

NLWJC - KAGAN

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[09/11-/997 - 09/13/1997]

Withdrawal/Redaction Sheet

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Phone No. (Partial) (1 page)	09/12/1997	P6/b(6)

COLLECTION:

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

FOLDER TITLE:

[09/11/1997-09/13/1997]

2009-1006-F

bm48

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

CREATION DATE/TIME:11-SEP-1997 20:58:27.00

SUBJECT: New Jersey Family Cap Evaluation Findings

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: Emil E. Parker (CN=Emil E. Parker/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:

Today, Rutgers University released a study of a New Jersey's welfare program demonstration which was started under a Bush Administration waiver and superceded in February 1997 by a new time limited TANF plan.

The study found that the drop in birth rate among New Jersey's welfare recipients could not be directly attributed to the state's family cap program. The program was also found to have had no impact on abortion rate, which declined for both program and control groups during this time period. Some researchers have questioned whether the evaluation was able to isolate the effects of the policy, since publicity of the state's family cap may have led some in the control group to think they were subjected to the family cap even though they were not.

The study also found that those in the education-focused Family Development program were likely to stay on welfare longer. The state human services commissioner released a statement saying "What this tells us is that encouraging people to enter lengthy education and training programs is no guarantee of employment" noting that the state's new Work First plan is more job-focused.

9/11/97 2 p.m.

DRAFT DRAFT DRAFT DRAFT DRAFT DRAFT DRAFT

I. ADMINISTRATION REVIEW OF SETTLEMENT

The Administration has engaged in an intensive review of the settlement on two fronts. Internally, four work groups were created and dozens of officials from across the Administration participated in their reviews. These work groups were: Regulatory Issues; Program and Budget Issues; Legal Issues; and, Industry Performance and Accountability Issues. They conducted a line-by-line analysis of the 68-page settlement document; in addition, they sought to explore alternative approaches to proposals contained in the settlement. This has not been done in an attempt to "fix" the settlement but rather to assess the adequacy of the settlement's provisions and to provide the Administration with the basis for articulating its positions and principles if a decision is made to encourage a legislative initiative.

Externally, the Vice President, Secretary Shalala and Bruce Reed met with individuals and groups representing a wide variety of views and interests to make certain that the Administration is aware of diverse viewpoints and has the benefit of expertise from outside the Administration. These consultations have been with public health and tobacco control organizations, state attorneys generals, tobacco industry lawyers, representatives of the smokeless and cigar industries, tobacco industry "whistle blowers," representatives of the retail, vending and the advertising industries, agricultural leaders from the Southeastern tobacco-growing states, and officials from the Brooke Group (Liggett). This broad range of viewpoints has informed the Administration's review and analysis. These consultations have made clear that any legislative proposal will be buffeted from many sides, several of which were not included in the negotiations among the state attorneys generals, plaintiffs' attorneys, and the tobacco industry.

II. EVENTS AND INTERESTS LIKELY TO SHAPE POLITICAL LANDSCAPE

While the proposed tobacco settlement presents the President with an opportunity to exercise again his leadership on this vital public health issue, there are many other factors beyond the settlement that shape the current landscape and will change it in the future. Some enhance the opportunity presented to the President; some limit it.

Public Health Community

Since the June announcement of the settlement, the public health community has become increasingly skeptical of the particular elements of the settlement and, more important, has become increasingly unified in their criticisms. At the same time, the public health community is willing to consider and back the possibility of a legislative solution. It should also be noted that the unity of the public health community can be easily fractured: While they generally agree on what's wrong with the settlement, they have different ideas on what good solutions would be.

That means merely articulating particular “fixes” to the settlement as opposed to stating positions and principles could very well undercut the President’s core base of support.

The principal public health criticisms of the settlement are:

- o Restricting FDA’s authority in any fashion
- o Ineffective “look back” penalties on companies for not reducing underage smoking
- o Limiting disclosure of industry documents
- o Failing to increase the price of cigarettes sufficiently
- o Preempting state and local restrictions that might be tougher than the settlement (the impact on additional state restrictions is unclear)
- o Failing to address international tobacco control
- o Limiting liability, i.e., eliminating past punitive damages and capping future punitive damages and eliminating class actions (The public health community will always have a lingering concern about limiting liability as the basis for a settlement. It is not only a desire to “punish” this industry, but it also reflects a belief that the threat of litigation will always be needed to keep this industry in check.)

Moreover, there is a small but significant portion (American Lung Association, Stan Glantz, grass roots tobacco control groups like the state GASPS, and Public Citizen) of the public health community that believes the settlement should be scuttled entirely, not fixed. The public health community is well aware of all these tensions, and in fact, this community attempted to forge a consensus again in August. Representatives of 11 groups met August 8, and worked over the next two weeks to present the Administration with a consensus document. However, this “consensus” statement ended up saying little more than that the public health community would like to see a settlement reached and would be willing to work for it; they could not come to terms as to what the settlement should in fact look like. Also, this “consensus” statement does not preclude individual groups from identifying issues of particular concern for them and actively seeking support in Congress for their viewpoint.

Lawsuits and Disclosure

A number of tobacco lawsuits are proceeding: the second-hand smoke lawsuit in Florida by the airline attendants; various private lawsuits, both individual suits and class-actions; and the Medicaid lawsuits by the states, most importantly those in Texas and Minnesota because of their timing. Any verdict against the tobacco industry will be widely viewed as another reason either not to negotiate with the industry or to take a stronger stance against the industry on several elements in the proposal. On the other hand, a verdict for the industry is likely to be seen as a reason to move forward with a legislative solution and weakening our position in any negotiations.

Just as important as the impact of any verdict is the disclosure issue raised by these lawsuits. Especially in the Medicaid lawsuit in Minnesota, state attorneys hold out the prospect of new industry documents coming to light that go far beyond any disclosed to date. In Florida and Minnesota, preliminary findings of fraud and criminal activity were made by either judges or special masters, and previously privileged documents are now being reviewed for public

disclosure (in Florida, documents were disclosed in early August; in Minnesota, it is expected documents would become public by early 1998 when the case goes to trial). In addition, there is the possibility of indictments and trials because of ongoing DOJ criminal investigations and the resulting disclosure of secret documents in that process. Because no one really knows what is in the still secret documents, one concern is that they reveal activity that would generate such public outrage, that any accommodation with the industry would be seen as "selling out." In addition, some tie the disclosure issue to consideration of whether the immunity provisions of the settlement are adequate. Some Democrats, such as Sen. Patrick Leahy, take the position that any consideration of limiting liability has to be predicated on full disclosure of the documents.

Another factor on the legal front is the industry challenge to the FDA rule. Oral arguments on the appellate case were made in the Fourth Circuit on August 11, and two of the three judges voiced skepticism of the FDA rule. We do not know when the three-judge panel of the Fourth Circuit Court of Appeals will rule. If the FDA jurisdiction is upheld on appeal but the government fails to overturn the district court's adverse ruling on the advertising restrictions, there will be pressure to seek a legislative solution as the only way of moving forward. If the appeals court overturns the district court's adverse ruling on advertising, there will be pressure to extract even more concessions from the industry. And, finally, if the Fourth Circuit reverses the district court's finding of jurisdiction for the FDA while upholding its ruling on advertising, the industry may have more leverage in the discussions. However, the panel's decision may be subject to further review through a petition for rehearing en banc and/or petition for cert to the Supreme Court..

Congress

The Congressional horizon is receding into 1998 very quickly. In recent days, several Congressional leaders have said that legislative action on the settlement is unlikely in 1997. The Senate Republican leadership has made tentative plans to consider any tobacco legislation piecemeal, with at least six different committees having jurisdiction over parts of the settlement: Commerce, Judiciary, Labor, Agriculture, Environment and Public Works, and Finance. The House Republican leadership has not indicated how it wants to proceed, although Rep. Richard Arney has said he expects similar divided consideration in the House. In the Senate and House, the Democratic leaderships are attempting to hold together tobacco-state and tobacco-control Democrats and present a united front. The potential of working with Congressional Democrats on this issue is very real and would give the Administration significant leverage in dealing with the GOP leadership.

Farmers

With regard to the Hill, the approach the Administration takes toward the issue of helping tobacco farmers may be the most significant. The settlement's failure to deal with tobacco farmers provides a significant opening for the Administration. Even some GOP members who have traditionally been supportive of the industry -- like Rep. Thomas Bliley -- are now saying their main concern will be helping their farm constituency. The farmers who in the past have provided substantial political cover to the industry can now be separated from the companies if

they believe that will be in their best interest.

Affected Industries

In addition to the agricultural interests, several other segments of the economy are going to watch any settlement closely, e.g., hospitality industry with regard to environmental tobacco smoke (ETS), advertising and retail industries with regard to advertising and access restrictions, the asbestos industry and trial lawyers with regard to immunity. Each of these industries will have to make decisions on how a settlement affects its interests and when it wants to weigh in on the Hill. There is every indication that all of these industries will be very active and are already seeking to line up support for their cause on the Hill.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: William R. Kincaid (CN=William R. Kincaid/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:11-SEP-1997 11:07:41.00

SUBJECT: Senate Block Grant Amendment Passed

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

READ:UNKNOWN

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

READ:UNKNOWN

CC: Julia R. Green (CN=Julia R. Green/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

CC: Robert M. Shireman (CN=Robert M. Shireman/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

CC: William H. White Jr. (CN=William H. White Jr./OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

CC: Jonathan H. Schnur (CN=Jonathan H. Schnur/O=OVP @ OVP [UNKNOWN])

READ:UNKNOWN

CC: Michael Cohen (CN=Michael Cohen/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

The Senate narrowly passed (51-49) Senator Gorton's block grant amendment, after a "hold-harmless" provision was added for States. Education is doing a quick analysis to figure out exactly which programs are affected -- we know that several of the big ones were exempt. Apparently Lott decided to make this a Leadership issue. We'll know more shortly. This is like 1995 revisited.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-SEP-1997 14:14:08.00

SUBJECT: Erskine meeting Tuesday with Sweeney/McIntee on FLSA

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

According to Podesta's assistant Karen Tramontano, Erskine and Podesta are meeting Tuesday with John Sweeney, McEntee, Stern on welfare reform/FLSA. She is preparing a briefing memo for Erskine, so she wanted to know the latest with Shaw and the Governors, which I gave her. She said Bruce and Elena have been invited.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Donald H. Gips (CN=Donald H. Gips/O=OVP [UNKNOWN])

CREATION DATE/TIME:11-SEP-1997 16:49:26.00

SUBJECT: Document Disclosure

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

READ:UNKNOWN

TEXT:

I am way out of my area of expertise here but I thought I would throw out a suggestion of an alternative that is not Waxman but is pretty close. Feel free to use or discard as you choose.

Option on Documents

- 1) Industry must turn over all documents to the FDA on a non-disclosure basis.
- 2) Industry must immediately (prior to a settlement) make public all non-privileged, non-trade secret documents.
- 3) Also all non-privileged, trade secret documents that do not relate to formula or current advertising campaigns should be made public.
- 4) Disclosure process as outlined in your proposal for privileged documents (question as to whether that process should begin before or after the settlement).

**PRESIDENT WILLIAM J. CLINTON
AMERICAN CANCER SOCIETY
NATIONAL FUNDRAISING KICK-OFF CONFERENCE
September 19-20, 1997**

Hello and greetings from the White House. I am pleased to have this chance to join you as you gather for the American Cancer Society National Fundraising Kickoff Conference.

I want to start by telling you how much I admire the work of the American Cancer Society. For almost ninety years, the Society has dedicated itself to helping families deal with the devastation cancer can bring, to educating the America people about what they can do to prevent cancer . . . and to finding a cure.

It is a goal we share. In the last four years, we have increased federal funding for critical cancer research by over \$400 million; we have taken action to stop insurance companies from denying health care coverage to people with pre-existing conditions; and we have worked to speed the approval of life-saving drugs. Today, millions of Americans are surviving after a diagnosis of cancer, and are leading hopeful, productive lives.

But there is more that we can do to fight cancer -- and we can start by doing more to protect our children and all of our people from the dangers of tobacco. Last year, my administration launched a comprehensive plan that prohibits retailers from selling tobacco to minors, and requires clerks to check I.D.s before selling cigarettes to young people. The balanced budget I was proud to sign in July includes a 15-cents-a-pack cigarette tax that will help states provide health care for up to 5 million uninsured children, and help prevent many young people from smoking in the first place. Last month, we took action to ban smoking in federal buildings across America. Now we must pass sweeping legislation that focuses first and foremost on reducing smoking among young people.

In the coming months and years, I look forward to working together with the American Cancer Society to continue our fight against cancer. Hillary joins me in expressing our gratitude to all the volunteers whose dedication is helping the American Cancer Society bring us closer to a cure. Thank you, and God bless you all.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Dawn M. Chirwa (CN=Dawn M. Chirwa/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:12-SEP-1997 12:57:57.00

SUBJECT: Civil Rights Enforcement

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

READ:UNKNOWN

TEXT:

A few weeks ago, a "subcommittee" of our minority issues group drafted a memo to Sylvia recommending that we convene the civil rights enforcement officers at the agencies to discuss what could be done to ramp up civil rights enforcement efforts government-wide. (This was the same group that Chris E. and Deval convened when reviewing government affirmative action). Sylvia agreed and told us to go ahead and asked Chuck to oversee. But, Susan Liss just let me know that, unbeknownst to us, you had already taken the bull by the horns and convened this group.

It probably makes more sense for it to be run from DPC, but, can I find out what came out of your meeting, since I know Chuck is interested in our office being involved as this effort goes forward?

Thanks, Elena!

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:12-SEP-1997 11:45:30.00

SUBJECT: Rep. Levin's staff on workfare

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:

I spoke to Eric Gould this morning. He and his boss are also concerned about the proposal weakening the work requirements, and want to work with us in deciding whether this is a battle to fight.

Eric pointed out something I think is important that connects with some of the questions, Diana, that we discussed earlier -- that the legislation's definition of work experience and community service programs is so broad that nearly all work could be defined as such (particularly since the private sector is included). Thus this is a weakening of the work requirements that could apply to all work. Could you get HHS' feedback on that interpretation of the language?

Diana -- I also left on your chair a handwritten note of additional questions that occurred to me while reading the legislation.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:12-SEP-1997 16:23:02.00

SUBJECT: meeting with Erskine

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

READ:UNKNOWN

TEXT:

I thought it went very well. Thanks for getting this going. Erskine was very good, and it seems like he is ready to resolve this. If there's anything you think I can do, let me know. Thanks again.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:12-SEP-1997 09:04:36.00

SUBJECT: radio address

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Craig T. Smith (CN=Craig T. Smith/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: John L. Hilley (CN=John L. Hilley/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Sidney Blumenthal (CN=Sidney Blumenthal/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TO: Paul E. Begala (CN=Paul E. Begala/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: Thomas D. Janenda (CN=Thomas D. Janenda/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Michael D. McCurry (CN=Michael D. McCurry/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ: UNKNOWN

TEXT:

Draft 9/12/97 9am

PRESIDENT WILLIAM J. CLINTON
RADIO ADDRESS ON CAMPAIGN REFORM
ROOSEVELT ROOM
September 13, 1997
[taped September 12, 1997]

Good morning. America has had a summer of significant achievement, as we are working to protect our values and prepare America for the 21st Century. The balanced budget shows what we can do when we put aside partisanship and work for the public interest. But America can't rest. And one of the most important steps we can take next is to pass long-overdue campaign finance reform.

The campaign finance laws have been overwhelmed by a rising flood of campaign cash. The amount of money raised by both political parties now doubles every four years. Candidates are caught up in a fundraising arms race, spending more and more time raising more and more money money that raises more and more questions in the public mind. The campaign finance system is broken. And every one of us must take responsibility for fixing it.

When possible, I have acted to promote reform. I have asked the FCC to provide candidates free TV airtime. I have asked the Federal Election Commission to ban large "soft money" contributions to political parties from corporations, unions and wealthy individuals. And the Justice Department has indicated it will go to court, when appropriate, to defend the constitutionality of spending limits.

But there is no substitute for strong, bipartisan campaign finance reform legislation. I proposed reform when I ran for President. I have backed reform legislation every year since then. And every single year, reform has been blocked in the Congress through the filibuster. The excuses keep changing. This year, opponents claim that unlimited campaign spending is just free speech. Well, when money talks in our democracy, that's not the solution that's the problem.

Now, the special interests and their allies in Congress are poised to strike again, waiting to quietly smother reform in the dead of night one more time. But this year, they won't get away with it.

Sens. John McCain, a Republican, and Russ Feingold, a Democrat, have pledged to bring their reform legislation to a vote this month. On Thursday, 45 Democratic Senators every single one wrote to the Senate leadership in support. Citizen groups, spurred by business executives and civic leaders, have gathered one million signatures on a petition to Congress. Presidents Ford, Carter, and Bush have called for reform. They are being joined by dozens of former lawmakers, now free to speak their mind. And the American people overwhelmingly want action. There is a critical mass for action.

This is a time of testing. Ignore the rationalizations: A vote to filibuster campaign reform is a vote for unlimited soft money and backdoor campaign contributions ... a vote to increase the power of big

money in our democracy. Nothing more, nothing less. A vote against a filibuster -- a vote for reform -- is a vote to give ordinary citizens the loudest voice in the halls of power.

This year, despite all the odds, we have the best chance in a generation for reform. Throughout our history, the American people have overcome the resistance of entrenched interests to expand our democracy and keep it strong in changing times. Let's make this autumn a season of reform. Thanks for listening.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:12-SEP-1997 00:21:03.00

SUBJECT: Re: inserts

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

READ:UNKNOWN

TEXT:

on my way

PENALTIES: Change graph to read:

One approach would be to measure the number of teenagers who smoke a particular company's brands, and assess a company-by-company surcharge of \$1,000 (about 2 ½ times foregone profits) per teen smoker in excess of the youth reduction targets. A second approach would combine the company-by-company surcharge with a system of graduated penalties that get stiffer the more the industry misses the targets. For example, the industry could be required to pay \$200 million for each point missed between 0 and 30 percent, \$400 million for each point missed between 30 and 50 percent, and \$600 million for each point missed between 50 and 60 percent. Under this approach, the penalties could reach as high as \$1 a pack by year 10 if youth smoking failed to decline.

FUNDING:

The 1st graph ("Although the settlement...") is fine.

Options for How Much the Industry Should Pay

2nd graph: The attached charts outline options on how much funding to seek and how to spend it. The first chart (Table I) suggests four options for how much the industry should pay:

1. Current settlement: This option assumes repeal of the \$50 billion tax credit in the budget agreement, restoring gross industry payments to the original level negotiated by the attorneys general -- \$368 billion over 25 years, with lookback penalties of \$___ - ___ billion over that period. This option would raise cigarette prices by approximately 60 cents a pack (on top of the 15-cent increase in the budget agreement).

2. Tough penalties: This option assumes the full level of base payments in Option 1 (\$368 billion), with dramatically tougher penalties on the industry if it fails to reduce teen smoking (which could raise up to \$__ over 25 years). These penalties would include both a company-by-company surcharge and stiff penalties that could raise cigarette prices by up to \$1 a pack. This option would raise cigarette prices between 60 cents and \$1.60 a pack, depending on the industry's success in reducing teen smoking.

3. Restoration of settlement investment pledge: This option assumes the amount of payments necessary to fund additional public health investments at a level that reflects what some supporters of the original settlement said would be available. Under this option, the industry would make gross payments of \$___ billion over 25 years. This option includes the company-by-company surcharge, but not the youth penalties of up to \$1 a pack. This option would raise cigarette prices by ___ cents a pack.

4. \$1.50 per pack: This option assumes the level of industry payments necessary to increase cigarette prices by \$1.50 a pack right away, which David Kessler and Rep. Waxman

have urged. Under this option, the industry would make gross payments of \$___ billion over 25 years.

Ways to Spend Additional Funding

The current settlement would fund a variety of public health initiatives, including a counteradvertising campaign; smoking cessation programs; FDA enforcement; other tobacco control efforts; and a \$4-billion-a-year trust fund that could serve as a 21st Century Research Fund dedicated to biomedical and tobacco-related research.

The second chart (Table __) outlines possible uses for additional funds, if any.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Phone No. (Partial) (1 page)	09/12/1997	P6/b(6)

COLLECTION:

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

FOLDER TITLE:

[09/11/1997-09/13/1997]

2009-1006-F
bm48

RESTRICTION CODES

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- 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]

September 12, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

RE: DPC Weekly Report

1. Welfare Reform: New Republican Proposal on Workfare and Minimum Wage --
House Ways and Means Human Resources Subcommittee Chairman Clay Shaw is trying to garner bipartisan support among Governors and House members for a bill that addresses state concerns about the cost of workfare programs. Unfortunately it does so by significantly weakening the welfare law's work requirements. The draft legislation requires states to pay the minimum wage for work experience and community service programs, but it limits the number of work hours to what states can afford to pay, based on the amount of their welfare grant plus food stamps. The balance of a recipients' time could be spent on job search and education activities. Thus, a welfare recipient could work 10 hours a week and do 10 hours of job search. There is a concern that the legislation's definition of "work experience" and "community service" may be so broad that nearly all subsidized work could be defined as such, allowing low benefit states to require less than 20 hours of work from nearly all their "working" recipients. The bill would also exempt workfare positions from FICA and unemployment taxes, something that we indicated during the balanced budget negotiations that we were willing to do.

Department of Labor lawyers are currently reviewing the legislative language to determine if the bill weakens worker protections or minimum wage enforcement. If it does not, then our grounds for opposition will rest solely on the weakening of the work requirements, an issue on which we may not have many allies. We hear Chairman Shaw may unveil this legislation at a press conference on Thursday, with a hearing and markup soon to follow. He apparently plans to move the measure as a separate piece of legislation. As you may recall, Speaker Gingrich told the Republican gathering in Indianapolis on August 22nd that enacting legislation in this area would be a key priority for the fall "because the Clinton Administration, working with the unions and the bureaucrats, is trying to undermine and destroy welfare reform."

2. Education: Preliminary Injunction Denied in High Stakes Testing Case in North Carolina. On August 29, the United States District Court for the Eastern District of North Carolina refused to grant a preliminary injunction against a local school district policy which requires all students in grades 3 through 8 to achieve a specified score on the North Carolina state reading and math tests before they can be promoted to the next grade. Approximately 480 students have been retained as a result of the policy, which had been challenged on behalf of the NAACP Legal Defense Fund and parents of 14 of the students affected. In denying relief, the court found that the plaintiffs were "less than likely" to prevail on the merits of their claim. Department of Education staff understands that the school district is adding additional measures of student achievement for promotion purposes.

3. Crime: Juvenile Crime -- On Wednesday, a new report was released on crime committed in the after school hours. The report-- which contains the most comprehensive data on the prevalence of juvenile crime by time of day-- revealed that 41.8 percent of violent juvenile crime is committed between 3pm and 8pm on weekdays. While the numbers are slightly lower than a study that was previously cited, the data make clear that juvenile crime peaks in the after school hours and emphasize the need for responsible supervision and constructive activities for juveniles. The report was released by James Alan Fox of Northeastern University and Sanford Newman of Fight Crime: Invest in Kids.

4. Crime: COPS -- Next week, the COPS Office will announce \$23.8 million to fund an additional 319 new or redeployed police officers. The grants will fund officers in 10 states, bringing the total to more than 65,000 total officers funded throughout the country by the Clinton COPS Program.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Barbara D. Woolley (CN=Barbara D. Woolley/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:12-SEP-1997 18:48:56.00

SUBJECT: Tobacco

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

FYI, I am getting a number of calls and faxes from the "grassroots" advocates who do not want the President to accept the Tobacco Agreement for various reasons and are mad because they are reading the newspapers about the access that Mike Moore, Matt Myers and others have to the White House.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Nelson Reyneri (CN=Nelson Reyneri/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:12-SEP-1997 15:46:10.00

SUBJECT: Mexico City/UNFPA

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

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

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

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

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

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

TO: David B Sandalow (CN=David B Sandalow/OU=CEQ/O=EOP @ EOP [CEQ])
READ:UNKNOWN

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

TO: Alphonse J. Maldon (CN=Alphonse J. Maldon/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

TO: Robert S. Kapla (CN=Robert S. Kapla/OU=CEQ/O=EOP @ EOP [CEQ])
READ:UNKNOWN

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

TO: Jacob J. Lew (CN=Jacob J. Lew/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TO: Kay Casstevens (CN=Kay Casstevens/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

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

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

CC: June G. Turner (CN=June G. Turner/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

READ: UNKNOWN

TEXT:

There will be another meeting on Mexico City Policy on Monday, (Sept. 15) from 2:30-3:30 in the Roosevelt Room. The following offices/individuals have been contacted and asked to attend.

Invitees:

Sylvia Mathews
Martha Foley
Al Maldon
Maria Echaveste
Melanne Verveer
Ann Lewis
Jack Lew or Gordon Adams
Phil DuSault
Will Davis (NSC)
David Sandalow
Elena Kagan
Nelson Reyneri

OVP

Kay Casstevens

STATE

Meg Donovan
Kelly Clements on behalf Tim Wirth (out of town)

US AID

Adm. Brian Atwood
Jill Buckley

If you have any other suggestions regarding names of those you feel should attend, as well as suggested agenda items, please let me know.

I can also be reached at 456-2016. Thanks again for your help.

- 1 -

DRAFT (September 12, 1997)

Executive Order _____

Federalism

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to restore the division of governmental responsibilities, embodied in the Constitution, between the federal government and the States that was intended by the Framers to ensure that the principles of federalism guide the Executive departments and agencies in the formulation and implementation of policies, it is hereby ordered as follows:

Sec. 1. *Definitions.* For purposes of this Order:

- (a) "Policies that have federalism implications" refers to regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on the relationship between the federal government and the States, or on the distribution of power and responsibilities among the various levels of government.
- (b) "State" or "States" refer to the States of the United States of America, individually or collectively, and, where relevant, to State governments, including units of local government, tribal government, and other political subdivisions established by the States.
- (c) "Agency" or "agencies" mean any authority of the United States that is an "agency" under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(10).

Sec. 2. *Fundamental Federalism Principles.* In formulating and implementing policies that have federalism implications, agencies shall be guided by the following fundamental federalism principles:

- (a) Federalism is rooted in the knowledge that our political liberties are best assured by limiting the size and scope of the federal government.
- (b) The people of the States created a federal government of limited powers. All other sovereign powers are reserved to the States, save those expressly prohibited the States by the Constitution, or to the people.
- (c) The people of the States are free, subject only to restrictions in the Constitution itself or in constitutionally authorized Acts of Congress, to define the moral, political, and legal character of

their lives.

(d) The nature of our constitutional system encourages a healthy diversity in the public policies adopted by the people of the several States according to their own conditions, needs, and desires.

Effective public policy is often achieved when there is competition among the several states in the fashioning of different approaches to public policy issues.

(e) The search for enlightened public policy is furthered when individual States and communities are free to experiment with a variety of approaches to public issues. Uniform, national approaches to public policy problems can often inhibit the creation of effective solutions to those problems.

(f) In most areas of governmental concern, the States uniquely possess the constitutional authority, the resources, and the competence to discern the sentiments of the people and to govern accordingly. In Thomas Jefferson's words, the States are "the most competent administrations for our domestic concerns and the surest bulwarks against antirepublican tendencies."

(g) Acts of the federal government -- whether legislative, executive, or judicial in nature -- that exceed the limited powers of that government under the Constitution violate the principle of federalism established by the Framers.

(h) Policies of the federal government should recognize the responsibility of -- and should encourage opportunities for -- individuals, families, neighborhoods, local governments, and private associations to achieve their personal, social, and economic objectives through cooperative effort.

Sec. 3. Federalism Policymaking Criteria. In addition to the fundamental federalism principles set forth in section 2, Executive departments and agencies shall adhere, to the extent permitted by law, to the following criteria when formulating and implementing policies that have federalism implications:

(a) There should be strict adherence to constitutional principles. Executive departments and agencies should closely examine the constitutional and statutory authority supporting any federal action that would limit the policymaking discretion of the States, and should carefully assess the necessity for such action.

(b) Federal actions limiting the policymaking discretion of the States should be taken only where constitutional authority for the action is clear and certain.

(c) With respect to national policies administered by the States, the federal government should

grant the States the maximum administrative discretion possible. Intrusive federal oversight of State administration is neither necessary nor desirable.

(d) It is important to recognize the distinction between problems of national or multi-state scope (which may justify federal action) and problems that are merely common to the States (which will not justify federal action because individual States, acting individually or together, can effectively deal with them). In general federal action is warranted only in the following circumstances:

- (1) When the problem to be addressed by federal action occurs interstate as opposed to being contained within one State's boundaries.
- (2) When the source of the problem that is sought to be redressed occurs in a State different from the State (or States) where a significant amount of the harm occurs. [This type of issue often exists in the environmental area when the State which is the source of the environmental harm is often not the State which suffers the greatest effect of that harm.]
- (3) When there is a need for uniform national standards.
- (4) When decentralization increases the costs of government thus imposing additional burdens on the taxpayer. [For example, in an increasingly technologically and economically sophisticated environment, regulatory intervention often requires the use of highly-skilled experts, analysts, and accountants; and the costs inherent in maintaining this type of regulatory task force are quite sizable. It is therefore less costly and far more efficient for there to be one regulatory authority incurring the costs of these analysts and experts than to have fifty similar regulatory task-forces throughout the country.]
- (5) When State and local governments have not acted to protect individual rights and liberties.
- (6) When decentralized authority will lead to circumstances in which a State will be reluctant to impose necessary regulations on its industry for fear of losing that industry to another State.
- (7) When placing regulatory authority at the State or local level will seriously undermine regulatory goals because enforcement costs will effectively place the regulatory matter beyond the resources of State and local enforcement authorities. [As industries expand in size and complexity and the dangers they pose to the society become more severe, the cost of monitoring and regulating their activities also become greater. Federal action may be justified to assure that industry does not escape regulation based upon its size alone.]

Sec. 4. *Consultation.* (a) Each agency shall develop an effective process to permit elected officials and other representatives of State, local, and tribal governments to provide meaningful

and timely input in the development of regulatory policies that have federalism implications.

(b) To the extent feasible and permitted by law, no agency shall promulgate any regulation that is not required by statute and that has federalism implications, unless the agency, in a separately identified portion of the preamble to the regulation as it is proposed for public comment in the Federal Register, provides a description of the extent of the agency's prior consultation with representatives of affected State, local, and tribal governments, a summary of the nature of their concerns [with its federalism implications], and the agency's position supporting the need to issue the regulation.

Sec. 5. Increasing Flexibility for State and Local Waivers. (a) Each agency shall review its waiver application process and take appropriate steps to streamline that process.

(b) Each agency shall, to the extent practicable and permitted by law, consider any application by a State, local, or tribal government for a waiver of statutory or regulatory requirements in connection with any program administered by that agency with a general view toward increasing opportunities for utilizing flexible policy approaches at the State, local, and tribal level in cases in which the proposed waiver is consistent with the applicable Federal policy objectives and is otherwise appropriate.

(c) Each agency shall, to the fullest extent practicable and permitted by law, render a decision upon a complete application for a waiver within 120 days of receipt of such application by the agency. If the application for a waiver is not granted, the agency shall provide the applicant with timely written notice of the decision and the reasons therefor.

(d) This section applies only to statutory or regulatory requirements of the programs that are discretionary and subject to waiver by the agency.

Sec. 6. Independent Agencies. Independent regulatory agencies are requested to comply with the provisions of this order.

Sec. 7. General Provisions. (a) This Order is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

(b) This order shall supplement but not supersede the requirements contained in Executive Order No. 12866 ("Regulatory Planning and Review") and Executive Order No. 12988 ("Civil Justice Reform").

(c) Executive Order Nos. 12612 of October 26, 1987, and 12875 of October 26, 1993, are revoked.

(d) This order shall be effective 90 days after the date of this order.

DRAFT

Dear Governor _____ :

The continuing explosion of new technologies gives us a groundbreaking opportunity to work together to link our federal and state law enforcement efforts in ways we never thought possible even a few years ago. For example, we are now able to track the whereabouts of convicted sex offenders to prevent them from committing new crimes. If we begin now to coordinate our efforts, I am convinced that American public safety will benefit significantly.

From the historic 1994 Crime Act through the National Crime Prevention and Privacy Compact that I will soon submit to Congress, my Administration has strived to pass legislation to harness computers and other technology for the public good. Many of our states' governors have played crucial roles in fighting to pass this legislation, and I thank you again for that assistance. Although these laws are an important foundation for federal and state cooperation, the new technologies can do only what we commit them to do, and we still need to do much more -- including exchanging criminal records between states for employment checks on workers in occupations that deal with children, and using incident-based crime reports to help police solve specific types of repeated crime, such as church arson or serial murder. Federal and state governments must forge a close partnership to realize the full potential of these new technologies. I am prepared to take actions to intensify our federal efforts in the coming months, but I will need your help in order to ensure our success in several initiatives.

In June of 1996, I directed the Attorney General to develop a national sexual predator and child molester registration system to link the sex offender registration and notification systems being developed in all 50 states. The Interim national sex-offender registry became operational earlier this year, and the Attorney General recently wrote to enlist your assistance. I am encouraged that ten states have already loaded their information on sex offenders onto the system, with many of you pledging to do so within the next few months. I am grateful for any help you can provide in making this *national* sex offender registration system a reality.

To move further ahead, I am directing the Attorney General and Secretary of Defense today to take steps to expand the national sex-offender registry to include convicted sex offenders being released from federal and military facilities. My directive will order the Federal agencies to notify state authorities when sex offenders are released within their borders and to take other steps to improve the information about federally convicted sex offenders included in the national sex offender registry.

I will soon submit to Congress the National Crime Prevention and Privacy

Compact to facilitate the exchange of criminal records by establishing an FBI index of state-maintained criminal information that states can access nationwide. The Compact would standardize policies for sharing of criminal records for purposes such as pre-employment background checks for child care workers and school bus drivers. It would improve access to criminal records and save the states and the federal government money by avoiding duplication of effort. I hope I can count on your support of the Compact as it moves through your State legislature.

Many Federal laws --including the Brady Handgun Violence Prevention Act, the Violence Against Women Act, and the National Instant Criminal Background Check System --include provisions to help states automate and improve their criminal records, especially to block handgun sales to prohibited gun purchasers and allow for easy identification of criminal offenders subject to "three strikes" laws. The Department of Justice's Bureau of Justice Statistics (BJS) stands ready to help states reach this goal through the National Criminal History Improvement Program. BJS has already awarded more than \$112 million to states, with a total of \$226 million authorized. I urge your State to take full advantage of this program.

As you know, the FBI's Uniform Crime Reporting Program gives us data that help us measure our progress in reducing crime. The next generation of UCR, the National Incident-Based Reporting System, will usher in a new era of crime data -- so that we can tell for example, that a crime was a hate crime, an incident of domestic abuse, or a crime directed at a child. Such information will help law enforcement agencies identify local and national trends, and lead to quicker arrests of violent offenders. The Justice Department is working with states, counties, and cities to expand the NIBRS. I hope that you will lend your support to this effort.

With your State's active participation, we can make significant progress in all of these initiatives. Your personal involvement is key in making this happen. I look forward to working with you to achieve our mutual goal -- using new technologies to make America safer for all our citizens.

Sincerely,

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

Education Weekly

1. National Tests: The Senate adopted our proposal to put NAGB in charge of the tests by a strong bipartisan vote of 88-12. The amendment to the appropriations bill also included some modifications to NAGB's membership, and gives it greater independence from the Education Department. The House vote has been put off until next Tuesday or Wednesday. We continue to face solid opposition from Republicans and from the Congressional Black and Hispanic Caucuses.

Secretary Riley has sent a detailed letter to the Leadership Conference on Civil Rights, providing the most detailed, specific and, we believe, satisfying responses to issues they and members of both Caucuses have raised about the tests. While we do not expect this letter to change any votes in either Caucus, we believe it can help create a better climate for our continued efforts to find a basis on which we can ultimately win their support.

2. Senate Vote to create Education Block Grant: Shortly after voting to support your testing proposal, the Senate voted by a 51-49 margin to combine almost all elementary and secondary education programs into a block grant that would be distributed directly to local school districts. Among the long list of programs effectively eliminated by this provision are Goals 2000, Charter Schools, Technology Challenge Grants, Eisenhower Professional Development program, and Safe and Drug Free Schools. Title 1 is also turned into a block grant, by eliminating any requirements on the use of the funds. Secretary Riley has already indicated that this provision is unacceptable, and we are working with other White House offices to determine the level of veto threat most appropriate to issue.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Eli G. Attie (CN=Eli G. Attie/O=OVP [UNKNOWN])

CREATION DATE/TIME:12-SEP-1997 11:24:53.00

SUBJECT: Revised VP Satcher statement (with pumped-up tobacco language)

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

TO: Lowell A. Weiss (CN=Lowell A. Weiss/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

TO: Lorraine A. Voles (CN=Lorraine A. Voles/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

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

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

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

TO: Ron Klain (CN=Ron Klain/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

TEXT:

REMARKS BY VICE PRESIDENT AL GORE
NOMINATION OF DAVID SATCHER AS SURGEON-GENERAL
Friday, September 12, 1997

I, m pleased to welcome Secretary Shalala; Dr. Satcher, his wife Nola, and their wonderful family. We, re also joined by Dr. Randolph Smoak, the Secretary and Treasurer of the American Medical Association; Dr. Nathaniel Murdock, President of the National Medical Association; and Dr. Robert Graham, Executive Vice President of the American Academy of Family Physicians.

This is an important day for the health of America's children and families. In David Satcher, President Clinton has found that rare combination of the personal and the professional -- someone whose profound personal understanding of health and disease is matched only by his long record of accomplishment in the fields of medicine and public health.

Dr. Satcher learned about illness and disease first-hand, when he survived a near-fatal bout of the whooping cough as a young child -- and he stands before us today, not only healthy and strong, but with a demonstrated commitment to protecting our children's health. As one of ten children growing up on a farm in Alabama, he knows the special challenges of reaching out to remote and underserved communities, and ensuring that all our people have access to quality health care. And I believe it is no coincidence that his own family's experience with breast cancer has been followed by years of leadership in treating and preventing that all-too-common illness.

As Aldous Huxley once wrote, experience is not what happens to a man -- it is what a man does with what happens to him. I know David from his presidency of Meharry Medical College in Nashville, Tennessee -- in fact, Tipper served on the board during that time. But he has also been a highly distinguished medical professor and scholar; and a widely recognized leader on issues ranging from cancer to sickle cell to food safety.

But most important to me is Dr. Satcher's commitment to keeping tobacco out of the hands and lungs of America's children. Smoking is the greatest public health challenge in America today -- a deadly habit that America has got to break. I'm proud that this President has done more to cut off children's access to tobacco than any President in history -- and I'm proud that he is nominating a Surgeon General who will be a true field commander in the war against underage smoking.

We've been very, very lucky to have Dr. Satcher's leadership at the Centers for Disease Control these past four years -- and we'll be even luckier to have him as both our next Surgeon General and our Assistant Secretary for Health -- fighting for the health of our children and families, and bringing his tremendous experience and understanding to bear as America's family doctor. Now I'm pleased to introduce President Clinton, who can add this selection to his own very long list of achievements in the area of public health. Mr. President...

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Thomas L. Freedman (CN=Thomas L. Freedman/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:12-SEP-1997 19:33:04.00

SUBJECT: Re: Praises and raises

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

READ:UNKNOWN

TEXT:

you could demand raises for your loyal staff?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-SEP-1997 08:46:55.00

SUBJECT: Politics Defeats Science in Needle Exchange Deabte as House

TO: Joshua Gotbaum (CN=Joshua Gotbaum/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Maria Echaveste (CN=Maria Echaveste/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:

----- Forwarded by Richard Socarides/WHO/EOP on 09/13/97
08:46 AM -----

Doug.Case @ sdsu.edu

09/12/97 11:40:00 PM

Record Type: Record

To: Stuart D. Rosenstein, Richard Socarides

cc:

Subject: Politics Defeats Science in Needle Exchange Deabte as House

NEWS from the
Human Rights Campaign

1101 14th Street NW
Washington, DC 20005
email: kim.mills@hrc.org

WWW: http://www.hrc.org

FOR IMMEDIATE RELEASE

Thursday, Sept. 11, 1997

POLITICS DEFEATS SCIENCE IN NEEDLE EXCHANGE DEBATE AS HOUSE PASSES
ILL-CONSIDERED AMENDMENT

Human Rights Campaign Calls on House-Senate Conferees
To Strike Measure From Final Bill

WASHINGTON -- Politics trumped science today as the House of Representatives passed a wrong-headed amendment that would prevent the use of federal funds for needle exchange programs, according to the Human Rights Campaign.

"The House of Representatives turned a collective blind eye to science today so that some members could sound tough on drugs," said Seth Kilbourn, HRC's senior policy advocate for health issues. "What they did in reality, however, was vote to strip local communities of this chance to save lives.

"There is ample evidence that needle exchange programs save lives by stemming the spread of HIV and AIDS without encouraging illegal drug use. But a majority of the House decided not to let the facts get in the way of demagoguing the issue."

By a vote of 266 to 158, the House passed an amendment to the \$270 billion Labor-Health and Human Services appropriations bill. The amendment would remove the ability of the Health and Human Services secretary to allow local communities to use federal funds for needle exchange programs. The amendment was originally written by Rep. Tom Coburn, R-Okla. It was introduced by Reps. Dennis Hastert, R-Ill., and Roger Wicker, R-Miss.

The Senate version of the appropriations bill retains the secretary's authority to determine federal policy.

"The Human Rights Campaign will work with House and Senate conferees to make sure that the final bill allows science, not politics, to lead this issue," Kilbourn said.

Needle exchange programs provide intravenous drug users with sterile syringes in exchange for used ones. Such programs have been implemented in more than 100 communities around the country, and have been shown to stem the spread of HIV and other blood-borne diseases transmitted through the sharing of injection equipment.

Approximately one-third of reported AIDS cases are related to intravenous drug use.

Current law says that federal funds may not be used for needle exchange programs unless the Department of Health and Human Services gives the green light, which it has not done.

In February, a report by HHS found that needle exchange programs are effective in slowing the spread of HIV and AIDS. Six federally funded studies have reported that needle exchange programs reduce HIV transmission and do not increase drug use.

Also in February, a panel of public health experts at the National Institutes of Health concluded that needle exchange programs are a powerful and proven weapon in the war against HIV and AIDS.

Plus, a majority of the American public -- 55 percent -- favors needle exchange programs as a method to curb the spread of HIV and AIDS, according to a bipartisan poll conducted for the Human Rights Campaign.

The poll found 55 percent "strongly favor" or "somewhat favor" needle exchange programs while 38 percent "somewhat oppose" or "strongly oppose" them. The poll was conducted for HRC by the Tarrance Group, a Republican firm, and Lake Sosin Snell and Associates, Democratic pollsters. The results are based on a survey of 1,000 registered voters contacted between April 8-10.

The poll found that 64 percent of Democrats, 58 percent of independents and 45 percent of Republicans favor needle exchange programs. In addition, needle exchange finds support in ever region of the country, with 64 percent of Americans favoring it in the West, 60 percent in the Northeast, 51 percent in the South and 49 percent in the Midwest. The poll's margin of error is +/- 3.1 percent.

In July, the American Medical Association endorsed needle exchange programs, joining such groups as the American Public Health Association, the Association of State and Territorial Health Officials, the National Academy of Sciences, the National Alliance of State and Territorial AIDS Directors, the National Black Caucus of State Legislators and the U.S. Conference of Mayors. The American Bar Association endorsed them in August.

The Human Rights Campaign is the largest national lesbian and gay political organization, with members throughout the country. It effectively lobbies Congress, provides campaign support and educates the public to ensure that lesbian and gay Americans can be open, honest and safe at home, at work and in the community.

- 30 -

 HRC-NEWS is a public email news service of the Human Rights Campaign, providing you with up to the minute news releases and action alerts. You can instantly and easily subscribe or unsubscribe to HRC-NEWS via <http://www.hrc.org/hrc/hrcnews> or by sending an email to majordomo@lists.hrcusa.org. The subject line can be blank, but on the top line of the body of the message either type: SUBSCRIBE HRC-NEWS or UNSUBSCRIBE HRC-NEWS. The server is case sensitive so please type the above commands as shown. If you have any problems, please contact Phil Attey at phil.attey@hrc.org

===== 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 <01INKL BG4E6800DZTV@PMDF.EOP.GOV>; Fri, 12 Sep 1997 22:40:33 -0400 (EDT)

Received: from storm.eop.gov (storm.eop.gov)

by PMDF.EOP.GOV (PMDF V5.0-4 #6879) id <01INKL BCWX5C005TEO@PMDF.EOP.GOV>; Fri,

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by mail.sdsu.edu (8.8.7/8.8.7) with ESMTTP id TAA12427; Fri,
12 Sep 1997 19:34:36 -0700 (PDT)
X-Sender: dcase@mail.sdsu.edu
===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Sylvia M. Mathews (CN=Sylvia M. Mathews/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:13-SEP-1997 16:42:33.00

SUBJECT: Roe anniversary

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

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

TO: Audrey T. Haynes (CN=Audrey T. Haynes/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

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

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

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

TEXT:

What is the day?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-SEP-1997 10:45:25.00

SUBJECT:

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

READ:UNKNOWN

TO: BRUCE N. (Pager) #REED (BRUCE N. (Pager) #REED [UNKNOWN])

READ:UNKNOWN

TEXT:

BR/EK: Need 1 of you to review memo for monday POTUS mtg. when you're done pillaring. RE: Feinstein, assaults and 2nd amendment. Jose

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-SEP-1997 17:51:45.00

SUBJECT: SEIU Briefing for your review

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

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

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

TEXT:

Please page me when you have reviewed this.

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

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D29]MAIL49584655M.216 to ASCII,
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September 1, 1997

ADDRESS TO THE SERVICE EMPLOYEES INTERNATIONAL UNION (SEIU)

DATE: September 12, 1997
LOCATION: Grand Hyatt Hotel
BRIEFING TIME: 10:35 am - 10:50 am
EVENT TIME: 11:00 am - 12:00 pm
FROM: Bruce Reed

I. PURPOSE

To demonstrate your commitment to improving health care quality and eliminating fraud and abuse before the SEIU Legislative Conference.

II. BACKGROUND

You will be addressing approximately 800 members of SEIU at their annual Political and Legislative Conference. SEIU is the third largest union in the AFL-CIO, and the largest union of health care workers. The majority of SEIU's members work in the fields of health care, public service, or janitorial service. This conference will focus on two of the SEIU's top political priorities: extending the Fair Labor Standards Act to Workfare participants and gaining strong legislation to combat health care fraud.

Vice President Gore is attending the SEIU Council of President's Reception the weekend prior to your speech. Dr. Julian Malveaux will be addressing the conference the morning of your speech. Rep. Gephardt will be addressing the Conference later in the week.

Andrew Stern has been President since April 1996. You have met with him twice at the White House, most recently in a meeting with other union leaders on the issues surrounding granting a welfare waiver to Texas. Secretary Treasurer Betty Bednarczyk also serves on the Health Care Quality Commission.

In your speech you will be making the following announcements:

- **Home Health Care.** To respond to the extreme growth of home health agencies participating in the Medicare program (nearly 100 new agencies a

month), you will be announcing three new initiatives to ensure accountability and combat waste, fraud, and abuse in home health care:

- (1) the first-ever moratorium on the entry of new home health agencies into Medicare until new safeguards are in place (about six months);
- (2) a new re-certification requirement for home health agencies every three years. Currently, there is no re-certification process and the only way a home health agency would be kicked out of Medicare is if convicted of fraud; and
- (3) nearly double the number of audits HCFA will perform on home health agencies, and an increase in claims reviewed by 25 %.

- **QUALITY.** You will call on Congress to act immediately to pass legislation currently pending on the Hill which will improve the quality of our health care system. Specifically, you will reiterate your support for three pieces of pending legislation that would achieve the following objectives:
 - (1) Bans gag rules for Americans enrolled in private sector health plans. (You already took this action with Medicare and Medicaid);
 - (2) Ends drive-through mastectomies to ensure health plans cover women to stay in the hospital for at least 48 hours after their surgery; and
 - (3) Prevents health plans from discriminating based on genetic information. (You will also state that the Administration will be releasing recommendations later this year to prevent employers from discriminating based on genetic information.)
- **PRIVACY.** You will also announce a new challenge to Congress to enact strong privacy protections recommended by HHS last week to protect the privacy of health care information. These protections should include increasing consumers' rights about how their health information will be used, and provide for punishment for those who misuse personal information and redress for people harmed by its misuse.

III. PARTICIPANTS

Briefing Participants:

John Podesta
Bruce Reed
Chris Jennings
June Shih

Event Participants:

Andrew Stern, SEIU President

Participants seated on stage:

Betty Bednarczyk, Secretary-Treasurer

Patricia Ford, Executive Vice President
Eliseo (uh-LEE-say-o)

IV. PRESS PLAN

Open Press.

V. SEQUENCE OF EVENTS

- You will be greeted by SEIU President Andrew Stern and family. (NOTE: His daughter Cassie will be turning nine years old that day.)
- You will be announced onto the stage accompanied by Andrew Stern.
- SEIU President Andrew Stern will make remarks and introduce you.
- You will make remarks and depart.

VI. REMARKS

Remarks Provided by June Shih in Speechwriting.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-SEP-1997 17:54:33.00

SUBJECT:

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

READ:UNKNOWN

TEXT:

I emailed you briefing for SEIU/health speech. Due tom. afternoon. Page me when you have reviewed it. Christa 6-5165.

D R A F T

September 13, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: RAHM EMANUEL
BRUCE REED

RE: MEETING WITH SENATOR FEINSTEIN ON FIREARMS ISSUES

Senator Feinstein will want to discuss three firearms issues with you that were recently featured in a week-long LA Times series criticizing the California and federal laws banning assault weapons. They include: (1) the importation of large capacity ammunition feeding devices; (2) "copycat" or "sporterized" assault weapons; and (3) enforcing federal firearms laws at gun shows. This memorandum summarizes these issues and provides some suggested talking points for your meeting.

I. LARGE CAPACITY AMMUNITION FEEDING DEVICES

The assault weapons ban generally banned the possession of ammunition clips with a capacity of more than 10 rounds, but specifically grand fathered those clips that were manufactured on or before September 13, 1994. Initially, The Bureau of Alcohol, Tobacco and Firearms (ATF), with guidance from the Domestic Policy Council (DPC), interpreted this ban to prohibit continued importation of all large capacity clips -- no matter when they were manufactured. The thinking being that clips not in the country before the effective date could not have been lawfully possessed at that time and were, thus, banned from importation.

Several importers, however, brought suit challenging this narrow interpretation of the law, and the Department of Justice advised that the ATF/DPC position was not likely to hold up in court and should be reversed. As a result, in July of 1996, ATF reinterpreted the clip provision acknowledging that pre-ban clips could be imported, but requiring importers to present reasonable evidence that clips to be imported were manufactured on or before the ban's enactment. As of March 1, 1997, approximately 160,000 large capacity clips had entered the country under 21 approved permits, and another 20 permits were denied for lack of evidence. In total, 83 one-year permits have been approved seeking to import more than 2 million large clips. (While there are no definitive numbers about how many domestically produced clips were grand fathered, it is estimated that there are many millions of existing -- and reusable -- clips that will last a lifetime.)

Senator Feinstein opposed the language in the assault weapons ban grand fathering large and would support legislation to repeal it. This language, however, was inserted in conference by Representative John Dingell, and Administration officials -- including former Chief of Staff

Leon Panetta -- have been reluctant to seek its repeal.

The Senator has also suggested that the Administration can, by executive order, further restrict the number of large clips imported or increase the number of ATF agents investigating the production of clips overseas. We are not optimistic about either of these options. First, as previously mentioned, the Department of Justice has already overturned the ATF/ DPC initial policy to ban the importation of all large clips. And second, ATF agents have no overseas jurisdiction to conduct investigations and can only do so by convention or through mutual assistance treaties.

II. "COPYCAT" OR "SPORTERIZED" ASSAULT WEAPONS

The assault weapons ban covers 19 named firearms, duplicates of those 19 by any other name and semiautomatic weapons that accept a detachable magazine and possess at least two of certain characteristics specifically outlined in the law (e.g., folding stocks, bayonet lugs, flash suppressors, protruding pistol grips, etc.). Since passage of the assault weapons ban, some gun manufacturers have adapted or "sporterized" their assault weapons to meet the law's criteria. As a result, there are guns on the market with either similar names or similar features as assault weapons, but that otherwise comply with the terms of the ban. In fact, despite their appearance, some of these firearms -- such as the Israeli Military Industries Galil -- have been re-engineered and are considerably more difficult to convert to fully automatic than their previous versions. Nonetheless, a lucrative market still exists for "assault-type" weapons, and some manufacturers have sought -- either through brand names or appearances -- to continue to target this segment of the market.

Senator Feinstein believes that we can do more to crackdown on these new "copycat" versions of assault weapons. We do not think this is possible without additional authority from Congress. This was a limitation of the assault weapons ban that the Administration and Congress accepted when we decided to endorse the Feinstein/DeConcini approach over Representative Schumer's, which granted the Treasury Department the authority to add or delete firearms from the prohibited list.

III. ENFORCING FEDERAL FIREARMS LAWS AT GUN SHOWS

Gun shows and flea markets are the last bastion of completely unregulated and undocumented firearms transfers. Most participants are private gun owners who do not sell firearms for a living and are generally there to buy and sell from each others private collections. As such, these secondary sales are generally exempt from most state and federal firearms laws, including the 1968 Gun Control Act that gave the Treasury Department the authority to license and regulate federal firearms dealers. However, time and time again anecdotal evidence has shown that violations of state and federal firearms laws often take place at these shows. And Senator Feinstein believes that ATF should police these shows more aggressively, and that it should alter its current regulations to allow ATF agents to attend these shows.

ATF's current policy -- as of March 16, 1994 -- is that agents must get authorization from

their local Special Agent in Charge (SAC) and have an intended subject or target before they can attend a gun show. Prior to this date -- and as a response to congressional hearings on ATF's internal policies and procedures -- ATF had an even more restrictive policy that required approval from the Washington office before an agent could attend a gun show. This is no longer the case, and ATF agents do attend gun shows in the course of investigations and to follow-up on tips from legitimate gun dealers. ATF agents, however, do not attend gun shows without any leads or information. It is worth mentioning also that ATF inspectors do attend and sponsor booths at all of the major gun shows attended by manufacturers and gun dealers.

IV. SUGGESTED TALKING POINTS

- Senator, I share your concerns with respect to the assault weapons ban and am willing to use the full authority of the executive branch to make sure that we do our best to enforce the ban.
- In fact, on three separate occasions I have taken executive action to crackdown on assault weapons and gun dealers. In August of 1993, I banned the importation of assault pistols and toughened requirements for federal gun dealers. And in May of 1994, for foreign policy reasons, I banned the importation of firearms from China -- including millions of assault-type weapons and large capacity clips.
- Equally important, we have tried to interpret the provisions of the assault weapons ban as strictly as possible, but I understand that we were suited and forced to change our position.
- So I think we will need to pass new legislation that expands Treasury's authority if we want to ban more guns and more clips -- and you know that will not be easy. But I am pleased to ask Rahm Emanuel, Bruce Reed and our attorneys to take one more look at the law and your suggestions, and to see if there is anything more we can do short of legislation.
- With respect to gun shows, I think you have hit on an important but difficult issue. We have had so much success with Brady, the assault weapons ban and reforming the federal firearms licensing system. And gun shows should not be allowed to undermine these efforts.
- While it seems that we have little authority in this area, I agree with you that there must be more we can do. Again, I would like to ask Rahm and Bruce to do some research on this and see what administrative options are available to us -- to see what more we might be able to do in terms of enforcing federal firearms laws at these shows.

D R A F T

September 13, 1997

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FROM: RAHM EMANUEL
BRUCE REED

RE: MEETING WITH SENATOR FEINSTEIN ON FIREARMS ISSUES

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Several importers, however, brought suit challenging this narrow interpretation of the law, and the Department of Justice advised that the ATF/DPC position was not likely to hold up in court and should be reversed. As a result, in July of 1996, ATF reinterpreted the clip provision acknowledging that pre-ban clips could be imported, but requiring importers to present reasonable evidence that clips to be imported were manufactured on or before the ban's enactment. Thus, as of March 1, 1997, approximately 160,000 large capacity clips had entered the country under 21 approved permits; another 20 permits had been denied for lack of evidence; and a total of 83 approved permits seeking to import more than 2 million large clips remained outstanding. (NB: There are no definitive numbers about how many domestically produced clips have been grandfathered, but it is estimated that there are many millions of existing -- and reusable -- clips that will last a lifetime.)

Senator Feinstein opposed the language in the assault weapons ban grandfathering large clips and supports repealing it. This language, however, was inserted during the crime bill conference by Representative John Dingell, and Administration officials and Members of Congress involved in the negotiations have been reluctant to seek its repeal.

The Senator has also suggested that the Administration can, by executive order, further restrict the number of large clips imported or increase the number of ATF agents investigating the production of clips overseas. We are not optimistic about either of these options. First, as previously mentioned, the Department of Justice has already overturned the ATF/ DPC initial policy to ban the importation of all large clips. And second, ATF agents have no overseas jurisdiction to conduct investigations and can only do so by convention or through mutual assistance treaties with other countries.

II. "COPYCAT" OR "SPORTERIZED" ASSAULT WEAPONS

The assault weapons ban prohibits 19 specific firearms, duplicates of those 19 and other semiautomatic weapons that meet various criteria (i.e., those that accept a detachable magazine and possess characteristics such as folding stocks, bayonet lugs and flash suppressors). Since passage of the assault weapons ban, some gun manufacturers have adapted or "sporterized" their assault weapons to meet the law's criteria. As a result, there are guns on the market today with either similar names or certain similar features as assault weapons, but that otherwise comply with the terms of the ban. In fact, despite their appearance, some of these firearms -- such as the Israeli Military Industries Galil -- have been re-engineered and are considerably more difficult to convert to fully automatic than their previous versions. Nonetheless, a lucrative market still exists for "assault-type" weapons, and some manufactures -- either through brand names or appearances -- continue to target this segment of the market.

Senator Feinstein believes that we can do more to crack down on these new "copycat" versions of assault weapons. We do not think this is possible without additional authority from Congress. This was a limitation of the assault weapons ban that the Administration and Congress accepted when they decided to endorse the Feinstein/DeConcini approach over Representative Schumer's. The Schumer ban granted the Treasury Department the authority to add or delete firearms from the prohibited list.

III. ENFORCING FEDERAL FIREARMS LAWS AT GUN SHOWS

Gun shows and flea markets are the last bastion of unregulated and undocumented firearms transfers. Most participants are private gun owners who do not sell firearms for a living and are generally there to buy and sell from each others' private collections. As such, these secondary sales are generally exempt from most state and federal firearms laws, including the 1968 Gun Control Act that gives the Treasury Department the authority to license and regulate federal firearms dealers. However, anecdotal evidence repeatedly has shown that violations of state and federal firearms laws often do take place at these shows. Senator Feinstein believes that ATF should amend its internal policies and police these shows more aggressively.

As of March 16, 1994, ATF's policy on gun shows provides that agents must get authorization from their local Special Agent in Charge (SAC) and have an intended subject or target before they can attend a gun show. Prior to this date -- and in response to congressional hearings on ATF's policies -- ATF had an even more restrictive policy that required approval

from the Washington headquarters before an agent could attend a gun show. This is no longer the case, and ATF agents do attend gun shows in the course of investigations and to follow-up on tips from legitimate gun dealers. Additionally, ATF inspectors do attend and sponsor booths at all of the major gun shows -- those attended by manufacturers and gun dealers, not just private collectors -- and disseminate information on federal gun laws.

IV. SUGGESTED TALKING POINTS

- Senator, I share your concerns with respect to the assault weapons ban and am willing to use the full authority of the executive branch to make sure that we do our best to enforce the ban's provisions.
- In fact, on 3 separate occasions I have taken executive action to crack down on assault weapons and gun dealers. In August of 1993, I banned the importation of assault pistols and toughened requirements for federal gun dealers. And in May of 1994, for foreign policy reasons, I banned the importation of firearms from China -- including millions of assault-type weapons and large capacity clips.
- Equally important, we have tried to interpret the provisions of the ban on large capacity clips as strictly as possible, but litigation forced us to change our position.
- So, unfortunately, I think we will need to pass new legislation that expands Treasury's authority if we want to include more guns and more clips -- and you know that will not be easy. But I am pleased to ask Rahm Emanuel, Bruce Reed and our attorneys to take one more look at the law and your suggestions, and to see if there is anything more we can do short of legislation.
- With respect to gun shows, I think you have hit on an important issue. We have had much success through the Brady Bill, assault weapons ban and reforms to the federal firearms licensing system, and gun shows should not be allowed to undermine these efforts.
- Still, it seems that we have little authority in this area, and that Congress has a history of restricting ATF's ability to aggressively enforce our gun laws. But I agree with you that there must be more we can do. Again, I would like to ask Rahm and Bruce to do some research on this and see what administrative options are available to us -- to see what more we might be able to do in terms of federal enforcement at these shows.