

DEC-15-2003 13:26 FROM: FINANCE CITE

202 228 2131

TO: 3124196629

F.2

3225 P STREET, N.W.

WASHINGTON, DC 20007-2755

TELEPHONE (202) 242-8220

WWW.KKG.COM

FACSIMILE (202) 342-6384

December 4, 2003

BY HAND - URGENT MATTER

Chief, Research/Communications Unit  
Office of Public and Congressional Affairs  
U.S. Department of Justice  
Federal Bureau of Investigation  
Washington, D.C. 20535

Re: Unit Chief John Roberts

Dear Chief:

We represent Unit Chief John Roberts who is currently employed by the Federal Bureau of Investigation ("FBI" or "Bureau"). Submitted herewith please find a sealed envelope on which the seal has been signed by Mr. Roberts who prepared the contents (hereinafter, "proposed publication" or "letter"). The proposed publication is a letter drafted for Senators Charles E. Grassley and Patrick J. Leahy. These two members of Congress have expressed an interest in obtaining information from Mr. Roberts.

On behalf of Mr. Roberts we hereby request that the contents of the proposed publication, that is submitted under seal, undergo prepublication review and clearance by the FBI pursuant to regulations and procedures applicable to writings by FBI employees.

In addition, the following information is hereby provided:

1. The proposed publication was not prepared on Bureau time.
2. Information in the proposed publication was most likely obtained in the course of Mr. Roberts' "official duties." However, that phrase is not defined in the regulation summary provided by your office. In addition, your office should review the sealed proposed publication and make a determination on this issue.

*Handwritten:*  
Filed in RMD F.O.  
on 12/4/03

*Handwritten:*  
Hardy  
b7C  
Pls. expedite this  
pre-pub review.  
12-4-03

3. Mr. Roberts seeks to publish the proposed publication, in consultation with his attorneys, to Senators Charles E. Grassley and Patrick J. Leahy and their staff. These Senators have specifically requested to meet with Mr. Roberts to discuss matters related to the FBI. The information contained in the proposed publication is part of the information for which Mr. Roberts wants to disclose to these Senators. The information concerns matters of public concern and, in accordance with the First Amendment of the United States Constitution and the written and oral requests for information obtained by Mr. Roberts' counsel from these Senators, should be immediately provided to the Senators.
4. Mr. Roberts seeks to publish the proposed publication in consultation with his attorneys after the FBI's pre-clearance review process has been completed. He seeks permission to distribute it to his attorneys, all Members of Congress and the FBI-OPR Commission members (Honorable Griffin Bell and Mr. Lee Colwell).
5. Due to the fact that there is no commercial publisher for the proposed publication, it is not expected that Mr. Roberts will receive any compensation for writing the proposed publication and there is no publisher for it.
6. All appropriate disclaimers that apply to FBI employees will be included if the proposed publication is issued. If the FBI has any concern in this regard we request that you provide specific guidance and/or instructions in response to this letter.
7. At this time there are no special arrangements with any commercial publisher related to the proposed publication. However, Mr. Roberts' counsel shall be the "publisher" of the proposed publication to the persons or entities identified in this letter. Specifically, Mr. Roberts has directed his counsel to review the proposed publication after it is "cleared" by the FBI, and thereafter publish the proposed publication, in whole or in part, as appropriate, to the persons or organizations identified in this letter. These publications may be oral or in writing. Only Mr. Roberts' counsel has been provided permission to "publish" the proposed publication.

We hereby request that all of the materials submitted herewith under seal by Mr. Roberts be fully cleared. Although the regulations at issue permit the FBI to review and clear the information within thirty days, we hereby request an expedited review of the proposed publication. This review is justified for the following reasons:

DEC-15-2003 16:28 FROM: FINANCE CMTE

202 236 2131

TO: 3124196668

#1 Senators Grassley and Leahy have repeatedly requested information from Mr. Roberts. Any further delay in providing these Senators with information they need to conduct oversight and legislative activities would be counter to the First Amendment of the United States Constitution and the public interest. Mr. Roberts has been requested to meet with representatives of the Senator Judiciary Committee on December 5, 2003, and thus requests that the proposed publication be approved for publication to members of that Committee by December 5, 2003 at 1 p.m. See Letter from Orrin Hatch, Patrick Leahy and Charles Grassley to John Ashcroft (September 24, 2003).

2. The FBI-OPR Commission has informed Mr. Roberts of their desire to obtain information from him regarding the operations of the FBI's Office of Professional Responsibility. They have also informed Mr. Roberts that the Commission is "approaching the end" of its review.

In the event that the FBI requests that any information be deleted from the proposed publication we request that the FBI specifically designate the proposed deleted information by blacking it out on a copy of the proposed publication that is being submitted herewith under seal by Mr. Roberts. In addition, we request specific reasons for any deletions or modifications the FBI may make to the attached sealed proposed publication. In the event that the FBI approves the proposed publication subject to conditions, we request that all of those conditions be stated in writing.

Once the FBI has completed its prepublication review of the proposed publication by Mr. Roberts we hereby requests that the "cleared" version of the proposed publication, along with any instructions regarding its publication, be provided directly to his attorneys at the following address: Stephen M. Kohn/Kohn, Kohn & Colapinto, LLP/5233 P Street, N.W./Washington, D.C. 20007/(202) 342-6984 (fax).

Mr. Roberts' counsel shall publish the proposed publication to the entities cleared by the FBI for receipt of the publication.

Under the Privacy Act and other applicable provisions of federal statutory, administrative and constitutional law, Mr. Roberts hereby requests that the FBI *not* publish this proposed publication to any person who does not have a "need to know" about the contents of the publication in accordance with the FBI prepublication regulations. Mr. Roberts also requests that the FBI agree to keep the contents of the proposed publication confidential. This request is extremely significant because Mr. Roberts' counsel have not reviewed the contents of the proposed publication. Mr. Roberts hereby requests that he have an opportunity for his counsel to review the proposed publication prior to its release to any of the persons identified in this letter and/or prior to its release to any person whatsoever (either within the FBI or outside the FBI) who does not have a specific "need to know" about the contents of the publication in order for the FBI to conduct its clearance.

DEC-15-2003 13:23 FROM:FINANCE DATE

202 226 2131

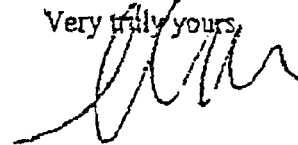
TO:3124196038

P.5

If we can be of any assistance whatsoever in expediting the clearance of the proposed publication please feel free to contact our office.

Thank you in advance for your time and cooperation in this matter.

Very truly yours,



Stephen M. Kohn  
David K. Colapinto  
Attorneys for Mr. Roberts

CC: The Honorable Charles E. Grassley (w/o enclosure)  
The Honorable Patrick J. Leahy (w/o enclosure)  
FBI-OPR Commission (w/o enclosure)

Enclosure: Confidential draft letter to Senators Grassley and Leahy provided directly by Mr. Roberts to the FBI