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# WITHDRAWAL SHEET

## Ronald Reagan Library

**Collection Name**

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3IGP

DOC NO	Doc Type	Document Description	No of Pages	Doc Date	Restrictions	
1	MEMO	APPOINTMENT PROCESS PERSONAL INTERVIEW RECORD (PARTIAL)	1	2/14/1983	B6	427
2	MEMO	ROBERTS TO JANE DANNENHAUER RE JAMES BRYAN HYLAND	1	2/18/1983	B6	1289

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]

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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

February 14, 1983

MEMORANDUM FOR DIANNA G. HOLLAND

FROM: JOHN G. ROBERTS

SUBJECT: The Third Branch Interview

Attached are draft responses to questions 1, 2 and (at the request of RAH) 8.

Attachments

1. The functions and responsibilities of the Counsel to the President defy any easy or shorthand description. As a general matter the Office is responsible for providing advice and services on legal matters of uniquely Presidential concern. While the Department of Justice and counsels in the various departments and agencies are generally responsible for the legal work within the Executive Branch, it has been evident since the time of Franklin Roosevelt that there was a need for a focal point in the White House for legal matters affecting the Presidency. The Counsel's Office provides that focal point and, when appropriate, brings a Presidential perspective to bear on legal questions arising throughout the Government. The Office makes certain that White House decisions and actions have received proper consideration from a legal perspective, and also performs certain "general counsel" functions with respect to the White House staff. Despite the breadth of its responsibilities, the Counsel's Office has remained very small, and so we rely to the maximum extent practicable on the expertise of lawyers throughout the Executive Branch for research and other assistance.

2. I do participate in the deliberations of the Cabinet Council on Legal Policy, one of six cabinet councils formed to promote the President's desire for effective cabinet government. The Cabinet Council on Legal Policy is chaired by the Attorney General and includes the Secretaries of State, Treasury, Interior, Commerce, Labor, Health and Human Services, Housing and Urban Development, and Transportation, as well as the Vice President, the Counsellor to the President, the President's Chief of Staff, and the Assistant to the President for Policy Development. Representatives of other departments are invited to participate as appropriate.

The Cabinet Council on Legal Policy reviews legal policy questions with interdepartmental ramifications. Typical examples are issues arising in such areas as narcotics control and narcotics law enforcement, civil rights, and immigration. A good example of the work of the Cabinet Council on Legal Policy was the formation last fall of the President's broad-ranging initiative to combat organized crime and narcotics trafficking. It was evident that a serious effort to confront these two closely related threats required the resources and expertise of several departments, and the Cabinet Council on Legal Policy provided a vehicle for developing and implementing a coordinated plan of attack.

8. I do not think that the driving force behind proposals to withdraw Supreme Court jurisdiction over such matters as abortion and school prayer is a desire to ease the burden on the Supreme Court. Proponents of these proposals rather view them as a means of addressing the problem of judicial activism. This Administration has sought to promote the constitutional values of judicial restraint through other means, such as avoiding arguments in court that invite departures from judicial restraint and by appointing to the bench highly-qualified men and women who recognize the limits on the role of the judiciary in our constitutional system of separated powers.

THE WHITE HOUSE

WASHINGTON

February 15, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Proposed Executive Order Entitled  
Federal Regional Councils

Richard Darman has requested comments by close of business February 17 on a proposed executive order revoking Executive Order 12314 (July 22, 1981). That executive order created a system of Federal Regional Councils, which the President decided to abolish at the February 2, 1983 Cabinet meeting. A recent evaluation of the Federal Regional Councils determined that the Councils served no useful purpose. The proposed executive order was prepared in OMB and has been approved as to form and legality by the Department of Justice. I see no legal objection, and have prepared a memorandum to Darman to that effect for your signature.

Attachment

THE WHITE HOUSE

WASHINGTON

February 15, 1983

MEMORANDUM FOR RICHARD G. DARMAN  
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING  
COUNSEL TO THE PRESIDENT

SUBJECT: Proposed Executive Order Entitled  
Federal Regional Councils

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

FFF:JGR:aw 2/15/83

cc: FFFielding  
JGRoberts  
Subj.  
Chron



THE WHITE HOUSE  
WASHINGTON

February 15, 1983

MEMORANDUM FOR WHITE HOUSE STAFF

FROM: FRED F. FIELDING  
COUNSEL TO THE PRESIDENT

SUBJECT: Document Security

Executive Order 12356, dated April 2, 1982, establishes rules for the classification, declassification, and safeguarding of information, the unauthorized disclosure of which could adversely affect national security. The purpose of this memorandum is to advise and remind you of security regulations concerning the safeguarding of classified information, and to assist you in meeting your individual security responsibilities.

There are three categories of classified national security information. The classifications are shown in descending order of sensitivity as they appear on classified documents:

Top Secret

Secret

Confidential

Access to classified information is permitted only if the recipient satisfies a two-part test. The recipient must (1) have the requisite security clearances, and (2) have a "need to know" the information to fulfill official Government duties or contractual obligations. In each instance, those possessing classified information must establish that the recipient has the requisite clearances and need to know. If in doubt, ask.

All employees who in any way receive classified information -- whether authorized or not -- have the responsibility to guard the information against disclosure to any unauthorized person. Anyone with knowledge of the loss, temporary loss of control or possession, or other possible compromise of classified information or material must immediately report the circumstances. Before termination of employment, an employee must transfer all classified material to a proper custodian with the necessary security clearances.

Never discuss classified information over a non-secure telephone or at non-official functions. Classified material may not be duplicated except in accordance with security

regulations; Top Secret material may not be reproduced without the permission of the originating agency.

All classified information must be stored in a safe having a three-position combination lock. Never leave such material unattended, and never place it in a desk drawer or other insecure place, even "temporarily." Lock safes when they are not in use and double check all safes at the end of the day to make sure they are locked. Commit safe combinations to memory, and restrict their knowledge to those who actually need to open and close the safes. Any problems encountered in opening or securing a safe should be reported immediately.

Many offices and agencies have developed procedures for identifying and labelling information which is sensitive, even though it may not be classified as top secret, secret, or confidential because it may not reasonably be expected to affect national security. Categorizations such as "administratively sensitive" are typical examples. Employees who encounter such material should familiarize themselves with office rules concerning its dissemination, reproduction, and storage. These categorizations frequently identify material which is in some manner privileged information and/or is not to be disseminated beyond the particular office without appropriate approvals.

Any questions concerning the matters discussed in this memorandum should be directed to the Counsel's Office.

FFF:JGR:aw 2/15/83

cc: FFFielding  
JGRoberts  
Subj.  
Chron

THE WHITE HOUSE

WASHINGTON

February 15, 1983

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FFF:JGR:aw 2/15/83

cc: FFFielding  
JGRoberts  
Subj.  
Chron

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

February 16, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Testimony of Carlton Turner Before  
Subcommittee on Crime, House  
Committee on the Judiciary

Richard Darman has asked for comments to be provided directly to Ed Harper by 3:30 today on the above-referenced proposed testimony. Carlton Turner is to deliver the testimony, on the coordination of drug enforcement efforts, at 9:30 tomorrow morning. The testimony reviews the five-part federal strategy for prevention of drug abuse and drug trafficking (international cooperation, law enforcement, education and prevention, detoxification and treatment, research), and indicates that discernible progress -- in the form of declining levels of drug abuse -- is being made. The testimony discusses the history of drug law enforcement, and the executive oversight roles of Turner's own office (Director of the Drug Abuse Policy Office) and the Cabinet Councils. The testimony also surveys the LECC program (coordinating federal, state, and local resources), the FBI's new role, and the new organized crime task force initiative. Turner concludes that the current system of coordination works well.

The hearings at which Turner will testify are an outgrowth of the President's veto of the "drug czar" bill. Turner's testimony effectively reviews the existing devices for coordination. I see no legal objection, and have prepared a memorandum to Harper to that effect for your signature.

THE WHITE HOUSE

WASHINGTON

February 16, 1983

MEMORANDUM FOR EDWIN L. HARPER  
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING  
COUNSEL TO THE PRESIDENT

SUBJECT: Testimony of Carlton Turner Before  
Subcommittee on Crime, House  
Committee on the Judiciary

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

cc: Richard G. Darman

FFF:JGR:aw 2/16/83

cc: FFFielding  
JGRoberts  
Subj.  
Chron

THE WHITE HOUSE

WASHINGTON

COPY - Reagan Presidential Record

APPOINTMENT PROCESS PERSONAL INTERVIEW RECORD

DATE OF INTERVIEW: February 14, 1983 (by telephone)  
CANDIDATE: J. Brian Hyland  
POSITION: Inspector General, Department of Labor  
INTERVIEWER: John G. Roberts *per*

Comments

J. Brian Hyland is currently Deputy Inspector General at NASA. He satisfies the statutory requirements for the position of Inspector General because of his demonstrated ability in accounting, auditing, financial analysis, law, and investigations. Public Law 95-452. Mr. Hyland is past President of the Association of Federal Investigators, and is the current Vice President. He receives no salary for this position.

Mr. Hyland's financial picture is straightforward. None of his holdings or liabilities present any difficulties with the conflict-free discharge of his contemplated duties.



b6

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

February 17, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Proposed Reorganization  
of Trade Policy Process

Craig Fuller is considering options for a possible reorganization of the President's trade policy process. He has inquired if the Cabinet Council on Commerce and Trade (CCCT) could meet the requirements of 19 U.S.C. § 1872. That section requires the President to establish an interagency organization composed of the United States Trade Representative (USTR) and the heads of other departments designated by the President. The duties of this organization include:

- o assisting the President in carrying out 19 U.S.C. §§ 2251, 2252, and 2253 (International Trade Commission investigations and subsequent Presidential action);
- o making recommendations to the President on basic trade policy issues;
- o advising the President with respect to the results of 19 U.S.C. § 2412(b)(2) hearings on petitions for Presidential action to enforce a trade agreement;
- o other functions with respect to the trade agreements program as the President may designate.

The responsibilities of this statutorily mandated interagency organization have traditionally been discharged by the Trade Policy Committee, pursuant to Executive Order No. 11846, as amended.

The CCCT as presently formed cannot assume the responsibilities of the interagency organization mandated by 19 U.S.C. § 1872. A separate provision, 19 U.S.C. § 2171(c)(1)(E), specifies that the USTR shall "be chairman of the interagency trade organization established pursuant to [19 U.S.C. § 1872]." The Secretary of Commerce, however, chairs the CCCT. The legislative history of 19 U.S.C. § 1872 indicates



that the specification that the USTR chair the statutorily mandated interagency trade organization is not a mere technicality. As it passed the House, what is now 19 U.S.C. § 1872 provided that the President may designate the chairman. The Senate altered this to provide that the Special Trade Representative, predecessor to the USTR, serve as chairman because it "felt that the Chairman, if he was chosen from one of the departments, would represent more the views of that department than the overall broader perspective represented by the Special Representative." S. Rep. No. 2059 (Sept. 14, 1962).

I have drafted a memorandum for your signature to Fuller indicating that the CCCT as presently constituted cannot meet the requirements of 19 U.S.C. § 1872, due to the requirements of 19 U.S.C. § 2171(c)(1)(E).

Attachment

THE WHITE HOUSE  
WASHINGTON

February 17, 1983

MEMORANDUM FOR CRAIG L. FULLER  
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING  
COUNSEL TO THE PRESIDENT

SUBJECT: Trade Policy Process

By memorandum dated February 10 you inquired whether the Cabinet Council on Commerce and Trade could satisfy the legislative requirement that the President establish an interagency organization to advise and assist him on trade policy issues. 19 U.S.C. § 1872. You noted that the Trade Policy Committee has traditionally fulfilled this legislative mandate.

The statutory provisions establishing the Office of the United States Trade Representative specify that the USTR shall "be chairman of the interagency trade organization established pursuant to [19 U.S.C. § 1872]." 19 U.S.C. § 2171(c)(1)(E). Since the Secretary of Commerce chairs the Cabinet Council on Commerce and Trade, any effort to satisfy the requirements of 19 U.S.C. § 1872 through the Cabinet Council would conflict with 19 U.S.C. § 2171(c)(1)(E). Our research indicates that when it mandated an interagency trade organization pursuant to 19 U.S.C. § 1872, Congress specified that the chairman be the Special Trade Representative, predecessor to the USTR, because it thought a chairman from one of the departments would not have as broad a perspective on the trade issues. This specification has been carried forward as 19 U.S.C. § 2171(c)(1)(E).

Accordingly, the Cabinet Council on Commerce and Trade as presently constituted cannot be considered the organization mandated by 19 U.S.C. § 1872, since that organization must be chaired by the USTR.

FFF:JGR:aw 2/17/83

cc: FFFielding  
JGRoberts  
Subj.  
Chron

THE WHITE HOUSE

WASHINGTON

February 17, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*  
SUBJECT: Speaking Engagement in France  
for Morton Blackwell

Attached is the Morton Blackwell package, with a fresh memorandum to Blackwell for your signature. I have enclosed a copy of the OLC opinion we discussed this morning for your information.

Attachment

THE WHITE HOUSE

WASHINGTON

February 17, 1983

MEMORANDUM FOR MORTON C. BLACKWELL  
SPECIAL ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING  
COUNSEL TO THE PRESIDENT

SUBJECT: Invitation to Appear Before Mouvement des  
Jeunes Pour la Liberte de l'Enseignement

You have inquired whether it would be appropriate for you to accept the invitation of the Mouvement des Jeunes Pour la Liberte de l'Enseignement (MJLE) to appear before a group of student leaders in Paris, and whether it would be appropriate to accept reimbursement for expenses from MJLE. Since MJLE appears to be the French equivalent of the sort of domestic organization within the purview of your official liaison duties, the contemplated trip must be considered official travel. You may not accept reimbursement of expenses for official travel, since doing so would constitute an unauthorized supplementation of appropriations.

It is often difficult to draw the line between official and personal travel, but, as noted in my August 24, 1981 memorandum to the White House Staff on acceptance of transportation and travel-related expenses, "any doubt as to the appropriateness of accepting travel expenses or reimbursement . . . must be resolved in favor of not accepting." (Emphasis in original). While there is an exception to the general rule for reimbursement from 501(c)(3) organizations, 5 U.S.C. § 4111, the exception does not apply to foreign organizations, no matter how similar they may be to domestic 501(c)(3) organizations.

If the trip is undertaken as official travel, it must be paid for out of appropriated funds. Although the trip must be considered official for purposes of determining if reimbursement is appropriate, I think you will agree that a serious appearance problem would be raised by official travel to Paris to appear before MJLE.

In light of the foregoing, I must advise against acceptance of the invitation.

Thank you for bringing this matter to our attention.

FFF:JGR:aw 2/19/83  
cc: FFFielding/JGRoberts/Subj./Chron

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

February 15, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Request of Kathleen Olson, President's  
Committee on Employment of the Handicapped,  
for Permission to Use Presidential Seal

On January 21, 1983, Kathleen Olson, National Chairperson of the Governor's Committees on Employment of the Handicapped and a Chairman-appointed member of the President's Committee on Employment of the Handicapped (PCEH), wrote to her Senator, Senator Laxalt, seeking his help in obtaining permission to use the Presidential Seal on invitations to the PCEH Annual Meeting. Olson stated that PCEH invitations bore the seal for many years, but that this privilege was revoked last year "because of newly established policies and procedures." Last year, acting on the December 1980 approval of Doug Huron, PCEH sent out invitations stating "The President invites . . ." and bearing the Seal. This came to Richard Darman's attention and the Clerk's Office contacted PCEH, advising them that their use of the Seal was not permitted.

I recommend responding to Olson by citing the authority for the limited uses of the Seal and advising her that the contemplated use on PCEH invitations is not within the permitted uses. 18 U.S.C. § 713(b), the pertinent provision, does not apply to the "manufacture or sale of the article [bearing the Seal] for the official use of the Government of the United States." In light of the established policy of restricting use of the Seal by Presidential Committees, Task Forces, and the like, I assume such uses are not considered use by the Government of the United States.

I have drafted a proposed letter to Olson, and another to Senator Laxalt, transmitting copies of the correspondence for his information.

Attachment

THE WHITE HOUSE

WASHINGTON

February 16, 1983

Dear Ms. Olson:

Senator Laxalt has forwarded to me a copy of your January 21, 1983 letter to him. In that letter you indicated a desire to use the Presidential Seal on invitations to the Annual Meeting of the President's Committee on Employment of the Handicapped.

Title 18 of the United States Code, Section 713, is the principal federal law governing the use of the Seal of the President of the United States. Section 713 proscribes use of the Presidential Seal except as authorized under regulations promulgated by the President. The regulations to which reference is made are embodied in Executive Order 11649 (February 16, 1972), as amended by Executive Order 11916 (May 28, 1976). I attach for your information a copy of 18 U.S.C. § 713, the notes to which contain the pertinent Executive Order. You will note that the permitted uses of the Seal are limited by law. As a matter of policy, the Administration adheres to these regulations when responding to requests on use of the Seal.

I must advise you that, in accordance with the requirements and policies outlined above, we cannot approve your proposed use of the Seal. I trust you can appreciate the need for this determination. Best of luck with your planning for the Annual Meeting, which I am confident will be a success.

Sincerely,

Fred F. Fielding  
Counsel to the President

Ms. Kathleen E. Olson  
Executive Director  
Governor's Committee on Employment  
of the Handicapped  
Kinkead Building, Fifth Floor  
505 East King Street  
Carson City, Nevada 89710

Attachment

FFF:JGR:aw 2/16/83  
cc: FFFielding/JGRoberts/Subj./Chron

THE WHITE HOUSE  
WASHINGTON

February 16, 1983

Dear Senator Laxalt:

You recently transmitted to this office a letter from a constituent, Kathleen E. Olson, seeking guidance on the use of the Seal of the President. I attach for your information a copy of our reply.

Please do not hesitate to contact this office if we may be of any further assistance.

Sincerely,

Fred F. Fielding  
Counsel to the President

The Honorable Paul Laxalt  
United States Senate  
Washington, D.C. 20510

Attachment

FFF:JGR:aw 2/16/83

cc: FFFielding  
JGRoberts  
Subj.  
Chron

THE WHITE HOUSE  
WASHINGTON

February 18, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Draft Proclamation Designating the  
Week of March 20, 1983, as "National  
Poison Prevention Week"

Dodie Livingston, for Richard Darman, has requested comments by close of business February 22 on the above-referenced draft proclamation. Congress, by joint resolution passed in 1961, 75 Stat. 681, has requested the President to issue an annual proclamation designating the third week in March as National Poison Prevention Week. The draft proclamation does so, and I see no legal objection to it.

The first sentence of the third paragraph is stylistically absurd: poison centers are not after-the-fact treatment. Presumably, they are buildings. I suggest changing "they are often 'after-the-fact' treatment" to "they often provide 'after-the-fact' treatment." I have prepared a draft memorandum to Livingston for your signature.

Attachment



THE WHITE HOUSE

WASHINGTON

February 18, 1983

MEMORANDUM FOR DODIE LIVINGSTON

FROM: FRED F. FIELDING

SUBJECT: Draft Proclamation Designating the  
Week of March 20, 1983, as "National  
Poison Prevention Week"

Counsel's Office has reviewed the above-referenced draft proclamation and has no legal objection to it. We do, however, find the first sentence of the third paragraph stylistically awkward and suggest changing it to read: "While poison centers have proved invaluable, they often provide 'after-the-fact' treatment."

FFF:JGR:aw 2/18/83

cc: FFFielding  
JGRoberts  
Subj.  
Chron

THE WHITE HOUSE

WASHINGTON

February 18, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*  
SUBJECT: Proposed Executive Order Entitled  
Federal Regional Councils

You have already signed a memorandum to Darman indicating that we have no legal objection to the above-referenced proposed executive order abolishing the Federal Regional Councils. Roger Porter wants to change the wording of the order, which now notes that the councils have proved not to serve any useful purpose, to language stating that the councils are no longer needed or have outlined their usefulness. I see no legal objection.

Attachment

THE WHITE HOUSE

WASHINGTON

February 18, 1983

MEMORANDUM FOR RICHARD G. DARMAN  
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING  
COUNSEL TO THE PRESIDENT

SUBJECT: Proposed Executive Order Entitled  
Federal Regional Councils

Counsel's Office finds no legal objection to the proposed revision of the above-referenced draft executive order suggested by Roger B. Porter.

FFF:JGR:aw 2/18/83

cc: FFFielding  
JGRoberts  
Subj.  
Chron

# WITHDRAWAL SHEET

## Ronald Reagan Library

*Collection Name*

Roberts, John

*Withdrawer*

IGP 8/3/2005

*File Folder*

CHRON FILE (02/11/1983 - 02/23/1983)

*FOIA*

F05-139/01

COOK

*Box Number*

3IGP

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*DOC Document Type*

*NO Document Description*

*No of Doc Date Restriction*  
*pages*

2 MEMO

1 2/18/1983 B6

1289

ROBERTS TO JANE DANNENHAUER RE JAMES  
BRYAN HYLAND

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

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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

February 18, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Remarks Before the Y-Group  
Four Seasons Hotel, February 23

Attached is a first draft of suggested remarks for your appearance before the Y-Group on Wednesday, February 23. The Y-Group is composed of chief or senior executive officers of leading corporations and is purportedly intended "to encourage businessmen generally to take a more active interest in the affairs and politics of our country." I therefore thought the audience might be interested in your views on the transition from the private sector to public service. The invitation notes that meetings of the group are informal and consist of "some comments followed by a question and answer period." I would be happy to work on any necessary revisions.

Attachment

THE WHITE HOUSE

WASHINGTON

February 22, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Proposed Testimony of Stan Morris  
on Justice System Improvement Act

Stan Morris has submitted testimony he proposes to deliver on February 23 before the House Judiciary Committee Subcommittee on Crime. The testimony details the work of the Bureau of Justice Statistics (BJS) and the National Institute of Justice (NIJ), indicates Administration support for what is essentially a "mini-LEAA" program, and describes the Administration proposal to create an Office of Justice Assistance headed by a new Assistant Attorney General. The testimony is occasioned by the imminent (September 30) expiration of the programs authorized by the Justice Systems Improvement Act, including BJS and NIJ.

1. The review of the work of BJS and NIJ is generally non-controversial, except for a reference to the recent NIJ exclusionary rule study. This study found that 30% of those arrested for drug felonies in Los Angeles in 1981 were released because of perceived exclusionary rule problems. The study, referred to in President Reagan's speech on Friday before the Conservative Political Action Conference, refutes the implications of a previously much-touted GAO study on court dismissals of federal prosecutions because of the exclusionary rule. The NIJ study is being used in the Administration campaign to reform the exclusionary rule, and unsympathetic subcommittee members may view it as evidence of the "politicization" of the research and statistics agencies within DOJ.

2. Morris states that the Administration agreed, after meetings with the Subcommittee Chairman and Ranking Minority Member, and members of the Senate, "to endorse the concept of a modest, highly targetted program of assistance to state and local criminal justice operating from within a streamlined and efficient organizational structure." The proposal he details calls for proportional allocation to each state of 50/50 Federal matching funds, the Federal funding of any project to last no more than three years.

3. The reorganization proposal would establish the Office of Justice Assistance, headed by a new Assistant Attorney General. The Office would supervise BJS, NIJ, and a new Bureau of Justice Programs (BJP), each headed by a director appointed by the Attorney General. BJP would administer the new mini-LEAA program. The new Assistant Attorney General would be advised by a board appointed by the President, which would replace the current separate Presidential boards advising NIJ and BJS.

The current situation at BJS and NIJ is intolerable. Presidential appointees or prospective Presidential appointees -- the directors of NIJ and BJS -- report to the Attorney General through a career official, the Acting (for two years) Director of the Office of Justice Assistance, Research, and Statistics (OJARS). Apparently the appointment of a new OJARS director has been postponed pending the reorganization described in this testimony. I see no objection to the contemplated reorganization, but the Congress may object to having NIJ, BJS, and BJP directors appointed by the Attorney General rather than the President, since this removes the Senate's advice and consent role over what can be sensitive positions. In this regard, it may be advisable to have Morris delete the paragraph-long reference to NIJ's exclusionary rule study, since that reference highlights the political sensitivity of the area. I do not, however, feel strongly about this. I can call Morris with the suggested deletion if you agree.

THE WHITE HOUSE

WASHINGTON

February 22, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Proposed Testimony of Gary Liming, Deputy  
Assistant Administrator of DEA, on Organized  
Crime in the Mid-Atlantic Region

The above-referenced testimony is scheduled to be delivered February 23 before the Permanent Subcommittee on Investigations of the Senate Committee on Governmental Affairs. The testimony concerns two themes: the involvement of Mid-Atlantic Mafia families and the Pagan motorcycle gang in drug trafficking. It describes the drug dealings of the New Jersey Gambino family and the links between this family and Sicilian heroin sources. The testimony also covers the growing involvement of the Philadelphia Bruno family in methamphetamine production and distribution. Finally, the testimony describes the growth, organization, and activities of the Pagan motorcycle gang, founded in Prince George's County 24 years ago, and now active throughout the Mid-Atlantic area. I see no legal objection to the testimony.



THE WHITE HOUSE

WASHINGTON

February 23, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Testimony by the Attorney General Concerning  
the Immigration Reform and Control Act

The Department of Justice has submitted the above-referenced testimony, to be delivered on February 28, for OMB clearance. Senator Simpson, before whose subcommittee the Attorney General will be testifying, has introduced as S. 529 the immigration legislation which overwhelmingly passed the Senate in the last Congress. The proposed testimony reiterates Administration support for this legislation. The core of the bill is the provision of employer sanctions, to discourage the hiring of illegal aliens, and the grant of legal resident status to most illegal aliens currently residing in the United States. The Attorney General's testimony suggests a few technical changes in S. 529, but generally tracks his earlier testimony on immigration reform. I see no legal objections.

THE WHITE HOUSE

WASHINGTON

February 23, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Proposal for Mrs. Reagan to Serve as  
Honorary Chairman of Foster Grandparent  
Night at the Boston Pops

Sheryl Eberly of Mrs. Reagan's office has asked if there are any problems with Mrs. Reagan lending her name as Honorary Chairman of a Foster Grandparent Night to be staged by the Boston Pops Orchestra. Mrs. Reagan's name would be printed as Honorary Chairman on stationery used both to solicit funds to pay for the concert and to support the Foster Grandparent Program. Eberly indicates that they would like to participate in this effort.

There are no legal bars to Mrs. Reagan agreeing to permit her name to be used as Honorary Chairman of this event. Since this is in fact Mrs. Reagan's favorite charity, and since she apparently wants to lend her name, prudential concerns about showing favoritism would not seem applicable. Our memorandum to Eberly should point out that Mrs. Reagan's name should not be used by the sponsors of the event in any fashion that suggests individuals or groups participating in the Foster Grandparent Night will gain any influence with the White House.

THE WHITE HOUSE

WASHINGTON

February 23, 1983

MEMORANDUM FOR SHERYL EBERLY

FROM: FRED F. FIELDING

SUBJECT: Proposal for Mrs. Reagan to Serve  
as Honorary Chairman of Foster  
Grandparent Night at the Boston Pops

You have inquired if there are any legal problems with Mrs. Reagan lending her name as Honorary Chairman of the Foster Grandparent Night to be staged by the Boston Pops Orchestra. We see no legal impediments to this proposal.

The sponsors of the event must, however, be careful in their use of Mrs. Reagan's name. The First Lady's name may not be used in a manner that suggests that individuals or groups participating in the Foster Grandparent Night will derive any benefit from that participation in dealings they may have with the White House or Federal Government generally. If any questions arise in this regard, please contact this office for specific guidance.

Thank you for bringing this matter to our attention.

FFF:JGR:aw 2/23/83

cc: FFFielding  
JGRoberts  
Subj.  
Chron

THE WHITE HOUSE

WASHINGTON

February 23, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Daniel Greene Inquiry Concerning Portraits  
of the President and Mrs. Reagan

Senator Laxalt forwarded to Michael Deaver an inquiry from portrait artist Daniel Greene, and Deaver has asked us to respond directly to Greene on behalf of Senator Laxalt. Greene did Laxalt's portrait as Governor of Utah, and has offered to paint the President and Mrs. Reagan "entirely on speculation at no cost or obligation to anyone." Greene requests two separate sittings. He hopes the portraits would be acceptable and be purchased as the official portraits.

White House Curator Clem Conger advises that the Reagans have not yet decided when their official portraits will be done. Once a First Couple decides to begin portrait planning, the Curator normally reviews several portfolios with the Couple, who then select an artist. Conger states that the idea of an artist doing a portrait "entirely on speculation" is not at all new, and that he has frequently refused sittings to other artists with similar proposals in the past.

I recommend advising Greene that portrait planning has not yet begun, that we cannot accept his offer to paint the Reagans "on speculation" since so many such requests are received and routinely denied, and that we have forwarded his portfolio material to Conger.

Attached are a draft letter to Greene, a letter to Laxalt advising him of this disposition, a memorandum to Conger forwarding Greene's materials, and a memorandum to Deaver with copies of the foregoing.

Attachments

*See March 15*

THE WHITE HOUSE

WASHINGTON

February 23, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Proposed Testimony of Allen F. Breed,  
Director of the National Institute of  
Corrections, Before the Subcommittee  
on Courts, Civil Liberties and the  
Administration of Justice of the  
House Judiciary Committee

The above-referenced testimony is scheduled to be delivered tomorrow, and the Department of Justice has requested OMB clearance. There is much in the proposed testimony that is problematic and perhaps even inconsistent with Administration policy. The testimony details the severe overcrowding problem confronting state and local corrections systems and suggests that increased prison and jail construction is not a feasible solution: "Just as we learned in the last century that there is no such thing as a free lunch, we now need to learn that locking people up is not a cost-free solution to an excessively high crime rate" (p. 8). Much of the anti-crime rhetoric of the Administration has been along the "lock 'em up" line, however, as have some concrete proposals, such as abolition of parole, no bail for dangerous offenders, mandatory sentences for firearms violators, and so on. The testimony ignores what, for want of a better term, may be called the supply side theory of corrections: as we lock up more offenders, crime rates will go down, reducing the flow of offenders into prisons.

Much of the testimony criticizes States for reducing corrections budgets, and draws a direct link between these reductions and prison disturbances. In terms of specific federal proposals, the testimony urges:

1. passing legislation permitting donation of surplus Federal property for use by states as correctional facilities,
2. earmarking money from the jobs bill for prison construction and repair,

3. authorizing federal loans for prison construction,  
and

4. devising tax incentives for private firms to  
construct and operate prisons.

OMB advises that it has serious problems with the testimony, and has raised these problems with Mike Uhlmann. Uhlmann is going to determine if the testimony has received any policy review at DOJ (I strongly suspect it has not). The end result will be either substantial changes or postponement of the testimony. Since the concerns raised by the testimony are being addressed - and we will be kept advised -- I see no need for any action by this office at this time.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

February 23, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Proposed Presidential Letter to  
Senator Hawkins Re: National  
Foundation on Youth and Drugs

Richard Darman has requested comments by close of business today on a proposed letter from the President to Senator Hawkins. The letter, prepared in Dr. Carlton Turner's Office, congratulates Hawkins on the establishment of the National Foundation on Youth and Drugs. This foundation is a 501(c)(3) organization, devoted to making the public more aware of the dangers of drug abuse. According to Dr. Turner, Senator Hawkins coordinated with the First Lady's staff and his office in developing the idea for the foundation. The proposed letter discusses the need to correct the artificial glamorization of drugs in the advertising and entertainment industries through public service messages, the intended focus of the foundation.

I see no legal objection to the letter. As a very general matter, we try to avoid Presidential endorsement of specific 501(c)(3) groups, so that we are not accused of favoritism in the often competitive charity business. This foundation, however, was established with the encouragement of the President's Drug Adviser and the First Lady, and a congratulatory letter on the occasion of its founding strikes me as unobjectionable.

THE WHITE HOUSE  
WASHINGTON

February 23, 1983

MEMORANDUM FOR RICHARD G. DARMAN  
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING  
COUNSEL TO THE PRESIDENT

SUBJECT: Proposed Presidential Letter to  
Senator Hawkins Re: National  
Foundation on Youth and Drugs

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

FFF:JGR:aw

cc: FFFielding  
JGRoberts  
Subj.  
Chron