

NLWJC - KAGAN

EMAILS CREATED

ARMS - BOX 013 - FOLDER 006

[3/29/1998 - 5/14/1998]

Withdrawal/Redaction Sheet

Clinton Library

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

COLLECTION:

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

FOLDER TITLE:

[3/29/1998 - 5/14/1998]

2009-1006-F

kh575

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:29-MAR-1998 13:17:01.00

SUBJECT: speech

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

TEXT:
what do you think?

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

TEXT:
Unable to convert ARMS_EXT:[ATTACH.D63]MAIL41997478G.026 to ASCII,
The following is a HEX DUMP:

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Version 1

Finally, Senator McCain has provided great leadership in the Commerce Committee to draft a bipartisan bill that we believe will significantly advance the process of enacting comprehensive tobacco legislation. Everyone knows the difficulty of putting together legislation that is so large and complex, but Senator McCain has done so in a way that has been as open and inclusive as it has been efficient and productive.

Senator McCain will release his bill later today, and we will need to review it in detail. But based on what we have heard, I will say this today: We expect to see room for significant improvement in the McCain bill. Perhaps most important, we want to impose stronger penalties on companies that continue to sell to our children. And we expect to see some gaps in the legislation: the McCain bill doesn't try to comprehensively address the question of how best to use tobacco revenues to protect public health and help our children.

But we also expect to see a strong foundation for further action. Our current understanding is that the bill will make significant inroads on youth smoking by increasing the price of a pack of cigarettes substantially and restricting both the advertising aimed at young people and their access to tobacco products. And we expect the bill to give the FDA the full authority it needs to regulate tobacco products. We look forward to working with Senator McCain and others in the Commerce Committee and the full Senate to strengthen this bill and make it an even more effective instrument to reduce youth smoking.

Version 2

Finally, Senator McCain has provided great leadership in the Commerce Committee to draft a bipartisan bill that we believe will significantly advance the process of enacting comprehensive tobacco legislation. Everyone knows the difficulty of putting together legislation that is so large and complex, but Senator McCain has done so in a way that has been as open and inclusive as it has been efficient and productive.

Senator McCain has just released his bill, and we have not yet had a chance to review it in detail. But based on what we have seen so far, I will say this today: We believe that there is room for significant improvement in the McCain bill. Perhaps most important, we want to impose stronger penalties on companies that continue to sell to our children. And we believe there are gaps in the legislation, as Senator McCain would readily acknowledge: the McCain bill doesn't comprehensively address the question of how best to use tobacco revenues to protect public health and help our children.

But we also believe that this bill provides a strong foundation for further action. It will make significant inroads on youth smoking by increasing the price of a pack of cigarettes substantially and restricting both the advertising aimed at young people and their access to tobacco products. And it will give the FDA the full authority it needs to regulate tobacco

products. We look forward to working with Senator McCain and others in the Commerce Committee and the full Senate to strengthen this bill and make it an even more effective instrument to reduce youth smoking.

Question and Answer on Liability

Question: What is your view of the liability protections for the tobacco industry contained in Senator McCain's legislation?

Answer: As we have said on many occasions, we would prefer comprehensive tobacco legislation without liability limits, but in the context of legislation that meets all of the President's principles and dramatically reduces youth smoking, reasonable limits on liability will not be a dealbreaker. Right now, we're going to focus on the aspects of the McCain legislation that we think fall short of what the President has demanded: particularly, on the penalties in the bill to reduce youth smoking. Until we get those right, we won't consider liability protections.

I do want to say, though, that the McCain Bill has a very interesting idea about trying to turn liability protections into a public health tool. As I understand it, the McCain bill would in some respects make liability protections contingent on a company's efforts to reduce youth smoking. That proposal has to be looked at in much greater detail -- we would have to ensure that the threat of losing liability protections is real, and not just a pretense -- but we believe it is worth serious consideration.

March 30, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: Tobacco Update

Senator McCain announced a comprehensive tobacco bill today for mark-up on Wednesday in the Senate Commerce Committee. The bill is not perfect, and we will continue to seek improvements. But it represents real progress (see the attached chart comparing the McCain bill with the June 20th settlement and your positions), and it should enhance the prospects for enacting comprehensive tobacco legislation in this session of Congress.

The Commerce Committee is likely to pass the bill this week with bipartisan support. Among Republicans, Senators Stevens, Gorton, Hutchison, Snowe, and Frist are likely to vote yes; Senators Burns and Ashcroft are likely to vote no; Senators Abraham and Brownback are undecided; and Senator Lott probably will recuse himself. Among Democrats, Senators Hollings, Wyden, Breaux, and Kerry are likely to vote yes; Senators Rockefeller and Dorgan will vote no; and Senators Bryan, Inouye, and Ford are undecided. The mainstream public health groups (Heart Association, Cancer Society, etc.) called the bill an encouraging step forward, but Drs. Koop and Kessler probably will criticize the bill because it contains some liability limits and increases the price of cigarettes less than they would like. The industry responded to McCain's announcement by saying that it would not agree to the legislation, but many observers believe that the industry has taken this position only to prevent the price from increasing still further.

Erskine gave the Administration's response to the bill in your absence. At a previously scheduled speech at the Center for National Policy (given before McCain made the liability provisions of the bill more acceptable to the public health community), Erskine said that the bill laid a good foundation for future efforts, but had room for improvement. In addition to praising Sen. McCain's leadership and process, Erskine lauded the legislation for raising the price of tobacco products substantially, giving the FDA full authority to regulate tobacco products, and including a strong plan to protect tobacco farmers. Erskine criticized the bill for having inadequate lookback penalties, and noted that it did not contain a comprehensive plan for using tobacco revenues to protect the public health and assist children. Erskine said he would not address the liability issues because the rest of the legislation did not yet meet your principles.

The bill emerged from a weeks-long process in which McCain consulted with the Attorneys General, Wall Street analysts, public health leaders, and the Administration. As noted above, at the last moment, McCain changed the liability provisions of the bill -- removing the bar

on class actions and probably on punitive damages -- to get the support of at least some members of the public health community. The final bill, which we summarize more fully below, addresses many of your concerns and offers an opportunity for bipartisan accomplishment.

1. Funding and Per-Pack Price Increase. The McCain bill essentially uses your budget numbers, raising approximately \$70 billion over five years (including a \$10 billion up-front payment) and generating a \$1.10 increase in the price of a pack of cigarettes by 2003. The bill prevents the real price of tobacco products from increasing after the fifth year by including a volume adjustment on annual payments. Some in the public health world, as well as a number of liberal Democrats, will criticize the price rise as insufficient, arguing that an almost immediate \$1.50 increase is required to reduce youth smoking dramatically. Your own plan, however, contains the same price increase, and we have estimated that it will help reduce youth smoking by over 40 percent in five years.

2. FDA Regulation. The bill provides full authority to the FDA to regulate tobacco products. To respond to concerns from pharmaceutical companies about the effect of regulating tobacco under normal "drug and device" authority, we agreed to set up a separate chapter in the Food Drug and Cosmetic Act for tobacco products. We managed to do so, however, without ceding any of the authority the FDA has claimed over tobacco. This victory was hard-fought -- Senators Hatch and Jeffords argued strenuously for language defining the FDA's authority more narrowly -- and will be subject to challenge on the floor. Senators McCain and Frist, however, have committed to fighting off weakening amendments, so we are in the best position possible (given a Republican Congress hostile to the FDA) to emerge from the Senate with full FDA authority.

3. Farmers. The bill contains a plan to protect tobacco farmers and their communities, which has the support of Senators Hollings, Ford, and Robb. We do not yet know the full details of this piece of the legislation, but it is designed to address the concerns of both burley and flue-cured tobacco farmers. Needless to say, it will contain funds fully sufficient for these purposes, and accordingly meets your demand to protect tobacco farmers.

4. Lookback Penalties. The bill provides for non-deductible industry-wide lookback penalties capped at \$3.5 billion per year. The industry will have to pay \$80 million for each percentage point by which it misses youth smoking targets between 0 and 5 percent, \$160 million for each percentage point between six and ten percent, and \$240 million for each percentage point over 11 percent. The industry will hit the \$3.5 billion cap at about a 20 percent miss, so any larger miss will be "free." There are no monetary penalties on individual companies for failing to meet youth smoking targets. The bill does contain a provision for taking away the liability protections of any company that misses the youth smoking targets by more than 20 percent, but this provision has a very large loophole and probably will have little effect as currently drafted.

As Erskine noted in his speech, the penalty provisions are the weakest part of the McCain

bill. We have raised serious concerns about both the \$3.5 billion cap and the absence of any company-specific penalties. We also will try to tighten the provision that makes liability protections contingent on success in reducing youth smoking. We assume that such amendments should not come in committee, but during debate on the floor.

5. Liability Provisions. As late as Sunday, Senator McCain intended to include liability provisions very close to those in the proposed June 20 settlement. These provisions included a \$6 billion cap on annual liability payments (with any judgments beyond the cap rolled over to the next year), as well as prohibitions on class actions and punitive damages. By Monday morning, however, the public health community (including the mainstream groups) had made clear to McCain that they would denounce the bill if it contained these provisions. McCain accordingly modified the legislation to permit class actions. We think the legislation now allows punitive damages as well, but we have not received the new language and are not entirely certain. Drs. Koop and Kessler and some liberal Democrats will oppose the bill because of the remaining liability limits.

A simple cap on damages -- without any limitations on class actions or punitive damage claims -- is the least objectionable form of liability protection for the industry. We will try, however, to raise the cap beyond the level set in the McCain legislation; you should note, for the sake of comparison, that the Harkin-Chafee bill's cap stands at \$12 billion.

6. Budget Issues. The biggest issue left unresolved by the McCain bill is how to allocate tobacco funds. Although the bill takes care of tobacco farmers, and also provides money for smoking cessation, counteradvertising, and some research, it leaves other spending issues for the Senate floor. Senator Domenici's budget resolution would reserve all tobacco funds for Medicare, not even allowing the spending on farming and public health contained in the McCain bill. The Senate will take up amendments to this resolution tomorrow to make tobacco funds available for class size, child care, NIH, farmers, and other purposes. Many Republicans have raised concerns about the Domenici approach, but they may decide to vote for it, on the theory that as long as they have 60 votes for a tobacco bill, they can waive the budget rules anyway.

When the time comes to engage in serious negotiations over how to allocate tobacco funds, we expect bipartisan consensus on 75-80 percent of the spending (\$10 billion over 5 years for farmers; \$10 billion for cessation, counteradvertising, and other public health programs; \$10-15 billion for NIH; and \$20-25 billion for states). The battle will be over how to divide up the remaining \$15 billion or so. Senate Republicans will seek money for Medicare; House Republicans may push Rep. Archer's proposal for health care tax deductions for small business and the self-employed; and Democrats will push for everything from child care to school construction.

* * * * *

The emergence of the McCain bill is a very positive development. It will attract

bipartisan support, and it is close to meeting your principles. We should continue, however, to press for real improvements -- particularly in the bill's penalty and liability provisions. Tomorrow, Erskine, Larry, and we will have meetings with Senators McCain, Hollings, and Daschle about how to move forward to enact the strongest possible tobacco legislation.

April 3, 1998

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: Bruce Reed

SUBJECT: Monday's Meeting with Birch Bayh

Former Senator Birch Bayh has wanted to meet with you for some time to discuss tobacco. In his initial letter, he said that he believes that "men and women of good faith in both political parties are prepared to make the compromises necessary to secure an accord. This will require the willingness to 'take a risk' politically to accomplish such a major break-through. Trust and reliance are fundamental ingredients in this regard. It is toward how best to ensure these elements that I believe a conversation between the two of us might prove helpful."

You should know that according to news reports, Senator Bayh's firm, Bayh, Connaughton & Stewart, has worked since last November as a lobbyist for Richard Scruggs, the plaintiffs' attorney from Mississippi who worked with Mike Moore and other Attorneys General to launch the state suits against the tobacco industry. (Scruggs is also Senator Lott's brother in law.) The attorneys general and Scruggs worked closely with Senator McCain and his staff as they put together their legislation. For the most part, they tried to persuade Sen. McCain to stick closely to the terms of the June 20th settlement. Several times during our Commerce Committee negotiations, they raised concerns that the industry would walk away from legislation raising prices by \$1.10 per pack and imposing strong lookback penalties.

If Bayh raises these concerns, you may want to make the following points:

- We believe the McCain bill represents dramatic progress. It meets the President's principles on several key issues, including a significant per-pack price increase. And it shows that we have real momentum in both parties to pass comprehensive tobacco legislation this year.
- But we also believe there's still room for improvement -- most notably, in the provisions on lookback penalties. We think the cap on these penalties is too low, and we favor incorporating some company-specific penalties into the lookback scheme.
- As the President said in his radio address on Saturday, we're not trying to put the tobacco companies out of business, and we do not believe our proposals will do so. We've had our Treasury Department experts look carefully at this issue, and they are strongly of the view that the companies can tolerate this burden.
- In fact, as the President said on Friday, we think the companies will still have a strong

incentive to accept this sort of scheme voluntarily -- to put an end to this disgraceful chapter in their history and become partners in the effort to prevent youth smoking. We're inclined to think that industry opposition to the McCain legislation is largely designed to keep Congress from imposing still further price increases and penalties.

April 9, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed

SUBJECT: Needle Exchange

This memo presents you with several options on needle exchange, based on our prior discussions with you. It also provides further information on the positions of constituency groups and policy experts.

As you know elite opinion runs strongly in favor of needle exchange. Most scientists and public health experts who have studied the question also agree with HHS's conclusion that needle exchange decreases HIV transmission while not increasing drug use. (It is impossible to prove whether needle exchange programs actually reduce drug use, because it would be unethical to run a controlled experiment that compares addicts who have access to clean needles with addicts who do not.) Dr. Koop has a more complicated view. As Surgeon General, he visited a number of programs in Europe and concluded that (1) needle programs are not uniformly effective, but there is no evidence that they attract non-addicts to drugs; and (2) needle programs will not be very effective here, because most addicts are so far outside the mainstream that they will not show up reliably to exchange needles.

The AIDS community and the anti-drug community are miles apart. We might be able to muster half-hearted support from the Human Rights Campaign for the compromise options listed below, but most groups will be very disappointed if we do not accept Secretary Shalala's recommendation. (Of course, if we do accept this recommendation and Congress reverses the action, we will have to veto the bill in order to retain the groups' support.) Conversely, anti-drug advocates are likely to oppose needle exchange as strongly as they do drug legalization.

The options are:

1. Let Shalala certify and release funds. After certifying that needle exchange decreases HIV transmission and does not increase drug use, HHS could release the funds in any of three ways: (a) by publishing an interim final regulation, which would allow federal funds to flow to a community as soon as that community meets the qualifying criteria specified in the regulation; (b) by publishing a notice of proposed rulemaking, which would require a public comment period and would not take effect for two or three months; and c) by publishing program guidance, which would be accompanied by a similar comment period. The lagtime in options (b) and c) would give Congress time to overturn the decision to fund needle exchange programs prior to the distribution of any monies.

You had asked whether HHS could require, as a condition of funding, that communities confine their needle exchange programs to individuals actually participating in drug treatment. As a legal matter, HHS could take this action. HHS argues, however, that doing so would be bad public health policy, because it would discourage the most at-risk addicts from taking part in needle exchange programs. The AIDS groups are likely to share this view.

In addition, Elizabeth Birch from HRC has suggested that you could allow HHS to certify and then say nothing, one way or the other, about releasing federal funds. This approach, however, is difficult to understand. Nothing can be done quietly with respect to this issue. Either the Administration will release federal funds, in which case the approach is the same as Shalala's recommendation -- or the Administration will not release funds, in which case it begins to look much like option (3) below.

2. Let Shalala certify, but limit federal funds to a few demonstration cities. After certifying that needle exchange decreases HIV transmission and does not increase drug use, HHS would pick a number of communities (say, 5 or 10) for needle exchange "demonstrations." You would ask Shalala (perhaps with General McCaffrey) to study and report whether these demonstration programs work before releasing funding to any other communities. Members of Congress will find it harder to attack this approach than Option (1), because it does not constitute an endorsement of needle programs -- just a commitment to testing them. But HHS argues that (a) we do not need "demonstrations," because we already know that needle exchange works, and (b) all federally funded needle exchange programs are in some sense demonstrations, because all communities will have to submit evaluations of their programs to the Secretary. In addition, the AIDS community may give us scant credit for this limited release of funds, although Richard Socarides believes that the community would prefer this compromise approach to the one detailed below.

3. Let Shalala certify, but withhold federal funds. After HHS certifies that needle exchange decreases HIV transmission and does not increase drug use, you would announce the withholding of federal funds until Shalala and McCaffrey have had time to build a national consensus on the issue or to study the best ways of reconciling public health and drug control policies. Of all the options described in this memo, this approach is the least likely to provoke a Congressional response, because you have not actually released any funds for needle exchange programs. For the exact same reason, however, the AIDS community will like this approach the least. And as you heard at your meeting with her, Shalala also strongly opposes this option.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:14-APR-1998 17:18:13.00

SUBJECT: Tobacco Meetings for Next Week

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

READ:UNKNOWN

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 04/14/98 04:46
PM -----

Jason S. Goldberg
04/14/98 11:32:35 AM
Record Type: Record

To: Lawrence J. Stein/WHO/EOP, Bruce N. Reed/OPD/EOP, Ron Klain/OVP @ OVP
cc: See the distribution list at the bottom of this message
Subject: Tobacco Meetings for Next Week

Per today's tobacco meeting in Erskine's office, it is my understanding that we are to proceed according to the following schedule for tobacco meetings next week:

Monday

Daschle: EBB / Bruce / Larry

Tuesday

McCain: EBB / Bruce / Larry

Wednesday

Conrad: EBB / Bruce / Larry

Kennedy: EBB / Bruce / Larry

Gephardt: EBB / Larry (previously scheduled
by Larry)

Wednesday / Thursday / or Friday

Koop & Kesler EBB / Bruce / VPOTUS drop-by

ENACT group EBB / BRUCE / VPOTUS drop-by

TBD:

** VPOTUS meeting with Kennedy / Conrad

** Individual meetings with Durbin, Lautenberg, Breaux, others.

LARRY: Please correct me where I have erred.

JESSICA: Please make sure to coordinate schedules with both Carole and I since Carole will be out next week.

Thanks everyone.

Jason

Message Copied

To: _____
Carole A. Parmelee/WHO/EOP
Jessica L. Gibson/WHO/EOP
Cathy R. Mays/OPD/EOP
Scott R. Hynes/OVP @ OVP
Todd P. Romero/WHO/EOP
Dawn L. Smalls/WHO/EOP
Elena Kagan/OPD/EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:15-APR-1998 17:47:43.00

SUBJECT: Privacy meeting

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

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 04/15/98 05:47
PM -----

Thomas A. Kalil
04/15/98 05:21:07 PM
Record Type: Record

To: Elena Kagan/OPD/EOP, Thomas L. Freedman/OPD/EOP
cc:
Subject: Privacy meeting

Elena and Tom:

Sally would like to have the next NEC/DPC privacy meeting
next Wednesday at 1 p.m. to discuss:

1. Legislative options (we didn't really get to this)
2. Agency reaction to "privacy entity"
3. Analysis of "self-regulatory" approach
4. What we can do to get our own house in order
(federal privacy principles)

Is this O.K. with you?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:16-APR-1998 17:26:33.00

SUBJECT: H1-B

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

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 04/16/98 05:26
PM -----

Shannon Mason
04/16/98 02:04:07 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: Sally Katzen/OPD/EOP
Subject: H1-B

There will be a meeting with House staff regarding H1-B legislation 4/24
at 2:00pm. I will forward more information as it becomes available.
Please call if you have any questions, 6-2800.
Thank you. -Shannon

Message Sent

To: _____
Elena Kagan/OPD/EOP
Peter G. Jacoby/WHO/EOP
Janet Murguia/WHO/EOP
Cecilia E. Rouse/OPD/EOP
Ricardo M. Gonzales/OVP @ OVP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:16-APR-1998 17:27:41.00

SUBJECT: For Sign-off

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

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 04/16/98 05:27 PM -----

Paul J. Weinstein Jr. 04/16/98 04:24:09 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP
cc:
Subject: For Sign-off

This is the revised memo on auto choice. It includes a new political section. Please review for sign-off.

----- Forwarded by Paul J. Weinstein Jr./OPD/EOP on 04/16/98 04:23 PM -----

Jonathan Orszag
04/16/98 04:17:00 PM
Record Type: Record

To: Melissa G. Green/OPD/EOP, Paul J. Weinstein Jr./OPD/EOP
cc:
Subject: For Sign-off

Sally has signed off on this..... Now, we need Gene. Paul W. is going to get Bruce's ok.

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D36]MAIL448656504.126 to ASCII,
The following is a HEX DUMP:

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April 16, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
GENE SPERLING

SUBJECT: Auto Choice

Overview:

This memorandum addresses the "Auto Choice" legislation introduced last April by a bipartisan coalition of Members of Congress. Over the last several months, an NEC-DPC inter-agency working group has spent considerable time analyzing the Auto Choice proposal and reviewing other auto-insurance reform options. It is the strong view of the working group that the benefits of the Auto Choice proposal do not justify the costs.

Although proponents of Auto Choice claim that it will reduce insurance premiums by approximately \$250 per year for the average driver, the working group found little evidence that this proposal or any other no-fault insurance plan will lead to lower rates. In the three states that currently mandate insurance companies to offer drivers choice between no-fault and pre-existing insurance plans (New Jersey, Kentucky, and Pennsylvania), there was no evidence that insurance rates fell when choice was implemented. In addition, our analysis suggests that under Auto Choice, bad drivers will benefit more than good drivers.

Background:

"No-fault" insurance plans allow policyholders to recover financial losses from their own insurance companies, regardless of who is at fault, while restricting the policyholder's right to sue.

Under current state no-fault laws, drivers may sue the "at fault" driver for damages beyond what their own insurance company pays (i.e., economic damages above the policy limit and non-economic damages such as pain and suffering) only if their case meets certain conditions. These conditions, known as a "threshold," relate to the severity of injury. They may be expressed in verbal terms (a descriptive or verbal threshold) or in dollar amounts of medical bills (a monetary threshold). Some laws also include the days of disability incurred as a result of the accident. The academic evidence shows that verbal thresholds can lower insurance premiums, but that monetary thresholds can actually lead to higher premiums because people have an incentive to exaggerate their medical bills so that they can sue for additional damages.

Proposals:

The working group has considered two options. The first is the Auto Choice legislation introduced by Senators McConnell and Moynihan and Representative Armey. Under this proposal, drivers in states that accept the new federal legislation have a choice between the existing system in their state and a no-fault plan called 'personal protection insurance' (PPI). A driver who chooses the PPI option gets first-party coverage for economic damages (mostly medical and lost wages), without regard to fault. The driver can sue or be sued for economic damages above policy limits, but cannot sue or be sued for non-economic damages ('pain and suffering') except in cases involving drug or alcohol abuse. A driver who opts to stay in the state's current tort system must purchase tort maintenance coverage (TMC) to cover accidents with PPI drivers.

Because of some of the problems associated with the Auto Choice proposal, CEA developed an alternative proposal, which achieves the same ends -- lower premiums -- but at less cost. This proposal would require insurance companies to offer premiums on a per-mile basis for those drivers who opted for no-fault coverage. Per-mile premiums would be charged based on an estimate of miles, with a rebate or surcharge issued every year after an odometer reading. Odometers could be read at regular inspections or by firms under contract with insurance companies. Insurance companies would compete in their per-mile premium, subject to current regulations; premiums would vary with region, driving record, type of car, and safety features, much as premiums vary now.

Analysis:

There are a number of problems with these proposals. Perhaps most important, neither of the proposals guarantees that insurance companies will pass on savings to consumers. There is little evidence that over the long-term consumers saved money in states that have implemented no-fault systems compared to the period when no-fault was not mandated. In addition, it is not clear why the Federal government should enter into a field that traditionally has been the responsibility of state governments and in which state innovation is thriving. Such involvement might also appear to conflict with our long-standing skepticism of other federal tort reform efforts.

The McConnell-Army Auto Choice legislation has additional adverse consequences. The PPI plan initially will attract more bad drivers than good ones, because they will no longer have to be covered for non-economic damages. As bad drivers enter the PPI system, the premiums of safe drivers maintaining their current coverage will increase because of the need to cover losses incurred as a result of other drivers' fault. Then, as the premiums of drivers in the non-PPI system rise, more and more people will switch to PPI, thus further raising premiums for those left in the system -- the very safest drivers. The end result is the progressive penalization of safe driving -- and perhaps, in the end, the virtual collapse of the non-PPI option.

In addition, CEA is concerned that even if Auto Choice legislation were to succeed in

driving down rates, it would have an unintended consequence: by increasing the number of miles driven, the legislation would lead to more accidents, highway deaths, congestion, and environmental degradation. To address this problem, CEA developed the per-mile premium option. We believe, however, that we could not sustain support for their proposal. While the average premium for drivers would decrease under CEA's proposal, opponents would counter that we are "taxing" each mile that middle-income families drive. They would also argue that monitoring miles driven is an example of "big government" intrusion into people's lives. CEA agrees that the current political environment does not allow us to propose per-mile premiums. They would like us, however, to work to facilitate the voluntary adoption of per-mile premiums by states, insurance companies, and individuals.

The Politics of Auto Choice:

As you know, with the highest rates in the country, auto insurance was a key issue in the New Jersey gubernatorial election last year. McGreevey took the position that he would reduce auto insurance rates by 10 percent across the board. It is not clear, though, whether McGreevey would have had the constitutional power to cut rates by fiat and McGreevey did not offer any other alternatives to help reduce insurance premiums. Governor Whitman, on the other hand, proposed a plan similar to the McConnell-Arney Auto Choice plan. Therefore, our proposed position of opposing Auto Choice would be entirely consistent with McGreevey's opposition of the Whitman plan.

Surprisingly, auto insurance is not a strong political issue on the national level. Polling shows that two-thirds of the people think that auto insurance regulation is a local issue that should not be mandated by the Federal government; only 26 percent believe that the potential benefits of lower insurance rates are worth the Federal government's involvement. While Auto Choice is an appealing concept to voters (two out of three support it when told of its advantages), the negative arguments such as a rise in costs for a regular plan and increased pollution cut support to under 50 percent. The polling also shows that Auto Choice is not a partisan issue: support for it is not statistically different between Democrats, Republicans, and Independents.

Although Auto Choice has wide bipartisan support -- from Senator McConnell to Senator Moynihan and from Grover Norquist to Mike Dukakis -- consumer groups, auto safety groups, environmentalists, and attorneys representing automobile accident victims will oppose this legislation.

Recommendation:

There is unanimous agreement among the NEC-DPC interagency working group -- including the Office of White House Counsel, the Office of the Vice President, Office of Legislative Affairs, CEA, OMB, Transportation, and Treasury -- that you should oppose the McConnell-Army Auto Choice bill.

Assuming you agree, the remaining issue is when to announce your position. If we announce our opposition now, we may encourage supporters to bring the legislation up so as to define their disagreement with us. By contrast, if we remain quiet, the legislation may die on its own. There is also unanimous agreement that it would be best to hold off any statement on the bill for now. If Auto Choice comes to the floor, you could oppose it in a speech or we could issue a Statement of Administration Policy.

Decision:

Oppose Auto Choice, But Do Not Announce Position Unless And Until Bill Comes To Floor (RECOMMENDED)

Oppose Auto Choice, But Announce Position Now

Discuss Further

April 17, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

RE: DPC Weekly Report

Crime -- School Safety: The Department of Education is preparing to release a report on the impact of the Gun-Free Schools Act (GFSA) during the 1996-97 school year. As you know, the GFSA generally requires all states receiving funds under the Elementary and Secondary Education Act to expel students who bring a firearm to school for a period of at least one year. The report found that 7,326 students were expelled during the 1996-97 school year for bringing a firearm to school, an increase of about 10%. Colorado reported the highest number (1,873) and rate (2.573 per 1,000 students) of expulsions. Other high-expulsion states include: by overall number, Ohio (937), California (723), Texas (532), Missouri (318) and Illinois (250); and by rate, Ohio (.449 per 1,000), Missouri (.310 per 1,000) and New Mexico (.195 per 1,000). DC, Hawaii, Guam, Puerto Rico and Wyoming reported no expulsions. The lowest rates were reported by North Dakota (.008 per 1,000), Minnesota (.019 per 1,000), Mississippi (.020 per 1,000) and New Jersey (.028).

Of the 3,246 expulsions where the type of firearms was identified, 58% involved handguns, 7% involved rifles and the remaining 35% involved some other type of firearms (bombs, grenades, starter pistols, rockets). The report also found that High Schools students were the most likely to carry a firearm: Of the 5,352 expulsions where the student's school level was reported, 57% were in high school, 35% were in junior high and 8% were in elementary school.

Crime -- Missing Children: On Thursday, the Justice Department launched a missing and exploited children web site. The site tells kids where to go if they are lost or need help, and provides tips on how they can avoid being exploited on the Internet. The site provides information to parents on how to best protect their children, and steps they can take if their child is missing. In addition, the site includes information on available law enforcement training for investigating child kidnaping and abduction cases, and links to missing children web sites in other countries.

Drunk Driving -- .08 BAC Report: Next week, the Transportation Department will transmit a report prepared in response to your March 3 directive to promote the adoption of .08 BAC as the legal limit for impaired driving. The Transportation report recommends that the

National Park Service, Defense Department, and U.S. Coast Guard begin rulemakings to lower the legal limit to .08 BAC on military installations, national parks, and waterways. It also reports that Defense will transmit legislation to Congress to amend the Uniform Code of Military Justice to provide for the punishments for violating a .08 limit on military bases.

Tobacco --Senate Strategy: In order to take advantage of the momentum created by the vote in the Commerce Committee two weeks ago, Erskine, Larry and I plan to meet with key Senators when they return to town next week. We will meet first with Senator Daschle and then, separately, with Senator McCain, to discuss how to negotiate improvements to the McCain bill, hopefully before it goes to the floor, and to devise an amendment strategy. We will also meet individually with Senators Breaux, Conrad, Durbin, Lautenberg, and Kennedy, to address their concerns and enlist their help in advancing the key improvements we seek in the bill. We will stress to all our commitment to enacting comprehensive tobacco legislation this year, and will try to impress upon them that we should be reasonable in our demands, lest the entire legislative effort should fall apart. We also plan to meet with key public health leaders --we met with Dr. Koop on Thursday, and plan to meet soon with Dr. Kessler, and with members of the coalition of public health groups working hardest to enact legislation (American Cancer Society, American Heart Association, and Campaign for Tobacco-Free Kids).

Education -- Mayor Daley's Proposed Tax Breaks for After School Programs: During your recent trip to Chicago Mayor Daley raised with you his idea of tax-credits for after school programs. Presently, after school programs in the Chicago public schools (which are an essential part of the city's efforts to end social promotions) are financed solely with public funds. There are no fees charged to parents, and no tax breaks of any kind. Last year the Mayor asked his staff to explore whether some form of tax credits to help parents cover the cost of after-school programs could be developed as a reasonable middle-ground position in the debate over vouchers and tax savings for private school tuition. However, his staff have been unable to develop a workable proposal since Chicago parents are not charged fees for participating in the programs. While the Mayor remains interested in this idea, there are no plans for proceeding with it locally.

We believe the Mayor's idea to incorporate tax savings for after school programs into the Coverdell proposal raises several concerns: first, it could undermine your \$200 million appropriations request for after-school programs; second, it would undercut our strategy for defeating Coverdell, which has been to urge Democrats to resist adding amendments that would make the bill more attractive in light of an expected veto; finally, since Senators Lott and Daschle have already agreed to a specific set of floor amendments, it would be difficult to gain Democratic support for reopening those negotiations on behalf of Mayor Daley's proposal.

Education -- National Board for Professional Teaching Standards: We have been working closely with the National Board for Professional Teaching Standards and our allies in Congress to ensure that Representative Goodling's provision to end federal funding for the Board is stripped from the Higher Education Act before Congress completes action on that bill. The bill reported by the Senate Labor and Human Resources Committee contains no such provision, and we believe there is little chance that a similar provision will be added on the Senate floor. The House is likely to take up the Higher Education Act in late April or early May; where it is expected to pass by a wide margin. The National Board has urged that you hold off on a veto threat until the bill goes to conference. We lack the votes to defeat Goodling on the floor, and the Board does not want to precipitate a recorded vote against it in the House. However, we believe that you should use the April 24 National Teacher of the Year Event to express your deep concern over this provision and pledge to work with Congress to remove it before the bill crosses your desk.

Community Empowerment -- Fair Lending: The Federal Reserve Bank has issued an advanced notice of proposed rulemaking that asks for comment on whether Regulation B (which carries out the provisions of the ECOA) should be amended to permit lenders voluntarily to collect information about the race and gender of applicants for non-mortgage credit. The prohibition on collection of this data inhibits monitoring by regulators, self-testing by the financial services industry, and enforcement by the Department of Justice and the Federal Trade Commission, with respect to discrimination in the non-mortgage lending markets. Amending this prohibition is one of the top priorities for community groups. We are working closely with Treasury, Justice, and the NEC on drafting a letter by May 29 in support of a rulemaking.

Health Care -- Kennedy Employer Mandate Legislation: Next Wednesday, Senator Kennedy is scheduled to introduce a health care employer mandate bill. This bill, which has the strong support of the labor community, would require that all firms with 50 or more employees provide coverage that is equivalent to the Federal Employees Health Benefit Blue Cross/Blue Shield standard plan. Employers would be required to contribute approximately 75 percent of the cost of coverage with the remainder coming from the employee. While this legislation will not go anywhere in this Congress, Senator Kennedy would like to force a Senate vote on this bill sometime this year. Although any employer mandate would significantly expand coverage, this legislation would not affect the over 20 million uninsured Americans who have workers in firms with less than fifty employees and could have the adverse effect of encouraging firms to split or subcontract out in order to avoid the mandate. Moreover, the absence of subsidies may make it difficult for some employees to afford the premiums, even though employers would have to contribute 75 percent. Senator Kennedy's office had initially requested that the First Lady or some representative from the Administration consider attending this event, but now is now willing instead to accept a generally positive statement from the White House. We recommend such a statement commend Senator Kennedy for his longstanding commitment to coverage expansion without giving an all-out endorsement. Implicit in our comments will

be the suggestion that we primarily focus on the issues this year that have a chance of being enacted by a Republican Congress.

Welfare Reform --New York Results: Last month you asked whether we had any explanation for the recent report that only 29 percent of the cases who left the rolls in New York State in March of 1997 were working in the next quarter, compared to rates of 50 to 60 percent in other states. (other leave due to marriage, their youngest child turning 18, an increase in child support, receipt of SSI, increase in earnings by another family member, or sanctions).

Our review uncovered several problems with these data, which were gathered from the state's wage reporting system. First, the data were incomplete --not all employers had reported for this quarter at the time the data were compiled. Looking at data from March of 1996 -- which found 39 percent showed earnings in at least one of the three quarters after leaving welfare -- produces figures that are somewhat closer to the experience in other states. In general, there appear to be lags in reporting new employees and employer reporting may also be worse in New York because the state's wage reporting system is not directly linked to the unemployment insurance system the way it is in most places.

This system also undercounts employment, though we do not know by how much. It ignores some self-employment, "off the books" wages, and work in other states. The statewide figure also masks variation within the state: for cases closed in March 1996, 31 percent had wages reported in a subsequent quarter in New York City, compared to 47 percent in the rest of the state. Apparently NYC historically has a high level of "administrative churning", i.e. cases closed due to various errors then reopened, which we wouldn't expect to have earnings in a later quarter.

Immigration -- H1B visas: Representative Lamar Smith, Chair of the House Judiciary Subcommittee on Immigration, has made an offer to Representative Mel Watt (ranking member) to develop a bipartisan bill to temporarily raise the cap on H1B visas for highly skilled temporary foreign workers that, unlike the Abraham-Hatch bill in the Senate, includes reforms to the H1B program that target their use to employers that are experiencing genuine skill shortages. We are having discussions with members of Congress to develop reform language that is consistent with the Administration's objectives. Representative Smith is holding a hearing on this issue on Tuesday, April 21st.

Child Care -- Rose Garden Event: We are planning Rose Garden event on Thursday, April 23 with you and the First Lady to place pressure on Congress to take action on your child care. That day, Secretary Rubin's Working Group on Child Care will issue a final report on private sector investment in child care and best practices. In addition, the Department of Labor will issue its report on child care, focusing on corporate models gleaned from the Women's Bureau's Honor Roll.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:21-APR-1998 12:03:09.00

SUBJECT: Re: Laura

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

READ:UNKNOWN

TEXT:

thanks again

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:23-APR-1998 18:22:17.00

SUBJECT: Feedback from the Caucuses on Needle Exchange

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

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 04/23/98 06:22
PM -----

JANET MURGUIA

04/22/98 11:15:54 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: Charles M. Brain/WHO/EOP, Broderick Johnson/WHO/EOP, Peter G.
Jacoby/WHO/EOP
Subject: Feedback from the Caucuses on Needle Exchange

White House Legislative Affairs and HHS Legislative Affairs will do a
conf. call tomorrow to discuss both the needle-exchange outreach efforts
and the tobacco minority health statistics roll out plan. Mindy my
assistant is setting this up for early afternoon. If you are interested
in joining let me or Mindy know. Thanks.

----- Forwarded by Janet Murguia/WHO/EOP on 04/22/98
10:01 PM -----

Minyon Moore

04/22/98 07:50:37 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Feedback from the Caucuses on Needle Exchange

There appears to be a press conference in the works for Friday by the CBC
on this issue.

I will provide more details as they come in. As anyone other than myself
been in touch with them to help articulate our position?

----- Forwarded by Minyon Moore/WHO/EOP on 04/22/98 07:51
PM -----

Maria Echaveste

04/21/98 06:16:28 PM

Record Type: Record

To: Elena Kagan/OPD/EOP, Richard Socarides/WHO/EOP
cc: Janet Murguia/WHO/EOP, Minyon Moore/WHO/EOP, Sylvia M.
Mathews/WHO/EOP, Sandra Thurman/OPD/EOP
Subject: Feedback from the Caucuses on Needle Exchange

I spoke with Becerra on this issue--he said he spoke with Shalala

yesterday and indicated to her that he was glad that the science had been affirmed but where was the money? He did say that while he hadn't really heard from members, he didn't anticipate a Caucus statement or press conference saying that some of the members were conservative and not in favor of the needle exchange program. He did suggest that matching localities with private sources of funding would be a good thing. Below is Minyon's note re her conversation with Waters.

----- Forwarded by Maria Echaveste/WHO/EOP on 04/21/98
06:13 PM -----

Minyon Moore
04/21/98 05:41:37 PM
Record Type: Record

To: Maria Echaveste/WHO/EOP
cc: Janet Murguia/WHO/EOP, Richard Socarides/WHO/EOP, Sylvia M. Mathews/WHO/EOP, Robert B. Johnson/WHO/EOP
Subject: Needle Exchange Q&A's- note correction!

As a follow-up to your call, I spoke with Maxine. They haven't taken an official position on the Administrations announcement, but anticipate meeting late tonight or tomorrow to discuss their response. She indicated that she has rec'd pressure from many members re: federal funding and the impact on minority communities. She further stated she wanted to have a longer discussion with Charles Rangel. She indicated that more than likely they will issue a press statement or do a press conference once consensus has been met. Asked if I wanted a heads up (response why course).

Maria she and Becerra will be talking.

----- Forwarded by Minyon Moore/WHO/EOP on 04/21/98 05:23
PM -----

Maria Echaveste
04/21/98 04:00:31 PM
Record Type: Record

To: Minyon Moore/WHO/EOP
cc:
Subject: Needle Exchange Q&A's- note correction!

fyi

----- Forwarded by Maria Echaveste/WHO/EOP on 04/21/98
04:05 PM -----

Laura Emmett
04/21/98 01:22:02 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: Sarah A. Bianchi/OPD/EOP
Subject: Needle Exchange Q&A's- note correction!

Note the correction is the answer to the first question:

Because the science is now there to make these findings. We already knew that needle exchange programs can help reduce the rate of HIV transmissions, and yesterday, the Secretary made clear that the scientists, including

all the respected leadership within the National Institutes of Health, have concluded that these programs do not increase drug use.

Message Sent

To: _____
Barry J. Toiv/WHO/EOP
Joseph P. Lockhart/WHO/EOP
Amy W. Tobe/WHO/EOP
Darby E. Stott/WHO/EOP
Lori L. Anderson/WHO/EOP
Joshua Silverman/WHO/EOP
Nanda Chitre/WHO/EOP
Elizabeth R. Newman/WHO/EOP
Maria Echaveste/WHO/EOP
Mickey Ibarra/WHO/EOP
Richard Socarides/WHO/EOP
Sara M. Latham/WHO/EOP
Marjorie Tarmey/WHO/EOP
June G. Turner/WHO/EOP
Andrew J. Mayock/WHO/EOP
Dawn L. Smalls/WHO/EOP
Michelle Crisci/WHO/EOP

Message Sent

To: _____
Elena Kagan/OPD/EOP
Sandra Thurman/OPD/EOP
Richard Socarides/WHO/EOP
Robert B. Johnson/WHO/EOP
Andrew J. Mayock/WHO/EOP
Janet Murguia/WHO/EOP
Sylvia M. Mathews/WHO/EOP

Message Sent

To: _____

Needle Exchange Q&As
April 21, 1998

Q: Why did the Administration choose to issue the findings that needle exchange programs reduce HIV transmission and does not increase drug use yesterday?

A: Because the science is now there to make these findings. We already knew that needle exchange programs can help reduce the rate of HIV transmissions, and yesterday, the Secretary made clear that the scientists, including all the respected leadership within the National Institutes of Health, have concluded that these programs do not increase drug use. Communities around the country, who are making their own decisions on this issue, should know that appropriately designed needle exchange programs reduce HIV transmission and do not encourage illegal drug use.

Q: If the science concludes that needle exchange programs reduce the transmission of HIV and do not increase drug use, why aren't you releasing federal funds for needle exchange programs?

A: We have always said that communities should make their own decisions on this issue, based on their own circumstances and using the best available scientific information. Releasing federal funding for needle exchange would have inappropriately shifted the focus away from communities -- where these decisions should be made -- to the national level. That could have severely undermined or threatened local programs that are currently in place, and hindered additional communities from deciding to put these programs into place. At the same time, such federal action could send an inappropriate message about the acceptability of drug use -- a message that is not sent when an individual community decides, on the basis of its unique circumstances, that a particular, carefully designed needle exchange program advances public health interests. For these reasons, the Administration concluded that it should simply give the scientific guidance that is necessary for communities to make their own decisions, rather than federalize the needle exchange issue.

Background:

Congress gave the Secretary of Health and Human Services the responsibility to make two determinations: whether the scientific research findings conclude that needle exchange programs reduce HIV transmission and whether they increase drug use. In 1997, the Secretary made a determination that needle exchange

programs do reduce the transmission of HIV. Yesterday, the Secretary held a meeting with her senior scientific advisors, including Nobel Laureate and head of the National Institutes of Health, Dr. Harold Varmus. These scientists agreed that the science-based standards have been met with regard to drug use as well.

Q: Isn't it hypocritical to say that needle exchange saves lives, but that the federal government will not pay for needle exchange programs?

A: No. In making her announcement yesterday, the Secretary informed local communities that under certain conditions, needle exchange programs can reduce HIV transmission and not encourage drug use. The decision as to whether to adopt such programs is up to these communities, based on their own unique circumstances. The Administration did not want to imperil local decision making by bringing needle exchange up to the national level. Neither did the Administration want to take the risk that federalizing needle exchange would send a mixed message about drug use.

Q: Won't this send a message to young people that drugs -- especially injectable drugs like heroin -- are ok?

A: Absolutely not. Injectable drug use is illegal, unhealthy and wrong. It is clearly a major health problem as well as a significant law enforcement concern. That is why this Administration has consistently sent a unified message to all Americans, particularly young people: Drugs put your future at risk; they can kill you; and they can infect you with HIV. And that is part of the reason why the Administration will not release federal funding for needle exchange. National action could send a mixed message on drug use that individual local actions, based on and responding to particular circumstances, will not.

Of course, this Administration has an extremely strong record on fighting drugs. We have increased the availability of drug treatment. We have worked in partnership with communities to fight drugs in and around schools. We have worked with state and local governments to put 100,000 more police officers on the streets, and we have doubled the number of border guards. We will continue to fight drug use in this country and to offer drug treatment to those who are addicted so that they stop using drugs.

Q: Wasn't the decision not to federally fund needle exchange programs based on political considerations?

A: The decision was based on a belief that communities should decide for themselves whether to adopt needle exchange programs, based on their own local

circumstances and the best scientific evidence possible. We did fear that federalizing needle exchange would imperil such local decision making, by igniting a congressional battle on the subject. To that extent, the Administration's decision took into account political realities. But first and foremost, the decision resulted from a commitment to real, locally-based decision making on this subject.

Q: Isn't the Administration decision essentially an attempt to reach a compromise that both Secretary Shalala and General McCaffrey can sign on to?

A: No. Of course both the General and the Secretary support the Administration's decision. But that decision was a result of (1) scientific evidence about needle exchange and (2) a belief that needle exchange should be a local, community-based decision.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:23-APR-1998 18:18:38.00

SUBJECT:

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

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 04/23/98 06:19 PM -----

Christa Robinson
04/23/98 06:12:41 PM
Record Type: Record

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

Please explain that they do not want us to re-write their memo (and they don't have to put Bruce's name on it if we don't like the way it's written.) They have turned it in, but if she has some important edits we can just resubmit the memo, no problem. If there are lots of edits we should just take Bruce's name off (I think.)

----- Forwarded by Christa Robinson/OPD/EOP on 04/23/98 06:14 PM -----

Daniel Wexler
04/23/98 06:10:21 PM
Record Type: Record

To: Christa Robinson/OPD/EOP
cc: Doris O. Matsui/WHO/EOP
Subject:

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D2]MAIL42380821V.126 to ASCII,
The following is a HEX DUMP:

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084958394B56392C11498E411D1B07C0AB7FF4DC35870E0028B11530C573F57905A57D0103B625

April 23, 1998

NATIONAL TEACHER OF THE YEAR AWARD CEREMONY

DATE: April 24, 1998
LOCATION: Rose Garden
TIME: 3:00 pm
FROM: Maria Echaveste
Bruce Reed
Danny Wexler

I. PURPOSE

To honor the 1998 National Teacher of the Year, Philip Bigler and the State Teachers of the Year from around the country; and to use this opportunity to highlight some of your education initiatives.

II. BACKGROUND

This event provides you with an opportunity to honor the national and state teachers of the year, to underscore your commitment to a broad agenda to improve public education, and renew your veto threat over the Senate measure passed Thursday. You can use the Senate action this week, and House action earlier this month, to make a clear delineation between your vision and Congress' vision for education.

This week, the Senate voted down efforts to modernize more than 5,000 public schools and reject a Sense of the Senate resolution supporting efforts to reduce class size to a national average of 18 in the early grades by hiring 100,000 additional teachers. Instead, the Senate measure would block national tests, eliminate the "safe and drug free schools" program and other education programs by turning them into a block grant, and provide an average of \$7 in tax savings to families with children in public schools. You also can comment on the House bill to eliminate funding for the National Board for Professional Teaching Standards and block your efforts to help 100,000 master teachers seek board-certification by the year 2006.

This is an important education event for the White House. Three years ago, for the first time, we invited State Teachers of the Year from each state. Their participation created extensive local press coverage which helped to send a strong message throughout the country about your commitment to education. Each year, after attending the White House ceremony and learning more about the Administration's education agenda, these

teachers become some of our strongest supporters within their states and local communities

Now in its 47th year, the National Teacher of the Year Program seeks to recognize and honor the contributions of the American classroom teacher. Sponsored by the Council of Chief State School Officers in partnership with Scholastic, Inc., this program is the oldest and most prestigious awards program to focus public attention on excellence in teaching.

Each year, every state selects a Teacher of the Year who then enters the national competition. An independent selection committee, representing fourteen major education organizations, selects finalists and then the National Teacher of the Year. This year's other finalists were from New Mexico, Iowa, and Kansas. This is also the 47th year that the President has introduced the National Teacher of the Year to the nation.

This year's National Teacher of the Year is Philip Bigler. Philip entered the teaching profession in 1975 as a history teacher at his Alma Mater, Oakton High School in Fairfax County, Virginia. In 1982, disillusioned with his career, he left the classroom to become historian at Arlington National Cemetery. He returned to the classroom in 1985 and since 1991 he has taught Humanities at Thomas Jefferson High School for Science and Technology in Alexandria, Virginia. His innovative and rigorous activities led to his choice as this year's National Teacher of the Year. In his classroom, interactive historical simulations are the basis of his courses. In World History, his students become members of a Greek *polis* and debate the great issues of the day. While studying Islamic history and culture they make a sacred pilgrimage to Mecca. In American History and Government, students argue the intricacies of Constitutional law before a mock Supreme Court, conduct the court-martial trial of Lt. William Calley and wage a computer campaign for the 1960 presidency. He takes pride in that his students learn that human civilization rests upon the foundations of the past. He will be accompanied by his parents and brother and sister-in-law.

Fifty-four State Teachers of the Year including DOD schools, Guam, Puerto Rico and the District of Columbia will be represented at today's ceremony.

III. PARTICIPANTS

Education Secretary, Richard Riley

Senator Chuck Robb, (D-VA)

Senator Trent Lott (R-MS)

Senator Tom Harkin (D-IA)

Representative John Porter (R-IL)

Representative James Moran (D-VA)

Representative Thomas Davis (R-VA)

Representative Thomas Petri (R-WA)

Philip Bigler, 1998 Teacher of the Year

Linda Bigler, Spouse

Gordon Ambach, Executive Director, Council of Chief State School Officers

Christopher Gardner, President & CEO, Gardner, Rich & Company

54 State Teachers of the Year (List Attached)

Full list to be provided by Social Secretary

IV. PRESS PLAN

Open Press

V. SEQUENCE

- o You and Secretary Riley will meet the 54 State Teachers of the Year in the Oval Office.
- o At the end of the receiving line you will meet the National Teacher of the Year, Philip Bigler and his family.
- o The Bigler family will be escorted to seats in the Rose Garden.
- o WHCA will announce you, Senator Robb, Secretary Riley and Philip Bigler into the Rose Garden.
- o Secretary Riley will make brief remarks and introduce Senator Robb.
- o Senator Robb will make brief remarks and introduce you.
- o You make brief remarks.
- o At the end of your remarks you introduce Philip Bigler and present him with a crystal apple.
- o Philip Bigler will make brief remarks.
- o You greet the participants and depart.

VI. REMARKS

To be provided by speechwriting.

*State Teachers of the Year
1998*

<u>State</u>	<u>Teacher</u>
Alabama	Pamela Henson Foley High School Foley, Alabama Marine/Environmental Science 9-12
Alaska	Peggy Woods Tri-Valley Middle School Healy, Alaska Math/Social Studies/ 6-7
Arizona	Peggy Woods Amphitheater High School Tucson, Arizona Science 9-12
Arkansas	Charles Rossetti Springdale High School Springdale, Arkansas Drafting 9-12
California	Ginger Brown Chandler Tripp School San Jose, California Special Education/Pre-K
Connecticut	Marianne Cavanaugh Gideon Welles School Glastonbury, Connecticut Mathematics 7-12
Delaware	Harry Kutch William Penn High School Automated Records Management System Hex-Dump Conversion

	New Castle, Delaware Mathematics 9-12
Department of Defense	Brenda Posey Ramstein Germany Home Economics 10-12
District of Columbia	Brenda Jenkins C. Melvin Sharpe Health School Washington, D.C. Special Education K-3
Florida	Grace Williams North Shore Elementary School Jacksonville, Florida Grade 4
Georgia	Jamie Lipscomb Evans Middle School Newnan, Georgia Fine Arts 6-8
Guam	Roberta Abaday John F. Kennedy High School Tamuning, Guam English/Language Arts 10-12
Hawaii	Ellen Schroeder Olomana Kailua, Hawaii Special Education 7-12
Idaho	Glenda Eubanks Nampa High School Nampa, Idaho English 12
Illinois	Steven Isoye Highland Park High School Highland Park, Illinois Physical Science 9-12
Indiana	Kimberly Giesting Connersville High School Connersville, Indiana Science 9-12

Iowa	Ruth Ann Gaines East High School Des Moines, Iowa Drama 9-12
Kansas	Darla Mallein Emporia Middle School Emporia, Kansas American History 8
Louisiana	Gustavia Evans Thomas Jefferson Junior H.S. Monroe, Louisiana Science 7-8
Maine	Joanne Alex Stillwater Montessori School Old Town, Maine Pre-Kindergarten
Maryland	Robert Foor-Hogue South Carroll High School Sikesville, Maryland Science 10-12
Massachusetts	Mary Ginley Center School Longmeadow, Massachusetts Elementary--Grade 2
Michigan	Katherine Grzesiak Eastlawn Elementary School Midland, Michigan Elementary--Grade 5
Minnesota	Neil Whitikko Hermantown High School Hermantown, Minnesota English/German 9-12
Mississippi	Martha Hutson Sumner Hill Junior High School Clinton, Mississippi Social Studies 9
Missouri	Carol Sue Reimann Automated Records Management System Hex-Dump Conversion

	Charles Clippard Elem. School Cape Girardeau, Missouri Elementary--Grade 1
Montana	Patty Myers Lewis & Clark Elementary School Great Falls, Montana Elementary--Grade 2
Nebraska	Patricia Randolph Scottsbluff High School Scottsbluff, Nebraska Spanish 10-12
Nevada	Bonnie Parnell Carson Middle School Carson City, Nevada Kindergarten - Grade 8
New Hampshire	Vicki Donovan Belmont Elementary School Belmont, New Hampshire Elementary Grade 4
New Jersey	Beth Neiderman Mary Shoemaker School Woodstown, New Jersey Elementary--Grade 1
New Mexico	Carolyn Foster R.M. James Elementary School Portales, New Mexico Elementary--Grade 3
New York	Selina Ahoklui Erasmus Hall High School Brooklyn, New York Business 9-12
North Carolina	Julian Coggins Mount Pleasant High School Mount Pleasant, North Carolina Biology 10-12
North Dakota	Vicki Boutiette Westside Elementary School West Fargo, North Dakota

Northern Mariana Islands	Remedial Reading 1-5 Sanh Chiet Lim Oleai Elementary School Saipan Elementary--Grade 3
Ohio	William Richey Xenia High School Xenia, Ohio Chemistry, 11-12
Oklahoma	Kay Long Broken Arrow Senior High School Broken Arrow, OK English/Math 11-12
Oregon	Nicki Hudson West Linn High School Mathematics 9-12
Pennsylvania	Susan Van Zile Eagle View Middle School Mechanicsburg, Pennsylvania English/Reading 6
Puerto Rico	Yolanda Fraticelli Rio Piedras, Puerto Rico Language Arts/Mathematics
Rhode Island	Maureen Spaight Edward Martin Junior High School East Providence, RI Social Studies 9
South Carolina	Christine Fisher Southside Middle School Florence, South Carolina Instrumental Music 7-8
South Dakota	Denise Bryan Bell Fourche Elementary School Bell Fourche, South Dakota Elementary--Grade 1
Tennessee	Linda Gilbert Black Fox Elementary School

	Murfreesboro, Tennessee Music, K-6
Texas	Joe Farley Fulmore Middle School Austin, Texas Language Arts 7
Utah	Sharon Holmstrom Snowcrest Junior High School Eden, Utah
Vermont	Judith Allard Burlington High School Burlington, Vermont Biology/Science 9-12
Washington	Yvonne Ullas Naches Valley Primary School Yakima, Washington Language Arts, 1
West Virginia	Susan Barrett Cherry River Elementary School Richwood, West Virginia Math 5-6
Wisconsin	Carol Banaszynski Deerfield Community Schools Deerfield, Wisconsin Biology 9-12
Wyoming	Mary Krisko Worland Middle School Worland, Wyoming Science, 6

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:24-APR-1998 16:15:00.00

SUBJECT: Re: Alert: BR or EK you need to call Larry Summers

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

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

TEXT:

I actually think Ed Knight would be fine. I think we should agree to that.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:24-APR-1998 16:49:47.00

SUBJECT: McAffrey op-ed

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

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

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

TEXT:

fyi

----- Forwarded by Elena Kagan/OPD/EOP on 04/24/98 04:49
PM -----

Sandra Thurman 04/24/98 04:36:24 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP
CC:
Subject: McAffrey op-ed

As Todd mentioned earlier, Mr. McAffrey has been seeking to place op-eds in leading papers apparently arguing that needle exchange programs take advantage of African Americans and Latinos. We understand the Wall Street Journal is going to print it on Monday. We don't know if it's going in under his signature or someone else's.

This is just not right. The statement released by Maxine Waters, and the letter to the President from the CBC, criticize McAffrey's role in this. An op-ed is only going to inflame the racial divisiveness. Help!!!

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 27-APR-1998 10:46:13.00

SUBJECT: Re: revised

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

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 04/27/98 10:46
AM -----

Cynthia A. Rice
04/26/98 11:35:20 PM
Record Type: Record

To: June Shih/WHO/EOP
cc: See the distribution list at the bottom of this message
bcc:
Subject: Re: revised

(here fyi are the q&as -- has data on page 1 you may want)
(also these q&as started with good talking points that may be helpful)

A few general comments --

As you know, we want this to be about kids, kids, kids, not about the Surgeon General's report -- but I you should use a couple of the statistics from the report to make your point, i.e. -- Youth smoking is increasing at an alarming rate. Today one third more high school students smoke than did six years ago. And as this new Surgeon General's report shows, smoking has increased among all racial and ethnic groups, growing by a startling 80 percent among African American youth. Today, nearly one-half of young Native Americans, two-fifths of Caucasians, one third of Hispanics, and one-fifth of Asian and African American high schoolers smoke. Every day, 3000 children become regular smokers... and 1000 of them will die as a result.

I'm not sure about the sick child analogy. I've faxed this draft to Bruce to see what he thinks, but I'm not sure I'll hear back tonight. I think the "we'll do everything we can to keep our children from harm" theme is good...it's the illness theme in the second to last paragraph that gives me pause. I think it's because what legislation would do is prevent illness not cure it. How about We have now within our grasp a way to protect millions of children, to keep them from taking up a deadly habit that -- as Dr. Satcher and Dr. Frist can tell you -- causes cancer and heart attacks and lung disease. We can stop young Americans from smoking before they start and save one million lives over the next five years. For our children's sake, we cannot let this opportunity slip away.

More suggestions are below in bold. Please page me if you have questions.

PRESIDENT WILLIAM J. CLINTON
REMARKS FOR SURGEON GENERAL'S REPORT

THE WHITE HOUSE
APRIL 26, 1998
[should be 4/27]

Anyone who has ever been a parent knows the absolute joy -- and the awesome responsibility -- that comes with raising a child. We will do everything we can to keep our children safe from harm -- from strapping on their seat belts in the car, to bundling them up against the winter cold, to teaching them to say no to drugs. [don't raise drugs -- Republicans are trying to use that to change the subject -- use something else -- like ?walking them to school each day?]

We accept that we cannot always predict all the challenges that may come our children's way. But the dangers and consequences of tobacco are plain to all. The temptation to try tobacco is one of the greatest threats our children face. [How about making this less about prediction and temptation (which implies too much free will, I think) and instead saying something like "But we all know how hard it is to protect children from danger. We have known the dangers of tobacco for a long time -- ever since the Surgeon General's landmark 1964 report -- but still our children are falling prey."]

That is why today's disturbing news -- that more and more minority teens are falling to the temptation of cigarettes -- must galvanize our efforts to protect all our children from tobacco. We all know that today's statistics are part of a larger trend: Every day, 3,000 young people light up their first cigarettes and become smokers for life. One thousand of them will die as a result. [Youth smoking is increasing at an alarming rate. Today one third more high school students smoke than did six years ago. And as this new Surgeon General's report shows, smoking has increased among all racial and ethnic groups, growing by a startling 80 percent among African American youth. Today, nearly one-half of young Native Americans, two-fifths of Caucasians, one third of Hispanics, and one-fifth of Asian and African American high schoolers smoke. Every day, 3000 children become regular smokers... and 1000 of them will die as a result.]

The cold hard facts are adding up. The call to action is getting louder. And time is running out. Congress has just four weeks to pass a comprehensive bipartisan tobacco bill that can help save the lives of millions of our children -- that will cut teen smoking by raising the price of cigarettes, imposing strong penalties on tobacco companies who continue advertising to children, and giving the FDA full authority to regulate children's access to tobacco products. [Four weeks isn't really right -- there are four weeks until the Memorial Day recess -- I would say "just weeks"] [Use this "by raising the price of cigarettes, putting into place tough restrictions on advertising and access, imposing penalties on the industry if it continues to sell cigarettes to children, and ensuring that the FDA has authority to regulate tobacco products -- all while protecting farmers and farming communities."]

Senator McCain's bill is a strong step in this direction. Make no mistake about it: The legislation explicitly changes the rules of the game so that the tobacco industry can no longer do what it has done for years -- profit at the expense of our children's health.

It is time to end the delay. It seems as if we're in a situation where we know what the illness is -- too many children lured to smoking by unscrupulous, multi-million dollar advertising campaigns that have targeted our youth for decades. We know that the cure is -- tough, comprehensive bipartisan legislation to end these practices and cut teen smoking. And yet we're hesitating. No parent who knows how to cure a sick child would

stand by and do nothing. For our children's sake, we must not walk away from this session of Congress without a comprehensive tobacco bill. [How about: We have now within our grasp a way to protect millions of children, to keep them from taking up a deadly habit that -- as Dr. Satcher and Dr. Frist can tell you -- causes cancer and heart attacks and lung disease. We can stop young Americans from smoking before they start and save one million lives over the next five years. For our children's sake, we cannot let this opportunity slip away.]

I don't want to turn this tobacco settlement into a political issue for the fall. I want an achievement for this spring -- a bipartisan tobacco law that will open a new chapter in America's efforts to protect the health of our children. Let us all work together to build a brighter future for our children. [maybe "happier, healthier future??"]

June Shih
04/26/98 09:52:11 PM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP
cc:
Subject: revised

Message Copied

To: _____
Sarah A. Bianchi/OPD/EOP
Bruce N. Reed/OPD/EOP
Elena Kagan/OPD/EOP
Toby Donenfild/OVP @ OVP
Cynthia Dailard/OPD/EOP

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

TEXT:
Unable to convert ARMS_EXT:[ATTACH.D89]MAIL40250461S.126 to ASCII,
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Q&As
Surgeon General Report on Minority Tobacco Use
 April 27, 1998

Q. What does the Surgeon General's Report say?

A. The Surgeon General's Report being released today is the first comprehensive report on the use and health effects of tobacco among minority groups. The report finds that from 1991 to 1997, smoking increased by 80 percent for African-American youths and by 34 percent for Hispanic youth. The report finds that cigarette smoking is a major cause of disease and death among minority populations, which will only get worse if these trends are not reversed. The report also documents that efforts to reduce and prevent smoking among minority and ethnic populations are undermined by the tobacco industry's heavily targeted advertising and promotion of tobacco products within these communities.

In short, the report demonstrates, once again, why Congress needs to pass comprehensive tobacco legislation to reduce youth smoking this year.

Additional Background

Youth Smoking: Smoking Among High School Students (9-12th graders)

	Percent Smoking, 1991	Percent Smoking, 1997	Percent Increase
African American	12.6%	22.7%	80%
Hispanic	25.3%	34.0%	34%
White	30.9%	39.7%	28%
All Students	27.5%	36.4%	32%

Youth Smoking: Smoking Among High School Seniors (12th graders)

	Percent Smoking, 1990	Percent Smoking, 1995	Percent Increase
Asian American/ Pacific Islander	17.5%	20.5%	17%
American Indians/ Alaska Natives	37.8%	47.7%	26%

Adult Smoking

	African American	Hispanic	Asian American/ Pacific Islander	American Indian/Alaska Native	White
Percent	26.5%	18.9%	15.3%	39.2%	25.9%

Q:What does the report say about the tobacco industry targeting of minority communities?

A:The Surgeon General's report shows the need for comprehensive tobacco legislation to reduce youth smoking that includes limits on advertising. The report found that the tobacco industry has targeted advertising and promotion campaigns intensively in minority and ethnic communities. For example, a 1990 study of San Francisco found that 62 percent of billboards in predominantly African American neighborhoods advertised cigarettes, compared with 36 percent of billboards citywide. A 1993 study of San Diego found the highest proportion of billboards featuring tobacco companies was in Asian American neighborhoods, followed by African-American then Hispanic neighborhoods.

The report chronicles how tobacco companies have promoted their products by sponsoring numerous ethnic activities and events, such as Chinese New Year festivities, Cinco de Mayo festivities, as well as activities related to Asian/Pacific Heritage month and African-American history month. A study of magazines found that there were 12 percent more cigarette advertisements in magazines targeted to African Americans (*Jet*, *Ebony* and *Essence*) than in magazines targeted to the general population (*Time*, *Newsweek*, *People*, and *Mademoiselle*).

Q.Does the President have a specific proposal to address the particular problem of tobacco use within minority communities?

A.Passing comprehensive tobacco legislation designed to reduce youth smoking will help all Americans -- regardless of their background or ethnicity. The Surgeon General's report illustrates that this is an extremely important issue in minority and ethnic communities. It also demonstrates that we need to better understand the use and effects of tobacco among minority and ethnic groups. For example, we want to look carefully at why smoking rates increased by 80 percent for African-American youth and by 34 percent among Hispanics from 1991 to 1997 so that we can develop the prevention and cessation programs that will work best in those communities. We will continue to work closely with minority health experts to determine how best to address these issues.

Q:Why are the smoking rates of African Americans lower than whites?

A:The Surgeon General report documents a number of studies that show that differences in social attitudes and lifestyle factors between white and African-American youth help account for their different smoking rates. However, further research is needed to better account for these different smoking rates as well as to understand the recent increases in smoking among African-American youth.

Additional Background

Studies cited in the Surgeon General's report show that over time African-American high school seniors have become increasingly more likely than white seniors to acknowledge the health risks of tobacco, to claim that smoking is a "dirty habit", and to claim that they prefer to date non-smokers. African-Americans are also likely to start smoking later than whites.

One study in Tennessee showed that white high school age girls are four times more likely than their African-American counterparts and white boys twice as likely as African-American boys to believe that "smoking can help you control your weight and appetite." This same study revealed that 60 percent of white girls and nearly 20 percent of white boys cited weight control as a reason for smoking, whereas none of the African-American students cited weight as a reason for smoking. Another study showed that African-American teenage girls are less likely than white girls to think that smoking enhances their image.

A previous Surgeon General's report found that when parents express concerns about smoking it appears to reduce the likelihood that their children will smoke. Various studies across the country have documented that African-Americans are more likely to have received anti-smoking messages from their parents.

Q:Aren't the minority health organizations and the Congressional Minority Caucuses drafting legislation to address the problem of tobacco use among minorities, including by earmarking funds to this issue? What is your reaction to these proposals?

A.Comprehensive legislation that meets the principles that the President has outlined would address many aspects of this problem: the best way to reduce youth smoking among minority populations is to design effective, comprehensive legislation that will reduce youth smoking in all our communities. But the Surgeon General's report underscores the need to understand the use and effects of tobacco among minority communities, and to devise the prevention and cessation programs that will work best in those communities. We look forward to reviewing closely any proposals that address our shared concerns.

Q:Aren't the fees imposed by the Administration's plan and the McCain bill regressive and therefore hit minority communities hardest?

A:The tobacco industry has spent billions of dollars marketing to low-income and minorities, and made billions of dollars at their expense. Big Tobacco doesn't care about poor people -- it just wants to keep hooking future smokers. As a result, low-income people have suffered a disproportionate level of tobacco-related harm. The Administration is committed to making sure cessation programs are available to help all smokers quit -- and just as important, that we change the way the tobacco industry does business so it no longer preys on poor kids in the first place.

Q: Are you concerned about the information reported in last week's New York Times that young African Americans are smoking more to enhance the high from marijuana?

A: This Administration has long recognized that cigarettes, alcohol, and illegal drugs all pose a serious threat to our youth. Studies have shown that kids who make it to their 21st birthday without having smoked a cigarette, taken a drink or turned to drugs are almost certain to avoid chemical dependency throughout their lives. That is why our goal must be to keep teenagers from having that first drink, trying a cigarette, or experimenting with illegal drugs before they are old enough to know better and to realize the consequences of their decisions.

We are greatly concerned by data showing that smoking among African American youth has increased by 80 percent over the last six years. New information relating this trend to marijuana use is very disturbing, and provides still further reason to take strong action against illegal drugs. Of course, as The New York Times points out, the increase in tobacco use is even more heavily associated with advertising and other media messages that have a great impact on young people. That's why minority youth tend to smoke Kool and Newport, brands advertised with minority images, while white youth smoke Marlboro and Camel, whose ads feature white characters.

These facts underscore why we need comprehensive legislation to reduce youth smoking by raising the price of cigarettes, putting into place tough restrictions on advertising and access, imposing penalties on the industry if it continues to sell cigarettes to children, and ensuring that the FDA has authority to regulate tobacco products.

Q.What do you think of the House Republican proposal to link drugs and tobacco in a single bill?

A.Nobody disagrees about the need to be tough on drug use, but that is no excuse to be less than tough on youth smoking. We need to pass strong, comprehensive tobacco legislation this year that dramatically reduces youth smoking by raising the pack of cigarettes, imposing tough penalties on companies that continue to sell to kids, granting the FDA authority over tobacco products, and restricting advertising and marketing to children. The McCain bill, which passed the Senate Commerce Committee by a 19-1 vote three weeks ago, is a strong step in that direction. If Republicans want to add good anti-drug provisions to a comprehensive tobacco bill of this kind, we have no objections. But the bill must address the problem of youth smoking comprehensively; anti-drug provisions can't serve as an excuse for watered-down tobacco legislation.

Q: What exactly is the President's strategy on drugs?

A This past February President Clinton released the 1998 National Drug Control Strategy, a comprehensive ten-year plan to reduce drug use and availability by 50% -- to a historic new low. The strategy is backed by a \$17 billion anti-drug budget in FY 1999 -- the largest ever presented to Congress, with a \$1.1 billion increase over last year's budget.

While the strategy incorporates specific goals and objectives in the areas of drug

treatment and prevention, domestic law enforcement, interdiction, and international programs, its number one goal is to educate and enable our youth to reject illegal drugs. That is why the largest budget increases (15% over last year's funding levels) are targeted for this purpose. In contrast, Speaker Gingrich and the House Republicans tried to cut the Safe and Drug-Free Schools program -- the program that funds anti-drug efforts in 97% of the nation's school districts -- by a full 50% just a few years ago.

Key initiatives in the drug strategy include:

Protecting Kids:

- \$195 Million National Youth Anti-Drug Media Campaign to make sure that when kids turn on the television or surf the "net," they learn about the dangers of drugs.
- \$50 Million for School Drug Prevention Coordinators to improve and expand the Safe and Drug-Free Schools program by hiring more than 1,000 new prevention professionals to work with thousands of schools in preventing drug use.

Strengthening Our Borders:

- \$163 Million for Border Patrol to hire 1,000 new Border Patrol officers and for "force multiplying" technology.
- \$54 Million for Advanced Technology for the Customs Service to deploy advanced technologies, such as X-ray systems and remote video surveillance.
- \$75.4 Million to Support Interdiction Efforts in the Andean region and Caribbean, and to train Mexican counterdrug forces.

Strengthening Law Enforcement:

- \$38 Million to Crack Down on Methamphetamine and Heroin by hiring 100 new DEA agents, expanding the Administration's anti-methamphetamine initiative, and targeting heroin traffickers.

Breaking the Cycle of Drugs and Crime:

- \$85 Million to Promote Coerced Abstinence to help state and local governments implement drug testing, treatment, and graduated sanctions for drug offenders.

Closing the Treatment Gap:

- \$200 Million Increase for Substance Abuse Block Grants to help states close the treatment gap.

Q.What is wrong with passing a “skinny” tobacco bill? Why do you need a comprehensive bill?

A. Every day, 3000 children and adolescents begin smoking, and 1,000 will die prematurely as a result. Experts agree that in order to dramatically reduce youth smoking we need to take a comprehensive approach that will attack the problem from a variety of angles.

- **Price:** All experts agree that the single most important step we can take to reduce youth smoking is to raise the price of a pack of cigarettes significantly. That is why the President has proposed raising the price of cigarettes by \$1.10 over five years -- an increase that both the Treasury Department and the Congressional Budget Office agree should cut youth smoking by about a third.
- **Advertising:** Studies show that industry advertising significantly contributes to youth smoking rates. The Treasury Department has estimated that the advertising and marketing restrictions in the McCain bill should cut youth smoking by about 15 percent. This is a conservative estimate: a study recently published in the Journal of the American Medical Association found that a full 34% of teen smoking is attributable to promotional activities.
- **FDA Jurisdiction:** Reaffirming the FDA authority over tobacco products is necessary to help stop young people from smoking before they start. Currently, nearly 90 percent of people begin smoking before age 18, despite the laws that make it illegal to sell cigarettes to minors. FDA Authority will ensure that young people do not have access to these products.
- **Penalties:** Strong lookback penalties will act as an insurance policy to ensure that the tobacco industry takes meaningful steps to reduce youth smoking. If the bill's provisions on price, advertising, and FDA jurisdiction do not bring youth smoking down as much as expected, penalties will kick in to ensure that the industry has every incentive to take further action to reduce youth smoking.

All of these measures support and reinforce each other; all are necessary to ensure that legislation dramatically reduces youth smoking.

Q: Isn't the President's plan a big government, big tax proposal?

A: No. What the President's approach does is to attack the problem of youth smoking comprehensively, as all experts say we need to do, by combining strong provisions on price, penalties, advertising and access, and FDA jurisdiction. Although we have some differences with Senator McCain, he also recognizes the need to move forward on all these fronts to reduce youth smoking. That's not about big government. It's about sensible, bipartisan steps to dramatically reduce youth smoking.

Q. But won't the McCain bill create 17 new federal bureaucracies?

A. No -- this isn't about big government. That's just another Big Lie from Big Tobacco. What the bill does is to ensure that the federal government has the authority to regulate tobacco products in order to reduce youth smoking, as well as the ability to target tobacco revenues to strong public health and research efforts. The so-called "bureaucracies" that the industry is now complaining about are nothing more than what's necessary to protect the public health in this way -- to ensure that cigarettes are not sold to minors, to promote effective education, and to encourage smoking cessation. The proof that this is an industry con job is clear: almost all these provisions were in the June 1997 proposed settlement put forward by 41 state attorneys general, which the industry agreed to. The industry is criticizing these provisions now only because the political tide has turned against it, and certain other aspects of the legislation have gotten stronger.

Q: Hasn't the Administration proposed a big government scheme that would extend the reach of the federal government to every mom-and-pop grocery store?

A: No. The Administration has offered proposals designed to reduce smuggling that would require wholesalers, distributors, and retailers to identify themselves as such. That's no more than what any business has to do now to sell liquor -- and no more than what most states already require sellers of tobacco to do. The important thing is to work with Congress to devise a scheme that will facilitate the effort to prevent smuggling, while not burdening retailers. The Administration will work with Congress, and the retailers themselves, on this issue.

Q: Aren't you just trying to bankrupt the companies?

A: We don't want to put the tobacco companies out of business. We just want to put them out of the business of selling cigarettes to kids. A central feature of comprehensive tobacco legislation is to ensure that most of the payments made by the tobacco companies are passed on to price, in order to reduce youth smoking. As a result, there will be at most a modest impact on the profitability of the tobacco companies. This is also an industry with significant cash flow and net assets that will allow it to easily absorb this modest profit decline. The operating earnings of RJR, Philip Morris, and Loews last year were *\$18 billion*. Even RJR, the most highly leveraged firm in this industry, had a \$1.5 billion operating profit for its domestic tobacco business, and has over \$4 billion in net assets from its Nabisco stock holdings. The only real risk of bankruptcy comes from losing a rash of lawsuits in court.

Talking Points and Q & A on Tobacco Legislation
April 20, 1998

Today, President Clinton issued a strong statement calling for Congress to pass comprehensive, bipartisan tobacco legislation to reduce teen smoking.

CLEAR FACTS, HIGH STAKES. 3,000 children begin to smoke every day; 1,000 of them will die early as a result. President Clinton is committed to passing comprehensive bipartisan legislation to stop young Americans from smoking before they start, by raising the price of cigarettes, putting into place tough restrictions on advertising and access, imposing penalties on the industry if it continues to sell cigarettes to children, and ensuring that the FDA has authority to regulate tobacco products. That effort can save one million lives over the next five years.

A STRONG FOUNDATION FOR FUTURE TOBACCO REFORM. Senator McCain and Senator Hollings' tobacco legislation bill, which passed the Commerce Committee by a 19-1 vote three weeks ago, is a strong step in the right direction on the road to passing comprehensive tobacco legislation. **It shows real momentum in both parties to pass effective, comprehensive tobacco legislation this year.**

STANDING STRONG FOR COMPREHENSIVE REFORM, NOT HALF MEASURES. In the days to come, the tobacco industry will try to persuade Congress to pass weaker legislation, which will not reduce teen smoking. We must continue to work with Senator McCain and others to ensure the kind of legislation that will succeed in dramatically reducing teen smoking. **This is no time to accept half-measures that will only play into the industry's hands.**

Questions and Answers

Q: What did the President think of Speaker Gingrich's statement this weekend criticizing the McCain bill? Do you think the Speaker has adopted the industry's line?

A: The President was very disappointed in the Speaker's statement. The Speaker indicated that he wants to pursue half-measures, rather than a comprehensive approach that will do everything it takes to reduce youth smoking. We need a bill that's strong on price, that's strong on penalties, that's strong on advertising and access restrictions, and that's strong on FDA jurisdiction. Senator McCain's bill is a very strong step in that direction, and we hope Speaker Gingrich will rethink his position and decide to support such a comprehensive approach.

Q: Isn't the President's plan -- and the McCain bill -- a big government, big tax proposal?

A: No. What the President's approach does is to attack the problem of youth smoking comprehensively, as all experts say we need to do, by combining strong provisions on

price, penalties, advertising and access, and FDA jurisdiction. Although we have some differences with Senator McCain, he also recognizes the need to move forward on all these fronts to reduce youth smoking. That's not about big government. It's about sensible, bipartisan steps to dramatically reduce youth smoking.

Q: But won't the McCain bill create 17 new federal bureaucracies?

A: No -- this isn't about big government. That's just another Big Lie from Big Tobacco. What the bill does is to ensure that the federal government has the authority to regulate tobacco products in order to reduce youth smoking, as well as the ability to target tobacco revenues to strong public health and research efforts. The so-called "bureaucracies" that the industry is now complaining about are nothing more than what's necessary to protect the public health in this way -- to ensure that cigarettes are not sold to minors, to promote effective education, and to encourage smoking cessation. The proof that this is an industry con job is clear: almost all these provisions were in the June 1997 proposed settlement put forward by 41 state attorneys general, which the industry agreed to. The industry is criticizing these provisions now only because the political tide has turned against it, and certain other aspects of the legislation have gotten stronger.

Q: Aren't the fees imposed by the Administration's plan and the McCain bill regressive?

A: The tobacco industry has spent billions of dollars marketing to low-income and minorities, and made billions of dollars at their expense. Big Tobacco doesn't care about poor people -- it just wants to keep hooking future smokers. The Administration is committed to making sure cessation programs are available to help smokers quit -- and just as important, that we change the way the tobacco industry does business so it no longer preys on poor kids in the first place.

Q: Isn't the licensing scheme that the Administration proposed a big government scheme that would extend the reach of the federal government to every mom-and-pop grocery store or 7-11?

A: No. The Administration has offered proposals designed to reduce smuggling that would require wholesalers, distributors, and retailers to identify themselves as such. That's no more than what any business has to do now to sell liquor -- and no more than what most states already require sellers of tobacco to do. The important thing is to work with Congress to devise a scheme that will facilitate the effort to prevent smuggling, while not burdening retailers. The Administration will work with Congress, and the retailers themselves, on this issue.

Q: Aren't you just trying to bankrupt the companies? Lots of Wall Street analysts say you will.

A: We don't want to put the tobacco companies out of business. We just want to put them out of the business of selling cigarettes to kids. A central feature of comprehensive

tobacco legislation is to ensure that most of the payments made by the tobacco companies are passed on to price, in order to reduce youth smoking. As a result, there will be at most a modest impact on the profitability of the tobacco companies. This is also an industry with significant cash flow and net assets that will allow it to easily absorb this modest profit decline. The operating earnings of RJR, Philip Morris, and Loews last year were *\$18 billion*. Even RJR, the most highly leveraged firm in this industry, had a \$1.5 billion operating profit for its domestic tobacco business, and has over \$4 billion in net assets from its Nabisco stock holdings. The only real risk of bankruptcy comes from losing a rash of lawsuits in court.

PRESIDENT WILLIAM J. CLINTON
REMARKS FOR SURGEON GENERAL'S REPORT
THE WHITE HOUSE
APRIL 26, 1998

Anyone who has ever been a parent knows the absolute joy -- and the awesome responsibility -- that comes with raising a child. We will do everything we can to keep our children safe from harm -- from strapping on their seat belts in the car, to bundling them up against the winter cold, to teaching them to say no to drugs.

We accept that we cannot always predict all the challenges that may come our children's way. But the dangers and consequences of tobacco are plain to all. The temptation to try tobacco is one of the greatest threats our children face.

That is why today's disturbing news -- that more and more minority teens are falling to the temptation of cigarettes -- must galvanize our efforts to protect all our children from tobacco. We all know that today's statistics are part of a larger trend: Every day, 3,000 young people light up their first cigarettes and become smokers for life. One thousand of them will die as a result.

The cold hard facts are adding up. The call to action is getting louder. And time is running out. Congress has just four weeks to pass a comprehensive bipartisan tobacco bill that can help save the lives of millions of our children -- that will cut teen smoking by raising the price of cigarettes, imposing strong penalties on tobacco companies who continue advertising to children, and giving the FDA full authority to regulate children's access to tobacco products.

Senator McCain's bill is a strong step in this direction. Make no mistake about it: The legislation explicitly changes the rules of the game so that the tobacco industry can no longer do what it has done for years -- profit at the expense of our children's health.

It is time to end the delay. It seems as if we're in a situation where we know what the illness is -- too many children lured to smoking by unscrupulous, multi-million dollar advertising campaigns that have targeted our youth for decades. We know that the cure is -- tough, comprehensive bipartisan legislation to end these practices and cut teen smoking. And yet we're hesitating. No parent who knows how to cure a sick child would stand by and do nothing. For our children's sake, we must not walk away from this session of Congress without a comprehensive tobacco bill.

I don't want to turn this tobacco settlement into a political issue for the fall. I want an achievement for this spring -- a bipartisan tobacco law that will open a new chapter in America's efforts to protect the health of our children. Let us all work together to build a brighter future for our children.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:27-APR-1998 19:28:52.00

SUBJECT: Re: Weekly Reports

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

TEXT:
That's fine. Laura -- please do this each week.

PRESIDENT WILLIAM J. CLINTON
REMARKS FOR SURGEON GENERAL'S REPORT
THE WHITE HOUSE
APRIL 27, 1998

Anyone who has ever been a parent knows the absolute joy -- and the awesome responsibility -- that comes with raising a child. We will do everything we can to keep our children safe from harm -- from strapping on their seat belts in the car, to bundling them up against the winter cold, to teaching them to say no to drugs.

We accept that we cannot always predict all the challenges that may come our children's way. But the dangers and consequences of tobacco are plain to all. The temptation to try tobacco is one of the greatest threats our children face.

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I don't want to turn this tobacco settlement into a political issue for the fall. I want an achievement for this spring -- a bipartisan tobacco law that will open a new chapter in America's efforts to protect the health of our children. Let us all work together to build a brighter future for our children.

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:

FF57504370040000010A020100000002050000002A0D00000002000005AA33ED955C6895FDB2D25
D1A08AB906193A92023F22F25672FC718A6FC8ABDF4CA199DDF077572A0DBCD1B872B48A527066
7CF6721601143558D73041750FAD5890D15750A48B60831F3AAC23E027F0A888B11E4AF1B1B0F0
3C08BA21181DE83D0350F32F1F0FE8DC983C3652B23970806F5C406025CD9652E2A0E3A0708DE3
AAFC3B0CBDD22F4DDA205D1AF007FFA7B812153F338F0614A9B57B5416B28A3E6D96D9C8F33F64
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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: 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 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: 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: 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: 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: 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: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 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
001a. email	Elena Kagan to Laura Emmett re: Mtg on Race Advisory Bd Panel [partial] (1 page)	05/11/1998	P6/b(6)

COLLECTION:

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

FOLDER TITLE:

[3/29/1998 - 5/14/1998]

2009-1006-F
kh575

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(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

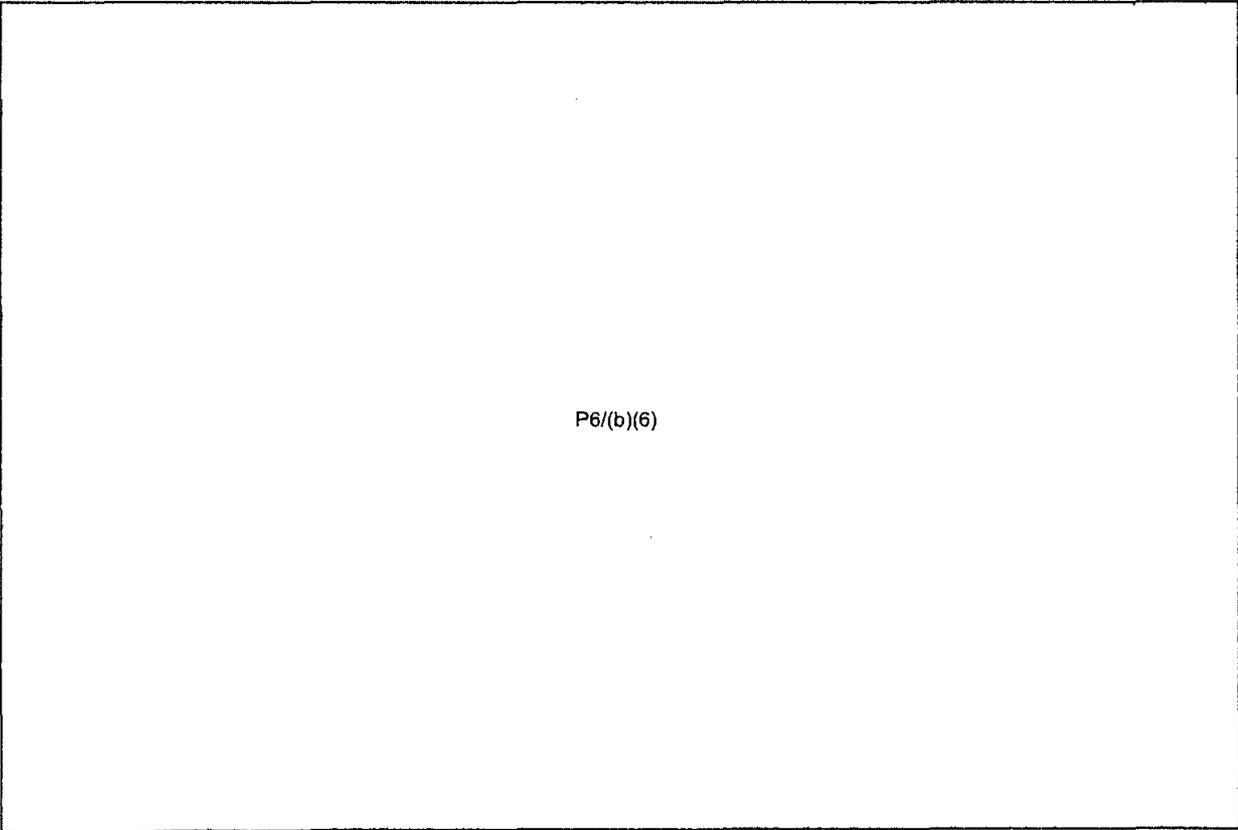
Message Copied

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:



[001a]

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
001b. email attachment	Phone No. (Partial) (2 pages)	05/11/1998	P6/b(6)

COLLECTION:

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

FOLDER TITLE:

[3/29/1998 - 5/14/1998]

2009-1006-F
kh575

RESTRICTION CODES

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

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

P1 National Security Classified Information [(a)(1) of the PRA]
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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.

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 Panellists	
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.)

[001b]

¹ Italics indicate that participant is confirmed.

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 (9:34AM))

**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 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 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.