

NLWJC - KAGAN

EMAILS CREATED

ARMS - BOX 005 - FOLDER 006

[4/28/1998 - 5/21/1998]

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Elena Kagan to Elena Kagan re: Gate (1 page)	04/28/1998	Personal Misfile
002a. email	Elena Kagan to Laura Emmett re: Mtg on Race Advisory Bd Panel on Administration of Justice [partial] (1 page)	05/11/1998	P6/b(6)
002b. email attachment	Phone No. (Partial) (2 pages)	05/11/1998	P6/b(6)

COLLECTION:

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

FOLDER TITLE:

[04/28/1998-05/21/1998]

2009-1006-F
bm109

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]

Withdrawal/Redaction Marker

Clinton Library

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001. email	Elena Kagan to Elena Kagan re: Gate (1 page)	04/28/1998	Personal Misfile

COLLECTION:

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

FOLDER TITLE:

[04/28/1998-05/21/1998]

2009-1006-F
bm109

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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:28-APR-1998 19:46:38.00

SUBJECT: Draft Veto letter on Assaults

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

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 04/28/98 07:47
PM -----

Jose Cerda III
04/28/98 07:17:51 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: Leanne A. Shimabukuro/OPD/EOP
Subject: Draft Veto letter on Assaults

Rahm, et.al.:

Per Rahm and Peter's request, I've drafted a veto letter for Raines to send up tomorrow a.m.. Please let me know your comments; it needs to be on the Hill by 9am.

Jose'

Message Sent

To: _____
Michelle Crisci/WHO/EOP
Charles E. Kieffer/OMB/EOP
Elena Kagan/OPD/EOP
Bruce N. Reed/OPD/EOP
Peter G. Jacoby/WHO/EOP
Karen A. Popp/WHO/EOP

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

TEXT:

Unable to convert ARMS_EXT: [ATTACH.D80]MAIL402147714.126 to ASCII,
The following is a HEX DUMP:

FF57504370040000010A020100000002050000002A0D0000000200005AA33ED955C6895FDB2D25
D1A08AB906193A92023F22F25672FC718A6FC8ABDF4CA199DDF077572A0DBCD1B872B48A527066
7CF6721601143558D73041750FAD5890D15750A48B60831F3AAC23E027FOA888B11E4AF1B1B0F0
3C08BA21181DE83D0350F32F1F0FE8DC983C3652B23970806F5C406025CD9652E2A0E3A0708DE3
AAFC3B0CBDD22F4DDA205D1AF007FFA7B812153F338F0614A9B57B5416B28A3E6D96D9C8F33F64
9E5B95777DFBCA92199664AF9B723AFA3873A2A558DD9104BE03F0BDC9F18FAA541C6600C01DAC
ACCB96E39A111D1EC39325907FE981B820A85C538F98B60CEB6A9472540E12E374E882365643E9
2F0FBDC883E3520E153B548204D22DB1A88C44170AC23992CAED653411870FC47FD8B8D6B8DDA

April 29, 1998

The Honorable Bob Livingston
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

The Administration strongly objects to the inclusion of any provision in the FY 1998 Supplemental Appropriations Conference Report to allow for the importation of any modified semiautomatic assault rifles that accept large capacity military magazines. The Secretary of the Treasury, consistent with his authority under the Gun Control Act of 1968, recently concluded that these firearms do not meet the sporting purposes test and are generally not importable. Thus, the President would veto any supplemental appropriations bill that includes language undermining this decision.

The proposed language would potentially allow for as many as 600,000 modified Uzis, AK 47s and other assault-type rifles to be imported into the country. While we know that an estimated 3,000 of these firearms have already reached our shores, we have almost no way of verifying the precise number of firearms "in transit." Moreover, we know from our experience in implementing a similar amendment in 1994 that an such an exemption will be nearly impossible to implement and could allow hundreds of thousands of modified assault weapons to circumvent the Secretary's decision.

I strongly urge the Committee to reject this provision.

Sincerely,

Franklin Raines

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:28-APR-1998 19:46:48.00

SUBJECT: POTUS Q&A

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

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 04/28/98 07:47
PM -----

Bruce N. Reed
04/28/98 06:41:07 PM
Record Type: Record

To: Elena Kagan/OPD/EOP, Cynthia A. Rice/OPD/EOP, Paul J. Weinstein
Jr./OPD/EOP, Sarah A. Bianchi/OPD/EOP
cc:
Subject: POTUS Q&A

Amy Tobe asked that we pull together Q&A on 1)Tobacco and 2)Needle
Exchange to give the President tomorrow for a possible press availability
later this week. Paul, could you pull together the latest and get it to
Amy by midday tomorrow? thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:30-APR-1998 15:32:46.00

SUBJECT: Staff Morale

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

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 04/30/98 03:33
PM -----

Paul J. Weinstein Jr. 04/30/98 03:25:13 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP
cc:
Subject: Staff Morale

I want to make both of you aware that staff morale is somewhat at a low level. A large part of this beyond our control (White House scandals, family problems, a do-nothing Congress, Spring blues, long hours, people growing beyond their jobs, etc.). However, there are some things we can do. For my part, I need to find a new support staffer for the Education Team and continue to encourage people to take time off and to structure their hours more effectively. There are some things you both can do as well.

1. Staff Meetings: Please don't underestimate the importance of the bi-weekly staff meeting. For many staffers this is their only contact with each of you. I know these meetings can be tiresome, and we can certainly try to cut down their length (they should go past 1/2 hour), but your presence is important, especially with tobacco increasingly dominating your schedules.

2. Interaction With The President and Vice President: Nothing rejuvenates morale more than contact with the President and the Vice President. When it is appropriate, taking staff to briefings goes a long way. Including the appropriate staffers name on a Presidential memorandum would also help people feel connected and improve the work product.

3. Travel: We have a very large, unused travel budget. While the three of use may not like to get out on the road, many junior staff would benefit from some travel. I encourage staff to travel whenever they can, but some encouragement from you both would help greatly.

4. Summer Vacations: Please encourage staff to take significant summer vacations.

5. Positive Reinforcement: Recognizing individuals for their work is incredibly important right now. With a few exceptions, I think a lot of staff feel disconnected from the main work of the DPC (getting tobacco passed). Again, a little goes a long way. Sending congratulatory e-mails or voice-mails helps.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 1-MAY-1998 15:58:30.00

SUBJECT: organic standards

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Re your question: USDA's decision to start over again on organic standards looks right to me. tom?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 1-MAY-1998 13:48:40.00

SUBJECT: Generic Tobacco One-Pager

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

READ:UNKNOWN

TEXT:

Looks fine, except "right decision" should be "right direction" in the second paragraph and "industries bottom line" should be "industry's bottom line" in the third paragraph.

----- Forwarded by Elena Kagan/OPD/EOP on 05/01/98 01:48 PM -----

Laura Emmett

05/01/98 12:30:19 PM

Record Type: Record

To: Elena Kagan/OPD/EOP

cc:

Subject: Generic Tobacco One-Pager

----- Forwarded by Laura Emmett/WHO/EOP on 05/01/98 12:32 PM -----

Kevin S. Moran 05/01/98 12:29:01 PM

Record Type: Record

To: Laura Emmett/WHO/EOP

cc:

Subject: Generic Tobacco One-Pager

Would you take a look at this and tell what you think of it? It is a generic one pager highlighting our tobacco agenda for the year. We'd like to include it in a package of materials going to help senior administration officials prepare for commencement addresses. Do you see any problems with it? If at all possible, please e-mail me your edits by 1:30 pm today. thanks. k

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D81]MAIL40611502U.126 to ASCII,
The following is a HEX DUMP:

TOBACCO

"The facts are as plain as the stakes are high: Three thousand children begin to smoke every day, even though it's illegal in every state, and 1,000 will die earlier because of it. All these children have been targeted by a massive, multimillion-dollar media campaign that preys on their insecurities and their dreams... We are fighting for the lives of our children. We are fighting for the public health, and we are fighting against predatory practices by tobacco companies that have targeted our children."

President Bill Clinton
April 20, 1998

CLEAR FACTS, HIGH STAKES. 3,000 children begin to smoke every day; 1,000 of them will die early as a result. The President is committed to passing comprehensive legislation to stop young Americans from smoking before they start, in an effort that can save one million lives over the next five years.

A STRONG FOUNDATION FOR FUTURE TOBACCO REFORM. President Clinton believes that Senator McCain and Senator Hollings' tobacco legislation bill, which passed the Commerce Committee, is a strong step in the right decision on the road to passing comprehensive tobacco legislation this year.

STANDING STRONG FOR COMPREHENSIVE REFORM. The tobacco industry is working to persuade Congress to pass weaker legislation that will not reduce teen smoking. We must continue to work with Senator McCain and others to make reducing teen smoking the tobacco industries bottom line.

A STRATEGIC PLAN FOR REDUCING YOUTH TOBACCO USE. President Clinton's plan for comprehensive tobacco legislation includes five key principles:

- **A comprehensive plan to reduce youth smoking by raising the price of packs of cigarettes by up to \$1.50 over ten years through a combination of annual payments and tough penalties on the tobacco industry;**
- **Full authority for the Food and Drug Administration to regulate tobacco products;**
- **Changes in the way the tobacco industry does business, including ending marketing and promotion to kids;**
- **Progress toward other public health goals, including biomedical and cancer research, a reduction of second-hand smoke, promotion of smoking cessation programs, and other urgent priorities; and**
- **Protection for tobacco farmers and their communities.**

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 1-MAY-1998 08:46:25.00

SUBJECT: Re: Bilingual Ed

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

I'd rather wait for Mike

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 1-MAY-1998 18:26:28.00

SUBJECT: Kiddie Mac

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

TEXT:

I'm not sure what he's doing re this issue, but you should touch base.
thanks. (ps: I'm not responding separately, so you should say i asked you
to get in touch with him.)

----- Forwarded by Elena Kagan/OPD/EOP on 05/01/98 06:25
PM -----

Morley A. Winograd @ OVP
04/26/98 01:17:03 PM
Record Type: Record

To: Elena Kagan/OPD/EOP
cc: Sally Katzen/OPD/EOP
Subject: Kiddie Mac

Elena:

I met with Cong. Maloney and a staff person from Cong. Baker (R-LA) on Thursday to discuss HR 3637, which as Cong. Maloney wrote the President in March would create a secondary mortgage marketing for child care facilities and offer guaranty insurance for those who lend to child care facilities. In addition it contains a section with micro loans for child care facility improvements as well as offer liability insurance to child care providers. The bill with its broad ideological spectrum of support and its market focused approach to expanding child care availability would seem to have some appeal. Can you tell me if we are looking at it and how we think it might fit within the President's child care initiatives? It also carries a \$10M price tag which would require some budget tradeoffs as well.

Morley

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 1-MAY-1998 15:37:31.00

SUBJECT: new orleans schools

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

READ:UNKNOWN

TEXT:

Have you checked with chuck (or rob weiner) and then the ed dept (presumably ocr) on the new orleans school situation that the POTUS asked about? Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

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

CREATION DATE/TIME: 1-MAY-1998 18:03:04.00

SUBJECT: RECEIVED: MEETING -- RE: IDEA

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

READ:UNKNOWN

TEXT:

RETURN RECEIPT

Your Document:

MEETING -- RE: IDEA

was successfully received by:

CN=Elena Kagan/OU=OPD/O=EOP

at:

05/01/98 05:59:05 PM

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 1-MAY-1998 09:01:20.00

SUBJECT: tobacco

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

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

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

TEXT:

I expect you're going to get a call from Bob Rubin suggesting that you hold regular meetings on tobacco in which Larry Summers can participate. Rubin's essential complaint seems to be that we rely on Treasury people for lots of work, but don't bring them in to top-level decisionmaking. Of course, Bruce does have weekly tobacco meetings to which Larry is invited, and Treasury people are all over the various tobacco policy processes; we also will begin to include their legislative people (Linda Robertson or Marty Thomas) in the daily phone calls we have with HHS's legislative office. What Rubin seems to feel is missing is the opportunity to sit around your table on questions of strategy, as in the budget process. I guess this would mean fairly regular meetings with you, Bruce, Larry Stein, Larry Summers, Donna (plus one staff?), Frank/Jack/Josh, Bruce Lindsey, Ron, and perhaps someone from Justice. We should talk about whether this would be helpful.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 1-MAY-1998 17:46:31.00

SUBJECT: Re: new orleans schools

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

TEXT:

thanks; that's great

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 4-MAY-1998 07:24:37.00

SUBJECT: Re: Nice article in the New Republic

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

READ:UNKNOWN

TEXT:

Thanks. Embarrassing -- and more than a bit absurd, given what a team effort we had . . . but my mother liked it.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 5-MAY-1998 11:53:59.00

SUBJECT: Re: assisted suicide

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

READ:UNKNOWN

TEXT:

sitting on my desk. sorry.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 5-MAY-1998 20:26:33.00

SUBJECT: Re: organic

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

TEXT:

Thanks much. Your input was really helpful.

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

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

CREATION DATE/TIME: 6-MAY-1998 16:12:57.00

SUBJECT: RECEIVED: Statement of Administration Policy on HR2888 Sales Incentive Compensati

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

READ:UNKNOWN

TEXT:

RETURN RECEIPT

Your Document:

Statement of Administration Policy on HR2888 Sales Incentive Compensation Act
was successfully received by:

CN=Elena Kagan/OU=OPD/O=EOP

at:

05/06/98 04:10:41 PM

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 6-MAY-1998 12:56:47.00

SUBJECT: Re:

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

READ:UNKNOWN

TEXT:

yes, sorry -- we didn't know about this meeting until late yesterday, and I mentioned it at the 7:45 meeting. But next time, you get a prsonal call.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 6-MAY-1998 12:53:40.00

SUBJECT: new side-by-side

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

TEXT:

FYI: I sent this back for greater detail, so don't edit yet.

----- Forwarded by Elena Kagan/OPD/EOP on 05/06/98 12:53
PM -----

Cynthia A. Rice
05/06/98 12:18:18 PM
Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP
cc:
Subject: new side-by-side

in case you haven't seen yet
----- Forwarded by Cynthia A. Rice/OPD/EOP on 05/06/98
12:20 PM -----

Cynthia Dailard
05/06/98 11:42:25 AM
Record Type: Record

To: Cynthia A. Rice/OPD/EOP, Laura Emmett/WHO/EOP
cc:
Subject: new side-by-side

For Elena's review.

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D56]MAIL46050552K.126 to ASCII,
The following is a HEX DUMP:

FF5750437B0C0000010A02010000000205000000AE1F000000020000DC9A042EA467621116BDBF
06D6A047C051FE6901F997DAD416B1618E5F0728191A9169EC447D8399D47228AF758077B82ED3
284503933F7559E5D9467F18A41E1D7B29C5A375B44F0CDFE2FE0822A44319C213384105FFF9EE
9F01CB1C0706B8E45F92069FF0C5C34169B62F5285D69851797BA86F790E58C653FEDF21D294FC
94A6A99D0D84B51A9025F389A424F000C9A0C7BAE8982BE3D21BD1B2558E4AF792839B034F058A
A6D143A93D62E186541957B1A24753440A6E1FC8497C7C026B73C274A95137FDEA10F2444AA565
F02B7F925F61863320D33822BD58495191353B398DCD57EA0B5B2E5D0E657B321DF7F394F34DE8

Comparison of Tobacco Proposals
May 6, 1998

	McCain	Hansen-Meehan	Nickles
Substantial Price Increase	Yes (\$1.10 over 5 yrs)	Yes (\$1.50 over 3 yrs)	No
Strong Penalties:			
1. Industry	Yes	Yes	No
2. Annual Cap	Yes (\$3.5 billion)	No	No
3. Company Specific	No	Yes	No
Strong Youth Smoking Reduction Targets	Yes (60% in 10 years)	Yes (80% in 10 years)	Unknown
Full FDA Authority	Yes (separate title)	Yes (drug/device title)	Yes (separate title)
Strong Advertising and Access Provisions	Yes	Yes	Unknown
Protections of Tobacco Farmers	Yes (LEAF Act)	No	Yes (Lugar bill)
Comprehensive Plan to Use Tobacco Revenue to Protect Public Health and Assist Children	Does not attempt to address most spending issues.	Revenues would go toward smoking cessation/public health programs, payments to states, and reducing federal debt.	No. Will include tax cuts and provisions for a counter-advertising campaign.
Strong Environmental Tobacco Smoke Provision	No (hospitality exemption and state opt-out)	Yes (exemption for bars, not restaurants; no state opt-out)	No
Liability Protections for Industry:			
1. Liability Cap	Yes (\$6.5 billion annually)	No	No
2. Bar on Class Actions	No	No	No
3. Bar on Punitive Damages	No	No	No
Antitrust Exemption	Yes	No	Unknown
Raise Minimum Age to Purchase Cigarettes to 21	No	No	Yes
Includes Anti-drug Package	No	No	Yes
Cap on Attorneys Fees	No	No	Yes
Increase Packs to 30 Cigarettes	No	No	Yes

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 6-MAY-1998 12:55:58.00

SUBJECT: Re: I liked the New Republic piece.

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

TEXT:

I actually tried to spin it back the other way: for our tobacco purposes, the piece made it seem as if I had won far too much. But thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 7-MAY-1998 19:31:47.00

SUBJECT: Re: Draft Proposal

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

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

CC: christa robinson (christa robinson @ eop @ lngtwy [OPD])
READ:UNKNOWN

TEXT:

This looks great, Paul. I was going to ask you to think up something of the sort. Many thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 7-MAY-1998 19:40:20.00

SUBJECT: Re: Summer Vacations

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

READ:UNKNOWN

TEXT:

Why do I suspect you're setting me up for two weeks with no staff?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 7-MAY-1998 08:32:02.00

SUBJECT: social promotions

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

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 05/07/98 08:31
AM -----

Michael Cohen
05/06/98 06:21:50 PM
Record Type: Record

To: Elena Kagan/OPD/EOP
cc:
Subject: social promotions

Here is the best we could do give the data that are available. It's a little softer than I would have preferred; there isn't a single validated data sources as much as a series of calls to NGA and similar organizations that try to track key education policy trends. Let me know what you think. We should at least be able to work up some speech language for this.

Leadership to End Social Promotions. At the 1996 National Education Summit between governors and business leaders, President Clinton challenged state and local officials to end the practice of social promotion--the practice of advancing students to the next grade level regardless of whether they have met academic standards. This practice hurts the students who are promoted by failing to provide them with the help they need to develop a solid foundation in the basics, and prevents parents and the public at large from holding schools accountable for results. The President reiterated his challenge in his 1998 State of the Union address. Today, the Action Plan adopted by Mayors responds to that challenge, and calls for an end to social promotions. Currently, 10 states have policies prohibiting the advancement of students who have not met specified requirements and 5 additional states have legislation pending to eliminate social promotions. A growing number of school districts, including Boston, Cincinnati, Chicago, Long Beach, Rochester, NY, Washington DC, New York City and Philadelphia also have such policies in place or under consideration.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 8-MAY-1998 10:35:36.00

SUBJECT:

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

READ:UNKNOWN

TEXT:

could you do something for the weekly on the public benefits issue?
thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 8-MAY-1998 19:33:42.00

SUBJECT: Re: Homelessness

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

TEXT:
yes

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 8-MAY-1998 19:33:21.00

SUBJECT: Re: Draft Proposal

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

TEXT:

no, they sound great; brief away.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 8-MAY-1998 19:31:37.00

SUBJECT: Re: Most Recent Assisted Suicide Memo

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

TEXT:
no problem. you added 6 hours; I added 6 days.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 8-MAY-1998 10:37:56.00

SUBJECT: event

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

we just got one scheduled for the 20th (and a presidential statement on the 19th). That's when we should use the new data if it's good.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 8-MAY-1998 10:36:40.00

SUBJECT: Re: Leahy has asked Justice if they want to be asked to testify at Judiciary

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

READ:UNKNOWN

TEXT:

fine by me too. we should just remember to talk with him this time.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 8-MAY-1998 10:38:09.00

SUBJECT: Re:

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

READ:UNKNOWN

TEXT:

no; that's fine.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-MAY-1998 15:46:03.00

SUBJECT:

TO: bjlepard (bjlepard @ aol.com @ inet [UNKNOWN])

READ:UNKNOWN

TEXT:

test

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-MAY-1998 16:05:01.00

SUBJECT: ETS Opt-out fallback

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

READ:UNKNOWN

TEXT:

what do you think?

----- Forwarded by Elena Kagan/OPD/EOP on 05/11/98 04:05
PM -----

Daniel J. Chenok
05/05/98 06:44:02 PM
Record Type: Record

To: Elena Kagan/OPD/EOP, Cynthia A. Rice/OPD/EOP
cc: Joshua Gotbaum/OMB/EOP, Donald R. Arbuckle/OMB/EOP, Richard J.
Turman/OMB/EOP, Lori Schack/OMB/EOP
Subject: ETS Opt-out fallback

In thinking through other strategies on the State opt-out provision in McCain: the State opt-out could be rewritten to allow opt-out for States that pass laws that are "at least of as effective" as the provision and the implementing OSHA standard. This would essentially allow Federally-enforced OSHA States to come up with OSHA state plans for tobacco only, while being consistent with the way current OSHA State plan States do business. It preserves the concept of an opt-out, which may be important to McCain, while ensuring that States don't replace it with a weaker approach, and OSHA has experience ensuring that the "at least as effective" structure works (they approve the State Plan)).

If it's helpful I can call Emily Shekitoff at OSHA and bounce this off.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-MAY-1998 16:10:45.00

SUBJECT: Re: HR 3534

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

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

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

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

TEXT:

bruce and i aren't sure that sending a sap is going to make much difference either way, but for what it's worth, we think the Admin should send a sap opposing the bill and we think you should carry this message to omb (welcome to the tobacco wars).

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-MAY-1998 19:08:08.00

SUBJECT: Re: Revised Hitt Letter

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

READ:UNKNOWN

TEXT:

yes, that's good.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-MAY-1998 15:21:57.00

SUBJECT: Re: Info from Haskins on LA County child support exemption

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

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

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

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

TEXT:

I really don't think we should affirmatively support this. Bruce, what about your idea of leaving this to the VP?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-MAY-1998 15:20:37.00

SUBJECT: Re: Unz again

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

READ:UNKNOWN

TEXT:

Excellent.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-MAY-1998 15:19:52.00

SUBJECT: Re: HR 3534

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

TEXT:
WHAT IS IT??

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-MAY-1998 19:01:41.00

SUBJECT: Mtg on Race Advisory Bd Panel on Administration of Justice

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

READ:UNKNOWN

TEXT:

please print

----- Forwarded by Elena Kagan/OPD/EOP on 05/11/98 07:01 PM -----

Jacinta Ma

05/11/98 05:38:22 PM

Record Type: Record

To: Elena Kagan/OPD/EOP, Jose Cerda III/OPD/EOP, Julie A. Fernandes/OPD/EOP

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

Subject: Mtg on Race Advisory Bd Panel on Administration of Justice

Attached is the latest draft of the proposal, agenda, and potential list of roundtable participants for your review before tomorrow's meeting.

----- Forwarded by Jacinta Ma/PIR/EOP on 05/11/98 05:35 PM -----

Richard Socarides 05/11/98 03:10:09 PM

Record Type: Record

To: Jacinta Ma/PIR/EOP, Scott R. Palmer/PIR/EOP

cc:

Subject: Mtg on Race Advisory Bd Panel on Administration of Justice

It might be helpfull if everyone had the latest paper tonight before the meeting so they could read it prior thereto.

----- Forwarded by Richard Socarides/WHO/EOP on 05/11/98 03:11 PM -----

Richard Socarides 05/11/98 02:58:21 PM

Record Type: Record

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

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

Subject: Mtg on Race Advisory Bd Panel on Administration of Justice

We are going to get together tomorrow, Tuesday at 11, to discuss the upcoming Race Board Meeting on the Administration of Justice. Room tbd.

Message Sent

To: _____
Elena Kagan/OPD/EOP

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002a. email	Elena Kagan to Laura Emmett re: Mtg on Race Advisory Bd Panel on Administration of Justice [partial] (1 page)	05/11/1998	P6/b(6)

COLLECTION:

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

FOLDER TITLE:

[04/28/1998-05/21/1998]

2009-1006-F
bm109

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]
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- 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]

Jacinta Ma/PIR/EOP
Scott R. Palmer/PIR/EOP
Jose Cerda III/OPD/EOP
Julie A. Fernandes/OPD/EOP

Message Copied

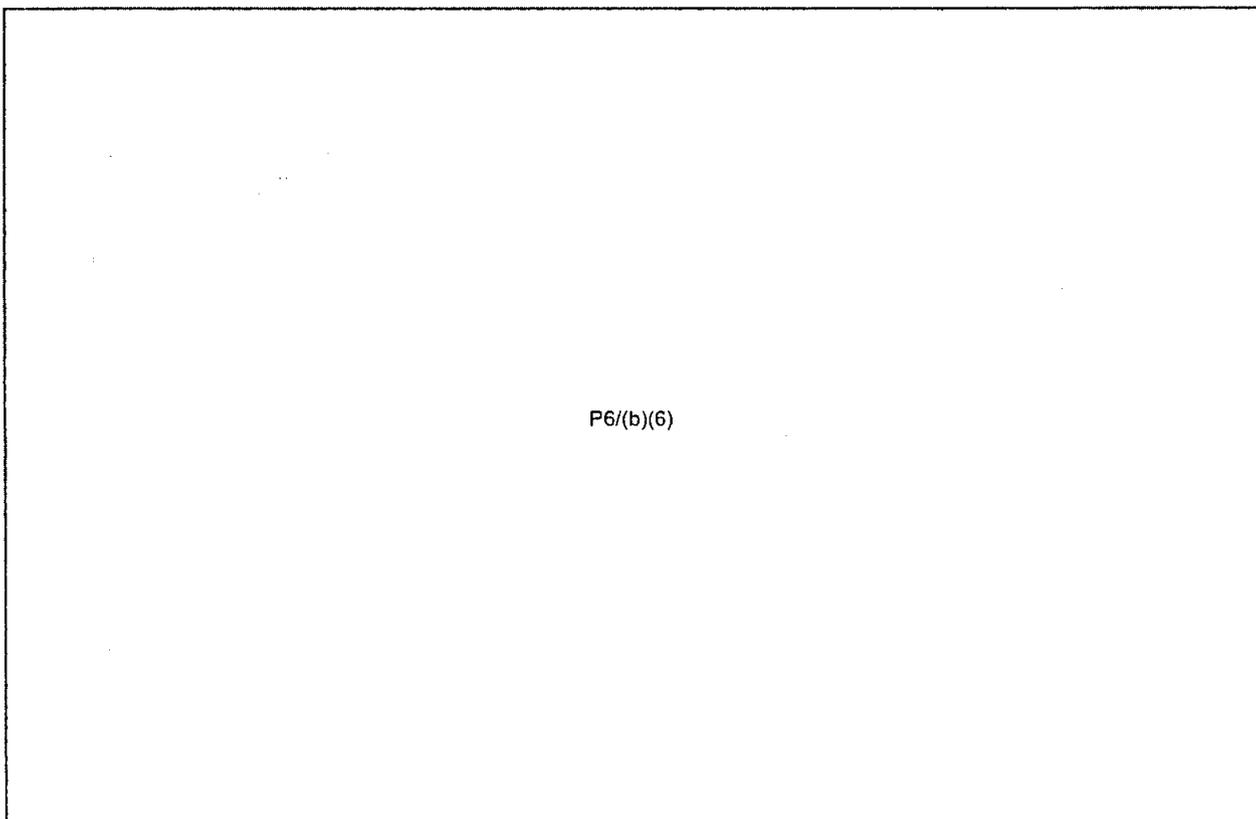
To: _____
Sylvia M. Mathews/WHO/EOP
Minyon Moore/WHO/EOP
Judith A. Winston/PIR/EOP
Andrew J. Mayock/WHO/EOP
Michelle Crisci/WHO/EOP
Rahm I. Emanuel/WHO/EOP

Message Copied

To: _____
Sylvia M. Mathews/WHO/EOP
Richard Socarides/WHO/EOP
Judith A. Winston/PIR/EOP
Andrew J. Mayock/WHO/EOP
Michelle Crisci/WHO/EOP
Rahm I. Emanuel/WHO/EOP

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

TEXT:
Unable to convert ARMS_EXT:[ATTACH.D66]MAIL49872113L.126 to ASCII,
The following is a HEX DUMP:



[002a]

Proposal

**Advisory Board Meeting on Race, Crime, and the Administration of Justice (May 1998):
Realities, Perceptions, and Strategies**

- I. Purpose: The May Advisory Board meeting provides an opportunity to explore several questions related to race, crime, and the administration of justice: What are the facts? How do different perceptions of crime and the administration of justice affect efforts to build One America? What strategies can help promote a criminal justice system that serves and treats Americans of all races fully and equally? The meeting should include an overview of the facts and a moderated discussion in the "PBS roundtable" format with experts and leaders from various sectors.

- II. Substance of the Meeting:¹
 - A. Realities of Race, Crime, and the Administration of Justice: Data on race, crime, and the administration of justice are complex and are limited for some racial groups. Nonetheless, the May Advisory Board meeting provides an important opportunity to educate people about the available facts: Who is committing crime? Who are the victims of crime? Who is being arrested, charged, convicted, incarcerated? The facts will show a number of disparities in crime and the administration of justice that are caused by complex social, economic, and legal factors.

 - B. Perceptions of Race, Crime, and the Administration of Justice: The facts concerning race, crime, and the administration of justice fuel different perceptions of the criminal justice system and place substantial pressure on our efforts to build One America. Data show that some minority communities often absorb a disproportionate amount of the social, economic, and personal costs of crime. These communities want strong law enforcement. However, there often exist different perceptions between persons of color and larger society about the fairness of the criminal justice system, which hinder law enforcement. Two factors influencing these different perceptions of the criminal justice system are negative interactions between persons of color and law enforcement personnel and racial disparities in the administration of justice. The May Advisory Board meeting provides an opportunity to explore the realities and perceptions of race, crime, and the administration of justice by examining more discrete topics under

¹ In order to facilitate discussion, we will provide the Advisory Board with background materials on race, crime, and the administration of justice.

this heading, including the following:

1. Racial Profiling and Confrontations with Law Enforcement.
 2. Incarceration Rates and Sentencing.
 3. Challenges to Full Service and Equal Treatment.
- C. Strategies to Promote a Criminal Justice System that Serves and Treats Americans of All Races Fully and Equally: The May Advisory Board meeting provides an opportunity to explore strategies that can strengthen relations between persons of color and the criminal justice system while reducing crime by examining more discrete topics under this heading, including the following:
1. Community Policing and Other Strategies: Strategies that fall under the rubric of community policing have, most would agree, dramatically reduced crime rates and have the potential to improve relations between law enforcement personnel and the communities they serve. But there are civil rights issues as well that must be addressed as we empower law enforcement officers to proactively enforce social norms. How can we balance these interests and strengthen interactions between communities and law enforcement to both improve relations and decrease crime? What other strategies can also help reduce racial divides and improve law enforcement (e.g., diversity training, community prosecution)?
- D. Focus on Youth: In discussing the realities, perceptions, and strategies related to race, crime, and the administration of justice, we should focus specifically on youth, because racial divides in the administration of justice that impact youth are likely to be especially destructive of our efforts to build One America and because the juvenile justice system differs from the adult system in important ways (e.g., the juvenile system allows for more discretion, the juvenile system is more concerned with rehabilitation). We should also discuss strategies to reduce youth interaction with the criminal justice system.

III. Format of the Meeting

- A. Factual Overview: The meeting will begin with an overview of the facts concerning race, crime, and the administration of justice presented by an expert on these issues.
- B. Roundtable Discussion: The meeting will consist primarily of a roundtable discussion on the realities, perceptions, and strategies related to race, crime, and

Draft/SRP/April 30, 1998

the administration of justice. The discussion should follow the "PBS format," which brings together experts and leaders to participate in a Socratic discussion. Professor Charles Ogletree of Harvard Law School has agreed to moderate the discussion. The panel should include a diverse group of 6-10 experts and leaders.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002b. email attachment	Phone No. (Partial) (2 pages)	05/11/1998	P6/b(6)

COLLECTION:

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

FOLDER TITLE:

[04/28/1998-05/21/1998]

2009-1006-F
bm109

RESTRICTION CODES

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

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

- b(1) National security classified information [(b)(1) of the FOIA]
- 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]
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- 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]

Possible Participants

Advisory Board Meeting on Race, Crime, and the Administration of Justice (May 1998): Realities, Perceptions, and Strategies

I. Opening Address: *U. S. Attorney General Janet Reno*¹

II. Factual Overview:

Christopher Stone, President and Director, Vera Institute of Justice (founding director of the Center for Alternative Sentencing and Employment Services and the Neighborhood Defender Service of Harlem. Member of the Board of Directors of the New York State's Capital Defender Office. Has authored a number of articles on this topic.)

III. Roundtable Discussion

A. Moderator: *Professor Charles Ogletree, Harvard Law School (renowned expert on this issue.)*

B. Panelists

Possible Panelists
1. <i>Randall Kennedy, Professor, Harvard Law School (well-known on these issues, particularly for his views on racial profiling)</i>
2. John DiIulio, Professor, Princeton University -- Woodrow Wilson School, has written a number of books on government institutions and suggestions for reform (suggested by Ogletree, Kennedy, Sonia)
3. Professor Jeffrey Rosen, George Washington University, prolific writer on race and crime, often in publications such as The New Republic. (Suggested by Sonia)
4. Roy Innis, Executive Director, Congress for Racial Equality (suggested by Mike W.)
5. Professor Joan Petersilia, U.C. Irvine, written with James Q. Wilson, focused primarily on policing, sentencing, career criminality, corrections, and racial discrimination.
6. Professor Sandra Guerra, University of Houston, [P6/(b)(6)] (suggested by Maria E.)
7. Professor Miguel Mendez, Stanford, expert on criminal justice, [P6/(b)(6)] (suggested by Maria E.)
8. Alfredo Garcia, author, wrote a book on the 6th Amend., [P6/(b)(6)] (suggested by Maria E.)

¹ Italics indicate that participant is confirmed.

[0026]

9. Charles Ramsey, District of Columbia Chief of Police, formerly with the Chicago Police Department (suggested by Jose)
10. Beverly Harvard, Atlanta Chief of Police, COP since 1994 and patrol office since 1973, involved in community policing, first African American woman to run a major police department, named "CBS Morning Show woman of the Year." (Suggested by Ogletree)
11. William Bratton, former NYC Chief of Police (suggested by Richard)
12. Reuben Greenberg, Charleston Chief of Police (suggested by Jose)
13. Kim Taylor-Thompson, Professor, NYU School of Law, specializing in race and crime, formerly the Director of the Public Defender Service for D.C. (Suggested by Ogletree, Sonia)
14. Michael Judge, Public Defender, Los Angeles, CA (suggested by Angela Oh)
15. Michael Yamamoto, Board of California Attorneys for Criminal Justice (suggested by Angela Oh)
16. Vibiana Andrade, National Immigration Law Center, Los Angeles, CA formerly with MALDEF (suggested by NCLR, Angela Oh)
17. Maria Jimenez, Director, Immigration Law Enforcement Monitoring Project, Houston, TX, project of the American Friends Service Committee, established to engage local communities along the U.S.-Mexico border to strengthen the capacity of border communities to participate in decisions relating to border control policies and practices and seek changes in key policies that foster abuse, human suffering and a militarized border (suggested by NCLR)
18. Mary Kenney or Cynthia Cano, Lawyer's Committee on Civil Rights Under Law, San Antonio, TX (suggested by NCLR)
19. Professor Deborah Martinez, Northeastern, former U.S. Attorney (suggested by Ogletree)
20. Michael Yamaguchi, U.S. Attorney for the Northern District of California
21. Betsy Watson, former Houston Chief of Police, consultant to the Department of Justice COPS office (suggested by Tom Perez)
22. Jimmy Gurule, former Bush appointee at DOJ, P6/(b)(6) (suggested by Maria E.)
23. Professor Larry Echohawk, Brigham Young University, former Attorney General for Idaho (suggested by Lynn)
24. Robert Yazzie, Chief Justice of the Navajo Nation, Window Rock, AZ
25. Cheryl Dmeert Fairbanks, (Tlingit/Timpshian) attorney and tribal Court Justice, Sante Fe, NM

26. James Zogby, President, Arab American Institute (suggested by Richard)

DRAFT (as of April 23, 2009 (9:37AM))

**The President's Initiative on Race
Advisory Board Meeting**

**George Washington University
Dorothy Betts Marvin Theater
Washington, D.C.**

**May 19, 1998
10:00 a.m. - 1:00 p.m.**

AGENDA

"Race, Crime and the Administration of Justice"

- | | | |
|------|---|--|
| I. | Opening/Review of Agenda
10:00 am - 10:05 am | Dr. John Hope Franklin |
| II. | Welcoming Remarks
10:05 am - 10:08 am | Dr. Stephen Trachtenberg,
President of GW [invited] |
| III. | Introductory Remarks
10:08 am - 10:23 am | Attorney General Janet Reno
[confirmed] |
| III. | Factual Overview
10:23 am - 10:43 am | Christopher Stone, President/Director
Vera Institute of Justice [confirmed] |
| IV. | Roundtable Discussion
10:43 am - 12:43 pm | |
| | Moderator: Professor Charles Ogletree [confirmed] | |
| | Panelists: | |
| | Professor Randall Kennedy, Harvard University [confirmed] | |
| | [See attached potential participants list] | |
| V. | Questions and Answers
12:43 pm - 12:58 pm | Members of the Audience |
| VI. | Closing Remarks/Adjournment
12:58 pm - 1:00 pm | Dr. John Hope Franklin |

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:12-MAY-1998 12:09:46.00

SUBJECT: Re: I need to know if you can shed any light on this question

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

I honestly don't remember. Bruce: see my note to you on this. I recall you were involved at the last stages on this question. Do you have a view?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:14-MAY-1998 10:52:07.00

SUBJECT: Lookback memo

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

READ:UNKNOWN

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 05/14/98 10:52
AM -----

Bruce N. Reed

05/14/98 02:17:50 AM

Record Type: Record

To: Jason S. Goldberg/WHO/EOP

cc: Elena Kagan/OPD/EOP, Cynthia A. Rice/OPD/EOP

Subject: Lookback memo

The attached memo provides some facts Erskine asked for on company-by-company lookbacks.

He should also know that:

1. Chris has reached tentative agreement with NGA on a menu, and will firm it up Thursday a.m.
2. Elena and I are meeting with McCain/Hollings staff at 8 a.m. to wrap up spending, miscellaneous liability items, and any other remaining issues. We will try to get back here to ride up with him to the McCain/Hollings meeting at 10 -- or call him with an update.
3. OMB and Treasury are under the strictest orders to get their best possible estimate of how much money we'll have left under CBO scoring. If you get this message before the 7:45 a.m. mtg, it wouldn't hurt to make clear to Rubin and Lew that this is the highest priority, so we can be in a position to respond if Joint Tax comes out with an estimate of \$2/pack at the Finance markup.
4. We may need the VP and Shalala's help tomorrow in selling this whole package to the public health community. I talked to Kessler and Matt Myers tonight. Kessler is fine except for the liability cap. Myers is worried that even though we've done well, Koop and the big groups will still complain without a major sales job. I can discuss this with Erskine at the McCain mtg.

Gene's out of town, so somebody had to work the hamster shift. The cleaning people kept asking after him.

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

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

May 14, 1998

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: Bruce Reed

SUBJECT: Youth Lookbacks

I talked with John Raidt and Ivan Schlager tonight, and explained our Conrad problem. They were willing to agree to \$1,000 per youth smoker on the company-by-company penalty if we agree to an industrywide cap of \$4 billion. Elena and I believe this is a good deal for us. Conrad will still squawk -- and the public health community will be insufficiently grateful as well -- but it enables Conrad to save face and come around if he wants. (Meanwhile, Philip Morris executives will fire all their lobbyists, and Bruce Lindsey will think we have lost our minds.)

Here are the facts on how to respond to Conrad's criticism. He fundamentally misunderstands the purpose of a company-by-company penalty. Industrywide penalties are passed directly to price, and are designed to drive up the price to discourage teens from smoking. Company-specific penalties are designed not to drive up the price of cigarettes (as the industrywide penalties do), but to come straight out of the companies' bottom line if they sell to kids. Companies cannot pass company-specific penalties onto price, because any price differential between companies (even a few pennies) will wreak havoc on their share of the adult market. That is why these companies always increase their prices in lock-step, as they did earlier this week.

So when Conrad says our company-specific penalty is a fraction of a penny a point, that's the wrong measure. We've already got an industrywide penalty that gets up to at least 35 cents a pack [\$4 billion non-deductible = nearly \$6 billion pre-tax, divided by our estimated volume of 17 billion packs in 2003 = about 35 cents a pack. If CBO estimates volume at 12 billion packs, our industrywide penalty could reach 50 cents a pack.] The purpose of a company-specific penalty is to change company behavior by imposing a serious disincentive.

Here are a few ways to make our proposal sound significant:

1. Without a company-specific penalty, any company can still make a profit by selling to kids. At \$1,000 per youth smoker, our proposal will force a company to surrender twice the lifetime profits it makes from addicting a teen in the first place. (It's really more than twice, when you count the \$150-250 in lost profits from the industrywide penalty.)

2. The companies sell 500 million packs a year to teenagers. A 12-point miss would cost the companies \$500 million that they can't pass on to price -- that's \$1 a pack for every pack they sell to teenagers. A 25-point miss would cost \$1 billion -- or \$2 a pack for every pack they sell to teenagers. To put it another way, that's 8 cents a pack for every percentage point miss.

3. This penalty is uncapped, and comes straight out of after-tax profits. The total after-tax profits of the domestic tobacco industry are \$5 billion (\$7 billion pre-tax). Treasury estimates that after-tax profits will drop to \$3.6 billion in 2003 under the McCain bill. (CBO volume assumptions could reduce that another 25-33%.) The company-specific penalties reduce the companies profits by \$400 million for every 10 points. A 30-point miss would reduce profits by \$1.2 billion, or 1/3 of total profits. A 60-point miss would reduce profits by \$2.4 billion, or 2/3 of total projected profits. Either scenario could put RJR out of business if it continues aggressively marketing to kids. Even Philip Morris (which accounts for nearly 2/3 of industry profits, or a projected \$2.4 billion in 2003) would be in real danger, especially since it has over 60% of the youth market.

4. Don't forget to mention that we strengthened provisions to ensure that any company that misses its targets by more than 20% will lose liability protections altogether. That may not mean much to Conrad, but it has the companies and industry analysts scared to death.

If pressed, here's an example you can use if anyone tries to argue that our penalties are so small the companies will just pass them onto price. Let's split the difference between OMB and CBO and assume volume is 15 million packs. Philip Morris's market share is 50%, or 7.5 million packs. A 30-point miss would cost PM about \$740 million. If PM passed that along to price, it would have to raise the price of Marlboros by 10 cents a pack. But PM can't afford to sell Marlboros for 10 cents a pack more than RJR sells Winstons. That's \$1.00 a carton. A few years ago, PM nearly put RJR out of business on "Marlboro Friday," when it made Marlboros a few cents a pack cheaper than Winstons. RJR has never recovered.

Treasury will fax over a new chart in the morning with \$4 billion in industry penalties and \$1,000 per youth smoker.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:14-MAY-1998 20:01:00.00

SUBJECT: tobacco bullet

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

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

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 05/14/98 08:01
PM -----

Elena Kagan
05/14/98 07:54:37 PM
Record Type: Record

To: Kevin S. Moran/WHO/EOP
cc:
Subject: tobacco bullet

We continued our discussions today with Senators McCain and Hollings, and believe we now have the outlines of an agreement; over the next few days, we will work with McCain's and Hollings' staff to incorporate it in a manager's amendment. As we described yesterday, we have improved the bill in key areas: strengthened lookback penalties, a tougher ETS provision, a higher liability cap and the elimination of other liability protections, and a narrowed antitrust exemption. Notwithstanding these improvements, some Senators have objected to our anticipated agreement with McCain, arguing that it will undermine their ability to pass strengthening amendments on the floor. Erskine spoke to the Caucus today and explained that we wanted to strengthen the bill as much as we could before it gets to the floor, given the fairly low probability of passing Democratic amendments there.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:14-MAY-1998 19:57:20.00

SUBJECT: tobacco bullet

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

READ:UNKNOWN

TEXT:

We continued our discussions today with Senators McCain and Hollings, and believe we now have the outlines of an agreement; over the next few days, we will work with McCain's and Hollings' staff to incorporate it in a manager's amendment. As we described yesterday, we have improved the bill in key areas: strengthened lookback penalties, a tougher ETS provision, a higher liability cap and the elimination of other liability protections, and a narrowed antitrust exemption. Notwithstanding these improvements, some Senators have objected to our anticipated agreement with McCain, arguing that it will undermine their ability to pass strengthening amendments on the floor. Erskine spoke to the Caucus today and explained that we wanted to strengthen the bill as much as we could before it gets to the floor, given the fairly low probability of passing Democratic amendments there.

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

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

CREATION DATE/TIME:18-MAY-1998 15:20:20.00

SUBJECT: RECEIVED: Reminder--comments on Justice testimony on funding for oversight of the

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

READ:UNKNOWN

TEXT:

RETURN RECEIPT

Your Document:

Reminder--comments on Justice testimony on funding for oversight of the Teamsters election
was successfully received by:

CN=Elena Kagan/OU=OPD/O=EOP

at:

05/18/98 03:19:14 PM

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:19-MAY-1998 17:06:06.00

SUBJECT: Re:

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

READ:UNKNOWN

TEXT:

Chris Jennings 65560 and Karen Popp 67594 in Counsel's office are mostly working on this issue. Elena has been overseeing the effort to some extent, but she has been on the Hill all day w/ tobacco so it may be better for you to contact Chris. Let us know if this does not work out.

-Laura

Draft 5/19/98 5:24 pm

PRESIDENT WILLIAM J. CLINTON
REMARKS FOR TOBACCO-FREE KIDS CAMPAIGN RALLY
THE WHITE HOUSE
MAY 20, 1998

Nearly 35 years ago -- some two decades before most of the kids here were even born -- the Surgeon General of the United States sounded an alarm that has only grown louder, clearer and more difficult to ignore with every passing year. The warning: Smoking kills.

And for more than a generation, Americans of all ages and all walks of life have answered that alarm -- fighting tirelessly to conquer this deadly threat and protect the health of our people. In the face of some very powerful opposition, our nation has won victories both large and small -- requiring all cigarette packages to carry warning labels ... prohibiting cigarette advertising on the airwaves ... banning smoking on domestic flights ... making all federally-funded facilities that serve children smoke-free.

Today, we stand on the verge of our greatest triumph yet against the scourge of tobacco -- a triumph that could save millions of our children's lives and become the **one of the greatest public health achievements in the history of our nation.**

This week, the Senate is considering historic comprehensive, bipartisan tobacco legislation, proposed by Senator McCain and passed overwhelmingly by the Senate Commerce Committee. I believe this bill is America's best chance to protect the health of our children, to keep them from ever getting hooked on cigarettes in the first place. **I have said I would support any comprehensive, bipartisan bill that meets five principles, and this legislation does so: It raises the price of cigarettes and penalizes companies that sell to kids; it reaffirms the FDA's authority to regulate tobacco products; it stops tobacco companies from marketing to children; it furthers our other public health goals; and it protects tobacco farmers and their communities.**

Over the past few weeks, my administration has worked with Congress to strengthen this bill even further -- toughening penalties against tobacco companies who fail to reduce teen smoking, raising the liability cap on legal damages, protecting Americans from dangerous second-hand smoke in public buildings.

I congratulate every child here for taking responsibility for your own health, for saying "no" to tobacco and "yes" to brighter futures. I wish you well as you make your voices heard on Capitol Hill. Now it is time for America's elected leaders to do our part.

The McCain bill is tough, fair, and most of all, it protects our children. It would help ensure that our children never get roped into lighting up by the Marlboro man, that they never get lured into smoking by Joe Camel. It ends the unscrupulous marketing campaigns that have

targeted our children -- and robbed them of their futures. So I call upon Congress to stay in session for as long as it takes to pass this bill. Don't go home until you have given our children bipartisan, comprehensive tobacco law. They have waited long enough.

Today, here on the South Lawn, stand America's future. For years, the tobacco companies have looked upon these children and seen the "replacement smokers" of the 21st Century. But I see 1,400 unique, irreplaceable children with unlimited potential. I see the scientists and artists; the teachers and Olympic champions; the engineers and leaders of the 21st Century. Everyone of us has the responsibility to make sure these and all children across America have the opportunity to live out their dreams and fulfill their greatest, God-given potential. That is why we must pass this bill.

Let the children standing here be the final, triumphant generation of anti-tobacco activists. And let this Congress be the Congress that saved their lives.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:19-MAY-1998 17:08:28.00

SUBJECT: child care talking points

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

TEXT:
----- Forwarded by Elena Kagan/OPD/EOP on 05/19/98 05:08
PM -----

Neera Tanden
05/19/98 08:32:18 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: child care talking points

For internal use only - thanks very much:

Message Sent

To: _____
Elena Kagan/OPD/EOP
Jennifer L. Klein/OPD/EOP
Nicole R. Rabner/WHO/EOP
Audrey T. Haynes/WHO/EOP
Robin Leeds/WHO/EOP
Maureen T. Shea/WHO/EOP
Lisa M. Brown/OVP @ OVP

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

TEXT:
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The following is a HEX DUMP:

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Talking points on the State Tobacco Settlement Funds and Child Care

The Administration has been negotiating with Senator McCain and the National Governors Association on the state allocation of the tobacco settlement funds. Our negotiations have resulted in Senator McCain adopting as a manager's amendment a measure that would allocate \$12.5 billion over five years for states to draw from for seven program options, the largest of which is the Child Care and Development Block Grant. We believe this will result in a significant expansion of child care and that it is an important first step in our efforts to ensure child care is more affordable, accessible and safe.

- **Tobacco legislation is at risk. If our efforts to reduce teen smoking are going to be successful, tobacco legislation must pass the floor of the Senate this week -- before Memorial Day. A significant number of Republicans, including the leadership, are looking for any and all excuses to walk away from tobacco legislation. Their best cover would be NGA opposition to the Senate bill, particularly because the Governors began the tobacco suits in the first place. Given the current Congress and the difficulty we have encountered in the appropriations process, **including child care as part of tobacco legislation is an important step to advance child care.****
- **Where we began: Harkin-Chafee. We had to begin discussions with the NGA with Harkin-Chafee language --which is extremely flawed. That legislation gave states 50 percent outright to spend as they please from the \$25 billion overall allocated to the states, and only nominally restricted the other 50 percent. In fact, Harkin-Chafee included 20 program options for the restricted share, including Medicaid and the Social Services Block Grant (which does not require a state match).**
- **What we got: Children's programs. We succeeded in narrowing the list of options for the 50 percent restricted funds -- which is \$12.5 billion over five years -- to seven programs, six of which are exclusively for children. The seventh program, Substance Abuse and Mental Health Administration programs, also has a significant focus on youth. This entire list is directed at the health and well-being of children and families most in need of assistance.**
- **Child care is the largest program in the spending options. Of the seven spending options, the Child Care and Development Block Grant is the single largest program. Thus, if states increased all program spending proportionately, child care would receive about \$5 billion in additional Federal funds over 5 years. And compared to other options on the list, the child care block grant has a lower match, thereby making it even more attractive to states. Therefore, spending on child care could be considerably higher.**
- **States have flexibility to spend more. If the demand for child care continues to grow in the coming years as more people move from welfare to work under welfare reform, states have the flexibility to invest a greater and greater share of overall expenditures on child care.**
- **Strong commitment to child care. Under the President's proposal, only one third of his child care initiative was to be paid for through tobacco legislation. **The Administration strongly supports further Congressional action to direct substantial new federal funding to all the components of the President's child care initiative, including: subsidies for low income working families; child care tax credits for other working families; tax credits for business investments in child care; challenge grants to states and communities to improve the quality of child care and early childhood services; grants to schools and communities****

for after-school care; scholarships for child care works; funding for standards enforcement; and research and evaluation activities.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:19-MAY-1998 20:14:09.00

SUBJECT: Cancer clincal trials

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

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 05/19/98 08:14
PM -----

Christopher C. Jennings

05/19/98 08:08:18 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: Sarah A. Bianchi/OPD/EOP
Subject: Cancer clincal trials

It looks like we have a deal on the cancer clinical trials! Mack's office just called me and confirmed it following a conversation between Mack and McCain. It is the agreement that Josh worked out with me, based on the conversation I had with Mark Smith this morning. There are a few small details to be ironed out, but nothing that will allow this agreement to blow up.

In short, the \$750 million is financed equally between the public health and the research allocations. This sharing of the cost was the basic and necessary tenet that Mack's office insisted on.

I have yet to talk with HHS re this, but Rich Tarplin should be happy because Josh made sure the percentage allocations devoted to CDC and AHCPR remain the same. I personally think this is important so that we have a relatively decent pot of money we can point to when the advocates of NIH-directed tobacco research complain we are not supporting the Jeffords amendment. (I hear that Koop is really pushing this.)

Lastly, despite the rancor with Mack's office earlier today, you should know that they are quite pleased with this deal and our efforts to conclude it. Hopefully this will make the VPOTUS and Erskine happy that their intervention made a real difference. Tomorrow, we will make sure that the cancer community is made aware of the VP's intervention.

cj

Message Sent

To: _____
Bruce N. Reed/OPD/EOP
Ron Klain/OVP @ OVP
Elena Kagan/OPD/EOP
David W. Beier/OVP @ OVP
Cynthia A. Rice/OPD/EOP
Toby Donenfeld/OVP @ OVP

May 20, 1998

I applaud the Senate for taking up comprehensive, bipartisan legislation to dramatically reduce teen smoking. Every day, 3000 teenagers start smoking regularly, and 1000 will die prematurely of smoking-related diseases as a result. I urge the Senate to move swiftly to pass comprehensive legislation that could save those children's lives.

Last September, and in my budget plan, I set forth five principles for comprehensive tobacco legislation:

- Raising the price of cigarettes by \$1.10 a pack over 5 years with additional surcharges on companies that continue to sell to kids;
- Affirming the FDA's full authority to regulate tobacco products;
- Getting companies out of the business of marketing and selling tobacco to minors;
- Promoting public health research and public health goals; and
- Protecting our tobacco farmers and their communities.

The bill before the Senate, as amended by Senator McCain's Manager's Amendment, is a good, strong bill that will make a real dent in teen smoking. Congress should pass it without delay.

I applaud Senator McCain and others in both parties who have worked hard to strengthen this legislation. I am particularly pleased that the bill contains significant improvements which will help reduce youth smoking and protect the public health:

- Tough industry-wide and company-specific lookback surcharges that will finally make reducing youth smoking the tobacco companies' bottom line;
- Protection for all Americans from the health hazards of secondhand smoke;
- No antitrust exemption for the tobacco industry;
- Strong licensing and anti-smuggling provisions to prevent the emergence of contraband markets and prosecute violators;
- A dedicated fund to provide for a substantial increase in health research funding, a demonstration to test promising new cancer treatments, a nationwide counteradvertising

campaign to reduce youth smoking, effective state and local programs in tobacco education, prevention, and cessation, law enforcement efforts to prevent smuggling and crack down on retailers who sell tobacco products to children, assistance for tobacco farmers and their communities, and funds for the states to make additional efforts to promote public health and protect children; and

- The elimination of immunity for parent companies of tobacco manufacturers, an increase in the cap on legal damages to \$8 billion per year, and changes to ensure that the cap will be available only to tobacco companies that change the way they do business, by agreeing to accept sweeping restrictions on advertising, continue making annual payments and lookback surcharges even if those provisions are struck down, make substantial progress toward meeting the youth smoking reduction targets, prevent their top management from taking part in any scheme to promote smuggling, and abide by the terms of the legislation rather than tying it up in court.

I strongly support these improvements, and I urge the Senate to pass this legislation without delay.

I have made protecting tobacco farmers and farming communities a top priority for this legislation, and I believe Senator Ford's LEAF Act fully meets this standard. I am deeply troubled by the Senate Leadership's recent attempt to undermine protection for tobacco farmers and their communities, and I urge the Congress to work through this impasse and get on with the business of passing comprehensive legislation to reduce youth smoking.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:19-MAY-1998 17:07:59.00

SUBJECT: Re: Bankruptcy Meeting today

TO: Sonyia Matthews (CN=Sonyia Matthews/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

if you ever want Elena to attend a mtg. you should cc: me, but she was on the Hill all day doing tobacco.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 19-MAY-1998 09:28:24.00

SUBJECT: tobacco 3 pager

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

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

TEXT:

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

TEXT:

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The Commerce Committee Manager's Package will Dramatically Reduce Youth Smoking

The Commerce Committee manager's package contains significant improvements over the underlying bill which will help to reduce youth smoking and to protect the public health. With these improvements, the bill meets each of the President's principles for comprehensive tobacco legislation. The improvements include:

Tougher Lookback Surcharges:

- The manager's amendment contains an uncapped company-specific surcharge of \$1,000 per youth smoker for every youth smoker by which the company misses its youth smoking targets. This surcharge represents twice the lifetime profits that a company earns from any youth smoker. The companies will not be able to pass these company-specific surcharges onto price, because any price differential between companies will dramatically affect their share of the adult market.

At the levels specified in the manager's amendment, company specific surcharges will reduce profits by \$640 million for every 10 points. The Treasury Department and OMB estimate that a 20-point miss in 2003 would represent one-third of total industry profits. By affecting their bottom line in this dramatic fashion, the company-specific surcharges in the manager's amendment will provide a significant incentive for tobacco companies to change their behavior and reduce sales to children.

- The manager's package also raises the cap on industry-wide lookback surcharges from \$3.5 billion per year to \$4 billion per year. The Treasury Department and OMB estimate that if targets are not met and the full \$4 billion industry-wide surcharge is levied, the price of a pack of cigarettes will rise by about 35 cents.

Enhanced Environmental Tobacco Smoke Protections:

- The manager's package provides that a state can opt out of the national environmental tobacco smoke standard only if the state is able to demonstrate to OSHA that it has an ETS standard at least as protective of the public's health.

Spending:

- The manager's package contains key provisions to fund important public health programs, health research, and assistance for farmers. It also provides funding to states to be used for a variety of programs, including child care.
- Approximately 22 percent of expected revenues from the legislation will go to fund research at NIH, CDC, and AHCPR. Another 22 percent will fund smoking cessation programs, prevention and education programs, international tobacco control efforts, and a variety of enforcement efforts at both the federal and state levels to minimize smuggling

and crack down on retailers who sell tobacco products to children. All proceeds from lookback penalties will go to prevention and education programs.

- Forty percent of expected revenues will go to states, with half unrestricted and half to be used for designated purposes -- the Child Care and Development Block Grant, the Safe and Drug-Free Schools Program, Eisenhower Grants, child welfare programs (Title IV-B), the Maternal and Child Health Bureau's Title V Program, Substance Abuse grant programs, and a limited match for the Children's Health Insurance Program. This entire list is directed at the health and well-being of children and families most in need of assistance.
- The remainder of expected revenues from the legislation will go to protect tobacco farmers and to provide assistance to their communities, through the mechanisms of the LEAF Act.
- Excess revenues will go to the Medicare program.

Improved Liability Provisions:

- The manager's package ensures that the bill's liability provisions (*i.e.*, the settlement of state lawsuits and the annual damages cap) apply only to companies that agree to accept sweeping advertising restrictions and to comply with important provisions of the law (*i.e.*, lookbacks and annual payments), even if those provisions are invalidated by the courts.
- The manager's package raises the annual liability cap from \$6.5 to \$8 billion (indexed for inflation), the same amount as the cap in the Chafee-Harkin bill. It also removes liability protections for parent companies and affiliates; ensures that the industry's attorneys will be subject to suit as under current law; and allows plaintiffs claiming injury from disease to use evidence of addiction in their lawsuits.
- The manager's package strengthens the provisions in the bill that link liability protections to the achievement of youth smoking targets. Under the amended legislation, a company that misses its targets by 20 percent or more has the burden of showing both that it did not engage in affirmative misconduct and that it used best efforts to reduce youth smoking in order to escape the loss of liability protections.

Elimination of Antitrust Exemption:

- The manager's package eliminates the blanket antitrust exemption contained in the underlying bill, which was not necessary to achieve the goals of the legislation and could have had anticompetitive effects.

Stronger Anti-Smuggling Provisions:

- The manager's amendment will strengthen the anti-smuggling provisions in the bill, so as to prevent the emergence of contraband markets. The bill, as amended, will create a "closed distribution system" for tobacco products so that only licensed entities can sell or buy products; it will provide states with resources to establish or improve retail licensing systems; it will require manufacturers to mark packages for export to prevent their diversion; and it will establish and enforce strong penalties for violations. A very similar system has worked to control smuggling of alcoholic beverages for over sixty years.

Draft 5/19/98 7 p.m.

PRESIDENT WILLIAM J. CLINTON
REMARKS FOR TOBACCO-FREE KIDS CAMPAIGN RALLY
THE WHITE HOUSE
MAY 20, 1998

Nearly 35 years ago -- some two decades before most of the children here were even born -- the Surgeon General of the United States sounded an alarm that has only grown louder, clearer and more difficult to ignore with every passing year. The warning: Smoking kills.

And for more than a generation, Americans of all ages and all walks of life have answered that alarm -- fighting tirelessly to conquer this deadly threat and protect the health of our people. In the face of some very powerful opposition, our nation has won victories both large and small -- requiring all cigarette packages to carry warning labels ... prohibiting cigarette advertising on the airwaves ... banning smoking on domestic flights ... making all federally-funded facilities that serve children smoke-free.

Today, we stand on the verge of our greatest triumph yet against the scourge of tobacco -- a triumph that could save millions of our children's lives and become the **one of the greatest public health achievements in the history of our nation.**

This week, the Senate is considering historic comprehensive, bipartisan tobacco legislation, proposed by Senator McCain and passed overwhelmingly by the Senate Commerce Committee. I believe this bill is America's best chance to protect the health of our children, to keep them from ever getting hooked on cigarettes in the first place. **I have said I would support any comprehensive, bipartisan bill that meets five principles, and this legislation does so: It raises the price of cigarettes and penalizes companies that sell to kids; it reaffirms the FDA's authority to regulate tobacco products; it stops tobacco companies from marketing to children; it furthers our other public health goals; and it protects tobacco farmers and their communities.**

Over the past few weeks, my administration has worked with Congress to strengthen this bill even further -- toughening penalties against tobacco companies who fail to reduce teen smoking, raising the liability cap on legal damages, protecting Americans from dangerous second-hand smoke in public buildings.

I congratulate every child here for taking responsibility for your own health, for saying "no" to tobacco and "yes" to brighter futures. I wish you well as you make your voices heard on Capitol Hill. Now it is time for America's elected leaders to do our part.

The McCain bill is tough, fair, and most of all, it protects our children. It would stop the Marlboro man from roping in any more of our children -- and keep Joe Camel from tricking them into lighting up. It ends the unscrupulous marketing campaigns that have targeted our children --

and robbed them of their futures. So I call upon Congress to stay in session for as long as it takes to pass this bill. Don't go home until you have given our children bipartisan, comprehensive tobacco law. They have waited long enough.

Today, here on the South Lawn, stand America's future. For years, the tobacco companies have looked upon these children and seen the "replacement smokers" of the 21st Century. But I see 1,400 unique, irreplaceable children with unlimited potential. I see the scientists and artists; the teachers and Olympic champions; the engineers and leaders of the 21st Century. Everyone of us has the responsibility to make sure these and all children across America have the opportunity to live out their dreams and fulfill their greatest, God-given potential. That is why we must pass this bill.

Let the children standing here be the final, triumphant generation of young leaders who fought to protect future generations from tobacco. And let this Congress be the Congress that saved their lives.

The Commerce Committee Manager's Package will Dramatically Reduce Youth Smoking

The Commerce Committee manager's package contains significant improvements over the underlying bill which will help to reduce youth smoking and to protect the public health. With these improvements, the bill meets each of the President's principles for comprehensive tobacco legislation. The improvements include:

Tougher Lookback Surcharges:

- The manager's amendment contains an uncapped company-specific surcharge of \$1,000 per youth smoker for every youth smoker by which the company misses its youth smoking targets. This surcharge represents twice the lifetime profits that a company earns from any youth smoker. The companies will not be able to pass these company-specific surcharges onto price, because any price differential between companies will dramatically affect their share of the adult market.

At the levels specified in the manager's amendment, company specific surcharges will reduce profits by \$640 million for every 10 points. The Treasury Department and OMB estimate that a 20-point miss in 2003 would represent one-third of total industry profits. By affecting their bottom line in this dramatic fashion, the company-specific surcharges in the manager's amendment will provide a significant incentive for tobacco companies to change their behavior and reduce sales to children.

- The manager's package also raises the cap on industry-wide lookback surcharges from \$3.5 billion per year to \$4 billion per year. The Treasury Department and OMB estimate that if targets are not met and the full \$4 billion industry-wide surcharge is levied, the price of a pack of cigarettes will rise by about 35 cents.

Enhanced Environmental Tobacco Smoke Protections:

- The manager's package provides that a state can opt out of the national environmental tobacco smoke standard only if the state is able to demonstrate to OSHA that it has an ETS standard at least as protective of the public's health.

Spending:

- The manager's package contains key provisions to fund important public health programs, health research, and assistance for farmers. It also provides funding to states to be used for a variety of programs, including child care.
- Approximately 22 percent of expected revenues from the legislation will go to fund research at NIH, CDC, and AHCPR. Another 22 percent will fund smoking cessation programs, prevention and education programs, international tobacco control efforts, and a variety of enforcement efforts at both the federal and state levels to minimize smuggling

and crack down on retailers who sell tobacco products to children. All proceeds from lookback penalties will go to prevention and education programs.

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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 20-MAY-1998 17:23:08.00

SUBJECT:

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

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 05/20/98 05:23
PM -----

Phillip Caplan

05/20/98 04:17:22 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP
cc: Sean P. Maloney/WHO/EOP
Subject:

I'm very sorry that there was a screw-up here today. Sean and I are looking into the details of how the versions got mixed up. It won't happen again.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:20-MAY-1998 17:23:40.00

SUBJECT: Tobacco Letter

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

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

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 05/20/98 05:23
PM -----

Sean P. Maloney

05/20/98 05:05:46 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Michelle Crisci/WHO/EOP
cc: Phillip Caplan/WHO/EOP
Subject: Tobacco Letter

Here's what happened, far as I can tell. Cynthia e-mailed me the correct version; I forwarded it to our typing folks; typing somehow printed out the old version and handed it off to me in the hallway; I ran it up to the Oval and missed the mistake; Bruce and Rahm walked it in the Oval; Bruce brought it back down unsigned, saying the President had approved it; we signed it and faxed it to Elena; apparently, Elena caught the problem and told Bruce; he and I sat down and put a correct version together and faxed it off again; we then created new, signed originals and a press stencil and got everything out the door.

Bottom line is - - I take responsibility for the screw up; I'm the guy whose job it is to catch stuff like this and I didn't. Fortunately, DPC prevented what could have been a much more serious error.

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

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

CREATION DATE/TIME:21-MAY-1998 18:05:02.00

SUBJECT: RECEIVED: Update: Interior Letter on S1415 - National Tobacco Policy and Youth Sm

TO: Anna M. Briatico (CN=Anna M. Briatico/OU=OMB/O=EOP [OMB])

READ:UNKNOWN

TEXT:

RETURN RECEIPT

Your Document:

Update: Interior Letter on S1415 - National Tobacco Policy and Youth Smoking Reduction Act
was successfully received by:

CN=Elena Kagan/OU=OPD/O=EOP

at:

05/21/98 06:03:43 PM