Collection: Roberts, John G.: Files
Folder Title: Chron File (03/13/1985-03/24/1985)
Box: 65

WITHDRAWAL SHEET

Ronald Reagan Library

Collection Name		***Withdrawer***	
		CAS	8/12/2005
File Folder	CHRON FILE (3/13/85-3/24/85)	***FOIA***	
		F05-139/01	
Box Number	65	COOK	
		35CAS	

DOC NO	Doc Type	Document Description	No of Pages	Doc Date	Restrictions	
1	MEMO	ROBERTS TO RICHARD HAUSER RE NOMINATION TO BE AMBASSADOR OF OMAN (PARTIAL)	1	3/13/1985	B6	1273

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

March 13, 1985

MEMORANDUM FOR RICHARD A. HAUSER

FROM: JOHN G. ROBERTS JGR

SUBJECT: Nomination of George C. Montgomery to be Ambassador to Oman

I have reviewed the SF-278 and related materials submitted by George Cranwell Montgomery in connection with his prospective nomination to be Ambassador to Oman. The SF-278 reveals no conflict of interest difficulties, although the form notes that Mr. Montgomery accepted interim employment with Vinson & Elkins, to last until he is confirmed. Ethics counseling has been provided by State concerning this employment. [redacted] While this presents no legal difficulties, it may be the source of opposition to his nomination. b6

Attachment

THE WHITE HOUSE

WASHINGTON

March 13, 1985

MEMORANDUM FOR RICHARD A. HAUSER

FROM: JOHN G. ROBERTS JGR

SUBJECT: Nomination of George C. Montgomery to be Ambassador to Oman

I have reviewed the SF-278 and related materials submitted by George Cranwell Montgomery in connection with his prospective nomination to be Ambassador to Oman. The SF-278 reveals no conflict of interest difficulties, although the form notes that Mr. Montgomery accepted interim employment with Vinson & Elkins, to last until he is confirmed. Ethics counseling has been provided by State concerning this employment. [redacted]. While this presents no legal difficulties, it may be the source of opposition to his nomination.

Attachment

THE WHITE HOUSE

WASHINGTON

March 13, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Tax Court Judges

I have been asked to prepare replies to letters to the President from Chief Judge Howard A. Dawson and Judge Samuel Sterrett of the Tax Court. In his letter of November 9, 1984 to the President, Judge Sterrett advises that he is willing and would like to accept reappointment upon expiration of his term on June 1, 1985. Judge Sterrett was recently elected to succeed Chief Judge Dawson as Chief Judge. If reappointed, Judge Sterrett -- first appointed by President Johnson and reappointed by President Nixon -- would be eligible to serve until 1992, when he will reach the mandatory retirement age of 70. (Dianna advises that a decision has been made to reappoint Sterrett.)

Chief Judge Dawson advised the President, in his letter of November 23, 1984, that he was willing to accept reappointment but that he plans to retire, if reappointed, in 1987. At that time the Chief Judge will be eligible to retire pursuant to 26 U.S.C. § 7447(b)(2) (age 65, service for at least 15 years). If the President does not reappoint Dawson, Dawson will be eligible to retire on June 1 of this year, pursuant to 26 U.S.C. § 7447(b)(3) (service for at least 15 years, willing to be reappointed but not reappointed). (It is my understanding that Dawson would prefer not to be reappointed.)

Attached are (1) a letter for the President's signature advising that he will not reappoint Dawson, with cover memorandum for Chew, and (2) a letter for your signature to Sterrett, congratulating him on his prospective reappointment and forwarding the appropriate clearance forms.

Attachments

THE WHITE HOUSE

WASHINGTON

March 13, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Donovan v. Warwick Miniatures, Ltd. and William P. Treacy, Jr. -- Civil Action Alleging Violation of Minimum Wage Laws

William Treacy, owner of Warwick Miniatures, Ltd., has written to ask that you forward a letter to the President. The letter complains about a Department of Labor prosecution of Mr. Treacy and his company for allegedly violating minimum wage laws. Mr. Treacy's defense appears to be that his "employees" were in fact independent contractors -- a letter from one of the "employees" supports this defense. The letter to the President notes that you have purchased Mr. Treacy's products in the past.

I recommend advising Mr. Treacy that it would be inappropriate for the White House to intervene in his pending litigation, and that you accordingly have not forwarded his letter to the President. A draft reply to Mr. Treacy is attached.

Attachment

THE WHITE HOUSE

WASHINGTON

March 13, 1985

Dear Mr. Treacy:

Thank you for your letter concerning the pending Department of Labor action against you and Warwick Miniatures, Ltd. That letter requested that I forward another letter on that same subject to the President.

I must decline to comply with your request. Established White House policy generally precludes intervention in particular pending cases brought by Federal agencies with law enforcement responsibilities. The purpose of this policy is to maintain public confidence in the impartial administration of our laws. I hope you will understand the need for this policy and the need to adhere to it in this instance.

Sincerely,

Fred F. Fielding
Counsel to the President

Mr. William P. Treacy, Jr.
P.O. Box 1498
Portsmouth, NH 03801

FFF:JGR:aea 3/13/85
bcc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

March 14, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Correspondence Recommending Gary Lynch as the New Director of the SEC's Division of Enforcement

Walter Clark, a St. Louis attorney, has written you to recommend that Gary Lynch be appointed to succeed John Fedders as Director of the Division of Enforcement at the Securities and Exchange Commission. Lynch is currently Associate Director and has been named Acting Director pending selection of a new Director by SEC Chairman John Shad. You asked that I prepare a response to which you can add a personal note; a draft is attached. It notes that Shad makes this appointment and that Clark should write him directly. The incoming does not dwell on the Fedders resignation so I saw no reason to include our boilerplate on that topic.

Attachment

DRAFT

March 14, 1985

Dear Walter:

Thank you for your letter of February 28. In that letter you recommended that Gary Lynch be appointed to succeed John Fedders as Director of the Division of Enforcement at the Securities and Exchange Commission.

As you may know, Mr. Lynch has been named by SEC Chairman John Shad as Acting Director of the Division of Enforcement. Mr. Shad is responsible for appointing the Director, and accordingly you should communicate your views on Mr. Lynch directly to Mr. Shad.

[FFF paragraph]

Sincerely,

Fred F. Fielding
Counsel to the President

Walter M. Clark, Esquire
Armstrong, Teasdale, Kramer & Vaughan
611 Olive Street, Suite 1900
St. Louis, MO 63101-1782

DRAFT

THE WHITE HOUSE

WASHINGTON

March 14, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Donovan Statements

Attached are the drafts you requested, and a copy of what the President said when Donovan was indicted. The President, on October 2, stressed the "innocent until proven guilty" principle, and declined to comment further since the matter was before the courts. On October 1, however, he had also stated that he retained confidence in Donovan and had complete trust in his integrity. The second alternative draft omits, as I think it must, those expressions of support.

Attachments

I was very pleased with the news that the charges against Ray Donovan have been dropped. This action by the courts vindicates Ray and brings to an end a long and arduous personal ordeal. Through it all Ray never lost faith that he would prevail in court, and I never lost faith in Ray. It will be good to have him resume his responsibilities as Secretary of Labor.

As I said when Ray took a leave of absence to defend himself against these charges, we should all remember that, in this country at least, a man is innocent until proven guilty. Perhaps this whole episode should serve to underscore the importance of that principle.

It is with sincere regret that I accept Ray Donovan's resignation as Secretary of Labor. Ray has not been convicted of anything. As I have said before, I believe that he, no less than anyone else, should be afforded the benefit of the presumption that a man is innocent until proven guilty. I must agree with Ray, however, that his need to devote himself fully to his defense now precludes his continuing in office.

The matter is before the courts, so it would not be appropriate for me to comment further. I can only say that I have every confidence in the ability of our judicial system to arrive at the truth. Ray leaves office with my heartfelt thanks for all his efforts on behalf of the Administration.

THE WHITE HOUSE

WASHINGTON

March 15, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Law Day

The President of the American Bar Association, John C. Shepherd, has written to request a Law Day proclamation and signing ceremony. Dianna has prepared a scheduling request, which is pending. The attached draft reply advises Shepherd that we have requested a ceremony, and that the President will, in accord with 36 U.S.C. § 164, issue a proclamation. The reply also thanks Shepherd for providing a draft proclamation, which I will edit.

Attachment

THE WHITE HOUSE

WASHINGTON

March 15, 1985

Dear John:

Thank you for your letter concerning Law Day, 1985. The President will, in accord with 36 U.S.C. § 164, issue a proclamation calling upon all Americans to observe May 1, 1985, as Law Day U.S.A. I have submitted a scheduling request to the appropriate White House offices, recommending that a Law Day signing ceremony be held, and will be in touch as soon as a decision has been reached.

I would also like to thank you for providing a draft of the Law Day proclamation. With best wishes,

Sincerely,

Fred F. Fielding
Counsel to the President

John C. Shepherd, Esquire
President, American Bar
Association
American Bar Center
Chicago, IL 60611

FFF:JGR;aea 3/15/85
bcc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

March 18, 1985

MEMORANDUM FOR RICHARD A. HAUSER

FROM: JOHN G. ROBERTS JGR

SUBJECT: Duracell v. U.S.

You requested information on the status of Duracell's challenge to the President's disapproval of the International Trade Commission decision in the gray market case. The attached materials have been forwarded by Justice. Briefly, Duracell filed an appeal before the Court of Appeals for the Federal Circuit on January 28. Justice has filed a motion to dismiss for lack of jurisdiction, Duracell's reply is due later this week.

Attachment

THE WHITE HOUSE

WASHINGTON

March 19, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: DOJ Draft Report on H.R. 502, the "Federal Telecommunications Privacy Act of 1985"

We have been provided with a copy of a draft Justice Department report opposing H.R. 502, a bill to codify existing GSA regulations prohibiting surreptitious, one-party consensual recording of telephone conversations on Government telephones. Both the bill and the report are essentially reruns from the last Congress, when the Wick taping episode prompted interest in the taping of telephone conversations. Justice opposes the bill because it (1) would have an adverse effect on law enforcement interests, (2) would impinge on certain communications security monitoring programs, and (3) would impose cumbersome record retention requirements. Justice concludes that the problem of taping is better addressed through flexible regulations rather than the criminal code.

The report, as noted, was submitted in the last Congress in essentially the same form; I have no objections.

Attachment

THE WHITE HOUSE

WASHINGTON

March 19, 1985

MEMORANDUM FOR BRANDEN BLUM
LEGISLATIVE ANALYST
OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: DOJ Draft Report on H.R. 502, the "Federal Telecommunications Privacy Act of 1985"

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

FFF:JGR:aea 3/19/85
cc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

March 20, 1985

MEMORANDUM FOR THE FILE

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

SUBJECT: GSA Notice of Proposed Rulemaking on
Access to Nixon Administration Materials

On March 18, after consultation with Mr. Hauser, I advised Frank Reeder that our office would have no comment on the proposed regulations.

Attachment

THE WHITE HOUSE

WASHINGTON

March 20, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Request for Reimbursement for Bail Costs and $500 for Hotel Bill for Robert Latta

The father of the character arrested for sneaking into the White House on Inauguration Day with the Marine band has written the President to ask that the President correct the "injustice" done to the intruder. In referring the letter to you, Anne Higgins asked if it should go to you or the Secret Service. Your annotation on the tracking sheet indicates Secret Service. A transmittal memorandum is attached.

Attachment

THE WHITE HOUSE

WASHINGTON

March 20, 1985

MEMORANDUM FOR JOHN KELLEHER
CHIEF COUNSEL
U.S. SECRET SERVICE

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Request for Reimbursement for Bail Costs and $500 for Hotel Bill for Robert Latta

The attached letter to the President, from Robert Latta's father, is referred to you for direct reply and whatever other action you consider appropriate. The White House has not responded to the elder Mr. Latta in any fashion.

Many thanks.

Attachment

FFF:JGR:aea 3/20/85
cc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

March 21, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Office of Federal Procurement Policy

Some time ago the President received a letter from Robert Evans, Director of the American Bar Association Governmental Affairs Group, expressing concern over reports that the Office of Federal Procurement Policy (OFPP) was going to be abolished. You received a letter on the same subject from "Sparks" at Morgan, Lewis & Bockius. On January 24, 1985, I referred the correspondence to David Gerson at OMB, asking for background information on the issue. OMB has only now responded. The attached draft replies explain that the Administration intends to integrate OFPP more closely with OMB as part of the Management Improvement Program, not abolish it.

Attachment

THE WHITE HOUSE

WASHINGTON

March 22, 1985

Dear Sparks:

Thank you for your letter concerning the Office of Federal Procurement Policy (OFPP). I asked the Office of Management and Budget (OMB) for more information on the subject of your letter, and have now received a response. Please excuse the attendant delay in getting back to you.

According to OMB, there is no plan to abolish OFPP. OFPP is an entity within OMB with separate statutory identity and budget authorization. In order to strengthen OFPP's functions in particular, and procurement reform generally, OMB will seek to integrate OFPP more closely into OMB and to include procurement policy management reform as an integral part of the President's Management Improvement Program.

It is hoped that greater accountability on the part of OMB for the operations of OFPP will promote the objectives spelled out in your letter -- objectives the Administration fully shares. Procurement reform should be a component responsibility of OMB in the same manner as budget, regulatory and general management responsibilities.

The key advantages of what the Administration seeks include:

- focusing on procurement reform as a high priority initiative;

- enhancing coordination with the President's Management Improvement Program and the budget and regulatory review process;

- eliminating the current overlap of effort and the duplication of responsibility within OMB;

- improving internal resource allocation by simplifying the OMB-OFPP administrative structure; and

- keeping OFPP intact as a unit.

Realignment will strengthen the Administration's efforts to improve the management of Federal procurement policy.

Please be assured that the President regards procurement management reform as an integral part of his Government-wide Management Improvement Program.

Thank you for sharing your concerns with us. I hope the foregoing information is helpful.

Sincerely,

Fred F. Fielding
Counsel to the President

O.S. Heistand, Esquire
Morgan, Lewis & Bockius
1800 M Street, N.W.
Washington, D.C. 20036

FFF:JGR:aea 3/22/85
bcc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

March 22, 1985

Dear Mr. Evans:

Thank you for your letter to the President concerning the Office of Federal Procurement Policy (OFPP). In that letter you expressed concern over press reports that OFPP may be abolished.

I am advised by the Office of Management and Budget (OMB) that there are no plans to abolish OFPP. OFPP is an entity within OMB with separate statutory identity and budget authorization. In order to strengthen OFPP's functions in particular, and procurement reform generally, OMB will seek to integrate OFPP more closely into OMB and to include procurement policy management reform as an integral part of the President's Management Improvement Program.

It is hoped that greater accountability on the part of OMB for the operations of OFPP will promote the objectives spelled out in your letter -- objectives the Administration fully shares. Procurement reform should be a component responsibility of OMB in the same manner as budget, regulatory and general management responsibilities.

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Please be assured that the President regards procurement management reform as an integral part of his Government-wide Management Improvement Program.

Thank you for sharing your concerns with us.

Sincerely,

Fred F. Fielding
Counsel to the President

Mr. Robert D. Evans
Director, Governmental Affairs
Group, American Bar Association
1800 M Street, N.W.
Washington, D.C. 20036-5886

FFF:JGR:aea 3/22/85
bcc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

March 21, 1985

MEMORANDUM FOR THE FILE

FROM: JOHN G. ROBERTS JGR

SUBJECT: Draft Proclamation: Afghanistan Day, 1985

I advised Claudia Korte of Anne Higgins's office that Counsel's Office would not object to the issuance of the above-referenced proclamation. Although the proclamation does not fit within White House guidelines, as it was not requested by Congress and is not traditional, the agencies involved believe that its issuance will promote American foreign policy. A similar proclamation was issued last year, so the decision has already been made to make an exception to established policy in this instance.

THE WHITE HOUSE

WASHINGTON

March 21, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Request for Introduction from President Reagan to a Book Produced by Logos Research Institute

Regal Press is publishing a book entitled Six Qualities of a Strong Family, consisting of the proceedings of a conference held in Washington last June. Bruce Chapman participated in the conference, and his remarks will appear in the book. Those putting the book together have advised Mr. Chapman that they intend to print the President's June 16, 1984 radio address on the family as a foreword to the book, and that the book cover will include the wording "Preface by President Ronald Reagan."

The publisher's plans seem calculated to convey the false impression that the President is associated with the book. By definition a foreword or preface looks to what follows, but in this case the President is in no way associated with what would follow his preface or foreword. The attached draft objects to the publisher's plans, not to reproduce the radio address (which is in the public domain) but to place and style it in the book in a misleading fashion.

Attachments

THE WHITE HOUSE

WASHINGTON

March 21, 1985

MEMORANDUM FOR BRUCE CHAPMAN
DEPUTY ASSISTANT TO THE PRESIDENT
DIRECTOR, PLANNING AND EVALUATION

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Request for Introduction from President Reagan to a Book Produced by Logos Research Institute

By memorandum dated March 7 you referred to this office a letter from George A. Rekers. That letter concerned plans to use a radio address by the President as a foreword to a book. A copy of my reply objecting to Dr. Rekers's plans is attached for your information.

Attachment

FFF:JGR:aea 3/21/85
cc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

March 21, 1985

Dear Dr. Rekers:

This is written in response to your letter of February 27, 1985 to Bruce Chapman of the White House staff. In that letter you advised Mr. Chapman of your plans to use a radio address by the President as the foreword to a forthcoming book, and to indicate on the cover of the book that it contained a "Preface by President Ronald Reagan." You asked to be notified in writing by March 31 if the White House objected to these plans.

I must object to your plans to use the President's radio address as a foreword to the book, and to the contemplated notation on the cover of the book. A foreword or preface looks to what follows; it is a natural assumption that the author of a foreword or preface is familiar or somehow associated with the book as a whole. In this case the public would inevitably assume that the President had endorsed the book if he were to appear as the author of a foreword to it. The White House, however, adheres to a policy of avoiding any use of the President's name in any manner that suggests or could be construed as endorsement of a commercial project or enterprise. Accordingly, I cannot approve your plans to style the President's radio address as a foreword to the book, nor can I approve your contemplated notation on the book cover.

Sincerely,

Fred F. Fielding
Counsel to the President

George A. Rekers, Ph.D.
Logos Research Institute, Inc.
210 Southwind Place
Manhattan, Kansas 66502

FFF:JGR:aea 3/21/85
bcc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

March 22, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Taste of America Claims Against PIC

You asked that I review correspondence from William C. Anton, who headed the "Taste of America" program, and assess his claims for $72,094 due from the Presidential Inaugural Committee (PIC). Mr. Anton has obtained an opinion letter from Rice, Carpenter and Carraway of Arlington, Virginia. Based solely on the representations in Anton's correspondence, the law firm has indicated that it is "possible" and "arguable" that PIC "may be" legally responsible for some of Anton's claims. I cannot fairly assess Anton's claims without reviewing other pertinent documentation and interviewing those individuals upon whose purported statements he relies, but even without hearing the other side most of Anton's claims do not appear valid. Anton has seven claims:

1. Pre-Gala Receptions: $31,950. Held immediately prior to the Vice Presidential and Presidential Gala, for Gala ticketholders only, at a charge of $5.00. Anton's claim is that PIC's refusal to help advertise the availability of Taste of America by including a flyer with Gala ticket mailings was responsible for the unexpectedly low attendance. The damage figure is based on assumed attendance had flyers been used, less actual attendance.

To prevail on this claim, Anton must prove a contractual agreement to distribute the flyers -- PIC had no independent legal obligation to aid Taste of America in attracting customers. Anton alleges facts that suggest some PIC officials thought flyers could and should be sent; he does not allege facts sufficient, in my view, to find that a contract existed. In addition, the figures used by Anton to calculate damages are highly speculative. Anton assumes some 50% of Gala attendees would have bought Taste of America tickets if the flyers had been sent. Given the investment required for Gala tickets in the first place, I doubt that many attendees would consider the $5.00 Taste of America experience an appropriate accompaniment to the evening.

2. <u>After-Glow Party</u>: $1,492.50. Anton claims Howard Dixon requested Taste of America service for 150 "Sinatra VIPs and Gala entertainers" after the Gala, but 300 showed up. Anton's claim is apparently only for the <u>additional</u> 150 servings.

If Anton agreed to serve 150 and voluntarily served an additional 150 without clarifying the arrangements, he has only himself to blame. Further, it was my understanding that an outside organization -- not PIC -- was completely responsible for the care and feeding of the Gala entertainers. Perhaps Anton should be directed to file a claim with that other entity.

3. <u>Naval Academy Choral Group Meals</u>: $3,184. Anton claims Chris Ambrose requested meals on January 18 and 19 for the Naval Academy Choral Group. He states in his correspondence that these were provided "at no charge to PIC," but now apparently he wants to be paid. If the understanding at the time was that the meals were free, Anton cannot change his tune now. Perhaps Ambrose thought "no charge" meant "no charge." Again, perhaps this claim is more properly presented to the outside organization in charge of the Gala entertainment.

4. <u>Gala Staff Meals</u>: $1,492.50. As with the Navy Choir meals, Anton claims these were requested by Ambrose and provided at "no charge." Why the charge now? Should this item also be referred to the organization in charge of the Gala entertainment?

5. <u>Gala Rehearsal "Debacle"</u>: $24,875. Anton's claim is that by releasing tickets for the Gala rehearsal, PIC caused congestion problems at the Convention Center, blocking the entrance to Taste of America for one hour and 45 minutes. The claim is for lost business, based on an alleged statement by the Secret Service that they turned away 2500 Taste of America customers.

It is not clear that Anton should not have anticipated crowded conditions for the rehearsal; nor that PIC should bear the alleged costs. Both PIC and Taste of America, and any other entity for that matter, were subject to Secret Service crowd control demands. Anton's claim is also illogical, much like Yogi Berra's famous quip that no one goes to a particular restaurant any more because it is too crowded. Anton is claiming that crowds by his door kept customers away; it is just as arguable that the rehearsal event <u>increased</u> Anton's business by drawing potential customers to the area. Again, the figures used to calculate damages are highly speculative.

6. <u>Hall D Rental</u>: $5,250. Anton claims that the charge for renting Hall D for the entire period was $15,750, but that Taste of America only used it for 6 days, PIC for the other 3. He demands that PIC pay for its share.

This question should be readily resolvable by examining the rental agreement. If the $15,750 figure was in fact for 9 days and PIC used the Hall exclusively for 3, Anton's claim may have merit.

7. <u>Hall D Hardwall Construction</u>: $3,850. The hardwall was necessary to assist the Secret Service in securing that portion of Hall D to be used by PIC; Anton claims that PIC should therefore pay for it.

His contention is a <u>non-sequitur</u>. The hardwall was a necessary cost of doing business for Taste of America. Taste of America had to keep its activities within certain bounds; the wall was necessary to ensure this. If a village passes an ordinance requiring cattle to be in fenced pastures, to protect motorists, that does not mean the motorists must pay for the rancher's fence. The hardwall was necessary only because Taste of America was conducting its activities in the area.

In sum, based only on Anton's version of the facts, I do not think PIC is liable for items 1, 2, 3, 4, 5, or 7. A reading of the rental agreement should resolve the issue of liability for item 6; PIC may be liable. With respect to items 2, 3, and 4, Anton should direct his claim to the separate entity responsible for Gala entertainers, not PIC.

THE WHITE HOUSE

WASHINGTON

March 22, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Presidential Health Reports

In response to your inquiry concerning Presidential health reports, I examined the United States Code and Code of Federal Regulations, the Public Papers of the Presidents from the Eisenhower Administration to the present, and the assorted volumes on the Presidency in the library. I also conducted a media search and discussed the issue with Professor Meador and, at Professor Meador's suggestion, Dr. Kenneth Crispell of the University of Virginia Medical School. What I was able to learn is best characterized as diverting rather than illuminating.

I have found no law specifically concerning Presidential health records. To the extent the records are White House documents and retained in the White House, they would not be subject to the Freedom of Information Act (FOIA). Kissinger v. Reporters Committee for Freedom of the Press, 445 U.S. 136, 156 (1980). If the records cannot be characterized as White House documents, the question of their disclosure in response to a FOIA request would turn on the applicability of 5 U.S.C. § 552(b)(6). Exemption (b)(6) exempts from disclosure "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Courts have interpreted the exemption as requiring courts to balance the personal privacy interest against the public interest in disclosure; how a court would rule with respect to any particular Presidential medical record would depend, of course, on the particular circumstances.

Dr. Crispell has authored a soon-to-be-published book on the health of Presidents. According to Crispell, secrecy has been the rule with respect to an incumbent's medical state, at lease until the Eisenhower Administration. In fact, some White Houses pursued an active policy of disinformation, and in some cases (e.g., Kennedy) the refusal to disclose medical information persists long after the individual's death. President Cleveland's physician baldly lied about Cleveland's operation for cancer (which took place on a yacht for added secrecy); an elaborate conspiracy kept the details of Wilson's debilitating stroke from the public and Congress. Crispell considers the most successful cover-up to have been that of President Kennedy's Addison's disease.

Episodic medical reports of considerable detail were prompted by Eisenhower's heart attack and Johnson's similar attack and celebrated surgery. A student of Presidential illness wrote (in 1977) that "probably no President's illnesses were as fully and graphically described as those of Dwight Eisenhower." Riccards, "The Presidency: In Sickness and in Health," 7 Presidential Studies Quarterly 215, 227. After his coronary Eisenhower himself instructed his aides to "Tell the truth, the whole truth; don't try to conceal anything." Extensive and detailed information was provided on Eisenhower's health problems, but only as the problems arose -- not on a regular basis. Eisenhower's medical reporting did not establish a precedent because it was associated with specific medical crises. Indeed, Eisenhower's successor actively concealed his Addison's disease and his use of steroids.

All avowed Presidential and Vice Presidential candidates released medical records in 1976, probably because of the Eagleton imbroglio in 1972. President Ford was the first incumbent to release all the details of his routine physical, in January of 1976, despite the objection of long-time White House physician Dr. William Lukash. According to U.S. News & World Report, Lukash feared Ford's disclosure would harm the confidential patient-physician relationship and create a "bad precedent."

The issue is hotly debated, but it is still considered a violation of medical ethics, according to the AMA Judicial Council, for a physician to discuss the health of a public figure patient with the press without the patient's consent. The Council has urged public figures to release the details of their health, however, and has stated that physicians should encourage their public figure patients to do so. Several commentators have gone so far as to call for medical disclosure laws similar to financial disclosure laws, and even an independent board of medical examiners to provide an "objective" assessment of the health of candidates and officials.

In short, there is no law on the subject, and any "precedent" in favor of detailed disclosure is of only recent origin. Lukash's fear in 1976 was well-founded, however, and any refusal to release the details of routine examinations would now likely be interpreted as a "cover-up." The Eisenhower and Johnson precedents also suggest the need for full disclosue with respect to major medical episodes. The precedent with respect to non-routine testing or more minor problems is less clear, however, and I for one am not certain what public interest was advanced, for example, by the publicity surrounding President Carter's hemorrhoids.