

**NLWJC - KAGAN**

**EMAILS CREATED**

**ARMS - BOX 002 - FOLDER 004**

**[4/6/1997 - 4/14/1997]**

# Withdrawal/Redaction Sheet

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Elena Kagan to Bruce Reed. Subject: DPC Staff/Issues List. [partial] (1 page)	04/09/1997	P6/b(6)

### COLLECTION:

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

### FOLDER TITLE:

[04/06/1997 - 04/14/1997]

2009-1006-F

ab825

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

CREATION DATE/TIME: 6-APR-1997 13:23:29.00

SUBJECT: Tuskegee

Looking at the materials on Tuskegee, it seems that we need to make some decisions to move

1. Exactly what is the substance of this event: that is, in addition to an "apology" from
  2. What are the options for the President's time ? One hour is going to be very hard to find
- A related question: where are we on announcing the next Surgeon General ? Could this even
3. I raise these questions not because I think the event is less important but because I

TO: DRYE\_E ( DRYE\_E @ A1 @ CD @ LNGTWY [ EOP ] ) (OPD)

READ:UNKNOWN

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 04/06/97 01:26  
PM -----

Ann F. Lewis

04/04/97 01:27:30 PM

Record Type: Record

To: Robert B. Johnson/WHO/EOP, Maria Echaveste/WHO/EOP, Elena Kagan/OPD/EOP

cc: Stephanie S. Streett/WHO/EOP

Subject: Tuskegee

Looking at the materials on Tuskegee, it seems that we need to make some decisions to move the process forward:

1. Exactly what is the substance of this event: that is, in addition to an "apology" from the President, what are the policy corrections or announcements that would be made and who would be responsible for implementing them ? I think I remember something going to the Bioethics Commission --what else ? Has DPC signed off on a package ?

2. What are the options for the President's time ? One hour is going to be very hard to find. How important is it that the President be there personally, or can we find a way to release his letter + policy ? Can we offer a range of options that make it easier on scheduling ?

A related question: where are we on announcing the next Surgeon General ? Could this event be handled --not as part of his announcement -- but as a subject he takes up immediately upon assuming office ?

3. I raise these questions not because I think the event is less important but because I do think it important to take some action and am concerned that the constraints on the President's time mean we have to be creative in thinking how to achieve it.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 6-APR-1997 16:10:13.00

SUBJECT: Re: draft of Berry letter

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

READ:UNKNOWN

TEXT:

looks fine to me.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 6-APR-1997 16:07:10.00

SUBJECT: Re: Brain conf

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

READ:UNKNOWN

TEXT:

I had no idea we were courting OSTP. Sure.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 6-APR-1997 13:24:39.00

SUBJECT: Tuskegee

Looking at the materials on Tuskegee, it seems that we need to make some decisions to move

1. Exactly what is the substance of this event: that is, in addition to an "apology" from
2. What are the options for the President's time ? One hour is going to be very hard to find
- A related question: where are we on announcing the next Surgeon General ? Could this even
3. I raise these questions not because I think the event is less important but because I

TO: DRYE\_E ( DRYE\_E @ A1 @ CD @ LNGTWY [ EOP ] ) (OPD)

READ:UNKNOWN

TEXT:

remind me -- what are the policy initiatives here? I seem to recall something about ethics fellowships. what am i forgetting?

----- Forwarded by Elena Kagan/OPD/EOP on 04/06/97 01:26 PM -----

Ann F. Lewis

04/04/97 01:27:30 PM

Record Type: Record

To: Robert B. Johnson/WHO/EOP, Maria Echaveste/WHO/EOP, Elena Kagan/OPD/EOP

cc: Stephanie S. Streett/WHO/EOP

Subject: Tuskegee

Looking at the materials on Tuskegee, it seems that we need to make some decisions to move the process forward:

1. Exactly what is the substance of this event: that is, in addition to an "apology" from the President, what are the policy corrections or announcements that would be made and who would be responsible for implementing them ? I think I remember something going to the Bioethics Commission --what else ? Has DPC signed off on a package ?

2. What are the options for the President's time ? One hour is going to be very hard to find. How important is it that the President be there personally, or can we find a way to release his letter + policy ? Can we offer a range of options that make it easier on scheduling ?

A related question: where are we on announcing the next Surgeon General ? Could this event be handled --not as part of his announcement -- but as a subject he takes up immediately upon assuming office ?

3. I raise these questions not because I think the event is less important but because I do think it important to take some action and am concerned that the constraints on the President's time mean we have to be creative in thinking how to achieve it.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 6-APR-1997 16:35:47.00

SUBJECT: madd

TO: DRYE\_E ( DRYE\_E @ A1 @ CD @ LNGTWY [ EOP ] ) (OPD)

READ:UNKNOWN

TEXT:

Is there anything we should be doing about the events the madd man mentioned to us?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 6-APR-1997 16:07:33.00

SUBJECT: Brain conf

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

TEXT:

I'm not sure I have the most current version. Could you do this? thanks.  
----- Forwarded by Elena Kagan/OPD/EOP on 04/06/97 04:10  
PM -----

Bruce N. Reed  
04/04/97 10:11:31 AM  
Record Type: Record

To: Elena Kagan/OPD/EOP  
cc:  
Subject: Brain conf

As part of our effort to court OSTP, could you send Jack Gibbons a draft agenda for the brain conf? Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 6-APR-1997 16:12:39.00

SUBJECT: OPM Project and Numbers

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

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 04/06/97 04:15  
PM -----

Lyn A. Hogan  
04/03/97 02:40:12 PM  
Record Type: Record

To: Elena Kagan/OPD/EOP  
cc: Cynthia A. Rice/OPD/EOP  
Subject: OPM Project and Numbers

Elena,

Just FYI, Bob Stone's conversation with Bruce resulted in Bob challenging all of the agencies to collectively directly hire 11,000 welfare recipients. Bob apparently told the agency group that the Federal government represents 1.5% of the workforce so should hire 1.5% of the welfare recipients that must be in work by the year 2000. Therefore, all of the agencies went back today and put numbers in their plans. It looks like we will now have public numbers (I'm not sure this is what Bruce wanted from the conversation but it's what Bob did.)

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 7-APR-1997 10:54:18.00

SUBJECT: Meeting Schedule for Reconciliation Working Group (RWG)

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

READ:UNKNOWN

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 04/07/97 10:57 AM -----

June G. Turner

04/07/97 10:52:21 AM

Record Type: Record

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

cc:

Subject: Meeting Schedule for Reconciliation Working Group (RWG)

There will be RWG Meetings at 11:00am Tuesday-Friday of this week. Below is the room schedule. If you have any questions please let me know (6-1960)

Tuesday - 231 OEOB (NEC Conf Room)

Wednesday - Roosevelt Room

Thursday - Room 476 OEOB

Friday - Roosevelt Room

#### Attendees

Don Baer

Beverly Barnes

Dawn Chirwa

Carolyn Curiel

Betty Currie

Michael Deich

Maria Echaveste

Terry Edmonds

Rahm Emanuel

Richard Hayes

Alexis Herman

John Hilley

Ben Johnson

Elena Kagan

Ann Lewis

Susan Liss

Ellen Lovell

Sylvia Mathews

Doris Matsui

Andrew Mayock

Cheryl Mills

Minyon Moore

Janet Murguia

Bob Nash  
John Podesta  
Vicki Radd  
Frank Raines  
Bruce Reed  
Chuck Ruff  
Richard Socarides  
Doug Sosnik  
Tracey Thornton  
Melanne Verveer  
Michael Waldman  
Ann Walker  
Kathy Wallman  
Rob Weiner  
Kitty Higgins  
Marcia Hale  
Flo McAfee

## Message Sent

To:

---

Betty W. Currie/WHO/EOP  
Donald A. Baer/WHO/EOP  
Kevin S. Moran/WHO/EOP  
Dawn M. Chirwa/WHO/EOP  
Maria Echaveste/WHO/EOP  
Marjorie Tarmey/WHO/EOP  
Rahm I. Emanuel/WHO/EOP  
Michelle Crisci/WHO/EOP  
Richard L. Hayes/WHO/EOP  
Elena Kagan/OPD/EOP  
Laura Emmett/WHO/EOP  
Ann F. Lewis/WHO/EOP  
Cheryl D. Mills/WHO/EOP  
Bob J. Nash/WHO/EOP  
Laura K. Demeo/WHO/EOP  
Janet Murguia/WHO/EOP  
John Podesta/WHO/EOP  
Sara M. Latham/WHO/EOP  
Bruce N. Reed/OPD/EOP  
Cathy R. Mays/OPD/EOP  
Richard Socarides/WHO/EOP  
Tracey E. Thornton/WHO/EOP  
MOORE\_M @ A1 @ CD @ LNGTWY  
Robert N. Weiner/WHO/EOP  
Robert B. Johnson/WHO/EOP  
Andrew J. Mayock/WHO/EOP  
Ruby G. Moy/WHO/EOP  
John L. Hilley/WHO/EOP  
Doris O. Matsui/WHO/EOP  
Elisa Millsap/WHO/EOP  
Douglas B. Sosnik/WHO/EOP  
John O. Sutton/WHO/EOP  
Carolyn Curiel/WHO/EOP  
James T. Edmonds/WHO/EOP  
Patricia E. Romani/OMB/EOP  
Ann F. Walker/WHO/EOP  
Michael Waldman/WHO/EOP  
Franklin D. Raines/OMB/EOP  
Rebecca R. Culberson/OMB/EOP

Ora Theard/WHO/EOP  
Katharine Button/WHO/EOP  
Beverly J. Barnes/WHO/EOP  
Susan M. Liss/OVP @ OVP  
Elizabeth R. Newman/WHO/EOP  
Ellen M. Lovell/WHO/EOP  
Virginia N. Rustique/WHO/EOP  
Elizabeth M. Toohey/WHO/EOP  
Brian A. Reich/WHO/EOP  
Floydetta McAfee/WHO/EOP  
Alison E. Bracewell/WHO/EOP  
Mary Morrison/WHO/EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 7-APR-1997 19:33:27.00

SUBJECT: Re: product liability

TO: Kathleen M. Wallman ( Kathleen M. Wallman @ EOP @ LNGTWY [ WHO ] )

READ:UNKNOWN

TEXT:  
just sent.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 7-APR-1997 10:11:47.00

SUBJECT: Fact Check Meeting

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

READ:UNKNOWN

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 04/07/97 10:14  
AM -----

Brian A. Reich  
04/07/97 09:11:18 AM  
Record Type: Record

To: Russell W. Horwitz/OPD/EOP, Peter R. Orszag/OPD/EOP, Elena  
Kagan/OPD/EOP, Melissa Green/OPD/EOP  
cc:  
Subject: Fact Check Meeting

Waldman would like to have a fact check meeting on Tuesday afternoon.

What time works best -- 2pm. 3pm or 4pm???

Please respond as soon as possible - thanks

Brian Reich  
6-2593



## HEALTH CARE

**Question:** Are you going to submit additional Medicare savings so that your Medicare plan will contain \$100 billion in savings over five years?

**Answer:** Our actuaries believe that our current Medicare proposal does save \$100 billion over five years. And, over the last four years, our actuaries have been more accurate in their budget estimates than the Congressional Budget Office. Moreover, just last week we sent our detailed language over to CBO. We believe that these additional details will help eliminate some of the current discrepancies between our actuaries' scoring of our Medicare proposal and CBO scoring. If any scoring differences still remain after CBO has had a chance to review all of our statutory language, we will make a determination as to whether any revisions in our proposal are warranted.

**Question:** In your February budget release you said the 5-year Medicare savings were \$100 billion. There are now reports that it is \$106 billion over five years, according to your actuaries. How do you account for these differences?

**Answer:** As the Congressional Budget Office (CBO) was scoring our Medicare proposals, they requested that the Office of Management and Budget (OMB) provide clarifications on the intent of our savings proposals. After providing them with this information, we asked OMB to determine how these clarifications changed the scoring of our Medicare package on our baseline. When they did, OMB determined that the provisions would score about \$106 billion in savings off of our baseline. (None of the clarifications involved beneficiary savings.)

CBO continues to score our proposals to save about \$82 billion off of their baseline. We hope that further clarification of our policy will close the gap between how CBO (\$82 billion) and OMB (\$106 billion) score the very same policy.

**Question:** Do you plan to eliminate any of the new benefit improvements in your Medicare plan?

**Answer:** While everything will clearly be "on the table" in our budget discussions, we are extremely sensitive about making any changes to the important beneficiary improvements in our Medicare plan. Over three quarters of Medicare beneficiaries earn less than \$25,000 per year. Improving benefits and fixing flaws in the program which place undue costs on this vulnerable population is a high priority for this Administration. We look forward to continuing to work with both Republicans and Democrats in Congress on passing a balanced budget which will

strengthen and improve the Medicare program.

**Question:** **Your proposal to lower out-of-pocket costs for outpatient department (OPD) services costs almost 50 billion over ten years. How do you justify the costs of this proposal?**

**Answer:** **Our OPD policy simply returns the benefit to the original intent of the program.** This policy is in no way a new entitlement. Under current law, Medicare asks beneficiaries to pay 20 percent copayments for Medicare services. An anomaly in outpatient payment methodologies has allowed hospitals to indirectly cost shift to beneficiaries. As a result, beneficiary copayments are now averaging almost 50 percent. The President's proposal simply restores the copayment to 20 percent -- similar to all other Part B services.

**The current 50 percent coinsurance costs are significant for Medicare beneficiaries.** Over three quarters of Medicare beneficiaries earn less than \$25,000 per year. Those without Medigap insurance or other secondary insurance simply cannot afford the huge unexpected bills they receive for OPD services. Those with Medigap coverage have seen their premiums increase as a result of this anomaly. It is only fair that this benefit, like all other Part B services, have a 20 percent coinsurance.

**Our OPD policies achieve savings.** Reducing the coinsurance to 20 percent is only one part of our proposal to improve OPDs. The President's budget also shifts OPDs to a prospective payment system which will provide financial incentives for hospital to reduce costs and simplify payments, achieving at least \$19 billion in savings over the next ten years.

**Question:** **Why are the costs in your OPD proposal backended? Aren't you just playing political games to balance the budget in 2002?**

**Answer:** The cost of buying down the OPD copayment is split between hospitals and the Federal government. We felt that an immediate move to a 20 percent copayment might create difficult transitions for hospitals who will already be targeted for reductions in payments from other policies. Having said this, we are more than willing to discuss alternative ways to address this problem.

**Question:** Your Medicare proposal contains mostly cuts on providers and managed care. Don't you think we need real structural Medicare reform?

**Answer:** Absolutely. My budget takes important steps to modernize Medicare and bring it into the 21st century through a number of structural reforms including

- **Establishing new private plans** -- including Preferred Provider Organizations and Provider Sponsored Organizations -- available to seniors and people with disabilities.
- *Establishing market-oriented purchasing for Medicare* including the new prospective payment systems for home health care, nursing home care, and outpatient hospital services, as well as competitive bidding authority and the use of centers of excellence to improve quality and cut back on costs.
- *Adding new Medigap protections* to make it possible for beneficiaries to switch back from a managed care plan to traditional Medicare without being underwritten by insurers for private supplemental insurance coverage. This should encourage more beneficiaries to opt for managed care because it addresses the fear that such a choice would lock them in forever.

**Question:** Do you support the Medicare Commission proposed by Senators Roth and Moynihan?

- **First, I want to praise Chairman Roth and Ranking Member Moynihan for working together -- on a bipartisan basis -- to propose the creation of a commission to address the long-term financing issues that face Medicare. Their efforts reflect a bipartisan spirit which we believe is critical to ensure the success of any process designed to address this important issue.**
- **No one is more committed than I am to seeking a bipartisan process to find long term solutions to Medicare. But my more immediate focus is reaching a bipartisan agreement on a balanced budget that extends the life of the Medicare Trust Fund in the near term. We have an historic opportunity to balance the budget. We should not let it pass.**
- As I have repeatedly said, we will need a bipartisan process to address the long-term financing issues facing Medicare, and I look forward to working with both parties to develop the best possible process.

## QUALITY COMMISSION

**Question:** What will this commission hope to accomplish?

**Answer:** The President is calling on the commission to develop a “consumer bill of rights.” He wants it to particularly focus on consumer appeals and grievance rights. He has also asked the Commission to address other issues including assuring:

First, that health care professionals are free to provide the best medical advice possible;

Second, that their providers are not subject to inappropriate financial incentives to limit care;

Third, that our sickest and most vulnerable patients (frequently the elderly and people with disabilities) are receiving the best medical care for their unique needs;

Fourth, that consumers have access to simple and fair procedures for resolving health care coverage dispute plans;

And fifth, and perhaps most important, that consumers have basic information about their rights and responsibilities, about the benefits plans offer, about how to access the care they need, and about the quality of their providers and their health plan.

**Question:** Will the patient bill of rights be mandated on states and private health plans?

**Answer:** No. The Commission will develop a model Bill of Rights that states, health care plans, health care providers, associations, and others can use to guide their own efforts. States have already been quite active in this area and the model should help them in future efforts. Many health plans and health care professionals have adopted a form of a bill of rights and this should assist them as well.

**Question:** Is this an “anti-managed care” commission?

**Answer:** Absolutely not. Quality and consumer rights are issues that transcend all models of care. We need to address those issues in a comprehensive manner so that no matter what kind of insurance plan Americans join, they will know that the care they receive is of the highest quality and their rights as

consumers are protected.

**Question:** Won't the commission serve to delay quality legislative initiatives including those that even the President has advocated? Isn't the commission going to compete with these initiatives?

**Answer:** This commission will complement, not compete with, legislation in the Congress that has broad-based support. The President will continue to support legislation in this area that has already received bipartisan support (e.g., barring gag rules, requiring 48-hour stays for women who have mastectomies). But this is just a start, we must go beyond these reforms to take a comprehensive look at the quality of care and how we can assure it. The Commission will work on building the consensus for more far-reaching reforms.

**Question:** Doesn't this commission just serve as a mechanism to implement more government regulation in our health care system?

**Answer:** Not at all. The Commission has been given the charge of examining whether our rapidly changing health care system is still providing high quality care for all Americans and to ensure that consumers themselves have adequate grievances and appeals processes. Its focus is to help create consensus among the private and public sectors in how best to proceed. As such, its recommendations may or may not suggest additional Federal oversight activities, and it is just as likely as not that it will recommend no new major Federal role.

**Question:** Doesn't this commission just a reward for campaign contributors and Washington-insiders who know little about what Americans in our health care system experience?

**Answer:** Absolutely not. By any measure, these commission members are extremely well respected experts who have broad and different experiences in the health care system. They have expertise on a range of health care issues including the unique challenges facing rural and urban communities, children, women, older Americans, minorities, people with disabilities, mental illness and AIDS, as well as issues regarding privacy rights and ethics. They come from all parts of the country and reflect the diverse population in this country.

**Question:** How much will this cost and who's paying for it?

**Answer:** The Commission will cost an estimated \$1.8 million over the next year and be paid for by the Department of Health and Human Services. The members of the Commission will not be paid.

## **WELFARE REFORM: FOOD STAMP WORK REQUIREMENT**

**Question:** Under the new welfare law, states began to cut off food stamps for non-disabled adults who aren't working after three months of benefits. Why does the Administration want to soften these provisions?

**Answer:** I strongly support work requirements. But the welfare law's harsh and unreasonable time limit of 3 months in 36 cuts off people who want to work but can't find jobs. In my budget, I proposed an alternative: a real and tough work requirement without arbitrary cut-offs.

Under my proposal, those who refused to work or refused to take advantage of a work opportunity would face tough new penalties. We would limit food stamps to 6 months out of 12. This policy would encourage work while giving those out of work the transitory help they need to get back on their feet. We proposed new funding and a wage supplementation option to expand the number of work slots available to this group by nearly 400,000 over five years. I am looking forward to working with Congress to enact this sensible proposal.

### **Background:**

- As of March 1, states began to cut off food stamp benefits for people who have not met the new work requirement in the welfare law.
- Under the law, able-bodied childless adults between the ages of 18-50 are not permitted to get food stamps for more than 3 months in a 3-year period, unless they are working at least 20 hours a week.
- USDA can waive the work requirement in cities or counties with high unemployment. To date, USDA has granted waivers to 36 states that exempt specified counties or cities with high unemployment.
- Despite these exemptions, approximately 500,000 individuals will lose their food stamp eligibility in FY98 due to this provision. Under the Administration's proposal, approximately 35,000 individuals would lose eligibility in FY98. Unlike

the welfare law, the Administration's proposal targets tough sanctions at those individuals who are unwilling to work and to play by the rules.

## WELFARE REFORM: BENEFITS TO LEGAL IMMIGRANTS

**Question:** Immigrants shouldn't be coming to the U.S. to get on welfare. Why is the Administration making restoration of these benefits a priority?

**Or alternative question:**

**Around the country, hundreds of thousands of frightened, elderly legal immigrants are scrambling to become citizens and avert a cut-off of their SSI and Medicaid benefits. What is the Administration doing about this?**

**Answer:** I believe that legal immigrants should have the same opportunity, and bear the same responsibility, as other members of our society. The welfare law denies most legal immigrants access to fundamental safety net programs unless they become citizens -- even though they are in the U.S. legally, are working and paying taxes and are responsible members of our communities. My Administration has always supported making individuals who encourage their relatives to emigrate to the United States responsible for the immigrant's well being. However, as a nation, we should not turn our backs on anyone who has lost their ability to earn a living due to injury, disease, or illness.

Consequently, my budget proposes to make legal immigrants who become disabled after entering the United States eligible for SSI and Medicaid.

My budget would also provide poor immigrant children the same Medicaid health care coverage low-income citizen children receive.

The United States admits refugees and asylees into this country on a humanitarian basis. My budget proposes to lengthen the five-year exemption for refugees from the ban from five to seven years in order to give this group adequate time to naturalize.

Finally, the law denies food stamps to most legal immigrants. My budget would delay the cutoffs from April 1, 1997 to August, 1997 in order to give immigrants more time to naturalize.

## WELFARE REFORM FIX LEGISLATIVE PROPOSALS

**Question:** You say you are ready to work with Congress to fix the immigrant and food stamp parts of the welfare law, but the Republican leadership says the bill is fine as it is. Even some Democrats are saying the law shouldn't be changed until we have had a chance to see how it works. Doesn't this mean your proposals have no chance of being enacted?

**Answer:** I think it is very significant that the nation's Governors are now on record as recognizing that the cuts in benefits to legal immigrants are too harsh and need to be addressed -- even though their final resolution was softened at the last minute at the request of the Congressional leadership.

As the new welfare law is being implemented, the Governors are gaining a new appreciation of some parts of the bill that I have had a problem with from the beginning -- those parts that are not related to putting people to work. This is particularly true of those Governors in states with large numbers of legal immigrants. They are now looking more carefully at their state budgets and the fact that many legal immigrants who are disabled, many in nursing homes, will lose their SSI and Medicaid over the summer. In addition to noting that these provisions are unfair, they can see the potential costs to their own state budgets if they make the decision to ameliorate those cuts.

I think that, over time, more and more people will come to see the harm that these provisions could do to hard-working people who came to this country and, through no fault of their own, became disabled and could no longer support their families.

## WELFARE TO WORK

### DISPLACEMENT

*Question: Aren't you concerned that welfare recipients will displace hardworking Americans -- people who played by the rules and never relied on welfare? Recent stories in The Washington Post and The New York Times have provided anecdotal evidence that welfare recipients are taking jobs from the working poor.*

*Answer:* Let me note that the welfare reform law that I signed prohibits worker displacement. Welfare reform programs cannot place welfare recipients in job openings created by company firings or layoffs (section 407(f) of the law). Welfare recipients can, however, be placed in jobs that are vacant for reasons other than firings or layoffs.

I believe that the growing economy will create enough jobs to meet my goal of putting one million welfare recipients to work by the year 2000 without displacing other workers. Remember, we've created 12 million new jobs over the last four years. Unemployment has dropped to 5.2 percent, as was announced on Friday.

I recognize that we should give some extra help to communities where it will be harder for welfare recipients to find jobs. That's why I've proposed in my budget a \$3 billion Welfare-to-Work Jobs Challenge fund which states and cities could use to create job opportunities for welfare recipients.

### MINIMUM WAGE

**Question: Some say displacement will happen because welfare recipients are allowed to work without being covered by the minimum wage law and the various protections of the Fair Labor Standards Act. Is this true?**

**Answer:** Agency lawyers are in the course of examining to what extent the Fair Labor Standards Act applies to welfare to work programs. We expect to have an answer shortly, but do not have one at this time.

## PRIVATIZING WELFARE

**Question:** Are you planning to let Texas privatize welfare? I understand you met with labor

**Answer:** No decision has been made on the Texas request. It is a complicated issue involving both Medicaid and Food Stamps. The agencies are working as hard as they can to examine all of the relevant issues, and we hope to get the State of Texas their answer soon. I can tell you this: my Administration has fought hard to preserve federal guarantees for both Food Stamps and Medicaid and we don't intend to undermine them now. Regarding the meeting I had with labor leaders on March 28th -- it was a broad discussion of budget and welfare to work issues.

**Question:** Governor Bush is, in effect, calling Secretary Shalala a liar for not making a decision by April 1, as she had promised.

**Answer:** He knows better than that. The Administration gets a lot of waiver requests from the states. The agencies conduct a routine review process for each of them. Because this is a complicated issue, the review has been lengthy, probably a little more than we expected. But the agencies are working to provide Texas with a response as soon as possible.

## PRIVATE SECTOR JOBS

**Question:** What are you doing to encourage private companies to hire welfare recipients without displacing current workers?

**Answer:** The \$3 billion Welfare to Work Jobs Challenge I propose in my budget could be used by cities and states to provide subsidies and other incentives for private businesses to add welfare recipients to their workforce. Complementing this initiative is the enhanced and expanded Work Opportunity Tax Credit that I also propose in my budget. First, the WOTC would be enhanced for long-term welfare recipients. This credit would allow employers who hire welfare recipients to claim a 50 percent tax credit on the first \$10,000 of wages paid to that person for two years. Wages may include the cost of training, health insurance, and day care. **Second, the WOTC would be expanded to make a new population -- 18-50 year olds made ineligible for food stamps under the new welfare law -- eligible for the existing base credit.**

In addition to my legislative proposals, I am reaching out to employers large and small to challenge them to hire welfare recipients. I met in the White House with a group of 14 CEOs interested in helping people move from welfare to work. Then, during the State of the Union Address, I announced commitments from five of these companies -- Sprint, Monsanto, UPS, Burger King, and United Airlines. I hope to be announcing commitments from even more companies soon.

## **FEDERAL GOVERNMENT HIRING**

**Question:** What has the White House done to encourage federal government hiring of welfare recipients?

**Answer:** Most of the jobs required to make welfare reform succeed will come from the private sector. But I believe that the Federal Government, as the Nation's largest employer, should contribute to this critical national effort. That's why on March 8th, I directed the head of each federal agency and department to use all available hiring authorities to hire people off the welfare rolls into available job positions in the Government. To underscore the importance of this issue to the White House, I appointed Vice President Gore to oversee this effort.

I have called a Cabinet meeting for this Thursday, April 10th, to meet face to face with the members of my Cabinet to discuss how each agency intends to recruit, hire, and retain qualified welfare recipients.

**Question:** Will the White House hire any welfare recipients?

**Answer:** I expect the Executive Office of the President, like any other agency, to produce a detailed plan to assist in this effort and I would fully expect them to plan to hire welfare recipients.

## NEEDLE EXCHANGE

**Question:** Will you work to lift the ban on federal funding of needle exchange programs?

**Answer:** Not at this time. As you know, the congressional ban remains in effect until the Secretary of HHS can certify that needle programs reduce the transmission of AIDS and that such programs do not encourage illicit drug use. The scientific studies done so far provide strong evidence that needle exchange programs reduce HIV transmission, but they don't offer sufficient evidence of the effect of these programs on illicit drug use. We strongly support continued study of this question so we can know whether needle exchange programs in fact encourage drug use. In the meantime, local communities remain free, as they should, to establish and support needle exchange programs if they choose to do so.

## PARTIAL-BIRTH ABORTION

**Question:** Didn't you base your veto of the partial-birth abortion bill on false information -- i.e., that this procedure is performed only on a few hundred women in desperate circumstances?

**Answer:** No. I based my veto on the fact that there are a small group of women in desperate circumstances who need this procedure in order to save their lives or prevent serious injury to their health. I've never said that these are the only circumstances in which the procedure is used. Indeed, I've acknowledged that there are cases where the procedure is not necessary for life or serious health reasons -- and I've made very clear that I would sign legislation banning the procedure in those cases.

**Question:** If Congress were to add a health exception to the partial birth bill you vetoed last year, that bill would prohibit all partial birth abortions -- including pre-viability partial birth abortions -- that aren't done for life or serious health reasons. Are you really saying that you would sign a bill of that kind -- a bill that prohibited a particular procedure (except if done for life or serious health reasons) in the pre-viability period?

**Answer:** I have made very clear my condition for signing the partial birth bill. I told Congress that I would sign the bill if it protected women who needed the procedure to save their lives or avert serious harm to their health. I implored Congress to send me such a bill. I continue to take that position. If Congress adds a provision to the bill that protects women who need the procedure for life or serious health reasons, I will sign that bill.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 7-APR-1997 10:09:55.00

SUBJECT: Final memo

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

TEXT:

can you get me a copy? thanks.

----- Forwarded by Elena Kagan/OPD/EOP on 04/07/97 10:12 AM -----

Bruce N. Reed  
04/05/97 01:10:04 PM  
Record Type: Record

To: Michael Cohen/OPD/EOP, William R. Kincaid/OPD/EOP  
cc: Elena Kagan/OPD/EOP  
Subject: Final memo

You did a great job. Hope I didn't mess it up. This is going in today. I gave copies to Erskine, Sylvia, and Podesta as well. On Monday, Cathy will circulate to Baer, Lewis, Sperling, Rahm, Melanne, Maria, and Penn.

Great work. They won't be able to bug us again at least until they finish reading.



April 7, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE LINDSEY

SUBJECT: PRODUCTS LIABILITY LEGISLATION

Congress may turn its attention to product liability legislation within the next month, and we need to know how to respond. As you recall, your veto message last year detailed a number of specific objections to the products bill. (The veto message is attached to this memo.) We presume that if Congress were to give you the same bill again, you would veto it for the same reasons. It is possible, however, that Congress will work to pass a bill that responds in part to your objections. This memo reviews those objections, outlines possible congressional responses to them, and solicits your views on how to proceed. We believe that we need to send strong signals now about the kind of bill we would accept and the kind we would veto.

One-way preemption. Prior to enumerating your objections to specific provisions in the bill, your veto message noted the "general problem of displacing State authority in an unbalanced manner." You explained that problem as follows: "As a rule, this bill displaces State law only when that law is more favorable to consumers; it defers to State law when that law is more helpful to manufacturers and sellers. I cannot accept, absent compelling reasons, such a one-way street of federalism."

If you hold fast to this position, you will have to veto another product liability bill. Congress will not pass a bill that preempts, in identical fashion, both anti-consumer and pro-consumer state law. For its strongest supporters, this bill is not so much about achieving uniformity as about reducing liability burdens on manufacturers. Because a two-way preemption bill will not clearly achieve this goal, your insistence on a two-way bill will signal strongly that no compromise is possible.

The objection to one-way preemption, however, is strong on the merits. If the problem with the current tort system is a simple lack of uniformity, then two-way preemption is obviously desirable. If the problem is instead that state law often fails to balance appropriately the interests of manufacturers and consumers, then federal law should step in to strike that balance, negating laws that tilt too much in either direction. One-way preemption is justified only if the goal is to reduce product actions to the greatest extent possible, by enabling states to "pile on" to federal limits.

Because this issue is not amenable to compromise, we need to know soon where you stand on it. We cannot develop sensible strategy unless we know whether you could sign a bill

containing one-way preemption.

Eliminating joint liability for non-economic damages. Your veto message objected strongly to the provision of the bill that wholly eliminated joint liability for non-economic damages such as pain and suffering. You stated generally, in support of joint liability, that “when one wrongdoer cannot pay its portion of the judgment, the other wrongdoers, and not the innocent victim, should have to shoulder that part of the award.” You also expressed doubt about distinguishing economic from non-economic damages, noting that a provision limiting only non-economic damages falls most heavily on non-working women, the elderly, the poor, and children.

This issue, unlike the last, is amenable to compromise. The most likely compromise would be a proposal to eliminate joint liability for non-economic damages when, but only when, the wrongdoer is responsible for less than some specified percentage of the total judgment. Congress could say, for example, that joint liability for non-economic damages will not apply when a defendant’s actions have caused less than 25% of the total harm suffered. Congress might try to compensate for this weakening of the joint liability provision by applying it to both economic and non-economic damages (perhaps using your veto statement’s equation of the two kinds of damages to justify doing so), so that a “minor” wrongdoer would never have to shoulder any costs not his own.

A compromise of this kind has the apparent benefit of relieving small-scale wrongdoers (how small depends on the percentage specified) of the obligation to pay the entirety of potentially mammoth judgments. But by virtue of doing so, this compromise leaves innocent victims to bear the damage themselves when primary wrongdoers have gone bankrupt or are otherwise unable to satisfy judgments. You should consider whether you are comfortable with this kind of compromise and, if so, approximately where (10 percent?; 25 percent?; 50 percent?) you would draw the line.

Capping punitive damages. You also objected in your veto statement to imposing caps on punitive damage awards, on the ground that caps undermine the ability of punitive awards to deter and punish egregious misconduct. You noted the provision of the bill allowing judges to exceed the caps in specified circumstances, but stated that this protection was insufficient “given the clear intent of Congress, as expressed in the Statement of Managers, that judges should use this authority only in the most unusual cases.”

A compromise on this issue is also possible; indeed, it may be hard to avoid given the Administration’s prior statements on the subject. The judicial override provision is essentially the brainchild of the Justice Department, which offered it as a way to alleviate our concerns about caps on punitives. If Congress deletes the legislative history to which you objected -- and especially if it also softens some of the language in the override provision -- you will have little basis for continuing to object to the bill’s punitive damage ceilings.

Limiting liability of biomaterials suppliers. You expressed a “concern” in your veto statement about a provision in the bill limiting actions against suppliers of materials used in devices implanted in the body. You generally recognized this provision to be a “laudable attempt to ensure the supply of materials needed to make lifesaving medical devices.” But you said that this limitation should apply only to non-negligent suppliers -- and not to suppliers who know or should know that the materials they make, when implanted in the human body, will cause injury.

The current version of the biomaterials provision contains an exception for manufacturers of the silicone gel used in breast implants, but not an exception (of the kind you requested) for all negligent suppliers. Industry engaged in good-faith negotiations with Rep. Berman last year to develop such an exception, but could not find a way to exempt negligent suppliers, while adequately protecting non-negligent suppliers from the high litigation costs associated with disproving negligence. Industry is currently looking into other ways to satisfy our concern -- for example, by limiting liability for biomaterials suppliers only when the FDA has reviewed and approved the implanted device -- and may well succeed in doing so. Indeed, we may wish to send a signal that Congress should remove this provision from the products bill, so that we can sign it separately.

Other provisions. Your veto statement contained a number of objections to more minor provisions of the bill relating to the statute of repose, statutes of limitations, and negligent entrustment actions. With the possible exception of the statute of repose provision, compromise on these issues should be easy; members of Congress already have indicated a willingness to delete the offending language. On the statute of repose, the current bill precludes any suit alleging a defect in a product that is more than 15 years old; we could urge an 18-year statute of repose, as we accepted in the aviation liability bill you signed; alternatively, we could press for some kind of exception from the statute of repose for products, such as farm equipment, intended to have a useful life of longer than 15 years.

Other legislation. In the event you choose to reiterate your concerns and veto another products liability bill, you may have other opportunities to signal support for appropriate reform of the legal system. In particular, Sens. Lieberman, Moynihan, and McConnell have proposed a so-called “auto-choice” bill, which would allow a driver to select a no-frills auto policy that would reimburse him for all economic costs, but eliminate his option to sue for non-economic losses such as pain and suffering. Trial lawyers are certain to oppose this proposal, but unlike the products liability bill, it probably would benefit consumers. Some experts say that the savings for low-income drivers could reach 45 percent of their current insurance premiums -- and that the nationwide savings over two years could exceed \$80 billion.



April 7, 1997

MEMORANDUM FOR THE PRESIDENT

FROM:

SUBJECT: PRODUCTS LIABILITY LEGISLATION

Congress may turn its attention to product liability legislation within the next month, and we need to know how to respond. As you recall, your veto message last year detailed a number of specific objections to the products bill. (The veto message is attached to this memo.) We presume that if Congress were to give you the same bill again, you would veto it for the same reasons. It is possible, however, that Congress will work to pass a bill that responds in part to your objections. This memo reviews those objections, outlines possible congressional responses to them, and solicits your views on how to proceed. We believe that we should send strong signals now about the kind of bill you would accept and the kind you would veto. We also think that knowing early where you stand on the products bill will enable the Administration to position itself correctly on other emerging law reform issues.

One-way preemption. Prior to enumerating your objections to specific provisions in the bill, your veto message noted the "general problem of displacing State authority in an unbalanced manner." You explained that problem as follows: "As a rule, this bill displaces State law only when that law is more favorable to consumers; it defers to State law when that law is more helpful to manufacturers and sellers. I cannot accept, absent compelling reasons, such a one-way street of federalism."

If you hold fast to this position, you will have to veto another product liability bill. Congress will not pass a bill that preempts, in identical fashion, both anti-consumer and pro-consumer state law. For its strongest supporters, this bill is not so much about achieving uniformity as about reducing liability burdens on manufacturers. Because a two-way preemption bill will not clearly achieve this goal, your insistence on a two-way bill will signal strongly that no compromise is possible.

The objection to one-way preemption, however, is strong on the merits. If the problem with the current tort system is a simple lack of uniformity, then two-way preemption is obviously desirable. If the problem is instead that state law often fails to balance appropriately the interests of manufacturers and consumers, then federal law should step in to strike that balance, negating laws that tilt too much in either direction. One-way preemption is justified only if the goal is to reduce product actions to the greatest extent possible, by enabling states to "pile on" to federal limits.

Because this issue is not amenable to compromise, we need to know soon where you stand on it. We cannot develop a sound strategy before we know whether you could sign a bill containing one-way preemption. If you could sign such a bill, we will deemphasize the one-way preemption concern and focus on the specific provisions of the statute discussed in the rest of this memo.

Eliminating joint liability for non-economic damages. Your veto message objected strongly to the provision of the bill that wholly eliminated joint liability for non-economic damages such as pain and suffering. You stated generally, in support of joint liability, that “when one wrongdoer cannot pay its portion of the judgment, the other wrongdoers, and not the innocent victim, should have to shoulder that part of the award.” You also expressed doubt about distinguishing economic from non-economic damages, noting that a provision limiting only non-economic damages falls most heavily on non-working women, the elderly, the poor, and children.

This issue, unlike the last, is amenable to compromise. The most likely compromise would be a proposal to eliminate joint liability for non-economic damages when, but only when, the wrongdoer is responsible for less than some specified percentage of the total judgment. Congress could say, for example, that joint liability for non-economic damages will not apply when a defendant’s actions have caused less than 25% of the total harm suffered. Congress might try to compensate for this weakening of the joint liability provision by applying it to both economic and non-economic damages (perhaps using your veto statement’s equation of the two kinds of damages to justify doing so), so that a “minor” wrongdoer would never have to shoulder any costs not his own.

A compromise of this kind has the apparent benefit of relieving small-scale wrongdoers (how small depends on the percentage specified) of the obligation to pay the entirety of potentially mammoth judgments. But by virtue of doing so, this compromise leaves innocent victims to bear the damage themselves when primary wrongdoers have gone bankrupt or are otherwise unable to satisfy judgments. You should consider whether you are comfortable with this kind of compromise and, if so, approximately where (10 percent?; 25 percent?; 50 percent?) you would draw the line.

Capping punitive damages. You also objected in your veto statement to imposing caps on punitive damage awards, on the ground that caps undermine the ability of punitive awards to deter and punish egregious misconduct. You noted the provision of the bill allowing judges to exceed the caps in specified circumstances, but stated that this protection was insufficient “given the clear intent of Congress, as expressed in the Statement of Managers, that judges should use this authority only in the most unusual cases.”

A compromise on this issue is also possible; indeed, it may be hard to avoid given the Administration’s prior statements on the subject. The judicial override provision is essentially the brainchild of the Justice Department, which offered it as a way to alleviate our concerns

about caps on punitives. If Congress deletes the legislative history to which you objected -- and especially if it also softens some of the language in the override provision -- you will have little basis for continuing to object to the bill's punitive damage ceilings.

Limiting liability of biomaterials suppliers. You expressed a "concern" in your veto statement about a provision in the bill limiting actions against suppliers of materials used in devices implanted in the body. You generally recognized this provision to be a "laudable attempt to ensure the supply of materials needed to make lifesaving medical devices." But you said that this limitation should apply only to non-negligent suppliers -- and not to suppliers who know or should know that the materials they make, when implanted in the human body, will cause injury.

The current version of the biomaterials provision contains an exception for manufacturers of the silicone gel used in breast implants, but not an exception (of the kind you requested) for all negligent suppliers. Industry engaged in good-faith negotiations with Rep. Berman last year to develop such an exception, but could not find a way to exempt negligent suppliers, while adequately protecting non-negligent suppliers from the high litigation costs associated with disproving negligence. Industry is currently looking into other ways to satisfy our concern -- for example, by limiting liability for biomaterials suppliers only when the FDA has reviewed and approved the implanted device -- and may well succeed in doing so. Indeed, we may wish to send a signal that Congress should remove this provision from the products bill, so that we can sign it separately.

Other provisions. Your veto statement contained a number of objections to more minor provisions of the bill relating to the statute of repose, statutes of limitations, and negligent entrustment actions. With the possible exception of the statute of repose provision, compromise on these issues should be easy; members of Congress already have indicated a willingness to delete the offending language. On the statute of repose, the current bill precludes any suit alleging a defect in a product that is more than 15 years old; we could urge an 18-year statute of repose, as we accepted in the aviation liability bill you signed; alternatively, we could press for some kind of exception from the statute of repose for products, such as farm equipment, intended to have a useful life of longer than 15 years.

Other legislation. In the event you choose to reiterate your concerns and veto another products liability bill, you may have other opportunities to signal support for appropriate reform of the legal system. In particular, Sens. Lieberman, Moynihan, and McConnell have proposed a so-called "auto-choice" bill, which would allow a driver to select a no-frills auto policy that would reimburse him for all economic costs, but eliminate his option to sue for non-economic losses such as pain and suffering. Trial lawyers are certain to oppose this proposal, but unlike the products liability bill, it probably would benefit consumers. Some experts say that the savings for low-income drivers could reach 45 percent of their current insurance premiums -- and that the nationwide savings over two years could exceed \$80 billion.



## QUESTION AND ANSWER ON NEEDLE EXCHANGE

**Question:** Will you work to lift the ban on federal funding of needle exchange programs?

**Answer:** Not at this time. As you know, the congressional ban remains in effect until the Secretary of HHS can certify that needle programs reduce the transmission of AIDS and that such programs do not encourage illicit drug use. The scientific studies done so far provide strong evidence that needle exchange programs reduce HIV transmission, but they don't offer sufficient evidence of the effect of these programs on illicit drug use. We strongly support continued study of this question so we can know whether needle exchange programs in fact encourage drug use. In the meantime, local communities remain free, as they should, to establish and support needle exchange programs if they choose to do so.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 7-APR-1997 11:16:04.00

SUBJECT: Re: EOP one-pager

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

TEXT:  
thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 8-APR-1997 19:02:44.00

SUBJECT: rollout for Attorney General's interim verification guidance

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

READ:UNKNOWN

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 04/08/97 07:06  
PM -----

Stephen C. Warnath  
04/08/97 10:22:55 AM  
Record Type: Record

To: See the distribution list at the bottom of this message  
cc: Diana Fortuna/OPD/EOP, Cynthia A. Rice/OPD/EOP, Kenneth S.  
Apfel/OMB/EOP, Elena Kagan/OPD/EOP  
Subject: rollout for Attorney General's interim verification guidance

It appears that we are actually close to being able to release the A.G.'s interim verification guidance for benefits eligibility. So there will be a meeting tomorrow, April 9th, at 3pm in rm 211 OEOB to discuss plans for the interagency rollout. DOJ has requested that the various WH offices bring to the meeting any lists of individuals and organizations that should be invited to the briefings.

I hope that you can make it. Thanks.

Message Sent

To: \_\_\_\_\_  
Emily Bromberg/WHO/EOP  
Janet Murguia/WHO/EOP  
Tracey E. Thornton/WHO/EOP  
Suzanna A. Valdez/WHO/EOP  
John P. Hart/WHO/EOP  
Dawn M. Chirwa/WHO/EOP  
Jack A. Smalligan/OMB/EOP  
Debra J. Bond/OMB/EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 8-APR-1997 19:00:46.00

SUBJECT: Commencement update

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

READ: UNKNOWN

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 04/08/97 07:04 PM -----

Michael Cohen

04/08/97 12:18:49 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP  
cc: Elena Kagan/OPD/EOP  
Subject: Commencement update

I want to bring you up to speed on the commencement developments before today's 4:30 meeting.

Don has been pushing for each speech to be focused on education. Michael Waldman, among others, has been arguing for a different theme for each speech. Today's meeting will focus largely on sorting out the message issues.

There is general agreement to recommend three places to POTUS:

1. an Historically Black College or University -- probably Morgan State in Baltimore. Don has been pushing for this to be one venue for an education speech, playing off of Morgan state's role in educating teachers. An alternative under consideration is to focus the speech on health issues, such as kidney disease, where there is a particular interest among African Americans, assuming we've got a package of things to announce then.
2. Sidwell Friends, where the message would be on service, and on the obligation of the most fortunate among us to give something back to the community and the nation. There is an ongoing discussion about whether to consider and to portray the Sidwell graduation as part of the President's commencement package, or to simply acknowledge it as something special the President is doing for his daughter.
3. West Point, where the message will be on foreign policy.
4. A public high school, or a large public college or university. I have been arguing for a public high school, especially a school that has been or is being turned around from failure to success. The message would be on the importance of public education, on the standards-related agenda, and the fact that we can make public education work. This seems to be carrying the day; Don now favors this over a charter school. We are looking at DeWitt Clinton high school in the Bronx as the leading contender, though I've also been asked to find a couple of possibilities in Chicago. Craig Smith reminded us that we owe Chicago a visit, since we went to the suburbs last winter. (If Chicago doesn't work out for now,

they should have some charter schools opening the the Fall; maybe we could go back for that).

There doesn't seem to be anyone yet arguing forcefully for a public college or university yet, and, while I have gotten a new list of possibilities from ED, have not done anything to push this myself.

A final note -- I may be a bit late for the 4:30 commencement meeting this afternoon. since I will be in the middle of an ED briefing on the Voc. Ed. bill, in preparation for the Erskine memo.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 8-APR-1997 18:51:14.00

SUBJECT: crime meeting

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

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 04/08/97 06:55  
 PM -----

From: Leanne A. Shimabukuro on 04/08/97 02:45:38 PM  
 Record Type: Record

To: See the distribution list at the bottom of this message  
 cc:  
 Subject: crime meeting

MEMORANDUM TO DISTRIBUTION LIST

FROM: Bruce Reed  
 Assistant to the President for Domestic Policy

SUBJECT: APRIL 9 CRIME MEETING

On Wednesday, April 9 at 10:00 a.m. in Room 211 of the Old  
 Executive Office Building, we will hold the weekly crime meeting.

Thank you.

Message Sent

To: \_\_\_\_\_  
 Bruce N. Reed/OPD/EOP  
 Rahm I. Emanuel/WHO/EOP  
 Dennis K. Burke/OPD/EOP  
 Tracey E. Thornton/WHO/EOP  
 Leanne A. Shimabukuro/OPD/EOP  
 Elena Kagan/OPD/EOP  
 Christa Robinson/OPD/EOP  
 Cathy R. Mays/OPD/EOP  
 Cheryl D. Mills/WHO/EOP  
 Alison E. Bracewell/WHO/EOP  
 James Boden/OMB/EOP  
 Teresa L. Collins/OMB/EOP  
 David J. Haun/OMB/EOP  
 Marcia L. Hale/WHO/EOP  
 Peter G. Jacoby/WHO/EOP  
 Michelle Crisci/WHO/EOP  
 Anne E. McGuire/WHO/EOP  
 Karen A. Popp/WHO/EOP  
 Odetta S. Walker/WHO/EOP  
 BROWN\_J @ A1 @ CD @ LNGTWY  
 ATKIN\_T @ A1 @ CD @ LNGTWY  
 VERVILLE\_E @ A1 @ CD @ LNGTWY  
 Elizabeth A. Hyman/OVP @ OVP  
 NELSON\_J @ A1 @ CD @ LNGTWY

Stefanie Sanford/WHO/EOP  
Suzanne Dale/WHO/EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 8-APR-1997 19:03:36.00

SUBJECT: late-term

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

READ:UNKNOWN

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 04/08/97 07:07  
PM -----

Tracey E. Thornton  
04/08/97 09:50:40 AM  
Record Type: Record

To: Elena Kagan/OPD/EOP  
cc:  
Subject: late-term

The meeting with daschle's folks is scheduled for 10am tomorrow (wed) morning to review their language. I hope you can come. if not, i'll get the language around after the meeting. txs

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 8-APR-1997 18:50:35.00

SUBJECT: Day change for Short Term

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

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 04/08/97 06:54 PM -----

Mary Morrison  
04/08/97 03:45:00 PM

Record Type: Record

To: See the distribution list at the bottom of this message  
cc:  
Subject: Day change for Short Term

Message Creation Date was at 8-APR-1997 15:45:00

This week we will have our Short Term Scheduling Meeting on Thursday at 2pm in the Roosevelt Room. Thank you for attending. Any questions please call Mary at x62823.

Message Sent

To: \_\_\_\_\_  
Beth A. Viola  
Todd Stern  
Anne M. Edwards  
Shelley N. Fidler  
Lori Anderson  
Elizabeth M. Toohy  
Angus S. King  
Michelle Crisci  
Julie E. Mason  
Elizabeth Myers  
Carolyn E. Cleveland  
John O. Sutton  
Evan Ryan  
Lisa Tamagni  
Tracy B. LaBrecque  
Rebecca A. Cameron  
Nancy V. Hernreich  
Barry J. Toiv  
Jason S. Goldberg  
Gene B. Sperling  
Ronda H. Jackson  
Karin Kullman  
Cathy R. Mays  
Paul J. Weinstein Jr.  
Elena Kagan  
tnewell @ ostp.eop.gov@INET@LNGTWY

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 8-APR-1997 18:50:11.00

SUBJECT: Time Change

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

READ: UNKNOWN

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 04/08/97 06:54  
PM -----

Mary Morrison

04/08/97 04:03:00 PM

Record Type: Record

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

cc:

Subject: Time Change

Message Creation Date was at 8-APR-1997 16:03:00

Due to the increasing number of people that will be attending the Cabinet Meeting on Thursday. We will have our Short Term Scheduling Meeting at 3:00pm on Thursday in the Roosevelt Room.

Thanks

Message Sent

To: \_\_\_\_\_

Beth A. Viola  
Todd Stern  
Anne M. Edwards  
Shelley N. Fidler  
Lori Anderson  
Elizabeth M. Toohey  
Angus S. King  
Michelle Crisci  
Julie E. Mason  
Elizabeth Myers  
Carolyn E. Cleveland  
John O. Sutton  
Evan Ryan  
Lisa Tamagni  
Tracy B. LaBrecque  
Rebecca A. Cameron  
Nancy V. Hernreich  
Barry J. Toiv  
Jason S. Goldberg  
Gene B. Sperling  
Ronda H. Jackson  
Karin Kullman  
Cathy R. Mays  
Paul J. Weinstein Jr.  
Elena Kagan

tnewell @ ostp.eop.gov@INET@LNGTWY

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 9-APR-1997 12:55:06.00

SUBJECT: Re: Definition of federal public benefits

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

READ:UNKNOWN

TEXT:

fyi -- another welfare decision we'll get criticized for.

----- Forwarded by Elena Kagan/OPD/EOP on 04/09/97 12:58  
PM -----

Diana Fortuna

04/09/97 12:41:22 PM

Record Type: Record

To: Elena Kagan/OPD/EOP

cc: Cynthia A. Rice/OPD/EOP, Stephen C. Warnath/OPD/EOP

bcc:

Subject: Re: Definition of federal public benefits

No one has really put forth any alternatives. DOJ had a definition that just kind of repeated the law and didn't offer any guidance. The most obvious alternative would be to go tougher and not have the rule about eligibility, thereby not letting nonqualified aliens get these community health services.

Not sure about the means tested linkage to FLSA -- it's not an obvious programmatic linkage, but it is a risk, especially since we are hearing rumors that the Cong. leadership may try to stick in a definition of means tested benefits into the technical corrections bill. If that's true, it would not be the best timing to announce this now. We'll hear more from HHS on that later today.

Elena Kagan

04/09/97 12:27:31 PM

Record Type: Record

To: Diana Fortuna/OPD/EOP

cc: Cynthia A. Rice/OPD/EOP, Stephen C. Warnath/OPD/EOP

Subject: Definition of federal public benefits

1. what are the alternatives (if any) to HHS's definition on federal public benefits?

2. will anyone on the hill hook up the means-tested decision with the flsa decision to blast us -- or will people treat them as wholly independent?

----- Forwarded by Elena Kagan/OPD/EOP on 04/09/97 12:30  
PM -----

Diana Fortuna  
04/09/97 09:38:47 AM  
Record Type: Record

To: Elena Kagan/OPD/EOP, Cynthia A. Rice/OPD/EOP, Stephen C.  
Warnath/OPD/EOP, Nancy A. Min/OMB/EOP  
cc:  
Subject: Definition of federal public benefits

As we get closer to issuing this interim verification guidance from DOJ, there are still 2 outstanding definitions of the welfare law we need to finish up. One, means tested benefits, is about to get issued. The other is "federal public benefits." Federal public benefits are denied to illegals, so this is an illegals issue.

In a nutshell, HHS has proposed a definition that draws the line at programs that require some establishment of eligibility. All the lawyers (HHS, DOJ, OMB) seem to think this is fine legally. From a practical standpoint, the major program that this definition would affect is community health centers, and maybe some similar discretionary health programs. Illegals WOULD be eligible for these programs.

There don't seem to be any other major impacts (although HHS hasn't shared their paper with us yet). Education is specifically OK because the law exempts them. Housing would appear to be off-limits to illegals because there is an eligibility determination.

This comes down to a policy call. I hear Ken is probably fine with this proposal. It would be good to decide this before the interim verification guidance goes out in the next 2 weeks or so, because if this is missing from it HHS will get a lot of questions. Reactions?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 9-APR-1997 12:23:45.00

SUBJECT: Re: OSTP Report

TO: DRYE\_E ( DRYE\_E @ A1 @ CD @ LNGTWY [ EOP ] ) (OPD)  
READ:UNKNOWN

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

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

CC: Pauline M. Abernathy ( CN=Pauline M. Abernathy/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TEXT:

Would you let them know that DPC doesn't have any substantive comments, but that the question of when the report will be released (i.e., whether it should be released at the brain conf on the 17th) is still an open one? thanks.

----- Forwarded by Elena Kagan/OPD/EOP on 04/09/97 12:26 PM -----

Pauline M. Abernathy  
04/08/97 08:54:10 PM  
Record Type: Record

To: Elena Kagan/OPD/EOP  
cc:  
Subject: Re: OSTP Report

----- Forwarded by Pauline M. Abernathy/OPD/EOP on 04/08/97 08:59 PM -----

Elizabeth Drye  
04/08/97 01:26:17 PM  
Record Type: Record

To: Laura Emmett/WHO/EOP  
cc: Pauline M. Abernathy/OPD/EOP, Nicole R. Rabner/WHO/EOP, Jennifer L. Klein/OPD/EOP  
Subject: Re: OSTP Report

OSTP is planning to release the kids research report April 17 at an "event," per a voice mail they left for me so is urgently trying to get DPC clearance. Note that the report gives DPC a specific role in research planning -- other than noting that, I haven't reviewed it either.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 9-APR-1997 16:46:10.00

SUBJECT: Re: computer crime mapping

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

TEXT:  
let me know.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 9-APR-1997 12:28:56.00

SUBJECT: Definition of federal public benefits

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

CC: Stephen C. Warnath ( CN=Stephen C. Warnath/OU=OPD/O=EOP [ OPD ] )  
READ:UNKNOWN

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

TEXT:

1. what are the alternatives (if any) to HHS's definition on federal public benefits?

2. will anyone on the hill hook up the means-tested decision with the flsa decision to blast us -- or will people treat them as wholly independent?

----- Forwarded by Elena Kagan/OPD/EOP on 04/09/97 12:30 PM -----

Diana Fortuna  
04/09/97 09:38:47 AM  
Record Type: Record

To: Elena Kagan/OPD/EOP, Cynthia A. Rice/OPD/EOP, Stephen C. Warnath/OPD/EOP, Nancy A. Min/OMB/EOP  
cc:  
Subject: Definition of federal public benefits

As we get closer to issuing this interim verification guidance from DOJ, there are still 2 outstanding definitions of the welfare law we need to finish up. One, means tested benefits, is about to get issued. The other is "federal public benefits." Federal public benefits are denied to illegals, so this is an illegals issue.

In a nutshell, HHS has proposed a definition that draws the line at programs that require some establishment of eligibility. All the lawyers (HHS, DOJ, OMB) seem to think this is fine legally. From a practical standpoint, the major program that this definition would affect is community health centers, and maybe some similar discretionary health programs. Illegals WOULD be eligible for these programs.

There don't seem to be any other major impacts (although HHS hasn't shared their paper with us yet). Education is specifically OK because the law exempts them. Housing would appear to be off-limits to illegals because there is an eligibility determination.

This comes down to a policy call. I hear Ken is probably fine with this proposal. It would be good to decide this before the interim verification guidance goes out in the next 2 weeks or so, because if this is missing from it HHS will get a lot of questions. Reactions?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 9-APR-1997 12:24:14.00

SUBJECT: 11:00 am Meeting Thursday - Reconciliation

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

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 04/09/97 12:28  
PM -----

June G. Turner

04/09/97 12:21:51 PM

Record Type: Record

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

cc:

Subject: 11:00 am Meeting Thursday - Reconciliation

Thursday's Meeting has been cancelled (11:00 in 476 OEOB)

Message Sent

To:

---

Betty W. Currie/WHO/EOP  
Donald A. Baer/WHO/EOP  
Kevin S. Moran/WHO/EOP  
Dawn M. Chirwa/WHO/EOP  
Maria Echaveste/WHO/EOP  
Marjorie Tarmey/WHO/EOP  
Rahm I. Emanuel/WHO/EOP  
Michelle Crisci/WHO/EOP  
Richard L. Hayes/WHO/EOP  
Elena Kagan/OPD/EOP  
Laura Emmett/WHO/EOP  
Ann F. Lewis/WHO/EOP  
Cheryl D. Mills/WHO/EOP  
Bob J. Nash/WHO/EOP  
Laura K. Demeo/WHO/EOP  
Janet Murguia/WHO/EOP  
John Podesta/WHO/EOP  
Sara M. Latham/WHO/EOP  
Bruce N. Reed/OPD/EOP  
Cathy R. Mays/OPD/EOP  
Richard Socarides/WHO/EOP  
Tracey E. Thornton/WHO/EOP  
MOORE\_M @ A1 @ CD @ LNGTWY  
Robert N. Weiner/WHO/EOP  
Robert B. Johnson/WHO/EOP  
Andrew J. Mayock/WHO/EOP  
Ruby G. Moy/WHO/EOP

John L. Hilley/WHO/EOP  
Doris O. Matsui/WHO/EOP  
Elisa Millsap/WHO/EOP  
Douglas B. Sosnik/WHO/EOP  
John O. Sutton/WHO/EOP  
Carolyn Curiel/WHO/EOP  
James T. Edmonds/WHO/EOP  
Patricia E. Romani/OMB/EOP  
Ann F. Walker/WHO/EOP  
Michael Waldman/WHO/EOP  
Franklin D. Raines/OMB/EOP  
Rebecca R. Culberson/OMB/EOP  
Ora Theard/WHO/EOP  
Katharine Button/WHO/EOP  
Beverly J. Barnes/WHO/EOP  
Susan M. Liss/OVP @ OVP  
Elizabeth R. Newman/WHO/EOP  
Ellen M. Lovell/WHO/EOP  
Virginia N. Rustique/WHO/EOP  
Elizabeth M. Toohy/WHO/EOP  
Brian A. Reich/WHO/EOP  
Floydetta McAfee/WHO/EOP  
Alison E. Bracewell/WHO/EOP  
Mary Morrison/WHO/EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 9-APR-1997 17:20:16.00

SUBJECT: Re: Cardiac care /defibrillators

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

TEXT:  
what does j prince have to do with this?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 9-APR-1997 16:03:13.00

SUBJECT: Re: 4/24 Government Reform Subcommittee Hrg

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

TEXT:

King it is. thanks.

----- Forwarded by Elena Kagan/OPD/EOP on 04/09/97 04:07  
PM -----

Bruce N. Reed  
04/09/97 03:20:42 PM  
Record Type: Record

To: Elena Kagan/OPD/EOP  
cc:  
Subject: Re: 4/24 Government Reform Subcommittee Hrg

yes, king

# Withdrawal/Redaction Marker Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Elena Kagan to Bruce Reed. Subject: DPC Staff/Issues List. [partial] (1 page)	04/09/1997	P6/b(6)

## COLLECTION:

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

## FOLDER TITLE:

[04/06/1997 - 04/14/1997]

2009-1006-F  
ab825

## 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]



**Domestic Policy Council Staff/Issue List**

<b>Issue Area</b>	<b>Staffer</b>	<b>Phone</b>	<b>Fax</b>	<b>Room Number</b>
AIDS	Sandy Thurman	632-1090	632-1096	750 17th Street
Adoption	Jen Klein Nicole Rabner	6-2259 6-7263	6-2878 6-6244	WW 2FL 100 OEOB
Agriculture/ Rural Development	Carl Whillock	720-2406	720-9286	1400 Independence Ave., SW, Room 216 Administration Building
Budget	Cynthia Rice	6-2846	6-7431	212R OEOB
Choice	Elena Kagan	6-5584	6-2878	WW 2FL
Children & Families	Jen Klein Nicole Rabner	6-2259 6-7263	6-2878 6-6244	WW 2FL 100 OEOB
Civil Rights	Elena Kagan	6-5584	6-2878	WW 2FL
Communications/ Scheduling/Events	Christa Robinson	6-5165	6-7431	207 OEOB
Consumer Issues	Elizabeth Drye	6-5573	6-7431	210 OEOB
Crime	Jose Cerda Leanne Shimabukuro	6-5567 6-5574	6-7028 6-7028	224R OEOB 224L OEOB
Community Empowerment/ Housing	Jose Cerda Leanne Shimabukuro	6-5567 6-5574	6-7028 6-7028	224R OEOB 224L OEOB
Disabilities	Diana Fortuna	6-5570	6-7431	212L OEOB
Drugs	Jose Cerda Leanne Shimabukuro	6-5567 6-5574	6-7028 6-7028	224R OEOB 224L OEOB
Education & Training	Mike Cohen Bill Kincaid	6-5575 6-2857	6-5581 6-7028	218L OEOB 220 OEOB
Environment	Paul Weinstein	6-5577	6-5581	214 OEOB
Health Care	Chris Jennings Jean Lambrew Sara Bianchi	6-5560 6-5377 6-5585	6-5557 6-7431 6-5557	216R OEOB 209 OEOB 216 OEOB
Immigration	Jose Cerda Leanne Shimabukuro	6-5567 6-5574	6-7028 6-7028	224R OEOB 224L OEOB
Labor	Elena Kagan	6-5584	6-2878	WW 2FL

National Service	Diana Fortuna	6-5570	6-7431	212L OEOB
Policy Planning	Tom Freedman	6-6597	6-7431	213R OEOB
	Mark Mazur	5-5147	5-6853	318 OEOB
Political/Government Reform	Paul Weinstein	6-5577	6-5581	214 OEOB
Product Liability	Elena Kagan	6-5584	6-2878	WW 2FL
	Paul Weinstein	6-5577	6-5581	214 OEOB
Public Health	Elizabeth Drye	6-5573	6-7431	210 OEOB
FDA Reform	Chris Jennings	6-5560	6-5557	216R OEOB
	Jean Lambrew	6-5377	6-7431	209 OEOB
	Sara Bianchi	6-5585	6-5557	216 OEOB
Tax Issues	Mark Mazur	5-5147	5-6853	318 OEOB
Tobacco	Elizabeth Drye	6-5573	6-7431	210 OEOB
Welfare Reform	Cynthia Rice	6-2846	6-7431	212R OEOB
	Diana Fortuna	6-5570	6-7431	212L OEOB
	Lyn Hogan	6-5567	6-5581	217L OEOB

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 9-APR-1997 12:15:56.00

SUBJECT: Re: THE conference

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

TEXT:

Okey dokey. But unlike our welfare meetings, yhese won't be of much interest. (Trust me...)

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 9-APR-1997 16:28:54.00

SUBJECT: Re: June family-friendly memo from POTUS to agencies

TO: Elizabeth Drye ( CN=Elizabeth Drye/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TEXT:

great

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 9-APR-1997 17:56:16.00

SUBJECT: Re: Press Documents For Presidential Events.

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

TEXT:

should we say bruce or i should review to the extent possible, or does  
this strike you as unnecessary?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 9-APR-1997 12:56:00.00

SUBJECT: 4/24 Government Reform Subcommittee Hrg

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

TEXT:

I think we should send king. i promised peter an answer today. thanks.  
----- Forwarded by Elena Kagan/OPD/EOP on 04/09/97 12:59  
PM -----

PETER G. JACOBY  
04/09/97 12:43:39 PM  
Record Type: Record

To: Elena Kagan/OPD/EOP, Bruce N. Reed/OPD/EOP  
cc: John L. Hilley/WHO/EOP  
Subject: 4/24 Government Reform Subcommittee Hrg

I spoke earlier today with Mr. Mica's counsel regarding an administration witness for their planned 4/24 hearing on the administration's plan to hire welfare recipients for federal positions. Obviously, they are anxious to get our response regarding a witness. Counsel suggested that they would accept John Koskinen if necessary although Bruce is their top choice. Jim King is also someone who we could send. I need a decision so we can get back to counsel on this.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 9-APR-1997 19:44:36.00

SUBJECT: Radio Address

TO: DRYE\_E ( DRYE\_E @ A1 @ CD @ LNGTWY [ EOP ] ) (OPD)  
READ:UNKNOWN

TEXT:

you're on. congrats.

----- Forwarded by Elena Kagan/OPD/EOP on 04/09/97 07:48  
PM -----

Christa Robinson  
04/09/97 07:28:17 PM  
Record Type: Record

To: See the distribution list at the bottom of this message  
cc:  
Subject: Radio Address

The Radio Address on FMLA will be taped from 6:25pm -6:45pm in the  
Roosevelt Room on Friday. No times have been set for the Prescription for  
Reading Event on Wednesday.

Message Sent

To: \_\_\_\_\_  
Elena Kagan/OPD/EOP  
Pauline M. Abernathy/OPD/EOP  
Jennifer L. Klein/OPD/EOP  
Cathy R. Mays/OPD/EOP  
Nicole R. Rabner/WHO/EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-APR-1997 11:25:34.00

SUBJECT: Re: Attached is FOP Phone Call request --- would you take a look at the added li

TO: Dennis K. Burke ( CN=Dennis K. Burke/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TEXT:

looks great to me.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-APR-1997 11:44:29.00

SUBJECT: Re: FLSA Rollout Planning

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

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

TEXT:

Do you think a meeting with treasury makes sense? something small, with us, ken, emily, treasury representation, and perhaps one rep. apiece from hhs, ag, and labor? Let me know if you think it makes sense to do tomorrow. If so, give a list of people to laura, and she can set up the meeting.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-APR-1997 11:46:52.00

SUBJECT: Re: Cardiac care /defibrillators

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

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

TEXT:

that's fine, I think (bruce: if you disagree you should say so). we don't have room on the schedule to do anything real next week anyway. But I think it's a pretty cool idea that you should continue to pursue.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-APR-1997 15:00:58.00

SUBJECT: Re: FMLA policy issue we need to resolve.

TO: Elizabeth Drye ( CN=Elizabeth Drye/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TEXT:

you bet. excellent.



April 10, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
Gene Sperling  
Katie McGinty

SUBJECT: Executive Order to Protect Children  
From Environmental Health Risks and Safety Risks

You are tentatively scheduled to announce on April 16 an Executive Order directing agencies to enhance their efforts to protect children from environmental health and safety risks. Announcement of the Executive Order would immediately precede the White House Conference on Early Childhood Learning and Development.

There is broad consensus among agencies on the policy in the proposed Executive Order, but three agencies -- Treasury, Commerce, and HHS -- have objected to the explicit requirement in the order that agencies identify risks to children in the analysis supporting their major regulations. DPC and CEQ strongly support issuing the Executive Order in its current form. In addition, all White House offices working on the Conference on Early Childhood Learning and Development would like you to issue the order, as part of a set of executive actions showing your commitment to protecting children. OMB's OIRA (Sally Katzen) weakly endorses the Order, noting that it will support the Administration's efforts to protect children, but that it also will impose additional burdens on agencies and result in more stringent regulatory standards over time. NEC [].

**BACKGROUND**

There is a growing body of evidence, highlighted by a 1993 study by the National Academy of Sciences (NAS) on the exposure of children to pesticides, demonstrating that children are at disproportionate risk from environmental health risks and safety risks. The report also concludes that federal regulatory standards often fail to consider these risks fully.

These disproportionate risks stem from several fundamental differences between children and adults, in terms of physiology and activity. Children are still developing, and thus are neurologically and immunologically more susceptible to certain risks. Children eat, drink and breathe more in proportion to their weight, exposing them to greater amounts of contamination and pollution for their weight. Children are less able to protect themselves by use of judgment and skill (e.g. navigating traffic, reading and following warnings). Concurrent with their recognition of these factors, scientists have

documented an alarming increase in the incidence of conditions in children that may be linked to environmental health risks and safety risks. These include childhood cancer, leukemia, and asthma, as well as childhood deaths and injuries from accidents.

In many areas, your Administration has taken bold action to respond to the challenge posed by this new science. Your initiatives resulted in explicit protection for children in the Food Quality Protection Act and Safe Drinking Water Act; development of new standards for passive restraints in cars that are more protective of children; and administrative action to protect children from tobacco, lead, and other hazards. Each of these initiatives has met with strong popular and congressional support.

Despite these successes, there is no overall, coordinated approach to children's issues that highlights their priority, coordinates federal research, and ensures that federal regulations consistently account for disproportionate risks to children. The proposed Executive Order, which has been the subject of extensive discussion with affected agencies, would fill this gap with provisions to address each of these areas.<sup>1</sup>

Policy: The proposed Executive Order requires all agencies to make the protection of children a high priority in implementing their statutory responsibilities and fulfilling their overall missions.

Research Coordination: The proposed Executive Order would create an interagency Task Force to establish a coordinated research agenda, to identify research and other initiatives the Administration will take to advance the protection of children's environmental health and safety, and to communicate with the public regarding these efforts.

Federal Regulatory Analysis: Most notably, the proposed Executive Order would, for the first time, require agencies to analyze and explain the effects of their rules on children. The primary goal of this provision is to link policy decisions to the emerging science regarding children's environmental health and safety. This provision also ensures accountability to the public and helps agencies to identify their research needs. Not surprisingly, given that it imposes regulatory requirements, this is the part of the Order to which several agencies have objected.

## **ISSUE FOR DECISION**

---

<sup>1</sup> This Executive Order would supercede President Reagan's Executive Order on Families, replacing it with a policy that better reflects the priorities of your Administration.

**Whether the Executive Order should include provisions requiring agencies to explicitly consider risks to children when deciding on major regulations.**

Section 5 of the Executive Order would impose three requirements on agencies promulgating regulations, if the regulation is economically significant and the agency has reason to believe that it may have a disproportionate impact on children. Agencies would have to: 1) evaluate the effects of the planned regulation on children; 2) similarly assess the effects of reasonably feasible alternatives to the planned regulation; and 3) explain why the planned regulatory action is preferable to these other options.

**Arguments For Inclusion of Section 5**

- Section 5 is the key policy component of the proposed Executive Order, and would be an enduring part of your legacy in protecting children's health. It makes concrete and gives effect to the overall policy of the Order to identify and assess risks to children.
- Both the National Academy of Sciences and the Administration's own report, *Investing in our Children*, have highlighted the need to link regulatory decisions to available data and, where there is a lack of data, to a research agenda. Section 5 is the provision of the order that best ensures that agencies will make this link.
- Section 5 provides the structure and enforcement mechanism (through OMB oversight) necessary to ensure that agencies adhere to the general policy of the Executive Order. Without Section 5, the Executive Order's terms are largely hortatory.
- There is substantial bipartisan support for requiring special regulatory analysis with respect to risks to children. The provisions in the proposed Executive Order closely track, and broaden application of, provisions in the unanimously-enacted Food Quality Protection Act and the Safe Drinking Water Act requiring heightened analysis to protect children. This provision will build on the public support for giving special consideration to children's health in developing standards.
- Health experts and outside groups, aware of the prior reports and legislation, may deride the Executive Order as merely symbolic if Section 5 is omitted.
- Your previous Executive Order on regulatory review already requires similar analysis addressing cost, small business impact, and other issues. Failure to include Section 5 may generate criticism that we effectively are subordinating children's health to these other concerns.

## Arguments Against Inclusion of Section 5

- Section 5 imposes a novel requirement on major rulemakings, with unpredictable consequences. The task force created by the proposed Executive Order should consider over time and with the benefits of experience the appropriateness of regulatory standards.
- Requiring agencies to acknowledge that a proposed regulation is not the most child-protective is likely to have a distorting effect on regulatory decisions. The result will be greater pressure on agencies to “ratchet up” their regulatory standards, with a corresponding (and potentially unjustified) increase in the costs and burden of regulation. This could undermine the Administration’s program of regulatory reform.
- There is only limited experience with analyzing regulations in terms of risks to children, and this approach is not always well-received. Critics may cite costly Superfund cleanups based on the potential exposure of children to toxic waste sites, and analytical flaws in the public health data supporting EPA’s recent Clean Air Act proposals on ozone and particulate matter.
- In cases where the Section 5 analysis does not prompt agencies to strengthen the relevant regulatory standards, it will provide a basis on which to criticize the agency’s decision. (Some agencies characterize this as a “kick-me” requirement.) Requiring this analysis also may strengthen legal challenges to agency regulations, as requiring any regulatory analysis does.
- The regulatory resources of many agencies are already stretched thin, and blanket application of a new regulatory requirement could divert already tight resources and delay ongoing programs.
- Regulatory agencies have made important strides in this area and should have the opportunity to demonstrate this progress to the interagency task force before any regulatory requirements go into effect.

## **POSSIBLE ALTERNATIVE**

The only compromise available is to retain Section 5, but include only the general requirement that agencies analyze the effects of a proposed regulation on children. This proposal would delete the explicit requirements that agencies undertake a comparative analysis and provide a justification for their decision. This option would diminish both the advantages and disadvantages of proceeding with Section 5 as currently drafted.

## **DECISION**

- \_\_\_\_\_ Approve the Executive Order as drafted
- \_\_\_\_\_ Modify Section 5 of the Executive Order
- \_\_\_\_\_ Omit Section 5 of the Executive Order

## **ATTACHMENT**

Proposed Executive Order



April 10, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
Gene Sperling  
Katie McGinty

SUBJECT: Executive Order to Protect Children  
From Environmental Health Risks and Safety Risks

You are tentatively scheduled to announce on April 16 an Executive Order directing agencies to enhance their efforts to protect children from environmental health and safety risks. Announcement of the Executive Order would immediately precede the White House Conference on Early Childhood Learning and Development.

There is broad consensus among agencies on the policy in the proposed Executive Order, but three agencies -- Treasury, Commerce, and HHS -- have objected to the explicit requirement in the order that agencies identify risks to children in the analysis supporting their major regulations. DPC and CEQ strongly support issuing the Executive Order in its current form. In addition, all White House offices working on the Conference on Early Childhood Learning and Development would like you to issue the order, as part of a set of executive actions showing your commitment to protecting children. OMB's OIRA (Sally Katzen) weakly endorses the Order, noting that it will support the Administration's efforts to protect children, but that it also will impose additional burdens on agencies and result in more stringent regulatory standards over time. NEC [].

**BACKGROUND**

There is a growing body of evidence, highlighted by a 1993 study by the National Academy of Sciences (NAS) on the exposure of children to pesticides, demonstrating that children are at disproportionate risk from environmental health risks and safety risks. The report also concludes that federal regulatory standards often fail to consider these risks fully.

These disproportionate risks stem from several fundamental differences between children and adults, in terms of physiology and activity. Children are still developing, and thus are neurologically and immunologically more susceptible to certain risks. Children eat, drink and breathe more in proportion to their weight, exposing them to greater amounts of contamination and pollution for their weight. Children are less able to protect themselves by use of judgment and skill (e.g. navigating traffic, reading and following warnings). Concurrent with their recognition of these factors, scientists have

documented an alarming increase in the incidence of conditions in children that may be linked to environmental health risks and safety risks. These include childhood cancer, leukemia, and asthma, as well as childhood deaths and injuries from accidents.

In many areas, your Administration has taken bold action to respond to the challenge posed by this new science. Your initiatives resulted in explicit protection for children in the Food Quality Protection Act and Safe Drinking Water Act; development of new standards for passive restraints in cars that are more protective of children; and administrative action to protect children from tobacco, lead, and other hazards. Each of these initiatives has met with strong popular and congressional support.

Despite these successes, there is no overall, coordinated approach to children's issues that highlights their priority, coordinates federal research, and ensures that federal regulations consistently account for disproportionate risks to children. The proposed Executive Order, which has been the subject of extensive discussion with affected agencies, would fill this gap with provisions to address each of these areas.<sup>1</sup>

Policy: The proposed Executive Order requires all agencies to make the protection of children a high priority in implementing their statutory responsibilities and fulfilling their overall missions.

Research Coordination: The proposed Executive Order would create an interagency Task Force to establish a coordinated research agenda, to identify research and other initiatives the Administration will take to advance the protection of children's environmental health and safety, and to communicate with the public regarding these efforts.

Federal Regulatory Analysis: Most notably, the proposed Executive Order would, for the first time, require agencies to analyze and explain the effects of their rules on children. The primary goal of this provision is to link policy decisions to the emerging science regarding children's environmental health and safety. This provision also ensures accountability to the public and helps agencies to identify their research needs. Not surprisingly, given that it imposes regulatory requirements, this is the part of the Order to which several agencies have objected.

## **ISSUE FOR DECISION**

---

<sup>1</sup> This Executive Order would supercede President Reagan's Executive Order on Families, replacing it with a policy that better reflects the priorities of your Administration.

**Whether the Executive Order should include provisions requiring agencies to explicitly consider risks to children when deciding on major regulations.**

Section 5 of the Executive Order would impose three requirements on agencies promulgating regulations, if the regulation is economically significant and the agency has reason to believe that it may have a disproportionate impact on children. Agencies would have to: 1) evaluate the effects of the planned regulation on children; 2) similarly assess the effects of reasonably feasible alternatives to the planned regulation; and 3) explain why the planned regulatory action is preferable to these other options.

**Arguments For Inclusion of Section 5**

- Section 5 is the key policy component of the proposed Executive Order, and would be an enduring part of your legacy in protecting children's health. It makes concrete and gives effect to the overall policy of the Order to identify and assess risks to children.
- Both the National Academy of Sciences and the Administration's own report, *Investing in our Children*, have highlighted the need to link regulatory decisions to available data and, where there is a lack of data, to a research agenda. Section 5 is the provision of the order that best ensures that agencies will make this link.
- Section 5 provides the structure and enforcement mechanism (through OMB oversight) necessary to ensure that agencies adhere to the general policy of the Executive Order. Without Section 5, the Executive Order's terms are largely hortatory.
- There is substantial bipartisan support for requiring special regulatory analysis with respect to risks to children. The provisions in the proposed Executive Order closely track, and broaden application of, provisions in the unanimously-enacted Food Quality Protection Act and the Safe Drinking Water Act requiring heightened analysis to protect children. This provision will build on the public support for giving special consideration to children's health in developing standards.
- Health experts and outside groups, aware of the prior reports and legislation, may deride the Executive Order as merely symbolic if Section 5 is omitted.
- Your previous Executive Order on regulatory review already requires similar analysis addressing cost, small business impact, and other issues. Failure to include Section 5 may generate criticism that we effectively are subordinating children's health to these other concerns.

## Arguments Against Inclusion of Section 5

- Section 5 imposes a novel requirement on major rulemakings, with unpredictable consequences. The task force created by the proposed Executive Order should consider over time and with the benefits of experience the appropriateness of regulatory standards.
- Requiring agencies to acknowledge that a proposed regulation is not the most child-protective is likely to have a distorting effect on regulatory decisions. The result will be greater pressure on agencies to “ratchet up” their regulatory standards, with a corresponding (and potentially unjustified) increase in the costs and burden of regulation. This could undermine the Administration’s program of regulatory reform.
- There is only limited experience with analyzing regulations in terms of risks to children, and this approach is not always well-received. Critics may cite costly Superfund cleanups based on the potential exposure of children to toxic waste sites, and analytical flaws in the public health data supporting EPA’s recent Clean Air Act proposals on ozone and particulate matter.
- In cases where the Section 5 analysis does not prompt agencies to strengthen the relevant regulatory standards, it will provide a basis on which to criticize the agency’s decision. (Some agencies characterize this as a “kick-me” requirement.) Requiring this analysis also may strengthen legal challenges to agency regulations, as requiring any regulatory analysis does.
- The regulatory resources of many agencies are already stretched thin, and blanket application of a new regulatory requirement could divert already tight resources and delay ongoing programs.
- Regulatory agencies have made important strides in this area and should have the opportunity to demonstrate this progress to the interagency task force before any regulatory requirements go into effect.

## **POSSIBLE ALTERNATIVE**

The only compromise available is to retain Section 5, but include only the general requirement that agencies analyze the effects of a proposed regulation on children. This proposal would delete the explicit requirements that agencies undertake a comparative analysis and provide a justification for their decision. This option would diminish both the advantages and disadvantages of proceeding with Section 5 as currently drafted.

## **DECISION**

- \_\_\_\_\_ Approve the Executive Order as drafted
- \_\_\_\_\_ Modify Section 5 of the Executive Order
- \_\_\_\_\_ Omit Section 5 of the Executive Order

## **ATTACHMENT**

Proposed Executive Order

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-APR-1997 11:27:06.00

SUBJECT: Re: Definition of federal public benefits

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

READ:UNKNOWN

TEXT:

you're probably right -- or at the very least figure out where treasury is on this. i'll put a meeting together.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-APR-1997 09:34:20.00

SUBJECT: Re: Alicia Munnell's office just called...

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

TEXT:

get from the staff secretary a copy of the memo to the president on an executive order on environmental risks to children. (the copy you had yesterday is not the most recent). that's what munnell wants.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-APR-1997 09:34:38.00

SUBJECT: Re: Comments on LRM MDH49: HHS Letter on S. 459 due ASAP

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

TEXT:  
ok

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-APR-1997 09:42:19.00

SUBJECT: Re: HUD welfare to work event

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

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

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

TEXT:

sure seems as if we should know what he's doing. could you check it out  
and see if there are good opportunities for us at some later date? thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-APR-1997 09:49:20.00

SUBJECT: Re: I have a set for you of materials I gave BR this morning re: immigrants and

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

READ:UNKNOWN

TEXT:

thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-APR-1997 09:38:42.00

SUBJECT: products memo

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

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

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

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

TEXT:

Do you have any comments on the products memo? It seems to me we should try to get it to the staff secretary soon. Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-APR-1997 09:40:38.00

SUBJECT: Re: Seatbelt EO

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

TEXT:

I don't know -- this seems a natural pairing, and the eo doesn't seem big enough to do on its own. what's the problem?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-APR-1997 09:43:18.00

SUBJECT: Re: Cabinet/Conference

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

TEXT:  
rosewater isn't coming.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 11-APR-1997 16:20:18.00

SUBJECT: COURT DECISION ON TOBACCO RULE WON'T BE BEFORE APRIL 21

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

TEXT:

You're right. You were a few hours ahead of me.

----- Forwarded by Elena Kagan/OPD/EOP on 04/11/97 04:22  
PM -----

Elizabeth Drye  
04/11/97 01:16:46 PM  
Record Type: Record

To: See the distribution list at the bottom of this message  
cc:  
Subject: COURT DECISION ON TOBACCO RULE WON'T BE BEFORE APRIL 21

per the Judge Osteen's recording.

Message Sent

To: \_\_\_\_\_  
Bruce R. Lindsey/WHO/EOP  
Bruce N. Reed/OPD/EOP  
Elena Kagan/OPD/EOP  
Rahm I. Emanuel/WHO/EOP  
Jim Kohlenberger/OVP @ OVP  
Toby Donenfeld/OVP @ OVP  
Barbara D. Woolley/WHO/EOP  
Michael Waldman/WHO/EOP  
Ann F. Lewis/WHO/EOP  
Michelle Crisci/WHO/EOP  
Jennifer D. Dudley/WHO/EOP



April 11, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
Melanne Verveer  
Elena Kagan

SUBJECT: White House Conference on Early Childhood Development and Learning

As you know, on Thursday, April 17, you and the First Lady will host the *White House Conference on Early Childhood Development and Learning: What New Research on the Brain Tells Us About Our Youngest Children*. This memorandum provides an overview of the Conference, as well as summarizing recommended policy announcements.

**Conference Overview**

The Conference will spotlight new scientific findings about how children develop, and explore how we can make the most of this information to give children what they need to thrive. The Conference will provide an opportunity to showcase what your Administration already has accomplished in this area, such as increasing investments in scientific research and creating or improving programs like Early Head Start and WIC.

The Conference will consist of two roundtable discussions, one in the morning and one in the afternoon, with a luncheon in the State Dining Room (optional for you) in between the two.

**Morning session:** You and the First Lady will make remarks to open the Conference. Yours will discuss the importance of the issue, note past Administration accomplishments, and discuss proposals for improving child care and children's health (detailed below).

A panel of experts will then present an overview of the emerging knowledge, gained from neuroscience and behavioral science, on early childhood development. Dr. David Hamburg, President of the Carnegie Corporation, will moderate brief presentations by:

- Dr. Donald Cohen, Director of the Yale Child Study Center, who will discuss what the behavior of children shows about their cognitive, emotional, and social development;
- Dr. Carla Shatz, a neuroscientist at the University of California, Berkeley, who will explain how children's brains develop in the earliest years of life; and
- Dr. Patricia Kuhl, Chair of the Department of Speech and Hearing Sciences at the

University of Washington, who will discuss how children learn language.

Following these presentations, three more experts will join the panel to discuss what the scientific research suggests about protecting children's health and providing good child care:

- Dr. Ezra Davidson, Drew University of Medicine, who can address the importance of prenatal and perinatal services;
- Dr. T. Berry Brazelton, Harvard University, who can discuss the pediatrician's role in early childhood development; and
- Dr. Deborah Phillips, Institute of Medicine, who can address how child care can affect early development.

These experts also will respond to a series of questions posed by the First Lady and Mrs. Gore. Some of these questions will come from a poll conducted by Hart Research for Zero to Three (an early development advocacy group) that tried to discover what parents most want to know about early childhood development. Other questions will tackle the tough issues raised by the new research -- for example, "does this research mean that women should not work?" or "does this research suggest that adopting an older child is a bad idea?"

**Afternoon Session:** The purpose of the afternoon session is to highlight model efforts that communities are undertaking to support parents and enhance early childhood development. This panel will be action-oriented and will give you an opportunity to highlight Administration accomplishments and new initiatives. Participants in the discussion will include:

- Dr. Gloria Rodriguez, Avance Family Support Program, San Antonio, TX.  
Avance is a widely acclaimed family support and education program serving predominantly Hispanic communities.
- Harriet Meyer, Ounce of Prevention, Chicago, IL.  
Ounce of Prevention is a statewide program in Illinois that develops innovative early childhood programs and runs model Early Head Start and child care programs.
- Melvin Wearing, Chief of Police, New Haven, CT.  
Wearing will discuss a pioneering initiative that trains community police officers to use child development principles in their work.
- Arnold Langbo, The Kellogg Company CEO, Battle Creek, MI.  
Kellogg launched a community-wide effort last fall to provide practical early brain development information to every Battle Creek parent and caregiver.

- Rob Reiner, CastleRock Entertainment, Los Angeles, CA.  
Reiner will discuss the "I Am Your Child" campaign launched this month and the media's role in making early childhood development information available.
- **Governor Bob Miller, Nevada, Co-chair of the NGA Children's Task Force.**  
Miller will discuss what States are doing to enhance early childhood development.

**Satellite Sites:** The morning session of the Conference will be transmitted to 53 satellite sites -- mostly universities and hospitals -- in about 30 states and all 10 federal regions. (Fifty-three is only the current number; there will probably be more.) In almost all of these sites, local organizers will put on programs of their own to follow the morning session and will report back to you on their proceedings and recommendations. Cabinet Affairs is encouraging subcabinet officials to attend and speak at these satellite conferences. In addition, regional administrators from HHS, USDA, EPA, Education, and GSA are taking an active role in the satellite sessions.

**Report of Proceedings:** We are currently making arrangements for an official conference report. This report, in addition to providing a summary of the conference proceedings, will serve as a resource guide and learning tool for parents and child care providers. We expect to print 250,000 copies and distribute them through departmental programs, such as Head Start and Even Start, and to those who request information about the Conference.

### **Pre-Conference Policy Initiatives**

We would like to make three announcements prior to the Conference, in order to lay the groundwork for the Conference's discussion of ways to enhance early childhood development.

**FMLA Expansion for Federal Employees:** In your April 12 radio address, you will introduce the themes of the Conference and then direct heads of executive departments and agencies to expand family and medical leave for federal employees in the ways proposed in your legislation. This action would allow federal employees 24 hours of unpaid leave each year to participate in activities relating to school and child care, children's health care, and (unrelated to the Conference) elderly relatives' health needs. You will stress in your radio address how such family-friendly policies can support parents with young children.

**Prescription for Reading:** On April 16, the First Lady (and perhaps you, depending on the status of budget negotiations) will announce an initiative to encourage pediatricians to "prescribe" that parents read to their children. As part of this initiative, the American Academy of Pediatrics will announce that prescribing reading to infants and toddlers should be part of standard pediatric care. In addition, several book companies have committed to donating hundreds of thousands of books for distribution to children through community health centers and other medical offices across the nation. This initiative reinforces the Parents as First Teachers portion of the America Reads program.

**Executive Order on Environmental Health and Safety Risks:** You currently have under consideration a proposed Executive Order that would require agencies to consider and explain the effects of certain major rules on children. This order, if you decide to approve it, would serve as an excellent lead-in to the Conference, and we recommend issuing it on April 16. The order gives meaning and effect to your Administration's commitment to protect children in making regulatory decisions.

### Conference Policy Announcements

Your principal opportunity to discuss policy initiatives at the Conference will come during your opening remarks. We recommend that these remarks focus on child care and children's health care and that you make the announcements discussed below. In addition, you will have an opportunity to make some announcements -- for example, on Head Start and community policing -- during the afternoon session of the Conference, when you respond to participants on the panel.

**Child care:** Child care experts believe the Defense Department's child care system is now the best in the country and possibly the world (in large part because of legislation enacted in the late 1980s). DoD child care is characterized by: high standards, including a high percentage of accredited centers; a strong enforcement system with four unannounced annual inspections and a 1-800 hot line for parents to report concerns; a wage structure that is tied to training and an "up or out" personnel policy requiring completion of training requirements; relatively generous wages and benefits, which reduce staff turnover; a system of linking up individual home care providers; and sufficient funding to make quality child care affordable (though there still are waiting lists).

We recommend you hold up the DoD child care system as a model for the nation and issue an executive memorandum directing the Secretary of Defense to use the Department's resources and expertise to improve child care across the nation. In particular, you would direct that (1) each military child development center "adopt" a civilian child care center and work with it to improve quality; (2) DoD establish regional "Child Care Masters Programs" that civilian child care managers could attend for two weeks to learn best practices; (3) military bases partner with state and county governments to provide on-the-job training in child care to welfare recipients; (4) DoD publicize its model designs for child care facilities and playgrounds; and (5) that DoD issue benchmarks in the areas of standards, enforcement, compensation, and cost against which civilian child care programs could evaluate themselves. Most civilian child care systems will come up short against DoD's benchmarks, particularly in terms of compensation and affordability, but such a comparison might help build public support for greater investment in child care.

You also might want to float some trial balloons on more ambitious -- and costly -- proposals. For example, some have suggested making the Child and Dependent Tax Care

**Credit refundable (at a cost of \$2-4 billion), so that families with little or no income can benefit from it. The Blue Dog budget makes the credit refundable, but pays for it by eliminating the tax benefit for families with incomes over \$100,000. Another legislative proposal would provide a tax credit to private companies and institutions to encourage them to build quality child-care centers on-site. Given our budget, you cannot endorse any of these proposals, but you might want to use this opportunity to suggest your openness to further discussion of such legislation.**

**Children's Health Initiative:** We also recommend that you discuss in your opening remarks the importance of insurance coverage for children's health and development, highlighting the Children's Health Initiative in your 1998 budget proposal. Your proposal will extend coverage to up to 5 million uninsured children by the year 2000. You can announce at the Conference that the deans of academic medical centers -- important legitimators within the medical community -- have endorsed your proposal.

We are also planning a follow-up children's health event, where you will release a study showing the links between insurance coverage, health status and development and learning for children from 0 to 18 years old and talk in more detail about your health proposal. Either at the follow-up event or at the Conference itself, you can announce a project by Kaiser Permanente to spend \$100 million over the next 5 years to provide health insurance to uninsured children.

**Child Victims of Violence Initiative.** You can announce that the Department of Justice will establish, with FY 97 discretionary funding, a Child Victims of Violence Initiative through the Yale, New Haven Child Development-Community Policing Program. This program, which Chief Waring will speak about, trains police officers in child development, so that they can better respond to situations arising in the field. The new initiative will extend the program to other sites and also broaden it to include people other than police officers -- such as prosecutors, probation and parole officers, and mental health professionals -- whose work would benefit from knowing about early child development.

**Head Start Funding:** You can announce, perhaps in response to Harriet Meyer's comments during the afternoon session, the launch of a new competition for Head Start (including Early Head Start) grants.

**America Reads Challenge Early Childhood Kits:** You will announce the release of the America Reads Challenge Early Childhood Kits for Families and Caregivers. The kits suggest developmentally appropriate activities for children ages 0 to 5, a calendar listing ideas for daily activities, and a developmental growth chart. Everyone who looks at these kits loves them. The kits will be distributed to early childhood programs across the nation and through requests by callers to the Department of Education's 1-800 phone line.

**CEO Summit:** You can announce that Kaiser Permanente and other companies will convene a CEO Summit in the fall of 1997 to discuss what businesses can do to enhance early

childhood development -- for their own employees, for the communities in which they have a presence, and even for their customers. In making this announcement, you can challenge the CEOs to address at the Summit certain issues raised at the White House Conference.



April 7, 1997

MEMORANDUM FOR THE PRESIDENT

FROM:

SUBJECT: PRODUCTS LIABILITY LEGISLATION

Congress may turn its attention to product liability legislation within the next month, and we need to know how to respond. As you recall, your veto message last year detailed a number of specific objections to the products bill. (The veto message is attached to this memo.) We presume that if Congress were to give you the same bill again, you would veto it for the same reasons. It is possible, however, that Congress will work to pass a bill that responds in part to your objections. This memo reviews those objections, outlines possible congressional responses to them, and solicits your views on how to proceed. We believe that we should send strong signals now about the kind of bill you would accept and the kind you would veto. We also think that knowing early where you stand on the products bill will enable the Administration to position itself correctly on other emerging law reform issues.

One-way preemption. Prior to enumerating your objections to specific provisions in the bill, your veto message noted the "general problem of displacing State authority in an unbalanced manner." You explained that problem as follows: "As a rule, this bill displaces State law only when that law is more favorable to consumers; it defers to State law when that law is more helpful to manufacturers and sellers." Under the bill, for example, the "national" 15-year statute of repose would have overridden the laws of states with longer or no statutes of repose, but would have left in place all shorter statutes of repose; similarly, the bill would have limited punitive damages in states that now allow unlimited punitive damages, but would not have imposed punitive damages on states that do not now have them. Your veto statement continued: "I cannot accept, absent compelling reasons, such a one-way street of federalism."

If you hold fast to this position, you probably will have to veto another product liability bill because Congress is unlikely to pass a bill that preempts, in identical fashion, both anti-consumer and pro-consumer state law. For its strongest supporters, this bill is not so much about achieving uniformity as about reducing liability burdens on manufacturers. Because a two-way preemption bill will not clearly achieve this goal, your insistence on a two-way bill will signal strongly that no compromise is possible.

The objection to one-way preemption, however, is strong on the merits. If the problem with the current tort system is a simple lack of uniformity, then two-way preemption is obviously desirable. If the problem is instead that state law often fails to balance appropriately the interests of manufacturers and consumers, then federal law should step in to strike that balance, negating

laws that tilt too much in either direction. One-way preemption is justified only if the goal is to reduce product actions to the greatest extent possible, by enabling states to “pile on” to federal limits.

Because this issue is not amenable to compromise, we need to know soon where you stand on it. We cannot develop a sound strategy before we know whether you could sign a bill containing one-way preemption. If you could sign such a bill, we will de-emphasize the one-way preemption concern and focus on the specific provisions of the statute discussed in the rest of this memo.

Eliminating joint liability for non-economic damages. Your veto message objected strongly to the provision of the bill that wholly eliminated joint liability for non-economic damages such as pain and suffering. You stated generally, in support of joint liability, that “when one wrongdoer cannot pay its portion of the judgment, the other wrongdoers, and not the innocent victim, should have to shoulder that part of the award.” You also expressed doubt about distinguishing economic from non-economic damages, noting that a provision limiting only non-economic damages falls most heavily on non-working women, the elderly, the poor, and children.

This issue, unlike the last, is amenable to compromise. The most likely compromise would be a proposal to eliminate joint liability for non-economic damages when, but only when, the wrongdoer is responsible for less than some specified percentage of the total judgment. Congress could say, for example, that joint liability for non-economic damages will not apply when a defendant’s actions have caused less than 25% of the total harm suffered. Congress might try to compensate for this weakening of the joint liability provision by applying it to both economic and non-economic damages (perhaps using your veto statement’s equation of the two kinds of damages to justify doing so), so that a “minor” wrongdoer would never have to shoulder any costs not his own.

A compromise of this kind has the apparent benefit of relieving small-scale wrongdoers (how small depends on the percentage specified) of the obligation to pay the entirety of potentially mammoth judgments. But by virtue of doing so, this compromise leaves innocent victims to bear the damage themselves when primary wrongdoers have gone bankrupt or are otherwise unable to satisfy judgments. You should consider whether you are comfortable with this kind of compromise and, if so, approximately where (10 percent?; 25 percent?; 50 percent?) you would draw the line.

Capping punitive damages. You also objected in your veto statement to imposing caps on punitive damage awards, on the ground that caps undermine the ability of punitive awards to deter and punish egregious misconduct. You noted the provision of the bill allowing judges to exceed the caps in specified circumstances, but stated that this protection was insufficient “given the clear intent of Congress, as expressed in the Statement of Managers, that judges should use this authority only in the most unusual cases.”

A compromise on this issue is also possible; indeed, it may be hard to avoid given the Administration's prior statements on the subject. The judicial override provision is essentially the brainchild of the Justice Department, which offered it as a way to alleviate our concerns about caps on punitives. If Congress deletes the legislative history to which you objected -- and especially if it also softens some of the language in the override provision -- you will have little basis for continuing to object to the bill's punitive damage ceilings.

Limiting liability of biomaterials suppliers. You expressed a "concern" in your veto statement about a provision in the bill limiting actions against suppliers of materials used in devices implanted in the body. You generally recognized this provision to be a "laudable attempt to ensure the supply of materials needed to make lifesaving medical devices." But you said that this limitation should apply only to non-negligent suppliers -- and not to suppliers who know or should know that the materials they make, when implanted in the human body, will cause injury.

The current version of the biomaterials provision contains an exception for manufacturers of the silicone gel used in breast implants, but not an exception (of the kind you requested) for all negligent suppliers. Industry engaged in good-faith negotiations with Rep. Howard Berman last year to develop such an exception, but could not find a way to exempt negligent suppliers, while adequately protecting non-negligent suppliers from the high litigation costs associated with disproving negligence. Industry is currently looking into other ways to satisfy our concern -- for example, by limiting liability for biomaterials suppliers only when the FDA has reviewed and approved the implanted device -- and may well succeed in doing so. Indeed, we may wish to send a signal that Congress should remove this provision from the products bill, so that we can sign it separately.

Other provisions. Your veto statement contained a number of objections to more minor provisions of the bill relating to the statute of repose, statutes of limitations, and negligent entrustment actions. With the possible exception of the statute of repose provision, compromise on these issues should be easy; members of Congress already have indicated a willingness to delete the offending language. On the statute of repose, the current bill precludes any suit alleging a defect in a product that is more than 15 years old; we could urge an 18-year statute of repose, as we accepted in the aviation liability bill you signed; alternatively, we could press for some kind of exception from the statute of repose for products, such as farm equipment, intended to have a useful life of longer than 15 years.

Other legislation. In the event you choose to reiterate your concerns and veto another products liability bill, you may have other opportunities to signal support for appropriate reform of the legal system. Senator Breaux plans to offer product liability legislation for people who do not like product liability legislation. This legislation would (1) strengthen pleading requirements for punitive damage claims and impose automatic sanctions for frivolous claims; (2) require states to adopt alternative dispute resolution programs and establish certain "offer of judgment" rules meant to promote settlements; (3) impose a nationwide standard for punitive damage awards (similar to the standard most states use now); (4) provide a uniform two-year statute of

limitations; and (5) commission a Department of Justice study on the product liability system.

In another area of law reform, Sens. Lieberman, Moynihan, and McConnell have proposed a so-called "auto-choice" bill, which would allow a driver to select a no-frills auto policy that would reimburse him for all economic costs, but eliminate his option to sue for non-economic losses such as pain and suffering. Trial lawyers are certain to oppose this proposal, but unlike the products liability bill, it probably would benefit consumers. Some experts say that the savings for low-income drivers could reach 45 percent of their current insurance premiums -- and that the nationwide savings over two years could exceed \$80 billion.