

**NLWJC - KAGAN**

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**[06/05/1998 - 06/08/1998]**

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 5-JUN-1998 18:40:01.00

SUBJECT: INS Restructuring Legislation

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TEXT:

FYI: As a follow-up to the meeting on INS restructuring and to expedite the development and clearance of the INS legislative restructuring proposal, OMB has done the following:

Faxed agency comments to INS (Eirenbaum) on the draft INS Inspector comparability bill circulated by LRD this spring. INS can incorporate these changes (or work out with the commenting agency) before the submission of a revised restructuring/inspector pay bill. None of the comments were substantive -- mostly technical corrections. Contacted Customs program officials and informed them of the fast-track that this legislation will take next week. They will work with INS Monday to ensure any Customs concerns with comparability are included in the final bill or addressed in some way prior to the final bill being sent to OMB for clearance. Discussed the paygo issue with BRD. The inspector pay on the mandatory

side will be paygo unless the language is carefully crafted. With the help of BRD, we hope to include language covering mandatory spending that meets this standard and assure the bill has no paygo implication. The language INS is drafting will essential say that " based on estimated receipt levels of x -- 1999, y - 2000, etc, obligations estimate shall not exceed the following: FY 1999 - x, FY 2000 - y,...FY 2003 - z." Worked with LRD to ensure they are ready to quickly distribute and clear the INS package (Ingrid Schroeder will coordinate for LRD). The goal is to get a "clean" bill to LRD early next week for quick clearance.

If you have any questions, please contact me or Ingrid. Thanks.



June 5, 1998

DRAFT BACKGROUND MEMORANDUM FOR EOP PRINCIPAL'S MEETING

FROM: REBECCA BLANK  
ELENA KAGAN  
SALLY KATZEN  
JOE MINARIK

Subject: Meeting on Income and Poverty Measures

**Purpose of the Meeting**

In early 1999, the Census Bureau will publish alternative measures of poverty based on the proposals contained in the 1995 National Research Council (NRC) report, *Measuring Poverty: A New Approach*. The current official poverty measure dates back to the 1960s, and while it has been an important contributor to public debate and policymaking, the NRC report reflects a broad consensus that the measure is out-of-date and in need of revision.

Poverty measurement involves two concepts: (1) A definition of family income; and (2) A "threshold" against which income is compared to determine if a family is poor. Changes in these two concepts will have a direct impact on statistics used by the public for informational purposes. Changes will also likely have an effect on Federal programs as well.

Because of the importance of an independent statistical system, the Census Bureau plays the major role in deciding technical issues regarding poverty measurement. However, because of the important policy and political implications of the poverty concept, Census has asked for advice from the EOP (which, through OIRA's Statistical Policy Office, is the statutory arbiter of the "official" poverty measurement methodology) on the upcoming report.

In response to Census' request, CEA, DPC, NEC, and OMB formed a policy working group. (Among the agencies, only the Deputy Assistant Secretary for Human Services Policy at HHS was invited to participate because of her expertise on poverty measurement.) This working group has held a series of meetings, and prepared the attached memo to outline its tentative guidance to Census. The meeting of EOP Principals is intended to review the working group's conclusions before they are transmitted to Census. It is important to emphasize that we are only being asked to give advice to the Bureau of the Census; what it actually publishes is its decision.

There are four global issues to be decided; the first two are most pressing because we need to give guidance to Commerce as soon as possible:

1) Should the Census Bureau select or highlight a single alternative poverty measure, or present several equally in its forthcoming report? Do the principals have a single preferred measure that

they would like to see replace the current official measure? Would anointing a single measure at this time be premature, and prejudge the analytical process? Would it raise ire in the Congress? If we do not anoint a single preferred measure at this time, will it be difficult to select one later should we want to switch the "official" definition to one of the proposed alternatives?

2) There are also two technical issues (policy options 1 and 4 in the background memo) that require careful consideration.

- Should we advise Census to benchmark the new poverty measure to the old poverty rate in the current year (so that the number of people classified as poor would remain the same although the distribution would change)? Should Census implement the NRC recommendations, which would result in a higher poverty rate (e.g., 18% rather than 13.7% in 1996).
- If there is only one measure reported by Census, should it account for differences in medical out-of-pocket (MOOP) expenditures among households in the way recommended by the NRC, namely, subtracting them from income before a family's poverty status is calculated. (An alternative choice is to add them to the thresholds -- which of these methodologies should be used is a technical choice best left to Census.) If we believe that several measures should or more be equally reported by Census, should one of them account for medical expenditures using a different methodology?

3) How should the Administration proceed toward a new official measure of poverty? Should it proceed along a timetable to replace the current official measure before the end of this Administration? If so, what process do we need to establish to move forward on this in a timely fashion? Or, should the Administration proceed more cautiously, letting a consensus build around a preferred measure among the community of users of poverty statistics, but possibly lessening the chances that the official measure is ultimately changed?

4) In addition to OMB's designation of the "official" poverty measurement, HHS also issues administrative poverty guidelines, used in certain program eligibility calculations. If revised poverty thresholds are adopted as part of a new poverty measure, would the Administration continue the old administrative poverty guidelines, or make them consistent with the new threshold measure? If the guidelines are made consistent, would the Administration make programmatic changes to mitigate the effects on eligibility and spending of switching to the new guidelines?

## TECHNICAL BACKGROUND ON INCOME AND POVERTY MEASURES

### The Current Poverty Measure

The methodology by which current poverty thresholds are determined was developed in the early 1960s by Mollie Orshansky, a staff economist at the Social Security Administration. She developed a set of poverty thresholds that vary with the number of adults, the number of children, and the age of the family head. These thresholds represent the cost of a minimum diet multiplied by 3 to allow for non-food expenditures. The multiplier of 3 was chosen because the average family in 1955 spent one-third of its after-tax income on food. Since the late 1960s, the thresholds have simply been updated annually to adjust for price inflation -- i.e., the measure of poverty has remained virtually unchanged for 35 years, despite substantial changes in family behavior and government policy.

The NRC panel identified several weaknesses in the current poverty measure:

- The current poverty measure takes no account of changes in taxes (i.e., the expansion of the EITC) or in-kind benefits (i.e., Food Stamps).
- The current measure does not distinguish between the needs of working and non-working families. In particular, it does not reflect the cost of child care and other work expenses for working low-income families.
- The current poverty measure takes no explicit account of medical care costs, which vary significantly across families and have increased substantially since the current poverty measure was developed.

### The NRC Recommendations

In order to understand the NRC panel's recommended revisions, one must understand the basics of determining poverty. A family is considered poor when its resources fall below a predetermined poverty line or threshold. Therefore, one must develop a methodology for estimating family resources and for defining the threshold resource level below which a family is considered poor.

#### 1. Defining Family Resources

Under the current poverty calculation, the definition of family resources is cash income. The NRC recommendations would estimate family resources as:

Family resources = Cash income + Near-money in-kind benefits - Taxes - Child care costs - Work expenses - Child support payments - Out of pocket

medical care expenditures (including health insurance premiums)

The rationale for subtracting taxes, work and medical expenses from family resources is that these expenditures are typically not discretionary and reduce the family income available to achieve a basic quality of life.

There is near consensus among researchers that adjusting for near-money in-kind benefits (primarily Food Stamps and housing subsidies) and taxes would be an improvement in how poverty is measured. There is slightly less agreement on whether child care costs, work expenses, and child support payments should also be deducted because an unknown proportion of these expenses is likely discretionary. (The NRC proposes to cap the amount of child care and work expenses that can be subtracted to deal with this problem.) As discussed below, the adjustment for out-of-pocket medical care expenditures is more controversial.

## 2. Defining a Poverty Threshold

A threshold must be determined against which to compare a family's resources. The NRC panel recommends basing the threshold on expenditures on "necessities" (food, shelter, and clothing) plus a little more. Specifically, the NRC panel recommends selecting the 30th to 35th percentile in the distribution of annual expenditures on food, shelter, and clothing among families of four (two adults and two children), and then multiplying this expenditure level by between 1.15 and 1.25. Thresholds for other family sizes and types would be determined by an equivalency scale calculation.

The NRC recommends adjusting these thresholds to take into account geographic variation in cost of living, based on differences in housing costs by region and by city-size. It also recommends adjusting the thresholds over time by recalculating them from expenditure data on an annual basis.

## OPTIONS FOR DISCUSSION

### 1. **Recommendation regarding determining the level of the poverty threshold.**

The NRC panel acknowledges that the actual level at which the poverty threshold is set (and hence the final poverty rate) is inherently arbitrary and cannot be determined on the basis of purely statistical judgements. There are two primary options:

A. The NRC alternative. As described above, the NRC panel recommends establishing a threshold based on the 30th-35th percentile in the distribution of annual expenditures for a family of four, with a small multiplier to account for additional small personal expenditures. As shown in Tables 1 and 2, column 3, this would raise the 1996 poverty rate from 13.7% to 18%, and increase poverty among all subgroups.

B. Benchmarking. The NRC panel also considered poverty estimates that benchmark the alternative poverty rate to equal the old poverty rate in a given year. The Census has done a number of such benchmarked calculations for 1996, as shown in Tables 1 and 2, column 2. (The report issued early next year would benchmark to 1997.) Benchmarking would assure that the aggregate poverty rate is identical for the official and the alternative measure in the benchmark year. But the distribution of poverty among subgroups within each measure would differ (see Table 2). Similarly, both historical and future trends would differ. For instance, the alternative measure is identical in 1996 but higher in 1991. (The faster fall using the alternative measure is largely due to the expansion in the EITC.)

*Pros of using the NRC measure:*

- Incorporates the recommendations of the NRC panel, based on their professional judgement from the best available evidence.
- Generates dollar threshold levels that are quite similar to the current dollar thresholds (although the resources to which the thresholds would be compared are quite different).

*Cons of using the NRC Measure:*

- Results in a higher poverty rate (although the trends over time are similar.)

*Pros of Benchmarking:*

- May provide an easier transition to the new methodology because there will not be a change in the overall level of poverty.
- Focuses the arguments on the relative distribution of who is poor rather than how many people are poor.

*Cons of Benchmarking:*

- Violates the NRC recommendation that the threshold should be based on the 30th-35th percentile in the expenditure distribution. In order to benchmark, the threshold falls to (about) the 25th percentile of expenditures on food, shelter, and clothing.

## **2. Recommendation regarding updating the thresholds over time**

Currently the poverty threshold is updated annually using the CPI. This, however, does not allow for adjustments that reflect changes in underlying consumption patterns that might affect the revised thresholds. For instance, food prices have decreased relative to other goods over time, while housing prices have increased. There are two options:

- (A) Recalculate the thresholds annually as a share of consumption on food, shelter, and clothing. (This is recommended by the NRC panel.)

(B) Update the thresholds on a year-to-year basis using a price index (preferably one based only on food, shelter and clothing). Implement a regular process (every 5-10 years) of reviewing the poverty measure and recalculating the thresholds.

*Pros of Re-calculating the Thresholds:*

- Regular recalculation will allow the poverty thresholds to reflect more accurately changes in consumption patterns and standards of living.
- Without an expectation that the thresholds will be re-calculated regularly, it may be hard to update them at all.
- Under certain data circumstances, recalculation could move the threshold a large amount or in an unexpected direction. This might raise substantive and political concerns.

*Pros of Updating Using the CPI:*

- Using the NRC methodology, the poverty thresholds are somewhat relative (i.e., they are affected by changes in the distribution of household expenditures.) As a result, they are a moving target and do not provide an absolute standard of need. A CPI adjustment would make it easier to compare poverty from year-to-year against a constant standard.
- Because consumption patterns and standards of living change slowly, it may be better to take them into account periodically rather than annually.
- An update with a CPI for necessities only (food, clothing, and shelter) may capture most of the relevant changes and would make it easier in the short-run to understand the updating procedure.
- The data may not be good enough for an annual re-calculation of the thresholds.

NOTE: The EOP Policy Working Group recommends Option (B).

**3. Recommendation as to whether thresholds should be adjusted for geographic variation.**

The NRC panel recommended adjusting the poverty thresholds for cost-of-living differences across regions and by city size. Census proposes to make such adjustments based on housing cost differences (which have much greater regional/city size variation than food or clothing.)

*Pros of Adjusting for Geographic Variation in Cost of Living:*

- Most statisticians and economists agree that such adjustments should be made if data are available.

*Cons of Adjusting for Geographic Variation in Cost of Living:*

- There is no one “right” way to make such adjustments and the issue could be highly politicized.
- The data available to make such adjustments are limited and may not be entirely reliable.
- Implementing such an adjustment in the poverty line threshold could lead to pressure to provide regional cost adjustments in a wide variety of other government programs, from Social Security benefits to tax payments.

NOTE: The EOP Policy Working Group recommends against geographic price adjustments.

**4. Recommendation regarding how to account for medical care expenditures.**

Since the mid-1970s, analysts have been concerned that the official poverty rate overstates the extent of poverty among beneficiaries of Medicare, Medicaid, and private health insurance. At the same time, the official poverty rate may understate the extent of poverty among populations with large medical expenditures. Most analysts agree that, in principle, medical care “needs” should be incorporated into the calculations of the threshold and family resources (i.e., families with higher medical needs should have higher thresholds; those with more generous medical benefits should be considered to have more resources; and those who must spend more to achieve “good health” should have those expenses subtracted from their resources). However we cannot observe a family’s medical need. In addition, it is not clear that one can simply impute the cash value of insurance benefits and add this to income. The “extra” benefits received from insurance to cover expensive medical services do not provide income that can be used for any other purpose.

To understand the difficulties, consider including medical benefits into the income calculations. Adding medical benefits to income, without also adjusting the poverty threshold, has the perverse effect of making sicker individuals appear better off. Other proposals to adjust the poverty threshold (without also adjusting resources) run into similar problems.

In the end, the NRC panel recommended subtracting all medical out-of-pocket (MOOP) expenses (including health insurance premiums) from income, without trying to value health insurance as a part of income or medical need as a part of the thresholds. Hence, family resources are measured net of MOOP. Those individuals with good insurance will have few out-of-pocket expenses; those without insurance who face health problems will have lower measured incomes as they pay more for medical care.

This adjustment accounts for the larger poverty rates using the NRC methodology. For example, in 1996 the poverty rate was 13.7% using the current methodology; it would have been 18%

using the NRC methodology, but only 13.2% using the NRC methodology without the medical expenses adjustment. This adjustment nearly doubles the poverty rate for the elderly, raising it almost to the rate for children. This adjustment is one of the most controversial of the NRC recommendations.

There is general agreement that ignoring medical care and medical expenses entirely is not a good idea, particularly given the rapid increase in medical costs in the past 30 years, the extent of uninsurance among the low-income population, and this Administration's concern with it. In addition, if we do not adjust for medical care (in some way) now, it may be much harder to do so in a few years when we will have better data (because the change will be so dramatic it will be viewed as another big methodology change).

There are three approaches to incorporating medical care and expenses:

(A) Follow the NRC recommendation and subtract MOOP from family resources. This makes families with unreimbursed medical expenses less well-off than other families.

(B) MOOP could be added to the thresholds rather than subtracted from resources. (The choice between options (A) and (B) is a technical decision that Census should address.)

(C) Try to impute the value of health insurance to resources, so those with insurance have higher resources. Health insurance should then also be imputed into the thresholds.

*Pros of Adjusting for MOOP (either options (A) or (B)):*

- While not perfect, under the NRC recommended adjustment families with higher unreimbursed medical expenditures will be "poorer." The NRC recommended adjustment would also be sensitive to changes in health care financing that would decrease MOOP and thereby increase disposable income and reduce poverty.

*Cons of Adjusting for MOOP (either options (A) or (B)):*

- The data that are currently available are out-of-date (but we should have updated information available in a more timely fashion within another year.)
- The NRC recommended approach relies on the controversial assumption that all medical care expenditures are nondiscretionary. (This concern could be mitigated to some extent by imposing a cap on the amount of medical expenses.)

*Pros of Imputing the Value of Health Insurance into Resources and Thresholds:*

- Provides a more complete accounting of all medical resources available to a family.

*Cons of Imputing the Value of Health Insurance into Resources and Thresholds:*

- There is no accepted "correct" way to do this. The data here are probably more

unreliable than the data needed to impute the value of MOOP to families.

- Many analysts agree with the NRC panel that the value of health insurance is quite different than (say) the value of food stamps, which are far more fungible. Mixing in health insurance coverage with economic need causes interpretational and conceptual problems to a measure of economic need.
- To date, Census has been following the NRC recommendation. If we asked them to switch to this approach, it might require substantial additional work and seriously delay their report.

NOTE: The EOP Policy Working Group recommends that Census incorporate medical care in some way and recognizes that option (A) is the most practical and realistic for the short-term. However, the group strongly recommends that Census thoroughly investigate the impact of option (B), and continue work on other approaches to incorporating medical care and expenditures, such as by valuing medical health insurance (option (C)).

#### **5. Recommendations regarding which alternatives Census should publish and/or how they should be presented.**

The current plan is to publish a small number (maybe 3) of alternatives. For instance, the Census could publish a 1997-benchmarked poverty rate and a NRC-alternative poverty rate, providing two alternatives. Or it could publish a 1997-benchmarked poverty rate including all of the NRC recommendations, and then publish the same thing without MOOP, or without geographical price variation. (There will be extensive appendices in this report that will report a wide variety of different poverty calculations, to demonstrate the statistical properties of the poverty measurement recommended by NRC.)

- Will it be confusing to publish multiple (even a small number of) alternatives, as opposed to only one alternative? How will this affect how the report is received? How should these be presented?
- What problems will it create to have multiple alternatives if at some future point we want to redefine the official poverty rate to one of these improved alternative measures?

Table 1. Poverty Rates and Thresholds under Alternative Measures, 1991-96, CPS

	Official measure	Benchmarked to 1996	NRC Experimental	
<b>Poverty Rates</b>				
1991	14.2	14.5	18.9	
1992	14.8	15.3	19.6	
1993	15.1	15.7	20.2	
1994	14.6	14.7	19.0	
1995	13.8	13.8		18.2
1996	13.7	13.7	18.0	
<b>Thresholds for 2 adults and 2 children (in dollars)</b>				
1991	13,812	11,891	13,891	
1992	14,228	12,249	14,309	
1993	14,654	12,616	14,738	
1994	15,029	12,938	15,115	
1995	15,455	13,305	15,543	
1996	15,911	13,698	16,002	

Table 2. Poverty Rates under Alternative Measures, 1996, CPS

	Official measure	Benchmarked NRC to 1996	Experimental
<b>All persons</b>	<b>13.7</b>	<b>13.7</b>	<b>18.0</b>
Children	20.5	18.1	23.8
Nonelderly adults	11.4	11.5	15.0
Elderly	10.8	15.6	20.4
White	11.2	11.8	15.6
Black	28.4	25.2	32.0
Hispanic origin	29.4	28.5	37.7
One or more workers	9.5	10.0	13.6
Persons in family of type:			
Married couple	6.9	7.8	11.1
Female householder	35.8	32.3	40.4
Geographic regions:			
Northeast	12.7	14.3	18.8
Midwest	10.7	10.3	13.8
South	15.1	14.2	18.3
West	15.4	16.1	21.0
Metro/CC	19.6	19.2	24.7
Not CC	9.4	10.6	14.1
Nonmetro	15.9	13.5	17.5

### **Attachment 1 (from HHS)**

#### **Use of the Federal Poverty Guidelines in Determining Program Eligibility and Benefits**

The Federal poverty guidelines are a simplified version of the official poverty line thresholds which are used for program purposes. They are issued by HHS annually, and are based on the previous year's thresholds.

As Gordon Fisher, the analyst at HHS who oversees the production of the guidelines, notes in a recent paper:

A number of people believe that the poverty guidelines affect many big entitlement programs. That belief is an exaggeration of the actual situation. Most of the Federal programs using the guidelines are medium-sized or small, with only a few big programs. Moreover, most...are discretionary programs...Only a few programs using the guidelines are mandatory: Medicaid, the Food Stamp Program, and child nutrition programs (mainly the National School Lunch Program.)<sup>1</sup>

As Fisher notes, spending under discretionary programs, which are appropriated each year, would not be affected by any change in the guidelines, even if that change affected eligibility for the program. If eligibility for these programs expands, the appropriated funds are able to serve a smaller proportion of the eligible population, but total spending does not change. (Most of these programs already serve only a small fraction of those estimated to be eligible.) Only the three big mandatory programs Fisher mentions above would have spending changes associated with a change in the guidelines.

Even within these three programs, the impact of changes in the poverty guidelines is less than might be expected. In Medicaid, for example, most recipients qualify for coverage because of their participation in other means-tested programs such as TANF and SSI--programs that do not use the poverty line in their eligibility criteria. The major group whose coverage does depend on the guidelines is children in families below 133% of the poverty line who are not current or recent TANF recipients. In all, people whose eligibility for Medicaid is somehow related to the poverty line are estimated to account for about 20 percent of Medicaid recipients. Since most are in families with incomes well below the specified level, only a small fraction would actually be affected by a poverty line change.

Impacts in the Food Stamp Program and the National School Lunch Program would probably be even smaller. The poverty guidelines are used in the Food Stamp Program to set gross income eligibility--only families with gross incomes below 130% of the poverty line are eligible for food

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<sup>1</sup>G. Fisher, "Disseminating the Administrative Version and Explaining the Administrative and Statistical Versions of the Federal Poverty Measure." Clinical Sociology Review, vol. 15 (1997), p. 165.

stamps. Actual food stamp benefits are calculated based on net income, however--income after deductions for work expenses and other items. Net income is compared to a specific benefit allotment, determined nationally for each family size, and that benefit is reduced by 30 cents for every dollar of net income the family receives. In practice, the benefit allotment would reach zero for almost all families long before an income of 130 percent of poverty was reached. Thus, the gross income eligibility cut-off for food stamps is more theoretical than real--families at or near 130% of the poverty line will almost always be eligible only for zero benefits.

The National School Lunch Program has two cut-offs related to the poverty guidelines: Families with incomes below 130% of poverty are eligible for free lunches, and those below 185% are eligible for reduced-price lunches. Unlike the Food Stamp and Medicaid Programs, however, the school lunch program does not collect and verify detailed information on recipients' family incomes. Instead, families are asked at the beginning of each school year (or when their child enters a new school) to fill out a form certifying that their incomes are below the specified level. Because this process is relatively informal, it seems unlikely that small changes in the level of the income cut-off would have big impacts on the number of children applying for and receiving free and reduced-price school lunches. In any case, total spending on the school lunch program--a significant proportion of which is not means-tested--is much smaller than spending on Medicaid and food stamps. In 1996 Federal spending on the school lunch program was \$5.4 billion, compared to \$25.4 billion for food stamps and almost \$92 billion for the Federal share of Medicaid.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 5-JUN-1998 19:05:21.00

SUBJECT: revised weekly insert

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

READ:UNKNOWN

TEXT:

We revised the prostate cancer weekly insert because we found out today that there are new grants to announce on prostate cancer research on father's day.

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

TEXT:

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7264806F6E8070726F737461746580616E6480F1030100F1F1020200F19CF1030200F1F1020100

Automated Records Management System  
Hex-Dump Conversion

**Prostate Cancer Update.** We have been extremely successful in highlighting the new Medicare preventive benefits and research breakthroughs for breast cancer. However, we have yet to have the same level of success highlighting our significant record on prostate and colorectal cancer. For this reason, **we are contemplating Father's day to highlight a number of the Administration's initiatives, but in particular to announce the release of over \$25 million in new grants explicitly set aside for prostate cancer research at the Department of Defense.** Other initiatives we could emphasize include: the new Medicare colorectal and prostate screening preventive benefits, your support for Medicare coverage of cancer clinical trials, historical increases in the NCI budget, genetic discrimination legislation, and the patients' bill of rights. Until recently, prostate cancer research and breakthroughs have not received the attention or funding that other politically salient diseases have, such as breast cancer and AIDS. The NCI, however, now believes that there is new potential in this area, and is therefore increasing funding to begin new clinical trials and other research in this area, efforts which will be enhanced if Congress passes your proposed 67 percent increase in cancer research. In addition, one of the greatest barriers to progress in this prostate cancer research is the lack of success in enrolling men in clinical trials. Your proposal to cover cancer clinical trials, which is currently being carried in the McCain version of the tobacco legislation could make a significant difference in attracting men into these studies. It is important to note that the Medicare prostate preventive benefit does not go into effect until the year 2000. The reason for the delay of implementation has much less to do with cost than it does with the lack of evidence that screening makes a difference in morbidity. Experts believe that this test has many false positives and even when it finds cancer, the jury is still out as to whether or not we catch it soon enough to make a difference given the treatment outcomes. It is our hope and expectation, however, that in prostate screening and research should lead to lower mortality rates in the future.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 5-JUN-1998 11:05:57.00

SUBJECT: Statement of Administration Policy on HR2888 Sales Incentive Compensation

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

READ:UNKNOWN

TO: Daniel J. Chenok ( CN=Daniel J. Chenok/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Debra J. Bond ( CN=Debra J. Bond/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

TO: Barry White ( CN=Barry White/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

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

READ:UNKNOWN

TO: Kate P. Donovan ( CN=Kate P. Donovan/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

----- Forwarded by Melissa N. Benton/OMB/EOP on 06/05/98

11:04 AM -----

Total Pages: \_\_\_\_\_

LRM ID: MNB176

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C. 20503-0001

Friday, June 5, 1998

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Janet R. Forsgren (for) Assistant Director for Legislative Reference

OMB CONTACT: Melissa N. Benton  
PHONE: (202)395-7887 FAX: (202)395-6148

SUBJECT: Statement of Administration Policy on HR2888 Sales Incentive Compensation Act

DEADLINE: 9:30 a.m. Monday, June 8, 1998

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

COMMENTS: This bill is likely to be considered by the House on Tuesday, June 9th, under suspension of the rules. The deadline is firm.

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Jonathan Orszag  
Cecilia E. Rouse  
Karen Tramontano  
Kate P. Donovan  
Daniel J. Chenok  
Robert G. Damus  
Sarah S. Lee  
Janet R. Forsgren  
James C. Murr

LRM ID: MNB176 SUBJECT: Statement of Administration Policy on HR2888 Sales Incentive Compensation Act

RESPONSE TO  
LEGISLATIVE REFERRAL  
MEMORANDUM

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

You may also respond by:

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

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

TO: Melissa N. Benton Phone: 395-7887 Fax: 395-6148  
 Office of Management and Budget  
 Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: \_\_\_\_\_ (Date)  
 \_\_\_\_\_ (Name)  
 \_\_\_\_\_ (Agency)  
 \_\_\_\_\_ (Telephone)

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

\_\_\_\_\_ Concur

\_\_\_\_\_ No Objection

\_\_\_\_\_ No Comment

\_\_\_\_\_ See proposed edits on pages \_\_\_\_\_

\_\_\_\_\_ Other: \_\_\_\_\_

\_\_\_\_\_ FAX RETURN of \_\_\_\_\_ pages, attached to this response sheet

DRAFT -- NOT FOR RELEASE

June 5, 1998  
 (House)

H.R. 2888 - Sales Incentive Compensation Act  
 (Fawell (R) IL and 23 others)

The Administration has concerns about H.R. 2888, because it would deny an estimated 1.5 million sales employees overtime pay when they are required to work extra hours. In addition, the multi-test exemption in the bill as reported is overly complex and would be extremely difficult and burdensome for employers, affected employees, and the Department of Labor to implement, which could lead to needless and costly litigation. The bill would benefit employers at the expense of employees, existing overtime entitlements and would remove a basic Fair Labor Standards Act principle -- to limit excessive hours of work by employees and provide them just compensation for working overtime.

\* \* \* \* \*

(Do Not Distribute Outside Executive Office of the President)

This position was developed by LRD (Benton) in consultation with HRD (Matlack/Bond). The Departments of Labor (), Justice (), and Commerce () have reviewed the proposed position and have either no comment or no objection.

#### Legislative History

H.R. 2888 was introduced on November 7, 1997. On March 5, 1998, H.R. 2888 was approved by the Workforce Protections Subcommittee by voice vote, with an amendment in the nature of a substitute that made a number of technical and clarifying changes to the bill. On April 1, 1998, the Education and the Workforce Committee ordered the bill reported as amended. The Committee report has not been filed to date.

#### Administration Position to Date

The Department of Labor sent a letter to Reps. Ballenger and Andrews on March 4, opposing H.R. 2888 as introduced. In its letter, Labor stated that the bill's expansion of the FLSA sales exemption "would weaken a basic principle of the FLSA--to limit excessive hours of work by employees and provide them just compensation for working overtime."

Labor sent a virtually identical letter to Rep. Goodling on March 31, 1998, prior to the full Committee's consideration of the bill.

#### Background and Summary of H.R. 2888 as Reported

Under the Fair Labor Standards Act of 1938 (FLSA), sales personnel who work away from their employer's premise ("outside sales" employees) are exempted from the Act's overtime and minimum wage requirements.

The sponsors of H.R. 2888 argue that the bill is necessary to accommodate changes in the workplace since the FLSA's 1938 enactment. They assert that the advent of technology has led to the transition of many sales jobs from outside to inside sales positions. These positions, the sponsors argue, have the same characteristics as outside sales jobs (e.g., irregular hours in response to customer needs), and should thus receive the same treatment under the FLSA.

The bill would amend section 13(a) of the FLSA (29 U.S.C. §213(a)) to add a new exemption from the FLSA's minimum wage and overtime compensation requirements for "inside sales" employees meeting certain requirements. The bill would exempt any employee in a sales position if all of the following conditions are met:

(1) The employee has specialized or technical knowledge related to the products or services being sold.

(2) The position requires a detailed understanding of the needs of those to whom the employee sells.

(3) The position requires the employee to exercise discretion in offering a variety of products and services.

(4) The employee's sales are predominantly to individuals or entities to whom the employee's position has made previous sales and the position

does not involve initiating sales contacts.

(5) The employee receives at least a specified minimum base compensation. The bill would require base compensation of at least 2,080 times the minimum wage (currently \$10,712).

(6) The employee receives a specified minimum level of sales-based compensation. The bill would require the employee's sales-based compensation to be at least 40 percent of 1.5 times the minimum wage multiplied by 2,080 (currently \$6,427). The bill would also require the rate of compensation for sales above this minimum level to be at least equal to the rate of compensation for sales up to this level--a requirement intended to ensure that employers do not pay sales employees a commission only up to the minimum level.

(7) The employee is not employed as a route sales driver.

#### Pay-As-You-Go Scoring

According to HRD (Bond) and BRD (Lee), H.R. 2888 would not affect direct spending or receipts; therefore, it is not subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990. CBO concurs.

LEGISLATIVE REFERENCE DIVISION DRAFT  
May 6, 1998/2 p.m.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Donna L. Geisbert ( CN=Donna L. Geisbert/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME: 5-JUN-1998 13:19:45.00

SUBJECT: Meeting with Chris, Bill Marshall and Rob Weiner at 3:00, can you make it?

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

READ:UNKNOWN

TEXT:

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 5-JUN-1998 09:31:43.00

SUBJECT: Riggs/Bilingual mtg

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

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

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

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

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

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

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

CC: Mindy E. Myers ( CN=Mindy E. Myers/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

TEXT:

Can we meet at 11:30 today to figure out how to handle outreach to the CHC, others on the Hill, and the advocacy groups, as we proceed with the development of our bilingual ed legislation?

Let me know ASAP if you can make it.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 5-JUN-1998 10:27:40.00

SUBJECT: 11:30 bilingual meeting

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

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

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

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

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

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

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

CC: Mindy E. Myers ( CN=Mindy E. Myers/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

TEXT:

The meeting will be in my office--218 OEOB

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jordan Tamagni ( CN=Jordan Tamagni/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME: 5-JUN-1998 17:35:39.00

SUBJECT: What Did you take from that ...

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

READ:UNKNOWN

TEXT:

In terms of policy parameters?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Rebecca M. Blank ( CN=Rebecca M. Blank/OU=CEA/O=EOP [ CEA ] )

CREATION DATE/TIME: 8-JUN-1998 17:08:01.00

SUBJECT: Options paper

TO: pruggles ( pruggles @ osaspe.dhhs.gov @ inet [ UNKNOWN ] )  
READ:UNKNOWN

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

TO: Katherine K. Wallman ( CN=Katherine K. Wallman/OU=OMB/O=EOP @ EOP [ OMB ] )  
READ:UNKNOWN

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

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

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

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

CC: Richard B. Bavier ( CN=Richard B. Bavier/OU=OMB/O=EOP @ EOP [ OMB ] )  
READ:UNKNOWN

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

CC: Mark A. Wasserman ( CN=Mark A. Wasserman/OU=OMB/O=EOP @ EOP [ OMB ] )  
READ:UNKNOWN

TEXT:

Attached is the final options paper for the Principal's meeting on poverty measurement. Sally Katzen's office will be scheduling this meeting in the near future. Note that the Appendix on program effects has been substantially edited, after extended negotiation between OMB and HHS. =====  
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS\_EXT:[ATTACH.D24]MAIL45527395X.126 to ASCII,  
The following is a HEX DUMP:

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```

June 8, 1998

DRAFT BACKGROUND MEMORANDUM FOR EOP PRINCIPAL'S MEETING

FROM: REBECCA BLANK  
ELENA KAGAN  
SALLY KATZEN  
JOE MINARIK

Subject: Meeting on Income and Poverty Measures

**Purpose of the Meeting**

In early 1999, the Census Bureau will publish alternative measures of poverty based on the proposals contained in the 1995 National Research Council (NRC) report, *Measuring Poverty: A New Approach*. The current official poverty measure dates back to the 1960s, and while it has been an important contributor to public debate and policymaking, the NRC report reflects a broad consensus that the measure is out-of-date and in need of revision.

Poverty measurement involves two concepts: (1) A definition of family income; and (2) A "threshold" against which income is compared to determine if a family is poor. Changes in these two concepts will have a direct impact on statistics used by the public for informational purposes. Changes will also likely have an effect on Federal programs as well.

Because of the importance of an independent statistical system, the Census Bureau plays the major role in deciding technical issues regarding poverty measurement. However, because of the important policy and political implications of the poverty concept, Census has asked for advice from the EOP (because OMB, through OIRA's Statistical Policy Office, is the statutory arbiter of the "official" poverty measurement methodology) on the upcoming report.

In response to Census' request, CEA, DPC, NEC, and OMB formed a policy working group. (Among the agencies, only the Deputy Assistant Secretary for Human Services Policy at HHS was invited to participate because of her expertise on poverty measurement.) This working group has held a series of meetings, and prepared the attached memo to outline its tentative guidance to Census. The meeting of EOP Principals is intended to review the working group's conclusions before they are transmitted to Census. It is important to emphasize that we are only being asked to give advice to the Bureau of the Census; what it actually publishes is its decision.

There are four global issues to be decided; the first two are most pressing because we need to give guidance to Commerce as soon as possible:

1) Should the Census Bureau select or highlight a single alternative poverty measure, or present several equally in its forthcoming report? Do the principals have a single preferred measure that

they would like to see replace the current official measure? Would anointing a single measure at this time be premature, and prejudice the analytical process? Would it raise ire in the Congress? If we do not anoint a single preferred measure at this time, will it be difficult to select one later should we want to switch the "official" definition to one of the proposed alternatives?

2) There are also two technical issues (policy options 1 and 4 in the background memo) that require careful consideration.

- Should we advise Census to benchmark the new poverty measure to the old poverty rate in the current year (so that the number of people classified as poor would remain the same, although the distribution would change)? Should Census implement the NRC recommendations, which would result in a higher poverty rate (e.g., 18% rather than 13.7% in 1996)?
- If there is only one measure reported by Census, should it account for differences in medical out-of-pocket (MOOP) expenditures among households in the way recommended by the NRC, namely, subtracting them from income before a family's poverty status is calculated? (An alternative choice is to add them to the thresholds -- which of these methodologies should be used is a technical choice best left to Census.) If we believe that several measures should be equally reported by Census, should one of them account for medical expenditures using a different methodology?

3) How should the Administration proceed toward a new official measure of poverty? Should it proceed along a timetable to replace the current official measure before the end of this Administration? If so, what process do we need to establish to move forward on this in a timely fashion? Or, should the Administration proceed more cautiously, letting a consensus build around a preferred measure among the community of users of poverty statistics, but possibly lessening the chances that the official measure is ultimately changed?

4) In addition to OMB's designation of the "official" poverty measurement, HHS also issues administrative poverty guidelines, used in certain program eligibility calculations. If revised poverty thresholds are adopted as part of a new poverty measure, would the Administration continue the old administrative poverty guidelines, or make them consistent with the new threshold measure? If the guidelines are made consistent, would the Administration make programmatic changes to mitigate the effects on eligibility and spending of switching to the new guidelines?

## TECHNICAL BACKGROUND ON INCOME AND POVERTY MEASURES

### The Current Poverty Measure

The methodology by which current poverty thresholds are determined was developed in the early 1960s by Mollie Orshansky, a staff economist at the Social Security Administration. She developed a set of poverty thresholds that vary with the number of adults, the number of children, and the age of the family head. These thresholds represent the cost of a minimum diet multiplied by 3 to allow for non-food expenditures. The multiplier of 3 was chosen because the average family in 1955 spent one-third of its after-tax income on food. Since the late 1960s, the thresholds have simply been updated annually to adjust for price inflation -- i.e., the measure of poverty has remained virtually unchanged for 35 years, despite substantial changes in family behavior and government policy.

The NRC panel identified several weaknesses in the current poverty measure:

- The current poverty measure takes no account of changes in taxes (i.e., the expansion of the EITC) or in-kind benefits (i.e., Food Stamps).
- The current measure does not distinguish between the needs of working and non-working families. In particular, it does not reflect the cost of child care and other work expenses for working low-income families.
- The current poverty measure takes no explicit account of medical care costs, which vary significantly across families and have increased substantially since the current poverty measure was developed.

### The NRC Recommendations

In order to understand the NRC panel's recommended revisions, one must understand the basics of determining poverty. A family is considered poor when its resources fall below a predetermined poverty line or threshold. Therefore, one must develop a methodology for estimating family resources and for defining the threshold resource level below which a family is considered poor.

#### 1. Defining Family Resources

Under the current poverty calculation, the definition of family resources is cash income. The NRC recommendations would estimate family resources as:

Family resources = Cash income + Near-money in-kind benefits - Taxes - Child care costs - Work expenses - Child support payments - Out of pocket

medical care expenditures (including health insurance premiums)

The rationale for subtracting taxes, work and medical expenses from family resources is that these expenditures are typically not discretionary and reduce the family income available to achieve a basic quality of life.

There is near consensus among researchers that adjusting for near-money in-kind benefits (primarily Food Stamps and housing subsidies) and taxes would be an improvement in how poverty is measured. There is slightly less agreement on whether child care costs, work expenses, and child support payments should also be deducted because an unknown proportion of these expenses is likely discretionary. (The NRC proposes to cap the amount of child care and work expenses that can be subtracted to deal with this problem.) As discussed below, the adjustment for out-of-pocket medical care expenditures is more controversial.

## 2. Defining a Poverty Threshold

A threshold must be determined against which to compare a family's resources. The NRC panel recommends basing the threshold on expenditures on "necessities" (food, shelter, and clothing) plus a little more. Specifically, the NRC panel recommends selecting the 30th to 35th percentile in the distribution of annual expenditures on food, shelter, and clothing among families of four (two adults and two children), and then multiplying this expenditure level by between 1.15 and 1.25. Thresholds for other family sizes and types would be determined by an equivalency scale calculation.

The NRC recommends adjusting these thresholds to take into account geographic variation in cost of living, based on differences in housing costs by region and by city-size. It also recommends adjusting the thresholds over time by recalculating them from expenditure data on an annual basis.

## **OPTIONS FOR DISCUSSION**

### **1. Recommendation regarding determining the level of the poverty threshold.**

The NRC panel acknowledges that the actual level at which the poverty threshold is set (and hence the final poverty rate) is inherently arbitrary and cannot be determined on the basis of purely statistical judgements. There are two primary options:

A. The NRC alternative. As described above, the NRC panel recommends establishing a threshold based on the 30th-35th percentile in the distribution of annual expenditures for a family of four, with a small multiplier to account for additional small personal expenditures. As shown in Tables 1 and 2, column 3, this would raise the 1996 poverty rate from 13.7% to 18%, and increase poverty among all subgroups. In addition, (as described further in Option B) this

change will alter the composition of poverty among various subgroups.)

B. Benchmarking. The NRC panel also considered poverty estimates that benchmark the alternative poverty rate to equal the old poverty rate in a given year. The Census has done a number of such benchmarked calculations for 1996, as shown in Tables 1 and 2, column 2. (The report issued early next year would benchmark to 1997.) Benchmarking would assure that the aggregate poverty rate is identical for the official and the alternative measure in the benchmark year. But the distribution of poverty among subgroups within each measure would differ (see Table 2). In general, working families and families with large out-of-pocket medical expenses become poorer and non-working families with substantial in-kind benefits become less poor. This has geographic as well as subgroup poverty rate implications. Similarly, both historical and future trends would differ. For instance, the alternative measure is identical in 1996 but higher in 1991. (The faster fall using the alternative measure is largely due to the expansion in the EITC.)

*Pros of using the NRC measure:*

- Incorporates the recommendations of the NRC panel, based on their professional judgement from the best available evidence.
- Generates dollar threshold levels that are quite similar to the current dollar thresholds (although the resources to which the thresholds would be compared are quite different).

*Cons of using the NRC Measure:*

- Results in a higher poverty rate (although the trends over time are similar.)

*Pros of Benchmarking:*

- May provide an easier transition to the new methodology because there will not be a change in the overall level of poverty.
- Focuses the arguments on the relative distribution of who is poor rather than how many people are poor.

*Cons of Benchmarking:*

- Violates the NRC recommendation that the threshold should be based on the 30th-35th percentile in the expenditure distribution. In order to benchmark, the threshold falls to (about) the 25th percentile of expenditures on food, shelter, and clothing.

## **2. Recommendation regarding updating the thresholds over time**

Currently the poverty threshold is updated annually using the CPI. This, however, does not allow for adjustments that reflect changes in underlying consumption patterns that might affect

the revised thresholds. For instance, food prices have decreased relative to other goods over time, while housing prices have increased. There are two options:

(A) Recalculate the thresholds annually as a share of consumption on food, shelter, and clothing. (This is recommended by the NRC panel.)

(B) Update the thresholds on a year-to-year basis using a price index (preferably one based only on food, shelter and clothing). Implement a regular process (every 5-10 years) of reviewing the poverty measure and recalculating the thresholds.

*Pros of Re-calculating the Thresholds:*

- Regular recalculation will allow the poverty thresholds to reflect more accurately changes in consumption patterns and standards of living.
- Without an expectation that the thresholds will be re-calculated regularly, it may be hard to update them at all.
- Under certain data circumstances, recalculation could move the threshold a large amount or in an unexpected direction. This might raise substantive and political concerns.

*Pros of Updating Using the CPI:*

- Using the NRC methodology, the poverty thresholds are somewhat relative (i.e., they are affected by changes in the distribution of household expenditures.) As a result, they are a moving target and do not provide an absolute standard of need. A CPI adjustment would make it easier to compare poverty from year-to-year against a constant standard.
- Because consumption patterns and standards of living change slowly, it may be better to take them into account periodically rather than annually.
- An update with a CPI for necessities only (food, clothing, and shelter) may capture most of the relevant changes and would make it easier in the short run to understand the updating procedure.
- The data may not be good enough for an annual re-calculation of the thresholds.

NOTE: The EOP Policy Working Group recommends Option (B).

**3. Recommendation as to whether thresholds should be adjusted for geographic variation.**

The NRC panel recommended adjusting the poverty thresholds for cost-of-living differences

across regions and by city size. Census proposes to make such adjustments based on housing cost differences (which have much greater regional/city size variation than food or clothing.)

*Pros of Adjusting for Geographic Variation in Cost of Living:*

- Most statisticians and economists agree that such adjustments should be made if data are available.

*Cons of Adjusting for Geographic Variation in Cost of Living:*

- There is no one “right” way to make such adjustments and the issue could be highly politicized.
- The data available to make such adjustments are limited and may not be entirely reliable.
- Implementing such an adjustment in the poverty line threshold could lead to pressure to provide regional cost adjustments in a wide variety of other government programs, from Social Security benefits to tax payments.

NOTE: The EOP Policy Working Group recommends against geographic price adjustments.

**4. Recommendation regarding how to account for medical care expenditures.**

Since the mid-1970s, analysts have been concerned that the official poverty rate overstates the extent of poverty among beneficiaries of Medicare, Medicaid, and private health insurance. At the same time, the official poverty rate may understate the extent of poverty among populations with large medical expenditures. Most analysts agree that, in principle, medical care “needs” should be incorporated into the calculations of the threshold and family resources (i.e., families with higher medical needs should have higher thresholds; those with more generous medical benefits should be considered to have more resources; and those who must spend more to achieve “good health” should have those expenses subtracted from their resources). However we cannot observe a family’s medical need. In addition, it is not clear that one can simply impute the cash value of insurance benefits and add this to income. The “extra” benefits received from insurance to cover expensive medical services do not provide income that can be used for any other purpose.

To understand the difficulties, consider including medical benefits into the income calculations. Adding medical benefits to income, without also adjusting the poverty threshold, has the perverse effect of making sicker individuals appear better off. Other proposals to adjust the poverty threshold (without also adjusting resources) run into similar problems.

In the end, the NRC panel recommended subtracting all medical out-of-pocket (MOOP) expenses (including health insurance premiums) from income, without trying to value health

insurance as a part of income or medical need as a part of the thresholds. Hence, family resources are measured net of MOOP. Those individuals with good insurance will have few out-of-pocket expenses; those without insurance who face health problems will have lower measured incomes as they pay more for medical care.

This adjustment accounts for the larger poverty rates using the NRC methodology. For example, in 1996 the poverty rate was 13.7% using the current methodology; it would have been 18% using the NRC methodology, but only 13.2% using the NRC methodology without the medical expenses adjustment. This adjustment nearly doubles the poverty rate for the elderly, raising it almost to the rate for children. This adjustment is one of the most controversial of the NRC recommendations.

There is general agreement that ignoring medical care and medical expenses entirely is not a good idea, particularly given the rapid increase in medical costs in the past 30 years, the extent of uninsurance among the low-income population, and this Administration's concern with it. In addition, if we do not adjust for medical care (in some way) now, it may be much harder to do so in a few years when we will have better data (because the change will be so dramatic it will be viewed as another big methodology change).

There are three approaches to incorporating medical care and expenses:

(A) Follow the NRC recommendation and subtract MOOP from family resources. This makes families with unreimbursed medical expenses less well-off than other families.

(B) MOOP could be added to the thresholds rather than subtracted from resources. (The choice between options (A) and (B) is a technical decision that Census should address.)

(C) Try to impute the value of health insurance to resources, so those with insurance have higher resources. Health insurance should then also be imputed into the thresholds.

*Pros of Adjusting for MOOP (either options (A) or (B)):*

- While not perfect, under the NRC recommended adjustment families with higher unreimbursed medical expenditures will be "poorer." The NRC recommended adjustment would also be sensitive to changes in health care financing that would decrease MOOP and thereby increase disposable income and reduce poverty.

*Cons of Adjusting for MOOP (either options (A) or (B)):*

- The data that are currently available are out-of-date (but we should have updated information available in a more timely fashion within another year.)
- The NRC recommended approach relies on the controversial assumption that all medical care expenditures are nondiscretionary. (This concern could be mitigated to some extent by imposing a cap on the amount of medical expenses.)

*Pros of Imputing the Value of Health Insurance into Resources and Thresholds:*

- Provides a more complete accounting of all medical resources available to a family.

*Cons of Imputing the Value of Health Insurance into Resources and Thresholds:*

- There is no accepted “correct” way to do this. The data here are probably more unreliable than the data needed to impute the value of MOOP to families.
- Many analysts agree with the NRC panel that the value of health insurance is quite different than (say) the value of food stamps, which are far more fungible. Mixing in health insurance coverage with economic need causes interpretational and conceptual problems to a measure of economic need.
- To date, Census has been following the NRC recommendation. If we asked them to switch to this approach, it might require substantial additional work and seriously delay their report.

NOTE: The EOP Policy Working Group recommends that Census incorporate medical care in some way and recognizes that option (A) is the most practical and realistic for the short term. However, the group strongly recommends that Census thoroughly investigate the impact of option (B), and continue work on other approaches to incorporating medical care and expenditures, such as by valuing medical health insurance (option (C)).

**5. Recommendations regarding which alternatives Census should publish and/or how they should be presented.**

The current plan is to publish a small number (maybe 3) of alternatives. For instance, the Census could publish a 1997-benchmarked poverty rate and a NRC-alternative poverty rate, providing two alternatives. Or it could publish a 1997-benchmarked poverty rate including all of the NRC recommendations, and then publish the same thing without MOOP, or without geographical price variation. (There will be extensive appendices in this report that will report a wide variety of different poverty calculations, to demonstrate the statistical properties of the poverty measurement recommended by NRC.)

- Will it be confusing to publish multiple (even a small number of) alternatives, as opposed to only one alternative? How will this affect how the report is received? How should these be presented?
- What problems will it create to have multiple alternatives if at some future point we want to redefine the official poverty rate to one of these improved alternative measures?

Table 1. Poverty Rates and Thresholds under Alternative Measures, 1991-96, CPS

	Official measure	Benchmarked to 1996	NRC Experimental	
<b>Poverty Rates</b>				
1991	14.2	14.5		18.9
1992	14.8	15.3		19.6
1993	15.1	15.7		20.2
1994	14.6	14.7		19.0
1995	13.8		13.8	18.2
1996	13.7	13.7		18.0
<b>Thresholds for 2 adults and 2 children (in dollars)</b>				
1991	13,812	11,891		13,891
1992	14,228	12,249		14,309
1993	14,654	12,616		14,738
1994	15,029	12,938		15,115
1995	15,455	13,305		15,543
1996	15,911	13,698		16,002

Table 2. Poverty Rates under Alternative Measures, 1996, CPS

	Official measure	Benchmarked NRC to 1996	Experimental
<b>All persons</b>	<b>13.7</b>	<b>13.7</b>	<b>18.0</b>
Children	20.5	18.1	23.8
Nonelderly adults	11.4	11.5	15.0
Elderly	10.8	15.6	20.4
White	11.2	11.8	15.6
Black	28.4	25.2	32.0
Hispanic origin	29.4	28.5	37.7
One or more workers	9.5	10.0	13.6
Persons in family of type:			
Married couple	6.9	7.8	11.1
Female householder	35.8	32.3	40.4
Geographic regions:			
Northeast	12.7	14.3	18.8
Midwest	10.7	10.3	13.8
South	15.1	14.2	18.3
West	15.4	16.1	21.0
Metro/CC	19.6	19.2	24.7
Not CC	9.4	10.6	14.1
Nonmetro	15.9	13.5	17.5

## APPENDIX

### The Effect of the Poverty Measure on Program Eligibility and Benefits

The Congressional Research Service has identified 26 programs that are affected by the measure of poverty. Many of the program connections to the poverty definition are unique, and many are highly complex. Hence, we do not yet have a precise estimate of how program costs or coverage would be affected.

We should not leap to the conclusion that this large number of programs would dictate a large Federal cost impact of a new measure of poverty. Many of the affected programs are small, and many of the programs may be affected to only a limited degree by even a change in the measured aggregate incidence of poverty. Some of the programs are discretionary, meaning that their aggregate cost is set by appropriation; a change in the measure of poverty would affect only the geographic distribution of those funds (though that could, in itself, be a matter of political concern, if such reallocations should prove to be significant). However, where at least a few large programs are involved, it is essential to investigate the potential impact carefully.

There are two schools of thought on the potential budgetary or allocational effect of a change in the definition of poverty.

Gordon Fisher, the analyst at HHS who oversees the production of the poverty guidelines used in some programs, presents one perspective in a recent paper:

A number of people believe that the poverty guidelines affect many big entitlement programs. That belief is an exaggeration of the actual situation. Most of the Federal programs using the guidelines are medium-sized or small, with only a few big programs. Moreover, most...are discretionary programs...Only a few programs using the guidelines are mandatory: Medicaid, the Food Stamp Program, and child nutrition programs (mainly the National School Lunch Program).<sup>1</sup>

Offering a different perspective, a recent issue of *Focus*, the periodical of the Institute for Research on Poverty, notes:

For example, the NRC study panel proposed that the measure take into account work-related expenses in families where at least one person is employed. Such a change could have important implications for the allocation of federal funds between local areas where the proportions of working and nonworking families differ. Including geographic variations in housing costs might have similar far-reaching effects. Before introducing a new property measure for program purposes, policy makers must determine whether the

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<sup>1</sup>G. Fisher, "Disseminating the Administrative Version and Explaining the Administrative and Statistical Versions of the Federal Poverty Measure." Clinical Sociology Review, vol. 15 (1997), p. 165.

resulting redistribution of resources will be more equitable, or will have unexpected and capricious effects.

As Fisher suggests, the discretionary - mandatory distinction is important. As noted above, the issue for discretionary programs is not the amount of funding, which is determined by appropriations (though Congress could change future appropriations under the influence of a changed measure of poverty), but rather the geographic allocation of a fixed amount of appropriations. The geographic allocation of relevant discretionary program funds can depend upon the incidence of poverty in particular locations. Therefore, these programs are affected by the actual poverty measure, based on the official thresholds and income concept. The ties between these programs and poverty vary considerably, and staff are undertaking the task of determining how much effect a change in the poverty concept could have. These allocations may or may not change by much, depending upon the extent to which the new poverty measure reallocated poverty geographically; the role of poverty in the allocation of the discretionary funds (some programs use poverty as only one of several indexes by which to distribute funding); the lag between the measurement of poverty and the actual effect on the program (some programs use poverty as measured in the decennial census); and other factors that can be determined only through a program-by-program search.

Besides the official poverty thresholds and the income definition, there are poverty guidelines. The Federal poverty guidelines are the version of the official poverty measure used for program purposes. They are issued by HHS annually, and are based on a simplified and updated version of the previous year's Census poverty measure.

Staff are in the process of determining the potential effects of a change in the poverty measure on the two largest programs affected by the poverty measure, Medicaid and the Food Stamp Program, as well as the smaller programs. In Medicaid, while most recipients qualify for coverage because of their participation in other means-tested programs such as TANF and SSI (programs that do not use the poverty line in their eligibility criteria), changes in poverty thresholds could affect at least three major Medicaid eligibility groups: women, infants and children up to age 6 with family incomes below 133 percent of poverty and children from age 6 to 18 with incomes at or below the poverty level (this provision is being phased in for all poor children under age 19 by FY 2002); families, children and other uninsured in the Medicaid waiver States that have extended coverage beyond current law requirements based on income in relation to the poverty guidelines; and new groups of low-income Medicare beneficiaries who qualify for partial coverage under Medicaid. In all, people whose eligibility for Medicaid is related to the poverty line are estimated to account for about 20 percent of Medicaid recipients. Since most are in families with incomes well below the specified level, only a small fraction would actually be affected by a poverty line change. Further, most of the new enrollees would be children, whose average health care costs are low. Still, Medicaid is such a large program that even a small proportionate change in costs could involve a significant number of dollars.

The poverty guidelines are used in the Food Stamp Program to set gross income

eligibility--only families with gross incomes below 130% of the poverty line are eligible for food stamps. Actual food stamp benefits are calculated based on net income, however--income after deductions for work expenses and various other things. Net income is compared to a specific benefit allotment, determined nationally for each family size, and that benefit is reduced by 30 cents for every dollar of net income the family receives. In practice, the benefit allotment for most families with incomes near the gross income eligibility limit would be small. Many families would be eligible only for zero benefits. Even where families are eligible for some positive benefits, take-up rates among those eligible for small amounts of food stamp benefits tend to be low--the hassle of getting and using food stamps exceeds their value for most such eligibles. Thus, the gross income eligibility cut-off for food stamps is more theoretical than real--families at or near 130% of the poverty line will almost always be eligible only for very low or zero benefits, and are unlikely to participate in the program. For these reasons, we would expect the effect on Food Stamp costs to be smaller than that for Medicaid.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Leslie Bernstein ( CN=Leslie Bernstein/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME: 8-JUN-1998 09:14:01.00

SUBJECT: INS Mtg

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Maria Echaveste is having a naturalization meeting with MALDEF and about 10 other folks . She would like you both to weigh in. Julie Fernandes will also be in attendance.

Please let me know how 6/10 at 10:30a works.

Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 8-JUN-1998 20:16:06.00

SUBJECT: Chart: Coverdell Amendment Crowds Out Public Health Spending

TO: Kevin S. Moran ( CN=Kevin S. Moran/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: Neera Tanden ( CN=Neera Tanden/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Jennifer L. Klein ( CN=Jennifer L. Klein/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: guzy.gary ( guzy.gary @ epamail.epa.gov @ inet [ UNKNOWN ] )  
READ:UNKNOWN

TO: William H. White Jr. ( CN=William H. White Jr./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: kburkel ( kburkel @ os.dhhs.gov @ inet [ UNKNOWN ] )  
READ:UNKNOWN

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

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

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

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

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

TO: 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: David W. Beier ( CN=David W. Beier/O=OVP @ OVP [ UNKNOWN ] )  
READ:UNKNOWN

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

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**File Name:** p\_q5946884\_opd\_html\_1.prz

**Attachment Number:** [ATTACH.D81]MAIL45886495R.126 to ASCII

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: William P. Marshall ( CN=William P. Marshall/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME: 8-JUN-1998 15:05:30.00

SUBJECT: Child Custody Protection Act

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

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

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

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

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

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

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

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

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

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

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

TEXT:

Attached is a draft memorandum to the President and accompanying letter from OMB on this issue. Because, for some reason, the e-mail system refuses to send footnotes, I will also be circulating a hard copy. Thanks.

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

TEXT:

June 10, 1998

**MEMORANDUM FOR THE PRESIDENT**

**FROM:** Charles F. C. Ruff, Counsel to the President  
William Marshall, Associate Counsel to the President

**SUBJECT:** The Child Custody Protection Act

**I. THE CHILD CUSTODY PROTECTION ACT**

Congress is currently considering S. 1645, the Child Custody Protection Act -- a bill which would impose civil and criminal liability on any person who knowingly transports a minor across a state line to obtain an abortion in cases in which the minor has not satisfied her home state's laws regarding "parental involvement" (i.e. laws requiring parental consent or parental notification).

The bill constitutes a novel form of federal legislation in that it prohibits persons from traveling across state lines to engage in conduct that is legal in the second state.<sup>1</sup> It also uniquely conditions liability upon the law of the state where the person comes from rather than the law of the state in which the conduct occurs.

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<sup>1</sup> The only possible exception to this is the Mann Act which may arguably be read as prohibiting transporting women across state lines for prostitution to a state where prostitution is legal.

As described by its sponsors, the bill is designed to protect the rights of parents to participate in their minor child's abortion decision against those who would encourage her to have a "secret" abortion -- a category which, according to the sponsors, includes out-of-state abortion clinics who advertise the availability of abortions without parental involvement<sup>2</sup> and adult males who impregnate minors and then attempt to erase the consequences of their actions by transporting the minors out of state for the abortion procedures.

Politically, however, the bill is more easily characterized as an attempt to provoke controversy on a sensitive and divisive issue than as an effort to address a legitimate area of federal interest. Substantively, the bill raises troublesome policy, constitutional, and practical law enforcement concerns and is counterproductive to its asserted goals.

## **II. BACKGROUND -- PARENTAL INVOLVEMENT REQUIREMENTS**

Currently twenty-two states require parental consent for a minor to terminate her pregnancy while seventeen states have opted for the lesser requirement of parental notification. Six of these states require notice to or consent from both parents, while four states would allow the notification or consent requirements to be satisfied by persons other than the minor's parents (such as a grandparent or an adult sibling.) Eleven states have no parental involvement requirements.

The constitutionality of parental involvement requirements has generally been upheld by the Supreme Court. Although holding that pregnant minors have a constitutional right to choose whether to terminate a pregnancy, the Court has determined that a state may require parental notice or consent in the interest of ensuring that the minor's decision to terminate her pregnancy is "knowing, intelligent, and deliberate." The parental involvement requirements, however, may not impose an "undue burden" upon a minor who is capable of giving an informed consent to the abortion procedure. States must also provide a judicial "bypass" mechanism which allows the minor to avoid the parental involvement requirements if she establishes either 1) that she is sufficiently mature and well-informed to make the abortion decision independently or 2) that an abortion without parental involvement would be in her best interests.<sup>3</sup>

## **III. ANALYSIS**

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<sup>2</sup> The law does not explicitly prohibit advertising. The sponsors might, however, envision extending liability to advertisers through some application of accomplice liability. See Part III, below.

<sup>3</sup> The Supreme Court has ruled that bypass procedures are constitutionally mandated in states that require the consent or notification of both parents; but the Court has not had occasion to rule on whether bypass procedures are required in a one parent state.

S. 1645 represents a dramatic incursion into the traditional understanding of federalism. Federalism presumes that a citizen is free to take advantage of favorable laws in other states and that states have the right to regulate matters within their own boundaries (unless the matter is directly regulated by the federal government.) S. 1645, however, is unique in that it attempts, by force of federal law, to enforce one state's laws in the territory of another. As such, it sets a dangerous precedent for federal interference with such matters as gaming, alcohol, tobacco, guns and other items whose regulation varies significantly from state to state.

Despite the seriousness of the federalism concerns, however, S. 1645 is not clearly unconstitutional on those grounds. Because the approach taken by the sponsors is so novel, there is virtually no Supreme Court precedent, on either side, from which to take direction. Accordingly, while constitutional arguments against the legislation can be made based upon general federalism principles (or upon right to travel or privilege and immunities grounds), a definitive constitutional assessment cannot be offered with any degree of certainty. The federalism objection, therefore, is best characterized as a policy, and not as a constitutional, concern.

There is also no constitutional abortion rights argument that would support invalidating the bill as whole. DOJ has indicated that the bill would be unconstitutional as applied in certain circumstances (for example when the law would require the minor to satisfy the parental involvement laws of two separate states) but the constitutional concerns noted by DOJ, although serious, can be remedied by re-drafting the legislation.

The strongest objections to the legislation are based on policy, rather than on constitutional, grounds. The bill's first and most glaring weakness is that it subjects family members to criminal and civil liability. Under the terms of the legislation, grandmothers, aunts, and adult siblings may be prosecuted for coming to the aid of a minor relative in distress. Even a mother or father may be criminally sanctioned if she or he resides in a state that requires the involvement of both parents. Obviously, subjecting family members to criminal and civil sanctions for helping their relatives does not further the interest of healthy family communication. Exposing family members to the possibility of criminal or civil sanction is also counterproductive in that it would further isolate the minor by discouraging her from seeking advice and counsel from those closest to her. Finally, creating a civil action which allows family members to sue each other when a minor within that family has an abortion does not serve the goal of fostering strong families.

Second, the bill could inappropriately impose liability on persons who merely provide information, advertising, counseling, referrals, or medical services to the minor. Through rules of accomplice liability, the bill could subject a telephone receptionist to criminal liability, for example, merely for informing an unnamed caller about the availability of abortion services. The bill's creation of a private cause of action is, from this perspective, even more problematic.

A civil action would be a ready tool for those who wish to harass, intimidate, or bankrupt service providers.

Third, the bill imposes criminal liability on persons who may not realize they are violating the law (as when the minor falsely informs the transporter that she has parental consent.) This is because the bill predicates liability on the intent to help the minor obtain an abortion rather than on the intent to help the minor avoid the application of a state's parental notification requirements.

Finally, the bill raises numerous practical law enforcement concerns. These include the use of scarce FBI resources to prosecute violations, the need for federal law enforcement authorities to interrogate family members and close teenage friends in order to pursue violations, and the fact that the defendants in some cases are likely to be minors.

#### **IV. RECOMMENDATION**

There would be little advantage in opposing this bill in its entirety. The sponsors' example of the adult male impregnating the female minor and taking her across state lines for an abortion without parental involvement is likely to be politically compelling and, as noted above, there is no definitive case to be made that imposing federal civil and criminal sanctions for this activity is unconstitutional. At the same time, the bill, as written, significantly overreaches and affirmatively harms important policy and constitutional interests.

At this point, it is unclear whether the sponsors are interested in fixing the legislation to meet legitimate objections or whether they are merely interested in provoking confrontation. In either case, we believe that our best action is to announce that the Administration would support narrowly tailored legislation but, for policy and constitutional reasons, is opposed to the bill as currently drafted. The first step in this process would be to submit a letter signed by the Director of OMB highlighting two specific issues -- the need to exempt family members and the need to exclude from potential liability those persons whose only connection to the abortion is the provision of information, advertising, or a medical, referral, or counseling service. This letter would also indicate that a complete list of our objections to the bill would be subsequently forwarded by DOJ and that you have instructed the Department to work with the sponsors in crafting final legislation that meets Administration concerns. A draft copy of the OMB letter is attached for your reference.

Automated Records Management System  
Hex-Dump Conversion

Automated Records Management System  
Hex-Dump Conversion

Dear

The Administration would support narrowly tailored legislation that would make it illegal to transport minors across state lines for the purposes of avoiding parental involvement requirements. The Administration appreciates the concerns of the sponsors of S. 1645 about fostering parental and family involvement in a minor's decision to obtain an abortion and their concerns about overbearing and sometimes predatory adults who improperly influence minors' abortion decisions. The Administration believes, however, that S. 1645, as currently drafted, inappropriately and perhaps inadvertently reaches beyond these important goals.

First, S. 1645 would subject close family members to criminal and civil penalty. Under the legislation, grandmothers, aunts, and adult siblings could face criminal prosecution for coming to the aid of a relative in distress. Even a mother or father could be exposed to criminal penalty if she or he resides in a state which requires the consent or notification of both parents. Imposing criminal and civil sanctions on family members for helping their relatives, however, does not further the interests of healthy family communications. Subjecting family members to criminal or civil sanction, moreover, would also further isolate the minor by discouraging her from seeking advice and counsel from those closest to her. Finally, creating a civil action which allows family members to sue each other when a minor within that family has an abortion does not serve the goal of fostering strong families.

Second, the bill would potentially impose liability on persons providing information, counseling, referral, or medical services to the minor. The bill as written, for example, could potentially subject a telephone receptionist to civil or criminal liability merely for informing an unnamed caller about the availability of abortion services. Holding such persons criminally or civilly liable, however, does not further the interests in promoting family communication or deterring those who would inappropriately transport minors across state line to obtain abortions.

The Justice Department has also identified a number of constitutional and practical enforcement concerns that inhere in particular aspects of the legislation. The Department will forward their concerns subsequently and would be pleased to work with the sponsors in crafting legislation that remedies those defects and the other matters noted above.

The Administration is concerned that S.1645 represents an unprecedented intrusion into federalism and the rights of states to regulate matters within their own boundaries. The Administration believes, however, that well-crafted legislation, carefully tailored to the protection of minors, will serve to minimize the federalism concerns.

S/

OMB

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 8-JUN-1998 17:43:55.00

SUBJECT: Press on Non Discrimination Executive Order

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Minyon Moore ( CN=Minyon Moore/OU=WHO/O=EOP @ EOP [ WHO ] )

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: Estela Mendoza ( CN=Estela Mendoza/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Mary L. Smith ( CN=Mary L. Smith/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: Beverly J. Barnes ( CN=Beverly J. Barnes/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: Michael D. McCurry ( CN=Michael D. McCurry/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Kevin S. Moran ( CN=Kevin S. Moran/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Erskine B. Bowles ( CN=Erskine B. Bowles/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

The non-discrimination Executive Order the President issued on May 28th continues to get spectacular coverage in the gay press, an example of which follows. The Washington Blade ran this story on the top of the front page, with a picture of the President signing the Order. Special thanks again to Bruce, Elena, John and Karen.

----- Forwarded by Richard Socarides/WHO/EOP on 06/08/98

05:23 PM -----

Doug.Case @ sdsu.edu

06/05/98 09:41:00 PM

Record Type: Record

To: Stuart D. Rosenstein, Richard Socarides

cc:  
Subject: Washington Blade: Clinton Executive Order

WASHINGTON BLADE  
June 5, 1998  
<http://www.washblade.com/>

President's order protects workers  
Anti-Gay discrimination banned in civilian jobs

by Peter Freiberg

It was only three paragraphs long and received little publicity. But an executive order issued by President Bill Clinton last week, banning anti-Gay discrimination against federal civilian employees, was nevertheless historic, capping a 41-year struggle to end bias in the federal workforce.

Court decisions, civil service rules, and legislation have given Gay federal employees significant - though inconsistent - protection over the years. Clinton's May 28 action formally adds sexual orientation to Executive Order 11478, which banned job discrimination against federal workers based on race, color, religion, sex, national origin, handicap and age.

"The order," Clinton said in a statement, "provides a uniform policy for the federal government to prohibit discrimination based on sexual orientation in the federal civilian workforce and states that policy for the first time in an executive order of the president."

The White House had previously encouraged agencies to include sexual orientation in their non-discrimination policies. Many did so, but a Blade survey last year turned up a significant number that didn't. Even many agencies that formally banned anti-Gay job bias failed to publicize enforcement procedures, according to a Gay federal employee group.

Frank Kameny, the longtime Washington activist whose dismissal on grounds of homosexuality in 1957 led him to begin the fight to end the federal government's anti-Gay job bias, joined other activists in hailing Clinton's executive order, which covers 1.8 million civilian workers.

"It doesn't do anything new," said Kameny, now 73, "but it ties up loose ends and, therefore, brings to closure to what has been a 25-year...improvement process. ...The deed is done, it is over, we can move on to other battles. It is a total victory which could not have been conceived when I was fired in 1957."

Elaine Kaplan, the openly Lesbian special counsel in the U.S. Office of Special Counsel, said that, while the executive order doesn't add "any new substantive legal rights," it does "confirm that it is executive branch policy" to bar anti-Gay discrimination in the federal workforce.

"I think it will help employees who suffer discrimination based on their sexual orientation," Kaplan said. "It will bolster their cases."

"What we were trying to do," said Richard Socarides, a special assistant to Clinton and his liaison with the Gay community, "was remedy the fact that a lot of federal workers did not know that the federal government did not discriminate on the basis of sexual orientation, and that they in fact had remedies to pursue a claim of...discrimination."

The executive order, Socarides said, "is going to allow us now to proceed on a public education campaign" to inform federal workers "that they have these rights and what the procedures are to enforce violations."

Despite the executive order, Gay federal workers still lack significant protection enjoyed by their straight counterparts, for two major reasons:

First, uniformed members of the armed services are automatically excluded from the protection offered by the executive order, since they are covered by the "Don't Ask, Don't Tell, Don't Pursue" policy proposed by Clinton and approved by Congress. That policy, under challenge in the courts as discriminatory, is strongly defended by the Administration. And,

Second, sexual orientation is not covered by the 1964 Civil Rights Act, which means, as Clinton noted in his statement, that the executive order "cannot create any new enforcement rights," such as the ability to bring bias complaints to the Equal Employment Opportunity Commission (EEOC).

Reiterating his support for the Employment Non-Discrimination Act, Clinton said, "I again call upon Congress to pass this important piece of civil rights legislation, which would extend these basic employment discrimination protections to all Gay and Lesbian Americans."

"Individuals," Clinton said, "should not be denied a job on the basis of something that has no relationship to their ability to perform their work."

Rob Sadler, an attorney with the Department of Commerce and president of Federal GLOBE (Gay, Lesbian or Bisexual Employees), said that, even though Gay federal workers still lacked civil rights protection, the executive order has "more than symbolic" significance.

While many agencies have announced nondiscrimination policies that include Gays, Sadler said, the executive order will be "another impetus" to get laggard agencies to issue similar statements. Also, he said, the order will spur many agencies to publicize the previously "hidden procedures" available to Gays to complain about discrimination.

These procedures include filing an administrative complaint within an agency (though barred from appealing that agency's decision to the EEOC or the courts). In addition, employees who believe they have been fired or suspended for more than 14 days due to sexual orientation discrimination can complain to the Merit Systems Protection Board.

Less serious complaints, like a failure to receive a promotion or a transfer, can be submitted as a grievance by employees covered under collective bargaining agreements, or can be filed with the Office of Special Counsel, which investigates possible violations of "prohibited personnel practices," including sexual orientation discrimination.

In the past, Sadler said, many agencies argued that because sexual orientation is not included in civil rights law, they had no authority to implement and publicize those protections that Gays did enjoy.

"Most agencies had issued non-discrimination policies," Sadler says, "but had not followed up to tell employees what does his mean, where you can go [to complain]. In that sense, many of the non-discrimination statements may have been symbolic."

The executive order, Sadler said, in effect tells agencies to explicitly

detail and distribute the complaint procedures for employees who believe they have been subjected to anti-Gay discrimination.

"That will be a major change," said Sadler. "Our work environment is different now than it was [before the executive order]."

Kaplan of the U.S. Office of Special Counsel agreed that many Gay federal employees are not aware of the protection against discrimination that they have gained over the years.

"Now, hopefully the executive order will draw more attention to it," Kaplan said.

Twenty years ago, the Civil Service Reform Act of 1978 put into law regulatory changes, made in 1975 in response to court decisions, that removed homosexuality as a bar to federal and civil service civilian employment and promotion.

The 1978 law prohibited discrimination against federal employees for "conduct which does not adversely affect" their job performance. That has been interpreted as making sexual orientation discrimination a "prohibited personnel practice." (The law did not affect the issuing of security clearances by such agencies as the FBI and CIA, which denied clearances to Gays on grounds homosexuality might subject them to blackmail.)

During his 1992 presidential campaign, Clinton promised to sign an executive order barring sexual employment discrimination in the federal civilian workplace (and another order ending the ban on Gay military personnel). When the military plan came under intense fire from the Pentagon and Congress during his first weeks in office, Clinton backtracked on that order - and the civilian directive went on hold.

"The likely time to have done [the civilian order] would have been at the very beginning of the Administration," says Socarides. "Having been through four or five months around the debate on Gays in the military, I would say that the political climate for doing this by way of executive order was probably not conducive."

Instead, reportedly believing that an order protecting Gay federal civilian employees might be overturned by Congress, the Administration in late 1993 decided to encourage individual agencies to issue policies banning sexual orientation discrimination. (In 1995, Clinton signed an executive order that barred federal agencies from denying security clearances to applicants solely on the basis of sexual orientation.)

But last year's investigation by the Blade showed that almost 25 percent of federal employees had not been formally notified in policy statements that sexual orientation discrimination against federal civilian employees is illegal. The Blade survey found that three of the government's 16 cabinet departments and 39 of its 72 independent agencies had not added sexual orientation to their non-discrimination statements.

Socarides said the Blade survey was instrumental in leading the White House to undertake its own legal and policy review, which Socarides said confirmed "confusion by personnel managers and federal employees as to exactly what their rights were."

As a result, Socarides said, Bruce Reed, who heads Clinton's Domestic Policy Council, asked his staff early this year to prepare the executive order.

"While for the most part the federal government is a good place for Gays and Lesbians to work," Socarides said, "clearly there are pockets where Gays and Lesbians suffer from discrimination. This sends a message. ...It makes the federal government the largest employer with a written sexual orientation non-discrimination policy."

Sadler said GLOBE, which has 40 affiliates with 4,000 to 6,000 members, had hoped Clinton would issue the executive order sooner. But with hindsight, says Federal GLOBE past president Leonard Hirsch, he is glad the executive order was delayed.

"This process of doing it agency by agency meant that [GLOBE] had to educate a lot of people," Hirsch said. "That process is really at the heart of any non-discrimination program: Getting people to understand what is discrimination, why it's bad and how it can be stopped and fought...."

"Having done [the executive order] much earlier would have been symbolically important," Hirsch said, "and would have made us all feel good, but having done it this way gives us a much more long-lasting solution."

The executive order drew a strong attack from the anti-Gay Family Research Council, whose president, Gary Bauer, called on Congress to rescind the "outrageous" directive.

In a statement, Bauer said the order will affect not only all federal employees, but "possibly anyone who received a federal grant or contract with the federal government."

"In other words, it will force a special preference for homosexuality into government and private workplaces," Bauer asserted.

But Chai Feldblum, professor of law at Georgetown University Law Center, said there is no reference in the executive order to federal contractors or affirmative action.

"It would be nice to have a prohibition [on anti-Gay discrimination] for every entity that receives a federal contract," Feldblum said, "but this is not what the executive order does."

"Waving the specter of affirmative action is a classic misstatement that the [Family Research Council] always makes," said Feldblum. "They automatically assume that anti-discrimination means affirmative action. That's simply wrong."

The Washington Times quoted House Majority Leader Dick Armey (R-Tex.), a religious right supporter, as attacking the order.

"Once again," Armey said, "this Administration pushes extreme policies on behalf of a narrow special interest group. ...I call on the president to reconsider this decision."

Two national Gay organizations - the National Gay and Lesbian Task Force and the Human Rights Campaign - hailed Clinton's action.

HRC political director Winnie Stachelberg said she is certain Bauer will find some support among legislators for his call to rescind the executive order. But Stachelberg said that, with corporations increasingly adopting policies barring anti-Gay job discrimination and with polls finding most

Americans saying they oppose such discrimination, she doubts Congress will overturn Clinton's directive.

"I don't see Congress being out of step with the American people, being out of step with corporate America," Stachelberg said.

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

TEXT:

RFC-822-headers:

Received: from conversion.pmdf.eop.gov by PMDF.EOP.GOV (PMDF V5.1-9 #29131) id <01IXW2Q7HLCW00D4S0@PMDF.EOP.GOV>; Fri, 5 Jun 1998 20:42:45 EDT

Received: from Storm.EOP.GOV by PMDF.EOP.GOV (PMDF V5.1-9 #29131) with ESMTTP id <01IXW2Q27N0G00F8D1@PMDF.EOP.GOV>; Fri, 05 Jun 1998 20:42:37 -0400 (EDT)

Received: from mail.sdsu.edu ([130.191.25.1]) by STORM.EOP.GOV (PMDF V5.1-10 #22921) with ESMTTP id <01IXW2PBFR1A0016EI@STORM.EOP.GOV>; Fri, 05 Jun 1998 20:42:01 -0400 (EDT)

Received: from [130.191.242.121] ([130.191.242.121]) by mail.sdsu.edu (8.8.7/8.8.7) with ESMTTP id RAA11452; Fri, 05 Jun 1998 17:41:29 -0700 (PDT)

X-Sender: dcase@mail.sdsu.edu

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Kevin S. Moran ( CN=Kevin S. Moran/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME: 8-JUN-1998 09:41:17.00

SUBJECT: TOBACCO MEETING NOW AT 10:15 AM

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

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

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

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

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

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

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

CC: Melissa M. Murray ( CN=Melissa M. Murray/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

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

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

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

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

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

CC: Anthony J. Gibson ( CN=Anthony J. Gibson/OU=OSTP/O=EOP @ EOP [ OSTP ] )  
READ:UNKNOWN

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

READ:UNKNOWN

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

CC: Scott R. Hynes ( CN=Scott R. Hynes/O=OVP @ OVP [ UNKNOWN ] )  
READ:UNKNOWN

TEXT:

Today's tobacco meeting will now start at 10:15. K