

NLWJC - KAGAN

EMAILS RECEIVED

ARMS - BOX 051 - FOLDER -005

[05/19/1999]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:19-MAY-1999 18:50:31.00

SUBJECT: URGENT DEADLINE -- Treas/Postal draft FY00 Approps lttr -- FOR YOUR SIGN-O

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

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

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

TO: George T. Frampton (CN=George T. Frampton/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN

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

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

TO: Wesley P. Warren (CN=Wesley P. Warren/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN

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

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

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

TO: Mark F. Lindsay (CN=Mark F. Lindsay/OU=OA/O=EOP@EOP [OA])
READ:UNKNOWN

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

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

TO: Miles M. Lackey (CN=Miles M. Lackey/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN

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

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

TO: Jeffrey M. Smith (CN=Jeffrey M. Smith/OU=OSTP/O=EOP@EOP [OSTP])
READ:UNKNOWN

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

READ:UNKNOWN

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

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

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

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

CC: William G. Dauster (CN=William G. Dauster/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

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

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

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

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

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

CC: Judy Jablow (CN=Judy Jablow/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN

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

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

CC: Melissa G. Green (CN=Melissa G. Green/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

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

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

CC: Carolyn T. Wu (CN=Carolyn T. Wu/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

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

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

CC: Mark J. Tavlarides (CN=Mark J. Tavlarides/OU=NSC/O=EOP@EOP [NSC])

READ:UNKNOWN

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

CC: Robert L. Nabors (CN=Robert L. Nabors/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

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

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

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

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

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

TEXT:

House Full Committee Mark-up on the Treasury, Postal Serivices, General
Government FY00 Approps bill is scheduled for Thurs., May 20 at 9:30AM.
Attached for your sign-off is a draft letter we plan to send before
tomorrow's 9:30AM mark-up. Please e-mail your sign-off and/or comments to
me as soon as possible. Thank you.

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D32]ARMS23934225M.136 to ASCII,
The following is a HEX DUMP:

FF57504354100000010A02010000000205000000134D00000002000060E08C862622EB3E9A4D00
496D24534FEA26DCE58D0319DE8A1B3A4F35C5ED74CBB759E8989939D922F310EBD7503F60F2C9
0386F61144D16BCC9181062390C81C4BC97EDE413389C535396609C04756504CE8B85DC630482C
E7E52631679C37F15718999BAEBD011F195BE1CEDD171D8190F759BAC33EB1003E136A92817B9D6
8D7D9765ABBCAD09D943E9929A6536922DEEFF7253EAA011436665DDCCC410277BAFDA219815CE
B899ADF705B282DFDAF12D718BEEE41F884DFC9908A170D0D373F4A2AB8965FEAF6EBCC068A0B7
E26DDDE1BD46FD5B41489CDF9506D73D9D18CA8E5D9590A3D95D91EB865D46E1E87E72229C281C
3397094501FD6A143FF65AFB54EC9DB0E7323B992EB69754A8D3D8AD711454BAAA2D56C47700B5

The Honorable C.W. Bill Young
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

The purpose of this letter is to provide the Administration's views on the Treasury, Postal Service, and General Government Appropriations Bill, FY 2000, as reported by the House Subcommittee. As the Committee develops its version of the bill, your consideration of the Administration's views would be appreciated.

The Administration appreciates the Subcommittee's efforts to accommodate many of the President's priorities within the 302(b) allocation. Within the 302(b) allocation, the Subcommittee has made difficult choices to produce a balanced bill. The President's FY 2000 Budget proposes levels of discretionary spending that meet important national needs while conforming to the Bipartisan Budget Agreement by making savings proposals in mandatory and other programs available to help finance this spending. The Administration urges the Congress to consider such proposals as the FY 2000 appropriations process moves forward. In particular, with respect to this bill, the Administration urges the Committee to consider our proposals for Customs user fees.

The following discussion highlights our specific concerns with the Subcommittee bill. We look forward to working with you to resolve these issues as the bill moves forward.

Bureau of Alcohol, Tobacco and Firearms

The Administration is concerned that the House Subcommittee has not included the requested \$15 million for the Bureau of Alcohol, Tobacco and Firearm's (ATF's) headquarters site acquisition. The current location of ATF's headquarters does not meet the minimum security guidelines as described in the Department of Justice's 1995 Vulnerability Assessment and is less secure than many Federal buildings that do not house a law enforcement agency. To ensure adequate security for ATF employees, we urge the Committee to fund the President's request for ATF's site acquisition.

Federal Employees Health Benefits Program

The Administration strongly opposes sections 509 and 510 of the bill. These provisions

would restrict Federal Employees Health Benefits Program (FEHBP) coverage for abortions except in situations where the life of the mother is endangered or the pregnancy is the result of rape or incest. While the President believes that abortion should be safe, legal, and rare, the Administration does not believe that Federal employees and their families should be precluded from choosing to purchase health insurance that includes broader coverage. The Administration believes that the decision to cover abortion should be left to each health plan participating in the FEHBP. Federal employees who wished to purchase health coverage that does not include abortion services would have that choice. The provision in the Subcommittee bill does not allow Federal employees and their families to make that choice.

The Administration supports the provision of the Subcommittee bill (section 635) that continues current law requiring coverage of prescription contraceptives by health plans participating in the FEHBP and would oppose an amendment to strike it. We support improvements in the basic health care coverage for women and the goal of the provision: to reduce unwanted pregnancies and the need for abortion.

The Administration opposes inclusion of section 514 in the bill, which would extend the one-year moratorium enacted in last year's bill on the application of Cost Accounting Standards (CAS) to experience rated contracts awarded under the FEHBP. The provision is unnecessary in light of the waiver on application of CAS to the FEHBP awarded last year by the Cost Accounting Standards Board under its existing authority. The affected parties have been working to address the range of issues presented. Any new statutory waiver would cut short this work prematurely, before long-term solutions are achieved, costing the Federal Government millions of dollars annually, based on CBO estimates.

WHLA and OMB LA suggest the following bracketed language not be included (amendments on this issue are not expected):

[Pay Raise for Federal Judges and the Executive Schedule

The Administration applauds the Subcommittee for not including language denying a pay raise in 2000 to the Executive Schedule and Federal judges. Denying an annual pay raise to these senior Government officials in every year but one since 1993 has severely eroded their purchasing power and created pay compression throughout the senior ranks of Government. This cannot continue if the Government is to attract and retain the dedicated and talented people it needs for these positions. This is especially true for Federal judges, who make a lifetime commitment to public service and who, therefore, in return should reasonably expect that their compensation will not erode significantly both in real terms and in relation to other workers in the public and private sectors.]

Salary of the President

The Administration commends the action of the Subcommittee to raise the President's salary, effective with the beginning of the next Presidential term on January 20, 2001. The President's salary has not been increased for 30 years and, as a result, has declined significantly relative to inflation and wage growth in the economy. An increase would restore an appropriate relationship between the President's salary and the salaries of other senior Government officials and, in addition, would bring the salary of the President more in line with the duties and responsibilities of the Office.

Federal Buildings Fund

The Administration is concerned that the Subcommittee has not provided the requested \$94 million for new construction projects in the Federal Buildings Fund, including the design and construction of the Food and Drug Administration's (FDA's) headquarters (phase I), the design and/or construction of five border stations, and the demolition of the U.S. Mission to the United Nations. Postponement of these projects would result in inefficient space utilization by housing the FDA in 48 buildings at 20 locations and the U.S. Mission in a building that is too small to meet its needs. This would also adversely affect public safety at these five border stations because the transportation infrastructure is inadequate to accommodate increased traffic volumes. We would encourage and support efforts to include funding for these projects.

**Automated Records Management System
Hex-Dump Conversion**

Additional Administration concerns are contained in the enclosure. We look forward to working with the Committee to address our mutual concerns.

Sincerely,

Jacob J. Lew
Director

Enclosure

Identical Letter Sent

to The Honorable C.W. Bill Young,
The Honorable David R. Obey, The Honorable Jim Kolbe,
and The Honorable Steny H. Hoyer

Enclosure

(House Committee)

ADDITIONAL CONCERNS
DEPARTMENT OF THE TREASURY, THE EXECUTIVE OFFICE OF THE
PRESIDENT, THE POSTAL SERVICE, AND CERTAIN INDEPENDENT AGENCIES
APPROPRIATIONS BILL
(AS MARKED UP BY THE HOUSE SUBCOMMITTEE)

General Services Administration

Policy and Operations. The Administration is concerned that the Subcommittee bill does not include \$10 million for "Accessibility for People with Disabilities," which implements section 508 of the Workforce Investment Partnership Act (P.L. 105-220) passed by Congress on August 7, 1998. This reduction would eliminate \$8 million to fund a coordinated, inter-agency effort and \$2 million for an underwriters laboratory to ensure interoperability and standardization of information technology hardware and software for use by people with disabilities. This initiative would promote and support employment by people with disabilities as envisioned by the Americans with Disabilities Act and ensure that participation by Americans with disabilities will become integral to the digital transformation of American society.

National Archives and Records Administration

Records Declassification. The Administration objects to the proposed \$5 million reduction to the request for the National Archives and Records Administration (NARA) to accelerate the declassification of Federal records. Pursuant to Executive Order 12958, "Classified National Security Information," agencies must review all records 25 years old or older for declassification by April 17, 2000. As the agency responsible for oversight of the Government's entire classification and declassification program and one of the four agencies most heavily involved in records declassification (others include CIA, Defense, and Energy), NARA would use the additional funding to support 50 additional declassification experts as well as to strengthen the Information Security Oversight Office to help it meet this deadline.

Office of National Drug Control Policy

Funding Priorities. The Administration is concerned about the Subcommittee's funding of the Office of National Drug Control Policy (ONDCP). While aggregate funding exceeds the Administration's request, there are several components that are under-funded.

For example, the Subcommittee has cut funding by \$250,000 to reduce the Office of Legislative Affairs by four FTE. ONDCP's Office of Legislative Affairs provides critical support to the ONDCP Director in working with the Congress in a bipartisan fashion on all drug control issues. This reduction would cripple ONDCP's ability to continue its efforts in this regard. Furthermore, the Subcommittee has decreased funding for policy research; has cutback the necessary funding for maintaining clearinghouse services; and, has eliminated funding for performance measures data collection. The Administration requests that these cuts be restored from within the total funding provided to ONDCP by the Subcommittee.

Morris K. Udall Scholarship Fund

General Funding. The Administration urges the Committee to restore funding for the Morris K. Udall Scholarship Fund to the requested level. The Scholarship Fund took a one-time reduction last year in order to finance start-up operations for the Udall Foundation's new Institute for Environmental Conflict Resolution. This reduction should be restored in order to continue capitalization of the Scholarship Fund and increase the number of scholarships awarded to promote studies in the natural environment and in Native American health and tribal policy.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: "Christopher Edley, Jr." <edley@law.harvard.edu> ("Christopher Edley, Jr."

CREATION DATE/TIME:19-MAY-1999 09:19:23.00

SUBJECT: Native American Chapter challenges

TO: Elizabeth K. Belenis (CN=Elizabeth K. Belenis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

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

TO: James T. Edmonds (CN=James T. Edmonds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

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

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

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

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

TO: Todd Stern (CN=Todd Stern/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

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

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

TO: aedmonds1@home.com (aedmonds1@home.com [UNKNOWN])
READ:UNKNOWN

TEXT:

Attached memo is an effort, triggered by comments, to beef up the Native Americans chapter of the race book. Developed in consultation with Mary Smith and Lynn Cutler.

Basic strategy is to get feedback from POTUS before making wholesale changes in the draft.

- NA-IDEAS2.WPD===== ATTACHMENT 1 =====
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D71]ARMS21353215W.136 to ASCII,
The following is a HEX DUMP:

FF5750430A0C0000010A02010000000205000000A42600000002000069BB6904F7CF2BEE126FD1

83E9530C23FB99BAEAA0D34670B3CF9DEE3AADDE758EC93FA8 9CD6465CB2C36B6AB6F08BCE1B80
412E68E9754FD7853AE76D0CB151C41C96CBC0C22277F4E417 8A51C355A2337B47010CF499B86A
727D7FC8CB4016CC21759A55D2216F5CDA4D96459E07DA3DC6 203C0FF9B79766572FB3FB3CDDF2
8F0CA67FD1060C59FE5B7B8DD4452F7702AAA2E1ED443E573DE22F96529BD92BD315A0948ACEC2

May 19, 1999

To: Maria Echaveste
Bruce Reed
Lynn Cutler

From: Christopher Edley, Jr.

Cc: Todd Stern, Elena Kagan, Ben Johnson, Mary Smith

Re: Native American Chapter of the Race Book

As we ride down the home stretch, the question is whether we've done what we should in the Native American chapter, which was drafted principally by Mary Smith of DPC. Mary consulted widely and vetted things quite well. (Terry Edmonds, of course, edited and added some things.) I'm concerned, however, that the vetting – and especially the review by OMB – have resulted in something that is simply too tame.

Don't get me wrong: I'm quite proud of the draft chapter as it stands. The reader will learn a lot, and the proposed policy steps are creditable. In particular, they try to avoid the "over-promising" syndrome so toxic in Indian Country. But as welcome as the analysis and ideas will be, the proposals don't exactly rock.

So, I was thinking about giving POTUS something like the attached memorandum along with the chapter. Please let me know your thoughts, at edley@law.harvard.edu.

Thanks.

DRAFT

To: POTUS

From: Edley

Re: Native American Opportunity Section of Your Race Book

Are the policy ideas in this section bold enough? Recall that the draft chapter is organized around Education, Economic Development and Community Security.

The central rationale for moving along the lines below would be that, while budget constraints and lack of Hill support make any near term victory unimaginable, if you don't put some bold ideas on the table there will never be the kind of conversation which might, over time, change the political and fiscal constraints that now keep us from making giant strides.

If you are interested in any or all of these, we will move them forward with the policy councils. As with most other book ideas, however, if we proceed with these ideas they should be presented in a long-term framework, so as not to raise expectations of more than a down payment in the FY 2001 budget.

1. Sovereignty: Build on your government-to-government framework by directing agencies to:

- (a) systematically inventory all the major grant-in-aid programs serving state or local governments and assess whether Tribal governments are included as direct recipients of federal funding (as need and capacity warrant);
- (b) submit recommendations to the White House (OMB) concerning places where regulations or statutes should be modified to remove impediments to creating the appropriate government-to-government relationship.

2. Education: Build on the One America vision of closing racial disparities by *either*:

- (a) state a goal of improving the quality of BIA schools to at least equal the quality of DOD schools, as measured by resource equity and student achievement; *or*
- (b) state a goal of improving the quality of BIA schools to at least equal that of state/local public schools in the surrounding region.

Please note that the costs of eliminating the capital maintenance backlog of BIA schools is an estimated \$1 billion. And that is only one item of the equity agenda.

3. Child Health Disparities: Although Indian country health needs are extraordinarily compelling, these were a late, post-announcement addition to your disparities initiative last year, and the IHS remains deeply troubled. You could set a national goal of eliminating the disparities in these five key areas of Native American health care:

1. Reduce the rate of diabetes among the Native American population to the national average (currently three times the national rate);
2. Reducing by 50% the Sudden Infant Death Syndrome (currently twice the national average);
3. Detection, prevention, and screening for breast and cervical cancer in American Indian women in order to improve survival rates;
4. Reduce the rate of teen suicide in Indian country; and
5. Reduce smoking and alcohol abuse.

5. Economic Development: You could also work to improve economic development in Indian Country by working with the Federal Communication Commission (FCC) to have the FCC help ensure that geographically isolated tribes receive access to telecommunications advances to the same extent that other areas of the country do. Chairman Kennard is very interested in this.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:19-MAY-1999 20:45:13.00

SUBJECT: Outstanding Issue on EEOC Federal Sector Rule

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

As you know, the EEOC Federal Sector rule, which would make the EEO process for federal employees fairer and more efficient, is in its final stages. Sally Katzen held a meeting on Tuesday with the agencies where she was able to resolve most of the outstanding issues. Treasury did raise its objection to the rule's proposal which would permit attorney's fees at the pre-complaint stage rather than only after a formal complaint is filed with the agency (which is the current rule). Attached is a memo which sets forth Treasury's objections and EEOC's arguments in favor of permitting attorney's fees at the pre-complaint stage. Sally wanted to have a meeting with Josh Gotbaum, Chuck Ruff, Maria Echaveste, and you in order to get your views on whether attorney's fees should be available at the pre-complaint phase. Sally has set up a meeting on Friday, May 21 at 2 p.m. in Chuck's office in order to discuss this issue.

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

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D47]ARMS27937225L.136 to ASCII,
The following is a HEX DUMP:

FF5750438A0B0000010A0201000000020500000069340000000200008D854087D5757F1991CD09
9FC8DAA079BBBB0F3BEB91C4EC70BA4D8581C1C0A7F9AE22A36CE0488C76AA81C17FB03FB2E0A0
000B8034AE4F5C2901F86A764E3A0420D623EF87DF594D0EE99F000E7E349CC74BA3F99D43085A
ABDCC6FE9E96B01175F98E89E72954C7058B39ACFBACDF4883BE1384D20C1B82CD84B764CBD2D8
9D5D7CBC2D246D2BE5BFA4725F5A559B65BDB6C77B5B39A18F56FBB892C5D8A6DCCC67A4175340
1D676281D287DD3DC40691B19F16ADEE4A050F41A7887A8A1ED765864138FD40BD5F651BEE2F4D
6F75BC8C67FAA744F05646F5EC90EA8D8F3C51B35565A0BD521EF40511A626D81C131462A10D43
06179B5B986C95F1C134A25EE7CD92BF4ABBA11626064EA91612E47E2ECEEB8D89DDD6EF7A3B46

PRE-COMPLAINT ATTORNEYS FEES FOR EEOC FEDERAL SECTOR RULE

As you know, the EEOC Federal Sector Rule, which will make the EEO process for federal sector employees fairer and more efficient, is almost completed. On Tuesday, May 18, Sally Katzen held a meeting with the relevant agencies and was able to resolve almost all of the outstanding issues. However, Treasury has raised an objection to permitting attorney's fees at the pre-complaint process. Under the current rule, attorney's fees are not available for work done at the pre-complaint stage of complaint processing, but are available once an employee files a formal complaint with the agency.

Sally has scheduled a meeting for Friday, May 21 at 2 p.m. in Chuck Ruff's office to get your views on whether attorney's fees should be available at the pre-complaint stage.

Below are Treasury's arguments against attorney's fees at the pre-complaint process and EEOC's arguments in favor of permitting fees.

Treasury's Arguments Against Pre-Complaint Fees

- The allowance of pre-complaint attorneys fees will have the effect of increasing the backlog of cases and slowing down the process. Treasury makes three points to support this claim:
 - Early resolution of disputes is more likely to occur in the absence of an attorney. This is because the pre-complaint process, which usually includes ADR, is a non-adversarial process. The introduction of an attorney turns a non-adversarial process into an adversarial one. Treasury has no data to support this argument, however.
 - Potential disputes over the amount of attorney's fees in the pre-complaint process will be yet another obstacle to the early resolution of complaints.
 - The NPR initiative, which is just getting underway, will be looking for ways to decrease the backlog. They will seek to identify the causes of the backlog and try to craft solutions. According to Treasury, given that NPR has not started its work with agencies, it would be inappropriate to take regulatory action.

EEOC's Arguments in Favor of Permitting Fees at the Pre-Complaint Stage

- The pre-complaint process, while informal, is mandatory. It is unfair to disallow fees for work done during a part of the EEO process in which a complainant must participate.
- In response to agency arguments that introducing attorneys into the process at an early stage will impede settlements of cases, EEOC believes that:

Access to counsel for federal employees is important because it will help them better understand their rights and more effectively assess and structure settlement options. Attorney representation is not something to be avoided.

There is no data suggesting that early attorney representation thwarts settlements. EEOC's experience suggests that attorney involvement can make settlements more likely since complaining parties will have both a more accurate view of the merits of their claims and more confidence that the settlement process will serve their interests.

EEOC has an extensive mediation program as part of its private-sector charge processing program. While there is not the same distinction between pre- and post-complaint stages in the private sector, mediation typically takes place early in the process. Attorneys are welcome on behalf of both charging parties and respondents. EEOC's experience is that representation can be a very positive factor in achieving settlements in these cases.

There are no similar limitations on the availability of fees in other proceedings involving federal employees. As EEOC pointed out in the preamble to the NPRM, OPM's Back Pay Act regulations provide for the payment of fees in cases resolved during the informal stage of the grievance process. In addition, MSPB's regulations do not contain restrictions on attorney's fees.

There is no data on the extent of attorney representation at the counseling phase. EEOC believes that representation will be relatively rare since it is not economically attractive for attorneys to take on these cases on a contingent fee basis because, except in a highly unusual case, not nearly enough money is involved. If complaining parties hire attorneys and pay them on an hourly basis, it is likely that fees will be extremely low since most people cannot afford – and do not choose to pay – fees in this fashion.

In response to arguments that substantial sums will be involved in satisfying the voracious demands of attorneys, we would note that attorneys fees awarded government-wide in the administrative EEO process are low. In FY 97, the most recent year for which EEOC has figures, only \$ 4.838 million was paid in fees and costs in connection with all EEO claims at the agency, AJ, and EEOC appellate stages. Clearly, most of these fees are for work done at the hearing and appellate levels. Even with an aggressive attorney, it is hard to see how a substantial amount of fees could be incurred at the pre-complaint stage unless the case is unusually complicated. In such a case, EEOC argues that representation would be particularly appropriate. Furthermore, if complainants are demanding exorbitant fees to settle at the pre-complaint stage, agencies are free to simply say no.

Public comments in support of the proposal for pre-complaint fees included submissions by: the Washington Lawyers' Committee for Civil Rights and Urban Affairs; Federally Employed Women; National Employment Lawyers Association; Metropolitan Washington Employment Lawyers Association; and several private law firms.

**Automated Records Management System
Hex-Dump Conversion**

These comments focused on the arguments that fairness requires the payment of fees since the pre-complaint process is mandatory as well as that early attorney intervention can often expedite the early resolution of charges. As a sole practitioner from Texas pointed out, "My experience is that attorney representation in the early stages of the process leads to more timely settlements."

A law firm with an extensive practice on behalf of federal employees further explained: "In addition to the legal imperative to pay such fees, there are sound policy reasons to make the change proposed by the Commission. The Commission should encourage, not discourage, Federal employees to seek the advice of counsel before deciding whether or not to file a complaint of discrimination, in preparing such a complaint, and in the ADR process. Attorneys often provide a 'reality check' for employees and often enhance the early and fair resolution of complaints."

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Michael Waldman (CN=Michael Waldman/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:19-MAY-1999 18:19:28.00

SUBJECT: fyi - you probably saw this (or did it, for all I know)

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

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

TO: Jeffrey A. Shesol (CN=Jeffrey A. Shesol/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:

CBS Pulls Show on Violence Concerns

By David Bauder
AP Television Writer
Wednesday, May 19, 1999; 2:32 p.m. EDT

NEW YORK (AP) -- CBS left a drama about mobsters off its
fall programming in
prime-time schedule because of concerns about violent
the wake of the Littleton school massacre.

on the streets of
"It's not the right time to have people being whacked
New York," CBS President Leslie Moonves said Wednesday.

Moonves said he screened the pilot for a new drama,
"Falcone," the
week after 13 people at Columbine High School in
Littleton, Colo. were
killed by two teen-aged boys who later killed
themselves. The massacre
happened on April 20.

"It did affect us. It really did," he said.

The hour-long television drama is about a mob war in New
York City.

The lead character, Joe Falcone, must choose between two
rivals trying to
take control of organized crime. Moonves said it was
similar to the movie,
"Donnie Brasco."

While it's not fair to blame the media for the rampage,
Moonves said that
"anyone who thinks the media has nothing to do with
this is an idiot."

``We felt a responsibility not to put it on now,'' he said. ``It just didn't feel right.''

CBS announced its prime-time schedule on Wednesday and included six new series. ``Falcone'' is still being considered as a midseason replacement, Moonves said.

The WB network is also reportedly considering what to do with its season-ending episode of ``Buffy, the Vampire Slayer'' that treads uncomfortably close to Littleton.

In the episode scheduled to air next week, heavily armed students at Buffy's high school try to confront the town's mayor, who has been turned into a monster. WB officials didn't return calls for comment Wednesday.

, Copyright 1999 The Associated Press

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:19-MAY-1999 19:59:46.00

SUBJECT: Final NACARA documents

TO: Scott Busby (CN=Scott Busby/OU=NSC/O=EOP @ EOP [NSC])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

CC: Erica R. Morris (CN=Erica R. Morris/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

I just received a copy of the NACARA roll-out documents. I will send them to you and you should receive them Thursday morning.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: "Christopher Edley, Jr." <edley@law.harvard.edu> ("Christopher Edley, Jr."

CREATION DATE/TIME:19-MAY-1999 09:18:24.00

SUBJECT: Native American Chapter challenges

TO: Elizabeth K. Belenis (CN=Elizabeth K. Belenis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

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

TO: James T. Edmonds (CN=James T. Edmonds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

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

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

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

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

TO: Todd Stern (CN=Todd Stern/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

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

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

TO: aedmonds1@home.com (aedmonds1@home.com [UNKNOWN])
READ:UNKNOWN

TEXT:

Attached memo is an effort, triggered by comments, to beef up the Native Americans chapter of the race book. Developed in consultation with Mary Smith and Lynn Cutler.

Basic strategy is to get feedback from POTUS before making wholesale changes in the draft.

- NA-IDEAS2.WPD===== ATTACHMENT 1 =====
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D23]ARMS24533215J.136 to ASCII,
The following is a HEX DUMP:

FF5750430A0C0000010A02010000000205000000A4260000002000069BB6904F7CF2BEE126FD1

83E9530C23FB99BAEAA0D34670B3CF9DEE3AADDE758EC93FA89CD6465CB2C36B6AB6F08BCE1B80
412E68E9754FD7853AE76D0CB151C41C96CBC0C22277F4E4178A51C355A2337B47010CF499B86A
727D7FC8CB4016CC21759A55D2216F5CDA4D96459E07DA3DC6203C0FF9B79766572FB3FB3CDDF2

May 19, 1999

To: Maria Echaveste
Bruce Reed
Lynn Cutler

From: Christopher Edley, Jr.

Cc: Todd Stern, Elena Kagan, Ben Johnson, Mary Smith

Re: Native American Chapter of the Race Book

As we ride down the home stretch, the question is whether we've done what we should in the Native American chapter, which was drafted principally by Mary Smith of DPC. Mary consulted widely and vetted things quite well. (Terry Edmonds, of course, edited and added some things.) I'm concerned, however, that the vetting – and especially the review by OMB – have resulted in something that is simply too tame.

Don't get me wrong: I'm quite proud of the draft chapter as it stands. The reader will learn a lot, and the proposed policy steps are creditable. In particular, they try to avoid the "over-promising" syndrome so toxic in Indian Country. But as welcome as the analysis and ideas will be, the proposals don't exactly rock.

So, I was thinking about giving POTUS something like the attached memorandum along with the chapter. Please let me know your thoughts, at edley@law.harvard.edu.

Thanks.

DRAFT

To: POTUS

From: Edley

Re: Native American Opportunity Section of Your Race Book

Are the policy ideas in this section bold enough? Recall that the draft chapter is organized around Education, Economic Development and Community Security.

The central rationale for moving along the lines below would be that, while budget constraints and lack of Hill support make any near term victory unimaginable, if you don't put some bold ideas on the table there will never be the kind of conversation which might, over time, change the political and fiscal constraints that now keep us from making giant strides.

If you are interested in any or all of these, we will move them forward with the policy councils. As with most other book ideas, however, if we proceed with these ideas they should be presented in a long-term framework, so as not to raise expectations of more than a down payment in the FY 2001 budget.

1. Sovereignty: Build on your government-to-government framework by directing agencies to:

- (a) systematically inventory all the major grant-in-aid programs serving state or local governments and assess whether Tribal governments are included as direct recipients of federal funding (as need and capacity warrant);
- (b) submit recommendations to the White House (OMB) concerning places where regulations or statutes should be modified to remove impediments to creating the appropriate government-to-government relationship.

2. Education: Build on the One America vision of closing racial disparities by *either*:

- (a) state a goal of improving the quality of BIA schools to at least equal the quality of DOD schools, as measured by resource equity and student achievement; *or*
- (b) state a goal of improving the quality of BIA schools to at least equal that of state/local public schools in the surrounding region.

Please note that the costs of eliminating the capital maintenance backlog of BIA schools is an estimated \$1 billion. And that is only one item of the equity agenda.

3. Child Health Disparities: Although Indian country health needs are extraordinarily compelling, these were a late, post-announcement addition to your disparities initiative last year, and the IHS remains deeply troubled. You could set a national goal of eliminating the disparities in these five key areas of Native American health care:

1. Reduce the rate of diabetes among the Native American population to the national average (currently three times the national rate);
2. Reducing by 50% the Sudden Infant Death Syndrome (currently twice the national average);
3. Detection, prevention, and screening for breast and cervical cancer in American Indian women in order to improve survival rates;
4. Reduce the rate of teen suicide in Indian country; and
5. Reduce smoking and alcohol abuse.

5. Economic Development: You could also work to improve economic development in Indian Country by working with the Federal Communication Commission (FCC) to have the FCC help ensure that geographically isolated tribes receive access to telecommunications advances to the same extent that other areas of the country do. Chairman Kennard is very interested in this.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: "Christopher Edley, Jr." <edley@law.harvard.edu> ("Christopher Edley, Jr."

CREATION DATE/TIME:19-MAY-1999 09:18:31.00

SUBJECT: Native American Chapter challenges

TO: Elizabeth K. Belenis (CN=Elizabeth K. Belenis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

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

TO: James T. Edmonds (CN=James T. Edmonds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

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

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

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

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

TO: Todd Stern (CN=Todd Stern/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

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

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

TO: aedmonds1@home.com (aedmonds1@home.com [UNKNOWN])
READ:UNKNOWN

TEXT:

Attached memo is an effort, triggered by comments, to beef up the Native Americans chapter of the race book. Developed in consultation with Mary Smith and Lynn Cutler.

Basic strategy is to get feedback from POTUS before making wholesale changes in the draft.

- NA-IDEAS2.WPD===== ATTACHMENT 1 =====
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D30]ARMS267332153.136 to ASCII,
The following is a HEX DUMP:

FF5750430A0C0000010A02010000000205000000A42600000002000069BB6904F7CF2BEE126FD1

83E9530C23FB99BAEAA0D34670B3CF9DEE3AADDE758EC93FA89CD6465CB2C36B6AB6F08BCE1B80
412E68E9754FD7853AE76D0CB151C41C96CBC0C22277F4E4178A51C355A2337B47010CF499B86A
727D7FC8CB4016CC21759A55D2216F5CDA4D96459E07DA3DC6203C0FF9B79766572FB3FB3CDDF2

May 19, 1999

To: Maria Echaveste
Bruce Reed
Lynn Cutler

From: Christopher Edley, Jr.

Cc: Todd Stern, Elena Kagan, Ben Johnson, Mary Smith

Re: Native American Chapter of the Race Book

As we ride down the home stretch, the question is whether we've done what we should in the Native American chapter, which was drafted principally by Mary Smith of DPC. Mary consulted widely and vetted things quite well. (Terry Edmonds, of course, edited and added some things.) I'm concerned, however, that the vetting – and especially the review by OMB – have resulted in something that is simply too tame.

Don't get me wrong: I'm quite proud of the draft chapter as it stands. The reader will learn a lot, and the proposed policy steps are creditable. In particular, they try to avoid the "over-promising" syndrome so toxic in Indian Country. But as welcome as the analysis and ideas will be, the proposals don't exactly rock.

So, I was thinking about giving POTUS something like the attached memorandum along with the chapter. Please let me know your thoughts, at edley@law.harvard.edu.

Thanks.

DRAFT

To: POTUS

From: Edley

Re: Native American Opportunity Section of Your Race Book

Are the policy ideas in this section bold enough? Recall that the draft chapter is organized around Education, Economic Development and Community Security.

The central rationale for moving along the lines below would be that, while budget constraints and lack of Hill support make any near term victory unimaginable, if you don't put some bold ideas on the table there will never be the kind of conversation which might, over time, change the political and fiscal constraints that now keep us from making giant strides.

If you are interested in any or all of these, we will move them forward with the policy councils. As with most other book ideas, however, if we proceed with these ideas they should be presented in a long-term framework, so as not to raise expectations of more than a down payment in the FY 2001 budget.

1. Sovereignty: Build on your government-to-government framework by directing agencies to:

- (a) systematically inventory all the major grant-in-aid programs serving state or local governments and assess whether Tribal governments are included as direct recipients of federal funding (as need and capacity warrant);
- (b) submit recommendations to the White House (OMB) concerning places where regulations or statutes should be modified to remove impediments to creating the appropriate government-to-government relationship.

2. Education: Build on the One America vision of closing racial disparities by *either*:

- (a) state a goal of improving the quality of BIA schools to at least equal the quality of DOD schools, as measured by resource equity and student achievement; *or*
- (b) state a goal of improving the quality of BIA schools to at least equal that of state/local public schools in the surrounding region.

Please note that the costs of eliminating the capital maintenance backlog of BIA schools is an estimated \$1 billion. And that is only one item of the equity agenda.

3. Child Health Disparities: Although Indian country health needs are extraordinarily compelling, these were a late, post-announcement addition to your disparities initiative last year, and the IHS remains deeply troubled. You could set a national goal of eliminating the disparities in these five key areas of Native American health care:

1. Reduce the rate of diabetes among the Native American population to the national average (currently three times the national rate);
2. Reducing by 50% the Sudden Infant Death Syndrome (currently twice the national average);
3. Detection, prevention, and screening for breast and cervical cancer in American Indian women in order to improve survival rates;
4. Reduce the rate of teen suicide in Indian country; and
5. Reduce smoking and alcohol abuse.

5. Economic Development: You could also work to improve economic development in Indian Country by working with the Federal Communication Commission (FCC) to have the FCC help ensure that geographically isolated tribes receive access to telecommunications advances to the same extent that other areas of the country do. Chairman Kennard is very interested in this.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:19-MAY-1999 11:53:03.00

SUBJECT: UPDATE - Members Attending Colorado

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:

fyi

----- Forwarded by Karin Kullman/OPD/EOP on 05/19/99
11:52 AM -----

Janelle E. Erickson

05/19/99 11:37:58 AM

Record Type: Record

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

cc:

Subject: UPDATE - Members Attending Colorado

EVENT: REMARKS TO COLUMBINE HIGH SCHOOL COMMUNITY

DATE: THURSDAY, MAY 20, 1999

TIME: 3:35 PM () 5:05 PM

LOCATION: DAKOTA RIDGE SCHOOL

PARTICIPANTS: THE PRESIDENT

THE FIRST LADY

SUPERINTENDENT OF JEFFERSON COUNTY SCHOOL DISTRICT

PRINCIPAL COLUMBINE HIGH SCHOOL

GOVERNOR

ATTENDING:

Rep Diana DeGette (D)C O)

PENDING:

Rep Scott McInnis (R)C O)

REGRETS:

Senator Wayne Allard (R)CO)

Senator Ben Nighthorse Campbell (R)C O)

Rep Joel Hefley (R)C O)

Rep Bob Schaffer (R)C O)

Rep Tom Tancredo (R)C O)

Rep Mark Udall (D)C O)

Message Sent

To:

Laura A. Graham/WHO/EOP@EOP

Jaycee A. Pribulsky/WHO/EOP@EOP

Brian A. Alcorn/WHO/EOP@EOP

Lawrence J. Stein/WHO/EOP@EOP
Janet Murguia/WHO/EOP@EOP
Tracey E. Thornton/WHO/EOP@EOP
Charles M. Brain/WHO/EOP@EOP
Martha Foley/WHO/EOP@EOP
Mindy E. Myers/WHO/EOP@EOP
Eli P. Joseph/WHO/EOP@EOP
Virginia N. Rustique/WHO/EOP@EOP
Janelle E. Erickson/WHO/EOP@EOP
Roger S. Ballentine/WHO/EOP@EOP
Alphonse J. Maldon/WHO/EOP@EOP
Dario J. Gomez/WHO/EOP@EOP
Broderick Johnson/WHO/EOP@EOP
Lisa M. Kountoupes/WHO/EOP@EOP
Marty J. Hoffmann/WHO/EOP@EOP
Matthew J. Bianco/WHO/EOP@EOP
Caroline R. Fredrickson/WHO/EOP@EOP
Courtney C. Crouch/WHO/EOP@EOP
Joel K. Wiginton/WHO/EOP@EOP
Jade L Riley/WHO/EOP@EOP
Erica R. Morris/WHO/EOP@EOP
Kay Casstevens/OVP@OVP
David R Thomas/OVP@OVP
Paul Thornell/OVP@OVP
William T. Glunz/OVP@OVP
Julia M. Payne/WHO/EOP@EOP
Elizabeth R. Newman/WHO/EOP@EOP
Nanda Chitre/WHO/EOP@EOP
Jennifer M. Palmieri/WHO/EOP@EOP
Jason H. Schechter/WHO/EOP@EOP
Sarah E. Gegenheimer/WHO/EOP@EOP
Julie B. Goldberg/WHO/EOP@EOP
Dawn L. Smalls/WHO/EOP@EOP
Sara M. Latham/WHO/EOP@EOP
Ann F. Lewis/WHO/EOP@EOP
Douglas B. Sosnik/WHO/EOP@EOP
Marjorie Tarmey/WHO/EOP@EOP
Maria Echaveste/WHO/EOP@EOP
Dominique L. Cano/WHO/EOP@EOP
June G. Turner/WHO/EOP@EOP
Paul K. Engskov/WHO/EOP@EOP
Nancy V. Hernreich/WHO/EOP@EOP
Betty W. Currie/WHO/EOP@EOP
Charles J. Payson/WHO/EOP@EOP
Rebecca L. Walldorff/WHO/EOP@EOP
Steve Ricchetti/WHO/EOP@EOP
Joshua S. Gottheimer/WHO/EOP@EOP
James T. Heimbach/WHO/EOP@EOP
Anne Whitworth/WHO/EOP@EOP
Loretta M. Ucelli/WHO/EOP@EOP
Karin Kullman/OPD/EOP@EOP
HILLMONGER@AOL.COM @ inet
Ann C. Hertelendy/WHO/EOP@EOP
Kim B. Widdess/WHO/EOP@EOP
Sharon K. Gill/WHO/EOP@EOP
Bronson J. Frick/WHO/EOP@EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: "Christopher Edley, Jr." <edley@law.harvard.edu> ("Christopher Edley, Jr."

CREATION DATE/TIME:19-MAY-1999 09:20:42.00

SUBJECT: Native American Chapter challenges

TO: Elizabeth K. Belenis (CN=Elizabeth K. Belenis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

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

TO: James T. Edmonds (CN=James T. Edmonds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

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

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

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

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

TO: Todd Stern (CN=Todd Stern/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

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

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

TO: aedmonds1@home.com (aedmonds1@home.com [UNKNOWN])
READ:UNKNOWN

TEXT:

Attached memo is an effort, triggered by comments, to beef up the Native Americans chapter of the race book. Developed in consultation with Mary Smith and Lynn Cutler.

Basic strategy is to get feedback from POTUS before making wholesale changes in the draft.

- NA-IDEAS2.WPD===== ATTACHMENT 1 =====
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D31]ARMS23273215R.136 to ASCII,
The following is a HEX DUMP:

FF5750430A0C0000010A02010000000205000000A4260000002000069BB6904F7CF2BEE126FD1

Richard J. Turman/OMB/EOP
Richard P. Emery Jr./OMB/EOP
Robert G. Damus/OMB/EOP
Silvana Solano/OMB/EOP

83E9530C23FB99BAEAA0D34670B3CF9DEE3AADDE758EC93FA89CD6465CB2C36B6AB6F08BCE1B80
412E68E9754FD7853AE76D0CB151C41C96CBC0C22277F4E4178A51C355A2337B47010CF499B86A
727D7FC8CB4016CC21759A55D2216F5CDA4D96459E07DA3DC6203C0FF9B79766572FB3FB3CDDF2
8F0CA67FD1060C59FE5B7B8DD4452F7702AAA2E1ED443E573DE22F96529BD92BD315A0948ACEC2

May 19, 1999

To: Maria Echaveste
Bruce Reed
Lynn Cutler

From: Christopher Edley, Jr.

Cc: Todd Stern, Elena Kagan, Ben Johnson, Mary Smith

Re: Native American Chapter of the Race Book

As we ride down the home stretch, the question is whether we've done what we should in the Native American chapter, which was drafted principally by Mary Smith of DPC. Mary consulted widely and vetted things quite well. (Terry Edmonds, of course, edited and added some things.) I'm concerned, however, that the vetting – and especially the review by OMB – have resulted in something that is simply too tame.

Don't get me wrong: I'm quite proud of the draft chapter as it stands. The reader will learn a lot, and the proposed policy steps are creditable. In particular, they try to avoid the "over-promising" syndrome so toxic in Indian Country. But as welcome as the analysis and ideas will be, the proposals don't exactly rock.

So, I was thinking about giving POTUS something like the attached memorandum along with the chapter. Please let me know your thoughts, at edley@law.harvard.edu.

Thanks.

DRAFT

To: POTUS

From: Edley

Re: Native American Opportunity Section of Your Race Book

Are the policy ideas in this section bold enough? Recall that the draft chapter is organized around Education, Economic Development and Community Security.

The central rationale for moving along the lines below would be that, while budget constraints and lack of Hill support make any near term victory unimaginable, if you don't put some bold ideas on the table there will never be the kind of conversation which might, over time, change the political and fiscal constraints that now keep us from making giant strides.

If you are interested in any or all of these, we will move them forward with the policy councils. As with most other book ideas, however, if we proceed with these ideas they should be presented in a long-term framework, so as not to raise expectations of more than a down payment in the FY 2001 budget.

1. Sovereignty: Build on your government-to-government framework by directing agencies to:

- (a) systematically inventory all the major grant-in-aid programs serving state or local governments and assess whether Tribal governments are included as direct recipients of federal funding (as need and capacity warrant);
- (b) submit recommendations to the White House (OMB) concerning places where regulations or statutes should be modified to remove impediments to creating the appropriate government-to-government relationship.

2. Education: Build on the One America vision of closing racial disparities by *either*:

- (a) state a goal of improving the quality of BIA schools to at least equal the quality of DOD schools, as measured by resource equity and student achievement; *or*
- (b) state a goal of improving the quality of BIA schools to at least equal that of state/local public schools in the surrounding region.

Please note that the costs of eliminating the capital maintenance backlog of BIA schools is an estimated \$1 billion. And that is only one item of the equity agenda.

3. Child Health Disparities: Although Indian country health needs are extraordinarily compelling, these were a late, post-announcement addition to your disparities initiative last year, and the IHS remains deeply troubled. You could set a national goal of eliminating the disparities in these five key areas of Native American health care:

1. Reduce the rate of diabetes among the Native American population to the national average (currently three times the national rate);
2. Reducing by 50% the Sudden Infant Death Syndrome (currently twice the national average);
3. Detection, prevention, and screening for breast and cervical cancer in American Indian women in order to improve survival rates;
4. Reduce the rate of teen suicide in Indian country; and
5. Reduce smoking and alcohol abuse.

5. Economic Development: You could also work to improve economic development in Indian Country by working with the Federal Communication Commission (FCC) to have the FCC help ensure that geographically isolated tribes receive access to telecommunications advances to the same extent that other areas of the country do. Chairman Kennard is very interested in this.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:19-MAY-1999 22:21:55.00

SUBJECT:

TO: ELENA (Pager) #KAGAN (ELENA (Pager) #KAGAN [UNKNOWN])

READ:UNKNOWN

TEXT:

smith/lautenberg vote at 10:30am. Senate then moves to supp. jose

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: "Christopher Edley, Jr." <edley@law.harvard.edu> ("Christopher Edley, Jr."

CREATION DATE/TIME:19-MAY-1999 09:20:24.00

SUBJECT: Native American Chapter challenges

TO: Elizabeth K. Belenis (CN=Elizabeth K. Belenis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

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

TO: James T. Edmonds (CN=James T. Edmonds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

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

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

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

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

TO: Todd Stern (CN=Todd Stern/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

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

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

TO: aedmonds1@home.com (aedmonds1@home.com [UNKNOWN])
READ:UNKNOWN

TEXT:

Attached memo is an effort, triggered by comments, to beef up the Native Americans chapter of the race book. Developed in consultation with Mary Smith and Lynn Cutler.

Basic strategy is to get feedback from POTUS before making wholesale changes in the draft.

- NA-IDEAS2.WPD===== ATTACHMENT 1 =====
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D24]ARMS21073215B.136 to ASCII,
The following is a HEX DUMP:

FF5750430A0C0000010A02010000000205000000A426000000020000069BB6904F7CF2BEE126FD1

83E9530C23FB99BAEAA0D34670B3CF9DEE3AADDE758EC93FA89CD6465CB2C36B6AB6F08BCE1B80
412E68E9754FD7853AE76D0CB151C41C96CBC0C22277F4E4178A51C355A2337B47010CF499B86A
727D7FC8CB4016CC21759A55D2216F5CDA4D96459E07DA3DC6203C0FF9B79766572FB3FB3CDDF2
8F0CA67FD1060C59FE5B7B8DD4452F7702AAA2E1ED443E573DE22F96529BD92BD315A0948ACEC2
441BF3F1A835C7DFB55D806B8D90405AC5BF0360287797BB4269BAAD2F4932ED7D5A2253EC2459

May 19, 1999

To: Maria Echaveste
Bruce Reed
Lynn Cutler

From: Christopher Edley, Jr.

Cc: Todd Stern, Elena Kagan, Ben Johnson, Mary Smith

Re: Native American Chapter of the Race Book

As we ride down the home stretch, the question is whether we've done what we should in the Native American chapter, which was drafted principally by Mary Smith of DPC. Mary consulted widely and vetted things quite well. (Terry Edmonds, of course, edited and added some things.) I'm concerned, however, that the vetting – and especially the review by OMB – have resulted in something that is simply too tame.

Don't get me wrong: I'm quite proud of the draft chapter as it stands. The reader will learn a lot, and the proposed policy steps are creditable. In particular, they try to avoid the "over-promising" syndrome so toxic in Indian Country. But as welcome as the analysis and ideas will be, the proposals don't exactly rock.

So, I was thinking about giving POTUS something like the attached memorandum along with the chapter. Please let me know your thoughts, at edley@law.harvard.edu.

Thanks.

DRAFT

To: POTUS

From: Edley

Re: Native American Opportunity Section of Your Race Book

Are the policy ideas in this section bold enough? Recall that the draft chapter is organized around Education, Economic Development and Community Security.

The central rationale for moving along the lines below would be that, while budget constraints and lack of Hill support make any near term victory unimaginable, if you don't put some bold ideas on the table there will never be the kind of conversation which might, over time, change the political and fiscal constraints that now keep us from making giant strides.

If you are interested in any or all of these, we will move them forward with the policy councils. As with most other book ideas, however, if we proceed with these ideas they should be presented in a long-term framework, so as not to raise expectations of more than a down payment in the FY 2001 budget.

1. Sovereignty: Build on your government-to-government framework by directing agencies to:

- (a) systematically inventory all the major grant-in-aid programs serving state or local governments and assess whether Tribal governments are included as direct recipients of federal funding (as need and capacity warrant);
- (b) submit recommendations to the White House (OMB) concerning places where regulations or statutes should be modified to remove impediments to creating the appropriate government-to-government relationship.

2. Education: Build on the One America vision of closing racial disparities by *either*:

- (a) state a goal of improving the quality of BIA schools to at least equal the quality of DOD schools, as measured by resource equity and student achievement; *or*
- (b) state a goal of improving the quality of BIA schools to at least equal that of state/local public schools in the surrounding region.

Please note that the costs of eliminating the capital maintenance backlog of BIA schools is an estimated \$1 billion. And that is only one item of the equity agenda.

3. Child Health Disparities: Although Indian country health needs are extraordinarily compelling, these were a late, post-announcement addition to your disparities initiative last year, and the IHS remains deeply troubled. You could set a national goal of eliminating the disparities in these five key areas of Native American health care:

1. Reduce the rate of diabetes among the Native American population to the national average (currently three times the national rate);
2. Reducing by 50% the Sudden Infant Death Syndrome (currently twice the national average);
3. Detection, prevention, and screening for breast and cervical cancer in American Indian women in order to improve survival rates;
4. Reduce the rate of teen suicide in Indian country; and
5. Reduce smoking and alcohol abuse.

5. Economic Development: You could also work to improve economic development in Indian Country by working with the Federal Communication Commission (FCC) to have the FCC help ensure that geographically isolated tribes receive access to telecommunications advances to the same extent that other areas of the country do. Chairman Kennard is very interested in this.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:19-MAY-1999 13:01:22.00

SUBJECT: Josh G is proposing a few edits to our statement

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

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

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

TEXT:

What do you think?

----- Forwarded by Cynthia A. Rice/OPD/EOP on 05/19/99
01:02 PM -----

Victoria A. Wachino
05/19/99 12:25:25 PM
Record Type: Record

To: Cynthia A. Rice/OPD/EOP
cc: See the distribution list at the bottom of this message
Subject: Re: Here's the tobacco statement Podesta asked us to
draft this morning

The statement looks good. Please send us your final version as soon as you can so we can make sure the signing statement and enrolled bill memo are consistent w/ your final text. Here are our edits:

I am extremely disappointed that the Congress forfeited the federal government's taxpayers' claim to the \$246 billion tobacco settlement, without any commitment whatsoever from the states to use a portion of the settlement funds to prevent youth smoking. Even though 3,000 young people become regular smokers every day and 1,000 will have their lives cut short as a result, most states still have no plans to use tobacco settlement funds to reduce youth smoking. Congress passed up an important opportunity to protect our children from the death and diseases caused by tobacco. This is wrong. I will closely monitor state efforts in this area and I will continue to fight for a nationwide effort to reduce youth smoking through counteradvertising, prevention activities, and restrictions on youth access to tobacco products.

Our thinking behind the last edit: presently, at least some states have tobacco control programs in place to reduce youth smoking, so saying they "have no programs" is inaccurate.

Thanks.

Message Copied

To: _____

Joshua Gotbaum/OMB/EOP

Daniel N. Mendelson/OMB/EOP

Jeffrey A. Farkas/OMB/EOP
Richard J. Turman/OMB/EOP
Mark E. Miller/OMB/EOP
Linda Ricci/OMB/EOP
Jennifer M. Forshey/OMB/EOP
J. Eric Gould/OPD/EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:19-MAY-1999 10:57:40.00

SUBJECT: radio address

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

He challenged them to reevaluate their rating system "to determine whether it is allowing too much gratuitous violence in movies approved for viewing by children." I think it is a separate issue whether the ratings they give supply any content - and thereby some notice -- which could tell parents that a movie has bad language, sexual content or violence, and for violence, the kind of violence -- gore vs. sci-fi violence (which is available on the Internet). However, I do see the point that it might be weird to revisit this issue.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:19-MAY-1999 19:12:41.00

SUBJECT: By NOON Thursday, we tell INS DATE of public charge announcement

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

TO: Jeanne Lambrew (CN=Jeanne Lambrew/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: Elena Kagan (CN=Elena Kagan/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

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

TEXT:

Currently the VP is slated for the 25th (the second announcement of the day after something about school violence/guns). If there is any attempt to re-litigate the date we need a final decision by NOON Thursday to get the reg to the register in time.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:19-MAY-1999 20:24:15.00

SUBJECT: Farmworkers/Legalization - Feinstein

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

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

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

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

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

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

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

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

CC: Brian V. Kennedy (CN=Brian V. Kennedy/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

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

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

TEXT:

Heads up - According to Earl Gohl of DOL Congressional, Sen. Feinstein's staff (Mark Kadish and Lavidia Strickland) requested a meeting to discuss wage issues in the context of a legalization program for farmworkers and they met with this afternoon. I am waiting to get a full report from Earl but from what I gathered from his voice mail is that they discussed in length issues related to wages - prevailing, adverse and something in between called a "premium wage". However, it does not sound like Feinstein is very far along in developing her legislation. I will provide an update when I hear back from DOL and propose next steps.

Fyi - Last week during the Senate Subcommittee Immigration hearing on the H2A program, there appeared to be some interest and support from members for some type of legalization programs for farmworkers.

Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:19-MAY-1999 15:33:33.00

SUBJECT: medical marijuana

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

READ:UNKNOWN

TEXT:

Melissa persuaded me. They're going to leak to the LATimes on Friday for Saturday's paper.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:19-MAY-1999 18:40:42.00

SUBJECT: Public Charge to be second announcement at VP event on 5/25

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

CC: Jeanne Lambrew (CN=Jeanne Lambrew/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

FYI - According to Sarah who discussed this matter with Laura, the public charge announcement will be the second announcement of the day on Tuesday, 5/25 rather than on Wed. 5/26 because the VP is planning to make an announcement on school violence on 5/26.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Constance J. Bowers (CN=Constance J. Bowers/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:19-MAY-1999 16:33:41.00

SUBJECT: Title XI Lang. on Bill Taylor's concerns

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

TO: Bethany Little (CN=Bethany Little/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

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

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

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

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

TO: Wei-Min C. Wang (CN=Wei-Min C. Wang/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

TEXT:

Please review and respond. Thanks.

----- Forwarded by Constance J. Bowers/OMB/EOP on
05/19/99 04:33 PM -----

"Orzechowski, Jennifer" <Jennifer_Orzechowski@ed.gov>

05/19/99 04:17:04 PM

Record Type: Record

To: Constance J. Bowers/OMB/EOP, Wei-Min C. Wang/OMB/EOP

cc: "Kristy, Jack" <Jack_Kristy@ed.gov>

Subject: Title XI

This is from Jack Kristy

This language addresses Bill Taylor's concerns and does so in the most logical place. It would require States to describe in their Accountability Plans (1) its statewide system for turning around low-performing schools, and (2) the steps it will take to ensure that all LEAs have the capacity to meet the substantive requirements of the Accountability Act.

"EDUCATION ACCOUNTABILITY PLANS

"SEC. 11208. (a) IN GENERAL. Each State that receives assistance under this Act on or after July 1, 2000 shall have on file with the Secretary an approved accountability plan that meets the requirements of this section.

"(b) CONTENT. An accountability plan under subsection (a) shall include—

"(1) a description of the State's system under section 11203;

"(2) a description of the steps the State will take to ensure that all local educational agencies have the capacity needed to ensure compliance with this part;

"(3) the information or assurances called for by sections 11204(c), 11205(c), 11206(c), and 11207(e);

"(4) information indicating that the Governor and the State educational agency concur with the plan; and

"(5) any other information that the Secretary may reasonably require to ensure the proper and effective administration of this part.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: "Christopher Edley, Jr." <edley@law.harvard.edu> ("Christopher Edley, Jr."

CREATION DATE/TIME:19-MAY-1999 09:18:51.00

SUBJECT: Native American Chapter challenges

TO: Elizabeth K. Belenis (CN=Elizabeth K. Belenis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

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

TO: James T. Edmonds (CN=James T. Edmonds/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

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

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

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

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

TO: Todd Stern (CN=Todd Stern/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

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

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

TO: aedmonds1@home.com (aedmonds1@home.com [UNKNOWN])
READ:UNKNOWN

TEXT:

Attached memo is an effort, triggered by comments, to beef up the Native Americans chapter of the race book. Developed in consultation with Mary Smith and Lynn Cutler.

Basic strategy is to get feedback from POTUS before making wholesale changes in the draft.

- NA-IDEAS2.WPD===== ATTACHMENT 1 =====
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D45]ARMS283432156.136 to ASCII,
The following is a HEX DUMP:

FF5750430A0C0000010A02010000000205000000A42600000002000069BB6904F7CF2BEE126FD1

83E9530C23FB99BAEAA0D34670B3CF9DEE3AADDE758EC93FA89CD6465CB2C36B6AB6F08BCE1B80
412E68E9754FD7853AE76D0CB151C41C96CBC0C22277F4E4178A51C355A2337B47010CF499B86A
727D7FC8CB4016CC21759A55D2216F5CDA4D96459E07DA3DC6203C0FF9B79766572FB3FB3CDDF2

May 19, 1999

To: Maria Echaveste
Bruce Reed
Lynn Cutler

From: Christopher Edley, Jr.

Cc: Todd Stern, Elena Kagan, Ben Johnson, Mary Smith

Re: Native American Chapter of the Race Book

As we ride down the home stretch, the question is whether we've done what we should in the Native American chapter, which was drafted principally by Mary Smith of DPC. Mary consulted widely and vetted things quite well. (Terry Edmonds, of course, edited and added some things.) I'm concerned, however, that the vetting – and especially the review by OMB – have resulted in something that is simply too tame.

Don't get me wrong: I'm quite proud of the draft chapter as it stands. The reader will learn a lot, and the proposed policy steps are creditable. In particular, they try to avoid the "over-promising" syndrome so toxic in Indian Country. But as welcome as the analysis and ideas will be, the proposals don't exactly rock.

So, I was thinking about giving POTUS something like the attached memorandum along with the chapter. Please let me know your thoughts, at edley@law.harvard.edu.

Thanks.

DRAFT

To: POTUS

From: Edley

Re: Native American Opportunity Section of Your Race Book

Are the policy ideas in this section bold enough? Recall that the draft chapter is organized around Education, Economic Development and Community Security.

The central rationale for moving along the lines below would be that, while budget constraints and lack of Hill support make any near term victory unimaginable, if you don't put some bold ideas on the table there will never be the kind of conversation which might, over time, change the political and fiscal constraints that now keep us from making giant strides.

If you are interested in any or all of these, we will move them forward with the policy councils. As with most other book ideas, however, if we proceed with these ideas they should be presented in a long-term framework, so as not to raise expectations of more than a down payment in the FY 2001 budget.

1. Sovereignty: Build on your government-to-government framework by directing agencies to:

- (a) systematically inventory all the major grant-in-aid programs serving state or local governments and assess whether Tribal governments are included as direct recipients of federal funding (as need and capacity warrant);
- (b) submit recommendations to the White House (OMB) concerning places where regulations or statutes should be modified to remove impediments to creating the appropriate government-to-government relationship.

2. Education: Build on the One America vision of closing racial disparities by *either*:

- (a) state a goal of improving the quality of BIA schools to at least equal the quality of DOD schools, as measured by resource equity and student achievement; *or*
- (b) state a goal of improving the quality of BIA schools to at least equal that of state/local public schools in the surrounding region.

Please note that the costs of eliminating the capital maintenance backlog of BIA schools is an estimated \$1 billion. And that is only one item of the equity agenda.

3. Child Health Disparities: Although Indian country health needs are extraordinarily compelling, these were a late, post-announcement addition to your disparities initiative last year, and the IHS remains deeply troubled. You could set a national goal of eliminating the disparities in these five key areas of Native American health care:

1. Reduce the rate of diabetes among the Native American population to the national average (currently three times the national rate);
2. Reducing by 50% the Sudden Infant Death Syndrome (currently twice the national average);
3. Detection, prevention, and screening for breast and cervical cancer in American Indian women in order to improve survival rates;
4. Reduce the rate of teen suicide in Indian country; and
5. Reduce smoking and alcohol abuse.

5. Economic Development: You could also work to improve economic development in Indian Country by working with the Federal Communication Commission (FCC) to have the FCC help ensure that geographically isolated tribes receive access to telecommunications advances to the same extent that other areas of the country do. Chairman Kennard is very interested in this.
