



U.S. Department of Justice

Office of Policy Development

Office of the Director

Washington, DC 20530

January 28, 1992

MEMORANDUM

TO: Freedom of Information Act/Privacy Act
Legal and Administrative Contacts

FROM: Steven R. Schlesinger *Steven R. Schlesinger*
Director
Office of Policy Development

SUBJECT: White House Records in Agency Files:
Referrals and Consultations

In processing requests under the Freedom of Information Act or the Privacy Act of 1974, the search for responsive records occasionally turns up White House records located in agency files. Such White House records raise special issues because of the unique status of the White House under the FOIA. After consultation with the Office of the Counsel to the President with regard to such records, we have agreed that agencies should implement the following procedures. (This memorandum supersedes the Department's September 1, 1988 memorandum on this subject.)

1. Records originating with or involving the "White House Office"¹ should be forwarded to the Office of the Counsel to the President for any recommendations or comments it may wish to make prior to your final response to the requester. Please be certain to advise the Counsel's Office of any sensitivity that these records have for your agency and whether any FOIA exemptions apply. If you believe that FOIA exemptions apply, you should mark the documents accordingly to facilitate review by the Counsel's Office of your proposed response.

It is not necessary to follow this consultation procedure, however, if the record is going to be withheld on other grounds relating to the interests of your agency. For example, if you

¹ The "White House Office" consists of all offices over which the Office of Chief of Staff directly presides, including the Offices of Deputy Chief of Staff, Communications, Speech-writing, Research, Public Affairs, Media and Broadcast Relations, Press Secretary, Political and Intergovernmental Affairs, Counsel to the President, Presidential Advance Office, Domestic Affairs, Policy Development, Cabinet Secretary, Legislative Affairs, First Lady, Appointments and Scheduling, Private Sector Initiatives, Presidential Personnel, and Operations.

intend to withhold documents under Exemption 7(A) in connection with a pending law enforcement proceeding, you should simply assert the exemption as you would otherwise do. Moreover, drafts are ordinarily withheld under Exemption 5; they need not be sent to the White House for consultation.

All inquiries to the White House on records whose origins cannot be discerned should be referred to the White House Counsel's Office at the following address:

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

Please note that many documents originating with the White House Press Office, such as "Press Briefings" and "White House Talking Points" (unless they are marked as drafts), are in the public domain and thus may be disclosed without consultation. Questions concerning documents likely to be in the public domain should also be referred to the White House Counsel's Office.

2. All records originating with other offices within the Executive Office of the President (EOP) must be referred to the proper EOP officer for consultation purposes only. Individual agencies should respond directly to the requester when these consultations have been completed. For your convenience, I am attaching a list of names and addresses of all other EOP components.

3. Classified White House records, "sensitive" ones involving foreign relations matters, and records originating with the National Security Council should be coordinated with Ms. Nancy V. Menan of the National Security Council at the following address:

Mr. Steven R. Tilley
Director of Information Disclosure
Office of Information Disclosure
National Security Council
Old Executive Office Building - Room 392
Washington, D.C. 20506

If you have any questions with regard to these procedures, please do not hesitate to contact Miriam Nisbet, Deputy Director of the Office of Information and Privacy, Department of Justice, at 514-4233.

Attachment

Executive Office of the President

Council of Economic Advisers
Special Assistant to the Chairman
Old Executive Office Building, Room 315
Washington, D.C. 20500

Council on Environmental Quality
Deputy General Counsel
722 Jackson Place, N.W., Room 31
Washington, D.C. 20006

Office of Administration
Director, Administrative Services Division
Old Executive Office Building, Room 350
Washington, D.C. 20500

Office of Management and Budget
General Counsel
Executive Office of the President
Washington, D.C. 20503

Office of Science and Technology Policy
Executive Director
726 Jackson Place, N.W., Room 5013
Washington, D.C. 20500

Office of the U.S. Trade Representative
FOIA Officer
600 17th Street, N.W.
Washington, D.C. 20506