

**NLWJC - KAGAN**

**EMAILS RECEIVED**

**ARMS - BOX 025 - FOLDER -010**

**[03/20/1998 - 03/23/1998]**

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Nicole R. Rabner ( CN=Nicole R. Rabner/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:20-MAR-1998 15:49:03.00

SUBJECT: Head Start Update

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

READ:UNKNOWN

TEXT:

OMB caved. Jack Lew told Shalala that OMB "reluctantly would not be an obstacle" to HHS' reauthorization strategy.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: David S. Beaubaire ( CN=David S. Beaubaire/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:20-MAR-1998 10:14:42.00

SUBJECT: I found this in Treasury's weekly report.

TO: Stephen B. Silverman ( CN=Stephen B. Silverman/OU=WHO/O=EOP [ WHO ] )  
READ:UNKNOWN

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

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

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

TO: Thurgood Marshall Jr ( CN=Thurgood Marshall Jr/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

Lisa J. Levin ( CN=Lisa J. Levin/OU=WHO/O=EOP [ WHO ] )  
READ:UNKNOWN

TEXT:

Tobacco: On March 25, Deputy Secretary Summers is scheduled to address George Washington University's School of Public Health on the costs of smoking in the U.S. and the case for comprehensive tobacco legislation. Treasury continues to assess the likely effect of tobacco legislation on the price and on the potential smuggling of tobacco products, and also continues work on the development of an excess profits tax for the industry and on preliminary revenue estimates of various Congressional proposals, including those of Sens. Kennedy, Hatch, McCain, and Conrad.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:20-MAR-1998 14:55:41.00

SUBJECT: Re: H1B -- statement

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 am forwarding you a version of the POTUS H1B statement that incorporates Sally's edits. Thanks.

Julie

----- Forwarded by Julie A. Fernandes/OPD/EOP on 03/20/98  
03:03 PM -----

Cecilia E. Rouse

03/20/98 02:32:12 PM

Record Type: Record

To: Julie A. Fernandes/OPD/EOP

cc:

Subject: Re: H1B -- statement

Julie, Here's a new draft of the H-1B statement (it has Sally's fingerprints). What do you think?

-- Ceci

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

TEXT:

Unable to convert ARMS\_EXT: [ATTACH.D15]MAIL49258587U.026 to ASCII,  
The following is a HEX DUMP:

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The President supports efforts in the Congress to develop a comprehensive legislative package to address the increasing demand for skilled workers. Investing in training and education is the cornerstone of such a package to sustain our economic growth and make sure that all of our people benefit from this growth. Key components of this strategy are our HOPE Scholarships, the Lifetime Learning Tuition Credit, the expansion of Pell Grants, and the extension and expansion of Section 127 (that excludes employer-paid tuition assistance from income). This is also why it is critical that Congress pass the G.I. Bill for America's Workers this spring.

The other essential component to ensuring an adequate supply of skilled workers to meet industry needs is reform of the current H1B visa program. Since 1993, this Administration has sought reforms of the H1B program, such as requiring employers to "recruit and retain" U.S. workers before hiring temporary foreign workers, prohibiting lay-offs of U.S. workers to replace them with foreign temporary workers, and reducing the maximum stay for H1B workers from 6 to 3 years. These reforms, if enacted, would help to target H1B usage to industries and employers that are exhibiting genuine labor shortages.

With commitments to education and protection of American workers, it would be appropriate to respond to the short-term concerns to increase the number of visas for temporary foreign workers. Senator Kennedy's bill provides for such an increase for the next three years as well as for some of the long-term strategies that we support. His bill is the appropriate vehicle for addressing the labor market needs of our rapidly changing economy.



March 17, 1998

Automated Records Management System  
Hex-Dump Conversion

MEMORANDUM TO

FROM: Bruce Reed  
Elena Kagan

RE: Possible VP Events for 3/22-4/3

**Education -- Address to the National PTA 3/23:** The Vice President is scheduled to speak to a national PTA conference (in Arlington VS). His message may focus on after-school programs and on the need to protect kids from on-line smut. I will make a strong push for the VP to plug the President's education agenda overall, and in particular to make the case for national standards and tests with this group -- which has long opposed national tests, but which shouldn't.

**Education -- Visit to a South Carolina Community College 3/24:** The Vice President and Secretary Riley will visit a community college in South Carolina, to address the Administration's lifelong learning initiatives and to release state-by-state figures on the number of students who will benefit from HOPE Scholarships, Lifetime Learning Tax Credits, and possibly Pell Grants, and the level of benefits in each state.

**Education -- Child Care Conference in Iowa 4/1:** The VP has been asked to speak to an annual child care conference in Iowa, and is looking for news on child care or after-school. His staff is interested in release state-by-state child care figures.

**Education -- On-line resources for math and science:** If today's announcement of new online assistance for math and science does not get any coverage, the VP could do an event demonstrating a new "Federal Resources for Educational Excellence" (FREE) web-site that connects teachers, parents, and students to teaching and learning resources in math, science and other subject areas from NASA, NSF, the Energy Department and other agencies. This announcement could also include several other action steps to support on-line tutoring in math and science.

**Education -- Urban Education/Releasing Guide to Fixing Failing Schools:** The Education Department is completing work on a guide to turning around failing schools. If the guide is ready, the VP could release this in an urban school district, and at the same time release figures on how the Administration's initiatives help urban schools.

**Community Empowerment -- Reauthorization of the Community Development Financial Institutions Fund (CDFI):** Treasury has pushed through clearance of language to

reauthorize the CDFI Fund. The language is ready to go to the Hill at any time. This Presidential initiative is one of the core components of the Administration's community empowerment strategy. The Administration has proposed an increase in the Fund's FY98 budget to \$125 million, and the Fund will be making additional two additional rounds of grants this year.

Treasury is working with the Vice President's office on a possible event in which the VPOTUS would call for enactment of the reauthorization at a CDFI site. One possible twist could be for the VPOTUS to open a savings account at a CDFI.

**Welfare -- Federal welfare-to-work hiring initiative:** An event to mark the first year anniversary of the federal welfare-to-work hiring initiative is currently pending in the VP scheduling process. The event could include: release of the first annual report from the VP, announcement of the most recent hiring numbers, and a challenge to cabinet secretaries to reach out to federal contractors to get more involved in hiring welfare recipients. The audience would include several hundred federal contractors from the Washington area, so we will need a little lead time for the agencies to invite them. This was originally submitted by NPR staff on 2/13/98. Late last week, VP scheduling asked Susan Valaskovic to revise slightly, so apparently it's still under consideration.

**Welfare -- Welfare Caseload Numbers:** HHS is working on getting updated caseload data through December 1997 (last data released, with SOTU, was September 1997). They hope to have them to us early next week. The VP could announce these as part of the above event, or in a separate announcement. If separate, we could possibly combine with an announcement of DOL approval of more Welfare-to-Work formula grants to states. TN is one of those in the pipeline and I know the VP's office is interested in releasing that one. I hope to be able to confirm timing on caseloads and WTW approvals at our weekly welfare reform meeting w/ agencies 3/17.

**Food Safety -- Possible Event on FORCG:** The VP could announce an executive order that formalizes the Foodborne Outbreak Response Coordinating Group (FORCG). The purpose of FORCG is to improve the coordination and outbreak response to foodborne illness by all federal, state, and local agencies involved. HHS, USDA, and EPA have been developing an MOU on FORCG. The VP could either announce the MOU, or the MOU could be formalized into an executive order. We previously announced the FORCG concept, and the MOU sets forth that HHS, USDA, and EPA comprise the membership of the FORCG task force.

**Food Safety -- Possible Event on DNA Fingerprinting:** The VP could tour a federal or state lab that is equipped with DNA fingerprinting technology. The technology works in the following way -- a laboratory isolates E.coli O157:H7 from food, fingerprints it, and then the laboratory receives information on any similar fingerprints found. This technology can identify a potential outbreak in humans or the potential food source of an outbreak. This approach resembles the FBI national network and database for fingerprinting individuals throughout the United States and centrally generating a "rap" sheet where there is a match. The VP's tour would include a demonstration of this new technology. The Administration has provided

increased funding for this technology in the Food Safety Initiative. CBS News is interested in this technology, and USDA is working with them on a possible visit by Secretary Glickman to a USDA lab in Athens, Georgia, that is equipped with this DNA fingerprinting technology.

**Health Care -- Approval California's Children's Health Plan:** The Vice President could announce the approval of new California's children's health program. This plan will likely be approved next week, as HHS's approval time line is running out and there are relatively few outstanding issues regarding this plan. Because this program is non-controversial and because of its size, this new state proposal would be well worth highlighting to underscore the early successes of the new children's health program. There are currently over twenty state plans being reviewed at HHS. The Vice President could also reiterate our commitment to children's health outreach to enroll the children who are eligible for health care coverage but are still uninsured. It is also important to note that in the next week, HHS will likely make a decision as to whether or not to approve New York's children's health proposal. New York's application has more controversial provisions which potentially will lead to either a disapproval of the state's plan or a contentious approval. Because of these controversies, we are doubtful that it would be worthwhile to announce their plan even if it is approved.

**Crime -- Law Enforcement Technology:** The Vice President could stand with the Secretaries of Energy and Treasury, and the Attorney General as they sign a statement of principles to transfer certain technologies from the Federal research labs to the Federal law enforcement bureaus (e.g., FBI, Customs). The Federal law enforcement agencies will in turn, agree to share the technologies with interested local law enforcement. Some of the technologies could be demonstrated at the signing event. The Department of Energy has been drafting the statement of principles, and it could potentially be ready over the next 10 days.

**Crime -- Chicago COPS Waiver:** The Vice President could unveil with the Attorney General and Mayor Daley of Chicago a new COPS waiver pilot project that was recently approved by the Justice Department. This new pilot project will waive the 25% local match for new officers that are coordinated with existing Federal efforts for distressed areas, such as Empowerment Zones, Enterprise Communities, Weed and Seed sites, HIDTAs and other Administration initiatives. The pilot will allow cities and local law enforcement to target crime and drug "hot spots." Justice has set aside \$60 million to fund this pilot.



March 20, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
Elena Kagan

RE: DPC Weekly Report

**Tobacco -- Senate Commerce Committee Activity:** Erskine, Larry, and Bruce met with Senator McCain on Monday to discuss our views on a comprehensive tobacco bill. McCain said that he was pleased with our efforts to cooperate and work with the Commerce Committee as it moves forward in crafting a bill that we can support, and he appreciated that he was not reading reports of our conversations in the press. We have held several long conversations this week with McCain, Hollings, and other key Senate staff regarding FDA authority -- particularly on the issue of whether there should be a separate FDA title governing tobacco products or whether they should be regulated as a device, as we would prefer. On Wednesday, McCain and Hollings convened a bipartisan group of members and charged them with working with us to resolve this issue (Hatch, Jeffords, Kennedy and Conrad). We have not yet persuaded them that creating a new tobacco title is undesirable, but we will continue to work on this. McCain still plans to begin marking up a bill on March 25th.

**Tobacco -- State by State Numbers:** On Monday, the Vice President will speak to the PTA and unveil new Treasury Department statistics demonstrating that every state will have a significant reduction in youth smoking under your tobacco plan. This is a follow up to the numbers you announced in February demonstrating that your plan will prevent 3 million teens from starting smoking over the next five years and will prevent one million premature deaths nationwide. We also plan to give these new state-by-state numbers to the Attorneys General and encourage them to make similar announcements in their states to promote the idea that comprehensive, bipartisan tobacco legislation is needed at the federal level to reduce teen smoking.

**Education -- Coverdell vote in the Senate:** The Coverdell bill is stalled in the Senate, at least temporarily. Democrats have defeated a cloture motion, because of their frustration at the Majority Leader's decision to bar many of their amendments from consideration. If a compromise is worked out, Democrats will proceed with our plan to our school modernization proposal as a substitute. While many in the education

community are working hard to gain support for this, we expect it will be defeated on a party-line vote. If that happens, the Democrats do not have enough votes to sustain a filibuster, and we therefore expect Coverdell to pass. However, we do appear to have a firm 38 votes to sustain a veto.

**Education -- National Tests and Ending Social Promotion:** In our recent education strategy memo we indicated that House Democrats might include a provision to bar the use of tests for high stakes purposes in legislation they would propose to authorize the tests. You asked how we would square that with your advocacy for an end to social promotions. A ban on using the high stakes test would clearly conflict with your message about ending social promotion. If such a provision were added to a test authorization bill, we would recommend that you indicate support for the overall bill without, if possible, taking a position on specific provisions. If a such a bill made it to conference, we would not expect to see a similar provision from the Senate, and would work to help the Senate provision prevail. As a practical matter, states and school districts would be very unlikely to use the tests for high stakes purposes in the foreseeable future, in large part because the failure rate would be too high. For example, 40% of all 4th graders fail to meet the NAEP basic level of performance (which NAEP considers below "passing"). This figure would be significantly higher in every one of the 15 big city districts that have signed up for the test. Chicago uses the Iowa Test of Basic Skills for its "no social promotion" policy, a test with much less demanding content standards--and it hold students back at the third grade level only if they are performing at below the 2nd grade level.

**Education -- Teacher Training Provisions in the Higher Education Act Mark-Up:** The House Education and Economic Opportunity Committee marked up the Higher Education Act this week. In doing so, they rejected your teacher training proposal, which would have created partnerships between high poverty school districts and institutions of higher education to recruit and prepare teachers. Instead, they included a much smaller provision (approximately \$18 million per year) to provide grants to Governors to address a range of teacher preparation issues (such as raising certification standards and helping to provide alternative certification procedures) for teachers. While there is nothing objectionable about the activities in Mr. Goodling's proposal, it is considerably smaller and less focused than yours. Further, it funds these activities by eliminating federal support for the National Board for Professional Teaching Standards. We have been working with Gov. Hunt and the National Board staff on a strategy to reverse this action, including through a strong demonstration of bipartisan gubernatorial support for the Board. We believe we have a better chance of reversing the Committee's action in the Senate than on the House floor, and will work to strengthen the bill when the Senate Education and Labor Committee marks it up in the next several weeks.

**Political Reform -- Free Television Time:** This week we achieved a small but important victory by convincing Senate Republicans to remove language from the Supplemental Appropriations bill that would prohibit the Federal Communications Commission (FCC) from

establishing a system of free television time for candidates for federal office. Unfortunately, Republicans are already preparing similar language to place into the IMF Supplemental or into the Commerce, State, Justice Appropriations bill.

Senator McCain remains the key to a settlement. Legislative Affairs is meeting with his staff this week to discuss possible compromises, including delaying the timing of the rulemaking and in the meantime ask the FCC begin a Notice of Inquiry (NOI) until the completion of the work later this year of your Advisory Committee on Public Interest Obligations of Digital Television Broadcasters.

**Community Empowerment -- Brownfields:** This week the Vice President announced the 16 winners of EPA's \$28 million Brownfields Showcase Communities program. The selectees were Baltimore, MD, Chicago, IL, Dallas, TX, East Palo Alto, CA, Southeast Florida, Glen Cove, NY, Kansas City, KS, and MO, Los Angeles, CA, Lowell, MA, Portland, OR, the State of Rhode Island, St. Paul, MN, Salt Lake City, UT, Seattle, WA, Stamford, CT, and Trenton, NJ. This program was extremely popular, over 231 communities submitted applicants. Therefore we are exploring the possibility of funding a second round.

**Disability Issues -- Legislative Action:** There was action on the Hill in the past week on the disability community's two highest priorities. We are sorting out whether the Administration will be able to support these initiatives, in full or in part. First, the House held a hearing on how to allow more people with disabilities to live in their communities instead of nursing homes. Disability advocates, led by the group ADAPT, are pushing legislation known as CASA. Advocates do not expect CASA to become law because of its cost (\$10-20 billion per year), but they hope it will start a dialogue on the subject. HHS witnesses testified that we have concerns about the cost, but said we are pushing to achieve the goals of the legislation through demonstrations and other more modest steps. Speaker Gingrich testified in favor of this concept, although without endorsing CASA itself. The disability community is disappointed that we have not been more supportive. We have proposed that you send a letter to Speaker Gingrich describing what progress HHS has made and stating your agreement with the legislation's goals, but OMB has expressed reservations about such a letter.

**Crime -- Probation Study --** Late Sunday, the Department of Justice will release the first national representative survey of the U.S.'s 3.2 million probationers. Specifically, the survey found that:. Other key findings of the survey are:

- More than half of all probationers were under the influence of alcohol or illegal drugs at the time of their criminal offense. Fully 40% were under the influence of alcohol when they committed the offense for which they were sentenced, and 14% were on drugs.
  
- Almost 70% of probationers reported past drug use, 32% during the month of their arrest. Overall, 67% had used marijuana, 31% crack or other forms of cocaine, 25% stimulants, 20% hallucinogens, 15% barbiturates, and 8% heroin or other opiates.

-- Almost half of all probationers reported having been tested for drug use while on their current probation sentence. This rose to 65% among those who had used drugs during the month before their offense and to 74% among those who committed their offense to obtain drug money.

-- About 17% of all probationers reported participating in a drug treatment program during their sentence to probation, but those percentages rose as the severity of their prior drug use increased. More than half -- or 52% -- of probationers who reported being on drugs when arrested had participated in a drug treatment program.

-- On various other issues: 64% had driven a car while drunk or drugged; 50% had been involved in a domestic dispute while drunk or high; and 35% had consumed as much as a fifth of a gallon of alcohol in one day.

**Crime -- COPS:** On March 26, the COPS Office will announce \$58 million in hiring grants to 285 police departments to fund approximately 900 additional officers. This announcement will put the total number of officers funded through the COPS Program to over 72,000.

**Drugs -- Conference on Drug Treatment for Offenders:** Next week, ONDCP, HHS, and the Justice Department will hold a three-day conference on drug treatment in the criminal justice system. The conference will explore effective drug treatment services, obstacles to their adoption, and gaps in scientific knowledge on drug addiction. The Attorney General will unveil a new legislative proposal -- developed pursuant to your January 12, 1998 directive -- to allow states to use their Federal prison construction and substance abuse treatment funds to provide a full range of drug testing, treatment, and sanctions for offenders under criminal justice supervision.

**Welfare Reform -- Impact on Public Housing:** This week, in response to a request from the House Appropriations Committee, HUD sent a report to the Hill on the potential budgetary impact of welfare reform on the public housing program. Because public housing residents pay a portion of their income towards rent, with the remaining rent costs subsidized by the federal government, changes in family income levels do have federal budgetary impacts. The HUD study provides a preliminary forecast of how increases or decreases in family income as a result of welfare reform could affect rent revenues at eight public housing authorities in California, Ohio, Texas, and Virginia. Depending upon the assumptions used, HUD forecasts that welfare reform could increase or decrease annual rent revenue for these eight housing authorities by a total of + \$5.2 million to - \$3.9 million. This equates to a 36% increase or 27% decrease in total rent revenues from welfare recipients. The report finds that the impact will vary depending on the employment prospects of welfare recipients in these areas, as well as each area's public housing rent and welfare policies.

**Health Care -- Meeting with Congressman Norwood:** On Thursday, Larry Stein and Chris Jennings had a very positive meeting with Congressman Norwood, the Republican House sponsor of the patients' rights legislation. We agreed that because of the limited number of working days left in this Congress, we would like to pass a final bill by July or no later than the August recess. We also agreed that the House had to move first to pass a bill to create the momentum to push the unmotivated Senate into action. Congressman Norwood believes there is strong bipartisan support in the House to pass this legislation and will work with us to that end.

With regard to policy, there are two things worth noting. First, Mr. Norwood and his bipartisan cosponsors will continue to advocate for a remedies provision to enforce these patient provisions (which they believe is imperative to maintain the strong support of consumers and the American Medical Association). Second, he indicated that while he and his Republican colleagues agree with the consumer protections we have advocated, they adamantly oppose mandating "body part" coverage requirements. He concluded the meeting by informing us that he greatly appreciated our visit and our willingness to offer technical assistance throughout the legislative process.

**Health Care -- Approval of Ohio, New York, and California's Children's Health Plans:** On Friday, HHS announced the approval of Ohio's children's health program. Also, next week the time runs out for HHS's approval for the state children's health plans for New York and California. California's proposal has relatively few outstanding issues. Because this program is non-controversial and because of its size, we may want to highlight its approval at the White House, possibly with the Vice President participating in your absence. Also in the next week, HHS will make a decision on whether or not to approve New York's children's health proposal. New York's application has more controversial provisions which potentially will lead to either a disapproval of the state's plan or a contentious approval. Specifically, New York continues to rely on a provider tax that was subject to the line-item veto last year but was recently overturned. In addition, New York is trying to collect Federal dollars for children's health retroactively and is not adequately responding to the Administration's request that Federal dollars not substitute for health insurance currently covered by the private sector. Because New York often raises controversies, we are doubtful that it would be worthwhile to announce their plan even if it is approved.

**Health Care -- Update on Regulation of Controlled Substances and Impact on Terminally Ill.** We met this week with representatives of the Catholic Health Association (CHA) to discuss options to respond to the Justice Department's likely ruling on Federal oversight over controlled substances. As you know, Justice is expected to conclude that current law cannot support DEA's desire to declare that "delivering, dispensing or prescribing a controlled substance with the intent of assisting a suicide would not be under any current definition a legitimate medical purpose." CHA informed us that Congressman Hyde and Senator Hatch are planning to introduce legislation providing DEA with the necessary legal authority immediately after the expected Justice Department ruling. They also advised us that the Republicans might well charge that the Department's ruling proves that we are weak on the assisted suicide issue. Finally, they reiterated their strong desire to avoid a big public fight over this issue because of their fear

that it will further discourage physicians from appropriately prescribing pain killing medicines for the terminally ill.

Keeping their comments in mind, we are recommending that we strive to delay the expected release of the Justice Department's ruling until we develop a roll out strategy that is designed to: (1) reiterate our strong opposition to assisted suicide; (2) to support a legislative fix that gives DEA the authority it seeks while incorporating language that assures the medical and consumer community we have no intention of undermining the appropriate use of controlled substances for the terminally ill; and (3) to implement a substantive process with the medical, religious, ethics, and patients' rights communities that invests them in the development of the necessary, but extremely complicated language that achieves the appropriate balance. We have not yet determined whether it would be advisable to risk giving Hyde and Hatch a heads up on our strategy in an attempt to get them invested in and supportive of our approach.

**Health Care -- Whistleblower Protection and Democrats Patients' Bill of Rights:**  
On Thursday, Mr. Gephardt directed Mr. Dingell to include "whistleblower" protections in the Democratic Leadership's version of the patients' rights legislation. Mr. Gephardt's office inaccurately suggested that his interest in including this provision exactly mirrored that of the White House. Despite his strong labor ties, Mr. Dingell has stated that he strongly believes that this provision could undermine the bill's chances, since its inclusion would likely serve to sever the otherwise strong support the bill would receive from "Blue Dog" Democrats like Stenholm, Tanner, and Barry. Mr. Dingell feels so strongly about this issue that he is reconsidering whether he wants to still be the lead sponsor in the House. (Such an outcome could be devastating to our chances of passing a bill.) Although most Democrats (the White House, Dingell, Daschle, and Kennedy) are sympathetic to and supportive of the whistleblower concept, we fear it could weigh down the chances of a bill passing a bill this year. It has already been the primary cause of the delay in introducing this bill. Early next week, we will work with Congressman Dingell and the Blue Dogs -- one more time -- to determine if compromise language, acceptable to both sides, can be developed. Regardless, it appears that the Democrats may introduce their bill as early as next Wednesday.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jonathan Orszag ( CN=Jonathan Orszag/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:23-MAR-1998 21:04:55.00

SUBJECT: Revised DRAFT of H1-B Statement

TO: Cecilia E. Rouse ( CN=Cecilia E. Rouse/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

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

TO: Jonathan H. Schnur ( CN=Jonathan H. Schnur/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TO: Donald H. Gips ( CN=Donald H. Gips/O=OVP @ OVP [ UNKNOWN ] )  
READ:UNKNOWN

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: Karen Tramontano ( CN=Karen Tramontano/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

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

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

TEXT:

Here is a revised version of the statement on Senator Kennedy's H1-B proposal. Please provide your office's comments as soon as possible. Thank you.

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

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

TEXT:

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77238947EA71CD8ED7B7D68E54EC06F9649FE49591BC27D03FCAD11FA30FDEC3467EA6599E9F02  
46B17EA5DF1C1F441A46E6BCFDD055D41C2E5CD9132409ACD9A85F64446E630CD8C6709D5189A3

A cornerstone of President Clinton's economic strategy to strengthen the economy and ensure that every American can reap its rewards is investing in education and training. For more than five years, President Clinton has worked to widen the circle of opportunity and create a high-skilled workforce through HOPE Scholarship Tax Credits, the Lifetime Learning Tax Credit, the expansion of Pell Grants, a more than doubling of dislocated worker training funds, a new student-loan program that allows people to pay back their loans as a share of their income, and providing additional incentives to businesses to provide training for their workers. And to train American workers for the 21st century, President Clinton believes we need a job-training system for the 21st century. That is why he is working with Congress to pass the G.I. Bill for America's Workers this spring.

An issue that has received a lot of attention recently involves the shortage of trained workers in the information technology (IT) industry. The Clinton Administration believes that the first response to increasing the availability of IT workers must be increasing the skills of American workers and helping the labor market work better so there is a supply of skilled workers where there is a demand for skilled employees. While it may be necessary -- at least in the short-term -- to increase the number of visas for temporary foreign workers (under the H1-B program), this must only be done in conjunction with doing more to raise the skill level of American workers.

In addition, the Administration believes that any temporary increase in the program should be limited to the minimum amount necessary, as demonstrated by empirical evidence. And expanding the number of visas, even temporarily, must be accompanied by needed improvements in the H1-B program. Since 1993, this Administration has sought reforms of the H1-B program, including requiring employers to "recruit and retain" U.S. workers before hiring temporary foreign workers, prohibiting lay-offs of U.S. workers to replace them with foreign temporary workers, and reducing the maximum stay for H1-B workers from 6 to 3 years. These reforms, if enacted, would help target H1-B usage to industries and employers that are exhibiting genuine labor shortages.

Senator Kennedy's [bill/approach to this issue] addresses both the short-term and long-term implications of the apparent skills shortage we are now experiencing. And we believe that his bill is the appropriate vehicle to put American workers first and address the labor market needs of our rapidly changing economy.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 23-MAR-1998 11:21:26.00

SUBJECT: Needle Exchange press statement

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

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

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

TO: Rahm I. Emanuel ( CN=Rahm I. Emanuel/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ: UNKNOWN

TO: Sammie C. Grizzle ( CN=Sammie C. Grizzle/OU=ONDCP/O=EOP @ EOP [ ONDCP ] )  
READ: UNKNOWN

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

CC: Sarah T. Holewinski ( CN=Sarah T. Holewinski/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ: UNKNOWN

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

CC: Amy W. Tobe ( CN=Amy W. Tobe/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ: UNKNOWN

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

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

CC: Beverly J. Barnes ( CN=Beverly J. Barnes/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ: UNKNOWN

CC: Joseph P. Lockhart ( CN=Joseph P. Lockhart/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ: UNKNOWN

CC: Dawn L. Smalls ( CN=Dawn L. Smalls/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ: UNKNOWN

TEXT:

On Sunday morning, a joint statement by Gen. McCaffrey and Sandy Thurman entitled "Drug Czar and AIDS Czar Agree That Public Health Policy Must Be Based on Sound Science" was issued on White House letterhead. The

contacts listed were at ONDCP and the AIDS office.

While this looked, walked, and talked like a White House press release, the press office didn't find out about it until this morning. I was on duty over the weekend and never heard about it. We had other duty officers in the press office much of the weekend as well. They never heard about it. I don't know if Mike or Joe heard about it when they left yesterday, but I doubt it.

Press releases cannot be issued by the White House without the press office knowing about it. It's bad from a process point of view -- we should never be caught not knowing about such a statement and should be in on decisions about how it's issued and to whom -- and it's totally not necessary. Even if this was just given to one reporter, we should still be aware of a statement on White House letterhead.

Thanks for your cooperation.

(I'm not getting into the issue of the statement itself. I'm assuming that somebody at an appropriate level signed off on it.)



March 17, 1998

DRAFT MEMORANDUM FOR THE DPC/ NEC

FROM: DPC/NEC STAFF

SUBJECT: Equal Pay Initiative

This memorandum outlines the announcements that the Vice President will make 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. This event is the main event of the day, and it is expected that representatives from the Department of Labor, OPM, and other departments will attend the event with the Vice President.

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 the announcements the Vice President will make, including (1) endorsing Senator Daschle's bill on pay equity with some changes; (2) announcing an annual study on wage data using Bureau of Labor Statistics data; and (3) outlining other executive branch initiatives in the areas of enforcement, technical assistance, and outreach.

**I. Endorse Daschle Bill**

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). Harkin's bill deals with the issue of comparable worth and will not be discussed in this memorandum. Congresswoman DeLauro has introduced the companion bill to Senator Daschle's. Below are set forth the main provisions of the Daschle bill, along with the Administration's positions on these provisions.

**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. The Departments of Labor, Treasury, Justice, and the EEOC all support endorsing adding uncapped compensatory and punitive damages to the EPA, with the exception that the Department of Justice believes that punitive damages should not be available against the Federal Government.

***Background.*** Currently, an individual can file suit for wage discrimination under either Title VII or the 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, Sec. 1981, 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. The women's groups adamantly support adding uncapped compensatory and punitive damages to the EPA. In fact, if the Administration did not support this provision, the women's groups would strongly voice their objections, and probably would not participate in the Vice President's event.

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 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.

**Class Actions.** The bill also amends the procedures for filing class actions under the EPA to conform with the general procedural rules for filing federal class actions in other areas of the law. Currently, it is very difficult for a lawsuit to proceed as a class action because the EPA, adopted prior to the current form of Rule 23 of the Federal Rules

**of Civil Procedure, requires EPA plaintiffs to opt in to a suit (rather than opt out under Rule 23). This section will conform the EPA procedures to those already provided under the Federal Rules. The Administration could support this provision.**

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. The Administration supports this provision.

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. Because of the concerns set forth below, we will need to work with Daschle's staff to remove this section of the bill.

*Background.* 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.

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 with respect to private employers. Salary data is collected only for state and local governments on forms other than the EEO-1 form. 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. Many in the business community perceive the EEO-1 form as a waste of time and money.

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. One of the main reasons for this opposition is that amending the EEO-1 form would increase compliance costs by several hundred-fold. Other options, such as creating a supplement to the form, could mitigate some of these costs.

Thus, any Administration efforts to perform 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 should be done quietly. If there were any public announcement that the Administration was considering collecting wage data on the EEO-1 form, we could expect riders to appropriations bills to stop this process.

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.)**

**Other Provisions.** 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. The Administration could support these provisions.

## **II. Other Executive Branch Announcements**

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

### **A. Data Collection - Annual Report Based on Bureau of Labor Statistics Data**

In order to increase public awareness of pay inequities, the Vice President could announce an annual report on the pay gap by sex produced by the DOL using the (existing) *Current Population Survey*. This announcement 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.

#### **1. 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.

## **2. 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.

### **C. Technical Assistance**

There are several areas in which the federal government could provide technical assistance to make private employers aware of wage disparities.

#### **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. 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.

#### **3. 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. 10-Step Voluntary Self-Audit for Agencies**

The federal agencies will agree to take the 10-step self-audit that the Department of Labor would develop and use the results from the self-audit to monitor their efforts on equal pay.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:23-MAR-1998 09:44:22.00

SUBJECT: Catholics

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

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

TEXT:

fyi...jcs

----- Forwarded by Jose Cerda III/OPD/EOP on 03/23/98  
09:43 AM -----

Maureen T. Shea  
03/22/98 03:01:25 PM  
Record Type: Record

To: Jose Cerda III/OPD/EOP, 74617.760 @ compuserve.com @ inet  
cc:  
Subject: Catholics

I understand there was a meeting with a Catholic group concerning assisted suicide. As this is an issue about which I have had a number of conversations with the US Catholic Conference, it would be helpful if you alerted me to meetings on this topic . Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:23-MAR-1998 08:55:32.00

SUBJECT: Re: Rep. Harman's Request

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

READ:UNKNOWN

TEXT:

fyi...jc3

----- Forwarded by Jose Cerda III/OPD/EOP on 03/23/98  
08:54 AM -----

Robert N. Weiner

03/23/98 08:22:11 AM

Record Type: Record

To: Jose Cerda III/OPD/EOP

cc: Karen E. Skelton/WHO/EOP, Michelle Crisci/WHO/EOP

Subject: Re: Rep. Harman's Request

One amplification: We can probably file something on the public record, or possibly have other meetings on the public record with the FCC, depending on what their rules contemplate at this stage of the proceedings. What we can't do is deliver private, ex parte instructions.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Amy W. Tobe ( CN=Amy W. Tobe/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME: 23-MAR-1998 19:24:09.00

SUBJECT: EEBowles Tobacco Speech

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

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

TO: Gene B. Sperling ( CN=Gene B. Sperling/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ: UNKNOWN

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

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

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

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

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

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

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

TEXT:

It's a go on Monday, March 30, noon, sponsored by the Center for National Policy. I need a title for his speech so CNP can get out an invite. Who would give me that 411? It'll either be at the Hyatt on Capitol Hill or at the National Guard building the CNP is housed in (One Mass Ave, NW). Since Carole & I are CNP alums, we are very excited about this opportunity.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Karen Tramontano ( CN=Karen Tramontano/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:23-MAR-1998 10:21:08.00

SUBJECT: Equal Pay

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

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

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

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

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

TEXT:

Sorry I missed the dialogue. Would someone send me a copy of the memo that is either b/4 the POTUS or on its way there.

Also, JJS told the VPOTUS that he would love for him to do an event, and would love to be there w/him. I know this creates a scheduling night-mare since JJS is not available on Friday -- but I wanted you to know that this was spinning.

also, podesta said something about a Sec Herman event on Thursday -- I know the VPOTUS cannot do Thursday ----

thanks

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 23-MAR-1998 14:05:07.00

SUBJECT: More on delay in Unz memo

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

READ: UNKNOWN

TEXT:

Turns out that Janet Murguia pushed for the delay in sending the Unz memo to POTUS--after she heard from Becerra who (1) knew we were sending a memo to POTUS; (2) was ticked off at the prospect of it going before we consulted with him; and, (3) warned against a 3-year deadline for learning English.

I met with the Council of Great City Schools earlier today (big city superintendents and school board members--including a number of California districts). The Council passed a unanimous resolution yesterday opposing Unz, and I got a number of questions and comments on Unz. One of the school board members urged us not to set a 3 year deadline for learning English.

I know I should be surprised, but I'm actually shocked that Becerra and a Cal. school board member know so much about what we're doing. It's nice to know that you can fully trust everyone you work with!

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Toby Donenfeld ( CN=Toby Donenfeld/O=OVP [ UNKNOWN ] )

CREATION DATE/TIME:23-MAR-1998 02:57:51.00

SUBJECT: Draft VP letter to Harkin attached...

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

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

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

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

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

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

TO: Thomas L. Freedman ( CN=Thomas L. Freedman/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:

Please send me edits you have as soon as possible. Thanks very much.

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

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

TEXT:

Unable to convert ARMS\_EXT:[ATTACH.D25]MAIL48515218G.026 to ASCII,  
The following is a HEX DUMP:

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- DRAFT -

Automated Records Management System  
Hex-Dump Conversion

March 12, 1998

Senator Tom Harkin  
Senator John Chafee  
Senator Bob Graham  
U.S. Senate  
Washington, D.C. 20501

Dear Senators Harkin, Chafee and Graham:

Congratulations on your introduction of the first bipartisan comprehensive bill to drastically reduce youth smoking which encompasses the President's five principles. I regret that I cannot be there with you today as we take another crucial step forward in the fight to protect young people from the addiction and disease of tobacco and the next big step toward writing tough anti-tobacco measures into law.

We all know that ultimately any successful bill must have broad bipartisan support. I have been pleased to see that support for tough anti-tobacco measures crosses all lines of party and politics. Now, we must seize this historic opportunity, and build on this growing coalition.

The President and I look forward to working with you and other in the Congress to enact tough anti-tobacco legislation this year. We would like to work with you to ensure that any legislation sent to the President encompasses the five principles he has outlined: **(1) a price increase of up to \$1.50 per pack and tough penalties if youth smoking reduction targets are not met; (2) reaffirmation of the FDA's authority to regulate tobacco products; (3) changes to the way the industry does business so it will no longer market its products to children; (4) progress toward other public health goals; and (5) protection of tobacco farmers and their communities.** Further, we look forward to working with you to ensure that the revenues raised through any tobacco legislation will be invested in programs to benefit our children which the President has outlined.

The President and I want this Congress to be remembered as the Congress that finally protects our children from nicotine addiction and disease - and gives American the healthy kids and families we deserve.

Sincerely,

Al Gore

Automated Records Management System  
Hex-Dump Conversion

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Karen Tramontano ( CN=Karen Tramontano/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:23-MAR-1998 10:17:20.00

SUBJECT: HIB Visa/POTUS

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

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

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

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

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

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

TEXT:

At the AFL-CIO Executive Council meeting, the POTUS shopped his idea of a broad/national labor/industry partnership re: training of technology workforce for 21st. Kitty Higgins and I met w/ Morty Bahr (CWA) the morning after the POTUS visit to follow-up. Bahr as you may know has done a great deal of work in this area w/ Southwest Bell, Lucent Technologies and many many others. I also met w/ Ed Fire(IUE) who has done a lot of work in this area w/ GE --- Bahr is submitting a list of industry and education thinkers and doers in this area for our consideration --I will follow-up today w/ the afl-cio to see what they have -- following the POTUS discussion, the VPOTUS had similar discussion w/ the Executive Council ----

I thought this information got to all of you via Kitty Higgins -- can you please let me know the status, next steps, etc. I will do the follow-up w/ Kitty to see where we are on the POTUS initiative. thanks

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:23-MAR-1998 17:58:32.00

SUBJECT: needles q&a

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

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

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

TEXT:

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

TEXT:

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**Q: What is your current position on needle exchange?**

**A:** Before authorizing the release of any Federal funds for needle exchange programs, the law requires the HHS Secretary to make two determinations: First is determining that needle exchange programs are effective in preventing HIV; and the second is finding that needle exchange programs do not increase drug use. Last year, Secretary Shalala released a report that concluded that needle exchange programs have proved effective at reducing HIV. HHS is still in the process of determining whether or not they increase drug use.

**Q: What is your reaction to the fact that your Drug Czar and your AIDS Czar hold opposing views on this issue? How will you resolve these tensions in your Administration?**

**A:** Clearly both General McCaffery and Sandy Thurman have strong feelings on these issues. They do, however, both share the goal of reducing the incidence of HIV and reducing the incidence of drug use. We will work carefully with them and others within the Administration to develop a process that reduces the incidence of HIV without increasing drug use.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:23-MAR-1998 13:24:38.00

SUBJECT: Unz update

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

READ:UNKNOWN

TEXT:

The Unz memo did not go to POTUS on Saturday, and won't until after POTUS returns. The purpose of this note is to bring you up to speed, and get your guidance on how to proceed. I believe the delay will lead to further revisions in the memo, and want your counsel on how best to proceed.

Background on the delay: After we made the few changes Saturday morning, Leg. affairs expressed concern that we had not completed Congressional consultations (which are going on this week--this afternoon we are meeting with Feinstein and Boxer's staff, tomorrow with Becerra, Hinajosa and others from the Hispanic caucus).

I don't know if it was Larry or Janet who weighed in--earlier in the week, Janet had raised a little concern about the memo going in before the Hill consultations had been completed, but her plan at the time was that we simply not tell Hill folks that the memo had been completed; she did not suggest postponing sending the memo. In any event, Maria was consulted about the delay and was ok with it.

I was notified late Saturday that the memo did not go, and got the background on the reasons this morning.

The push for revisions begins: In the meantime, Mike Smith paged me yesterday and indicated that Riley has additional thoughts, both about how we draw on Lau, and on the 3-year time limit. We didn't discuss this in detail--I'll need to get back to him.

I believe this delay will make it difficult, if not impossible, to avoid further modifications to the memo--and I expect we will see a concerted effort to modify the 3-year time limit to learn English, or to propose additional options on how that should be addressed.

Moving forward: If you and Bruce are willing to include additional options in the memo, then it may be best to bring everyone back for another meeting just to focus on that issue, so long as everyone understands that the option Bruce favors will stay in the memo. Are you ok with this approach, or do you have another idea of how to proceed?

Three years to learn English policy issue: Finally, with regard to Unz--as I reflected on this over the weekend, I believe that there are some dangers with the approach we have recommended--3 years to learn English, and schools can't use fed. bilingual ed. funds to keep teaching the kid English after that. The main problem is that we leave the schools entirely off the hook--they can take the position that they tried for 3 years, the kid didn't learn English, and now the kid's on his own. I suspect this approach would violate the Lau guidelines, which require that if one approach doesn't work, another one be tried.

An alternative--which I believe we could recommend without losing the

message we need--is one that would place the accountability burden on the schools. This is more like the one we've attributed to Riley and Maria in the memo. The message: "Kids must learn English within 3 years, and we must hold schools accountable for accomplishing this." The policy:

A goal of learning English within 3 years

A requirement that district's test kids English proficiency and monitor progress annually (the testing requirement will drive our friends in the advocacy community and on the Hill nuts)

A requirement to provide progress report to parents each year, and to show how the kid's instructional program will help them meet the 3-year goal.

If the kid is not making adequate progress, the district has to tell the parent what it will do differently, and then do it

A requirement that the district provide intensive help to kids who have not met the goal by the end of the 3rd year.

School districts with poor records of helping kids learn English within 3 years would risk losing continuation funding, and would lose points in the competition for subsequent bilingual education funding.

I think this approach would support the public message we want. It makes us unambiguously for insisting that kids learn English. It would not leave us vulnerable to the charge that we are hurting kids, while it would leave us strong on school accountability. It would probably get strong support internally from Maria, Mickey et. al.. I think Karen Skelton--who wants to make sure we are strong on English and strong on changing bilingual education--would probably support this as well, though I have not discussed it with her.

At the same this approach will cause flack within the advocacy community (which doesn't believe in timelines and doesn't want us to say anything about bilingual education until after the Unz vote) and therefore, in all liklihood, among members of the Hispanic Caucus.

What do you think? I don't want to raise it unless you think Bruce would buy it.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jake Siewert ( CN=Jake Siewert/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:23-MAR-1998 13:56:30.00

SUBJECT: Q & A on today's Post Story

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

READ:UNKNOWN

TEXT:

Can you clear this?

Q. The GAO has concluded that the Commerce Department's study on the shortage of information technology (IT) workers has "serious analytical and methodological weaknesses." What's the White House's response?

The Commerce Department made it clear that their report was never intended to be comprehensive analysis of the IT labor market -- they called it "at best, a snapshot of a rapidly changing phenomena."

We do have projections from the Bureau of Labor Statistics that predict that demand for workers with IT skills will increase by more than a million over the next 10 years. However, the data on the supply of IT workers is less clear -- which is why the Commerce Department concluded that further research is needed.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:23-MAR-1998 14:43:03.00

SUBJECT: Updated Tobacco Hearing Schedule

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

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

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

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

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

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

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

TO: Bruce N. Reed ( CN=Bruce N. Reed/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: Jill M. Pizzuto ( CN=Jill M. Pizzuto/OU=OMB/O=EOP @ EOP [ OMB ] )  
READ:UNKNOWN

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

TEXT:

Here is an updated tobacco hearing schedule:

Tuesday, March 24

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

PANEL

-Jonathon Gruber - Deputy Assistant Secretary, Office of Economic Policy, Department of the Treasury

Treasury -Larry Summers - Deputy Secretary, Department of the

PANEL

Reindel -Floyd Abrams - Constitutional Lawyer, Cahil Gordon &
General, -Scott Strand - Deputy Counsel, Office of the Attorney
State of Minnesota

PANEL

LLP -Harvey Miller - Bankruptcy Lawyer, Weil Gotshal & Manges
-Harvey Rosen - Economist, Burke, Rosen & Associates

Week of March 30 [TENTATIVE]

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

CREATION DATE/TIME:23-MAR-1998 11:06:08.00

SUBJECT: INS reform

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 just spoke with Julie Anbender at INS. INS has been working on an additional document to include in the packet to Congress (along with the letter, side-by-side and Booz study). They think that they need more meat on the bones for presenting the Administration's plan. Though it may be possible to add some more detailed language to the Rogers letter, INS thinks that a separate document is needed. According to Anbender, you spoke with Doris about this on Friday. Do you want us to work with INS to create this document? Should it be included in the packet to Congress?  
Thanks.

Julie



**Welfare Reform Questions and Answers**  
**March 23, 1998**

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Hex-Dump Conversion

**Question:** **The Administration has pointed to the decline in welfare caseloads as a sign that welfare reform is working, yet a story in today's Washington Post says one of the main reasons people are leaving the rolls is that they are being sanctioned. Do you consider this a success?**

**Answer:** The rise in sanctions is a significant trend and one that deserves close attention. While national information is still very preliminary, we are aware of evidence in specific states about the increased use of sanctions. One of the principles of the welfare reform law enacted in August 1996 is personal responsibility. Establishing fair, firm and credible consequences if people fail to follow the rules is an important part of the new approach. Certainly we would prefer that people leave the rolls to go to work, but in some cases, sanctioning may be a step along the way.

It is also important to look at what happens to people who are sanctioned. Sanctioning is a complex issue with significant variation among state policies. Some states cut off the entire welfare grant whereas others only reduce the adult portion of the grant. Some states reduce or eliminate the entire grant immediately whereas others have a series of progressively tougher steps geared to encourage people to come into compliance. Different individuals react differently to sanctions. Data from several state studies finds that after being sanctioned, about half the people are working and approximately 40 percent have an increase in their income. Several states also found that one-quarter to one-third of those sanctioned returned to the rolls, presumably after complying with the requirements.

Information compiled by HHS for the period October 1996 through June 1997 shows that, nationwide, 38% of cases were reported by states as closed for failure to comply with procedural requirements. The percentage varies widely among states. This is based on old AFDC reporting systems--it does not yet reflect state reporting under the new TANF data collection system, which is still being compiled by HHS. It is worth noting that while we do hear anecdotally and on a state specific basis that the rate of sanctioning has increased, this particular statistic does not depart much from the past. According to HHS, the comparable figures in 1993 and 1995 were 32% and 33% respectively.

**Question:** **The Post article cited a women in Tennessee who was sanctioned even though she had back problems. What is federal policy for people with such health problems?**

It is difficult to respond to the circumstances of a particular individual without knowing all the facts. Federal law requires states to sanction individuals who fail to comply with certain welfare reform requirements, but also gives states

considerable flexibility in how they administer such sanctions. According to a recent survey by the American Public Welfare Association, most states waive sanctions when a person has good cause for not complying, with disability, incapacity or illness the most frequently cited reason for good cause (by 31 states). In addition, the federal SSI program is designed to assist low income individuals with disabilities that prevent them from working.

**Question:** Today's New York Times cites evidence in New York that only one-third of those leaving the rolls are actually working. Are you disappointed by these results?

**Answer:** This initial information from New York appears to differ somewhat from several other states who have done follow up studies. A number of other states have found that between 50% and 60% of those leaving the rolls were working. We believe it is very important to increase the number of people leaving welfare for work. That is why HHS recently released formal guidance on the High Performance Bonus that will award \$200 million a year to the states who have the most success in placing people in jobs and ensuring that welfare recipients succeed in jobs once they get them, by remaining employed and seeing their earnings climb over time.

**[NOTE: New York state staff say they have not completed a survey or a study and that the data referenced in the NY Times article is preliminary and incomplete.]**

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 23-MAR-1998 16:48:26.00

SUBJECT: Possible NYTimes story

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

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

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

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

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

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

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

TEXT:

The Department of Labor has heard that Robert Pear is poking around the issue of employment of people with disabilities. They sent him our recent executive order on the subject. The only intelligence we have on his angle is that it may have been precipitated by Sen. Kennedy's office. He is preparing to introduce a still-evolving bill with Jeffords to offer continued Medicare/Medicaid to people leaving the SSI/SSDI rolls for work. We are trying to work out our position on it; it will cost money.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:23-MAR-1998 13:51:19.00

SUBJECT: WR Q&As

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

TEXT:

See if this sounds OK--still waiting to hear back from Kharfen, but I think he could live with this treatment of the data.===== ATTACHMENT  
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**Question:** The Administration has pointed to the decline in welfare caseloads as a sign that welfare reform is working, yet a story in today's Washington Post says one of the main reasons people are leaving the rolls is that they are being sanctioned. Do you consider this a success?

**Answer:** The rise in sanctions is a significant trend and one that deserves close attention. While national information is still very preliminary, we are aware of evidence in specific states about the increased use of sanctions. One of the principles of the welfare reform law enacted in August 1996 is personal responsibility. Establishing fair, firm and credible consequences if people fail to follow the rules is an important part of the new approach. Certainly we would prefer that people leave the rolls to go to work, but in some cases, sanctioning may be a step along the way.

It is also important to look at what happens to people who are sanctioned. Sanctioning is a complex issue with significant variation among state policies. Some states cut off the entire welfare grant whereas others only reduce the adult portion of the grant. Some states reduce or eliminate the entire grant immediately whereas others have a series of progressively tougher steps geared to encourage people to come into compliance. Different individuals react differently to sanctions. Data from several state studies finds that after being sanctioned, about half the people are working and approximately 40 percent have an increase in their income. Several states also found that one-quarter to one-third of those sanctioned returned to the rolls, presumably after complying with the requirements.

Information compiled by HHS for the period October 1996 through June 1997 shows that, nationwide, 38% of cases were reported by states as closed for failure to comply with procedural requirements. The percentage varies widely among states. This is based on old AFDC reporting systems--it does not yet reflect state reporting under the new TANF data collection system, which is still being compiled by HHS. It is worth noting that while we do hear anecdotally and on a state specific basis that the rate of sanctioning has increased, this particular statistic does not depart much from the past. According to HHS, the comparable figures in 1993 and 1995 were 32% and 33% respectively.

**Question:** The Post article cited a woman in Tennessee who was sanctioned even though she had back problems. What is federal policy for people with such health problems?

It is difficult to respond to the circumstances of a particular individual without knowing all the facts. Federal law requires states to sanction individuals who fail to comply with certain welfare reform requirements, but also gives states

considerable flexibility in how they administer such sanctions. According to a recent survey by the American Public Welfare Association, most states waive sanctions when a person has good cause for not complying, with disability, incapacity or illness the most frequently cited reason for good cause (by 31 states).

In addition, the federal SSI program is designed to assist low income individuals with disabilities that prevent them from working.

**Question:** Today's New York Times cites evidence in New York that only one-third of those leaving the rolls are actually working. Are you disappointed by these results?

**Answer:** This initial information from New York appears to differ somewhat from several other states who have done follow up studies. A number of other states have found that between 50% and 60% of those leaving the rolls were working. We believe it is very important to increase the number of people leaving welfare for work. That is why HHS recently released formal guidance on the High Performance Bonus that will award \$200 million a year to the states who have the most success in placing people in jobs and ensuring that welfare recipients succeed in jobs once they get them, by remaining employed and seeing their earnings climb over time.

**[NOTE: New York state staff say they have not completed a survey or a study and that the data referenced in the NY Times article is preliminary and incomplete.]**

Automated Records Management System  
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**Welfare Reform Questions and Answers**  
**March 23, 1998**

Automated Records Management System  
Hex-Dump Conversion

**Question:** **The Administration has pointed to the decline in welfare caseloads as a sign that welfare reform is working, yet a story in today's Washington Post says one of the main reasons people are leaving the rolls is that they are being sanctioned. Do you consider this a success?**

**Answer:** One of the principles of the welfare reform law enacted in August 1996 is personal responsibility. Establishing fair, firm and credible consequences if people fail to follow the rules is an important part of the new approach. Different people react differently to sanctions. For some people, sanctioning may be a step along the way to work. Data from several state studies finds that after being sanctioned, about half the people are working and approximately 40 percent have an increase in their income. Several states also found that one-quarter to one-third of those sanctioned returned to the rolls, presumably after complying with the requirements.

While some states do appear to be increasing their use of sanctions, it is too early to confirm this trend on a national basis. HHS is still compiling state data under the new welfare reform reporting system. According to HHS, in 1993 and 1995 33% and 32% of cases were closed for failure to comply with procedural requirements and the preliminary figure for October 1996 to June 1997 was 38%.

**Question:** **The Post article cited a woman in Tennessee who was sanctioned even though she had back problems. Isn't it unfair to require someone like that to work?**

Federal law requires states to put 30 percent of recipients to work this year (a figure which rises to 50 percent by the year 2002) and gives states considerable flexibility in how they apply these work rules. According to a recent survey by the American Public Welfare Association, most states waive sanctions when a person has good cause for not complying, with disability, incapacity or illness the most frequently cited reason for good cause (by 31 states). In addition, low income individuals whose disabilities prevent them from working can receive assistance under the federal SSI program, for which the work rules do not apply.

**Question:** **Today's New York Times cites evidence in New York that only one-third of those leaving the rolls are actually working. Are you disappointed by these results?**

**Answer:** **While we haven't seen this preliminary New York State data, we do know that a number of other states have had much better results, finding between 50% and 60% of those leaving the rolls were working. In an effort to give states strong incentives to help as many recipients go to work as possible, HHS recently released formal guidance on the High Performance Bonus that will award \$200 million a year to the states who have the most success in placing people in jobs and ensuring that welfare recipients succeed in jobs once they get them, by remaining employed and seeing their earnings climb over time.**