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Office of the Deputy Attorney General
Washington, D.C. 20530

August 3, 1998

Honorable Kenneth Starr
Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, NW
Washington, DC 20004

Dear Mr. Starr:

In your July 22, 1998, letter, you asked whether the Secret Service would, at this time, make witnesses available to your office consistent with the past practice of proffers, interviews, and depositions. My understanding is that this request will be the subject today of a meeting between you and Director Merletti, which will be attended by Jonathan Schwartz and Gary Grindler from the Department of Justice. In advance of that meeting, however, I would offer the following thoughts on behalf of the Department and the Secret Service regarding a number of statements in your letter, in order to provide a more complete and accurate backdrop for this afternoon's meeting.

Your letter suggests that you undertook the proffer-interview-deposition process at "significant cost" to your investigation. I do not believe this is an accurate reflection of the facts. In the face of our decision several months ago to assert a protective function privilege, the Department and your office sought to find a mutually acceptable way for your office to obtain information from Secret Service personnel that did not fall within this asserted privilege. Your office initially declined our suggestion to do interviews in advance of depositions. The deposition-only format proved to be problematic, however, due to its formality and due to confusion over the scope of the privilege (admittedly caused, in part, by the Department's periodic re-evaluation and narrowing of its scope). As a result, we renewed our suggestion that your office first interview Secret Service personnel. Your office ultimately agreed to try the interview process, when preceded by proffers of non-privileged information by Department attorneys, so that your attorneys would have an overview of the officers' information before interviews began.

The proffer-interview-deposition format clearly proved to be a more mutually beneficial (not to mention much less contentious) method by which your office obtained non-privileged information from Secret Service personnel, as your attorneys confirmed several times to us. Through proffers and interviews, your office much more quickly determined the limited number

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Honorable Kenneth Starr

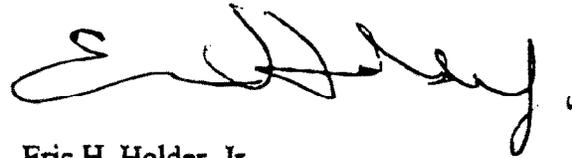
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of officers from whom you needed to obtain sworn deposition testimony. The subsequent depositions then proceeded much more smoothly. While I am not privy to the details of your investigation, it would appear that your investigation was aided by some of the non-privileged information that your attorneys received. Under these circumstances, the assertion that altering the normal procedures by which Secret Service witnesses were questioned somehow hindered your investigation appears inconsistent with the facts as we know them.

I believe that some in your office have undervalued the very real and negative impact that the broad summoning of protective personnel and the broad scope of the questioning has had on the Secret Service. At least 30 officers were interviewed, some of them two or even three times, and many officers who apparently lacked first-hand knowledge relevant to your inquiry were questioned about mere rumors they may have heard. Regardless of our record in convincing federal judges to recognize a new protective function privilege, there is no question that each and every one of the current Secret Service employees whom your office has questioned feels that he or she has violated a code of confidentiality and trust. As a result, the Secret Service sincerely believes that its morale and its ability to do its mission have been adversely affected.

Finally, please allow me to reiterate that the Departments of Justice and Treasury reached the very difficult decision to seek judicial recognition of a protective function privilege for entirely non-partisan purposes, and only after an exhaustive review of the complex legal and policy issues at stake. As prosecutors, the Attorney General and I have been extremely mindful of the effects that our decision to seek the privilege might have had on your investigation (not to mention future investigations by Department attorneys). Nonetheless, we reached the difficult determination that the potential risk to the life of this and future presidents occasioned by the compelled testimony of Secret Service personnel required us to interpose the asserted protective function privilege with respect to information falling within its scope. We trust that you continue to have confidence in the bona fides of this decision.

Sincerely yours,



Eric H. Holder, Jr.
Deputy Attorney General

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U. S. Department of Justice
Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

FACSIMILE TRANSMISSION COVER SHEET

DATE: August 3, 1998

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REMARKS:

