**WITHDRAWAL SHEET**

**Collection Name**  Roberts, John

**File Folder**  [JGR/APPOINTEE CLEARANCES - 08/29/1985-09/30/1985]

**Box Number**  3

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### WITHDRAWAL SHEET

**Collection Name**
ROBERTS, JOHN: FILES

**Withdrawer**
KDB 7/29/2005

**File Folder**
[JGR/APPOINTEE CLEARANCES - 08/29/1985-09/30/1985]

**Box Number**
22 KDB

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J. ROBERTS TO RICHARD HAUSER RE PROSPECTIVE APPOINTEE

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

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

C. Closed in accordance with restrictions contained in donor's deed of gift.
THE WHITE HOUSE
WASHINGTON

August 29, 1985

MEMORANDUM FOR MICHAEL HOROWITZ
COUNSEL TO THE DIRECTOR
OFFICE OF MANAGEMENT AND BUDGET

FROM: JOHN G. ROBERTS
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Your Memorandum of July 19 on Deliberative Privilege and the Confirmation Process

Fred has asked me to review the above-referenced memorandum you sent to him, the Attorney General, and B. Oglesby on July 19. I certainly concur that we should take whatever steps are necessary to ensure that the general opening of files to Hill scrutiny as occurred in the Reynolds confirmation process does not become routine. The Reynolds case was unusual in that the Administration had precious little leverage; I would hope that with most nominations we would be in a better position to resist committee demands.

I do not know if it will do any good to raise the matter in the abstract at this point with Dole and Thurmond; perhaps B. and his colleagues can give us a better sense of that. I suspect that any vague assurances in the abstract from the Hill would be readily swept away by the dynamics of a particular future confirmation dispute, and that the most we can do is to ensure proper sensitivity to the deliberative privilege when that future dispute arises.

In any event, by 2001 Hill staffers need only go to the Reagan Library to see any internal White House deliberative document they want to see -- at least under the current, uncontested provisions of the Presidential Records Act. The pernicious effect of that statute will have to be addressed in any effort to revitalize the deliberative privilege.
**WHITE HOUSE**
**CORRESPONDENCE TRACKING WORKSHEET**

- **D - OUTGOING**
- **H - INTERNAL**
- **I - INCOMING**

**Date Correspondence Received (YY/MM/DD):**

**Name of Correspondent:** Mike Parson

- **MI Mail Report**
- **User Codes:** (A) (B) (C)

**Subject:** Errors on the Deliberative Privilege Through the Confirmation Process

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**ROUTE TO:**

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**ACTION**

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**Referral Note:**

- **Re: 85.07.19 a 5 85.07.29**
- **Re: 11**
- **Re: 71**
- **Re: 11**

**DISPOSITION**

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

**DISPOSITION CODES:**
- A - Answered
- B - Non-Special Referral
- C - Completed
- S - Suspended

**FOR OUTGOING CORRESPONDENCE:**
- Type of Response = Initiates of Signer
- Code = "A"
- Completion Date = Date of Outgoing

**Comments:**

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Keep this worksheet attached to the original incoming letter.
Send all routing updates to Central Reference (Room 75, OEOB).
Always return completed correspondence record to Central Files.
Refer questions about the correspondence tracking system to Central Reference, ext. 2590.
EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503  

July 19, 1985  

MEMORANDUM TO: Edwin Meese, III  
                   Fred P. Fielding  
                   B. Oglesby  

FROM: Mike Horowitz  

SUBJECT: Inroads on the Deliberative Privilege Through the Confirmation Process  

I want to call attention to an issue that in my opinion is of surpassing importance to the President and the entire Executive Branch. In two recent instances (one involving EM, III the other Brad Reynolds) the Senate Judiciary Committee required, as a condition of conducting confirmation hearings, near-full access to files relative to the prior service of those individuals.  

Through this procedure, the Committee obtained access to sensitive pre-decisional advice provided by two senior officials that the Executive Branch would not have disclosed if the Committee had sought access directly. In effect, the nominees were held hostage until the Executive agreed not to assert the deliberative privilege for documents authored by or, sent those officials. So far as I can determine, the scope of these demands was unprecedented.  

This development raises profound constitutional and operational questions. The facts of each case were unique, and disclosure was undoubtedly justified under the circumstances. I am concerned, however, that unless we forcefully take up the issue with Congress, an unfortunate precedent may have been established which will impair substantially the ability of this and future Presidents to manage the Executive Branch.  

We have long taken the position that the Constitution protects against disclosure to Congress certain communications pertinent to the decisionmaking process within the Executive branch. The privilege is not absolute -- it can be waived or overcome by a compelling and specific need for particular information. But this principle generally would prevent Congress from obtaining access to predecisional memoranda and letters authored by senior White House and agency officials, and it is quite likely that the privilege would be invoked if a Committee submitted a blunderbuss request for all such documents. In the two recent instances, however, the Committee has utilized its leverage over nominees to
extract a commitment from the Administration to release this material. The pressing issue is whether the practice will become institutionalized.

The adverse consequences that justify the deliberative privilege -- encouragement of full and frank expression of views in order to promote sound decisionmaking -- are fully implicated by the Committee demands. If this practice becomes prevalent, this and all future Administrations will be substantially harmed. The ablest junior officials -- the traditional source of recruitment for successors to initial appointees -- will be less forthcoming with their policy advice, in order to avoid future confirmation problems. (Often, as you know, internal positions are taken by individuals in order to influence policy outcomes, not necessarily to reflect their ultimate views.) And, the Executive Branch will be deterred from promoting its best talents if the price is compromising the integrity of the deliberative process. The problem obviously is most severe for communications between the President and his immediate staff. But the issue is still compelling even if the demands were limited to communications within an agency or between the agency heads and the White House.

In my opinion, we need to alert Bob Dole and Strom Thurmond to the threat this practice presents to the Presidency and to seek their assurance that nominees will not hereafter be subjected to wholesale disclosure of deliberative files.

cc: Joe Wright
THE WHITE HOUSE
WASHINGTON

September 3, 1985

MEMORANDUM FOR DIANNA G. HOLLAND

FROM: JOHN G. ROBERTS

SUBJECT: Appointment of Dennis Stanfill to the John F. Kennedy Center for the Performing Arts Board of Trustees

I have reviewed the Personal Data Statement submitted by the above-named individual in connection with his prospective appointment to the JFK Center for the Performing Arts Board of Trustees. The President is authorized to appoint 30 general trustees to this board under 20 U.S.C. § 76h(a). The duties of the Board consist of maintaining and administering the Kennedy Center. Mr. Stanfill satisfies the only statutory requirement for trustees, i.e., that they be citizens of the United States. He served as Chairman of the Board of Twentieth Century-Fox from 1971 to 1981, and is currently suing the firm for breach of his employment contract (for retirement payments). I do not think this litigation should preclude this appointment, and I see no other legal problems.
MEMORANDUM FOR DIANNA G. HOLLAND

FROM: JOHN G. ROBERTS

SUBJECT: Appointments of Mae Sue Talley, Rodney W. Rood, Joseph R. Reppert, Wells B. McCurdy, Anna Chennault, and Dennis V. Alfieri to the Commission on Presidential Scholars

The Commission on Presidential Scholars was established by Executive Order 11155, as amended (May 23, 1964). The function of the Commission is to select, each year, the Presidential Scholars from among graduating high school seniors. Pursuant to Section 1 of the Order, the President may appoint an unspecified number of members to the Commission "from among appropriately qualified citizens of the United States."

Dennis Alfieri is vice president of a construction and development company, and a White House advancement. He has been active in California politics and numerous youth services organizations. Anna Chennault is President of TAC International and serves on dozens of commercial and public service boards. Wells McCurdy is an industrial consultant and chairman of a luxury yacht charter service. Joseph Reppert is president of a residential real estate lender in Florida. Rodney Rood is vice president emeritus of Atlantic Richfield, and has served on the boards of several charitable organizations. Mae Sue Talley is now retired, but served as a business consultant and president of a resort hotel in Arizona. She also served as vice chairman of the Defense Department Advisory Commission on Women in the Services and is presently a consultant to NASA. I have no objection to these appointments.

I have not yet received a PDS from Carlos Benitez.

Attachment
THE WHITE HOUSE
WASHINGTON

September 3, 1985

MEMORANDUM FOR ROBERT H. TUTTLE

FROM: FRED F. FIELDING

All necessary clearances have been accomplished with regard to the following individual and she is ready for formal nomination by the President:

Patricia M. Byrne - Deputy Representative of the United States and the Security Council of the United Nations, with the rank of Ambassador

cc: Catherine Bedell
    Jane Dannenhauer
    Richard Hauser
    John Roberts
MEMORANDUM FOR ROBERT H. TUTTLE

FROM: FRED F. FIELDING

All necessary clearances have been accomplished with regard to the following individual and he is ready for appointment by the President:

William Lucas - Member, Commission on the Bicentennial of the U.S. Constitution

cc: Catherine Bedell
    Jane Dannenhauer
    John Roberts
    Susan Borchard
THE WHITE HOUSE
WASHINGTON

September 4, 1985

MEMORANDUM FOR ROBERT H. TUTTLE

FROM: FRED F. FIELDING

All necessary clearances have been accomplished with regard to the following individual and he is ready for appointment by the President:

Dennis Stanfill – Member, John F. Kennedy Center for the Performing Arts Board of Trustees

cc: Catherine Bedell
     Jane Dannenhauer
     John Roberts
     Susan Borchard
THE WHITE HOUSE
WASHINGTON

September 4, 1985

MEMORANDUM FOR ROBERT H. TUTTLE

FROM: FRED F. FIELDING

All necessary clearances have been accomplished with regard to the following individuals and they are ready for appointment to the Commission on Presidential Scholars:

Dennis V. Alfieri
Anna Chennault
Wells B. McCurdy
Joseph R. Reppert
Rodney W. Rood
Mae Sue Talley

cc: Catherine Bedell
Jane Dannenhauer
John Roberts
Susan Borchard
THE WHITE HOUSE
WASHINGTON

September 9, 1985

MEMORANDUM FOR ROBERT H. TUTTLE
FROM: FRED F. FIELDING

All necessary clearances have been accomplished with regard to the following individual and he is ready for appointment by the President:

William M. Taylor - Member, National Highway Safety Advisory Committee

CC: Catherine Bedell
    Jane Dannenhauer
    John Roberts
    Susan Borchard
The President today announced his intention to appoint Dennis Stanfill to be a Member of the Board of Trustees of the John F. Kennedy Center for the Performing Arts for the remainder of the term expiring September 1, 1988. He would succeed Frances Breathitt.

He is President of Stanfill, Doig & Company, an investment company in Los Angeles, California. Previously, Mr. Stanfill was Chairman of the Board and Chief Executive Officer of Twentieth Century-Fox in 1971-1981. He joined Twentieth Century-Fox in 1969 as Executive Vice President-Finance and as a member of the company's Board of Directors and Executive Committee. Previously, he was Vice President, Finance, at the Times Mirror Company, Los Angeles.

He is Chairman of the Board of Directors of KCET, public television for Southern California; a Trustee and member of the Executive Committee of the California Institute of Technology; and a member of the Board of Governors of the Performing Arts Council of the Music Center.

Mr. Stanfill graduated from the U.S. Naval Academy (B.S., 1949). He was selected for a Rhodes Scholarship to Oxford University (England) where he received a M.A. in 1953. He is married, has three children and resides in San Marino, California. He was born April 1, 1927 in Centerville, Tennessee.

# # #
MEMORANDUM FOR ROBERT H. TUTTLE

FROM: FRED F. FIELDING

All necessary clearances have been accomplished with regard to the following individual and he is ready for appointment by the President:

Richard B. Morris - Member, Permanent Committee for the Oliver Wendell Holmes Devise

cc: Catherine Bedell
    Jane Dannenhauer
    John Roberts
    Susan Borchard
MEMORANDUM FOR ROBERT H. TUTTLE

FROM: FRED F. FIELDING

All necessary clearances have been accomplished with regard to the following individual and he is ready for formal nomination by the President:

Dennis L. Bark - Member, Board of Directors, U.S. Institute of Peace

cc: Catherine Bedell
    Jane Dannenhauer
    John Roberts
    Susan Borchard
MEMORANDUM FOR ROBERT H. TUTTLE

FROM: FRED F. FIELDING

All necessary clearances have been accomplished with regard to the following individual and he is ready for appointment by the President:

Thomas Moses - Member, John F. Kennedy Center Advisory Committee

cc: Catherine Bedell
    Jane Dannenhauer
    John Roberts
    Susan Borchard
THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

September 16, 1985

The President today announced his intention to nominate Thomas W. Moses to be a Member of the Advisory Committee on the Arts (John F. Kennedy Center for the Performing Arts). This is an initial appointment.

Since 1969 he has been serving as Chairman of the Board of the Indianapolis Water Company. Previously, he was Chairman of the Board of the First National City Bank of Minneapolis.

He serves as Chairman of the Board and Director of Compucom Development Corporation; Director of Merchants National Bank & Trust Company; Director of Merchants National Corporation; and Director of Park Fletcher, Inc. He is Vice Chairman of the Capital Fund for the Indianapolis Ballet League and Honorary Chairman of the Capital Fund for the Indianapolis Art League.

He graduated from Washington & Lee University (A.B., 1939) and Yale University (LL.B., 1942). He is married, has three children and resides in Indianapolis, Indiana. He was born January 30, 1919 in Benton, Illinois.

# # #
THE WHITE HOUSE
WASHINGTON

September 16, 1985

MEMORANDUM FOR ROBERT H. TUTTLE

FROM:        FRED F. FIELDING

All necessary clearances have been accomplished with regard to
the following individual and he is ready for formal nomination
by the President:

Robert L. Barry - for the Rank of Ambassador during the tenure
of his service as United States Representative to the Conference
of Confidence and Security Building Measures and Disarmament in
Europe

cc:  Catherine Bedell
     Jane Dannenhauer
     Richard Hauser
     John Roberts
THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release September 17, 1985

The President today announced his intention to appoint Richard B. Morris to be a Member of the Permanent Committee for the Oliver Wendell Holmes Devise for a term of eight years. He will succeed Philip B. Kurland.

Dr. Morris is the Gouverneur Morris Professor Emeritus of History at Columbia University. Prior to teaching at Columbia University, he was a professor at City University. He was a visiting professor at the University of Hawaii and Princeton University; a distinguished professor at the Free University of Berlin; and a Fulbright Research Scholar at the Sorbonne. He has served as President of the American Historical Association and of the Society of American Historians. He received a New York State Special Citation for Historic Preservation in 1982.

He graduated from City College of New York (A.B., 1924); Columbia University (A.M., Ph.D., 1925, 1930), Hebrew Union College (L.H.D., 1963). He received his Litt.D. in 1976 from Columbia University and Rutgers University. He is married, has two children and resides in Mount Vernon, New York. He was born July 24, 1904 in New York City.

# # #
## WITHDRAWAL SHEET

**Collection Name**
Roberts, John

**Withdrawer**
KDB 7/29/2005

**File Folder**
[JGR/APPOINTEE CLEARANCES - 08/29/1985-09/30/1985]

**Box Number**
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. ROBERTS TO DIANNA HOLLAND, RE: REAPPOINTMENT OF RICHARD CHAVEZ TO THE ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD - PARTIAL

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

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B-3 Release would violate a Federal statute [(b)(3) of the FOIA]
B-4 Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
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E.O. 13233

C. Closed in accordance with restrictions contained in donor's deed of gift.
THE WHITE HOUSE
WASHINGTON

September 23, 1985

MEMORANDUM FOR DIANNA G. HOLLAND

FROM:        JOHN G. ROBERTS

SUBJECT:     Reappointment of Richard Chavez to the
             Architectural and Transportation Barriers
             Compliance Board

Pursuant to 29 U.S.C. § 792(a)(1)(A) the President is authorized to appoint eleven members to this Board from the general public, of whom five shall be handicapped individuals. Reappointments are authorized, but no member may be reappointed more than once without a hiatus of at least two years in Board service. It is the function of the Board to ensure compliance with the Architectural Barriers Act of 1968 and to explore and report on various issues relating to access by the handicapped. See 29 U.S.C. § 792(b).

Richard Chavez is President of a training institute for the handicapped. He is handicapped himself. This is Chavez's first reappointment. I have no objection.
MEMORANDUM FOR RICHARD A. HAUSER

FROM: JOHN G. ROBERTS

SUBJECT: Appointment of Kay Orr to the John F. Kennedy Center for the Performing Arts Advisory Committee

A draft to Tuttle for your signature is attached.

Attachment
MEMORANDUM FOR ROBERT H. TUTTLE
DEPUTY ASSISTANT TO THE PRESIDENT
DIRECTOR, PRESIDENTIAL PERSONNEL

FROM: RICHARD A. HAUSER
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: Appointment of Kay Orr to the John F. Kennedy Center for the Performing Arts Advisory Committee

Thank you for advising that Kay Orr is "a museum follower and is supportive of the arts," and that she is a trustee of a college engaged in expanding its arts facilities. Based on your representations that Mrs. Orr is "supportive of the arts" and involved in the Hastings College arts expansion, this office will not object to proceeding with her appointment. The fact that she is a "museum follower" is irrelevant, since museum arts are not one of the arts covered by the Kennedy Center. And the fact that the Committee's function is fundraising is also irrelevant, since the statute sets out specific criteria for appointees. 20 U.S.C. § 76h(c).

RAH:JGR:aea 9/24/85
cc: FFPielding
    RAHauser
    JGRoberts
    Subj
    Chron
MEMORANDUM FOR RICHARD A. HAUSER

FROM: ROBERT H. TUTTLE

SUBJECT: APPOINTMENT OF KAY ORR TO THE JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS, ADVISORY COMMITTEE

In regards to your memorandum concerning Kay Orr's lack of arts experience, we have spoken with her office. She is a museum follower and is supportive of the arts. She is also on the Board of Trustees of Hastings College. The college is currently building an enormous arts and communications center that is expected to be finished in the Spring of 1986.

However, this Advisory Committee is strictly a fundraising committee and we would very much like to see Kay Orr as a Member.

Please advise.
THE WHITE HOUSE
WASHINGTON

September 25, 1985

MEMORANDUM FOR ROBERT H. TUTTLE

FROM: FRED F. FIELDING

All necessary clearances have been accomplished with regard to the following individual and he is ready for appointment by the President:

Richard Chavez - Member, Architectural and Transportation Barriers Compliance Board

cc: Catherine Bedell
    Jane Dannenhauer
    John Roberts
    Susan Borchard
September 26, 1985

THE WHITE HOUSE
WASHINGTON

MEMORANDUM FOR ROBERT H. TUTTLE

FROM: FRED F. FIELDING

All necessary clearances have been accomplished with regard to
the following individual and she is ready for appointment by the
President:

Kay Orr - Member, John F. Kennedy Center for the Performing Arts
Advisory Committee

cc: Catherine Bedell
    Jane Dannenhauer
    John Roberts
    Susan Borchard
MEMORANDUM FOR ROBERT E. TUTTLE
DEPUTY ASSISTANT TO THE PRESIDENT
DIRECTOR, PRESIDENTIAL PERSONNEL

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

SUBJECT:     Vacancy on Panel of Arbitrators of the
International Centre for Settlement of
Investment Disputes

A vacancy has arisen in the United States delegation to the
Panel of Arbitrators of the International Centre for Settlement
of Investment Disputes (ICSID).

The ICSID was established by the Convention on the Settlement
of Investment Disputes between States and Nationals of Other
States, to which the United States is a party. The Convention
provides that the United States may appoint four individuals
to the Centre's Panel of Arbitrators, and 22 U.S.C. § 1650
provides that the President may make those appointments.

The only qualifications for appointment appear in Article
14(1) of the Convention:

Persons designated to serve on the Panels shall
be persons of high moral character and recognized
competence in the fields of law, commerce, industry
or finance, who may be relied upon to exercise
independent judgment. Competence in the field of
law shall be of particular importance in the case
of persons on the Panel of Arbitrators.

Persons appointed to the Panel receive no compensation from
the Government, but are compensated by the parties to any
case they arbitrate.

Past appointees have generally been very distinguished
attorneys or legal scholars. Since parties must consent to
submit cases to the Centre, the quality of the arbitrators
is very important. This will be President Reagan's first
appointment to the Panel of Arbitrators.
On March 28, 1985, the Legal Adviser at State and the Acting General Counsel at Treasury made a joint recommendation of four candidates. At this point, I have requested the new incumbents for recommendations. Upon receipt I will forward the same to you with my comments.

FFF:JGR:aea  9/26/85
cc:  FFFielding
     JGRoberts
     Subj
     Chron
MEMORANDUM FOR ROBERT H. TUTTLE
DEPUTY ASSISTANT TO THE PRESIDENT AND
DIRECTOR OF PRESIDENTIAL PERSONNEL

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Vacancy on Panel of Arbitrators of the
International Centre for Settlement
of Investment Disputes

July 12, 1985

A vacancy has arisen in the United States delegation to the Panel of Arbitrators of the International Centre for Settlement of Investment Disputes (ICSID). The ICSID was established by the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, to which the United States is a party. The Convention provides that the United States may appoint four individuals to the Centre's Panel of Arbitrators, and 22 U.S.C. § 1650 provides that the President may make those appointments.

The only qualifications for appointment appear in Article 14(1) of the Convention:

Persons designated to serve on the Panels shall be persons of high moral character and recognized competence in the fields of law, commerce, industry or finance, who may be relied upon to exercise independent judgment. Competence in the field of law shall be of particular importance in the case of persons on the Panel of Arbitrators.

Persons appointed to the Panel receive no compensation from the Government, but are compensated by the parties to any case they arbitrate.

Past appointees have generally been very distinguished attorneys or legal scholars. Since parties must consent to submit cases to the Centre, the quality of the arbitrators is very important. This will be President Reagan's first appointment to the Panel of Arbitrators.
On March 26, 1985, the Legal Adviser at State and the Acting General Counsel at Treasury made a joint recommendation of four candidates. At this point, I have requested the new incumbents for recommendations. Upon receipt I will forward the same to you with my comments.

Arms should be kept under control. Thanks.
MEMORANDUM FOR FRED P. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Vacancy on International Centre for Settlement of Investment Disputes (ICSID) Panel of Arbitrators

You have asked for information on the legal requirements for appointment to the ICSID Panel of Arbitrators. The ICSID was established by the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, 17 U.S.T. 1270. The Convention provides for panels of arbitrators to decide disputes submitted to them, with each contracting state eligible to designate four persons -- who may, but need not be, its nationals -- to the pool of arbitrators. Article 14 of the Convention provides that arbitrators "shall be persons of high moral character and recognized competence in the fields of law, commerce, industry or finance, who may be relied upon to exercise independent judgment. Competence in the field of law shall be of particular importance. . . ." 17 U.S.T. 1270, 1277.

Congress passed the Convention on the Settlement of Investment Disputes Act of 1966 to implement the Convention. This statute simply provides, with respect to appointments, that "the President may make such appointments of representatives and panel members as may be provided for under the convention." 22 U.S.C. § 1650.

Arbitrators are not compensated by the Government. They are only compensated when they are selected to hear a particular matter, in which case their expenses and fees are borne by the parties. Article 60-61, 17 U.S.T. 1270, 1293-94.

Cases are brought to the Centre only by mutual consent of the parties, and the parties generally must consent to the selection of arbitrators (if the parties cannot agree, the Chairman of the Centre appoints arbitrators). Conflicts problems are thus extremely unlikely. Since no pay or full-time service is involved, an SF-278 would not be necessary.
I would note that the willingness of states and parties to use the ICSID depends in large part on the quality of the arbitrators. The United States has been represented by rather distinguished attorneys since the Centre was established, including Thurman Arnold, Leon Jaworski, Soia Mentschikoff, Henry Seyfarth, Henry Salvatori, Detlev Vagts, and Myres McDougall. This will be President Reagan's first appointment to the Panel.

The attached memorandum for Tuttle alerts him to the need to make an appointment to this body. I did not know if you wanted to recommend a particular candidate.
MEMORANDUM FOR ROBERT H. TUTTLE
DEPUTY ASSISTANT TO THE PRESIDENT AND
DIRECTOR OF PRESIDENTIAL PERSONNEL

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Vacancy on Panel of Arbitrators of the
International Centre for Settlement
of Investment Disputes

A vacancy has arisen in the United States delegation to the Panel
of Arbitrators of the International Centre for Settlement of
Investment Disputes (ICSID). The ICSID was established by the
Convention on the Settlement of Investment Disputes between
States and Nationals of Other States, to which the United States
is a party. The Convention provides that the United States may
appoint four individuals to the Centre's Panel of Arbitrators,
and 22 U.S.C. § 1650 provides that the President may make those
appointments.

The only qualifications for appointment appear in Article 14(1)
of the Convention:

Persons designated to serve on the Panels shall
be persons of high moral character and recognized
competence in the fields of law, commerce, industry
or finance, who may be relied upon to exercise
independent judgment. Competence in the field of
law shall be of particular importance in the case
of persons on the Panel of Arbitrators.

Persons appointed to the Panel receive no compensation from the
Government, but are compensated by the parties to any case they
arbitrate.

Past appointees have generally been very distinguished attorneys
or legal scholars. Since parties must consent to submit cases to
the Centre, the quality of the arbitrators is very important.
This will be President Reagan's first appointment to the Panel of
Arbitrators.
INTERNATIONAL CENTRE (CENTER) FOR THE SETTLEMENT OF INVESTMENT DISPUTES,

PANEL OF ARBITRATORS OF THE

Department of State

AUTHORITY: 22 U.S.C. 1650
P.L. 89-532, 80 Stat. 344, August 11, 1966
Convention on the Settlement of Investment Disputes (Exec. A, 89th 2nd), approved by the Senate May 16, 1966, ratified by the President on June 1, 1966. (Chapter I, Section 4, Article 12, Article 13(1), Article 15 (1) (2) (3), Chapter VI, Article 60 (1) (2).)

METHOD: Designated by the President

MEMBERS: FOUR

TERM: Renewable periods of six years. Vacancies shall be designated only for the unexpired term of his predecessor. Panel members shall continue in office until their successors have been designated. (HOLDOVERS)

SALARY: No compensation. Only when a Conciliator or an Arbitrator is chosen to act on a Panel will remuneration be awarded and the rate is set by the parties to the dispute.

PURPOSE: Represent the United States on the Panel of Arbitrators.
DESIGNATION OF PANEL MEMBERS BY CONTRACTING STATES

Article 13(1) of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States authorizes each Contracting State to designate four persons to the Panel of Conciliators and four persons to the Panel of Arbitrators. The purpose of this note is to encourage States to make these designations as soon as possible and to assist them in this procedure.

1. Qualifications of Panel Members

Article 14(1) of the Convention provides that:

"Persons designated to serve on the Panels shall be persons of high moral character and recognized competence in the fields of law, commerce, industry or finance, who may be relied upon to exercise independent judgment. Competence in the field of law shall be of particular importance in the case of persons on the Panel of Arbitrators."

Neither the Report of the Executive Directors accompanying the Convention (see para. 21) nor the Administrative and Financial Regulations of the Centre (ICSID/n, Part A; see Regulation 20) add any additional qualifications or define those stated in the Convention.

It is of course highly desirable that the members of both Panels be men of distinction, whose appointment will reflect credit both on the appointing authority and on the Centre. It may be expected that, at least to some extent, the Centre will be judged by the international reputation of its Panel members, and that the utilization of the facilities of the Centre will be encouraged by the listing of outstanding personalities.

2. Disqualifications from Service on the Panels

The Convention does not establish any special disqualifications from service on either of the Panels. The Administrative and Financial Regulations provide only one restriction: that no member of the Secretariat of the Centre may serve on either Panel.

Contracting States are not required to restrict their designations to their own nationals.

There is no bar against the designation of government officials. However, since Panel members are normally to serve for six years, it
will not be practical to have the holder of a particular office always represented on the Panel. In addition, account should be taken of the possibility that the service of a high government official on a particular Commission or Tribunal constituted by other parties might, in certain instances, be politically embarrassing to his Government.

Although the Convention does not state that any particular national or international office is incompatible with service on the Panels, such incompatibility might arise from the rules relating to such other office. Thus the judges of certain courts are prohibited from performing any outside functions. While service on the Panel itself involves no duties and therefore might not be considered as an incompatible function, service on a Commission or Tribunal might be—and persons should not be appointed to a Panel who normally could not accept appointment to Commissions or Tribunals.

3. Duties of Panel Members

Service on both Panels is entirely voluntary. While a State will usually consult the persons it intends to designate, Administrative and Financial Regulation 20(3) requires the Secretary-General to ask each designee personally whether he is willing to serve.

Listing on a Panel does not require a member to accept appointment to any particular Commission or Tribunal. Such an appointment can only be made if the person concerned formally accepts it.

4. Benefits of Service on a Panel

No person receives compensation for mere service on a Panel. However, service on a Commission or Tribunal will normally be compensated in accordance with Article 60 of the Convention.

Only persons listed on the Panels may be appointed by the Chairman of the Administrative Council to serve on a Commission or Tribunal, or on an ad hoc Committee established pursuant to Article 52(3) of the Convention. While the parties to a dispute are not so restricted, they are more likely to appoint Panel members than persons not so listed.

5. Method of Making Designations

Article 16(3) of the Convention requires that designations be made by notifying them to the Secretary-General of the Centre. Administrative and Financial Regulation 20(2) further requires that:

"Each designation made by a Contracting State...shall indicate the name, address and nationality of the designee, and include a statement of his qualifications, with particular reference to his competence in the fields of law, commerce, industry and finance."
It is not required that all four members of either Panel be designated at the same time. Thus one or more designations can be made now, with others following later.

6. **Timing of Designations**

Since the making of designations to the Panel is a privilege and not an obligation, no time limit is stated for Contracting States to act. However, it is hoped that governments will take into account that the Centre can only function imperfectly until a sufficient number of persons have been appointed to its Panels.
THE WHITE HOUSE
WASHINGTON

September 27, 1985

MEMORANDUM FOR FREDERICK J. RYAN, JR.
DEPUTY ASSISTANT TO THE PRESIDENT
DIRECTOR, PRESIDENTIAL SCHEDULING

FROM: RICHARD A. HAUSER Original signed by RAH
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: Scheduling Request for Presentation of
the Interim Report from the President's
Commission on Organized Crime by
Chairman Irving R. Kaufman

You have asked for our views on a request from Chairman
Irving Kaufman of the President's Commission on Organized
Crime for a meeting with the President during the week of
October 21, to present another interim report of the Commiss-
ion. While this office would have no objection to such a
meeting with the President, we also do not consider it
necessary. Chairman Kaufman was granted a meeting with the
President to present an earlier interim report of the
Commission on October 25, 1984. He will doubtless request a
meeting to present the final report of the Commission in
March 1986. I see no reason to grant this request for a
grand total of three ceremonial presentations, when many
Presidential commissions have none at all.

RAH:JGR:aea 9/27/85
cc: FFFielding
    RAHauser
    JG Roberts
    Subj
    Chron
**WITHDRAWAL SHEET**

*Ronald Reagan Library*

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**Document Description**

ROBERTS TO FRED FIELDING RE APPOINTMENTS TO COMMISSION OF FINE ARTS

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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

September 27, 1985

MEMORANDUM FOR SUSAN BORCHARD
ASSOCIATE DIRECTOR
PRESIDENTIAL PERSONNEL

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Appointment of Diane Wolf and Pascal Regan to the Commission of Fine Arts

Thank you for your memorandum of September 23, detailing the reasons you believe Diane Wolf and Pascal Regan may be considered "well-qualified judges of the fine arts." My memorandum of July 31 cleared these two and the other prospective appointees to the Commission of Fine Arts; my additional comments were simply intended to alert you to possible criticism of the appointments. If you are satisfied, you may proceed with the appointments.

FFF:JGR:aea 9/27/85
cc: FFFielding
    JGRoberts
    Subj
    Chron
THE WHITE HOUSE
WASHINGTON

September 23, 1985

MEMORANDUM FOR FRED P. FIELDING

FROM: SUSAN BORCHARD

SUBJECT: Qualifications of Diane Wolf and Pascal Reagan to serve as Members on the Commission of Fine Arts

This is to address the questions your office has regarding the qualifications of Diane Wolf and Pascal Reagan to serve as Members on the Commission of Fine Arts.

Dinae Wolf is well known and respected by the New York art community. J. Carter Brown, the Director of the National Museum of Art, and Clement Conger, the Curator of the White House, would both serve as references for her credentials.

Miss Wolf worked for five years, from 1979 to 1984, with the Metropolitan Museum of Art, and through her family has had great involvement with art her entire life. Her family has a major collection of Federal art and furniture and they have donated a room to the Metropolitan Museum of Art. She has loaned pieces to the Metropolitan Museum of Art, the Houston Art Museum and the Denver Art Museum. Currently, she has a collection of Bronzes on exhibit at the National Art Gallery. She is a Member of the Aspen Historical Society and is very involved with the preservation of art.

Pascal Regan, is the daughter of the French painter Charles Pascal. At a very early age and due to deafness, she began drawing as a means of communication. After ten years of studying painting in the impressionist style with Marcel Dyt in Paris, she returned to sculpture which she had studied in Italy with Professor Julius Attilio from the age of eleven. At the age of forty-one Pascal began sculpting in glass and today is acknowledged as one of the greatest living American sculptors. She has had exhibitions in Zurich, New York, Tokyo, London, Washington, D.C., Palm Beach and Los Angeles.

Pascal served as Chairman of The Fine Arts for the first inaugural of President Reagan and they are close personal friends.
MEMORANDUM FOR ROBERT H. TUTTLE
DEPUTY ASSISTANT TO THE PRESIDENT
DIRECTOR, PRESIDENTIAL PERSONNEL

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Appointments to the
Commission of Fine Arts

All necessary clearances have been accomplished with regard to the following individuals and they are ready for appointment by the President to the Commission of Fine Arts:

Diane Wolf
Roy Goodman
Carolyn Deaver
J. Carter Brown
Neil Porterfield
Pascal Regan

I would note, however, that the statute requires appointees to be "well-qualified judges of the fine arts." 40 U.S.C. § 104. Several of these prospective appointees, in particular Mesdames Wolf and Regan, are not widely recognized as experts in this field, and may be subject to criticism as unqualified for the important work of this Commission.

CC: Nancy Perot
    Jane Dannenhauer
    John Roberts
    Susan Borchard
THE WHITE HOUSE
WASHINGTON

September 30, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM:    JOHN G. ROBERTS

SUBJECT:  David O. Stewart

Attached are David O. Stewart's most recent articles for the ABA Journal. They all report on recent developments in the Supreme Court, and are basically objective and informational. The only bias I have discerned is a tendency to elevate the importance of Justice Powell, his old boss. I have clipped a few brief passages that discuss the Administration.

Also attached is Stewart's Martindale-Hubbel entry.

Attachments
CATHERINE BEDELL TO JANE DANNEHAUER,
RE: PA AND PAS CANDIDATE WITHDRAWALS

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

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