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Withdrawer

RBW 8/4/2005

File Folder [CORRESPONDENCE - MISCELLANEOUS (10/27/1983 - 11/14/1983)]

FOIA

F05-139/01

Box Number

COOK

31RW

DOC NO	Doc Type	Document Description	No of Pages	Doc Date	Restrictions	
1	LETTER	G. DONALD MURRAY III TO JAMES BAKER RE. US LAND FRAUDS EURO/AFR. VICTIMS 182728	3	10/14/1983	B6	562

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

October 27, 1983

MEMORANDUM FOR FRED F. FIELDING

THRU: JOHN G. ROBERTS *JGR*
FROM: CLAUDIA MCMURRAY *Cm*
SUBJECT: Regulations Concerning Manning Requirements
Engaged in Production or Development
Activities on the Outer Continental Shelf

Ed Kelly, Secretary-Treasurer of Pile Drivers Union Local No. 34, has written to call to your attention a possible violation of Department of Transportation ("DOT") regulations. Those regulations, which became effective on April 5, 1983, require that each employer of personnel of any unit engaged in Outer Continental Shelf ("OCS") activities employ only United States citizens or resident aliens for the routine functioning of the unit. 33 C.F.R. § 141.15 (1982).

Mr. Kelly has enclosed a copy of a Wall Street Journal article which reports that Heerema Marine Contractors of Switzerland has just been awarded a contract by Chevron U.S.A., Inc. for the installation of equipment. According to Kelly, that company used foreign nationals to install a platform in the same area last year, and may do so again this year. He has asked you to review the current situation to assure that DOT regulations are followed.

As an initial matter, it is uncertain whether the regulations apply to the construction of an OCS platform, as opposed to the operation of the platform once in place. See 33 C.F.R. § 141.15(b). In addition, the DOT regulations allow an employer engaging in OCS activities to request an exemption from the restrictions set forth in section 141.15 under the following circumstances:

- (1) When specific contractual provisions or national registry manning requirements in effect on September 18, 1978, provide that a person other than a citizen of the United States or a resident alien is to be employed on a particular unit.
- (2) When there is not a sufficient number of citizens of the United States or resident aliens qualified and available for work.

- (3) When the President determines with respect to a particular unit that the employment of only citizens of the United States or resident aliens is not consistent with the national interest.

33 C.F.R. §§ 141.20 (a) (1) - (3).

An employer must submit a written request for an exemption to the Commandant of the U.S. Coast Guard. 33 C.F.R. §§ 141.20 (b) & (c). Upon receipt of the request, the Commandant may consult with the appropriate agencies for their comments on the application. 33 C.F.R. § 141.20. When the Commandant completes his consultation, he forwards the request and the comments of the Coast Guard and other interested agencies to the President for determination. 33 C.F.R. § 141.20 (e). If the President approves the request, a certificate of exemption will be issued. 33 C.F.R. § 141.20 (f).

It is not clear at the present time whether Heerema Marine Contractors plans to employ foreign nationals, whether these regulations apply to its activities, or whether it will apply for an exemption to the DOT regulations. Since the President may be involved in this process at some point, our office should avoid comment or involvement at this preliminary stage, and refer the matter to James H. Burnley, DOT General Counsel. Attached is a draft memorandum from you to Mr. Burnley, and a brief acknowledgment to Mr. Kelly.

Attachments

THE WHITE HOUSE

WASHINGTON

October 27, 1983

MEMORANDUM FOR JAMES H. BURNLEY, IV
GENERAL COUNSEL
U.S. DEPARTMENT OF TRANSPORTATION

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

SUBJECT: Correspondence Concerning Manning
Requirements of Foreign Nationals
on the Outer Continental Shelf

The attached correspondence from Ed Kelly, Secretary-Treasurer of Pile Drivers Union Local No. 34, along with a copy of my reply, is submitted for whatever review and action you consider appropriate. Although Mr. Kelly refers to requirements established by the Secretary of the Treasury, I believe he intended to refer to Department of Transportation regulations, see 33 C.F.R. § 141.

Many thanks.

Attachments

FFF:JGR:CM:aea 10/27/83

cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

October 27, 1983

Dear Mr. Kelly:

Thank you for your letter of October 5, concerning employment of foreign nationals in Outer Continental Shelf projects. Along with your letter you enclosed a copy of an item from the September 26 Wall Street Journal, noting the award of a contract to Heerema Marine Contractors of Switzerland.

I have referred your correspondence to the General Counsel of the Department of Transportation. That department has responsibility for the regulations to which you referred in your letter.

Thank you for sharing your concerns with us.

Sincerely,

Orig. signed by FFF

Fred F. Fielding
Counsel to the President

Mr. Ed Kelly
Pile Drivers Union
Local No. 34
60 Hegenberger Place
Oakland, CA 94621

FFF:JGR:aea 10/27/83
bcc: FFFielding/JGRoberts/Subj/Chron

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

LA002

☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMINGDate Correspondence
Received (YY/MM/DD) 1/1

(12)

Name of Correspondent: Ed Kelly

☐ MI Mail Report

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

Subject: Employment of foreign nationals on the
U.S. O.C.S. in the oil industry

ROUTE TO:

ACTION

DISPOSITION

Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
COHOLL		ORIGINATOR	8311011			1/1
		Referral Note:				
CNAT18		D	8311011			58311011
		Referral Note:				
			1/1			1/1
		Referral Note:				
			1/1			1/1
		Referral Note:				
			1/1			1/1
		Referral Note:				

ACTION CODES:

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

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

DISPOSITION CODES:

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

FOR OUTGOING CORRESPONDENCE:

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

Comments:

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Always return completed correspondence record to Central Files.
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LOCAL UNION No. 34

U. B. C. & J. OF AMERICA

AFL-CIO

60 HEGENBERGER PLACE, OAKLAND, CA 94621

PHONE 635-4227

178693 *W*

October 5, 1983

Mr. Fred F. Fielding
Council to the President
The White House
Washington, D.C.

Dear Mr. Fielding:

This is to call your attention to a potentially volatile situation involving our governments policies relating to the employment of foreign nationals on the U. S. O.C.S. in the oil industry.

The enclosed copy of an article appearing in the Monday, September 26 issue of the Wall Street Journal, indicates that Heerema Marine Contractors of Switzerland will be installing another platform on the O.C.S. off Southern California.

Perhaps we are premature in our concern. However, the same company installed a platform in the same area last year using foreign nationals. Their activity cost thousands of manhours in lost wages to U. S. construction workers, and resulted in criminal convictions against several union officials who were engaged in a peaceful protest at the jobsite.

We are aware of the manning requirements established by the Secretary of the Treasury, effective April 4, 1983. We are likewise confident that the Coast Guard will enforce the regulations, if necessary.

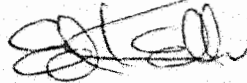
Our purpose in writing is to alert your office of the possibility of another major confrontation off the shores of the blue Pacific.

Mr. Fred Fielding
October 5, 1983
Page Two

If you could review the situation with respect to Heerema's intentions, you may be able to avert a serious problem before it ever surfaces.

Sincerely,

PILE DRIVERS UNION LOCAL NO. 34

A handwritten signature in dark ink, appearing to read 'Ed Kelly', with a long horizontal stroke extending to the right.

Ed Kelly
Secretary-Treasurer

EK/dcm
opeu #29 afl/cio
Enc.

Texaco Pact to Buy Socal Lines in Europe Will Expand Its Share of Declining Sector

By ROGER LOWENSTEIN and MARILYN CHASE
Staff Reporters of THE WALL STREET JOURNAL

Texaco Inc.'s agreement in principle to acquire some of the European marketing operations of Standard Oil Co. of California will expand its share of a market that has been shrinking fast.

The proposal, announced Friday, has puzzled industry analysts and other observers because most multinational oil giants have been reducing their European marketing operations.

However, Texaco said it believes that by increasing market dominance while competitors back out, it can eventually turn a profit in Europe. While Texaco doesn't disclose its European marketing results, most companies, including Socal, say they have had losses in European marketing and refining recently.

"We think Western Europe is an important market and that competitive operations can make money there in the long run," Alfred C. DeCrane Jr., president of Texaco, said in an interview Friday.

The agreement calls for Texaco to acquire Socal's marketing operations in the United Kingdom, West Germany, the Netherlands, Belgium, Luxembourg and Denmark. It also will acquire the remaining share of a Netherlands refinery that previously was jointly owned by Texaco and Socal. A sale price hasn't been disclosed, but it is expected to be in the hundreds of millions of dollars. In 1982, sales by the operations involved were \$1.5 billion.

"From a Socal perspective it doesn't come as a surprise," said Constantine Filiakos, an analyst with Merrill Lynch, Pierce, Fenner & Smith Inc. From Texaco's viewpoint, he said, the deal "doesn't make sense because they're buying weak operations."

Texaco's Mr. DeCrane noted that the planned acquisition would raise the number of Texaco's branded service stations in Europe to 6,000 and 3,400, while increasing sales there by roughly 30%. Significantly, he said Texaco's market share would rise in the countries involved to 12%-14%, from 9%-10% currently.

continued to fall in Europe this year, Texaco says its gasoline sales are up 6.5%.

"If Western Europe emerges as a more oligopolistic environment, maybe they can maintain a decent margin," said William Randol, a First Boston Corp. analyst. "If it becomes a game for just a few players, Texaco may have made a good deal."

In recent years, Gulf Oil Corp. and Standard Oil Co. of Indiana have withdrawn completely from marketing on the European mainland and most of the multinationals have sharply cut back operations. Since 1979, some 24 refineries have closed, and analysts say there is room for substantially more closings. Refineries currently are operating at 65% of capacity, according to Thomas Burns Socal's economist.

The reason for the cutbacks is that demand for oil products in Europe has fallen to 12.3 million barrels a day from 14.6 million barrels daily in 1979, due to conservation and economic recession. Most analysts say demand is unlikely to increase significantly.

Donald Ferrell, senior adviser to the operations staff of Socal, said proceeds from the sale probably won't be realized before

Dec. 31.

The sale doesn't include Socal's European jet-fuel and wholesale fuel-oil businesses, a German ethylene plant, its Italian operations and some exploration, shipping and chemical interests.

Mr. Ferrell said Socal is continuing exploratory talks with several companies that he didn't identify. The talks could lead to eventual sale of the remaining operations, he said. However, he added, "It's unlikely we'll sell the jet-fuel business. . . . It's a business that's been making money."

Mr. Ferrell said the units included in the sale contain Socal's "high-value" marketing operations.

Socal's Chevron Gives Jobs to 2 Foreign Firms

By THE WALL STREET JOURNAL Staff Reporter
SAN FRANCISCO—Standard Oil Co. of California said its Chevron U.S.A. Inc. unit awarded two contracts totaling \$50 million to two foreign companies.

Socal said the contracts are for work on a \$1 billion oil-producing platform to be constructed off the coast of central California.

A construction contract went to Hitachi Zosen Corp. of Japan and a maintenance contract went to Swissair Ltd. of Switzerland.

The company wouldn't specify the value of each contract.



THE WHITE HOUSE
WASHINGTON

DATE

11/4/83

FOR:

 RICHARD A. HAUSER

 DAVID B. WALLER

 PETER J. RUSTHOVEN

 D. EDWARD WILSON, JR.

 SHERRIE M. COOKSEY

✓ H. LAWRENCE GARRETT, III + *Ann Anderson*

✓ JOHN G. ROBERTS, JR.

FROM:

FRED F. FIELDING

The attached is for your information. ~~Please circulate and return to this office for filing.~~

Thank you.

/Attachment

**NATIONAL ACADEMY
OF PUBLIC ADMINISTRATION**
1120 G Street, N.W., Suite 540, Washington, D.C. 20005

You are cordially invited
to join the members and friends of
The National Academy of Public Administration
in celebrating the publication of

AMERICA'S UNELECTED GOVERNMENT:

Appointing the President's Team

Between 5:30 and 7:30 p.m.
on Tuesday, November 8, 1983

Richard's Seafood Company Restaurant
(second tier mezzanine)
The Pavilion at the Old Post Office
Pennsylvania Avenue & 12th Street, N.W.
Washington, D.C.

Kindly RSVP

Reply card enclosed

THE WHITE HOUSE

WASHINGTON

November 4, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Letter to James Baker Regarding U.S.
Land Frauds -- European/African Victims

G. Donald Murray III, President of Sivac, has written Mr. Baker concerning a land fraud scheme they discussed at Mandalay. The letter is somewhat rambling and confusing, but basically outlines a scheme to defraud European and African investors who thought they were investing in American land. According to Murray the plot thickened because the defrauded investors did not report the export of capital and were blackmailed. The funds were invested not in American real estate but, through kickbacks to European officials, in high-return European investments. Names like Vesco, Kornfeld, and even Sophia Loren are bandied about, with the "bad money" allegedly leading from Dutch Royalty to the Vatican.

I do not know if the Justice Department can make any sense out of Murray's letter, but they should be given the chance. I have drafted a referral memorandum to Schmuts and an acknowledgment letter to Murray. Murray styled his letter "confidential" but he obviously did not use the label in the technical sense nor do I think it should in any way affect our disposition.

Attachment

THE WHITE HOUSE

WASHINGTON

November 4, 1983

MEMORANDUM FOR EDWARD C. SCHMULTS
DEPUTY ATTORNEY GENERAL
U.S. DEPARTMENT OF JUSTICE

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

SUBJECT: Letter to James Baker Regarding U.S.
Land Frauds -- European/African Victims

The attached letter addressed to James A. Baker III, along with a copy of my reply, is forwarded for whatever action you consider appropriate.

Attachment

FFF:JGR:aea 11/4/83

bcc: FFFielding

JGRoberts

Subj

Chron

WITHDRAWAL SHEET

Ronald Reagan Library

Collection Name

ROBERTS, JOHN: FILES

Withdrawer

RB 8/4/2005
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File Folder

[CORRESPONDENCE - MISCELLANEOUS (10/27/1983 -
11/14/1983)]

FOIA

F05-139/01
COOK

Box Number

31RW

DOC Document Type

NO Document Description

*No of
pages*

Doc Date

*Restric-
tions*

1 LETTER

3 10/14/1983 B6

562

G. DONALD MURRAY III TO JAMES BAKER RE.
US LAND FRAUDS EURO/AFR. VICTIMS
182728

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]

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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

November 4, 1983

MEMORANDUM FOR EDWARD C. SCHMULTS
DEPUTY ATTORNEY GENERAL
U.S. DEPARTMENT OF JUSTICE

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FFF:JGR:aea 11/4/83

bcc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

November 4, 1983

Dear Mr. Murray:

This is written in response to your letter of October 14 to James A. Baker III, concerning an alleged land fraud scheme.

We have referred your letter to the Department of Justice for review and whatever action that department considers appropriate. Thank you for sharing your concerns on this matter with us.

Sincerely,

Orig. signed by FFF

Fred F. Fielding
Counsel to the President

Mr. G. Donald Murray III
President
Sivac
Post Office Box 126
Napa, California 94558

FFF:JGR:aea 11/4/83
bcc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

November 4, 1983

MEMORANDUM FOR JAMES A. BAKER III
ASSISTANT TO THE PRESIDENT
CHIEF OF STAFF

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

SUBJECT: Letter from G. Donald Murray Regarding
U.S. Land Frauds -- European/African Victims

Attached for your information is a copy of my response to the letter you received from G. Donald Murray, President of Sivac, concerning a scheme to defraud European and African investors.

Attachment

FFF:JGR:aea 11/4/83

cc: FFFielding
JGRoberts
Subj
Chron

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

TR003

JR

☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMINGDate Correspondence
Received (YY/MM/DD) 1 1

Name of Correspondent:

G. Donald Murray III

☐ MI Mail Report

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

Subject: letter to James Baker re: US Land Frands -
European / African Victims

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
WHOLE	ORIGINATOR	83,11,03			1 1
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	Referral Note:				
		1 1			1 1
	Referral Note:				
		1 1			1 1
	Referral Note:				
		1 1			1 1
	Referral Note:				

ACTION CODES:

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

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

DISPOSITION CODES:

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

FOR OUTGOING CORRESPONDENCE:

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

Comments:

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

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

November 8, 1983

FOR: FRED F. FIELDING
FROM: JOHN G. ROBERTS *JGR*
SUBJECT: District Lawyer Interview

You have asked for comments from me on the following proposed topics for the District Lawyer interview:

° Recent reports that Administration wants Congress to reclaim control over amendments to D.C. Criminal Code. The Home Rule Act contains several legislative veto provisions that are unconstitutional under INS v. Chadha. H.R. 3932, passed by the House, would correct the infirmities by requiring joint resolutions of disapproval before Congress could block laws passed by the D.C. City Council. The Administration position -- not yet but soon to be formally announced -- would create an exception to this approach for Titles 22, 23 and 24, the D.C. Criminal Code. In the Administration's view, laws proposed by the D.C. City Council in this area should not take effect until approved by joint resolution of Congress.

This is not, as has been reported, a dramatic shift. Titles 22, 23 and 24 are subject to special congressional scrutiny under existing law. Most D.C. City Council laws are currently subject to a two-house veto, but laws amending Titles 22, 23 and 24 are subject to a one-house veto. The legislative history of the Home Rule Act evinces heightened congressional concern over the criminal area, reflected in making it easier for Congress to block D.C. City Council acts in this area. Indeed, one of the few exercises of legislative veto power in history was in this area, when Congress blocked the City Council's "Sexual Assault Reform Act." The federal government prosecutes cases under the D.C. Criminal Code, appoints the judges who hear them, and jails the convicts. The nature of the District as the Nation's capital, with diplomats and tourists, heightens the federal interest in D.C. criminal laws, justifying special treatment of Titles 22, 23 and 24.

° New ABA Code of Ethics. I assume you are familiar with the very public dispute within the ABA concerning adoption of the new Model Rules of Professional Conduct. A copy of the rules, and several articles summarizing

them, are attached. The main dispute was over proposals that would require attorneys to disclose continuing illegal conduct by their clients. The House of Delegates rejected a rule requiring such disclosure, on grounds that it would infringe the attorney-client privilege. The new rule permits lawyers to withdraw from representation of a client engaged in illegal activity and to advise potential victims of their client that they have withdrawn -- a fairly explicit "word to the wise."

I do not know why Friedman included this topic in his list, other than for its general interest. The Administration has taken no position on the new model rules, which will likely be substantially altered by adopting states in any event.

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMINGDate Correspondence
Received (YY/MM/DD) _____

COPY

Name of Correspondent: Paul L. Friedman☐ MI Mail Report

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

Subject: Topics to be considered for interview
for District Lawyer Magazine

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)

Action
CodeTracking
Date
YY/MM/DDType
of
ResponseCompletion
Date
YY/MM/DDCW40LLORIGINATOR 83111107 S 83111108

Referral Note:

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Referral Note:

ACTION CODES:

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C - Comment/Recommendation
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to be used as Enclosure

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Type of Response = Initials of Signer
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Comments: _____

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(212) 732-1040, TELEX: 126697

125 WORTH AVENUE, PALM BEACH, FLORIDA 33480
(305) 833-1040

WHITE & CASE
1747 PENNSYLVANIA AVENUE, N. W.
WASHINGTON, D. C. 20006
(202) 872-0013
TELEX: 89543

20 PLACE VENDÔME, 75001 PARIS, FRANCE
260 34 05, TELEX 220242

66 GRESHAM ST., LONDON EC2V 7LB, ENGLAND
726-8361, TELEX: 884757

2 ICE HOUSE STREET, HONG KONG
5-253081, TELEX: 83604

PLF:PCV

November 7, 1983

HAND DELIVERY

The Honorable Fred F. Fielding
Counsel to the President
The White House
Washington, D.C. 20001

Dear Fred:

Enclosed is a list of topics that I am considering asking you about for the interview for District Lawyer magazine. If I think of any more between now and Wednesday at 2:30, they will be generally along the same lines or follow-up questions to these. I look forward to seeing you on Wednesday.

Very best regards.

Sincerely,



Paul L. Friedman

Enclosure

11/7/83

Fred Fielding Interview

1. Role of White House Counsel
 - responsibilities
 - size of staff
 - policy vs. legal advice vs. politics
 - how your role differs from Lloyd Cutler's
 - fact that James Baker, Ed Meese and Judge Clark all lawyers
 - direct access to President; frequency of meetings
2. Relationships between your office and Justice Department
 - how you work together
 - conflicts: jurisdiction; differences of opinion on issues
3. What issues have been most difficult or interesting
 - e.g., your role in Anne Burford/EPA dispute with Hill
 - e.g., your role in negotiating with House on papers relating to Reagan-Carter debates
4. Executive privilege
 - this Administration's policy
 - your role in formulating it
 - your role in negotiating with Congress (Watt, Burford)
5. Ethics issues
 - conflict of interest counsel during transition
 - Ethics in Government Act

- is Act being administered differently in this Administration
- should it be amended
- what has your experience been regarding its effect on this Administration's recruitment of appointees
- is the Act unnecessarily restrictive (post-government service)
- how should it be changed?
- has the Administration proposed changes?
- SL* → - new ABA Code of Ethics

6. Judicial selection

- how it is done in this Administration
- your role
- efforts to find women
- how this Administration views ABA Committee on Federal Judiciary
- since D.C. has no Senators, would you welcome D.C. Bar Committee on Federal Judiciary

7. D.C. issues

- RAH* {
- Appointment of local judges
 - why should President, not Mayor, appoint
 - Mathias Bill re Judicial Nominating Commission
 - Local prosecutor vs. U.S. Attorney handling local prosecutions
- SL* - Recent reports that Administration wants Congress to reclaim control over amendments to D.C. Criminal Code

- RAH {
- Recent strike by lawyers in Superior Court/FTC investigation
 - Should members of Bar who are government lawyers be permitted to take pro bono cases if they do it on their own time

8. Has fact that, unlike some of your predecessors, you are part of Washington legal establishment helped you to do your job

- Reagan (and Carter before him) anti-Washington in certain ways; yet both had White House Counsel who were part of the Washington legal establishment

9. Plans after you leave office

- when

DU 10. Once and for all, were you "Deep Throat"

THE WHITE HOUSE
WASHINGTON

November 9, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: RICHARD A. HAUSER

SUBJECT: Interview with Paul Friedman for the
District Lawyer Magazine

You have asked for my thoughts on the following D.C. issues raised by Paul:

1. Appointment of Local Judges

As of this date, President has appointed 14 judges to the Superior Court (Beaudin has not been confirmed) and three judges to the D.C. Court of Appeals. This Administration is keenly interested in the courts of the District of Columbia and in maintaining high-quality trial and appellate benches.

- o The President is not seeking candidates who necessarily agree on every position, but rather who share one key view -- that the role of the courts is to interpret the law, not to enact new law by judicial fiat.
- o The Administration is looking for lawyers who have broad legal experience, including trial experience before the court; are knowledgeable about the operation of the court; have administrative ability; and who have demonstrated excellence, competence, judicial temperament, fairness, and a devotion to public good.
- o We have on numerous occasions contacted members of the bar and urged them to encourage attorneys possessing these qualities to lend their names to the selection process.

2. Why should the President, not Mayor Appoint

It might be more appropriate to direct that question to the Congress because of the constitutional and historical background of the D.C. Court system. The District of Columbia Courts were created as Article I courts with unique interrelated federal-local authority for the Nation's capital. The expanded jurisdiction given to the courts under the "Reorganization Act", the fifteen-year term of office, and the substantial federal interest at stake argue for retention of Presidential appointment authority. Stated differently, I do not see how a change to mayoral appointments would produce any greater public benefits. As a practical matter, the prestige associated with the Presidential appointment also helps in the judicial recruitment process.

3. Mathias Bill re: Judicial Nomination Commission

We welcome the Mathias Bill as an appropriate means for re-evaluating and studying the current judicial selection process in a professional and hopefully dispassionate manner. The Mathias Bill, in addition to needed technical changes, would improve the selection process by expanding the pool of candidates and by giving the President greater flexibility in the final selection. For example, residency, (which is an emotional issue), should not be an overriding or disqualifying criterion, but candidate's interest in and commitment to the District of Columbia and its judicial system should be one of many factors to be considered.

- o The public interest is not served by limiting the President's choice to three candidates. Under the present scheme, the Commission can skew its recommendations in such a fashion that it rather than the President, becomes the, de facto, appointing authority. The Mathias Bill would give the President the opportunity to ask for additional candidates which simply would put the President and the Commission in parity.
- o Experience has shown that "independent" or "merit" judicial nomination commissions do not eliminate politics; they merely shift politics to a different level and usually without any accountability. For example, former President Carter, by executive order established so-called merit selection commissions which were sharply criticized by Common Cause for their political composition. Likewise, it is naive to think that the D.C.

Judicial Nomination Commission is divorced from politics when members are appointed by the Mayor, the City Council, and the D.C. Bar. The President can appoint only one member to the Judicial Nomination Commission. That member is at decided numerical disadvantage in protecting the federal interest.

- o In short, we support any change that will help attract highly-qualified members of the bar to the judiciary. We believe that the Mathias Bill is a step in that direction.
4. Local Prosecutor vs. U.S. Attorney Handling Local Prosecutions

I have already mentioned the unique, hybrid local-federal system that exists in the Nation's capital. I oppose a transfer of prosecutorial functions on several grounds.

- o The United States Attorney's Office of the District of Columbia is considered to be one of the best in the country, and the Department of Justice is committed to making the United States Attorney's Office a model city prosecutor's office.
- o The United States Attorney's Office plays a key role in coordinating the various criminal justice and law enforcement agencies in the District (e.g., the Hanafi case involved the Philadelphia Police Department, the D.C. Police Department, the FBI, the Secret Service and Postal inspectors; the Letelier murder, etc.)
- o Transfer of prosecution functions would also result in duplication, further fragmenting criminal justice systems, e.g., two prosecutors, two bail agencies, two public defenders, two marshals' services, etc..
- o The District of Columbia is different from any other city. "Local" crime frequently extends beyond its borders and federal process and federal agencies are required to secure witnesses and to apprehend fugitives. In addition, visitors, tourists, government officials, foreign dignitaries, and constituents all look to the federal government as the guarantor of peace in the Nation's capital.

- o The local prosecutor should, therefore, be responsive to the President and accountable to the national interest.
- o It is unlikely that the corporation counsel's office, even with additional resources, would be able to carry out the types of investigations and prosecutions that the District Attorney's Office has been so successful in doing, e.g., ABSCAM, Watergate, etc.
- o According to the National District Attorneys Association, a local prosecuting attorney should not be appointed by the Mayor because of the potential for favoritism and the appearance of such.
- o An independently elected District Attorney could refuse for any personal or political reason or whim to cooperate and indeed take action that would jeopardize the ability of the federal government to assure peace and good order in the District of Columbia. It is inconceivable that fragmenting prosecutive responsibilities in the District would result in reduced costs. Surely the District of Columbia would look to the federal government for funds because a large part of its activities would be federal in nature.

5. Recent Strikes by Lawyers in Superior Court/
FTC Investigation

I spoke with Jack Carley, General Counsel of the FTC, who indicated that the matter is currently under investigation. He suggests that you side step this question, if possible. Actually, you will recall that this was a strike by a group of "CJA-type" lawyers at Superior Court who signed a petition not to work until they received a higher hourly fee. Because they are neither employees or members of a union, they do not enjoy certain exemptions from FTC prohibitions.

6. Should Members of the Bar who are Government
Lawyers be Permitted to take pro bono Cases
if They do it on their Own Time

Yes, so long as it does not apply to the Office of Counsel to the President or otherwise create an actual or apparent conflict of interest or would in any other way compromise or impede the full discharge of their responsibilities on behalf of the government.

THE WHITE HOUSE

WASHINGTON

November 14, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Anonymous Allegations Regarding
ICC and FHA Administration Employee's
Use of Government Cars for Personal
Business

You will recall that Mr. Baker received an anonymous letter alleging misuse of government vehicles by FHA and ICC officials in New England. On October 25 I prepared two separate memoranda referring the allegations to James H. Burnley IV, General Counsel at Transportation, and John H. Broadley, General Counsel at the ICC, both of which you signed on the same day. On October 27 we received a reply from Broadley noting he had referred the matter to the appropriate ICC office; Burnley has now replied that he referred the matter to the Transportation IG. On the tracking sheet for the Burnley reply you asked: "Why didn't we send to ICC?" Answer: we did. Copies of the ICC correspondence are attached.

As with the Broadley reply, I do not think a response is necessary or appropriate to the reply from Burnley. Both replies simply advise us of the action taken and do not call for any sort of response.

Attachment

ID # 180761 CU

WH009-02

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMINGDate Correspondence
Received (YY/MM/DD) 1/1Name of Correspondent: Jim Burnley☐ MI Mail Report

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

Subject: Anonymous allegations re: ICC and
FHA administration employees use of
government cars for personal business

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>CWJOL</u>		ORIGINATOR	<u>8311112</u>			<u>1/1</u>
<u>CWAT18</u>		Referral Note:	<u>Cont. Corresp.</u>			
		<u>AS</u>	<u>8311114</u>		<u>5</u>	<u>83111124</u>
		Referral Note:				
			<u>1/1</u>			<u>1/1</u>
		Referral Note:				
			<u>1/1</u>			<u>1/1</u>
		Referral Note:				
			<u>1/1</u>			<u>1/1</u>
		Referral Note:				

ACTION CODES:

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

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

DISPOSITION CODES:

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

FOR OUTGOING CORRESPONDENCE:

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

Comments: ~~180761CU~~

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



U.S. Department of
Transportation

General Counsel

400 Seventh St., S.W.
Washington, D.C. 20590

NOV 4 1983

MEMORANDUM FOR: FRED F. FIELDING
Counsel to the President

FROM: JIM BURNLEY
General Counsel

SUBJECT: ANONYMOUS ALLEGATIONS

Your memo of October 25 forwarded a copy of an anonymous letter to White House Chief of Staff James Baker alleging that certain Interstate Commerce Commission and Federal Highway Administration employees in New England were using government cars for personal business.

I have referred the letter to DOT Inspector General Joseph P. Welsch for his review of the allegations concerning FHWA. I trust you have also forwarded a copy to the ICC for the Commission to review.

18876/ cu