

NLWJC - KAGAN

EMAILS RECEIVED

ARMS - BOX 025 - FOLDER -007

[03/17/1998 - 03/18/1998]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-MAR-1998 17:19:40.00

SUBJECT: u.s. news item

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

TEXT:

It's nice to see that Sylvia has been able to distance herself from the race initiative:

Outlook 3/23/98

WASHINGTON WHISPERS

Restarting the race dialogue
Frustrated by his advisory board,
Clinton looks elsewhere for help

His early expectations dampened, President Clinton no longer believes his much-ballyhooed advisory board can advance a national dialogue on racial issues. After a slow start when the panel was created last year, the board has been holding public meetings around the country, yet has generated little publicity and has been derided in some quarters. Aides say Clinton values the group for raising some interesting issues, such as America's increasing cultural and ethnic diversity, but he is looking elsewhere for bold initiatives. Clinton is now relying on advisers in the White House, especially his Domestic Policy Council and National Economic Council, and key staffers such as Bruce Reed, Gene Sperling, and Sylvia Mathews to generate big ideas. A team of outside scholars is working, independent of the advisory board, to develop 15 to 20 papers outlining current and future racial problems and to propose solutions on issues that include unemployment, inadequate health care, and unequal education. And the president is listening to the advice of outside experts such as Jesse Jackson on how to re-energize his race initiative. "The president wants to create a legacy of racial healing," says a friend. "He wants something significant--he's insisting on it."

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Mary L. Smith (CN=Mary L. Smith/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:17-MAR-1998 20:44:58.00

SUBJECT: Updated Tobacco Hearing Schedule

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

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

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

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

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

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

CC: Donna L. Geisbert (CN=Donna L. Geisbert/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

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

TEXT:

Here is an updated tobacco hearing schedule:

TOBACCO HEARING SCHEDULE

Wednesday, March 18

FDA Authority

The Senate Labor and Human Resources Committee (Chairman Jeffords (R-VT)) will hold a full committee markup on tobacco legislation.

Agenda:

S1648-Amend the Public Health Service Act and the Food, Drug, and Cosmetic Act to provide for reductions in youth smoking, for advancements in tobacco-related research, and the development of safer tobacco products.

Thursday, March 19

Public Health

The Health and Environment Subcommittee (Chairman Bilirakis (R-FL)) of the House Commerce Committee will hold a hearing on the minority issues related to the global tobacco settlement.

Comprehensive Tobacco Legislation

The Senate Commerce, Science and Transportation Committee (Chairman McCain (R-AZ)) will hold a hearing on proposed comprehensive tobacco-control legislation.

Witnesses

-A panel of governors and retailers.

Wednesday, March 25

Full Committee Markup

The Senate Commerce, Science and Transportation Committee (Chairman McCain (R-AZ)) will hold a full committee markup on proposed comprehensive tobacco-control legislation.

Agenda:

S1415 A bill to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

Tuesday, March 31

Environmental Effects of Tobacco

The Senate Environment and Public Works Committee (Chairman Chafee (R-RI)) will hold a hearing on the environmental effects of tobacco.

Witnesses: [tentative]

-Carol Browner, Administrator, Environmental Protection Agency
-Michael Eriksen - Director, Office on Smoking and Health, Centers for Disease Control

Tobacco-Related Compensation

The Senate Veterans Affairs Committee (Chairman Specter (R-PA)) will hold a hearing on tobacco-related compensation.

Wednesday, April 1 [RESCHEDULED]

Indian Provisions of Tobacco Legislation

The Senate Indian Affairs Committee (Chairman Campbell (R-CO)) will hold a full committee markup on the provisions of comprehensive tobacco-control legislation that affect Native American populations.

Agenda:

S1279 A bill to amend the Indian Employment, Training and Related Services Demonstration Act of 1992 to provide for the transfer of services and personnel from the Bureau of Indian Affairs to the Office of Self-Governance, to emphasize the need for job creation on Indian reservations, and for other purposes.

S1414 A bill to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

S1415 A bill to reform and restructure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent

the use of tobacco products by minors, to redress the adverse health effects of tobacco use, and for other purposes.

S1530 A bill to resolve ongoing tobacco litigation, to reform the civil justice system responsible for adjudicating tort claims against companies that manufacture tobacco products, and establish a national tobacco policy for the United States that will decrease youth tobacco use and reduce the marketing of tobacco products to young Americans.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-MAR-1998 17:11:28.00

SUBJECT: Equal Pay Memo

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

TEXT:

The annual report seems fine, but we can't do a directive that increases (or considers increasing) compliance costs "several hundred fold."

Do we know whether Daschle would amend his bill?

----- Forwarded by Bruce N. Reed/OPD/EOP on 03/17/98
05:09 PM -----

Mary L. Smith
03/17/98 02:02:41 PM
Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Thomas L. Freedman/OPD/EOP
cc:
Subject: Equal Pay Memo

Here is the memo that presents options for a possible event on equal pay on April 3. The NEC is going to give this memo to Gene and Sally.
Thanks, Mary

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

TEXT:

Unable to convert ARMS_EXT: [ATTACH.D51]MAIL41504657I.026 to ASCII,
The following is a HEX DUMP:

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March 17, 1998

DRAFT MEMORANDUM FOR THE DPC/ NEC

FROM: DPC/NEC STAFF

SUBJECT: Equal Pay Initiative

This memorandum outlines some options for a possible announcement on equal pay on April 3rd. Many organizations around the country hold events on April 3rd, which is "Equal Pay Day," the day designated as the date on which women's earnings, added to their previous year's earnings, are said to equal what men earn in one calendar year.

There are numerous studies attempting to determine the degree of wage differences between men and women. A recent brief review of existing studies in the area by the Council of Economic Advisors concludes that while wage differentials have narrowed steadily since the late 1970s, there is still a significant wage differential, even after controlling for education, experience, and occupation. The raw differential in terms of female and male wage ratios is 72.4. Taking into account education and experience, the differential becomes 80.5. The wage differential further narrows to 88.2, controlling for occupation, industry, and union status. A more popular figure, cited for instance by the Department of Labor, states women earn on average only 75 cents for each dollar a man earns.

The following summarizes existing legislation on equal pay, and describes policy options in four areas (1) data collection; (2) enforcement; (3) technical assistance; and (4) executive actions. The memorandum then describes four options for endorsing or modifying existing bills or endorsing legislative principles.

I. Existing Legislation

There are two main bills regarding fair pay that have been introduced, one by Senator Daschle (D-SD) and one by Senator Harkin (D-IA).

A. Paycheck Fairness Act - Daschle S.71

Enhanced Enforcement. Daschle's bill would amend the Equal Pay Act (EPA) to allow for compensatory and punitive damages. Currently, the EPA only allows for liquidated damages and back pay awards. Liquidated damages typically are awarded in an amount equal to back

pay. Typical recoveries are double back-pay awards.

An individual can file suit for wage discrimination under either Title VII or the Equal Pay Act (EPA). Title VII allows for compensatory and punitive damages, in addition to back pay, as a result of the Civil Rights Act of 1991. These damages are, however, capped. Compensatory and punitive damages under Title VII for wage discrimination are limited to no more than between \$50,000 and \$300,000, depending on the size of the employer -- not the severity of the offense (e.g., for firms with between 15 and 100 employees, combined damages are capped at \$50,000). Victims of racial or ethnic discrimination in employment can seek unlimited damages under a separate statute, leaving victims of discrimination based on sex, religion or disability limited in the relief they can receive.

The Daschle bill adds unlimited compensatory and punitive damages to the Equal Pay Act. A number of advocates believe that increasing the damages available under the EPA would encourage the private bar to bring more suits under the statute, encourage employers to devote more attention to their pay practices, and encourage victims to come forward.

Adding unrestricted damages to equal pay cases would not necessarily lead to a huge proliferation of frivolous actions or excessive awards. An examination of Title VII's section 1981, the statute that allows for unlimited damages in cases of racial or ethnic discrimination, found that between 1980 and 1990 plaintiffs won 121 cases -- eleven per year. There were no compensatory and punitive damages in 52 of the cases; in 42, damages were less than \$50,000. Total damages exceeded \$200,000 in only two cases during the eleven-year period. This study was limited to reported decisions, and did not include cases settled before trial.

Nonretaliation Provision. The bill includes a nonretaliation provision that amends the EPA to prohibit employers from penalizing employees for sharing information about their salaries with coworkers.

Data Collection. Daschle's bill also provides for the collection of pay information by the EEOC. Daschle's bill is somewhat vague on exactly how the wage data would be collected. It does not specify that the data needs to be collected on the EEO-1 form, which is the form used by the EEOC to collect employment data.

Daschle's bill did not perform a cost analysis for the collection of this data, but merely requests that the EEOC appropriations be brought up to the level requested by the President in FY 1997 by adding \$36 million to the budget. **(The President's FY 1999 budget requests \$279 million for the EEOC -- \$37 million or 15 percent more than the enacted 1998 budget. More than one-third of the proposed increase, \$13 million, goes to expansion of the agency's ADR program.)**

In addition, the Daschle bill provides for training, research, education, and outreach. Finally, the bill establishes "The National Award for Pay Equity in the Workplace," to be administered by the Women's Bureau of the Department of Labor, to recognize and promote the achievements of employers that have made strides to eliminate pay disparities.

B. Fair Pay Act - Harkin S.232

Comparable Worth. The principal provision in Harkin's bill is for equal pay for equivalent jobs. The Fair Pay Act outlaws discrimination in wages paid to employees within a workplace in equivalent jobs solely on the basis of sex, race, or national origin. However, wage differences on the basis of seniority, a merit system, or an quality/quantity system would not be affected.

Harkin's bill also contains a non-retaliation provision, a provision to permit the awarding of expert fees, and a section that provides for the collection of wage information by the EEOC. The bill also provides for research, education, and technical assistance.

II. Relevant Policy Issues

The following describes policy options in four areas: data collection; enforcement; technical assistance, and actions regarding the federal workforce.

A. Data

Data collection could improve pay equity in two ways. The first is by providing more information to enhance enforcement of anti-discrimination laws; the second is by increasing public awareness of pay inequities. Development of better data to improve enforcement could be accomplished with a directive to the agencies to determine how best to update the EEO-1 form in order to better serve the EEOC; public awareness of pay inequities could be made with an annual report on the pay gap by sex produced by the DOL using the (existing) *Current Population Survey*.

1. Directive to the Agencies

The EEOC currently collects annual data regarding the demographic breakdown of the workforces of private employers with 100 or more employees and of federal contractors with 50 or more employees on the EEO-1 form. The EEOC does not currently collect salary data. The EEO-1 form, however, has remained virtually unchanged for the past 30 years. During that time, the

occupation and racial categories have become outdated; they have not kept pace with the new information economy.

At the same time, the EEOC believes that collecting wage data on the EEO-1 form would greatly improve their ability to target and prioritize discrimination cases. It also would assist the Department of Labor in targeting its enforcement efforts and monitoring affirmative action programs. However, collecting wage data through the EEO-1 form will be very controversial -- any attempts to add wage data to the form will draw significant fire from the Republicans and the business community.

In order to give complete consideration to competing arguments regarding changing the EEO-1 form or creating a supplement to the form, the best method would be to issue a directive to the EEOC, the Department of Labor, and the Department of Justice (in consultation with the Department of Commerce, Treasury, and OMB) to report back in 6 months on ways to improve the form to increase enforcement of our anti-discrimination laws. The agencies should be directed to streamline the data collection process and to pay particular attention to minimizing burdens on business.

Pros: The EEOC, the Dept. of Labor (OFCCP), and organized labor believe that wage data is critical to improving the enforcement ability of the EEOC and OFCCP. And, they are extremely eager for the administration to collect this data. Unfortunately, if the EEO-1 form were amended in its current form to include wage data, it would increase compliance costs by several hundred-fold. Other options, such as creating a supplement to the form, may mitigate some of these costs. At the same time, the form is quite out-of-date which further hinders enforcement.

Thus, we need a thorough and creative study (and policy process) in order to consider seriously changing the form, and to weigh the costs and benefits of revising the occupational and racial categories and collecting wage data. Issuing the directive will give us time to study the issue thoroughly while re-assuring interested parties that we understand their concerns.

Cons: Issuing a directive may be seen by organized labor and other groups as “weak” relative to stating that the administration will update the form and/or will collect wage data. Further, at the end of the 180-day period, we may be faced with a recommendation to change the form or collect wage data that comes at an unacceptably large public compliance burden. In other words, since the groups will expect us to include the wage data on the form (since we are announcing that we want to update the form on Equal Pay Day), we may be putting ourselves in a box that we will not be able to escape from.

Also, the business community -- concerned that we may make the form more difficult to comply with -- may object to us even considering changing the EEO-1 form (much less considering collecting the wage data).

2. Annual Report Based on Bureau of Labor Statistics Data

The President could also improve data collection by requiring DOL to issue an annual report based on (existing) wage data by the Bureau of Labor Statistics. This option would be less politically charged because it would not impose additional burdens on business. In addition, because attitudes and awareness are keys to reducing wage disparities, highlighting the issue every year would likely have a powerful effect on public consciousness and be an effective way to achieve increased gender pay equity. However, this option would not enhance enforcement efforts. This option would not involve significant costs.

B. Enforcement

Enforcement of anti-discrimination laws by the EEOC and OFCCP have traditionally played an important role in easing discrimination in our labor market. Therefore, a key component to our equal pay initiative is to improve enforcement by both agencies. In particular, we propose:

1. Increase Funding for Enforcement

a. Increase OFCCP Funding by \$5 million

DOL estimates that it would require approximately \$5 million to support additional training, travel, and staff to increase corporate management reviews. These corporate management reviews, also known as “glass ceiling” reviews, are different from other compliance reviews conducted by OFCCP in that they begin with an interview with the chief executive officer. These reviews also include a perusal of promotional and compensation policies related to mid- and upper-level management positions, efforts to recruit diverse pools of applicants for senior level positions, and the developmental opportunities that exist for individuals to become senior executives. Since 1994, OFCCP has conducted approximately 100 Corporate Management Reviews of Fortune 1000 companies. With an additional \$5 million, OFCCP could increase its FTEs by 80, and conduct approximately 190 corporate reviews per year.

b. Increase EEOC funding by \$500,000

EEOC estimates that it would cost \$500,000 to increase training for its staff for enforcement of wage discrimination under both Title VII and the Equal Pay Act.

2. A Memorandum Of Understanding (MOU) between EEOC and DOL to Cross Train

The EEOC and the Department of Labor could enter into an agreement to train each other's staff to be sensitive to potential violations of the statutes they enforce, including the Equal Pay Act. The agencies would refer information concerning potential violations of the agency's statutes to the applicable EEOC or Labor Department office for appropriate action.

3. A MOU Between EEOC and DOL to Collect Damages

OFCCP would be designated to serve as the EEOC's agent for purposes of collecting damages that are not otherwise collectible under OFCCP's authority under its executive order. OFCCP then could obtain full relief for intentional discrimination. This change would not require any legislative action. There are no costs anticipated for this option.

4. A Presidential Directive to Emphasize Existing Obligations for Federal Contractors

The President could issue a directive ordering all of the contracting agencies to abide by already existing Equal Employment Opportunity clauses which are contained in most government contracts. OFCCP enforces the anti-discrimination provisions in employment laws that pertain to federal contractors, which constitute 22 percent of the civilian workforce. As the result of the EEO clause in their contracts, federal contractors and subcontractors are required to refrain from discriminating and to take pro-active steps to ensure an equal opportunity workplace. This government contract obligation includes a self-audit component that often recognizes and corrects patterns of discrimination and eliminates unnecessary barriers to employment. The EEO clause is a powerful lever that, if taken more seriously by the contracting officers, would help prevent discrimination.

C. Technical Assistance

1. Federal Contractor Best Practices

Currently, federal contractors must conduct self-audits as part of their

federal contract obligations. OFCCP has begun to publicize successful programs through its best practices honor roll. The agency plans to place these Best Practices suggestions on its web site.

2. SWAT Team at DOL to provide technical assistance

DOL proposes \$2 million for a specialized technical assistance team to reach out to approximately 1000 companies. DOL's technical assistance would include analysis of hiring, promotion, compensation, and evaluation data to ensure fairness and consistency for women at all levels within the company. Recommendations for correcting problem areas could then be proposed.

3. 10-Step Voluntary Self-Audit for Businesses and Employees

The Department of Labor would develop and make available a 10-step package that would give companies guidelines to determine whether they offer equal pay, hiring, and promotional opportunities. The Department would also develop a similar checklist for employees. DOL would put these self-audits on the Internet. This would require no additional funding.

4. Awards

The Department of Labor has an Exemplary Voluntary Efforts (EVE) and Secretary's Opportunity 2000 Awards program that recognizes best corporate practices. This year's event will be held on September 17. This existing vehicle could be used to highlight the best practices in furthering pay equity. There is also an award proposed in the Daschle bill.

D. Federal Government

Another way in which the Federal government can provide for the recognition and promotion of fair pay practices by employers is to become a role model for other employers. The following four initiatives are designed to address discrimination within the Federal government:

1. Guide to Recruitment and Retention of Women

The Office of Personnel Management (OPM) is producing a new Guide on Recruitment and Retention of Women in the federal government that would contain information to make agency managers aware of career opportunities for women and to provide guidance on recruitment and career development for women. This could be prepared by April 3rd.

2. Outreach

OPM, in conjunction with other agencies, could expand outreach efforts, including working with professional groups, participating in women's conferences, and visiting college campuses so that talented women may be recruited for jobs in the Federal government.

3. Best Practices

OPM could work with the other Federal departments and agencies to develop best practices, from both the public and private sectors, for recruiting and retaining women.

4. Career Development Programs

OPM could explore extension of career development programs and activities, such as the Women's Executive Leadership Program and Federally Employed Women workshops, to increase employment of women in the federal workforce and to identify new initiatives that support the enhancement of career skills for women at all levels.

III. Options

Option 1: Endorse Daschle

Pros: The bill addresses the legislative principles described in Option 4, below.

Cons: The bill may go further than we are willing to with regard to punitive and compensatory damages and with regard to adding wage data to the EEO-1 form (see the data discussion, above).

Option 2: Work with Daschle's Staff to Modify his Bill

Amend the provision to provide for the addition of capped compensatory and punitive damages, which would put the Equal Pay Act on par with the damages currently available for wage discrimination under Title VII, and issue a directive to *consider* changing the EEO-1 form (rather than determining that before a proper process has occurred). Announce an annual report on wage differentials.

Pros: Again, the bill addresses many of the proposed legislative principles. However, the President does not want to encourage unnecessary litigation and unlimited punitive damages that result in large legal settlements. Capping damages would both limit potential settlements and would make the Equal Pay Act consistent with Title VII. The annual report would be a

valuable informational guide to wage differentials. The advantages of issuing a directive to study the EEO-1 form are discussed in the Data section, above.

Cons: The Administration would be endorsing an enforcement provision stronger than what some businesses would likely prefer, and weaker than the bill originally sponsored by Senator Daschle.

Option 3. Support or Endorse Harkin

Pros: Economists agree that most of the (remaining) pay disparity between men and women results because traditionally female jobs pay less than traditionally male jobs. Therefore, that it will be difficult to achieve true pay equity without overhauling prevailing pay practices, such as through comparable worth.

Cons: While a policy akin to comparable worth may be required to achieve true pay equity, it has several drawbacks, including: a) interfering with the labor market's ability to set wages and strong opposition from business, b) possibility of causing women to lose jobs (since imposed pay equity would most likely be achieved by increasing female salaries rather than lowering male salaries), and c) no one really knows how wages are determined so it is difficult to implement.

Option 4: Endorse Legislative Principles

The President could simply endorse legislative themes for pay equity that should be in legislation, such as:

1. Providing for the recognition and promotion of fair pay practices by employers;
2. Providing for research, education and outreach to encourage fair pay practices and to eliminate pay disparities in the workplace;
3. Providing enhanced enforcement to deter violations of the Equal Pay Act and other laws;
4. Prohibiting retaliation against employees who disclose, discuss, or inquire about their wages or the wages of their co-workers.

Pros: We avoid committing to a particular policy before we have completed a thorough policy process while still emphasizing the administration's policy principles.

Cons: It does not respond specifically with solutions and would be criticized as ineffective and rhetorical.

Recommendation:

We recommend Option 2 as a specific action to reduce unequal pay with common sense legislation that improves enforcement, data collection, and technical assistance. In addition, we recommend the agencies sign the MOU's and develop guidelines for federal employers to improve federal coordination and practices.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-MAR-1998 21:40:17.00

SUBJECT: American Immigration Lawyers

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

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

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

CC: Miriam H. Vogel (CN=Miriam H. Vogel/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:

Folks--due to unforeseeable demands I have been requested to go on the trip to Las Vegas tomorrow--the meeting with the AILA lawyers' executive board is important--I am asking if any one of you could do the meeting for 45 minutes it would be greatly appreciated--truth be told they prefer to meet with the policy shops (little knowing that OPL in fact has a voice in the policy process thanks to you all)--please look at your schedules--if one of you could please just meet with these folks and listen, I would be eternally grateful (at least until one of you needs a favor). Please talk to Miriam Vogel in my office---thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Mary L. Smith (CN=Mary L. Smith/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:17-MAR-1998 17:29:37.00

SUBJECT: Re: Equal Pay Memo

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

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

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

TEXT:

One of the recommendations from the agencies would increase compliance costs dramatically -- this option would be to collect wage data directly on the EEO-1 form itself and collect wage data for each of 8 current occupational categories. However, there are other options that would cost much less. One option would be to create a periodic supplement to the EEO-1 form that could either be sent out to all companies on a periodic basis or to targeted industries on a periodic basis.

Also, Daschle's staff has indicated a great willingness to work with us to modify the bill. Let me know if you have any other questions.
Thanks, Mary

Bruce N. Reed
03/17/98 05:10:04 PM
Record Type: Record

To: Elena Kagan/OPD/EOP, Thomas L. Freedman/OPD/EOP, Mary L. Smith/OPD/EOP
cc:
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Enhanced Enforcement. Daschle's bill would amend the Equal Pay Act (EPA) to allow for compensatory and punitive damages. Currently, the EPA only allows for liquidated damages and back pay awards. Liquidated damages typically are awarded in an amount equal to back

pay. Typical recoveries are double back-pay awards.

An individual can file suit for wage discrimination under either Title VII or the Equal Pay Act (EPA). Title VII allows for compensatory and punitive damages, in addition to back pay, as a result of the Civil Rights Act of 1991. These damages are, however, capped. Compensatory and punitive damages under Title VII for wage discrimination are limited to no more than between \$50,000 and \$300,000, depending on the size of the employer -- not the severity of the offense (e.g., for firms with between 15 and 100 employees, combined damages are capped at \$50,000). Victims of racial or ethnic discrimination in employment can seek unlimited damages under a separate statute, leaving victims of discrimination based on sex, religion or disability limited in the relief they can receive.

The Daschle bill adds unlimited compensatory and punitive damages to the Equal Pay Act. A number of advocates believe that increasing the damages available under the EPA would encourage the private bar to bring more suits under the statute, encourage employers to devote more attention to their pay practices, and encourage victims to come forward.

Adding unrestricted damages to equal pay cases would not necessarily lead to a huge proliferation of frivolous actions or excessive awards. An examination of Title VII's section 1981, the statute that allows for unlimited damages in cases of racial or ethnic discrimination, found that between 1980 and 1990 plaintiffs won 121 cases -- eleven per year. There were no compensatory and punitive damages in 52 of the cases; in 42, damages were less than \$50,000. Total damages exceeded \$200,000 in only two cases during the eleven-year period. This study was limited to reported decisions, and did not include cases settled before trial.

Nonretaliation Provision. The bill includes a nonretaliation provision that amends the EPA to prohibit employers from penalizing employees for sharing information about their salaries with coworkers.

Data Collection. Daschle's bill also provides for the collection of pay information by the EEOC. Daschle's bill is somewhat vague on exactly how the wage data would be collected. It does not specify that the data needs to be collected on the EEO-1 form, which is the form used by the EEOC to collect employment data.

Daschle's bill did not perform a cost analysis for the collection of this data, but merely requests that the EEOC appropriations be brought up to the level requested by the President in FY 1997 by adding \$36 million to the budget. **(The President's FY 1999 budget requests \$279 million for the EEOC -- \$37 million or 15 percent more than the enacted 1998 budget. More than one-third of the proposed increase, \$13 million, goes to expansion of the agency's ADR program.)**

In addition, the Daschle bill provides for training, research, education, and outreach. Finally, the bill establishes "The National Award for Pay Equity in the Workplace," to be administered by the Women's Bureau of the Department of Labor, to recognize and promote the achievements of employers that have made strides to eliminate pay disparities.

B. Fair Pay Act - Harkin S.232

Comparable Worth. The principal provision in Harkin's bill is for equal pay for equivalent jobs. The Fair Pay Act outlaws discrimination in wages paid to employees within a workplace in equivalent jobs solely on the basis of sex, race, or national origin. However, wage differences on the basis of seniority, a merit system, or an quality/quantity system would not be affected.

Harkin's bill also contains a non-retaliation provision, a provision to permit the awarding of expert fees, and a section that provides for the collection of wage information by the EEOC. The bill also provides for research, education, and technical assistance.

II. Relevant Policy Issues

The following describes policy options in four areas: data collection; enforcement; technical assistance, and actions regarding the federal workforce.

A. Data

Data collection could improve pay equity in two ways. The first is by providing more information to enhance enforcement of anti-discrimination laws; the second is by increasing public awareness of pay inequities. Development of better data to improve enforcement could be accomplished with a directive to the agencies to determine how best to update the EEO-1 form in order to better serve the EEOC; public awareness of pay inequities could be made with an annual report on the pay gap by sex produced by the DOL using the (existing) *Current Population Survey*.

1. Directive to the Agencies

The EEOC currently collects annual data regarding the demographic breakdown of the workforces of private employers with 100 or more employees and of federal contractors with 50 or more employees on the EEO-1 form. The EEOC does not currently collect salary data. The EEO-1 form, however, has remained virtually unchanged for the past 30 years. During that time, the

occupation and racial categories have become outdated; they have not kept pace with the new information economy.

At the same time, the EEOC believes that collecting wage data on the EEO-1 form would greatly improve their ability to target and prioritize discrimination cases. It also would assist the Department of Labor in targeting its enforcement efforts and monitoring affirmative action programs. However, collecting wage data through the EEO-1 form will be very controversial -- any attempts to add wage data to the form will draw significant fire from the Republicans and the business community.

In order to give complete consideration to competing arguments regarding changing the EEO-1 form or creating a supplement to the form, the best method would be to issue a directive to the EEOC, the Department of Labor, and the Department of Justice (in consultation with the Department of Commerce, Treasury, and OMB) to report back in 6 months on ways to improve the form to increase enforcement of our anti-discrimination laws. The agencies should be directed to streamline the data collection process and to pay particular attention to minimizing burdens on business.

Pros: The EEOC, the Dept. of Labor (OFCCP), and organized labor believe that wage data is critical to improving the enforcement ability of the EEOC and OFCCP. And, they are extremely eager for the administration to collect this data. Unfortunately, if the EEO-1 form were amended in its current form to include wage data, it would increase compliance costs by several hundred-fold. Other options, such as creating a supplement to the form, may mitigate some of these costs. At the same time, the form is quite out-of-date which further hinders enforcement.

Thus, we need a thorough and creative study (and policy process) in order to consider seriously changing the form, and to weigh the costs and benefits of revising the occupational and racial categories and collecting wage data. Issuing the directive will give us time to study the issue thoroughly while re-assuring interested parties that we understand their concerns.

Cons: Issuing a directive may be seen by organized labor and other groups as “weak” relative to stating that the administration will update the form and/or will collect wage data. Further, at the end of the 180-day period, we may be faced with a recommendation to change the form or collect wage data that comes at an unacceptably large public compliance burden. In other words, since the groups will expect us to include the wage data on the form (since we are announcing that we want to update the form on Equal Pay Day), we may be putting ourselves in a box that we will not be able to escape from.

Also, the business community -- concerned that we may make the form more difficult to comply with -- may object to us even considering changing the EEO-1 form (much less considering collecting the wage data).

2. Annual Report Based on Bureau of Labor Statistics Data

The President could also improve data collection by requiring DOL to issue an annual report based on (existing) wage data by the Bureau of Labor Statistics. This option would be less politically charged because it would not impose additional burdens on business. In addition, because attitudes and awareness are keys to reducing wage disparities, highlighting the issue every year would likely have a powerful effect on public consciousness and be an effective way to achieve increased gender pay equity. However, this option would not enhance enforcement efforts. This option would not involve significant costs.

B. Enforcement

Enforcement of anti-discrimination laws by the EEOC and OFCCP have traditionally played an important role in easing discrimination in our labor market. Therefore, a key component to our equal pay initiative is to improve enforcement by both agencies. In particular, we propose:

1. Increase Funding for Enforcement

- a. Increase OFCCP Funding by \$5 million
DOL estimates that it would require approximately \$5 million to support additional training, travel, and staff to increase corporate management reviews. These corporate management reviews, also known as "glass ceiling" reviews, are different from other compliance reviews conducted by OFCCP in that they begin with an interview with the chief executive officer. These reviews also include a perusal of promotional and compensation policies related to mid- and upper-level management positions, efforts to recruit diverse pools of applicants for senior level positions, and the developmental opportunities that exist for individuals to become senior executives. Since 1994, OFCCP has conducted approximately 100 Corporate Management Reviews of Fortune 1000 companies. With an additional \$5 million, OFCCP could increase its FTEs by 80, and conduct approximately 190 corporate reviews per year.
- b. Increase EEOC funding by \$500,000

EEOC estimates that it would cost \$500,000 to increase training for its staff for enforcement of wage discrimination under both Title VII and the Equal Pay Act.

2. A Memorandum Of Understanding (MOU) between EEOC and DOL to Cross Train

The EEOC and the Department of Labor could enter into an agreement to train each other's staff to be sensitive to potential violations of the statutes they enforce, including the Equal Pay Act. The agencies would refer information concerning potential violations of the agency's statutes to the applicable EEOC or Labor Department office for appropriate action.

3. A MOU Between EEOC and DOL to Collect Damages

OFCCP would be designated to serve as the EEOC's agent for purposes of collecting damages that are not otherwise collectible under OFCCP's authority under its executive order. OFCCP then could obtain full relief for intentional discrimination. This change would not require any legislative action. There are no costs anticipated for this option.

4. A Presidential Directive to Emphasize Existing Obligations for Federal Contractors

The President could issue a directive ordering all of the contracting agencies to abide by already existing Equal Employment Opportunity clauses which are contained in most government contracts. OFCCP enforces the anti-discrimination provisions in employment laws that pertain to federal contractors, which constitute 22 percent of the civilian workforce. As the result of the EEO clause in their contracts, federal contractors and subcontractors are required to refrain from discriminating and to take pro-active steps to ensure an equal opportunity workplace. This government contract obligation includes a self-audit component that often recognizes and corrects patterns of discrimination and eliminates unnecessary barriers to employment. The EEO clause is a powerful lever that, if taken more seriously by the contracting officers, would help prevent discrimination.

C. Technical Assistance

1. Federal Contractor Best Practices

Currently, federal contractors must conduct self-audits as part of their

federal contract obligations. OFCCP has begun to publicize successful programs through its best practices honor roll. The agency plans to place these Best Practices suggestions on its web site.

2. SWAT Team at DOL to provide technical assistance

DOL proposes \$2 million for a specialized technical assistance team to reach out to approximately 1000 companies. DOL's technical assistance would include analysis of hiring, promotion, compensation, and evaluation data to ensure fairness and consistency for women at all levels within the company. Recommendations for correcting problem areas could then be proposed.

3. 10-Step Voluntary Self-Audit for Businesses and Employees

The Department of Labor would develop and make available a 10-step package that would give companies guidelines to determine whether they offer equal pay, hiring, and promotional opportunities. The Department would also develop a similar checklist for employees. DOL would put these self-audits on the Internet. This would require no additional funding.

4. Awards

The Department of Labor has an Exemplary Voluntary Efforts (EVE) and Secretary's Opportunity 2000 Awards program that recognizes best corporate practices. This year's event will be held on September 17. This existing vehicle could be used to highlight the best practices in furthering pay equity. There is also an award proposed in the Daschle bill.

D. Federal Government

Another way in which the Federal government can provide for the recognition and promotion of fair pay practices by employers is to become a role model for other employers. The following four initiatives are designed to address discrimination within the Federal government:

1. Guide to Recruitment and Retention of Women

The Office of Personnel Management (OPM) is producing a new Guide on Recruitment and Retention of Women in the federal government that would contain information to make agency managers aware of career opportunities for women and to provide guidance on recruitment and career development for women. This could be prepared by April 3rd.

2. Outreach

OPM, in conjunction with other agencies, could expand outreach efforts, including working with professional groups, participating in women's conferences, and visiting college campuses so that talented women may be recruited for jobs in the Federal government.

3. Best Practices

OPM could work with the other Federal departments and agencies to develop best practices, from both the public and private sectors, for recruiting and retaining women.

4. Career Development Programs

OPM could explore extension of career development programs and activities, such as the Women's Executive Leadership Program and Federally Employed Women workshops, to increase employment of women in the federal workforce and to identify new initiatives that support the enhancement of career skills for women at all levels.

III. Options

Option 1: Endorse Daschle

Pros: The bill addresses the legislative principles described in Option 4, below.

Cons: The bill may go further than we are willing to with regard to punitive and compensatory damages and with regard to adding wage data to the EEO-1 form (see the data discussion, above).

Option 2: Work with Daschle's Staff to Modify his Bill

Amend the provision to provide for the addition of capped compensatory and punitive damages, which would put the Equal Pay Act on par with the damages currently available for wage discrimination under Title VII, and issue a directive to *consider* changing the EEO-1 form (rather than determining that before a proper process has occurred). Announce an annual report on wage differentials.

Pros: Again, the bill addresses many of the proposed legislative principles. However, the President does not want to encourage unnecessary litigation and unlimited punitive damages that result in large legal settlements. Capping damages would both limit potential settlements and would make the Equal Pay Act consistent with Title VII. The annual report would be a

valuable informational guide to wage differentials. The advantages of issuing a directive to study the EEO-1 form are discussed in the Data section, above.

Cons: The Administration would be endorsing an enforcement provision stronger than what some businesses would likely prefer, and weaker than the bill originally sponsored by Senator Daschle.

Option 3. Support or Endorse Harkin

Pros: Economists agree that most of the (remaining) pay disparity between men and women results because traditionally female jobs pay less than traditionally male jobs. Therefore, that it will be difficult to achieve true pay equity without overhauling prevailing pay practices, such as through comparable worth.

Cons: While a policy akin to comparable worth may be required to achieve true pay equity, it has several drawbacks, including: a) interfering with the labor market's ability to set wages and strong opposition from business, b) possibility of causing women to lose jobs (since imposed pay equity would most likely be achieved by increasing female salaries rather than lowering male salaries), and c) no one really knows how wages are determined so it is difficult to implement.

Option 4: Endorse Legislative Principles

The President could simply endorse legislative themes for pay equity that should be in legislation, such as:

1. Providing for the recognition and promotion of fair pay practices by employers;
2. Providing for research, education and outreach to encourage fair pay practices and to eliminate pay disparities in the workplace;
3. Providing enhanced enforcement to deter violations of the Equal Pay Act and other laws;
4. Prohibiting retaliation against employees who disclose, discuss, or inquire about their wages or the wages of their co-workers.

Pros: We avoid committing to a particular policy before we have completed a thorough policy process while still emphasizing the administration's policy principles.

Cons: It does not respond specifically with solutions and would be criticized as ineffective and rhetorical.

Recommendation:

We recommend Option 2 as a specific action to reduce unequal pay with common sense legislation that improves enforcement, data collection, and technical assistance. In addition, we recommend the agencies sign the MOU's and develop guidelines for federal employers to improve federal coordination and practices.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-MAR-1998 13:20:05.00

SUBJECT: Update on Measuring Income and Poverty

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

I've gone to two policy group meetings on revising the poverty measure chaired by Becky Blank and wanted to let you know where things stand. The first meeting just established the group and an agenda. The second provided an overview of the issue: why do we need a new measure, how might it differ from the current measure, and what are the key decision points in developing a new measure. The purpose of the group is to identify and resolve policy issues that arise as Census works toward publishing alternative measures of poverty. This effort is based largely on the recommendations from the Nt'l Academy report, although there are some areas where the report did not make specific proposals.

Policy issues are likely to surface around: benchmarking the poverty threshold, geographic adjustments, adjusting the measure over time, and treatment of medical expenditures and benefits. Anticipated process/timeframes include: giving Census initial policy and technical guidance by June so they can release several alternative measures on an experimental basis, along with an analysis of their impacts, next Fall in order to get both technical and policy feedback. The policy group would continue to stay involved to assess the reaction, review the broad parameters of a revised measure, and consider policy and legislative implications. This would then feed into development of a revised measure to be implemented in the fall of 1999

The policy group includes CEA, NEC, OMB, DPC, and HHS. It will meet every two weeks through the end of May. I'll plan to attend these meetings and alert you as big issues arise. Please let me know if there are particular issues you are concerned about. Meetings are Mondays from 3:30-5 in Room 324 on 3/30, 4/13, 4/27, 5/11 and 5/26 (Tuesday due to holiday) if you want to attend. In addition, a technical group comprised of experts in the various agencies, chaired by Katherine Wallman from OMB, continues to work through a variety of issues.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Julie A. Fernandes (CN=Julie A. Fernandes/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:17-MAR-1998 14:21:26.00

SUBJECT: INS reform -- State Department

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Elena,

I spoke with Scott Busby about who you should contact at the State Dept.
re: the letter from Secy Albright supporting our conclusion and committing
to continue to work with INS on streamlining, etc. Scott recommends
Barbara Larkin, who is the Assistant Secretary for Legislative Affairs.
He also suggests that you contact Jim Steinberg at NSC. Steinberg is
Berger's Deputy, and has very regular contact with both Tom Pickering and
Strobe Talbot.

Julie

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-MAR-1998 12:53:10.00

SUBJECT: FYI on AmeriCorps reauthorization event this week

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:

----- Forwarded by Diana Fortuna/OPD/EOP on 03/17/98
12:51 PM -----

Stephen B. Silverman
03/17/98 12:49:26 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: Katharine Button/WHO/EOP
Subject:

Thanks to Melanne, Mrs. Clinton will participate in the launch of AmeriCorps reauthorization Thursday morning on the Hill (either 10:30 or 11). In addition to the First Lady, a bi-partisan group of Senators and Members will speak, as well as Harris Wofford, and former AmeriCorps and senior corp participants. Phil is finalizing the legislation and letter to the Hill. A draft press release is coming over for review. I am told that Potus may mention the launch in his school violence event on Thursday, as well. Thanks all for your help and support. Steve

Message Sent

To: _____
Ann F. Lewis/WHO/EOP
Stacie Spector/WHO/EOP
Jennifer M. Palmieri/WHO/EOP
Paul E. Begala/WHO/EOP
Amy W. Tobe/WHO/EOP
Phillip Caplan/WHO/EOP
Diana Fortuna/OPD/EOP
Katherine Hubbard/WHO/EOP
Thurgood Marshall Jr/WHO/EOP
Sylvia M. Mathews/WHO/EOP
Janet Murguia/WHO/EOP
Beverly J. Barnes/WHO/EOP
Doris O. Matsui/WHO/EOP
Jeffrey A. Forbes/WHO/EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-MAR-1998 22:51:26.00

SUBJECT: School Safety

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

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

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

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

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

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

TEXT:

Esteemed Colleagues:

Attached is a draft one-pager for the proposed school safety event on Thursday. Please note, Education has pulled back one of the studies, and key event logistics have not been finalized yet. Specifically...

Paper/Overall Outline -- Elena, does this one pager accurately reflect report and announcements? Do you still want to circulate this to others before we nail down the rest of the event detail? See also existing accomplishments doc from 12/97 that we will update for re-distribution.

Event Program -- Rahm, do we need a "real person" (principal) to speak? Scheduling recommended that we find one; Education and I don't think we need one and favor a shorter program w/just the AG (Riley and Deputy are both out of town).

Audience -- We still don't know which room we're doing this in. Scheduling initially talked about Roosevelt Room, which would allow us about 6 members, key staff and a handful of constituency types. However, there has been some talk of East Room. I don't think we want to do something this big -- do we?

Briefing -- Key Education staff are prepared to brief afterwards in the press room. I assume this is fine, and that we won't need extensive Q&A.

Remarks -- Education/Mike Cohen have two concerns about the speech: (1) that the crime stuff not be too inflammatory; and (2) that key overall education planks -- e.g., school construction -- be mentioned. Rahm, are you fine with this -- what are your priorities for the speech?

Finally, I've asked the folks from Education to attend the 10am crime meeting tomorrow (Room 211), so that we can get these things finalized. Jordan, if you haven't touched base with Rahm, you may want to visit

**Keeping Our Schools Safe and Drug-Free
March 19, 1998**

Announcement: Today, the President announced: (1) the findings of the first ever national estimate of crime and violence in U.S. schools; (2) the availability of \$17.5 million in new funding from the President's 100,000 more police program for school safety; and (3) a series of recommendations by the Attorney General and Secretary of Education for an Annual Report on School Safety.

"Violence and Discipline Problems in U.S. Schools: 1996-97". The National Center on Education Statistics released a national survey of principals from more than 1,200 public schools in the 50 states and Washington, D.C., on crime and violence in schools last year. Key findings of the survey include:

A Majority of schools -- or 57% -- reported crimes to law enforcement. This includes an estimated 190,000 physical attacks or fights without a weapon, 116,000 incidents of thefts or larceny, and 98,000 incidents of vandalism.

Few schools -- only 10% -- reported serious violent crimes. This includes an estimated 11,000 physical attacks or fights in which a weapon was used, 7,000 robberies, and 4,000 rapes or other types of sexual assault.

Nearly half of all schools -- or 43% -- reported no incidents of crime. And most schools -- or 80% -- reported 5 or fewer crimes.

Schools with serious discipline problems were more likely to experience crime or violence. Principals rate absenteeism, tardiness and fights as the 3 most common discipline problems among students.

Community Policing and School Safety. The Justice Department's COPS Office will make \$17.5 million available for a new community policing program to address school safety. This initiative will fund partnerships between law enforcement, schools, and community groups to develop innovative approaches to reduce crime on or near school grounds.

Annual Report on School Safety In his December 6, 1997 radio address, President Clinton called on the Attorney General and Secretary of Education to issue an annual report that principals, parents, and local officials could use to address their school crime problems. Today, Attorney General Reno and Secretary Riley presented the President with a framework for this report, which will be released at the beginning of every school year. This new report will include: an analysis of all existing national school crime data and an overview of state and local crime reporting; examples of schools and strategies that are successfully reducing school violence, drug use, and class disruption; actions that parents can take locally to combat school crime, including a local safety checklist; and resources available to schools and communities to help create safe, disciplined, and drug-free schools.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-MAR-1998 13:55:34.00

SUBJECT: Assaults

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

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

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

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

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

TEXT:
Colleagues:

While DOJ and Treasury have been working hard on the final assaults report -- and the 5-model option does not seem to be in question -- Treasury (Ray Kelly's office) called to say that Ray was trying to reach Rahm to tell him it doesn't look like they'll be ready by Friday after all. Treasury tells me this is a Rubin decision to not hurry the report, and that he believes it can wait 'til the President's returns from Africa.

Rahm should return Ray's call -- or call Rubin directly -- on this.

Jose'

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-MAR-1998 12:29:45.00

SUBJECT: Flue Cured Proposal

TO: Mary L. Smith (CN=Mary L. Smith/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

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

READ:UNKNOWN

TEXT:

We meet with flue-cured producers from several states yesterday and they outlined their agreed-upon wish list which is below. Senator Ford will be sitting down with Helms this week to see if they can come to an agreement. Ford is basically willing to go along with \$8 a pound, putting quota into the hands of actual producers, and the purchase intention (points 1, 3, and 4). He thinks Helms will find the package excessively greedy and not defensible for giving an extra \$4 for transition assistance (point 2), and may not support a price reduction (point 5). They both believe they will have a floor fight with Lugar and are inclined to send the message to farmers now to be realistic. That may work well to keep the proposals from expanding excessively and allow us to maintain an ability to arbitrate. We've asked OMB and USDA to price this out as best as they can without those details which are still being argued about.

FLUE CURED TOBACCO, S POINTS FOR SETTLEMENT CONSIDERATION

1. Quota compensation for quota owners at \$8 per pound.
2. Transition payments for tobacco producers at \$4 per pound.
3. Place quota into the hands of actual producers.
4. Domestic purchase intention commitment.
5. Price support reduction based on satisfactory resolution of above 4 items.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Melinda D. Haskins (CN=Melinda D. Haskins/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:17-MAR-1998 14:53:30.00

SUBJECT: Comments on HHS' Testimonies (Golden and Rolston) Due at 10 a.m. Tomorrow

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

TO: Charles R. Marr (CN=Charles R. Marr/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

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

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

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

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

CC: E. Irene James (CN=E. Irene James/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

CC: Laura Oliven Silberfarb (CN=Laura Oliven Silberfarb/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

CC: Anil Kakani (CN=Anil Kakani/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

CC: Barry White (CN=Barry White/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

CC: Nicolette Highsmith (CN=Nicolette Highsmith/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

CC: Keith J. Fontenot (CN=Keith J. Fontenot/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

TEXT:

Today, you received LRM ID: MDH156, two HHS statements (Golden and Rolston) for a March 19th hearing on welfare reform implementation before the House Subcommittee on Human Resources (HWM). Comments on these

testimonies are due to me by 10 a.m. tomorrow (3/18).
This comment deadline is firm.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-MAR-1998 17:52:50.00

SUBJECT: Re: Equal Pay Memo

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: Mary L. Smith (CN=Mary L. Smith/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

One addendum: I'm not so sure that EEOC's alternative to expanding the form-- such as supplementing the regular form by targeting specific industries that Mary mentioned (EEOC suggested Wall Street) -- will be much more desirable. The act of the EEOC picking an industry to target will still be pretty controversial and that industry will still get wacked with paper work. We asked EEOC if they could come up with changes to the form or the process that that led to a no net burden increase to business and they said no.

We also need to think about the problem a general directive to start a "reform the form" process may also lead to -- it will likely raise fears in the business community that the new form will be an interest group monster, while the groups interested in changing the form likely would put pressure on any process to include a lot more data.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-MAR-1998 14:54:38.00

SUBJECT: One last issue on HHS letter to Shaw

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

HHS feels our redraft of the Shaw letter omits one key argument as to why we chose to proceed with work measures only and no family formation measure: because it is already 5-6 months into the fiscal year and states needed guidance. Here is a rewrite, with changes in bold, that Cynthia and I conferred on and think is OK. Let me know if it is all right with you or if it's a problem.

Dear Congressman Shaw:

Thank you for your letter of March 5 concerning the "Draft Potential Specifications for Interim Award of High Performance Bonus (FY 1999)." I value your perspective on this very important matter.

The proposed specifications are intended to be included in guidance that would be effective only in the first bonus year. They were developed in consultation with the National Governors' Association, the American Public Welfare Association, the National Conference of State Legislatures and State representatives. I believe that they reflect the most integral aspects of work in welfare reform. The four work measures we will use to award the first year High Performance Bonus (HPB) reflect all aspects of a state's success in moving families from welfare to employment-based self-sufficiency. Full success requires recipients not only to get jobs, but sustain them, and to increase their earnings in order to be independent and capable of supporting their families.

In our extensive consultations, we explored a range of measures addressing including family formation and stability. We moved ahead with respect to work, because we believed it was vital for states to have guidance with respect to how FY 1998 performance would be measured. We did not include these any measures regarding family formation and stability in the guidance because we had difficulty identifying any that would provide effective incentives to states to design policies to achieve the objectives of TANF and for which a reliable data source existed or could be quickly developed. We will continue, however, to explore such measures for the High Performance Bonus in future years and will seek advice on this matter through the Notice of Proposed Rulemaking process.

I appreciate your support for the role of the High Performance Bonus as a key tool in making welfare reform successful. I remain firm in my belief in the importance of our continuing to work with your committee in all matters, including the development of HPB for future years, and have asked Assistant Secretary Golden to meet with your staff in preparation for the

Notice of Proposed Rulemaking.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-MAR-1998 08:34:19.00

SUBJECT: here's what I was planning to work off with speechwriter

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

READ:UNKNOWN

TEXT:

The Kennedy-Kassebaum legislation I enacted in 1996 is an extremely important achievement. The Administration is conducting a thorough review of this law to ensure we do everything possible to eliminate these harmful practices and make this law work for all Americans. Unfortunately, there are reports that despite this important legislation some insurers are thwarting the intent of the law -- by giving insurance agents incentives not to sign these Americans up for health care coverage or delaying until they are ineligible. These practices are intolerable and we must stop them. The Administration is conducting a thorough review of this law to ensure we do everything possible to eliminate these harmful practices and make this law work for all Americans. To ensure that they stop now, tomorrow, I am asking the Department of Health and Human Services to send a notice to every insurer in every state to affirm that creating incentives that make it difficult for eligible individuals to sign up is explicitly inconsistent with the law. The Department will advise states to use all their current enforcement authority to eliminate these harmful practices. And where they don't take action the Federal government will.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-MAR-1998 15:33:36.00

SUBJECT: Service summit anniversary

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

You wrote me a note asking what events we are considering for the anniversary of the service summit in late April. Ann Lewis is having a meeting tomorrow at 11 on this that I'm going to, so I'll have a more complete menu by tomorrow. Nothing too great so far. The top ideas are trying to piggy-back onto one of a variety of related events around that time (like Earth Day) and attending a mini-summit sponsored by America's Promise and the Corporation in Kansas City or Arkansas. Steve Silverman thinks that the working assumption by Scheduling is that there will not be a summit commemoration per se, but a piggy-backing approach. We'll also get a report from America's Promise on its accomplishments and update our own federal agency commitments.

Crime Meeting Agenda March 18, 1998

Pending Events

- * 3/19 school violence
 - Violence and Discipline Problems in US Schools '96-'97
 - Outline of proposed School Violence Indicators Report
 - COPS funding availability -- \$17.5 million for law enforcement, schools and community groups
 - School Crime Supplement (joint DOJ/Education report) will not be ready until March 25
- * 3/20 assault weapons for press conference (tentative)

Legislative Update

- * Juvenile crime
- * Drugs
 - Proposed marijuana resolution
- * Prison drug testing/treatment legislation
 - March 23 to 25 conference; possible announcements
- * Justice authorization

Other Potential Events

- * Big picture crime speech

Miscellaneous/ Pending Items

- * Any other pending events/releases--DOJ Reports
- * Meeting for curios/relics report and Durbin legislation
- * International Crime Bill

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Audrey T. Haynes (CN=Audrey T. Haynes/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:17-MAR-1998 10:26:17.00

SUBJECT: April 2

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

TEXT:

I heard on the Hill that we were planning a Tobacco Message for April 2.
Just wanted to remind folks that if all goes as we hope and we get an
Equal pay message approved, April 2 is the day the VP's office is thinking
we'd announce. Just wanted to make sure this was on your radar screen.
thanks

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-MAR-1998 14:22:50.00

SUBJECT: Re: Open House for Advisory Council Members

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

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

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

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

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

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

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

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

TEXT:

I wanted to reiterate my earlier invitation to stop by my open house this evening. My use of "y'all" may have been misunderstood for those of you who are fluent in southern! Hope to see you later, or better said, I hope to be able to see you later!

Sandy

Assuming that I have not been tarred and feathered by then, we are going to host an open house for the members of the President's Council on HIV/AIDS on Tuesday evening from 6:30-7:30 in room 470 of the OEOB. We would greatly appreciate it if you would stop by. A little show of support would go a long way in helping to manage some of the dynamics of this group.

Thanks much!

Sandy

Message Copied

To:

Elena Kagan/OPD/EOP@EOP
Maria Echaveste/WHO/EOP@EOP
Virginia Apuzzo/WHO/EOP@EOP

Joshua Gotbaum/OMB/EOP@EOP
Christopher C. Jennings/OPD/EOP@EOP
Richard Socarides/WHO/EOP@EOP
Sarah A. Bianchi/OPD/EOP@EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-MAR-1998 17:04:58.00

SUBJECT: Federal hiring initiative thank you letter and annual report

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

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

TEXT:

In preparation for the one-year anniversary of the federal welfare-to-work hiring initiative, Susan Valaskovic has drafted a letter from the President to each Cabinet secretary thanking him/her for leadership on this issue and encouraging them to "continue generating enthusiasm and support for this initiative within your agency, stakeholder groups, and contractor community." The letter is customized to: cite each agency's goal and hires to date, highlight one or two activities which have "served as a model for the rest of the federal government" on this initiative (e.g. DOE reaching out to contractors, FEMA partnering with community-based organizations), and thank several agency staff by name who have played a key role. Susan has run this past Cabinet Affairs who thinks it is a good idea. She thinks it will help keep momentum going at the Cabinet level and provide ongoing motivation to the teams working in each agency. FYI, the letter for DOL recognizes Secretary Herman's tour to promote movement of people from welfare to work, in addition to DOL's specific contributions to the federal hiring initiative.

NPR staff is also putting finishing touches on a 1st Anniversary Report from VP on the initiative, including a brief statement from the President, recognizing the VP, cabinet, federal employees and the new hires themselves for contributing to the success of the effort. It's a brief, attractive brochure format based on a "key" theme: "unlocking human potential", "keys to success" etc. It's supposed to go to printer on Monday, with WH graphics prepared to produce copies quickly in case OVP decides to move on the scheduling request that's been pending.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-MAR-1998 08:56:12.00

SUBJECT: Congressional Record: Wellstone Bill (continued)

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

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

TEXT:

----- Forwarded by Richard Socarides/WHO/EOP on 03/18/98
08:55 AM -----

Doug.Case @ sdsu.edu
03/17/98 10:04:00 PM

Record Type: Record

To: Stuart D. Rosenstein, Richard Socarides
cc:
Subject: Congressional Record: Wellstone Bill (continued)

CONGRESSIONAL RECORD Partner stories continued:

Second case

Debra and Sara have been living together in a committed relationship for five years. They own a home together and have made other major purchases together. Debra and Sara had a child (Michael) 2 years ago. Sara gave birth to the child. Debra's employer offers health and life insurance benefits to domestic partners, and children of domestic partners are considered dependents of the employee for purposes of insurance coverage. Sara is self employed. Michael, Sara and Debra are all covered by insurance as a family through Debra's employer's plan. Six months ago Debra was recruited by a competing business because of her unique skill and experience, and was offered a job. The job would be a step up for Debra in the advancement of her career. The pay is about the same, but the prospective employer does not offer health and life benefits to unmarried partners and would not cover Michael as a dependent of Debra's. For these reasons, Debra decides to decline the offer of employment and delays career advancement as a result. The competing business misses out on Debra's unique skill and experience.

Third case

Joe is a student at a private college. His partner Jim works for a mid-size accounting firm. Jim's employer does not offer benefits to unmarried partners/dependents of its employees. Jim and Joe can't afford to pay the

\$160.00 per month for Joe's health insurance, and since Joe is only 38 years old, they hope the risk of health problems is low, and decide that he will have to go without coverage. Within a year, Joe is diagnosed with Crohn's disease and requires surgery, treatment and ongoing medications that are very expensive. Joe quits school under the financial pressure to look for a job that offers health benefits. Joe gets a job quickly and applies for health coverage, but the insurer will not cover any costs associated with Joe's pre-existing condition of Crohn's disease.

PERSONAL STATEMENTS--UNIVERSITY OF MINNESOTA

Selected personal statements of gay and lesbian University employees on the impact of not having equal benefits.

1. The University should honor its nondiscrimination policy statement by eliminating all policies that discriminate on the basis of sexual orientation.

The University should recognize domestic partnership couples as they do married couples. I simply want for my family what a married employee can count

on for his/her family. If, as an employee they receive a benefit, so should I.

The solution is to provide similar benefits to domestic partnership couples or

remove the benefits from married couples. As employees of the University we should have the same

treatment. Gays and lesbians employed by the University have been systematically excluded from benefits that have been provided to their heterosexual colleagues with whom they work side by side, sometimes performing

exactly the same work. That is very wrong and needs to be corrected!

On a personal level, for the 25 years I have been employed at the University I have been denied the full employment status and benefits provided

to my heterosexual colleagues. This has cost me dearly financially, and has sent me the message that who I love is not valued. This treatment tells me that my family concerns are not important to the University. Although I am also an employee of the University I am not provided with the same health care

security for my family as are my married colleagues.

Finally, as I approach retirement, I am outraged to find out that my partner can not defer taxes upon receiving my retirement money in the case of

my death as a married spouse is able to do. This amounts to a huge financial

loss for my partner and other gay and lesbian employees and their partners. Imagine your spouse having to pay 28% of \$250,000 (\$70,000) or 31% of \$300,000

(\$93,000) right off the top, thus diminishing the amount received by our partners to \$180,000 and \$207,000 respectfully. This is a concrete example for

two of us currently long time employees of the University and who are also in

long term domestic partnership relationships. In addition, both couples have

registered under the city of Minneapolis domestic partner ordinance.

I am angry, disappointed and frustrated that the Board of Regents,

President Hasselmo and the administrative leadership of the University have not taken action to enforce the University's nondiscrimination policy. The University should be playing a leadership role in righting this wrong, first, for its employees and then in initiating changes for the state of Minnesota and in urging Federal tax law changes.

2. When my partner's mother unexpectedly committed suicide five years ago, I was scheduled to leave that morning for an out-of-state business trip. I'll never forget my struggle over how I would approach my supervisor to request permission to either cancel the trip or to send someone in my place. I was up for a promotion and I was afraid that to acknowledge my sexual preference to this person, who I knew held fundamental religious values, would compromise my work and my livelihood.

I ultimately equivocated and asked if I could send someone else on the trip, because my `housemate--slash(/)--best friend needed my support. As you might guess, this didn't sound sufficiently persuasive and I left on the trip (shortened by two days) with the `blessing' of my partner, who, of course, was in shock. I succumbed to fear and in doing so compromised my own humanity and my bond with my partner. It is still deeply painful for me to remember the coerciveness of the situation, the fear and intimidation that I experienced, and my own personal failing.

It was one of the most demeaning and dehumanizing experiences of my life. I ask those of you who are married to imagine having to make such a choice: imagine having to ask permission to be with your grieving partner. There are no reparations the University can offer me to recast the past. I would, however, like to think that the Board of Regents and central administrators have the compassion and courage to act now so that others will not be confronted with such a choice.

3. The University is discriminating on the basis of sexual orientation.

My family doesn't receive the same benefits as families of heterosexuals.

I have had the Group Health Plan benefits package for nearly sixteen years. I began family coverage when I married (1978), adding my spouse at a nominal monthly fee to the single coverage I already carried (which was paid in full by the University). When my children were born (1983, 1986) the cost of family coverage didn't change. In fact, the cost of family coverage is constant no matter how many dependents you have on the policy. I was amazed to learn that the cost of family coverage (including coverage for my ex-husband) remained the same even after getting a divorce. My ex-husband remained on my insurance policy--at no additional cost--even though we were not legally married.

I am now in a committed lesbian relationship. My partner and I have a relationship every bit as stable and committed as a marriage, but we are not entitled to the same benefits I enjoyed when I was married.

My partner had been teaching part-time in a private school for two years before she became eligible for health insurance through her employer. Two weeks before her insurance was to take effect she was stricken with severe abdominal pain. Though we considered toughing it out until her insurance kicked in, it became increasingly clear that she needed to be treated immediately. She had a large, twisted ovarian tumor removed in October, 1990.

By the time of the surgery, her insurance was in place. We breathed a sigh of relief.

Months later we learned that because her pain started (and was briefly treated) before her insurance began, the claim for coverage for the surgery and hospital stay were disallowed because there was a pre-existing condition

exclusion in her insurance policy. We are now faced with over \$5,000 (plus 12% interest per year) in medical bills. That may not seem like a lot of money to some people, but it certainly is to us. And it's money that wouldn't have had to be spent at all if she had been on my family coverage all along.

So why is it that my ex-husband (no legal relation) was entitled to continue receiving benefits until he married, but my life partner has had to go without medical insurance? The answer is simple--discrimination.

4. One of my colleagues, a male who is heterosexual, received his Ph.D. the same year I did. We have taught the same number of years and were tenured here the same year. However, he has received health benefits for his wife and two children during this time. I believe that would add up to several thousand dollars more that he has received from this University than I have. My partner is self employed part time and works at the University only to receive benefits. I feel that I am discriminated against based on my sexual preference and have suffered significant financial loss by having to pay for health benefits for my partner and our child.

5. I feel discredited in all but the most professional senses since my University will not acknowledge the centrality of my relationship with my partner of 14 plus years. This level of constant and costly discrimination makes any positive responses to me from the institution bittersweet at best and hypocritical at worst. My family life is erased and made invisible by an institution of learning which touts acceptance of diversity and pursuit of truth. When I'm not furious, I'm terribly sad.

6. It is very demoralizing to see the incredible benefits that my married colleagues (heterosexual) get and know that it will be a fight to get the same. My partner is self-employed and health coverage is astronomical for self-employed people. In order to buy a plan similar to that at the U, it would cost us \$5-\$7000 a year. Since it's so costly, my partner does not

have
very good health coverage and as a result I am very concerned about what
would
happen if a serious health crisis
occurs.

So I am not just losing the \$1500 or so the U would pay out to cover her
because of the lack of recognition, I will have to pay \$5-\$7000 per year
more
than most of my colleagues. I view this as if I received that much less
salary
per year. How can the U have sexual orientation, gender and marital status
in
the equal opportunity statement and not consider this discrimination?

I wrote a letter to Gus Donhower when I heard of the proposed changes in
health coverage. One option proposed was that those people covered by their
spouses' employment could get the cash equivalent of coverage instead of
being
covered by the U. I suggested that if that were done, then those of us
without
spouses or dependents should certainly get the cash equivalent of
spousal/dependent coverage. It seems an obvious parallel to me. He
responded
by saying it was an interesting idea but there's no money for this added
benefit. Well, I think that's like
saying it would be nice to pay blacks or women what we pay men, but we just
don't have the money. One has no choice but to find the money. If there
really
isn't enough then some benefits may need to be removed from those who have
them, in order to provide for those who don't. Maybe people with more than
two
children need to pay for their health insurance, or perhaps the cost for an
employee for spousal coverage needs to increase. The current
discrimination is
so clear to me (of course I'm not a lawyer) that I wonder if a lawsuit
could
successfully challenge the University's non-compliance with its equal
opportunity statement.

At this point, my commitment, dedication, willingness to work hard under
increasingly difficult pressure, is affected by my feeling of not being
seen,
recognized, and treated equally to my heterosexual colleagues. Right now,
it's
hard not to feel taken advantage of

7. My partner returned to school to pursue a second advanced degree. She
attends the University of Minnesota. At the same time, one of my married
colleagues' spouse returned to school. Their health insurance profile did
not
change at all. Ours changed dramatically. Because I cannot get health
insurance for my partner of 10 years (longer than my married colleague), we
have paid 2,500 per year in health insurance and routine health care out of
pocket. Over three years, the tax on being a lesbian has been \$7,500. I
realize of course, that the cost of my health insurance would have
increased
during this period, so the net cost to us would have been above my current
health insurance but below \$7,500. This economic burden is a clear example
of
otherwise similarly situated people being treated differently solely on the
basis of sexual orientation.

Let me add that I do not think that the University should require

public registration of partnerships to receive partnership benefits unless the state revokes the so-called 'sodomy' law. To ask for such registration imposes the acknowledgement of legal risk as a cost for benefits. In addition, if reduced tuition is available for other family members, this benefit should be extended to gay and lesbian families as well.

8. The University considers me 'single'. As a 'single' person, I subsidize both married couples and individuals with children. But as a domestic partner

I should be able to enjoy the same benefits as other 'married' couples.

Last summer my partner required minor surgery for skin cancer. Because she

was a substitute teacher, she had no coverage. As a result we became responsible for the bills. This created more financial and emotional distress

for us which I am certain impacted my own productivity.

Another issue I have is that it seems the administration wants us to provide documentation (e.g. registration, affidavits, etc.) to prove we are indeed a couple. Does the University require married couples to provide an affidavit or their marriage license when applying for benefits?

Furthermore, the domestic partnership applications become public records.

Given the history of the discriminatory treatment meted out on gays and lesbians in ours and other cultures, I would not want to be that public in my

sexual orientation, especially in a state without a human rights amendment protecting us.

9. How do I feel about the University's treatment of domestic partners? Not positive! My partner and I each have one dependent. We must each pay for family benefits which is a huge commitment, especially since my partner is self-employed and self-insured. Many of us are on federal benefits. If the University changes its policy we'll need help so that we can move to University benefits.

10. I feel that if the University is unable to provide health benefits to unmarried partners they should also refuse benefits to married partners and only cover under age dependents. I consider the lack of these benefits to be

an unequal and discriminatory pay scale, with married employees receiving higher compensation levels just because they are married.

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

TEXT:

RFC-822-headers:

Received: from conversion.pmdf.eop.gov by PMDF.EOP.GOV (PMDF V5.1-9 #22921)
id <01IUSEATYHE8000RIT@PMDF.EOP.GOV>; Tue, 17 Mar 1998 22:05:14 EST

Received: from Storm.EOP.GOV by PMDF.EOP.GOV (PMDF V5.1-9 #22921)
with ESMTTP id <01IUSEAMHGSG000SSN@PMDF.EOP.GOV>; Tue,
17 Mar 1998 22:05:03 -0500 (EST)

Received: from mail.sdsu.edu ([130.191.25.1])
by STORM.EOP.GOV (PMDF V5.1-9 #6879)
with ESMTTP id <01IUSE9MIVJ00009LJ@STORM.EOP.GOV>; Tue,
17 Mar 1998 22:04:14 -0500 (EST)

Received: from [130.191.242.121] ([130.191.242.121])
by mail.sdsu.edu (8.8.7/8.8.7) with ESMTTP id TAA13335; Tue,
17 Mar 1998 19:02:44 -0800 (PST)

X-Sender: dcase@mail.sdsu.edu

=====
END ATTACHMENT 1

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-MAR-1998 14:02:10.00

SUBJECT: INS Reform Rollout

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

CC: Steven M. Mertens (CN=Steven M. Mertens/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

TEXT:

I just spoke with INS and they have had a change in heart on the rollout: they now would like for the Administration to be more visible on our plan leading up to Doris' testimony on March 31.

INS has already started to quietly speak to the leadership of some of the immigration groups on the plan and are getting good feedback. The groups have opined that a strong rollout would be useful in helping to sell our reform package. In addition, the Carnegie Foundation will be unveiling their own recommendations for INS reform next Wednesday.

Some of INS' ideas to increase visibility include building editorial board support, possibly giving an advance to the NYT, and scheduling an AG press briefing -- all next week.

This heads in a different direction than we were talking about at Monday's meeting. I would defer in particular to Elena and Peter about our communications and legislative strategy.

Please let me know what you think and let me know if we need to set up a conference call to make sure everyone is on the same page.

Thanks,
Leanne

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-MAR-1998 17:52:43.00

SUBJECT: briefing memo

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

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

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

TEXT:

===== ATTACHMENT 1 =====
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March 18, 1998

SCHOOL SAFETY EVENT

DATE: March 18, 1998
LOCATION: Grand Foyer
TIME: 1:40 pm-2:10 pm
FROM: Bruce Reed and Rahm Emanuel

I. PURPOSE

To announce: (1) the findings of the first-ever national survey of school principals on violence and discipline in U.S. schools; (2) the availability of \$17.5 million in new funding for school safety from the President's COPS program; and (3) recommendations by the Attorney General and Secretary of Education for an Annual Report on School Safety.

II. BACKGROUND

You will speak to approximately 60 individuals from the education and law enforcement communities, as well as Members of Congress on the findings of a new survey on school crime. You will also announce new federal funds for school safety and receive the framework of a new report on school safety that has been jointly prepared by the Attorney General and Secretary of Education. Herb Berg, Superintendent of Alexandria Public Schools, will introduce you at this event and give an account of the success that T.C. Williams High School has achieved in reducing crime and violence. As a large, urban, and diverse high school, T.C. Williams should be at-risk for serious and violent crime problems. Instead, through law enforcement, parent involvement, and prevention, their crime and discipline problems have been significantly reduced.

You will announce a new study by the National Center for Education Statistics on crime and violence in schools last year. The national survey is based on the responses of principals from more than 1,200 public elementary and secondary schools in the 50 states and Washington, D.C. Key findings of the survey include:

- (1) 47% of schools reported less serious crimes to law enforcement. This includes an estimated 190,000 physical attacks or fights without a weapon, 116,000 incidents of thefts or larceny, and 98,000 incidents of vandalism.
- (2) 43% of schools reported no incidents of crime. And most schools -- or 80% -- reported 5 or fewer crimes.
- (3) Few schools -- only 10% -- reported any serious violent crimes. This includes an estimated 11,000 physical attacks or fights in which a weapon was used, 7,000 robberies, and 4,000 rapes or other types of sexual assault.

- (4) Schools with serious discipline problems were more likely to experience crime or violence. Principals rated absenteeism, tardiness, and fights as the 3 most common discipline problems among students.

You will also announce that the COPS Office will make \$17.5 million available for a new community policing program to address school safety. This initiative will fund partnerships between law enforcement, schools, and community groups to develop innovative approaches to reduce crime on or near school grounds. Funding for this program was secured by Senator Robb.

The Attorney General will present you with the framework of a new school safety report being developed jointly by the Justice and Education Departments. The report is the result of your December 6, 1997 radio address, where you called on the Attorney General and Secretary of Education to issue an annual report that principals, parents, and local officials could use to address their school crime problems. The full report will be released before the beginning of the next school year.

The new report will include: an analysis of all existing national school crime data and an overview of state and local crime reporting; examples of schools and strategies that are successfully reducing school violence, drug use, and class disruption; actions that parents can take locally to combat school crime, including a local safety checklist; and a description of resources available to schools and communities to help create safe, disciplined, and drug-free schools.

III. PARTICIPANTS

Briefing Participants

Bruce Reed

Rahm Emanuel

Jose Cerda

Jordan Tamagni

Event Participants

The President

The Attorney General

Herb Berg, Superintendent of the Alexandria Public Schools

Members of Congress (tbd)

IV. PRESS PLAN

Open Press

V. SEQUENCE OF EVENTS

- 1:15 p.m. THE PRESIDENT receives briefing in the Oval Office.
- 1:40 p.m. THE PRESIDENT proceeds to the Blue Room.
- 1:45 p.m. THE PRESIDENT greets Attorney General Reno, Superintendent Herb Berg, and MOC in the Blue Room.
- 1:50 p.m. THE PRESIDENT is announced from the Red Room into the Grand Foyer accompanied by Attorney General Reno, and Superintendent Herb Berg.

PROGRAM BEGINS

Attorney General Reno gives remarks and introduces Superintendent Herb Berg.

Herb Berg gives remarks and introduces THE PRESIDENT.

THE PRESIDENT gives remarks.

- 2:10 p.m. THE PRESIDENT departs.

VI. REMARKS

To be provided by Jordan Tamagni.

VII. ATTACHMENTS

One page summary.