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U.S. Department of Justice

Office of the Associate Attorney General

Washington, D.C. 20530

February 23, 1984

MEMORANDUM FOR: Fred F. Fielding
Counsel to the President
The White House

FROM: Jay B. Stephens
Deputy Associate Attorney General

SUBJECT: Report on Carter Debate Briefing Materials

Attached is the final draft of the Department's report regarding the Carter debate briefing materials. We expect to release this report this afternoon.

If you have any questions, please call.

Attachment

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Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, FEBRUARY 23, 1984

AG
202-633-2007

REPORT OF THE DEPARTMENT OF JUSTICE REGARDING THE CARTER DEBATE BRIEFING MATERIALS

In June of 1983 the Federal Bureau of Investigation commenced an intensive investigation into how certain briefing materials prepared for President Carter prior to the October 1980 Presidential Debate were obtained by individuals assisting the campaign of Ronald Reagan. This investigation has now been closed by the Criminal Division of the Department of Justice. Although every lead has been followed to its conclusion, the investigation has not been able to determine precisely how the briefing materials in question were transmitted. However, the investigation uncovered no credible evidence that the transfer violated any criminal law.

This report sets forth a description of the investigative process, a summary and analysis of the investigative results, and a discussion of the applicable law.

I. THE INVESTIGATION

In mid June of last year there were reports that briefing books prepared for President Carter were improperly obtained by Reagan aides just prior to the October 28, 1983 presidential debate. In response to both the many questions raised in the press and the President's specific request, on June 29, 1983 the Department requested the FBI to "conduct an appropriate investigation to ascertain how the materials were obtained and by whom."

From June 1983 to February 1984 the FBI, in coordination with the Public Integrity Section of the Criminal Division, has conducted an investigation into the circumstances of the briefing materials as well as several other related matters that arose during the investigation. Over 220 individuals including President Reagan and many other high officials of both the Carter and Reagan campaign were interviewed one or more times. Approximately one thousand boxes of documents, audio and video tapes were reviewed by the FBI including the Reagan campaign files, videotapes of the Debate preparations and hundreds of other documents relating to facts and circumstances in the investigation. In addition, where appropriate, forensic laboratory examinations of documents were conducted. All FBI interviews have been reviewed by and all documents acquired by the FBI in the course of the investigation have been provided to the House Subcommittee on Human Resources of the Post Office and Civil Service Committee.

II. INVESTIGATIVE RESULTS

A. Factual

1. Briefing Materials - The following has been established:

- a) The only Carter debate briefing materials which the evidence established to be in the possession of Reagan supporters prior to the debate were photocopies of a rough draft of foreign policy briefing material and photocopies of a draft of briefing material prepared for Vice President Mondale. While there is some uncertainty in the recollection of certain individuals as to what they saw, there is no firm evidence that the final Carter briefing books were ever in the possession of any Reagan aides prior to the debate.
- b) No government documents are among the briefing materials that were obtained by the Reagan campaign. They were drafts created for the Carter campaign. They were not produced on government time or at government expense, and they were based on public source material.
- c) No classified information was contained in the briefing materials.
- d) Few internal controls over the distribution and confidentiality of these materials existed within the Carter campaign. Most of the individuals with access to them, including many non-government secretaries, did not consider them particularly sensitive.
- e) Other than in assisting David Stockman in his preparation for the mock debates, there is no indication that the Reagan campaign utilized the draft material in question.
- f) All of the Reagan campaign officials who either possessed or were aware of the materials denied any knowledge of how they were originally obtained and any belief that the materials were stolen. In fact, there is no evidence that the material was stolen.
- g) No evidence was found of any plan or conspiracy by Reagan election officials to obtain the Carter briefing materials or any other confidential, internal Carter documents.

2. Other Documents: In the course of the investigation, the FBI reviewed thousands of documents from the files of the Reagan campaign and its officials. Several of these documents have been identified as internal documents of the Carter White House or the Carter campaign. In the case of each internal

Carter document found in Reagan campaign files, the FBI sought to ascertain by what means the documents were obtained. In no instance was there any evidence of theft or criminal misappropriation. In most instances the material in question had been widely disseminated to the press or others and were obtained through wholly proper channels. In some cases, it was impossible to determine how documents were obtained due to the professed lack of memory or knowledge on the part of those in possession of the documents. Regarding the internal Carter documents, there is no evidence that classified materials were improperly disseminated or that any criminal means were used to obtain any of the documents.

B. Analysis - In analyzing the investigative results the applicability of several criminal statutes have been considered. 18 U.S.C. § 641 prohibits theft of government property. There is no evidence of theft and the great weight of the evidence indicates that the briefing material was not "government property" as defined by the statute. Other Federal, District of Columbia and State theft statutes are likewise not implicated because of the absence of any evidence that documents were obtained by theft as opposed to other, lawful means.

Statutes prohibiting improper disclosure of classified information -- such as 18 U.S.C. §§ 793, 794, 798 or 50 U.S.C. § 783 -- are not implicated because there is no evidence that anyone disclosed classified information.

Federal Election Campaign Act statutes such as 2 U.S.C. § 441(h), which prohibits the "misrepresentation of campaign authority," is not applicable because there is no evidence that an agent for one campaign was in any way directed to work in the other campaign for improper purposes.

There are insufficient grounds to assume that any individual engaged in willful falsification or the obstruction of the investigation. No independent evidence indicates a knowing falsehood. Any seeming inconsistencies could be explained by differences in recollection or interpretation.

III. APPLICABILITY OF THE ETHICS IN GOVERNMENT ACT

Under Chapter 39 of the Ethics in Government Act, 28 U.S.C. § 591, the Attorney General must conduct a statutory preliminary investigation upon receipt of specific information of a federal crime by an official covered by the act. In this case, although several officials covered by the act either had knowledge of or possessed the draft briefing papers in question, there is no specific, credible information of a federal crime having been committed by any of them or by non-covered officials.