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WITHDRAWAL SHEET

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Collection Name

Withdrawer

MJD 8/30/2005

File Folder

CORRESPONDENCE, MISCELLANEOUS (05/06/1985-05/21/1985)

FOIA

F05-139/01

Box Number

14

COOK

25MJD

DOC NO	Doc Type	Document Description	No of Pages	Doc Date	Restrictions	
1	MEMO	JOHN ROBERT TO FRED FIELDING RE REQUEST FOR LETTER OF COMMENDATION (PARTIAL)	1	5/7/1985	B6	939
2	MEMO	FRED FIELDING TO ANNE HIGGINS RE REQUEST FOR LETTER (PARTIAL)	1	5/7/1985	B6	940

COPY - Reagan Presidential Record

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

B-1 National security classified information [(b)(1) of the FOIA]

B-2 Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]

B-3 Release would violate a Federal statute [(b)(3) of the FOIA]

B-4 Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]

B-6 Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]

B-7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]

B-8 Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]

B-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

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WITHDRAWAL SHEET

Ronald Reagan Library

Collection Name Roberts, John: Files

Withdrawer

LOJ 8/4/2005

File Folder CORRESPONDENCE, MISCELLANEOUS 05/06/1985-05/21/1985

FOIA

2005-139

Box Number 14

COOKE

1022

ID	Doc Type	Document Description	No of Pages	Doc Date	Restrictions
19526	CABLE	RE NATO POLITICAL COMMITTEE	3	5/6/1985	B1
	R	6/22/2006			

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

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C. Closed in accordance with restrictions contained in donor's deed of gift.

THE WHITE HOUSE

WASHINGTON

May 6, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Request for Information Concerning
Employment Discrimination and
Affirmative Action

Richard Martinez, the Chairman of the Affirmative Action Advisory Committee for the Merced County Department of Human Resources, has written the President to ask for information on the positions of the Department of Justice and the Commission on Civil Rights on affirmative action and comparable worth. I recommend referring the letter to both Justice and the Commission on Civil Rights, asking them to respond directly, and so advising Martinez. Appropriate drafts are attached.

Attachments

THE WHITE HOUSE

WASHINGTON

May 6, 1985

Dear Mr. Martinez:

Thank you for your letter of April 23 to the President. In that letter you requested information concerning various positions of the Commission on Civil Rights and the Department of Justice.

I have referred your letter to those agencies for direct reply. You should be hearing from them shortly.

Sincerely,

Orig. signed by FFF (u)

Fred F. Fielding
Counsel to the President

Mr. Richard F. Martinez
Department of Human Resources
Post Office Box 112
Merced, California 95341-0112

FFF:JGR:aea 5/6/85

bcc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

May 6, 1985

MEMORANDUM FOR D. LOWELL JENSEN
ACTING DEPUTY ATTORNEY GENERAL
U.S. DEPARTMENT OF JUSTICE

FROM: FRED F. FIELDING ^{Orig. signed by FFF}
COUNSEL TO THE PRESIDENT

SUBJECT: Letter to the President from Richard Martinez

In the attached letter to the President, Richard Martinez, the Chairman of the Merced County Department of Human Resources Affirmative Action Advisory Committee, requests information on various positions of the Department of Justice. The correspondence is submitted to you for whatever direct reply you consider appropriate. I have also referred the correspondence to the Commission on Civil Rights, and advised Mr. Martinez of both referrals.

Many thanks.

FFF:JGR:aea 5/6/85
cc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

May 6, 1985

MEMORANDUM FOR JOEL MANDELMAN
ACTING GENERAL COUNSEL
U.S. COMMISSION ON CIVIL RIGHTS

FROM: FRED F. FIELDING ^(a) Orig. signed by FFF
COUNSEL TO THE PRESIDENT

SUBJECT: Letter to the President from Richard Martinez

In the attached letter to the President, Richard Martinez, the Chairman of the Merced County Department of Human Resources Affirmative Action Advisory Committee, requests information on various positions of the Commission on Civil Rights. The correspondence is submitted to you for whatever direct reply you consider appropriate. I have also referred the correspondence to the Department of Justice, and advised Mr. Martinez of both referrals.

Many thanks.

Attachment

FFF:JGR:aea 5/6/85
cc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

May 6, 1985

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ACTING DEPUTY ATTORNEY GENERAL
U.S. DEPARTMENT OF JUSTICE

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

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THE WHITE HOUSE

WASHINGTON

May 6, 1985

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ACTING GENERAL COUNSEL
U.S. COMMISSION ON CIVIL RIGHTS

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Letter to the President from Richard Martinez

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Many thanks.

Attachment

FFF:JGR:aea 5/6/85
cc: FFFielding
JGRoberts
Subj
Chron

Dg

A/2017

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

O - OUTGOING

H - INTERNAL

I - INCOMING

Date Correspondence Received (YY/MM/DD) 1 1

JR

Name of Correspondent: Richard Martinez

MI Mail Report

User Codes: (A) _____ (B) _____ (C) _____

Subject: Request for information concerning goals and future actions of the Attorney General & civil rights commission regarding employment discrimination and affirmative action.

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>CUHOLL</u>	<u>ORIGINATOR</u>	<u>85105103</u>			<u>1 1</u>
	Referral Note:				
<u>CUAT 18</u>	<u>D</u>	<u>85105106</u>		<u>S</u>	<u>85105116</u>
	Referral Note:				
		<u>1 1</u>			<u>1 1</u>
	Referral Note:				
		<u>1 1</u>			<u>1 1</u>
	Referral Note:				
		<u>1 1</u>			<u>1 1</u>
	Referral Note:				

ACTION CODES:

- A - Appropriate Action
- C - Comment/Recommendation
- D - Draft Response
- F - Furnish Fact Sheet to be used as Enclosure

- I - Info Copy Only/No Action Necessary
- R - Direct Reply w/Copy
- S - For Signature
- X - Interim Reply

DISPOSITION CODES:

- A - Answered
- B - Non-Special Referral
- C - Completed
- S - Suspended

FOR OUTGOING CORRESPONDENCE:

- Type of Response = Initials of Signer
- Code = "A"
- Completion Date = Date of Outgoing

Comments: _____


Keep this worksheet attached to the original incoming letter.
Send all routing updates to Central Reference (Room 75, OEOB).
Always return completed correspondence record to Central Files.
Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

THE WHITE HOUSE

WASHINGTON

May 6, 1985

MEMORANDUM FOR BERNARD POSNER
EXECUTIVE DIRECTOR
PRESIDENT'S COMMITTEE ON EMPLOYMENT
OF THE HANDICAPPED

FROM: JOHN G. ROBERTS 
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Permission to Reprint Article
from Disabled USA

This office received the attached request for permission to reprint an article from Disabled USA. It is my understanding that Disabled USA is published by the President's Committee on Employment of the Handicapped, and accordingly I am forwarding the correspondence to you for direct reply. Many thanks.

Attachment

PRO-14-09

**WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET**

- O - OUTGOING
- H - INTERNAL
- I - INCOMING
Date Correspondence Received (YY/MM/DD) 1 1

Name of Correspondent: Mary Kay

MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: Permission to use an article in
DISABLED USA 1984/2 titled "Or Learn to Like
Mum Pepsi"

ROUTE TO:		ACTION		DISPOSITION		
Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>CU/ROLL</u>		<u>ORIGINATOR</u>	<u>245102126</u>			<u>1 1</u>
		Referral Note:				
<u>CUAT 18</u>		<u>R</u>	<u>245102127</u>		<u>S</u>	<u>85103111</u>
		Referral Note:				
			<u>1 1</u>			<u>1 1</u>
		Referral Note:				
			<u>1 1</u>			<u>1 1</u>
		Referral Note:				
			<u>1 1</u>			<u>1 1</u>
		Referral Note:				

- ACTION CODES:**
- A - Appropriate Action
 - C - Comment/Recommendation
 - D - Draft Response
 - F - Furnish Fact Sheet to be used as Enclosure
 - I - Info Copy Only/No Action Necessary
 - R - Direct Reply w/Copy
 - S - For Signature
 - X - Interim Reply
- DISPOSITION CODES:**
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 - C - Completed
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- Type of Response = Initials of Signer
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Comments: _____

Keep this worksheet attached to the original incoming letter.
Send all routing updates to Central Reference (Room 75, OEOB).
Always return completed correspondence record to Central Files.
Refer questions about the correspondence tracking system to Central Reference, ext. 2590.



Fred.
Fielding

297496 CK

Rehabilitation Institute of Chicago

Social Work

345 East Superior Street, Chicago, Illinois 60611 (312) 649-6000 Writer's direct dial number 649-6247

February 11, 1985

ELR
Executive Office of the President
The White House
1600 Pennsylvania Ave, N.W.
Washington, D.C. 20500

I am seeking permission to xerox an article in DISABLED USA 1984/2 titled Or Learn To Like Warm Pepsi to distribute to some of our patient population here at the Rehabilitation Institute of Chicago. I did send a letter of request to Superintendent of Documents in December, who did in turn refer me to write to this office.

Please send your response to:

Mary Kozy, ACSW, CSW
Social Work Department
Rehabilitation Institute of Chicago
345 E. Superior
Chicago, Illinois 60611

Thank you in advance.

Sincerely,

Mary Kozy
Mary Kozy, ACSW, CSW

MK/os



The Marin Center for
Employment of
the
Handicapped

Or Learn to Like Warm Pepsi

The Mind-Set of a Good Manager Brings Success with Attendants

Is the relationship between a disabled person and a hired attendant strictly a business one? Or is an attendant a paid intimate? If a balance between these two extremes is best, how can it be achieved?

Certainly, many elements of a business arrangement are readily apparent in the manner in which disabled persons and their attendants relate to each other. Yet, unlike most employer-employee situations, paid attendants share many of their disabled employer's private and sensitive experiences. It's a situation where professional standards need to be observed by both parties—but some amount of personal compatibility is *essential*. To successfully balance the relationship, both disabled person and attendant need to realize that mutual consideration is a key element.

As a model, take the disabled woman who said she learned to regard her attendants primarily as employees, with friendships usually evolving as a natural part of the partnership. "I feel that the boss-attendant relationship is one in which there has to be give and take on both sides. I do feel that some rules have to be made to protect myself from serious problems; hopefully the attendant understands this." At the same time, this disabled person added that an arrangement does not work for her unless friendship is present; she sees herself as an employer but conducts herself in a balanced manner.

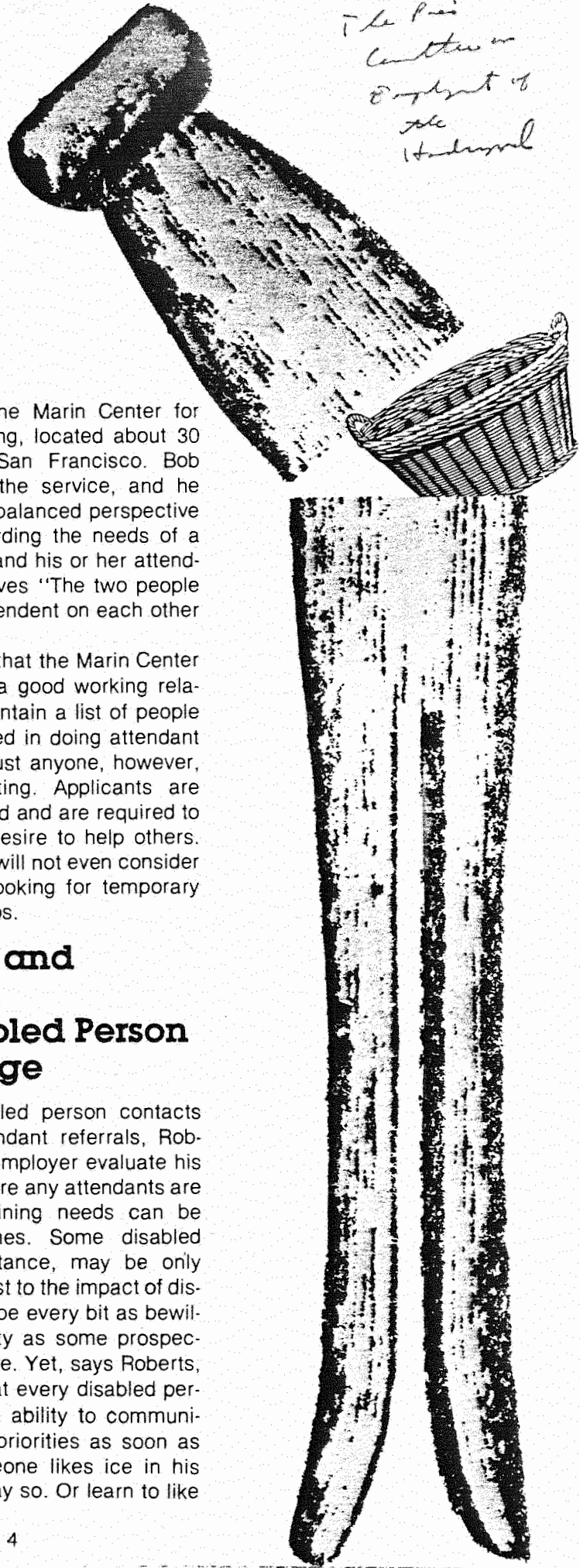
To help improve the likelihood of a balanced relationship from the start, attendant referral services are offered by many community-based independent living centers. A center near where I live (in northern California) that has

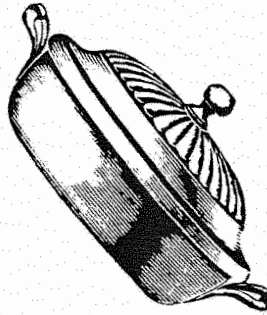
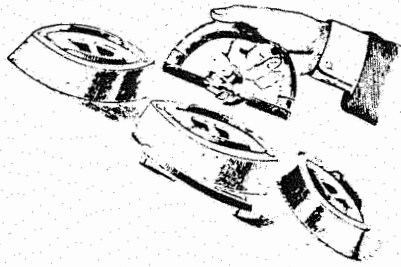
this service is the Marin Center for Independent Living, located about 30 miles north of San Francisco. Bob Roberts directs the service, and he takes a serious, balanced perspective on his job. Regarding the needs of a disabled person and his or her attendant, Robert believes "The two people are mutually dependent on each other for survival."

The first thing that the Marin Center does to support a good working relationship is to maintain a list of people who are interested in doing attendant care work. Not just anyone, however, gets on the listing. Applicants are carefully screened and are required to have a sincere desire to help others. Usually, Roberts will not even consider anyone who is looking for temporary work between jobs.

Interview and Selection: The Disabled Person is in Charge

When a disabled person contacts Roberts for attendant referrals, Roberts assists the employer evaluate his or her needs before any attendants are interviewed. Defining needs can be difficult sometimes. Some disabled persons, for instance, may be only beginning to adjust to the impact of disability. They can be every bit as bewildered by disability as some prospective attendants are. Yet, says Roberts, it is important that every disabled person develops the ability to communicate needs and priorities as soon as possible. If someone likes ice in his Pepsi, he must say so. Or learn to like warm Pepsi.





Roberts advises employers to make a written list of needs before interviewing any attendant applicants. Also, he feels, employers need to understand their own personality traits in order to hire attendants with whom they are compatible. For those employers who need it, Roberts helps with coaching how to conduct an employment interview. Finally, he selects five applicant names from the referral list and sends them to disabled persons seeking attendant care. "Usually," Roberts explains, "I'll try to match ages. If the person is in their 50's, I'll find a few grandmotherly types. But I might throw in an 18-year-old, just for variety."

Still, each case is unique because the personality of the employer is such a great factor in the disabled person-attendant relationship. For example, a disabled person may prefer someone to make decisions for him. While such a situation, according to Roberts, is not generally recommended, it is a legitimate choice. An employer with those inclinations should look for an aide with an authoritative attitude.

(Both men and women, Roberts observes, tend to prefer women attend-

ants. Some disabled men, however, who use catheters to relieve their bladders are sensitive about this and consequently hire only men.)

During the employment interview, it helps the prospective attendant if the employer presents a schedule of duties. Of course, how rigidly the schedule is actually followed depends on the employer's disability, temperament and lifestyle. Still, by being provided with a basic idea of job tasks, work times, and off hours before a hiring decision is made, an attendant can form a better understanding of the job. This enables him or her to decide whether or not the job is worth exploring further.

Besides assisting applicants evaluate a job opening, specific information helps the employer select the right attendant. Unless the disabled person is in a desperate situation and needs an aide immediately, careful and deliberate interviewing is always advisable. Taking your time is important when evaluating an attendant applicant.

One woman who applied for a job controlled the entire interview, and even informed the employer that "Of

course you'll hire me. No one else would want the job." She succeeded only in demonstrating that she would cause serious problems for her employer later on. The next applicant allowed the employer to manage the interview, and was hired right away. When either party conceals facts because the hiring is being done in a panic, tremendous stress in the relationship later on is often a result.

The Importance of Being Managerial

When an employer conducts attendant interviews, he or she should examine the applicant's personal commitments that might interfere with job performance. A woman with two small children clinging to her during the interview may be questionable. Would her day care fees exceed her income? What would happen if one of the children came down with the mumps? Will family obligations conflict with the ability to do the job?

Far from being sexual discrimination, this scrutiny is common sense. All possibilities are crucial to consider before hiring any employee.

At the same time, the employer should leave room for negotiation. An attendant may need to leave work regularly at 4:30 in the afternoon, though the employer is accustomed to the day ending at 5:00. If the attendant is otherwise suited to the job (and the employer can be left alone for 30 minutes), perhaps the attendant could come to work a half hour earlier in the morning. It is a pity to pass up a terrific attendant over a minor inconvenience.

Another important technique for developing a successful relationship is right out of the business world. "Get as much as you can in writing," Bob Roberts advises, "as soon as possible." Vague job descriptions and undefined expectations frustrate the new attendant.

Once the aide is secured, the next major problem facing many disabled employers is lack of experience with functioning in the role of manager. It is a common problem, says Roberts, particularly with recently disabled per-

sons. "The newly disabled person, lying on a bed at the rehabilitation hospital, thinks all he needs is a pivotal transfer from bed to wheelchair. It never occurs to him that he needs his ice water poured for him."

Similarly, the high school graduate who has been disabled from birth has always had personal needs automatically met by parents, siblings, and the special education system. As a result, the first few hired attendants can easily become authority figures. Making the transition from being a sheltered child to being an employer is frequently traumatic, and may take a great deal of time.

Commenting on this, Roberts observes, "Unlike other employers, the disabled person hasn't chosen to be in authority. So he's never learned management skills."

Sadly, some attendants take advantage of an employer's inexperience. As Roberts puts it, "Attendants can be as cocky as heck. They think, 'I'm the able-bodied one here. I'm in control!'" In this situation the unprepared employer allows the attendant to become domineering, forgetting that

the final authority belongs to the employer.

Someone who is easily intimidated will probably find assertiveness difficult. The most common method of intimidation that attendants use is the threat of resignation. Even in times of high unemployment, people are not exactly clamoring for jobs as attendants. The fear of losing an attendant, no matter how inadequate he or she may be, can provoke the employer into making unnecessary compromises. The greater the dependency on an attendant, the more vulnerable is the disabled employer.

Among other management skills, according to Bob Roberts, that an employer should be able to practice is the ability to draw out the employee. "In the business world," he states, "an employer will talk problems out with his employee." When an employee, for instance, frequently comes to work in a foul mood, snapping at everyone, the skillful employer will take him or her aside and try to identify the source of the poor behavior and its impact on colleagues. Once the employee realizes that the behavior is inflicting

unwarranted abuse on coworkers, more effective job performance can be resumed. Similarly, when an attendant fails to work properly, or has a bad attitude, the disabled employer is the responsible party to confront that attendant.

Still, confrontation is a two-way street. For example, a handicapped person is often dealing with many frustrations relating to disability. Sometimes one forgets that the attendant is neither the cause of the situation, nor an appropriate target for pent up anger. When this happens, the attendant is perfectly justified in saying, "I know you're going through a rough time, but don't take it out on me." A wise employer avoids this unfortunate incident by knowing that part of good management is self-control.

Advice From Other Employers

Since boredom frequently causes attendant burn-out, the entire relationship should not revolve around the employer. Showing small considerations



to an aide can relieve the job of its monotony and make the attendant feel especially appreciated. Some employers, for example, occasionally provide their attendants with extra money for dinner or a movie with a friend.

Disabled employers need to avoid the pitfall of pity manipulation. Bob Roberts remembers a woman who is ambulatory, but pretends to be quadriplegic whenever a new person starts to work for her. Once one of her attendants, a few weeks into the job, came back to Roberts, astonished. "Why," gasped the attendant, "that woman can walk!" Roberts chuckled and nodded, "Yes, and she can drive, too!"

As amusing as the story is, that woman completely lost her attendant's respect. No one likes to discover that someone has taken advantage of their generosity by lying to them. Furthermore, self-pity alienates people more quickly than it attracts—chronic complaining is an effective way to lose an attendant.

The best safeguard against manipulation is honesty. For a disabled employer and an attendant, honesty in-

cludes telling each other when they are upset; being straightforward about needs; and respecting each other's rights. An employer cannot reasonably expect an aide to read minds and anticipate all the employer's needs. Communication can prevent much suspicion and misunderstanding.

According to Roberts, another concept is important to keep in mind. An employer, to successfully function in an authority position, should always be aware of drawbacks inherent in doing attendant work. The job pays by the hour, carries few or no benefits, and offers no union protections; there are no promotion possibilities. For the disabled employer, boldness in expressing needs is desirable—and the extent to which the employer participates in society is partially determined by the attendant. Nevertheless, the employer should monitor his or her demands, examine them in a balanced way, and carefully avoid demands that might be unreasonable.

weaknesses against strengths, some reasonable compromise in the employer's needs should be considered. But if the employer honestly feels justified in asking an attendant to leave, the fear of not being able to find a replacement should never force the employer to retain someone who performs poorly.

The most important element in a working relationship between a disabled person and his attendant is honesty. Open communication does require basic management skills, which enable the employer to balance authority with sensitivity. The specifics of each partnership depend on many variables—it's hard to propose many absolute rules. And although honest communication does not eliminate problems entirely, it gives the employer and the aide a way of working through them. In the final analysis, effective problem solving could mean the difference between a mere business arrangement and a rewarding friendship.

—DebbieLynne Simmons

An Attendant is Not Forever

In general, attendant care jobs are short-term work. Very few attendants, even those who continue in the attendant care field, remain with the same employer for more than a couple of years. Reasons for the high turn-over vary. A main cause for resignation is burn-out. Other reasons include better job offers, health problems, pregnancies, and changing financial needs. When an aide leaves under one of these circumstances, the parting is fairly comfortable.

There are, however, times when termination is mismanaged. Anger and misunderstanding on both sides can leave the employer feeling intense guilt or resentment. If the termination is at all precipitous, a disabled person's frustration can be compounded by the urgent need to find a replacement.

Quick dismissal is definitely appropriate when the disabled person suffers from physical or psychological abuse. But in other cases the employer should carefully evaluate the situation, making sure that dismissal is genuinely warranted. In weighing the aide's

Miss Simmons is a free-lance writer.



THE WHITE HOUSE

WASHINGTON

May 7, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS *JGR*

SUBJECT:

Request to Sell Girl Scout Cookies
to the President

B. Oglesby has referred to you a request from Congressman Frank Wolf (R-VA) that the President meet with a constituent who apparently is breaking all records for sales of Girl Scout cookies. Elizabeth Brinton of Falls Church has sold some 10,000 boxes and would like to sell one to the President. The little huckster thinks the President would like the Samoas.

Such a meeting would, of course, constitute an implied endorsement by the President of the principal fundraising endeavor of the Girl Scouts. Given the nature of the Scouts, however, I would have no objection to an exception to our policy against such endorsements if Scheduling is interested in the idea. Attached is a draft memorandum addressed to Fred Ryan, conveying Wolf's proposal and the absence of any legal objection from us.

Attachment

THE WHITE HOUSE

WASHINGTON

May 7, 1985

MEMORANDUM FOR FREDERICK J. RYAN, JR.
DEPUTY ASSISTANT TO THE PRESIDENT
DIRECTOR, PRESIDENTIAL SCHEDULING

FROM: FRED F. FIELDING F³/RAH
COUNSEL TO THE PRESIDENT

SUBJECT: Request to Sell Girl Scout Cookies
to the President

As you will see from the attached, Congressman Frank Wolf has suggested that the President meet with a young constituent who is apparently breaking all records for sales of Girl Scout cookies. The constituent would like to sell a box of the cookies to the President.

As you know, normal policy would preclude Presidential involvement in this charitable fundraising activity. Given the nature of the Girl Scouts, however, I would not interpose a legal objection to the meeting if it is something you would like to do. I express no view on whether the President should meet with the young Scout, or buy a box of cookies from her, but simply note no legal objection to him doing either or both.

cc: M.B. Oglesby, Jr.

FFF:JGR:aea 5/7/85

bcc: FFfielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

May 7, 1985

MEMORANDUM FOR FREDERICK J. RYAN, JR.
DEPUTY ASSISTANT TO THE PRESIDENT
DIRECTOR, PRESIDENTIAL SCHEDULING

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

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cc: M.B. Oglesby, Jr.

FFF:JGR:aea 5/7/85

bcc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

INCOMING

DATE RECEIVED: APRIL 03, 1985

NAME OF CORRESPONDENT: THE HONORABLE FRANK R. WOLF

SUBJECT: WRITES ON BEHALF OF ELIZABETH PRINTON WHO
DESIRES TO SELL THE PRESIDENT A BOX OF GIRL
SCOUT COOKIES

ROUTE TO: OFFICE/AGENCY (STAFF NAME)	ACTION		DISPOSITION	
	ACT CODE	DATE YY/MM/DD	TYPE RESP	COMPLETED D YY/MM/DD
M. B. OGLESBY	ORG	85/04/03	WLD A	85/04/15
<i>Ch. F. J.</i>	<i>R</i>	85/04/18		1/1
REFERRAL NOTE:		1/1		1/1
REFERRAL NOTE:		1/1		1/1
REFERRAL NOTE:		1/1		1/1
REFERRAL NOTE:		1/1		1/1
REFERRAL NOTE:		1/1		1/1

COMMENTS: See T.D. 300957

ADDITIONAL CORRESPONDENTS: MEDIA: L INDIVIDUAL CODES: 1240

MAIL USER CODES: (A) (B) (C)

- *****
- | | | | |
|--------------------------|----------------------|----------------------|---|
| *ACTION CODES: | *DISPOSITION CODES: | *OUTGOING | * |
| *A-APPROPRIATE ACTION | *A-ANSWERED | *CORRESPONDENCE: | * |
| *C-COMMENT/RECOM | *R-NON-SPEC-REFERRAL | *TYPE RESP=INITIALS | * |
| *D-DRAFT RESPONSE | *C-COMPLETED | *OF SIGNER | * |
| *F-FURNISH FACT SHEET | *S-SUSPENDED | *CODE = A | * |
| *I-INFO COPY/NO ACT NEC* | | *COMPLETED = DATE OF | * |
| *R-DIRECT REPLY W/COPY * | | *OUTGOING | * |
| *S-FOR-SIGNATURE * | | | * |
| *X-INTERIM REPLY * | | | * |
- *****

REFER QUESTIONS AND ROUTING UPDATES TO CENTRAL REFERENCE
(ROOM 75, OEOP) EXT. 2590
KEEP THIS WORKSHEET ATTACHED TO THE ORIGINAL INCOMING
LETTER AT ALL TIMES AND SEND COMPLETED RECORD TO RECORDS
MANAGEMENT.

ldg

ID# 300957

THE WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

2014-19MID
re proposed for MID

INCOMING

DATE RECEIVED: APRIL 03, 1985

NAME OF CORRESPONDENT: THE HONORABLE FRANK R. WOLF

SUBJECT: FORWARDS COPY OF LETTER FROM ELIZABETH
BRINTON, FALLS CHURCH, VIRGINIA WITH REQUEST
TO SELL THE PRESIDENT GIRL SCOUT COOKIES

ROUTE TO: OFFICE/AGENCY (STAFF NAME)	ACTION		DISPOSITION	
	ACT CODE	DATE YY/MM/DD	TYPE RESP	C COMPLETED D YY/MM/DD
M. B. OCLESBY	ORG	85/04/03	NO A	85/04/15
REFERRAL NOTE: <i>see file</i>	R	85/04/18		1/1
REFERRAL NOTE: <i>WAT 18</i>	J	85/04/19	S	85/04/29
REFERRAL NOTE:		1/1		1/1
REFERRAL NOTE:		1/1		1/1
REFERRAL NOTE:		1/1		1/1

COMMENTS: *See I.D. 300956*

ADDITIONAL CORRESPONDENTS: MEDIA: L INDIVIDUAL CODES: 1240
MAIL USER CODES: (A) (B) (C)

- *****
- | | | | |
|--------------------------|----------------------|----------------------|---|
| *ACTION CODES: | *DISPOSITION CODES: | *OUTGOING | * |
| *A-APPROPRIATE ACTION | *A-ANSWERED | *CORRESPONDENCE: | * |
| *C-COMMENT/RECOM | *R-NON-SPEC-REFERRAL | *TYPE RESP=INITIALS | * |
| *D-DRAFT RESPONSE | *C-COMPLETED | *OF SIGNER | * |
| *F-FURNISH FACT SHEET | *S-SUSPENDED | *CODE = A | * |
| *I-INFO COPY/NO ACT NEC* | | *COMPLETED = DATE OF | * |
| *R-DIRECT REPLY W/COPY * | | *OUTGOING | * |
| *S-FOR-SIGNATURE * | | | * |
| *X-INTERIM REPLY * | | | * |
- *****

REFER QUESTIONS AND ROUTING UPDATES TO CENTRAL REFERENCE
(ROOM 75, OFOB) EXT. 2590
KEEP THIS WORKSHEET ATTACHED TO THE ORIGINAL INCOMING
LETTER AT ALL TIMES AND SEND COMPLETED RECORD TO RECORDS
MANAGEMENT.

WITHDRAWAL SHEET

Ronald Reagan Library

Collection Name
ROBERTS, JOHN: FILES

Withdrawer
MJD 8/7/2005

File Folder
CORRESPONDENCE, MISCELLANEOUS (05/06/1985-05/21/1985)

FOIA
F05-139/01
COOK

Box Number
14

25MJD

<i>DOC Document Type</i>	<i>No of pages</i>	<i>Doc Date</i>	<i>Restrictions</i>	
<i>NO Document Description</i>				
1 MEMO	1	5/7/1985	B6	939
JOHN ROBERT TO FRED FIELDING RE REQUEST FOR LETTER OF COMMENDATION				

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

- B-1 National security classified information [(b)(1) of the FOIA]
- B-2 Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- B-3 Release would violate a Federal statute [(b)(3) of the FOIA]
- B-4 Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- B-6 Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- B-7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- B-8 Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- B-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

E.O. 13233

C. Closed in accordance with restrictions contained in donor's deed of gift.

THE WHITE HOUSE
WASHINGTON

May 7, 1985

MEMORANDUM FOR ANNE HIGGINS
SPECIAL ASSISTANT TO THE PRESIDENT
DIRECTOR OF CORRESPONDENCE

FROM: FRED F. FIELDING F³¹ RAH
COUNSEL TO THE PRESIDENT

SUBJECT: Letter of Commendation for
Federal Protection Officer

You have asked if the President should send a letter of commendation to [REDACTED] who alerted the Secret Service to an individual representing a potential threat to the President. I recommend against such a letter, primarily because the request for it, from [REDACTED] notes that [REDACTED] has been faced with the prospect of being laid off for several years. There is the danger that [REDACTED] would use a letter from the President to try to save his job should that eventuality come to pass, or that, if the lay off is at all attributable to budget cuts, that the letter could be embarrassing to the President. I would have no objection to forwarding [REDACTED] request to the Secret Service for whatever consideration that agency would accord it.

b6

FFF:JGR:aea 5/7/85
cc: FFFielding
JGRoberts
Subj
Chron

COPY - Reagan Presidential Record

WITHDRAWAL SHEET

Ronald Reagan Library

Collection Name

ROBERTS, JOHN: FILES

Withdrawer

MJD 8/7/2005

File Folder

CORRESPONDENCE, MISCELLANEOUS (05/06/1985-05/21/1985)

FOIA

F05-139/01

COOK

Box Number

14

25MJD

DOC Document Type

NO Document Description

No of Doc Date Restric-
pages tions

2 MEMO

1 5/7/1985 B6

940

FRED FIELDING TO ANNE HIGGINS RE REQUEST
FOR LETTER

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

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E.O. 13233

C. Closed in accordance with restrictions contained in donor's deed of gift.

THE WHITE HOUSE
WASHINGTON

May 7, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*
SUBJECT: Letter of Commendation for
Federal Protection Officer

Anne Higgins has asked if the President should send a brief letter of commendation to [REDACTED] b6

[REDACTED] The request for such a letter came from [REDACTED] According to a letter of appreciation from a GSA supervisor, [REDACTED], while on patrol, noticed and reported a suspicious individual lurking near the site of a scheduled Presidential visit. The Secret Service investigated and the individual was deemed to have been something of a threat. [REDACTED] notes that [REDACTED] has worked as an FPO for GSA for seven years, and has been told every year that he would probably be laid off. She thinks a letter from the President would encourage him.

I would not send a letter. If [REDACTED] is in fact faced with a possible lay off, there is the danger that he would try to use a letter from the President to save his job. If the reason for the lay off is even remotely linked to budget cuts, the embarrassment to the President could be significant. A letter from the Secret Service -- if they consider one appropriate -- is far less problematic. The attached reply to Higgins advises her to raise the matter with them. b6

Attachment

Sg

ME

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

- O - OUTGOING
- H - INTERNAL
- I - INCOMING

Date Correspondence Received (YY/MM/DD) 1 1

Name of Correspondent: Anne Higgins

MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: Proven singer presented an individual from turning the POTUS and would like recognition

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>CUHOLL</u>	ORIGINATOR	<u>85104122</u>			<u>1 1</u>
	Referral Note: <u>DD</u>				
<u>CUAT 18</u>	<u>D</u>	<u>8510424</u>		<u>S</u>	<u>85105104</u>
	Referral Note: <u>DD</u>				
		<u>1 1</u>			<u>1 1</u>
	Referral Note:				
		<u>1 1</u>			<u>1 1</u>
	Referral Note:				
		<u>1 1</u>			<u>1 1</u>
	Referral Note:				

ACTION CODES:

- A - Appropriate Action
- C - Comment/Recommendation
- D - Draft Response
- F - Furnish Fact Sheet to be used as Enclosure

- I - Info Copy Only/No Action Necessary
- R - Direct Reply w/Copy
- S - For Signature
- X - Interim Reply

DISPOSITION CODES:

- A - Answered
- B - Non-Special Referral
- C - Completed
- S - Suspended

FOR OUTGOING CORRESPONDENCE:

- Type of Response = Initials of Signer
- Code = "A"
- Completion Date = Date of Outgoing

Comments: _____

Keep this worksheet attached to the original incoming letter.
 Send all routing updates to Central Reference (Room 75, OEOB).
 Always return completed correspondence record to Central Files.
 Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

THE WHITE HOUSE

WASHINGTON

May 8, 1985

MEMORANDUM FOR RICHARD A. HAUSER

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Draft Response to U.S. NATO's Request
for Guidance for a May 14 POLADs Exchange
on Ratification of the 1977 Protocols

State Deputy Legal Adviser Mike Matheson has asked for our views on a proposed guidance cable to be sent to the U.S. NATO Mission. At the last Law of War Working Group meeting, on April 22, the participants were advised that a meeting of the NATO Political Committee would be held on May 14, and that one of the items on the agenda would be the status of ratification of the 1977 Protocols to the 1949 Geneva Convention. The 1977 Protocols update and revise the famous 1949 Geneva Convention on the acceptable conduct of war and treatment of prisoners of war. The 1977 conference was unable to reach agreement on limitations on the use of specific types of weapons, so another conference was held in 1979-1980 that gave rise to the Conventional Weapons Convention, with three additional Protocols.

It is important to keep distinct the 1977 Protocols and the Protocols to the Conventional Weapons Convention. The upcoming NATO meeting concerns only the 1977 Protocols. The United States has not yet decided whether to seek ratification of the 1977 Protocols, pending review by the Joint Chiefs of Staff. That review is not yet complete, but all indications are that the Chiefs will recommend against ratification. The proposed guidance cable accordingly points out the major areas of concern, so the NATO Allies are aware that we may well decide not to ratify. The main objection is found in paragraph four: the Protocols would treat many terrorist organizations as if they were countries engaged in war, legitimizing their activities and offering them protections and courtesies that should not be extended to common criminals.

I have no objections. The cable embodies the reality that the military concerns of the Department of Defense are prevailing in these discussions over the diplomatic objectives of the Department of State.

Attachment

THE WHITE HOUSE

WASHINGTON

May 8, 1985

MEMORANDUM FOR MIKE MATHESON
DEPUTY LEGAL ADVISER
U.S. DEPARTMENT OF STATE

FROM: RICHARD A. HAUSER
DEPUTY COUNSEL TO THE PRESIDENT

Original signed by RAH

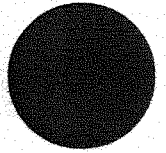
SUBJECT: Draft Response to U.S. NATO's Request
for Guidance for a May 14 POLADs Exchange
on Ratification of the 1977 Protocols

Counsel's Office has reviewed the above-referenced proposed guidance cable, and finds no objection to it from a legal perspective.

RAH:JGR:aea 5/8/85

cc: FFfielding
RAHauser
✓ JGRoberts
Subj
Chron

**WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET**



- O - OUTGOING
- H - INTERNAL
- I - INCOMING
Date Correspondence Received (YY/MM/DD) 1 / 1 /

Name of Correspondent: Mike Matheson

MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: Draft response for guidance to USNATO's request for guidance for + May 14 POLADS exchange on ratification of the 1977 Protocols.

ROUTE TO: Office/Agency (Staff Name)	ACTION Action Code	Tracking Date YY/MM/DD	DISPOSITION	
			Type of Response Code	Completion Date YY/MM/DD
<u>CUHOLL</u>	<u>ORIGINATOR</u>	<u>85105107</u>		<u>1 1</u>
	Referral Note:			
<u>CUAT18</u>	<u>D</u>	<u>85105107</u>	<u>S</u>	<u>85105109</u>
	Referral Note:	<u>for RAH's signature</u>		
		<u>1 1</u>		<u>1 1</u>
	Referral Note:			
		<u>1 1</u>		<u>1 1</u>
	Referral Note:			
		<u>1 1</u>		<u>1 1</u>
	Referral Note:			

- | | |
|--|---------------------------|
| ACTION CODES: | DISPOSITION CODES: |
| A - Appropriate Action | A - Answered |
| C - Comment/Recommendation | B - Non-Special Referral |
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| I - Info Copy Only/No Action Necessary | |
| R - Direct Reply w/Copy | |
| S - For Signature | |
| X - Interim Reply | |
- FOR OUTGOING CORRESPONDENCE:**
 Type of Response = Initials of Signer
 Code = "A"
 Completion Date = Date of Outgoing

Comments: _____

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 Send all routing updates to Central Reference (Room 75, OEOB).
 Always return completed correspondence record to Central Files.
 Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

DEPARTMENT OF STATE

Washington, D.C.

May 6, 1985

To JOR

TO: NSC - Mr. Kimmett
OSD/ISP - Mr. Feith
OSD/GC - Mr. McNeill
JCS/J-5 - Commo. Sackett
ACDA/GC - Mr. Graham
White House Counsel - Mr. Hauser ✓

FROM: State/L - Mike Matheson ^{NDM}

Attached is a draft response to USNATO' request for guidance for a May 14 POLADs exchange on ratification of the 1977 Protocols. Please give me your clearance/ comments by COB Thursday May 9.

Thanks very much.

Attachment:
Draft response.

Dept. of State

ACK	MRN	DTG
CLASSIFICATION		
SPECIAL CHARGES		
DR: MING J. MATHESON: EDK: AML		
05/06/85, EXT. 23345, WANG 2040		
APPROVING OFFICE	NAME	

1 OFFICE	NAME	2 OFFICE	NAME
CLEARANCES		CLEARANCES	

ROUTINE USMISSION NAT ST

INFO REFERENCE INFO ADDRESS

SPECIAL HANDLING

CAPTIONS

E.O. 12356:

TAGS:

SUBJECT: NATO POLITICAL COMMITTEE - 1977 PROTOCOLS TO 1949 GENEVA CONVENTIONS

REF: USNATO 2057

1. - ENTIRE TEXT.
2. USNATO 2057 REQUESTED GUIDANCE FOR MAY 14 EXCHANGE ON THE STATUS OF RATIFICATIONS, INCLUDING THE ISSUES WE SEE AS IMPORTANT. GUIDANCE FOLLOWS.
3. THE USG HAS TAKEN NO DECISION REGARDING RATIFICATION OF THE 1977 PROTOCOLS. WE ARE PRESENTLY AWAITING THE RESULTS OF A LENGTHY STUDY BY THE JOINT CHIEFS OF STAFF ON THE MILITARY IMPLICATIONS OF THE PROTOCOLS. WE WILL SHARE THE RESULTS OF THAT STUDY WITH NATO ALLIES AS SOON AS THEY ARE AVAILABLE. IN THE MEANTIME, THE FOLLOWING IS A BRIEF

DECLASSIFIED
 NLS F05-139/1 #19526
 BY LOI, NARA, DATE 6/22/06

AND PRELIMINARY LISTING OF THE ISSUES WE CURRENTLY SEE AS MOST IMPORTANT. THIS LIST IS OF COURSE NOT FINAL OR EXHAUSTIVE.

4. THE USG CONTINUES TO HAVE SERIOUS CONCERNS ABOUT ARTICLE 1{4}, WHICH PURPORTS TO EXTEND THE RULES OF INTERNATIONAL ARMED CONFLICT TO NON-GOVERNMENTAL ARMED GROUPS ON THE BASIS OF INAPPROPRIATE POLITICAL CRITERIA, AND WHICH, IN CONJUNCTION WITH ARTICLE 44, COULD GIVE POW STATUS TO MEMBERS OF SUCH GROUPS UNDER INAPPROPRIATE CIRCUMSTANCES.

5. THE USG CONTINUES TO BE CONCERNED THAT ARTICLE 28{2} MIGHT BE INTERPRETED AS PRECLUDING MEDICAL AIRCRAFT FROM CARRYING ENCRYPTION EQUIPMENT FOR SECURE COMMUNICATIONS TO SUPPORT MEDICAL OPERATIONS.

6. THE USG CONTINUES TO BE CONCERNED THAT THE PROHIBITION IN ARTICLE 39{2} ON THE USE OF ENEMY UNIFORMS WOULD IMPOSE UNDUE LIMITATIONS ON ALLIED OPERATIONS.

7. THE USG CONTINUES TO HAVE SERIOUS CONCERNS THAT THE PROHIBITIONS ON REPRISALS IN PART IV WOULD UNDULY CONSTRAIN ALLIED MILITARY OPTIONS IN THE EVENT OF SERIOUS BREACHES BY ENEMY FORCES.

8. THE USG CONTINUES TO BE CONCERNED THAT THE PROVISIONS OF PART IV ON INDISCRIMINATE ATTACKS AND COLLATERAL INJURY TO CIVILIANS MAY BE INTERPRETED IN A MANNER THAT WOULD UNDULY CONSTRAIN THE NECESSARY

FLEXIBILITY AND DISCRETION OF FIELD COMMANDERS.

9. THE USG CONTINUES TO REGARD IT AS EXTREMELY IMPORTANT THAT NATO ALLIES SUPPORT THE VIEW THAT THE RULES RELATING TO THE USE OF WEAPONS INTRODUCED BY PROTOCOL I APPLY ONLY TO CONVENTIONAL WEAPONS, AND IN PARTICULAR DO NOT HAVE ANY EFFECT ON THE USE OF NUCLEAR WEAPONS.

10. THE USG CONTINUES TO SUPPORT THE EFFORTS OF OTHER NATO ALLIES TO CLARIFY THE INTERPRETATION AND SCOPE OF VARIOUS PROVISIONS OF THE PROTOCOLS, INCLUDING ARTICLES 41, 44 AND 56-58 OF PROTOCOL I.

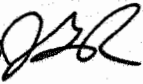
11. THE USG LOOKS FORWARD TO HEARING THE VIEWS OF OTHER NATO ALLIES ON THESE AND OTHER POINTS. 44

THE WHITE HOUSE

WASHINGTON

May 9, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Charles Alan Wright

Charles Alan Wright, who recently completed a Personal Data Statement (PDS) in connection with his prospective appointment to the Commission on the Bicentennial of the U.S. Constitution, has written to raise a question concerning the interpretation of Question 8 of the PDS. Wright read the entire question to be qualified by the last clause, "as a result of any prior employment or business or professional association," and therefore did not think that it sought information about stock obtained in the usual way, i.e., through purchase. Wright's daughter contends the question is not so qualified, but rather seeks information on all stock ownership. Wright contends this is "grammatically impossible."

Since I did not draft the PDS questions, I can be objective. Wright's wrong; it is his reading that is "grammatically impossible." For the final clause to modify anything other than "other arrangement" there would have to be a comma after "other arrangement." Even then, the most the final clause could reasonably be considered to modify would be the "including" language, not all of the sentence. The normal reading of the sentence would view the "including" language to describe "other arrangements," and the final clause to modify "other arrangement" in the "including" clause. Wright's reading is not only wrong but "gramatically impossible" because of the two "other arrangements" in the sentence -- if the final clause modified all that precedes it, rather than simply the last "other arrangement," it would modify "other arrangement" twice. Just as statutes should be interpreted to avoid an unconstitutional reading, so too sentences should be interpreted to avoid a redundant reading.

Out of respect the attached draft response notes the question may not be a model of clarity, but goes on to offer the above interpretation and concludes by noting, as Wright has so often himself, that we should be guided by the intent of the Framers.

Attachment

names of any other organizations with which you were affiliated prior to the past three years that might present a potential conflict or appearance of conflict of interest with your prospective appointment. (Please note that in the case of an attorney's client listing, it is only necessary to provide the names of major clients and those that might present a potential conflict or appearance of conflict of interest with the prospective appointment).

Those organizational affiliations that you plan to continue during your Government service should be noted with an asterisk.

8. The names of all corporations, firms or other business enterprises, partnerships, nonprofit organizations and educational or other institutions in which you presently have any continuing financial interest through ownership of stock, stock options, bonds or other arrangements, including a trust, pension or retirement plan, stock bonus, profit-sharing or other arrangement as a result of any prior employment or business or professional association. Also supply such details as are necessary for a thorough understanding of such continuing financial interests. Any interests you plan to retain during your Government service should be noted with an asterisk. (If the position to which you are being appointed requires the filing of an Executive Personnel Financial Disclosure Report ["Standard Form 278"], you may omit this question.)
9. The names of any creditors (other than those to whom you may be indebted by reason of a mortgage on property used as a personal residence, or for current and ordinary living expenses), setting forth the amount of such debt and any additional information deemed relevant to explain the transaction. (If the position to which you are being appointed requires the filing of a Standard Form 278, you may omit this question. Regardless of whether you are required to file a Standard Form 278, however, please include [and so note] any debts for which you are contingently liable, loans on which you are a guarantor, etc.)
10. The names of any debtors, setting forth the amount owed to you and any additional information deemed relevant to explain the transaction. You need not include loans to your spouse, dependents or siblings for non-business purposes. Please exclude all debts under \$5,000.
11. All your interests in real property, other than a personal residence, setting forth the nature of your interest, the type of property and the address.

THE WHITE HOUSE

WASHINGTON

May 9, 1985

Dear Charlie:

Thank you for your letter of April 22, which put me in the unenviable position of having to decide a family dispute over grammar. I should begin by conceding that this office has never received any compliments on the grammatical clarity of the Personal Data Statement. The questions evolved through a process of accretion as the need for additional information became evident from time to time. This process is, as you might imagine, not the most conducive to clarity.

Having said this I must side with your daughter's reading of Question 8. If the final words were to modify the entire opening sentence, one would certainly expect a comma after "other arrangement." Even then the words would probably only modify the "including" clause. The clincher, in my view, is the fact that the words "other arrangements" appear in the sentence prior to the words "other arrangement" that immediately precede the final words. If the final words qualified the entire sentence, they would qualify "other arrangement" twice. Just as statutes should be interpreted to avoid an unconstitutional reading, so too sentences should be interpreted to avoid such a redundant reading.

To the extent the intent of the Framers is pertinent in this context, it was in fact our intent to solicit information about all stock holdings, whether or not they resulted from any prior employment or business or professional association. That is, we intended the final words to modify "other arrangement." The fact that we failed to convey this intent clearly suggests that it may be time to consider revising the questions. Thank you for alerting me to this possible confusion, and for providing all the information we need in response to Question 8.

Sincerely,

Fred F. Fielding
Counsel to the President

Professor Charles Alan Wright
School of Law
The University of Texas at Austin
727 East 26th Street
Austin, TX 78705

FFF:JGR:aea 5/9/85
bcc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

May 20, 1985

MEMORANDUM FOR DAVID L. CHEW
STAFF SECRETARY

FROM: JOHN G. ROBERTS *JGR*
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: United States v. City of Chicago

The following is for your information only. The Department of Justice will file a brief today in the Chicago police and firefighter discrimination cases, United States v. City of Chicago. Chicago has been hiring police and firefighters from a list based on a 1981 test and a one-for-one minority hiring quota, required by a previous consent decree. The quota system has "used up" the minorities and women available from the 1981 test, and the City now wants to discontinue using that list and conduct a new test. The new test would result in more minority members and women with passing scores, and the City could return to hiring on a one-for-one quota basis, giving preference to minorities and women with lower scores than white males.

The white males remaining on the 1981 list have filed a motion to prevent the City from discontinuing hiring from that list. The Department's brief contains good news and bad news for the City. The good news is that brief will support the right of the City to discontinue hiring from the 1981 list. In fact, the Department will argue that the 1981 list is discriminatory and cannot be used. The bad news, from the City's perspective, is that the brief will go on to seek to overturn the previous consent decree requiring the one-for-one hiring quota. As an alternative remedy, the Department will urge the court to require the City to increase its efforts to attract qualified minorities and women to take the new test.

This position is consistent with that taken by the Department in post-Stotts cases. Since the United States is a party, and has been directed by the court to file a responsive pleading, the Administration cannot be accused in this case of gratuitously intervening to undo prior consent decrees. Nonetheless, in view of Brad Reynolds's pending confirmation hearings, and the interest on the part of one of the judges in attracting attention to the case, the filing is likely to generate considerable publicity.

Attachment



Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, MAY 20, 1985

CR
202-633-2019

In separate police and fire department employment cases currently pending in the U.S. District Court in Chicago, the Department of Justice, responding to court inquiries and motions by other parties to the litigation, filed papers today supporting the City of Chicago's stated intention to cease using discriminatory hiring and promotion lists for the police and fire departments.

In its memoranda to the courts, the Department argued that the 1981 examinations on which the lists are based have never been shown to be job-related and cannot in such circumstances continue to be used in light of the serious adverse impact the tests had on blacks, Hispanics and women.

The cases involve three lawsuits filed by the Justice Department: one in 1973 charging discrimination against blacks and Hispanics in fire department hiring; another in 1973 charging discrimination against blacks, Hispanics, and women in police department hiring and promotions; and the third in 1980 charging discrimination against blacks and Hispanics in fire department promotions.

The suits resulted in court decrees and orders requiring the police and fire departments to use race and gender quotas in their hiring and promotion decisions: to hire one black or

(MORE)

Hispanic firefighter for every white firefighter hired; to promote one black or Hispanic firefighter for every four white firefighter promoted; to hire police officers at the rates (for each entering class) of 35 percent white male, 34 percent minority male, and 31 percent female; and the police department to promote police officers at the rates of 70 percent white male, 25 percent minority male, and 5 percent female.

In announcing the filing, Assistant Attorney General William Bradford Reynolds, head of the Department's Civil Rights Division, said:

"We are opposed to the use of these hiring lists because the tests on which they were based unlawfully discriminate against minorities and women who took the tests. Once job-related tests are established, minorities and women will compete on an equal footing."

The Justice Department filings also said the police and fire departments should discontinue hiring and promoting from eligibility lists based on prior examinations because these examinations discriminated against minorities and were otherwise tainted. In addition, the motions said, the fire department list was further compromised by proven bribery of city officials to favor white candidates.

In a related filing, the Department also asked the two district courts to modify the outstanding court decrees pertaining to the police and fire departments -- entered originally in

(MORE)

1976 and amended on several occasions thereafter -- to remove hiring and promotion quota provisions and substitute affirmative recruitment and outreach requirements aimed at increasing the number of qualified minority and female applicants considered for hire and promotion.

With respect to this filing, Reynolds said:

"To insure an end to unlawful discrimination in the hiring and promotion decisions of the Chicago police and fire departments, we have also asked that the quota provisions be removed from the existing court decrees and that they be brought in line with the Supreme Court's decision in the Memphis Firefighters case. That decision makes clear that Congress granted full remedial authority to courts in Title VII cases to enjoin the discriminatory employment conduct and provide make whole relief for all identifiable victims of the employer's unlawful practices. But the Supreme Court held as well in the Memphis Firefighters case that Title VII does not empower the courts to use discrimination to fight discrimination. Therefore quotas, goals, or other remedial preferences tied to race or sex cannot lawfully be a part of court-ordered relief under Title VII.

"As a substitute for the quota provisions, we have urged the courts to direct the City of Chicago to develop and use neutral nondiscriminatory selection procedures, coupled with an

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active and aggressive recruitment effort to attract qualified minorities and women to apply for police and fire positions. Valid and job-related selection criteria that accord no individual a preference or a disadvantage because of gender or skin color will enable increased numbers of minorities and women to become police officers and firefighters in Chicago -- and to rise through the ranks on the basis of their abilities."

The Department's papers indicated that the city is prepared to administer new examinations for police officers and firefighters that will not discriminate against minorities.

As a substitute for the hiring and promotion goals, the motions asked the court to amend the decrees to enjoin the city from engaging in any discriminatory employment practice, to require enhanced recruitment by the police department and training for fire department promotions, and to submit periodic reports on minority employment and promotions.

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