

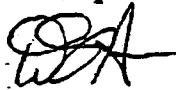
**GOVERNMENT
EXHIBIT
53
05 Cr. 394 (ID)**

OFFICE OF THE VICE PRESIDENT
Washington, D.C. 20501

FACSIMILE TRANSMISSION

TO: The Honorable Bruce Swartz, Criminal Division, Department of Justice
at fax [REDACTED]

FROM: David S. Addington, Counsel to the Vice President
Tel. [REDACTED]; Fax [REDACTED]



DATE: October 3, 2003

PAGES: 11 pages (including this page)

NOTE:

Mr. Swartz:

Attached for your files is a copy of the memorandum of instructions I have just issued in response to your document request letter of today's date.




OFFICE OF THE VICE PRESIDENT

WASHINGTON

October 3, 2003

MEMORANDUM FOR: Employees, Assignees and Detailees of the Office of the Vice President

FROM: David S. Addington, Counsel to the Vice President 

SUBJECT: Collection of Certain Documents for Department of Justice Investigation

Please read this entire memorandum carefully. It deals with legal obligations that apply to you.

The Criminal Division of the Department of Justice has issued a request ("DOJ Request," Attachment 1) for certain documents of the Office of the Vice President (OVP). The OVP will respond fully, cooperatively, and in accordance with the law. The purpose of this memorandum is to obtain your assistance in ensuring that the OVP so responds.

Please read the DOJ Request and this memorandum carefully and then carry out the instructions in this memorandum. Your compliance with this memorandum is mandatory.

As you read the DOJ Request and this memorandum, please pay particular attention to the parameters of the DOJ Request, such as beginning and ending dates and specifications of subjects of documents. The term "document," as used in the DOJ Request and this memorandum, is used in a broad sense and includes without limitation "all electronic records, telephone records of any kind (including but not limited to any documents that memorialize telephone calls having been made), correspondence, computer records, storage devices, notes, memoranda, and diary and calendar entries," as well as documents covered by the Presidential Records Act and other letters, telephone call slips or logs, notes, and e-mail, and specifically including any documents that may have been archived in the Office of Records Management. You do not need to produce press clips or articles (such as the daily White House press clips) as long as there are no notations or marks upon them and they are not attachments to, or filed as part of, another document.

You must complete the following steps by not later than the close of business on Tuesday, October 7, 2003:

Step 1. Search for all documents you possess or control that are responsive to the DOJ Request. Your search for documents must be reasonable, diligent and conducted in good faith. In the course of the search, retrieve all documents that are responsive to the DOJ Request and photocopy them. You will have met your obligations if you retrieve, photocopy, and produce to me, as provided in Step 2, all documents created between February 1, 2002 and September 30, 2003, inclusive, that relate in any way to:

(a) Former U.S. Ambassador Joseph C. Wilson, his trip to Niger in February 2002, or his wife's purported relationship with the Central Intelligence Agency (CIA);

(b) A contact with any member or representative of the news media about Joseph C. Wilson, his trip to Niger in February 2002, or his wife's purported relationship with the CIA; or

(c) A contact with any or all of the following: reporters Knut Royce, Timothy M. Phelps, or Robert M. Novak, or any individual or individuals acting directly or indirectly on behalf of any of them.

Step 2. Complete the attached certification (Attachment 2). If you have found photocopies of responsive documents pursuant to Step 1 above, attach the photocopies to the certification, place it in a sealed envelope (or, if necessary, a box) labeled "For VP Counsel," and have the envelope (or box) handcarried to me (David S. Addington, Counsel to the Vice President, Room 268, Eisenhower Executive Office Building, telephone [REDACTED] or via Signal Switchboard). If I am not in the office, you may leave the sealed envelope (or box) with the Operations staff in Room 269. (If your responsive documents include material that contains classified national security information, please ensure that you hand-deliver your documents directly to me, drawing to my attention the classified nature of them.)

Please call me or stop by my office if you have any questions. Thank you for your cooperation.



ATTACHMENT 1



U.S. Department of Justice

Criminal Division

Rec'd OVP
10/3/03, 2432

Office of the Deputy Assistant Attorney General

Washington, D.C. 20530

October 3, 2003

VIA FACSIMILE

The Honorable David Addington
Counsel to the Vice President
Office of the Vice President
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20502

Dear Mr. Addington:

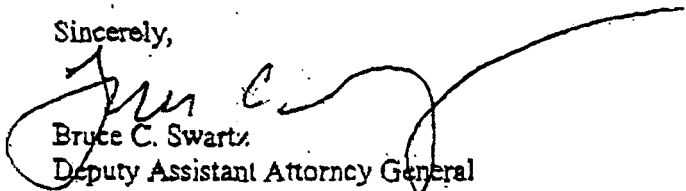
Thank you for your telephone call this morning regarding the enclosed letters of September 30, 2003 to White House Counsel Alberto Gonzales ("the September 30, 2003 letter") and of October 2, 2003 to White House Deputy Counsel David Leitch ("the October 2, 2003 letter") concerning the possible unauthorized disclosure of classified information in the July 14, 2003 edition of the *Chicago Sun-Times* and the July 22, 2003 edition of *Newsday*.

As we discussed, this letter will confirm our understanding that the Office of the Vice President has complied with the September 30, 2003 letter. As we also discussed, the Department of Justice requests that the Office of the Vice President likewise produce all documents requested in the October 2, 2003 letter that are in the possession of the Office of the Vice President, its staff, or its employees, pursuant to the schedule set forth in the October 2, 2003 letter.

We further request that responsive documents be provided on a rolling basis (*i.e.*, as they are received by the Office of Counsel to the Vice President), including any responsive documents that may already have been provided to the Office of Counsel to the Vice President.

Thank you for your assistance in this matter. Please do not hesitate to call me if you have any questions.

Sincerely,



Bruce C. Swartz
Deputy Assistant Attorney General

Enclosures



U.S. Department of Justice

Criminal Division

Assistant Attorney General

Washington, D.C. 20530

September 30, 2003

VIA FACSIMILE

The Honorable Alberto Gonzales
Counsel to the President
The White House
Office of the General Counsel
1600 Pennsylvania Avenue, NW
Washington, D.C. 20502

Dear Judge Gonzales:

The Criminal Division of the Department of Justice and the Federal Bureau of Investigation are conducting an investigation into the possible unauthorized disclosure of classified information in a July 14, 2003 syndicated article published in the *Chicago Sun-Times* entitled "Mission to Niger," authored by Robert D. Novak, and a July 22, 2003, *Newsday* article entitled "Columnist Blows CIA Agent's Cover," authored by Timothy M. Phelps and Knut Royce. Documents in the possession of the White House, its staff, and employees may contain information relevant to our investigation.

As a follow-up to our oral request yesterday, I am writing to request your assistance in preserving and maintaining, for the time period February 1, 2002 to the present, all documents, including without limitation all electronic records, telephone records of any kind (including but not limited to any records that memorialize telephone calls having been made), correspondence, computer records, storage devices, notes, memoranda, and diary and calendar entries, that relate in any way to:

1. Former U.S. Ambassador Joseph C. Wilson, his trip to Niger in February 2002, and/or his wife's purported relationship with the Central Intelligence Agency;
2. Contacts with any member or representative of the news media about Joseph C. Wilson, his trip to Niger in February 2002, and/or his wife's purported relationship with the Central Intelligence Agency; and
3. Contacts with reporters Knut Royce, Timothy M. Phelps, or Robert D. Novak, or any individual(s) acting directly or indirectly, on behalf of these reporters.



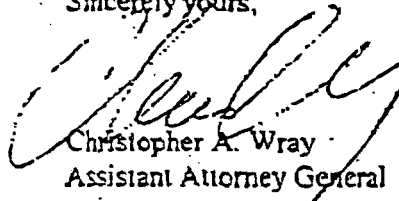
The Honorable Alberto Gonzales
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Although federal law imposes broad requirements for preserving documents even apart from the needs of any investigation, in the present circumstances all documents relating, in any way, directly or indirectly, to these subjects should be preserved, even if there would be a question whether the document would be a presidential or federal record or even if its destruction might otherwise be permitted.

At this time, we are only requesting that you ensure the retention of these records. We appreciate your cooperation.

If you have any questions regarding this letter, please contact Bruce C. Swartz, Deputy Assistant Attorney General, Criminal Division, at [REDACTED]

Sincerely yours,



Christopher A. Wray
Assistant Attorney General



U.S. Department of Justice

Criminal Division

Deputy Assistant Attorney General

Washington, D.C. 20530

October 2, 2003

VIA FACSIMILE

The Honorable David G. Leitch
Deputy Assistant to the President
and Deputy Counsel to the President
White House Counsel's Office
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20502

Dear Mr. Leitch:

As we discussed earlier today, I am writing with reference to Assistant Attorney General Wray's letter to Judge Gonzales of September 30, 2003 ("the September 30, 2003 letter"). As you know, that letter requested the assistance of the Counsel's Office in identifying, preserving and maintaining documents and records in the possession of the White House, its staff, and employees that may be relevant to our investigation into the possible unauthorized disclosure of classified information in the July 14, 2003 edition of the *Chicago Sun-Times* and the July 22, 2003 edition of *Newsday*.

It is hereby requested that any and all documents referenced in the September 30, 2003 letter, including without limitation all electronic records, telephone records of any kind (including but not limited to any documents that memorialize telephone calls having been made), correspondence, computer records, storage devices, notes, memoranda, and diary and calendar entries in the possession of the Executive Office of the President, its staff, and employees be provided to prosecutors and FBI agents assigned to this investigation, as follows:

1. no later than October 10, 2003, all documents regarding contacts of any kind with any member or representative of the news media about Joseph C. Wilson, his trip to Niger in February 2002, and/or his wife's purported relationship with the Central Intelligence Agency;
2. no later than October 10, 2003, all documents regarding contacts with reporters Knut Royce, Timothy M. Phelps, or Robert D. Novak, or any individual(s) acting directly or

The Honorable David G. Leitch
Deputy Counsel to the President
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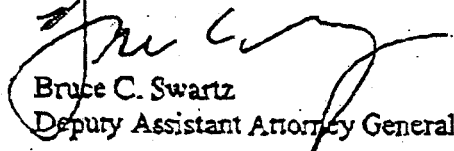
indirectly, on behalf of these reporters, for the time period July 1 through July 31, 2003, inclusive; and

3. no later than October 17, 2003, all other documents referenced in the September 30, 2003 letter.

As to each of the foregoing categories, we request that responsive documents be provided on a rolling basis (i.e., as they are received by the Office of White House Counsel), including any responsive documents that may already have been provided to the Office of White House Counsel.

Thank you for your cooperation in this matter. Please do not hesitate to call me if you have any questions.

Sincerely,



Bruce C. Swartz
Deputy Assistant Attorney General

OCT-03-2003 15:24

OVP



P.10

ATTACHMENT 2



CERTIFICATION BY EMPLOYEE, ASSIGNEE OR DETAILEE
(in response to Department of Justice Request of October 3, 2003)

NOTE: The attorneys in the Office of Counsel to the Vice President are attorneys for the Vice President in his official capacities and are not private attorneys for anyone. The attorney-client privilege does not extend to communications by government employees to government attorneys when such communications are sought for a Federal criminal investigation.

Check one item as appropriate, sign, and date, and submit to Counsel to the Vice President by the close of business on Tuesday, October 7, 2003

_____ I certify that I performed a reasonable, diligent, and good faith search of all the documents in my possession or control for documents responsive to the Department of Justice Request of October 3, 2003 and have produced photocopies of all such responsive documents to the Counsel to the Vice President by attaching them to this certification.

_____ I certify that I performed a reasonable, diligent, and good faith search of all the documents in my possession or control for documents responsive to the Department of Justice Request of October 3, 2003 and found no such documents.

_____ I certify that I have no documents in my possession or control. [Note to Certifier: This is a rare situation; most personnel possess or control at least some documents.]

Signature of Employee, Assignee or Detailee
Making Certification Above

Date

Printed Name: _____

Telephone No.: _____