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83 Box 30 - JGR/Judges (5) – Roberts, John G.: Files SERIES
I: Subject File

WITHDRAWAL SHEET

Ronald Reagan Library

Collection Name Roberts, John

Withdrawer

LOJ 8/9/2005

File Folder JGR/JUDGES (5 OF 9)

FOIA

F05-139/01

Box Number

COOK

42LOJ

Doc No	Doc Type	Document Description	No of Pages	Doc Date	Restrictions	
1	MEMO	RICHARD HAUSER TO MEESE ET AL., RE NOMINATION OF ANDREW L. FREY	3	1/31/1985	B6	1131

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.

FFF has seen

THE WHITE HOUSE

WASHINGTON

September 13, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Judge Chambers' Chambers

On August 17, Judge Chambers of the Ninth Circuit, a senior judge who serves on the court's planning committee, wrote Assistant Attorney General Olson concerning a dispute between GSA and the court. The Southern California facility of the Ninth Circuit will soon be moved from Los Angeles to a new building in Pasadena. The building site is apparently on something of a slope. According to Chambers, GSA is reneging on a commitment to provide parking at the top of the hill. Instead, GSA plans to provide parking at the bottom, and sell the more valuable area at the top. Chambers asks Olson's opinion on whether Executive Order 12348 (February 25, 1982) - apparently cited to the judge by GSA - can override GSA's earlier commitments. Executive Order 12348 set up the Property Review Board (PRB). Oddly, Chambers suggests a possible lawsuit by the judges under Nixon v. GSA, 433 U.S. 425 (1977), which has nothing to do with this dispute except for the fact that GSA was involved. Olson has written you, suggesting that the matter should be quickly and amicably resolved - without formal opinions - to avoid alienating an important court.

I raised the matter with Bruce Selfon of the PRB, who discussed the dispute with GSA. GSA's side of the story is that all judges and court employees will in fact have parking at the top. Only visitors will be forced to park down below - a short walk from the entrance. GSA does plan to sell a parcel on the high ground that would otherwise have been used for parking, generating \$10 million of revenue. Both the City and the County favor the GSA plan, for traffic and environmental reasons. GSA officials admit they changed their minds from the original plan for the site, but they do not feel estopped on the basis of representations to the judges. Written material on the dispute from GSA is on its way from California.

I agree with Olson that it is not in our overall interest to step on the judges' toes if we can avoid it. On the other hand, if GSA's representations to Selfon are accurate, Judge Chambers is clearly being unreasonable. We should await the written material from GSA before taking any action, but I wanted to advise you of this matter should Olson or anyone else raise it with you.

SEP 14 1983

bers. We should expect to see some months when inflation will be higher than in January. But the important message is that over the long haul, inflation is coming down, and that is very good news, indeed.

For a family of four at the poverty line (on a fixed income of \$8,500 during 1981), the drop in the inflation rate during 1981 over 1980 meant a cash savings of some \$255. For the average household with an average income (on a fixed income of \$24,332 during 1981), the gains in the battle against inflation during 1981 meant an increase in spending power of some \$730.

Note: Assistant to the President for Communications, David R. Gergen, read the statement to reporters at his news briefing in the Briefing Room at the White House.

United States-Jamaica Barter Agreement

*Announcement of the Agreement.
February 25, 1982*

Today the United States completed its arrangement on November 24, 1981, to procure 1.6 million tons of Jamaica bauxite for the United States strategic stockpile. The agreement, which was signed today by representatives of the United States and Jamaican Government in Jamaica, will benefit both countries as it stimulates the growth of Jamaica's private sector. The United States will receive needed bauxite for our strategic stockpile. Bauxite is the raw material used to produce aluminum, a major element in almost all modern military weapons, such as the F-15 fighter aircraft and the B-1 bomber.

Jamaica in return for its bauxite will receive approximately \$39 million in needed foreign exchange plus about 7,000 metric tons of nonfat dry milk and 1,900 metric tons of anhydrous milk fat valued at \$13 million. These dairy products are part of the agriculture barter aspects of this bauxite procurement, and they represent the first use of agriculture barter to acquire strategic raw material in almost 15 years. The other portions of bauxite will be procured by

direct cash payment, as well as exchange with excess stockpile material no longer needed because of the changing requirements of technology. The procurement will be accomplished under current budget allocations.

This program, developed during the first year of the Reagan administration, is directly supportive of United States policy toward the Caribbean Basin announced by the President yesterday. The program also demonstrates that trade programs between the United States and Caribbean countries are mutually beneficial as will be the aid, trade, and investment aspects of the Caribbean Basin Initiative.

Federal Real Property

Executive Order 12348. February 25, 1982

By virtue of the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 205(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(a)), in order to improve management of Federal real property, it is hereby ordered as follows:

Section 1. (a) There is hereby established a Property Review Board.

(b) The members of the Board shall be the Counsellor to the President; Director, Office of Management and Budget; Chairman, Council of Economic Advisers; Assistant to the President for Policy Development; Chief of Staff and Assistant to the President; Assistant to the President for National Security Affairs; and such other officers or employees of the Executive branch as the President may from time to time designate. One of the members of the Board shall be designated by the President as Chairman.

(c) Staff, including an Executive Director, and other administrative support shall be provided from resources available to the President.

Sec. 2. The Board shall perform such functions as may be directed by the President, including the following:

(a) develop and review Federal real property acquisition, utilization, and disposal policies with respect to their relationship to other Federal policies;

(b) advise the Administrator of General Services with respect to such standards and procedures for executive agencies that are necessary to ensure that real property holdings no longer essential to their activities and responsibilities are promptly identified and released for appropriate disposition;

(c) review and examine prior disposals of surplus property for public benefit discount conveyances to ensure that the property is being used and maintained for the purpose for which it was conveyed;

(d) receive the surveys and reports made by or to the Administrator of General Services pursuant to Sections 3 and 4 of this Order as well as other reports on Federal real property that are requested by the Board, with particular attention to resolution of conflicting claims on, and alternate uses for, any property described in those reports, consistent with laws governing Federal real property;

(e) provide guidance to the Administrator of General Services in accord with Section 6 of this Order;

(f) establish for each Executive agency annually the target amount of its real property holdings to be identified as excess; and

(g) submit such recommendations and reports to the President as may be appropriate.

Sec. 3. (a) All Executive agencies shall periodically review their real property holdings and conduct surveys of such property in accordance with standards and procedures determined by the Administrator of General Services pursuant to Section 206 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 487), and this Order.

(b) The head of each Executive agency, within 60 days of the date of this Order, shall report to the Administrator of General Services and the Board the agency's real property holdings which, in his judgment, are not utilized, are underutilized, or are not being put to optimum use.

(c) The head of each Executive agency shall identify, and report to the Board, all those properties which can be considered for disposition in response to the targets

established by the Board in subsection 2(f) of this Order.

Sec. 4. The Administrator of General Services in consultation with the Board shall issue standards and procedures, conduct surveys, and cause surveys to be conducted, to ensure that the real property holdings of Executive agencies shall continually be evaluated with special emphasis on the identification of properties that are not utilized, are underutilized, or are not being put to optimum use. The Administrator shall consult with the Board and appropriate Executive agencies in order to (a) identify real property that is excess or surplus to the needs of the Executive agencies, and (b) make such real property available for its most beneficial use under the various laws of the United States affecting such property.

Sec. 5. The Administrator of General Services shall report to the Board with respect to any property or portion thereof which has not been reported excess to the requirements of the holding agency and which, in the judgment of the Administrator, is not utilized, is underutilized, or is not being put to optimum use, and which he recommends should be reported as excess property.

Sec. 6. Before the Administrator of General Services assigns or conveys property for public benefit discount conveyances, he shall first consult with the Board and consider such guidance as it may provide.

Sec. 7. The Administrator of General Services shall, to the extent permitted by law, provide necessary advice and assistance to the Board to accomplish the objectives of this Order.

Sec. 8. Executive Order No. 11954, as amended, is revoked.

Ronald Reagan

The White House,
February 25, 1982.

[Filed with the Office of the Federal Register, 4:58 p.m., February 25, 1982]

FG052
JGR

**WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET**

O - OUTGOING

H - INTERNAL

I - INCOMING

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

Name of Correspondent: Theodore B. Olson

MI Mail Report

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

Subject: Letter to Olson from Judge ^{Richard} Chambers
re: projected move for the Ninth Circuit
and problems with parking site

ROUTE TO:		ACTION		DISPOSITION	
Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Completion Date YY/MM/DD
<u>W4B11</u>		<u>DD</u> ORIGINATOR	<u>83108130</u>		<u>1 1</u>
<u>W4T13</u>		<u>DD</u> Referral Note:	<u>83108130</u>		<u>S 9309109</u>
			<u>1 1</u>		<u>1 1</u>
			<u>1 1</u>		<u>1 1</u>
			<u>1 1</u>		<u>1 1</u>

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
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DISPOSITION CODES:

- A - Answered
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- 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, OEOP).
Always return completed correspondence record to Central Files.
Refer questions about the correspondence tracking system to Central Reference, ext. 2590.



U.S. Department of Justice

Office of Legal Counsel

Office of the
Assistant Attorney General

Washington, D.C. 20530

AUG 25 1983

166174 *CU*

MEMORANDUM TO FRED F. FIELDING
COUNSEL TO THE PRESIDENT

I am enclosing herewith a copy of a self-explanatory letter to me dated August 17, 1983 from Judge Chambers with the Ninth Circuit Court of Appeals. It seems to me that this is something that we ought to be able to solve without the necessity of legal opinions and that it would probably be in the best interest of the Administration to solve it quickly and amicably with the Court. Give me a call after you have had a chance to look this over.

Theodore B. Olson
Assistant Attorney General
Office of Legal Counsel

Enclosure

United States Court of Appeals

Office of
Richard H. Chambers
Circuit Judge

RECEIVED

For the Ninth Circuit

Home Address
Tucson, Arizona

United States Court of Appeals and Post Office Building

AUG 19 12 12 PM '83

Seventh and Mission Streets

San Francisco, California 94101

OFFICE OF LEGAL COUNSEL

August 17, 1983

The Honorable Theodore B. Olson
Assistant Attorney General
Office of Legal Counsel
Main Justice Building
10th and Constitution Avenue, N.W.
Washington, D. C. 20530

Dear Mr. Olson:

We have some problems on our projected move of the Southern California facilities of our court from 312 North Spring Street, Los Angeles to 125 South Grand Avenue, Pasadena. (We will continue to hear an occasional case downtown, but the bulk of Southern California cases will be out at Pasadena.)

We are at odds with Region IX, GSA, over parking. Our project was launched in 1978. As we moved into late 1979, it became apparent that GSA had plans to sell or otherwise dispose of the north three-fourths of the site. As we saw it, it would interfere with our plans for parking on-site at ground level of Grand Avenue.

It would take several pages to detail how they agreed to give us the parking at building level rather than at the base of the hill on Arroyo Boulevard. We held up approval of the building plans for six months. Finally they agreed to do it our way. About 300 parking spaces are at issue. GSA concedes they agreed in writing. The ground "upstairs" has accelerated greatly in value. They say they have to break their agreement because of Executive Order No. 12,348 of February 25, 1982, 47 FR 8547, which they say commands them to sell and sell. To hear them tell it, you would think President Reagan was calling them every morning.

The Honorable Theodore B. Olson
Page two

August 17, 1983

If you can take our word that they included our version of parking in their E.P.A. statement, and elsewhere, we ask your opinion on whether the Executive Order of February 25, 1982 supersedes their agreement and permits them to sell the disputed area in face of their prior agreement.

In short, our position is that GSA should sell our parking land (mostly needed a few years hence when the building will be fully occupied by others on the upper floors) on the same day the government sells part of the White House lawn.

Some of us have the idea that we would have standing to sue under Nixon v. General Services, 433 U.S. 425.

It is true Mr. Nixon did not get much relief, but it was held he had standing.

You may feel we should detail more facts. If so, we will gladly comply. Would you care to telephone me at 415 556 2160 San Francisco?

Sincerely,

Richard A. Chambers
For the Court's Planning
Committee

cc: Chief Judge Browning



U.S. Department of Justice
Office of Legal Counsel

cc: Olson
Sudol
Files
Ret.

Office of the
Assistant Attorney General

Washington, D.C. 20530

AUG 25 1983

The Honorable Richard H. Chambers
United States Court of Appeals
for the Ninth Circuit
United States Court of Appeals and
Post Office Building
Seventh and Mission Streets
San Francisco, California 94104

Dear Judge Chambers:

This is to acknowledge receipt of your letter of August 17, 1983. After I have had a chance to look into this matter a little more closely, I will get in touch with you.

Very truly yours,

Theodore B. Olson
Assistant Attorney General
Office of Legal Counsel

cc: Chief Judge Browning

bcc: Fred Fielding ✓
Counsel to the President

Larry Simms
Deputy Assistant Attorney General
Office of Legal Counsel

Fredericka Paff

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

6052

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

*—JR
—Saw mts w/ Ted*

Name of Correspondent: Theodore B. Olson

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

Subject: Ninth Circuit Dispute with GSA

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>CUTROLL</u>	<u>ORIGINATOR</u>	<u>83/10/04</u>		<u>1 1</u>
<u>CUAT 18</u>	<u>A/D</u>	<u>83/10/04</u>	<u>S</u>	<u>83/10/14</u>
<u>CUKWIATT</u>	<u>I/D</u>	<u>83/10/04</u>	<u>C</u>	<u>83/10/04</u>
		<u>1 1</u>		<u>1 1</u>
		<u>1 1</u>		<u>1 1</u>

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U.S. Department of Justice

Office of Legal Counsel

174669 *CU*

Office of the
Assistant Attorney General

Washington, D.C. 20530

OCT 3 1983

MEMORANDUM TO FRED F. FIELDING
COUNSEL TO THE PRESIDENT

RE: Ninth Circuit Dispute With GSA

I am enclosing herewith another letter from Judge Chambers regarding the above dispute. I think that we ought to get together as soon as possible to see what, if anything, can be done to resolve this matter.

Theodore B. Olson
Assistant Attorney General
Office of Legal Counsel

Enclosure

cc: Edward C. Schmults
Deputy Attorney General

Office of
Richard H. Chambers
Circuit Judge

United States Court of Appeals
For the Ninth Circuit
United States Court of Appeals and Post Office Building
Seventh and Mission Streets
San Francisco, California 94101

RECEIVED
SEP 26 2 57 PM '83
OFFICE OF LEGAL COUNSEL
September 22, 1983
Home Address
Tucson, Arizona

The Honorable Theodore B. Olson
Assistant Attorney General
Office of Legal Counsel
Main Justice Building
10th and Constitution Avenue, N.W.
Washington, D. C. 20530

Dear Mr. Olson:

Enclosed is my letter of August 17, 1983 about the reconstructed building for our court, together with parking at Pasadena, California. Also enclosed is a copy of your acknowledgment of receipt of the letter.

Recently there has been a factual development. GSA appears now to be in the process of giving the property 300 parking spaces, which the City of Pasadena would require if the building were private. (Most of the parking will be used by other agencies.)

But it puts 113 parking spaces (of the 300) at the bottom of the hill, contrary to our threshold treaty with GSA. It is now barreling ahead repudiating our agreement, saying the President has ordered "it" to sell and sell.

Perhaps we should write the Legal Counsel at the White House or the President himself.

To date, we have been able to discourage neighbors who think the White House lawn should be part of the same package and want to write the President to that effect.

Sincerely,

Richard H. Chambers
For the Committee

cc: Chief Judge Browning



U.S. Department of Justice

Office of Legal Counsel

Office of the
Assistant Attorney General

Washington, D.C. 20530

AUG 25 1983

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United States Court of Appeals
for the Ninth Circuit
United States Court of Appeals and
Post Office Building
Seventh and Mission Streets
San Francisco, California 94104

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Assistant Attorney General
Office of Legal Counsel

cc: Chief Judge Browning

Office of
Richard H. Chambers
Circuit Judge

United States Court of Appeals
For the Ninth Circuit
United States Court of Appeals and Post Office Building
Seventh and Mission Streets
San Francisco, California 94101

Home Address
Tucson, Arizona

August 17, 1983

The Honorable Theodore B. Olson
Assistant Attorney General
Office of Legal Counsel
Main Justice Building
10th and Constitution Avenue, N.W.
Washington, D. C. 20530

Dear Mr. Olson:

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We are at odds with Region IX, GSA, over parking. Our project was launched in 1978. As we moved into late 1979, it became apparent that GSA had plans to sell or otherwise dispose of the north three-fourths of the site. As we saw it, it would interfere with our plans for parking on-site at ground level of Grand Avenue.

It would take several pages to detail how they agreed to give us the parking at building level rather than at the base of the hill on Arroyo Boulevard. We held up approval of the building plans for six months. Finally they agreed to do it our way. About 300 parking spaces are at issue. GSA concedes they agreed in writing. The ground "upstairs" has accelerated greatly in value. They say they have to break their agreement because of Executive Order No. 12,348 of February 25, 1982, 47 FR 8547, which they say commands them to sell and sell. To hear them tell it, you would think President Reagan was calling them every morning.

The Honorable Theodore B. Olson
Page two

August 17, 1983

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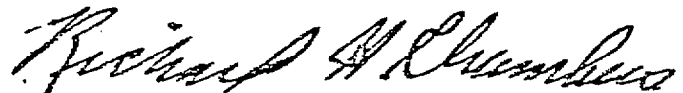
In short, our position is that GSA should sell our parking land (mostly needed a few years hence when the building will be fully occupied by others on the upper floors) on the same day the government sells part of the White House lawn.

Some of us have the idea that we would have standing to sue under Nixon v. General Services, 433 U.S. 425.

It is true Mr. Nixon did not get much relief, but it was held he had standing.

You may feel we should detail more facts. If so, we will gladly comply. Would you care to telephone me at 415 556 2160 San Francisco?

Sincerely,



For the Court's Planning
Committee

cc: Chief Judge Browning

Fact Sheet

Property: Portion, Pasadena Federal Support Center
125 S. Grand Avenue
Pasadena, California
9-G-CA-407-B

Description: Approximately 6.5 acres of land improved with
13 buildings. The entire site is on the
National Register of Historic Places.
Improvements include the Maxwell Mansion, a
number of other bungalows, an outdoor swimming
pool, and bathhouse.

Reported Excess: June 7, 1983

Determined Surplus: June 10, 1983

Acquisition Cost/Date: \$208,818/1944

Interests: The city of Pasadena

Status: The subject property is adjacent to the old
Vista del Arroyo Hotel which will serve as
the U.S. Court of Appeals and Post Office Building.

Based on needs of the retained property, historic considerations, and environmental considerations, GSA determined that the 6.5 acres should not be retained for purposes of demolishing the bungalows to provide parking as originally proposed by Judge Richard H. Chambers, Circuit Judge, U.S. Court of Appeals for the Ninth Circuit. The parking will be located at the bottom of the hill with easements for utilities and a walking easement to the Government building. GSA has contracted with an architectural and engineering firm to develop a site plan for the lower parking area and a metes and bounds description for the excessed area, all to be completed in November 1983.

Federal screening was waived and the property determined surplus on July 21, 1983. The city of Pasadena expressed interest in acquiring the property as an historic monument, but if that were unsuccessful, by negotiated sale. Historic monument application forms were sent to the city. The city subsequently advised that based on the revenue producing criteria of the application, its plan to acquire the property as an historic monument and outlease it to a developer for 15 years would not work. The city stated it would apply for the Maxwell House and requested GSA enter into a joint venture with the city for use of the excess property and the adjacent National Guard property which was being acquired by exchange. In a meeting in Representative Roybal's office, GSA advised the city that GSA could not enter into the proposed joint venture and recommended the city zone the property for Planned Use Development. The city was receptive to this proposal.

2

Presently, Judge Chambers is opposed to the Government exccessing any portion of this property. (Parking for the judges is provided at the top of the hill across the street.) He is now questioning historic protection, traffic problems, and authority for city/National Guard exchange. The city of Pasadena and the Pasadena Heritage Society are opposed to additional parking at the top of the hill as they feel it would be detrimental to the historic integrity of the property.

FPRS:DR:EARL E. JONES:535-7084:HOME:301-730-0655: 10-5-83

AROUND THE REGION

Reagan Adds 7 Judgeships To D.C. Court

President Reagan signed legislation yesterday creating seven new D.C. Superior Court judgeships and raising the mandatory retirement age for judges from 70 to 74.

"The growing backlog of criminal and civil litigation in the Superior Court is . . . a matter of both local and federal concern, and this legislation will help alleviate the backlog," the president said in a written statement.

He added, however, that "while this legislation will ease the caseload problem in the Superior Court, it does not provide a cure for that problem or the similar problems plaguing most of our nation's courts."

"The staggering increase in litigation has strained the capacity of our courts and threatened their ability to settle disputes," he asserted.

The city's judicial nominating commission now has 90 days to submit names of candidates to the president for consideration.

24

THE WHITE HOUSE

WASHINGTON

May 22, 1984

MEMORANDUM FOR COUNSEL'S OFFICE ATTORNEYS

FROM: RICHARD A. HAUSER *RHS*

SUBJECT: D. C. Superior Court

Attached is the D. C. Judicial Nomination Commission's list of candidates for the seven new judgeships on the D. C. Superior Court. I would appreciate any comments you may have concerning their qualifications to serve on the Superior Court.

DISTRICT OF COLUMBIA
JUDICIAL NOMINATION COMMISSION
Washington, D.C.

May 18, 1984

The President of the United States
The White House
Washington, D.C. 20500

Dear Mr. President:

On behalf of the District of Columbia Judicial Nomination Commission, I am pleased to submit, pursuant to the provisions of D.C. Code Ann. §11 App.-434(d) (1) (1981 ed.), the following 21 persons for possible nomination and appointment to the Superior Court of the District of Columbia to fill the seven new vacancies that were recently authorized by the Congress of the United States:

New Position Number 1

Beck, Ronna Lee
Carter, Francis ✓
Davis, William L.

New Position Number 2

Dixon, Herbert
Gilfoyle, Nathalie P.
Holmes, Susan R.

New Position Number 3

King, Rufus G. III ✓
Kollar-Kotelly, Colleen
Kramer, Noel A.

New Position Number 4

Marlin, David Harold
Mize, Gregory E.
Nesbitt, Leroy ✓

The President of the United States
Page Two
May 18, 1984

New Position Number 5

Queen, Evelyn
Reischel, Charles L.
Richter, Robert I.


New Position Number 6

Robinson, William L.
Scheuermann, John ✓
Suda, John H.

New Position Number 7

Sullivan, Emmet ✓
Tignor, Robert S. ✓
Watson, Matthew S. ✓

Respectfully submitted,


Wiley A. Branton
Chairman

Commission Members:

Harold H. Greene
John W. Hechinger, Sr.
Philip A. Lacovara
William Lucy
Stephen J. Pollak
Linda R. Singer

Reply Address:

1722 Eye Street, N.W.
Washington, D.C. 20006
(202) 429-4076

THE WHITE HOUSE
WASHINGTON

October 15, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Judicial Salaries

You asked that I draft a memorandum for your signature, raising the issue of judicial compensation along the lines of the attached draft American Bar Association report. The attached draft, tentatively addressed to the legislative strategy group, responds to your request.

Attachment

THE WHITE HOUSE
WASHINGTON

October 22, 1984

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT
Orig. signed by FFF
FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT
SUBJECT: Judicial Salaries and Report
of the Quadrennial Commission

In 1967, Congress established the Commission on Executive, Legislative, and Judicial Salaries ("the Commission"). 2 U.S.C. § 351. The Commission, composed of three members appointed by the President, two by the President of the Senate, two by the Speaker of the House, and two by the Chief Justice, prepares a report to the President every four years on the appropriate levels of compensation for members of Congress, high-level executive branch officials, and members of the Federal judiciary. The next report is due by January 1, 1985.

The President must recommend, in his next budget submission after receipt of the report, rates of pay for the subject offices. 2 U.S.C. §§ 356-358. The theory underlying establishment of the Commission was to remove the setting of pay for high-level officials from the vicissitudes of politics, and, at least in part, to bring about a needed increase in judicial salaries by linking them to congressional and executive salaries.

In the past the Commission failed to achieve its objective. Recommendations of the Commission are routinely rejected by the President and Congress. One unfortunate consequence is that judicial salaries continue to be so inadequate as to present difficulties in attracting and, more significantly, retaining men and women of high quality for the Federal bench. The problem is significantly more pressing for the judiciary than for the executive or legislative branches, for the simple reason that a career on the bench is -- or should be -- a life-long commitment. One can expect talented men and women to make financial sacrifices for a period of years to serve in the executive branch or legislature, since they can always return to the more lucrative private sector to pursue their chosen calling. The same should not be true for judges. We expect our appointees to the bench to serve the remainder of their professional lives. The current disparity between salaries

paid to judges and what judges could command in the private sector is straining that principle in most instances -- as well it should.

The American Bar Association has been studying the problem, and will recommend to the Commission that it propose not only significant salary increases at all three levels of the Federal judiciary but also that it propose legislation providing for an annual increment to judicial salaries for each year of additional service (up to some limit). This would provide some incentive for judges to stay on the bench, or at least mitigate the financial burden of doing so. This is an important consideration from the perspective of the Administration, since by the end of his second term the President probably will have appointed about 50 percent of the sitting Federal judges. If the philosophy of this President in the legal area is to be reflected in court decisions for the next generation, it is critical that those appointees remain on the bench.

As noted, we will soon appoint a new Commission and by January 1 receive the quadrennial report of the Commission. I recommend that we begin considering a comprehensive response to the Report, which will doubtless call for substantial increases in judicial compensation and perhaps other legislative reform as well. In my view the judicial compensation problem is serious enough to merit our prompt attention. If action is not taken, we will encounter increased difficulty in attracting highly-qualified candidates for judicial office who will reflect the President's philosophy and who will remain on the bench for the remainder of their professional lives.

To that end, I would suggest you consider convening a Legislative Strategy Group meeting shortly after the election to consider this subject.

FFF:JGR:aea 10/22/84
cc: FFFielding/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: Fred F. Felding

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

Subject: ABA Commission on Federal Judicial Compensation

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>WHolland</u>	ORIGINATOR	<u>8/10/03</u>			<u>1/1</u>
<u>WAT 18</u>	Referral Note: <u>A</u>	<u>8/10/03</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:	<u>1/1</u>			<u>1/1</u>

ACTION CODES:

- A - Appropriate Action
- I - Info Copy Only/No Action Necessary
- C - Comment/Recommendation
- R - Direct Reply w/Copy
- D - Draft Response
- S - For Signature
- F - Furnish Fact Sheet to be used as Enclosure
- X - Interim Reply

DISPOSITION CODES:

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

FOR OUTGOING CORRESPONDENCE:

- Type of Response = Initials of Signer
- Code = "A"
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Comments: _____

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DRAFT (LNC)
September 10, 1984

ABA Commission on Federal Judicial Compensation

Outline of Draft Report

1. The Commission takes as its starting point the excellent report filed by the President's Quadrennial Commission on Executive, Legislative and Judicial Salaries on December 15, 1980. The 1980 Commission recommended increases in judicial salaries ranging from 47.1 to 60% over then existing salaries. However, these recommended increases were only between 15.8 and 21.3% above what judicial salaries should have been in 1980 had the cost of living adjustment provisions of Public Law 94-82 been followed.
2. The 1980 Quadrennial Commission made an unanswerable case for the need to raise judicial salaries. The ABA Commission strongly endorses that case and sees no need to repeat the arguments here.
3. The ABA Commission recommends that the 1980 Quadrennial Commission's recommended judicial salaries be taken as the base for the 1984 Quadrennial Commission's recommendations, and that these 1980 recommendations be adjusted upward to reflect actual cost of living increases since 1980. This would result in the 1984 recommendations shown in Appendix A.
4. The ABA Commission proposes one other major recommendation relating to judicial salaries. The 1980

Quadrennial Commission and its predecessors were charged with recommending increases in congressional and executive salaries as well as judicial salaries. Almost invariably the Quadrennial Commission's recommendations have been reduced by the President before transmission to Congress and have been further reduced or rejected completely by Congress itself. On every such occasion the critical reason was the reluctance of congressional incumbents, most of them facing reelection within 2 years, to open themselves to the charge by their electoral challengers that while in Congress they had voted in favor of -- or had failed to vote against -- increasing their own salaries.

5. As a matter of practical politics, the central idea of Public Law 90-206 -- that linking judicial, executive and congressional salaries would help to achieve increases in judicial salaries -- has turned out to be wrong. This linkage is not merely unfortunate politically, it is unsound as a principle of good government. We do not conceive of service in Congress or in the higher policy-making levels of the Executive Branch as a career occupation. To the contrary, we subject members of the House to reelection every 2 years, Presidents (and a fortiori their policy-making executive aides) to reelection every 4 years, and Senators to reelection every 6 years. Should their reelection bids be defeated, or should they decline to run again for personal

reasons, we do not regard this as a major blow to the public interest.

6. On the other hand, it is central to our constitutional system to have an independent judiciary. To assure that independence, Article III requires that federal judges be appointed for life rather than a fixed term. We want federal judges to spend full careers on the bench as a matter of the highest public interest.

7. In every other professional career service -- public or private -- no individual is frozen forever at the same salary level plus adjustments only for changes in the cost of living. In every other career there are periodic increases to reflect and reward the added experience and proficiency that an individual acquires in his job. This is true of military service, the Foreign Service, industry, finance and the private practice of law. There is no reason why it should not be equally true for a career on the federal bench, especially when longevity in service provides the added benefits to the public that the Constitution foresaw.

8. Accordingly, the ABA Commission urgently recommends that the Quadrennial Commission consider proposing legislation to provide a special additional increase in the compensation of lifetime federal judges to reflect their added experience and proficiency and the benefit to the public interest of their continued service on the federal bench. This addition could take the form of an annual increment

(say \$2,000) for each year of continuous services up to age 70. Assuming that at any given time the cumulative service of all lifetime federal judges averages 10 years, the average annual additional cost to the government would be \$20,000 per judge, or (\$12 million a year).

9. A proposal along these same lines was made by President Carter in his message transmitting the Report of the 1980 Quadrennial Commission to the Congress. He said:

Because the case for a significant increase in the salaries of Federal judges is especially strong, I urge also that Congress give consideration to a salary scale for judges that would explicitly recognize the public importance of continuous judicial service; for example, by an annual or periodic increase for longevity in addition to the cost of living adjustments that are made from time to time.

Compilation of Presidential Documents (President Carter), page 2863 (January 7, 1981).

[Add sections relating to retirement, survivor's annuities, insurance, health care and other matters]

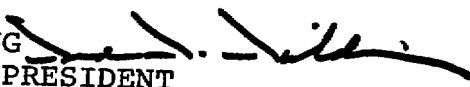
THE WHITE HOUSE

WASHINGTON

November 7, 1984

MEMORANDUM FOR THE WHITE HOUSE STAFF

FROM:

FRED F. FIELDING 
COUNSEL TO THE PRESIDENT

SUBJECT:

Presidential Messages to Federal Judges

Recently, there have been a number of Staff requests that the President send congratulatory messages of one kind or another to Federal judges.

With very few exceptions, it is considered inappropriate for a President to congratulate sitting members of the Federal judiciary, and we have adhered to a strict rule that such messages are not to be sent without special clearance. Standard requests for which Presidential messages should not be considered include such events as swearing-in ceremonies, anniversaries of service on the bench, and dinners or similar events honoring a judge.

In no instance may a Presidential message be sent to any Federal judge without review and approval by this Office.

Thank you.

Judge

THE WHITE HOUSE
WASHINGTON

November 14, 1984

MEMORANDUM FOR DIANNA G. HOLLAND

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Judge Wilkey Letter to the President

Judge Wilkey has written the President, advising him of his plan to assume senior status on December 6, 1984. Wilkey gave the letter to the Attorney General, and the Attorney General's office has forwarded it to me for transmittal to the President. (Apparently they expect me to give it to the President at our daily meeting.) Mr. Fielding is aware of Judge Wilkey's plans. In light of the Judge's unusually distinguished service I think a reply from the President would be appropriate. If you would log this in and return it I would be happy to prepare one.

Attachment

WITHDRAWAL SHEET

Ronald Reagan Library

Collection Name
Roberts, John

Withdrawer
LOJ 8/9/2005

File Folder
JGR/JUDGES (5 OF 9)

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<i>DOC Document Type</i>	<i>No of pages</i>	<i>Doc Date</i>	<i>Restrictions</i>	
<i>NO Document Description</i>				
1 MEMO	3	1/31/1985	B6	1131
RICHARD HAUSER TO MEESE ET AL., RE NOMINATION OF ANDREW L. FREY				

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.

192 To John Robert ASAP Eric

Wealthy, White Males Predominate Among Reagan Judicial Appointees

By Al Kamen
Washington Post Staff Writer 123

One-fourth of the federal judges appointed by President Reagan in his first term were millionaires, according to a recent study by a University of Massachusetts political science professor.

In addition, 98 percent of Reagan's appointees were white, 98 percent were Republicans and 92 percent were male, according to the study by Prof. Sheldon Goldman.

But Reagan appointees had considerably more judicial experience than those of the four administrations that immediately preceded his, the study found. There also were fewer former prosecutors and political appointees among his appeals court choices, it said.

The study, to be published in the April issue of the monthly magazine *Judicature*, comes at a time when

the administration is preparing to fill about 100 vacant judgeships. Together with 165 appointments in his first term, Reagan soon will have named about 270 of the nation's 744 federal trial and appellate judges—or more than one-third.

By 1988, with additional appointments, Reagan will likely have picked more than half of the sitting federal judges—including several Supreme Court justices—and the new statistics give some indication of the kind of judiciary he will leave behind.

Goldman found that about 5 percent of the 187 judges appointed by Jimmy Carter in his last two years as president were millionaires, 20 percent were minority group members and more than 15 percent were women. About 90 percent were Democrats.

In an interview yesterday, Goldman estimated that 10 to 12 per-

cent of the nation's sitting judges are women or members of minority groups. By the end of Reagan's second term, those percentages will be reduced substantially, he said.

The study shows an administration with an "absolutely extraordinary commitment and diligence" to ensuring ideologically conservative judges, Goldman said.

He called the Reagan administration the "most determined since the first [Franklin D.] Roosevelt administration" to mold a judiciary to its liking.

The Carter administration, on the other hand, was most committed to affirmative action, Goldman said, and ideology was not its sole, or even principal, concern. As a result, several Carter appointees to appeals courts who were minority group members or women were also conservative jurists, Goldman said.

Reagan has appointed two blacks and eight Hispanics to federal judgeships. Carter in four years appointed 37 blacks and 16 Hispanics in filling 214 vacancies.

The administration's "tenacity" shows up most clearly at the appeals court level, Goldman said, where the joint White House-Justice Department screening committee exercises its greatest control.

Senators often exert a considerable influence on selection of U.S. District Court judges in their states. But a president has much broader discretion in selecting judges for the 12 regional federal courts of appeal, which operate just one rung below the Supreme Court.

Of Reagan's 31 appointments to federal appeals courts, all were Republicans; 82 percent of Carter's were Democrats.

Reagan's appeals court selections show an administration committed to making "no mistakes" and to selecting judges with proven track records, Goldman said. That is why 70.9 percent of its selections at that level have had prior judicial experience, he said, compared with 53.6 percent of Carter's appointees.

Judicial experience, Goldman found, was far more important than the more traditional criteria of political activism or prosecutorial experience.

"You might expect this administration to favor former prosecu-

COMPARING APPOINTEES TO THE DISTRICT COURTS

	Reagan	Carter	Ford	Nixon	Johnson
Party:					
Democratic	3.1%	92.6%	21.2%	7.2%	94.3%
Republican	96.9%	4.9%	78.8%	92.8%	5.7%
Independent	—	2.5%	—	—	—
Past Party Activism	61.2%	60.4%	50.0%	48.6%	49.2%
Religion:					
Protestant	61.2%	60.4%	73.1%	73.2%	58.2%
Catholic	31.8%	27.2%	17.3%	18.4%	31.1%
Jewish	6.9%	12.4%	9.6%	8.4%	10.7%
Ethnicity or Race:					
White	93%	78.7%	88.5%	95.5%	93.4%
Black	.8%	13.9%	5.8%	3.4%	4.1%
Hispanic	5.4%	6.9%	1.9%	1.1%	2.5%
Asian	.8%	.5%	3.9%	—	—
Sex:					
Male	90.7%	85.6%	98.1%	99.4%	98.4%
Female	9.3	14.4%	1.9%	.6%	1.6%
ABA Ratings:					
Exceptionally well qualified	6.9%	4.0%	—	4.8%	7.4%
Well qualified	43.4%	47.0%	46.1%	40.4%	40.9%
Qualified	49.6%	47.5%	53.8%	54.8%	49.2%
Not qualified	—	1.5%	—	—	2.5%
Total Number Appointees	129	202	52	179	122

SOURCE: JUDICATURE

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COMPARING APPOINTEES TO THE APPEALS COURTS

	Reagan	Carter	Ford	Nixon	Johnson
Party:					
Democratic	—	82.1%	8.3%	6.7%	95.0%
Republican	100%	7.1%	91.7%	93.3%	5.0%
Independent	—	10.7	—	—	—
Past Party Activism	58.1%	73.2%	58.3%	60.0%	57.5%
Religion:					
Protestant	67.7%	60.7%	58.3%	75.6%	60.0%
Catholic	22.6%	23.2%	33.3%	15.6%	25.0%
Jewish	9.7%	16.1%	8.3%	8.9%	15.0%
Ethnicity or Race:					
White	93.5%	78.6%	100.0%	97.8%	95.0%
Black	3.2%	16.1%	—	—	5.0%
Hispanic	3.2%	3.6%	—	—	—
Asian	—	1.8%	—	2.2	—
Sex:					
Male	96.8%	80.4%	100.0%	100.0%	97.5%
Female	3.2%	19.6%	—	—	2.5%
ABA Ratings:					
Exceptionally well qualified	22.6%	16.1%	16.7	15.6%	27.5%
Well qualified	41.9%	58.9%	41.7%	57.8%	47.5%
Qualified	35.5%	25.0%	33.3%	26.7%	20.0%
Not qualified	—	—	8.3%	—	2.5%
No report requested	—	—	—	—	2.5%
Total Number Appointees	31	56	12	45	40

NET WORTH OF APPOINTEES TO DISTRICT AND APPEALS COURTS

Percentage of Judges in Three Brackets

	Reagan (Four Years)		Carter (Last Two Years*)	
	District	Appeals	District	Appeals
\$0-\$199,999	18.6%	10.0%	35.8%	33.3%
\$200,000-\$999,000	58.9%	65.7%	60.1%	56.4%
\$1 million plus	22.5%	23.3%	4.0%	10.3%
Total Appointees	129	30	148	39

* First two years not available.
SOURCE: JUDICATURE

tors," Goldman said, but Reagan, in his first four years, appointed fewer than his four predecessors: 19 percent. Nearly one-third of Carter's appeals court appointees were former prosecutors. Almost one-half of Richard M. Nixon's and Lyndon B. Johnson's appeals court judges were former prosecutors.

The percentage of prosecutors that Reagan appointed to district court judgeships was comparable to those of his predecessors.

If judicial experience is not available as a guide, the administration tends to look to law schools. Goldman found that 19.3 percent of Reagan appeals court appointees were law professors, compared

with 14.3 percent for Carter appointees and fewer than 3 percent for both Nixon and Johnson.

Reagan is also less concerned with using judicial appointments to pay off political debts, Goldman found. About 58 percent of Reagan's appeals judges had been active politically, compared with 73 percent of Carter's appointees.

Reagan's appointees for the district and appeals courts are 50 years old on average—almost identical to Carter's appointees. That finding is somewhat surprising given the administration's stated intention to appoint young judges who could influence the judiciary for generations.