

DIRECTING THE ATTORNEY GENERAL AND THE SECRETARY OF HOMELAND SECURITY TO TRANSMIT TO THE HOUSE OF REPRESENTATIVES NOT LATER THAN 14 DAYS AFTER THE DATE OF THE ADOPTION OF THIS RESOLUTION DOCUMENTS IN THE POSSESSION OF THOSE OFFICIALS RELATING TO THE SECURITY INVESTIGATIONS AND BACKGROUND CHECKS RELATING TO GRANTING ACCESS TO THE WHITE HOUSE OF JAMES D. GUCKERT (ALSO KNOWN AS JEFF GANNON)

APRIL 5, 2005.—Referred to the House Calendar and ordered to be printed

Mr. SENSENBRENNER, from the Committee on the Judiciary,
submitted the following

ADVERSE REPORT

together with

DISSENTING VIEWS

[To accompany H. Res. 136]

The Committee on the Judiciary, to whom was referred the resolution (H. Res. 136) directing the Attorney General and the Secretary of Homeland Security to transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution documents in the possession of those officials relating to the security investigations and background checks relating to granting access to the White House of James D. Guckert (also known as Jeff Gannon), having considered the same, report unfavorably thereon without amendment and recommend that the resolution not be agreed to.

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PURPOSE AND SUMMARY

House Resolution 136, introduced by Representatives Conyers and Slaughter on March 3, 2005, directs the Attorney General and Secretary of Homeland Security to transmit to the House of Representatives, not later than 14 days after the date of adoption of this resolution, documents in the possession of those officials relating to the security investigations and background checks related to granting access to the White House of James D. Guckert (also known as Jeff Gannon).

BACKGROUND AND NEED FOR THE LEGISLATION

HOUSE RESOLUTION OF INQUIRY

House Resolution 136 is a resolution of inquiry. Clause 7 of Rule XIII of the Rules of the House of Representatives provides that if the Committee to which it is referred does not act on the resolution within 14 legislative days, a privileged motion to discharge the resolution from the Committee is in order on the House floor. In calculating the days available for Committee consideration, the day of introduction and the day of discharge are not counted.¹ Upon introduction, H. Res. 136 was referred to the Committee on the Judiciary on March 3, 2005, and was ordered reported adversely on March 16, 2005 by the Committee. Under the rules and precedents of the House, a resolution of inquiry passed by the House of Representatives allows the House to request information from the President of the United States or to direct the head of one of the executive departments to provide such information. According to Deschler's Precedents, it is a "simple resolution making a direct request or demand of the President or the head of an executive department to furnish the House of Representatives with specific factual information in the possession of the executive branch."²

As mentioned before, if a Committee does not report the resolution of inquiry in a timely manner, it may be discharged from a Committee by House floor vote under a privileged motion. However, if a Committee acts in a timely manner, it may report the resolution either favorably or adversely.

A Committee that adversely reports a resolution of inquiry does not necessarily oppose the resolution under consideration but may find it unnecessary. In the past, resolutions of inquiry have oftentimes been reported adversely for several recurring reasons, two of which are that an Administration is already in substantial compliance with the request or that there is an ongoing competing inves-

¹ William Holmes Brown, *House Practice: A Guide to the Rules, Precedents and Procedures of the House* 819 (2003).

² 7 Deschler's Precedents of the House of Representatives, ch. 24, § 8.

tigation. There is also past precedent for a resolution of inquiry to be adversely reported because the nature of the information demanded was highly sensitive and inappropriate for such a public means of inquiry.³

In this instance, the common circumstances in which a resolution of inquiry should be adversely reported are present. First, the Congress received information responsive to the legislative purposes sought by the resolution. Second, House Resolution 136 requests documents that appear to relate to competing ongoing investigations. In addition, the House Resolution 136 requests documents that are of a highly sensitive nature, as they deal with the security procedures of the White House itself and Secret Service protection of the President and First Family.

THE TARGET OF THE RESOLUTION—JAMES D. GUCKERT
(ALSO KNOWN AS JEFF GANNON)

According to a February 19, 2005 *Washington Post* article by Howard Kurtz entitled *Jeff Gannon Admits Past "Mistakes," Berates Critics*, James Guckert, covered the White House for two conservative Web sites, Talon News and GOPUSA, both owned by a Texas Republican activist. Mr. Guckert resigned in February 2005.

The Kurtz article states that “[Mr. Guckert] became a target after asking President Bush a question that slammed Senate Democrats and contained false information about Minority Leader Harry Reid (D-Nev.)” The article also pointed out that while “Gannon said he began covering the White House in February 2003, at least a month before Talon News was created.” He then went on to explain that he was working for GOPUSA during that time.

REASON FOR ADVERSELY REPORTING HOUSE RESOLUTION 136

On March 16, 2005 the Committee adversely reported H. Res. 136 by roll call vote. In adversely reporting the resolution, the Committee considered the following factors of paramount importance to its determination that the resolution not be accorded a privileged motion on the House floor.

SUBSTANTIAL COMPLIANCE

First, the Committee finds that Administration substantially complied with the March 3, 2005 introduced resolution of inquiry by its March 7, 2005 letter from the Secret Service to Representatives Conyers and Slaughter.

On February 10, 2005, Mr. Conyers and Ms. Slaughter sent a letter to Director Basham of the Secret Service stating:

We write to inquire about the process you employ to clear individuals for attendance at events within a close proximity of the President. We have recently become aware that a Republican activist, with a potential criminal past, gained access to the White House press briefing room and Presidential press conferences and was allowed to work under an assumed name. This appears to contradict the strict standards you have set for

³H.R. Rep. No. 1079, 92nd Cong., 2nd Sess., (1972).

protecting the President in the past and have applied to others seeking access to the White House or the President.

On March 3, 2005, Mr. Conyers and Ms. Slaughter introduced H. Res. 136 requesting similar information from the Departments of Homeland Security and Justice.

On March 7, 2005, the Secret Service responded to Mr. Conyers and Ms. Slaughter. The Secret Service had its Office of Protective Operations investigate the matter of whether there was a deviation from Secret Service standards and procedures. The Office of Protective Operations found none.

The letter stated the Secret Service assessed Mr. Guckert using the same criteria as those applied to all individuals seeking day pass access to White House briefings. The Secret Service stated that it is solely responsible for the security of the White House Complex. In the letter, the Secret Service advised the Members that those afforded access to the White House may utilize professional names that differ from their legal names, but that a reporter seeking a day pass must provide his or her legal name. The Secret Service explained that Mr. Guckert used the "pen name" of Jeff Gannon, but also provided his legal name, his Social Security number and birth date in applying for a day pass. The Secret Service also pointed out that they are bound by a longstanding Federal regulation that requires the Secret Service to be guided "solely by the principle of whether the applicant presents a potential source of physical danger to the President and/or the family of the President so serious as to justify his or her exclusion from White House press privileges." The Secret Service determined that Mr. Guckert was not a physical danger to the President.

The Administration, through this letter from the Secret Service, explained that the normal procedures were properly followed and the Secret Service did not find that Mr. Guckert posed a threat to the President or his family.

In a March 8, 2005 press release, Representatives Conyers and Slaughter acknowledged that the "conservative activist" they inquired about on February 10, 2005, had used his real name when he applied for his day pass.

COMPETING INVESTIGATIONS

A second reason the Committee is reporting H. Res. 136 adversely is because it directs Executive Branch officials to transmit to the House of Representatives documents that may be subject to ongoing criminal and administrative investigations.

The sponsors of H. Res. 136 requested criminal and administrative investigations. As a result, these documents may be subject to an ongoing criminal investigation and a grand jury investigation.

On February 10, 2005, Representatives Conyers and Slaughter wrote to U.S. Attorney Fitzgerald investigating the alleged leak of a CIA operative's name. The letter requested they investigate the "leak of a classified Central Intelligence Agency memo containing the identity of undercover agent Valerie Plame to James D. Guckert, a member of the White House press corp."

The Plame criminal investigation stemmed from a July 14, 2003 article by syndicated columnist Robert Novak, questioning why retired diplomat Joseph Wilson would be sent to Niger on a CIA mis-

sion.⁴ Mr. Novak wrote that “Wilson never worked for the CIA, but his wife, Valerie Plame, is an Agency operative on weapons of mass destruction. Two senior administration officials told [Novak] Wilson’s wife suggested sending him to Niger to investigate. . . .”⁵

In late January 2004, the press reported that a grand jury had convened in Washington, D.C., to hear testimony on this investigation.⁶ On January 21, 2004, Representative Holt introduced House Resolution 499, a resolution relating to the Plame matters. This Committee reported that resolution adversely because of an ongoing grand jury investigation. The Committee concluded “the Federal grand jury enjoys sweeping authority”⁷ that allows investigators to subpoena witnesses and request the same documents requested in H. Res. 499, including telephone and electronic mail records, logs and calendars, personnel records, and records of internal discussions. On July 21, 2004, the Committee adversely reported H. Res. 700, which requested information related to the treatment of detainees because of several competing administrative and criminal investigations.

In this instance, the February 10, 2005 Conyers’ letter asked the U.S. Attorney, to:

investigate the leak of a classified Central Intelligence Agency memo containing the identity of undercover agent Valerie Plame to James D. Guckert, a member of the White House press corps. It appears that the White House was so focused on smearing the reputation of Ambassador Joseph Wilson, that it knowingly leaked his wife’s identity to a Republican activist posing as a journalist.

James D. Guckert, who operated under the false name “Jeff Gannon,” and may have engaged in criminal activity, had been attending press events at the White House for up to three years. Mr. Guckert reportedly received an internal and classified CIA memo that revealed the identity of Ambassador Joseph Wilson’s wife. Because of the extremely sensitive nature of this leak, and its relation to the investigation you are conducting, we believe that you as special counsel are the most appropriate person to conduct the inquiry.

Mr. Conyers and Ms. Slaughter charged that “[w]hoever in the Administration gave Mr. Guckert the memo risked Ms. Plame’s very life and must be punished to the full extent of the law.” In their letter Representatives Conyers and Slaughter went on to say:

There is a clear conflict of interest in the Administration investigating Mr. Guckert’s role in this crime. Mr. Guckert and the White House press operation work together closely to forward the President’s policies. First, Mr. Guckert would not be considered a bona fide journalist by his peers in the press corps, as most of his claims to legitimacy have already been discredited. Access to the President and his press corps is highly com-

⁴ Robert Novak, Editorial, *Mission to Niger*, CHICAGO SUN-TIMES, July 14, 2003, at 31.

⁵ *Id.*

⁶ John Dickerson & Viveca Novak, *Grand Jury Hears Plame Case*, Time.com (Jan. 22, 2004), available at <http://www.time.com/time/nation/article/0,8599,581456,00.html> (last visited Jan. 29, 2004).

⁷ Charles Doyle, Congressional Research Service Report for Congress: Federal Grand Juries: the Law in a Nutshell I (Feb. 5, 2002).

petitive, and many seasoned journalists have not had the honor of attending the events or enjoying the access Mr. Guckert has. *That a person of these dubious qualifications was given such close contact to the President, perhaps in violation of standard security procedures, demonstrates the Administration's affinity for and bias towards Mr. Guckert.* Second, Mr. Guckert's questions clearly reiterated the White House's policy, and simply asked for concurrence. Finally, Mr. Guckert's "articles," published by a news front for GOPUSA, track White House talking points word for word. [emphasis added].

Clearly, Mr. Guckert returned the White House's favor by advancing the President's policies with gusto. With such a close relationship between Mr. Guckert and the White House, the conflict of an Administration-led investigation is all too apparent. Finally, the public interest has been thwarted far too long over the leak of Ms. Plame's identity. It has been over a year and a half since Robert Novak published Plame's identity and we are no closer to finding who in the Administration illegally leaked her status as an undercover agent. Having a special counsel immediately follow up this lead is necessary to ensure that those who risk their lives for our country to gather intelligence are fully protected.

On February 23, 2005 Representatives Conyers and Slaughter sent another letter to U.S. Attorney Fitzgerald requesting Mr. Fitzgerald subpoena Mr. Guckert to provide his private journal to the grand jury:

We are writing to inform you of the existence of information potentially vital to your investigation of the leak of a CIA operative name. A person in the White House briefing room who had access to a memo revealing the operative's name also kept a journal of his days covering the White House. We bring this to your attention because we believe your office may need to subpoena the journal to further the work of the grand jury.

As many people are aware, James Guckert (aka "Jeff Gannon") posed as a journalist and gained entry to the White House briefing room. He also may have had access to documents that leaked the name of the CIA operative. In an October 2003 interview with Joseph C. Wilson IV, the husband of the operative, Mr. Guckert referenced a memo written by U.S. intelligence officials indicating the operative suggested Mr. Wilson could investigate reports that Iraq had sought uranium. In and of itself, this indicates that Mr. Guckert had access to classified information.

It should be noted that four days prior to Mr. Conyers and Ms. Slaughter sending this correspondence, alleging that Mr. Gannon/Guckert received a classified memorandum, Mr. Guckert had claimed that he had not received such a briefing in a February 19, 2005 *Washington Post* article by Howard Kurtz entitled *Jeff Gannon Admits Past "Mistakes," Berates Critics*. Mr. Kurtz reports the following:

Mr. Gannon . . . said he was questioned by the FBI in the Valerie Plame leak investigation after referring to a classified

CIA document when he interviewed the outed CIA operative's husband, former ambassador Joe Wilson.

But he said yesterday [February 18, 2005]: "I didn't have the document. I never saw the document. It was written about in the Wall Street Journal a week before. I had no special access to classified information."

The Committee has also previously reported resolutions of inquiry adversely because of other types of competing investigations. For instance, on July 17, 2003, this Committee adversely reported H. Res. 287, a resolution of inquiry, due to an ongoing competing investigation of the Inspector General of the Department of Justice. That resolution of inquiry directed the Attorney General to transmit all physical and electronic records and documents in his possession related to any use of Federal agency resources in any task or action involving or relating to Members of the Texas Legislature in the period beginning May 11, 2003, and ending May 16, 2003, except information the disclosure of which would harm the national security interests of the United States. The Committee's report stated:

According to a May 12, 2003, press release issued by the Texas Department of Public Safety, the public was asked for assistance in locating 53 Texas legislators who had "disappeared." According to the release, under the Texas Constitution, the majority of members present in session in the Texas State House can vote to compel the presence of enough members to make a quorum. Members of the House did so and directed the Sergeant-at-Arms of the House and the Department of Public Safety to locate the absent members and bring them back to the State capital.

On May 27, 2003, Sen. Joseph Lieberman of Connecticut sent a letter to the Office of the Inspector General of the U.S. Department of Justice asking for "a full investigation into this matter." After receipt of the letter from the Senator, in a statement to the press, the Office of the Inspector General disclosed that on June 4, 2003, it began investigating what, if any, Department of Justice resources were expended in connection with this matter. As of the filing of this report, that investigation is still ongoing.

In this instance, on February 23, 2005, Mr. Conyers and Ms. Slaughter sent a letter to the Comptroller General of the U.S. Government Accountability Office (GAO) requesting that the GAO expand on a January 11, 2005 request that asked the Comptroller to investigate whether the Administration illegally used appropriated money to covertly advocate for seven different programs. The letter also requested GAO also look at whether the Administration violated the ban on prepackaged news stories by siphoning print stories to James D. Guckert, also known as "Jeff Gannon."

The sponsors of H. Res. 136 sent letters requesting criminal and administrative investigations claiming that Mr. Guckert received improper access to the White House or White House documents and used this access improperly. These letters make serious allegations of conflicts of interest and criminal activity. One letter alleges that he "posed as a journalist and gained access to the White

House briefing room, and that this allowed him access to a memo that leaked the name of a CIA operative to the press.” In another letter, Mr. Conyers and Ms. Slaughter even requested the U.S. Attorney to subpoena Mr. Guckert’s private journal. These letters (2/10, 2/23) and the introduction of the resolution of inquiry itself (3/3) predate the Secret Service response (3/7) which demonstrates that procedures were followed, that Mr. Guckert did not get special treatment, that Mr. Guckert did not give a false name—thus he did not “pose as a journalist,” and that there was no reason to deny him access under current procedures and Federal regulations.

Whether Members of the Committee agree or disagree about the need for Congress to investigate the allegations contained in the resolution of inquiry, the sponsors themselves requested these competing investigations that preclude Congressional involvement based on previous precedents. Accordingly, the Committee is adversely reporting H. Res. 136 on these grounds as well.

SENSITIVE DOCUMENTS REQUESTED

A third reason to report this resolution adversely is the fact that H. Res. 136 requests information about the security procedures and Secret Service practices involved in protecting the President and First Family and controlling access for White House press, much of which is of a highly sensitive nature. For instance, the resolution requests all documents setting forth policies and procedures discussing security clearances and background checks related to granting access into the White House. Such documents could reveal highly sensitive information about the Secret Service and its manner of protection for the President, First Family, and White House grounds. Such revelations could expose potential vulnerabilities for those who would do harm. Additionally, the letter the Secret Service already sent responded in the negative to the sponsors concerns that Mr. Guckert used a false name and he received special treatment, but did so without revealing sensitive information.

CONCLUSION

The Committee reports this resolution of inquiry adversely for the reasons outlined above. First, the Administration has substantially complied with information requested as the sponsors have received information responsive to the resolution. The March 7, 2005 letter from the Secret Service responded to the resolution of inquiry’s core allegations and requests. Second, the authors of the resolution themselves requested additional criminal and administrative investigations into the relationship between Mr. Guckert and the White House. A competing investigation is a common reason that Committees have opposed resolutions of inquiry in the past. Finally, the resolution requests documents of a highly sensitive nature as they relate to the security of the White House, Secret Service procedures, and potential vulnerabilities.

Accordingly, this resolution is reported adversely by the Committee because the Administration has already substantially complied without revealing sensitive information that could jeopardize the safety of the President, and because this request could interfere with the competing investigations that were requested by the sponsors of the resolution themselves.

HEARINGS

The Committee on the Judiciary held no hearings on H. Res. 136.

COMMITTEE CONSIDERATION

On March 16, 2005, the Committee met in open session and adversely reported the resolution, H. Res. 136, by a recorded vote of 21 ayes to 10 noes, a quorum being present.

VOTE OF THE COMMITTEE

In compliance with clause 3(b) of Rule XIII of the Rules of the House of Representatives, the Committee notes that there were no recorded votes during the Committee's consideration of H. Res. 136.

ROLLCALL NO. 1

	Ayes	Nays	Present
Mr. Hyde			
Mr. Coble	X		
Mr. Smith (Texas)	X		
Mr. Gallegly	X		
Mr. Goodlatte	X		
Mr. Chabot	X		
Mr. Lungren	X		
Mr. Jenkins	X		
Mr. Cannon	X		
Mr. Bachus	X		
Mr. Inglis	X		
Mr. Hostettler	X		
Mr. Green	X		
Mr. Keller	X		
Mr. Issa	X		
Mr. Flake	X		
Mr. Pence	X		
Mr. Forbes	X		
Mr. King	X		
Mr. Feeney			
Mr. Franks	X		
Mr. Gohmert	X		
Mr. Conyers		X	
Mr. Berman		X	
Mr. Boucher			
Mr. Nadler			
Mr. Scott		X	
Mr. Watt		X	
Ms. Lofgren			
Ms. Jackson Lee		X	
Ms. Waters		X	
Mr. Meehan		X	
Mr. Delahunt			
Mr. Wexler			
Mr. Weiner			
Mr. Schiff		X	
Ms. Sánchez		X	
Mr. Smith (Washington)			
Mr. Van Hollen		X	
Mr. Sensenbrenner, Chairman	X		
Total	21	10	

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of Rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of Rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of Rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

COMMITTEE COST ESTIMATE

In compliance with clause 3(d)(2) of Rule XIII of the Rules of the House of Representatives, the Committee estimates the costs of implementing the resolution would be minimal. The Congressional Budget Office did not provide a cost estimate for the resolution.

PERFORMANCE GOALS AND OBJECTIVES

H. Res. 136 does not authorize funding. Therefore, clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives is inapplicable.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of Rule XIII of the Rules of the House of Representatives, the Committee finds that the rule does not apply because H. Res. 136 is not a bill or joint resolution that may be enacted into law.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

The resolution directs that the Attorney General and Secretary of Homeland Security transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution all documents in the possession of those officials relating to the security investigations and background checks relating to granting access to the White House of James D. Guckert (also known as Jeff Gannon) and any requisite instruction for handling such documents.

CHANGES IN EXISTING LAW MADE BY THE RESOLUTION,
AS REPORTED

In compliance with clause 3(e) of Rule XIII of the Rules of the House of Representatives, the Committee notes that H. Res. 136 makes no changes to existing law.

MARKUP TRANSCRIPT
BUSINESS MEETING
MARCH 16, 2005

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 10:07 a.m., in Room 2141, Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr., [Chairman of the Committee] presiding.

[Intervening business.]

Chairman SENSENBRENNER. Now, pursuant to notice, I call up House Resolution 136, directing the Attorney General and the Secretary of Homeland Security to transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution documents in possession of those officials relating to the security investigations and background checks relating to granting access to the White House of James D. Guckert, also known as Jeff Gannon, for purposes of markup and move its—report it adversely to the House. Without objection, the resolution will be considered as read and open for amendment at any time.

[The resolution, H. Res. 136, follows:]

109TH CONGRESS
1ST SESSION

H. RES. 136

Directing the Attorney General and the Secretary of Homeland Security to transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution documents in the possession of those officials relating to the security investigations and background checks relating to granting access to the White House of James D. Guckert (also known as Jeff Gannon).

IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 2005

Mr. CONYERS (for himself, Ms. SLAUGHTER, Mr. WAXMAN, Mr. THOMPSON of Mississippi, Mr. RANGEL, Mr. BERMAN, Mr. BOUCHER, Mr. DEFazio, Mr. McDERMOTT, Ms. WATERS, Mr. HASTINGS of Florida, Mr. HINCHAY, Mr. NADLER, Mr. SCOTT of Virginia, Ms. JACKSON-LEE of Texas, Ms. ZOE LOFGREN of California, Mr. MCGOVERN, Mr. SMITH of Washington, Mr. WEXLER, Ms. LEE, Mr. WEINER, Mr. SCHIFF, Mr. CAPUANO, Ms. WATSON, Ms. LINDA T. SÁNCHEZ of California, Mr. VAN HOLLEN, Mr. GEORGE MILLER of California, Mr. OLVER, and Mrs. MALONEY) submitted the following resolution; which was referred to the Committee on the Judiciary

RESOLUTION

Directing the Attorney General and the Secretary of Homeland Security to transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution documents in the possession of those officials relating to the security investigations and background checks relating to granting access to the White House of James D. Guckert (also known as Jeff Gannon).

1 *Resolved*, That the Attorney General and the Sec-
2 retary of Homeland Security are each directed to transmit
3 to the House of Representatives not later than 14 days
4 after the date of the adoption of this resolution all docu-
5 ments in their possession relating to the security investiga-
6 tions and background checks relating to granting access
7 to the White House of James D. Guckert (also known as
8 Jeff Gannon) and any requisite instructions for handling
9 such documents, including—

10 (1) all records setting forth or discussing
11 whether an individual granted access to the Presi-
12 dent or to the White House briefing room may use
13 a false name;

14 (2) all records setting forth or discussing poli-
15 cies, procedures, or guidelines discussing security
16 clearances and background checks relating to grant-
17 ing access into the White House briefing room;

18 (3) all records indicating how the policies, pro-
19 cedures, or guidelines referred to above were com-
20 municated to Mr. Guckert;

21 (4) all records indicating the officer or office re-
22 sponsible for requesting that the Secret Service
23 carry out a security investigation or background
24 check with respect to an individual seeking access to
25 the President or to the White House briefing room;

1 (5) all records setting forth the standards for
2 security investigations or background checks with re-
3 spect to “day pass” credentials;

4 (6) all records indicating or discussing whether
5 and to what extent an individual who is cleared for
6 a day pass for a given date is required to receive
7 further security clearance for a day pass for a later
8 date;

9 (7) all records setting forth or discussing which
10 officer or officers, if any, has the authority to ex-
11 empt an individual seeking access to the President
12 or to the White House briefing room from the stand-
13 ards for security investigations or background
14 checks that otherwise apply; and

15 (8) all records of communication between the
16 Secret Service and Mr. Guckert, including not only
17 postal correspondence but also electronic mail cor-
18 respondence, facsimile correspondence, records of
19 telephone conversations, and any other records of
20 communication.

○

Mr. CONYERS. Mr. Chairman?

Chairman SENSENBRENNER. The gentleman from Michigan.

Mr. CONYERS. I would strike the requisite number of words.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. CONYERS. And I would like to point out to the Members of the Committee that this resolution of inquiry is brought under the rules of the House of Representatives and mandates that we determine how to dispose of the matter and that it cannot be ignored or passed over within the number of days that the Chairman has correctly stated. We're here because of the Jeff Gannon, phony reporter in the White House issue. It defies credibility that a reporter operating under an alias, who couldn't even get privileges in the House or Senate press gallery, could receive scores of consecutive White House day passes without the intervention of someone at the White House. Who? We do not know. And, further, the Administration will not tell us nor will they cooperate.

Now, there are Pulitzer Prize-winning journalists who are regularly turned down for White House press credentials, and yet a sham journalist working for a politically controlled media front operation could receive open-ended access to the White House press room because someone let him in.

We're here today because we have an Administration that has consistently refused cooperation, and we now have a Congress that under our rules imposed upon the Judiciary Committee a determination that we should investigate this most serious of ethical transgressions.

We are here because the Administration has either rejected or ignored every bona fide request for information concerning the so-called Jeff Gannon. On February 9, the gentelady from New York, Louise Slaughter, asked the White House in writing about this. Ignored.

On February 10, the gentelady from New York and I posed the question to the Secret Service and received a non-responsive response.

On February 15, the gentelady from New York and I filed a Freedom of Information request with the Department of Homeland Security and again no response.

In light of this, we have no choice but to ask our distinguished Committee on the Judiciary to assist us in this job and request the materials from the Administration, simply the information, because they are—because others in Government are simply unwilling to give us the cooperation. And we cannot tolerate phony news set-ups in the Administration, the purchasing of news from columnists, or anything that takes Federal money and uses it for political or propagandistic purposes. Taxpayers don't want their money used that way, and neither do we. We can no longer tolerate paying reporters for opinions when we can't find funds for our job programs and our poverty programs. Americans don't want the White House press room to churn out press releases that reporters like Jeff Gannon plagiarize and report as their own.

So, in conclusion, what we have today is a Government that is ruled almost by one party, totally lacking in accountability, instead of a system of checks and balances. And if we don't investigate this matter thoroughly, impartially, and in a bipartisan sense, where

and when will we draw the line? If we don't act now, when will there be someone to say enough is enough?

I plead with my Committee Members in the Judiciary to support this very plain but necessary and imperative resolution of inquiry, and I return my time, and I thank the Chairman of the Committee.

Chairman SENSENBRENNER. The Chair strikes the last word.

The Administration, in my opinion, has already substantially complied with the terms of this resolution by providing the information requested by it. There also appears to be ongoing competing investigations into the relationship between Mr. Guckert and the White House at the request of the Ranking Member himself.

On February 10, Representatives Conyers and Slaughter sent the Secret Service letter—a letter requesting similar information. The Secret Service requested its Office of Protective Operations to examine whether the Service deviated from established standards and procedures when granting Mr. Guckert access to the White House.

In a March 7 letter to the two Representatives, the Service stated that the OPO investigated their concern and found no evidence to suggest that Mr. Guckert received special treatment when obtaining access to the White House. The letter further stated that the Secret Service assessed Mr. Guckert utilizing the same criteria as those applied to all individuals seeking day pass access to White House briefings.

The Secret Service also indicated that it is solely responsible for the security of the White House complex. The letter informed our colleagues that those afforded access to the White House may use professional names that differ from their legal names, that the Secret Service, nevertheless, requires legal names be provided to receive access, and that Mr. Guckert used the pen name of Jeff Gannon.

The letter also stated that Mr. Guckert provided his legal name, Social Security number, and birth date for access and that Federal regulation requires the Secret Service to be guided solely by the principle of whether the applicant presents a potential source of physical danger to the President and/or the family of the President so serious as to justify his or her exclusion from White House press privileges, unquote. The letter concluded by stating that the Secret Service had determined that Mr. Guckert did not pose a physical danger to the President or his family.

In a March 8 press release, our colleagues did acknowledge that Mr. Guckert, whom they deemed “a conservative activist,” used his legal name when he applied for his day pass. The information already provided by the Secret Service provides a basis to adversely support this resolution. However, additional letters sent by the Ranking Member to the Comptroller General and the U.S. Attorney for the Northern District of Illinois, Patrick Fitzgerald, provide additional reasons to adversely report the resolution in order to avoid interfering with those investigations.

Our colleagues requested Attorney Fitzgerald to include Mr. Guckert in the Valerie Plame investigation in two separate letters dated February 10 and February 23. The Plame criminal investigation stems from a 2003 article by syndicated columnist Robert Novak. The leak of Valerie Plame's name is currently under investigation by U.S. Attorney Fitzgerald.

Moreover, on February 23, our colleagues requested the GAO to expand on a January 11, 2005, request to investigate whether the Administration illegally used appropriated money to covertly advocate for seven different Administration programs. This letter requested GAO to examine whether the Administration violated the ban on prepackaged news stories by siphoning print stories to James D. Guckert.

Avoiding competing investigations is a common and well-founded reason that Committees have opposed resolutions of inquiry in the past. This Committee has previously reported such resolutions adversely for this precise reason, and I urge my colleagues to do so today.

I would reiterate the fact that the Administration has substantially complied with the request for information, and the sponsors of this resolution have requested Mr. Guckert be included in a criminal grand jury investigation and a GAO investigation. I urge Members to support the motion to report adversely.

I would like to introduce into the record a reprint of 31 Code of Federal Regulations Chapter 4, Part 409(1) relating to standards for security clearances that has been in the Code of Federal Regulations since June 22, 1978. Without objection, this information will be included.

[The information follows:]

Section

Page 1 of 1

[Code of Federal Regulations]
 [Title 31, Volume 2]
 [Revised as of July 1, 2004]
 From the U.S. Government Printing Office via GPO Access
 [CITE: 31CFR409.1]

[Page 516-517]

TITLE 31--MONEY AND FINANCE: TREASURY

CHAPTER IV--SECRET SERVICE, DEPARTMENT OF THE TREASURY

PART 409_STANDARD AND PROCEDURES UTILIZED IN ISSUING A SECURITY CLEARANCE

Sec. 409.1 Standard.

IN CONNECTION WITH AN APPLICATION FOR A PRESS PASS TO THE WHITE HOUSE
 --Table of Contents

Sec.
 409.1 Standard.
 409.2 Procedures.

Authority: 18 U.S.C. 3056 and 3 U.S.C. 202.

[[Page 517]]

In granting or denying a request for a security clearance made in response to an application for a White House press pass, officials of the Secret Service will be guided solely by the principle of whether the applicant presents a potential source of physical danger to the President and/or the family of the President so serious as to justify his or her exclusion from White House press privileges.

[43 FR 26718, June 22, 1978]

http://a257.g.akamaitech.net/7/257/2422/12feb20041500/edocket.access.gpo.gov/cfr_2004/julqtr/31cfr40... 3/21/2005

Chairman SENSENBRENNER. Without objection, all Members' opening statements will appear in the record at this point.

Are there amendments? The gentleman from California.

Mr. BERMAN. Move to strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. BERMAN. Mr. Chairman, I think by definition the fact that this resolution of inquiry is before is confirmation of the fact that the people who requested the information, namely, the Ranking Member and the gentlelady from New York, did not receive answers to the questions they asked. Those specifically were who or what office was responsible for ultimately granting access to the White House, given the applicant passes, his background check, in-

cluding who or what office asked the Secret Service to complete a background check on Mr. Guckert, specifically whether a single clearance lasts indefinitely or whether the applicant must reapply for each day pass, and how many times and on what days Mr. Guckert was cleared and who requested that clearance.

While the Secret Service has partially responded to the Ranking Member's request, the very specific questions related to the belief and the allegation that essentially a conservative activist was promoted by the White House to seek a clearance for being able to ask a question as an independent news reporters have not been answered, and those are the questions for which we and the sponsor of the resolution of inquiry and the Ranking Member are seeking information. And that's why this resolution should be adopted.

And may I just put in the record a copy of the letters dated February 10, February 23—two of February 23, and February 15 to Patrick Fitzgerald; to Patrick Fitzgerald again; to David Walker, Comptroller General, U.S. Government Accountability Office; and to the Honorable Tom Ridge—letters sent by Ranking Member Conyers and Ranking Member of Rules Louise Slaughter.

Chairman SENSENBRENNER. Without objection.

Mr. BERMAN. Thank you.

[The material referred to follows:]

U.S. House of Representatives
Committee on the Judiciary
Washington, DC 20515-6216
One Hundred Ninth Congress

February 10, 2005

Mr. Patrick J. Fitzgerald
United States Attorney
US Attorney's Office
219 S. Dearborn St.
Suite 5000
Chicago, IL 60656

Dear Mr. Fitzgerald:

We write to ask that you investigate the leak of a classified Central Intelligence Agency memo containing the identity of undercover agent Valerie Plame to James D. Guckert, a member of the White House press corps. It appears that the White House was so focused on smearing the reputation of Ambassador Joseph Wilson, that it knowingly leaked his wife's identity to a Republican activist posing as a journalist.

James D. Guckert, who operated under the false name "Jeff Gannon," and may have engaged in criminal activity, had been attending press events at the White House for up to three years. Mr. Guckert reportedly received an internal and classified CIA memo that revealed the identity of Ambassador Joseph Wilson's wife. Because of the extremely sensitive nature of this leak, and its relation to the investigation you are conducting, we believe that you as special counsel are the most appropriate person to conduct the inquiry.

Under Department of Justice regulations, a special counsel should investigate when (1) a "criminal investigation of a person or matter is warranted," (2) the investigation "by a United States Attorney Office or Litigating Division of the Department of Justice would present a conflict of interest for the Department," and (3) "it would be in the public interest to appoint an outside Special Counsel to assume responsibility for the matter."¹ In the present case all three factors have been met.

¹28 C.F.R. 600.1.

Mr. Patrick J. Fitzgerald
Page 2
February 10, 2005

As has been long discussed, revealing the identity of an undercover agent violates myriad laws. Whoever in the Administration gave Mr. Guckert the memo risked Ms. Plame's very life and must be punished to the full extent of the law.

There is a clear conflict of interest in the Administration investigating Mr. Guckert's role in this crime. Mr. Guckert and the White House press operation work together closely to forward the President's policies.

First, Mr. Guckert would not be considered a bona fide journalist by his peers in the press corps, as most of his claims to legitimacy have already been discredited. Access to the President and his press corps is highly competitive, and many seasoned journalists have not had the honor of attending the events or enjoying the access Mr. Guckert has. That a person of these dubious qualifications was given such close contact to the President, perhaps in violation of standard security procedures, demonstrates the Administration's affinity for and bias towards Mr. Guckert.

Second, Mr. Guckert's questions clearly reiterated the White House's policy, and simply asked for concurrence. Finally, Mr. Guckert's "articles," published by a news front for GOPUSA, track White House talking points word for word.

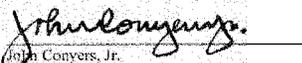
Clearly, Mr. Guckert returned the White House's favor by advancing the President's policies with gusto. With such a close relationship between Mr. Guckert and the White House, the conflict of an administration-led investigation is all too apparent.

Finally, the public interest has been thwarted far too long over the leak of Ms. Plame's identity. It has been over a year and a half since Robert Novak published Plame's identity and we are no closer to finding who in the Administration illegally leaked her status as an undercover agent. Having a special counsel immediately follow up this lead is necessary to ensure that those who risk their lives for our country to gather intelligence are fully protected.

We look forward to hearing whether you will be following up on this new information, or if you have, what progress you have made.

Sincerely,


Louise Slaughter
Ranking Member, Committee on Rules


John Conyers, Jr.
Ranking Member, Committee on the Judiciary

U.S. House of Representatives
Committee on the Judiciary
Washington, DC 20515-6216
One Hundred Ninth Congress

February 23, 2005

The Honorable Patrick Fitzgerald
United States Attorney
United States Attorney's Office
for the Northern District of Illinois
219 S. Dearborn Street
Chicago, IL 60604

Dear Mr. Fitzgerald:

We are writing to inform you of the existence of information potentially vital to your investigation of the leak of a CIA operative name. A person in the White House briefing room who had access to a memo revealing the operative's name also kept a journal of his days covering the White House. We bring this to your attention because we believe your office may need to subpoena the journal to further the work of the grand jury.

As many people are aware, James Guckert (aka "Jeff Gannon") posed as a journalist and gained entry to the White House briefing room. He also may have had access to documents that leaked the name of the CIA operative. In an October 2003 interview with Joseph C. Wilson IV, the husband of the operative, Mr. Guckert referenced a memo written by U.S. intelligence officials indicating the operative suggested Mr. Wilson could investigate reports that Iraq had sought uranium. In and of itself, this indicates that Mr. Guckert had access to classified information.

It appears now that Mr. Guckert memorialized his experiences at the White House. In the February 22, 2005 edition of *Editor & Publisher*, a publication for the newspaper industry, Mr. Guckert states that he "probably has one page for each day at the White House, about 200 pages of stuff. . . Is it all interesting? Probably not. But it could be [a book]." It would be unfortunate if Mr. Guckert published information that would be useful to your investigation, such as the identity of the person who gave him the memo, without your office having the benefit of its contents.

If we can provide further information, please do not hesitate to contact us.

Sincerely,



Louise M. Slaughter
Ranking Member
House Rules Committee



John Corryers, Jr.
Ranking Member
House Judiciary Committee

U.S. House of Representatives
Committee on the Judiciary
Washington, DC 20515-6216
One Hundred Ninth Congress

February 23, 2005

The Honorable David M. Walker
Comptroller General
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Walker:

We write today to expand on a recent request you received on January 11, 2005 from Representative Louise Slaughter and other members of the Democratic Leadership. While that letter asked you to investigate the illegal use of appropriated money to covertly advocate for seven different programs, we ask that you also investigate whether the Administration violated the ban on prepacked news stories by siphoning print stories to James D. Guckert, also known as "Jeff Gannon."

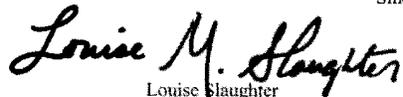
As you stated in your February 17, 2005 letter to agency and department heads, it is illegal for the Administration to use appropriated money to broadcast or publish propaganda without taking credit for it.¹ According to recent press, the White House itself directly violated this ban when it gave prepacked print stories to Mr. Guckert, which he reprinted wholesale without disclosing that the Administration authored it. As mentioned in your letter, you have already ruled that agencies authoring newspaper articles and op-ed pieces to be published as a reporter's original work clearly violates this ban. This is precisely what transpired between the White House and Mr. Guckert.

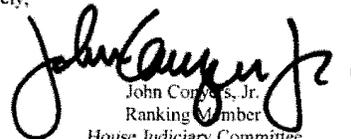
¹Letter from David M. Walker, Comptroller General to Heads of Departments, Agencies and Others Concerned, Feb. 17, 2005 (B-304272), available at <http://www.gao.gov/decisions/appro/302710.pdf>.

The Honorable David M. Walker
Page 2
February 23, 2005

I look forward to hearing whether you will be incorporating Mr. Guckert's and the White House's propaganda efforts into any investigations you will be conducting. Please contact us with any questions.

Sincerely,


Louise Slaughter
Ranking Member
House Rules Committee


John Conyers, Jr.
Ranking Member
House Judiciary Committee

Congress of the United States
Washington, DC 20515

February 15, 2005

The Honorable Tom Ridge
Secretary of Homeland Security
U.S. Department of Homeland Security
Washington, DC 20528

Re: Request Submitted Under the Freedom of Information Act

Dear Secretary Ridge:

This letter constitutes a request pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (FOIA). The request is submitted on behalf of the Congresswoman Louise Slaughter, Ranking Member of the House Rules Committee and Congressman John Conyers, Jr., Ranking Member of the House Judiciary Committee.

Recent news reports indicate that James D. Guckert, a Republican activist gained access to the White House press briefing room and Presidential press conferences in violation of standard security procedures and was allowed to work under the assumed name, "Jeff Gannon." News reports also indicate that Mr. Guckert would not be considered a bona fide journalist by his peers in the press corps, as most of his claims to legitimacy have already been discredited. Access to the President and his press corps is highly competitive, and many seasoned journalists have not had the honor of attending the events or enjoying the access Mr. Guckert has.

We are concerned that such an individual was allowed within a few feet of the President when the public is routinely disallowed any possible contact with either the President or the White House. We understand that your security policies are developed in conjunction with the White House and want to ascertain your respective roles in this decision as it appears to deviate significantly from heightened security measures you have employed recently. To the extent that White House policies were incorporated into the Secret Service's files and have been read by the Secret Service, we would also like records from the White House.¹

To determine what process you employ to clear individuals for attendance at events within a close proximity of the President, we seek the release of agency records as described in the numbered paragraphs below:

1. All records setting forth or discussing the standards the Secret Service or the White House impose on those who are granted access to the President and the

¹Evidence that a memorandum was incorporated into the agency's files and has been read by the agency is sufficient to render the document an agency record subject to the FOIA. *Artesian Industries v. Dept. of Health and Human Services*, 646 F. Supp. 1004 (D.D.C. 1986).

The Honorable Tom Ridge
Page Two
February 15, 2005

White House Briefing Room. Please include all records discussing whether the Secret Service or the White House routinely allow guests to use false names.

2. All records setting forth or discussing policies, procedures or guidelines discussing clearance into the White House Briefing Room, as it was applied to Mr. Guckert. Please include all records indicating how any such policies, procedures or guidelines were communicated to Mr. Guckert.
3. The White House Press Secretary denied any responsibility for determining who is granted clearance into the White House Briefing Room. Please disclose what individual or agency is responsible for requesting that the Secret Service conduct a security clearance for individuals or members of the media who wish to enter the White House Briefing Room.
4. All records relating to security qualifications for granting "permanent" White House press corps credentials and how they differ from those of a simple day pass.
5. All records indicating or discussing whether and to what extent someone who is cleared for a daily pass is required to be cleared each time they return on subsequent visits to the White House Briefing Room, as in the case of Mr. Guckert, who returned frequently for up to two years.
6. All records relating to how many daily passes are issued for White House briefings and Presidential press conferences at one time. Please include all records indicating whether there is a limit in place for security or other reasons.
7. All records setting forth or discussing who has the authority, if at all, to exempt an individual or member of the media from security clearance by the Secret Service in order to gain access to the White House Briefing Room.
8. All records indicating how many times and on what days Mr. Guckert was cleared by the Secret Service into the White House, and at whose request.
9. All records indicating what types of passes were issued for Mr. Guckert.
10. All records of communication between the Secret Service and Mr. Guckert. Please include all records, including telephone conversations, emails, or facsimile communications.

The Honorable Tom Ridge
Page Three
February 15, 2005

We request a waiver of fees on the grounds that disclosure of the requested records is in the public interest and because disclosure "is likely to contribute significantly to the public understanding of the activities or operations of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii).

The House Judiciary Committee and House Rules Committee publish newsletters, news briefings, and other materials that are disseminated to the public. These materials are widely available to everyone for no cost. The records requested are not sought for commercial use, and the requesters plan to disseminate the information disclosed as a result of this FOIA request through the channels described above.

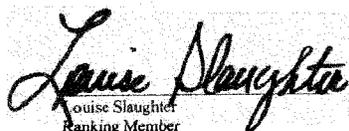
As indicated above, numerous news articles reflect the significant public interest in the records we seek. Disclosure of the requested records will contribute significantly to the public's understanding of government conduct.

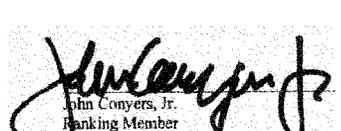
If our request is denied in whole or part, we ask that you justify all deletions by reference to specific exemptions of the FOIA. We expect you to release all segregable portions of otherwise exempt material. We reserve the right to appeal a decision to withhold any information or to deny a waiver of fees.

We look forward to your reply to the request within twenty (20) business days, as required under 5 U.S.C. § 552(a)(6)(A)(i).

Thank you in advance for your prompt attention and response to this matter.

Sincerely,


Louise Slaughter
Ranking Member
Committee on Rules


John Conyers, Jr.
Ranking Member
Committee on the Judiciary

Chairman SENSENBRENNER. And without objection, the Chair will introduce into the record a reply dated March 7 to the Ranking Member, Mr. Conyers, and Representative Slaughter on this subject, signed by Conrad A. Everett, Deputy Assistant Director of the Secret Service.

[The material referred to follows:]



U.S. Department of Homeland Security
UNITED STATES SECRET SERVICE

Washington, D.C. 20223

March 7, 2005

The Honorable John Conyers, Jr.
Ranking Member
U.S. House of Representatives
Committee on the Judiciary
Washington, D.C. 20515-6216

The Honorable Louise Slaughter
U.S. House of Representatives
Washington, D.C. 20515-3228

Dear Mr. Conyers and Ms. Slaughter:

Your letter of February 10, 2005, to Director Basham inquiring about procedures used to clear individuals seeking to participate in White House briefings was forwarded to my office for reply. As the Secret Service is responsible solely for the security of the White House complex, I will focus my reply on those issues you raised that pertain to security measures implemented by this agency.

Please be advised that our Office of Protective Operations has looked into this matter and has determined that there was no deviation from Secret Service standards and procedures as your letter suggests. Mr. Guckert provided the Secret Service with his legal name, rather than his "pen name," and was assessed using the same criteria applied to all individuals seeking access to White House briefings.

In determining who is afforded access, federal regulations provide that the Secret Service "will be guided solely by the principle of whether the applicant presents a potential source of physical danger to the President and/or the family of the President so serious as to justify his or her exclusion from White House press privileges." 31 C.F.R. 409.1 (2005). Secret Service screening procedures at the White House are tailored to meet this requirement.

Finally, we would note that members of the press who are afforded access to the White House may utilize professional names that differ from their legal names. The Secret Service, however, requires that legal names be provided to enable the screening processes to work effectively.

I hope that this information addresses your concerns.

Sincerely

A handwritten signature in cursive script, appearing to read "Conrad A. Everett".

Conrad A. Everett
Deputy Assistant Director

Chairman SENSENBRENNER. Are there amendments, further amendments? The gentlewoman from Texas.

Ms. JACKSON LEE. Mr. Chairman, I'd like to strike the last word.

Chairman SENSENBRENNER. The gentlewoman is recognized for 5 minutes.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman.

I recognize that there have been a number of initiatives taken by the White House to self-investigate, but I clearly believe that the level of violations that may be confronted with the actions regarding Mr. Gannon, sometimes known in news transcripts as James D. Guckert, known alternatively as a right-wing activist, with seemingly no press credentials, and access to the White House briefing room and Presidential press conferences, cries out for a House investigation.

I frankly believe that this is no less serious than what my colleagues thought the proceedings dealing with the Clinton impeachment were for them. This is a penetration of the White House, maybe a security breach, and I do not believe it can be answered with self-investigation.

First of all, it appears that this is a longstanding practice—that it has violated a longstanding practice of carefully screening contacts with the President. This special access not only raises security concerns, but calls into question the fundamental fairness of White House press corps. In fact, the favoritism bestowed on this fake reporter may even have violated Federal law. Mr. Guckert's efforts as a mouthpiece for the White House likely violated statutes banning the Administration from using appropriated money for propaganda purposes. We see what happened with a number of columnists who had been paid by Federal dollars to promote the Federal agenda.

In addition, Mr. Guckert has claimed that he had access to classified Central Intelligence Agency documents that revealed the undercover status of Ambassador Joseph Wilson's wife. It's now been over a year and a half since Valerie Plame was maliciously ousted, her life destroyed, her profession destroyed, and we appear to be no closer and there seems to be no great interest on the part of the Administration in finding out who in the Administration played with her life for political purposes.

I believe this resolution by Mr. Conyers—and I applaud him and the gentlelady from New York for their evenhandedness in this resolution. But I believe this resolution may shed some light on whether Mr. Guckert, the White House go-to propagandist, also received classified information and from whom.

Mr. Chairman, we're in a time when homeland security cannot be taken for granted. We're now meeting and having hearings on how we can secure the homeland, but also, as we recently passed the intelligence reform bill of 2004, how we can be assured that there are no security breaches, while I believe that Mr. Gannon/Mr. Guckert is a crying example, a glaring example and cries out—a glaring example of security breach and cries out for resolution. This resolution that has been offered by Mr. Conyers is straightforward, simple, and to the point, and it allows this Judiciary Committee to do its job, that is, to rise above partisanship and to be bipartisan in ethics and in deserving and finding out the truth.

I hope my colleagues will enthusiastically support this resolution, for I believe that the danger that we put Valerie Plame in, the potential breach and leaks from the CIA documents, and the potential that someone else today is sitting in the White House equally disguised, with equally false documents, really cries out for us to do something.

Mr. CONYERS. Would the gentlelady yield?

Ms. JACKSON LEE. I'd be happy to yield to the distinguished—

Mr. CONYERS. I commend you for pointing out the international character of this inquiry. The safety of the country is involved if the person in question really has had access to CIA and information.

And I want to say that if this Committee doesn't support this resolution of inquiry, which only asks essentially who let Gannon in the White House—somebody in the White House let him in. If we don't want to know, then we become a part of this conspiracy to cover this matter up. But like most things around here, the truth will come out, and I thank the gentlelady for yielding.

Ms. JACKSON LEE. Mr. Conyers, I thank you for your thoughtfulness. If we don't want to find out—

Chairman SENSENBRENNER. The time of the gentlewoman has expired.

Ms. JACKSON LEE.—we have not done our job. I ask for support of the resolution of inquiry. I yield back.

Chairman SENSENBRENNER. Other amendments?

[No response.]

Chairman SENSENBRENNER. The question is reporting the resolution adversely. A reporting quorum is present. Those in favor of reporting the resolution adversely will say aye.

Opposed, no?

The ayes appear to have it. The ayes have it and—

Mr. CONYERS. May we get a record vote on this resolution?

Chairman SENSENBRENNER. A rollcall will be ordered. This will be the last rollcall of the day, I hope. Those in favor of reporting the resolution adversely will, as your names are called, answer aye, those opposed, no, and the clerk will call the roll.

The CLERK. Mr. Hyde?

[No response.]

The CLERK. Mr. Coble?

Mr. COBLE. Aye.

The CLERK. Mr. Coble, aye. Mr. Smith?

Mr. SMITH OF TEXAS. Aye.

The CLERK. Mr. Smith, aye. Mr. Gallegly?

Mr. GALLEGLY. Aye.

The CLERK. Mr. Gallegly, aye. Mr. Goodlatte?

Mr. GOODLATTE. Aye.

The CLERK. Mr. Goodlatte, aye. Mr. Chabot?

Mr. CHABOT. Aye.

The CLERK. Mr. Chabot, aye. Mr. Lungren?

Mr. LUNGREN. Aye.

The CLERK. Mr. Lungren, aye. Mr. Jenkins?

Mr. JENKINS. Aye.

The CLERK. Mr. Jenkins, aye. Mr. Cannon?

Mr. CANNON. Aye.

The CLERK. Mr. Cannon, aye. Mr. Bachus?

Mr. BACHUS. Aye.
The CLERK. Mr. Bachus, aye. Mr. Inglis?
[No response.]
The CLERK. Mr. Hostettler?
Mr. HOSTETTLER. Aye.
The CLERK. Mr. Hostettler, aye. Mr. Green?
Mr. GREEN. Aye.
The CLERK. Mr. Green, aye. Mr. Keller?
Mr. KELLER. Aye.
The CLERK. Mr. Keller, aye. Mr. Issa?
[No response.]
The CLERK. Mr. Flake?
Mr. FLAKE. Aye.
The CLERK. Mr. Flake, aye. Mr. Pence?
Mr. PENCE. Aye.
The CLERK. Mr. Pence, aye. Mr. Forbes?
Mr. FORBES. Aye.
The CLERK. Mr. Forbes, aye. Mr. King?
Mr. KING. Aye.
The CLERK. Mr. King, aye. Mr. Feeney?
[No response.]
The CLERK. Mr. Franks?
Mr. FRANKS. Aye.
The CLERK. Mr. Franks, aye. Mr. Gohmert?
Mr. GOHMERT. Aye.
The CLERK. Mr. Gohmert, aye. Mr. Conyers?
Mr. CONYERS. No.
The CLERK. Mr. Conyers, no. Mr. Berman?
Mr. BERMAN. No.
The CLERK. Mr. Boucher?
[No response.]
The CLERK. Mr. Nadler?
[No response.]
The CLERK. Mr. Scott?
Mr. SCOTT. No.
The CLERK. Mr. Scott, no. Mr. Watt?
Mr. WATT. No.
The CLERK. Mr. Watt, no. Ms. Lofgren?
[No response.]
The CLERK. Ms. Jackson Lee?
Ms. JACKSON LEE. No.
The CLERK. Ms. Jackson Lee, no. Ms. Waters?
Ms. WATERS. No.
The CLERK. Ms. Waters, no. Mr. Meehan?
Mr. MEEHAN. No.
The CLERK. Mr. Meehan, no. Mr. Delahunt?
[No response.]
The CLERK. Mr. Wexler?
[No response.]
The CLERK. Mr. Weiner?
[No response.]
The CLERK. Mr. Schiff?
Mr. SCHIFF. No.
The CLERK. Mr. Schiff, no. Ms. Sánchez?
Ms. SÁNCHEZ. No.

The CLERK. Ms. Sánchez, no. Mr. Smith?

[No response.]

The CLERK. Mr. Van Hollen?

Mr. VAN HOLLEN. No.

The CLERK. Mr. Van Hollen, no. Mr. Chairman?

Chairman SENSENBRENNER. Aye.

The CLERK. Mr. Chairman, aye.

Chairman SENSENBRENNER. Members in the chamber who wish to cast or change their vote? The gentleman from California, Mr. Issa.

Mr. ISSA. Aye.

The CLERK. Mr. Issa, aye.

Chairman SENSENBRENNER. The gentleman from South Carolina, Mr. Inglis.

Mr. INGLIS. Aye.

The CLERK. Mr. Inglis, aye.

Chairman SENSENBRENNER. Further Members in the chamber who wish to cast or change their vote? If not, the clerk will report.

The CLERK. Mr. Chairman, there are 21 ayes and 10 noes.

Chairman SENSENBRENNER. And the motion to report adversely is agreed to.

The business scheduled before the Committee having been completed, the Committee stands adjourned.

[Whereupon, at 5:42 p.m., the Committee was adjourned.]

DISSENTING VIEWS

We vigorously dissent from the Majority's decision to report adversely H. Res. 136, which would have requested the Justice Department and Department of Homeland Security disclose information concerning the manner in which Jeffrey Gannon (aka James A. Guckert) received White House press privileges.

We dissent because we believe 1) Mr. Gannon was granted preferential access by the White House; 2) the granting of such access via temporary passes raises serious security issues; 3) the Administration's course of dealings with Mr. Gannon may also have violated various legal requirements; and 4) there are no other means available to pursue these lines of inquiry.

By defeating this Resolution, all of the above questions will remain unanswered, and the Majority continues a long line of inaction on their part which runs totally counter to the principles of accountability and checks and balances that our nation was founded upon. The Majority's perfunctory rejection of this important Resolution, on a party line vote of 21-10, at the end of a long day of markup of other business, does a disservice to the 33 Members, including 14 members of this Committee, who submitted this Resolution of Inquiry to the House.

It is an unfortunate fact of life that we have an Administration that is all too willing to flaunt the law, and a Republican-controlled Congress that refuses to investigate even the most serious ethical transgressions. Whether it is torture at Abu Ghraib, sole source contracts with Haliburton, or the outing of a CIA operative, this Congress has been unwilling and unable to ask the hard questions or issue the difficult subpoenas. The Committee's failure to request even the most cursory of information regarding Mr. Gannon from the Administration represents a disturbing continuation of this trend, and illustrates the ongoing problem of one-party rule in Washington.

When our Committee enacted its rules on January 26, 2005, Rep. Conyers offered an amendment to insure that the Minority could request oversight hearings into ethical abuses by the Administration. The Chairman rejected the proposal stating, among other things, that the resolution of inquiry was the Minority's vehicle for investigation. Yet, now that we have proposed such a Resolution, the Majority has rejected it based on the specious contentions that our requests for information have been complied with, and that other investigations are ongoing. These assertions are neither accurate or relevant.

In the following several pages, we set forth relevant background on this matter, and detail the reasons for our dissent in greater detail.

BACKGROUND

It is now widely known that James D. Guckert, a Republican activist, gained repeated access to the White House press briefing room and presidential press conferences from January of 2003 to January of 2005. He was allowed to work under the assumed name of “Jeff Gannon.”

Almost immediately after President Bush called on Mr. Gannon by name during a January 26, 2005 press conference (to ask a controversial question deriding the Senate Democratic Leadership),¹ the blogosphere began investigating Mr. Gannon’s real identity, his journalistic ties, and his relationships within the Republican party. It is now clear that Talon News, for which Mr. Gannon served as the White House correspondent, has close working ties with Republican operatives, as well as a GOPUSA.com website. In fact, the same individual, Bobby Eberle, a Texas Republican activist and previous GOP delegate, owns both of these organizations. While Mr. Eberle’s Talon website claims to be “committed to delivering accurate, unbiased news coverage to [its] readers,” his GOPUSA.com site asserts itself as “bringing the conservative message to America.”²

Further evidencing the tie between this alleged nonpartisan organization and its partisan counterpart is the fact that both organizations’ websites are registered to what appears to be Mr. Eberle’s Pearland, Texas personal residence address, and even TalonNews.com’s domain name registration contains Mr. Eberle’s GOPUSA email address. After learning of this, online advocacy group Media Matters for America concluded, “Talon News apparently consists of little more than Eberle, Gannon, and a few volunteers, and is virtually indistinguishable from GOPUSA.com . . . GOPUSA’s officers and directors show a similar lack of journalism experience, but plenty of experience working for Republican causes.”³

It became readily apparent that Mr. Eberle and Mr. Gannon did not want the public to know of this connection. Shortly after Media Matters publicized this relationship to the American people, Talon quickly pulled its staff and reporter biographies from its website. It is, however, worth noting though that these biographies were still likely available at the time that Mr. Gannon and Talon requested access to the White House.

The Standing Committee of Correspondents, a group of congressional reporters charged with overseeing the credentialing of press on Capitol Hill, quickly uncovered this relationship. On April 7, 2004, the Standing Committee denied Mr. Gannon’s application for a press pass based on its inability to conclude that Talon was a legitimate, independent news organization.⁴

¹Presidential Press Conference, Jan. 26, 2005.

²See Eric Boehlert, *Fake News, Fake Reporter*, **Salon.com**, Feb. 10, 2005, at <http://www.salon.com/news/feature/2005/02/10/gannon—affair>.

³See *id.*

⁴According to online magazine Salon.com’s interview of a *Baltimore Sun* reporter seated on the Standing Committee of Correspondents, the Standing Committee’s non-recognition of the publication led it to inquire as to what Talon was. After further independent investigation revealed that Talon was owned by the GOPUSA’s owner, *Baltimore Sun* reporter Julie Davis recounts what transpired as follows: “We had asked for some proof of Talon’s independence from [GOPUSA] . . . They didn’t provide anything, so we denied their credentials, which is pretty

Further investigation of Talon News revealed that its staff consisted of largely volunteer Republican activists having no journalism experience. Online advocacy group Media Matters for America analyzed several of Mr. Gannon's posted articles and found on multiple occasions that Mr. Gannon had copied entire sections straight from White House press releases and pasted them into his filed dispatches as if it was his own writing.

Standard operating procedure requires that anyone who has regular access to the White House receive a permanent or "hard pass." Hard pass recipients must meet the following five criteria: 1) they must work for a news organization that is either based in Washington, or which has a Washington Bureau; 2) they must live in the Washington area; 3) they must demonstrate a need to be at the White House on a regular basis (this is usually done in a letter from a bureau chief to the Secret Service); 4) they must have a pass authorizing them to cover the U.S. Senate or House congressional galleries; and 5) they must undergo a Secret Service background check.⁵

As noted above, Mr. Gannon was refused a congressional pass after the House and the Senate learned that he worked for GOPUSA. This prevented Mr. Gannon from receiving a hard pass. With White House approval, however, he was able to circumvent this requirement and obtained almost daily access to the White House, by virtue of receiving a series of "day passes" over an approximately two-year period.

According to White House Press Secretary Scott McClellan, only 20 to 25 day passes are handed out each day.⁶ Those passes are handled by the same staff assistant every day, and are given to members of the press who are not part of the Washington news corps generally, but are covering a very specific issue or event that the White House is addressing on that day.⁷

GROUNDS FOR DISSENT

1. Mr. Gannon Was Granted Preferential Access by the White House

First and foremost, we are concerned that Mr. Gannon was granted preferential access by the White House over an approximately two-year period. This in turn raises questions as to whether the ordinary press requirements and safeguards were obviated merely to provide the Administration with a sympathetic questioner at White House briefings.

Mr. Gannon's use of an alias, as well as the circumstances surrounding his access to the White House, contradict the strict standards the Secret Service sets for protecting the President and deviate substantially from standards applied to others seeking access to the White House or the President. To the best of our knowledge, Gannon is the only member of the White House press corps to receive such a privileged standing. In fact, Pulitzer Prize winning

rare." See Eric Boehlert, *Giving "Gannon" a Pass*, **Salon.com**, Feb. 11, 2005, at <http://www.salon.com/news/feature/2005/02/11/gannon>.

⁵ Interview with Carl Cannon, immediate past president of the White House Correspondents' Association, Hotline, Feb. 16, 2004.

⁶ Joe Strupp, *Scott McClellan Reveals that Gannon/Guckert Got GOPUSA Press Pass*, EDITOR AND PUBLISHER, FEB. 18, 2005.

⁷ *Id.*

journalists have been turned down for press passes.⁸ It therefore appears to be highly unlikely that Mr. Gannon could have been repeatedly allowed into the White House over such a lengthy period without the intervention of someone very high up at the White House.

Unfortunately, this is not an isolated incident. This Administration has come under severe questioning for its involvement in “manufactured” news. Among other things, Armstrong Williams received \$240,000 from the Bush Administration to help promote the President’s “No Child Left Behind” program to minority audiences through his nationally-syndicated column. Michael McManus, author of the syndicated column, “Ethics & Religion,” which appears in 50 newspapers nationwide, was paid to champion a marriage initiative on the Administration’s behalf and also did not disclose to his readers that he was contracted to help make the initiative a success.

These are just two of many contracts doled out by the Bush Administration, which has expended more than \$88 million in taxpayer funds to disseminate manufactured news and propaganda.⁹ In the present case, we have a very real concern that the White House intervened to grant such access with the specific intent of having a Republican partisan conveniently available to pose sympathetic questions at White House press briefings. Adoption of this Resolution of Inquiry would allow us to resolve these concerns.

2. The Granting of Such Access Via Temporary Passes Raises Serious Security Issues

By creating a loophole to the ordinary means of obtaining a White House press pass granting preferential access to Mr. Gannon, the Administration may have unwittingly jeopardized the security of the president.

Mr. Gannon received access to the White House through the repeated issuance of day passes. Unlike permanent or “hard passes,” a day pass does not require a full Secret Service background check. In fact, clearance for a hard pass can take two to three months to complete.

According to Carl Cannon, the immediate past President of the White House Correspondents Association, day passes are given to those who need access only for a short time to cover a specific event or immediate story.¹⁰ However, it appears that the Bush Administration may have abused this process to keep Mr. Gannon in what amounts to near-constant access to the President. By repeatedly issuing day passes to Mr. Gannon, the White House was allowed to sidestep the usual clearance process for anyone with such regular access to press events.

The precedent of such a waiver is quite alarming. It allows individuals who are unable to meet the criteria necessary to obtain a hard pass to obviate those requirements by obtaining special re-

⁸Maureen Dowd, *Bush’s Barberini Faun*, NY TIMES, Feb. 17, 2005.

⁹See generally Jim Drinkard, *Report: PR Spending Doubled Under Bush*, USA Today, Jan. 26, 2005, available at <http://www.usatoday.com/news/washington/2005-01-26-williams-usat-x.htm> (reporting that the Bush Administration spent at least \$88 million in Fiscal Year 2004 on contracts with major public relations firms, a number that is double what the Administration spent in President Bush’s first year in office).

¹⁰The Hotline, Feb. 16, 2005.

course to day pass procedures. At a minimum, this is highly dubious and dangerous alternative in the post 9/11 world when security concerns should be among the White House's highest priorities. This concern alone justifies the adoption by the Committee of H. Res. 136 so that we may explore the issue in greater depth.

3. *The Administration's Course of Dealings with Mr. Gannon May Have Violated Various Legal Requirements*

We also believe it is important to obtain information concerning Mr. Gannon's interactions with the White House in order to resolve concerns the White House may have illegally published propaganda and improperly granted access to classified information.

On numerous occasions Mr. Gannon reprinted White House talking points and press releases word for word as his own work. The non-partisan GAO has determined that it is illegal for the Administration to use appropriated money to broadcast or publish propaganda without taking credit for it.¹¹ Accordingly, the White House may have violated this ban when it gave prepackaged print stories to Mr. Gannon, which he reprinted wholesale without disclosing that they were authored by the Administration.

A separate legal concern relates to the fact that Mr. Guckert may have had access to classified information, in violation of laws that protect the identity of undercover agents. This is because he claimed to have seen a classified CIA document identifying Valerie Plame as an undercover agent.¹²

4. *There Are No Other Means Available to Pursue These Lines of Inquiry*

It is important that we pursue this information from the Administration through a Resolution of Inquiry since all other potential avenues of obtaining the information have either been ignored or rejected by the Administration.

This resolution comes only after numerous Congressional inquiries that have gone unanswered (all attached herewith):

- Feb. 9, 2005: Representative Slaughter writes to President Bush inquiring how Mr. Gannon repeatedly got access to the White House press corps—*No response received to date.*
- Feb. 10, 2005: Representatives Slaughter and Conyers write special prosecutor Patrick Fitzgerald to inquire whether he was aware that Mr. Gannon claimed he had access to a classified CIA memo outing Valerie Plame as a undercover agent—*Mr. Fitzgerald acknowledged receipt, but would not comment on the status of his investigation.*
- Feb. 10, 2005: Representatives Slaughter and Conyers write to the head of the Secret Service to inquire whether Mr. Gannon went through standard clearance procedures, and who in the White House requested his access—*The Secret Service responded by confirming that Mr. Gannon was cleared for access under his real name, James Guckert, how-*

¹¹ Letter from David M. Walker, Comptroller General to Heads of Departments, Agencies and Others Concerned, Feb. 17, 2005 (B-304272), available at <http://www.gao.gov/decisions/appro/302710.pdf>.

¹² Joe Strupp, 'Gannon' Interview: No Plame Subpoena, No Tie to White House, He Says, EDITOR AND PUBLISHER, Feb. 11, 2005.

ever, they did not answer any of the other questions such as whether he had a full background check or who requested his access to the White House.

- Feb. 15, 2005: Representatives Slaughter and Conyers make a Freedom of Information Act (FOIA) request to Homeland Security Department Secretary Tom Ridge, asking for all information the Secret Service has on how one gains access to the White House press corps, and how those policies were applied to Mr. Gannon—*The FOIA office is searching its records.*
- Feb. 23, 2005: Representatives Slaughter and Conyers write to special prosecutor Patrick Fitzgerald to note that Mr. Gannon claimed to have a journal chronicling all 200 days he was given access to the White House—*Mr. Fitzgerald acknowledged receipt, but would not comment on the status of his investigation.*
- Feb. 23, 2005: Representatives Slaughter and Conyers write to the GAO to ask that they include an investigation of Mr. Gannon in their review of how the Bush Administration has illegally used funds for propaganda purposes—*No response received to date.*
- Feb. 25, 2005: Senators Durbin, Kerry, Kennedy, Lautenberg and Reid write to the White House, requesting a thorough investigation into Mr. Gannon's White House access and any security breaches that may have resulted—*No response received to date.*

We categorically reject the contention of the Majority, made at the markup that the Administration has already complied with our requests. The fact is that all but one of Mr. Conyers and Ms. Slaughters letters has gone substantively unanswered, and the response they received was grossly incomplete. As a result, nearly two months after a series of inquiries were made to the Administration, we still don't know who in the White House arranged for Mr. Gannon's unfettered access to the president.

We further reject the Majority's contention that a request for information by the Committee would compete with other investigations being conducted. First, we are unaware of any current investigations of this scandal by the Administration, Congress or the GAO. Even if there were such an investigation, we are aware of no rule or principle that impedes the Committee from simultaneously conducting its own investigation. Indeed, one need look no further than the Clinton Administration to find numerous instances of Congress investigating allegations of misconduct that were being separately investigated—from travelgate, to allegations of improper campaign contributions, to the impeachment of the president. Had such a limitation on congressional prerogatives been obeyed by Congress during the Watergate era, it is doubtful the Nixon Administration's full array of misconduct would have been unearthed.

It is also important to note, that by its terms, H. Res. 136 is not binding on the Administration, it is merely a request. If the Administration was aware of some legal or other impediment to supplying the information, they would be free to state as such. However, at least we would have a higher level of public accountability. By ad-

versely reporting this Resolution, the Majority simply makes it easier for the Administration to avoid embarrassing questions.

CONCLUSION

We dissent from the Majority's decision to adversely report this Resolution of Inquiry because we believe the time is long past due for the Congress to demand accountability from the Administration for its ethical transgressions.

In our judgment it simply defies credibility that a phony reporter, operating under an alias, who couldn't get privileges in the House or Senate press gallery, could receive hundreds of White House "day passes" without the intervention of someone very high up at the White House. We are also unable to believe that while Pulitzer Prize winning journalists have been turned down for White House press passes, a neophyte, pseudo-journalist working for a Republican-controlled media front operation could receive virtually open-ended access to the White House press room in the absence of preferential treatment. In this context, we believe the full House is entitled to vote on H. Res. 136 to present these questions directly to the Administration.

JOHN CONYERS, JR.
RICK BOUCHER.
JERROLD NADLER.
ROBERT C. SCOTT.
ZOE LOFGREN.
SHEILA JACKSON LEE.
MAXINE WATERS.
MARTIN T. MEEHAN.
ROBERT WEXLER.
ANTHONY D. WEINER.
LINDA T. SÁNCHEZ.
ADAM SMITH.
CHRIS VAN HOLLEN.

ATTACHMENTS

U.S. House of Representatives
Committee on the Judiciary
Washington, DC 20515-6216
One Hundred Ninth Congress

February 10, 2005

Mr. Patrick J. Fitzgerald
United States Attorney
US Attorney's Office
219 S. Dearborn St.
Suite 5000
Chicago, IL 60656

Dear Mr. Fitzgerald:

We write to ask that you investigate the leak of a classified Central Intelligence Agency memo containing the identity of undercover agent Valerie Plame to James D. Guckert, a member of the White House press corps. It appears that the White House was so focused on smearing the reputation of Ambassador Joseph Wilson, that it knowingly leaked his wife's identity to a Republican activist posing as a journalist.

James D. Guckert, who operated under the false name "Jeff Gannon," and may have engaged in criminal activity, had been attending press events at the White House for up to three years. Mr. Guckert reportedly received an internal and classified CIA memo that revealed the identity of Ambassador Joseph Wilson's wife. Because of the extremely sensitive nature of this leak, and its relation to the investigation you are conducting, we believe that you as special counsel are the most appropriate person to conduct the inquiry.

Under Department of Justice regulations, a special counsel should investigate when (1) a "criminal investigation of a person or matter is warranted," (2) the investigation "by a United States Attorney Office or Litigating Division of the Department of Justice would present a conflict of interest for the Department," and (3) "it would be in the public interest to appoint an outside Special Counsel to assume responsibility for the matter."¹ In the present case all three factors have been met.

¹28 C.F.R. 600.1.

Mr. Patrick J. Fitzgerald
Page 2
February 10, 2005

As has been long discussed, revealing the identity of an undercover agent violates myriad laws. Whoever in the Administration gave Mr. Guckert the memo risked Ms. Plame's very life and must be punished to the full extent of the law.

There is a clear conflict of interest in the Administration investigating Mr. Guckert's role in this crime. Mr. Guckert and the White House press operation work together closely to forward the President's policies.

First, Mr. Guckert would not be considered a bona fide journalist by his peers in the press corps, as most of his claims to legitimacy have already been discredited. Access to the President and his press corps is highly competitive, and many seasoned journalists have not had the honor of attending the events or enjoying the access Mr. Guckert has. That a person of these dubious qualifications was given such close contact to the President, perhaps in violation of standard security procedures, demonstrates the Administration's affinity for and bias towards Mr. Guckert.

Second, Mr. Guckert's questions clearly reiterated the White House's policy, and simply asked for concurrence. Finally, Mr. Guckert's "articles," published by a news front for GOPUSA, track White House talking points word for word.

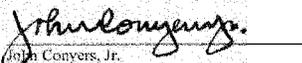
Clearly, Mr. Guckert returned the White House's favor by advancing the President's policies with gusto. With such a close relationship between Mr. Guckert and the White House, the conflict of an administration-led investigation is all too apparent.

Finally, the public interest has been thwarted far too long over the leak of Ms. Plame's identity. It has been over a year and a half since Robert Novak published Plame's identity and we are no closer to finding who in the Administration illegally leaked her status as an undercover agent. Having a special counsel immediately follow up this lead is necessary to ensure that those who risk their lives for our country to gather intelligence are fully protected.

We look forward to hearing whether you will be following up on this new information, or if you have, what progress you have made.

Sincerely,


Louise Slaughter
Ranking Member, Committee on Rules


John Conyers, Jr.
Ranking Member, Committee on the Judiciary

U.S. House of Representatives
Committee on the Judiciary
Washington, DC 20515-6216
One Hundred Ninth Congress

February 23, 2005

The Honorable Patrick Fitzgerald
United States Attorney
United States Attorney's Office
for the Northern District of Illinois
219 S. Dearborn Street
Chicago, IL 60604

Dear Mr. Fitzgerald:

We are writing to inform you of the existence of information potentially vital to your investigation of the leak of a CIA operative name. A person in the White House briefing room who had access to a memo revealing the operative's name also kept a journal of his days covering the White House. We bring this to your attention because we believe your office may need to subpoena the journal to further the work of the grand jury.

As many people are aware, James Guckert (aka "Jeff Gannon") posed as a journalist and gained entry to the White House briefing room. He also may have had access to documents that leaked the name of the CIA operative. In an October 2003 interview with Joseph C. Wilson IV, the husband of the operative, Mr. Guckert referenced a memo written by U.S. intelligence officials indicating the operative suggested Mr. Wilson could investigate reports that Iraq had sought uranium. In and of itself, this indicates that Mr. Guckert had access to classified information.

It appears now that Mr. Guckert memorialized his experiences at the White House. In the February 22, 2005 edition of *Editor & Publisher*, a publication for the newspaper industry, Mr. Guckert states that he "probably has one page for each day at the White House, about 200 pages of stuff. . . Is it all interesting? Probably not. But it could be [a book]." It would be unfortunate if Mr. Guckert published information that would be useful to your investigation, such as the identity of the person who gave him the memo, without your office having the benefit of its contents.

If we can provide further information, please do not hesitate to contact us.

Sincerely,



Louise M. Slaughter
Ranking Member
House Rules Committee



John Corryers, Jr.
Ranking Member
House Judiciary Committee

U.S. House of Representatives
Committee on the Judiciary
Washington, DC 20515-6216
One Hundred Ninth Congress

February 23, 2005

The Honorable David M. Walker
Comptroller General
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Walker:

We write today to expand on a recent request you received on January 11, 2005 from Representative Louise Slaughter and other members of the Democratic Leadership. While that letter asked you to investigate the illegal use of appropriated money to covertly advocate for seven different programs, we ask that you also investigate whether the Administration violated the ban on prepacked news stories by siphoning print stories to James D. Guckert, also known as "Jeff Gannon."

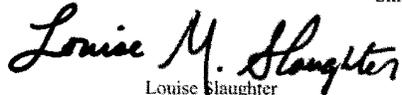
As you stated in your February 17, 2005 letter to agency and department heads, it is illegal for the Administration to use appropriated money to broadcast or publish propaganda without taking credit for it.¹ According to recent press, the White House itself directly violated this ban when it gave prepacked print stories to Mr. Guckert, which he reprinted wholesale without disclosing that the Administration authored it. As mentioned in your letter, you have already ruled that agencies authoring newspaper articles and op-ed pieces to be published as a reporter's original work clearly violates this ban. This is precisely what transpired between the White House and Mr. Guckert.

¹Letter from David M. Walker, Comptroller General to Heads of Departments, Agencies and Others Concerned, Feb. 17, 2005 (B-304272), available at <http://www.gao.gov/decisions/appro/302710.pdf>.

The Honorable David M. Walker
Page 2
February 23, 2005

I look forward to hearing whether you will be incorporating Mr. Guckert's and the White House's propaganda efforts into any investigations you will be conducting. Please contact us with any questions.

Sincerely,


Louise Slaughter
Ranking Member
House Rules Committee


John Conyers, Jr.
Ranking Member
House Judiciary Committee

Congress of the United States
Washington, DC 20515

February 15, 2005

The Honorable Tom Ridge
Secretary of Homeland Security
U.S. Department of Homeland Security
Washington, DC 20528

Re: Request Submitted Under the Freedom of Information Act

Dear Secretary Ridge:

This letter constitutes a request pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (FOIA). The request is submitted on behalf of the Congresswoman Louise Slaughter, Ranking Member of the House Rules Committee and Congressman John Conyers, Jr., Ranking Member of the House Judiciary Committee.

Recent news reports indicate that James D. Guckert, a Republican activist gained access to the White House press briefing room and Presidential press conferences in violation of standard security procedures and was allowed to work under the assumed name, "Jeff Gannon." News reports also indicate that Mr. Guckert would not be considered a bona fide journalist by his peers in the press corps, as most of his claims to legitimacy have already been discredited. Access to the President and his press corps is highly competitive, and many seasoned journalists have not had the honor of attending the events or enjoying the access Mr. Guckert has.

We are concerned that such an individual was allowed within a few feet of the President when the public is routinely disallowed any possible contact with either the President or the White House. We understand that your security policies are developed in conjunction with the White House and want to ascertain your respective roles in this decision as it appears to deviate significantly from heightened security measures you have employed recently. To the extent that White House policies were incorporated into the Secret Service's files and have been read by the Secret Service, we would also like records from the White House.¹

To determine what process you employ to clear individuals for attendance at events within a close proximity of the President, we seek the release of agency records as described in the numbered paragraphs below:

1. All records setting forth or discussing the standards the Secret Service or the White House impose on those who are granted access to the President and the

¹Evidence that a memorandum was incorporated into the agency's files and has been read by the agency is sufficient to render the document an agency record subject to the FOIA. *Artesian Industries v. Dept. of Health and Human Services*, 646 F. Supp. 1004 (D.D.C. 1986).

The Honorable Tom Ridge
Page Two
February 15, 2005

White House Briefing Room. Please include all records discussing whether the Secret Service or the White House routinely allow guests to use false names.

2. All records setting forth or discussing policies, procedures or guidelines discussing clearance into the White House Briefing Room, as it was applied to Mr. Guckert. Please include all records indicating how any such policies, procedures or guidelines were communicated to Mr. Guckert.
3. The White House Press Secretary denied any responsibility for determining who is granted clearance into the White House Briefing Room. Please disclose what individual or agency is responsible for requesting that the Secret Service conduct a security clearance for individuals or members of the media who wish to enter the White House Briefing Room.
4. All records relating to security qualifications for granting "permanent" White House press corps credentials and how they differ from those of a simple day pass.
5. All records indicating or discussing whether and to what extent someone who is cleared for a daily pass is required to be cleared each time they return on subsequent visits to the White House Briefing Room, as in the case of Mr. Guckert, who returned frequently for up to two years.
6. All records relating to how many daily passes are issued for White House briefings and Presidential press conferences at one time. Please include all records indicating whether there is a limit in place for security or other reasons.
7. All records setting forth or discussing who has the authority, if at all, to exempt an individual or member of the media from security clearance by the Secret Service in order to gain access to the White House Briefing Room.
8. All records indicating how many times and on what days Mr. Guckert was cleared by the Secret Service into the White House, and at whose request.
9. All records indicating what types of passes were issued for Mr. Guckert.
10. All records of communication between the Secret Service and Mr. Guckert. Please include all records, including telephone conversations, emails, or facsimile communications.

The Honorable Tom Ridge
Page Three
February 15, 2005

We request a waiver of fees on the grounds that disclosure of the requested records is in the public interest and because disclosure "is likely to contribute significantly to the public understanding of the activities or operations of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii).

The House Judiciary Committee and House Rules Committee publish newsletters, news briefings, and other materials that are disseminated to the public. These materials are widely available to everyone for no cost. The records requested are not sought for commercial use, and the requesters plan to disseminate the information disclosed as a result of this FOIA request through the channels described above.

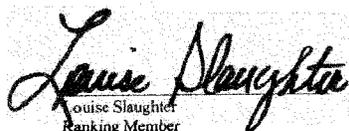
As indicated above, numerous news articles reflect the significant public interest in the records we seek. Disclosure of the requested records will contribute significantly to the public's understanding of government conduct.

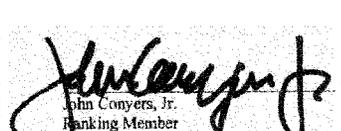
If our request is denied in whole or part, we ask that you justify all deletions by reference to specific exemptions of the FOIA. We expect you to release all segregable portions of otherwise exempt material. We reserve the right to appeal a decision to withhold any information or to deny a waiver of fees.

We look forward to your reply to the request within twenty (20) business days, as required under 5 U.S.C. § 552(a)(6)(A)(i).

Thank you in advance for your prompt attention and response to this matter.

Sincerely,


Louise Slaughter
Ranking Member
Committee on Rules


John Conyers, Jr.
Ranking Member
Committee on the Judiciary



U.S. Department of Homeland Security
UNITED STATES SECRET SERVICE

Washington, D.C. 20223

March 7, 2005

The Honorable John Conyers, Jr.
Ranking Member
U.S. House of Representatives
Committee on the Judiciary
Washington, D.C. 20515-6216

The Honorable Louise Slaughter
U.S. House of Representatives
Washington, D.C. 20515-3228

Dear Mr. Conyers and Ms. Slaughter:

Your letter of February 10, 2005, to Director Basham inquiring about procedures used to clear individuals seeking to participate in White House briefings was forwarded to my office for reply. As the Secret Service is responsible solely for the security of the White House complex, I will focus my reply on those issues you raised that pertain to security measures implemented by this agency.

Please be advised that our Office of Protective Operations has looked into this matter and has determined that there was no deviation from Secret Service standards and procedures as your letter suggests. Mr. Guckert provided the Secret Service with his legal name, rather than his "pen name," and was assessed using the same criteria applied to all individuals seeking access to White House briefings.

In determining who is afforded access, federal regulations provide that the Secret Service "will be guided solely by the principle of whether the applicant presents a potential source of physical danger to the President and/or the family of the President so serious as to justify his or her exclusion from White House press privileges." 31 C.F.R. 409.1 (2005). Secret Service screening procedures at the White House are tailored to meet this requirement.

Finally, we would note that members of the press who are afforded access to the White House may utilize professional names that differ from their legal names. The Secret Service, however, requires that legal names be provided to enable the screening processes to work effectively.

I hope that this information addresses your concerns.

Sincerely

A handwritten signature in cursive script, appearing to read "Conrad A. Everett".

Conrad A. Everett
Deputy Assistant Director



Office of Special Counsel

Patrick J. Fitzgerald
Special Counsel

Chicago Office: Dirksen Federal Building
219 South Dearborn Street, Fifth Floor
Chicago, Illinois 60604
(312) 353-3300

Washington Office: Bond Federal Building
1400 New York Avenue NW, Ninth Floor
Washington, DC 20530
(202) 514-1187

Please address all correspondence to the Washington Office

March 3, 2005

Hon. Louise M. Slaughter
Ranking Member
House Rules Committee

Hon. John Conyers, Jr.
Ranking Member
House Judiciary Committee

Dear Congresspersons:

I write in response to your letters of February 10, 2005 and February 23, 2005. I acknowledge receipt and review of both your letters. In particular, I note in response to your February 10 letter that while I cannot confirm or deny the accuracy of any of the assertions made in your letter, any alleged compromise of Ms. Plame's purported affiliation with the Central Intelligence Agency ("CIA") would fall within the scope of my current assignment as Special Counsel.

With regard to your request in that same letter that I report any progress on the investigation, I am constrained by Rule 6(e) of the Federal Rules of Criminal Procedure and Department of Justice policy and practice not to comment on pending investigations.

With regard to your February 23 letter, I will take the information proffered under advisement but otherwise cannot comment for the reasons set forth above.

Very truly yours,


PATRICK J. FITZGERALD
Special Counsel



DEPARTMENT OF HOMELAND SECURITY
UNITED STATES SECRET SERVICE
WASHINGTON, D.C. 20223

Freedom of Information and Privacy Acts Branch
245 Murray Drive
Building 410
Washington, D.C. 20223

The Honorable Louise Slaughter
Ranking Member
Committee on Rules
U. S. House of Representatives
Washington, DC 20515

File Number: 20050112 - 20050119

Dear Ms. Slaughter:

Thank you for submitting your Freedom of Information/Privacy Acts (FOI/PA) requests, received by the United States Secret Service, on March 8, 2005, for information pertaining to as follows:

File No. 20050112 – Pertaining to all records setting forth or discussing the standards the Secret Service or the White House impose on those who are granted access to the President and the White House Briefing Room.

File No. 20050113 – Pertaining to all records setting forth or discussing policies, procedures or guidelines discussing clearance into the White House Briefing Room, as it was applied to Mr. Guckert.

File No. 20050114 – Pertaining to the the individual or agency responsible for requesting that the Secret Service conduct a security clearance for individuals or members of the media who wish to enter the White House Briefing Room. _

File No. 20050115 – Pertaining to records relating to security qualifications for granting “permanent” White House press corps credentials and how they differ from those of a simple day pass.

File No. 20050116 – Pertaining to all records indicating or discussing whether and to what extent someone who is cleared for a daily pass is required to be cleared each time they return on subsequent visits to the White House Briefing Room, as in the case of Mr. Guckert.

File No. 20050117 – Pertaining to all records relating to how many daily passes are issued for White House briefings and Presidential press conferences at one time.

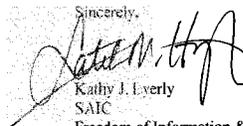
File No. 20050118 – Pertaining to all records setting forth or discussing who has the authority, if at all, to exempt an individual or member of the media from security clearance by the Secret Service in order to gain access to the White House Briefing Room.

File No 20050119 – Pertaining to all records indicating how many times and on what days Mr. Guckert was cleared by the Secret Service into the White House, and at whose request; all records indicating what types of passes were issued for Mr. Guckert; all records of communication between the Secret Service and Mr. Guckert.

We wish to inform you that a search for files responsive to your requests is being conducted. When the results of the search are known, you will be notified.

Please use the file numbers indicated above in all future correspondence with this office.

We assure you that the search will be conducted as expeditiously as possible.

Sincerely,

Kathy J. Everly
SAIC
Freedom of Information &
Privacy Acts Officer

U.S. House of Representatives
Committee on the Judiciary
Washington, DC 20515-6216
One Hundred Ninth Congress

February 10, 2005

W. Ralph Basham, Director
United States Secret Service
950 H Street, NW
Washington, DC 20223

Dear Director Basham:

We write to inquire about the process you employ to clear individuals for attendance at events within a close proximity of the President. We have recently become aware that a Republican activist, with a potential criminal past, gained access to the White House press briefing room and Presidential press conferences and was allowed to work under an assumed name. This appears to contradict the strict standards you have set for protecting the President in the past and have applied to others seeking access to the White House or the President.

It has recently been revealed that James D. Guckert has been repeatedly cleared by your office to attend White House press briefings over the last several years. He was, however, allowed to operate under an assumed name, which we understand to be contrary to your usual policies. That he may be engaged in illegal activity only heightens our concern.

We are concerned that such an individual was allowed within a few feet of the President when the public is routinely disallowed any possible contact with either the President or the White House. We understand that your security policies are developed in conjunction with the White House and want to ascertain your respective roles in this decision as it appears to deviate significantly from heightened security measures you have employed recently.

While we appreciate the extremely difficult task you are assigned to, we are concerned about these discrepancies. For this reason, we ask the following questions:

1. What standards do you impose on those who are granted access to the President and the White House Briefing Room? Do you routinely allow guests to use false names?
2. Were those standards applied to Mr. Guckert? If not, why, and at whose request?

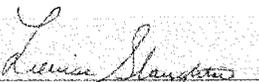
ENCLOSURE

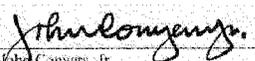
Director W. Ralph Basham
Page 2
February 10, 2005

3. This afternoon, the White House Press Secretary denied any responsibility for determining who is granted clearance into the White House Briefing Room. What individual or agency is responsible for requesting that the Secret Service conduct a security clearance for individuals or members of the media who wish to enter the White House Briefing Room?
4. What are the security qualifications for granting "permanent" White House press corps credentials and how do they differ from those of a simple day pass?
5. When someone is cleared for a daily pass, are they required to be cleared each time they return on subsequent visits to the White House Briefing Room, as in the case of Mr. Guckert, who returned frequently for up to two years?
6. How many daily passes are issued for White House briefings and Presidential press conferences at one time? Is there a limit in place for security or other reasons?
7. Who has the authority, if at all, to exempt an individual or member of the media from security clearance by the Secret Service in order to gain access to the White House Briefing Room?
8. How many times and on what days was Mr. Guckert cleared by the Secret Service into the White House, and at whose request?

Thank you in advance your prompt attention and response to this matter.

Sincerely,


Louise Slaughter
Ranking Member
Committee on Rules


John Conyers, Jr.
Ranking Member
Committee on the Judiciary