

NLWJC - KAGAN

EMAILS RECEIVED

ARMS - BOX 013 - FOLDER -006

[07/02/1997 - 07/04/1997]

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Elizabeth Drye to Elena Kagan and Laura Emmett re: staff mtg. (1 page)	07/02/1997	P6/b(6)
002. email	Elizabeth Drye to Elena Kagan re: staff mtg. (1 page)	07/02/1997	P6/b(6)
003. email	Emil Parker to Elena Kagan re: Haskins meeting and workfare (1 page)	07/03/1997	P6/b(6)
004. email	Phone No. (Partial) (1 page)	07/03/1997	P6/b(6)

COLLECTION:

Clinton Presidential Records
 Automated Records Management System [Email]
 OPD ([Kagan])
 OA/Box Number: 250000

FOLDER TITLE:

[07/02/1997-07/04/1997]

2009-1006-F

bm23

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

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

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

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

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: June G. Turner (CN=June G. Turner/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 2-JUL-1997 09:04:23.00

SUBJECT: Note

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

CC: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TEXT:

Per your note on my chair re: Race memo, Sylvia said that today was fine.

Thanks

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Marjorie Tarmey (CN=Marjorie Tarmey/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 2-JUL-1997 17:26:28.00

SUBJECT: Census mtg

TO: Mickey Ibarra (CN=Mickey Ibarra/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TO: Janet Murguia (CN=Janet Murguia/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TO: Kris M Balderston (CN=Kris M Balderston/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TO: John Podesta (CN=John Podesta/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

CC: Sara M. Latham (CN=Sara M. Latham/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

CC: Virginia N. Rustique (CN=Virginia N. Rustique/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

CC: Suzanne Dale (CN=Suzanne Dale/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

CC: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TEXT:

We need to meet before Wednesday with outside Census stakeholders. Are you or a staff member available to do a mtg on Tuesday at 2:00? Please respond asap. Thanks

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elizabeth Drye (CN=Elizabeth Drye/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 2-JUL-1997 19:19:32.00

SUBJECT: Corr on outreach strategy.

TO: Jerold R. Mande (CN=Jerold R. Mande/OU=OSTP/O=EOP @ EOP [OSTP])

READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

Here's the (tentatively) good news: Corr will get back to us tomorrow a.m. early re. Koop-Kessler mtg. He thinks it will be o.k., but wants to clear with Donna and Kevin (will somebody please delegate some decision-making authority?!). Prefers Tuesday.

Here's the usual HHS news: Corr wants to work out the entire outreach process before we start any meetings. He's very concerned about such questions as: should the meetings be open to press? Which should Donna and Bruce do versus staff? How do we make sure we touch all affected groups, like retailers? Should we hold a public meeting? etc. etc. etc. etc. He thinks, at our first meeting, we need to be prepared to answer reporters' questions about exactly who else we will meet with.

I walked him back through the Erskine memo, reminded him we had already agreed that Bruce/Donna would do 6-8 public health meetings etc., and said we didn't need to solve everything about press/who/what/when before we started.

We agreed to the following schedule.

1. We get Koop-Kessler mtg. o.k. from HHS tomorrow and set up meeting for Tues (or Monday if White House insists and HHS relents).
2. Tomorrow HHS sends over its detailed written outreach proposal. (Elena -- you may need to call Bill tomorrow and reinforce that this deadline cannot slip).
3. Monday WH/HHS meet to close on specific outreach plan and begin scheduling additional meetings.

Does this work?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jennifer L. Klein (CN=Jennifer L. Klein/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 2-JUL-1997 13:53:27.00

SUBJECT: Immunization Partnership Between CDC and WIC

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

You had asked me to respond to the President's question from the Weekly Cabinet Report about whether we can expand the partnership between the CDC and WIC to increase immunization rates. The program has already been expanded to all states. The FY 1996 appropriation to CDC directed them to ensure that all states reserve at least 10% of their infrastructure funds for linkage with WIC, unless the state could document that a linkage was already occurring. In 1997, \$14.7 million is being spent on formal WIC/immunization linkages in all states.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Barry J. Toiv (CN=Barry J. Toiv/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 2-JUL-1997 16:25:00.00

SUBJECT: Re: radio address

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TO: Ann F. Lewis (CN=Ann F. Lewis/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TO: Michael Waldman (CN=Michael Waldman/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TO: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

If we're going to mention the specific labor issues, would we also want to mention the other welfare issues we care about with regard to reconciliation?

----- Forwarded by Barry J. Toiv/WHO/EOP on 07/02/97

04:23 PM -----

Jordan Tamagni
07/02/97 01:11:23 PM

Record Type: Record

To: Barry J. Toiv/WHO/EOP

cc:

Subject: Re: radio address

(1) New Policy - No

(2) It may be that the President will address fair labor/displacement, etc. issues. As yet, it remains in brackets.

(3) As we approach the one year anniversary of the welfare reform law, the President will announce that there are 3 million fewer people on welfare rolls since the day he took office. He will talk about what we are doing to build on our progress, and what we need to do to meet our goal of moving one million more people from welfare to work by the year 2000. This discussion includes some mention of the balanced budget agreement's provisions targeting assistance to cities and rural areas with high concentrations of long term welfare recipients.

In other words, not really.

Hope this answers your questions.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Leanne A. Shimabukuro (CN=Leanne A. Shimabukuro/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 2-JUL-1997 18:41:18.00

SUBJECT: Indian law enforcement directive

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

CC: Jose Cerda III (CN=Jose Cerda III/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

Update: Michael Deich spoke with Seth Waxman and David Ogden this morning about OMB's concerns with the directive. According to OMB, Justice agreed in principle to include budget language. OMB sent me their proposed language which they gave to Justice this afternoon. I have a call into Justice see where they are on the language. I'll let you know what I find out.

I've put the language on the fax to you.

Draft 7/2/97 7:00pm

**PRESIDENT WILLIAM J. CLINTON
RADIO ADDRESS ON DECREASED WELFARE ROLLS
THE WHITE HOUSE
JULY 4, 1997**

Good morning. We come together this weekend with family and friends to celebrate Independence Day, our national heritage, and the fundamental values that unite us as one America: In America, everyone should have an equal chance to succeed. And everyone has an obligation to work hard, to give something back to their community, to earn in each generation the freedom that our Founders established.

These are the values that have guided our effort to end welfare as we know it. Today, I want to talk to you about the progress we have made over the past four and a half years, the changes now underway, and what we must all do to make sure that welfare reform honors those values, too.

For four years, my administration has been committed to putting an end to the old welfare system that created a culture of dependency, and trapped too many families in a cycle of despair, preventing them from participating in the fullness of American life. Working with the states we launched welfare reform experiments that brought nearly 75% of all welfare recipients under new rules that emphasize work and responsibility.

Then last summer, I signed historic legislation that revolutionized welfare. It was a dramatic step, but we knew that the time was right to put an end to a system that was broken beyond repair. This week, that old welfare system came to an end. Now a new system based on work is taking its place. This system that demands responsibility, not only from the people we are requiring to work, but from every American.

We knew last August that the new welfare reform law was not a guarantee, but a bold new experiment. And so far, our experiment is working. **I am pleased to announce that today, there are 3 million fewer people on welfare than there were on the day I took office -- a remarkable 1.3 million since I signed welfare reform into law.** And a new study by the Federal Reserve Bank of San Francisco shows that 500,000 single mothers have joined the job market since I signed welfare reform into law last August.

We have proven that we can begin to put an end to the culture of dependency, and elevate our most fundamental values of family and work and responsibility. Now we must continue to work together to meet our goal of moving one million more people from welfare to work by the year 2000.

Since I took office, the economy has added 12.8 million new jobs -- and economists believe that we will continue to produce the jobs we need to meet our challenge. But even so, it will not be easy. **Some of the people who must move from welfare to work have poor job skills; some have never worked before; still others live in struggling communities, far from jobs. We cannot let these problems become barriers to our success -- instead, we must do everything we can to remove the barriers to work.**

The national government will do its part. First, the balanced budget agreement we reached with Congress in May provides \$3 billion for welfare-to-work efforts all over the country. It gives private employers tax incentives to hire long term welfare recipients. [And I believe that every one of those new workers should earn at least the minimum wage and receive the protections of existing employment laws.]

Second, we must help welfare recipients get to the new jobs which are overwhelmingly located in the suburbs. That is why I recently proposed legislation that provides \$600 million to help states and local communities devise transportation strategies to move people move from welfare to work.

Third, we must make sure that mothers who must now go to work have good child care -- and adequate health care -- for their children. That is why I made sure that the welfare reform bill includes \$4 billion in child care assistance. And that is why I fought for the balanced budget agreement to extend health care coverage to millions of uninsured children.

States must also do their part. From this week on, every state must have a place in plan to move people from welfare to work. Many of these plans are already in place . . . and already working. Wisconsin and Florida are significantly increasing their investment in child care. In Oregon, they are providing health care and transportation support for welfare recipients, and subsidizing public and private sector jobs with money that used to pay for food stamps and other aid. And today, I want to encourage every state to use the authority the welfare reform law gives them, and take what had been welfare checks and turn them into paychecks.

But as much as the national and state governments can do to move people from welfare to work, we know that the vast majority of the jobs must be created by private business. The most lasting way to bring people on welfare into the mainstream of American life is with a solid job in a private business. To every business person who ever criticized the old system, I say: the old system is gone. And it is up to you to help make the new system work.

This Independence Day, all Americans should be happy that 3 million of our fellow citizens are off the welfare rolls. As we celebrate our nation's past and the values that unite us, we must look forward to the future, and redouble our determination to put an end to the culture of dependence.

Thanks for listening.

Automated Records Management System
Hex-Dump Conversion

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 2-JUL-1997 11:06:24.00

SUBJECT: McCurry on welfare yesterday

TO: Diana Fortuna (CN=Diana Fortuna/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TO: Emil E. Parker (CN=Emil E. Parker/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

Q Today is the deadline for the states to come up with welfare programs. What is the White House view of the state of play and the cooperation and --

MR. MCCURRY: Well, the President's delighted with the extraordinary progress we're making towards reforming welfare as we know it. There were many who felt at the time he signed the welfare reform law that it would be a failure; it has, so far, been a success. There are all but two states now who have got approved plans for welfare reform; the final two states we expect to have approved plans by the end of the day today. And people are moving from welfare dependency to work; jobs are being created; training programs are being developed. States that have enjoyed some a surplus of funding are using that funding in many cases to help make the transition easier by providing day care opportunities or training opportunities or assisting with transportation needs in some cases.

So it's hard work, but so far it's going well. The President is satisfied with the progress and knows that we're going to have to stay at it.

Q Do you really think you can declare a victory right now --

MR. MCCURRY: I didn't.

Q -- when it hasn't even started? These people haven't been dropped yet.

MR. MCCURRY: I didn't. I said that we've made progress and it's good progress so far, and the jobs are being created and the transition is occurring. And the President will continue to work hard on it to make it a success.

Q Let me follow up, if I may. What's your view of the various kinds of compliance that the states have come up with?

MR. MCCURRY: Well, each of the state proposals for how they will implement welfare reform are worked through in discussion with the Department of Health and Human Services, and it's been a good process. You might want to check further with them, but my understand is that they've worked through a lot of issues.

They've developed a lot of expertise on how to handle welfare reform because of the waivers. Remember, just about every state one way or another had been conducting some welfare reform experimentation, and that put federal officials in direct contact with state welfare agencies and officials at the state level. So there was a body of expertise that had developed already within government at the state and federal level. And I think that's been very conducive to making the implementation of the federal act smoother.

But by no means, Helen, do we declare victory at this point. It's going to be hard work. We are creating jobs, especially in the private sector for people to move from welfare situations to work, but this will not be a snap decision. This will be a very ongoing and probably longstanding effort to change the culture of the workplace and change the culture of dependency away from dependency into work. That's going to take time.

Q Even though you're not declaring victory, there are others who are declaring defeat already.

MR. MCCURRY: There were pessimists at the time the President signed the bill. And so far, their pessimism has not been well-founded. The funding has gone towards projects that enhance the opportunities available for those who are welfare-dependent. The states have been responsive in trying to move resources to where they're needed. The private sector has responded to the President's challenge to create jobs specifically targeted on welfare-dependent mothers, so we are confident we are moving in the right direction, but we by no means suggest we're at the destination.

Q A related topic, since we're talking about jobs --NAFTA -- you've got the anniversary. You have people complaining they've lost jobs because of NAFTA. Do you have an assessment on how many jobs have been lost, how many --

MR. MCCURRY: We have a report that will go up to Capitol Hill next week. It's been late because the dog ate the homework, I guess. I mean, they've been working on it and the deadline was missed. But we expect to send a report to the Hill early next week, and it essentially will say that there have been net benefits that are positive for the American people because of this.

Yes, there have been some people that have been displaced, but on balance there have been more jobs created, the jobs that are being created are higher-paying jobs, particularly in the manufacturing sectors, and that if you look at the performance and success of the U.S. economy, at least some part of the success that we've seen is due to the commitment to free trade and to engagement in global markets. Without that, we wouldn't be creating the kind of higher-paying jobs that we are creating in our economy and we wouldn't be seeing the kind of success across the board in reducing unemployment and creating more economic opportunity for the American people.

Q What's the mechanism for people who have been displaced who can't move having to --

MR. MCCURRY: I think there are problems that exist.

There is trade adjustment assistance, there are Labor Department programs that exist to try to help train those people for opportunities that do exist, but on balance, it appears to be true that free trade creates more economic opportunity for all those participating within the free trade environment. That's been true of NAFTA, it's been true of the other 200 free trade agreements we've reached around the world that they've enhanced economic competitiveness for the United States, created more economic opportunity and it's one of the reasons why the U.S. economy is performing so strongly.

Q Is there anything substantive about that report that's brought the delay, or it's just been hard to pull this together?

MR. MCCURRY: No. My understanding is it's been a combination of things. There are no surprises expected. It will be pretty straightforward. It just isn't done yet.

Q Whose office is that, Mike, who generate the report?

MR. MCCURRY: I think USTR has the lead. It's an interagency report and it's overseen here by the NEC.

Q Getting back to the welfare issue, you're saying that you're not declaring victory, but a lot -- getting back to what Bill said, too -- a lot of people are claiming defeat because there was a recent study that said over 70 percent of American businesses were saying no, that they would not hire welfare recipients; and especially there was an independent report that the Labor Secretary, Alexis Herman, she knew about it and she kind of commented on it, as well as --

MR. MCCURRY: I'm not familiar with that report. I think we've been very satisfied with the response we're getting from the private sector, many have stepped forward. There's an independent effort within the private sector now to challenge business leaders to respond by hiring more welfare dependent individuals into job situations and that work has to continue.

But there are people who have never liked this bill, never will like this bill, will continue to criticize the President because he wants to reform welfare. But the President's commitment is clear and his commitment includes continuing the hard work necessary to make welfare reform a success.

Q How will you monitor that, the private sector effort that the President has called on? I mean, is this like a quarterly -- he'll talk about how many jobs --

MR. MCCURRY: Well, remember, we put together a private sector group under Eli Segal's -- I guess through his effort and then they organized themselves. They are continuing to look at what the commitments have been and who's being responsive and how we can accelerate the response in the private sector. I don't know what --

Q But does the White House have any plans to monitor the number of hires made?

MR. MCCURRY: We'll continue to work with that group and others that gather data on this, just to see what the progress is going to be. And we'll continue to be after them on the subject, too. I don't think an occasion goes by where the President has an opportunity to talk to, you know, executives in the business community where he doesn't implore them once again to see this as a challenge is worthy of very intense effort at the senior levels of management in corporate America.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Melissa N. Benton (CN=Melissa N. Benton/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME: 2-JUL-1997 10:23:53.00

SUBJECT: Reminder: LRM no. MNB2 comments due

TO: James C. Murr (CN=James C. Murr/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

TO: Sara M. Latham (CN=Sara M. Latham/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TO: Tracey E. Thornton (CN=Tracey E. Thornton/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TO: Joseph F. Lackey Jr. (CN=Joseph F. Lackey Jr./OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

TO: Hai M. Tran (CN=Hai M. Tran/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

TO: Francis S. Redburn (CN=Francis S. Redburn/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

TO: Janet R. Forsgren (CN=Janet R. Forsgren/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

TO: Robert W. Schroeder (CN=Robert W. Schroeder/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TO: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TO: John E. Thompson (CN=John E. Thompson/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

TO: Robert G. Damus (CN=Robert G. Damus/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

TO: Susan M. Carr (CN=Susan M. Carr/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

TO: Alan B. Rhinesmith (CN=Alan B. Rhinesmith/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

TEXT:

This is a reminder that comments on the above-referenced LRM (the EEOC Report on Permitting Institutions of Higher Education to Offer Early Retirement Incentives with Upper Age Limits), are due.

Please provide any comments by COB today. If we do not hear from you, we will assume you have no comments. If you have any questions, I can be reached at 395-7887. Thanks!

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Paul J. Weinstein Jr. (CN=Paul J. Weinstein Jr./OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 2-JUL-1997 14:37:18.00

SUBJECT: Re: Klein

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP [OPD])

READ:UNKNOWN

TEXT:

FYI

----- Forwarded by Paul J. Weinstein Jr./OPD/EOP on
07/02/97 02:37 PM -----

Paul J. Weinstein Jr.

06/30/97 03:18:37 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP

cc:

Subject: Re: Klein

I have calculated our slots and gave you an incorrect number this morning. Here is the actual breakdown:

DPC/White House Slots

As of today, we are fully staffed on the DPC and White House payrolls. All 11 and 1/3 DPC slots are staffed (including Mia Masten and Mark Mazur). With today's addition of Essence Washington, we now have 12 slots on the White House payroll (including the AIDs Tsar and her deputy, Nicole Rabner, and Carrie Greenstein -- the 1st Lady's researcher. I am not counting Ira Magaziner, but if you did, DPC would have 13 White House slots).

My understanding from Elizabeth is that she is planning to leave in mid-August. I am not certain when Prince is coming on board. However, that will give us 2 DPC openings this summer.

Detailees

As of today, we have 4 open detail slots. However, as of mid-July, three of those slots will be filled. Linda Cooper is arriving on July 7, Tanya Oubre is starting July 14, and Allison Balderston (Mike's assistant) is coming on July 21. That leaves the DPC with only 1 open detail slot.

TOTAL

Thus, we will have 3 slots starting in August. This would make it difficult to provide a slot to the Lady's office. I would note, that we already provide them with 3 staffers (including Carrie Greenstein), and we continue to have Ira and Mia on our payrolls.

The current proposal for how we utilize these slots are:

- 1-- Race Initiative/Urban(?)
- 2-- Public Health

3-- Welfare/Urban (?)

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Elizabeth Drye to Elena Kagan and Laura Emmett re: staff mtg. (1 page)	07/02/1997	P6/b(6)

COLLECTION:

Clinton Presidential Records
Automated Records Management System [Email]
OPD ([Kagan])
OA/Box Number: 250000

FOLDER TITLE:

[07/02/1997-07/04/1997]

2009-1006-F
bm23

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
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- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

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

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

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

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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: June G. Turner (CN=June G. Turner/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 2-JUL-1997 14:02:27.00

SUBJECT: Piscataway case study = Final

TO: Dawn M. Chirwa (CN=Dawn M. Chirwa/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Jose Cerda III (CN=Jose Cerda III/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Odetta S. Walker (CN=Odetta S. Walker/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: William P. Marshall (CN=William P. Marshall/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Cheryl D. Mills (CN=Cheryl D. Mills/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:

The Piscataway Case study meeting will be in Sylvia's office this evening at 6:30. Thanks.

Withdrawal/Redaction Marker

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. email	Elizabeth Drye to Elena Kagan re: staff mtg. (1 page)	07/02/1997	P6/b(6)

COLLECTION:

Clinton Presidential Records
Automated Records Management System [Email]
OPD ([Kagan])
OA/Box Number: 250000

FOLDER TITLE:

[07/02/1997-07/04/1997]

2009-1006-F
bm23

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

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RR. Document will be reviewed upon request.

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

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Leanne A. Shimabukuro (CN=Leanne A. Shimabukuro/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 2-JUL-1997 12:01:00.00

SUBJECT: sex offender directive

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

CC: Jose Cerda III (CN=Jose Cerda III/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

FYI: Rahm has expressed interest in getting this signed tomorrow before the President leaves or the day he returns from his trip. The version that I last circulated has been cleared by all the necessary parties (including Staff Secretary) and is with Phil Caplan. Phil is aware of the timing and I think we're all set.

I'll let you know if I hear anything more about timing.

Leanne

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: June G. Turner (CN=June G. Turner/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 2-JUL-1997 12:54:04.00

SUBJECT: Piscataway case study #2

TO: Dawn M. Chirwa (CN=Dawn M. Chirwa/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Jose Cerda III (CN=Jose Cerda III/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Odetta S. Walker (CN=Odetta S. Walker/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: William P. Marshall (CN=William P. Marshall/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Cheryl D. Mills (CN=Cheryl D. Mills/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:

4:00 and 5:30 did not work for everyone. I hate to even suggest this, but will 6:30 work? Can you let me know asap? thanks.

Sylvia would like to have a quick meeting today re: Piscataway Case study. We can do at 5:30 if everyone is available. If that doesn't work I can move her 4:00. Please let me know. Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 2-JUL-1997 22:29:09.00

SUBJECT: BR says re: caseloads - can say largest in history, is based fact that no other four year period had such a large decline. Cynthia

TO: ELENA (Pager) #KAGAN (ELENA (Pager) #KAGAN [UNKNOWN])

READ:UNKNOWN

TEXT:

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 2-JUL-1997 15:55:00.00

SUBJECT: Products memo

TO: Jennifer D. Dudley (CN=Jennifer D. Dudley/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Michael Deich (CN=Michael Deich/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TO: Tracey E. Thornton (CN=Tracey E. Thornton/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Timothy J. Brennan (CN=Timothy J. Brennan/OU=CEA/O=EOP @ EOP [CEA])
READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: William P. Marshall (CN=William P. Marshall/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Steven D. Aitken (CN=Steven D. Aitken/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TO: Peter G. Jacoby (CN=Peter G. Jacoby/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Lisa M. Brown (CN=Lisa M. Brown/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

TEXT:

These are the cover memo for the products memo and the memo itself. Melissa (Gene's assistant) is sending the memo directly to the addressees. PLEASE NOTE THE TIGHT TIMEFRAME. I'd really appreciate your continued help in moving this along. You've all been great so far. Thanks so much.

Ellen===== ATTACHMENT 1 =====
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS_EXT: [ATTACH.D47]MAIL46338528Y.116 to ASCII, The following is a HEX DUMP:

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942462E783C604191D85FB94686A8626BE30AA122E4EC9555B4DEFFBF52C18D0C477F483FF6CE9

July 2, 1997

MEMORANDUM FOR

SECRETARY RUBIN
SECRETARY DALEY
SECRETARY SHALALA
ADMINISTRATOR ALVAREZ
DIRECTOR RAINES
CHAIR YELLEN
CHAIR BROWN
DEPUTY SECRETARY SUMMERS
JOHN DWYER
JOHN HILLEY
CHARLES RUFF
BRUCE LINDSEY
BRUCE REED
ELENA KAGAN
ERSKINE BOWLES
JOHN PODESTA
SYLVIA MATTHEWS
RON KLAIN
CHARLES BURSON

FROM: **GENE SPERLING**

SUBJECT: **Draft product liability memo**

Attached is a draft memo to the President on federal product liability law, based on our discussions last week. We ask two things: (i) your comments, edits and thoughts; and (ii) your choice among the three recommendations set out.

Ideally, we would like your response by noon tomorrow, July 3. Please forward comments to Ellen Seidman of my staff, who can be reached at 456-5359 or by fax at 456-1605. We apologize for the short timeframe, but we are attempting to get this memo in to the President before he leaves Washington tomorrow evening. Even noon is going to be hard; we hope the memo is sufficiently reflective of our discussions that turning it around in time is feasible. Please call me if you have any serious problems with this time frame.

Thank you all for your help, and for that of your staffs, in getting through this process.

cc:

Andrew Pincus
Jeffrey Hunker
Fran Allegra
Donald Remy
Tom McGivern
Ed Murphy
Ron Matzner
Pam Gilbert

Michael Deich
Steve Aitken
Tim Brennan
Tracey Thornton
Peter Jacoby
Bill Marshall
Lisa Brown

Draft: March 23, 2010 (8:09AM)

SUBJECT: Product liability legislation

I. ACTION FORCING EVENT: On May 1, on a strict party line vote, the Senate Commerce Committee reported out S.648, Senator Gorton's revision of the product liability bill you vetoed last year. Senator Rockefeller not only voted against S.648, but has made it very clear that he will not join until your concerns are satisfied, and Senator Gorton understands that without Senator Rockefeller's support, the bill cannot pass. On the other hand, Senator Lott has been pushing to bring the bill to the floor, leading Senator Rockefeller (together with Mr. Dingell) to press us to negotiate changes in the bill to meet your concern. Senator Lott may well want to move soon after the July 4 recess. Meanwhile, Senator Breaux is urging us to work with him on an alternative to the Gorton bill.

II. BACKGROUND: The 104th Congress passed product liability reform law -- a part of the Contract with America -- by a vote of 259 to 158 in the House and 59 to 40 in the Senate. The bill would have partially preempted state law as to both standards of liability for sellers and manufacturers of products that cause bodily harm and measures and allocation of damages. On May 2, 1996, you vetoed the bill, citing eight issues:

- Interference with state prerogatives in tort law
- One-way preemption, where pro-consumer state laws were preempted, but laws that limited consumer rights were not
- The cap on punitive damages, particularly in light of the Statement of Managers, which virtually directed judges not to use the "additur" provision included in the bill under which caps could be superseded
- Several -- not joint -- liability for non-economic damages
- A too-short (15 years), too-broad (all products) statute of repose
- Preemption of state negligent entrustment statutes, which make sellers of dangerous goods (e.g., firearms and liquor) responsible for certain actions of the buyers
- Failure to toll the statute of limitations during the period of a stay issued by a bankruptcy court
- Application of the limits on liability of biomedical materials suppliers to negligent suppliers

The House failed to override your veto by a vote of 258 to 163 to override. The House having failed to override, the Senate never took a vote.

III. CURRENT CONGRESSIONAL ACTIVITY

A. S.648

S.648 fixes the bankruptcy tolling problem, and makes an honest -- although not complete -- attempt to respond to the negligent entrustment issue. Moreover, it lengthens the statute of repose to 18 years, and establishes two-way preemption for the statute of repose, so that shorter state statutes would be lengthened (all state statutes that are set in years are shorter than 18 years). The bill does not respond to the two major problems you cited -- the cap on punitives and several liability for non-economic damages -- nor does it change the biomedical materials provision.

B. Senator Rockefeller and Mr. Dingell

Senator Rockefeller and Mr. Dingell are clearly looking for guidance on how to resolve the remaining issues (punitive damages, several liability for non-economic damages, statute of repose and biomedical materials) to meet both the concerns and fact patterns in your veto message. They have said they will engage in negotiations with us (clearly they do not expect to be able to accept our initial proposal) to develop legislation that will pass and will not be vetoed. Senator Rockefeller, in particular, has said he has no interest in another veto.

C. Senator Breaux

Senator Breaux would like to deal with this issue in an entirely different way. He has developed a bill focused far more on reducing frivolous lawsuits and less on substantive product liability standards. Senator Breaux's bill would include a statute of repose that is more flexible than that in S.648, would establish uniform federal standards for punitives damages but no cap, and would do nothing to change state law concerning joint and several liability for non-economic damages.¹

His bill would also set stricter pleading standards for federal and state court product liability actions, restrict multi-state product liability class actions, enact a very weak form of alternative dispute resolution, and require a study by the Attorney General of the product liability system. It is unclear how far Senator Breaux can get in moving support off the Gorton bill without the Administration's support for his approach.

D. Consumer groups and other advocates

Consumer groups and others are strongly opposed to any legislation in this area, and have stated that they view you as "the last bastion against tort reform." The American Bar Association has written you in opposition to any federal legislation primarily on federalism grounds, but also raising concerns that overlaying partial tort law preemption on the legal systems of fifty states will cause more confusion and uncertainty, not less.

III. MAJOR ISSUES PRESENTED:

¹ As discussed below, many states, including California, already have several liability for non-economic damages.

Over the past eight weeks, we have jointly run an interagency process to consider whether there might be ways to alter S.648 to respond to the concerns in your veto message in a manner that could be acceptable to at least Democratic proponents of the legislation. Participants in the process included: OVP, NEC, DPC, OMB, CEA, White House Counsel, White House Legislative Affairs, Justice, Treasury, Commerce, and SBA and the Consumer Product Safety Commission as an advisor. FDA is participating in the discussion of biomedical materials. The working group surveyed the law in all the states on the critical issues of punitive damages, joint and several liability and statute of repose, and developed a number of alternatives in each area that we believe could move the bill closer (and in some cases, all the way) to your goals but may have a chance of not being rejected out of hand by proponents.² Two meetings of the NEC principals were held, on June 24 and 26.

A. Whether there should be federal legislation in this area at all

The arguments of the business community in favor of national legislation rest on three propositions:

- Concern about product liability litigation, and particularly concern about disproportionate awards for non-economic damages and punitive damages, is sapping American productivity by misdirecting management time and energy and capital and by putting an excessive -- and frequently non-insurable tax -- on innovation.
- In a national economy, subjecting products and manufacturers to 50 different liability regimes is not only inefficient but also -- because of the opportunities for forum shopping by plaintiffs, particularly in class actions, unfair.
- Manufacturers are the deep pocket focus of liability suits that are in fact generated by the activities of those who repair and service products; making manufacturer liability more limited and predictable -- as occurred when the 18-year statute of repose was instituted for aircraft -- will put the burden of care of those most responsible for and able to accomplish it.

Consumer groups, as well as lawyers (the ABA as well as ATLA), argue against the need for federal legislation based on:

- The lack of any explosion of product liability suits, and in particular, excessive punitive damage awards that survive judicial remittitur, suggesting there's no problem to be fixed.
- The fact that all recent proposals in this area would cut back on traditional principles of tort law that benefit plaintiffs, suggesting that what the manufacturers want is not uniformity but a tilt in their direction
- The traditional role of the states in tort law, combined with the fact that all existing proposals would only partially preempt state tort law, leading to even more

² Based on discussions with the Center for Violence Policy, we have also crafted a more complete fix to the negligent entrustment provision. We believe there will be no problem getting the proponents to adopt this.

non-uniformity and uncertainty as this law is overlaid on, e.g., state medical malpractice law.

- Whatever limitations are initially included in federal product liability legislation will be vulnerable to cutbacks in future Congresses; the time to stop erosion is before it starts

B. One-way or two-way preemption

One of the most contentious issues that runs through the legislation is whether federal standards should preempt all state laws (“two-way preemption”) or whether they should function solely as a floor, with states free to establish more defendant-friendly standards (“one-way preemption”). For example, if the federal statute of repose were 18 years, two-way preemption would both lengthen shorter statutes and impose the 18-year limitation in states that have no statute of repose; one-way preemption would only lengthen shorter statutes. Similarly, if the federal government were to enact standards for awarding punitive damages, two-way preemption would both tighten the standard in states that, for example, allow punitives to be awarded for reckless behavior and require states that do not allow punitives at all to allow them according to the federal standards. One-way preemption would only tighten standards in some states, leaving others free to bar punitives entirely.

The bill you vetoed last year was almost entirely one-way preemptive. In your veto message you said, “As a rule, this bill displaces State law only when that law is more favorable to consumers; it defers to State law when that law is more helpful to manufacturers and sellers. I cannot accept, absent compelling reasons, such a one-way street of federalism. As noted above, S.648 is two-way preemptive as to the statute of repose (as well as with respect to the general standards of manufacturer and seller liability and the statute of limitations) but retains one-way preemption on punitive damages.”³

While one of the arguments manufacturers and sellers make in favor of national legislation is the desire to create uniform federal standards, which would support uniform two-way preemption, on the two issues where they have made serious headway in the states -- limitations on punitive damages and imposition of several liability -- they are far more interested in a federal floor than in uniformity. We have been told, for example, that establishing the right to punitive damages in states where it does not exist, or limiting several liability for non-economic damages where state law has established it, would be totally unacceptable.

Consumer groups argue in favor of two-way preemption, ostensibly on the ground that the only good reason for federal standards is uniformity. However, many of these same groups regularly argue that federal environmental and consumer protection standards should function only as a floor, allowing states to impose more rigorous rules. It is conceivable that the consumer argument for two-way preemption is more an effort to highlight the inconsistency in the

³ In form, S.648 is two-way preemptive on several liability for non-economic damages. However, since it imposes the least plaintiff-friendly rule possible (totally several liability), it is effectively one-way preemptive.

manufacturers' position -- and perhaps to raise an insurmountable barrier to legislation -- than a firmly held constitutional principle.

C. Several liability for non-economic damages

Over the last several years, tort reform at the state level has essentially done away with the traditional rule of no comparative fault and full joint and several liability. (Only Alabama, Maryland, North Carolina and Virginia retain this combination.) Nine states⁴ have full joint and several liability, but include comparative fault, thereby reducing the defendants' joint responsibility by the measure of the plaintiff's responsibility. Thirteen states⁵ have pure several liability, for both economic and non-economic damages, and 24 states have various hybrid forms.

Both last year's vetoed bill and S.648 limit a defendant's responsibility for non-economic damages "in direct proportion to the percentage of responsibility of the defendant for the harm to the claimant." The trier of fact is required to assign this percentage taking into account the responsibility of all persons responsible, including those not before the court, such as settling defendants.

In vetoing last year's bill with respect to this issue, you cited the provision's general effect of preventing "many persons from receiving full compensation for injury," noting in particular the problems created by insolvent defendants. You also cited the particular impact of a several rule for non-economic damages as unfairly discriminating against "the most vulnerable members of our society." You said, "Noneconomic damages are as real and as important to victims as economic damages."

Manufacturers assert that the problem with joint liability for non-economic damages is that such damages -- unlike economic damages -- are totally unpredictable and subject to the whim of the jury, thereby making any assessment of the risk, or the purchase of insurance against the risk, virtually impossible. They are particularly concerned about the potential for a large award against the only solvent defendant in a case in which that defendant is only marginally at fault. Opponents make the argument that non-economic damages are as real and as important -- particularly to the poor, the young and the old -- as economic damages, and should not be treated differently. Some also contend that the different state standards represent the innovation and experimentation that is the role of the states, and this should not be preempted.

D. Punitive damages

⁴ Arkansas, Delaware, Maine, Massachusetts, Michigan, Pennsylvania, Rhode Island, South Carolina and West Virginia

⁵ Alaska, Arizona, Colorado, Illinois, Indiana, Kansas, Kentucky, North Dakota, Tennessee, Utah, Vermont and Wyoming

The process of awarding punitive damages and the amount of such damages have been the subject of some of the most intense controversy. Both last year's vetoed bill and S.648 cap punitive damages -- at the **greater** of two times compensatories (including non-economic damages) or \$250,000 for most companies and the **lesser** of these two amounts for individuals and small businesses. Upon consideration of a list of eight factors⁶, a judge could award damages in excess of the large business cap (but not the small business cap), up to the amount awarded by the jury, which would not be informed of the cap.⁷ The "additur" provision explicitly constitutes one-way preemption -- it does not permit additur where state law otherwise limits punitive damages.

The bills would also: (i) establish a uniform federal standard of proof of "clear and convincing"; (ii) establish a uniform standard for award that conduct "carried out with conscious, flagrant indifference to the rights or safety of others was the proximate cause" of the harm; and (iii) authorize any party to request that punitive damages be considered in a separate proceeding (generally so that evidence of the defendant's financial condition would not be allowed into evidence during the liability and compensatory damages phase of the trial). While these rules are meant to apply in all states that have punitive damages, they would not apply in states where punitive damages are prohibited by law.⁸

In vetoing last year's bill, you stated that you "oppose arbitrary ceilings on punitive damages, because they endanger the safety of the public. Capping punitive damages undermines their very

⁶ The factors are: "(i) the extent to which the defendant acted with actual malice; (ii) the likelihood that serious harm would arise from the conduct of the defendant; (iii) the degree of the awareness of the defendant of that likelihood; (iv) the profitability of the misconduct to the defendant; (v) the duration of the misconduct and any concurrent or subsequent concealment of the conduct by the defendant; (vi) the attitude and conduct of the defendant upon the discovery of the misconduct and whether the misconduct has terminated; (vii) the financial condition of the defendant; (viii) the cumulative deterrent effect of other losses, damages, and punishment suffered by the defendant as a result of the misconduct, reducing the amount of punitive damages on the basis of the economic impact and severity of all measures to which the defendant has been or may be subjected . . ."

⁷ The judge would be required to hold a separate proceeding on awarding an additional amount, consider each of the items, and state the court's reasons for an award above the cap in findings of fact and conclusions of law. A separate finding on each factor is not explicitly required. The conference report on last year's bill, of course, virtually directed judges not to use this authority.

⁸ In seven states punitive damages are generally forbidden; in 16 others, they are capped in one way or another. Twenty-seven states allow unlimited punitive damages in product liability cases. Most states that allow punitive damages have adopted the "clear and convincing" evidentiary standard. While the liability standards are less uniform, only a few states allow the award of punitive damages for reckless behavior without some other aggravating factor. We have not found any state that requires that the conduct leading to the punitive damages be the "proximate cause" of the plaintiff's harm, although the words "cause" and "result" are used. Bifurcated trials -- at least on the issue of the defendant's financial condition -- are allowed or required in 15 states.

purpose, which is to punish and thereby deter egregious misconduct.” You noted that the additur provision might have mitigated this concern, but the Statement of Managers virtually directing it not be used made it ineffective in that respect.

Manufacturers assert that unpredictable and unjustifiably large punitive damage awards have driven them out of markets and impinged on innovations. Consumer advocates assert that only potentially unlimited punitive damages can deter harmful misconduct by large companies. Surveys suggest that neither the award of punitives nor the amount is skyrocketing in products cases.⁹

E. Statute of repose

At its starkest, a statute of repose bars litigation after a product has been in service a specified period of time. Twenty-two states and the District of Columbia currently have statutes of repose for product liability; 17 of the states and the District restrict lawsuits after a specified number of years (ranging from 5 to 15) and the remainder use some variation of “useful life” as the bar. In 1994, you signed legislation establishing a preemptive 18-year statute of repose for general aviation.

The bill you vetoed last year included a preemptive 15-year statute of repose for all products. The statute would, however, only have preempted states without any statute of repose, or with a statute **longer** than 15 years. Shorter state statutes would have remained effective. Your veto message referenced the length of the statute, the fact that it was broadly inclusive (you cited handguns), and the fact that the preemption was only one way. The Senate bill from the 104th Congress had covered only durable goods in the workplace and had an 18-year one-way preemptive statute.

S. 648, as reported out of the Senate Commerce Committee on a voice vote, includes a fully (two-way) preemptive 18-year statute of repose, covering all products except: (i) motor vehicles, vessels, aircraft and trains used to transport passengers for hire; (ii) products that cause toxic harm; and (iii) products with express written warranties that exceed 18 years.

Manufacturers assert that a firm, and broad, statute of repose is necessary not only to provide them some certainty, but also to put the risk of injury from long-lived products on those most able to prevent it -- owners, upgraders and servicers. They argue that the 18-year statute of repose for general aviation you signed in 1994 has not only increased the willingness of manufacturers to produce the aircraft, but has made owners and servicers far more careful,

⁹ A recently-released Rand study has found an increase in the number and amount of punitive damage awards in financial fraud cases, such as cases involving insurance or financial products misrepresentation. This does not appear to extend to cases involving products as defined in the bill, which is limited to physical goods.

because they understand the deep pocket of the manufacturers will not be available to bail them out.

Consumers, on the other hand, argue that injuries from long-lived products -- including those that have not been altered or do not need service -- are common, and often the manufacturer should have foreseen and prevented the problem that caused the injury. They argue it is particularly important that those injured by long-lived consumer goods (such as camping equipment and cedar chests) not be barred from court completely by a strict statute of repose. Workers, they note, at least can collect worker's compensation for injuries caused by long-lived defective goods in the workplace.

IV. ALTERNATIVES

Working from the alternatives developed by the working group in each of the three major areas identified, your advisors concluded that the choice of alternatives really depends on another decision, whether the Administration should:

- take the position that state law developments and the lack of strong evidence of major problems in this area that are caused by lack of national standards leads us to conclude no federal legislation is appropriate at this time;
- put forward a series of proposals that are fully consistent with both your veto statement and the principle of promoting national uniformity, even if such proposals have little or no chance of leading to a bill that can be enacted; or
- put forward a series of proposals that product liability legislation proponents will regard as an acceptable place to **start** negotiations and that can, albeit with some difficulty, be squared with your veto message.

Some of your economic advisors believe the business community may be correct in asserting that the current tort liability system, and in particular the issues raised in this legislation, over-deter businesses in their development and production of innovative products. In our discussions with the business community, we have asked them to provide empirical evidence that innovation has been stymied by litigation in general or the issues that particularly concern us: punitive damages and several liability for non-economic damages. Unfortunately, empirical evidence is not available, and the anecdotes relate to pharmaceuticals or related products, and often to the issues raised by mass tort claims for **economic compensatory** damages, not non-economic damages or punitive damages..

As your advisors looked into the issue, we came to the following conclusions:

- While logically there might be some impact on manufacturing innovation and productivity from the tort system,
 - there is no empirical evidence
 - all the anecdotal evidence is from one sector -- pharmaceuticals, including vaccines -- but the legislative proposals are far broader
 - there is no explosion of either litigation or punitive damages

- the economy is booming and productivity is rising
- Over the past several years -- indeed, even since the start of the 104th Congress -- the states have made major moves toward making the tort system more defendant-friendly, ranging from the virtual abandonment of traditional principles of joint and several liability to the imposition of caps on punitive damages
- If federal legislation is not to lead to uniform national standards, there is little justification for it; there is little or no justification for one-way preemption
- Overlaying limited product liability preemption on the tort law and civil procedure of 50 states will likely increase confusion and uncertainty, not decrease it
- Recent Supreme Court decisions, including the Brady bill decision, may call into question the constitutionality of federal legislation that attempts to mandate changes in state law and judicial procedure

Thus, while there continues to be sentiment among your economic advisors for "doing something" to improve the tort system, it is mild and tempered by the recognition that current proposals may do as much harm as good. Your legal advisors do not believe the current proposals should be supported. Both groups of advisors feel strongly that if there is to be any federal legislation, it should establish uniform national standards, and should -- in the areas explicitly covered -- completely preempt the field. There is no justification for one-way preemption in this area.

This position can be manifest in two ways: taking a strong against any legislation, or developing an Administration bill that is consistent with both the veto statement and the current state of the law, even if that bill cannot be reconciled with the prime tenets of the Gorton bill.

A. Oppose federal product liability legislation at this time

_____ [names of advisors] recommend that you take a firm and overt stance against any federal product liability legislation at this time. Recent changes in state law as well as in federal constitutional law, combined with the lack of evidence of serious widespread problems suggest that the burden of showing why traditional state prerogatives in this area should be overruled and state law overlaid with potentially incompatible federal law has not been met. If legislation is needed in the area of pharmaceuticals (including vaccines), then it should be pursued on a targeted basis, taking advantage of -- and protecting -- the strong federal regulatory system for drugs.

B. Develop an Administration bill we can support, consistent with both the veto statement and the current state of the law

The hallmarks of this option are: (i) full two-way preemption, such that states with currently more defendant-friendly laws would be brought to a uniform national level as well as states whose laws are currently more pro-plaintiff; (ii) consistency with your veto message in all

respects; and (iii) inclusion of items that were not part of either the vetoed bill or S.648 that can enhance the effectiveness of the legal system for injured plaintiffs.

This option does not include any provision on joint and several liability for non-economic damages. Since part of the focus of your veto message was on the unfairness of distinguishing between economic and non-economic damages, no provision that deals only with non-economic damages can be fully consistent with the veto message. Moreover, we have reason to believe some proponents of legislation would be willing to put forward an alternative without any change in joint and several liability. However, we also know the business community regards this as an important issue but, given current trends in state law toward several liability, they will be extremely unlikely to accept two-way preemption in this area. Appendix A contains alternative formulations of joint and several liability for non-economic damages that were developed by the working group, together with pros and cons.

This option would consist of the following:

Punitive damages - Advisory jury opinion with judicial determination and a breachable cap for small businesses, two-way preemption

- The jury would render a solely advisory opinion on punitive damages
- The actual determination of punitive damages would be made by the judge
- The judge would be required to consider the factors in S.648, and would be required to explain why the judge's award differs (either higher or lower) from the jury's advice
- The judge could allocate a portion of punitive damages to the state rather than to the plaintiff
- Cap punitive damages at the lesser of twice compensatories or \$250,000 for firms that have 10 or fewer employees and annual revenues of \$1 million or less. The jury would not be told of the cap, and the judge could award damages in excess of the cap only upon a specific finding that damages in excess of the capped amount were not only needed "to punish or deter," but also that the financial impact of the higher award had on the defendant and its employees had been explicitly considered by the judge.
- Couple this with procedural changes to set the evidentiary standard at "clear and convincing evidence," the substantive standard at "willful and wanton" (excluding recklessness), and to require bifurcation of the damages determination if requested by any party

Pros

- Is analogous to criminal law, by keeping the jury involved but placing the decision on what is essentially a punishment in the hands of the person most experienced in deciding such issues, the judge
- Since historically, punitive damage awards that seem unjustified have stemmed from jury decisions, may increase rationality in the system
- Provides some protection for truly small businesses, responding to one of the complaints about the capriciousness of punitives

- Since businesses of the size described are rarely hit with significant punitive damages, since in most states the defendant's financial condition is already taken into consideration, there may be little practical negative effect.
- Allows the Administration to agree with some sort of cap
- By adopting the S.648 factors, may be seen as a good faith offer

Cons

- Agreeing to any cap at all breaks through a clear line we established last year of "no caps on punitives"; it may be very difficult to hold the line against expansion of this cap, either to larger businesses, or by limiting the judge's discretion
- Any proposal that limits punitive damages in any way may be seen as tipping our hand -- or limiting our options -- with respect to the tobacco settlement
- Takes away from the jury what has been regarded as a traditional jury function
- While judges may determine punitive damages in many states in cases where they are the trier of fact, only Connecticut and Kansas provide for initial judicial determination (in contrast to appellate review or remittitur) where a jury has sat
- Unlikely to solve concerns of either proponents or opponents of caps; consumer groups and lawyers have not favored judicial determination
- May raise difficult Seventh Amendment issues ("no fact tried by a jury shall be otherwise reexamined in any court of the United States than according to the rules of common law")
- Making it fully two-way preemptive, thus forcing some states to allow punitive damages that do not currently do so, is likely to be regarded as both unacceptable and inflammatory by the business community

Statute of repose

- Two-way preemption of state law (as in S.648)
- 18 year statute of repose (as in S.648)
- Which a plaintiff may overcome by clear and convincing evidence that the product had a longer useful safe life (not included in S.648, and responsive to the victim of the hay-baler accident cited in the veto message and to accidents involving products clearly intended to be longer-lived, such as elevators and most firearms)
- Covering only durable goods in the workplace (narrower than S.648, retaining plaintiff rights concerning consumer goods in states without any statute of repose and responding to your concern about handguns)
- With further exceptions for toxic substances, vehicles used in transportation for hire, and express warranties (as in S.648)
- And with a provision that extends the statute to allow full benefit of the two-year statute of limitations after injury or discovery of harm in, for example, year 17 (not in S.648, but not expected to be a problem)

Pros

- By building on S.648, demonstrates good faith to proponents of that legislation
- Two-way preemption is responsive to principles of veto message, and also lengthens statute in the 22 states that have them

- Number of years is longer than in any current state statute
- Rebuttable presumption protects workers injured by products clearly intended to be longer-lived
- Bright line number of years, combined with clear and convincing standard, means manufacturers will be free from arguments about whether something was intended to have a useful life slightly longer than 18 years
- By restricting statute to durable goods in the workplace, consumers in states without statutes of repose retain their access to court for injuries from long-lived or intermittently-used consumer goods such as cedar chests and camping and baby products
- Until late last year, all formulations of this statute had been limited to durable goods in the workplace, in part because those injured in such accident will at least have received some compensation through workers compensation
- Expands on an already-existing federal liability scheme -- workers compensation
- Exceptions protect access to court in latent defect cases

Cons

- Opponents of product liability reform will oppose any statute of repose as limiting plaintiffs' rights in states without such statutes
- Combination of two-way preemption and bright line (even with rebuttable presumption and limitation only to durable goods in the workplace), will restrict the access of some injured parties to court
- Proponents of S.648 may regard rebuttable presumption and limitation to durable goods in the workplace as unacceptable limitations, particularly given that they extended the statute from 15 to 18 years and made preemption two-way in response to the veto message

In addition to these proposals, we recommend that option 1 include items plaintiffs believe could make a real difference in their ability to recover, as well as provisions in the Breaux draft:

- Provision for alternative dispute resolution for small claims that both defendants and plaintiffs would find appealing
- Limitations on the use of protective orders where disclosure of the information is relevant to the public health or safety unless disclosure is clearly outweighed by a substantial interest in maintaining the confidentiality of the records
- Stricter pleading requirements and limitations on multi-state class actions where parties allege different types of damages
- A requirement for a study of the product liability system by the Attorney General

The first of these items might -- depending on how it is drafted -- gain the support of both plaintiffs (who cannot find lawyers to take small claims through the traditional legal system for a contingency fee) and defendants. The second (based on a bill that has been introduced by Senator Kohl) would be strongly supported by consumer groups and -- in light of the tobacco revelations probably could generate strong public support -- but would certainly be opposed by defendants and perhaps even by the plaintiff bar. The third and fourth provisions are from the Breaux draft. The class action may not be giving up much from the plaintiffs' perspective given the Supreme Court's recent decision overturning the asbestos settlement.

This option is recommended by _____ [names of advisors]

C. Make a proposal that has a viable chance of starting negotiations with proponents

As described in the specific pros and cons below, the items in this option cannot be completely squared with your veto statement. On the other hand, they represent real movement toward responding to your objections. However, it is critical to recognize that **once these options are on the table, negotiations may take them even farther afield, and lead to a negative dynamic in which bill supporters think they've come "most of the way" toward your position and assert that refusal to support their bill amounts to "moving the goalposts."** The danger with this option rests far less in its particular parameters than in the slippery slope it sends us down.

Again, no provision on several liability for non-economic damages is included, based on indications some proponents may be willing to move without such a provision. Appendix A contains options developed by the working group, of which only Proposal 2B is likely to be acceptable at all to the business community.

This option would consist of:

Punitive damages - Cap with easier breakthrough, one-way preemption

- Cap punitive damages at the greater of \$250,000 or twice compensatories (the lesser of the two for small businesses)
- Do not tell the jury of the cap
- Allow the judge to award punitive damages above the cap (for both small and large businesses) without an additional proceeding and on a simple finding that the capped amount is "insufficient to punish or deter," the standard in S.648, with no consideration of specified factors
- Insist that there be no legislative history suggesting this authority is to be used any more sparingly than implied by the statutory standard
- Couple this with procedural changes to set the evidentiary standard at "clear and convincing evidence," the substantive standard at "willful and wanton" (excluding recklessness), and to require bifurcation of the damages determination if requested by any party
- This would be two-way preemptive, except with respect to states that do not allow punitives in products cases at all

Pros

- Closest to both S.648 and earlier versions of bill, and thus likely to be most easily regarded as acceptable by proponents
- Particularly given that there are few punitive damage awards in excess of the cap and that judges now have remittitur authority, this would likely have little practical impact on actual awards
- The procedural changes may produce more uniformity across the country

- Making the additur provision two-way preemptive is a real improvement for plaintiffs compared to S.648

Cons

- This looks like a cap on punitive damages, which you said you opposed; “no caps on punitives” has been used as a shorthand description of the Administration’s firmest position
- It may actually be a cap with judges reluctant to award punitives
- Holding the line on the legislative history can be very difficult, particularly if the statute is acceptable in all other respects

Statute of repose

The proposal would be the same as under option 1, which we believe will be regarded as a good faith offer to negotiate.

The primary dangers with this strategy are the likelihood that opponents will not believe even the initial positions are consistent with the veto statement, and that it will be relatively easy for the other side to make what look like cosmetic changes that may in fact be quite significant. For example, deleting the plaintiff’s option to breach the 18-year statute of repose by a clear and convincing showing that the useful safe life was intended to be longer -- a likely demand of the manufacturing community -- would look minor, but in fact would work a major change in that it completely shut the courtroom door on plaintiffs in the many states with no statute of repose.

This option is recommended by _____ [names of advisors]

V. DECISIONS:

- ____ Let’s take the offensive against any federal product liability legislation
- ____ Propose option B to Senator Rockefeller, understanding he will not regard it as a serious offer.
 - ____ Discuss the offer with Senator Breaux before making it public, and make common cause with him if he’s interested
 - ____ Make the offer public to head off claims by bill proponents that we did not have anything to offer
- ____ Propose option C to Senator Rockefeller, making explicit that this is a best and final offer and any further movement will result in a veto
- ____ Propose option C to Senator Rockefeller, being prepared to negotiate
- ____ None of the options is good. We need to talk.

APPENDIX A

Options on Joint and Several Liability for Non-Economic Damages

The formulations described below reduce the negative impact of imposing several liability for non-economic damages. However, any formulation that does not guarantee the plaintiff 100% of non-economic damages (where there is any solvent and available defendant) is discriminatory against non-economic damages in those states that retain joint liability for economic damages. Assuming you do not want to put several liability for **economic** damages into play, you should be aware that all of the options described -- except pure reallocation -- have this flaw.

Informed by various state law provisions concerning joint and several liability, your advisors considered formulations for federal preemption involving the following concepts:

- Several liability with reallocation among remaining defendants (and plaintiff if the plaintiff is at fault) in the event the amount allocated to any defendant is uncollectible (thus guaranteeing plaintiffs 100% recovery for the portion of the damage not their fault, but sparing low-fault, deep-pocket defendants the need to sue for contribution)
- Setting a level of fault below which only several liability will apply (thus responding to the concerns of low-fault deep-pocket defendants)
- Setting a threshold of fault below which several liability will apply, but with a multiplier (thereby guaranteeing the plaintiff some recovery where only the low-fault defendants are solvent)
- Guaranteeing the plaintiff a specified percentage of recovery of non-economic damages
- The extent to which plaintiff fault will be taken into account to reduce recovery for non-economic damages
- Special rules for small businesses, particularly as to responsibility for more than their share of damages
- Two-way preemption, which would be meaningful if federal law were less pro-plaintiff than some state laws

Working on the assumption that you wished us to develop proposals that include several liability for non-economic damages -- so as to be able to convince those favoring product liability of our good faith, but that are least restrictive of the rights of plaintiffs, your advisors developed the following alternative formulations relating only to non-economic damages:

Proposal 1 - Reallocation¹⁰

- Joint and several if the plaintiff is fault-free

¹⁰ This is based on the statute currently in effect in Missouri.

- If the plaintiff is at all at fault, liability is several, but if the plaintiff cannot collect from one or more defendant after a specified period of time¹¹, the plaintiff can petition the court for reallocation of damages not attributable to the plaintiff among the remaining defendants, but no defendant less at fault than the plaintiff may be charged with more than twice his proportionate share of damages
- This would be two-way preemptive

Pros

- Preserves balance between faultless plaintiff and defendant with any fault in favor of the plaintiff
- Is generally consistent -- or at least not less pro-plaintiff -- with the laws of most states¹²
- Where plaintiff is at fault, less culpable defendants -- even if they are deep pockets -- will have their damages limited
- Of all the potential limitations, is most likely to retain 100% recovery for non-economic damages
- By retaining joint and several liability in many situations, should encourage settlement

Cons

- May be viewed as excessively pro-plaintiff, and thus not a good-faith offer, particularly if it is two-way, thus increasing defendants' responsibility in states, such as California, with several liability for non-economic damages
- May limit plaintiff's recovery where plaintiff is at fault and there are multiple defendants
- Requires fact-finders in (the 13) states that currently do not have comparative fault or several liability to assign degrees of responsibility
- Shifts from defendants to plaintiffs the responsibility for collecting from each defendant, potentially adding to delay in recovering and increased expense
- As among defendants, it is unclear why the extent of the plaintiff's responsibility should have an impact on defendants' responsibility to pay the judgment

Proposal 2A - Guaranteed recovery, two-way preemption

- Joint and several liability of any defendant is than 30% at fault (taking into account the fault of the plaintiff and settling defendants)
- If any defendant is less than 30% at fault, that defendant's responsibility would be limited to a maximum of twice the defendant's proportionate share of non-economic damages except where a greater multiplier was needed to ensure the plaintiff recovery of at least 50% of the assessed non-economic damages.

¹¹ In Missouri it is 30 days, which may be too short to actually encourage the plaintiff to try to collect; in Connecticut it is one year, which may be too long.

¹² Only plaintiffs with some degree of fault in the four states that retain traditional no comparative fault/joint and several liability would be significantly disadvantaged; plaintiffs in the nine states with comparative fault and joint and several liability could be somewhat disadvantaged. Plaintiffs in states with any further restrictions would likely benefit.

Proposal 2B - Guaranteed recovery, one-way preemption

- Joint and several liability of any defendant is than 10% at fault (taking into account the fault of the plaintiff and settling defendants)
- If any defendant is less than 10% at fault, that defendant's responsibility would be limited to a maximum of twice the defendant's proportionate share of non-economic damages except where a greater multiplier was needed to ensure the plaintiff recovery of at least 60% of the assessed non-economic damages.

Pros

- Should be seen by proponents of limitation as a good-faith offer, with real limits
- Preserves joint and several liability for defendants with significant degree of fault
- Ensures that no low-fault defendant will have to pay more than 50% (or 60%, if one-way) of total non-economic damages, and that in most cases they will be limited to their proportionate share
- Although it limits responsibility of low-fault defendants, it guarantees that plaintiff will collect substantial portion of assessed non-economic damages (if there are any solvent and available defendants)
- The two-way preemption version would increase plaintiff's guaranteed level of recovery in states with several liability for non-economic damages (such as California and Illinois), and thus might be considered an acceptable tradeoff for limitation on guaranteed recovery in other states

Cons

- Setting the guaranteed recovery level at 50% or 60% (or, in fact, any level lower than 100%) may be viewed as non-responsive to both the objections in the veto statement -- not full recovery, and discrimination against non-economic damages
- Will require fact-finders in the 13 states that don't have both comparative negligence and several liability to make additional determinations
- Defendants who view themselves as likely to be low-fault deep pockets will object that their potential for payment of non-economic damages is so high that they cannot take limitations into account in either settlement discussions or purchase of insurance
- Small degrees of differentiation of fault -- e.g., between 9% and 11% -- could have major repercussions on responsibility to pay damages

Your advisors recommend that proposal 1 be the first one we explore with proponents of product liability. It is by far the most consistent with the veto statement. If, however, it is rejected out of hand by product liability proponents, and you believe it is essential that we continue to negotiate, we would recommend Proposal 2A, which includes two-way preemption. We should make it very clear that if forced to one-way preemption, we would only accept a proposal with a significantly higher level of guaranteed recovery for the plaintiff (e.g., 60%), and a significantly lower threshold of for imposition of several liability (e.g., 10%).

Areas where we believe some negotiation could be possible include:

- Some decrease in the minimum level of recovery for two-way preemption (we would put an absolute floor at 50% for one-way preemption and 40% for two-way preemption)
- Some increase in the threshold for imposition of joint and several liability (we would put an absolute ceiling of 35% for two-way preemption and 15% for one-way preemption)

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 2-JUL-1997 14:01:39.00

SUBJECT: FLSA in radio address; FLSA briefing from DOL

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

CC: Diana Fortuna (CN=Diana Fortuna/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

Jordan said Michael Waldman heard we might include a statement on fair labor standards in the radio address. I believe we decided yesterday Hilley would need to decide whether this helps or hurts our Hill strategy. Will you talk to him?

Stacey Grunmantold Diana that DOL has their options ready, they're complicated, and they're wondering if they can brief Hilley directly. (This via voicemail -- Diana is out today.) What do you think? We did do a similar briefing on legal immigrants several weeks ago with him.

Welfare-to-Work Legislation Issues
7/1/97

Tier I

Administering Agency: Department of Labor should be the administering federal agency, and the local Private Industry Councils (PICs) should administer funds distributed by formula to the local areas. (Support House Committee positions, oppose Senate.)

Tier II

Funding Issues: To ensure funds are directed at cities:

- Support at least 50% of funds distributed on competitive basis (Support Ways and Means)
- Support city set-aside within competitive funds (Support House Ways and Means and House GOP Compromise)
- Oppose small state set-aside (Oppose Senate)

Allowable Activities: ??Oppose addition of community service/work experience is added as an allowable activity?? Public sector job creation already allowed. (Oppose House GOP Compromise).

Performance Bonus: ??Support Senate or suggest ways to strengthen, perhaps by instead requiring percentage of Governor's funds be spent on performance bonuses.

Tier III

Geographic Targeting: Support higher "excess poverty factor" (7.5 vs. 5.0) which will better target high need areas.

Individual Targeting: Support House GOP Compromise, which will target 70% of funds to the 10-15% of caseload that is hardest to place.

Inter-Agency Coordination: ??Support allowing Governor to settle disputes between PIC and local TANF agencies with funding remitting to the Governor if PICs and TANF don't adhere to agreement. (Support House GOP Compromise).

?? Indicates issues about which we are getting more feedback/information.

Comparison of Welfare-to-Work Legislation

7/1/97 Internal Draft

	Our Position	House Ways and Means	House Ed & Workforce	House GOP Compromise	Senate Finance
Administering Federal Agency	Labor	Labor	Labor	Labor	HHS
Local Agency administering formula funds	PICs	PICs	PICs	PICs	TANF (welfare) agency
Funding: Percent Formula/Competitive	50% formula, 50% competitive	50 formula, 50 competitive	95 formula, 5 competitive	90 formula, 10 competitive	75 formula, 25 competitive
<i>Allowable activities</i>	?Prefer House Ways and Means -- no community service/work experience	Private and public sector job creation through wage subsidies, on-the-job training, contracts and vouchers for readiness, job placement and post-employment services and job support services provided through other means.	Similar to Ways and Means	Same as Ways and Means, except that community service/work experience is added as an allowable activity	Same as Ways and Means
<i>Performance bonus</i>	Prefer Senate; ?or strengthen, perhaps by instead requiring percentage of Governor's funds be spent on performance bonuses.	None	None	None	\$100 million (3 percent of total dollars)
<i>Funding: Allocation of formula dollars</i>	Prefer Ways and Means. If small state	Based on poverty, TANF, unemployed	Based on poverty and TANF	Based on poverty and TANF	Based on poverty, TANF, unemployed

	Our Position	House Ways and Means	House Ed & Workforce	House GOP Compromise	Senate Finance
<i>to States</i>	minimum included, try to lower to .25 like JTPA	populations. No small state minimum.	populations. No small state minimum.	populations. No small state minimum.	populations. Small state minimum of 0.5 .
<i>Funding: Allocation of formula dollars within State</i>	Prefer Ways and Means, but use excess poverty factor of 7.5 instead of 5 to better target dollars to poor areas.	85 to PICs by formula, at least half of that according to excess poverty (# of poor individuals that exceeds 5 of population); 15 at Governor's discretion.	Same as Ways and Means	Same as Ways and Means	85 among political subdivisions with above-average poverty and unemployment rates, at least half of that according to poverty.
<i>Inter-Agency Coordination of formula dollars</i>	? Prefer House GOP Compromise	PICs and local TANF agency must have agreement; Funding shall remit to the Secretary of Labor if PICs and TANF don't adhere to agreement.	No provision.	PICs and local TANF agency must have agreement; Funding shall remit to the Governor if PICs and TANF don't adhere to agreement.	Local TANF agency and entity operating a project must have agreement; Funding shall remit to HHS Secretary if agreement not adhered to.
<i>Allocation of competitive dollars</i>	Ways and Means	65 set-aside for grants for spending in cities that are among the 100 with the largest poverty populations, 25 set-aside for rural areas.	No set-asides (competitive/demonstration dollars are only 5 of total WTW funds)	65 100-city and 25 rural set-aside, but of much smaller competitive pool (10 percent of total).	30 rural set-aside; no city set-aside.
<i>Eligible Individuals</i>	Prefer House GOP Compromise	90 of funds: 1) received assistance for 30 months <u>or</u> are within 12	90 of funds: 1) received assistance for 30 months <u>or</u> are within 12	70 of funds: 1) received assistance for 30 months <u>or</u> are within 12	90 of funds: 1) received assistance for 30 months <u>or</u> are within 12

	Our Position	House Ways and Means	House Ed & Workforce	House GOP Compromise	Senate Finance
		months of time limit; <u>and</u> 2) Has two of: a)Low skills and no high school diploma; b)Requires substance abuse treatment; c)Has poor work history	months of time limit; <u>or</u> 2) Has two of: a)Low skills and no high school diploma; b)Requires substance abuse treatment; c)Has poor work history	months of time limit; <u>and</u> 2) Has two of: a)Low skills and no high school diploma; b)Requires substance abuse treatment; c)Has poor work history	months of time limit; <u>or</u> 2) Has two of: a)Low skills and no high school diploma; b)Requires substance abuse treatment; c)Has poor work history

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Michelle Crisci (CN=Michelle Crisci/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 2-JUL-1997 14:13:28.00

SUBJECT:

TO: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TO: Peter O'Keefe (CN=Peter O'Keefe/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TO: Cathy R. Mays (CN=Cathy R. Mays/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TO: Cheryl M. Carter (CN=Cheryl M. Carter/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TEXT:

Rahm would like to have a meeting with 5 or 6 people from the Distilled Spirits Council on Tuesday at 2:00 in the Roosevelt room. Please let me know if you are unable to attend. Thanks!

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: June G. Turner (CN=June G. Turner/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 2-JUL-1997 12:15:53.00

SUBJECT: Piscataway case study

TO: Dawn M. Chirwa (CN=Dawn M. Chirwa/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Jose Cerda III (CN=Jose Cerda III/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Odetta S. Walker (CN=Odetta S. Walker/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: William P. Marshall (CN=William P. Marshall/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Cheryl D. Mills (CN=Cheryl D. Mills/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:

Sylvia would like to have a quick meeting today re: Piscataway Case study. We can do at 5:30 if everyone is available. If that doesn't work I can move her 4:00. Please let me know. Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jennifer L. Klein (CN=Jennifer L. Klein/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 3-JUL-1997 14:38:53.00

SUBJECT: Contraception

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

Chris and I need to have a longer conversation about this, but here are my initial thoughts. (I will write a little memo once I've heard back from him.) We do not have a position on the Snowe-Reid bill, and I don't think we should support it. Here are a few problems.

1. We have been somewhat careful to avoid mandating insurance companies to cover particular services. Why should we require them to cover contraceptives but not eye glasses for children? I have some concern about the President taking a stand on contraceptives.

2. This bill does not reach many people because it does not cover ERISA plans or Medicaid.

That said, it does fit with the President's message to make abortion "safe, legal and rare". We will give it more thought and get back to you.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Leanne A. Shimabukuro (CN=Leanne A. Shimabukuro/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 3-JUL-1997 11:25:49.00

SUBJECT: Indian law enforcement

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

CC: Jose Cerda III (CN=Jose Cerda III/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

Udpatch as of this morning: Justice is basically ok with the draft that OMB sent yesterday. Justice faxed over a couple of add-backs to the OMB proposed language which OMB is now reviewing and expects to have clearance by early afternoon. I put this version on the fax to you. If OMB can get clearance, I would like to do a quick check with Lynn Cutler and Karen Popp before I ship it over to Staff Secretary.

Justice would still like to get this signed today. I was thinking best case is forwarding directive to the President with the cover memo before he leaves and checking into possible VP release. What do you think?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Richard Socarides (CN=Richard Socarides/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 3-JUL-1997 14:48:24.00

SUBJECT: AIDS Drug Assistance Program (ADAP) appropriation

TO: Christopher C. Jennings (CN=Christopher C. Jennings/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Nancy A. Min (CN=Nancy A. Min/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TO: Maria Echaveste (CN=Maria Echaveste/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Toby Donenfeld (CN=Toby Donenfeld/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

TO: Ann F. Lewis (CN=Ann F. Lewis/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Sandra Thurman (CN=Sandra Thurman/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

If we are planning, as I believe we are, to ask for a significant increase in the ADAP program for '98, we should consider whether this would be a good announcement for POTUS or VPOTUS and monitor the timing of any announcement closely w/ HHS. It would be a shame if we missed this opportunity to feature good news in our war on AIDS.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 3-JUL-1997 17:24:43.00

SUBJECT: Products memo

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

I am truly nearing the end. Do you have comments? Do you have a vote?
ellen

National Tests: Secretary Riley has received a letter from Governor Knowles expressing Alaska's commitment to participate in the national tests in 1999. In addition, in the past week we have received verbal confirmation that Gov. Romer, Gov. Carnahan and most likely Gov. Carper will sign on to participate in the tests. We also have verbal commitments from local superintendent's in Broward County (FL), Cincinnati, Long Beach and Philadelphia, in addition to the superintendent from San Antonio who announced her commitment at the family Conference. In anticipation of an announcement event on July 25, we are working to firm up these verbal commitments, and secure commitments from additional states and cities.

Agostini v. Felton Decision Follow-Up

Last Friday the Education Department wrote Chief State School Officers regarding the Supreme Court's Agostini v. Felton decision, making clear that public school teachers may now provide Title I supplementary instructional services to eligible children in religiously-affiliated private schools. The letter emphasized the Department's expectation that school districts will meet with local private school officials to examine whether they can arrange to take advantage of the Supreme Court's decision for the upcoming school year. Question and answer guidance will go to the field in mid-July, and meetings with both public and private school officials (including state Title I directors and the U.S. Catholic Conference) are being planned over the next month.

DRAFT #1 -- 10: 1 CONSENSUS RECOMMENDATION

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
ELENA KAGAN

RE: CRACK AND POWDER COCAINE SENTENCING RECOMMENDATIONS

On April 29th, the U.S. Sentencing Commission submitted a report to Congress with revised recommendations concerning the current sentencing policy for trafficking in crack and powder cocaine. In response to this report, you directed the Attorney General and ONDCP Director to review the report and make recommendations to you within the next 60 days. They have submitted the following recommendation: that the threshold for a 5-year mandatory sentence for trafficking be increased from 5 grams to 25 grams for crack cocaine, and reduced from 500 grams to 250 grams for powder cocaine. Such a change would reduce the current disparity between crack and powder cocaine sentences from a ratio of 100:1 to 10:1.

I. BACKGROUND

Under current law, a 5-year mandatory minimum sentence applies to a person selling 5 grams of crack cocaine, or 500 grams of powder cocaine. This disparity is often referred to as the "100-to-1" ratio between crack and powder cocaine sentences. This means that a person convicted of selling 500 grams of powder cocaine, worth approximately \$30,000, is subject to the same five-year mandatory minimum sentence as a person selling 5 grams of crack cocaine, which is worth about \$300. The only exception to these mandatory minimum drug penalties is the so-called "safety valve" that allows certain first-time, non-violent drug offenders to receive a lesser sentence. Thousands of defendants have been eligible for this exception since its enactment as part of the 1994 crime bill.

In May 1995, the Sentencing Commission, by a 4-3 vote, sent to Congress proposed changes to the sentencing guidelines reducing crack cocaine penalties so that there would be no disparity between crack and powder cocaine sentences -- a 1:1 ratio at 500 grams. The Administration proposed and Congress passed legislation rejecting this recommendation. As a result of this legislation, which you signed into law in October of 1995, the Commission was directed to submit new recommendations that acknowledged that crack penalties should generally exceed sentences for like amounts of powder cocaine.

The Sentencing Commission's revised recommendations suggested ranges for the amounts of crack and powder cocaine that should trigger the 5-year mandatory minimum sentence for drug trafficking: the threshold should be increased from 5 grams to somewhere between 25 and 75 grams for crack cocaine, and reduced from 500 grams to somewhere between 125 and 375 grams for powder cocaine.

II. JUSTICE AND ONDCP RECOMMENDATION

After reviewing the Sentencing Commission's revised report, the Attorney General and ONDCP Director are recommending that the Administration support and work with Congress to reduce the disparity between the triggering amounts of crack and powder cocaine for 5-year mandatory sentences from 5 grams of crack and 500 grams of powder, to 25 grams of crack and 250 grams of powder cocaine.

The Attorney General and ONDCP Director believe that this revised structure will help ensure that federal prosecutors target mid- and high-level cocaine traffickers, generally leaving lower-level traffickers and users to be prosecuted by state and local law enforcement. They contend that this "division of responsibility" for prosecuting drug cases is sensible: the federal government is better situated to target and dismantle major drug trafficking organizations through its powerful enforcement tools, such as the RICO statute, wiretapping authority and its national and international enforcement programs.

They also argue that the current sentencing structure creates an incentive to concentrate on lower level street dealers since sales of 5 grams of crack can still result in a long mandatory sentence. A mid-level crack dealer, however, typically deals in ounce (28 grams) or multi-ounce quantities. By directing resources toward lower-level dealers, otherwise scarce federal law enforcement resource could be diverted away from higher priority, serious drug traffickers.

In addition, the Attorney General and ONDCP Director make the case that the current 100:1 sentencing scheme has become a symbol of racial bias in the criminal justice system for many African Americans. Thus, reducing the disparity from 100:1 to 10:1 is not only good law enforcement, it will also help address this concern.

III. RECOMMENDATION

We recommend that you endorse the recommendation submitted by the Attorney General and the ONDCP Director, and encourage them to work with Congress to address this matter. We believe that the proposed 10:1 ratio, which triggers 5-year mandatory drug penalties at 25 grams of crack cocaine and 250 grams of powder cocaine, is fundamentally sound. In addition to significantly reducing the disparity between crack and powder cocaine sentences -- while preserving the Congressionally mandated policy of tougher penalties for crack -- this recommendation makes the most sense from a law enforcement perspective. It links the increase in the threshold for mandatory crack penalties (25 grams) to an amount that corresponds with the practice of mid-level crack dealers to traffick in ounce (28 grams) or multi-ounce quantities.

Despite concurring with this recommendation, we are not optimistic that the Attorney General and ONDCP Director will have much success in persuading Members of Congress to pass such legislation any time soon. In fact, it is very likely that the Administration's call for legislation to reduce the disparity between crack and powder cocaine penalties will lead to congressional action to simply increase the penalties for powder cocaine violations. For

instance, Senators Abraham and Hatch have proposed legislation to keep the current threshold for crack penalties at 5 grams while dropping the threshold for powder cocaine violations from 500 grams to 100 grams -- and are considering offering it as an amendment to the juvenile crime bill. Other members have proposed dropping the powder cocaine threshold to as low as 5 grams. As you know, addressing the disparity between crack and powder cocaine sentences in this manner will increase the federal government's role in low-level drug cases that are best addressed by state and local law enforcement -- as well as add billions of dollars to the federal prison budget.

Thus, if you concur with this recommendation, we should make it available to concerned Members of Congress and ask the Attorney General and ONDCP Director to follow-up with them immediately.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 3-JUL-1997 12:59:22.00

SUBJECT: FLSA Briefing Today

TO: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Diana Fortuna (CN=Diana Fortuna/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

Leg Affairs can't make it. Should we still proceed with the meeting?
----- Forwarded by Laura Emmett/WHO/EOP on 07/03/97 12:44
PM -----

VIRGINIA N. RUSTIQUE
07/03/97 11:53:09 AM
Record Type: Record

To: Laura Emmett/WHO/EOP
cc: Janet Murguia/WHO/EOP
Subject: FLSA Briefing Today

sorry to do this to you. andy can't cover the mtg. there aren't any
other specials here today.
----- Forwarded by Virginia N. Rustique/WHO/EOP on
07/03/97 11:34 AM -----

Laura Emmett
07/03/97 09:10:24 AM
Record Type: Record

To: Virginia N. Rustique/WHO/EOP, Ananias Blocker III/WHO/EOP, Barry
White/OMB/EOP, Jill M. Pizzuto/OMB/EOP
cc:
Subject: FLSA Briefing Today

We are planning a FLSA briefing with Seth Harris from Labor, Elena Kagan,
Andy Blocker, Cynthia Rice, Diana Fortuna, Emil Parker, and Barry White.
Please let me know if anyone cannot attend. The briefing will be at 3:00
in room 211 OEOB.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Sarah A. Bianchi (CN=Sarah A. Bianchi/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME: 3-JUL-1997 11:11:24.00

SUBJECT: Re: ped label

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

CC: Christopher C. Jennings (CN=Christopher C. Jennings/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

I gave it to Laura (and Christa) at around 10:20.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Christa Robinson (CN=Christa Robinson/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 3-JUL-1997 10:36:33.00

SUBJECT: DPC Events

TO: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

7/14 Immunization - Every Oct. and July immunization rates announced.

This is the first time the data will reflect children immunized under the Clinton Administration. This event would be to announce that the goals the President set for '96 immunizations has been met (based on '95 data) and that we are on track to meet the goals set for the year 2000. '96 goal - 90% of 2 year olds immunized w/ most important doses. 2000 goal - 90% of 2 year olds receiving all immunizations

7/17 NAACP - Race announcements?

7/18 Girls Nation - Summit Follow Message

Announce Corp. for National Service releasing \$800,000 of the first High School Service Scholarships. 1,600 high school seniors and juniors will be receiving \$500 from the Corp. which will have to have been matched by some other source for a total of \$1,000 scholarship for college tuition.

7/30-31 Genetic Screening Event

Endorse for the first time new Senate legislation that prohibits insurance companies from discriminating against people based on information learned from new genetic screening technology. Release an HHS Report showing the need for the legislation.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
003. email	Emil Parker to Elena Kagan re: Haskins meeting and workfare (1 page)	07/03/1997	P6/b(6)

COLLECTION:

Clinton Presidential Records
Automated Records Management System [Email]
OPD ([Kagan])
OA/Box Number: 250000

FOLDER TITLE:

[07/02/1997-07/04/1997]

2009-1006-F

bm23

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

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

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

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

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Christa Robinson (CN=Christa Robinson/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 3-JUL-1997 10:40:45.00

SUBJECT: education standards event

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

7/25 Education Event

Targeting 15 states and 15 cities for endorsements of national standards. So far state endorsements include Colorado, Alaska, and Delaware. Expecting at least Missouri and Nevada. Cities include: Cincinnati, Philadelphia, Long Beach, Broward County, and San Antonio (announced at Family Conf.)

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Michelle Crisci (CN=Michelle Crisci/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 3-JUL-1997 10:56:07.00

SUBJECT:

TO: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TO: Peter O'Keefe (CN=Peter O'Keefe/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TO: Cathy R. Mays (CN=Cathy R. Mays/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TO: Cheryl M. Carter (CN=Cheryl M. Carter/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TEXT:

The meeting planned for Tuesday at 2:00 in the Roosevelt Room will be with members of the Council on Alcoholism, not the Distilled Spirits Council. Sorry for the confusion.

July 5, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

RE: DPC Weekly Report

1.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Charles F. Ruff (CN=Charles F. Ruff/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 3-JUL-1997 11:33:56.00

SUBJECT: CBEST

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

I have reviewed the EEOC draft and, wholly apart from the views expressed in the note, continue to believe that a US brief will not fly -- certainly not in the form suggested by the EEOC. Let's discuss how to proceed.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 3-JUL-1997 12:05:31.00

SUBJECT: Per Megan Moloney/radio office, brief @ 1:30, tape @ 1:40 Cynthia 62846

TO: LAURA (Pager) #EMMETT (LAURA (Pager) #EMMETT [UNKNOWN])

READ:UNKNOWN

TO: ELENA (Pager) #KAGAN (ELENA (Pager) #KAGAN [UNKNOWN])

READ:UNKNOWN

TEXT:

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Richard Socarides (CN=Richard Socarides/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 3-JUL-1997 09:21:11.00

SUBJECT: NC4126: Domestic partners insurance bill advances

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

----- Forwarded by Richard Socarides/WHO/EOP on 07/03/97
09:19 AM -----

rwockner @ netcom.com
07/03/97 04:11:00 AM

Record Type: Record

To: Richard Socarides

cc:

Subject: NC4126: Domestic partners insurance bill advances

* Reprint rights for this copyrighted news article must be obtained *
* by you from the originating news organization. *

SACRAMENTO, July 2 (UPI) -- An Assembly bill that would require company health plans to offer domestic partner coverage has cleared the state Senate's Insurance Committee.

The bill was approved on a 5-2 vote. It provides that group benefits

be the same as those offered for married workers, although private employers wouldn't be required to accept domestic partnership plans.

Assemblywoman Carole Migden, D-San Francisco, said the bill is less

stringent than other domestic partnership measures vetoed in recent years by Gov. Pete Wilson, and that she is working with his office on it.

The bill would apply to same- and mixed-sex couples, including senior

citizens who care for each other but aren't married. It would not cover blood relatives, however, since local governments that offer domestic partnerships don't include them in domestic partnership registries.

Opponents told lawmakers today that the bill is mainly for homosexual couples since they comprise more than 90 percent of the state's domestic partnerships where they are offered.

They also said it's bad business to raise coverage costs of regular employees to cover adult friends.

===== ATTACHMENT 1 =====
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

RFC-822-headers:

Received: from conversion.pmdf.eop.gov by PMDF.EOP.GOV (PMDF V5.0-4 #6879)
id <01IKSE122ZS0007F99@PMDF.EOP.GOV> for Socarides_R@a1.eop.gov; Thu,
03 Jul 1997 05:12:08 -0500 (EST)

Received: from storm.eop.gov (storm.eop.gov)
by PMDF.EOP.GOV (PMDF V5.0-4 #6879) id <01IKSE114YUO006PI1@PMDF.EOP.GOV> for
Socarides_R@a1.eop.gov; Thu, 03 Jul 1997 05:12:07 -0500 (EST)

Received: from netcom12.netcom.com ([192.100.81.124])
by STORM.EOP.GOV (PMDF V5.1-7 #6879)
with SMTP id <01IKSE0CFZXS001IGH@STORM.EOP.GOV> for Socarides_R@a1.eop.gov;
Thu, 03 Jul 1997 05:11:35 -0400 (EDT)

Received: (from rwockner@localhost) by netcom12.netcom.com (8.6.13/Netcom)
id CAA03698; Thu, 03 Jul 1997 02:11:00 -0700

===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Leanne A. Shimabukuro (CN=Leanne A. Shimabukuro/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 3-JUL-1997 11:29:53.00

SUBJECT: suspension of deportation

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

Can see a copy of Rob Malley's memo? I can swing by and pick it up, if that's ok. Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Collin Brown III (CN=Collin Brown III/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME: 3-JUL-1997 09:59:30.00

SUBJECT: LRM MYC120: OPM Report on HR 1066, Federal Jobs Opportunity Act

TO: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TO: Wendy A. Taylor (CN=Wendy A. Taylor/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

TO: Justin D. Sullivan (CN=Justin D. Sullivan/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

TO: Emily Bromberg (CN=Emily Bromberg/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TO: Robert W. Schroeder (CN=Robert W. Schroeder/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TO: Joseph F. Lackey Jr. (CN=Joseph F. Lackey Jr./OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

TO: Larry R. Matlack (CN=Larry R. Matlack/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

TEXT:

The purpose of this e-mail is to draw your attention to an LRM that I circulated last week. This LRM, MYC120, asked for your views on an OPM report on HR 1066, The Federal Jobs Opportunity Act.

If I have not received your comments by 11:00am today (7/7), I will assume that you have no comment on this OPM report.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Leanne A. Shimabukuro (CN=Leanne A. Shimabukuro/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 3-JUL-1997 17:21:15.00

SUBJECT: directive and memo

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

I told Phil you would be walking it down to him. Thanks!

=====
ATTACHMENT 1
=====

ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D92]MAIL479436388.116 to ASCII,
The following is a HEX DUMP:

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MEMORANDUM FOR THE ATTORNEY GENERAL AND SECRETARY OF THE
INTERIOR

Subject: Law Enforcement in Indian Country

I am proud of this Administration's progress in reducing violent crime and improving public safety for our Nation's citizens. Our efforts are making an important difference. Nationwide, the violent crime rate has dropped approximately 17 percent since 1992, and the homicide rate has declined about 22 percent.

Unfortunately, during the same time period life has become more violent for the 1.2 million Indian citizens who live on or near reservations. Homicide rates, for example, have increased to levels that often surpass those in large American cities. Numbers alone, however, cannot convey the tragic impact of such violence on Indian families and their communities.

This and other information you have provided to me make clear that we need to refocus on this growing problem. While some tribal governments have developed strong law enforcement programs, many others have encountered significant difficulty in doing so. Many Indian citizens receive police, investigative, and detention services that lag far behind even this country's poorest jurisdictions.

The Federal government has taken steps to address this problem. The Administration has sought increased Department of Interior funding and tribal control of law enforcement programs on Indian lands. This year, the Federal Bureau of Investigation (FBI) established an Office of Indian Country Investigations in its Violent Crimes Section, allocating additional agents to Indian Country. The FBI also initiated a nationwide outreach training program for Indian Country law enforcement officers. We have created additional tribal liaison positions in the United States Attorney's Offices in Indian Country, intended to improve our ability to bring offenders to justice. Through our Community Oriented Policing Services Program, we have assisted tribal law enforcement agencies in hiring officers in Indian Country.

Yet, law enforcement in Indian Country remains a serious problem. For these reasons, consistent with the spirit of my 1994 memorandum on government-to-government relations and tribal self-governance, I hereby request the Attorney General and Secretary of the Interior to work with tribal leaders to analyze law enforcement problems on Indian lands. By October 31, 1997, the Departments of Justice and Interior should provide options for improving public safety and criminal justice in Indian Country. To the extent that these options might affect the Departments' budgets, they should be included in your 1999 budget submissions and should be consistent with the funding targets of the Bipartisan Balanced Budget Agreement.

Automated Records Management System
Hex-Dump Conversion

H:\data\Indian

July 3, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: ELENA KAGAN
LEANNE SHIMABUKURO

SUBJECT: DIRECTIVE ON LAW ENFORCEMENT IN INDIAN COUNTRY

The attached Executive Memorandum directs the Attorney General and Secretary of the Interior to analyze the law enforcement problem in Indian Country and submit options to you by October 31, 1997 for improving public safety in those areas. The Attorney General and Secretary proposed the Memorandum; they hope to submit it to the House Appropriations Committee next week in support of a request to reprogram funds to pay for this project.

Indian Country is currently facing a law enforcement crisis. While violent crime has dropped nationwide, it has increased on Indian lands -- with homicide rates rising a full 80% since 1992. On many American Indian reservations, public safety is less secure than in the most crime-plagued inner cities. Many violent crimes in Indian Country go wholly uninvestigated because of a shortage of law enforcement officers, and jails are grossly inadequate.

The federal government generally has jurisdiction over major crimes committed on Indian lands; it therefore has responsibility for -- and can act to remedy -- this escalating crime problem. The Bureau of Indian Affairs (BIA) at Interior currently wields most of the law enforcement authority of the federal government, but its budget for these activities has declined by 5.1 percent since 1992. This decline stands in stark contrast to the increased funding that other federal law enforcement agencies have gained during the same period. One possible solution to the Indian Country law enforcement problem, now being considered jointly by the two departments, is to transfer some or all of Interior's law enforcement authority to the Justice Department.

Upon receiving your directive, the Attorney General and Secretary of the Interior will appoint a 15-member committee, including agency representatives, tribal leaders, and experts, to develop recommendations on how best to address criminal justice problems in Indian Country. Consistent with the Presidential Memorandum you signed in September 1994 on government-to-government relations with tribes, the memorandum states that tribal leaders will participate directly in this process.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elizabeth Drye (CN=Elizabeth Drye/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 3-JUL-1997 15:44:35.00

SUBJECT: call to Bruce

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

CC: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TEXT:

Bruce had asked Jerry and I to check in with him on Koop-Kessler today. Before we make that call, we'd like to talk to you about where we are on outreach and Congressional strategy and get your input. Also, can you join us for call to Bruce? Can we catch you sometime between 4-5? I should be at my desk.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Christa Robinson (CN=Christa Robinson/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 3-JUL-1997 16:47:51.00

SUBJECT: Cabinet Memo 7-3-97

TO: William R. Kincaid (CN=William R. Kincaid/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Elizabeth Drye (CN=Elizabeth Drye/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Jonathan Prince (CN=Jonathan Prince/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Christopher C. Jennings (CN=Christopher C. Jennings/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Diana Fortuna (CN=Diana Fortuna/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Thomas L. Freedman (CN=Thomas L. Freedman/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Cathy R. Mays (CN=Cathy R. Mays/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Nicole R. Rabner (CN=Nicole R. Rabner/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Michael Cohen (CN=Michael Cohen/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Eric P. Goosby (CN=Eric P. Goosby/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Sarah A. Bianchi (CN=Sarah A. Bianchi/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TO: Leanne A. Shimabukuro (CN=Leanne A. Shimabukuro/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: WEINSTEIN_P (WEINSTEIN_P @ A1 @ CD @ LNGTWY [UNKNOWN]) (OPD)
READ:UNKNOWN

TEXT:

COMMERCE

Today - no public events

Next week - the Secretary will be in Bonn, Frankfurt and London

EDUCATION

the Secretary is still in Ireland on vacation

EPA

Today - no public events

HHS

Today - no public events

INTERIOR

Today - the Secretary participates in an event with Target at the Washington Monument - Target is giving \$5 million to the National Park Service to help renovate the monument

JUSTICE

Today - the AG had weekly press availability - she said that they would appeal the ask don't tell⁰⁸ decision

OPM

Today - no public events

TRANSPORTATION

Today - no public events

USIA

Today - no public events

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
004. email	Phone No. (Partial) (1 page)	07/03/1997	P6/b(6)

COLLECTION:

Clinton Presidential Records
Automated Records Management System [Email]
OPD ([Kagan])
OA/Box Number: 250000

FOLDER TITLE:

[07/02/1997-07/04/1997]

2009-1006-F
bm23

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

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

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

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

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Keith E. Laughlin (CN=Keith E. Laughlin/OU=CEQ/O=EOP [CEQ])

CREATION DATE/TIME: 3-JUL-1997 17:43:04.00

SUBJECT: Metropolitan Initiative

TO: Jose Cerda III (CN=Jose Cerda III/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

I will be out of the office until July 14. However I will be in DC and reachable from July 4-6 and July 10-13. If you've got any questions on this stuff please don't hesitate to call me at P6/(b)(6)
----- Forwarded by Keith E. Laughlin/CEQ/EOP on 07/03/97
05:36 PM -----

[004]

From: Keith E. Laughlin on 07/01/97 04:44:19 PM
Record Type: Record

To: Elena Kagan/OPD/EOP, Jose Cerda III/OPD/EOP
cc:
Subject: Metropolitan Initiative

Andrew Mayock of Sylvia Matthews' office asked me to get in touch with you concerning the policy options for the President's Racial Reconciliation Initiative. As you may recall, I passed out a one page fact sheet at a meeting last month that outlines the Metropolitan Initiative that I am working on with the President's Council on Sustainable Development (attached). I have been engaged in Administration discussions about "metropolitan compacts" since Chris Edley was the champion of this policy approach in the fall of '94.

The PCSD's metropolitan work has never been explicitly about race. But one of its primary goals is to identify common ground that exists between inner cities and suburbs to identify win-win approaches to improving economic security and quality of life that benefit both. But because the metro initiative is about facilitating a dialogue between cities and suburbs it could easily include a racial reconciliation component.

The new PCSD task force on Metropolitan and Rural Approaches will be co-chaired by Andrew Cuomo, Mayor Susan Savage of Tulsa, and Scott Bernstein, President of the Center for Neighborhood Technology, a CDC in Chicago. It won't hold its first meeting until late July/early August. But enough spadework has been done on this issue over the last few years that it could be featured in the President's upcoming speech.

Please give me a call at 66550 and maybe we can meet to discuss this further.

===== ATTACHMENT 1 =====
ATT CREATION TIME/DATE: 0 00:00:00.00

THE METROPOLITAN INITIATIVE

Background:

- Initiative emerged from the sustainable communities work of the President's Council on Sustainable Development;
- Part of an emerging consensus in support of "forging metropolitan solutions to urban and regional problems" (see attachment).

Basic Assumption:

- The time is right for bold experiments to bring together cities and their suburbs to produce economic prosperity, social equity, and environmental quality.

Three Specific Questions:

We want to launch 4 to 6 pilots to address three specific questions:

- 1) How can we help create **smart citizens** by using federal information and technical assistance programs to give people in a region the tools to solve local problems?
- 2) How can we promote **smart money** by targeting existing federal spending to effectively address the needs of a metropolitan region?
- 3) How can we encourage **smart regulation** that meets federal goals in a manner consistent with the unique circumstances of metropolitan regions?

Explicit Goals:

- To redefine the relationship between the federal government and metropolitan regions;
- To identify the common ground that exists between cities and suburbs by creating regional partnerships to clean up brownfields, reduce traffic congestion, move people from welfare to work, prevent crime, and curb urban sprawl.

Implicit Goal:

This implicit goal could be made explicit:

- To promote racial healing by engaging urban and suburban constituencies in a partnership to identify common ground on issues related to economic security and quality of life.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 3-JUL-1997 11:52:57.00

SUBJECT: final version

TO: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

----- Forwarded by Cynthia A. Rice/OPD/EOP on 07/03/97
11:52 AM -----

Michael Waldman

07/03/97 11:30:10 AM

Record Type: Record

To: Diana Fortuna/OPD/EOP, Cynthia A. Rice/OPD/EOP

cc:

Subject: final version

Draft 7/3/97 11:30am

PRESIDENT WILLIAM J. CLINTON
RADIO ADDRESS ON DECREASED WELFARE ROLLS
THE WHITE HOUSE
JULY 4, 1997

Good morning. We come together this weekend to celebrate Independence Day, our national heritage, and the fundamental values that unite us as one America: In America, everyone should have an equal chance to succeed. And everyone has an obligation to work hard, to give something back to their community, to earn in each generation the freedom that our Founders established.

These are the values that have guided our efforts to end welfare as we know it. Today, I want to talk to you about the progress we have made over the past four and a half years, the changes now underway, and what we must all do to make sure that welfare reform honors those values, too.

For four years, my administration has been committed to putting an end to the old welfare system that trapped too many families in a cycle of despair. Working with the states we launched welfare reform experiments in 43 states which emphasized work and personal responsibility.

Then last summer, I signed historic legislation that revolutionized welfare. It was a dramatic step, but we knew that the time was right to put an end to a system that was broken beyond repair. As of July 1, welfare reform has taken effect in all 50 states. This week, the old welfare system came to an end. Now a new system based on work is taking its place. This system demands responsibility, not only from the

people we are requiring to work, but from every American.

We knew last August that the new welfare reform law was not a guarantee, but a bold new experiment. And so far, welfare reform is working. I am pleased to announce that today, there are 3 million fewer people on welfare than there were on the day I took office -- a remarkable 1.3 million fewer since I signed welfare reform into law. This is the largest decrease in the welfare rolls in history -- and the lowest percentage of the population on welfare since 1970.

We have proven that we can begin to put an end to the culture of dependency, and elevate our fundamental values of family and work and responsibility. Now we must continue to work together to meet our goal of moving one million more people from welfare to work by the year 2000.

Since I took office, the economy has added 12.8 million new jobs -- and many economists believe that we will continue to produce the jobs we need to meet our challenge. But even so, it will not be easy. Many of the people who remain on welfare have never worked before; still others live in poor communities without enough jobs. If we expect people to work, we need to make sure there's work for them to go to.

The national government will do its part. First, the balanced budget agreement we reached with Congress in May provides \$3 billion to create jobs to move people from welfare to work. I secured a commitment from congressional leaders to give private employers tax incentives to hire long term welfare recipients. And I believe that every one of those new workers should earn at least the minimum wage and receive the protections of existing employment laws.

Second, we must help welfare recipients get to the new jobs which are often outside their neighborhoods. That is why I recently proposed legislation that provides \$600 million to help states and local communities devise transportation strategies to move people from welfare to work.

Third, we must make sure that mothers who must now go to work have good child care -- and adequate health care -- for their children. That is why I made sure that the welfare reform bill added \$4 billion more in child care assistance. And that is why I fought for the balanced budget agreement to extend health care coverage to millions of uninsured children.

States must also do their part. Many states are already working to reduce caseloads and free resources to put even more people to work. Wisconsin and Florida are significantly increasing their investment in child care. In Oregon, they are providing health care and transportation support, and subsidizing jobs with money that used to pay for welfare checks. Today, I challenge every state to take the money they saved from lowering their caseloads and use it for child care and transportation to help move more people from welfare to work.

As much as the national and state governments can do to move people from welfare to work, we know that the vast majority of the jobs must be created by private business. The most lasting way to bring people on welfare into the mainstream of American life is with a solid job in a private business. So to every businessperson who ever criticized the old system, I say: the old system is gone. And it is up to you to help make the new system work.

This Independence Day, all Americans should be happy that 3 million of our fellow citizens are off the welfare rolls. As we celebrate our nation's past and the values that unite us, we must look forward to the future, and redouble our determination to put an end to the culture of dependence.

Thanks for listening.

MEMORANDUM FOR THE ATTORNEY GENERAL AND SECRETARY OF THE
INTERIOR

Subject: Law Enforcement in Indian Country

I am proud of this Administration's progress in reducing violent crime and improving public safety for our Nation's citizens. Our efforts are making an important difference. Nationwide, the violent crime rate has dropped approximately 17 percent since 1992, and the homicide rate has declined about 22 percent.

Unfortunately, during the same time period life has become more violent for the 1.2 million Indian citizens who live on or near reservations. Homicide rates, for example, have increased to levels that often surpass those in large American cities. Numbers alone, however, cannot convey the tragic impact of such violence on Indian families and their communities.

This and other information you have provided to me make clear that we need to refocus on this growing problem. While some tribal governments have developed strong law enforcement programs, many others have encountered significant difficulty in doing so. Many Indian citizens receive police, investigative, and detention services that lag far behind even this country's poorest jurisdictions. The Federal government has taken steps to address this problem. The Administration has sought increased Department of Interior funding and tribal control of law enforcement programs on Indian lands. This year, the Federal Bureau of Investigation (FBI) established an Office of Indian Country Investigations in its Violent Crimes Section, allocating additional agents to Indian Country. The FBI also initiated a nationwide outreach training program for Indian Country law enforcement officers. We have created additional tribal liaison positions in the United States Attorney's Offices in Indian Country, intended to improve our ability to bring offenders to justice. Through our Community Oriented Policing Services Program, we have assisted tribal law enforcement agencies in hiring officers in Indian Country.

Yet, law enforcement in Indian Country remains a serious problem. For these reasons, consistent with the spirit of my 1994 memorandum on government-to-government relations and tribal self-governance, I hereby request the Attorney General and Secretary of the Interior to work with tribal leaders to analyze law enforcement problems on Indian lands. By October 31, 1997, the Departments of Justice and Interior should provide options for improving public safety and criminal justice in Indian Country. To the extent that these options might affect the Departments' budgets, they should be included in your 1999 budget submissions and should be consistent with the funding targets of the Bipartisan Balanced Budget Agreement.

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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jose Cerda III (CN=Jose Cerda III/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 3-JUL-1997 12:38:41.00

SUBJECT:

TO: ELENA (Pager) #KAGAN (ELENA (Pager) #KAGAN [UNKNOWN])

READ:UNKNOWN

TEXT:

e-mailed memo. kent having problems w/bullet on crack use. should we let it go?

Jose 6-5568

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Tracey E. Thornton (CN=Tracey E. Thornton/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 3-JUL-1997 14:46:08.00

SUBJECT: Abortion Memo

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TO: Robin Leeds (CN=Robin Leeds/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TEXT:

You guys were going to get something to me for the memo. I'm starting to pull it together so please send me what you want included. txs

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 4-JUL-1997 18:45:49.00

SUBJECT: McCurry on workfare and organizing workfare workers

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TO: Diana Fortuna (CN=Diana Fortuna/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

From 7/3/97 briefing:

Q A domestic question, Mike. In New York, ACORN is trying to organize workfare participants that attempted to deliver petition signatures on Mayor Giuliani, who bumped the question to Washington, saying that's where the complaining should be done. Does the White House have a feeling about organizing former welfare recipients who are now working for --

MR. MCCURRY: We think they should be allowed to enjoy the protections of labor law and most particularly should be paid a minimum wage. That's why the President strongly objects to some of the discussion in Congress about not paying workfare participants the minimum wage to which they're entitled -- while we will continue to press the case that we need to honor those who are making that transition from welfare to work by ensuring that it pays them to go to work and assuring that they have a liveable wage that they can endure on.

Q But in terms of organizing for other benefits, which is what these folks are after? They're after health care benefits and other things.

MR. MCCURRY: We well understand the desire of people who are working to come together and try to advocate for the best benefits that they can get, and that's an acceptable part of our collective bargaining process under national labor law. We think that workers participating in workfare experiments should be able to negotiate for the kind of protections that other workers enjoy in the marketplace.