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# National Archives



604570  
1140

Washington, DC 20408

FE008-01

FG420

FE010

WH004

OCT 14 1988

Sargent Jesse Maddox  
White House Communications Agency  
Washington, DC 20500

Dear Sargent Maddox:

The National Archives, National Security Counsel Secretariat, White House Office of Records Management, and White House Communications Agency personnel have had several meetings regarding the computer files to be transferred to the Reagan Presidential Library. This memorandum reflects our understanding of the agreements reached in those meetings.

Unclassified data files: Photos

WHCA will provide NARA with two copies of the VSI STAIRS database files        DICT,        INVT,        TNDX, and        TEXT that comprise the PHOTOS data base. Microfiche reports from this data base are not required.

Classified data files: System 1, System 2, NSC Policy File

For each of the three data bases, WHCA will provide NARA with two copies of each data base in VSI STAIRS format. Each data base will include the        DICT,        INVT,        TNDX, and        TEXT file. WHCA will also provide hardcopy documentation specifications for each data base, defining the formatted fields and paragraphs.

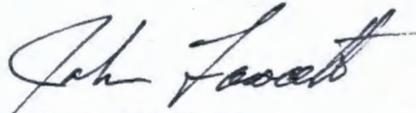
WHCA will also provide NARA with a silver master and a diazo or versicular copy of microfiche reports prepared from the classified data bases. The microfiche reports will be 48X, with the report title, first and last sort value, and page number printed in eye-legible form on the header. These reports will include a master listing by log number sequence, name and key-word indices, and a calendar year index. For classified document control purposes, WCHA will also provide a listing by log number of all Top Secret documents.

*minutes!*  
Background material on Presidential Records and Presidential Library (Libraries) attached

General

All STAIRS files will be copied to 6250 bpi tape using the IEBGENER utility. All tapes shall be new tapes, certified as error free. If WHCA desires, NARA can inspect and certify the blank tapes that will be used for this project. We understand that all input to the systems will be cut-off on Saturday, January 14, 1989. NARA requests that the tapes containing the PHOTOS data base be transferred to us by January 19, 1988. The classified tapes and microfiche reports should be provided to NARA as soon as is practical.

Sincerely,



JOHN FAWCETT  
Assistant Archivist for  
Presidential Libraries

cc: ✓ Biff Henley, Director  
White House Office of Records Management

Steve Hannestad, Director  
Systems Management Division, NARA

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ONLY

2 August 1988

MEMORANDUM FOR THE RECORD

SUBJECT: Summary of Archives Meeting

ATTENDEES: NSC, Archives, WH Records, WHCA & IBM

Archives computer data requirements:

- o NIPS flat file in 8211 format of System I, System II and Reagan portion of NSCIF file
  - WHCA can do flat file but does not believe it can do 8211
- o COM of System I, System II and Reagan portion of NSCIF file in following indices
  - master index
  - name index
  - keyword index
  - NSCIF calendar year index
- o an extract of TS documents in each of three files sorted by log number

Decisions agreed upon:

- o Archives will prepare a memo to WHCA which will list requirements
- o WHCA will immediately contact Navy Yard (Bob Anick, 433-3142) and set up arrangements for producing COM
- o Exclusion of NSC records filed in WH file was dropped
- o Hard copy computer reports no longer required by Archives

Outstanding Issues:

- o status of PROFS records

Prepared by:  
Brian T. Merchant

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22 July 1988

MEMORANDUM FOR THE RECORD

SUBJECT: Summary of 17 June 1988 Archives Meeting

ATTENDEES: NSC, Archives, WH Records, WHCA & IBM

Archives has a requirement to service classified records between both temporary and permanent library sites.

Archives requirements:

- o data tapes; 2 copies (1 Library & 1 NARS)
- o hard copy computer reports; 1 copy
- o microfiche copies; original silver master + 1 copy

Preference is for COM. Preference for tapes in flat 8211 file and VM/VS1 stairs file

Important factor in volume of non-WH material

Decisions agreed upon for NSC records:

- o WHCA to make computer tape of entire data base(s); ie, Systems I, II & NSCIF (Reagan portion)
- o WHCA to make 2 copies of the print-outs; exclude all NSC records which are filed with White House. (code = WH)
- o WHCA to print SY1 master, SY2 master & NSCIF master (programming and output design already completed)
- o other computer reports are Name index, Keyword index, and NSCIF Calendar year index.

Pending Questions to be answered:

- o need for separate report by classification, ie, index of all TS material
- o status of WHSSS records
- o status of PROFS
- o who paid for Navy Yard activities at end of Carter Administration

-- BTM to discuss w/ BIF

- WHO ARRANGED? not OA, either WHCA or GSA; most likely WHCA
- WHO PAID? maybe GSA Transition funding
- HOW? unknown

Prepared by:  
BRIAN T. MERCHANT

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ONLY

6/16/88 10:00 - 12:00

Attended	Van Eron	NSC
	Bill	"
	Brian	"
	Donna	"
	John	NARA
	Bill	WH
	Steve	NARA
	Mik	WHCA
	John	"
	IBM	IBM

John  
Data Tapes - Microfilm  
2 1/2 yrs to go live - manual system

8/2 - 10 am

Thursday 3/31 2:00 Room 324

WH Henry

Archives John Fawcett 11/27/43  
Steve Hammett 1/18/46 -

WHCA Hilton (6310) Moss Haley  
McGowan Maddox 6003

NSC Van Rhon (7356)  
Reigon Siro

Crisis Clark

TRANSITION MEETING - 2/29/88

1. INTRODUCTION

2. MAINFRAME/MINICOMPUTER SYSTEMS

- STATUS OF ARCHIVES MAINFRAME ACQUISITION
- PRESIDENTIAL APPOINTMENTS EXTENDING BEYOND ADMINISTRATION  
e.g. FEDERAL JUDGES IN THE PRESIDENTIAL PERSONNEL SYSTEM

3. PROFS

- ADMINISTRATION APPOINTEES, e.g. WHITE HOUSE STAFF
- OTHER, e.g. OFFICE OF ADMINISTRATION

4. PERSONAL COMPUTER DATA

- IS HARDCOPY REQUIRED FROM EOP?
- CAN IBM STANDARD TAPE FORMAT BE GIVEN FOR ARCHIVES TO  
PRINT HARDCOPY
- NON-ADMINISTRATION PERSONNEL, e.g. OA

# National Archives



Washington, DC 20408

OCT 15 1987

William M. Jones  
General Counsel  
Committee on Government Operations  
United States House of Representatives  
Washington, DC 20515

Dear Mr. Jones:

In response to your request during the October 5 meeting with National Archives staff members, enclosed are copies of correspondence related to the National Archives White House Liaison Staff. Also as a result of the meeting, we have considered the possibility of changes in the Presidential Records Act.

Although we share your concern about the operation and observance of the Presidential Records Act, after much thought and discussion since it was enacted, we have concluded that we would be reluctant to advocate any changes in the law at this time. We would like to mention a few of the reasons that we have reached this conclusion.

We believe that the Presidential Records Act is a carefully crafted law which seems to succeed in balancing the public's rights in the record of the presidency, the official requirements of the Office of the President, and the tradition of presidential authority over the records. As you know, the law was developed during a lengthy and exhaustive process of research, collecting the views of knowledgeable experts, and public hearings. While this rigorous process of development does not in itself render the Act immune to amendment, NARA's view is that any changes to it should come after additional time has passed and we have had a better opportunity to study the implementation of the Act and to carefully weigh the effect of changes on the historical record.

Although we also view with alarm the unauthorized destruction of records, we do not believe that an instance of disregard of the law calls into question its overall effectiveness. That is perhaps more a question of penalties and further emphasis on enforcement where appropriate. In our view, the law is being observed and administered very well despite the visible exception. We feel that the new definition of the records as public property, in itself, has

provided a powerful tool to encourage proper handling of presidential records.

We also believe that the Act has not yet been fully tested. The measure of the Act's effectiveness will come after the close of the current administration, when archivists and scholars assess the depth and breadth of the accumulated record. Preliminary indications are that the record of the presidency kept under the Act is as full as that of previous presidencies.

As archivists we approach with care the question of the purpose and nature of the record of the presidency. From the archivist's standpoint, the primary purpose of record-keeping in the White House or any other "agency" is to facilitate the daily business of the Office of the President or the agency. In this aspect the responsibility of assuring an adequate record and adequate management of the record must rest with the President. In our view, the President is the chief records official of this "agency" in the same way that other executive branch agency heads are responsible for agency records programs.

It has been suggested that the Archivist ought to have a highly visible records management enforcement role based in statute. While such a role would have advantages in clarifying our function with respect to presidential records, we feel that it might also result in diminishing the record. We have learned from experience that the record created primarily for ongoing business is also, in the end, the most useful as a source for understanding the past. However, if this initial purpose is affected by the intrusion of the archivist, with an eye on future use of the record as historical evidence, then the whole process of accumulating a reliable "natural" historical record is called into question. We cannot know with certainty what will be historically valuable in the future, and we feel that attempting to make that determination at the time the record is created will distort the record and lessen both its current and future usefulness. We feel that the professional archivist must approach with considerable delicacy the task of nurturing the historical record.

Another concern that has been expressed is that officials may avoid creating records which document sensitive activities. Our experience with the records of modern presidential administrations suggests that there is not a great danger of loss of historical evidence because of reluctance to record sensitive matters. Records are created through necessity because that is the normal way business is accomplished in large organizations. White House staff members seeking to advise the President must generally reduce their ideas to writing in order to receive attention. Fear of future disclosure has not forestalled the creation

of a record because the urgency of the moment is too compelling.

Despite these observations on the nature and purpose of presidential records, there are perhaps some further measures that are advisable at this point to assure the care of presidential records. The general provision in the law requiring that official transactions be adequately documented could be augmented by noting the availability of the Archivist to advise on recordkeeping. Also, the importance of preserving documentation could be emphasized with the addition of, or reference to, a penalty for unauthorized destruction of documents--although such penalties already appear to exist in law, and perhaps all that is needed is to bring this to the attention of appropriate officials.

Again, at this early point in the existence of the Presidential Records Act, we are reluctant to recommend extensive revisions or additions. We too are sensitive to the concerns brought about by the recent disclosures of the destruction of records. We have given considerable thought to whether or not violations of this sort warrant changes in either the Federal Records Act or the Presidential Records Act and to the long-term consequences of such changes. Our tentative conclusion is that education, advice, guidance and full utilization of current authorities are the most effective means of assuring the creation and protection of a full historical record. This conclusion is now being reviewed more formally by a task force which the Archivist has charged with examining and reporting on similar questions with respect to all official records.

We look forward to continuing our work with you toward this common goal, and we stand ready to discuss these issues further at your convenience.



CLAUDINE J. WEYHER  
Acting Assistant Archivist  
for Presidential Libraries

Enclosures

THE WHITE HOUSE

WASHINGTON

October 3, 1983

MEMORANDUM FOR:                    ROD ROSS

FROM:                                THERESA A. ELMORE  
                                      DIRECTOR OF WHITE HOUSE  
                                      ADMINISTRATION

SUBJECT:                            Proposed Move of Presidential Records

Thank you for your memorandum of September 29 expressing your concerns about the proposed move of Presidential Records to Records Management on the ground floor of the EOB.

Please be assured that the purpose of this proposal is to effectively use the office space available to improve the supervision and, thus, the coordination among related offices.

Because of John Hilboldt's proximity to the gift technicians, we feel confident that adequate supervision will be maintained.

Again, thank you for expressing your concerns and I will look forward to discussing them further upon Marie Allen's return.



Date : September 29, 1983

Reply to  
Attn of : Rod Ross

Subject: Space in the EOB

To : Theresa Elmore

Marie Allen called from Seattle today where she is participating at the Oral History Association national convention. She asked that I pass on a question to you concerning office space.

According to Biff Henley, there is a proposal that our office should move to Room 68 on the ground floor. One of our problems with this space is that it puts us four floors away from two technicians that we are supervising in Room 459. We have noticed that Room 460 is temporarily vacant and wondered whether there would be any possibility of our moving to this space instead, in order to carry out more efficiently our supervisory responsibilities.

I might point out that we have a high turnover in gift-packing technicians; they require many hours a week of training, supervision and recruiting on our part. Since the Gift Unit is going to be moving to that end of the 4th floor, it would centralize things for all persons involved with gifts to be located there.

Marie Allen will be back on October 4th. Should you desire a follow-up conversation to this memo prior to her return, please contact me at extension 2545.

October 28, 1983

MEMORANDUM TO: JAMES JENKINS  
FROM: MARIE ALLEN  
SUBJECT: CABINET SOLICITATION PROGRAM

Just for your information, I'm enclosing the reminder letters that I sent yesterday to the various Cabinet departments concerning our Cabinet papers solicitation program.

I hope to write an interim report to you on this project by December 1, 1983, and then to proceed with the next series of solicitation letters. I'd like to address the next letters to heads of independent agencies.

The continued existence of this office is still in jeopardy. Jim O'Neill and I are scheduled to discuss the issue again next week with Theresa Elmore. I'll keep you informed about these discussions, and I'd appreciate any insight or advice that you could give me.

Thanks!

8 FEB 1984

Honorable John F. W. Rogers  
Assistant to the President for Management  
The White House  
Washington, DC 20500

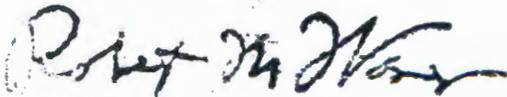
Dear John:

This letter summarizes our meeting and telephone conversations, concerning the Archives Liaison Office in the Old Executive Office Building. I understand and appreciate your desire to reorganize the office to become part of the White House Office of Records Management. As you know, we are concerned that such a reorganization might present the appearance of a conflict of interest, since the Liaison Office has oversight responsibilities for ORM disposal activities under the Presidential Records Act. Accordingly, we believe we should vacate the office space in the White House complex and I have instructed the Liaison Staff to be prepared to do so.

After removing the office, there are particular functions of the office which we should still address in order to further good records management activities in the White House complex and promote the necessary historical activities that will help the future Reagan Presidential Library.

I have asked Jim C'Neill of our Office of Presidential Libraries to contact you or your staff to work out the necessary steps to implement this move.

Sincerely,



ROBERT M. WARNER  
Archivist of the United States



cc:Official File NL  
Reading File NL  
Day File N  
NL/MBA11en/11r 2/7/84

NL JE O'Neill

THE WHITE HOUSE

WASHINGTON

February 14, 1984

Dear Dr. Warner,

I recently received your letter outlining your decision to move the White House Archives Liaison Office to the Archives. After reading your letter, it was obvious that a misunderstanding exists over our initial desire to relocate the office within the Old Executive Office Building. At no time did I or my representatives suggest a reorganization of the liaison office or a desire to make them a part of the White House Records Management Office.

I did, however, agree with you that better supervision is required and concur in your decision to return them to the Archives to achieve this end.

I hope this clarifies the situation and puts to rest any speculation over our motivations. I have asked Clarence Henley of the White House Records Management Office to work out any remaining questions with Dr. O'Neill of your staff.

Sincerely,



John F. W. Rogers  
Assistant to the President for  
Management and Administration

Dr. Robert M. Warner  
Archivist of the United States  
National Archives  
Washington, D.C. 20408

THE WHITE HOUSE  
WASHINGTON

March 13, 1984

N 3/16/84

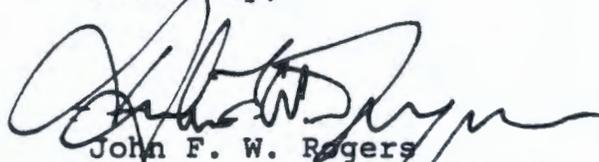
Dear Dr. Warner:

This letter supplements mine of February 14, 1984 to you concerning the White House Archives Liaison Office. It is apparent that our conversation concerning this office has led to an unintended consequence with regard to the Gift Unit.

Until recently, two employees of the National Archives worked as professional packers in the White House Gift Unit. When you decided to return the White House Archives Liaison Office to the Archives, I did not understand this to include removal of the two professional packers who perform a necessary function in cataloging, storing and retrieving gifts received by the White House for the President and Mrs. Reagan. In view of this, I would appreciate your reinstating these two positions in the Gift Unit and having the employees who will fill these slots report to John Hilboldt as soon as possible.

Thank you for your attention and cooperation.

Sincerely,



John F. W. Rogers  
Assistant to the President for  
Management and Administration

Dr. Robert M. Warner  
Archivist of the United States  
National Archives  
Washington, D.C. 20408

27 MAR 1984

Mr. John F. W. Rogers  
Assistant to the President for  
Management and Administration  
The White House  
Washington, D.C. 20500

Dear Mr. Rogers:

Thank you for your letter of March 13, 1984, informing us about the misunderstanding regarding the gift packing services that the National Archives had been providing for the White House Gift Unit.

The services we provided to the Gift Unit prior to moving from the OEOB consisted of packing and providing for storage and retrieval of the Presidential gifts. These services were carried out by two part-time students who were supervised by professional archivists skilled in the preservation of museum quality objects. National Archives employees have not been involved in cataloging Presidential gifts, which is appropriately a Gift Unit function.

Our current plan calls for continuing the packing services at the National Archives building, where such activities can be carried out under direct professional supervision. Professional supervision is necessary if we are to take responsibility for the preservation of valuable and often fragile gifts and assure that they are in good condition for future exhibit at the Reagan Presidential Library.

Heretofore we have packed and cared for the Head of State gifts under the authority of the Foreign Gifts and Decorations Act, which designates such gifts as public property. Our authority to expend funds on the preservation of the gifts from the American people to President Reagan is less clear. However, we have been packing and preserving these gifts under the assumption that they are either included within the definition of Presidential Records or that they are personal gifts which the President intends to donate for preservation in the Reagan Library. It may be prudent to obtain a ruling from the Attorney General on the legal status of the domestic gifts before we resume packing and storing them.

We are more than willing to work with the White House Gift Unit to resolve any difficulties and overcome any inconvenience caused by moving the packing of the gifts to the Archives building. I hope you agree that our acceptance

2

of the responsibility of preserving these valuable historical materials  
also entails the acceptance of related supervisory and managerial  
responsibilities.

Sincerely,



ROBERT M. WARNER  
Archivist of the United States

NL:DVanTassel:ch 3/26/84 523-3073 Ltr. B 08635  
cc: Official file-NL  
Reading file-NL  
Day file-N

3 OCT 1984

Mr. John F. W. Rogers  
Assistant to the President for  
Management and Administration  
The White House  
Washington, D.C. 20500

Dear John:

Thank you for obtaining legal opinions from Mr. Fielding and the Department of Justice concerning our authority to pack and care for gifts to President Reagan from other than foreign governments. That information is most helpful.

I understand that staff members from the Office of Presidential Libraries have contacted Mr. Hilboldt of the White House Gift Unit to plan for resumption of packing and storage services. The first material will be packed this week.

Sincerely,



ROBERT M. WARNER  
Archivist of the United States

~~11/1~~ NL:DVanTassel:ch 10/1/84 523-3073  
cc: Official file-NL  
Reading file-NL  
Day file-NL



HL

THE WHITE HOUSE

WASHINGTON

September 11, 1984

9/11/84

Dear Dr. Warner:

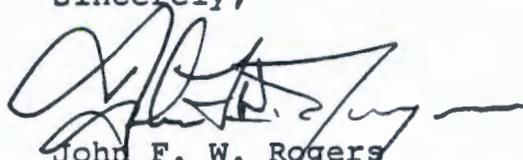
In our exchange of letters regarding the two employees of the National Archives who, until February of this year, provided the White House Gift Unit with packing, storage and retrieval services, you raised the following issue:

Heretofore we have packed and cared for the Head of State gifts under the authority of the Foreign Gifts and Decorations Act, which designates such gifts as public property. Our authority to expend funds on the preservation of the gifts from the American people to President Reagan is less clear. However, we have been packing and preserving those gifts under the assumption that they are either included within the definition of Presidential Records or that they are personal gifts which the President intends to donate for preservation in the Reagan Library. It may be prudent to obtain a ruling from the Counsel to the President on the legal status of the domestic gifts before we resume packing and storing them.

In keeping with your suggestion, I raised that issue with Fred F. Fielding, Counsel to the President, who in turn has discussed it with the Office of Legal Counsel, U.S. Department of Justice.

Mr. Fielding advises me that both he and the Department of Justice are of the opinion that the Administrator of General Services has the authority to accept and store gifts received by the President from donors other than foreign governments. They have also confirmed the clear authority of the Administrator regarding gifts from foreign governments. Now that this issue is settled, the National Archives should resume its services to the White House Gift Unit as soon as possible.

Sincerely,



John F. W. Rogers  
Assistant to the President for  
Management and Administration

Dr. Robert M. Warner  
Archivist of the United States  
National Archives and Records Service  
Washington, D.C. 20408

# National Archives



Washington, DC 20408

OCT 15 1987

Honorable David Pryor  
Chairman, Subcommittee on Federal  
Services, Post Office and Civil Service  
Committee on Governmental Affairs  
United States Senate  
Washington, DC 20510-6450

Dear Senator Pryor:

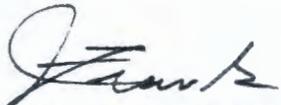
Thank for your letter of October 6. As requested, we are enclosing copies of correspondence between the White House and the National Archives pertaining to implementation of the Presidential Records Act, the NARA Liaison Office in the White House, and records management for the period following November 1, 1980.

With respect to the White House liaison function, although we have not maintained an office in the Old Executive Office Building since February 1984, we have continued to carry out these responsibilities. These include:

1. Providing advice on general questions of records management.
2. Funding one position for the maintenance of the President's Daily Diary.
3. Implementing disposal procedures for Presidential material without value (44 U.S.C. 2203 (c)-(e)), consisting primarily of bulk mail.
4. Packing foreign and domestic Presidential gifts, and taking preservation action when necessary.
5. Storing Presidential gifts, audiovisual materials, and the overflow of Presidential records.
6. Providing reference service on stored White House materials and on National Archives holdings.
7. Providing advice on the establishment of the Ronald Reagan Presidential Library.
8. Writing regulations for the post-Presidential implementation of the Presidential Records Act.

I hope that the enclosed material satisfactorily meets your request. Please contact me if you have any questions or need additional documentation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Frank G. Burke".

FRANK G. BURKE  
Acting Archivist  
of the United States

Enclosures

SAM NUNN, GEORGIA  
CARL LEVIN, MICHIGAN  
JIM SASSER, TENNESSEE  
DAVID PRYOR, ARKANSAS  
GEORGE J. MITCHELL, MAINE  
JEFF BINGAMAN, NEW MEXICO

TED STEVENS, ALASKA  
WILLIAM S. COHEN, MAINE  
WARREN B. RUDMAN,  
NEW HAMPSHIRE  
JOHN HEINZ, PENNSYLVANIA  
PAUL S. TRIBLE, JR., VIRGINIA

JIM SASSER, TENNESSEE  
JEFF BINGAMAN, NEW MEXICO  
EDWARD J. GLEIMAN, STAFF DIRECTOR

TED STEVENS, ALASKA  
PAUL S. TRIBLE, JR., VIRGINIA

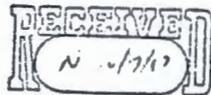
LEONARD WEISS, STAFF DIRECTOR  
JO ANNE BARNHART, MINORITY STAFF DIRECTOR

# United States Senate

COMMITTEE ON  
GOVERNMENTAL AFFAIRS

SUBCOMMITTEE ON  
FEDERAL SERVICES, POST OFFICE, AND  
CIVIL SERVICE

WASHINGTON, DC 20510-6250



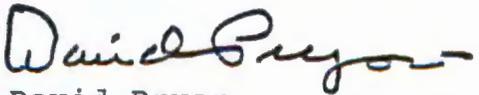
October 6, 1987

Dr. Frank C. Burke  
Archivist of the United States  
(Acting)  
National Archives and Records Administration  
Seventh and Pennsylvania Avenue, N.W.  
Washington, D.C. 20408

Dear Dr. Burke:

This is to request that you provide the Subcommittee copies of all correspondence between the White House and the National Archives and Records Administration (or its predecessor or parent agency) pertaining to records management generally or to implementation of the Presidential Records and Presidential Libraries Funding Acts. I would also like you to provide copies of any internal memoranda, decision documents, notes and telephone logs pertaining to the removal of archives personnel from the White House. This material should be provided for the period November 1, 1980 through the present.

I would appreciate a prompt response to this request. If you are unable to provide the requested material within two weeks or if you have any questions, please contact Mr. Edward Gleiman of my Subcommittee staff. You should be aware that any delay in receipt of this material could have a bearing on consideration of the Archivist nominee currently before the Senate.

Sincerely,  
  
David Pryor

*Handwritten notes:*  
A.C. Burkhart  
Folder

JUL 20 1987

Honorable Arthur B. Culvahouse, Jr.  
Counsel to the President  
The White House  
Washington, DC 20500

Dear Mr. Culvahouse:

As you know, by the time President Reagan leaves office the National Archives must have in place regulations implementing certain provisions of the Presidential Records Act. David Van Tassel of our staff provided you with a draft of the regulations in connection with the group which is working on implementing the Tower Board recommendations. The enclosed draft regulations are substantially the same, except for a few technical changes and a "preamble" which has been added. Within a short time, we will send the draft to OMB for clearance prior to publishing them as a proposed rule. We hope to publish them in early August.

On another matter, thank you for your kind words about the two "talented" archivists who are on detail to your office. I guess it is nice to be appreciated so much it hurts. Seriously, we are happy to be of assistance.

Sincerely,



FRANK G. BURKE  
Acting Archivist  
of the United States

Enclosure

cc: Official File - NL  
Reading File - NL  
- N

DSVan Tassel/pac 7/15/87 NL:

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NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1270

Regulations Implementing the Presidential Records Act

AGENCY: National Archives and Records Administration  
(NARA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This rule sets forth administrative procedures for the administration of certain provisions of the Presidential Records Act of 1978. As required by the act, this rule contains:

1. Provisions for advance public notice of disposal of any Presidential records determined by the Archivist to have insufficient value to warrant continued preservation.

2. Provisions for notice to the former President when materials to which access would otherwise be restricted are to be provided in response to judicial process, to an incumbent President for current business, or to Congress.

3. Provisions for notice to the former President when disclosure of a document may adversely affect the former President's rights or privileges.

4. Provisions for establishment of procedures to consult with Federal agencies concerning administration of records containing information compiled for law enforcement purposes.

DATE: Comments must be received by [insert date 30 days after date of publication].

**ADDRESS:** Comments should be sent to Director, Program Policy and Evaluation Division, National Archives and Records Administration (NAA), Washington, DC 20408.

**FOR FURTHER INFORMATION CONTACT:** Gary L. Brooks or Christopher Runkel, Legal Services Staff, (202) 523-3618.

**SUPPLEMENTARY INFORMATION:** Until January 20, 1981, the documentary record created by each President of the United States and his staff in the course of carrying out the duties of the Presidency was considered to be the personal property of the President. When George Washington left office, he carried his papers with him. This precedent was followed by subsequent Presidents. Some presidential papers were scattered, lost, destroyed, or winnowed and sold by heirs. Others simply deteriorated through neglect. Only gradually during the 19th century was there a recognition of the historical worth of Presidential papers as part of the national patrimony and of the desirability of preserving a President's papers as a coherent body of materials which could be used to further historical understanding. With the growth of this recognition, the Government began to collect Presidential papers, first through purchases of past Presidents' papers by the Department of State and then in the early 20th century, through concerted collection efforts and direct accession of papers by the Library of Congress.

Recognition of the nation's claim on Presidential papers was furthered with President Franklin Roosevelt's proposal in 1939 of the idea of the Presidential Library. His plan

for his voluminous White House papers was to donate them to the United States for administration by the National Archives. The papers were to be housed in a privately constructed facility donated for operation to the United States. This plan was accepted by Congress through a joint resolution and later, in 1955, applied to all Presidents through passage of the Presidential Libraries Act. The passage of this act marked the first legal recognition of Government responsibility for the preservation and administration of Presidential papers. The papers were still considered to be the personal property of the President, and they were administered in accordance with instruments of donation executed by the President. However, the practice of donating them to the Government for use in a Presidential Library provided for consistent administration of the papers and for public access to them.

The change to Government ownership of Presidential papers began with the passage of the Presidential Recordings and Materials Preservation Act of 1974 shortly after President Nixon resigned. The immediate object of the Act, set forth in Title I, was to bring the Nixon Presidential Materials into Government custody. Title II of the Act established the Public Documents Commission for the primary purpose of considering means to assure the preservation of Presidential historical materials. The Commission's report led to the passage of the Presidential Records Act of 1978, which provides for Government ownership and administration of

Presidential and Vice Presidential papers beginning with the administration of President Reagan.

List of Subjects in 36 CFR part 1270:

Presidential Records.

For the reasons set forth in the preamble, NARA proposes to amend Chapter XII of Title 36 by establishing a new PART 1270 to read as follows:

PART 1270--PRESIDENTIAL RECORDS

§1270.10 Scope of part.

Subpart A--General Provisions

Sec.

1270.12 Application.

1270.14 Definitions.

Subpart B-- Actions Taken on Behalf of Former Presidents

1270.20 Designation of person or persons to act for former President.

1270.22 When Archivist may act for former President.

Subpart C--Disposal of Presidential Records

1270.30 Disposal of Presidential Records by incumbent President.

1270.32 Disposal of Presidential Records in the custody of the Archivist.

Subpart D--Access to Presidential Records

1270.40 Identification of restricted records.

1270.42 Denial of access to public; right to appeal.

1270.44 Exceptions to restricted access.

1270.46 Notice of intent to disclose certain Presidential

**Records.**

**Subpart E--Presidential Records Compiled for Law Enforcement  
purposes**

1270.50 Consultative procedures to be established.

1270.52 Notification.

**AUTHORITY:** The Presidential Records Act of 1978, Pub. L. 95-591, 92 Stat. 2523-27, as amended by the National Archives and Records Administration Act of 1984, Pub. L. 98-497, sec. 107(b)(7), 98 Stat. 2287 (1984) (codified at 44 U.S.C. 2201-07).

**§1270.10 Scope of Part.**

These regulations implement the provisions of the Presidential Records Act of 1978, Pub. L. No. 95-591, 92 Stat. 2523-27, as amended by Pub. L. No. 98-497, sec. 107(b)(7), 98 Stat. 2287 (1984) (codified at 44 U.S.C. 2201-07), by setting forth the policies and procedures governing preservation, protection, and disposal of, and access to Presidential and Vice-Presidential records created during a term of office of the President or Vice President beginning on or after January 20, 1981.

**Subpart A--General Provisions**

**§1270.12 Application.**

(a) These regulations apply to all Presidential records created during a term of office of the President beginning on or after January 20, 1981.

(b) Vice-Presidential records shall be subject to the provisions of this part in the same manner as Presidential

records. The Vice President's duties and responsibilities, with respect to Vice-Presidential records, shall be the same as the President's duties and responsibilities with respect to Presidential records. The Archivist's authority with respect to Vice-Presidential records shall be the same as the Archivist's authority with respect to Presidential records, except that the Archivist may, when he determines it to be in the public interest, enter into an agreement with a non-Federal archival repository for the deposit of Vice-Presidential records.

§1270.14 Definitions.

For the purposes of this Part --

(a) The terms "documentary material", "Presidential records", "personal records", "Archivist", and "former President" have the meanings given them by 44 U.S.C. 2201(1)-(5), respectively.

(b) The term "agency" has the meaning given it by 5 U.S.C. 551(1)(a)-(d) and 552(e).

(c) The term "Presidential archival depository" has the meaning given it by 44 U.S.C. 2101(1).

(d) The term "Vice-Presidential records" means documentary materials, or any reasonably segregable portion thereof, created or received by the Vice President, his immediate staff, or a unit or individual of the Office of the Vice President whose function is to advise and assist the Vice President, in the course of conducting activities which relate to or have an effect upon the carrying out of

the constitutional, statutory, or other official or ceremonial duties of the Vice President. The term includes documentary materials of the kind included under the term "Presidential records."

(e) The term "filed" means the date something is received in the office of the official to whom it is addressed.

Subpart B--Actions Taken on Behalf of Former Presidents

§1270.20 Designation of person or persons to act for former President.

(a) A President or former President may designate some person or persons to exercise, upon death or disability of the President or former President, any or all of the discretion or authority granted to the President or former President by chapter 22 of Title 44, United States Code.

(b) When a President or former President designates a person or persons to act for him pursuant to (a), this designation shall be effective only if the Archivist has received notice of the designation before the President or former President dies or is disabled.

(c) The notice required by (b) shall be in writing, and shall include the following information:

(1) Name(s) of the person or persons designated to act for the President or former President;

(2) The current addresses of the person or persons designated; and

(3) the records, identified with reasonable specificity,

over which the designee(s) will exercise discretion or authority.

§1270.22 When Archivist may act for former President.

In those instances where a President has specified, in accordance with 44 U.S.C. 2204, restrictions on access to Presidential records, but has not made a designation under section 1270.20 of this subpart, the Archivist shall, upon the death or disability of a President or former President, exercise the discretion or authority granted to a President or former President by 44 U.S.C. 2204.

Subpart C--Disposal of Presidential Records

§1270.30 Disposal of Presidential records by incumbent President.

A President may, while in office, dispose of any Presidential records which in his opinion lack administrative, historical, informational, or evidentiary value if one of the following two sets of requirements is satisfied:

(a)(1) The President has obtained the written views of the Archivist concerning the proposed disposal; and

(2) The Archivist states in his communication with the President that he does not intend to request, with respect to the President's proposed disposal of Presidential records, the advice of the Committees on Rules and Administration and Governmental Affairs of the Senate, and the Committees on House Administration and Government Operations of the House of Representatives because he does

not consider --

- (A) the records proposed for disposal to be of special interest to the Congress; or
  - (B) consultation with the Congress concerning the proposed disposal to be in the public interest; or
- (b)(1) The President has obtained the written views of the Archivist concerning the proposed disposal;
- (2) The Archivist states either --
    - (A) that the records proposed for disposal may be of special interest to the Congress; or
    - (B) that consultation with the Congress concerning the proposed disposal is in the public interest; and
  - (3) The President submits copies of the proposed disposal schedule to the Committees on Rules and Administration and Governmental Affairs of the Senate and the Committees on House Administration and Government Operations of the House of Representatives at least 60 calendar days of continuous session of Congress in advance of the proposed disposal date.

For the purpose of this section, continuity of session is broken only by an adjournment of Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the days in which Congress is in continuous session.

§1270.32 Disposal of Presidential Records in the custody of the Archivist.

(a) The Archivist may dispose of Presidential records which he has appraised and determined to have insufficient administrative, historical, informational, or evidentiary value to warrant their continued preservation.

(b) When Presidential records are scheduled for disposal pursuant to (a), the Archivist shall publish a notice of this disposal in the Federal Register at least 60 days before the proposed disposal date.

(c) The notice required by (b) shall include the following:

(1) A reasonably specific description of the records scheduled for disposal; and

(2) A concise statement of the reason why the Archivist believes the records can be disposed of.

(d) Publication in the Federal Register of the notice required by (b) shall be a final agency action for purposes of review under chapter 7 of Title 5, United States Code (5 U.S.C. 701-06).

#### Subpart D--Access to Presidential Records

##### §1270.40 Identification of restricted records

Once an incumbent President has placed restrictions on access to certain information contained in Presidential records, the Archivist or his designee shall identify the Presidential records affected, or any reasonably segregable portion thereof, and shall restrict public access to the information contained in these records until --

(a)(1) The date on which the former President waives the

restriction on disclosure of the record or information contained within; or

(2) The expiration of the period of restriction specified under 44 U.S.C. 2204(a) for the category of information under which a certain record, or a portion thereof, was restricted; whichever date is earlier or

(b) The date on which a determination is made by the Archivist that the former President or an agent of the former President has placed in the public domain a restricted record or a reasonably segregable portion thereof, or any significant element or aspect of the information contained in a restricted record or a reasonably segregable portion thereof, if this date is earlier than either of the dates specified in (a).

§1270.42 Denial of access to public; right to appeal.

(a) Any person denied access to a Presidential record (hereinafter "the requestor") because of a determination that the record or a reasonably segregable portion thereof was (1) properly restricted under 44 U.S.C. 2204(a), and (2) not placed in the public domain by the former President or his agent, may file an administrative appeal with the Assistant Archivist for Presidential Libraries (NL), Washington, DC 20408.

(b) Appeals shall be filed no later than 10 working days after the requestor receives written notification that access to Presidential records has been denied.

(c) Appeals shall be in writing and shall set forth the

reason why the requestor believes access to the records sought should be allowed. The requestor shall identify the specific records sought.

(d) Upon receipt of an appeal, the Assistant Archivist for Presidential Libraries shall have 30 working days from the date an appeal is filed to consider the appeal and to respond in writing to the requestor. The Assistant Archivist's response shall state whether the Presidential records requested are to be released and the basis for this determination. The decision of the Assistant Archivist is final.

§1270.44 Exceptions to Restricted Access.

(a) Notwithstanding any restrictions on access imposed pursuant to section 2204 or these regulations, and subject to any rights, defenses, or privileges which the United States or any agency or person may invoke, Presidential records shall be made available in the following instances:

(1) Pursuant to subpoena or other judicial process properly issued by a court of competent jurisdiction for the purposes of any civil or criminal investigation or proceeding;

(2) To an incumbent President if the records sought (A) contain information which is needed for the conduct of current business of his office and (B) are not otherwise available;

(3) To either House of Congress, or, to the extent of matter within its jurisdiction, to a Congressional committee

or subcommittee if the records sought (A) contain information which is needed for the conduct of business within its jurisdiction and (B) are not otherwise available.

(b) Requests by an incumbent President, House of Congress, or a Congressional committee or subcommittee pursuant to paragraph (a) of this section should be addressed to the Archivist. All requests should be in writing and should, where practicable, identify the records sought with reasonable specificity.

(c) Presidential records of a former President shall be available to the former President or his designated representative upon request.

§1270.46 Notice of intent to disclose certain Presidential records.

(a) The Archivist or his designee shall notify a former President or his designated representative whenever a Presidential record, the disclosure of which might adversely affect any rights and privileges the former President may possess, may be disclosed. The notice given shall identify the records with reasonable specificity. In the case of records to be disclosed in accordance with section 1270.44, the notice shall also:

(i) Identify the requestor and the nature of the request;

(ii) State whether the requested records contain materials to which access would otherwise be restricted pursuant to 44 U.S.C. 2204(a) and identify the category of

restriction within which the record to be disclosed falls;  
and

(iii) List the date of the request.

(b) If, after receiving the notice required by subsection (a) of this section, an affected former President raises rights or privileges which he believes should preclude the disclosure of a Presidential record, and it is nevertheless determined, in whole or in part, that the record in question will be disclosed, the Archivist shall notify the former President or his representative of this determination. This notice shall be similar in form to the notice required by subsection (a) of this section, except that the notice required by this subsection shall also:

(1) Be in writing;

(ii) State the basis upon which the record is being disclosed; and

(iii) Specify the date on which the record will be disclosed.

Notice under this subsection shall be given to the affected former President or his representative at least 5 working days prior to the release of the records requested.

Subpart E--Presidential Records Compiled for Law Enforcement purposes

§1270.50 Consultative procedures to be established.

The Archivist shall, no later than January 21, 1989, establish procedures for consultation between NARA and appropriate Federal agencies regarding information compiled

for law enforcement purposes which may be subject to section 552(b)(7) of title 5, United States Code.

§1270.52 Notification.

(a) The procedures established under this subpart for consultation shall provide for the notification, in writing, of appropriate Federal agencies. This notice shall include the following:

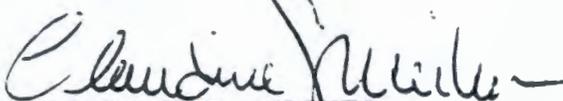
(1) A description of the records in question;

(2) Statements that the records described contain information compiled for law enforcement purposes and may be subject to the exemption provided by section 552(b)(7) of the FOIA for records of this type; and,

(3) A contact person at NARA.

(b) The notice described in (a) shall also include an invitation to the head of the Federal agency being notified to consult with NARA about the records described in the notice. This consultation may include review of the records for information which may affect the agency's activities or operations.

Dated: AUG 12 1977



CLAUDINE J. WEIHER  
Acting Archivist  
of the United States

3 OCT 1984

Mr. John F. W. Rogers  
Assistant to the President for  
Management and Administration  
The White House  
Washington, D.C. 20500

Dear John:

Thank you for obtaining legal opinions from Mr. Fielding and the Department of Justice concerning our authority to pack and care for gifts to President Reagan from other than foreign governments. That information is most helpful.

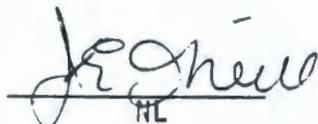
I understand that staff members from the Office of Presidential Libraries have contacted Mr. Hilboldt of the White House Gift Unit to plan for resumption of packing and storage services. The first material will be packed this week.

Sincerely,



ROBERT M. WARNER  
Archivist of the United States

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cc: Official file-NL  
Reading file-NL  
Day file-NL



HL

THE WHITE HOUSE

WASHINGTON

September 11, 1984

R N 9/11/84

Dear Dr. Warner:

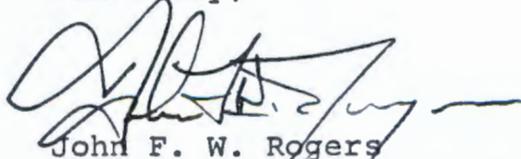
In our exchange of letters regarding the two employees of the National Archives who, until February of this year, provided the White House Gift Unit with packing, storage and retrieval services, you raised the following issue:

Heretofore we have packed and cared for the Head of State gifts under the authority of the Foreign Gifts and Decorations Act, which designates such gifts as public property. Our authority to expend funds on the preservation of the gifts from the American people to President Reagan is less clear. However, we have been packing and preserving those gifts under the assumption that they are either included within the definition of Presidential Records or that they are personal gifts which the President intends to donate for preservation in the Reagan Library. It may be prudent to obtain a ruling from the Counsel to the President on the legal status of the domestic gifts before we resume packing and storing them.

In keeping with your suggestion, I raised that issue with Fred F. Fielding, Counsel to the President, who in turn has discussed it with the Office of Legal Counsel, U.S. Department of Justice.

Mr. Fielding advises me that both he and the Department of Justice are of the opinion that the Administrator of General Services has the authority to accept and store gifts received by the President from donors other than foreign governments. They have also confirmed the clear authority of the Administrator regarding gifts from foreign governments. Now that this issue is settled, the National Archives should resume its services to the White House Gift Unit as soon as possible.

Sincerely,



John F. W. Rogers  
Assistant to the President for  
Management and Administration

Dr. Robert M. Warner  
Archivist of the United States  
National Archives and Records Service  
Washington, D.C. 20408

27 MAR 1984

Mr. John F. W. Rogers  
Assistant to the President for  
Management and Administration  
The White House  
Washington, D.C. 20500

Dear Mr. Rogers:

Thank you for your letter of March 13, 1984, informing us about the misunderstanding regarding the gift packing services that the National Archives had been providing for the White House Gift Unit.

The services we provided to the Gift Unit prior to moving from the OGDG consisted of packing and providing for storage and retrieval of the Presidential gifts. These services were carried out by two part-time students who were supervised by professional archivists skilled in the preservation of museum quality objects. National Archives employees have not been involved in cataloging Presidential gifts, which is appropriately a Gift Unit function.

Our current plan calls for continuing the packing services at the National Archives building, where such activities can be carried out under direct professional supervision. Professional supervision is necessary if we are to take responsibility for the preservation of valuable and often fragile gifts and assure that they are in good condition for future exhibit at the Reagan Presidential Library.

Heretofore we have packed and cared for the Head of State gifts under the authority of the Foreign Gifts and Decorations Act, which designates such gifts as public property. Our authority to expend funds on the preservation of the gifts from the American people to President Reagan is less clear. However, we have been packing and preserving these gifts under the assumption that they are either included within the definition of Presidential Records or that they are personal gifts which the President intends to donate for preservation at the Reagan Library. It may be prudent to obtain a ruling from the Attorney General on the legal status of the domestic gifts before we begin packing and storing them.

We are now willing to work with the White House Gift Unit to resolve any difficulties and overcome any inconvenience caused by moving the packing of the gifts to the Archives building. I hope you agree that our acceptance

of the responsibility of preserving these valuable historical materials also entails the acceptance of related supervisory and managerial responsibilities.

Sincerely,

ROBERT M. WARNER  
Archivist of the United States

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cc: Official file-NL  
Reading file-NL  
Day file-N

THE WHITE HOUSE  
WASHINGTON

March 13, 1984

N 3116184

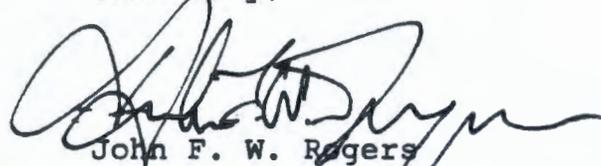
Dear Dr. Warner:

This letter supplements mine of February 14, 1984 to you concerning the White House Archives Liaison Office. It is apparent that our conversation concerning this office has led to an unintended consequence with regard to the Gift Unit.

Until recently, two employees of the National Archives worked as professional packers in the White House Gift Unit. When you decided to return the White House Archives Liaison Office to the Archives, I did not understand this to include removal of the two professional packers who perform a necessary function in cataloging, storing and retrieving gifts received by the White House for the President and Mrs. Reagan. In view of this, I would appreciate your reinstating these two positions in the Gift Unit and having the employees who will fill these slots report to John Hilboldt as soon as possible.

Thank you for your attention and cooperation.

Sincerely,



John F. W. Rogers  
Assistant to the President for  
Management and Administration

Dr. Robert M. Warner  
Archivist of the United States  
National Archives  
Washington, D.C. 20408

THE WHITE HOUSE

WASHINGTON

February 14, 1984

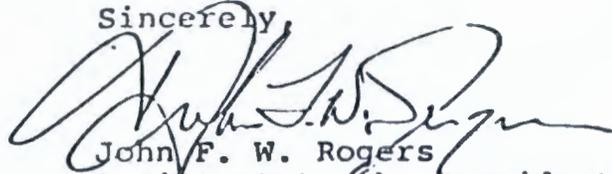
Dear Dr. Warner,

I recently received your letter outlining your decision to move the White House Archives Liaison Office to the Archives. After reading your letter, it was obvious that a misunderstanding exists over our initial desire to relocate the office within the Old Executive Office Building. At no time did I or my representatives suggest a reorganization of the liaison office or a desire to make them a part of the White House Records Management Office.

I did, however, agree with you that better supervision is required and concur in your decision to return them to the Archives to achieve this end.

I hope this clarifies the situation and puts to rest any speculation over our motivations. I have asked Clarence Henley of the White House Records Management Office to work out any remaining questions with Dr. O'Neill of your staff.

Sincerely,



John F. W. Rogers  
Assistant to the President for  
Management and Administration

Dr. Robert M. Warner  
Archivist of the United States  
National Archives  
Washington, D.C. 20408