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# WITHDRAWAL SHEET

## Ronald Reagan Library

**Collection Name** SHEPHERD, J MICHAEL: FILES

**Withdrawer**

AEM 4/30/2019

**File Folder** FOIA KISSINGER COMMISSION: FOIA/SHEPHERD  
CHRON (7 OF 9]

**FOIA**

F15-0053/01

**Box Number** 13977

KEYS

6

DOC NO	Doc Type	Document Description	No of Pages	Doc Date	Restrictions
1	LETTER	FROM DAVID S. STERN TO PRIVACY ACT OFFICER, WITH ATTACHMENT	2	5/3/1986	B6

### Freedom of Information Act - [5 U.S.C. 552(b)]

B-1 National security classified information [(b)(1) of the FOIA]

B-2 Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]

B-3 Release would violate a Federal statute [(b)(3) of the FOIA]

B-4 Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]

B-6 Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]

B-7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]

B-8 Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]

B-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

THE WHITE HOUSE

WASHINGTON

July 15, 1986

MEMORANDUM FOR BRENDA S. REGER  
SENIOR DIRECTOR  
INFORMATION POLICY/SECURITY REVIEW

FROM: J. MICHAEL SHEPHERD  
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Privacy Act Request of Homer Perry Gainey

As requested by your memorandum of May 30, 1986, to Peter Wallison, this office has reviewed the attached documents that were referred to your attention by the Department of State in response to the Privacy Act request of Mr. Homer Perry Gainey, the subject of a background security investigation.

With respect to the document at Tab A, the memorandum to Richard Kennedy from Marvin L. Garrett, Jr., it is difficult to discern from my copy which portions of the memorandum were bracketed by the Department of State. I believe, however, that the information could be withheld in its entirety as investigatory material compiled solely for the purpose of determining suitability for federal civilian employment. 5 U.S.C. § 552a(5).

Thank you for bringing this matter to our attention.

Attachments

NATIONAL SECURITY COUNCIL  
WASHINGTON, D.C. 20508

41597822

May 30, 1986

MEMORANDUM FOR PETER WALLISON  
COUNSEL TO THE PRESIDENTFROM: *Brenda*  
BRENDA S. REGERSUBJECT: Privacy Act Request of  
Homer Perry Gainey

The Department of State has requested review of the bracketed portions of the attached document in response to Privacy Act request from Mr. Gainey, the subject of the background security investigation.

Would you please review and give us your recommendations on a response to State.

## Attachments

- Tab A - Document #30
- Tab B - State Referral

United States Department of State  
*Under Secretary for Management*

3/29

Mr. Garrett:

Mr. Kennedy asked that I  
return the attached memo to  
you.

sharon

DEPARTMENT OF STATE

Washington, D.C. 20520

March 11, 1982

MEMORANDUM

TO: M - Mr. Richard T. Kennedy

FROM: A/SY - Marvin L. Garrett, Jr. Acting *Marvin L. Garrett, Jr.*

SUBJECT: GAINNEY, Homer Perry.  
DPOB: 8/12/23; Bradford County, Florida

Richard Houser, Deputy Counsel to the President, The White House, Washington, D.C., after reviewing the Summary of Information of Mr. Gainney, expressed concern regarding two particular aspects of the inquiries:

- A. In the court suit against Mr. Gainney and the Equitable Trust Company (ETC), the summary indicated among the judgments that \$25,000 in punitive damages were to be awarded to Schneider, Bernet and Hickman (SBH). Mr. Houser noted that "punitive damages" implies impropriety and he requested additional inquiries to set forth the particulars.
- B. Mr. Gainney indicated in his resume of having been honorably discharged from the Air Force. However, his military personnel file was reported as having been destroyed by fire. A source indicated Mr. Gainney confided of having been court-martialed from the Air Force. Mr. Houser requested a confrontation by SY with Mr. Gainney to resolve the issue.

An additional review of the records of the Bexar County Court, Texas, disclosed a civil suit was brought on 7/25/78 by SBH against ETC and Mr. Gainney, acting as an agent for ETC. The suit claimed that Mr. Gainney/ETC entered into an agreement to trade in coffee futures with SBH acting as the commodities broker. Mr. Gainney/ETC bought coffee futures on margin and when price conditions moved against Mr. Gainney/ETC, margin calls were made resulting in Mr. Gainney/ETC incurring a net loss of \$71,829. Mr. Gainney/ETC refused to pay SBH for the loss. In connection with this suit, SBH brought a second suit against Mr. Gainney/ETC for alleged misrepresentation by Gainney/ETC with regard to: (1) Net worth and cash available to Mr. Gainney/ETC in order to enter the commodities market; (2) Mr. Gainney/ETC's desire to engage in trading and paying obligations incurred was not bona fide; and (3) Mr. Gainney/ETC agreed to pay all margin costs and maintenance requirements on 12/6/77, and had no bona fide intent to pay.

In this suit, the findings of the jury and final judgment of 6/15/81, were that Mr. Gainey/ETC, was guilty of knowing and intentional misrepresentations in all three of the above, and \$25,000 in punitive and exemplary damages were awarded to SBH for the damage suffered by the misrepresentations. The case was appealed by Mr. Gainey/ETC on 9/8/81, and the appeal is still pending. A report with copies of pertinent documents is forthcoming to SY and a more detailed analysis will then be available.

The source furnishing the information cited in B above, is being reinterviewed, following which Mr. Gainey will be confronted concerning the military court-martial admission.



United States Department of State

Washington, D.C. 20520

NOV 21 1985

MEMORANDUM

TO: Ms. ~~Beverly Zweiben~~ <sup>?</sup>  
PA/FOIA Section  
17th & Pennsylvania Avenue, N.W.  
Old Executive Building  
Room 395  
Washington, D.C.

FROM: Caron A. McConnon, Chief

SUBJECT: Privacy Act Request of Homer Perry Gainey  
Privacy Act Case No. 8500708

In connection with review of the Department of State files responsive to the above request, the following document of White House interest was retrieved.

The Bureau of Diplomatic Security document number 30 contains information furnished by the White House. Please review your information (outlined in red) and return the document to us, making any deletions you deem appropriate, and citing any exemption(s) claimed.

If you have any questions regarding a particular aspect of this case, you should contact Ms. Karen Jackson, Information and Privacy Staff, FAIM/IS, Room 1239, Department of State, 2201 'C' Street, N.W., Washington, D.C. 20520. In any communication, please utilize the request number.

Attachment:  
As stated above.



## PRIVACY ACT INFORMATION REQUEST

Jackson

## PRIVACY ACT STATEMENT

AUTHORITY: 5 USC 552a.

PURPOSE: The information solicited on this form will be used to identify records pertaining to you in order to process your Privacy Act request.

ROUTINE USES: This information will be made available to personnel of the Department of State who will be processing your Privacy Act request. This information may also be released to other Government agencies, in the event that they will be consulted on matters relating to your request.

EFFECTS: In the event that you do not furnish the information, it may be impossible to identify records pertaining to you and thus hinder the processing of the request.

NAME OF INDIVIDUAL

Homer Perry Gainey

TELEPHONE NUMBER

(Include Area Code)

(512)826-3680 Home  
(512)226-0314 Office

ADDRESS (Street, City, State, ZIP Code)

121 West Brandon Drive  
San Antonio, Texas 78209

BIRTH PLACE

Brooker Bradford County, Florida, U.S.A.

BIRTH DATE

August 12, 1923

SYSTEM(S) OF RECORDS YOU WISH TO HAVE CHECKED - AS STATED IN THE FEDERAL REGISTER

Security File--background security investigation

CIRCUMSTANCES WHICH GIVE YOU CAUSE TO BELIEVE THAT THE ABOVE SYSTEM(S) MIGHT HAVE RECORDS PERTAINING TO YOU

I was an ambassadorial candidate and a security investigation was conducted by the Department of State

OTHER INFORMATION YOU MAY WISH TO PROVIDE THAT MIGHT HASTEN THE SEARCH PROCESS

1985 FEB 15 PM 5:36

SIGNATURE

Homer Perry Gainey

DATE

February 11, 1985

THE WHITE HOUSE

WASHINGTON

July 14, 1986

Unclassified (with CONFIDENTIAL Attachment)

MEMORANDUM FOR BRENDA S. REGER  
SENIOR DIRECTOR  
INFORMATION POLICY/SECURITY REVIEW

FROM: J. MICHAEL SHEPHERD *JMS*  
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Attached Referral from the FBI Regarding the  
Foreign Intelligence Surveillance Court

Attached for your review and direct response to the Federal Bureau of Investigation, are documents which were referred to this office by the FBI regarding the Foreign Intelligence Surveillance Court. Although the FBI referral memorandum indicates that the documents are unclassified, I note that they are stamped confidential, with declassification review in 1988. Accordingly, because I believe they should be treated as classified, I am referring them to you. I believe that they should also be reviewed by the Intelligence Oversight Board.

Thank you for your assistance.

Attachments

THE WHITE HOUSE

WASHINGTON

July 14, 1986

MEMORANDUM FOR BRENDA S. REGER  
SENIOR DIRECTOR  
INFORMATION POLICY/SECURITY REVIEW

FROM: J. MICHAEL SHEPHERD *JMS*  
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Freedom Of Information Act Referral:  
Request of Donna Igoe

As requested by your memorandum of June 24, 1986, this office has reviewed the attached documents which were referred for your review by the Department of State. We concur in your conclusion that release of the White House tracking sheets (documents 0-22A and 0-22B) should be denied pursuant to 5 U.S.C. § 552b(2) as related solely to internal practices.

Thank you for bringing this matter to our attention.

Attachments

41926700

June 24, 1986

MEMORANDUM FOR PETER WALLISON  
Counsel to the President

FROM: BRENDA S. REGER

SUBJECT: Freedom of Information Act Referral  
Request of Donna Igoe

The Department of State has forwarded the attached documents for a determination on release. They have no objection to release.

The National Security Council Staff has completed its review and recommends release of Documents 0-22 and 0-22C and denial of tracking sheets (documents 0-22A and 0-22B) pursuant to 5 U.S.C. 552(b)(2).

Please review and return the documents to us with your recommendation on a response to State.

Attachments

- Tab I - Documents
- Tab II - Request

THE WHITE HOUSE OFFICE  
REFERRAL

MARCH 4, 1983

TO: DEPARTMENT OF STATE

ACTION REQUESTED:

DRAFT REPLY FOR SIGNATURE OF RONALD REAGAN

DESCRIPTION OF INCOMING:

ID: 127801

MEDIA: MISCELLANEOUS

TO: SALLY KELLEY

FROM: MS. ANNE HIGGINS  
SPECIAL ASSISTANT TO THE PRESIDENT  
AND DIRECTOR OF CORRESPONDENCE  
THE WHITE HOUSE  
WASHINGTON DC 20500

SUBJECT: FORWARDS NEWSPAPER CLIPPING FROM THE DAILY  
NEWS CONCERNING JOHN SULLIVAN, A FREE - LANCE  
WRITER, WHO DISAPPEARED IN SAN SALVADOR FOR  
INFORMATION FOR CONDOLENCE LETTER

PROMPT ACTION IS ESSENTIAL -- IF REQUIRED ACTION HAS NOT BEEN  
TAKEN WITHIN 9 WORKING DAYS OF RECEIPT, PLEASE TELEPHONE THE  
UNDERSIGNED AT 456-7486.

RETURN CORRESPONDENCE, WORKSHEET AND COPY OF RESPONSE  
(OR DRAFT) TO:  
AGENCY LIAISON, ROOM 91, THE WHITE HOUSE

SALLY KELLEY  
DIRECTOR OF AGENCY LIAISON  
PRESIDENTIAL CORRESPONDENCE

# WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

*44001*

☐ O - OUTGOING

☒ I - INTERNAL

☒ I - INCOMING

Date Correspondence  
Received (YY/MM/DD)

*83103101*

Name of Correspondent: \_\_\_\_\_

*Anne Higgins*

☐ MI Mail Report

User Codes: (A) \_\_\_\_\_

(B) \_\_\_\_\_

(C) \_\_\_\_\_

Subject: \_\_\_\_\_

*Forwards Newspaper Clipping from the Daily New  
Concerning John Sullivan, a free-lance  
writer, who disappeared in San Salvador  
for information for Condolence letter*

ROUTE TO:

ACTION

DISPOSITION

Office/Agency

(Staff Name)

Action  
Code

Tracking  
Date  
YY/MM/DD

Type  
of  
Response

Code

Completion  
Date  
YY/MM/DD

*Co Higg*

*✓ DOS*

ORIGINATOR

*CS*

*83103101*

Referral Note:

*DCS*

*83103104*

Referral Note:

*For Presidential Condolence*

Referral Note:

Referral Note:

Referral Note:

## ACTION CODES:

- A - Appropriate Action
- C - Comment/Recommendation
- D - Draft Response
- F - Furnish Fact Sheet  
to be used as Enclosure

- I - Info Copy Only/No Action Necessary
- R - Direct Reply w/Copy
- S - For Signature
- X - Interim Reply

## DISPOSITION CODES:

- A - Answered
- B - Non-Special Referral
- C - Completed
- S - Suspended

## FOR OUTGOING CORRESPONDENCE:

- Type of Response = Initials of Signer
- Code = "A"
- Completion Date = Date of Outgoing

Comments: \_\_\_\_\_

Keep this worksheet attached to the original Incoming letter.

Send all routing updates to Central Reference (Room 75, OEOB).

Always return completed correspondence record to Central Files.

Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

# RECORDS MANAGEMENT ONLY

## CLASSIFICATION SECTION

No. of Additional Correspondents: \_\_\_\_\_ Media: X Individual Codes: 1110

Prime Subject Codes: 44001.03 Secondary Subject Codes: JR 003. EG 011.  
BE 003.04 PU  
CO 046.

## PRESIDENTIAL REPLY

Code	Date	Comment	Form
C		Time: _____	P- _____
DSP		Time: _____	Media: _____

### SIGNATURE CODES:

CPn - Presidential Correspondence  
 n - 0 - Unknown  
 n - 1 - Ronald Wilson Reagan  
 n - 2 - Ronald Reagan  
 n - 3 - Ron  
 n - 4 - Dutch  
 n - 5 - Ron Reagan  
 n - 6 - Ronald  
 n - 7 - Ronnie

CLn - First Lady's Correspondence  
 n - 0 - Unknown  
 n - 1 - Nancy Reagan  
 n - 2 - Nancy  
 n - 3 - Mrs. Ronald Reagan

CSn - Presidential & First Lady's Correspondence  
 n - 1 - Ronald Reagan - Nancy Reagan  
 n - 2 - Ron - Nancy

### MEDIA CODES:

B - Box/package  
 C - Copy  
 D - Official document  
 G - Message  
 H - Handcarried  
 L - Letter  
 M - Mailgram  
 O - Memo  
 P - Photo  
 R - Report  
 S - Sealed  
 T - Telegram  
 V - Telephone  
 X - Miscellaneous  
 Y - Study

# Writer's body is identified

Thursday, February 24, 1983

The remains of a body shipped from El Salvador have been identified as belonging to John Sullivan, an American free-lance writer who disappeared shortly after arriving there two years ago, informed sources told the Daily News yesterday.

An autopsy indicates that the body was blown up, possibly with dynamite in its mouth.

Sullivan, 26, arrived in San Salvador on Dec. 28, 1980, to do research for a magazine article. He checked into the Sheraton Hotel and disappeared hours later.

His remains were picked up at Newark International Airport on Sunday and delivered to Dr. Frederick Zugibe, the Rockland County medical examiner hired by the Sullivan family to conduct forensic tests.

Sources said that X-rays from a knee injury suffered by Sullivan in an automobile accident matched bone samples from the remains.

Zugibe said yesterday he was not yet certain of the identification. He said he was scrutinizing the headless remains for foot size, as well as for bits of clothing mixed with dirt and bones.

Sullivan's sister, Debbie Indrieri of Ramsey, N.J., said yesterday that the family was awaiting final word from Zugibe's office. "If it is my brother, it will be a difficult moment, but somewhere down the line, there will be relief of some sort," Indrieri said.

Relatives will hold a press conference in Rockland County tomorrow with Zugibe and Rep. Robert Torricelli (D-N.J.).



8306263

127801

Sally -

let's ask State  
for info so  
we can do  
something;

Agne



DEPARTMENT OF STATE

Washington, D.C. 20520

F86-673

TO: Ms. Brenda Reger  
FOI, Director  
National Security Council  
Old Executive Office Building, Room 375  
Washington, D.C. 20506

FROM: Information and Privacy Coordinator  
Department of State

SUBJECT: FOI/PA Request of IGOE, Donna

RE: FOIA Case # 8400597

In processing the attached request, the Department of State located:

☒ 1 documents originated with your agency which are being referred to you for review and direct response to the requester. We have advised the requester of this referral. Please advise us if the classification of the documents is changed so we may amend our files.

☐ Department of State documents containing information originated by your agency. Please review your information and return the documents to us, making any necessary deletions and citing the exemptions claimed. If you delete information, please enclose a copy of your agency's appeals procedures for the requester.

Additional Comments:

The requester has made two previous requests with the State Department for information concerning her brother, John Sullivan, who was declared dead in 1983. This request asks for any additional information created since the time of her last request.

Previous requests: #8100522 and #8200771

If you have any questions about this referral, please contact Information and Privacy Staff on 632-xxx.

Attachments: Document #0-22  
As stated Requester's letter

647-8484

CLASSIFIED MATERIAL ATTACHED

NEW REQ.  
NEW # Needed Miller  
8400597

*Miller*  
FEB 14 AM 8 54

254 East Clinton Avenue  
Bergenfield, New Jersey 07621  
January 24, 1984

Department of State  
2201 C Street, N.W.  
Freedom of Information Staff  
Washington, D.C. 20520

Dear Sir/Madam:

Re: #8100522 & 8200771

Under the provisions of the Freedom of Information Act, I am requesting any and all documents pertaining to the murder of my brother, John J. Sullivan, in El Salvador on December 28, 1980. Previous requests have been made of your office, but I am now seeking access to those files not covered under my other requests and up until the present date. (I am not referring to those files which have been denied.)

It has been brought to my attention that in the Embassy in El Salvador various files exist on John's case in different departments of the Embassy (i.e., Political, Consular, etc.). Please make certain that this request covers all such departments.

Thank you.

Sincerely,

*Donna M. Igoe*

(Mrs.) Donna M. Igoe

cc: Mr. Frank Deale  
Center for Constitutional Rights  
853 Broadway (14th floor)  
New York, New York 10003

THE WHITE HOUSE

WASHINGTON

July 14, 1986

MEMORANDUM FOR BRENDA S. REGER  
SENIOR DIRECTOR  
INFORMATION POLICY/SECURITY REVIEW

FROM: J. MICHAEL SHEPHERD *JMS*  
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Freedom of Information Act Request of John Lofton

As requested by your memorandum of June 4, 1986, this office has reviewed the attached documents which were referred to you by the State Department for your recommendation for their suitability for release under the Freedom of Information Act. We concur in your recommendations. In addition, although it does not concern a White House document, I believe that the State Department could withhold the second page of the document 243, which merely indicates the offices that drafted and reviewed the subject letter, pursuant to 5 U.S.C. § (b) (2).

Thank you for bringing this matter to our attention.

Attachments

NATIONAL SECURITY COUNCIL  
WASHINGTON, D.C. 20505

June 4, 1986

MEMORANDUM FOR PETER WALLISON  
COUNSEL TO THE PRESIDENT

416458

FROM: *B-S-C*  
BRENDA S. REGER

SUBJECT: Freedom of Information Act Referral  
Request of John Lofton

The Department of State has forwarded the attached documents for a determination on release. They recommend denial of the bracketed portions pursuant to 5 U.S.C. 552(b) (6).

The National Security Council Staff has completed its review and concurs with State's deletions. Additionally, we recommend denial of the White House referral sheet pursuant to 5 U.S.C. 552(b) (2).

Please review and give us a recommendation on a response to State.

Attachments

Tab I - Documents #237 and 243  
Tab II - Request

United States Department of State

Washington, D.C. 20520

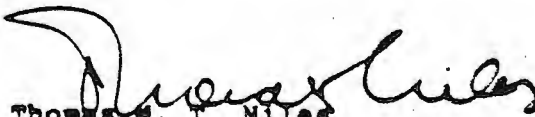
Dear Mrs. Mitchell:

The White House has sent your letter concerning the death of Major Nicholson and relations with the Russian people to me for reply.

Your letter was very touching and sensitive. We are appalled at the inability of Soviet officials to understand the human issue involved in Major Nicholson's death. Perhaps if the Soviet leaders realized Major Nicholson's interest in Russian culture, they might have responded otherwise.

You are absolutely right that our youth and adults should be encouraged to learn Russian and study the people. The President and the Department of State endorse increased communication at all levels between the peoples of the United States and Soviet Union. We are also pleased that American universities are showing a greater interest in Russian studies; the Department is supporting some of this renewed interest through funding of the "Soviet-East European Research and Training Act of 1963." If Major Nicholson's death has promoted that interest and aided our two peoples in better understanding each other so that there will never again be a recurrence of that tragic event, then his death will not have been in vain.

Sincerely,

  
Thomas M. T. Niles  
Deputy Assistant Secretary  
for European Affairs

8514234

THE WHITE HOUSE OFFICE  
REFERRAL

MAY 8, 1985

TO: DEPARTMENT OF STATE

ACTION REQUESTED:  
DIRECT REPLY, FURNISH INFO COPY

DESCRIPTION OF INCOMING:

ID: 301222

MEDIA: LETTER, DATED MARCH 27, 1985

TO: PRESIDENT AND MRS. REAGAN

FROM: MRS. JOAN MITCHELL  
HQ U.S. COMMANDER, BERLIN  
APO NEW YORK NY 09742

SUBJECT: WRITES REGARDING DEATH OF MAJOR NICHOLSON AND  
RELATIONS WITH THE RUSSIAN PEOPLE

PROMPT ACTION IS ESSENTIAL -- IF REQUIRED ACTION HAS NOT BEEN  
TAKEN WITHIN 9 WORKING DAYS OF RECEIPT, PLEASE TELEPHONE THE  
UNDERSIGNED AT 456-7486.

RETURN CORRESPONDENCE, WORKSHEET AND COPY OF RESPONSE  
(OR DRAFT) TO:  
AGENCY LIAISON, ROOM 91, THE WHITE HOUSE

SALLY KELLEY  
DIRECTOR OF AGENCY LIAISON  
PRESIDENTIAL CORRESPONDENCE

30/5/52 March 27, 1952

Faculties  
Berlin

Dear President & Mrs Reagan,

On Tuesday I returned to New Berlin from a trip to Russia. I had learned some of the language and had had a very pleasant & exciting time; moving away from town & meeting real Russians. You can imagine my horror the following day to learn that 'Nick' Nicholson had been shot by a Soviet guard.

This evening I left the home of Karyn,

Nick's widow, having given her & Jennifer a little piece of Russian folk art. I wanted them to separate the Russian people from the Soviet regime. Karyn said "We are not bitter. In fact I was looking around our home for something to put with him when he is buried. I realized that everything that he loved was Russian".

You understand what I'm trying to say. Our young people must be encouraged to learn

the Russian language & study the people. They must be encouraged to visit often. Communism doesn't work and will eventually be done away with. I believe it will be done from within. We must know & understand these people so that we may aid them when the time comes.

Major Nicholson fell in the line of duty, but it was not a fair fight. The love of America and Russia must reach something

Sincerely,  
Joan Mitchell





POSD 135-1734 United States Department of State

Washington, D.C. 20520

AUG 20 1985

Dear Ms. Williams:

On behalf of the President, I would like to thank you for your expression of support for his speedy recovery, and for sharing your views on important foreign policy issues.

With so much pressure building to "do something" about the trade deficit, it is heartening to hear from citizens like yourself who recognize the unfairness and harm to American consumers in protectionism. We are clearly better able to maintain our competitiveness and high standard of living by working to break down trade barriers than by creating new ones.

With regard to recent actions against Americans in Lebanon and East Germany, we share your sense of outrage and determination that everything possible be done to prevent their repetition. The atrocious acts in Lebanon clearly demonstrate that the world community must make common cause against the epidemic of terrorist violence. Accordingly, the United States is committed to close cooperation with other civilized countries aimed at concrete action against terrorists and their supporters.

The recent Soviet shooting of Major Arthur Nicholson in East Germany was a senseless, unnecessary act which raises serious questions about orders provided to Soviet military personnel throughout the world. Mere Soviet expressions of regret for this outrage are not enough. The Soviets owe us and Major Nicholson's family an apology, and they owe compensation for Major Nicholson's widow and for his child. Continued Soviet refusal to address this matter in a responsible and reciprocal fashion can not fail to have adverse consequences on future relations.

Sincerely,

Jayne H. Plank  
Director, Intergovernmental Affairs  
Office of Legislative and  
Intergovernmental Affairs

The Honorable  
Barbara E. Williams,  
Cobb County Commissioner,  
10 East Park Square,  
Marietta, Georgia.

Drafted:EB/TDC/OT/STA:ETuttle:smc  
8/15/85 632-0765

Cleared:EB/TDC/OT/STA:DHStebbing  
EUR/CE/GC:WMerri (Subs) OK  
NEA/ARN:JBrunn (Subs) L  
M/CTP:DLong (Subs) OK  
EB/L:MMowrey  
H:EKelly *EL L. Hunt*

796WJ3

8-1-85



Washington, D.C. 20520

UNCLASSIFIED

MAY 23 1986

MEMORANDUM

TO: Ms. Brenda S. Reger  
Director, FOI  
Room 375-OEOB  
National Security Council  
Washington, D.C. 20506

FROM: Barbara Ennis *BE*  
Director, Policy Development & Coordination Staff  
Classification/Declassification Center  
Bureau of Administration

SUBJECT: Request for Concurrence in Release  
Case No.: FOI 8503207

Requester: John Lofton

The attached Department of State documents, requested in the captioned case, appear to be of interest also to your agency.

The Department of State after reviewing this material finds no grounds under the applicable legislation, EO 12356, and regulations for denying its declassification and release to the requester. Any material found to be exempt from release will be shown by brackets in the attached copies, together with the grounds for excision.

Please inform us whether you see any objection to release of the material on the basis indicated. If you recommend any withholding, or denial, please specify the basis. In your reply, please cite the case number above, and return reply, with documents, to A/CDC/PDC, Room 2811, Department of State.

Attachments:  
Documents numbered 237 and 243

UNCLASSIFIED

Under the FOI Act, I  
request personal access  
to all documents, memo-  
and information  
pertaining to the murder  
of Maj. Arthur Nicholson  
by the Soviets — and  
specifically whether the  
Flag at the US Emb. in  
E. Germany should  
have been at 1/2 mast.  
Thanks — John Loftis  
Columnist

THE WHITE HOUSE

WASHINGTON

July 8, 1986

4/50/86  
UNCLASSIFIED

(With CONFIDENTIAL Material Attached)

MEMORANDUM FOR BRENDA S. REGER  
SENIOR DIRECTOR  
INFORMATION POLICY/SECURITY REVIEW  
NATIONAL SECURITY COUNCIL

FROM: J. MICHAEL SHEPHERD  
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: FOIA/Privacy Act Request  
of Jose Medardo Alvero-Cruz

Attached are classified documents referred to this office by the Federal Bureau of Investigation. As we have discussed, because the materials are classified, I am referring them for appropriate action to you. As is our practice, and because there are White House documents in this file, please advise me of the results of your review.

Thank you for your assistance.

Attachments

THE WHITE HOUSE

July 8, 1986

MEMORANDUM FOR JAY B. STEPHENS

FROM:

J. MICHAEL SHEPHERD *JMS*

SUBJECT:

FOIA Request Regarding Kissinger Commission

Brenda Reger's attached memorandum of June 3, 1986, asked for a meeting with someone in this office to discuss the attached referral from the State Department of a Freedom of Information Act request for documents produced by the National Bipartisan Commission on Central America ("Kissinger Commission"). I have discussed this issue with her and reviewed the attached documents. Without an opportunity to review the relevant documents, Brenda advised State in 1984 that the Commission's papers were Presidential records not subject to the FOIA.

The Kissinger Commission was established by the President by the attached Executive Order 12433. The Commission was established "in accordance with the provisions of the Federal Advisory Committee Act" to "study the nature of United States interests in the Central American region, . . . provide advice to the President, the Secretary of State and the Congress, . . . and report to the President."

The Federal Advisory Committee Act provides that, subject to the FOIA, requests for documents "which were made available to or prepared for or by each advisory committee shall be available for public inspection and copying . . . until the advisory committee ceases to exist." 5 U.S.C. app. 2 § 10(b).

The request was submitted before the Commission ceased to exist. State has possession of the documents, prior to their accession by the National Archives. Accordingly, I believe that the State Department should process the request under the FOIA. As is our practice, State will refer White House documents for our review and comments on their suitability for release. Therefore, we will have an opportunity to recommend that State withhold privileged or exempt materials.

Attached for your review and signature is a memorandum to Brenda advising that we believe State should process this request under the FOIA.

Attachments

THE WHITE HOUSE

WASHINGTON

July 8, 1986

MEMORANDUM FOR BRENDA S. REGER  
DIRECTOR  
INFORMATION POLICY/SECURITY REVIEW

FROM: JAY B. STEPHENS  
DEPUTY COUNSEL TO THE PRESIDENT **ORIGINAL SIGNED BY J.B.S.**

SUBJECT: Armstrong FOIA Request Regarding Kissinger  
Commission

As you have discussed with Michael Shepherd, this office has reviewed the attached documents referred to you by the State Department in connection with the Freedom of Information Act request of Scott Armstrong for materials developed by and for the National Bipartisan Commission on Central America ("Kissinger Commission").

The Kissinger Commission was established by the President by Executive Order 12433 "in accordance with the provisions of the Federal Advisory Committee Act" to "study the nature of United States interests in the Central American region, . . . provide advice to the President, the Secretary of State and the Congress, . . . and report to the President." The Federal Advisory Committee Act provides that, subject to the FOIA, requests for documents "which were made available to or prepared for or by each advisory committee shall be available for public inspection and copying . . . until the advisory committee ceases to exist". 5 U.S.C. app. 2 § 10(b).

Because the request was submitted before the commission ceased to exist, and the State Department has possession of the documents, we believe that the State Department should process the request under the FOIA. As is our practice, we would appreciate it if State would refer White House documents for our review and comments on their suitability for release.

Thank you for bringing this matter to our attention.

Attachments

NATIONAL SECURITY COUNCIL  
WASHINGTON, D.C. 20506

June 3, 1986

416233

MEMORANDUM FOR PETER WALLISON  
COUNSEL TO THE PRESIDENT

FROM: BRENDA *B. Reger* S. REGER

SUBJECT: FOI Appeal Referral of  
R. Scott Armstrong

The Department of State has referred the attached appeal regarding the Kissinger Commission.

Since this involves Presidential records, we would like to meet with the appropriate person on your staff to discuss a response to State.

Attachments





United States Department of State

Washington, D.C. 20520

May 27, 1986

Ms. Brenda Reger  
Office of Information Policy  
and Security Review  
National Security Council  
Old Executive Office Building  
Room 375  
Washington, D.C.

Re: National Bipartisan Commission on Central America

Dear Brenda:

In February, 1984, Scott Armstrong filed an FOI request for documents relating to the National Bipartisan Commission on Central America (attached). After consultation with the N.S.C., the Department informed Mr. Armstrong that the Commission was a Presidential Commission and its records were not subject to the Act (attached).

Mr. Armstrong is now appealing that determination as violative of the Federal Advisory Committee Act and the Commission's charter (attached). We have been unable to locate a copy of the charter in the Department's records and noone involved in the original decision recalls ever having seen it. However, Mr. Armstrong has conveniently provided us with a copy of it, and we have no reason to doubt its authenticity. The charter, which is attached, was signed by the then Under Secretary for Management and provides that Commission records shall be available for public inspection and copying to the extent required by the FOIA. It also states that the records shall be maintained by the Commission for the term of its operations, and shall be deposited with the Department of State upon the termination of the Commission.

The Department still has the Commission's records and must respond to Mr. Armstrong's appeal. We are requesting the views of the N.S.C. as to whether the records are State Department records subject to the Act.

Sincerely,

Linda Jacobson  
Attorney-Adviser

INSTITUTE FOR PUBLIC REPRESENTATION  
GEORGETOWN UNIVERSITY LAW CENTER

DOUGLAS L. PARKER  
DIRECTOR

WILHELMINA REUBEN COOKE  
LAURA MACKLIN  
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NORMA THOMPSON LAUGHRIGE  
ADMINISTRATOR

MAILING ADDRESS  
600 NEW JERSEY AVE., N.W.  
WASHINGTON, D.C. 20001  
TELEPHONE (202) 624-8390

STREET ADDRESS  
25 E STREET N.W.  
3RD FLOOR  
WASHINGTON D.C.

Certified Mail  
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May 9, 1986

Assistant Secretary for Public Affairs  
Chairperson  
Appeals Review Panels  
Department of State  
2201 C Street, N.W.  
Washington, D.C. 20520

Dear Chairperson:

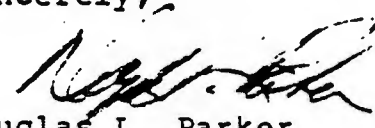
By this letter, our client Mr. Scott Armstrong appeals the denial of documents requested of the State Department pursuant to the Freedom of Information Act (5 U.S.C. §552 as amended). On February 5, 1984, Mr. Armstrong filed a written request for the disclosure of documents relating to the National Bipartisan Commission on Central America. Although Mr. Armstrong received an informal communication dated March 9, 1984, from Harry W. Shlaudeman, then Executive Director of the Commission, he has yet to receive a formal response to his request as required by law. We construe this continued failure to respond as a denial of the request. Copies of Mr. Armstrong's request and Mr. Shlaudeman's letter are appended to this appeal.

Mr. Shlaudeman's letter of March 4, 1984 mischaracterizes both the Commission's function and its obligations under the FOIA. The Federal Advisory Committee Act (5 U.S.C.A. app. 2 (Supp. 1986)) commands that requests for documents made of an advisory committee during the committee's existence are subject to the terms of the FOIA. Moreover, the Commission's charter unambiguously provides that its records "shall be available for public inspection and copying to the extent required by the Freedom of Information Act." (Charter of the National Bipartisan Commission on Central America, §VI(D), appended to this appeal). Additionally, this office has been informed that Commission records have not been transferred to the custody of the National Archives as stated by Mr. Shlaudeman. We note finally that its

charter requires that Commission records "shall be deposited with the Department of State upon [the Commission's] termination." (Charter SVI D). Since Mr. Armstrong's original request was made while the documents were in its custody, the State Department remains the agency responsible for processing that request, regardless of the present location of the Commission records.

The denial of Mr. Armstrong's request meets neither the substantive nor procedural criteria for withholding information required by law. Therefore, we request that you produce the records as originally requested. Failure to rule on this appeal within the time proscribed by law constitutes an improper denial of Mr. Armstrong's request which may be challenged in federal court. In order to avoid time consuming litigation, your prompt attention to this matter is appreciated.

Sincerely,



Douglas L. Parker



William Walsh

# The Washington Post

WASHINGTON D.C. 20001

334-7422

Feb 5  
~~Jan 31~~, 1984

National Binartrisan Commission on Central America  
Department of State  
2201 C Street N.W.  
Washington, D.C. 20520

To Whom It May Concern:

Pursuant to the Freedom on Information Act (5 U.S.C. §552 as amended), I hereby request disclosure of the documents described on the attached page for inspection and possible copying.

If you regard any of these documents as exempt from required disclosure under the Act, I hereby request that you exercise your discretion to disclose them nevertheless.

If the documents include classified information and the volume of classified material would make a lengthy declassification review necessary, I will accept, in lieu of mandatory declassification review at this time, the prompt release of all portions individually identified as unclassified or declassified (not otherwise exempt). I will then identify which of the remaining classified portions -- if any -- I wish to have processed under the mandatory declassification review. This attempt to narrow the request would be further aided by the release of any table of contents, summary, and index.

I further request that you disclose the listed documents as they become available to you, without waiting until all the documents have been assembled.

I am making this request on behalf of The Washington Post, a newspaper of general circulation in the Washington, D.C. metropolitan area and throughout the United States. The records disclosed pursuant to this request will be used in the preparation of news articles for dissemination to the public. Accordingly, I request that, pursuant to 5 U.S.C. §552 (a)(4)(A), you waive all fees in the public interest because the furnishing of the information sought by this request will primarily benefit the public. If, however, you decline to waive all fees, I am prepared to pay your normal search fees (and copying fees if I decide to copy any records), but I request that you notify me if you expect the search fees to exceed \$100.

(1) (a) All analytical, intelligence, summary, or period reports prepared by U.S. government agencies--and provided to the Commission--concerning socio-economic, political and military events in Central America from 1978 through 1982.

(b) Any summaries or staff analyses prepared by the Commission staff of the above materials.

(2) All interviews with, testimony by, comments and materials submitted to the Commission by present or former U.S. government officials and/or present or former officials of foreign governments.

The requester is willing to consider suggestions to further narrow or frame the request and can be contacted at the Washington Post at 334-7422.

March 9, 1964

Mr. Scott Armstrong  
The Washington Post  
1150 15th St., N.W.  
Washington, D.C. 20071

Dear Mr. Armstrong:

This is in response to your letter of February 5, requesting under provisions of the Freedom of Information Act (FOIA), certain records of the National Bipartisan Commission on Central America.

The Commission is a Presidential Commission, the sole function of which is advisory. The records of the Commission itself are, therefore, not yet subject to the FOIA. However, the final report and the appendix thereto (consisting of over 800 pages) have been printed and are publically available through the Government Printing Office for a small fee.

For your information, the Commission has completed its task and is going out of existence. Its records are in the process of being transferred to the custody of the National Archives in the near future and will be made available in accordance with appropriate laws and regulations governing such material.

I hope the above information will be of assistance.

Sincerely,

Harry W. Shlaudeman  
Executive Director  
National Bipartisan  
Commission on Central America

*For please  
copy + return*

*Received  
1-14-84*

CHARTER OF THE  
.....NATIONAL BIPARTISAN COMMISSION ON CENTRAL AMERICA

I. AUTHORITY

The National Bipartisan Commission on Central America was established by Executive Order No. 12433 of July 19, 1983 ("the Order"), and is governed by the provisions of the Federal Advisory Committee Act ("the Act"), 5 U.S.C. App. I, which sets forth standards for the formation, use, and operation of advisory committees.

II. PURPOSE

The National Bipartisan Commission on Central America was established to study the nature of United States interests in the Central American region and the threats now posed to those interests. Based on its findings, the Commission will provide advice to the President, ~~the Secretary of State and the~~ Congress on elements of a long-term United ~~States~~ policy that will best respond to the challenges of social, economic, and democratic development in the region, and to internal and external threats to its security and stability. The Commission will also provide advice on means of building a national consensus on a comprehensive United States policy for the region.

III. ORGANIZATION AND MEMBERSHIP

A. Membership. Pursuant to section 1(a) of the Order, the Commission shall be composed of twelve members appointed by the President from among distinguished leaders of the government, business, labor, education, Hispanic, and religious communities. No more than seven may be members of the same political party.

B. Officers. Pursuant to section 1(b) of the Order, the President shall designate one of the members of the Commission to be the Chairman. The Chairman may appoint, from among the members of the Commission, other officers as he deems appropriate.

C. Subgroups. The Chairman may establish formal or informal subgroups as he deems appropriate to carrying out the work of the Commission.

#### IV. SENIOR COUNSELLORS

The President may designate Senior Counsellors to the Commission, who, based on their individual experience and expertise, shall each be available for consultation at the request of the Chairman. Such Senior Counsellors may include up to eight Members of Congress, drawn in equal numbers from the Senate and the House of Representatives.

#### V. SUPPORT FUNCTIONS

A. Provision of Support. Pursuant to section 3(c) of the Order, the Department of State shall, to the extent permitted by law, provide administrative services and other necessary support to the Commission. Expenses of the Commission shall be paid from funds available to the Secretary of State.

B. Assistance from Executive Agencies. Pursuant to subsection 3(a) of the Order, heads of Executive agencies shall, to the extent permitted by law, provide the Commission such information as it may require for the purpose of carrying out its functions.

C. Staff. The Under Secretary for Management of the Department of State shall designate an officer or employee of the Department of State to serve as Executive Director of the Commission, and other persons to serve as Counsel to the Commission and to fill such other staff positions as he deems appropriate.

#### VI. OPERATIONS

A. Functions of the Chairman. In accordance with the Act, the Chairman shall:

- (1) call meetings with the concurrence of the Executive Director;
- (2) prepare or approve the agenda for meetings;
- (3) preside at meetings;
- (4) provide for the keeping of detailed minutes of meetings of the Commission;
- (5) provide for the maintenance and retention of the records of the Commission; and
- (6) certify the accuracy of the minutes of meetings of the Commission.

B. Functions of the Executive Director. In accordance with the Act, the Executive Director shall:

- (1) attend each meeting of the Commission and adjourn such meetings if adjournment is in the public interest;
- (2) call or concur in the calling of all meetings of the Commission;



(3) serve as contact point for the public to provide current information concerning the operations of the Commission; and

(4) under the general direction of the Commission and its Chairman, supervise the operations of the staff.

C. Meetings of the Commission. No quorum for meetings is required. All meetings of the Commission will be open to the public unless a determination has been made, in accordance with section 10(d) of the Act and 41 CFR 101-6.1023, that a meeting or a portion of a meeting should be closed to the public. All necessary measures shall be taken to protect information of a classified nature. Unless otherwise expressly directed by the Chairman, attendance at closed meetings shall be limited to Commissioners and Commission staff and, at the invitation of the Chairman, Senior Counsellors and those called by the Commission to testify or consult on a particular matter. Unless otherwise determined by the President for reasons of national security, timely notice of each meeting, whether open or closed, shall be published in the Federal Register stating the name of the Commission, the time, place, and purpose of the meeting, and the name, address, and telephone number of the designated Government employee that members of the public may contact for further information. Except in exceptional circumstances, such notice shall be published at least 15 days in advance of the meeting day. If shorter notice is given, the reason must be stated in the notice. It is estimated that the Commission will hold approximately 40 meetings.

D. Records of the Commission. The Commission's records will consist of all papers, documents, and other materials pertinent to its establishment and activities, including its charter, agendas of meetings, determinations for closed meetings, minutes, reports, and all documents related to its proceedings and those of its subgroups, including working papers, drafts, studies or other documents made available to or prepared for or by the Commission or its subgroups. These records shall be available for public inspection and copying to the extent required by the Freedom of Information Act, 5 U.S.C. 552. These records shall be maintained by the Commission for the term of its operations, and shall be deposited with the Department of State upon the termination of the Commission.

E. Minutes of Meetings. Detailed minutes shall be kept of each meeting of the Commission, which shall include a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all reports received, issued or approved by the Commission. The accuracy of such minutes shall be certified by the Chairman.

F. Public Participation. At any meeting of the Commission open to the public, but not at closed meetings, interested persons shall be permitted to attend and, at the discretion of the Chairman, to make an appearance before or to file written statements with the Commission.

## VII. REPORT

The Commission shall make a report to the President as provided by Executive Order.

## VIII. COMPENSATION OF MEMBERS

Pursuant to subsection 3(b) of the Order, members of the Commission shall serve without compensation for their work on the Commission. However, members appointed from among private citizens of the United States may be allowed travel expenses, including per diem in lieu of subsistence, as authorized for persons serving intermittently in the government service (5 U.S.C. 5702-5707), to the extent funds are available therefor.

## IX. ESTIMATED COSTS

Subject to the availability of funds, the estimated cost for operating the Commission, including travel expenses for members but excluding staff support, is \$475,000. Estimated staff support required is five man-years, at an estimated cost of \$225,000.

## X. TERMINATION

Pursuant to subsection 4(b) of the Order, the Commission shall, unless otherwise extended, terminate 60 days after submitting its final report.

Dec. 4, 1983  
Date U

J. M. Van Gundy  
Under Secretary for Manag

THE WHITE HOUSE

July 3, 1986

*7/10/86  
4/30/86*  
UNCLASSIFIED WITH SECRET ATTACHMENTS

MEMORANDUM FOR BRENDA S. REGER  
SENIOR DIRECTOR  
INFORMATION POLICY/SECURITY REVIEW

FROM: J. MICHAEL SHEPHERD *JMS*  
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Freedom of Information Act Referral: Request  
of Raymond T. Bonner

As requested by your attached memorandum for Peter Wallison, this office has reviewed the documents forwarded for your review by the Department of State for a determination of their suitability for release under the Freedom of Information Act. We concur with your view that the bracketed portions in the attached telexes should be withheld pursuant to 5 U.S.C. § 552(b)(1).

Thank you for bringing this matter to our attention.

THE WHITE HOUSE

WASHINGTON

June 25, 1986

Dear Mr. Stern:

Your letter of May 3, 1986, addressed to the Privacy Act Officer of the Office of the President, was referred to this office for response.

There is no Privacy Act nor Freedom of Information Act officer in the White House because the White House Office, an entity whose "sole function is to advise and assist the President," is not an "agency" subject to those Acts. Kissinger v. Reporters Committee for Freedom of the Press, 445 U.S. 136, 156 (1980). Accordingly, we respectfully decline to comply with your request. You may wish to submit a similar request to other agencies subject to the Acts.

Sincerely,



J. Michael Shepherd  
Associate Counsel to the President

Mr. David S. Stern  
2301 Old Bainbridge Road  
Apartment E-503  
Tallahassee, Florida 32303

# WITHDRAWAL SHEET

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1 LETTER

2 5/3/1986 B6

FROM DAVID S. STERN TO PRIVACY ACT  
OFFICER, WITH ATTACHMENT

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### Freedom of Information Act - [5 U.S.C. 552(b)]

B-1 National security classified information [(b)(1) of the FOIA]

B-2 Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]

B-3 Release would violate a Federal statute [(b)(3) of the FOIA]

B-4 Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]

B-6 Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]

B-7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]

B-8 Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]

B-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

C. Closed in accordance with restrictions contained in donor's deed of gift.