

NLWJC - KAGAN

EMAILS RECEIVED

ARMS - BOX 073 - FOLDER -002

[02/17/1998 - 02/23/1998]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-FEB-1998 18:32:18.00

SUBJECT: kids announcement

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

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

TEXT:

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

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D31]MAIL43699774R.026 to ASCII,
The following is a HEX DUMP:

FF575043D40B0000010A0201000000020500000006F2D000000020000F569656A4E89995C14074D
A83C5DCE7ED7AB5B385C5CC272C3FDAFD0290214DF379B0A6F70967EAE01816EAF565953A644E

**PRESIDENT CLINTON ANNOUNCES A SERIES OF NEW EFFORTS TO ENROLL
UNINSURED CHILDREN IN HEALTH INSURANCE PROGRAMS**

February 18, 1998

Today, the President announced the first major state expansions under the recently enacted Children's Health Insurance Program (CHIP) and released findings that indicate that many States will soon follow. He also unveiled an unprecedented set of public/private initiatives designed to enroll the millions of uninsured children who are eligible but not enrolled in Medicaid and other state-based children's health programs. These initiatives have been designed in partnership with Governors, health care providers, children's health advocates, foundations, businesses and many others who are committed to providing health care coverage for the nation's uninsured children.

Over 10 million children in America are uninsured. Nearly 90 percent of these children have parents who work, but do not have access to or cannot afford health insurance. Over 3 million of these uninsured children are already eligible for Medicaid. However, many families are not aware that their children are eligible for Medicaid, and others have difficulty filling out the application. Similar problems could undermine the new Children's Health Insurance Program's goal to enroll millions of uninsured children. With these challenges in mind, the President:

ANNOUNCED THAT COLORADO AND SOUTH CAROLINA HAVE JOINED ALABAMA AS THE FIRST COVERAGE EXPANSIONS UNDER THE NEW CHIP PROGRAM. Today, the President announced that Colorado and South Carolina join Alabama as the first states to come into the children's health program. In late January, Alabama received approval to expand its Medicaid program to children ages 14 to 18 up to 100 percent of poverty.

South Carolina will expand its Medicaid program to provide coverage to all children up to 150 percent of poverty. And, Colorado builds upon its current non-Medicaid program to cover children up to 185 percent of poverty. The President also highlighted the fact that many more States are well on their way to expanding coverage to more uninsured children. Currently, 14 states have already submitted their plans to HHS for approval, and another 18 States have active working groups or task forces to design plans to address the needs of uninsured children in their states.

RELEASED A NEW PRESIDENTIAL DIRECTIVE TO LAUNCH A GOVERNMENT-WIDE EFFORT TO ENROLL UNINSURED CHILDREN. In an executive memorandum to seven Federal agencies with jurisdiction over children's programs — the Departments of Agriculture, Interior, Education, HHS, HUD, Labor, and Treasury and the Social Security Administration -- the President directed the establishment of a multi-agency effort to enroll uninsured children. These agencies run programs such as WIC, Food Stamps, Head Start, and public housing that target many of the same children who are uninsured and eligible for coverage. The memorandum instructs these agencies: (1) to identify all their employees and grantees who might come into contact with these children and ensure that these individuals are aware of the health insurance programs available to children; (2) to develop an intensive children's outreach initiative, such as distributing information, coordinating toll-free numbers, and simplifying and coordinating application forms; and (3) to report back in 90 days on their plan to help enroll uninsured children.

HIGHLIGHTED BUDGET PROPOSALS THAT PROVIDE MEDICAID

ENROLLMENT INCENTIVES TO STATES. The President's FY 1999 budget invests \$900 million over 5 years in children's health outreach policies, including encouraging states to use schools and child care centers to enroll children in Medicaid. The budget provides states with the option of automatically enrolling children in Medicaid even before having received all of the complicated eligibility and enrollment forms (a provision known as "presumptive eligibility"). It also expands the use of a Federally-financed administrative fund, allowing it to underwrite the costs for all uninsured children — not just the limited population allowed under current law.

ANNOUNCED A HISTORIC PRIVATE SECTOR COMMITMENT TO PROVIDE OUTREACH.

To complement the public outreach effort, the President announced unprecedented new contributions from the private sector to help ensure that all children who are eligible for health insurance receive it, including:

- **A new toll-free number that directs families around the nation to their state enrollment centers.** The President announced that Bell Atlantic will establish and operate a toll-free number to help states enroll uninsured children. The number, that will be put in place during the upcoming months, will be used by the nation's Governors to help millions of families around the nation by directing them automatically to their local state Medicaid enrollment agency.
- **Over \$23 million in commitments from private foundations across the country.** The Robert Wood Johnson Foundation will spend \$13 million over the next 3 years to fund innovative state-local coalitions to design and conduct outreach initiatives, simplify enrollment processes, and coordinate existing coverage programs. The Kaiser Family Foundation will spend up to \$10 million over the next 5 years on studies to help understand why eligible children do not enroll in existing programs and how best to provide insurance coverage for these children. America's Promise, with support from the Robert Wood Johnson Foundation and the American Academy of Pediatrics, will mobilize the corporation such as SmithKline Beecham and Sheering Plough, and local communities nationwide in children's health outreach efforts.
- **New initiatives from corporate and advocacy organizations America to reach out to uninsured children.** Pampers has volunteered to include a letter in its child birth education packages, given to 90 percent of first-time mothers, giving families information about available health insurance options. Chain drug stores across the country will provide information about the new Bell Atlantic toll-free number to their customers. The National Education Association is launching an unprecedented effort to educate teachers on how they can inform children and their families about health insurance, through national newsletters, conferences, and special training sessions. The American Hospital Association's Campaign for Coverage will increase its nationwide initiative to engage hospitals in helping uninsured Americans, including children.

ISSUED A CHALLENGE ACROSS AMERICA TO FIND NEW WAYS TO REACH OUT TO UNINSURED CHILDREN.

The President challenged every physician, nurse, health care provider, business, school, parent, grandparent, and community across the nation, to

find new ways to reach out to ensure that uninsured children eligible for health insurance are enrolled in Medicaid or CHIP. This national commitment should not stop until every eligible child across the country is enrolled in one of the existing health care programs.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-FEB-1998 16:07:50.00

SUBJECT: Report out Thursday shows 27% increase in 1997 of alleged violations of do

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: KERRICK_D (KERRICK_D @ A1 @ CD @ VAXGTWY [UNKNOWN]) (NSC)

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Joseph D Eyer (CN=Joseph D Eyer/O=OVP @ OVP [UNKNOWN])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: LUZZATTO_A (LUZZATTO_A @ A1 @ CD @ VAXGTWY [UNKNOWN]) (NSC)
READ:UNKNOWN

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

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

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

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

TEXT:

The Servicemembers Legal Defense Network will release its annual review of the cases under don't ask. don't tell for 1997 on Thursday. Among other things, it will again show an increase in alleged violations. They will be briefing us on the report before its release -- on Wednesday, February 18 at 4pm in room 180 OEOP and you are welcome to attend. We will be developing talking points after that briefing. DOD is receiving a separate briefing from them tomorrow.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-FEB-1998 10:10:35.00

SUBJECT:

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

TEXT:

Tarplin 690-7627 needs an answer on Coats hearing w/in 30 minutes

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-FEB-1998 16:10:42.00

SUBJECT: tobacco

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

FYI, John Schwartz is doing something on public health advocates and I used guidance to respond.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jessica L. Gibson (CN=Jessica L. Gibson/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:17-FEB-1998 17:10:09.00

SUBJECT: Thursday Meetings

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

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

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

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

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

TO: lgriffil (lgriffil @ os.dhhs.gov @ INET @ LNWTWY [UNKNOWN])
READ:UNKNOWN

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

TEXT:

In hopes of fulfilling Andi King (Gephardt) and Deb Colton's (Ways and Means) request for a meeting with the WH team on Child Care, I would like to schedule an internal meeting with the core group at 10:30am on Thurs., Feb 19, in the Wardrm. Pls let us know if this works for you...

Dario and I will then set the meeting on the Hill w/ Andi and Deb later that afternoon (Thurs)...

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-FEB-1998 16:10:42.00

SUBJECT: tobacco

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

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

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

TEXT:

FYI, John Schwartz is doing something on public health advocates and I used guidance to respond.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jessica L. Gibson (CN=Jessica L. Gibson/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:17-FEB-1998 11:01:59.00

SUBJECT: Internal Child Care mtg

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

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

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

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

TO: lgriffil (lgriffil @ os.dhhs.gov @ INET @ LNWTWY [UNKNOWN])
READ:UNKNOWN

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

TEXT:

We are going to hold off until Thursday... I will e-mail you with details later today. Thanks everyone!

----- Forwarded by Jessica L. Gibson/WHO/EOP on 02/17/98
10:54 AM -----

Jessica L. Gibson
02/13/98 07:01:25 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Internal Child Care mtg

Janet Murguia would like to have an internal meeting before a potential mtg w/ House staff on Weds. Could we regroup on Tues.? Potentially in Jen Klein's office (if you do not mind Jen)? Janet is free in the morning... Pls let me know first thing on Tuesday morning.

Message Sent

To: _____
Janet Murguia/WHO/EOP
Jennifer L. Klein/OPD/EOP

Nicole R. Rabner/WHO/EOP
Cynthia A. Rice/OPD/EOP
Elena Kagan/OPD/EOP
Laura Emmett/WHO/EOP
lgriffil @ os.dhhs.gov @ INET @ LNGTWY
Neera Tanden/WHO/EOP
Dario J. Gomez/WHO/EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-FEB-1998 18:32:18.00

SUBJECT: kids announcement

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

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

TEXT:

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D31]MAIL43699774R.026 to ASCII,
The following is a HEX DUMP:

FF575043D40B0000010A020100000002050000006F2D000000020000F569656A4E89995C14074D

**PRESIDENT CLINTON ANNOUNCES A SERIES OF NEW EFFORTS TO ENROLL
UNINSURED CHILDREN IN HEALTH INSURANCE PROGRAMS**

February 18, 1998

Today, the President announced the first major state expansions under the recently enacted Children's Health Insurance Program (CHIP) and released findings that indicate that many States will soon follow. He also unveiled an unprecedented set of public/private initiatives designed to enroll the millions of uninsured children who are eligible but not enrolled in Medicaid and other state-based children's health programs. These initiatives have been designed in partnership with Governors, health care providers, children's health advocates, foundations, businesses and many others who are committed to providing health care coverage for the nation's uninsured children.

Over 10 million children in America are uninsured. Nearly 90 percent of these children have parents who work, but do not have access to or cannot afford health insurance. Over 3 million of these uninsured children are already eligible for Medicaid. However, many families are not aware that their children are eligible for Medicaid, and others have difficulty filling out the application. Similar problems could undermine the new Children's Health Insurance Program's goal to enroll millions of uninsured children. With these challenges in mind, the President:

ANNOUNCED THAT COLORADO AND SOUTH CAROLINA HAVE JOINED ALABAMA AS THE FIRST COVERAGE EXPANSIONS UNDER THE NEW CHIP PROGRAM. Today, the President announced that Colorado and South Carolina join Alabama as the first states to come into the children's health program. In late January, Alabama received approval to expand its Medicaid program to children ages 14 to 18 up to 100 percent of poverty.

South Carolina will expand its Medicaid program to provide coverage to all children up to 150 percent of poverty. And, Colorado builds upon its current non-Medicaid program to cover children up to 185 percent of poverty. The President also highlighted the fact that many more States are well on their way to expanding coverage to more uninsured children. Currently, 14 states have already submitted their plans to HHS for approval, and another 18 States have active working groups or task forces to design plans to address the needs of uninsured children in their states.

RELEASED A NEW PRESIDENTIAL DIRECTIVE TO LAUNCH A GOVERNMENT-WIDE EFFORT TO ENROLL UNINSURED CHILDREN. In an executive memorandum to seven Federal agencies with jurisdiction over children's programs — the Departments of Agriculture, Interior, Education, HHS, HUD, Labor, and Treasury and the Social Security Administration -- the President directed the establishment of a multi-agency effort to enroll uninsured children. These agencies run programs such as WIC, Food Stamps, Head Start, and public housing that target many of the same children who are uninsured and eligible for coverage. The memorandum instructs these agencies: (1) to identify all their employees and grantees who might come into contact with these children and ensure that these individuals are aware of the health insurance programs available to children; (2) to develop an intensive children's outreach initiative, such as distributing information, coordinating toll-free numbers, and simplifying and coordinating application forms; and (3) to report back in 90 days on their plan to help enroll uninsured children.

HIGHLIGHTED BUDGET PROPOSALS THAT PROVIDE MEDICAID

ENROLLMENT INCENTIVES TO STATES. The President's FY 1999 budget invests \$900 million over 5 years in children's health outreach policies, including encouraging states to use schools and child care centers to enroll children in Medicaid. The budget provides states with the option of automatically enrolling children in Medicaid even before having received all of the complicated eligibility and enrollment forms (a provision known as "presumptive eligibility"). It also expands the use of a Federally-financed administrative fund, allowing it to underwrite the costs for all uninsured children — not just the limited population allowed under current law.

ANNOUNCED A HISTORIC PRIVATE SECTOR COMMITMENT TO PROVIDE OUTREACH.

To complement the public outreach effort, the President announced unprecedented new contributions from the private sector to help ensure that all children who are eligible for health insurance receive it, including:

- **A new toll-free number that directs families around the nation to their state enrollment centers.** The President announced that Bell Atlantic will establish and operate a toll-free number to help states enroll uninsured children. The number, that will be put in place during the upcoming months, will be used by the nation's Governors to help millions of families around the nation by directing them automatically to their local state Medicaid enrollment agency.
- **Over \$23 million in commitments from private foundations across the country.** The Robert Wood Johnson Foundation will spend \$13 million over the next 3 years to fund innovative state-local coalitions to design and conduct outreach initiatives, simplify enrollment processes, and coordinate existing coverage programs. The Kaiser Family Foundation will spend up to \$10 million over the next 5 years on studies to help understand why eligible children do not enroll in existing programs and how best to provide insurance coverage for these children. America's Promise, with support from the Robert Wood Johnson Foundation and the American Academy of Pediatrics, will mobilize the corporation such as SmithKline Beecham and Sheering Plough, and local communities nationwide in children's health outreach efforts.
- **New initiatives from corporate and advocacy organizations America to reach out to uninsured children.** Pampers has volunteered to include a letter in its child birth education packages, given to 90 percent of first-time mothers, giving families information about available health insurance options. Chain drug stores across the country will provide information about the new Bell Atlantic toll-free number to their customers. The National Education Association is launching an unprecedented effort to educate teachers on how they can inform children and their families about health insurance, through national newsletters, conferences, and special training sessions. The American Hospital Association's Campaign for Coverage will increase its nationwide initiative to engage hospitals in helping uninsured Americans, including children.

ISSUED A CHALLENGE ACROSS AMERICA TO FIND NEW WAYS TO REACH OUT TO UNINSURED CHILDREN.

The President challenged every physician, nurse, health care provider, business, school, parent, grandparent, and community across the nation, to

find new ways to reach out to ensure that uninsured children eligible for health insurance are enrolled in Medicaid or CHIP. This national commitment should not stop until every eligible child across the country is enrolled in one of the existing health care programs.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Mona G. Mohib (CN=Mona G. Mohib/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:17-FEB-1998 13:03:17.00

SUBJECT: Meeting with Erskine

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

READ:UNKNOWN

TEXT:

fyi

----- Forwarded by Mona G. Mohib/WHO/EOP on 02/17/98
12:13 PM -----

Mona G. Mohib

02/12/98 01:14:48 PM

Record Type: Record

To: Elena Kagan/OPD/EOP

cc:

Subject: Meeting with Erskine

A meeting has been set up for next Tuesday, February 17 at 2 pm in Erskine's office to review the Government to Government Relations with Tribal Governments memorandum. Lynn Cutler wanted to make sure you knew so you might be able to attend if your schedule permits. Thank you.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-FEB-1998 10:10:35.00

SUBJECT:

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

READ:UNKNOWN

TEXT:

Tarplin 690-7627 needs an answer on Coats hearing w/in 30 minutes

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-FEB-1998 16:07:50.00

SUBJECT: Report out Thursday shows 27% increase in 1997 of alleged violations of do

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

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

TO: Sean P. Maloney (CN=Sean P. Maloney/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

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

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

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

TO: KERRICK_D (KERRICK_D @ A1 @ CD @ VAXGTWY [UNKNOWN]) (NSC)
READ:UNKNOWN

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

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

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

TO: Joseph D Eyer (CN=Joseph D Eyer/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

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

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

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

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

READ:UNKNOWN

TO: LUZZATTO_A (LUZZATTO_A @ A1 @ CD @ VAXGTWY [UNKNOWN]) (NSC)
READ:UNKNOWN

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

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

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

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

TEXT:

The Servicemembers Legal Defense Network will release its annual review of the cases under don't ask. don't tell for 1997 on Thursday. Among other things, it will again show an increase in alleged violations. They will be briefing us on the report before its release -- on Wednesday, February 18 at 4pm in room 180 OEOB and you are welcome to attend. We will be developing talking points after that briefing. DOD is receiving a separate briefing from them tomorrow.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-FEB-1998 16:10:26.00

SUBJECT: Latest on FICA/workfare

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

READ:UNKNOWN

TEXT:

We are working to get this out before the NGA. Rob Weiner's recommendation is that we concur with DOL's recommendation to give the AFL a heads up on this, so I am working with Karen Tramantano to do that tomorrow.

Regarding whether this IRS ruling will do any damage to our FLSA position: According to DOL, it is a question of degrees of risk. Issuing this ruling will marginally increase the risk that a court wouldn't uphold employee rights for workfare recipients. Rob is working with DOL and Treasury on language to minimize the added risk, but DOL argues there is no way to do this ruling that doesn't add some risk. Rob doesn't disagree. So if no added risk is our standard, we would not issue this. (The risk is not zero even without this ruling.) Interestingly, DOL says the risk is less for FLSA than for the NLRA and other laws, I think because of the different laws' definition of employee.

I'll know more tomorrow.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-FEB-1998 11:03:29.00

SUBJECT: Your question on NGA undocumented immigrants item

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

READ:UNKNOWN

TEXT:

It appears that this mysterious legislative language is targeted at the concern of the Lamar Smith-types that some pregnant women who are undocumented deliberately cross the border in order to have their children in the US, making them US citizens. We believe that this language must have been added by a member of Congress who was seeking to defuse this issue by saying that the federal government should pay for such labor and delivery costs.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jessica L. Gibson (CN=Jessica L. Gibson/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:18-FEB-1998 10:48:54.00

SUBJECT: Hill mtg

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

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

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

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

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

TO: lgriffil (lgriffil @ os.dhhs.gov @ INET @ LNWTWY [UNKNOWN])
READ:UNKNOWN

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

TEXT:

I have scheduled the Child Care Hill meeting at the request of Andi King (Gephardt) and Deb Colton (Ways and Means) for Monday, Feb. 23 @ 1pm. There has been no room set for the moment. Pls let me know if you are able to attend. We are trying to set an internal WH meeting for tomorrow (Thurs). I will let you know if we are able to find a time. Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-FEB-1998 16:25:15.00

SUBJECT: CFR Letter

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Morley A. Winograd (CN=Morley A. Winograd/O=OVP @ OVP [UNKNOWN])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Here is a draft of the letter. Please let me know if you have any edits by 10:00 am tomorrow. Thanks.

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

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D25]MAIL47183494X.026 to ASCII,

The following is a HEX DUMP:

FF575043AA050000010A02010000000205000000521A000000020000E9B68A4C1BC5F418F3D33C
AB6DB1F98B950C523BF1F518368B27E81995A8EC44148B7FB216A55EC6567ACF8F90265F5B31EF

Dear Senator xxxxx:

Next week we have an historic opportunity to renew our democracy and strengthen our country. For the first time in a generation, Members of the United States Senate will have the opportunity to cast a vote for bipartisan campaign finance reform legislation that will make our democracy work better for all Americans.

Our democracy is the oldest and most successful in the world. But we know that there is something deeply wrong with the way we pay for elections. Our campaign finance laws were last rewritten 23 years ago. For quite a long while those laws worked well, but they have been overwhelmed by a flood of money and the rising cost of campaigns.

Spending in congressional campaigns has risen sixfold in the last two decades. That's more than three times the rate of inflation. Now both political parties are locked into an ever-escalating arms race, as they compete to raise more and more money. There's simply too much money required for campaigns, it takes too much time to raise, and it raises too many questions.

Our system of campaign finance has placed too much power in the hands special interests who promote own concerns at the expense of the public interest. Too often they operate in secret. Too often they have special privileges ordinary Americans don't even know exist. And elections, where ordinary voters should have the loudest voice, have become so expensive that big money can sometimes drown those voices out.

Yet we have made progress. In 1993, we repealed the tax loophole that lets lobbyists deduct the cost of their activities. In early 1994, Congress passed a law that applies to Congress the laws they impose on the private sector. And in 1995, Congress answered my call to stop taking gifts, meals, and trips from lobbyists, and sent to my desk the bipartisan Lobbying Disclosure Act which is bringing lobbyists out from the darkrooms and into the bright light of public scrutiny.

Now we have the chance to make the way we finance campaigns work better. The Senate is about to consider campaign finance reform legislation that puts an end to the soft money system, expands disclosure requirements, increases penalties for election law violations, and strengthens the rules for so-called independent expenditure campaigns.

For these reasons, I have supported in the past and continue to support the McCain-Feingold Senate Campaign Finance Reform Act and I urge the Senate to pass it.

As we work to reform campaign finance, we must do everything we can to ensure that we open, not limit, the political process. Our goal is to take the reins of our democracy away from big special interests, from big money, and to put them back into the hands of ordinary Americans where they belong. Our bottom line test should be: Will our efforts make our government

more representative, not less representative? Will reform make our elected representatives more likely to promote the public interest, even when it conflicts with powerful special interests. On all these counts, the McCain-Feingold bill meets the test.

A critical mass has been reached for campaign finance reform. Citizen groups, spurred by business executives and civic leaders, have gathered one million signatures on a petition to Congress calling for reform. Presidents Ford, Carter, and Bush have been joined by dozens of former lawmakers in calling for reform.

If you want to restore the American peoples faith in our democracy vote for McCain-Feingold.

Sincerely,

William Jefferson Clinton

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: June G. Turner (CN=June G. Turner/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:18-FEB-1998 10:24:17.00

SUBJECT: Higher Education/AA/PIR Meeting

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

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

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

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

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

TO: Judith A. Winston (CN=Judith A. Winston/OU=PIR/O=EOP @ EOP [PIR])
READ:UNKNOWN

TO: Edward W. Correia (CN=Edward W. Correia/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

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

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

TO: Scott R. Palmer (CN=Scott R. Palmer/OU=PIR/O=EOP @ EOP [PIR])
READ:UNKNOWN

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

TO: edley (edley @ law.harvard.edu @ INET @ LNGTWY [UNKNOWN])
READ:UNKNOWN

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

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

CC: Audrey M. Hutchinson (CN=Audrey M. Hutchinson/OU=PIR/O=EOP @ EOP [PIR])
READ:UNKNOWN

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

CC: Angelique Pirozzi (CN=Angelique Pirozzi/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

CC: Marjorie A. Black (CN=Marjorie A. Black/OU=PIR/O=EOP @ EOP [PIR])
READ:UNKNOWN

Debra A. Schiff (CN=Debra A. Schiff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TEXT:

There will be a meeting with Sylvia Mathews on Thursday, Feb. 19 at 4:00pm in the Roosevelt Room to discuss higher education efforts with the Race Initiative. This meeting will take an hour.

Attendees:

Sylvia Mathews
Peter Rundlet
Christopher Edley
Judy Winston
Mike Wenger
Scott Palmer
Maria Echaveste
Elena Kagan
Mike Cohen
Julie Fernandes
Minyon Moore
Karen Skelton
Dawn Chirwa
Eddie Correia

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jessica L. Gibson (CN=Jessica L. Gibson/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:18-FEB-1998 14:54:41.00

SUBJECT: Monday Meetings

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

READ:UNKNOWN

TO: lgriffil (lgriffil @ os.dhhs.gov @ INET @ LNGETWY [UNKNOWN])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

CC: Virginia N. Rustique (CN=Virginia N. Rustique/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TEXT:

We have set two Child Care meetings for Monday, February 23. Pls let me know if you will be able to attend one or both:

There will be an internal meeting with the WH group on Child Care in Larry Stein's office (2nd Flr/WW) @ 11am. This meeting will be to discuss the legislative options.

There will also be a meeting on the Hill @ 2pm in H-201 (Gephardt's Conference rm) at the request of Dem Leadership and Committee staff to discuss the legislative strategy: specifically the role that the Administration will take in drafting specific bills and legislative language.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-FEB-1998 08:35:42.00

SUBJECT: Tobacco Meetings

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: 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

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

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

TEXT:

Here are the meetings you said you wanted to hold -- have I got it right?
Should Cathy begin to arrange?

- 1) Weekly Principals Meeting -- Chaired by Bruce in his office
Held day or so before Erskine meeting

Bruce Reed/Elena Kagan/Cynthia Rice/Tom Freedman
Rahm Emanuel
Larry Stein/Peter Jacoby
Gene Sperling
Ron Klain
Janet Yellen
Jerry Mande
Frank Raines/Jack Lew/Josh Gotbaum
Donna Shalala/Kevin Thurm/Rich Tarplin/Jim O'Hara
Larry Summers/Jon Gruber

Question: does this meeting mean no more biweekly Tues @ 11:30 meetings
with VP's office?

- 2) Weekly Meeting with Erksine

Same as above

- 3) Weekly Agency Meeting -- Chaired by Cynthia (Thurs 2:45)

Same as currently (above plus DOJ, USDA, FDA)

- 4) One-time meeting-- Advocacy Groups --
Bruce with Tim Westmoreland
Subsequent meetings recommended by Westmoreland

- 5) One-time meeting-- Press Strategy Meeting
(Cynthia, Tom, Jerry to draft plan first)

Bruce Reed/Elena Kagan/Cynthia Rice/Tom Freedman
Rahm Emanuel
Larry Stein/Peter Jacoby
Ron Klain/Eli Attie
Jerry Mande
Mike McCurry/Barry Toiv
Melissa Skolfield
Laurie McQue (FDA) (pls correct my spelling)

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: June G. Turner (CN=June G. Turner/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:18-FEB-1998 10:24:17.00

SUBJECT: Higher Education/AA/PIR Meeting

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

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

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

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

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

TO: Judith A. Winston (CN=Judith A. Winston/OU=PIR/O=EOP @ EOP [PIR])
READ:UNKNOWN

TO: Edward W. Correia (CN=Edward W. Correia/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

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

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

TO: Scott R. Palmer (CN=Scott R. Palmer/OU=PIR/O=EOP @ EOP [PIR])
READ:UNKNOWN

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

TO: edley (edley @ law.harvard.edu @ INET @ LNCTWY [UNKNOWN])
READ:UNKNOWN

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

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

CC: Audrey M. Hutchinson (CN=Audrey M. Hutchinson/OU=PIR/O=EOP @ EOP [PIR])
READ:UNKNOWN

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

CC: Angelique Pirozzi (CN=Angelique Pirozzi/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

CC: Marjorie A. Black (CN=Marjorie A. Black/OU=PIR/O=EOP @ EOP [PIR])
READ:UNKNOWN

Debra A. Schiff (CN=Debra A. Schiff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TEXT:

There will be a meeting with Sylvia Mathews on Thursday, Feb. 19 at 4:00pm in the Roosevelt Room to discuss higher education efforts with the Race Initiative. This meeting will take an hour.

Attendees:

Sylvia Mathews
Peter Rundlet
Christopher Edley
Judy Winston
Mike Wenger
Scott Palmer
Maria Echaveste
Elena Kagan
Mike Cohen
Julie Fernandes
Minyon Moore
Karen Skelton
Dawn Chirwa
Eddie Correia

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-FEB-1998 16:10:26.00

SUBJECT: Latest on FICA/workfare

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

TEXT:

We are working to get this out before the NGA. Rob Weiner's recommendation is that we concur with DOL's recommendation to give the AFL a heads up on this, so I am working with Karen Tramantano to do that tomorrow.

Regarding whether this IRS ruling will do any damage to our FLSA position: According to DOL, it is a question of degrees of risk. Issuing this ruling will marginally increase the risk that a court wouldn't uphold employee rights for workfare recipients. Rob is working with DOL and Treasury on language to minimize the added risk, but DOL argues there is no way to do this ruling that doesn't add some risk. Rob doesn't disagree. So if no added risk is our standard, we would not issue this. (The risk is not zero even without this ruling.) Interestingly, DOL says the risk is less for FLSA than for the NLRA and other laws, I think because of the different laws' definition of employee.

I'll know more tomorrow.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-FEB-1998 18:06:44.00

SUBJECT: Tobacco Farmers Meeting

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

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

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

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

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

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

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

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

TO: Bruce R. Lindsey (CN=Bruce R. Lindsey/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: 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

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

TEXT:

We will hold a meeting on tobacco farmers on Friday, February 20 at 10 am
in Room 211. Thanks, Mary

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-FEB-1998 08:35:42.00

SUBJECT: Tobacco Meetings

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: 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

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

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

TEXT:

Here are the meetings you said you wanted to hold -- have I got it right?
Should Cathy begin to arrange?

- 1) Weekly Principals Meeting -- Chaired by Bruce in his office
Held day or so before Erskine meeting

Bruce Reed/Elena Kagan/Cynthia Rice/Tom Freedman
Rahm Emanuel
Larry Stein/Peter Jacoby
Gene Sperling
Ron Klain
Janet Yellen
Jerry Mande
Frank Raines/Jack Lew/Josh Gotbaum
Donna Shalala/Kevin Thurm/Rich Tarplin/Jim O'Hara
Larry Summers/Jon Gruber

Question: does this meeting mean no more biweekly Tues @ 11:30 meetings
with VP's office?

- 2) Weekly Meeting with Erksine

Same as above

- 3) Weekly Agency Meeting -- Chaired by Cynthia (Thurs 2:45)

Same as currently (above plus DOJ, USDA, FDA)

- 4) One-time meeting-- Advocacy Groups --
Bruce with Tim Westmoreland
Subsequent meetings recommended by Westmoreland

- 5) One-time meeting-- Press Strategy Meeting
(Cynthia, Tom, Jerry to draft plan first)

Bruce Reed/Elena Kagan/Cynthia Rice/Tom Freedman
Rahm Emanuel
Larry Stein/Peter Jacoby
Ron Klain/Eli Attie
Jerry Mande
Mike McCurry/Barry Toiv
Melissa Skolfield
Laurie McQue (FDA) (pls correct my spelling)

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-FEB-1998 11:07:48.00

SUBJECT:

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

TEXT:

Reminder: 11:00 Tobacco Conf. Call in Bruce's office

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:19-FEB-1998 15:36:58.00

SUBJECT: Re: David Sarasohn, Oregonian

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

TEXT:

who should he call in your office to set up a mtg? I'll email Chris on Healthcare. Thanks! He's really a good guy.

Elena Kagan
02/18/98 02:55:42 PM
Record Type: Record

To: Amy W. Tobe/WHO/EOP
cc:
Subject: David Sarasohn, Oregonian

I'd be glad to talk to him about tobacco. If you want, I can do the health care bill of rights too, but chris jennings would be better.
----- Forwarded by Elena Kagan/OPD/EOP on 02/18/98 02:54 PM -----

Bruce N. Reed
02/18/98 09:03:22 AM
Record Type: Record

To: Elena Kagan/OPD/EOP
cc:
Subject: David Sarasohn, Oregonian

can you call him?
----- Forwarded by Bruce N. Reed/OPD/EOP on 02/18/98 09:03 AM -----

Amy W. Tobe
02/17/98 05:50:17 PM
Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP
cc:
Subject: David Sarasohn, Oregonian

David is an editorial writer for the Oregonian and will be in town the first week of march. He is a really good guy. He wants to talk with either one of you about HMO-Health Care Bill of Rights & tobacco. He met with Bruce a few years ago (I think). Pls let me know if you're available

or whom I should work with in your shop to schedule something with him and either one of you . Thanks!

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:19-FEB-1998 15:46:38.00

SUBJECT: New Mexico has a welfare reform law!

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

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

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

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

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

TEXT:

Clips we just got from HHS have a short blurb saying the Governor signed a compromise law yesterday supported by Ds and Rs.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:19-FEB-1998 08:51:56.00

SUBJECT: Radio Address/Policy Announcement

SUGGESTION

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

READ:UNKNOWN

TEXT:

Unfortunately I had a meeting that I called with folks from the outside yesterday and missed the scheduling meeting, but as I understand, the women's history radio address is contingent on a policy announcement. Therefore, I'm assuming you and others are going to be thinking about what might be appropriate. I'd like to suggest that we amplify the civil rights enforcement package. I know the VP announced most if not all of it during the MLK speech in Atlanta, but women especially benefit from this and the general public only think of people of color when they think civil rights. This would allow us to put the picture of women on this issue.

Just an idea. We really want this address because we want to invite the Congresssional Women's Caucus as the audience. We need to do something with them and POTUS for Women's History or they are really going to be ticked. When we floated the radio address as an idea to them and their staff, they thought it was great. Anything you can do to help is most appreciated. thanks

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:20-FEB-1998 18:27:31.00

SUBJECT: Outcome of meeting on Non-Discrimination Executive Order

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

The decision was to do the executive order April-May, with the preference being for early April.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:20-FEB-1998 15:31:39.00

SUBJECT: Weekly 2/20

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:

Education, Crime, and health Care do not have any entries this week=====

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D35]MAIL47675435R.026 to ASCII,

The following is a HEX DUMP:

FF5750431A0F0000010A020100000002050000001941000000020000E6713BA08CD1E1F69291EC

February 20, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

RE: DPC Weekly Report

Child Care -- Stay at Home Parents: We are working with NEC and Treasury to prepare policy options on proposals to help “stay-at-home parents” so that we will be prepared to offer a proposal as part of a final child care package. Senators Chafee and Dodd have both included proposals in their child care bills to offer tax credits to parents who choose to stay at home with their young children. Last week, the House unanimously passed a resolution introduced by Congressman Goodling noting that any child care initiative passed by the Congress must not ignore stay-at-home parents (although Democrats complained that they were not given the opportunity to amend the resolution to include support for child care for working families as well). Next week, Senator Coats is holding a symposium to discuss the issue further.

EEOC -- Federal Sector Rule. On Friday, February 20th, the EEOC published a Notice of Proposed Rulemaking which seeks public comment on a number of proposed changes to the federal sector complaint process. Most notably, the proposed rule would end the current practice of allowing federal agencies accused of discrimination to overrule final decisions of EEOC administrative judges. In addition, the proposed rule would expand the use of ADR mechanisms, provide for the dismissal of complaints where there is a clear pattern of abuse of the complaint process, and expand the use of class actions to more effectively combat systemic discrimination practices in federal employment. These proposed changes would increase the perception of fairness in the process and would increase efficiency by eliminating unnecessary layers of review, dealing more expeditiously with meritless claims and delegating more authority to front-line employees.

Immigration -- H1B Visas. H1B visas are temporary work visas that allow “highly skilled” immigrants (with a BA or equivalent) to work in this country for up to six years. Under current law, the number of H1B visas issued is capped at 65,000 per year. Last year, this cap was reached for the first time. According to the INS, this year we are likely to reach the H1B cap by April. The information technology industry supports either the removal of the H1B cap

or a significant increase in the annual allotment. Labor unions would likely oppose any increase in the cap.

Welfare Reform -- Update on Fatherhood Initiatives by Governors and Congress:

There is growing interest among governors regarding how states can use their TANF funds to promote positive fatherhood involvement. At this week's NGA meeting, the Human Resources Committee will discuss examples of activities in their states -- Governors Ridge, Carper, Romer and Beasley are planning to speak -- and NGA will release a document summarizing these initiatives. Governors were specifically asked not to focus primarily on child support enforcement or custody rights, but instead on efforts to encourage fathers to be more involved in their children's lives.

In addition, Governors Ridge and Carper recently launched a bipartisan national effort to promote responsible fatherhood and sent a letter to other Governors encouraging them to join a Governors' Task Force on Fatherhood Promotion (not an NGA initiative). The Task Force will co-host a June 16th national fatherhood summit, bringing together elected officials from all levels of government, and leaders from the civic, philanthropic, education and entertainment communities. Wade Horn's group, The National Fatherhood Initiative, is working on this summit.

There are also indications of interest by House Republicans on this issue. Late last month, Congressman Archer called for \$1 billion "Fatherhood Counts" block grant, which he would pay for by capping tobacco attorney's fees. Details of his plan are not yet available.

Welfare Reform -- Welfare to Work Transportation: As you asked us to do after the State of the Union, we have sent a letter from you to all the governors urging them to use existing welfare funds for welfare to work transportation. The letter highlights Elaine Kinslow's success story, describes your proposal for \$100 million in new welfare to work transportation funds, and urges states to make full use of existing welfare funds to provide transportation services. To help states do so, the letter promises that HHS, DOL and DOT will provide more detailed guidance shortly. The letter will also be sent to state legislative leaders and local elected officials.

Welfare Reform--Separate State Programs: New financial data from the states show that 16 states have created separate state programs. Under TANF, state expenditures in certain separate state programs may count toward a state's TANF Maintenance of Effort (MOE) requirement, even though individuals served in these separate state programs don't have to follow the TANF work and time limit rules. Information from the 16 states show that total state spending on separate state programs ranges from 1% in Indiana to 52% in Hawaii. Eight states report spending more than 10% in a separate state programs: Hawaii, Illinois, Colorado, Iowa, Alabama, Wyoming, Massachusetts, and Arizona. Six of these eight states spent most or all of their funds on child care (child care funds spent in this way would not be time limited). Hawaii created a separate state program for two-parent households and legal immigrants (Florida,

Michigan and Tennessee have similar programs amounting to less than 10%). Colorado's separate state program is for child welfare services (similar to the Emergency Assistance program).

Campaign Finance Reform -- Petitions: Two weeks ago your letter to establish a system of free and discounted TV time was received by the Federal Communications Commission (FCC). Last week the Federal Elections Commission (FEC), in response to your petition to ban "soft money" has asked the FEC General Counsel to provide additional the commission with additional options on restricting "soft money" contributions.

Assuming bipartisan campaign finance reform legislation is filibustered next week, we need to focus our attention to your pending petitions before the FCC and FEC. In addition, we should consider submitting other petitions, including one to the Securities Exchange Commission (SEC) on disclosure of contributions.

Campaign Finance Reform --McCain Feingold: Next week we expect the McCain-Feingold reform legislation to come up for consideration. The bill would ban soft money, regulate issue-advocacy communications, and increase disclosure requirements for campaigns.

After the vote on McCain-Feingold, Lott will then be permitted to hold a vote on an alternative bill to his liking. We expect Lott to bring up Senate Majority Whip Don Nickles's (R-Okla) controversial Paycheck Protection Act. The measure would require unions to get prior consent before using dues for political purposes and is strongly opposed by Democrats who believe it could cripple labor.

Senator Snowe -- along with Sens. James Jeffords (R-Vt) and John Chafee (R-RI) -- has been trying to make aspects of each bill more palatable to Senators on both sides of the aisle. Snowe's compromise, derived from a proposal crafted by American Enterprise Institute scholar Norm Ornstein and Thomas Mann of the Brookings Institution -- would restrict both unions and corporations from airing certain types of advertising within 60 days of a primary or general election. It is not clear yet whether Democrats will support the Snow compromise. Senator Daschle's staff was not initially supportive.

Tobacco -- New Tobacco Ad Campaign and Announcement on Synar Goals: Next Saturday, February 28, is the one year anniversary of two provisions in FDA's tobacco regulation going into effect that protect children and adolescents from tobacco products. Those provisions prohibit retailers from selling tobacco products to anyone under 18 and require retailers to check the photo identification of anyone under 27 years old. We recommend you mark the anniversary this **Wednesday?** **BR** by announcing a new ad campaign HHS has prepared. The campaign consists of radio, billboard and print ads as well as a free retailer kit. Within the next few months the campaign will be running in Arkansas, California, Colorado, Florida, Illinois, Massachusetts, Minnesota, Pennsylvania, Texas, and Washington. As each

new state signs on, FDA will run ads and distribute retailer kits. In addition, the Substance Abuse and Mental Health Services Administration is prepared to release its annual report to Congress. You can announce that the report will conclude that all 50 states are in compliance with the Synar amendment, (enforcing age restrictions on tobacco purchases), and list the target date that each state is expected to achieve its Synar goal. The report also presents state by state information on the rate of sales to youth of tobacco products. We believe this is a good opportunity to highlight your success in moving the country forward in the fight to protect children and to restate your commitment to enacting comprehensive tobacco legislation.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:20-FEB-1998 14:39:12.00

SUBJECT: CFR

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

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

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

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

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

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

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

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

TO: William P. Marshall (CN=William P. Marshall/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

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

TO: Jim Kohlenberger (CN=Jim Kohlenberger/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

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

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

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

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

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

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

READ:UNKNOWN

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

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

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

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

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

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

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

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

TEXT:

The next Campaign Finance Reform Taskforce meeting will take place on
Monday, February 23 at 3 pm in the Ward Room

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Charles A. Blanchard (CN=Charles A. Blanchard/OU=ONDCP/O=EOP [ONDCP])

CREATION DATE/TIME:20-FEB-1998 15:32:55.00

SUBJECT: Abraham Crack Bill

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

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

CC: Melvin G. Dubee (CN=Melvin G. Dubee/OU=ONDCP/O=EOP @ EOP [ONDCP])
READ:UNKNOWN

TEXT:

This morning's Detroit News reports that Senator Abraham's cocaine sentencing bill (which lowers the powder threshold from 500 grams to 100 grams) "is expected to be brought to the Senate floor within the next two weeks, Abraham said."

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: June G. Turner (CN=June G. Turner/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:20-FEB-1998 18:27:06.00

SUBJECT: Benchmarking meeting

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

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

TO: Edward W. Correia (CN=Edward W. Correia/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

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

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

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

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

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

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

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

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

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

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

CC: Phyllis Kaiser-Dark (CN=Phyllis Kaiser-Dark/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

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

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

CC: Jessica L. Gibson (CN=Jessica L. Gibson/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

Debra A. Schiff (CN=Debra A. Schiff/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TEXT:

There will be a benchmarking meeting with Sylvia Mathews on Tuesday, Feb. 24 at 4:00pm in the Roosevelt Room.

Jessica: Can you make sure Chuck knows - - I can't find him on e-mail.
Thanks.

Attendees:

Sylvia Mathews
Richard Hayes
Peter Rundlet
Dawn Chirwa
Rob Weiner
Sally Katzen
Tracey Thornton
Chuck Brain
Gene Sperling
Elena Kagan
Ann Lewis
Michael Deich
Eddie Correia
Janet Murguia

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:23-FEB-1998 13:14:16.00

SUBJECT: Statement on Megan's Law

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

EK:

Rahm asked us to draft a short statement on the Megan's Law non-decision by the Supreme Court this morning (see Leanne's e-mail to you). Leanne's throwing something together right now, so we'll forward a draft to you by about mid-afternoon or so.

Jose'

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:23-FEB-1998 19:40:37.00

SUBJECT: Food Safety 90-Day Report

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

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

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

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

TEXT:

Elena, OMB and FDA told me the Food Safety 90-day report is completed. Dr. Friedman wanted to mention that the report is completed and set to go out during his congressional testimony on Wednesday. This seems to be ok -- it doesn't seem like much of an announcement for an event. Let me know, Mary

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:23-FEB-1998 10:20:09.00

SUBJECT: needle exchange 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:

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

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D15]MAIL49022835R.026 to ASCII,
The following is a HEX DUMP:

FF57504370040000010A02010000000205000000081280000000200005A14C2F779F9A49B0B36A4
9B64ADD8AA181EB132B995A88356156CB3335E8CD83328660903E3B019AF70072A0D6AA9C28832
8D58F8361ABB72E1CA6FE58487F42840F2484571B0571DEA2DF950C4A9D477F43BA8CC9F72BDD5
0AB9242090B9CD58B8574738A8D9A1057343D0E34941EF281DE36AA5D159C3569B4BEA3ACD7E4D

MEMORANDUM

February 23, 1998

TO: Elena
FR: Chris and Sarah
RE: Needle Exchange

The purpose of this memo is to help frame the Administration's options as they relate to the needle exchange issue and to develop a strategy to lay the groundwork for whatever decision is made. Following the confirmation of Dr. David Satcher as Surgeon General and the expiration of the Congressional prohibition on releasing needle exchange funds (which is coming up on March 31th), there will be great pressure for the Administration to take a formal position on this issue.

Background: Congress has given the Secretary of Health and Human Services the authority to release Federal funding for needle exchange programs if she concludes that needle exchange programs decrease HIV transmission and do not increase drug use. The Secretary has already concluded that these programs do decrease the transmission of HIV, but has yet to make a formal finding regarding their impact on drug use. There has been increasing pressure from scientists, the public health community, and the AIDS community regarding the Administration's position on needle exchange programs. The pressure has become more intense as a great number of people believe that the evidence that needle exchange programs do not increase drug use is quite strong. As a result there is a heightened sense among the advocates that the only reason the Administration has not made a positive finding is the fear of the political consequences of such an action.

Although there does appear to be credible information that needle exchange programs do not increase drug use, this is not a widely held view among the public and the law enforcement community. This fact helps explain why another critical player in this discussion, General McCaffrey, continues to send strong signals against any movement in this area.

With the General's opposition in mind and with the confirmation of Dr. Satcher for Surgeon General pending, the Administration hesitated to make any dispositive finding regarding needle exchange. This decision was further validated when during the appropriations process, there was a very real chance that any move to make such a finding would have led Congress to eliminate, altogether, the Secretary's current authority to release funds for needle exchange

programs. Instead, at least partially as the result of our decision not to act, the authority was not repealed and the Congress limited its intervention to delaying our authority to release funds until March 31. As a consequence, even if the Administration makes a final determination that needle exchange programs do not, in fact, increase drug use, no dollars can be released until the end of March.

There is little question that Dr. Satcher's confirmation and the pending March deadline places extraordinary pressure on the Administration to release findings on the impact of needle exchange programs on drug use. This means we must quickly move to decide how best to position ourselves on this issue and begin to lay the foundation for whatever position we take.

Options: There are currently three options to contemplate as we move forward.

(1) Maintain Status Quo: Maintain our current position that there is not enough information to make a decision as to whether needle exchange programs increase drug use.

The Administration could continue to conclude that there is not sufficient data to make a final determination on the impact of these programs with regard to drug use. Under this option, we would choose to delay the issue until a more appropriate time for a determination (e.g. if ever a more friendly Congress is in place). This position would no doubt anger the AIDS community even though we would, under this resolution, stand a better chance at retaining the Secretary's authority to release funding to needle exchange programs over the long haul. The AIDS community believes that there is more than enough information to conclude that needle exchange programs do not increase drug use and do help reduce HIV transmission. Therefore they would find any efforts by the Administration to further delay this issue to be morally reprehensible. We would also likely be criticized by other elite validators who would find this choice to be a purely political move.

On the other hand, under this option, the Secretary is far more likely to retain her current statutory authority to fund these programs. It would also help us avoid a major confrontation with the Republican Congress on this issue -- a confrontation that many political experts believe we would inevitably lose.

(2) Make and Release a Finding That Needle Exchange Programs Do Not Increase Drug Use. The Secretary could, based on a new study (that could easily be produced by HHS), conclude that needle exchange programs do not increase drug use and release funding for needle exchange programs. With this conclusion, the President would be widely praised by the AIDS community for his moral leadership. The American Bar Association, the American Medical Association, and other influential validators would also, no doubt, praise the Administration. Our position could be described as one of community empowerment and choice rather than the Federal government micromanaging these programs: Federal funds would only be released to those communities that decided themselves to have programs. Having said this, the far right and the law enforcement community could be expected to react extremely negatively to such a move.



Taking this position would, no doubt, create a very visible fight -- a fight which would be difficult to sustain in an election year where the Democrats are trying to win back the House by claiming they are more in touch with the American public. In particular the conservative wing of the party would have no appetite to fight for this position. Republicans would seize upon this issue to illustrate their point that the Democrats are out of touch with the public and in the pocket of certain special interests.

If we choose this option, Congress would inevitably make an effort to remove the Secretary's authority to release funds, and many believe they would be successful. Interestingly, even though it is extremely likely the Secretary could lose all authority to release federal funding, the AIDS community (even acknowledging this) would still likely back this as the only acceptable option.

(3) Make Positive Finding But Do Not Release Funds Unless Local Law Enforcement Community Draws Similar Conclusion. This approach would require the law enforcement community in each particular area applying for funds to draw a similar conclusion to that of the Administration: that needle exchange programs do not increase drug use. This compromise option would help mitigate the inevitable opposition for a positive finding and reduce the chances that the Congress would remove the Secretary's authority. It would also help immunize the Administration from attacks from the right. However, this approach would likely draw a great deal of criticism from the AIDS community, who are likely to approve of nothing less than full victory because they feel it would reduce the number of communities eligible for funding. Also, it is important to note that Republicans would still try and use this issue to their advantage, suggesting that any needle exchange programs will increase drug utilization. As such they would inevitably use option 2 or 3 as a weapon in the upcoming mid-term Congressional elections.

Addendum: Regardless of what decision is made, it is extremely important that we begin to lay the foundation for how we plan to proceed. We will have to think about timing as well as how our decision is rolled out with regard to the AIDS community, the Congress, the law enforcement community. Most important of all, whatever decision we make must be made with a total commitment with all the Administration parties to ensure it is consistently communicated and competently implemented.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Christa Robinson (CN=Christa Robinson/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:23-FEB-1998 11:28:54.00

SUBJECT: FYI Agency Drug/Crime news

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

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

TEXT:

Friday is the annual certification of countries -- Columbia and Mexico will make news.

Shalala and McCaffrey are announcing local drug treatment awards Wednesday.

DOJ is announcing \$140 million for STOP - Domestic Violence Prevention grants - this week. They don't have a date scheduled.

Saturday -- 4th anniversary of the Brady Bill. DOJ thinking about having Reno make a statement at the beginning of her press availability on Thursday.

(POTUS is in San Francisco Friday and is not doing a message event -- all of these items would be received well in N. CA. Do you think POTUS should issue a written statement on Friday on certification, Brady and/or domestic violence grants?)

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:23-FEB-1998 14:39:39.00

SUBJECT: Proposed Megan Statment

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

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

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

TEXT:
Michelle/Laura:

For Rahm and Elena to review. We need to makes sure that at least a non-practicing attorney glances at this --though I think it's pretty safe.
jc3

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

TEXT:
Unable to convert ARMS_EXT:[ATTACH.D9]MAIL45419145H.026 to ASCII,
The following is a HEX DUMP:

FF575043B0040000010A02010000000205000000030A000000020000DB088FC073B4D2F1260850
8B2A5538969764164A6847758C9F89388F469EE7462CBE7FA67FDACBD0E8F7B0891E9E5B56B46E
81675F9755A738CC0CEE2DC32094FC3F901614EBD1B00FBB4D99D29F55C8508B458AFD7E4799AB

DRAFT STATEMENT OF THE PRESIDENT
February 23, 1998

This morning the Supreme Court declined to review and, thus, left intact the community notification provision of New Jersey's "Megan's Law." Megan's Law provides families and communities with a crucial tool to protect their children from known sex predators. That is why my Administration has defended its constitutionality, enacted a federal Megan's Law, and worked with states to establish a national sex offender registry. We will continue to do everything we can to make sure that community notification and sex offender registration laws are enforced and upheld throughout the country.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:23-FEB-1998 17:58:35.00

SUBJECT: Tobacco Event Conference Call

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

TO: Nathan B. Naylor (CN=Nathan B. Naylor/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

TO: Dan J. Taylor (CN=Dan J. Taylor/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

TO: Wendy Hartman (CN=Wendy Hartman/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

TO: Eli G. Attie (CN=Eli G. Attie/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

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

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

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

TO: Jodi R. Sakol (CN=Jodi R. Sakol/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

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

TO: mdonahue (mdonahue @ os.dhhs.gov@INET [UNKNOWN])
READ:UNKNOWN

TO: Kimberly H Tilley (CN=Kimberly H Tilley/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

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

TO: Cynthia A. Rice (CN=Cynthia A. Rice/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

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

READ: UNKNOWN

TEXT:

The VP is tentatively scheduled to announce the FDA compliance billboard and radio campaign on Wednesday morning. The President may participate if he is still here in D.C.

at that time. We hope Secretary Shalala will be able to join us for the announcement. (HHS is checking her schedule).

We are scheduling a conference call to discuss the event/announcement for tomorrow (Tuesday) morning at 9:30 a.m. Folks from HHS will be on the call.

Please call 456-6777 or 456-6799 code #9867. Thank you.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Dawn M. Chirwa (CN=Dawn M. Chirwa/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:23-FEB-1998 10:06:18.00

SUBJECT: Benchmark meeting

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Do you have time today or tomorrow morning to meet with Rob and I to follow-up on the questions/suggestions Elena raised at our benchmarking meeting last week? This would be separate and apart from Sylvia's meeting tomorrow to go over roll-out. Let me know your availability either later today or tomorrow morning.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:23-FEB-1998 19:16:18.00

SUBJECT: ncjw draft

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

READ:UNKNOWN

TO: Morley A. Winograd (CN=Morley A. Winograd/O=OVP @ OVP [UNKNOWN])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Virginia N. Rustique (CN=Virginia N. Rustique/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Draft 2/20/98 7pm

PRESIDENT WILLIAM J. CLINTON

REMARKS TO THE NATIONAL COUNCIL OF JEWISH WOMEN

WASHINGTON, DC

February 24, 1998

Acknowledgments: Nan Rich; Ann Lewis, Maria Echaveste, Lynn Cutler, HHS Assst, Sec. for Children & Families Olivia Golden.

In a way, I'm here to say "thank you" -- 12 years after the fact. In 1986, Nan Rich came to Arkansas. She told Hillary and me about a new program begun in Tel Aviv called HIPPY, that taught parents how to teach their young children. She asked us to bring it to Arkansas. And she was pretty persuasive. Today, as you know, HIPPY is one our proudest accomplishments. It has helped thousands of children. It has expanded to 26 states. I am committed to sharing the message of HIPPY -- that learning must begin at birth and continue throughout a lifetime, that every parent must take responsibility, and that no child should be left behind -- to every family in every community. I thank you for your leadership, your inspiration, and your support.

The graduates of HIPPY and all today's children will live out their lives in the 21st Century. This is a moment of hope and possibility unparalleled in our history. And it is not a time to rest; it is a time to build. We have it in our power to strengthen our nation for the 21st Century so that all our people can join in this moment of hope.

I know you will visit Capitol Hill this afternoon. And I hope you will add your voice to the demand for campaign finance reform. For years, special interests have blocked campaign finance reform. Today and tomorrow, the Senate will vote, up or down, on the McCain-Feingold bill -- real, bipartisan reform. And today there's a breakthrough: a group of Republicans led by Sens. Olympia Snowe and Jim Jeffords have announced support for the bill. A vote for McCain-Feingold is a vote to end soft money. If a majority of the Senate backs this bill, then only the obstruction of a minority will keep campaign reform from moving forward.

Today, I want to talk to you about the greatest challenge our nation faces: the work we still must do to educate our children, to care for them, to challenge them, and to give them the brightest possible future. Let me begin by underscoring the urgency of this mission.

Today, Secretary Riley is announcing the results of the Third International Math and Science Study. This test measures the performance of American children against children all around the world. Past TIMSS tests have shown that in the fourth grade, our children do quite well. By the eighth grade, they begin to lag. And by the 12th grade, their performance plummets. According to the test results announced today, U.S. 12th graders outperform only two out of the 21 nations studied -- Cyprus, and South Africa.

This is unacceptable. The Information Age is above all the Education Age. And America cannot go strong into the 21st Century until all our children can read, until all our children can master the basics, until all our children have the skills and the self confidence they need. And that is a challenge for us, their parents.

Our responsibility to teach our children begins in the earliest years, even before our children go to school. Governments don't raise children; parents do. And we must help parents meet their responsibilities at home and at work.

The first month I took office, I signed into law the Family and Medical Leave Act. Up to 15 million Americans have taken advantage of this law to care for a newborn child or a sick relative. Over the past five years, we have expanded Head Start and extended child care to 1 million children. Last year, I signed a bipartisan balanced budget agreement that extended health coverage to five million uninsured children

-- made college affordable for every American -- gave parents a \$500 per child tax credit. It was a balanced budget that reflected our values.

Now, I ask our nation to rise to the challenge of helping parents find and afford quality child care. Today, most families rely on two incomes to make ends meet. Too many parents juggle unstable child care arrangements with the uncompromising demands of work. Five million children return to empty homes after school, increasing the chances that they will try drugs, alcohol and tobacco or be victims of crime. Child care costs can drain as much as a quarter of a working family's income. And good child care is often hard to find.

So my balanced budget for 1999 launches a comprehensive and fiscally-responsible plan to make child care more affordable and accessible, raise its quality, and assure its safety.

We must make child care more affordable, doubling the number of low income children receiving subsidies, and giving 3 million more working families an expanded child care tax credit. If Congress passes my plan, a family of four making \$35,000 a year with high child care costs will no longer pay a penny in federal income tax.

We must improve the safety and quality of child care. For bad providers, there should be criminal background checks. And for good providers, there should be scholarships. These people care for our children, and they deserve our support.

We must recognize that childcare isn't about babysitting -- it's about learning. As researchers told us at last year's White House Conference on Early Learning, how we care for our children in the earliest years will affect their emotional and intellectual development for the rest of their lives. So I am proposing an Early Learning Fund to reduce child-to-staff ratios in child care centers, to train child care workers, and to educate parents. As you know, when parents are taught to teach their infants and toddlers colors, numbers, and letters, their lives can be transformed forever. If my child care plan passes, the lessons taught through HIPPI can be taught in homes across America.

And we must make sure that every child has somewhere to go after school. Most juvenile crime takes place between the time the schoolbell rings and the time parents come home. So we should expand before-and after-school programs to help some 500,000 children say no to drugs and alcohol and crime -- and yes to reading, soccer, computers and their future.

All of these steps will help our children prepare to learn. And I ask your support for a comprehensive effort to raise standards and expectations in our schools. Teachers must be better trained; students must take more challenging courses; exams must be more rigorous. We need nothing less than a new ethic of accountability in America's schools.

That is why I have proposed a balanced budget that makes the largest commitment to K-12 education in history.

We must reduce class size in America. Today, in too many classrooms, teachers are supervising more than 30 children at a time. Smaller class size leads to stronger performance, especially for poorer children, and the benefits last throughout a school career. So we must set and meet a national goal: every first, second, and third grader should be in a class of 18 or less. My balanced budget will hire 100,000 new

teachers -- teachers that pass state competency tests. And it will provide tax cuts to help modernize or rebuild 5000 schools.

And we must move toward national standards to make sure all our children master the basics. Last year, we took the first steps toward national standards in 4th-grade reading and 8th-grade math. I ask every state to test their children on these basics -- and I ask for your support.

We must end the destructive practice of social promotion. We do our children no favors when we pass them from grade to grade without mastering the material. Our goal must not be to hold students back but to lift them up.

And we must continue to connect every classroom and library in America to the Information Superhighway by the Year 2000. If we do, for the very first time in history, children from the poorest inner city, the most isolated rural area, and the most affluent suburb will have access to the same universe of knowledge.

And we will continue to make college available to every young American. Over the past five years we have expanded Pell Grant scholarships, made student loans cheaper and easier to repay, and given families tax cuts to pay for tuition, for the very first time, every American can go to college regardless of cost. I ask your help: spread the word -- tell your friends, your neighbors, your children, that they can go on to college. We can make college as universal in the 21st Century as high school is today. And that will change the face of America.

Yes, the challenges are different than they were in 1893 when the NCJW was founded -- but in so many ways, they are the same. Bringing millions of new immigrants into the American mainstream. Harnessing the power of economic change so that it works for our people. Entering a new century with confidence that the American Dream of opportunity for all, responsibility from all, can be made real for our children.

The Talmud says: Every blade of grass has its angel that bends over it and whispers, "Grow, grow." Our children are those blades of grass. And we must be their better angels. Thank you, and God bless you all.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:23-FEB-1998 16:05:21.00

SUBJECT: Megan

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

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

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

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

TEXT:
Elena made some edits to this, and DOJ is okay w/it. LS -- did I miss anything? jc3

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

TEXT:
Unable to convert ARMS_EXT:[ATTACH.D48]MAIL406652458.026 to ASCII,
The following is a HEX DUMP:

FF575043B0040000010A020100000002050000006809000000020000EEDCD6702E6CD335A0B217
8E6942DDEAE9B9D11512B92899025AAEAF21412537ED0D935066B230B9B632AE266D6B4FE076C8

DRAFT STATEMENT OF THE PRESIDENT
February 23, 1998

This morning the Supreme Court declined to review a challenge to the community notification provision of New Jersey's "Megan's Law," thus leaving intact a crucial tool to protect children from known sex predators. Because of the importance of this law to families and communities, my Administration has defended its constitutionality, enacted a similar federal Megan's Law, and worked with states to establish a national sex offender registry. We will continue to do everything we can to make sure that community notification and sex offender registration laws are enforced and upheld throughout the country.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:23-FEB-1998 13:00:08.00

SUBJECT: WH Immigration working group mtg.

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,

The meeting last week went very well. We covered lots of subjects, but we need to make decisions in a few areas.

1. Public Charge

We have received draft guidance from INS on how "public charge" should be determined for purposes of deportation and exclusion under the INA. This has been a bit of a sticky issue of late, largely b/c of confusion that was created in the wake of welfare reform. Both INS and State Dept. field officers have questioned whether current or prior use of Medicaid, food stamps, WIC or other welfare-type benefits necessarily results in a finding that the individual is or is likely to become a "public charge." WIC is clearly not a trigger, and INS issued guidance to that effect last December. INS has drafted guidance on Medicaid and Food Stamps that we need to clear. One question for us is how the guidance should be crafted -- i.e., should it say that x, y, and z are triggers or should it say that it is a totality test (as it currently does), but that q, r, and s and not triggers. Rob Weiner raised the question of whether we should issue a regulation, rather than guidance, to more firmly establish the criteria for field officers and EOIR judges.

Jack Smalligan from OMB has called a meeting for Wed. at 3pm so that we can decide whether to authorize INS to approve its draft guidance on Medicaid, food stamps, and other welfare-like benefits.

Also, the State Dept. recently issued a cable to its consular officials that is inconsistent with INS's current "public charge" guidance. Because this was internal State Dept. guidance, it was not sent to OMB or DPC for clearance. Scott Busby is going to contact folks at State to figure out what they are doing. We may need to convene a meeting with State and INS to get State's guidance to conform with what INS is doing.

2. INS Reform

Several people at the meeting (including Maria) urged us to decide to adopt the CIR recommendation that Labor be empowered to sanction employers for failure to verify whether their employees are authorized to work. According to Steve Mertens, the AG has the authority to delegate this authority to Labor. However, we need to decide whether we want to make this happen. Under the current system, the Labor Dept. checks to determine whether an employer is verifying authorization to work (as demonstrated by whether the I-9 forms have been completed for each employee) as part of a regular labor standards inspection. If they find a

violation, they refer the case to the INS -- Labor has no independent authority to sanction the employer. The INS almost never follows up on these referrals.

I recommend that we push for this change. We will likely catch heat for it on the Hill, primarily from those in Congress who oppose any change that would get tougher on employers who hire illegal workers. This opposition could be significant, but the concept of sanctioning employers for failing to take steps designed to ensure that they hire legal workers in a strong one.

3. Central Americans

As you know, Justice has committed to issuing guidance to asylum adjudicators that explains the legal standard that the BIA and the AG have established for the handling of suspension claims. This guidance would simply spell out the standard, with no modification. Maria raised the issue of doing the same thing by regulation. This reg would not change the standard for "extreme hardship" or anything else; rather, it would codify existing law. Maria thinks that a reg would send a stronger signal to the groups. The only practical difference between guidance and a regulation would be that the reg would also apply to the EOIR. However, the EOIR is already charged with following the law in this area (as developed by the BIA and AG). A reg that codifies the law might be seen as a statement that we don't believe the immigration judges will follow the law without further guidance. John Morton at DOJ stated that they are opposed to a reg b/c of (1) how it would be seen by EOIR; and (2) that it would create a forum (through notice & comment) for the groups to advocate for a change in the legal standard. According to Morton, it was difficult for EOIR to accept having this process taken from them to begin with. Any reg on how the cases should be handled might be seen as further slap.

I recommend going forward with guidance, and ensuring that the process of developing guidance is inclusive (with the groups) and that it will effectively communicate the legal standard as developed by the BIA and AG.

4. Foreign Health Care Workers

Section 343 of the 1996 Immigration Act provides that all foreign health care workers (except doctors) that want to enter the U.S. to work must be certified by a designated U.S. agent. According to Mike Koplovsky at USTR, this is a likely conflict with Chapter 16 of NAFTA which prohibits such certifications. Koplovsky tells me that the Canadians are very upset about this, and may take the U.S. to the NAFTA dispute resolution entity once we begin to enforce this provision, which will happen as soon as the regs are in place.

INS is getting me an update of the status of the regs, etc. According to Bob Bach, there has been some back-and-forth between the AG and the Canadians on this. He is sending me a summary, so that we can know the status of those conversations. We may need, at some point, to ask INS, State, and/or DOJ if, in their respective legal opinions, it is possible to reconcile Sec. 343 with NAFTA.

If there is a conflict, we may have to decide whether to try to amend Sec. 343 to carve out an exception for Canada and Mexico -- according to those who remember when this provision went through, it was largely directed at the problem of Filipino nurses. However, according to some conference language, the Congress knew that there was a potential conflict with NAFTA and passed the provision anyway.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Ruby Shamir (CN=Ruby Shamir/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:23-FEB-1998 18:20:55.00

SUBJECT: Senior Citizens

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

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

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

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

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

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

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

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

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

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

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

TEXT:

There will be a meeting on Wednesday at 3pm in Ann Lewis's office to discuss Seniors Citizens Outreach. Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:23-FEB-1998 15:02:50.00

SUBJECT: Press Inquiries on Times story on tech workers

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

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

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

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

TEXT:

Who is handling inquiries on the Times story today on visa and hi-tech workers? I have no info or guidance, but have gotten a couple of calls.

In particular, could someone please get back to Miranda Ewell w/the San Jose Mercury News today?

She is at 408/920-5028. Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:23-FEB-1998 18:33:41.00

SUBJECT: Draft Answers to McCain Questions

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

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

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

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

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

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

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

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

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

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

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

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

TEXT:

Here is a draft cover letter and draft answers to the McCain questions prepared by HHS, DOJ, and USTR. I will also distribute paper copies, if needed. Let me know if you need anything else. Mary ===== ATTACHMEN
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D59]MAIL46626345V.026 to ASCII,
The following is a HEX DUMP:

FF575043C0050000010A020100000002050000008B1F000000020000FF4572C434994C26DAB9E6

DRAFT 2-23-98 6P.M.

I. BAN ON OUTDOOR ADVERTISING, INCLUDING IN STADIA AND ARENAS

1. What data does the administration have to substantiate that a ban on outdoor advertising, including stadia and arenas, will reduce smoking and, in particular, youth smoking?

The FDA tobacco rule prohibits outdoor advertising within 1,000 feet of public playgrounds and elementary and secondary schools. All other outdoor advertising is restricted to black text on a white background, devoid of color and imagery. FDA's regulations are based on the agency's finding that children and adolescents spend a great deal of time in areas around schools and playgrounds and these areas, therefore, should be free of tobacco product advertising. All other outdoor advertising should be restricted to text information only, which generally is not appealing to young people. (See response to II, below.) Data supporting this conclusion are detailed at 61 Fed. Reg. 44501-08.

2. To what extent do you believe such restrictions can be expected to reduce smoking?

FDA's advertising restrictions are based on quantitative and qualitative studies of cigarette advertising that show that a causal relationship exists between tobacco advertising and tobacco use by young people and that stringent advertising restrictions, when combined with a comprehensive program designed to reduce initiation and use among young people, will have a positive effect on reducing smoking rates and youth tobacco use.

FDA's findings regarding the ability of advertising restrictions to reduce youth tobacco use are summarized at 60 Fed. Reg. 41330-34 and 61 Fed. Reg. 44466-500.

3. **Does the administration support such a ban. If so, why? If not, why not?**

The administration supports appropriate restrictions on outdoor advertising, as evidenced by the FDA tobacco rule (21 C.F.R. 897.30(b)) which prohibits outdoor advertising for cigarettes and smokeless tobacco, including billboards, posters, or placards, from being placed within 1,000 feet of the perimeter of any public playground or playground area in a public park, elementary or secondary school. All other outdoor advertising is limited to black text on a white background (21 C.F.R. 897.32(a)).

The prohibition set forth in Section 101(a)(1), however, would prohibit "any form of outdoor tobacco product advertising, including bill boards, posters, or placards." It does not contain the exception for tombstone advertising in certain locations that is included in the FDA regulation. Because that exception ensures that the FDA regulations are appropriately tailored to

DRAFT 2-23-98 6P.M.

serve the government's substantial interest in reducing teenage smoking, Section 101(a)(1)'s broader restriction on all outdoor tobacco advertising raises significant constitutional concerns that are not presented by the FDA regulations.

- 4. What specific changes, if any, in the legislative language implementing the ban would the administration propose? Please provide specifics.**

As discussed above, the administration's efforts have been focused on supporting the restrictions now codified in FDA regulations. The administration urges Congress to provide statutory confirmation of the existing authority of the FDA to regulate the outdoor advertising of tobacco products. The resources of the administration are available to assist the Committee in determining whether further restrictions are constitutional and otherwise appropriate.

II. BAN ON HUMAN FIGURES AND CARTOON FIGURES IN ADVERTISING

1. What data does the administration have to substantiate that barring the use of human figures and cartoon advertising will reduce smoking, in particular youth smoking?

FDA's regulations restrict advertising, with certain exceptions, to black text on a white background. No color or imagery is permitted. These restrictions encompass a prohibition of human figures and cartoon characters. The restrictions apply to billboards, publications, in-store advertising, and direct mail advertisements. FDA's findings in this area are summarized at 60 Fed. Reg. 41335-36 and 61 Fed. Reg. 44466-68, 44508-13. FDA's *Federal Register* documents contain specific evidence and summaries of studies. See 60 Fed. Reg. 41333-34 and 61 Fed. Reg. 44475-82.

2. To what extent do you believe such restrictions can be counted on to reduce youth smoking?

See response to I.2., above.

3. What entity would you propose to determine what constitutes a human image or cartoon character?

Under the FDA's regulations, the requirement that tobacco advertisements under most circumstances use black text on a white background is enforced by the Food and Drug Administration and the Department of Justice under the provisions of the Food, Drug, Cosmetic Act. That Act provides for the imposition of civil penalties, 21 U.S.C. § 333(f), injunctive relief, 21 U.S.C. § 332, and/or criminal prosecution, 21 U.S.C. § 333(a).

DRAFT 2-23-98 6P.M.

4. What penalty do you believe is appropriate and should accrue for a violation of the prohibition on material containing figures determined to be human or cartoon?

Under the FDA's regulations, the requirement that tobacco advertisements under most circumstances use black text on a white background is enforced by the Food and Drug Administration and the Department of Justice under the provisions of the Food, Drug, Cosmetic Act. That Act provides for the imposition of civil penalties, 21 U.S.C. § 333(f), injunctive relief, 21 U.S.C. § 332, and/or criminal prosecution, 21 U.S.C. § 333(a).

5. Does the administration support this ban? If so, why? If not, why not?

The administration supports appropriate advertising restrictions, as evidenced by the FDA tobacco rule. Section 101(b) of S. 1414 provides that "[n]o manufacturer, distributor, or retailer may use a human image or a cartoon character or cartoon-type character in its advertising, labeling, or promotional material with respect to a tobacco product." This restriction would go beyond the FDA regulation restricting the use of images in the advertising of tobacco products, which provides that, in general, tobacco advertising must take the form of tombstone advertising but permits images to be used without restriction in an "adult publication," one whose readership is at least 85 percent adult and includes less than two million children. 21 C.F.R. § 897.32(a)(2)(i)-(ii). The provision's broader restriction on the use of images in the advertising of tobacco products would raise significant constitutional concerns that the FDA regulation does not present.

In any event, the administration urges the Congress to provide statutory confirmation of the existing authority of the FDA to regulate the use of images in the advertising of tobacco products. This regulatory approach would ensure that the FDA would be authorized, based on existing and future research, to develop necessary and appropriately tailored supplements to its current restrictions, if and when such supplements are needed.

6. What specific changes, if any, in the legislative language implementing the ban would the administration propose? Please provide specifics.

As discussed above, the administration's efforts have been focused on the restrictions now codified in FDA regulations. The resources of the administration are available to assist the Committee in discussing how these restrictions will be implemented and the associated penalties, and whether further restrictions are constitutional and otherwise appropriate.

III. BAN ON INTERNET ADVERTISING

1. Does the administration support such a ban? If so, why? If not, why not?
2. How can and should a ban on Internet advertising of cigarettes be enforced?

DRAFT 2-23-98 6P.M.

- 3. What, if any, concerns does the administration have regarding the constitutional free speech issues raised by any such ban?**
- 4. What specific changes, if any, in the legislative language implementing the ban would the administration propose?**

In response to III.1 - III.4, the administration believes that, because there may be more narrowly tailored means of achieving the government's underlying interest in restricting the advertising of tobacco products on the Internet, the categorical prohibition that Section 101(c) of S.1414 would impose would raise significant constitutional concerns. See Reno v. ACLU, 117 S.Ct. 2329,2348 (1997) (explaining that compelled tagging schemes are obvious less restrictive alternative to banning Internet transmission of content harmful to minors). We would therefore caution the Congress about adopting such a broad measure at this time.

In order to ensure that the government retains necessary flexibility to regulate the advertising of tobacco products on the Internet, we recommend that the Congress provide express statutory confirmation of the FDA's existing authority to regulate such advertising. This regulatory approach will ensure that any future restrictions are targeted at the right forms of Internet advertising and are fashioned in a manner that is appropriately sensitive to First Amendment concerns. Alternatively, we are prepared to work with Congress to fashion a more narrowly focused Internet restriction.

IV. BAN ON POINT-OF-SALE ADVERTISING

- 1. What data does the administration have to substantiate that a ban on point-of-sale advertising would reduce smoking, in particular, youth smoking?**

See responses to I.2. and II.1., above, regarding FDA's proposal restricting point-of-sale advertising. In its tobacco rulemaking, FDA found that young people get their information and product imagery from all types of advertising, including at the point of sale. See 61 Fed. Reg. 44509 - 44510. Point-of-sale advertising presents the child with an enticement at the time when purchase is immediately available.

Manufacturers and retailers limited to text- only advertising at point of sale will not be prohibited from promoting products at retail. Adult consumers looking for price and product information will be able to find that information even without imagery and colors, which are particularly attractive to children. While text-only advertising can still be effective with adults, it will have less allure and be less appealing to young people. Children and adolescents, who are less willing than adults to process print information in a leisurely setting (such as reading a

DRAFT 2-23-98 6P.M.

magazine), will find textual material even less appealing in the few moments spent at the retail counter.

2. Does the administration support such a ban? If so, why? If not, why not?

The administration supports appropriate restrictions on point of sale advertising, as evidenced by the FDA tobacco rule. As discussed above, its efforts have been focused on supporting the restrictions now codified in FDA regulations. The resources of the administration are available to assist the Committee in determining whether further restrictions are constitutional and otherwise appropriate.

3. Is the exemption of point-of-sale advertisement for adult stores and tobacco outlets appropriate?

The administration's focus has been on preventing children and adolescents from using tobacco products. Restrictions on the advertising that makes these products appealing to young people is a vital component of these efforts. FDA's regulations exempt adult-only locations and publications read primarily by adults because the evidence then available showed that advertising in locations where children are never present, such as adult-only locations, or are rarely exposed, as is the case with publications with an insignificant youth readership, would not have a significant adverse effect on efforts to reduce youth tobacco use.

4. **Is it appropriate to grant companies with greater cigarette market share additional point-of-sale advertising rights? If so, why? If not, why not?**
5. **Does such a privilege constitute a statutorily granted competitive advantage? If so, why? If not, why not?**
6. **Does the administration support this grant? If so, why? If not, why not?**
7. **What specific changes, if any, in the legislative language implementing the ban would the administration propose? Please provide specifics.**

Section 101(d) would impose a general prohibition on the use of what is termed "point-of-sale advertising" of tobacco products but would include a significant exception for "adult-only stores and tobacco outlets." Sec. 101(d)(2). The FDA regulations contain restrictions that are targeted at point-of-sale advertising, however, they are not as broad as those set forth in S.1414 primarily because they do not prohibit tombstone advertising. See 21 C.F.R. §§ 897.32, 897.16. The resources of the administration are available to assist the Committee in crafting restrictions on point-of-sale advertising that avoid any significant constitutional concerns that the restrictions on point-of-sale advertising in S.1414 would raise.

DRAFT 2-23-98 6P.M.

Section 101(d)'s exception permitting manufacturers with a greater market share to engage in more point of sale advertising than their competitors appears inconsistent with the government's asserted interest in restricting such advertising. Granting manufacturers point-of-sale advertising opportunities consonant with market share is unrelated to the objective of reducing youth tobacco use; indeed, it may run counter to that goal. Moreover, the proposal presents constitutional and anti-competitive concerns that should be addressed. The resources of the administration are available to assist the Committee in exploring those concerns.

V. LIMITATIONS ON POINT-OF-SALE ADVERTISING

1. What data does the administration possess to suggest that such limitations will reduce smoking, particularly among youth?

See response to IV.1., above.

2. Does the administration support this provision? If so, why? If not, why not?

The administration supports appropriate restrictions on point of sale advertising, as evidenced by the FDA Tobacco Rule. As discussed above, its efforts have been focused on supporting the restrictions now codified in FDA regulations. The resources of the administration are available to assist the Committee in determining whether further restrictions are constitutional and otherwise appropriate.

VI. BAN ON ADVERTISING RESTRICTION AGREEMENTS

1. **Are such agreements currently against federal or state law? If so, is such a provision necessary?**

Ordinarily, under the free market system, retailers are permitted to decide from whom and to whom they will buy and sell, and on what terms. While an agreement of the sort described -- between a manufacturer and a retailer to limit the ability of a competing manufacturer to display advertising on the retailer's premises -- might be anticompetitive under certain circumstances, such agreements are usually not condemned under the federal antitrust laws. The administration has not undertaken a review of state laws to determine whether such an arrangement would violate the law of any state.

2. **Does the administration support such a provision? If so, why? If not, why not?**

The administration's primary concern is not the relationship of retailers, manufacturers, and distributors between or among one another with respect to advertising. Rather, the

DRAFT 2-23-98 6P.M.

administration wants to ensure that point-of-sale advertising and promotional material, whatever their source, consist only of black text on a white background.

- 3. Does the administration support the limitation. If so, why? If not, why not?**

See answer to question 2 above.

- 4. What specific changes, if any, in the legislative language implement the ban would the administration propose? Please provide specifics.**

See answer to question 2 above.

VII. GLAMORIZATION OF TOBACCO

- 1. What data does the administration possess to indicate whether and to what extent this provision will reduce smoking, particularly among youth?**

A number of studies (Tye 1990; Terre, Drabman, and Speer 1991; Hazan, Lipton, and Glantz 1994; Thumbs Up! Thumbs Down! 1997) show that depictions of tobacco use in the entertainment media, particularly feature films, are on the increase and exaggerate greatly the actual prevalence of tobacco use in the U.S. population. Research also suggests that adolescents are highly susceptible to pro-smoking messages and images conveyed in entertainment media (Signorielli 1993; Davies 1993; Basil 1997). Focus group research found that young people are able to recall virtually no anti-smoking messages on TV or in the movies, yet they are able quite readily to recall specific movies that portray smoking and to identify actors and actresses who smoke in their entertainment roles (Mermelstein 1997). Deglamorizing tobacco use in the entertainment media can be achieved both by decreasing pro-smoking cues and by increasing anti-smoking cues. A study by researchers at the University of California at Irvine suggests that anti-smoking ads before movies can help inoculate young people against the positive images of smoking that appear in movies. Ninth graders who watched the movie "Reality Bites" (in which the cast smokes in about one-third of the scenes) preceded by a California Department of Health Services anti-smoking ad were much less likely to find smoking exciting compared with teens who watched the movie without the counter-advertisement (Pechmann, 1996).

- 2. What entity does the administration propose will determine what activity constitutes promoting the image or use of a tobacco product?**
- 3. How does the administration envision such a ban will be enforced?**

DRAFT 2-23-98 6P.M.

4. **Does the administration support such limitations?**
5. **What specific changes, if any, in the legislative language would the administration propose? Please provide specifics.**

In response to Questions VII.2 - VII.5, the administration believes that the scope of the restriction on glamorization in S. 1414 is unclear. For example, is the provision intended only to restrict attempts to promote certain brand names of tobacco products or is it intended to restrict the promotion of smoking generally? If the latter were the case, then the provision would appear to reach some noncommercial speech, raising significant constitutional concerns. It is also not clear what is meant by the use of the word "promoting." Finally, the phrase "appeals to individuals under 18 years of age" could be subject to challenge on vagueness grounds.

Alternatively, no such constitutional concerns would be raised if Congress enacted legislation that would confirm the authority of the FDA to regulate the advertising of tobacco products through such indirect means as the use of product placement agreements.

VIII. RESTRICTIONS ON COLOR ADVERTISEMENTS

1. What data does the administration have to substantiate that a ban on color ads, except in publications with limited youth readership, will reduce smoking particularly youth smoking?

See response to II.1., above.

2. **Does the administration believe that the threshold for the restriction of two million readers is the appropriate threshold?**

FDA's tobacco rule requires that advertising be restricted to black and white text, except in publications that are read primarily by adults or in adult-only facilities. The text-only requirement is intended to reduce the appeal of cigarettes and smokeless tobacco advertising on young people without unduly affecting the informational messages conveyed to adults. Therefore, FDA proposed in its rulemaking that advertising in publications that are read primarily by adults should be allowed to use imagery and color because the effect of such advertising on young people should be nominal. The agency set the definition of adult publication as those whose readers age 18 or older constitute 85 percent or more of the publication's total readership, or those which are read by two million or fewer people under age 18, whichever method results in the lower number of young people. (Magazines with small readership numbers but which appeal to young people may not attract two million young readers but may still be primarily youth oriented; that is, 15 percent or more of their readers are under

DRAFT 2-23-98 6P.M.

18.) In addition, the agency noted that at some point, the number of underage readers is so great that the publication can no longer be considered to be of no interest to those under 18, regardless of the percentage of the readership. For example, a magazine with a large total readership base may attract as many as 5 million young people, or more, but those numbers would still not be 15 percent of the magazine's readership. See 60 Fed. Reg. 41335-36 and 61 Fed. Reg. 44513-19.

3. How does the administration envision readership demographics being determined?

In its tobacco rulemaking, FDA explained that readership demographics would be determined by measuring the total number of people that read any given copy of a publication. Readership demographics would be measured according to industry standards and, at a minimum, would be based on a nationally projectable survey of people. Two examples of currently available surveys are Simmons's STARS and MediaMark Research Inc.'s (MRI's) TEENMARK. FDA also indicated that it would be willing to work with industry on this issue. See 61 Fed. Reg. 44516-19.

4. How would this restriction be enforced?

The restriction would be enforced by the Food and Drug Administration and the Department of Justice under the provisions of the Federal Food, Drug and Cosmetic Act which provides for the imposition of civil money penalties, 21 U.S.C. § 333(f), injunctive relief, 21 U.S.C. § 332, and/or criminal prosecution, 21 U.S.C. § 333(a).

5. Does the administration support this restriction? If so, why? If not, why not?

The administration supports the regulation in the FDA rule based upon the findings of the Food and Drug Administration regarding the role and attractiveness of images and color in advertising to young people. See, e.g., 61 Fed. Reg. 44467-68, 44509 (1996).

6. What specific changes, if any, in the legislative language implementing the restriction does the administration propose? Please provide specifics.

As discussed above, the administration supports effective restrictions on the use of color and imagery in tobacco advertising. The administration urges Congress to provide statutory confirmation of the existing authority of the FDA to regulate the advertising of tobacco products.

IX. GENERAL QUESTION REGARDING MARKETING/ADVERTISING BAN

1. Can the marketing and advertising restrictions envisioned in the settlement

DRAFT 2-23-98 6P.M.

be constitutionally imposed, with or without the industry's consent? Please discuss.

The answers to Parts I-VIII above address the government's authority to impose restrictions on advertising and marketing without the industry's consent. We address here the degree to which "the industry's consent" may affect the constitutional analysis of the advertising restrictions.

We believe that the constitutional analysis of such restrictions might be affected if the industry's adoption of those advertising restrictions that either could not be constitutionally imposed upon the industry, or that exceed the restrictions that are imposed by the FDA regulations, were in some way made contingent upon the industry's willingness to adopt them. For example, we believe that the inclusion of such restrictions in state court consent decrees between states and tobacco manufacturers -- rather than in federal legislation -- would significantly increase the likelihood that the restrictions would be upheld if challenged in the future. However, the inclusion of such restrictions in a federal statute that made adherence to such restrictions a condition of the receipt of certain federal benefits would continue to raise substantial constitutional questions. Such a statute, depending on how it were framed, would be subject to substantial challenge under the unconstitutional conditions doctrine.

X WARNING LABELS

1. Does the administration believe that these are appropriate warning labels?

The administration supports the concept of strengthening warning label statement requirements. Several recent studies (Health Canada 1996; Borland, Cappiello, and Hill 1996; Robinson and Killen 1997) and literature reviews (USDHHS 1994; IOM 1994) are available concerning the effectiveness of warning labels in conveying information to consumers. The administration's resources are available to help the Committee evaluate possible improvements to warning label requirements.

2. Does the administration possess data suggesting that these warnings will effectively reduce smoking, particularly youth smoking?

See response to X.1., above.

3. What data suggests that the various new warnings will be as or more effective than the current warning requirements?

See response to X.1., above.

DRAFT 2-23-98 6P.M.

4. Does the administration support the provisions authorizing specific new labels? If so, why? If not, why not?
5. What specific changes, if any, in the legislative language implementing this provision would the administration propose? Please provide specifics?

As stated above, the administration is available to work with the Committee in determining whether changes to the warning statement requirements are appropriate.

IX. WARNING LABEL SIZE AND LOCATION REQUIREMENTS

1. What data does the administration have to suggest that these specifications will reduce smoking, particularly youth smoking?

See response to X.1., above.

2. Does the administration support these particular specification? If so, why? If not, why not?
3. Does the administration support the exception provided for flip-top cigarette packages? If so, why? If not, why not?
4. What specific changes, if any, in the legislative language to implement these restrictions would the administration propose? Please provide specifics.

The administration, as discussed above, has focused its efforts on supporting the restrictions now codified in FDA regulations. The resources of the administration are available to assist the Committee in determining whether further restrictions are appropriate.

X. SMOKELESS TOBACCO ALTERNATIVE LABELS

1. What data does the administration have to suggest that the various new warning labels will effectively reduce the use of smokeless tobacco, particularly among youth?

See response to X.1., above.

2. Does the administration support the use of these alternative labels?
3. What changes, if any, to the legislative language implementing this provision

DRAFT 2-23-98 6P.M.

would the administration propose? Please provide specifics.

The administration, as discussed above, has focused its efforts on supporting the restrictions now codified in FDA regulations. The resources of the administration are available to assist the Committee in determining whether further restrictions are appropriate.

XI. ENFORCEMENT OF ADVERTISING, MARKETING AND LABELING RESTRICTIONS

1. Does the administration support the enforcement provisions regarding advertising, marketing and labeling? If so why? If not, why not?

Section 114 of the bill provides FTC with the authority to enforce sections 111 and 112, the provisions relating to warning statement requirements. Section 114 also contains a penalty provision for violations of section 113, the requirement that companies provide ingredient information to the Secretary of HHS pursuant to a new provision of the Federal Food, Drug, and Cosmetic Act, and authorizes the FTC to bring actions to enforce that provision. With respect to sections 111 and 112, section 114 appears to maintain the status quo with respect to warning label enforcement issues. Some other proposed bills would shift that authority to FDA. The administration is available to assist in the Committee in considering these differing approaches. With regard to section 113, which relates to a provision of FDA law, the administration would be pleased to assist the Committee in evaluating whether enforcement authority for the ingredient disclosure requirements may be more appropriately vested entirely in FDA.

2. What changes in legislative language, if any, does the administration recommend regarding these provisions? Please provide specific language.

As discussed above, the administration would be pleased to assist the Committee in evaluating issues related to the enforcement of advertising, marketing, and labeling restrictions, and in developing modifications, if appropriate, to legislative language.

XII. PREEMPTION OF STATE AND LOCAL ACTION

1. Does the administration support such preemption? If so, why? If not, why not?

2. What changes in legislative language, if any, does the administration recommend regarding this provision? Please provide specific language?

The administration generally supports the limited preemption of state and local

DRAFT 2-23-98 6P.M.

requirements related to the packaging of cigarettes or smokeless tobacco, but does not support the preemption of state and local restrictions on advertising. FDA's current regulations address advertising. Although the regulations are preemptive, the Federal Food, Drug and Cosmetic Act allows states and localities to apply for waivers to be exempted from federal thresholds. This would allow states and localities to enact or retain existing advertising restrictions that would be more stringent.

The administration is available to work with the Committee with respect to the broader issues of preemption raised by other provisions of the bill. The administration is committed to allowing states and localities the maximum flexibility practicable to develop strong public health policies to prevent and reduce youth tobacco use.

XIII. EXEMPTION OF EXPORTS

1. Does the administration support this exemption? If so, why? If not, why not?

No. As the world's leading exporter of tobacco products, the United States has the obligation to guarantee that its companies will behave responsibly no matter where they do business. There should be no exemptions for policies that would safeguard the health and well being of people anywhere in the world.

2. What ramifications does this provision have in the area of foreign relations?

Adopting a less stringent policy towards exported tobacco products would send a negative message to the countries where these products are sold -- that the health and well being of their citizens, particularly their children, are less important than the health and well being of Americans.

3. What changes in legislative language, if any, does the administration recommend regarding this provision? Please provide specifics.

Proposed response: The provision should be revised as follows:

- "It shall be unlawful for any domestic concern or any officer, director, employee, or agent of such concern to make use of the mails or any means or instrumentality of interstate commerce to contribute, either directly or through a foreign subsidiary, joint venture, affiliate, or licensee to--

“(1) the sale or distribution of tobacco products in a foreign country to children; or

“(2) the advertising or promotion of tobacco products in a foreign country in a manner

that appeals to children.

- “It shall be unlawful for any domestic concern or any officer, director, employee, or agent of such concern either directly or through a foreign subsidiary, joint venture, affiliate, or licensee, to make use of the mails or any means or instrumentality of interstate commerce to cause or contribute to the export from the United States any tobacco product the package of which does not contain a warning label that--

“(1) is in the primary language of the country in which the tobacco product is sold or distributed to consumers; and

“(2) except for the requirement of paragraph (1)--

 “(A) complies with Federal requirements for labeling of similar tobacco products manufactured, imported, or packaged for sale or distribution in the United States;

or

 “(B) complies with the labeling requirements of the foreign country in which the product is sold or distributed to consumers and which the labeling requirements the Secretary of Health and Human Services determines are substantially similar to Federal requirements and are adequately enforced by such country.”

XIV. RESTRICTIONS ON ACCESS TO TOBACCO PRODUCTS

1. **Does the administration support these provisions? If so, why? If not, why not?**

The administration supports access restrictions based upon FDA’s findings regarding the ability of persons under 18 to purchase tobacco products in the absence of a photo identification requirement. See, e.g., 61 Fed. Reg. 44437-39 (1996).

2. **How does the administration envision that this provision will be enforced, and can it be enforced effectively?**

FDA currently is enforcing aspects of its restrictions on youth access to tobacco products embodied in the FDA tobacco rule (21 C.F.R. §§ 897.14, 897.16). FDA is enforcing the age and photo ID provisions cooperatively with state and local officials. Because of the enormous number of retailers that sell tobacco, FDA has adopted a cooperative model. By way of comparison, this is how FDA regulations are enforced for dairy farm and retail food inspections in communities across the country—by commissioning the services of state and local officials.

In its initial enforcement efforts, FDA contracted with 10 states. Under these contracts, states are conducting between 200 and 330 unannounced retail compliance checks each month over a period of eight months. Information about the compliance checks is sent to FDA, which issues a warning for the first violation to retailers found selling to the adolescents. These

DRAFT 2-23-98 6P.M.

retailers will be subject to repeat inspections. FDA will seek a fine of \$250 for the second violation and greater fines for subsequent violations. FDA is in the process of contracting with additional states.

FDA anticipates that state and local contracts will provide effective mechanisms to check compliance with other access restrictions, such as the requirement that all transactions be face-to-face, without the assistance of any electronic device. Commissioned state and local officials will be able to determine compliance with these and similar provisions by visiting facilities, and appropriately documenting observations.

XV. PROHIBITION ON SALE OF LESS THAN A FULL PACK OF CIGARETTES

- 1. Does the administration support this prohibition? If so, why? If not, why not?**

The administration supports this prohibition based upon FDA's findings regarding the ability of persons under 18 to obtain cigarettes when they are sold in units of less than a full pack. See, e.g., 61 Fed. Reg. 44443, 44445-48.

- 2. What change in legislative language, if any, does the administration recommend regarding this provision? Please provide specifics.**

The administration does not recommend any changes in the legislative language.

XVI. STATE LICENSURE TO SELL TOBACCO

- 1. What data, if any, does the administration have to indicate that licensure will effectively reduce access to tobacco by minors?**

Licensure of retailers will give authorities the means of identify those retailers who sell tobacco. States that do not require licensure are having difficulty complying with the Synar amendment, because they have difficulty identifying outlets that sell tobacco products. In addition to providing a list of retailers, the threat of license revocation for noncompliance is extremely motivating to retailers. Furthermore, license fees can be used to cover the cost of enforcement, which is an important determinant of compliance.

- 2. What entity does the administration envision would enforce the licensure requirement if a state should be unable or unwilling to implement the licensure program?**

DRAFT 2-23-98 6P.M.

The administration supports a licensing program that is operated at the state or local levels. The responsible federal agency should have authority to devise a program and set national standards that the participating state and local programs implement.

- 3. Has the administration developed or formulated the cost of the licensure program? If so, why? If not, why not?**

The administration has not completed work regarding the cost of a licensure program.

- 4. Does the administration support the licensure program? If so, why? If not, why not? *[Sentences that are bold and in italic still are proposed by DOJ without HHS concurrence.]***

The administration supports an effective licensing program. Federal legislation that calls upon states to establish regulatory programs must be sensitive to federalism concerns. *Section 131 would provide two incentives for states to establish licensing programs for retail distributors of tobacco products. States that establish satisfactory licensing programs (1) would avoid imposition of a federal ban on retail distribution of tobacco products within their borders; and (2) would qualify for block grants under section 502. Congress possesses authority, under principles discussed in New York v. United States, 505 U.S. 144, 173-74 (1992), to "offer States the choice of regulating that activity according to federal standards or having state law pre-empted by federal regulation." Congress also possesses authority, under Spending Clause principles discussed in South Dakota v. Dole, 483 U.S. 203 (1987), to condition the receipt of federal funds by states on their implementation of certain regulatory measures. Accordingly, although the section 131 incentives for state licensing may give rise to constitutional challenges, we believe that they are consistent with the Constitution.*

- 5. What changes in legislative language, if any, does the administration recommend regarding this provision? Please provide specifics.**

The resources of the administration are available to work with the Committee in evaluating provisions for a licensing program.

XVII. ANTI-TRUST EXEMPTION

- 1. Does the administration support such an exemption? If so, why? If not, why not?**

The antitrust laws are the most important protector of the free-market economy against anticompetitive actions that would undermine its integrity to the detriment of consumers. Accordingly, exceptions to the antitrust laws should be made only in exceedingly rare instances,

DRAFT 2-23-98 6P.M.

when the fundamental free market values underlying the antitrust laws are compellingly overwhelmed by a paramount policy objective; and a proposed exemption must be necessary to permit the paramount policy objective to be pursued. The proponents of an antitrust exemption for the tobacco industry thus face a heavy burden, which they have not yet met.

2. Could such an exemption be used to set prices beyond those necessary to deter youth smoking, but to increase profits for the industry?

An antitrust exemption that allowed tobacco firms to set prices jointly could be used by firms to increase prices beyond what is necessary to deter youth smoking and thereby to increase profits at the expense of consumers. It would be very difficult to restrict use of the exemption to its intended purpose, because the tobacco companies would have both the opportunity and the incentive to effect unnecessary price increases and to conceal them under the guise of restrictions on youth smoking. While the resulting collusive price increase would be likely to reduce demand for tobacco products, it would also increase profits for the tobacco companies, at least to the point at which they are collectively charging the "monopoly price." The tobacco companies would thereby be able to use an antitrust exemption to enrich themselves at the expense of those confirmed with smoking habits.

3. What changes in legislative language, if any, does the administration recommend regarding this provision? Please provide specifics.

Before any exemption is considered for enactment, the proponents of the exemption need to meet the burden of demonstrating that this is one of the exceedingly rare instances in which the antitrust laws are incompatible with a clearly paramount policy objective. The administration is extremely skeptical that the proponents of this case will be able to meet that burden.

Even in those rare instances in which that burden is met, any antitrust exemption should be carefully and narrowly crafted to address that objective in the least anticompetitive manner available. If Congress should decide to move forward with consideration of antitrust exemptions for the tobacco industry, the administration would assist in crafting them as narrowly and precisely as possible to achieve their purpose without creating unnecessary anticompetitive effects.

XVIII. APPLICABILITY TO NEW ENTRANTS IN TOBACCO INDUSTRY

[Still have to work this one out.] Whatever the ultimate answer, it should make the following point -- The inclusion of provisions that would enable new entrants to "consent" to restrictions on their advertising would be subject to constitutional review in accord with the principles discussed

DRAFT 2-23-98 6P.M.

Automated Records Management System
Hex-Dump Conversion

in our answer to question 9.]

DRAFT 2-23-98 6P.M.

ADDITIONAL REFERENCES

VII. GLAMORIZATION

Basil MD. The danger of cigarette "special placements" in film and television. *Health Communication* 1997;9(2):191-198.

Davies J. The impact of the mass media upon the health of early adolescents. *Journal of Health Education* 1993 Supplement:S28-S35.

Mermelstein R. The CDC Tobacco Control Network: understanding factors that influence youth tobacco use. Progress Report October 1995 - September 1997. Chicago, IL: Prevention Research Center, University of Illinois at Chicago.

Pechmann C. Inoculation effect of tobacco counter-advertising. University of California-Irvine, 1997.

Signorielli N. Mass media images and impact on health: a sourcebook. Westport, CT: Greenwood Press, 1993.

Terre L, Drabman R, Speer P. Health-relevant behaviors in media. *Journal of Applied Social Psychology* 1991;21:1303-1319.

Thumbs Up! Thumbs Down! Teens take a look at tobacco use in the movies. American Lung Association of Sacramento-Emigrant Trails, 1997.

Tye JB. Tobacco and youth reporter. Longmeadow, MA: Stop Teenage Addiction to Tobacco, 1990.

X. WARNING LABELS

Borland R, Cappiello M, Hill D. Impact of the new Australian health warnings on tobacco products. Carlton South, Victoria: Anti-Cancer Council of Victoria, 1996.

Health Canada. Effectiveness of health warning messages. Toronto, Ontario: Tandemar Research Inc., 1996.

Institute of Medicine. Warnings and packaging. Growing up tobacco free: preventing nicotine addiction in children and youths. Washington, DC: National Academy Press, 1994:236-246.

Robinson TN, Killen JD. Do cigarette warning labels reduce smoking? Paradoxical effects

DRAFT 2-23-98 6P.M.

among adolescents. Archives of Pediatric and Adolescent Medicine 1997;151:267-272.

U.S. Department of Health and Human Services. Warning labels on tobacco products. In Preventing tobacco use among young people: a report of the Surgeon General. Atlanta, GA: Centers for Disease Control and Prevention, 1994:257-264.

[Note: For the underlined section, preferred by HHS, the Department of Justice would prefer the paragraphs that are in boldface and in italic.]

Dear Mr. Chairman:

The Clinton Administration looks forward to working with you and others in Congress to develop legislation that will reduce teen tobacco use. In addition to the enclosed responses to your questions, we are prepared to provide the appropriate staff to give the Committee the technical assistance you request. We also are providing you with a number of resource documents cited below that we hope will be of assistance as you work to develop comprehensive legislation to protect our nation's children from tobacco related disease and death.

To protect children and adolescents, FDA adopted comprehensive regulations restricting the sale and distribution of nicotine-containing tobacco products in its final tobacco rule issued August 28, 1996. The rule's advertising and access restrictions were based upon a multi-year investigation, and resulted from the analysis of myriad studies and research on issues related to reducing youth tobacco use and the consideration and analysis of more than 700,000 comments submitted in response to its proposed rule. FDA detailed its analysis and findings in two documents: a proposed rule and preamble published in 60 Fed. Reg. 41314 (August 11, 1994); and a final rule and preamble published in 61 Fed. Reg. 44396 (August 28, 1996). Copies of those documents are provided with this response and citations to pages in those documents are provided. In addition, FDA's administrative record contains the studies described in those documents as well as public comments received by the agency. That record is contained on 5 CDs, which are provided. Two new studies on the effect of advertising on young people, and a collection of studies and reviews on the effectiveness of warning labels also are provided. Finally, two other documents are provided: The Institute of Medicine's Report, *Growing Up Tobacco Free, Preventing Nicotine Addiction in Children and Youth* (1994) (IOM); and the Department of Health and Human Services' Centers for Disease Control and Prevention's Report, *Preventing Tobacco Use Among Young People, A Report of the Surgeon General* (1994) (1994 SGR). These two reports contain summary discussions about tobacco advertising and its effect on young people. See especially 1994 SGR Chapter 5 and IOM Chapter 4.

Many of the provisions included in S.1414 would codify the comprehensive regulations on nicotine-containing tobacco products that the FDA adopted in its final Tobacco Rule issued August 28, 1996. The FDA restrictions were carefully crafted on the basis of a multi-year investigation, and resulted from the analysis of myriad studies and research on the effects of advertising, specifically tobacco advertising, on young people and the consideration and analysis of more than 700,000 comments submitted in response to the proposed FDA rule.

The Administration believes, as the Department of Justice has explained at length in the FDA litigation, that the FDA's regulations that restrict the advertising of tobacco products are consistent with the First Amendment, under the currently controlling framework for First Amendment review of restrictions on advertising, set out by the Supreme Court in Central Hudson Gas & Elec. Corp. v. Public Serv. Comm'n, 447 U.S. 557 (1980), and subsequent cases. The FDA restrictions would, if implemented, substantially advance the Government's wholly legitimate and compelling interest in curtailing minors' demand for and use of tobacco

products by reducing minors' exposure to tobacco product advertising. Moreover, the FDA's regulations are tailored to serve this objective.

We believe the advertising restrictions in S.1414 that track the FDA regulations are constitutional. Other restrictions contained in S.1414 give rise to constitutional concerns that are not presented by the FDA regulations, such as whether such restrictions would be sufficiently tailored to serve the governmental interest in reducing teenage smoking. In any event, it is important to emphasize that any comprehensive tobacco legislation should provide express statutory reaffirmation of the FDA's jurisdiction and authority to impose additional advertising restrictions based on substantial evidence when the agency determines that such additional restrictions are necessary, efficacious, and constitutionally tailored.

To assist the committee in developing legislation regulating tobacco products, including legislation restricting the advertising of tobacco products, we have provided with this response copies of the two documents which detail the analysis and findings on which the FDA regulations are based: the FDA's proposed rule and preamble published in 60 Fed. Reg. 41314 (August 11, 1994); and the FDA's final rule and preamble published in 61 Fed. Reg. 44396 (August 28, 1996). Our answers to your questions include citations to these documents where appropriate. In addition, the FDA's administrative record contains the studies described in those documents as well as public comments received by the agency. That record is contained on 5 CD's, which are also provided with this response. Two...

We hope this material is helpful and we look forward to providing you and the members of the Committee with any additional assistance that may be needed.

Sincerely,

????

Enclosure

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:23-FEB-1998 18:00:57.00

SUBJECT:

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

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

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

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

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

TEXT:

Per Christa's e-mail:

Gil Gallegos has requested a meeting with Erskine when he is in town on March 23;

I talked to Rahm and he believes that we should do this meeting; he is more than happy to talk to Erskine about it as well. Please let me know if there is any reason Rahm should be aware of why we should not do this meeting. [Carole-anytime on the 23rd that works for Erskine, Rahm has said he will do.]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:23-FEB-1998 20:09:49.00

SUBJECT: Tobacco Event Conference Call

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

TO: Nathan B. Naylor (CN=Nathan B. Naylor/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

TO: Dan J. Taylor (CN=Dan J. Taylor/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

TO: Wendy Hartman (CN=Wendy Hartman/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

TO: Eli G. Attie (CN=Eli G. Attie/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

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

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

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

TO: Jodi R. Sakol (CN=Jodi R. Sakol/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

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

TO: mdonahue (mdonahue @ os.dhhs.gov @ INET [UNKNOWN])
READ:UNKNOWN

TO: Kimberly H Tilley (CN=Kimberly H Tilley/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

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

TO: Cynthia A. Rice (CN=Cynthia A. Rice/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

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

READ:UNKNOWN

TEXT:

Due to the Secretary Shalala's schedule, and pending any other concerns, we are recommending that the VP and the Secretary do the tobacco announcement on FRIDAY instead on WEDNESDAY.

I'd like to still have the conference call Tuesday morning at 9:30 so we can get started on planning for the event. Thank you.

----- Forwarded by Toby Donenfeld/OVP on 02/23/98 08:07 PM -----

Toby Donenfeld
02/23/98 05:51 PM

To: Bruce N. Reed/OPD/EOP @ EOP, Elena Kagan/OPD/EOP @ EOP, Thomas L. Freedman/OPD/EOP @ EOP, Jerold R. Mande/OSTP/EOP @ EOP, Cynthia A. Rice/OPD/EOP @ EOP, Patricia M. Ewing/OVP, Donald H. Gips/OVP, Eli G. Attie/OVP, Kimberly H Tilley/OVP, Wendy Hartman/OVP, mdonahue @ os.dhhs.gov @ INET, Dan J. Taylor/OVP, Lawrence J. Haas/OMB/EOP @ EOP, Nathan B. Naylor/OVP, Jodi R. Sakol/OVP, Lisa A. Berg/OVP
cc: Cathy R. Mays/OPD/EOP @ EOP, Laura Emmett/WHO/EOP @ EOP
Subject: Tobacco Event Conference Call

The VP is tentatively scheduled to announce the FDA compliance billboard and radio campaign on Wednesday morning. The President may participate if he is still here in D.C. at that time. We hope Secretary Shalala will be able to join us for the announcement. (HHS is checking her schedule).

We are scheduling a conference call to discuss the event/announcement for tomorrow (Tuesday) morning at 9:30 a.m. Folks from HHS will be on the call.

Please call 456-6777 or 456-6799 code #9867. Thank you.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:23-FEB-1998 17:43:08.00

SUBJECT: FICA/workfare conference call this morning

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Treasury and the AFL had a conference call this morning that was not very satisfactory to either party. The AFL felt that Treasury didn't have very good answers to their questions/concerns. Treasury felt that there is no way to satisfy the AFL. Everyone wants to know what happens next. Treasury says they will be ready to issue the notice Wednesday if we want; I told them that was probably good but I would get back to them with a definite answer.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:23-FEB-1998 13:44:06.00

SUBJECT: Advance copy of the H1-B testimony

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 thought you might want to look at this draft of Labor's testimony for Wed. on H1B visas that Ingrid just sent over.

----- Forwarded by Julie A. Fernandes/OPD/EOP on 02/23/98 01:51 PM -----

INGRID M. SCHROEDER
02/23/98 01:39:29 PM
Record Type: Record

To: Julie A. Fernandes/OPD/EOP
cc:
Subject: Advance copy of the H1-B testimony

We will circulate this formally with an LRM.

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D28]MAIL403241452.026 to ASCII,
The following is a HEX DUMP:

FF5750431D100000010A0203000000020500000008F650000000200008244C17C7A7476EFFF8EFA

STATEMENT OF RAYMOND J. UHALDE
ACTING ASSISTANT SECRETARY OF LABOR
before the
THE SENATE JUDICIARY COMMITTEE

February 25, 1998

Mr. Chairman and Members of the Committee:

Let me begin today, Mr. Chairman, by expressing my sincere appreciation to you for affording me this opportunity to share the views of the Administration regarding immigration, labor market conditions in high-technology industries, and possible reforms in the H-1B nonimmigrant visa program. The Administration shares your interest in the information technology industry, as evidenced by our participation in a recent convocation in Berkeley that addressed Information Technology (IT) work force needs. Further, as you know from Administration proposals advanced beginning in 1993, we believe that the H-1B program needs reform. This employment-based visa program is seriously flawed in its current form and urgently requires the attention of Congress. I would like to commend the Committee for its interest in these issues.

Tight Labor Markets and IT Skills Shortages

It is clear that IT employment is growing rapidly, IT labor markets are tight, and they are likely to remain so. Although this is true for the nation as a whole, given our sustained economic expansion and low national unemployment rate, IT labor markets appear to be particularly affected. Employment of computer systems analysts, engineers, and scientists has been growing by 10% a year -- well above the growth of comparable occupations -- and is expected to continue growing at a comparable rate through 2006. BLS projects that the U.S. will require more than 1.3 million new workers in IT core occupations between 1996 and 2006 to

fill job openings projected to occur due to growth and the need to replace workers who leave the labor force or transfer to other occupations.

The IT skills shortage issue is very controversial. Industry advocates say that hundreds of thousands of jobs cannot be filled and that these vacancies are hurting U.S. competitiveness. Critics say the IT industry: (1) drastically overstates any problem by producing inflated job vacancy data and equating it to skills shortages; (2) continues to lay off tens of thousands of workers (e.g., AT&T recently announced large lay-offs); and (3) fails to tap reservoirs of talent available by using unnecessarily specific recruitment requirements and not providing more training to current IT workers.

One point of contention is the confusion between job vacancies and actual skills shortages. Even if the latest industry survey, which found nearly 350,000 job vacancies in the IT industry is accurate, it does not mean that there is a skills shortage of that same magnitude. Nearly all industries and firms, particularly those with rapid employment growth and high worker turnover, will have large numbers of jobs openings or vacancies without experiencing skills shortages.

Evidence from perhaps the best predictor of skills shortages -- wage growth -- does not suggest acute skills shortages nationwide in the IT industry, but may be consistent with skills shortages in specialized occupational areas and selected local areas. Broad-based Bureau of Labor Statistics (BLS) surveys show increases in IT wages in 1996 and 1997 that are only modestly above comparable occupations, while more specialized industry surveys show much larger wage increases in more specialized, high-skills occupations.

The Administration believes it is essential, regardless of the magnitude of the problem, to

shape public policy to assure that IT workforce needs are met, but that increased immigration should be the last -- not the first -- public policy response to skills shortages. Our first response should be to provide the needed skills to U.S. workers to qualify them for IT jobs.

Tight labor markets and skills shortages create incentives for employers and workers to behave in ways needed to achieve many of the Administration's top priorities: moving welfare recipients, out-of-school youth, and workers dislocated by trade into jobs; providing greater opportunities for lifelong learning; and raising wages and reducing income inequality. Reliance on increased immigration, however, would undercut these market incentives and adversely affect our ability to upgrade the skills of U.S. workers to meet emerging skills shortages.

The existence of a tight labor market causes employers to raise wages, improve working conditions, and provide increased training to enable currently employed workers to keep pace with technology and induce more workers to enter the labor market. The increased demand for trained workers induces educational and job training institutions to teach new skills. With more opportunities for training, workers acquire skills needed to obtain better, higher-paying and more secure jobs, thereby creating open jobs and career ladders for those just entering or reentering the labor market -- young people, welfare recipients, displaced workers, and other disadvantaged groups.

Labor markets are sometimes slow to respond to skills shortages. In these circumstances, it is often argued that foreign temporary workers are needed in the short-term to provide necessary skills while the labor market adjusts and provides U.S. workers with the requisite training. Without needed foreign temporary workers, some argue that the IT industry may adjust to skills shortages in ways that do not serve the short-term or long-term priorities of

the country, either by reducing job creation or by moving jobs overseas. Further, it is argued that IT industries are so critical to our competitive edge in an array of industries and services that disproportionate harm could come to the U.S. economy.

Even in such circumstances, however, the use of foreign temporary workers will interfere with labor market adjustments and makes achieving our other priorities more difficult. It dampens the market signals of increased wages, improved working conditions, and enhanced job security and growth potential so that fewer U.S. workers will be induced to acquire new skills, and fewer employers and institutions will be induced to provide more training and education.

Our primary public policy response to skills mismatches due to changing technologies and economic restructuring must be to prepare the U.S.

workforce to meet new demands. Importing needed skills should usually be a short-term response to meet urgent needs while we actively adjust to quickly changing circumstances.

The Administration already has taken significant steps to increase our capacity for increasing workforce skills. The President continues to pursue comprehensive reform of the Nation's employment and training system by working with Congress to enact the principles embodied in his GI Bill proposal. Moreover, in the historic balanced budget agreement of last summer, the President insisted on and achieved the largest increase in 30 years in the Federal investment to expand the skills of American workers, including:

- the largest Pell Grant increase in two decades -- boosting the maximum from \$2,700 to \$3,000;
- a \$1,500 Hope Scholarship to make the first two years of school universally available through tax credits;

- the Lifelong Learning Tax Credit for the last 2 years of college and continuing adult education and training to upgrade worker skills;
- a 10 percent increase in employment and training resources for dislocated workers and disadvantaged workers and youth to over \$5 billion; and
- a \$3 billion program to help move 1 million people from welfare to work.

Further, the Administration announced several new efforts at the recent Berkeley Convocation to help address the growing demand for information technology workers:

- A Labor Department Technology Demonstration project to test innovative ways of establishing partnerships between local workforce development systems, employers, training providers and others to train dislocated workers in needed high tech skills;
- The expansion and integration of America's Job Bank and America's Talent Bank by the Labor Department to allow employers and workers to list and access job openings and worker resumes in one integrated system.
- A Commerce Department grant program to bring information technology to poor people, particularly to enhance education and life-long learning;
- The convening of four town hall meetings by the Commerce Department to discuss IT workforce needs, identify best practices, and showcase successful models; and
- A joint Education and Labor grant program to expand employer involvement in high technology school-to-work programs.

We think that there is more that we can do to move U.S. workers into high technology

jobs, and we welcome the discussions that may be sparked by this hearing. Given this broader context, let me turn to the need for reform of the H-1B nonimmigrant program.

H-1B Nonimmigrant Program

The H-1B program allows the admission of up to 65,000 workers each year (to stay for as long as six years), ostensibly to meet short-term, high-skills employment needs in the domestic labor market. In principle, this can be an appropriate purpose, consistent with our overall goal of giving priority to improving the skills of U.S. workers.

In practice, however, employers do not have to demonstrate any type of employment need prior to getting a foreign worker. Exacerbating this problem, the Labor Department is limited strictly in its ability to enforce the minimum standards that employers must adhere to.

Employers obtain H-1B foreign workers by filing a labor condition application with the Department affirming that they have complied with four requirements:

- that a wage (not less than the local prevailing rate) will be paid to the foreign workers;
- that no strike or lockout exists;
- that notification has been provided to U.S. workers and their unions; and
- that the employment of H-1B nonimmigrants will not adversely affect the working conditions of U.S. workers similarly employed.

By law, the Labor Department can do no more than review these attestations for completeness and obvious inaccuracies -- to determine whether an employer checked all of the boxes, made no flagrant errors, and signed the attestation. Once the Department has reviewed the attestation, its enforcement has been limited by the fact that foreign worker is unlikely to make a complaint.

Our experience with the practical operation of the H-1B program has raised serious concerns that what was conceived as a means to meet temporary business needs for unique, highly-skilled professionals from abroad is, in fact, being used for a totally different purpose. Some employers -- though a minority of those who use the H-1B program -- seek admission of foreign workers to compete with qualified U.S. workers because temporary foreign workers are tied to one employer and are likely to be willing to work for lower wages and under less favorable working conditions. As a result, relatively large numbers of foreign workers who may well be displacing U.S. workers and eroding employers' commitment to the domestic workforce.

Many employers, to be sure, use the H-1B nonimmigrant program for its stated purpose: to provide U.S. businesses with timely access to the "best and the brightest" in the international labor market to meet urgent but generally temporary business needs. I want to emphasize that the Administration recognizes the need for this legitimate use of the program. But reform of the H-1B program is needed because it does not provide the needed balance between timely access to the international labor market and adequate protection of U.S. workers' job opportunities, wages and working conditions.

Greater protections for U.S. workers are needed because many employers use the H-1B program to employ not the "best and the brightest," but rather entry-level foreign workers who compete with U.S. workers. Minimum education and work experience qualifications for H-1B jobs are quite low -- a 4-year college degree and no work experience, or the equivalent in terms of combined education and work experience. Thus, a foreign worker with the equivalent of a community college degree and a few years of experience can compete with U.S. workers. These

low educational requirements result in nearly 80 percent of H-1B jobs paying less than \$50,000 a year and more than 70 percent of the jobs being in computer-related occupations, physical therapists, RN's and other health-related occupations.

The H-1B program is broken in several respects. First, current law does not require any test for the availability of qualified U.S. workers in the domestic labor market. Therefore, many of the visas under the current cap of 65,000 can be used lawfully by employers to hire foreign workers for purposes other than meeting a skills shortage. Second, current law allows a U.S. employer to lay off U.S. workers and replace them with H-1B workers. Third, current law allows employers to retain H-1B workers for up to 6 years to fill a presumably "temporary" need.

We simply do not believe this is right. The H-1B program does almost nothing to encourage U.S. employers to develop U.S. workers to perform the jobs for which they are seeking nonimmigrants, or to limit their dependency on a nonimmigrant workforce.

As a result of these weaknesses in the program, it has become increasingly evident that the H-1B program is being utilized by some as the basis for building businesses dependent on the labors of foreign workers in relatively low-level computer-related and health care occupations. This is a clear example of companies using H-1B visas for foreign workers that are not needed to meet skills shortages. Such businesses are, in some cases, in unfair competition with U.S. workers and those U.S. businesses that employ mostly U.S. workers. The growth of "job contractors" with work forces composed predominantly or even entirely of H-1B workers, which then lease these employees to other U.S. companies or use them to provide services previously provided by laid off U.S. workers, is cause for serious concern.

Mr. Chairman, the Administration asked the Congress in 1995 to amend the H-1B

nonimmigrant program to address these problems. Unfortunately for many U.S. businesses and workers, these amendments were not enacted. The amendments requested in 1995 were carefully designed to assure continued business access to needed high-skills workers in the international labor market while decreasing the H-1B program's susceptibility to misuse to the detriment of U.S. workers and the businesses which employ them. Briefly stated, the amendments would require employers which seek access to temporary foreign "professional" workers to attest that:

- they have not laid off or otherwise displaced U.S. workers in the occupations for which they seek nonimmigrant workers in the periods preceding and following their seeking such workers; and,
- in certain circumstances, they have taken timely and significant steps to recruit and retain U.S. workers in these occupations.

In addition, the Administration urged enactment of another amendment to reduce the allowable period of stay under the H-1B program from six to three years to better reflect the "temporary" nature of the presumed employment need.

Enactment of these amendments will help employers actually facing skills shortages, including those in the IT industry, obtain needed workers through the H-1B program. Under existing program rules, employers facing skills shortages are disadvantaged because they must compete for available visas (up to the cap of 65,000) on a first-come, first-served basis with other employers that do not face such shortages. Enactment of the proposed amendments would reduce pressure on the visa cap by screening out employers that are not faced with skills shortages and have no interest in recruiting U.S. workers.

A significant number of such employers use the H-1B program as a probationary program for foreign students who graduate from U.S. colleges, without a market test for U.S. workers, to determine if they want to sponsor the foreign student for permanent immigration status. By reducing the use of the H-1B for such purposes, more visas would be available for employers who need to use the H-1B program for its original purpose -- bringing in foreign workers to fill a temporary, critical need that cannot be met by U.S. workers.

Conclusion

Mr. Chairman, let me conclude by repeating that reform of the H-1B program is integral and essential to eliminating abuses under the program and providing greater protections for U.S. workers. At a bare minimum, we must not expand a program as fundamentally flawed as the H-1B nonimmigrant visa program. Further, enactment of these reforms would effectively allocate a greater share of H-1B visas to employers facing actual skills shortages.

I appreciate the interest shown by the Committee Members and staff in our views, and your thoughtful consideration of them. The Department looks forward to continuing to work closely and cooperatively with you and your staff on these issues. Mr. Chairman, that concludes my prepared statement.