Colborn, Paul P

From: Colborn, Paul P
Sent: Thursday, January 03, 2002 4:52 PM
To: 'Brett_M._Kavanaugh@who.eop.gov'
Cc: Whelan, M Edward III
Subject: RE: (b) (5) Office of Administration

Brett: Any chance we can meet on this subject this month before Congress returns to make our lives even busier?
-- Paul

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Tuesday, November 13, 2001 10:28 PM
To: Colborn, Paul P
Subject: Re: (b) (5) Office of Administration

We have tons of judicial interviews over next 5 days on top of a ton of other stuff. Can it wait until week of 26th?

(Embedded
image moved "Colborn, Paul P" <Paul.P.Colborn@usdoj.gov>
to file: 11/07/2001 06:00:28 PM
pic12679.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:
Subject: (b) (5) Office of Administration

Brett, did you get my phone message from awhile ago suggesting that we have a meeting with OA? I

know you've got a lot going on. So, this is just a gentle reminder.

-- Paul

Collins, Dan

From:	Collins, Dan
Sent:	Tuesday, January 08, 2002 11:44 AM
To:	'Brett_M._Kavanaugh@who.eop.gov'
Cc:	Thorsen, Carl; Bryant, Dan; Whelan, M Edward III; Martens, Matthew; Chertoff, Michael; Horowitz, Michael-CRM; Colborn, Paul P
Subject:	RE: First draft of letter to Burton
Attachments:	letter to Burton markup.doc
Importance:	High

Brett--

I think you've done a terrific job putting together, in a short period of time, a well-written letter that hits the right tone. I just have a few suggestions, which for ease of reference, I've put in the attached red-lined version. (Please note: the changes will NOT be intelligible if you use "QuickView" to view it; it must be opened with Microsoft Word.) Some of the suggested changes are self-explanatory. For the ones that might not be, my thoughts are as follows:

1) [redacted] (b) (5)

2) [redacted] (b) (5)

3) [redacted] (b) (5)

4) [redacted] (b) (5)

5) [redacted] (b) (5)

In making my suggested edits, I am relying upon those with more knowledge of the documents than I (who are cc'ed) to confirm that the edits are correct and accurate. Please don't hesitate to speak up if there is anything that you think isn't phrased right, etc.

Thanks.

--Dan

-----Original Message-----

From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Monday, January 07, 2002 6:59 PM
To: Thorsen, Carl
Cc: Thorsen, Carl; Bryant, Dan; Collins, Dan; Whelan, M Edward III; Martens, Matthew; Chertoff, Michael; Horowitz, Michael-CRM; Colborn, Paul P
Subject: First draft of letter to Burton

Attached is a first somewhat rough draft. I propose that everyone provide me a round of edits and comments by mid-day and that I re-circulate by mid-afternoon if possible, and that we then see where we are. Of course, getting it right needs to take precedence over this schedule, so we will just do the best we can in terms of getting it done quickly. Thanks.(See attached file: letter to Burton 1 07 02.doc)

Document ID: 0.7.18648.5673

Brett_M._Kavanaugh@who.eop.gov

From:	Brett_M._Kavanaugh@who.eop.gov
Sent:	Tuesday, January 08, 2002 1:56 PM
To:	Ciongoli, Adam; Thorsen, Carl; Bryant, Dan; Collins, Dan; Whelan, M Edward III; Martens, Matthew; Chertoff, Michael; Horowitz, Michael-CRM; Colborn, Paul P; Thorsen, Carl
Subject:	Status of draft letter to Burton

Thanks for everyone's comments. We also had many comments internally here.
I will circulate a new draft later this afternoon. I think we need to move the target time for sending this to tomorrow. Thanks.

Document ID: 0.7.18648.5670

Whelan, M Edward III

From:	Whelan, M Edward III
Sent:	Tuesday, January 08, 2002 1:56 PM
To:	'Kavanaugh, Brett'
Subject:	FW: First draft of letter to Burton
Attachments:	letter to Burton 1 07 02 redlined.doc; letter to Burton 1 07 02.doc

resending

-----Original Message-----
From: Whelan, M Edward III
Sent: Tuesday, January 08, 2002 11:49 AM
To: 'Brett_M._Kavanaugh@who.eop.gov'; Thorsen, Carl
Cc: Thorsen, Carl; Bryant, Dan; Collins, Dan; Martens, Matthew; Chertoff, Michael; Horowitz, Michael-CRM; Colborn, Paul P
Subject: RE: First draft of letter to Burton

Brett:

OLC's comments are included in the attached versions (one with the redlined changes hidden, the other with them revealed). We have tried to [redacted] (b) (5) [redacted], but invite attention to our effort. Most of the other changes should be self-explanatory, but we would be happy to discuss.

We have not yet seen the Burton letter to Judge Gonzales and might have additional comments after we do.

Ed

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Monday, January 07, 2002 6:59 PM

[redacted] duplicate

Document ID: 0.7.18648.5674

Brett_M._Kavanaugh@who.eop.gov

From:	Brett_M._Kavanaugh@who.eop.gov
Sent:	Tuesday, January 08, 2002 7:13 PM
To:	Ciongoli, Adam; Thorsen, Carl; Bryant, Dan; Collins, Dan; Burton, Faith; Whelan, M Edward III; Martens, Matthew; Chertoff, Michael; Horowitz, Michael-CRM; Colborn, Paul P; Thorsen, Carl
Subject:	Second draft of letter to Burton
Attachments:	letter to Burton 1 08 02.doc

Please give me comments by noon tomorrow. It would be helpful to receive a single set of DOJ comments if possible. Thanks.

(See attached file: letter to Burton 1 08 02.doc)

Document ID: 0.7.18648.5676

Brett_M._Kavanaugh@who.eop.gov

From:	Brett_M._Kavanaugh@who.eop.gov
Sent:	Wednesday, January 09, 2002 5:38 PM
To:	Colborn, Paul P; Whelan, M Edward III
Subject:	FOR FINAL QUICK REVIEW
Attachments:	letter to Burton 1 09 02 530 pm.doc

call me on cell phone or at 456-2632 with any changes before 6:00. thanks.

(See attached file: letter to Burton 1 09 02 530 pm.doc)

Document ID: 0.7.18648.5810

Brett_M._Kavanaugh@who.eop.gov

From:	Brett_M._Kavanaugh@who.eop.gov
Sent:	Wednesday, January 09, 2002 6:40 PM
To:	Ciongoli, Adam; Thorsen, Carl; Bryant, Dan; Collins, Dan; Burton, Faith; Whelan, M Edward III; Martens, Matthew; Chertoff, Michael; Horowitz, Michael-CRM; Colborn, Paul P
Subject:	Third draft of letter to Burton
Attachments:	letter to Burton 1 09 02 630 pm.doc

[redacted] (b) (5)

Please review carefully. The new estimated time for sending the letter is tomorrow morning. Apologies for delay, but it is obviously an important letter.

(See attached file: letter to Burton 1 09 02 630 pm.doc)

Document ID: 0.7.18648.5811

Brett_M._Kavanaugh@who.eop.gov

From:	Brett_M._Kavanaugh@who.eop.gov
Sent:	Thursday, January 10, 2002 9:00 AM
To:	Ciongoli, Adam; Thorsen, Carl; Bryant, Dan; Collins, Dan; Burton, Faith; Whelan, M Edward III; Martens, Matthew; Chertoff, Michael; Horowitz, Michael-CRM; Colborn, Paul P
Subject:	Fourth draft of letter to Burton
Attachments:	letter to Burton 1 10 02 845 am.doc

[redacted] (b) (5) [redacted]. Please funnel comments through Ed. (Ed, please try to call me by 10:00 a.m.) Thanks.
(See attached file: letter to Burton 1 10 02 845 am.doc)

Document ID: 0.7.18648.5815

Brett_M._Kavanaugh@who.eop.gov

From: Brett_M._Kavanaugh@who.eop.gov
Sent: Thursday, January 10, 2002 9:31 PM
To: Colborn, Paul P; Whelan, M Edward III; Catherine_S._Anderson@oa.eop.gov
Subject: (b) (5) Office of Administration

Can we meet Friday at 10 at EEOB 156 to discuss this? Or we could do a conference call with call-in numbers (that is, without speaker phones) to save you all the trip. Let me know.

Document ID: 0.7.18648.5814

Brett_M._Kavanaugh@who.eop.gov

From: Brett_M._Kavanaugh@who.eop.gov
Sent: Wednesday, January 16, 2002 1:53 PM
To: Whelan, M Edward III
Subject: RE: FEMA matter
Attachments: pic10366.pcx

I would like to report back quickly on the initial question; maybe by end of day tomorrow on that?

(Embedded
image moved "Whelan, M Edward III" <M.Edward.Whelan@usdoj.gov>
to file: 01/16/2002 01:49:27 PM
pic10366.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:
Subject: RE: FEMA matter

Thanks. Any deadline? Also, if you haven't done so already, please send pp. 17 et seq. of the memo.

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Wednesday, January 16, 2002 1:43 PM
To: Whelan, M Edward III
Subject: RE: FEMA matter

Per a request, we would like OLC to review FEMA procedures for this kind of matter and determine whether [redacted (b) (5)] ? If the former, [redacted (b) (5)] ?

Document ID: 0.7.18648.5829

(Embedded
image moved "Whelan, M Edward III" <M.Edward.Whelan@usdoj.gov> to file: 01/15/2002 04:06:03 PM pic12361.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

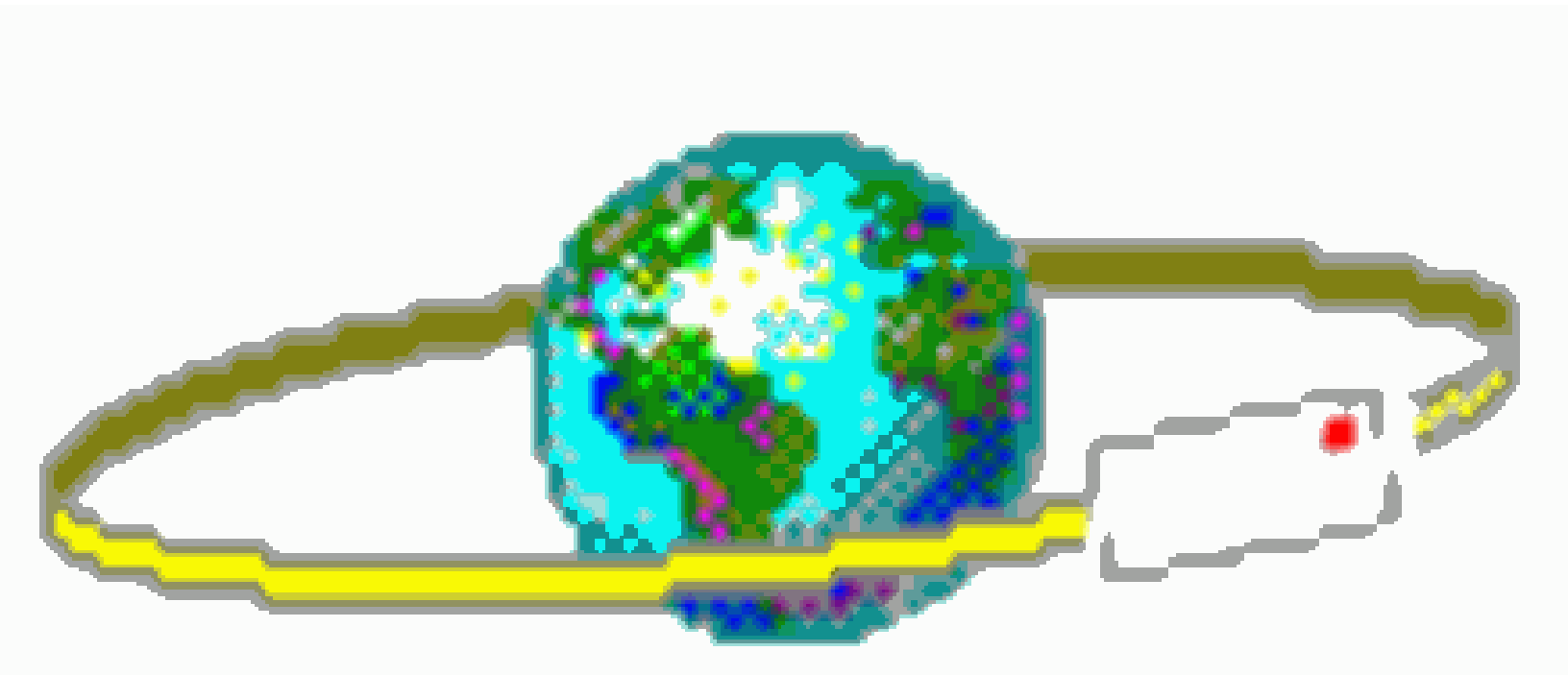
cc:
Subject: RE: FEMA matter

I received only the first 16 pages of the memo. Also, let's discuss, at your convenience, what you would like OLC to do on this.

-----Original Message-----
From: Whelan, M Edward III
Sent: Monday, January 14, 2002 3:25 PM
To: 'Kavanaugh, Brett'
Subject: FEMA matter

I believe you said that you would be faxing me some info on FEMA's [redacted] (b) (5) [redacted]. Just wanted you to know that I haven't received anything yet.

Document ID: 0.7.18648.5829



Kobach, Kris W

From: Kobach, Kris W
Sent: Wednesday, January 16, 2002 3:52 PM
To: Burton, Faith; Colborn, Paul P; Whelan, M Edward III; Martens, Matthew; Horowitz, Michael-CRM; Chertoff, Michael
Cc: O'Brien, Patrick; Rybicki, James E; 'Brett_M._Kavanaugh@who.eop.gov'
Subject: RE: Draft questions for hearing

I can take the first three questions.

Kris

-----Original Message-----
From: Burton, Faith
Sent: Wednesday, January 16, 2002 3:43 PM
To: Colborn, Paul P; Whelan, M Edward III; Kobach, Kris W; Martens, Matthew; Horowitz, Michael-CRM; Chertoff, Michael
Cc: O'Brien, Patrick; Rybicki, James E; 'Brett_M._Kavanaugh@who.eop.gov'
Subject: Draft questions for hearing

Who can prepare answers? << File: burton.qs.wpd >>

Brett_M._Kavanaugh@who.eop.gov

From:	Brett_M._Kavanaugh@who.eop.gov
Sent:	Thursday, January 17, 2002 2:48 PM
To:	Whelan, M Edward III
Cc:	Colborn, Paul P
Subject:	RE:
Attachments:	pic13174.pcx

funny, that was the sentence my mother seized on when she read this . . .
it was particularly nice to read the catalogue of editorial comment . . . the one substantively interesting point was that archivists believe 12 years is too short a period

(Embedded
image moved "Whelan, M Edward III" <M.Edward.Whelan@usdoj.gov>
to file: 01/17/2002 02:41:19 PM
pic13174.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

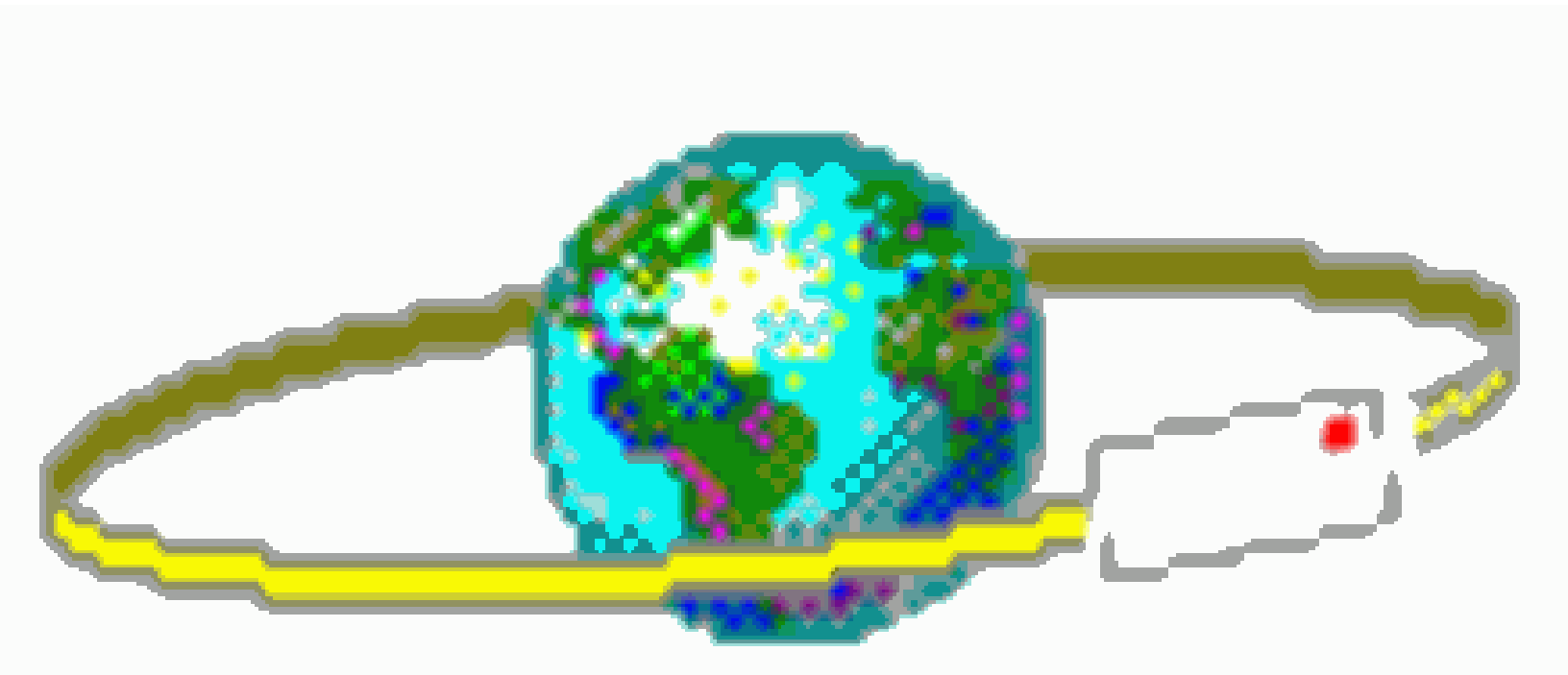
cc: "Colborn, Paul P" <Paul.P.Colborn@usdoj.gov> (Receipt Notification Requested)
Subject: RE:

Well, I guess the good news is that it's now in the public record that "Kavanaugh himself was intelligent, sincere, informative, and constructive."

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Thursday, January 17, 2002 2:15 PM
To: Whelan, M Edward III
Cc: Colborn, Paul P
Subject:

http://nationaljournal.com/cgi-bin/ifetch4?ENG+NJMAG+7-njmagtoc+1036541-DBSCORE+256+1+35+F+7+26+1+PD%2f01%2f12%2f2002%2d%3e01%2f12%2f2002

Document ID: 0.7.18648.5835



Brett_M._Kavanaugh@who.eop.gov

From: Brett_M._Kavanaugh@who.eop.gov
Sent: Friday, January 18, 2002 8:42 AM
To: Whelan, M Edward III
Subject: Re: Burton 1/23 hearing UPDATE

(b) (5)

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 01/18/2002 08:40 AM ----------

Alberto R. Gonzales
01/17/2002 08:03:16 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP
cc:
bcc:
Subject: Re: Burton 1/23 hearing UPDATE (Document link: Brett M. Kavanaugh)

(b) (5)

Should we mention this fact in the letter to Burton?

Colborn, Paul P

From:	Colborn, Paul P
Sent:	Friday, January 18, 2002 5:15 PM
To:	Burton, Faith; Horowitz, Michael-CRM; O'Brien, Pat; 'Brett_M._Kavanaugh@who.eop.wpd'; Chertoff, Michael; Martens, Matthew; Whelan, M Edward III; Kobach, Kris W; Collins, Daniel P
Cc:	Bryant, Dan; Thorsen, Carl
Subject:	RE: Summary of Recent Precedents
Attachments:	prosdocs.accom.wpd

Attached is my draft of [redacted] (b) (5) [redacted]. I'll plan to polish this as we get closer to whenever the rescheduled hearing is to be.

-----Original Message-----
From: Burton, Faith
Sent: Friday, January 18, 2002 12:52 PM
To: Colborn, Paul P; Horowitz, Michael-CRM; O'Brien, Pat; 'Brett_M._Kavanaugh@who.eop.wpd'; Chertoff, Michael; Martens, Matthew; Whelan, M Edward III; Kobach, Kris W; Collins, Daniel P
Cc: Long, Linda E
Subject: RE: BURTON HEARING POSTPONED?

Just confirmed with David Kass, the Burton hearing for 1/23 has been postponed, no new date yet. More later. FB

-----Original Message-----
From: Colborn, Paul P
Sent: Friday, January 18, 2002 12:44 PM
To: Horowitz, Michael-CRM; Burton, Faith; O'Brien, Pat
Subject: RE: BURTON HEARING POSTPONED?

Can OLA confirm this?

-----Original Message-----
From: Michael-CRM Horowitz
Sent: Friday, January 18, 2002 12:42 PM
To: Burton, Faith; Colborn, Paul P; O'Brien, Pat
Subject: Fwd: BURTON HEARING POSTPONED?

Date: 01/18/2002 12:46 pm -0500 (Friday)

Document ID: 0.7.18648.5848

From: Michael-CRM Horowitz
To: Burton, Faith; Colborn, Paul; O'Brien, Pat; Whelan, Edward
Subject: Fwd: BURTON HEARING POSTPONED?

fyi

Document ID: 0.7.18648.5848

Whelan, M Edward III

From: Whelan, M Edward III
Sent: Wednesday, January 23, 2002 10:07 AM
To: 'Kavanaugh, Brett'
Subject: RE: FEMA

Brett: If you're comfortable with our answer to the threshold question, we'll move to examine the merits. If you'd like us to do that, please send us a full copy of the Latham & Watkins letter, including the attachments. (As I mentioned before, we received only the first 16 pages via fax.) If you don't want us to do any more on this, let us know. -- Ed

-----Original Message-----
From: Whelan, M Edward III
Sent: Friday, January 18, 2002 5:58 PM
To: 'Kavanaugh, Brett'
Subject: FW: FEMA

Per Dan Koffsky's analysis below, the bottom line i (b) (5)

These conclusions assume that there are not any facts of which we are unaware tha (b) (5)

-----Original Message-----
From: Koffsky, Daniel L
Sent: Friday, January 18, 2002 5:51 PM
To: Whelan, M Edward III
Subject: FEMA

(b) (5)

(b) (5)

(b) (5)

Two final points: First (b) (5)

. Second (b) (5)

Brett_M._Kavanaugh@who.eop.gov

From: Brett_M._Kavanaugh@who.eop.gov
Sent: Thursday, January 24, 2002 3:14 PM
To: Whelan, M Edward III
Subject: FEMA

You were missing the last page. It is being FAXed now. Please proceed and assess on the merits. Thanks.

Document ID: 0.7.18648.5864

Comstock, Barbara

From:	Comstock, Barbara
Sent:	Thursday, January 24, 2002 7:12 PM
To:	'Brett_M._Kavanaugh@who.eop.gov'; Thorsen, Carl
Cc:	Ciongoli, Adam; Sierra, Bryan; Bryant, Dan; Collins, Dan; Israelite, David; Herbert, James; Kobach, Kris W; Whelan, M Edward III; Martens, Matthew; Chertoff, Michael; Horowitz, Michael-CRM; O'Brien, Pat; Colborn, Paul P; 'David_W._Hobbs@who.eop.gov'
Subject:	RE: FW: New Schedule for Boston FBI-DOJ Hearings

http://www.nationalreview.com/contributors/levin012402.shtml

A nice piece from Mark Levin defending our position on Burton info et al.

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Thursday, January 24, 2002 11:39 AM
To: Thorsen, Carl
Cc: Ciongoli, Adam; Comstock, Barbara; Sierra, Bryan; Bryant, Dan;
Collins, Dan; Israelite, David; Burton, Faith; Herbert, James; Kobach,
Kris W; Whelan, M Edward III; Martens, Matthew; Chertoff, Michael;
Horowitz, Michael-CRM; O'Brien, Pat; Colborn, Paul P;
David_W._Hobbs@who.eop.gov
Subject: Re: FW: New Schedule for Boston FBI-DOJ Hearings

[redacted] (b) (5)

(Embedded
image moved "Thorsen, Carl" <Carl.Thorsen@usdoj.gov>
to file: 01/24/2002 10:56:55 AM
pic21275.pcx)

Document ID: 0.7.18648.5866

Record Type: Record

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

cc: "O'Brien, Pat" <Pat.O'Brien@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested), "Bryant, Dan" <Dan.Bryant@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) Subject: FW: New Schedule for Boston FBI-DOJ Hearings

([redacted] (b) (5) [redacted].)

>
>
> <<...OLE_Obj...>>
> For Immediate Release: Contact:
> Mark Corallo/ Beth Frigola
> January 23, 2002
> (202) 225-5074
>
>
> Committee Announces New Hearing Schedule for > Continuing Probe of Justice Department Misconduct in Boston
>
> Washington, D.C.--- Chairman Dan Burton (R-IN) today announced new dates > for a series of hearings in February as part of the Government Reform > Committee's continuing investigation into the FBI's handling of mob > informants in Boston.
>
> February 6: This hearing will focus on the President's claim of executive > privilege in response to the Committee's subpoena for documents related to > the investigation of Justice Department misconduct in Boston.
> Specifically, the Committee will explore instances in which previous > Administrations have provided similar documents to Congress.
>
> February 13 and 14: The Committee will focus on the role of federal agents > in the 1971 murder trial of notorious mob assassin Joe "The Animal" > Barboza. After the witness protection plan was created for Barboza and > after he was placed in the program, Barboza committed another murder. At > the time, California state prosecutors were alarmed by the Federal > Government's support of a well-known killer. Thirty years later, the > Committee has uncovered a wealth of evidence that the Barboza case was > just the tip of the iceberg in a thirty-year period that may be the > darkest chapter in Federal law enforcement history. Two former FBI agents > and a former federal prosecutor who participated in the trial will > testify, as will several California attorneys who were also involved.
>
> The February 14 hearing will also focus on whether the federal government > withheld exculpatory evidence during prosecutions in the 1960s and 1970s - > including death penalty cases.
>

Document ID: 0.7.18648.5866

> February 27: The Committee will consider the need for legislation to > address several issues that have arisen as a result of the Committee's > investigation. The Committee will hear testimony from lawyers familiar > with elements of the Committee's investigation. It will also hear > testimony from academics who specialize in prosecutorial misconduct.
>
> In addition, the Committee will call witnesses to testify at field > hearings in Boston in March. The dates of these hearing have yet to be > scheduled.
>
> Who: House Government Reform Committee > Dan Burton (R-IN), Chairman
>
> Where: 2154 Rayburn House Office Building
>
> When: February 6, 2002 - 10:00 a.m.
> February 13, 2002 - 10:00 a.m.
> February 14, 2002 - 10:00 a.m.
> February 27, 2002 - 10:00 a.m.
>
> February 6: "The History of Congressional Access to Deliberative > Justice Department Documents"
>
> Witnesses: Dan Bryant, Assistant Attorney General, > Office of > Legislative Affairs, Justice Department > Morton Rosenberg, Specialist in American Public Law,
>
> Congressional Research Service > Professor Mark Rozell, Catholic University of > America
>
> February 13 & 14: "The California Murder Trial of Joe 'The Animal' > Barboza : Did the Federal Government Support the Release of a Dangerous > Mafia Assassin?"
>
> Witnesses 2/13: Marteen Miller, Defense Council for Joseph > Barboza > Ed Cameron, Former Investigator, Sonoma County > District > Attorney's Office > Tim Brown, Former Investigator, Sonoma County > Sheriff's > Office > Department of Justice Representative
>
> Witnesses 2/14: Dennis Condon, FBI Special Agent (Ret.) > H. Paul Rico, FBI Special Agent (Ret.) > Honorable Edward Harrington, Senior Massachusetts
>
> District Judge, Former Attorney-in-Charge, DOJ > Organized Crime Strike Force for New England
>
> Department of Justice Representative
>
>
> February 27: "Justice Department Misconduct in Boston: Are > Legislative Solutions Required?" > Witnesses:
> Victor Garo, Esq., Attorney for Mr. Salvati > Austin McGuigan, Former Connecticut Chief State's > Attorney > Frederick M. Lawrence, Boston University Law > Professor > Stephen Duke, Yale University Law Professor
>
> - 30 -
> <<012302 FBI-DOJ Hearing Schedule revised.doc>>
>

Document ID: 0.7.18648.5866

Thorsen, Carl

From:	Thorsen, Carl
Sent:	Friday, February 01, 2002 2:44 PM
To:	Colborn, Paul P; Burton, Faith; Bryant, Dan; Whelan, M Edward III; Horowitz, Michael-CRM; Bybee, Jay
Cc:	'Brett_M._Kavanaugh@who.eop.gov'; Rybicki, James E
Subject:	RE: FW: Revised draft to Burton on precedents, etc.

(b) (5) . We need to work this out and get it sent.

-----Original Message-----
From: Colborn, Paul P
Sent: Friday, February 01, 2002 2:08 PM
To: Thorsen, Carl; Burton, Faith; Bryant, Dan; Whelan, M Edward III; Horowitz, Michael-CRM; Bybee, Jay
Cc: 'Brett_M._Kavanaugh@who.eop.gov'; Rybicki, James E
Subject: RE: FW: Revised draft to Burton on precedents, etc.

That is not correct. As my email earlier this morning said, "OLC continues to prefer the formulation that (b) (5) ." And my email later in the morning observed that (b) (5)

-----Original Message-----
From: Thorsen, Carl
Sent: Friday, February 01, 2002 1:32 PM
To: Burton, Faith; Colborn, Paul P; Bryant, Dan; Whelan, M Edward III; Horowitz, Michael-CRM
Cc: 'Brett_M._Kavanaugh@who.eop.gov'; Rybicki, James E
Subject: RE: FW: Revised draft to Burton on precedents, etc.

I'm under the impression we have internal agreement that this draft letter is ready for Dan's signature, pending WH Counsel approval. Someone pls say so if that's not correct.

-----Original Message-----
From: Burton, Faith
Sent: Friday, February 01, 2002 12:20 PM
To: Colborn, Paul P; Bryant, Dan; Bybee, Jay; Thorsen, Carl; Whelan, M Edward III; Horowitz, Michael-CRM; Chertoff, Michael
Cc: 'Brett_M._Kavanaugh@who.eop.gov'; Rybicki, James E
Subject: RE: FW: Revised draft to Burton on precedents, etc.

This version includes revised language at the end of (b) (5) discussion, based upon Kris Kobach's research, and a modest revision in the carry-over para. on p. 5, based upon comments from

the FBI.
I am out of the office this afternoon; Jim Rybicki in OLA has the attachments to this letter. Faith

-----Original Message-----
From: Colborn, Paul P
Sent: Friday, February 01, 2002 11:40 AM
To: Bryant, Dan; Bybee, Jay; Thorsen, Carl; Burton, Faith; Whelan, M
Edward III; Horowitz, Michael-CRM; Chertoff, Michael
Cc: 'Brett_M._Kavanaugh@who.eop.gov'
Subject: FW: FW: Revised draft to Burton on precedents, etc.

Here are Brett's comments on the draft. [redacted] (b) (5) [redacted]. Any thoughts on how to proceed?

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Friday, February 01, 2002 9:54 AM
To: Colborn, Paul P
Subject: Re: FW: Revised draft to Burton on precedents, etc.

1. I would make the bolded language: "[redacted] (b) (5) [redacted]"

2. [redacted] (b) (5) [redacted]

3. I continue to recommend that we delete the paragraphs re [redacted] (b) (5) [redacted].

4. In that vein, I am curious that [redacted] (b) (5) [redacted]. If so, I might delete those paragraphs as well.

(Embedded
image moved "Colborn, Paul P" <Paul.P.Colborn@usdoj.gov>
to file: 02/01/2002 09:41:36 AM
pic24548.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:
Subject: FW: Revised draft to Burton on precedents, etc.

-----Original Message-----
From: Burton, Faith
Sent: Thursday, January 31, 2002 6:14 PM
To: Bryant, Dan; Thorsen, Carl; Colborn, Paul P; Whelan, M Edward III;
Horowitz, Michael-CRM; Chertoff, Michael
Subject: Revised draft to Burton on precedents, etc.

This version reflects my discussions with Paul and Michael this afternoon. [redacted] (b) (5) [redacted]. Comments welcome early tomorrow, please. Thanks. Faith

Document ID: 0.7.18648.5027

Rybicki, James E

From: Rybicki, James E
Sent: Sunday, February 3, 2002 1:49 PM
To: Thorsen, Carl; Burton, Faith; 'brett_m._kavanaugh@who.eop.gov'; Colborn, Paul P; Whelan, M Edward III; Horowitz, Michael-CRM; Comstock, Barbara; Sierra, Bryan; Bryant, Dan; Chertoff, Michael
Subject: 2/1/02 Letter to Chairman Burton
Attachments: 2.01.02.Burton.Pres.wpd

FYI...The attached letter from AAG Bryant was faxed to Chairman Burton (Jim Wilson) and RMM Waxman (Mike Yeager) at 7pm on Friday 2/1/02. I will have signed copies at the Monday prep session.

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General *Washington, D.C. 20530*

The Honorable Dan Burton
Chairman
Committee on Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

This responds to your letters, dated January 29, 2002 and September 7, 2001, in connection with the Committee hearing that is now scheduled for February 6, 2002.

In advance of the hearing, I want to correct the apparent misunderstanding regarding the Administration's position on deliberative documents generally and deliberative prosecutorial documents in particular. We have no policy that bars congressional access to all deliberative documents. As Judge Gonzales's letter, dated January 10, 2002, stated:

> As a general matter, the Executive Branch will treat requests for Department of Justice deliberative documents from closed matters in the same way it treats requests for Executive Branch deliberative documents more generally: through a process of appropriate accommodation and negotiation to preserve the respective constitutional roles of the two Branches.

Our particular concern in the current controversy pertains to the narrow and especially sensitive categories of advice memoranda to the Attorney General and deliberative documents making recommendation regarding whether or not to bring criminal charges against individuals. We believe that the public interest in avoiding the politicization of the criminal justice process requires greater protection for those documents which, in turn, influences the accommodation process. This is not an "inflexible position," but rather a statement of a principled interest in ensuring the integrity of prosecutorial decision-making.

We remain prepared to work with the Committee to reach an appropriate accommodation regarding the Boston documents and hope that a meeting between Committee and Department representatives can be re-scheduled as soon as possible, and preferably before the February 6 hearing. We believe that substantial progress can be made at such a meeting in resolving the issues relating to the Committee's interest in these documents.

Document ID: 0.7.18648.5876-000001

Turning now to the first of the numbered paragraphs of your January 29, 2002 letter: As you know, the Department has often provided Congress with access to deliberative documents of one sort or another. Consequently, it would be impossible to catalogue all of the occasions in which that has occurred. Deliberative documents take many forms and many are not particularly sensitive once a case is closed. In some instances, such materials have not been segregated from other case-related materials that are provided to congressional oversight committees. Consequently, the Department keeps no records of deliberative documents, per se, that are disclosed to congressional committees in conjunction with factual records.

Your second and third numbered paragraphs appear to seek information about the Department's internal deliberations relating to the preparation of our testimony before your Committee and the President's assertion of executive privilege. In preparing the testimony, I have consulted with Departmental components with expertise in the matters before us and, particularly with appropriate attorneys in those components. As head of the Criminal Division, Assistant Attorney General Michael Chertoff has primary responsibility for Department policies relating to criminal investigations and prosecutorial decision-making. He is best equipped to lead the Department's participation with you in an accommodation process, which we believe is the appropriate course for resolving the issues relating to these prosecutorial documents. As you recall, we asked the Committee to schedule its last hearing on this matter so that he could testify. While that did not occur, Mr. Chertoff is available next week and, as we have advised Committee staff, the Attorney General has determined that he would like Mr. Chertoff to participate as a witness at this hearing.

In response to your question about the factors that led to the recommendation to the President regarding the subpoenaed documents, the Department has concluded that the disclosure outside of the executive branch of these types of core deliberative prosecutorial documents would undermine the integrity of the prosecutorial function. We are concerned that such disclosures would chill the candid exchange of views that is essential to the criminal justice process and make it more difficult for the Attorney General and other high-level decision-makers to obtain full and frank advice from their colleagues and subordinates.

In response to your letter dated September 7, 2001, which is referenced in the fourth numbered paragraph of your January 29 letter, we have developed information relating to the numbered items in the letter. We are not in a position to provide comprehensive information about requests for deliberative prosecutorial documents prior to the Clinton Administration because the Department does not maintain records of such precedents in any readily retrievable form, but the following summaries may be helpful. We would, of course, appreciate receiving from you information about any additional precedents that you believe are relevant to your request and especially those that should be considered as we prepare for the February 6 hearing.

In 1992, the House Science, Space, and Technology Subcommittee on Investigations and Oversight initiated an inquiry into the Department's plea agreement with Rockwell International Corporation, which related to criminal violations of environmental laws at the Rocky Flats nuclear weapons facility, outside of Denver. The Subcommittee wanted information about the

Document ID: 0.7.18648.5876-000001

Department's decision not to prosecute individuals and asked to interview the line prosecutors about those decisions. The Department made an exception to the established policy against making such individuals available to Congress with regard to two prosecutors who had answered questions from the media at a press conference on the Rocky Flats settlement. Our position, however, remained that the prosecutors could not disclose information about internal deliberations leading up to the declination decisions. When other issues regarding the Subcommittee staff interviews could not be resolved, the attorneys were subpoenaed to testify before a closed Subcommittee hearing. They provided extensive testimony but declined to answer questions seeking deliberative information.

Thereafter, Chairman Wolpe sent a letter to the President demanding that he either assert executive privilege regarding the deliberative process information or direct the Department to permit its witnesses to answer those outstanding hearing questions. When the Department did not agree to this ultimatum, the Chairman advised that he would defer contempt proceedings if the United States Attorney from Denver would testify before the Subcommittee on October 5, 1992. The United States Attorney had a long-standing family commitment on that date, which he felt obligated to fulfill, although he offered to attend on any date after October 6. The Chairman refused to reschedule the hearing, the Department determined not to seek an assertion of executive privilege, and the parties returned to the accommodation process. They finally agreed that in staff interviews, the Department attorney witnesses could disclose information about their deliberations pursuant to an agreement whereby the interviews were transcribed and transcripts could be used publicly only to refresh recollection or impeach the testimony of a witness. The deliberative prosecutorial documents were made available for use at the interviews and while staff could take notes on the documents, they could not disclose the notes publicly and the deliberative documents were returned to the Department at the conclusion of each interview. The limitations on disclosure of the interview transcripts also applied to any transcript references to the deliberative documents.

In 1980, a special Senate Judiciary Subcommittee conducted an inquiry about the Department's investigation and conclusions regarding alleged violations of the Foreign Agents Registration Act by the President's brother, Billy Carter. It appears that, while the matter was pending, then Attorney General Civiletti discussed Mr. Carter's failure to register under the Act with the President, which underscored the Committee's interest in the Department's process leading up to the declination. We understand that the Subcommittee records indicate that deliberative prosecutorial memoranda, as well as factual investigative records, were disclosed. We have not located any information indicating that the Department expressed concerns about the disclosure of the deliberative prosecutorial documents or otherwise sought an accommodation, let alone any assertion of executive privilege.

Our information regarding the General Dynamics matter, which was the subject of the Senate inquiry in 1984 that is referenced in item 5 of your September 7 letter, indicates that deliberative prosecutorial memoranda were provided to Congress. The circumstances and terms of this disclosure are unclear and I do not know whether the Department considered its implications as we have in the instant matter.

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In response to the third item of your September 7 request, we have identified two instances that may be helpful. In 1909, President Theodore Roosevelt withheld information of precisely the same nature as that at issue today--information surrounding a decision whether or not to take action against the target of an investigation. The Attorney General had conducted an investigation of the U.S. Steel Corporation's acquisition of the Tennessee Coal and Iron Company two years earlier, and had declined to institute legal action against U.S. Steel. The Senate requested information regarding the reasons for his decision and any opinions written by the Attorney General or under his authority on the matter. President Roosevelt refused to provide documents regarding the Attorney General's decision not to take legal action. Roosevelt explained:

> I have thus given to the Senate all the information in the possession of the executive department which appears to me to be material or relevant, on the subject of the resolution. I feel bound, however, to add that I have instructed the Attorney-General not to respond to that portion of the resolution which calls for a statement of his reasons for nonaction. I have done so because I do not conceive it to be within the authority of the Senate to give directions of this character to the head of an executive department, or to demand from him reasons for his action. Heads of the executive departments are subject to the Constitution, and to the laws passed by the Congress in pursuance of the Constitution, and to the directions of the President of the United States, but to no other direction whatever.

In a second matter, beginning in 1957, the House Judiciary Subcommittee on Antitrust conducted an investigation regarding the Department's enforcement of consent decrees. The Department refused to make available any of its files relating to the American Telephone and Telegraph consent decree, including memoranda and recommendations from Antitrust Division staff. In refusing to disclose the documents, Deputy Attorney General William Rogers explicitly referred to President Eisenhower's rationale for asserting executive privilege with respect to Defense Department deliberations during the course of the McCarthy investigations in 1954. President Eisenhower had justified this assertion of the privilege on the grounds that "it is essential to efficient and effective administration that employees of the Executive Branch be in a position to be completely candid in advising with each other on official matters," and he had also stressed that it was necessary "to maintain the proper separation of powers between the Executive and Legislative Branches of the Government in accordance with my responsibilities and duties under the Constitution." Deputy Attorney General Rogers also stated that "the essential process of full and flexible exchange might be seriously endangered were staff members hampered by the knowledge they might at some later date be forced to explain before Congress intermediate positions taken." Three Department representatives eventually testified before the Subcommittee, but they reaffirmed the Department's policy of withholding internal deliberative documents, but the documents which were never disclosed in this matter.

The foregoing summary is by no means exhaustive, but I believe it illustrates how previous administrations have responded differently to congressional requests for deliberative prosecutorial information. Each Department has surely pursued the course it deemed necessary and appropriate in the particular circumstances it faced, as we have done in the instant matter.

Document ID: 0.7.18648.5876-000001

Based upon the circumstances surrounding this subpoena, the President concluded that his assertion of executive privilege was the appropriate course to protect the integrity of the criminal justice process and in invoking the privilege, he requested that the Department "remain willing to work informally with the Committee to provide such information as it can, consistent with these instructions and without violating the constitutional doctrine of separation of powers." It remains our hope that you will agree to meet with us in order to engage in that informal process with regard to the Boston documents.

Lastly, in response to the fourth item in your September 7 letter, we have compiled the enclosed records, which we hope will be helpful to you. They include a published 1986 opinion of Office of Legal Counsel (OLC) Assistant Attorney General Charles Cooper, a published 1989 opinion of OLC Assistant Attorney General William Barr, a 1991 letter from Office of Legislative Affairs (OLA) Assistant Attorney General Lee Rawls to Senator Metzenbaum, and a January 27, 2000 letter from OLA Assistant Attorney General Robert Raben to Chairman John Linder of the House Rules Subcommittee on Rules and Organization of the House. These documents have informed the Department's responses to requests for deliberative prosecutorial documents and our approach to the accommodation process. We are not identifying unpublished confidential advice memoranda from OLC to the Attorney General or other executive branch officials.

I hope that this information is helpful to you. Please do not hesitate to contact me if you would like additional assistance about this or any other matter.

Sincerely,

Daniel J. Bryant
Assistant Attorney General

Enclosures

cc: The Honorable Henry Waxman
Ranking Minority Member

Document ID: 0.7.18648.5876-000001

Brett_M._Kavanaugh@who.eop.gov

From:	Brett_M._Kavanaugh@who.eop.gov
Sent:	Tuesday, February 5, 2002 12:02 PM
To:	Burton, Faith
Cc:	Ciongoli, Adam; Thorsen, Carl; Bryant, Dan; Collins, Dan; Whelan, M Edward III; Martens, Matthew; Chertoff, Michael; Horowitz, Michael-CRM; Colborn, Paul P
Subject:	RE: Dan's DRAFT Opening Statement
Attachments:	burton.statement.wpd; ATTACHMENT.TXT; pic24388.pcx

1. I think you need to say (b) (5) [redacted].

2. In the para beginning "Second," I would delete "(b) (5) [redacted], and I would change "(b) (5) [redacted]" to "(b) (5) [redacted]."

3. In the para beginning "Third," I very much think we should delete the sentence (b) (5) [redacted].

4. In the para beginning "Fourth," I found the phrase "(b) (5) [redacted]" too vague. (b) (5) [redacted].

5. (b) (5) [redacted]

(Embedded
image moved "Burton, Faith" <Faith.Burton@usdoj.gov>

to file: 02/05/2002 10:55:40 AM
pic24388.pcx)

Record Type: Record

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

cc: "Bryant, Dan" <Dan.Bryant@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)
Subject: RE: Dan's DRAFT Opening Statement

This version incorporates the input we've received and we intend to go it as the FINAL at noon today; last call.

-----Original Message-----
From: Thorsen, Carl
Sent: Monday, February 04, 2002 8:30 PM
To: Collins, Dan; Ciongoli, Adam; Colborn, Paul P; Whelan, M Edward III; Burton, Faith; Horowitz, Michael-CRM; Martens, Matthew; Chertoff, Michael; 'brett_m._kavanaugh@who.eop.gov'
Cc: Thorsen, Carl; Bryant, Dan
Subject: Dan's DRAFT Opening Statement

<< File: dan.opening.burton.wpd >>

Attached is the updated draft reflecting input from today's moot. Please keep the edits coming.

Note: Its very possible that tomorrow morning's 10 am moot will be postponed so he can use that time to prepare and that we'll do it in the afternoon, around 5:30 pm. Faith or I will let you know first thing in the morning.

Carl Thorsen
Deputy Assistant Attorney General
Office of Legislative Affairs
U.S. Department of Justice
950 Pennsylvania Avenue, NW

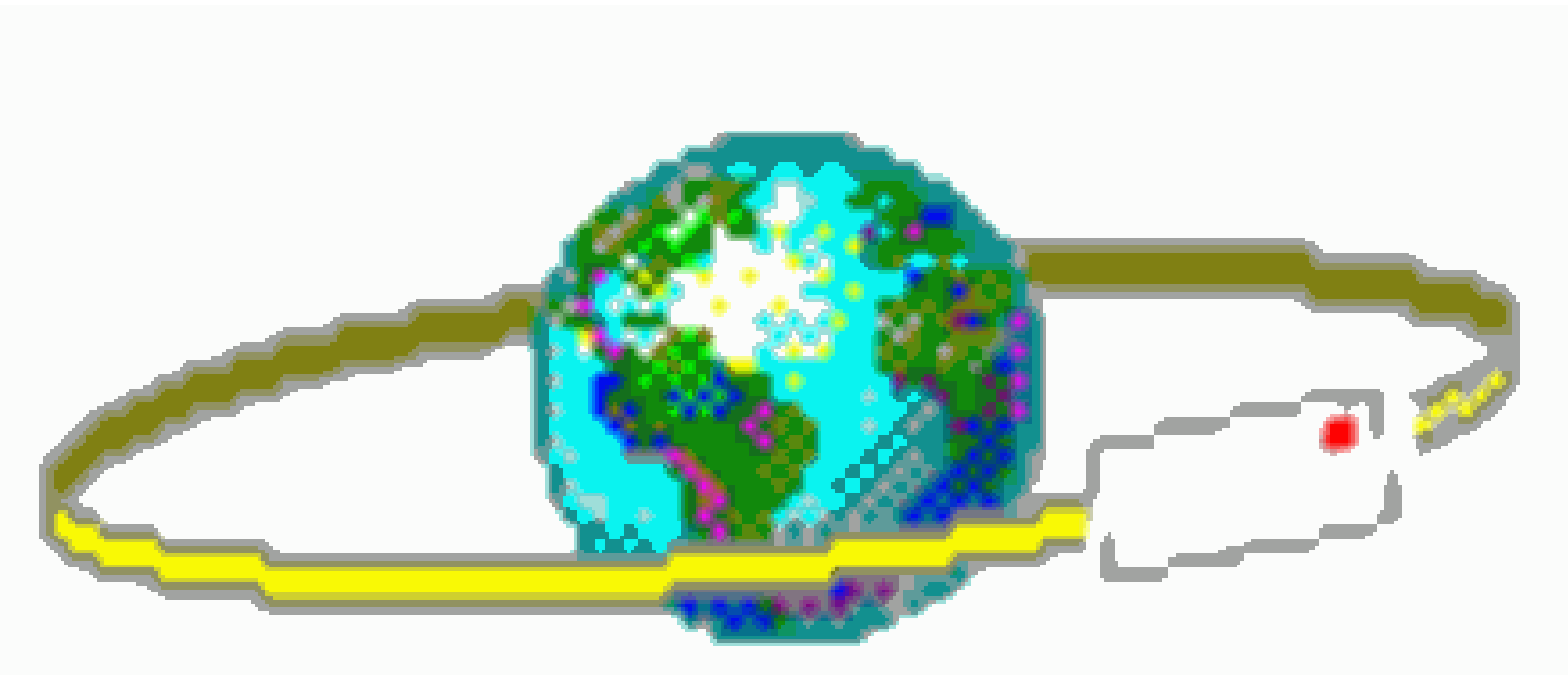
Document ID: 0.7.18648.5885

950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Document ID: 0.7.18648.5885

Message Sent To:_____

"Thorsen, Carl" <Carl.Thorsen@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)
"Collins, Dan" <Dan.Collins@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)
"Ciongoli, Adam" <Adam.Ciongoli@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)
"Colborn, Paul P" <Paul.P.Colborn@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)
"Whelan, M Edward III" <M.Edward.Whelan@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)
"Horowitz, Michael-CRM" <Michael.Horowitz3@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)
"Martens, Matthew" <Matthew.Martens@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)
"Chertoff, Michael" <Michael.Chertoff@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)
Brett M. Kavanaugh/WHO/EOP@EOP



Rybicki, James E

From: Rybicki, James E
Sent: Tuesday, February 5, 2002 2:23 PM
To: Thorsen, Carl; Horowitz, Michael-CRM; Martens, Matthew; Burton, Faith; Colborn, Paul P; Whelan, M Edward III; 'brett_m._kavanaugh@who.eop.gov'
Subject: 2.4.02 Letter from Chairman Burton to the Attorney General
Attachments: 2.4.02.Letter.pdf

Document ID: 0.7.18648.6153

DAN BURTON, INDIANA,
CHAIRMAN

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EDWARD L. SCHROCK, VA

ONE HUNDRED SEVENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM

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BERNARD SANDERS, VERMONT,
INDEPENDENT

February 4, 2002

The Honorable John Ashcroft
Attorney General
United States Department of Justice
Washington, D.C. 20530

Dear General Ashcroft:

I write in response to the February 1, 2002, letter from Assistant Attorney General Dan Bryant. I appreciate Mr. Bryant's efforts to clarify the Justice Department's position in its dispute with the Committee. The Justice Department now appears to take the position that it does not have any policy barring the production of deliberative Justice Department documents to Congress. Rather, as explained by Mr. Bryant, some cases are particularly sensitive, and require greater protection from Congress. Mr. Bryant further states that "[t]his is not an 'inflexible position.'"

While Mr. Bryant's explanation of the Department's policy sounds very reasonable, there are several factors which give me pause. First, it deviates dramatically from the inflexible policy which the Department initially announced to me, and which in fact brought us to the current impasse. Second, the newly-articulated case-by-case analysis appears to be a smokescreen to effect the initial inflexible policy.

When I met with the Attorney General, White House Counsel Gonzales, and Justice Department staff in the Summer of 2001, we were informed that the Department would no longer produce deliberative prosecutorial documents to Congress. No exceptions were enunciated, and no "narrow and especially sensitive categories" of documents were identified. When my staff proposed a number of generous compromises with Department staff, they were rebuffed. Because the Justice Department had articulated an inflexible policy, and had expressed no interest in accommodating the Committee's need to review the documents at issue, or even discuss why the Committee wanted to review the documents, it was clear that Congress' ability to conduct effective oversight was threatened. Therefore, I issued a subpoena.

Regarding the "case-by-case" analysis, for all of the claims that the Department is engaged in accommodation with the Committee, there is no evidence that this is the case. Despite the claim that the Department will review documents on a case-by-case basis to see if they can be provided to the Committee, there is every reason to believe that the Department, in

Document ID: 0.7.18648.6153-000001

reality, will withhold all deliberative documents from Congress in the future. Indeed, it is difficult to think of a stronger case for Congressional access to deliberative documents than the Boston case, as there is extensive evidence of Justice Department wrongdoing, and the documents at issue are an average of 22 years old. If the Department does not provide Congress with access to the Boston documents, it is clear that the Department will not provide access to deliberative documents in any case. As of today, the Department continues to refuse to allow the Committee to even review those documents. Thus, the case-by-case analysis articulated by the Justice Department on December 13, 2001, appears to be a canard.

With respect to the issue presented by the Committee's February 6, 2002, hearing, it appears that the Department's basic position is that Congressional access to deliberative Justice Department documents is so common that it would be impossible to catalogue all of the cases in which it has occurred. This position squarely contradicts statements which have been made by a number of Justice Department and White House staff over the past several months that they are simply trying to reverse bad precedents set during the Clinton Administration, and are attempting to return to the policy of the Reagan Administration. For example, when he met with me on July 18, 2001, Assistant Attorney General Michael Chertoff stated that before 1993, the Justice Department did not provide deliberative materials to Congress. When this assertion was disputed, Mr. Chertoff stated that the articulated position prior to the Clinton Administration was that the Department could not turn over deliberative memos, and conceded only that there "may have been some slippage" from that policy.

Now it appears that the Justice Department concedes that Congress has obtained access to deliberative Justice Department records, including prosecution and declination memoranda, well before the Clinton Administration. This is an important concession, as it demonstrates that the Justice Department and White House are attempting to create a new policy which reverses the clear historical record going back to the Teapot Dome scandal. Moreover, the cases cited by Mr. Bryant show that there has not been any policy against providing deliberative documents, and in fact, such documents have been provided to Congress without any objection from the Justice Department. In the Billy Carter case cited by Mr. Bryant, the Justice Department did not make any effort to resist turning over the records. In the General Dynamics case cited by Mr. Bryant, the Reagan Justice Department provided extensive deliberative documents to Congress after a cursory objection. It is difficult to dismiss the General Dynamics case by suggesting, as Mr. Bryant does, that the Reagan Administration may not have "considered its implications as we have in the instant manner." Rather, the Reagan Administration fully understood the implications of providing deliberative documents to Congress, and did so on numerous occasions.

Nevertheless, I am concerned by the apparent lack of effort made by the Department in attempting to locate relevant precedent. There are a number of other cases documented in public records where the Department apparently provided deliberative prosecutorial records to Congress. Moreover, as you likely know, in a number of cases, deliberative documents have been shared with Congress, and there is no Committee hearing or report which documents the fact that access was provided. In these cases, the fact of Congressional access is kept confidential, usually at the request of the Justice Department. I hoped that Mr. Bryant would

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make an effort to speak to prior Assistant Attorneys General for Legislative Affairs to learn of such cases, and include them in his testimony.

While the Department was only able to locate three relevant cases where deliberative documents were provided to Congress, it cited two cases as examples in which executive privilege was claimed over deliberative prosecutorial documents. Neither appears to be very relevant to the issue before the Committee. While President Theodore Roosevelt did refuse to provide documents to the Senate, I hope that the Justice Department is not relying on President Roosevelt's claim as support for the action it is taking now. First, a substantial body of caselaw regarding executive privilege has developed in the last 93 years which limits the President's ability to withhold records from Congress. Second, President Roosevelt's position would deny Congress not only deliberative documents, but also any explanation from the Justice Department for its actions. This rules out any possibility of accommodation. The other case cited by the Department was not a claim of executive privilege at all. Rather, in a 1957 antitrust investigation by the House Judiciary Committee, the Justice Department simply declined to provide the records requested by the Committee. The President did not claim executive privilege.

I believe that at the conclusion of the February 6 hearing, it will be clear that there have been a substantial number of cases in which Congress has received access to deliberative prosecutorial Justice Department records, and no modern cases where such records were withheld on the basis of executive privilege. If indeed that is the case, I think it will be clear that the Administration is creating an unprecedented policy to restrict Congressional oversight of the Justice Department.

You have also requested that Mr. Chertoff testify together with Mr. Bryant at the February 6 hearing. I am not inclined to grant your request. I believe that Mr. Bryant is the Justice Department official best suited to respond to the Committee's inquiry. The February 6 hearing will focus narrowly on the question of the history of Congressional access to deliberative Justice Department records. This is an issue which primarily concerns the Office of Legislative Affairs. Indeed, staff from the Office of Legislative Affairs have been discussing this precise issue with my staff for many months. In previous administrations, staff from Mr. Bryant's office were frequently responsible for providing access to the types of documents currently under dispute. There will, however, be an occasion in the future when I will request that Mr. Chertoff and the Attorney General testify about the Justice Department's concerns.

In his February 1, 2002, letter, Mr. Bryant also asked that a meeting between Committee and Justice Department staff take place before the February 6 hearing. I would welcome such a meeting. As you know, my staff and I have met or spoken with Justice Department staff dozens of times trying to resolve this issue. I would be pleased to continue discussions in an effort to

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resolve this disagreement. However, my position is unchanged – the Committee must have access to the Boston documents it has subpoenaed.

Sincerely,

Dan Burton
Chairman

cc: Members, Committee on Government Reform

Document ID: 0.7.18648.6153-000001

Brett_M._Kavanaugh@who.eop.gov

From: Brett_M._Kavanaugh@who.eop.gov
Sent: Tuesday, February 5, 2002 4:09 PM
To: Whelan, M Edward III
Subject: Re: CA4
Attachments: pic29365.pcx

Berenson is handling MD and NC CA4 nominations.

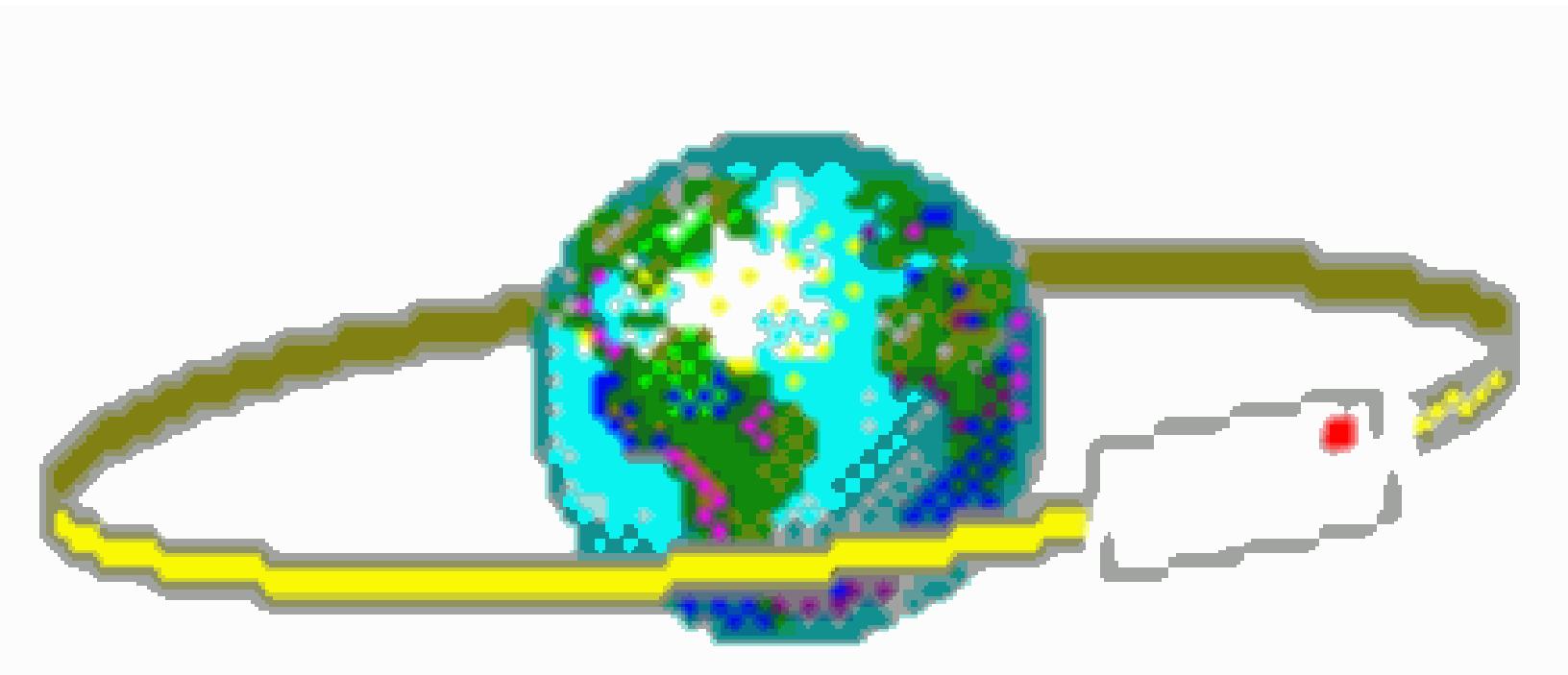
(Embedded
image moved "Whelan, M Edward III" <M.Edward.Whelan@usdoj.gov>
to file: 02/05/2002 03:52:38 PM
pic29365.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:
Subject: CA4

Who in your office is handling CA4 nominations? (I have someone I'd like to recommend.)



Whelan, M Edward III

From: Whelan, M Edward III
Sent: Tuesday, February 05, 2002 5:33 PM
To: 'Kavanaugh, Brett'
Subject: FW: Moot for Dan tonight

FYI. [redacted] (b) (5)

-----Original Message-----
From: Whelan, M Edward III
Sent: Tuesday, February 05, 2002 5:32 PM
To: Burton, Faith
Cc: Colborn, Paul P
Subject: RE: Moot for Dan tonight

Would you please let me know what this meeting is about and [redacted] (b) (5)

-----Original Message-----
From: Burton, Faith
Sent: Tuesday, February 05, 2002 5:25 PM
To: Thorsen, Carl; Colborn, Paul P; Collins, Dan; Whelan, M Edward III; Horowitz, Michael-CRM; Martens, Matthew; Chertoff, Michael; 'brett_m._kavanaugh@who.eop.gov'
Cc: Bryant, Dan
Subject: RE: Moot for Dan tonight

This meeting has been cancelled due to Dan's meeting with Burton, et al at 6 pm. More later.

-----Original Message-----
From: Thorsen, Carl
Sent: Tuesday, February 05, 2002 12:11 PM
To: Colborn, Paul P; Collins, Dan; Burton, Faith; Whelan, M Edward III; Horowitz, Michael-CRM; Martens, Matthew; Chertoff, Michael; 'brett_m._kavanaugh@who.eop.gov'
Cc: Bryant, Dan
Subject: Moot for Dan tonight

We're planning to reconvene in the OLA Conf Room from 6-8 PM.

-----Original Message-----
From: Colborn, Paul P
Sent: Tuesday, February 05, 2002 11:29 AM
To: Collins, Dan; Burton, Faith; Thorsen, Carl; Ciongoli, Adam; Whelan, M Edward III; Horowitz, Michael-CRM; Martens, Matthew; Chertoff, Michael; 'brett_m._kavanaugh@who.eop.gov'
Cc: Bryant, Dan
Subject: RE: Dan's DRAFT Opening Statement

The difficulty I have with Dan's suggested change is [redacted] (b) (5)
[redacted] Dan, would your concern be reduced if [redacted] (b) (5)
[redacted]

-----Original Message-----
From: Collins, Dan
Sent: Tuesday, February 05, 2002 11:21 AM
To: Burton, Faith; Thorsen, Carl; Ciongoli, Adam; Colborn, Paul P; Whelan, M Edward III; Horowitz, Michael-CRM;

Martens, Matthew; Chertoff, Michael; 'brett_m._kavanaugh@who.eop.gov'
Cc: Bryant, Dan
Subject: RE: Dan's DRAFT Opening Statement

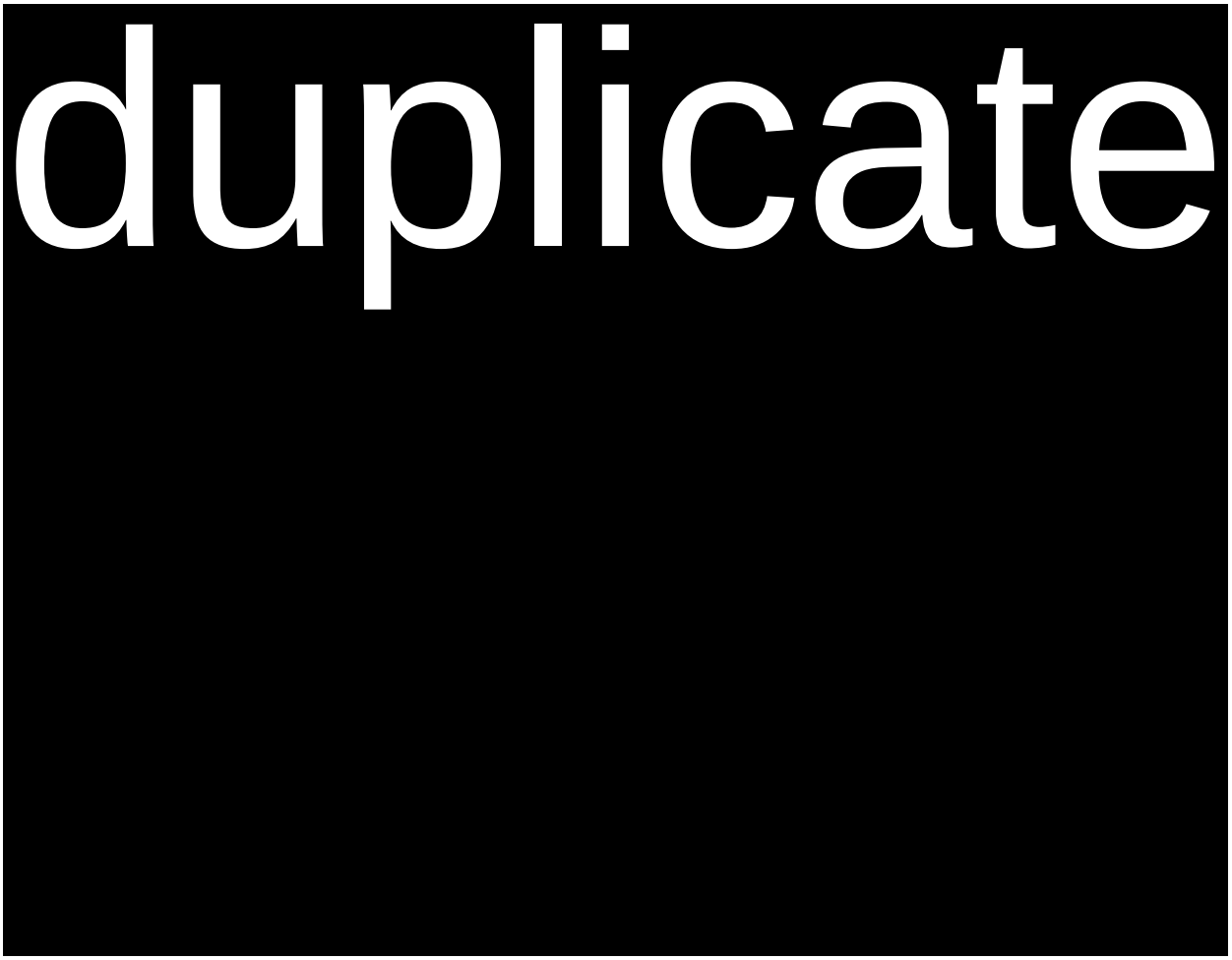
On page 2, first full paragraph [redacted (b) (5)] . Can we say instead:

[redacted (b) (5)]

In the conclusion, I'd suggest saying [redacted (b) (5)] " rather than [redacted (b) (5)] ".

--Dan

-----Original Message-----
From: Burton, Faith
Sent: Tuesday, February 05, 2002 10:56 AM



duplicate

Document ID: 0.7.18648.6160

Colborn, Paul P

From: Colborn, Paul P
Sent: Thursday, February 07, 2002 10:14 AM
To: Burton, Faith; Collins, Dan; 'Brett_M._Kavanaugh@who.eop.gov'; Chertoff, Michael; Horowitz, Michael-CRM; Martens, Matthew; Whelan, M Edward III; Bybee, Jay
Cc: Thorsen, Carl
Subject: RE: Draft letter to Chairman Burton re next step

I'll await the call.

-----Original Message-----
From: Burton, Faith
Sent: Thursday, February 07, 2002 10:00 AM
To: Collins, Dan; 'Brett_M._Kavanaugh@who.eop.gov'; Colborn, Paul P; Chertoff, Michael; Horowitz, Michael-CRM; Martens, Matthew; Whelan, M Edward III; Bybee, Jay
Cc: Thorsen, Carl
Subject: RE: Draft letter to Chairman Burton re next step

Can we do a conference call on this at 10:15? Best way to work it on short notice is to have Brett call Carl at 4-3951 and we'll loop in OLC at 4-2048; Collins at 4-6753; and Crim at 3-8579 - is that doable for everyone?

-----Original Message-----
From: Collins, Dan
Sent: Wednesday, February 06, 2002 5:39 PM
To: Burton, Faith; 'Brett_M._Kavanaugh@who.eop.gov'; Colborn, Paul P; Chertoff, Michael; Horowitz, Michael-CRM; Martens, Matthew; Whelan, M Edward III; Bybee, Jay
Cc: Thorsen, Carl
Subject: RE: Draft letter to Chairman Burton re next step

What abou [redacted] (b) (5) [redacted]

-----Original Message-----
From: Burton, Faith
Sent: Wednesday, February 06, 2002 5:25 PM
To: 'Brett_M._Kavanaugh@who.eop.gov'; Colborn, Paul P; Chertoff, Michael; Horowitz, Michael-CRM; Martens, Matthew; Whelan, M Edward III; Collins, Dan; 'attyadv.opca@fbi.gov'
Cc: Thorsen, Carl
Subject: Draft letter to Chairman Burton re next step

Please give me your comments by 11 a.m. << File: burton.harrington.wpd >>

Burton, Faith

From: Burton, Faith
Sent: Thursday, February 07, 2002 10:20 AM
To: Thorsen, Carl; Collins, Dan; 'Brett_M._Kavanaugh@who.eop.gov'; Colborn, Paul P; Chertoff, Michael; Horowitz, Michael-CRM; Martens, Matthew; Whelan, M Edward III; Bybee, Jay
Subject: RE: Draft letter to Chairman Burton re next step
Attachments: burton.harrington.wpd

Here's a revised version reflecting input from John Durham, who note [redacted (b) (5)]. We'll await Brett's call to begin pulling everyone else in.

-----Original Message-----
From: Thorsen, Carl
Sent: Thursday, February 07, 2002 10:04 AM
To: Collins, Dan; Burton, Faith; 'Brett_M._Kavanaugh@who.eop.gov'; Colborn, Paul P; Chertoff, Michael; Horowitz, Michael-CRM; Martens, Matthew; Whelan, M Edward III; Bybee, Jay
Subject: RE: Draft letter to Chairman Burton re next step

me too

-----Original Message-----
From: Collins, Dan
Sent: Thursday, February 07, 2002 10:03 AM
To: Burton, Faith; 'Brett_M._Kavanaugh@who.eop.gov'; Colborn, Paul P; Chertoff, Michael; Horowitz, Michael-CRM; Martens, Matthew; Whelan, M Edward III; Bybee, Jay
Cc: Thorsen, Carl
Subject: RE: Draft letter to Chairman Burton re next step

Works for me.

-----Original Message-----
From: Burton, Faith
Sent: Thursday, February 07, 2002 10:00 AM



duplicate

Document ID: 0.7.18648.5064

Colborn, Paul P

From: Colborn, Paul P
Sent: Thursday, February 07, 2002 11:09 AM
To: Burton, Faith; Collins, Dan; 'Brett_M._Kavanaugh@who.eop.gov'; Chertoff, Michael; Horowitz, Michael-CRM; Martens, Matthew; Whelan, M Edward III; Bybee, Jay; 'attyadv@opca.fbi.gov'; Durham, John; Herbert, James
Cc: Thorsen, Carl
Subject: RE: Draft letter to Chairman Burton re next step

What do people think o [redacted] (b) (5) [redacted] .

-----Original Message-----
From: Burton, Faith
Sent: Thursday, February 07, 2002 11:05 AM
To: Burton, Faith; Collins, Dan; 'Brett_M._Kavanaugh@who.eop.gov'; Colborn, Paul P; Chertoff, Michael; Horowitz, Michael-CRM; Martens, Matthew; Whelan, M Edward III; Bybee, Jay; 'attyadv@opca.fbi.gov'; Durham, John; Herbert, James
Cc: Thorsen, Carl
Subject: RE: Draft letter to Chairman Burton re next step

Here's the revised version, per our conference call. Brett, I'll send it to you in the text of my next message. << File: burton.harrington.wpd >>

-----Original Message-----
From: Burton, Faith
Sent: Thursday, February 07, 2002 10:00 AM



duplicate

Rybicki, James E

From: Rybicki, James E
Sent: Friday, February 08, 2002 5:06 PM
To: Burton, Faith; 'Brett_M._Kavanaugh@who.eop.gov'; 'attyadv.opca@fbi.gov'; Durham, John; Herbert, James; Chertoff, Michael; Martens, Matthew; Colborn, Paul P; Whelan, M Edward III
Cc: Thorsen, Carl
Subject: 2.8.02 Letter to Chairman Burton
Attachments: 2.8.02.Burton.ltr.wpd

Document ID: 0.7.18648.6191

Thorsen, Carl

From: Thorsen, Carl
Sent: Tuesday, February 12, 2002 11:12 AM
To: Burton, Faith; 'Brett_M._Kavanaugh@who.eop.gov'; Whelan, M Edward III; Colborn, Paul P; Chertoff, Michael; Horowitz, Michael-CRM; Martens, Matthew; 'attyadv.opca@fbi.gov'; Collins, Dan; Comstock, Barbara
Subject: RE: Burton Hearings this week

In his letter Burton asked that the Department witness "be prepared to provide the Department's response to the testimony and address any issues relating to the Department's continued refusal to provide the Committee access to the subpoenaed Boston documents".

[redacted] (b) (5)
[redacted].

-----Original Message-----
From: Burton, Faith
Sent: Tuesday, February 12, 2002 10:44 AM
To: 'Brett_M._Kavanaugh@who.eop.gov'; Whelan, M Edward III; Colborn, Paul P; Chertoff, Michael; Horowitz, Michael-CRM; Martens, Matthew; 'attyadv.opca@fbi.gov'
Cc: Thorsen, Carl
Subject: Burton Hearings this week

Chairman Burton plans 2 days of hearings this week on the Boston FBI matter and, particularly, the Department's role in the 1971 Cal. prosecution of Barboza for a murder, which he allegedly committed [redacted] (b) (3). Harrington, Rico, and Condon testified on his behalf at sentencing to confirm threats against his life by mobster [redacted] (b) (3).
The Committee's 2/11 letter, which is being circulated now via fax, requests a DOJ witness for each day of the hearings, but our informal information indicates that a single DOJ witness on the 2nd day, who will appear alone on the 2nd panel, will suffice. More later.

Colborn, Paul P

From: Colborn, Paul P
Sent: Tuesday, February 12, 2002 4:11 PM
To: Burton, Faith; 'attyadv.opca@fbi.gov'; 'Brett_M._Kavanaugh@who.eop.gov'; Whelan, M Edward III; Collins, Dan; Chertoff, Michael; Martens, Matthew
Cc: Thorsen, Carl; Bybee, Jay
Subject: RE: Draft letter to Chairman Burton on Harrington memo

OLC suggests the following changes:

in the first sentence of the third paragraph, make "Executive Privilege" lower case

in the next sentence of that paragraph, substitute [redacted] " for [redacted] " and at the end of the sentence substitute [redacted] " for [redacted] ."

-----Original Message-----
From: Burton, Faith
Sent: Tuesday, February 12, 2002 3:49 PM
To: 'attyadv.opca@fbi.gov'; 'Brett_M._Kavanaugh@who.eop.gov'; Whelan, M Edward III; Colborn, Paul P; Collins, Dan; Chertoff, Michael; Martens, Matthew
Cc: Thorsen, Carl
Subject: Draft letter to Chairman Burton on Harrington memo

Please comment asap; we'd like to get this up today. Matt, I'm coming up to see you about docs. << File: burton.212.wpd >>

Colborn, Paul P

From: Colborn, Paul P
Sent: Tuesday, February 12, 2002 4:19 PM
To: Thorsen, Carl; Burton, Faith; 'attyadv.opca@fbi.gov'; Whelan, M Edward III; Collins, Dan; Chertoff, Michael; Martens, Matthew
Cc: 'Brett_M._Kavanaugh@who.eop.gov'; Horowitz, Michael-CRM; Bryant, Dan
Subject: RE: Draft letter to Chairman Burton on Harrington memo

Jay would like to have two prep sessions tomorrow: a meeting at 10:00 to talk about the questions that might be put to him at the hearing and an actual moot at 4:00. We'd like to do these in the OLC conference room (room 3254). Please let me know if you can attend.

-----Original Message-----
From: Thorsen, Carl
Sent: Tuesday, February 12, 2002 4:10 PM
To: Burton, Faith; 'attyadv.opca@fbi.gov'; Whelan, M Edward III; Colborn, Paul P; Collins, Dan; Chertoff, Michael; Martens, Matthew
Cc: 'Brett_M._Kavanaugh@who.eop.gov'
Subject: RE: Draft letter to Chairman Burton on Harrington memo

A couple updates:

1) 5 PM Conf. call today (DOJ components only) with Chertoff (who's in NYC) to discuss a DOJ recommendatio [redacted (b) (5)]. Could one person from each component come down to Dan Bryant's office at 5 pm, or provide a phone number and we'll attempt to patch you in.

2) Jay Bybee has been confirmed as our witness for Thursday's hearing. Ed Whelan will be in touch re. a schedule for his prep.

-----Original Message-----
From: Burton, Faith
Sent: Tuesday, February 12, 2002 3:49 PM
To: 'attyadv.opca@fbi.gov'; 'Brett_M._Kavanaugh@who.eop.gov'; Whelan, M Edward III; Colborn, Paul P; Collins, Dan; Chertoff, Michael; Martens, Matthew
Cc: Thorsen, Carl
Subject: Draft letter to Chairman Burton on Harrington memo

Please comment asap; we'd like to get this up today. Matt, I'm coming up to see you about docs. << File: burton.212.wpd >>

Brett_M._Kavanaugh@who.eop.gov

From:	Brett_M._Kavanaugh@who.eop.gov
Sent:	Tuesday, February 12, 2002 4:26 PM
To:	Burton, Faith
Cc:	Thorsen, Carl; Collins, Dan; Whelan, M Edward III; Martens, Matthew; Chertoff, Michael; Colborn, Paul P; 'attyadv.opca@fbi.gov'
Subject:	Re: Draft letter to Chairman Burton on Harrington memo
Attachments:	burton.212.wpd; ATTACHMENT.TXT; pic09506.pcx

I think the letter needs to [redacted (b) (5)]
[redacted].
I would delete [redacted (b) (5)].
Also, you should [redacted (b) (5)].
I thought the letter [redacted (b) (5)]
I would delete [redacted (b) (5)]
Judge Gonzales will need to see this letter; therefore, after you receive comments from all and circulate a re-draft, I will present it to him.

(Embedded
image moved "Burton, Faith" <Faith.Burton@usdoj.gov>
to file: 02/12/2002 03:49:21 PM
pic09506.pcx)

Record Type: Record

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

cc: "Thorsen, Carl" <Carl.Thorsen@usdoj.gov> (Receipt Notification Requested)
(IPM Return Requested)

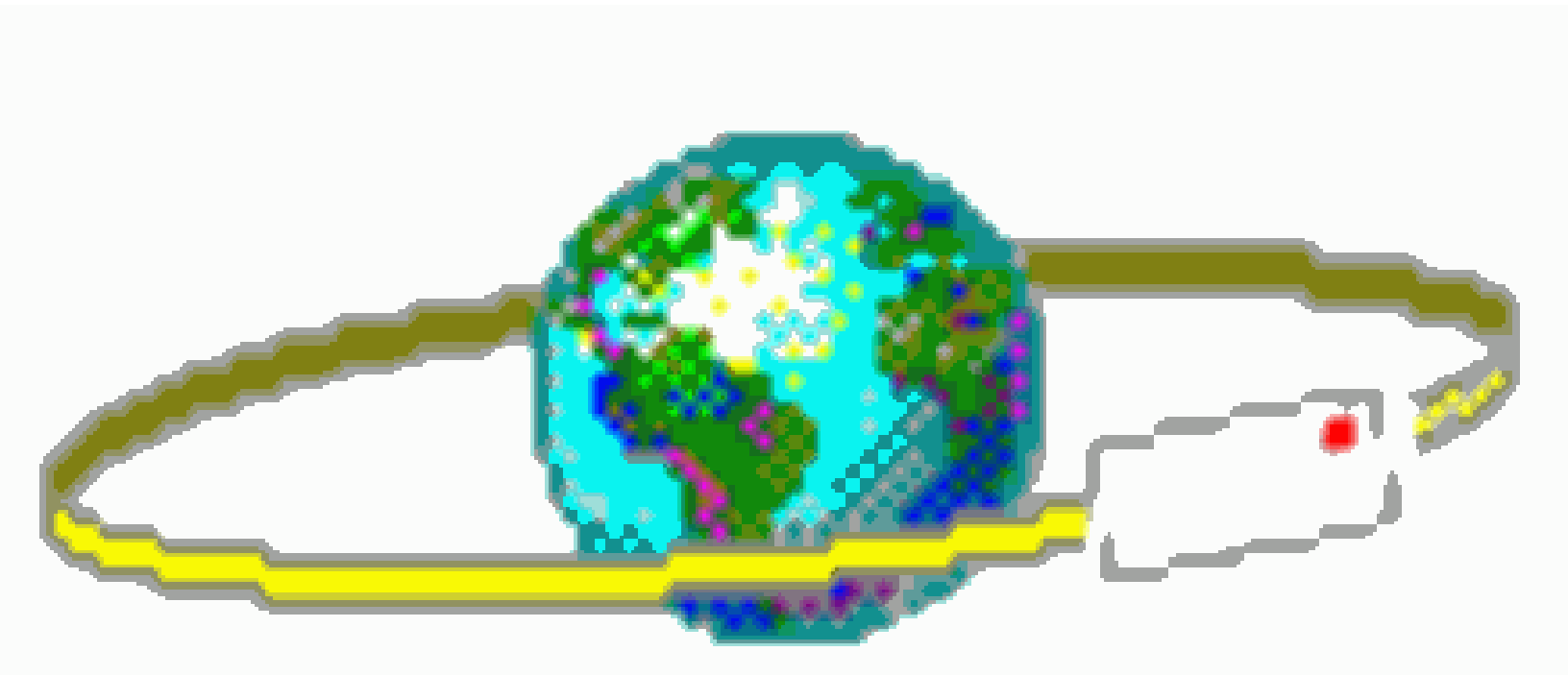
Subject: Draft letter to Chairman Burton on Harrington memo

Please comment asap; we'd like to get this up today. Matt, I'm coming up to see you about docs.

Document ID: 0.7.18648.6209

Message Sent To:_____

"Whelan, M Edward III" <M.Edward.Whelan@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)
"Colborn, Paul P" <Paul.P.Colborn@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)
"Collins, Dan" <Dan.Collins@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)
"'attyadv.opca@fbi.gov'" <attyadv.opca@fbi.gov> (Receipt Notification Requested) (IPM Return Requested)
Brett M. Kavanaugh/WHO/EOP@EOP
"Chertoff, Michael" <Michael.Chertoff@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)
"Martens, Matthew" <Matthew.Martens@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)



Thorsen, Carl

From: Thorsen, Carl
Sent: Tuesday, February 12, 2002 4:59 PM
To: Burton, Faith; 'attyadv.opca@fbi.gov'; 'Brett_M._Kavanaugh@who.eop.gov'; Whelan, M Edward III; Colborn, Paul P; Collins, Dan; Chertoff, Michael; Martens, Matthew
Subject: RE: Draft letter to Chairman Burton on Harrington memo
Attachments: burton.212.wpd

(Quickly) edited per Brett's and OLC's suggestions. Please review.

-----Original Message-----
From: Burton, Faith
Sent: Tuesday, February 12, 2002 3:49 PM

duplicate

Thorsen, Carl

From:	Thorsen, Carl
Sent:	Tuesday, February 12, 2002 5:48 PM
To:	'Brett_M._Kavanaugh@who.eop.gov'
Cc:	Collins, Dan; Whelan, M Edward III; Martens, Matthew; Colborn, Paul P; 'attyadv.opca@fbi.gov'; Burton, Faith; Bryant, Dan; Thorsen, Carl
Subject:	Draft letter to Chairman Burton on Harrington memo
Attachments:	harrington_mem.wpd

Brett, DOJ recommends that WHC approve the attached letter.

We've been moving quickly, and our folks will continue reviewing it, but all components have agreed to this letter in concept.

Document ID: 0.7.18648.6218

Thorsen, Carl

From:	Thorsen, Carl
Sent:	Tuesday, February 12, 2002 6:43 PM
To:	'Brett_M._Kavanaugh@who.eop.gov'
Cc:	Collins, Dan; Whelan, M Edward III; Martens, Matthew; Colborn, Paul P; 'attyadv.opca@fbi.gov'; Burton, Faith; Bryant, Dan; Thorsen, Carl; Rybicki, James E
Subject:	Latest Version of the latest letter to Burton
Attachments:	harrington_mem.wpd

Brett, per your latest requested edits. Please let us know in the morning after Calio has reviewed and approved and we'll get it up there.

DOJ staff - please review this version and let me know its okay, it reflects WH changes.

Document ID: 0.7.18648.6231

Colborn, Paul P

From:	Colborn, Paul P
Sent:	Wednesday, February 13, 2002 9:42 AM
To:	'Brett_M._Kavanaugh@who.eop.gov'; Thorsen, Carl
Cc:	Thorsen, Carl; Bryant, Dan; Collins, Dan; Burton, Faith; Rybicki, James E; Whelan, M Edward III; Martens, Matthew; 'attyadv.opca@fbi.gov'; Bybee, Jay
Subject:	RE:

Brett's changes are fine with us. We think it is important to make one more change: in the final paragraph of the letter, substitute "(b) (5)" for "(b) (5)."

(b) (5)

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Wednesday, February 13, 2002 9:17 AM
To: Thorsen, Carl
Cc: Thorsen, Carl; Bryant, Dan; Collins, Dan; Burton, Faith; Rybicki, James E; Whelan, M Edward III; Martens, Matthew; Colborn, Paul P; attyadv.opca@fbi.gov
Subject:

another round of suggested edits from here:

1. Change the second sentence in second paragraph to the following: "(b) (5)."

2. Change the first sentence in third full paragraph to: "(b) (5)." [Note that it is important to (b) (5) here.]

3. Delete (b) (5). In that same sentence, change, "(b) (5)" to "(b) (5)" And also delete "(b) (5)."

Document ID: 0.7.18648.6235

4. Delete the sentence "[redacted] . . ."

5. Move the sentence [redacted].

6. In last sentence, change "[redacted]" to "[redacted]."

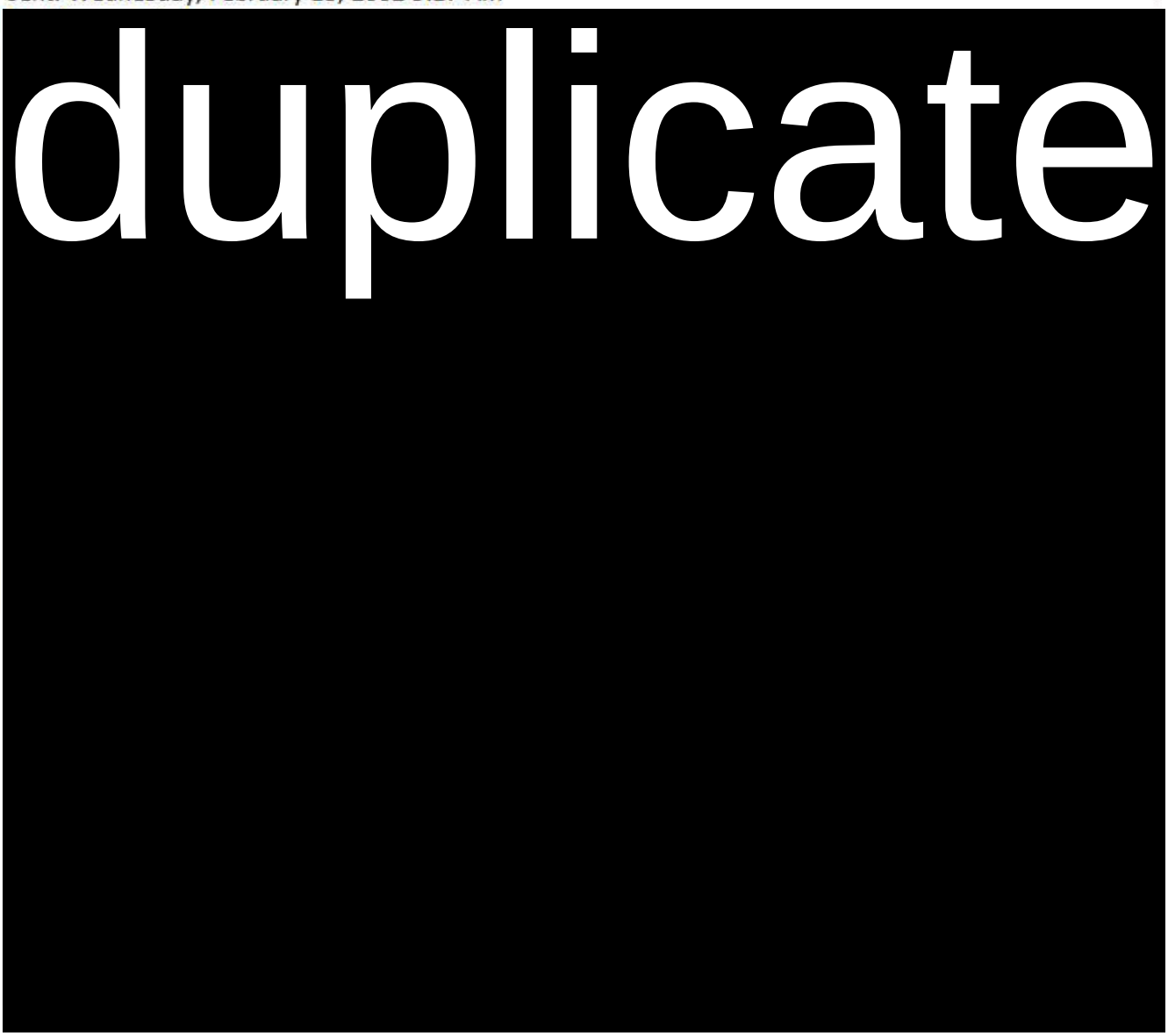
7. "[redacted].

Thorsen, Carl

From:	Thorsen, Carl
Sent:	Wednesday, February 13, 2002 9:53 AM
To:	'Brett_M._Kavanaugh@who.eop.gov'
Cc:	Bryant, Dan; Collins, Dan; Burton, Faith; Rybicki, James E; Whelan, M Edward III; Martens, Matthew; Colborn, Paul P; 'attyadv.opca@fbi.gov'
Subject:	RE:
Attachments:	harrington_mem.wpd

Edits made, including Colborn's (which I like). Please review and let me know.

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Wednesday, February 13, 2002 9:17 AM



Document ID: 0.7.18648.6238

[redacted]

Colborn, Paul P

From:	Colborn, Paul P
Sent:	Wednesday, February 13, 2002 9:57 AM
To:	Thorsen, Carl; 'Brett_M._Kavanaugh@who.eop.gov'
Cc:	Bryant, Dan; Collins, Dan; Burton, Faith; Rybicki, James E; Whelan, M Edward III; Martens, Matthew; 'attyadv.opca@fbi.gov'
Subject:	RE:

I think you should substitute "(b) (5) " for "(b) (5) :" in the (b) (5) .

-----Original Message-----
From: Thorsen, Carl
Sent: Wednesday, February 13, 2002 9:53 AM

duplicate



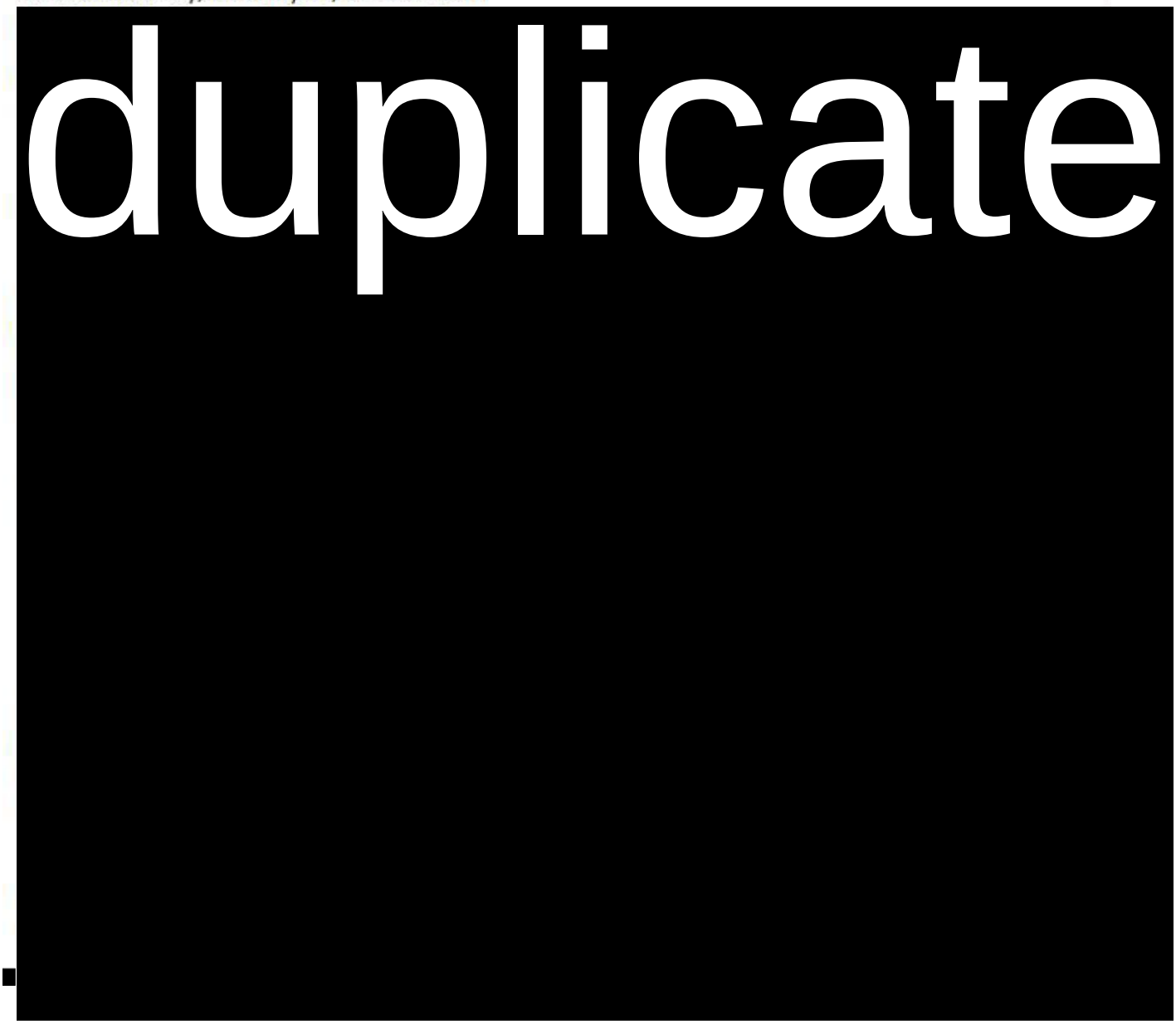
Document ID: 0.7.18648.6240

Burton, Faith

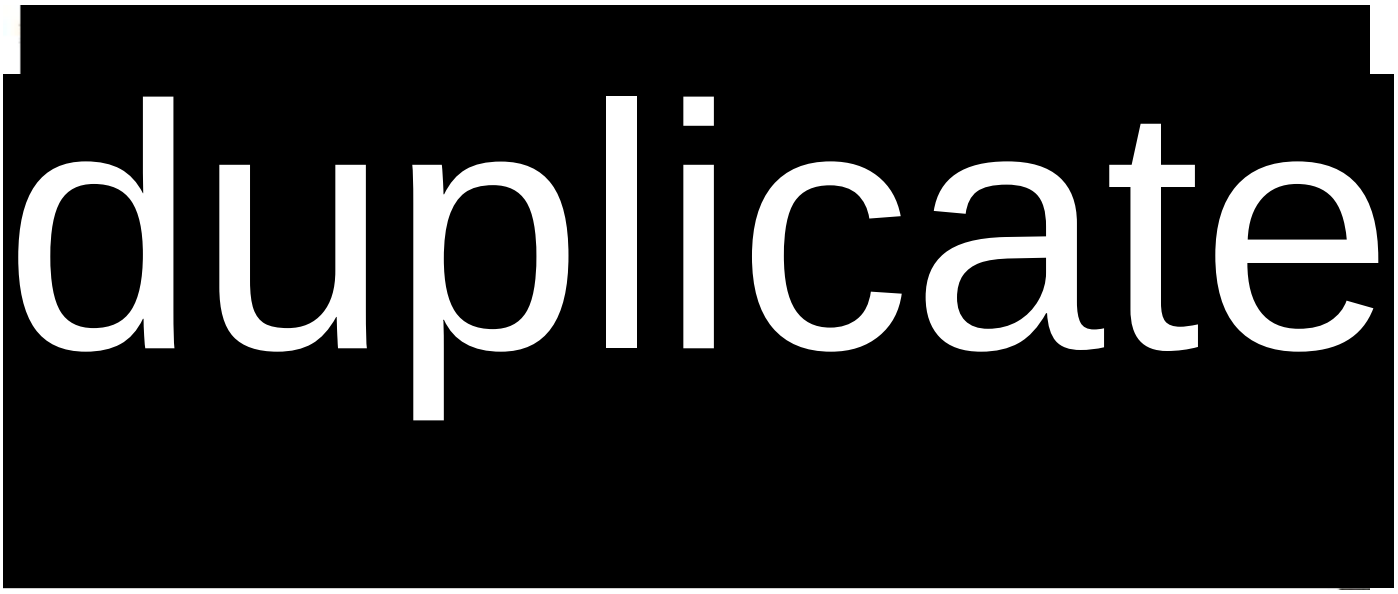
From:	Burton, Faith
Sent:	Wednesday, February 13, 2002 11:06 AM
To:	Thorsen, Carl; 'Brett_M._Kavanaugh@who.eop.gov'
Cc:	Bryant, Dan; Collins, Dan; Rybicki, James E; Whelan, M Edward III; Martens, Matthew; Colborn, Paul P; 'attyadv.opca@fbi.gov'
Subject:	RE:

Brett, please let me know when you have sign-off on this letter; Carl has gone to the Burton hearing. Thanks.

-----Original Message-----
From: Thorsen, Carl
Sent: Wednesday, February 13, 2002 9:53 AM



Document ID: 0.7.18648.6241



Document ID: 0.7.18648.6241

Thorsen, Carl

From: Thorsen, Carl
Sent: Wednesday, February 13, 2002 2:47 PM
To: Martens, Matthew; Colborn, Paul P; Whelan, M Edward III; Collins, Dan; Bryant, Dan; Burton, Faith; 'brett_m._kavanaugh@who.eop.gov'
Subject: Burton Review of Harrington Memo

Burton's staff just called, they asked that unless we hear back from them (after they've discussed our letter with the Chairman I presume) we bring it up at 4:30 PM today for their review. Unless someone disagrees, I'll plan to do that alone so Faith and Matt can participate in Jay's prep session.

Carl Thorsen
Deputy Assistant Attorney General
Office of Legislative Affairs
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Brett_M._Kavanaugh@who.eop.gov

From:	Brett_M._Kavanaugh@who.eop.gov
Sent:	Wednesday, February 13, 2002 6:28 PM
To:	Thorsen, Carl; Bryant, Dan; Collins, Dan; Burton, Faith; Whelan, M Edward III; Martens, Matthew; Chertoff, Michael; Colborn, Paul P; Brett_M._Kavanaugh@who.eop.gov
Cc:	Bybee, Jay
Subject:	Re: Jay Bybee's opening remarks for hearing

That is important

Document ID: 0.7.18648.6245

PPColborn@aol.com

From:	PPColborn@aol.com
Sent:	Wednesday, February 20, 2002 12:36 PM
To:	Martens, Matthew; Horowitz, Michael-CRM; Chertoff, Michael; Whelan, M Edward III; Colborn, Paul P; Burton, Faith; Collins, Dan; Thorsen, Carl; brett_m._kavanaugh@who.eop.gov
Cc:	Herbert, James; Durham, John; Bybee, Jay; Bryant, Dan
Subject:	Re: Call this morning from Jim Wilson re. documents
Attachments:	tmp.htm

[redacted] (b) (5)

Document ID: 0.7.18648.6257

Brett_M._Kavanaugh@who.eop.gov

From: Brett_M._Kavanaugh@who.eop.gov
Sent: Wednesday, February 20, 2002 2:30 PM
To: Whelan, M Edward III
Subject: RE: Call this morning from Jim Wilson re. documents
Attachments: pic28041.pcx

I e-mailed Carl that I agree with you on this issue.

(Embedded
image moved "Whelan, M Edward III" <M.Edward.Whelan@usdoj.gov>
to file: 02/20/2002 02:08:39 PM
pic28041.pcx)

Record Type: Record

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

cc: See the distribution list at the bottom of this message Subject: RE: Call this morning from Jim Wilson re. documents

[redacted] (b) (5) [redacted].

-----Original Message-----
From: Thorsen, Carl
Sent: Wednesday, February 20, 2002 1:36 PM
To: Whelan, M Edward III; Collins, Dan; Chertoff, Michael;
'brett_m._kavanaugh@who.eop.gov'; Burton, Faith; Colborn, Paul P;
Horowitz, Michael-CRM; Martens, Matthew
Cc: 'ppcolborn@aol.com'; Bryant, Dan; Bybee, Jay; Durham, John; Herbert,

James
Subject: RE: Call this morning from Jim Wilson re. documents

Valid point. [redacted] (b) (5) [redacted]

-----Original Message-----
From: Whelan, M Edward III
Sent: Wednesday, February 20, 2002 1:16 PM
To: Thorsen, Carl; Collins, Dan; Chertoff, Michael; 'brett_m._kavanaugh@who.eop.gov'; Burton, Faith; Colborn, Paul P; Horowitz, Michael-CRM; Martens, Matthew
Cc: 'ppcolborn@aol.com'; Bryant, Dan; Bybee, Jay; Durham, John; Herbert, James
Subject: RE: Call this morning from Jim Wilson re. documents

[redacted] (b) (5) [redacted]

-----Original Message-----
From: Thorsen, Carl
Sent: Wednesday, February 20, 2002 12:01 PM
To: Collins, Dan; Chertoff, Michael; 'brett_m._kavanaugh@who.eop.gov'; Burton, Faith; Colborn, Paul P; Whelan, M Edward III; Horowitz, Michael-CRM; Martens, Matthew
Cc: 'ppcolborn@aol.com'; Bryant, Dan; Bybee, Jay; Durham, John; Herbert, James
Subject: RE: Call this morning from Jim Wilson re. documents

[redacted] (b) (5) [redacted] ?

-----Original Message-----
From: Collins, Dan
Sent: Wednesday, February 20, 2002 11:49 AM
To: Chertoff, Michael; 'brett_m._kavanaugh@who.eop.gov'; Burton, Faith; Colborn, Paul P; Thorsen, Carl; Whelan, M Edward III; Horowitz, Michael-CRM; Martens, Matthew
Cc: 'ppcolborn@aol.com'; Bryant, Dan; Bybee, Jay; Durham, John; Herbert, James
Subject: RE: Call this morning from Jim Wilson re. documents

Me too.

-----Original Message-----

Document ID: 0.7.18648.6264

From: Michael Chertoff
Sent: Wednesday, February 20, 2002 11:45 AM
To: brett_m._kavanaugh@who.eop.gov; Burton, Faith; Colborn, Paul P; Thorsen, Carl; Collins, Dan; Whelan, M Edward III; Horowitz, Michael-CRM; Martens, Matthew
Cc: ppcolborn@aol.com; Bryant, Dan; Bybee, Jay; Durham, John; Herbert, James
Subject: RE: Call this morning from Jim Wilson re. documents

Date: 02/20/2002 11:51 am -0500 (Wednesday) From: Michael Chertoff
To: "brett_m._kavanaugh@who.eop.gov@inetgw".WTGATE2.CRMGW; "FBurton".WTGATE2.CRMGW; "PColborn".WTGATE2.CRMGW; "wCThorsen".WTGATE2.CRMGW; "wDCollins4".WTGATE2.CRMGW; "wMWhelan".WTGATE2.CRMGW; Horowitz, Michael-CRM; Martens, Matthew
CC: "ppcolborn@aol.com@inetgw".WTGATE2.CRMGW; "wDBryant".WTGATE2.CRMGW; "wJBybee".WTGATE2.CRMGW; "wJDurham".WTGATE2.CRMGW; "wJHerbert".WTGATE2.CRMGW Subject: RE: Call this morning from Jim Wilson re. documents

I agree with Ed

>>> Whelan, M Edward III 02/20/02 11:39AM >>> 1. (b) (5) [redacted].

2. (b) (5) [redacted].

-----Original Message-----
From: Burton, Faith
Sent: Wednesday, February 20, 2002 11:34 AM
To: Thorsen, Carl; Colborn, Paul P; Whelan, M Edward III; Horowitz, Michael-CRM; Martens, Matthew; Collins, Dan; 'brett_m._kavanaugh@who.eop.gov'
Cc: Bryant, Dan; Chertoff, Michael; Bybee, Jay; Durham, John; Herbert, James
Subject: RE: Call this morning from Jim Wilson re. documents

(b) (5) [redacted].

-----Original Message-----
From: Thorsen, Carl
Sent: Wednesday, February 20, 2002 11:29 AM
To: Colborn, Paul P; Whelan, M Edward III; Horowitz, Michael-CRM; Martens, Matthew; Collins, Dan; 'brett_m._kavanaugh@who.eop.gov'
Cc: Bryant, Dan; Burton, Faith; Chertoff, Michael; Bybee, Jay; Durham, John; Herbert, James
Subject: Call this morning from Jim Wilson re. documents

Jim Wilson left me a message to request a copy of the Harrington memo for use in their deposition of Condon. He indicated that they very much want a copy, but expects he knows what our position will be. He's leaving later today for this meeting, so I presume the depo is tomorrow. (b) (5) [redacted] Please advise.

Also, he indicated they'd like to meet as soon as possible this week, presumably to discuss their need for the other documents. I think its their turn to come down here and Mike C. should probably do this meeting with a few others, agreed?
When is he available?

Carl Thorsen
Deputy Assistant Attorney General
Office of Legislative Affairs
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Message Sent To:_____

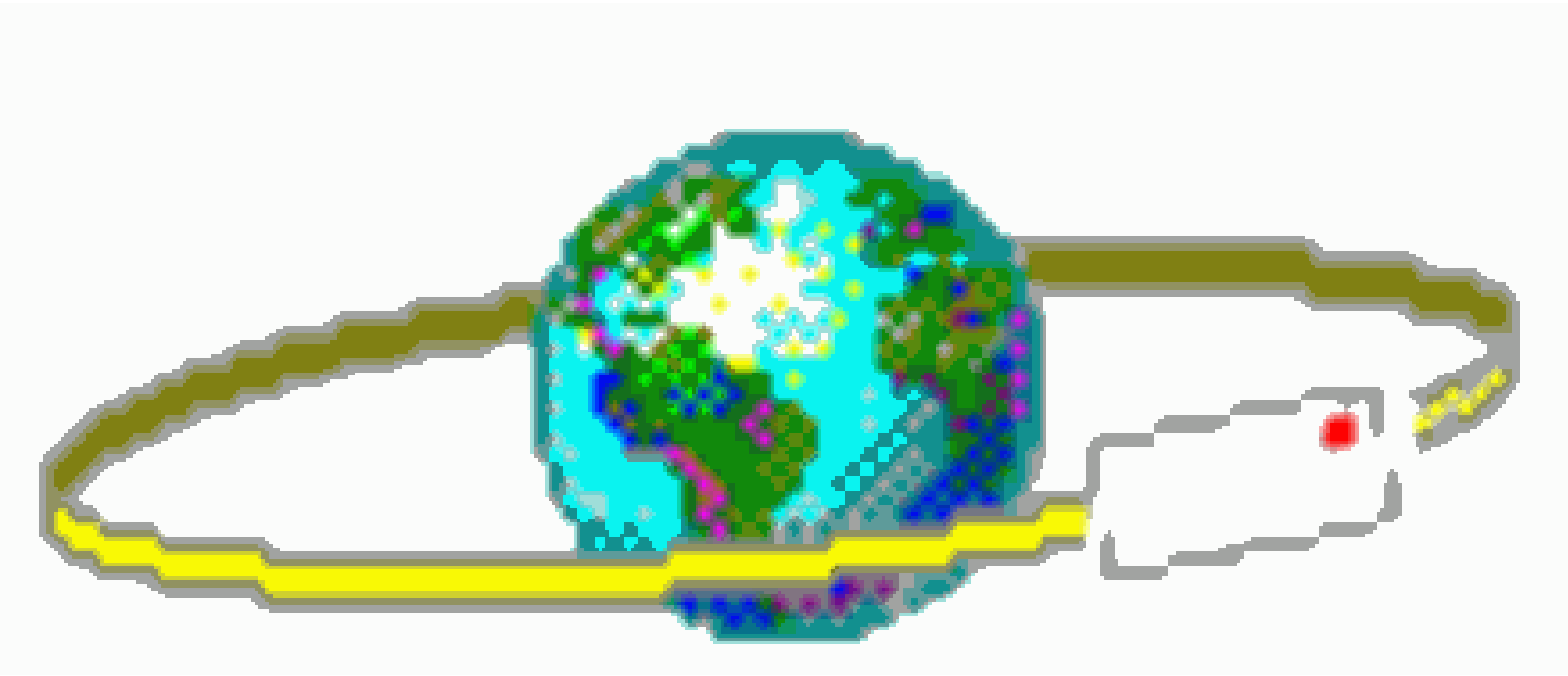
"Thorsen, Carl" <Carl.Thorsen@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)
"Collins, Dan" <Dan.Collins@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)
"Burton, Faith" <Faith.Burton@usdoj.gov> (Receipt Notification Requested)
"Colborn, Paul P" <Paul.P.Colborn@usdoj.gov> (Receipt Notification Requested)
"Chertoff, Michael" <Michael.Chertoff@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)
Brett M. Kavanaugh/WHO/EOP@EOP
"Horowitz, Michael-CRM" <Michael.Horowitz3@usdoj.gov> (Receipt Notification Requested)
"Martens, Matthew" <Matthew.Martens@usdoj.gov> (Receipt Notification Requested)

Document ID: 0.7.18648.6264

Message Copied To:_____

"Bryant, Dan" <Dan.Bryant@usdoj.gov> (Receipt Notification Requested)
"Bybee, Jay" <Jay.Bybee@usdoj.gov> (Receipt Notification Requested)
"Durham, John" <John.Durham@usdoj.gov> (Receipt Notification Requested)
"Herbert, James" <James.Herbert@usdoj.gov> (Receipt Notification Requested)
"'ppcolborn@aol.com'" <ppcolborn@aol.com> (Receipt Notification Requested)

Document ID: 0.7.18648.6264



Thorsen, Carl

From: Thorsen, Carl
Sent: Friday, February 22, 2002 10:27 AM
To: Burton, Faith; Colborn, Paul P; Whelan, M Edward III; Horowitz, Michael-CRM; Martens, Matthew; Collins, Dan; 'brett_m._kavanaugh@who.eop.gov'
Cc: Bryant, Dan; Chertoff, Michael; Bybee, Jay; Durham, John; Herbert, James
Subject: RE: Call this morning from Jim Wilson re. documents -- UPDATE

I spoke with Burton's staff to discuss their bottom line needs for possession of the Harrington memo during depositions.

They feel that the larger issue will take some time to resolve between the brances. In the meantime they propose that we send the redacted Harrington memo up immediately so they can use it in Boston today for the Condon dep, including showing it to him. They will return it to us immediately after the dep and the will agree not to use this as a precedent against us for discussing the larger issue of providing memoranda/um to them.

(b) (5) [redacted]

-----Original Message-----
From: Burton, Faith
Sent: Wednesday, February 20, 2002 11:34 AM





Document ID: 0.7.18648.6273

Brett_M._Kavanaugh@who.eop.gov

From:	Brett_M._Kavanaugh@who.eop.gov
Sent:	Friday, February 22, 2002 12:56 PM
To:	Collins, Dan
Cc:	Thorsen, Carl; Bryant, Dan; Burton, Faith; Bybee, Jay; Whelan, M Edward III; Chertoff, Michael; Horowitz, Michael-CRM; Colborn, Paul P
Subject:	RE: Draft letter to Burton on Condon dep accommodation for review asap
Attachments:	burton.condon.wpd; ATTACHMENT.TXT; pic29807.pcx

I think Dan's suggested revision is good.

(Embedded
image moved "Collins, Dan" <Dan.Collins@usdoj.gov>
to file: 02/22/2002 12:49:52 PM
pic29807.pcx)

Record Type: Record

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

cc: "Thorsen, Carl" <Carl.Thorsen@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested), "Bryant, Dan" <Dan.Bryant@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested), "Long, Linda E" <Linda.E.Long@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)
Subject: RE: Draft letter to Burton on Condon dep accommodation for review asap

[redacted] (b) (5) [redacted] What do others think?

--Dan

Document ID: 0.7.18648.6275

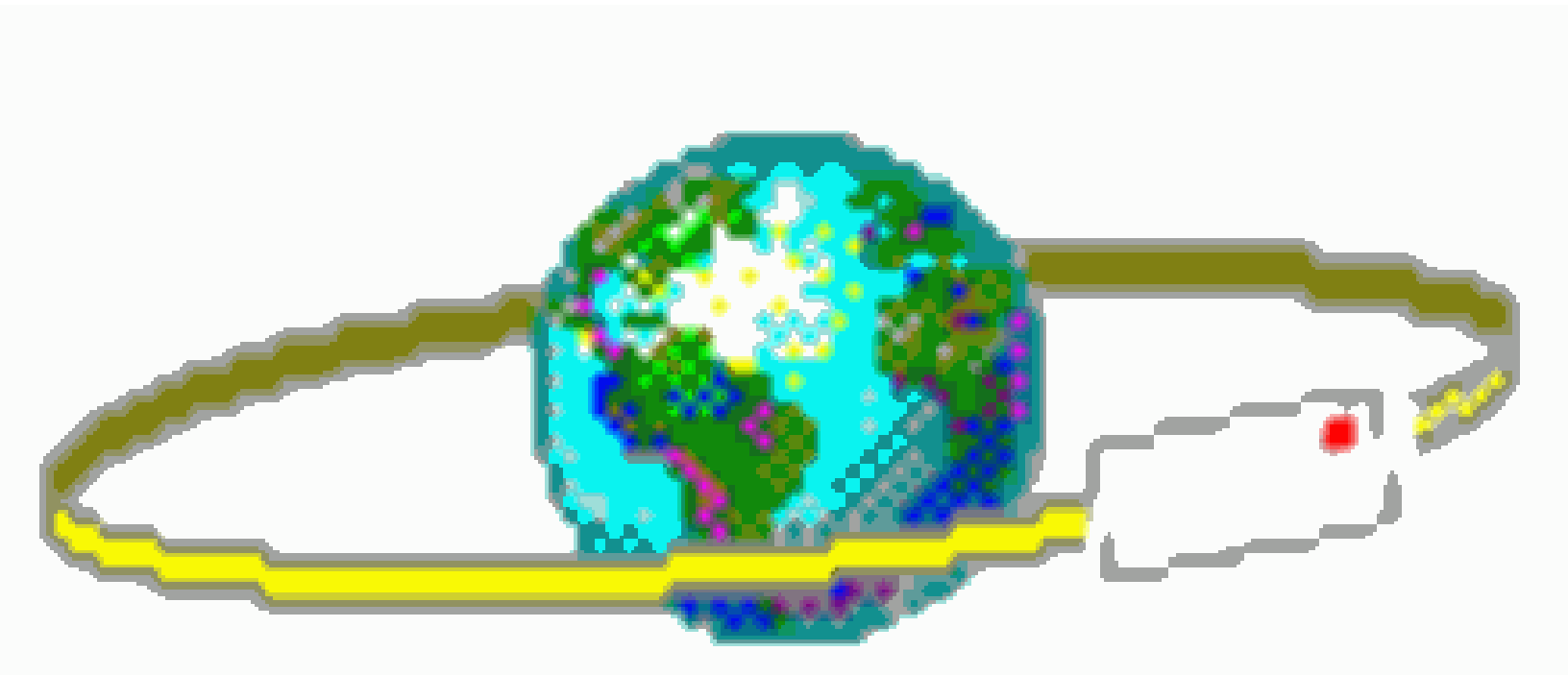
-----Original Message-----
From: Burton, Faith
Sent: Friday, February 22, 2002 12:21 PM
To: 'Brett_M._Kavanaugh@who.eop.gov'; 'attyadv.opca@fbi.gov'; Durham, John; Herbert, James; Chertoff, Michael; Horowitz, Michael-CRM; Bybee, Jay; Whelan, M Edward III; Colborn, Paul P; Collins, Dan
Cc: Thorsen, Carl; Bryant, Dan; Long, Linda E
Subject: Draft letter to Burton on Condon dep accommodation for review asap

The subject dep began at 12 noon today in Boston; our plan is to get this and the document to them by 1 p.m. Thanks. << File: burton.condon.wpd >>

Document ID: 0.7.18648.6275

Message Sent To:_____

"Burton, Faith" <Faith.Burton@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)
"Durham, John" <John.Durham@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)
"Herbert, James" <James.Herbert@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)
"Bybee, Jay" <Jay.Bybee@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)
"Whelan, M Edward III" <M.Edward.Whelan@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)
"Colborn, Paul P" <Paul.P.Colborn@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)
Brett M. Kavanaugh/WHO/EOP@EOP
"'attyadv.opca@fbi.gov'" <attyadv.opca@fbi.gov> (Receipt Notification Requested) (IPM Return Requested)
"Chertoff, Michael" <Michael.Chertoff@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)
"Horowitz, Michael-CRM" <Michael.Horowitz3@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)



Collins, Dan

From: Collins, Dan
Sent: Friday, February 22, 2002 1:08 PM
To: Burton, Faith; Bybee, Jay; Colborn, Paul P; 'Brett_M._Kavanaugh@who.eop.gov'; 'attyadv.opca@fbi.gov'; Durham, John; Herbert, James; Chertoff, Michael; Horowitz, Michael-CRM; Whelan, M Edward III
Cc: Thorsen, Carl; Bryant, Dan; Long, Linda E
Subject: RE: Draft letter to Burton on Condon dep accommodation for review asap

Faith--

This is the old version.

--Dan

-----Original Message-----
From: Burton, Faith
Sent: Friday, February 22, 2002 1:07 PM
To: Collins, Dan; Bybee, Jay; Colborn, Paul P; 'Brett_M._Kavanaugh@who.eop.gov'; 'attyadv.opca@fbi.gov'; Durham, John; Herbert, James; Chertoff, Michael; Horowitz, Michael-CRM; Whelan, M Edward III
Cc: Thorsen, Carl; Bryant, Dan; Long, Linda E
Subject: RE: Draft letter to Burton on Condon dep accommodation for review asap

Here's the revised version, which incorporates changes from Dan and OLC. FB << File: burton.condon.wpd >>

-----Original Message-----
From: Collins, Dan
Sent: Friday, February 22, 2002 1:05 PM
To: Bybee, Jay; Colborn, Paul P; Burton, Faith; 'Brett_M._Kavanaugh@who.eop.gov'; 'attyadv.opca@fbi.gov'; Durham, John; Herbert, James; Chertoff, Michael; Horowitz, Michael-CRM; Whelan, M Edward III
Cc: Thorsen, Carl; Bryant, Dan; Long, Linda E
Subject: RE: Draft letter to Burton on Condon dep accommodation for review asap

Please note that the version I sent erroneously left in the sentence that Jay and Paul noted should be stricken.

-----Original Message-----
From: Bybee, Jay
Sent: Friday, February 22, 2002 1:03 PM
To: Colborn, Paul P; Collins, Dan; Burton, Faith; 'Brett_M._Kavanaugh@who.eop.gov'; 'attyadv.opca@fbi.gov'; Durham, John; Herbert, James; Chertoff, Michael; Horowitz, Michael-CRM; Whelan, M Edward III
Cc: Thorsen, Carl; Bryant, Dan; Long, Linda E
Subject: RE: Draft letter to Burton on Condon dep accommodation for review asap

After talking with Dan and Paul, I agree that Dan's changes make sense. [redacted (b) (5)] .

-----Original Message-----
From: Colborn, Paul P
Sent: Friday, February 22, 2002 12:57 PM
To: Collins, Dan; Burton, Faith; 'Brett_M._Kavanaugh@who.eop.gov'; 'attyadv.opca@fbi.gov'; Durham, John; Herbert, James; Chertoff, Michael; Horowitz, Michael-CRM; Bybee, Jay; Whelan, M Edward III
Cc: Thorsen, Carl; Bryant, Dan; Long, Linda E
Subject: RE: Draft letter to Burton on Condon dep accommodation for review asap

Document ID: 0.7.18648.5012

Dan's changes look good to OLC.

-----Original Message-----
From: Collins, Dan
Sent: Friday, February 22, 2002 12:50 PM

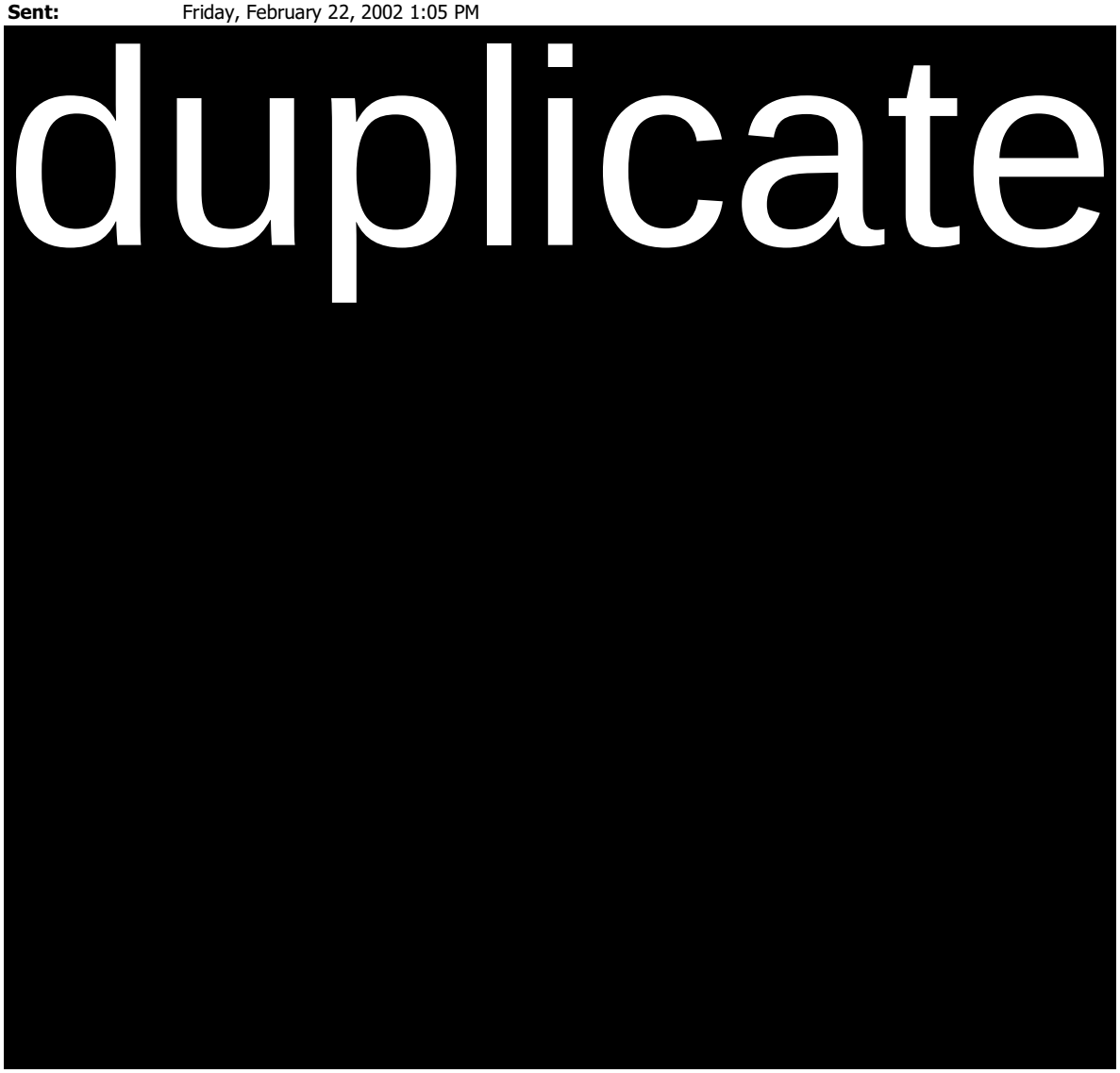


Burton, Faith

From: Burton, Faith
Sent: Friday, February 22, 2002 1:22 PM
To: Collins, Dan; Bybee, Jay; Colborn, Paul P; 'Brett_M._Kavanaugh@who.eop.gov'; 'attyadv.opca@fbi.gov'; Durham, John; Herbert, James; Chertoff, Michael; Horowitz, Michael-CRM; Whelan, M Edward III
Cc: Thorsen, Carl; Bryant, Dan; Long, Linda E
Subject: RE: Draft letter to Burton on Condon dep accommodation for review asap
Attachments: burton.condon.wpd

Revised version.

-----Original Message-----
From: Collins, Dan
Sent: Friday, February 22, 2002 1:05 PM





Document ID: 0.7.18648.5014

Whelan, M Edward III

From: Whelan, M Edward III
Sent: Tuesday, February 26, 2002 11:11 AM
To: 'Kavanaugh, Brett'
Subject: GAO/Cheney

In today's Post, Senator (and assistant majority leader) Reid is quoted as saying, "If the meetings were on the level, the vice president and the president shouldn't have anything to worry about."

(b) (5)

Koffsky, Daniel L

From: Koffsky, Daniel L
Sent: Tuesday, February 26, 2002 2:50 PM
To: 'Brett_M._Kavanaugh@who.eop.gov'
Cc: Whelan, M Edward III
Subject: RE: Hatch Act Coverage

Brett: The recently decided cases, unfortunately, don't add anything beyond our earlier advice. The cases [redacted (b) (5)]. -- Dan

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Wednesday, February 20, 2002 5:30 PM
To: Koffsky, Daniel L
Cc: Whelan, M Edward III
Subject: Re: Hatch Act Coverage

just curious how [redacted (b) (5)] in light of more recent case law defining these kinds of terms; if you could take a look, that would be great.

(Embedded
image moved "Koffsky, Daniel L" <Daniel.L.Koffsky@usdoj.gov>
to file: 02/20/2002 04:08:46 PM
pic24325.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc: "Whelan, M Edward III" <M.Edward.Whelan@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)
Subject: Hatch Act Coverage

Document ID: 0.7.18648.6293

Brett: Ed forwarded an exchange of e-mails from last fall that may address your question. Please let us know if you'd like to pursue any of these points or any additional ones. --Dan

----Original Message-----
From: Whelan, M Edward III
Sent: Thursday, October 18, 2001 3:05 PM
To: 'Brett_M._Kavanaugh@who.eop.gov'
Subject: RE: FW: Hatch Act question

[redacted] (b) (5) [redacted]

I'll follow up with more on [redacted] (b) (5) [redacted].

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Thursday, October 18, 2001 12:32 PM
To: Whelan, M Edward III
Subject: RE: FW: Hatch Act question

[redacted] (b) (5) [redacted]

On your #2, the only question I have is [redacted] (b) (5) [redacted]

(Embedded
image moved "Whelan, M Edward III" <M.Edward.Whelan@usdoj.gov> to file: 10/18/2001 12:09:07 PM pic00416.pcx)

Record Type: Record

Document ID: 0.7.18648.6293

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:
Subject: RE: FW: Hatch Act question

1. [redacted]

a. Therefore, [redacted]

b. Conversely, [redacted]

2. On your [redacted] question: [redacted] Our initial take is [redacted].

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Wednesday, October 17, 2001 3:19 PM
To: Whelan, M Edward III
Subject: Re: FW: Hatch Act question

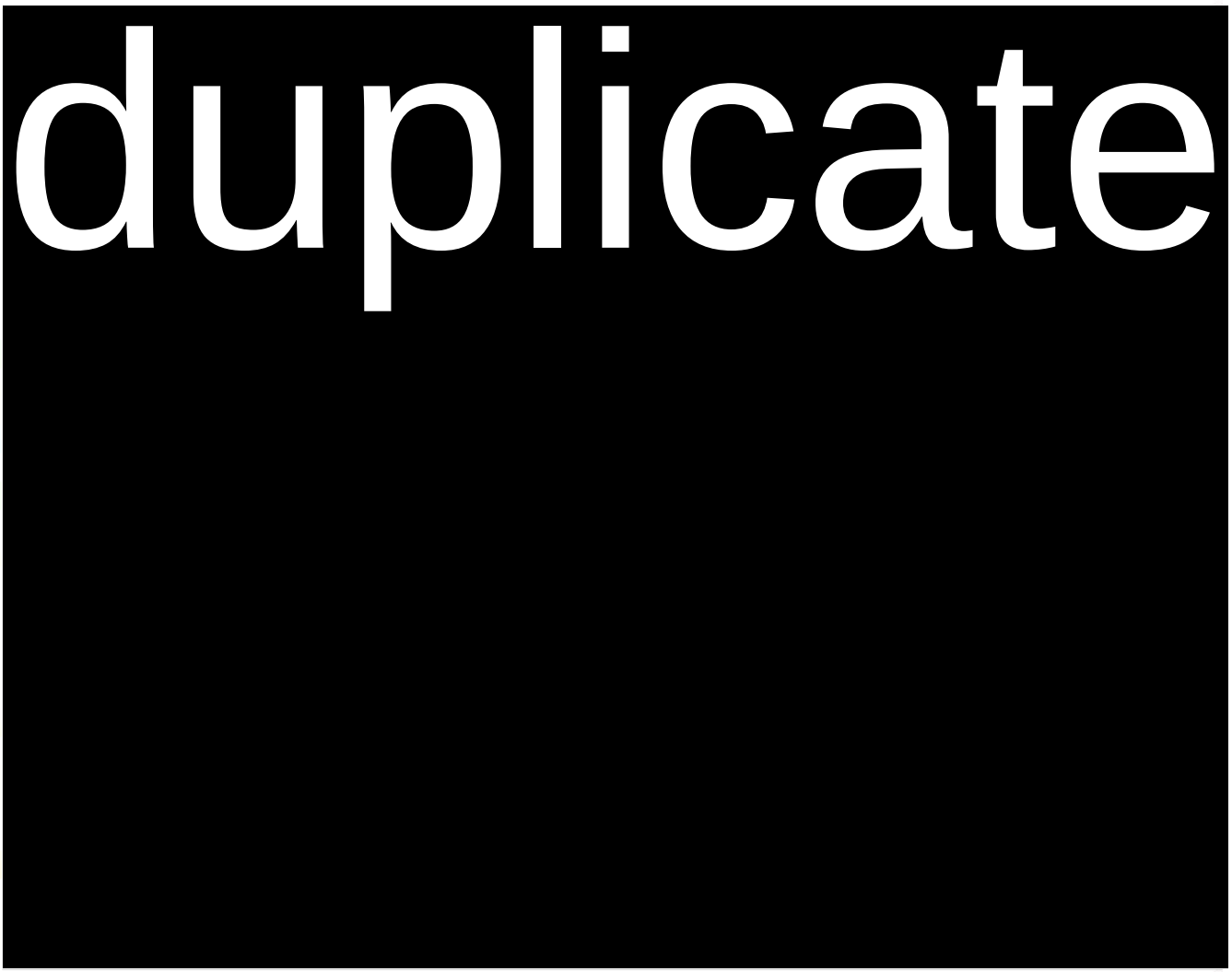
Is it possible [redacted]? Is there [redacted]?

(Embedded
image moved "Whelan, M Edward III" <M.Edward.Whelan@usdoj.gov> to file: 10/17/2001 02:59:36
PM pic08245.pcx)

Document ID: 0.7.18648.6293

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP



Whelan, M Edward III

From: Whelan, M Edward III
Sent: Wednesday, February 27, 2002 1:04 PM
To: 'Kavanaugh, Brett'
Subject: FW: any word back from wh cnsl?

FYI

-----Original Message-----
From: Thorsen, Carl
Sent: Wednesday, February 27, 2002 12:59 PM
To: Colborn, Paul P
Cc: Whelan, M Edward III
Subject: RE: any word back from wh cnsl?

fyi the AP is running with a story that Burton intends to introduce his contempt resolution very soon. the (b) (5) .

-----Original Message-----
From: Colborn, Paul P
Sent: Wednesday, February 27, 2002 11:44 AM
To: Thorsen, Carl
Cc: Whelan, M Edward III
Subject: RE: any word back from wh cnsl?

Ed & I talked to Brett right after our meeting yesterday. He was going to talk to Tim and the Judge and get back to us. We haven't heard back yet.

-----Original Message-----
From: Thorsen, Carl
Sent: Wednesday, February 27, 2002 10:45 AM
To: Colborn, Paul P
Subject: any word back from wh cnsl?

Carl Thorsen
Deputy Assistant Attorney General
Office of Legislative Affairs
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Brett_M._Kavanaugh@who.eop.gov

From: Brett_M._Kavanaugh@who.eop.gov
Sent: Wednesday, February 27, 2002 1:22 PM
To: Colborn, Paul P
Cc: Whelan, M Edward III
Subject: Re: FW: any word back from wh cnsl?
Attachments: pic16087.pcx

yes, I talked to Ed.

(Embedded
image moved "Colborn, Paul P" <Paul.P.Colborn@usdoj.gov>
to file: 02/27/2002 01:09:12 PM
pic16087.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

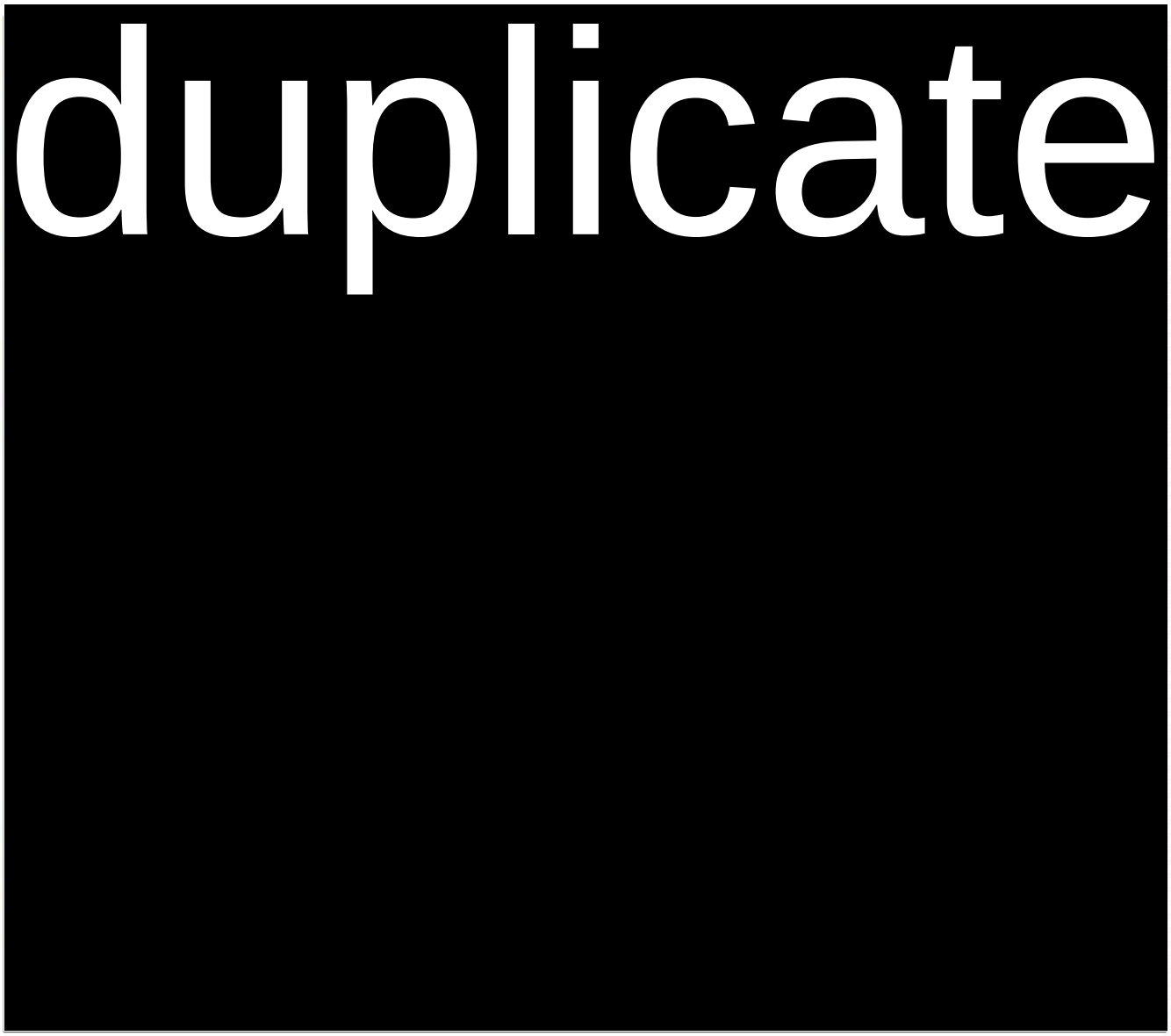
cc: "Whelan, M Edward III" <M.Edward.Whelan@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)
Subject: FW: any word back from wh cnsl?

Brett, does your office have a reaction to [redacted] (b) (5) yet?

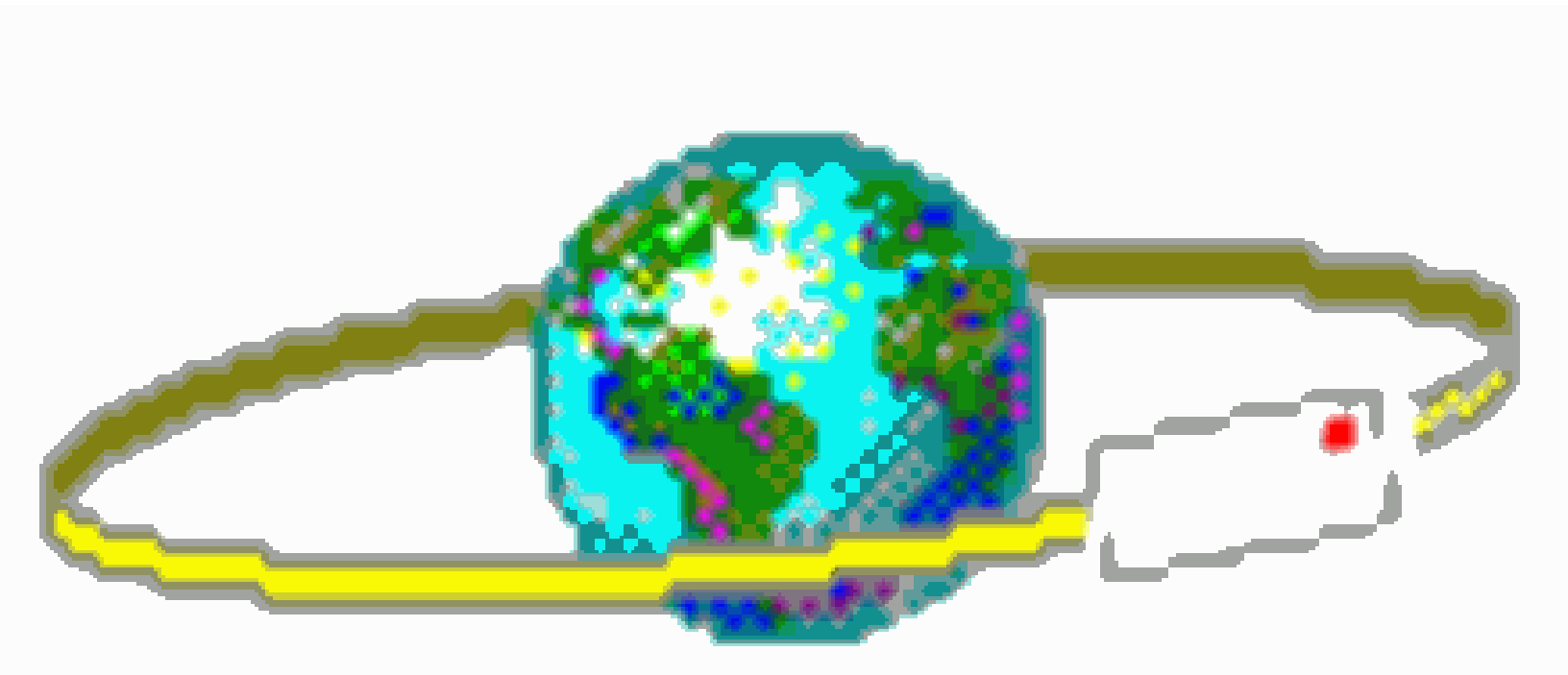
-----Original Message-----
From: Thorsen, Carl
Sent: Wednesday, February 27, 2002 12:59 PM

[redacted] duplicate

Document ID: 0.7.18648.6301



Document ID: 0.7.18648.6301



Brett_M._Kavanaugh@who.eop.gov

From: Brett_M._Kavanaugh@who.eop.gov
Sent: Wednesday, February 27, 2002 2:08 PM
To: Whelan, M Edward III
Subject: AP - Congressman Wants FBI Records
Attachments: ATTACHMENT.TXT

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 02/27/2002 02:07 PM ----------

Anne Womack
02/27/2002 01:37:40 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:
Subject: AP - Congressman Wants FBI Records

---------- Forwarded by Anne Womack/WHO/EOP on 02/27/2002 01:37 PM ----------

Brian Bravo
02/27/2002 01:20:54 PM

Record Type: Record

To:

cc:
Subject: AP - Congressman Wants FBI Records

Congressman Wants FBI Records
By Melissa B. Robinson
Associated Press Writer
WASHINGTON

Document ID: 0.7.18648.6302

?? The chairman of a House committee said Wednesday he may try to hold President Bush in contempt of Congress for failing to turn over Justice Department records on the FBI's handling of mob informants in Boston in the 1960s.

Rep. Dan Burton, R-Ind., chairman of the Government Reform Committee, said during a hearing on the Boston case that his panel's legal staff "is preparing a contempt citation."

If Bush and Attorney General John Ashcroft "continue to be recalcitrant, I hope everyone on this committee will support me in getting the House to move this forward," Burton said.

It's unclear how long Burton will wait for the documents before deciding to bring the citation before his committee for consideration. If he does, and the committee approves it, he would then have to convince the House's Republican leaders to bring the citation against a GOP president to the full House for a vote.

Bush ordered Ashcroft to withhold the documents from the committee in December. He cited executive privilege, a doctrine recognized by the courts that ensures presidents can get candid advice in private without fear it will become public. Bush argued that releasing records could have a chilling effect on prosecutors' willingness to discuss criminal matters.

Committee members of both parties have argued the documents should be released to Congress so it can fulfill its responsibility of monitoring the executive branch's activities.

With regard to the Boston case, they want to ensure that past excesses of the FBI aren't repeated. Among the facts Burton's committee has learned since it began looking into the issue is the FBI's knowledge that an innocent man was convicted of a murder actually committed by an FBI informant.

Comstock, Barbara

From:	Comstock, Barbara
Sent:	Thursday, February 28, 2002 9:52 AM
To:	'Brett_M._Kavanaugh@who.eop.gov'; Whelan, M Edward III
Cc:	Thorsen, Carl; Bryant, Dan; Collins, Dan; Burton, Faith; Bybee, Jay; Martens, Matthew; Chertoff, Michael; Horowitz, Michael-CRM; Colborn, Paul P; 'David_W._Hobbs@who.eop.gov'
Subject:	RE: Burton

I agree

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Thursday, February 28, 2002 9:18 AM
To: Whelan, M Edward III
Cc: Comstock, Barbara; Thorsen, Carl; Bryant, Dan; Collins, Dan; Burton, Faith; Bybee, Jay; Martens, Matthew; Chertoff, Michael; Horowitz, Michael-CRM; Colborn, Paul P; David_W._Hobbs@who.eop.gov
Subject: RE: Burton

Unless others think differently, I tend to agree that [redacted (b) (5)]

(Embedded
image moved "Whelan, M Edward III" <M.Edward.Whelan@usdoj.gov>
to file: 02/28/2002 09:06:01 AM
pic14209.pcx)

Record Type: Record

To: "Thorsen, Carl" <Carl.Thorsen@usdoj.gov> (Receipt Notification Requested)
(IPM Return Requested), Brett M. Kavanaugh/WHO/EOP@EOP

cc: See the distribution list at the bottom of this message Subject: RE: Burton

FYI: Paul (who will not be in until mid-morning) passes along a factual correction: The meeting referred to in the 4th paragraph was on Feb. 25, not Feb. 26.

-----Original Message-----
From: Colborn, Paul P
Sent: Wednesday, February 27, 2002 6:21 PM
To: Thorsen, Carl; 'Brett_M._Kavanaugh@who.eop.gov'
Cc: Bryant, Dan; Collins, Dan; Whelan, M Edward III; Martens, Matthew; Horowitz, Michael-CRM; Bybee, Jay; 'brett_m._kavanaugh@who.eop.gov'; 'dhobbs@who.eop.gov'; Comstock, Barbara; Burton, Faith; Chertoff, Michael
Subject: RE: Burton

Brett has asked me to draft and circulate for everyone's consideration the attached letter to Burton. The letter reflects [redacted (b) (5)].

-----Original Message-----
From: Thorsen, Carl
Sent: Wednesday, February 27, 2002 4:09 PM
To: 'Brett_M._Kavanaugh@who.eop.gov'
Cc: Bryant, Dan; Collins, Dan; Whelan, M Edward III; Martens, Matthew; Horowitz, Michael-CRM; Colborn, Paul P; Bybee, Jay; 'brett_m._kavanaugh@who.eop.gov'; 'dhobbs@who.eop.gov'; Comstock, Barbara
Subject: RE: Burton

Wilson has agreed to our offer to review the 5 memoranda. Majority and minority staff will get access to redacted copies under the supervision of DOJ staff and will be allowed to take notes. All copies will be returned to DOJ staff after they're done reviewing them. Wilson is comfortable with our assurance that only information which is related to an open case or required by law will be redacted, and that we'll be available to answer any questions about the redaction process thereafter. (Please note there is nothing new about this assurance.) Jim indicated that this is "wonderful news", and that he "perceives no (committee) interest in going after the other subpoenaed memoranda" and once they review these memos that "this will all go away".

Dan Bryant plans to call him later today to confirm all of this.

Working with Task Force attorneys we're in the process of finalizing redactions to be made to these documents and anticipate DOJ will be able to make them available to the Committee early next week.

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Wednesday, February 27, 2002 2:13 PM
To: Thorsen, Carl
Cc: Bryant, Dan; Collins, Dan; Whelan, M Edward III; Martens, Matthew;
Horowitz, Michael-CRM; Colborn, Paul P
Subject: Re: Burton

[redacted] (b) (5) ?
[redacted] (b) (5)
[redacted]

(Embedded
image moved "Thorsen, Carl" <Carl.Thorsen@usdoj.gov> to file: 02/27/2002 01:30:46
PM pic11260.pcx)

Record Type: Record

To: "Whelan, M Edward III" <M.Edward.Whelan@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested), "Colborn, Paul P" <Paul.P.Colborn@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested), Brett M. Kavanaugh/WHO/EOP@EOP

cc: "Collins, Dan" <Dan.Collins@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested), "Bryant, Dan" <Dan.Bryant@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested), "Horowitz, Michael-CRM" <Michael.Horowitz3@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested), "Martens, Matthew" <Matthew.Martens@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested) Subject: Burton

as we all know that's easier said than done.

i've provisionally let Committee staff know that the administration might very well be willing to offer review of the 5 memos w/only 6(e), open case, and T# redactions, and asked them to 1) hold off on any statements or releases and 2) think carefully about what they might be willing to offer back to us vis a

vis putting closure to the dispute over these 20 subpoenaed documents (Boston, conrad, howard, middleton).

brett, i'd like to coordinate with you and your WH legis on [redacted] (b) (5) [redacted]

-----Original Message-----
From: Whelan, M Edward III
Sent: Wednesday, February 27, 2002 1:11 PM
To: Thorsen, Carl; Colborn, Paul P
Cc: Collins, Dan
Subject: RE: any word back from wh cnsl?

Just spoke with Brett. [redacted] (b) (5) [redacted].

-----Original Message-----
From: Whelan, M Edward III
Sent: Wednesday, February 27, 2002 1:09 PM
To: Thorsen, Carl; Colborn, Paul P
Subject: RE: any word back from wh cnsl?

Surely Wilson knows we're addressing this. Can't we get him to agree that nothing will happen before a decision is made?

-----Original Message-----

Message Copied To:_____

"Bryant, Dan" <Dan.Bryant@usdoj.gov> (Receipt Notification Requested)
"Collins, Dan" <Dan.Collins@usdoj.gov> (Receipt Notification Requested)
"Bybee, Jay" <Jay.Bybee@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)
"Comstock, Barbara" <Barbara.Comstock@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)
"Burton, Faith" <Faith.Burton@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)
"Colborn, Paul P" <Paul.P.Colborn@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)
"Martens, Matthew" <Matthew.Martens@usdoj.gov> (Receipt Notification Requested)
"Horowitz, Michael-CRM" <Michael.Horowitz3@usdoj.gov> (Receipt Notification Requested)

Brett M. Kavanaugh/WHO/EOP@EOP
David W. Hobbs/WHO/EOP@EOP
"Chertoff, Michael" <Michael.Chertoff@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)

Document ID: 0.7.18648.6316

Comstock, Barbara

From:	Comstock, Barbara
Sent:	Thursday, February 28, 2002 10:21 AM
To:	Bryant, Dan; Whelan, M Edward III; 'Brett_M._Kavanaugh@who.eop.gov'
Cc:	Thorsen, Carl; Collins, Dan; Burton, Faith; Bybee, Jay; Martens, Matthew; Chertoff, Michael; Horowitz, Michael-CRM; Colborn, Paul P; 'David_W._Hobbs@who.eop.gov'
Subject:	RE: Burton

ditto

-----Original Message-----
From: Bryant, Dan
Sent: Thursday, February 28, 2002 10:21 AM
To: Whelan, M Edward III; 'Brett_M._Kavanaugh@who.eop.gov'
Cc: Comstock, Barbara; Thorsen, Carl; Collins, Dan; Burton, Faith; Bybee, Jay; Martens, Matthew; Chertoff, Michael; Horowitz, Michael-CRM; Colborn, Paul P; 'David_W._Hobbs@who.eop.gov'
Subject: RE: Burton

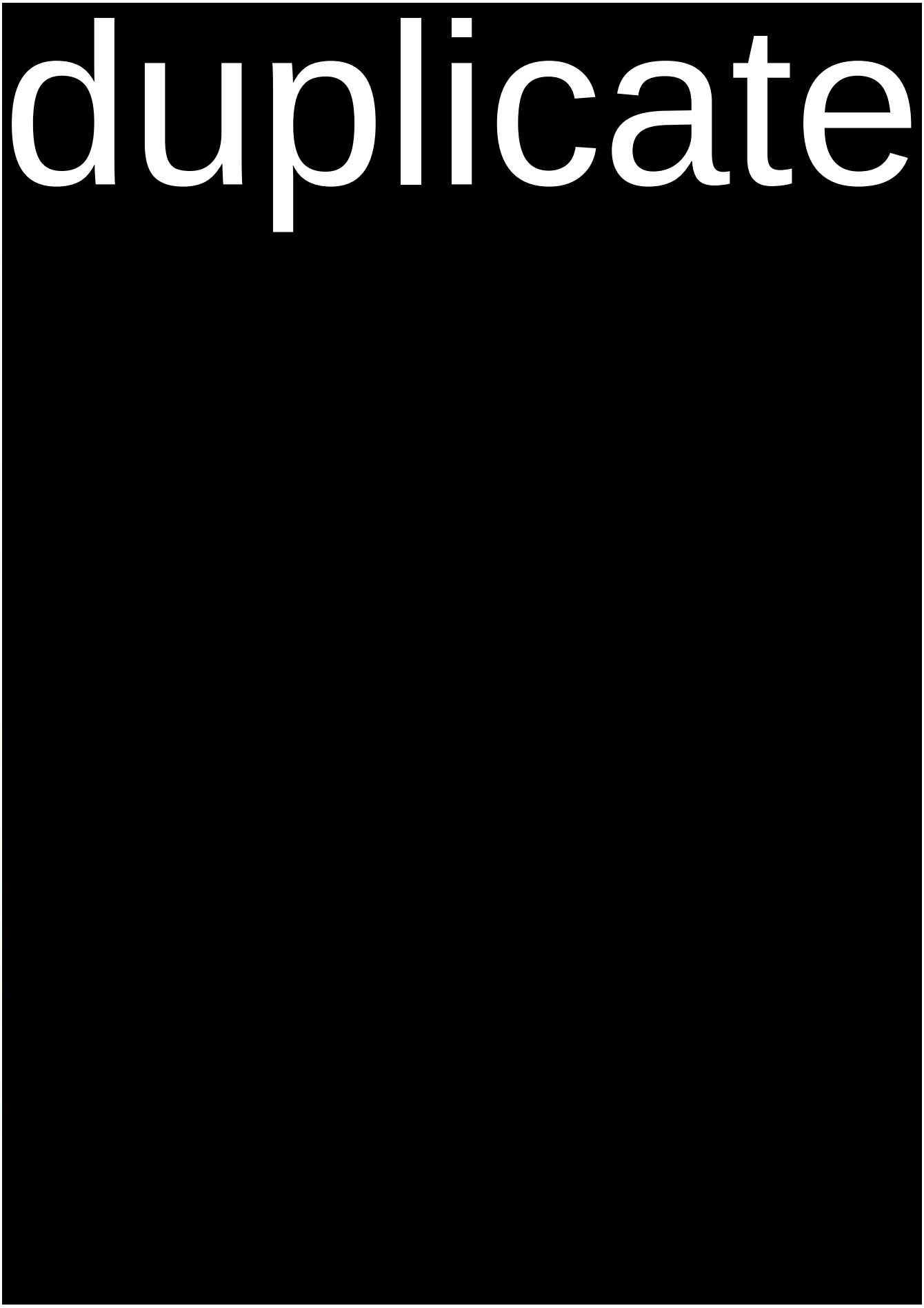
I agree.

-----Original Message-----
From: Whelan, M Edward III
Sent: Thursday, February 28, 2002 9:26 AM
To: 'Brett_M._Kavanaugh@who.eop.gov'
Cc: Comstock, Barbara; Thorsen, Carl; Bryant, Dan; Collins, Dan; Burton, Faith; Bybee, Jay; Martens, Matthew; Chertoff, Michael; Horowitz, Michael-CRM; Colborn, Paul P; 'David_W._Hobbs@who.eop.gov'
Subject: RE: Burton

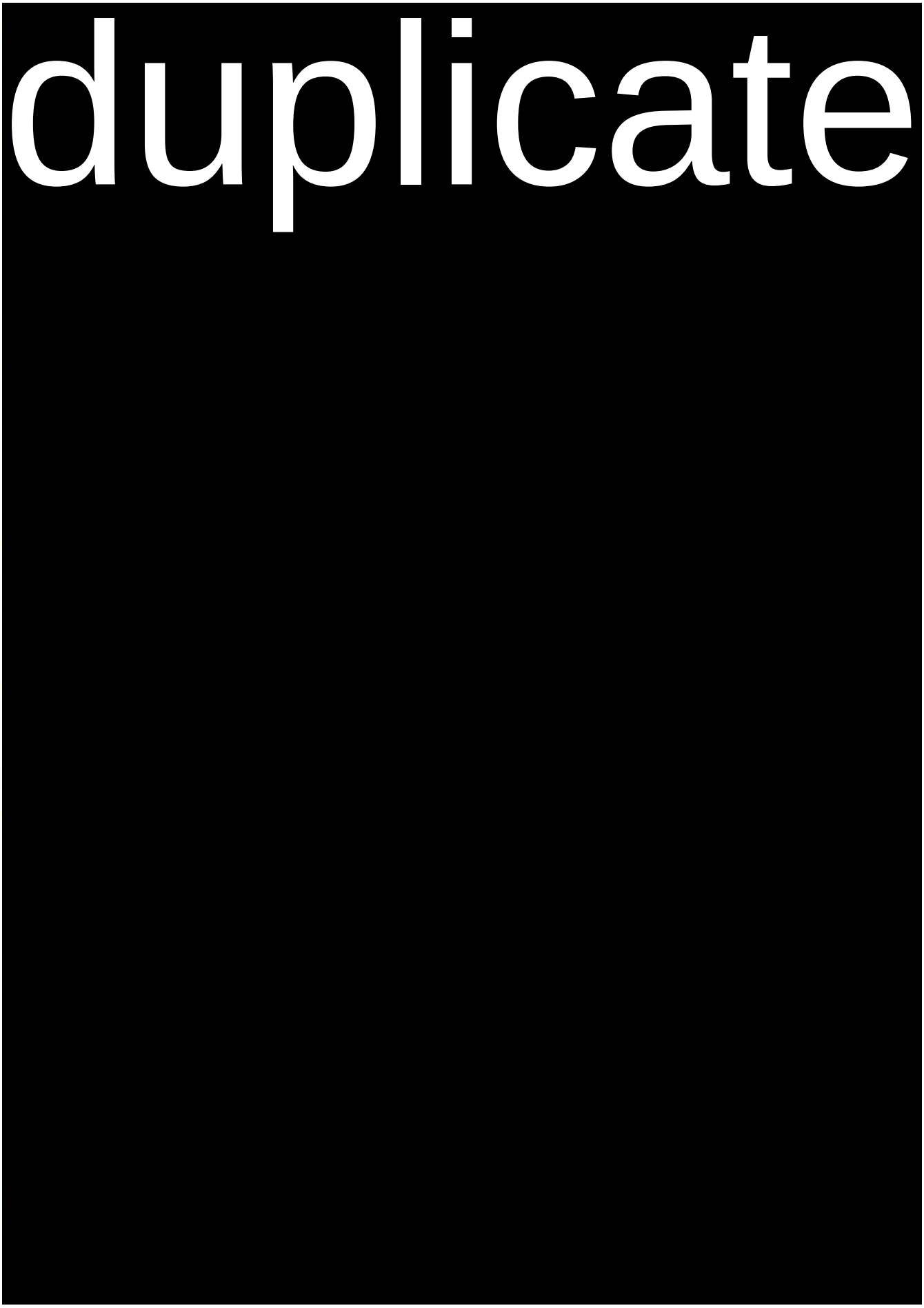
I readily defer to your judgment on this.

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Thursday, February 28, 2002 9:18 AM

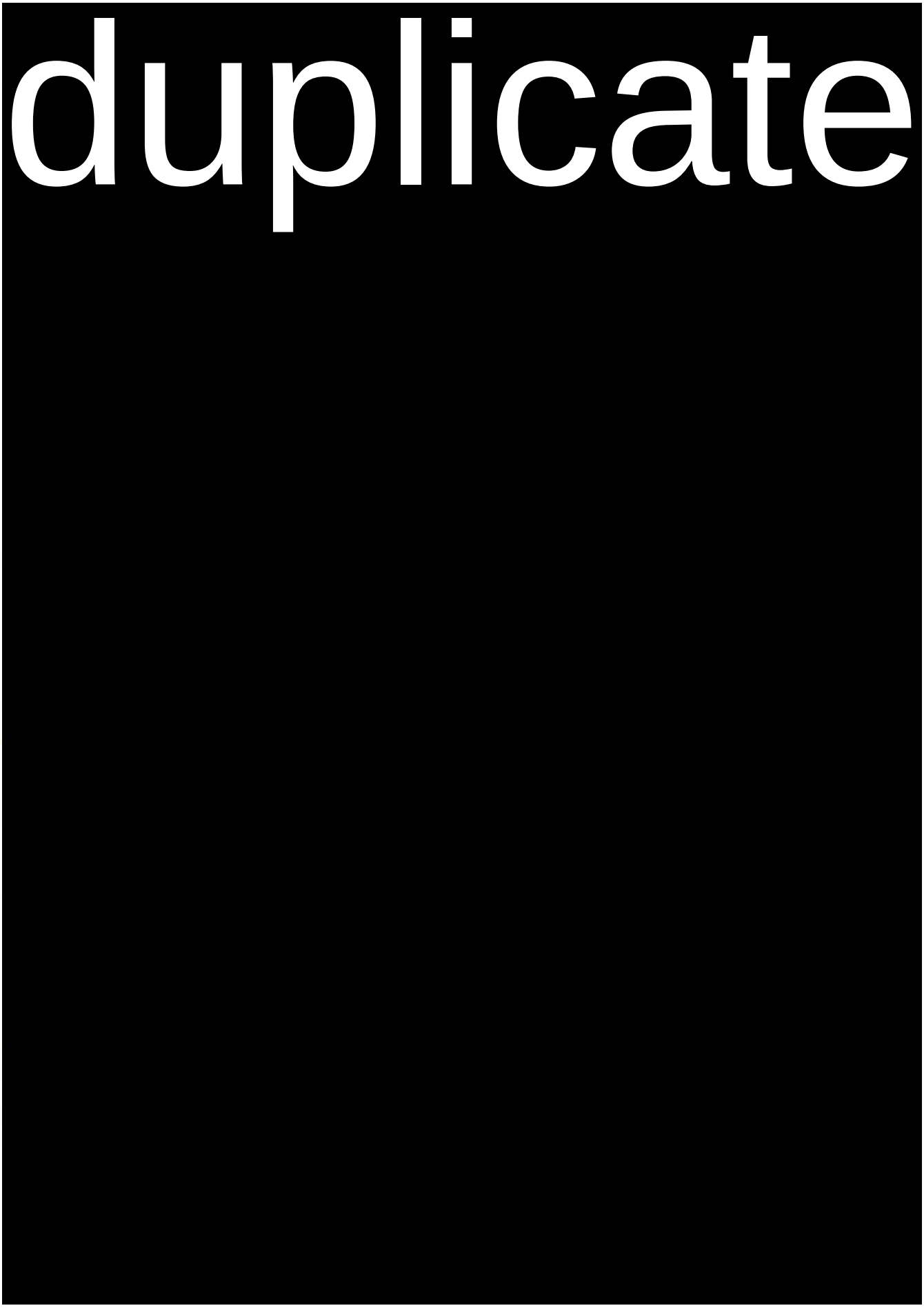
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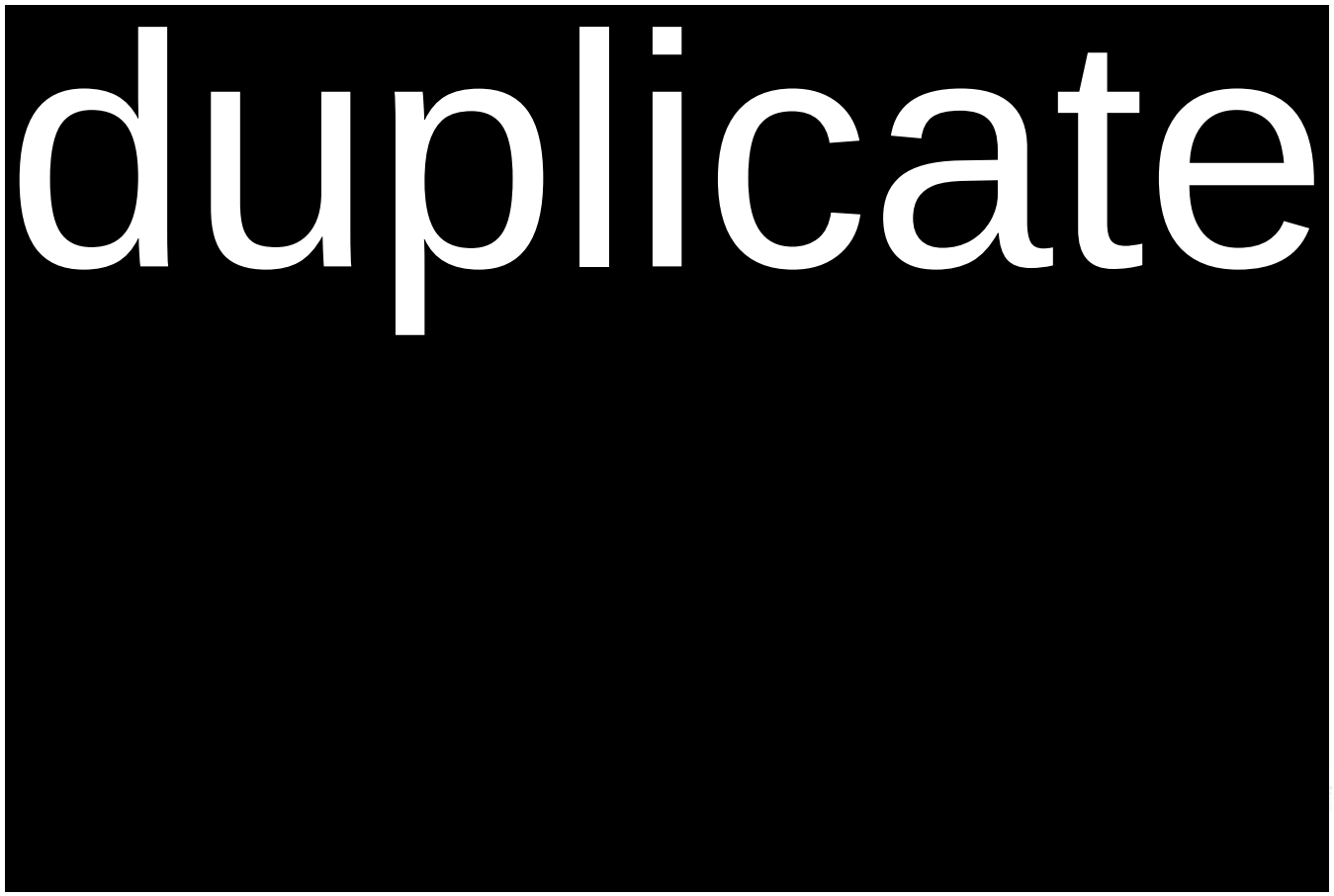
Document ID: 0.7.18648.6305



Document ID: 0.7.18648.6305



Document ID: 0.7.18648.6305



Document ID: 0.7.18648.6305

Goodling, Monica

From: Goodling, Monica
Sent: Thursday, February 28, 2002 11:56 AM
To: 'Brett_M._Kavanaugh@who.eop.gov'; Comstock, Barbara
Cc: Whelan, M Edward III; Thorsen, Carl; Bryant, Dan; Collins, Dan; Burton, Faith; Bybee, Jay; Martens, Matthew; Chertoff, Michael; Horowitz, Michael-CRM; Colborn, Paul P; 'David_W._Hobbs@who.eop.gov'
Subject: Burton stories

Brett - Hi, I'm the senior counsel in Barbara's office at DOJ Public Affairs. Here are some of the relevant Burton stories (b) (5) I'll send a daily email with additions on the subject. Take care.

The Associated Press, February 27, 2002
HEADLINE: Congressman Wants FBI Records
BYLINE: MELISSA B. ROBINSON

Faced with a contempt threat, the Justice Department agreed Wednesday to give a congressional committee records on the Boston FBI's handling of mob informants in the 1960s, the committee chairman said.

"My committee has been investigating this tragic case for over a year," said House Government Reform Chairman Dan Burton. "We've finally reached an agreement with the Justice Department to see the documents we need to see to move forward with this investigation."

A department spokesman declined comment, saying he was reviewing the details.

For now, the agreement settles the showdown between Burton and the White House over its use of executive privilege to shield prosecutorial documents from congressional scrutiny. The dispute had led to charges by both Democrats and Republicans that Bush was trying to run an "imperial" presidency.

At a committee hearing Wednesday, Burton said he might try to hold President Bush in contempt because he and Attorney General John Ashcroft had yet to comply with a subpoena for the documents.

After department officials and committee aides met later, the department agreed to provide five documents in question, the aides said. The committee had sought 10 records, but four were found to be irrelevant to the case or not responsive to the subpoena. One was provided earlier.

Executive privilege is a doctrine recognized by the courts that ensures presidents can get candid advice in private without fear it will become public.

Bush invoked it in December when he ordered Ashcroft not to turn the Boston records over. He argued that releasing the records could have a chilling effect on prosecutors' willingness to discuss criminal matters.

Burton has focused on revelations that Joseph Salvati of Boston spent 30 years in prison for a murder he did not commit even though the FBI had evidence of his innocence.

LOAD-DATE: February 27, 2002

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The Associated Press, February 27, 2002
HEADLINE: Burton drafting contempt citation against Bush to get FBI records from the 1960s
BYLINE: By MELISSA B. ROBINSON, Associated Press Writer

The chairman of a House committee said Wednesday he may try to hold President Bush in contempt of Congress for failing to turn over Justice Department records on the FBI's handling of mob informants in Boston in the 1960s.

Rep. Dan Burton, R-Ind., chairman of the Government Reform Committee, said during a hearing on the Boston case that his panel's legal staff "is preparing a contempt citation."

If Bush and Attorney General John Ashcroft "continue to be recalcitrant, I hope everyone on this committee will support me in getting the House to move this forward," Burton said.

It's unclear how long Burton will wait for the documents before deciding to bring the citation before his committee for consideration. If he does, and the committee approves it, he would then have to convince the House's Republican leaders to bring the citation against a GOP president to the full House for a vote.

Bush ordered Ashcroft to withhold the documents from the committee in December. He cited executive privilege, a doctrine recognized by the courts that ensures presidents can get candid advice in private without fear it will become public.

Bush argued that releasing records could have a chilling effect on prosecutors' willingness to discuss criminal matters.

Committee members of both parties have argued the documents should be released to Congress so it can fulfill its responsibility of monitoring the executive branch's activities.

With regard to the Boston case, they want to ensure that past excesses of the FBI aren't repeated. Among the facts Burton's committee has learned since it began looking into the issue is the FBI's knowledge that an innocent man was convicted of a murder actually committed by an FBI informant.

LOAD-DATE: February 28, 2002

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The Boston Globe, February 27, 2002
SECTION: NATIONAL/FOREIGN; Pg. A3
HEADLINE: UNLIKELY FRIENDS, ENEMIES BURTON PROBE RILES BUSH, WINS

PRAISE FROM DEMOCRATS
BYLINE: By Wayne Washington, Globe Staff

WASHINGTON - Dan Burton is a conservative Republican who has been liberal in his scorn for Democrats.

Few Republicans in Congress are seen by their Democratic counterparts as more partisan, more scandal-raking than Burton, a 10-term representative from Indiana. As chairman of the House Committee on Government Reform, he has conducted hearings on Bill Clinton's White House and presidential pardons, Democratic fund-raising, and the Clinton administration's handling of the FBI raid in Waco, Texas.

So how come Massachusetts Democrats have started saying such nice things about Burton? Representative William D. Delahunt of Quincy calls him "passionate." Representative Barney Frank of Newton says some of Burton's recent actions have been "impressive."

The surprising praise stems from Burton's investigation into how the false testimony of a murderous FBI informant sent four men to prison in 1967 for slaying Edward "Teddy" Deegan in Chelsea, a crime they did not commit. Two of the men died in prison. Two served about 30 years each before their convictions were overturned.

Burton will continue digging into the case today, when another committee hearing is scheduled.

For more than a year now, the Government Reform Committee has trained a sharp focus on what the FBI knew about the informant, the lengths it went to protect him, and its willingness to allow innocent men to be imprisoned on testimony the agency knew to be false. That focus has put Burton at odds with the Justice Department and the Bush White House.

Delahunt, a former Norfolk County district attorney with an interest in the case, says he originally preferred to have the House Judiciary Committee do the investigating. Three Massachusetts congressmen - Delahunt, Frank, and Martin T. Meehan - serve on Judiciary, and they would have surely gotten involved in a Boston-related case.

Republicans control the House, however, and that panel's Republican chairman, F. James Sensenbrenner Jr. of Wisconsin, had little interest in pursuing a case that would almost certainly be a headache for the Bush administration.

To the surprise of many Democrats, Burton pressed ahead. He decided to conduct hearings and invited the Massachusetts Democrats to participate. The invitation was more than mere congressional courtesy. Delahunt, for example, was dispatched to Boston last week to take the deposition of a retired FBI agent who declined to travel to Washington to provide testimony.

Delahunt said his working relationship with Burton has been terrific. "He's treated me with respect, and we've gotten full cooperation," Delahunt said.

Mark Corallo, spokesman for the Government Reform Committee, said fairness and justice are Burton's main interests.

"Contrary to popular belief, the chairman has always believed you have to look at the issues objectively," Corallo said. Democrats "know he's still a conservative Republican, but there are instances where everybody can come together," he said.

Document ID: 0.7.18648.6306

Well, not everybody.

The Justice Department has refused to comply with a committee subpoena for FBI records in the case. President Bush has issued an order contending that executive privilege allows his administration to keep the documents secret.

That position has infuriated Burton, who contends officials at the highest levels of the FBI, including then-director J. Edgar Hoover, knew the men being convicted were not guilty.

"He knew it, and his name should not be emblazoned on the FBI's headquarters," Burton said on "60 Minutes" last month. "We ought to change the name of that building."

Such fiery rhetoric is typically aimed at Democrats.

"Burton's willingness to take on the Bush administration has been impressive," Frank said. "His willingness to go after the memory of J. Edgar Hoover is impressive."

In the past, Frank has been one of Burton's sharpest critics.

"I thought his Clinton stuff was wacky," he said. "I'm critical of his positions. I'm less critical now of his motives."

Frank said he's particularly struck by the timing of Burton's actions.

"We've been in this atmosphere where we're giving more power to law enforcement," Frank said. "We should give law enforcement more power. They're the good guys. They're protecting us. But Burton is showing what can happen when that power is abused."

Still, some Democrats squirm at the news that Burton is getting praise from members of their party. Frank said colleagues have told him, "Don't be so nice to the guy."

Frank said he and his Massachusetts colleagues are giving praise where praise is due.

"Yes, I dislike Dan Burton," Frank said. "If he went back to doing some of the Clinton stuff, I'd be critical. But what goal is served by not encouraging him to go after these FBI abuses? Why would I not want to encourage that?"

Delahunt said he has sensed no reluctance from Burton about confronting the administration.

"In my mind, Dan Burton has proven himself beyond any reasonable doubt that he's interested in the facts of this case," Delahunt said.

Corallo, the Government Reform Committee spokesman, said Burton, who spent last week at home in Indiana with his sick wife, feels vindicated by the praise of Democrats. The relationship between Burton and Democrats has gone a long way toward bridging a partisan gap that developed during the Clinton administration, Corallo said.

"When you can start smiling at each other in the halls again, that's nice," Corallo said.

GRAPHIC: PHOTO, AP PHOTO

LOAD-DATE: February 27, 2002

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Document ID: 0.7.18648.6306

Knight Ridder Washington Bureau, February 26, 2002, Tuesday
HEADLINE: Bush White House, Congress in a Tug-of-War over Balance of Power
BYLINE: By James Kuhnhenn

WASHINGTON -- The Bush White House provoked a major lawsuit and is angering even its political allies in a campaign to increase its control over federal spending and public information.

At stake are public access to White House deliberations, the fate of federal projects in communities across America, and the ever-shifting balance of power between Congress and the presidency.

Last week, the General Accounting Office, the investigative arm of Congress, sued Vice President Dick Cheney to learn who participated in meetings he chaired while formulating the administration's energy policy.

The suit was the latest move in a series of clashes that illustrate the administration's determination to reverse what it believes is a decades-long erosion of presidential authority.

Congress is fighting back on other fronts as well.

Some influential lawmakers, including senior Republicans, are bristling at efforts by the White House Office of Management and Budget to limit spending on projects in their home districts. And when the White House rejected a request by Rep. Dan Burton, R-Ind., for Justice Department documents on organized crime dating to 1967, Burton threatened to hold President Bush in contempt of Congress.

Power struggles between Congress and the White House date to the nation's founders. But the current quarrels are distinguished by the administration's unyielding stance and the bipartisan furor it has aroused.

They are especially noteworthy given a president who promised an administration characterized by openness and affability.

"It's hard to be an open populist when you're trying to protect presidential power," said Marshall Wittmann, a Republican strategist and fellow at the Hudson Institute, a conservative policy research center.

But for Cheney and Bush, fortifying the presidency is as much a policy goal as cutting taxes and building up the nation's defenses.

"One of the things that I feel an obligation on, and I know the president does, too ... is to pass on our offices in better shape than we found them," Cheney said recently on ABC's "This Week." "We are weaker today as an institution because of the unwise compromises that have been made over the last 30 or 35 years."

That view has brought the GAO lawsuit and the thundering contempt-of-Congress threat from Burton, the chairman of the House Government Reform Committee.

It has also led to a confrontation over what many lawmakers maintain is their fundamental right under the Constitution -- the power to decide how to spend taxpayers' money.

The White House and its budget office are out to limit Congress' practice of adding to spending legislation special projects for the folks back home.

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Upon delivering the budget to Congress earlier this month, White House Budget Director Mitchell Daniels declared that such spending "has gotten out of hand." The administration took a swipe at Congress in the budget document, singling out an $ 80,000 grant to a Wisconsin county sheriff's department for the purchase of an Ice Angel Windsled, used for winter rescues on frozen Lake Superior.

It was no coincidence that the Republican Bush administration zeroed in on a project championed by the ranking Democrat on the Appropriations Committee, Wisconsin's David Obey. Obey was furious.

But Daniels had angered Republicans, too. To make up for a shortfall in a federal education program, he wanted to eliminate hundreds of health and education projects that members inserted into spending legislation last year.

Appropriations Committee Chairman Bill Young, R-Fla., fumed.

"All wisdom on the allocation of federal grant funding does not reside in the executive branch," he wrote Daniels on Feb. 6. "Unless the Constitution is amended, Congress will continue to exercise its discretion over federal funds and will earmark those funds for purposes we deem appropriate."

National moods, scandals and the personalities of the individuals occupying the White House have dictated the power swings from White House to Congress over the years. Congress was at its peak of power in the post-Watergate period.

"As time has passed, it has swung back to the executive," said Gary Bass, executive director of OMB Watch, a research group that advocates openness in government. "And this administration has put much greater stock in protecting executive turf."

In the end, the Bush White House may not win all these confrontations. But by drawing a line across Pennsylvania Avenue and daring Congress to cross it, Bush and Cheney have done more to assert presidential power than previous administrations.

But the White House faces significant political risks. The public may be more likely to believe that a president is hiding something rather than protecting a constitutional principle.

Among the energy industry executives who advised Cheney last year was Kenneth Lay, then Enron Corp. chairman, and a major fund-raiser for Bush's presidential campaign. By fighting the GAO, the White House gives fuel to critics who say that Cheney, a former energy company executive himself, was drafting a policy to benefit the administration's industry friends.

Others say that Enron and energy policy aside, a successful White House stand could dramatically alter how Congress performs its job as a check on the executive branch.

"This could have huge, huge policy implications," said Bass of OMB Watch. "I do believe that Cheney and the White House are pursuing a principled issue on the energy task force. ...This is beyond Enron and the work of the Cheney task force. This is an issue about executive power."

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The Washington Post, February 26, 2002, Tuesday, Final Edition
SECTION: A SECTION; Pg. A19; WHITE HOUSE NOTEBOOK DANA MILBANK

Document ID: 0.7.18648.6306

HEADLINE: Pizza Crust, Principles and Politics
BYLINE: Dana Milbank

It was the modern political equivalent of Moses and the Burning Bush. On Inauguration Day 2001, Bush presidential aides entered the White House to discover the Miracle of the Warm Pizza Crust.

The famous crust was found, appropriately enough, in a pizza box that had been left on a desk when a Bush aide arrived for work on the new administration's first day. The discovery was included in a list of alleged vandalism of White House offices by departing Clinton aides, furnished by the Bush White House to the investigative arm of Congress, the General Accounting Office. But when presented with the warm-crust allegation, Clinton officials pointed out that no Clinton aides assigned to that office were even in the White House complex after Jan. 19 -- the day before inauguration.

This means that even if the Clinton aides left at midnight the night before and the Bush aides showed up at noon on Inauguration Day, the pizza crust stayed warm for 12 hours.

That the Bush administration would cooperate so freely in the GAO investigation of such matters as pizza temperature in the Clinton White House stands in stark contrast to the administration's stand against another GAO investigation, this one involving Vice President Cheney's energy task force. In protecting the identities and requests of outsiders who met with the task force, top White House officials have indicated they may challenge the constitutionality of the law empowering the GAO -- a move that, if successful, would pretty much put the 80-year-old office out of business.

In the GAO's Clinton vandalism probe, due to wrap up in April, the Bush administration has furnished the agency with a list of allegations.

"We are saddened that especially after the events of September 11, 2001, the White House continues to push this matter," two former Clinton aides in charge of White House administration, Mark Lindsay and Mike Malone, wrote to the GAO last month.

Lindsay and Malone pointed out some apparent flaws in the catalogue of Clinton vandalism, including the Warm Pizza Crust incident. The Bush team gave the GAO a photo of a dirty room in the White House complex, but the Clinton aides wrote that "the office featured in the photograph was vacated at least one week prior to Inauguration Day, and had been in fact completely cleaned by the morning of January 20th."

Then there was the case of Room 145 in the building next to the White House. The Bush administration said "historical artifacts" had been taken from the office. "We understand that at least one of the artifacts, an historic fireplace mirror, can be found hanging over the fireplace in [Bush] Chief of Staff [Andrew H.] Card's office," Lindsay and Malone wrote.

The GAO itself, in its suit filed last week against Cheney over the energy task force records, argues that the White House worked to "facilitate the investigation" into alleged Clinton vandalism. The suit points out that before President Bush came to office, "the executive branch has complied with countless GAO requests for information." The Clinton White House gave GAO the names of outside consultants who met with its health care task force and "thousands of documents" from a task force on trade relations with China.

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Even the Nixon administration, no standard of transparency, relented during the Watergate years when the GAO wished to examine White House records. "To litigate the GAO's authority would bring only negative publicity and defeat," former Nixon counsel John Dean has said.

Apples and oranges, says the Bush White House. Previous GAO requests did not involve requests for information about meetings of the president or vice president, Bush aides say, while the current request is for meetings held by Cheney in his role as head of the task force. "This would be something we've never seen before," a senior Bush aide says.

But that principle is a bit murky. While the GAO had not previously asked the current White House for information regarding the contacts of the president or vice president, the Bush White House has been quick to relinquish to Congress such information from the Clinton White House.

Last September, Rep. Dan Burton (R-Ind.), chairman of the House Government Reform Committee, asked for e-mails from the Clinton White House to see whether campaign contributors had inappropriate influence over President Bill Clinton and Vice President Al Gore. The National Archives, noting that Bush "agreed to this release," turned over 2,000 pages of e-mails two months later, including those to Gore from his staff and between senior Gore staff.

Also last year, Bush raised no objection to handing over to Burton's committee 2,475 pages of Clinton documents related to the Marc Rich pardon -- including phone records, a list of visitors cleared to enter the White House and notes of Clinton conversations with a foreign leader.

Clinton did not object. But such flexibility was learned the hard way. Lanny Davis, who was Clinton's special counsel, says Bush is right to stiff the GAO, and Clinton was right to try to block earlier congressional "encroachments," too. Problem is, it never works.

"Been there, done that," Davis said. "We abandoned principle under the pressure of politics, and unfortunately, that's going to happen here."

LOAD-DATE: February 26, 2002

Document ID: 0.7.18648.6306

Goodling, Monica

From: Goodling, Monica
Sent: Friday, March 01, 2002 4:29 PM
To: 'Brett_M._Kavanaugh@who.eop.gov'; Comstock, Barbara
Cc: Whelan, M Edward III; Thorsen, Carl; Bryant, Dan; Collins, Dan; Burton, Faith; Bybee, Jay; Martens, Matthew; Chertoff, Michael; Horowitz, Michael-CRM; Colborn, Paul P; 'David_W._Hobbs@who.eop.gov'
Subject: New Burton stories

Salon.com, March 2, 2002 Saturday
HEADLINE: A Democratic senator goes nuclear on the White House
BYLINE: By Jake Tapper

HIGHLIGHT:
Nevada's Harry Reid talks with Salon about why he joined the GAO lawsuit against Dick Cheney and why he called George W. Bush a liar.

BODY:

It's nuclear war. Or nuclear waste war, at any rate. It began on Feb. 15, when President Bush announced that he would formally recommend Yucca Mountain, 100 miles northwest of Las Vegas, as the site where the United States would bury its nuclear waste. And it has accelerated this week, as Sen. Harry Reid of Nevada, the No. 2 Democrat in the Senate, filed a "friend of the court" brief with the General Accounting Office's lawsuit against Vice President Dick Cheney. The GAO -- and Sen. Reid -- want to know more about the private meetings Cheney held with energy executives as the administration was developing its energy policy.

That information, Reid believes, will explain the Yucca Mountain decision. "President Bush has broken his promise," said an angry Reid shortly after the White House decision. "All Americans should be concerned, not just because he lied to me or the people of Nevada and indeed all Americans, but because the president's decision threatens American lives."

The next day, according to a knowledgeable source, White House chief of staff Andrew Card called Reid three times to discuss why the senator had called the president a liar. Reid did not return any of the calls. But Reid obviously stands by his words. During the presidential campaign, Bush assured Nevada's citizens that he would not ship nuclear waste to any proposed site "unless it's been deemed scientifically safe" -- a vow, says Reid, that he made to win Nevada, a state whose electoral votes he desperately needed (and ended up carrying by just 3.4 percent).

Nevada politicians have long fought attempts to turn their state into a dumping ground for the 77,000 tons of nuclear waste stockpiled throughout the country (as well as the 2,000 tons of new waste generated each year). Since Congress picked Nevada's Yucca Mountain as a nuclear waste site in 1987, more than $4 billion has been spent, by some estimates, on studying the suitability of the site. Energy Secretary Spencer Abraham told reporters, "It is my strong belief the science supports the safe use of this repository." But Reid cites the General Accounting Office, the Inspector General of the Department of Energy, the Inspector General of the Nuclear Regulatory

Commission, and the Nuclear Waste Technical Review Board as all having raised various concerns about the decision to proceed with the Yucca Mountain site.

The decision is anything but final; GOP Nevada Gov. Kenny Guinn has 60 days to object to the decision; he is expected to formally file his objections to the choice by April. Congress will then have approximately three months to override Guinn's objections, which promises to be a tough fight.

In the meantime, Reid is convinced that the task force list will explain what went wrong. "There is no question that Vice President Cheney met on several occasions with nuclear power executives," Reid said on Monday. He charged that after energy executives met with Cheney's task force, Bush "flip-flopped on the issue, and I think these meetings had something to do with it."

The White House vehemently denies Reid's assertions. "The president made the right decision for the country, after a thorough review by the EPA and the Department of Energy found the site to be scientifically safe," White House spokesman Scott McClellan told Salon. "As far as the issue of the lawsuit, we welcome the opportunity to fight for the important principle of the president being able to get open and candid advice to make sound public policy decisions."

On Thursday afternoon, Salon talked with Sen. Reid about the growing legal battle with the White House.

It's a fairly bold move, suing the administration. How did you make this decision?

I feel that President Bush was elected president of the United States because he carried Nevada. And he carried Nevada in an unusual way. He came to Nevada once during the entire campaign. He came to Lake Tahoe. And he refused to answer questions from reporters because of the nuclear waste issue. Al Gore was way out in front on the nuclear waste issue, and he was way out in front in state polls. So later in the campaign Bush sent Cheney to the state a couple times to say that they would be just like Clinton and Gore on the issue and the decision would be only based on sound science.

Since then there have been scientific reports about Yucca Mountain. GAO reported that there are 292 investigative reports about the site that have not been done. The Nuclear Waste Review Board has said that the science surrounding the decision to store waste at Yucca Mountain is poor. But Energy Secretary Abraham has said the opposite.

There is an absolute, determined conflict of interest at the Department of Energy because Spence Abraham gets legal advice from the law firm Winston and Strawn, which is also advising the Nuclear Energy Institute, which is the umbrella for the nuclear power industry.

Anyway, the reason I've taken this step is because I feel that the president misled the state of Nevada. He didn't tell the truth. I also believe that the meetings Vice President Cheney had with energy executives where he came up with the energy policy of this country could have been a determining factor in the recommendation President Bush gave about Yucca Mountain . We do know that Cheney met with a significant number of nuclear power generators. We want to find out who he met with, what happened in the meetings, what they discussed.

The Democrats in the Senate and the House have been criticized by some commentators for being timid in their criticisms of Bush and Cheney. You, on the other hand, are suing them.

Here's how I feel about that: I know a war is going on. I understand that; I appreciate that.

Document ID: 0.7.18648.6311

And I think the Democratic leadership has been coming together to try to solve our problems. But despite the war going on, this is not a dictatorship. The government is three separate but equal branches of government. I have just as much of a right to speak out as the president does. The fact that he's popular right now doesn't mean I won't speak out about things I disagree with him on.

What's been the reaction from your fellow Democrats to the lawsuit?

I have heard from my friends in just the last few days. They've told me that they're glad I did it. It's kind of "Follow me, I'm right behind ya."

Any reaction from Republican colleagues?

I haven't had any of those coming over and patting me on the back.

There are risks involved in suing the administration. You might be known as litigious. Might be dismissed that way. Have any political consultants expressed to you a fear of your becoming the **Dan Burton** of the Senate?

No, that doesn't bother me. I'm a lawyer; I've been to court lots and lots of times. It was my business 20 years ago. I try to be judicious when I criticize courts or when I attempt in some manner to use the courts.

Do you actually suspect that something fishy occurred during those energy task force meetings?

Of course I do, absolutely. I think this administration is so tight with the oil companies and the powerful utilities in our nation that we have an energy policy that's been dictated through Cheney that is now the word on the street that the administration is pushing. Sure it's fishy. Why are they refusing to give us this information? If it isn't fishy then it appears fishy just because they won't give us the stuff.

Now Bush supporters behind the scenes are arguing that Congress has exempted itself from many of the laws requiring the disclosure of deliberative advice, the Freedom of Information Act, and other sunshine laws that require politicians to disclose whom they get advice from. Is it fair to ask the White House to live up to a standard from which Congress exempted itself?

This is such an old-fashioned statement. It sounds like they've gone back and picked a page or two from Newt Gingrich's notebook. We're a separate but equal branch of government. The president has the right through his tremendous powers to do all kinds of things when it comes to rulemaking and meetings held. And we have the right to ask about it. For them to ask why don't we disclose is so amateurish it's hardly worth a retort. The White House considers itself to be fighting for a principle, that the president ought to be able to receive open and candid advice without interference from others. That they should be able to make public policy decisions free from politics.

There's no question that the president and the vice president receive tons of private information to help them develop policy. Either one-on-one people come to see them, or from their staff after people come to visit with their staff.

But here it's a different situation. The president of the United States set up an energy task force to come up with an energy plan for the nation. He assigned as the head of that Cheney. You remember the bucket of tears they cried when Hillary Clinton was coming up with the healthcare

Document ID: 0.7.18648.6311

policy and she was forced to turn over her records. You can't speak out of both sides of your mouth on this. What's good for the goose is good for the gander.

It's totally different from information they receive to come up with the policy for Afghanistan. It's different than the policy as to what he's doing with the Cabinet and those meetings -- those are private. We understand that. But this is different, this is a task force.

An argument I've heard you make is that the action of shipping nuclear waste across the country -- requiring maybe 100,000 trucks going through 42 states -- is dangerous. But others argue that tons of high-level, highly radioactive nuclear waste have been shipped cross-country without incident. Have there been incidents that alarm you?

There are a number of examples of environmental groups following these trucks, knowing where they are, and they easily could have done something mischievous or something very bad to these trucks. Frankly I can't think of any incidents with high-level nuclear waste but we recently had one with low-level nuclear waste in West Wendover on the Utah-Nevada border. A truck was leaking nuclear waste; it just happens. And that example is one we know about; there are a number we don't know about because they keep 'em quiet. There was a serious incident they found with nuclear waste being shipped from West Valley, N.Y. So the answer is yes, I know of incidents.

And go back a few short months ago. There was a tunnel in Baltimore that caught fire and burned for a week. Trains go through that; that was a train tunnel. This will be 77,000 spent fuel rods going through the country. With Sept. 11, with terrorists looking for targets of opportunity, this will be thousands of trucks and thousands of trains and thousands of targets of opportunity. We know you can pierce one of these canisters with a military weapon, one that an individual can fire.

But is keeping the waste where it is necessarily any safer? There are 131 nuclear power plants in 39 states. "More than 161 million people live within 75 miles of one or more of these sites," Abraham said, arguing that it would be better to secure the waste in one location than in 131 different locations.

This guy's a Harvard Law grad; he should go work on his script a little better. He uses this argument, that we've gotta have it in one site instead of 130. But we're always gonna have those 130 sites - they're still producing energy! They're not going to go away. This is simply foolish.

Another thing these people, these Harvard lawyers, say is, "Well then what should we do with it?" Leave it where it is. These are dry cast storage containers that are easy to secure, and cheap to secure for the next 100 years. I'm confident that then the great scientific minds of America can determine something over the next few decades as to what to do with the spent fuel rods.

The one question you haven't asked me is, am I afraid of White House retribution. Of course I am but you do what you have to sometimes.

One last one then. Your state went for Bush in 2000. You think that will happen in 2004?

Not a chance. And we've got one more electoral vote now. He doesn't care; he doesn't need Nevada anymore -- I guess that's the reasoning. But he would not be president without having carried Nevada.

Document ID: 0.7.18648.6311

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Howey Political Report (3/1) joined ABC News correspondent Jackie Judd for an interview of Rep. Dan Burton, Chairman of the House Government Reform Committee. Asked by Judd if he has requested that the Administration relent in its opposition to releasing Justice Department documents relating to possible FBI corruption in mafia informant cases, Burton said, "Oh, have I ever. I've had the Justice Department before my committee I think two or three times now. I contacted and talked with Mr. Gonzalez, chief counsel to the President. I've met with Attorney General Ashcroft and his chief lieutenants over at the Justice Department. I think all presidents don't like the thought of Congress looking over their shoulder." Asked about the Administration's secrecy, Burton said, "I think they're going too far. I have very high regard for President Bush. I think he's doing a good job with the war and getting the economy moving again. But he's getting some very bad advice on executive privilege and the use of his executive power." Asked if there was "irony" in the fact that he is "proving you're an equal opportunity bitch," Burton said, "No. I think I have a death wish. I don't think I want anybody to like me." Asked by HPR's Brian Howey about the White House's lawsuit with the General Accounting Office, Burton said, "It looks like they're trying to keep something from the public. I don't think they have anything to hide, but that doubt is there. The Democrats are not going to let up on that. The war may wind down and people are going to start looking at the economy, unless there's another terrorist attack. If the Democrats keep beating on that drum, it could be a major factor in the election. I want there to be openness. President Bush senior, his popularity was about 90 percent after the Gulf War. He lost. This is three years from the next election. The President's popularity is sky high, but that could change in 30 days. I think they're building up a lot of good will, but could go down if the American people start to distrust him. I don't want that to happen." Asked how much longer he planned to remain in Congress, Burton said, "I'm one of the senior members on International Relations. We have a new procedure now for picking a new chairman. They are elected by the caucus. Henry Hyde had told me he's going to run one more term and I would like to be considered for the chairmanship."

LOAD-DATE: March 1, 2002
****

THE HARTFORD COURANT, February 28, 2002
SECTION: MAIN; Pg. A1
HEADLINE: CONGRESS HEARS A SORDID FBI TALE
BYLINE: EDMUND H. MAHONY; Courant Staff Writer

A former chief Connecticut prosecutor, in testimony that at times was taunting and at others dripped with sarcasm, told Congress Wednesday that groundbreaking organized crime investigations were sabotaged by renegade FBI agents.

Austin J. McGuigan, chief state's attorney from 1978 to 1985, described to stunned members of the House Committee on Government Reform how gangsters penetrated the state's fledgling parimutuel gambling industry in the 1970s and '80s, then murdered potential witnesses to throw investigators off the track.

McGuigan's most compelling testimony concerned his belief that corrupt FBI agents working

in Boston deliberately withheld evidence from state and local authorities around the country in an effort to destroy investigations associated with the jai alai industry -- and protect the killers, who were their informants.

"It is clear that major organized crime figures operating as informants were permitted to engage in racketeering activities with a wink from, if not the tacit approval of, federal agents," McGuigan said.

Over the past year, committee members have learned during hearings that one of those agents, H. Paul Rico, who retired from the FBI in 1975, was hired a year later as vice president and director of security for World Jai Alai of Miami, which operated jai alai frontons in south Florida and Hartford.

During an appearance before the committee last spring, an unrepentant Rico argued with members when confronted with evidence that he helped frame four innocent men for murder. During a second appearance earlier this month, he invoked the Fifth Amendment and declined to answer questions. On Wednesday, McGuigan reserved some of his sharpest sarcasm for Rico, who he said allowed mobsters to be employed by World Jai Alai, contrary to his apparent duties as security director.

"I was somewhat puzzled by that," McGuigan said, adding that "quite frankly, from our perspective, organized crime was being made to feel at home by World Jai Alai."

McGuigan and a few other veteran organized crime investigators have spoken privately for years about the bizarre set of circumstances surrounding mob penetration of Connecticut's jai alai industry. But listeners couldn't believe that the FBI, an institution then long judged to be above reproach, was behind it all.

McGuigan said that when three key witnesses in the jai alai cases were murdered in the 1980s, he would have laughed off any suggestion that one day he would be asked to address Congress on the subject.

"We thought the bad guys had won," he said. "To me, today, it is touching that I'm here and that so many people who worked so long to uncover the truth have passed away and have not seen justice done."

After nearly a year of hearings into improper behavior involving FBI agents and their informants, members of the committee gave McGuigan a warm reception.

"I consider these hearings some of the most important hearings that Congress can have," said Rep. Christopher Shays, R-4th District.

Previous efforts to examine the mob penetration of the jai alai industry have sputtered because of the difficulty of keeping track of the wide cast of characters.

As McGuigan, who in 1973 became the first Connecticut prosecutor with statewide jurisdiction over organized crime and corruption, testified about his experience, committee members listened raptly, sometimes goggle-eyed. Chairman **Dan Burton,** R-Ind., periodically interrupted to demand relevant documents from the Department of Justice.

In a related development, Burton announced late Wednesday that he had reached an agreement with the Bush administration that will allow his committee to review Justice Department documents related to its investigation of FBI misconduct in Boston.

Document ID: 0.7.18648.6311

In December, President Bush asserted executive privilege to block the committee from reviewing internal Justice Department documents, sparking a face-off over the constitutionality of congressional oversight. Bush argued that congressional review of deliberative documents could lead to political second-guessing of decisions in criminal matters.

Internal FBI memos and other federal documents the committee and others already have obtained back up McGuigan's central contention -- that mobsters from Boston's Winter Hill Gang tried to take over World Jai Alai in order to skim profits. At the center of the plot were the Winter Hill Gang's co-leaders, James "Whitey" Bulger and Stephen "The Rifleman" Flemmi.

Bulger and Flemmi were multiple murderers who also served, collectively for decades, as top informants for the FBI's Boston office. Rico was instrumental in recruiting Flemmi as an informant. Recently, a special Justice Department task force indicted Bulger and Flemmi for the three jai alai murders, including that of World Jai Alai owner Roger Wheeler Sr. of Tulsa, Okla.

A compelling body of evidence gathered by the committee and others suggests that some FBI agents in Boston obstructed investigations -- including those involving jai alai -- to protect Bulger and Flemmi from arrest. McGuigan said Bulger and Flemmi were part of a "war on organized crime that went amok."

"Violent crimes, including murders by so-called informants, were ignored at the whim of law enforcement agents who were, apparently, accountable to no one," McGuigan said. "In the name of intelligence-gathering, state and local prosecutions of violent criminals were undermined and investigations were betrayed."

When Connecticut investigators began following organized crime into World Jai Alai, agents in Boston withheld crucial information, McGuigan said. Moreover, he said, they tipped off targets of the investigation. Finally when potential witnesses began being killed, he said, federal authorities in Boston undercut Connecticut investigators.

At one point, McGuigan said, Rico, using information from police sources in Boston, tipped off an investigative target to information collected by the Connecticut State Police. The target was John B. Callahan, a reputed Winter Hill associate who became president of World Jai Alai and was later murdered in Florida. Callahan's body was dumped at the Miami airport on the day McGuigan and state police detectives arrived, hoping to persuade him to cooperate.

"They tanked our investigation," McGuigan said. "I realized we weren't playing for the same team."

Rep. William Delahunt, D-Mass., asked if McGuigan began to smell a rat: "Did the smell become more putrid at that point?"

"Yes," McGuigan said. "It was troubling."

McGuigan said charges probably never would have been filed in the jai alai murders if Flemmi had not been arrested in 1995 and used his informant status as a defense.

"These are murders that seemed unsolvable, and it seemed the coverup had succeeded," McGuigan said, "until ... Flemmi decided to claim that he had a free pass on the crime train, because of his status as an FBI informant."

GRAPHIC: PHOTO 1: COLOR, Associated Press; PHOTOS 2-5: (b&w) mugs; PHOTO 1:

Document ID: 0.7.18648.6311

AUSTIN J. MCGUIGAN / FORMER CONNECTICUT CHIEF STATE'S ATTORNEY, LEFT, TESTIFYING WEDNESDAY. PHOTO 2: BULGER; PHOTO 3: CALLAHAN; PHOTO 4: FLEMMI; PHOTO 5: WHEELER

LOAD-DATE: February 28, 2002
****

United Press International, February 28, 2002, Thursday
HEADLINE: Justice relents on FBI files
BYLINE: By P. MITCHELL PROTHERO

The Justice Department has agreed to allow investigators from a House committee access to some documents related to FBI criminal investigations.

After President Bush claimed executive privilege in December, the House Government Reform Committee threatened to hold the administration in contempt of Congress.

Most of the documents relate to several FBI scandals concerning the use of informants in organized crime investigations in New England during the 1960s and 1970s.

"I want to thank the attorney general and the White House for working with us as we have been trying to uncover the corruption that existed in the Boston FBI for four decades and do our part to right a tragic wrong," said Committee Chairman **Dan Burton,** R-Ind.

The committee had subpoenaed as many as 15 documents and prosecution memos involving the use of testimony by Joe "The Animal" Barboza in several Mafia trials in the late 1960s and the use of two Boston mobsters as confidential informants, James "Whitey" Bulger and Steve "The Rifleman" Flemmi, from 1975 to 1995.

Bulger and Flemmi are suspected of having ordered or committed as many as 20 slayings during that period as the men allegedly consolidated control over the Boston organized crime community, despite working with the FBI.

Burton has demanded any documents that discuss the decision by the Justice Department not to prosecute the men until 1995 despite the widespread belief they were using their FBI relationship to help the criminal enterprise.

In a related case being looked at by investigators, it appears the FBI knowingly allowed four men to be convicted in 1967 of a murder, despite clear evidence the men were not involved.

In the Senate, Sens. Charles Grassley, R-Iowa; and Patrick Leahy, D-Vt., have introduced legislation to increase oversight of the FBI and to give the Justice Department inspector general the authority to investigate abuses within the bureau.

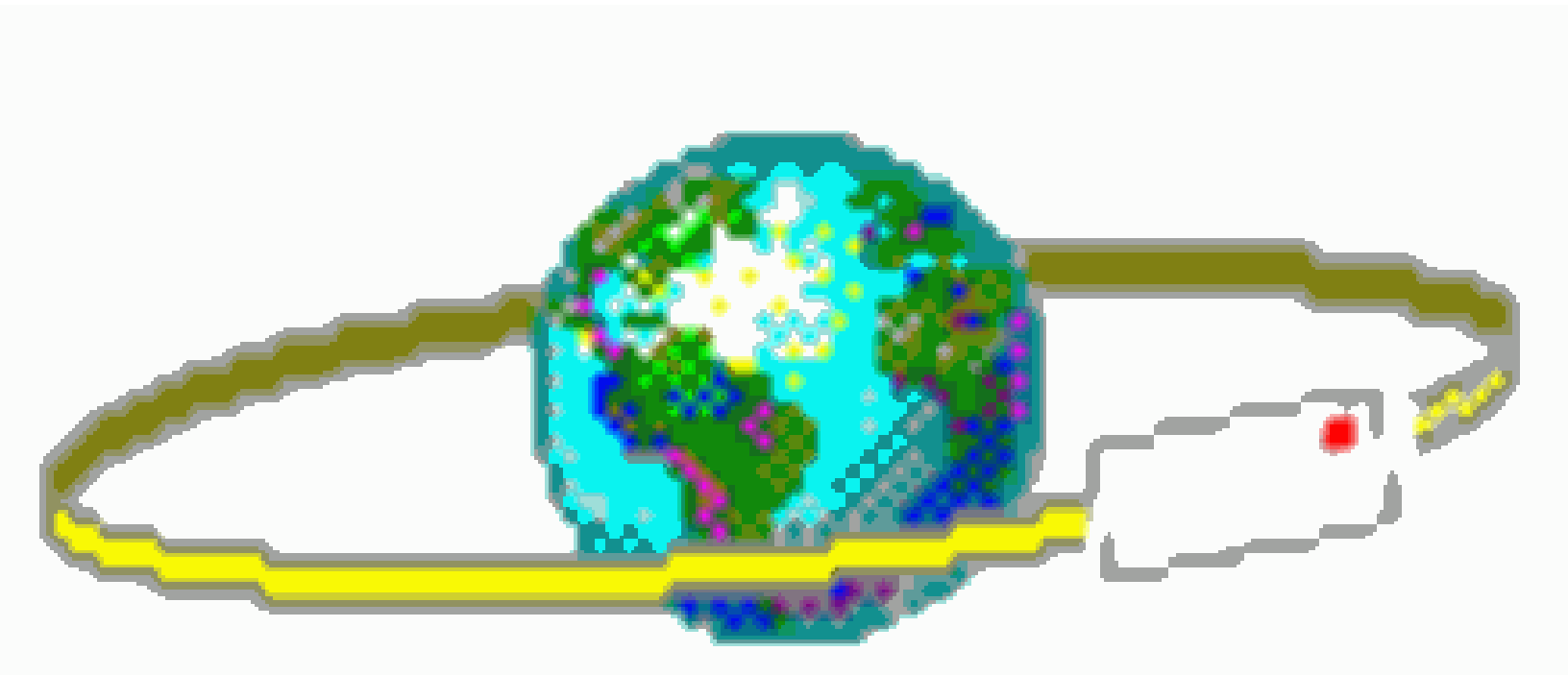
LOAD-DATE: March 1, 2002

Brett_M._Kavanaugh@who.eop.gov

From: Brett_M._Kavanaugh@who.eop.gov
Sent: Thursday, March 07, 2002 2:00 PM
To: Whelan, M Edward III
Subject: Exemption !(6)

What is the potential applicability of this FOIA exemption to documents that (b) (5) [redacted].?

Document ID: 0.7.18648.6319



Koffsky, Daniel L

From: Koffsky, Daniel L
Sent: Friday, March 08, 2002 12:03 PM
To: 'Brett_M._Kavanaugh@who.eop.gov'
Cc: Whelan, M Edward III
Subject: RE: different subject

Brett: I'll fax you our 1995 guidelines on 18 U.S.C. 1913. (b) (5) [redacted] --Dan

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Friday, March 08, 2002 10:22 AM
To: Koffsky, Daniel L
Subject: different subject

can you confirm for me that (b) (5) [redacted].

Brett_M._Kavanaugh@who.eop.gov

From: Brett_M._Kavanaugh@who.eop.gov
Sent: Monday, March 11, 2002 11:41 AM
To: Whelan, M Edward III
Subject: RE: Burton
Attachments: pic16976.pcx

(b) (5) .

(Embedded
image moved "Whelan, M Edward III" <M.Edward.Whelan@usdoj.gov>
to file: 03/11/2002 09:57:42 AM
pic16976.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:
Subject: RE: Burton

(b) (5) ? Please let us know what you'd like.

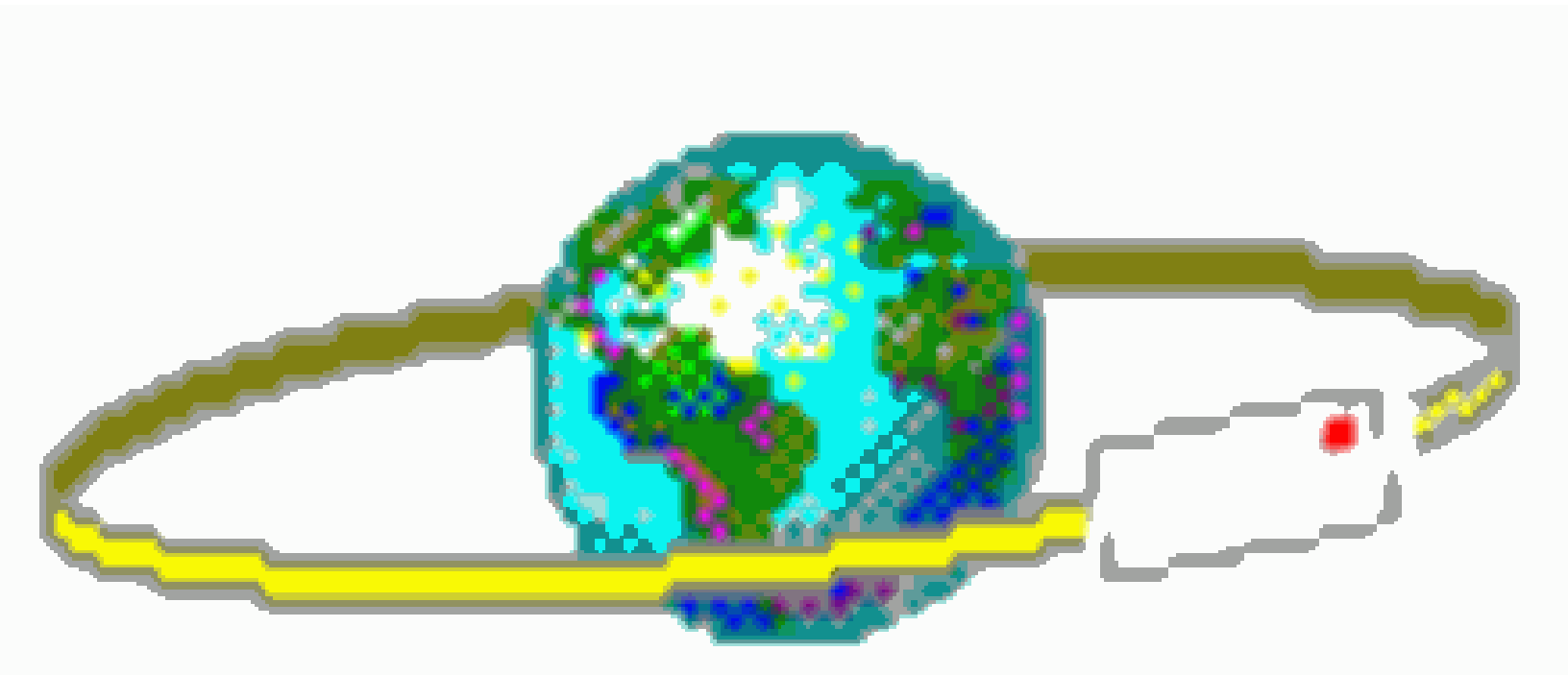
-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Saturday, March 09, 2002 3:26 PM
To: Whelan, M Edward III
Cc: Timothy_E._Flanigan@who.eop.gov
Subject: Burton

Ed:
As we had discussed previously, we think it would be appropriate for OLC to prepare a

memorandum that [redacted] (b) (5)

[redacted]

This is obviously not urgent. Thanks.



Colborn, Paul P

From: Colborn, Paul P
Sent: Wednesday, March 13, 2002 12:33 PM
To: Comstock, Barbara
Cc: Thorsen, Carl; 'Brett_M._Kavanaugh@who.eop.gov'; Whelan, M Edward III
Subject: Press inquiry on Burton matter

Barbara, fyi, I have received a voice mail message from Vanessa Blum at Legal Times (b) (6)), asking me to talk to her, on or off the record, about the resolution of the Burton matter and the background of the dispute. She said she is working on a Thursday afternoon deadline. I do not plan to return the call, and if she calls again, I'll just refer the call to Public Affairs.

-- Paul

Colborn, Paul P

From: Colborn, Paul P
Sent: Wednesday, March 20, 2002 1:34 PM
To: 'Brett_M._Kavanaugh@who.eop.gov'
Cc: Whelan, M Edward III
Subject: RE: IMPORTANT re talking pts on having Gov. Ridge testify
Attachments: ridgetestimony.paragraph.wpd

Brett, how's the attached look? Ed, I'm sending this now because I promised to get this to Brett before lunch, and I've just learned you've gone to lunch. Thus, you've not seen this latest draft. Please let us know when you get back if you would suggest any changes.

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Wednesday, March 20, 2002 11:59 AM
To: Colborn, Paul P
Subject: RE: IMPORTANT re talking pts on having Gov. Ridge testify

thanks; whenever you have something, just e-mail. I assume there is (i) [redacted] (b) (5) [redacted] and (ii) [redacted] (b) (5) [redacted].

(Embedded
image moved "Colborn, Paul P" <Paul.P.Colborn@usdoj.gov>
to file: 03/20/2002 11:22:40 AM
pic29103.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: RE: IMPORTANT re talking pts on having Gov. Ridge testify

Yes, I'll turn to that right now. Should have something for you by noon.

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Wednesday, March 20, 2002 11:11 AM
To: Colborn, Paul P
Subject: IMPORTANT re talking pts on having Gov. Ridge testify

Can you draft a paragraph that accomplishes the following:

[redacted] (b) (5) [redacted]

Koffsky, Daniel L

From: Koffsky, Daniel L
Sent: Monday, April 15, 2002 12:58 PM
To: 'Brett_M._Kavanaugh@who.eop.gov'
Cc: Whelan, M Edward III
Subject: Question About Leave

Brett: You asked Ed abou [redacted] (b) (5) [redacted]

Some general principles: [redacted] (b) (5) [redacted]

I'm not sure whether you're considering the issue only for the White House or also more generally for executive branch agencies. [redacted] (b) (5) [redacted]

Here a a few thoughts: [redacted] (b) (5) [redacted]

[redacted] (b) (5)

--Dan

Whelan, M Edward III

From: Whelan, M Edward III
Sent: Wednesday, April 24, 2002 4:07 PM
To: 'Kavanaugh, Brett'
Cc: Colborn, Paul P
Subject: T/c with Barbara Kahloe

FYI: Barbara Kahloe (sp?) of Ose's staff called me. (That's what I get for answering my own phone.) As you indicated, she asked whether legislation that revoked EO2 that in turn had revoked EO1 would resurrect EO1. I told her that I was not authorized to provide advice to Congress, and she was fine with that. She also opined that the experience with federalism EOs -- where, apparently, EO3, by revoking EO2, resurrected EO1 -- supported her view that EO1 would be resurrected. ((b) (5) .)

Barbara also said that Ose has a lot of problems with Horn's approach and thinks it would be cleaner to just revoke the Bush EO. She also thought the hearing disclosed a lot of problems with the Horn bill.

Colborn, Paul P

From: Colborn, Paul P
Sent: Wednesday, May 01, 2002 5:47 PM
To: 'Brett_M._Kavanaugh@who.eop.gov'; Whelan, M Edward III
Subject: RE: Draft letter to Horn re PRA executive privilege bill

I'll take a crack at another paragraph or two tomorrow.

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Wednesday, May 01, 2002 3:17 PM
To: Whelan, M Edward III
Cc: Colborn, Paul P
Subject: RE: Draft letter to Horn re PRA executive privilege bill

my goal was to see what it would look like in a draft and then do a side by side to compare and then discuss? (b) (5)

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image moved "Whelan, M Edward III" <M.Edward.Whelan@usdoj.gov>
to file: 05/01/2002 03:01:08 PM
pic08428.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc: "Colborn, Paul P" <Paul.P.Colborn@usdoj.gov> (Receipt Notification
Requested) (IPM Return Requested)
Subject: RE: Draft letter to Horn re PRA executive privilege bill

Brett: (b) (5)

Document ID: 0.7.18648.6347

[redacted] (b) (5) [redacted]

Can we as an interim measure [redacted] (b) (5) [redacted] ? -- Ed

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Wednesday, May 01, 2002 2:47 PM
To: Colborn, Paul P
Cc: Whelan, M Edward III
Subject: Re: Draft letter to Horn re PRA executive privilege bill

Two immediate comments: First, I like it. Second, can you prepare an alternative draft that [redacted] (b) (5) [redacted] ?

(Embedded
image moved "Colborn, Paul P" <Paul.P.Colborn@usdoj.gov> to file: 05/01/2002 02:20:22
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Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc: "Whelan, M Edward III" <M.Edward.Whelan@usdoj.gov> (Receipt Notification
Requested) (IPM Return Requested)
Subject: Draft letter to Horn re PRA executive privilege bill

Brett: Here's a draft that Ed and I have prepared. Comments?
-- Paul
cc: Ed

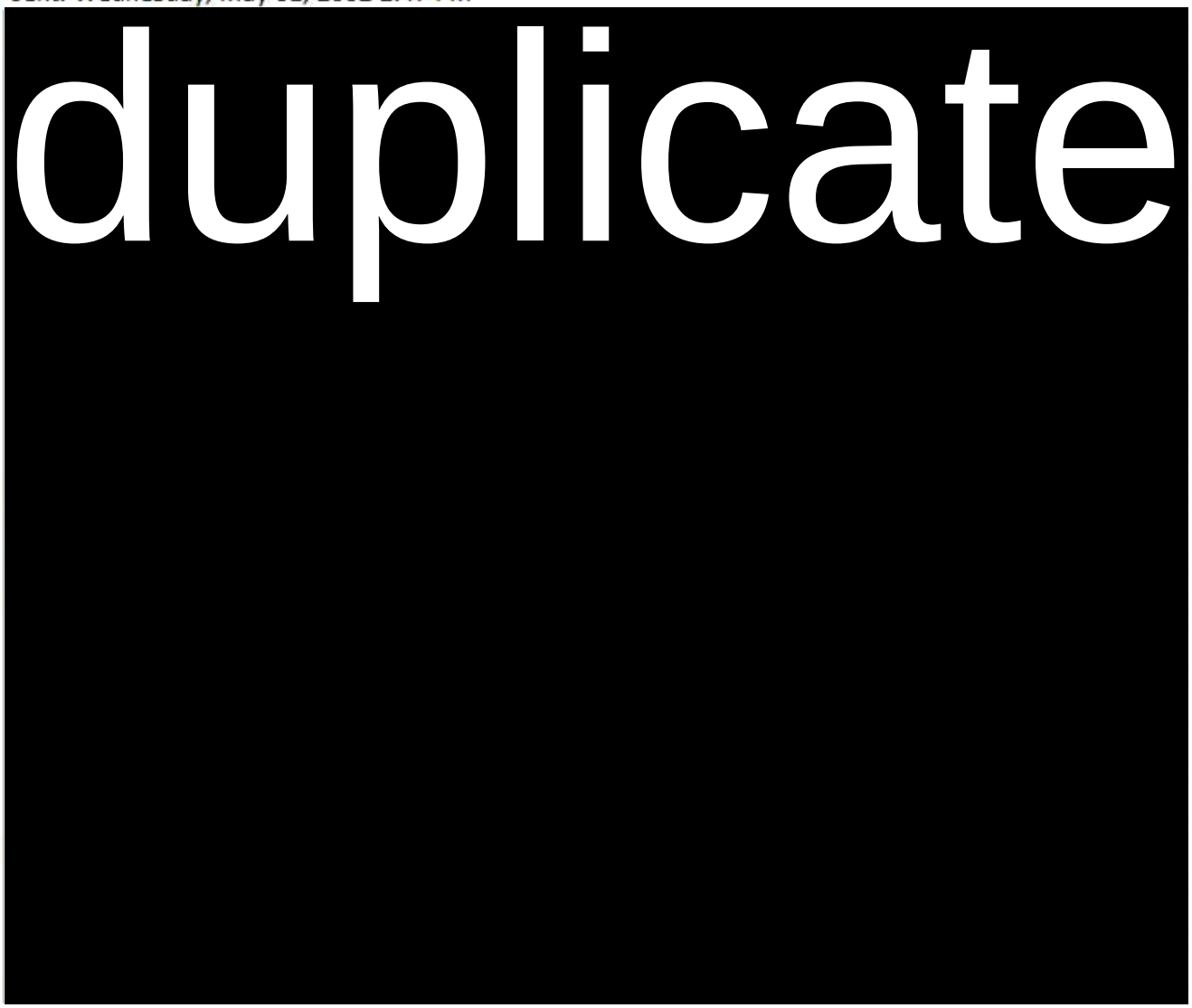
Document ID: 0.7.18648.6347

Colborn, Paul P

From:	Colborn, Paul P
Sent:	Friday, May 03, 2002 10:42 AM
To:	'Brett_M._Kavanaugh@who.eop.gov'
Cc:	Whelan, M Edward III
Subject:	RE: Draft letter to Horn re PRA executive privilege bill
Attachments:	pra.hornbill.letter.alt.wpd

Brett, attached is the alternative draft you requested.

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Wednesday, May 01, 2002 2:47 PM



Document ID: 0.7.18648.6346

duplicate

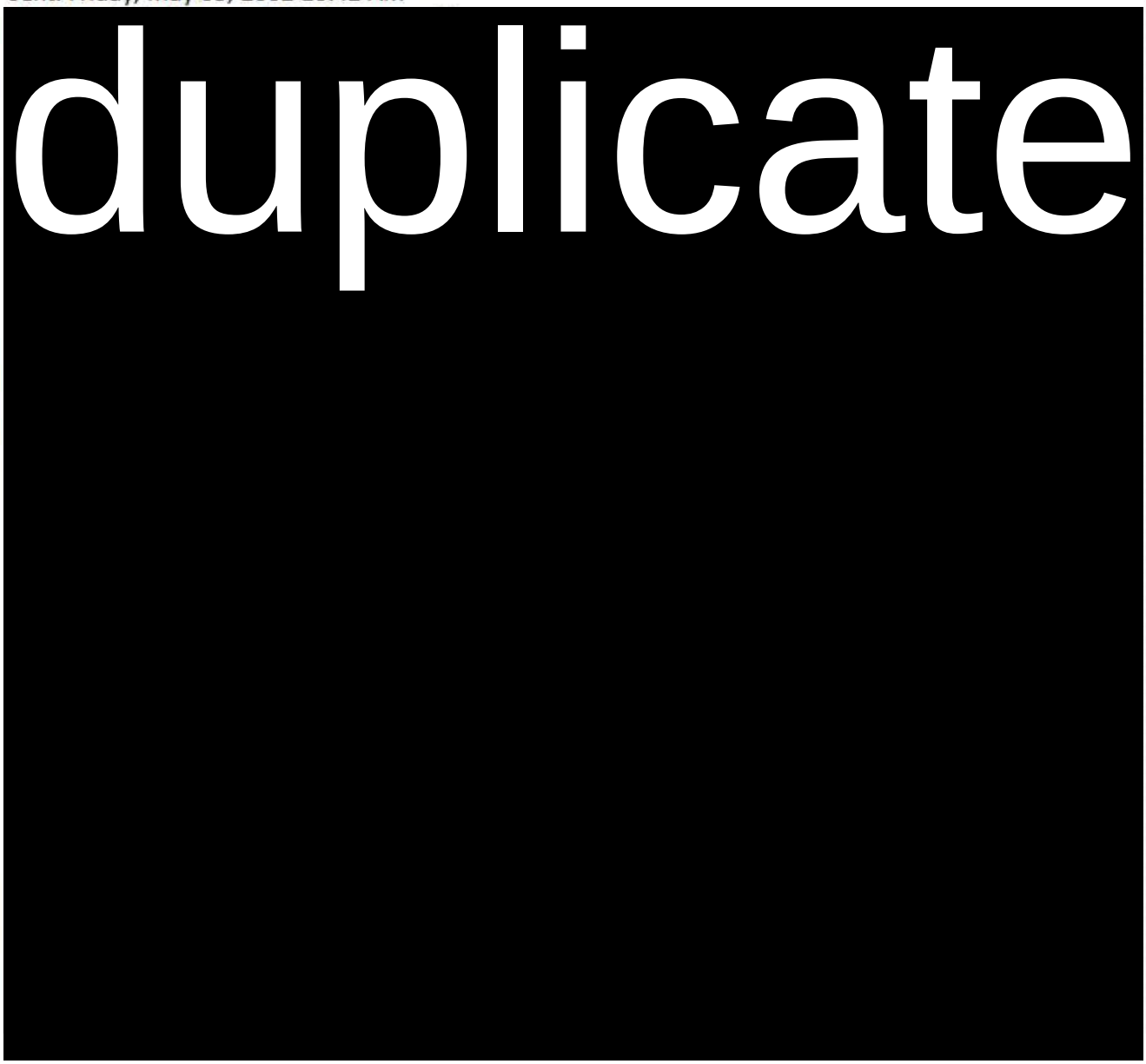
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Whelan, M Edward III

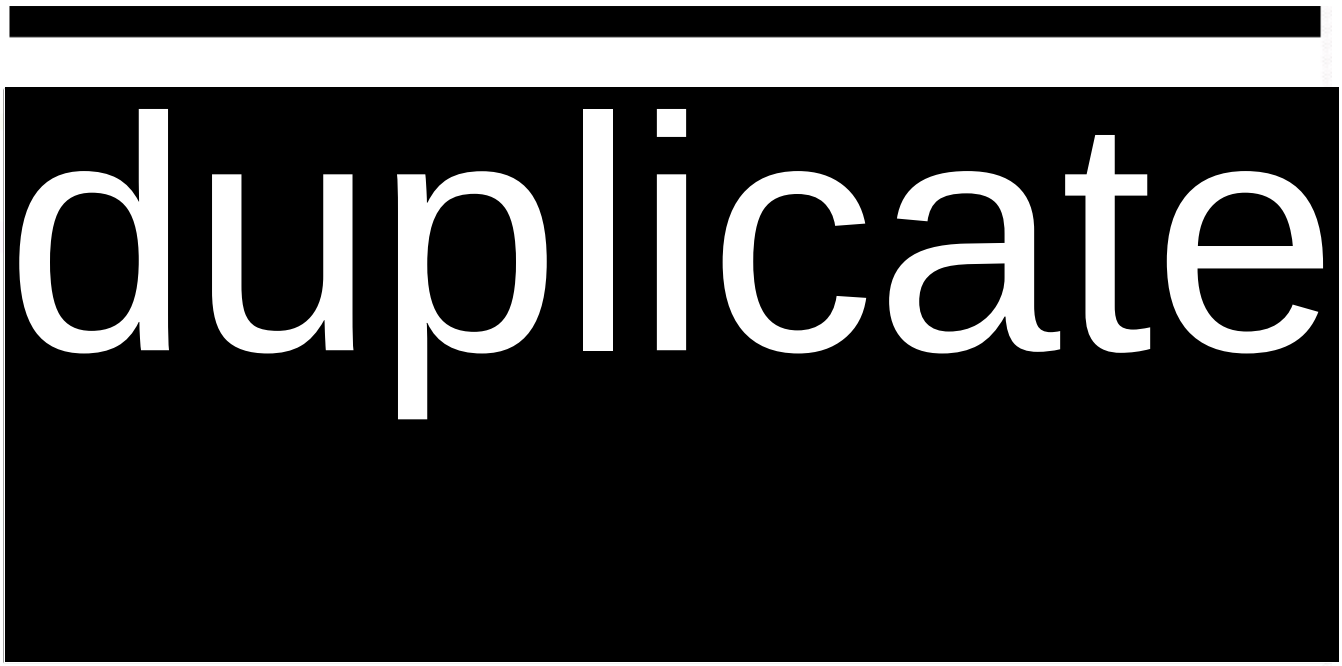
From:	Whelan, M Edward III
Sent:	Monday, May 06, 2002 10:05 AM
To:	'Brett_M._Kavanaugh@who.eop.gov'
Cc:	Colborn, Paul P
Subject:	RE: Draft letter to Horn re PRA executive privilege bill

Brett: Please let us know which version you prefer and any additional changes that should be made. In light of Thursday's markup and the need to run the letter through the OMB process, we probably ought to finalize our review as soon as possible. -- Ed

-----Original Message-----
From: Colborn, Paul P
Sent: Friday, May 03, 2002 10:42 AM



Document ID: 0.7.18648.6349



Document ID: 0.7.18648.6349

O'Brien, Pat

From:	O'Brien, Pat
Sent:	Monday, May 13, 2002 11:23 AM
To:	Bybee, Jay; Yoo, John C; Dinh, Viet; Brett Kavanaugh (E-mail); Bradford A. Berenson (E-mail); Kyle Sampson (E-mail); Higbee, David; Ciongoli, Adam; Day, Lori Sharpe
Subject:	FW: Arab Lawyers

Ed Haden passed this observation along after speaking to a group of Arab Lawyers. It may be helpful to those involved in the judicial selection and public outreach process.

-----Original Message-----
From: Ed Haden [mailto:Ed_Haden@judiciary.senate.gov]
Sent: Monday, May 13, 2002 11:15 AM
To: O'Brien, Pat
Subject: Arab Lawyers

Pat:

Please forward this to the appropriate person. FYI

On Friday, May 10, 2002, I gave a talk to approximately 10 lawyers from the Arab countries of Jordan, Tunisia, Kuwait, Yemen, Lebanon, etc. The State Department set up a "Rule of Law" seminar series for these lawyers who were selected by our embassies over there as prominent citizens. In any event, these lawyers were interested in only one thing: the oath that federal judges take. "To whom to the judges take an oath? The President?" "Who administers the oath?" "Since the Senate can impeach a judge, are judges under the influence of the Senate?" "Where is the oath administered?"

I informed them that in America, judges take their oath to the Constitution, not to the President. There is no "King's Bench" in America. Indeed, several presidents have lost important cases in the federal courts. Oath's are usually administered by another judge at the court house at which the judge will preside.

Ed

Document ID: 0.7.18648.5033

Whelan, M Edward III

From: Whelan, M Edward III
Sent: Monday, May 13, 2002 2:24 PM
To: 'Brett_M._Kavanaugh@who.eop.gov'
Cc: Colborn, Paul P
Subject: RE: DRAFT letter to Shays

One big question and a few smaller comments:

[redacted] (b) (5) [redacted].

6th para.: (a) order" s/b "Order" in 2 places; (b) in last line, add "and incumbent" after "former"

8th para.: In last sentence change "current" to "incumbent" and "unilateral" to "unreviewable".

Next-to-last para.: change "Act" to "PRA"

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Monday, May 13, 2002 1:45 PM
To: Colborn, Paul P
Cc: Whelan, M Edward III
Subject: DRAFT letter to Shays

We met with Congressman Shays on Friday. He strongly indicated a desire to help, but wanted some assurance on time frames. See what you think of the attached, which borrows heavily from first half of draft DOJ views letter, but adds a few points.
(See attached file: letter to shays 5 13 02.doc)

(Embedded
image moved "Colborn, Paul P" <Paul.P.Colborn@usdoj.gov>
to file: 05/13/2002 11:09:49 AM
pic02820.pcx)

Document ID: 0.7.18648.6350

Record Type: Record

To: "Whelan, M Edward III" <M.Edward.Whelan@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested), Brett M. Kavanaugh/WHO/EOP@EOP

cc:
Subject: RE: Horn bill/committee jurisdiction

Brett: Ed and I were just talking and wondering what's happening on clearance of our letter. I'm checking with OLA on this, but do you know anything? Also, any progress on whether the letter will include (b) (5) ?
As far as I know, markup is still this Thursday.

-----Original Message-----
From: Whelan, M Edward III
Sent: Thursday, May 09, 2002 5:20 PM
To: 'Kavanaugh, Brett'
Cc: Colborn, Paul P
Subject: Horn bill/committee jurisdiction

In response to your questions:

1. (b) (5)

2. (b) (5)

3. (b) (5)

Document ID: 0.7.18648.6350

Whelan, M Edward III

From: Whelan, M Edward III
Sent: Friday, May 17, 2002 5:40 PM
To: 'Brett_M._Kavanaugh@who.eop.gov'
Subject: RE: Hatch Act Coverage

We had hoped to have our thoughts to you this afternoon, but it looks like it won't be until Monday. I assume from our discussion that that's okay; if it's not, let me know.

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Wednesday, May 15, 2002 12:30 PM
To: Koffsky, Daniel L
Cc: Whelan, M Edward III
Subject: Re: Hatch Act Coverage

I continue to have further questions about (b) (5) [redacted]

(Embedded
image moved "Koffsky, Daniel L" <Daniel.L.Koffsky@usdoj.gov>
to file: 02/20/2002 04:08:46 PM
pic30945.pcx)

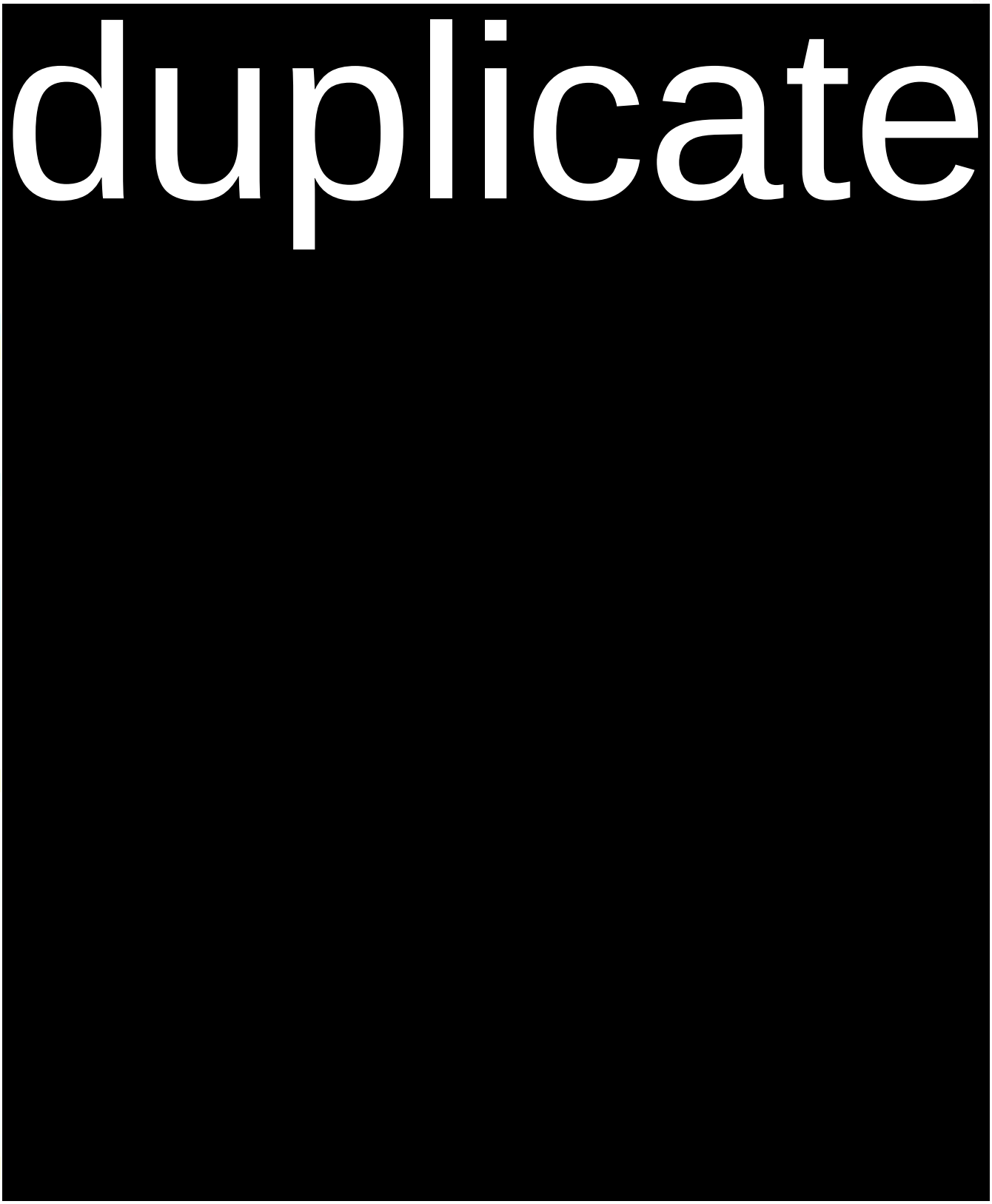
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

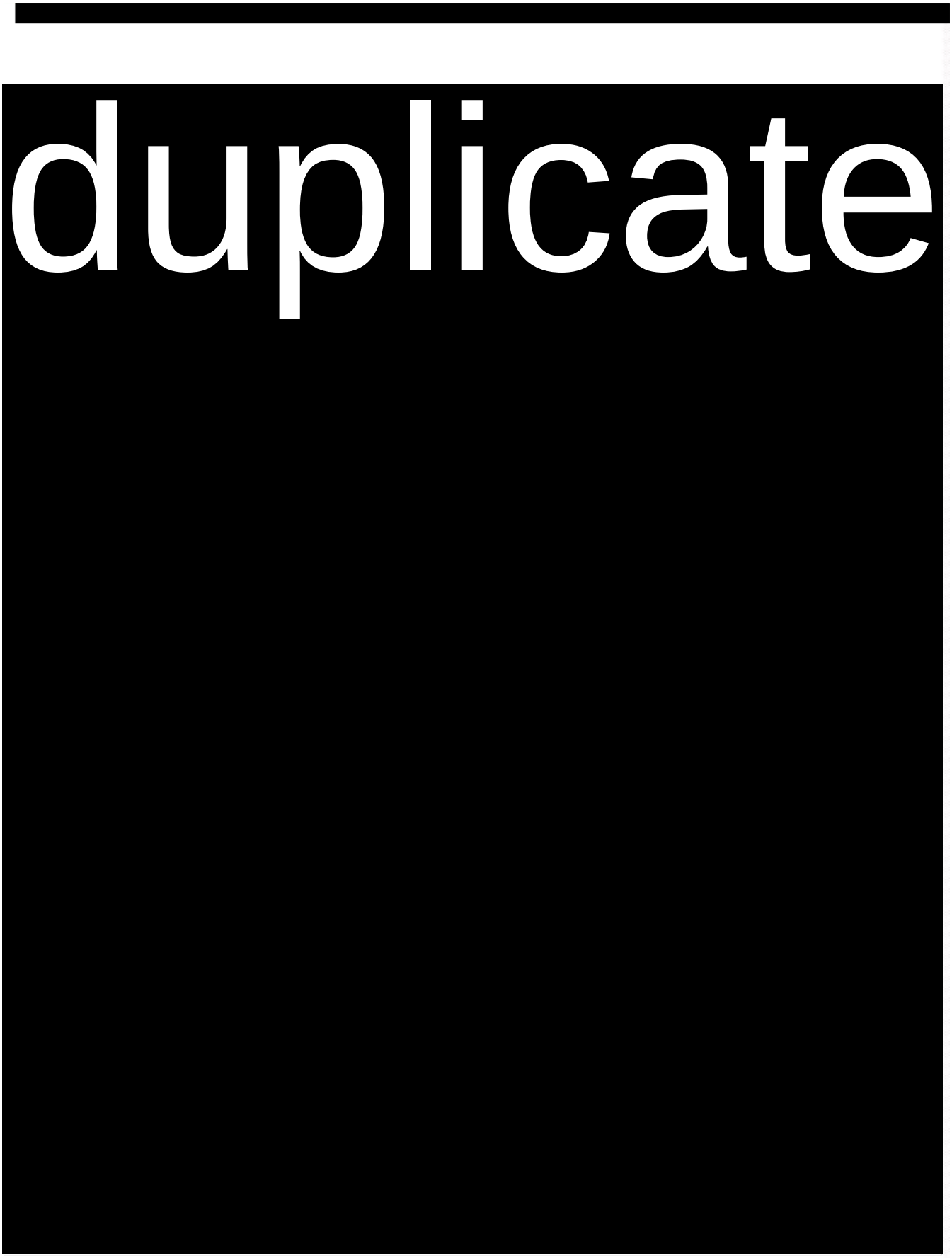
Document ID: 0.7.18648.6353

To: Brett M. Kavanaugh/WHO/EOP@EOP

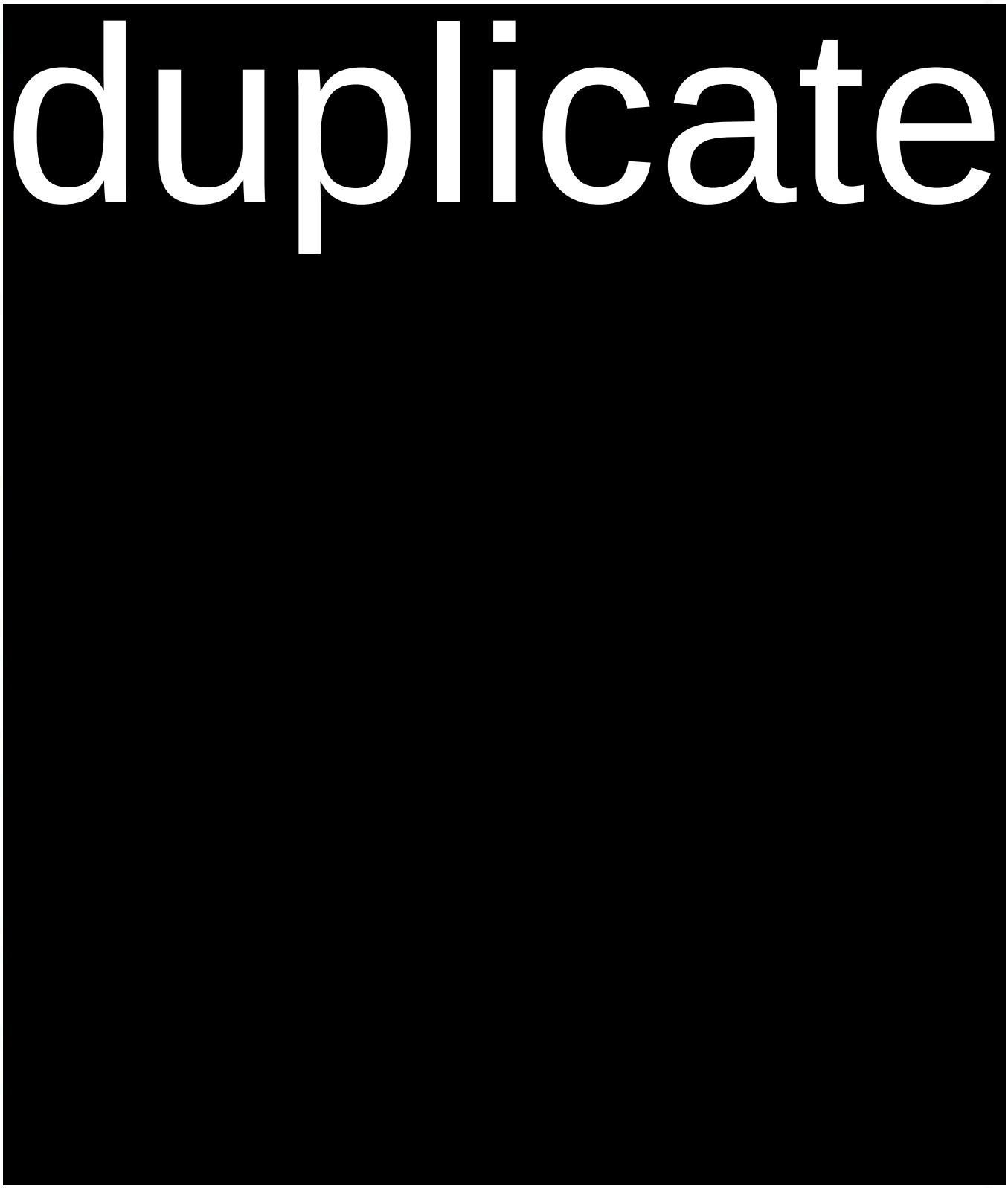
cc: "Whelan, M Edward III" <M.Edward.Whelan@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)
Subject: Hatch Act Coverage



Document ID: 0.7.18648.6353



Document ID: 0.7.18648.6353



Document ID: 0.7.18648.6353

Brett_M._Kavanaugh@who.eop.gov

From:	Brett_M._Kavanaugh@who.eop.gov
Sent:	Monday, May 20, 2002 10:31 AM
To:	Whelan, M Edward III; Colborn, Paul P
Subject:	Amendments
Attachments:	att1.htm; H4187_005.PDF; H4187_006.PDF; H4187_007.PDF; H4187_008.PDF; pic28150.pcx

---------- Forwarded by Brett M. Kavanaugh/WHO/EOP on 05/20/2002 10:31 AM ----------

(Embedded
image moved "Dhillon, Uttam" <Uttam.Dhillon@mail.house.gov>
to file: 05/17/2002 03:55:47 PM
pic28150.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:
Subject: Amendments

Brett,

Attached are four amendments. They have been vetted and formatted by the House Legislative Counsel so they are ready to go. All a Member needs to do to become the author of an amendment is to call Hank Savage in the Legislative Counsel's Office and give Hank the identifying number that appears at the top of the each amendment. Hank's number is (202) 225-6060.

Let us know if we can be of any further assistance.

Uttam Dhillon
Policy Director
House Policy Committee
2471 Rayburn Building
Washington, D.C. 20515

Document ID: 0.7.18648.6354

(202) 225-8605
<http://policy.house.gov/> http://policy.house.gov

Brett,

Attached are four amendments. They hav e been vetted and formatted by the House Legislative Counsel so they are ready to go. All a Member needs to do to become the author of an amendment is to call Hank Savage in the Legislative Counsel's Office and give Hank the identifying number that appears at the top of the each amendment. Hank's number is (202) 225-6060.

Let us know if we can be of any further assistance.

Uttam Dhillon
Policy Director
House Policy Committee
2471 Rayburn Building
Washington, D.C. 20515
(202) 225-8605
http://policy.house.gov

Document ID: 0.7.18648.6354-000001

[Amendment #1]

H.R. 4187

AMENDMENT OFFERED BY

TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Page 5, line 3, after the comma insert the following: ''and, to the extent inconsistent with the amendments made by this Act, the regulations promulgated by the Archivist pursuant to section 2206 of title 44, United States Code,''.

Explanation of amendment: The purpose of the amendment is to ensure that the existing regulations under the Presidential Records Act, like the existing Executive Order, have no legal force or effect to the extent they are inconsistent with the Presidential Act Amendments of 2002.

Document ID: 0.7.18648.6354-000002

H.R. 4187

AMENDMENT OFFERED BY

TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Page 4, after line 20, insert the following:

(3) Section 2206 of title 44, United States Code, is amended by inserting after the first sentence the following: ''The exclusion in section 553(a)(1) of such title for military or foreign affairs functions of the United States shall not be considered to prevent the Archivist from promulgating regulations under this chapter concerning the assertion of a constitutionally based privilege against disclosure that is based on or relates to a military or foreign affairs matter.''.

Document ID: 0.7.18648.6354-000003

H.R. 4187

AMENDMENT OFFERED BY

TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Page 5, before line 1, insert the following:

SEC. . PROTECTION OF PERSONAL INFORMATION.

(a) IN GENERAL.—Chapter 22 of title 44, United States Code, is further amended by adding at the end the following:

"§ 2209. Protection of personal information

''(a) Nothing in this chapter shall be considered to require the release to the public of any sensitive personal information concerning any individual who is not an officer or employee of the executive branch of the Government.

''(b) The Archivist shall, by not later than 10 days before releasing a record that the Archivist determines may contain information referred to in subsection (a), provide to any such individual whose sensitive personal information will be released the following information in writing:

''(1) The date the record is expected to be released.

Document ID: 0.7.18648.6354-000004

''(2) The name of each person to which the record will be released.

''(3) The general nature of the sensitive personal information contained in the record.

''(c) Upon the request of such individual, or upon the determination of the Archivist, the Archivist may redact any sensitive personal information the Archivist considers necessary to protect the civil liberties of the individual whose personal information is redacted.

''(d) The Archivist shall promulgate under section 2206 regulations necessary to carry out this section.

''(e) As used in this section, the term 'sensitive personal information' means non-public, personally identifiable information regarding an individual that the individual could reasonably be expected to seek to keep private, including an indivdiual's—

''(A) home address;

''(B) personal phone number;

''(C) personal medical information;

''(D) personal electronic mail address;

''(E) social security number;

''(F) personal financial information; and

''(G) tax returns and information derived therefrom.''.

Document ID: 0.7.18648.6354-000004

(e) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 22 of title 44, United States Code, is further amended by adding at the end the following:

''Sec. 2209. Protection of personal information.''.

Document ID: 0.7.18648.6354-000004

H.R. 4187

AMENDMENT OFFERED BY

TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

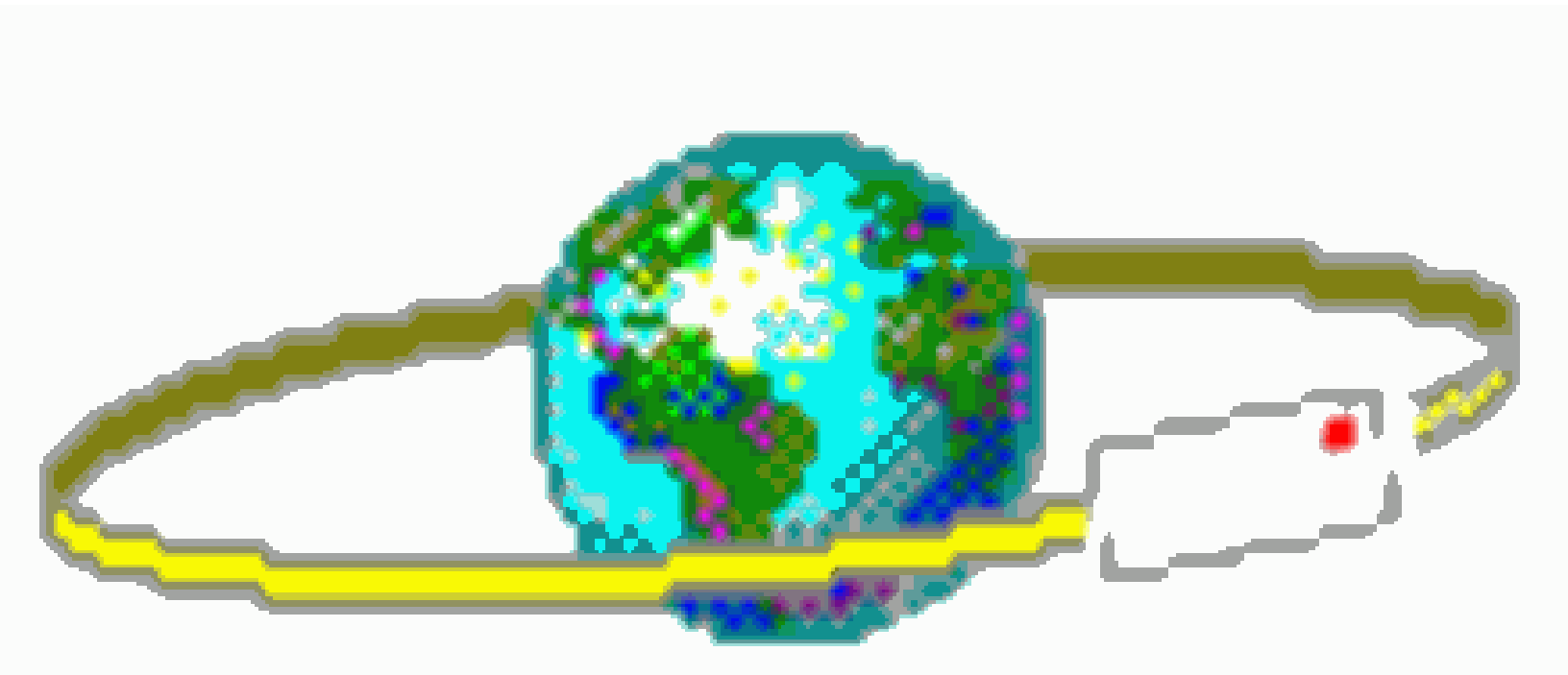
Page 3, after line 13, insert the following:

''(3) This section shall not be construed to require the disclosure of any information that, in the judgment of a former President or the incumbent President—

''(A) may compromise intelligence or counter-intelligence sources or methods; or

''(B) may jeopardize the life of a witness or informant, or of an officer, employee, or agent of the United States.

Document ID: 0.7.18648.6354-000005



Whelan, M Edward III

From: Whelan, M Edward III
Sent: Monday, May 20, 2002 6:09 PM
To: 'Kavanaugh, Brett'
Cc: Koffsky, Daniel L
Subject: Hatch Act

Brett:

Here's a quick sketch of our thinking on the issues you raised:

1. (b) (5)
[redacted].

2. (b) (5)
[redacted]

To be clear: (b) (5)
[redacted]

Ed

Whelan, M Edward III

From: Whelan, M Edward III
Sent: Monday, June 03, 2002 2:52 PM
To: Dinh, Viet; Bryant, Dan; Clement, Paul D; Willett, Don; Colborn, Paul P; 'Brett_M._Kavanaugh@who.eop.gov'; Goodling, Monica
Subject: RE: Estrada letter.

Looks fine to me. One very minor change that I'd propose is to change [redacted (b) (5)].

Also [redacted (b) (5)]

-----Original Message-----
From: Dinh, Viet
Sent: Monday, June 03, 2002 2:07 PM
To: Bryant, Dan; Clement, Paul D; Willett, Don; Whelan, M Edward III; Colborn, Paul P; 'Brett_M._Kavanaugh@who.eop.gov'; Goodling, Monica
Subject: Estrada letter.

As we discussed last Friday, enclosed please find a slightly revised letter from dan bryant to chairman leahy. We would like to get this out ASAP this afternoon. Please comment by 3:00 if possible.

<< File: Estrada response letter.wpd >>

Brett_M._Kavanaugh@who.eop.gov

From:	Brett_M._Kavanaugh@who.eop.gov
Sent:	Monday, June 10, 2002 3:17 PM
To:	Whelan, M Edward III
Cc:	Koffsky, Daniel L
Subject:	RE: Grants and Travel
Attachments:	pic30261.pcx

Thw question is for [redacted (b) (5)].

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image moved "Whelan, M Edward III" <M.Edward.Whelan@usdoj.gov>
to file: 06/10/2002 02:53:57 PM
pic30261.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc: "Koffsky, Daniel L" <Daniel.L.Koffsky@usdoj.gov> (Receipt Notification
Requested) (IPM Return Requested)
Subject: RE: Grants and Travel

See (2) below for our admittedly noncommittal advice from three months ago. Dan is looking again at this.

-----Original Message-----
From: Koffsky, Daniel L
Sent: Friday, March 08, 2002 8:57 AM
To: 'Brett_M._Kavanaugh@who.eop.gov'
Cc: Whelan, M Edward III
Subject: Grants and Travel

Brett: Ed passed on your questions about [redacted (b) (5)] We think we can answer the first question. On the

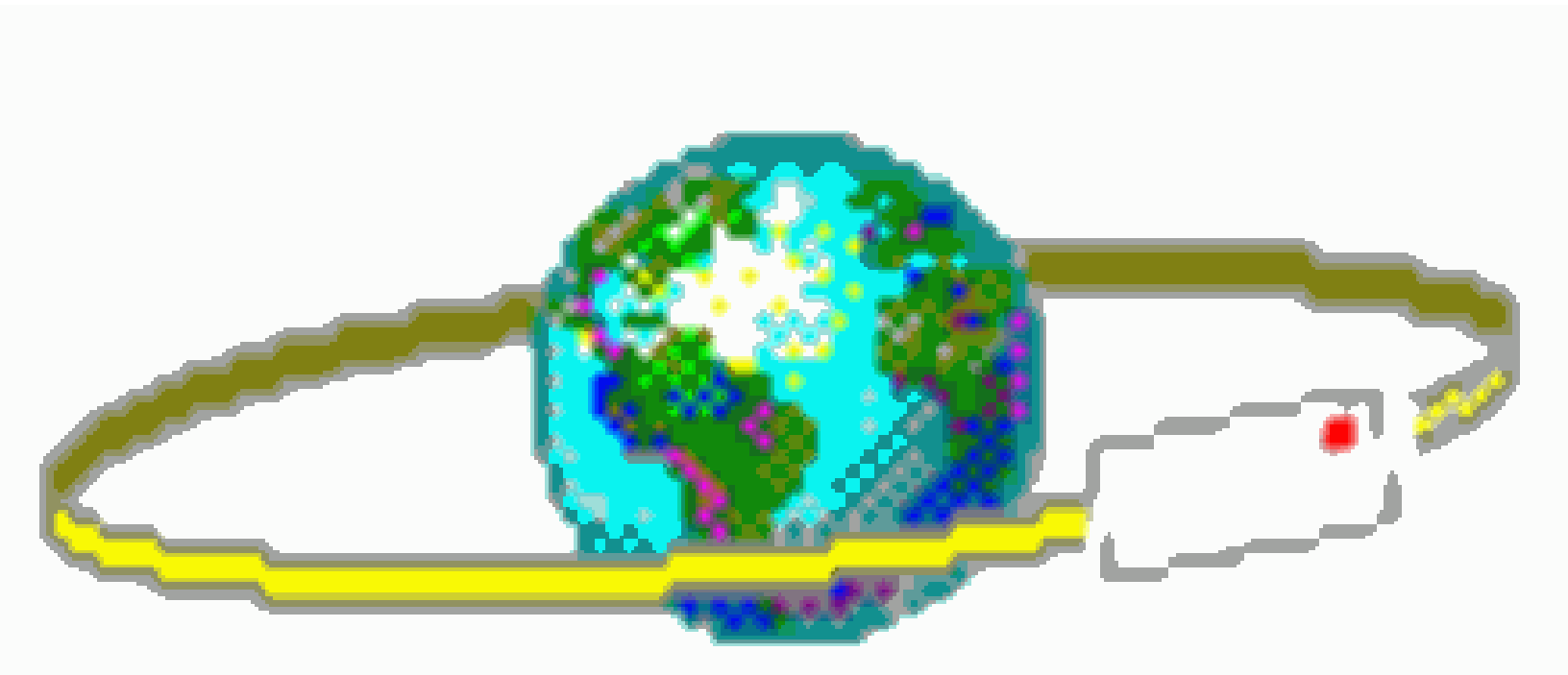
second, we want to give you some provisional thoughts, which may give you some ideas about how we can resolve the issue.

(1) (b) (5) [redacted]

(2) (b) (5) [redacted]

I'll fax you the memorandum on grant announcements and the two memoranda on travel costs. Then maybe you, Ed, and I can talk about next steps.

Document ID: 0.7.18648.6358



O'Brien, Pat

From: O'Brien, Pat
Sent: Tuesday, June 11, 2002 1:36 PM
To: Yoo, John C; Bryant, Dan; Bybee, Jay; Brett Kavanaugh (E-mail); Bradford A. Berenson (E-mail)
Cc: Bryant, Dan
Subject: briefing on the Padilla case

Senate Judiciary has requested a briefing on the decision to certify Padilla/ Abdullah al Mujahir as an "enemy combatant." [redacted] (b) (5) [redacted]. Could you begin to think through how we could accomodate such briefing requests re Padilla? Please emial me back with your thoughts. Thanks, Pat

Pat O'Brien
Deputy Assistant Attorney General
Office of Legislative Affairs
U.S. Dept. of Justice
phone (202) 616-6186
fax (202) 514-9149
Pat.O'Brien@usdoj.gov

Dinh, Viet

From: Dinh, Viet
Sent: Friday, September 06, 2002 9:09 AM
To: Bybee, Jay; Collins, Dan; Clement, Paul D; 'Kavanaugh, Brett'
Cc: Stephens, Jay B; Keisler, Peter D
Subject: VRA (Ugh) Possible Solution (Hurray)

I do not want to jinx it, but I think we may have a happy solution for all on the 180 days issue. Senators Kyl and Feinstein have to confer (yesterday was not a good day for across-the-isle outreach) on a way I proposed to accomodate the Department's view. If not, I have a revised draft letter that synthesizes both Jay Bybee's and Dan Collins' views. Thanks for your patience.

Whelan, M Edward III

From: Whelan, M Edward III
Sent: Monday, September 30, 2002 6:02 PM
To: 'Kavanaugh, Brett'
Subject: FW: Judge-Determined Punitive Damages

FYI. Per message below, we have a clear answer to your first question: (b) (5) . I understood from your message that this was the question you were most interested in. On your secondary question - (b) (5) -- we don't have a clear answer yet, though we share your suspicion tha (b) (5) . We'll try to make more progress on this.

-----Original Message-----
From: Gannon, Curtis
Sent: Monday, September 30, 2002 5:23 PM
To: Whelan, M Edward III
Subject: Judge-Determined Punitive Damages

Ed,

(b) (5) , the Court said the following:

III

(b) (5)

(b) (5)

(b) (5)

[redacted] (bold emphases added).

Whelan, M Edward III

From: Whelan, M Edward III
Sent: Wednesday, October 02, 2002 3:32 PM
To: 'Kavanaugh, Brett'
Subject: pending matters

Just wanted to doublecheck on two matters that are rather in limbo now. In particular, I want to make sure that we are on the same wavelength as to what we are (or, more precisely, are not) currently doing.

1. (b) (5) [redacted]

2. (b) (5) [redacted] We are awaiting further word from you on whether to do more on this.

Whelan, M Edward III

From: Whelan, M Edward III
Sent: Thursday, October 03, 2002 1:39 PM
To: 'Kavanaugh, Brett'
Subject: FW: Mens rea short of intent

For what it's worth:

-----Original Message-----
From: Gannon, Curtis
Sent: Thursday, October 03, 2002 1:01 PM
To: Whelan, M Edward III
Subject: RE: Mens rea short of intent

I agree with all three of those things.

(b) (5)
.

-----Original Message-----
From: Whelan, M Edward III
Sent: Thursday, October 03, 2002 12:30 PM
To: Gannon, Curtis
Subject: RE: Mens rea short of intent

Please tell me whether I have this right:

1. (b) (5)

2. (b) (5) .

3. (b) (5)

-----Original Message-----
From: Gannon, Curtis
Sent: Thursday, October 03, 2002 11:31 AM
To: 'Brett_M._Kavanaugh@who.eop.gov'
Cc: Whelan, M Edward III
Subject: Mens rea short of intent

Brett,

Ed passed along to me your questio (b) (5) . After conducting a quick canvass of case law and secondary sources, and discussing this with Ed (b) (5)

(b) (5)

[redacted]

[redacted]

[redacted]

Please let me know if we may provide further assistance on this point.

Curtis Gannon
514-4089

Gannon, Curtis

From: Gannon, Curtis
Sent: Friday, October 04, 2002 12:03 PM
To: 'Brett_M._Kavanaugh@who.eop.gov'
Cc: Whelan, M Edward III
Subject: [redacted] (b) (5)

Brett,

[redacted] (b) (5)

[redacted] (b) (5)

[redacted]

Curtis E. Gannon
Attorney-Adviser
Office of Legal Counsel
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530
(202) 514-4089

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Friday, October 04, 2002 8:53 AM
To: Gannon, Curtis; Whelan, M Edward III
Subject: New rush question

Can you compose a list (need not be exhaustive) of [redacted] (b) (5) [redacted]. Thanks. Need whatever you can get by about noon. This is for [redacted] (b) (5) [redacted].

Document ID: 0.7.18648.6383

Whelan, M Edward III

From: Whelan, M Edward III
Sent: Tuesday, October 08, 2002 2:57 PM
To: 'Kavanaugh, Brett'
Subject: RE: punitive damages
Attachments: punitives.wpd

Please use attached version instead. (It contains very minor citechecking corrections.)

-----Original Message-----
From: Whelan, M Edward III
Sent: Tuesday, October 08, 2002 2:37 PM
To: 'Kavanaugh, Brett'
Subject: punitive damages

Attached is a one-pager of points to advocate. << File: punitives.wpd >> Let me know if this serves your purposes.

Whelan, M Edward III

From: Whelan, M Edward III
Sent: Thursday, October 10, 2002 9:54 AM
To: 'Kavanaugh, Brett'
Subject: [redacted] (b) (5)

You asked about [redacted] (b) (5) Here are the basic principles:

1. [redacted] (b) (5) .

2. [redacted] (b) (5)

3. [redacted] (b) (5)

I hope this answers your questions.

Whelan, M Edward III

From: Whelan, M Edward III
Sent: Friday, October 11, 2002 9:35 AM
To: 'Brett_M._Kavanaugh@who.eop.gov'
Cc: Gannon, Curtis
Subject: RE: terrorism insurance question

In response to your voicemail: (b) (5)

I'll focus more on H.R. 3210 and let you know if my views change, but I thought you'd want this tentative read.

-----Original Message-----
From: Whelan, M Edward III
Sent: Thursday, October 10, 2002 1:27 PM
To: 'Brett_M._Kavanaugh@who.eop.gov'
Subject: RE: terrorism insurance question

(b) (5)

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Thursday, October 10, 2002 12:41 PM
To: Whelan, M Edward III
Subject: Re: terrorism insurance question

On the broader question, (b) (5) ? Also, we need a tentative answer a little more quickly.

Document ID: 0.7.18648.6391

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image moved "Whelan, M Edward III" <M.Edward.Whelan@usdoj.gov>
to file: 10/10/2002 10:21:08 AM
pic14240.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc: "Gannon, Curtis" <Curtis.Gannon@usdoj.gov> (Receipt Notification
Requested) (IPM Return Requested)
Subject: terrorism insurance question

I don't mean to provide an overly hasty answer to your question, but as I understand that you may be in the process of negotiating further changes to the legislative language, you might be interested in the following observation:

(b) (5)

Document ID: 0.7.18648.6391

Gannon, Curtis

From: Gannon, Curtis
Sent: Friday, October 11, 2002 9:52 AM
To: 'Brett_M._Kavanaugh@who.eop.gov'
Cc: Whelan, M Edward III
Subject: [redacted] (b) (5) [redacted] Laws

Brett,

Ed passed along to me your question abou [redacted] (b) (5) [redacted]

As always, please let us know if we may provide further assistance

Curtis E. Gannon
Attorney-Adviser
Office of Legal Counsel
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530
(202) 514-4089

Brett_M._Kavanaugh@who.eop.gov

From:	Brett_M._Kavanaugh@who.eop.gov
Sent:	Sunday, October 13, 2002 3:26 PM
To:	Gannon, Curtis
Cc:	Whelan, M Edward III
Subject:	Re: [redacted] (b) (5) Laws
Attachments:	ATTACHMENT.TXT; pic15055.pcx

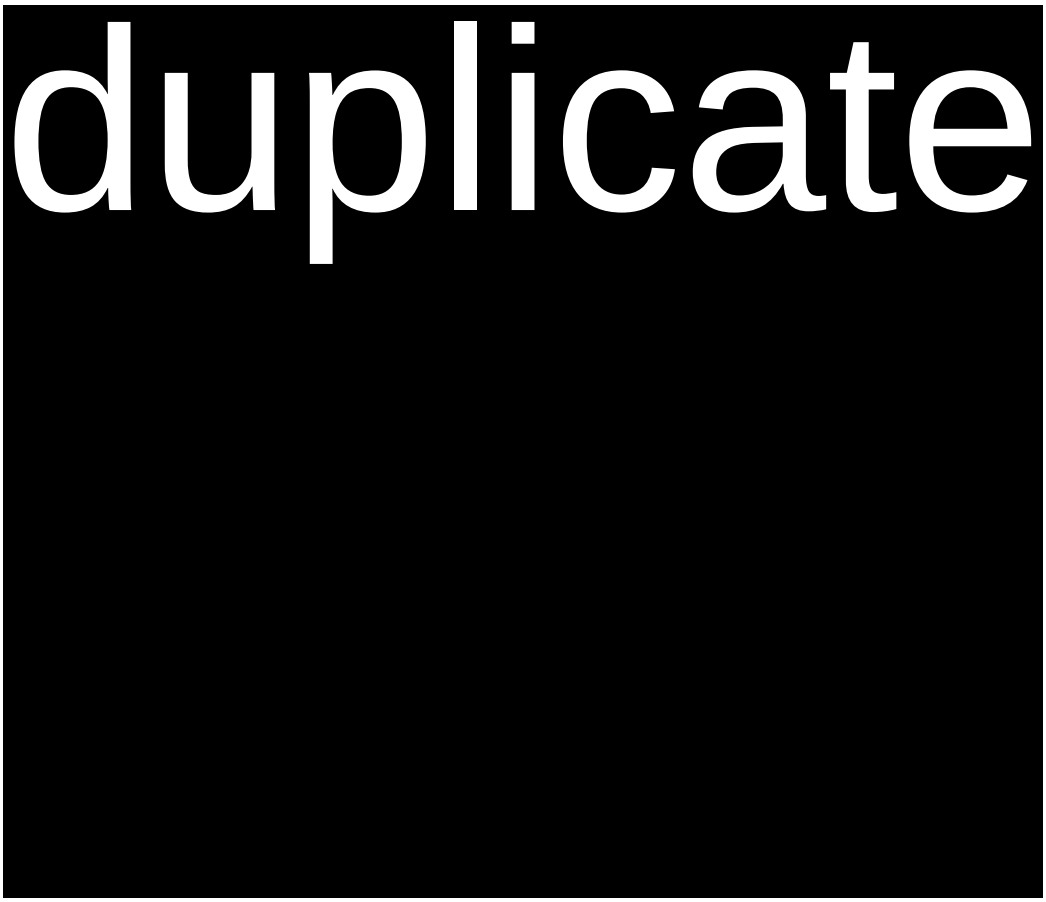
Thank you very much Curtis. All very helpful. As you can tell from Post story Sat on the negotiations, this issue is in play. Thanks.

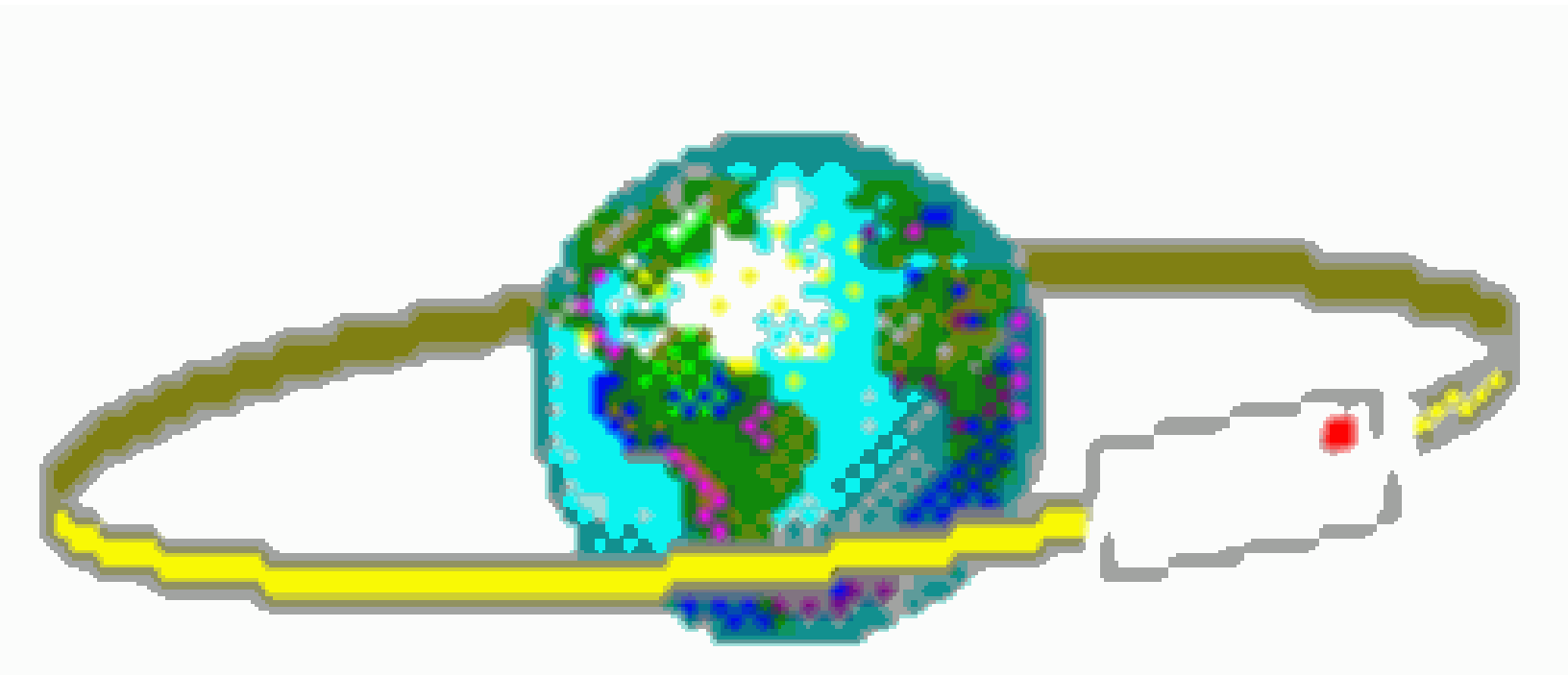
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image moved "Gannon, Curtis" <Curtis.Gannon@usdoj.gov>
to file: 10/11/2002 09:52:09 AM
pic15055.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

duplicate


duplicate



Gannon, Curtis

From: Gannon, Curtis
Sent: Wednesday, October 16, 2002 9:25 PM
To: 'Brett_M._Kavanaugh@who.eop.gov'
Cc: Whelan, M Edward III
Subject: R (b) (5) Laws

Brett,

In general, all of your examples are true. If you scroll down to your original email below, you will see my brief, interlineated annotations confirming the law in each state you listed.

(b) (5)

Curtis E. Gannon

Document ID: 0.7.18648.6396

Attorney-Adviser
Office of Legal Counsel
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530
(202) 514-4089

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Wednesday, October 16, 2002 12:24 PM
To: Gannon, Curtis
Subject: Another . . .

We need to confirm this for a Presidential announcement/decision. Anyway you could backstop this information?

(b) (5)

(b) (5)

Whelan, M Edward III

From: Whelan, M Edward III
Sent: Thursday, October 17, 2002 1:50 PM
To: 'Kavanaugh, Brett'

Here's a hasty first draft. I'm going to try to think of some case cites for window-dressing. I welcome your comments.

(b) (5)

[redacted]