



REPORT OF INVESTIGATION

Title (Name and address): John G. Roberts' Missing File Ronald Reagan Presidential Library and Museum, 40 Presidential Drive Simi Valley, California, 93065		Type of Investigation: Criminal	Type of Report: <input checked="" type="checkbox"/> Final <input type="checkbox"/> Supplemental
Social Security Number: N/A		<input type="checkbox"/> Employee	<input type="checkbox"/> Non-employee
Date of Birth: N/A	Date Entered on Duty: N/A	<input type="checkbox"/> Former Employee	
Post of Duty: N/A		Organization and Office: N/A	
Period of Investigation: August 16, 2005 through September 16, 2005			

BASIS FOR INVESTIGATION

On July 18th and 19th, 2005, [REDACTED] were granted special access pursuant to the Presidential Records Act to review White House Counsel's office files from 1981 to 1986 held at the Ronald Reagan Presidential Library and Museum, 40 Presidential Drive, Simi Valley, California, 93065. On July 21st or 22nd, 2005, while attempting to locate a file contained in the above record group to respond to a Freedom of Information Act (FOIA) request, a file contained in the John G. Roberts, Jr., collection entitled "Affirmative Action Correspondence" was discovered missing. Library staff assumed the file would be located during the refolding process of the collection, which began on July 23, 2005, and ended on July 31, 2005.

On August 10, 2005, [REDACTED], National Archives and Records Administration, was advised by the Library the "Affirmative Action Correspondence" file was missing, but the Library was still searching for it. On August 10, 2005, [REDACTED], National Archives and Records Administration—[REDACTED], that a file from the Library was missing but the Library was still searching for it. In a letter dated August 15, 2005, [REDACTED] advised [REDACTED] the "Affirmative Action Correspondence" file was missing and attempts to locate the file were unsuccessful. On August 16,

Distribution	No.	Case Number:	Signature of Special Agent Making Report:
Office of Inspector General	1	[REDACTED]	
National Archives and Records Administration	2	Signature of Person Examining Report:	
Assistant U.S. Attorney			
Other (Specify):		Title: Inspector General	Office(City): College Park, MD
		Division Office: Headquarters	Date of Report: 9/27/05

NARA - OIG Form OI 212 (Rev 04/2005)

Office of Inspector General
 National Archives and Records Administration

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REPORT OF INVESTIGATION

2005, an investigation was initiated by the Office of Investigations within the OIG.

ALLEGED VIOLATIONS

Potential violation of 18 U.S.C. 2071, Concealment, removal, or mutilation generally

RESULTS OF INVESTIGATION

This investigation is unresolved and the file is still missing. In the providing of the files to the researchers, NARA policies and procedures were not consistently followed. The OIG was unable to determine whether the missing file was taken intentionally, unintentionally, or lost. The last person recorded as having the missing file is [redacted] [redacted] indicated he most likely provided the file to [redacted] prior to its return to [redacted]. [redacted] has no independent recollection of receiving the file. Neither [redacted], has any independent recollection the file was given to [redacted] or any other archivist after its review. [redacted] and all appropriate NARA employees have been interviewed, and NARA employees have searched all appropriate files, rooms, boxes, etc., for the missing file. [redacted] were not interviewed in person, but answered interrogatories provided by the OIG. The OIG first discussed and met with the U.S. Department of Justice (DOJ) on August 23, 2005, and continued consulting DOJ throughout the investigation.

INVESTIGATIVE SUMMARY

EXHIBIT

On the morning of July 18, 2005, [redacted], Ronald Reagan Presidential Library and Museum, received a telephone call from [redacted], NARA. [redacted] informed [redacted] that [redacted] had been granted special access pursuant to the Presidential Records Act to review White House Counsel's office files from 1981 to 1986 held at the Reagan Presidential Library. [redacted] was instructed to provide [redacted] and her colleagues with researcher cards and [redacted]. Furthermore, [redacted] was instructed to do a preliminary screening of any requested material and remove any classified material as [redacted] did not have appropriate clearances to review classified material.

1

Case Title:
John G. Roberts' Missing File

Case Number:

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REPORT OF INVESTIGATION

met [redacted], and escorted them into the Library. [redacted] informed [redacted] the purpose of their visit was to review White House Counsel's Staff Member Office Files (SMOF) of John B. Roberts, Jr., [redacted] for nomination to the Supreme Court of the United States. [redacted] had lists generated from the Library's website that indicated the files they wanted to review. As [redacted] reviewed the lists with [redacted] colleague, [redacted], arrived.

It was decided by the archivists the researchers would conduct their review in the office next to [redacted] office because it would be discreet and keep them out of sight of the main research room. The room was a normal working office and was cluttered with boxes, files, and other items. The researchers were allowed to bring personal belongings with them into the room while they worked. The researchers were provided visitor badges and researcher cards. [redacted] was provided with the lists of files sought for review and [redacted] and [redacted] began to pull the material from the Library's holdings. The first material reviewed was processed/open material that was already available to the public. That consisted of seven boxes. Subsequently on July 18-19, 2005, the researchers were provided unprocessed material that was not then available to the public. While the researchers were reviewing the files an archivist was in the room with them except when the researchers made conference calls to the White House. During those occasions the researchers were left alone in the office with the records for periods of up to 30 minutes.

1 & 2

While reviewing the open files the researchers would retrieve a box of files and go through the box at their work area. After reviewing the box of files the researcher returned the box to the archivist or placed it on the cart holding the files. While reviewing the unprocessed boxes, a researcher was provided a file from the unprocessed boxes and, in the beginning, an archivist or the researcher would fill out a pull slip indicating the name of the file or files requested and the name of the researcher requesting the file. At some point, the pull slip process was abandoned in order to expedite the [redacted] researchers' review of the Roberts [redacted] materials. In the beginning when a file was pulled from an unprocessed box, it was replaced with an "out-card" but because of a shortage of out-cards the archivists began using plain sheets of yellow paper. The name of the file or files removed from the box was written on the out-card or yellow paper.

1 - 3

When the [redacted] researchers had finished their review of an unprocessed file, they returned it to an archivist or placed it on the cart holding the files. The archivist would either refile it in the appropriate box, or place it and/or leave it on the cart for later refileing. If the researchers wanted something copied, they would tag it, and it was

1 - 6

Case Title: John G. Roberts' Missing File Case Number: [redacted]

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REPORT OF INVESTIGATION

placed in a segregated pile of material to be copied later. There was no process or procedure to note that a file was returned other than pulling the out-card when the file was placed back in the box. At the end of the review each day the files were put into [redacted] office and the office was locked.

On July 18, 2005, one of the first files provided for review from the unprocessed files was the "Affirmative Action Correspondence" file contained in the John G. Roberts, Jr., collection. On the list researcher [redacted] provided [redacted] [redacted] were placed beside files the researchers wanted to see first. The "Affirmative Action Correspondence" file was one of the files marked [redacted]. The file, along with two other files, "[redacted]" and "[redacted]" that did not have [redacted] beside the file names, were provided to [redacted] for review. In this instance a single out-card was written for the "Affirmative Action Correspondence" file and the "[redacted]" file. These were [redacted] in the same box and it was not uncommon to use a single out-card in such a circumstance.

2 & 6

Upon reviewing the "Affirmative Action Correspondence" file [redacted] is "fairly certain" he provided the file to [redacted] for review. [redacted] believes he provided the file to [redacted] because: [redacted]

6

[redacted] made notes on his copy of the list of files concerning the "Affirmative Action Correspondence" which state [redacted]

[redacted] is confident that nobody passed the "Affirmative Action Correspondence" file to [redacted]. [redacted] has no recollection of ever seeing the file; her handwritten notes recording each file she reviewed indicate that she did not review the file; and the index notations recording who reviewed each file indicate that she did not review the file.

4

[redacted] does not think he provided the file to [redacted] nor does [redacted] recall seeing the file. [redacted] does not recall any details about discussing the "Affirmative Action Correspondence" file other than to say here is what is in the file. The other researchers do not recall having any discussion concerning the contents of the "Affirmative Action Correspondence" file. [redacted] does not recall returning the "Affirmative Action Correspondence" file to the Library staff. [redacted] remembers the content of the "Affirmative Action Correspondence" file was a letter to the president regarding affirmative action. [redacted] was shown the documents the Library found matching his notes and he said those are the documents he took his notes about.

4 - 6

Case Title: John G. Roberts' Missing File Case Number: [redacted]

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REPORT OF INVESTIGATION

However, he recalls the file being thicker than just the documents he was shown. The other documents in the file were not significant enough to take notes on, i.e. they were not written by Roberts. [REDACTED] was shown other possible documents that were identified in White House Office of Records Management database relating to Roberts and affirmative action. [REDACTED] indicated he did not recall whether or not all but one of those was in the missing file. The one document, [REDACTED] believed, was not in the missing file.

On July 18-20, 2005, [REDACTED] refiled the reviewed materials. [REDACTED] would have pulled the out-card for the "Affirmative Action Correspondence" file during that three-day period. [REDACTED] does not recall specifically pulling the out-card used for the "Affirmative Action Correspondence" and "[REDACTED]" files from the box, but does remember seeing it later in the stack of out-cards she had pulled from the boxes. [REDACTED] stated it was possible that she pulled the card when she refiled the "[REDACTED]" file not recognizing the out-card was also used for the "Affirmative Action Correspondence" file. 2

On July 20, 2005, the [REDACTED] researchers were gone and [REDACTED] asked [REDACTED] to assist her in refiling all the material that had been reviewed and with moving the boxes back to the stacks in the basement. During the refiling, [REDACTED] was missing one file – she does not recall which file – but found it after discovering it had been misfiled. Subsequently, [REDACTED] asked [REDACTED] for help in looking through the boxes to make sure that all the files reviewed by the [REDACTED] researchers were accounted for. This search was done by going through each box looking for out-cards. If there were out-cards in the boxes, those files had not been returned. Since [REDACTED] had pulled the out-card for the "Affirmative Action Correspondence" and "[REDACTED]" files, she assumed those files were both in the box. As such, [REDACTED] recalls that everything was accounted for at that time. Subsequently, the boxes were returned to the basement stacks. 1 – 2

On July 21, 2005, subsequent to the announcement of Judge John G. Roberts, Jr., as the nominee for the Supreme Court, FOIA requests for "John G. Roberts, Jr. Files, 1983-1986, Office of Counsel to the President" arrived for [REDACTED] at the Reagan Library. The request, from The Washington Post, included a request for the "Affirmative Action Correspondence" and "[REDACTED]" files among others. 1

[REDACTED] began to fill out FOIA pull sheets for the requested material. FOIA pull sheets, similar to an out-card, are placed into a box when a particular file is pulled indicating the file has been pulled in response to a FOIA request. [REDACTED] filled out one FOIA pull sheet for the "Affirmative Action Correspondence" and "[REDACTED]" files. [REDACTED] pulled files for the FOIA response on July 21-22, 1

Case Title: **John G. Roberts' Missing File** Case Number: [REDACTED]
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National Archives and Records Administration

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REPORT OF INVESTIGATION

2005. When [redacted] went to pull the "Affirmative Action Correspondence" file, it was not there. This was the first recognition by [redacted] that the file was missing.

At some point on July 21 or 22, 2005, [redacted] was instructed to stop working on the FOIA response and assist in the arrangement of the Roberts' material in a manner that would facilitate the pending release of the Roberts' materials to the public. [redacted] did not immediately report the missing file because she assumed it would turn up in the arrangement process. (Agent's Note: Arrangement is an archival term of art that means actual reorganization, refolding, and reboxing of a library collection.)

1

On July 23, 2005, [redacted] began the arrangement process which continued through July 31, 2005. On July 31, 2005, [redacted] determined the "Affirmative Action Correspondence" file was missing and reported it to [redacted]. There was a FOIA pull sheet where the file should have been with both the "Affirmative Action Correspondence" and "[redacted]" file names written on it, but only the "[redacted]" file had been returned for the arrangement process. Also during the arrangement process a file in the Roberts' collection entitled "State of the Union" was missing for a brief period, but was subsequently located having been misfiled in the collection.

7

On July 31, 2005, the Library staff began searching for the missing "Affirmative Action Correspondence" file. They searched the [redacted] and Roberts' collections, [redacted] office, the office used by the reviewers, the vault, work areas, the stacks and all other appropriate locations for the missing file. All of these areas were searched multiple times by various staff members to no avail. On August 7, 2005, [redacted] advised [redacted] via email that the "Affirmative Action Correspondence" file was missing.

3

On August 8, 2005, [redacted], who was back at the Library, was advised the "Affirmative Action Correspondence" file was missing. [redacted] asked [redacted] if she recalled seeing the file. [redacted] did not recall seeing it, but looked at her notes, which indicated that [redacted] had looked at the file. She contacted [redacted] via email and provided [redacted] with [redacted] response, which was then used in an attempt to locate the missing information and to reconstruct the file.

3

On August 10, 2005, [redacted] and others were advised by the Library the "Affirmative Action Correspondence" file was missing, but the Library was still searching for it. On August 10, 2005, [redacted] advised [redacted] that a

8

Case Title: John G. Roberts' Missing File Case Number: [redacted]

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REPORT OF INVESTIGATION

file from the Library was missing but the Library was still searching for it. In a letter dated August 15, 2005, [REDACTED] advised [REDACTED] the "Affirmative Action Correspondence" file was missing and attempts to locate the file were unsuccessful.

Case Title:

John G. Roberts' Missing File

Case Number:

[REDACTED]

NARA - OIG Form OI 212 (Rev 04/2005)

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National Archives and Records Administration

Page 7

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MEMORANDUM OF INTERVIEW OR ACTIVITY

Type of Activity:

- Personal Interview
- Telephone Interview
- Records Review
- Other

Date and Time:

August 19, 2005

Activity or Interview of:

Conducted by:

[REDACTED]
[REDACTED]

Location of Interview/Activity:

Ronald Reagan Presidential Library and
Museum
40 Presidential Drive
Simi Valley, CA 93065-0600

[REDACTED], Ronald Reagan
Presidential Library and Museum

Subject Matter/Remarks

On August 19, 2005, [REDACTED] interviewed [REDACTED], [REDACTED], Ronald Reagan Presidential Library and Museum, National Archives and Records Administration (NARA) at 40 Presidential Drive, Simi Valley, California, 93065-0600. The interview was continued over the telephone on August 24, 2005.

[REDACTED] was interviewed concerning her knowledge of a missing John G. Roberts, Jr., file from the Reagan Library entitled "Affirmative Action Correspondence." [REDACTED] provided the following information.

On Monday morning, July 18, 2005, [REDACTED] received a telephone call from [REDACTED], [REDACTED], [REDACTED], NARA. [REDACTED] informed [REDACTED] that [REDACTED], and [REDACTED] had been granted special access pursuant to the Presidential Records Act to review White House Counsel's office files from 1981 to 1986 held at the Reagan Presidential Library. [REDACTED] was instructed to provide [REDACTED] and her colleagues with researcher cards and [REDACTED]. Furthermore, [REDACTED] was instructed to do a preliminary screening of any requested material and remove any classified material as [REDACTED] and her colleagues did not have appropriate clearances to review classified material.

After the phone call from [REDACTED], [REDACTED] discovered that the [REDACTED] researchers had arrived at the library. She met [REDACTED], [REDACTED], and [REDACTED], and escorted the [REDACTED] to an office she shared with [REDACTED], [REDACTED], Ronald Reagan Presidential Library and Museum, NARA.

Case Number:

[REDACTED]

Case Title:

John G. Roberts' missing file

At this time, [REDACTED] informed [REDACTED] of the purpose of their visit, which was to review the White House Counsel's Staff Member Office Files of John B. Roberts, Jr., [REDACTED] [REDACTED] for nomination to the Supreme Court of the United States. [REDACTED] had lists generated from the Library's website that indicated the files she wanted to review. She reiterated to [REDACTED] the need for discretion. As [REDACTED] reviewed the lists with [REDACTED], her colleague, [REDACTED], arrived.

[REDACTED] introduced the [REDACTED] researchers to [REDACTED] and explained what was happening. It was decided that rather than review files in the public research room, the [REDACTED] would conduct their review in the office next to [REDACTED] and [REDACTED]' office because it would be discreet and keep them out of sight of the main research room. The usual occupants of the office next door were not in so the space was available to the [REDACTED] researchers. There were no restrictions exercised on what the researchers could bring into the room.

The [REDACTED] researchers were provided with visitor badges and researcher cards. [REDACTED] was provided with the lists of files sought for review and she and [REDACTED] began to pull the material from the Library's holdings. The first material reviewed was previously released material that was already available to the public. This material consisted of seven boxes.

The [REDACTED] researchers spent the morning reviewing the previously opened material. Review of the unprocessed material that was not currently available to the public did not begin until the afternoon. This unprocessed material required more attention from [REDACTED] and [REDACTED] as it had to be screened to ensure that no classified material was inadvertently released. The material was held in boxes in stacks in the Library basement.

[REDACTED] went to the basement, pulled the boxes of material off the stacks, and screened them for classified material. [REDACTED] remained in the office with the [REDACTED] researchers. [REDACTED] [REDACTED] while the three researchers reviewed the material. She observed the three researchers throughout the review process except for several occasions where the researchers conducted conference calls with the White House and were left alone in the office for periods of up to 30 minutes.

[REDACTED] recalls that [REDACTED] would bring in a cart with requested materials on it. A cart would hold six boxes. When a researcher wanted a file, [REDACTED] or the researcher would fill out a pull slip indicating the name of the file or files requested and the name of the researcher requesting the file. At some point, the pull slip process was abandoned in order to expedite the [REDACTED] researchers' review of the Roberts materials. When a file was pulled from a box, it was replaced with an "out-card." The name of the file or files removed from the box was written on the out-card and the out-card was placed in the box. In this instance a single out-card was written for both the Affirmative Action Correspondence file and a file named "Afghanistan." These were consecutive files in the same box and it was not uncommon to use a single outcard in such a circumstance.

When the [REDACTED] researchers had finished their review of a file, they returned it to [REDACTED] who would either refile it in the appropriate box, or place it on the cart for later refileing. The [REDACTED] researchers

Case Number:

[REDACTED]

Case Title:

John G. Roberts' missing file

MEMORANDUM OF INTERVIEW OR ACTIVITY (continuation sheet)

were allowed one folder at a time. When done, they would put it back on the cart in a "reviewed" pile and get another folder. If they wanted something copied, they would tag it, and set it in a segregated

pile of material in the office to be copied later. There was no process or procedure to note that a file was returned other than pulling the out-card when the file was placed back in the box. At the end of the day, the cart was wheeled into [REDACTED] and [REDACTED]' office and the office was locked.

[REDACTED] has no independent recollection of the Affirmative Action Correspondence file being returned by any of the [REDACTED] researchers. She believes it was tagged for copying and recalls the subject matter being important to the [REDACTED] researchers. She does not recall any specific conversation regarding the missing file. [REDACTED] observed the [REDACTED] researchers most of the time and did not see any of them take the file. The cart holding the box that held the missing file was in the room when the [REDACTED] researchers were left alone to contact the White House. The [REDACTED] researchers were not searched when they left.

[REDACTED] helped [REDACTED] with refileing on the 20th. [REDACTED] did not refile the Affirmative Action Correspondence file.

On Thursday, July 21, 2005, subsequent to the announcement of Judge Roberts as the nominee for the Supreme Court, FOIA requests for "John G. Roberts, Jr. Files, 1983-1986, Office of Counsel to the President" arrived for [REDACTED] at the Reagan Library. The request, from The Washington Post, included a request for the Affirmative Action Correspondence file among others. There had been no previous FOIA requests for the Affirmative Action Correspondence file.

[REDACTED] began to fill out FOIA pull sheets for the requested material. FOIA pull sheets, similar to an out-card, are placed into a box when a particular file is pulled indicating the file has been pulled in response to a FOIA request. [REDACTED] filled out a FOIA sheet for the Affirmative Action Correspondence file. She pulled files for the FOIA response on the 21st and 22nd. When she went to pull the Affirmative Action Correspondence file, it was not there. Nor was the out-card that had been placed there during the [REDACTED] researchers' review. This was the first recognition by [REDACTED] that the file was missing. The FOIA request from The Washington Post listed by name the specific files sought. The Affirmative Action Correspondence file was included in that list. To the left of that file name, [REDACTED] drew a red dash indicating that when she went to pull the file for the FOIA request, it was not there.

At some point on the 21st or 22nd, [REDACTED] was instructed to stop working on the FOIA response and assist in the arrangement of the Roberts' material in a manner that would facilitate the pending release of the Roberts' materials to the public. [REDACTED] did not immediately report the missing file because she assumed it would turn up in the refolding process.

On Sunday, July 24, 2005, [REDACTED], [REDACTED], [REDACTED], Ronald Reagan Presidential Library and Museum, NARA, was continuing the arrangement process when she discovered [REDACTED] FOIA pull sheet in the box that would have contained the Affirmative Action Correspondence file. [REDACTED] cannot explain why she would have put the FOIA pull sheet in the box when the file was not there. She states that it is possible that, like the outcard, the FOIA pull slip had two file names on it, "Affirmative Action Correspondence" and "[REDACTED]."

Case Number: [REDACTED]	Case Title: John G. Roberts' missing file
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MEMORANDUM OF INTERVIEW OR ACTIVITY (continuation sheet)

The [REDACTED] file was also requested in the same FOIA request from The Washington Post. [REDACTED] states that it is possible that she placed the FOIA pull sheet in the box when she pulled the

[REDACTED] file for the FOIA request and neglected to cross out the Affirmative Action Correspondence file name on the FOIA pull sheet. Although seen by multiple staff members at the Reagan Library, the FOIA pull sheet referencing the Affirmative Action Correspondence file has not been found to date.

(Agent's Note: A review of multiple FOIA pull sheets at the Reagan Library revealed that it was a common practice to reference more than one file on a single FOIA pull sheet. Also, [REDACTED] [REDACTED] is definite that both Affirmative Action Correspondence and [REDACTED] were listed on the same FOIA pull sheet.)

Case Number:

[REDACTED]

Case Title:

John G. Roberts' missing file

Attached to Exhibit 1 are fourteen (14) pages of a list of John G. Roberts files from 1983-1986 available at the Ronald Reagan Presidential Library. The list is publicly available and therefore not included in this FOIA response. Any handwritten notes on the list attached to Exhibit 1 have been redacted in their entirety pursuant to FOIA exemption (b)(5).

From:
To:
Date: 7/18/05 8:12AM
Subject: Please call asap

We have received notification that [redacted] people from the [redacted] want access to Reagan Presidential Records. White House Counselor's Office Files, from 1961 - 1969 this morning at 9:00. I am contacting you because I was told that [redacted] will be out until 12:00 today. I have gotten in touch with [redacted] who has approved this access. She would like to be notified of the items they would like copies of before they take copies and she is on her way to the Reagan Library. [redacted] will send you a copy [redacted] request. Please let us know if you have any questions. Thank you,

CC:

9:00

- Needs to be surveyed for -
- Classified
- pending clearances
- FBI background ? - will talk
to

- pull out classified - use out
card - let NLMS -
- look FBI Background
wants to be notified -
if they want copies - tab it -

- gave access wants to
See copies first -
- give research cards

Roberts -

THE WHITE HOUSE

WASHINGTON

July 18, 2005

Dear

Pursuant to the incumbent access provisions of the Presidential Records Act, 44 U.S.C. Section 2205(2)(B), the Administration that are located at the Reagan Library. The specific files needed are Counsel's Office files from the years 1981 to 1986.

These files contain information that is needed for the conduct of the current business of the Administration and are not otherwise available to the current Administration. Accordingly, access to these files is hereby authorized. I, along with [redacted] will personally access the needed files at the Reagan Library. Although the [redacted] has already contacted President Reagan's [redacted], to notify him of this access, please provide the standard notice to Library staff and any other representative of President Reagan immediately.

If you have any questions concerning this authorization, please feel free to contact me.

Sincerely,

National Archives and Records Administration
Washington, DC 20408

Eight (8) pages from Exhibit 1, photographs of internal office spaces at the Reagan Presidential Library, have been redacted in their entirety pursuant to FOIA exemption (b)(2) and (b)(6).

MEMORANDUM OF INTERVIEW OR ACTIVITY

Type of Activity:

- Personal Interview
 Telephone Interview
 Records Review
 Other

Date and Time:

August 20, 2005

Activity or Interview of:

[REDACTED], Ronald Reagan Presidential Library and Museum

Conducted by:

[REDACTED]
[REDACTED]

Location of Interview/Activity:

Ronald Reagan Presidential Library and Museum
40 Presidential Drive
Simi Valley, CA 93065-0600

Subject Matter/Remarks

On August 20, 2005, [REDACTED] interviewed [REDACTED], Ronald Reagan Presidential Library and Museum, National Archives and Records Administration (NARA) at 40 Presidential Drive, Simi Valley, California, 93065-0600. The interview was continued over the telephone on August 23-24 and September 1, 2005.

[REDACTED] was interviewed concerning her knowledge of a missing John G. Roberts, Jr., file from the Reagan Library entitled "Affirmative Action Correspondence." [REDACTED] provided the following information.

On July 18, 2005, [REDACTED] arrived at the Reagan Library at approximately 9 a.m. She entered her office, [REDACTED], Ronald Reagan Presidential Library and Museum, NARA. [REDACTED] was in the office with [REDACTED]. [REDACTED] introduced [REDACTED] to [REDACTED]. [REDACTED] then took [REDACTED] outside of the office and explained that the [REDACTED] researchers were there with special access pursuant to the Presidential Records Act to review White House Counsel's office files from 1981 to 1986 held at the Reagan Presidential Library. [REDACTED] told [REDACTED] to call [REDACTED], NARA, for further instructions.

[REDACTED] called [REDACTED] and was told that the [REDACTED] researchers had special access to their requested records, but that the records would need to be screened to ensure that no classified material was inadvertently released to the researchers who did not have the appropriate clearances for such

Case Number:

[REDACTED]

Case Title:

John G. Roberts' missing file

material. [REDACTED] went to the research room to get researcher applications for [REDACTED]. She completed the necessary paperwork and provided them with researcher cards and visitor badges.

[REDACTED] returned to her office where the [REDACTED] researchers were studying lists of material that they had printed from the Library's website and determining what specific materials they wanted to review.

[REDACTED] marked the lists in order of priority. [REDACTED] next to the file named Affirmative Action Correspondence indicating it should be one of the first files reviewed. She gave a copy of her list to [REDACTED] so that [REDACTED] could begin pulling material from the basement stacks.

The [REDACTED] researchers wanted privacy to review the material and it was decided that they would use the office next to [REDACTED] office. The regular occupants of this office were out, so the space was available for use by the [REDACTED] researchers.

Armed with [REDACTED] marked list, [REDACTED] brought six boxes of unprocessed files upstairs from the stacks. The boxes she pulled contained folders [REDACTED] had marked with two asterisks, meaning the most important material. [REDACTED] wheeled the six boxes on a cart into the office where the [REDACTED] researchers would review the unprocessed Roberts' materials. [REDACTED] first wanted to review a file titled "[REDACTED]." [REDACTED] opened the box containing the [REDACTED] file and pulled all the files within that box that the researchers wanted to review. This included the Affirmative Action Correspondence file.

[REDACTED] originally provided the researchers with a stack of pull slips. The researcher would fill out the pull slip writing in their name and the name of the file or files that had been pulled for their review. Upon filling out a pull slip, [REDACTED] would initial it indicating that the file had been pulled and provided to the researcher. The researcher would initial the pull slip indicating that he or she received the file. As the process progressed, the [REDACTED] researchers would fill out only their names and [REDACTED] would fill out the names of the files pulled. This was done to expedite the process. Ultimately, the process of using pull slips to sign out particular files was abandoned entirely. There was no process to indicate that a researcher returned a file. [REDACTED] stated it was possible that under the circumstances of this special access, she may have, on occasion, initialed the pull slip only when the file was returned or even later.

[REDACTED]

The Affirmative Action Correspondence file was provided to [REDACTED] for review. He completed a pull slip and began to go through the file. As the researchers reviewed the files, if they came across a

Case Number:

Case Title:

John G. Roberts' missing file

record they wanted to copy, they would tab it and give it back to [REDACTED] who kept a segregated pile of material to be copied on the cart. If nothing needed to be copied, the researchers would simply return the file. Frequently, after [REDACTED] reviewed a file, they would pass the file to [REDACTED] for her further review or comment, particularly if the file [REDACTED] as was the case with the Affirmative Action Correspondence file. [REDACTED] could not specifically recall if the Affirmative Action Correspondence file was reviewed a second time by [REDACTED], but remembers that many files were passed to [REDACTED] for a second look. In such a case, [REDACTED] would return the file to [REDACTED] rather than the researcher that had initially reviewed the file. [REDACTED] has no recollection of the Affirmative Action Correspondence file being returned to her or being tagged for copying. [REDACTED]

[REDACTED]

When the [REDACTED] researchers had completed their review of a cart of six boxes, the cart was wheeled into [REDACTED] office. [REDACTED] refiled the reviewed materials Monday through Wednesday. She would have pulled the out-card for the Affirmative Action Correspondence file during that three day period. [REDACTED] does not recall specifically pulling the out-card used for the Affirmative Action Correspondence and [REDACTED] files from the box, but does remember seeing it later in the stack of out-cards she had pulled from the boxes. She stated it was possible that she pulled the card when she refiled the [REDACTED] file not recognizing that the out-card was also used for the Affirmative Action Correspondence file. [REDACTED]

[REDACTED] She concedes, however, that she was not operating under normal circumstances for this special access review by the [REDACTED] researchers.

[REDACTED] left the Library at approximately 6 p.m. on Monday while the [REDACTED] researchers were still there.

On Tuesday, July 19, 2005, [REDACTED] arrived at the Library at approximately 8:45 a.m. [REDACTED] were back, but [REDACTED] was no longer there. [REDACTED] was already in the office used to review the material and [REDACTED] joined her. The previously reviewed files were on carts in [REDACTED] office.

On Wednesday, July 20, 2005, the [REDACTED] researchers were gone and [REDACTED] asked [REDACTED] to assist her in refileing all the material that had been reviewed and moving the boxes back to the stacks in the basement. [REDACTED] was missing one file – she does not recall which file – but found it after discovering it had been misfiled. She stated that losing that file scared her and she asked [REDACTED] for help in looking through the boxes to make sure that all the files reviewed by the [REDACTED] researchers were accounted for. This search was done by going through each box looking for out-cards. If there were still out-cards in the boxes, those files had not been returned. Since she had pulled the out-card for the Affirmative Action Correspondence and Afghanistan files, she assumed those files were both in the box. As such, she recalls that everything was accounted for at that time. Subsequently, the boxes were returned to the basement stacks.

Case Number:

Case Title:

John G. Roberts' missing file

NAME _____ DATE 7/18/05
CARD NUMBER OS-113

MATERIALS REQUESTED (Check one only):

- WHORM SUBJECT FILE
- WHORM ALPHA FILE
- WH STAFF/OFFICE FILES OF Reagan
- REAGAN PERSONAL PAPERS
- PAPERS/RECORDS OF _____
- OTHER _____
- SERIES (if applicable) _____

BOX NOS., WHORM SUBJECT FILE CODES OR WHORM ALPHA FILE NAMES

Reagan ACTOR -1 OA12656

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

NA FORM 14109 (9-94)

MEMORANDUM OF INTERVIEW OR ACTIVITY

Type of Activity: <input checked="" type="checkbox"/> Personal Interview <input type="checkbox"/> Telephone Interview <input type="checkbox"/> Records Review <input type="checkbox"/> Other	Date and Time: August 19-20, 2005
Activity or Interview of: Interview [REDACTED], Ronald Reagan Presidential Library and Museum, National Archives and Records Administration	Conducted by: [REDACTED] [REDACTED] Location of Interview/Activity: Ronald Reagan Presidential Library and Museum 40 Presidential Drive Simi Valley, CA 93065-0600

Subject Matter/Remarks

On August 19-20, 2005, [REDACTED] interviewed [REDACTED], Ronald Reagan Presidential Library and Museum, National Archives and Records Administration (NARA) at 40 Presidential Drive, Simi Valley, California, 93065-0600. The interview was continued over the telephone on August 24 and 26, 2005.

[REDACTED] was interviewed concerning his knowledge of a missing John G. Roberts, Jr., file from the Reagan Library entitled "Affirmative Action Correspondence." [REDACTED] provided the following information.

On Monday morning, July 18, 2005, at approximately 10 a.m., [REDACTED] received a phone call from [REDACTED], Ronald Reagan Presidential Library and Museum, NARA. [REDACTED] informed him that representatives of the White House were on site at the Reagan Library. She did not know why they were there.

He met the [REDACTED] White House representatives who were [REDACTED]

[REDACTED]. The [REDACTED] had been granted special access pursuant to the Presidential Records Act to review White House Counsel's office files from 1981 to 1986 held at the Reagan Presidential Library.

[REDACTED], Ronald Reagan Presidential Library and Museum, NARA, were tending to the needs of the [REDACTED] researchers. [REDACTED] discussed with them the procedures that had been set up for the [REDACTED] researchers to review the requested material and was told that they wanted their research to be discrete and there was a sense of urgency attached to their review. The

Case Number:
[REDACTED]

Case Title:

John G. Roberts' missing file

MEMORANDUM OF INTERVIEW OR ACTIVITY (continuation sheet)

██████ researchers wanted privacy to review the material and it was decided that they would use the office next to ██████ office. The regular occupants of this office were out, so the space was available for use by the ██████ researchers. ██████ and ██████ were pulling files, screening them to ensure no classified material was being inadvertently released, and serving the files to the ██████ researchers. At approximately 3 p.m., ██████ went home and ██████ began to screen files for the researchers.

At approximately 4:30 to 5 p.m., the ██████ researchers held a conference call with the White House. ██████ and ██████ left them alone behind closed doors in the office with the files while they held this conference call.

[REDACTED]

One cart was wheeled to ██████ office next door at approximately 5:30 to 6 p.m. for storage when the review of the material on the cart was completed. As the review process progressed, the researchers would tag certain files they wanted copied. These files were placed on top of the second cart or in a segregated pile in the review area. When the material from the second cart had been reviewed, ██████ wheeled it out of the office into the common work spaces and copied the selected files for the researchers. Subsequently, he wheeled the second cart into ██████ and ██████' office for storage that night.

On the morning of Tuesday, July 19, 2005, ██████ began the screening and review process again, this time with ██████ was no longer present. There may have been some additional review of the material reviewed the prior day, but ██████ does not believe the Affirmative Action Correspondence file was reviewed again because there was no second pull slip completed for it. However, ██████ noted that at approximately 10 to 11 a.m., the use of pull slips to withdraw files was abandoned. ██████ believed it was "overkill" with the researchers' deadline rapidly approaching. Furthermore, the Reagan Library staffers had copies of lists of requested material provided by ██████ so it was evident what files were being pulled and pull slips would have been redundant.

After their review, the researchers would return files to the archivist servicing the boxes on the cart. Some refileing back into the boxes may have been done in the office at that time. The majority of the refileing, however, took place after ██████ left the Reagan Library. They left Tuesday afternoon and refileing continued through Wednesday. Assuming the Affirmative Action Correspondence file was refiled, it could have been as early as Monday, but more likely on Tuesday afternoon or Wednesday.

After the researchers left Reagan Library and the White House had announced Judge Roberts' nomination to the Supreme Court of the United States, FOIA requests began arriving at the Reagan

Case Number: ████████████████████	Case Title: John G. Roberts' missing file
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MEMORANDUM OF INTERVIEW OR ACTIVITY (continuation sheet)

Library for the material that the [redacted] researchers had reviewed. [redacted] began compiling files to respond to the FOIA requests.

During the weekend of July 23-24, 2005, [redacted] had begun a "arrangement" process so that all of the Roberts materials could be presented to the public in an organized fashion. [redacted] suggested to [redacted] that the files that had been pulled for FOIA requests be returned so that she could do a complete arrangement of all the files. [redacted] decided to continue answering the FOIA requests.

On the following Sunday, July 31, 2005, [redacted] informed [redacted] that the Affirmative Action Correspondence file was missing and she had been unable to locate it during the arrangement process. [redacted] told [redacted] that there was a FOIA pull sheet for the Affirmative Action Correspondence file, but the file itself could not be found. (A FOIA pull sheet is filled out with the name of a file or files that are pulled from a box to respond to a FOIA request. The pull sheet is used as a placeholder in the box until the file or files are returned).

(Agent's Note: The FOIA pull sheet, although recalled by multiple Reagan Library staffers, has not been recovered at this time.)

[redacted] stated that it would be unusual for a FOIA pull sheet to have two file names of different topics on it, but in this case it was entirely possible that the FOIA pull sheet in this instance was used for the Affirmative Action Correspondence file, as well as [redacted] stated this could explain why the FOIA pull sheet was placed in the box even if the Affirmative Action Correspondence file was not there, i.e., because it was also used for the [redacted] file, which was in the box, and the archivist doing the pull neglected to cross the Affirmative Action Correspondence file off the FOIA pull sheet.

Case Number:

[redacted]

Case Title:

John G. Roberts' missing file



Ronald Reagan Library

40 Presidential Drive
Simi Valley, CA 93065-0600
800-410-8354

Date : August 10, 2005

To:

From:

Subject: Chronology of events regarding John G. Roberts file on "Affirmative Action Correspondence"

Monday, July 18 --

_____ were granted special access to two collections of the Ronald Reagan Presidential Library. One of the collections was that of John G. Roberts. _____ assisted with initial pulls of requested materials.

All _____ of the special access researchers, were served the records in the office shared by _____ the later being on vacation at the time. They arrived with a copy of the Roberts collection inventory that was available on the Reagan Library website at the time. One of the folders they requested was Roberts file on "Affirmative Action Correspondence." _____ pulled the file and her "Out Card" indicates that she also pulled the _____ maintained a listing of which folders were looked at. That listing indicates that _____ reviewed the folder.

The procedure followed for serving the files to the researchers and returning the files to use were the following:

- _____ provided us with a copy of the Roberts inventory that was annotated to indicate which folders they wanted to see.
- _____ reviewed the list and based on the number of folders requested from a box would determine whether it was best to pull the entire box or just specific folders from the Basement Stacks.
- The boxes or folders were placed on a cart and wheeled into the office.
- _____ or myself would screen each requested folder for national security classified information. None of the researchers had a security clearance. If a classified document was found, a brief description of the item was written on a sheet of paper was placed in the folder. The classified document was placed in folder, the proper folder title was written on it, and it was then take to either the vault or the safe in _____ office.
- Any folders that were requested from a CFOA (Confidential Oversize Attachment) box, the folders were screened in the vault before being brought up and served to the research.
- There were usually two carts in the room at any one time (lets call them Cart A & B). Cart A was for items that had been screened and ready for their review. Cart B was for items that need to do be screened. After the folders requested had been screened a pull slip was prepared that indicated the Box and the specific folders requested from the box.
- When and item from Cart A was given to the researcher, they would fill out the top of the Pull Slip and provide their name, researcher card number, and date.

- Once everything on Cart A had been reviewed by the researchers, we would generally check with [redacted] to make sure every folder reviewed had been checked off on her master list.
- Then Cart A would be wheeled into [redacted] office for storage. If an entire box was completed, it usually went back into the stacks.
- The next pull would then be done.

We were very hands on in terms of keeping track of what boxes or folders needed to be looked at next. In most case, they would hand us the folders they had completed to go back on the cart, and we would then hand them the next set folders. We were serving a combination of open materials to them and unprocessed items. So depending on the type of material being reviewed at the time, we would exchange single folders, stacks of folders, archives boxes, or FRC boxes.

Later that evening, I assisted with making copies various documents and had [redacted] approve their release "For Internal White House Use Only." There was some confusion in making the copies since the hour was late and there was a rush to get materials faxed to D.C.

Tuesday, July 19 – [redacted] returned in the morning to review additional materials. They left at approximately 1:30 PM PST. There were a number of files that need to be returned to be re-filed. [redacted] took care of this during the course of the afternoon. [redacted] has retained the "Out Card" mentioned above (listing both Affirmative Action Correspondence and [redacted]). It is my understanding in conversations with her that she would not have removed the "Out Card" at the time of refilling if one of the folders had been missing. She would have crossed out the folder that was returned and left the "Out Card" in the box indicating a file was still charged out. Since [redacted] was found in it's proper location, she assumes that she refilled Affirmative Action also. At 6:00 PM PST, President Bush announced the Judge John G. Roberts was his nominee to the Supreme Court.

Wednesday and Thursday, July 20 & 21 – The Reagan Library begins to receive numerous Freedom of Information Act requests for access to Roberts collection. [redacted] to pull together various requests for specific folders. She fills out a FOIA Processing Slip for the "Affirmative Action Correspondence" file, but does not recall seeing. [redacted] informs me that [redacted] as been granted an expedited FOIA request for a number of files. "Affirmative Action Correspondence" is one of the files.

Monday, July 25 through Thursday, July 28 – [redacted] and other individuals form the White House and Department of Justice conduct a second and more comprehensive review of Roberts collection. At first they ask for specific folders, but eventually ask to review entire collection. There are number of re-pulls done to verify that every folder has been looked at. There is no record of the "Affirmative Action Correspondence" file being pulled at this time. To be frank, we gave up trying to keep track of the numerous pull requests once they asked for the entire collection. The procedures listed above for keeping track of what each person was looking were very time consuming. I was trying to do everything I could to speed up their review so they could be on there way and we could get on with what we needed to do.

It became clear during the course of the week that the entire collection is going to need to be processed in a three to four week time frame. [redacted] to start reviewing

folders that have been requested via FOIA. does not recall seeing the file.
to begin the arrangement of the entire Roberts collection.

Friday, July 29 – a staff meeting outlining the schedule for providing copies of the entire collection to the White House by August 19th. First priority for the up coming weekend is to complete the arrangement.

Sunday, July 31 – with the assistance of completes the arrangement of the Roberts collection. The entire collection is pulled together and put into archives boxes. At this time, mentions to me that two files "Affirmative Action Correspondence" and "State of the Union" are not accounted for. A cursory search of office turns up negative. Everyone assumes that the folders will turn up during the course of review. does not recall seeing either folder during the arrangement process.

Monday, August 1 through Friday, August 5 – The Roberts collection is reviewed and withdrawal begins. During the course of the week I learn that the time frame for providing copies of the entire collection has been moved up to August 13. I also learn that White House may grant smaller request for specific folders sooner. The "Affirmative Action Correspondence" is on a list provided to me by . On Friday afternoon, we held a meeting in the basement to assess the status of the review. points out to me that two folders she reported missing on the 1st remain missing. I point out that the "Affirmative Action Correspondence" file has been request by the Senate Democrats and we need to find it. A search begins of various offices. The "State of the Union" file turns out be mis-filled, but is in the appropriate box. even re-opened the vault late Friday afternoon to search for the folder.

Sunday, August 7 – All of the review and withdrawal of the Roberts collection is completed. I reported by email to that the "Affirmative Action Correspondence" file is missing.

Monday, August 8 – returns along with to begin a review of the records proposed for opening for research. began conducting review. Since the folders responsive to the Congressional request were the first items on the review agenda, I informed that we were missing a folder and continuing to look for it. I asked if she recalled seeing the folder. she checked her notes and confirmed that had reviewed the folder on the July 18th. I asked if I could have inadvertently given them the original file that night while we were making copies. She called , who responded via email that he had seen the folder. He provided a brief description of the contents of the file and was certain that no copies were made from it. I asked to assist with another search for the missing file. The entire Roberts collection is looked through.

Tuesday, August 9 – At this point, I was beginning to loose track of who I had told about this. I believe I also informed that we could not find the file. I began to look in any place I could think of that had not been searched before. At some point, I discussed with if we should attempt to reconstruct the file. We agreed that would not be the proper thing to do.

Wednesday, August 10 – I began this morning checking all of Roberts subject files to see if the file had been incorporated somehow into another file. Based on the description provided by [redacted] searched Roberts files pertaining to executive orders and miscellaneous correspondence. I asked [redacted] to conduct another top to bottom search for the missing file. After a conference call with [redacted]

[redacted] to assist with the search. [redacted] did not have time to re-check the entire Roberts collection today. We will continue the search tomorrow. [redacted] reported that they had found a memorandum in Roberts Chron file and in the WHORM: Subject File that appears to match the description provided by [redacted] (the same memorandum appears in all three locations) [redacted] reported to [redacted] at about 3:00 PST that we had not found the file, but could provide to Congress all of Roberts memorandums regarding Affirmative Action as of today.

I hope this information is helpful



Ronald Reagan Library

40 Presidential Drive
Simi Valley, CA 93065-0600
800-410-8354

Date: August 24, 2005

To:

From:

Subject: Conversations with [redacted] "Affirmative Action Correspondence" File

As I recall, the first conversation I had with [redacted] regarding the fact that the "Affirmative Action Correspondence" file from John G. Roberts collection was missing was on August 8, 2005. I don't recall the time, but I had spent at least a couple of hours looking for the folder before I mentioned to her that it was missing. Her first comment was "We need to find that." I told her I realized that we need to find it since it was part of the request from the Democrats on the Judiciary Committee. She was very concerned about the fact that it was missing.

I asked her if she recalled seeing the folder. She did not recall seeing it, but looked at her notes which indicated that [redacted] had looked at the folder. She said she would email [redacted] and ask him what he remembered about the folder. I also asked her to ask him if it was possible that I handed the original folder to him by mistake while I was making copies for them on the evening of July 18th. She said she would ask. Shortly after on our conversation, she came upstairs so that her Blackberry would have good signal and she emailed [redacted]

Later during the day (August 8th), [redacted] read me to me what [redacted] response was. He recalled seeing a memo by Roberts regarding a draft Executive Order. Based on that description we started searching for documents that may have been misfiled in Roberts regarding the draft EO. Later in the week, I believe it was on Thursday, August 11th, [redacted] provided me with a hard copy of [redacted] email and his notes he made regarding the file. She asked that this information be closely held.

During the course of that week, we had a number of conversations about how the search was going and whether or not reconstructing the folder was a good idea. She did not seem to think reconstructing the folder was a good idea.

Interrogatory

The following interrogatory was provided to _____ on September 9, 2005, by the Office of Investigations, Office of Inspector General, National Archives and Records Administration. It concerns a file titled "Affirmative Action Correspondence" missing from the John G. Roberts, Jr., Staff Member Office Files, held at the Ronald Reagan Presidential Library and Museum in Simi Valley, California.

I, _____, hereby declare, under penalty of perjury, that my answers to the following interrogatory are true:

1. Please state your full name and title as of July 18-19, 2005.

A:

2. Please state any change in your title that has occurred since July 18-19, 2005.

A: N/A

3. Describe the circumstances of your arrival at the Reagan Library on Monday, July 18, 2005?

a. Who was with you?

A:

b. Who in your group was the leader and/or in charge?

A: I was.

c. Who met you at the Library?

A:

d. What happened when you arrived?

A: _____ took me and my colleagues into the Library staff office space and led us to her office for an orientation.

e. Where were you taken in the library?

A: See answer to 3.d. After a brief orientation in _____ office, we were taken to our work space in the office next door to _____ office.

f. When did you notify the National Archives and Records Administration about

your review?

A: Around 6 a.m. PST / 9 a.m. EST, on Monday, July 18, 2005.

g. Who did you notify?

A: As best I can recall, I notified _____ by telephone and then had a special access letter faxed to _____.

4. Once inside the Library, describe what happened?

a. How were you and your colleagues dealt with prior to viewing any records?

A: During our orientation with _____ we filled out forms that researchers are required to fill out; we were given yellow researcher badges; we were instructed on the "research room rules" or the "dos and don'ts" of handling records; and we reviewed the indexes indicating which files we wanted to see. At some point either during the orientation or shortly thereafter, _____ arrived and began working with us.

b. What instructions were you given regarding how the records you viewed would be handled?

A: We were told that the archivists would retrieve the requested files for us and put them back after we were finished, and that we could place "tags" around records we wished to mark for later reference or copying.

We were instructed to review only one folder at a time, to make no marks on the records, to have no pens in the vicinity of the records and to take any notes only in pencil, to keep the records in order within each folder, to refrain from placing the folders in our laps, and to refrain from having any food or drink near the records. With respect to the open files, which we received a box at a time rather than folder by folder, we were instructed to place an "out card" in the folder's place in the box while reviewing the folder.

c. What guidance did you provide Reagan Library archivists concerning your review of the records, i.e. discretion, urgency, etc.?

A: Without being instructed, the archivists made clear that they would handle our presence at the Library and our work there discreetly. We were provided office space away from the public research room and were advised to wear our researcher badges while in the public spaces to avoid standing out. Although I do not recall making

specific statements. I do recall generally confirming that such discretion was appropriate and appreciated.

Also without being instructed, the archivists indicated their understanding that we needed to review the records expeditiously, and they did a good job of staying ahead of us so we would not waste time waiting for files to be retrieved.

I recall expressing concern that our placement of tags on the (open) records might be viewed by other researchers, and I was assured that any tags would be removed before the files were provided to any other researchers.

d. How was this guidance met by Library staff?

A: See answer to 4.c.

e. What records were you there to review?

A: We were there to review records in White House Counsel's Office staff files.

5. You had a list of files you wanted to review. Describe how the files on that list were categorized, i.e. the lists had a variety of markings (asterisks) and highlighted portions.

a. What did these markings mean?

A: With regard to the John Roberts staff files, I had a personal copy of an index from which we selected files to review. The following explains the markings on my copy of that index.

Asterisks (or double asterisks) indicated high priority for review.

Initials or a name written before the file name indicated who reviewed the file.

In the case of the Affirmative Action Correspondence file, the yellow highlighting indicated that it was reviewed on Monday, July 18, 2005; the "E" written before the file name indicated that reviewed the file; and the circling in red (which was added after July 19) indicated that the file was requested under FOIA.

I made all of the markings described above, except the asterisks.

6. The file "Affirmative Action Correspondence" was on that list. It had two asterisks handwritten next to it. What did that mean?

A:

7. Who put the _____ to the Affirmative Action Correspondence file?

A:

8. Was the list, or copy thereof provided to Library staff?

A: As I recall, after the John Roberts staff files index was marked indicating which files we wanted to see, the Library staff made copies of the index for themselves, or otherwise created their own marked index by reading off of ours, in order to know which files to retrieve.

9. Where were you taken to review the files?

A: To the office next door to _____ office.

10. Were you allowed to take in personal belongings, i.e. coats, briefcases, into the room with you?

A: Yes.

a. If you brought in personal belongings did they remain with you or were they segregated from you within the room?

A: They remained with me.

11. When an archivist brought a cart of files into the room, describe the process of how those files would come to you or one of your colleagues.

A: As to the open files, my colleagues and I would each retrieve a gray box from the cart and take it to our respective work spaces. As to the unprocessed files, generally we would either retrieve up to a few files at a time from the cart, or have them handed to us by an archivist.

a. Did you fill out "pull slips" for each file?

A: I believe that a pull slip was filled out for each unprocessed file that I reviewed on July 18 and 19. Some were filled out by me, some were filled out by an archivist, and some were filled out by both me and an archivist. Each pull slip was initialed by me and an archivist.

b. Did the archivists assisting you fill out the "pull slips"?

A: See answer to 11.a.

c. Was this process continued throughout the day?

A: Yes. (See answer to 11.a.)

d. How many files were you allowed to review at a time?

A: I was instructed to review (to have open) only one file at a time. I was, however, allowed to have more than one file at my work space at one time. When reviewing open files, I had the entire gray box at my workspace. When reviewing unprocessed files, I typically had a small stack of a few files at one time.

e. Did you share files with your colleagues?

(1) How did this occur?

(2) Were files physically delivered and picked up by your colleagues?

(3) Did the archivist transfer files between you and your colleagues?

A: I do not recall providing any files to my colleagues.

On a few occasions, I conducted a “second review” of a file that a colleague had already reviewed. According to my contemporaneous notes, during the July 18 – 19 visit I did a second review of four files, all of which received their initial review by a colleague on Monday, July 18.¹ My contemporaneous notes reflect that I did the second review on the same day (Monday, July 18) for three of the files, and on the next day (Tuesday, July 19) for one file. As I recall, the three that I reviewed on Monday were placed on my work space or handed to me by the colleague who did the first review, and the one that I reviewed on Tuesday was provided to me by an archivist.

On some occasions, I showed an individual record (as opposed to a complete file) to my colleagues, or they showed an individual record to me. But in those instances the files themselves were not shared or transferred. When I showed an individual record to my colleagues, I walked the record over to their work spaces and showed them the record, and then brought the record back to my work space and returned it to its file. Similarly, when one of my colleagues showed me an individual record from a file he was reviewing, the colleague

¹ My contemporaneous notes include both my index notations and my personal handwritten notes recording each file that I reviewed (including those for which I conducted a “second review”). On the July 18 – 19 visit, I made an index notation of _____ next to a file name when I conducted a first review of the file, and either _____ next to a file name when I conducted a “second review” of the file.

brought the individual record over to my work space and then took the record back to his own work space.

12. Was there verbal discussion about the contents of the files you were reviewing?

A: Yes.

13. How did you determine who reviewed which files?

A: Generally, we took the boxes or files in the order that they were provided by the archivists.

14. When in the review process was the Affirmative Action Correspondence file reviewed?

A: I do not have specific knowledge or recollection of when the file was reviewed. But, according to my contemporaneous notes, it was reviewed on Monday, July 18, 2005. My recollection is that we reviewed the open files first and then turned to the unprocessed files.

a. Who initially reviewed the Affirmative Action Correspondence file?

A: According to my contemporaneous notes, [redacted] reviewed the file.

b. Was the Affirmative Action Correspondence file passed among you and your colleagues?

A: I do not know whether it was ever passed between [redacted] but I am confident that nobody passed it to me. I have no recollection of ever seeing the file; my handwritten notes recording each file I reviewed indicate that I did not review the file; and the index notations recording who reviewed each file indicate that I did not review the file.

(1) Who passed the file to whom?

A: See answer to 14.b.

c. Was there verbal discussion regarding the contents of the Affirmative Action Correspondence file?

A: There was verbal discussion regarding the contents of many files, but I do not recall any discussion of the contents of the Affirmative Action Correspondence file.

15. Who, at any time, other than Library staff, possessed the Affirmative Action Correspondence file?

A: According to my contemporaneous notes, [redacted] reviewed the file. I do not know whether anyone else besides [redacted] and Library staff ever possessed it.

16. Did you ever have sole possession of the Affirmative Action Correspondence file?

A: I am confident that I never had possession of the file.

17. Describe the contents of the Affirmative Action Correspondence file.

A: I have no first-hand knowledge of the contents of the file, but its contents were described to me by [redacted] in August when the Library was attempting to find and/or reconstruct the file.

18. Did you remove the Affirmative Action Correspondence file from the room where it was reviewed? If yes, explain.

A: No.

a. Did you remove the file from the Reagan Library? If yes, explain.

A: No.

19. Were any of the contents of the Affirmative Action Correspondence file tagged for copying?

A: Not to my knowledge.

20. Were any of the contents of the Affirmative Action Correspondence file faxed back to the White House?

A: According to my contemporaneous handwritten list of all faxed items, nothing from the file was faxed.

21. Did you see any of your colleagues review the Affirmative Action Correspondence file?

A: No.

22. Did you see any of your colleagues remove the Affirmative Action Correspondence file from the room where it was reviewed? If yes, explain.

A: No.

a. Did you see any of your colleagues remove the Affirmative Action Correspondence file from the Reagan Library? If yes, explain.

A: No.

25. Explain how files were returned to the cart and the archivist assisting you?

A: When I finished with a file, sometimes I handed it directly to an archivist. Other times, I placed it on a cart in the "finished" pile.

a. Was there any paperwork exchanged, other than the file, when a file was returned?

A: Sometimes, a pull slip was also returned to an archivist. If the finished file was the last file or the only file listed on the pull slip, the pull slip may have been returned to the archivist at about the same time that the file was returned.

b. Was the file immediately refiled into a box on the cart or placed in a stack for later re-filing?

A: For the open files, I personally returned each file to its place in the gray box immediately after finishing my review, because I had the box at my work space.

For the unprocessed files, I either handed the file to an archivist or placed it in a stack on a cart when I was finished with it. I do not know when the archivists re-filed them.

c. Did the same reviewer who filled out the "pull slip" for the file always return the file?

A: My practice was to return each file listed on my pull slips to an archivist or to the "finished" stack on a cart. As best I recall, a few files were given directly to me by a colleague (see answer to 11.e.), rather than first returned to an archivist. When I finished the "second review" of those files, I returned them to an archivist or to the "finished" stack on a cart.

d. If a file was passed to a colleague for additional review, did the colleague return it to the archivist or to the person it was received from?

A: I do not recall ever passing a file to a colleague. In the instances in which I received a file from a colleague for a second review, I recall returning it directly to an archivist or to the "finished" stack on a cart.

24. Did you return the Affirmative Action Correspondence file to a Library archivist?

A: N/A (See answers to 14.b and 16.)

25. Did you observe the Affirmative Action Correspondence file being returned by any of your colleagues?

A: No.

26. Who was the last person you have knowledge of possessing and/or reviewing the Affirmative Action Correspondence file?

A: **I do not have independent knowledge or recollection of who possessed and/or reviewed the file. My contemporaneous notes indicate that [redacted] was the only person, among the [redacted] reviewers, to possess and/or review it.**

27. On Tuesday, July 19, 2005, was there any subsequent review of the Affirmative Action Correspondence file?

A: **Not that I recall. My contemporaneous notes indicate that there was no subsequent review.**

28. Did any member of the Library staff inquire with you or your colleagues regarding the Affirmative Action Correspondence file?

A: **I am confident that Library staff did not inquire with me about the file during the visit of July 18 and 19. On a subsequent visit to the Library, [redacted] informed me that the file could not be found.**

29. Did you possess or see the Affirmative Action Correspondence file at any time on Tuesday, July 19, 2005?

A: See answers to 14.b, 16, and 27.

30. When did you learn the Affirmative Action Correspondence file was missing?

a. How?

A: **I do not recall exactly when I first learned that the file was missing. I know that, at some time during my third visit to the Library (August 8 – 11, 2005), [redacted] informed me that the file could not be found, though efforts to find it were ongoing. It is possible that I was informed on my second visit to the Library (July 25-28) that the file had been misplaced and the Library staff was searching for it. But by the third visit, it was made clear to me that extensive searching had been done, and the file could not be located.**

31. At any time throughout the course of your stay at the Library, were you and your colleagues allowed to stay in the room where you reviewed the material without the presence of any Library staff, i.e. for conference calls to the White House?

A: Yes.

a. Were the files being reviewed left in the room when this occurred or wheeled outside of the room?

A: **The files were left in the room.**

b. Did this occur on both days?

A: Yes.

c. How often did this occur?

A: **I do not recall precisely, but I would estimate that it occurred about five or six times.**

d. How long would you and your colleagues be left alone with the files on these occasions?

A: **As I recall, it varied from just a moment, to 20-30 minutes.**

32. Was there any difference in how files were provided to you on Tuesday, July 19, 2005?

A: **Not that I can recall.**

a. Describe how the process differed or changed?

A: **N/A**

33. Was there any difference in how you and your colleagues returned files on Tuesday, July 19, 2005?

A: **Not that I can recall.**

34. Why was _____ not present to review files on Tuesday, July 19, 2005?

A: **He returned to Washington, D.C. to attend to other duties.**

a. Was his absence anticipated or unexpected?

A: It was neither anticipated nor unexpected. It was determined after our work was completed on Monday that _____ would be sufficient to finish up on Tuesday morning.

35. Do you have any knowledge of or explanation for how the Affirmative Action Correspondence file disappeared?

A: No.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on Sept. 12, 2005.

Signature:

Witnessed by: _____
Name: _____
Title: _____

Supplement to September 12, 2005 Responses to Interrogatory

1. I have reviewed the document entitled "ROBERTS, JOHN G. Jr.: Files, 1983-1986 - REAGAN LIBRARY COLLECTIONS" provided by the National Archives and Records Administration on September 13, 2005 and attached hereto as Exhibit 1. I note that a page appears to be missing from this document, between the page that begins with "JGR/Museum of Motion Picture Arts and Sciences" and the page that begins with "JGR/Regulatory Reform." Although I do not recognize all of the handwritten markings on this document, the

are the same index notations that were part of my contemporaneous notes referred to in responses 5, 11.e, 14, 14.a, 14.b, 15, 26, and 27 in my interrogatory responses dated September 12, 2005.

2. Based on further review of my contemporaneous notes, I amend my September 12, 2005 response to question 11.e to the following extent:

According to my contemporaneous notes, during the July 18 - 19 visit I did a second review of three files, all of which received their initial review by a colleague on Monday, July 18. My contemporaneous notes reflect that I did the second review on the same day (Monday, July 18) for two of the files, and on the next day (Tuesday, July 19) for one file.

My contemporaneous notes include both my index notations (reflected in Exhibit 1) and my personal handwritten notes recording each unprocessed file that I reviewed (including those for which I conducted a "second review").

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on Sept. 16, 2005

Signature: _____

Witnessed by:

Name:

Title:

Attached to Exhibit 4 are fourteen (14) pages of a list of John G. Roberts files from 1983-1986 available at the Ronald Reagan Presidential Library. The list is publicly available and therefore not included in this FOIA response. Any handwritten notes on the list attached to Exhibit 4 have been redacted in their entirety pursuant to FOIA exemption (b)(5).

Interrogatory

The following interrogatory was provided to September 9, 2005, by the Office of Investigations, Office of Inspector General, National Archives and Records Administration. It concerns a file titled "Affirmative Action Correspondence" missing from the John G. Roberts, Jr., Staff Member Office Files, held at the Ronald Reagan Presidential Library and Museum in Simi Valley, California

I, _____, hereby declare, under penalty of perjury, that my answers to the following interrogatory are true:

1. Please state your full name and title as of July 18-19, 2005.

My full name is

My title was

2. Please state any change in your title that has occurred since July 18-19, 2005.

I currently serve as
My title is

3. Describe the circumstances of your arrival at the Reagan Library on Monday, July 18, 2005?

a. Who was with you?

I arrived at the Reagan Library on July 18, 2005 with _____
assist them in conducting research.

b. Who in your group was the leader and/or in charge?

To my knowledge, no one was formally in charge. As a general matter, our efforts on July 18.

c. Who met you at the Library?

I do not recall the name of the person from the Library who first met us.
and that she met us when we arrived around 8:00 or 9:00 a.m.

d. What happened when you arrived?

We entered an administrative/office area from the parking lot. The entrance area had a large globe and two California Highway Patrol motorcycles. Once inside, we turned to the right, walked through an office area and were shown to an office that I believe was normally occupied by two archivists. In that office, we were told about the layout of the offices (e.g., where

drinking fountains and bathrooms were, etc.). we were told that we would be permitted to review files in an adjacent office, and we were briefed on the Library's procedures for reviewing documents. Some of the procedures that I recall were: no drinking in the room where we would review documents; how to fill out the pull sheets designating which files we were given; not to take too many folders out of a box at one time; how to use a marker page to keep your place within a box; to keep folders on the table and not to place them on your lap where the contents might spill out; to use only a pencil, and not a pen for taking notes; to ensure that documents are kept in order within the folder, and that the folders were kept in order within the boxes.

e. **Where were you taken in the library?**

I spent virtually all of my time in the office area reviewing documents. Other areas in the Library that I visited included the area immediately adjacent to those offices (where the bathroom was located); the courtyard that provided access to the Reagan Café; and the outdoor displays (the limousine; President Reagan's gravesite, etc.).

f. **When did you notify the National Archives and Records Administration about your review?**

I did not have any communications with NARA before arriving at the Library.

g. **Who did you notify?**

See response to 3.f above.

4. **Once inside the Library, describe what happened?**

a. **How were you and your colleagues dealt with prior to viewing any records?**

See response to 3.d above

b. **What instructions were you given regarding how the records you viewed would be handled?**

See response to 3.d above

c. **What guidance did you provide Reagan Library archivists concerning your review of the records, i.e. discretion, urgency, etc.?**

I do not believe I personally gave any guidance to the archivists.

d. **How was this guidance met by Library staff?**

e. **What records were you there to review?**

I was there to assist _____ reviewing records from the Reagan White House Counsel's office.

5. You had a list of files you wanted to review. Describe how the files on that list were categorized.

a. What did these markings mean?

I recall that the file list was highlighted to indicate the files we wanted to look at. I do not recall what the asterisks indicated.

6. The file "Affirmative Action Correspondence" was on that list. What did that mean?

I do not recall.

7. Who put the _____ next to the Affirmative Action Correspondence file?

I do not recall.

8. Was the list, or copy thereof provided to Library staff?

I do not know. I did not provide the list or a copy to the Library staff.

9. Where were you taken to review the files?

See answer 3.d above.

10. Were you allowed to take in personal belongings, i.e. coats, briefcases, into the room with you?

Yes.

a. If you brought in personal belongings did they remain with you or were they segregated from you within the room?

My personal belongings remained with me while I was in the room.

11. When an archivist brought a cart of files into the room, describe the process of how those files would come to you or one of your colleagues.

a. Did you fill out "pull slips" for each file?

I believe a pull slip was completed for each file that I reviewed. Based on my review of the handwriting on my copies of those copies, it appears that I filled out some of the information on

each slip (e.g., my name) and that the archivists filled out the names of the files on most of the pull slips. Both I and an archivist initialed each pull slip.

b. Did the archivists assisting you fill out the "pull slips"?

See answer to 11.a above.

c. Was this process continued throughout the day?

Yes.

d. How many files were you allowed to review at a time?

We reviewed one file at a time.

e. Did you share files with your colleagues?

Yes.

(1) How did this occur?

On occasion, I would give a folder to a colleague to review.

(2) Were files physically delivered and picked up by your colleagues?

On these occasions, I would generally hand the file to a colleague.

(3) Did the archivist transfer files between you and your colleagues?

No.

12. Was there verbal discussion about the contents of the files you were reviewing?

Yes.

13. How did you determine who reviewed which files?

Generally, we took turns reviewing files as they became available. I generally tried to review files dealing with subjects that were more political than legal in nature.

14. When in the review process was the Affirmative Action Correspondence file reviewed?

I do not know.

a. Who initially reviewed the Affirmative Action Correspondence file?

I do not recall.

b. Was the Affirmative Action Correspondence file passed among you and your colleagues?

I do not recall.

(1) Who passed the file to whom?

See response to 14.b above.

c. Was there verbal discussion regarding the contents of the Affirmative Action Correspondence file?

Not that I recall.

15. Who, at any time, other than Library staff, possessed the Affirmative Action Correspondence file?

I do not know.

16. Did you ever have sole possession of the Affirmative Action Correspondence file?

I do not believe I did. Neither my copies of the pull slips nor my notes indicate that I reviewed the Affirmative Action Correspondence file. Nor do I have any recollection of having reviewed the file.

17. Describe the contents of the Affirmative Action Correspondence file.

I do not know what the contents of the file are.

18. Did you remove the Affirmative Action Correspondence file from the room where it was reviewed? If yes, explain.

No.

a. Did you remove the file from the Reagan Library? If yes, explain.

No.

19. Were any of the contents of the Affirmative Action Correspondence file tagged for copying?

Not to my knowledge.

20. Were any of the contents of the Affirmative Action Correspondence file faxed back to the White House?

I do not know.

21. Did you see any of your colleagues review the Affirmative Action Correspondence file?

Not to my knowledge.

21. Did you see any of your colleagues remove the Affirmative Action Correspondence file from the room where it was reviewed? If yes, explain.

No.

a. Did you see any of your colleagues remove the Affirmative Action Correspondence file from the Reagan Library? If yes, explain.

No.

23. Explain how files were returned to the cart and the archivist assisting you?

In general, when I was done reviewing each file, I would return it to the archivist, who would then place it on the cart. It is possible that I sometimes returned files directly to the cart.

a. Was there any paperwork exchanged, other than the file, when a file was returned?

I do not remember. It is possible that a notation was made on the pull slip, but I do not recall.

b. Was the file immediately refiled into a box on the cart or placed in a stack for later refileing?

I do not recall.

c. Did the same reviewer who filled out the "pull slip" for the file always return the file?

In general, if I received a file to review, I would be the one to return it. However, I am not confident that I always filled out the pull slip for each file I reviewed. See response to 11.a.

d. If a file was passed to a colleague for additional review, did the colleague return it to the archivist or to the person it was received from?

Sometimes I would return it to the archivist; sometimes my colleague would.

24. Did you return the Affirmative Action Correspondence file to a Library archivist?

See response to question 16.

25. Did you observe the Affirmative Action Correspondence file being returned by any of your colleagues?

I do not recall seeing anyone handling the Affirmative Action Correspondence file.

26. Who was the last person you have knowledge of possessing and/or reviewing the Affirmative Action Correspondence file?

See response to question 25.

27. Did any member of the Library staff inquire with you or your colleagues regarding the Affirmative Action Correspondence file?

No one asked me about it. I do not know if my colleagues were asked about it.

28. When did you learn the Affirmative Action Correspondence file was missing?

I learned of it on August 13, 2005.

a. How?

I heard it from a colleague working on the Roberts nomination.

29. At any time throughout the course of your stay at the Library, were you and your colleagues allowed to stay in the room where you reviewed the material without the presence of any Library staff, i.e. for conference calls to the White House?

Yes.

a. Were the files being reviewed left in the room when this occurred or wheeled outside of the room?

They were left in the room.

b. How often did this occur?

My best recollection is that it occurred 3-5 times.

c. How long would you and your colleagues be left alone with the files on these occasions?

The length of time varied, but was generally between 10 and 15 minutes.

30. Why weren't you present to review files on Tuesday, July 19, 2005?

I needed to return to Washington to attend to other matters, and I was not needed at the Library to provide further assistance in the review.

a. Was your absence anticipated or unexpected?

My return to Washington on July 19 was anticipated at the outset of the trip.

31. Do you have any knowledge of or explanation for how the Affirmative Action Correspondence file disappeared?

No.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Signature:

Executed on 9/12/05.

Witnessed by: _____
Name: _____
Title: _____

MEMORANDUM OF INTERVIEW OR ACTIVITY

Type of Activity: <input checked="" type="checkbox"/> Personal Interview <input type="checkbox"/> Telephone Interview <input type="checkbox"/> Records Review <input type="checkbox"/> Other	Date and Time: August 23, 2005, Approximately 1:30 PM September 2, 2005, Approximately 2 PM
Activity or Interview of: Interview of [REDACTED] [REDACTED]	Conducted by: [REDACTED] [REDACTED]
	Location of Interview/Activity: U.S. Department of Justice 950 Pennsylvania Ave, NW Washington, DC

Subject Matter/Remarks

August 23, 2005

On August 23, 2005, [REDACTED]

[REDACTED] Interviewed

Also present at the interview were [REDACTED]

[REDACTED] was provided "Warnings and Assurances to Employee Requested to Provide Information on a Voluntary Basis" NARA-OIG Form OI-221, which he acknowledged and signed indicating he understood and was willing to make a statement and answer questions.

[REDACTED] was interviewed concerning his involvement of the July 18-19, 2005, review of files/documents at the Ronald Reagan Library, 40 Presidential Drive, Simi Valley, CA 93065 and a missing John G. Roberts, Jr., file entitled "Affirmative Action Correspondence" that was seen in that review. [REDACTED] provided the following information:

[REDACTED] has worked for the [REDACTED] less than one year and previously worked for the [REDACTED] less than two years. [REDACTED] Standard Form 50-B indicates he occupies an [REDACTED] pending the completion of a background investigation. He works in the [REDACTED] and one of the duties of that office is [REDACTED].

On July 17, 2005, [REDACTED]

[REDACTED] flew into Los Angeles, CA, and traveled to Simi

Case Number:
[REDACTED]

Case Title:

John G. Roberts' Missing File

MEMORANDUM OF INTERVIEW OR ACTIVITY (CONTINUATION SHEET)

Valley, CA. On July 18, 2005, at approximately 8:30 AM to 9:00 AM they arrived at the Ronald Reagan Library to review documents relating to John G. Roberts, Jr., and [REDACTED]. They brought lists of the files contained at the Library [REDACTED] Roberts' [REDACTED] work in the Office of Counsel to the President (Roberts 1983-1986 [REDACTED]). On the lists they provided to the Library they had identified the files they wanted to see and which ones they wanted to see first. He was shown two sets of lists and he agreed those were lists they provided.

They were met at the Library by library staff [REDACTED] and [REDACTED] who provided them an available office. They were issued research cards and provided an overview of how documents were to be handled at the Library. The staff made it clear they would be in the room with them, that files had to be kept on the desks, that files could not be taken out of the room, and only one file could be opened at a time. On both days they were allowed to bring their belongings in with them. [REDACTED] had a leather bound portfolio/notebook and a purse, he does not recall [REDACTED] having anything, and he did not bring anything.

Library staff provided the opened files/documents first and the closed files/documents second. They were provided pull slips to complete and initial concerning the files they reviewed. The library staff initialed the pull slips when the files were returned. Sometimes it varied when the pull slips were completed. The person who took the file out was the same person who returned the file, i.e. if he passed a file to [REDACTED] for review; she would subsequently give it back for him to return to the Library staff. They followed the Library staff's lead concerning the pull slips. He does not recall the Library staff discontinuing the pull slips process on July 18, 2005, or July 19, 2005.

When reviewing the files [REDACTED] was the lead reviewer, but they all communicated with each other concerning the contents of the files, when needed. Some of the files he or [REDACTED] reviewed were then provided to [REDACTED] for a second review. They would place them for review on the desk [REDACTED] was using. He recalls [REDACTED] having more than five files at some point that he and/or [REDACTED] had reviewed and passed to her.

He was the first person provided with files from the closed materials. He received "[REDACTED]," "Affirmative Action Correspondence," and "[REDACTED]" files. Upon reviewing the "Affirmative Action Correspondence" file he is fairly certain he provided the file to [REDACTED] for review. [REDACTED] [REDACTED]. Also, on the lists they were using which identified the files, there were [REDACTED] beside the file title "Affirmative Action Correspondence." [REDACTED]. He made notes on his copy of the list of files concerning the "Affirmative Action Correspondence" which state "[REDACTED]" [REDACTED].

He does not think he provided the file to [REDACTED] and if he wanted to show [REDACTED] a file he would have called him over to his work area. He does not recall any details about discussing the "Affirmative Action Correspondence" file other than to say here is what is in the file. There was no extensive discussion about the file. He does not recall returning the "Affirmative Action Correspondence" file to the Library staff.

Case Number: [REDACTED]	Case Title: John G. Roberts' Missing File
----------------------------	---

MEMORANDUM OF INTERVIEW OR ACTIVITY (continuation sheet) 3

The content of the "Affirmative Action Correspondence" file was a letter to the president regarding affirmative action. He recalls the file being a little bit thick, but does not recall what else was in the file as [REDACTED]. There was a lot of other material, he cannot say if there was handwritten material in the file. The draft Executive Order concerning affirmative action could have been in the file. [REDACTED] showed him the documents the Library found matching his notes and he said those are the documents he took his notes about (see attached). However, he recalls the file being thicker than just the documents he was shown. [REDACTED].

At the end of the first day, late, [REDACTED] was with them and was making copies of requested files/documents. A lot of copies were being made and there was typical confusion under those circumstances. He does not recall if the "Affirmative Action Correspondence" file was copied. Probably it was not because [REDACTED].

During the review there were at least three conference calls to the White House on the first day and two on the second day. When the calls were made the Library staff left the room, but records remained in the room. Also, [REDACTED] was not present on the second day of the review.

He was asked if he took the file or knew anything about the taking of the file. He indicated he did not take the file and he has no information indicating that [REDACTED] took the file.

September 2, 2005

On September 2, 2005, [REDACTED]

Interviewed [REDACTED]

Also present at the interview were [REDACTED]

[REDACTED] was interviewed concerning his involvement of the July 18-19, 2005, review of files/documents at the Ronald Reagan Library, 40 Presidential Drive, Simi Valley, CA 93065 and a missing John G. Roberts, Jr., file entitled "Affirmative Action Correspondence" that was seen in that review. [REDACTED] provided the following information:

Three areas were readdressed from the first interview: 1. Did [REDACTED] tell you he belongs to the [REDACTED] or he is an employee of [REDACTED]? [REDACTED] indicated [REDACTED] said he is an employee. 2. [REDACTED] indicated that during the review the Library staff initialed the pull slips when they returned the files to the staff. The Library staff has indicated the pull slips were not typically initialed by the archivist when the files were returned by the researchers, but during the review it may have occurred on occasion. [REDACTED] indicated that he can not disagree with the archivists' assessment. 3. [REDACTED] indicated the person who received the file was the same person who returned it to the archivist. The archivists did not think that was always the case. [REDACTED] was confident that he returned the files he reviewed to the archivist even if he provided them to [REDACTED] for a second review. (Agent's Note: However, he has no independent recollection of returning the "Affirmative Action Correspondence" file to an archivist.)

Case Number:

Case Title:

John G. Roberts' Missing File

MEMORANDUM OF INTERVIEW OR ACTIVITY (Continuation sheet)

██████ was shown pictures of the room he and the other researchers used while reviewing files at the Library and he indicated the pictures are a good representation of the room as it was when they used it.

Additional documents that were identified in WHORM (White House Office of Records Management database) relating to Roberts and affirmative action were shown to ██████. ██████ indicated he did not recall whether or not the following documents were in the missing file: a copy of Executive Order 11246-Equal employment opportunity; talking points for ██████ Interview; letter to the President regarding Debategate Scandal and affirmative action with a resume attached, and proposed response; letter to the President requesting information concerning the goals and future actions of the Attorney General and the Civil Rights Commission regarding employment discrimination and affirmative action and proposed response. One of the documents he was shown concerning a memorandum to report on the dispute over Executive Order 11246 regarding affirmative action for government contractors, he believed was not in the missing file.

Case Number:

██████████

Case Title:

John G. Roberts' Missing File

Attached to Exhibit 6 is one (1) page of a list of John G. Roberts files from 1983-1986 available at the Ronald Reagan Presidential Library. The list is publicly available and therefore not included in this FOIA response. Any handwritten notes on the list attached to Exhibit 6 have been redacted in their entirety pursuant to FOIA exemption (b)(5).

THE WHITE HOUSE
WASHINGTON

April 10, 1986

MEMORANDUM FOR

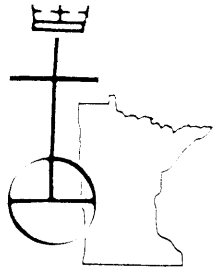
FROM:

JOHN G. ROBERTS 

SUBJECT:

Executive Order 11246 (Affirmative Action)
Correspondence

directed that we not respond to these letters concerning the controversy over possible changes in Executive Order 11246 until the President decided whether or not to make any changes. At that time it was thought that a decision was imminent, but the debate is still raging within the Administration and there has as yet been no final decision. The matter is not OBE, but the incoming letters are by now sufficiently dated that I recommend closing them out with no response. A response was never necessary in any event.



THE MINNESOTA CONFERENCE
UNITED CHURCH of CHRIST

122 West Franklin Avenue, Suite 323, Minneapolis, Minnesota 55404

Telephone 612 871-0359
Central Conference Office

CENTRAL CONFERENCE OFFICE

October 10, 1985

EASTERN CONFERENCE OFFICE

The Honorable Ronald W. Reagan
President of the United States
The White House
Washington, DC 20500

Eastern Association
122 W. Franklin Avenue
Minneapolis, MN 55404
Phone: 612-871-0359

Dear Mr. President:

SOUTHERN CONFERENCE OFFICE

I am deeply concerned about proposed changes to the Executive Order 11246 which requires nondiscrimination and affirmative action by employers who contract to perform billions of dollars worth of business with the federal government. As you know, this commitment to affirmative action has been supported by both Republican and Democratic Administrations over the past forty-four years.

Southern Association
605 Hillcrest Avenue
Davenport, MN 55060
Phone: 507-451-1804

WESTERN CONFERENCE OFFICE

The draft executive order, which I understand you intend to review in the next few weeks, would eliminate goals and timetables and would bar the use of statistical evaluations to prove discrimination. These tools of fair employment law enforcement are essential to the fight against discrimination. Without the use of numerical standards or reasonable targets (i.e., flexible goals in the regulations implementing Executive Order 11246) to reduce the underemployment and underutilization of fully qualified minority and women workers, the effectiveness of the Executive Order Program will be severely diminished. Voluntary compliance with the antidiscrimination provisions of the Executive Order, as envisioned by officials within your Administration, is doomed to failure. Indeed, history has shown that voluntary affirmative action is ineffective without tools to measure compliance.

Western Association
1114 S. Broadway
Alexandria, MN 56008
Phone: 612-763-6549

The use of race or sex-conscious affirmative action would be prohibited under the proposal before you. Let us not forget that race was a factor when the Freedmen's Bureau was established in 1864 to assist former slaves and free black men and women. Race was also a factor when we rid this country of the invidious "separate but equal" policies of the past through the Brown v. Board of Education decision, and sex was a factor when we mandated equal pay for equal work through the Equal Pay Act.

Mr. Honorable Donald W. Regan -1-

October 17, 1958

The sense of the Executive Order program, and in particular the prohibition of race and sex-conscious affirmative action, would constitute a historical civil rights retrenchment. I do not think you sincerely wish to raise the specter of federally-sanctioned "apartheid" by turning a blind eye to employment discrimination and to the proper methods of remedying it.

I sincerely urge you, Mr. President, not to take a giant step backward in the fight for equal employment opportunity and to reject efforts to weaken the antidiscrimination and affirmative action provisions of Executive Order 11246.

Sincerely,

THE WHITE HOUSE
WASHINGTON

Date 11/1/85

Suspense Date _____

MEMORANDUM FOR: _____

FROM:

ACTION

- _____ Approved
- _____ Please handle/review
- _____ For your information
- _____ For your recommendation
- _____ For the files
- _____ Please see me
- _____ Please prepare response for
_____ signature
- _____ As we discussed
- _____ Return to me for filing

*propose
draft form, but
await decision*

COMMENT

You didn't indicate an atty on this -- do
you not want a response from you, from
White House at all?



135055x

**United Church of Christ
Coordinating Center for Women
In Church and Society** _____

October 16, 1985

The Honorable Ronald W. Reagan
President of the United States
The White House
Washington, D.C. 20500

Dear Mr. President:

I am deeply concerned about proposed changes to Executive Order 11246 which requires nondiscrimination and affirmative action by employers who contract to perform billions of dollars worth of business with the federal government. As you know, this commitment to affirmative action has been supported by both Republican and Democratic Administrations over the past forty-four years.

The draft executive order, which I understand you intend to review in the next few weeks, would eliminate goals and time-tables and would bar the use of statistical evaluations to prove discrimination. These tools of fair employment law enforcement are essential to the fight against discrimination. Without the use of numerical standards or reasonable targets (i.e., flexible goals in the regulations implementing Executive Order 11246) to reduce the underemployment and underutilization of fully qualified minority and women workers, the effectiveness of the Executive Order Program will be severely diminished. Voluntary compliance with the antidiscrimination provisions of the Executive Order, as envisioned by officials within your Administration, is doomed to failure. Indeed, history has shown that voluntary affirmative action is ineffective without tools to measure compliance.

The use of race or sex-conscious affirmative action would be prohibited under the proposal before you. Let us not forget that race was a factor when the Freedmen's Bureau was established in 1864 to assist former slaves and free black men and women. Race was also a factor when we rid this country of the invidious "separate but equal" policies of the past through the Brown v. Board of Education decision, and sex was a factor when we mandated equal pay for equal work through the Equal Pay Act.

The demise of the Executive Order program, and in particular the prohibition of race and sex-conscious affirmative action, would constitute a historical civil rights retrenchment. I do not think you sincerely wish to raise the specter of federally-sanctioned "apartheid" by turning a blind eye to employment discrimination and to the proper methods of remedying it.

The Honorable Philip W. Smith
June
October 20, 1967

I sincerely urge you, Mr. President, not to take a giant step backward in the fight for equal employment opportunity and to support efforts to weaken the antidiscrimination and affirmative action provisions of Executive Order 11246.

Sincerely yours,

/

MEMORANDUM OF INTERVIEW OR ACTIVITY

Type of Activity: <input checked="" type="checkbox"/> Personal Interview <input type="checkbox"/> Telephone Interview <input type="checkbox"/> Records Review <input type="checkbox"/> Other	Date and Time: August 19, 2005
Activity or Interview of: ████████████████████, Ronald Reagan Presidential Library and Museum, National Archives and Records Administration	Conducted by: ████████████████████ ████████████████████ Location of Interview/Activity: Ronald Reagan Presidential Library and Museum 40 Presidential Drive Simi Valley, CA 93065-0600

Subject Matter/Remarks

On August 19, 2005, ██████████ interviewed ██████████, Ronald Reagan Presidential Library and Museum, National Archives and Records Administration (NARA) at 40 Presidential Drive, Simi Valley, California, 93065-0600. The interview was continued over the telephone on September 1, 2005.

██████████ was interviewed concerning her knowledge of a missing John G. Roberts, Jr., file from the Reagan Library entitled "Affirmative Action Correspondence." ██████████ provided the following information.

On Monday, July 18, 2005, ██████████ was aware that ██████████ researchers from the White House were on site at the Library. She did not know why they were there.

██████████ became involved with the materials the ██████████ researchers reviewed after they had departed. She was responsible for arrangement of the material so that it could be provided to the public in an organized manner. On the weekend of July 23-24, 2005, while conducting an inventory of the material, ██████████ checked each folder against a master list on her computer screen generated from the Library's database and immediately realized that many folders were missing and had been replaced with FOIA pull sheets – white sheets placed into a box indicating a file or files have been pulled in response to a FOIA request. She did not think it was very smart to do the arrangement while the Library was responding to so many FOIAs. However, every file, including the Affirmative Action Correspondence file, was either physically present or accounted for with a FOIA pull sheet. ██████████ physically arranged and moved the material for refolding, which began on Monday, July 25, 2005. She concedes it was possible, but not likely, that in coordinating the arrangement process, she could

Case Number: ██████████	Case Title: John G. Roberts' missing file
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have missed the file name on her computer screen, and therefore never would have inventoried the Affirmative Action Correspondence file.

During the week of July 25, 2005, [REDACTED] refolded the Roberts' materials. One file, titled "State of the Union" went missing for a brief period during the arrangement process when it was misfiled. It was subsequently discovered.

[REDACTED] worked over the following weekend and continued the arrangement. On Sunday, July 31, 2005, she realized that the Affirmative Action Correspondence file was missing. She stated definitively that she saw a FOIA pull sheet with both the Affirmative Action Correspondence and Afghanistan file names written on it, but only the Afghanistan file had been returned for refolding.

Case Number:

[REDACTED]

Case Title:

John G. Roberts' missing file

Page 1 of Exhibit 8 is redacted in its entirety pursuant to FOIA exemptions b(2), b(5), and b(6).



National Archives and Records Administration

700 Pennsylvania Avenue, NW
Washington, DC 20408-0001

STATEMENT BY THE ARCHIVIST OF THE UNITED STATES

Monday, August 15, 2005

Today's opening contains 5,393 pages of Presidential records from the Ronald Reagan Presidential Library concerning Judge John G. Roberts. These documents are from 34 folders of Staff Member Office Files of John Roberts identified by Democratic members of the Senate Judiciary Committee as files of particular interest. 478 pages have been withheld from these folders under FOIA exemptions.

In the context of the President's nomination of Judge Roberts to the Supreme Court, the Reagan Library received numerous requests for expedited access to records. The Library then began arranging and processing 46,115 pages of records for public disclosure (i.e., transferring the records into acid-free folders and archival boxes and reviewing them page-by-page for applicable FOIA restrictions). This process would normally take three to six months to complete; the Reagan Library completed it in a little over two weeks, by working 12-15 hour days, seven days a week. (Further preparations are being undertaken for public release of the remaining records, which will occur as soon as possible.)

Of the materials scheduled to be opened today, the Reagan Library has been unable to locate one folder entitled "Affirmative Action Correspondence" from the Staff Member Office Files of John Roberts. The folder was previously reviewed in mid-July by Administration officials at the Reagan Library, and then returned to Library staff. The Library staff then appears to have misplaced the folder in the course of re-filing. Documentation from this previous review indicates that the folder contained a one page memo from Roberts and related documents, addressing how to respond to a letter to the President complaining that a proposed Executive Order would roll back affirmative action. The Library has been able to locate copies of that memo and other related documents in other open files on John Roberts, which are attached. To the best of our knowledge we have been able to provide the contents of that folder through this reconstruction. The Library is continuing to search for the misplaced folder and its contents, and will make it available immediately, if it is located.

ALLEN WEINSTEIN
Archivist of the United States