

Kavanaugh
Materials re
WHCO Subpoena
Compliance

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THE WHITE HOUSE
WASHINGTON

BY TELEFAX & MAIL

March 17, 1994

Dear Mr. Fiske:

In response to your letter of March 16, 1994 concerning Vincent Foster, I am enclosing a memorandum that was distributed by hand to all White House and Executive Office of the President personnel on March 17, 1994. If you want any further actions, please let me know.

Sincerely,



Joel I. Klein
Deputy Counsel to the
President

Robert B. Fiske, Jr.
Office of Independent Counsel
Two Financial Centre, Suite 134
10825 Financial Centre Parkway
Little Rock, AK 72211

THE WHITE HOUSE
WASHINGTON

March 17, 1994

MEMORANDUM FOR ALL EXECUTIVE OFFICE OF THE PRESIDENT STAFF

FROM: JOEL I. KLEIN ^{JK}
DEPUTY COUNSEL TO THE PRESIDENT

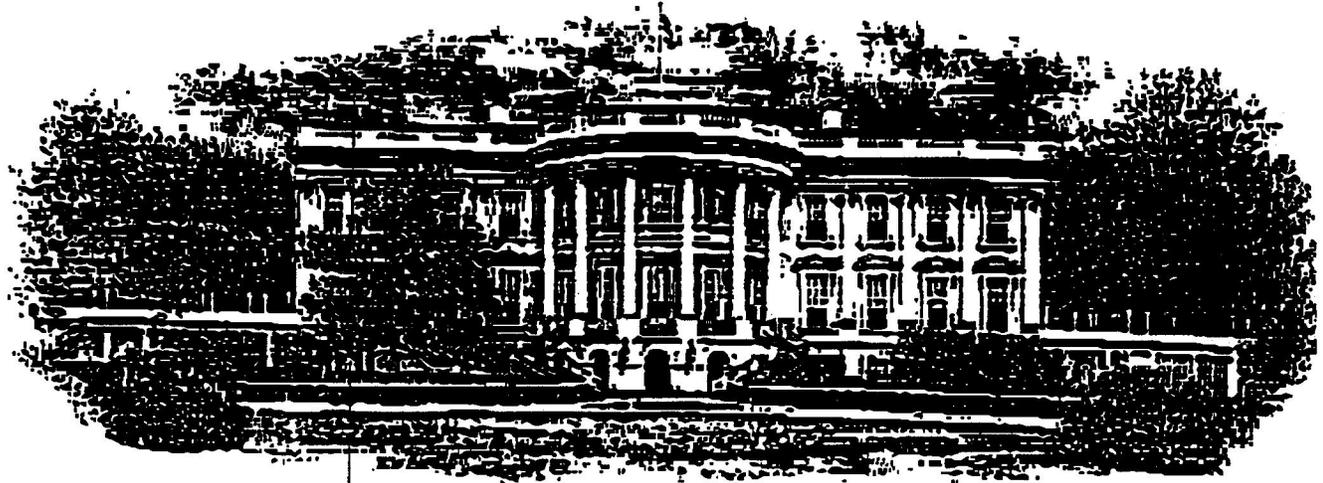
SUBJECT: Retention of Documents and Computer Files

We have previously requested that staff retain documents or computer files relating to Madison Guaranty, Whitewater Development Corporation, and any related matters. The Special Counsel also has requested that staff retain all documents or computer files relating in any way to Vincent Foster.

While any such documents or files need not be produced at this time, staff members should take all necessary measures to preserve and maintain them. Such documents and computer files should not be discarded, altered or destroyed. Additionally, all staff members should not remove or transport documents or computer files related to any of these matters from their offices in the EOP complex.

Should any staff member have questions about these procedures, please contact Marvin Krislov in the Counsel's Office at 6-7903.

The White House



COUNSEL'S OFFICE

FACSIMILE TRANSMISSION COVER SHEET

TO: Robert B. Fiske, Jr.

FAX NUMBER: 501-221-8707

TELEPHONE NUMBER: _____

FROM: Joel Klein

TELEPHONE NUMBER: 202-456-6611

PAGES (INCLUDING COVER): 3

COMMENTS: _____

3

THE WHITE HOUSE

WASHINGTON

May 6, 1994

BY HAND

Mr. Mark Stein
Assistant to the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490N
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Mark:

Enclosed in response to your subpoena of [redacted] and pursuant to our
conversations thereon, are [redacted]

[redacted]
are also in the process of preparing [redacted]

As I indicated, we

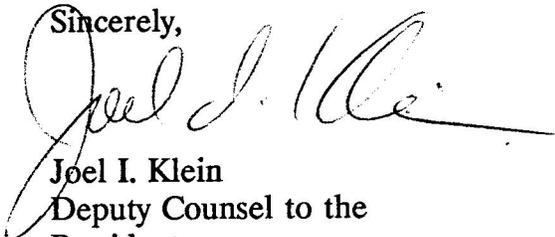
[redacted] / I should have that for you on Monday and that
will complete our response to [redacted] of the subpoena.

[redacted]

I am awaiting further guidance from you about whether we should conduct
interviews in order to provide further responsive answers to [redacted]
Also, after you have reviewed [redacted] you have indicated that you will be
back to me about additional documents.

Thank you for your cooperation.

Sincerely,


Joel I. Klein
Deputy Counsel to the
President

Enclosure

THE WHITE HOUSE
WASHINGTON

May 11, 1994

BY HAND

Mr. Mark Stein
Assistant to the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490N
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Mark:

Pursuant to the grand jury subpoena issued to the White House on [redacted] and the subsequent discussions between us, I propose to take the following steps:

1. Circulate a memorandum to [redacted] directing [redacted] to produce for review:

[redacted]

2. Review all documents that are gathered [redacted]

[redacted] and produce to you:

[redacted]

Mr. Mark Stein
May 11, 1994
Page 2

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

If the above process is acceptable to you, please let me know and we will begin our review immediately, with the anticipation that it can be completed within a week. If you need anything priority basis before then, please let me know.

Sincerely,



Joel I. Klein
Deputy Counsel to the
President

THE WHITE HOUSE
WASHINGTON

May 11, 1994

BY HAND

Mr. Mark Stein
Assistant to the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490N
Washington, D.C. 20004

Dear Mark:

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Pursuant to the grand jury subpoena issued to the White House on [redacted] and the subsequent discussions between us, I propose to take the following steps:

1. Circulate a memorandum to [redacted] directing [redacted] to produce for review:

[redacted]

2. Review all documents that are gathered [redacted]

[redacted] and produce to you:

[redacted]

Mr. Mark Stein
May 11, 1994
Page 2

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

If the above process is acceptable to you, please let me know and we will begin our review immediately, with the anticipation that it can be completed within a week. If you need anything priority basis before then, please let me know.

Sincerely,



Joel I. Klein
Deputy Counsel to the
President

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

THE WHITE HOUSE
WASHINGTON

May 11, 1994

BY HAND

Mr. Mark Stein
Assistant to the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490N
Washington, D.C. 20004

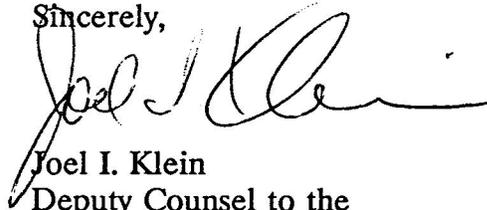
FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Mark:

As discussed in my letter of May 6, 1994, enclosed is

along with an explanatory memorandum. This document completes our response to
of the subpoena.

Sincerely,



Joel I. Klein
Deputy Counsel to the
President

Enclosure

033-DC-0000030

THE WHITE HOUSE
WASHINGTON

May 18, 1994

BY HAND

Mr. Mark Stein
Assistant to the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490N
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

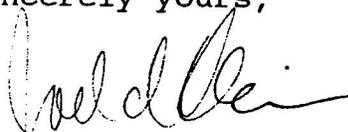
Dear Mr. Stein:

As outlined in my letter dated May 11, 1994, I am providing original copies of all responsive documents (as described in paragraph 2 of that letter) that have been produced [redacted]

I also will be providing [redacted] pertaining to these original documents. The production of these documents, along with the earlier production of [redacted] transmitted to you with my letters dated May 6 and May 11, 1994, completes the current White House response to the subpoena of [redacted]. I understand that the Independent Counsel reserves the right to request additional documents, pursuant to the [redacted] subpoena.

Thank you for your cooperation.

Sincerely yours,



Joel I. Klein
Deputy Counsel to the President

Enclosures

033-DC-00000038

THE WHITE HOUSE
WASHINGTON

May 18, 1994

BY HAND

Mr. Mark Stein
Assistant to the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490N
Washington, D.C. 20004

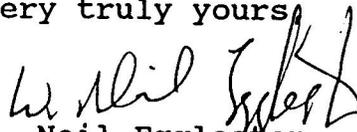
FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Mr. Stein:

This letter is in response to [redacted]
[redacted] grand jury subpoena issued to the white house.

[redacted]

Very truly yours,



W. Neil Eggleston
Associate Counsel to the President
(202) 456-7901

033-DC-00000039

THE WHITE HOUSE
WASHINGTON

May 19, 1994

BY HAND

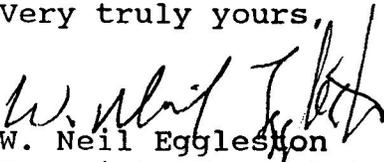
Mr. Mark Stein
Assistant to the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490N
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Mr. Stein:

Enclosed please find a document entitled [redacted]
[redacted] relates to the documents provided to
you on [redacted] in response to the grand jury subpoena issued
to the White House and dated [redacted]

Very truly yours,


W. Neil Eggleston
Associate Counsel to the President
(202) 456-7901

033-DC-00001321

THE WHITE HOUSE
WASHINGTON

May 20, 1994

BY HAND

Mr. Mark Stein
Assistant to the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490N
Washington, D.C. 20004

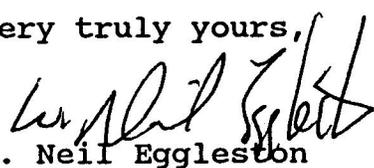
Dear Mr. Stein:

Enclosed please find an additional document responsive to the [redacted] subpoena and Mr. Klein's letter of May 11, 1994. This supplements the production made on [redacted]

The document is [redacted] and was located in [redacted]

[redacted]
FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Very truly yours,


W. Neil Eggleston
Associate Counsel to the President
(202) 456-7901

033-DC-00001387

THE WHITE HOUSE
WASHINGTON

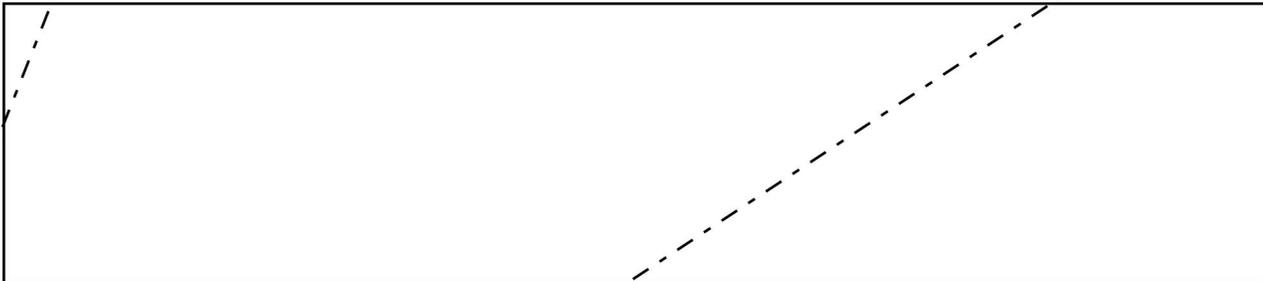
May 27, 1994

BY HAND

Mr. Mark Stein
Assistant to the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490N
Washington, D.C. 20004

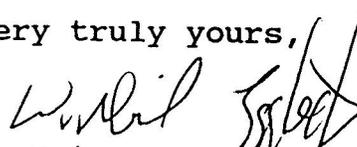
Dear Mr. Stein:

Enclosed please find two additional documents responsive to the [redacted] subpoena and Mr. Klein's letter of May 11, 1994. This supplements the production made on [redacted]



FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Very truly yours,


W. Neil Eggleston
Associate Counsel to the President
(202) 456-7901

033-DC-00001390

THE WHITE HOUSE
WASHINGTON

May 27, 1994

BY HAND

Mr. Mark Stein
Assistant to the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490N
Washington, D.C. 20004

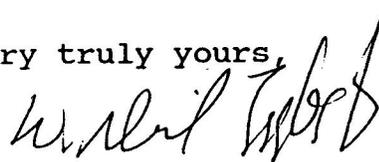
FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Mr. Stein:

This letter is in further response to [redacted] of
the [redacted] grand jury subpoena issued to the White House.

I was informed today [redacted]

Very truly yours,



W. Neil Eggleston
Associate Counsel to the President
(202) 456-7901

033-DC-00001405

THE WHITE HOUSE
WASHINGTON

June 2, 1994

BY HAND

Mr. Mark Stein
Assistant to the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490N
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Mr. Stein:

Enclosed please find an additional document responsive to the [redacted] subpoena and Mr. Klein's letter of May 11, 1994. This supplements the production made on [redacted]

The document, [redacted] was located [redacted]

Very truly yours,



W. Neil Eggleston
Associate Counsel to the President
(202) 456-7901

033-DC-00001407

THE WHITE HOUSE
WASHINGTON

June 2, 1994

BY HAND

Mr. Mark Stein
Assistant to the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490N
Washington, D.C. 20004

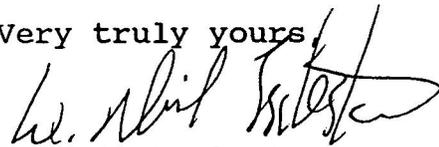
FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Mr. Stein:

This letter is in further response to [redacted] of
the [redacted] grand jury subpoena issued to the White House.

Attached please find [redacted]
[redacted]

Very truly yours,



W. Neil Eggleston
Associate Counsel to the President
(202) 456-7901

033-DC-00001410

THE WHITE HOUSE
WASHINGTON

June 7, 1994

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

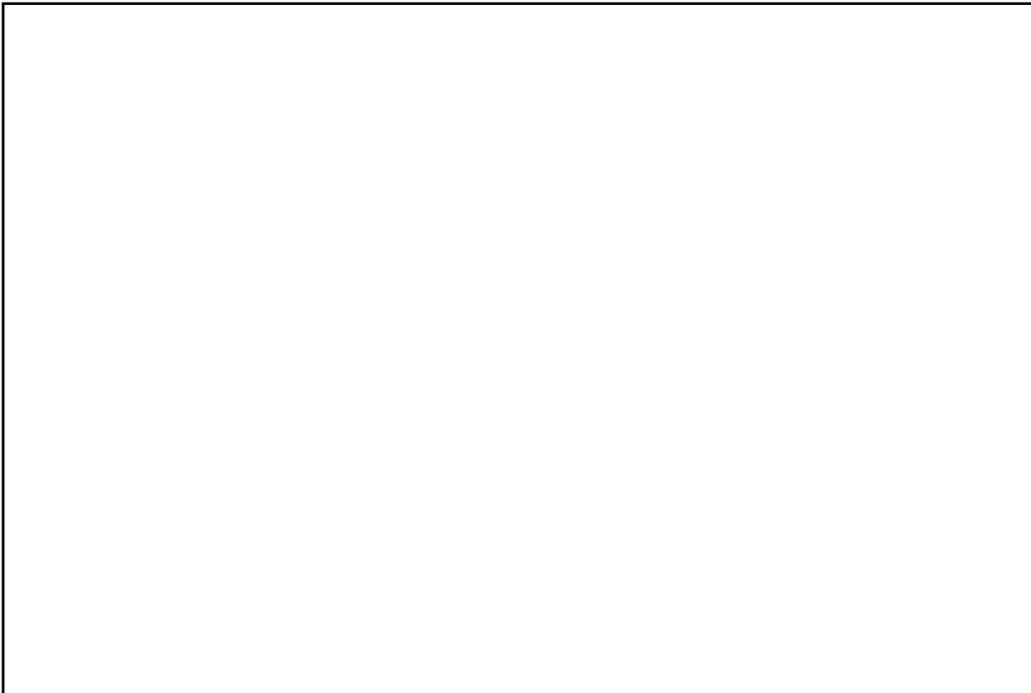
BY HAND

Mr. Mark Stein
Assistant to the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490N
Washington, D.C. 20004

033-DC-00001413

Dear Mr. Stein:

In accordance with your oral request on June 6, 1994,
enclosed please find documents responsive to the [redacted]
subpoena and Mr. Klein's letter of May 11, 1994. This
supplements the production made on [redacted]



FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Very truly yours,


W. Neil Eggleston
Associate Counsel to the President
(202) 456-7901

033-DC-00001414

THE WHITE HOUSE
WASHINGTON

June 17, 1994

BY HAND

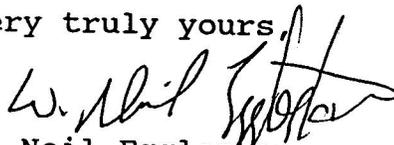
Mr. Mark Stein
Assistant to the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490N
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Mr. Stein:

Enclosed please find an additional document responsive to the [redacted] subpoena and Mr. Klein's letter of May 11, 1994. This supplements the production made on [redacted]

Very truly yours,



W. Neil Eggleston
Associate Counsel to the President
(202) 456-7901

033-DC-00001443

THE WHITE HOUSE
WASHINGTON

June 20, 1994

BY HAND

Mr. Mark Stein
Assistant to the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490N
Washington, D.C. 20004

Dear Mr. Stein:

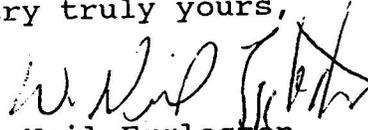
FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Enclosed please find an additional document responsive to the [redacted] subpoena and Mr. Klein's letter of May 11, 1994. This supplements the production made on [redacted]



FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Very truly yours,



W. Neil Eggleston
Associate Counsel to the President
(202) 456-7901

033-DC-00001449

THE WHITE HOUSE

WASHINGTON

July 5, 1994

By Fax

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Mark:

Pursuant to your request, I am sending

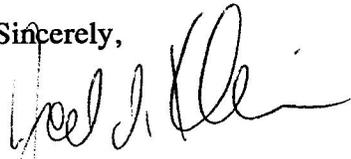
[Redacted]

In addition, as we discussed this morning, I am sending a copy of [Redacted]
[Redacted] that I had previously provided to you. Upon the
commencement of our inquiry after the release of your report on Thursday, June 30, 1994,
we discovered that [Redacted]

[Redacted]

If you have any further questions about these matters, please be in touch.

Sincerely,



Joel Klein
Deputy Counsel to the President

Mr. Mark Stein
Associate Independent Counsel
Office of Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490N

THE WHITE HOUSE
WASHINGTON

July 20, 1994

MEMORANDUM FOR WHITE HOUSE OFFICE STAFF

FROM JOEL KLEIN *JK*
DEPUTY COUNSEL TO THE PRESIDENT

RE: Document Request by the Office of Independent Counsel

As you are aware, Independent Counsel Robert Fiske is continuing his inquiry regarding the files and documents in Vince Foster's office. In that regard, Mr. Fiske's office has requested that the White House Staff produce the following:

[Redacted]

[Redacted]

If you have any questions, feel free to call either Joel Klein (6-6611) or Associate Counsel Neil Eggleston (6-7901).

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

THE WHITE HOUSE
WASHINGTON

July 20, 1994

Mr. Mark Stein
Assistant to the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490N
Washington, D.C. 20004

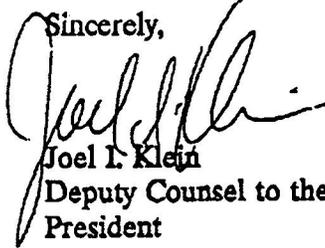
FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Mark:

I intend to circulate the enclosed

Please let me know if this is acceptable to you.

Sincerely,



Joel I. Klein
Deputy Counsel to the
President

033-DC-00001458

THE WHITE HOUSE

WASHINGTON

September 28, 1994

MEMORANDUM FOR ALL EXECUTIVE DEPARTMENT AND AGENCY
GENERAL COUNSELS

FROM: LLOYD N. CUTLER
SPECIAL COUNSEL TO THE PRESIDENT *LNC*

SUBJECT: Congressional Requests to Departments and Agencies
for Documents Protected by Executive Privilege

The policy of this Administration is to comply with Congressional requests for information to the fullest extent consistent with the constitutional and statutory obligations of the Executive Branch. While this Administration, like its predecessors, has an obligation to protect the confidentiality of some communications, executive privilege will be asserted only after careful review demonstrates that assertion of the privilege is necessary to protect Executive Branch prerogatives.

The doctrine of executive privilege protects the confidentiality of deliberations within the White House, including its policy councils, as well as communications between the White House and executive departments and agencies. Executive privilege applies to written and oral communications between and among the White House, its policy councils and Executive Branch agencies, as well as to documents that describe or prepare for such communications (e.g., "talking points"). This has been the view expressed by all recent White House Counsels. In circumstances involving communications relating to investigations of personal wrongdoing by government officials, it is our practice not to assert executive privilege, either in judicial proceedings or in congressional investigations and hearings.

Executive privilege must always be weighed against other competing governmental interests, including the judicial need to obtain relevant evidence, especially in criminal proceedings, and the congressional need to make factual findings for legislative and oversight purposes.

In the last resort, this balancing is usually conducted by the courts. However, when executive privilege is asserted against a congressional request for documents, the courts usually decline to intervene until after the other two branches have exhausted the possibility of working out a satisfactory accommodation. It is our policy to work out such an accommodation whenever we can, without unduly interfering with the President's need to conduct frank exchange of views with his principal advisors.

Historically, good faith negotiations between Congress and the Executive Branch have minimized the need for invoking executive privilege.

Executive privilege belongs to the President, not individual departments or agencies. It is essential that all requests to departments and agencies for information of the type described above be referred to the White House Counsel before any information is furnished. Departments and agencies receiving such requests should therefore follow the procedures set forth below, designed to ensure that this Administration acts responsibly and consistently with respect to executive privilege issues, with due regard for the responsibilities and prerogatives of Congress:

First, any document created in the White House, including a White House policy council, or in a department or agency, that contains the deliberations of, or advice to or from, the White House, should be presumptively treated as protected by executive privilege. This is so regardless of the document's location at the time of the request or whether it originated in the White House or in a department or agency.

Second, a department or agency receiving a request for any such document should promptly notify the White House Counsel's Office, and direct any inquiries regarding such a document to the White House Counsel's Office.

Third, the White House Counsel's Office, working together with the department or agency (and, where appropriate, the Department of Justice), will discuss the request with appropriate congressional representatives to determine whether a mutually satisfactory accommodation is available.

Fourth, if efforts to reach a mutually satisfactory accommodation are unsuccessful, and if release of the document would pose a substantial question of executive privilege, the Counsel to the President will consult with the Department of Justice and other affected agencies to determine whether to recommend that the President invoke the privilege.

We believe this policy will facilitate the resolution of issues relating to disclosures to Congress and maximize the opportunity for reaching mutually satisfactory accommodations with Congress. We will of course try to cooperate with reasonable Congressional requests for information in ways that preserve the President's ability to exchange frank advice with his immediate staff and the heads of the executive departments and agencies.

Please call my successor, Abner Mikva, or Joel Klein, Deputy Counsel to the President, to discuss any questions relating to this policy.

THE WHITE HOUSE
WASHINGTON

November 10, 1994

MEMORANDUM FOR ALL EXECUTIVE BRANCH DEPARTMENT
AND AGENCY GENERAL COUNSELS

FROM:

ABNER J. MIKVA 
COUNSEL TO THE PRESIDENT

SUBJECT:

FOLLOW-UP GUIDANCE ON RESPONDING TO CONGRESSIONAL
REQUESTS TO DEPARTMENTS AND AGENCIES FOR DOCUMENTS
THAT MAY BE SUBJECT TO EXECUTIVE PRIVILEGE CLAIMS

By memorandum dated September 28, 1994, my predecessor Lloyd Cutler set forth certain policies with respect to Congressional requests for information that may be subject to claims of executive privilege.

This follow-up memorandum is intended to provide further guidance in response to certain questions we have received.

While Mr. Cutler's September 28 memorandum makes reference to general principles applicable to claims of executive privilege, the policies set forth in the memorandum apply to Congressional requests to departments and agencies for documents reflecting intra-White House decisions (including decisions of White House policy councils) or communications between the White House (including its policy councils) and a department or agency: e.g., documents originating in the White House, delivered from the White House to an agency, or concerning White House-agency decisions. Mr. Cutler's memorandum did not address other contexts in which issues of executive privilege arise.

Mr. Cutler's memorandum observed that "[e]xecutive privilege must always be weighed against other competing governmental interests, including . . . the congressional need to make factual findings for legislative oversight purposes." This statement, of course, does not purport to change the longstanding position of the Executive Branch that communications involving or reflecting state secrets are subject to an unqualified privilege.

Please do not hesitate to contact me or Joel Klein, Deputy Counsel to the President, with any questions about these policies.



Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

January 10, 1995

Jane C. Sherburne, Esq.
Associate Counsel
The White House
Washington, D.C. 20500

Dear Ms. Sherburne: *Jane*

As part of our continuing investigation, we request the following information:

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mark".

Mark H. Tuohey III
Deputy Independent Counsel

*** ACTIVITY REPORT ***

TRANSMISSION OK

TX/RX NO. 4506
CONNECTION TEL 94561213
CONNECTION ID
START TIME 02/06 17:35
USAGE TIME 01'05
PAGES 2
RESULT OK

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL
Suite 490N
1001 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
telephone (202) 514-8688
facsimile (202) 514-8802

TO: Jane Sherburne
Company Name: The White House
Fax Number: (202) 456-1213
Message:

SENDER: Mark A. Duskay, III
Number of Pages: 2 (including this cover sheet)

THE WHITE HOUSE
WASHINGTON

January 13, 1995

BY MESSENGER

Mr. Mark Tuohey
Assistant to the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490N
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Re: [REDACTED]

Dear Mark:

Enclosed are additional documents responding to the grand jury subpoena issued to The White House on [REDACTED]

[REDACTED] These are the documents we talked about at our December 22, 1994 meeting and that you indicated to me earlier this week you were interested in receiving. As we discussed, they were assembled [REDACTED] in response to a request by Mark Stein for additional documents beyond those initially provided in response to the [REDACTED] subpoena. Joel Klein and Mr. Stein had agreed that the White House would hold these documents until further word from Mr. Stein.

The documents now provided were gathered [REDACTED]

[REDACTED]

[REDACTED]

033-DC-00001462

THE WHITE HOUSE
WASHINGTON

*all or be
attorney
KS*

February 16, 1995

Hon. Kenneth W. Starr
Independent Counsel
Office of the Independent Counsel
Two Financial Centre, Suite 134
10825 Financial Centre Parkway
Little Rock, Arkansas 72211

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Ken:

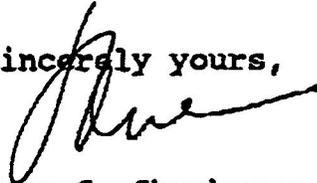
In response to requests by Independent Counsel Fiske in
1994,

[Redacted]

[Redacted]

Please feel free to call me if you have any questions
regarding this process.

Sincerely yours,



Jane C. Sherburne
Special Counsel to the
President

THE WHITE HOUSE
WASHINGTON

February 20, 1995

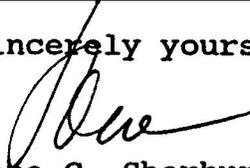
Mark H. Tuohey, III
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear Mark:

In response to your letter dated January 10, 1995,
which I received on February 6, 1995, I am providing the
following:

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Sincerely yours,



Jane C. Sherburne
Special Counsel to the
President

033-DC-00001929

THE WHITE HOUSE
WASHINGTON

February 22, 1995

BY MESSENGER

Brett Kavanaugh, Esq.
Assistant Independent Counsel
Office of Independent Counsel
1001 Pennsylvania Avenue
Suite 490-North
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Re: [REDACTED]

Dear Brett:

In a letter to you dated [REDACTED]

[REDACTED]

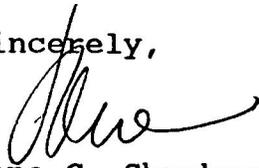
Nonresponsive information has been redacted from the documents.

[REDACTED]

As we discussed, at this time you are not asking us to produce [REDACTED]

Please feel free to call me if you have any questions.

Sincerely,


Jane C. Sherburne
Special Counsel to the
President

Enclosures

033-DC-00001930

BK

THE WHITE HOUSE
WASHINGTON

2 areas of dispute
① Foster death - what is scope
② ongoing A-C communication

March 8, 1995

Dear Judge Starr:

You have raised concerns about guidance given by the Office of White House Counsel to present and former White House officials on the assertion of privileges in connection with questioning by attorneys from your Office. The President has cooperated to an extraordinary degree with your and Special Counsel Fiske's investigation of Madison Guaranty, Whitewater Development Corporation, and related matters, even when the investigation has touched on areas traditionally protected by executive privilege. Whenever your scrutiny has turned to the conduct of White House officials, the President has willingly disclosed all privileged communications that are part of the conduct under review.

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

The White House Counsel's Office also has advised present and former White House employees who may be questioned by your Office that we have waived all privileges applicable to communications involved in such conduct. We made this voluntary waiver in order to promote and encourage the thorough, efficient, and prompt completion of the investigation of the conduct of White House officials. It is difficult to imagine what more the President responsibly could do to accommodate your work.

what is such conduct w/r Foster death

Although the President has taken the extraordinary step of waiving applicable privileges to permit your unfettered review of White House conduct in those defined areas, the institutional interests of the Presidency do not permit the wholesale waiver of all privileges applicable to executive communications, which your letter suggests you expect. The White House responsibly cannot instruct officials who appear before the grand jury that they are free to answer any and all questions they may be asked about unrelated executive communications into which your broad-ranging inquiries may probe. Similarly, the White House responsibly cannot permit the waiver of privileges (executive, attorney-client and work product) that apply to the ongoing communications

of White House attorneys and advisors regarding the matters that have come within the ambit of your investigation, but that are not part of the specific conduct described above.

The doctrine of executive privilege, which then Assistant Attorney General, now Chief Justice William Rehnquist has called "an absolutely essential condition for the faithful discharge by the executive of his constitutional duties,"¹ enables the President to encourage deliberation and debate among his advisors and call on them for candid and informed advice. Like every President before him, the incumbent President must take care to safeguard executive privilege, or he will risk weakening the institution of the Presidency -- for the future as well as the present. It cannot be that the President must surrender entirely a fundamental element of executive power in order to satisfy his pledge of cooperation as to the particular subjects under investigation.

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

¹ Executive Privilege: The Withholding of Information by the Executive; Hearing Before the Subcomm. on Separation of Powers of Senate Comm. on the Judiciary, 92nd Cong., 1st Sess. 435 (1981) (Statement of William H. Rehnquist, Assistant Attorney General, Office of Legal Counsel, Dep't of Justice).

THE WHITE HOUSE
WASHINGTON

March 17, 1995

BY HAND DELIVERY

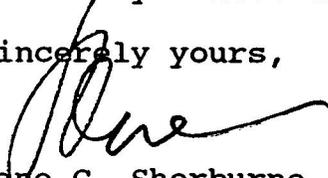
Mark H. Tuohey, III
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear Mark:

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Please feel free to call if you have any questions.

Sincerely yours,


Jane C. Sherburne
Special Counsel to the
President

Enclosures

033-DC-00001946

[REDACTED]

If you intend to extend your inquiry beyond those parameters, I invite you to raise the issue with the White House Counsel's Office so that we may evaluate whether a further waiver of privilege is appropriate and instruct witnesses and their counsel accordingly.

[REDACTED] The President has not asserted, and does not intend to assert, any privileges that would prevent a full examination of the conduct of White House officials as it relates to these referrals. Without some clarification of the circumstances, I cannot comment regarding whether privileges were appropriately asserted in the instance to which you allude in your letter.

The protection of institutional privileges under these circumstances is a serious and difficult matter for witnesses who must appear before the grand jury without lawyers to assist them. We told witnesses and their counsel that we would be available for consultation if any questions about our guidance arose in the course of their grand jury appearance.

[REDACTED] We remain available for this purpose or, if you wish, to meet with you before a witness testifies so that we can be more precise in our guidance regarding the assertion of privilege.

The President's resolve to cooperate with your investigation remains firm. The White House Counsel's Office will continue to ensure that your Office has access to all relevant information needed for the prompt and complete review of the matters under investigation. But we cannot ignore, and thus erode, the longstanding and important institutional prerogatives of the Presidency. In previous discussions, you have assured us that it is not your intention or desire to weaken the institution of the Presidency for any temporal purpose. I trust that is still the

case. We are available to meet with you to discuss these matters if that would be helpful in reaching a resolution.

Sincerely,



Abner J. Mikva
Counsel to the President

BY HAND

Hon. Kenneth W. Starr
Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490N
Washington, D.C. 20004



Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

[Redacted]

Jane Sherburne
Special Counsel
The White House
Washington, DC

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Re: [Redacted]

Dear Ms. Sherburne:

[Redacted]

[Redacted] you have agreed to accept service of this subpoena, and we are available to meet with you to discuss the process for compliance. Thank you for your cooperation.

Very truly yours,

Kenneth W. Starr
Independent Counsel

By:

Mark H. Tuohey III
Deputy Independent Counsel

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

[Redacted]

[Large redacted area]

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury



Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

[Redacted]

[Redacted]

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Re: [Redacted]

Dear [Redacted]

[Redacted]

Thank you for your cooperation.

Very truly yours,

Mark H. Tuohey III
Deputy Independent Counsel

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

[Redacted]

[Large redacted area]

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury



Office of the Independent Counsel

*1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802*

March 29, 1995

Miriam Nemetz
Associate Counsel
The White House
Washington, DC

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Miriam:

As we stated in our meeting on March 28, we would consider the following steps adequate to comply with [redacted]

[redacted]

[Large redacted area]

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Please let me know if you have questions about or problems with this summary. Thank you very much for your help.

Sincerely,



Brett M. Kavanaugh
Associate Independent Counsel

*** ACTIVITY REPORT ***

TRANSMISSION OK

TX/RX NO. 5453

CONNECTION TEL 94565053

CONNECTION ID

START TIME 03/30 10:34

USAGE TIME 01'53

PAGES 3

RESULT OK

THE WHITE HOUSE

WASHINGTON

April 5, 1995

BY HAND DELIVERY

Mark H. Tuohey, III
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

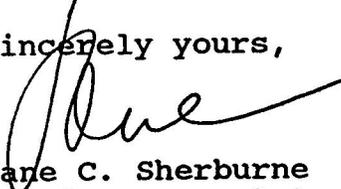
Dear Mark:

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

In response to the subpoena dated [REDACTED]

Please feel free to call if you have any questions.

Sincerely yours,


Jane C. Sherburne
Special Counsel to the
President

Enclosures

210-DC-00000001

THE WHITE HOUSE
WASHINGTON

April 11, 1995

BY HAND DELIVERY

Mark H. Tuohey, III
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Mark:

Enclosed are documents responsive to

To comply with this portion of the subpoena, we
reviewed

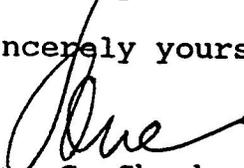
210-DC-00000345

Mark H. Tuohey, III
April 11, 1995
Page 2

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Please feel free to call if you have any questions.

Sincerely yours,


Jane C. Sherburne
Special Counsel to the
President

Enclosures

210-DC-00000346

THE WHITE HOUSE
WASHINGTON

April 20, 1995

BY HAND DELIVERY

Mark H. Tuohey, III
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

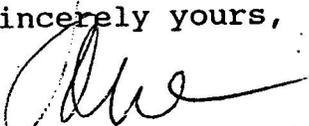
Dear Mark:

The following documents are enclosed:

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Please feel free to call if you have any questions.

Sincerely yours,


Jane C. Sherburne
Special Counsel to the
President

210-DC-00002150

Enclosures

THE WHITE HOUSE
WASHINGTON

April 24, 1995

BY HAND

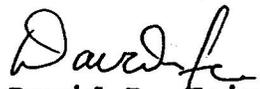
Mark H. Tuohey, III
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear Mark:

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Please feel free to call if you have any questions.

Sincerely yours,



David B. Fein
Associate Counsel to the
President

Enclosures

210-DC-00002167

THE WHITE HOUSE
WASHINGTON

May 3, 1995

BY HAND DELIVERY

Mark H. Tuohey, III
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

210-DC-00002252

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Mark:

[Redacted]

As I discussed with Brett Kavanaugh last Friday,

[Redacted]

If you have any interest in the redacted information, let me know and we will make unredacted versions of the documents available for your review.

[Redacted]

[Redacted]

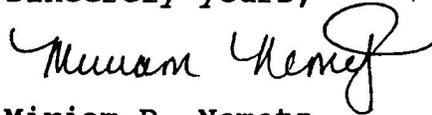
Mark H. Tuohey, III
May 3, 1995
Page 2

Finally, I am enclosing additional documents responsive
to

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Please feel free to call if you have any questions.

Sincerely yours,



Miriam R. Nemetz
Associate Counsel to the
President

Enclosures

210-DC-00002253

DRAFT
May 4, 1995

Mark H. Tuohey, III
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Re: Documents Responsive to the Subpoena to the White
House Dated [redacted]

Dear Mark:

This letter sets forth the understanding between the Office of White House Counsel (the "White House") and the Office of Independent Counsel Kenneth Starr ("OIC") with respect to the OIC's review of certain documents described in the subpoena to the White House dated [redacted]

Among the documents called for in the OIC's subpoena to the White House are the following:

[Large redacted area]

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Mark H. Tuohey, III
May 4, 1995
Page 2

The White House has advised the OIC that many of the documents described above are subject to executive privilege and other privilege claims. The OIC has represented that reviewing the documents will further its investigation. In an effort to accommodate both the OIC's investigative needs and White House concerns about confidentiality, the OIC and the White House have agreed that the White House will make certain documents available for review by the OIC in accordance with the following terms:

(1) The OIC understands and agrees that, in allowing the OIC to review the documents, the White House does not waive in any manner, for the purposes of this proceeding or any other, the right to assert any applicable claims of executive privilege, attorney-client privilege, attorney work product protection, or any other privileges that may apply to any of the documents or to related matters. The OIC will not argue in any forum that the OIC's review of the documents waives or in any way weakens any claim of privilege by the White House.

(2) The OIC agrees that the White House, by providing a document for review by the OIC, will satisfy its obligations under the [redacted] subpoena with respect to that document. If the OIC wishes to take possession of any document in order to further its investigation, the OIC will request that the White House provide a copy of the document. If the White House objects to providing a copy of the document to the OIC, and the White House and the OIC fail to work out an accommodation with respect to the document, at the request of the White House, the OIC will issue a new subpoena for the document so that the matter may be presented for litigation.

(3) The White House has informed the OIC that it expects to withhold a relatively small subset of the documents described in this letter from review by the OIC. The White House will provide the OIC with an oral description of each document withheld and will explain why it believes review of the documents by the OIC is not desirable. Following these discussions, if the OIC seeks to review any document that the White House determines finally should be withheld, at the request of the White House, the OIC will issue a new subpoena for the document so that the matter may be presented for litigation.

I believe the following sets forth our agreement. If you concur, kindly execute this letter below and retain one original for your files.

Mark H. Tuohy, III
May 4, 1995
Page 3

Sincerely,

Jane C. Sherburne
Special Counsel to the
President

Agreed:

MARK H. TUOHEY, III
Deputy Independent Counsel

Date



Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

May 11, 1995

BY FACSIMILE

Jane Sherburne
Special Counsel to the President
The White House
Washington, D.C. 20500

Dear Ms. Sherburne:

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Thank you for the draft letter agreement between the White House and this Office regarding our review of certain documents described in the grand jury subpoena to the White House. I have reviewed the draft agreement, and would request the following changes.

On page 2, please change the last sentence of the paragraph labelled (1) to read as follows: "The White House understands and agrees that the OIC neither accepts the validity of any privilege the White House may assert nor waives any argument or claim the OIC may have available to challenge any privilege asserted by the White House, except that the OIC understands and agrees that it will not argue in any forum that the OIC's access to documents by virtue of this agreement waives or in any way weakens any assertion of privilege by the White House."

On page 2, on the first line of the paragraph labelled (2), please insert "initial" between "its" and "obligations."

On page 2, please change the last sentence of the paragraph labelled (2) to read as follows: "If the White House objects to providing a copy of the document to the OIC, and the White House and the OIC fail to work out an accommodation with respect to the document, the White House will produce a privilege log for that document and the OIC may move to compel production of the document."

On page 2, please change the last sentence of the paragraph labelled (3) to read as follows: "Following these discussions, if the OIC seeks to review any document that the White House decides finally to withhold, the White House will produce a privilege log for that

document and the OIC may move to compel production of the document."

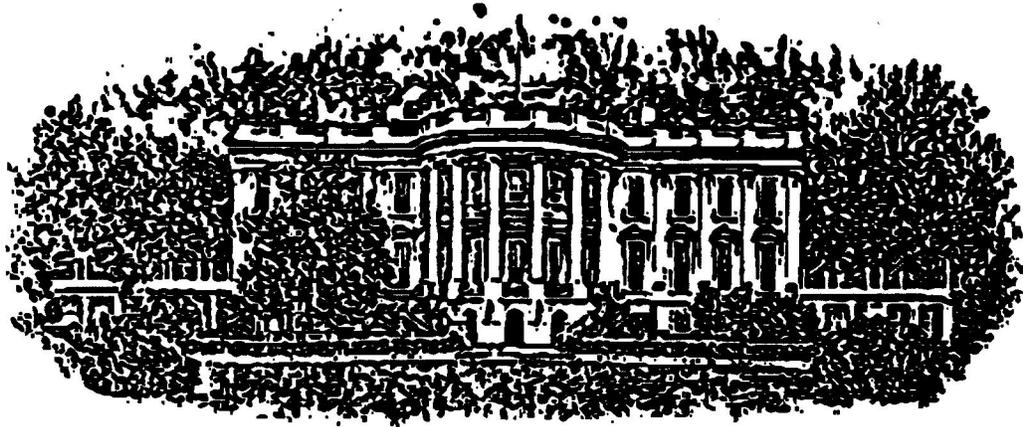
I look forward to your response to these proposed changes. Assuming we reach an agreement shortly, we will be prepared to begin the review of documents towards the end of the week of May 15-19. Thank you very much for your cooperation.

Sincerely yours,



Mark H. Tuohey III
Deputy Independent Counsel

The White House



COUNSEL'S OFFICE

FACSIMILE TRANSMISSION COVER SHEET

DATE: May 15, 1995

TO: Brett Kavanaugh

FACSIMILE NUMBER: 514-8802

TELEPHONE NUMBER: 514-8688

FROM: Miriam Nemetz

TELEPHONE NUMBER: 456-5092

PAGES (WITH COVER): 5

COMMENTS: _____

PLEASE DELIVER AS SOON AS POSSIBLE

The document(s) accompanying this facsimile transmittal sheet is intended only for the use of the individual or entity to whom it is addressed. This message contains information which may be privileged, confidential or exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any disclosure, dissemination, copying or distribution, or the taking of any action in reliance on the contents of this communication is strictly prohibited. If you have received this information in error, please immediately notify the sender at their telephone number stated above.

THE WHITE HOUSE
WASHINGTON

May 15, 1995

BY FAX

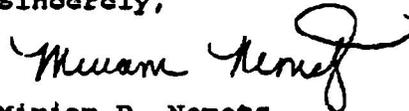
Brett Kavanaugh, Esq.
Associate Independent Counsel
Office of Independent Counsel
1001 Pennsylvania Avenue
Suite 490-North
Washington, D.C. 20004

Dear Brett:

I am enclosing a revised draft letter agreement between the Office of the Independent Counsel and the Office of White House Counsel regarding your Office's review of Vincent Foster's documents. I have incorporated all of the changes proposed in the letter from Mark Touhey to Jane Sherburne dated May 11, 1995, except that I have proposed new language as an alternative to your proposed insertion of the word "initial" in the first line of the paragraph labelled (2). I am also proposing to add an additional sentence to that paragraph. The proposed changes are highlighted in the enclosed draft.

Please call me at (202) 456-5092 and let me know whether these changes are acceptable so that we may send out a final version for signature.

Sincerely,



Miriam R. Nemetz
Associate Counsel to the
President

Enclosure

DRAFT
May 15, 1995

Mark H. Tuohy, III
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Re: Documents Responsive to the Subpoena to the White
House Dated [redacted]

Dear Mark:

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

This letter sets forth the understanding between the Office of White House Counsel (the "White House") and the Office of Independent Counsel Kenneth Starr ("OIC") with respect to the OIC's review of certain documents described in the subpoena to the White House dated [redacted]

Among the documents called for in the OIC's subpoena to the White House are the following:

[Large redacted area]

Mark H. Tuohey, III
May 15, 1995
Page 2

The White House has advised the OIC that many of the documents described above are subject to executive privilege and other privilege claims. The OIC has represented that reviewing the documents will further its investigation. In an effort to accommodate both the OIC's investigative needs and White House concerns about confidentiality, the OIC and the White House have agreed that the White House will make certain documents available for review by the OIC in accordance with the following terms:

(1) The OIC understands and agrees that, in allowing the OIC to review the documents, the White House does not waive in any manner, for the purposes of this proceeding or any other, the right to assert any applicable claims of executive privilege, attorney-client privilege, attorney work product protection, or any other privileges that may apply to any of the documents or to related matters. The White House understands and agrees that the OIC neither accepts the validity of any privilege the White House may assert nor waives any argument or claim that the OIC may have available to challenge any privilege asserted by the White House, except that the OIC understands and agrees that it will not argue in any forum that the OIC's access to documents by virtue of this agreement waives or in any way weakens any assertion of privilege by the White House.

(2) The OIC agrees that the White House, by providing a document for review by the OIC, will satisfy its initial obligations under the [redacted] subpoena with respect to that document, unless the OIC specifically requests that the White House provide a copy of the document, as described below. If the OIC wishes to take possession of any document in order to further its investigation, the OIC will request that the White House provide a copy of the document. The OIC will present to the Grand Jury and treat as protected by Rule 6(e) any document of which it takes possession. If the White House objects to providing a copy of the document to the OIC, and the White House and the OIC fail to work out an accommodation with respect to the document, the White House will produce a privilege log for that document and the OIC may move to compel production of the document.

(3) The White House has informed the OIC that it expects to withhold a relatively small subset of the documents described in this letter from review by the OIC. The White House will provide the OIC with an oral description of each document withheld and will explain why it believes review of the documents by the OIC is not desirable. Following these discussions, if the OIC seeks to review any document that the White House decides finally to withhold, the White House will produce a privilege log for that document and the OIC may move to compel production of the document.

To the extent permitted by applicable law, the OIC will treat OK except I don't see how we can agree to present all documents to the OIC - we need the flexibility to conduct our investigation as we see fit.

① court battle
② Congress confidential

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury



Office of the Independent Counsel

*1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802*

May 18, 1995

BY FACSIMILE

Miriam Nemetz
Associate Counsel
The White House
Washington, DC

Dear Ms. Nemetz:

We propose the following language in lieu of the third sentence of paragraph (2) of the May 15, 1995, draft letter agreement. "If the White House agrees to provide the document to the OIC, the OIC will treat the document as confidential and as entitled to all protection accorded by law to documents subpoenaed by a federal grand jury." Please let me know whether this language is acceptable.

Please note that we now will not be able to begin our review of documents until Wednesday, May 24.

Thank you very much for your cooperation.

Sincerely yours,

A handwritten signature in cursive script that reads "Brett M. Kavanaugh".

Brett M. Kavanaugh
Associate Independent Counsel

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: _____

TO: Miriam Nemetz

Company Name: _____

Fax Number: 456-5053 Telephone Number: _____

FROM: Brett Kavanaugh

Number of Pages: 2 (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.

*** ACTIVITY REPORT ***

TRANSMISSION OK

TX/RX NO.	6331
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CONNECTION ID	
START TIME	05/18 15:41
USAGE TIME	01'09
PAGES	2
RESULT	OK

THE WHITE HOUSE

WASHINGTON

May 23, 1995

BY HAND DELIVERY

Mark H. Tuohey, III
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

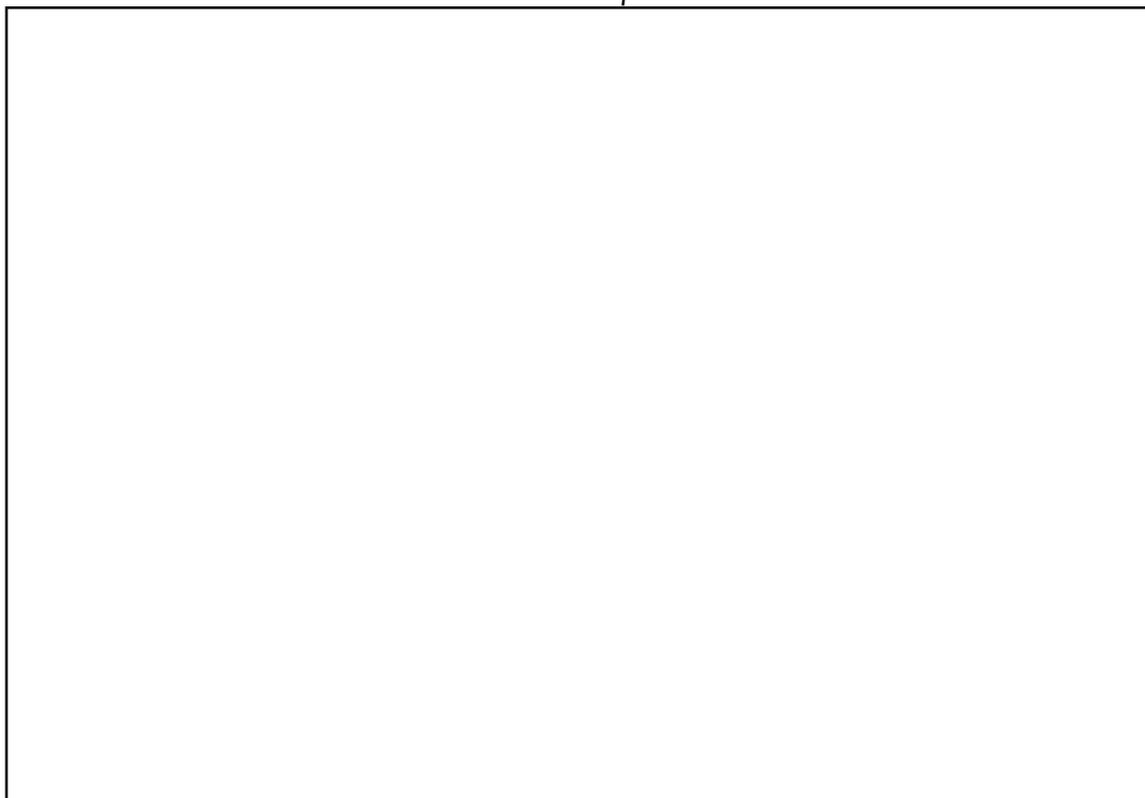
Re: Documents Responsive to the Subpoena to the
White House Dated [REDACTED]

Dear Mark:

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

This letter sets forth the understanding between the Office of White House Counsel (the "White House") and the Office of Independent Counsel Kenneth Starr ("OIC") with respect to the OIC's review of certain documents described in the subpoena to the White House dated [REDACTED]

Among the documents called for in the OIC's subpoena to the White House are the following:



Mark H. Tuohey, III
May 23, 1995
Page 2

The White House has advised the OIC that many of the documents described above are subject to executive privilege and other privilege claims. The OIC has represented that reviewing the documents will further its investigation. In an effort to accommodate both the OIC's investigative needs and White House concerns about confidentiality, the OIC and the White House have agreed that the White House will make certain documents available for review by the OIC in accordance with the following terms:

(1) The OIC understands and agrees that, in allowing the OIC to review the documents, the White House does not waive in any manner, for the purposes of this proceeding or any other, the right to assert any applicable claims of executive privilege, attorney-client privilege, attorney work product protection, or any other privileges that may apply to any of the documents or to related matters. The White House understands and agrees that the OIC neither accepts the validity of any privilege the White House may assert nor waives any argument or claim that the OIC may have available to challenge any privilege asserted by the White House, except that the OIC understands and agrees that it will not argue in any forum that the OIC's access to documents by virtue of this agreement waives or in any way weakens any assertion of privilege by the White House.

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

(2) The OIC agrees that the White House, by providing a document for review by the OIC, will satisfy its obligations under the [redacted] subpoena with respect to that document, unless the OIC specifically requests that the White House provide a copy of the document, as described below. If the OIC wishes to take possession of any document in order to further its investigation, the OIC will request that the White House provide a copy of the document. If the White House agrees to provide the document to the OIC, the OIC will treat the document as confidential and as entitled to all protection accorded by law under Rule 6(e) of the Federal Rules of Criminal Procedure to documents subpoenaed by a federal grand jury. If the White House objects to providing a copy of the document to the OIC, and the White House and the OIC fail to work out an accommodation with respect to the document, the White House will produce a privilege log for that document and the OIC may move to compel production of the document.

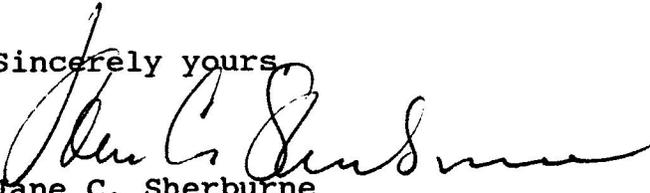
(3) The White House has informed the OIC that it expects to withhold a relatively small subset of the documents described in this letter from review by the OIC. The White House will provide the OIC with an oral description of each document withheld and will explain why it believes review of the documents by the OIC is not desirable. Following these discussions, if the OIC seeks to review any document that the White House decides finally to withhold, the White House will produce a privilege log

Mark H. Tuohey, III
May 23, 1995
Page 3

for that document and the OIC may move to compel production of the document.

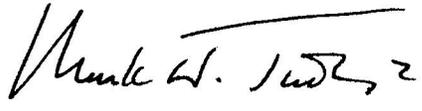
I believe the following sets forth our agreement. If you concur, kindly execute this letter below and retain one original for your files.

Sincerely yours,

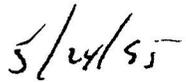


Jane C. Sherburne
Special Counsel to the
President

Agreed:



MARK H. TUOHEY, III
Deputy Independent Counsel



Date

THE WHITE HOUSE

WASHINGTON

June 6, 1995

BY HAND DELIVERY

210-DC-00002397

Mark H. Tuohey, III
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Mark:

[REDACTED]

As we have discussed, we believe that our efforts in

[REDACTED] resulted in the collection of the documents specifically enumerated in [REDACTED] that existed as of that time, except for materials generated in connection with preparation for Congressional hearings last summer. We have provided you with the [REDACTED] that describe these efforts. Many of the documents collected in response to [REDACTED] were not responsive to [REDACTED]

[REDACTED] and therefore were not produced. We have reviewed these documents again to identify any among them that are responsive to the subjects specifically identified in [REDACTED]

The enclosed production is a result of this review.

We assume you are not interested in, and we are not producing, additional copies of publicly available documents, such as transcripts of press briefings, that have been produced before. We also continue to assume that you are not interested in press clippings that do not have handwriting on them or in condolence letters.

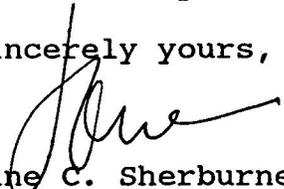
I am also enclosing [REDACTED]

[REDACTED]

Mark H. Tuohey, III
June 5, 1995
Page 2

Please feel free to call me if you have any questions.

Sincerely yours,



Jane C. Sherburne
Special Counsel to the
President

Enclosures

210-DC-00002398

THE WHITE HOUSE
WASHINGTON

June 12, 1995

BY HAND DELIVERY

Mark H. Tuohey, III
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

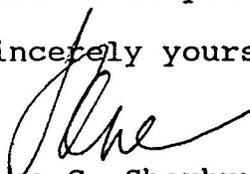
Dear Mark:

Enclosed are additional documents responsive to the

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Please feel free to call me if you have any questions.

Sincerely yours,



Jane C. Sherburne
Special Counsel to the
President

Enclosures

210-DC-00002723

THE WHITE HOUSE
WASHINGTON

June 16, 1995

BY HAND DELIVERY

Mark H. Tuohy, III
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

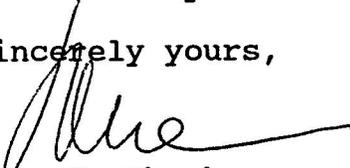
Dear Mark:

Enclosed are documents responsive to

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Please feel free to call me if you have any questions.

Sincerely yours,


Jane C. Sherburne
Special Counsel to the
President

Enclosures

210-DC-00002765



Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

June 19, 1995

BY HAND

Jane Sherburne
Special Counsel
The White House
Washington, DC

Dear Ms. Sherburne:

We have several issues to raise with you.

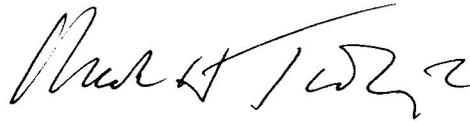
FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

We request copies of any supporting documentation relevant to these questions.

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Thank you for your cooperation. Please call me or Brett Kavanaugh if you have any questions about these requests.

Sincerely yours,



Mark H. Tuohey III
Deputy Independent Counsel

THE WHITE HOUSE

WASHINGTON

July 2
~~June 26, 1995~~

Mark H. Tuohey, III
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

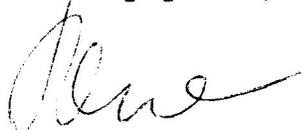
Dear Mark:

We received your letter of June 19, 1995 raising issues related to your investigation of the handling of Foster documents. We are working on providing the information you have requested in connection with [REDACTED]. As you are aware, after learning that the Independent Counsel had no objection, the Senate Special Committee on Whitewater has begun its investigative work in this same area and is also making requests for information. We will respond to your requests as promptly as possible.

We will respond to [REDACTED] with a separate letter. As Miriam Nemetz offered to Brett Kavanaugh earlier, the

[REDACTED]

Sincerely yours,



Jane C. Sherburne
Special Counsel to the President

THE WHITE HOUSE

WASHINGTON

July 12, 1995

BY TELECOPY

The Hon. Kenneth W. Starr
Independent Counsel
Office of the Independent Counsel
Two Financial Centre, Suite 134
10825 Financial Centre Parkway
Little Rock, Arkansas 72211

Dear Mr. Starr:

As the public has known for months, the Senate is coordinating the timing of its hearings with your Office, awaiting the "green light" from you before it schedules hearings on particular phases of your investigation. We have been told that some months ago, the Senate received the "green light" from you on the subject of the handling of documents in Vincent Foster's office after his suicide.

Now that hearings on that matter have received a firm date of July 18, 1995, we are writing to ask you, once again, to announce publicly your conclusion on this matter prior to the start of hearings. In previous conversations, you told us you were disinclined to follow the procedure established by Special Counsel Robert Fiske and issue a conclusion when you completed a distinct phase of your investigation because you were reluctant to report conclusions before giving Congress an opportunity to discover evidence that your investigation may have overlooked.

We believe that, once you have informed Congress that hearings will not interfere with your investigation, there are no valid reasons for failing to state whether your investigation to date has obtained sufficient evidence to support a criminal charge. Any conclusion you announced would obviously be subject to the discovery -- from any source, including Congress -- of additional evidence within the applicable statute of limitations.

Failing to state your conclusion prior to the start of Congressional hearings would be fundamentally unfair to the witnesses involved in both proceedings and would jeopardize the integrity of your investigation.

It would be unfair to force the numerous White House employees, who have cooperated fully with your investigation and

The Hon. Kenneth W. Starr
July 12, 1995
Page 2

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

now with the Senate's, to testify in the Senate under a cloud that your investigation apparently has removed.

More importantly, it would be an abdication of the prosecutorial function and the premise and purpose of the independent counsel statute to hold off on your conclusion until Congress completed its hearing. Silence plays directly into the many arguments being made that the Independent Counsel statute is subject to partisan abuse by allowing the appearance and the reality of the Independent Counsel watching Congress' fact-finding and conduct of the hearings with an eye toward the reaction of Congress, the legal community, the news media or the public to the facts you already know. Simply the appearance -- let alone the reality -- that your decisions are being affected by these outside sources presents a compelling reason for you to state publicly the status of your inquiry.

In that regard, we are greatly concerned by two requests recently made by your Office regarding the Congressional hearings.

In connection with another matter in which Congress is making requests of the White House during the pendency of a criminal case, the Justice Department emphatically advised us that it did not want the White House informing it about Congressional document requests and productions. We think that your request cannot be distinguished from this other matter.

We are concerned about the perception, and even reality, that your Office -- having informed the Senate Banking Committee that it could proceed with its hearing on the handling of documents in Mr. Foster's office even though you had not and perhaps still have not concluded that phase of your investigation -- could be influenced by Congress. That concern is heightened if your Office, at the very same time that you are interviewing witnesses, seeks and obtains transcripts of Congressional interviews with the same witnesses. However inadvertent, you may be "deputizing" Senators and Representatives and their staff as investigators for your Office. Clearly, the Independent Counsel

The Hon. Kenneth W. Starr
July 12, 1995
Page 3

statute is meant to avoid even the possibility of partisan influence over the investigation.

We encourage you to keep in mind what the Department of Justice's Office of Legal Counsel has long and emphatically said about Congressional interaction with an ongoing criminal investigation: "It has been the traditional position of this Department that intolerable practical restraints on discretion may result and the effectiveness and fairness of investigations may be impaired if Congress becomes, in a sense, a partner in an ongoing investigation." Office of Legal Counsel Opinion, 9 Op. O.L.C. 86, 89 (Sept. 24, 1985). It is especially important in the context of an investigation pursuant to the Independent Counsel statute, which is designed, in part, "to insulate the investigation of senior officials from personal or political influence and therefore to ensure that its conclusion will have the fullest credibility; and to afford protection to the reputation of any person subject to investigation, precisely because the independent counsel's investigation is independent and credible." H. Rep. No. 316, 100th Cong., 1st Sess. 11 (1987).

In sum, we believe that Special Counsel Fiske's practice of disclosing his conclusions regarding particular portions of his investigations prior to Congressional hearings was sound and in keeping with the Independent Counsel's statutory mission. We urge you to do the same.

Sincerely,



Abner Mikva
Counsel to the President



Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

July 14, 1995

The Honorable Abner J. Mikva
Counsel to the President
The White House
Washington, D.C. 20500

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Judge Mikva:

I have received your letter of July 12, which warrants a response.

Simply put, our investigation of the Foster documents issue has not yet concluded. Hence, it would be inappropriate for us to announce publicly any preliminary conclusions on this matter. Indeed, included in our remaining work is a review of documents yet to be produced [redacted]. The delay by the White House in responding to the [redacted] subpoena has hindered the orderly completion of our factual investigation. Once full compliance with the [redacted] subpoena has been achieved, we hope to complete our factual investigation and reach conclusions with appropriate reflection and speed. In this way, the public will be assured that the investigation is professional and non-partisan. Until then, I urge the exercise of greater care in characterizing the pace of our investigation. We agree that it is important that the public be assured that the Independent Counsel is above partisan politics, and we reject your suggestion that our investigation of the Foster documents issue has been delayed as the result of partisanship on the part of this Office.

You suggest as well that we have given a "green light" to Congress with respect to hearings on this issue. Under our constitutional system, Congress has plenary authority to decide whether and when to commence oversight investigations and hearings. Congress retains the exclusive authority to decide what deference is due to ongoing criminal investigations. In this case, Congress has decided to proceed with its hearings on the Foster documents issue even though our criminal investigation has yet to conclude. That is Congress' prerogative. To be sure, in response to congressional inquiries, we have informed Congress that hearings, at this time and on this issue, would not hinder or impede our investigation. At the same time, we have made clear to the Congress that our investigation has not concluded and, further, that we will not share any investigative work product with the Congress.

In your letter, you have also questioned [redacted]

By so requesting,

The Honorable Abner J. Mikva
July 14, 1995
Page 2

we simply have attempted to ensure that we have possession of all potentially relevant information before we terminate our factual investigation and reach conclusions. We believe that our request to you was therefore entirely appropriate, and we adhere to it.

In this regard, your comparison to an ongoing Department of Justice investigation is inapt. In the unusual circumstances of the case to which I believe you are referring, I assume that the Justice Department does not want information from the White House because that information could conceivably be helpful to the defense theory of the case. In those unusual circumstances and given the requirements of the Constitution and the Federal Rules of Criminal Procedure, it is hardly surprising that the Justice Department does not wish to come into the possession of all White House documents on that issue.

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

As to our request for access to [redacted] we made this request for the same reason that we asked you to provide us with previously unproduced documents: to ensure that we have all information relevant to any ongoing investigation. Obviously, we cannot ignore [redacted] We therefore find nothing inappropriate in our request to Congress, and we shall adhere to it as well.

Your suggestion that [redacted] might somehow make Congress a partner in our investigation is without merit. Indeed, it is really no different from [redacted] [redacted] which certainly has not made you a partner in our investigation.

In sum, I make three points. First, to the extent that you are not already aware, we assure you that this Office is not providing its investigative work product to either the Senate or the House. In fact, we have expressly declined several requests for such materials, and we plan to continue to do so. Second, you can be assured that we are attempting to complete our factual investigations with appropriate speed. Third, you can be assured, in any event, that we will make our assessment of the evidence with the goal of determining whether there is evidence sufficient to warrant a criminal prosecution. As we believe we have shown in earlier prosecutorial decisions, we are not swayed by outside influences in making such decisions. Our decisions are and will continue to be based on the evidence and the law.

Sincerely yours,

Kenneth W. Starr / BK

Kenneth W. Starr
Independent Counsel



Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

12:10 pm July 19, '95

Picked up a package for
White House Counsel -

-wendy witten,
Intern

wendy wite

456-7922

Witness: Sabrina Alexander

OFFICE OF
INDEPENDENT COUNSEL

MAY 10 12:13

RECEIVED

THE WHITE HOUSE
WASHINGTON

July 24, 1995

BY HAND DELIVERY

Mark H. Tuohey, III
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Mark:

Enclosed are

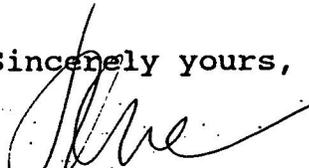
[redacted] The subpoena was
modified after discussions between Miriam Nemetz and Brett
Kavanaugh about [redacted]

[redacted]

We have been able to provide this material in less than
the time anticipated because our technical staff was able to
locate an outside facility that was willing to make the excess
capacity on its system available for our use at a reasonable
price.

We have informed you orally, and confirm by this
letter, that records of [redacted]

Sincerely yours,


Jane C. Sherburne
Special Counsel to the President

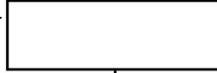
Enclosures

210-DC-00003508



Office of the Independent Counsel

*1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802*



Jane Sherburne
Special Counsel to the President
The White House
Washington, D.C. 20500

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Ms. Sherburne:

As we continue our investigation, we have several issues to raise with you.

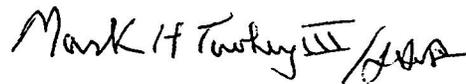


FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Thank you for your cooperation with these requests. We would like to resolve these outstanding matters expeditiously as we attempt to complete the fact-gathering portion of this investigation. Please do not hesitate to contact me if you have any questions.

Sincerely,



Mark H. Tuohy III
Deputy Independent Counsel

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

[Redacted]

[Redacted]

[Redacted]

[Redacted]

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

THE WHITE HOUSE
WASHINGTON

August 6, 1995

BY TELECOPIER

Mark H. Tuohey, III
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

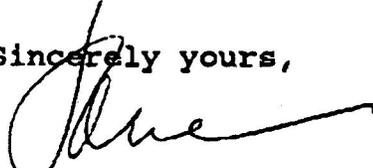
FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Mark:

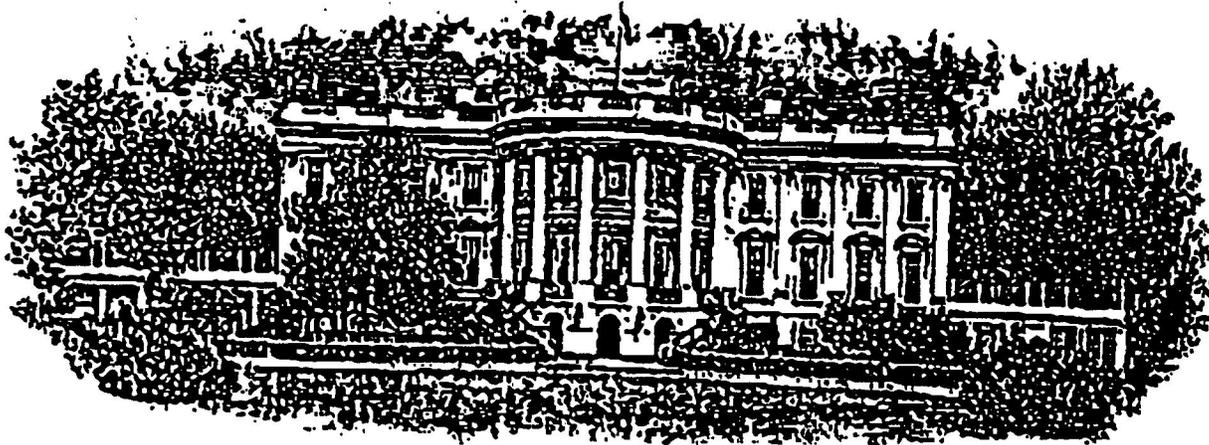
I have received your letter of [redacted] We are working on the outstanding requests that you reiterate in your letter, and will provide the information as quickly as we can.

[redacted]

Sincerely yours,


Jane C. Sherburne
Special Counsel to the
President

The White House



COUNSEL'S OFFICE

FACSIMILE TRANSMISSION COVER SHEET

DATE: 8-7-95

TO: Mark Tuohy

FACSIMILE NUMBER: 514-8802

TELEPHONE NUMBER: _____

FROM: Jane Sherburne

TELEPHONE NUMBER: 456-5116

PAGES (WITH COVER): 2

COMMENTS: _____

PLEASE DELIVER AS SOON AS POSSIBLE

The document(s) accompanying this facsimile transmittal sheet is intended only for the use of the individual or entity to whom it is addressed. This message contains information which may be privileged, confidential or exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any disclosure, dissemination, copying or distribution, or the taking of any action in reliance on the contents of this communication is strictly prohibited. If you have received this information in error, please immediately notify the sender at their telephone number stated above.

*** ACTIVITY REPORT ***

RECEPTION OK

TX/RX NO. 7863

CONNECTION TEL 4562883

CONNECTION ID

START TIME 08/07 11:34

USAGE TIME 01'14

PAGES 2

RESULT OK

THE WHITE HOUSE
WASHINGTON

August 11, 1995

BY HAND DELIVERY

Mark H. Tuohey, III
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

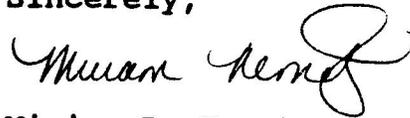
Dear Mark:

In response to your letter of /

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Please feel free to call me at (202) 456-5092 if you have any questions.

Sincerely,



Miriam R. Nemetz
Associate Counsel to the President

Enclosures

THE WHITE HOUSE
WASHINGTON

August 13, 1995

BY MESSENGER

Mark H. Tuohey, III
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Mark:

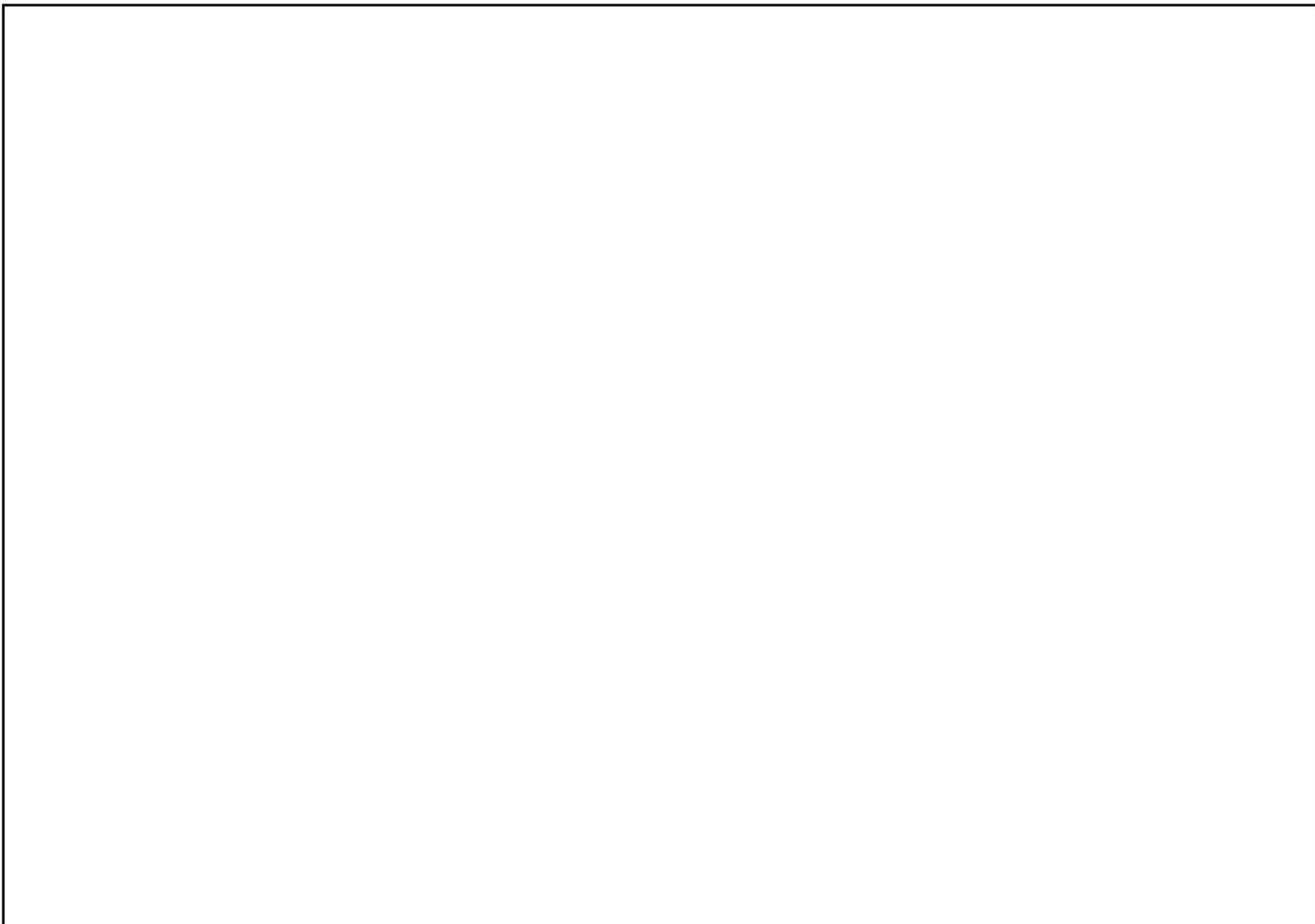
Jane Sherburne asked me to respond to your letter

Contrary to the implication in
your letter, we promptly responded to your request

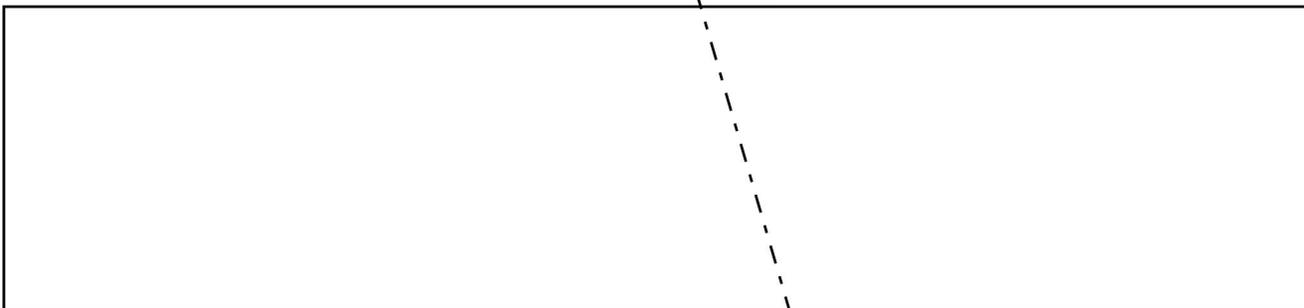
Because we were able to
respond more quickly than we had anticipated,

communicated to Brett Kavanaugh their estimate that

Mark H. Tuohy, III
August 13, 1995
Page 2



I am enclosing a memorandum that describes the



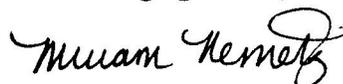
FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Mark H. Tuohey, III
August 13, 1995
Page 3

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Please let us know your recommendation about how to proceed.

Sincerely yours,



Miriam R. Nemetz
Associate Counsel to the President

Enclosure

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

THE WHITE HOUSE
WASHINGTON

August 11, 1995

BY MESSENGER

Mark H. Tuohey, III
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Mark:

Jane Sherburne asked me to respond to your letter

[Redacted]

Contrary to the implication in your letter, we promptly responded to your request

[Redacted]

Because we were able to respond more quickly than we had anticipated,

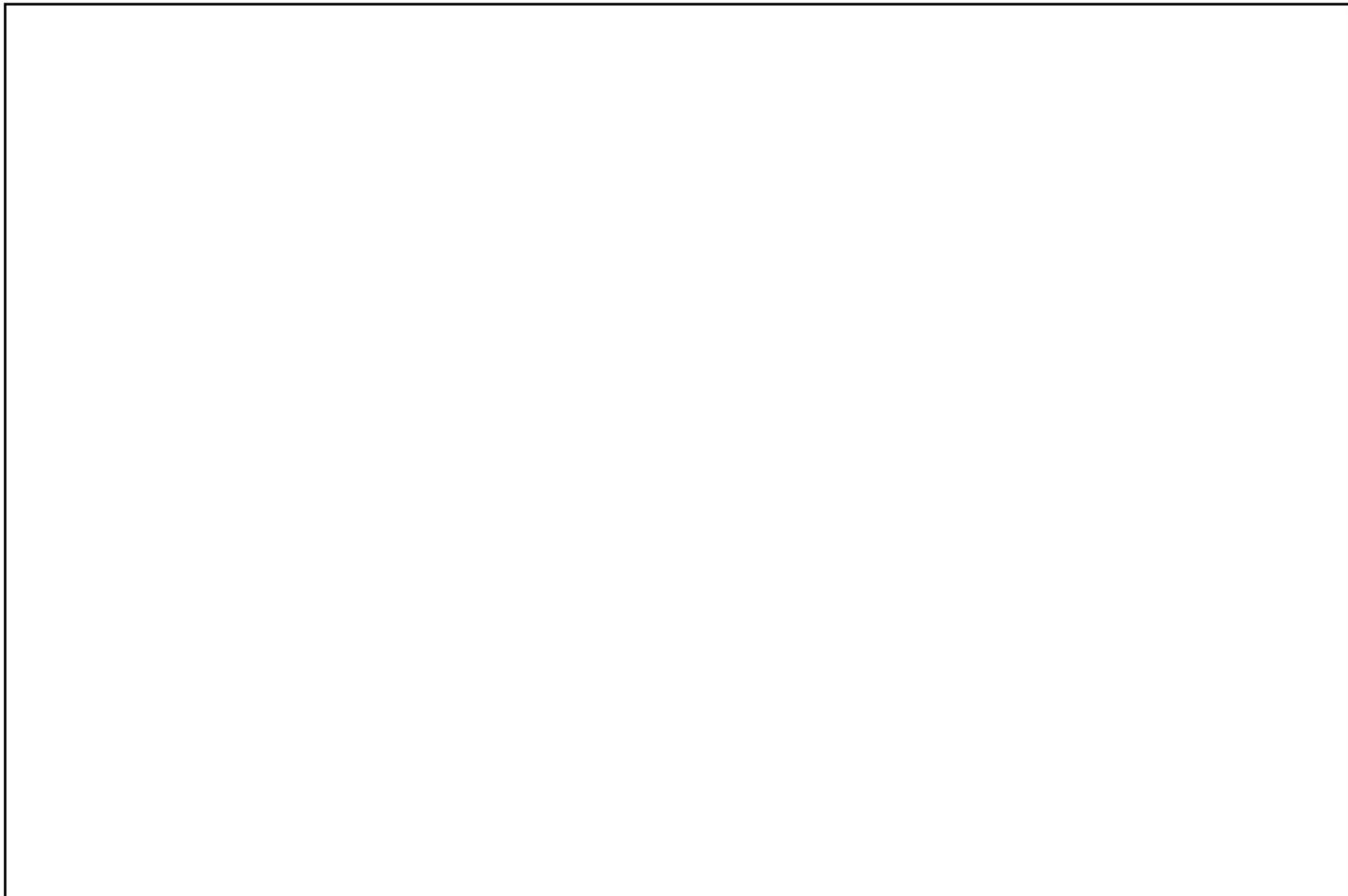
[Redacted]

[Redacted]

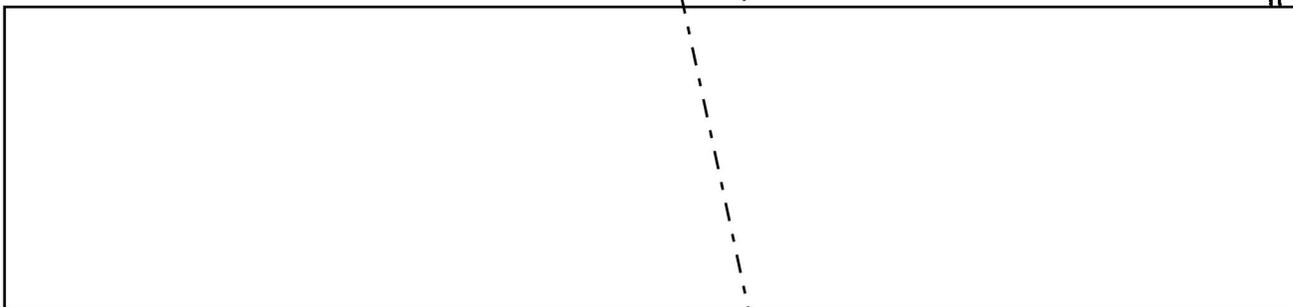
I communicated to Brett Kavanaugh their estimate that

[Redacted]

Mark H. Tuohey, III
August 11, 1995
Page 2



I am enclosing a memorandum that describes the



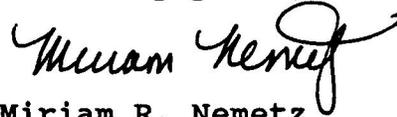
FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Mark H. Tuohey, III
August 11, 1995
Page 3

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Please let us know your recommendation about how to proceed.

Sincerely yours,



Miriam R. Nemetz
Associate Counsel to the President

Enclosure

THE WHITE HOUSE
WASHINGTON

August 18, 1995

BY HAND DELIVERY

Brett M. Kavanaugh
Associate Independent Counsel
Office of the Independent Counsel
Two Financial Centre, Suite 134
10825 Financial Centre Parkway
Little Rock, AR 72211

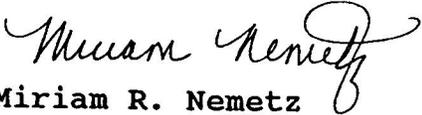
Dear Brett:

We agreed to provide you with copies of all documents,
not previously made available to your office,

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Please feel free to call me if you have any questions.

Sincerely,


Miriam R. Nemetz
Associate Counsel to the
President

Enclosures

210-DC-00004866

THE WHITE HOUSE
WASHINGTON

August 25, 1995

BY HAND DELIVERY

Mark H. Tuohey, III
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Mark:

I am writing to respond to several of the issues raised in your letters of [REDACTED]

You have requested information indicating [REDACTED]

[REDACTED]

The answer to both of these questions is no.

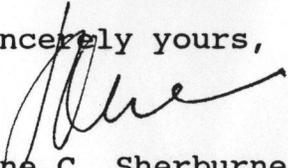
Mr. Foster, whose title was Deputy Assistant to the President and Deputy Counsel to the President, was compensated at an annual rate of \$110,000. This is below the rate of pay for Level II of the Executive Schedule under section 5313 of Title V, which was then \$133,600. Mr Foster's status under Section 105(a)(2) of Title III was not formally determined at the time of his appointment, but he later was deemed to have been appointed pursuant to Section 105(a)(2)(B).

Mark H. Tuohey, III
August 25, 1995
Page 2

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Please feel free to call me if you have any questions.

Sincerely yours,


Jane C. Sherburne
Special Counsel to the President

Enclosures

THE WHITE HOUSE
WASHINGTON

August 25, 1995

BY HAND DELIVERY

Brett M. Kavanaugh
Associate Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Brett:

I am enclosing additional documents responsive to the subpoena to the White House dated [redacted]. You requested copies of these materials following your review of documents at our offices pursuant to [redacted]

We have now provided most, but not all, of the documents you requested following your review under the [redacted]. We would like to discuss your request for the remaining materials at our meeting on Tuesday.¹

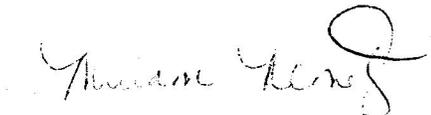
I would also like to provide some additional information relating to [redacted]

check

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Please feel free to call me if you have any questions.

Sincerely,



Miriam R. Nemetz
Associate Counsel to the
President

Enclosures

THE WHITE HOUSE
WASHINGTON

August 25, 1995

BY HAND DELIVERY

Brett M. Kavanaugh
Associate Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Brett:

I am enclosing additional documents responsive to the subpoena to the White House dated [redacted]. You requested copies of these materials following your review of documents at our offices pursuant to [redacted].

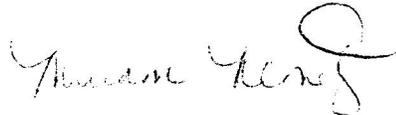
We have now provided most, but not all, of the documents you requested following your review under the [redacted]. We would like to discuss your request for the remaining materials at our meeting on Tuesday.¹

I would also like to provide some additional information relating to [redacted].

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Please feel free to call me if you have any questions.

Sincerely,



Miriam R. Nemetz
Associate Counsel to the
President

Enclosures

THE WHITE HOUSE
WASHINGTON

August 25, 1995

BY HAND DELIVERY

Mark H. Tuohey, III
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Mark:

I am writing to respond to several of the issues raised
in your letters of [redacted]

You have requested information indicating [redacted]

The answer to both of these questions is no.

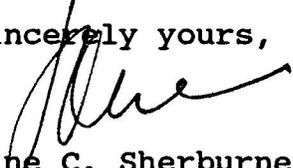
Mr. Foster, whose title was Deputy Assistant to the
President and Deputy Counsel to the President, was compensated at
an annual rate of \$110,000. This is below the rate of pay for
Level II of the Executive Schedule under section 5313 of Title V,
which was then \$133,600. Mr Foster's status under Section
105(a)(2) of Title III was not formally determined at the time of
his appointment, but he later was deemed to have been appointed
pursuant to Section 105(a)(2)(B).

Mark H. Tuohey, III
August 25, 1995
Page 2

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Please feel free to call me if you have any questions.

Sincerely yours,


Jane C. Sherburne
Special Counsel to the President

Enclosures

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Enclosures

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

THE WHITE HOUSE
WASHINGTON

September 15, 1995

BY HAND DELIVERY

Brett M. Kavanaugh
Associate Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

210-DC-00005570

Dear Brett:

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

I am enclosing additional documents responsive to the subpoena to the White House dated [REDACTED]

[REDACTED]

Second, I am enclosing copies of several documents that were not among those you initially reviewed pursuant to the

[REDACTED] We have permitted your review of these documents, and are providing copies pursuant to your further request.

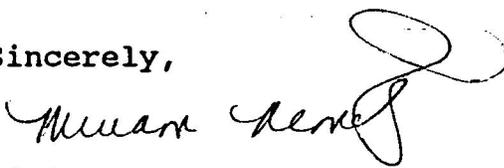
[REDACTED]

As with documents previously produced, we understand that your office will treat these documents and the information conveyed in this letter 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. We also understand that your office will not argue from the documents produced or the information conveyed in this letter that the White House has waived any applicable privileges.

Brett M. Kavanaugh
September 15, 1995
Page 2

Please feel free to call me if you have any questions.

Sincerely,


Miriam R. Nemetz
Associate Counsel to the
President

Enclosures

210-DC-00005571

THE WHITE HOUSE
WASHINGTON

September 21, 1995

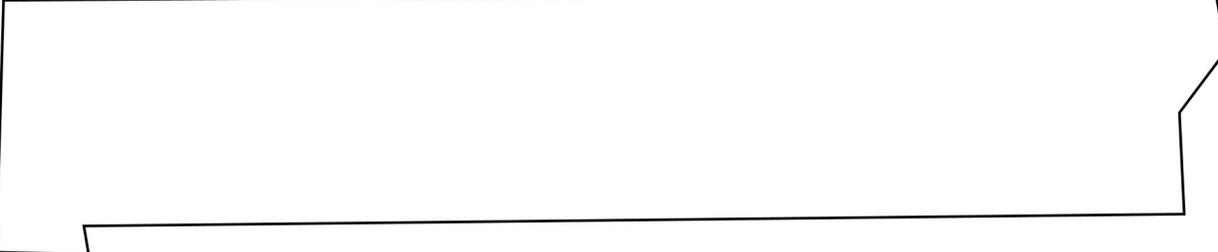
BY HAND DELIVERY

Brett M. Kavanaugh
Associate Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear Brett:

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

I am enclosing additional documents responsive to the subpoena to the White House dated



As with documents previously produced, we understand that your office will treat these documents and the information conveyed in this letter 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. We also understand that your office will not argue from the documents produced or the information conveyed in this letter that the White House has waived any applicable privileges.

Please feel free to call me if you have any questions.

Sincerely,

Miriam R. Nemetz
Associate Counsel to the
President

Enclosures

210-DC-00005911

THE WHITE HOUSE
WASHINGTON

October 13, 1995

BY HAND DELIVERY

John Bates
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Re: [REDACTED]

Dear John:

We have assessed the feasibility of responding to the subpoena to the White House dated [REDACTED], calling for the production of [REDACTED] as narrowed by our discussion on [REDACTED]

[REDACTED]

[REDACTED]

For the reasons discussed in Miriam Nemetz's letter to Mark Tuohey dated August 13, 1995, [REDACTED]

[REDACTED]

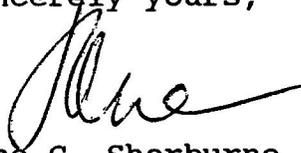
318-DC-0000012

John Bates
Deputy Independent Counsel
October 13, 1995
Page 2

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Please call me to discuss whether you would like us to proceed in this fashion.

Sincerely yours,



Jane C. Sherburne
Special Counsel to the President

Enclosures

318-DC-00000013

THE WHITE HOUSE
WASHINGTON

November 3, 1995

BY HAND DELIVERY

Brett M. Kavanaugh
Associate Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear Brett:

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

As with documents previously produced, we understand that your office will treat these documents and the information

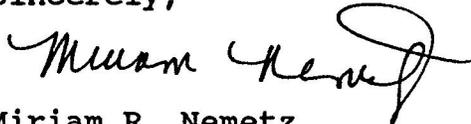
210-DC-00005955

Brett M. Kavanaugh
November 3, 1995
Page 2

conveyed in this letter 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. We also understand that your office will not argue from the documents produced or the information conveyed in this letter that the White House has waived any applicable privileges.

Please feel free to call me if you have any questions.

Sincerely,



Miriam R. Nemetz
Associate Counsel to the
President

Enclosures

210-DC-00005956

THE WHITE HOUSE
WASHINGTON

November 8, 1995

BY HAND DELIVERY

Brett M. Kavanaugh
Associate Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

210-DC-00006120

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Brett:

I am enclosing additional documents responsive to the subpoena to the White House dated [redacted]. You requested copies of these materials following your review of documents at our offices pursuant to the May 23, 1995 letter from Jane Sherburne to Mark Tuohey.

[redacted]

Also enclosed are [redacted] that were contained in the box labeled [redacted]. We have not made or retained copies of these [redacted].

[redacted]

As with documents previously produced, we understand that your office will treat these documents and the information conveyed in this letter 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. We also understand that your office will not argue from the documents produced or the information conveyed in this letter that the White House has waived any applicable privileges.

I believe this completes our production of the material you requested following your review of documents at our offices pursuant to the May 23, 1995 letter from Jane Sherburne to Mark Tuohey. Please feel free to call me if you have any questions.

Brett M. Kavanaugh
November 8, 1995
Page 2

Sincerely,



Miriam R. Nemetz
Associate Counsel to the
President

Enclosures

210-DC-00006121

THE WHITE HOUSE
WASHINGTON

December 1, 1995

BY HAND DELIVERY

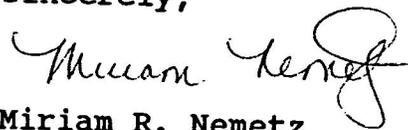
Brett M. Kavanaugh
Associate Independent Counsel
Office of the Independent Counsel
Two Financial Centre, Suite 134
10825 Financial Centre Parkway
Little Rock, AR 72211

Dear Brett:

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Please feel free to call me if you have any questions.

Sincerely,



Miriam R. Nemetz
Associate Counsel to the
President

Enclosures

336-DC-00000001



Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

Jane Sherburne
Special Counsel
The White House
Washington, D.C. 20500

[Redacted]

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Re: [Redacted]

Dear Ms. Sherburne:

[Redacted]

Thank you for your cooperation.

Very truly yours,

John D. Bates
Deputy Independent Counsel

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury



Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

[Redacted]

[Redacted]

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Re:

[Redacted]

Dear

[Redacted]

[Redacted]

Thank you for your cooperation.

Very truly yours,

A handwritten signature in cursive script, appearing to read "John D. Bates".

John D. Bates
Deputy Independent Counsel

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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: _____

TO:

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Company Name:

Fax Number:

Telephone Number: _____

FROM:

Brett Kavanaugh

Number of Pages: 6 (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.

a:\faxform.nmr

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO
CONNECTION TEL
SUBADDRESS
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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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: _____

TO:

Company Name:

Fax Number:

Telephone Number: _____

FROM:

Brett Kavanaugh

Number of Pages:

6

(including this cover sheet)

Message: _____

THE WHITE HOUSE
WASHINGTON

December 12, 1995

BY HAND DELIVERY

Brett M. Kavanaugh
Associate Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear Brett:

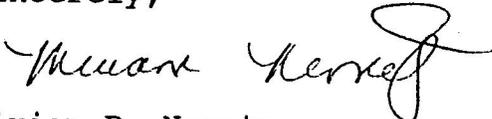
FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

As with documents previously produced, we understand that your office will treat this document and the information conveyed in this letter 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. We also understand that your office will not argue from the documents produced or the information conveyed in this letter that the White House has waived any applicable privileges.

Please feel free to call me if you have any questions.

Sincerely,

336-DC-00000035


Miriam R. Nemetz
Associate Counsel to the President

Enclosure



Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

[Redacted]

Jane Sherburne
Special Counsel
The White House
Washington, D.C. 20500

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Ms. Sherburne:

Attached are [Redacted]

[Redacted]

Our continuing investigation has led us to conclude that these additional individuals should be included.

[Redacted]

[Redacted]

We hope that our latest accommodation will change that situation. We soon will explore options to compel compliance if we do not receive assurances that you are actively pursuing this matter and that responsive material will be produced in a reasonable time.

[Redacted]

[Redacted]

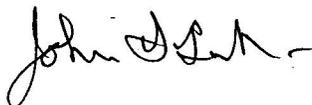
Documents previously produced to this Office or Mr. Fiske's office need not be reproduced.

We also have a number of other requests and issues to raise with you.

[Large Redacted Area]

I understand that you have been and continue to be extraordinarily busy dealing with the various investigations now underway, but I look forward to your prompt response on these many issues.

Sincerely yours,



John D. Bates
Deputy Independent Counsel

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

THE WHITE HOUSE
WASHINGTON

January 4, 1996

BY HAND DELIVERY

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Brett M. Kavanaugh
Associate Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

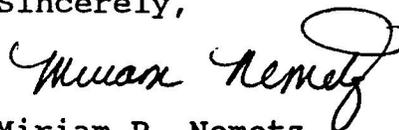
Dear Brett:

I am enclosing a document responsive to the subpoena to the White House dated [REDACTED]

As with documents previously produced, we understand that your office will treat these documents and the information conveyed in this letter 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.

Please feel free to call me if you have any questions.

Sincerely,



Miriam R. Nemetz
Associate Counsel to the
President

Enclosure

442F-DC-0000001



Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

January 4, 1996

The Honorable Jack Quinn
Counsel to the President
The White House
Washington, D.C. 20500

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Mr. Quinn:

We write to express our profound distress over the conduct of the White House with respect to the handling of

[Redacted]

[Redacted]

Sincerely,

Kenneth W. Starr
Independent Counsel

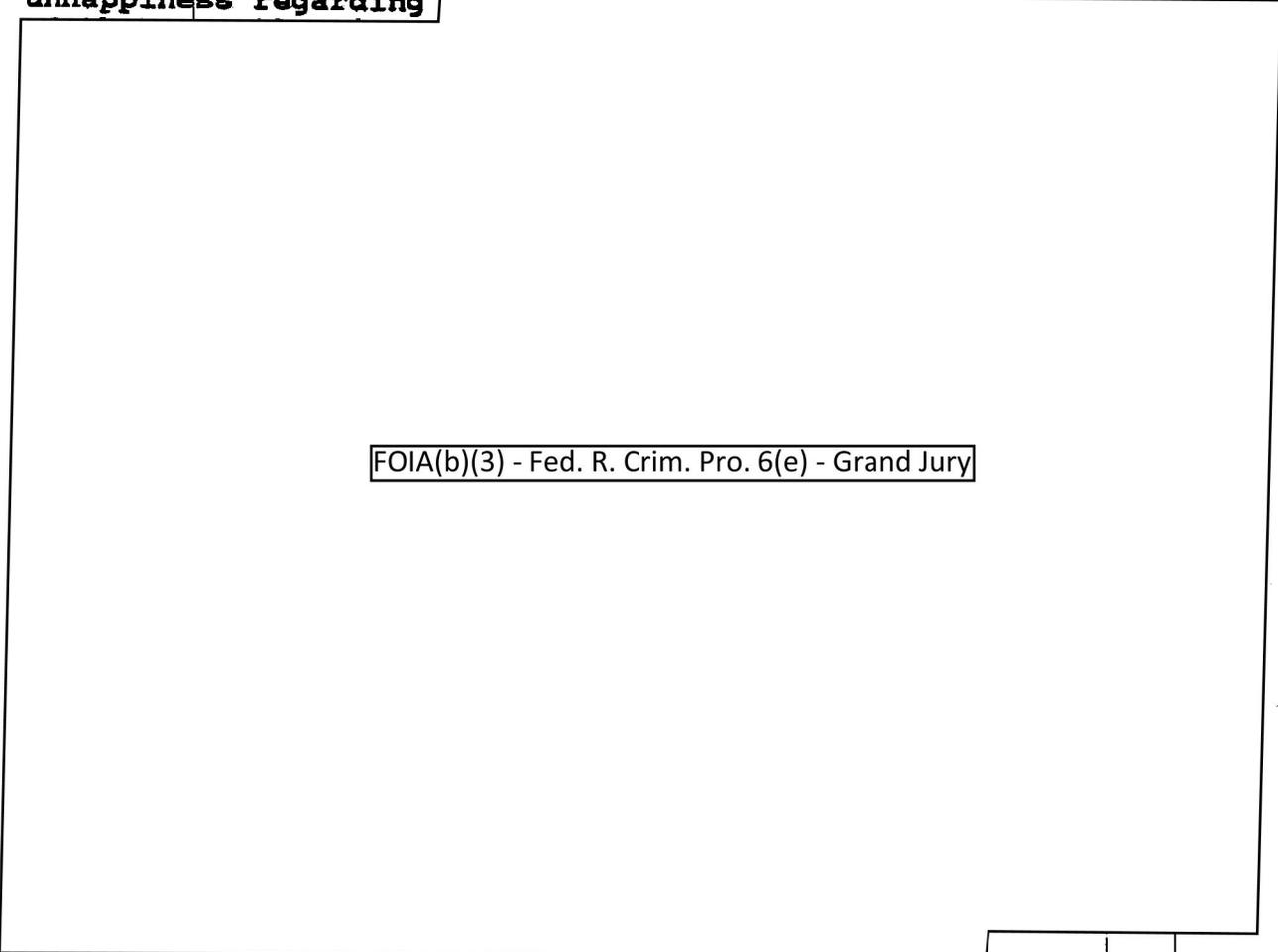
THE WHITE HOUSE
WASHINGTON

January 4, 1995

The Honorable Kenneth W. Starr
Independent Counsel
1001 Pennsylvania Avenue, NW
Suite 490-North
Washington, DC 20004

Dear Judge Starr:

I have your letter dated today expressing your
unhappiness regarding



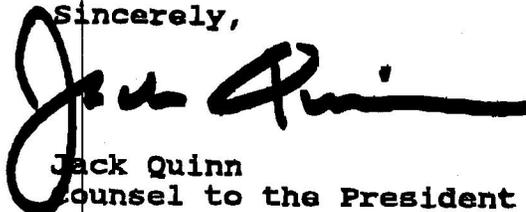
FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

In conclusion, let me assure you that I, and this
entire office, will continue to show proper respect for the
processes of the Grand Jury and for your office. I hope that in
the future you and I will not need to correspond in this

Judge Starr
January 4, 1995
Page Two

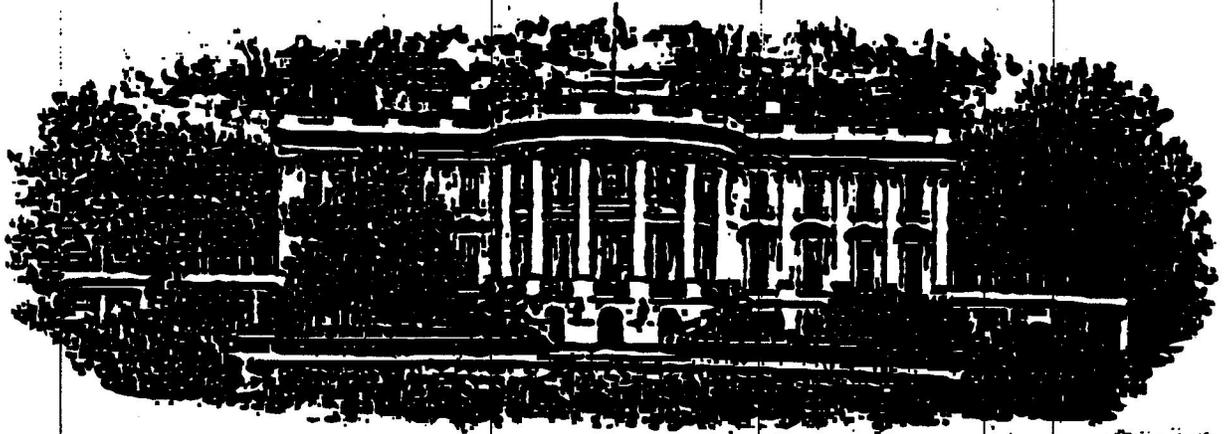
fashion, and I trust that you will not hesitate to call me directly in the event that you are ever again unsatisfied with the responsiveness of this office.

Sincerely,

A handwritten signature in black ink, appearing to read "Jack Quinn". The signature is written in a cursive, somewhat stylized font. The first letter "J" is large and loops around the first part of the name. The last name "Quinn" is written in a similar cursive style.

Jack Quinn
Counsel to the President

The White House



COUNSEL'S OFFICE

FACSIMILE TRANSMISSION COVER SHEET

DATE: January 4

TO: Judge Starr

FACSIMILE NUMBER: 514-8802

TELEPHONE NUMBER: 514-8688

FROM: Jack Quinn

TELEPHONE NUMBER: 456-2632

PAGES (WITH COVER): 3

COMMENTS:

PLEASE DELIVER AS SOON AS POSSIBLE

The document(s) accompanying this facsimile transmittal sheet is intended only for the use of the individual or entity to whom it is addressed. This message contains information which may be privileged, confidential or exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any disclosure, dissemination, copying or distribution, or the taking of any action in reliance on the contents of this communication is strictly prohibited. If you have received this information in error, please immediately notify the sender at their telephone number stated above.

THE WHITE HOUSE
WASHINGTON

January 10, 1996

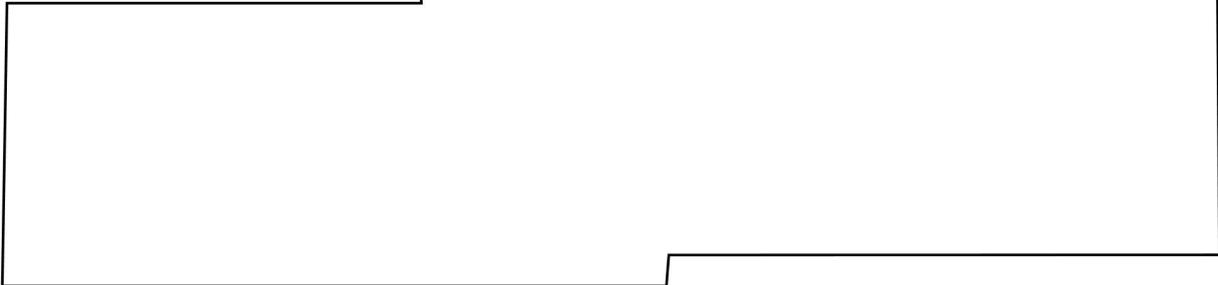
BY HAND DELIVERY

Brett M. Kavanaugh
Associate Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear Brett:

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

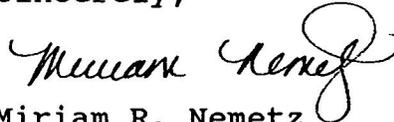
I am enclosing documents responsive to the subpoena to
the White House dated



As with documents previously produced, we understand
that your office will treat these documents and the information
conveyed in this letter 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.

Please feel free to call me if you have any questions.

Sincerely,



Miriam R. Nemetz
Associate Counsel to the
President

Enclosures

442F-DC-0000028

THE WHITE HOUSE
WASHINGTON

January 10, 1996

BY HAND DELIVERY

Brett M. Kavanaugh
Associate Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

442F-DC-0000011

Dear Brett:

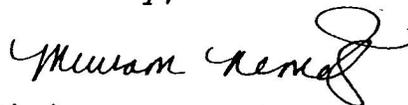
FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Brett M. Kavanaugh
January 10, 1996
Page 2

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Please feel free to call me if you need further information regarding any of these records.

Sincerely,



Miriam R. Nemetz
Associate Counsel to the
President

Enclosures

442F-DC-00000012

THE WHITE HOUSE
WASHINGTON

January 23, 1996

BY HAND DELIVERY

Brett M. Kavanaugh
Associate Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

442F-DC-00000073

Dear Brett:

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

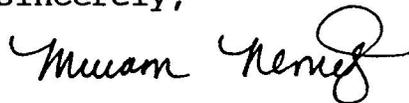
As with documents previously produced, we understand that your office will treat these documents and the information conveyed in this letter as confidential and entitled to all protection accorded by law, including Federal Rule of Criminal

Brett M. Kavanaugh
January 23, 1996
Page 2

Procedure 6(e), to documents subpoenaed by a federal grand jury.

Please feel free to call me if you have any questions.

Sincerely,



Miriam R. Nemetz
Associate Counsel to the
President

Enclosures

442F-DC-00000074

THE WHITE HOUSE
WASHINGTON

January 23, 1996

BY HAND DELIVERY

John D. Bates
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490 North
Washington, D.C. 20004

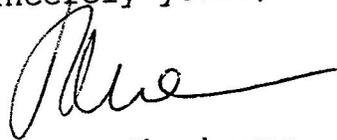
Dear John:

I am enclosing copies of additional White House records responsive to [redacted] FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury [redacted]

As with documents previously produced, we understand that your office will treat these documents and the information conveyed in this letter 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.

Please feel free to call me if you have any questions.

Sincerely yours,



Jane C. Sherburne
Special Counsel to the President

Enclosures

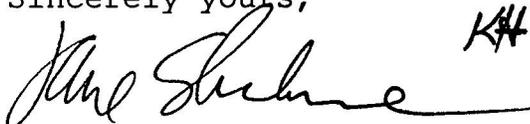
456-DC-00000173

John D. Bates, Deputy Independent Counsel
January 23, 1996
Page 2

In light of the extremely short response time called for by the subpoena, not all White House employees have been able to complete their searches, and it is likely that we will receive additional responsive material. We will, of course, provide any additional material to you promptly.

Please feel free to call me if you have any questions.

Sincerely yours,



Jane C. Sherburne
Special Counsel to the President

Enclosures

456-DC-00000002

THE WHITE HOUSE
WASHINGTON

January 23, 1996

BY HAND DELIVERY

John D. Bates
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490 North
Washington, D.C. 20004

456-DC-00000001

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear John:

I am enclosing copies of White House records responsive to the subpoena to the White House dated [redacted] I am also enclosing copies of [redacted]

[redacted]

[redacted]

I understand that David Fein informed Brett Kavanaugh of an additional document that [redacted]

[redacted] and that Brett asked that we provide a description of the document in this letter. [redacted]

[redacted] Based on Mr. Kavanaugh's statement that your office will not argue that the White House has waived any applicable privileges, David Fein informed him that the document is based on [redacted]

As with documents previously produced, we understand that your office will treat these documents and the information conveyed in this letter 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.

THE WHITE HOUSE
WASHINGTON

January 24, 1996

BY HAND DELIVERY

John D. Bates
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490 North
Washington, D.C. 20004

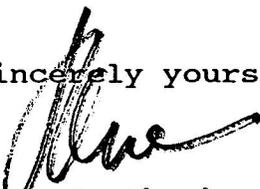
Dear John:

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

As with documents previously produced, we understand that your office will treat these documents 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.

Please call me if you have any questions.

Sincerely yours,


Jane C. Sherburne
Special Counsel to the President

Enclosures

456-DC-00000239

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

02/09 14:01	85013769442		0781	TRANSMIT	ECM	2	OK	00'42
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THE WHITE HOUSE
WASHINGTON

February 2, 1996

BY HAND DELIVERY

Brett M. Kavanaugh
Associate Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

442F-DC-00000618

Dear Brett:

I am enclosing documents responsive to the subpoena to
the White House dated [REDACTED] The enclosed documents
are:

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

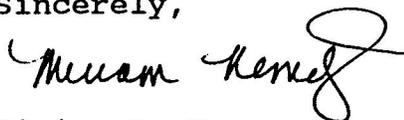


Brett M. Kavanaugh
February 2, 1996
Page 2

As with documents previously produced, we understand that your office will treat these documents and the information conveyed in this letter 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.

Please feel free to call me if you have any questions.

Sincerely,



Miriam R. Nemetz
Associate Counsel to the
President

Enclosures

442F-DC-00000619

THE WHITE HOUSE
WASHINGTON

February 2, 1996

BY HAND DELIVERY

Brett M. Kavanaugh
Associate Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear Brett:

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

You asked us to provide

[Redacted]

[Redacted]

442F-DC-00000968

Brett M. Kavanaugh
February 2, 1996
Page 2

[Redacted]

[Redacted]

[Redacted]

[Redacted]

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

442F-DC-00000969

THE WHITE HOUSE
WASHINGTON

February 5, 1996

BY HAND DELIVERY

John D. Bates
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490 North
Washington, D.C. 20004

Dear John:

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

I am enclosing copies of additional White House records responsive to the subpoena to the White House dated [REDACTED]

As with documents previously produced, we understand that your office will treat these documents and the information conveyed in this letter 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.

Please feel free to call me if you have any questions.

Sincerely yours,



Jane C. Sherburne
Special Counsel to the President

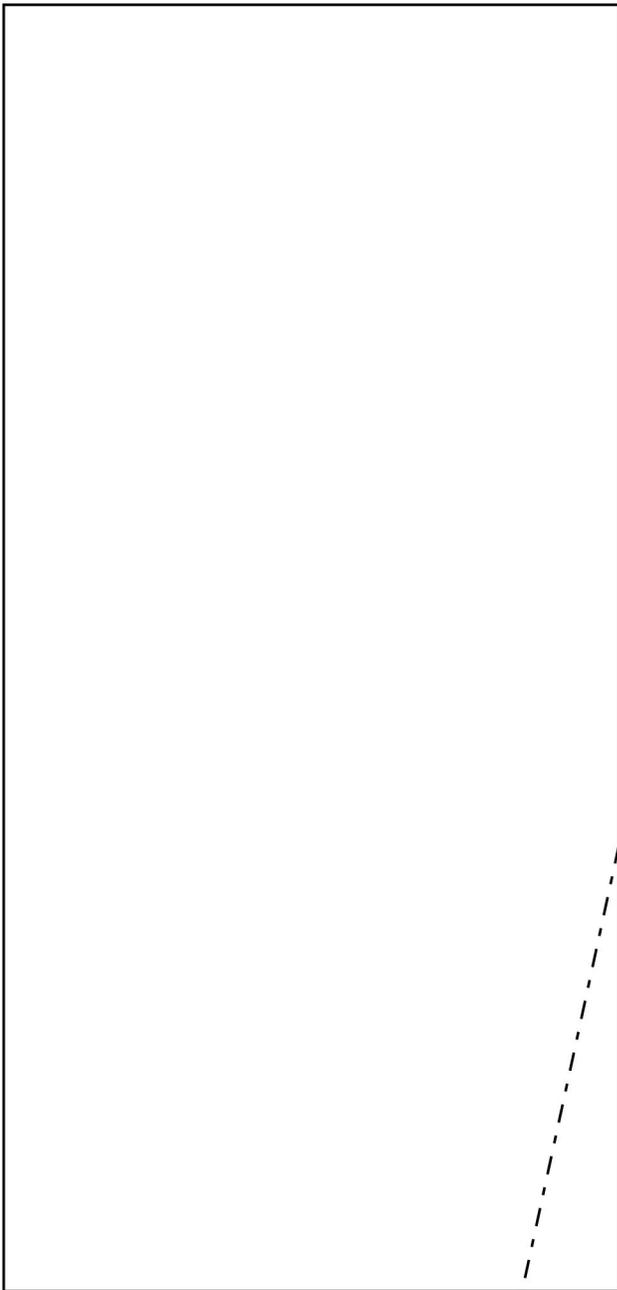
Enclosures

456-DC-00000681

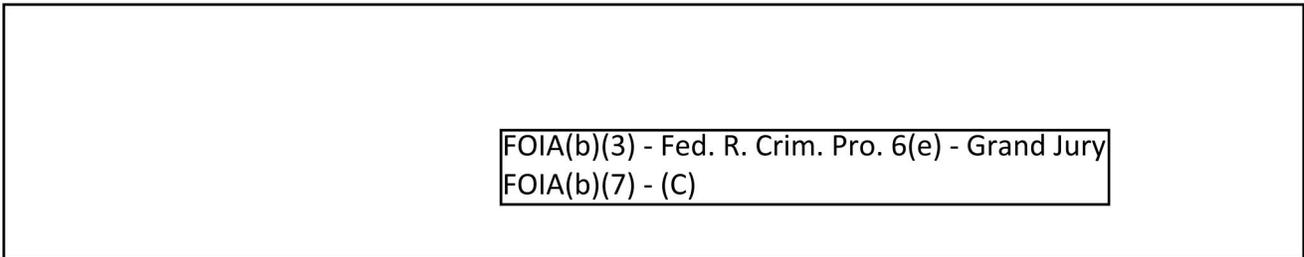
FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury



FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury



FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury
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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury



Office of the Independent Counsel

Two Financial Centre
10825 Financial Centre Parkway, Suite 134
Little Rock, Arkansas 72211
(501) 221-8700
Fax (501) 221-8707

[Redacted]

VIA FACSIMILE

Jane Sherburne, Esq.
Special Counsel to the President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Re: [Redacted]

Dear Ms. Sherburne:

Pursuant to your telephone conversation today with
Deputy Independent Counsel John Bates, enclosed please find

[Redacted]

If you have any questions regarding this matter, please
feel free to contact me or John Bates.

Sincerely,

Robert J. Bittman
Associate Independent Counsel

Enclosure

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

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Date:

TO:

Jane Sherburne, Esq.

Company Name:

White House Counsel

Fax Number:

456-1213

Telephone Number:

FROM:

Bob Bittman

Number of Pages:

10

~~9~~

(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.

a:\faxform.nmr

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO 0816
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PGS. 10
RESULT OK

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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:

TO:

Jane Sherburne, Esq.

Company Name:

White House Counsel

Fax Number:

456-1213

Telephone Number:

FROM:

Bob Bittman

Number of Pages:

10

(including this cover sheet)

Message:

THE WHITE HOUSE
WASHINGTON

February 13, 1996

BY TELECOPY

John D. Bates
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490 North
Washington, D.C. 20004

Dear John:

On Friday, February 9, 1996, you informed me that your Office intends to "loan" to the Senate Committee copies of

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

When I raised with you the rule of grand jury secrecy as set forth in Federal Rule of Criminal Procedure 6(e), you stated that your Office does not read Rule 6(e) to cover pre-existing documents that were subpoenaed and presented to the Grand Jury.

In light of (1) understandings reached between your Office and the White House, (2) controlling case law in this Circuit, and (3) the practice of Special Counsel Robert Fiske, I urge your Office to reconsider its decision. One, your Office and the White House reached an understanding months ago that documents provided by the White House to your Office in response to subpoenas were covered by Rule 6(e). Accordingly, our transmittal letters routinely state that "your office will treat these documents and the information conveyed in this letter 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." Providing the Senate with material that the White House provided to your Office pursuant to a grand jury subpoena defies this understanding. No

Two, your Office's view of Rule 6(e) appears to be in conflict with case law from this Circuit. In In re Sealed Case, 801 F.2d 1379 (D.C. Cir. 1986), then-Judge Scalia wrote for the Court: No

Some portions of the District Court's memorandum appear to rest on the proposition that disclosure of documents independently generated and merely subpoenaed by the grand jury do not reveal the proceedings of the grand jury and thus do not come within Rule 6(e)(2)'s

carefully worded

John D. Bates
Deputy Independent Counsel
Page 2

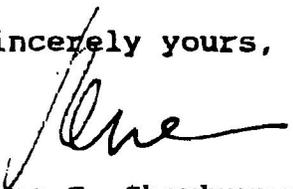
prohibition against disclosure. To the extent the decision rests upon that ground, which is supported by decisions of the Seventh Circuit, it is contrary to the law of this circuit. Disclosure of which documents the grand jury considered reveals, at the very least, the direction of the grand jury's investigation and the names of the persons involved, and thus falls within Rule 6(e)(2). Undoubtedly the degree of exposure of the grand jury process inherent in the revelation of subpoenaed documents is lesser than the degree of disclosure attributable to publication of witness transcripts. That is to be taken account of, however, in the balancing process that the 'particularized need' standard envisions, rather than by a blanket rule that all subpoenaed documents, no matter how little needed, can be disclosed.

801 F.2d 1379, 1381-82 (emphasis added) (citations omitted). Of course, a decision that Rule 6(e) did apply would make disclosure unlikely since the Senate Whitewater Committee could surely obtain documents FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury from sources other than the Independent Counsel -- among them, the White House.

Finally, we note that Special Counsel Robert Fiske read Rule 6(e) consistent with the D.C. Circuit decision quoted above and contrary to your Office's view. In his June 30, 1994 Report entitled "In Re: Vincent W. Foster, Jr.", Special Counsel Fiske refused to disclose the contents of documents obtained by grand jury subpoena, let alone provide copies of such documents to a Congressional committee. He stated: "We have reviewed all of the Whitewater-related documents from Mr. Foster's files that were delivered to the Clinton's personal attorney after his death. However, Rule 6(e) of the Federal Rules of Criminal Procedure precludes us from disclosing the content of these documents since they were obtained by grand jury subpoena." NO

In conclusion, we ask that your Office reconsider its decision to provide copies of documents obtained by grand jury subpoena while the investigation is ongoing to a Congressional committee outside the restrictions set forth in Rule 6(e).

Sincerely yours,


Jane C. Sherburne
Special Counsel to the President



Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

February 16, 1996

Jane Sherburne
Special Counsel
The White House
Washington, D.C. 20500

Dear Ms. Sherburne:

We write in response to your letter of February 13, 1996, regarding the Senate Whitewater Committee's informal request to this Office for FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

The question raised by your letter is whether Rule 6(e) precludes this Office from complying with a Senate request for particular, identified documents in our possession that happen to have been obtained pursuant to grand jury subpoena. On that question, we believe the D.C. Circuit law is clear that Rule 6(e) does not bar production of such documents. See, e.g., Washington Post Co. v. Department of Justice, 863 F.2d 96, 100 (D.C. Cir. 1988) ("This court has consistently held that Rule 6(e) does not draw a veil of secrecy over all documents about activity investigated by the grand jury or even all documents revealed to the grand jury"); Senate of Puerto Rico v. Department of Justice, 823 F.2d 574, 582 (D.C. Cir. 1987) (quotation and citation omitted) ("Rule 6(e)'s purpose is not to foreclose from all future revelation to proper authorities the same information or documents which were presented to the grand jury"); In re Grand Jury, 510 F. Supp. 112, 115 (D.D.C. 1981) ("documents sought for their own sake are not protected by Rule 6(e) merely because they were subpoenaed or shown to the grand jury"); see generally Andrea M. Nervi, FRCRP 6(E) and Disclosure of Documents Reviewed by a Grand Jury, 57 U. Chi. L. Rev. 221 (1990). We have previously informed the Senate Whitewater Committee of our views on this issue and attach two letters to the Committee to that effect.

You suggest, however, that the White House and this Office "reached an understanding" that documents provided by the White House were covered by Rule 6(e). We reached no such understanding. Indeed, the language in your cover letters was carefully drafted after various discussions between Brett Kavanaugh and Miriam Nemetz. In a letter of May 18, 1995, responding to a letter of May 15, 1995, Mr. Kavanaugh made specific changes to language proposed by Ms. Nemetz so that it would be clear we had agreed only that we would abide by the law, including Rule 6(e) (whatever its precise contours) -- not that we had agreed that documents subpoenaed by a grand jury were necessarily covered by Rule 6(e). The agreement between you and Mark Tuohey of May 23, 1995, incorporates the substance of Mr. Kavanaugh's

change. We had changed the language because we did not believe that applicable law in the D.C. Circuit could support the broad language proposed by Ms. Nemetz, and we did not want to mislead you into thinking that documents in our possession were necessarily covered by Rule 6(e).¹

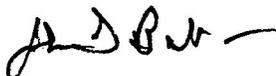
As a policy matter, however, we do find it preferable in the ordinary course for Congress to obtain documents from the original owner or possessor of such documents. We have so informed the Congress, as the attached letters make clear. To be sure, exceptions can occur either when that party no longer possesses such documents or when an original document or physical evidence in our possession is needed by Congress for demonstrative purposes or for expert or forensic analysis. Thus, [REDACTED]

[REDACTED] FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

After considering the issue further, we conclude that this matter, unlike [REDACTED] does not fall within that limited exception because Congress could obtain original [REDACTED] from the White House, James Hamilton, or Lisa Foster, among others. Therefore, consistent with our ordinary practice, we will inform the Senate Committee that it should attempt to obtain such documents from other sources who might possess original [REDACTED]. We assume, based on your letter, that you will cooperate with the Senate Committee; if the Senate Committee is unable to obtain adequate [REDACTED] from you or other sources, we will again consider its request to us.

Thank you for your letter, and please do not hesitate to contact me with any questions.

Sincerely yours,



John D. Bates
Deputy Independent Counsel

Attachments

¹ As to our disposition of such documents at the conclusion of the investigation, we note that it is Justice Department "policy to return or destroy subpoenaed documents when they are no longer of use to the Department." U.S. Department of Justice, Federal Grand Jury Practice 130 (January 1993).



Office of the Independent Counsel

*1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802*

February 8, 1996

The Honorable Alfonse M. D'Amato, Chairman
The Honorable Paul S. Sarbanes, Ranking Member
United States Senate
Special Committee on Whitewater and Related Matters
Washington, DC 20510

Dear Chairman D'Amato and Senator Sarbanes:

We write to respond to questions raised at this morning's hearing during discussion of the handling of FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury before production of those records. That discussion raised questions about the policy of this Office with respect to documents that have been produced to this Office or the grand jury.

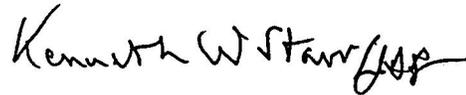
As we stated in our letter to you of July 19, 1995, there is a considerable difference between (a) investigative work product of this Office (for example, notes of attorneys of this Office, interview reports prepared by investigators assigned to this Office, or forensic reports prepared by persons retained by this Office) and (b) documents produced to this Office or the grand jury voluntarily or pursuant to grand jury subpoena by an outside individual or entity. As you know, consistent with long-standing history and tradition, we have declined to disclose to the Committee investigative work product of this Office related to an ongoing investigation.

As explained in our July 19 letter, however, the issue is quite different with respect to documents produced to this Office or the grand jury by an outside individual or entity. Consistent with Justice Department practice, this Office allows an individual or entity to obtain copies of any documents they have produced to this Office or the grand jury. See, e.g., U.S. Department of Justice, Federal Grand Jury Practice 124 (January 1993). (In cases of voluminous documents, there of course may be issues of cost and burden associated with the actual copying.) The individual or entity is then free to use the copies of the documents for any purpose, including production to the Congress or to other investigative bodies. Disclosure of copies of such documents by the individual or entity is not prohibited either by policy of this Office or by Rule 6(e) of the Federal Rules of Criminal Procedure. See Senate of Puerto Rico v. U.S. Department of Justice, 823 F.2d 574, 582 (D.C. Cir. 1987) (internal quotation and citation omitted) ("Rule 6(e)'s purpose is not to foreclose from all future revelation to proper authorities the same

information or documents which were presented to the grand jury"); S.E.C. v. Dresser Industries, Inc., 628 F.2d 1368, 1383 (D.C. Cir. 1981) ("The fact that a grand jury has subpoenaed documents concerning a particular matter does not insulate that matter from investigation in another forum.").

Please do not hesitate to contact us if you have any questions.

Respectfully yours,



Kenneth W. Starr : :
Independent Counsel



Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

July 19, 1995

The Honorable Alfonse M. D'Amato
The Honorable Paul S. Sarbanes
United States Senate
Committee on Banking, Housing and Urban Affairs
Washington, DC 20510

Dear Chairman D'Amato and Senator Sarbanes:

We have received your letter of July 18, which incorporates by reference the letter of July 11 sent to this Office by Mr. Chertoff and Mr. Ben-Veniste on behalf of the Committee. We have given your request considerable thought in view of the importance of our respective obligations.

In connection with the Committee's investigation into the handling of documents of former Deputy Counsel to the President Vincent W. Foster, Jr., the Committee has requested that this Office provide the Committee with

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

We respectfully decline these requests. As we have informed the Committee on this and previous occasions, we will not disclose to the Congress any investigative work product from this active and ongoing investigation. As you know, we must abide by the strictures of grand jury secrecy contained in Federal Rule of Criminal Procedure 6(e). In addition, our position that we will not disclose to the Congress any investigative work product from an open investigation represents sound policy that is deeply rooted in the history and tradition of this Nation. See generally Memorandum for Oliver B. Revell Re: Congressional Requests for Information from Inspectors General Concerning Open Criminal Investigations, Op. Off. Legal Counsel, at 5 (March 24, 1989) ("the policy and practice of the executive branch throughout our Nation's history has been to decline, except in extraordinary circumstances, to provide committees of Congress with access to, or copies of, open law enforcement files. No President, to our knowledge, has departed from this position affirming the confidentiality and privileged nature of open law enforcement files"). We will adhere to this deeply rooted tradition, and therefore we are constrained, with respect, to decline each of the above requests.

We note, moreover, that our policy on these issues is not based on whether the requested information is exculpatory or incriminating, but rather is made in accordance with long-standing Department of Justice policy to protect the internal work of this Office with respect to an active and ongoing investigation and to protect the privacy of individuals.

Separately, through Mr. Chertoff and Mr. Ben-Veniste, the Committee had also requested the use of [redacted]. As an accommodation to the Committee's investigative needs, we provided [redacted] to the Committee. Such pre-existing material, which was neither created nor modified by this Office or Mr. Fiske's office, is in our view readily distinguished from investigative work product. Moreover, in circumstances where such material cannot be obtained from any other source and where disclosure of it would not hinder or impede our ongoing investigation, we believe it appropriate to disclose such material to the Committee upon its joint request.

In sum, the question whether and under what conditions a law enforcement agency such as this Office can and should provide information to Congress relating to an open criminal investigation entails a delicate balancing of numerous competing concerns. With respect to the Foster documents investigation, we have balanced the competing concerns and formulated the above policy. In so doing, we have been advised by Ethics Counsel Samuel Dash. We have adhered to this policy thus far, and we intend to continue to do so. We do not believe, moreover, that there has been any inconsistency in our responses to the Committee's joint requests.

Thank you for your cooperation. Please do not hesitate to contact me if you have any questions.

Respectfully yours,

Kenneth W. Starr

Kenneth W. Starr
Independent Counsel

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO	0852	
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SUBADDRESS		
CONNECTION ID		
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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: February 16, 1996

TO: Jane Sherburne, Special Counsel

Company Name: The White House

Fax Number: 202-456-1213 Telephone Number: 202-456-5116

FROM: John D. Bates, Deputy Independent Counsel

Number of Pages: 7 (including this cover sheet)

Message: _____

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: February 16, 1996

TO: Jane Sherburne, Special Counsel

Company Name: The White House

Fax Number: 202-456-1213 Telephone Number: 202-456-5116

FROM: John D. Bates, Deputy Independent Counsel

Number of Pages: 7 (including this cover sheet)

Message: _____

CONFIDENTIALITY NOTE

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a:\faxform.nmr

THE WHITE HOUSE
WASHINGTON

February 16, 1996

BY HAND DELIVERY

Brett M. Kavanaugh
Associate Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

442F-DC-00000971

Dear Brett:

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

I am enclosing documents responsive to the subpoena to
the White House dated [redacted] The enclosed documents
are:

[redacted]

[redacted]

Non-responsive information has been redacted from
several of the enclosed documents. I would be happy to discuss
the redactions with you or permit your review of any of the
redacted documents in their entirety. The substance of [redacted]
[redacted] has also been
redacted [redacted]

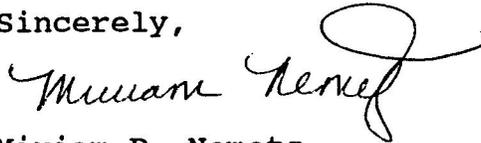
[redacted]

Brett M. Kavanaugh
February 16, 1996
Page 2

As with documents previously produced, we understand that your office will treat these documents and the information conveyed in this letter 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.

Please feel free to call me if you have any questions.

Sincerely,



Miriam R. Nemetz
Associate Counsel to the President

Enclosures

442F-DC-00000972

THE WHITE HOUSE
WASHINGTON

February 22, 1996

BY HAND DELIVERY

Brett M. Kavanaugh
Associate Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

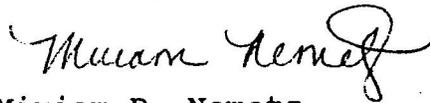
Dear Brett:

I am enclosing documents responsive to the subpoena to the White House dated [redacted]. The enclosed documents [redacted] are from [redacted]. As I am sure you will recognize, several of the enclosed documents have been produced previously.

As with documents previously produced, we understand that your office will treat these documents and the information conveyed in this letter 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.

Please feel free to call me if you have any questions.

Sincerely,



Miriam R. Nemetz
Associate Counsel to the President

Enclosures

442F-DC-00001354



Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

[Redacted]

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Jane Sherburne, Esq.
Special Counsel to the President
The White House
Washington, D.C. 20500

Dear Ms. Sherburne:

As I discussed this morning with Miriam Nemetz, I have attached a grand jury subpoena for [Redacted] An identical subpoena was sent to [Redacted] [Redacted] who has indicated to this Office that he is aware of such records.

Please advise me if you will not accept service of the subpoena by facsimile, and do not hesitate to call me if you have any questions. Thank you for your cooperation.

Sincerely,

Brett M. Kavanaugh

Brett M. Kavanaugh
Associate Independent Counsel

Attachment

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Date:

[Empty box for date]

TO: Jane Sherburne, Special Counsel to the President

Company Name: The White House

Fax Number: 202-456-1213

Telephone Number: 202-456-5116

FROM: Brett M. Kavanaugh, Associate Independent Counsel

Number of Pages: 4 (including this cover sheet)

Message: As discussed with Miriam Nemetz.

[Multiple empty horizontal lines for additional message content]

CONFIDENTIALITY NOTE

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*** TX REPORT ***

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USAGE T 01'52'
PGS. 4
RESULT OK

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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:

TO: Jane Sherburne, Special Counsel to the President

Company Name: The White House

Fax Number: 202-456-1213 Telephone Number: 202-456-5116

FROM: Brett M. Kavanaugh, Associate Independent Counsel

Number of Pages: 4 (including this cover sheet)

Message: As discussed with Miriam Nemetz.



Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

[Redacted]

Miriam Nemetz, Esq.
Associate Counsel to the President
The White House
Washington, D.C. 20500

[Redacted] FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury [Redacted]

Dear Ms. Nemetz:

As discussed with your office, attached is a grand jury subpoena [Redacted]

I understand that you will accept service of the subpoena [Redacted] by facsimile. Please do not hesitate to call me if you have any questions. Thank you for your cooperation.

Sincerely,

Brett M. Kavanaugh
Associate Independent Counsel

Attachment

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Date:

[Empty box for date]

TO: Miriam Nemetz, Esq., Associate Counsel to the President

Company Name: The White House

Fax Number: 202-456-5055

Telephone Number: 202-456-5092

FROM: Brett M. Kavanaugh, Associate Independent Counsel

Number of Pages: 4 (including this cover sheet)

Message:

[Multiple horizontal lines for message content]

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*** TX REPORT ***

TRANSMISSION OK

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CONNECTION ID
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RESULT OK

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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:

TO: Miriam Nemetz, Esq., Associate Counsel to the President

Company Name: The White House

Fax Number: 202-456-5055 Telephone Number: 202-456-5092

FROM: Brett M. Kavanaugh, Associate Independent Counsel

Number of Pages: 4 (including this cover sheet)

Message: _____

THE WHITE HOUSE
WASHINGTON

February 27, 1996

BY HAND DELIVERY

Brett M. Kavanaugh
Associate Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear Brett:

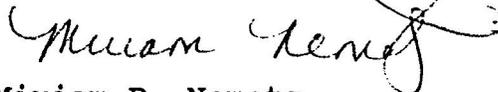
In response to the subpoena to the White House dated
I am enclosing copies of

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

As with documents previously produced, we understand that your office will treat these documents and the information conveyed in this letter 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.

Please feel free to call me if you have any questions.

Sincerely,



Miriam R. Nemetz
Associate Counsel to the
President

Enclosures

336-DC-00000845

THE WHITE HOUSE
WASHINGTON

February 29, 1996

BY HAND DELIVERY

Brett M. Kavanaugh
Associate Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

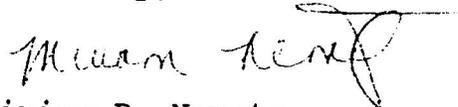
Dear Brett:

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

As with documents previously produced, we understand that your office will treat these documents and the information conveyed in this letter 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.

Please feel free to call me if you have any questions.

Sincerely,



Miriam R. Nemetz
Associate Counsel to the
President

Enclosures

470-DC-00000001

THE WHITE HOUSE
WASHINGTON

March 1, 1996

BY HAND DELIVERY

Brett M. Kavanaugh
Associate Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Brett:

Pursuant to your request, I am enclosing a copy of the

[Redacted]

I am also enclosing additional documents responsive to the subpoena to the White House dated [Redacted]. The enclosed documents are:

[Redacted]

[Redacted]

[Redacted]

As with documents previously produced, we understand that your office will treat these documents and the information

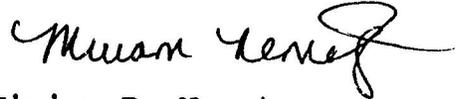
442F-DC-00001409

Brett M. Kavanaugh
March 1, 1996
Page 2

conveyed in this letter 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.

Please feel free to call me if you have any questions.

Sincerely,



Miriam R. Nemetz
Associate Counsel to the President

Enclosures

442F-DC-00001410



Office of the Independent Counsel

*1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802*

March 3, 1996

BY FACSIMILE

Miriam Nemetz
Associate Counsel to the President
The White House
Washington, D.C. 20500

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Miriam:

I write to address two issues that we have recently discussed.

1. We had agreed that I would summarize my understanding of our outstanding [redacted] [redacted] so that we are each operating with the same understanding.

Please do not hesitate to contact me if you have any questions.

Sincerely yours,

A handwritten signature in black ink that reads "Brett M. Kavanaugh". The signature is written in a cursive style with a large, prominent "B" and "K".

Brett M. Kavanaugh
Associate Counsel

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: 3-3-96

TO: Miriam Nemetz

Company Name: _____

Fax Number: 456-5055 Telephone Number: _____

FROM: Brett Kavanaugh

Number of Pages: 3 (including this cover sheet)

Message: _____

CONFIDENTIALITY NOTE

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*** TX REPORT ***

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CONNECTION TEL 94565055
SUBADDRESS
CONNECTION ID
ST. TIME 03/03 16:57
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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: 3-3-96

TO: Miriam Nemetz

Company Name: _____

Fax Number: 456-5055 Telephone Number: _____

FROM: Brett Kavanaugh

Number of Pages: 3 (including this cover sheet)

Message: _____

THE WHITE HOUSE
WASHINGTON

March 6, 1996

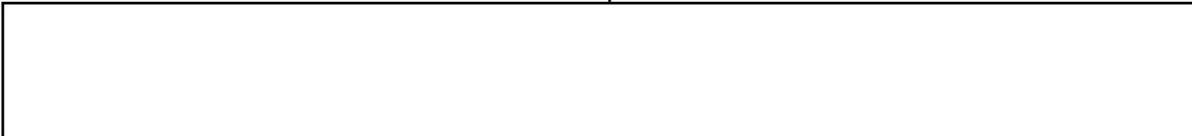
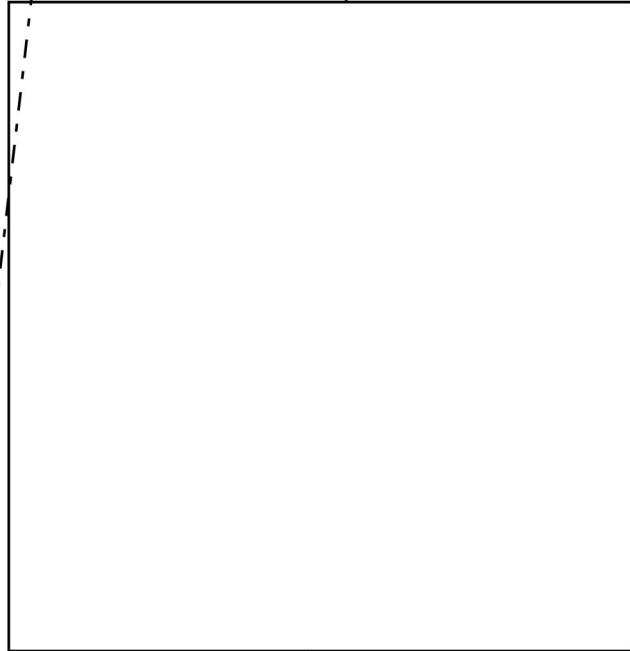
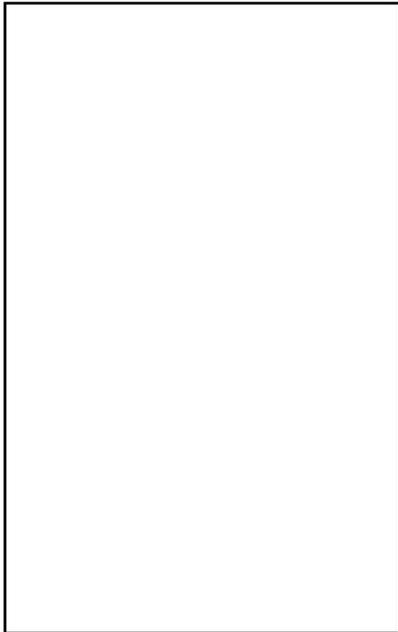
BY HAND DELIVERY

Brett M. Kavanaugh
Associate Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Brett:

I am enclosing additional documents responsive to the
subpoena to the White House dated [redacted] The
enclosed documents are:



As with documents previously produced, we understand that your office will treat these documents and the information conveyed in this letter as confidential and entitled to all

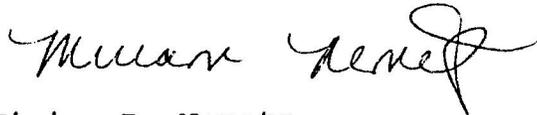
442F-DC-00002399

Brett M. Kavanaugh
March 6, 1996
Page 2

protection accorded by law, including Federal Rule of Criminal Procedure 6(e), to documents subpoenaed by a federal grand jury.

Please feel free to call me if you have any questions.

Sincerely,



Miriam R. Nemetz
Associate Counsel to the President

Enclosures

442F-DC-00002400

File-WH
letter sent 3/11/96

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

March 11, 1996

Jane Sherburne
Special Counsel to the President
The White House
Washington, D.C. 20500

Dear Ms. Sherburne:

Our discussions regarding the newest grand jury subpoenas have covered a great deal of ground, and we thought it would be useful at this point to summarize our thinking.

We start from the general principle that this Office and the grand jury should seek all non-privileged information that has potential relevance to the investigation. The function of a grand jury, after all, is not only to indict the guilty, but also to shield innocent persons from unwarranted prosecution. See generally Branzburg v. Hayes, 408 U.S. 665, 686-87 (1972).

We recognize, of course, that virtually any grand jury subpoena to the White House raises questions of privilege. The scant case law on the subject does not provide a crystal-clear line, however, dividing what the White House must produce to a grand jury from what the White House need not produce. The Supreme Court decision in United States v. Nixon, 418 U.S. 683 (1974), is the leading case; our disagreement with you seems to stem almost entirely from the fact that the White House and this Office read Nixon differently.

We thus far have assumed arguendo (although this point is not absolutely clear) that certain internal executive branch documents and communications that do not involve the President may nonetheless be "presumptively privileged." Cf. Nixon, 418 U.S. at 708.¹ But the privilege is not absolute; rather, a balancing test applies to determine whether the requesting party is entitled to the documents. That balancing test, as we read Nixon, depends first on the kind of documents at issue and second on the nature of the proceeding for which the documents are

¹ Nixon concerned presidential communications, and the privilege that attaches to presidential communications may not apply full-force to non-presidential executive communications. See Nixon v. Sirica, 487 F.2d 700, 743-46 (D.C. Cir. 1973) (MacKinnon, J., concurring in part and dissenting in part). That issue was not joined in the Watergate cases because President Nixon apparently did not resist disclosure of non-presidential executive communications. See id. at 705 n. 5.

sought. For documents reflecting national security, military, or diplomatic information (i.e., state secret information), the privilege is virtually absolute; for non-state-secret documents, the result turns on the kind of proceeding at issue.

We read Nixon to hold that such non-state-secret documents must be produced in federal criminal proceedings if the usual Rule 17 standard is met. In the criminal context, then, Nixon does not require some undefined special showing of need, distinct from the usual Rule 17 standard, for non-state-secret materials. The Court did not accept President Nixon's argument that "even if an evidentiary showing as required by Rule 17(c) had been made as to each of the requested items, the Special Prosecutor must demonstrate a unique and compelling need to overcome the privileged nature of the materials." Brief for the Respondent 86-87. Thus, the Court did not have to, and did not, address President Nixon's distinct factual argument that "[t]here has been no allegation that the requested materials are essential or even necessary to the trial," Brief for the Respondent 92-93, an argument President Nixon made separately from his argument that Rule 17 itself had not been satisfied, Brief for the Respondent 122-31. Instead, the Nixon Court found that Rule 17 had been satisfied and then "conclude[d] that when the ground for asserting privilege as to subpoenaed materials sought for use in a criminal trial is based only on the generalized interest in confidentiality, it cannot prevail over the fundamental demands of due process of law in the fair administration of criminal justice." 418 U.S. at 713.² Nixon did require that judicial review in such cases be "particularly meticulous," 418 U.S. at 702, to ensure that the requirements of Rule 17 for trial subpoenas were correctly applied, but that of course is different from requiring a special showing of need.

To be sure, some confusion arises because isolated sentences in Nixon (one in particular at the end of Section (IV)(C) on page 713) could be interpreted out of context to suggest that there may be some extra requirement of need beyond that required by Rule 17. As Judge Silberman suggested without deciding in United States v. North, however, the best interpretation of Nixon is that a party who has satisfied Rule 17's requirements has by definition shown its need for the information and that Rule 17 therefore provides the only standard that must be met to obtain non-state-secret White House communications. See 910 F.2d at 952 (dissent in part) ("it is not apparent that Nixon requires any special showing even after executive privilege has been claimed").³ Moreover, even if Nixon were interpreted to require some special showing of need

² We note as an historical aside that Justice White, arguing against a special requirement of need in a letter to the Chief Justice and copied to the Conference on July 18, 1974, specifically stated, "I would also doubt that the Prosecutor has made any showing of necessity beyond that of relevance and admissibility."

³ See also Nixon, 418 U.S. at 711 ("It is the manifest duty of the courts to vindicate those guarantees, and to accomplish that it is essential that all relevant and admissible evidence be produced"); id. at 712 n. 19 ("We address only the conflict between the President's assertion of a generalized privilege of confidentiality and the constitutional need for relevant evidence in criminal trials."); id. at 712 ("the allowance of privilege to withhold evidence that is demonstrably

for non-state-secret presidential communications such as those at issue in Nixon, no such showing would be required, in our view, for non-state-secret, non-presidential communications. Cf. Nixon v. Sirica, 487 F.2d at 743-746 (MacKinnon, J., concurring in part and dissenting in part).

In the two subpoenas at issue here, the grand jury seeks documents that may provide factual leads or other factual information relevant to the investigations of various events that

[REDACTED]

Applying the Rule 17 standard to these grand jury subpoenas, a court would require production of all responsive documents in the White House that might possibly bear on our investigation. See United States v. R. Enterprises, 498 U.S. 292, 297 (1991) (concluding that Nixon standard for trial subpoenas is more stringent than standard for grand jury subpoenas and stating that "[t]he function of the grand jury is to inquire into all information that might possibly bear on its investigation").⁴

In light of Nixon, a court must be "particularly meticulous" in ensuring that documents sought from the White House meet the Rule 17 standard for grand jury subpoenas: that the information sought "might possibly bear" on the grand jury's investigation. Consistent with that admonition, we have attempted to be particularly meticulous in the first instance by carefully considering the categories of documents we are seeking. We have indicated that we seek primarily factual information -- for example,

[REDACTED]

Hence, we have carved out a large category of materials that are not sought for now -- including purely legal analyses, strictly non-factual congressional or media preparation material, and conversations with congressional or prosecutorial investigators. In addition, because we are especially mindful of the constitutional respect due to the President of the United States, we are prepared to accept in the first instance

[REDACTED]

We believe that our approach is eminently reasonable, respectful of Executive

relevant in a criminal trial would cut deeply into the guarantee of due process of law and gravely impair the basic function of the courts"); id. at 712-13 ("A President's acknowledged need for confidentiality in the communications of his office is general in nature, whereas the constitutional need for production of relevant evidence in a criminal proceeding is specific and central to the fair adjudication of a particular criminal case in the administration of justice.").

⁴ We note that President Nixon, in his brief in United States v. Nixon, recognized "[t]he fundamental distinction between a grand jury's need for evidence and that of a prosecutor in a post-indictment setting By the very nature of the grand jury's function, the scope of its need for evidence is much broader than that of a prosecutor in a post-indictment setting." Brief for the Respondent 90-91.

prerogatives, and legally sound. However, you have made several arguments in response (in addition to disagreeing with our reading of Nixon). I will respond briefly to those arguments.

First, you have said that White House attorneys' documents are especially sensitive and, in your view, covered by attorney-client privilege or the attorney work product doctrine as a possible subset of or adjunct to executive privilege. There is no case law, however, suggesting that, in response to a grand jury subpoena, documents of government attorneys are covered by a special or higher form of executive privilege than those of government non-attorneys. See also 10 Op. Off. Legal Counsel 68, *9 (1986) ("for the purpose of responding to congressional requests, communications between the Attorney General, his staff, and other Executive Branch 'clients' that might otherwise fall within the common law attorney-client privilege should be analyzed in the same fashion as any other intra-Executive Branch communications").⁵ Such an argument, of course, would mean that many of the Nixon tapes could have been absolutely withheld from the criminal process had the attorney-client privilege been invoked, a result that seems extraordinary at best.

In addition, attorneys' documents and testimony have been obtained from executive agencies in similar situations in the past. In the Iran-Contra investigation, documents and testimony of government attorneys were obtained in circumstances similar to the instant case.

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

You have suggested that the only exceptions you would accept to the broad attorney-client

⁵ Exemption 5 of FOIA applies to memos "which would not be available by law to a party other than an agency in litigation with the agency." 5 U.S.C. § 552(b)(5). The italicized language suggests that Congress recognized that not all government privileges and protections that apply against private parties also apply against other government agencies.

principle you advocate would occur when the conduct of the attorneys themselves is "at issue" - for example, [redacted] The law and precedent cited above reveals, however, that those are not the only occasions when documents or testimony has been obtained from executive branch attorneys in the past.

Second, you have argued that you will not be able to perform your role as government attorneys if your work is made available to a grand jury. There are, to be sure, difficult policy issues regarding the degree to which a government agency can withhold documents or testimony from a federal grand jury and prosecutor. We believe our good-faith attempts, as described above, to be particularly meticulous in seeking only relevant information should allay your concerns. In any event, if we are correct in our understanding of Nixon, these policy arguments have been considered and rejected as a basis for withholding information from the criminal process. President Nixon made a virtually identical argument in his brief regarding the more sensitive issue of direct Presidential communications. See Brief for the Respondent 67-68. But the Court flatly rejected this argument as a basis for withholding information from the criminal process. 418 U.S. at 712, 713. And while Congress could enact a law to provide greater protection to White House communications than that provided by the Constitution, it has not done so.

Furthermore, we believe that the policy arguments in favor of disclosure are at least as strong as those against disclosure. A government employee, including a government attorney, works for the people of the United States. If a government employee possesses evidence that might have some bearing on criminality, it seems odd that he or she, as the people's employee, could nonetheless withhold that information from the grand jury. Cf., e.g., 5 C.F.R. § 2635.101(b)(11) ("Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities."). Moreover, the chilling effect on your work seems overstated. All sorts of executive branch communications are subject to intense public scrutiny and disclosure, which would have more of a "chilling effect" than potential (or even certain) scrutiny by and disclosure to a federal grand jury operating in secret. In short, therefore, while there may be some chilling effect on your work, that effect is no different from that which many government employees undergo and in any event should be subordinate to the broader goal of ensuring that federal grand juries are able to obtain all relevant information. Thus, we do not dismiss your policy arguments out of hand, but we believe that the opposing view has great force as well.

Third, you have contended that a cut-off date is necessary or appropriate. We do not see how a particular date affects the relevance of particular documents. Factual information gathered yesterday is as relevant as factual information gathered a year ago or two years ago. The question is the quality of the information, not the time at which it was gathered.

In sum, we greatly appreciate your perspective and views on these issues, but ultimately are constrained to disagree. Nonetheless, we hope that the White House will find its way to comply with the grand jury subpoenas. Our discussions to date have, we believe, enhanced the

prospects for resolution, and we look forward to our further discussions.

Sincerely yours,

John D. Bates
Deputy Independent Counsel



Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

[Redacted]

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

BY FACSIMILE

Miriam Nemetz
Associate Counsel to the President
The White House
Washington, D.C. 20500

Dear Miriam:

We request that you produce to this Office [Redacted]

Please do not hesitate to contact me if you have any questions.

Sincerely yours,

Brett M. Kavanaugh
Associate Counsel

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO 1073
CONNECTION TEL 94565055
SUBADDRESS
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RESULT OK

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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:

TO:

Miriam Nemetz

Company Name:

Fax Number:

Telephone Number:

FROM:

Brett Kavanaugh

Number of Pages:

2

(including this cover sheet)

Message:

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

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Date:

TO: Miriam Nemetz

Company Name: _____

Fax Number: _____ Telephone Number: _____

FROM: Brett Kavanaugh

Number of Pages: 2 (including this cover sheet)

Message: _____

CONFIDENTIALITY NOTE

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THE WHITE HOUSE
WASHINGTON

March 15, 1996

BY HAND DELIVERY

Brett M. Kavanaugh
Associate Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Brett:

In response to the oral request of John Bates, I am
enclosing [REDACTED]

I am also enclosing additional documents responsive to
the subpoena [REDACTED]

[REDACTED]

As with documents previously produced, we understand
that your office will treat these documents and the information
conveyed in this letter as confidential and entitled to all

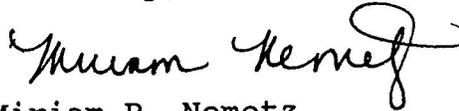
442F-DC-00002729

Robert M. Kavanaugh
March 15, 1996
Page 2

protection accorded by law, including Federal Rule of Criminal Procedure 6(e), to documents subpoenaed by a federal grand jury.

Please feel free to call me if you have any questions.

Sincerely,



Miriam R. Nemetz
Associate Counsel to the President

Enclosures

442F-DC-00002730



Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

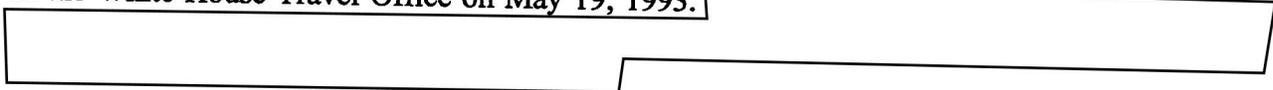


Jack Quinn
Counsel to the President
The White House
Washington, D.C. 20500

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Mr. Quinn:

Pursuant to application of the Attorney General of the United States and the March 22, 1996, order of the Special Division of the United States Court of Appeals for the District of Columbia Circuit, this Office is investigating certain matters related to the firing of employees of the White House Travel Office on May 19, 1993.



Thank you for your cooperation, and please do not hesitate to contact me if you have any questions.

Sincerely,

John D. Bates
Deputy Independent Counsel

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury



FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

THE WHITE HOUSE
WASHINGTON

March 29, 1996

BY HAND DELIVERY

Brett M. Kavanaugh
Associate Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

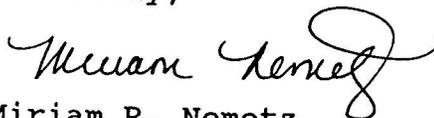
Dear Brett:

[redacted] Pursuant to the subpoena to the White House dated [redacted]
and our recent discussions and agreements, I am
enclosing [redacted]
[redacted]

As with documents previously produced, we understand that your office will treat these documents and the information conveyed in this letter 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.

Please feel free to call me if you have any questions.

Sincerely,



Miriam R. Nemetz
Associate Counsel to the
President

Enclosures

210-DC-00006172



Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

[Redacted]

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Jane Sherburne
Special Counsel
The White House
Washington, D.C. 20500

Dear Ms. Sherburne:

Attached is a grand jury subpoena that

[Redacted]

Thank you for your cooperation.

Sincerely,

John D. Bates/BK

John D. Bates
Deputy Independent Counsel

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Date:

TO:

Jane Sherburne

Company Name:

Fax Number:

456-1213

Telephone Number:

FROM:

Brett Kavanaugh

Number of Pages:

7

(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.

a:\faxform.nmr

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO 1283
CONNECTION TEL 94561213
SUBADDRESS
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RESULT OK /

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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:

TO: Jane Sherburne

Company Name: _____

Fax Number: 456-1213 Telephone Number: _____

FROM: Brett Kavanaugh

Number of Pages: 7 (including this cover sheet)

Message: _____

THE WHITE HOUSE
WASHINGTON

April 2, 1996

BY HAND DELIVERY

Brett M. Kavanaugh
Associate Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

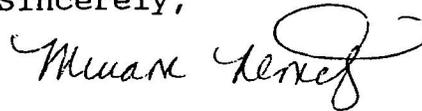
Dear Brett:

I am enclosing [redacted] responsive to the subpoenas to the White House dated [redacted] and [redacted], as modified by our discussions and correspondence. The enclosed documents have been labeled with [redacted]

As with documents previously produced, we understand that your office will treat these documents and the information conveyed in this letter 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.

Please feel free to call me if you have any questions.

Sincerely,



Miriam R. Nemetz
Associate Counsel to the President

Enclosures

318-DC-0000017

THE WHITE HOUSE
WASHINGTON

April 3, 1996

BY HAND DELIVERY

Brett M. Kavanaugh
Associate Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear Brett:

You have informed us that the Independent Counsel has
an interest in the

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

THE WHITE HOUSE
WASHINGTON

April 5, 1996

BY HAND DELIVERY

Brett M. Kavanaugh
Associate Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear Brett:

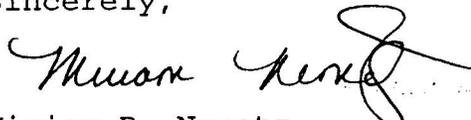
Pursuant to your request of [redacted] I am
providing with this letter [redacted]

[redacted]
FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

As with documents previously produced, we understand that your office will treat these documents and the information conveyed in this letter 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.

Please feel free to call me if you have any questions.

Sincerely,


Miriam R. Nemetz
Associate Counsel to the President

Enclosures

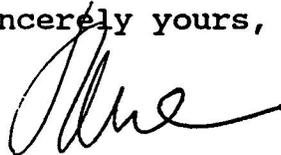
210-DC-00006327

Brett M. Kavanaugh
April 3, 1996
Page 2

As with documents previously produced, we understand that your office will treat these documents and the information conveyed in this letter 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.

Please feel free to call me if you have any questions.

Sincerely yours,



Jane C. Sherburne
Special Counsel to the President

Enclosures

THE WHITE HOUSE
WASHINGTON

April 9, 1996

BY HAND DELIVERY

Brett M. Kavanaugh
Associate Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear Brett:

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

As with documents previously produced, we understand that your office will treat these documents and the information conveyed in this letter 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.

Please feel free to call me if you have any questions.

Sincerely,



Miriam R. Nemetz
Associate Counsel to the President

Enclosures

336-DC-00000871



Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

Jane Sherburne
Special Counsel
The White House
Washington, D.C. 20500

[Redacted]
FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Jane:

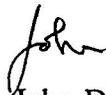
Attached is a grand jury subpoena for documents to the White House from a grand jury [Redacted]. We emphasize that this subpoena does not limit the ability of the grand jury and this Office to seek further documents in the future as is deemed appropriate. In other words, this subpoena resolves only our current need for documents, not all of the documents issues that may arise.¹ As we have discussed, we are continuing to consider whether there are specific subject matters as to which we must insist that additional documents be produced, based on facts now known to us or which may become known to us.

¹ As you know, it is our view that relevant White House documents cannot be withheld from a federal grand jury unless they constitute so-called state secrets material.

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Thank you for your cooperation.

Sincerely,



John D. Bates
Deputy Independent Counsel

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Date:

[Redacted Date Box]

TO: Jane Sherburne

Company Name: Special Counsel to the President
The White House

Fax Number: 202-456-1213

Telephone Number: 202-456-5116

FROM: John D. Bates, Deputy Independent Counsel

Number of Pages: 8 (including this cover sheet)

Message:

[Redacted Message Content]

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*** TX REPORT ***

TRANSMISSION OK

TX/RX NO 1366
CONNECTION TEL 94561213
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RESULT OK

[Redacted]

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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: [Redacted]

TO: Jane Sherburne

Company Name: Special Counsel to the President
The White House

Fax Number: 202-456-1213 Telephone Number: 202-456-5116

FROM: John D. Bates, Deputy Independent Counsel

Number of Pages: 8 (including this cover sheet)

Message: _____



Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

[Redacted]

Jane Sherburne
Special Counsel
The White House
Washington, D.C. 20500

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Jane:

Attached is a grand jury subpoena for documents to the White House from a grand jury [Redacted] We emphasize that this subpoena does not limit the ability of the grand jury and this Office to seek further documents in the future as is deemed appropriate. In other words, this subpoena resolves only our current need for documents, not all of the documents issues that may arise.¹ As we have discussed, we are continuing to consider whether there are specific subject matters as to which we must insist that additional documents be produced, based on facts now known to us or which may become known to us.

[Redacted]

¹ As you know, it is our view that relevant White House documents cannot be withheld from a federal grand jury unless they constitute so-called state secrets material.

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Thank you for your cooperation.

Sincerely,



John D. Bates
Deputy Independent Counsel

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Date:

TO: Jane Sherburne

Company Name: Special Counsel to the President
The White House

Fax Number: 202-456-1213 Telephone Number: 202-456-5116

FROM: John D. Bates, Deputy Independent Counsel

Number of Pages: 8 (including this cover sheet)

Message: _____

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*** TX REPORT ***

TRANSMISSION OK

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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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:

TO: Jane Sherburne

Company Name: Special Counsel to the President
The White House

Fax Number: 202-456-1213 Telephone Number: 202-456-5116

FROM: John D. Bates, Deputy Independent Counsel

Number of Pages: 8 (including this cover sheet)

Message: _____

THE WHITE HOUSE
WASHINGTON

April 11, 1996

BY HAND DELIVERY

Brett M. Kavanaugh
Associate Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear Brett:

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

I am enclosing additional documents responsive to the
subpoena to the White House dated [redacted] The
enclosed documents are:



442F-DC-00003069

Brett M. Kavanaugh
April 11, 1996
Page 2

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

442F-DC-00003070

Brett M. Kavanaugh
April 11, 1996
Page 3

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

[Redacted]

As I am sure you will recognize, copies of many of these documents have been produced previously. Non-responsive information has been redacted from several of the enclosed documents. We would be happy to discuss the redactions with you or permit your review of any of the redacted documents in their entirety.

We have identified, but are not providing at this time, the following additional documents:

[Redacted]

442F-DC-00003071

Brett M. Kavanaugh
April 11, 1996
Page 4

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Please let me know if you would like additional information regarding any of these documents.

As with documents previously produced, we understand that your office will treat these documents and the information conveyed in this letter 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.

Please feel free to call me if you have any questions.

Sincerely,



Miriam R. Nemetz
Associate Counsel to the President

Enclosures

442F-DC-00003072

THE WHITE HOUSE
WASHINGTON

April 12, 1996

BY HAND DELIVERY

Brett M. Kavanaugh
Associate Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Brett:

In response to the subpoena to the White House dated

[redacted] I am enclosing an additional document [redacted]
[redacted]

[redacted]

As with documents previously produced, we understand that your office will treat these documents and the information conveyed in this letter 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.

Please feel free to call me if you have any questions.

Sincerely,



Miriam R. Nemetz
Associate Counsel to the
President

Enclosures

442F-DC-00003902

THE WHITE HOUSE
WASHINGTON

April 16, 1996

BY HAND DELIVERY

Brett M. Kavanaugh
Associate Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Brett:

Pursuant to your request, I am providing with this
letter the [redacted]
documents.

[redacted]

As with documents previously produced, we understand that your office will treat these documents and the information conveyed in this letter 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.

Please feel free to call me if you have any questions.

Sincerely,



Miriam R. Nemetz
Associate Counsel to the President

Enclosures

542-DC-00000001



Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

[Redacted]

By FAX and Mail

Jane Sherburne
Special Counsel to the President
The White House
Washington, D.C. 20500

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Ms. Sherburne:

After a review of [Redacted] recently produced to this Office
[Redacted] Nor do these files
appear to be listed on other indices produced to this Office by the White House.

[Redacted]

We request that you provide us with any information you have on the location of these files, including any explanation as to how they may have come to be missing.

Thank you for your cooperation.

Sincerely yours,

John D. Bates
Deputy Independent Counsel

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

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Date:

TO: Jane Sherburne, Special Counsel to the President

Company Name: The White House

Fax Number: 202-456-1213 Telephone Number: 202-456-5116

FROM: John D. Bates, Deputy Independent Counsel

Number of Pages: 2 (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.

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*** ACTIVITY REPORT ***

TRANSMISSION OK

TX/RX NO. 9748

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RESULT OK

[REDACTED] FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

THE WHITE HOUSE
WASHINGTON

April 30, 1996

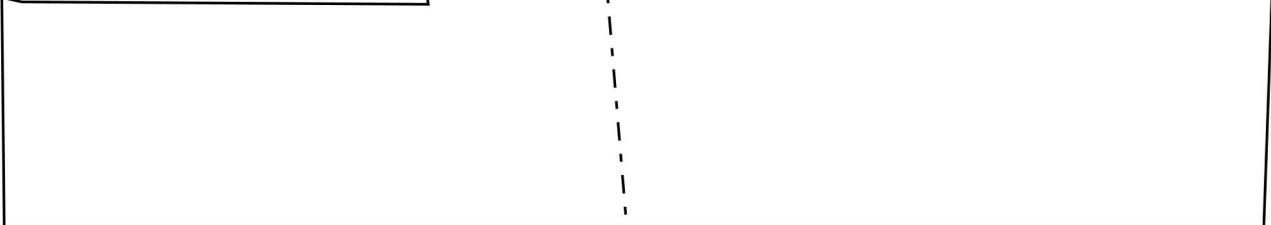
BY HAND DELIVERY

John D. Bates
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490 North
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear John:

Enclosed are documents responsive to the subpoena to
the White House dated



As with documents previously produced, we understand that your office will treat these documents and the information conveyed in this letter 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.

Please feel free to call me if you have any questions.

Sincerely yours,

Jane C. Sherburne
Special Counsel to the President

Enclosures

543-DC-00000001



Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

May 1, 1996

BY HAND

Miriam Nemetz
Associate Counsel to the President
The White House
Washington, D.C. 20500

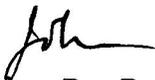
Dear Miriam:

This letter confirms my conversation with you earlier today regarding a one-page document that the White House produced to this Office, along with other documents, on April 30, 1996. You have indicated that the document was inadvertently produced to us without "authorization," and you have requested that the document, for which you have provided a general description, be returned to you.

We have decided to take the following steps. You will send someone to our Office to retrieve the document in question from the sealed package you sent and place it in a separate sealed envelope. We will retain that envelope and will not open the envelope until we discuss this matter further with you. In the interim, please provide us by 5:00 p.m. on May 3, 1996, the basis upon which you would decline to produce this document and your rationale as to why we are prohibited from reviewing it.

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

Sincerely yours,


John D. Bates
Deputy Independent Counsel

THE WHITE HOUSE
WASHINGTON

May 3, 1996

BY TELECOPY

John D. Bates
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490 North
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear John:

I am writing to request your return of a privileged document we inadvertently produced to your Office. On Tuesday evening, April 30, I had delivered to your office an envelope containing documents responsive to the subpoena to the White House dated [redacted]. Shortly after the envelope left the White House, we became aware that we had included one document subject to a claim of attorney-client and work product privileges by a private attorney. We immediately contacted your Office, asked that the envelope not be opened, and requested that we be permitted to retrieve the privileged document. The envelope had not yet been opened at the time we made this request. You declined to return the document but agreed to keep it in a sealed envelope pending further discussion. You have also asked us for a written explanation why the document is privileged.

¹ See, e.g., In re Grand Jury Subpoenas, 902 F.2d 244, 248, 250 (4th Cir. 1990) (common interest privilege may not be unilaterally waived).

John D. Bates, Deputy Independent Counsel
May 3, 1996
Page 2

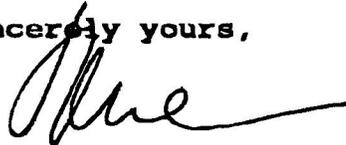
Your Office was informed that the document in question was subject to a claim of privilege a few minutes after you received it and before the envelope containing the document was even opened. Under the circumstances, we believe it would be most appropriate if you simply return the document, and, if you wish, challenge the claim of privilege through proper channels.²

I should also note that in the course of learning more about the

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

I look forward to discussing this matter with you.

Sincerely yours,



Jane C. Sherburne
Special Counsel to the President

² See American Bar Association (ABA) Formal Opinion 92-368 (requiring lawyers to return confidential materials they were not intended to receive).



Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

Jane Sherburne
Special Counsel
The White House
Washington, D.C. 20500

[Redacted]

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Ms. Sherburne:

Attached is a grand jury subpoena for [Redacted]
[Redacted] The return date is [Redacted] and we must insist on production by that date absent extraordinary circumstances. This subpoena does not limit the ability of the grand jury and this Office to seek further documents in the future as is deemed appropriate.

[Redacted]

[Redacted]

Thank you for your cooperation.

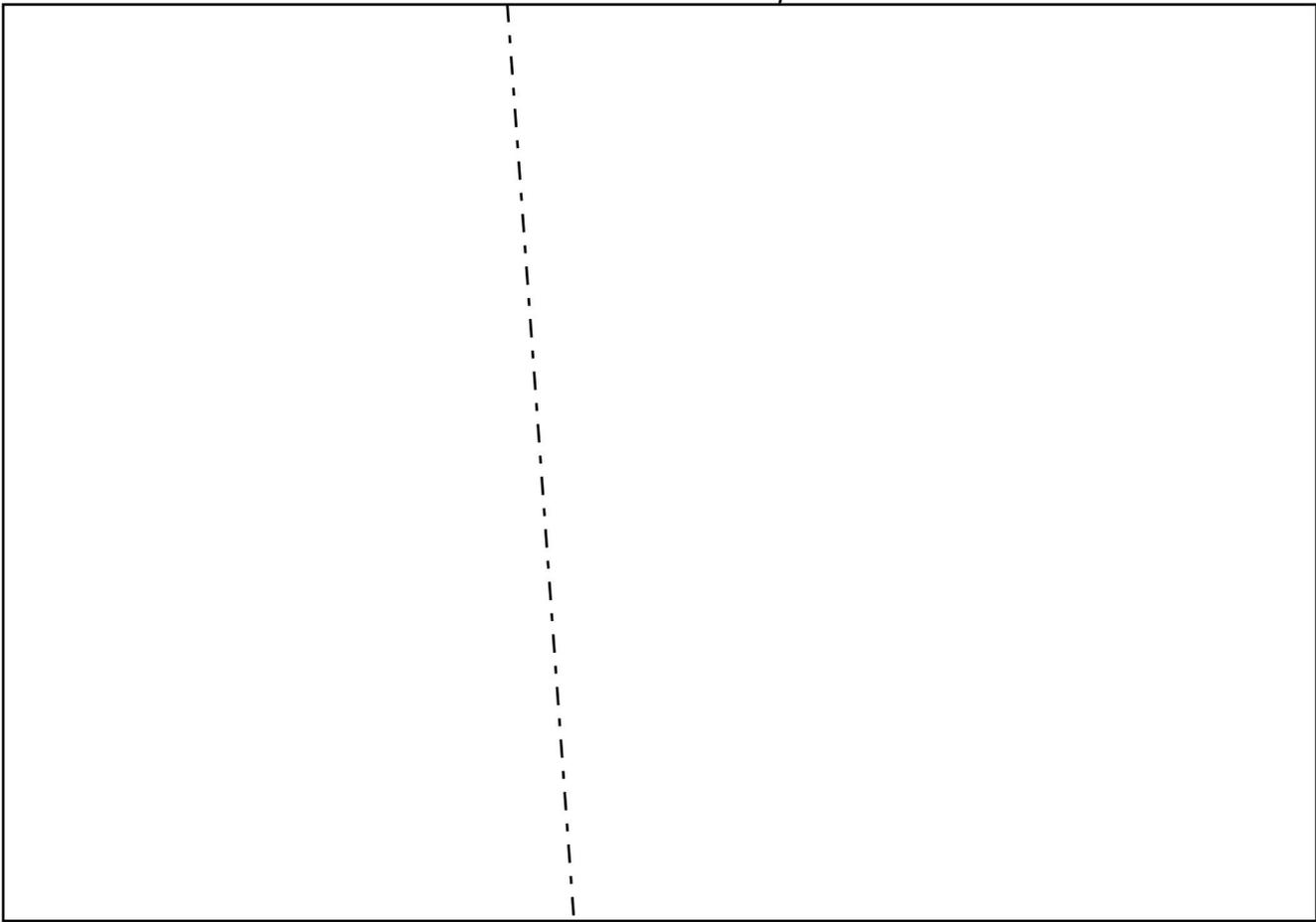
Sincerely,

John D. Bates/BK

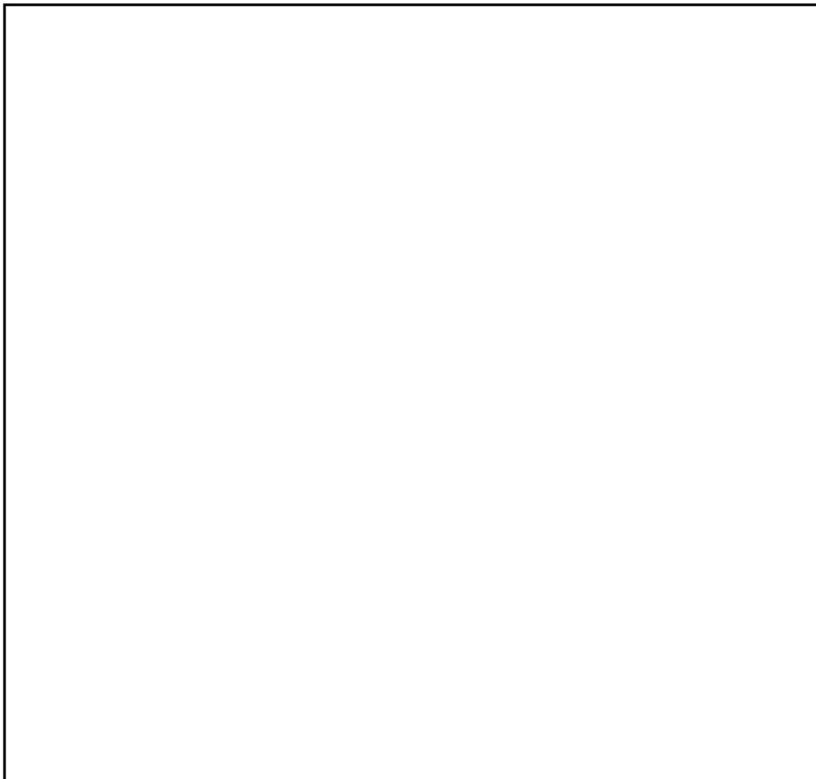
John D. Bates
Deputy Independent Counsel

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

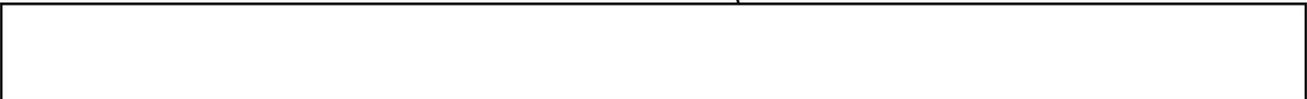
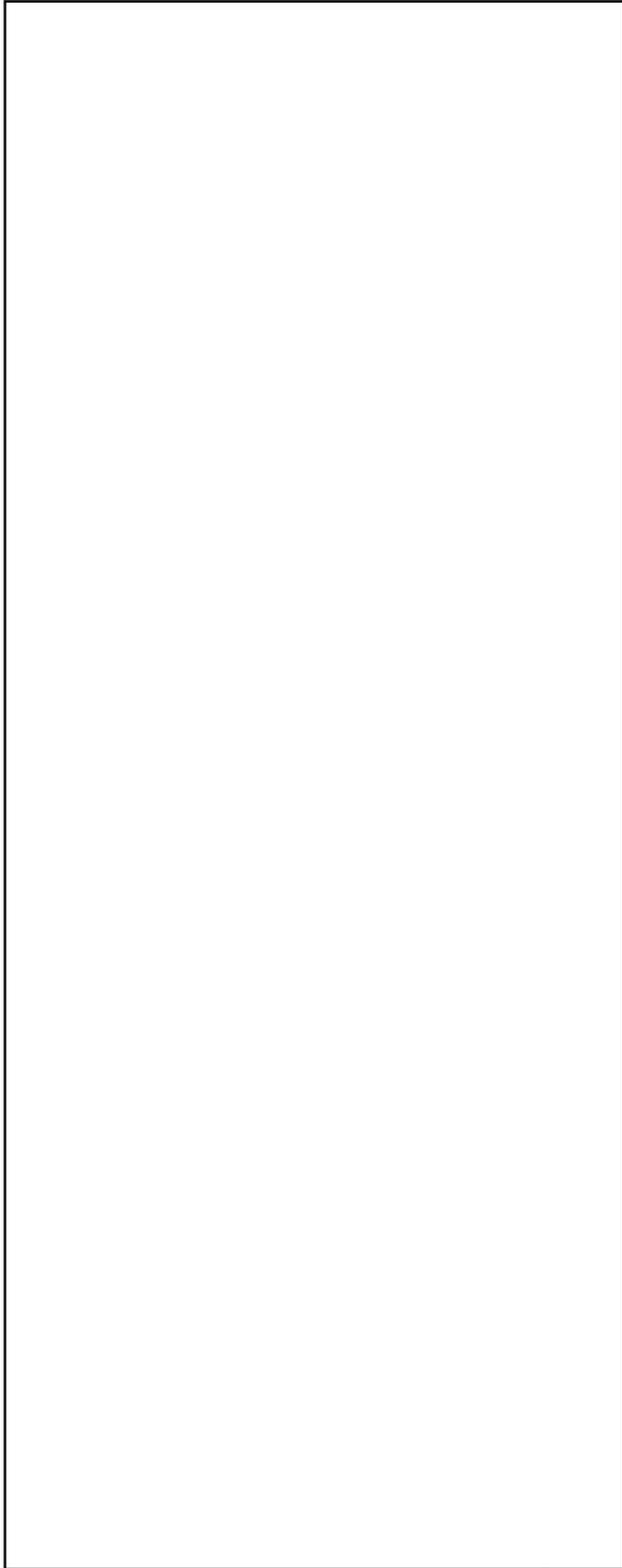
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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Date:

[Empty box for date]

TO: Jane Sherburne, Special Counsel to the President

Company Name: The White House

Fax Number: 202-456-1213

Telephone Number: 202-456-5116

FROM: John D. Bates, Deputy Independent Counsel

Number of Pages: 10 (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.

a:\faxform.nmr

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO	2085	
CONNECTION TEL		94561213
SUBADDRESS		
CONNECTION ID		
ST. TIME		
USAGE T	04'13"	
PGS.	10	
RESULT	OK	

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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:

TO: Jane Sherburne, Special Counsel to the President

Company Name: The White House

Fax Number: 202-456-1213 Telephone Number: 202-456-5116

FROM: John D. Bates, Deputy Independent Counsel

Number of Pages: 10 (including this cover sheet)

Message: _____



Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

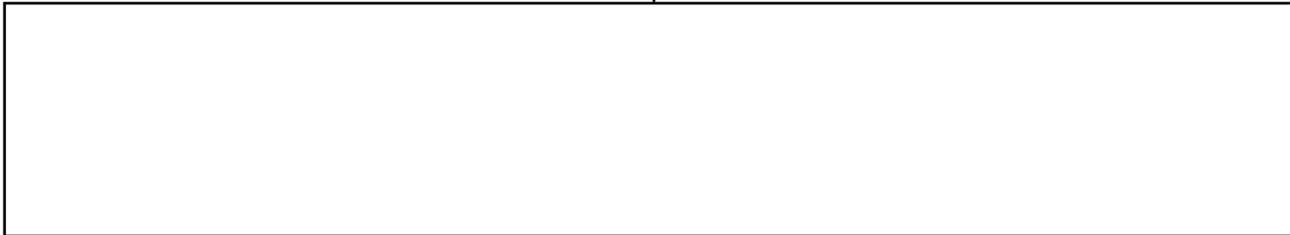


BY FACSIMILE

Jane Sherburne
Special Counsel to the President
The White House
Washington, D.C. 20500

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Ms. Sherburne:



I have been attempting to reach you by telephone for several days to determine the status of this matter. I look forward to receiving from you today either the requested documents or, in writing, a specific identification of any privileges asserted. Thank you for your cooperation.

Sincerely yours,

John D. Bates
Deputy Independent Counsel

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

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Date:

TO: Jane Sherburne, Special Counsel to the President

Company Name: The White House

Fax Number: 202-456-1213

Telephone Number: 202-456-5116

FROM: John D. Bates, Deputy Independent Counsel

Number of Pages: 2 (including this cover sheet)

Message: _____

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 *** ACTIVITY REPORT ***

TRANSMISSION OK

TX/RX NO. 9817

CONNECTION TEL 94561213

CONNECTION ID

START TIME

USAGE TIME 01'00

PAGES 2

RESULT OK

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

THE WHITE HOUSE
WASHINGTON

June 20, 1996

BY FACSIMILE

**John Bates
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004**

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear John:

I write in response to your request that the White House produce to your Office

[Redacted]

[Redacted]

I apologize for the day's delay in responding to your letter and appreciate your indulgence.

Sincerely yours,



Jane C. Sherburne
Special Counsel to the President

cc: David E. Kendall, Esq.



Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

June 24, 1996

Jane C. Sherburne
Special Counsel to the President
The White House
Washington, DC 20500

Dear Ms. Sherburne:

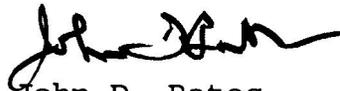
As you know, the Special Division of the United States Court of Appeals last Friday ordered the jurisdiction of this Office expanded to investigate, inter alia, whether certain violations of federal criminal law were committed by Anthony Marceca, an investigator detailed to the White House Office of Personnel Security, relating to requests made by the White House between December 1993 and February 1994 to the Federal Bureau of Investigation for background investigation reports and materials. The expansion includes jurisdiction and authority to investigate certain related allegations or evidence of violations by other persons or entities, including unlawful conspirators or aiders and abettors.

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Based on your telephone call to me earlier today, I understand that The White House is agreeable to this request. We anticipate making arrangements with you to review these materials in the very near future.

Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "John D. Bates". The signature is fluid and cursive, with a prominent initial "J" and a long, sweeping underline.

John D. Bates
Deputy Independent Counsel

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: June 24, 1996

TO: Jane Sherburne, Special Counsel to the President

Company Name: The White House

Fax Number: 202-456-1213 Telephone Number: 202-456-5116

FROM: John D. Bates, Deputy Independent Counsel

Number of Pages: 3 (including this cover sheet)

Message: _____

CONFIDENTIALITY NOTE

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*** TX REPORT ***

TRANSMISSION OK

TX/RX NO	2215	
CONNECTION TEL		94561213
SUBADDRESS		
CONNECTION ID		
ST. TIME	06/24 17:59	
USAGE T	01'09	
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: June 24, 1996

TO: Jane Sherburne, Special Counsel to the President

Company Name: The White House

Fax Number: 202-456-1213 Telephone Number: 202-456-5116

FROM: John D. Bates, Deputy Independent Counsel

Number of Pages: 3 (including this cover sheet)

Message: _____



Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

June 28, 1996

Jane Sherburne
Special Counsel to the President
The White House
Washington, D.C. 20500

Dear Ms. Sherburne:

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

This will confirm our conversation this morning concerning a schedule for your compliance with two outstanding subpoenas.

First, with respect to subpoena [redacted] we agreed that you will produce the bulk of responsive materials today, and that any remaining responsive materials will be produced by July 5, 1996. All those materials can be produced to our Washington office. You have represented that approximately 90% of the responsive materials will be produced today.

Second, with respect to [redacted] we agreed that you will produce responsive materials, or provide a privilege log for any materials being withheld, on Monday, July 1, 1996, but only for materials [redacted]

[redacted] I would ask that responsive materials currently located elsewhere be produced or logged by not later than July 9, 1996.

Thank you for your cooperation.

Sincerely,

John D. Bates
Deputy Independent Counsel

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: June 28, 1996

TO: Jane Sherburne, Special Counsel to the President

Company Name: The White House

Fax Number: 202-456-1213 Telephone Number: 202-456-5116

FROM: John D. Bates, Deputy Independent Counsel

Number of Pages: 2 (including this cover sheet)

Message: _____

CONFIDENTIALITY NOTE

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a:\faxform.nmr

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO 2263
CONNECTION TEL 94561213
SUBADDRESS
CONNECTION ID
ST. TIME 06/28 16:42
USAGE T 00'54
PGS. 2
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: June 28, 1996

TO: Jane Sherburne, Special Counsel to the President

Company Name: The White House

Fax Number: 202-456-1213 Telephone Number: 202-456-5116

FROM: John D. Bates, Deputy Independent Counsel

Number of Pages: 2 (including this cover sheet)

Message: _____

THE WHITE HOUSE
WASHINGTON

July 1, 1996

BY FACSIMILE

John D. Bates
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490 North
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Re:

Dear John:

In addition to documents previously produced or described to your office, we have identified the following documents responsive to

John D. Bates, Deputy Independent Counsel
July 1, 1996
Page 2

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

[Redacted]

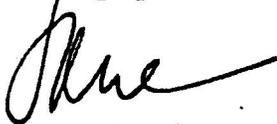
[Redacted] I regret the delay in identifying this document as responsive to that subpoena.

As requested in your letter of June 28, 1996, we will complete our response by no later than July 9, 1996.

As with documents previously produced, we understand that your office will treat the information conveyed in this letter 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.

Please feel free to call me if you have any questions.

Sincerely yours,



Jane C. Sherburne
Special Counsel to the President

THE WHITE HOUSE
WASHINGTON

July 1, 1996

BY FACSIMILE

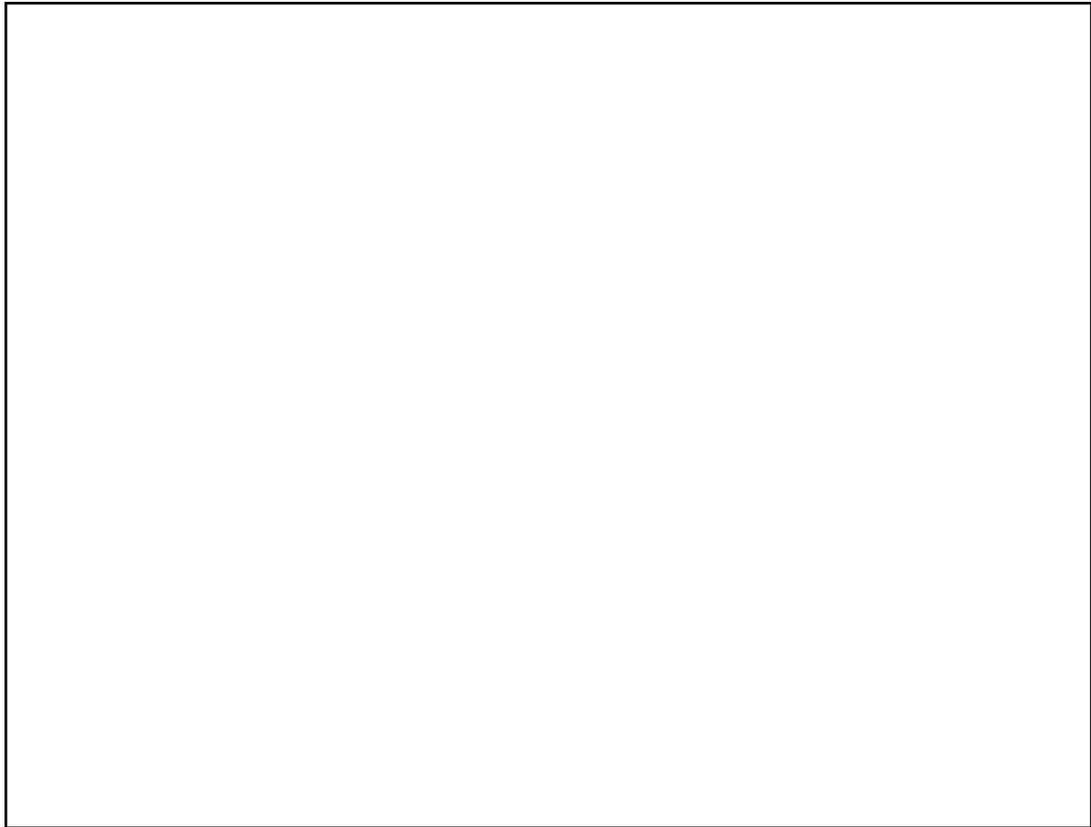
John D. Bates
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490 North
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Re:

Dear John:

In addition to documents previously produced or described to your office, we have identified the following documents responsive to



John D. Bates, Deputy Independent Counsel
July 1, 1996
Page 2

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

[Redacted]

I regret the

delay in identifying this document as responsive to that subpoena.

As requested in your letter of June 28, 1996, we will complete our response by no later than July 9, 1996.

As with documents previously produced, we understand that your office will treat the information conveyed in this letter 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.

Please feel free to call me if you have any questions.

Sincerely yours,



Jane C. Sherburne
Special Counsel to the President

THE WHITE HOUSE
WASHINGTON

July 9, 1996

BY FACSIMILE

John D. Bates
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear John:

I am writing to complete our response to [redacted]
[redacted] and your letter of June 28, 1996.

We have not identified any additional documents responsive to the subpoena. Our bases for withholding the documents described in my letter of July 1, 1996, are as follows:



John D. Bates
July 9, 1996
Page 2

The bases for withholding the [redacted] described in my
letter of June 20, 1996, are [redacted]

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

As with documents previously produced, we understand that your Office will treat the information conveyed in this letter 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.

Please feel free to call me if you have any questions.

Sincerely yours,



Jane C. Sherburne
Special Counsel to the President

THE WHITE HOUSE
WASHINGTON

July 9, 1996

BY FACSIMILE

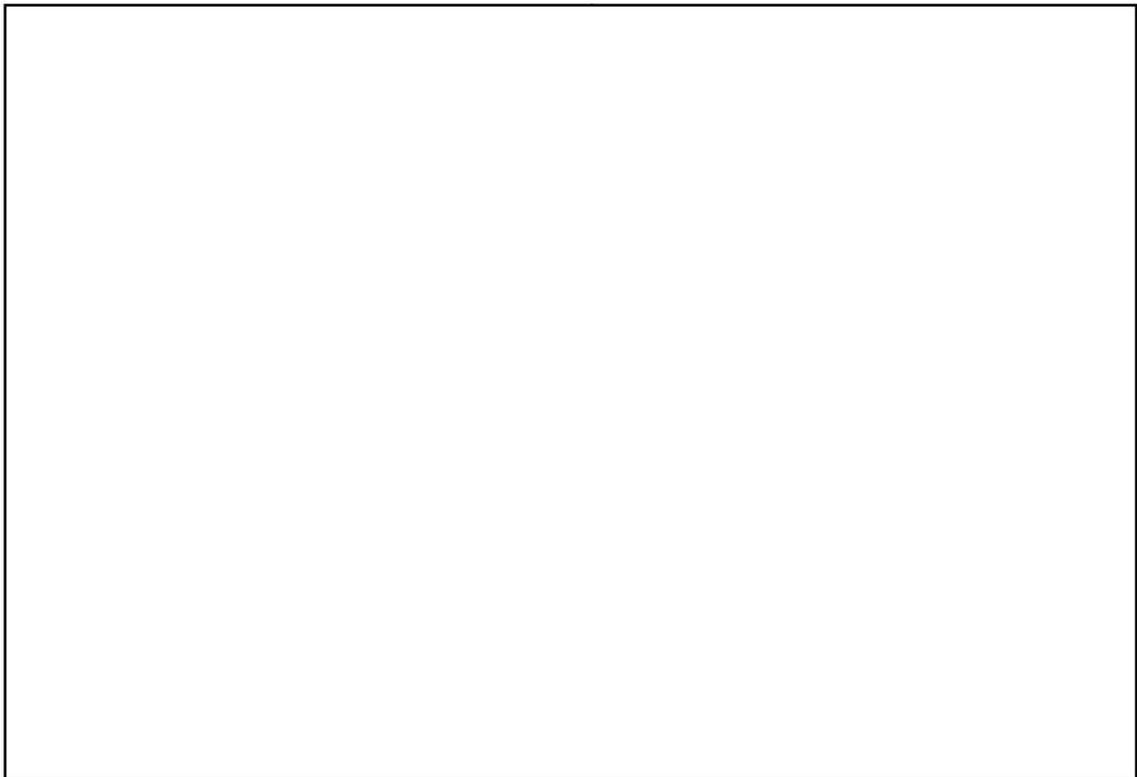
John D. Bates
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear John:

I am writing to complete our response to [redacted]
[redacted] and your letter of June 28, 1996.

We have not identified any additional documents responsive to the subpoena. Our bases for withholding the documents described in my letter of July 1, 1996, are as follows:



John D. Bates
July 9, 1996
Page 2

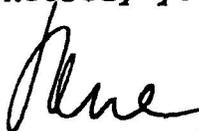
The bases for withholding the [redacted] described in my
letter of June 20, 1996, are [redacted]

[redacted] FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

As with documents previously produced, we understand that your Office will treat the information conveyed in this letter 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.

Please feel free to call me if you have any questions.

Sincerely yours,



Jane C. Sherburne
Special Counsel to the President

THE WHITE HOUSE
WASHINGTON
COUNSEL'S OFFICE

FACSIMILE TRANSMISSION COVER SHEET

DATE: 7/9/96

TOTAL PAGES (INCLUDING COVER PAGE): 3

TO: John Bates

ATTN: _____

FACSIMILE NUMBER: 514-8802

TELEPHONE NUMBER: _____

FROM: Jane Sherburne at (202) 456-5116

COMMENTS: _____

PLEASE DELIVER AS SOON AS POSSIBLE

The document(s) accompanying this facsimile transmittal sheet is intended only for the use of the individual or entity to whom it is addressed. This message contains information which may be privileged, confidential or exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any disclosure, dissemination, copying or distribution, or the taking of any action in reliance on the contents of this communication is strictly prohibited. If you have received this information in error, please immediately notify the sender at their telephone number stated above.

THE WHITE HOUSE
WASHINGTON

July 28, 1996

BY TELECOPY

John D. Bates
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490 North
Washington, D.C. 20004

Re: [REDACTED] FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear John:

You requested that I provide you with information about [REDACTED] identified to you in [REDACTED] of my July 1, 1996 letter. I confirm the information I gave to you orally: [REDACTED]

Please let me know if you have further questions.

Sincerely yours,



Jane C. Sherburne
Special Counsel to the President

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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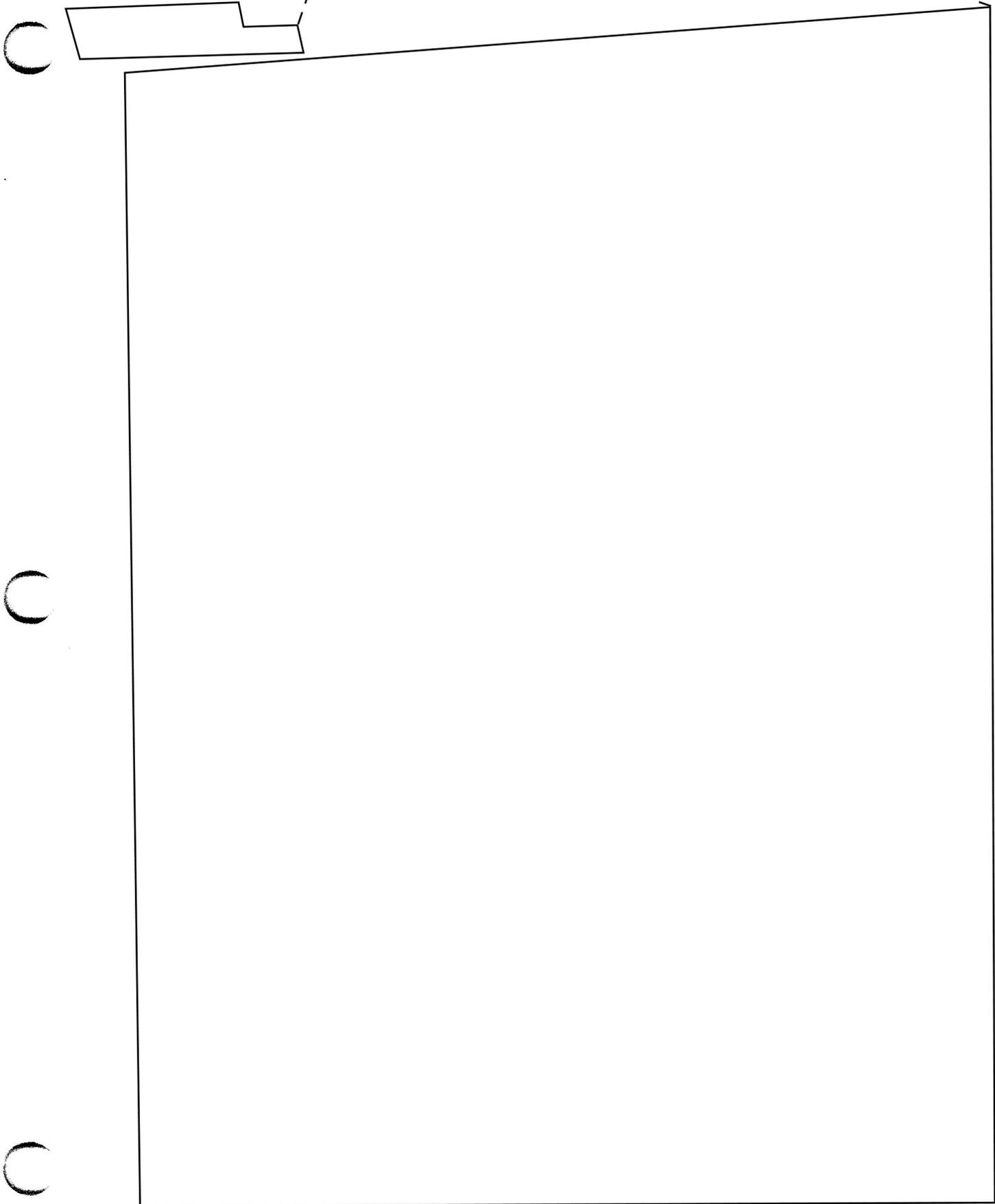
FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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[Redacted]



FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

[Redacted]

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[Redacted]

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

[Redacted]

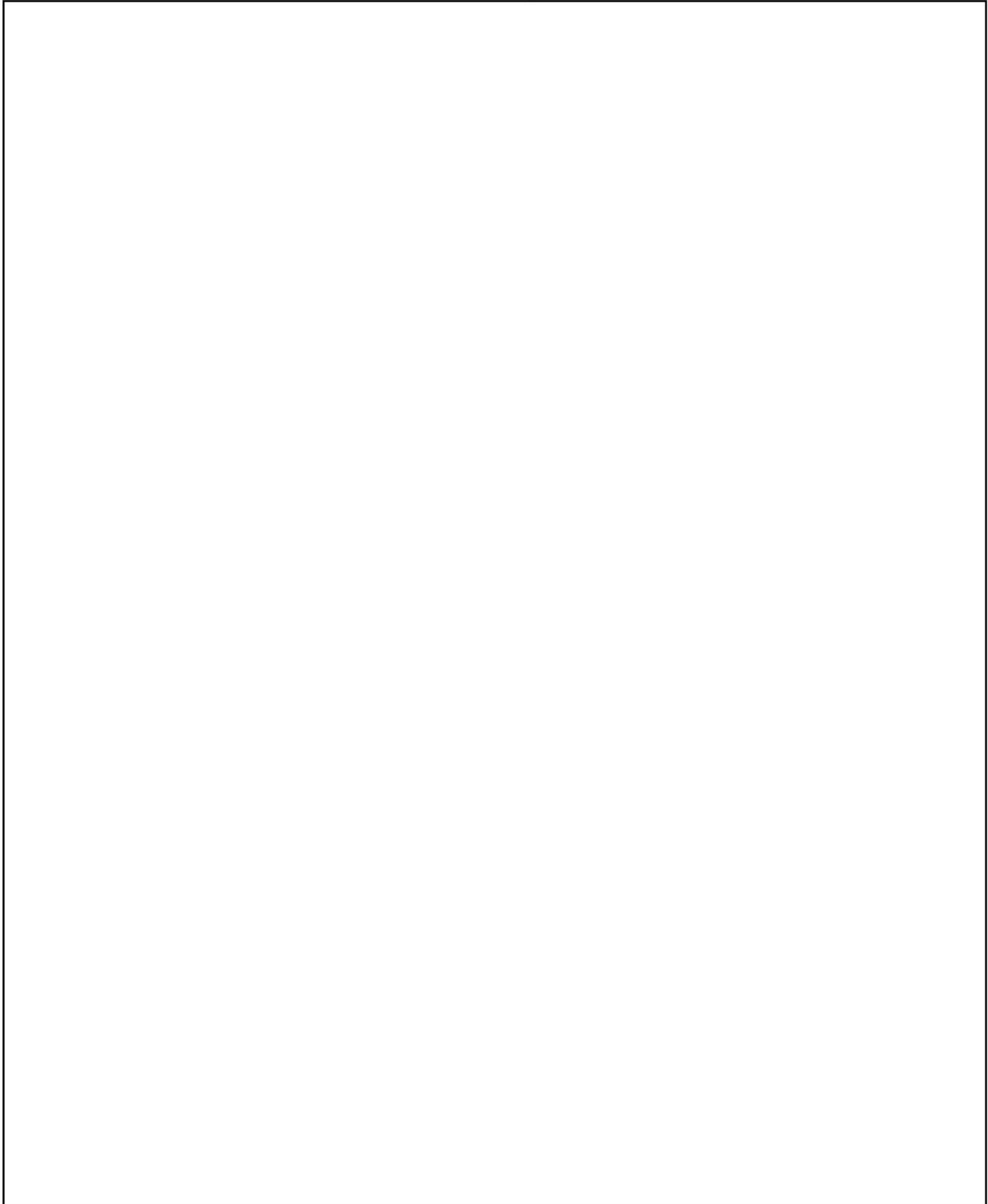
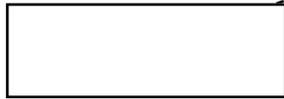
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[Redacted]

[Redacted]

[Redacted]

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury



[Redacted]

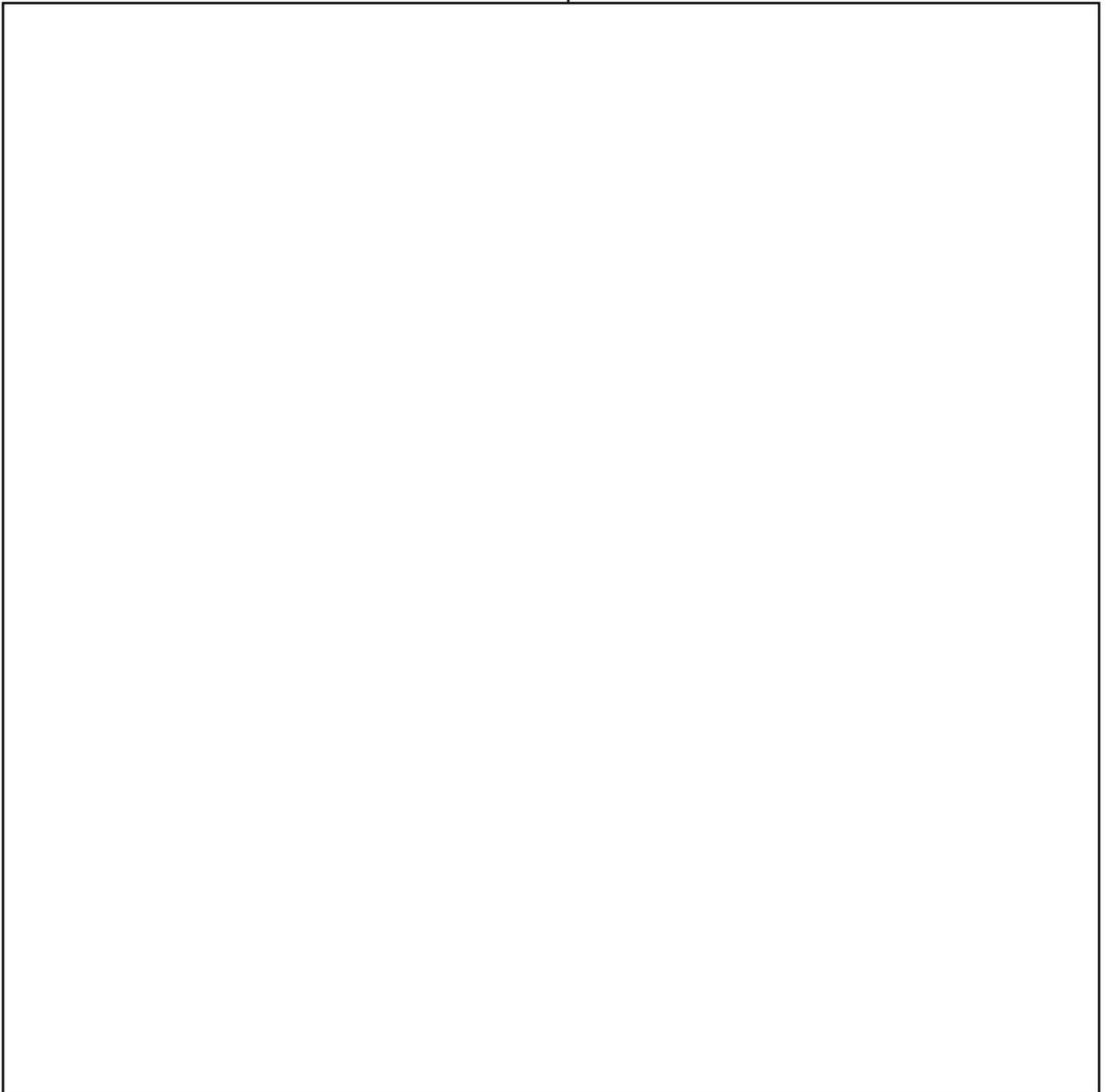
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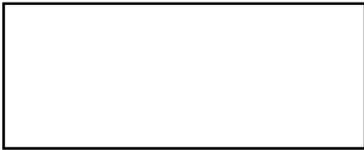
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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury



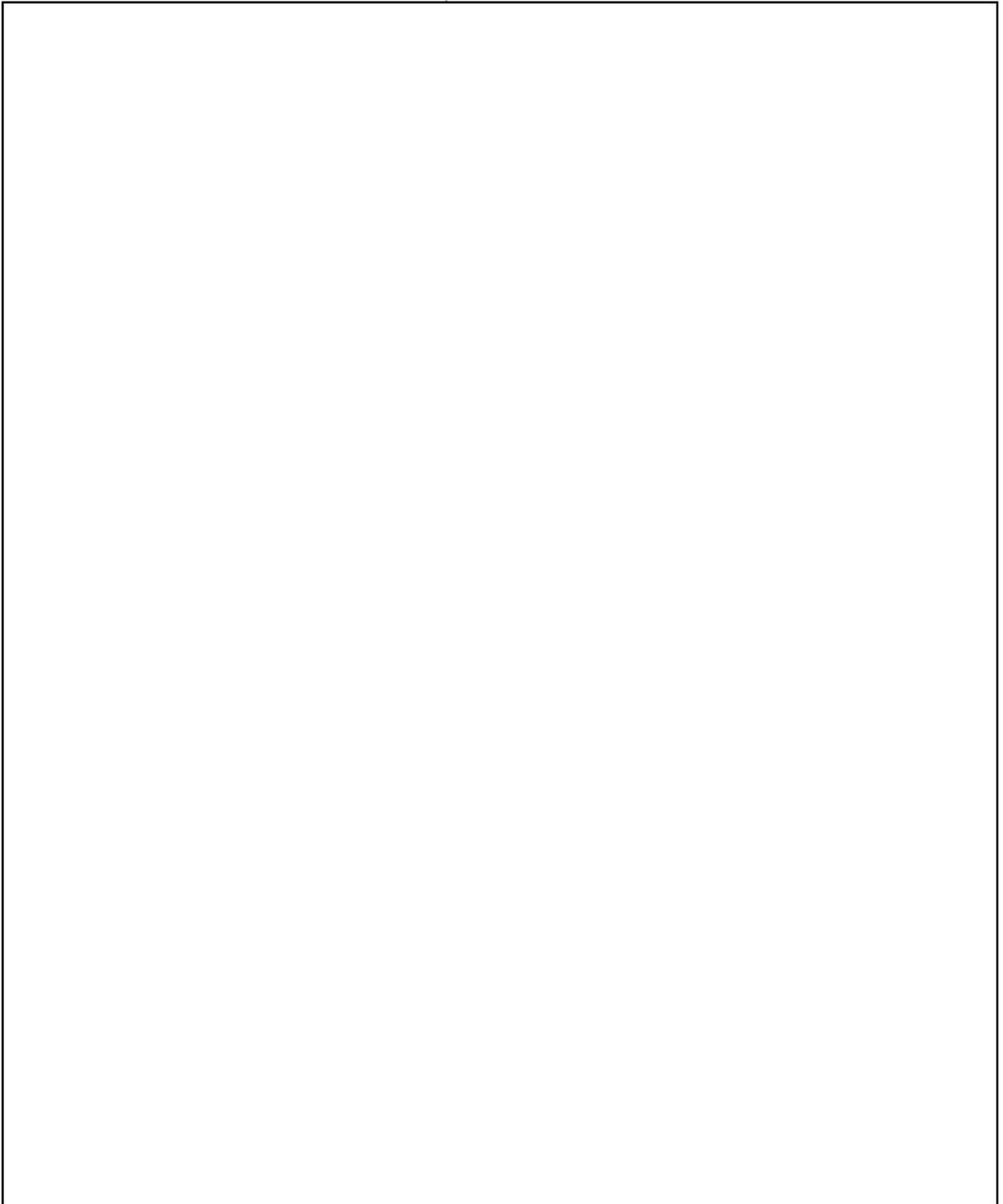
C



FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury



C



C

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

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Date:

TO: WHITE HOUSE COUNSEL'S OFFICE

Company Name: THE WHITE HOUSE

Fax Number: 202-456-1647 Telephone Number: _____

FROM: OFFICE OF THE INDEPENDENT COUNSEL

Number of Pages: 7 (including this cover sheet)

Message: _____

ATTN: MICHELLE PETERSON

ORIGINAL HARD COPY TO FOLLOW VIA U.S. MAIL.

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 *** ACTIVITY REPORT ***

TRANSMISSION OK

TX/RX NO. 0105

CONNECTION TEL 94561647

CONNECTION ID

START TIME [Redacted]

USAGE TIME 02'43

PAGES 7

RESULT OK

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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[Large Redacted Area]

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

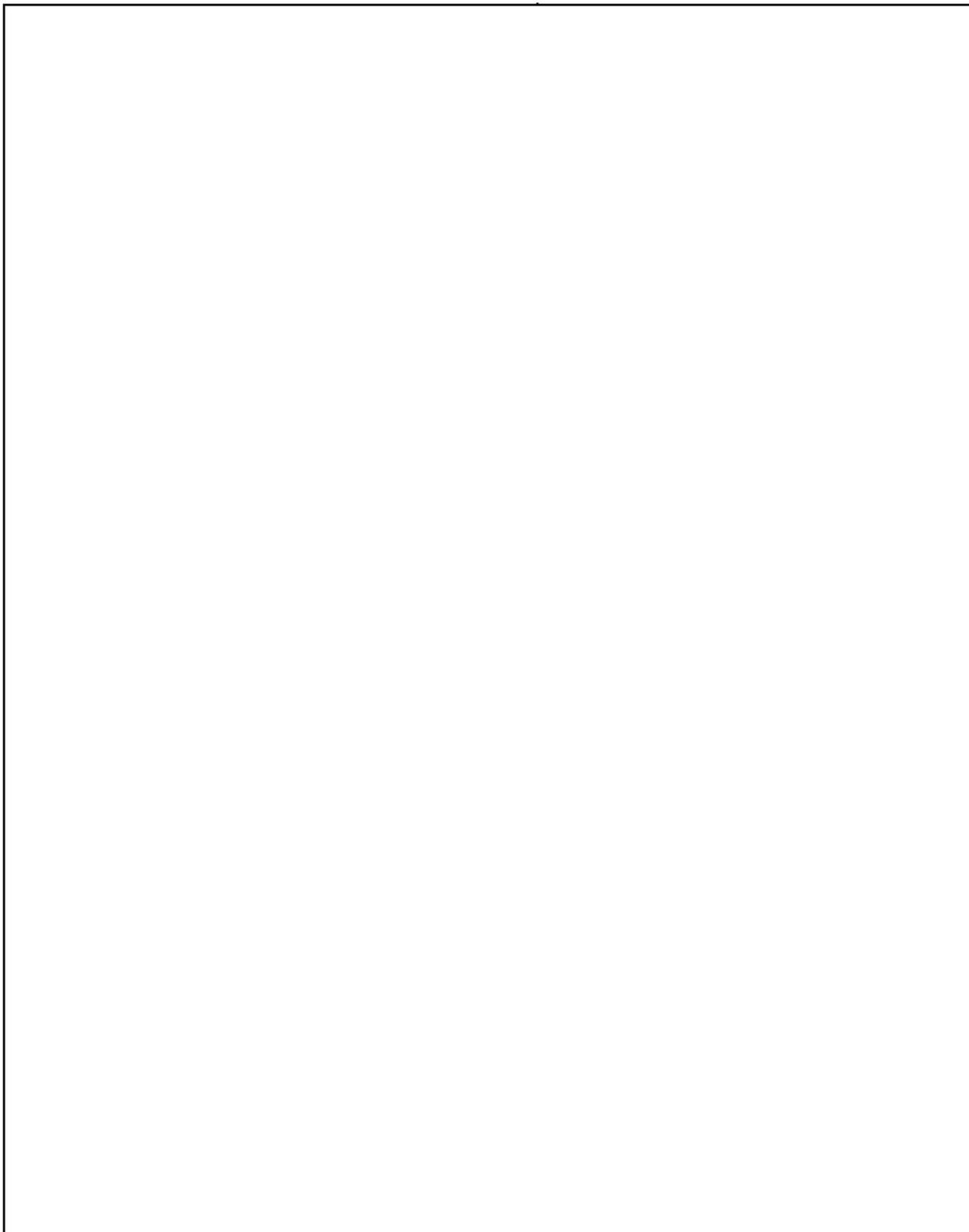
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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury



FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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[Large Redacted Area]

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

C

[Redacted]

[Redacted]

[Redacted]

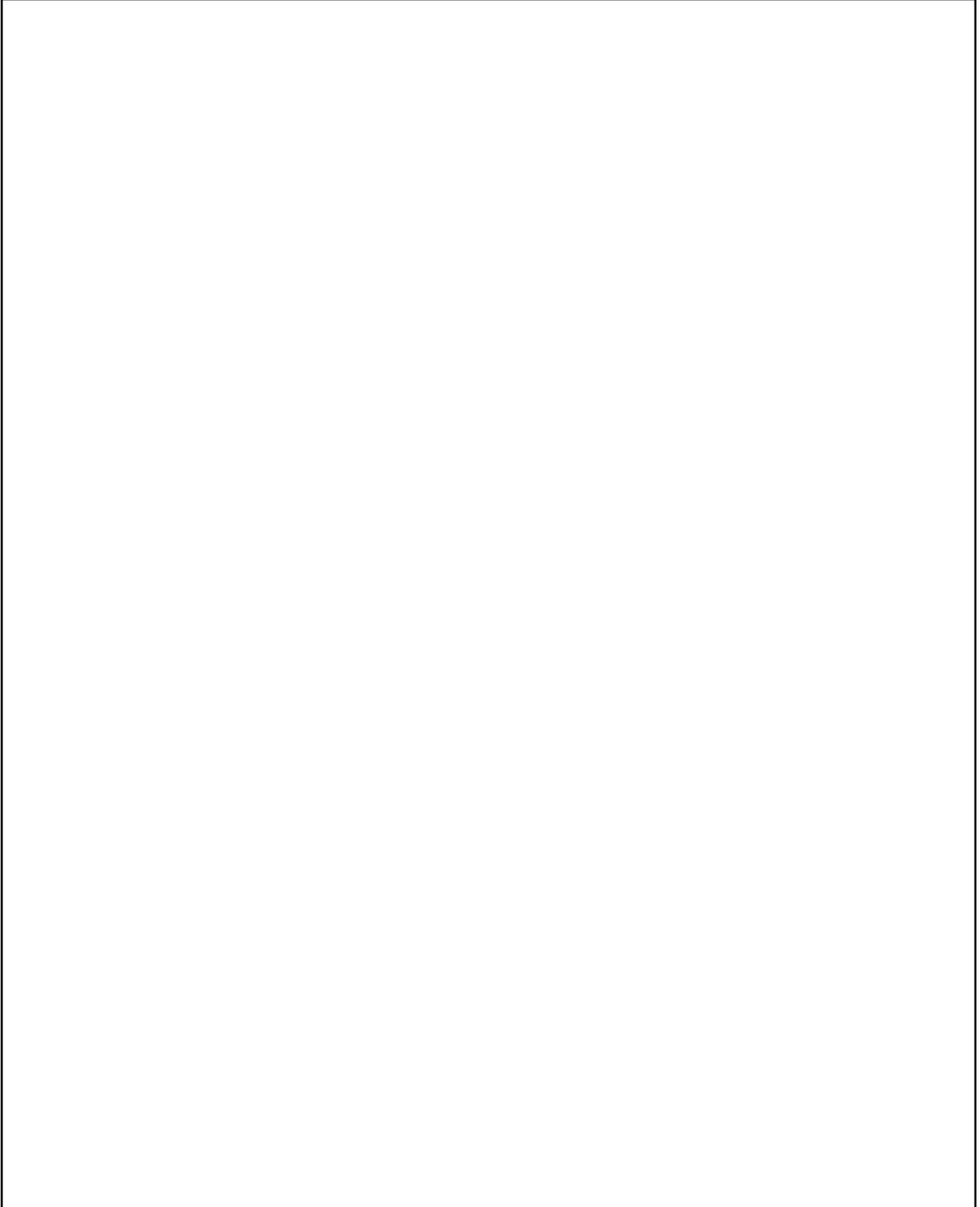
[Redacted]

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C

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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury



THE WHITE HOUSE
WASHINGTON

June 14, 1997

Jackie M. Bennett, Jr.
Deputy Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Mr. Bennett:

I am responding to your letter of June 10, 1997.

As we have discussed both orally and in writing, the applicability of both the attorney-client and work product privileges to conversations between the First Lady and the Office of Counsel to the President is in litigation, now before the Supreme Court. As we have also discussed,

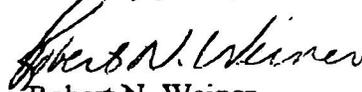
[Redacted]

[Redacted]

We will, therefore, assert the attorney-client and work product privileges, as appropriate.

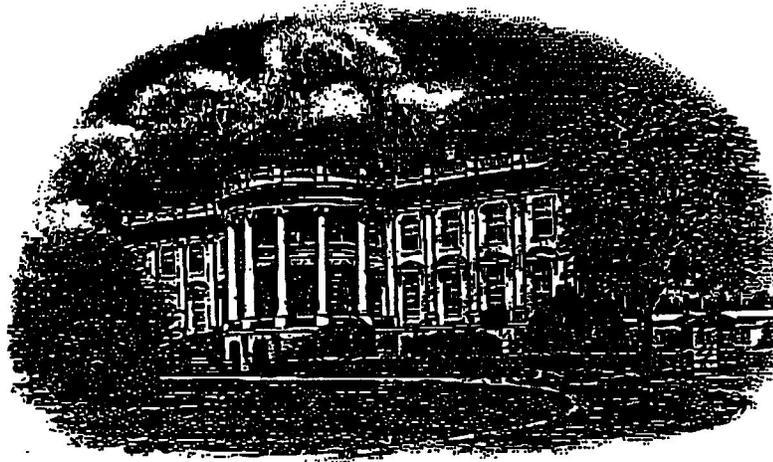
We remain willing to cooperate with you, and in particular, to entertain any proposal to provide information relevant to your investigation, consistent with the important principle now in litigation.

Sincerely yours,



Robert N. Weiner
Senior Counsel to the White House Counsel

The White House



Office of Counsel to the President
Facsimile Transmission

Date: 6/14/97

To: JALIE BENNETT

Facsimile Number: 514-8802 Total Pages: 2

From: Rob Weiner
Phone: 202-456-6297
Return Fax: 202-456-1647

Note: _____

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Office of the Independent Counsel

Two Financial Centre
10825 Financial Centre Parkway, Suite 134
Little Rock, Arkansas 72211
(501) 221-8700
Fax (501) 221-8707

HAND DELIVERED

Charles F.C. Ruff, Esq.
Counsel to the President
The White House
Washington, DC 20500

Dear Mr. Ruff:

Enclosed please find a grand jury subpoena

[REDACTED]
FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

If you have any questions concerning the subpoena,
please feel free to contact Deputy Independent Counsel Jackie
Bennett in Washington or me. Thank you for your cooperation.

Sincerely,

W. Hickman Ewing, Jr. / RJB

W. Hickman Ewing, Jr.
Deputy Independent Counsel

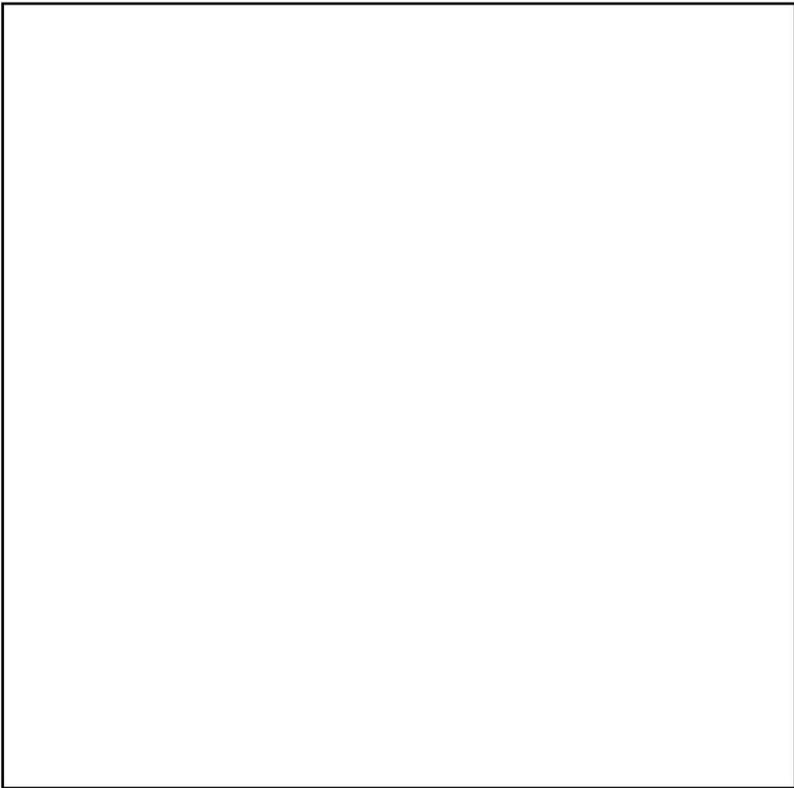
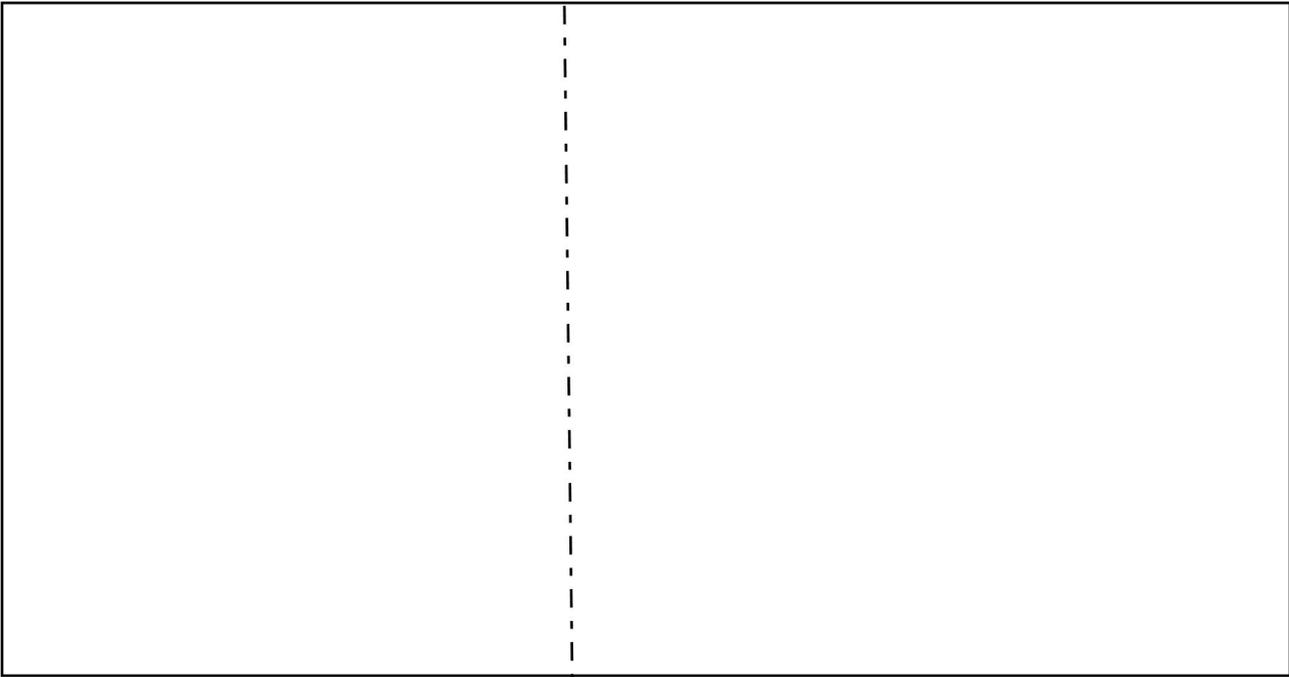
Enclosure

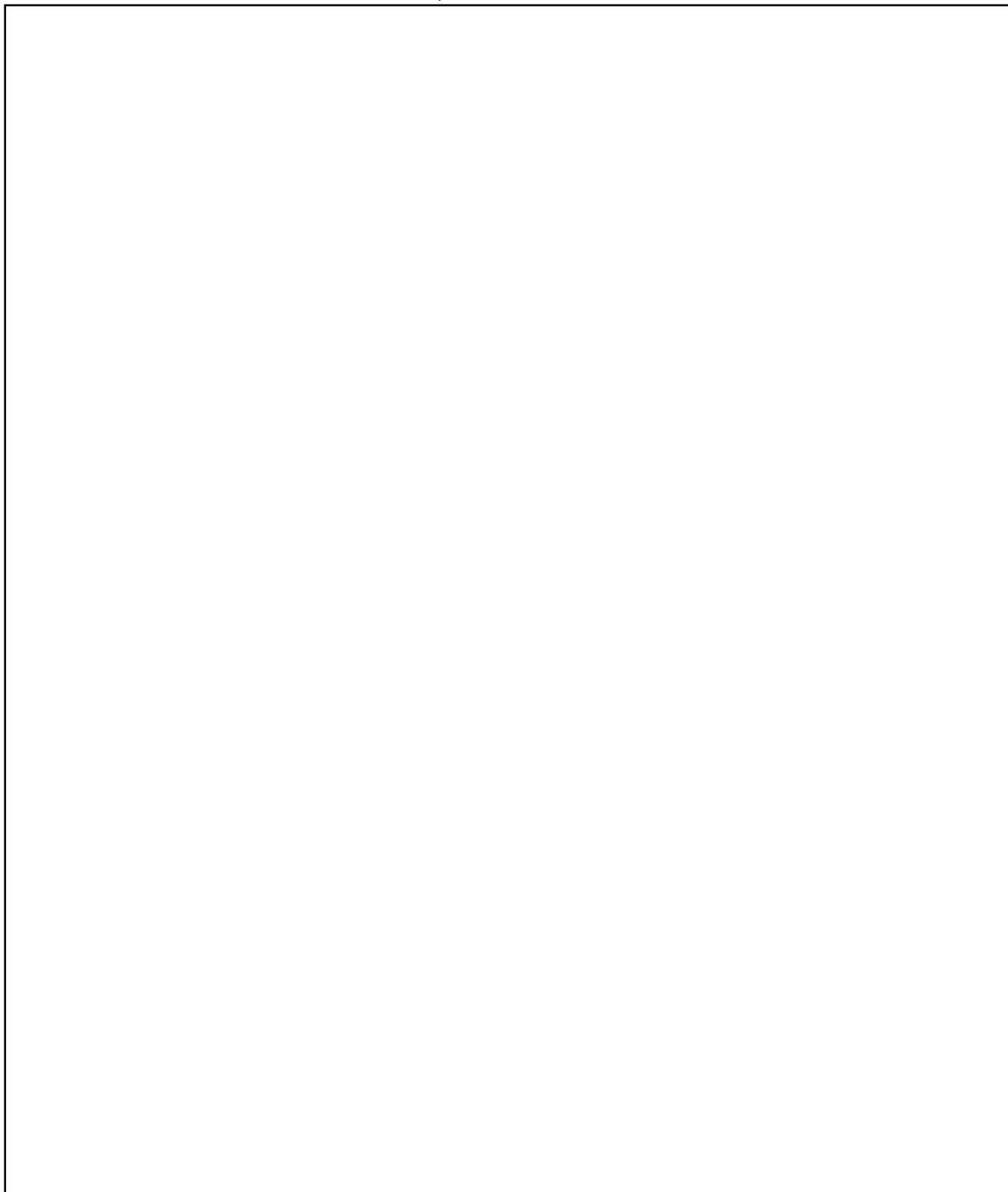
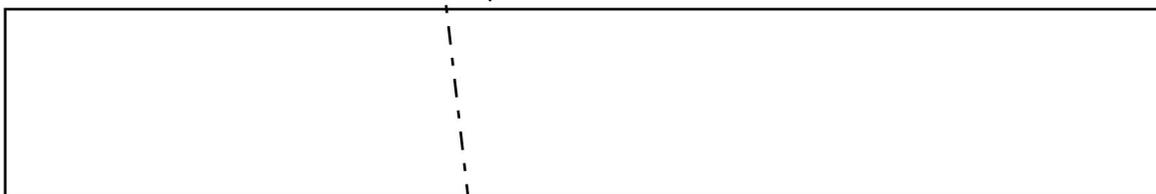
FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

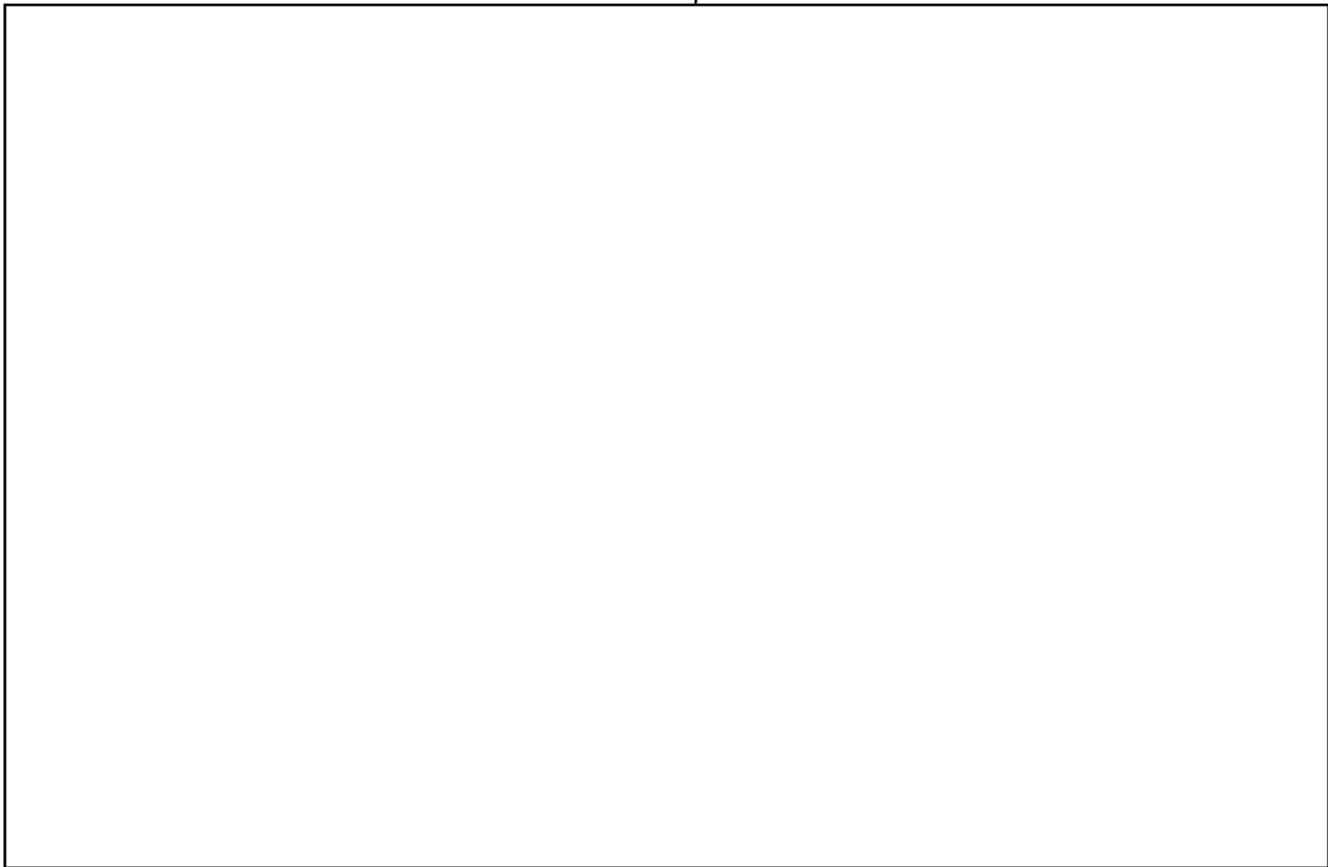
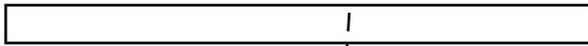
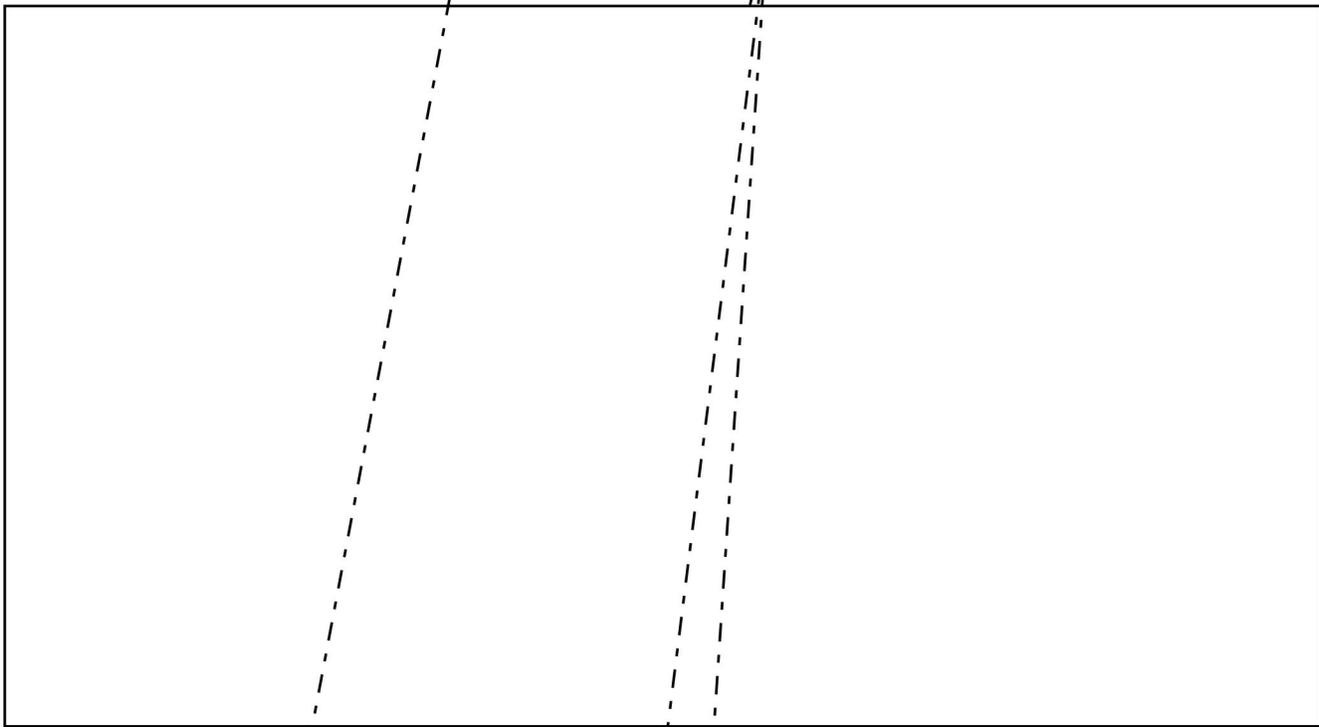
FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury



FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury







FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury



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 6, 1997

Robert N. Weiner
Senior Counsel
Office of the White House Counsel
The White House
Washington, D.C. 20500

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Mr. Weiner:

When we last visited the issue of our request

[redacted] you were awaiting the resolution of the litigation then pending before the Supreme Court.

Now that the Supreme Court has denied *certiorari*, we again request that you simply

[redacted]

[redacted]

Thank you for your consideration.

Sincerely,

Jackie M. Bennett, Jr.
Deputy Independent Counsel

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: August 6, 1997

TO: Robert N. Weiner, Esq., Senior Counsel

Company Name: Office of the White House Counsel

Fax Number: 202-456-1647 Telephone Number: 202-456-6297

FROM: Jackie M. Bennett, Jr.

Number of Pages: 2 (including this cover sheet)

Message: _____

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*** TX REPORT ***

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CONNECTION TEL 92024561647
SUBADDRESS
CONNECTION ID
ST. TIME 08/06 18:21
USAGE T 00'47
PGS. 2
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: August 6, 1997

TO: Robert N. Weiner, Esq., Senior Counsel

Company Name: Office of the White House Counsel

Fax Number: 202-456-1647 Telephone Number: 202-456-6297

FROM: Jackie M. Bennett, Jr.

Number of Pages: 2 (including this cover sheet)

Message: _____

August 20, 1997

From: *HE* H. Ewing

To: K. Starr
J. Bennett
B. Bittman
B. Kavanaugh
S. Wisenberg
P. O'Brien

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Re: Subpoena to White House; conversation with Lanny Brewer and Shelly Peterson

1. I received a call in Little Rock at about 10:14 am (CDT), Wednesday, August 20, 1997 from Lanny Brewer and Shelley Peterson. We talked for about 4 minutes.

2. Lanny said that he had not seen or talked with me since the occasion that he and Chuck Ruff came over to the Washington office when I was present. He said he was calling to request a meeting concerning the latest subpoena to the White House.

3. I told him that [redacted] I told them I thought there could be a meeting, but it may be with persons other than me, and in the Washington office.

4. Brewer stated words to the effect, "we, including Chuck Ruff, have some very serious concerns about this subpoena. We would want an open and forthright conversation concerning it." I took it from the words said and the tone that they wanted to talk before considering how to respond, or whether to resist in part. His tone was very pleasant though.

5. I stated [redacted] Peterson said, [redacted]

6. Brewer said that they felt this was important enough that they could be available when we could meet. He added that he felt it might be beneficial for me personally to be there. I told him I would consult with other persons in our office who are involved in this issue, and would call him back, if not late that morning, then in the early afternoon.

7. I requested, and he furnished me with his number: 202-456-5073.



Office of the Independent Counsel

1001 Pennsylvania Avenue, NW
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

August 26, 1997

BY FACSIMILE

Lanny Breuer, Esq.
Senior Counsel
The White House
Washington, D.C. 20500

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Mr. Breuer:

We are seriously considering the concerns you raised regarding [redacted] We sincerely hope and believe that the issues can be resolved. We intend to have a response by the end of the week. In the meantime, [redacted]

Sincerely,

A handwritten signature in black ink, appearing to read "Jackie M. Bennett, Jr." with a stylized flourish at the end.

Jackie M. Bennett, Jr.
Deputy Independent Counsel



Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

[Redacted]

Lanny Breuer
Senior Counsel
The White House
Washington, DC 20500

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Mr. Breuer:

We have carefully considered your views regarding the latest subpoena. Subpoena [Redacted] has been withdrawn, and two new subpoenas have been issued that, in part, take your views into account.

1. You suggested that the production of certain materials that could be technically responsive to the subpoena would be burdensome and time-consuming. You also suggested that certain materials would be irrelevant to our investigation. We have taken several steps to accommodate your concerns.

[Large Redacted Area]

[REDACTED] Given the state of the law on that subject, no rational prosecutor could or would accede to your blanket objection. See In re Grand Jury Subpoena Duces Tecum, 112 F.3d 910 (8th Cir. 1997).

Nor have you stated how or why such materials might be irrelevant to our investigation. You also declined our explicit request [REDACTED]

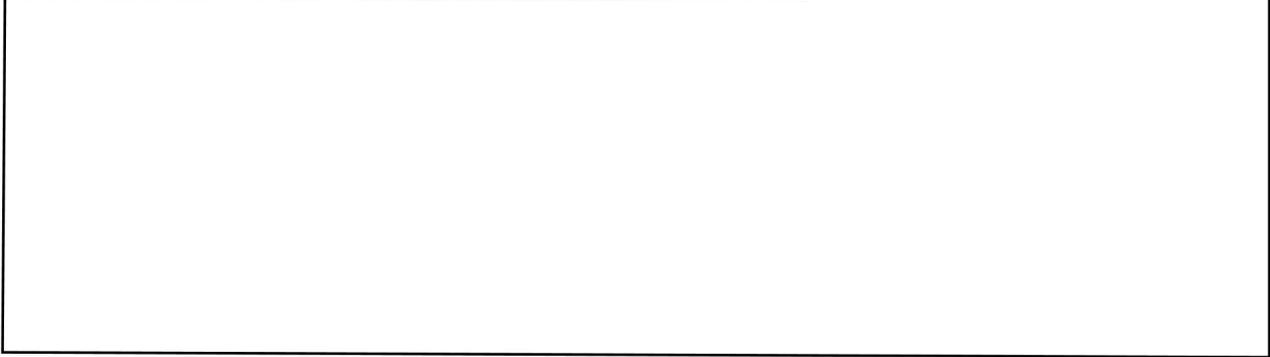
[REDACTED] that might be irrelevant to our investigation. We remain willing to entertain any good-faith objections on grounds of relevance or burden, but we cannot accept your current blanket objection "on principle."

We note, moreover, that the grand jury's request for these materials does not come out of the blue. [REDACTED]

In addition, the White House has produced to this Office and the Congress numerous materials that reflect [REDACTED]

The information produced will remain confidential unless authorized to be disclosed pursuant to a procedure authorized by law (for example, during a criminal trial). If you wish to discuss the confidentiality issue further, however, we can do so.

To the extent you are concerned that

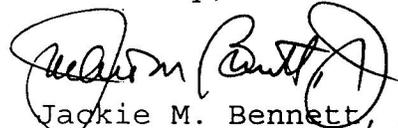


In sum, we cannot accept your blanket objection to production of [redacted] although we remain open to further discussions to reach a mutually agreeable solution.

* * *

Please contact me to discuss any aspect of this letter further.

Sincerely,



Jackie M. Bennett, Jr.
Deputy Counsel

Enclosures

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

[Redacted]

[Redacted]

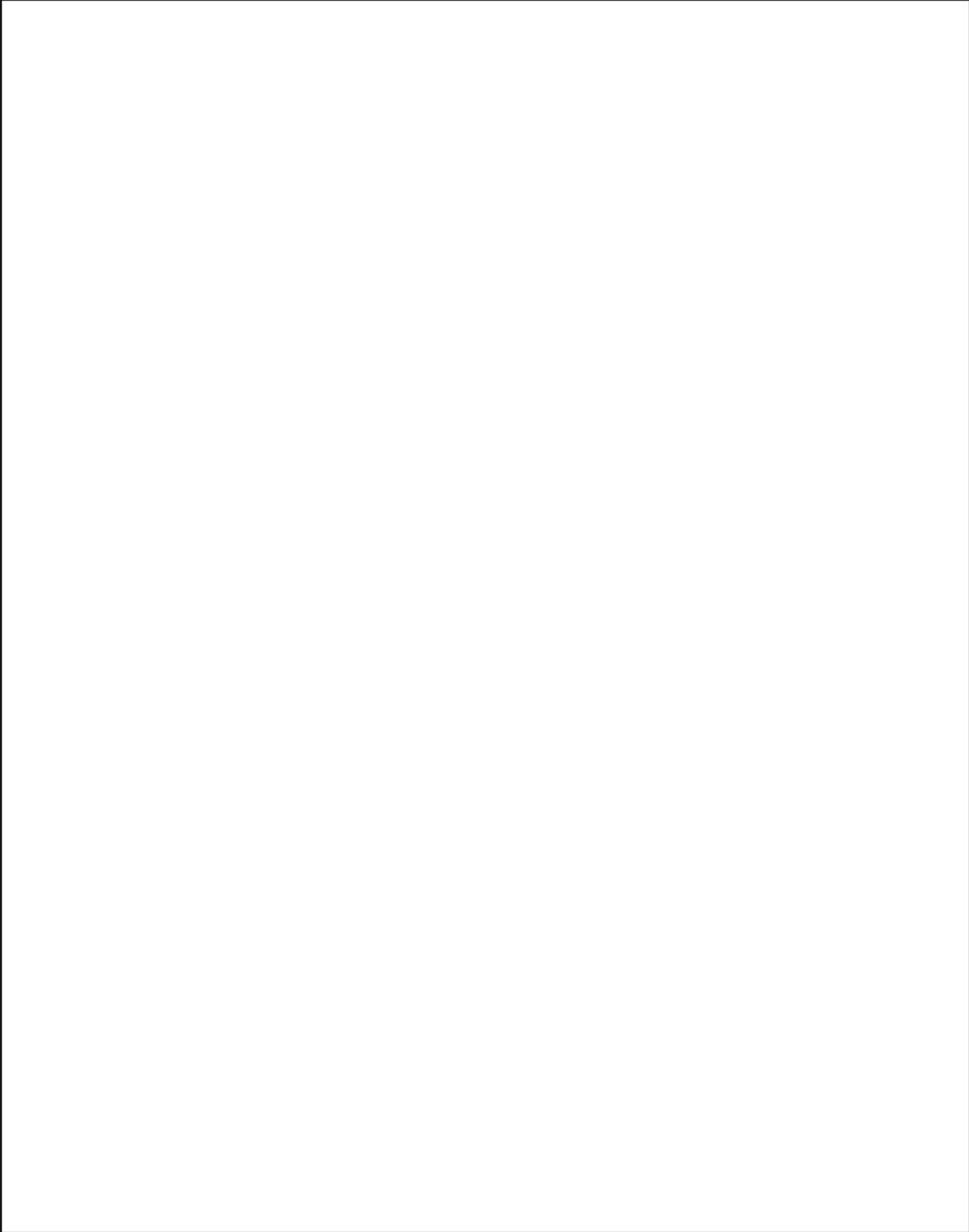
[Redacted]

[Redacted]

[Large Redacted Area]

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

[Redacted]



FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

[Redacted]

[Large redacted area]

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

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Office of the Independent Counsel

Suite 490-North
1001 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

September 11, 1997

VIA FACSIMILE AND
FIRST CLASS MAIL

Lanny Breuer, Esq.
Senior Counsel
The White House
Washington, DC 20500

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Re: [redacted]

Dear Mr. Breuer:

This is a follow-up to my letter of [redacted]

[redacted]

Sincerely,

Jackie M. Bennett, Jr.
Deputy Independent Counsel

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: September 11, 1997

TO: Lanny Breuer, Esq., Senior Counsel

Company Name: Office of the White House Counsel

Fax Number: 202-456-7931 Telephone Number: 202-456-5073

FROM: Jackie M. Bennett, Jr., Deputy Independent Counsel

Number of Pages: 2 (including this cover sheet)

Message: _____

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*** TX REPORT ***

TRANSMISSION OK

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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: September 11, 1997

TO: Lanny Breuer, Esq., Senior Counsel

Company Name: Office of the White House Counsel

Fax Number: 202-456-7931 Telephone Number: 202-456-5073

FROM: Jackie M. Bennett, Jr., Deputy Independent Counsel

Number of Pages: 2 (including this cover sheet)

Message: _____

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: September 11, 1997

TO: Hick Ewing, Pat O'Brien, Pam Craig, Leah Giannini

Company Name: _____

Fax Number: _____ Telephone Number: _____

FROM: Jackie Bennett

Number of Pages: 2 (including this cover sheet)

Message: _____

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*** TX REPORT ***

TRANSMISSION OK

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CONNECTION ID	OIC-LR	
ST. TIME	09/11 15:08	
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PGS.	2	
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: September 11, 1997

TO: Hick Ewing, Pat O'Brien, Pam Craig, Leah Giannini

Company Name: _____

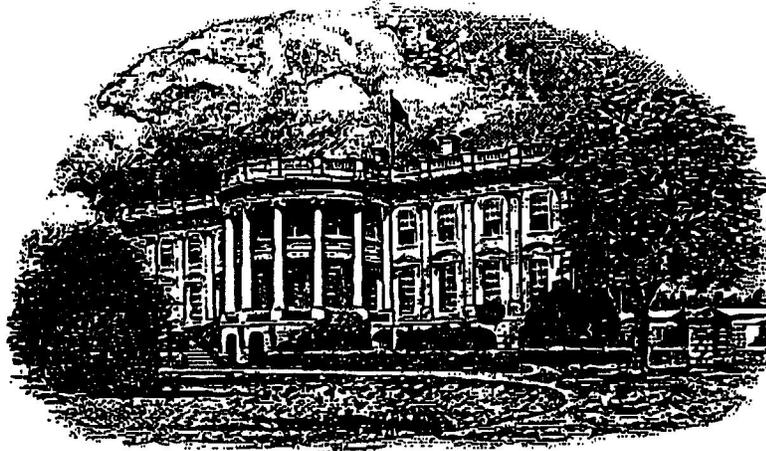
Fax Number: _____ Telephone Number: _____

FROM: Jackie Bennett

Number of Pages: 2 (including this cover sheet)

Message: _____

The White House



Office of Counsel to the President
Facsimile Transmission

Date: 9/12/97

To: Jackie Bennett

Facsimile Number: 514.8802 Total Pages: 2

From: Lanny A. Breuer
Phone: 202-456-5073
Return Fax: 202-456-7931

Note: _____

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THE WHITE HOUSE

WASHINGTON

September 12, 1997

Via Facsimile and First Class Mail

Jackie Bennett, Jr., Esq.
Deputy Independent Counsel
Office of the Independent Counsel
Suite 490 North
1001 Pennsylvania Ave, N.W.
Washington, D.C. 20004

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Jackie:

[Redacted]

Second, the subpoena requires [Redacted]

[Redacted] We simply cannot complete that review before [Redacted] especially given all of the other demands currently being placed upon us. I can assure you that we have begun the document search. As has been our practice with all prior subpoenas, we will produce responsive documents on a rolling basis as we collect them. However, we will be unable to complete production by [Redacted]

[Redacted]

As I hope you know, we are committed to cooperating fully with you. Please call me upon receipt of this letter so we can discuss the issues raised.

Sincerely,

Lanny A. Breuer

Lanny A. Breuer
Special Counsel to the President

Enclosures

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury



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 15, 1997

BY FACSIMILE

Lanny Breuer
Senior Counsel
The White House
Washington, DC 20500

FOIA(b)(3) - Fed. R. Crim. Pro. 6(e) - Grand Jury

Dear Mr. Breuer:

[Redacted]

You have asked that

[Redacted]

We think that approach again would make the most sense, particularly given that the general format of these documents is fairly straightforward, and the documents thus should be readily identifiable. Nonetheless, we can

[Redacted]

Please let us know.

In general, as we continue this process, we think it would be beneficial for Ms. Peterson and Mr. Bittman to maintain regular communication to discuss issues that arise during Ms. Peterson's review. Such a process of regular discussion was undertaken with respect to various earlier subpoenas issued to the White House, and the process often accomplished its purpose of narrowing or eliminating possible disputes.

Thank you for your assistance.

Sincerely,

Jackie M. Bennett, Jr.

Jackie M. Bennett, Jr.
Deputy Counsel

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: September 15, 1997

TO: Lanny Breuer, Esq., Senior Counsel

Company Name: Office of the White House Counsel

Fax Number: 202-456-7931 Telephone Number: 202-456-5073

FROM: Jackie M. Bennett, Jr., Deputy Independent Counsel

Number of Pages: 3 (including this cover sheet)

Message: _____

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