracking System

Time Entry

Charge Code: 7002-022 VP GORE

Call Number: OVP-94008

Employee: Blaine Lee

Task Date: 01/27/94

Hours: 1.0

Authorized By: Steve Fletcher

Task Details

End-User: Michael Gill

Description: Backup Scripts for Server.

Comments: Talked with Bill gray about how to bakup the OVP server user a script that will alow them to save information to tape and not lose even one day.

AAC Associates Time Tracking System

Time Entry

Charge Code: 7002-024 VP GORE-BLANKET AGREEMENT

Call Number: OVP-94010

Employee: Bill Gray

Task Date: 03/18/94

Hours: 2.5

Authorized By: Michael Gill

Task Details

End-User: 03

Description: arcserver config

Comments: Created backup scripts for the office of the vice president. Also, demonstrated how to do a restore from tape

From: BLACKWOOD_M[redacted]
Date: 4/11/94 11:34 AM
Priority: Normal
TO: MICHAEL A. GILL [redacted]
TO: Todd J. Campbell [redacted]
Subject: Meeting to discuss records management actions
---------- Message Contents ----------

Gwenn would like to schedule a meeting to discuss the possibility of bringing up the recordkeeping system for WH/OVP in the near future (possibly May 2). The purpose of this meeting is to discuss when and how this could be done to satisfy our legal commitments.

We'd propose to schedule this meeting at 3:30pm in Gwenn's office on Wednesday, April 13. Please respond regarding your availability at this time...or provide times you can make it if this proposal is not convenient.

Thanks.

Beth Blackwood

4/11/94

Kumiki - Please attend. Thanks!

P.S.

Todd

E 5327



Moe Vela
10/14/98 01:16:15 PM

Record Type: Record

To: All Staff

cc:
Subject:

I was just informed that it is necessary for each of us to delete any unnecessary e-mails that we have saved in our Lotus Notes accounts. The server is near capacity and to avert a problem we must comply with this deletion request. PLEASE only delete opened e-mail messages. Thanks for your cooperation and have a great day!

I drafted this in order to (1) let you know how I'm thinking about this after my meeting with Gwen and (2) to (possibly) let him know what we're doing to get his implicit approval.

Let's talk.

KGG 4/15/94

DRAFT

April 15, 1994

MEMORANDUM FOR THE VICE PRESIDENT

FROM: KUMIKI GIBSON

SUBJECT: E-MAIL

At the recent Regulatory Review meeting, you expressed some concern about the e-mail policies that are being instituted across the Federal government. This memorandum is to provide you with the status of these efforts.

I. WHITE HOUSE POLICY

On May 5, 1993, the White House Counsel's Office issued the following policy on e-mail to govern the record-keeping of the Executive Office of the President: "Records generated electronically must be incorporated into an official record-keeping system. Thus, no word processing or e-mail document that is a Presidential record [subject to the Presidential Records Act, which protects such records during the President's term] should be deleted unless it has been (a) printed and placed in an appropriate file, or (b) preserved in an appropriate electronic system." (The White House Counsel's memorandum on this issue is attached.) The White House Counsel's Office is currently drafting guidelines to implement this policy.

As you know, the Office of the Vice President also generates records that are subject to the Presidential Records Act. (Not all records generated in our office, however, are covered by the Act: personal communications and materials related solely to your re-election or election, for example, are excluded from the Act.) While our office has not explicitly adopted the White House policy, Todd and I suggest that we do so and help shape the implementing guidelines. We reach this conclusion for the following reasons.

We are under the policy?

We believe that we should explicitly adopt the White House policy because it is reasonable and to depart from may draw (public) criticism. While no court has held that e-mail is a "documentary material" for purposes of the Presidential Records Act, an appellate court has found that an e-mail message is a "documentary material" within the ambit of the Federal Records Act, the law that requires the public disclosure of certain records generated by federal agencies. The White House Counsel's Office believes that a court would similarly conclude that certain e-mail generated by the President's Office and the Vice President's Office would be "documentary material" under the Presidential Records Act and should be treated as such. We agree with this analysis and conclusion.

Cite statute - Good Govt Purpose - in statute

- I thought we were already under the policy
- Cite to definition in statute
- refer to purpose of statute

E 5385

Without question, if we decide to follow the White House policy, we should certainly help shape the guidelines implementing the policy. We understand from the Office of Administration that we have two options with respect to how to preserve our e-mail. One option would require that all e-mail be treated as Presidential records. The other option would allow the creator to determine whether his or her e-mail is in fact a Presidential record by allowing the creator to delete messages that s/he considers not to be a Presidential record.



While no decisions have been made, the White House Counsel's Office is leaning toward treating all e-mail as Presidential documentary materials. We believe, however, that our policy regarding e-mail should mirror our policy regarding paper "documentary materials" -- that is, that the creator determines for him/herself whether his/her e-mail is in fact a Presidential record.

II. FEDERAL AGENCIES

As Trudy Peterson made clear at the recent Regulatory Review meeting, the National Archives has drafted regulations that will govern the retention, management, and disposal of records generated by federal agencies. Those regulations are currently under review at OIRA. Sally Katzen and I will work with Archives to attempt to ensure that these regulations ensure that these regulations do not deter electronic communications.

* * *

Please let me know if you have any questions with respect to this matter or any problems with our recommended approach.

File: VP Records

July 20, 1993

MEMORANDUM FOR TODD CAMPBELL

FROM: KUMIKI GIBSON AND NEAL KATYAL

SUBJECT: OVP DOCUMENT RETENTION PROCEDURES

This memorandum addresses the procedures that the Office of the Vice President ("OVP") must follow under the Presidential Records Act, 42 U.S.C. § 2201-07 ("PRA"). We conclude that OVP must retain all documents and correspondence that have been prepared for the use of the President, the Vice President, or members of their staffs.

Discussion

The PRA governs the document retention policy of "presidential records."[1] 42 U.S.C. § 2201. Its provisions explicitly apply to the Vice President. 42 U.S.C. § 2207. Presidential records have three characteristics. First, the material must resemble or be in the form of "books, correspondence, memorandums, documents, papers, pamphlets, works of art, models, pictures, photographs, plates, maps, films, and motion pictures. . ." 42 U.S.C. § 2201(1). Second, the record must be created or received by the Vice President, his immediate staff, or a unit or individual whose function is to advise the Vice President. 42 U.S.C. § 2201(2). Third, the record must relate to or have an effect upon the fulfilling of the Vice President's constitutional, statutory, or other official/ceremonial duties. Id.

Four types of documents are exempt from the PRA: official agency records, extra copies of documents, publications and stationery, and personal records. There is no legislative history or litigation regarding "official records."

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[1] The Federal Records Act ("FRA") governs document retention requirements for executive agencies. It does not, however, apply to the OVP: "The President, the Office of Vice President, and the components of the EOP whose sole responsibility is to advise the President are subject to the PRA and create presidential records. The components of the EOP that have statutory responsibility (such as the Office of Management and Budget and Council on Environmental Quality) are subject to the FRA and create 'federal records.'" Armstrong v. Bush, 924 F.2d 282, 286 n.2 (D.C. Cir. 1991).

Personal records, under the PRA, refer to materials or portions of materials "of a purely private or nonpublic character which do not relate to or have an effect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of the President." 42 U.S.C. § 2201(3). This means that private documents (such as diaries) are not presidential records. "Materials relating to private political associations" and campaign documents are also considered personal records. 42 U.S.C. § 2201(3). On the other hand, materials that have both an official and a personal purpose (such as telephone logs) are considered presidential records.

Under the PRA, the Vice President has an affirmative duty to ensure that "activities, deliberations, decisions, and policies that reflect the performance of his constitutional, statutory, or other official or ceremonial duties are adequately documented . . . ." 42 U.S.C. § 2203(a). During his term, the Vice President may dispose of presidential records that no longer have administrative, historical, informational, or evidentiary value if the Vice President obtains the views of the Archivist in writing before disposal. The Archivist has the option of notifying Congress if either (1) the particular records are of interest to Congress or (2) such consultation is in the public interest. 42 U.S.C. § 2203(d). While the Archivist has the authority to notify Congress, neither the Archivist nor the Congress has the power to override or veto the Vice President's decision to dispose of certain records. The PRA simply requires that notice be given to the Archivist; it does not require the Archivist's consent.

OVP is therefore required to adhere to the following document-retention procedures:[2]

1) OVP must retain all documents, briefings, and other correspondence relating to official business. OVP need not preserve personal documents (such as private e-mail notes), official agency records, extra copies of documents, and stocks of publications and stationery. Preliminary drafts may be considered presidential records if they reflect policy development or significant decisions relating to the fulfillment of the Vice President's duties.

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[2] These procedures are consistent with the requirements outlined by the White House Counsel's office. See Memorandum from John D. Podesta and Stephen R. Neuwirth to All EOP Staff (Presidential Records) (attached hereto).

2) OVP must create and implement back-up systems to preserve such material. OVP may want to consider creating an e-mail and document system where boxes could be checked for personal correspondence. OVP may have a strong policy reason for maintaining paper copies instead of computer records since facts within computer records are much easier to access by keyword searches.

3) OVP must consult with the Archivist and the White House Records Management Office to devise a system for document retention. An established, on-going relationship with the Archivist could be of mutual benefit.

Please let us know if you need any additional information or research on this issue.

cc: Michael Gill

Attachments

OFFICE OF THE VICE PRESIDENT

WASHINGTON

May 17, 1994

MEMORANDUM FOR MARVIN KRISLOV

FROM: KUMIKI GIBSON

SUBJECT: E-MAIL: SUGGESTED MONITORING PROCEDURES

Outlined below are suggested procedures to monitor the accuracy of the designations of record and non-record messages:

SUGGESTED MONITORING PROCEDURES

In order to ensure generally that designations of record and non-record messages by the system users are consistent with our policies and procedures and to identify areas of additional training and guidance, each agency should adhere to the following monitoring procedures:

A. Each agency should designate one individual to serve as the Designated Agency Monitor;

B. Each Designated Agency Monitor should attend the Office of Administration's briefing on the policies and procedures pertaining to the identification, retention, and disposal of record and non-record e-mail communications and the process by which the Designated Agency Monitor accesses the Records Management Document Monitoring System;

C. Each Designated Agency Monitor should review periodically a statistically valid sample of messages, as defined by [OMB?]; and

D. From this review, each Designated Agency Monitor should identify, where necessary and appropriate, areas of additional training and guidance.

* * *

Please contact me at your earliest convenience to discuss these suggested procedures.

E 5513

File: Pres. Records

MEMORANDUM

TO: Michael Gill

FROM: Todd Campbell TSC

DATE: March 9, 1994

RE: Computer Records

Please write me a detailed memo on what OVP is doing to archive computer records, both documents and Electronic Mail. I need this memo as soon as possible.

E 5651

ECORD TYPE: FEDERAL (NOTES MAIL)

CREATOR:Robert W. Haas (CN=Robert W. Haas/[redacted])

CREATION DATE/TIME:19-OCT-1998 13:25:57.00

SUBJECT:: Re: OVP1 mail server is Operational

TO:Joseph A. Vasta (CN=Joseph A. Vasta/[redacted])
READ:UNKNOWN

TEXT:
Please send me a copy of the procedures and I will try to follow them;
because I don't know what you are talking about a template!

Kumiki S. Gibson
02/25/97 11:51:16 AM

Record Type: Record

To: Moe Vela[redacted]
cc: All Staff
Subject: Re: Lotus Notes Crisis

Please be careful NOT to delete e-mails that are the subject of any current document requests. Thanks.
ksg

Moe Vela

Moe Vela
02/25/97 09:56 AM

To: All Staff
cc:
Subject: Lotus Notes Crisis

Good morning to all!

Some of our colleagues are unable to send and possibly receive E-mail this morning. In order to enable them to do such, I am asking each of you to go into your E-mail and delete all old mail that you no longer need and make sure that you also empty your trash immediately thereafter. This should buy us the time we need to more permanently fix the problem. Thanks for your patience and cooperation!

Michael A. Gill
06/19/96 12:05:07 PM

Record Type: Record

To All Staff

cc: See the distribution list at the bottom of this message
Subject: Re: Too much E-mail :)

OVP continues to have a problem with running out of disk space. IS&T has identified that we have too much e-mail and we need to delete all un-needed messages. Please take a moment to delete any drafts, sent or received e-mail in your box and help out the OVP. Thank you. -MG.

Message Copied To:

Ron E Blankenship[redacted]
asa m. elkins[redacted]
jeffrey c. george[redacted]
iqbal n. qazi[redacted]
james b. wright[redacted]

Moe Vela
12/04/98 11:26:26 AM

Record Type: Record

To: All Staff

cc:
Subject:

We need some help from all!

The Lotus Notes is within 5% of maximum capacity and it will shut down at that time.....to avoid this problem, I need each of you to delete any unnecessary Lotus Notes mail ASAP. Thank you for your cooperation!

Moe Vela
01/13/99 08:09:28 AM

Record Type: Record

To: All Staff

cc: Sharon L. Mitchell/[redacted]

Subject:

Good morning folks!

We are in another Lotus Notes crisis.....you must delete any unnecessary e-mail and/or databases in Lotus Notes IMMEDIATELY. We are going to run out of disk space in the next hour or so and we will go down if we don't comply with this request. PLEASE do what you can to alleviate this problem. Thanks!

Karl H. Heissner 06/07/99 12:51:24 PM

Record Type: Record

To: Robert J. Hughes/[redacted]
cc: Howard M. Sparks[redacted], Michael E. Ritter/[redacted]
bcc: Records Management[redacted]
Subject: Re: New OVP Server

Chip:

Now that the machine is in, would you pick up on the installation? I had filled in to coordinate this work some time ago when quick response was needed and the OVP mail server and the Mail2 records management problem needed to be dealt with, but I don't want to intrude into your area and would appreciate your taking it from here.

Eric Ritter is keenly aware of the absolute necessity to give this work priority and to have the new server in production before the end of June, as promised.

I'll be glad to give whatever assistance may be necessary.

Karl
Robert J. Hughes

Robert J. Hughes
06/07/99 12:05:22 PM

Record Type: Record

To: Karl H. Heissner/[redacted]
cc:
Subject: New OVP Server

Karl,
Now that the hardware is in house, please provide me with a set of key dates showing what is next.
V/R Bob
---------- Forwarded by Robert J. Hughes[redacted] on 06/07/99 12:04 PM ----------

Dorothy E. Cleal
06/04/99 01:14:06 PM

Record Type: Record

To: Karl H. Heissner[redacted]
cc: Robert J. Hughes[redacted]
Subject: New OVP Server

What is the status of this issue?

[redacted] **Alberto O. Feraren** 03/06/2000 08:30:24

Record Type: Record

To: Marvin Miller[redacted]P

cc: John E. Spriggs[redacted]P, Daniel A. Barry[redacted]

Subject: OVP Lotus-Notes Mail Server and ARMS

Marvin,

Last week John Spriggs brought to my attention that he was observing email from OVP Lotus Notes users with Bcc's to the EOP ARMS system. John explained to me that OA/IS&T has an agreement with the OVP that they (OVP) would be responsible for their own automated records management. Should this be the case, then the problem of OVP Lotus Notes users hitting the EOP ARMS system may have implications of accountability.

Since there are multiple stake holders in this situation, I'll need your assistance in getting some information to present in our morning meetings. Let me know how much effort this will take. Here's what we'll need:

1) When did we start getting OVP Lotus Notes users' Bcc's to the EOP ARMS system (you may ned John's help with this)?
2) How many OVP Lotus Notes users have the Bcc template that routes all their email to EOP ARMS?
3) What are the possible scenarios that caused the Bcc template to be inherited by the OVP Lotus Notes users? (account creation, OVP users were formerly EOP users etc.)
4) Is the Lotus Notes mail template for the identified OVP users an EOP mail template?

Once I have the answers to these questions, I'll present it during our morning meetings to see how IS&T would like to proceed in fixing the problem.

Thanks for your assistance.

Regards,
Bing

---------- Forwarded by James B. Wright[redacted] on 06/19/98 04:11 PM ----------

Dorian F. Pannell 06/19/98 02:54:50 PM

Record Type: Record

To: James B. Wright[redacted]

cc:

Subject: Status report for the week ending 06/19/98

ST980619.DOC

---------- Forwarded by James B. Wright[redacted] on 06/19/98 04:11 PM ----------

Daniel J. Gunia 06/19/98

Record Type: Record

To: James B. Wright[redacted]

cc: Dorian F. Pannell[redacted]

Subject: Weekly Status Report for Week Ending 6/18/98

ACCOMPLISHMENTS ** Total Hrs. = 40 (CSAR & E-Mail report data from 6/12 - 18/98)

Processing E-Mail (10.0 Hrs)

- Estimated time processing E-Mail READ = 329, WROTE = 277 TOTAL = 606 @ 1 MIN. PER = 10.10 Hrs. est.

Leave time taken (8.0 Hrs.)

- 6/17/98 - out on COMP Time. Court summons for house burglary.

Misc. CSAR's processed (11.0 Hrs)

- Misc. user ID Create, Modify, Check-Outs / Delete and Trouble Call CSARs (See CSAR's processed #'s below).

SEC Cross Training on ID processing (2.5 Hrs.)

- Work with Dorrian, and Chris Jones on cross training efforts.

EOP Information Security Office (0.5 Hrs.)

- Work with Jaime Borrego the Acting Info Security Office in response to his E-Mail about the EOP Domain Admin ID's and Password SOP. Also working with Jaime and the WHO INTERN Director Alison Kolwaite on INTERN database and INTERN Departure notification SOP's and reports.

Problems with WHADMIN Novell Server (0.5 Hrs.)

- REF CSAR# 247110, Work with Bill VanHorn on NT Sync problems with the WHADMIN Novell server. ID setup of any WHO ID's on WHADMIN on HOLD pending getting WHADMIN server in sync with NT again.

Problems with CEQ ID's setup (2.5 Hrs.)

- Working with Paul Dagenais and Bill VanHorn on problems with ID SOPs' for CEQ.

EOP Security and Mail server disk space (3.5 Hrs.)

- Working on clean up of Mail3 ID's and disk space.

New Climate Task Force (1.5 Hrs.)

- Working with CEQ Carolyn Mosley and Bill VanHorn to setup new Group scripts and ID's for new group.

06/19/98 CSAR ADMINISTRATION REPORT 06/19/98 PAGE 1

ECSCA22 ACTIVITY FROM 06/12/98 TO 06/18/98

	OPEN BEG	NEW CSAR	OPEN END	NET CHG	RESOLVED #	CSAR %
CSX CS eXtra Projects-----	50	0	50	0	0	0.00
SEC IST Security Group----	223	94	182	41-	135	15.39

ISSUES

OPEN SEC CSAR's and new backlog

- Efforts are being made to prevent the OPEN SEC CSAR's from getting to far backlogged. Chris Jones is in the process of being training for new ID processing. Pat Drenning and Dorian Pannell are being asked to look into the OPEN IBM Mainframe SEC CSAR's and see what they can resolve. Dan Gunia has been putting in some COMP Time to help cover for Paul being out. A staff meeting is tentatively schedule for Monday or Tuesday to review the backlog and solutions.

OPEN CSX ID Delete's(3 Days)

- I've been working with Chris Jones on the UserID archive/delete process. We estimate that it will take 5 days to process this backlog and keep current with any new departures. Then we can move onto the old HK and review each sever for OLD and un-used ID's that need follow-up.

OVP Migration follow-up

- OVP Migration to EOP follow-up. Still need to work with NSG and find out when they are going to do some cleanup work on the OVP Login Scripts and drive maps and shares.

OVP NewsEdge ID's/ LIC Issues (16 hrs.)

- Working with Moe Vela, Sue Powell, Paul Dagenais and Bill VanHorn on ID and License issues for the NewsEdge systems. Have copy of PO that tracks we only have 40 NewEdge LAN Users LIC. OA=32 and OVP =8. However the NewsEdge server shows 61 ID's. Need to work on House Keeping of ID's and methode to control access to sysem.

PLANS NEXT WEEK

SEC On-Call list (1.5 Hrs) [Est.]

- Create new DRAFT SEC On-Call list for 1998.Text (Was on last week but overcome by events)

INTERN ID Departure Reports (48.0 Hrs) + (133.0 Hrs.)

- Need to work with New INTERN Directory to clean up INTERN Departure reports and include new report to identify INTERNS that have changed status and signed on as EOP staff.

- Review list of 675 INTERN Departures report form 1/1/97 - 9/7/97. Est. 400+ names form list of 675 INTERN Departure report will have ID's that need to be processed for departure. @ Est. 20 Min. per ID) (Est Hrs = 133.0)

OVP ID Housekeeping Eval Report (17.0 Hrs)

- Process list of 51 ID's that can be deleted from OVP NT ID report submitted to Moe Veal 11/12/97 and returned 1/5/98. (@ Est. 20 Min. per ID)

On-GOING PLANS / TASKS

ID Delete Automation / SOP's(16.0 Hrs)

- Work with NSG staff to create automated ID Create / Delete Menu system.

WhoDB ID's(4.0 Hrs)

DANIEL A.
BARRY
09/04/98 10:04:24 AM

Record Type: Record

To: James B. Wright[redacted]

cc:
Subject: Weekly for 9/4/98

E-mail reconstruction activity

- I attended the regular reconstruction status meeting this week.
- After reviewing the code which performs the convert of WPL and DX documents to TXT and performing several tests, I decided not to renew the KEYpak licence and maintenance for the coming year. The code had been using the VMS convert and if that failed then it would use KEYpak. The tests revealed that KEYpak was getting invoked very sparsely and when invoked in theses circumstances, it also failed to convert.
- I worked with Brian Cooper of NSC and Eric Duong from the reconstruction project to help NSC perform their data conversions.
- I spoke with Jurg (FMD) regarding the status of funding for e-mail reconstruction and other armstrong projects. The paperwork has been passed to OA Counsel and is awaiting processing there. I send mail to OA counsel requesting a status and have heard nothing yet.

ARMS activity

- I moved several months worth of data from the CD cluster to the ARMS data warehouse. I also did some analysis of disk utilization and projections on how much space we will require. I am now estimating that we have about 4 months worth of space available on the ARMS data warehouse. I spoke with Sandy Golas about getting SMS in to give us a quote on increasing diskspace by filling all available slots on the ARMS data warehouse with 4GB drives and swapping several of the 1GB drives with the 4GB drives. If I cannot get space before I run out I will have to perform data compression on some of the agency data and store it in a compressed format which means that retrieval will be slowed and searches will be extended.
- I had a discussion with Jim Webster regarding OVP E-mail and records management. I informed him that we had a OVP records bucket but that we only were getting mail from OVP that crossed into another bucket. However, it turns out that ARMS may be getting internal OVP mail because the mail template of certain OVP users contains the records management icons. He wants to put WAVES up for all OVP users and also have all their records managed through ARMS. I referred him to Kathy Gallant for a decision on that.

Additional activities

- I continued to spend time reviewing and marking up 2 diagrams detailing the workings of ARMS and the NOTES/ARMS interface. These diagrams have been drawn up as a result of the Y2K effort. I met with Mark Geschke for about an hour and went through my additions to the diagrams.
- I put together a goods and services and authorization request memo for Kathy Gallant's signiture to

purchase 6 4GB disks for the NOTES MAIL2 recovery project. This has been passed to FMD for signature and will then make its way to OA counsel.

- I plan on attending the DOT kickoff meeting this week, I will report on progress on this next week.

Contract Issues:

- NONE to report.

Planned Activities for next week:

- I will be at DOT for 6 hours per day starting next week.

- Backups. Requirements haven't been documented but approaches are being developed. An inventory does exist of what does need to be backed up. Beth Blackwood is handling this data collection and policy creation. She needs to be informed about what is being backed up and how. What should the retention period be? All systems are being reviewed: VAX, client server and mainframe.

- Jodie Torkelson's Action Items:
  - IS&T staff--what are "current duties"?
  - ITAP being reconstitued. NOTES Home Load, WinFrame is not being tracked.
  - The NOTES Address Book is being fixed up. Ashley will receive an email advising her to get rid of the current version.
  - An inventory needs to be built of current software licenses
  - A "cheat sheet" exists for "auto reply". It is enabled but it is not obvious.
  - John McGinnis is to report on X400 addressing and email.
  - MIT and NT task orders will be finalyzed by AOD.
  - OVP conversion--Chuck needs to schedule plus there are upgrades.
  - PC maintenance costs and Server Backup costs are issues.
  - The White House is to start using ERS.
  - On-time licenses for AD's have not yet been fully installed. The list of names exists.
  - NARA tape receipt procedures are not set up.

Dale Murray
- OMB home page problem solved. SNA gateway to be removed as all staff are now on TN3270. The air conditioning went off--a monitoring system is being developed.

Jim Wright
- The Systems Engineer panel is now working.

John McGinnis
- NASA VAX equipment is to be installed this week. Space and weight are issues to be considered in bringing in new DASD. Name and address books will be put into place.

Karl Heissner
- Information requests are still steadily coming in.

Laura Crabtree
- Brought up OMB BRD ODBC problems. Meetings will be held with OVP on tape retention and Quorem problems. ONDCP and OSTP are on NT Sub-domains and Sub-nets. WP 6.1 is now on Air Force One. A Backup document will be done COB 3/18 for review. The GSA WEB site on real property dynamic list is worth looking at. Unlike most other organizations, OVP does not like Advanced Profiling.

- Chuck interjected that the timing of informing the Help Desk



DORAN_B[redacted]
03/24/97 12:03:00 PM

Record Type: Record

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

cc:

Subject: Minutes of Staff Meeting 03/24/97

Attendees: Chuck Benjamin, Laura Crabtree, Nell Doering, Barbara Doran, Karl Heissner, John McGinnis, Paul Meyer, Dale Murray, Debbie Pow, Sue Powell, Chip Sparks, Jim Wright

Chuck's Report:

- Use or Lose - Some staff lost leave last year because proper procedures weren't followed (leave slips submitted or signed late, not using restored leave, which cannot be restored, etc.) Staff need to be reminded of the need to follow procedures and to be vigilant about using leave.

- Midterm Appraisals - Chuck would like to see the performance plans as they are developed. There is a need for measurable performance goals. The deadline is April 1, and the performance period is 4/1 - 6/1. Laura pointed out that there is a requirement to work 90 days under a performance plan.

- Press Calls - Staff should be reminded that all calls from the Press should be referred to the White House Press Office. Chuck wants to be notified of any calls from the Press.

- External Email - Laura will have a report on the problems we've been having for Ada tomorrow. We need to have some real dtaes for implementing solutions.

- QFRs - Information for responding to the questions was gathered last week and will be worked into a presentable form this week.

- Presidential Email Transfers - There have been problems with STORMwhich have caused Steve Horn to have problems receiving Presidential email. John says the probelm will be fixed tomorrow. (STORM went down twice this weekend.) John needs to review the suystem notifcation procedures for STORM; only Chris was notified of this weekend's problems since the system didn't crash, but merely failed.

- Funding - We have no funding to purchase software, hardware, or maintenance. If a client's problem requires a

purchase in order to be fixed, the technician must notify IST management who will inform the client of the situation if a workaround cannot be implemented. We need to track resources used in implementing workarounds.

- OVP - Lack of disk space has been causing a problem with email delivery. There is now 770K of free space (enough to last until 2PM 3/24) -- Laura is looking into more permanent solutions.

- 533s - When reporting costs, don't estimate when actuals are not available. Jim and Debbie will discuss the latest figures.

- Financial Analysis - FMD needed it last Friday. Debbie will get it and pass it thru Chuck before delivering it.

- Internet Email - There will be a meeting with the Air Force on Thursday.

- Missing Equipment - A lot of equipment has been disappearing from desk tops. Chuck is looking for solutions, suggestions. We have no policy for securing such equipment. While staff must be accountable for their equipment, there is no way to prevent unauthorized entry to unlocked offices. Paul is developing a policy which will include reporting procedurres and key management. Staff needs to be sensitized to the need to be wary and to report thefts to Secret Service in a timely manner.

- Configuration Control and Management - We need to know what kind of demo or trial products are on the system and why they are there. Noone is to bring in new products without going thru channels. There doesn't seem to be a government staff person responsible for PMC (this was a Debbie Behr function)... Jim will provide a report on what is going on with that system. They "borrowed" some equipment of ours to replace something of theirs which had failed. Since they have money and we don't, it would be useful if they purchased a replacement. Laura will look into this.

- OMB - There is a lack of coordination in our support of OMB. PC maintenance is being done using dedicated staff. No reports or CSARs are being used to track support. The weekly report on PC maintenance needs statistics.

- Saturday Morning Radio Address - There was a problem geetting it up this weekend (office moves do not provide an excuse). The problem, connected with the move from subnet8 to subnet6, causing an inability to FTP, has been solved. This is a routine weekly actvity and should be planned for. There is a need for a notification list for such ocurrences; Karl and John will work on it.

- Standard Desktop - Our standard desktop is Windows NT. Clients should not be advised to get Windows 95.

- Interagency Conference on Women - The conference ends today. Computer accounts need to be disabled, phoine lines removed, equipment reallocated, SecurIDs returned, etc. John will check with Sheryl on the phone issue; someone needs to check with Mike Malone as to reallocation.

- Help Desk - Changes in hardware and software are not being communicated to Help Desk staff. We need procedures to insure that they are made aware of changes. Laura said that it was a communications problem -- the information from OPs meetings is not being diseminated.

- Communication - We need to inform clients when we can't get to their problems quickly and provide a realistic estimate of when we can be available to them.

- IDIQ - Jim will meet with Chuck.

- Home Page Version 3 - Erskine Bowles wants it up by September. No funding was included in the budget. Chuck needs information as to what can be done. (Mark says 70% of staff resources are used to maintain daily operations.)

- Moves - We need to insure that staff are returning keys.

- Personnel Panels - We need to get going on these. Jim, Chip, Laura, and Sharon will provide schedules and participants.

- All Agencies Distribution List - A number of agencies are not included. John will look into the problem.

- Continuity of Operations - Chuck Sigmund asked if we would be able to help agencies which we don't support (such as USTR) in the event of a disaster. This would need a change in policy, but needs to be taken into account in planning. Surveys would be required. The current focus is on the disabling of our computer center, but will be expanded in the future.

- CEA - We are unable to make delivery to CEA on schedule (we are two weeks behind). Laura has staff working on it.

- Security - The weekly report needs statistics on backlog and turnaround.

- On-line Search - Tony has completed the second one. We had problems with the installation of the new VAX due to the failure of NASA to provide licensing information. The information was finally obtained from Digital.

own.

East winfg couldn't get on the pagers because a machine wasn't replicating. The problem is fixed.

The disk space problem in OVP is an hour-by-hour fix. They are archiving non-essential email after 90 days to conserve space.

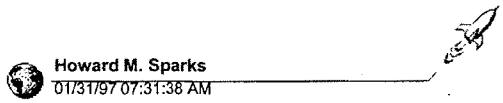
Laura needs to know which agencies funding is fenced. The CEA rollout is delayed due to the need to purchase equipment, but they have no funds either.

Debbie's Report: She will get with FMD at the end of the month on WhoDB hours. Chuck asked Karl for a copy of the activities log.

Dale's Report: He is working with Bob and Jim on a transition plan. Laura and Dale will get together to discuss possible solutions to the OVP problem.

Message Sent To:

Kimberly S. Anderson@eop
Daniel A. Barry@eop
Mary D. Blackwood@eop
James G. Cole@eop
Paul F. Dagenais@eop
Lloyd A. Bryan@eop
DESK_2@eop
Valerie G. Rich@eop
CHARLES B. DIETZEL@eop
Kathryn W. Jackson@eop
David P. Jacobeen@EOP
Ranelle A. Lopez@eop
SHARON L. MITCHELL@EOP
Dorian F. Pannell@eop
Paula M. Sherry@EOP
Bernardene B. Walford@eop
Howard M. Sparks@eop
James B. Wright@eop
Andre T. Winkfield@EOP
Arthur C. Caliguiran@eop
Charles D. Benjamin@eop
Paul L. Myers@EOP
John W. Mcginnis Jr.@eop
ROBERT L. FOSTER@eop
Laura Crabtree@EOP
Deborah J. Pow@eop
BARTHOLOME_M@A1@CD@LNGTWY
CRUMLING_D@A1@CD@LNGTWY
DOERING_N@A1@CD@LNGTWY
DRENNING_P@A1@CD@LNGTWY
FOX_J@A1@CD@LNGTWY
GUNIA_D@A1@CD@LNGTWY
HALL_S@A1@CD@LNGTWY
HEISSNER_K@A1@CD@LNGTWY
JOHNSON_C@A1@CD@LNGTWY
MCKAIG_B@A1@CD@LNGTWY
MILLER_DF@A1@CD@LNGTWY
POWELL_S@A1@CD@LNGTWY
TOLKAN_L@A1@CD@LNGTWY
MCKAY_R@A1@CD@LNGTWY



Howard M. Sparks
01/31/97 07:31:38 AM

Record Type: Record

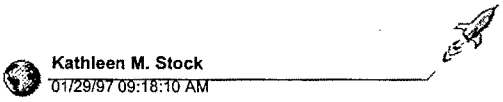
To: James B. Wright/[redacted]
cc:
Subject: Meeting Minutes

Jim,

This is the email that you requested a copy of yesterday afternoon.....

Chip

---------- Forwarded by Howard M. Sparks[redacted] on 01/31/97 07:27 AM ----------



Kathleen M. Stock
01/29/97 09:18:10 AM

Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Meeting Minutes

Please review. Please notify me with comments. Thanks, Katie

NT Implementation meeting
January 28, 1997
11:30-2:30

Attendees:

Laura Crabtree, Ted Meyer, Katie Stock, Shawn O'Connor, Chip Sparks, Paul Meyer, Ron Horowitz

Purpose:

The impromptu meeting was to facilitate an immediate solution for the "Domain Controller not found" issue and the unreliable OVP Novell servers.

The OVP_2 Novell Server that provides data and application directories for OVP users also went down. The two

problems are mutually exclusive issues.

The NT team solved the VP logon problem by turning on the WINS1 BDC, and enabling WINS name resolution on the Vice President's machine. They also hard coded his LMHOSTS file to find and pre-load the appropriate IP addresses for the OVP domain controller and backup controller. This was double protection to ensure that when the Vice President logs on to the network, he can find a domain controller to validate his request.

This is a temporary fix for the following reasons:

- The WINS1 server is not as a production server. It is a test server and waiting approval for production. It is still a test machine.
- The hard coding to the LMHOSTS file is to time consuming and labor intensive to do to all the machines in the EOP environment.

The meeting then continued as a debate of the proposed BDC implementation plan. The proposed BDC plan is pending the approval of Chip Sparks. Mr. Sparks, a network engineer, not an NT specialist, is not convinced that the proposed plan developed by the NT team is convincing enough for implementation. He requested documentation proving the plan's validity. A concept document was the basis for the implementation plan and everyone approved the idea; however, Chip requested even more statistical information than the concept document provided him.

Chip Sparks concurred that the proposed plan is a good concept and he requires only the following four pieces of information to proceed with the implementation.

1. An analysis of protocol traffic that compares sizes, speed, and traffic destination over the network.
2. A text document proving that workstations act as Browsers (S. O'Connor to provide).
3. Information illustrating how browser traffic functions in the EOP environment (MS Documentation)
4. An analysis that compares logon validations when WINS servers on active on the network and when they are not active on the network. (Test performed on EOP machines.)

Katie Stock, Chip Sparks and Conrad Ribeiro will work together to collect the data from the various sources.

Message Sent To:

Howard M. Sparks/[redacted]
Laura Crabtree/[redacted]
Theodore F. Meyer/[redacted]
Paul L. Myers/[redacted]
Shawn O'Connor/[redacted]
Ronald D. Horowitz/[redacted]

From: Jack S. Fox[redacted] on 01/15/99 12:53:25 PM

Record Type: Record

To: Lisa M. Brown/[redacted]Jack S. Fox/[redacted]
cc:
bcc:
Subject: Re: Recovering vp[redacted] E-mail; was re:

No Problem !

Jack

Lisa M. Brown[redacted]

Lisa M. Brown[redacted]
01/12/99 02:38:42 PM

Record Type: Record

To: Jack S. Fox[redacted]
cc:
bcc:
Subject: Re: Recovering vp[redacted] E-mail; was re:

Thanks for the rapid response. I will get back to you after we address the "bulk mail" issue. Can you just make sure that nothing is deleted in themeantime? thanks!
From: Jack S. Fox[redacted] on 01/12/99 02:14:56 PM

From: Jack S. Fox[redacted]on 01/12/99 02:14:56 PM
Record Type: Record

To: Leland L. Scott Jr./[redacted]
cc: Christopher Adams/[redacted], Robert E. Whiteman/[redacted] Lisa M. Brown[redacted] Jack S. Fox[redacted]
bcc:
Subject: Recovering vp[redacted] E-mail; was re:

All:

Sorry about the lack of a title earlier. Fat fingers I guess.....

Leland:

Thanks for the info.

Lisa:

The VP mail is recoverable but this will be a significant effort which will require addition funding to support. If you decide to recover this VP E-mail, please let me know and we will have to develop a project plan and estimated costs before proceeding.

jack

Leland L. Scott Jr.

Leland L. Scott Jr. 01/12/99 02:01:43 PM

Record Type: Record

To: Jack S. Fox/[redacted]
cc: Christopher Adams/[redacted], Robert E. Whiteman[redacted]
bcc:
Subject: Re:

Jack,

I spoke with Chris about this. He tells me there are about 3 months of the VP's mail stored on the whitehouse.gov server. RC Cavazos has backup tapes in the data center with earlier mail. Getting the mail from whitehouse.gov would not be a problem. However, you'd need to speak with RC about getting the mail from the backup tapes. This would not be an insignificant effort, and it might requre an IWO if a request is submitted to recover all of the VP's e-mail back to 1993.

If you want Chris to do something about getting the VP's mail from whitehouse.gov, let me know.

Regards,
Leland

From: Jack S. Fox on 01/12/99 12:30:55 PM

From: Jack S. Fox on 01/12/99 12:30:55 PM
Record Type: Record

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

Leland, Chris:

Please determine how much of the VP's E-mail is available on whitehouse.gov. Specifically, if the request was made, how many weeks of the VP E-mail could be recovered and sent to a specific E-mail address for records management purposes. We may need to recover all E-mail sent to the VP since the server became operational in 1993.

Please advise.

Jack

Message Sent To:

Christopher Adams/[redacted]
Jack S. Fox/[redacted]
Lisa M. Brown/[redacted]
Karl H. Heissner/[redacted]
Leland L. Scott Jr./[redacted]

To: Jack_Martin.LOTUS[redacted]
cc:
From: Michael A. Gill[redacted]
Date: 09/20/94 07:50:52 PM
Subject: Re: October Meeting

Thanks for getting back with me, I will need to get full names and birth dates at least 1 hour before arrival in order to clear you into the building. What I am about to share with you is confidential and is supplied to you for the purposes of discussion and should not be shared outside your organization. Now that all the legal stuff is out of the way, I thought that I would start by showing you my machine and how we use Notes and then share with you my wish list of things that concern me about rolling this out to the VP. I know this sounds low level and hands on but for a Notes neophyte like myself I don't know any other way to talk about Notes. It seems things get too theoretical if you get too far away from the keyboard.

How do I determine if the strategic direction of Notes in government is appropriate for the executive branch and how do I communicate my strategic concerns which are:
1) multi-platform (Windows, Mac, UNIX, PowerPC)
2) Mail/Records Management compliance (both FOIA and Presidential Records Act)
3) User Friendly mail GUI, and mail exchange functions (since mail is mission critical, the attached file issue is a make or break for Notes),
4) easy to customize output format, that will incorporate standard and custom government forms as output (Travel Authorizations, Travel Voucher forms, Computer request forms)
5) integration with Database programs (ability to act as a front end to more intensive database programs)
6) Mobile communications (I think Lotus has excellent ideas in the area and I want to learn more about the future plans.

Let me give you a lay of the land over here and together we can make the visit as productive as possible. I have a small Novell LAN of about 50 machines. Most of the machines are Compaq Prolinea 486/100's but we also have Compaq Prolinea 486/33's. There are still AST's and IBM PS/2's left over from the previous administration but those should be gone soon. The File Server is a Compaq Prolient 2000 with 6 gig of memory, the Notes server is a Compaq Prolient 2000 with 2 gig of memory and 16 meg of RAM. The Notes server is running OS/2 and Notes version 3.1.5. The workstations are running DOS 5.0 and Notes version 3.1.5. My machine is a Macintosh 560c Duo Dock, in a Duo Dock II docking station using a Dayna EtherPrint device to access the network. I am using Notes version 3.1.5 for the Mac.

E-mail - We use a cc:Mail router to send messages between Notes and cc:Mail and between Notes and the White House VAX all-in-one system which runs the MBlinks product to translate all-in-one to cc:Mail format.

issue one: I have a problem with opening and viewing attached files in Notes on my Mac. I know that in windows if you define an extension it will open the file with the corresponding program. (i.e. .001 extensions get opened with WordPerfect 5.2) Since cc:Mail has a 20k

To: DOERING_N [redacted]
cc: Michael A. Gill, GOOD_T [redacted], JOHNSON_LR [redacted] D_J [redacted], BLACKWOOD_M [redacted], KRISLOV_M [redacted], OVERTON_B [redacted], CERF_C [redacted], WRIGHT_J [redacted] L, Kumiki S. Gibson at [redacted]
From: BARRY_D [redacted]
Date: 10/31/94 07:21:00 AM
Subject: RE: Pres and OVP Monitoring Plan

Ok... Wait a munute ....

On OASIS/ARMS, any account that is part of OVP IS creating
PRESIDENTIAL records.
IS THIS CORRECT ???

Later... Tony

To: Lisa A. Berg, Robert B. Corney, Kumiki S. Gibson, David M. Strauss, Michael A. Gill, Dennis W. Alpert [redacted], Tyler S. Beardsley [redacted], Larry H. Branscum [redacted], Holly D. Carver [redacted], Cynthia A. Draper [redacted], Leon S. Fuerth [redacted], Joanne M. Hilty [redacted], Kim J. Hopkins at GORE-DC [redacted], Carol A. Marino [redacted], Richard M. Saunders [redacted], Sandra E. Schmidt [redacted] Gregory C. Simon [redacted], Caren L. Solomon @ [redacted]

cc:

From: Jack M. Quinn at [redacted]

Date: 06/16/95 05:04:00 PM

Subject: Re: Notes conversion is here

New Text Item: Notes conversion is here

how does this "print, keep or purge" program apply with respect to our mail logs, i.e., our record of outgoing messages, allo f which Iprefer to keep?

Reply Separator

Subject: Notes conversion is here
Author: Michael A. Gill at OVPNOTES
Date: 6/15/95 11:49 AM

Our Lotus Notes conversion project is almost complete. We need your help to complete the project. Please print out all the cc:Mail messages that you want to keep and then delete all your cc:Mail messages by Monday June 19th. That way when Chris our consultant makes his way around to you the cc:Mail will be all set for Notes conversion. Chris will doing conversions on June 20 and 22. Thank you for you help. Lotus Notes will increase productivity in the office. -M.

To: BARRY_D [redacted]
cc: Michael A. Gill, DOERING_N [redacted], JOHNSON_LR @ [redacted], MACDONALD_J [redacted], BLACKWOOD_M [redacted], KRISLOV_M [redacted] OVERTON_B [redacted], CERF_C [redacted], WRIGHT_J [redacted], Kumiki S. Gibson at [redacted]
From: GOOD_T [redacted]
Date: 10/31/94 09:26:00 AM
Subject: RE: Pres and OVP Monitoring Plan

My standard line on this is:

Records created or received by the Office of the Vice President are Vice Presidential records. They are cited in the Presidential Records Act as such. The PRA stipulates that they should be treated in the same fashion as, but maintained separately from, Presidential records.

They are not agency (Federal) records.

MEMORANDUM

TO: Todd Campbell

FROM: Michael Gill

DATE: March 16, 1994

RE: Computer Records

This is in response to your memo dated 3/9/94. After my return from vacation, on 3/15/94 I checked to make sure that the OVP system was still being backed up. Unfortunately, I discovered that the tape machine had failed and that the last backup was on 2/22/94. Before my vacation I indicated to Martin Dunsby with AAC associates, that there might be a problem and that this needed to be checked. The file server and tape backup unit is new and was installed on 2/10/94.

We have now corrected the problems and the tape backup unit was fully operational on 3/19/94. The following describes the current OVP backup and archival policy.

Full backups will be done every Saturday morning at 5:00 am. Everyday other than Saturday, an incremental backup will be done at 5:00 am. Incremental is defined as any modified or new files at the time of the backup. All backup tapes are then archived in the Staff Secretaries Vault for save keeping.

Alberto O. Feraren 03/09/2000 03:13:20 PM

Record Type: Record

To: Terrence J. Misich/[redacted]

cc:

Subject: OVP Mail Server/ARMS Situation

Terry,

Here's the essence of the OVP mail server and ARMS situation.

A number of OVP user-originated electronic mail is being sent to the EOP automated records management system (ARMS). This situation occurs because the current OVP mail accounts creation process, now being handled by EOP/IS&T, creates the mail account using the EOP mail template as opposed to the original OVP mail template. As a result, OVP users who have inherited EOP's Notes mail design template have encoded in their mail a blind copy (Bcc) to the EOP ARMS system. It is not clear who is supposed to perform the automated records management of the OVP mail server electronic mail records.

Additionally, because of this OA/OVP ARMS issue , the process that scans EOP mail servers for inbound email from the Internet (ARMSCAN) is not installed nor operating on the OVP_1 mail server.

A result of this issue gaps exist in the backing up of data files on the OVP mail server.

Regards,
Bing



Christa Moyle
12/10/98 12:16:20 PM

Record Type: Record

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

cc:
Subject: Weekly Report - 12/10/99

MEMORANDUM FOR MICHAEL LYLE
ACTING DIRECTOR
OFFICE OF ADMINISTRATION

FROM: DOROTHY E. SCHOTT
ASSOCIATE DIRECTOR
INFORMATION SYSTEMS AND TECHNOLOGY

SUBJECT: Weekly Activity Report - 12/10/98

1. **System Crashes**:

A. On Monday, December 7th, the **WAVES System** experienced a problem as a result of a LOTUS Notes application problem. Confusion existed on when this problem was originally identified and notification to key individuals did not adhere to internal guidelines. Additionally, this problem had a real potential to be an embarrassing situation for the White House due to the the arrival/ accessing Congressional members and their guests for the Congressional Ball. IS&T has gone over its internal notification procedures and are fully evaluating how this situation was identified and handled.

B. **OMB Switch**: On Monday, the entire second floor of the OEOB which houses OMB was affected by a blown fuse which made the switch inoperable. The OMB network 44 (OEOB second floor only involved) was down for approximately three hours. Notification of the problem to all pertinent individuals was accomplished and IS&T personnel identified the problem within a few hours. The problem was determined to be caused by overheating and after some general PMS to the switch, the problem was fixed.

C. **OMB Switch Problem**: This problem recurred again on Wednesday morning. A new switch was installed and the problem was fixed. There was no impact on OMB and no disruption of service.

2. The **Y2K Weekly Activity Report** has been completely revamped and is being finalized for submission tomorrow, December 10, 1998. This restructuring effort was undertaken to make the report a more useful tool for managers and to consolidate all the Y2K key information into a single management report. This will help free up Y2K members from preparing duplicative reports and will
serve as a vital tool POA&M in the getting the EOP Y2K compliant. Now that this effort has been completed we are working to develop a POA&M for the EOP POCs so that we can develop a master data list with appropriate action coordinators for our files.

3. **NT 4.0 Roll-Out Plan:** The Roll Out Plan is being finalized today, December 9, 1998 and IS&T will send the proposed NT 4.0 plan to EOP POCs for their review, coordination and feedback no later than Friday, December

10, 1998. We will be requesting their feedback to be provided back to us by December 19, 1998 so that we can formally publish and distribute this information prior to the Roll-Out in January 1999.

4. **Meeting with OMB regarding Y2K Systems**: A very successfully meeting with OMB and IS&T and Y2K took place on Tuesday, December 8, 1998. This meeting was scheduled to clarify Y2K responsibilities for interrelated systems used by OMB and IS&T. Mr. Al Seferian, Mr. Clarence Crawford, Mr. Paul Tisdale, Ms. Pam

Piper, CW4 Terry Misich and Ms. Dottie Schott attended were in attendance. This discussion will be amplified in the Weekly Y2K Activity Report.

5. **Budget Briefing Preparations:** Chris Van Fossan, Joe Kouba, Chuck Sigman and Dottie Schott met on Wednesday to finalize the information that would be presented tomorrow at the OA budget brief to Virginia Apuzzo.

6. IS&T has followed up on issues that were discussed regarding security concerns with **WHODB**. Draft procedures have been developed to improve both the security and the procedure for access to the system by the Social Office. This new approach will ensure that staff who use the system are properly validated for access and access is properly controlled.

7. **WHO and IS&T Weekly Meeting on WHISDM:** The weekly meeting with John Dankowski, Jim Wright and Dottie Schott occurred on Tuesday afternoon, December 8, 1998. Highlights of the discussion included the topic of how the Booz Allen Hamilton contract with the WHISDM project and assistance with the Y2K efforts can be maximized. It is our intention to continue the weekly meetings with WHO.

8. **OVP Mail Server**: The OVP mail server issue is still being worked but the problem has been temporarily remedied by having OVP staff personnel remove discarded e-mail information. New disc drives are on order and will be installed upon receipt. This problem is no longer critical and no additional problems regarding this issue are anticipated. IS&T will continue to monitor the situation and install disk drives upon receipt. Close coordination with OVP is ongoing.

10. **Overtime issue for Y2K:** The Associate Directors for HRM, FMD, IS&T along with OGC, Procurement and the Y2K Co-Chairs met to discuss the policy and procedures for overtime for individuals assigned to the RFP Source Selection Team for the IVV/Renovation contract which needs to be in place by January 19, 1999. Initial feedback indicated that should overtime be required it could be taken out of the S&E account. IS&T/Y2K leadership has been notified by procurement that overtime will be needed over the weekend (12-13 Dec. 98) This issue is still be reviewed however, Mary Beck has provided a memorandum to the Acting Director, OA indicating all OA Associate Directors support this proposal.

11. The **Storm Upgrade** commenced last night at 7 p.m. and is running smoothly. IS&T also received a request from the Senate Information Security Office requesting that they have some of their staff observe the Storm upgrade. This visit will be deferred until Mark Lindsay's return. The Senate Information Security Office will be notified accordingly by the OA, Acting Director.

Message Sent To:

Sheryl L. Hall/[redacted]
James B. Wright/[redacted]
Karl H. Heissner/[redacted]
Sharon L. Mitchell/[redacted]
Conrad J. Ribeiro/[redacted]
Howard M. Sparks/[redacted]
Bryan A. Reese III/[redacted]
Daniel A. Barry/[redacted]
Deborah J. Pow/[redacted]
Terrence J. Misich/[redacted]
Christa Moyle/[redacted]
Dorothy E. Schott/[redacted]
Richard S. McKay/[redacted]
Timothy L. Fuller/[redacted]
Mark H. Bartholomew/[redacted]

Vice Presidents Email

The Vice Presidents Office has used three different Email systems since the 1992/93 time frame.
At the very beginning of the Clinton Administration the Vice Presidents office was on the All-in-One Mail System like many of the EOP agencies. While the VPO was on All-in-One there records were records managed starting on July 14, 1994 when the arms system was implemented.

Then during the 94/95 time frame the VPO switched to CC Mail and took sole responsibility for their Email needs and requirements including records management of the system. The CC mail system and applications are still used today by the VPO in their Senate offices.

In the late 1995 timeframe the VPO office once again switched to another system called Lotus Notes. During this time period the VPO continued to use their existing records management SOPs for the newly implemented Notes System.

Sometime in 1997/1998, EOP/OA was given system administration responsibilities of the OVP mail server and account creations on that server. Starting with this time period all new VPO accounts were created using the established OA/IS&T SOP. Therefore, all VPO accounts were created just like any other EOP accounts resulting in VPO accounts being given the OA E-mail records management template. Using the standard EOP template meant that all of the e-mail sent from those OVP accounts would have been sent to ARMS but it would have been sent with a incomplete ARMS agency tag, resulting in the Agency field being marked as "UNKNOWN", much like an outside E-mail from the internet. The reason for this was that the OVP server was in a separate Notes domain from the EOP mail servers and therefore the users on the OVP server were not recognized in the EOP Notes Name and Address Book.

During this time period the ARMS system was receiving increasing OVP email records coming in with the incorrect Agency field and this was causing problems on the ARMS system. A change was made to the ARMS processing code to recognize OVP email addresses so the mail records could be stored in a VPO file and not in a UNKNOWN file, affecting the Notes interface to ARMS.

The arms-scan interface process was never implemented on the OVP server because it was clearly understood that OVP was doing their own records management and ARMS was not being used to manage OVP records.

Karl H. Heissner 04/28/99 10:16:08 AM

Record Type: Record

To: Robert E. Whiteman/[redacted]

cc: See the distribution list at the bottom of this message
Subject: OVP Mail Server

HEADS UP!

Currently ongoing work related to the resolution of unrecordsmanaged e-mail on all EOP mail servers has caused issues related to the OVP Mail Server to surface which need to be addressed.

John Spriggs expressed some concerns yesterday related to the OVP Mail Server and its inability to perform records management processing as the server seems to be barely able to handle its current mail processing load. If records management processing were to be added to the server, its processing would grind to a halt. It appears that when the server was turned over to IS&T by the OVP for operational support earlier this year, a number of issues including capacity planning, backup and recovery, and records management were never addressed. While we have not received any clear direction from counsel regarding the records management issue, it can be expected that OVP e-mail needs to be records managed in a fashion similar to that used by other EOP e-mail.

From a records management standpoint I recommend that we proceed as follows:

1. Identify and document current server's configuration and processing characteristics.
2. Develop technical specifications and costs for a server upgrade to a level capable of handling current and future e-mail and records management processing requirements.
3. Develop technical specifications and costs and a plan for implementation of an OVP Records Management Server, similar to Mail4, as recommended by John Spriggs.

The responsibility for the OVP servers hardware and operating software falls into Chip Sparks' area. Please coordinate this matter with him. If necessary, you may want to convene a meeting to discuss the details. Having the technical details available at the time of the meeting would be of help.

Message Copied To:

Howard M. Sparks/[redacted]
Dorothy E. Cleal/[redacted]
Daniel A. Barry/[redacted]
Nellie W. Doering/[redacted]
Jack S. Fox/[redacted]
James B. Wright/[redacted]
Sheryl L. Hall/[redacted]

Karl H. Heissner 04/30/99 07:30:57 AM

Record Type: Record

To: Howard M. Sparks[redacted]

cc: See the distribution list at the bottom of this message
Subject: Replacement of the OVP Server

Chip,

Because Dottie had asked me to check into some of the aspects of the OVP server failiure, I talked with Bob Haas, John Spriggs, and Bill VanHorn.

Bob explained that the truncation problem was traced to low memory. He is recommending 1.5GB for most mail servers.

John explained that the current machine does not have sufficient processing power to add Records Management software; it would die.

Bill VanHorn gave me a $10,000-12,000 estimate for a new machine with more memory, more disk space, and greater speed.

May I suggest that we get some or all of these people together today to develop a set of hardware specifications and a schedule for the installation of a new OVP mail server with sufficient power and capacity to operate properly for at least another two years.

And we need to do that today. Except for 10:00-11:00 and a scheduled departure time of 15:00 I'm available today. How does 11:00 fit into your schedule?

Karl

---------- Forwarded by Karl H. Heissner/[redacted] on 04/30/99 07:22 AM ----------

Dorothy E. Cleal
04/29/99 05:04:43 PM

Record Type: Record

To: Karl H. Heissner/[redacted], Howard M. Sparks/[redacted]

cc: Charles L. Sigman/[redacted]
Subject: Replacement of the OVP Server

I spoke with Chuck Sigman and there is money available in this years budget to cover the $10-12K cost for the replacement of the OVP server. Since the current OVP server has capacity problems that caused the truncation of files....I would like to fix the problem. Please begin the steps to replace the current server. Coordinate funding requirements with Chuck and keep me involved with any problems that may crop up.

For clarification...is this a SIDS or a NI action? **Also I would like an estimated timeline** on when this action can be completed from start to finish i.e....ordering the equipment and having it fully installed. What

Karl H. Heissner 04/29/99 11:44:45 AM

Record Type: Record

To: Dorothy E. Cleal[redacted]

cc:

Subject: OVP Mail Server Problems

OVP Server Facts

File Truncation Problem. The cause of this problem is insufficient server memory and is likely to persist until a new OVP mail server at a cost of $10,000-12,000 is placed into operation. The current server is at the maximum memory. It is also older and slower technology; it cannot be expected to last another year or two without causing serious performance problems.

Needless to say, the planning for the implementation of a new server depends on the availability of adequate funding. Don't know where that stands. Probably was not included in our capital budget.

OVP Server Environment. The OVP Mail server operates in its own non-secure domain. To properly function in the EOP environment it needs to be integrated into the EOP infrastructure. One barrier to its integration is the fact that it does not meet EOP security requirements. It allows dial-in access without adequate security protection (No SecurID). The OVP has not participated in the EOP infrastructure including such features as secure access and virus protection.

Records Management. When the servers were turned over to IS&T no records management had been practiced by OVP. The current machine does not have sufficient computing power to add RM functionality now, even if that were possible. To activate records management now will require a major level of effort of system redesign, hardware upgrades, and OA mail system modifications.

Karl H. Heissner 04/29/99 09:52:29 AM

Record Type: Record

To: Howard M. Sparks/[redacted]
cc:
bcc: Records Management
Subject: Re: OVP Mail Server

We probably need to meet to sort this out. The way I interpret the latest org chart, applications (software, databases) are in SID, server engineering (hardware and operating software) is in Network Management, and so I defer to you.

The OVP server is in serious trouble and we need to clearly identify the problems and offer reasonable solutions to Dottie. Records Management, an application, is one of our concerns. Hardware and operating software and performance engineering would seem to fall under Server Engineering.

But let's talk this through.

Howard M. Sparks

Howard M. Sparks
04/28/99 04:19:44 PM

Record Type: Record

To: Karl H. Heissner/[redacted]
cc: Robert E. Whiteman/[redacted], Michael E. Ritter/[redacted]
Subject: Re: OVP Mail Server

Karl,

I don't have any problems with supporting the email system, though I'm not sure based on the Org. Chart these functions fall under me.... It is true that the chart states (Servers [all]) but I have not been responsible for server hardware on Mail Servers up to this point.... In addition, I believe the solution is simple, but I believe that it requires hardware upgrade.... If you have funding that was set aside by Mark for this purpose, it sure would help.... WHISDM is eating my budget faster the projected....

Jim W.

I noticed that on the Org. Chart Mail Servers fall under you..... Budget? Project plan? Requirements Documents?, or is your roll just operational?

Whatever, I will do what I can.....

Respectfully,

Chip

---------- Forwarded by Howard M. Sparks [redacted] on 04/28/99 04:13 PM ----------

Robert E. Whiteman
04/28/99 02:17:31 PM

Record Type: Record

To: Karl H. Heissner/[redacted]
cc: See the distribution list at the bottom of this message
bcc:
Subject: Re: OVP Mail Server

I am forwarding this to Mr. Ritter for action.
Karl H. Heissner

Karl H. Heissner 04/28/99 10:16:08 AM

Record Type: Record

To: Robert E. Whiteman/[redacted]
cc: See the distribution list at the bottom of this message
Subject: OVP Mail Server

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Message Copied To:

Howard M. Sparks/[redacted]
Dorothy E. Cleal[redacted]
Daniel A. Barry[redacted]
Nellie W. Doering/[redacted]
Jack S. Fox[redacted]
James B. Wright/[redacted]
Sheryl L. Hall/[redacted]

Message Copied To:

howard m. sparks/[redacted]
dorothy e. cleal[redacted]
daniel a. barry/[redacted]
nellie w. doering/[redacted]
jack s. fox/[redacted]
james b. wright[redacted]
sheryl l. hall/[redacted]
Albert F. Leister Jr/[redacted]
Michael E. Ritter/[redacted]

Dorothy E. Cleal
05/11/99 04:52:24 PM

Record Type: Record

To: Mark F. Lindsay/[redacted]

cc: Michael J. Lyle/[redacted], Sylvia L. Parsons/[redacted], Carol E. Ehrlich/[redacted]
Subject: Associate Director Report - IS&T

- **Customer Impact** resulting from our administrative housekeeping decision - **HRM** was in their last day of submitting Time and Attendance information for this weeks pay cycle. I discussed contingency plans with Mary and advised her that the system may not be back online until 10 p.m. this evening. Mary Beck had a number of alternatives that would allow her to complete HRMs submission of time cards to Pensacola. **OMB** - The OMB sunguard system was brought down this morning due to a concern over a program error yesterday. Chuck Easley coordinated appropriate information with OMB (Andy Shoenbach). OMB did not get any advance notification that the system was being brought down which caused some concern and irritation. I have discussed this matter with the appropriate team which took the action. Some lack of adherance to the emergency outage message resulted in some delays to incoming WAVES requests. A second message was sent out to EOP customers to help preclude a big backlog in the que.

- **OVP Server Memory Upgrade** - This morning NG installed the increased memory upgrade to the OVP server. Due to the age and capacity level of the server, the memory chip caused the motherboard to burn out. The mother board was replaced and the server was back on line within 30-45 minutes. Coordination with Moe Vela was accomplished immediately to advise him of the problem. I have provided NG with a list of steps that I desire them to follow when any future upgrades are installed. They include: 1) proper notification to me; 2) back-up plan in the event of a failure; 3) IS&T notification to the customers in advance of any upgrade to the customers. I am not aware of any negative feedback from the OVP.

- **Calendaring Sub Group Recommendations** - The final recommendations should be completed today for my review with you. At this point the sub group narrowed the field to Organizer or Lotus 4.6. The sub group voted 4 to 1 for Organizer. IS&T voted for Lotus 4.6. I will discuss the reasoning for both sides as soon as the memo is completed by my staff. Big difference in cost....$100K for Organizer no purchase cost for Lotus4.6. The bigger issue is the records management requirements. The input I need on that is also being finalized.

- **OMB Quarterly Report** - This report is **due to OMB on Friday**. Draft copies of our input were submitted to Mike and Kate late Friday afternoon. I contacted Mike this morning and he and Kate are working on their reviews.

- Input on IS&T's proposed accommodation of the **influx of summer interns** is being worked. I will have additional information available at the Thursday 10 a.m. Operations meeting with Virginia. I believe that we will be able to accommodate this fairly painlessly for our customers and ourselves. More to follow.

- Yhe OVP memorandum regarding the Vice President's computer problems has been cleared with Cheryl Mills' office. It now needs to go to the OVP General Counsel. Mike Lyle is successfully

E 6388

working this issue.

Dorothy E. Cleal
05/07/99 05:56:55 PM

Record Type: Record

To: Mark F. Lindsay/[redacted]

cc: Michael J. Lyle/[redacted], Sylvia L. Parsons[redacted], Carol E. Ehrlich/[redacted]
Subject: Associate Director Report - IS&T

ONDCP Computer Issue: It has been verified by the Network Manager that the 133mhz pc from ONDCP will work with additional memory - 64mb- and a larger drive - 6.4gb-. This has been successfully tested. How well the 133's will handle the load is still an unknown, a load has to be developed and then tested. I met again with ONDCP today to see where we were on this matter and am expecting some additional information on how many computers would absolutely have to be replaced. I will be prepared to provide a recommendation to you prior to the meeting with Virginia on Tuesday.

Memorandum to OVP on the Computer Problems: Has been delivered to you for your review and discussion with Virginia. I did call Moe Vela and E-mailed Paul Cusack on the status that this could not be provided to them today. I have not heard back from either one (Moe is out today)

OMB Quartly Y2K Report due May 14th: As mentioned the first draft is completed and will be delivered to Kate and Mike for their review.

HRM Time and Attendance problem: IS&T was notified that HRM had a T&A problem and asked IS&T through the Help Desk to identify the problem. It was determined to be a problem at Mechanicsburg. Mary Beck and Wayne Jones were notified.

E 6390

Dorothy E. Cleal
05/04/99 05:26:39 PM

Record Type: Record

To: Mark F. Lindsay/OA/EOP

cc:
Subject: Associate Director Report - IS&T

- ONDCPs justification to receive Y2K funding to replace their computers has been reviewed. IS&T in conjunction with the USA contractor loaded an ONDCP computer with the memory chip to validate ONDCP's supposition that this could not be done without replacing the motherboard. Our test has been successful and I am in the process of coordinating this information with ONDCP (Walt Holton). **If this is in fact successful the difference in the unfunded costs to support ONDCPs NT4.0 rollout would be reduced to approximately $50K (a savings of about $150-200K from the previous estimate).** Our test clearly obtained different results than what ONDCP provided earlier and challenges their technical assessment. I am continue to ensure that the test does not have any unexpected bugs and will update you tomorrow on the results.

- At this morning's **periodic OMB Y2K meeting** - OMB raised an issue regarding the Sunguard MAX Y2K LPAR cost estimates. This is the first time this issue has been raised. Costs are associated with how long configuration managment will be maintained. Estimated costs at this point are $141K for 3 months which is covered under the current JITC contract. If OMB continues to maintain this after JITCs departure there is a cost of approximately $206-256K that has not been funded. The question of who should fund this was raised with no further discussion or commitments made. I also made the offer to provide weekly Y2K updates on the off weeks and asked OMB to confirm their interest/attendance in the event we have these meetings. It is obvious that the OMB Y2K meetings have changed dramatically in nature....and Dee Lee and Josh Gottbaum were in attendance today. The was a little bit of a gaff today too. I will tell you offline.

- My memorandum to the OVP regarding the computer problems that occurred on April 2nd and April 26th is almost complete and is expected to be finalized in the next a day or two. It will be routed through OGC, you and Virginia before a copy is provided to the OVP.

- The next OMB Y2K Quarterly Report is **due May 15th.** Since that is a Saturday this report will be due on May 14th.

Dorothy E. Cleal
04/30/99 10:57:04 AM

Record Type: Record

To: Mark F. Lindsay/[redacted], Mark F. Lindsay/[redacted]

cc: Sylvia L. Parsons/[redacted] Carol E. Ehrlich/[redacted]
Subject: Associate Director Report - IS&T

- **System Security** - There is the potential that a threat was forwarded from a spoofed E-mail to president[redacted]. The spoofed E-mail address would be boro.krstulovic[redacted]
- Contents of that E-mail included:

Dear Sir,

I just want to inform you that I did not send any e-mail to either Presidentnor First lady.Thta was done by a Serbian hacker name Predrag Timotic.I believe his e-mail is predragt@bn.rstel.net I am a Croatian and I visited a newsgroup in Serbia several times. They are causing me problems ever since. I got a reply from Autoresponder at the White House - that's how I learned about it.

Sincerely yours
Boro Krstulovic

This information is being reviewed by IS&T and EOP Security.

- Feedback to Paul Cusack (OVP) on **Vice President Gore's Computer Problems**: I spoke with Paul yesterday and indicated that in my review I am finding a number of details that require additional time to evaluate. Accordingly, I would not be able to provide the necessary information to his office for approximately another week. This memorandum will not be forwarded until properly routed, reviewed and cleared with you and Virginia Apuzzo. I am finding out some very interesting issues that I am in the processing of fixing.

- **Planning for Summer White House Interns**: I am in the process of identifying the impact of this year's arrival of interns to the White House so that we may identify what action IS&T can take to help offset the workload and to provide better responses to our customers. I am coordinating a meeting with Ms. Kolwaite to discuss this in greater detail and will apprise you of my recommendations on how IS&T should proceed.

- **Computer Delivery for the President at Camp David** - Was successfully accomplished this morning.

- **NT4.0 Roll-Out Problems with Scheduling Office** - Rachel Reddinger has contacted IS&T indicating that she is having substantial problems with getting the President's overseas schedule in the correct format. Last night they sent the schedule to all the pertinent individuals and it was not able to be emailed successfully. I personally worked with Rachel last night until approximately 6:30 p.m. and assigned a technician (the NT4.0 trainer) on call to support Rachel. He was not called but I spoke with Rachel again this morning. Based on that conversation I assigned a dedicated resource to walk her through the process, to ensure that the schedule could be produced correctly and that the customer got the assistance that was needed.

Dorothy E. Cleal
04/27/99 04:35:07 PM

Record Type: Record

To: Mark F. Lindsay/OA/EOP

cc: Sylvia L. Parsons/WHO/EOP
Subject: Associate Director Report - IS&T

- A member of OA inadvertently opened a file which resulted in an automatic transmission to all EOP computer users indicating that a virus had been detected on their machine. Within a matter of minutes NG and IS&T identified the source the problem was located. EOP users were notified that there was **NO** virus and to click the ok button an to continue normal operations.
- Installation of the the Haver Analytics (non standard application) at OPD during the NT4.0 roll-out has not been without difficulty. IS&T and NG are working this issue very hard to resolve the problem and provide OPD customers with access to this program. A solution is expected very shortly. A number of OPD customers have been inconvenienced by this problem.
- I am preparing a memorandum for the Office of the Vice President regarding IT problems that have occurred over the past several weeks. I have been told by Paul Cusack that the Vice President is interested in how IS&T is dealing with the recent problems and how we have resolved the issues. This report is expected Thursday, April 29, 1999.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF ADMINISTRATION
Washington, D.C. 20503

20 April 1999

To: Chip Sparks
James Wright
Sharon Mitchell
Karl Heissner

Jules

Please review the attached information and prepare responses to the questions that have been raised. I&T needs to provide official feedback to the VP's office next week.

Christa will be coordinating a meeting by early next week Mon/Tuesday to discuss our formal response. Please be prepared

Dottie

E 6396

NORTHROP GRUMMAN

EOPNG-98-0145

To: Ms. Dottie Cleal
Associate Director, IS&T

From: Robert E. Whiteman
Acting Program Manager

Date: April 14, 1999

Subject: VP Notes Problem

Issue:
On Friday, April 2, at about 10:15 a.m. Ms. Sharon Mitchell reported to Mr. Bob Haas that the Vice President was having problems with his Lotus Notes mail. Bob began investigation and discovered that the index file for the Vice President was truncated. This is a problem well known to Lotus and is very widely documented. There is no way to repair truncated files in Lotus Notes.

Background:

Once the problem was identified, Northrop Grumman immediately responded and discovered that the Vice President's laptop was located at the West Wing of the White House. IS&T retrieved the laptop before noon and delivered it to the computer lab for diagnostic evaluation. The Vice President's laptop is locked down with software and hardware security measures. Due to the size of the index file, the only feasible method of recovery is to connect to the network. Connection to the network is achieved through the use of a PCMCIA network interface card (NIC). However, the PCMCIA NIC did not work and when staff personnel tried to load new PCMCIA card software drivers it was discovered that the floppy disk drive also did not work. At about 3:00 p.m. Northrop Grumman contacted outside associates and borrowed an external floppy drive which was subsequently delivered to the lab at 3:18 p.m. At this time, Northrop Grumman got the NIC to operate in the laptop and connected it to the network. The index file was uploaded at 3:52 p.m. and it was completed by 4:20 p.m.

Key Issues:

- The Vice President's files are managed differently from the rest of EOP.
- Staff personnel responded upon immediate notification of the problem.
- The primary IT support technician assigned to the Vice President's office was out sick (due to an automobile accident). This created some discomfort for the Vice President's staff.
- A qualified backup technician was assigned to assist. He was familiar with the Vice President's staff/office and had performed work for the Vice President in the past. He also was in contact via telephone with the primary IT support technician.

Extent of the Problem:

In the process of our investigation of the problem, it was determined that:

- Due to a truncated file, The Vice President was unable to send or receive e-mail.
- The Vice Presidents laptop (from the West Wing) had a faulty external floppy disk drive and there were no spare parts or a back up laptop available.
- When the OVP server was migrated to NT 4.0 it was configured with the IS & T standard of three partitions. One each for the system, application and data files. Upon attempting to restore the Vice Presidents data it was discovered that the tape system reflected a previous OVP convention of two partitions; one for system files, the other for both application and data files. Due to this, no data files have been backed up to tape since the OVP server migration.
- Three days of the Vice Presidents e-mail has been irretrievably lost as a result of this problem.

Corrective Action:

At 4:25 p.m. Bob Haas was notified that the index file was uploaded to the network and he began the process of replacing it into the Vice President's account. This was accomplished at 4:48 p.m. At 5:00 p.m. the Vice President was able to open mail files successfully.

Preventative Measures:

1. Senior headquarters was notified of this problem and is tracking this issue through to completion.
2. All Northrop Grumman Network and Operations personnel have been appraised of the situation and corrective procedures have been discussed.
3. The OVP server has been included in the server backup procedure.
4. A directive will be implemented in which Northrop Grumman will change the backup procedure to ensure that a selected number of files will be restored from each full backup taken to ensure that, not only are the files backed up, but also they are recoverable.
5. The server upgrade checklist will be updated to check to ensure that all files are properly included in the server backup process.
6. Northrop Grumman will request that an additional 250-MB of memory will be added to the OVP server to reduce the resource constraint on processing.
7. IS & T will order spare laptop computers for the President and Vice President. Northrop Grumman will load the appropriate software as soon as they arrive. These spares will be dedicated for the two principals.

1725

May 7, 1999

MEMORANDUM FOR VIRGINIA APUZZO
ASSISTANT TO THE PRESIDENT FOR
MANAGEMENT AND ADMINISTRATION

THROUGH: MARK LINDSAY
DIRECTOR
OFFICE OF ADMINISTRATION

FROM: DOROTHY CLEAL
ASSOCIATE DIRECTOR
INFORMATION SYSTEMS AND TECHNOLOGY

SUBJECT: Office of the Vice President Computer Problems

INTRODUCTION

Over the past several weeks, the Office of the Vice President (OVP), has experienced various computer problems. As a result, I initiated an immediate IS&T review to: 1) determine the cause(s) of the Vice President's Lotus Notes problem which resulted in the irretrievable loss of three days of E-mail (03/31/99 to 04/02/99); 2) determine the cause(s) of certain network related problems; 3) identify any known or potential computer system vulnerabilities that would likely impact the Vice President's office in the near term; and 4) identify appropriate corrective measures.

DISCUSSION

1. **Lotus Notes Problem - April 2, 1999.**

What happened: On April 2, 1999 the Vice President was unable to send or receive E-mail for approximately seven hours. In the process of correcting the problem, the technical support staff discovered that three days of the Vice President's E-mail was irretrievably lost.

Why this happened: The OVP Mail and Applications Server had insufficient memory, disk space, and power. In fact, the Server is near the end of its useful life cycle as a primary server. Consequently, the server became overloaded and it's operation system cleared its memory to prevent total lockup. All documents, which had not been saved to a disk, were irretrievably lost in the process.

E 6404

E-mail that is lost may be retrieved from backup tapes. However, when Northrop Grumman migrated the OVP server to NT4.0, it was configured using the standard IS&T configuration rather than the OVP's configuration. In addition, the backup schedule was not properly adjusted to the EOP backup standards. Consequently, no data files had been backed up to the tape since the OVP server migration. While most of the Vice President's data was ultimately recovered, three days of data was irretrievably lost.

Actions Taken:

- Initiated an immediate and comprehensive analysis to determine all relevant and contributing factors to this problem.
- Corrected and tested the server backup schedule to ensure proper operation and backup to all server partitions.
- Reconfigured the server to EOP configuration standards.
- Instructed tasked Northrop Grumman to provide an overall assessment of its role in this problem.
- Addressed contractor deficiencies with senior Northrop Grumman management.
- Initiated a thorough internal review of specific IS&T management procedures including a clarification of the responsibilities of government personnel assigned to maintain/operate IT systems and equipment.
- Commenced an internal review of current Standard Operating Procedures for accuracy and currency.
- Directed Northrop Grumman to conduct a thorough review of assigned personnel to determine whether they possess the necessary technical skills. IS&T is conducting a similar review of its personnel.
- Conducted a technical evaluation to determine whether or not the OVP server should be replaced. The recommendation indicates that the current OVP server should be replaced at the first opportunity. The cost estimate to accomplish this is approximately $18,000 and funding has been identified under the FY99 server upgrade plan. The new server is expected to be installed by June 1999.
- Scheduled a memory upgrade for the current OVP server as an interim measure pending the purchase and implementation of a new, more modern and powerful server in the June time frame.
- Opened discussions to verify records managements procedures for OVP files/data.

2. **Network related problems - April 26, 1999**:

What happened: The computer file that controls and assigns user privileges on the OVP network was corrupted. As a result, user access and confirmation onto the network was restricted. This problem resulted in disrupted service to OVP for about seven hours while the problem was being identified and analyzed.

Why this happened: The exact cause of this problem is unknown. The age and power of the OVP server may have been a contributing factor. Furthermore, the sheer volume of traffic on the subnet network (subnet 109) to which the OVP server is connected, may have contributed to this problem.

Actions Taken:

- Tasked Northrop Grumman to reconfigure current OVP client network configurations to relieve the overburdened system.
- Scheduled the removal of the subnet 109 server to coincide with the NT 4.0 conversion project for users of subnet 109. Ultimately this action will minimize the burden on the system by rerouting traffic to a more a powerful system.
- Tasked Northrop Grumman contractor to design, schedule and implement the installation of two Ethernet switches for subnet 109 (specifically alleviating impact on OVP customers).

A complete assessment of OVP computer/system is ongoing. Once completed, a full determination will be made on what further action may be necessary.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF ADMINISTRATION
WASHINGTON, D.C. 20503

April 8, 1999

MEMORANDUM FOR MARK LINDSAY
ACTING DIRECTOR
OFFICE OF ADMINISTRATION

FROM: DOROTHY E. CLEAL
ASSOCIATE DIRECTOR
INFORMATION SYSTEMS & TECHNOLOGY

SUBJECT: Weekly Activity Report - 4/8/99

1. **System Security Issues:**

- E-mail storm: Between April 1st and April 4th, STORM logged 15330 messages from a Yugoslavian address. We no longer accept E-mail from this site and after discussion with the United States Secret Service (USSS) messages and logs were given to them for further investigation.

- Melissa Virus Update: The first reported case of the Melissa virus on the EOP network occurred Tuesday, April 6th. The user (located in CEQ) received an E-mail message from someone outside the complex. When the sender realized that he had sent the virus in an attachment he notified the E-mail recipient. The Help Desk was contacted immediately for instructions and the individual was given instructions on how to delete the file and attachment. The virus did not spread.

A man has been arrested and charged with originating the e-mail virus known as Melissa, the New Jersey state attorney general's office announced Friday, April 2, 1999. Although the author of the Melissa virus has been apprehended, there are a number of "copy cat" viruses. .

2. **Y2K Update:** Of the sixty-eight Mission Critical system, one is awaiting formal retirement (OMB-VAX System), and thirty-one have are on-schedule (GREEN) to make their Implementation Phase objectives, which represents an increase of two systems (**EOP Directory and Random Drug Testing systems**) over the last report. We expect another three systems (ARMS, Phone Book, and Production Control Group are expected to go to the GREEN status next week. Thirty-five systems remain in the YELLOW status. While this number remained the same, two systems in fact were moved to GREEN status, and two systems (**ONDCP Security System** and **ARMS to Lotus Notes Interfaces System**) were moved from the RED status. These thirty-five systems also include the seven WHISDM Legacy Systems, the WHISDM

System, the Personnel and Pay System, and the fourteen IM-Systems (news feed and VAX legacy systems). One system (**Cabinet Affairs System**) remains in the RED. The IS&T Associate Director is personally involved in this issue and an update on this situation is forthcoming.

3. **System Problems/Upgrades/Support Requirements:**

- **VPOTUS e-mail** - On Friday, April 2nd, IS&T was notified that the Vice President was experiencing problems with his PC. The problem occurred as a result of a file becoming trunctuated. This problem resulted temporary problems with the Vice President's computer and the permanent loss of several days of Email. The problem appears to be due to a contractor error that was made during a recent server upgrade. The contractor is scheduled to submit a full report to IS&T which will provide a thorough analysis of the details surrounding this situation.

- A **scheduled power outage** for the NEOB is set for late Friday night (early Saturday morning) beginning at 12:01 a.m. and lasting until approximately 4:00 a.m. IS&T personnel have coordinated with necessary contractors and staff personnel to ensure that everyone was familiar with the situation and able to respond in the event of unforseen circumstances.

- **VAX Platforms**: IS&T personnel completed the first step of the Y2K CD upgrade. IS&T personnel are meeting with the renovation team this week. The first draft of the Artel ARMS Y2K renovation project management plan (PMP) has been reviewed and feedback has been provided to the project manager. The completion date for the ARMS Y2K renovation project is June 10, 1999.

- **Enterprise Server**: This effort remains on schedule and all products are ready for final testing and use by the application staff and customers.

3. **NT4.0 Roll-Out:** Microsoft Senior Technical support has been on-site for two days providing assistance to IS&T personnel during the roll out. The roll out of CEQ was completed April 6, 1999.

- WH Operations (**WHO**), Room 1 and **Cabinet Affairs** were installed successfully on April 7, 1999. Additionally, the NT4.0 load for theAacting OA Director's and Assistant to the President for Management and Administration were successfully NT4.0. During the installation, some issues and questions were raised that are beingbeing investigated. A total of twenty-four installations occurred yesterday.

4. **Cabinet Affairs**: The letters to the four agencies were returned for modifications and have been forwarded to General Council's office for concurrence and signature. The remaining agencies are responding and to-date we have received funding documentation from two and a third is pending.

5. **The Y2K supplemental request**: The supplemental request was signed by the President on April 2, 1999 and transmitted to Congress.

E 6408

6. **NARA GUIDELINES.** The new guidelines for scheduling electronic copies of program records and administrative records not covered by the General Records Schedules (GRS) have been issued. The Records Officer is working with OMB General Counsel to have OMB staff review finalize the schedules before deciding when EOP agencies will submit their schedules.

E 6409

Howard M. Sparks
05/04/99 08:30:53 PM

Record Type: Record

To: Dorothy E. Cleal[redacted]
cc:
Subject: OVP Problems (Updated Section In Blue)

Dottie,

You can change the color by highlighting and selecting "Text", up on the menu bar, then "Text Properties". "Text color" will be bottom left in the dialog box that comes up. If not, just click on the aZ tab of the dialog box...

I reviewed, discussed and read everything I had... The installation of the switch was preventative... The only real problem was with a corrupted WINS database on BDC-109..... See below for proper format.....

May 3, 1999

MEMORANDUM FOR VIRGINIA APUZZO
ASSISTANT TO THE PRESIDENT FOR
MANAGEMENT AND ADMINISTRATION

THROUGH: MARK LINDSAY
DIRECTOR
OFFICE OF ADMINISTRATION

FROM: DOROTHY CLEAL
ASSOCIATE DIRECTOR
INFORMATION SYSTEMS AND TECHNOLOGY

SUBJECT: Office of the Vice President Computer Problems

Discussion. Over the past several weeks, the Vice President, and his immediate office, have experienced computer problems which have negatively affected the Vice President and key staff

personnel from performing their jobs. As a result of the Vice President's Lotus Notes issue (E-mail problem) on April 2, 1999 and the OVP network problem on April 26, 1999, I initiated an immediate IS&T review to: 1) determine the cause(s) of the Vice President's Lotus Notes problem which resulted in the irretrievable loss of three days E-mail; 2) determine the cause(s) of the network related problems which occurred on April 26th; 3) to identify any known or potential computer system vulnerabilities that would likely impact the Vice President's office in the near term and to; 4) identify what internal procedures/course(s) of action was required to alleviate potential and known problems.

Problem.
(1) Computer/ Lotus Notes Problem - April 2, 1999.

What happened (primary issue): Due to a truncated file on Lotus Notes, the Vice President was unable to send or receive E-mail for approximately four hours. In the process of restoring Lotus Notes capabilities, the technical support staff attempted to restore E-mail messages. This could not be accomplished because the OVP server had not been properly backed up when a recent server upgrade was completed. This resulted in the irretrievable loss of three days of the Vice President's E-mail.

Why this happened: The OVP Mail and Applications Server, turned over to IS&T for maintenance and support, is underpowered, has insufficient memory, insufficient disk space, and is near the end of its useful life cycle as a primary server. When the Server becomes severely overloaded and its resources stressed, its operating system will, as a last resort and to prevent total lock-up, clear some of its memory which may contain user documents which had not been saved on disk causing "truncation," or the loss of some or all of one or more documents or files. The problem is a flaw inherent in the Lotus Notes operating system of which the vendor is aware but has not yet corrected. The expanded memory size planned for the replacement server will greatly reduce the probability of this event's recurrence, though another failure cannot be ruled out completely. In the interim, additional memory is being ordered for installation on the existing server within about a week to minimize the probability of the problem's immediate recurrence. Installation of the new server is expected by late June.

Secondary issue: When the OVP server was migrated to NT4.0, it was configured using the IS&T configuration management standard. When attempting to restore the Vice President's E-mail files, it was discovered that the back tape system that was installed did not adhere to the previous OVP convention. As a result, no data files had been backed up to the tape since the OVP server migration. Most of the Vice President's data was ultimately recovered however, three days of data was irretrievably lost.

Relevant/contributing factors:

The OVP server was just recently transferred from the OVP to IS&T. (January/ February time frame).

Formal agreement to transfer the server was accomplished by

personnel who have since left their positions. Staff personnel did not seek additional guidance or clarification on what actions needed to be accomplished with the transfer.

The transfer of the OVP server was accomplished with insufficient: 1) understanding of the server configuration; 2) assessment of whether or not the age/capacity of the server warranted its replacement with a new server; 3) knowledge and agreement on what procedures would be used to ensure accurate records mangement.

As a result of the insufficent assessment prior to the transfer of the server, the OVP server was not proper integrated into the EOP server environment.

During the server operating system upgrade in January, technicians did not properly adjust the backup schedule to operate according to EOP server backup standards.

Actions Taken:

Tasked Northrup Grumman contractor to provide their assessment of the problem. (Tab A refers)

Addressed contractor deficiencies with the President of Northrup Grumman.

Initiated an immediate and thorough internal review of specific IS&T management issues which could use closer scrutiny by Branch Chiefs. (Tab B refers)

The server backup schedule has been corrected and tested to operate properly to backup all server partitions.

The current OVP server that is in use is scheduled to have its memry upgraded within a week as an iterim measure prior to the implementation of a new, more modern and powerful server.

Conducted a technical evaluation to determine whether or not the OVP server should be replaced. The recommendation indicates that the current OVP server should be replaced at the first opportunity. The cost estimate to accomplish this is approximately $18,000 and funding has been identified under the FY99 server upgrade plan.

A new, more powerful server with more meory, processing speed and disk storage is expected to be be able to handle known OVP mail and database processing requirements for at least two more years is being ordered. Implementation is expected to occur by June.

Established liaison between IS&T, OA, OGC and OVP to

define actions required to implement records management procedures.

Department of Justice was notified by the Office of Administration, General Counsel about the loss of the Vice President's E-mail files.

(2) OVP computer problems on April 26, 1999:

What happened: A detailed analysis of the Office of the Vice President (OVP) computer problem which occurred on April 26th exposed a corrupted service native to Microsoft networks. This service failed to provide name resolution needed by VP workstations located on subnet 109, seeking access to the OVP2 server which is located on subnet 120. WINS (Windows Internet Naming Service) provides this service by maintaining a database of system names and associated network addresses and shares its information to other like services running throughout the network. Without name resolution, workstations were unable to obtain services normally available to them. This impacted service for about seven hours as the problem was being analyzed.

Why this happened: No physical device failures precipitated this problem, and there were no error messages present to indicate abnormal operation. Corrupted entries aren't uncommon on WINS servers, though normally associated with workstations who advertise their name and address to WINS each time they log-on, and as such are subjected to greater levels of data corruption. Yet these problems are transparent, because only network management and monitoring equipment seek workstation name to address resolution.

Secondary issue: Network traffic levels on subnet 109 hovering near insupportable levels. Configuration of network segment promoted use of Ethernet switching equipment for traffic segmentation.

Relevant/contributing factors:

The OVP server was just upgraded to NT 4 (February time frame).

WINS server on subnet 109 is under powered

Installation of NT 4 on subnet 109 resulting in constant changes to WINS database.

To many client systems installed on subnet 109.

Collisions caused by near insupportable traffic levels.

Traffic from other networks broadcasting to subnet 109.

Actions Taken:

Tasked Northrup Grumman contractor to reconfigure client configurations to access newly installed WINS server (BDC-OEOB1), which will replace all OEOB/White House WINS at conclusion of Novell to NT 4 server conversions.

Schedule the removal of the subnet 109 WINS server to coincide with completion of Novell to NT 4 conversion project for users of subnet 109.

Tasked Northrop Grumman contractor to design, schedule and implement the installation of two Ethernet switches for subnet 109, and specifically customers supported by wire closet WT3 on the second floor of the West Wing. This action reduced the broadcasts seen by customers throughout subnet 109, and provided availability to high speed, high bandwidth communications for key White House staff.

Howard M. Sparks
05/05/99 01:43:41 PM

Record Type: Record

To: Dorothy E. Cleal/[redacted]
cc: Terrence J. Misich/[redacted]
Subject: Comments

Dottie,

Hopefully, you corrected the sentence fragments in Terry's abridged version (see example below)....
What we have determined is that a computer file which controls and assigns users privileges on the OVP network."
Please note that I, for one, am not trying to be critical, just noticed the oversights.....

In addition, the translation is actually not a truthful statement.... My only concern with that is, If Vice President Gore seeks confirmation through outside sources, the statements might not wash out well... Authentication did occur! However, the workstations of the affected users were unable to get a network address need to access the OVP2 server.... They were on the network, and could have used applications if they knew where to go to run the executables..
My problem is, if Mr. Gore requests additional details,,,, we'll have to make things up to fit the statements made....

Respectfully,

Chip

---------- Forwarded by Howard M. Sparks/[redacted] on 05/05/99 01:30 PM ----------

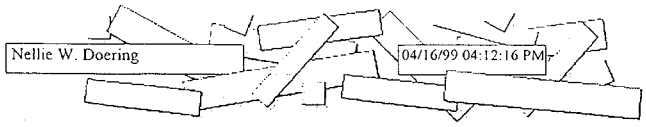
Terrence J. Misich
05/05/99 09:34:44 AM

Record Type: Record

To: Howard M. Sparks/[redacted] Dorothy E. Cleal/[redacted]
cc:
Subject:

OVPTROUB.WPI Dottie: As requested, I have tried to condence the OVP problem down to a paragraph that our customers can understand, using Chips comments as a baseline. I am sending this also to Chip to review, to insure I have interpreted his comments correctly

Terry



Record Type: Record

To: Dorothy E. Cleal[redacted]
cc: Daniel A. Barry/[redacted]
Subject: RE: Records Issues for GC

Dottie:

You asked that Tony and I come up with a list of the issues that need attention from the OA General Counsel. Perhaps we could have a meeting. See Below:

1. Authorization to delete the ARMS records identified in the OA records schedule, i.e. calendars, pagers, and phone messages.

2. Guidance on how/when to proceed with NARA Tape reformatting project.

3. Guidance on how to proceed with principals bulk mail.

5. Guidance on how/when to proceed with EOP/Carlin schedules since new guidance has been issued.

6. Guidance on OVP electronic records -- is this OA's responsibility? It seems that this question comes up occasionally.

Thanks, Nell

OASIS ALL-IN-1 MONITORING INFORMATION

IN REPLY TO GAO QUESTIONS

SEPTEMBER 9, 1996

E 6486

9/9/96

CONTENTS

7/21/94	E-MAIL RE MONITORING - (2 E-MAILS) SENDING 7/21/94 FREQUENCY OF MONITORING 1) WHO/TERRY GOOD - OVP/MICHAEL GILL 2) OMB/SHARON WARNER - OSTP/TANYA FELDER - ONDCP/TILMAN DEAN - CEQ/KATHLEEN GALLAGHER
10/13/94	OASIS ALL-IN-1 SYSTEM MONITORING REPORT
10/28/94	FEDERAL RECORDS MONITORING PLAN (AS SENT TO AGENCY MONITORS)
9/95	AGENCY MONITORING REPORTS - CEQ, OMB, ONDCP, OSTP
10/2/95	OASIS ALL-IN-1 SYSTEM MONITORING REPORT TO OA DIRECTOR/MEMO TO THE RECORD/ROUTING AND REMARKS TRANSMITTAL
10/6/96	MEMO TO OA DIRECTOR FROM OA DEPUTY GENERAL COUNSEL
10/27/95	FEDERAL RECORDS MONITORING PLAN (AS SENT TO MONITORS)
10/30/95	E-MAIL CLEARING FEDERAL RECORDS MONITORING PLAN
11/3/95	E-MAIL TRANSMITTING MONITORING PLAN TO MONITORS
	STATISTICS 10/1/95 THROUGH 9/9/96 CEQ, OA, OMB, ONDCP, OSTP, WHO (OVP HAS NOT MONITORED)

E 6487

EXECUTIVE OFFICE OF THE PRESIDENT

21-Jul-1994 05:43pm

TO: (See Below)

FROM: Nellie W. Doering
Office of Administration, LISD

SUBJECT: RE: Monitoring

As of July 14, 1994, we were "live" for official e-mail monitoring. Since you have agreed to monitor, you may want to model your approach to monitoring like we have done for Federal monitors. Please see the attached for format. Please start monitoring on July 25, 1994. The programmers need extra time to stream off those messages monitored prior to July 14, 1994.

Distribution:

TO: Terry W. Good
TO: Gill, Michael A.

CC: Gwendolyn N. Weaver
CC: Mary D. Blackwood
CC: Kumiki S. Gibson
CC: Marvin Krislov
CC: FAX (9-606-8470,jason baron)

E 6491

1. Aspen Lodge =

access → {outdated computer}

state of art

486 new computer capability WHCA

- OVP server wasn't records managed

Storm upgrade for 424

. back ups of server

additionally out of this we discovered not Records management

- Server

→ . Issue How

turnover not

→ Received server

. Insufficient capacity

. Integrated into the EOP server Environ. not integrated

properly back up files.

. Ergo lost files

May 5, 1999

MEMORANDUM FOR	VIRGINIA APUZZO ASSISTANT TO THE PRESIDENT FOR MANAGEMENT AND ADMINISTRATION
THROUGH:	MARK LINDSAY DIRECTOR OFFICE OF ADMINISTRATION
FROM:	DOROTHY CLEAL ASSOCIATE DIRECTOR INFORMATION SYSTEMS AND TECHNOLOGY
SUBJECT:	Office of the Vice President Computer Problems

DISCUSSION

Over the past several weeks, the Vice President, and his immediate office, have experienced computer problems which have negatively affected the Vice President and key staff personnel from performing their jobs. As a result of the Vice President's Lotus Notes issue (E-mail problem) on April 2, 1999 and the Office of the Vice President (OVP) network problem on April 26, 1999, I initiated an immediate IS&T review to: 1) determine the cause(s) of the Vice President's Lotus Notes problem which resulted in the irretrievable loss of three days E-mail; 2) determine the cause(s) of the network related problems which occurred on April 26th; 3) identify any known or potential computer system vulnerabilities that would likely impact the Vice President's office in the near term and to; and 4) identify what internal procedures/course(s) of action were required to alleviate potential and known problems.

PROBLEM

1. **Computer/ Lotus Notes Problem - April 2, 1999.**

What happened (primary issue): Due to a truncated file on Lotus Notes, the Vice President was unable to send or receive E-mail for approximately seven hours. In the process of restoring Lotus Notes capabilities, the technical support staff attempted to restore E-mail messages. This could not be accomplished because the OVP server had not been properly backed up when a recent server upgrade was completed. This resulted in the irretrievable loss of three days of the Vice President's E-mail.

Why this happened: The OVP Mail and Applications Server, turned over to IS&T for maintenance and support, is underpowered, has insufficient memory, insufficient disk space, and is near the end of its useful life cycle as a primary server. When the Server becomes severely overloaded and its resources stressed, its operating system will, as a last resort (and to prevent total lock-up), clear some of its memory which may contain user documents which had not been saved on disk causing "truncation", thereby losing some, or all, of one or more documents/files. This problem is a flaw inherent in the Lotus Notes operating system. The vendor (IBM) is aware of this problem and staff personnel from IS&T and IBM have discussed this issue as an ongoing problem.

Secondary issue: When the OVP server was migrated to NT4.0, it was configured using the IS&T configuration management standard. When attempting to restore the Vice President's E-mail files, it was discovered that the back up tape system that was installed did not adhere to the previous OVP convention. As a result, no data files had been backed up to the tape since the OVP server migration occurred. Most of the Vice President's data was ultimately recovered. However, three days of data was irretrievably lost.

Relevant/contributing factors:

- The OVP server was just recently transferred from the OVP to IS&T. (January/ February time frame). Up until this time OVP maintained full custody and maintenance responsibilities for the server.

- Formal agreement to transfer the server was accomplished by personnel who have since left their positions. At the time of the transfer, IS&T/Northrup Grumman personnel did not seek additional guidance or clarification on what actions needed to be accomplished with the transfer nor did they advise their current leadership chain that the transfer was taking place.

- Northrup Grumman proceeded with the transfer of the OVP server without sufficient coordination or oversight by the government staff.

- Standard configuration of the OVP server differed from the standard EOP server configuration.

- The transfer of the OVP server was accomplished without a full: 1) understanding of the server configuration; 2) assessment of whether or not the age/capacity of the server warranted its replacement with a new server; and 3) knowledge and agreement on what procedures would be used to ensure accurate records management.

- As a result of an insufficient assessment prior to the transfer of the server, the OVP server was not proper integrated into the EOP server environment.

- During the server operating system upgrade in January 1999, Northrup Grumman technicians did not properly adjust the backup schedule to operate according to EOP server backup standards.

- Inadequate quality assurance measures exist during monitor upgrades, installations and system changes.

Actions Taken:

- Tasked Northrup Grumman contractor to provide an overall assessment of their role in this problem. (See Tab A)

- Addressed contractor deficiencies with senior management at Northrup Grumman Headquarters.

- Initiated an immediate and thorough internal review of specific IS&T management issues which could use closer scrutiny by Branch Chiefs. (See Tab B)

- Initiated an internal review of current Standard Operating Procedures for accuracy and currency. Reviewing the need for an internal IS&T policy for issuing designation of responsibility letters for government personnel assigned to maintain/operate specific systems/equipment.

- Conducting a thorough review of assigned personnel technical skills. Northrup Grumman assessment is currently underway. In the process of identifying whether or not IS&T technical skills are sufficient/current and determining what additional training may be required.

- The server backup schedule has been corrected and tested to ensure proper operation and backup to all server partitions.

- Conducted a technical evaluation to determine whether or not the OVP server should be replaced. The recommendation indicates that the current OVP server should be replaced at the first opportunity. The cost estimate to accomplish this is approximately $18,000 and funding has been identified under the FY99 server upgrade plan. The new server is expected to be installed by June 1999.

- Scheduled the memory upgrade of the current OVP server as an interim measure pending the purchase and implementation of a new, more modern and powerful server in the June time frame.

- Identified the need for IS&T, OA, OGC and OVP to define actions required to implement records management procedures for the OVP server. Discussions are currently underway.

- Department of Justice was notified by the Office of Administration, General Counsel about the loss of the Vice President's E-mail files.

2. **OVP computer problems on April 26, 1999**: PROBLEM

What happened: A detailed analysis of the Office of the Vice President, April 26th computer problem identified that there was a corrupted computer file. This file controls and assigns user privileges on the OVP network. Because this file was corrupted, user access and confirmation onto the network was restricted. This problem resulted in disrupted service to OVP for about seven hours while the problem was being identified and analyzed.

Why this happened: There is no way of telling what caused this corrupted file error. The age of the OVP server may have contributed to this problem. This corruption occurs rarely and manifests itself in a variety of different ways which gives a false indication that there may be a network problem, a computer hardware problem, or a computer software problem. This caused the delay in actually repairs.

Secondary issue: Network traffic levels on subnet 109 are currently hovering at nearly insupportable levels.

Relevant/contributing factors:

- The OVP server was just upgraded to NT.4 (February time frame).

- WINS server on subnet 109 is under powered.

- Installation of NT.4 on subnet 109 has resulted in constant fluctuations to WINS database.

- There are currently too many client systems installed on subnet 109.

- Network collisions are being caused by this near insupportable traffic level.

- Problem is being compounded by traffic from other networks that is being broadcasted to subnet 109.

Actions Taken:

- Assigned Northrup Grumman action to reconfigure current OVP client network configurations to relieve the overburdened system.

- Scheduled the removal of the subnet 109 WINS server to coincide with the completion of Novell to NT 4.0 conversion project for users of subnet 109. Ultimately this action will minimize the burden on the system with regards to traffic and then will reroute traffic to a more a powerful system.

- Assigned Northrup Grumman contractor responsibility to design, schedule and implement the installation of two Ethernet switches for subnet 109 (specifically alleviating impact on OVP customers supported by wire closet WT3 on the second floor of the West Wing). This action has reduced the broadcasts seen by customers throughout subnet 109 and is expected to provide increased availability of high speed, high bandwidth communications for key White House staff.

A complete assessment of OVP computer/system vulnerabilities is still underway. Once this information is compiled, a formal plan of action will be developed to address remediation wherever practicable. My office is also discussing the feasibility of identifying a designated "tiger team" for the Offices of the President and Vice President to ensure immediate response by a team of individuals who continuously work on the systems and thereby have a comprehensive familiarity and understanding of the network, computer loads and overall system.

The OVP has requested that they be provided with formal feedback regarding the cause of these computer problems and an explanation of what action has/will be taken to preclude additional disruptions to their computer services. I will provide a copy of this assessment once your concurrence has been obtained.

E 6530

RECORD TYPE: FEDERAL (RECONSTRUCTED EMAIL)

CREATOR: Daniel A. Barry (BARRY_D) (OA)

CREATION DATE/TIME:03-JUN-1994 15:47:00.00

SUBJECT: WEEKLY for week ending 6/3/94

TO: James B. Wright (WRIGHT_J) (OA)
READ: UNKNOWN

TEXT:
Name: Daniel A. Barry
Week ending 6/3/94 --

1/ Records Management: EIS-94420
- . Testing capturing External mail
- . Prepared ARMS/CCmail connectivity paper
- . Enabled complete journaling of Mail traffic while the ARMS system is disabled thus facilitating turning off ARMS without loosing any information. This is necessary in the event that we run into an ARMS system problem
- . Enabled the labeling of records from different sources. I.e. All_in-1 MAIL, ALL-IN-1 WAVES request, WHO DB etc.

- . Demoed ARMS to VPO and WHO records management staff

2/ IMC/records management: EIS-94430
- . Created an OS-2 Diskette containing the manually classified records for ARMS Phase 2 Proof of concept

3/ OASIS support: EIS-94130
- . Answered request re Time management from Client services
- . Investigated a user Fax problem
- . Investigated several Pager confirmation message problems
- . Prepared Pager history information.
- . Investigated and corrected a Dow Jones update failure
- . Investigated a WHCA pager which had been issued to 2 people

4/ Miscellaneous meetings/classes
- . Meetings regarding Rivlin/ARMS/Tisdale etc.
- . Meetings re pager logfile information and restoration
- . Attended CMC meeting.

5/ Time off etc.

. None

RECORD TYPE: FEDERAL (RECONSTRUCTED EMAIL)

CREATOR: Daniel A. Barry (BARRY_D) (OA)

CREATION DATE/TIME:26-MAY-1994 18:05:00.00

SUBJECT: WEEKLY for week ending 5/27/94

TO: James B. Wright (WRIGHT_J) (OA)
READ: UNKNOWN

TEXT:
Name: Daniel A. Barry
Week ending 5/27/94 --

1/ Records Management: EIS-94420
- . Fixed a problem with the BATCH piece of ARMS causing stack dumps on illegal addresses
- . Wrote and implemented the ARMS piece to delete NON records based on the monitoring date
- . Demoed ARMS monitoring and system to NSC

- . Made some changes to the ARMS code to facilitate capture of external electronic mail
- . Put WHO OPD and VPO on line with ARMS

2/ IMC/records management: EIS-94430
- . Prepared sample message pool to start zoning

3/ OASIS support: EIS-94130
- . Corrected and resent 1 WAVES appointments that failed on the script symbiont

4/ Miscellaneous meetings/classes
- . Meeting with IMC re Proof of concept and tape reconstruction
- . Meeting with GSA re Records management
- . Meeting with Sgt. Steve Smith (USSS) re Pager
- . Meeting with Beth,Nell re outstanding ARMS issues

5/ Time off etc.
- . 3 hours comp

RECORD TYPE: FEDERAL (NOTES MAIL)

CREATOR:Paul L. Myers (CN=Paul L. Myers/[redacted]

CREATION DATE/TIME:21-MAR-1997 17:35:29.00

SUBJECT:: QFR/Fenced Funds Draft

TO:Christina L. Vanfossan (CN=Christina L. Vanfossan[redacted])
READ:UNKNOWN

TO:HOCHULI_J (HOCHULI_J [redacted]
READ:UNKNOWN

TO:BENJAMIN_C (BENJAMIN_C [redacted]
READ:UNKNOWN

TO:POSEY_A (POSEY_A [redacted]
READ:UNKNOWN

BCC:Paul L. Myers (CN=Paul L. Myers/[redacted]
READ:UNKNOWN

TEXT:
I decided that rather than deal with the version problems, I would just make this draft a part of the text of an email

\\

Committee Questions

1. You are asking the Committee to unfence the 1997 appropriation for computer upgrades on the basis that, if the committee fails to release these funds, significant problems will occur which will seriously hamper the ability of the EOP to support the President and the institution of the Presidency. The Committee takes these statements seriously. Referring to the letter of February 28, 1997 sent by Ada Posey to Chairman Kolbe regarding the EOP's Five Year Information Technology Plan:

What are the current external threats to the EOP computer systems and Internet connections? Specifically, what threats have you experienced this fiscal year? What are the expected threats in the event that this money is not unfenced?

A. The answers to the questions pertaining to security threats have been purged of specific numerical data relating to successful attempts to

breach the security of the EOP. Providing this information for the public record may provide a form of feedback to individuals attempting such breaches that is not in the best interest of the EOP. This data is available for discussion outside the public record environment.

1. What are the current external threats to the EOP computer systems and internet connections?

"Denial of Service" attacks come in the form of PING attacks, DNS attacks, and Router attacks. The end result of this type of an attack is a disruption of service to the target site. Specifically at EOP, this would mean that internet users could not access the WhiteHouse WEB site or send electronic email to EOP.

Mail spoofing off the WhiteHouse WEB site. Internet users are sending mail to other internet users in the name of the President by redirecting mail from the WhiteHouse internet mail server. This gives the appearance that the internet email originated from the Office of the President. This has an negative effect on the image of the WhiteHouse Office.

Mail "storming" or "bombing" occurs 2 to 3 times a day. The net effect of several hundred to several thousand pieces of identical email being delivered to EOP within a very short time span effectively shuts down the internet email flow to and from the WhiteHouse.

WhiteHouse WEB page content tampering by internet "hackers". The attempt is change the WEB page content to something which is generally offensive and slanderous to the internet users viewing the WEB site.

EOP network break-in attempts which if successful can potentially bring down the entire EOP network and dramatically slowdown operations at EOP while recovering from this type of error.

New techniques are constantly being engineered to perform a "Denial of Service" or break-in attempt to the EOP network or WEB site as known potential exposures are closed.

2. Specifically, what threats have you experienced this fiscal year?

EOP has been experiencing frequent "Denial of Service" attacks averaging 3 times a week.

Email bombing and storming occur several times a day.

Unsuccessful break-in attempts occur daily.

Email spoofing occurs daily.

3. What are the expected threats in the event that this money is not unfenced?

We are expecting an eventual EOP network break-in because the firewall

hardware and
software are out of date and need to be upgraded to current levels. This will result in a disruption of the entire EOP network.

Email storm and bomb attacks will become more successful as the current storm
prevention software is out of date and also needs to be upgraded. This will result in a disruption of Internet services, seriously hampering EOP□,s business profile.

A WEB site attack is predicted to occur. The WEB site servers software and hardware
are in need of an upgrade to current levels to counter against new hacking techniques that
are constantly being developed to circumvent the security software and processes currently
protecting the WEB servers. A WEB site attack is likely to require 4-5 days for recovery.

The letter mentions a "dramatic increase in the volume of data processed." Specifically, what data are you referring to? For FY 1995 through FY 1998 estimates, provide data processing workloads by major computer system within the EOP, making a specific note of those systems which are impacted by the 1997 fenced appropriation.

E 6550

A. Volume of data processed increased dramatically in four major areas of service.

First, it includes activity on the White House Home Page, a service used primarily by the citizens to gain information on the White House as well as to provide linkages to other government Web sites. Since 1995, access has increased from 4.9 million accesses to 27 million in FY 1996. Projections for activity in the range of 36 to 40 million is expected in FY 1997 and 45 million for FY 1998. Restriction of funds will affect the ability of the EOP to offer additional services to the citizenry as well as to provide security protection to EOP itself against steadily increasing threats from intruders (see also the earlier response on threats for specific information).

E-mail and e-mail related services (that is, services obtained through the e-mail application) such as faxing and paging, has increased from just over 1 million in FY 1993 to a projected 2.4 million in FY 1998 and increase of over 125 percent for the period. OA began a shift to a new mail application, Lotus Notes, in FY 1996 and remains postured in both the All-in-1 application as well as Lotus Notes at this time. Funds for additional servers and related hardware components are needed to relieve the strain the increased load is placing on the network. In addition, the need for additional desktop resources such as hard drives and memory chips, prevents the further deployment of Notes to OA. The impact of having to support two mail applications consumes additional staff time and maintenance budgets for as long as the two-pronged levels of support are required.

E-mail records management traffic figures reflect the additional numbers of records that transit the network to store this material in a record keeping system in conformance with the terms of the settlement of the Armstrong v. EOP litigation. The first full year of data was FY 1995 when over 2 million records were transferred; it is projected to handle 3.8

million records in FY 1998, an increase of 90 percent over FY 1995 levels. It is noteworthy that more records are transferred than created. The primary reason for this is explained where an e-mail sender corresponds with other member agencies in EOP. In this case a copy of the mail is saved in the record keeping application for each agency that participated in the mail exchange. It also includes e-mail received from external sources. With the increase in e-mail transactions, more robust servers are necessary to handle the load across the network.

Finally, activity during the annual Budget season (generally December through January of the fiscal year) by outside agency users accessing OMB□,s applications places additional workload on the network. In previous years, the access occurred through a dial-in application that is no longer supported by the software vendor. Thus it became critical to find a different method to gain access. In a recent survey, OMB learned that a great percentage of agency users had the ability to communicate through an Internet connection. During the past Budget season approximately 65 percent of the users relied on the Internet to transfer data in nearly 19 thousand separate accesses. As more agencies shift to this new method of access, additional hardware is necessary to support the expected load though this is not affected at this time by the fenced appropriation.

What is your current network down time? What do you expect your network down time to be in the event that these funds are not released?

A. In May 1996, the EOP began the migration from a Novell Netware-based network architecture to Microsoft Windows NT. The first phases of this initiative have been completed at the desktop level. We are now at the point in the process to procure, install and integrate the hardware and software necessary to manage network browser traffic and print service requests. Help desk statistics indicate approximately 400 network

requests are denied service each week due to excessive network traffic loads. The denied service requests forces users to reboot their PCs numerous times in order to establish network connectivity.

The project to reduce the network loading is on hold due to the fenced appropriations. Therefore, the users will need to continue the frequent rebooting of their PCs. The average productivity time lost while a PC reboots is 2-3 minutes. Once connectivity is established, users will continue to see slow response times during periods when collision rates are high, especially between the hours of 0730-0930 Monday through Friday.

What specific preventative maintenance efforts will not take place if these funds are not released? What broken equipment do you currently have at the EOP that can not be replaced and what is the cost of replacing that equipment? By equipment or computer system, describe how this effects the support and the institution of the Presidency.

A. On December 23, 1996, the FDDI work group hub failed. This unit connects EOP staff to centralized computer resources for the purpose of processing White House Activity Visitor Entrance System (WAVES) requests, All-in-1 electronic mail, the scheduling of Arrival Ceremony Appointments, and access to the information management news wire services. Four (4) hours of downtime were experienced while IS&T staff swapped the failed hub with the spare unit and reconfigured the network equipment. The downtime was minimized by the ability to replace the failed unit with an on-site spare. If a spare unit was not available, the downtime would have extended to approximately 3 days while a new unit was purchased and shipped to the EOP. In addition to decreasing downtime by installing spare parts kept on-site, a cost savings can be realized by maintaining hardware components. The FDDI hub costs $12,058.93 when purchased new. The cost to repair a broken unit under a maintenance program averages about $6,000.00, resulting in a $6,058.93 savings per failure incident.

The repair of the failed unit should be done to ensure a working spare is in operational condition to reduce the amount of downtime experienced during failures.

On February 13, 1997, the Lattis Switch connecting 16 users in the OVP office to the network failed. Four (4) hours of downtime were experienced by the users while the spare unit was configured and installed. If a spare unit was not on-site, the downtime would have extended to 24-36 hours to allow for the procurement and receipt of a replacement switch. The cost to repair a broken unit under a maintenance program is $2,475.00 versus the cost to purchase a new unit at $13,678.28 each. End user downtime can be reduced by maintaining spare parts on-site, and an average cost savings of $11,203.28 can be realized for each failure occurrence through the use of an equipment maintenance program. As a result of this failure, the Vice President's speech writers could not access the Vice President's speech that he was giving that day.

During the first week of February, 1997, one of the 2.1 GB disk drives in the OVP file server failed. A spare replacement drive was not available. After six (6) hours of downtime passed, the need to restore operational services became critical . The file server from the SMS development project was pulled and placed temporarily into the production environment. This act enabled the users to continue processing, but halted all efforts on the SMS development project. The SMS project will result in the ability to automatically deploy software patches and enhancements across the network, and allow for the automatic tracking of ADP equipment and software for inventory and license verification purposes across the EOP complex. Seventeen (17) hours were spent reconfiguring the replacement server in order to match the configuration characteristics of the failed OVP file server. Once the failed drive is replaced, the SMS development server will be returned to the development team. However, the 17 hours spent reconfiguring the file server will have to be repeated in

order to return the development equipment to its original state. The cost to replace a 2.1 GB hard drive is $752.00. The average hourly rate for network support personnel to reconfigure a file server is $35.12. If a hard drive was available a cost savings of $442.08 ($35.12 x (17 hours x 2) - $752.00) could have been realized since the SMS server would not have been involved and reconfigured. The impact to the SMS development effort will result in the delayed implementation of SMS due to the work stoppage of the development project.

On March 21, 1997, the disk space on the OVP file server filled up again. As a result, the Vice President and his staff could not access their email. IS&T was forced to initiate a special backup of the file server during prime time across the network , worsening the EOP network traffic load problem, in order to capture official records onto tape. The OVP staff was then forced to manually delete the on-line versions of the records in order to free up disk space so email could flow again. The time email services were down was 4 hours. The request to purchase additional hard drives has been on hold due to the fenced appropriations.

The client/server backup system used to preserve data integrity and facilitate the archival of Presidential and Federal records has exceeded its life cycle. The current system only has the capability to backup 50% of our file servers. However, due to hardware and software failures, less than 30% of our file servers have current backups. Users have lost data due to the failure of the EOP backup system. This was evidenced by the Executive Clerk=s Office when a user accidentally deleted some files and no current backups of the data existed. Software upgrades and the reconfiguration of the hardware needs to occur in order to guarantee 100% of the records are backed up. Currently, the only copy of data that is not backed up resides on each file server=s physical hard drives. If any of those hard drives fail, data will be lost. Several users have already experienced the loss of data due to a file server hardware failures. An

analysis of the backup system has been completed with three recommendations to correct the problem. The cost to implement the solutions range from $7,500.00 to over $20,000.00.

The letter mentions "significantly delayed response time." Specifically, response time to what? What is your current response time? What are your estimates of response time if these funds are not released?

A. The standard response time to complete customers= requests for ADP services is five (5) days. Since the migration from the Novell Netware-based network operating system to Windows NT began, requests for services have dramatically increased. The reason for the increase is due to the fact that we are currently maintaining duplicative network environments with reduced staffing levels. Until the old Novell Netware network operating system can be removed, or staffing levels increased, the current situation will degrade. Some service requests have taken as long as 42 days to complete, denying our customers the tools necessary to support the agency=s mission.

The complexity of the service requests will continue to escalate due to the heterogeneous network environment we are forced to operate under. Functioning under dual network operating systems requires extensive manipulations of computer configurations in order to ensure the connectivity to both environments is maintained. The length of time to complete a service request has tripled.

Examples of what will happen if we can=t have software maintenance.

The EOP currently has over 2,000 desktop PCS and 32 servers installed with software products from Microsoft Corporation. The type of software applications installed on the desktop PCS range from the operating system

to spreadsheet, database and graphics packages. The software applications installed on the file servers include the network operating system. The Lotus Notes e-mail, pager and fax systems and the Microsoft business applications suite (Excel, Power Point, Access, etc.) are all dependent upon the Microsoft Windows NT network operating system in order to operate correctly. If the Windows NT environment is not operational the software applications will not function. If a failure occurs, access to Microsoft= s technical support personnel will be necessary. The request to purchase technical support from Microsoft is on hold due to the fenced appropriations. If a failure occurs and technical support is not accessible, the problem may not be resolved. If the type of failure experienced is at the network operating system level and requires Microsoft =s technical support to resolve, the result may be the complete failure of the EOP network, thus impacting all 2,000 desktops. The cost of the software maintenance support is $45,000.00.

2. The letter submitted to the Committee on February 28, 1997 notes that the funding restrictions for 1997 could seriously hamper your efforts to develop an architecture and meaningful investment plan. Of the funds fenced in FY 1997, how much is planned for obligation on the development of an architecture and investment plan?

A. None of the fenced funds are for architecture and investment planning activities, but rather for equipment for maintenance and enhancements. The impact to be realized is that if the fenced funds are not released, resources used for user groups ITAB, and Year 2000 activities will continue to be diverted to keeping the basic information technology systems operational, thereby impacting the ability to develop the architecture requirements base, future user needs database, and complete the Year 2000 initial reviews.

3. The Committee has taken the position that there is no distinction between purchasing hardware and software for maintenance and purchasing hardware and software as an investment in technology yet the

EOP insists there is a difference. Please explain the difference between the two types of purchases.

A. Purchasing hardware and software for the purpose of keeping existing systems operational and providing the □&current level of service□8 to EOP agencies is considered by EOP to be a maintenance function. The purchase of hardware and software for the purpose of enhancing or increasing capability beyond the □&current level of service□8 is considered by EOP to be an investment in technology. The definition of □&current level of service□8 is demonstrated by the example that □&if a 15 inch computer monitor fails, it is replaced with a 15 inch computer monitor with equivalent functionality. Replacement with a 17 inch computer monitor or one with greater functionality would be considered an enhancement□8. There is an exception to this definition in that the s ecurity systems have to contend with a continuously changing technical capability (unstable environment) being exercised by those individuals attempting to circumvent the government□,s security systems and illegally gain access to government data.. Accordingly, maintaining a constant level of service, i.e., consistent levels of protection, often requires the utilization of upgraded software and hardware.

END

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RECORD TYPE: FEDERAL (NOTES MAIL)

CREATOR:Kathleen K. Gallant (CN=Kathleen K. Gallant/[redacted] OA])

CREATION DATE/TIME:23-SEP-1998 13:47:16.00

SUBJECT:: Email Group Problem

TO:Moe Vela (CN=Moe Vela/[redacted] [UNKNOWN])
READ:UNKNOWN

CC:Robert W. Haas (CN=Robert W. Haas/[redacted]
READ:UNKNOWN

CC:James R. Webster (CN=James R. Webster/[redacted])
READ:UNKNOWN

CC:Alan R. Tarica (CN=Alan R. Tarica/[redacted])
READ:UNKNOWN

TEXT:
They fixed it again!! We are doing some development work in getting the OVP Lotus Notes mail record managed properly and apparently in testing a scenario, something went "live".

The guys rushed to clear it out and hopefully have corrected the problem. I'm going to a meeting, if heaven forbid this happens again, PING Robert or Alan, please immediately.

kathy

RECORD TYPE: FEDERAL (NOTES MAIL)

CREATOR:Laura Crabtree (CN=Laura Crabtree/[redacted]

CREATION DATE/TIME:24-MAR-1997 09:24:57.00

SUBJECT:: OVP File Server Situation - Update

TO:Paul L. Myers (CN=Paul L. Myers/[redacted]
READ:UNKNOWN

TO:Charles D. Benjamin (CN=Charles D. Benjamin/[redacted]A])
READ:UNKNOWN

TEXT:
We completed a second full set of backups for their file server friday night. OVP users are being instructed to delete any nonessential email that is over 90 days old (this was "okayed" by their legal office Friday) in order to free up disk space. Right now there is about 770Kb of free space available on the server. This will last until about 2:00 today if the users do not delete enough old email.

Laura

RECORD TYPE: FEDERAL (NOTES MAIL)

CREATOR:James B. Wright (CN=James B. Wright/[redacted])

CREATION DATE/TIME: 7-APR-1999 14:17:52.00

SUBJECT:: email memo from NG

TO:James B. Wright (CN=James B. Wright/[redacted])
READ:UNKNOWN

CC:Christa Moyle (CN=Christa Moyle/[redacted]
READ:UNKNOWN

BCC:James B. Wright (CN=James B. Wright/[redacted]
READ:UNKNOWN

TEXT:
Provided to Dottie as a discussion document.

Dottie I have read the E-Mail memo from NG. Following is a summary what I know.

Though I was not involved with the situtation on Friday, I made aware of it on Monday. What I was told on Monday, is pretty consistent with the memo. I was told of the corrective action of the back-ups and completed on the weekend but not about the recommendation for additional PCs. And with a bit a good luck all the data was reloaded to the VP pc.

The memo certainly reveals that NG did not have a complete check-list process when building and configuring servers. Their check list process assumed that the server inherited from the VP office was configured in a similar manner as all the other severs being supported by NG and OA/IS&T. To say the least, a bad assumption when they did the upgrade.

I'm not certain I agree with the need for two additional pc s but it should be reviewed in more detail to make a final determination.

If you wish or need to disucss more please let me know.

Dorothy E. Cleal

03/01/99 12:21:52 PM

Record Type: Record

To: Adam F. Greenstone/[redacted]

cc:

Subject: Records Management

Adam,

My staff provided the following info to me:

White House Internet Email. Met with the users and the technical staff to review requirements and review the test results. The OA GC is still waiting for WH and OVP guidance with regard to proper records disposition for these systems. Met with OA General Counsel and Records Management To address the WHO and OVP records disposition memo - we have still not received it. This memo was due to OA/GC by January 25th,1999. Without this memo the next generation of the WhiteHouse Internet E-mail will not be able to go into production as planned. This date has been pushed out twice now due to the failure of WH and OVP Gcs to provide the appropriate guidance (in writing). We have engineered a temporary solution that Adam is comfortable with, this should enable us to meet the March 15, 1999 installation schedule.

Who do I need to address this with. If we can not get White House

Please let me know the status. Thanks. Dottie

RECORD TYPE: FEDERAL (NOTES MAIL)

CREATOR:Peter E. Lindahl (CN=Peter E. Lindahl/[redacted])

CREATION DATE/TIME: 5-FEB-1999 14:39:56.00

SUBJECT:: Raw Weekly

TO:rusty.johnson (rusty.johnson [redacted] UNKNOWN])
READ:UNKNOWN

TO:pat.lynch (pat.lynch [redacted] NKNOWN])
READ:UNKNOWN

TEXT:
I'm not sure what's going on... it looks like they merged the numbers for

this week

with last weeks report. This file has what I actually typed, along with

everybody

else's.

I'm confused, they're confused, we're all confused for I'm confused.

========== ATTACHMENT 1 ==========
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:
Lotus Notes

Accomplishments

- Create 2nd fax server for Press Office Received equipment and installed NT 4. 0 and Domino Fax server. NT 4.0 and Domino Fax are Y2K compliant. Server has been setup and functionally tested.

- An electronic up to date directory containing information on all employees in the complex. This task is on hold pending IS&T creation of the FRD. Users can identify telephone numbers, Building, and room for others in the EOP Complex

- An Electronic display of the latest training schedule The Notes Team has comp leted a preliminary draft of the FRD. User can be kept abreast of the lateset c lass schedule

- An electronic announcement for information in the EOP Complex The Notes Team has completed a preliminary draft of the FRD. Users will be able to check the l atest announcements.

- The Lotus Notes team was asked to review the Project Correspondence Repositor y System to evaluate its impact on the Notes environment and to estimate the wo rk effort required to implement. The Notes Team submitted the evaluation to IS& T for review and is awating response. The evaluation will help EOP avoid any pr oblems associated with implementing the PCRS.

- Create a EOP standard for applying and administering Lotus Notes mail file qu otas. System will be based on number of users, amount of disk space, and the a ppropriate partictioning of resources for various personnel types The Notes Tea m is awaiting a decision by IS&T regarding Mail capacity planning. This project will ensure that EOP system resources are managed and not over taxed. In addi tion it provides the users the empowerment to decide for themselves which messa ges should be kept/discarded based on their own decisions regarding size vs imp ortance. This is in contrast to an autotmated process that removes messages.

- OVP Mail Template The Notes Team is awaiting OVP policy regarding records man agement before deployment. Enable the maintenance of OVP mail files

- The Lotus Notes Group has been requested to write the FRD (Functional Require ments Document) for the news service section of the IM (Information Management) project. Information from NSC was recieved and placed into the FRD. This compl etes the requirements for this document and this task. The document will be acc epted by the government per Rinaldi Rampen and Mark Barthololmew. The definitio n of requirements for the implementation of news service within EOP.

- Evaluate anti virus software to install on Lotus Notes e-mail servers. Receiv ed Norton Anti virus started to evaluate software. anti virus software is neede d to protect EOP's e-mail servers.

- Upgrade Lotus Notes server to Domino 4.6 servers. This will include NT 4.0 u pgrades. Upgraded Mail 2, Mail 5, and WHO_GOV to Lotus Domino 4.6. The only se rver left to upgrade are Pager, LNFAX, and Mail4. Upgrade servers to NT 4.0 and Notes 4.6. This will bring system to latest technology and also make it Y2K c ompliant.

- Redesign the ARMS software and the ARMS Lotus Notes interface. As of 2/1/99. the government approved the Lotus Notes/ARMS Interface project plan and finaliz ed the initial review cycle for the Lotus Notes/ARMS Interface Agreement docume nt. Currently, the Lotus Notes Team continues work on the Functional Requireme nt Document (FRD) for the Lotus Notes/ARMS Interface project, and is in the pro cess of incorporating the feedback received from the government into the Lotus Notes/ARMS Interface document. Once finalized, both documents will be resubmit

ted for review. The redesign of the ARMS system will result in the development of a solid baseline for incorporating future changes in ARMS. This redesign wil l also make ARMS and the ARMS Lotus Notes Interface Y2K compliant. Allow for t he implementation of the Notes 4.6 features. And, allow for the implementation of enhancements such as: increase on ARMS performance and efficiency and the implementation of a duplicate check mechanism.

- Upgrade Lotus Notes server to Domino 4.6 servers. This will include NT 4.0 u pgrades. Upgraded Mail 2, Mail 5 and WHO_GOV to Notes 4.6. The only system le ft to upgrade are Mail 4, Pager and FAX. Upgrade servers to NT 4.0 and Notes 4. 6. This will bring system to latest technology and also make it Y2K compliant.

Planned Activities

Issues affecting activities

After hours support calls

Vax/Email

Accomplishments

Planned Activities

Issues affecting activities

After hours support calls

Internet Security

Accomplishments

- Upgrade web server hardware drives and memory and OS to IRIX 6.2 Completed bo th the hardware/software upgrade on the White House web server host WWW2.WHITEH OUE.GOV. This upgrade completes one of two White House web servers. Northrop-Grumman's Internet/Security team installed a new 4 GB system disk and a 4GB ext ernal auxiliary disk. The system disk was formatted and partitioned for an IRI X operating system kernel. IRIX is Silicon Grpahics' version of UNIX. Once in stalled, the new IRIX 6.5 operating system kernel was installed and configured to the unique network and file systems' configuration of the White House web se rvers. A new hypertext transfer protocol (HTTP) server application was also in stalled on the machine. This new HTTP server is the Netscape Enterprise Server 3.5.1. The upgrade resulted in a machine that meets Y2K compliance and uses r icher HTTP features for serving the Internet community. New enhancements to th e previous operating system were upgraded improving network performance and CP U efficiency. Performing installation on staging machine will eliminate the lea rning curve time to install OS ans Enterprise server upgrade on production syst ems.

- Presidential E-Mail Responded to new requirements from the President's Corres pondence Office regarding the Lotus Notes mail databases for the White House Pr incipals. The Correspondence Office wanted to have the capability to interact with a two-week period's worth of e-mail on a daily basis. This meant a unique daily e-mail database for a fourteen day period. The Internet/Security team d eveloped UNIX scripts to make the daily e-mail databases cascade into a prior-d ay database for a fourteen day period. E-mail databases older than fourteen da ys were susbsequently archived. Development of the UNIX scripts kept both Lotu s Notes e-mail databases on the Lotus Notes cluster synchronized. This gives t he White House Correspondence the ability to view and interact with e-mail for

a fourteen day period. NOTE: The Lotus Notes cluster for White House Principa l's e-mail is not yet in production. More reliable services; existing system is based on Allinl which is going away in 1Q99.

Planned Activities

Issues affecting activities

After hours support calls

Desktop Support

Accomplishments

- Vice President Albert Gore has requested that his Palm Pilot be able to Synch his Lotus Notes E-Mail to his Palm Pilot Handheld Have tested OVP mail user (Test_Palm) after upgrade of mail server to higher version. In box now synchs with palm. We have determined a problem with internet e-mail address fields on template for OVP address book. Marvin Miller is

attempting to make changes so that the "lookup" of mail adddresses for OVP are updated properly on the Palm Pilot. Also need to have Moe Vela order an i/ o card for Vice President Gore's PC to support an additional serial port for th e Palm cradle as well as order an additional cradle and Palm Modem for Phase II of this project. Vice President Albert Gore will be able to remotely access h is e-mail

Planned Activities

Issues affecting activities

After hours support calls

Web Development

Accomplishments

- The Web Team provides ongoing, routine maintenance for the WH web site. The Web Team posted 5 daily talking points to the White House at Work page and 5 daily items for What's New; this work included archiving the WHW items for January 1999. Also for WH Communications, the team posted a rush document on the Administration's communities agenda, evaluated and gave feedback on a proposal for a photo office automation project, changed the text on two pages that point to the pubs server, and made two other minor corrections. For OA, the team performed a rush task to post the 1998 FOIA report and evaluated and gave feedback on a project to add a link to the White House Historical Association. For OMB, the team processed a change request to QA and post 2 HTML files and a PDF file, and a request to update the FOIA information; this latter request required numerous reworkings of a number files as the OMB pagemaster attempted to address certain QA errors (such as bad links). For OSTP, the team processed 3 change requests to QA'd and post to production 16 HTML files. For PCSD, the team processed QA'd and posted 5 HTML files and a graphics file and deleted from production 4 files and two directories; the team also met with PCSD to discuss PCSD's latest redesign for its home page. For NSC, the team added a new HTML page and updated the home page. For the Tour Office, the team updated the 1999 tour calendar and the associated HTML page describing each event; as part of this effort, the team added value by upgrading the HTML code and page layout to meet the White House authoring standards. For Millennium, the team assisted in the launch of the new Millennium Communities site. For FLOTUS, the team HTMLized and posted to production a new weekly column. For POTUS, the team encoded and posted the weekly radio address, including a Spanish version of the text. For the Intranet, the team assisted the library pagemaster by running a QA check o

f the site prior to its impending launch and providing a report. Routine mainte nance tasks ensure that the WH web site publishes the most up-to-date content p ossible.

- The Web Team will do a rush project to redesign the Vice President's web site . The team completed work on all the content provided to date by the Vice Presi dent's office and sent a notice on January 29. The last section completed was the "Cartoon Gallery." On February 2, the team lead spoke with the VP's office about next steps: (1) On Thursday, February 4 by COB, the VP's office plans to submit all the remaining content for the site (about 25 speeches, a rewrite of the Initiatives page, and a final decision on the 24 Hours in Cyberspace pages) as well as final approval to prepare for launch, (2) The Web Team will comple te the work and get the site ready for launch by COB Friday, February 12, and (3) Site updates will occur as discussed--all news releases added manually at fi rst, and the home page and speech sections updated on request by the VP's offic e. The VP has not vetted the site yet but will soon. The redesign will improve the VP's image and improve the office's ability to disseminate its message.

- Assist in redesign and launch of new web site for AIDS Policy group The proje ct was reassigned to Monty Haymes on February 2. Monty met with the client on February 3 to discuss how to proceed. The plan is to get back to the client by next week with suggestions prior to launch. Project will add useful new conten t to the WH web site.

- Reengineer the scripts that process briefings and releases from the WH Press Office The Web Team lead met with the WH Press Office on February 2 to discuss an additional requirement for the reengineering of the Briefing Room. In addit ion to the requirements already gathered for this project, the Press Office wou ld like to enable a secure area of the site for access by members of the press to documents not intended for the general public. The plan would be to enable email notification to a mail list that a new item has been added on the secure "Extranet" server. Project will improve the reliability of this critical inform ation, will reduce server load, and will improve performance for end-users.

Planned Activities

Issues affecting activities

After hours support calls

Publication Server

Accomplishments

- The Publications Server Team is responsible for the administration of the Presidential Publications Server. During the week of Jan 27 - Feb 2, 1999, the Publications Server has continued to run well. There were no unscheduled interruptions during the period. Approximately 250,000 requests were served via the World Wide Web. There are almost 21,500 subscribers receiving White House documents via email and newsgroups. There are presently 13,086 documents in the documents database. The following week will be focused on hardware and software upgrades. The Team ensures that the Presidential Publications Server is functioning at all times.

- Upgrade the Presidential Publications Server hardware. The correct adapter was received for the external disk cabinet for HOST1/PUB1. The adapter has been installed. The drive will be attached to the machine during the next scheduled reboot of the system. Hardware upgrades improve system performance and reliability

- Improve overall stability of the Whitehouse Publications Server. Several minor patches to HTTP server code were installed on PUB1 after testing on PUB2. These patches provided speed enhancements and rare bug fixes to the Publications Server. System stability decreases the number of occasional system hangs.

- Northrop Grumman has been tasked to analyze, format, catagorize and release White House documents to the Internet using the WDDI application. The Publications server support team posted 57 documents to the Web during the week ending 02/02/99, expending 40.5 man hours. No problems to report. This process ensures the documents released to the Internet are easily accessable, readable, and free of invalid information.

Planned Activities

Issues affecting activities

After hours support calls

Cabinet Affairs

Accomplishments

Planned Activities

Issues affecting activities

After hours support calls

Systems

Accomplishments

Planned Activities

Issues affecting activities

After hours support calls

Operations

Accomplishments

- The Northrop Grumman data center manager must address performance measurement issues. This task has been converted to NOTES-74 The data center will establish metrics for comparing system avialability statistics to give Northrop Grumman and IS&T the ability to spot and track trends.

Planned Activities

Issues affecting activities

After hours support calls

Network Administration

Accomplishments

Planned Activities

Issues affecting activities

After hours support calls

Training

Accomplishments

Planned Activities

Issues affecting activities

After hours support calls

========== END ATTACHMENT 1 ==========

RECORD TYPE: FEDERAL (NOTES MAIL)

CREATOR:Marvin Miller (CN=Marvin Miller/[redacted]

CREATION DATE/TIME: 8-MAR-2000 12:11:38.00

SUBJECT:: weekly status

TO:Alberto O. Feraren (CN=Alberto O. Feraren/[redacted])
READ:UNKNOWN

TEXT:
Lotus Notes

EOPID

The Lotus Notes team work with account creation staff investigating a new process for maintaining the EOPID in the public address book. Account creation staff is determining the level of effort to support the new process before committing to new responsibility.

The Lotus Notes team in conjunction with the government is waiting a meeting with OA security to confirm accounts with out EOPID in our address book. Chuck Easley may be the proper contact. Additionally, the lag time which occurs for a pass type to convert from temporary to permanent will also be addressed. (Miller)

The Lotus Notes team has concerns about the load balancing and sharing across EOP's mail servers. Mail 2 currently support 45% of EOP's 2310 user community while Mail 3 supports only 13%. An email to government functional leads has been sent to inform them. (Miller)

The Lotus Notes and Mail Integration teams have raised concerns about OVP Records management. Currently some OVP records are sent to EOP ARMS system but some are not. Should we stop collecting records for OVP or start collecting all records from OVP. (Miller)

The Lotus Notes team and the Customer Service Group is working with Melissa Green to reduce her mail file to below the stated limit of 1 GB.

An new email file has been created so she can receive mail but her old file should be cleaned out. Melissa has problem accessing her account to do upgrades which have occurred in the West Wing. (Haas)

The Lotus Notes team continue to work on ARMS multi host interface although project has being impacted by Mail 2 / ARMS activity. (Salim)

The Lotus Notes team continues to work on documenting WAVES limitations (Bussey)

CABNET

The Lotus Notes team has started working on a project plan for R5 in the CABNET environment (Miller)

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR:Alberto O. Feraren (CN=Alberto O. Feraren/[redacted])

CREATION DATE/TIME:17-SEP-1999 09:20:59.00

SUBJECT:: Old SGI Vetting Server in OVP Mail Room

TO:Andrew S. Dryden (CN=Andrew S. Dryden/[redacted])
READ:UNKNOWN

TEXT:
Andy,

Here's a copy of the email I sent Rachael.

Regards,

Bing

---------- Forwarded by Alberto O. Feraren/[redacted] on 09/17/99 09:19 AM ----------

Alberto O. Feraren

09/17/99 09:11:29 AM

Record Type: Record

To: Rachael E. Sullivan/[redacted]

cc:

Subject: Old SGI Vetting Server in OVP Mail Room

Rachael,

All vetted name and event files formerly stored in the old SGI vetting server (vpsgi.eop.gov) located in the OVP mail room have been migrated to the current OVP vetting server, ovpvet.eop.gov. Backup tapes have been made of the old vetting server for archives.

It is safe to delete all files residing in the old vetting server (vpsgi.eop.gov) located in the OVP mail room.

FYI: The new vetting server (currently under development by Jim Driggers of ARTEL) has not yet been placed in production.

Regards,

Bing

RECORD TYPE: FEDERAL (NOTES MAIL)

CREATOR:Alberto O. Feraren (CN=Alberto O. Feraren/[redacted])

CREATION DATE/TIME:10-MAR-2000 15:41:38.00

SUBJECT:: OVP Mail Server/ARMS Situation

TO:Terrence J. Misich (CN=Terrence J. Misich/[redacted]
READ:UNKNOWN

TEXT:
Terry,

FYI: From what I've been told OA/IS&T never agreed to ARMS manage OVP's email.

Regards,

Bing

---------- Forwarded by Alberto O. Feraren/[redacted] on 03/10/2000 03:39 PM ----------

Alberto O. Feraren

03/09/2000 03:13:20 PM

Record Type: Record

To: Terrence J. Misich/[redacted]

cc:

Subject: OVP Mail Server/ARMS Situation

Terry,

Here's the essence of the OVP mail server and ARMS situation.

A number of OVP user-originated electronic mail is being sent to the EOP automated records management system (ARMS). This situation occurs

because the current OVP mail accounts creation process, now being handled by EOP/IS&T, creates the mail account using the EOP mail template as opposed to the original OVP mail template. As a result, OVP users who have inherited EOP's Notes mail design template have encoded in their mail a blind copy (Bcc) to the EOP ARMS system. It is not clear who is supposed to perform the automated records management of the OVP mail server electronic mail records.

Additionally, because of this OA/OVP ARMS issue , the process that scans EOP mail servers for inbound email from the Internet (ARMSCAN) is not installed nor operating on the OVP_1 mail server.

A result of this issue gaps exist in the backing up of data files on the OVP mail server.

Regards,
Bing

Robert J. Hughes
08/11/99 07:12:04 PM

Record Type: Record

To: Adam F. Greenstone/[redacted]

cc:

Subject: Records Management

Adam,

Did the WH Counsel come through with a memo to NARA requesting that bulk e-mail be treated like bulk paper mail? They thought it would be done by Wed.

Some answers to questions asked at the meeting:

- We do not have a reliable back up of all VP bulk mail. We just auto forwarded to the Senate.
- The NARA reformatting request applies to both WH and federal records.

V/R Bob

E 6859

[redacted]
Charles L. Sigman

05/07/99 02:30:49 PM

Record Type: Record

To: Dorothy E. Cleal/[redacted]

cc: See the distribution list at the bottom of this message
Subject: OVP Upgrade and Server

Dottie --

Here's what is happening with the OVP server:

- Sue is placing a credit card order for a $740 upgrade to the existing OVP server. Sue will arrange to have them delivered directly to the NEOB. This request came from Chip Sparks. Funding from the CIP account for server infrastructure.

- Karl has given me the information for a $18,284 replacement OVP server. He says that everyone concurs that this is correct configuration but that you were never able to hold the brief meeting you hoped to hold. Karl says that **Dottie will give me the go-ahead** to process the requisition to purchase it. Funding from the CIP account for server infrastructure.

For the record, assuming these purchases, we've now spent $189,263 of the $308,000 CIP allocation for server infrastructure.

Message Copied To:

Karl H. Heissner/[redacted]
Howard M. Sparks/[redacted]
Susan P. Powell/[redacted]
Terrence J. Misich/[redacted]
Donna J. Baker/[redacted]

DANIEL A.
BARRY
01/19/2000 12:50:21 PM

Record Type: Record

To: Catherine S. Anderson/[redacted] Adam F. Greenstone/[redacted]

cc:

Subject: OVP and records management

Kate,Adam;

IS&T is in the process of clustering the OVP mail server and I am wondering if there has been a change in OA's stance regarding OVP records management. We(IS&T) are still operating under the guidance that was developed back in the Mike Gill era which is that OVP is doing their own E-mail records management and that we are not to be involved.
This means that we should not care that some OVP users have the RM E-mail template and some do not. Also the RM scan process does not run on the OVP mail server.

I would like your take on this.

Thanks.

Later... Tony

E 6866

RECORD TYPE: PRESIDENTIAL (RECONSTRUCTED EMAIL)

CREATOR: Terry W. Good (GOOD_T) [redacted]

CREATION DATE/TIME:17-FEB-1994 12:42:00.00

SUBJECT: RE: OPD Files

TO: Maureen A. Hudson (HUDSON_M) [redacted]
READ: UNKNOWN

TEXT:
Question #1
Will OPD's records on Quorum cause any problems at the end of the Administration?
At this point in time, I don't believe so. OPD records have been and, so far as I understand, are now considered Presidential.
Question #2
Vice Presidential records . . . well now, you do have an interesting situation with this.
I would suggest that, if possible, it be maintained as a separate subsystem with access available to only the VP staff. Likewise, the Presidential material should be shielded from the VP staff. Neither staff should have access to the other's material. At the end of the Administration, it should be possible to download both sets of data so that each gets what belongs to each. By the way, can anybody with access to Quorum access any record and modify it? delete it? add to it? Is there any audit trail of who has done something like this to a record?
It isn't really any of my business, but I would be concerned about that if I were the manager of the system. I wonder who is? . . .

RECORD TYPE: PRESIDENTIAL (RECONSTRUCTED EMAIL)

CREATOR: Jonathan P. Gill (GILL_J) [redacted]

CREATION DATE/TIME:02-MAR-1994 14:12:00.00

SUBJECT: Server and FAX

TO: Gwendolyn N. Weaver (WEAVER_G) [redacted]
READ: UNKNOWN

TO: James L. Macdonald, Jr. (MACDONALD_J) [redacted]
READ: UNKNOWN

CC: Jonathan P. Gill (GILL_J) [redacted]
READ: UNKNOWN

TEXT:
Gwenn & Mac,
I am concerned that our server is still not getting a daily back-up. I am told it is because there are both MAC and DOS files on the server. Yet when I check with my industry sources I am told this is rather standard and poses no problems.
I believe the novell lan in OVP has both MAC and DOS files and it gets backed up every night. There aer many other novell lans with a mix of files. They get backed up.
So I am asking to get educated on the issue of why it is that the COMM server is not getting backed up. This systems failure is putting a great deal of accrued value in created work product at an unnecessary risk. How can we better protect our investment?
As for the FAX, I have been informed that at least some of the components for the upgrade are in house. Has a plan/schedule been developed for the upgrade and re-installation? How many phone lines do you want me to order and when do you need them by?
FYI, as I understand it, Jack Finnly has 9,000 Notes users supported by a staff of three. So how hard is this to do and how expensive can the support be? This does not sound like rocket science to me.
Thanks,
Jock

/BOM/RECORD TYPE: FEDERAL (RECONSTRUCTED EMAIL)

CREATOR: DeVere R. Patton, Jr. (PATTON_D) [redacted]

CREATION DATE/TIME:03-MAR-1993 15:49:00.00

SUBJECT: Backup Tape for OVP

TO: Sharon L. Mitchell (MITCHELL_S) [redacted]
READ: UNKNOWN

TEXT:
Sharon,
Help!
OVP needs back-up tapes for a mainstream 150Q tapedrive. Would you happen to have any in your desk?
Thanks.
DeVere

/EOM/

RECORD TYPE: FEDERAL (RECONSTRUCTED EMAIL)

CREATOR: Jonathan P. Gill (GILL_J) [redacted]

CREATION DATE/TIME:18-JAN-1994 17:48:00.00

SUBJECT: Database Files: Does anyone have backup copies

TO: Gwendolyn N. Weaver (WEAVER_G) [redacted]
READ: UNKNOWN

TO: Jeffrey L. Eller (ELLER_J) [redacted]
READ: UNKNOWN

TO: James L. Macdonald, Jr. (MACDONALD_J) [redacted]
READ: UNKNOWN

TO: Kimberly S. Hopper (HOPPER_K) [redacted]
READ: UNKNOWN

TO: Ernest D. Gibble (GIBBLE_E) [redacted]
READ: UNKNOWN

TO: Jessamyn Sarmiento (SARMIENTO_J) [redacted]
READ: UNKNOWN

TO: Lisa Mortman (MORTMAN_L) [redacted]
READ: UNKNOWN

TEXT:
Folks,
It appears that the weekly database on H:\data has been corrupted.
Does anyone have a backup?
Are we backing up the server *every* night? If not waht plans are there to institute this very traditional DP practise? To have all our data at risk because we are not doing backups seems very peculiar. How many of our other novell lans are *not* backed every night?
I know that the OVP network is backedup every day.
Thanks,
Jock

RECORD TYPE: FEDERAL (RECONSTRUCTED EMAIL)

CREATOR: Daniel A. Barry (BARRY_D) [redacted]

CREATION DATE/TIME:25-APR-1994 08:25:00.00

SUBJECT: OVP / VPO confusion ???

TO: Louise E. Planet (PLANET_L) [redacted]
READ: UNKNOWN

TO: Robert K. Spangler (SPANGLER_B) [redacted]
READ: UNKNOWN

TEXT:
Bob,Louise
Is the Class "Vise President's Office" know and VPO or OVP. At one point GILL_M had a class of OVP but now it looks like its VPO. THis is critical for ARMS and must be consistant ???
Later... Tony

RECORD TYPE: FEDERAL (ALL-IN-1 MAIL)

CREATOR:Jack S. Fox (FOX_J) (OA)

CREATION DATE/TIME:15-SEP-1994 08:29:41.48

SUBJECT:WHITEHOUSE.GOV Transfer

TO:Miguel Jardine (mjardine@socks.ostp.eop.gov@INET@EOPMRX)
READ:NOT READ

CC:Jack S. Fox (FOX_J) (OA)
READ:15-SEP-1994 10:11:56.18

CC:James L. Macdonald, Jr. (MACDONALD_J) (OA)
READ:15-SEP-1994 17:26:16.14

CC:Jerry R. Carlsen (CARLSEN_J) (OA)
READ:15-SEP-1994 16:33:54.91

CC:Remote Addressee (CROCKER@TIS.COM@INET)
READ:NOT READ

CC:Remote Addressee (RKATZ@DARPA.MIL@INET)
READ:NOT READ

TEXT:
Miguel:

As discussed, we need to nail this down ASAP. You have my paper notes but here are the highlights as I see them. This is all based on the assumption that ARPA will transfer a machine to EOP and that this will all take place before Oct. 1st.

1) What machine will we use?
a) Disk space available?
b) Its needs a tape drive.
c) Delivery schedule? Sooner the better. I would like next week.
2) Answer one basic questions "Is it inside or outside the Firewall?" This will affect support of Steve Horn.
3) Since we have two machines available, one at TIS and one at EOP, for a short period, can TIS have someone come down for a week and walk us through the software configuration?
4) During #3 above, we will document what we have and make modifications such as backups etc. if necessary.

jack

E X E C U T I V E O F F I C E O F T H E P R E S I D E N T

14-Sep-1994 10:20am

TO: jack fox
FROM: Miguel Jardine

SUBJECT: WHITEHOUSE.GOV heads-up

From crocker@tis.com Wed Aug 31 21:31:17 1994
Date: Thu, 01 Sep 94 06:50:20 -0400
From: Stephen D Crocker <crocker@tis.com>
To: Miguel Jardine <mjardine@socks.ostp.eop.gov>
Cc: mjr@tis.com, avolic@tis.com, crocker@tis.com
Subject: Re: whitehouse.gov
Miguel,
Here's is the info Marcus provided. I apologize for not forwarding this earlier. I've added a couple of comments preceded with "SDC:" so

you can tell whose voice is whose.
Steve
From: Marcus J Ranum <mjr@tis.com>
To: crocker@tis.com, dalva@tis.com
cc: avolio@tis.com
Date: Sat, 20 Aug 94 18:09:46 EDT
Subject: Re: [Miguel Jardine: The Saga Continues]
>1. Is there a list of other sites (compuserve, aol, etc.) that have
> forwarding addresses to WH.GOV?
No.
There's no way of knowing, either, since anyone who owns their own system can set up a forwarding address. I believe that Compuserve, AOL, The Computer Museum, etc, all have addresses set up.
>2. Archived mailboxes (president@whithouse.gov, etc.):
> a. Who does the archiving?
Steve Horn - for the president's mail only.
More precisely, the system archives the mail and it is maintained on disk on whitehouse.gov. Presently the system compresses and saves everything; nothing has been deleted yet.
> b. How does the mail get archived? For example, is it tar'ed
> and zipped, downloaded to tape or disk, etc?
It's left on disk, compressed with gzip. The system itself is backed up, but not archivally. I.e.; we could recover the previous day's image from tape (barring dual failure of system and tape).
> c. Who gets the archived mailboxes?
Steve Horn downloads the president's and publications mail via kermit. The Vice President's mail is transferred on floppy disk to the OVP; I don't know who handles it there.
> d. How do they get the archives? FedEx, ftp?
President: kermit
Vice President: floppy/fedex
> e. If archiving is taking place, can we get the tapes?

>3. Threats
> a. What software is used to scan for threats?
A bunch of home-brew shell scripts written by TIS staff.
> b. Who maintains it?
TIS staff.
> c. What is the procedure for handling threats?
Whatever information that can be gleaned from the message and the logs is summarized, attached to the message, and faxed to USSS, Jack Fox, Steve Horn, and and emailed to USSS and Fox.
>(2) Publications, FAQ, ftp:
>
>1. How are publications put on to WH.GOV? Mirrored, ftp? For
> example, does Correspondence or any other office prepare
> documents for electronic publication?
Correspondance releases documentation via a path that includes MIT, University of North Carolina, etc. Whitehouse.gov FTPs it from UNC periodically, automatically .
>2. If the publications are from a mirror:
> a. What other site(s)?
> [sunsite.unc.edu://pub/academic/political-science]
> [ftp.uu.net://government/usa/executive/saturday-addresses]
> b. How often?
Daily.
> c. By whom?
Automatically, at 2:00Am, 3:00Am, and 4:00Am. There is no manual cross-check of the data. If the mirror fails it fails for that night and (presumably) will succeed the next night.
>3. What software is implementing ftpmail?
> [almanac & autoresponder]
> a. Who's maintaining it?
TIS Staff.

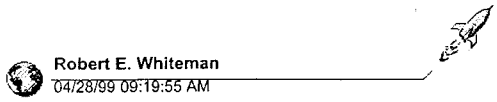
```
>       b.  What's it take to maintain it?
        Minimal effort/a lot of effort, depending.
        The current system is configured to be as low maintenance
as possible. As a result it is less user-friendly than it might be,
and is less "feature rich" -- for example, human oversight of the
FTP area would improve it considerably. Human oversight requirements
would depend on the level of service/features desired.
>       c.  Manuals?
        None.
>4.  Does WH.GOV support anonymous ftp?  If so, what security is being
>    implemented?
        Yes, it does. The FTP server is invoked using the secure
FTP methodology of the TIS firewall toolkit; the FTP server is
invoked *after* being chrooted into a restricted area. Accesses
and retrievals are logged.
>5.  If there is anonymous ftp, does it support incoming data (uploads)?
        No.
>6.  Who is responsible for faq-update@whitehouse.gov?  For example, who
>    answers, updates, etc.?  What sort of access are they provided with?
        Steve Horn.
        Periodically, Steve Horn sends TIS staff updates to the FAQ
to install.
>(3)  Access:
>
>1.  SecurID
>       a.  What software is being used?
        SecurID.
>       b.  Who maintains it?
        TIS Staff.
>       c.  Manuals?
        Standard SecurID manuals.
>       d.  Verify list of SecurID holders:
>               - Fred Avolio
>               - Dave Dalva
>               - Marcus Ranum
>               - Steve Horn
>               - EOPGuest
        Correct.
        Dalva, Avolio, Ranum have administrative access. Ranum has
SecurID administrative access.
>       e.  Who holds hold the SecurID for EOPGuest?
        Steve Horn.
>2.  Dialing In
>       a.  Modems
>               - Type of hardware?  Speed, number of line?
        Telebit Netblazer with Telebit modems. 8 lines, 19.2k V.32BIS
Logins password protected.
>               - Who's hardware?
        TIS.
>               - Will the dial-in hardware come with WH.GOV?
SDC: The implication of this question is that the hardware now being
SDC: used for WH.GOV will move to NEOB.  This seems unlikely.  The
SDC: hardware is not matched to the job.  Together with ARPA, we need
SDC: to arrange the right configuration of hardware for you if you
SDC: plan to move this functionality into NEOB.  What will move to
SDC: your site are the domain name, whitehouse.gov, and the functions
SDC: now on this hardware.
>       b.  Who knows the dial-in number?

        Steve Horn.
        TIS Staff.
>(4)  Maintenance
>
>1.  What size is the tape backup drive?
        2Gb. [Loaner tape drive (TIS spare)]
```

>2. How often are the backups performed?
> [nightly]
    Automated backups, NOT archived, single tape re-used repeatedly.
Backup integrity not verified.
>3. Why does OVP get email backups on floppy disks?
[Crocker: this one for you to answer :)]
SDC: It's not that OVP gets "backups"; they get their mail delivered
SDC: via floppies because there's no other path. Very sad.

>4. Who in OVP gets disks?
>
>
>(5) Hardware
    Sun 4/67, 4CPU, 64Mb RAM, 3Gb disk (2 X 1.5Gb)
    SunOs4.1.1U1

SDC: As I said above, we should plan on alternative hardware. There
SDC: has been some discussion of having a pair of machines, one inside
SDC: and one outside the firewall at your place.



Robert E. Whiteman
04/28/99 09:19:55 AM

Record Type: Record

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

cc:
Subject: LN Self Eval

This is the self eval for Lotus Notes from 10/98 to present. Please review for accuracy and get back to me today. Also, let me know if we have missed something significant that should be reported. Cabnet is not included intentionally.

The Lotus Notes team provided direct support to the Office of the Vice President (OVP) during this evaluation period. The Lotus Notes team began addressing the issue of the non-EOP standard OVP mail template in November 1999. The team designed and tested a custom OVP mail template to resolve the problem of OVP users inheriting the standard EOP template when OVP accounts are created. The rollout the OVP template was subsequently delayed by the Government until OVP records management issues and template distribution issues are resolved. Final implementation of the OVP mail template will enable the maintenance of OVP mail files and allow IS&T to administer and do future changes OVP mail designs when necessary. The Lotus Notes team also supported the setup of a notebook to support a multi-user remote users environment. The notebook was configured with Lotus Notes version 4.6 to enabled Vice President Gore, Mrs. Gore and Ms. Wendy New to access their e-mail remotely from the same notebook computer.

The Lotus Notes team completed several projects to provide customer unique a Lotus Notes applications. The Women's Office Lotus Approach contact database was ported to a shared Lotus Notes address book to enable the Women's Office to select addresses and deliver faxes from a single application. A Lotus Notes database was created for the Communications Office to store information pertaining to vendors that produce items for presidential events. The Lotus Notes Group completed a database for the Office of the Counsel to the President. The database is used to track financial disclosure statements. The Lotus Notes team also developed a database to input information regarding persons around the country who interface with White House (WH) personnel for the State Of The Union address. Another database was implemented for the WH Communication Office to track radio talk shows around the country.

The Lotus Notes team was tasked to evaluate the Procurement Lotus Approach databases to determine if they would be more useable if they were migrated to Lotus Notes. The team imported three tables of data into a prototype database and created the views and forms with which to access the records. The evaluation may provide better integration of the data and greater ease of use. The ability to transition data from one type like requisitions into purchase

orders and the ability to create sub records under contracts.

A Lotus Notes Red Book application is in the final phases of completion. The goal of this process improvement project is to improve the organization and use of EOP's Red Book system by providing a better presentation, a more effective method of delivery and access of the information and an efficient update process. The application has been populated with up-to-date system and on-call information. The application upon its release will enable system managers to directly update the red book contents without requiring the assistance of a red book administrator. Another benefit of the application will allow the EOP Data Center personnel to send e-mail pages to on-call personnel directly from the Red Book application by system name. The completed application is scheduled for release into production in early May 1999.

The Government requested the development and implementation of a solution for managing Postmaster groups. The project is on-hold pending a Government response regarding whether each agency will be required to administer and manage its own Postmaster group. This project will enable EOP agencies to have full administrative control over their Postmaster groups.

The Lotus Notes team completed the investigation of options for an EOP standard to apply and administer Lotus Notes mail file quotas. The recommended solution considered the number of users, amount of disk space available and the optimum partitioning of the space to meet user requirements. The Lotus Notes team met several times with IS&T staff members to review the quota concept and completed assigned action items that included providing a list of users by mail server that indicates the size of each users mail file and partitioning the mail users into recommended quotas. The mail file quota project is on hold at this time pending Government action to proceed. The goal of this project is to ensure that EOP system resources are managed effectively and are not over taxed.

The Lotus Notes team began phase one of the Lotus Notes ARMS interface task. The project plan, Interface Document Agreement for the Lotus Notes/ARMS Interface system, Functional Requirements Document (FRD) , and test plan for the Lotus Notes/ARMS Interface system were all developed and delivered to the Government. The analysis phase of the project is continuing on schedule and the Lotus Notes team is continuing to compile and comment the ARMS code. A test environment consisting of servers and workstations has been setup by the team with the necessary development tools and compilers required for accomplishing the project. The Lotus Notes team then loaded and compiled the LN/ARMS interface software in the test environment. The completed task will result in the establishment of a solid baseline of source code and SDLC documentation for configuration management of the Lotus Notes ARMS interface.

The Lotus Notes team was tasked to analyze Information Management (IM) applications residing on the VAX for conversion to a Lotus Notes application. The Lotus Notes team began working with the Northrop Grumman VAX team to develop several Functional Requirements Documents (FRD) for each application. Portions of the task are on-hold pending Government

response to submitted documents. These tasks include the Bulletin Boa EOP Directory and the Training Schedule. The Lotus Notes team developed and placed into production the Arrival Ceremony database and the Holiday Christmas Card database. Both of these databases received accolades from EOP customers as to the operation and ease of use. The team also completed development and delivered to the Government the IM News Wire FRD. The News Wire FRD was then successfully used by the Government to specify and procure a commercial-off-the-shelf product. Several Northrop Grumman teams are currently supporting the implementation of the product, News Edge, into production. The completion of the Information Management projects will eliminate the requirement to use the VAX as an information management resource.

The Northrop Grumman team identified a records management problem on the ARMS production system during the configuration of the Lotus Notes ARMS interface test environment and is researching viable solutions. It was discovered that users' first names starting with the letter D had not been records managed since November 1998. The Lotus Notes team developed a number of Notes agents to audit all EOP mail servers. The audits, when run, will identify any configuration or operational problem with the Lotus Notes/ARMS Interface system and will generate a report identifying all users on any of the mail servers that are not being record managed properly. The Lotus Notes team is currently performing an overall assessment of the LN/ARMS Interface production system to identify any additional configuration or production problems. The completed assessment of the system will determine whether the system is performing as designed and reduce the likelihood of future records management problems.

The Lotus Notes team was tasked to review the Project Correspondence Repository System (PCRS) for OMB. The project included evaluating PCRS impact on the Lotus Notes environment and a labor estimate to implement the system. The project then transitioned to the implementation phase where the team created a template for OMB Budget Analysis Branch users to accommodate changes in the PCRS code. The Lotus notes team is currently working with OMB to completion implementation of the system.

The Lotus Notes team implemented a Mean Time Between Failure (MTBF) database as a way to track server up time, server shutdowns and server crashes. The benefit of monitoring server up time by the Lotus Notes team are that we well be better able to note how changed in the Lotus Notes environment effect Lotus Notes servers.

The Lotus Notes team was asked to modify the Lotus Notes Name & Address Book (NAB) to allow for the tracking of employee pass types in the Person document. The Lotus Notes team developed a proposal for implementing the automatic generation of distribution groups. Currently, the Lotus Notes team is awaiting further direction. The automatic generation of distribution groups would allow for the creation of mail distribution groups based on a specific pass type (i.e.; volunteers, interns, contractors, etc.). The modificaton will provide EOP with the capability to distribute mail to specific as well as to combined groups.

The Lotus Notes Team continued work in preparing the Task Tracking database for

deployment. The team tested and provided feedback on the overall process in specific on the integration of the Task Tracking with the Weekly Report database. The Task Tracking application will provide management visibility to all NG assignments with a single location to enter and track the progress of all tasks and projects.

Message Sent To:

Scott E. Bussey/OA/EOP@EOP
Alan R. Tarica/OA/EOP@EOP
John G. Stiver/OA/EOP@EOP
Marvin Miller/OA/EOP@EOP
Robert W. Haas/OA/EOP@EOP
Yiman F. Salim/OA/EOP@EOP

Eric Ritter

William H. VanHorn
04/04/99 01:26:37 AM

Record Type: Record

To: Joseph A. Vasta/[redacted]
cc: Michael E. Ritter[redacted], Eric J. Bixler/[redacted], Robert W. Haas/[redacted]
Subject: VP E-mail Error on April 2, 1999

---------- Forwarded by William H. VanHorn/[redacted] on 04/04/99 01:26 AM ----------

Joseph A. Vasta
04/02/99 05:41:31 PM

Record Type: Record

To: William H. VanHorn/[redacted], Eric J. Bixler/[redacted], Robert W. Haas/[redacted]
cc:
Subject: VP E-mail Error on April 2, 1999

Folks:

I would like to get together with you early on Monday. I have to provide the government with more details on the problem we experienced on Friday. If there is anyone else that needs to attend, please let me know.

I need to understand:
- What caused the problem
- Why we couldn't restore from a backup tape

The e$ share on OVP_1 Lotus Notes server was not being backed up. The e$ share on OVP_1 contains OVP mail files.
- Why we didn't backup the e-mail on the OVP server

Our mail servers are setup with three partitions; the first partition is the system partition (C:), the second partition is the Lotus Notes application partition (D:) and the third partition is the data partition (E:). The old OVP_1 server was not setup by IS&T and only contained two partitions; the first partition was the system partition (C:) and the second partition was shared by the Lotus Notes application and the data (D:). The old OVP_1 server's C: and D: drives were being backed up on our regularly scheduled backup.

In January of this year we upgraded the operating system (OS) and hardware of the OVP_1 server. A "swing server" was used for this process. The team installed additional drive space, NT 4.0 and Y2K

patches. The new server was put into service on January 16, 1999. In keeping with the standard conventions in place, the new server was configured with three partitions. **The backup schedule was never adjusted to reflect the additional partition.** Backups continued normally, without error because a C: and D: drive existed on the new server, and only a C: and D: were in the list of drives to be backed up on the OVP_1 server.

On Friday, April 2, we received a trouble call stating that an OVP mail file needed to be restored. We then discovered the E: drive of the OVP_1 server had not been added to the backups since the upgrade in January.

- What is the potential impact of the problem

The additional partition was added to the backup schedule for full backup on Friday, April 2, 1999. Once the backup has completed, we will be able to recover fully from any problems that may occur.

- Why the OVP server is not records managed
- What will be done to prevent a future recurrence

I have added an additional step to the mail server upgrade procedures. This additional step will require that necessary adjustments be made to the backup list.

Joe

[redacted]

Michael E. Ritter

05/11/99 04:06:07 PM

Record Type: Record

To: Albert F. Leister Jr/[redacted]

cc:

Subject: OVP & other concerns

The OVP mail server (OVP1) is back to it's original configuration of 96MB Ram. The server proved unstable with the new memory and we are back where we started. I will inform you if any changes are to be made.

With respects to the notes tapes:

In April of 1998 a problem with the ARMS/Notes interface was discovered and we began maintaining all of the backup tapes from the mail servers. Prior to this, server backup tapes had been recycled for economic reasons. There has been NO CHANGE in this since April '98.
We made a plan in which we run system agents which will identify anyone who is not being records managed. Upon completion of this task, we will determine a method to insure that the admin. input team use proper syntax when entering new data.
After ALL incorrectly unmanaged users are put into the "managed state" by the data entry folks, we will re-run the agents to insure it was done correctly and we haven't missed anyone. At that time, (?DATE?) we know that the system is working properly, and we can begin to recycle NEW tapes.
We cannot recycle tapes from 4/98 to (?DATE?). This would destroy the only record of e-mail for many users in that time period. It is probably a violation of a court order.

EOP Project Profile

Project Number	Notes-22
Requesting Agency:	OVP
Related IWO	
Title:	OVP Mail Template
Business Requirement:	OVP Mail Template
Benefit:	Enable the maintenance of OVP mail files

Progress (View Only - to add New Progress use Add Progress button)

View All Progress

01/28/99 The Notes Team is awaiting OVP policy regarding records management before deployment. - John G. Stiver

11/09/98 OVP Template created and ready for activation. - Alan R. Tarica

Task Dates

Planned Start Date:	06/21/98
Actual Start:	06/23/98
Planned End Date:	07/31/98, 08/30/98, 09/30/98
Actual End:	

Task Hours

Estimated Task Hours:	168
Approved Hours:	0
Hours Expended:	0
Hours Remaining:	0

Additional Tasking Information

Functional Area:	Lotus Notes	Tech Lead:	Alan R. Tarica
Manager:	UNASSIGNED	Task Team:	

Priority: ○ Maintenance ○ Y2K Task

Complexity: ○ Simple ○ Moderate

Status: ○ Awaiting Start ○ On Hold ○ In Progress ○ Cancelled

E 7319

Precedence:

Y2K Implications: 

Related Mission
Critical System: Other

Other IS&T Information

CI Number:

IS&T System Manager:

Attachments

Project Plans:

Issues

History

OVP's Lotus Notes environment is a legacy system. OA/IS&T inherited the management of their OVP_1 server after they had lost there previous administrative staff. The Office of the Vice President was either considered immune or understood themselves to be immune from records management in the same sense that EOP performs. Their approach to an record keeping consisted of tape backups of their mail data that got stored in a vault.

Records Management

Internal Mail

Records Management of internal email is partly being sent to the EOP records management system. This is because as new accounts are created they are inheriting the features of the EOP Notes environment. Thus users who have inherited EOP's Notes mail design have encoded in their mail to BCC to the Records Management system.

In addition it is not clear how the ARMS system handles these messages since they originate from users who have a different naming scheme than EOP. EOP mail users have a three part name. Their name plus a forward slash plus their agency (organizational unit in Notes) plus a forward slash plus "EOP" (organization in Notes). OVP mail users on the other had have a two part name. Their name plus a forward slash plus "OVP". A review of ARMS must be done to determine what happens to this email and if needs to be corrected to process correctly.

Because different mail users are using different mail designs some users have the BCC feature and some do not.

External Mail

Mail received into Lotus Notes from the outside world is not being records managed at all. This is because the process that handles this portion of Records Management in EOP is not running on the OVP_1 server.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF ADMINISTRATION
Washington, D.C. 20503

October 26, 1993

FILE

MEMORANDUM FOR JOHN W. CRESSMAN
ASSISTANT DIRECTOR

FROM: BRUCE L. OVERTON
GENERAL COUNSEL

SUBJECT: Provision of Requested Materials to the Justice Department in Armstrong v. Executive Office of the President

This information is subject to attorney/client privilege.

Attached are three documents which the Justice Department requested we prepare in furtherance of settlement discussions with the plaintiffs in Armstrong v. Executive Office of the President (EOP). The overall structure for the design of an EOP electronic recordkeeping system was drafted by Gwen Weaver, as was the document entitled "Future Disposition of Records Managed via the OA Electronic Records Management System". A working group consisting of Beth Blackwood, Mary Anton, Jim Wright and Nell Doering carried the responsibility for putting the materials together and refining these documents. I provided legal review and liaison with the Justice Department. All in all, it was a good team effort and well received by the attorneys in the White House Office and at Justice.

Tomorrow these documents, and similar proposals prepared by the National Security Council, will be discussed with the plaintiffs. Their reception or rejection by the plaintiffs will reveal whether settlement is really possible at this stage of the litigation. Regardless of the reaction we receive from the plaintiffs, the government and plaintiffs must appear before Judge Richey at 9:00 AM on Thursday morning to discuss the status of our discussions and the future steps in resolving the case. You may want to attend this hearing to obtain an unfiltered impression of the various parties and the judge.

Attachment

D R A F T

PROPOSED OA ELECTRONICS RECORDS MANAGEMENT SYSTEM FOR RECORDS CREATED USING ELECTRONIC MAIL

This document describes the proposed electronic records management system that the Executive Office of the President (EOP) will implement to maintain an electronic repository of messages created using the electronic communications capability of the OASIS ALL-IN-1 system. It discusses general system concepts and delineates the steps that EOP will undertake until the final system implementation occurs. It further demonstrates the intent of the EOP to capture the content of electronic mail communications through changes proposed for the current OASIS ALL-IN-1 system and through the phased development of a separate electronic records management system that will facilitate preservation and retrieval of Federal records materials.

Background. The OASIS ALL-IN-1 system is an electronic messaging (e-mail) system that facilitates communication among the staff of the EOP. It was not designed by the vendor as a text search and retrieval system or for reporting against information requests. Rather, the e-mail system was designed to facilitate communications and to hold messages for brief periods to provide ready response to users with minimal degradation in system service. Therefore, it is not a records management system.

Some of the messages presently created using the OASIS ALL-IN-1 e-mail facility are Federal records as defined by the statutes and regulations; others are either Presidential records or nonrecord materials. To facilitate records management within EOP, the current practice is for users to print out messages that need to be preserved and file them with other related paper records in their file stations. These paper records are maintained and disposed of according to records retention schedules prescribed and approved by the National Archives and Records Administration (NARA). At the same time, the EOP Data Center saves backup tapes of all data residing on its direct access storage devices for use in recovering from system or drive failures. This latter medium, while it contains all messages, is not readily or easily searchable. Thus, the paper files are the

central repository against which requests for information are processed at this time.

OA is currently undertaking a project to develop an electronic records management system to manage documents created using the OASIS ALL-IN-1 system. Once the new system becomes operational, records management and disposition will be performed for that system in accordance with directions provided from and approved by NARA. The following sections describe the general capabilities of the proposed electronic records management system and discuss the plan by which OA will implement it.

System Capabilities

The primary purpose of the electronic records management system being designed by OA is to provide an electronic medium to manage messages created or captured using the OASIS ALL-IN-1 system that constitute Federal or Presidential records. The new system will support effective and proper documentation of the policies and transactions of the EOP and will assist management in operating effectively and economically. The electronic records management system will address a number of functional requirements including:

- **Content of Messages** - The system will contain the text of messages and incorporated text attachments. For both Federal and Presidential records, it will capture transmission and receipt information including creator of the message, date and time of creation, addressees, and date and time each addressee received and accessed the message, when this information is available. The records will be stored in standard ASCII code to facilitate information search and retrieval.

- **Type of records** - Messages will be identified by record type code (record or nonrecord), with the default being record. The selection will be made by the creator of the message within the OASIS ALL-IN-1 system at the time the record is created. Only if the message is tagged as nonrecord, when the addressees read the message, they will have the

opportunity to tag the communication as record. Nonrecord selections may be retained and periodically deleted as determined by previously established procedures.

- **Category of record** - Depending on the identity of the creator and the recipient/s of the record in the OASIS ALL-IN-1 system, the record will be tagged as either a Presidential or Federal record. Users could have the option of specifying the category and overriding the selection made automatically through the e-mail application.

- **Searchability of Records** - The records will be stored in a fashion to permit retrieval by text search software. Ideally a commercial, off-the-shelf package can accomplish this function and will be fully integrated into the system. Thus a request by date, name, search string, keywords or phrases may be prepared and executed. The output media (paper or electronic) will be determined by the volume of data produced in response to the request.

- **Retention of Records** - The system will be devised to store e-mail messages until the records management staff can assess the nature of Federal records contained within the system and develop records retention schedules for review and approval by NARA. No records will be deleted from the system unless an approved schedule has been received from NARA.

The System Development Process

EOP will use a standard, industry-wide system life-cycle methodology to develop this system. This process is composed of several stages including analysis, design, coding, testing and implementation.

The analysis stage is presently under way. As a first step, a document describing the functional and technical requirements for the system will be produced. The next step will be to examine alternative technical solutions that will meet the functional requirements, prepare a cost/benefit analysis for each of the

alternatives, develop an estimate of cost and time to complete each alternative and suggest a solution.

During the first quarter of 1994, the recommended solution will be further expanded to include a schedule for completion showing tasks, milestones, time and cost estimates to completion. This will also include specific hardware and software configurations as well as functional design information for each software module needed. Design, coding, testing and implementation stages will follow. Target dates for the completion of each of these stages will be identified in the final deliverable report and cannot be identified at this time because the feasibility of possible solutions and the availability of resources are uncertain.

Interim Procedures. Currently, draft guidance exists that describes how users shall print records created using the e-mail system and file them in paper form within their file stations. This is contained in a directive entitled, The OASIS ALL-IN-1 Electronic Communication System and Federal Records Procedures.

The current OASIS ALL-IN-1 system is being modified at this time to permit the tagging of record type and record category on e-mail. This function will be implemented on a phased basis during the first quarter of 1994 so that performance impact on the e-mail system can be monitored to ensure the quality of system response to users. At the same time, the first-phase of a record management system will be ready for testing the acceptance of tagged e-mail communications. All available data related to e-mail communications will be incorporated into the complete electronic records management system when the new system is implemented.

Prior to the electronic records management system being fully implemented, the contents of the interim system will be reviewed by the records management staff through a separate procedure and system capability. This will permit the assessment and assurance that the e-mail communications are being properly tagged for future disposition schedules. This review will also indicate what concepts need reinforcement for future training of users in records management concepts.

The initial implementation of the records management system will include the electronic mail from OASIS, other internal mail systems, and external mail received by OASIS. Subsequent phases of this project will address additional data from other ALL-IN-1 features, including calendars and phone messaging, as appropriate.

DRAFT

FUTURE DISPOSITION OF RECORDS MANAGED VIA THE OA ELECTRONIC RECORDS MANAGEMENT SYSTEM:

A Methodology

Introduction

The Office of Administration (OA) of the Executive Office of the President (EOP) recognizes the importance and necessity of professional management of federal records. Thus, OA is developing an electronic records management system for messages created using an electronic messaging (e-mail) system. The life cycle of a record, as defined by National Archives and Records Administration (NARA), is being used in the system design process to make sure that the considerations made for disposition of records are appropriate. This involvement reflects good management practice, and is supported by Office of Management and Budget (OMB) Circular A-130.

In creating the new system and developing the supporting guidance and training for its use, OA acknowledges NARA as the authoritative source for oversight and guidance in records management and disposition. NARA appraises, evaluates, and approves disposition of federal records, provides assistance in records management program development, and acts as final caretaker of permanent records. The methodology described below for determining the disposition of records managed using the new records management system is based on the statutes, the implementing regulations, and the NARA publications, Managing Electronic Records and Disposition of Federal Records: A Records Management Handbook.

From a management perspective, there are many similarities between paper-based records and documents managed using an electronic records management system. For documents created or stored in either medium, OA and other EOP agencies need to follow standard, prescribed practices. Systematic definitions of records series or groupings must be established. These definitions are based on the functional activities of the agency as well as its recordkeeping practices. Where both an

electronic records management system and a paper-based file system exist, the relationships between the same or similar information stored in each separate system must be identified and acknowledged.[1]

Record Life Cycle Management

As with a computer-based system, both NARA and OMB have declared that a record has a life cycle. NARA defines this as:

> "The management concept that records pass through three stages: creation, maintenance and use, and disposition."[2]

In support of this, OA will follow the processes and procedures established by NARA to manage the life cycle of all records within its scope of control, including OA records managed using the new electronic records management system.

Within this process, disposition plays a key role. It includes a review of the business functions and recordkeeping requirements of OA components. Once these have been defined, a review of OA records to identify and define the purpose of the various record series or groupings can be performed.

When the review process has been completed, the actual scheduling process will begin. Recommendations for retention and disposition of electronic mail messages stored in the records management system will be drafted by the component agency, based on the results of the preceding activities. Prior to forwarding to NARA, these proposals will be reviewed, organized and cleared internally within the component agency to be sure that agency information needs are being met. The recommendations will then

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[1] Disposition of Federal Records: A Records Management Handbook, National Archives and Records Administration (Washington, D.C.), 1992, p.III-3.

[2] A Federal Records Management Glossary 1993. 2nd Ed. National Archives and Records Administration, Office of Records Administration, Agency Services Division. Washington, D.C., 1993, p.19.

be sent to NARA for evaluation and approval. Only after agreement from NARA will either the General Records Schedules (GRS) be applied or Request for Records Disposition Authority (SF 115) be prepared. Prior to application of the GRS or submission of draft SF 115s to NARA, internal approval must be obtained from the appropriate records liaisons within each component agency. In certain specified cases, approval from an external source, such as GAO will also be sought at this stage.[3] NARA will review, appraise, comment or provide guidance where necessary and approve all SF 115s before OA implements its disposition schedule.

For OA, implementation of the disposition schedules will include updating the OA directive entitled "The OASIS All-In-1 Electronic Communications System and Federal Records Procedures." At that time, the directive will be revised to address procedures for the transfer and management of records created using the e-mail system to the new records management system. This distribution of information will occur either concurrently or be immediately followed by employee training, primarily for records liaisons and others responsible for custody of files in component agencies. OA management and staff also will be briefed on the new procedures and disposition rules. Subsequent to training, the program for disposition of records stored and managed using the new records management system will begin. Within the first year, this implementation will be periodically reviewed to assure that the program is being properly executed. Thereafter, records schedules and the program will be reviewed annually by both OA and NARA.

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[3] Disposition of Federal Records: A Records Management Handbook, National Archives and Records Administration (Washington, D.C.), 1992, p. V-15.

October 26, 1993 - **D R A F T**

OFFICE OF ADMINISTRATION DIRECTIVE

SUBJECT: The OASIS ALL-IN-1 Electronic Communication System and Federal Records Procedures

Introduction

1. **Purpose.** To establish records management objectives and responsibilities for the creation, maintenance, use, and disposition of Federal records on the OASIS ALL-IN-1 system.

2. **Personnel Concerned.** All OASIS ALL-IN-1 users with federal records responsibilities.

3. **Directive or Bulletin Cancelled.** None; paragraph 7.b of LISD Directive .04-0, "Records Management Program," is replaced by this Directive.

4. **Authority.** 44 U.S.C. Chapters 21, 29, 31, and 33; 36 CFR Parts 1220, 1222, 1228, and 1234.

5. **Originator.** Information Management Division

6. **Review.** Annually, whenever substantive modifications to the ALL-IN-1 system are contemplated, before any new electronic communications systems are accessed by EOP agency users, and any new electronic records management systems are implemented.

[Director of the Office of Administration signature and date]

E 8030

OVERVIEW

1. Purpose.

To establish policy, responsibilities, guidelines, requirements, and procedures for the preservation of Federal records created and transmitted on the OASIS ALL-IN-1 system within the federal agencies of the Executive Office of the President.

This directive supersedes previous records management instructions on Federal records on electronic communications (e-mail) systems, in accordance with recent court opinions and orders.

The following guidance does not apply to Presidential records. Each EOP component that creates Presidential records has a continuing obligation to identify and separately maintain Presidential and Federal records. Memoranda providing guidance on Presidential records and Federal records were issued to White House and EOP staff by the White House on May 5, 1993.

2. Definitions.

Basic records management terms are defined in OA Directive LISD.04-0 (44 U.S.C. 3301). The definitions listed below are specific to the purpose of this directive.

a. **Electronic Mail.** The process or result of sending and receiving messages in electronic form via remote computer terminals. (Federal Records Management Glossary, 1993, 2nd ed.)

b. **Electronic Records.** This term includes numeric, graphics, and text information, which may be recorded on any medium capable of being read by a computer and which satisfies the definition of a Federal record in 44 U.S.C. 3301. This includes, but is not limited to, magnetic media, such as tapes and disks, and optical disks. (36 CFR 1234.1)

c. **Electronic Records System.** This term means any information system that produces, manipulates, or stores Federal records by using a computer. (36 CFR 1234)

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d. **Federal Records.** As defined in the law (44 U.S.C. 3301), Federal records are:

> [A]ll books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them.

The phrase "regardless of physical form or characteristics" means that the records may be paper, film, disk, or any other physical type or form; and that the method used to record information may be manual, mechanical, photographic, electronic, or any combination of these or other technologies.

Federal records are documentary materials when they meet both of the following conditions:

(1) They are made or received by an agency of the United States Government under Federal law or in connection with the transaction of agency business; and

(2) They are preserved or are appropriate for preservation as evidence of agency organization and activities or because of the value of the information they contain. (36 CFR 1222.34)

e. **Presidential Records.** Documentary materials, or any reasonably segregable portion thereof, created or received by the President, his immediate staff, or a unit or individual of the EOP whose function is to advise and assist the President, in the course of conducting activities which relate to or have an effect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of the President. (44 USC 2201)

f. **Temporary Record.** Any record which has been determined by the archivist of the United States to have insufficient value (on basis of current standards) to warrant its preservation by the National Archives and Records Administration. This determination may take the form of:

(1) A series of records designated as disposable in an agency records disposition schedule approved by NARA (Standard Form 115, Request for Records Disposition Authority); or

(2) A series of records designated as disposable in a General Records Schedule. (36 CFR 1220.14)

g. **Permanent Record.** Any Federal record that has been determined by NARA to have sufficient value to warrant its preservation in the National Archives. (36 CFR 1220.14)

h. **Nonrecord Material.** U.S. Government-owned documentary materials, other than Presidential records, that do not meet the statutory definition of Federal records (44 U.S.C. 3301), or that have been excluded from coverage by the definition. Excluded materials are:

(1) Extra copies of documents preserved only for convenience of reference.

(2) Stocks of publications and of processed documents. However, each agency must create and maintain records sets of processed documents and publications, including annual and special reports, directives, special studies, brochures, pamphlets, books, handbooks, manuals, and posters.

(3) Library and museum materials made or acquired and preserved solely for reference or exhibition purposes.

i. **Records Management.** The planning, controlling, directing, organizing, training, promoting, and other managerial activities involved with respect to records creation, records maintenance and use, and records disposition in order to achieve adequate and proper documentation of the policies and transactions of the Federal Government and effective and economical management of agency operation. (36 CFR 1220.14)

j. **Records Schedule.** A document describing and providing instructions for the disposition of Federal records. Its consists of one of the following:

(1) An SF 115, Request for Records Disposition Authority, that has been approved by NARA to authorize the disposition of Federal records;

(2) A General Records Schedule (GRS) issued by NARA; or

(3) A printed agency manual or directive containing the records descriptions and disposition instructions approved by NARA on one or more SF-115s or issued by NARA in the GRS. (36 CFR 1220.14)

k. **General Records Schedules.** Schedules authorizing the disposal, after the lapse of specified periods of time, of records of a specified form or character common to several or all agencies if such records will not, at the end of the periods specified, have sufficient administrative, legal, research, or other value to warrant their further preservation by the United States Government. (44 U.S.C. 3303a(d))

l. **Electronic Records System.** Any information that is recorded in a form that only a computer can process and that satisfies the definition of a Federal Record as defined above in d.

m. **Transmission and Receipt Data.**

(1) Transmission Data. Information in e-mail systems regarding the identities of sender and addressee(s), date and time messages were sent.

(2) Receipt Data. Information in e-mail systems regarding date and time of receipt of a message, and acknowledgement of receipt and/or access by addressee(s).

n. **System Backups.** Copies on off-line media of software or data stored on direct access storage devices in a computer system to provide a means of recreating a system and its data in the event of unintentional loss of data or software.

o. **Records Liaison.** Individual designated to oversee records management procedures for the agency.

THE ELECTRONIC MESSAGING (E-MAIL) SYSTEM

3. Policy.

The official medium for maintaining Federal records created on OASIS ALL-IN-1 system in EOP agencies is hardcopy (paper). The ALL-IN-1 system at the present can not be used to store Federal records. The Electronic Messaging (EM) function on the All-IN-1 system is not designed to replace agencies' existing paper files. Consequently, e-mail users of the ALL-IN-1 system must follow the procedures specified below.

The Office of Administration is developing an electronic records management system for storage, retrieval and disposition of electronic messages that are determined to be Federal records. However, until certain programming, policy, and procedural matters are resolved, all users should follow the steps listed below to ensure that all e-mail documents that meet the definition of Federal records are printed according to these instructions and incorporated into official paper files.

4. Identifying E-Mail Documents That Are Federal Records.

- E-mail messages (and attachments) are Federal records when they meet two conditions. They are made or received by an agency of the United States Government under Federal law or in connection with the transaction of agency business; and, they are preserved or are appropriate for preservation as evidence of agency organization and activities or because of the value of the information they contain. (36 CFR 1222.34)

- When determining whether e-mail messages are Federal records, keep in mind that multiple copies of documents may all be records if they are used for different purposes in the conduct of official business or filed in different files. More than one office may take action or otherwise use copies of a document. The copy would be a record in each of those offices.

5. Preserving E-Mail Documents That Are Federal Records.

When the user determines that an incoming or outgoing e-mail message or FAX transmitted by the OASIS ALL-IN-1 system meets the criteria for Federal records, the user will:

- Print the message and all attachments. The printed message shows the identity of the sender and the addressee(s), and the date and time the message was sent. The identity of remote addressees that are not otherwise evident (outside of OASIS) should be identified by annotating the message or attaching a list of addressees.

- If the sender requested a "read receipt," he/she will either print the receipt and attach it to the printed message or annotate the printed message with the date and time each recipient accessed the message. Read receipts should be requested when adequate documentation is needed to verify that the message was accessed by the recipient.

- Print the successful FAX confirmation message and attach it to the official file copy of the document that was sent. Annotate the confirmation message with the names of recipients.

- Forward the printed message or file copy of the document that was FAXED to the appropriate individual for inclusion in the EOP agency's system of official files.

These actions must be taken even if the user chooses to copy or move messages for inclusion in personal paper or electronic files.

The folders feature in the e-mail system may only be used for the storage of personal materials, including convenience copies of Federal records. Personal e-mail messages should be kept separate from copies of agency e-mail records.

Examples of messages that are Federal records on e-mail are:

- Notices concerning the use of leave, procurement of supplies, or personnel practices;

- Budget-related messages summarizing agency expenditures;

- o Messages relating to workers' compensation claims, contracts, or working conditions;
- o Messages that document policy development or significant decisions;
- o Substantive minutes or notes on the proceedings of meetings.

6. Nonrecord e-mail messages. Messages created on the e-mail system may contain transitory or nonsubstantive information that is not needed to provide a full account of agency policies, procedures, functions, and major activities. All nonrecord messages may be deleted by the users when no longer needed.

Examples of nonrecord messages on e-mail include:

- o Reminders of appointments and staff meetings;
- o Visitor appointment requests;
- o Dynamically changing online indices of messages titles;
- o Announcements of an employee's departure or retirement; invitations to office social functions;
- o Employees' copies of administrative notices such as those relating to blood drives, savings bond purchases, or the Combined Federal Campaign.

OASIS ALL-IN-1 FEATURES

7. Calendars.

The ALL-IN-1 system offers a calendar option to users as part of the Desk Management function. The calendar function allows users to schedule meetings with other users including recurring meetings, as well as to maintain their own official record of meetings, events, and other activities. Calendars may be displayed and printed by the day, week, or month. This function also provides users with the capability of maintaining a task or "to do" list.

Calendars and task lists created using this system may be Federal records if they meet the criteria explained in paragraphs 2d and 4 of this directive.

- Calendars that are used only as personal schedules may not be records, even if some of the entries listed are events or meetings that relate to officials duties. If the calendar was created solely for the personal convenience of the official (and is not shared with anyone beyond one's secretary or assistant) and his or her important meetings or scheduled activities are recorded elsewhere, the ALL-IN-1 calendar may be considered nonrecord, and may be updated, changed or deleted at the individual's discretion.

- NARA has authorized disposal of all other individual and shared calendars determined by the creating agency to be Federal records according to the following conditions:

  - If the calendars contain substantive information relating to official activities, the substance of which has not been incorporated into official files, they must be kept for two years.

  - If the calendars document routine activities or any substantive information in them is also included in organized files, the user may change or delete information when it is no longer needed. (GRS 23, item 5)

8. Personnel Directories. The user directory provides a short-cut for entering the recipient's name on the "TO" line of the message. In addition, users have access to an EOP Directory that contains names of individuals, their organization affiliation, room number, and telephone numbers. There is also a separate feature that allows users to create their own personal address/telephone lists for ready reference and not for circulation. These directories are nonrecord.

9. Desk Management provides access to a calculator and displays the current time at locations throughout the world (World-Wide Time). This information is nonrecord reference material.

10. Telephone messaging and paging are available to users through either the electronic messaging or Desk Management menus. Just as with paper message slips, users should ensure that they produce official records documenting the substance of important messages or conversations for inclusion in agency files. The messages themselves are ordinarily not Federal Records.

11. Information Management displays commercial and other non-agency informational materials such as the news and weather. This information is nonrecord reference material.

12. The Bulletin Board broadcasts special announcements to OASIS users, such as a schedule of classroom training, blood donation drives, and health insurance open seasons. The Suggestion Box allows users to recommend changes that would better meet user needs. This is nonrecord material and may be deleted under GRS 23, item 1.

13. The interactive training routines available on the system are not Federal records.

14. The User Set-Up functions of the OASIS ALL-IN-1 system which include changes in passwords, work locations, work hours, and calendar and date formats, as well as the log-in/log-out data and lock keyboard data, may be deleted under GRS 20, item 1(c).

15. System backup tapes can only be recycled with specific authorization from NARA. Any Federal records that remain on the OASIS ALL-IN-1 system, after the records and appropriate transmission data have been printed for filing in official recordkeeping systems, are subject to the disposition instructions in GRS 23, item 2.

RESPONSIBILITIES

16. The head of each EOP agency will:

- Designate those high-level officials whose OASIS ALL-IN-1 calendars may be Federal records. Direct those designated high-level officials to ensure that their OASIS ALL-IN-1 calendars are printed at the end of each month and sent to the records liaison for inclusion in the agency's official file system.
- Ensure that each agency employee receives training in Federal record responsibilities.
- Direct the(ir division directors or equivalent) head of each agency component to instruct all users of the OASIS ALL-IN-1 system with Federal records responsibilities to:

- Follow procedures in paragraph 5 of this directive when the e-mail message or FAX has been determined to be a Federal record.

- Instruct staff that it is not acceptable to transfer Federal records to their personal ALL-IN-1 folders until after they have printed out and filed the record copy along with its associated read receipt, if any.

- Ensure that staff are properly preserving all incoming and outgoing e-mail messages, as well as any read receipts requested.

- Request a representative segment of agency staff to print out samples of messages from their OASIS ALL-IN-1 files for review to determine if proper designations of record and nonrecord status have been made. This review should occur within the first 60 days of this directive and annually thereafter.

- Notify their office records liaison when employees need further training to fulfill their Federal records responsibilities.

- Conduct departure interviews with employees to assess whether they have properly printed out all Federal records for inclusion in official files.

17. The Information Management component of OA will:

o Backup the OASIS ALL-IN-1 system as necessary. Recycle such back-up tapes according to authorized disposition schedules.

o Consult with agency records officers whenever substantive modifications to the electronic communications system are contemplated.

o Provide guidance and training to educate OASIS ALL-IN-1 users on records management procedures.

EXECUTIVE OFFICE OF THE PRESIDENT

12-Aug-1993 12:48pm

TO: Bruce L. Overton

FROM: Sheryl L. Hall
Office of Administration, IRMD

CC: James L. Macdonald, Jr.
CC: Mary D. Blackwood

SUBJECT: Vice President Records

Client Services will be moving the OVP NPR (National Program Review) staff from the 5th floor OEOB to new offices. Some of the equipment is coming back to storage due to users leaving. Are we responsible for performing the backups of the records on this equipment for NPR or does that fall under Vice President?

The move is occuring this afternoon and any guidance you can provide today would be appreciated.

v/r

EXECUTIVE OFFICE OF THE PRESIDENT

12-Aug-1993 01:54pm

TO: Sheryl L. Hall

FROM: Bruce L. Overton
Office of Administration, GC

CC: James L. Macdonald, Jr.
CC: Mary D. Blackwood

SUBJECT: RE: Vice President Records

It is your call whether IRMD should be doing the support services. However, the NPR's records are regarded as being under the aegis of the OVP. Todd Campbell (OVP) should be contacted to request what kind of back up and treatment he wants given the electronic data on the hard drives and then those materials should be turned over to whomever he designates. Please make memos to the file so that it is clear what was directed to be done and who became the custodian of the electronic materials. Thanks.

THE WHITE HOUSE

WASHINGTON

May 5, 1993

MEMORANDUM FOR ALL EXECUTIVE OFFICE OF THE PRESIDENT STAFF

FROM: JOHN D. PODESTA JDP
Assistant to the President and
Staff Secretary

STEPHEN R. NEUWIRTH
Associate Counsel to the President

RE: Presidential Records

The offices within the Executive Office of the President generate two categories of records: "Presidential Records" and Federal Records." A separate memo from David Watkins and Bruce Overton has been circulated today concerning "federal records."

This memorandum sets forth guidance on the creation, maintenance and disposition of "Presidential records" -- records "created or received by the President, his immediate staff, or a unit or individual of the Executive Office of the President whose function is to advise and assist the President, in the course of conducting activities which relate to or have an effect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of the President."

It is important that all staff in the Executive Office of the President review this memorandum carefully. The failure to designate documents and other materials properly can have serious implications, including possibly subjecting those materials to public disclosure under the Freedom of Information Act during the President's term of office.

I. UNITS WITHIN THE EXECUTIVE OFFICE OF THE PRESIDENT THAT GENERATE PRESIDENTIAL RECORDS

All records of the White House Office, the Office of Policy Development, the National Economic Council, the Council of Economic Advisors, the President's Intelligence Oversight Board

and the President's Foreign Intelligence Advisory Board are Presidential records.

As discussed below, records of the Office of the Vice President are Vice Presidential records and are treated under the Presidential Records Act in the same manner as Presidential records. The records of the Office of the Vice President are not federal records.

The records of the National Security Council staff are Presidential records if they were received or created by or for the President, the Assistant to the President for National Security Affairs, the Deputy Assistant to the President for National Security Affairs, the White House Office, or a unit or an individual within the NSC in advising or assisting the President, and are not official records of the NSC. All other NSC records are federal records.

Records produced or received by the Director of the Office of Science and Technology Policy in his role as Science Advisor to the President are Presidential records; all other OSTP records are federal records.

Records of the Office of Management and Budget, the Office of the United States Trade Representative, the Council on Environmental Quality, and the Office of Administration are federal, not Presidential, records.

II. Types of Records Covered by the Act

The Presidential Records Act defines "documentary materials" as "all books, correspondence, memorandums, documents, papers, pamphlets, works of art, models, pictures, photographs, plats, maps, films, and motion pictures, including, but not limited to, audio, audio-visual, or other electronic or mechanical recordations." 44 U.S.C. § 2201(1).

The Act defines "Presidential records," in turn, to mean:

> documentary materials, or any reasonably segregable portion thereof, created or received by the President, his immediate staff, or a unit or individual of the Executive Office of the President whose function is to advise and assist the President, in the course of conducting activities which relate to or have an effect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of the President. Such term --
>
> (A) includes any documentary materials relating to the political activities of the President or members

> of his staff, but only if such activities relate to or have a direct effect upon the carrying out of constitutional, statutory, or other official or ceremonial duties of the President.

44 U.S.C. § 2201(2).

Under this definition, Presidential records are documentary materials that meet two tests. First, the materials must have been created or received by the President, his immediate staff, or a unit or individuals (including volunteers) in the EOP whose function it is to advise and assist the President. Second, the records must relate to or have an effect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of the President. Presidential records may be in any physical form, including paper, film and disk. The method used to record information may be manual, mechanical, photographic, electronic, or any combination of these or other technologies.

A document created by personnel in a White House office, or an EOP office that advises and assists the President, normally is a Presidential record once it is circulated to others in the course of conducting activities which relate to or have an effect upon the carrying out of Presidential duties. Moreover, even documents that are not circulated can be Presidential records if, in the judgment of the office at issue, those documents are needed to conduct business that relates to or has an effect upon the carrying out of Presidential duties.

Materials received by personnel in the White House office, or in EOP offices that advise and assist the President, similarly become Presidential records when they are received in the course of conducting activities which relate to or have an effect upon the carrying out of Presidential duties. Materials received may be Presidential records whether they have been transmitted in person, by messenger, by mail, by electronic communication, or by any other means.

At the same time, several types of documentary materials are not subject to the Presidential Records Act. The Act expressly excludes documentary materials that are (1) official records of an agency; (2) stocks of publications and stationery; and (3) extra copies of documents produced only for convenience of reference, when such copies are clearly so identified.

The Act also excludes "personal records," defined to include all documentary materials, or any reasonably segregable portion thereof, "of a purely private or nonpublic character which do not relate to or have an effect upon the carrying out of

the constitutional, statutory, or other official or ceremonial duties of the President." Personal records may include:

-- diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal, which are not prepared or utilized for, or circulated or communicated in the course of, transacting government business;

-- materials relating to private political associations, and having no relation to or direct effect upon the carrying out of constitutional, statutory, or other official or ceremonial duties of the President;

-- papers and other materials accumulated by a staff member before joining government service and not used in the course of transacting government business;

-- materials that relate to a staff member's private affairs, such as personal financial records, insurance forms, and materials relating to an individual's professional activities and outside business and political pursuits;

-- personal photographs;

-- materials relating exclusively to the President's own election to the office of the Presidency; and

-- materials directly relating to the election of a particular individual or individuals to Federal, State, or local office, which have no relation to or direct effect upon the carrying out of constitutional, statutory, or other official or ceremonial duties of the President.

Further examples of materials not covered by the Presidential Records Act may include items such as those listed below:

-- preliminary drafts, that are not circulated to any other individual, of correspondence, reports, and studies;

-- preliminary drafts, work sheets and informal notes that contain information reflected in final documents and that do not document policy development or execution;

-- tickler, follow-up or suspense copies of correspondence, provided there are copies of such documents in the official files;

-- newspaper clippings or news summaries, that have not been annotated, or organized or arranged for some official purpose;

-- copies of printed or processed materials, such as operating and procedural manuals, directives, and notices, distributed for the information and use of office employees;

-- shorthand and other notes that have been transcribed or converted to formal documents that have been verified for accuracy and completeness; and

-- catalogs, trade journals, and other publications that are received from other government agencies, commercial firms, or private institutions and that are maintained for reference purposes.

It is important to remember, however, that certain documents in the categories listed above may be Presidential records -- particularly given that, in the White House, drafts, working papers and other similar materials often document policy development, significant decisions, or other matters related to the carrying out of Presidential duties, as discussed below.

III. Requirements for creation and maintenance of Presidential records

When advising or assisting the President in carrying out his duties, White House and EOP employees are responsible for complying with the Presidential Records Act and related regulations.

The law imposes an affirmative obligation on staff members to document adequately the performance of the President's constitutional, statutory and ceremonial duties. Where appropriate, staff members should document -- through notes, minutes or memoranda -- meetings, conversations and other business in connection with, or related to, the carrying out of the President's duties.

Presidential records should be maintained in organized files. **For offices creating both Presidential and federal records, it is critical that staff members carefully segregate Presidential and federal records. Federal records are subject to**

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the Federal Records Act and may be subject to public disclosure under the Freedom of Information Act during the President's term of office. Presidential records, by contrast, are not subject to the Federal Records Act and are not subject to the provisions of the Freedom of Information Act during the President's term of office. Those offices (such as the National Security Council) that create or receive both Presidential records and federal records should file them separately with a clear indication of which records are Presidential and which are federal.

In addition, staff members should, to the extent possible, ensure that any files containing particularly sensitive records are clearly marked to reflect that fact. Designations for files containing sensitive records may include:

(1) "classified information";[1]

(2) "information the release of which may be prejudicial to the maintenance of good relations with foreign nations";

(3) "sensitive personal information" (i.e., information the release of which may be embarrassing to the individuals mentioned or to their families);

(4) "sensitive law enforcement materials";

(5) "trade secrets or sensitive commercial or financial information"; and

(6) "information subject to attorney-client or attorney work product privileges."

Finally, personal records should be clearly labeled, kept apart from Presidential records (and federal records) and not made available to other staff in connection with any official purpose.

IV. Electronic Presidential records

Increasingly, Presidential records may be created electronically. Records may be generated on word processing or electronic mail ("e-mail") systems, or on electronic databases.

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[1] Please note that nothing in this memorandum should be construed to override existing Executive Orders setting forth who may designate specific documents as classified and what terms must be used in connection with such designations.

Records generated electronically must be incorporated into an official recordkeeping system. Thus, no word processing or e-mail document that is a Presidential record should be deleted unless it has been (a) printed and placed in an appropriate file, or (b) preserved in an appropriate electronic system. Questions concerning the record status of electronically generated materials should be directed to the White House Records Management Office. That office will periodically monitor electronic systems to ensure that correct records status determinations have been made.

As is the case for all record matters, the White House Records Management Office will continue to work with the White House Counsel's Office to coordinate policy and practices with respect to electronic Presidential records.

V. Disposition and destruction of Presidential records

Presidential records are the property of the United States and may be disposed of only in accordance with procedures established by the Archivist of the United States. The Presidential Records Act prohibits the disposal of Presidential records unless those records no longer have administrative, historical, informational, or evidentiary value. Moreover, **before** disposing of any Presidential records, the President must notify the Archivist who, under certain clearly defined circumstances, will notify appropriate Congressional committees.

The White House Records Management Office will provide guidance concerning disposal of certain recurring types of papers, including form letter public mail, unsolicited public mail that is not reviewed by any person in the White House with decision-making authority and not answered by any member of the White House staff, anonymous public mail, and enclosures received in public mail -- most of which may be destroyed after notification to the Archivist of the United States or the Archivist's representative.

Offices that have these recurring types of disposable material should coordinate all disposal procedures through the Office of Records Management. Under no circumstances should such material be disposed of without prior approval of the White House Records Management Office. (Prior approval is not necessary for the destruction of exact duplicates of documents which are being retained, or for unmarked copies of officially published documents, such as printed reports.)

The White House Office of Records Management serves as a central file for all Presidential records. Its primary role is to manage, process, maintain and store records for the daily use

of the President and all the policy units in the White House. Concurrently, it preserves these same records to ensure a comprehensive history of the Administration. All EOP staff members are encouraged to consult with this office for guidance on the creation and maintenance of files and on procedures for appropriate and systematic filing of documents.

VI. Legal control of Presidential records

Presidential records remain in the custody and control of the President during his term of office and are not subject to disclosure under the Freedom of Information Act during that term. As noted above, federal records are, by contrast, subject to the FOIA public disclosure provisions.

Upon completion of the Administration, the Archivist acquires custody of Presidential records. Many of these records will become available to the public under the FOIA five years after the end of the President's term of office. The President, however, may assert control over public access to certain categories of information -- generally including classified materials, documents related to appointments to federal offices, items specifically exempted from disclosure by other statutes, trade secrets or commercial information, confidential communications requesting or submitting advice between the President and his advisers (or between such advisers), and information implicating personal privacy concerns -- for up to twelve years after the end of the President's term. After twelve years, public access to these categories of documents is governed by the FOIA, subject to any Constitutional privilege against disclosure.

VII. Records that may be retained by staff members upon departure from office

Staff members may **not** remove Presidential records, or copies of such records, from their offices at any time, except in connection with an official function. Classified Presidential records may not be removed from the office at any time without compliance with the rules applicable to such materials. Records used in an official capacity should be returned to proper files immediately after such use.

When a staff member leaves the White House or another office in the EOP, he or she must deliver all Presidential records to the White House Records Management Office (or leave records in his or her office for pick-up). Staff members are not entitled to retain copies of any Presidential records for

personal use, except copies of documents that have already been publicly released.

Federal records should be left at the appropriate agency, and disposed of in accordance with the advice set forth in the federal records guidance memorandum from David Watkins and Bruce Overton.

Purely personal, unclassified materials may be removed from the office by staff members at any time, subject to any agency procedures regulating such removal. If, during the course of service at the White House, a staff member wishes to store personal (including private political) materials at the White House Office of Records Management, the staff member must clearly designate those materials as "personal."

VIII. Records in the Office of the Vice President

The Presidential Records Act expressly provides that records of the Office of the Vice President are Vice-Presidential records and are to be treated under the Presidential Records Act in the same manner as Presidential records. Thus, materials created or received in the Office of the Vice President should be treated in accordance with the guidance set forth above. The Office of the Vice President has its own records management staff, and personnel in the Office of the Vice President should consult with that staff for additional guidance regarding the filing and disposition of Vice President's Office records.

The Presidential Records Act further provides that "[t]he authority of the Archivist with respect to Vice-Presidential records shall be the same as the authority of the Archivist with respect to Presidential records, except that the Archivist may, when the Archivist determines that it is in the public interest, enter into an agreement for the deposit of Vice-Presidential records in a non-Federal archival depository."

IX. Training

The White House Office of Records Management and other appropriate personnel will be providing records management training in the near future.

* * *

The foregoing is designed to provide general guidance with respect to the Presidential Records Act. Specific questions of coverage or interpretation should be addressed to the White House Counsel's office. Assistance in records maintenance and

disposition can be obtained from the White House Office of Records Management (or, in the case of the Office of the Vice President, from the Vice President's records management staff).

EXECUTIVE OFFICE OF THE PRESIDENT

15-Jun-1993 05:32pm

TO: Michael A. Gill

FROM: John Podesta
Office of the President

CC: GILL_J
CC: PODESTA_J
CC: ELLER_J
CC: weaver_g

SUBJECT: RE: Re[2]: Armstrong case

Our hard drives were seized by DiGenova in the passport office independent counsel case, not Armstrong. Phone calls aren't records unless recorded or notes are taken. I agree that we should deal with e-mail the same way we do faxes or other communications. That's what our record guidance does.