

NLWJC - KAGAN

EMAILS RECEIVED

ARMS - BOX 048 - FOLDER -001

[03/26/1999]

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Bruce Reed to Elena Kagan. Re: The lurch I leave you in. [partial] (2 pages)	03/26/1999	P6/b(6)

COLLECTION:

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

FOLDER TITLE:

[03/26/1999]

2009-1006-F
vz121

RESTRICTION CODES

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

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

- C. Closed in accordance with restrictions contained in donor's deed of gift.
- PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).
- RR. Document will be reviewed upon request.

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

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-MAR-1999 09:33:40.00

SUBJECT: Complete Weekly Report 3/26

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

READ:UNKNOWN

TEXT:

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

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D91]MAIL416973799.036 to ASCII,
The following is a HEX DUMP:

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March 27, 1999

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

Health Care -- Update on our organ donation effort: We have just received a report that there has been a significant but still inadequate increase in organ donation rates (a six percent increase as opposed to one percent over the past two years) as a result of the Administration's recently implemented regulation to increase organ donations. We believe this success will be augmented as public attention to this increases, as the number of public figures -- including retired NFL football star Walter Payton -- have developed conditions that require organ transplants. There is great interest in the organ donation advocacy community for you to highlight this problem sometime in the next three weeks. You could announce a \$5 million grant program and some major private sector commitments from AFL-CIO, the UAW, Aetna Health Plans, and Kaiser Permanente at such an event to coincide with National Organ and Tissue Donor Awareness Week.

Health Care -- Actions to prevent the inappropriate use of physical restraints in institutional settings: On Thursday, Senators Lieberman and Dodd announced their plan to introduce the Freedom From Restraint Act of 1999, which prohibits hospitals and mental health facilities participating in the Medicare and Medicaid program from imposing physical restraints except upon the written order of a physician and only when necessary to ensure the physical safety of the patient or of other patients. (In 1987, legislation was enacted to prevent inappropriate physical and chemical restraints in nursing homes.) This legislation was inspired by a series of cases in Connecticut during October of 1998 in which several mentally ill children residing in psychiatric institutions died after being inappropriately restrained by facility staff. However, we have received reports of similar abuses nationwide. In addition to indicating your initial support for this legislative effort, we have directed HHS to expedite a regulation that administratively extends these protections to acute care, psychiatric, rehabilitation, long term care, and children's hospitals participating in the Medicare program, program and intermediate care facilities for the mentally retarded, and institutions of mental disease participating in the Medicaid program. The only facilities we believe require explicit new statutory authority are hospices and residential care facilities for children. If there is interest, we may want to have you highlight this regulation when it becomes final later this summer.

Health Care -- Update on Medicare: Despite the failure of Republicans to attract any Democrats beyond Senators Breaux and Kerrey to their Medicare amendment (criticizing your surplus policy and supporting the Breaux-Thomas proposal), it is clear that Senator Daschle and the moderate Democrats need and strongly desire an alternative Medicare plan. In contrast, the House Democrats have little or no appetite for a serious Medicare reform proposal. Our meeting with the House Democratic leadership on Wednesday made it clear that they view any policy that could be defined as reform with grave suspicion. The challenge of developing a politically viable policy is to balance the need for credible reform with the equally challenging need to not totally alienate our Democratic base. Interestingly, both proponents and opponents of reform are increasingly wary of placing traditional provider cuts on the table. As the Medicare trustees report will no doubt show when it is unveiled next Tuesday, projected Medicare spending has significantly declined and incoming revenues have significantly increased. These trends will no doubt significantly push out the solvency date of the Medicare program and will also decrease any appetite for traditional provider reductions as Congress will be responsive to provider complaints that they have already made a major contribution to the health of the trust fund. The inability to attract much support for provider savings will make it difficult to find offsetting savings to pay for a prescription drug benefit, thus placing even greater pressure to look towards the surplus to make a significant contribution towards the cost of any such benefit. Immediately following the release of the trustees report, NEC / DPC will request the actuary to do a series of cost estimates for Medicare policy reform options that we are contemplating for your review. We anticipate that in the interim we will work with Senator Daschle and his moderate Democrats to determine their definition of serious and acceptable reforms.

Education -- Ed-Flex. Both the Senate and House have now appointed conferees to work out differences in the two bills. This week, 205 members of the House -- overwhelmingly Democrats -- voted in favor of a motion to direct conferees to eliminate the Jeffords-Lott class size provision that would allow local districts to spend already appropriated class size funding for special education. The Senate Democrats have 31 of the 34 signatures they are seeking on a letter recommending a veto of the Ed-Flex bill if the Jeffords-Lott provision is not dropped. OMB is preparing a letter from Jack Lew to the conferees to convey that your senior advisors would recommend a veto if the class size provision remains in the bill and to reiterate support for strengthened accountability to ensure that waivers lead to increased student achievement. Secretary Riley will also send a letter to the conferees echoing those concerns and providing additional detailed comments about the House and Senate bills.

Education -- Charter schools and desegregation: An op-ed by Clint Bolick in the Wall Street Journal this week attacked Bill Lann Lee for "waging a war" against charter schools through Justice Department civil rights investigations into a few proposed charter schools in Louisiana communities under desegregation orders. The editorial criticized Justice Department efforts to either block the creation of charter schools or require additional steps to create diverse student populations, and suggested that pro-charter school Democrats shouldn't

support Lee's nomination. The Justice Department has conducted a number of investigations to ensure that charter schools comply with existing desegregation orders or consent decrees.

This week, we discussed and rejected sending an immediate White House response to Bolick's op-ed -- mostly because of a belief that this could hurt rather than help Lee's confirmation, and to some extent because we are still reviewing how to handle and communicate the Administration's civil rights enforcement policy for charter schools. At an Education Department conference last week, it became clear that there is some concern among the charter school community that rigid enforcement of desegregation orders could block the creation of charter schools in predominantly minority neighborhoods that might reverse desegregation efforts by leading minority parents to take their children out of more integrated schools. There are also concerns that desegregation orders could be used by recalcitrant school districts to block the creation of charter schools. Meanwhile, the Justice Department and Education Department Office of Civil Rights are concerned that some charter schools could indeed reverse desegregation efforts, and the Education Department has developed draft guidance to be disseminated nationally on these issues. DPC, WH Counsel's office, Justice and Education Departments will meet next week to discuss this guidance, and the issues raised in it.

Tobacco -- Florida Teen Smoking: Cigarette smoking in Florida declined in every grade since the state began its anti-smoking campaign last year, according to a study released this week. The state-sponsored survey found cigarette use declined 19 percent among middle school students and 8 percent among high schoolers. Florida spent \$71 million of its tobacco settlement dollars on this campaign last year (about 13 percent of the total), a third on a counteradvertising campaign and the rest on community and school based programs. Nine out of ten youth surveyed were aware of the edgy advertising campaign, dubbed the "truth" campaign by teens who helped develop it (the CDC has made many of these ads available to other states who want to air them). There's currently a big fight in Tallahassee over the program's funding levels for next year -- while the Governor's budget contained \$61.5 million, the Republican House appropriated no funds and the Democratic Senate included \$50 million.

Workforce Investment Act Rule: In early April, the Department of Labor will publish an interim final rule to implement the Workforce Investment Act (WIA) you signed last August to reform the nation's job training system. The rule provides guidance to states and communities to help implement key provisions of the law including the development of a network of comprehensive One-Stop Career Centers that provide a single point of entry to a wide range of employment services for job seekers and employers. When the program is fully implemented, DOL expects that there will be at least 2,500 such One-Stop centers. Currently there are about 1,000 state and local variations of one-stops, but none of them are as comprehensive as what is envisioned under WIA. The rule will also implement Individual Training Accounts to provide individuals with access to quality job training of their choice. Consistent with the goal of consolidating and streamlining job training programs, the new

regulation is approximately half the length of the old rule it replaces. DOL has coordinated with other federal agencies in developing this rule, and has consulted broadly with state and local government, key Congressional committees, and other stakeholders. While states have until July 2000 to fully implement the Act, a handful of states are expected to file their state plans shortly. We will work with DOL to identify any potential announcements.

Welfare Reform -- Economist article: We thought you might like to see the attached Economist article highlighting the Welfare to Work Partnership's success and chronicling how welfare reform "has worked better than anyone dared hope." The article notes that there are challenges ahead -- particularly in large cities where caseloads are falling more slowly -- and mentions some of your welfare to work budget initiatives.

NOTE TO Elena: Unfortunately, the picture accompanying the actual Economist article is not as upbeat as the article (shows a woman and her kids who appear to be living in one small room). We can either send this, or use the Lexus version without the picture. We've provided both so you can choose.

Welfare Reform -- Urban Caseloads: You sent us a note saying we should do more to strengthen welfare to work efforts in cities with slower caseload declines. We wanted to report on two efforts now underway. The Department of Labor just launched a two-year technical assistance initiative to help 10 large cities (Boston, Houston, Detroit, Philadelphia, Chicago, Los Angeles, New York, Seattle, New Orleans, and Minneapolis) develop strategies to move hard-to-employ welfare recipients into good jobs, with an emphasis on job retention and advancement and ensuring close coordination between the welfare and workforce systems. Teams from these cities are meeting together for the first time next week. The Welfare to Work Partnership has a targeted effort in 30 cities with high poverty rates and large concentrations of welfare recipients, including Atlanta, Baltimore, Chicago, Los Angeles, Miami, New Orleans, New York, Philadelphia, and Washington, D.C. In August, the Partnership is holding a major convention in Chicago for delegations from these cities; this could be a good opportunity to mark the third anniversary of the welfare law and Eli Segal hopes you will participate.

You also asked whether the slower rate of caseload decline in some cities is related to unemployment. In general, those cities with slower rates of caseload decline did have higher unemployment rates. For example, El Paso, Los Angeles, New York, and Philadelphia had the slowest caseload declines and three of the four had central city unemployment rates above 7% in August 1998 when the caseload decline was measured (Philadelphia's rate of 5.9% was also well above the national average of 4.5%). However, Baltimore and Cleveland had high unemployment, but also had somewhat greater caseload declines.

Welfare -- Food Assistance: You asked what we could do to ensure that families obtain food assistance, in light of reports that more working families are seeking help from private food banks. We are working to address these issues on two fronts: first to ensure states follow the food stamp law and provide assistance to all eligible individuals who seek

assistance; and second, to develop and implement new initiatives to make the food stamp program more accessible to working families.

We have taken numerous steps in recent months to ensure states follow the food stamp law. USDA has launched investigations of state and local practices, including an inquiry in New York City which found local welfare offices were not allowing individuals to apply for food stamps on their first visit to the office. (USDA has issued a formal warning and will impose penalties if these practices are not changed. Meanwhile, a U.S. District Court judge has issued an injunction and has required the city to provide a corrective action plan, which remains sealed.) At the same time, USDA issued formal guidelines to every state reminding them of their obligations to ensure that applicants are aware of their right to file an application for food stamps, process applications in a timely manner, and continue food stamp benefits when TANF benefits are denied or terminated.

In addition to these enforcement actions, we are working with USDA and others to develop and implement efforts to make food stamps more available to eligible families. Historically, individuals with earned income who are eligible for food stamps have been about half as likely to obtain them as individuals receiving cash assistance. There are several possible reasons for this. First, individuals with earnings are eligible for far less in food stamps and they may decide the amount is not worth it. For example, the monthly food stamp allotment for a family of three with a \$300 weekly income and \$500 monthly rent is \$40. When the same family reaches weekly earnings of \$342, the household is no longer eligible. Second, families need to follow somewhat cumbersome procedures to report their earnings to the food stamp office and it is often difficult for working families to get to this office during open hours.

We are currently working with USDA and OMB to devise administrative proposals to help address these and other potential barriers and we will provide you with an analysis of our options soon. While some of the options under consideration can be implemented through regulation, they may cost several hundred million dollars. In order to ensure we maintain our commitment to saving the surplus, we must enact other regulations saving a comparable amount -- a requirement OMB imposes on an agency-by-agency basis (e.g., USDA savings must pay for new USDA costs). These regulatory offsets could be difficult to obtain.

In addition to possible administrative actions, we will be working to enact the proposals in this year's budget to increase funds for food stamp outreach (the budget contains \$3.5 million to provide a 50 percent federal match for activities including media campaigns and distributing informational materials at various community locations such as shelters, senior centers, and churches) and to provide \$60 million for eligibility for an additional 15,000 legal immigrants who become elderly after their pre-1996 arrival. (The Agricultural Research Act restored benefits to those elderly as of 1996, as well as children, people with disabilities, and refugees.)

Drunk Driving -- .08 BAC studies: The Department of Transportation is planning to release three studies next week on the effects of lowering the illegal blood alcohol concentration (BAC) from .10% to .08%. Two of the three studies show that .08 BAC laws have a deterrent effect on drinking and driving, particularly in conjunction with other drunk driving laws and programs such as administrative license revocation (where police immediately suspend the driver's license of a driver arrested for DWI). The third study which looked at .08 BAC in a single state (NC) found no statistically significant impact of the law in drunk driving crashes.

(1) Nationwide study: This study looked at the effects of illegal per se BAC laws (.08 BAC and .10 BAC) and administrative license revocation (ALR) laws in all 50 states over a 16-year period. The study estimated that .08 BAC laws resulted in 275 fewer fatalities in the 16 states with .08 BAC laws in effect in 1997, and estimates that an additional 590 lives could have been saved in 1997 if all 50 states had .08 laws.

(2) Eleven-state study: This multi-state study analyzed the impact of .08 BAC and ALR laws and found that .08 BAC laws were associated with significant reductions in alcohol-related fatalities in five of the 11 states studied (VT, KS, NC, FL, NM). Two other states (VA, CA) registered reductions following the adoption of both .08 BAC and ALR laws. The remaining four states did not have statistically significant drops in their alcohol-related fatalities.

(3) North Carolina study: This study found little separate effect of a .08 BAC law in North Carolina even though the state recorded a modest reduction alcohol-related deaths during the study period. North Carolina has an aggressive enforcement program, with the .08 law just one of the steps they have taken to help decrease in drunk driving deaths. The finding of this study conflicts with the 11-state study cited above, which indicates a positive impact of the .08 BAC law in the state in reducing alcohol-related deaths.

The three independent studies were commissioned by the National Highway Transportation Safety Administration (NHTSA). On a related note, the GAO is about to release a review of a number of .08 BAC studies, including the three listed here. The GAO review will criticize the methodologies used in earlier NHTSA studies, but confirm the soundness of the new studies. The GAO will conclude that .08 BAC laws can be effective in reducing alcohol-related deaths in combination with other laws, particularly ALR.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-MAR-1999 09:34:41.00

SUBJECT: Waxman Tobacco Recoupment Bill

TO: kburke1 (kburke1 @ os.dhhs.gov [UNKNOWN])

READ:UNKNOWN

TO: Richard J. Turman (CN=Richard J. Turman/OU=OMB/O=EOP [OMB])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Lisa M. Kountoupes (CN=Lisa M. Kountoupes/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: Jeanne Lambrew (CN=Jeanne Lambrew/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TO: J. Eric Gould (CN=J. Eric Gould/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

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

READ:UNKNOWN

TO: johara (johara @ osophs.dhhs.gov [UNKNOWN])

READ:UNKNOWN

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

READ:UNKNOWN

TO: Caroline R. Fredrickson (CN=Caroline R. Fredrickson/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: Devorah R. Adler (CN=Devorah R. Adler/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

The tobacco recoupment bill Rep. Waxman introduced yesterday allows states to keep all tobacco settlement funds so long as they spend 25 percent of funds on tobacco control and 25 percent on other health activities.

Tobacco control is defined as cessation, counteradvertising, enforcement, community and school based programs, evaluation, research, activities to assist farmers and farming communities, and funding for a national tobacco use prevention program.

States shall contribute to the national tobacco use prevention program on a pro-rata basis based on their share of the settlement for a) \$500 million a year to HHS to fund a national public awareness campaign; b) \$100 million a year to HHS to implement the Surgeon General's 1998 recommendations on tobacco use among minority groups; and c) \$5 million a year for 6 years (2000-2005) to the Secretary of Agriculture to promulgate regulations requiring tobacco product manufacturers that purchase foreign tobacco to maintain domestic tobacco purchase levels through 2004.

Health includes but is not limited to Medicaid outreach and state expenditures for Medicaid expansions made by State plan amendment approved on or after 1/1/99.

If you want a faxed copy of the language, email me back with the fax number you want me to send it to. Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-MAR-1999 09:45:19.00

SUBJECT: Other Minor Changes to the Daschle bill

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

TEXT:

After meeting with Daschle's staff, they were OK with 2 changes we had vetted with the agencies (removing establishment limitation for class actions and extending the non-retaliation provision to applicants). However, they wanted to push for the third change which was clarifying the application of the "catch-all" fourth affirmative defense under the Equal Pay Act. This defense allows for pay differences if they are "based on any other factor other than sex." Daschle's office and the women's groups want to limit this defense to factors that relate to individual job performance. The women's groups have proposed language, and we will work with the agencies to see if it is workable. Thanks, Mary

----- Forwarded by Mary L. Smith/OPD/EOP on 03/26/99
09:32 AM -----

Mary L. Smith
03/25/99 02:32:00 PM
Record Type: Record

To: Elena Kagan/OPD/EOP, Thomas L. Freedman/OPD/EOP
cc: Laura Emmett/WHO/EOP
Subject: Other Minor Changes to the Daschle bill

The AFL-CIO recommended a few other smaller changes to the Daschle bill. We vetted them with OMB, EEOC, Labor, Justice, CEA, and NEC who have agreed to the following: (1) removing the establishment limitation from class actions so that class members don't have to work at the same physical location; and (2) extending the non-retaliation provision to applicants as well as employees. One other change that even EEOC didn't agree with was a change to the fourth affirmative defense which would limit employers from arguing that they paid women unequally because the market permits it. Ellen Vargyas thought we could be seen as telling employers how to pay their employees, getting very close to issues of comparable worth. If you are fine with these changes, we could tell Daschle's staff. Let us know. Thanks, Mary

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

TEXT:

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2301D45FDA44E86916AE1105D98B4D4204C358850A8828325166EF101CA7DE6B144E619559A106
4EB18283CCF6D8763560A60E2A8B211B25903A456858AE5A25B59FED8D76B156A4CF0DC7E8EC0B

3-24-99 Changes to Daschle Bill that we could support:

Commerce, OMB, EEOC, Labor, Justice, CEA, and NEC have agreed to these changes.

1. **Eliminate establishment limitation in class action suits.** In last year's changes to the Daschle legislation, we eased the requirements for class actions suits under the Equal Pay Act. Specifically, the Daschle bill **amends the procedures for filing class actions under the EPA to conform with the general procedural rules for filing federal class actions in other areas of the law (class members opt out rather than opt in).** This proposed change would eliminate the establishment requirement for class actions which currently requires all class members to work at the same physical location. We propose removing this requirement in furtherance of our change last year.
2. **Extend non-retaliation provision to applicants not just to employees.** Last year, we supported a non-retaliation provision that prohibits retaliation against any "employee" because she has inquired about, discussed or disclosed wage information. Title VII prohibits discrimination against employees and "applicants." Extending the EPA to applicants would simply mirror Title VII. Because most acts made unlawful by the EPA also violate Title VII, this will simply assure that persons who proceed only under the EPA are not penalized.

The agencies, including EEOC, don't recommend the following change:

3. **Market-based defense.** The AFL suggested limiting the scope of the "catch all" fourth affirmative defense under the EPA. Under the EPA, a defendant is permitted to argue that it pays women unequally because of "any other factor other than sex." Case law has prohibited employers from arguing broadly that they pay unequally because the market permits it. However, employers have been able to argue that the "market value" of this particular employee is less than another. Because of the lack of clarity of the case law, the difficulty of drafting legislative language, and closeness of this issue to comparable worth, even EEOC recommend against this change. EEOC thought that we could be seen as telling business what they should pay their employees and, therefore, be getting into the comparable worth issues.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-MAR-1999 09:55:03.00

SUBJECT: Notes from Martha Foley re: Tobacco and the supplemental

TO: J. Eric Gould (CN=J. Eric Gould/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

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

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

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

TEXT:

----- Forwarded by Cynthia A. Rice/OPD/EOP on 03/26/99
09:56 AM -----

Martha Foley
03/25/99 08:11:00 PM
Record Type: Record

To: Cynthia A. Rice
cc:
Subject: Re: Tobacco and the supplemental

Message Creation Date was at 25-MAR-1999 20:11:00

[Tobacco] is on the agenda by definition of being in the Senate bill and I am sure KBH will press for its acceptance. The House leadership has been intent on keeping controversial riders out and we may be able to appeal to that to keep them on our side, but if they see the Senate having all the fun of delivering 200 gazillion dollars to the states, they may want to play too...

Also, no negotiations b/c bill on House floor all day yesterday and little progress is likely over the recess, due to scheduling problems with staff, I think...

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jennifer R. Muller (CN=Jennifer R. Muller/O=OVP [UNKNOWN])

CREATION DATE/TIME:26-MAR-1999 10:03:39.00

SUBJECT: Small Change in CFR Time

TO: Rachael E. Sullivan (CN=Rachael E. Sullivan/O=OVP@OVP [UNKNOWN])
READ:UNKNOWN

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

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

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

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

TO: charles w. burson (CN=charles w. burson/O=ovp@ovp [UNKNOWN])
READ:UNKNOWN

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

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

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

TO: Laura Emmett (CN=Laura Emmett/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: lisa m. brown (CN=lisa m. brown/O=ovp@ovp [UNKNOWN])
READ:UNKNOWN

TO: morley a. winograd (CN=morley a. winograd/O=ovp@ovp [UNKNOWN])
READ:UNKNOWN

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

TEXT:

The next CFR meeting will be Monday at 10 am in the VP ceremonial office.
Please let me know if this poses a heinous scheduling conflict for you.
Otherwise we'll try and go with it. Thanks!

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-MAR-1999 10:08:38.00

SUBJECT: Hate Crimes Event

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

If I can't beat this back, I wonder if the event isn't better as a radio address.

----- Forwarded by Thomas L. Freedman/OPD/EOP on 03/26/99
10:06 AM -----

Edward W. Correia

03/26/99 09:17:56 AM

Record Type: Record

To: Mary E. Cahill/WHO/EOP, Richard Socarides/WHO/EOP, Thomas L. Freedman/OPD/EOP, Mary L. Smith/OPD/EOP

cc:

Subject: Hate Crimes Event

After discussions with DOJ about the possible appearance of the Byrd and Sheppard family with the President, this is the Counsel's Office position. If we want to invite the families, DOJ needs to consult first with the prosecutors in both cases to ensure that they do not believe it will create an issue in the prosecutions. If we do consult with them, we need to be prepared to be bound by their request, which may be that the families should not participate at all. If they do not object to the families attending an event, there still should not be a picture with the President and he should not comment specifically on the cases. The families, of course, could say what they want independently. An alternative, which we feel presents no problem, is to invite the Mayor of Jasper, TX, to come to talk about the moving story of taking down the fence in the town cemetery. That would fit with the reconciliation/tolerance Easter theme but could not be seen as prejudicing the defendants. Please think about how to proceed because, if DOJ is going to consult with the prosecutors, we need to get that process started.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Carolyn T. Wu (CN=Carolyn T. Wu/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:26-MAR-1999 10:24:30.00

SUBJECT: Equal Pay

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

TO: Jennifer M. Luray (CN=Jennifer M. Luray/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: Lynn G. Cutler (CN=Lynn G. Cutler/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

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

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

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

CC: Kelley L. O'Dell (CN=Kelley L. O'Dell/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

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

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

TEXT:

Karen Tramontano will be holding a meeting on Equal Pay on Tuesday 3/20 at 2 pm. Location TBD. Please let me know of conflicts. Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Irene Bueno (CN=Irene Bueno/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:26-MAR-1999 10:28:22.00

SUBJECT: Re: Civil Rights Coordinating Council Subgroups Reports

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Fyi - the Civil Rights Coordinating Council is meeting today, Friday.
3/26 at 4:30 pm in Maria's office.

----- Forwarded by Irene Bueno/OPD/EOP on 03/26/99 10:28
AM -----

Irene Bueno
03/24/99 11:56:37 AM

Record Type: Record

To: Bruce N. Reed/OPD/EOP

cc: See the distribution list at the bottom of this message

bcc: Irene Bueno/OPD/EOP

Subject: Re: Civil Rights Coordinating Council Subgroups Reports

I appreciate the reminder that the Civil Rights Coordinating Council (CRCC) subgroups is focused on enforcement activities and not on policy issues and will make the appropriate changes to the reports. I just received copies of the reports from other subgroups written by Counsel's office staff and these reports do raise some policy issues. Based on these reports, I think there is some confusion by the subgroup leaders what they should be doing since they include policy issues. I will make copies for you, Elena and other DPC staff (Paul, Tom, Tanya, and Jon).

Speaking as a DPC staffer (not as the lead of these subgroups), I think that there are some policy issues that we should explore in the areas of worker exploitation and language rights. As a DPC staff person, I would like to begin a process to explore policies in these areas. I may work with the some subgroup members but I will be very clear that I am exploring these policy issues as a DPC staff and not the lead of the CRCC subgroup.

Please let me know if you have any questions or concerns. Thanks.

Bruce N. Reed
03/24/99 10:26:37 AM
Record Type: Record

To: Irene Bueno/OPD/EOP
cc: Elena Kagan/OPD/EOP, Paul J. Weinstein Jr./OPD/EOP
Subject: Re: Civil Rights Coordinating Council Subgroups Reports

Those reports seem fine, but these subgroups are supposed to focus on enforcement activities, not developing legislative proposals or communications strategies. We need to protect the policy councils' prerogative to develop policy, and remind everybody involved that the Coordinating Council is not a policy council.

Message Copied

To:

Elena Kagan/OPD/EOP
Paul J. Weinstein Jr./OPD/EOP
Thomas L. Freedman/OPD/EOP
Tanya E. Martin/OPD/EOP
Jonathan H. Schnur/OPD/EOP
Laura Emmett/WHO/EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Carolyn T. Wu (CN=Carolyn T. Wu/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:26-MAR-1999 10:30:20.00

SUBJECT: Re: Equal Pay

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

TO: Jennifer M. Luray (CN=Jennifer M. Luray/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: Lynn G. Cutler (CN=Lynn G. Cutler/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

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

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

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

CC: Kelley L. O'Dell (CN=Kelley L. O'Dell/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

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

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

TEXT:

Sorry. I meant 3/30. Thanks.

----- Forwarded by Carolyn T. Wu/WHO/EOP on 03/26/99

10:29 AM -----

Tracy Pakulniewicz
03/26/99 10:27:26 AM
Record Type: Record

To: Carolyn T. Wu/WHO/EOP
cc:
bcc:
Subject: Re: Equal Pay

3/20 was last saturday ... help!

Carolyn T. Wu
03/26/99 10:23:19 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: Equal Pay

Karen Tramontano will be holding a meeting on Equal Pay on Tuesday 3/20 at 2 pm. Location TBD. Please let me know of conflicts. Thanks.

Message Sent

To: _____
Elena Kagan/OPD/EOP
Thomas L. Freedman/OPD/EOP
Caroline R. Fredrickson/WHO/EOP
Jennifer M. Luray/WHO/EOP
Maria Echaveste/WHO/EOP
Loretta M. Ucelli/WHO/EOP
Lynn G. Cutler/WHO/EOP

Message Copied

To: _____
Laura Emmett/WHO/EOP
Kelley L. O'Dell/WHO/EOP
Leslie Bernstein/WHO/EOP
Tracy Pakulniewicz/WHO/EOP
Mona G. Mohib/WHO/EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-MAR-1999 11:06:12.00

SUBJECT: Q&A on Medicare Trustees' Report

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Q: The Wall Street Journal reports that the Medicare Trustees' Report will show the Medicare Trust Fund is in much better shape than previously forecast. How does the White House know this, why is the Trust Fund in better shape, and how does that affect the Medicare debate?

A: The White House has received no information about the contents of the Medicare Trustees' report. We will receive it the same date everyone else does -- next Tuesday (March 30th). Having said this, because we believe the Medicare outgoing payments and income revenue trends will likely reflect recent projections by the Congressional Budget Office, we expect the projected Medicare Hospital Insurance Trust Fund exhaustion date to be extended. The stronger economy is clearly playing an important role in improving virtually every economic forecast. But, once again, we will not know until the Trustees report the current financial status of the program.

FOLLOW UP: How does any good news coming from this report affect the Medicare debate?

A: Under any scenario, the program will face dramatic demographic challenges that will require significant new revenues. Every independent health expert has concluded that the retirement of the baby boom generation will necessitate a major infusion of new resources to offset this burden. As a result, the need for the President's dedication of 15 percent of the surplus (almost \$700 billion over 15 years) to the Medicare program continues. And, as the President has made clear, Medicare also requires reforms that modernize and strengthen the program.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-MAR-1999 11:06:12.00

SUBJECT: Q&A on Medicare Trustees' Report

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

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

TEXT:

Q: The Wall Street Journal reports that the Medicare Trustees' Report will show the Medicare Trust Fund is in much better shape than previously forecast. How does the White House know this, why is the Trust Fund in better shape, and how does that affect the Medicare debate?

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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 26-MAR-1999 11:50:13.00

SUBJECT: Why didn't we issue POTUS statement yesterday on signing of nursing home b

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

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

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

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

Julie B. Goldberg (CN=Julie B. Goldberg/OU=WHO/O=EOP [WHO])
READ: UNKNOWN

TEXT:

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Karin Kullman (CN=Karin Kullman/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:26-MAR-1999 12:12:42.00

SUBJECT: Message Meeting

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

In preparation for the 2:30pm message meeting to discuss next week, I wanted to get a sense of what events were your biggest priorities. The following is a list of events we could do next week:

1. Nursing Home Provisions of Crime Bill
2. Release Social Promotions Guide
3. Release Charter School Study/Visit Charter School
4. Organ Donation Event (I'm trying to verify that this would be ready for next week, although we may want to save this for closer to Nat'l Organ Donor Awareness Week -- April 18-24)

Please let me know your order of preference for these events, and if there are others you would suggest we pitch. Thank you.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-MAR-1999 12:28:40.00

SUBJECT: race book

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

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

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

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

TEXT:

Some preliminary edits to the crime section. More on the way shortly.
----- Forwarded by Leanne A. Shimabukuro/OPD/EOP on
03/26/99 12:29 PM -----

Leanne A. Shimabukuro
03/26/99 12:21:31 PM
Record Type: Record

To: Jose Cerda III/OPD/EOP
cc:
Subject:

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D74]MAIL48809679H.036 to ASCII,
The following is a HEX DUMP:

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C5A3A40CB8C183541EB729F921CB303D5EB5E69A8356C5FBB46AE92623E62898C9F7486CF2B6D7

Proposed edits to race book:

Page III.4-3

First paragraph after third sentence, insert: "In some instances, minorities are benefitting most from decreasing crime rates. For instance, since the early 1990's, homicide victimization of young black males declined the most as compared to all groups. Hispanic households experienced the greatest decreases in property crime rates between 1993-96, and the greatest declines in violent crime victimization rates between 1995-96." This helps make the point that overall crime going down is not only helping everyone, but frequently minority communities the most.

Pge III.4-14

First full paragraph, replace third sentence with: "Today, we have nearly reached our goal of funding 100,000 more police, and we have helped expand community policing to over 11,000 police departments across the country." This clarifies that we are close to reaching the 100,000 funded mark, not 100,000 on the street.

Same paragraph, final sentence: "And I have asked Congress to extend the program by adding **up to an additional 50,000 officers.**"

Page 111.4-15

First full sentence on page: "To fully achieve these goals, we should build on that foundation by applying the lessons learned from community policing in other areas of the criminal justice system, such as prosecutors' offices, our courts, **probation and parole offices**, and local jails."

Page III.4-16

Second bullet, first sentence: "To be eligible for this pool of targeted funds, communities will be **asked** to bring all the actors to the table..." This deletes reference to "requiring" this coordination, which is a much higher burden than required under current grants, and could significantly delay the application process in communities that need funding the most urgently.

Delete third bullet, or at least the last sentence. Again, this creates an enormous burden to apply for grants, and could have the effect of cutting off federal funds to those communities with the most serious crime problems if progress isn't met by goals.

Page III.4-17

First full parpagraph, last sentence: Delete reference to "positive results needed to receive

continued federal support” for same reasons listed above.

Page III.4-21

First full sentence, replace with, “**Many policing agencies are beginning to identify high-crime places through computer mapping...**” We shouldn’t imply that the “best” law enforcement strategies necessarily require complex and costly computer crime mapping.

Page III.4-23

First paragraph, last sentence replace with the following: “Brady Act background checks have helped to prevent gun sales to over a quarter of a million convicted felons, fugitives from justice, and others prohibited by law from buying guns. Promising approaches to build on this effort include increased seizures of illegally carried guns at crime and gun hot spots, law enforcement “tracing” of guns used in crime to the original purchaser to crack down on illegal gun traffickers, and prosecution initiatives to target gun-carrying felons and armed criminals.” This takes the Brady Act --which we believe has been successful --out of the “promising” category and adds additional detail to the promising approaches sentence, including new reference to prosecution initiatives as recently highlighted by the President.

Page III.4-24

First paragraph, first full sentence: “The result was an immediate decline in the number of juvenile homicides **with guns** in Boston for two consecutive years.” This statistic refers to gun homicides, not overall juvenile homicides.

Page III.4-24-25

It seems that as we discuss the use of drugs and persons who commit crimes under the influence of drugs, we should promote efforts to increase drug testing and treatment for offenders under criminal justice supervision and the expansion of drug courts. Possibly add to the last paragraph on Page III.4-24, after the first sentence, or as a separate bullet:

“Studies tell us that the vast majority of all prisoners report drug use, and many prisoners commit their crimes to get money to feed their drug habit. We must do more to ensure increased drug testing and treatment for offenders throughout the criminal justice system -- prioners, parolees, jailees and probationers --- to help end the destructive cycle of drugs and crime.

Moreover, we should look to expand alternatives to jail for nonviolent drug offenders, such as drug courts, that both promote accountability and responsibility, and provide essential drug treatment. Drug courts give drug offenders an opportunity to stay out of jail if they submit to drug testing, enroll in court-supervised treatment, and stay clean. Not only to drug courts provide closer supervision and more treatment than most other alternatives, they have also been found to be successful in substantially reducing future drug use and criminal behavior. We

should continue to expand the number of drug courts, which have grown from a handful to more than 400 today.”

Page III.4-26

Second paragraph, third sentence: “ Since 1993, the number of law **enforcement agencies** implementing community policing has increased from hundreds to more than **11,000.**”

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-MAR-1999 12:59:25.00

SUBJECT: Revised Weekly Report

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

READ:UNKNOWN

TEXT:

includes new tobacco from Cynthia, children and families from Nicole and Detroit schools from Tanya===== ATTACHMENT 1 =====
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D41]MAIL49234779W.036 to ASCII,
The following is a HEX DUMP:

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March 27, 1999

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

Health Care -- Update on our organ donation effort: We have just received a report that there has been a significant but still inadequate increase in organ donation rates (a six percent increase as opposed to one percent over the past two years) as a result of the Administration's recently implemented regulation to increase organ donations. We believe this success will be augmented as public attention to this increases, as the number of public figures -- including retired NFL football star Walter Payton -- have developed conditions that require organ transplants. There is great interest in the organ donation advocacy community for you to highlight this problem sometime in the next three weeks. You could announce a \$5 million grant program and some major private sector commitments from AFL-CIO, the UAW, Aetna Health Plans, and Kaiser Permanente at such an event to coincide with National Organ and Tissue Donor Awareness Week.

Health Care -- Actions to prevent the inappropriate use of physical restraints in institutional settings: On Thursday, Senators Lieberman and Dodd announced their plan to introduce the Freedom From Restraint Act of 1999, which prohibits hospitals and mental health facilities participating in the Medicare and Medicaid program from imposing physical restraints except upon the written order of a physician and only when necessary to ensure the physical safety of the patient or of other patients. (In 1987, legislation was enacted to prevent inappropriate physical and chemical restraints in nursing homes.) This legislation was inspired by a series of cases in Connecticut during October of 1998 in which several mentally ill children residing in psychiatric institutions died after being inappropriately restrained by facility staff. However, we have received reports of similar abuses nationwide. In addition to indicating your initial support for this legislative effort, we have directed HHS to expedite a regulation that administratively extends these protections to acute care, psychiatric, rehabilitation, long term care, and children's hospitals participating in the Medicare program, program and intermediate care facilities for the mentally retarded, and institutions of mental disease participating in the Medicaid program. The only facilities we believe require explicit new statutory authority are hospices and residential care facilities for children. If there is interest, we may want to have you highlight this regulation when it becomes final later this summer.

Health Care -- Update on Medicare: Despite the failure of Republicans to attract any Democrats beyond Senators Breaux and Kerrey to their Medicare amendment (criticizing your surplus policy and supporting the Breaux-Thomas proposal), it is clear that Senator Daschle and the moderate Democrats need and strongly desire an alternative Medicare plan. In contrast, the House Democrats have little or no appetite for a serious Medicare reform proposal. Our meeting with the House Democratic leadership on Wednesday made it clear that they view any policy that could be defined as reform with grave suspicion. The challenge of developing a politically viable policy is to balance the need for credible reform with the equally challenging need to not totally alienate our Democratic base. Interestingly, both proponents and opponents of reform are increasingly wary of placing traditional provider cuts on the table. As the Medicare trustees report will no doubt show when it is unveiled next Tuesday, projected Medicare spending has significantly declined and incoming revenues have significantly increased. These trends will no doubt significantly push out the solvency date of the Medicare program and will also decrease any appetite for traditional provider reductions as Congress will be responsive to provider complaints that they have already made a major contribution to the health of the trust fund. The inability to attract much support for provider savings will make it difficult to find offsetting savings to pay for a prescription drug benefit, thus placing even greater pressure to look towards the surplus to make a significant contribution towards the cost of any such benefit. Immediately following the release of the trustees report, NEC / DPC will request the actuary to do a series of cost estimates for Medicare policy reform options that we are contemplating for your review. We anticipate that in the interim we will work with Senator Daschle and his moderate Democrats to determine their definition of serious and acceptable reforms.

Children and Families -- Child Care: With the strong leadership of Senator Dodd, the Senate passed an amendment to its budget resolution increasing mandatory funding for the child care block grant by \$5 billion over five years, off-set by a reduction in the tax cut. This action is a significant demonstration of bipartisan support for boosting funding for child care subsidies, which your budget does by \$7.5 billion over five years. The amendment also includes a non-binding provision stating that any child care tax relief for child care (i.e. expansion of the CDCTC), must benefit all working families (i.e. by making the credit refundable) and assist stay-at-home parents who care for an infant. After a motion to table the amendment was defeated, it won by voice vote. The twelve Republicans voting with the Democrats were Senators Abraham, Campbell, Chafee, Collins, Dewine, Frist, Hatch, Jeffords, Roberts, Snowe, Specter, and Warner.

Education -- Ed-Flex. Both the Senate and House have now appointed conferees to work out differences in the two bills. This week, 205 members of the House -- overwhelmingly Democrats -- voted in favor of a motion to direct conferees to eliminate the Jeffords-Lott class size provision that would allow local districts to spend already appropriated class size funding for special education. The Senate Democrats have 31 of the 34 signatures they are seeking on a letter recommending a veto of the Ed-Flex bill if the

Jeffords-Lott provision is not dropped. OMB is preparing a letter from Jack Lew to the conferees to convey that your senior advisors would recommend a veto if the class size provision remains in the bill and to reiterate support for strengthened accountability to ensure that waivers lead to increased student achievement. Secretary Riley will also send a letter to the conferees echoing those concerns and providing additional detailed comments about the House and Senate bills.

Education -- Charter schools and desegregation: An op-ed by Clint Bolick in the Wall Street Journal this week attacked Bill Lann Lee for "waging a war" against charter schools through Justice Department civil rights investigations into a few proposed charter schools in Louisiana communities under desegregation orders. The editorial criticized Justice Department efforts to either block the creation of charter schools or require additional steps to create diverse student populations, and suggested that pro-charter school Democrats shouldn't support Lee's nomination. The Justice Department has conducted a number of investigations to ensure that charter schools comply with existing desegregation orders or consent decrees.

This week, we discussed and rejected sending an immediate White House response to Bolick's op-ed -- mostly because of a belief that this could hurt rather than help Lee's confirmation, and to some extent because we are still reviewing how to handle and communicate the Administration's civil rights enforcement policy for charter schools. At an Education Department conference last week, it became clear that there is some concern among the charter school community that rigid enforcement of desegregation orders could block the creation of charter schools in predominantly minority neighborhoods that might reverse desegregation efforts by leading minority parents to take their children out of more integrated schools. There are also concerns that desegregation orders could be used by recalcitrant school districts to block the creation of charter schools. Meanwhile, the Justice Department and Education Department Office of Civil Rights are concerned that some charter schools could indeed reverse desegregation efforts, and the Education Department has developed draft guidance to be disseminated nationally on these issues. DPC, WH Counsel's office, Justice and Education Departments will meet next week to discuss this guidance, and the issues raised in it.

Education -- Mayoral control of Detroit Schools. The Michigan legislature has passed a bill that gives Detroit Mayor Dennis Archer 30 days to appoint a reform board to oversee the Detroit schools. The seven member board will be comprised of six Detroit residents appointed by the Mayor and the State Superintendent who will hold the seventh spot as Gov Engler's appointment. None of the current school board members can be appointed to the reform board. Once the board is in place for five years, Detroit residents will be allowed to vote on whether to retain the reform board. The proposal was highly controversial. It exacerbated racial tensions and was viewed by many as an attempt by a white governor and white legislature to oust a school board elected by a city that is 75 percent black. Earlier versions of the proposal would have had the entire reform board appointed by Engler or replaced the school board with a monitor appointed by Engler. Both Engler and Archer

favored the proposal that eventually passed giving control over the reform board to Archer. The present school board will be retained as an unpaid advisory board.

Tobacco -- Medicaid Recoupment: As you know, the Senate supplemental appropriations bill contains Senator Hutchison's bill to waive federal claims to tobacco settlement funds without a commitment from the states to spend the federal share to prevent youth smoking, protect tobacco farmers, improve public health, or assist children. The House bill contains no such provision. Legislative affairs tells us that the House leadership is intent on keeping controversial riders out of the supplemental bill and that may help us eliminate the tobacco provision from the bill, but as you know the provision has strong support from the states. We had conversations with both Governor Carper and his staff this week who told us that given the Senate's overwhelming rejection of Specter's alternative, the best they could sell to other governors would be "sense of the Congress" type language that the tobacco settlement funds should be used for health, children, and tobacco farmers with a report to Congress in a couple of years on how the funds were spent. Carper's staff noted that a veto threat over this particular provision would strengthen our hand (this provision was one of many cited in the Senate SAP saying senior advisers recommend a veto of the bill). Public health advocates are going to use this two week recess to have constituents meet with appropriations conferees and other key players in their districts and urge the provision be dropped. The advocates urge us to be more public in our support of an alternative, and to try to get the state Attorneys General to do so as well. In the meantime, Rep. Waxman, Dingell, Rangel and John Lewis introduced a bill in the House this week that is similar to Senator Specter's amendment but has an even stronger federal role. The Waxman bill requires states to spend 25 percent of tobacco settlement funds on tobacco control and farmers and 25 percent on other health activities, as did Specter's, but it also requires a portion of the tobacco prevention funds to go to a federal fund for a national education campaign and efforts directly at minority tobacco use (rather than have all such funds be spent by the states). The bill would also direct USDA to enact regulations to put in place purchase guarantees for tobacco product manufacturers to ensure they continue to purchase domestically grown tobacco.

Tobacco -- Florida Teen Smoking: Cigarette smoking in Florida declined in every grade since the state began its anti-smoking campaign last year, according to a study released this week. The state-sponsored survey found cigarette use declined 19 percent among middle school students and 8 percent among high schoolers. Florida spent \$71 million of its tobacco settlement dollars on this campaign last year (about 13 percent of the total), a third on a counteradvertising campaign and the rest on community and school based programs. Nine out of ten youth surveyed were aware of the edgy advertising campaign, dubbed the "truth" campaign by teens who helped develop it (the CDC has made many of these ads available to other states who want to air them). There's currently a big fight in Tallahassee over the program's funding levels for next year -- while the Governor's budget contained \$61.5 million, the Republican House appropriated no funds and the Democratic Senate included \$50 million.

Workforce Investment Act Rule: In early April, the Department of Labor will publish an interim final rule to implement the Workforce Investment Act (WIA) you signed last August to reform the nation's job training system. The rule provides guidance to states and communities to help implement key provisions of the law including the development of a network of comprehensive One-Stop Career Centers that provide a single point of entry to a wide range of employment services for job seekers and employers. When the program is fully implemented, DOL expects that there will be at least 2,500 such One-Stop centers. Currently there are about 1,000 state and local variations of one-stops, but none of them are as comprehensive as what is envisioned under WIA. The rule will also implement Individual Training Accounts to provide individuals with access to quality job training of their choice. Consistent with the goal of consolidating and streamlining job training programs, the new regulation is approximately half the length of the old rule it replaces. DOL has coordinated with other federal agencies in developing this rule, and has consulted broadly with state and local government, key Congressional committees, and other stakeholders. While states have until July 2000 to fully implement the Act, a handful of states are expected to file their state plans shortly. We will work with DOL to identify any potential announcements.

Welfare Reform -- Economist article: We thought you might like to see the attached Economist article highlighting the Welfare to Work Partnership's success and chronicling how welfare reform "has worked better than anyone dared hope." The article notes that there are challenges ahead -- particularly in large cities where caseloads are falling more slowly -- and mentions some of your welfare to work budget initiatives.

NOTE TO Elena: Unfortunately, the picture accompanying the actual Economist article is not as upbeat as the article (shows a woman and her kids who appear to be living in one small room). We can either send this, or use the Lexus version without the picture. We've provided both so you can choose.

Welfare Reform -- Urban Caseloads: You sent us a note saying we should do more to strengthen welfare to work efforts in cities with slower caseload declines. We wanted to report on two efforts now underway. The Department of Labor just launched a two-year technical assistance initiative to help 10 large cities (Boston, Houston, Detroit, Philadelphia, Chicago, Los Angeles, New York, Seattle, New Orleans, and Minneapolis) develop strategies to move hard-to-employ welfare recipients into good jobs, with an emphasis on job retention and advancement and ensuring close coordination between the welfare and workforce systems. Teams from these cities are meeting together for the first time next week. The Welfare to Work Partnership has a targeted effort in 30 cities with high poverty rates and large concentrations of welfare recipients, including Atlanta, Baltimore, Chicago, Los Angeles, Miami, New Orleans, New York, Philadelphia, and Washington, D.C. In August, the Partnership is holding a major convention in Chicago for delegations from these cities; this could be a good opportunity to mark the third anniversary of the welfare law and Eli Segal hopes you will participate.

You also asked whether the slower rate of caseload decline in some cities is related to unemployment. In general, those cities with slower rates of caseload decline did have higher unemployment rates. For example, El Paso, Los Angeles, New York, and Philadelphia had the slowest caseload declines and three of the four had central city unemployment rates above 7% in August 1998 when the caseload decline was measured (Philadelphia's rate of 5.9% was also well above the national average of 4.5%). However, Baltimore and Cleveland had high unemployment, but also had somewhat greater caseload declines.

Welfare -- Food Assistance: You asked what we could do to ensure that families obtain food assistance, in light of reports that more working families are seeking help from private food banks. We are working to address these issues on two fronts: first to ensure states follow the food stamp law and provide assistance to all eligible individuals who seek assistance; and second, to develop and implement new initiatives to make the food stamp program more accessible to working families.

We have taken numerous steps in recent months to ensure states follow the food stamp law. USDA has launched investigations of state and local practices, including an inquiry in New York City which found local welfare offices were not allowing individuals to apply for food stamps on their first visit to the office. (USDA has issued a formal warning and will impose penalties if these practices are not changed. Meanwhile, a U.S. District Court judge has issued an injunction and has required the city to provide a corrective action plan, which remains sealed.) At the same time, USDA issued formal guidelines to every state reminding them of their obligations to ensure that applicants are aware of their right to file an application for food stamps, process applications in a timely manner, and continue food stamp benefits when TANF benefits are denied or terminated.

In addition to these enforcement actions, we are working with USDA and others to develop and implement efforts to make food stamps more available to eligible families. Historically, individuals with earned income who are eligible for food stamps have been about half as likely to obtain them as individuals receiving cash assistance. There are several possible reasons for this. First, individuals with earnings are eligible for far less in food stamps and they may decide the amount is not worth it. For example, the monthly food stamp allotment for a family of three with a \$300 weekly income and \$500 monthly rent is \$40. When the same family reaches weekly earnings of \$342, the household is no longer eligible. Second, families need to follow somewhat cumbersome procedures to report their earnings to the food stamp office and it is often difficult for working families to get to this office during open hours.

We are currently working with USDA and OMB to devise administrative proposals to help address these and other potential barriers and we will provide you with an analysis of our options soon. While some of the options under consideration can be implemented through regulation, they may cost several hundred million dollars. In order to ensure we maintain our commitment to saving the surplus, we must enact other regulations saving a comparable

amount -- a requirement OMB imposes on an agency-by-agency basis (e.g., USDA savings must pay for new USDA costs). These regulatory offsets could be difficult to obtain.

In addition to possible administrative actions, we will be working to enact the proposals in this year's budget to increase funds for food stamp outreach (the budget contains \$3.5 million to provide a 50 percent federal match for activities including media campaigns and distributing informational materials at various community locations such as shelters, senior centers, and churches) and to provide \$60 million for eligibility for an additional 15,000 legal immigrants who become elderly after their pre-1996 arrival. (The Agricultural Research Act restored benefits to those elderly as of 1996, as well as children, people with disabilities, and refugees.)

Drunk Driving -- .08 BAC studies: The Department of Transportation is planning to release three studies next week on the effects of lowering the illegal blood alcohol concentration (BAC) from .10% to .08%. Two of the three studies show that .08 BAC laws have a deterrent effect on drinking and driving, particularly in conjunction with other drunk driving laws and programs such as administrative license revocation (where police immediately suspend the driver's license of a driver arrested for DWI). The third study which looked at .08 BAC in a single state (NC) found no statistically significant impact of the law in drunk driving crashes.

(1) Nationwide study: This study looked at the effects of illegal per se BAC laws (.08 BAC and .10 BAC) and administrative license revocation (ALR) laws in all 50 states over a 16-year period. The study estimated that .08 BAC laws resulted in 275 fewer fatalities in the 16 states with .08 BAC laws in effect in 1997, and estimates that an additional 590 lives could have been saved in 1997 if all 50 states had .08 laws.

(2) Eleven-state study: This multi-state study analyzed the impact of .08 BAC and ALR laws and found that .08 BAC laws were associated with significant reductions in alcohol-related fatalities in five of the 11 states studied (VT, KS, NC, FL, NM). Two other states (VA, CA) registered reductions following the adoption of both .08 BAC and ALR laws. The remaining four states (UT, OR, ME, NH) experienced slight decreases or increases in their alcohol-related fatalities that were not considered statistically significant.

(3) North Carolina study: This study found little separate effect of a .08 BAC law in North Carolina even though the state recorded a modest reduction alcohol-related deaths during the study period. North Carolina has an aggressive enforcement program, with the .08 law just one of the steps they have taken to help decrease in drunk driving deaths. The finding of this study conflicts with the 11-state study cited above, which indicates a positive impact of the .08 BAC law in the state in reducing alcohol-related deaths.

The three independent studies were commissioned by the National Highway Transportation Safety Administration (NHTSA). On a related note, the GAO is preparing to release in June a review of a number of .08 BAC studies, including the three listed here. The GAO report was required under the omnibus transportation bill signed last year. The GAO review will criticize the methodologies used in earlier NHTSA studies, but generally confirm the soundness of the new studies. The GAO will conclude that .08 BAC laws can be effective in reducing alcohol-related deaths in combination with other laws, particularly ALR.

However, the alcohol industry is likely to use the GAO report to discredit the previous DOT studies on .08 and the need for a national .08 standard.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Todd Stern (CN=Todd Stern/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:26-MAR-1999 13:44:22.00

SUBJECT: O(u)CH

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

That stands for Opportunity, Community and Heart. I could have sworn Responsibility was in their somewhere, but it must have fallen out of the sack on the bumpy ride.

Maybe we can confer a bit early next week if you guys can get through the draft of the book. tds

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-MAR-1999 15:10:56.00

SUBJECT: late...and lightweight

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

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

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

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

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

TEXT:
BR:

Here are some comments on the new Edley draft. I'm afraid I didn't spend too much time on them, so they may not offer much more than my initial comments. But here goes...

Some comments on race book draft:

1. Additional facts/stats on victimization rates and criminal offending. I would add some additional points here to help make the facts clear. First, I would add (page 3, paragraph 2, after line 2) that blacks represent nearly 50 percent of all violent crime victims. This is pretty startling and should be mentioned. (Actually, the number is 49 percent according to the 1997 National Crime Victimization Survey, which -- by the way -- was released at the end of last year and is not forthcoming, as the footnotes say.) Second, to reinforce the connection between higher rates of victimization and offending, I would add (on page 5, paragraph 2, after line 3) that blacks are 7 times more likely than whites to be murdered -- and 8 times more likely than whites to commit homicide (BJS, Homicide Trends in the U.S., 12/98). Also, we could mention that over the past 20 years, black on black murders have accounted for about half of all murders in our 10 largest cities. Finally, I would change the final sentence in that same paragraph to read: Overall, however, whites commit a majority of all crime. I think this is a bit more accurate.

2. Some thought on the community section (Page 6, paragraph 2). I would drop the first 3 lines here -- what do they mean? -- and change the focus of this paragraph. Instead of asking rhetorically why these conditions exist, why don't we simply open by saying that -- despite what some may think -- the past several years have shown us that we don't have to tolerate these conditions; that we can substantially reduce crime -- even the worst kinds (i.e., crack, guns, etc.) and in the neighborhoods with the worst crime problems; and that the skeptics are wrong. We could even give an example or two of inner city communities that are winning the fight against crime.

Also, I would try and shift the emphasis of the next paragraph -- make it principally about strong communities, not poverty demographics, etc. For instance, we should open that paragraph by saying that studies show that strong communities -- those with a strong sense of shared values...where people to act to reinforce those values...and where this sense of responsibility is coupled with opportunity for all, especially young people -- have lower rates of violence (In fact, according to the ongoing Sampson/Earls Chicago Study, this shared sense of community is the biggest predictor of violence...by 40 percent). Then I would get into the fact that pervasive poverty (lack of opportunity), broken families, etc., all serve to undermine the strength of a community.

3. Chief Greenberg (page 13, last paragraph). The point on mentioning Chief Greeberg was two-fold: first, that Clinton visited with him and became sold on community policing; and second, that Greenberg as a no-nonsense police chief, in the deep south, who was cracking down on criminals, reducing crime, and simultaneously strengthening ties to the community. In short: he was overcoming many of the difficult issues surround race and crime. It is probably worth walking through this example some.

4. Community Justice "hot spots" (page 15, last paragraph). I continue to believe that the term "community justice" does not clearly communicate what we're trying to do here. We are trying to bring the lessons learned from community policing to the rest of the criminal justice system. That means that prosecutors, courts, and other components of the criminal justice system need to re-orient their emphasis from the bureaucratic processing of cases to pro-actively solving people's problems. They need to engage the community, understand local problems, embrace solutions and strategies that address those problems, and be held accountable for results. We should probably walk through examples of how neighborhood district attorneys, community courts, etc., are responding to community needs, reducing crime and increasing confidence in the criminal justice system. This is considerably different than the "multiple hoses to the fire" approach described.

Moreover, the "multiple hoses" approach, as described in the draft, sounds too much like the Bush Administration's response to the LA riots -- Weed and Seed -- and our own under-achieving empowerment zones program. It's not new policy that builds on the success of community policing, but the same old community development rhetoric/policy that has largely failed. No federally-mandated, comprehensive plan is going to help overcome the most difficult crime and race problems in our communities. However, federal resources that allow local leadership to work with their community to solve specific problems -- one-by-one -- might help.

4. Hot button issues. I would resubmit the same concerns I had before I had about race profiling, police brutality, and incarceration. I am especially concerned about the initial characterization of how law enforcement officers use race profiling, which will be strongly disputed by law enforcement at all levels -- and do little to increase understanding of this difficult issue.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Sandra Yamin (CN=Sandra Yamin/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:26-MAR-1999 15:19:16.00

SUBJECT: REMINDER: ESEA REAUTHORIZATION MEETING WED 3/31 at 3:30PM

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

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

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

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

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

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

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

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

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

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

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

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

CC: Leslie S. Mustain (CN=Leslie S. Mustain/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

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

TEXT:

Just a reminder -- there will be another ESEA Reauthorization meeting on Wed., Mar 31 from 3:30 - 5:00PM in Barbara Chow's office (OEOB 260). The topics to be covered will include remaining issues: Title II (Teacher Quality), Title III (Technology) and Safe and Drug Free Schools. Please forward this message to anyone I may have missed.

FYI -- We may need to schedule a meeting for Thurs, April 1. I will get back to you when I have a confirmed time. Thank you.

Attendees:

Barbara Chow, OMB
Bruce Reed, DPC
Elena Kagan, DPC
Neera Tanden, DPC
Jon Schnur, OVP
Tanya Martin, DPC
Broderick Johnson, WHLA
Mike Smith, ED
Mike Cohen, ED
Ann O'Leary, ED
Diane Rogers, ED
Scott Fleming, ED
Tom Corwin, ED
Judith Johnson, ED

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Daniel W. Burkhardt (CN=Daniel W. Burkhardt/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:26-MAR-1999 15:26:01.00

SUBJECT: letter to faith leaders

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Ben/Elena: Maureen Shea and Debi Mohile would like to send out the following letter early next week to leaders in their communities. Can you please get back to me with comments/clearance? Thanks.

"Dear Faith Community Leader:

I am pleased to send greetings to you and your community as you celebrate this sacred season. For Christians, Muslims, and Jews this is a special time of year -- for some a season of renewal and new beginnings, for others a time to atone for sins and to recognize that we are called to forgiveness and love.

In keeping with the spirit of this season, I ask you to speak to your community about hate crimes and ask your members to pray and work together to bring an end to such crimes. We all must recognize that, while murders like those of James Byrd and Matthew Shepard are noteworthy because of their particularly heinous nature, hate crimes are not unique. These crimes cut across all racial, religious, ethnic, gender, sexual orientation, and socioeconomic lines. And the seeds of hatred are sown through every medium, including the Internet. In fact, the Internet contains more than 1,400 sites that promote racism, violence, hate music, or neo-Nazis, or that are anti-Semitic, anti-gay, anti-Catholic, or anti-Muslim.

As President, I have proposed legislation that would strengthen existing federal hate crimes law by: (1) expanding the Department of Justice's jurisdiction to prosecute defendants for violent crimes based on race, color, religion, or national origin; and (2) authorizing the DOJ to prosecute individuals who commit violent crimes against others because of the victim's sexual orientation, gender, or disability. I will also continue to speak out vigorously against these crimes.

As a faith leader, you play a unique role in the lives not only of the followers of your faith but of the members of our larger community. I ask you to use your special place to help guide all Americans in understanding their own hearts and actions as well as in learning what they can do to bring communities together."

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Karin Kullman (CN=Karin Kullman/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:26-MAR-1999 15:30:19.00

SUBJECT: Update on Message Schedule

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

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

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

TO: Devorah R. Adler (CN=Devorah R. Adler/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

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

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

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

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

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

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

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

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

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

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

TO: J. Eric Gould (CN=J. Eric Gould/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Teresa M. Jones (CN=Teresa M. Jones/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

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

TO: Essence P. Washington (CN=Essence P. Washington/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

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

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

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

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

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

TEXT:

As of this afternoon's message meeting this is the schedule for next week:

Monday, March 29	Statement TBD (T)
Tuesday, March 30	Release 1998 Social Security/Medicare Trustees Report Rose Garden
Wednesday, March 31	Consumer Financial Right to Know Event Treasury Building (tentatively)
Thursday, April 1	Census Event/Statement Location TBD
Friday, April 2	Possible Message Event TBD Tape Radio Address Topic: Hate Crimes Location: White House
Monday, April 5	Easter Egg Roll
Tuesday, April 6	Agriculture Travel to States (2) TBD
Wednesday, April 7	Equal Pay Event Location: The White House
Thursday, April 8 China	Official Visit of Premier Zhu Rongji of
Friday, April 9	Patients' Bill of Rights Event Location: Philadelphia, PA Tape Radio Address Topic: TBD

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Neera Tanden (CN=Neera Tanden/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:26-MAR-1999 15:48:36.00

SUBJECT: Dodd am -- weekly

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

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

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

TEXT:

Below is our weekly submission.

We learned just recently that the amendment actually increased CCDBG by over \$12 billion over 10 years -- \$5 billion in the first 5 five years, at a billion a year, but in the second five years, it's over \$7 billion, as it grows to \$2 billion a year in the last year. This amendment was done very quickly and the figures are related to spendout rates, so it's not clear that anyone really knew it was \$12 billion over 10 years. However, the Republicans were mostly adamant that the amendment increase funds at a lower level than the President's request, so Dodd's office believes that they'll be fine with a figure that is less than \$15 over ten.

The weekly submission has more information --

----- Forwarded by Neera Tanden/WHO/EOP on 03/26/99 03:46
PM -----

Nicole R. Rabner

03/26/99 10:29:41 AM

Record Type: Record

To: Laura Emmett/WHO/EOP, Paul J. Weinstein Jr./OPD/EOP
cc: Neera Tanden/WHO/EOP
Subject: weekly

Children and Families: Child Care. With the strong leadership of Senator Dodd, the Senate passed an amendment to its budget resolution increasing mandatory funding for the child care block grant by \$5 billion over five years, off-set by a reduction in the tax cut. This action is a significant demonstration of bipartisan support for boosting funding for child care subsidies, which your budget does by \$7.5 billion over five years. The amendment also includes a non-binding provision stating that any child care tax relief for child care (i.e. expansion of the CDCTC), must benefit all working families (i.e. by making the credit refundable) and assist stay-at-home parents who care for an infant. After a motion to table the amendment was defeated, it won by voice vote. The twelve Republicans voting with the Democrats were Senators Abraham, Campbell, Chafee, Collins, Dewine, Frist, Hatch, Jeffords, Roberts, Snowe, Specter, and Warner.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elisa Millsap (CN=Elisa Millsap/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:26-MAR-1999 16:56:19.00

SUBJECT: Consumer Financial Event

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

TO: Jennifer M. Palmieri (CN=Jennifer M. Palmieri/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: Laura A. Graham (CN=Laura A. Graham/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

TO: Kris M Balderston (CN=Kris M Balderston/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Douglas B. Sosnik (CN=Douglas B. Sosnik/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

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

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

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

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

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

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

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

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

TEXT:

Since Rep. LaFalce is traveling over the recess, Legislative Affairs strongly recommends postponing the Consumer Financial Event until Congress returns to Washington the week of April 12. LaFalce very much wants to be here when we have this event, and would be upset if we went ahead without him. In any case, the event would be more effective if we wait until Members are back in town and able to attend.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Irene Bueno (CN=Irene Bueno/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 26-MAR-1999 16:07:37.00

SUBJECT:

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

READ: UNKNOWN

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

READ: UNKNOWN

TEXT:

Elena -

Sorry I missed you. I am back in my office until the 4:30 pm Civil Rights meeting in Maria's office but otherwise I am free today. Let me know when you are available. Thanks.

Irene

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-MAR-1999 16:25:41.00

SUBJECT: Team Leaders Meeting

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

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

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

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

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

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

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

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

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

TEXT:

There will be a DPC Team Leaders meeting on Monday, March 29, at 9:30 a.m.
in Bruce's office.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jennifer M. Palmieri (CN=Jennifer M. Palmieri/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:26-MAR-1999 16:26:02.00

SUBJECT: fyi: Articles from FL papers on HR 540

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

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

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

TO: Douglas B. Sosnik (CN=Douglas B. Sosnik/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:

Nursing homes...they are huge.

----- Forwarded by Jennifer M. Palmieri/WHO/EOP on
03/26/99 04:08 PM -----

JULIE B. GOLDBERG

03/26/99 08:41:38 AM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: fyi: Articles from FL papers on HR 540

Tampa Tribune: Nursing-home bill becomes law

(main feature of a special report on Nursing Homes)

By LINDSAY PETERSON and JACQUELINE SOTEROPOULOS
of The Tampa Tribune

WASHINGTON - Motivated by flagrant Medicaid patient dumping, a Tampa couple watches the president turn their cause into the law of the land.

Eleven months after a Tampa nursing home tried to evict his elderly mother, Nelson

Mongiovi stood Thursday in the Oval Office and watched President Clinton turn his goal into national law.

With much of the world's attention turned to U.S.-led strikes against Yugoslavia,

Clinton conducted a quiet signing ceremony Thursday morning with the Mongiovis and

Florida lawmakers determined to prevent Medicaid patient dumping.

``This was an important issue for us and the country,' ' Mongiovi said, holding the

keepsake pens that Clinton used to sign the legislation. His wife, Geri, added, ``It was just kind of a hope and a dream that we could get something to protect everyone.''

The Mongiovis brought to light the attempt last year of Vencor Inc. to evict all 54 of its Medicaid residents from a nursing home in Tampa. U.S. Rep. Jim Davis, a Tampa Democrat and the author of the House bill, said the Mongiovis' success shows ``that when someone sees an injustice ... we can do the right thing. We can get something done.''

Nelson Mongiovi credited The Tampa Tribune for writing stories that exposed Vencor's actions and led to an end to the company's policies.

Now, a loophole that Vencor exploited to rid some of its other nursing homes of Medicaid residents is closed. U.S. Sen. Bob Graham, D- Miami Lakes, and U.S. Rep. Michael Bilirakis, R-Palm Harbor, wrote the law with Davis.

At Vencor's Rehabilitation and Health Care Center of Tampa, the company used the pretense of remodeling to attempt to discharge Medicaid residents in favor of higher-paying patients.

But in other states, Vencor was getting rid of Medicaid residents by withdrawing from the Medicaid program, which covers health care costs for the poor and pays far less than private sources and Medicare, the program for people 65 and older.

The new federal law requires homes that quit Medicaid to keep their Medicaid residents. And if a home doesn't take Medicaid, it must make that clear to prospective residents.

``It's a good bill. It's needed,''' said Ed Boyer, lawyer with the Florida Long-Term Care Ombudsman Program, a government-sponsored advocacy group. But it's not a cure-all, he said.

IT WAS WRITTEN to address the problem of all evictions, but many people are asked to move quietly, one by one, when Medicaid begins paying their bills after their Medicare coverage or private savings run out, Boyer said.

State and federal laws have long existed to protect people from such moves, but advocates say these laws are repeatedly flouted by some nursing home officials.

``I think some of these people stay up late trying to find new ways to make people leave,`` said Martie Daemy, a local ombudsman coordinator.

And many residents and their families don't fight back, either because they don't understand the laws or they're afraid and exhausted.

Davis said he realized the bill didn't offer absolute protection.

State and federal regulators have a lot of responsibility as well, Davis said.

Chris Jennings, a Clinton health policy adviser, said the administration is committed to working with the states to inform Medicaid patients and their families about their rights under the new law.

Clinton has also proposed giving more federal money to the states to enforce nursing home laws.

And Boyer is encouraged by a proposal now before the Florida Legislature that would strengthen the ombudsman program and make it easier for residents to appeal a discharge.

The bill emerged from an investigation of the Vencor case by the Senate Health, Aging and Long-Term Care Committee, which concluded that improper discharges were hard to track but ``fairly common.''

VENCOR WAS FOILED because the Mongiovis met with other family members and challenged the company's actions. But, the report said, if Vencor had told the residents to go, one by one, over a period of time, family members might never have become suspicious. One woman did complain recently when her mother was told she had to leave her nursing home, IHS of Brandon. And it resulted last month in the home being fined and banned from accepting new residents.

The mother's Medicare was running out and she was told the home had no Medicaid beds so it was moving her to a nursing home in north Hillsborough.

``She was hysterical,' ' said her daughter, Judy Vargas.

This is a flagrant violation of the law, advocates say.

Many nursing homes are required to serve a certain number of people on Medicaid, but they're always allowed to serve more. So it's impossible to not have a Medicaid bed available for someone who's already a resident, Boyer said.

Regulations say residents can be forced to leave only under n, specific circumstances -
when if the facility can't meet the resident's needs, or the resident is in danger, poses a danger to other residents, is well enough to leave the home or has failed to pay for services.

Residents cannot be discharged simply because their money starts coming from a lower-paying source, Boyer said.

Most people come into nursing homes with their own savings, private insurance or Medicare. But when payments from those sources run out, usually in a matter of months, Medicaid takes over.

Medicaid, however, only pays about \$3,000 a month, 50 percent to 150 percent less than private payments and Medicare.

The regulations also say that every resident facing a discharge must be given a written notice 30 days in advance containing information on how to file an appeal.

But a lot of people don't realize they can appeal, said David Hicks of the state Department of Elder Affairs. As supervisor of a division in Pinellas and Pasco that determines whether people qualify for nursing home Medicaid coverage, he sees about 15 suspicious discharge attempts a month, he said.

People in this situation are overwhelmed, he said, and don't take the time to read the discharge notices. Even when they do, many choose not to appeal.

``They're afraid. They say `if they don't want my family member, we shouldn't stay here,' '' Hicks said. ``They let themselves be intimidated.''

THE DISCHARGE NOTICES can be confusing, Boyer said. Some are altered to suit a nursing home's needs. He saw one recently that gave a resident the option to waive the right to appeal, he said.

Nursing home companies say the core of the problem is low government reimbursements.

``I fear we're always going to have a problem in this area,' ' said Steve Rachin, head of the state ombudsman program. And the problems may only get worse as new Medicare rules go into effect, the Senate committee said, because they cut payments for many services Medicare has covered generously in the past.

But the federal nursing home laws were written to protect residents.

Companies may get more money for certain residents, Rachin said.

``But that doesn't
give them the right to flout the laws.''

Lindsay Peterson covers aging issues and can be reached at (813)
259-7834.

Jacqueline Soteropoulos covers federal government and can be reached
at (202)
662-7673.

Miami Herald: Nursing homes barred from patient `dumping'

By DONNA LEINWAND
Herald Washington Bureau

WASHINGTON -- The legacy of a Florida woman became law
Thursday,
turning the tragedy of a nursing home eviction into
protection for elderly people
who depend on Medicaid to live.

The new legislation prohibits nursing home operators who
withdraw from the
Medicaid program from evicting residents after they have
exhausted their personal
savings and turn to public assistance to pay for their stay.
It took effect with
President Clinton's signature Thursday morning.

``There is an enormous temptation to put profits ahead of
patients,''' said Rep. Jim
Davis, a Tampa Democrat who sponsored the legislation in the
House with Rep.
Mike Bilirakis, a Republican from Clearwater. ``A nursing
home is not going to
use patient dumping to balance its books.''

Democratic Sen. Bob Graham of Miami Lakes sponsored the
legislation in the
Senate.

The quest for the new law began in Tampa after a facility
owned by one of the
nation's largest nursing home operators, Vencor, sent
eviction notices to 54 of its
poorest residents. Among them was Adelaida Mongiovi, a
93-year-old woman
suffering from senile dementia. Her son and daughter-in-law,
Nelson and Geri
Mongiovi, got a court injunction to stop the evictions and
took her cause to the
newspapers and lawmakers, learning a lesson in activism in
the process.

``If you don't bring issues to your lawmakers, they cannot
work for you,''' Nelson
Mongiovi said. ``If you need to be heard, by God, come to

Washington.''

Before the law passed, nursing homes could reduce or eliminate the number of beds available to Medicaid patients with 30 days' notice to the residents being evicted. Under the new legislation, nursing homes can stop accepting Medicaid patients, but they cannot kick out patients who already live there and become eligible for Medicaid during their stay.

Nursing homes may choose not to accept Medicaid patients, but they must notify new residents up front that if they spend down their assets and become eligible for the federal-state insurance program for the poor, they could be forced to move. Nursing home stays on average cost about \$40,000 a year, making Medicaid likely for all but the wealthiest patients.

Vencor eventually reversed its decision to evict its Medicaid residents, but in letters to lawmakers and the Clinton administration, company executives complained that Medicaid rates are too low to cover the cost of adequate care.

Adelaida Mongiovi did not live to see the law that her plight inspired. She died in November. But the Mongiovis stood in the Oval Office on Thursday to watch President Clinton sign the bill. They emerged with official presidential pens.

Associated Press (tops Orlando Sentinel Story w/ photo): Nursing home victory. President

Clinton signs into law the Nursing Home Resident Protection Act of 1999. The legislation provides new protections to nursing home patients who rely on Medicaid to pay for their care. Joining the president from left are: the bill's sponsor Rep. Jim Davis, D-Fla.; Nelson Mongiovi, Tampa, Fla.; Sen. Bob Graham, D-Fla.; Geraldine Mongiovi, Tampa, Fla.; Rep. Michael Bilirakis, D-Fla.; Alice Hedt of the National Citizen's Coalition for Nursing Home Reform, and Sen. William Roth, R-Del.

Orlando Sentinel: He won long battle on nursing homes

Published in The Orlando Sentinel on March 26, 1999.

Tamara Lytle
Washington Bureau

WASHINGTON -- Nelson Mongiovi, a retired letter carrier from Tampa, said he is not usually the kind of guy to raise a ruckus.

But he became outraged when a Tampa nursing home tried to boot out his ailing mother. He took his case to court, to state officials and eventually to Congress.

On Thursday, he found himself standing in the Oval Office behind President Clinton to witness the results of his yearlong protest: Never again will a nursing home be able to evict a patient accepted as part of the Medicaid program in order to make room for a more lucrative client.

"All nursing home residents deserve quality care, and this bill provides the needed protections to help ensure the health and safety of all residents," Clinton said after the Oval Office signing ceremony.

The ordeal for Mongiovi and his wife, Geri, began a year ago when they opened the mail to find an eviction notice from Vencor Inc., owner of the Healthcare and Rehabilitation Center of Tampa. Adela Mongiovi, in her 90s, had lived with Nelson and Geri for 22 years until her Alzheimer's disease required 24-hour care.

At the Tampa nursing home, Adela Mongiovi and other residents with dementia had enjoyed a certain familiarity in being wheeled to the same spot each day and sitting beside the same people, said Geri Mongiovi.

And now they were about to be split up -- dispersed to whatever homes could take them.

"The people were crying: 'This is my home. This is my home. Where am I going?' " 55-year-old Geri Mongiovi, a secretary, said after Clinton signed the bill.

Vencor wanted out of the Medicaid business and was evicting 54 residents. Medicaid, a federal program for the poor, pays nursing homes a set amount per patient that is decided by the state.

Patients who paid their own way -- at \$40,000 a year on average -- were more lucrative for the homes. That steep a bill wouldn't have been possible for Adela Mongiovi, a homemaker whose late husband was a shoe repairman.

Booting out the residents would have been legal if Vencor first had dropped out of Medicaid. Because it hadn't -- and because the Mongiovis put up a fuss -- Vencor paid stiff fines to the state and now faces a class-action suit.

State courts also ordered Vencor to stop the evictions. But Vencor, one of the nation's largest nursing home companies, also was moving to evict people in Indianapolis. The Mongiovis wanted to close the loophole that would have made the evictions legal if Vencor had first applied to drop out of Medicaid.

So they took their case to Sen. Bob Graham and to

Rep. Michael Bilirakis, R-Palm Harbor, and Rep. Jim Davis, D-Tampa. Their legislation requires that residents admitted with Medicaid coverage be allowed to stay in their homes, even if the facility drops out of Medicaid.

And homes that don't take Medicaid patients must warn potential clients, so that people who might run out of savings and need Medicaid can choose a different facility.

Even the nursing homes declined to oppose the popular bill. Rep. Tom Coburn, R-Okla., complained that nursing homes might flee the Medicaid program for fear of being stuck with money-losing patients. States might use the law as leverage to deprive nursing homes of adequate Medicaid reimbursement, Coburn warned.

Vencor representatives declined comment this week but has complained that Congress should do more to keep reimbursement rates up or face the probability of more nursing homes rejecting all Medicaid patients.

The bill passed unanimously in the Senate and by a 398-12 vote in the House.

On Thursday, a tired-looking Clinton welcomed the Mongiovis to the Oval Office for a signing ceremony and thanked them for their activism. Nelson Mongiovi said he was grateful to the president for taking the time, despite the Kosovo crisis, which caused Clinton to cancel other parts of his public schedule Thursday.

Standing in front of the White House after the ceremony, 59-year-old Nelson Mongiovi fiddled with the two official "William J. Clinton" pens he will give his grown sons. He had learned a lesson, he said, that if you see some injustice "don't just jump off the bridge."

His mother died last fall at age 93. Nelson and Geri Mongiovi still visit her nursing home daily to bring cheer to all her former neighbors. "This is a good memorial to her and all the elderly people . . . who cannot speak for themselves," he said.

Nelson Mongiovi, with salt-and-pepper hair and a steady voice, is now a convert to the world of activism. His next project already is in sight. The average time a nursing home resident spends with a staff member is just one hour and 40 minutes a day, he said.

[Posted 03/25/1999 10:34 PM EST]

St. Petersburg Times: Nursing home residents protected

By KATHERINE PFLEGER

, St. Petersburg Times, published March 26, 1999

WASHINGTON -- President Clinton signed a bill

Thursday

Medicaid keep

residents

insurance for the

American

citizens," Florida

of Tampa,

residents on

for eviction,

husband,

launched an

that will let nursing home residents who rely on their beds -- permanently.

The new law forbids nursing homes from evicting who pay their bills with federal-state health insurance for the poor.

"We have the completion of ... a very positive affirmation of its commitment to its older

Democrat Bob Graham, the bill's Senate sponsor, told reporters outside the White House.

Last year, the Rehabilitation and Healthcare Center owned by Vencor, illegally tried to evict 54

Medicaid to replace them with patients carrying more profitable insurance.

Geraldine Mongiovi, the mother-in-law of an Alzheimer's-afflicted resident who was scheduled

says the experience was heart-breaking. She and her

Nelson, got a court order to stop Vencor and

11-month campai

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jennifer R. Muller (CN=Jennifer R. Muller/O=OVP [UNKNOWN])

CREATION DATE/TIME:26-MAR-1999 16:39:07.00

SUBJECT: CFR

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

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

TO: Rachael E. Sullivan (CN=Rachael E. Sullivan/O=OVP@OVP [UNKNOWN])
READ:UNKNOWN

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

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

TO: charles w. burson (CN=charles w. burson/O=ovp@ovp [UNKNOWN])
READ:UNKNOWN

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

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

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

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

TO: lisa m. brown (CN=lisa m. brown/O=ovp@ovp [UNKNOWN])
READ:UNKNOWN

TO: morley a. winograd (CN=morley a. winograd/O=ovp@ovp [UNKNOWN])
READ:UNKNOWN

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

TEXT:

This is the last time, I swear!

CFR MEETING

11 : 00 AM

MONDAY

THE WARD ROOM

Thanks for your patience.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Karin Kullman (CN=Karin Kullman/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:26-MAR-1999 16:43:52.00

SUBJECT: Potential Message Change for Next Week

TO: Laura Emmett (CN=Laura Emmett/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: Devorah R. Adler (CN=Devorah R. Adler/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

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

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

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

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

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

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

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

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

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

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

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

TO: J. Eric Gould (CN=J. Eric Gould/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Teresa M. Jones (CN=Teresa M. Jones/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

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

TO: Essence P. Washington (CN=Essence P. Washington/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Sarah A. Bianchi (CN=Sarah A. Bianchi/O=OVP @ OVP [UNKNOWN])

READ:UNKNOWN

TEXT:

Just wanted to let everyone know that there is the possibility that the Consumer Financial Right to Know event may fall off the schedule for Wednesday. If that happens, there will be an open message slot that day.

thanks

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elisa Millsap (CN=Elisa Millsap/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:26-MAR-1999 17:54:49.00

SUBJECT: Re: Consumer Financial Event

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

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: Sarah Rosen (CN=Sarah Rosen/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Kris M Balderston (CN=Kris M Balderston/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Douglas B. Sosnik (CN=Douglas B. Sosnik/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

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

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

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

TO: Roger S. Ballentine (CN=Roger S. Ballentine/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: Karin Kullman (CN=Karin Kullman/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Jennifer M. Palmieri (CN=Jennifer M. Palmieri/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: Laura A. Graham (CN=Laura A. Graham/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Elisa Millsap (CN=Elisa Millsap/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TEXT:

Sen. Sarbanes is also traveling next week.

Elisa Millsap
03/26/99 04:55:07 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc: See the distribution list at the bottom of this message

Subject: Consumer Financial Event

Since Rep. LaFalce is traveling over the recess, Legislative Affairs strongly recommends postponing the Consumer Financial Event until Congress returns to Washington the week of April 12. LaFalce very much wants to be here when we have this event, and would be upset if we went ahead without him. In any case, the event would be more effective if we wait until Members are back in town and able to attend.

Message Sent

To: _____

Stacie Spector/WHO/EOP

Laura A. Graham/WHO/EOP

Loretta

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-MAR-1999 18:29:36.00

SUBJECT: DOL public statement on wage collection data

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Henry Solano the Solicitor from Labor made a public statement yesterday that Labor will push ahead on its scheduling request, currently pending at OMB, to collect detailed wage information at an earlier stage of the compliance review process. Even though we agreed internally that we would collect wage data, we did not decide how we might modify the original proposal to do it, and Solano's statements indicate that Labor will not modify its position at all. This has angered employer groups, particularly because they met with Gotbaum who assured them they could meet with Labor in order to have input into the process. The employer groups haven't met with Labor yet, and now there is less incentive to do so. Attached is an article that appeared in BNA today.

----- Forwarded by Mary L. Smith/OPD/EOP on 03/26/99

06:22 PM -----

Daniel J. Chenok

03/26/99 06:19:06 PM

Record Type: Record

To: Mary L. Smith/OPD/EOP

cc:

Subject: DOL article

----- Forwarded by Daniel J. Chenok/OMB/EOP on 03/26/99

06:19 PM -----

No. 58

Friday March 26, 1999

ISSN 1523-567X

Regulation, Law & Economics

Government Contracts

Labor Department Will Push Forward

On Early Pay Data Request, Solicitor Says

BOCA RATON, Fla.--The Office of Federal Contract Compliance Programs is pushing ahead with a controversial decision to request pay information from federal contractors at an earlier stage of the compliance review process, according to the Department of Labor's top lawyer.

DOL officials are preparing to argue to the Office of Management and Budget that the changes in data collection--which have been criticized by employer groups--are exempt from OMB review, recently installed Solicitor of Labor Henry Solano told a meeting of labor lawyers March 25.

Although the department temporarily recalled the proposal--which had been awaiting OMB approval--for additional study last month, Solano said that DOL is now preparing to reiterate its position to the federal budget office--that the changes are warranted, are within the Labor Department's jurisdiction, and "are not subject to OMB review."

The proposal, which was first sent to the federal budget office at the end of December, met with widespread criticism from employer groups--both for its substance and what one attorney characterized as the "backdoor" procedure in advancing the document. Employers argued that providing the sensitive pay data at such an early stage of the review process could have a serious negative impact on employers. "Compensation data is inherently sensitive," noted one employer advocate and providing the information at such an early stage could put employers at a competitive disadvantage and make them "vulnerable to lawsuits and public relations attacks."

'Form over Substance'

Solano briefly addressed the department's position on the proposal during a presentation to the mid-winter meeting of the ABA Labor and Employment Law Section's Equal Employment Opportunity Committee. The mid-winter meeting continues here through March 27.

The pay information has "always been available to OFCCP," he asserted and the criticism over the proposed change amounts to one of "form over substance."

OFCCP is the Labor Department office that oversees the affirmative action obligations of federal contractors and subcontractors under Executive Order 11246 and other statutes. The office conducts its oversight investigations through a multistep approach, initially subjecting a selected contractor to a "desk audit" that sets the stage for a possible on-site review and the initiation of enforcement proceedings. The office conducts about 2,800 general compliance reviews annually.

Currently, at the desk audit stage, the government requires employers to submit an affirmative action plan, support data, including a copy of the standard Employer Information Report, EEO-1, a copy of applicable collective bargaining contracts, and a report of results of affirmative action goals for the preceding year, with data on employment activity. The new proposal, however, seeks detailed compensation information for specific individuals in all positions.

"All that has happened is we're asking for the information earlier--in the investigative stage," Solano said.

The solicitor also asserted that the department is prepared to re-argue the position it took initially, when the proposal was quietly sent to OMB last year--that the changes are exempt from the Paperwork Reduction Act and do not require approval from the federal budget agency. "I'm optimistic that they will recognize the exemption," Solano said.

'More Focused Reviews'

Expanding on the substance of the proposed change after his formal presentation, Solano told BNA that the approach is intended to lead to "more focused" reviews of federal contractors and a more efficient compliance review system. The changes, he suggested, would be beneficial to employers, as well as the federal enforcement agency.

The contractors asked to supply the pay data are not randomly chosen, Solano stressed, but have already been identified by OFCCP as potentially violating the laws and regulations. "The companies who get scheduling

requests are under investigation," he explained.

With employers supplying the pay data at an earlier stage, contract compliance officers will be able to do more thorough initial investigations, hone in on specific problems, and complete their reviews more efficiently, Solano suggested.

"If the information is provided sooner, it can have a pro-active impact," he said. The change will permit OFCCP to conduct narrower reviews, he posited. Getting the pay data earlier, he said, will lead to "more effective, efficient" compliance reviews.

Solano, former U.S. Attorney for Colorado, also acknowledged the "legitimate concerns" of employers regarding release of proprietary pay information.

"We can be strong in asserting our right to that information," he said.

"But we have to be just as vigilant in protecting its non-disclosure. That's our commitment."

By Nancy Montwieler

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Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Bruce Reed to Elena Kagan. Re: The lurch I leave you in. [partial] (2 pages)	03/26/1999	P6/b(6)

COLLECTION:

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

FOLDER TITLE:

[03/26/1999]

2009-1006-F

vz121

RESTRICTION CODES

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

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

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

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 26-MAR-1999 18:54:49.00

SUBJECT: the lurch I leave you in

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

TEXT:

This is my LAST CHANCE to leave you in the lurch by going on vacation, so I thought I'd do a quick inventory of loose ends before I go. Hopefully, by the time I come back, your escape plan will be fully operational.

On the race book, I leave it to your best judgment what to tell Todd on paper and what to convey in other ways. I don't want to blow things up just for the fun of it (especially if I'm not going to be in town when the counterattack begins). We don't have to pull our punches, but you can probably find a way to say most of what I said in a less incendiary way. Todd is obviously sympathetic and seems to want our help. If you want me to look at something, I can -- otherwise feel free to sign my name to what ever you think is appropriate.

On profiling, Jose is pushing, and Eddie agrees with our approach, but Jose is running into some Edley-sown confusion at DOJ, OMB, and elsewhere. You may need to intervene with Eric and Jim again. Maybe Kosovo and the NYC indictments relieve a little of the immediate time pressure (I haven't heard if Sharpton's march is still on for next Saturday.)

[The crime bill seems pretty much on track. Jose has made progress with the CBC. He hasn't had time yet to do the gun memo.]

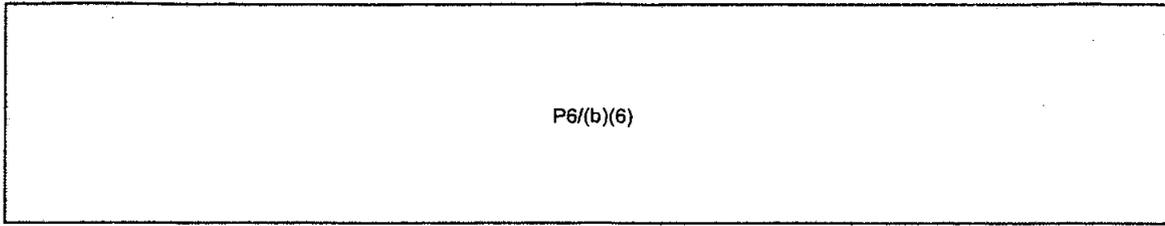
On ed-flex, I talked to Roemer's COS, Mark Brown, about our needing to send a views letter on ed-flex. He didn't seem troubled -- but I couldn't get hold of Roemer himself. You might check in again with Brown (225-3915) before we send the letter. I don't think we have any choice but to send one -- we just need Roemer to understand that we won't make it a press hit. The Senate Dems have 35 signatures on a letter, but they're going to save it until the conferees meet and only use it if they really need it. (On the views letter itself, it's in Barbara's court to determine who signs -- Lew or Riley. I think we'd prefer Lew, so it can be a sr advisers threat rather than just a secretarial one.)

On tobacco, just hope the supp fades away. Matt is working on a recess strategy of editorials and targeted members. Sound familiar? (At DOJ, Ogdan went on vacation this week. Perelli told me they were close to wrapping things up with Ciresi, but I didn't hear anything more.)

On ESEA, Tanya is supposed to schedule a couple of meetings -- Hispanic/bilingual, NEA/AFT, and a general rollout strategy mtg. I sent you Cecilia's memos on Texas. I left her two messages, and when I didn't hear back, told her to call you next week. Mike said the La Raza proposal on independent assessments might work. I'll call you early in the week to brainstorm some more on this one. In the meantime, Tanya has told DoEd not to release the social promotions guide.

P6/(b)(6)

[out]



P6(b)(6)

[001]

Thanks for bailing me out one last time!

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Irene Bueno (CN=Irene Bueno/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:26-MAR-1999 20:33:43.00

SUBJECT: NACARA/PARITY MEMO

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

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

TEXT:
I will fax over the attachment for this memo

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

TEXT:
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March 26, 1999

Automated Records Management System
Hex-Dump Conversion

MEMORANDUM TO ELENA KAGAN:

From: Irene Bueno

Subject: **LEGISLATIVE PROPOSALS TO PROVIDE PARITY FOR
SALVADORANS AND GUATEMALANS - Tuesday, March 26 at: TBA**

Introduction

On Tuesday, 3/30 you are scheduled to chair a meeting to discuss legislative options to provide parity to Salvadorans and Guatemalans equal to what the Nicaraguans & Cubans received under NACARA. On Monday, 3/29, DOJ/INS will submit legislative proposals to you in preparation for a Tuesday meeting.

Background

Under NACARA, Nicaraguans & Cubans who were in the country as of 12/1/95 were permitted to adjust their status whereas Salvadorans, Guatemalans, were only permitted to seek hardship relief from deportation if they filed an asylum application before 12/31/91, were members of the ABC class and met other requirements. (Similar relief was provided to Eastern Europeans who filed asylum applications prior to 1992).

We had been exploring legislative options that were drafted by Scott Busby (see attached). Prior to the Central America trip and before we know where DOJ would come out on extreme presumption, we decided to postpone further discussions about legislative strategy until we knew more about the presumption and recommended a strategy that the President would express general support of legislation that provides parity. However, since DOJ will likely announce a regulation that provides a rebuttal presumption, some Salvadorans & Guatemalans may not meet the hardship requirement and given the President's very strong statements in support of legislation that some in Congress interpreted that the President will submit his own parity proposal, we have resumed our consideration of options.

Legislative Options

The options that DOJ will likely propose are:

1. Provide to minimal parity Salvadorans and Guatemalans who filed asylum applications by 12/31/91.
 - a. Variations of this proposal include adding Hondurans and Haitians
2. Provide to complete parity Salvadorans and Guatemalans who filed asylum applications by 12/31/95.

Variations of this include adding Hondurans and Haitians

3. Most Generous Proposal - Rep. Gutierrez has introduced a bill that would provide complete parity for Salvadorans, Guatemalans, Hondurans, Haitians, who were in this country as of 1995. Eastern Europeans who had filed for asylum by 12/31 would be granted parity as well. This is the only legislation that have been introduced on this issue.

Legislative Outlook

Leg. Affairs has been consulting with the Hill re: what this bill would look like. There appears to be bi-partisan (Hatch, Abraham, Diaz-Balart) interest in some kind of legislative package, though many members are pushing for us to do the presumption of extreme hardship first. The Congressional Hispanic Caucus (CHC) is expecting the President to submit a proposal but I do not believe that they expect the President's proposal to go as far as Rep. Gutierrez. I expect that Rep. Smith will oppose anything that is proposed.

Recommendation

I think that this is really a political call. The good policy option is #1 (variation adding the Hondurans & Haitians). However, there may be political reasons to propose #2 (& its variations) or even #3.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Irene Bueno (CN=Irene Bueno/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:26-MAR-1999 21:11:18.00

SUBJECT: Memo for Wed. Immgration mtg

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

READ:UNKNOWN

TEXT:

Also, memo on outstanding issues.

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

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D41]MAIL46765489E.036 to ASCII,

The following is a HEX DUMP:

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March 26, 1999

Automated Records Management System
Hex-Dump Conversion

MEMORANDUM TO ELENA KAGAN:

From: Irene Bueno

Subject: **IMMIGRATION LEGISLATIVE PROPOSALS** - Wednesday, March 31 at:
TBA

Introduction

On Wednesday, 3/31 you are scheduled to chair a meeting to discuss legislative options on various immigration issues including:

1. Criminal detention/ relief from detention
2. Late Amnesty
3. 245(i)

You will also discuss whether the Administration should introduce a legislative package. While we should get input for Leg Affairs, I would recommend that we introduce a legislation package called the, "Immigration Fairness Act of 1999" and include the provisions listed below plus the NACARA/parity legislation. We could add the battered immigrant and trafficking provisions that are in our crime bill. Of course, the legislative proposals will be moved separately.

Legislative Proposals

Criminal Detention/Relief from detention

DOJ/INS is working on budgetary, administrative and legislative proposals to address the overcrowding of the INS detention centers. Reprogramming of \$31 million has been approved and \$80 million is the supplemental bill. DOJ/INS is developing plans under their administrative authority to address this problem.

On the policy side, DOJ/INS is developing a policy to address a related issue that would ease overcrowding to restore immigration judges discretion to provide relief from detention. Under current law, if an immigrant is convicted of an felony, they are subject to mandatory detention and immigration judges have no discretion. There are a number of very tragic cases of immigrants who 20 years ago was convicted of robbery but has since become responsible individuals - has a job, family etc. and is being detained. You may recall that the Supreme Court let stand lower-court rulings on whether immigrant are permitted to appeal mandatory detention orders to a judge. In follow up, a 3/13/99 *Washington Post* editorial criticized the Administration for interpreting the law in the harshest manner by making the law retroactive and suggested that the Administration should stop blocking immigrants from exercising their rights

and urged the Administration to submit and fight for legislation to restore “some balance and proportion” to its laws.

The options that have been suggested by advocacy groups are the following:

1. do not apply the law retroactively - I'm not sure if this is legislation or a change to our regulations.
2. restore immigration judges discretion to provide relief from detention.
3. propose changes to the crimes that are considered under mandatory detention.

I have not discussed these options with DOJ/INS since they were working on their proposals but if they do not raise this options, I recommend that you ask them to consider these proposals. I think that we should consider the options seriously.

Late Amnesty/Section 377

DOJ has been at the question of whether the group that is considered “front-desked” can be expanded beyond the current group defined by the DOJ. DOJ is responding to a letter from the Congressional Hispanic Caucus (CHC) addressing this issue. After DOJ checks one more thing (per John Morton), they expect to send a letter to them indicating that they cannot front desk this group and therefore a legislative fix would be necessary.

The legislative option is whether to propose or support a legislative fix to the registry date (to, perhaps, January 1984) that would relieve all bona fide members of the late amnesty class (all of whom had to be in the U.S. prior to January 1, 1982). I think we should support this fix.

Section 245(i)

Under 245(i) allowed undocumented immigrants in the US to adjust their status under section 245 once they, because of family relationships or job skills, became eligible for LPR, provided they pay a surcharge. 245 (i) was scheduled to expire on 9/30/97, however in a compromise, the Commerce Appropriations bill of 1998 terminated 245(i) but grandfathered certain immigrants.

The legislative proposal would be to reinstate 245(i).

The Administration proposed to reinstate in the Omnibus bill but it failed I believe due to Rep. Smith's opposition but I think there is some bipartisan support for the reinstatement of 245(i). For example, Hatch includes reinstatement for battered immigrants in his VAWA and Crime bill. I think we should support this proposal.

Immigration Issues -- as of March 26, 1999

HOT ISSUES

1. Public Charge

Status: Pending AG approval of the NPRM and field guidance. DOJ/INS expected to send NPRM and guidance to OMB by week of April 5th. Major policy issues have been resolved but the NPRM and field guidance have not yet been reviewed. There is great urgency to published this NPRM and we should consider an announcement in CA.

Contacts: Cynthia Rice (DPC)
Dan Marcus (WH Counsel)
James Castello (DOJ) -- 514-3392 or John Morton (DOJ) -- 514-9343
Bob Bach (INS) -- 514-3242 or 616-7767
Barbara Strack (INS) -- 514-3242 or 514-8860

2. NACARA Regulations

Status: OLD is finding a rebuttal presumption of extreme hardship for Salvadorans and Guatemalans covered by the legislation (filed as of 12/31/91, aka ABC class). DOJ is drafting the final regulation on the presumption and other issues. The timing is unclear but there is great urgency to resolve this ASAP.

Contacts: Scott Busby (NSC)
James Castello (DOJ) -- 514-3392
John Morton (DOJ) -- 514-9343

3. Parity for Salvadorans and Guatemalans & others?

Background: We had been exploring legislation that would provide parity for Salvadorans and Guatemalans equal to what the Nicaraguans & Cubans got in NACARA. Under NACARA, Nicaraguans & Cubans who were in the country as of 12/1/95 were able to adjust their status whereas Salvadorans, Guatemalans, were only permitted to seek hardship relief from deportation if they filed an asylum application before 12/31/91, were members of the ABC class and met other requirements. (Similar relief was provided to Eastern Europeans who filed asylum applications prior to 1992).

Prior to the Central America (C.A.) trip and before we know where DOJ would come out on extreme presumption, we decided to postpone further discussions about legislative strategy until we knew more about the presumption and recommended a strategy that the President would express general support of legislation that provides parity.

Now we understand that DOJ is moving toward a rebuttal presumption. Since under a rebuttal presumption some Salvadorans & Guatemalans may not meet the hardship requirement and given the President's very strong statements in C.A. in support of legislation and that some in Congress interpreted the Presidents' statements that he will submit his own parity proposal, we have resumed our consideration of options we had considered last month that were drafted by Scott Busby, NSC (see attached).

DOJ/INS is reviewing these options and on Monday, 3/29, will submit these proposals to DPC in preparation for a Tuesday meeting. NSC (Eric Schwartz) has also requested this same information. I told INS and Justice to send DPC and NSC the same information on the legislative proposals. Scott Busby, NSC has been on leave but I will send him an e-mail to give him an update on this process.

Leg. Affairs has been consulting with the Hill re: what this bill would look like. There appears to be bi-partisan interest in some kind of legislative package, though many members are pushing for us to do the presumption of extreme hardship first. The Congressional Hispanic Caucus (CHC) is expecting the President to submit a proposal. Rep. Gutierrez has introduced a bill that would provides complete parity for Salvadorans, Guatemalans, Hondurans, Haitians, who were in this country as of 1995. Eastern Europeans who had filed for asylum by 12/31 would be granted parity as well.

Contacts: Scott Busby (NSC)
Caroline Fredrickson (WH Leg.)
Patty First (DOJ -- Leg. Affairs) -- 514-4810
Allen Erenbaum (INS, Leg Affairs) -- 514-8102

PENDING ISSUES

4. Battered Immigrants

Status: *The VAWA Act of 1994 and other immigration laws provided certain protections and benefits to battered immigrants. However, as result of laws passed subsequently, these protections and benefits were reduced or eliminated for many immigrants including battered immigrants. We have worked out with DOJ that we will include some battered provisions in the President's Crime bill.*

Contacts: Mary Smith (DPC)
Caroline Fredrickson (WH Leg.)
Patty First (DOJ -- Leg. Affairs) -- 514-4810

5. Criminal Detention/Relief from detention

Status: *DOJ/INS is working on budgetary, administrative and legislative proposals to address the overcrowding of the INS detention centers. Reprogramming of \$31 million has been approved and \$80 million is the supplemental bill. DOJ/INS is developing plans under their administrative authority to address this problem.*

On the policy side, DOJ/INS is developing a policy to address a related issue that would ease overcrowding to restore immigration judges discretion to determine whether an immigrant should be put in detention. There are a number of very tragic cases of immigrants who 20 years ago was convicted of robbery but has since become responsible individuals - has a job, family etc. and is being detained and deported.

6. Late Amnesty/Section 377

Status: *OLC is looking at the question of whether the group that is considered "front-desked" can be expanded beyond the current group defined by the DOJ. OLC is responding to a letter from the Congressional Hispanic Caucus (CHC) addressing this issue. After they check one more thing (per John Morton), they expect to send a letter to them indicating that they cannot front desk this group and therefore a legislative fix would be necessary. (CHC ask that we send this letter so they can move on legislative to fix the registry date to perhaps January 1984, We are also pursuing whether to propose or support a legislative fix to the registry date (to, perhaps, January 1984) that would relieve all bona fide members of the late amnesty class (all of whom had to be in the U.S. prior to January 1, 1982).*

Contacts: Dan Marcus (WH Counsel)
Janet Murguia/Caroline Fredrickson (WH Leg.)
John Morton (DOJ) -- 514-9343

7. HIV+ Refugees

Status: We need to determine where the INS is in developing their comprehensive regulation. INS is reviewing it's current standard that prevented many HIV+refugees from entering the country and may propose changes that would make it easier for HIV+ refugees to enter the country. Scott is leading an inter-agency group on this issue

Contacts: Scott Busby (NSC)
Todd Summers (WH Aids Policy Office)
Barbara Strack 514-8860
Lavinia Limon 401-9275

8. Visas for exploited workers/victims of trafficking

Status: DOJ has drafted legislation that would create a separate temporary visa (T-visa) category for aliens who cooperate in law enforcement actions and are victims of exploitation (including trafficking and smuggling). Currently, this legislation is part of the Administration's crime bill. In addition, I am beginning a process to consider develop more comprehensive policies/legislation on the issue this issue. This issue has also been identified as a priority by the White House Civil Rights Coordinating Council and I am leading the subgroup on of Council.

Contacts: Scott Busby (NSC)
Nicole Rabner
Steve Warnath - President's Interagency Council on Women - 647-6347
Patty First (DOJ Leg.) -- 514-4810
Wendy Patton (DOJ -- Office of Policy Development) -- 514-3274
Juliette Kayyem (DOJ/Civil Rights) -- 305-0587

9. ESL/Civics Initiative - "Common Ground Partnership"

Status: This \$70 million initiative is in the FY 2000 budget. This is part of NEC's Adult Literacy initiative. During a recent House Appropriations hearing on Adult Education, Rep. Porter and other members of the

Subcommittee expressed interest in this programming and including it has a line item in the appropriations (this initiative does not require legislation). We are working with Education to develop paper and a legislative strategy to secure funding for this initiative.

Contacts: Andrea Kane (DPC)
Trish McNeil (Dept. of Education) 205-5451 and various member of her staff including:
- Sarah Vosberg
- Sarah Newcomb
- Ron Pugsley, etc.

10. **Naturalization**

Status: Steve Mertens at OMB is monitoring INS's progress at meeting their productivity goals (set last August). INS is preparing a briefing for Michael Deich that will explain their progress to date.

In addition, when I return from leave, I would like to begin a policy process to develop policies and initiatives to improve the naturalization process.

Contacts: Steve Mertens (OMB) -- 495-4935
James Castello (DOJ) -- 514-3392
Geri Ratliff (INS/Naturalization) - 353-0443

11. **INS Reform**

Status: We introduced reform legislation during the last session of Congress. This is being monitored by Caroline Fredrickson and Steve Mertens.

Contacts: Steve Mertens (OMB)
Caroline Fredrickson (WH Leg.)
Allen Erenbaum/Roxie Lopez (INS) -- 514-8102
Patty First (DOJ Leg.) -- 514-4810

12. **H2A**

Status: The Department of Labor had been approached by Senator Coverdell to begin again a bi-partisan process on H2A reform. We have been approached by grower lobbyists re: heading a process to do the same (though not necessarily a bi-partisan process). Commissioner Meissner has met

with Coverdell. Legislative Affairs is checking with Sen. Bob Graham to determine if we need to convene the bipartisan process on H2A (he had mentioned something to Maria).

Contacts: Debra Bond (OMB)
John Fraser (Dept. of Labor) -- 693-0051
Earl Gold (Dept. of Labor) -- 219-6141
Barbara Strack (INS) -- 514-3242 or 514-8860

13. **H1B**

Status: The Department of Labor published proposed regulation in follow up to legislation passed last year that raises the cap on the number of H1B visas and makes other changes. Senators Bob Graham and Abraham and companies have sent letters to DOL opposing some of the provisions of the regulation - overly burdensome, not intended under the legislation, etc. OMB is reviewing those comments and will push DOL on some of them. Also, the cap is being reached and there is some concerns. Senator Abraham staff believes there may be a way to raise the cap without passing legislation but by changing the way we count the numbers of visas. OMB staff is exploring this proposal.

Contacts: Debra Bond (OMB)
John Fraser (Dept. of Labor) -- 693-0051
Earl Gohl (Dept. of Labor) -- 219-6141
Barbara Strack (INS) -- 514-3242 or 514-8860

Section 245(i)

Under 245(i) allowed undocumented immigrants in the US to adjust their status under section 245 once they, because of family relationships or job skills, became eligible for LPR, provided they pay a surcharge. 245 (i) was scheduled to expire on 9/30/97, however in a compromise, the Commerce Appropriations bill of 1998 terminated 245(i) but grandfathered certain immigrants. The legislative proposal would be to reinstate 245(i). The Administration proposed to reinstate in the Omnibus bill but it failed I believe due to Rep. Smith's opposition but I think there is some bipartisan support for the reinstatement of 245(i). For example, Hatch includes reinstatement for battered immigrants in his VAWA and Crime bill.

NEW ISSUES

14. **Haitian Refugee Immigration Fairness Act of 1998 (HRIFA)**

Status: *This legislation that was passed as part of the FY1999 Omnibus bill enables Haitians who filed asylum claims or who were paroled into the US before 12/31/95 to adjust to LPR. Haitians were left*

out of NACARA. The regulations to implement this law are pending approval by the INS Commissioner.

Contacts: James Castello (DOJ) -- 514-3392
John Morton (DOJ) -- 514-9343

15. Treatment New Arrivals from Central Americans

Status: On March 26, 1999, NCLR sent a letter to the AG expressing profound concern with the Administration's policy response to new arrivals from Central America in 3 areas: (1) INS intention to house many Central Americans arrivals in local jails and criminal facilities some that are far away from the border; (2) government does not plan to provide any assistance to those arrivals that choose to depart the US voluntarily and is seeking to maximize detentions times; (3) U.S. Attorney's office is criminally prosecuting large numbers of Central American arrivals for unlawful entry. These points were raised during my meeting with Central Americans.

The letter is under review but there may be some administrative or legislative proposals that are developed to respond to the concerns.

Contacts: James Castello (DOJ) -- 514-3392
John Morton (DOJ) -- 514-9343

16. Las Vegas Situation

Status: *Immigrants were fraudently received work authorization and subject to deportation. This group is primarily in the Las Vegas area and have raised this issue with the VP and asked for TPS. However, according to INS there is no remedy for this group. They are not eligible for TPS since TPS is granted on the basis of a situation in the home country which is not relevant in this case.*

Contact: Moe Vela (VP)
Bob Bach (INS) -- 514-3242 or 616-7767
Barbara Strack (INS) -- 514-3242 or 514-8860