

# FOIA Marker

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## Counsel's Office, White House

### Fielding, Fred - General Files

Stack:	Row:	Sect.:	Shelf:	Pos.:	FRC ID:	Location or Hollinger ID:	NARA Number:	OA Number:
W	19	23	4	1	11703	24566	11251	11717

Folder Title:

Libby [Folder 1]: [Correspondence] [Folder 3]

# Withdrawn/Redacted Material

## The George W. Bush Library

DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
001	Memorandum	Respites - To: Fred F. Fielding - From: Al Lambert	2	06/13/2007	P5;
002	Email	RE: Same - To: Fred F. Fielding - From: Al Lambert	1	06/17/2007	P5;
003	Memorandum	Post-Sentencing Issues - Libby - To: The Chief of Staff - From: Fred. F. Fielding	5	06/20/2007	P5;
004	Court Filing	Appellant's Application for Release Pending Appeal	26	06/19/2007	Court Sealed;
005	Email	RE: good memo - To: Joel Kaplan, et al - From: Albert C. Lambert	1	06/20/2007	P5;
006	Email	FW: USA Today - To: Fred F. Fielding - From: Tony Fratto	1	04/25/2007	P5;

**COLLECTION TITLE:**  
Counsel's Office, White House

**SERIES:**  
Fielding, Fred - General Files

**FOLDER TITLE:**  
Libby [Folder 1]: [Loose Documents] [Folder 3]

**FRC ID:**  
11703

### RESTRICTION CODES

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

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
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- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

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

Deed of Gift Restrictions

- A. Closed by Executive Order 13526 governing access to national security information.
- B. Closed by statute or by the agency which originated the document.
- C. Closed in accordance with restrictions contained in donor's deed of gift.

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

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Records Not Subject to FOIA

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Libby [Folder 1]: [Loose Documents] [Folder 3]

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11717

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11251

#### FOIA IDs and Segments:

2014-0234-F

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✓ Fred

Producer

NBC News

Updated: 4:41 p.m. ET June 18, 2007

WASHINGTON - Convicted top White House aide, I. Lewis "Scooter" Libby, who was denied a delay in his two-and-a-half-year sentence by a federal judge and ordered to self-surrender within weeks, will file an emergency appeal on Tuesday seeking to hold off reporting to prison, his attorneys tell NBC News.

Unless the Appeals Court intervenes, U.S. District Judge Reggie Walton's ruling will stand and Libby will have only an estimated six to eight more weeks of freedom.

The Court of Appeals is in summer recess, but an emergency panel of three federal judges — whose identity for the moment is not public — will consider two things:

Story continues below ↓

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- whether Walton was correct when he rejected Libby's lawyers' argument that the investigation by Special Counsel Patrick Fitzgerald was unconstitutional; and
- whether Libby should have been allowed to present more evidence and additional testimony which was withheld by Judge Walton at trial.

According to William Jeffress, one of Libby's lawyers, the emergency filing will take place on Tuesday and be handled by Larry Robbins, one of Libby's newly hired appeals attorneys who argued before Judge Walton last week.

Robbins argued that by assigning Fitzgerald to investigate the CIA leak case, the Justice Department violated the appointments clause of the U.S. Constitution, and gave the Special Counsel too much unchecked power.

"Mr. Fitzgerald has the broadest delegation of prosecutorial authority of any independent counsel or special counsel that I know of," Robbins said. "I don't blame Mr. Fitzgerald... he thought he had all this power. And you know what? He probably did. That's what's wrong here, not what's right."

Fitzgerald countered, saying he disputed the charge that he had unlimited authority because he could have been fired at any time. The Special Counsel said senior administration officials, including the president, were all well aware of what he was doing and that he was "fireable at will."

Walton agreed with Fitzgerald, saying "it was not a close issue."

He said it made sense that Fitzgerald was specifically ordered not to report to officials who had close ties to the White House so that he could distance himself from those he was investigating for leaking the name of CIA operative Valerie Plame.

The judge said the alternative was to put someone with White House ties in charge of an investigation into the highest levels of the Bush administration.



Alex Wong / Associated Press  
Patrick Fitzgerald, Special Prosecutor in the Scooter Libby trial, outside the federal courthouse in Washington, DC.

Libby Appeal Docs

FROM: AI  
TO: Mr. Fielding



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Court Filing	Appelant's Application for Release Pending Appeal	26	06/19/2007	Court Sealed;

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HENRY A. WAXMAN, CALIFORNIA,  
CHAIRMAN

TOM LANTOS, CALIFORNIA  
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ONE HUNDRED TENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

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FACSIMILE (202) 225-4784  
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BRIAN P. BILBRAY, CALIFORNIA  
BILL SALI, IDAHO

April 20, 2007

Andrew Card

Dear Mr. Card:

I am writing to invite you to testify before the Committee on Oversight and Government Reform on the subject of the White House response to the leak of Valerie Plame Wilson's status as a covert CIA officer and the adequacy of the White House procedures for protecting classified information.

On March 16, 2007, the Committee held a hearing entitled "White House Procedures for Safeguarding Classified Information." At the hearing, the Committee heard testimony regarding the July 2003 disclosures by White House officials of Ms. Wilson's identity and the consequences of that leak for Ms. Wilson and the U.S. intelligence program. The Committee also heard testimony from James Knodell, the Chief Security Officer for the Executive Office of the President, who testified that contrary to Executive Order 12958 and applicable regulations, the White House did not conduct any internal investigation to identify the source of the leak or take the required steps to prevent future security breaches.

On March 30, 2007, the Committee requested your appearance for an on-the-record interview regarding the disclosure of Ms. Wilson's covert identity and the White House procedures for handling classified information. The Committee made this request because as the White House Chief of Staff at the time of the Wilson leak, you are in a unique position to explain the White House's response to the leak and address questions about the adequacy of White House security procedures.

On April 5, 2007, White House Counsel Fred Fielding sent a letter to the Committee refusing to make you available to the Committee. As the basis for refusing this request, Mr. Fielding cited "longstanding Executive Branch policy" that "[c]urrent and former senior White House officials such as the Chief of Staff to the President have historically not been available to Congress to testify, or to be interviewed, about their activities in serving the President."

This position is inconsistent with the Committee's precedent. Previous White House Chiefs of Staff have provided the Committee with sworn, on-the-record testimony on numerous occasions. For example:

- In 1997, White House Chief of Staff Thomas F. McLarty was deposed by this Committee as part of an investigation into campaign finance activities.<sup>1</sup>
- In 1998, White House Chief of Staff Erskine Bowles was deposed by this Committee as part of an investigation into the use of the President's holiday card list.<sup>2</sup>
- In 2001, White House Chief of Staff John Podesta testified before this Committee as part of an investigation into President Clinton's pardon decisions.<sup>3</sup>

Other senior White House officials have testified before the Committee under oath and on the record, including individuals serving in the position of White House Counsel,<sup>4</sup> Senior Advisor to the President,<sup>5</sup> Deputy Counsel to the President,<sup>6</sup> Director of Political Affairs,<sup>7</sup> and Chief of Staff to the Vice President.<sup>8</sup>

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<sup>1</sup> House Committee on Government Reform and Oversight, *Deposition of Thomas F. McLarty* (Sept. 5, 1997).

<sup>2</sup> House Committee on Government Reform and Oversight, *Deposition of Erskine Bowles* (May 5, 1998).

<sup>3</sup> House Committee on Government Reform, Testimony of John Podesta, *Hearing on the Controversial Pardon of International Fugitive Marc Rich* (Mar. 1, 2001) (H. Rept. 107-11).

<sup>4</sup> See, e.g., House Committee on Government Reform and Oversight, *Deposition of Bernard W. Nussbaum* (June 12, 1996, July 11, 1996); House Committee on Government Reform and Oversight, *Deposition of Jack Quinn* (Nov. 4, 1997); House Committee on Government Reform and Oversight, Testimony of Charles Ruff, *Hearing on White House Compliance with Committee Subpoenas* (Nov. 6-7, 1997) (H.Rept. 105-61); House Committee on Government Reform, Testimony of Charles Ruff, *Hearing on Missing White House E-Mails: Mismanagement of Subpoenaed Records* (May 4, 2000) (H.Rept. 106-179); House Committee on Government Reform and Oversight, Testimony of Beth Nolan, *Hearing on Missing White House Emails: Mismanagement of Subpoenaed Records* (Mar. 30, 2000, and May 4, 2000) (H.Rept. 106-179); House Committee on Government Reform, Testimony of Beth Nolan, *Hearing on the Controversial Pardon of International Fugitive Marc Rich* (Mar. 1, 2001) (H. Rept. 107-11).

<sup>5</sup> See, e.g., House Committee on Government Reform and Oversight, *Deposition of Bruce Lindsey, Senior Advisor and Deputy White House Counsel* (Sept. 8, 1997, Apr. 29, 1998); *Stephanopoulos Testifies in Files Probe*, Washington Post (July 12, 1996).

<sup>6</sup> See, e.g., House Committee on Government Reform and Oversight, Testimony of Cheryl Mills, Deputy Counsel to the President, *Hearing on White House Compliance with Committee Subpoenas* (Nov. 6-7, 1997) (H. Rept. 105-61); House Committee on Government Reform and Oversight, *Deposition of Cheryl D. Mills* (Nov. 3, 1997).

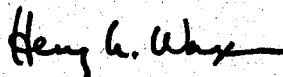
Andrew Card  
April 20, 2007  
Page 3

On April 16, 2007, you appeared on *The Daily Show with Jon Stewart* and discussed the leak of Ms. Wilson's identity. Mr. Fielding's position appears to be that it is appropriate for you to discuss these matters on *The Daily Show*, but not before a congressional committee. You will not be surprised to learn that I take a different view of this matter.

You should know that I will be scheduling a business meeting of the Committee on Wednesday, April 25, 2007, to consider the issuance of subpoenas for witnesses and documents relating to on-going Committee investigations. I would like to have your voluntary agreement prior to this meeting to appear before the Committee at a convenient time before the Memorial Day recess. If we cannot agree on a mutually acceptable date for your voluntary appearance, the Committee will vote at the business meeting on the issuance of compulsory process to require your attendance.

I look forward to your favorable response to this letter. If you have any questions, please contact David Rapallo or Theodore Chuang of the Committee staff at (202) 225-5420.

Sincerely,



Henry A. Waxman  
Chairman

cc: Tom Davis  
Ranking Minority Member

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<sup>7</sup> See, e.g., House Committee on Government Reform and Oversight, *Deposition of Douglas Brian Sosnik, Assistant to the President and Director of Political Affairs* (Sept. 2, 1997).

<sup>8</sup> See, e.g., House Committee on Government Reform and Oversight, *Deposition of Roy Neel, Chief of Staff to the Vice President* (Apr. 26, 1996).