Collection: Roberts, John G.: Files
Folder Title: JGR/Crime Package (3 of 5)
Box: 15

THE WHITE HOUSE

WASHINGTON

April 10, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Statement of Oliver Revell Concerning White-Collar Crime, on April 11, 1984

We have been provided a copy of testimony FBI Assistant Director Oliver B. Revell proposes to deliver on April 11 before the Subcommittee on Civil and Constitutional Rights of the House Judiciary Committee. Revell's testimony concerns the Bureau's efforts against white-collar crime, and begins with a survey of the Bureau's successes. Revell notes, however, that there has been a slight decline in the resources devoted to white-collar crime, as experienced agents were drawn from that area to aid in the narcotics efforts. The testimony concludes by listing the Bureau's priorities in the white-collar crime area: governmental fraud, corruption of public officials, and financial crime.

I have reviewed the testimony and have no objections. Some on the Subcommittee may try to make something of the slight decline in agent work years devoted to white-collar crime, but the explanation that resources were diverted to the war on drugs strikes me as satisfactory.

Attachment

THE WHITE HOUSE

WASHINGTON

April 10, 1984

MEMORANDUM FOR GREGORY JONES
LEGISLATIVE ATTORNEY
OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING FFF/RAH
COUNSEL TO THE PRESIDENT

SUBJECT: Statement of Oliver Revell Concerning White-Collar Crime, on April 11, 1984

Counsel's Office has reviewed the above-referenced testimony, and finds no objection to it from a legal perspective.

FFF:JGR:aea 4/10/84
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 10, 1984

MEMORANDUM FOR GREGORY JONES
LEGISLATIVE ATTORNEY
OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Statement of Oliver Revell Concerning White-Collar Crime, on April 11, 1984

Counsel's Office has reviewed the above-referenced testimony, and finds no objection to it from a legal perspective.

FFF:JGR:aea 4/10/84
cc: FFFielding/JGRoberts/Subj/Chron

ID # CU

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING
☐ H - INTERNAL
☐ I - INCOMING
Date Correspondence Received (YY/MM/DD) / /

Name of Correspondent: Greg Jones DOJ

☐ **MI Mail Report** **User Codes:** (A) ______ (B) ______ (C) ______

Subject: Statement Oliver Revell Concerning White-Collar Crime on April 11, 1984

ROUTE TO: ACTION DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
CUHOLL	ORIGINATOR	84,04,09			/ /
	Referral Note:				
CUAT 18	D	84,04,09		S	84,04,10
	Referral Note:				CO.B.
		/ /			/ /
	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.

"DRAFT"

STATEMENT OF

OLIVER B. REVELL

ASSISTANT DIRECTOR

CRIMINAL INVESTIGATIVE DIVISION

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D. C.

BEFORE THE

HOUSE SUBCOMMITTEE

ON

CIVIL AND CONSTITUTIONAL RIGHTS

COMMITTEE

ON

THE JUDICIARY

CONCERNING

WHITE-COLLAR CRIME

ON

APRIL 11, 1984

Mr. Chairman and members of the Subcommittee, I am pleased to be here to discuss with you the Federal Bureau of Investigation's White-Collar Crime Program.

Let me begin by defining white-collar crime and then tell you how we are addressing the problem. White-collar crime consists of illegal acts that use deceit and concealment rather than the application or threat of physical force or violence to obtain money, property or service; to avoid the payment or loss of money; or to secure a business or personal advantage. White-collar criminals occupy positions of respect and trust in business, Government, industry and the professions. Probably no one can state with accuracy the total cost of white-collar crime when all the associated costs such as inflated bills, unneeded goods and services, program abuses and the like are considered. The cost relative to one aspect of white-collar crime, business fraud, was addressed by a research project funded by Peat Marwick, Mitchell and Company in 1982, which reported that losses from white-collar crime and fraud total approximately $200 billion per year. Add to this economic figure abuses of programs designed to help the needy, extortion by public officials and corrupt manipulation of the voting franchise and the cost of white-collar crime is enormous in terms of both dollars and lost faith in Government institutions on the part of American citizens.

Given the enormity of the problem, I believe the Federal Bureau of Investigation can be justifiably proud of its efforts and accomplishments in what, for us, is a high priority program. For the past several years we have devoted in the neighborhood of approximately 20% of our investigative resources to addressing white-collar crime. During fiscal year 1983, we expended 1227 Agent workyears or about 19% of our investigative resources in the investigation of white-collar crime. More about this reduction later, but for the moment I would like to account to you our successes in this program or tell you what we have done with the resources expended. During fiscal year 1983, 44% of all the Federal Bureau of Investigation's convictions, pretrial diversions and guilty pleas were obtained by Agents engaged in the investigation of white-collar crimes. A total of 4857 persons were convicted of white-collar crimes during this year. This is the largest number of persons ever convicted of white-collar crimes by the Federal Bureau of Investigation. Equally important is the fact that these were significant convictions. Of these convictions 74%, an alltime high, were recorded in what we define as priority cases. These priorities are more or less defined by the type of crime and in financial crimes generally relate to the amount of money involved or in public corruption the managerial or executive level of the official. Therefore, while we used fewer Agents to investigate white-collar crime we intensified our efforts on the most significant matters and obtained record accomplishments. We also had significant impact from a monetary standpoint. During fiscal year 1983, fines of $11.5 million were imposed, recoveries of $345.1 million were recorded and $1.8 billion in economic losses were prevented.

I said I would address our reduction of Agent resources devoted to the investigation of white-collar crime and I would like to do so at this time. During fiscal year 1983, 191 fewer Agent workyears were utilized in the White-Collar Crime Program than were budgeted. This underutilization of resources should not be viewed as indicative of a declining workload. Our field managers have significant unaddressed work awaiting assignment of Agent resources. It is therefore an appropriate question to ask why if Agents were budgeted and work existed they were not used in this program.

White-collar crime is one of the Federal Bureau of Investigation's top priority investigative activities and as such is one of the three largest field investigative programs. By virtue of its size and complement of experienced investigators, it was necessary to direct experienced resources from the program to our newly assigned responsibilities in narcotics investigations. While many of the white-collar crime investigations are lengthy and complex, they are often not life-threatening situations and may be unaddressed for a longer period of time than other investigations such as narcotics matters. The decision to divert white-collar crime Agents to address unforeseen jurisdiction in the narcotics area was a responsible decision to bring to bear the investigative expertise of those Agents having not only the experience but the academic skills in accounting and computer science necessary to address investigations focusing on the illegal laundering of large sums of monies derived from narcotics and the complex organization structure of many narcotics enterprises. During fiscal year 1983, approximately 783 Agent workyears were utilized in the investigation of Narcotics matters. This was accomplished despite the fact only 334 positions had been allocated for Narcotics investigations. Agents were therefore drawn not only from the White-Collar Crime Program, but from other investigative programs as well to address the immediacy of the Narcotics problem.

I would like to turn your attention now to our system of priorities to explain how they are established at the national level and how our individual field offices fit into that scheme. Our national priorities within the White-Collar Crime Program are Governmental Fraud, Corruption of Public Officials and Financial Crimes in that order. These priorities have been selected over time in concert with the Department of Justice, the President's stated goal of eliminating fraud, waste and abuse in Government, and our systematic identification of the crime problem. The Attorney General's Economic Crime Council which is chaired by the Associate Attorney General and comprised of various high-ranking Department of Justice officials, United States Attorneys and Federal Bureau of Investigation personnel has been of valuable assistance in identifying crime problems which should be addressed on a national level.

At the local level our field managers are charged with the responsibility of identifying the significant white-collar crime problems in their territory. This is accomplished through informants, cooperating witnesses, liaison with other Government Agencies such as the Offices of Inspectors General and liaison with business and financial centers. United States Attorneys are also consulted in this process. One might therefore assume field offices located in proximity to military installations might establish Defense Procurement Fraud as a top priority while those offices located in the heart of financial centers might properly identify major financial crimes as a top priority.

The decision to rank Governmental Fraud on the national level as a top ranked priority is based upon the hundreds of Government programs which are susceptible to a myriad of fraudulent schemes, some involving corrupt Government employees. There are three categories into which most Government spending schemes fall: Procurement Fraud, Contractor Fraud and Program Fraud. Sometimes a corrupt Federal employee is involved in these illegal activities.

The Federal Bureau of Investigation has excellent liaison and coordination with the Offices of Inspectors General. The Federal Bureau of Investigation is also a participant in the Department of Justice/Department of Defense Procurement Fraud Unit located in Alexandria, Virginia.

The Federal Bureau of Investigation has signed 14 Memoranda of Understanding with the statutory Inspectors General. These agreements require the Inspectors General to refer investigative matters to the Federal Bureau of Investigation when they involve a Federal employee participating in a criminal activity. These criminal activities usually involve bribery or embezzlement. Smaller problems such as voucher fraud that do not warrant Federal prosecution and which will be handled administratively are expected to be handled by the appropriate Agency. The Federal Bureau of Investigation will investigate any Procurement Fraud or Contractor Fraud where there are reasonable expectations of corruption of Government employees.

Our second ranked priority, Corruption of Public Officials, poses significant problems because of the sensitivity of these investigations. It is the position of the Federal Bureau of Investigation that, because of the uniquely sensitive nature of Public Corruption investigations, particularly those involving officials whose status and position are largely dependent on their reputations for integrity, it is essential that these investigations be conducted promptly, thoroughly, and with discretion. Our goal in Public Corruption investigations is to successfully resolve allegations of criminal wrongdoing either through prosecution or by disproving the veracity of the allegations. Where we achieve that clarity of resolution, we succeed in accomplishing our goal. The principal interest of the Federal Bureau of Investigation in Public Corruption matters involves corruption at the Federal level of Government. Our involvement in state and local corruption investigations is generally accompanied by an articulated need for Federal intervention. That need may stem from the pervasiveness of an existing corruption problem or it might be required by the inability and/or unwillingness of state or local authorities to address the problem.

During fiscal year 1983, a total of 201 Agents were utilized Bureau-wide in the investigation of Public Corruption investigations. These Agents were responsible for the conviction of 380 individuals whose corrupt activities undermine our system of Government.

On the financial front we deal in crimes affecting the financial strength of our economy where literally thousands of investors may be victimized and lose vast sums of money. The Federal Bureau of Investigation is committed to the investigation of significant bankruptcy matters such as those currently under investigation in Knoxville, Tennessee and Oklahoma City, Oklahoma. In cases of this magnitude, the Government stands to lose literally millions of dollars through insuring the deposits of bank customers.

In Governmental Fraud investigations the cost of services to the taxpayer is inflated and/or the quality of services and materials is diminished. In our Public Corruption investigations the very fiber that holds Government together is challenged. I believe you can now see why Director Webster has designated white-collar crime as one of the top ranked investigative programs in the Federal Bureau of Investigation. Mr. Chairman, this concludes mv prepared remarks. I will be happy to answer any questions you may have at this time.

THE WHITE HOUSE

WASHINGTON

April 11, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Presidential Certificates for Crime Victims

Craig Fuller has relayed Assistant Attorney General Lois Herrington's request for "Presidential certificates" to honor four victims "who overcame their experience and have worked to improve the treatment of other crime victims." The certificates would be presented at a Roosevelt Room ceremony scheduled for April 13. Herrington has submitted a mock-up of the desired certificate, which reads: "The President of the United States of America officially commends ____________ in recognition of outstanding service on behalf of victims of crime."

There is no legal impediment to the President issuing such a certificate, should he desire to do so. In my view, however, there is already a surfeit of Presidential medals, awards, and certificates, and I see no need to create an additional, ad hoc "official" certificate for the Friday ceremony. It seems better to limit the distribution of "official" awards to those established by statute or executive order. Otherwise we will have to have an official certificate for every ceremony, with a concomitant debasing of the significance of such Presidential recognition.

Attachment

THE WHITE HOUSE

WASHINGTON

April 12, 1984

MEMORANDUM FOR CRAIG L. FULLER
ASSISTANT TO THE PRESIDENT
FOR CABINET AFFAIRS

FROM: FRED F. FIELDING Orig. signed by FFF
COUNSEL TO THE PRESIDENT

SUBJECT: Presidential Certificates for Crime Victims

You have asked for our views on a proposal submitted by Assistant Attorney General Lois Herrington to create a "Presidential certificate" to be awarded to four crime victims. There is no legal impediment to issuing such a certificate, if the President desires to do so. Thus it is a policy call as to whether we want to add to the "list" of official Presidential awards, medals, and certificates, ranging from the Medal of Freedom to the President's Export Awards. The use of an "official certificate" is not necessary to commend an individual, and the use of such a certificate in any particular instance inevitably generates increasing demands for similar certificates in other instances. However, this seems like a cause in which the President has expressed interest and it is a good one.

FFF:JGR:dgh

cc: FFFielding
JGRoberts
Subject
Chron

THE WHITE HOUSE

WASHINGTON

April 11, 1984

MEMORANDUM FOR CRAIG L. FULLER
ASSISTANT TO THE PRESIDENT
FOR CABINET AFFAIRS

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Presidential Certificates for Crime Victims

You have asked for our views on a proposal submitted by Assistant Attorney General Lois Herrington to create a "Presidential certificate" to be awarded to four crime victims. There is no legal impediment to issuing such a certificate, if the President desires to do so. In our view, however, there is already a surfeit of official Presidential awards, medals, and certificates, ranging from the Medal of Freedom to the President's Export Awards. As a policy matter we think the President should avoid the ad hoc creation of additional "official" awards. The use of an "official certificate" is not necessary to commend an individual, and the use of such a certificate in any particular instance inevitably generates increasing demands for similar certificates in other instances. We think it best to limit the distribution of official-looking awards or certificates to the award programs established by statute or executive order.

FFF:JGR:aea 4/11/84
cc: FFFielding/JGRoberts/Subj/Chron

ID # CU

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

☐ O · OUTGOING
☐ H · INTERNAL
☐ I · INCOMING
Date Correspondence Received (YY/MM/DD) / /

Name of Correspondent: Craig Fuller

☐ **MI Mail Report** **User Codes: (A)** ____ **(B)** ____ **(C)** ____

Subject: Presidential Certificates for Crime Victims

ROUTE TO: **ACTION** **DISPOSITION**

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
CUHORC	ORIGINATOR	84 04 11			/ /
	Referral Note:				
CUAT 18	D	84 04 11		S	84 04 11
	Referral Note:				C.O.B.
		/ /			/ /
	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.

5/81

THE WHITE HOUSE

WASHINGTON

April 10, 1984

MEMORANDUM FOR FRED FIELDING

FROM: CRAIG L. FULLER

SUBJECT: Presidential Certificates for Crime Victims

Lois Herrington, Assistant Attorney General, has requested Presidential certificates to honor four victims who overcame their experience and have worked to improve the treatment of other crime victims. The certificates would be presented at a ceremony scheduled in the Roosevelt Room on Friday, April 13. A copy of a similar certificate is attached for your consideration.

_____ Approved

_____ Not approved

The President of the United States of America
Officially Commends

in recognition of outstanding service
on behalf of victims of crime

Washington, D.C.

President

THE WHITE HOUSE

WASHINGTON

April 12, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Presidential Remarks: Victims of Crime Ceremony, Friday, April 13, 1984

Richard Darman has asked that comments on the above-referenced proposed remarks be sent directly to Ben Elliott as soon as possible. The brief remarks, to be delivered on the signing of the Crime Victims Week proclamation, honor four victims of crime who will be present at the ceremony. The remarks also refer to the Administration's proposed Victims of Crime Assistance Act of 1984. I have reviewed the remarks and have no objections.

Attachment

THE WHITE HOUSE

WASHINGTON

April 12, 1984

MEMORANDUM FOR BEN ELLIOTT
DEPUTY ASSISTANT TO THE PRESIDENT
DIRECTOR, PRESIDENTIAL SPEECHWRITING OFFICE

FROM: FRED F. FIELDING Orig. signed by FFF
COUNSEL TO THE PRESIDENT

SUBJECT: Presidential Remarks: Victims of Crime Ceremony, Friday, April 13, 1984

Counsel's Office has reviewed the above-referenced proposed remarks, and finds no objection to them from a legal perspective.

cc: Richard G. Darman

FFF:JGR:aea 4/12/84
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 12, 1984

MEMORANDUM FOR BEN ELLIOTT
DEPUTY ASSISTANT TO THE PRESIDENT
DIRECTOR, PRESIDENTIAL SPEECHWRITING OFFICE

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Presidential Remarks: Victims of Crime Ceremony, Friday, April 13, 1984

Counsel's Office has reviewed the above-referenced proposed remarks, and finds no objection to them from a legal perspective.

cc: Richard G. Darman

FFF:JGR:aea 4/12/84
bcc: FFFielding/JGRoberts/Subj/Chron

ID # ______ CU

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING
☐ H - INTERNAL
☐ I - INCOMING
Date Correspondence Received (YY/MM/DD) __ / __ / __

Name of Correspondent: Richard Darman

☐ **MI Mail Report** **User Codes:** (A) ______ (B) ______ (C) ______

Subject: Presidential Remarks: Victims of Crime Ceremony, Friday, April 13, 1984

ROUTE TO:		ACTION		DISPOSITION		
Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
CUHOLL		ORIGINATOR	84/04/12			/ /
		Referral Note:				
CUAT 18		C	84/04/12		S	84/04/12
		Referral Note:				ASAP
			/ /			/ /
		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.

5/81

(Elliott edit)
April 12, 1984
3:00 p.m.

PRESIDENTIAL REMARKS: VICTIMS OF CRIME CEREMONY
FRIDAY, APRIL 13, 1984

It's a pleasure to welcome all of you to the White House, Attorney General Smith, Lois Herrington, Members of the Congress -- all of you who have labored so hard to promote the needs of those who are victims of crime.

We'd also like to welcome some very special guests, Dr. Kosiak [Ko-see-ak], Miss Dawson, Mr. Romero, and Mrs. Justice. I've been advised of your misfortunes. But I am also aware of the tremendous contributions you have made to your communities and our Nation by turning your anguish into constructive action -- by establishing programs to aid your fellow citizens who have suffered as you did at the hands of criminals.

It wasn't too long ago that I, too, was a victim of crime. I was fortunate enough to receive special care and a great deal of attention. Because that's not always the case, I recently submitted legislation to the Congress to provide assistance to people whose lives risk being shattered by senseless criminal acts. The Attorney General and Mrs. Herrington have implemented programs at the Department of Justice, and I fully support them.

For too long, America's criminal justice system has protected the rights and privileges of the criminal before the victim. In the end, society is the greatest victim. We are trying to change those priorities, and I commend all of you for the vital work you're doing to keep us on this course.

And now I will sign the proclamation for Crime Victims Week, 1984.

THE WHITE HOUSE

WASHINGTON

April 12, 1984

MEMORANDUM FOR RICHARD A. HAUSER

FROM: JOHN G. ROBERTS

SUBJECT: Draft Proclamation/Crime Victims Week, 1984

You will recall that Richard Darman staffed a draft of the Crime Victims Week proclamation to us for clearance on April 9. By memorandum to Darman dated April 10, you advised him that we had no objection to issuing such a proclamation, although it should go through the normal OMB clearance process. We objected to the substance of the proclamation and suggested numerous revisions.

We have now received a redraft of the proclamation, which has been through OMB clearance. The proclamation has benefitted from considerable editing, and I have no objections.

Attachment

THE WHITE HOUSE

WASHINGTON

April 12, 1984

MEMORANDUM FOR DODIE LIVINGSTON
SPECIAL ASSISTANT TO THE PRESIDENT
DIRECTOR, SPECIAL PRESIDENTIAL MESSAGES

FROM: RICHARD A. HAUSER /S/
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: Draft Proclamation/Crime Victims Week, 1984

Counsel's Office has reviewed the revised version of the above-referenced draft proclamation. Our office previously reviewed and commented upon an earlier draft of this proclamation. The substance of the concerns noted in our April 10 memorandum to Richard Darman have been addressed, and we now find no objection to the draft from a legal perspective.

RAH:JGR:aea 4/12/84
cc: FFFielding/RAHauser/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 12, 1984

MEMORANDUM FOR DODIE LIVINGSTON
SPECIAL ASSISTANT TO THE PRESIDENT
DIRECTOR, SPECIAL PRESIDENTIAL MESSAGES

FROM: RICHARD A. HAUSER
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: Draft Proclamation/Crime Victims Week, 1984

Counsel's Office has reviewed the revised version of the above-referenced draft proclamation. Our office previously reviewed and commented upon an earlier draft of this proclamation. The substance of the concerns noted in our April 10 memorandum to Richard Darman have been addressed, and we now find no objection to the draft from a legal perspective.

RAH:JGR:aea 4/12/84
cc: FFFielding/RAHauser/JGRoberts/Subj/Chron

ID # 197871 CU

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING
☐ H - INTERNAL
☐ I - INCOMING
Date Correspondence Received (YY/MM/DD) / /

Name of Correspondent: Dodie Livingston

☐ **MI Mail Report** **User Codes:** (A) ______ (B) ______ (C) ______

Subject: Draft Proclamation / crime victims week, 1984

ROUTE TO:	ACTION		DISPOSITION		
Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
CUHOLL	ORIGINATOR	84,04,11			/ /
Referral Note:					
CUAT 18	D	84,04,11		S	84,04,13
Referral Note:					RUSH
		/ /			/ /
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.

5/81

THE WHITE HOUSE

WASHINGTON

April 11, 1984

[redacted]

MEMORANDUM FOR: M. B. OGLESBY
[redacted]
JACK SVAHN
LEE VERSTANDIG
FAITH WHITTLESEY

SUBJECT: Draft Proclamation - Document #197871
CRIME VICTIMS WEEK, 1984

Attached for your review is the draft proclamation designating the week beginning April 15, 1984 as National Crime Victims Week. It was drafted by the Department of Justice and edited in this office.

NOTE: This requires immediate attention as a [redacted]

Your comments and/or clearance [redacted]

Thank you for your cooperation

JACK WELLS
(for) Dodie Livingston
480-OEOB/Ext. 2941

1984 APR 11 PM 6:17

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

April 10, 1984

MEMORANDUM FOR: THE PRESIDENT

FROM: MICHAEL J. HOROWITZ
COUNSEL TO THE DIRECTOR MH

SUBJECT: CRIME VICTIMS WEEK, 1984

The enclosed proposed proclamation was submitted at our request by the Department of Justice. It has been retyped in this office to reflect the authority and as to format.

Although not called for by any enacted joint resolution, a similar proclamation for Crime Victims Week was issued in 1982 and 1983.

The proposed proclamation has the approval of the Director of the Office of Management and Budget.

Enclosure

CRIME VICTIMS WEEK, 1984

- - - - - - -

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

As citizens of this free Nation, we support a system of justice which protects the rights of the accused by assuring them due process of law, a just and fair guarantee inscribed into our Constitution. Yet, through ignorance and insensitivity, our system of justice has often failed to provide the victims of crime the compassionate treatment they deserve. These persons too often have had to endure alone the physical and emotional pain that crime inflicts upon its victims. Victims of crime have had their lives disrupted, their families subjected to unnecessary strains, and sometimes fear the loss of their livelihood, health, or life. And, most important, their cries for elementary justice too frequently go unheard.

Among the essential reasons governments are instituted among peoples is to establish a system of justice for the protection of their citizens. Justice is a primary goal and responsibility of government. As a country founded with the noble purpose of protecting and defending its people, our society cannot ignore the pleas of crime victims. Following up on the recommendations of the President's Task Force on Victims of Crime, my Administration is working to implement much-needed changes throughout our criminal justice system to respond to the concerns of crime victims.

The national movement seeking more compassionate treatment for the victims of crime is led in large part by the victims themselves. While I commend these courageous victims who have overcome their pain and despair and are working to help ease the trauma of other victims, it is crucial to remember that no segment of our society should refuse to recognize its responsibility to help in this most worthy endeavor. We must all strive to preserve the principles of justice on which our free society depends.

NOW, THEREFORE, I RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning April 15, 1984 as "Crime Victims Week." I urge officials at all levels of government to pay special attention to the burdens crime victims face. I ask that all Americans listen and respond to the needs of crime victims, who urgently require our support.

IN WITNESS WHEREOF, I have hereunto set my hand this day of April, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and eighth.

THE WHITE HOUSE

WASHINGTON

April 23, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Statement of Mark Richard Concerning the Comprehensive Crime Control Act of 1984 on April 25, 1984

We have been provided with a copy of testimony Deputy Assistant Attorney General Mark Richard proposes to deliver on April 25 before the Subcommittee on Criminal Justice of the House Judiciary Committee on obtaining evidence from abroad in criminal cases. The testimony expresses general support for H.R. 5406 and the pertinent provisions of S. 1726, which would permit the admission into evidence of foreign records of a regularly conducted activity. Presently such records, typically foreign court or business records, can only be admitted upon cross-examined testimony of their custodian. When the custodian is a foreign official, such required testimony is difficult or impossible to obtain, at least without going through the arduous letters rogatory process. H.R. 5406 and the pertinent provisions of S. 1726 would authorize the admission of foreign documents accompanied by an appropriate certification of authenticity, after prior notice to the opposing party.

In addition to supporting these efforts to facilitate the handling of transnational cases, Richard also urges that the Subcommittee provide that the time spent in diligent efforts to secure foreign evidence not be counted in Speedy Trial Act calculations, and that the government be permitted to apply for an extension of any applicable statute of limitations to obtain such evidence. According to the testimony, Speedy Trial Act and statute of limitations problems are particularly acute when it is necessary to obtain evidence from abroad, and the drug dealers or commercial fraud perpetrators involved in major transnational cases should not be permitted to escape justice simply because their activities span several borders. As an example of the difficulties involved, Richard appends to his testimony a synopsis of a completed commercial fraud case in which it was necessary to obtain evidence from Switzerland, Liechtenstein, Bermuda, and the Cayman Islands.

I have reviewed the proposed testimony, and have no objections.

THE WHITE HOUSE

WASHINGTON

April 23, 1984

MEMORANDUM FOR GREGORY JONES
LEGISLATIVE ATTORNEY
OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Statement of Mark Richard Concerning the Comprehensive Crime Control Act of 1984 on April 25, 1984

Counsel's Office has reviewed the above-referenced testimony, and finds no objection to it from a legal perspective.

FFF:JGR:aea 4/23/84
cc: FFFielding/JGRoberts/Subj/Chron

ID # CU

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET JR

☐ O - OUTGOING
☐ H - INTERNAL
☐ I - INCOMING
Date Correspondence Received (YY/MM/DD) / /

Name of Correspondent: Greg Jones / DOS

☐ **MI Mail Report** **User Codes:** (A) ____ (B) ____ (C) ____

Subject: Statement of Mark Richard concerning the Comprehensive Crime Control Act of 1984. on April 25, 1984

ROUTE TO: **ACTION** **DISPOSITION**

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
CUHOLL	ORIGINATOR	84/04/23			/ /
	Referral Note:				
CUAT 18	D	84/04/23		S	84/04/24
	Referral Note:				C.O.B.
		/ /			/ /
	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.

5/81

DRAFT

STATEMENT OF MARK M. RICHARD

DEPUTY ASSISTANT ATTORNEY GENERAL

CRIMINAL DIVISION

U.S. DEPARTMENT OF JUSTICE

CONCERNING H.R. 5406 AND S. 1726 ON

OBTAINING EVIDENCE FROM ABROAD IN CRIMINAL CASES

BEFORE THE

SUBCOMMITTEE ON CRIMINAL JUSTICE

COMMITTEE ON THE JUDICIARY

UNITED STATES HOUSE OF REPRESENTATIVES

APRIL 25, 1984

Mr. Chairman and Members of the Subcommittee, I appreciate this opportunity to present the views of the Department of Justice on H.R. 5406, a bill designed to facilitate the admission of the foreign records of a regularly conducted activity in evidence in the United States, and on similar and related provisions proposed by Senator Roth and passed by the Senate as amendments to S. 1762 -- the Comprehensive Crime Control Act of 1984.*

The Department of Justice strongly supports the general substance of H.R. 5406 and the similar provision approved by the Senate in S. 1762.** However, we believe certain technical changes need to be made in both bills to permit them to better achieve their objective, and that at least two of the related matters dealt with in the Roth Amendments -- exclusion from the Speedy Trial Act of periods of delay necessary to obtaining evidence from abroad and suspension of statutes of limitations, for up to three years, to permit the government to obtain investigative information and evidence from abroad -- should be included in any legislation in this area reported out by this Subcommittee.

---

* Sections 1213 through 1218

** Section 1214

With the major advances in transportation, communications, and data processing technology in recent years, there has been a concomitant increase in transnational criminal activity affecting the United States -- particularly in the areas of narcotics trafficking and large-scale fraud. Congress had the authority to confer adequate powers on the other branches of government to permit the United States to cope with the great increase in interstate criminal activity occuring during the past 125 years because all such activity occurs within the United States. However, its ability to provide federal law enforcement authorities and courts with sufficient means to deal with the rapidly growing level of transnational criminal acitivity is much more circumscribed. As then Assistant Attorney General D. Lowell Jensen stated last year in testimony before the Senate Permanent Subcommittee on Investigations:

> We are no longer dealing with one sovereign nation, but with many. The activities of United States investigative agents and prosecutors involved in such cases are regulated not only by United States law, but by the laws of the countries in which all or part of the criminal activity with which they are concerned took place. And, the effect of United States court orders supporting our efforts to obtain investigative information and evidence is limited to a significant extent by the willingness and ability of affected foreign countries to permit the execution of those orders.

Two of the most serious problems faced by United States law enforcement authorities in investigating and prosecuting transnational criminal acitivity affecting this country are the time-consuming nature of efforts to obtain investigative information and evidence from abroad and the unnecessary expense and delay associated with obtaining records of a regularly conducted activity, which are located in a foreign country, admitted into evidence in a criminal trial in the United States.

For eaxmple, the United States is presently directing a significant part of its narcotics investigative effort at the laundering of the profits of major drug trafficking organizations. Tracing these profits through foreign banks is a painstaking and time-consuming task. It often takes years to follow such funds through numerous bank accounts and shell corporations and to tie them to major drug traffickers. After tying the accounts to a trafficker and obtaining his indictment in the United States, we then face the further expensive and time-consuming task of obtaining those records in a form that will permit them to be introduced in a criminal proceeding in a United States court.

Even though there is seldom any doubt as to the trustworthiness and authenticity of such records, under present rules of evidence they only can be admitted over the objection of the defendant on the basis of the crossexamined testimony of their custodian or of another qualified witness. Since such persons are generally not United States citizens or residents, the United States lacks any ability to compel their appearance at trial. */

---

*/ See 28 U.S.C. 1783

Although such testimony can be taken before a United States Consul in the country in which the records are located pursuant to 18 U.S.C. 3491 et seq, in most instances the custodian or other qualified witness will not voluntarily submit to a deposition before a United States Consul or will be precluded by the law of that country from tesifying about such records except pursuant to an order from a court of that country. Therefore, the United States generally will be limited to requesting such testimony pursuant to a letter rogatory from a United States court to a court in the country in which the records are located or, with respect to countries with which we have mutual assistance treaties in criminal matters such as Switzerland, pursuant to a request under the treaty. Moreover, the testimony of the custodian must be taken before the foreign court in a manner that meets the requirements of Rule 15 of the Federal Rules of Criminal Procedure and the Confrontation Clause of the Sixth Amendment.

Plainly, the interests of justice require an easier way to obtain the admission in evidence of business records in a foreign country which are maintained in a manner in which there can be little question of their authenticity and trustworthiness. Both H.R. 5406 and the Roth Amendments to S. 1762 seek to accomlish this objective.

While we strongly support the substance of both of these proposals, we think certain changes need to be in both bills to enhance their ability to attain their mutually desired objective. These changes are:

- Recast the proposal as an amendment to Rule 803(6) of the Federal Rules of Evidence. We believe this change is desirable for two reasons. First, the proposal is really a rule of evidence and, as such, should be contained in the Federal Rules of Evidence. Second, the criteria and terminology governing the admissibility of foreign and domestic business records should track as closely as possible to prevent unnecessary litigation resulting from the use of different phraseology to express a requirement common to both.

- Require that the certification of the custodian or other qualified witness be subject to sanctions for untruthful statements, under the laws of the country in which the certification is made, rather than to penalties of perjury. Because some countries might not punish false certifications under their perjury laws, but rather under their laws akin to our false statement laws, it is preferable to use this broader terminology which encompasses the objective that the certification must be given in a manner that subjects the person giving it to criminal sanction if he does so falsely.

- Require that the proponent of the admission of foreign business records based on a certification file a notice of intention to introduce such evidence at arraignment or as soon thereafter as practicable, and that the court rule on the motion to admit such evidence before trial. See Rules 12(d) and 12(e), Federal Rules of Criminal Procedure. While both H.R. 5406 and the Roth Amendments appear to intend that such a procedure be followed, it is desirable to state this objective more precisely in order to preclude the possibility that trials would have to be interrupted to permit the parties to travel to a foreign country to take the deposition of the custodian or other qualified witness.

- Provide that the sole ground for a court to refuse the admission of relevant, properly certified foreign business records is that "source of information or the method or circumstances of preparation indicate lack of trustworthiness." This ground is the only one contained in Rule 803(6). Neither H.R. 5406 or the Roth Amendment are clear on this matter.

- Amend Rule 901(b) of the Federal Rules of Evidence to include certification of foreign business records pursuant to this proposal as an example of a way in which documents can be authenticated under the Federal Rules of Evidence. Both H.R. 5406 and S. 1762 contain language which would achieve this objective. However, in recasting those proposals into the form of an amendment to the Federal Rules of Evidence, the proposed change in Rule 901(b) becomes desirable.

- Retain Sections 3491 through 3494 of Title 18, United States Code. While the method of certifying and authenticating foreign documents provided by these sections has been seldom used since Rule 15 of the Federal Rules of Criminal Procedure was amended in 1974 to permit the taking of depositions in criminal cases at the request of the government, we are not prepared to recommend at this time that they be deleted from the United States Code.

In addition to facilitating the admissibility of foreign business records in United States criminal proceedings, as both H.R. 5406 and the Roth Amendments seek to do, it is highly desirable for any legislation, designed to enhance the ability of United States law enforcement authorities to investigate and prosecute offenses with respect to which evidence must be obtained from abroad, to remove two other obstacles to such investigations and prosecutions.

First, potential problems under the Speedy Trial Act should be eliminated by amending 18 U.S.C. 3161(h) to specifically exclude reasonable periods of delay resulting from efforts to obtain essential evidence from abroad for use at trial. While such periods of delay are arguably already excludable under Sections 3161(h)(3) and (8), it is desirable to avoid unnecessary litigation with respect to the scope of those sections by specifically providing for the exclusion of such periods. In this regard, it should be noted that by facilitating the admission of foreign business records by means of certification, Congress will be eliminating one of the chief causes of such delays. Therefore, the frequency of use of this proposed provision should be much less than it would be without the proposed foreign business records provision.

Second, potential statute of limitations problems relating to delays in obtaining investigative information and evidence from abroad should be alleviated by permitting the applicable statute of limitations to be extended, on application of the government, for the time needed to obtain such information or evidence, but in no event by more than three years. Major criminals -- particularly major drug traffickers and fraud violators -- are increasingly taking advantage of the difficulties the United States has in obtaining investigative information and evidence from abroad in attempting to insulate themselves from prosecution in the United States. Extention of the applicable statute of limitations to give the government a better chance to unwind the web of foreign bank accounts and shell corporations used by such criminals to hide their ill-gotten gains and the transactions through which they obtained them, would be an extremely valuable tool to United States law enforcement authorities.

In order to give this Subcommittee a more concrete understanding of the problems faced by United States investigators and prosecutors in pursuing investigations and prosecutions in which major offenders use foreign bank accounts and shell corporations to hide their tracks, I am appending to my testimony a summary of the problems encountered by United States investigators and prosecutors in investigating and ultimately successfully prosecuting a multimillion dollar fraud and kickback scheme perpetrated against Raytheon Corporation by two if its former employees and two principals of a shipping company which had been retained to ship goods produced by Raytheon.

This summary clearly dramatizes the importance to United States law enforcement authorities of legislation to better permit them to cope with the rapidly growing problem of transnational criminal activity affecting the United States. While the legislation I have discussed today cannot alone solve all of the problems we face in obtaining investigative information and evidence from foreign countries, it can greatly help.

Thank you for the opportunity of appearing before you to express the views of the Department of Justice on H.R. 5406 and the Roth Amendments to S. 1762. We are pleased with this Subcommittee's interest in this problem. We stand ready to assist this Subcommittee in any way we can in the drafting and passage of legislation which will permit this country to better deal with the increasing problem of transnational criminal activity affecting it.

RAYTHEON COMPANY DEFRAUDED

A Classic Multinational Fraud Case

During the investigation and prosecution of a recently concluded commercial bribery case the Department of Justice sought evidence and investigative assistance from four foreign jurisdictions:

Switzerland;
Liechtenstein;
Bermuda; and
the Cayman Islands, B.W.I.

While these requests met with widely varying degrees of cooperation from the foreign authorities, the assistance that ultimately was provided proved crucial to the completion of the investigation and to the successful prosecution of the defendants.

In essence, this case involved a commercial bribery scheme in which the two principals of a shipping company bribed two employees of a customer company to obtain shipping contracts with shipping charges inflated by approximately $2 million. The customer, the victim of this scheme, was the Raytheon Company. The funds from these inflated charges, the scheme proceeds, first were diverted to a Swiss bank account nominally held by a Liberian shell corporation. In fact, the Liberian corporation was controlled by the shipping company principals through a Swiss attorney in Geneva. The diversion of the funds to the Swiss account thus enabled the defendants to conceal and disguise the existence and subsequent distribution of the scheme proceeds.

The defendants caused approximately $1 million of the scheme proceeds to be transferred by means of checks to another Swiss account held in the name of a Liechtenstein entity and to two bank accounts in the Cayman Islands. This Liechtenstein entity was controlled by the two recipients of the bribes through a Geneva attorney and a Liechtenstein attorney. The Cayman Islands bank accounts were held by two Cayman Islands companies, each of which was controlled by the bribe recipients.

The bribers' share of the proceeds, approximately $1 million, was transferred to another Swiss account held by a Liechtenstein entity that they controlled and then, by wire transfers, to a Bermuda bank account in the name of a Cayman Islands company they owned. At least some of the these funds were then "laundered" by means of sham loan arrangements involving a Netherlands bank; in these loan arrangements the funds were used to secure loans to the defendants.

A. Switzerland

The Swiss Treaty request filed under the United States-Swiss Treaty on Mutual Assistance in Criminal Matters was the most complex and time-consuming for the Department of Justice prosecutors. In all, nearly three years were spent in pressing this request before all of the essential items of evidence were obtained.

The formal request, which asked chiefly for bank account records, was filed with the Swiss Central Authority in September of 1978. On November 3, 1978, the targets of the investigation caused an "opposition" to be filed with the Swiss authorities in which objections were raised to the execution of our request. Thereafter, we filed both a response to the opposition brief as well as a supplemental request, which asked that a Swiss lawyer, whom we had just identified, be deposed about his activities in the fraud scheme.

The Swiss Central Authority consolidated the original and supplemental requests and on April 10, 1979, rejected the oppositions filed against each of our requests. Pursuant to the Swiss implementing legislation, the opposing parties were granted thirty days in which to appeal the decision to the Swiss Federal Court and during this period appeals were filed. On August 8 the Swiss Federal Court began its deliberations on this matter and on September 28 it rejected the appeals; however, the implementing legislation provided for appeal to a special "consultative" commission and the opposing parties were granted leave to file their appeal briefs.

The president of the consultative commission set the meeting of the commission for July 9, after which the appeals were rejected by a commission decree of August 26; the opposing parties then filed an administrative appeal with the Swiss Federal Council, a body somewhat akin to our federal Cabinet.

The Federal Council formally rejected the appeals on February 11, 1981, and on February 17 the Swiss Central Authority dispatched documents and testimony gathered pursuant to our request. Many of these documents had been redacted to remove the names of certain allegedly uninvolved third parties.

In early May 1981 the Swiss Central Authority issued decrees denying the objections of three "uninvolved" parties to disclosure of their identities in certain of the bank account documents. The parties thereafter filed appeals with the Swiss Federal Court. In mid June the objection of a fourth party was denied; this decision likewise was subsequently appealed to the Federal Court. In the meantime, during mid May, the Department of Justice prosecutors attended the re-examination of the Swiss lawyer in Geneva. Although this deposition was much more fruitful, principally because the prosecutors were there to press the questioning, the Swiss lawyer refused to answer several crucial questions on grounds of attorney-client privilege.

Upon their return to the United States the prosecutors, acting through the U.S. Central Authority, the Office of International Affairs in the Department of Justice's Criminal Division, requested the Swiss Central Authority to cause the attorney-client assertion to be adjudicated and to compel the lawyer to answer the questions or face contempt. This request was relayed to the examining magistrate.

Near the end of July 1981 the Department of Justice prosecutors were faced with a serious problem. The statute of limitations would run in late September on the first, and perhaps strongest, counts of the proposed indictment. The appeals of the four "uninvolved" parties were still pending before the Swiss Federal Court and there had been no adjudication of the attorney-client claim.

Thus in late August the prosecutors and a member of the U.S. Central Authority returned to Switzerland for the additional depositions. As had been hoped, just as the depositions got underway the Federal Court issued its decrees rejecting the appeals of the four opposing parties. Thereupon the Swiss Central Authority identified each of the parties and handed over unredacted copies of documents relating to them. In addition, we also obtained original checks from the primary bank account.1/ Because the appeals were rejected at the early stages of the depositions, we were permitted to include in our questions references to the previously unidentified parties and thereby obtain significant evidence as to their complicity in the scheme and the ultimate disposition of the scheme proceeds. Although the Swiss lawyer continued to assert the attorney-client privilege, the Department of Justice prosecutors were successful in extracting from him, under intense questioning, much of the information that he was trying to shield.

The evidence obtained during this trip was presented to a federal grand jury in early September and an indictment was returned on September 10, 1981, approximately ten days before the statute of limitations was to run out on the first counts. Although we pressed the Swiss authorities to adjudicate the validity of the Swiss lawyer's assertion of the attorney-client privilege, there was never any adjudication of this issue. Thus the targets of the investigation succeeded in preserving their anonymity in the scheme transactions carried out by their Swiss lawyer and, as a consequence, the Department of Justice prosecutors were compelled to rely soley on circumstantial evidence to implicate the defendants in the Swiss transactions.

After the indictment of this case, depositions of the Swiss witnesses were taken in Switzerland for use at trial. Again, however, the Swiss lawyer refused to answer certain key questions on grounds of attorney-client privilege and again we were unable to obtain an adjudication of this issue by the Swiss judicial authorities.

1/ Fingerprint analysis identified a defendant's fingerprint on one of the checks obtained from the Swiss bank account.

B. Liechtenstein

After indictment, and at the government's request, a letters rogatory application was issued to the judicial authorities of Liechtenstein by the U.S. District Court for the District of Columbia, the Honorable Norma Holloway Johnson presiding. Shortly after the application was filed, a Liechtenstein court granted the requested assistance and during August 1982 the Liechtenstein witnesses were deposed in Vaduz, Liechtenstein. This testimony and related documentary evidence produced at the time of the depositions were introduced at trial by the government.

C. Bermuda

As British Colonies, both Bermuda and the Cayman Islands follow the general British practice of denying requests for investigative assistance in the pre-indictment stage of a case. Once the indictment was returned, however, our letters rogatory request for Bermuda was issued by our trial court. The attorney general of Bermuda received the letters rogatory papers and filed these with the court in Bermuda, which quickly granted the requested assistance. The subsequent deposition proceeding produced significant testimony and documentary evidence that was used at trial.

D. Cayman Islands

Our post-indictment experience with the Caymanian authorities was in marked contrast to the assistance rendered in Bermuda. Shortly after the indictment was returned, we learned that a businessman from the Cayman Islands, who had been associated with the defendants, was visiting in the United States. This individual was served with a subpoena and within a short time his U.S. counsel advised us that he would comply with the subpoena. At the same time, counsel requested that the we assist the witness in obtaining from the Cayman Islands Grand Court a release from the provisions of the Cayman Island business and professional secrecy act. We agreed to do so provided the application for release did not produce unreasonable delay. In early October 1981 the case prosecutors met with the attorney general of the Cayman Islands and provided him and his associates a comprehensive three hour briefing on the case. After the briefing, the attorney general indicated that he was satisfied that we had a prima facie fraud case and that, as amicus to the Grand Court, he would advise the court that he had no objections to the witness' testifying in the United States. On the next day, the Grand Court issued an order permitting the witness to testify. Subsequently, the witness appeared in the United States and testified.

Based on this positive precedent and with the approval of the Caymanian authorities, we filed with the Cayman Islands government a formal request under their business secrecy law. In the request we asked for assistance in obtaining bank records, local company records and testimony of witnesses in the Cayman Islands. The request was approved by the appropriate officials and by the executive committee of the legislature, which authorized the police to gather the requested evidence. At this point, however, complications developed. The banks refused to produce any documents unless compelled to by court order. The attorney general notified us that he could seek such orders only if we filed letters rogatory.

We immediately prepared and submitted to the trial court a letters rogatory request, which was promptly issued by Judge Johnson. Unfortunately, the Cayman Islands attorney general indicated that his office, for various reasons, could not assist in filing the request with the Grand Court. Instead, he advised that we would be required to retain local counsel to represent the United States in this matter.

Eventually we retained both local Cayman counsel and another attorney whose practice involved extensive litigation in the courts of several Caribbean countries including the Cayman Islands. Through our retained counsel we then filed the letters rogatory application. After several hearings the Cayman Grand Court denied, in substance, the request for judicial assistance. On the advice of our private counsel we appealed this decision to the Cayman Court of Appeal.

After lengthy hearings in which the Cayman government argued in opposition to our request, the appeals court, in a landmark decision, granted the letters rogatory application, piercing for the first time Cayman bank secrecy. Thereafter, in July 1982, the Cayman bank officers and business agents named in the request appeared at deposition proceedings in Grand Cayman, produced documents including bank account records, and were deposed. The Cayman evidence thus obtained established a vital link in the chain of proof required for this prosecution.

Observations and Conclusions

This prosecution is noteworthy in several respects. First, the Department's success in obtaining an order from the Cayman Court of Appeal, piercing Cayman bank secrecy for the first time in a foreign prosecution, establishes a valuable precedent for future requests to the Cayman courts for assistance in other United States prosecutions. The Cayman Court of Appeal order also marks the first time that videotaping of depositions has been authorized in the Cayman Islands.

This case also highlighted a potentially serious problem regarding the United States-Swiss Mutual Assistance Treaty. The Swiss Treaty request filed in this case was the first such request to have been litigated through every level of appeal provided in the Swiss domestic implementing legislation. This lengthy appeals process consumed almost two and one-half years and very nearly extended the investigation past the applicable statute of limitations.

Particularly well illustratated in this case are the benefits enjoyed by defendants who employ foreign bank secrecy jurisdictions and other "offshore" transactions in their schemes:

1) Evidence concerning foreign transactions is difficult to obtain in admissible form;

2) Obtaining foreign evidence is time consuming; and

3) Obtaining foreign evidence is an expensive process.