

NLWJC - KAGAN

EMAILS RECEIVED

ARMS - BOX 078 - FOLDER -001

[06/04/1998 - 06/08/1998]

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Laura Emmett to Elena Kagan; RE: Friday (1 page)	06/04/1998	P6/b(6)

COLLECTION:

Clinton Presidential Records
Automated Records Management System (Email)
WHO ([Kagan])
OA/Box Number: 500000

FOLDER TITLE:

[06/04/1998 - 06/08/1998]

2009-1006-F
db1587

RESTRICTION CODES

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

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

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

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

RR. Document will be reviewed upon request.

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

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Fred DuVal (CN=Fred DuVal/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 4-JUN-1998 12:12:41.00

SUBJECT: tobacco

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: Mickey Ibarra (CN=Mickey Ibarra/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

TEXT:

Why don't we pull together a conf call with Erskine and Bruce with the NGA
Exec Committee with the message "We have stuck with the states and we
need your help".

Withdrawal/Redaction Marker Clinton Library

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001. email	Laura Emmett to Elena Kagan; RE: Friday (1 page)	06/04/1998	P6/b(6)

COLLECTION:

Clinton Presidential Records
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WHO ([Kagan])
OA/Box Number: 500000

FOLDER TITLE:

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2009-1006-F
db1587

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

- b(1) National security classified information [(b)(1) of the FOIA]
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- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 4-JUN-1998 15:24:39.00

SUBJECT: DOL proposed reg on payment of unemployment benefits to those receiving a

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:

Kitty Higgins has asked Karen Tramontano and I to set a meeting to discuss this with folks from DOD, Vets, NSC, some others. Is this a process you want to be involved in? Should you be running it? Do you care? DOL has developed a reg which WH Counsel sighed off on and this is really in the implementation phase, unless people feel strongly we have to re-visit the merits.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Mickey Ibarra (CN=Mickey Ibarra/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 4-JUN-1998 13:03:27.00

SUBJECT: Latino turnout in California/Prop. 227

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Maritza Rivera (CN=Maritza Rivera/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

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

READ:UNKNOWN

TO: Cynthia M. Jasso-Rotunno (CN=Cynthia M. Jasso-Rotunno/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

----- Forwarded by Mickey Ibarra/WHO/EOP on 06/04/98
12:58 PM -----

Jaime E. Uzeta
06/04/98 12:40:10 PM
Record Type: Record

To: Mickey Ibarra/WHO/EOP
cc: Franklin F. Urteaga/OSTP/EOP

Subject: Latino turnout in California/Prop. 227

I talked to Frankilin, who clarified the figures in his email.

Latino Turn Out: made up 12% of all California voters, double the number of Latinos who voted in the 1994 primary.

Latino Voters on Proposition 227:

yes: 37%
no: 63%

All Voters on Proposition 227:

yes: 61%
no: 39%

This is consistent with the other LA times article that reported, "Latino voters opposed Prop. 227 by a margin of 2 to 1, but in passed in an almost mirror image of that vote."

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Cynthia Dailard (CN=Cynthia Dailard/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 5-JUN-1998 20:04:05.00

SUBJECT: Draft Q&A for POTUS press conference on Monday

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

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

TEXT:

(based on q&a for 6/5)===== ATTACHMENT 1 =====
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D58]MAIL417677558.126 to ASCII,
The following is a HEX DUMP:

FF575043BA040000010A02010000000205000000C31400000002000072E42925910A0BF1EAB6C3
15B71DC90623DAF74AB8E3AD78A64525553F47E40DA414B719AFACE2635322813BA69020FA0115

[DRAFT]
Tobacco Q&A
June 8, 1998

Q. What is your position on the Craig/Coverdell amendment to the tobacco bill?

A. Drug abuse among youth is a deadly serious issue, and that is why I have taken numerous actions to prevent it. But we should not allow people to manipulate this issue -- and others even further afield to kill tobacco legislation. The Craig-Coverdell amendment includes numerous provisions that have nothing to do with youth smoking including school voucher proposals and anti-union actions. We should focus in a tobacco bill on reducing youth smoking and not allow Members of Congress to inject these kind of poison pills.

Q. What is your position on the Daschle amendment to the tobacco bill?

A. I am skeptical of attempts to divert funding away from public health and medical research for a tax cut. I am concerned that these amendments will endanger our priorities -- namely, providing for smoking cessation and prevention, counteradvertising, research into smoking related diseases such as cancer and heart disease, assistance to farmers and farming communities, and reimbursement to the states for their expenditures for smoking-related illnesses. Of course, I would very much prefer Senator Daschle's amendment to the Gramm amendment, because it is reasonably sized and because it is far more targeted at families who actually experience a marriage penalty.

[Background: Senator Daschle's amendment would provide married couples with a 20 percent deduction against the lower-earning spouse's income, phased out between \$50,000 and \$60,000 of income. The amendment would also provide full-deductibility of health insurance costs for the self-employed. The Daschle amendment would cost significantly less than the Gramm amendment, and targets tax relief at those couples who are actually penalized by the tax code.]

Q. Do you think the bill is dying?

A. Absolutely not. Certainly I would have preferred for Congress to pass the bill last week. But these are complicated issues and members have a range of different priorities that need to be worked through. I always knew that passing a comprehensive tobacco bill would not be easy, and we are making steady progress. I continue to believe that the Senate, and then the full Congress, will pass this bill. They will otherwise have to explain themselves to the American people.

Q. What is your view of activity in the House?

A. Last week, I said how pleased I was to see that momentum for tobacco legislation is now building in the House of Representatives. I believe that the bipartisan, comprehensive legislation proposed by Representatives Hansen, Meehan and Waxman, which has over 90 co-sponsors, is a good, tough bill. I look forward to working with Representatives Hansen, Meehan, Waxman and all of their House colleagues to improve this bill in order to protect farmers and farming communities. With this change, I would be pleased to sign this bill. I call upon the House of Representatives to take up the bill and get down to the serious business of reducing youth smoking in this country.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 5-JUN-1998 09:20:23.00

SUBJECT: Re: Reminder: Today's Child Custody Protection Act Meeting

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

READ:UNKNOWN

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

TEXT:

Reminder that the Child Custody Protection Meeting is today at 2pm in Room
211. Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 5-JUN-1998 11:19:49.00

SUBJECT: NC7132: Current status of Hawaii marriage case

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

----- Forwarded by Richard Socarides/WHO/EOP on 06/05/98
11:19 AM -----

rwockner @ netcom.com

06/05/98 09:58:00 AM

Record Type: Record

To: Stuart D. Rosenstein, Richard Socarides

cc:

Subject: NC7132: Current status of Hawaii marriage case

Subject: SA 722: CURRENT STATUS OF HAWAI`I MARRIAGE

Date: Wed, 03 Jun 1998 08:01:29 -1000

From: Martin Rice <lambda@aloha.net>

Aloha kakahiaka `oe ...

Will try to be as brief with this as possible as to your request as to the status of marriage in Hawai`i.

On December 4, 1996, Judge Kevin Chang ruled that the State of Hawai`i did not present compelling reasons to deny three same-sex couples marriage licenses, and ordered the state to execute his opinion that those licenses be issued immediately.

Not surprisingly, the State appealed Judge Chang's decision, and in doing so, also requested a stay of execution of Judge Chang's order, which was granted, until that time that the State's appeal is ruled upon by the Hawai`i Supreme Court, the final authority in this matter at this level.

So, technically, Hawai`i does recognize that the marriage laws apply to all couples, but the State is not, at this time, required to issue licenses to same-sex couples (yet more discrimination perpetrated by the State).

There is no timetable for the next ruling from the Hawai`i Supreme Court. They could rule today that they've heard and read sufficient evidence to issue their opinion, and do so, or they could say that they want to hear more arguments, in which case, the State and the plaintiffs would be given a year to prepare their briefs. So the ruling from the Hawai`i Supreme Court could come today, or a year from whenever.

Against this backdrop, our opponents have been successful in getting two damaging questions placed on the November ballot. One calls for a Constitutional Convention (Hawai'i's Constitution could be rewritten at this convention to only recognize opposite-sex marriage) and the other calls for a Constitutional Amendment (giving the Legislature the power to define marriage in terms of one man and one woman).

Our community is in the process of mobilizing to defeat both of these ballot questions.

Hope this helps.

A hui hou,

Martin

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

TEXT:

RFC-822-headers:

Received: from conversion.pmdf.eop.gov by PMDF.EOP.GOV (PMDF V5.1-9 #29131)
id <01IXVGLTP07K00EUB7@PMDF.EOP.GOV>; Fri, 5 Jun 1998 10:09:16 EDT

Received: from Storm.EOP.GOV by PMDF.EOP.GOV (PMDF V5.1-9 #29131)
with ESMTTP id <01IXVGLPZBBK00EZ05@PMDF.EOP.GOV>; Fri,
05 Jun 1998 10:09:11 -0400 (EDT)

Received: from netcom17.netcom.com ([192.100.81.130])
by STORM.EOP.GOV (PMDF V5.1-10 #22921)
with ESMTTP id <01IXVGLGQEF0013NO@STORM.EOP.GOV>; Fri,
05 Jun 1998 10:08:58 -0400 (EDT)

Received: (from rwockner@localhost)
by netcom17.netcom.com (8.8.5-r-beta/8.8.5/(NETCOM v1.02)) id GAA21896; Fri,
05 Jun 1998 06:58:37 -0700 (PDT)

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Darby E. Stott (CN=Darby E. Stott/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 5-JUN-1998 09:56:42.00

SUBJECT: press conference topics

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

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

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

TO: Natalie S. Wozniak (CN=Natalie S. Wozniak/OU=NSC/O=EOP @ EOP [NSC])
READ:UNKNOWN

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

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

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

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

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

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

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

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

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

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

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

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

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

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

READ:UNKNOWN

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

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

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

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

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

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

TEXT:

Below are topics for the press conference during the Korean state visit.
We would like the Q&A by noon on Monday.

tobacco - DPC

highway bill - NEC/Ricci

budget - Ricci

social security/surplus use - NEC

bilingual education - DPC

Race initiative - "As the one year anniversary approaches, what has the
PIR accomplished?" - Sermons/Barnes

Counsel's office

NSC

China - Satellite/trip/ Tiananmen Sq.

Kosovo

India/Pakistan

Mexico

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

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

SUBJECT: Riggs/Bilingual mtg

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

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

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

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

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

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

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

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

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

TEXT:

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

Let me know ASAP if you can make it.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

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

SUBJECT: Statement of Administration Policy on HR2888 Sales Incentive Compensation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TEXT:

----- Forwarded by Melissa N. Benton/OMB/EOP on 06/05/98
11:04 AM -----
Total Pages: ____

LRM ID: MNB176
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Friday, June 5, 1998

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

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

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

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

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

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

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

DISTRIBUTION LIST

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

RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

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

You may also respond by:

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

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

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

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

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

- _____ Concur
- _____ No Objection
- _____ No Comment
- _____ See proposed edits on pages _____
- _____ Other: _____
- _____ FAX RETURN of _____ pages, attached to this response sheet

DRAFT -- NOT FOR RELEASE

June 5, 1998
(House)

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

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

* * * * *

(Do Not Distribute Outside Executive Office of the President)

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

Legislative History

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

Administration Position to Date

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

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

Background and Summary of H.R. 2888 as Reported

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

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

The bill would amend section 13(a) of the FLSA (29 U.S.C. 8213(a)) to add a new exemption from the FLSA's minimum wage and overtime compensation requirements for "inside sales" employees meeting certain requirements. The bill would exempt any employee in a sales position if all of the following conditions are met:

- (1) The employee has specialized or technical knowledge related to the products or services being sold.
- (2) The position requires a detailed understanding of the needs of those to whom the employee sells.
- (3) The position requires the employee to exercise discretion in offering a variety of products and services.
- (4) The employee's sales are predominantly to individuals or entities to whom the employee's position has made previous sales and the position

does not involve initiating sales contacts.

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

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

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

Pay-As-You-Go Scoring

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

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

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

SUBJECT: 11:30 bilingual meeting

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

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

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

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

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

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

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

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

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

TEXT:

The meeting will be in my office--218 OEOB

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Cynthia Dailard (CN=Cynthia Dailard/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 5-JUN-1998 18:39:43.00

SUBJECT: revised gramm talking points

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

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

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

TEXT:

Here are the revised Gramm talking points that Elena requested yesterday evening using \$13 over 4 years and \$30 over the next five years.=====

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D21]MAIL48539655R.126 to ASCII,
The following is a HEX DUMP:

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CB532CF2949856303B662E16415D53C3A65B5745D302E5750F05FBC89A9EF5CCA16EA8FB0E13E0

**Modified Gramm Amendment Would Consume
Nearly 80 Percent of Tobacco Revenues Between 2008-2022**

Background note: This is based on OMB's analysis of receipts under the McCain bill.

Talking Points:

- I strongly urge you to vote against the Gramm amendment because it would prevent the legislation from achieving important health goals.
- Over the first four years, the Gramm amendment would spend \$13 billion for tax cuts, or 28 percent of the \$45.7 billion in spending under the McCain bill. If funding for states and farmers is held constant, funding for public health and research would be reduced by 67 percent.
- Over the next five years, the Gramm amendment would spend an additional \$30 billion on tax cuts, or 42 percent of the \$71.1 billion in the McCain bill allocated for spending. If states and farmers get first priority in terms of funding, the amendment would *completely eliminate* all funding for public health and medical research during those years.
- Between 2008 and 2022, the Gramm amendment explodes: it would absorb \$225 billion, or 78 percent, of the \$289.5 billion in the McCain bill allocated for spending. If states and farmers get first priority in terms of funding, the amendment would completely eliminate all funding for public health and medical research during those years. Funding for the states would be reduced by 62 percent, and funding for farmers would be reduced by 57 percent.
- The Gramm amendment would thus eviscerate funding for critical public health programs such as smoking cessation, education and counteradvertising. This would significantly undermine efforts to reduce youth smoking in this country and help adults who want to quit. Critical funding for medical research would also be cut drastically, including research into smoking-related diseases such as cancer and heart disease.
- Additionally, States would be expected to forgo their claims in court and receive, in exchange, minimal compensation for their enormous expenditures related to smoking-related illnesses. Funding would also be significantly reduced for tobacco farmers, who have done nothing wrong and who deserve to be compensated for the losses they will suffer as a result of tobacco legislation.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 5-JUN-1998 11:47:33.00

SUBJECT: Latest Draft of Poverty Memo

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

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

TO: Rebecca M. Blank (CN=Rebecca M. Blank/OU=CEA/O=EOP @ EOP [CEA])
READ:UNKNOWN

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

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

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

TEXT:

Attached is the latest draft of the poverty memo. Please give your comments to Becky Blank by COB today. Thanks.

-- Ceci===== ATTACHMENT 1 =====

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D72]MAIL42016455F.126 to ASCII,
The following is a HEX DUMP:

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EF03A11A5F85B6B92600B3EBA39410B431ABDDD4F6E8A692E4F564468913556549E50D3FFD4470

Draft -- CLOSE HOLD. Page 1

June 5, 1998

DRAFT BACKGROUND MEMORANDUM FOR EOP PRINCIPAL'S MEETING

FROM: REBECCA BLANK
ELENA KAGAN
SALLY KATZEN
JOE MINARIK

Subject: Meeting on Income and Poverty Measures

Purpose of the Meeting

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

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

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

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

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

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

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

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

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

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

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

TECHNICAL BACKGROUND ON INCOME AND POVERTY MEASURES

The Current Poverty Measure

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

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

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

The NRC Recommendations

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

1. Defining Family Resources

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

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

medical care expenditures (including health insurance premiums)

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

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

2. Defining a Poverty Threshold

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

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

OPTIONS FOR DISCUSSION

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

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

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

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

Pros of using the NRC measure:

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

Cons of using the NRC Measure:

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

Pros of Benchmarking:

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

Cons of Benchmarking:

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

2. Recommendation regarding updating the thresholds over time

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

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

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

Pros of Re-calculating the Thresholds:

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

Pros of Updating Using the CPI:

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

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

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

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

Pros of Adjusting for Geographic Variation in Cost of Living:

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

Cons of Adjusting for Geographic Variation in Cost of Living:

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

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

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

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

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

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

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

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

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

There are three approaches to incorporating medical care and expenses:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Attachment 1 (from HHS)

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

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

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

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

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

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

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

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

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

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Melissa G. Green (CN=Melissa G. Green/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 5-JUN-1998 09:49:25.00

SUBJECT: talking points

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

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

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

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

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

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

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

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

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

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

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

TO: Michael V. Terrell (CN=Michael V. Terrell/OU=CEQ/O=EOP @ EOP [CEQ])
READ:UNKNOWN

TO: Robin J. Bachman (CN=Robin J. Bachman/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: Elizabeth R. Newman (CN=Elizabeth R. Newman/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

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

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

READ:UNKNOWN

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TO: Doris O. Matsui (CN=Doris O. Matsui/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

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

READ:UNKNOWN

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

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

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

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

TO: Nancy V. Hernreich (CN=Nancy V. Hernreich/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TO: William A. Halter (CN=William A. Halter/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

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

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

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

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

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

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

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

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

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

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

TO: Lynn G. Cutler (CN=Lynn G. Cutler/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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TO: Daniel D. Heath (CN=Daniel D. Heath/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

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

TO: Suzanne Dale (CN=Suzanne Dale/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

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

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

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

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

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

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

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

TEXT:
for today's event

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

TEXT:
Unable to convert ARMS_EXT:[ATTACH.D38]MAIL411683553.126 to ASCII,
The following is a HEX DUMP:

FF575043E50E0000010A02010000000205000000413E000000020000C0D109847AE990937F6C06
6B2BEA475C665BC3E87B49B80D6CAFDA701427FFB1CCBDCA7284B9F7929985EF86A0420C9D5EBF

OPPORTUNITY IN THE INFORMATION AGE

June 5, 1998

Automated Records Management System
Hex-Dump Conversion

To ensure that all Americans have an opportunity to succeed in the Information Age, President Clinton believes that we must make universal technology literacy for our children a national goal. Technology literacy will allow students to use the latest Information Age tools for learning, research, and communication -- and compete for the high-wage, high-tech jobs the U.S. economy is creating in record numbers.

President Clinton is also committed to increasing investment in research and development to create economic growth and maintain America's leadership in science and technology. His FY99 budget includes record increases for the National Science Foundation and the National Institutes of Health. In his FY2000 budget, the President will call for significant increases in the information and communications R&D within agency budget allocations.

IN TODAY'S SPEECH, PRESIDENT CLINTON WILL:

- Challenge States to Make Technology Literacy a Requirement for Middle School Graduation;
- Pledge to Provide \$180 Million over Three Years to Train a Team of Teacher Technology Experts in Each Middle School -- Who Could in Turn Help Train Other Teachers;
- Urge Telecommunications Companies and the Congress to Support the "E-Rate" -- Which Will Provide up to 90 Percent Discounts to Our Poorest Schools to Connect Them to the Internet;
- Announce the Administrations's Support for \$15 Million in Competitions to Encourage the Development of High-Quality Educational Software and Educational Web Sites by Students, University Faculty, and Commercial Software Companies; and
- Pledge to Increase Long-Term Computing and Communications Research in his FY2000 budget

A NEW EFFORT TO EXPAND TECHNOLOGY LITERACY

- (1) **Technology Literacy as a Requirement for Middle School Graduation:** President Clinton is challenging states to make technology literacy a requirement for middle school graduation. Just as good schools would not allow students to graduate from middle school without being able to read and write -- all students should be technologically literate before they graduate from middle school. This is a "new basic" -- but it clearly rests on a foundation of the fundamentals. Obviously, knowing how to send e-mail or browse the Web will not help a child that can't read and write effectively.
- (2) **Technology Training for Teachers:** To reach the goal of universal technology literacy, President Clinton is pledging to provide \$180 million over three years to train a team of teacher technology experts in each middle school -- who could in turn help train other teachers. The money would go to states that agree to establish technology literacy as a requirement for middle school graduation.

- (3) **Support for the E-Rate:** The President is urging telecommunications companies and the Congress to support the "e-rate" -- which will provide up to 90 percent discounts to our poorest schools to connect them to the Internet.
- (4) **Competition for High-Quality Educational Software:** The Administration will support \$15 million in competitions over the next three years to encourage the development of high-quality educational software and educational Web sites by students, university faculty, and commercial software companies -- and make it easier for teachers and parents to find high-quality educational resources.

THE NEED TO ACT -- ENDING THE DIGITAL DIVIDE

Although there is some evidence that we are beginning to close the gap between information "haves" and "have-nots" -- America must act if we are to avoid a digital divide.

- In 1997, high-minority enrollment schools were almost three times less likely to have Internet access in classrooms than predominantly white schools (13 percent of classrooms vs. 37 percent). [Source: Department of Education, National Center for Education Statistics, March 1998.]
- Similarly, poor schools were more than 2 ½ times less likely to have Internet access in classrooms than wealthy schools (14 percent of classrooms vs. 36 percent). [Source: Department of Education, National Center for Education Statistics, March 1998.]
- While 73 percent of white students (high school and college) own a home computer -- only 33 percent of black students do. [Source: "Bridging the Digital Divide: The Impact of Race on Computer Access and Internet Use," Thomas P. Novak and Donna L. Hoffman, Vanderbilt University, February 2, 1998]
- While 77 percent of wealthy households own a computer at home, only 19 percent of poor households own one. [Source: Forrester Research, December 1997.]

PRESIDENT CLINTON'S RECORD - MAKING ALL OF OUR CHILDREN TECHNOLOGICALLY LITERATE

Beginning in 1995, President Clinton established four goals (the "four pillars") to ensure that all of our children are technologically literate -- (1) connecting every classroom to the Internet by the year 2000; (2) expanding access to multimedia computers; (3) ensuring that teachers are as comfortable with a computer as they are with a chalkboard; (4) and promoting the development of high-quality educational software. He has:

- Proposed a 5 year, \$2 billion Technology Literacy Challenge Fund -- with \$475 million in FY99 -- to help states and local communities meet these four goals;
- Proposed \$75 million in investments in FY99 to ensure that all new teachers can use technology effectively in the classroom;
- Signed the Telecommunications Act of 1996 - which provides deep discounts to connect schools and libraries to the Internet that need it most;

- Helped jumpstart grassroots volunteer activities like NetDay and TechCorps -- which have mobilized hundreds of thousands of volunteers across America.

Automated Records Management System
Hex-Dump Conversion

***MAINTAINING AMERICA'S LEADERSHIP IN THE INFORMATION AGE --
EXPANDING OUR INVESTMENTS IN RESEARCH AND DEVELOPMENT***

Government-funded basic research has led to some of the most important innovations that are driving the Information Revolution, such as the Internet, Web browsers, and many other advances in computing.

In his FY99 budget, President Clinton has called for the largest increase in history at the National Science Foundation and the National Institutes of Health -- and increases in many other areas of civilian research and development. This budget proposal would allow increased investment to help find a cure for cancer, reduce greenhouse gases with more energy-efficient technologies, explore space, and develop the Next Generation Internet.

In his FY2000 budget, President Clinton will call for significant increases in the long-term information and communications R&D within agency budget allocations. The National Science and Technology Council -- in consultation with the President's Information Technology Advisory Council -- will be responsible for developing a long-term research agenda. Some of the exciting research challenges that lie ahead include:

- Developing supercomputers that are hundreds of times faster than today's machines, and that will allow scientists and engineers to more accurately predict the impact of climate change and design more fuel-efficient engines;
- Making computers so easy to use that all Americans can use them, including the 55 million Americans with disabilities;
- Increasing our ability to design complicated information systems that are reliable; and
- **Developing high-speed wireless networks that can help bring distance learning, telemedicine, and economic opportunity to every rural community in America.**

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

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

SUBJECT: What Did you take from that ...

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

READ:UNKNOWN

TEXT:

In terms of policy parameters?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 8-JUN-1998 09:42:10.00

SUBJECT:

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

TEXT:

Tobacco mtg. w/ EBB will now start at 10:15 so you can do team leaders until then

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Mindy E. Myers (CN=Mindy E. Myers/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 8-JUN-1998 18:40:18.00

SUBJECT: Dem. Caucus Child Care Event

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

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

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

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

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

TO: Emil E. Parker (CN=Emil E. Parker/OU=OPD/O=EOP @ EOP [OPD])
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: Neera Tanden (CN=Neera Tanden/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

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

TEXT:

FYI - Janet just received a fax from Gephardt's office. The following
Reps are confirmed to attend the event tomorrow at 1:45 pm in 334 Cannon.

Allen
Baldacci
Barrett
Bonior
Brown
Boswell
Christian-Green
Clayton
Filner
Fattah
Fazio
Harman
Hooley
Eddie Bernice Johnson
Carolyn Cheeks Kilpatrick

Nick Lampson
Sandy Levin
Sheila Jackson Lee
Carrie Meek
Jim McGovern
Major Owens
Ciro Rodriguez
Louise Slaughter
Pete Stark
Louis Stokes
Ted Strickland
Woolsey

(All Dem Reps. were invited to attend.)

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 8-JUN-1998 18:40:36.00

SUBJECT: LOOK AT THIS COVERDELL CHART ASAP

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: Jose Cerda III (CN=Jose Cerda III/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:

I will bring over a color copy now.

I think the headline should read "Will [not could] Cut Tobacco-related ..."

And the list of public health activities should read:

Cessation
Education and Prevention
Counter-advertising
Enforcement and Licensing
Anti-smuggling
Indian health service

----- Forwarded by Cynthia A. Rice/OPD/EOP on 06/08/98
06:37 PM -----

Marc Garufi
06/08/98 06:19:34 PM
Record Type: Record

To: Cynthia A. Rice/OPD/EOP, Cynthia Dailard/OPD/EOP
cc: See the distribution list at the bottom of this message
Subject: Coverdell Chart

Attached is a chart that displays the impact of the Coverdell amendment on funding for tobacco-related public health activities. Please let us know if you have any questions.

Message Copied

To: _____

Joshua Gotbaum/OMB/EOP
Barry T. Clendenin/OMB/EOP
Richard J. Turman/OMB/EOP
Frank J. Seidl III/OMB/EOP
Lourdes M. Lamela/OMB/EOP

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

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D63]MAIL49343495H.126 to ASCII,
The following is a HEX DUMP:

00010F00465245454C414E434504000A0001002700080000000000000000000005D002400C81F7335

Clinton Presidential Records Automated Records Management System [EMAIL]

This is not a presidential record. This is used as an administrative marker by the William J. Clinton Presidential Library Staff.

Hex Dump file is not in a recognizable format, has been incorrectly decoded or is damaged.

File Name: p_g5943438_who_html_1.prz

Attachment Number: [ATTACH.D63]MAIL49343495H.126

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 8-JUN-1998 14:41:57.00

SUBJECT: Weekly Crime Meeting

TO: Fred DuVal (CN=Fred DuVal/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TO: Christopher S. Lehane (CN=Christopher S. Lehane/O=OVP @ OVP [UNKNOWN])

READ:UNKNOWN

TO: Satish Narayanan (CN=Satish Narayanan/O=OVP @ OVP [UNKNOWN])

READ:UNKNOWN

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

READ:UNKNOWN

TO: GALLEGOS_S (GALLEGOS_S @ A1 @ CD @ VAXGTWY [UNKNOWN])

READ:UNKNOWN

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

READ:UNKNOWN

TO: Jennifer Brown (CN=Jennifer Brown/OU=ONDCP/O=EOP @ EOP [ONDCP])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: James Boden (CN=James Boden/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

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

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

TO: Trooper Sanders (CN=Trooper Sanders/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

TO: NELSON_J (NELSON_J @ A1 @ CD @ LNGTWY [UNKNOWN])
READ:UNKNOWN

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

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

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

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

TO: Teresa L. Collins (CN=Teresa L. Collins/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

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

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

TEXT:
MEMORANDUM TO DISTRIBUTION LIST

FROM: Bruce Reed
Assistant to the President for Domestic Policy

SUBJECT: June10 1998 CRIME MEETING

On Wednesday, June 10, at 10:00 a.m. in Room 211 of the Old Executive Office Building, we will hold the weekly crime meeting.

Thank You.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 8-JUN-1998 11:12:59.00

SUBJECT: Dept of Ed wants to know--should they draft a letter to Hill on Coverdell'

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Did you decide at your Erskine meeting whether we are sending anything in writing?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

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

SUBJECT: Child Custody Protection Act

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

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

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D67]MAIL471691950.126 to ASCII,
The following is a HEX DUMP:

FF575043A10E0000010A0201000000020500000046460000000200008212E68CA8124C7CCA45B3
7C319E7C354B70C206ECC49964C6DC39530BBE7EA1F9606C152B378211B2EA0043D1ED09CE900E

Dear

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

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

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

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

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

S/

OMB

June 10, 1998

MEMORANDUM FOR THE PRESIDENT

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

SUBJECT: The Child Custody Protection Act

I. THE CHILD CUSTODY PROTECTION ACT

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

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

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

As described by its sponsors, the bill is designed to protect the rights of parents to participate in their minor child's abortion decision against those who would encourage her to have a "secret" abortion -- a category which, according to the sponsors, includes out-of-state abortion clinics who advertise the availability of abortions without parental involvement² and adult males who impregnate minors and then attempt to erase the consequences of their actions by transporting the minors out of state for the abortion procedures.

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

II. BACKGROUND -- PARENTAL INVOLVEMENT REQUIREMENTS

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

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

III. ANALYSIS

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

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

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

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

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

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

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

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

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

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

IV. RECOMMENDATION

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

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

