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[03/13/1998]

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. email	Daniel Montoya to William White Jr. et al re: PACHA Agenda [partial] (1 page)	03/13/1998	P6/b(6)
001b. email attachment	Address (Partial) Phone Number (Partial) (4 pages)	03/13/1998	P6/b(6)

COLLECTION:

Clinton Presidential Records
 Automated Records Management System (Email)
 OPD ([Kagan])
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FOLDER TITLE:

[03/13/1998]

2009-1006-F

eh213

RESTRICTION CODES

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

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

- 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]

- 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]

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.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Ingrid M. Schroeder (CN=Ingrid M. Schroeder/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:13-MAR-1998 13:13:57.00

SUBJECT: LRM #MJG192 - Statement of Administration Policy on HR2294 Federal Courts

TO: silasadr (silasadr @ justice.usdoj.gov @ inet [UNKNOWN])
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TEXT:
Total Pages: _____

LRM ID: MJG192
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Friday, March 13, 1998

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: James J. Jukes (for) Assistant Director for Legislative Reference
OMB CONTACT: Ingrid M. Schroeder
PHONE: (202)395-3883 FAX: (202)395-3109

SUBJECT: Statement of Administration Policy on HR2294 Federal
Courts Improvement Act of 1997

DEADLINE: 5pm Friday, March 13, 1998

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: HR 2294 is scheduled for House floor action on the suspension calendar on Tuesday, March 17th.

H.R. 2294 bill text as reported from the House Judiciary Committee is attached for your reference.

DISTRIBUTION LIST

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 Cathy Poynton
 Tom Stack
 Alice Shuffield

LRM ID: MJG192 SUBJECT: Statement of Administration Policy on HR2294
 Federal Courts Improvement Act of 1997

RESPONSE TO
 LEGISLATIVE REFERRAL
 MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

- (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
- (2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: Ingrid M. Schroeder Phone: 395-3883 Fax: 395-3109
 Office of Management and Budget
 Branch-Wide Line (to reach legislative assistant): 395-3454

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

- _____ Concur
- _____ No Objection
- _____ No Comment
- _____ See proposed edits on pages _____
- _____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

DRAFT -- NOT FOR RELEASE
March 13, 1998
(House)

H.R. 2294 - Federal Courts Improvement Act
(Coble (R) North Carolina)

The Administration supports several provision of H.R. 2294 that would improve the Administration of Federal courts. The Administration, however, opposes House passage of the bill because it would:

Require an annual transfer of funds from the Justice and Treasury Asset Forfeiture Funds to the Judiciary to cover certain costs including the costs of adjudicating civil and criminal forfeiture cases and providing counsel to indigent defendants in such cases. This provision could appear to represent a conflict of interest for the Judiciary branch in that it may obtain a pecuniary benefit from decisions forfeiting assets or funds to the United States. In addition, asset forfeiture funds already are used to pay lien holders, victims of crime committed by the defendant, or others with superior rights. (Section 101)

Permit judges to have service previously credited under the Federal Employees Retirement System or the Civil Service Retirement System (including employer contributions) transferred to the new judicial officers' retirement system. This provision would create an inequitable balance in the manner in which transferred service credit is treated. (Section 102)

Vest magistrate judges with criminal contempt authority in certain instances. Giving contempt authority to non-Article III judges raises constitutional concerns. (Section 202)

The Administration also has concerns regarding provisions of H.R. 2294 which would provide 90-day annual leave carryover to "designated executives" and would exempt Federal Public Defenders from claims of malpractice or negligence in providing representational services.

Pay-As-You-Go Scoring

H.R. 2294 is subject to the "pay-as-you-go" requirement (PAYGO) of the Omnibus Budget Reconciliation Act of 1990. The Administration's PAYGO estimates for this bill are under development, but the preliminary analysis of the bill suggest that H.R. 2294 may result in substantial increases in direct spending. The Balanced Budget Act of 1997 reduced the PAYGO balances to zero, and, consequently, any bill that would increase mandatory spending or result in a net revenue loss could contribute to a sequester of mandatory programs as called for in the Budget Enforcement Act. As a result, if the bill were enacted, any deficit effects could contribute to a sequester of mandatory spending.

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

TEXT:
Unable to convert ARMS_EXT:[ATTACH.D68]MAIL463884173.026 to ASCII,
The following is a HEX DUMP:

nion Calendar No. 247

105th CONGRESS

Automated Records Management System

2d Session

Hex-Dump Conversion

H. R. 2294

[Report No. 105-437]

A BILL

To make improvements in the operation and administration of the Federal courts, and for other purposes.

March 12, 1998

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

HR 2294 RH

Union Calendar No. 247

105th CONGRESS

2d Session

H. R. 2294

[Report No. 105-437]

To make improvements in the operation and administration of the Federal courts, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

July 30, 1997

Mr. COBLE (by request) introduced the following bill; which was referred to the Committee on the Judiciary

March 12, 1998

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on July 30, 1997]

A BILL

To make improvements in the operation and administration of the Federal courts, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE- This Act may be cited as the 'Federal Courts Improvement Act of 1998'.

(b) TABLE OF CONTENTS- The table of contents of this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I--JUDICIAL FINANCIAL ADMINISTRATION

Sec. 101. Reimbursement of judiciary for civil and criminal forfeiture expenses.

Sec. 102. Transfer of retirement funds.

Sec. 103. Extension of Judiciary Information Technology Fund.

Sec. 104. Bankruptcy fees.

Sec. 105. Disposition of miscellaneous fees.

TITLE II--JUDICIAL PROCESS IMPROVEMENTS

Sec. 201. Extension of statutory authority for magistrate judge positions to be established in the district courts of Guam and the Northern Mariana Islands.

Sec. 202. Magistrate judge contempt authority.

Sec. 203. Consent to magistrate judge authority in petty offense cases and magistrate judge authority in misdemeanor cases involving juvenile defendants.

Sec. 204. Savings and loan data reporting requirements.

Sec. 205. Place of holding court in the Eastern District of Texas.

Sec. 206. Federal substance abuse treatment program reauthorization.

Sec. 207. Membership in circuit judicial councils.

Sec. 208. Sunset of civil justice expense and delay reduction plans.

Sec. 209. Repeal of Court of Federal Claims filing fee.

Sec. 210. Technical bankruptcy correction.

Sec. 211. Renumbering of bankruptcy court fee schedule.

TITLE III--JUDICIAL PERSONNEL ADMINISTRATION, BENEFITS, AND PROTECTIONS

Sec. 301. Judicial retirement matters.

Sec. 302. Disability retirement and cost-of-living adjustments of annuities for territorial judges.

Sec. 303. Federal Judicial Center personnel matters.

Sec. 304. Judicial administrative officials retirement matters.

Sec. 305. Judges' firearms training.

Sec. 306. Exemption from jury service.

Sec. 307. Expanded workers' compensation coverage for jurors.

Sec. 308. Property damage, theft, and loss claims of jurors.

Sec. 309. Annual leave limit for court unit executives.

Sec. 310. Transfer of county to Middle District of Pennsylvania.

Sec. 311. Creation of two divisions in Eastern District of Louisiana.

Sec. 312. District judges for the Florida district courts.

Sec. 313. Change in composition of divisions in Western District of Tennessee.

Sec. 314. Payments to military survivors benefits plan.

Sec. 315. Creation of certifying officers in the judicial branch.

Sec. 316. Authority to prescribe fees for technology resources in the courts.

TITLE IV--CRIMINAL JUSTICE ACT AMENDMENTS

Sec. 401. Maximum amounts of compensation for attorneys.

Sec. 402. Maximum amounts of compensation for services other than counsel.

Sec. 403. Tort Claims Act amendment relating to liability of Federal public defenders.

TITLE I--JUDICIAL FINANCIAL ADMINISTRATION

SEC. 101. REIMBURSEMENT OF JUDICIARY FOR CIVIL AND CRIMINAL FORFEITURE EXPENSES.

(a) Section 524(c) of title 28, United States Code, is amended--

(1) by inserting after paragraph (11) the following paragraph (12):

(12)(A) In the fiscal year subsequent to the fiscal year in which this paragraph is enacted and each fiscal year thereafter, an amount as specified in subparagraph (B) shall be transferred annually to the judiciary into the fund established under section 1931 of this title, for expenses incurred in--

(i) adjudication of civil and criminal forfeiture proceedings that result in deposits into the Fund (except the expense of salaries of judges);

(ii) representation, pursuant to the provisions of section 3006A of title 18, section 408(q) of the Controlled Substances Act (21 U.S.C. 848(q)) of offenders whose assets have been seized in such forfeiture proceedings, to the extent that such expenses of representation could have been recovered through an order for payment or for reimbursement of the Defender Services appropriation pursuant to section 3006A(f) of title 18; and

(iii) supervision by United States probation officers of offenders under home detention or other forms of confinement outside of Bureau of Prison facilities.

(B) The amount to be transferred--

(i) shall be a portion of the total amount to be transferred from the combined fiscal year deposits into both the Fund and the Department of the Treasury Asset Forfeiture Fund established by section 9703 of title 31, United States Code (hereafter referred to as 'both Funds'), which total shall not exceed the statement of costs incurred by the Judiciary in providing the services identified in subparagraph (A), as set forth by the Director of the Administrative Office of the United States Courts in a report to the Attorney General and the Secretary of the Treasury no later than 90 days after the end of the fiscal year in which the expenses were incurred except that--

(I) the total amount to be transferred from both Funds shall not exceed \$50,000,000, or 10 percent of the total combined deposits into both Funds, whichever is less;

(II) the proportion of the amount transferred from the Fund to the total amount to be

transferred shall be equal to the proportion of the fiscal year deposits into the Fund to the combined fiscal year deposits in both Funds; and

(III) the total amount to be transferred from both Funds may exceed the limits set out in this subparagraph, subject to the discretion of the Attorney General and the Secretary of the Treasury.

(ii) shall be paid from revenues deposited into the Fund during the fiscal year in which the expenses were incurred and are not required to be specified in appropriations Acts.'

(b) Section 9703 of title 31, United States Code, is amended--

(1) by redesignating subsection (p) as subsection (q); and

(2) by inserting after subsection (o) the following new subsection:

(p) TRANSFER TO THE FEDERAL JUDICIARY- In the fiscal year subsequent to the fiscal year in which this subsection is enacted and each fiscal year thereafter, an amount necessary to meet the transfer requirements of section 524(c)(9) of title 28 shall be transferred to the Judiciary, and shall be subject to the same limitations, terms, and conditions specified in that section for transfers to the Judiciary from the Department of Justice Asset Forfeiture Fund.'

(c) Section 1931(a) of title 28, United States Code, is amended by inserting 'or other judicial services including services provided pursuant to section 3006A of title 18 or

section 409(q) of the Controlled Substances Act (21 U.S.C. 848(q))' after 'courts of the United States'.

SEC. 102. TRANSFER OF RETIREMENT FUNDS.

Section 377 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

'(p) Upon election by a bankruptcy judge or a magistrate judge under subsection (f) of this section, all of the accrued employer contributions and accrued interest on those contributions made on behalf of the bankruptcy judge or magistrate judge to the Civil Service Retirement and Disability Fund as defined under section 8348 of title 5, shall be transferred to the fund established under section 1931 of this title, that if the bankruptcy judge or magistrate judge elects under section 2(c) of the Retirement and Survivor's Annuities for Bankruptcy Judges and Magistrates Act of 1988 (Public Law No. 100-659), to receive a retirement annuity under both this section and title 5, only the accrued employer contributions and accrued interest on such contributions made on behalf of the bankruptcy judge or magistrate judge for service credited under this section may be transferred.'

SEC. 103. EXTENSION OF JUDICIARY INFORMATION TECHNOLOGY FUND.

Section 612 of title 28, United States Code, is amended--

- (1) by striking 'equipment' each place it appears and inserting 'resources';
- (2) by striking subsection (f) and redesignating subsequent subsections accordingly;
- (3) in subsection (g), as so redesignated, by striking paragraph (3); and
- (4) in subsection (i), as so redesignated,--
 - (A) by striking 'Judiciary' each place it appears and inserting 'judiciary';
 - (B) by striking 'subparagraph (c)(1)(B)' and inserting 'subsection (c)(1)(B)'; and
 - (C) by striking 'under (c)(1)(B)' and inserting 'under subsection (c)(1)(B)'.

SEC. 104. BANKRUPTCY FEES.

Subsection (a) of section 1930 of title 28, United States Code, is amended by adding at the end the following new paragraph:

(7) In districts that are not part of a United States trustee region as defined in section 581 of this title, the Judicial Conference of the United States may require the debtor in a case under chapter 11 of title 11 to pay fees equal to those imposed by paragraph (6) of this subsection. Such fees shall be deposited as offsetting receipts to the fund established under section 1931 of this title and shall remain available until expended.'

SEC. 105. DISPOSITION OF MISCELLANEOUS FEES.

For fiscal year 1997 and thereafter, any portion of miscellaneous fees collected as prescribed by the Judicial Conference of the United States pursuant to section 1913, 1914(b), 1926(a), 1930(b), and 1932 of title 28, United States Code, exceeding the amount of such fees established on the date of the enactment of this Act shall be deposited into the special fund of the Treasury established under section 1931 of title 28, United States Code.

TITLE II--JUDICIAL PROCESS IMPROVEMENTS

SEC. 201. EXTENSION OF STATUTORY AUTHORITY FOR MAGISTRATE JUDGE POSITIONS TO BE ESTABLISHED IN THE DISTRICT COURTS OF GUAM AND THE NORTHERN MARIANA ISLANDS.

Section 631 of title 28, United States Code, is amended--

(1) by striking the first two sentences of subsection (a) and inserting the following: 'The judges of each United States district court and the district courts of the Virgin Islands, Guam, and the Northern Mariana Islands shall appoint United States magistrate judges in such numbers and to serve at such locations within the judicial districts as the Judicial Conference may determine under this chapter. In the case of a magistrate judge appointed by the district court of the Virgin Islands, Guam, or the Northern Mariana Islands, this chapter shall apply as though the court appointing such a magistrate judge were a United States district court.'; and

(2) by inserting in the first sentence of paragraph (1) of subsection (b) after 'Commonwealth of Puerto Rico,' the following: 'the Territory of Guam, the Commonwealth of the Northern Mariana Islands,'.

SEC. 202. MAGISTRATE JUDGE CONTEMPT AUTHORITY.

Section 636(e) of title 28, United States Code is amended to read as follows:

(e) CONTEMPT AUTHORITY-

(1) IN GENERAL- A United States magistrate judge serving under this chapter

shall have within the territorial jurisdiction prescribed by his or her appointment the power to exercise contempt authority as set forth in this section.

“(2) SUMMARY CRIMINAL CONTEMPT AUTHORITY- A magistrate judge shall have the power to punish summarily by fine or imprisonment such contempt of his or her authority constituting misbehavior of any person in the magistrate judge's presence so as to obstruct the administration of justice. The order of contempt shall be issued pursuant to the Federal Rules of Criminal Procedure.

“(3) ADDITIONAL CRIMINAL CONTEMPT AUTHORITY IN CIVIL CONSENT AND MISDEMEANOR CASES- In any case in which a United States magistrate judge presides with the consent of the parties under subsection (c) of this section, and in any misdemeanor case proceeding before a magistrate judge under section 3401 of title 18, the magistrate judge shall have the power to punish by fine or imprisonment such criminal contempt constituting disobedience or resistance to the magistrate judge's lawful writ, process, order, rule, decree, or command. Disposition of such contempt shall be conducted upon notice and hearing pursuant to the Federal Rules of Criminal Procedure.

“(4) CIVIL CONTEMPT AUTHORITY IN CIVIL CONSENT AND MISDEMEANOR CASES- In any case in which a United States magistrate judge presides with the consent of the parties under subsection (c) of this section, and in any misdemeanor case proceeding before a magistrate judge under section 3401 of title 18, the magistrate judge may exercise the civil contempt authority of the district court. This subsection shall not be construed to limit the authority of a magistrate judge to order sanctions pursuant to any other statute, the Federal Rules of Civil Procedure, or the Federal Rules of Criminal Procedure.

“(5) CRIMINAL CONTEMPT PENALTIES- The sentence imposed by a magistrate judge for any criminal contempt provided for in paragraphs (2) and (3) shall not exceed the penalties for a Class C misdemeanor as set forth in sections 3581(b)(8) and 3571(b)(6) of title 18.

“(6) CERTIFICATION OF OTHER CONTEMPTS TO THE DISTRICT COURT- Upon the commission of any such act--

“(A) in any case in which a United States magistrate judge presides with the consent of the parties under subsection (c) of this section, or in any misdemeanor case proceeding before a magistrate judge under section 3401 of title 18, that may, in the opinion of the magistrate judge, constitute a serious criminal contempt punishable by penalties exceeding those set forth in paragraph (5) of this subsection, or

(B) in any other case or proceeding under subsection (a) or (b) of this section, or any other statute, where--

(i) the act committed in the magistrate judge's presence may, in the opinion of the magistrate judge, constitute a serious criminal contempt punishable by penalties exceeding those set forth in paragraph (5) of this subsection, or

(ii) the act that constitutes a criminal contempt occurs outside the presence of the magistrate judge, or

(iii) the act constitutes a civil contempt,

the magistrate judge shall forthwith certify the facts to a district judge and may serve or cause to be served upon any person whose behavior is brought into question under this paragraph an order requiring such person to appear before a district judge upon a day certain to show cause why he or she should not be adjudged in contempt by reason of the facts so certified. The district judge shall thereupon hear the evidence as to the act or conduct complained of and, if it is such as to warrant punishment, punish such person in the same manner and to the same extent as for a contempt committed before a district judge.

(7) APPEALS OF MAGISTRATE JUDGE CONTEMPT ORDERS- The appeal of an order of contempt pursuant to this section shall be made to the court of appeals in cases proceeding under subsection (c) of this section. In any other proceeding in which a United States magistrate judge presides under subsection (a) or (b) of this section, section 3401 of title 18, or any other statute, the appeal of a magistrate judge's summary contempt order shall be made to the district court.

SEC. 203. CONSENT TO MAGISTRATE JUDGE AUTHORITY IN PETTY OFFENSE CASES AND MAGISTRATE JUDGE AUTHORITY IN MISDEMEANOR CASES INVOLVING JUVENILE DEFENDANTS.

(a) AMENDMENTS TO TITLE 18-

(1) Section 3401(b) of title 18, United States Code, is amended by striking 'that is a class B misdemeanor charging a motor vehicle offense, a class C misdemeanor, or an infraction,' after 'petty offense'.

(2) Section 3401(g) of title 18, United States Code, is amended--

(A) by striking the first sentence and inserting the following: 'The magistrate judge may, in a petty offense case involving a juvenile,

exercise all powers granted to the district court under chapter 403 of this title.';

(B) in the second sentence by striking the phrase 'other class B or C misdemeanor case' and inserting 'misdemeanor, other than a petty offense,'; and

(C) by striking the last sentence.

(b) AMENDMENTS TO TITLE 28- Section 636(a) of title 28, United States Code, is amended by striking paragraphs (4) and (5) and inserting in the following:

'(4) the power to enter a sentence for a petty offense; and

'(5) the power to enter a sentence for a class A misdemeanor in a case in which the parties have consented.'

SEC. 204. SAVINGS AND LOAN DATA REPORTING REQUIREMENTS.

Section 604 of title 28, United States Code, is amended in subsection (a) by striking the second paragraph designated (24).

SEC. 205. PLACE OF HOLDING COURT IN THE EASTERN DISTRICT OF TEXAS.

(a) TEXAS- The second sentence of section 124(c)(3) of title 28, United States Code, is amended by inserting 'and Plano' after 'held at Sherman'.

(b) TEXARKANA- Sections 83(b)(1) and 124(c)(6) of title 28, United States Code, are each amended by adding before the period at the end of the last sentence the following: ', and may be held anywhere within the Federal courthouse in Texarkana that is located astride the State line between Texas and Arkansas'.

SEC. 206. FEDERAL SUBSTANCE ABUSE TREATMENT PROGRAM REAUTHORIZATION.

Section 4(a) of the Contract Services for Drug Dependent Federal Offenders Treatment Act of 1978 (Public Law 95-537; 92 Stat. 2038; 18 U.S.C. 3672 note) is amended by striking all that follows 'there are authorized to be appropriated' and inserting 'for fiscal year 1998 and each fiscal year thereafter such sums as may be necessary to carry out this Act.'

SEC. 207. MEMBERSHIP IN CIRCUIT JUDICIAL COUNCILS.

Section 332(a) of title 28, United States Code, is amended--

(1) by striking paragraph (1) and inserting the following:

`(1) The chief judge of each judicial circuit shall call and preside at a meeting of the judicial council of the circuit at least twice in each year and at such places as he or she may designate. The council shall consist of an equal number of circuit judges (including the chief judge of the circuit) and district judges, as such number is determined by majority vote of all such judges of the circuit in regular active service.';

(2) by striking paragraph (3) and inserting the following:

`(3) Except for the chief judge of the circuit, either judges in regular active service or judges retired from regular active service under section 371(b) of this title may serve as members of the council.'; and

(3) by striking `retirement,' in paragraph (5) and inserting `retirement pursuant to section 371(a) or section 372(a) of this title,'.

SEC. 208. SUNSET OF CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLANS.

Section 103(b)(2)(A) of the Civil Justice Reform Act of 1990 (Public Law 101-650; 104 Stat. 5096; 28 U.S.C. 471 note), as amended by Public Law 105-53 (111 Stat. 1173), is amended by inserting `471,' after `sections'.

SEC. 209. REPEAL OF COURT OF FEDERAL CLAIMS FILING FEE.

Section 2520 of title 28, United States Code, and the item relating to such section in the table of contents for chapter 165 of such title, are repealed.

SEC. 210. TECHNICAL BANKRUPTCY CORRECTION.

Section 1228 of title 11, United States Code, is amended by striking `1222(b)(10)' each place it appears and inserting `1222(b)(9)'.

SEC. 211. RENUMBERING OF BANKRUPTCY COURT FEE SCHEDULE.

Section 406(b) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162; 103 Stat. 1016; 28 U.S.C. 1931 note) is amended in the first sentence by striking `for any service enumerated after item 18' and inserting `for any fee implemented after November 21, 1989'.

TITLE III--JUDICIAL PERSONNEL ADMINISTRATION, BENEFITS, AND PROTECTIONS

SEC. 301. JUDICIAL RETIREMENT MATTERS.

Section 371 of title 28, United States Code, is amended--

- (1) in subsection (a) by inserting '(1)' after 'subsection (c)';
- (2) in subsection (b)(1) by inserting '(2)' after 'subsection (c)'; and
- (3) in subsection (c)--
 - (A) by inserting '(1)' after '(c)';
 - (B) by striking 'this section' and inserting 'subsection (a)'; and
 - (C) by adding at the end the following new paragraph:

(2) The age and service requirements for retirement under subsection (b)(1) are as follows:

Attained age:

Years of Service:

60

--20

61

--19

62

--18

63

--17

64

--16

65

--15

66

--14

67

--13

68

--12

69

--11

70

--10'

SEC. 302. DISABILITY RETIREMENT AND COST-OF-LIVING
ADJUSTMENTS OF ANNUITIES FOR TERRITORIAL JUDGES.

Section 373 of title 28, United States Code, is amended--

(1) by amending subsection (c)(4) to read as follows:

`(4) Any senior judge performing judicial duties pursuant to recall under paragraph (2) of this subsection shall be paid, while performing such duties, the same compensation (in lieu of the annuity payable under this section) and the same allowances for travel and other expenses as a judge on active duty with the court being served.';

(2) by amending subsection (e) to read as follows:

`(e)(1) Any judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands who is not reappointed (as judge of such court) shall be entitled, upon attaining the age of 65 years or upon relinquishing office if the judge is then beyond the age of 65 years--

`(A) if the judicial service of such judge, continuous or otherwise, aggregates 15 years or more, to receive during the remainder of such judge's life an annuity equal to the salary received when the judge left office; or

(B) if such judicial service, continuous or otherwise, aggregated less than 15 years, to receive during the remainder of such judge's life an annuity equal to that proportion of such salary which the aggregate number of such judge's years of service bears to 15.

(2) Any judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands who has served at least five years, continuously or otherwise, and who retires or is removed upon the sole ground of mental or physical disability, shall be entitled to receive during the remainder of such judge's life an annuity equal to 40 percent of the salary received when the judge left office, or, in the case of a judge who has served at least ten years, continuously or otherwise, an annuity equal to that proportion of such salary which the aggregate number of such judge's years of judicial service bears to 15.; and

(3) amending subsection (g) to read as follows:

(g) Any retired judge who is entitled to receive an annuity under this section shall be entitled to a cost-of-living adjustment in the amount computed as specified in section 8340(b) of title 5, except that in no case may the annuity payable to such retired judge, as increased under this subsection, exceed the salary of a judge in regular active service with the court on which the retired judge served before retiring.'

SEC. 303. FEDERAL JUDICIAL CENTER PERSONNEL MATTERS.

Section 625 of title 28, United States Code, is amended--

(1) in subsection (b)--

(A) by striking ', United States Code,';

(B) by striking 'pay rates, section 5316, title 5, United States Code' and inserting 'under section 5316 of title 5, except that the Director may fix the compensation of 4 positions of the Center at a level not to exceed the annual rate of pay in effect for level IV of the Executive Schedule under section 5315 of title 5'; and

(C) by striking 'the Civil Service' and all that follows through 'Code' and inserting 'subchapter III of chapter 83 of title 5 shall be adjusted pursuant to the provisions of section 8344 of such title, and the salary of a reemployed annuitant under chapter 84 of title 5 shall be adjusted pursuant to the provisions of section 8468 of such title'; and

(2) in subsection (c) by striking ', United States Code,' each place it appears.

SEC. 304. JUDICIAL ADMINISTRATIVE OFFICIALS RETIREMENT

MATTERS.

(a) DIRECTOR OF ADMINISTRATIVE OFFICE- Section 611 of title 28, United States Code, is amended--

(1) in subsection (d), by inserting `a congressional employee in the capacity of primary administrative assistant to a Member of Congress or in the capacity of staff director or chief counsel for the majority or the minority of a committee or subcommittee

of the Senate or House of Representatives,' after `Congress,';

(2) in subsection (b)--

(A) by striking `who has served at least fifteen years and' and inserting `who has at least fifteen years of service and has';

(B) in the first undesignated paragraph, by striking `who has served at least ten years,' and inserting `who has at least ten years of service,'; and

(3) in subsection (c)--

(A) by striking `served at least fifteen years,' and inserting `at least fifteen years of service,'; and

(B) by striking `served less than fifteen years,' and inserting `less than fifteen years of service,'.

(b) DIRECTOR OF THE FEDERAL JUDICIAL CENTER- Section 627 of title 28, United States Code, is amended--

(1) in subsection (e), by inserting `a congressional employee in the capacity of primary administrative assistant to a Member of Congress or in the capacity of staff director or chief counsel for the majority or the minority of a committee or subcommittee of the Senate or House of Representatives,' after `Congress,';

(2) in subsection (c)--

(A) by striking `who has served at least fifteen years and' and inserting `who has at least fifteen years of service and has';

(B) in the first undesignated paragraph, by striking `who has served at least ten years,' and inserting `who has at least ten years of service,'; and

(3) in subsection (d)--

(A) by striking `served at least fifteen years,' and inserting `at least fifteen years of service,'; and

(B) by striking `served less than fifteen years,' and inserting `less than fifteen years of service,'.

SEC. 305. JUDGES' FIREARMS TRAINING.

(a) IN GENERAL- Chapter 21 of title 28, United States Code, is amended by adding at the end thereof the following new section:

`Sec. 464. Carrying of firearms by judicial officers

`(a) AUTHORITY- A judicial officer of the United States is authorized to carry a firearm, whether concealed or not, under regulations promulgated by the Judicial Conference of the United States. The authority granted by this section shall extend only to--

`(1) those States in which the carrying of firearms by judicial officers of the State is permitted by State law, and

`(2) regardless of State law, to any place where the judicial officer of the United States sits, resides, or is present on official travel status.

`(b) IMPLEMENTATION-

`(1) REGULATIONS- The regulations promulgated by the Judicial Conference under subsection (a) shall--

`(A) require a demonstration of a judicial officer's proficiency in the use and safety of firearms as a prerequisite to the carrying of firearms under the authority of this section; and

`(B) ensure that the carrying of a firearm by a judicial officer under the protection of the United States Marshals Service while away from United States courthouses is consistent with the policy of the Marshals Service on the carrying of firearms by persons receiving such protection.

`(2) ASSISTANCE BY OTHER AGENCIES- At the request of the Judicial Conference, the Department of Justice and appropriate law enforcement components of the Department shall assist the Judicial Conference in developing and providing training to assist judicial officers in securing the proficiency referred to in subsection (b)(1).

`(c) DEFINITION- For purposes of this section, the term, `judicial officer of the

United States' means--

- `(1) a justice or judge of the United States as defined in section 451 in regular active service or retired from regular active service;
 - `(2) a justice or judge of the United States who has retired from the judicial office under section 371(a) for--
 - `(A) a 1-year period following such justice's or judge's retirement; or
 - `(B) a longer period of time if approved by the Judicial Conference of the United States when exceptional circumstances warrant;
 - `(3) a United States bankruptcy judge;
 - `(4) a full-time or part-time United States magistrate judge;
 - `(5) a judge of the United States Court of Federal Claims;
 - `(6) a judge of the United States District Court of Guam;
 - `(7) a judge of the United States District Court for the Northern Mariana Islands;
 - `(8) a judge of the United States District Court of the Virgin Islands; or
 - `(9) an individual who is retired from one of the judicial positions described under paragraphs (3) through (8) to the extent provided for in regulations of the Judicial Conference of the United States.
- `(d) EXCEPTION- Notwithstanding section 46303(c)(1) of title 49, nothing in this section authorizes a judicial officer of the United States to carry a dangerous weapon on an aircraft or other common carrier.'
- (b) TECHNICAL AND CONFORMING AMENDMENT- The table of sections for chapter 21 of title 28, United States Code, is amended by adding at the end thereof the following:
- `464. Carrying of firearms by judicial officers.'
- (c) EFFECTIVE DATE- The amendments made by this section shall take effect upon the earlier of the promulgation of regulations by the Judicial Conference under the amendments made by this section or one year after the date of the enactment of this Act.

SEC. 306. EXEMPTION FROM JURY SERVICE.

(a) MEMBERS OF THE ARMED FORCES- Paragraph (6) of section 1863(b) of title 28, United States Code, is amended to read as follows:

'(6) specify that members in active service in the Armed Forces of the United States are barred from jury service on the ground that they are exempt.'

(b) CONFORMING AMENDMENT- Section 1869 if title 28, United States Code, is amended by repealing subsection (i).

SEC. 307. EXPANDED WORKERS' COMPENSATION COVERAGE FOR JURORS.

Paragraph (2) of section 1877(b) of title 28, United States Code, is amended--

(1) by striking 'or' at the end of clause (C); and

(2) by inserting ', or (E) traveling to or from the courthouse pursuant to a jury summons or sequestration order, or as otherwise necessitated by order of the court' before the period at the end of clause (D).

SEC. 308. PROPERTY DAMAGE, THEFT, AND LOSS CLAIMS OF JURORS.

Section 604 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

'(i) The Director may pay a claim by a person summoned to serve or serving as a grand juror or petit juror for loss of, or damage to, personal property that occurs incident to that person's performance of duties in response to the summons or at the direction of an officer of the court. With respect to claims, the Director shall have the authority granted to the head of an agency by section 3721 of title 31 for consideration of employees' personal property claims. The Director shall prescribe guidelines for the consideration of claims under this subsection.'

SEC. 309. ANNUAL LEAVE LIMIT FOR COURT UNIT EXECUTIVES.

Section 6304(f)(1) of title 5, United States Code, is amended by adding at the end thereof the following:

'(F) the judicial branch designated as a court unit executive position by the Judicial Conference of the United States.'

SEC. 310. TRANSFER OF COUNTY TO MIDDLE DISTRICT OF

PENNSYLVANIA.

(a) TRANSFER- Section 118 of title 28, United States Code, is amended--

(1) in subsection (a) by striking 'Philadelphia, and Schuylkill' and inserting 'and Philadelphia'; and

(2) in subsection (b) by inserting 'Schuylkill,' after 'Potter,'.

(b) EFFECTIVE DATE-

(1) IN GENERAL- This section and the amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

(2) PENDING CASES NOT AFFECTED- This section and the amendments made by this section shall not affect any action commenced before the effective date of this section and pending on such date in the United States District Court for the Eastern District of Pennsylvania.

(3) JURIES NOT AFFECTED- This section and the amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, impaneled, or actually serving on the effective date of this section.

SEC. 311. CREATION OF TWO DIVISIONS IN EASTERN DISTRICT OF LOUISIANA.

(a) CREATION OF TWO DIVISIONS- Section 98(a) of title 28, United States Code, is amended to read as follows:

(a) The Eastern District comprises two divisions.

(1) The New Orleans Division comprises the parishes of Jefferson, Orleans, Plaquemines, Saint Bernard, Saint Charles, Saint John the Baptist, Saint Tammany, Tangipahoa, and Washington.

Court for the New Orleans Division shall be held at New Orleans.

(2) The Houma Division comprises the parishes of Assumption, Lafourche, Saint James, and Terrebonne.

Court for the Houma Division shall be held at Houma.'

(b) EFFECTIVE DATE-

(1) IN GENERAL- This section and the amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

(2) PENDING CASES NOT AFFECTED- This section and the amendments made by this section shall not affect any action commenced before the effective date of this section and pending on such date in the United States District Court for the Eastern District of Louisiana or in the United States District Court for the Western District of Louisiana.

(3) JURIES NOT AFFECTED- This section and the amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, impaneled, or actually serving on the effective date of this section.

SEC. 312. DISTRICT JUDGES FOR THE FLORIDA DISTRICT COURTS.

(a) IN GENERAL- The President shall appoint, by and with the advice and consent of the Senate--

(1) 3 additional district judges for the middle district of Florida; and

(2) 2 additional district judges for the southern district of Florida.

(b) TEMPORARY JUDGESHIP-

(1) IN GENERAL- The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the middle district of Florida.

(2) FIRST VACANCY NOT FILLED- The first vacancy in the office of district judge in the middle district of Florida, occurring 7 years or more after the confirmation date of the judge named to fill a temporary judgeship created by this subsection, shall not be filled.

(c) TABLES- In order that the table contained in section 133 of title 28, United States Code, reflects the changes in the total number of permanent district judgeships authorized by subsection (a) of this section, the item relating to Florida in such table is amended to read as follows:

4

14

18'

(d) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, including such sums as may be necessary to provide appropriate space and facilities for the judicial positions created by this section.

(e) EFFECTIVE DATE- This section and the amendments made by this section shall take effect on the date of enactment of this Act.

SEC. 313. CHANGE IN COMPOSITION OF DIVISIONS IN WESTERN DISTRICT OF TENNESSEE.

(a) IN GENERAL- Section 123(c) of title 28, United States Code, is amended--

(1) in paragraph (1) by inserting 'Dyer,' after 'Decatur,'; and

(2) in paragraph (2) by striking 'Dyer,'.

(b) EFFECTIVE DATE-

(1) IN GENERAL- This section and the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) PENDING CASES NOT AFFECTED- This section and the amendments made by this section shall not affect any action commenced before the effective date of this section and pending in the United States District Court for the Western District of Tennessee on such date.

(3) JURIES NOT AFFECTED- This section and the amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, empaneled, or actually serving in the Western Judicial District of Tennessee on the effective date of this section.

SEC. 314. PAYMENTS TO MILITARY SURVIVORS BENEFITS PLAN.

Section 371(e) of title 28, United States Code, is amended by inserting after 'such retired or retainer pay' the following: ', except such pay as is deductible from the retired or retainer pay as a result of participation in any survivor's benefits plan in connection with the retired pay,'.

SEC. 315. CREATION OF CERTIFYING OFFICERS IN THE JUDICIAL BRANCH.

(a) APPOINTMENT OF DISBURSING AND CERTIFYING OFFICERS- Chapter 41 of title 28, United States Code, is amended by adding at the end the following new section:

`Sec. 613. Disbursing and certifying officers

`(a) DISBURSING OFFICERS- The Director may designate in writing officers and employees of the judicial branch of the Government, including the courts as defined in section 610 other than the Supreme Court, to be disbursing officers in such numbers and locations as the Director considers necessary. These disbursing officers shall--

`(1) disburse moneys appropriated to the judicial branch and other funds only in strict accordance

with payment requests certified by the Director or in accordance with subsection (b);

`(2) examine payment requests as necessary to ascertain whether they are in proper form, certified, and approved; and

`(3) be held accountable for their actions as provided by law, except such a disbursing officer shall not be held accountable or responsible for any illegal, improper, or incorrect payment resulting from any false, inaccurate, or misleading certificate for which a certifying officer is responsible under subsection (b).

`(b) CERTIFYING OFFICERS- (1) The Director may designate in writing officers and employees of the judicial branch of the Government, including the courts as defined in section 610 other than the Supreme Court, to certify payment requests payable from appropriations and funds. These certifying officers shall be responsible and accountable for--

`(A) the existence and correctness of the facts recited in the certificate or other request for payment or its supporting papers;

`(B) the legality of the proposed payment under the appropriation or fund involved; and

`(C) the correctness of the computations of certified payment requests.

`(2) The liability of a certifying officer shall be enforced in the same manner and to the same extent as provided by law with respect to the enforcement of the liability of disbursing and other accountable officers. A certifying officer shall be required to make restitution to the United States for the amount of any illegal, improper, or incorrect payment resulting from any false, inaccurate, or misleading certificates made by the certifying officer, as well as for any payment prohibited by law or which did not represent a legal obligation under the appropriation or fund involved.

`(c) RIGHTS- A certifying or disbursing officer--

`(1) has the right to apply for and obtain a decision by the Comptroller General on any question of law involved in a payment request presented for certification; and

`(2) is entitled to relief from liability arising under this section in accordance with title 31.

`(d) OTHER AUTHORITY NOT AFFECTED- Nothing in this section affects the authority of the courts with respect to moneys deposited with the courts under chapter 129 of this title.'

(b) CONFORMING AMENDMENT- The table of sections for chapter 41 of title 28, United States Code, is amended by adding at the end the following item:

`613. Disbursing and certifying officers.'

(c) DUTIES OF DIRECTOR- Paragraph (8) of subsection (a) of section 604 of title 28, United States Code, is amended to read as follows:

`(8) Disburse appropriations and other funds for the maintenance and operation of the courts;'

SEC. 316. AUTHORITY TO PRESCRIBE FEES FOR TECHNOLOGY RESOURCES IN THE COURTS.

(a) IN GENERAL- Chapter 41 of title 28, United States Code, is amended by adding at the end the following:

`Sec. 614. Authority to prescribe fees for technology resources in the courts

`The Judicial Conference is authorized to prescribe reasonable fees pursuant to sections 1913, 1914, 1926, 1930, and 1932, for collection by the courts for use of information technology resources provided by the judiciary for remote access to the courthouse by litigants and the public, and to facilitate the electronic presentation of cases. Fees under this section may be collected only to cover the costs of making such information technology resources available for the purposes set forth in this section. Such fees shall not be required of persons financially unable to pay them. All fees collected under this section shall be deposited in the Judiciary Information Technology Fund and be available to the Director without fiscal year limitation to be expended on information technology resources developed or acquired to advance the purposes set forth in this section.'

(b) CONFORMING AMENDMENT- The table of sections for chapter 41 of title 28, United States Code, is amended by adding at the end the following new item:

'614. Authority to prescribe fees for technology resources in the courts.'

TITLE IV--CRIMINAL JUSTICE ACT AMENDMENTS

SEC. 401. MAXIMUM AMOUNTS OF COMPENSATION FOR ATTORNEYS.

Paragraph (2) of subsection (d) of section 3006A of title 18, United States Code, is amended--

(1) in the first sentence--

(A) by striking '3,500' and inserting '5,000';

(B) by striking '1,000' and inserting '1,500';

(2) in the second sentence by striking '2,500' and inserting '3,600';

(3) in the third sentence--

(A) by striking '750' and inserting '1,100';

(B) by striking '2,500' and inserting '3,600';

(4) inserting after the second sentence the following new sentence: 'For representation of a petitioner in a non-capital habeas corpus proceeding, the compensation for each attorney shall not exceed the amount applicable to a felony in this paragraph for representation of a defendant before a United States magistrate or the district court, or both. For representation of such petitioner in an appellate court, the compensation for each attorney shall not exceed the amount applicable for representation of a defendant in an appellate court.'; and

(5) in the last sentence by striking '750' and inserting '1,100'.

SEC. 402. MAXIMUM AMOUNTS OF COMPENSATION FOR SERVICES OTHER THAN COUNSEL.

Section 3006A(e) of title 18, United States Code, is amended--

(1) in paragraph (2)--

(A) in subparagraph (A) by striking '300' and inserting '450'; and

(B) in subparagraph (B) by striking '300' and inserting '450'; and

(2) in paragraph (3) in the first sentence by striking `1,000' and inserting `1,500'.

SEC. 403. TORT CLAIMS ACT AMENDMENT RELATING TO LIABILITY
OF FEDERAL PUBLIC DEFENDERS.

Section 2671 of title 28, United States Code, is amended in the second undesignated paragraph--

(1) by inserting `(1)' after `includes'; and

(2) by striking the period at the end and inserting the following: `, and (2) any officer or employee of a Federal public defender organization, except when such officer or employee performs professional services in the course of providing representation under section 3006A of title 18.'.

END

DRAFT -- NOT FOR RELEASE

March 13, 1998
(House)

H.R. 2294 - Federal Courts Improvement Act
(Coble (R) North Carolina)

The Administration supports several provision of H.R. 2294 that would improve the Administration of Federal courts. The Administration, however, opposes House passage of the bill because it would:

- Require an annual transfer of funds from the Justice and Treasury Asset Forfeiture Funds to the Judiciary to cover certain costs including the costs of adjudicating civil and criminal forfeiture cases and providing counsel to indigent defendants in such cases. This provision could appear to represent a conflict of interest for the Judiciary branch in that it may obtain a pecuniary benefit from decisions forfeiting assets or funds to the United States. In addition, asset forfeiture funds already are used to pay lien holders, victims of crime committed by the defendant, or others with superior rights. (Section 101)
- Permit judges to have service previously credited under the Federal Employees Retirement System or the Civil Service Retirement System (including employer contributions) transferred to the new judicial officers' retirement system. This provision would create an inequitable balance in the manner in which transferred service credit is treated. (Section 102)
- Vest magistrate judges with criminal contempt authority in certain instances. Giving contempt authority to non-Article III judges raises constitutional concerns. (Section 202)

The Administration also has concerns regarding provisions of H.R. 2294 which would provide 90-day annual leave carryover to "designated executives" and would exempt Federal Public Defenders from claims of malpractice or negligence in providing representational services

Pay-As-You-Go Scoring

H.R. 2294 is subject to the "pay-as-you-go" requirement (PAYGO) of the Omnibus Budget Reconciliation Act of 1990. The Administration's PAYGO estimates for this bill are under development, but the preliminary analysis of the bill suggest that H.R. 2294 may result in substantial increases in direct spending. The Balanced Budget Act of 1997 reduced the PAYGO balances to zero, and, consequently, any bill that would increase mandatory spending or result in a net revenue loss could contribute to a sequester of mandatory programs as called for in the Budget Enforcement Act. As a result, if the bill were enacted, any deficit effects could contribute to a sequester of mandatory spending.

Automated Records Management System
Hex-Dump Conversion

March 13, 1998

Automated Records Management System
Hex-Dump Conversion

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: Bruce Reed

SUBJECT: Meeting with Senator McCain

As you know, Senator McCain is leading an effort -- blessed by Trent Lott -- to report a comprehensive bill out of the Commerce Committee. McCain is talking extensively with Senators Breaux, Wyden, and Hollings, as well as with Republicans on the Committee. McCain is currently working off a draft bill that has significant weaknesses, especially with regard to price and FDA jurisdiction. There is little doubt, however, that McCain would like our support and that he is listening carefully to our concerns. We met with his staff on Friday to review a number of issues.

Talking Points

- The President wants comprehensive, bipartisan legislation this year. Every day we delay, 3,000 kids become regular smokers and 1,000 of them will die prematurely from this addiction.
- The President has made his priorities clear. To gain his support, a bill must:
 - Raise the price of cigarettes by up to \$1.50 a pack over the next ten years and imposes tough penalties on companies that continue to sell to kids;
 - Expressly confirm the FDA authority to regulate tobacco products;
 - Get tobacco companies out of the business of marketing to children;
 - Further public health research and goals;
 - Protect tobacco farmers and their communities.
- We want to work with you to ensure that the Commerce Committee reports out a bill that the President can support.

March 13, 1998

Automated Records Management System
Hex-Dump Conversion

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: Bruce Reed

SUBJECT: Meeting with Representative Deborah Pryce

As you know, most of the legislative activity on tobacco so far has taken place in the Senate. The House remains inactive. Bliley has held some hearings and may try to draft legislation, but prospects for a Bliley-Waxman collaboration now seem slight. The House Republican leadership is interested in tobacco revenue to pay for tax cuts, but has done nothing to spur legislative action.

Speaker Gingrich has appointed Representative Deborah Pryce as his leadership team's point person on tobacco. A key goal of the meeting should be to persuade her that the President does not want to play politics with this issue, and that he is serious about enacting bipartisan, comprehensive tobacco legislation this year.

Talking Points

- The President wants comprehensive, bipartisan legislation this year. Every day we delay, 3,000 kids become regular smokers and 1,000 of them will die prematurely from this addiction.
- The President has made his priorities clear. He has called on Congress to enact comprehensive, bipartisan legislation that:
 - Raises the price of cigarettes by up to \$1.50 a pack over the next ten years and imposes tough penalties on companies that continue to sell to kids;
 - Expressly confirms the FDA authority to regulate tobacco products;
 - Gets tobacco companies out of the business of marketing to children;
 - Furthers public health research and goals;
 - Protects tobacco farmers and their communities;
- We want to work together with the Republican leadership in both the House and

Senate to enact a bipartisan bill this year.

Automated Records Management System
Hex-Dump Conversion

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Edward W. Correia (CN=Edward W. Correia/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:13-MAR-1998 11:25:47.00

SUBJECT: Higher Education Reauthorization

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

TEXT:

Pursuant to our affirmative action meeting yesterday, I will try to convene the working group on higher education reauthorization next week some time. The immediate tasks include assessing the Congressional situation and discussing a strategy to counter an amendment prohibiting affirmative action in admissions. Who should be in the group? Besides you (or your designees), how about leg affairs, Bob Shireman, Sylvia's office (Peter) and someone from PIR (Scott Palmer?) Anyone else?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Sandra Thurman (CN=Sandra Thurman/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:13-MAR-1998 16:25:34.00

SUBJECT: Talking Points For AIDS Advisory Council Meeting

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

TEXT:

We are in the process of preparing talking points for the Council meeting that begins on Sunday. I am assuming since I have not heard otherwise that there will be no decision on needle exchange prior to the meeting. Any update on the decision memo?

There is an increasing amount of interest in the meeting. It now appears that we are going to have some demonstrations in addition to other press activity. What fun!

Any advise and counsel you can provide will be much appreciated. For all intents and purposes we have made no visible progress on this issue since these folks were here last time. They are not amused. Any crumbs we can throw them will be helpful. Any ideas?

Thanks!

Sandy

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Robert Wexler (CN=Robert Wexler/OU=PIR/O=EOP [PIR])

CREATION DATE/TIME:13-MAR-1998 20:52:35.00

SUBJECT: PIR Weekly Report

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

TO: Robert N. Weiner (CN=Robert N. Weiner/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

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

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

TO: Doris O. Matsui (CN=Doris O. Matsui/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

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

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

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TEXT:
Attached is the President's Initiative on Race Weekly Report for March
7-13.

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MEMORANDUM FOR THE PRESIDENT

FROM: JUDITH A. WINSTON

THROUGH: ERSKINE BOWLES
SYLVIA MATHEWS

DATE: MARCH 13, 1998

SUBJECT: PRESIDENT'S INITIATIVE ON RACE WEEKLY REPORT
MARCH 7 - MARCH 13

ADVISORY BOARD ACTIVITIES

Association of Professional Journalists. On March 12, Governor Winter spoke to the Indianapolis Chapter of the Association of Professional Journalists about the Initiative.

Tony Brown's Journal. On March 7, Reverend Suzan Johnson Cook was a guest on Tony Brown's Journal, a nationally syndicated talk show. The topic of the show was race relations in America and the President's Initiative on Race. Reverend Cook discussed the positive effect the Initiative is having across the country.

Department of Energy. On March 3, Reverend Suzan Johnson Cook was the keynote speaker at the Department of Energy's Black History Month Forum. Reverend Cook and Secretary Pena spoke to 200 employees of the Department about the importance of their involvement in the work of the Initiative.

OFFICE OF THE EXECUTIVE DIRECTOR

Leadership Conference on Civil Rights (LCCR). On March 13, Dr. John Hope Franklin, Initiative staff, and White House staff, including Erskine Bowles, Gene Sperling, and Bruce Reed met with the Executive Committee of LCCR. OMB Director Franklin Raines also participated in the meeting. We discussed the goals and future activities of the Initiative, policy initiatives of the Administration, and how LCCR could work with us to further the Initiative.

COOL Conference. On March 13, we met with approximately 2,000 student leaders from 700 colleges and universities across America at the Campus Outreach Opportunity League (COOL) Conference at the University of South Carolina. We also participated in a town hall meeting for an additional 600 students focused on the theme "Young America's Participation in One America." We spoke to the students about the Campus Week of Dialogue and secured their commitments to participate in this event.

Pennsylvania Students. On March 13, we met with 40 members of the student government of Plum Senior High School (Plum, PA), who responded to your Call to Action to student leaders and persuaded their school, school district and town to declare May 1st, "Youth Action for Diversity" Day. They have sent a letter to the 494 school districts in the State describing their activities and encouraging all of the school districts to join their efforts.

March Advisory Board Meeting. The next meeting of the Advisory Board, on March 23 - 24, in Denver, is focusing on causes, effects, and strategies for combating race and stereotypes. It will include a citizen dialogue on race on March 23, consisting of a moderated discussion with the Advisory Board and 20 - 25 local residents. An expert panel will continue the discussion on March 24.

Campus Week of Dialogue. The theme of the Campus Week of Dialogue (April 6 - 9) is "Who Will Build One America?" We believe the theme evokes the notions of community, personal responsibility, and opportunity. The response to outreach efforts has been very encouraging. The highlight event of the week will be a Town Hall meeting at Drew University on April 8 hosted by Governor Kean, who will be joined by Angela Oh and Secretary Richard Riley.

Press Article. Attached is an article of interest about the Initiative, published recently in *Turning Point* magazine, which is a progressive, California-based magazine geared towards African American professionals.

FEDERAL AGENCY ACTIVITIES

Department of Justice

- **Internet Hate Crimes:** In one of the first known prosecutions for sending electronic hate mail by computer, a defendant was found guilty of transmitting hostile and threatening e-mails to approximately 60 students with Asian surnames at the University of California in Irvine, CA. In his e-mails, the defendant declared his hatred of Asians, accused them of being responsible for all campus crimes, and threatened to make it his "life career" to "find, hunt down, and kill" these individuals if they did not leave the University.

Department of Interior

- **Santee Sioux Tribe Casino:** The Santee Sioux Tribe of Nebraska asked the U.S. Attorney General to sue the State. The tribe, which operates a small casino operation on its reservation, wants Nebraska to agree to a compact giving the tribe clear authority to run the casino. State officials say the casino is illegal because the tribe lacks an operating agreement with the State. Governor Nelson said Nebraska would not permit casino gambling on the tribe's reservation because that form of gambling is not allowed elsewhere in the State.

Department of Agriculture

- **Civil Rights Initiative:** On March 9, the Administration submitted a supplemental appropriations request that included funding to boost USDA's lending programs by \$75 million. Without the increase, some of USDA's key loan programs will run out of money, leaving an estimated 1000 farmers, many of whom are small and minority farmers, without credit this year.
- **Farm Bill:** On March 11, USDA formally transmitted to Congress a proposed bill that will replace the lifetime ban in the 1996 farm bill that prevents farmers who have received a loan write down from USDA from receiving new loans with a provision ensuring that creditworthy applicants receive a second chance at USDA assistance. This problem attracted attention during the President's meeting with small and minority farmers in December, 1997.

Department of Health and Human Services

- **Children's Health 1996:** On March 9, the Agency for Health Care Policy and Research (AHCPR) released a new sourcebook on data about children's health. The data in *Children's Health 1996* highlights findings from AHCPR's 1996 Medical Expenditure Panel Survey (MEPS). Significant findings on children's health included in the chartbook are:
 - Hispanic children are more likely than black or white children to be uninsured (27.7 percent of Hispanic children, compared with 17.6 percent of black children, and 12.3 percent of white children).
 - Hispanic children are more likely than black or white children to be in fair or poor health (7.8 percent of Hispanic children, compared with 4.2 percent of black children and 2.9 percent of white children).
- **Health Summit and Asian American and Pacific Islander (AAPI) Meeting:** On

March 16-18, the Health Resources and Services Administration is sponsoring a conference to enhance collaboration with AAPI communities and improve primary health care delivery and infrastructure development in the six U.S.-associated Pacific Island jurisdictions.

- **National Hispanic Medical Association Conference:** On March 22, Substance Abuse and Mental Health Services Administration Administrator Chavez will deliver a panel presentation on HHS's Hispanic Agenda for Action, as part of the National Hispanic Medical Association's conference on Hispanic health care in Washington, DC.

Department of Housing and Urban Development

- **"Homeownership Gap":** On March 10, Secretary Cuomo announced that HUD will investigate the problem of mortgage lending discrimination in America's cities, in a move to increase urban and minority homeownership. The announcement follows last week's highest settlement on record of mortgage discrimination allegations under the Fair Housing Act. HUD helped negotiate the settlement with three lenders, who agreed to make nearly \$1.4 billion in home mortgage loans and spend \$6 million on a broad range of programs to increase homeownership by low- and moderate-income families and minorities over the next three years.
- **Lending Discrimination:** HUD will closely monitor complaints of lending discrimination and use testing to ferret out unlawful practices that treat white applicants and minority applicants differently. HUD will also issue a report later this year on the extent of mortgage lending discrimination, after completing its study of the problem around the nation.

Department of Transportation

- **Disadvantaged Business Enterprise (DBE):** After a year's preparation by DOT, the Senate last week voted directly (58-37) to continue the long-standing national 10 percent goal for award of highway-transit construction contracts to minority- and women-owned businesses. Inclusion of the same goal for transit funding is the next step in the Senate. The goal is already included for both highway and transit funds in the House committee bill (H.R. 2400). This was the first floor vote in the 105th Congress on the Administration's "mend it, don't end it" approach to the 1995 Adarand v. Peña affirmative action Supreme Court decision.

Department of Education

- **Hispanic Education:** On March 18, the White House Initiative on Educational Excellence for Hispanic Americans will convene the first meeting of the Inter-Departmental Council for Hispanic Educational Improvement. The Council

will develop

working groups on education and employment that will be staffed by selected personnel from federal agencies. Representative Becerra will participate in the event.

- **Hate Crimes Manual:** Secretary Riley is scheduled to join Attorney General Reno for the March 26 release of the manual on hate crimes in schools that the President requested from DOE and DOJ.

Department of Veterans Affairs

- **HBCU Dinner:** On March 25, Acting Secretary West will address the 22nd Annual Historically Black Colleges and Universities President's Dinner at Alcorn State University, MS.

Office of Personnel Management

- **Congressional Black Caucus:** On March 17, Director Lachance will meet with Representatives Becerra and Rodriguez, Members of the Congressional Hispanic Caucus, to discuss OPM's Nine Point Plan to address the under representation of Hispanics in the Federal Workforce.
- **Diversity in the Workforce:** On March 4, Director Lachance taught classes and made campus visits at the University of Southern California and California State Los Angeles. At both campuses, she amplified State of the Union, budget and reinvention themes, as well as discussed diversity in the federal workforce and the Administration's success in creating a workforce that reflects the nation's diversity.
- **Race Roundtable:** On March 4, Director Lachance held a One America roundtable at the Congregational Church of Christian Fellowship in Los Angeles, CA.

General Services Administration

- **One America:** Administrator Barram has participated in three discussions on race with a diverse group of employees. In addition, he has involved his senior management in a discussion and has encouraged them to start their own discussions. Several groups of top and middle managers have participated in discussions and are spreading the concept to the regions. So far the feedback has been very positive.

**Automated Records Management System
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TEXT:

The President's Advisory Council on HIV/AIDS will be meeting at the Madison Hotel from Sunday, March 15 - Wednesday, March 18, 1998. If you need to get a hold of me, you can do so several ways:

632-1204 - office voice mail - I will be checking regularly
632-1090 - office receptionist - I will check often

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
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COLLECTION:

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

FOLDER TITLE:

[03/13/1998]

2009-1006-F
eh213

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]

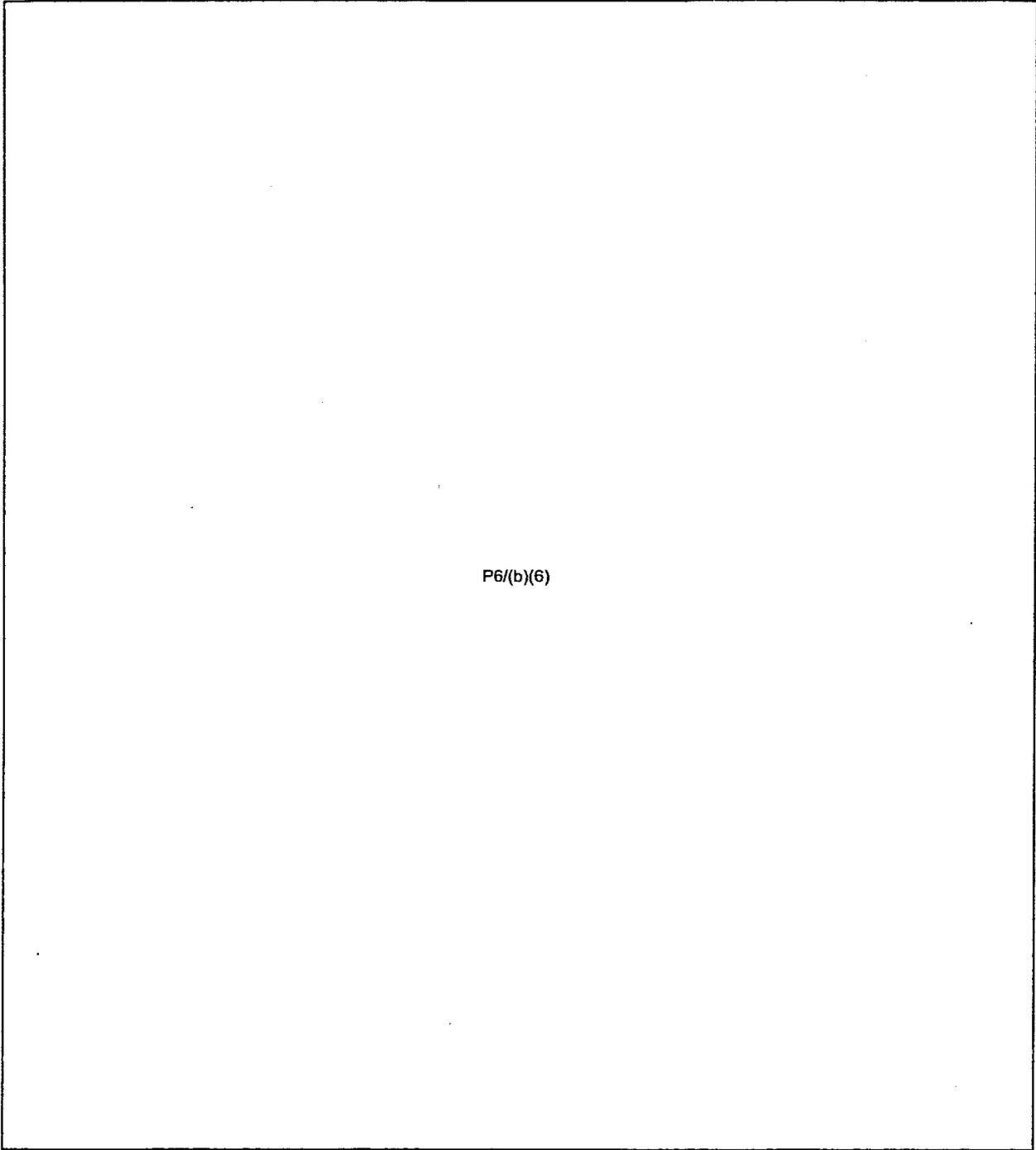
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Attached, please find an agenda and Council member roster.

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Presidential Advisory Council on HIV/AIDS

March 15–18, 1998

Madison Hotel
Washington, D.C.

Automated Records Management System
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TENTATIVE AGENDA

Sunday, March 15

10:00 a.m.	Welcome Update of Interim Activities	<i>Mount Vernon A & B</i>
10:30	Office of National AIDS Policy Update Sandra Thurman, Director	
12:00 noon	LUNCH (on your own)	
1:00 p.m.	Subcommittee Meetings:	
	Communities for African and Latino Descent Subcommittee	<i>Mount Vernon A & B</i>
	Discrimination Subcommittee HIV Positive Healthcare Worker Guidelines Update	<i>Drawing Room V</i>
	International Issues Subcommittee	<i>Drawing Room I</i>
1:00 p.m.	Global AIDS Update Invited: Sandra Thurman, Office of National AIDS Policy	
1:45 p.m.	Break	
2:00 p.m.	Ethics and Human Rights Issues in AIDS Vaccine Trials Invited: Dr. Jonathan Mann, Harvard School of Public Health	
2:45 p.m.	Adjourn	
	Prison Issues Subcommittee	<i>Mount Vernon C</i>
1:00 p.m.	Update of Prison Site Visit and National Prison Meeting Invited: Todd Summers, Office of National AIDS Policy Review of Assessment Update of Brigs and Prisons	

Monday, March 16

9:00 a.m. Full Council Panel Presentation *Mount Vernon A & B*
Addressing HIV/AIDS in African-American and Latino Populations
Dr. Mindy Fullilove, New York State Psychiatric Institute
Dr. Monina Klevens, Centers for Disease Control and Prevention
Dr. Dawn Smith, Centers for Disease Control and Prevention
Dr. Imani Thompson, Centers for Disease Control and Prevention

11:00 General Business/Services Subcommittee Initial Report

12:00 noon **LUNCH** (on your own)

1:00 p.m. Subcommittee Meetings:

Communities for African and Latino Descent *Mt. Vernon A & B*
Subcommittee

Discrimination Subcommittee *Drawing Room V*

International Issues Subcommittee *Drawing Room I*
1:00 p.m. AZT Efficacy in Clinical Trials - Where Do We
Go From Here?
Invited Panelists:
Dr. Helen Cornman, National Council
of International Health
Patricia S. Fleming, United Nations Joint
Programme on AIDS
Dr. Paul DeLay, U.S. Agency for
International Development
Dr. Timothy Dondero, Centers for Disease
Control and Prevention
Miguelina Maldonado, National Minority AIDS
Council

Prison Issues Subcommittee *Mount Vernon C*
1:00 p.m. Review of Surveillance
Invited:
John Miles, Centers for Disease Control
and Prevention

2:30 Prevention Subcommittee *Mount Vernon C*
2:30 p.m. HIV Surveillance
Invited:
Dr. Patricia Fleming, Centers for Disease
Control and Prevention
Professor Lawrence O. Goffin, Georgetown
University Law Center

Monday, March 16 (Continued)

2:30 p.m. Subcommittee Meetings (continued):

Services Subcommittee

Mount Vernon A & B

2:30 p.m. HIV Treatment Improvement Act of 1997 by
Congresswoman Nancy Pelosi

Invited Panelists:

Chris Collins, Congresswoman Nancy
Pelosi's Office

Christine Lubinski, AIDS Action Council

3:45 p.m. Break

4:00 p.m. Return-to-Work Issues

Invited:

Susan Daniels, Social Security Administration

5:00 p.m. Review of Past Recommendations
Subcommittee Process

Research Subcommittee

Drawing Room I

6:00 **ADJOURN**

Tuesday, March 17

8:30 a.m. Full Council Presentation
Research Subcommittee

Mount Vernon A & B

10:00 Subcommittee Reports:

Communities for African and Latino Descent
Subcommittee

Discrimination Subcommittee

International Issues Subcommittee

Prison Issues Subcommittee

11:00 Public Comment (General Business)

12:00 noon **LUNCH** (on your own)

1:00 Dr. David Satcher, Assistant Secretary for Health
and Surgeon General

Mount Vernon A & B

Tuesday, March 17 (Continued)

2:00

Subcommittee Meetings:

Prevention Subcommittee

Drawing Room IV

2:00 p.m. Budget Issues and Tracking of Funding

Invited:

Dr. David Holtgrave, Centers for Disease
Control and Prevention

Services Subcommittee

Mount Vernon A & B

2:00 p.m. FY 1999 Budget/FY 2000 Appropriations
Update

Invited Panelists:

Todd Summers, Office of National AIDS Policy

Seth Kilbourn, National Organizations

Responding to AIDS

Mike Shriver, National Organizations

Responding to AIDS

2:30 p.m. Re-Authorization of HOPWA Update

Invited:

David Vos, Department of Housing and
Urban Development

3:15 p.m. Break

3:30 p.m. Native American Issues Update

Update on Native American Issues

Update on Federal Interagency Working Group

Invited:

Matthew Murguia, Agency Representative to the
Office of Minority Health

4:15 p.m. Youth Directive/June Panel Presentation Update

Invited Panelists:

Bob Soliz, Agency Representative for the Health
Resources and Services Administration

David Harvey, AIDS Policy Center for Children,
Youth and Families

4:45 p.m. The National Drug Control Strategy, 1998 - A Ten-Year Plan

5:30 p.m. HIV+ Healthcare Worker Guidelines Update

Invited:

Dr. Robert Janssen, Centers for Disease Control and
Prevention (speaker phone)

Research Subcommittee

Executive Chamber 3

6:00

ADJOURN

Wednesday, March 18

9:00 a.m. Subcommittee Reports: *Mount Vernon A & B*
Prevention Subcommittee
Services Subcommittee

10:00 Full Council Meeting
Process/Long-Range Planning

12:00 noon **ADJOURN**

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001b. email attachment	Address (Partial) Phone Number (Partial) (4 pages)	03/13/1998	P6/b(6)

COLLECTION:

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

FOLDER TITLE:

[03/13/1998]

2009-1006-F
eh213

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.

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

- b(1) National security classified information [(b)(1) of the FOIA]
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- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- 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]

[0016]

Presidential Advisory Council on HIV/AIDS

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Automated Records Management System
Hex-Dump Conversion

**DETERMINED TO BE AN
ADMINISTRATIVE MARKING**
INITIALS: KC DATE: 06/12/10
2009-1006-F

[Auto Field]

[0016]

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March 13, 1998

MEMORANDUM FOR THE PRESIDENT

*Automated Records Management System
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FROM BRUCE REED

RE: Proposal on Sentencing Certain Drug Offenders

Attached is a proposal from U.S. District Judge Oberdorfer for you to issue an Executive Order creating a "blue ribbon" panel empowered to commute the sentences of certain drug offenders in the Federal Bureau of Prisons. He specifically suggests that such a panel consider the cases of individuals convicted of being crack "couriers" or "cookers" (those who convert powder cocaine to crack) and grant them clemency after serving the powder equivalent of their sentences if they hold the promise of living crime- and drug-free lives. Taking such action, Judge Oberdorfer believes, would go a long way towards addressing the disparity between federal crack and powder cocaine sentences.

Although we share Judge Oberdorfer's concerns about the unfairness of federal crack penalties, we would recommend against his proposal for several reasons. First, we believe much of what Judge Oberdorfer wants to accomplish overlaps with the mandatory minimum "safety valve" that passed as part of the 1994 Crime Act. This provision allowed federal judges to exempt certain drug offenders from mandatory minimum penalties if: (1) they did not have a significant criminal history; (2) they did not use violence, possess a firearm or commit serious injury; (3) they did not play a lead or organizing role; and (4) they provided information about the offense to the government. At the time of passage, the U.S. Sentencing Commission estimated that about 600 drug offenders would be immediately eligible for this exemption.

Second, we believe his proposal is too broad. Our crack sentencing proposal increases the trigger for mandatory minimum sentences for crack from 5 to 25 grams, so that lower-end dealers are not subject to mandatory minimums. By contrast, Judge Oberdorfer's recommendation is not limited to offenders within the lower-end range. We would recommend against any proposal that changes sentencing for mid- and upper-level dealers.

Third, Members of Congress would undoubtedly contest any executive action you take to reduce sentences for crack defendants. Already, key Republicans (Senators Lott, Hatch, Abraham, and Speaker Gingrich) have strongly criticized the Administration's proposal to reduce the disparity between crack and powder cocaine sentences by increasing the trigger for crack. Instead, Republicans are threatening to pass legislation, for which they have bipartisan support, that simply reduces the trigger for powder cocaine. We believe then that any Executive Order you sign on this controversial subject will be overturned by legislation -- either a stand-alone bill or an amendment to juvenile crime legislation or ONDCP's reauthorization bill.

We recommend instead that you ask Judge Oberdorfer to help build support in Congress for the Administration's crack sentencing proposal.

Tobacco -- Legislative Update: This week, there was activity in both the Senate Labor and Commerce Committees. On Wednesday, Senator Jeffords held opening statements on his bill, which creates a separate title under the Food and Drug Act for tobacco and weakens the agency's regulatory authority. Senator Jeffords says he wants to give FDA the full authority to regulate tobacco products, but he wants to do so outside of the "drug and device" framework by establishing a separate title just for tobacco. His current draft has two problems. First, it deprives FDA of certain regulatory authorities which it needs and currently has to regulate tobacco. Second, by creating a separate chapter of the law for tobacco, the Jeffords bill would leave the provisions open to new interpretation by the courts and would require the agency to promulgate new regulations. We met with Senator Jeffords and Kennedy's staffs on Thursday to discuss our concerns and expect to have the opportunity to review revised language soon.

As you know, Senator McCain is leading an effort -- blessed by Trent Lott -- to report a comprehensive bill out of the Commerce Committee. He plans to begin marking up a bill on March 25th. Currently, he is working off a draft bill that reflects the settlement and has significant weaknesses, especially with regard to price and FDA jurisdiction. There is little doubt, however, that McCain would like our support and that he is listening carefully to our concerns. On Friday, we were invited to a meeting chaired by Senator McCain's and Hollings' staffs which was very constructive in its tone and content. Mostly, we discussed FDA jurisdiction. While we are not sure that they are ready to adopt our view that the legislation should reaffirm FDA's current authority to regulate tobacco products, they are clearly working hard to understand our concerns and are seriously considering our views.

McCain has been working primarily with Hollings so far, but plans to expand his working group next week to include Breaux and Gorton and perhaps others. They have made clear that they want us to participate with them in this bipartisan working group. They want us to review and provide feedback on their ideas. They seem to want to produce a bill we can support, or at least one that we will not criticize. Erskine, Larry, and I are meeting with Senator McCain on Monday to reinforce our interest in helping crafting a bipartisan bill that we can support.

Tobacco -- Funding for Counteradvertising Campaigns: You asked us how much the different bills spend on counteradvertising. The settlement proposed to spend \$500 million a year. The Jeffords and Kennedy bills match that figure, while the newest bills spend a bit more -- \$700 million a year in Conrad and \$750 a year in Chafee-Harkin. Our budget includes counteradvertising in a \$22 billion a year "other uses" category which includes support for farmers and unrestricted funds to states, and we had assumed -- although not released -- to match the \$500 million a year settlement level.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-MAR-1998 14:03:15.00

SUBJECT: Draft Statement for Monday Press Conf.

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

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

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

TEXT:

Scott Ballin from the Campaign for Tobacco Free Kids called today asking if the President could give a statement to be read at their press conference with farmers and public health groups announcing their core principles. There are no members invited. I'll drop off the Campaign's draft release for the press conference. Attached is a draft statement.

I've talked to Ford and Robb's offices, as well as OPL and USDA who are fine with doing it. I also talked to the NC Farm Bureau which didn't sign on. The Farm Bureau wasn't really against the coalition and principles, and wouldn't be unhappy if we gave a general statement of support. They didn't sign on because they think the principles should include immunity and they are worried that the public health groups may end up in a different place than farmers so they "don't want to get in bed now."

The main objection I can think of might be from Lugar (the principles come out in favor of continuing a tobacco program, he doesn't). But the statement I've attached would just applaud the coalition for working together and trying to get a bill, I don't think we need to say more than that. I talked about it with Tarplin and he thought the attached statement would be fine.===== ATTACHMENT 1 =====
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D41]MAIL41161517K.026 to ASCII,
The following is a HEX DUMP:

FF57504370040000010A020100000002050000003409000000020000790A3332F25B54EFF67F90
FF70228A61AE7A796C456917144E8B07F81EFB9AF2BAA6393086FADDCAD2132029012DF7F9A9BC
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D86BAF720636FFE579DE393B7A6C57A6995440A476491804281E4FF6E582AEA2A70F54445FD513
D8C5A83B8A29A2D9D94184BDB66CD0AD952927BE04814E8498033E5D1E4490674656172116C086
226C9284F60C70E57F7679FFB67CD9BA3552532A4957077FA89CD870EDABF17312C7F194B1BAFD
8AF8FEC5C438BC47CF6A246FAC596D56A8EE971B8E185245E3D7716BF9632155CC657DE6037965

**DRAFT
STATEMENT OF THE PRESIDENT OF THE UNITED STATES
MARCH 16, 1998**

I congratulate representatives of public health and tobacco producer organizations for their work in promoting effective legislation to reduce disease caused by tobacco products and protect American farmers and their communities. Their efforts are a step in the right direction towards enacting bipartisan, comprehensive tobacco legislation. I am firmly committed that tobacco legislation protect farmers and their communities, and have made this commitment one of the five key elements that I will insist upon before signing tobacco control legislation. I hope you will continue your efforts to expand your coalition and to enact comprehensive tobacco legislation this year.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Andrea Kane (CN=Andrea Kane/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:13-MAR-1998 19:07:13.00

SUBJECT: NEC E&T Work Group--Skills Shortages

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

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

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

CC: Julie A. Fernandes (CN=Julie A. Fernandes/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

Just a quick update on where this group is heading. The group includes DOL, Ed, and Commerce, along with CEA and OMB. It is meeting twice a week, focusing primarily on how to address the skills shortage issue raised by the IT industry, but also keeping a broader focus on other critical skills needs that may emerge. As you know, this is in the context of the H1B immigration issues and making sure we focus first on doing all we can to prepare American workers for these jobs. The group has identified a list of short and long-term strategies, including things industry can do, things the public sector can do, and things we can do together. DOL is very concerned that whatever happens builds on the soon-to-be reformed workforce development system. The last meeting focused on fine-tuning something that could be part of a Kennedy legislative package--particularly the last bullet below. Let Julie or I know if you have any questions/concerns.

Highlights of possible initiatives:

expanding industry involvement in school-to-work,
continuing that national dialogue through 4 Commerce/DOL town hall meetings,
building on America's Job Bank/Talent Bank--DOL's on-line labor matching services,
\$6 m DOL Technology Demonstration Project to establish partnerships to train dislocated workers for high tech jobs,
encourage IT employers to partner with HBCUs and provide training on the internet,
D.C. Area IT Training Grant--up to \$17.5 million for regional partnership between DC/VA/MD workforce system, industry, labor, education and training providers, to retrain 2,500 dislocated workers,
fund approx. 120 regional critical skills partnerships (name is up for grabs), preferably through HBI visa fees. These would expand on the Technology Demo Project and D.C. area grant concepts and is similar to proposals advanced by PPI and Congressman Moran. Would be competitive grants of around \$400,000. Primary focus is to bring the industry and workforce systems together in a region to do coordinated planning, with actual training services funded through employers or existing workforce/education system.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-MAR-1998 12:58:35.00

SUBJECT: Weekly

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READ:UNKNOWN

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

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

TEXT:

This week's goodies:

Crime -- School Safety -- Next week, the Department of Education and the National Center on Education Statistics will release a survey on school safety entitled, "Violence and Discipline Problems in U.S. Public Schools: 1997-97." The findings of this survey are based on a nationally representative sample of 1,234 public elementary, middle, and secondary schools and include:

- More than half, or 57%, of public schools reported experiencing at least one crime incident in the 1996-97 school year that was reported to law enforcement officials, and 1 in 10 schools reported at least one serious violent crime during that year (i.e., murder, rape, other sexual battery, suicide, physical attack or fight with a weapon, or robbery).

- Overall incidents of crime and violence include: 190,000 physical attacks or fights without a weapon; 116,000 thefts or larceny; 98,000 incidents of vandalism; 11,000 physical attacks or fights in which a weapon was used; 7,000 robberies; and 4,000 rapes or other forms of sexual battery.

- 43% of schools reported no incidents of crime; 37% reported 1 to 5 crimes; and 20% reported 6 crimes or more.

- Middle and High Schools were more likely to experience an incident of crime and violence than elementary schools (74% and 77%, as opposed to 45% for all violent incidents; 19% and 21%, as opposed to 4% for serious violent crimes). Differences in robbery rates were not significant.

- Schools that reported discipline problems were more likely to have experienced an incident of crime or violence, and were more likely to experience serious violent crime than those with less serious discipline problems.

- Most public schools -- 79% to 94% -- reported having "zero tolerance" policies on violence, tobacco, alcohol, drugs, weapons other than firearms, and firearms.

- Most schools -- or 84% -- employed only low levels of security to prevent violence (closed campuses, sign-in policies, or other measures to control access). 10% had moderate security (part- or full-time guard with restricted access to school, or metal detectors with no guards), and

only 2% had stringent security (police or full-time guards and daily or random metal detector checks). 3% of schools reported that none of the security measures asked about in survey were used.

- Most schools -- or 78% -- have some type of violence prevention or reduction program, and half the schools. And half the schools with violence prevention programs involve all or nearly all the students.