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WITHDRAWAL SHEET

Ronald Reagan Library

Collection Name

File Folder CHRON FILE (04/18/1984 - 04/20/1984)

Box Number

Withdrawer

IGP 8/30/2005

FOIA

F05-139/01

COOK

52IGP

COPY - Reagan Presidential Record

| DOC NO | Doc Type | Document Description | No of Pages | Doc Date | Restrictions | |
|--------|----------|--|-------------|-----------|--------------|------|
| 1 | MEMO | ROBERTS TO HAUSER RE AMBASSADOR TO TOGO (PARTIAL) | 1 | 4/18/1984 | B6 | 762 |
| 2 | MEMO | ROBERTS TO FIELDING RE INDIANA UNIVERSITY COMMENCEMENT | 1 | 4/18/1984 | B6 | 1293 |
| 3 | MEMO | ROBERTS TO FIELDING RE NATIONAL CANCER ADVISORY BOARD (PARTIAL) | 3 | 4/19/1984 | B6 | 763 |

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

April 18, 1984

Dear Students:

Thank you for your letter to the President concerning the right to privacy, and the threat to that right represented by the ever increasing number of personal files maintained by government at all levels. In your letter you stated that you considered it an invasion of privacy that such records could be released without your knowledge or consent.

We certainly share your concern to protect the right to privacy, and recognize the danger posed if personal records are not maintained with sufficient safeguards to prevent misuse of the information they contain. I would point out that Congress passed the Privacy Act in 1974 to guard against just such potential invasions of privacy. A copy of that Act, as codified, is enclosed for your information.

You will notice that the Privacy Act generally provides that "[n]o agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains...." 5 U.S.C. § 552a(b). There are a series of exceptions for circumstances in which Congress determined the privacy interest to be outweighed by other compelling factors. The Privacy Act also provides for access by individuals to their records, and imposes limits on agencies concerning the maintenance of records on individuals.

I hope this information is helpful to you, and wish you best of luck with your studies.

Sincerely,



John G. Roberts
Associate Counsel to the President

Students of Laura D. Birg, Ph.D.
Saint Xavier College
3700 West 103rd Street
Chicago, Illinois 60655

THE WHITE HOUSE

WASHINGTON

April 18, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS *JGR*

SUBJECT:

Proposed Presidential Response
to Morris Abram

Richard Darman has asked for comments on a proposed Presidential response to Morris Abram by 5:00 p.m. today. On April 5, 1984, Morris Abram, Vice Chairman of the U.S. Commission on Civil Rights (a Reagan appointee) wrote the President to protest certain actions taken by the Department of Education with respect to the University of Georgia, Abram's alma mater. Abram objected to Education's threat to terminate Federal aid to the university because a test it requires for graduation allegedly has an adverse effect on black students, and to an Education recommendation that scholarship money be set aside for black students. Abram argued that both positions were contrary to established Administration and Justice Department policies.

Craig Fuller has submitted a draft reply, cleared by Secretary Bell, Brad Reynolds, and OMB. The reply notes that the President has been in touch with Secretary Bell about these matters and been advised that Education no longer objects to the test, but only to the relative availability of remedial courses to prepare for the test at traditionally black and traditionally white campuses. The letter also advises that Education does not support a scholarship set aside based on race. The letter concludes by urging Abram to meet with Bell.

Don Clarey, the individual who handled this matter for Fuller, assures me that the White House did not direct Education to alter its positions in response to Abram's letter, but simply obtained more accurate information from Secretary Bell. I have no objection to the President sending a letter correcting Abram's misimpressions about Education's positions. I do, however, have several suggested revisions:

Several passages in the letter convey the impression that the President discussed this matter personally with Secretary Bell, which is not the case. To correct this misimpression,

I would change "I have been in touch with Secretary Bell about the matters you raised and have been advised" in the first paragraph to "Secretary Bell advises," and "I have been assured" in the same paragraph to "you may be assured." In the second paragraph, I would change "that Secretary Bell has informed me that" to "that, according to Secretary Bell," and delete "I am informed by Secretary Bell that." In paragraph three, I would change "he has assured me" to "advises."

I also object to the "no longer objects" language in the first sentence of the second paragraph. In the present context this implies that Abram's letter, or a call from the President prompted by the letter, caused the change, which is not the case. I would simply change "no longer objects" to "does not object."

Finally, in my view -- a view hotly and angrily disputed by Michael Horowitz -- the last two sentences of the second paragraph are too hostile in tone to the allegation of discrimination. As I see it, anyone reading those sentences would get the impression that the President does not believe for a minute that Education can prove that the University of Georgia discriminated in the provision of remedial programs. I would moderate the two sentences to read: "If true, such a denial of equal opportunity to individuals will need to be corrected. So long as I am President, however, the Federal government will not interfere with the use of any academic test or standard based on differences in pass-fail rates or any other 'results test.'" This suggested revision makes the point without overkill.

Attachment

THE WHITE HOUSE

WASHINGTON

April 18, 1984

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Proposed Presidential Response
to Morris Abram

Counsel's Office has reviewed the above-referenced proposed Presidential reply to Morris Abram. I have no objection to the President providing Abram with a more accurate description of the position of the Department of Education with respect to pending matters concerning the University of Georgia.

The letter should be changed, however, so that it does not convey the false impression that the President has discussed this matter personally with Secretary Bell. In particular, I would change "I have been in touch with Secretary Bell about the matters you raised and have been advised" in the first paragraph to "Secretary Bell advises," and "I have been assured" in the same paragraph to "you may be assured." In the second paragraph, I would change "that Secretary Bell has informed me that" to "that, according to Secretary Bell," and delete "I am informed by Secretary Bell that." In paragraph three, I would change "he has assured me" to "advises."

Furthermore, "no longer objects" in the third line of the second paragraph should be changed to "does not object." Highlighting the change in Education's position in this context suggests that the change was caused by Abram's letter or some action by the President, which is not the case.

Finally, I would revise the last two sentences of the second paragraph, to read as follows: "If true, such a denial of equal opportunity to individuals will need to be corrected. So long as I am President, however, the Federal government will not interfere with the use of any academic test or standard based on differences in pass-fail rates or

any other 'results test.'" As currently written the sentences are too hostile in tone to the allegation of discrimination. The Federal Government is raising that allegation and it may be subject to litigation, and the President should avoid appearing to disbelieve that it could ever be proved. Our suggested revision makes the point that discrimination must be proved without the overkill of the current version. The current language could readily be misinterpreted as hostility to the underlying claim of discrimination.

FFF:JGR:aea 4/18/84

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 18, 1984

MEMORANDUM FOR RICHARD A. HAUSER

FROM: JOHN G. ROBERTS 

SUBJECT: Prospective Nomination of Paul H. Boeker
to be U.S. Ambassador to Jordan

I have reviewed the SF-278 and related materials submitted by Paul H. Boeker in connection with his prospective nomination to be Ambassador to Jordan, and have no objection to proceeding with this nomination. Mr. Boeker is a Foreign Service Officer, and his relatively simple financial picture presents no conflicts difficulties. His background is unusual, however, in that he took a "leave of absence without pay" from the State Department from October 1981 through January 1983, at which time he was employed by International Reporting Information Systems (IRIS) of Alexandria. I raised this matter with Bill Gressman, who advised me that it was not at all unusual for Foreign Service Officers to be granted such leave, assuming that the employment they undertake while on leave does not present a conflict and contributes to their career development. Gressman confirmed that Gene Malmborg reviewed Boeker's leave and saw no problems.

THE WHITE HOUSE

WASHINGTON

April 18, 1984

MEMORANDUM FOR BRANDEN BLUM
LEGISLATIVE ATTORNEY
OFFICE OF MANAGEMENT AND BUDGET

FROM: JOHN G. ROBERTS 
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Statement of Theodore B. Olson Concerning
the Effect of INS v. Chadha on the
Administrative Process, May 10, 1984

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

THE WHITE HOUSE

WASHINGTON

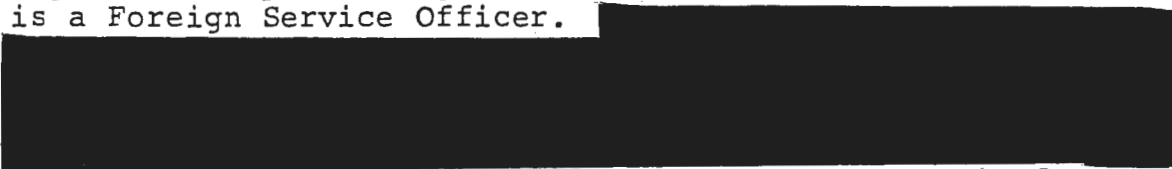
April 18, 1984

MEMORANDUM FOR RICHARD A. HAUSER

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Prospective Nomination of Owen W. Roberts
to be U.S. Ambassador to Togo

I have reviewed the SF-278 and related materials submitted by Owen W. Roberts (no relation) in connection with his prospective nomination to be Ambassador to Togo, and have no objection to proceeding with this nomination. Mr. Roberts is a Foreign Service Officer.

 He will, of course, be required to recuse himself from any particular matter involving a company in which he, his spouse, or dependent children have a financial interest.

Attachment

66

THE WHITE HOUSE

WASHINGTON

April 18, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Approval of Draft Letter From the President to Several Chairmen and Members of White House Fellowships Regional Selection Panels

Denise Liebowitz has sent over drafts of four letters she would like the President to send to individuals who were particularly generous and helpful in connection with the White House Fellows regional interviews. The draft letters are innocuous enough; the question is whether the President or Admiral Stockdale, as Chairman of the President's Commission on White House Fellowships, should send them. Obviously there is no legal bar to the President sending the letters, and the recipients would be considerably more gratified to receive a Presidential letter rather than one from Admiral Stockdale. On the other hand, the President cannot send letters to everyone who helps out a Presidential commission at the local level, and acceding to this request may create a bad precedent. On balance I am inclined to deny, and have attached a memorandum doing so. If your involvement with this program leads you to a different conclusion, I will be happy to change the memorandum and revise the letters.

Attachment

THE WHITE HOUSE

WASHINGTON

April 18, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Approval of Draft Letter From the President to Several Chairmen and Members of White House Fellowships Regional Selection Panels

Denise Liebowitz has sent over drafts of four letters she would like the President to send to individuals who were particularly generous and helpful in connection with the White House Fellows regional interviews. The draft letters are innocuous enough; the question is whether the President or Admiral Stockdale, as Chairman of the President's Commission on White House Fellowships, should send them. Obviously there is no legal bar to the President sending the letters, and the recipients would be considerably more gratified to receive a Presidential letter rather than one from Admiral Stockdale. On the other hand, the President cannot send letters to everyone who helps out a Presidential commission at the local level, and acceding to this request may create a bad precedent. On balance I am inclined to deny, and have attached a memorandum doing so. If your involvement with this program leads you to a different conclusion, I will be happy to change the memorandum and revise the letters.

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File Folder
CHRON FILE (04/18/1984 - 04/20/1984)

FOIA
F05-139/01
COOK

Box Number

52IGP

| <i>DOC Document Type</i> | <i>No of</i> | <i>Doc Date</i> | <i>Restric-</i> | |
|---|--------------|-----------------|-----------------|------|
| <i>NO Document Description</i> | <i>pages</i> | | <i>tions</i> | |
| 2 MEMO | 1 | 4/18/1984 | B6 | 1293 |
| ROBERTS TO FIELDING RE INDIANA UNIVERSITY COMMENCEMENT | | | | |

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

April 18, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Remarks: Opening Statement for CCTV
Interview, Beijing (4/17 -- 7:00 p.m. draft)

Richard Darman has asked that comments on the above-referenced remarks be sent directly to Ben Elliott by 11:00 a.m. today. The remarks begin with warm greetings and thanks for the welcome, move to a brief discussion of American values, and express the hope that China and the United States will move forward together in a spirit of cooperation. I have reviewed the remarks and have no objections.

Attachment

THE WHITE HOUSE

WASHINGTON

April 18, 1984

MEMORANDUM FOR BEN ELLIOTT
DEPUTY ASSISTANT TO THE PRESIDENT
DIRECTOR, PRESIDENTIAL SPEECHWRITING OFFICE

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Remarks: Opening Statement for CCTV
Interview, Beijing (4/17 -- 7:00 p.m. draft)

Counsel's Office has reviewed the above-referenced remarks,
and finds no objection to them from a legal perspective.

cc: Richard G. Darman

FFF:JGR:aea 4/18/84

bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 19, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Approval of Draft Letter From the President
to Several Chairmen and Members of White
House Fellowships Regional Selection Panels

As you requested, I have redrafted these letters for your signature, with some additional editing of the text. Three of the letters are the same, mutatis mutandis; the letter to Mr. Ross is slightly different, in light of differences in the drafts originally submitted by Liebowitz. A new memorandum for Liebowitz is also attached.

Attachments

THE WHITE HOUSE

WASHINGTON

April 20, 1984

MEMORANDUM FOR DENISE LIEBOWITZ
PRESIDENT'S COMMISSION ON WHITE HOUSE
FELLOWSHIPS

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Approval of Draft Letter From the President
to Several Chairmen and Members of White
House Fellowships Regional Selection Panels

Thank you for your memorandum of April 11, submitting four draft letters you would like the President to send to individuals who have been particularly helpful in connection with the regional interviews for the White House Fellowships program. Instead of having the President sign the letters, I redrafted them for my signature, on behalf of the President. Copies of the letters as sent are attached for your information.

Attachments

FFF:JGR:aea 4/20/84
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 20, 1984

Dear Mr. DuBain:

The President has asked me to thank you for your valuable service and generous hospitality as Chairman of the White House Fellowships San Francisco selection panel last month. As you know, the fellowship screening process is an exhaustive one and the regional interviews constitute a critical stage in that process. All of us at the White House and on the President's Commission on White House Fellowships are grateful for the leadership and judgment you bring to the evaluation of candidates.

The White House Fellowships program is an important one that, in the words of the Statement of Purpose of the program, provides "gifted and highly motivated young Americans with some firsthand experience in the process of governing the Nation and a sense of personal involvement in the leadership of the society." On behalf of the President, thank you for your efforts to help us achieve this worthy goal.

Sincerely,

Fred F. Fielding
Counsel to the President

Mr. Myron DuBain
President and Chief Executive
Officer
Amfac, Inc.
Post Office Box 7813
San Francisco, CA 94120

FFF:JGR:aea 4/20/84
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 20, 1984

Dear Mr. Albrecht:

The President has asked me to thank you for your valuable service and generous hospitality as Chairman of the White House Fellowships Seattle selection panel last month. As you know, the fellowship screening process is an exhaustive one and the regional interviews constitute a critical stage in that process. All of us at the White House and on the President's Commission on White House Fellowships are grateful for the leadership and judgment you bring to the evaluation of candidates.

The White House Fellowships program is an important one that, in the words of the Statement of Purpose of the program, provides "gifted and highly motivated young Americans with some firsthand experience in the process of governing the Nation and a sense of personal involvement in the leadership of the society." On behalf of the President, thank you for your efforts to help us achieve this worthy goal.

Sincerely,

Fred F. Fielding
Counsel to the President

Mr. Richard R. Albrecht
Vice President-General Manager
Everett Division
Boeing Commercial Airplane Company
P.O. Box 3707, M/S OA-06
Seattle, Washington 98124

FFF:JGR:aea 4/20/84
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 20, 1984

Dear Mr. Ross:

The President has asked me to thank you for your very generous support of the White House Fellowships Chicago selection panel this year. I know that you have a long history of interest and participation in the fellowships program and all of us at the White House and on the President's Commission on White House Fellowships are grateful for the commitment you have demonstrated.

The White House Fellowships program is an important one that, in the words of the Statement of Purpose of the program, provides "gifted and highly motivated young Americans with some firsthand experience in the process of governing the Nation and a sense of personal involvement in the leadership of the society." On behalf of the President, thank you for your efforts to help us achieve this worthy goal.

Sincerely,

Fred F. Fielding
Counsel to the President

Mr. Norman Ross
Senior Vice President
The First National Bank of Chicago
One First National Plaza
Chicago, Illinois 60670

FFF:JGR:aea 4/20/84
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 20, 1984

Dear Mr. Williams:

The President has asked me to thank you for your valuable service and generous hospitality as Chairman of the White House Fellowships Atlanta selection panel last month. As you know, the fellowship screening process is an exhaustive one and the regional interviews constitute a critical stage in that process. All of us at the White House and on the President's Commission on White House Fellowships are grateful for the leadership and judgment you bring to the evaluation of candidates.

The White House Fellowships program is an important one that, in the words of the Statement of Purpose of the program, provides "gifted and highly motivated young Americans with some firsthand experience in the process of governing the Nation and a sense of personal involvement in the leadership of the society." On behalf of the President, thank you for your efforts to help us achieve this worthy goal.

Sincerely,

Fred F. Fielding
Counsel to the President

Mr. Thomas R. Williams
Chairman of the Board
and Chief Executive Officer
First Atlanta Corporation
Post Office Box 4148
Atlanta, Georgia 30302

FFF:JGR:aea 4/20/84
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 19, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Flyer for Cruise on the Presidential Yacht

John Rogers sent you a flyer distributed by Presidential Yacht Charters, Inc., the private firm that markets cruises on the former U.S.S. Sequoia. As you know, President Carter sold the Sequoia and it is now in private hands. As might be expected, the flyer makes much of the ship's heritage, extending an invitation to "share a Presidential tradition" by taking a "Presidential Cruise."

The flyer also promises that guests will receive "exclusive Presidential Yacht memorabilia" (emphasis in original) bearing "the Presidential Yacht seal of one of the former 'First Yachts' we have proudly commanded," items that "are not available in stores or from any other source." The memorabilia bear a reproduction of the Seal of the President, complete except for the encircling banner with the inscription "Seal of the President of the United States." In lieu thereof the encircling banners are inscribed with "Honey Fitz -- Presidential Yacht" or "U.S.S. Sequoia -- Presidential Yacht."

The "Presidential Yacht seal" constitutes a clear violation of 18 U.S.C. § 713. The fact that the banner inscribed "Seal of the President of the United States" is omitted is insignificant, since the pertinent statute covers reproduction of "any substantial part" of the Seal of the President. The use of the Seal by Presidential Yacht Charters clearly violates 18 U.S.C. § 713(b), since it is not authorized by the Executive Order, and may well also violate 18 U.S.C. § 713(a), by conveying a false impression of Governmental sponsorship or approval.

Quite apart from the criminal misuse of the Seal, the flyer as a whole may suggest an association with the President, at least to those not familiar with the fate of the Sequoia. Accordingly, the attached draft letter to Presidential Yacht Charters not only demands an immediate end to distribution or use of the items bearing the Seal of the President, but also recommends that when the flyer is revised to correct the Seal problem it also be revised to make clear that there is no association between Presidential Yacht Charters and the Federal Government.

THE WHITE HOUSE

WASHINGTON

April 19, 1984

Dear Commodore Skinner:

The attached flyer distributed by your company recently came to my attention. The flyer, and some of the items depicted in it, raise very serious concerns about compliance with Federal law and potential misrepresentations concerning associations with the Federal Government.

Of particular concern is the so-called "Presidential Yacht memorabilia" depicted in the flyer, bearing what is described as "the Presidential Yacht seal." According to the flyer, such items are distributed to those who have chartered the yacht. These items contain a reproduction of the Seal of the President, complete except for the banner describing the seal as such. The permitted uses of the Seal of the President, however, are limited by law. Section 713(a) of Title 18, United States Code, prohibits any display of the Seal for the purpose of conveying or in a manner reasonably calculated to convey a false impression of sponsorship or approval by the Federal Government. In addition, section 713(b) of Title 18, United States Code, prohibits any manufacture, reproduction, sale, or purchase for resale of any item bearing the Seal, or any substantial part thereof, except as authorized under regulations promulgated by the President. The regulations referred to in the statute are embodied in Executive Order 11649, as amended. I have enclosed for your information copies of the pertinent statute and Executive Order.

You will notice that the permitted uses of the Seal listed in the Executive Order do not include your use on the "Presidential Yacht memorabilia." I must accordingly insist that you cease immediately any further use or distribution of any such items bearing the likeness of the Seal of the President, or a substantial part thereof. The fact that the above-referenced statutes limiting use of the Seal provide for criminal penalties for violations should suffice to signify the seriousness of this matter.

Quite apart from this misuse of the Seal of the President, the flyer taken as a whole could be considered to convey a false impression of association with the Federal Government.

The frequent references to "Presidential Cruise," "Presidential Yacht," and "Presidential Tradition" suggest that your company and your yacht is connected to the Federal Government, which is not the case. To avoid confusion on this point, and the need for action by the Government to correct any false impressions that may be conveyed, I recommend that during the revision of your brochure that will be necessary to correct the Seal problem you also include language making clear that Presidential Yacht Charters is not in any way connected to the Federal Government.

I look forward to hearing from you concerning the steps you have taken to comply with the law governing use of the Seal of the President, and to correct the false impression of association with the Federal Government conveyed by your flyer.

Sincerely,

Fred F. Fielding
Counsel to the President

Commodore Ed Skinner
Presidential Yacht Charters, Inc.
Box 32241
Washington, D.C. 20007

FFF:JGR:aea 4/19/84
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 19, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS *JGR*

SUBJECT:

Proposed Executive Order Entitled
"Transfer of Authority to the Secretary
of State to Make Reimbursements for
Protection of Foreign Missions to
International Organizations"

Richard Darman has asked for our views by close of business April 25 on the above-referenced proposed Executive Order. The Executive Order simply transfers from the Secretary of the Treasury to the Secretary of State the authority to reimburse State and local governments for services, personnel, equipment, and facilities used to provide protection for foreign missions to the United Nations and foreign dignitaries visiting the United Nations. The pertinent statute, 3 U.S.C. § 208(a), authorizes the Secretary of the Treasury to make such reimbursements, but also specifically provides that "The authority of this subsection may be transferred by the President to the Secretary of State."

The proposed order was submitted by Treasury. It has been approved by OMB and, as to form and legality, by the Office of Legal Counsel. None of the affected agencies object. I have reviewed the proposed order and accompanying materials, and have no objections.

Attachment

THE WHITE HOUSE

WASHINGTON

April 19, 1984

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Proposed Executive Order Entitled
"Transfer of Authority to the Secretary
of State to Make Reimbursements for
Protection of Foreign Missions to
International Organizations"

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

FFF:JGR:aea 4/19/84

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 19, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Draft DOJ Report on H.R. 5164,
a Bill to Provide FOIA Relief
to the CIA

OMB has asked for our views by April 23 on a proposed Justice report on H.R. 5164, a bill to provide Freedom of Information Act relief to the Central Intelligence Agency. Most CIA operational files are exempt from disclosure under FOIA. This bill would exempt such files from the search requirements of FOIA as well, except with respect to FOIA requests by citizens or resident aliens for information on themselves, FOIA requests for information on a special activity the existence of which is not exempt under FOIA, and FOIA requests for information concerning the subject of an investigation into impropriety or violation of law by the agency. The supporters of the bill, including the Administration, stress the enormous cost in handling FOIA requests involving sensitive files such as those at the CIA, and argue that if most FOIA searches of such files yield no non-exempt material, why not dispense with the search in the first place? The proposed Justice report simply recommends passage of H.R. 5164, and attaches previously cleared and delivered statements of the Administration position. I have no objections.

Attachment

THE WHITE HOUSE

WASHINGTON

April 19, 1984

MEMORANDUM FOR BRANDEN BLUM
LEGISLATIVE ATTORNEY
OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Draft DOJ Report on H.R. 5164,
a Bill to Provide FOIA Relief
to the CIA

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

FFF:JGR:aea 4/19/84
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 19, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: National Cancer Advisory Board

The attached has been revised to include mention of our objection to the appointment of [REDACTED] at the place indicated by the yellow tab.

b6

Attachment

THE WHITE HOUSE

WASHINGTON

April 19, 1984

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Revised Morris Abram Letter Concerning
Equal Opportunity in Education

Counsel's Office has reviewed the revised version of the proposed Presidential letter to Morris Abram. The revised draft omitted one change recommended in my memorandum on the earlier draft. In the third paragraph, "has assured me" should be changed to "advises," to avoid the erroneous impression that the President and Secretary Bell conferred personally on this matter.

Further, upon reflection I believe that the last sentence of the second paragraph is too confrontational and could be viewed as a challenge to those who would like to see a change in policy and Presidency. Likewise, there may be a court ruling that mandates the enforcement of a "results test" for academic testing, and we don't want the President on record that he will defy such an order. An alternative that avoids this might be:

However, I continue to believe that the Federal Government should not interfere with the use of any academic test or standard on the sole basis of differences in pass-fail rates or any other "results test."

Assuming these changes are made, I have no objection to the letter from a legal perspective.

FFF:JGR:aea 4/19/84
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 19, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS *JGR*

SUBJECT:

Proposed Executive Order -- Textile
Import Program Implementation (Revised)

Richard Darman has asked for comments on the above-referenced Executive Order by close of business April 25. The general purpose of the proposed Executive Order is to coordinate the efforts of Customs, under the Secretary of the Treasury, and the Committee for the Implementation of Textile Agreements (CITA), chaired by USTR, in implementing the textile program. The proposed Executive Order would direct the Secretary of the Treasury to issue regulations within 120 days to help prevent circumvention of bilateral or multilateral trade agreements by transshipments of textiles from third countries or changes to textiles after importation into American customs territory. The proposed Order would also direct the Commissioner of Customs to establish a Textile and Apparel Task Force within Customs to coordinate regulations concerning importation of textiles. The specific authority cited for the Executive Order is 7 U.S.C. § 1854, the provision authorizing the President to negotiate and implement agreements with foreign governments concerning textile imports, and 3 U.S.C. § 301, the general delegation provision. The proposed order also appropriately references Executive Order 11651, which established the CITA. The proposed order directs CITA to advise the Secretary of the Treasury on the contemplated regulations, and provide necessary information to the new Textile and Apparel Task Force.

The Executive Order was recommended by the Cabinet Council on Commerce and Trade, drafted by OPD, and is supported by all affected agencies. It has the approval of OMB and, as to form and legality, the Office of Legal Counsel. This order was originally staffed on March 29, but a dispute developed between Commerce and State over some of the language. That dispute has now been resolved to the satisfaction of all involved. I have reviewed the proposed Executive Order, and related materials, and have no legal objections.

Attachment

THE WHITE HOUSE

WASHINGTON

April 19, 1984

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Proposed Executive Order -- Textile
Import Program Implementation (Revised)

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

FFF:JGR:aea 4/19/84

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 19, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Revised Morris Abram Letter Concerning
Equal Opportunity in Education

Richard Darman has asked for comments as soon as possible on a revised version of the Presidential letter to Morris Abram. A cover memorandum from Donald Clarey of Craig Fuller's office states that the draft reflects your suggested revisions. This is not entirely true. In your memorandum of April 18 you recommended, inter alia, that "has assured me" be changed to "advises" in the third paragraph. This change has not been made.

The attached memorandum for Darman notes that this change has not been made, but otherwise clears the letter.

Attachment

THE WHITE HOUSE

WASHINGTON

April 19, 1984

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Revised Morris Abram Letter Concerning
Equal Opportunity in Education

Counsel's Office has reviewed the revised version of the proposed Presidential letter to Morris Abram. The revised draft omitted one change recommended in my memorandum on the earlier draft. In the third paragraph, "has assured me" should be changed to "advises," to avoid the erroneous impression that the President and Secretary Bell conferred personally on this matter. Assuming this change is made, we have no objection to the letter from a legal perspective.

FFF:JGR:aea 4/19/84

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 20, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Draft DOJ Report on S. 919, a Bill
to Reauthorize the Equal Access to
Justice Act and for Other Purposes

OMB has asked for our views by 3:00 p.m. today on a proposed Justice report on S. 919, a bill to reauthorize the Equal Access to Justice Act. The act authorizes awards of attorneys fees to parties in litigation with the Federal Government, when the position of the Government is determined not to have been "substantially justified." It is due to expire pursuant to a sunset provision.

Both through testimony and earlier reports, Justice has supported reauthorization of the act, with numerous suggested amendments to correct problems that have developed in the relatively brief period the act has been on the books. The proposed Justice report refers to this prior testimony, and stresses the need to (1) exclude non-adversary social security proceedings from the coverage of the act, (2) define "position of the United States" as the position ultimately argued in court rather than adopted by the agency, (3) allow interest on awards only after the Government has exhausted its right to appeal, (4) exclude Tax Court cases, which have unique attorneys fees rules, from the act, and (5) enact special rules for condemnation cases, which have been the subject of confused court decisions under the act.

I have reviewed the proposed report and have no objections. It is fully consistent with previously cleared Justice reports on this subject.

Attachment

THE WHITE HOUSE

WASHINGTON

April 20, 1984

MEMORANDUM FOR BRANDEN BLUM
LEGISLATIVE ATTORNEY
OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Draft DOJ Report on S. 919, a Bill
to Reauthorize the Equal Access to
Justice Act and for Other Purposes

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

FFF:JGRJ:aea 4/20/84

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 20, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS *JGR*

SUBJECT:

Statement of Victoria Toensing
Concerning Financial Bribery and
Fraud -- H.R. 5405, on April 26, 1984

We have been provided with a copy of testimony Deputy Assistant Attorney General Victoria Toensing proposes to deliver before the Subcommittee on Criminal Justice of the House Judiciary Committee on April 26. The testimony supports proposed changes in 18 U.S.C. §§ 215 and 216, the federal bank bribery statutes. The changes would increase inadequate penalties, extend coverage to bribe offerors as well as recipients, and extend coverage to all federally insured or chartered financial institutions. In particular, the testimony urges passage of Parts E-G of Title XI of S. 1762, the Comprehensive Crime Control Act of 1983, which contains the Administration's proposed revision of 18 U.S.C. §§ 215 and 216. The testimony also generally supports H.R. 5405, which is substantially similar to the Administration proposal, although it recommends several changes in the bill.

The testimony also supports enactment of a separate federal statute making it a crime to defraud a federally chartered or insured financial institution. Prosecutions for such actions have been brought under the mail fraud statutes, but recent Supreme Court decisions have severely hampered use of those statutes in the banking context.

I have reviewed the proposed testimony, and have no objections.

Attachment

THE WHITE HOUSE

WASHINGTON

April 20, 1984

MEMORANDUM FOR GREGORY JONES
LEGISLATIVE ATTORNEY
OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Statement of Victoria Toensing
Concerning Financial Bribery and
Fraud -- H.R. 5405, on April 26, 1984

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

FFF:JGR:aea 4/20/84
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 20, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Ferroalloys Upgrading Program

Paul Thompson of NSC has asked us to review as soon as possible an NSC/GSA plan for funding years two and three of the ferroalloy upgrading program. You will recall that the President, by memorandum dated November 29, 1982, exercised his authority under the Strategic and Critical Materials Stockpiling Revision Act of 1979, 50 U.S.C. § 98 et seq., to direct GSA to undertake a ten-year program to upgrade certain stockpiled ores. Contracts have been awarded and are nearing completion for the first year of this program. The Office of Stockpile Management within the Federal Property Resources Service of GSA has proposed awarding a one-year contract, with an option to renew for the second year, for years two and three of the program, rather than simply using a one-year contract, as was done for the first year of the program. NSC would like to send a three-sentence memorandum to GSA, approving the use of a one-year contract with option to renew for a second year.

I have no objection to use of a one-year contract with an option to renew, rather than two separate, sequential one-year contracts. GSA notes that the option to renew approach will save money and limit disruption in the program. The President's November 29, 1982 memorandum directed that the program was "to be continued on a year-by-year basis through the ten-year term at the direction of the Assistant to the President for National Security Affairs." The option to renew contract proposal is not inconsistent with this provision, however, since the United States will not be required to renew the contract at the end of the first year of the contract if the program is discontinued. Wayne Kulig, who runs the stockpile program for GSA, advises that this will be made clear in the contract. Furthermore, it is generally recognized that the program will be continued at least through the third year. Our clearance of the NSC memorandum to GSA should, however, be expressly contingent on the option to renew contract not interfering in any way with the flexibility of the Assistant to the President for National Security Affairs to discontinue the program after the end of the first year of the contract.

The second sentence in the proposed NSC memorandum simply states that the program "should be funded only with materials declared by Congress to be in excess of our National Defense Stockpile requirements." This sentence is entirely gratuitous in a legal sense. The President's November 29 memorandum directed that the program be funded by materials exchange using excess stockpile material, and applicable law provides that materials from the stockpile cannot be disposed of unless declared to be excess by Congress. See 50 U.S.C. §§ 98d; 98e(c)(2). NSC prefers to leave the sentence in, to highlight cooperation with Congress in the program. The sentence simply states as a directive what is already required by law, so I have no objections. The third sentence of the memorandum simply reiterates language from the President's November 29 memorandum, and is unobjectionable.

Attachment

THE WHITE HOUSE

WASHINGTON

April 20, 1984

MEMORANDUM FOR PAUL THOMPSON
STAFF LEGAL COUNSEL AND DEPUTY DIRECTOR
FOR LEGISLATIVE AFFAIRS, NSC

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Second and Third Year Funding for the
Ferroalloy Upgrading Program

Counsel's Office has reviewed the proposed memorandum from Mr. McFarlane to Ray Kline, Acting Administrator of the General Services Administration, on the above-referenced topic. We have been advised by J. Wayne Kulig, Assistant Commissioner, Office of Stockpile Management, that the proposed one-year contract with option to renew for a second year will be drafted in such a manner that it will not interfere with the flexibility of the Assistant to the President for National Security Affairs to discontinue the program after the first year of the contract, should he determine that such action is appropriate. On the basis of this representation, I have no objection to the proposed memorandum from a legal perspective.

FFF:JGR:aea 4/20/84
cc: FFFielding/JGRoberts/Subj/chron