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THE WHITE HOUSE

WASHINGTON

January 2, 1986

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS 

SUBJECT:

Correspondence Praising the
President for the Geneva Summit

Judge Gary Crippen of the Minnesota intermediate appellate court has written to let the President know he approves of the recent thawing in American-Soviet relations, even though he is "not a partisan supporter of the Reagan presidency." The attached draft reply for your signature thanks Crippen for his encouragement, answers his Learned Hand quotation with a better one, and cites the New Year's exchange of greetings as evidence of continued improvement in our relations with the Evil Empire.

Attachment

THE WHITE HOUSE

WASHINGTON

January 2, 1986

Dear Judge Crippen:

Thank you for your letter to President Reagan, commending the President for his recent efforts to improve relations with the Soviet Union. It is always encouraging to receive such supportive letters, particularly from those who are not partisan supporters of the Administration. As I am certain you will agree, the cause of world peace is not a partisan issue, but one that unites all Americans.

Your quotation of Judge Learned Hand called to mind another of Hand's statements: "There is no democracy among human values, however each may cry out for an equal vote." Throughout his tireless efforts to improve relations with the Soviets, the President has never lost sight of the fact that our systems are not the same, that they are not morally equivalent, that the divisions between our countries can be traced to our fundamental belief that governments derive their just powers from the consent of the governed, and the Soviets' systematic denial of that principle not only in that Soviet Union but abroad as well.

The President recently articulated the need to move toward greater mutual understanding with the Soviets, while reaffirming the values at the core of our democratic heritage, in his New Year's message to the Soviet people. In light of your interest in this area, I have enclosed a copy of the message for your information.

Thank you again for taking the time to share your views with us. We appreciate hearing from you.

Sincerely,

Fred F. Fielding
Counsel to the President

The Honorable Gary L. Crippen
The Minnesota Court of Appeals
1300 Amhoist Tower
St. Paul, Minnesota 55102

FFF:JGR:aea 1/2/86


cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

January 2, 1986

MEMORANDUM FOR RICHARD A. HAUSER

FROM: JOHN G. ROBERTS 

SUBJECT: Organized Crime Article

Like Macbeth's ghost the organized crime article continues to rise and haunt us. Jensen now says the article can be published after January 19 of this year.

Previously Justice advised that it could not substantiate mob involvement in the toxic waste, sports, and funeral home areas (pages 1 and 3), yet those items still appear in this revised draft. On page 4, line 18, "Racketeer Influenced and Criminal Organizations" should be "Racketeer Influenced and Corrupt Organizations."

The attached memorandum for Chew defers to Justice, dubitante, on the appropriateness of publishing the article.

Attachment

THE WHITE HOUSE

WASHINGTON

January 2, 1986

MEMORANDUM FOR DAVID L. CHEV
STAFF SECRETARY

FROM: RICHARD A. HAUSER
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: Organized Crime Article

The Department of Justice, for reasons that are not clear, has changed its views and now believes that the organized crime article may be published after January 19, 1986, without affecting pending prosecutions. I will defer, dubitante, to the Department's conclusion.


The Racketeer Influenced and Corrupt Organizations Act is incorrectly cited on page 4, line 18 as the "Racketeer Influenced and Criminal Organizations" Act. In addition, the Department previously advised that it could not substantiate mob involvement in the toxic waste, sports, and funeral home areas. References to those areas should accordingly be deleted on pages 1 and 3 of the draft.

RAH:JGR:aea 1/2/86
cc: FFFielding
RAHauser
JGRoberts
Subj
Chron

THE WHITE HOUSE
WASHINGTON

January 6, 1986

MEMORANDUM FOR DAVID L. CHEW
STAFF SECRETARY AND DEPUTY ASSISTANT
TO THE PRESIDENT

FROM: JOHN G. ROBERTS 
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Deferment of Lt. General Rockwell's
Retirement Date

Counsel's office has reviewed the proposed deferral of retirement of General Rockwell, and finds no objection to it from a legal perspective.

THE WHITE HOUSE

WASHINGTON

January 6, 1986

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS *JGR*

SUBJECT:

Developments in Gramm-Rudman Litigation

Plaintiffs in Synar v. United States are due to file a response today to the Government's motion to dismiss their suit for want of standing. The standing dispute, however, is likely to be rendered moot in light of the motion by the National Treasury Employees Union (NTEU) to intervene in the Synar suit. NTEU would have standing, and the presence of plaintiffs without standing (Synar) does not affect a suit so long as one plaintiff (NTEU) has standing. No final decision yet, but it appears that neither Justice nor Synar will oppose the NTEU motion to intervene, and that Justice will file a brief on the merits on January 8.

THE WHITE HOUSE

WASHINGTON

January 6, 1986

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Request for Congratulatory Note
from the President to Commemorate
100th Anniversary of Sun Company

The Vice President of Sun Company has requested a message from the President congratulating the company on its centennial anniversary. He has apparently gotten wind of our policy against such messages, and argues for an exception because (1) the message will only be used in an internal commemorative book, and (2) Sun Company has such an excellent record of corporate citizenship.

The attached standard reply has been expanded by the addition of a new third paragraph, dealing with the suggestion that an exception should be made for Sun.

Attachment

THE WHITE HOUSE

WASHINGTON

January 6, 1986

Dear Mr. Wylie:

Thank you for your recent letter requesting a Presidential message congratulating Sun Company on its 100th anniversary.

I am sorry to advise you that we must decline this request. Throughout the Administration, the White House has sought to adhere to a policy of not sending Presidential congratulatory messages to commercial entities. As you might expect, the White House receives numerous requests for such messages. Both because it would be impossible to honor some requests without unintentionally offending those whose requests were declined, and because of concerns about the President sending congratulations to any particular company in a given competitive business, it was decided that the only fair method of dealing with such requests would be to adopt a general rule that the President would not send messages for commercial events.

Your letter acknowledged this policy but argued for an exception based on the limited contemplated use of the requested Presidential message, and Sun Company's record of corporate citizenship. We have adhered to our policy in previous instances despite similar assurances with respect to use of the message. Nor do I believe it advisable or even possible for the White House to attempt to evaluate corporate history in deciding whether anniversary messages should be issued.

Obviously, Sun Company is celebrating an important event, and I can understand your seeking a message for this occasion. At the same time, though, I know you can understand the reasons we must adhere to the policy described above, in fairness to all who have requested such Presidential messages.

Sincerely,

Fred F. Fielding
Counsel to the President

Mr. Thomas L. Wylie
Sun Company, Inc.
Suite 820
1800 K Street, N.W.
Washington, D.C. 20006

FFF:JGR:aea 1/6/86 FFFfielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

January 7, 1986

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS 

SUBJECT:

Treasury's Regulations Implementing
Executive Order Regarding Libya Sanctions

Treasury has submitted draft regulations under the Libyan Executive Order and asked for our comments by 5:30 p.m. today. The regulations are consistent with the Executive Order. Among other things, they permit goods that have been loaded for export before the effective date to leave, and goods that have arrived for import before the effective date to be unloaded. Payments for such goods are authorized, even after the effective date of the Order. The regulations also clarify that the use of intermediary countries removes the Libyan taint from goods, both coming and going, only if the Libyan goods or Libyan destined goods are incorporated into manufactured products or otherwise substantially transformed in the intermediary country. Mere trans-shipment does not evade the Order's prohibitions.

The only objection I have to the regulations is on page 1, line 5 of the Summary, in which the current draft states that the President delegated his authority under IEEPA to the Secretary of the Treasury. This was true of an earlier version of the Executive Order, but it was my view that the authorities of the President under IEEPA are so extreme that they should not be so starkly delegated. The final version of the Order thus authorizes the Secretary "to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of this Order." The language in the regulations summary should be changed to more accurately reflect the Executive Order.

Attachment

THE WHITE HOUSE

WASHINGTON

January 7, 1986

MEMORANDUM FOR DENNIS M. O'CONNELL
DIRECTOR, OFFICE OF FOREIGN
ASSETS CONTROL
U.S. DEPARTMENT OF THE TREASURY

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Treasury's Regulations Implementing
Executive Order Regarding Libya Sanctions

I have reviewed the proposed Libyan Sanctions Regulations. In lines 5-6 of the Summary section, it is stated that the President delegated his authority under IEEPA to the Secretary of the Treasury. That is an inaccurate summary of the final version of the Executive Order. The Order authorized the Secretary "to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of this Order."

I recommend deleting "delegating his authority under that Act to the Secretary of the Treasury" and substituting "authorizing the Secretary of the Treasury to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of this Order."

FFF:JGR:aea 1/7/86
cc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

January 7, 1986

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Talking Points on Tax Reform

David Chew has asked that comments on the attached tax reform talking points be sent directly to Tom Gibson by noon tomorrow. The talking points review the highlights of the House bill, and note that the President hopes improvements in the bill will be made by the Senate. The draft notes that the President will oppose final legislation that is not true reform or which threatens growth. I see no legal problems.

Attachment

THE WHITE HOUSE

WASHINGTON

January 7, 1986

MEMORANDUM FOR TOM GIBSON
SPECIAL ASSISTANT TO THE PRESIDENT
DIRECTOR, PUBLIC AFFAIRS

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Talking Points on Tax Reform

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

cc: David L. Chew

FFF:JGR:aea 1/7/86

cc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

January 7, 1986

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS 

SUBJECT:

Executive Order: Economic
Sanctions Against Libya

We have received the proposed Libyan Executive Order, as approved by the Office of Legal Counsel. The procedures for declaring a national emergency under IEEPA are correctly followed in the Order, and the appropriate statutory provisions are cited. With respect to the question you raised this morning, most of the prohibitions in the Order do not take effect until February 1, which provides time for Americans in Libya to wind down their affairs. In addition, under subsection 1(g), travel transactions necessary to depart Libya are excepted from the prohibitions.

In the last paragraph of Section 1, on page 2, "any" in the first line should be deleted.

I have discussed with Mr. Hauser and the Clerk's Office the issues raised by reporting to Congress under IEEPA when Congress is in recess. It is my view that the report should be styled not a "report to Congress" but rather a letter to the Speaker and the President of the Senate. This is consistent with past practice on required reports during recesses (though the issue has never arisen with IEEPA reports). I do not think we should go out of our way to raise the recess issue in additional language in the report.

State submitted and Chew staffed a superfluous letter to be sent to the Hill leadership, apart from the required report. The attached memorandum for your signature notes that this is unnecessary, and that if such letters are sent they should be revised so as not to be confused with the statutorily required report.

Attachment

THE WHITE HOUSE

WASHINGTON

January 7, 1986

MEMORANDUM FOR DAVID L. CHEW
STAFF SECRETARY

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Executive Order: Economic
Sanctions Against Libya

I have reviewed the proposed Executive Order on Libya, and have no legal objection to its issuance. On page 2, line 23, "any" should be deleted.

The formal report required by IEEPA should not be sent to the Congress but rather to the Speaker of the House and the President of the Senate, because the Congress is in recess. This approach is consistent with past practice and our legal positions on pocket vetoes, recess appointments, and related issues. The report should not begin "To the Congress of the United States," and in line 5 "to the Congress" should be deleted.

The transmittal letter intended to be sent to the Hill leadership is unnecessary. The reporting requirement will be fulfilled by sending the revised "report to Congress" to the Speaker and President of the Senate. A letter may be sent to the Hill leadership to advise them of the President's action, but such a letter should not be confused with the required report. If such additional letters are sent, the opening paragraph should not be as it appears in the staffed draft, since that paragraph suggests that the letter is the statutorily required report.

FFF:JGR:aea 1/7/86

cc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

January 7, 1986

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS 

SUBJECT:

Treasury's Regulations Implementing
Executive Order Regarding Libya Sanctions

Treasury has submitted draft regulations under the Libyan Executive Order and asked for our comments by 5:30 p.m. today. The regulations are consistent with the Executive Order. Among other things, they permit goods that have been loaded for export before the effective date to leave, and goods that have arrived for import before the effective date to be unloaded. Payments for such goods are authorized, even after the effective date of the Order. The regulations also clarify that the use of intermediary countries removes the Libyan taint from goods, both coming and going, only if the Libyan goods or Libyan destined goods are incorporated into manufactured products or otherwise substantially transformed in the intermediary country. Mere transshipment does not evade the Order's prohibitions.

The only objection I have to the regulations is on page 1, line 5 of the Summary, in which the current draft states that the President delegated his authority under IEEPA to the Secretary of the Treasury. This was true of an earlier version of the Executive Order, but it was my view that the authorities of the President under IEEPA are so extreme that they should not be so starkly delegated. The final version of the Order thus authorizes the Secretary "to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of this Order." The language in the regulations summary should be changed to more accurately reflect the Executive Order.

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THE WHITE HOUSE

WASHINGTON

January 7, 1986

MEMORANDUM FOR DENNIS M. O'CONNELL
DIRECTOR, OFFICE OF FOREIGN
ASSETS CONTROL
U.S. DEPARTMENT OF THE TREASURY

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Treasury's Regulations Implementing
Executive Order Regarding Libya Sanctions

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I recommend deleting "delegating his authority under that Act to the Secretary of the Treasury" and substituting "authorizing the Secretary of the Treasury to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of this Order."

FFF:JGR:aea 1/7/86

cc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

January 8, 1986

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS 

SUBJECT:

Pan Am/United Pacific Route

Nancy Reynolds has written concerning the pending negotiations with the Japanese to obtain their agreement for United to replace Pan Am on routes into Japan. As you know, the Department of Transportation approved, and the President did not disapprove, the transfer of Pan Am's Pacific routes to United. United must now replace Pan Am as a designated U.S. carrier in our bilateral aviation agreements with Japan and the other Pacific destinations. Under our bilateral agreement with Japan, the U.S. has the right to designate the carriers to land in Japan -- replacing Pan Am with United should be pro forma. As Reynolds points out in her letter, however, the Japanese have exploited such occasions in the past to obtain unilateral concessions in other areas. Reynolds urges the Administration to resist any such efforts in this case. Reynolds attached a copy of an earlier letter to the President from ten Senators, making the same point.

I have been trying to determine what happened to the response to the letter from the Senators before fashioning a reply to Reynolds. The incoming was staffed to USTR for response, but apparently was lost in the system between State and USTR. Only now are State and USTR preparing a reply.

According to the responsible officials at USTR and State, what Reynolds and the Senators suspected would happen has in fact occurred: the Japanese are seeking concessions before approving the substitution of United for Pan Am. Our negotiators are taking the course urged by Reynolds, and resisting any concessions. Reynolds has contacted the USTR officials directly. A story on this problem appeared in today's Post federal page (attached).

The attached reply for Reynolds notes that it is the Administration's policy to resist any concessions.

Attachment

THE WHITE HOUSE

WASHINGTON

January 8, 1986

Dear Nancy:

Thank you for your letter on aviation negotiations with Japan to substitute United for Pan Am on Pacific route designations. In that letter you urged that the Administration not agree to concessions to obtain Japanese agreement to the designation of a new United States carrier.

As you know, negotiations are proceeding with the Japanese, and, as you suspected might be the case, it appears that the Japanese are attempting to obtain concessions in exchange for agreeing to the new designation. While I cannot comment on the specifics of the negotiations, it is in fact our policy to resist such concessions, and our negotiators are doing everything possible to accomplish the new designation in a timely fashion without adverse consequences to the United States. I understand that you have been in touch with some of the officials involved. Please be assured that they appreciate the concerns expressed in your letter.

With all best wishes,

Sincerely,

Fred F. Fielding
Counsel to the President

Ms. Nancy Clark Reynolds
Wexler, Reynolds, Harrison & Schule, Inc.
1317 F Street, N.W., Suite 600
Washington, D.C. 20004

FFF:JGR:aea 1/8/86
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

January 8, 1986

Dear Nancy:

Thank you for your letter on aviation negotiations with Japan to substitute United for Pan Am on Pacific route designations. In that letter you urged that the Administration not agree to concessions to obtain Japanese agreement to the designation of a new United States carrier.

As you know, negotiations are proceeding with the Japanese, and, as you suspected might be the case, it appears that the Japanese are attempting to obtain concessions in exchange for agreeing to the new designation. While I cannot comment on the specifics of the negotiations, it is in fact our policy to resist such concessions, and our negotiators are doing everything possible to accomplish the new designation in a timely fashion without adverse consequences to the United States. I understand that you have been in touch with some of the officials involved. Please be assured that they appreciate the concerns expressed in your letter.

With all best wishes,

Sincerely,

Orig. signed by FFF

Fred F. Fielding
Counsel to the President

Ms. Nancy Clark Reynolds
Wexler, Reynolds, Harrison & Schule, Inc.
1317 F Street, N.W., Suite 600
Washington, D.C. 20004

FFF:JGR:aea 1/8/86
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

January 8, 1986

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS 

SUBJECT:

Pan Am/United Pacific Route

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I have been trying to determine what happened to the response to the letter from the Senators before fashioning a reply to Reynolds. The incoming was staffed to USTR for response, but apparently was lost in the system between State and USTR. Only now are State and USTR preparing a reply.

According to the responsible officials at USTR and State, what Reynolds and the Senators suspected would happen has in fact occurred: the Japanese are seeking concessions before approving the substitution of United for Pan Am. Our negotiators are taking the course urged by Reynolds, and resisting any concessions. Reynolds has contacted the USTR officials directly. A story on this problem appeared in today's Post federal page (attached).

The attached reply for Reynolds notes that it is the Administration's policy to resist any concessions.


Attachment

THE WHITE HOUSE

WASHINGTON

January 13, 1986

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Individuals Covered Under
18 U.S.C. § 1751

Assistant Attorney General Trott has asked for an updated list of those covered by 18 U.S.C. § 1751, the provision imposing Federal penalties for the killing or kidnapping of certain high-level Executive branch officials. In his letter Trott questions the accuracy of the previous list, noting that it seems to contain 26 Level II Presidential staff positions, when 3 U.S.C. § 105(a)(2)(A) provides for no more than 25 such positions.

The lists we have been providing Trott have been incorrect, but not for the reason Trott noted. Our lists contain all Level IIs in the Executive Office of the President. There can be more than 25 such positions. The 25 cap only applies to Presidential assistants appointed under 3 U.S.C. § 105(a)(2)(A), but there are some Level IIs in the EOP appointed under other provisions. For example, the Director of OMB is a Level II in the EOP, but he is appointed under 31 U.S.C. § 502(a), not 3 U.S.C. § 105(a)(2)(A).

Coverage under 18 U.S.C. § 1751 extends to those appointed under 3 U.S.C. § 105(a)(2)(A), not to all Level IIs in the EOP. Our lists, however, have been of those in the latter category, and accordingly have been over-inclusive. This error apparently arose from the framing of the original Justice request, which asked for "The employees appointed pursuant to 3 U.S.C. § 105(a)(2)(A), that is persons who are appointed by the President, employed in the Executive Office of the President, and paid 'at rates not to exceed the rate of basic pay then currently paid for level II of the Executive Schedule of section 5313 of title 5....'" Your office responded to the definitional language in this request -- "persons who are appointed by the President, employed in the Executive Office of the President, and paid [at Level II]" -- which, as noted, is a broader class than those persons appointed under 3 U.S.C. § 105(a)(2)(A).

A correct list, with a cover memorandum explaining the changes, is attached for your review and signature.

Attachments

THE WHITE HOUSE

WASHINGTON

January 13, 1986

MEMORANDUM FOR STEPHEN S. TROTT
ASSISTANT ATTORNEY GENERAL
CRIMINAL DIVISION
U.S. DEPARTMENT OF JUSTICE

FROM: FRED. F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Individuals Covered Under
18 U.S.C. § 1751

By letter dated December 31, 1985, you requested a current list of the individuals covered by 18 U.S.C. § 1751. You also questioned the accuracy of the previous list, because it seemed to exceed the limit of 25 on persons who may be appointed under 3 U.S.C. § 105(a)(2)(A).

The previous list was inaccurate, but not because it contained more than 25 individuals appointed under 3 U.S.C. § 105(a)(2)(A). The previous list responded to the November 16, 1983 request from former Deputy Attorney General Schmults for "The employees appointed pursuant to 3 U.S.C. § 105(a)(2)(A), that is persons who are appointed by the President, employed in the Executive Office of the President, and paid 'at rates not to exceed the rate of basic pay then currently paid for level II of the Executive Schedule of section 5313 of title 5....'" We provided a list responsive to the definitional aspect of this request -- "persons who are appointed by the President, employed in the Executive Office of the President, and paid [at Level II]" -- but that category is in fact broader than those individuals "appointed pursuant to 3 U.S.C. § 105(a)(2)(A)." The Chairmen of the Council of Economic Advisers and the Council on Environmental Quality, the Directors of the Office of Management and Budget and the Office of Science and Technology Policy, and the United States Trade Representative are all "persons who are appointed by the President, employed in the Executive Office of the President, and paid [at Level II]" but they are not "appointed pursuant to 3 U.S.C. § 105(a)(2)(A)."

A correct list of those covered by 18 U.S.C. § 1751 is attached. It includes, in addition to the individuals appointed under 3 U.S.C. § 105(a)(2)(A), the President, the Vice President, and an assistant to the Vice President appointed under 3 U.S.C. § 106(a)(1)(A).

Attachment

FFF:JGR:aea 1/13/86
cc: FFFielding/JGRoberts/Subj/Chron

The President.....Ronald W. Reagan
The Vice President.....George Bush
Chief of Staff to the President.....Donald T. Regan
Assistant to the President
and Press Secretary.....James S. Brady
Assistant to the President
and Director of Communications.....Patrick J. Buchanan
Assistant to the President for Political
& Intergovernmental Affairs.....Mitchell E. Daniels, Jr.
Counsel to the President.....Fred F. Fielding
Assistant to the President.....William Henkel
Cabinet Secretary and
Assistant to the President.....Alfred H. Kingon
Assistant to the President
for Legislative Affairs.....M.B. Oglesby, Jr.
Assistant to the President
for National Security Affairs.....John M. Poindexter
Assistant to the President and
Principal Deputy Press Secretary.....Larry M. Speakes
Assistant to the President
for Policy Development.....John A. Svahn
Assistant to the President.....W. Dennis Thomas
Chief of Staff to the
Vice President.....Craig L. Fuller

THE WHITE HOUSE

WASHINGTON

January 13, 1986

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

FROM: JOHN G. ROBERTS 
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Remarks: Ceremony for Presentation
of Young American Medals

Counsel's Office has reviewed the above-referenced draft remarks. The last two sentences on page 4 should be deleted unless Research can confirm that the driver of the vehicle either was convicted of or pled guilty to (not merely was arrested for) hit-and-run and drunk driving.

cc: David L. Chew

THE WHITE HOUSE

WASHINGTON

January 13, 1986

MEMORANDUM FOR STEPHEN S. TROTT
ASSISTANT ATTORNEY GENERAL
CRIMINAL DIVISION
U.S. DEPARTMENT OF JUSTICE

FROM: FRED. F. FIELDING *Orig. signed by FFF*
COUNSEL TO THE PRESIDENT

SUBJECT: Individuals Covered Under
18 U.S.C. § 1751

By letter dated December 31, 1985, you requested a current list of the individuals covered by 18 U.S.C. § 1751. You also questioned the accuracy of the previous list, because it seemed to exceed the limit of 25 on persons who may be appointed under 3 U.S.C. § 105(a)(2)(A).

The previous list was inaccurate, but not because it contained more than 25 individuals appointed under 3 U.S.C. § 105(a)(2)(A). The previous list responded to the November 16, 1983 request from former Deputy Attorney General Schmults for "The employees appointed pursuant to 3 U.S.C. § 105(a)(2)(A), that is persons who are appointed by the President, employed in the Executive Office of the President, and paid 'at rates not to exceed the rate of basic pay then currently paid for level II of the Executive Schedule of section 5313 of title 5....'" We provided a list responsive to the definitional aspect of this request -- "persons who are appointed by the President, employed in the Executive Office of the President, and paid [at Level II]" -- but that category is in fact broader than those individuals "appointed pursuant to 3 U.S.C. § 105(a)(2)(A)." The Chairmen of the Council of Economic Advisers and the Council on Environmental Quality, the Directors of the Office of Management and Budget and the Office of Science and Technology Policy, and the United States Trade Representative are all "persons who are appointed by the President, employed in the Executive Office of the President, and paid [at Level II]" but they are not "appointed pursuant to 3 U.S.C. § 105(a)(2)(A)."

A correct list of those covered by 18 U.S.C. § 1751 is attached. It includes, in addition to the individuals appointed under 3 U.S.C. § 105(a)(2)(A), the President, the Vice President, and an assistant to the Vice President appointed under 3 U.S.C. § 106(a)(1)(A).

Attachment

FFF:JGR:aea 1/13/86
cc: FFFielding/JGRoberts/Subj/Chron

The President.....Ronald W. Reagan
The Vice President.....George Bush
Chief of Staff to the President.....Donald T. Regan
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and Press Secretary.....James S. Brady
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and Director of Communications.....Patrick J. Buchanan
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Assistant to the President and
Principal Deputy Press Secretary.....Larry M. Speakes
Assistant to the President
for Policy Development.....John A. Svahn
Assistant to the President.....W. Dennis Thomas
Chief of Staff to the
Vice President.....Craig L. Fuller

THE WHITE HOUSE

WASHINGTON

January 13, 1986

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS 

SUBJECT:

Individuals Covered Under
18 U.S.C. § 1751

Assistant Attorney General Trott has asked for an updated list of those covered by 18 U.S.C. § 1751, the provision imposing Federal penalties for the killing or kidnapping of certain high-level Executive branch officials. In his letter Trott questions the accuracy of the previous list, noting that it seems to contain 26 Level II Presidential staff positions, when 3 U.S.C. § 105(a)(2)(A) provides for no more than 25 such positions.

The lists we have been providing Trott have been incorrect, but not for the reason Trott noted. Our lists contain all Level IIs in the Executive Office of the President. There can be more than 25 such positions. The 25 cap only applies to Presidential assistants appointed under 3 U.S.C. § 105(a)(2)(A), but there are some Level IIs in the EOP appointed under other provisions. For example, the Director of OMB is a Level II in the EOP, but he is appointed under 31 U.S.C. § 502(a), not 3 U.S.C. § 105(a)(2)(A).

Coverage under 18 U.S.C. § 1751 extends to those appointed under 3 U.S.C. § 105(a)(2)(A), not to all Level IIs in the EOP. Our lists, however, have been of those in the latter category, and accordingly have been over-inclusive. This error apparently arose from the framing of the original Justice request, which asked for "The employees appointed pursuant to 3 U.S.C. § 105(a)(2)(A), that is persons who are appointed by the President, employed in the Executive Office of the President, and paid 'at rates not to exceed the rate of basic pay then currently paid for level II of the Executive Schedule of section 5313 of title 5....'" Your office responded to the definitional language in this request -- "persons who are appointed by the President, employed in the Executive Office of the President, and paid [at Level II]" -- which, as noted, is a broader class than those persons appointed under 3 U.S.C. § 105(a)(2)(A).

A correct list, with a cover memorandum explaining the changes, is attached for your review and signature.

Attachments

THE WHITE HOUSE
WASHINGTON

January 16, 1986

MEMORANDUM FOR DAVID L. CHEW
STAFF SECRETARY

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

SUBJECT: Presidential Message: Black History Month

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

THE WHITE HOUSE

WASHINGTON

January 16, 1986

MEMORANDUM FOR RICHARD A. HAUSER

FROM: JOHN G. ROBERTS 

SUBJECT: Correspondence Objecting to Margaret
Randell's Efforts to Obtain Permanent
Residence Status in the United States

Don Davis has written the President to urge him to oppose Margaret Randell's efforts to regain U.S. citizenship. Randell, described by Davis as a prominent leftist, gave up her citizenship years ago, and controversy has developed over her efforts to regain it. The dispute was recently featured on Nightline.

I think the White House should stay out of this quasi-judicial dispute, pending before INS, involving a particular individual. We should send the letter to Justice, for whatever action Justice wishes to take, and advise Davis we have done so.

Attachment

THE WHITE HOUSE

WASHINGTON

January 16, 1986

MEMORANDUM FOR JAY STEPHENS
ASSOCIATE DEPUTY ATTORNEY GENERAL
U.S. DEPARTMENT OF JUSTICE

FROM: RICHARD A. HAUSER
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: Correspondence Objecting to Margaret
Randell's Efforts to Obtain Permanent
Residence Status in the United States

The attached correspondence concerning the publicized dispute surrounding Margaret Randell's effort to obtain permanent resident status, together with a copy of my reply, is referred to the Department for whatever review and further reply, if any, you consider appropriate.

Many thanks.

RAH:JGR:aea 1/16/86

cc: FFFielding
RAHauser
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

January 16, 1986

MEMORANDUM FOR RICHARD A. HAUSER

FROM:

JOHN G. ROBERTS 

SUBJECT:

Request for the President to be Part of
a Book Honoring Paul W. "Bear" Bryant

Anne Higgins has asked for guidance in handling a request from the Alabama "A" Club for a message from the President to be included in a book honoring Bear Bryant. The book would be sold to raise funds for a foundation that assists former players and their families in time of need. The letter is dated October 1985, but Higgins only recently referred it to us for review. In her referral, she recognized that the fundraising aspect precluded Presidential participation, but asked if the requester could be made aware that he could use the many public domain comments by the President about Bryant.

I have no problem with Higgins's suggestion. The attached memorandum for her for your signature agrees that she may tell the requester he is free to include quotations from the President in his book, so long as he does not suggest that the President endorses the book.

Attachment

THE WHITE HOUSE

WASHINGTON

January 16, 1986

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

FROM: RICHARD A. HAUSER
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: Request for the President to be Part of
a Book Honoring Paul W. "Bear" Bryant

You have asked for guidance in handling a request from the Alabama "A" Club for a message from the President to be included in a book honoring Bear Bryant. The book would be sold to raise funds for a foundation that assists former players and their families in time of need.

You recognized that the fundraising aspect precluded Presidential participation, but asked if the requester could be made aware that he could use the many public domain comments by the President about Bryant. We have no objection to this course of action, provided, as you note in your transmittal, that it is not suggested that the President endorse the book or the A Club fundraising activities.

Thank you for raising this matter with us.

RAH:JGR:aea 1/16/86

cc: FFFielding
RAHauser
JGRoberts
Subj
Chron