

**NLWJC - Kagan**

**DPC - Box 035 - Folder 008**

**Labor - Secret Service  
Unionization**

# Withdrawal/Redaction Sheet

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Christa Robinsion to Michelle Crisci, et al. (1 page)	08/07/1997	P6/b(6)
002. memo	Phone No. (Partial) (1 page)	04/08/1997	P6/b(6)

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**COLLECTION:**

Clinton Presidential Records  
 Domestic Policy Council  
 Elena Kagan  
 OA/Box Number: 14364

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**FOLDER TITLE:**

Labor Secret Service Unionization

2009-1006-F

rc92

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### RESTRICTION CODES

**Presidential Records Act - [44 U.S.C. 2204(a)]**

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

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

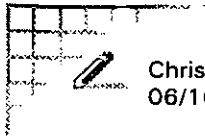
PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

**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]

Labor secret service  
unionization



Christa Robinson  
06/16/98 07:35:31 PM

Record Type: Record

To: Laura Emmett/WHO/EOP

cc:

Subject: CLINTON WON'T SUPPORT SECRET SERVICE BID TO UNIONIZE

Please ask Elena to call me or Jose tonight to discuss what our strategy should be. I personally believe that Erskine or Rahm should call the FOP asap to deliver this decision officially, but others may not agree. Please make sure she at least knows about this tonight -- b/c Rahm is completely running away from this and isn't going to give any guidance, and I need to call the FOP back.

----- Forwarded by Christa Robinson/OPD/EOP on 06/16/98 07:39 PM -----



Jose Cerda III

06/16/98 06:48:14 PM

Record Type: Record

To: Christa Robinson/OPD/EOP

cc:

Subject: CLINTON WON'T SUPPORT SECRET SERVICE BID TO UNIONIZE

----- Forwarded by Jose Cerda III/OPD/EOP on 06/16/98 06:51 PM -----



CERDA J @ A1  
06/16/98 06:23:00 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: CLINTON WON'T SUPPORT SECRET SERVICE BID TO UNIONIZE

Date: 06/16/98 Time: 18:05

SClinton won't support Secret Service bid to unionize

WASHINGTON (AP) President Clinton has decided reluctantly not to support efforts by the Secret Service's uniformed division to unionize, the president's spokesman said Tuesday.

"I think the president regrets that, but that's the situation," press secretary Mike McCurry said.

In announcing their intention to hold a protest rally outside

the White House on Wednesday, the Fraternal Order of Police said Clinton had promised in September 1996 to help the Secret Service uniformed division win collective bargaining rights.

``Despite meetings and promises, the administration has done nothing to address the concerns of federal officers and done nothing to deliver on the president's promise," said Gilbert G. Gallegos, national president of the Fraternal Order of Police.

The uniformed Secret Service officers guard the White House inside and out from fixed posts; the plainclothes agents are the ones who shield the president himself wherever he goes.

Tim Richardson, a spokesman for the Fraternal Order of Police, said in an interview that Clinton had told a meeting of his organization's executive board in September 1996 that it would be hypocritical of him not to support collective bargaining. Of McCurry's statement about Clinton's change of heart, Richardson said, ``We have to look on this as a broken pledge."

McCurry said presidential aides had reviewed the union matter and concluded that the Secret Service should not be granted an exception to a Nov. 19, 1979 presidential executive order which said that, for national security reasons, the right to unionize did not apply to the Secret Service.

He disputed a suggestion that Clinton's earlier promise to support unionization was a mistake. When asked why Clinton had made the promise before the matter was reviewed, McCurry replied, ``I think that's a very good question." He said he could not answer it.

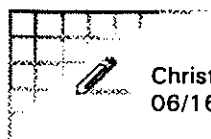
Many federal government agencies are denied collective bargaining rights based on national security. They include the Customs Service's Office of Investigations, the Treasury's Office of Intelligence Support and many agencies and offices of the Defense Department.

APNP-06-16-98 1809EDT

Message Sent To:

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Christa T. Robinson  
Jose Cerda III  
Elena Kagan  
Bruce N. Reed  
Leanne A. Shimabukuro  
Karen Tramontano  
Michelle Crisci



Christa Robinson  
06/16/98 05:16:14 PM

Record Type: Record

To: Jose Cerda III/OPD/EOP, Laura Emmett/WHO/EOP, Leanne A. Shimabukuro/OPD/EOP

cc:

Subject:

Q Mike, the Uniformed Division of the Secret Service is planning a demonstration outside the White House tomorrow, accusing the President of not living up to his pledge to help them get collective bargaining rights with the government. Is the President going to deliver on that?

MR. MCCURRY: I don't think he will. And I think the truth is that the President has enormous respect for the Uniformed Division. They do a spectacular job of protecting him, his family, and all of us as we're here, but those that have reviewed on the President's behalf the executive order, the national security exemption that is in place, have not found sufficient cause to recommend overriding that. And that's -- I think the President regrets that, but that's the situation based on the expert review that we're in.

Q What specifically changed the President's mind on that point?

MR. MCCURRY: The review done by his experts. The recommendation of the Treasury and the look at the law done by the Counsel's office -- executive order.

Q But help me understand, at what point in the review, what tangible outcome were they concerned about?

MR. MCCURRY: The exact -- the exemptions made for National Security in the executive order signed in 1979.

Q But Mike, why did he -- why wasn't the review done before he promised to --

MR. MCCURRY: That's a very good question.

Q Well, do you know the answer to it?

MR. MCCURRY: No.

Q Can you find out?

MR. MCCURRY: I mean, he didn't have access to national security information and other things.

Q Well, when was his pledge made?

MR. MCCURRY: I think prior to his election.

Q Oh, so it was before he --

MR. MCCURRY: May have been -- or it may have been early on, yes. Check with those who were here at the front end of the administration.

Q They said it was September '96 they obtained such a pledge.

Q September '96 -- reelection. I mean, before he --

MR. MCCURRY: I'll check into it further.

Q Well, is there any concern about angering heavily armed people around the White House. (Laughter.)

MR. MCCURRY: Look, they know that the President's advisors worked this issue very hard. They know that there were a number of people very sympathetic to their desire to bargain collectively and who argued strenuously that they should be given that right. And they know that sometimes you don't win every argument you make.

Q Mike, let me try the question this way. Why shouldn't they have collective bargaining rights?

MR. MCCURRY: Because in 1979 the executive order signed indicated that for some national security reasons there would be exemptions on the right to collective bargaining that would apply to certain law enforcement officials of the United States government. And based on the review done, that override is going to remain in place.

Q Are you saying the reason is a state secret?

MR. MCCURRY: No, I'm saying -- get a copy, we'll get a copy of the EO signed in 1979. I think it sets forth there that the issue is overcoming the provisions of that EO and that the argument made was not sufficient to overcome the stipulations made in the 1979 EO -- which I don't think is a classified document, so we should be able to provide it.

Q So what you're saying, Mike, basically, is the President made a mistake and he's sorry for that?

MR. MCCURRY: I think I didn't say -- I said something different than that.

Labor-union service  
unionization



Jose Cerda III

06/16/98 08:27:48 PM

Record Type: Record

To: See the distribution list at the bottom of this message  
cc:  
Subject: FOP: CLINTON REACHES 'HEIGHT OF HYPOCRISY'

Esteemed Colleagues:

New FOP press release. It's going to be a rough couple of days on this issue. I think we've succeeded in ramping up the participation and press coverage for the planned protest tomorrow. I guess there's no turning back on this now, but, at a minimum, somebody needs to speak with Gil and both deliver our position and apologize for announcing this the press first (especially while the FOP and police unions were in a meeting w/the VP and on their way to a bill signing!). Christa and I both think that this merits no less than an Erskine call, but I'm sure others may feel differently. Can you please let us know if this comes up in senior staff? While I'm sure some folks will continue to want to kick the can, we're way past that now. If we're ever to re-establish ties w/the FOP, we'll need some high-level damage control.

Jose'

----- Forwarded by Jose Cerda III/OPD/EOP on 06/16/98 08:21 PM -----



CERDA\_J @ A1

06/16/98 08:17:00 PM

Record Type: Record

To: Jose Cerda III  
cc:  
Subject: FOP: CLINTON REACHES 'HEIGHT OF HYPOCRISY'

Date: 06/16/98 Time: 18:55  
bFOP: Clinton Reaches 'Height of Hypocrisy'

To: National Desk  
Contact: Tim Richardson of the Fraternal Order of Police,  
202-547-8189

WASHINGTON, June 16 /U.S. Newswire/ -- Gilbert G. Gallegos, national president of the Grand Lodge, Fraternal Order of Police, lost no time today responding to remarks made by the president's press secretary, Mike McCurry, stating that President Clinton would not support, as he had promised, collective bargaining rights for federal law enforcement officers.

Mr. McCurry's statements today made it plain that given a choice, the president prefers hypocrisy to granting basic bargaining rights to the uniformed officers who risk their lives to

protect him," said Gallegos.

In September 1996, President Clinton held a private meeting with the Executive Board of the Fraternal Order of Police to discuss collective bargaining issues. The president stated that, as a strong supporter of collective bargaining rights, it would be the ``height of hypocrisy'' for him not to support the same rights for federal law enforcement officers.

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The Fraternal Order of Police is the nation's largest organization of law enforcement professionals, with more than 272,000 members.

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/U.S. Newswire 202-347-2770/  
APNP-06-16-98 1858EDT

**Message Sent To:**

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Bruce N. Reed/OPD/EOP  
Elena Kagan/OPD/EOP  
Christa Robinson/OPD/EOP  
Leanne A. Shimabukuro/OPD/EOP  
Michelle Crisci/WHO/EOP



Labour -  
secret service unionization



CERDA\_J @ A1  
06/15/98 07:53:00 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: FOP PRESIDENT TO JOIN SECRET SERVICE UNIFORM DIVISION ...

Date: 06/15/98 Time: 17:26

bFOP President to Join Secret Service Uniform Division in Collective

To: National and Assignment Desks

Contact: Tim Richardson of the Fraternal Order of Police,  
202-547-8189

WASHINGTON, June 15 /U.S. Newswire/ -- Gilbert G. Gallegos, national president of the Grand Lodge, Fraternal Order of Police, will demonstrate in favor of collective bargaining in a June 17 event hosted by the Labor Committee of the U.S. Secret Service Uniform Division's Labor Committee and the Jerrard F. Young District of Columbia Lodge No. 1.

"We obtained a promise from President Clinton in September 1996," reported Gallegos, "that he would work with the FOP in securing collective bargaining rights for these and other federal officers. Despite meetings and promises, the administration has done nothing to address the concerns of federal officers and done nothing to deliver on the president's promise.

"The Grand Lodge is doing everything we can to support the officers of the Secret Service Uniformed Division," said Gallegos. "I hope the support that the FOP can demonstrate next week will underscore how unfairly these officers are being treated by the Secret Service."

The Grand Lodge has pledged financial assistance for USSSUD Labor Committee, which is engaged in a lawsuit against the Department of the Treasury. In April 1996, Deputy Chief Steve Johnson ordered USSSUD officers not to make arrests for violation of District of Columbia law, and threatened to put officers who made such arrests "on a bus back to the White House." The remarks were videotaped and since, the Secret Service has actively harassed the men and women of the Uniformed Division with terminations and other retaliatory acts.

"With a collective bargaining system in place," Gallegos noted, "labor-management relations would not have deteriorated to this level."

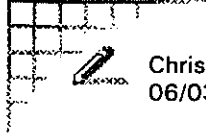
The rally will take place on Wednesday, June 17, at East Executive and Pennsylvania avenues, from noon to 4 p.m.

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The Fraternal Order of Police is the nation's largest organization of law enforcement professionals, with more than 272,000 members.

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Labor - secret service  
unionization



Christa Robinson  
06/03/98 07:39:00 PM

Record Type: Record

To: See the distribution list at the bottom of this message

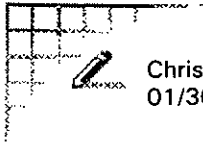
cc:

Subject: Uniform Division Protest

Hate to be the bearer of bad news, but the Uniform Division of the Secret Service will be protesting outside the WH on June 17th. The FOP already announced this on Bloomberg radio today. Gil Gallegos, the FOP President, will be coming in town for the event. I think we should talk about this -- and we should definitely make sure not to do the vest bill signing on the same day.

Message Sent To:

Jose Cerda III/OPD/EOP  
Michelle Crisci/WHO/EOP  
Karen Tramontano/WHO/EOP  
Elena Kagan/OPD/EOP  
Laura Emmett/WHO/EOP  
Leanne A. Shimabukuro/OPD/EOP



Christa Robinson  
01/30/98 06:39:04 PM

Record Type: Record

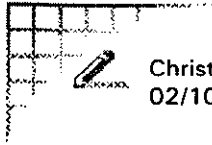
To: Michelle Crisci/WHO/EOP, Jose Cerda III/OPD/EOP, Elena Kagan/OPD/EOP

cc:

Subject: 2 issues

1. ONDCP is saying they will do the Drug Strategy Release on the 10th w/out POTUS. We had told them POTUS wanted to announce it in the Radio Address on the 7th -- and they claimed it wouldn't be ready. The President is addressing the House Democratic Caucus Issues Conf. in Wintergreen that day (I think) so perhaps it's fine to have McCaffrey do the release here and POTUS announce it on the road. No matter what we need a Presidential event releasing the Strategy I think -- since the President's done an event every other year.

2. Bad news with the FOP. They're terribly upset there hasn't been an answer. Gil still feels he is owed a call from Erskine - since he called him and left a message for him to call back. Also, while the local FOP is supposedly putting out a statement supporting agents not testifying, the National/Gil refuse to allow any supportive statements on anything. Gil has decided to push for legislation to be introduced by Feb. 10 requiring collective bargaining for all federal law enforcement -- apparently they have a commitment from several members to introduce it. They have at least 200 members coming to D.C. Feb. 10 to lobby for this. They will get a ton of press attention if they mention a disagreement with the White House on this issue, so I would like to find a way to cool them down a bit. I realize this may not be a good time to resolve this issue -- but a temporary relief would be to get Erskine to call. I look to you all for an update on how much we can do after that.



Christa Robinson  
02/10/98 01:00:09 PM

Record Type: Record


To: Carole A. Parmelee/WHO/EOP  
cc: Karen Tramontano/WHO/EOP, Elena Kagan/OPD/EOP  
Subject: Gil Gallegos

Gil Gallegos, Pres. of the FOP, is in D.C. today through Thursday. He called Erskine a few weeks ago and Karen called him back on Erskine's behalf. He still feels he is waiting for a call from Erskine -- and he would like him to call him this week if possible. His number in D.C. is (202) 547-8189.

I defer to Karen on this, but I think it would obviously be helpful if Erskine is able to call Gil with an update on any progress he's made. Even if there's not an update, it may be a good idea for him to call simply as a courtesy to say that things are taking longer than he'd hoped but he's still working on it.

Karen, if you advise against a call, please let me know if there's anything you would like me to communicate to the FOP. Also, fyi, Gil's schedule this week is to meet with Members who will sponsor a collective bargaining bill for all federal employees.

labor - next review  
communication

 Christa Robinson  
01/07/98 05:46:52 PM


Record Type: Record

To: Michelle Crisci/WHO/EOP, Elena Kagan/OPD/EOP, Jose Cerda III/OPD/EOP  
cc:  
Subject: Re: FOP

----- Forwarded by Christa Robinson/OPD/EOP on 01/07/98 05:47 PM -----

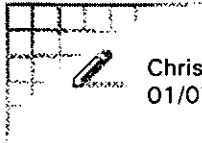
  
Karen Tramontano 01/07/98  
05:25:35 PM

Record Type: Record

To: Christa Robinson/OPD/EOP  
cc:  
Subject: Re: FOP 

I spoke w/ Gil a few minutes ago -- he called Erskine. I apologized for the delay -- toldhim the memo w/ recs was making its way to the POTUS -- thanks for the 1/15 date -- i will try to accomodate it.

Labour - secret service  
unintentional



Christa Robinson  
01/07/98 05:19:43 PM

Record Type: Record

To: Michelle Crisci/WHO/EOP, Elena Kagan/OPD/EOP, Jose Cerda III/OPD/EOP, Karen  
Tramontano/WHO/EOP.

cc:

Subject: FOP

I told the FOP today that it would take a little more time before giving them an answer and they are furious. They think we are dragging our feet and that we are not acting in good faith b/c we continue to break our word on when we'll have an answer.

They are having an Executive Board meeting in Alabama next Thursday, January 15. At this meeting they will bring up the collective bargaining issue. One of their ideas is to picket outside of the White House.

Gil called Erskine today and would very much like to talk to Erskine before this meeting. I think it is in our best interest to have Erskine call him -- preferably with a decision -- before this meeting on the 15th. They would like for us to schedule a time that Gil and Erskine could talk since Gil will be traveling and is difficult to reach.

*Labov - Secret Service Unionization*

November 5, 1997

MEMORANDUM FOR ERSKINE BOWLES  
FROM: KAREN A. TRAMONTANO  
SUBJECT: UNIFORMED DIVISION SECRET SERVICE  
CC: JOHN D. PODESTA  
SYLVIA MATTHEWS

### **I. ISSUE**

The issue is whether the non-managerial employees of the Uniformed Division of the Secret Service (herein UD) should be afforded the statutory protections of 5 USC 7101 et. seq--specifically, the right to engage in collective bargaining.

### **II. BACKGROUND**

This issue is not a new one: Jack Quinn in a December 1996 memo to the President addressed this matter and concluded that there was no national security reason to exclude the UD from participating in collective bargaining. No action had been taken on Quinn's memo until you convened a meeting of all interested parties last month to discuss this matter.

As a result of that meeting, Ed Knight, General Counsel Treasury submitted a memorandum to you outlining the Agency's position which is opposed to allowing the UD officers to engage in collective bargaining. I have discussed this issue with Counsel's office, the DPC, the Treasury Department and the Uniformed Division. A memorandum was due to you by October 23. As a result of the Amtrak negotiations which lasted two weeks, this memorandum is two weeks late. I have spoken with the FOP and taken the weight for the time delay.

The memo outlines my recommendation which is to identify the universe of UD employees who are not engaged in national security work and to modify the Executive Order to address Treasury's concerns regarding management rights and access to information.

### **III. ANALYSIS**

Although a decision on this issue will not be made exclusively on statutory interpretation it is important to lay out the framework for analysis.

Section 7103(b)(1) of the Statute permits the President to exclude any agency or subdivision from coverage of the Statute if he determines that the organization's "primary function is intelligence, counterintelligence, investigative, or national security work, and that the provisions of [the Statute] cannot be applied to that agency or subdivision in a manner consistent with national security requirements and considerations."

President Carter, in issuing Executive Order 12171, excluded the Uniformed Division of the Secret Services presumably because the organization's primary function is national security work, and the provisions of the Statute could not be applied consistent with national security requirements.

In reviewing President Carter's determination we must review two points:

1. whether the Uniformed Division of the Secret Service's primary function is "national security work"; and
2. whether the Statute can be applied to afford employees the right to collective bargaining in a manner that is consistent with national security requirements.

In answering the second question, we must resolve whether individual employees are engaged in security work under section 7112(b)(6). By making this assessment, we will also determine whether the Statute can be applied in a manner consistent with national security requirements.

#### **IV. IS THE ORGANIZATION (UNIFORMED DIVISION) PRIMARILY ENGAGED IN NATIONAL SECURITY WORK?**

The controlling legal opinion on this is Department of Energy, Oak Ridge Operations, 4 FLRA 744 (1980). The Authority in that opinion provided the following advice on this matter:

Neither 'security work', 'directly affects,' nor 'national security' is defined in the Statute. One ordinary definition of 'security work' is a task, duty, function, or activity related to securing, guarding, shielding, protection, or preserving something--in this case the President and Vice-President. 'Security work' would also include the design, analysis, or monitoring of security systems and procedures.



Although there is a question as to whether every UD employee is engaged in the type of national security work that would exclude them from coverage under the collective bargaining statute, I believe it is reasonable to conclude that this first test has been made and conclude that the organization's primary function is "security work." Having answered this first question affirmatively, we now must determine whether the statute can be applied in a manner that is consistent with national security.

## **II. CAN THE STATUTE BE APPLIED TO THE AGENCY IN A MANNER CONSISTENT WITH NATIONAL SECURITY REQUIREMENTS AND CONSIDERATIONS?**

The following principles should be applied when answering this question: First, exclusion from collective bargaining deprives employees of the opportunity under the Statute to determine whether or not they wish to be represented by a labor organization. Second, exclusion also deprives them of the opportunity to engage in collective bargaining with respect to conditions of employment through labor organizations. Third, this Administration leans heavily in favor of collective bargaining.

Labor organizations and collective bargaining have been determined by Congress [and the President] to be "in the public interest." 5 USC Section 7101(a). Accordingly, the term "national security" must be interpreted to include only those sensitive activities of the government that are directly related to the protection and preservation of the military, economic and productive strength of the United States, including the security of the Government in domestic and foreign affairs, against or from espionage, sabotage, subversion, foreign aggression and any other illegal actions which adversely affect the national defense. Id. @ 755-756

After listing the tasks that members of the Uniformed Division engage in the Treasury Department concluded that "the language of section 7112(b)(6) clearly applies to each member of the Uniformed Division." See, Knight memo to EBB. Treasury did not define security work "to include only those sensitive activities of the government that are directly related to the protection and preservation of the military, economic and productive strength." Instead, the list of activities seemed to cut broadly through what appears to be national security work without applying the statutory test to the work performed or without indicating which employees, if any, are performing the work. As a result, Treasury's memorandum did not address fully whether the Statute could be applied consistent with national security requirements.

To fully address whether the statute can be applied in this context, Treasury

should make a direct connection between the work performed by the officer/officers and the national security requirements and/or considerations.

Moreover, Treasury outlines two other concerns it has regarding the statute's application: management's right to assign, reassign and schedule and withhold information. Under the current statute, management continues to retain the right to assign, reassign and schedule. It is unclear to me what impact Treasury believes collective bargaining would have on this unfettered management right.

However, to address Treasury's issues we could also deem assignments, reassignments and scheduling to be non-negotiable under a modified Executive Order. Finally, Treasury's concern that bargaining would compel the release of significant information that would jeopardize national security can be addressed in a similar manner.

## VI. CONCLUSION

In addition to discussing this with a number of interested parties: Treasury, Domestic Policy Counsel, Counsel's Office and the Office of the Chief of Staff, prior to my work on this issue, other agencies were consulted to determine whether they would be concerned if the Executive Order were modified to afford the UD collective bargaining rights. No other agency, outside of Treasury, expressed any concern about this issue.

It is clear, however, that Treasury has deep reservations and does not want to afford collective bargaining rights to the members of the uniformed division. As a result, although I disagree with the conclusion Treasury reached unless the Treasury is committed to making the policy work, the operations of the Uniformed Division may be disrupted not because the collective bargaining statute has been applied to the Agency but because the Agency has serious concerns about this issue. Assuming this issue is addressed, my recommendation is outlined below:

1. *Ask Treasury to determine which employees, branches, divisions etc. are not engaged in security work and can be covered by the Statute;*

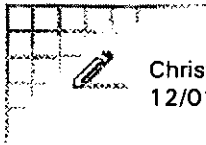
2. *Based on Treasury's findings limit the universe of uniformed division employees that will be covered by the Statute; and*

3. *Modify the Executive Order to limit the scope of bargaining so that the "affects" test is applied to the exercise of management rights rather than the "directly interferes with" test;*

4. *Modify the Executive Order to ensure that access to information is restricted to that which is directly relevant to collective bargaining.*

If you concur with this recommendation, after the Executive Order is modified, Treasury should petition the FLRA for an election between the two competing unions. Collective bargaining will not occur until an election is held to determine the exclusive collective bargaining representation for the employees.

I am prepared to answer any questions you may have and to meet at an appropriate time to discuss this with you.



Christa Robinson  
12/01/97 02:43:21 PM

Record Type: Record

To: Elena Kagan/OPD/EOP, Jose Cerda III/OPD/EOP, Karen Tramontano/WHO/EOP

cc: Michelle Crisci/WHO/EOP

Subject: Gil Gallegos, FOP President

Gil will be in D.C. tomorrow and Wednesday. He has called looking for the status of the collective bargaining issue. If there is a resolution that we are prepared to discuss with him, he said he'd be more than happy to come in to discuss it in person Tuesday or Wednesday. What should I tell him? Is there any progress I can report to him?



**GRAND LODGE  
FRATERNAL ORDER OF POLICE®**

5900 JEFFERSON NE, SUITE F, ALBUQUERQUE, NEW MEXICO 87109  
PHONE 505-344-1349 • FAX 505-343-0052

GILBERT G. GALLEGOS  
NATIONAL PRESIDENT

10 October 1997

The Honorable William Jefferson Clinton  
President of the United States  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, DC 20500

Dear Mr. President:

I am writing to you on behalf of the over 270,000 members of the Fraternal Order of Police to express our growing frustration concerning the lack of commitment on the part of your Administration to take action on tough police labor issues. You met with law enforcement officers yesterday and used that occasion, not to address the major problems faced by these officers as employees or crime fighters, but instead focused on a popular issue--gun locks for firearms.

The Fraternal Order of Police has long been a supporter of your efforts to promote firearm locking devices as one option to make firearms in the home safe from accidental discharge or misuse. Most people support real efforts to make firearms safer and we, along with the rest of Americans, truly appreciate your efforts to combat accidental deaths resulting from the common-sense failure to store firearms properly. However, to have used your opportunity yesterday to stake out a noncontroversial position on an issue in which there is broad agreement does not demonstrate true leadership.

We also appreciate your strong support for the expansion of a college scholarship program named in honor of slain Deputy U.S. Marshal William Degan, which provides college scholarship monies to the children of slain Federal law enforcement officers. The Fraternal Order of Police proposed to you in February 1997 that the program be expanded to include the children of local and state public safety officers killed in the line of duty. Throughout your terms as President, the law enforcement community has been able to depend on your compassion and understanding, but now we need your leadership on issues which may not be as popular as gun locks or scholarships, though they are indeed as critical to the men and women in law enforcement.

Our organization, the largest of law enforcement professionals in the nation, endorsed your candidacy and has worked hand-in-hand with your Administration for five years, and in that time we have accomplished much together. Police officers are proud to stand behind you at press

page 2

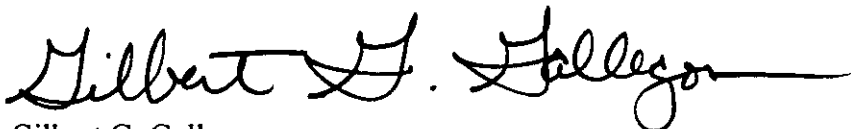
conference after press conference in support of new law enforcement initiatives, public safety announcements or bill signing ceremonies. But, Mr. President, I will trade all of those photo opportunities for Administration action on the police pay, benefits, working conditions, and due process issues which you promised our Executive Board on September 9, 1996.

When you met with our Executive Board you stated that it would be the "height of hypocrisy" if you did not support collective bargaining for Federal officers. To date, there has been no action on the part of your Administration to make good on your promise. Several weeks ago, Executive Director Jim Pasco and I met with Chief of Staff, Erskine Bowles, about your commitment to us to rescind Executive Order 12171, which was issued by President Carter. The Order prohibits collective bargaining by most Federal law enforcement officers. I have yet to get the decision Mr. Bowles promised on this critical issue.

You recently delivered an inspirational speech to the AFL-CIO where you again, unequivocally, cited your commitment to collective bargaining. Mr. President, with all due respect, deliberately excluding the dedicated men and women in Federal law enforcement from collective bargaining sounds more like "selective bargaining" to me. You can, with a stroke of a pen, deliver on your promise to the Fraternal Order of Police. Instead, our membership and I have been getting the White House run-around.

Mr. President, I implore you to demonstrate the leadership and courage of which I know you are capable and address *our* issues--not those identified by your advisors as having a positive effect on your poll numbers. If you will only do so, I know that our men and women in blue will continue to stand proudly behind you.

Sincerely,

A handwritten signature in black ink that reads "Gilbert G. Gallegos". The signature is written in a cursive, flowing style with a long horizontal line extending to the right.

Gilbert G. Gallegos  
National President

EK/JOSE



DEPARTMENT OF THE TREASURY  
WASHINGTON

S

October 2, 1997

MEMORANDUM FOR      ERSKINE BOWLES  
                                  CHIEF OF STAFF TO THE PRESIDENT

THROUGH:                ROBERT E. RUBIN *RER*  
                                  SECRETARY OF THE TREASURY

FROM:                     EDWARD S. KNIGHT *ESK*  
                                  GENERAL COUNSEL

                                 LEWIS MERLETTI *LM*  
                                  DIRECTOR, UNITED STATES SECRET SERVICE

SUBJECT:                 Unionization of the Secret Service Uniformed Division

As you requested at our recent meeting on this subject, this memorandum outlines the reasons why we continue to believe that it would be potentially harmful to the national security interests of the United States and unworkable for the Uniformed Division of the Secret Service to be unionized.

**1. The Uniformed Division Performs a Critical National Security Mission**

The Secret Service performs a critical national security function in fulfilling its statutory mandate to protect the President, the Vice President, the White House Complex, visiting foreign heads of state and foreign diplomatic missions in the District of Columbia area. The work of the Uniformed Division is fully integrated into all of these protective responsibilities of the Secret Service. Each of the many overlapping and interlocking elements on which the Secret Service relies, including the officers of the Uniformed Division, play essential roles in ensuring the national security of the United States. Indeed, the Uniformed Division performs national security functions that differentiate it from all other federal or state uniformed police entities.

**a. Protection of the President and Vice President**

The safety and security of the President and Vice President are fundamental matters of national security. As the Commander-in-Chief and the officer charged by the Constitution with executing the foreign and domestic policy of the United States, the President is responsible for the national security of the country. The Secret Service, including its Uniformed Division, is responsible for ensuring that the President, Vice President, and their staff have the secure environment that is essential to carrying out these constitutionally prescribed functions.

One of the most constant and serious threats to this security is terrorism. Presidential Decision Directive-39 (PDD-39) states that “[i]t is the policy of the United States to deter, defeat and respond vigorously to all terrorist attacks on our territory and against our citizens, or facilities....” This policy further states that “[t]he United States regards all such terrorism as a potential threat to national security....” To reduce the United States’ vulnerability to terrorism, this policy directs the Secretary of the Treasury to protect the President and other officials against terrorist attack. PDD-39 ties the security of the President directly to the national security, regardless of whether it is a time of war, national emergency or peace.

The Uniformed Division plays a crucial and indispensable role in the protection of the President and Vice President against foreign or domestic threats of terrorism. Among other things, the Uniformed Division:

- Secures the protective perimeter and interior of the White House Complex; operates specialized units, such as the Counter Sniper unit, Emergency Response Team, K-9, and magnetometer unit; provides motorcade assistance.
  - Participates in highly classified plans designed to ensure the continuity of government and integrity of the White House Complex; assists in the clearing of the routes required for relocation of the President and staff in case of emergency.
  - Assists in establishing a secure perimeter for the President when away from the White House.
- b. Protection of the White House Complex, National Security Apparatus, Vice President’s Residence, Foreign Heads of State and Foreign Diplomatic Missions**

The Uniformed Division also plays a critical national security role in the physical protection of the White House Complex, the Vice Presidential residence, the national security apparatus within the White House Complex, and foreign missions located within the District of Columbia area. The Uniformed Division:

- Oversees appointments and visitors to the White House Complex; monitors staff movements in and out of the Complex; provides physical presence and secures the perimeter of the White House Complex; occupies security check points inside the White House, within the White House Complex and other restricted areas and along Pennsylvania Avenue.



- Monitors classified security systems and techniques, which if divulged could result in physical or electronic penetration, destruction, or damage to the White House Complex; assists in conducting audio countermeasures at the White House Complex; monitors and responds to alarms, including radiological alarms, at the White House Complex; handles bombs and bomb threats at the White House Complex.
- Responds through its White House and Foreign Missions Branches on an immediate basis to emergency situations and exceptional circumstances at the White House Complex (e.g., the closing of Pennsylvania Avenue without advance public notice, when approximately 80 Foreign Missions Branch officers were deployed to the White House Complex and the plane crash on September 12, 1994, when officers from the White House Branch were the first to respond and the Foreign Missions Branch officers secured the area around the White House Complex).
- Staffs the most sophisticated command, control and communications center at the White House Complex. This Joint Operations Center serves as the conduit between all the various components of the Secret Service's security program within the White House Complex, including the Presidential and the Vice Presidential Protective Divisions.
- Assists through its Foreign Missions Branch in protecting visiting foreign heads of state; provides advance and trail cars for motorcades within the District of Columbia; provides physical security for the Vice President's Residence and foreign diplomatic missions in the District of Columbia area; responds to any potential threat against, or incursion into, a foreign mission; travels with magnetometer details in, and outside of, the District of Columbia and receives appropriate classified briefings with regard to these details.
- Assists in the design plans and detailed specifications regarding the layout of the White House Complex including detailed maps, structural plans, facility and electrical diagrams, security staffing, security procedures, and protective equipment and systems.

**c. Protection of National Security Information**

Members of the Uniformed Division have access to highly classified documents and intelligence and are responsible for securing such information. All Uniformed Division officers hold a Top Secret security clearance. Uniformed Division officers:

- Review Top Secret blueprints and documents for White House construction projects; are responsible for securing the Cabinet Room, the Situation Room and the Oval Office; have knowledge of highly classified areas within the White House Complex; receive other highly classified intelligence information, including sensitive compartmented information from such entities as the CIA, FBI and NSA.

- Handle sensitive information provided by foreign and international organizations, including information on terrorist groups.
  - At the White House, are responsible for securing classified material, which has not been properly secured by White House staff members, and for disposing of classified trash.
- 2. The National Security Mission of the Uniformed Division is Inconsistent with Federal Labor Relations Law**

Under the Federal Service Labor Management statute (“the statute”), 5 U.S.C. §7101, et seq., and interpretations of that statute by the Federal Labor Relations Authority (“the Authority”), the functions of the Uniformed Division are incompatible with collective bargaining.

5 U.S.C. §7103 authorizes the President to exclude from the coverage of the statute any agency or subdivision of an agency which has as a primary function national security work and to which the provisions of the Federal labor law statute cannot be applied in a manner consistent with national security considerations. Pursuant to this section, President Jimmy Carter, by Executive Order 12171, excluded a number of organizations involved in national security, including the Secret Service Uniformed Division.

In addition to this provision, which permits the President to exclude organizations unilaterally, the statute precludes the Authority from certifying a bargaining unit that contains employees who are “engaged in intelligence, counterintelligence, investigative, or security work which directly affects national security ....” Section 7112(b)(6) (emphasis added). In interpreting this section of the statute, the Authority has defined the terms “national security” and “security work.” In Department of Energy, Oak Ridge Operations, Oak Ridge Tennessee, 4 F.L.R.A. 744, 755-56 (1980), the Authority defined “national security” as:

those sensitive activities of the government that are directly related to the protection and preservation of the military, economic, and productive strength of the United States, including the security of the Government in domestic and foreign affairs, against and from espionage, sabotage, subversion, foreign aggression, and any other illegal acts which adversely affect the national defense.

Moreover, in U.S. Department of Justice and American Federation of State, County and Municipal Employees Local 3719, AFL-CIO, 52 F.L.R.A. No. 111 (March 14, 1997), the Authority found that:

an employee is engaged in “security work” within the meaning of section 7112 (b)(6) if the required tasks, duties, functions, or activities of the employee’s position include: (1) the design, analysis, or monitoring of security systems or procedures; or (2) the regular use of, or access to, classified information.

The language of section 7112(b)(6) clearly applies to each member of the Uniformed Division. The work of the Uniformed Division, as discussed above, is directly related to protecting the President, the Vice President and visiting foreign heads of state from espionage, sabotage, subversion and acts of terrorism, and, as such, squarely meets the definition of "national security." Moreover, since Uniformed Division members monitor and implement security systems at the White House and other highly secured facilities, and have regular access to, and use of, classified material, it is clear that they perform security work within the meaning of the statute.

It is inappropriate to compare the functions of the Uniformed Division with the Capitol Police and the Naval Observatory Police or other local, state or federal police organizations. Unlike the routine functions performed by other uniformed police entities, the duties and functions performed by members of the Uniformed Division, herein described, clearly establish that the Uniformed Division is inextricably linked to our national security. Most importantly, no other uniformed police entity is directly responsible for the personal protection of the President and his family, nor are we aware of any other uniformed police entity in which all the members hold Top Secret security clearances and routinely have access to highly classified information.

*In summary, the Uniformed Division was, pursuant to section 7103, properly excluded by the President in Executive Order 12171, and, in any event, is precluded from inclusion in a bargaining unit by the plain meaning of section 7112(b)(6). No changes that have occurred in the Uniformed Division's mission or operations would justify the revocation of President Carter's exclusion; to the contrary, the national security aspects of the mission have expanded, among other reasons, because of the increased threat of terrorism.*

### **3. The Federal Sector Labor Relations Program Would be Inconsistent with the Uniformed Division's National Security Mission**

Even if there were no statutory prohibition against certifying a bargaining unit with a national security mission, such as the Uniformed Division, compliance with the statutory obligations that would be imposed on the Uniformed Division would confront it repeatedly with the need to take steps that are inconsistent with its national security mission.

#### **a. The Obligation to Bargain and to Disclose to the Union Information Necessary for It to Bargain is Inconsistent with the Uniformed Division's National Security Mission**

An agency covered by the statute is required to bargain with the union about "conditions of employment," to the extent consistent with Federal law, government-wide regulations and agency regulation. Section 7103(a)(14). See section 7117(a). These "conditions of employment" are defined in the statute as "personnel policies, practices, and matters, whether established by rule, regulations, or otherwise, affecting working conditions." Section 7103(a)(14). Section 7106 of the statute permits an agency to refuse to bargain about proposals that "affect" management rights such as the rights to determine its budget and the personnel by which agency operations shall be

conducted, and to conduct agency operations in emergencies. However, because the Authority's negotiability case law has established that proposals are negotiable unless they *directly interfere with*, rather than simply *affect*, the exercise of these management rights, an agency is often obligated to bargain about proposals addressing these rights.

In preparing for negotiations, a union may request, and an agency must provide, information regarding employee working conditions necessary for the union to perform its labor relations responsibilities. In support of its bargaining obligations, the agency is required to furnish to the union, "to the extent not prohibited by law ... data ... which is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining." 5 U.S.C. 7114(b)(4)(B).

[Assignments, reassignments and scheduling are among the "management rights" that an agency regularly is required to negotiate in the Federal sector. *The Uniformed Division's work requires it to respond to unannounced changes in the President's and other protectees' schedules, the unexpected arrival of a foreign dignitary and unanticipated modifications in assignments at a moment's notice in order to ensure adequate staffing at national security-sensitive positions. The variety of bargainable subjects would significantly restrict the Uniformed Division's ability to manage and direct its workforce in a sufficiently flexible manner to accomplish its national security mission.* For example, negotiable restrictions on management rights to reassign and reschedule employees, as well as the requirement to notify the union of such changes, would have imposed considerable costs on the Uniformed Division's immediate response to the decision to close Pennsylvania Avenue.

*Moreover, the breadth of the agency's bargaining obligation would compel the release of a significant amount of information regarding the performance of the Uniformed Division's national security mission, i.e., what the officers see, and when and where they perform their duties.* Specifically, bargaining about assignments, details and schedules, for example, would require the release of sensitive information regarding the location of posts, the existence of protective equipment, protective techniques and manpower allocations at the White House Complex. Bargaining about training for new surveillance techniques would require the release of information about those techniques, some of which is classified. The Secret Service cannot provide this information without jeopardizing its national security mission.

*Finally, a particular union's commitments to operate under self-imposed restrictions on the scope of bargaining or the information that it will require in order to bargain provide the agency with no assurance that it will not be obligated to engage in broader bargaining and disclosure.* Once a union with the required support of the eligible members of a proposed bargaining unit petitions the Federal Labor Relations Authority for a certification of a bargaining unit, notices of the upcoming election must be posted in the workplace advising employees of the filing of a petition and placing rival unions on notice of the proposed election. Any intervening union which can show the required level of interest by bargaining unit members is placed on the ballot and it, rather than the union which petitioned the Authority, may win that election. Thus, a union that

has made commitments about acceptable limits on the Uniformed Division's bargaining obligations may not be the union ultimately selected to represent Uniformed Division employees.

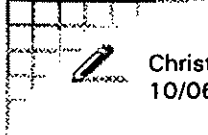
**b. The Federal Sector Labor Relations Program's Dispute Resolution Procedures Place Decisions Regarding Matters with National Security Implications in the Hands of Third Parties**

When a union and an agency fail to reach agreement on a proposed provision of a collective bargaining agreement, the statute provides for resolution of the impasse by authorizing either party to invoke the assistance of third parties, including the Federal Mediation and Conciliation Service (FMCS), the Federal Services Impasses Panel ("the Panel"), and private arbitrators. FMCS provides mediation services to get the parties to resolve their impasse voluntarily. The Panel, however, is empowered to take any action to resolve the impasse, including issuing a *binding decision* or directing the parties to *binding arbitration with a private arbitrator* that imposes particular contract provisions upon the parties.

Third parties also may become involved in resolving disputes that arise in the course of administering a collective bargaining agreement. Section 7121 of the statute provides that collective bargaining agreements will include a negotiated grievance procedure to provide resolution of disputes addressing matters arising under the contract as well as virtually any matter affecting employment, unless specifically excluded by law or contract. If matters are not resolved internally, the parties generally proceed to binding arbitration with limited review by the Authority and no judicial review.

*However, the Authority and other third parties may not, and, in the case of private arbitrators, will not, have the security clearances required to review information related to the disputes. Moreover, it is unlikely that the individuals who impose the decisions, particularly private arbitrators, have the knowledge, sensitivity and expertise necessary to ensure that their decisions on these issues do not jeopardize national security.*

Labor - secret service union



Christa Robinson  
10/06/97 11:28:15 AM

Record Type: Record

To: Elena Kagan/OPD/EOP, Jose Cerda III/OPD/EOP

cc:

Subject: FYI -- Secret Service issue

I have no idea what's in the Treasury memo, but Jim Pasco from the FOP talked to Sylvia Mathews last week and she said she read the memo and felt that neither side would end up happy.

Also, Jim told her that the one item he didn't want to be put forth as a compromise was the "focus groups" Merletti is holding with the Secret Service. Apparently, Merletti has started holding "focus groups" with the Uniform Division which Jim suspects they will try to hold up as a concession, and Jim keeps reiterating that this is the same kind of thing the President threatened to veto the Team Act over.

Also, I just want to make sure you are aware that the Teamsters are competing for the FOPs membership -- the Teamsters have had 6 elections against existing FOP units in the last 6 months -- so the FOP is looking closely at anything we do for the labor unions. (At one point they were working on a press release from the AFL-CIO speech where the President was talking about his support for the collective bargaining process, but it was probably just a threat!)

Labw - secret service  
unclassified



Jose Cerda III

09/30/97 10:46:13 AM

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Record Type: Record

To: Elena Kagan/OPD/EOP

cc:

Subject: Secret Service/Collective Bargaining

Elena:

I bumped into Karen from Erskine's staff last night and asked her about the status of our favorite labor issue. She mention that she and Erskine had just received a memo from Treasury on the topic and would be reviewing it. It may be time to check-in w/the COS's office and see what there next move is.

Jose'

THE WHITE HOUSE  
WASHINGTON

May 14, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: RAHM EMANUEL  
BRUCE REED  
ELENA KAGAN

SUBJECT: UNIONIZATION OF SECRET SERVICE UNIFORMED DIVISION

You will meet tomorrow with Gil Gallegos and other officers of the Fraternal Order of Police (FOP). They may ask you, as they have before, whether you will amend an Executive Order to allow employees of the Secret Service Uniformed Division to unionize and engage in collective bargaining. This memo provides you with the arguments on each side of the issue, so you can decide how to respond to inquiries.

Before his departure, Jack Quinn conducted an extensive review of this issue and recommended changing the Executive Order in the way the Uniformed Division employees requested. The Department of Treasury is strongly opposed to this approach. We believe a sensible compromise proposal is available, but Treasury has rejected this compromise and we do not know how the Uniformed Division employees would greet it.

Background

Federal law gives the President authority to issue an order prohibiting the employees of any federal unit that "has as a primary function, intelligence, counterintelligence, investigative or national security work" from organizing and collective bargaining. Using this authority, President Carter issued Executive Order 12171, which precluded the Secret Service Uniformed Division from engaging in these activities. The E.O. also covered many other units in the Departments of Treasury, Defense, Justice, Transportation and Energy.

In March and May 1995, members of Congress (Reps. Trafficant, Frank, Conyers, and Torres) wrote to you requesting that you exempt the Secret Service Uniformed Division from the E.O., allowing employees of this division to unionize. The White House referred the letters to the Department of Treasury, which advised the Congressmen and two interested unions that national security concerns required the ban to remain in effect. In September 1995, Judge Mikva affirmed this determination, citing a policy of deference to the Treasury Department on matters relating to the security of the President and Vice President.

Last year, Jack Quinn received a letter from the Secret Service Uniformed Division Labor Committee of the FOP asking for reconsideration of this issue. The letter stated that "national



security concerns...are being used as a convenient way to deny the members of the Uniformed Division fundamental labor rights." Quinn initiated discussions with Treasury Department officials and Uniformed Division employees.

In a September 1996 FOP questionnaire for presidential candidates, you referred to the controversy and stated: "To make a decision on this issue in as thoughtful and expeditious a manner as possible, I have asked my counsel . . . to look into the competing arguments, and present a recommendation to me."

At a later meeting with the Executive Board of the FOP, you were careful not to commit yourself, but did express sympathy for the position of the Uniformed Division employees. The Wall Street Journal quoted you as saying at that meeting that "it would be the height of hypocrisy for me not to support [the right to unionize] for federal officers." Members of the FOP left the meeting generally encouraged.

Quinn recommended before he left that the Administration grant the Uniformed Division employees' request. Secretary Rubin, however, vehemently opposed this recommendation, and the matter did not come to you for decision.

As consideration of the issue has proceeded, Gallegos and employees of the Uniformed Division have accused Uniformed Division management of retaliating against union supporters. One incident resulted in a lawsuit brought by the officers alleging various constitutional violations. In addition, Gallegos has come under increasing pressure from his membership to move forward on this issue.

#### Department of Treasury Arguments

The Department of Treasury offers three reasons for opposing unionization. First, Treasury claims that the obligation to bargain will compromise security by decreasing management's authority over such matters as the deployment and scheduling of officers and the selection of equipment. Treasury cites the decision to close off Pennsylvania Avenue to traffic as an example. That decision affected many employees' schedules and work assignments. Without a union, the Division could take this action unilaterally; with a union, the Division might first have had to bargain about the proposed change, thereby losing flexibility and causing delay.

Second, Treasury argues that unionization will compromise security by forcing the disclosure of information during collective bargaining. Treasury notes that information about security procedures and techniques-- about postings, manpower allocations, equipment, and so forth-- is now provided on a "need to know" basis. If the Division were obligated to engage in collective bargaining, Treasury argues, it would have to provide such information to union members and officials and possibly to arbitrators.

Third, Treasury argues that exempting the Uniformed Division from the E.O. will place

the government on a slippery slope toward exempting other covered employees or eventually eliminating the E.O. Treasury is particularly concerned that if the Uniformed Division<sup>employees 3</sup> are free to unionize, then the special agents of the Secret Service, who directly protect you, the Vice President, and your families, will request identical treatment.

### Uniformed Division Employees' Arguments

The argument in favor of allowing employees of the Uniformed Division to organize starts from a simple premise: this Administration is committed to safeguarding the rights of employees to organize and engage in collective bargaining. This commitment should be upheld unless there is a strong countervailing interest.

In considering whether such an interest exists, you should note that there is no danger that unionization will lead to work stoppages of essential employees. A federal statute makes it an unfair labor practice for a union to strike at any federal agency. This statute would apply to Uniformed Division personnel just as it does to other federal employees.

Although Treasury is right that the obligation to bargain will limit its unfettered authority over workplace decisions, it is not nearly so clear that this obligation will compromise security interests. With respect to a number of issues, such as benefits, the obligation to bargain will have little or no effect on security. With respect to more sensitive issues, bargaining often will not be required. Agencies can take certain actions involving hiring, assignments and the like -- actions implicating "management rights" -- without engaging in collective bargaining. If this authority is insufficient, Treasury can negotiate contract provisions giving it additional powers. And if even this is not enough, we can reserve still greater powers to Treasury through adoption of the compromise proposal discussed below.

Similarly, Treasury's concern about the disclosure of sensitive information seems overstated. The officers in the Uniformed Division already have most of this information -- or at least could obtain it if they all pooled their knowledge. Moreover, the Treasury Department could condition providing such data in collective bargaining on an agreement by the union to confidentiality requirements.

Finally, Treasury's "slippery slope" argument is subject to question. If exempting another unit from the E.O. would pose a greater danger to security than exempting the Uniformed Division, then the Administration should be able to justify continued coverage of that unit. For this reason, all four other agencies with covered employees declined to support Treasury's argument, stating that their employees could be distinguished from Uniformed Division personnel.

### Compromise Proposal

An alternative course is to amend the E.O. to allow Uniformed Division employees to

unionize, but to give them fewer collective bargaining rights than other unionized federal employees have. This approach should not be difficult to accomplish. When you came into office, you signed an executive order requiring the agencies to bargain over certain subjects that they previously did not have to bargain over. In modifying the E.O. to allow unionization of Uniformed Division employees, you could make clear that the old rules apply to these employees. These rules would give the Treasury Department greater authority to act unilaterally -- without any consultation with the employees' union -- than federal agencies now have. It would go some way toward accommodating both the employees' desire for unionization and the agency's concerns about security.

THE WHITE HOUSE  
WASHINGTON

May 14, 1997

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employees 3

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In considering whether such an interest exists, you should note that there is no danger that unionization will lead to work stoppages of essential employees. A federal statute makes it an unfair labor practice for a union to strike at any federal agency. This statute would apply to Uniformed Division personnel just as it does to other federal employees.

Although Treasury is right that the obligation to bargain will limit its unfettered authority over workplace decisions, it is not nearly so clear that this obligation will compromise security interests. With respect to a number of issues, such as benefits, the obligation to bargain will have little or no effect on security. With respect to more sensitive issues, bargaining often will not be required. Agencies can take certain actions involving hiring, assignments and the like -- actions implicating "management rights" -- without engaging in collective bargaining. If this authority is insufficient, Treasury can negotiate contract provisions giving it additional powers. And if even this is not enough, we can reserve still greater powers to Treasury through adoption of the compromise proposal discussed below.

Similarly, Treasury's concern about the disclosure of sensitive information seems overstated. The officers in the Uniformed Division already have most of this information -- or at least could obtain it if they all pooled their knowledge. Moreover, the Treasury Department could condition providing such data in collective bargaining on an agreement by the union to confidentiality requirements.

Finally, Treasury's "slippery slope" argument is subject to question. If exempting another unit from the E.O. would pose a greater danger to security than exempting the Uniformed Division, then the Administration should be able to justify continued coverage of that unit. For this reason, all four other agencies with covered employees declined to support Treasury's argument, stating that their employees could be distinguished from Uniformed Division personnel.

### Compromise Proposal

An alternative course is to amend the E.O. to allow Uniformed Division employees to

unionize, but to give them fewer collective bargaining rights than other unionized federal employees have. This approach should not be difficult to accomplish. When you came into office, you signed an executive order requiring the agencies to bargain over certain subjects that they previously did not have to bargain over. In modifying the E.O. to allow unionization of Uniformed Division employees, you could make clear that the old rules apply to these employees. These rules would give the Treasury Department greater authority to act unilaterally -- without any consultation with the employees' union -- than federal agencies now have. It would go some way toward accommodating both the employees' desire for unionization and the agency's concerns about security.

...alen-  
...s year in  
...usually very  
romantic," she says, "I don't know what  
the problem is."

**SUMMER JOBS** for 600,000 youths are still in doubt, but not dead.

The Labor Department is optimistic that it can save the federally funded summer jobs program. No money was set aside for it in the 1996 budget passed by Republicans and vetoed by President Clinton. But under a temporary funding bill, which expires March 15, all government programs continue to operate at 75% capacity.

In quiet talks with moderate Republicans, Labor is hoping to strike a deal. Maybe money for jobs can be socked away now, before the funding bill expires, even though the actual programs won't kick in until later. Talks during the next week or two will be crucial, officials say.

**CAPITOL POLICE** get organized as unions come courting.

Officer Virgil Van Fleet of the Capitol Police is popular these days. "Every union in the country has been contacting me," says the 26-year veteran. As chairman of the department's interim labor committee, it is Van Fleet's job to help usher in the age of organized labor for the 1,075 men and women who protect Capitol Hill.

Under the Congressional Accountability Act, enacted last year by Republicans vowing to make Congress abide by the same labor laws as the private sector, more than 20,000 Capitol Hill workers may now join unions. The International Brotherhood of Teamsters has come calling on the Capitol Police, as have the Fraternal Order of Police and the Patrolmen's Benevolent Association. Van Fleet says union representation is long overdue.

*The Democrats were the first to promise it, he notes. "But it took the Republicans to deliver."*

**FOOD FIGHT:** A meat clerk at a California supermarket prepared a "food sample" for his former girlfriend, a co-worker, saying the meal was a mixture of ground lamb, Tabasco sauce, pepper and sesame seeds. But the woman learned he had boasted the mixture was really dog food. She complained and the meat clerk was fired. Calling the prank a "sick joke," an arbitrator rejected the man's claim that the meal's content couldn't be proved.

**DAILY GRIND:** For several weeks, Sandra Creighton, head of visitor services at the National Gallery of Art, worked 12-hour days, seven days a week, getting tickets to 325,000 sometimes testy art fans eager to see the priceless works of 17th-century Dutch master Johannes Vermeer. Instead of overtime pay, Ms. Creighton has asked for time off. "It's been... life," she said... bit, which

"It's good business," says...  
mann, executive vice president at  
Fargo Bank in California. "We're makin'  
money."

The rise in lending is most striking in hard-hit inner-city and rural areas, heav-

### Results Right on the Street

CRA may be helping to strengthen home ownership and boost prices in some communities. Article on Page A2. For additional lending data, see The Wall Street Journal's Money & Investing Update at <http://update.wsj.com> on the Internet's World Wide Web.

ily populated by minorities, that long were underserved by banks and mortgage companies. Indeed, in many cities, low-income and minority borrowers can now find mortgage credit on better terms than affluent whites, Federal Reserve officials say.

The targeting of these borrowers is changing the makeup of the mortgage market. A Wall Street Journal computer analysis of millions of mortgages from the latest data available shows that home loan approvals to blacks soared more than 38% in 1994 from 1993, while approvals of loans to whites rose just under 12%. Loan approvals for Hispanics rose steeply as well by 31%, with approvals for Asians up 17%.

"It's a new day," says John Taylor, a longtime bank critic who heads the National Community Reinvestment Coalition. "Five years ago, most banks didn't take the community-lending laws seriously," he says. "Today there's more lending in low-income urban and rural communities than ever before."

Part of the reason is the wave of takeovers in the banking industry. Regulators whose approval is needed for mergers are taking a harder line on banks' and savings-and-loans' performance under the Community Reinvestment Act, a law that requires them to lend in every community where they take deposits. A weak lending record can slow or even derail a deal, while a strong one can speed approval and head off protests by community groups.

In recent months, some eye-popping community-lending commitments have

### Approvals Soar

Mortgages approved by race

	1994	RISE FROM 1993
Black	242,968	38.3%
Hispanic	236,186	30.9
Native American	20,134	27.1
Asian	116,432	17.0
White	3,038,940	12.0

been made by banks that are in the merger market. For example, Wells Fargo & Co., which is taking over California rival First Interstate Bancorp, promised \$45 billion for lower-income and small-business over 10 years.



# Withdrawal/Redaction Marker

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Christa Robinsion to Michelle Crisci, et al. (1 page)	08/07/1997	P6/b(6)

### COLLECTION:

Clinton Presidential Records  
Domestic Policy Council  
Elena Kagan  
OA/Box Number: 14364

### FOLDER TITLE:

Labor Secret Service Unionization

2009-1006-F

rc92

### RESTRICTION CODES

#### Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

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

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

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

- b(1) National security classified information [(b)(1) of the FOIA]
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- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
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- 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]

Christa Robinson  
08/07/97 07:24:03 PM

Record Type: Record

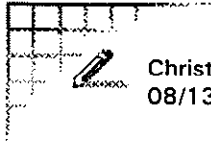
To: Michelle Crisci/WHO/EOP, Jose Cerda III/OPD/EOP, Christine A. Stanek/WHO/EOP  
cc: Elena Kagan/OPD/EOP, Bruce N. Reed/OPD/EOP  
Subject: Gil

Today, Gil won his re-election of President, but by an extremely narrow margin of 50 votes out of 3,000. Steve Young, OH is the new Vice President, which is fine. Gil will have a press conference tomorrow at 9:00am in Miami. I doubt it will get any coverage. We will have POTUS send a congratulatory letter.

Gil's opponent, who obviously had a lot of support, ran on the idea that Gil's relationship with the White House hadn't helped the FOP at all. Gil tried to distance himself from us as much as possible, and he remains very angry with us. Now that he is still President, we need to do what we can to rebuild this relationship. [REDACTED] [001]

[REDACTED] P6/(b)(6) Seriously, though, their top 4 concerns are: 1) Collective Bargaining, 2) the "NRA" Commission on Law Enforcement, 3) DC Corrections Officers since a new privatization of the prison system was in the Balance Budget, and 4) Fixing the Brady Domestic Violence Law. I recommend we act on #1 for many reasons, but ultimately b/c it should be within reach. As you know, Gil refuses to come to the White House for a meeting on this. ]

Other business at their meeting: They voted to thank Gephardt for his support of law enforcement, and a generic resolution praising McCollum. McCollum spoke and promised support on concealed carry laws for law enforcement, hearings on fixing Lautenberg Domestic Violence Brady Law, and Police Officers Bill of Rights.



Christa Robinson  
08/13/97 11:49:33 AM

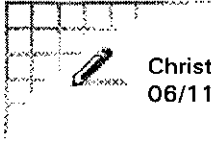
Record Type: Record

To: Elena Kagan/OPD/EOP, Michelle Crisci/WHO/EOP, Jose Cerda III/OPD/EOP, Leanne A. Shimabukuro/OPD/EOP

cc:

Subject: Gil Gallegos

Gil has requested a private meeting with the President when he is in D.C. on Sept. 10, 11, or 12. He would like to meet with him re: collective bargaining. Personally, I think this is a good idea, and I just want to confirm that it's ok to submit a scheduling request for this. FYI: Gil will not meet with Erskine.



Christa Robinson  
06/11/97 01:36:47 PM

Record Type: Record

To: Michelle Crisci/WHO/EOP, Elena Kagan/OPD/EOP, Jose Cerda III/OPD/EOP

cc:

Subject: collective bargaining

Hate to stomp on a great crime speech, but I think should give some update to the FOP on the collective bargaining issue. Jim Pasco, FOP, spoke with Ray Kelly at today's event who was more encouraging than usual on the issue, and this could be a good time to talk to Treasury. Also, now that there is a new Director of the Secret Service, Lew Merletti, there is a reason to bring this up now. Pasco is close to Merletti.

Email to P. L. ...  
re: ...  
Enrollment

cc Reed

see Cerda/Robinson

Also - email on  
Litt crew re: ...

~~Lab - conf~~  
secret service  
unclassified

**BOARD OF DIRECTORS  
OFFICE OF COMPLIANCE  
LA 200, John Adams Building, 110 Second Street, S.E.  
Washington, D.C. 20450-1999**

**Order No. 7103(b)-1**

**Exclusions from Coverage Under Section 220  
of the Congressional Accountability Act of 1995**

By the authority vested in the Board of Directors of the Office of Compliance by section 7103(b) of Title 5 of the United States Code, as applied to Legislative Branch employing offices and employees under section 220(c)(1) of the Congressional Accountability Act of 1995 ("CAA"), 2 U.S.C. § 1351(c)(1), and in order to exempt certain subdivisions of the Capitol Police, an employing office, from coverage under section 220 of the CAA, it is hereby ordered as follows:

**1-1. Determinations.**

The subdivisions of the Capitol Police set forth in Section 1-2 of this Order are hereby determined to have as a primary function intelligence, counterintelligence, investigative, or national security work. It is also hereby determined that Chapter 71 of Title 5 of the United States Code, as applied to covered employees and employing offices by section 220 of the CAA, 2 U.S.C. § 1351, cannot be applied to those subdivisions in a manner consistent with national security requirements and considerations. The subdivisions of the Capitol Police set forth in Section 1-2 of this Order are hereby excluded from coverage under section 220 of the CAA.

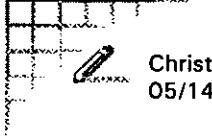
**1-2. Exclusions.**

- (a) The Physical Security Division of the Office of the Chief.
- (b) The Protective Intelligence Division of the Protective Services Bureau.
- (c) The Technical Security Division of the Protective Services Bureau.
- (d) The Dignitary Protection Division of the Protective Services Bureau (with the exception of the Reserve Corps of such division).

Entered: January 31, 1997 at Washington, D.C.

**BOARD OF DIRECTORS  
OFFICE OF COMPLIANCE**

Labur - Secret Service Union



Christa Robinson  
05/14/97 11:10:49 AM

Record Type: Record

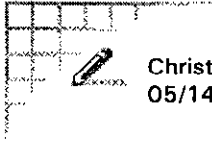
To: Elena Kagan/OPD/EOP

cc:

Subject:

The only challenge by the Capitol Police management was a procedural challenge brought before the Board of Compliance and was dismissed earlier this year. At that time the Board of Compliance specified that only those officers actively involved in security details would be exempted. I'm trying to get a copy of anything the Board put in writing about who would be exempted. Currently, less than 10 percent of capitol police are exempted, and it includes people like Gingrich's and Lott's personal security details.

labu - secret service union



Christa Robinson  
05/14/97 01:23:45 PM

Record Type: Record

To: Elena Kagan/OPD/EOP

cc:

Subject: Re:

I sent you a fax, which I don't entirely understand, but it seems clear that only a few officers are exempted. I think this is an analogous situation - only some of the Uniform Division members would need to be exempted, b/c those protecting the grounds at the White House are the same as those protecting the grounds of the Capitol, and those detailed to the principals could also be considered the same and may need to be exempted. If you think it's a weak argument -- I definitely trust you!! I thought you could say something like: "Under the Congressional Accountability Act, the capitol police have the right to collectively bargain, and steps have been taken to ensure that this does not pose any threat to national security. Additional steps could be taken to account for the unique security threats the Uniform Division must protect against." I guess I see this as useful b/c it's an area of potential compromise -- even if we exempt half of the Uniform Division, we've at least given greater protections to some officers -- and neither side feels defeated.

Date

DRAFT MEMORANDUM TO THE PRESIDENT

THROUGH:           ERSKINE BOWLES

FROM:               RAHM EMANUEL  
                      BRUCE REED  
                      ELENA KAGAN

SUBJECT:            UNIONIZATION OF SECRET SERVICE UNIFORMED DIVISION

Employees of the Secret Service Uniformed Division have asked you to amend an Executive Order to allow them to unionize and engage in collective bargaining activities. Before his departure, Jack Quinn conducted an administration-wide review of this issue and had recommended a change to the existing Executive Order. The Department of Treasury is strongly opposed to this proposal.

We wanted to provide you with the arguments on each side of this issue so you can make a decision on how to proceed.

Background

Federal law gives the President authority to issue an order prohibiting the employees of any federal unit that "has as a primary function, intelligence, counterintelligence, investigative or national security work" from organizing and collective bargaining. Using this authority, President Carter issued Executive Order 12171, which precluded the Secret Service Uniformed Division from engaging in such activities. The E.O. also covered units from the Departments of Treasury, Defense, Justice, Transportation and Energy.

In March and May 1995, members of Congress (Reps. Trafficant, Frank, Conyers, and Torres) wrote to you requesting you to exempt the Secret Service Uniformed Division from the E.O., allowing them to unionize. The letters were referred to the Department of Treasury, whose officials advised the Congressmen and two interested unions that national security concerns required the ban to remain in effect. In September 1995, Judge Mikva affirmed this determination citing a policy of deference to the Treasury Department on matters relating to the security of the President and Vice President.

Last year, White House Counsel Jack Quinn received a letter from the Secret Service Uniformed Division Labor Committee of the FOP asking for reconsideration of this issue. The letter stated that, "national security concerns...are being used as a convenient way to deny the members of the Uniformed Division fundamental labor rights." Quinn proceeded to initiate



discussions with Treasury Department officials and Uniformed Division representatives.

In a September 1996 FOP questionnaire for presidential candidates, you referred to the controversy and stated: "To make a decision on this issue in as thoughtful and expeditious a manner as possible, I have asked my counsel... to look into the competing arguments, and present a recommendation to me..."

At a later meeting with the Executive Board of the FOP, you were careful to be non-committal, but expressed sympathy for the position of the Uniformed Division employees. The Wall Street Journal has quoted you as saying at that meeting that "it would be the height of hypocrisy for me not to support [the right to unionize] for federal officers." Members of the FOP left the meeting generally encouraged.

As consideration of this matter has proceeded, labor-management relations at the Secret Service appear to have deteriorated. Gil Gallegos, National President of the FOP, and employees of the Uniformed Division have accused management of retaliating against union supporters. One incident has resulted in a lawsuit brought by the officers alleging various constitutional violations.

### Treasury Arguments

The Department of Treasury offers three reasons for opposing unionization. The first reason is that the obligation to bargain could compromise its ability to provide security by decreasing its flexibility over such matters as the deployment and scheduling of officers and the selection of equipment. Treasury cites its decision to close off Pennsylvania Avenue as an example. This decision affected many employees' schedules and work assignments. Treasury argues that without a union, the Division could take this action unilaterally; without a union, the Division might first have had to bargain about the proposed change-- losing flexibility and causing delay.

A second reason Treasury opposes unionization is the fear of disclosure of information that would occur during the course of collective bargaining, which could compromise security arrangements. Treasury notes that information about security procedures and techniques-- about postings, manpower allocations, equipment and so forth-- is now provided on a "need to know" basis. If the Division were obligated to engage in collective bargaining, it would have to provide such information to union members, officials and possibly arbitrators.

Treasury's third argument is that exempting the Uniformed Division from the E.O. will place the government on a slippery slope toward exempting other covered employees or eventually eliminating the E.O. Treasury is particularly concerned that if the Uniformed Division are free to unionize, then the special agents of the Secret Service, who directly protect you, the Vice President, and your families, will request identical treatment.

## Uniform Division Employees' Arguments

The primary argument in favor of allowing employees of the Uniformed Division to organize is this Administration's commitment to safeguarding the rights of employees to organize and engage in collective bargaining. This commitment should be upheld unless there is a strong countervailing interest.

A key argument generally against unionization -- that it could lead to work stoppages of essential employees -- does not apply to this situation. A federal statute makes it an unfair labor practice for a union to strike at any federal agency. Thus, the point at issue is the right to unionize, not the right to strike.

Allowing unionization will certainly limit the unfettered authority of Treasury management over workplace decisions. But unionization may not undermine the ability of the Division to provide security for a few reasons: first, with respect to a wide variety of issues such as pay and benefits, the obligation to bargain will have no effect on security. Second, with respect to more sensitive issues, bargaining often will not be required. Agencies have the ability to take certain actions involving transfers, assignments and the like-- actions implicating "management rights"-- without engaging in collective bargaining. If this authority is insufficient for Treasury, they can negotiate contract provisions similar to those found in some employment contracts, to give it certain emergency powers. (The proposed amendment to the E.O. could perhaps reserve such powers to Treasury.)

With regards to the disclosure of sensitive information -- each officer already has most of this information or could acquire it by pooling their knowledge with others. In addition, the Treasury Department could condition providing such data in collective bargaining on agreement by the union to confidentiality requirements.

In response to Treasury's "slippery slope" argument, if exempting a group such as the special agents of the Secret Service would pose a greater danger to security interest, then continued coverage of that group should be justified, regardless of whether the Uniformed Division is exempted. It is possible to make reasoned distinctions in this area, and the E.O. can and should reflect these judgments.

Four other agencies have weighed in on the "slippery slope" argument. When asked their views of exempting Uniformed Division employees from the E.O., the agencies responded as follows:

- The Department of Energy has no objections, even though it is facing a similar request to unionize from its Nuclear Materials Couriers. The Department intends to oppose unionization of these employees, but is confident that it can support this position irrespective of the decision here.

- The Department of Justice expressed no view, stating that employees of its covered units (the Drug Enforcement Agency, and the Marshal's Service) would probably not seek unionization.
- The Department of Defense also expressed no view, stating that its covered units are sufficiently different from the Uniformed Division to prevent them from "being pulled in."
- The Department of Transportation, which some years ago faced a unionization request from its Federal Air Marshals, expressed a "mild concern" of a "ripple effect," but stressed that this concern was indeed "mild."

An alternative course to amending the E.O. is to leave it as is, but ask the Treasury Department to address the concerns of Uniformed Division employees in some way which falls short of unionization. For example, Treasury could initiate improved grievance procedures or employee participation devices. So far, however, Treasury has asserted that it cannot do anything more along such lines than it has done.

You should be aware that both Treasury and the Uniformed Division employees have rejected any of our suggested compromises.

#### Options for Responding

- \_\_\_ Amend the E.O. to allow Uniformed Division employees to unionize.
- \_\_\_ Leave the E.O. as is, continuing the ban on unionization, but ask the Treasury Department to make reforms affecting labor-management relations.

Historical Note

Effective Date. Section effective 90 days after Oct. 13, 1978, see section 907 of Pub.L. 95-454, set out as a note under section 1101 of this title. Legislative History. For legislative history and purpose of Pub.L. 95-454, see 1978 U.S.Code Cong. and Adm.News, p. 2723.

Library References

Labor Relations § 505 et seq.

C.J.S. Labor Relations § 505 et seq.

§ 7106. Management rights

(a) Subject to subsection (b) of this section, nothing in this chapter shall affect the authority of any management official of any agency—

(1) to determine the mission, budget, organization, number of employees, and internal security practices of the agency; and

(2) in accordance with applicable laws—

(A) to hire, assign, direct, layoff, and retain employees in the agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;

(B) to assign work, to make determinations with respect to contracting out, and to determine the personnel by which agency operations shall be conducted;

(C) with respect to filling positions, to make selections for appointments from—

(i) among properly ranked and certified candidates for promotion; or

(ii) any other appropriate source; and

(D) to take whatever actions may be necessary to carry out the agency mission during emergencies.

(b) Nothing in this section shall preclude any agency and any labor organization from negotiating—

(1) at the election of the agency, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;

(2) procedures which management officials of the agency will observe in exercising any authority under this section; or

(3) appropriate arrangements for employees adversely affected by the exercise of any authority under this section by such management officials.

Added Pub.L. 95-454, Title VII, § 701, Oct. 13, 1978, 92 Stat. 1198.

Effective Date. Section effective 90 days after Oct. 13, 1978, see section 907 of Pub.L. 95-454, set out as a note under section 1101 of this title.

Labor Relations

SUBCHAPTER

§ 7111.

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File - Labor - see San Unionizati-

Excellent

April 8, 1997

### RECOMMENDED TELEPHONE CALL

**TO:** Gil Gallegos, President of the Fraternal Order of Police  
(FOP).

**DATE:** As soon as possible this week.

**RECOMMENDED BY:** Rahm Emanuel  
Bruce Reed

**PURPOSE:** To demonstrate the President's commitment to law enforcement by touching base with President Gallegos and thank the FOP for their continued support -- particularly for their recent endorsement of your juvenile justice proposals. This call was originally scheduled for the week of March 21st.

**BACKGROUND:** The FOP State Trustees met at their bi-annual conference in St. Louis on March 21-22. At this meeting the FOP discussed support for Mexico certification, child safety locks, cop-killer bullet legislation and other criminal justice issues.

**Note:** Gallegos is very disappointed that no action has been taken on the FOP's request to provide collective bargaining for the Uniform Secret Service. He has made this issue a top priority and he is concerned that a negative outcome will impact his reelection. You recall this issue arose when you met with the FOP Board in the Roosevelt Room. You signaled some support and you asked the Counsel's Office to review it. Since then, Secretary Rubin has raised objections to any unionization while Jack Quinn supported it. You will soon be provided a decision memo on this issue.

This would be your first contact with the FOP in your second term. You last met with Gil and the Executive Board in September in the Roosevelt Room and in Columbus, Ohio for their endorsement.

# Withdrawal/Redaction Marker

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. memo	Phone No. (Partial) (1 page)	04/08/1997	P6/b(6)

### COLLECTION:

Clinton Presidential Records  
Domestic Policy Council  
Elena Kagan  
OA/Box Number: 14364

### FOLDER TITLE:

Labor Secret Service Unionization

2009-1006-F

rc92

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- 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]

REMARKS: See attached talking points.

CONTACT PERSON: Gil Gallegos, FOP President  
[Redacted] P6/(b)(6) [002]  
(FOP office) 505-344-3159  
(Task Force Office) 505-344-7169

[Redacted] P6/(b)(6)

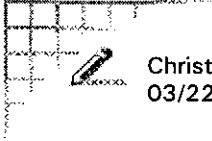
DATE OF SUBMISSION: April 8, 1997

**Phone Call to Gilbert Gallegos, President of the Fraternal Order of Police  
Talking Points  
April 10, 1997**

- I am sorry that I was unable to be with you in St. Louis for your conference, but unfortunately I was just returning from Helsinki.
- As you know, I am very proud of the relationship we have established over the last four years. I want to thank you for your strong support for me. It has meant a great deal to me. And I just want you to know that it has not been forgotten.
- I look forward to speaking once again at your April 15th event during Law Enforcement Memorial week.
- Over the next four years, I want to continue the strong relationship that my Administration has had with your organization.
- I also want to personally thank you for your support of my Anti-Gang and Youth Violence Strategy. There is no reason why Congress can't move forward on this legislation this year. They should also pass my budget proposal, which will provide for a balanced budget while still insuring that we reach our 100,000 new police officer commitment and continue to expand our anti-drug efforts.
- We also need to ensure that public employees are given the rights and protections that they deserve. As I have said to you before, I strongly believe that the men and women of law enforcement should be afforded adequate and meaningful employment rights. And we will do what we can to help you on this issue.
- I greatly appreciate your strong support for my Administration's initiatives. I look forward to building upon our relationship and continuing to work together with you to reduce further crime in America.



File | Labor - Secret Service



Christa Robinson  
03/22/97 02:10:27 PM

Record Type: Record

To: Elena Kagan/OPD/EOP  
cc: Michelle Crisci/WHO/EOP  
Subject: FOP Phone Call Request

This is the final request we turned in for the President to call into the FOP meeting this weekend. There's a chance the call will be made today. If not, we will have to do another request for him to call Gil Gallegos next week -- and it will have to include briefing material on collective bargaining. Hopefully the call will be made today. Also, you should know that the issue of collective bargaining came up at their meeting and they are really furious that there hasn't been a resolution. We will need to deal with this next week. Thanks.



FOP.CA FOPTP3.2

*What to do?*

## Topics For Negotiations

Precedence of Law	Temporarily Disabled Employees
Employer Rights	Duration of Agreement
Employee Rights	Effect of Agreement
Union Representation	Firearms, Range & Pistol team
Union Initiated Mid-Term Bargaining	Hazardous Duty Differentials
Hours of Work	U.S.S. UD Manuals
Time & Leave	Position Descriptions
Training	Physical Training Programs
Disciplinary Action	Seniority
Health & Safety	Uniforms & Equipment
Work Assignments	Law Enforcement Officer Retirement
Employee Records	Emergency Employee Pay
Reduction-In-Force	Use of Force
Employee Suggestions	
Dues Withholding	
Career Advancement	
Grievance/Arbitration Procedure	
Drug Testing	
Facilities & Equipment	
Performance Appraisals	
Last Chance Agreements	
Fare Subsidies	
Information Requests	
Studies of Employees	
Law Enforcement Officer Rights Under Investigation	
Merit Promotions	
Facilities & Showers	
Official Time	
Holidays	
Overtime	
Annual Leave	
Sick Leave	
Family Medical Leave	
Military Leave	
Administrative Leave	
Court Leave	
Leave Without Pay	
Details	
Workers' Compensation	
Critical Incident Stress Debriefing	
Use of Force	



DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C.

SECRETARY OF THE TREASURY

February 4, 1997

MEMORANDUM FOR JACK QUINN

FROM: Robert E. Rubin *RE*

SUBJECT: Uniformed Division of the Secret Service

I spoke with both Ray Kelly and Eljay Bowron on this issue. Since they are by far our best experts on protecting the lives of the President, Vice President, their families, and various visiting foreign dignitaries, and since they strongly oppose unionization, I do not believe we should make a decision on this issue without first discussing it with the President. I have enclosed for your consideration a response that Ray prepared to your draft memorandum and would like to schedule a meeting with you, Ray, Eljay and me after you have had a chance to review it.

Enclosure

cc: Erskine Bowles

*like every  
other employees*

December 11, 1996

MEMORANDUM FOR THE PRESIDENT

THROUGH: LEON PANETTA

CC: ERSKINE BOWLES, SECRETARY RUBIN,  
HAROLD ICKES, RAHM EMANUEL

FROM: JACK QUINN

SUBJECT: UNIONIZATION OF SECRET SERVICE UNIFORMED DIVISION

Employees of the Secret Service Uniformed Division have asked you to amend an Executive Order in order to allow them to unionize and engage in collective bargaining activities. The Department of the Treasury is strongly opposed to this proposal. The Fraternal Order of Police (FOP) has weighed in strongly in its favor. After a careful review of the competing arguments, I recommend that you approve amending the Executive Order.

#### Background

Federal law gives the President authority to issue an order prohibiting the employees of any federal unit that "has as a primary function intelligence, counterintelligence, investigative or national security work" from organizing and collective bargaining. Pursuant to this authority, President Carter issued Executive Order 12171, which precluded the Secret Service Uniformed Division, along with literally scores of other units in the Departments of Treasury, Defense, Justice, Transportation, and Energy, from engaging in such activities.

In March and May 1995, members of Congress (Reps. Traffigant, Frank, Conyers, and Torres) wrote to you requesting that you exempt the Secret Service Uniformed Division from the E.O., thus allowing employees of that division to unionize. Officials of the Department of Treasury, to whom the letters were referred, soon afterward advised the Congressmen -- as well as two unions seeking to represent employees of the Uniformed Division -- that national security concerns required that the ban remain effective. Judge Mikva reiterated this determination in September 1995, citing a policy of deference to the Treasury Department on matters relating to your and the Vice President's security.

Earlier this year, I received a letter from the Secret

Service Uniformed Division Labor Committee of the FOP asking for reconsideration of this issue. The letter asserted that "national security concerns . . . are being used as a convenient way to deny the members of the Uniformed Division fundamental labor rights." I then initiated discussions with both Treasury Department officials and Uniformed Division representatives.

In response to the FOP's September 1996 questionnaire for presidential candidates, you referred to this controversy and stated: "To make a decision on this issue in as thoughtful and expeditious a manner as possible, I have asked my counsel . . . to look into the competing arguments and present a recommendation to me . . . ." At a later meeting with the Executive Board of the FOP, you were careful to be non-committal, but did express sympathy for the position of Uniformed Division employees. The Wall Street Journal has quoted you as saying at that meeting that "it would be the height of hypocrisy for me not to support [the right to unionize] for federal officers." Members of the FOP Board came away from the meeting generally encouraged.

As consideration of this issue has proceeded, labor-management relations at the Secret Service appear to have deteriorated. Gil Gallegos, National President of the FOP, and employees of the Uniformed Division have accused management of retaliating against union supporters. One incident -- involving alleged retaliation against pro-union officers who released a secretly made videotape of a Deputy Chief instructing Uniformed Division officers not to enforce certain "minor" D.C. laws -- has resulted in a lawsuit brought by the officers alleging various constitutional violations.

#### Pros and Cons of Allowing Unionization

The arguments in favor of allowing employees of the Uniformed Division to organize are straightforward, and you took note of them in your meeting with the FOP's Executive Board. This Administration is committed to safeguarding the rights of employees to organize and engage in collective bargaining. Unless there is some strong countervailing interest, that commitment should govern.

Moreover, one first-blush argument against unionization -- that it would lead to work stoppages of essential employees -- does not apply. A federal statute makes it an unfair labor practice for a union to strike at any federal agency. As a result, the right to strike is not at issue here -- only the right to unionize.

The Department of Treasury offers three reasons for opposing unionization. First, Treasury claims that the obligation to bargain will compromise its ability to provide security by decreasing its flexibility over such matters as the deployment and scheduling of officers and the selection of equipment. Treasury's prime example concerns the decision to close off Pennsylvania Avenue. This decision of course affected many employees' schedules and work assignments. Without a union, the Division could take this action unilaterally; with a union, Treasury argues, the Division might first have had to bargain about the proposed change, with all the delay and loss of flexibility such an obligation entails.

I do not think that this argument is very strong. It is of course true that allowing unionization will limit the unfettered authority of the Uniformed Division over workplace decisions; that is the whole point of having a union. But I doubt unionization will undermine the ability of the Division to provide security. First, with respect to a wide variety of issues (pay, health benefits, etc.), the obligation to bargain will have no effect at all on security. Second, with respect to more sensitive issues, bargaining often will not be required. An agency can take certain actions involving transfers, assignments, and the like -- actions implicating so-called "management rights" -- without engaging in collective bargaining. And if this authority to take unilateral action is insufficient, Treasury can negotiate for a contract provision, of a kind not uncommon in employment contracts, giving it certain emergency powers. (Perhaps the proposed amendment to the E.O. even could reserve such powers to Treasury.)

Second and relatedly, Treasury fears the disclosure of information that would occur in the course of collective bargaining. Treasury notes that information about security procedures and techniques -- about postings, manpower allocations, equipment, and so forth -- is now provided on a "need to know" basis. If the Division were under an obligation to engage in collective bargaining, it would have to provide such information to union members and officials and perhaps also to arbitrators. Treasury is worried that such disclosure would compromise security arrangements.

Here too, Treasury's concern seems overstated. Members of the Uniformed Division note that each officer already has most of this information -- or at least could acquire it simply by getting together with others and pooling their knowledge. In addition, the Treasury Department could condition the provision of such data in collective bargaining on the union's agreement to confidentiality requirements. For these reasons, it seems

unlikely (though perhaps not impossible) that unionization would increase the risk of disclosure of sensitive information relating to security arrangements.

Third, Treasury fears that exempting the Uniformed Division from the E.O. will place the government on a slippery slope toward exempting other covered employees or even eliminating the E.O. Treasury is particularly concerned that if the employees of the Uniformed Division become free to unionize, then the special agents of the Secret Service, who directly protect you, the Vice President, and your families, will request identical treatment.

This argument, though superficially appealing, is also subject to question. If exempting another, currently covered unit of employees from the E.O. would have no greater effect on national security than exempting the Uniformed Division, then identical treatment *ought* to follow. If, on the other hand, exempting such a group would pose a greater danger to security interests, then it should not be difficult to justify continued coverage of that group, regardless whether Uniformed Division employees receive an exemption. It is fully possible to make reasoned distinctions in this area, and the E.O. can and should reflect these judgments.

The views of the four other agencies with covered employees suggest the weakness of the "slippery slope" argument. When asked their views of exempting Uniformed Division employees from the E.O., the agencies responded as follows:

- The Department of Energy had no objections, even though it is facing a similar request to unionize from its Nuclear Materials Couriers. The Department intends to oppose unionization of these employees, but is confident that it can support this position irrespective of the decision here.
- The Department of Justice expressed no view, stating that employees of its covered units (the Drug Enforcement Agency and the Marshal's Service) would probably not seek unionization.
- The Department of Defense also expressed no view, stating that its covered units are sufficiently different from the Uniformed Division to prevent them from "being pulled in."
- The Department of Transportation, which some years ago faced a unionization request from its Federal Air Marshals, expressed a "mild concern" of a "ripple effect," but stressed that this concern was indeed "mild."

Recommendation

I recommend that you amend E.O. 12171 to allow the employees of the Uniformed Division to organize and engage in collective bargaining. With respect to these employees, national security interests do not appear to override the usual presumption favoring collective bargaining rights.

An alternative course is to leave the E.O. as is, but ask the Treasury Department to address the concerns of Uniformed Division employees in some way short of unionization -- for example, by initiating improved grievance procedures or employee participation devices. So far, however, the Treasury Department has asserted that it cannot do anything more along such lines than it already has done.

- Amend the E.O. to allow Uniformed Division employees to unionize
- Leave the E.O. as is, continuing the ban on unionization, but ask the Treasury Department to make reforms affecting labor-management relations
- Let's discuss