WITHDRAWAL SHEET

Ronald Reagan Library

Collection Name

Withdrawer
CAS 8/30/2005

File Folder CHRON FILE (4/21/84-4/30/84)

FOIA
F05-139/01

Box Number 63

COOK
38CAS

DOC NO	Doc Type	Document Description	No of Pages	Doc Date	Restrictions	
1	LETTER	ROBERTS TO MICHAEL BOUDIN RE FRIENDLY DINNER (OPEN IN WHOLE)	1	4/27/1984	B6	1294
2	LETTER	BOUDIN TO JUDGE FRIENDLY'S PAST AND PRESENT CLERKS (OPEN IN WHOLE)	1	4/26/1984	B6	1295

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

B-1 National security classified information [(b)(1) of the FOIA]
B-2 Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
B-3 Release would violate a Federal statute [(b)(3) of the FOIA]
B-4 Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
B-6 Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
B-7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
B-8 Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
B-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

E.O. 13233

C. Closed in accordance with restrictions contained in donor's deed of gift.

THE WHITE HOUSE

WASHINGTON

April 23, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Statement of Mark Richard Concerning the Comprehensive Crime Control Act of 1984 on April 25, 1984

We have been provided with a copy of testimony Deputy Assistant Attorney General Mark Richard proposes to deliver on April 25 before the Subcommittee on Criminal Justice of the House Judiciary Committee on obtaining evidence from abroad in criminal cases. The testimony expresses general support for H.R. 5406 and the pertinent provisions of S. 1726, which would permit the admission into evidence of foreign records of a regularly conducted activity. Presently such records, typically foreign court or business records, can only be admitted upon cross-examined testimony of their custodian. When the custodian is a foreign official, such required testimony is difficult or impossible to obtain, at least without going through the arduous letters rogatory process. H.R. 5406 and the pertinent provisions of S. 1726 would authorize the admission of foreign documents accompanied by an appropriate certification of authenticity, after prior notice to the opposing party.

In addition to supporting these efforts to facilitate the handling of transnational cases, Richard also urges that the Subcommittee provide that the time spent in diligent efforts to secure foreign evidence not be counted in Speedy Trial Act calculations, and that the government be permitted to apply for an extension of any applicable statute of limitations to obtain such evidence. According to the testimony, Speedy Trial Act and statute of limitations problems are particularly acute when it is necessary to obtain evidence from abroad, and the drug dealers or commercial fraud perpetrators involved in major transnational cases should not be permitted to escape justice simply because their activities span several borders. As an example of the difficulties involved, Richard appends to his testimony a synopsis of a completed commercial fraud case in which it was necessary to obtain evidence from Switzerland, Liechtenstein, Bermuda, and the Cayman Islands.

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

THE WHITE HOUSE

WASHINGTON

April 23, 1984

MEMORANDUM FOR GREGORY JONES
LEGISLATIVE ATTORNEY
OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Statement of Mark Richard Concerning the Comprehensive Crime Control Act of 1984 on April 25, 1984

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

FFF:JGR:aea 4/23/84
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 23, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Statement of Tom Healey Concerning S. 1858/H.R. 3932, D.C. Chadha on Wednesday, April 25, 1984

OMB has asked for our views by 4:00 p.m. today on testimony Assistant Secretary of the Treasury Tom Healey would like to deliver on Wednesday before the Senate Subcommittee on Governmental Efficiency and the District of Columbia concerning the D.C. Chadha problem. Treasury is interested in the D.C. Chadha problem because until it is resolved the District cannot enter the bond market and must instead borrow funds for certain requirements from the Treasury. The District cannot enter the bond market because it cannot obtain an unqualified bond counsel opinion with the Chadha cloud over the District's legal authority.

Both Justice and OMB are opposed to Treasury testifying at all. The D.C. Chadha issue is most advantageously posed for us in terms of the criminal justice implications; the bond authority issue obfuscates matters and, as far as Treasury is concerned, it is more important that the issue be resolved than that it be resolved in any particular manner. In short, Treasury does not share our interests in this matter, and in stressing the need for expeditious resolution may actually harm the Administration position, since the most expeditious way to resolve the crisis would be for the Senate to pass the District's bill, which has already passed the House. I recommend that we concur with the Justice and OMB view that Treasury not testify.

There are also several errors in the substance of the proposed testimony, which we should highlight in the event Treasury does testify. In the first full paragraph on page 3 Healey asserts that the Court's opinion in Chadha contained "a general statement that unconstitutional veto provisions are severable from the remainder of the affected acts," and that the opinion "does not include the Home Rule Act among those Federal statutes identified as affected." Both statements are misleading. The opinion does not contain a general statement that unconstitutional veto provisions are severable; it simply states the test that invalid portions of a statute are to be severed unless the

Legislature would not have enacted the statute without the invalid provision. See slip op., at 10. Further, the Chief Justice's opinion does not contain a list of statutes affected by the ruling, so the fact that the Home Rule Act does not appear in such a list is meaningless. The paragraph is an obvious effort to suggest that the Home Rule Act is unaffected by Chadha, even though the Justice Department has determined that it is and has so argued in court. The paragraph, other than the first sentence, should be deleted.

The second paragraph on page 4, and the carryover paragraph between pages 4 and 5, suggest that the matter could be resolved by adding a severability clause to the Home Rule Act. The last sentence on page 4 further suggests that the Justice opposition to the pending District bill is based on elements "other than the severability provision." While this is true with respect to the Justice letter of November 15, 1983, the severability issue was not specifically raised or addressed at that time. In its later letter sent March 12, 1984, specifically addressed to the proposal to add a severability clause to the Home Rule Act, Justice noted the Administration's firm opposition to this approach. (Adding a severability clause would, in effect, give the District everything it is asking for, since the severability clause would result in the legislative vetoes being stricken, with nothing in their place. End result: Congress must pass a joint resolution of disapproval to block District actions.) Both the first full paragraph on page 4 and the carryover paragraph between pages 4 and 5 should be deleted.

The attached draft memorandum for OMB agrees with Justice and OMB that Treasury should not testify, and recommends the above changes should that view not prevail.

Attachment

cc: Richard A. Hauser

THE WHITE HOUSE

WASHINGTON

April 23, 1984

MEMORANDUM FOR JANET M. FOX
LEGISLATIVE ANALYST
OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Statement of Tom Healey Concerning S. 1858/H.R. 3932, D.C. Chadha on Wednesday, April 25, 1984

Counsel's Office has reviewed the above-referenced proposed testimony. I agree with the recommendation of OMB and the Department of Justice that Treasury not appear at the hearing. Treasury's interest is simply that the D.C. Chadha problem be resolved as expeditiously as possible; Treasury has no real institutional interest in how the problem is resolved. That, however, is precisely the issue that has been joined, and it seems best to limit Administration testing on this issue to those agencies affected by the answer to that question.

If the proposed Treasury testimony is to be delivered, several corrections will have to be made. All but the first sentence of the first full paragraph on page 3 should be deleted. The second sentence is inaccurate: the Court's opinion does not contain a general statement that unconstitutional veto provisions are severable. Rather, the opinion states the pertinent test, which is that unconstitutional provisions are severable unless the Legislature would not have enacted the statute without the invalid provisions. This hardly constitutes a general statement that veto provisions are severable. The third sentence, stating that the Home Rule Act was not among the Federal statutes cited as affected by the Court's opinion, is very misleading, since the opinion contained no such comprehensive list of affected statutes.

We also recommend deleting the first full paragraph on page 4, and the carryover paragraph between pages 4 and 5. These paragraphs suggest that the problem could be resolved by adding a severability clause to the Home Rule Act, and the fourth sentence of the carryover paragraph notes that the Justice letter of November 15, 1983, opposed H.R. 3932 on grounds "other than the severability provision." Justice's letter of March 12, 1984, however, specifically opposed the severability approach.

FFF:JGR:aea 4/23/84
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 23, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: More Video Tape on Voluntarism

You will recall that Jim Coyne asked for our views on how to accept $20,000 from DuPont to fund completion of a video tape project undertaken by his office. Last week you advised Coyne that acceptance of the money would constitute an illegal supplementation of appropriations, whether the money was provided directly to Coyne's office or through a 501(c)(3) organization. Your memorandum (attached) suggested that Coyne either use appropriated funds to pay for his office's project, or turn the material over to a 501(c)(3) organization for completion. The finished product would then be the property of the 501(c)(3) organization.

It appears that your memorandum on this subject crossed in the mail with the present memorandum from Coyne. In the instant memorandum, Coyne notes that Howard K. Smith will tape the narrative to accompany the video tape on Tuesday, April 24, and Coyne submits the script for your review. He also notes that the tape will "be a product of the President's Advisory Council on Private Sector Initiatives."

As is so often the case with Coyne, it is the unasked questions that raise the most serious concerns. I have read through the script and have no objections. It is not clear, however, who is funding the filming. We should admonish Coyne that any such activity must be consistent with our prior memorandum specifically addressed to that question.

Coyne's statement that the video tape will be a product of the Advisory Council also raises concerns. Coyne may be trying to circumvent limits on his office's activities by having the Advisory Council act in his stead. The statement that the video tape will be a product of the Advisory Council, and earlier efforts by Coyne to involve the Advisory Council in actual fundraising, suggest that he is insufficiently sensitive to the fact that the Advisory Council is limited by law to advisory functions.

Executive Order 12427 (June 27, 1983) specified that the Advisory Council was established "in accordance with the provisions of the Federal Advisory Committee Act." That act provides that "[u]nless otherwise specifically provided by statute or Presidential directive, advisory committees shall be utilized solely for advisory functions." 5 U.S.C. App. I § 9(b). The Executive Order, far from specifically providing otherwise, reaffirms that the Advisory Council is limited to advisory functions. The sole function of the Advisory Council under the Executive Order is to "advise the President, through the White House Office of Private Sector Initiatives, with respect to the objectives and conduct of private sector initiative policies including methods of increasing public awareness of the importance of public/private partnerships; removing barriers to development of effective social service programs which are administered by private organizations; and strengthening the professional resources of the private social service sector."

The Federal Advisory Committee Act does not define "advisory functions," nor have there been any court decisions interpreting the term. If the limitation is to have any meaning, however, it would seem that producing a video tape for mass distribution goes beyond giving "advice" to the President. Last week you signed a memorandum prepared by Sherrie Cooksey (attached) advising Coyne that the Advisory Council was limited to advisory functions, and accordingly could not engage in fundraising. We should reiterate the limitation and note that it applies to producing video tapes for mass distribution.

A memorandum for Coyne is attached for your review and signature.

Attachment

THE WHITE HOUSE

WASHINGTON

April 23, 1984

MEMORANDUM FOR JAMES K. COYNE
SPECIAL ASSISTANT TO THE PRESIDENT
FOR PRIVATE SECTOR INITIATIVES

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: More Video Tape on Voluntarism

You have asked for our views on a script prepared for use in connection with the planned video tape on voluntarism. You noted in your memorandum that the video tape will be a product of the President's Advisory Council on Private Sector Initiatives.

I assume that your memorandum "crossed in the mail" with my memoranda on the video tape project and the activities of the Advisory Council. Your latest memorandum on this subject does not discuss how the project is to be funded. I would only reiterate that any funding must be consistent with the advice in my memorandum entitled "Video Tape on Voluntarism."

In addition, your statement that the video tape will be a product of the Advisory Council also raises concerns. As I noted in my recent memorandum for you entitled "Guidelines for Fundraising Activities," the Advisory Council is limited by law to purely advisory functions. Executive Order 12427 established the Advisory Council subject to the Federal Advisory Committee Act, 5 U.S.C. App. I. That Act provides that "advisory committees shall be utilized solely for advisory functions." 5 U.S.C. App. I § 9(b). The Executive Order confirms this limitation, specifying as the sole function of the Advisory Council the giving of advice to the President, through your office. Production of a video tape for general distribution clearly exceeds this legal limitation, and accordingly the Advisory Council cannot produce the tape.

FFF:JGR:aea 4/23/84
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 23, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Portal-to-Portal Legislation

Joe Wright has sent over draft portal-to-portal legislation suggested by GAO. According to Wright, GAO would be happy to introduce the legislation, and is currently checking with the members of the appropriate committees to determine when the legislation should be introduced (this year or next). Wright notes we should get back to GAO on their proposal "within the next week or so," and GAO will then let us know when the legislation should be introduced, and an understanding can be reached concerning GAO review of vehicle use.

The GAO bill would extend portal-to-portal rights far beyond current law, current practice, and the Administration proposal. In addition to those currently entitled to portal-to-portal service, the GAO bill would permit such service for:

-- the Vice President

-- Assistants to the President, paid at level II, as designated by the President

-- the deputy heads as well as the heads of the Executive Departments

-- the heads and deputy heads of (interestingly) GAO and OMB

-- the heads of all Executive Agencies paid at level II, except for "independent agencies" listed at 44 U.S.C. § 3502(10)

-- the Joint Chiefs of Staff, the Under Secretaries of Defense and State, and the Counsellor of the State Department

-- such members and employees of Congress as each House may by rule direct

-- the nine Supreme Court Justices.

The GAO bill would also permit portal-to-portal service on a temporary basis when the agency head determines that an emergency exists and that such service is essential for "safety, security, or other operational considerations." Finally, the GAO bill would permit a determination that spousal transportation was transportation for an official purpose when it was "incident to the performance of official business by the listed officer, employee, or member."

The GAO bill, in my view, goes far beyond what is necessary to address the crisis engendered by last summer's GAO opinion. Our interest in this area has been limited to correcting the adverse effects of that opinion and legitimizing established practice; we certainly have no interest in extending portal-to-portal service to Congressmen and Congressional staff (a potentially unlimited number) or Supreme Court justices. Were we to support this bill we would not be able to defend it as simply correcting a rogue GAO opinion and authorizing what has been accepted practice through several administrations of both parties. The bill greatly expands "limousine service" throughout the government, and will be criticized on that basis. To the extent the Administration as opposed to GAO must defend it -- and, after all, the President will have to sign it -- the political costs of this bill could far exceed the costs of more modest proposals addressed to the GAO opinion.

Since you have discussed this matter with Wright and others I will await further guidance before preparing a memorandum for Wright.

Attachment

THE WHITE HOUSE

WASHINGTON

April 24, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Revised Draft Proclamation: Missing Children Day, 1984

Earlier this month Dodie Livingston's office asked for our comments on a proposed Presidential proclamation designating May 25 as Missing Children Day. By memorandum dated April 4 (attached), you recommended against issuing such a proclamation, noting that it was neither traditional nor requested by Congress. A Missing Children Day proclamation was issued last year, in response to a personal plea to the President from Senator Hawkins. It was not, however, understood that issuance of the proclamation would become an annual event. Your memorandum also noted that if the proclamation were issued it would have to be changed. The draft submitted for clearance was simply a verbatim repeat of last year's proclamation.

Livingston has now resubmitted a new draft of a Missing Children Day proclamation. This draft differs from last year's, and highlights the new National Center for Missing and Exploited Children being established at the Justice Department. I have no objection to the content of the proclamation, but our objections to issuing any such proclamation still apply and, in my view, should be reiterated.

Attachment

THE WHITE HOUSE

WASHINGTON

April 24, 1984

MEMORANDUM FOR DODIE LIVINGSTON
SPECIAL ASSISTANT TO THE PRESIDENT
DIRECTOR, SPECIAL PRESIDENTIAL MESSAGES

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Revised Draft Proclamation:
Missing Children Day, 1984

You have asked for our comments on a revised draft of the proposed Missing Children Day proclamation. As I noted in my memorandum of April 4 on the earlier draft, a Missing Children Day proclamation is neither traditional nor has it been requested by Congress. Issuance of such a proclamation would, accordingly, contravene established White House policy. While it would not be "illegal" to issue the proclamation, I continue to be of the view that no compelling circumstances have been presented justifying departure from the established policy.

cc: Richard G. Darman

FFF:JGR:aea 4/24/84
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 24, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Request for Photos of the White House for a Tourist Brochure

Diane Powers of the Photo Office has referred to us a request from Congressman Timothy J. Penny (D-Minn.) for photographs of the White House for use in a tourist brochure. I contacted Congressman Penny's office to obtain more information on his request. According to Penny's aide Steve Miller, the Congressman is putting together a brochure to guide constituents visiting Washington to popular tourist attractions. The brochure will consist of a brief welcome from Congressman Penny, along with photographs of six major tourist attractions and brief descriptions of each. The brochure will not be sold but made available free of charge at the Congressman's Washington and district offices. According to Miller, it will have no partisan political content.

Assuming the accuracy of the above representations, I have no objection to providing Congressman Penny with a few photographs of the White House. The photographs should be accompanied by a letter from you, however, stating that they are provided subject to the representations that have been made. A draft is attached.

Attachment

THE WHITE HOUSE

WASHINGTON

April 24, 1984

Dear Congressman Penny:

Your letter to Diane Powers of the White House Photo Office, requesting photographs of the White House for use in a tourist brochure, has been referred to this office for review. A member of my staff has discussed this matter with your office, and was advised that the planned brochure would be distributed free of charge at your Washington and district offices, and would contain no partisan political material. Based on these representations, we are happy to provide the requested photographs.

Best of luck with the brochure. If we may be of any further assistance, please do not hesitate to contact us.

Sincerely,

Fred F. Fielding
Counsel to the President

The Honorable Timothy J. Penny
House of Representatives
Washington, D.C. 20515

cc: Diane Powers
White House Photo Office

FFF:JGR:aea 4/24/84
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 25, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Request for Information Pertaining to Inclusion of Mr. & Mrs. Mark A. Norman on a USIA "Blacklist"

Mark A. Norman, erstwhile Administrative Assistant to Congressman John LaFalce (D-NY) and now an attorney in Cincinnati, has written the President to demand an explanation for the existence of the U.S. Information Agency blacklist, and the inclusion on it of him and his wife. Norman's letter expresses the view that the whole episode must have been the result of a mistake. He asks for an apology and assurances that it will not happen again.

The White House has not been directly involved in the USIA blacklist imbroglio and I recommend continuing to maintain distance from the controversy. This letter should accordingly be referred to the USIA General Counsel for consideration and direct reply. In addition to a memorandum implementing this course of action, I have also attached an interim reply to Norman, advising him of the action we have taken. The interim reply is a bit more sympathetic in tone than others we have sent on this matter, since Norman's letter is itself more restrained and far less confrontational than others we have received.

Attachment

THE WHITE HOUSE

WASHINGTON

April 25, 1984

MEMORANDUM FOR THOMAS E. HARVEY
GENERAL COUNSEL
UNITED STATES INFORMATION AGENCY

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Request for Information Pertaining to Inclusion of Mr. & Mrs. Mark A. Norman on a USIA "Blacklist"

The attached letter to the President concerning the USIA "blacklist" episode, from an individual who, along with his wife, has been reported to have been on the alleged "blacklist," is referred to you for consideration and direct reply. I have also enclosed a copy of my interim reply, advising the correspondent that he may expect to hear from you in the near future.

Thank you for your assistance in this matter.

Attachment

FFF:JGR:aea 4/25/84
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 25, 1984

Dear Mr. Norman:

Thank you for your recent letter to the President concerning the alleged existence of a "blacklist" at the United States Information Agency (USIA). In that letter you requested an explanation of the "blacklist" episode as well as an explanation of the reported inclusion of your name and that of your wife on the alleged list.

Please be assured that we share your concerns about the implications of so-called "blacklists." I would note, however, that many of the media accounts of this particular incident have been neither accurate nor complete. In order that you may be provided with the whole story, I have taken the liberty of referring your correspondence to Thomas E. Harvey, the General Counsel at the USIA. Mr. Harvey is familiar with this episode and will be able to provide you with the explanation you have requested and deserve. You may expect to hear from him in the near future.

Thank you again for sharing your understandable concerns with us.

Sincerely,

Fred F. Fielding
Counsel to the President

Mr. Mark A. Norman
1700 Central Trust Tower
Cincinnati, Ohio 45202

FFF:JGR:aea 4/25/84
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 25, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Texas Redistricting Plans

On January 24 Patricia Hill, a Texas state representative, wrote Mr. Baker to complain about the Justice Department's voting rights review of the Texas House, Senate, and Congressional redistricting. Texas is one of the states that must obtain pre-clearance under section 5 of the Voting Rights Act of any changes in its laws affecting voting, including redistrictings. Hill complained that the Department objected to all three proposed redistricting plans in 1982, but then pre-cleared essentially the same plans in 1983. Hill contends that the cleared plans discriminate against both minorities and Republicans.

On February 16, Baker sent an interim reply, advising Hill that he had referred her letter to you and that a "direct and more detailed response will be forthcoming." The letter was actually referred to us on Febuary 24. On March 6 we sent the letter to Brad Reynolds, for preparation of a reply for your signature. Reynolds has now submitted the requested draft, which reviews the dispute in a dispassionate manner. The proffered explanation for the apparent inconsistency between the 1982 objection and the 1983 clearance is two-fold: the 1983 plans contained critical changes from the 1982 plans, and more information was provided by the State with respect to the 1983 plans. Since the burden of proof in section 5 cases rests with the State - i.e., the Department must object to redistrictings until the State proves they will not have a discriminatory purpose or effect -- the clearance of a plan may hinge on the information provided by the State and, theoretically, the same plan could be blocked on the basis of one submission but cleared on the basis of a more detailed submission. That is, at least in part, what occurred in this case, although as noted there were also significant changes in the plans themselves.

I have edited the reply submitted by Reynolds for style and to remove language suggesting that you had reviewed and approved Justice's handling of the dispute. As revised the proposed reply simply provides Hill information about the matter without making any gratuitous judgments.

THE WHITE HOUSE

WASHINGTON

April 25, 1984

Dear Ms. Hill:

This is in further response to your letter to White House Chief of Staff James A. Baker, III, concerning the review by the Justice Department of the redistricting plans enacted by the Texas Legislature.

As you know, the Voting Rights Act imposes a burden on the State of Texas to demonstrate that redistricting plans do not have the purpose and will not have the effect of denying or abridging the right to vote on account of race, color or language minority status. The House and Senate plans, both enacted by the Legislative Redistricting Board (LRB), were submitted by the state for Section 5 preclearance on the basis of limited information and under a short timetable. As you note, the submission was accompanied by allegations that the plans discriminated against black and Mexican-American voters and, in the view of the Justice Department, the original submission did not rebut those allegations. Thus, given the burden of proof applicable in Section 5 proceedings, it was necessary for the Department to interpose an objection to the plans at that time. I enclose for your information a copy of the Section 5 objection letters dated January 25, 1982.

Following the Section 5 objection, the United States accepted the invitation from the Federal district court hearing Terrazas v. Clements, Civil Action No. 3-81-1946-R (N.D. Tex.), to participate as amicus curiae. In that role representatives of the Department reviewed the evidence of record that was presented by the parties. As a result of the additional information obtained, the Department concluded that in several areas where discrimination was alleged the plan was, in fact, nondiscriminatory. Accordingly, on March 5, 1982, the Attorney General informed the state that except as to the House districts in Bexar, Dallas and El Paso Counties and the Senate districts in Bexar and Harris Counties "the state has satisfied the burden of proof required by Section 5." A copy of the March 5, 1982, letter is enclosed.

The Terrazas court ordered an interim redistricting plan for use in the May 1982 primary election. The court's plan used the LRB plan with modifications to the House districts in Bexar and El Paso Counties.

In its 1983 session the Texas Legislature enacted the House plan used in the 1982 elections. The plan incorporated the court-ordered changes in Bexar and El Paso Counties; the House districts in Dallas were identical to those in the LRB plan which was presented to the Department in 1981. The state's 1983 submission seeking preclearance of the House plan contained information demonstrating that the court's modifications to the plan in the Bexar County and El Paso County areas remedied the previous concerns regarding those areas. The state also submitted new information to show that the configuration of the House districts in Dallas County did not have a discriminatory purpose and would not have a discriminatory effect. Upon a review of that information, along with the data provided previously, the Department determined that the state had satisfied its burden of proof and that the House plan was entitled to Section 5 preclearance.

As the result of negotiations between several of the parties in Terrazas, modifications were made to the LRB Senate plan. This modified plan initially was presented to the three-judge panel as a proposed settlement of the lawsuit, but the court required that the state first obtain Section 5 preclearance of the proposed plan. Upon submission, the Department received information concerning the modified plan from the state as well as from interested persons and organizations within the minority community. A review of the information led the Department to conclude that the Senate plan as modified did not have a discriminatory purpose or a discriminatory effect within the meaning of Section 5; the plan was accordingly precleared.

Subsequent to these actions, the Terrazas court conducted an evidentiary hearing on constitutional and Section 2 challenges to the House plan and concluded that the plan complied with the requirements of federal law. After finding that the Senate plan was "racially fair and equitable," the court ordered it into effect.

Finally, as you note in your letter, the Department, on September 27, 1983, granted Section 5 preclearance to the Congressional redistricting plan for the State of Texas (S.B. 480). The letter notifying the state of that decision sets forth the reasons for this conclusion, including an explanation of the plan's impact in Dallas County. A copy of that letter is enclosed for your information.

Your letter states that the actions of the Department of Justice in reviewing these plans "have had the further result of making the Justice Department the subject of great criticism by knowledgeable legal and political observers in Texas." Reapportionment decisions generally do create

considerable controversy, but the only role of the Department of Justice is to assure that the plans do not discriminate on the basis of race, color, or language minority status. The Section 5 responsibility is a particularly difficult one since the decision must be made on the basis of information supplied to the Department by the state and other interested parties. As this instance demonstrates, the quality and quantity of the information provided can affect the preclearance process.

You also should be advised that the three-judge court which heard the Terrazas lawsuit recently expressed its appreciation for the United States' participation as amicus and for what it termed the "splendid help which all the representatives of the Department of Justice rendered not only to the court but also to all the litigants."

I hope that this information is helpful to you; we appreciate your writing to inform us of your views.

Sincerely,

Fred F. Fielding
Counsel to the President

The Honorable Patricia Hill
Member of the House of Representatives
of the State of Texas
Austin, Texas 78769

Enclosures
FFF:JGR:aea 4/25/84
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 26, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Draft Proclamation: National Correctional Officers Week

Dodie Livingston has requested comments on the above-referenced draft proclamation by close of business May 2. This proclamation, requested by joint resolution, designates the week beginning May 6 as "National Correctional Officers Week." The proclamation was prepared by the Federal Bureau of Prisons and has been approved by OMB. It praises correctional officers for the difficult, complex, and critically important work they perform. I have reviewed the proposed proclamation, and have no objections.

Attachment

THE WHITE HOUSE

WASHINGTON

April 26, 1984

MEMORANDUM FOR DODIE LIVINGSTON
SPECIAL ASSISTANT TO THE PRESIDENT
DIRECTOR, SPECIAL PRESIDENTIAL MESSAGES

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Draft Proclamation: National Correctional Officers Week

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

FFF:JGR:aea 4/26/84
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 26, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Portal-to-Portal Legislation

According to Joe Wright, Monday will in fact be soon enough to discuss the GAO portal-to-portal bill. A meeting has been set up for 10:15 Monday morning.

The pertinent background material is attached. I have also attached the current Executive Level II listing, 5 U.S.C. § 5313, so that you can see who will be entitled to portal-to-portal service under subsection (b)(2)(C) of the GAO bill. The highlighted individuals are entitled to portal-to-portal service under subsection (b)(2)(C) of the bill, as heads of Executive establishments paid at Level II. The stricken individuals would be but for the fact that they head an independent agency listed in 44 U.S.C. § 3502(10), and subsection (b)(2)(C) specifically excludes heads of such agencies. The remaining individuals listed in 5 U.S.C. § 5313 -- except Ambassadors at Large -- would be entitled to portal-to-portal service under the provision of the GAO bill extending coverage to deputy heads of the Executive departments. Ambassadors at Large would not be entitled to the service under the GAO bill. (Under the GAO opinion of last June, they do not qualify as "principal diplomatic and consular officials.")

Attachment

section 101(c) of Pub.L. 96–536, as amended, set out as a note under section 5318 of this title.

1979 Increases in Salaries. Salaries of positions at Level I increased to $74,500 per annum, effective on the first day of the pay period beginning on or after Oct. 1, 1979, as provided by Ex.Ord. No. 12165, Oct. 9, 1979, 44 F.R. 58671, as amended by Ex.Ord. No. 12200, Mar. 12, 1980, 45 F.R. 16443. Ex.Ord. No. 12165 further provided that pursuant to section 101(c) of Pub.L. 96–86 funds appropriated for fiscal year 1980 may not be used to pay a salary at a rate which exceeds an increase of 5.5 percent over the rate in effect on Sept. 30, 1978, which is a maximum rate payable of $69,630.

Applicability to funds appropriated by any Act for fiscal year ending Sept. 3, 1980, of limitation of section 304 of Pub.L. 95–391 on use of funds to pay the salary or pay of any individual in legislative, executive, or judicial branch in position equal to or above Level V of the Executive Schedule, see section 101(c) of Pub.L. 96–86, set out as a note under section 5318 of this title.

Compensation and Emoluments of Secretary of State; Fixing at level in Effect on January 1, 1977. Pub.L. 96–241, § 1, May 3, 1980, 94 Stat. 343, limited the compensation and other emoluments attached to the office of Secretary of State to those in effect Jan. 1, 1977, during the period beginning May 3, 1980, and ending on the date on which the first individual appointed to that office after May 3, 1980, ceases to hold that office.

Legislative History. For legislative history and purpose of Pub.L. 96–54, see 1979 U.S. Code Cong. and Adm. News, p. 931. See, also, Pub.L. 96–88, 1979 U.S. Code Cong. and Adm. News, p. 1514; Pub.L. 97–456, 1982 U.C. Code Cong. and Adm. News, p. 4405.

§ 5313. Positions at level II

Level II of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Deputy Secretary of Defense.
Deputy Secretary of State.
Administrator, Agency for International Development.
Administrator of the National Aeronautics and Space Administration.
Administrator of Veterans' Affairs.
Deputy Secretary of the Treasury.
Deputy Secretary of Transportation.
~~Chairman, Nuclear Regulatory Commission.~~
Chairman, Council of Economic Advisers.
~~Chairman, Board of Governors of the Federal Reserve System.~~
Director of the Bureau of the Budget.
Director of the Office of Science and Technology.
Director of the United States Arms Control and Disarmament Agency.
Director of the United States Information Agency.
Director of Central Intelligence.
Secretary of the Air Force.
Secretary of the Army.
Secretary of the Navy.
Administrator, Federal Aviation Administration.
Director of the National Science Foundation.
Deputy Attorney General.
Deputy Secretary of Energy.
Deputy Secretary of Agriculture.
~~Director of the Office of Personnel Management.~~
Ambassadors at Large.
Administrator, Federal Highway Administration.
Administrator of the Environmental Protection Agency.

(As amended Pub.L. 96–465, Title II, § 2302, Oct. 17, 1980, 94 Stat. 2164; Pub.L. 97–449, § 3(1), 7(b), Jan. 12, 1983, 96 Stat. 2441, 2444; Pub.L. 98–80, § 2(a)(1), Aug. 23, 1983, 97 Stat. 485.)

1983 Amendment. Pub. L. 98–80 added item relating to Administrator of the Environmental Protection Agency.

1980 Amendment. Pub.L. 96–465 added item relating to Ambassadors at Large.

Effective Date of 1980 Amendment. Amendment by Pub.L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub.L. 96–465, set out as a note under section

THE WHITE HOUSE

WASHINGTON

Set up with W/ Wright
see notes -

April 23, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Portal-to-Portal Legislation

Joe Wright has sent over draft portal-to-portal legislation suggested by GAO. According to Wright, GAO would be happy to introduce the legislation, and is currently checking with the members of the appropriate committees to determine when the legislation should be introduced (this year or next). Wright notes we should get back to GAO on their proposal "within the next week or so," and GAO will then let us know when the legislation should be introduced, and an understanding can be reached concerning GAO review of vehicle use.

The GAO bill would extend portal-to-portal rights far beyond current law, current practice, and the Administration proposal. In addition to those currently entitled to portal-to-portal service, the GAO bill would permit such service for:

-- the Vice President

-- Assistants to the President, paid at level II, as designated by the President

-- the deputy heads as well as the heads of the Executive Departments

-- the heads and deputy heads of (interestingly) GAO and OMB

-- the heads of all Executive Agencies paid at level II, ~~except for~~ plus ? "independent agencies" listed at 44 U.S.C. § 3502(10)

-- the Joint Chiefs of Staff, the Under Secretaries of Defense and State, and the Counsellor of the State Department

-- such members and employees of Congress as each House may by rule direct !

-- the nine Supreme Court Justices.

The GAO bill would also permit portal-to-portal service on a temporary basis when the agency head determines that an emergency exists and that such service is essential for "safety, security, or other operational considerations." Finally, the GAO bill would permit a determination that spousal transportation was transportation for an official purpose when it was "incident to the performance of official business by the listed officer, employee, or member."

The GAO bill, in my view, goes far beyond what is necessary to address the crisis engendered by last summer's GAO opinion. Our interest in this area has been limited to correcting the adverse effects of that opinion and legitimizing established practice; we certainly have no interest in extending portal-to-portal service to Congressmen and Congressional staff (a potentially unlimited number) or Supreme Court justices. Were we to support this bill we would not be able to defend it as simply correcting a rogue GAO opinion and authorizing what has been accepted practice through several administrations of both parties. The bill greatly expands "limousine service" throughout the government, and will be criticized on that basis. To the extent the Administration as opposed to GAO must defend it -- and, after all, the President will have to sign it -- the political costs of this bill could far exceed the costs of more modest proposals addressed to the GAO opinion.

Since you have discussed this matter with Wright and others I will await further guidance before preparing a memorandum for Wright.

Attachment

THE WHITE HOUSE

WASHINGTON

April 26, 1984

Dear Mr. Norman:

Thank you for your recent letter to the President concerning the alleged existence of a "blacklist" at the United States Information Agency (USIA). In that letter you requested an explanation of the "blacklist" episode as well as an explanation of the reported inclusion of your name and that of your wife on the alleged list.

Please be assured that we share your concerns about the implications of so-called "blacklists." In order that you may be provided with the whole story, I have taken the liberty of referring your correspondence to Thomas E. Harvey, the General Counsel at the USIA. Mr. Harvey is familiar with the facts surrounding this episode and will be able to provide you with the explanation you have requested and deserve. You may expect to hear from him in the near future.

Thank you again for sharing your understandable concerns with us.

Sincerely,

Fred F. Fielding
Counsel to the President

Mr. Mark A. Norman
1700 Central Trust Tower
Cincinnati, Ohio 45202

FFF:JGR:aea 4/26/84
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 27, 1984

Dear Michael:

Thank you for your letter of April 26. I will be attending the dinner for Judge Friendly on June 8, and am looking forward to seeing the Judge, you, and the growing legion of other Friendly clerks at that time.

With all best wishes,

Sincerely,

John

John G. Roberts

Michael Boudin, Esquire
1201 Pennsylvania Avenue, N.W.
Post Office Box 7566
Washington, D.C. 20044

1201 PENNSYLVANIA AVENUE, N. W.
P. O. BOX 7566
WASHINGTON, D. C. 20044

202-662-5286

April 26, 1984

To Judge Friendly's Past and Present Clerks:

As we advised you earlier, the annual dinner given for Judge Friendly by his clerks has been scheduled for Friday evening, June 8. The earlier letter merely requested you to note the date on your calendars; this letter is to request that you advise me, at the above address, whether or not you plan to attend. I would be most grateful if you could let me know by Wednesday, May 16, and it would be easier to keep track of responses if you could each send me a note rather than telephone.

As usual, the dinner has been scheduled at the Century Association, located at 7 West 43rd Street, New York City. Cocktails will be at 7:00 and dinner will be at 8:00. Dress is not black tie and the gathering is solely for the Judge and his clerks and does not include spouses.

As you may recollect, it is possible to withdraw your acceptance or to add a new name up to a week before the dinner; but at some point thereafter the food is ordered and anyone who has accepted but finds that he or she cannot come is still charged. Despite the opportunity to change plans after May 16, it would be very helpful if I could hear from each of you by that date to indicate your present intention to attend or not; and those initial responses will be assumed to govern unless you advise me differently later on. If there are any last-minute changes after May 16, the best course would be to telephone me or my secretary in Washington (202-662-5286) so that all such changes can be tallied at one place.

Pierre and I very much hope that you can all attend and greatly look forward to seeing you.

Michael Boudin

THE WHITE HOUSE

WASHINGTON

April 27, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Draft State Report on H.R. 4853, a Bill Authorizing the Attorney General to Grant Permanent Resident Status for Certain Cuban/Haitian Aliens, and for Other Purposes

OMB has asked for our views by close of business today on a proposed State Department report on H.R. 4853. There are two parts to this bill: section one would authorize the Attorney General to grant permanent resident status to certain Cuban and Haitian illegal aliens; section two would direct consular officers at the U.S. Interests Section in Havanna to process visa applications pending at that office.

With respect to section one, the draft State report simply defers to the Department of Justice. This is appropriate, since section one is entirely concerned with the actions of the Attorney General and the Immigration and Naturalization Service within the Justice Department.

The draft State report strongly opposes section two of the bill. The Immigration and Nationality Act currently provides that if a country refuses to take back its citizens who are denied admission to the United States, U.S. consular officials in that country are to cease processing visa applications (except for those of immediate relatives of U.S. citizens). Cuba, of course, refuses to take back the excludable Marielitos, and accordingly our consular officers in Havanna no longer process Cuban visa applications. Section two of this bill would waive the pertinent provisions of the Act, and require processing of visas in Havanna. The State report, in opposing section two, notes that the U.S. and Cuba are engaged in negotiations over the return of the excludable Marielitos. Enactment of section two would remove the only leverage the U.S. has in these negotiations.

I have reviewed the proposed State report, and have no objections.

Attachment

THE WHITE HOUSE

WASHINGTON

April 27, 1984

MEMORANDUM FOR BRANDEN BLUM
LEGISLATIVE ATTORNEY
OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Draft State Report on H.R. 4853, a Bill Authorizing the Attorney General to Grant Permanent Resident Status for Certain Cuban/Haitian Aliens, and for Other Purposes

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

FFF:JGR:aea 4/27/84
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 27, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Letter to Diane Powers Requesting Certain Photographs Under the Freedom of Information Act

Diane Powers of the Photo Office has asked if the Photo Office is required to provide copies of White House photographs under the Freedom of Information Act (FOIA) to those whom she refers to as "photo hogs" -- collectors who file repeated requests for large numbers of photographs. Her inquiry was prompted by the latest of many letters from one such "photo hog," asking for six photographs under FOIA.

As an initial matter, we should take the position that the Photo Office is not subject to FOIA. As you know, we maintain that the White House Office is not, and the Photo Office is considered part of the White House Office. While I have no doubt that this is the position we should take, I must point out that it is not clear that it will withstand legal challenge. The basis for our frequent assertion that the White House Office is not subject to FOIA is Justice Rehnquist's opinion for the Court in Kissinger v. Reporters Committee for Freedom of the Press, 445 U.S. 136, 156 (1980). That opinion held that "'the President's immediate personal staff or units in the Executive Office whose sole function is to advise and assist the President' are not included within the term 'agency' under the FOIA." Id., at 156, quoting from H.R. Conf. Rep. 93-1380. It is not clear whether the Photo Office would be considered "the President's immediate personal staff" or a unit "whose sole function is to advise and assist the President." A court confronted with the question could view the Photo Office as a discrete entity with functions that go beyond advising the President.

Assuming that the Photo Office is not subject to FOIA, I see no reason it should be required to satisfy the acquisitive demands of photo collectors. I have prepared a memorandum for Powers advising her that the Photo Office is not subject to FOIA, and that it need not respond to what it considers excessive demands from collectors.

Attachment

THE WHITE HOUSE

WASHINGTON

April 27, 1984

MEMORANDUM FOR DIANE POWERS
WHITE HOUSE PHOTO OFFICE

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Excessive Demands of Photo Collectors for White House Photographs

You have asked whether the Photo Office must respond to the excessive demands of private collectors for White House photographs under the Freedom of Information Act. The Photo Office, like the White House Office in general, is not subject to the provisions of the Freedom of Information Act. See Kissinger v. Reporters Committee for Freedom of the Press, 445 U.S. 136, 156 (1980). The provision of White House photographs to private individuals who request them for their collections is not legally required, and accordingly you need not respond to what you regard as excessive demands or abuses of the privilege. You are in the best position to determine if a particular individual is abusing the privilege. If you have specific questions in this area, please do not hesitate to contact us.

FFF:JGR:aea 4/27/84
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 30, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

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

On April 19 I submitted a memorandum to you on the above-referenced proposed Executive Order, noting no legal objection. OMB advised at the time that none of the affected agencies objected to the proposed order. On Friday, however, Harold Burman of the Legal Adviser's office at State called to explain that State now objected. Burman attempted to portray State's suggested revisions as technical in nature, but in fact they are substantive changes that would transfer positions and additional funds from Treasury to State in connection with the transfer of reimbursement authority. Treasury could well object to the proposed changes, and the Office of Legal Counsel might as well. (It is unclear whether the President could, by executive order, transfer the appropriated funds and positions, as well as the reimbursement authority, that State desires.) Accordingly, I advised Burman that the proposed revision would need to go through the entire clearance process, to which he agreed.

It is my understanding that you have not yet signed the "no objection" memorandum I prepared on April 19. I have attached a draft that may be sent in its stead, simply noting that State will be submitting a new package for clearance. There is, incidentally, no time pressure with this particular proposed executive order.

Attachment

THE WHITE HOUSE

WASHINGTON

April 30, 1984

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

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

You have asked for our comments on the above-referenced proposed executive order. We have been advised by the Legal Adviser's office at the Department of State that State now objects to the proposed order, as drafted, and would like to suggest fairly significant revisions. The proposed order accordingly should not be issued at this time. State will submit its suggested revisions through the normal clearance process.

FFF:JGR:aea 4/30/84
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 30, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Proposed Award to Michael Jackson

Jim Coyne has asked for our views on a proposed award to entertainer Michael Jackson, for his contributions to the campaign against teenage drunk driving. Coyne would like to have the President present the unspecified award to Jackson on May 11 in the Rose Garden. Coyne has asked whether the award should be from the White House or the Transportation Department, whether the award may bear the Seal of the President, and whether we object to his suggested language for the award. You have indicated that you object to any award to Jackson involving the President.

I share your view that this is a poor idea. Coyne's suggested award language praises Jackson as an "outstanding example...for the youth of America and the world." If one wants the youth of America and the world sashaying around in garish sequined costumes, hair dripping with pomade, body shot full of female hormones to prevent voice change, mono-gloved, well, then, I suppose "Michael," as he is affectionately known in the trade, is in fact a good example. Quite apart from the problem of appearing to endorse Jackson's androgynous life style, a Presidential award would be perceived as a shallow effort by the President to share in the constant publicity surrounding Jackson, particularly since other celebrities have done as much for worthy causes as Jackson but have not been singled out by the President. The whole episode would, in my view, be demeaning to the President.

The attached memorandum for Coyne objects to any Presidential involvement and to his proposed text. I also recommend copying Darman so that our objections are generally known.

Attachment

THE WHITE HOUSE

WASHINGTON

April 30, 1984

MEMORANDUM FOR JAMES K. COYNE
SPECIAL ASSISTANT TO THE PRESIDENT
FOR PRIVATE SECTOR INITIATIVES

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Proposed Award to Michael Jackson

You have asked for our views on a proposed award to entertainer Michael Jackson in recognition of his contribution to the national campaign against teenage drunk driving. Specifically, you have asked whether the contemplated award should be a White House award or a Department of Transportation award, whether the award may bear the Seal of the President, and whether we had any objections to your suggested text for the award.

I must advise you that I object to any Presidential involvement in the presentation of an award to Mr. Jackson. Whatever his contributions to the campaign against teenage drunk driving, and whatever his merit as a chanteur, I hardly think it advisable to hold Mr. Jackson up as an "outstanding example...for the youth of America and the world." I do not think we want the youth of America and the world mimicking Mr. Jackson's androgynous life style or other numerous eccentricities, or adopting the dubious lyrics of his songs as a code by which to live. In addition, I think any ceremony involving the President and Mr. Jackson would be perceived as an effort by the President to bask in the reflected glow of the inordinate and at times hysterical publicity surrounding Mr. Jackson, a perception that would be demeaning to the President. This perception would derive in large part from the fact that other celebrities have done at least as much as Mr. Jackson for worthy causes, but have not been singled out for special praise by the President.

To answer your specific questions, if any award is given it should not be a White House award. The award accordingly may not bear the Seal of the President. Finally, I do object to the suggested text for the award. As noted above, I do not think Mr. Jackson should be lauded as an example for youth. Nor should any award citation praise Mr. Jackson for his commercial successes, as your proposed text does.

Thank you for raising this matter with us.

cc: Richard G. Darman

FFF:JGR:aea 4/30/84

bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 30, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Statement of Lois Herrington Concerning S. 2423 -- Victims of Crime Assistance on May 1, 1984

We have been provided with a copy of testimony Assistant Attorney General Lois Herrington proposes to deliver on May 1 before the Senate Judiciary Committee on S. 2423, the Administration's "Victims of Crime Assistance Act of 1984." The testimony simply reviews the major features of the bill, which was introduced by Chairman Thurmond on March 13 with Senators Biden, Laxalt, Heinz, and Grassley as co-sponsors. As you may recall, the bill would establish a Victims Fund at Treasury, funded mainly by Federal criminal fines. The assets of the fund would be distributed annually, 50 percent to reimburse states for a portion of the financial assistance they provide to victims, 30 percent to the states by population to fund programs providing non-financial assistance to victims, and 20 percent to Federal agencies serving the same purpose. The bill also would establish a Federal Victims of Crime Advisory Committee, with members appointed by the President.

I have reviewed the proposed testimony and have no objections. The policy choices were made at the time the Administration introduced the bill; this testimony adds nothing new.

Attachment

THE WHITE HOUSE

WASHINGTON

April 30, 1984

MEMORANDUM FOR JAMES C. MURR
CHIEF, ECONOMICS-SCIENCE-GENERAL
GOVERNMENT BRANCH, OMB

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Statement of Lois Herrington Concerning S. 2423 -- Victims of Crime Assistance on May 1, 1984

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

FFF:JGR:aea 4/30/84
cc: FFFielding/JGRoberts/Subj/Chron